



Kent Taylor Civic Hall  
200 NE Second Street  
McMinnville, OR 97128

Revised 7/17/2019

**City Council Meeting Agenda**  
**Tuesday, July 23, 2019**  
**6:00 p.m. – Work Session**  
**7:00 p.m. – Regular Council Meeting**

*Welcome! All persons addressing the Council will please use the table at the front of the Council Chambers. All testimony is electronically recorded. Public participation is encouraged. If you wish to address Council on any item not on the agenda, you may respond as the Mayor calls for "Invitation to Citizens for Public Comment."*

**6:00 PM – COUNCIL WORK SESSION – COUNCIL CHAMBERS**

1. CALL TO ORDER
2. DISCUSSION ON PARKS AND RECREATION FEE STUDY
3. ADJOURNMENT

**7:00 PM – REGULAR COUNCIL MEETING – COUNCIL CHAMBERS**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PUBLIC HEARING
  - a. PDA 3-19/ Ordinance **5065** – Planned Development Amendment
  - b. PDA 4-18/ Ordinance **5069** – Planned Development Amendment
  - c. S 3-10/ Ordinance **5070** – Subdivision
4. ORDINANCES
  - a. Consider second reading of Ordinance No. **5065**: An Ordinance amending Planned Development Ordinance No. 4722 to remove approximately 11.47 acres from the boundary of the Oak Ridge Planned Development Overlay District.
  - b. Consider second reading of Ordinance No. **5069**: An Ordinance amending the Oak Ridge Meadows Planned Development adopted by Ordinance 4822 to add property to the boundary of the existing Oak Ridge Meadows Planned Development Overlay District; allow for lot size averaging; allow for modified setbacks; allow for some lots with side lot lines oriented other than at right angles to the street upon which the lots face; allow for some lots to exceed the recommended lot depth to width ratio; allow some block lengths to exceed the recommended maximum block length standard; allow for the designation of an approximately 0.85-acre active private neighborhood park; and, allow for dedication.
  - c. Consider second reading of **Ordinance No. 5070**: An Ordinance approving a tentative subdivision for a 108 Lot, Phased Single-Family detached residential development at R441701300/R440700602.

Kent Taylor Civic Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made a least 48 hours before the meeting to the City Recorder (503) 435-5702 or [melissa.bisset@mcminvilleoregon.gov](mailto:melissa.bisset@mcminvilleoregon.gov).

5. INVITATION FOR PUBLIC COMMENT – *The Mayor will announce that any interested audience members are invited to provide comments. Anyone may speak on any topic other than: a matter in litigation, a quasi-judicial land use matter; or a matter scheduled for public hearing at some future date. The Mayor may limit comments to 3 minutes per person for a total of 30 minutes. Please complete a request to speak card prior to the meeting. Speakers may not yield their time to others-*
6. ADVICE/ INFORMATION ITEMS
  - a. Reports from Councilors on Committee & Board Assignments
  - b. Department Head Reports
  - c. Cash and Investment Report- April
7. CONSENT AGENDA
  - a. Consider Minutes of the May 28<sup>th</sup>, 2019 and June 11<sup>th</sup>, 2019 Work Session and Regular City Council Meetings.
  - b. Consider request from 7-Eleven Inc. located at 840 NE 3<sup>rd</sup> Street for an OLCC Off-Premises Liquor License.
  - c. Consider request from Splash Partnership, LLP located at 405 NE 3<sup>rd</sup> Street Suites 8 & 9 for an OLCC Limited On-Premises Liquor License.
  - d. Consider request from Zen Asian Bistro LLC DBA: Pho 3 located at 913 N Hwy 99 W Suite C for a Limited On-Premises Liquor License.
  - e. Consider request from ForGood Enterprises, LLC DBA: Insiders Wine Club located at 1250 NW Meadows Drive for an OLCC Off-Premises Liquor License.
8. RESOLUTIONS
  - a. Consider Resolution No. 2019-50: A Resolution submitting a proposed initiative Charter Amendment to the City voters of McMinnville. *(To be considered if the initiative contains the required number of signatures)*
  - b. Consider Resolution No. 2019-51: A Resolution authorizing the City Manager to execute Intergovernmental Agreement No. 33705 with the Oregon Department of Aviation. *(Added 7/17/2019)*
9. ADJOURNMENT



**City of McMinnville**  
**Parks and Recreation**  
600 NE Evans Street  
McMinnville, OR 97128  
(503) 434-7310  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## STAFF REPORT

**DATE:** July 23, 2019  
**TO:** Mayor and City Councilors  
**CC:** Jeff Towery, City Manager  
**FROM:** Susan Muir, Parks & Recreation Director  
**SUBJECT:**  
**STRATEGIC PRIORITY & GOAL:**



### ENGAGEMENT & INCLUSION

Create a culture of acceptance & mutual respect that acknowledges differences & strives for equity.

**OBJECTIVE/S:** Improve access by identifying and removing barriers to participation

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**Report in Brief:** This work session will provide an opportunity for the City Council to discuss the draft study for Parks and Rec (P&R) fees and begin a discussion about an equity lens and how it applies to engagement and inclusion per Mac-Town 2032. This study allowed the P&R Department to determine our cost recovery including direct program costs (related to the Mac-Town 2032 strategic priority of core services and good stewardship), as well as to apply the indirect cost model established through the 2018 User Fee Study for planning and building fees. With the data and new indirect model established by this study, the City Council can guide the policy decisions and filters, for focusing the general fund subsidy of the enrichment programs for our community. The P&R programs are supported by user fees, general fund dollars, donations and other minor revenue sources.

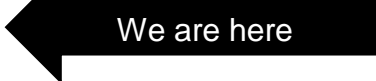
### **Background:**

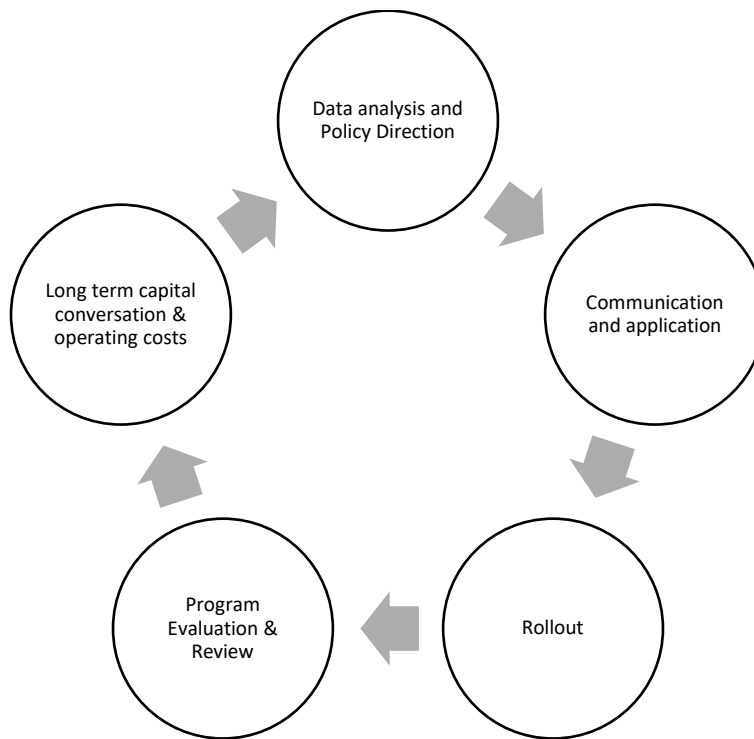
*Where we've been:* The 1999 Parks and Recreation Master Plan gave some guidance on fees finding that youth of all ages should have the highest priority when planning recreation programs, according to McMinnville residents at the time. The report also identifies restrictions in funding for all of the Parks and Recreation programs after the passage of measures 47 & 50 indicating the programs have become more dependent on user fees. The plan encouraged the city to find other partnerships and funding sources, and even encouraging enterprise programs where appropriate. It recommended pricing policies for user fees be aligned with residents' program and age group priorities and that youth programs should be more highly subsidized than programs for adults.

City Council actions related to fees in P&R happened through the annual budget process and they mostly validated cost recovery percentages. Over many years, the adopted city budget reflected some basic cost recovery frameworks noting that the 5 fee supported programs in P&R were traditionally recovering about 50% of direct program costs through fees. Kids on the Block (KOB) had a higher level of cost recovery due to the very successful and generous support from the Mayor's Ball fundraising. While KOB is listed within this report, the 2018 KOB assessment provides a much deeper dive into the financing structure of the KOB program and therefore, will not be addressed directly through this work. The KOB fees have already been set for the 19/20 school year and there are additional targets and financial issues that staff will be addressing through the KOB specific discussions.

*Where we're going:* P&R managers are continuing to work towards having a more consistent framework for fees, customer service, inclusion services (currently unfunded), administration and other areas. For many years the 5 P&R programs were running in an independent way for a lot of valid reasons. As our community and our programs have grown and developed, and more importantly, as the City Council has targeted inclusion and access as a strategic planning goal, it is time for us to set policy 'dials' on fees that apply to all P&R programs in McMinnville taking these things into account. This fee project allows us to do that in a way that will align our framework for subsidies, allow us to develop consistent administration and application of the policies, and focus on those in our community who have not traditionally had access to fee based services.

*How we will get there:* While the attached report is the first step in us evaluating and potentially changing our model, there are other steps in this process we will need to take prior to rolling out new fees for P&R services in McMinnville, we are recommending the following process:

- Receive and discuss the attached fee study (July 23, 2019)
  - City Council give policy framework/direction (July 23, 2019)
  - City staff sets up scholarship program mirroring the KOB scholarship program (in development)
  - City staff conduct a public open house on policy framework & scholarship program (September/October, 2019)
  - City staff report back to City Council with results of public input, and provide draft decision making tool for Council approval. (date TBD)
  - City staff will apply the filter to programs and fees and bring forward fee setting structure (date TBD)
  - *Future & ongoing: Long term funding sustainability and facility assessment work incorporating a look at capital costs as well as operating costs.*
- 



*Reviewing fees and policies should be an ongoing and regular process along with program evaluation.*

**Discussion:**

There are 5 fee based program areas in P&R, the structure of these are dictated by the way our City Budget is setup. Those 5 fee based areas are:

- Community Center Programs
- Aquatic Center Programs
- Senior Center Programs
- Kids on the Block
- Rec Sports

There is one non-fee supported program in P&R, Park Development, which is not part of the general fund and receives funding from many sources.

P&R fees in McMinnville have been looked at within each program area historically due to the policy direction of 50% cost recovery within each budget section. In other words, each program area within the budget document set their own policies and fees which has been consistent with each other in some aspects (cost recovery base rate) but inconsistent in others (non-resident fees). Over the years, this has worked very well to allow each manager and program to be highly accountable and deliver services in a programmatic way hitting the targets set forth for cost recovery and to grow our programs.

At the same time, P&R has informally tried very hard to allow access for those low-income residents who were unable to pay fees. P&R programs throughout the country play an important part in enriching everyone’s lives and income should not be a barrier to participation. P&R staff have over the years waived fees, reduced fees and allowed participation where possible, while independently making sure the cost recovery goal was met. This allowed managers great flexibility, but just as we learned through the KOB assessment, as our programs and community grow, some in our community get left behind when structure and equity are not leading the application of subsidy. In addition, without clear and transparent

guidelines that are accessible to everyone in our community, some potential participants may not even know if there is assistance available.

The approach we are taking through this study is to be more diligent on recovering program costs and at the same time set fees adequately to recover costs and create a scholarship program that can be applied to reduce participation barriers for those most vulnerable and in need in our community. This allows us to make value based decisions and be consistent.

Our former fee model also only applied direct program costs and did not consistently include administrative overhead costs from the program areas, the department, or the broader city costs. Again, there were valid reasons to do that at the time. In no case have P&R fees accounted for facilities costs other than basic maintenance of facilities which we knew was not nearly enough to keep the buildings maintained in a sustainable way long term. In summary, we intentionally kept fees as low as possible to get as many people into our programs while hitting our 50% cost recovery goal. This is an approach taken by many park and rec service providers.

Now we are able to move from a system that keeps all fees artificially low to try and incentivize participation of everyone in the community (but perhaps not reaching those most in need) to a system that more substantially recovers actual costs for those who can afford it while creating a scholarship program for those qualified and most in need of the services, but who cannot currently access them. This approach will lead to some higher fees, and more opportunities for participation from diverse populations in McMinnville. As we learned through the KOB analysis, keeping all fees low is not a sustainable model long term. Ultimately the staff goal for this project is to establish fees that will allow us to maintain current programs and develop new programs, and open the doors wider for those that haven't, or couldn't have, participated in the past while trying to maintain the same level of general fund resources.

Once the Council has received the information in the attached report for cost recovery analysis, staff will move forward on some of the policy discussions related to equity and inclusion.

There are many models of equity and inclusion lenses that we can look at to start this discussion in McMinnville. One of the more widely known models for Parks and Recreation uses a continuum of community benefit to determine cost recovery. At the high end of the continuum (high fees, not publicly subsidized) would be those programs that mostly benefit individuals. At the low end of the continuum (low fees, with public subsidy) would be those things that have the most community benefit. Of course all parks and recreation programs arguably benefit the whole community, but typically children, youth and community health related programs such as survival swim might be more broadly benefiting a community than say a private tennis lesson or private rental for a birthday party.

What that might look like:

*Individual benefit programs (lowest subsidy):*

- Private lessons
- Day trips/tours
- Private rentals

*Individual and Community benefit programs (mid-level subsidy):*

- Adult classes
- Adult Sport Leagues
- Open gym (non-city locations)

*Highly benefiting the community (high level subsidy):*

- Youth programming
- Inclusion services
- Senior fitness

In addition to those equity and inclusion questions, there is at least one large policy question staff needs direction from council on:

- Should all programs include a resident and non-resident fee that will equalize the difference to the residents of McMinnville who already pay taxes into the general fund and increase the cost for those outside the city limits who do not currently pay anything into the city general fund?

**Attachments:**

Parks and Recreation Fee Study

**Fiscal Impact:**

No decisions as part of this work session will have a direct fiscal impact, however future decisions and application of policy will have budgetary impacts that will be considered at that time.

**Recommendation:**

This is a work session item for discussion. Staff and the consultant who prepared the attached report, Dan Edds, will be available at the work session to present the information and talk about next steps.



**McMinnville**  
**Parks and Recreation**



# City of McMinnville, Oregon

## Recreation Cost / Program Assessment

July 2019



Capital Accounting Partners, LLC

3570 Buena Vista Drive

Sacramento, CA 95864

(916) 670-0001



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# Project Scope

The following objectives summarize the scope of this project:

- Calculate the full cost of recreation services, based on fiscal 2018-2019 budget;
- Calculate and compare full costs with revenues for each major recreation program and/or facility as appropriate; and
- Work with the Staff to develop cost recovery objectives, policies and strategies to meet these objectives.

## Approach

Our approach to a project of this nature is to work collaboratively with staff to develop project objectives, critical success factors, and key outcomes. Every project of this nature takes a variety of twists and turns as data are developed and results begin to come into focus. By working closely with staff and departmental leadership, we can maximize the value of the City's investment that will provide long-term guidance. We appreciate the opportunity to work with the Parks and Recreation staff.

# Summary of Costing Methodologies

## Program Costing

Our approach to conducting a financial assessment of a Parks and Recreation Department is focused on calculating the full cost of major programs. This contrasts with calculating the cost of specific services. For example, in this project we calculated the full cost of major program areas within the Aquatic Center, but we did not calculate specific services such as lap swims, classes, etc. This provides a high-level assessment of financial health and opportunities to adjust cost recovery and improve services relative to market demand.

## Components of costs

The summary report tables will illustrate five different types of costs that when combined, calculate the full cost of services. These components follow:

| Cost Component                                | Definition   |
|---|--|
| Direct Program Costs                          | Direct program costs are those that are assigned to specific programs within the budget. These include salaries and benefits for those staff that contribute directly to the program area, services and supplies that are directly assigned, and any capital expenses that might be directly assigned to a specific program. |
| Other Costs                                   | Other costs include specific charges that are a function of specific youth and adult sports leagues.   |
| Reallocation of Division Administrative Costs | Each division within the department carries management and administration costs. These costs include salaries and benefits for program leadership and any non-personnel costs that cannot be assigned to specific programs.  |
| Reallocation of Department Overhead           | The recreation department also carries overhead to the Department. These costs include salary and benefit costs associated with providing leadership to the Department and Division leaders.   |
| Allocation of Citywide Overhead               | In fiscal 2018 the City engaged Capital Accounting Partners to prepare a "full cost allocation plan". This plan takes all City administrative costs such as finance, legal, HR, and IT services and allocates them to each work unit that consumes them.   |
| Total City Costs                              | Is the sum of direct costs, division overhead costs, department overhead costs, citywide costs, and any "other" costs.   |

### Allocating Overhead and Administrative Costs

Each of the overhead and administrative costs are allocated to the specific program based on a number of allocation measures. Primarily, the allocation of overhead expenses is allocated based on direct costs. This means that overhead costs are assigned to direct expenses based on the proportionate share of individual costs to the whole. The following is a sample for illustrative purposes. It assigns \$216,517 of Division overhead costs to each program area on the basis of direct program costs, which are \$153,151. The source of direct program costs and Division overhead costs are from fiscal 2018-2019 budget documents.

| PROGRAM           | PRIMARY BENEFICIARY | DIRECT PROGRAM COSTS | REALLOCATION OF DIVISION ADMINISTRATIVE COSTS |
|-------------------|---------------------|----------------------|---|
| Recreation Sports |                     |                      | \$ 216,517                                    |
| Adult Sports      |                     |                      | \$ -  |
| Drop In           | Adult               | \$ 2,436             | \$ 3,443                                      |
| Volleyball        | Adult               | \$ 2,076             | \$ 2,934                                      |
| Basketball        | Adult               | \$ 3,896             | \$ 5,507                                      |
| Softball          | Adult               | \$ 9,805             | \$ 13,861                                     |
| Yth Base/Softball | Youth               | \$ 63,371            | \$ 89,590                                     |
| Yth Basketball    | Youth               | \$ 15,557            | \$ 21,993                                     |
| Youth Soccer      | Youth               | \$ 55,898            | \$ 79,025                                     |
| Yth Sports Camps  | Youth               | \$ 112               | \$ 158  |

### Allocation of Citywide Overhead

One of the objectives of this project is to capture the full cost of services. This includes Citywide indirect costs such as IT, City Attorney, and Finance expenditures. The source of these costs is from the Indirect Cost Allocation Plan that was prepared during the spring/summer of 2018. This was part of the project to calculate the full cost of Development Services that was completed and presented to the Council in November of 2018.

The following chart details the Citywide costs that are being assigned to Parks and Recreation. These costs are also being assigned to each program based on direct program expenditures whenever possible.

| Department  | Total              | 13 Municipal Court | 15 Fire Department | 17 Parks and Recreation | 19 Park Maintenance | 21 City Library  | 75-75 Wastewater Services - Administration | 75-72 Wastewater Services - Plant |
|---|--------------------|--------------------|--------------------|-------------------------|---------------------|------------------|--|-----------------------------------|
| 01-CM Administration - City Manager                   | \$358,846          | \$1,798            | \$18,080           | \$12,484                | \$4,168             | \$5,508          | \$2,182                                    | \$6,201                           |
| 03 Finance - Accounting                               | \$696,463          | \$11,272           | \$53,273           | \$109,786               | \$20,398            | \$34,972         | \$10,350                                   | \$30,050                          |
| 01-HR Administration - Human Resource Mgt             | \$229,941          | \$4,795            | \$17,907           | \$36,381                | \$10,396            | \$16,804         | \$2,228                                    | \$9,972                           |
| 01-CP Administration - City Hall/Property             | \$239,453          | \$3,290            | \$19,711           | \$17,979                | \$7,624             | \$10,077         | \$3,992                                    | \$11,344                          |
| 01-MCC Administration - Mayor & City Council          | \$171,166          | -                  | \$13,844           | \$5,034                 | -                   | -                | -  | -                                 |
| 01-CA Administration - City Attorney                  | \$271,860          | \$6,427            | \$38,514           | \$35,128                | \$14,896            | \$19,690         | -  | -                                 |
| 03-AB Finance - Ambulance Billing                     | \$145,700          | -                  | -                  | -                       | -                   | -                | -  | -                                 |
| 80 Information Systems & Services - Personal Services | \$422,497          | \$13,219           | \$34,700           | \$26,438                | \$7,437             | \$100,796        | \$4,593                                    | \$20,557                          |
| <b>Total Claimable Costs</b>                          | <b>\$2,535,926</b> | <b>\$40,802</b>    | <b>\$196,030</b>   | <b>\$245,230</b>        | <b>\$64,918</b>     | <b>\$187,848</b> | <b>\$23,344</b>                            | <b>\$78,125</b>                   |

## Alignment with Strategic Plan

The City has recently adopted a long-term strategic plan, MAC-TOWN 2032. This costing study aligns with many aspects of the plan, most notably the first Strategic priority from that plan related to government capacity

### City Government Capacity: Strengthen the City’s ability to prioritize and deliver municipal services with discipline and focus

This fee study sets the foundation which will allow the City to analyze and cross check program costs and cost recovery to:

- Provide a management framework to evaluate which services are able to recover costs, and which are unable to recover costs;
- More accurately recover both direct and indirect costs;
- Apply direct and indirect costs to the cost recovery model;
- Facilitate a policy discussion related to other strategic priorities, most notably equity and access;
- Be consistent across the Parks and Rec Department; and
- Provide transparency to the public and users.

# Summary of Results

The following tables illustrate the results of our analysis. The analysis summarizes total expenditures and revenues for the Department. The last table will illustrate the total cost recovery at various levels of expenditures.

## Summary of Expenditures

The following table outlines the total costs by division. Besides direct program costs there are additional costs to be calculated. These include:

- Other costs that may be onetime expenses or costs associated with a specific recreation activity;
- Division administrative costs;
- Department administrative costs; and
- Citywide overhead.

Each of these costs must be considered to understand full cost.

| OPERATIONAL EXPENDITURES |                      |             |   |                                     |                                 |                  |
|--------------------------|----------------------|-------------|---|-------------------------------------|---------------------------------|------------------|
| PROGRAM                  | DIRECT PROGRAM COSTS | OTHER COSTS | REALLOCATION OF DIVISION ADMINISTRATIVE COSTS | REALLOCATION OF DEPARTMENT OVERHEAD | ALLOCATION OF CITYWIDE OVERHEAD | TOTAL CITY COSTS |
| Aquatic Center AC        | \$ 175,044           |             | \$ 629,789                                    | \$ 136,102                          | \$ 102,357                      | \$ 1,043,292     |
| Community Center CC      | \$ 205,684           | \$ -        | \$ 241,109                                    | \$ 52,105                           | \$ 39,186                       | \$ 538,085       |
| Kids on the Block        | \$ 393,351           | \$ -        | \$ 43,838                                     | \$ 9,474                            | \$ 7,125                        | \$ 453,787       |
| Recreation Sports        | \$ 153,151           | \$ 5,500    | \$ 216,517                                    | \$ 46,791                           | \$ 35,190                       | \$ 497,148       |
| Senior Center SC         | \$ 59,221            | \$ -        | \$ 377,614                                    | \$ 81,605                           | \$ 61,372                       | \$ 579,812       |
| Totals                   | \$ 986,451           | \$ 45,500   | \$ 1,508,867                                  | \$ 326,076                          | \$ 245,230                      | \$ 3,112,124     |

## Summary of Revenues

The following table illustrates the direct revenues that have been assigned to each department. Two additional revenues are also assigned to each division:

- 1) General division revenues which are allocated to each program area; and
- 2) General Department revenues which are also allocated to each program area.

| PROGRAM             | OPERATIONAL REVENUES     |   |   |                         | NET TOTALS            |
|---------------------|--------------------------|---|---|-------------------------|-----------------------|
|                     | DIRECT REVENUES ASSIGNED | REALLOCATION OF DIVISION ADMIN REVENUES | REALLOCATION OF DEPARTMENT ADMIN REVENUES | TOTAL REVENUES ASSIGNED | NET REVENUE           |
| Aquatic Center AC   | \$ 411,457               | \$ 12,743                               | \$ 2,159                                  | \$ 426,359              | \$ (616,932)          |
| Community Center CC | \$ 330,700               | \$ -                                    | \$ 1,735                                  | \$ 332,435              | \$ (205,649)          |
| Kids on the Block   | \$ 353,351               | \$ -                                    | \$ 1,854                                  | \$ 355,205              | \$ (98,582)           |
| Recreation Sports   | \$ 215,750               | \$ 4,000                                | \$ 1,132                                  | \$ 220,882              | \$ (276,266)          |
| Senior Center SC    | \$ 117,900               | \$ 50,500                               | \$ 619                                    | \$ 169,019              | \$ (410,793)          |
| <b>Totals</b>       | <b>\$ 1,429,158</b>      | <b>\$ 67,243</b>                        | <b>\$ 7,500</b>                           | <b>\$ 1,503,901</b>     | <b>\$ (1,608,223)</b> |

The total net revenues from our analysis is (\$1,608,223) which, as we will detail in the following pages, equates to a total cost recovery rate of 48%. It is our understanding that the Recreation Department is operating under guidelines that call for a 50% cost recovery target.

## Summary of Total Cost Recovery Rates

The following table outlines cost recovery at various levels:

- 1) Direct costs;

- 2) Direct costs plus division administration;
- 3) Direct costs plus division and Department administration; and
- 4) Total costs.

| COST RECOVERY RATES |        |                      |                                       |                                |
|---------------------|--------|----------------------|---------------------------------------|--------------------------------|
| PROGRAM             | DIRECT | DIRECT PLUS DIVISION | DIRECT PLUS DIVISION, PLUS DEPARTMENT | ALL COST AND REVENUES COMBINED |
| Aquatic Center AC   | 235%   | 102%                 | 45%                                   | 41%                            |
| Community Center CC | 161%   | 148%                 | 67%                                   | 62%                            |
| Kids on the Block   | 90%    | 162%                 | 80%                                   | 78%                            |
| Recreation Sports   | 109%   | 117%                 | 48%                                   | 44%                            |
| Senior Center SC    | 199%   | 54%                  | 33%                                   | 29%                            |
| Totals              | 145%   | 115%                 | 52%                                   | 48%                            |

From our experience, these numbers are about average of what we observe. Based on total cost recovery, the cities we have worked with have ranges from 35%-65%. The primary variables are 1) local social and economic factors, and 2) aggressiveness in managing recreational programs for quality and revenue generation. It is not unusual for cities to be surprised at these levels. Recreation services can consume significant resources from general administrative overhead, which is frequently not recognized. One example of this is due to the large volume of seasonal employees, each of which requires a hiring process, onboarding and offboarding. Other municipal departments often do less hiring and employee processing because of a lower seasonal employee count than traditionally found in parks and recreation departments. In addition, program development can consume significant department and division overhead and these resources are frequently not recognized. We applaud the City of McMinnville for understanding these costs and calculating their impact on total cost recovery.



This fee study applies the same methodology as the 2018 planning and building user fee study for the City of McMinnville.

### Summary of Costs and Revenues Based on Beneficiary

By working with staff, we were also able to provide a similar analysis but base it on who are the primary beneficiaries. This structure includes:

- Youth;
- Adult; and
- Seniors.

Some of the designations were subjective. Not every service fits within tight parameters of youth, adult, and seniors. For example, aquatic programs can appeal to all three segments of customers. However, in working with Department staff we were able to make general approximations as to which programs appealed to which customer segment.

| OPERATIONAL EXPENDITURES | NET RECOVERY  | COST RECOVERY RATES |                      |                                       |                                |
|--------------------------|---------------|---------------------|----------------------|---------------------------------------|--------------------------------|
| PRIMARY BENEFICIARY      | NET REVENUE   | DIRECT              | DIRECT PLUS DIVISION | DIRECT PLUS DIVISION, PLUS DEPARTMENT | ALL COST AND REVENUES COMBINED |
| Youth                    | (\$1,094,798) | 130%                | 123%                 | 55%                                   | 51%                            |
| Adult                    | (\$102,631)   | 359%                | 162%                 | 70%                                   | 63%                            |
| Senior                   | (\$410,793)   | 199%                | 54%                  | 33%                                   | 29%                            |
| Totals                   | (\$1,608,223) | 145%                | 115%                 | 52%                                   | 48%                            |

The reader will note that programs designed for adults have the highest level of cost recovery. From our experience, this is fairly standard. However, a cost recovery rate of 29% for seniors is on the low end of what we would expect based on our experience.

## Comparison Review

As part of this analysis, a survey was conducted to compare selected recreational services with six benchmark cities. Comparable cities were selected by staff based on similar size and demographics to McMinnville. They included:

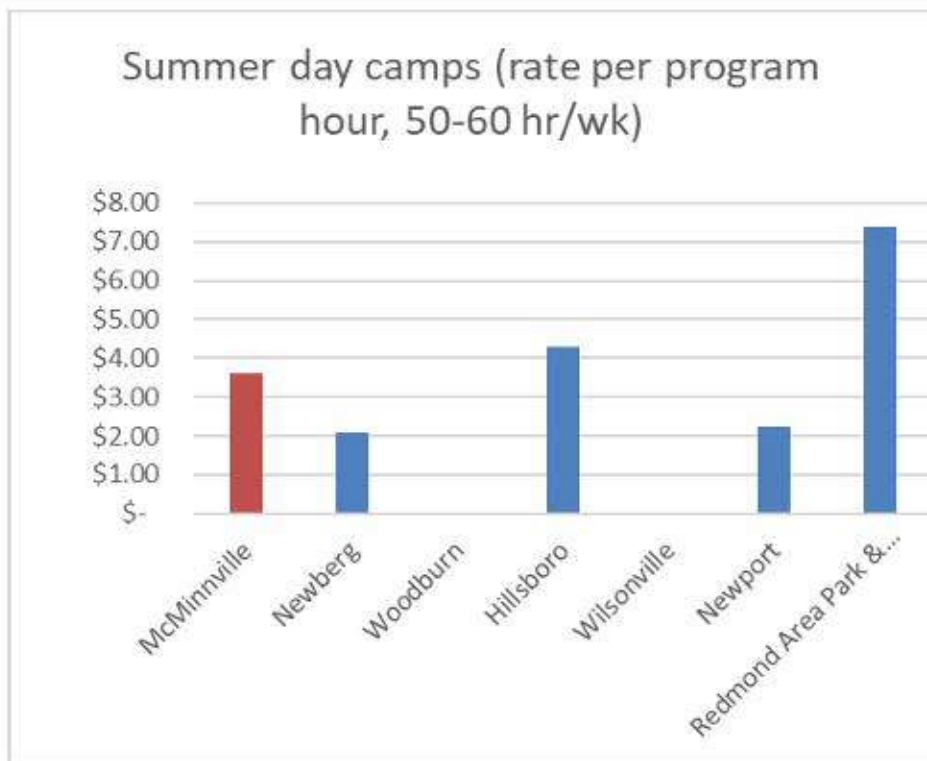
- 1) Newberg;
- 2) Woodburn;
- 3) Hillsboro;
- 4) Wilsonville;
- 5) Newport; and
- 6) Redmond Area Park & Recreation.

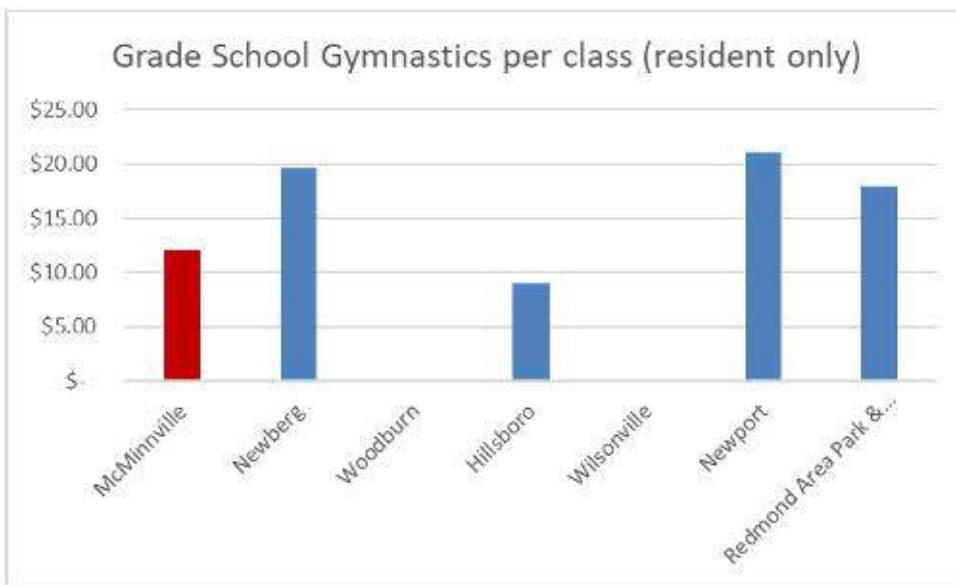
Anytime there is a comparison of fees, we urge caution. Seldom is there an exact service to service match. For example, classes such fitness, pottery, palates, or Zumba, even though they have the same name, are seldom exactly the same. One city may have a price for ten classes, another for five classes, or another has a per class price. Some classes may be led by a city employee and another may be led by a contract employee. Some cities manage their facilities like a club whereby citizens can pay a monthly, quarterly, or annual membership which keeps the cost of specific services low, while others will charge based on an understanding of direct costs. Because of these challenges we do not recommend looking at specific services but instead looking at trends and ranges of prices in making comparisons. From our reading of the results, it is our observation that McMinnville's Recreational fees are within a range that is reasonable.

City of McMinnville Parks and Recreation Fee study

| Fee/Application                                      | McMinnville | Newberg   | Woodburn  | Hillsboro | Wilsonville | Newport   | Redmond Area Park & Recreation |
|--|-------------|-----------|-----------|-----------|-------------|-----------|--------------------------------|
| Fee/Application                                      | McMinnville | Newberg   | Woodburn  | Hillsboro | Wilsonville | Newport   | Redmond Area Park & Recreation |
| <b>Aquatics</b>                                      |             |           |           |           |             |           |                                |
| Avg Fee per one 30 minute lesson (member/non-member) | \$ 8.00     | \$ 10.00  | \$ 4.25   | \$ 7.50   |             | \$ 8.50   | \$ 4.80                        |
| 6 Month membership pass                              | \$ 140.00   | \$ 213.00 | \$ 228.00 | \$ 148.00 | \$ 255.00   | \$ 169.00 | \$ 196.00                      |
| <b>Community Center</b>                              |             |           |           |           |             |           |                                |
| Zumba (resident only)                                | \$ 4.50     | \$ 7.00   | \$ 5.00   | \$ 4.00   |             |           | \$ 3.50                        |
| Grade School Gymnastics per class (resident only)    | \$ 12.00    | \$ 19.60  |           | \$ 9.00   |             | \$ 21.00  | \$ 18.00                       |
| Pickball (day drop-in fee)                           | \$ 2.00     | \$ 6.50   |           |           | free        | \$ 5.50   |                                |
| <b>Senior Center</b>                                 |             |           |           |           |             |           |                                |
| (based on 18 hours of class time)                    | \$ 30.00    | \$ 200.00 |           | \$ 81.00  | \$ 81.00    | \$ 72.00  | \$ 200.00                      |
| Yoga level 1 class (1 hour drop in)                  | \$ 8.00     | \$ 7.00   |           | \$ 4.00   | \$ 8.00     | \$ 8.00   | \$ 3.50                        |
| <b>Stars Day Camp</b>                                |             |           |           |           |             |           |                                |
| per program hour, 50-60 hr/wk)                       | \$ 3.60     | \$ 2.08   |           | \$ 4.30   |             | \$ 2.26   | \$ 7.40                        |
| <b>Recreation Sports</b>                             |             |           |           |           |             |           |                                |
| game/per person) resident only                       | \$ 6.40     | \$ 11.12  | \$ 6.00   |           |             |           | \$ 10.00                       |
| Coed Softball (per game/per team)                    | \$ 52.00    | \$ 50.00  | \$ 54.00  | \$ 46.00  |             | \$ 47.50  |                                |

The following are 4 of the above data sets put into graphical format.





# Recommendations

Making pricing recommendations for specific Recreation services is seldom based on cost. We recommend using cost and cost recovery data as a guide in setting cost recovery policy. From this policy direction, Recreation staff and leadership can make the appropriate decisions concerning prices and a mix of services that will best meet the cost recovery needs of the City.

One approach to pricing that we have seen work very well is for the Council to establish a tiered structure. In this model, Council, in collaboration with Parks and Recreation leadership, identify broad categories of services that can fit within a high, medium, and low-cost recovery basis. We would add to this model, the recommendation that the tiers be based on total cost data rather than arbitrary considerations with no numerical basis. For example, in the structure below, the City may consider the recovery of direct program cost for youth programs, direct costs and some component of administrative costs for senior programs, and full cost recovery for adult programs.

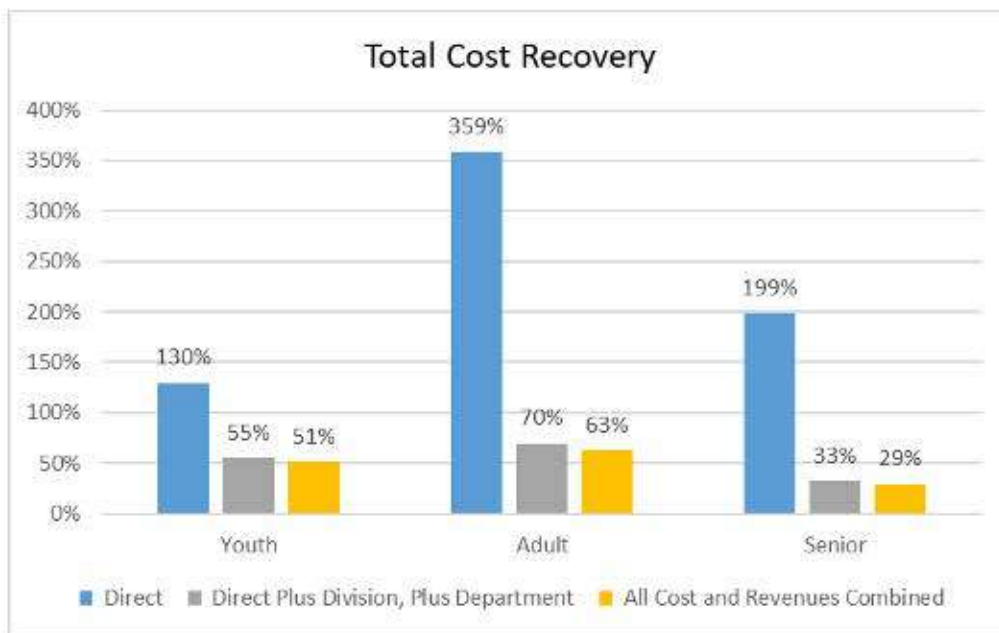
| COST RECOVERY TARGETS |                      |             |   |                                     |                                 |  |
|-----------------------|----------------------|-------------|---|-------------------------------------|---------------------------------|--|
| PRIMARY BENEFICIARY   | DIRECT PROGRAM COSTS | OTHER COSTS | REALLOCATION OF DIVISION ADMINISTRATIVE COSTS | REALLOCATION OF DEPARTMENT OVERHEAD | ALLOCATION OF CITYWIDE OVERHEAD |  |
| Youth                 | \$ 879,408           | \$ 42,000   | \$ 966,895                                    | \$ 208,952                          | \$ 157,146                      |  |
| Adult                 | \$ 47,822            | \$ 3,500    | \$ 164,358                                    | \$ 35,519                           | \$ 26,712                       |  |
| Senior                | \$ 59,221            | \$          | \$ 377,614                                    | \$ 81,605                           | \$ 61,372                       |  |

Generally, our bias is to charge the full cost of services unless there is a compelling interest to the City to not charge a fee or full cost. This bias has been formed from assessing dozens of user fees and cost of service studies. We find that cities which charge for services and do not subsidize services unless there is a compelling interest not to, tend to provide the best service to their citizens. This is in alignment with the City's mission of: *Delivering high-quality services*

*in collaboration with partners for a prosperous, safe, and livable community. Compelling interests come in three categories:*

- **Compliance.** This is where regulatory compliance is of greater value than the revenue from a service; and
- **Safety.** We have observed, for example, cities provide free inspections for children’s car seats as a way of improving public safety. In addition, we are aware of several cities that have built skate parks as a way of attracting teens to the park, which has a benefit of reducing after school petty crime, vandalism, and the number of police calls.
- **Social Services.** It could be argued, that parks and recreation services are part of a network of social services that are delivered to underserved individuals and families in need. We have seen some cities take this to the next level and manage recreation as one of these networks. In doing so, they partner with several other agencies in delivering services with the goal of achieving social equity and inclusion.

Within this context, the City may consider an approach that recognizes relative age or place in life for setting cost recovery policy. For example, youth have the least ability to pay full cost for recreational services. Working adults would have the greatest ability to pay full cost followed by seniors. The following graphic shows cost recovery as a percentage of costs.



## Achieving Social Equity

For recreation services, we have observed three broad methods of achieving social equity, which we understand has a goal of services being available for the broadest number of citizens possible. In short, money is not a hindrance to accessing services provided by the city.

- 1) Keep fees for services artificially low. By keeping prices for Recreational services low. This strategy creates a very small "barrier to entry". However, our observation is that over time, the quality of services degenerates. Low fees to the public all too often translate to low revenues and therefore, little attention from policy makers. This is not a sustainable model.
- 2) Design services that citizens in lower social/economic positions need. For example, we have seen recreation departments partner with local community colleges to provide job counseling and resume builder skills training. Additionally, we have seen cities partner with local youth service organizations for afterschool athletic, tutoring, and computer skills training. This approach integrates recreation services with other agencies providing similar services. The McMinnville Parks and Recreation Department is currently embarking on a recreation facility and services master plan that will further identify and clarify core recreation services for McMinnville.
- 3) Provide scholarships. Virtually every city has scholarships available for its citizens. However, the most successful program we have seen achieve the highest level of cost recovery, is a city in the San Francisco Bay Area. They managed their programs very aggressively, in that each program/service area had specific participation targets. Prices were also set very aggressively. However, they also had a very robust scholarship program. The result was that anyone who desired to participate was able to.

## Summary and Conclusions

Establishing specific pricing recommendations for specific services is outside the scope of this project. We strongly feel that these recommendations should come from Parks and Recreation leadership based on broad policy goals from the Council. Conversely, we do not believe that it is in the best interest of the City for the Council to dictate specific prices for specific Recreational services. Recreational services tend to be market driven and prices are



competitive. To remain competitive, Parks and Recreational leadership needs the flexibility of developing services that will meet the needs of the community while setting prices that are in alignment with surrounding agencies that provide similar services.

Therefore, we recommend the Council set broad objectives for cost recovery and achieving community values such as social equity, delivering high-quality services, and careful stewardship of City resources. Then allow Recreation leadership to develop services that will meet these values and objectives in a manner that is consistent with organizational mission.

# Appendix

The following tables are the actual model that was constructed. It was developed by taking the initial budget and modifying it with significant input from staff.

| OPERATIONAL EXPENDITURES                    |                     |                      |             |   |                                     |                                 |                     |
|---|---------------------|----------------------|-------------|---|-------------------------------------|---------------------------------|---------------------|
| PROGRAM                                     | Primary Beneficiary | DIRECT PROGRAM COSTS | OTHER COSTS | REALLOCATION OF DIVISION ADMINISTRATIVE COSTS | REALLOCATION OF DEPARTMENT OVERHEAD | ALLOCATION OF CITYWIDE OVERHEAD | TOTAL CITY COSTS    |
| <b>Aquatic Center AC</b>                    |                     |                      |             |   |                                     |                                 |                     |
| Admin: public, family & lap swim; wt<br>rm  | Youth               | \$ 91,407            |             | \$ 328,872.30                                 | \$ 71,071.45                        | \$ 53,450.27                    | \$ 544,801          |
| Rentals                                     | Youth               | \$ 27,184            |             | \$ 97,805.03                                  | \$ 21,136.31                        | \$ 15,895.85                    | \$ 162,021          |
| Swim Lessons                                | Youth               | \$ 31,332            |             | \$ 112,729.08                                 | \$ 24,361.49                        | \$ 18,321.40                    | \$ 186,744          |
| Fitness                                     | Adult               | \$ 19,971            |             | \$ 71,853.45                                  | \$ 15,528.00                        | \$ 11,678.05                    | \$ 119,031          |
| Pro Shop                                    | Adult               | \$ 5,150             |             | \$ 18,529.13                                  | \$ 4,004.27                         | \$ 3,011.46                     | \$ 30,695           |
| <b>Totals</b>                               |                     | <b>\$ 175,044</b>    | <b>\$ -</b> | <b>\$ 629,789</b>                             | <b>\$ 136,102</b>                   | <b>\$ 102,357</b>               | <b>\$ 1,043,292</b> |
| <b>Community Center CC</b>                  |                     |                      |             |   |                                     |                                 |                     |
| Facility Rentals Meeting Rooms              | Adult               |                      |             | \$ 23,505.63                                  | \$ 5,079.72                         | \$ 3,820.27                     | \$ 32,406           |
| Facility Rentals Auditorium                 | Adult               |                      |             | \$ 8,814.61                                   | \$ 1,904.89                         | \$ 1,432.60                     | \$ 12,152           |
| Facility Rentals Kitchen Facilities         | Adult               |                      |             | \$ 1,762.92                                   | \$ 380.98                           | \$ 286.52                       | \$ 2,430            |
| Facility Rentals Athletic Facilities        | Adult               |                      |             | \$ 4,994.95                                   | \$ 1,079.44                         | \$ 811.81                       | \$ 6,886            |
| Facility Rentals Staff Fees                 | Adult               |                      |             | \$ 4,407.31                                   | \$ 952.45                           | \$ 716.30                       | \$ 6,076            |
| Facility Rentals Contract Event<br>Security | Adult               |                      |             | \$ 117.53                                     | \$ 25.40                            | \$ 19.10                        | \$ 162              |
| Other Income                                | Adult               |                      |             | \$ 235.06                                     | \$ 50.80                            | \$ 38.20                        | \$ 324              |
| Classes & Prog                              |                     |                      |             | \$ -  | \$ -                                | \$ -                            | \$ -                |
| Ongoing classes                             | Youth               | \$ 15,488            |             | \$ 15,144.47                                  | \$ 3,272.82                         | \$ 2,461.37                     | \$ 36,367           |
| One-time Classes                            | Adult               | \$ 4,488             |             | \$ 4,388.45                                   | \$ 948.37                           | \$ 713.24                       | \$ 10,538           |
| Gymnastics                                  | Youth               | \$ 65,105            |             | \$ 63,660.95                                  | \$ 13,757.55                        | \$ 10,346.55                    | \$ 152,870          |
| Camps                                       | Youth               | \$ 27,000            |             | \$ 26,401.13                                  | \$ 5,705.46                         | \$ 4,290.87                     | \$ 63,397           |
| Shower Voucher Program                      |                     |                      |             | \$ -  | \$ -                                | \$ -                            | \$ -                |
| Comm Ctr                                    | Youth               | \$ 7,500             |             |   | \$ -                                | \$ -                            | \$ 7,500            |
| Summer STARS                                | Youth               | \$ 85,103            |             | \$ 43,838.00                                  | \$ 9,473.68                         | \$ 7,124.81                     | \$ 145,539          |
| Tiny Tots                                   | Youth               | \$ 1,000             |             | \$ 43,838.00                                  | \$ 9,473.68                         | \$ 7,124.81                     | \$ 61,436           |
| <b>KOB</b>                                  |                     |                      |             |   |                                     | <b>\$ -</b>                     |                     |
| Kids on the Block                           | Youth               | \$ 393,351           |             | \$ 43,838                                     | \$ 9,473.68                         | \$ 7,124.81                     | \$ 453,787          |
| <b>Totals</b>                               |                     | <b>\$ 599,035</b>    | <b>\$ -</b> | <b>\$ 284,947</b>                             | <b>\$ 61,579</b>                    | <b>\$ 46,311</b>                | <b>\$ 991,872</b>   |

| OPERATIONAL EXPENDITURES |                     |                      |                  |   |                                     |                                 |                   |
|--------------------------|---------------------|----------------------|------------------|---|-------------------------------------|---------------------------------|-------------------|
| PROGRAM                  | Primary Beneficiary | DIRECT PROGRAM COSTS | OTHER COSTS      | REALLOCATION OF DIVISION ADMINISTRATIVE COSTS | REALLOCATION OF DEPARTMENT OVERHEAD | ALLOCATION OF CITYWIDE OVERHEAD | TOTAL CITY COSTS  |
| <b>Recreation Sports</b> |                     |                      |                  |   |                                     |                                 |                   |
| Athletic Field Rentals   |                     |                      |                  |   | \$ -                                | \$ -                            |                   |
| Adult Sports             |                     |                      |                  | \$ -  | \$ -                                | \$ -                            |                   |
| Drop In                  | Adult               | \$ 2,436             |                  | \$ 3,443.89                                   | \$ 744.25                           | \$ 559.72                       | \$ 7,184          |
| Volleyball               | Adult               | \$ 2,076             |                  | \$ 2,934.94                                   | \$ 634.26                           | \$ 477.00                       | \$ 6,122          |
| Basketball               | Adult               | \$ 3,896             |                  | \$ 5,507.96                                   | \$ 1,190.31                         | \$ 895.19                       | \$ 11,489         |
| Softball                 | Adult               | \$ 9,805             | \$ 3,500         | \$ 13,861.80                                  | \$ 2,995.63                         | \$ 2,252.90                     | \$ 32,415         |
| Yth Base/Softball        | Youth               | \$ 63,371            | \$ 18,500        | \$ 89,590.66                                  | \$ 19,361.13                        | \$ 14,560.80                    | \$ 205,384        |
| Yth Basketball           | Youth               | \$ 15,557            |                  | \$ 21,993.69                                  | \$ 4,752.98                         | \$ 3,574.54                     | \$ 45,878         |
| Youth Soccer             | Youth               | \$ 55,898            | \$ 23,500        | \$ 79,025.71                                  | \$ 17,077.97                        | \$ 12,843.73                    | \$ 188,345        |
| Yth Sports Camps         | Youth               | \$ 112               |                  | \$ 158.34                                     | \$ 34.22                            | \$ 25.73                        | \$ 330            |
| <b>Totals</b>            |                     | <b>\$ 153,151</b>    | <b>\$ 45,500</b> | <b>\$ 216,517</b>                             | <b>\$ 46,791</b>                    | <b>\$ 35,190</b>                | <b>\$ 497,148</b> |

| OPERATIONAL EXPENDITURES              |                     |                      |                  |   |                                     |                                 |                     |
|---------------------------------------|---------------------|----------------------|------------------|---|-------------------------------------|---------------------------------|---------------------|
| PROGRAM                               | Primary Beneficiary | DIRECT PROGRAM COSTS | OTHER COSTS      | REALLOCATION OF DIVISION ADMINISTRATIVE COSTS | REALLOCATION OF DEPARTMENT OVERHEAD | ALLOCATION OF CITYWIDE OVERHEAD | TOTAL CITY COSTS    |
| <b>Senior Center SC</b>               |                     |                      |                  |   |                                     |                                 |                     |
| Facility Room Rentals                 |                     |                      |                  |   | \$ -                                | \$ -                            |                     |
| Facility Rentals Meeting Rooms        | senior              |                      |                  | \$ 38,604                                     | \$ 8,342.50                         | \$ 6,274.10                     | \$ 53,220           |
| Facility Rentals Kitchen Facilities   | senior              |                      |                  | \$ 351  | \$ 75.84                            | \$ 57.04                        | \$ 484              |
| Facility Rentals Staff Fees           | senior              |                      |                  | \$ 17,547                                     | \$ 3,792.05                         | \$ 2,851.86                     | \$ 24,191           |
| Facility Rentals Reception Facilities | senior              |                      |                  | \$ 21,057                                     | \$ 4,550.46                         | \$ 3,422.23                     | \$ 29,029           |
| Facility Rentals Meal Site            | senior              |                      |                  | \$ 16,845                                     | \$ 3,640.36                         | \$ 2,737.79                     | \$ 23,223           |
| Classes & Prog                        |                     |                      |                  | \$ -  | \$ -                                | \$ -                            | \$ -                |
| Series                                | senior              | \$ 7,750             |                  | \$ 46,952.26                                  | \$ 10,146.69                        | \$ 7,630.96                     | \$ 72,480           |
| One-time Classes                      | senior              | \$ 2,875             |                  | \$ 12,209.52                                  | \$ 2,638.56                         | \$ 1,984.36                     | \$ 19,707           |
| Ongoing Classes                       | senior              | \$ 9,375             |                  | \$ 35,241.73                                  | \$ 7,615.97                         | \$ 5,727.69                     | \$ 57,960           |
| Support Groups/Social Services        |                     |                      |                  |   | \$ -                                | \$ -                            | \$ -                |
| Day Tours                             | senior              | \$ 10,121            |                  | \$ 72,618.08                                  | \$ 15,693.24                        | \$ 11,802.32                    | \$ 110,235          |
| Overnight Tours                       | senior              | \$ 250               |                  | \$ 14,523.62                                  | \$ 3,138.65                         | \$ 2,360.46                     | \$ 20,273           |
| Seniors                               | senior              | \$ 500               |                  | \$ 7,261.81                                   | \$ 1,569.32                         | \$ 1,180.23                     | \$ 10,511           |
| Wortman Park Café                     | senior              | \$ 27,000            |                  | \$ 75,522.80                                  | \$ 16,320.97                        | \$ 12,274.41                    | \$ 131,118          |
| Wortman Gallery                       | senior              | \$ 1,350             |                  | \$ 18,880.70                                  | \$ 4,080.24                         | \$ 3,068.60                     | \$ 27,380           |
| <b>Totals</b>                         |                     | <b>\$ 59,221</b>     | <b>\$ -</b>      | <b>\$ 377,614</b>                             | <b>\$ 81,605</b>                    | <b>\$ 61,372</b>                | <b>\$ 579,812</b>   |
| <b>Grand Totals</b>                   |                     | <b>\$ 986,451</b>    | <b>\$ 45,500</b> | <b>\$ 1,508,867</b>                           | <b>\$ 326,076</b>                   | <b>\$ 245,230</b>               | <b>\$ 3,112,124</b> |

| PROGRAM                                     | OPERATIONAL REVENUES     |   |   |                         | NET TOTALS         |
|---|--------------------------|---|---|-------------------------|--------------------|
|   | DIRECT REVENUES ASSIGNED | REALLOCATION OF DIVISION ADMIN REVENUES | REALLOCATION OF DEPARTMENT ADMIN REVENUES | TOTAL REVENUES ASSIGNED | NET REVENUE        |
| <b>Aquatic Center AC</b>                    |                          |   |   |                         |                    |
| Admin: public, family & lap swim; wt<br>rm  | \$ 192,647               | \$ 5,966                                | \$ 1,010.98                               | \$ 199,624              | (\$345,177)        |
| Rentals                                     | \$ 49,282                | \$ 1,526                                | \$ 258.62                                 | \$ 51,067               | (\$110,954)        |
| Swim Lessons                                | \$ 93,422                | \$ 2,893                                | \$ 490.26                                 | \$ 96,806               | (\$89,938)         |
| Fitness                                     | \$ 69,000                | \$ 2,137                                | \$ 362.10                                 | \$ 71,499               | (\$47,531)         |
| Pro Shop                                    | \$ 7,106                 | \$ 220                                  | \$ 37.29                                  | \$ 7,363                | (\$23,331)         |
| <b>Totals</b>                               | <b>\$ 411,457</b>        | <b>\$ 12,743</b>                        | <b>\$ 2,159</b>                           | <b>\$ 426,359</b>       | <b>(\$616,932)</b> |
| <b>Community Center CC</b>                  |                          |   |   |                         |                    |
| Facility Rentals Meeting Rooms              | \$ 40,000                | \$ -                                    | \$ 209.91                                 | \$ 40,210               | \$7,804            |
| Facility Rentals Auditorium                 | \$ 15,000                | \$ -                                    | \$ 78.72                                  | \$ 15,079               | \$2,927            |
| Facility Rentals Kitchen Facilities         | \$ 3,000                 | \$ -                                    | \$ 15.74                                  | \$ 3,016                | \$585              |
| Facility Rentals Athletic Facilities        | \$ 8,500                 | \$ -                                    | \$ 44.61                                  | \$ 8,545                | \$1,658            |
| Facility Rentals Staff Fees                 | \$ 7,500                 | \$ -                                    | \$ 39.36                                  | \$ 7,539                | \$1,463            |
| Facility Rentals Contract Event<br>Security | \$ 200                   | \$ -                                    | \$ 1.05                                   | \$ 201                  | \$39               |
| Other Income                                | \$ 400                   | \$ -                                    | \$ 2.10                                   | \$ 402                  | \$78               |
| Classes & Prog                              | \$ -                     | \$ -                                    | \$ -                                      | \$ -                    | \$0                |
| Ongoing classes                             | \$ 5,000                 | \$ -                                    | \$ 26.24                                  | \$ 5,026                | (\$31,340)         |
| One-time Classes                            | \$ 4,000                 | \$ -                                    | \$ 20.99                                  | \$ 4,021                | (\$6,517)          |
| Gymnastics                                  | \$ 115,000               | \$ -                                    | \$ 603.50                                 | \$ 115,604              | (\$37,267)         |
| Camps                                       | \$ 36,000                | \$ -                                    | \$ 188.92                                 | \$ 36,189               | (\$27,209)         |
| Shower Voucher Program                      | \$ -                     | \$ -                                    | \$ -                                      | \$ -                    | \$0                |
| Comm Ctr                                    | \$ 9,000                 | \$ -                                    | \$ 47.23                                  | \$ 9,047                | \$1,547            |
| Summer STARS                                | \$ 80,100                | \$ -                                    | \$ 420.35                                 | \$ 80,520               | (\$65,019)         |
| Tiny Tots                                   | \$ 7,000                 | \$ -                                    | \$ 36.73                                  | \$ 7,037                | (\$54,400)         |
| <b>KOB</b>                                  |                          |   |   |                         |                    |
| Kids on the Block                           | \$ 353,351               | \$ -                                    | \$ 1,854.33                               | \$ 355,205              | (\$98,582)         |
| <b>Totals</b>                               | <b>\$ 609,451</b>        | <b>\$ -</b>                             | <b>\$ 3,198</b>                           | <b>\$ 612,649</b>       | <b>(\$318,786)</b> |

| OPERATIONAL REVENUES     |                          |   |   |                         | NET TOTALS         |
|--------------------------|--------------------------|---|---|-------------------------|--------------------|
| PROGRAM                  | DIRECT REVENUES ASSIGNED | REALLOCATION OF DIVISION ADMIN REVENUES | REALLOCATION OF DEPARTMENT ADMIN REVENUES | TOTAL REVENUES ASSIGNED | NET REVENUE        |
| <b>Recreation Sports</b> |                          |   |   |                         |                    |
|                          |                          |   | \$ -                                      |                         |                    |
| Athletic Field Rentals   |                          |   | \$ -                                      | \$ -                    | \$0                |
| Adult Sports             |                          | \$ -                                    | \$ -                                      | \$ -                    | \$0                |
| Drop In                  | \$ 1,020                 | \$ 18.91                                | \$ 5.35                                   | \$ 1,044                | (\$6,140)          |
| Volleyball               | \$ 2,720                 | \$ 50.43                                | \$ 14.27                                  | \$ 2,785                | (\$3,338)          |
| Basketball               | \$ 3,230                 | \$ 59.88                                | \$ 16.95                                  | \$ 3,307                | (\$8,183)          |
| Softball                 | \$ 10,030                | \$ 185.96                               | \$ 52.64                                  | \$ 10,269               | (\$22,147)         |
| Yth Base/Softball        | \$ 80,000                | \$ 1,483.20                             | \$ 419.83                                 | \$ 81,903               | (\$123,481)        |
| Yth Basketball           | \$ 20,000                | \$ 370.80                               | \$ 104.96                                 | \$ 20,476               | (\$25,402)         |
| Youth Soccer             | \$ 98,000                | \$ 1,816.92                             | \$ 514.29                                 | \$ 100,331              | (\$88,014)         |
| Yth Sports Camps         | \$ 750                   | \$ 13.90                                | \$ 3.94                                   | \$ 768                  | \$438              |
| <b>Totals</b>            | <b>\$ 215,750</b>        | <b>\$ 4,000</b>                         | <b>\$ 1,132</b>                           | <b>\$ 220,882</b>       | <b>(\$276,266)</b> |

| PROGRAM                               | OPERATIONAL REVENUES     |   |   |                         | NET TOTALS           |
|---------------------------------------|--------------------------|---|---|-------------------------|----------------------|
|                                       | DIRECT REVENUES ASSIGNED | REALLOCATION OF DIVISION ADMIN REVENUES | REALLOCATION OF DEPARTMENT ADMIN REVENUES | TOTAL REVENUES ASSIGNED | NET REVENUE          |
| <b>Senior Center SC</b>               |                          |   |   |                         |                      |
| Facility Room Rentals                 |                          |   |   |                         |                      |
| Facility Rentals Meeting Rooms        | \$ 11,000                | \$ 4,711.62                             | \$ 57.73                                  | \$ 15,769               | (\$37,451)           |
| Facility Rentals Kitchen Facilities   | \$ 100                   | \$ 42.83                                | \$ 0.52                                   | \$ 143                  | (\$340)              |
| Facility Rentals Staff Fees           | \$ 5,000                 | \$ 2,141.65                             | \$ 26.24                                  | \$ 7,168                | (\$17,023)           |
| Facility Rentals Reception Facilities | \$ 6,000                 | \$ 2,569.97                             | \$ 31.49                                  | \$ 8,601                | (\$20,428)           |
| Facility Rentals Meal Site            | \$ 4,800                 | \$ 2,055.98                             | \$ 25.19                                  | \$ 6,881                | (\$16,342)           |
| Classes & Prog                        |                          | \$ -                                    | \$ -                                      | \$ -                    | \$0                  |
| Series                                | \$ 20,889                | \$ 8,947.37                             | \$ 109.62                                 | \$ 29,946               | (\$42,534)           |
| One-time Classes                      | \$ 5,432                 | \$ 2,326.68                             | \$ 28.51                                  | \$ 7,787                | (\$11,920)           |
| Ongoing Classes                       | \$ 15,679                | \$ 6,715.77                             | \$ 82.28                                  | \$ 22,477               | (\$35,483)           |
| Support Groups/Social Services        |                          | \$ -                                    | \$ -                                      | \$ -                    | \$0                  |
| Day Tours                             | \$ 10,000                | \$ 4,283.29                             | \$ 52.48                                  | \$ 14,336               | (\$95,899)           |
| Overnight Tours                       | \$ 2,000                 | \$ 856.66                               | \$ 10.50                                  | \$ 2,867                | (\$17,406)           |
| Seniors                               | \$ 1,000                 | \$ 428.33                               | \$ 5.25                                   | \$ 1,434                | (\$9,078)            |
| Wortman Park Café                     | \$ 34,500                | \$ 14,777.35                            | \$ 181.05                                 | \$ 49,458               | (\$81,660)           |
| Wortman Gallery                       | \$ 1,500                 | \$ 642.49                               | \$ 7.87                                   | \$ 2,150                | (\$25,229)           |
| <b>Totals</b>                         | <b>\$ 117,900</b>        | <b>\$ 50,500</b>                        | <b>\$ 619</b>                             | <b>\$ 169,019</b>       | <b>(\$410,793)</b>   |
| <b>Grand Totals</b>                   | <b>\$ 1,429,158</b>      | <b>\$ 71,243</b>                        | <b>\$ 7,500</b>                           | <b>\$ 1,503,901</b>     | <b>(\$1,608,223)</b> |





**City of McMinnville**  
**Planning Department**  
 231 NE Fifth Street  
 McMinnville, OR 97128  
 (503) 434-7311  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

# STAFF REPORT

**DATE:** July 23, 2019  
**TO:** Mayor and City Councilors  
**FROM:** Jamie Fleckenstein, Associate Planner  
**SUBJECT:** Oak Ridge Meadows Land-Use Applications - Ordinance Nos. 5065, 5069 and 5070.

- PDA 3-18 (Amendment of Oak Ridge Planned Development), and
- PDA 4-18 (Amendment of Oak Ridge Meadows Planned Development), and
- S 3-18 (Tentative Subdivision Plan, Oak Ridge Meadows).

## STRATEGIC PRIORITY & GOAL:

|  |   |
|--|---|
|  <p><b>GROWTH &amp; DEVELOPMENT CHARACTER</b><br/>     Guide growth &amp; development strategically, responsively &amp; responsibly to enhance our unique character.</p> <p><b>OBJECTIVE:</b> Strategically plan for short and long-term growth and development that will create enduring value for the community.</p> |  <p><b>HOUSING OPPORTUNITIES</b> [ACROSS THE INCOME SPECTRUM]<br/>     Create diverse housing opportunities that support great neighborhoods.</p> <p><b>OBJECTIVE:</b> Collaborate to improve the financial feasibility of diverse housing development opportunities.</p> |
|--|---|

## Report in Brief:

This is a public hearing for City Council to consider Ordinances 5065, 5069 and 5070, representing three land-use applications for the Oak Ridge Meadows housing development. Two are amendments to existing planned developments approved in 2000 and 2005. Both land-use decisions are still valid and have not expired. The applicant, Premier Development LLC, would like to combine the last unbuilt phase of the Planned Development approved in 2000 with the unbuilt Planned Development approved in 2005 to create one master planned development in order to improve connectivity, protect the floodplain and riparian corridor and provide better open space amenities for the neighborhood. The third land-use application is a Tentative Subdivision Plan for the one resulting amended Planned Development. The sum total of these land-use decisions would allow a 108 lot, single-family residential housing development on 35.47 acres of R-2 (low density residential) zoned land within the city limits.

*Attachments:*

- Attachment A: Ordinance No. 5065 including:*
  - Exhibit A – PDA 3-18 Decision Document*
- Attachment B: Ordinance No. 5069 including:*
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- Attachment H - N: Public Testimony Received*
- Attachment : Ordinance No. 4921-Floodplain Ordinance*
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- Attachment Q: Storm Drainage Email Communication*
- Attachment R: Oregon State Model Floodplain Code, modified January 2014*

The land-use requests are summarized below:

- 1) Ordinance No. 5065 would approve **Planned Development Amendment PDA 3-18**, removing 11.47 acres of undeveloped land (Tax Lot R44170300) from the Oak Ridge Planned Development, (adopted by Ordinance No. 4722).
- 2) Ordinance No. 5069 would approve **Planned Development Amendment PDA 4-18**, adding the 11.47 acres of undeveloped land removed from the Oak Ridge Planned Development via PDA 3-18 to the current 24 acre Oak Ridge Meadows Planned Development (adopted by Ordinance No. 4822), Tax Lot R440700602, for a total of 35.47 acres, and approve the following amendments to the existing design and development standards of the Oak Ridge Meadows Planned Development.

- That the average lot size shall be amended from 7,500 square feet to approximately 7,770 square feet.
- That the setbacks be amended from:

| Setbacks            | Current  | Proposed |
|---------------------|--|----------|
| Front Yard          | 20 feet  | 20 feet  |
| Side Yard           | Lots less than 6,000 square feet in area - 6 feet.<br>All other lots – 7.5 feet. | 5 feet   |
| Exterior Side Yard  | 15 – 20 feet   | 10 feet  |
| Rear Yard           | 20 feet  | 20 feet  |
| Open Side of Garage | 20 feet  | 20 feet  |

- That side lot lines that do not run at right angles to the street upon which the lots face shall be allowed where necessary to respond to physical conditions of the site.
  - That the maximum block length be amended to 2,305 feet, with a maximum distance of 800 feet between pedestrian ways.
  - That a lot depth to width ratio exceed the recommended two (2) to one (1) ratio shall be allowed where necessary to respond to physical conditions of the site, not to exceed 2.75:1.
  - That a minimum 0.85 acre private active neighborhood park be provided and improved.
  - That a minimum 5.6 acre public open space greenway be dedicated and improved.
- 3.) Ordinance No. 5070 would approve **Tentative Subdivision Plan S 3-18**, a 108 lot single-family residential subdivision, for the Oak Ridge Meadows Planned Development created by Ordinance No. 5069.

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Oak Ridge Meadows PD

- 35.47 total acres

Request:

- 108 lot single-family residential subdivision
- Public & private open space amenities

**Background:**

These land-use requests were considered at a public hearing by the McMinnville Planning Commission on April 18, 2019 and May 16, 2019. The public hearing was closed on May 16, 2019, following which the Planning Commission deliberated and then voted to recommend that the Council consider and approve the Planned Development requests and the Tentative Subdivision Plan subject to conditions outlined in Ordinances No. 5065, 5069 and 5070, based on the Findings of Fact, the Planning Commission’s Conclusionary Findings for Approval, and the materials submitted by the applicant.

These land-use requests were then presented at the June 25, 2019 City Council meeting. Following the staff report and consideration of the Planning Commission recommendations, the Council elected to hold a public hearing at the July 23, 2019 City Council meeting. The public hearing was noticed on June 27<sup>th</sup>, 2019, and the record was re-opened.

Per Oregon Revised Statute, ORS 227.178, the City of McMinnville needs to render a decision on these three land-use decisions within 120 days unless the applicant requests an extension. The applicant submitted a request on March 1, 2019 to extend the 120 day decision timeframe for an additional 60 days and on June 5, 2019 for an additional 21 day extension, therefore the City’s final decision is subject to a 201 day processing timeline, and a decision will need to be rendered by August 13, 2019 on all three land-use decisions.

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

**Discussion:**

The Planning Commission held a public hearing for the two Planned Development Applications (PDA 3-18 and PDA 4-18), as well as the Tentative Subdivision (S 3-18) at their regular meeting on April 18, 2019. Fourteen written testimonies were received by the Planning Department prior to the public hearing. Several oral testimonies were provided during the April 18, 2019 public hearing, along with additional written testimony. The testimonies provided were oppositional, and primarily focused on three issues:

1. That development impacting wetlands should not be allowed by the City;
2. That proposed development could cause increased downstream flooding;
3. That anticipated traffic from the development (construction and new residents) would negatively impact surrounding neighborhoods until such time as a northerly extension of Shadden Drive was completed.

Due to the length of the meeting and the amount of public interest, the Planning Commission voted to continue the public hearing to their May 16, 2019 regular meeting to provide additional opportunity for public testimony. Between the April 18, 2019 public hearing and the continued hearing on May 16, 2019, the Planning Department received nineteen additional written testimonies with similar themes as prior testimonies – that the wetlands should not be allowed to be impacted, that the proposed development could cause increased downstream flooding, and that traffic generated by the proposed development would negatively impact the existing Oak Ridge residential development. Included in the written testimony from opponents to the development, submitted in advance of the May 16, 2019 public hearing was a Hydrologic Analysis of Baker Creek, which concluded the current FEMA flood maps were in need of updating, and that the proposed development would not increase downstream flow.

Additional public oral testimonies were provided at the continued hearing on May 16, 2019, along with rebuttal from the applicant. Specifically, the applicant's rebuttal called into question the methodology and data used in the hydrologic analysis, and referenced the Traffic Impact Analysis indicating the proposed and existing street network to be within City standards. The rebuttal also addressed the "Goal Post Rule", the requirement that the rules and regulations in place at the time of application are the applicable criteria and standards the application is to be judged by. This was relevant to the issue of FEMA floodmap accuracy raised by the hydrologic analysis, because even if the analysis did conclude flood maps were in need of updating, the standard by which the application is judged per MMC, Section 17.48.010, is the current, adopted floodplain mapping, FIRM Map panels, March 2, 2010.

The public hearing was closed on May 16, 2019, following which the Planning Commission deliberated and discussed the public testimony.

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July 23, 2019 Update:

On June 25<sup>th</sup>, 2019, City Council considered the Planning Commission recommendations, deliberated, and requested a public hearing on the matter. The focus of public testimony and debate regarding the proposed Oak Ridge Meadows development remains centered on three main issues – impact to the wetlands, potential increases to downstream flooding, and the impact of the proposed development on the surrounding street network and transportation system. Following the direction of City Council from the June 25, 2019 meeting, staff has been further researching the issues, and updated/new information is provided below, in update boxes similar to this one.

**TRAFFIC IMPACT:**

**Many opponents testified that Pinot Noir cannot handle increased traffic as proposed:** The traffic impact analysis provided by the applicant indicates that Pinot Noir as built to the local street standards specified in the City of McMinnville’s 2010 Transportation System Plan will be able to handle the amount of traffic generated by 108 new homes without a secondary access to Baker Creek Road per the City of McMinnville’s adopted capacity standards of 1200 vehicle trips per day for local residential streets. A condition of approval on the land-use decision caps the amount of dwelling units that will be permitted prior to Shadden Drive being built as a secondary public access to Baker Creek Road to 108 new dwelling units. Planning Commissioners did not find the public testimony warranted changing the City’s findings.

| Complete Street Design Standards |   |   |                            |                            |   |                                |                   |                  |           |
|----------------------------------|---|---|----------------------------|----------------------------|---|--------------------------------|-------------------|------------------|-----------|
|                                  |   | Arterial                                |                            | Collector                  |   | Neighborhood Connector         | Local Residential | Alley            |           |
|                                  |   | Major                                   | Minor                      | Major                      | Minor                                       |                                |                   |                  |           |
| Streetscape                      | Street Profile                          | Auto/Truck Amenities (lane widths) *    | 2-4 lanes (12 ft.)         | 2 lanes (11 ft.)           | 2 lanes (11 ft.)                            | 2 lanes (10 ft.)               | See Street Width  | See Street Width | 20 ft.    |
|                                  |   | Median / Center Turn Lane               | 14 ft.                     | 12 ft.                     | 12 ft.                                      | 10 ft.                         | None              | None             | None      |
|                                  |   | Bike                                    |                            |                            |   |                                |                   |                  |           |
|                                  |   | Bike Facility *                         | 2 Lanes (6 ft.)            | 2 Lanes (6 ft.)            | 2 Lanes (5 ft.)                             | 2 Lanes (5 ft.) or Shared Lane | Shared Lane       | Shared Lane      | None      |
|                                  |   | Curb-to-curb Street Width *             |                            |                            |   |                                |                   |                  |           |
|                                  |   | On-Street Parking                       |                            |                            |   |                                |                   |                  |           |
|                                  |   | Two Sides                               | na                         | na                         | na  | 30 or 40 ft.                   | 28 ft.            | 28 ft.           | Not Apply |
|                                  |   | None                                    | 74 ft.                     | 46 ft.                     | 44 ft.                                      | 30 or 40 ft.                   |                   |                  |           |
|                                  |   | Pedestrian Zone (with ADA requirements) |                            |                            |   |                                |                   |                  |           |
|                                  |   | Pedestrian Amenities *                  |                            |                            |   |                                |                   |                  |           |
|                                  | Sidewalks (both sides)                  | 8 ft. Com                               | 5 ft. Res<br>10-12 ft. Com | 5 ft. Res<br>10-12 ft. Com | 5 ft. Res<br>10-12 ft. Com                  | 5 ft.                          | 5 ft.             | None             |           |
|                                  | Planter Strips                          |   | 6 ft. Res<br>na Com        | 6 ft. Res<br>na Com        | 6 ft. Res<br>na Com                         | 5 ft. Res                      | 5 ft. Res         | None             |           |
|                                  | Preferred Adjacent Land Use - Intensity | High                                    | Medium to High             | Medium                     | Medium                                      | Medium to Low                  | Low               | Low              |           |
|                                  | Maximum Average Daily Traffic           | 32,000                                  | 20,000                     | 16,000                     | 10,000                                      | 1,200 - 3,000                  | 1,200             | 500              |           |
|                                  | Traffic Management                      |   |                            |                            |   |                                |                   |                  |           |
|                                  | Traffic Calming                         | Not Typical                             | Not Typical                | Not Typical                | Permissible/<br>Not Typical                 | Permissible/<br>Not Typical    | Typical           | Not Typical      |           |
|                                  | Managed Speed *                         | 35 mph                                  | 30-35 mph                  | 25-30 mph                  | 25 mph                                      | 25 mph                         | 15-25 mph         | 10 mph           |           |
|                                  | Through-traffic Connectivity            | Primary                                 | Typical                    | Typical                    | Typical                                     | Not Typical                    | Not Permissible   | Not Permissible  |           |
|                                  | Access Control                          | Yes                                     | Yes                        | Some                       | Some  | No                             | No                | No               |           |
|                                  | Maximum Grade                           | 6%                                      | 6%                         | 10%                        | 10%   | 12%                            | 12%               | 12%              |           |
|                                  | Right-of-Way:                           | 104 ft.                                 | 96 ft.                     | 74 ft.                     | 56 ft. (no bike lane)<br>66 ft. (bike lane) | 50 ft.                         | 50 ft.            | 20 ft.           |           |

Attachments:

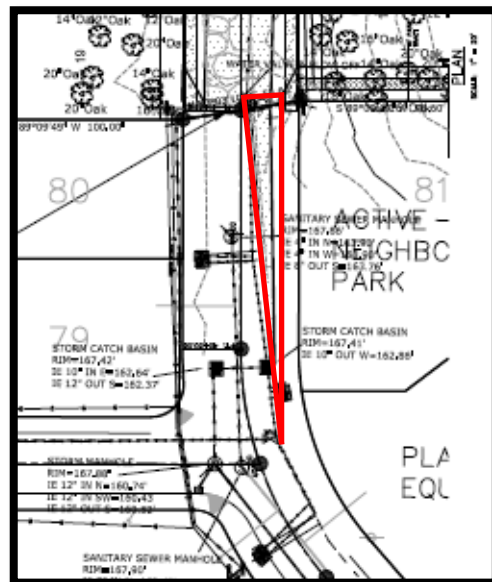
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**Many opponents testified that development should be limited based upon previous planned development limitations.** Previous limitations on how many homes could be built on the planned development reflected the need for a secondary emergency fire access. This proposal provides that secondary emergency fire access with an easement over the future Shadden Drive on property owned by a neighboring property owner. A condition of approval requires this easement prior to development. Planning Commissioners did not find the public testimony warranted changing the City's findings.

**Many opponents testified that Pinehurst Drive should not dead-end at Les Toth's property if Les Toth provided testimony that he never plans to develop the property.** Public testimony in opposition to the development expressed concern about the establishment of a road that terminated adjacent to a property that is not expected to develop under its current ownership. The property to the east of the 11.47 acre parcel, owned by Les Toth, is inside the Urban Growth Boundary, but outside City limits. Mr. Toth provided testimony that he will not annex this parcel into the City to allow development. However, because the land is inside the Urban Growth Boundary, the expectation is that it will urbanize within a given planning horizon, and the proposed extension of Pinehurst Drive to the property limits responds to this. Previously, developments to the east of Toth's property have extended streets (NW Merlot Drive and Pinehurst Drive) to the property line and terminated the road to plan for future access to the property. These future street connections, including the proposed extension of Pinehurst Drive through the Oak Ridge Meadows development would allow for future development if and/or when the property is urbanized and developed.

McMinnville City Code for land divisions require that connecting streets be considered and platted to support future planned development within the city limits. Planning Commissioners did not find the public testimony warranted changing the City's findings.

**Many opponents testified that Pinot Noir Drive's northern terminus is not wide enough to accommodate the traffic.** Public testimony raise the issue that at the current northerly terminus of Pinot Noir Drive, the width of the road is only 21 feet and the road was not built to standards that could accommodate any additional construction or residential resulting from new development. However, a provision of the application is, and a condition of approval #21 of S 3-18 requires, the widening of Pinot Noir Drive from Blake Street north to the terminus from 21 feet to 28 feet, the current City standard for local residential streets. The existing public right-of-way for Pinot Noir Drive is 50 feet, which will accommodate the widened cross-section of roadway. Planning Commissioners did not find the public testimony warranted changing the City's findings, but added a condition of approval to S 3-18 to ensure this occurs.



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July 23, 2019 Update

**TRAFFIC:**

**Shadden Drive as “Primary” access for Development.** Opponents to the development have requested that the City of McMinnville mandate that Shadden Drive be identified as the “Primary” access street for the new development, and that the developers be required to develop Shadden Drive prior to any building permits being issued for the subdivision.

However, Shadden Drive is not part of the development proposal, except to serve as a secondary emergency access route to the neighborhood, and the development as proposed meets the City of McMinnville’s adopted local street standards.

Per long established case law, *Nollan* and *Dolan*, cities cannot exact an undue burden on local development unless a “nexus” in the regulations exist to justify the exaction. In this case, the City of McMinnville would be requiring the developer to build approximately ½ mile of a local residential street to full street standards to accommodate a development that already meets the adopted Transportation System Plan street standards.

Shadden Drive is a proposed street to serve a neighboring development, that is owned by a separate property owner (Stafford Land Company) and that will eventually connect with Pinehurst Drive as a secondary access to Oak Ridge Meadows when it is developed.

Per Stafford Land Company’s land use application submitted on April 30, 2019, Stafford plans to build ½ of Shadden Drive with the first phase of their development, and the other ½ of Shadden Drive with the last three phases of their development (there are ten phases in total). They estimate that the last three phases of their development and the second ½ of Shadden Drive will be built between 5 – 10 years after starting their build-out. Please see site plan below.

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July 23, 2019 Update (cont'd):

**TRAFFIC:**

**Shadden Drive as “Primary” access for Development (cont'd)**



**Baker Creek North Planned Development, Stafford Land Company, Submitted April 30, 2019**

There has been some confusion about an email between Gordon Root of Stafford Land Company and Premier Development regarding the negotiation of an access agreement to build an emergency fire access road on the future right-of-way location of Shadden Drive.

This email pertains to an emergency access route for fire and requires a less extensive build-out than a full street standard.

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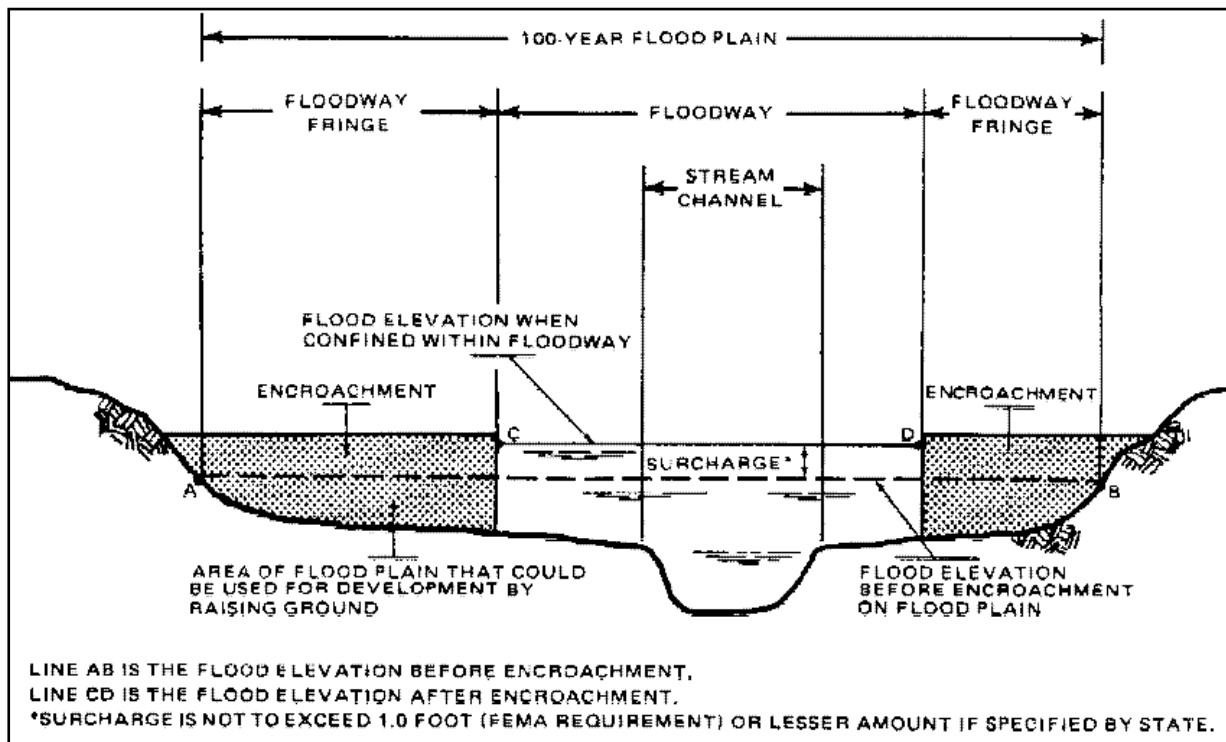
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**FLOODPLAIN:**

**Many opponents testified that the development could harm the floodplain.** In the City of McMinnville, the floodplain is protected by a Floodplain Zone (MMC Chapter 17.48), and very limited development is allowed in the Floodplain Zone – this is the means in which the City protects the floodplain. The Floodplain Zone incorporates the floodplain hazard area, including the 100 year floodplain, the floodway and the floodplain fringe per the illustration below. Additionally, McMinnville City Code does not allow anything but low density residential development adjacent to the floodplain to further protect it. This proposal not only does not develop in the floodplain but it also dedicates the entire floodplain to the City of McMinnville as a natural greenway park so that the city can maintain the land, thus protecting the floodplain and its associated riparian corridor. In many historical developments, the floodplain is privately owned and often private land owners are inadvertently building fences, sheds and clearing brush in the floodplain impacting the capacity of the floodplain to manage water events. Additionally, all housing lots adjacent to the floodplain are larger lots to control the density of development adjacent to the floodplain. Planning Commissioners did not find the public testimony warranted changing the City’s findings.

**FLOODWAY SCHEMATIC – Chapter 17.48 of the McMinnville City Code**



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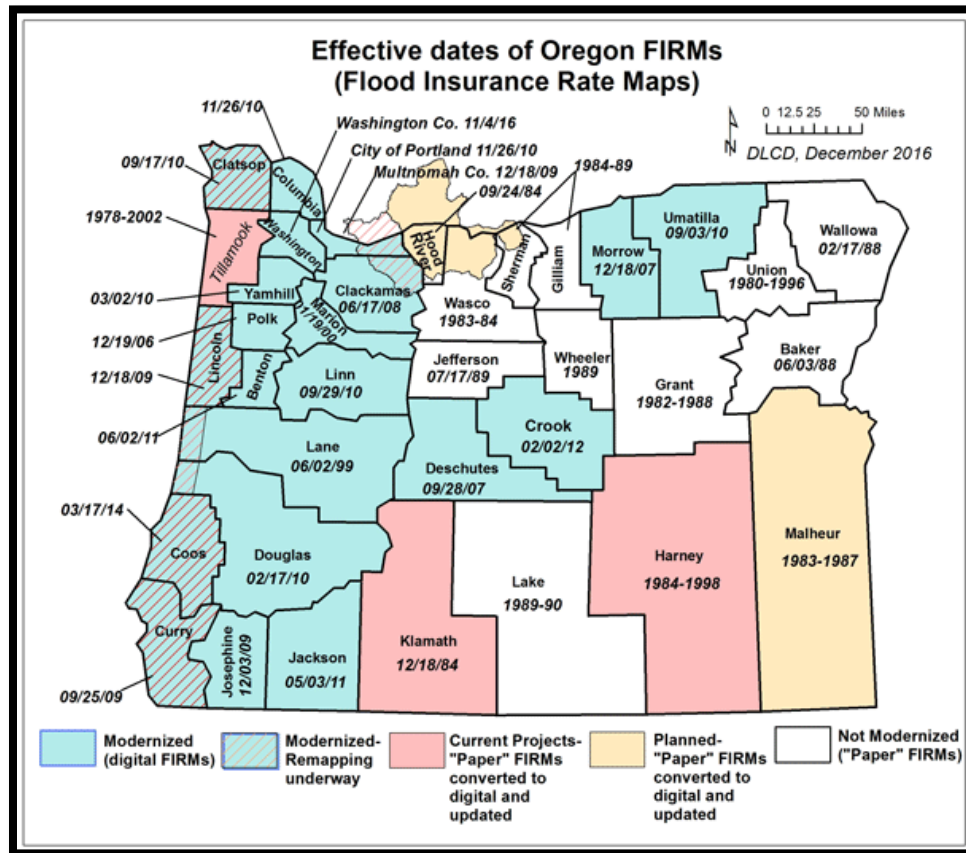
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**Several opponents testified that the 2010 FEMA maps that the City of McMinnville relies on to define the Floodplain Zone are outdated and were erroneously calculated when they were updated in 2010, relying on old data and not updated data.**

FIRM panels (FEMA maps delineating floodplains) in Yamhill County were updated in 2010 as part of a state-wide effort to modernize and update FIRM maps. Please see illustration below. City staff worked with Department of Land Conservation and Development staff and FEMA staff for three years (2007-2009) to provide updated “as-builts” for developments adjacent to the floodplains in McMinnville as part of the modernizing process.

Final adoption of the updated maps were an amendment to the Development Code and adopted locally by the City of McMinnville with a public hearing process and then acknowledged by the Department of Land Conservation and Development.

**Oregon FIRM Map Modernization Plan**



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Friends of Baker Creek provided a hydrology report from PBS on May 8, 2019 and testified about it at the continued public hearing on May 16, 2019.

The hydrology report submitted by PBS studied factors affecting the extents of the floodplain around Baker Creek, and concluded that the effective flood insurance rate maps are in need of revision, based on current data and methodology. Several figures (see below) are provided in the report indicating the extent of the proposed 1% annual chance floodplain (100 year floodplain) that could be anticipated if the FEMA floodplain maps were updated. The report indicated that based on the new study, the only lots that would be impacted by the new floodplain boundary would be Lots 34 and 35 (as numbered on Applicant's Exhibit 6) south of the cul-de-sac, and Lots 41, 42, and 43 (as numbered on Applicant's Exhibit 6), north of the cul-de-sac. It appears that the southeasterly extension of Pinehurst Drive and the lots it would serve would not be impacted by the anticipated proposed floodplain.



**Figure 22: Proposed Condition 100-year Maximum Water Surface Elevation (ft NAVD) Grid Result from RAS Mapper.**

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Attachment H - N: Public Testimony Received Attachment : Ordinance No. 4921-Floodplain Ordinance

Attachment P: McMinnville Municipal Code, Ch. 17.48 Floodplains

Attachment Q: Storm Drainage Email Communication

Attachment R: Oregon State Model Floodplain Code, modified January 2014

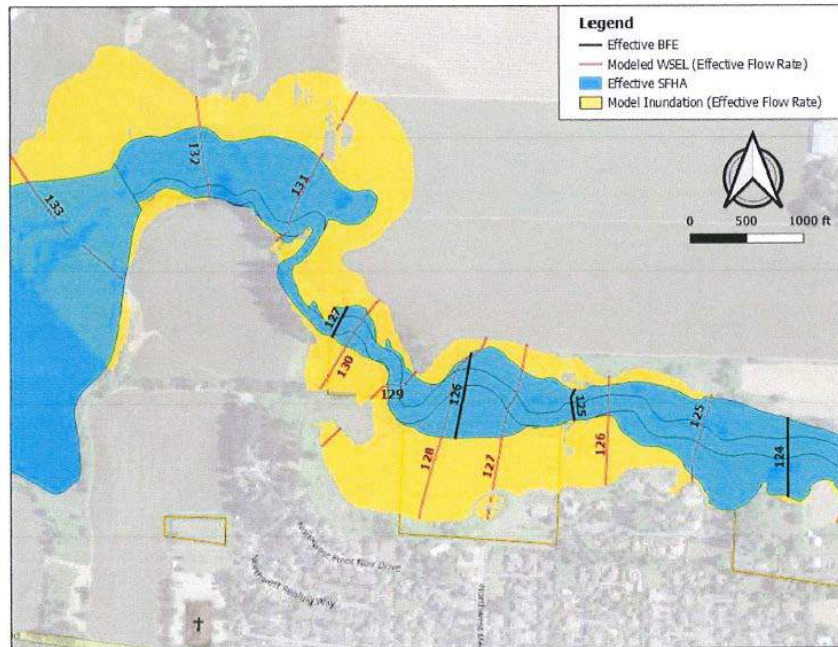


Figure 26: FEMA Effective SFHA and BFEs Overlain on Hydraulic Model Results for the Effective Flow Rate (2,030 cfs).

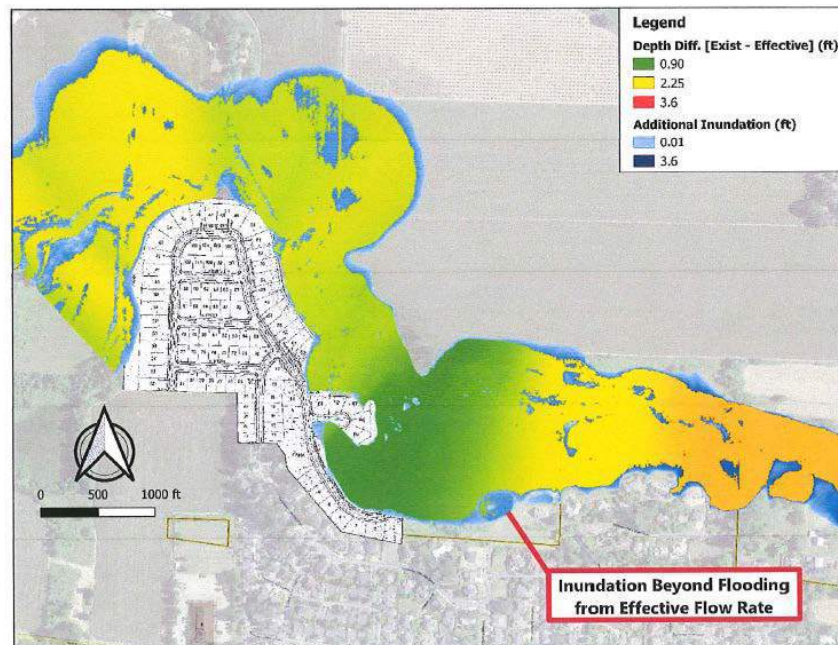


Figure 27: Difference Between Depth for Existing Condition (~6,150 cfs) and Depth for Modeled Effective Flow Rate (2,030 cfs).

Attachments:

- Attachment A: Ordinance No. 5065 including:
  - Exhibit A – PDA 3-18 Decision Document
- Attachment B: Ordinance No. 5069 including:
  - Exhibit A – PDA 4-18 Decision Document
- Attachment C: Ordinance No. 5070 including
  - Exhibit A – S 3-18 Decision Document
- Attachment D: Memorandum and Supplemental Findings
- Attachment E - G: Applicant Materials Received
- Attachment H - N: Public Testimony Received
- Attachment : Ordinance No. 4921-Floodplain Ordinance
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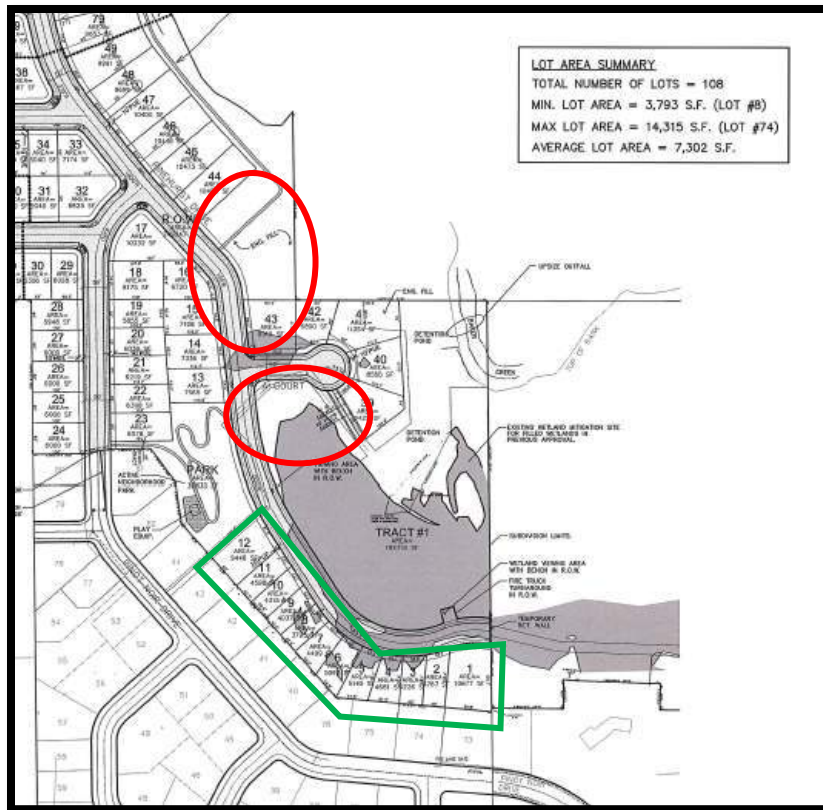
Premier Development provided rebuttal testimony that the data used in the hydrology report, rainfall and survey data, was not McMinnville data and therefore the accuracy of the report was flawed.

| <b>Thalweg Comparison of LIDAR vs Survey Data</b>   |                        |                           |                 | <b>Rainfall Chart</b> |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
|---|------------------------|---------------------------|-----------------|-----------------------|------------------------|-----------------------|-----------------|------------|-------|-------|-----|---|-------|-------|---|---|-------|-------|-----|---|-----|-------|-----|---|-------|-------|-----|---|-------|-------|-----|---|-------|-------|-----|---|-------|-------|-----|---|-------|-------|-----|----|-------|-------|-----|----|-------|-------|-----|----|-------|-------|-----|----|-------|-------|-----|----|-------|-------|-----|----|-------|-------|-----|----|-------|-------|-----|---|--|--|---------|------|---------------------------|-------------|------------------|------|-------------|------------------|------|--------|------------------|-------------------|-------------|------------------|------|-------------|------------------|------|--------|------------------|-------------------|-------------|--------------|------|-------------|--------------|------|--------|--------------|-------------------|
| <p><i>Thalweg - a line connecting the lowest points of successive cross-sections along the course of a river</i></p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Cross Section</th> <th>Survey Elevations (ft)</th> <th>LIDAR Elevations (ft)</th> <th>Difference (ft)</th> </tr> </thead> <tbody> <tr><td>1</td><td>118.7</td><td>121.6</td><td>2.9</td></tr> <tr><td>2</td><td>117.4</td><td>119.4</td><td>2</td></tr> <tr><td>3</td><td>115.6</td><td>120.4</td><td>4.8</td></tr> <tr><td>4</td><td>116</td><td>119.5</td><td>3.5</td></tr> <tr><td>5</td><td>115.3</td><td>119.6</td><td>4.3</td></tr> <tr><td>6</td><td>112.9</td><td>118.1</td><td>5.2</td></tr> <tr><td>7</td><td>112.4</td><td>117.7</td><td>5.3</td></tr> <tr><td>8</td><td>112.9</td><td>117.3</td><td>4.4</td></tr> <tr><td>9</td><td>111.3</td><td>116.5</td><td>5.2</td></tr> <tr><td>10</td><td>107.3</td><td>115.8</td><td>8.5</td></tr> <tr><td>11</td><td>109.6</td><td>115.8</td><td>6.2</td></tr> <tr><td>12</td><td>110.2</td><td>115.3</td><td>5.1</td></tr> <tr><td>13</td><td>109.2</td><td>114.7</td><td>5.5</td></tr> <tr><td>14</td><td>107.4</td><td>114.3</td><td>6.9</td></tr> <tr><td>15</td><td>108.5</td><td>114.3</td><td>5.8</td></tr> <tr><td>16</td><td>108.3</td><td>113.6</td><td>5.3</td></tr> </tbody> </table> |                        |                           |                 | Cross Section         | Survey Elevations (ft) | LIDAR Elevations (ft) | Difference (ft) | 1          | 118.7 | 121.6 | 2.9 | 2 | 117.4 | 119.4 | 2 | 3 | 115.6 | 120.4 | 4.8 | 4 | 116 | 119.5 | 3.5 | 5 | 115.3 | 119.6 | 4.3 | 6 | 112.9 | 118.1 | 5.2 | 7 | 112.4 | 117.7 | 5.3 | 8 | 112.9 | 117.3 | 4.4 | 9 | 111.3 | 116.5 | 5.2 | 10 | 107.3 | 115.8 | 8.5 | 11 | 109.6 | 115.8 | 6.2 | 12 | 110.2 | 115.3 | 5.1 | 13 | 109.2 | 114.7 | 5.5 | 14 | 107.4 | 114.3 | 6.9 | 15 | 108.5 | 114.3 | 5.8 | 16 | 108.3 | 113.6 | 5.3 | <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Station</th> <th>Date</th> <th>Precipitation (in inches)</th> </tr> </thead> <tbody> <tr><td>McMinnville</td><td>October 31, 2015</td><td>1.39</td></tr> <tr><td>Lake Oswego</td><td>October 31, 2015</td><td>2.02</td></tr> <tr><td>McNary</td><td>October 31, 2015</td><td>3.09<sup>4</sup></td></tr> <tr><td>McMinnville</td><td>December 3, 2015</td><td>0.45</td></tr> <tr><td>Lake Oswego</td><td>December 3, 2015</td><td>2.41</td></tr> <tr><td>McNary</td><td>December 3, 2015</td><td>0.57<sup>5</sup></td></tr> <tr><td>McMinnville</td><td>October 2018</td><td>3.08</td></tr> <tr><td>Lake Oswego</td><td>October 2015</td><td>1.20</td></tr> <tr><td>McNary</td><td>October 2018</td><td>2.52<sup>6</sup></td></tr> </tbody> </table> |  |  | Station | Date | Precipitation (in inches) | McMinnville | October 31, 2015 | 1.39 | Lake Oswego | October 31, 2015 | 2.02 | McNary | October 31, 2015 | 3.09 <sup>4</sup> | McMinnville | December 3, 2015 | 0.45 | Lake Oswego | December 3, 2015 | 2.41 | McNary | December 3, 2015 | 0.57 <sup>5</sup> | McMinnville | October 2018 | 3.08 | Lake Oswego | October 2015 | 1.20 | McNary | October 2018 | 2.52 <sup>6</sup> |
| Cross Section   | Survey Elevations (ft) | LIDAR Elevations (ft)     | Difference (ft) |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 1   | 118.7                  | 121.6                     | 2.9             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 2   | 117.4                  | 119.4                     | 2               |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 3   | 115.6                  | 120.4                     | 4.8             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 4   | 116                    | 119.5                     | 3.5             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 5   | 115.3                  | 119.6                     | 4.3             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 6   | 112.9                  | 118.1                     | 5.2             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 7   | 112.4                  | 117.7                     | 5.3             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 8   | 112.9                  | 117.3                     | 4.4             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 9   | 111.3                  | 116.5                     | 5.2             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 10  | 107.3                  | 115.8                     | 8.5             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 11  | 109.6                  | 115.8                     | 6.2             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 12  | 110.2                  | 115.3                     | 5.1             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 13  | 109.2                  | 114.7                     | 5.5             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 14  | 107.4                  | 114.3                     | 6.9             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 15  | 108.5                  | 114.3                     | 5.8             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| 16  | 108.3                  | 113.6                     | 5.3             |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| Station   | Date                   | Precipitation (in inches) |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| McMinnville   | October 31, 2015       | 1.39                      |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| Lake Oswego   | October 31, 2015       | 2.02                      |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| McNary  | October 31, 2015       | 3.09 <sup>4</sup>         |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| McMinnville   | December 3, 2015       | 0.45                      |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| Lake Oswego   | December 3, 2015       | 2.41                      |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| McNary  | December 3, 2015       | 0.57 <sup>5</sup>         |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| McMinnville   | October 2018           | 3.08                      |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| Lake Oswego   | October 2015           | 1.20                      |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| McNary  | October 2018           | 2.52 <sup>6</sup>         |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| <table border="1" style="border-collapse: collapse; font-size: x-small;"> <tr><td><b>Max</b></td><td>8.5</td></tr> <tr><td><b>Min</b></td><td>2</td></tr> <tr><td><b>Avg</b></td><td>5.1</td></tr> </table>   |                        |                           |                 | <b>Max</b>            | 8.5                    | <b>Min</b>            | 2               | <b>Avg</b> | 5.1   |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| <b>Max</b>  | 8.5                    |                           |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| <b>Min</b>  | 2                      |                           |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| <b>Avg</b>  | 5.1                    |                           |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |
| <p><b>Comments:</b></p> <ol style="list-style-type: none"> <li>1. All LIDAR data that the opponets used is higher than the real surveyed data.</li> <li>2. This means that the opponents report underestimates the real flow capacity of the channel.</li> <li>3. The opponents report overestimates the flood stage water surface elevations.</li> </ol>   |                        |                           |                 |                       |                        |                       |                 |            |       |       |     |   |       |       |   |   |       |       |     |   |     |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |   |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |    |       |       |     |   |  |  |         |      |                           |             |                  |      |             |                  |      |        |                  |                   |             |                  |      |             |                  |      |        |                  |                   |             |              |      |             |              |      |        |              |                   |

Premier Development also provided testimony that they would conduct further research on the floodplain and that if it was discovered that the floodplain had expanded they would amend their subdivision plan per the following illustration which removes the five potentially impacted lots and transfers that density to make smaller lots along the western fringe of Pinehurst Drive overlooking the preserved wetland.

**Attachments:**

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- Attachment E - G: Applicant Materials Received
- Attachment H - N: Public Testimony Received
- Attachment : Ordinance No. 4921-Floodplain Ordinance
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Planning Commissioners noted that the applicable zoning standards are those in effect at the time of application. Section 17.48010 of the McMinnville Zoning Ordinance establishes the area defined as the flood area zone:

17.48.010 Established—Area included. In accordance with Section 17.09.010, all property within the corporate limits of the City lying within Special Flood Hazard Areas (100-year flood) identified by the Federal Insurance Administration in the report entitled “The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas,” (effective date March 2, 2010), and accompanying Flood Insurance Rate Maps (FIRM) is declared to be flood area zone property and subject to the requirements of this Chapter. (Ord. 4921 §4A, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Therefore, the decision must be based on current FEMA mapping, dated March 2, 2010 per the map below with the subject site outlined in red. Planning Commissioners did not find the public testimony warranted changing the City’s findings.

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Planning Commissioners also found that since the hydrology report and the revised site plan were entered into the record at the public hearing, they did not feel that there had been enough time to review the revised plan and wanted to leave it for future consideration.



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July 23, 2019 Update

**FLOODPLAINS:**

***Opponents provided testimony asserting that the City of McMinnville staff were not involved in the floodplain map update in 2010.*** The City of McMinnville was contacted by FEMA in April, 2007, indicating that they would like to digitally update the floodplain maps for Yamhill County. Lucy Falcy, Associate Planner for the City of McMinnville was appointed as the project manager to work with the Department of Land Conservation and Development and FEMA representatives under the direction of Doug Montgomery, Planning Director and Mike Bisset, City Engineer. This was almost a three year process of information gathering and public process and on February 9, 2010, the McMinnville City Council adopted Ordinance No. 4921 as a result of the work. This ordinance established how the City of McMinnville would manage its floodplains governed by Chapter 17.48 of the McMinnville City Code. (Please see attached Ordinance No. 4921). The recitals of the ordinance describe the process that the City undertook as part of the update (please see excerpts below). The project files indicate the amount of correspondence and careful coordination that city staff conducted with both the Department of Land Conservation and Development and FEMA staff to ensure that the City of McMinnville was compliant with the program. The resulting revisions to Chapter 17.48 of the McMinnville City Code is what governs this land-use decision. (Please see attached Chapter 17.48 of the McMinnville City Code).

Ordinance No. 4921, adopted by the McMinnville City Council on February 9, 2010.

*In 2007, the Federal Emergency Management Agency (FEMA) advised the City of McMinnville that they intended to review the 1982 Flood Insurance Rate Maps (FIRM) that cover lands within the City and provide updated maps for our use in administering the National Flood Insurance Program (NFIP). In summary, these maps provide the location and elevation of the floodplains and floodways associated with the various waterways within our jurisdiction. Staff uses this information to advise residents, lending institutions, and other interested parties of the floodplain's location and to ensure that development within this area is consistent with the City's F-P Flood Area zone requirements.*

[...]

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July 23, 2019 Update

**FLOODPLAINS (cont'd):**

Ordinance No. 4921, adopted by the McMinnville City Council on February 9, 2010.

*Staff has been working with FEMA since 2007 to help them update their flood maps in preparation for the March 2, 2010 date. This has involved providing FEMA with the City's elevation data, annexation and road map information, and several site-specific data sets. In April 2009, FEMA released their draft FIS and FIRM updates for City and public review. In May 2009, FEMA held an explanatory workshop for residents of Yamhill County at which staff was in attendance as well as an additional workshop for staff. The public voiced no concerns at that time. The official maps have been on file and available for public review at the Planning office since mid November 2009. During that time, there have been no inquiries from the public regarding the proposed amendments.*

***Opponents provided testimony that the City of McMinnville's Stormwater masterplan has contributed significantly to the flooding of the Baker Creek Basin:*** New testimony received by the planning department raised concerns about the discharge of stormwater from recent development into Baker Creek. The testimony claims that new developments discharging into Baker Creek upstream of the proposed development is causing increased downstream flooding, specifically after 2015. The Storm Drainage Master Plan identifies a drainage basin generally north of Baker Creek Road and extending east of Westside Road. No new developments within the Baker Creek drainage basin, or elsewhere, upstream of the Oak Ridge Meadows site are discharging stormwater into Baker Creek (See Attachment, Storm Drainage Email Communication). The testimony further implies that Comprehensive Plan 142.00 is causing the increasing flooding. Policy 142.00 reads, "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 natural drainage ways, where required." This policy does not encourage unchecked discharge into natural drainage systems, but rather mandates standards and guidelines for the release of storm water into natural drainages, like Baker Creek. These standards and guidelines are found in the Storm Drainage Master Plan. The proposed Oak Ridge Meadows storm water system is designed to the standard that discharge does not exceed pre-development levels, and would not contribute to downstream flooding.

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July 23, 2019 Update (cont'd):

**FLOODPLAINS (cont'd):**

**Opponents provided testimony that the City of McMinnville’s Stormwater masterplan has contributed significantly to the flooding of the Baker Creek Basin:** Attachment Q, an email dialogue between Mike Colvin, on the record opponent of the proposed land-use applications, and Mike Bisset, City of McMinnville Engineer, demonstrates that Mike Colvin misunderstood the stormwater conveyance plan for this area of the city. Originally, Mike Colvin assumed that the new Baker Creek East and West Subdivisions, as well as Hill Road all drained into the Baker Creek Basin. However, per Mike Bisset, City Engineer, there have been no new developments built since 2010 that drain to the Baker Creek basin. Below is a map that demonstrates constraints on the stormwater system. Blue is not constrained, green is constrained, and red is most constrained.



**How to Respond to the Friends of Baker Creek Hydrology Report.** There are two things to consider when evaluating how to respond to the Friends of Baker Creek Hydrology Report – 1) validity of the report; 2) safety of built environment in floodplain; and 3) how much the City of McMinnville can require of the applicant as part of a land-use decision.

Since the Friends of Baker Creek Hydrologic Analysis was submitted to the City of McMinnville on , staff has consulted with the following individuals on how to incorporate the hydrology analysis into the land-use decision making process, and to ascertain whether or not there is anything that the city could do in regards to requiring a condition of approval for the development proposal that would respond to the concerns raised in the analysis.

- Celinda Adair, CFM, National Flood Insurance Program (NFIP) Coordinator, DLCD
- Joshua Crowley, PE, CFM, D.WRE. RSC Lead I STARR II, Region X Service Center
- David M. Ratte, P.E., Regional Engineer, FEMA Region X
- Roxanne Pilkenton, Floodplain Management Specialist, FEMA Region X

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July 23, 2019 Update (cont'd):

**FLOODPLAINS (cont'd):**

***How to Respond to the Friends of Baker Creek Hydrology Report (cont).*** Celinda Adair is the National Flood Insurance Program Coordinator at the Department of Land Conservation and Development. She works with FEMA on the risk mapping program for the State of Oregon and her position is partially grant funded to support cities manage their local floodplain management programs in accordance with local, state and federal regulations.

Joshua Crowley is an engineer contracted by the Department of Land Conservation and Development to help support their National Flood Insurance Program in coordination with FEMA.

David Ratte is the lead regional engineer with floodplain mapping for Region X of FEMA, and Roxanne Pilkenton is their specialist to assist communities with floodplain management.

Conclusions from discussions:

- The FEMA Firm Panels from March 2, 2010 are the most updated FEMA maps for the City of McMinnville.
- There are processes to update the FEMA floodplain maps – either comprehensively or site specific. Site specific updates (Letters of Map Revisions – LOMRs) can be initiated by any one and is property specific. Review is typically 6 – 8 months. Comprehensive city wide map updates are a much more detailed process and can typically take 2 – 5 years depending upon the resources. The City of McMinnville applied for a FEMA grant to update its floodplain maps in collaboration with the Department of Geology and Minerals and Yamhill Council in 2018 as part of a Natural Hazards mapping update and was turned down due to limited resources and other communities with more pressing needs. City staff is currently in dialogue with David Ratte of FEMA, Region X, to see if the City of McMinnville would be a candidate for the FEMA Cooperating Technical Partners Program (CTP), which is a partnership program with FEMA on floodplain management. These discussions are very preliminary and will evolve over the next 12 months as staff learns more about the program, the benefits to the community and the obligations of the city to participate.

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July 23, 2019 Update (cont'd):

**FLOODPLAINS (cont'd):**

***How to Respond to the Friends of Baker Creek Hydrology Report (cont).***

- Joshua Crowley reviewed the Baker Creek Hydrologic Analysis by PBS for the Friends of Baker Creek, dated May, 2019, and the PBS Rebuttal dated May 24, 2019. He found that although the Hydrologic Analysis was incomplete (it did not appear to include a symmetry analysis, an analysis of abrupt grade changes and an analysis of bridges and crossings) it did use an approved FEMA methodology. He agrees with the conclusions of the Analysis that the data in the Yamhill County Flood Insurance Study from March 2, 2010 should be updated and that the flood risk may be understated, explaining that all data for waterways is old by the time it is utilized as waterways are continually evolving and that it is always good practice to update evaluations as often as possible, and that peak flow rates appear to have changed. He also conveyed that the Hydrologic Analysis was not enough information to prepare a MT-2 Application to request a Letter of Map Revision and that more analysis would need to be conducted including updating the model, completing the Hydrologic Analysis by providing a symmetry analysis, and an analysis of any bridges or crossings, and providing a Hydraulic Analysis. The Hydrologic Analysis focuses on the rate and flow of water. The Hydraulic Analysis determines flood elevations and floodways.
- Although the Hydrologic Report provided by Friends of Baker Creek suggests that five lots of the proposed subdivision may be in an expanded floodplain, both the Department of Land Conservation and Development and FEMA were concerned that the City could not enforce any additional conditions on a land-use decision that is not supported by the current adopted ordinances.

*Validity of the Hydrologic Report* – Per third party review (Crowley), the methodology employed by the Report, although not common, is an acceptable methodology for FEMA. The report though is still missing some components to serve as one of the two reports needed for a MT-2 Letter of Map Revision application. With that said though, the third party review believes that the underlying assertions in the report are valid – ie that the data for the FEMA Firm Panels is outdated and should be updated.

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July 23, 2019 Update (cont'd):

**FLOODPLAINS (cont'd):**

***How to Respond to the Friends of Baker Creek Hydrology Report (cont).***

*Safety of Built Environment in Floodplain* – the City of McMinnville manages its floodplain by not allowing any development to occur in the Floodplain Zone. However, construction is allowed in floodplains per state and federal regulations, it just needs to ensure that the lowest floor of the structure is above the base flood elevation. Even if it is discovered through a more thorough analysis that the floodplain has expanded and that there are some proposed lots of the subdivision in the floodplain, the developer would still be able to develop those residential lots following approved floodplain development standards which would presumably prevent future flooding of the structure associated with the expanded floodplain.

*How Much the City of McMinnville Can Require of an Applicant as part of a Land-Use Decision* – It is clear from the current City of McMinnville ordinances that the City of McMinnville does not allow development in the Floodplain Zone. However, it is also clear from the current City of McMinnville ordinances that the Floodplain Zone is defined by the FEMA Firm Panels adopted on March 2, 2010. Thus the city cannot tell the developer that they cannot develop on land that is not within the current City's Floodplain Zone. However, it is also clear that there is a reasonable assertion that the 1% floodplain may be larger than what is indicated on the FEMA Firm Panels, and that any structures built on those lots could be exposed to flooding. It is in the developer's best interest to conclude the study and determine if the floodplain base flood elevations have changed and then to build any structures on those lots to the standards of the Oregon Model Floodplain Code.

Although the City of McMinnville cannot legally impose a condition of approval relative to this issue, the applicant could be asked if they agree to a condition of approval that reads per the following:

**Proposed Condition of Approval:**

***“Prior to any building permits being issued, the applicant will submit a Letter of Map Revision to FEMA for the subject site, and if there are any lots within the proposed subdivision that are located in the base floodplain elevation, that any new construction will follow the provisions of Section 5 of the Oregon Model Flood Damage Prevention Ordinance, Modified, January 2014.”***

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July 23, 2019 Update (cont'd):

**FLOODPLAINS (cont'd):**

***How to Respond to the Friends of Baker Creek Hydrology Report (cont).***

Sample Oregon Model Flood Damage Prevention Ordinance,  
Modified January, 2014.

Section 5.0 – Provisions for Flood Hazard Reduction

Residential Construction

(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (ii) The bottom of all openings shall be no higher than one foot above grade.
- (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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**WETLANDS:**

**Several opponents testified that the proposed development impacted 11.47 acres of wetlands.**

The number of 11.47 acres is the total size of the un-platted 4<sup>th</sup> phase of Oak Ridge, which is proposed by the applicant to be removed from the Oak Ridge Planned Development (PDA 3-18). The Wetland Delineation Report provided by the applicant shows that the total wetland is approximately 3.09 acres of wetland of which 1.06 are impacted by the development. Planning Commissioners did not find the public testimony warranted changing the City's findings.

**Several opponents testified that the City of McMinnville should not allow the development to impact any wetlands.**

Discussion was also held regarding the impact of the development on wetlands, and mitigation of the impacted wetlands, referencing the Oregon Department of State Lands (DSL) permitting and wetland mitigation process and that the City of McMinnville defers regulatory authority of local wetlands and mitigation to DSL. The City of McMinnville does not have a local wetland management program and relies on the Department of State Lands to delineate wetlands and approve or deny wetland mitigation plans. Historically many housing developments within the city limits have been built on partially mitigated wetlands approved by the Department of State Lands balancing the type and amount of wetland impacted and the need for development within the city. Baker Creek East, Hillside Subdivision, Brookside Subdivision, Kauer Addition, Cottonwood First Subdivision, Bixler Addition, and Crestbrook First Addition, among others, were constructed after completing DSL Removal-Fill permitting for work impacting wetlands and waters of the state, and mitigation of those impacts. All subdivision approvals have conditions of approval requiring compliance with federal, state and local regulations, and require wetland delineation reports and mitigation plans approved by the Department of State Lands prior to starting construction if wetlands are suspected on the site. Due to the city's long tradition of relying on the Department of State Lands to manage the protection and potential mitigation of wetlands in the City of McMinnville and the historic precedent of allowing some wetland mitigation to support housing developments, Planning Commissioners did not find the public testimony warranted changing the City's findings.

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*Attachment R: Oregon State Model Floodplain Code, modified January 2014*

July 23, 2019 Update:

Oregon Department of State Lands provided staff with an initial list from their internal database of development projects within the McMinnville city limits or municipally owned adjacent lands that successfully completed permitting for impact to wetlands and/or waters of the state and mitigation of those impacts.

Subdivisions that received DSL permits for impact to wetlands and/or waters of the state, and mitigation of those impacts include:

- Hillside
- Brookside
- Kauer Addition
- Cottonwood First
- Bixler Addition
- Gerhard Addition
- Crestbrook First Addition
- Oak Ridge
- Horizon Heights

Commercial development that received DSL permits for impact to wetlands and/or waters of the state, and mitigation of those impacts includes:

- Lowe's
- Forest Grove Lumber

Municipal development that received DSL permits for impact to wetlands and/or waters of the state, and mitigation of those impacts includes:

- McMinnville Water & Light (Tax Lots 2200, 2400, 2402 04S04W22)
- McMinnville Municipal Airport
- BPA/Westside Trail
- City of McMinnville (Tax Lot 2301 04S04W20)

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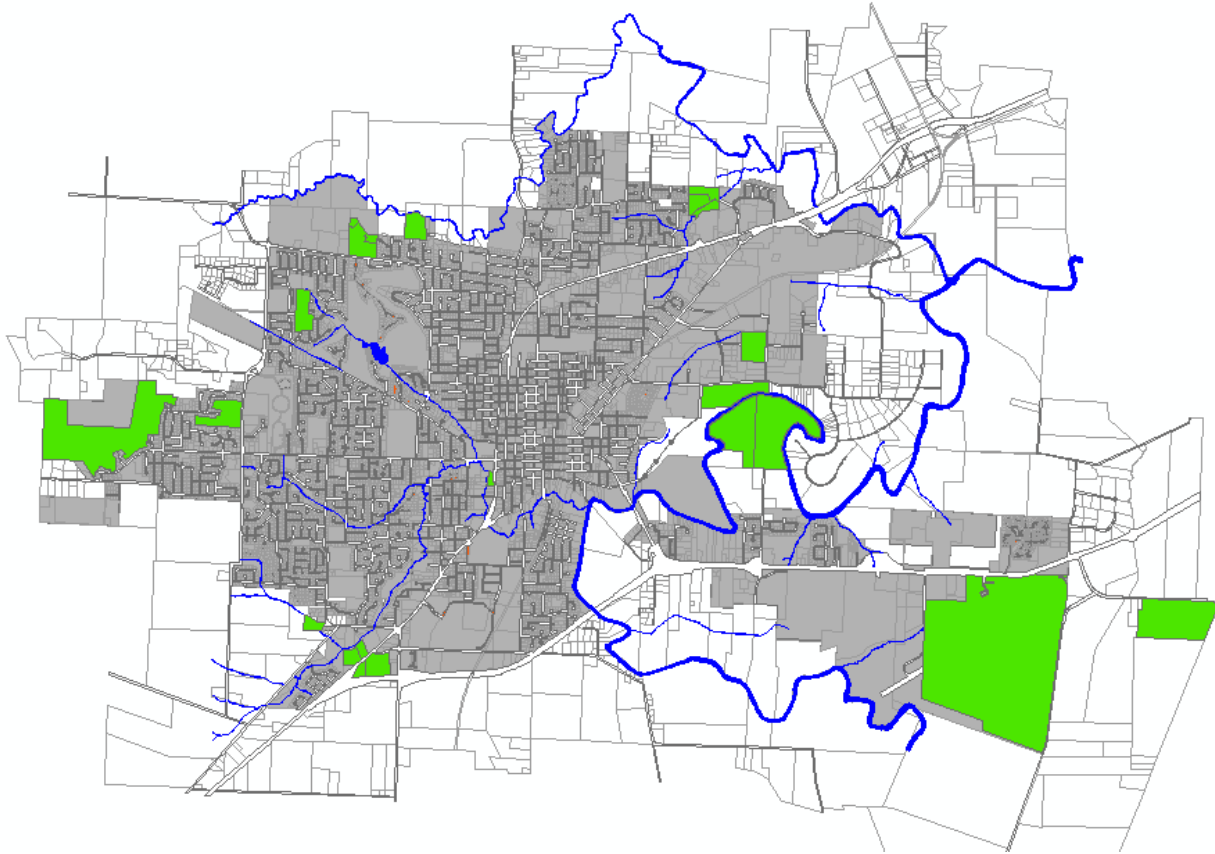
*Attachment Q: Storm Drainage Email Communication*

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July 23, 2019 Update (cont'd):

A map of properties/subdivisions where wetland impact mitigation was permitted by DSL is seen below (subdivisions and individual properties shown in green):



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July 23, 2019 Update (cont'd):

Several of these permitted wetland mitigations include examples of wetland impact and mitigation to accommodate residential development and public streets:

Horizon Heights Subdivision – wetland area



NW Horizon Drive – adjacent to wetlands



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July 23, 2019 Update (cont'd):

Bixler & Gerhard subdivisions



NE Grandhaven Street – adjacent to wetlands



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July 23, 2019 Update (cont'd):

Crestbrook 1<sup>st</sup> Addition – fill to accommodate housing, cul-de-sac



### **TREE PRESERVATION:**

#### **Several opponents testified about their concerns regarding the preservation of trees on the site.**

As described in the application, the site features many mature native white oak trees, most in groves and some stand as isolated specimens. Comprehensive Plan policy 80.00 reads “In proposed residential development distinctive or unique natural features such as wooded areas, isolated preservable trees and drainage swales shall be preserved wherever feasible.” During public testimony, concern was expressed about a large tree near Lot 1, in the southeastern corner of the property. Additionally, the application identifies a second large isolated white oak tree at Lot 54, straddling the property line between the subject site and the adjacent property to the south. Both trees appears to be in what would be the rear yard of a proposed single family residence on those lots. Condition 13 of PDA 4-18 states that removal of any tree greater than nine inches in diameter would require the approval of the Planning Director. Together, with the flexibility to approve reduced setbacks provided in Condition 4 of PDA 4-18, the Planning Director has greater ability to preserve isolated preservable trees throughout the proposed development. The application also addresses the preservation of native oak groves by proposing longer than normal lots around the perimeter of the property. This lot configuration would allow building envelopes outside the proximity of the oak groves found on the slopes that define the outer boundaries of the property. Planning Commissioners did not find the public testimony warranted changing the City’s findings.

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The Planning Commission also had discussion about the community benefit of the proposed development compared to what is approved in the existing planned developments for the two parcels. Commissioners referenced the dedication of the 5.6 acre greenway which would be the first step in completing a larger vision of the Parks Master Plan, a Baker Creek greenway corridor extending from Tice Park to the Westside BPA Trail.

The Planning Commission then voted on each land use request. By a vote of 9-0, the Planning Commission voted to recommend that the Council consider and approve Planned Development Amendment PDA 3-18 subject to the conditions described in detail in Ordinance No. 5065. By a vote of 8-1, the Planning Commission voted to recommend that the Council consider and approve Planned Development Amendment PDA 4-18 subject to the conditions described in detail in Ordinance No. 5069. Additionally, the proposed subdivision (S 3-18) was approved by the Planning Commission by a vote of 7-2, conditioned on final approval of the Planned Development Amendments by City Council.

Following the May 16, 2019 Planning Commission meeting, flyers in opposition to the proposed Oak Ridge Meadows development citing concern over lack of affordable housing and loss of wetlands were posted on several public buildings, possibly leading to ex parte contact by one or more Councilors. A copy of the flyer has officially been entered into the public record.

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**Supplemental Findings:**

July 23, 2019 Update:

Following the decision by the Planning Commission to recommend that the Council approve the proposed Planned Development Amendment (PDA) and Subdivision applications, the applicant prepared Supplemental Findings for consideration by the Council to address evidence, argument and testimony considered by the Planning Commission prior to their making their decision (**See attached Memorandum and Supplemental Findings**).

The purpose of the Supplemental Findings is to document the City's treatment of matters raised after the preparation of the final staff report and findings document, but prior to the close of the public hearing. The Supplemental Findings are not intended to present any new evidence, argument or testimony, and are simply intended to meet the City's obligation to provide written findings to support the City's decision.

If the Council chooses to follow the Planning Commission's recommendation to approve the PDA and Subdivision applications, the Council may elect to:

- Adopt the findings of the Planning Commission standing alone;
- Adopt the findings of the Planning Commission together with the Supplemental Findings prepared by the applicant; or
- Adopt new findings prepared by staff and/or the applicant following its decision and presented to the Council at a subsequent meeting."

July 23, 2019 Update:

**NEW APPLICANT MATERIALS RECEIVED SINCE JUNE 25, 2019:** Following the re-opening of the record, the Planning Department has received new materials from the applicant in support of their material (See Attachments E-G Applicant Material Received).

The applicant has submitted the following:

Attachment E: Premier Development Response Letter – Letter received July 15, 2019 responding to information from opponents post-dating the Planning Commission's recommendation of approval.

Attachment F: Premier Development Response to PBS Letter – Letter received July 15, 2019, responding to the PBS rebuttal letter dated May 24, 2019 (received by the City June 18, 2019).

Attachment G: Supplemental Traffic Evaluation – Memorandum received July 15, 2019, expanding the traffic analysis of the impact of the proposed development to additional intersections within the existing neighborhoods adjacent to Oak Ridge Meadows.

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July 23, 2019 Update:

**PUBLIC TESTIMONY RECEIVED AFTER JUNE 25, 2019:** Following the reopening of the public record on June 27, 2019 in advance of the public hearing before City Council on July 23, 2019, the Planning Department received several new written testimonies for inclusion in the public record.

On Tuesday, June 18, Mike Colvin met with Jeff Towery, City Manager, to provide written testimonies addressing concerns about flooding, accuracy of current FEMA FIRM panels, and vehicular access into the proposed development. Also introduced at that meeting was a letter written by PBS Engineering, author of the Hydrologic Analysis of Baker Creek submitted into the record by Friends of Baker Creek, rebutting the applicant's rebuttal testimony at the Planning Commission public hearing. Following the reopening of the public record on June 27, 2019, these three testimonies were entered into the record, and are summarized below:

PBS Engineering Rebuttal

In a response to rebuttal testimony to the Baker Creek Hydrologic Analysis at the Planning Commission public hearing, PBS submitted clarification of issues raised by the applicant. The conclusion of the PBS rebuttal is that the applicant's testimony does not alter the conclusions of the initial report. Conclusions of the Baker Creek Hydrologic Analysis include that the proposed development would not increase downstream flooding, and that the currently effective FEMA study does not accurately depict the floodplain.

Towery Meeting – Flooding Testimony

Mike Colvin provided eight exhibits in support of his concerns that the proposed Oak Ridge Meadows development would increase downstream flooding, specifically in the Crestbrook neighborhood to the east of the proposed subdivision. Evidence contrary to the Baker Creek Hydrologic Analysis that concluded downstream flooding would not be significantly impacted by the proposed development was not provided.

Towery Meeting – Shadden Access

In the testimony provided by Mike Colvin regarding access to the proposed Oak Ridge Meadows development, Mr. Colvin addresses his concerns about the lack of full development of Shadden Drive as a public road for access to the proposed development. Specifically, Mr. Colvin has concerns that Planning Commissioners were not provided all the information they needed to make an informed decision regarding the use of a Shadden Drive extension to access the proposed Oak Ridge Meadows development.

Mr. Colvin alleged a pattern of deceit and dishonesty from Planning Department staff to deliberately misguide the Planning Commission and steer their vote, calling into question staff's personal and professional integrity. Staff would note that all questions of them were answered honestly and to the best of staff's knowledge to provide factual information to the decision making body. Furthermore, no attempt to hide information, avoid answering a question, or to be anything other than completely honest and forthcoming was made by staff.

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July 25, 2019 Update (cont'd):

Planning staff often meets with developers when they are conceptualizing their projects and were involved in reviewing early concepts of both Premier's Oak Ridge Meadows and Stafford's Baker Creek North developments. If possible, staff works to coordinate efforts between adjoining developments within the parameters and boundaries of the federal, state and local regulations. It is not unusual though for these concept plans to change, be refined or entirely redrawn based upon the developer's due diligence. Staff would never assume to represent the final product of a developer's concept in a public meeting unless that concept has been legally submitted as a land-use application.

In this case, as the two developers were working on their concept plans, staff encouraged an interconnected and coordinated transportation system that would function together. The City was not involved in the negotiation of a private easement between private land owners, nor was the City involved in negotiating the uses allowed in that private easement. Staff was not involved in any discussions about timing of build-out, etc. At the time of the Planning Commission public hearing, Stafford Land Company had not submitted a land-use application for the anticipated Baker Creek North development. All of which staff represented at the public hearing in response to Planning Commissioner questions. When asked if the City could require that the developer build Shadden Drive as a local street to serve Oak Ridge Meadows, staff responded that the Planning Commission needed to have a finding which created a nexus for the requirement based upon city adopted standards.

**PUBLIC TESTIMONY ITEMIZED:** All written public testimony received by the Planning Department has been provided in the City Council meeting materials, organized by the person(s)/organization entering the testimony into the record. The intent of grouping testimony in this manner is to provide clarity about who provided testimony at what time, as multiple people(s)/organization(s) provided multiple testimonies over the course of two public hearings and the time leading up to them. Submitted written public testimony includes the following:

- Mike Colvin, 2718 NW Pinot Noir Drive
  1. Letter - April 10, 2019 - expressing opposition of the application based on increased risk of downstream flooding.
  2. Letter - April 18, 2019 - expressing opposition to the application based on potential downstream flooding impact, loss of unique natural habitats that could be preserved as recreation/park space.
  3. Letter - April 18, 2019 - expressing opposition to the application based on impact of proposed public improvements on the wetlands.
  4. Letter - May 8, 2019 - expressing opposition to the application based on impact of proposed development of traffic on Baker Creek Road.
  5. Letter - May 8, 2019 - expressing opposition to the application based on Comprehensive Plan policies that do not support development on the 11.47 acre parcel and instead support it being left in a natural state for drainage and recreation.

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6. Letter - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and calling on neighbors to submit testimony.
7. Letter - May 16, 2019 - expressing opposition to the applications based on a comparison of Comprehensive Plan polices as they relate to individual parcels of the overall proposed development.

July 25, 2019 Update:

8. Letter – June 18, 2019 - expressing opposition to the applications based the timing of the development of Shadden Drive north of Baker Creek Road.
9. Letter – June 18, 2019 - expressing opposition to the applications based potential for increased downstream flooding.

- Sandi Colvin, 2718 NW Pinot Noir Drive

1. Letter - April 10, 2019 - expressing opposition of the application stating that removal of the 11.47 acre parcel from the Oak Ridge Planned would circumvent Oak Ridge CC&Rs, and that the proposed development is held to lesser standards than the current PDs.
2. PowerPoint slides - May 16, 2019 - expressing opposition to the applications based on extension of Pinehurst Drive to eastern property line, and potential impacts on downstream flooding.

July 25, 2019 Update:

3. Letter – July 15, 2019 - expressing opposition to the application, citing the example of Johnson Creek in the Portland area.

- Friends of Baker Creek, 501c3 Non-Profit, 2718 NW Pinot Noir Drive

1. Letter - April 10, 2019 - expressing opposition of the application based on lack of two access points to proposed development.
2. Letter - April 10, 2019 - expressing opposition of the application based on development in the wetland, emergency access to the development, retention of an isolated preservable tree, impact of park maintenance on HOA fees, development of the private active neighborhood park, Federal and State agency permitting, and FEMA floodplain mapping.
3. PowerPoint slides - April 18, 2019 - used as imagery and talking points for several oppositional testimonies at the April 18, 2019 public hearing.
4. Baker Creek Hydrologic Analysis (prepared by PBS Engineering for FoBC) – May 9, 2009 – providing analysis indicated that FEMA floodplain maps are in need of revision, proposed development could occur in areas of flood risk but with FEMA designation, and that proposed development would not significantly increase downstream flow.

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5. Power Point slides - May 16, 2019 - used as imagery and talking points for several oppositional testimonies at the May 16, 2019 public hearing.

July 25, 2019 Update:

6. Testimony Binder – July 15, 2019 – A collection of testimony expressing opposition to the applications due to Pinehurst Drive, lack of Shadden Drive access, outdated FEMA maps, increased downstream flooding, updated Baker Creek hydrology, environmental impacts, and the Johnson Creek case study.

- Steve and Catherine Olsen, 2650 NW Pinot Noir Drive
  1. Letter - April 10, 2019 - expressing opposition of the application based on concerns of development in the wetland, increased traffic in the Oak Ridge developments, Great Neighborhood Principles, and Federal and State agency permitting, and FEMA floodplain mapping.
  2. Letter - May 8, 2019 - expressing opposition to the application because of impact of the proposed development on traffic, public safety, and existing Oak Ridge CC&Rs, and the desire to preserve the 11.47 acre parcel as a nature preserve.
  3. Letter - May 16, 2019 - expressing opposition to the applications and support for preserving 11.47 acre parcel as a nature preserve.
- Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive
  1. Letter - April 10, 2019 - expressing opposition of the application based on concerns of development in the wetland, steep slopes, construction access, potential loss of trees, and loss of lifestyle on Pinot Noir Drive.
  2. Letter - May 6, 2019 - expressing opposition to the application based on traffic impact to the surrounding neighborhoods, and the impact of development on the lifestyle of the surrounding neighborhoods.
  3. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
- Tim and Margaret Roberts, 1069 NW Baker Crest Court
  1. Letter - April 15, 2019 - expressing opposition of the application based on concern for potential downstream flooding impact.

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- Friends of Yamhill County, 501c3 Non-Profit, PO Box 1083, McMinnville
  1. Letter - April 15, 2019 - expressing opposition of the application based on impact to wetlands.
- Yamhill Soil & Water Conservation District, 2200 SW 2<sup>nd</sup> Street
  1. Email - April 16, 2019 - expressing concern over the proposed development based on potential impacts to wetlands, and removal of vegetation along Baker Creek.
- Jan and Randy Hartzell, 1093 NW Baker Crest Court
  1. Email - April 17, 2019 - expressing opposition to the application based on potential downstream flooding impact and inaccurate FEMA maps.
- Housing Land Advocates and Fair Housing Council of Oregon, 501c3 Non-Profit, 1221 SW Yamhill Street #305, Portland
  1. Letter - April 17, 2019 - expressing concern that Statewide Goal 10 findings had not been made, and the proposal not evaluated under the HNA and BLI.
- Glen Westlund (no address provided)
  1. Email - April 18, 2019 - expressing concern over the proposed development based on potential impacts to wetlands and wildlife habitat.
- Carmen Mendenhall, 2410 NW Zinfandel Loop
  1. Letter - April 18, 2019 - expressing opposition to the applications based on the impact of the proposed development on neighborhood livability.
  2. Email - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, development impact to the Baker Creek riparian corridor, and loss of wetlands.

July 25, 2019 Update:

1. Email – July 15, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood, downstream flooding, and the inability to apply Great Neighborhood Principles.

- Gail Norby, 2840 NW Pinot Noir Drive
  1. Letter - April 18, 2019 - expressing opposition to the application based on potential impact of traffic on neighborhood livability.

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- Scott Wellman, 2756 NW Pinot Noir Drive
  1. Letter - April 18, 2019 - expressing opposition to the application based on potential impact on wildlife habitat.
  2. Letter - May 16, 2019 - expressing opposition to the applications based on loss of wetlands.
  
- Bill Kabeiseman, Bateman Seidel (representing Friends of Baker Creek), 888 SW 5<sup>th</sup> Avenue, Suite 1250, Portland
  1. Letter - April 18, 2019 - expressing opposition to the application based on impact on the wetlands that would be inconsistent with the Comprehensive Plan, that Ordinance 4845 limits Oak Ridge Meadows to 76 lots, and that there is no approved wetland delineation or mitigation plan.
  2. Letter - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, extension of Pinehurst Drive to eastern property line, potential impacts on downstream flooding, and loss of wetlands.
  
- Valerie Kelly, McMinnville
  1. Email – April 22, 2019 - expressing opposition to the application based on potential downstream flooding impact and inaccurate FEMA maps.
  
- Helen Bitar, 30500 SW Moriah Lane, Sheridan
  1. Email - May 6, 2019 - expressing opposition to the application based on loss of wetlands.
  
- Michael and Sherill Roberts, 2812 NW Pinot Noir Drive
  1. Letter – May 7, 2019 - expressing concern for public safety and livability during construction of proposed development. The testimony suggests requiring the improvement of Shadden Drive for construction access, and expediting the restriping project for Baker Creek Road.
  2. Letter - May 16, 2019 - expressing concern for public safety and livability during construction of proposed development. The testimony suggests requiring the improvement of Shadden Drive for construction access, and expediting the restriping project for Baker Creek Road.
  
- Rob Stephenson, 1081 NW Baker Crest Court
  1. Letter – May 8, 2019 - expressing opposition to the application based on potential downstream flooding impact, and impact of the development on wetlands.
  
- Les Toth, 2700 NW Pinehurst Drive
  1. Letter – May 13, 2019 - expressing opposition to the applications based on impact of proposed Pinehurst Drive on wetlands and adjacent property.

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- Stephanie Rudolph, 2849 NW Pinot Noir Drive
  1. Email - May 13, 2019 - expressing concern about traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
  
- Melba Smith, 2780 NW Pinot Noir Drive
  1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and impact on existing streets.
  2. Photograph - May 16, 2019 - indicating extent development impact on existing wetlands.
  
- Terry and Beth Uhrinak, 2731 NW Pinot Noir Drive
  1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
  
- Anniedear Chappell, 1334 NW Zinfandel Court
  1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood.
  2. Email - May 14, 2019 - expressing concern over existing traffic systems and pedestrian safety in Oak Ridge neighborhood that would be compounded by new traffic.
  
- Erin Stanton & Sarah Hadfield, 2687 NW Pinot Noir Drive
  1. Email - May 14, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and calling on neighbors to submit testimony.
  
- Steve and Sarah Fox, 2687 NW Oak Ridge Drive
  1. PowerPoint slides - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and concern over previous land fill activity.
  
- Ray and Nina Clevidence, 1493 NW Riesling Way,
  1. Letter - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and loss of wetlands.
  
- Justin Maynard (submitted by Catherine Olsen), PBS Engineering, 415 W 6<sup>th</sup> Street, Vancouver, WA
  1. Letter - May 16, 2019 - summarizing the analysis and findings of the Baker Creek Hydrologic Analysis. The analysis indicated that FEMA floodplain maps are in need of revision, and proposed development could occur in areas of flood risk but with FEMA designation.

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*Attachments:*

*Attachment A: Ordinance No. 5065 including:*

*Exhibit A – PDA 3-18 Decision Document*

*Attachment B: Ordinance No. 5069 including:*

*Exhibit A – PDA 4-18 Decision Document*

*Attachment C: Ordinance No. 5070 including*

*Exhibit A – S 3-18 Decision Document*

*Attachment D: Memorandum and Supplemental Findings*

*Attachment E - G: Applicant Materials Received*

*Attachment H - N: Public Testimony Received Attachment : Ordinance No. 4921-Floodplain Ordinance*

*Attachment P: McMinnville Municipal Code, Ch. 17.48 Floodplains*

*Attachment Q: Storm Drainage Email Communication*

*Attachment R: Oregon State Model Floodplain Code, modified January 2014*

July 25, 2019 Update:

1. Letter – June 18, 2019 – rebutting applicant’s rebuttal of the Baker Creek Hydrologic Analysis, and confirming the conclusions of the report.

- Unattributed (no name provided)

1. Letter - May 16, 2019 – provided at the public hearing - listing several Comprehensive Plan policies related to natural features, transportation and traffic systems, and provision of open space and natural areas.
2. Letter – May 18, 2019 – posted to several public buildings – expressing opposition to proposed development based on lack of affordable housing and loss of wetlands.

July 25, 2019 Update:

- Rick and Linda Thomas, 2631 NW Merlot Drive,

1. Email – July 15, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood, outdated FEMA maps, and increased downstream flooding.

**Attachments:**

*Attachment A: Ordinance No. 5065 including:*

*Exhibit A – PDA 3-18 Decision Document*

*Attachment B: Ordinance No. 5069 including:*

*Exhibit A – PDA 4-18 Decision Document*

*Attachment C: Ordinance No. 5070 including*

*Exhibit A – S 3-18 Decision Document*

*Attachment D: Memorandum and Supplemental Findings*

*Attachment E: Premier Development Response Letter (Kellington Law Group, July 15, 2019)*

*Attachment F: Premier Development Response to PBS Letter (Westech Engineering)*

*Attachment G: Supplemental Traffic Evaluation (July 15, 2019)*

*Attachment H: Letter from PBS – Rebuttal of Applicant Rebuttal of Hydrologic Report*

*Attachment I: Mike Colvin to Jeff Towery – Meeting 06.18.19*

*Attachment J: Mike Colvin to Jeff Towery – Shadden Access, Meeting 06.18.19*

*Attachment K: Email from Rick and Linda Thomas, 07.14.19*

*Attachment L: Letter from Carmen Mendenhall, 07.15.19*

*Attachment M: Letter from Sandi Colvin, 07.15.19*

*Attachment N: Binder from Friends of Baker Creek, 07.15.19*

*Attachment O: Ordinance No. 4921-Floodplain Ordinance*

---

*Attachments:*

*Attachment A: Ordinance No. 5065 including:*

*Exhibit A – PDA 3-18 Decision Document*

*Attachment B: Ordinance No. 5069 including:*

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Attachment P: McMinnville Municipal Code, Ch. 17.48 Floodplains

Attachment Q: Storm Drainage Email Communication

Attachment R: Oregon State Model Floodplain Code, modified January 2014

**Fiscal Impact:**

None.

**Ordinance No. 5065 Alternative Courses of Action:**

1. **Close the Public Hearing, Conduct a Second Reading of the Ordinance and vote to ADOPT** Ordinance No. 5065, approving PDA 3-18 and adopting the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings, approving the land-use application.
2. **Close the Public Hearing, Conduct a Second Reading of the Ordinance and Vote NOT TO ADOPT** Ordinance No. 5065, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5065, effectively denying the land-use application.
3. **Close the Public Hearing and Elect not to Conduct a Second Reading of the Ordinance,** effectively not rendering a land-use decision within the governed timeframe, at which point the applicant's proposal is by default approved.

**Ordinance No. 5065 Recommendation:**

Staff recommends that the Council adopt Ordinance No. 5065 which would approve PDA 3-18, subject to conditions of approval as recommended by the Planning Commission.

**“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5065.”**

**Ordinance No. 5069 Alternative Courses of Action:**

1. **Close the Public Hearing, Conduct a Second Reading of the Ordinance and vote to ADOPT** Ordinance No. 5069, approving PDA 4-18 and adopting the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings, approving the land-use application.
2. **Close the Public Hearing, Conduct a Second Reading of the Ordinance and Vote NOT TO ADOPT** Ordinance No. 5069, providing findings of fact based upon specific code criteria to deny

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*Attachments:*

*Attachment A: Ordinance No. 5065 including:*

*Exhibit A – PDA 3-18 Decision Document*

*Attachment B: Ordinance No. 5069 including:*

*Exhibit A – PDA 4-18 Decision Document*

*Attachment C: Ordinance No. 5070 including*

*Exhibit A – S 3-18 Decision Document*

*Attachment D: Memorandum and Supplemental Findings*

*Attachment E - G: Applicant Materials Received*

*Attachment H - N: Public Testimony Received Attachment : Ordinance No. 4921-Floodplain Ordinance*

*Attachment P: McMinnville Municipal Code, Ch. 17.48 Floodplains*

*Attachment Q: Storm Drainage Email Communication*

*Attachment R: Oregon State Model Floodplain Code, modified January 2014*

the application in the motion to not approve Ordinance No. 5069, effectively denying the land-use application.

3. **Close the Public Hearing and Elect not to Conduct a Second Reading of the Ordinance**, effectively not rendering a land-use decision within the governed timeframe, at which point the applicant's proposal is by default approved.

**Ordinance No. 5069 Recommendation:**

Staff recommends that the Council adopt Ordinance No. 5069 which would approve PDA 4-18, subject to conditions of approval as recommended by the Planning Commission.

**“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5069.”**

**Ordinance No. 5070 Alternative Courses of Action:**

1. **Close the Public Hearing, Conduct a Second Reading of the Ordinance and vote to ADOPT** Ordinance No. 5070, approving S 3-18 and adopting the Decision, Conditions of Approval, Findings of Fact and Conclusionary Findings, approving the land-use application.
2. **Close the Public Hearing, Conduct a Second Reading of the Ordinance and Vote NOT TO ADOPT** Ordinance No. 5070, providing findings of fact based upon specific code criteria to deny the application in the motion to not approve Ordinance No. 5070, effectively denying the land-use application.
3. **Close the Public Hearing and Elect not to Conduct a Second Reading of the Ordinance**, effectively not rendering a land-use decision within the governed timeframe, at which point the applicant's proposal is by default approved.

**Ordinance No. 5070 Recommendation:**

Staff recommends that the Council adopt Ordinance No. 5070 which would approve S 3-18, subject to conditions of approval as recommended by the Planning Commission.

**“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5070.”**

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*Attachments:*

*Attachment A: Ordinance No. 5065 including:*

*Exhibit A – PDA 3-18 Decision Document*

*Attachment B: Ordinance No. 5069 including:*

*Exhibit A – PDA 4-18 Decision Document*

*Attachment C: Ordinance No. 5070 including*

*Exhibit A – S 3-18 Decision Document*

*Attachment D: Memorandum and Supplemental Findings*

*Attachment E - G: Applicant Materials Received*

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*Attachment P: McMinnville Municipal Code, Ch. 17.48 Floodplains*

*Attachment Q: Storm Drainage Email Communication*

*Attachment R: Oregon State Model Floodplain Code, modified January 2014*



**ORDINANCE NO. 5065**

**AN ORDINANCE AMENDING PLANNED DEVELOPMENT ORDINANCE NO. 4722 TO REMOVE APPROXIMATELY 11.47 ACRES FROM THE BOUNDARY OF THE OAK RIDGE PLANNED DEVELOPMENT OVERLAY DISTRICT.**

RECITALS:

The Planning Department received an application (PDA 3-18) from Premier Development, LLC, property owner, requesting approval of a Planned Development Amendment to remove the unplatted fourth phase of the Oak Ridge phased subdivision (Tax Lot R441701300) from the boundary of the Oak Ridge Planned Development Overlay District adopted by Ordinance 4722; and

The subject site is located north of Baker Creek Road and NW Pinot Noir Drive, south of Baker Creek, and is more specifically described as Tax Lot 1300, Section 17, T. 4 S., R 4 W., W.M.; and

A public hearing before the McMinnville Planning Commission was held on April 18, 2019, after due notice had been provided in the local newspaper on April 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 voted to continue the public hearing; and

The public hearing before the McMinnville Planning Commission was continued on May 16, 2019, after due notice had been provided in the local newspaper on May 7, 2019; and

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

The Planning Commission, being fully informed about said request, found that the requested amendment conformed to the applicable Comprehensive Plan goals and policies, as well as the Planned Development Amendment review criteria listed in Section 17.74.070 of the McMinnville Municipal Code 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 of said Planned Development Amendment to the Council; and

The City Council having received the Planning Commission recommendation and staff report, and having deliberated, requested a public hearing; and

A public hearing before the McMinnville City Council was held on July 23, 2019 after written notice had been mailed to property owners within 300 feet of the affected property on June 27, 2019; and

At said public hearing, a staff report was presented, and applicant and public testimony was received; and having deliberated;

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

1. That the Council adopts the Findings of Fact, Conclusionary Findings, Decision and Conditions of Approval as documented in Exhibit A approving PDA 3-18; and

2. That Section 3 of Ordinance 4722 is amended by adding the following:

6. *That the subject site and property, Tax Lot R441701300, is removed from the Oak Ridge Planned Development Overlay District, hereby adjusting the boundary of the Planned Development Overlay District. All other standards and conditions of approval adopted by Ordinance 4722 remain in effect exclusive of the 11.47 acres that are subject to this Planned Development Amendment application (the unplatted fourth phase of Oak Ridge).*

7. *That Tax Lot R441701300 shall remain in the underlying R-2 zone when removed from the boundary of the Oak Ridge Planned Development Overlay District until such time that it is re-zoned.*

3. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 23<sup>rd</sup> day of July 2019, by the following votes:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

\_\_\_\_\_

MAYOR

Attest:

Approved as to form:

\_\_\_\_\_  
CITY RECORDER

\_\_\_\_\_  
CITY ATTORNEY



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

503-434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A PLANNED DEVELOPMENT AMENDMENT TO REMOVE PROPERTY FROM AN EXISTING PLANNED DEVELOPMENT OVERLAY DISTRICT AT R441701300.**

- DOCKET:** PDA 3-18 (Planned Development Amendment)
- REQUEST:** Approval to amend an existing Planned Development Overlay District to remove property from the Overlay District boundary. The original Planned Development Overlay District was adopted in 2000 by Ordinance 4722.
- LOCATION:** North and east of NW Pinot Noir Drive, south of Baker Creek (Tax Lot 1300, Section 17, T. 4 S., R 4 W., W.M.)
- ZONING:** R-2 PD (Single Family Residential Planned Development)
- APPLICANT:** Premier Development, LLC (property owner)
- STAFF:** Jamie Fleckenstein, PLA, Associate Planner
- DATE DEEMED COMPLETE:** January 24, 2019
- HEARINGS BODY & ACTION:** The McMinnville Planning Commission makes a recommendation for approval or denial to the City Council.
- HEARING DATE & LOCATION:** April 18, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon, continued to May 16, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon; July 23, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville Oregon
- PROCEDURE:** An application for a Planned Development Amendment 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 Planned Development Amendment are specified in Section 17.74.070 of the Zoning Ordinance. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume

It are not mandated, but are to be undertaken in relation to all applicable land use requests.

**APPEAL:**

The Planning Commission makes a recommendation to the City Council, and the City Council makes the final decision. The City Council’s decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date written notice of the City Council’s decision is mailed to parties who participated in the local proceedings and entitled to notice and as provided in ORS 197.620 and ORS 197.830, and Section 17.72.190 of the McMinnville Municipal Code. Per the applicant’s requests on March 1, 2019 to extend the 120 day decision timeframe for an additional 60 days and on June 5, 2019 for an additional 21 day extension, the City’s final decision is subject to a 201 day processing timeline, and a decision will need to be rendered by August 13, 2019.

**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 Oregon Department of State Lands. Their comments are provided in this document.

**DECISION**

Based on the findings and conclusionary findings, the City Council **APPROVES** the Planned Development Amendment (PDA 3-18) **subject to the conditions of approval provided in Section II of this document.**

//  
**DECISION: APPROVAL WITH CONDITIONS**  
//

City Council: \_\_\_\_\_  
Scott Hill, Mayor of McMinnville

Date: \_\_\_\_\_

Planning Commission: \_\_\_\_\_  
Roger Hall, Chair of the McMinnville Planning Commission

Date: \_\_\_\_\_

Planning Department: \_\_\_\_\_  
Heather Richards, Planning Director

Date: \_\_\_\_\_

## **I. APPLICATION SUMMARY:**

The applicant has provided extensive information in their application narrative and findings regarding the history of land use decisions for the subject site(s) and the request(s) under consideration. City has found the information provided to accurately reflect the current Planned Development Amendment request and the relevant background, and excerpted portions are provided below to give context to the request, in addition to staff's comments.

### ***Subject Property & Request***

The proposal is an application for a Planned Development Amendment (PDA 3-18) to amend the existing Oak Ridge Planned Development adopted by Ordinance 4722 to remove the unplatted fourth phase of the Oak Ridge phased subdivision (Tax Lot R441701300), approximately 11.47 acres, from the boundary of the Oak Ridge Planned Development Overlay District.

A concurrent application for a Planned Development Amendment (PDA 4-18) requests to add the unplatted fourth phase of the Oak Ridge phased subdivision (Tax Lot R441701300), approximately 11.47 acres, to the boundary of the Oak Ridge Meadows Planned Development Overlay District adopted in 2005 by Ordinance 4822, in addition to other zoning allowances. The second Planned Development Amendment request (PDA 4-18) is a separate land-use decision and will be processed in a separate decision document.

Also requested in conjunction with the two (2) Planned Development Amendments described above is approval of a Tentative Subdivision for the construction of a 108 lot single family residential subdivision, referred to as Oak Ridge Meadows. Approval of the Tentative Subdivision request (S 3-18) would be conditioned upon the approval of the two (2) Planned Development Amendments being approved as requested. The Tentative Subdivision Plan is a separate land-use decision and will be processed in a separate decision document.

The subject site being considered in PDA 3-18, Tax Lot R441701300, is approximately 11.47 acres in size. This parcel is identified as Residential on the McMinnville Comprehensive Plan Map and is zoned R-2 PD (Single-Family Residential, Planned Development). The site is generally located north of Baker Creek Road and the multi-phased Oak Ridge residential development, and south of Baker Creek and the Oak Ridge Meadows PD site, and is currently undeveloped. ***See Vicinity Map (Figure 1) and Zoning Map (Figure 2) below.***

Excerpts from Land Use Application Narrative and Findings (a portion of the narrative also describes the characteristics of the adjacent 24 acre Oak Ridge Meadows site together with the 11.47 acre subject property):

Baker Creek and its associated floodplain lie adjacent to the northern and a portion of the eastern edges of the site; other land to the east is identified as wetlands. The southernmost edge of the site lies adjacent to the Oak Ridge 1st Addition and Oak Ridge 2nd Addition residential subdivisions, zoned R-2 PD subject to the Oak Ridge Planned Development Overlay adopted by Ordinance 4722. Land to the west is currently undeveloped and is owned by Stafford Land Company; future development of that land is anticipated to include additional residential, commercial and recreational uses. Northwest of the site is the undeveloped land subject to the Oak Ridge Meadows Planned Development, zoned R-2 PD and the subject of the concurrent Planned Development Amendment request (PDA 4-18).

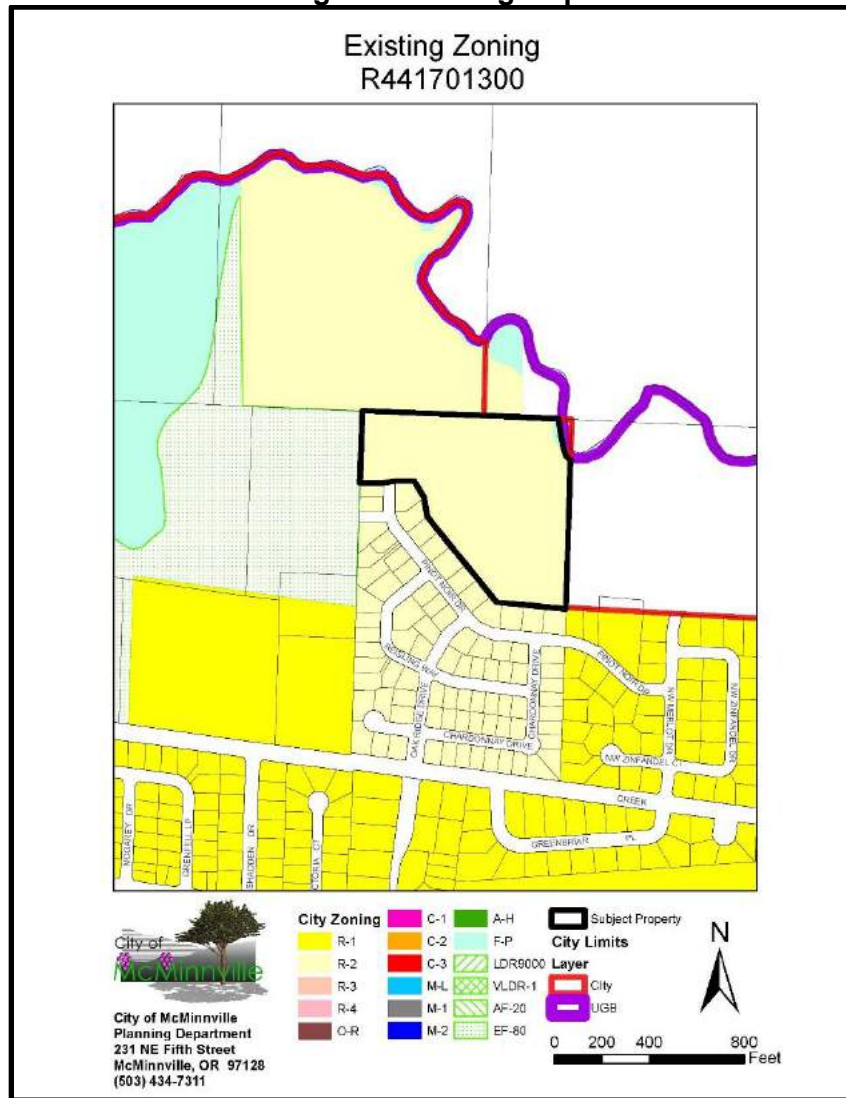
The site exhibits two main topographic characteristics. The central portion of the site, north of the existing temporary terminus of NW Pinot Noir Drive, is relatively flat. Wrapping around this central area of the site to the west, north and east is a band of steeply sloping land beyond which can be

found generally level ground at many locations near the site's edge. Slopes within the site vary from near one percent in the central interior, to a 15 percent slope along the west boundary, and slopes ranging from between approximately 20 to 40 percent along the north and east edges. The southern portion of the site, generally north and east of Oak Ridge 1st Addition and Oak Ridge 2nd Addition, exhibits slopes also reaching up to approximately 40 percent in some locations. There are no structures or other improvements on this site. While Oak trees are the most prevalent tree type found on the site, Fir, Cottonwood and Ash trees are also present. Most of the tree cover exists along the steeper banks of the site's perimeter in addition to a fairly defined smaller area located directly north of Oak Ridge 2nd Addition subdivision.

**Figure 1. Vicinity Map**



**Figure 2. Zoning Map**



**Background**

Excerpts from Land Use Application Narrative and Findings:

The Oak Ridge and Oak Ridge Meadows Planned Developments (PDs) were approved by the McMinnville City Council on February 8, 2000 (Ordinance 4722) and April 12, 2005 (Ordinance 4822), respectively, and remain in place and in force as no expiration dates of the Planned Development approvals were identified in either of the enacting ordinances.

The R-2 PD zoned Oak Ridge tentative subdivision plan (S 6-99) was approved by the McMinnville Planning Commission as a three phase plan for a total of 107 residential lots with an average minimum lot size requirement of 7,000 square feet. Through subsequent amendments to the approved tentative subdivision layout and phasing plan that were determined to be Minor Amendments and approved by the McMinnville Planning Director, three phases of the residential subdivision, totaling 82 lots averaging 7,387 square feet in size were eventually platted leaving a new fourth and final 11.47-acre phase unplatted. North of Oak Ridge, the R-2 PD zoned Oak Ridge Meadows tentative subdivision plan (S 14-04), which did not include the unbuilt fourth phase of the adjacent Oak Ridge subdivision, was approved by the

McMinnville City Council as a two-phase subdivision with a total of 99 residential lots with an average minimum lot size requirement of 7,500 square feet.

The last approved subdivision design that existed to implement Ordinance 4822 showed that the intersection of Pinot Noir Drive and Pinehurst Drive (which was needed to enable the construction of the southerly portion of Pinehurst Drive and "A" Court (Exhibit 4) as part of the fourth phase of the Oak Ridge subdivision) was last approved by the City Council as being located within the Oak Ridge Meadows tentative subdivision plan and within the Oak Ridge Meadows Planned Development boundary (ZC 12-04/S 14-04). Following this approval, Premier Development filed an appeal with the Oregon Land Use Board of Appeals (LUBA) on the decision. At issue was Condition of Approval number five (5) of Ordinance 4822 related to a limitation on the number of lots allowed within the Oak Ridge Meadows subdivision until such time that NW Pinehurst Drive was extended southward to connect to Baker Creek Road. LUBA acted to remand the decision back to the City Council. The Council held a public hearing as directed by the remand and concluded to adopt additional findings in support of their April decision to adopt Ordinance 4822. This action was then memorialized by the adoption of such additional findings as referenced in Ordinance 4845 (Exhibit 5) which the Council approved on March 14, 2006. The Council's approval of the S 14-04 tentative subdivision plan, including the locating of the intersection of Pinot Noir Drive and Pinehurst Drive within the Oak Ridge Meadows Planned Development site, remained unchanged through the subsequent Land Use Board of Appeals (LUBA) remand (LUBA 2005-065) of the City's approval of ZC 12-04/S 14-04.

Apart from the Council's approvals of ZC 12-04 and S 14-04, the connecting roadway segment of Pinot Noir Drive necessary to enable access to the Oak Ridge Meadows site, and the location of the afore mentioned Pinot Noir Drive and Pinehurst Drive intersection, yet remained a part of the earlier Oak Ridge tentative subdivision plan and Planned Development boundary approvals. This resulted in a situation where neither of the two adjacent subdivisions could be constructed without the prior completion of a portion of the other. Had the economy not convulsed as it did for a number of years, this situation would not have been a concern as the adjacent subdivision phases, although located within different Planned Development boundaries, could have been developed simultaneously and the noted street improvements effectively constructed concurrently and seamlessly.

### ***Summary of Criteria & Issues***

Generally, the purpose of a planned development is to provide greater flexibility and greater freedom of design in the development of land than may be possible under strict interpretation of the provisions of the zoning ordinance. Further, the purpose of a planned development is to encourage a variety in the development pattern of the community; encourage mixed uses in a planned area; encourage developers to use a creative approach and apply new technology in land development; preserve significant man-made and natural features; facilitate a desirable aesthetic and efficient use of open space; and create public and private common open spaces. A planned development is not intended to be simply a guise to circumvent the intent of the zoning ordinance.

The application (PDA 3-18) is subject to Planned Development Amendment review criteria in Section 17.74.070 of the Zoning Ordinance. An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120. The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

Review criteria for Planned Development Amendments refer to the "plan, "development", or "proposed development" that results from the requested Planned Development Amendment. In the case of the

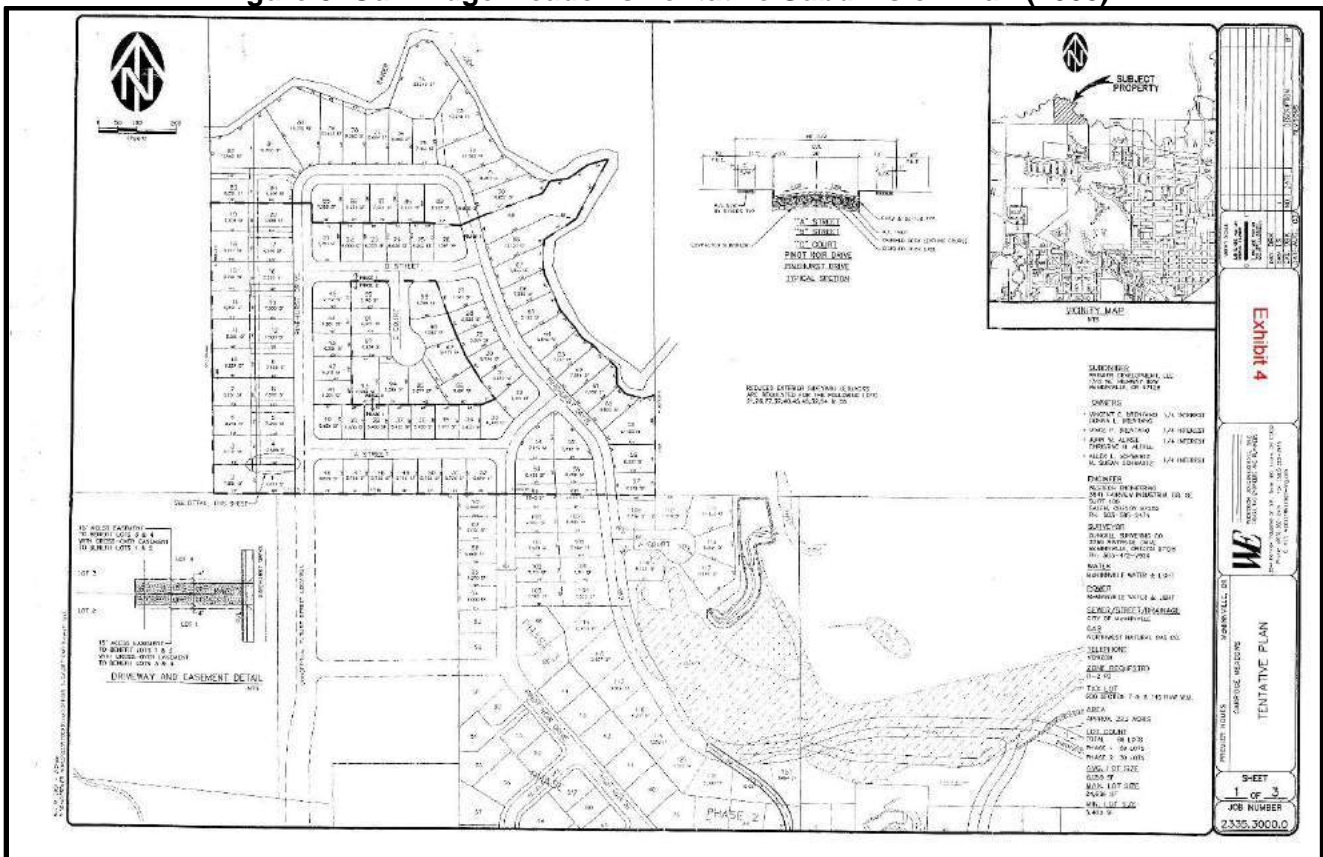


requested Planned Development Amendment (PDA 3-18), there is no plan, development, or proposed development in association with the specific request. The specific request of PDA 3-18 is the removal of the subject site, an undeveloped property, from the boundary of an existing Planned Development Overlay District, and not to consider any proposed development of that property.

The applicant is also requesting approval of a second Planned Development Amendment (PDA 4-18) and Tentative Subdivision Plan (S 3-18). It is in these concurrent requests that a proposed development including the subject property is described. The second Planned Development Amendment and Tentative Subdivision Plan are separate land-use decisions and will be processed in a separate decision documents.

The requested Planned Development Amendment (PDA 3-18) is driven by the special physical conditions of the previously approved subdivisions for the Oak Ridge and Oak Ridge Meadows planned developments. The approved plans required simultaneous construction to allow street connections and access through one development into the other. The extension of Pinot Noir Drive through the Oak Ridge 4<sup>th</sup> Phase was necessary to access the Oak Ridge Meadows site, and the intersection of Pinot Noir Drive and Pinehurst Drive within the Oak Ridge Meadows development was necessary to access the majority of lots in the Oak Ridge 4<sup>th</sup> Phase. **See Oak Ridge Meadows Tentative Subdivision Plan (2005) (Figure 3).** The proposed Oak Ridge Meadows and Oak Ridge Phase 4 subdivisions were not platted or constructed, and each tentative subdivision approval has expired. To restart the development of the two lots as once envisioned, two separate subdivision requests under two separate planned development overlays would need to occur.

**Figure 3. Oak Ridge Meadows Tentative Subdivision Plan (2005)**



This applicant's overall proposal, which includes two (2) planned development amendment requests and a tentative subdivision requests, seeks to achieve the intended development pacing envisioned for the Oak Ridge Fourth Phase and Oak Ridge Meadows subdivisions by bringing the two adjacent

undeveloped parcels of land together under one Planned Development Amendment approval and construct both of the afore mentioned street improvements as part of Phase 1 of the proposed tentative residential subdivision plan. The first step in this process is the removal of the subject property from the Oak Ridge Planned Development Overlay District.

Removal of the subject property from the Oak Ridge Planned Development Overlay District does not alter the function of the already constructed first three phases of the Oak Ridge Planned Development. The applicant has demonstrated a special physical condition of the Planned Development that the amendment request would help alleviate. Furthermore, a development plan is not part of this specific request, and future development plans for the subject site will be reviewed against applicable criteria at that time. Overall, the criteria for Planned Development Amendment approval are satisfied by this proposal.

## **II. CONDITIONS:**

1. That Ordinance 4722 is amended to remove the subject site and property, Tax Lot R441701300, from the Oak Ridge Planned Development Overlay District, hereby adjusting the boundary of the Planned Development Overlay District. All other standards and conditions of approval adopted by Ordinance 4722 remain in effect exclusive of the 11.47 acres that are subject to this Planned Development Amendment application (the unplatted fourth phase of Oak Ridge).
2. That Tax Lot R441701300 shall remain in the underlying R-2 zone when removed from the boundary of the Oak Ridge Planned Development Overlay District until such time that it is re-zoned.

## **III. ATTACHMENTS:**

1. PDA 3-18 Application and Attachments (on file with the Planning Department)
2. PDA 3-18 Application – Supplemental Materials
  - a. Errata Memorandum, April 17, 2019, Ron Pomeroy, Navigation Land Use Consulting (representing Premier Development) (on file with the Planning Department)
  - b. Wetland Delineation Report, Pacific Habitat Services (on file with the Planning Department)
3. Public Notices (on file with the Planning Department)
4. Agency Comments (on file with the Planning Department)
5. Testimony Received (on file with the Planning Department)
  - a. Public Testimony
    - i. Steve and Catherine Olsen, 2650 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - ii. Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - iii. Sandi Colvin, 2718 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - iv. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - v. Friends of Baker Creek, 501-3C (submitted by Mike Colvin), Letter received April 10, 2019 (on file with the Planning Department)
    - vi. Friends of Baker Creek, 501-3C, Letter received April 10, 2019 (on file with the Planning Department)
    - vii. Tim and Margaret Roberts, 1069 NW Baker Crest Court, Letter received April 15, 2019 (on file with the Planning Department)

- viii. Friends of Yamhill County, Email received April 15, 2019 (on file with the Planning Department)
- ix. Yamhill Soil & Water Conservation District, Email received April 16, 2019 (on file with the Planning Department)
- x. Jan and Randy Hartzell, 1093 NW Baker Crest Court, Email received April 17, 2019 (on file with the Planning Department)
- xi. Housing Land Advocates and Fair Housing Council of Oregon, Letter received April 17, 2019 (on file with the Planning Department)
- xii. Glen Westlund, Email received April 18, 2019 (on file with the Planning Department)
- xiii. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
- xiv. Carmen Mendenhall, 2410 NW Zinfandel Loop, Letter received April 18, 2019 (on file with the Planning Department)
- xv. Friends of Baker Creek, PowerPoint slides received April 18, 2019 (on file with the Planning Department)
- xvi. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
- xvii. Gail Norby, 2840 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
- xxviii. Scott Wellman, 2756 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
- xix. Bill Kabeiseman, Bateman Seidel, Letter received April 18, 2019 (on file with the Planning Department)
- xx. Valerie Kelly, McMinnville, Email received April 22, 2019 (on file with the Planning Department)
- xxi. Helen Bitar, 30500 SW Moriah Lane, Sheridan, Email received May 6, 2019 (on file with the Planning Department)
- xxii. Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive, Letter received May 6, 2019 (on file with the Planning Department)
- xxiii. Michael and Sherill Roberts, 2812 NW Pinot Noir Drive, Letter received on May 7, 2019 (on file with the Planning Department)
- xxiv. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received May 8, 2019 (on file with the Planning Department)
- xxv. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received May 8, 2019 (on file with the Planning Department)
- xxvi. Steve and Catherine Olson, 2650 NW Pinot Noir Drive, Letter received May 8, 2019 (on file with the Planning Department)
- xxvii. Rob Stephenson, 1081 NW Baker Crest Court, Letter received May 8, 2019 (on file with the Planning Department)
- xxviii. Baker Creek Hydrologic Analysis, PBS Engineering (prepared for Friends of Baker Creek), received May 8, 2019 (on file with the Planning Department)
- xxix. Les Toth, 2700 NW Pinehurst Drive, Letter received May 13, 2019 (on file with the Planning Department)
- xxx. Stephanie Rudolph, 2849 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxi. Rodney Pedersen, 2664 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxii. Melba Smith, 2780 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxiii. Mike Colvin, 2718 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)

- xxxiv. Terry and Beth Uhrinak, 2731 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxv. Anniedear Chappell, 1334 NW Zinfandel Court, Email received on May 13, 2019 (on file with the Planning Department)
- xxxvi. Erin Stanton & Sarah Hadfield, 2687 NW Pinot Noir Drive, Email received on May 14, 2019 (on file with the Planning Department)
- xxxvii. Anniedear Chappell, 1334 NW Zinfandel Court, Email received on May 14, 2019 (on file with the Planning Department)
- xxxviii. Carmen Mendenhall, 2410 NW Zinfandel Loop, Letter received May 16, 2019 (on file with the Planning Department)
- xxxix. Scott Wellman, 2756 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xl. Steve and Sarah Fox, 2687 NW Oak Ridge Drive, PowerPoint slides received May 16, 2019 (on file with the Planning Department)
  - xli. Catherine Olsen, 2650 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xlii. Ray and Nina Clevidence, 1493 NW Riesling Way, Letter received May 16, 2019 (on file with the Planning Department)
  - xliii. Bill Kabeiseman, Bateman Seidel, Letter received May 16, 2019 (on file with the Planning Department)
  - xliv. Friends of Baker Creek, PowerPoint slides received April 18, 2019 (on file with the Planning Department)
  - xlv. Sandi Colvin, 2718 NW Pinot Noir Drive, PowerPoint slides received May 16, 2019 (on file with the Planning Department)
  - xlvi. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xlvii. Michael and Sherill Roberts, 2812 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xlviii. Unattributed, Letter received May 16, 2019 (on file with the Planning Department)
  - xlix. Justin Maynard, PBS (submitted by Catherine Olsen), 415 W 6<sup>th</sup> Street, Vancouver, WA, Letter received May 16, 2019 (on file with the Planning Department)
    - I. Melba Smith, 2780 NW Pinot Noir Drive, Photograph received May 16, 2019 (on file with the Planning Department)
    - ii. Unattributed, Letter received May 18, 2019 (on file with the Planning Department)
    - iii. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received June 18, 2019 (on file with the Planning Department)
    - liii. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received June 18, 2019 (on file with the Planning Department)
    - liv. Justin Maynard, PBS (submitted by Catherine Olsen), 415 W 6<sup>th</sup> Street, Vancouver, WA, Letter received June 18, 2019 (on file with the Planning Department)
    - lv. Rick and Linda Thomas, 2631 NW Merlot Drive, Email received July 14, 2019 (on file with the Planning Department)
    - lvi. Sandi Colvin, 2718 NW Pinot Noir Drive, Letter received July 15, 2019 (on file with the Planning Department)
    - lvii. Carmen Mendenhall, 2410 NW Zinfandel Loop, Email received July 15, 2019 (on file with the Planning Department)
    - lviii. Friends of Baker Creek, Testimony binder received July 15, 2019 (on file with the Planning Department)
- b. Applicant Rebuttal Testimony

- i. Premier Development, 1312 NE Highway 99W, Frequently Asked Questions received May 3, 2019 (on file with the Planning Department)
  - ii. Lacy Brown, DKS Associates (representing Premier Development), 117 Commercial Street NE, Suite 310, Salem, Supplemental Traffic Evaluation Memo received May 9, 2019 (on file with the Planning Department)
  - iii. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Letter received May 15, 2019 (on file with the Planning Department)
  - iv. Ron Pomeroy, Navigation Land Use Consulting (representing Premier Development), PO Box 1514, McMinnville, Memorandum received May 15, 2019 (on file with the Planning Department)
  - v. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Thalweg Comparison Chart received May 16, 2019 (on file with the Planning Department)
  - vi. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Precipitation Chart received May 16, 2019 (on file with the Planning Department)
  - vii. Lacy Brown, DKS Associates (representing Premier Development), 117 Commercial Street NE, Suite 310, Salem, Supplemental Traffic Evaluation received July 15, 2019 (on file with the Planning Department)
  - viii. Josh Wells, Westech Engineering, Inc. (representing Premier Development), 3841 Fairview Industrial Drive SE, Suite 100, Salem, OR, Letter received July 15, 2019 (on file with the Planning Department)
  - ix. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Letter received July 15, 2019 (on file with the Planning Department)
- c. Staff Memorandums
- i. Planning Department Staff, Memorandum in response to News-Register articles, April 17, 2019 (on file with the Planning Department)
  - ii. Planning Department Staff, Memorandum in response to written testimony, April 17, 2019 (on file with the Planning Department)
  - iii. Planning Department Staff, Memorandum in response to written testimony, May 15, 2019 (on file with the Planning Department)
6. PDA 3-18, PDA 4-18, S 3-18 Staff Memorandum, April 17, 2019 and Staff Report, April 18, 2019 (on file with the Planning Department)
  7. PDA 3-18, PDA 4-18, S 3-18 Staff Report, May 16, 2019 (on file with the Planning Department)

#### **IV. COMMENTS:**

##### **Agency Comments**

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

- McMinnville Engineering Department

Staff Comment: Comments provided by the Engineering Department are not relevant to this Planned Development Amendment application, and can be found in the Decision Document for Tentative Subdivision S 3-18, to which they are applicable.

- McMinnville Fire Department

We have no comments on these amendments.

- McMinnville Parks and Recreation Department

Staff Comment: Comments provided by the Parks and Recreation Department are not relevant to this Planned Development Amendment application, and can be found in the Decision Documents for Planned Development PDA 4-18 and Tentative Subdivision S 3-18, to which they are applicable.

- McMinnville Public Works Department

Staff Comment: Comments provided by the Public Works Department are not relevant to this Planned Development Amendment application, and can be found in the Decision Document for Planned Development Amendment PDA 4-18 and Tentative Subdivision S 3-18, to which they are applicable.

- McMinnville Water and Light

MW&L has no issues with these submittals.

Please note that the submitted preliminary water plan is not approved and will need to follow MW&L approval process. Please contact MW&L for a Design Application and fees for this project.

- Oregon Department of State Lands

The Department had a permit for the earlier construction along Pinot Noir, which required mitigation. The mitigation failed. The permittee submitted a wetland delineation in 1999. Because of the number of years and changes to the landscape since the delineation, the Department would require a new delineation to review before an application is submitted.

During the removal-fill application review, the Department looks for an applicant to have avoided or minimized the impacts to wetlands and waters, which may result in changes to the layout.

## **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, April 9, 2019. As of the date Planning Commission public hearing on May 16, 2019, fifty one (51) written public testimonies had been received by the Planning Department from twenty nine (29) entities.

- Mike Colvin, 2718 NW Pinot Noir Drive
  1. Letter - April 10, 2019 - expressing opposition of the application based on increased risk of downstream flooding.
  2. Letter - April 18, 2019 - expressing opposition to the application based on potential downstream flooding impact, loss of unique natural habitats that could be preserved as recreation/park space.
  3. Letter - April 18, 2019 - expressing opposition to the application based on impact of proposed public improvements on the wetlands.
  4. Letter - May 8, 2019 - expressing opposition to the application based on impact of proposed development of traffic on Baker Creek Road.

5. Letter - May 8, 2019 - expressing opposition to the application based on Comprehensive Plan policies that do not support development on the 11.47 acre parcel and instead support it being left in a natural state for drainage and recreation.
  6. Letter - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and calling on neighbors to submit testimony.
  7. Letter - May 16, 2019 - expressing opposition to the applications based on a comparison of Comprehensive Plan polices as they relate to individual parcels of the overall proposed development.
  8. Letter – June 18, 2019 - expressing opposition to the applications based the timing of the development of Shadden Drive north of Baker Creek Road.
  9. Letter – June 18, 2019 - expressing opposition to the applications based potential for increased downstream flooding.
- Sandi Colvin, 2718 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application stating that removal of the 11.47 acre parcel from the Oak Ridge Planned would circumvent Oak Ridge CC&Rs, and that the proposed development is held to lesser standards than the current PDs.
    2. PowerPoint slides - May 16, 2019 - expressing opposition to the applications based on extension of Pinehurst Drive to eastern property line, and potential impacts on downstream flooding.
    3. Letter – July 15, 2019 - expressing opposition to the application, citing the example of Johnson Creek in the Portland area.
  - Friends of Baker Creek, 501c3 Non-Profit, 2718 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application based on lack of two access points to proposed development.
    2. Letter - April 10, 2019 - expressing opposition of the application based on development in the wetland, emergency access to the development, retention of an isolated preservable tree, impact of park maintenance on HOA fees, development of the private active neighborhood park, Federal and State agency permitting, and FEMA floodplain mapping.
    3. PowerPoint slides - April 18, 2019 - used as imagery and talking points for several oppositional testimonies at the April 18, 2019 public hearing.
    4. Baker Creek Hydrologic Analysis (prepared by PBS Engineering for FoBC) – May 9, 2009 – providing analysis indicated that FEMA floodplain maps are in need of revision, proposed development could occur in areas of flood risk but with FEMA designation, and that proposed development would not significantly increase downstream flow.
    5. Power Point slides - May 16, 2019 - used as imagery and talking points for several oppositional testimonies at the May 16, 2019 public hearing.
    6. Testimony Binder – July 15, 2019 – A collection of testimony expressing opposition to the applications due to Pinehurst Drive, lack of Shadden Drive access, outdated FEMA maps, increased downstream flooding, updated Baker Creek hydrology, environmental impacts, and the Johnson Creek case study.
  - Steve and Catherine Olsen, 2650 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application based on concerns of development in the wetland, increased traffic in the Oak Ridge developments, Great Neighborhood Principles, and Federal and State agency permitting, and FEMA floodplain mapping.
    2. Letter - May 8, 2019 - expressing opposition to the application because of impact of the proposed development on traffic, public safety, and existing Oak Ridge CC&Rs, and the desire to preserve the 11.47 acre parcel as a nature preserve.

3. Letter - May 16, 2019 - expressing opposition to the applications and support for preserving 11.47 acre parcel as a nature preserve.
- Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application based on concerns of development in the wetland, steep slopes, construction access, potential loss of trees, and loss of lifestyle on Pinot Noir Drive.
    2. Letter - May 6, 2019 - expressing opposition to the application based on traffic impact to the surrounding neighborhoods, and the impact of development on the lifestyle of the surrounding neighborhoods.
    3. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
  - Tim and Margaret Roberts, 1069 NW Baker Crest Court
    1. Letter - April 15, 2019 - expressing opposition of the application based on concern for potential downstream flooding impact.
  - Friends of Yamhill County, 501c3 Non-Profit, PO Box 1083, McMinnville
    1. Letter - April 15, 2019 - expressing opposition of the application based on impact to wetlands.
  - Yamhill Soil & Water Conservation District, 2200 SW 2<sup>nd</sup> Street
    1. Email - April 16, 2019 - expressing concern over the proposed development based on potential impacts to wetlands, and removal of vegetation along Baker Creek.
  - Jan and Randy Hartzell, 1093 NW Baker Crest Court
    1. Email - April 17, 2019 - expressing opposition to the application based on potential downstream flooding impact and inaccurate FEMA maps.
  - Housing Land Advocates and Fair Housing Council of Oregon, 501c3 Non-Profit, 1221 SW Yamhill Street #305, Portland
    1. Letter - April 17, 2019 - expressing concern that Statewide Goal 10 findings had not been made, and the proposal not evaluated under the HNA and BLI.
  - Glen Westlund (no address provided)
    1. Email - April 18, 2019 - expressing concern over the proposed development based on potential impacts to wetlands and wildlife habitat.
  - Carmen Mendenhall, 2410 NW Zinfandel Loop
    1. Letter - April 18, 2019 - expressing opposition to the applications based on the impact of the proposed development on neighborhood livability.
    2. Email - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, development impact to the Baker Creek riparian corridor, and loss of wetlands.
    3. Email – July 15, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood, downstream flooding, and the inability to apply Great Neighborhood Principles.
  - Gail Norby, 2840 NW Pinot Noir Drive
    1. Letter - April 18, 2019 - expressing opposition to the application based on potential impact of traffic on neighborhood livability.



- Scott Wellman, 2756 NW Pinot Noir Drive
  1. Letter - April 18, 2019 - expressing opposition to the application based on potential impact on wildlife habitat.
  2. Letter - May 16, 2019 - expressing opposition to the applications based on loss of wetlands.
  
- Bill Kabeiseman, Bateman Seidel (representing Friends of Baker Creek), 888 SW 5<sup>th</sup> Avenue, Suite 1250, Portland
  1. Letter - April 18, 2019 - expressing opposition to the application based on impact on the wetlands that would be inconsistent with the Comprehensive Plan, that Ordinance 4845 limits Oak Ridge Meadows to 76 lots, and that there is no approved wetland delineation or mitigation plan.
  2. Letter - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, extension of Pinehurst Drive to eastern property line, potential impacts on downstream flooding, and loss of wetlands.
  
- Valerie Kelly, McMinnville
  1. Email – April 22, 2019 - expressing opposition to the application based on potential downstream flooding impact and inaccurate FEMA maps.
  
- Helen Bitar, 30500 SW Moriah Lane, Sheridan
  1. Email - May 6, 2019 - expressing opposition to the application based on loss of wetlands.
  
- Michael and Sherill Roberts, 2812 NW Pinot Noir Drive
  1. Letter – May 7, 2019 - expressing concern for public safety and livability during construction of proposed development. The testimony suggests requiring the improvement of Shadden Drive for construction access, and expediting the restriping project for Baker Creek Road.
  2. Letter - May 16, 2019 - expressing concern for public safety and livability during construction of proposed development. The testimony suggests requiring the improvement of Shadden Drive for construction access, and expediting the restriping project for Baker Creek Road.
  
- Rob Stephenson, 1081 NW Baker Crest Court
  1. Letter – May 8, 2019 - expressing opposition to the application based on potential downstream flooding impact, and impact of the development on wetlands.
  
- Les Toth, 2700 NW Pinehurst Drive
  1. Letter – May 13, 2019 - expressing opposition to the applications based on impact of proposed Pinehurst Drive on wetlands and adjacent property.
  
- Stephanie Rudolph, 2849 NW Pinot Noir Drive
  1. Email - May 13, 2019 - expressing concern about traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
  
- Melba Smith, 2780 NW Pinot Noir Drive
  1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and impact on existing streets.
  2. Photograph - May 16, 2019 - indicating extent development impact on existing wetlands.

- Terry and Beth Uhrinak, 2731 NW Pinot Noir Drive
  1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
  
- Anniedear Chappell, 1334 NW Zinfandel Court
  1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood.
  2. Email - May 14, 2019 - expressing concern over existing traffic systems and pedestrian safety in Oak Ridge neighborhood that would be compounded by new traffic.
  
- Erin Stanton & Sarah Hadfield, 2687 NW Pinot Noir Drive
  1. Email - May 14, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and calling on neighbors to submit testimony.
  
- Steve and Sarah Fox, 2687 NW Oak Ridge Drive
  1. PowerPoint slides - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and concern over previous land fill activity.
  
- Ray and Nina Clevidence, 1493 NW Riesling Way,
  1. Letter - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and loss of wetlands.
  
- Justin Maynard (submitted by Catherine Olsen), PBS Engineering, 415 W 6<sup>th</sup> Street, Vancouver, WA
  1. Letter - May 16, 2019 - summarizing the analysis and findings of the Baker Creek Hydrologic Analysis. The analysis indicated that FEMA floodplain maps are in need of revision, and proposed development could occur in areas of flood risk but with FEMA designation.
  2. Letter – June 18, 2019 – rebutting applicant’s rebuttal of the Baker Creek Hydrologic Analysis, and confirming the conclusions of the report.
  
- Rick and Linda Thomas, 2631 NW Merlot Drive,
  1. Email – July 15, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood, outdated FEMA maps, and increased downstream flooding.
  
- Unattributed (no name provided)
  1. Letter - May 16, 2019 – provided at the public hearing - listing several Comprehensive Plan policies related to natural features, transportation and traffic systems, and provision of open space and natural areas.
  2. Letter – May 18, 2019 – posted to several public buildings – expressing opposition to proposed development based on lack of affordable housing and loss of wetlands.

**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 July 26, 2018.

2. The property owner, Premier Development, LLC, submitted the Planned Development Amendment application (PDA 3-18) on October 24, 2018.
3. The application was deemed complete on January 24, 2019.
4. After planning staff requested clarification on a couple of items, the applicant submitted a revised application on March 28, 2019.
5. The applicant provided written notice requesting a 60 day extension of the 120 day land use decision time limit on March 1, 2019 to July 23, 2019.
6. 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, Oregon Department of State Lands.

Comments received from agencies are addressed in the Decision Document.

7. Notice of the application and the April 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.
8. Notice of the application and the April 18, 2019 Planning Commission public hearing was published in the News Register on Tuesday, April 9, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.
9. On April 18, 2019, the Planning Commission held a duly noticed public hearing to consider the request. The Planning Commission continued the public hearing to May 16, 2019.
10. Notice of the May 16, 2019 Planning Commission continued public hearing was published in the News Register on Tuesday, May 7, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.
11. On May 16, 2019, the Planning Commission held a duly noticed public hearing to consider the request.
12. On June 5, 2019, the applicant provided written notice requesting a 21 day extension of the land use decision time limit on March 1, 2019. The land use decision time limit now expires on August 13, 2019.
13. On June 25, 2019, City Council considered the Planning Commission's recommendation, and requested a public hearing.
14. Notice of the July 23, 2019 City Council 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.

## **VI. FINDINGS OF FACT - GENERAL FINDINGS:**

1. **Location:** Generally north and east of NW Pinot Noir Drive, south of Baker Creek (Tax Lot 1300, Section 17, T. 4 S., R. 4 W., W.M.)
2. **Size:** 11.47 acres.
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-2 PD (Single Family Residential Planned Development)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Undeveloped
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** None
  - b. **Other:** Wetlands
8. **Other Features:** The site is level at the existing terminus of Pinot Noir Drive, then slopes steeply downhill to the northeast, towards Baker Creek. Mature native oak trees are found on the uphill portion of the site, and wetlands are found on the lower portion of the site.
9. **Utilities:**
  - a. **Water:** Water service is available to the property.
  - b. **Electric:** Power service is available to the property.
  - c. **Sewer:** Sanitary sewer service is available to the property.
  - d. **Stormwater:** A storm water facility serving the Oak Ridge development is in the northeast corner the subject site. A storm drain easement provides storm sewer access for that facility.
  - e. **Other Services:** Other utility services are available to the property. Northwest Natural Gas and Comcast is available to serve the site.
10. **Transportation:** No streets or public rights-of-way exist within the subject site. NW Pinot Noir Drive is classified as a Local Residential Street in the Transportation System Plan (TSP). The street terminates at the property line of the subject property. At its termination, NW Pinot Noir Drive has a curb-to-curb dimension of 21 feet.

## **VII. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Planned Development Amendment are specified in Section 17.74.070 of the Zoning Ordinance.

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

### **Comprehensive Plan Volume II:**

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

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

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

**GOAL 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.

*Planned Development Policies*

*Policy 72.00 Planned developments shall be encouraged as a favored form of residential development as long as social, economic, and environmental savings will accrue to the residents of the development and the city.*

*Policy 73.00 Planned residential developments which offer a variety and mix of housing types and prices shall be encouraged.*

*Policy 74.00 Distinctive natural, topographic, and aesthetic features within planned developments shall be retained in all development designs.*

*Policy 75.00 Common open space in residential planned developments shall be designed to directly benefit the future residents of the developments. When the open space is not dedicated to or accepted by the City, a mechanism such as a homeowners association, assessment district, or escrow fund will be required to maintain the common area.*

*Policy 76.00 Parks, recreation facilities, and community centers within planned developments shall be located in areas readily accessible to all occupants.*

*Policy 77.00 The internal traffic system in planned developments shall be designed to promote safe and efficient traffic flow and give full consideration to providing pedestrian and bicycle pathways.*

*Policy 78.00 Traffic systems within planned developments shall be designed to be compatible with the circulation patterns of adjoining properties.*

**APPLICANT'S RESPONSE:** The seven Planned Development policies listed immediately above have already been met by this proposal in that these policies having already been determined to be met by evidence of the City Council's previous adoption of Ordinance 4722 and Ordinance 4822 for what is now the subject site. This current proposal also seeks to amend Ordinance 4722 by making its boundary smaller by removing its undeveloped portion of land for placement within the boundary of the adjacent Planned Development area currently represented by Ordinance 4822, but not compromise Ordinance 4722's compliance with these policies. This proposal also seeks to amend Ordinance 4822 to include this referenced land area, and in other specific ways stated within this proposal, that will continue compliance with these policies. The additional findings provided below further support and demonstrate compliance with McMinnville Planned Development policies listed above in addition to the findings relied on by the City in the adoption of Ordinances 4722 and 4822.

In discussion with the McMinnville Planning Department, it has been made clear that the intent of Policies 72.00 and 74.00 is essentially to address the potential impact of the proposal on future residents of the development and the city relative to Oregon Planning Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources). In addressing these policies it is helpful to observe that the larger lots in this phased development plan are generally proposed to be located around much of the perimeter of the site to allow for reasonably sized building envelopes to be located on the upper portions of those lots and thereby preserve and retain the natural slope and existing tree cover that will make up the extended backyard areas of many of these lots. This intentional design to achieve slope preservation complements the proposed adjacent public dedication of the approximately 5.6 acres of open greenspace located beyond the toe of the slope that exists around the perimeter of much of this planned development. Additionally, the creation of the approximately 0.85-acre active private neighborhood park to be created by Premier Development and maintained by a Homeowners Association will preserve an additional number of the mature Oak trees that exist on the site. Of great environmental, neighborhood and community importance is the afore mentioned approximately 5.6 acres of public open space located along the southern edge of Baker Creek to be dedicated to the City by Premier Development, LLC. This large greenway open-space will be improved with a bark chip pedestrian walking trail, as recommended by the McMinnville Parks and Recreation Department, and will be accessed by three additional public pedestrian trail heads beginning at the edge of their adjacent public rights-of-way. Both of these different types of open space areas (the active private neighborhood park and the public greenway) are new to this development proposal and were not part of either of the two Planned Development/Subdivision proposals that were previously reviewed by and approved by the McMinnville City Council for this site. These open spaces will provide a unique natural environmental resource and a recreational benefit to the residents of this development. Creation of a Homeowner's Association to administer neighborhood covenants, codes and restrictions (CC&Rs) are recommended to be a condition of approval of this proposal.

In addition to the findings of the ordinances referenced above, Policy 73.00 is also satisfied by this proposal in that a wide range of lot sizes (4,950 square feet to 14,315 square feet in size) and configurations have been designed to provide a much greater choice of lot size and price point, and therefore a wider variation of housing size, design and cost, than found in most other approved neighborhoods in McMinnville. The chosen arrangement of these varying lot sizes in this proposal is intentional, partially based on topography and our desire to preserve natural site habitat features. Another driving reason for the proposed lot variation and arrangement of lots is our goal of arranging housing opportunities in a cohesive manner throughout the development that is both internally harmonious within the development site and is equally sensitive to and respectful of the sizes of nearby existing lots of the adjacent neighborhood. Exhibit 9 (Preliminary Subdivision Plat) is provided to assist with viewing the description of this lot arrangement in a spatial form. We have also prepared and provided Exhibit 10 (Oak Ridge Meadows Lot Sizes and Averages) to assist in identifying the square footage areas of individual lots to further demonstrate the proposal's sensitivity to existing adjacent lot sizes found within the abutting neighborhood as well as the topography and environmental features of the site. So while the more moderately sized and smaller lots tend to be more centrally located within the development, this arrangement is far from exclusive and results in a complementary blending of similarly sized lots with nearby lots presently located in the adjacent Oak Ridge development.

Policies 75.00 and 76.00 are satisfied for reasons provided in Conclusionary Finding for Approval Number 4 above relative to the previously described range and location of both private and common open spaces.

Policies 77.00 and 78.00 are satisfied by this proposal in that the proposed street network complies with current adopted City public street standards and the requirements of the adopted

McMinnville Transportation System Plan and will be constructed according to all applicable standards and requirements as amended by approval of this request in order to promote safe and efficient traffic flow for vehicles, pedestrians and bicyclists compatible with adjacent development as required by the City.

**FINDING: SATISFIED WITH CONDITION 1.** The proposed Planned Development Amendment would result in the removal of the subject site from the Oak Ridge Planned Development Overlay District, which was previously found to be consistent with applicable Comprehensive Plan goals and policies. The Planned Development Amendment, as it is solely the removal of the undeveloped subject site from a larger Overlay District, does not result in any change to the previously developed phases of the Planned Development. Previous phases of the Oak Ridge development were built in compliance to the requirements established by Ordinance 4722, and removal of the undeveloped fourth phase does not change that. A condition of approval is included to ensure that all other standards and conditions of approval adopted by Ordinance 4722 in the approval of the original Planned Development Overlay District would remain in effect.

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

**GOAL X 2:** TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.

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

**APPLICANT’S RESPONSE:** Goals X 1, X 2, and Policy 188.00 are satisfied in that the City of McMinnville has adopted a Neighborhood Meeting program that requires applicants of most types of land use applications to hold at least one public Neighborhood Meeting prior to submittal of a land use application; this is further addressed under findings relative to McMinnville Zoning Ordinance Section 17.72.095, below. Additionally, the City of McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request at an advertised public hearing. All members of the public with standing are afforded the opportunity to provide testimony and ask questions as part of the public review and hearing process.

**FINDING: SATISFIED.** The process for a planned development amendment provides an opportunity for citizen involvement throughout the process through the neighborhood meeting provisions, the public notice, and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

**McMinnville Zoning Ordinance**

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

**17.74.070. Planned Development Amendment – Review Criteria.**

17.74.070 Planned Development Amendment - Review Criteria. An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120, and include the following:

- An increase in the amount of land within the subject site;
- An increase in density including the number of housing units;
- A reduction in the amount of open space; or
- Changes to the vehicular system which results in a significant change to the location of streets, shared driveways, parking areas and access.

An amendment to an existing planned development may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

**17.74.070(A).** *There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;*

**APPLICANT’S RESPONSE:** While much of this information was previously described and discussed in the Findings provided above, it is important to also discuss here in order to help satisfy this criterion for approval of a Planned Development Amendment request. The last approved subdivision design that existed to implement Ordinance 4822 showed that the intersection of NW Pinot Noir Drive and NW Pinehurst Drive (which was needed to enable the construction of the southerly portion of Pinehurst Drive and “A” Court (Exhibit 4) as part of the fourth phase of the Oak Ridge subdivision) was last approved by the City Council as being located within the Oak Ridge Meadows tentative subdivision plan and within the Oak Ridge Meadows Planned Development boundary (ZC 12-04/S 14-04). Following this approval, Premier Development filed an appeal with the Oregon Land Use Board of Appeals (LUBA) on the decision. At issue was Condition of Approval number five (5) of Ordinance 4822 related to a limitation on the number of lots allowed within the Oak Ridge Meadows subdivision until such time that NW Pinehurst Drive was extended southward to connect to Baker Creek Road. LUBA remanded the decision back to the City Council. The Council held a public hearing as directed by the remand and concluded to adopt additional findings in support of their April decision to adopt Ordinance 4822. This action was then memorialized by the adoption of such additional findings as referenced in Ordinance 4845 (Exhibit 5) which the Council approved on March 14, 2006. The Council’s approval of the S 14-04 tentative subdivision plan, including the locating of this intersection within the Oak Ridge Meadows Planned Development site, remained unchanged through the subsequent Land Use Board of Appeals (LUBA) remand (LUBA 2005-065) of the City’s approval of ZC 12-04/ S 14-04.

Apart from the Council’s approvals of ZC 12-04 and S 14-04, the connecting roadway segment of Pinot Noir Drive necessary to enable access to the Oak Ridge Meadows site, and the location of the afore mentioned Pinot Noir Drive and Pinehurst Drive intersection, yet remained as part of the earlier Oak Ridge tentative subdivision plan and Planned Development boundary approvals. This resulted in a situation where, essentially, neither of the two adjacent subdivisions could be constructed without the prior completion of a portion of the other. Had the economy not convulsed as it did for a number of years, this would not have been a concern as the adjacent subdivision phases, although located within different Planned Development boundaries, could have been developed simultaneously and the noted street improvements effectively constructed concurrently and seamlessly.

This current proposal seeks to achieve that intended development pacing by bringing the two adjacent undeveloped parcels of land together under one Planned Development Amendment approval and construct both of the afore mentioned street improvements as part of Phase 1 of the proposed tentative residential subdivision plan.



While Premier Development is requesting specific modifications to the existing Oak Ridge Meadows Planned Development ordinance (Ordinance 4822) conditions of approval, it is instructive and relevant to note the change in total number of lots within the combined Oak Ridge and Oak Ridge Meadows Planned Development sites. Oak Ridge was originally approved to allow the platting of a maximum of 107 lots in three phases. Through subdivision amendments to that plan, including subdivision phasing, that were approved by the McMinnville Planning Director a total of 82 lots were ultimately platted in three phases leaving an additional new fourth unplatted phase with the theoretical opportunity to realize the platting of up to the remaining maximum of 25 additional lots. Subsequently, the Oak Ridge Meadows Planned Development was approved supporting a two-phased subdivision proposing the platting of a maximum of 99 lots. Together, these two Planned Developments, if fully realized, would have resulted in the platting of 206 total lots. The current proposal is for approval of a Planned Development supporting a tentative subdivision plan for the platting of 108 lots. Adding the 82 currently platted lots to the 108 proposed lots yields a new combined total of 190 residential lots which is 16 lots less than the 206 lots which were once envisioned and conceptually approved for this area. When reviewing the original approved Oak Ridge Meadows subdivision plan and comparing it to the current proposal it is clear that the overall reduction of lots that were once envisioned and tentatively approved has in large part been the result of a number of factors. In particular, shifting of NW Pinehurst Drive a bit westward to attain additional tree retention, the currently proposed creation of a 0.85-acre active private neighborhood park within Phase 1 of the subdivision, the proposed dedication of 5.6-acres of public greenspace around the site perimeter; this larger proposed public open space dedication has resulted in the loss of the “double-row” of lots that were once to be located along the western-most edge of the subdivision and to be accessed by a series of private easements.

In order for this current development proposal to move forward, it is necessary that the area representing the 11.47-acre unplatted fourth phase of the Oak Ridge subdivision be removed from Planned Development area of Ordinance 4722 and added to the existing 24-acre Oak Ridge Meadows Planned Development area. This action and approval of the requested modifications Ordinance 4822 as articulated above will help Premier Development achieve the special objectives of the proposed subdivision and which warrant departure from standard regulation requirements.

Part of Premier Development’s vision and proposal for this site is achieved by the “trade-offs” attainable through the Planned Development and Planned Development Amendment processes. Primary to the enabling of the proposed development plan is the ability to receive approval of available flexibility in the City’s standards regarding lots with side lot lines that do not all run perpendicularly to the right-of-way and also regarding instances where the lot depth to width ratio exceeds the desired 2:1 ratio of 17.53:105. In addition to setback adjustments noted above, Premier Development requests these allowances due to the unique shape, topography and other previously noted challenges of the site in addition to their desire to design a residential subdivision proposal that provides a wide range of residential lot sizes to enhance residential market choice and also provides significant recreation amenities (both passive and active) to the neighborhood and the broader community. Further responses to be incorporated here as part of this Finding are found in Finding of Fact 5 relative to Policies 72.00-78.00.

**FINDING: SATISFIED.** Special physical conditions exist that warrant the departure from the regulation requirements of the Planned Development Overlay District adopted by Ordinance 4722 for the Oak Ridge development. This is due to the fact that 1999 and 2005 approvals of the proposed Oak Ridge and Oak Ridge Meadows subdivision street networks contemplated concurrent or simultaneous construction of the two adjacent subdivisions, neither of which could be constructed without completion of a portion of the other. Both tentative subdivision plans

were made a part of the zone and made binding on the property owner and developer. The concurrent or simultaneous construction of the two approved subdivisions did not occur due to economic recession, and the tentative subdivision approvals for Oak Ridge Phase 4 and Oak Ridge Meadows have since expired. The plans, though, remain a part of the zone. Any development plan of the subject site is therefore necessarily dependent on the development of the adjacent Oak Ridge Meadows property. The removal of Parcel R441701300 from the boundary of the Oak Ridge Planned Development Overlay District would help alleviate this special physical condition for any future development plan by removing it from a binding site plan, thereby reducing its co-dependence on construction of an adjacent development under different planned development overlay requirements.

**17.74.070(B).** *Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;*

**APPLICANT'S RESPONSE:** When the Planning Commission received an application from Premier Development in October of 1999 (CPA 10-99/ZC 19-99/S 6-99), a thorough review of applicable Comprehensive Plan policies followed in order for the Planning Commission to reach a recommendation for approval to the City Council of these comprehensive plan and zone change amendment requests. The City Council's approval of those requests was memorialized through their adoption of Ordinance 4722 in February 2000. The development resulting from these approved requests now exists as three platted and fully developed residential subdivisions; Oak Ridge, Oak Ridge First Addition and Oak Ridge Second Addition. The currently requested removal of the subject 11.47 undeveloped acres from the boundary of this approved Planned Development (ZC 19-99) will not cause any inconsistency between those existing subdivisions and the conditions of approval of Ordinance 4722 or the Comprehensive Plan objectives for this area. Additionally, there is found no Comprehensive Plan Policy inconsistency by including the subject acreage within the boundary of the adjacent Planned Development (Ordinance 4822). Removal of the subject 11.47 acres from the Oak Ridge Planned Development area does not place any of the three existing phases of the Oak Ridge development in conflict with any of the requirements of Ordinance 4722 or other such development related permits subsequently approved.

Further responses to this criterion relative to the proposal's compliance with the Comprehensive Plan objectives for the area, and to be incorporated here as part of this Finding, are as articulated in Section V - Conclusionary Findings for Approval, Finding 5, above.

**FINDING: SATISFIED WITH CONDITION 1.** No development is proposed to accommodate the removal of Parcel R441701300 from the boundary of the Oak Ridge Planned Development overlay, established by Ordinance 4722. Any future development of the subject site would be subject to review under all applicable Comprehensive Plan objectives of the area at that time. Removal of the subject site from the Planned Development Overlay District would not cause any inconsistency between the existing Oak Ridge subdivision phases and Comprehensive Plan goals and objectives or Ordinance 4722. A condition of approval is included to ensure that all other standards and conditions of approval adopted by Ordinance 4722 in the approval of the original Oak Ridge Planned Development Overlay District would remain in effect.

**17.74.070(C).** *The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;*

**APPLICANT'S RESPONSE:** The existing developed portion of the Oak Ridge Planned Development was designed and constructed to meet all applicable municipal requirements and to provide for adequate access and service provision to and through the planned neighborhoods. The current temporary terminus of NW Pinot Noir Drive, located at the northern end of the Oak

Ridge Second Addition subdivision, is proposed to continue northward to serve what was once approved to be the fourth phase of Oak Ridge and the first phase of Oak Ridge Meadows further to the north. Approval of this requested Planned Development Amendment to allow the removal of the remaining undeveloped 11.47 acres of the Oak Ridge Planned Development site from this Planned Development boundary and, concurrently, approving its inclusion in the Oak Ridge Meadows Planned Development site will allow this northerly extension of NW Pinot Noir Drive as was previously envisioned and planned. The existing adjacent developed residential neighborhoods will not be negatively affected by allowing this undeveloped land to be located within the boundary of an amended boundary of an adjacent Planned Development as adequate access to and the provision of sufficient services to adjoining parcels will continue.

As noted above in these Findings, the proposed street pattern provides a safe, interconnected and efficient network of residential accessibility to serve the proposed and adjacent existing residential neighborhoods. The one cul-de-sac street in this plan is proposed in response to the noted existence of an adjacent wetland and the unique shape this portion of the site where provision of a through-street is not possible. There are no arterial or collector streets within or adjacent to this development site. The proposed street system is designed to promote a balance of safe and efficient movement of vehicles, pedestrians and bicycles as required by the McMinnville TSP and is augmented for pedestrians through the provision of additional walking paths within and surrounding the proposed development. Vehicular access to the adjacent street system promotes safe street connectivity to the surrounding transportation network.

A Transportation Impact Study for this Oak Ridge Meadows proposal has been completed by the transportation planning and transportation engineering firm DKS and is attached to this proposal (Exhibit 28). In sum, this Study concludes that an evaluation of the livability of neighborhood streets, as defined by the volume of traffic the streets were designed to handle (1,200 vehicles per day), confirmed that the Oak Ridge Meadows development is not expected to have an adverse impact on the existing neighborhood streets inclusive of the intersections of Baker Creek Road and NW Pinot Noir Drive, NW Oak Ridge Drive and NW Merlot Drive. Further, that both the Interim Build and Full Build of Oak Ridge Meadows, as proposed, will continue to operate well under-capacity and will meet City of McMinnville safe operating standards. Please refer to Exhibit 28 for additional detail.

The need for a temporary emergency-only access to support this proposal was addressed above relative to Policy 132.32.00 and Policy 155.00. This temporary emergency only access roadway will also aid in reducing emergency vehicle response times as it can provide a more direct route to some portions of Phase I until such time that it is replaced with a dedicated fully improved local public street across adjacent land. Additionally, travel speeds within this site are based on an adopted street classification scheme identified in the adopted McMinnville TSP. All streets in the proposed development are designed as local streets and, as such, are limited to a legal vehicular travel speed of 25 miles per hour as are the local streets in the adjacent residential neighborhoods. This residential vehicle speed limitation and the adopted local street design standards have been successful in McMinnville in mitigating neighborhood issues related to noise, pedestrian and bicycle movement, and aesthetics as evidenced in the adjacent residential neighborhoods; the closest being the adjacent multi-phased Oak Ridge neighborhood.

Further responses relative to the specific street design standards are found in Section V - Conclusionary Findings for Approval, Findings of Fact 6, above.

**FINDING: SATISFIED.** No development is proposed to accommodate the removal of Parcel R441701300 from the boundary of the Oak Ridge Planned Development overlay, established by Ordinance 4722. Any future development of the subject site would be subject to review under all applicable review criteria at that time.

**17.74.070(D).** *The plan can be completed within a reasonable period of time;*

**APPLICANT'S RESPONSE:** Premier Development intends to begin work on the proposed Oak Ridge Meadows residential subdivision as soon as permitting is issued and reasonable weather allows, and plans to continue work through platting as an estimated five-year plan; targeted platting of Phase 1 is approximately two years and the targeted platting of Phase 2 would occur in approximately three subsequent years for a total of an estimated five years afforded to achieve the platting of both phases. This criterion is satisfied.

**FINDING: SATISFIED WITH CONDITION 2.** No development plan is proposed to accommodate the removal of Parcel R441701300 from the boundary of the Oak Ridge Planned Development overlay, established by Ordinance 4722. The timeliness of future development of the subject site would be subject to review under all applicable review criteria at that time.

Furthermore, completion of the Oak Ridge Planned Development has not happened within a reasonable amount of time. Again, this is due to the fact that 1999 and 2005 approvals of the proposed Oak Ridge and Oak Ridge Meadows subdivision street networks created a situation where neither of the two adjacent subdivisions could be constructed without the concurrent or simultaneous completion of a portion of the other. Both tentative subdivision plans were made a part of the zone and made binding on the property owner and developer. The concurrent or simultaneous construction of the two approved subdivisions did not occur due to economic recession, and the tentative subdivision approvals for Oak Ridge Phase 4 and Oak Ridge Meadows have since expired. The plans, though, remain a part of the zone. Any development plan of the subject site is therefore necessarily dependent on the development of the adjacent Oak Ridge Meadows property. The removal of Parcel R441701300 from the boundary of the Oak Ridge Planned Development Overlay District would help facilitate timely completion of any future development plan by removing it from a binding site plan.

**17.74.070(E).** *The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;*

**APPLICANT'S RESPONSE:** Premier Development plans to continue the local street network through the proposed Oak Ridge Meadows Planned Development area as a natural and logical extension of that developed to serve the three existing phases of the adjacent Oak Ridge Planned Development area. This proposed street design is very similar to the street design of the previous subdivision approvals supported by the adoptions of Ordinances 4722 and 4822. In this current application, all proposed streets will be public and will be developed to public standards. It is also pertinent to note that during the time that the existing phases of the adjacent Oak Ridge development were constructed and platted, public local street design required a 26-foot wide paved section. This standard has since been modified by Council action to require a 28-foot wide paved section for local public residential streets which is the standard that Premier Development proposes for all such streets within this two-phase residential subdivision.

Regarding anticipated traffic, the McMinnville City Council adopted the City of McMinnville Transportation System Plan (TSP) in 2010. As part of the TSPs modeling analysis, the site of this application was assumed to build out to the residential density of its underlying R-2 zone. The TSP notes no traffic volume capacity issues or unsafe road or intersection conditions resulting from that assumption and modeling. As Ordinance 4822 limits the average minimum lot size in the original Oak Ridge Meadows site to no less than 7,500 square feet, and Premier Development proposes to comply with this requirement (Ordinance 4822, Condition of Approval 2) for the requested expanded Oak Ridge Meadows Planned Development area, the resulting density, and associated vehicle trip generation, is less than was anticipated and modeled in the

McMinnville TSP adopted by the City Council. Additionally, as the tentative subdivision plan described above proposes 16 lots less than was once envisioned and conceptually approved for this area, the currently proposed single-family residential development plan will also generate fewer vehicle trips than anticipated by the earlier approvals.

As addressed in the Findings for Circulation Policies in Finding of Fact 5 above, a Transportation Impact Study for this Oak Ridge Meadows proposal has been completed by the transportation planning and transportation engineering firm DKS and is attached to this proposal (Exhibit 28). In sum, this Study concludes that the proposed development is anticipated to result in the following impacts:

- The development will consist of 108-unit single family homes. The ultimate buildout of the site includes a connection to NW Baker Creek Road via an extension of NW Shadden Drive. In the interim, the development will be accessed via NW Pinot Noir Drive, NW Oak Ridge Drive, and Merlot Drive.
- The development is expected to generate 80 (20 in, 60 out) AM peak hour trips, 107 (67 in, 40 out) PM peak hour trips, and 1,020 daily trips.
- Intersection operations during the Interim Build and Full Build of Oak Ridge Meadows will continue to operate well under-capacity and will meet City of McMinnville operating standards. The addition of Oak Ridge Meadows traffic will not have a significant impact on the operations or delay experienced at the intersections of NW Baker Creek Road/NW Oak Ridge Drive and NW Baker Creek Road/Merlot Drive.
- An evaluation of the livability of neighborhood streets, as defined by the volume of traffic the streets were designed to handle (1,200 vpd), confirmed that the Oak Ridge Meadows development is not expected to have an adverse impact on the existing neighborhood streets.

Please refer to the Oak Ridge Meadows Transportation Impact Study (Exhibit 28) for additional detail.

The following component of this Finding is found at the Finding provided at 132.32.00 and is also relevant here. As there is only one public street connection currently in place to serve the two-phased Oak Ridge Meadows subdivision, a temporary emergency-only access will be required in order to exceed the 30 unsprinkled home limitation described above. This emergency access, which will be placed in an easement, will be graded and finished with compacted rock to applicable standards and extend northward from the intersection of NW Shadden Drive and NW Baker Creek Road, across land currently owned by Stafford Land Company, to the southern edge of the Oak Ridge Meadows site at a point between proposed Lots 55 and 56 (Exhibit 26). [It is possible that this temporary emergency-only access may be shorter in length under a potential scenario described by Gordon Root of Stafford Land Company in an email where Stafford Land Company agrees to the granting of this temporary easement (Exhibit 27).] This temporary emergency-only accessway would then proceed northward on Premier Development's site along the proposed Phase 2 alignment of NW Pinehurst Drive to its intersection with "A" Street and then proceed generally eastward along the proposed "A" Street alignment to an alignment even with the proposed western edge of Lot 25 which is to be the westernmost lot along "A" Street in Phase I of the Oak Ridge Meadows subdivision. Fire Department approved gates would be located at both ends of this compacted gravel emergency-only accessway as directed by the McMinnville Fire Department. The McMinnville Fire Department has stated that, if such gates needed to be locked, they would be so with Fire

Department approved locks. At such time that this adjacent land is to develop, this easement would then be revoked and public right-of-way be dedicated and improved to City standards providing a permanent second public street connection to the Oak Ridge Meadows development. This criterion is satisfied.

**FINDING: SATISFIED.** The subject site is undeveloped and no streets or public rights-of-way are located on the site. Therefore, the removal of Parcel R441701300 from the boundary of the Oak Ridge Planned Development overlay would not impact the streets in the Oak Ridge planned development, or elsewhere. Any streets proposed to support future development of the subject site would be subject to review under all applicable review criteria at that time.

**17.74.070(F).** *Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;*

**APPLICANT'S RESPONSE:** Responses to the criteria relative to the proposed utility and drainage facilities to serve this proposed development, and relevant associated modifications to Ordinance 4822, are found under the Section V - Conclusionary Findings for Approval, Finding 6, above. This criterion is satisfied.

**FINDING: SATISFIED.** No utility or drainage facilities are proposed to accommodate the removal of Parcel R441701300 from the boundary of the Oak Ridge Planned Development overlay, established by Ordinance 4722. Any future utility or drainage facilities proposed to support future development of the subject site would be subject to review under all applicable review criteria at that time.

**17.74.070(G).** *The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.*

**APPLICANT'S RESPONSE:** The effects on noise, air and water pollutants anticipated to be caused by this development have already been addressed through the prior review of more impactful development proposals (e.g., a greater number of proposed residential lots) for this site and the Council's related supportive approval of Ordinances 4722 and 4822. This current proposal impacts the site and adjacent neighborhoods to a lesser degree than the combined effect of the earlier subdivision approvals due to the current proposal to plat 16 fewer single-family residential lots than was originally proposed and approved for the Oak Ridge and Oak Ridge Meadows sites. The anticipated pollutant impact of this current plan is also lessened by Premier Development's proposal to provide both an approximately 0.85-acre active private neighborhood park and dedicate approximately 5.6-acres of open space to the public for use as preserved greenway along the south side of Baker Creek. Additionally, the majority of the existing wetlands on the site will be preserved and these wetlands and their supported wildlife can be viewed and enjoyed for extended lengths of time by residents' use of the benches proposed to be installed by Premier Development along the lower, eastern portion NW Pinehurst Drive as previously described. Further discussion of noise, air, and water pollutants potentially caused by the proposed development is found in findings presented above. This criterion is satisfied.

**FINDING: SATISFIED.** The removal of Parcel R441701300 from the boundary of the Oak Ridge Planned Development overlay, established by Ordinance 4722, would not create any noise, air, or water pollutants that would have an adverse effect on the surrounding areas, public utilities, or the city as a whole. Any future development of the site would be subject to review under all applicable land use criteria at that time.

JF

**ORDINANCE NO. 5069**

**AN ORDINANCE AMENDING THE OAK RIDGE MEADOWS PLANNED DEVELOPMENT ADOPTED BY ORDINANCE 4822 TO ADD PROPERTY TO THE BOUNDARY OF THE EXISTING OAK RIDGE MEADOWS PLANNED DEVELOPMENT OVERLAY DISTRICT; ALLOW FOR LOT SIZE AVERAGING; ALLOW FOR MODIFIED SETBACKS; ALLOW FOR SOME LOTS WITH SIDE LOT LINES ORIENTED OTHER THAN AT RIGHT ANGLES TO THE STREET UPON WHICH THE LOTS FACE; ALLOW FOR SOME LOTS TO EXCEED THE RECOMMENDED LOT DEPTH TO WIDTH RATIO; ALLOW SOME BLOCK LENGTHS TO EXCEED THE RECOMMENDED MAXIMUM BLOCK LENGTH STANDARD; ALLOW FOR THE DESIGNATION OF AN APPROXIMATELY 0.85-ACRE ACTIVE PRIVATE NEIGHBORHOOD PARK; AND, ALLOW FOR DEDICATION OF AN APPROXIMATELY 5.6-ACRE PUBLIC OPEN-SPACE GREENWAY DEDICATION ALONG BAKER CREEK.**

RECITALS:

The Planning Department received an application (PDA 4-18) from Premier Development, LLC, property owner, requesting approval of a Planned Development Amendment to add property to the boundary of the existing Oak Ridge Meadows Planned Development Overlay District, adopted by Ordinance 4822; allow for lot size averaging; allow for modified setbacks; allow for some lots with side lot lines oriented other than at right angles to the street upon which the lots face; allow for some lots to exceed the recommended lot depth to width ratio; allow some block lengths to exceed the recommended maximum block length standard; allow for the designation of an approximately 0.85-acre active private neighborhood park; and, allow for dedication of an approximately 5.6-acre public open-space greenway dedication along Baker Creek; and

The subject site is located generally north of Baker Creek Road and NW Pinot Noir Drive, south of Baker Creek (Tax Lot 1300, Section 17, T. 4 S., R. 4 W., W.M. and Tax Lot 602, Section 7, T. 4 S., R. 4 W., W.M.); and

A public hearing before the McMinnville Planning Commission was held on April 18, 2019, after due notice had been provided in the local newspaper on April 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 voted to continue the public hearing; and

The public hearing before the McMinnville Planning Commission was continued on May 16, 2019, after due notice had been provided in the local newspaper on May 7, 2019; and

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

The Planning Commission, being fully informed about said request, found that the requested amendment conformed to the applicable Comprehensive Plan goals and policies, as well as the Planned Development Amendment review criteria listed in Section 17.74.070 of the McMinnville Municipal Code 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 8-1, recommended approval of said Planned



Development Amendment to the Council; and

The City Council having received the Planning Commission recommendation and staff report, and having deliberated, requested a public hearing; and

A public hearing before the McMinnville City Council was held on July 23, 2019 after written notice had been mailed to property owners within 300 feet of the affected property on June 27, 2019; and

At said public hearing, a staff report was presented, and applicant and public testimony was received; and having deliberated;

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

1. That the Council adopts the Findings of Fact, Conclusionary Findings, Decision and Conditions of Approval as documented in Exhibit A approving PDA 4-18; and
2. That the Oak Ridge Meadows Planned Development is amended as follows:
  1. *That the decision for approval of Planned Development Amendment (PDA 4-18) is not rendered, and does not take effect, until and unless the Planned Development Amendment (PDA 3-18) is approved by the City Council.*
  2. *That the Oak Ridge Meadows Tentative Subdivision plan shall be placed on file with the Planning Department and become a part of this planned development zone and binding on the developer. The developer will be responsible for requesting approval of the Planning Commission for any major change in the details of the adopted site plan. Minor changes to the details of the adopted plan may be approved by the Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by the Planning Director may be made only to the Planning Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the Commissioners.*
  3. *That the average lot size within the Oak Ridge Meadow subdivision shall be approximately 7,770 square feet.*
  4. *That setbacks for the Oak Ridge Meadows subdivision shall be as follows:*
    - Front Yard: 20 feet*
    - Side Yard: 5 feet*
    - Exterior Side Yard: 10 feet*
    - Rear Yard: 20 feet*
    - Open side of garage: 20 feet*

*The Planning Director is authorized to permit reductions to these setback standards as may be necessary to provide for the retention of trees greater than nine (9) inches in diameter measured at 4.5 feet above grade. In no case, however, may the rear yard setback be reduced to less than five (5) feet, or the exterior side yard setback to less than ten (10) feet without approval of the Planning Commission pursuant to the requirements of Chapter 17.74 (Variance).*

*A request to adjust the setbacks for these lots shall be accompanied by a building plan for the subject site that clearly indicates the location of existing trees. Trees to be retained shall be protected during all phases of home construction.*

- 5. That lot side lines that do not run at right angles to the street upon which the lots face shall be allowed where necessary to respond to physical conditions of the site.*
- 6. That a maximum lot depth to width ratio of 2.75 to 1 shall be allowed where necessary to respond to physical conditions of the site.*
- 7. That a maximum block length of approximately 2,305 feet shall be allowed. In no case shall the length between a street corner intersection and a pedestrian way, or between two consecutive pedestrian ways, on the same side of the street exceed 800 feet.*
- 8. That an active private neighborhood park, a minimum of 0.85 acres in area, be provided in the first phase of development. The active private neighborhood park shall provide active and passive recreation opportunities, and a pedestrian path providing through-block connectivity.*
- 9. That a public open-space greenway along the length of Baker Creek, a minimum of 5.6 acres in area, be dedicated to the City. The public greenway shall generally follow Baker Creek and its drainages along the perimeter of the site so the greenway can connect to any future public open space along the Baker Creek greenway to the east and west of the site. A minimum of three (3) publically dedicated pedestrian/bicycle access ways from the public street network to the greenway and a bark chip bicycle/pedestrian trail throughout the greenway shall be provided, constructed to City specifications. Public pedestrian/bicycle access ways, from the public right-of-way to the rear lot line of adjacent lots, shall be 20 feet in width, with a 10 foot wide multi-use path built to City specifications to be provided by the City to the developer/property owner with a five foot buffer on each side, and minimum of (1) public pedestrian/bicycle access way shall be improved to accommodate maintenance vehicles. The public pedestrian/bicycle access ways will be designed to accommodate two-way bicycle and pedestrian traffic, and constructed for sustainability, durability, low-cost maintenance and easy access to the greenway trail. A development plan for the greenway with the trail system and the access ways shall be submitted to the City for review and approval of design and engineering prior to construction. The greenway, all pedestrian/bicycle access ways, and trails shall be maintained by a Homeowner's Association (HOA) until 2032, at which time all maintenance responsibilities shall be transferred to the City. An agreement between the HOA and the City shall be signed memorializing the responsibilities of the HOA and the City.*
- 10. That the majority of delineated wetland be preserved, and a minimum of two (2) wetland viewing areas that are accessible with seating be provided adjacent to the wetlands outside the common open space Tract 1. The developer and the Homeowner's Association shall enter into a Revocable License Agreement with the City to establish and maintain wetland viewing areas in the right-of-way that are accessible, meet city specifications and are maintained by the developer and Homeowner's Association.*
- 11. That the final wetland delineation and report from Pacific Habitat Services, Inc.*

*be provided to the Division of State Lands (DSL) for review and approval. Additionally, that a wetland mitigation plan be approved by DSL prior to issuance of construction permits. The City of McMinnville shall require evidence of compliance with all applicable local, state, and federal standards and regulations for wetland mitigation.*

- 12. That a tree inventory and arborist's report be provided to the Planning Director for review and approval prior to the removal of any tree greater than nine (9) inches in diameter at breast height (DBH) measured 4.5 feet above ground. The inventory and report shall include trees at least nine (9) inches DBH in areas of the site which may be impacted by the construction of streets, utilities, future residences, public and private park improvements, or other improvements. The inventory and report shall be provided prior to the prior to the release of construction or building permits within the planned area.*
- 13. That existing trees with trunks wholly or partially within the planned area and greater than nine (9) inches DBH (Diameter at Breast Height) shall not be removed by the applicant without prior review and written approval by the Planning Director pursuant to Chapter 17.58 of the Zoning Ordinance. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved subdivision. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.*
- 14. That a temporary emergency-only access be provided to serve the Oak Ridge Meadows development. The temporary emergency-only access shall be placed in an easement and will be graded and finished with compacted rock to applicable standards, and extend northward from the intersection of NW Shadden Drive and NW Baker Creek Road. At such time that the adjacent land is developed, the city intends to require the owner/developer of the adjacent land to dedicate sufficient public right-of-way and to establish a public city street on the owner/developer's property that provides an adequate vehicular connection to and between the southwesterly temporary terminus of NW Pinehurst Drive on the subject property and NW Baker Creek Road that adjoins such adjacent property. When such street is constructed by the adjacent property owner/developer and dedicated to the city as a public street, then the City shall require the developer of this adjacent property to dissolve this easement in favor of the subject property having unrestricted rights to access and use such public street connection on, to, and through the adjacent property.*
- 15. That the proposed subdivision be limited to 108 dwelling units, in any combination of dwelling units allowed in the underlying zone, until such time that a second permanent improved street connection provides access to the proposed subdivision.*
- 16. That lots with less than 40 feet of street frontage shall be alley loaded.*

17. That, prior to issuance of residential building permits, the applicant shall submit a residential Architectural Pattern Book to the Planning Director for review and approval. The purpose of the Architectural Pattern Book is to provide an illustrative guide for residential design in the Oak Ridge Meadows development. This book will contain architectural elevations, details, materials and colors of each building type. In order to protect property values, front entries will need to be clearly defined, at least two material types will need to be used on the front elevations, driveways should be adjacent to each other to enhance opportunities for front yards and landscaping, and a variety of color schemes should be used throughout the development that are distinctly different from each other but enhance each other.

At a minimum, the Architectural Pattern Book shall contain sections addressing:

- a) Style and Massing
- b) Quality and Type of Exterior Materials
- c) Front Porches / Entry Areas
- d) Roof Design and Materials
- e) Exterior Doors and Windows
- f) Garage Door Types
- g) Exterior Lighting
- h) Sample Exterior Colors

18. In order to eliminate a cookie-cutter stylization of the neighborhood, no same home design shall be built in adjacency to another, including both sides of the street.

- 3. That Ordinance 4822 is repealed in its entirety, including repealing Ordinance 4845 that provided amended findings for Ordinance 4822.
- 4. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 23<sup>rd</sup> day of July 2019, by the following votes:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

\_\_\_\_\_

MAYOR

Attest:

Approved as to form:

\_\_\_\_\_  
CITY RECORDER

\_\_\_\_\_  
CITY ATTORNEY





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

503-434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A PLANNED DEVELOPMENT AMENDMENT TO ADD PROPERTY TO THE BOUNDARY OF AN EXISTING PLANNED DEVELOPMENT OVERLAY DISTRICT; ALLOW FOR LOT SIZE AVERAGING; ALLOW FOR MODIFIED SETBACKS; ALLOW FOR SOME LOTS WITH SIDE LOT LINES ORIENTED OTHER THAN AT RIGHT ANGLES TO THE STREET UPON WHICH THE LOTS FACE; ALLOW FOR SOME LOTS TO EXCEED THE RECOMMENDED LOT DEPTH TO WIDTH RATIO; ALLOW SOME BLOCK LENGTHS TO EXCEED THE RECOMMENDED MAXIMUM BLOCK LENGTH STANDARD; ALLOW FOR THE DESIGNATION OF AN APPROXIMATELY 0.85-ACRE ACTIVE PRIVATE NEIGHBORHOOD PARK; AND, ALLOW FOR DEDICATION OF AN APPROXIMATELY 5.6-ACRE PUBLIC OPEN-SPACE GREENWAY DEDICATION ALONG BAKER CREEK.**

- DOCKET:** PDA 4-18 (Planned Development Amendment)
- REQUEST:** Approval to amend the existing Oak Ridge Meadows Planned Development (Ordinance 4822) to add the unplatted fourth phase of the Oak Ridge phased subdivision to the boundary of the Oak Ridge Meadows Planned Development; allow for lot size averaging; allow for modified setbacks; allow for some lots with side lot lines oriented other than at right angles to the street upon which the lots face; allow for some lots to exceed the recommended lot depth to width ratio; allow some block lengths to exceed the recommended maximum block length standard; allow for the designation of an approximately 0.85-acre active private neighborhood park; and, allow for dedication of an approximately 5.6-acre public open-space greenway dedication along Baker Creek.
- LOCATION:** Generally north of Baker Creek Road and NW Pinot Noir Drive, south of Baker Creek (Tax Lot 1300, Section 17, T. 4 S., R. 4 W., W.M. and Tax Lot 602, Section 7, T. 4 S., R. 4 W., W.M.)
- ZONING:** R-2 PD (Single Family Residential Planned Development)
- APPLICANT:** Premier Development, LLC (property owner)
- STAFF:** Jamie Fleckenstein, PLA, Associate Planner
- DATE DEEMED COMPLETE:** January 24, 2019
- HEARINGS BODY & ACTION:** The McMinnville Planning Commission makes a recommendation for approval or denial to the City Council.

**HEARING DATE  
& LOCATION:**

April 18, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon, continued to  
May 16, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon;  
July 23, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville Oregon

**PROCEDURE:**

An application for a Planned Development Amendment 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 Planned Development Amendment are specified in Section 17.74.070 of the Zoning Ordinance. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

**APPEAL:**

The Planning Commission makes a recommendation to the City Council, and the City Council makes the final decision. The City Council's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date written notice of the City Council's decision is mailed to parties who participated in the local proceedings and entitled to notice and as provided in ORS 197.620 and ORS 197.830, and Section 17.72.190 of the McMinnville Municipal Code. Per the applicant's requests on March 1, 2019 to extend the 120 day decision timeframe for an additional 60 days and on June 5, 2019 for an additional 21 day extension, the City's final decision is subject to a 201 day processing timeline, and a decision will need to be rendered by August 13, 2019.

**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 Oregon Department of State Lands. Their comments are provided in this document.

**DECISION**

Based on the findings and conclusionary findings, the City Council **APPROVES** the Planned Development Amendment (PDA 4-18) **subject to the conditions of approval provided in Section II of this document.**

////////////////////////////////////  
**DECISION: APPROVAL WITH CONDITIONS**  
////////////////////////////////////

City Council: \_\_\_\_\_  
Scott Hill, Mayor of McMinnville

Date: \_\_\_\_\_

Planning Commission: \_\_\_\_\_  
Roger Hall, Chair of the McMinnville Planning Commission

Date: \_\_\_\_\_

Planning Department: \_\_\_\_\_  
Heather Richards, Planning Director

Date: \_\_\_\_\_



## **I. APPLICATION SUMMARY:**

The applicant has provided extensive information in their application narrative and findings regarding the history of land use decisions for the subject site(s) and the request(s) under consideration. City has found the information provided to accurately reflect the current Planned Development Amendment request and the relevant background, and excerpted portions are provided below to give context to the request, in addition to staff's comments.

### ***Subject Property & Request***

The application (PDA 4-18) is a request for a Planned Development Amendment to add the unplatted fourth phase of the Oak Ridge phased subdivision (Tax Lot R441701300), approximately 11.47 acres, to the boundary of the Oak Ridge Meadows Planned Development Overlay District adopted in 2005 by Ordinance 4822. Additionally, other zoning allowances are requested, including requests to allow for lot size averaging; allow for modified setbacks; allow for some lots with side lot lines oriented other than at right angles to the street upon which the lots face; allow for some lots to exceed the recommended lot depth to width ratio; and allow some block lengths to exceed the recommended maximum block length standard. The requested Planned Development Amendment would also allow for the designation of an approximately 0.85-acre active private neighborhood park; and, allow for dedication of an approximately 5.6-acre public open-space greenway dedication along Baker Creek.

A concurrent application for a Planned Development Amendment (PDA 3-18) requests to amend the existing Oak Ridge Planned Development adopted by Ordinance 4722 to remove the unplatted fourth phase of the Oak Ridge phased subdivision (Tax Lot R441701300) from the boundary of the Oak Ridge Planned Development Overlay District. Planned Development Amendment (PDA 3-18) is a separate land-use decision and will be processed in a separate decision document.

Also requested in conjunction with the two (2) Planned Development Amendments described above is approval of a Tentative Subdivision for the construction of a 108 lot single family residential subdivision, referred to as Oak Ridge Meadows. Approval of the Tentative Subdivision request (S 3-18) would be conditioned upon the approval of the two (2) Planned Development Amendments being approved as requested. The Tentative Subdivision Plan is a separate land-use decision and will be processed in a separate decision document.

Excerpts from Land Use Application Narrative and Findings:

The subject site is approximately 35.47 acres in size and is comprised of two adjacent parcels of land, both of which are located within the city limits of McMinnville; R4417 01300 (approximately 11.47 acres in size) and R4407 00602 (approximately 24 acres in size). Both of these parcels are identified as Residential on the McMinnville Comprehensive Plan Map. These two parcels are each zoned R-2 PD (Single-Family Residential, Planned Development). The site is generally located north of Baker Creek Road and the multi-phased Oak Ridge residential development, and south of Baker Creek.

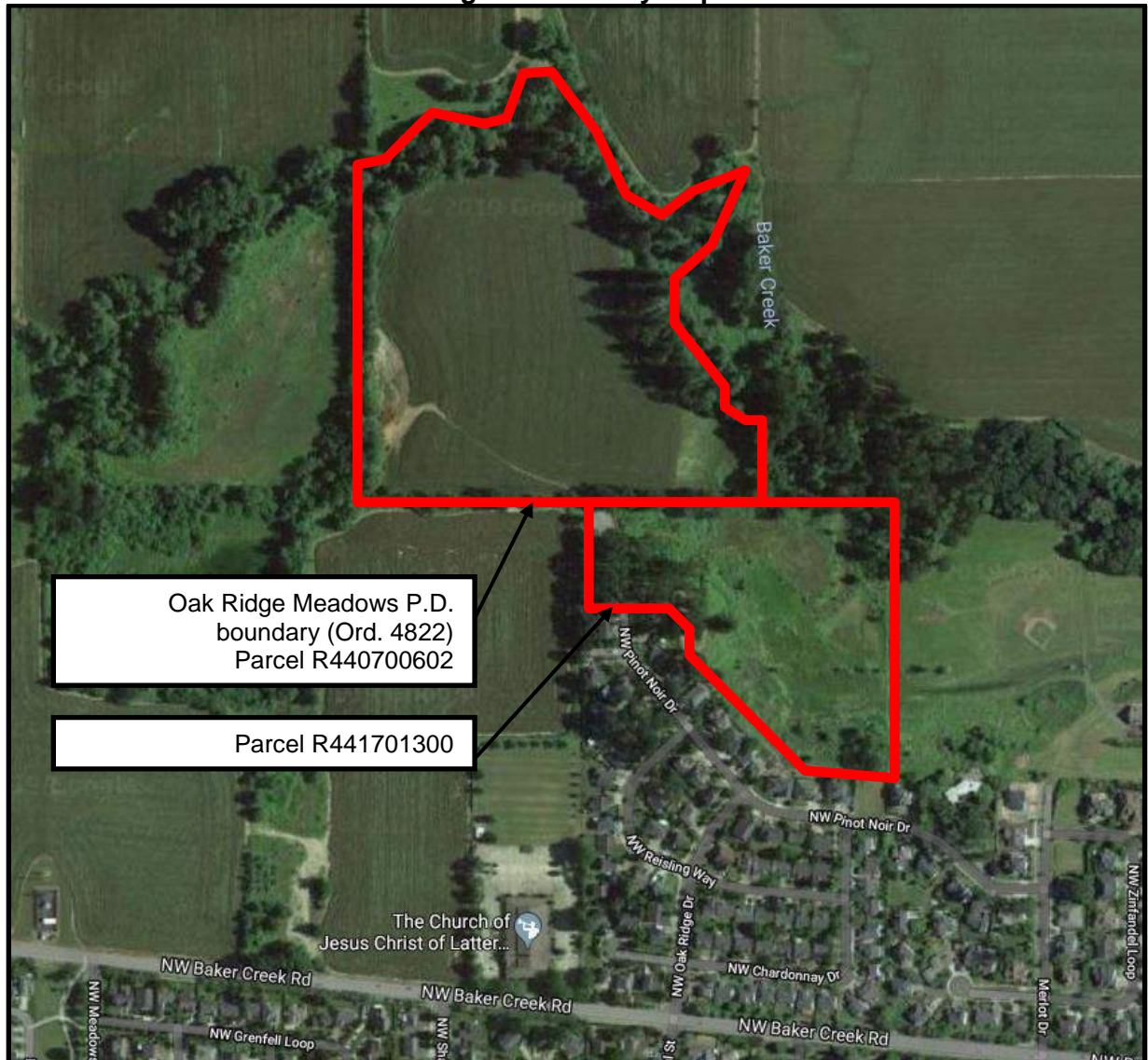
Baker Creek and its associated floodplain lie adjacent to the northern and a portion of the eastern edges of the site; other land to the east is identified as wetlands. The southernmost edge of the site lies adjacent to the Oak Ridge 1st Addition and Oak Ridge 2nd Addition residential subdivisions. Land to the west is currently undeveloped and is owned by Stafford Land Company; future development of that land is anticipated to include additional residential, commercial and recreational uses.

The site exhibits two main topographic characteristics. The central portion of the site, north of the existing temporary terminus of NW Pinot Noir Drive, is relatively flat. Wrapping around this central area of the site to the west, north and east is a band of steeply sloping land beyond which

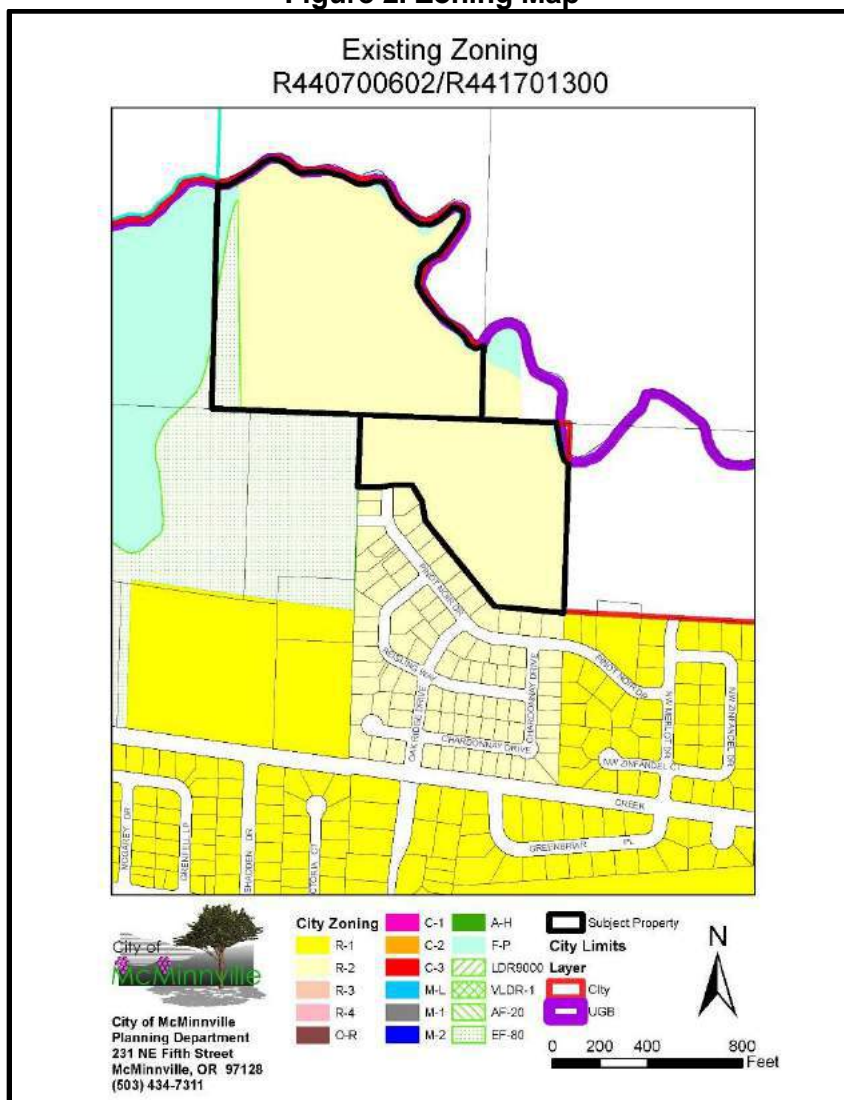
can be found generally level ground at many locations near the site's edge. Slopes within the site vary from near one percent in the central interior, to a 15 percent slope along the west boundary, and slopes ranging from between approximately 20 to 40 percent along the north and east edges. The southern portion of the site, generally north and east of Oak Ridge 1st Addition and Oak Ridge 2nd Addition, exhibits slopes also reaching up to approximately 40 percent in some locations. There are no structures or other improvements on this site. While Oak trees are the most prevalent tree type found on the site, Fir, Cottonwood and Ash trees are also present. Most of the tree cover exists along the steeper banks of the site's perimeter in addition to a fairly defined smaller area located directly north of Oak Ridge 2nd Addition subdivision.

**See Vicinity Map (Figure 1) and Zoning Map (Figure 2) below.**

**Figure 1. Vicinity Map**



**Figure 2. Zoning Map**



**Background**

Excerpts from Land Use Application Narrative and Findings:

The Oak Ridge and Oak Ridge Meadows Planned Developments (PDs) were approved by the McMinnville City Council on February 8, 2000 (Ordinance 4722) and April 12, 2005 (Ordinance 4822), respectively, and remain in place and in force as no expiration dates of the Planned Development approvals were identified in either of the enacting ordinances.

The R-2 PD zoned Oak Ridge tentative subdivision plan (S 6-99) was approved by the McMinnville Planning Commission as a three phase plan for a total of 107 residential lots with an average minimum lot size requirement of 7,000 square feet. Through subsequent amendments to the approved tentative subdivision layout and phasing plan that were determined to be Minor Amendments and approved by the McMinnville Planning Director, three phases of the residential subdivision, totaling 82 lots averaging 7,387 square feet in size were eventually platted leaving a new fourth and final 11.47-acre phase unplatted. North of Oak Ridge, the R-2 PD zoned Oak Ridge Meadows tentative subdivision plan (S 14-04), which did not include the unbuilt fourth phase of the adjacent Oak Ridge subdivision, was approved by the

McMinnville City Council as a two-phase subdivision with a total of 99 residential lots with an average minimum lot size requirement of 7,500 square feet.

The last approved subdivision design that existed to implement Ordinance 4822 showed that the intersection of Pinot Noir Drive and Pinehurst Drive (which was needed to enable the construction of the southerly portion of Pinehurst Drive and "A" Court (Exhibit 4) as part of the fourth phase of the Oak Ridge subdivision) was last approved by the City Council as being located within the Oak Ridge Meadows tentative subdivision plan and within the Oak Ridge Meadows Planned Development boundary (ZC 12-04/S 14-04). Following this approval, Premier Development filed an appeal with the Oregon Land Use Board of Appeals (LUBA) on the decision. At issue was Condition of Approval number five (5) of Ordinance 4822 related to a limitation on the number of lots allowed within the Oak Ridge Meadows subdivision until such time that NW Pinehurst Drive was extended southward to connect to Baker Creek Road. LUBA acted to remand the decision back to the City Council. The Council held a public hearing as directed by the remand and concluded to adopt additional findings in support of their April decision to adopt Ordinance 4822. This action was then memorialized by the adoption of such additional findings as referenced in Ordinance 4845 (Exhibit 5) which the Council approved on March 14, 2006. The Council's approval of the S 14-04 tentative subdivision plan, including the locating of the intersection of Pinot Noir Drive and Pinehurst Drive within the Oak Ridge Meadows Planned Development site, remained unchanged through the subsequent Land Use Board of Appeals (LUBA) remand (LUBA 2005-065) of the City's approval of ZC 12-04/S 14-04.

Apart from the Council's approvals of ZC 12-04 and S 14-04, the connecting roadway segment of Pinot Noir Drive necessary to enable access to the Oak Ridge Meadows site, and the location of the afore mentioned Pinot Noir Drive and Pinehurst Drive intersection, yet remained a part of the earlier Oak Ridge tentative subdivision plan and Planned Development boundary approvals. This resulted in a situation where neither of the two adjacent subdivisions could be constructed without the prior completion of a portion of the other. Had the economy not convulsed as it did for a number of years, this situation would not have been a concern as the adjacent subdivision phases, although located within different Planned Development boundaries, could have been developed simultaneously and the noted street improvements effectively constructed concurrently and seamlessly. This current proposal seeks to achieve that intended development pacing by bringing the two adjacent undeveloped parcels of land together under one Planned Development Amendment approval and construct both of the afore mentioned improvements as part of Phase 1 of the currently proposed tentative residential subdivision plan.

The existing Oak Ridge Meadows Planned Development adopted by Ordinance 4822 in 2005, the subject of the requested Planned Development Amendment, contains the following conditions:

1. That the Oak Ridge Meadow subdivision tentative plan (or such plan as it may be revised by conditions for approval of this development) be placed on file with the Planning Department and that it become a part of the zone and binding on the property owner and developer.

That the developer is responsible for requesting approval of the Planning Commission for any major change of the details of the adopted plan. Minor changes to the details of the adopted plan may be approved by the Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by him may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the Commissioners.

2. That the average lot size within the Oak Ridge Meadow subdivision shall be 7,500 square feet.

3. That setbacks for the Oak Ridge Meadows subdivision are as follows:
  - a. Front Yard: 20 feet
  - b. Side Yard: (Lots less than 6,000 square feet in area): 6 feet
  - c. Side Yard (all other lots): 7.5 feet
  - d. Exterior Side Yard (Lots 40, 45, 46, 52, 54, and 55): 15 feet
  - e. Exterior Side Yard (all other lots): 20 feet
  - f. Rear Yard: 20 feet
  - g. Open side of garage: 20 feet

The Planning Director is authorized to permit reductions or increases to these setback standards as may be necessary to provide for the retention of trees greater than nine (9) inches in diameter measured at 4.5 feet above grade. In no case, however, may the rear yard setback or the side yard setback be reduced to less than five feet, or the exterior side yard setback to 15 feet, or the distance from the property line to the front opening of a garage to less than 18 feet without approval of the Planning Commission pursuant to the requirements of Chapter 17.69 (Variance). A request to adjust the setbacks for these lots shall be accompanied by a building plan for the subject site that clearly indicates the location of existing trees. Trees to be retained shall be protected during all phases of home construction.

4. That existing trees greater than nine inches DBH (Diameter at breast height) shall not be removed without prior review and written approval of the Planning Director. In addition, all trees shall be protected during home construction. A plan for such protection must be submitted with the building permit application and must meet with the approval of the Planning Director prior to the release of construction or building permits within the subject site.
5. That the number of lots allowed within the Oak Ridge Meadow subdivision shall be limited to a maximum of 76 lots. Additional lots may be permitted consistent with the submitted tentative plan upon the completion and acceptance of public street improvements to City standards that extend south from Pinehurst Drive (as labeled on the applicant's submitted tentative subdivision plan) and connect to Baker Creek Road.

### ***Summary of Criteria & Issues***

The application (PDA 4-18) is subject to Planned Development Amendment review criteria in Section 17.74.070 of the Zoning Ordinance. An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120. The goals and policies in Volume II of the Comprehensive Plan are also independent approval criteria for all land use decisions.

The specific review criteria for Planned Development Amendments in Section 17.74.070 of the McMinnville Zoning Ordinance require the applicant to demonstrate that:

- A. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
- B. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;
- C. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;

- D. The plan can be completed within a reasonable period of time;
- E. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;
- F. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;
- G. The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.

The applicant has provided extensive narrative and findings to support the request for a Planned Development Amendment based on their proposed additional benefits to the community that would be provided through the amendment. These will be discussed in detail in Section VII (Conclusionary Findings) below.

Generally, the purpose of a planned development is to provide greater flexibility and greater freedom of design in the development of land than may be possible under strict interpretation of the provisions of the zoning ordinance. Further, the purpose of a planned development is to encourage a variety in the development pattern of the community; encourage mixed uses in a planned area; encourage developers to use a creative approach and apply new technology in land development; preserve significant man-made and natural features; facilitate a desirable aesthetic and efficient use of open space; and create public and private common open spaces. A planned development is not intended to be simply a guise to circumvent the intent of the zoning ordinance.

Consideration of a planned development request includes weighing the additional benefits provided to the development and city as a whole through the planned development process that go above and beyond what would be provided through a standard subdivision application against the zoning departures requested. It should be noted that the McMinnville Zoning Ordinance does not contain mechanisms to achieve the many of the additional benefits possible through Planned Development outside of that process. Each of the applicant's requested amendments to Ordinance 4822 is directly related to a stated purpose of a planned development, and demonstrate special physical conditions or objectives of a development which the proposal would satisfy to warrant a departure from the standard regulation requirements:

1. The addition of the unplatted fourth phase of the Oak Ridge subdivision to the Oak Ridge Meadows Planned Development Overlay boundary will allow efficient use of open space, greater freedom in the development of the land, and allow for the preservation of significant natural features (wetlands) on the property. Additionally, a portion the property would be established as a private neighborhood park for the benefit of the community.
2. Requested lot size averaging would allow flexibility and variety in the development pattern of the community. A wider variety of lot sizes would increase the type of housing products and price points to be made available.
3. The request to modify setbacks would support the flexibility and variety in the development provided by varied lot sizes. A provision would allow for the adjustment of setbacks on a lot by lot basis to preserve significant trees.
4. A request to allow side lot lines at non-90 degree angles would allow flexibility to employ a creative design and development approach in response to unique geographic features of the subject site.

5. A request to allow lots with larger than standard depth to width ratio would allow preservation of natural features (significant trees and slopes) by allowing uniquely shaped lots in ecologically sensitive areas with buildable area away from sensitive natural features.
6. Allowing longer than standard block lengths would allow flexibility in the design and development of the land by letting the design respond to unique geographic features of the subject site.
7. Establishment of a private park in the development would encourage mixed use in the planned area and create a private common open space.
8. Dedication of a public greenway park would encourage mixed use in the planned area and create a public common open space.

Overall, the proposed planned development amendment would provide additional benefits to the community and the City as a whole that are above and beyond what would be provided through a traditional subdivision application and strict interpretation of the zoning ordinance. The proposal would provide greater flexibility and greater freedom of design in the development of land; encourage a variety in the development pattern of the community; encourage mixed uses in a planned area; encourage developers to use a creative approach in land development; preserve significant man-made and natural features; facilitate a desirable aesthetic and efficient use of open space; and create public and private common open spaces.

It should be noted that if this planned development amendment is not approved, the provisions of Ordinance 4822 are still binding on the site. A development proposal could be made that meets the conditions of the existing planned development overlay. Ordinance 4822, as it currently exists, does not include parcel R441701300, or provisions to require private and/or public open space.

## **II. CONDITIONS:**

1. That the decision for approval of Planned Development Amendment (PDA 4-18) is not rendered, and does not take effect, until and unless the Planned Development Amendment (PDA 3-18) is approved by the City Council.
2. That the Oak Ridge Meadows Tentative Subdivision plan shall be placed on file with the Planning Department and become a part of this planned development zone and binding on the developer. The developer will be responsible for requesting approval of the Planning Commission for any major change in the details of the adopted site plan. Minor changes to the details of the adopted plan may be approved by the Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by the Planning Director may be made only to the Planning Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the Commissioners.
3. That the average lot size within the Oak Ridge Meadow subdivision shall be approximately 7,770 square feet.
4. That setbacks for the Oak Ridge Meadows subdivision shall be as follows:

Front Yard: 20 feet  
Side Yard: 5 feet

Exterior Side Yard: 10 feet  
Rear Yard: 20 feet  
Open side of garage: 20 feet

The Planning Director is authorized to permit reductions to these setback standards as may be necessary to provide for the retention of trees greater than nine (9) inches in diameter measured at 4.5 feet above grade. In no case, however, may the rear yard setback be reduced to less than five (5) feet, or the exterior side yard setback to less than ten (10) feet without approval of the Planning Commission pursuant to the requirements of Chapter 17.74 (Variance). A request to adjust the setbacks for these lots shall be accompanied by a building plan for the subject site that clearly indicates the location of existing trees. Trees to be retained shall be protected during all phases of home construction.

5. That lot side lines that do not run at right angles to the street upon which the lots face shall be allowed where necessary to respond to physical conditions of the site.
6. That a maximum lot depth to width ratio of 2.75 to 1 shall be allowed where necessary to respond to physical conditions of the site.
7. That a maximum block length of approximately 2,305 feet shall be allowed. In no case shall the length between a street corner intersection and a pedestrian way, or between two consecutive pedestrian ways, on the same side of the street exceed 800 feet.
8. That an active private neighborhood park, a minimum of 0.85 acres in area, be provided in the first phase of development. The active private neighborhood park shall provide active and passive recreation opportunities, and a pedestrian path providing through-block connectivity.
9. That a public open-space greenway along the length of Baker Creek, a minimum of 5.6 acres in area, be dedicated to the City. The public greenway shall generally follow Baker Creek and its drainages along the perimeter of the site so the greenway can connect to any future public open space along the Baker Creek greenway to the east and west of the site. A minimum of three (3) publically dedicated pedestrian/bicycle access ways from the public street network to the greenway and a bark chip bicycle/pedestrian trail throughout the greenway shall be provided, constructed to City specifications. Public pedestrian/bicycle access ways, from the public right-of-way to the rear lot line of adjacent lots, shall be 20 feet in width, with a 10 foot wide multi-use path built to City specifications to be provided by the City to the developer/property owner with a five foot buffer on each side, and minimum of (1) public pedestrian/bicycle access way shall be improved to accommodate maintenance vehicles. The public pedestrian/bicycle access ways will be designed to accommodate two-way bicycle and pedestrian traffic, and constructed for sustainability, durability, low-cost maintenance and easy access to the greenway trail. A development plan for the greenway with the trail system and the access ways shall be submitted to the City for review and approval of design and engineering prior to construction. The greenway, all pedestrian/bicycle access ways, and trails shall be maintained by a Homeowner's Association (HOA) until 2032, at which time all maintenance responsibilities shall be transferred to the City. An agreement between the HOA and the City shall be signed memorializing the responsibilities of the HOA and the City.
10. That the majority of delineated wetland be preserved, and a minimum of two (2) wetland viewing areas that are accessible with seating be provided adjacent to the wetlands outside the common open space Tract 1. The developer and the Homeowner's Association shall enter into a Revocable License Agreement with the City to establish and maintain wetland viewing areas in the right-of-way that are accessible, meet city specifications and are maintained by the developer and Homeowner's Association.



11. That the final wetland delineation and report from Pacific Habitat Services, Inc. be provided to the Division of State Lands (DSL) for review and approval. Additionally, that a wetland mitigation plan be approved by DSL prior to issuance of construction permits. The City of McMinnville shall require evidence of compliance with all applicable local, state, and federal standards and regulations for wetland mitigation.
12. That a tree inventory and arborist's report be provided to the Planning Director for review and approval prior to the removal of any tree greater than nine (9) inches in diameter at breast height (DBH) measured 4.5 feet above ground. The inventory and report shall include trees at least nine (9) inches DBH in areas of the site which may be impacted by the construction of streets, utilities, future residences, public and private park improvements, or other improvements. The inventory and report shall be provided prior to the prior to the release of construction or building permits within the planned area.
13. That existing trees with trunks wholly or partially within the planned area and greater than nine (9) inches DBH (Diameter at Breast Height) shall not be removed by the applicant without prior review and written approval by the Planning Director pursuant to Chapter 17.58 of the Zoning Ordinance. Trees greater than nine inches DBH will not be approved for removal unless a certified arborist determines that they are diseased, dying, or dead or the developer demonstrates that practical development of an approved lot, or required public improvements (i.e. streets, sidewalks, and public utilities), will adversely impact the survival of such tree or trees. In addition, all trees that are not to be removed shall be protected during the construction of all public improvements and residential development in the approved subdivision. A plan for such tree protection approved by the Planning Director shall be submitted with construction and/or building permit applications prior to release of construction or building permits within the subject site.
14. That a temporary emergency-only access be provided to serve the Oak Ridge Meadows development. The temporary emergency-only access shall be placed in an easement and will be graded and finished with compacted rock to applicable standards, and extend northward from the intersection of NW Shadden Drive and NW Baker Creek Road. At such time that the adjacent land is developed, the city intends to require the owner/developer of the adjacent land to dedicate sufficient public right-of-way and to establish a public city street on the owner/developer's property that provides an adequate vehicular connection to and between the southwesterly temporary terminus of NW Pinehurst Drive on the subject property and NW Baker Creek Road that adjoins such adjacent property. When such street is constructed by the adjacent property owner/developer and dedicated to the city as a public street, then the City shall require the developer of this adjacent property to dissolve this easement in favor of the subject property having unrestricted rights to access and use such public street connection on, to, and through the adjacent property.
15. That the proposed subdivision be limited to 108 dwelling units, in any combination of dwelling units allowed in the underlying zone, until such time that a second permanent improved street connection provides access to the proposed subdivision.
16. That lots with less than 40 feet of street frontage shall be alley loaded.
17. That, prior to issuance of residential building permits, the applicant shall submit a residential Architectural Pattern Book to the Planning Director for review and approval. The purpose of the Architectural Pattern Book is to provide an illustrative guide for residential design in the Oak Ridge Meadows development. This book will contain architectural elevations, details, materials and colors of each building type. In order to protect property values, front entries will need to

be clearly defined, at least two material types will need to be used on the front elevations, driveways should be adjacent to each other to enhance opportunities for front yards and landscaping, and a variety of color schemes should be used throughout the development that are distinctly different from each other but enhance each other.

At a minimum, the Architectural Pattern Book shall contain sections addressing:

- i) Style and Massing
- j) Quality and Type of Exterior Materials
- k) Front Porches / Entry Areas
- l) Roof Design and Materials
- m) Exterior Doors and Windows
- n) Garage Door Types
- o) Exterior Lighting
- p) Sample Exterior Colors

18. In order to eliminate a cookie-cutter stylization of the neighborhood, no same home design shall be built in adjacency to another, including both sides of the street.

19. That Planned Development Ordinance No. 4822 is repealed in its entirety.

### **III. ATTACHMENTS:**

1. PDA 4-18 Application and Attachments (on file with the Planning Department)
2. PDA 4-18 Application – Supplemental Materials
  - a. Errata Memorandum, April 17, 2019, Ron Pomeroy, Navigation Land Use Consulting (representing Premier Development) (on file with the Planning Department)
  - b. Wetland Delineation Report, Pacific Habitat Services (on file with the Planning Department)
3. Public Notices (on file with the Planning Department)
4. Agency Comments (on file with the Planning Department)
5. Testimony Received (on file with the Planning Department)
  - a. Public Testimony
    - i. Steve and Catherine Olsen, 2650 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - ii. Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - iii. Sandi Colvin, 2718 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - iv. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - v. Friends of Baker Creek, 501-3C (submitted by Mike Colvin), Letter received April 10, 2019 (on file with the Planning Department)
    - vi. Friends of Baker Creek, 501-3C, Letter received April 10, 2019 (on file with the Planning Department)
    - vii. Tim and Margaret Roberts, 1069 NW Baker Crest Court, Letter received April 15, 2019 (on file with the Planning Department)
    - viii. Friends of Yamhill County, Email received April 15, 2019 (on file with the Planning Department)
    - ix. Yamhill Soil & Water Conservation District, Email received April 16, 2019 (on file with the Planning Department)

- x. Jan and Randy Hartzell, 1093 NW Baker Crest Court, Email received April 17, 2019 (on file with the Planning Department)
- xi. Housing Land Advocates and Fair Housing Council of Oregon, Letter received April 17, 2019 (on file with the Planning Department)
- xii. Glen Westlund, Email received April 18, 2019 (on file with the Planning Department)
- xiii. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
- xiv. Carmen Mendenhall, 2410 NW Zinfandel Loop, Letter received April 18, 2019 (on file with the Planning Department)
- xv. Friends of Baker Creek, PowerPoint slides received April 18, 2019 (on file with the Planning Department)
- xvi. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
- xvii. Gail Norby, 2840 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
- xviii. Scott Wellman, 2756 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
- xix. Bill Kabeiseman, Bateman Seidel, Letter received April 18, 2019 (on file with the Planning Department)
- xx. Valerie Kelly, McMinnville, Email received April 22, 2019 (on file with the Planning Department)
- xxi. Helen Bitar, 30500 SW Moriah Lane, Sheridan, Email received May 6, 2019 (on file with the Planning Department)
- xxii. Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive, Letter received May 6, 2019 (on file with the Planning Department)
- xxiii. Michael and Sherill Roberts, 2812 NW Pinot Noir Drive, Letter received on May 7, 2019 (on file with the Planning Department)
- xxiv. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received May 8, 2019 (on file with the Planning Department)
- xxv. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received May 8, 2019 (on file with the Planning Department)
- xxvi. Steve and Catherine Olson, 2650 NW Pinot Noir Drive, Letter received May 8, 2019 (on file with the Planning Department)
- xxvii. Rob Stephenson, 1081 NW Baker Crest Court, Letter received May 8, 2019 (on file with the Planning Department)
- xxviii. Baker Creek Hydrologic Analysis, PBS Engineering (prepared for Friends of Baker Creek), received May 8, 2019 (on file with the Planning Department)
- xxix. Les Toth, 2700 NW Pinehurst Drive, Letter received May 13, 2019 (on file with the Planning Department)
- xxx. Stephanie Rudolph, 2849 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxi. Rodney Pedersen, 2664 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxii. Melba Smith, 2780 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxiii. Mike Colvin, 2718 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxiv. Terry and Beth Uhrinak, 2731 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxv. Anniedear Chappell, 1334 NW Zinfandel Court, Email received on May 13, 2019 (on file with the Planning Department)

- xxxvi. Erin Stanton & Sarah Hadfield, 2687 NW Pinot Noir Drive, Email received on May 14, 2019 (on file with the Planning Department)
- xxxvii. Anniedear Chappell, 1334 NW Zinfandel Court, Email received on May 14, 2019 (on file with the Planning Department)
- xxxviii. Carmen Mendenhall, 2410 NW Zinfandel Loop, Letter received May 16, 2019 (on file with the Planning Department)
- xxxix. Scott Wellman, 2756 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xl. Steve and Sarah Fox, 2687 NW Oak Ridge Drive, PowerPoint slides received May 16, 2019 (on file with the Planning Department)
  - xli. Catherine Olsen, 2650 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xlii. Ray and Nina Clevidence, 1493 NW Riesling Way, Letter received May 16, 2019 (on file with the Planning Department)
  - xliii. Bill Kabeiseman, Bateman Seidel, Letter received May 16, 2019 (on file with the Planning Department)
  - xliv. Friends of Baker Creek, PowerPoint slides received April 18, 2019 (on file with the Planning Department)
  - xlv. Sandi Colvin, 2718 NW Pinot Noir Drive, PowerPoint slides received May 16, 2019 (on file with the Planning Department)
  - xlvi. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xlvii. Michael and Sherill Roberts, 2812 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xlviii. Unattributed, Letter received May 16, 2019 (on file with the Planning Department)
  - xlix. Justin Maynard, PBS (submitted by Catherine Olsen), 415 W 6<sup>th</sup> Street, Vancouver, WA, Letter received May 16, 2019 (on file with the Planning Department)
    - I. Melba Smith, 2780 NW Pinot Noir Drive, Photograph received May 16, 2019 (on file with the Planning Department)
    - ii. Unattributed, Letter received May 18, 2019 (on file with the Planning Department)
    - iii. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received June 18, 2019 (on file with the Planning Department)
    - iiii. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received June 18, 2019 (on file with the Planning Department)
    - lv. Justin Maynard, PBS (submitted by Catherine Olsen), 415 W 6<sup>th</sup> Street, Vancouver, WA, Letter received June 18, 2019 (on file with the Planning Department)
    - lv. Rick and Linda Thomas, 2631 NW Merlot Drive, Email received July 14, 2019 (on file with the Planning Department)
    - lvi. Sandi Colvin, 2718 NW Pinot Noir Drive, Letter received July 15, 2019 (on file with the Planning Department)
    - lvii. Carmen Mendenhall, 2410 NW Zinfandel Loop, Email received July 15, 2019 (on file with the Planning Department)
    - lviii. Friends of Baker Creek, Testimony binder received July 15, 2019 (on file with the Planning Department)
- b. Applicant Rebuttal Testimony
  - i. Premier Development, 1312 NE Highway 99W, Frequently Asked Questions received May 3, 2019 (on file with the Planning Department)

- ii. Lacy Brown, DKS Associates (representing Premier Development), 117 Commercial Street NE, Suite 310, Salem, Supplemental Traffic Evaluation Memo received May 9, 2019 (on file with the Planning Department)
  - iii. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Letter received May 15, 2019 (on file with the Planning Department)
  - iv. Ron Pomeroy, Navigation Land Use Consulting (representing Premier Development), PO Box 1514, McMinnville, Memorandum received May 15, 2019 (on file with the Planning Department)
  - v. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Thalweg Comparison Chart received May 16, 2019 (on file with the Planning Department)
  - vi. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Precipitation Chart received May 16, 2019 (on file with the Planning Department)
  - vii. Lacy Brown, DKS Associates (representing Premier Development), 117 Commercial Street NE, Suite 310, Salem, Supplemental Traffic Evaluation received July 15, 2019 (on file with the Planning Department)
  - viii. Josh Wells, Westech Engineering, Inc. (representing Premier Development), 3841 Fairview Industrial Drive SE, Suite 100, Salem, OR, Letter received July 15, 2019 (on file with the Planning Department)
  - ix. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Letter received July 15, 2019 (on file with the Planning Department)
- c. Staff Memorandums
- i. Planning Department Staff, Memorandum in response to News-Register articles, April 17, 2019 (on file with the Planning Department)
  - ii. Planning Department Staff, Memorandum in response to written testimony, April 17, 2019 (on file with the Planning Department)
  - iii. Planning Department Staff, Memorandum in response to written testimony, May 15, 2019 (on file with the Planning Department)
6. PDA 3-18, PDA 4-18, S 3-18 Staff Memorandum, April 17, 2019 and Staff Report, April 18, 2019 (on file with the Planning Department)
7. PDA 3-18, PDA 4-18, S 3-18 Staff Report, May 16, 2019 (on file with the Planning Department)

#### **IV. COMMENTS:**

##### **Agency Comments**

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

- McMinnville Engineering Department

Staff Comment: Comments provided by the Engineering Department are not relevant to this Planned Development Amendment application, and can be found in the Decision Document for Tentative Subdivision 3-18, to which they are applicable.

- McMinnville Fire Department

We have no comments on these amendments.

- McMinnville Parks and Recreation Department

The comments below are in response to the request for comments for the Planned Development Amendment application to amend the existing Oak Ridge Planned Development.

The McMinnville Comprehensive Plan includes the following provisions:

*159.00 The City of McMinnville's Parks, Recreation, and Open Space Master Plan shall serve to identify future needs of the community, available resources, funding alternatives, and priority projects. (Ord. 4796, October 14, 2003)*

*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.*

*163.05 The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands. (Ord. 4840, January 11, 2006)*

*Comment: Per the McMinnville Comprehensive Plan Policy #163.05 the City should locate greenways and trails in the floodplain to connect community and other park types to each other. The proposed dedication of a trail that connects Tice Park to a potential future park and/or the BPA trail appears to satisfy this criterion.*

*164.00 The City of McMinnville shall continue to acquire floodplain lands through the provisions of Chapter 17.53 (Land Division Standards) of the zoning ordinance and other available means, for future use as natural areas, open spaces, and/or parks.*

*Comment: Per the McMinnville Comprehensive Plan Policy #164.00, the City shall continue to acquire floodplain lands through the provisions of Chapter 17.53 (Land Division Standards) of the zoning ordinance and other available means, for future use as natural areas, open spaces, and/or parks. The proposed floodplain land to be dedicated to the city for a natural trail and greenway system along Baker Creek appears to satisfy this criterion.*

*166.00 The City of McMinnville shall recognize open space and natural areas, in addition to developed park sites, as necessary elements of the urban area.*

*167.00 The City of McMinnville shall encourage the retention of open space and scenic areas throughout the community, especially at the entrances to the City.*

*168.00 Distinctive natural features and areas shall be retained, wherever possible, in future urban developments.*

*Comment: Per the McMinnville Comprehensive Plan Policy #166.00 and #168.00, the city should recognize and retain distinctive natural features and areas in future urban developments. Baker Creek and its associated riparian environment is a natural feature in the proposed Oak*

*Ridge Meadows Subdivision and the proposed dedication of this land to the city for a trail appears to satisfy this criterion.*

170.05 For purposes of projecting future park and open space needs, the standards as contained in the adopted McMinnville Parks, Recreation, and Open Space Master Plan shall be used. (Ord. 4796, October 14, 2003)

*Comment: Per the McMinnville Comprehensive Plan Policy #170.05, the City should use the standards in the McMinnville Parks, Recreation, and Open Space Master Plan, which are as follows:*

The McMinnville 1999 Parks Master Plan contains the following relevant recommendations:

- Develop special use parks to protect and highlight unique natural areas and to respond to the particular recreation needs of McMinnville residents;
- Protect natural areas and stream corridors by acquiring greenways along creeks and the Yamhill river;
- Provide public access to natural areas and trail-related recreation by developing trails through greenways and in natural areas. (p. 38)

*Comment: Table 10 of the Parks Master Plan outlines underserved areas in our City related to parks, this property can be found in planning area 3 and specifically recommends acquiring a greenway “along Baker Creek connecting Tice/BPA Easement” as a first tier priority for the action plan. The Master Plan Map shows a multi-purposed trail along Baker Creek in this general area which is reflected in the development proposal, therefore this element of the Parks Master Plan appears to be met by the application as proposed.*

Thank you for the opportunity to comment. Please let me know if you have any further questions or need anything additional from the Parks and Recreation Department.

- McMinnville Public Works Department

Parks:

1. It is my understanding that this application seeks to add a private .85 acre “nature park”, and a 5.6 acre public greenway space. The narrative and included maps indicate that the public open space would essentially follow Baker Creek around the perimeter of the subdivision. The narrative notes that the concept includes pedestrian trails with chipped material proposed for surfacing. It appears the proposed public park lies in the floodplain area.
  - a. While we recognize the value of such open space, and the opportunity for future connections along Baker Creek, our position remains that the Public Works Division is not in a position to take on additional public parkland and the associated maintenance costs and responsibilities at this time. The recent “add-back” funding proposal for parks maintenance was intended to allow the Division to begin to restore service levels to pre-2013 levels, begin to address maintenance backlogs and to include maintenance costs for the planned NW Neighborhood park. The addition of new lands at this point, especially in light of the fact we are adding the NW park, will result in negative service level impacts at existing facilities. **Based on those concerns, our recommendation would be that the proposed greenway remain privately owned until such time that resources are available to maintain and operate it as public open space.**
  - b. The site as proposed would present significant challenges to get equipment and or vehicles in to perform maintenance.

- c. The proposal notes that chipped trails would be provided for both the private and public parks. Such a surface would not be accessible, and I don't believe it would meet either PROWAG or ADAAG requirements.
- d. The proposal shows only two access points to the proposed greenway. Whether the greenway is public or private, we might suggest considering additional entry points to improve access.

- McMinnville Water and Light

MW&L has no issues with these submittals.

Please note that the submitted preliminary water plan is not approved and will need to follow MW&L approval process. Please contact MW&L for a Design Application and fees for this project.

- Oregon Department of State Lands

The Department had a permit for the earlier construction along Pinot Noir, which required mitigation. The mitigation failed. The permittee submitted a wetland delineation in 1999. Because of the number of years and changes to the landscape since the delineation, the Department would require a new delineation to review before an application is submitted.

During the removal-fill application review, the Department looks for an applicant to have avoided or minimized the impacts to wetlands and waters, which may result in changes to the layout.

### **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, April 9, 2019. As of the date Planning Commission public hearing on May 16, 2019, fifty one (51) written public testimonies had been received by the Planning Department from twenty nine (29) entities.

- Mike Colvin, 2718 NW Pinot Noir Drive
  1. Letter - April 10, 2019 - expressing opposition of the application based on increased risk of downstream flooding.
  2. Letter - April 18, 2019 - expressing opposition to the application based on potential downstream flooding impact, loss of unique natural habitats that could be preserved as recreation/park space.
  3. Letter - April 18, 2019 - expressing opposition to the application based on impact of proposed public improvements on the wetlands.
  4. Letter - May 8, 2019 - expressing opposition to the application based on impact of proposed development of traffic on Baker Creek Road.
  5. Letter - May 8, 2019 - expressing opposition to the application based on Comprehensive Plan policies that do not support development on the 11.47 acre parcel and instead support it being left in a natural state for drainage and recreation.
  6. Letter - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and calling on neighbors to submit testimony.
  7. Letter - May 16, 2019 - expressing opposition to the applications based on a comparison of Comprehensive Plan polices as they relate to individual parcels of the overall proposed development.
  8. Letter – June 18, 2019 - expressing opposition to the applications based the timing of the development of Shadden Drive north of Baker Creek Road.



9. Letter – June 18, 2019 - expressing opposition to the applications based potential for increased downstream flooding.
- Sandi Colvin, 2718 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application stating that removal of the 11.47 acre parcel from the Oak Ridge Planned would circumvent Oak Ridge CC&Rs, and that the proposed development is held to lesser standards than the current PDs.
    2. PowerPoint slides - May 16, 2019 - expressing opposition to the applications based on extension of Pinehurst Drive to eastern property line, and potential impacts on downstream flooding.
    3. Letter – July 15, 2019 - expressing opposition to the application, citing the example of Johnson Creek in the Portland area.
  
  - Friends of Baker Creek, 501c3 Non-Profit, 2718 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application based on lack of two access points to proposed development.
    2. Letter - April 10, 2019 - expressing opposition of the application based on development in the wetland, emergency access to the development, retention of an isolated preservable tree, impact of park maintenance on HOA fees, development of the private active neighborhood park, Federal and State agency permitting, and FEMA floodplain mapping.
    3. PowerPoint slides - April 18, 2019 - used as imagery and talking points for several oppositional testimonies at the April 18, 2019 public hearing.
    4. Baker Creek Hydrologic Analysis (prepared by PBS Engineering for FoBC) – May 9, 2009 – providing analysis indicated that FEMA floodplain maps are in need of revision, proposed development could occur in areas of flood risk but with FEMA designation, and that proposed development would not significantly increase downstream flow.
    5. Power Point slides - May 16, 2019 - used as imagery and talking points for several oppositional testimonies at the May 16, 2019 public hearing.
    6. Testimony Binder – July 15, 2019 – A collection of testimony expressing opposition to the applications due to Pinehurst Drive, lack of Shadden Drive access, outdated FEMA maps, increased downstream flooding, updated Baker Creek hydrology, environmental impacts, and the Johnson Creek case study.
  
  - Steve and Catherine Olsen, 2650 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application based on concerns of development in the wetland, increased traffic in the Oak Ridge developments, Great Neighborhood Principles, and Federal and State agency permitting, and FEMA floodplain mapping.
    2. Letter - May 8, 2019 - expressing opposition to the application because of impact of the proposed development on traffic, public safety, and existing Oak Ridge CC&Rs, and the desire to preserve the 11.47 acre parcel as a nature preserve.
    3. Letter - May 16, 2019 - expressing opposition to the applications and support for preserving 11.47 acre parcel as a nature preserve.
  
  - Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application based on concerns of development in the wetland, steep slopes, construction access, potential loss of trees, and loss of lifestyle on Pinot Noir Drive.

2. Letter - May 6, 2019 - expressing opposition to the application based on traffic impact to the surrounding neighborhoods, and the impact of development on the lifestyle of the surrounding neighborhoods.
  3. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
- Tim and Margaret Roberts, 1069 NW Baker Crest Court
    1. Letter - April 15, 2019 - expressing opposition of the application based on concern for potential downstream flooding impact.
  - Friends of Yamhill County, 501c3 Non-Profit, PO Box 1083, McMinnville
    1. Letter - April 15, 2019 - expressing opposition of the application based on impact to wetlands.
  - Yamhill Soil & Water Conservation District, 2200 SW 2<sup>nd</sup> Street
    1. Email - April 16, 2019 - expressing concern over the proposed development based on potential impacts to wetlands, and removal of vegetation along Baker Creek.
  - Jan and Randy Hartzell, 1093 NW Baker Crest Court
    1. Email - April 17, 2019 - expressing opposition to the application based on potential downstream flooding impact and inaccurate FEMA maps.
  - Housing Land Advocates and Fair Housing Council of Oregon, 501c3 Non-Profit, 1221 SW Yamhill Street #305, Portland
    1. Letter - April 17, 2019 - expressing concern that Statewide Goal 10 findings had not been made, and the proposal not evaluated under the HNA and BLI.
  - Glen Westlund (no address provided)
    1. Email - April 18, 2019 - expressing concern over the proposed development based on potential impacts to wetlands and wildlife habitat.
  - Carmen Mendenhall, 2410 NW Zinfandel Loop
    1. Letter - April 18, 2019 - expressing opposition to the applications based on the impact of the proposed development on neighborhood livability.
    2. Email - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, development impact to the Baker Creek riparian corridor, and loss of wetlands.
    3. Email – July 15, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood, downstream flooding, and the inability to apply Great Neighborhood Principles.
  - Gail Norby, 2840 NW Pinot Noir Drive
    1. Letter - April 18, 2019 - expressing opposition to the application based on potential impact of traffic on neighborhood livability.
  - Scott Wellman, 2756 NW Pinot Noir Drive
    1. Letter - April 18, 2019 - expressing opposition to the application based on potential impact on wildlife habitat.
    2. Letter - May 16, 2019 - expressing opposition to the applications based on loss of wetlands.

- Bill Kabeiseman, Bateman Seidel (representing Friends of Baker Creek), 888 SW 5<sup>th</sup> Avenue, Suite 1250, Portland
  1. Letter - April 18, 2019 - expressing opposition to the application based on impact on the wetlands that would be inconsistent with the Comprehensive Plan, that Ordinance 4845 limits Oak Ridge Meadows to 76 lots, and that there is no approved wetland delineation or mitigation plan.
  2. Letter - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, extension of Pinehurst Drive to eastern property line, potential impacts on downstream flooding, and loss of wetlands.
- Valerie Kelly, McMinnville
  1. Email – April 22, 2019 - expressing opposition to the application based on potential downstream flooding impact and inaccurate FEMA maps.
- Helen Bitar, 30500 SW Moriah Lane, Sheridan
  1. Email - May 6, 2019 - expressing opposition to the application based on loss of wetlands.
- Michael and Sherill Roberts, 2812 NW Pinot Noir Drive
  1. Letter – May 7, 2019 - expressing concern for public safety and livability during construction of proposed development. The testimony suggests requiring the improvement of Shadden Drive for construction access, and expediting the restriping project for Baker Creek Road.
  2. Letter - May 16, 2019 - expressing concern for public safety and livability during construction of proposed development. The testimony suggests requiring the improvement of Shadden Drive for construction access, and expediting the restriping project for Baker Creek Road.
- Rob Stephenson, 1081 NW Baker Crest Court
  1. Letter – May 8, 2019 - expressing opposition to the application based on potential downstream flooding impact, and impact of the development on wetlands.
- Les Toth, 2700 NW Pinehurst Drive
  1. Letter – May 13, 2019 - expressing opposition to the applications based on impact of proposed Pinehurst Drive on wetlands and adjacent property.
- Stephanie Rudolph, 2849 NW Pinot Noir Drive
  1. Email - May 13, 2019 - expressing concern about traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
- Melba Smith, 2780 NW Pinot Noir Drive
  1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and impact on existing streets.
  2. Photograph - May 16, 2019 - indicating extent development impact on existing wetlands.
- Terry and Beth Uhrinak, 2731 NW Pinot Noir Drive
  1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
- Anniedear Chappell, 1334 NW Zinfandel Court

1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood.
  2. Email - May 14, 2019 - expressing concern over existing traffic systems and pedestrian safety in Oak Ridge neighborhood that would be compounded by new traffic.
- Erin Stanton & Sarah Hadfield, 2687 NW Pinot Noir Drive
    1. Email - May 14, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and calling on neighbors to submit testimony.
  - Steve and Sarah Fox, 2687 NW Oak Ridge Drive
    1. PowerPoint slides - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and concern over previous land fill activity.
  - Ray and Nina Clevidence, 1493 NW Riesling Way,
    1. Letter - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and loss of wetlands.
  - Justin Maynard (submitted by Catherine Olsen), PBS Engineering, 415 W 6<sup>th</sup> Street, Vancouver, WA
    1. Letter - May 16, 2019 - summarizing the analysis and findings of the Baker Creek Hydrologic Analysis. The analysis indicated that FEMA floodplain maps are in need of revision, and proposed development could occur in areas of flood risk but with FEMA designation.
    2. Letter – June 18, 2019 – rebutting applicant’s rebuttal of the Baker Creek Hydrologic Analysis, and confirming the conclusions of the report.
  - Rick and Linda Thomas, 2631 NW Merlot Drive,
    1. Email – July 15, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood, outdated FEMA maps, and increased downstream flooding.
  - Unattributed (no name provided)
    1. Letter - May 16, 2019 – provided at the public hearing - listing several Comprehensive Plan policies related to natural features, transportation and traffic systems, and provision of open space and natural areas.
    2. Letter – May 18, 2019 – posted to several public buildings – expressing opposition to proposed development based on lack of affordable housing and loss of wetlands.

**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 July 26, 2018.
2. The property owner, Premier Development, LLC, submitted the Planned Development Amendment application (PDA 4-18) on October 24, 2018.
3. The application was deemed complete on January 24, 2019.

4. After planning staff requested clarification on a couple of items, the applicant submitted a revised application on March 28, 2019.
5. The applicant provided written notice requesting a 60 day extension of the 120 day land use decision time limit on March 1, 2019 to July 23, 2019.
6. 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, Oregon Department of State Lands.

Comments received from agencies are addressed in the Decision Document.

7. Notice of the application and the April 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 on Friday, March 29, 2019.
8. Notice of the application and the April 18, 2019 Planning Commission public hearing was published in the News Register on Tuesday, April 9, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.
9. On April 18, 2019, the Planning Commission held a duly noticed public hearing to consider the request. The Planning Commission continued the public hearing to May 16, 2019.
10. Notice of the May 16, 2019 Planning Commission continued public hearing was published in the News Register on Tuesday, May 7, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.
11. On May 16, 2019, the Planning Commission held a duly noticed public hearing to consider the request.
12. On June 5, 2019, the applicant provided written notice requesting a 21 day extension of the land use decision time limit on March 1, 2019. The land use decision time limit now expires on August 13, 2019.
13. On June 25, 2019, City Council considered the Planning Commission's recommendation, and requested a public hearing.
14. Notice of the July 23, 2019 City Council 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.

#### **VI. FINDINGS OF FACT - GENERAL FINDINGS:**

1. **Location:** Generally north of Baker Creek Road and NW Pinot Noir Drive, south of Baker Creek (Tax Lot 1300, Section 17, T. 4 S., R. 4 W., W.M. and Tax Lot 602, Section 7, T. 4 S., R. 4 W., W.M.)

2. **Size:** Approximately 35.47 acres.
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-2 PD (Single Family Residential Planned Development)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Undeveloped
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** None
  - b. **Other:** Wetlands
8. **Other Features:** The site is level at the existing terminus of Pinot Noir Drive, then slopes steeply downhill to the west, north, and east, towards Baker Creek. Mature native oak trees are found on the uphill portion of the site and sloped, and wetlands are found on the lower southeast portion of the site.
9. **Utilities:**
  - a. **Water:** Water service is available to the subject site.
  - b. **Electric:** Power service is available to the subject site.
  - c. **Sewer:** Sanitary sewer service is available to the subject site.
  - d. **Stormwater:** A storm water facility serving the Oak Ridge development is in the northeast corner R441701300. A storm drain easement provides storm sewer access for that facility.
  - e. **Other Services:** Other utility services are available to the subject site. Northwest Natural Gas and Comcast is available to serve the site.
10. **Transportation:** No streets or public rights-of-way exist within the subject site. NW Pinot Noir Drive is classified as a Local Residential Street in the Transportation System Plan (TSP) and terminates at the property line of the subject site. At its termination, NW Pinot Noir Drive has a curb-to-curb dimension of 21 feet.

## **VII. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application. The applicable criteria for a Planned Development Amendment are specified in Section 17.74.070 of the Zoning Ordinance.

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

Volume I Background Element is the main body or text of the McMinnville Comprehensive Plan. Included in this volume are all the inventories and research documentation on which the goals and policies were based. The requirements of the statewide goals for inventory information and land use related projections (e.g. population and housing) are also contained in this volume.

### **Comprehensive Plan Volume I:**

The following citation from Volume I Background Element of the McMinnville Comprehensive Plan is applicable to the request:

**Chapter V. Housing and Residential Development–Land Use Controls–Planned Developments:**

The planned development (PD) is a method by which creative, large-scale development of land is encouraged for the collective benefit of the area’s future residents. [...] As written, the planned development provisions are intended to provide specific benefits to a development (e.g., developed parks, retention of unique natural areas, etc.). [...] It is important that the City continue to scrutinize planned development designs to insure that amenities are being provided in excess of what is normally required.”

4. Future planned developments should be carefully scrutinized to insure that there are trade-offs favorable to the community when zoning ordinance requirements are varied. Those trade-offs should not just include a mixture of housing types.

**ADDITIONAL DESIGN CONSIDERATIONS**

Two specific areas of concern were examined by the Citizens’ Advisory Committee’s subcommittees in relation to residential development designs.

Pedestrian paths (sidewalks) are required by ordinance to be constructed in all new residential developments. Bike paths, however, have only been constructed in a few selected areas. The City should encourage the development of bike paths and foot paths to activity areas, such as parks, schools, and recreation facilities, in all development designs.

The incorporation of solar access review into the land division ordinance received favorable reaction. Such review could require that all subdivision designs seek to maximize access to the sun through orientation of both streets and lots. This requirement has been used in other cities without causing major development problems. By orienting streets and lots towards the optimal access to the sun, the City would not be requiring the installation of active solar energy systems, but would instead encourage and allow the use of both passive and active solar systems. The large size of future areas proposed for residential development further enhances the applicability of this design requirement in McMinnville.

Based on the information presented on residential development design considerations, the City finds that:

1. A minimum level of public facilities and services including, but not limited to, sanitary sewer, storm drainage systems, water services, and improved streets should continue to be required for all residential developments. The standards for these facilities and services should be periodically examined to insure the services are commensurate with, but do not exceed, the density of development projected.
2. Open space is required in all residential developments in several ways. Traditional zoning setbacks reserve a large portion of each individual lot for potential open space. [...]
3. Parkland requirements in the land division ordinance provide for either the dedication of parkland to the public or payment of money in lieu of land to develop the city park system. The requirements of the ordinance need to be examined to see that all future residential developments, including mobile home parks and newly created parcels through partitioning, contribute equitably to the park program.
4. The incorporation of solar access review into the land division ordinance should be undertaken. Such review would require the orientation of streets and lots towards the sun in a manner which

would best utilize access to solar energy. The requirement should not be designed to lessen the density of development available on any parcel of land.

5. The City should encourage the provision of bike and foot paths within residential developments to connect to public and/or private parks, or recreation facilities and to connect to any paths which currently abut the land.

**APPLICANT’S RESPONSE:** This proposal meets the intent of this portion of Volume I of the Comprehensive Plan. This is evident, in part, by the prior City Council approvals of Ordinances 4722 and 4822 which were based on observations and findings of fact that are reflected in their respective public records. Since the Council’s approval of Ordinance 4722, all but 11.47 acres of that Planned Development area has residentially developed through three separate phases (Oak Ridge, Oak Ridge First Addition and Oak Ridge Second Addition residential subdivisions). Approving this proposal to remove the undeveloped 11.47 acres from this Planned Development boundary and add it to the boundary of the adjacent approved Planned Development area represented by Ordinance 4822 will not affect the three existing developed phases of the Oak Ridge subdivisions’ continued compliance with this portion of Volume I of the Comprehensive Plan or the existing applicable conditions of approval of Ordinance 4722. Additionally, approval of this proposal will allow Premier Development the ability to continue moving forward toward developing a phased residential neighborhood offering a mix of residential lot sizes which will result in a range of housing options being made available at varying market price points which was the original intent embodied by the City’s prior approvals of both Ordinances 4722 and 4822 and their associated phased subdivision approvals.

Further, this proposal meets the intent of criterion 1 of this portion of Volume I of the Comprehensive Plan in that all requisite public facilities and services shall be sufficiently provided to adequately serve this site and the proposed development as articulated further in additional Findings provided below. The standards for these facilities and services are periodically examined and amended by the City.

As described by criteria 2 and 3 above, the open space provided by this proposed tentative subdivision plan is comprised of the “traditional zoning setbacks” which “reserve a large portion of each individual lot for potential open space.” as stated in this criterion. Additionally, for the collective benefit of area residents, open space is proposed in three forms by this proposal in addition to that provided by zoning setbacks as described by the Comprehensive Plan Volume I Section cited above: 1) a protected wetland area along the eastern edge of the site; 2) an approximately 0.85 acre active private neighborhood park internal to the development site; and, 3) an approximately 5.6-acre open space greenway located around the majority of the site’s perimeter which is proposed to be publicly dedicated along with two of the three connecting pedestrian access paths; the pathway located along the south edge of Lot 56 is intended to be temporary as described further below in these Findings. Premier Development proposes that the forthcoming Homeowner’s Association for this development will be responsible for full maintenance responsibilities of the entirety of the publicly dedicated greenway path and its access paths until the year 2032 at which time all such maintenance responsibilities shall become the full responsibility of the City in perpetuity; the pedestrian pathway to be created by easement along the southern portion of Lot 56 is to be temporary, the maintenance of which will not be transferred to the City, and will be eliminated at such time as described in more detail in Findings provided above. The protected wetland mentioned above is located along the eastern edge of the site and, except for mitigation areas which shall be addressed further below in these findings, will remain in their natural state.

Relative to Ordinance 4822, wetlands affected by the pending construction of the affecting portion of NW Pinehurst Drive were sufficiently mitigated as required by the Declaration of Covenants and Restrictions for the Oak Ridge Wetland Mitigation Site (Exhibit 8). Since that



time, a new wetland analysis has been commissioned with the results of an updated wetland delineation depicted on the Overall Subdivision Layout (Exhibit 6) as well as on numerous other Exhibits included with this submittal. Additional wetland discussion is provided in the findings below and is also herein incorporated at this point.

Regarding parks and greenways, based on Table 1 of McMinnville's adopted McMinnville Parks, Recreation, and Open Space Master Plan, Mini Parks/ Playlots range from 2,500 square feet to one acre in size and are provided at a ratio of one such park per 1,000 anticipated residents based on Table 2 of that same Plan. Premier development proposes the construction of 108 single-family residential homes on this site which results in far fewer than the 1,000 resident threshold established in Table 2 of that Plan. At approximately 0.85 acres in size, the active private neighborhood park is size-appropriate for this anticipated population while, for example, neighborhoods located adjacent to and near this site to the south and east have provided no such park of any size to serve their neighborhood populations. Premier Development supports the installation of picnic tables, a trash can and active permanent child-appropriate play equipment for the enjoyment of residents on a portion of the upland area of the active private neighborhood park. Additionally, the proposed Oak Ridge Meadows development is located within one-half mile from the specialty park to be proposed as part of the adjacent Stafford Land Planned Development to the west. The McMinnville Planning Department has already clearly communicated to Premier Development that this forthcoming specialty park will provide the necessary level of service benchmark of every residence within this Oak Ridge Meadows proposal being within one-half mile of a neighborhood park as identified in the McMinnville Parks, Recreation, and Open Space Master Plan.

Both of the park/open spaces proposed by Premier Development will be developed with pedestrian trails. The pedestrian pathway planned to extend through the private active neighborhood park connecting NW Pinot Noir Drive and NW Pinehurst Drive will further enhance pedestrian mobility throughout this development beyond the standard, and required, network of public sidewalks found in most other residential developments. This proposal, through the proposed arrangement of park spaces, will afford pedestrians the ability to enjoy continuous access from the active private neighborhood park entrance on NW Pinot Noir Drive through to NW Pinehurst Drive and, then by walking northward along the public sidewalk for approximately 300 feet, be able to move along the access walkway leading from NW Pinehurst Drive and enjoy the walking trail winding its way through the entire greenway that will wrap the neighborhood all the way to its southwestern-most corner. Two additional public access points to the greenway path to be located along the south side of Lot 56 and between Lots 75 and 76 will afford the public multiple access points to this greenway and allow this greenway to be experienced through pathway segments of different lengths. Additionally, the southwestern edge of this public pedestrian greenway path along the edge of the Oak Ridge Meadows development will have the opportunity of being extended as a pedestrian access feature as part of the future development of adjacent land to the south and west which is currently owned by Stafford Land Company. Additional commensurate park fees-in-lieu-of dedication shall also be assessed to the developer by the City if still deemed necessary following the public greenway park dedication.

Regarding criterion 4 above, while the City does not currently have a specific, adopted solar access code, Section 17.53.101(A)(3) (Streets – General) of the McMinnville Zoning Ordinance speaks to maximizing the “potential for unobstructed solar access to all lots or parcels.” Also that “streets providing direct access to abutting lots shall be laid out to run in a generally east-west direction to the maximum extent feasible, within the limitations of existing topography, the configuration of the site, predesigned future street locations, existing street patterns of adjacent development, and the preservation of significant natural features.” Additionally, that “the east-west orientation of streets shall be integrated into the design.” The proposed phased tentative

subdivision plan complies with this Comprehensive Plan Volume I criterion and Section 17.53.101(A)(3) of the McMinnville Zoning Ordinance in that this plan proposes to align the site's new internal local public streets in an east-west orientation to the maximum extent feasible given the limitations of existing topography, the configuration of the site, predesigned future street locations, existing street patterns of adjacent development, and the preservation of significant natural features noted in this criterion (Exhibit 11 – Subdivision Layout With Contours). Opportunities for an alternative street layout would lead to less efficient use of the site and likely result in compromised street connectivity opportunities and lessening of solar access to future homesites. The proposed street layout promotes compliant street intersection alignments and increased local street connectivity. To the extent physically possible, given the site size, shape and street connection design standards, the proposed lots are provided the potential for unobstructed solar access to the maximum extent feasible. Therefore, these criteria have been satisfied.

Relative to criterion 5 and in addition to the construction of public sidewalks within this phased Planned Development subdivision proposal as required by City standards, pedestrian mobility is further enhanced by the provision of both private and public pathways to be provided through the two separate park spaces to be provided as part of this residential development to enhance pedestrian mobility within this neighborhood and provide pedestrian accesses at multiple points to the first piece of the McMinnville Baker Creek Greenway System to be dedicated to the public by a land owner. This criterion has also been met.

**FINDING: SATISFIED.** Relative to Planned Developments Criterion 4, the requested planned development amendment would provide trade-offs favorable to the community in return for variance from zoning ordinance requirements. The previously approved Planned Development Ordinance No. 4822 had provisions for the protection and retention of significant trees found on the site. In addition to strengthening the tree protections in the planned development amendment, the applicant is offering to provide approximately 6.45 acres of public and private open space to benefit the community and City as a whole, as well as other community amenities such as preservation of on-site wetlands, and proposed public wetland viewing areas. Park maintenance for the public open space would be the initial responsibility of the Homeowner's Association, addressing City park maintenance shortfall concerns and allowing the first phase of a larger Baker Creek greenway envisioned in the Parks and Open Space Master Plan to come online and benefit the community. The applicant is also proposing that an Architectural Pattern Book be approved to guide the design and development of homes in Oak Ridge Meadows. This would help provide variety in a cohesive manner to the housing types that would be proposed. In exchange, the applicant is requesting several departures from the underlying zoning, including modifications to the average lot size, setbacks, lot layout, and block length. It should be noted that each of these requests does not only benefit the applicant. Findings have been provided that show how the zoning departures are in response to physical conditions of the site, and the departures would allow development of the site to better accommodate the unique physical conditions and natural features found on the site. In sum, these trade-offs would provide additional benefit favorable to the community.

The City concurs with the applicant's findings relative to Additional Design Considerations Criteria 1 through 5, but notes that while wetland mitigation was completed based on prior development plans, the Department of State Lands provided comments indicating the previously completed wetland mitigation has failed. The City of McMinnville would require evidence of compliance with all applicable local, state, and federal standards and regulations for wetland mitigation.

**Comprehensive Plan Volume II:**

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

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

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

**GOAL II 1:** TO PRESERVE THE QUALITY OF THE AIR, WATER, AND LAND RESOURCES WITHIN THE PLANNING AREA.

*Policy 2.00 The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristic, and natural hazards.*

*Policy 5.00 The quality of the air resources in McMinnville shall be measured by the standards established by the Oregon Environmental Quality Commission and the Federal Environmental Protection Agency.*

*Policy 9.00 The City of McMinnville shall continue to designate appropriate lands within its corporate limits as "floodplain" to prevent flood induced property damages and to retain and protect natural drainage ways from encroachment by inappropriate uses.*

*Policy 12.00 The City of McMinnville shall insure that the noise compatibility between different land uses is considered in future land use decisions and that noise control measures are required and instituted where necessary.*

**APPLICANT'S RESPONSE:** Goal II 1 and Policies 2.00, 5.00, 9.00 and 12.00 are satisfied by this proposal in that no development is proposed on lands with identified building constraints such as excessive slope, limiting soil characteristic(s) and/or natural hazards; wetlands and wetland mitigation shall be discussed further in findings provided below. Any and all infrastructure and right-of-way improvements shall be designed, proposed, reviewed and permitted as per standards and requirements administered and supported by the City of McMinnville. While there are no residential development requirements or standards addressing the quality of air resources in McMinnville, the City is cognizant of standards established by the Oregon Environmental Quality Commission and the Federal EPA as they relate to impactful commercial or industrial uses within the city.

Additionally, there are no lands being proposed for development that are identified as Floodplain on the McMinnville Comprehensive Plan Map or as being located within zone AE of the associated Federal Emergency Management Association (FEMA) Flood Insurance Rate Maps (FIRM); any storm drainage outfall as described further in the application shall only occur as reviewed and permitted by the City of McMinnville Engineering Department inclusive of any additional review or permitting as directed by the City. Noise compatibility between adjacent single-family residential developments is established in that there are no adopted policies that address adjacent same-type development as being potentially noise incompatible. The intent of this proposal is to allow the creation of single-family residential development to be located adjacent to existing single-family residential development and is therefore not an incompatible proposed use.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, and adds that the City of McMinnville would require evidence of compliance with all applicable local, state, and federal standards and regulations relating to development controls on lands with identified building constraints, including but not limited to, excessive slope, limiting soil characteristics, natural hazards, and wetlands.

**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.*

**APPLICANT'S RESPONSE:** Goal V 1 and Policy 58.00 are met by this proposal in that a range of residential lot sizes are proposed that will provide opportunity for development of a variety of housing sizes and densities. The existing Planned Development (Ordinance 4822) requires a minimum average minimum lot size of 7,500 square feet which Premier Development is not proposing to amend. While this currently required average minimum lot size is 500 square feet larger than that required of the adjacent multi-phased Oak Ridge Planned Development (Ordinance 4722), and by the base standards of the R-2 zone, Premier Development is supportive of the City Council's prior decision for the Oak Ridge Meadows site and has incorporated that minimum average lot size requirement into this current proposal; and also within each individual phase of this proposed two phase subdivision (a spreadsheet has been prepared showing the proposed sizes of each lot in each subdivision phase (Exhibit 10). The existing Planned Development condition establishing an average minimum lot size allows for the provision of a range of lot sizes within the development area which adds to the variety of housing opportunities to be made available within the community.

**FINDING: SATISFIED.** The City concurs with the applicant's findings. The proposed planned development amendment would allow an average minimum lot size of approximately 7,770 square feet. Lot size averaging allows variety in the size of lots, and therefore variety in the housing products and localized densities within the overall planned area. The overall density of the planned development would meet the requirements of the underlying R-2 zone.

**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.*

*Westside Density Policy*

*Policy 71.01 The City shall plan for development of the property located on the west side of the city that is outside of planned or existing transit corridors (1/4 mile either side of the route) to be limited to a density of six units per acre. It is recognized that it is an objective of the City to disperse multiple family units throughout the community. In order to provide higher*

*density housing on the west side, sewer density allowances or trade-offs shall be allowed and encouraged. (Ord. 4961, January 8, 2013; Ord.4796, October 14, 2003)*

*Policy 71.06 Low Density Residential Development (R-1 and R-2) Low-density residential development should be limited to the following:*

- 1. Areas which are committed to low density development and shown on the buildable lands inventory as “developed” land;*
- 2. Areas where street facilities are limited to collector and local streets;*
- 3. Areas with mapped development limitations such as steep slopes, floodplains, stream corridors, natural drainageways, and wetlands; and*
- 4. Areas with limited capacity for development identified in approved facility master plans, including sanitary sewer, water, drainage, and transportation facilities. (Ord. 4796, October 14, 2003)*

*Policy 71.08 Slightly higher densities (R-2) should be permitted on lands that exhibit the above-listed characteristics (Policy 71.06), and following factors or areas:*

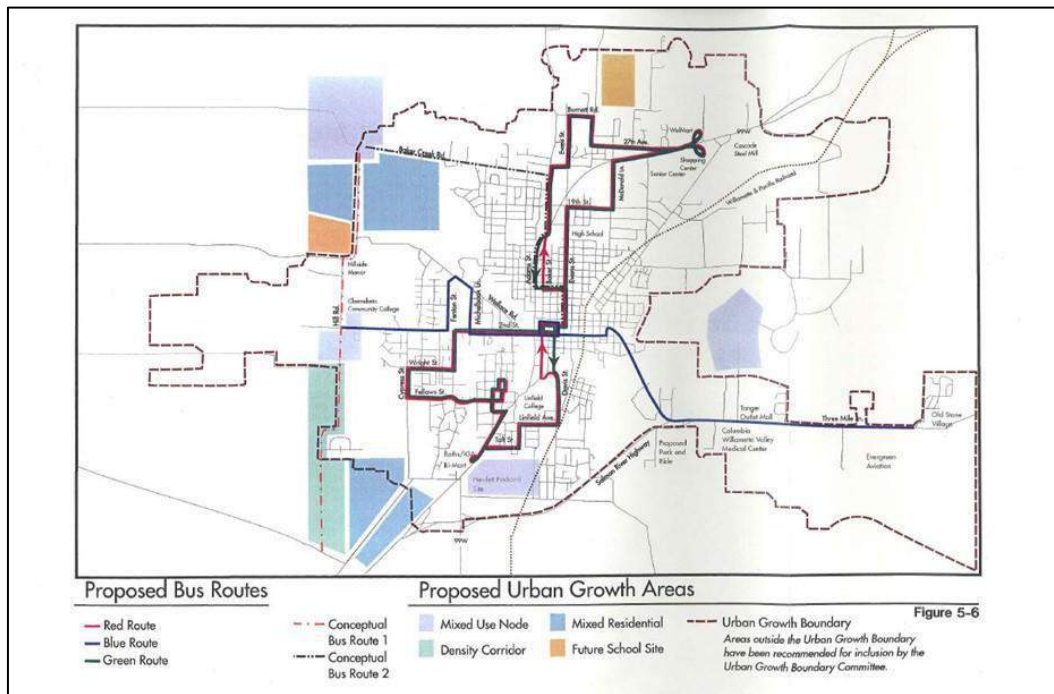
- 1. The capacity of facilities and services;*
- 2. Within one mile of existing or planned transit;*
- 3. Lower sloped areas within the West Hills;*
- 4. Riverside South area (lands more than 500 feet from planned and existing heavy industrial lands);*
- 5. Proximity to jobs, commercial areas, and public facilities and services, should be zoned for smaller lots; and*
- 6. Proximity to and having potential impact upon identified floodplains and other environmentally sensitive areas (the higher the potential impact, the lower the allowed density). (Ord. 4796, October 14, 2003)*

**APPLICANT’S RESPONSE:** Goal V 2 and Policies 68.00, 71.00, 71.01, 71.05, 71.06 (1-4), and 71.08 (1-6) are met by this proposal in that the two requested Planned Development Amendment requests are processed as zone changes in McMinnville and are binding on the sites. The subject site is identified as Residential on the McMinnville Comprehensive Plan Map and carries zoning designations R-2 PD set by the previous approvals of Ordinances 4722 and 4822. Approval of these proposed Planned Development Amendment requests and phased subdivision plan will result in this site retaining an R-2 PD zoning designation and a new, binding, development plan memorialized by adoption of a new ordinance. The resulting R-2 PD designation of this site is a zoning designation allowed and supported by the Residential designation of the site on the McMinnville Comprehensive Plan Map.

This proposal provides a range of residential single-family lot sizes thereby promoting an energy-efficient and land intensive development pattern. This proposal encourages both social and environmental benefits by planning for residential lots of various sizes in a cohesive arrangement of opportunities throughout the development. While the more moderate and smaller lots tend to be more centrally located within the development, this arrangement is far

from exclusive and results in a complementary blending of similarly sized lots with the lots nearby in the adjacent Oak Ridge development (please refer to the more detailed description of this lot arrangement found in Section IV above as additional support in satisfying these policies). The resultant lot sizes and dimensions that are proposed to be located around the perimeter of the site allow for reasonable sized building envelopes to be located on the upper portions of each lot and thereby preserve the natural slope and tree cover that will make up the extended backyard areas of some of these lots. Retention of the existing natural downslope surface drainage capacity is preserved by the proposed public dedication of the approximately 5.6 acres of open greenspace located at the toe of the slope that exists around the perimeter of much of this planned development site. The site contains a wetland on its eastern side which eliminates that land from being developed. Premier Development also proposes the creation of an approximately 0.85-acre active private neighborhood park, to be maintained by a Homeowner's Association to be created by Premier Development, which will preserve a number of the mature Oak trees that exist on that site. Both of these open space areas are new to this development proposal and were not part of that which was previously supported and approved by the McMinnville City Council. These open spaces are unique and innovative to McMinnville prior residential planning approvals and will be a unique natural environmental resource and a recreational benefit to the residents of this development and other neighborhoods.

While not close to McMinnville's urban center, the subject site is located in an area already committed to low density residential development and served by access to an adjacent local street network. City services can be extended from adjacent development sufficient to adequately accommodate and serve this proposal. Planned public transit is shown well within the one-mile requirement of the site and is identified as Conceptual Bus Route 2 on Figure 5-6 of the adopted McMinnville Transit Feasibility Study shown below.



In addition, land comprising the entirety of the subject site is currently zoned R-2 PD. This proposal does not exceed a residential density of 6 dwelling units per acre and so does not exceed maximum allowable density of the underlying R-2 zone of this site. This proposed subdivision, and each of the two individual phases of the proposed subdivision, also complies with Condition of Approval 2 of Ordinance 4822 (Exhibit 2) which states "That the average lot size within the Oak Ridge Meadows subdivision shall be 7,500 square feet." - While this Condition uses common McMinnville Planning Department, Planning Commission and City

Council parlance of the time stating that the average lot size *shall* be 7,500 square feet, it is established as understood to mean an *average minimum* lot size of the stated figure. This intent and understanding is evident by the legal platting and subsequent build-out of numerous residential Planned Development approvals over the decades relying on such conditions to mean an *average minimum* lot size. If, however, the McMinnville Planning Department, Planning Commission and/or City Council determines that it is uncomfortable with this practice of the adopted language meaning an *average minimum* lot size of 7,500 square feet, then Premier Development requests that Condition of Approval 2 of Ordinance 4822 be modified to refer to an average minimum lot size of 7,500 square feet in place of the current language referring to an average lot size of 7,500 square feet.

**FINDING: SATISFIED.** The subject site of the Planned Development Amendment request is designated Residential on the Comprehensive Plan map and is in an area where urban services are already available. The proposed Planned Development Amendment would allow development of the land to provide a variety of housing types through the lot size averaging provision of the planned development. The proposed planned development density of 108 dwelling units on 35.47 acres is below the six unit per acre limit established by the Westside Density Policy. Because the site has mapped development limitations such as steep slopes, floodplains, and wetlands, and street facilities limited to local streets, the low-density residential development supported by the Planned Development Amendment is appropriate. The proposed Planned Development Amendment would help achieve buildable land planned and zoned for residential housing, helping to meet McMinnville's housing needs.

#### *Planned Development Policies*

- Policy 72.00 Planned developments shall be encouraged as a favored form of residential development as long as social, economic, and environmental savings will accrue to the residents of the development and the city.*
- Policy 73.00 Planned residential developments which offer a variety and mix of housing types and prices shall be encouraged.*
- Policy 74.00 Distinctive natural, topographic, and aesthetic features within planned developments shall be retained in all development designs.*
- Policy 75.00 Common open space in residential planned developments shall be designed to directly benefit the future residents of the developments. When the open space is not dedicated to or accepted by the City, a mechanism such as a homeowners association, assessment district, or escrow fund will be required to maintain the common area.*
- Policy 76.00 Parks, recreation facilities, and community centers within planned developments shall be located in areas readily accessible to all occupants.*
- Policy 77.00 The internal traffic system in planned developments shall be designed to promote safe and efficient traffic flow and give full consideration to providing pedestrian and bicycle pathways.*
- Policy 78.00 Traffic systems within planned developments shall be designed to be compatible with the circulation patterns of adjoining properties.*

**APPLICANT'S RESPONSE:** The seven Planned Development policies listed immediately above have already been met by this proposal in that these policies having already been determined to be met by evidence of the City Council's previous adoption of Ordinance 4722

and Ordinance 4822 for what is now the subject site. This current proposal also seeks to amend Ordinance 4722 by making its boundary smaller by removing its undeveloped portion of land for placement within the boundary of the adjacent Planned Development area currently represented by Ordinance 4822, but not compromise Ordinance 4722's compliance with these policies. This proposal also seeks to amend Ordinance 4822 to include this referenced land area, and in other specific ways stated within this proposal, that will continue compliance with these policies. The additional findings provided below further support and demonstrate compliance with McMinnville Planned Development policies listed above in addition to the findings relied on by the City in the adoption of Ordinances 4722 and 4822.

In discussion with the McMinnville Planning Department, it has been made clear that the intent of Policies 72.00 and 74.00 is essentially to address the potential impact of the proposal on future residents of the development and the city relative to Oregon Planning Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources). In addressing these policies it is helpful to observe that the larger lots in this phased development plan are generally proposed to be located around much of the perimeter of the site to allow for reasonably sized building envelopes to be located on the upper portions of those lots and thereby preserve and retain the natural slope and existing tree cover that will make up the extended backyard areas of many of these lots. This intentional design to achieve slope preservation complements the proposed adjacent public dedication of the approximately 5.6 acres of open greenspace located beyond the toe of the slope that exists around the perimeter of much of this planned development. Additionally, the creation of the approximately 0.85-acre active private neighborhood park to be created by Premier Development and maintained by a Homeowners Association will preserve an additional number of the mature Oak trees that exist on the site. Of great environmental, neighborhood and community importance is the afore mentioned approximately 5.6 acres of public open space located along the southern edge of Baker Creek to be dedicated to the City by Premier Development, LLC. This large greenway open-space will be improved with a bark chip pedestrian walking trail, as recommended by the McMinnville Parks and Recreation Department, and will be accessed by three additional public pedestrian trail heads beginning at the edge of their adjacent public rights-of-way. Both of these different types of open space areas (the active private neighborhood park and the public greenway) are new to this development proposal and were not part of either of the two Planned Development/Subdivision proposals that were previously reviewed by and approved by the McMinnville City Council for this site. These open spaces will provide a unique natural environmental resource and a recreational benefit to the residents of this development. Creation of a Homeowner's Association to administer neighborhood covenants, codes and restrictions (CC&Rs) are recommended to be a condition of approval of this proposal.

In addition to the findings of the ordinances referenced above, Policy 73.00 is also satisfied by this proposal in that a wide range of lot sizes (4,950 square feet to 14,315 square feet in size) and configurations have been designed to provide a much greater choice of lot size and price point, and therefore a wider variation of housing size, design and cost, than found in most other approved neighborhoods in McMinnville. The chosen arrangement of these varying lot sizes in this proposal is intentional, partially based on topography and our desire to preserve natural site habitat features. Another driving reason for the proposed lot variation and arrangement of lots is our goal of arranging housing opportunities in a cohesive manner throughout the development that is both internally harmonious within the development site and is equally sensitive to and respectful of the sizes of nearby existing lots of the adjacent neighborhood. Exhibit 9 (Preliminary Subdivision Plat) is provided to assist with viewing the description of this lot arrangement in a spatial form. We have also prepared and provided Exhibit 10 (Oak Ridge Meadows Lot Sizes and Averages) to assist in identifying the square footage areas of individual lots to further demonstrate the proposal's sensitivity to existing adjacent lot sizes found within the abutting neighborhood as well as the topography and environmental features of the site. So while the more moderately sized and smaller lots tend to be more centrally located within the



development, this arrangement is far from exclusive and results in a complementary blending of similarly sized lots with nearby lots presently located in the adjacent Oak Ridge development.

Policies 75.00 and 76.00 are satisfied for reasons provided in Conclusionary Finding for Approval Number 4 above relative to the previously described range and location of both private and common open spaces.

Policies 77.00 and 78.00 are satisfied by this proposal in that the proposed street network complies with current adopted City public street standards and the requirements of the adopted McMinnville Transportation System Plan and will be constructed according to all applicable standards and requirements as amended by approval of this request in order to promote safe and efficient traffic flow for vehicles, pedestrians and bicyclists compatible with adjacent development as required by the City.

**FINDING: SATISFIED WITH CONDITIONS 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.** The proposed Planned Development Amendment is consistent with the Planned Development policies of the Comprehensive Plan. Policy 72.00 echoes language found in Oregon Planning Goal 5 regarding the analysis of economic, social, and environmental consequences that could result from a decision to allow a use conflicting with natural resources, scenic and historic areas, and open spaces. The policy encourages the use of Planned Developments when economic, social, and environmental savings accrue to the City. The proposed provision of improved open spaces (public and private) and the protection of natural resources on the site would meet the intention of this policy. Public and private parks within the planned development would provide social and recreation opportunities that would not otherwise exist but for the planned development process. Economic savings for the City would be realized through the arrangement for private maintenance of public open space until 2032. Environmental savings would be accrued through a number of elements of the Planned Development Amendment, including protection of a large area of delineated wetland, strengthened protections on significant trees, and requested zoning departures that would reduce development on areas of steep slopes. The use of lot size averaging would allow lot sizes ranging from 4,950 to 14,315 square feet and a variety of housing types appropriate to the varied lot sizes. The subject site contains many natural, topographic, and aesthetic features that the proposed planned development amendment would retain and protect. Requested zoning departures are designed to encourage development of the site that would be sensitive to existing slopes, significant trees, and wetlands that are found on the site. As discussed above, parks and recreation facilities are proposed in the Planned Development Amendment. A public open space greenway would be dedicated, yet maintained by the Homeowner's Association until 2032, when maintenance responsibilities would be transferred to the City. The private active neighborhood park and other common open space amenities, such as wetland viewing areas, that are proposed would be maintained by the Homeowner's Association in perpetuity. All the parks and recreation facilities are located to be readily accessible to all occupants of the planned area and community. Internal traffic systems would be built to City standards. The Department of Public Works provided commentary regarding challenges in providing universal access and maintenance access into the public open-space greenway. It appears that the slope of the public access between Lots 42 and 43 may be of a grade low enough to allow an accessible surface into the greenway for public accessibility and maintenance vehicles. The street network would to be compatible with existing and anticipated circulation patterns of adjoining properties with the condition of approval limiting the number of dwelling units allowed in the planned development until a second street connection provides access to the development and reduces traffic volume on NW Pinot Noir Drive.

*Residential Design Policies*

- 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, 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)*
- 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.*
- Policy 81.00 Residential designs which incorporate pedestrian and bikeway paths to connect with activity areas such as schools, commercial facilities, parks, and other residential areas, shall be encouraged.*
- Policy 82.00 The layout of streets in residential areas shall be designed in a manner that preserves the development potential of adjacent properties if such properties are recognized for development on the McMinnville Comprehensive Plan Map.*
- Policy 83.00 The City of McMinnville shall review the design of residential developments to insure site orientation that preserves the potential for future utilization of solar energy.*

**APPLICANT'S RESPONSE:** Policies 79.00, 80.00, 81.00, 82.00 and 83.00 are met by this proposal in that the overall residential density, while compliant with the underlying R-2 zoning requirements, is set by the existing Planned Development which governs the minimum density of the majority of this site (Ordinance 4822, Condition 2). Premier Development is not proposing to modify that condition of approval and has designed this current development to respect and implement that condition. Similarly, Condition 3 of Ordinance 4722 also sets the density minimum for the currently unbuilt, 4th phase of the Oak Ridge development. This proposed Oak Ridge Meadows phased development plan has been designed to comply with each of these area-related density minimums relative to both Ordinance 4722 and 4822 in addition to complying with the R-2 density minimum of the McMinnville Zoning Ordinance for the entire site. As part of this proposed development, the natural drainage and most of the wetland features are proposed to be preserved as previously described in this application and as shown on the attached exhibits; for additional graphic and design information related to site topography, natural features, site drainage, and related street profiles, please refer to Exhibits 7, 11, and 29 – 45 (Exhibit 32 is a Streets Sheet Key for the related Street Plan & Profile Exhibits that follow). In addition to preservation of natural drainage and other site and project elements addressed above, Policy 80.00 speaks of the preservation of isolated preservable trees. This is particularly relevant to this development proposal in that there is an Oak tree with an approximately 66-inch diameter trunk located along the south edge of Lot 54 in Phase II of the proposed subdivision. The center of the trunk of this large Oak tree sits approximately 1.15 feet south of the southernmost edge of Premier Development's property and some 364-feet east of the subject site's southwestern corner. Premier Development endeavors and proposes to protect and maintain the health of this Oak tree during all phases of development including during the construction of this lot's future home. However, as the majority of this tree is not located on Premier Development's property, Premier Development does not maintain complete control of this situation. Regarding tree protection on the Oak Ridge Meadows site, Condition of Approval 4 of Ordinance 4822 addresses existing trees greater than 9 inches DBH.

Specifically:

“That existing trees greater than nine inches DBH (diameter at breast height) shall not be removed without prior review and written approval by the Planning Director. In addition, all trees shall be protected during home construction. A plan for such protection must be submitted with the building permit application and must meet with the approval of the Planning Director prior to release of construction or building permits within the subject site.”

To address the desire to protect this above referenced large Oak tree, Premier Development proposes that Condition of Approval 4 of Ordinance 4822 be modified by the City in such a way to provide for the sufficient protection of this “shared” tree throughout the infrastructure and platting phase of this development and through initial home construction on this lot as far as practicable.

Additionally, Premier Development requests that approval of the two-phased subdivision proposal be conditioned to require that an arborist’s inventory and report be provided to the Planning Director for review and approval prior to the removal of any tree greater than nine inches DBH located in those areas of the site which may be impacted by the construction of streets, utilities, and future residences. It is proposed that such inventory and report be provided prior to the issuance of permits for the construction of the Oak Ridge Meadows subdivision. -- A copy of the 1999 arborist’s report for Oak Ridge is attached to this proposal for reference (Exhibit 46) as it provides a tree inventory for the portion of the subject site generally characterized as the fourth phase of the Oak Ridge development. However, as this report is now 20 years old, Premier is recommending that this area representing the fourth phase of the Oak Ridge subdivision be included as part of the new arborist’s analysis area.

In addition to findings provided supportive of the adoption of Ordinances 4722 and 4822, the following additional findings are also provided relative to Policies 81.00 and 82.00. The submitted street layout proposes to connect with the existing surrounding street network and provide for the ability to access other adjacent undeveloped land to serve future potential development proposals (Exhibit 6). This is accomplished by the proposed street layout in two ways.

First, by the construction of NW Pinehurst Drive to the eastern extent of the site and then to be temporarily terminated with a street barricade and appropriate signage as directed and required by the McMinnville Engineering Department. This temporary terminus would then allow for the future extension of SW Pinehurst Drive to serve and connect to property to the east. Second, by the construction of NW Pinehurst Drive to the southwestern-most extent of the site (between proposed lots 55 and 56 of Phase 2). This temporary terminus would then allow for the future extension of SW Pinehurst Drive to serve and connect to property to the south. Additionally, a temporary emergency-only compacted gravel access easement is being proposed on adjacent land to meet Fire Department requirements as an interim measure to provide secondary emergency-only access to this site until such time that a full public street improvement across that adjacent land replaces this access’s temporary construction. This easement is relevant to the Findings presented here for these policies and is further addressed below at Findings 132.32.00 and 155.00 and such is also herein incorporated in this current Finding.

Dedication and construction of this local street network will provide required mobility opportunities for automobiles, as well as for pedestrians and bicyclists (particularly through the provision of public sidewalks built to public standards and through the provision of both private and public pathways leading to and through the open spaces provided as part of this

development proposal) in addition to providing public connection opportunities to undeveloped areas to the west and to the east.

The City's transportation design and construction standards and requirements have been adopted to satisfy and implement this and other related Comprehensive Plan policies addressed in these findings, and to preserve and enhance livability in McMinnville. Through this proposal's compliance and implementation of these applicable policies, standards and requirements and those applicable portions of the City's adopted Transportation System Plan as addressed by this proposal and these findings of fact, this Policy is satisfied.

**FINDING: SATISFIED WITH CONDITIONS 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.** The City concurs with the applicant's findings, but notes that a condition of approval would establish the average lot size to be approximately 7,770 square feet, instead of the current planned development requirement of an average lot size of 7,500 square feet, which has been interpreted to mean an average lot size that is a minimum of 7,500 square feet. The proposed development responds to density requirements of the underlying R-2 zone and existing planned development, as well as topographical features of the property with lots that average approximately 7,770 square feet in area.

### *Urban Policies*

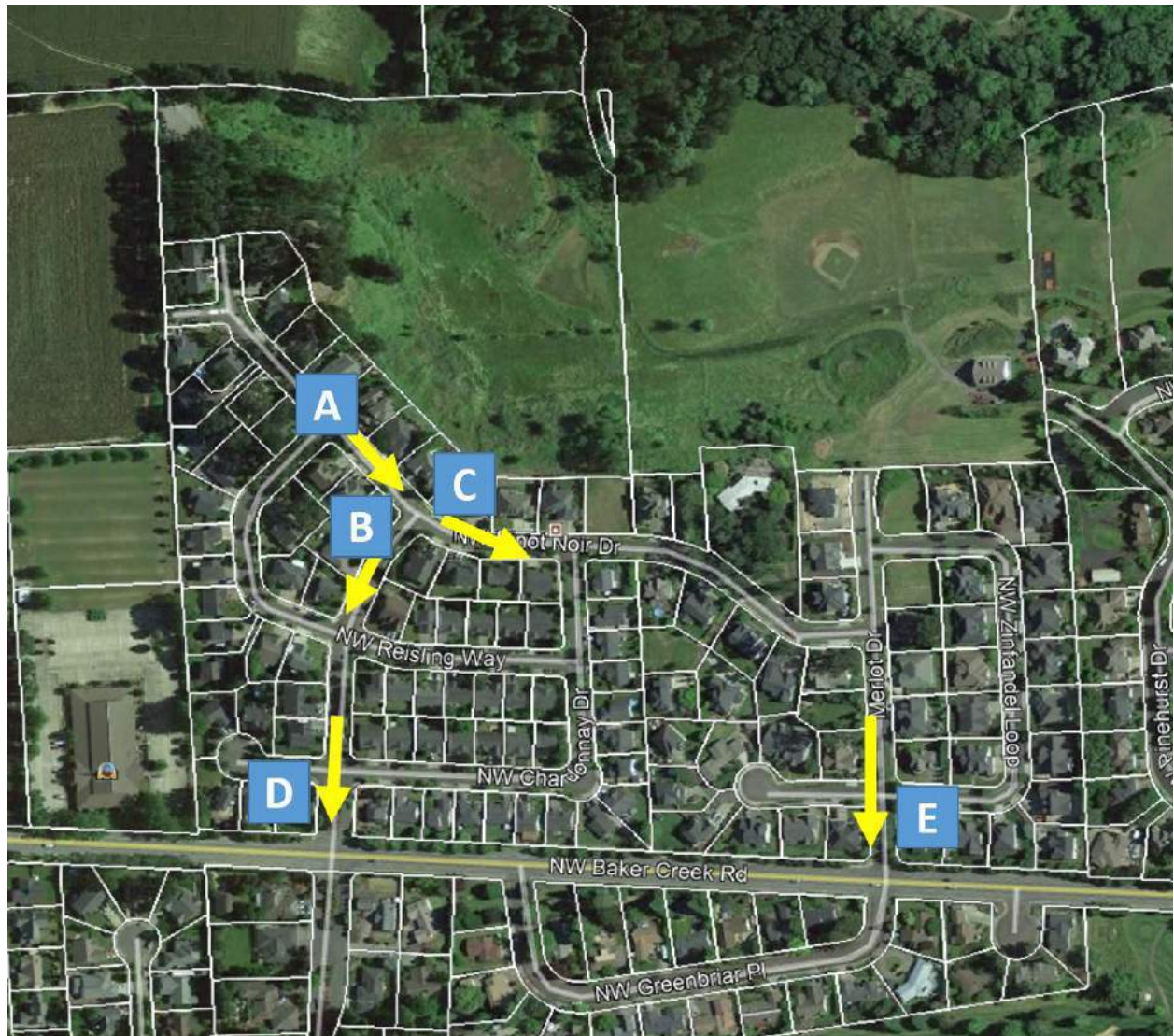
*Policy 99.00 An adequate level of urban services shall be provided prior to or concurrent with all proposed residential development, as specified in the acknowledged Public Facilities Plan. Services shall include, but not be limited to:*

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

**APPLICANT'S RESPONSE:** As provided on the submitted Overall Utility Plan (Exhibit 7), the Detention Pond Grading Plan (Exhibit 29) and as represented in the Toth Sanitary Sewer Easement (Exhibit 25), Policy 99.00 (1-5) is met by this proposal as adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and proposed street systems (additional street system detail provided elsewhere within these collective findings) within the development either presently serve or can be made available to adequately serve the site. Additional overall site grading information is also provided on Exhibits 30 and 31. The Water Reclamation Facility has the capacity to sufficiently accommodate flow resulting from development of this site.

**FINDING: SATISFIED WITH CONDITION #15.** The City concurs with the applicant's findings, and adds that the proposed street access for the proposed development is adequate based on the Traffic Impact Analysis provided. The Traffic Impact Analysis (TIA) provides analysis, and includes a project impact summary with conclusions on page 12, which demonstrate this criterion is satisfied with conditions. With a condition to limit the total number of dwelling units

to 108 before the opening of Shadden Drive, this criterion is satisfied. The intersection diagram and tables below show the traffic volumes at the different intersections. The findings from the TIA are summarized below.



**Average Daily Weekday Traffic - Before Opening Shadden Connection**

| Location                          | ADT (inbound and outbound) |       |          | PM Peak Estimate |     |                   |
|-----------------------------------|----------------------------|-------|----------|------------------|-----|-------------------|
|                                   | Existing                   | New   | Combined | Existing         | New | Combined (in/out) |
| A (Existing + 100% of new)        | 180                        | 1,020 | 1,200    | 18               | 107 | 125 (76/44)       |
| B (70% of exist., and 70% of new) | 126                        | 714   | 840      | 13               | 75  | 88 (55/33)        |
| C (30% exist., and 30% of new)    | 54                         | 306   | 360      | 5                | 32  | 37 (23/14)        |
| D                                 | 440                        | 714   | 1,154    | 44               | 75  | 119 (75/44)       |
| E                                 | 320                        | 306   | 626      | 32               | 32  | 64 (40/24)        |
| F (Shadden)                       | 0                          | 0     | 0        | 0                | 0   | 0                 |

**Average Daily Weekday Traffic - After Opening Shadden Connection**

| Location                          | ADT (inbound and outbound) |     |          | PM Peak Estimate |     |                   |
|-----------------------------------|----------------------------|-----|----------|------------------|-----|-------------------|
|                                   | Existing                   | New | Combined | Existing         | New | Combined (in/out) |
| A (existing, and 20% of new)      | 180                        | 204 | 384      | 18               | 21  | 38 (24/14)        |
| B (70% of exist., and 14% of new) | 126                        | 143 | 269      | 13               | 14  | 27 (17/10)        |
| C (30% of exist., and 6% of new)  | 54                         | 61  | 115      | 5                | 6   | 12 (8/4)          |
| D                                 | 440                        | 143 | 583      | 44               | 14  | 58 (37/21)        |
| E                                 | 320                        | 61  | 381      | 32               | 6   | 38 (24/14)        |
| F (Shadden - 80% of new)          | 0                          | 816 | 816      | 0                | 81  | 81 (51/30)        |

Chapter 3 of the Traffic Impact Analysis evaluates traffic impacts using the following measures.

- Volume to Capacity Ratio (v/C ratio)
- Level of Service (LOS)
- Neighborhood Livability Evaluation

The analysis evaluates traffic impacts before and after the opening of Shadden Drive.

**Volume to Capacity Ratio (V/C Ratio) and Level of Service (LOS)**

- For v/c ratio, the City’s operating standard is a v/c ratio of <0.9.
- For LOS, the City does not have an operating standard. The LOS categories A through F are described in Chapter 2 of the TIA. LOS A through C indicate conditions where traffic moves without significant delay over periods of peak hour travel demand.
- Table 5 addresses v/c ratio and LOS before the opening of Shadden Drive. The v/c ratios are substantially below the 0.9 v/c ratio for the two study intersections for both am and pm peak hour. Neither exceeds a v/c ratio of 0.31. The LOS is “C” for the two study intersections for both am and pm peak hour.
- Table 6 addresses v/c ratio and LOS after the opening of Shadden Drive. The v/c ratios are substantially below the 0.9 v/c ratio for the two study intersections for both am and pm peak hour. Neither exceeds a v/c ratio of 0.17. The LOS at NW Oak Ridge Dr/NW Baker Creek Rd is “C” for both am and pm peak hour. The LOS at Merlot Drive/NW Baker Creek Rd is “C” for the am peak hour and “B” for the PM peak hour.

**Neighborhood Livability Evaluation**

The evaluation was based on the City’s design capacity of 1,200 vehicles per day for local residential streets. During the interim condition, there would be one location that would experience 1,200 ADT during the interim condition upon full build-out of the subdivision prior to the opening of Shadden Drive. The 1,200 trips are distributed to two streets immediately south of that intersection.

**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.

*Streets*

*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.*

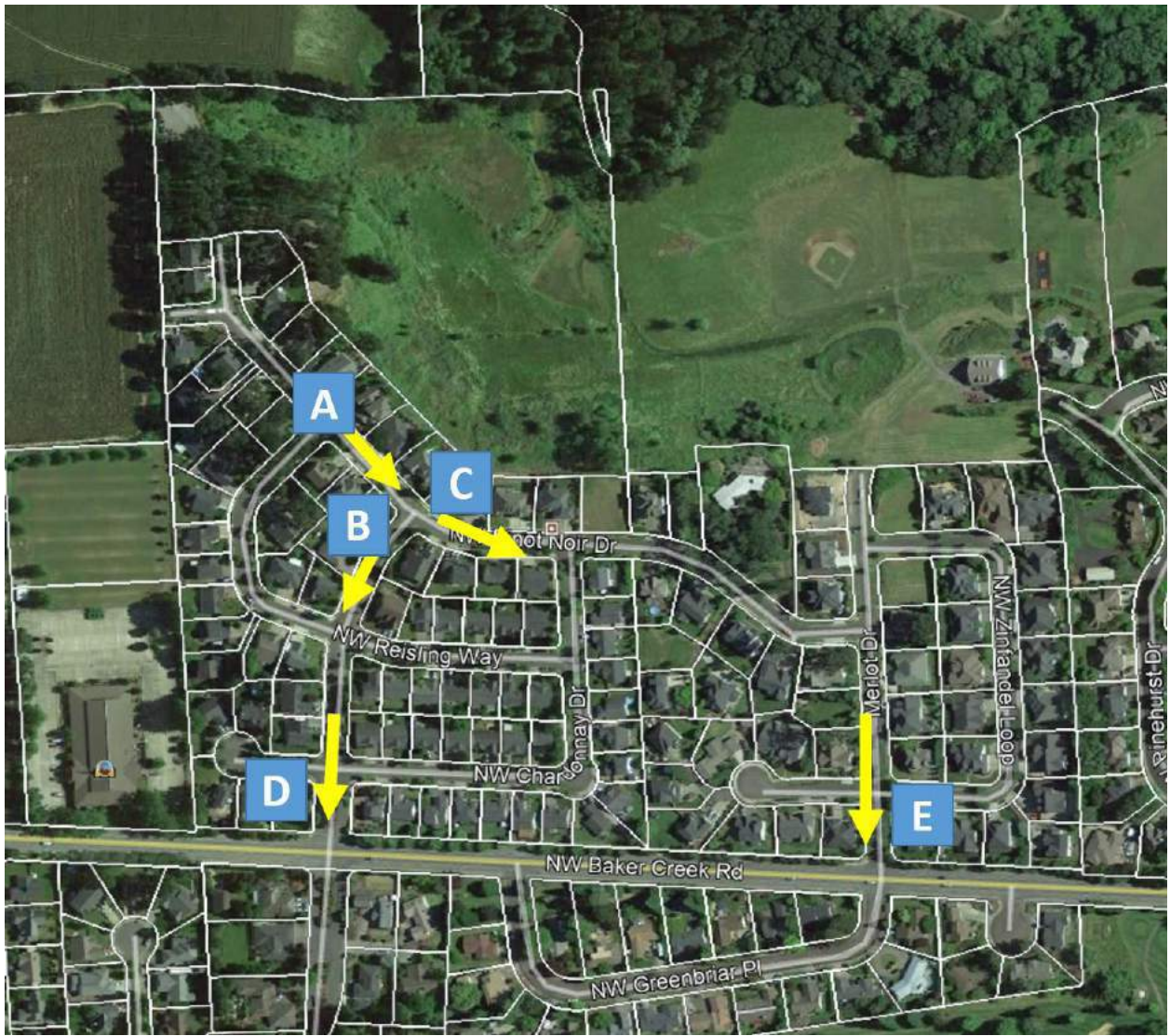
8. *Emphasis placed on existing and future needs of the area to be serviced. The function of the street and expected traffic volumes are important factors.*
9. *Consideration given to Complete Streets, in consideration of all modes of transportation (public transit, private vehicle, bike, and foot paths). (Ord.4922, February 23, 2010)*

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

**APPLICANT'S RESPONSE:** Goal VI 1 and Policies 117.00, 118.00 (1-5) and 119.00 are satisfied by this proposal in that each of the proposed lots will abut public streets developed to City standards with adequate capacity to safely accommodate the expected trip generation resulting from this development. Local residential streets proposed within the development will connect at intersections and provide street stubs to adjacent land where appropriate. One cul-de-sac street is proposed due to the presence of adjacent wetlands and the configuration of the site in that location. The proposed street design will have minimal adverse effects on, and promotes advantageous utilization of, natural features of the land. In particular, the site's steep slopes are being avoided for purposes of right-of-way dedication and development, a large area of the site is identified as wetland and protected as depicted in Exhibits 6 and 8, and other lowlands are being utilized to create a public open space along the Baker Creek greenway. Much of the natural tree cover on the site will be retained and will generally exist as downslope backyard areas for some of the future residences. While wetland mitigation is anticipated to account for the construction of certain lower elevation portions of NW Pinehurst Drive, the proposed Fire Truck turn-around near the eastern end of NW Pinehurst Drive, and encroachment on some of the lower-lying proposed residential lots, this mitigation is the minimal amount possible in order to preserve the wetland features of the land as much as possible while still allowing economic use of the land to help meet McMinnville's identified housing needs.

**FINDING: SATISFIED WITH CONDITION #15.** The City concurs with the applicant's findings, and adds that the proposed street access for the proposed development is adequate based on the Traffic Impact Analysis provided. The Traffic Impact Analysis (TIA) provides analysis, and includes a project impact summary with conclusions on page 12, which demonstrate this criterion is satisfied with conditions. With a condition to limit the total number of dwelling units to 108 before the opening of Shadden Drive, this criterion is satisfied. The intersection diagram and tables below show the traffic volumes at the different intersections. The findings from the TIA are summarized below.





**Average Daily Weekday Traffic - Before Opening Shadden Connection**

| Location                          | ADT (inbound and outbound) |       |          | PM Peak Estimate |     |                   |
|-----------------------------------|----------------------------|-------|----------|------------------|-----|-------------------|
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| C (30% of exist., and 30% of new) | 54                         | 306   | 360      | 5                | 32  | 37 (23/14)        |
| D                                 | 440                        | 714   | 1,154    | 44               | 75  | 119 (75/44)       |
| E                                 | 320                        | 306   | 626      | 32               | 32  | 64 (40/24)        |
| F (Shadden)                       | 0                          | 0     | 0        | 0                | 0   | 0                 |

**Average Daily Weekday Traffic - After Opening Shadden Connection**

| Location                          | ADT (inbound and outbound) |     |          | PM Peak Estimate |     |                   |
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Chapter 3 of the Traffic Impact Analysis evaluates traffic impacts using the following measures.

- Volume to Capacity Ratio (v/C ratio)
- Level of Service (LOS)
- Neighborhood Livability Evaluation

The analysis evaluates traffic impacts before and after the opening of Shadden Drive.

**Volume to Capacity Ratio (V/C Ratio) and Level of Service (LOS)**

- For v/c ratio, the City’s operating standard is a v/c ratio of <0.9.
- For LOS, the City does not have an operating standard. The LOS categories A through F are described in Chapter 2 of the TIA. LOS A through C indicate conditions where traffic moves without significant delay over periods of peak hour travel demand.
- Table 5 addresses v/c ratio and LOS before the opening of Shadden Drive. The v/c ratios are substantially below the 0.9 v/c ratio for the two study intersections for both am and pm peak hour. Neither exceeds a v/c ratio of 0.31. The LOS is “C” for the two study intersections for both am and pm peak hour.
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**Neighborhood Livability Evaluation**

The evaluation was based on the City’s design capacity of 1,200 vehicles per day for local residential streets. During the interim condition, there would be one location that would experience 1,200 ADT during the interim condition upon full build-out of the subdivision prior to the opening of Shadden Drive. The 1,200 trips are distributed to two streets immediately south of that intersection.

*Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications.*

*3. Local Streets*

- Designs should minimize through-traffic and serve local areas only.*
- Street widths should be appropriate for the existing and future needs of the area.*
- Off-street parking should be encouraged wherever possible.*
- Landscaping should be encouraged along public rights-of-way.*

**APPLICANT’S RESPONSE:** Policy 122.00 is satisfied by this proposal in that the proposed street design is comprised of local residential streets that will serve the local area only. The street widths (a 28-foot wide paved section within a 50-foot wide right-ofway) is appropriate for both the existing and future needs of this development site and adjacent residential development. Off-street parking shall be provided at 200% the requirement found in the McMinnville Zoning Ordinance as described further below in these findings. Landscaping shall also be provided as approved by the Landscape Review Committee’s forthcoming approval of a tree planting plan along both sides of all proposed rights-of-way.

**FINDING: SATISFIED.** The City concurs with the applicant’s findings.

## *Parking*

*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 rights-of-way as transportation routes.*

**APPLICANT'S RESPONSE:** Policies 126.00 and 127.00 are satisfied by this proposal in that offstreet parking will be required for all single-family residences as specified by the McMinnville Zoning Ordinance. Such off-street parking (a minimum of two onsite parking spaces for each residence as per 17.60.060(A)(5) of the McMinnville zoning ordinance) shall be required of each single-family residence as a condition of building permit approval. It is also Premier Development's intent to provide four paved off-street parking spaces for each residence which is at a level that is 200% of what is required by the McMinnville Zoning Ordinance.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

## *Bike Paths*

*Policy 130.00 The City of McMinnville shall encourage implementation of the Bicycle System Plan that connects residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities. (Ord.4922, February 23, 2010)*

*Policy 131.00 The City of McMinnville shall encourage development of bicycle and footpaths in scenic and recreational areas as part of future parks and activities.*

*Policy 132.00 The City of McMinnville shall encourage development of subdivision designs that include bike and foot paths that interconnect neighborhoods and lead to schools, parks, and other activity areas. (Ord. 4922, February 23, 2010; Ord. 4260, August 2, 1983)*

*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.*

**APPLICANT'S RESPONSE:** Policies 130.00, 131.00, 132.00 and 132.15 are satisfied by this proposal in that the public sidewalks that will be constructed as part of the required street improvements will provide pedestrian connections within and beyond this subdivision.

A meandering pedestrian pathway will also provide pedestrian access traversing the proposed active private neighborhood park that will connect NW Pinot Noir Drive with the lower elevation of NW Pinehurst Drive for the enjoyment of residents and enhanced pedestrian mobility within the neighborhood. This pathway will also provide an alternative opportunity to gain access to the NW Pinehurst Drive entry point of the open space greenway trail that will encircle most of the perimeter of the Oak Ridge Meadows development. Two other additional public access pathways to this greenway will also be provided; one to be provided along the south side of Lot 56 and the other to be located between Lots 75 and 76. This greenway path will also provide a future opportunity to extend and continue through adjacent residential land to the west when that land develops.

Public streets designed to implement the requirements of the Bicycle System Plan (Chapter 6) of the McMinnville Transportation System Plan (TSP) provide for enhanced bicycle connection

of residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities. These design elements of the Bicycle System Plan are specifically applicable to collector and arterial streets and, as identified in Exhibit 2-4 of the TSP (Complete Street Design Standards) not part of the street design standards of either Neighborhood Connectors or Local Residential streets. Exhibit 2-4 (provided below and also available on the City of McMinnville website) of the McMinnville TSP also states that bike facilities are noted as being Shared Lanes for Neighborhood Connector and Local Residential streets; all of the streets designed and proposed as part of this development plan are identified as Local Residential streets and will accommodate bike facilities in the form of Shared Lanes. By designing and constructing the proposed local residential streets to the applicable requirements of the TSP's Complete Streets Design Standards, and as evidenced by the Findings presented above, these Policies have been met.

Exhibit 2-4 Complete Streets Design Guideline

|             |   | Complete Street Design Standards        |                              |                                    |                            |  |                             |                  |                  |                  |
|-------------|---|---|------------------------------|------------------------------------|----------------------------|--|-----------------------------|------------------|------------------|------------------|
|             |   | Arterial                                |                              | Collector                          |                            | Neighborhood Connector                       | Local Residential           | Alley            |                  |                  |
| Streetscape | Street Profile  |   | Major                        | Minor                              | Major                      | Minor  |                             |                  |                  |                  |
|             |   |   |                              | Auto/Truck Amenities (lane widths) | 2-4 lanes (12 ft.)         | 2 lanes (11 ft.)                             | 2 lanes (11 ft.)            | 2 lanes (10 ft.) | See Street Width | See Street Width |
|             |   | Median / Center Turn Lane               | 14 ft.                       | 12 ft.                             | 12 ft.                     | 10 ft.                                       | None                        | None             | None             |                  |
|             | Bike  | Bike Facility                           | 2 Lanes (6 ft.)              | 2 Lanes (6 ft.)                    | 2 Lanes (5 ft.)            | 2 Lanes (5 ft.) or Shared Lane               | Shared Lane                 | Shared Lane      | None             |                  |
|             |   |   | Curb-to-curb Street Width    |                                    |                            |  |                             |                  |                  |                  |
|             |   | On Street Parking                       |                              |                                    |                            |  |                             |                  |                  |                  |
|             |   | Two Sides                               | na                           | na                                 | na                         | 30 or 40 ft.                                 | 28 ft.                      | 28 ft.           | Not Apply        |                  |
|             |   | None                                    | 74 ft.                       | 46 ft.                             | 44 ft.                     | 30 or 40 ft.                                 |                             |                  |                  |                  |
|             | Pedestrian Zone<br><small>(with 8' curb and 5' minimum)</small> | Pedestrian Amenities                    |                              |                                    |                            |  |                             |                  |                  |                  |
|             |   |   | Sidewalks (both sides)       | 8 ft. Com                          | 5 ft. Res<br>10-12 ft. Com | 5 ft. Res<br>10-12 ft. Com                   | 5 ft. Res<br>10-12 ft. Com  | 5 ft.            | 5 ft.            | None             |
|             |   |   | Planter Strips               |                                    | 6 ft. Res<br>na. Com       | 6 ft. Res<br>na. Com                         | 6 ft. Res<br>na. Com        | 5 ft. Res        | 5 ft. Res        | None             |
|             |   | Preferred Adjacent Land Use - Intensity | High                         | Medium to High                     | Medium                     | Medium                                       | Medium to Low               | Low              | Low              |                  |
|             |   | Maximum Average Daily Traffic           | 32,000                       | 20,000                             | 16,000                     | 10,000                                       | 1,200 - 3,000               | 1,200            | 500              |                  |
|             | Traffic Management  | Traffic Calming                         | Not Typical                  | Not Typical                        | Not Typical                | Permissible/<br>Not Typical                  | Permissible/<br>Not Typical | Typical          | Not Typical      |                  |
|             |   |   | Managed Speed                | 35 mph                             | 30-35 mph                  | 25-30 mph                                    | 25 mph                      | 25 mph           | 15-25 mph        | 10 mph           |
|             |   |   | Through-traffic Connectivity | Primary                            | Typical                    | Typical                                      | Typical                     | Not Typical      | Not Permissible  | Not Permissible  |
|             |   |   | Access Control               | Yes                                | Yes                        | Some   | Some                        | No               | No               | No               |
|             |   |   | Maximum Grade                | 6%                                 | 6%                         | 10%  | 10%                         | 12%              | 12%              | 12%              |
|             |   | Right-of-Way:                           | 104 ft.                      | 96 ft.                             | 74 ft.                     | 56 ft. (see bike lane)<br>66 ft. (bike lane) | 50 ft.                      | 50 ft.           | 20 ft.           |                  |

**General Design Notes:**

- Lane widths shown are the preferred construction standards that apply to existing streets adjacent areas of new development, and to newly constructed streets. For arterial and collector streets within industrial zones, lane widths shall be 12 feet.
- An absolute maximum bike lane width for safety reasons is 5 ft. on arterial and 4 ft. on collector streets, which is expected to occur only in locations where existing development along an established route or other severe physical constraints preclude construction of the preferred facility width.
- Street design for each development shall provide for emergency and fire vehicle access.
- Sidewalks 10-12 feet in width are required in commercial areas to accommodate the Pedestrian zone. Street trees are to be placed in tree wells. Placement of street trees and furniture and treatment access are to meet ADA requirements for pedestrian access.
- Speeds in the central business district may be 20-25 mph. Traffic calming techniques, signal timing, and other efforts will be used to keep traffic within the desired managed speed ranges for each Functional Class. Design of a corridor's vertical and horizontal alignment will focus on providing an additional degree of safety for the managed speed.
- Streets with on-street parking.

**Street Design Standard Notes:**

- Exclusive of side slope easement which may be required in addition for cuts and fills in rough terrain.
- The right-of-way and street width may be varied after consideration of the unique characteristics of the land including geography, topography, unique vegetation, and its relation to land developments already present or proposed in the area.
- The right-of-way, street width, improvement standards, and functional radius of commercial/industrial/office and streets shall be dependent upon the type of public traffic to be served.
- On-street parking shall be provided in all streets, except for streets with a functional radius of 100 feet or less. On-street parking shall be provided in all streets with a functional radius of 100 feet or less, except for streets with a functional radius of 100 feet or less. On-street parking shall be provided in all streets with a functional radius of 100 feet or less, except for streets with a functional radius of 100 feet or less.
- Sidewalks and planter strips shall not be required along alleys.
- For cut-dee-cuts greater than 100 feet in length, fire hydrants may be required to be installed at the end of the block and appropriately spaced along the flange of the cut-dee-cut as determined by the McMinnville Fire Department.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

*Connectivity and Circulation*

*Policy 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)*

**APPLICANT'S RESPONSE:** Policy 132.26.05 is satisfied by this proposal in that the new street connections and associated pedestrian and bicycle features provided in this proposal and its exhibits are consistent with the applicable local street connectivity elements outlined in the McMinnville Transportation System Plan (TSP) and administered by the City.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

*Supportive of General Land Use Plan Designations and Development Patterns*

*Policy 132.27.00 The provision of transportation facilities and services shall reflect and support the land use designations and development patterns identified in the McMinnville Comprehensive Plan. The design and implementation of transportation facilities and services shall be based on serving current and future travel demand—both short-term and long-term planned uses. (Ord. 4922, February 23, 2010)*

**APPLICANT’S RESPONSE:** Policy 132.27.00 is satisfied by this proposal in that the proposed street design reflects and supports the Residential land use designation of the site as identified on the McMinnville Comprehensive Plan Map and urban development patterns within the surrounding area identified by elements of the Comprehensive Plan identified and addressed within this application. The proposed transportation facilities and services are appropriate to serve the needs of the proposed development and are supportive of adjacent neighborhoods as determined by the City’s adopted standards identified in this application, findings and exhibits.

**FINDING: SATISFIED.** The City concurs with the applicant’s findings.

*Public Safety*

*Policy 132.32.00 The safe, rapid movement of fire, medical, and police vehicles shall be an integral part of the design and operation of the McMinnville transportation system. (Ord. 4922, February 23, 2010)*

**APPLICANT’S RESPONSE:** Policy 132.32.00 is satisfied by this proposal in two ways as addressed above in these findings. First, by the construction of NW Pinehurst Drive to the eastern extent of the site and then temporarily terminated with a street barricade and appropriate signage as directed and required by the McMinnville Engineering Department. A temporary turn-around found to be acceptable to the McMinnville Engineering and Planning Departments and the McMinnville Fire Department, would be provided near this terminus and along the north side of NW Pinehurst Drive (Exhibits 6, 9 and 47 in particular). This temporary terminus would then allow for the future extension of SW Pinehurst Drive to serve and connect to property to the east. Second, by the construction of NW Pinehurst Drive to the southwestern-most extent of the site (between proposed lots 55 and 56 of Phase 2). This temporary terminus would then allow for the future extension of SW Pinehurst Drive to serve and connect to property to the south.

Due to this site currently being served by only one public street, an additional access is required by Fire Department standards to support the development process as described below. The McMinnville Fire Code Applications Guide states, in part:

Multiple Access Roads: Developments of one and two family dwellings where the number of dwelling units exceeds 30, [...] shall be provided with not less than two approved means of access. Exceptions may be allowed for approved automatic sprinkler systems.

Premier Development proposes to comply with the McMinnville Fire Department’s application of this standard and provide approved automatic sprinkler systems in residences in Phase 1 sufficient to remain in compliance with this standard.

Additionally, as there is only one public street connection currently in place to serve the two-phased Oak Ridge Meadows subdivision, a temporary emergency only access will be required in order to exceed the 30 unsprinkled home limitation described above. This emergency access, which will be placed in an easement, will be graded and finished with compacted rock to applicable standards and extend northward from the intersection of NW Shadden Drive and NW Baker Creek Road, across land currently owned by Stafford Land Company, to the southern

edge of the Oak Ridge Meadows site at a point between proposed Lots 55 and 56 (Exhibit 26). [It is possible that this temporary emergency-only access may be shorter in length under a scenario described by Gordon Root of Stafford Land Company in an email where Stafford Land Company agrees to the granting of this temporary easement (Exhibit 27).] This temporary emergency-only accessway would then proceed northward on Premier Development's site along the proposed Phase 2 alignment of NW Pinehurst Drive to its intersection with "A" Street and then proceed generally eastward along the proposed "A" Street alignment to an alignment even with the proposed western edge of Lot 25 which is to be the westernmost lot along "A" Street in Phase I of the Oak Ridge Meadows subdivision. Fire Department approved gates would be located at both ends of this compacted gravel emergency-only accessway as directed by the McMinnville Fire Department. The McMinnville Fire Department has stated that, if such gates needed to be locked, they would be so with Fire Department approved locks. At such time that this adjacent land is to develop, this easement would then be revoked and public right-of-way be dedicated and improved to City standards providing a permanent second public street connection to the Oak Ridge Meadows development. This easement is relevant to the Findings presented here for this policy and its description and relevance is also hereby, with this reference, incorporated in the Finding for Policy 155.00.

**FINDING: SATISFIED WITH CONDITION 14.** The City concurs with the applicant's findings, and a condition of approval is included to require a temporary, emergency only access as proposed.

#### *Livability*

*Policy 132.35.00 Transportation facilities in the McMinnville planning area shall be, to the degree possible, designed and constructed to mitigate noise, energy consumption, and neighborhood disruption, and to encourage the use of public transit, bikeways, sidewalks, and walkways. (Ord. 4922, February 23, 2010)*

**APPLICANT'S RESPONSE:** Policy 132.35.00 is satisfied by this proposal in that the City's transportation design and construction standards and requirements have been adopted to satisfy and implement this and other related Comprehensive Plan policies and to preserve and enhance livability in McMinnville. Through this proposal's compliance and implementation of these standards and requirements and those applicable portions of the City's adopted Transportation System Plan as addressed by this proposal and these findings of fact, this Policy is satisfied.

**FINDING: SATISFIED WITH CONDITION 15.** A Traffic Impact Analysis (TIA) for the proposed development provided a Neighborhood Livability Evaluation. The TIA states:

"The livability of a street is generally determined by key factors such as vehicle speeds and volumes as related to pedestrian safety, bicycle safety and other vehicle movements along a neighborhood street. The City of McMinnville has not adopted or proposed a livability standard to measure the livability of local streets through neighborhoods, but the City has adopted a design capacity of 1,200 vehicles per day (vpd) on local neighborhood streets. In addition, other cities around the country have used Neighborhood Traffic Management Plans that trigger mitigation efforts when the average daily traffic (ADT) exceeds 1,000 vpd. While there is no specific volume threshold to indicate when the livability of the neighborhood has been reduced, these design standards provide a reasonable threshold."

The analysis indicates the addition of 108 proposed single-family lots in a subdivision with initially only one improved street access would push the volume of traffic on the immediately

adjacent local residential street (NW Pinot Noir Drive, northwest of Oak Ridge Drive) to its maximum threshold (1,200 vpd) it was designed to carry. The TIA shows that until a second, permanent improved street connection provides access to the proposed subdivision, the traffic generated by 108 single-family dwelling units would increase the vpd on the northwest portion of NW Pinot Noir Drive to its 1,200 vehicle limit. The TIA uses 108 single-family dwelling units (one dwelling unit per lot) as a basis for its average daily trip generation. However, two-family dwellings and accessory dwelling units are also permitted uses in the underlying R-2 zone. Should a lot(s) be developed with a two-family dwelling or an ADU, the increased daily trips from that additional dwelling units would push the volume of traffic carried by NW Pinot Noir Drive over its design limit of 1,200 vpd. Therefore, a condition of approval is included to limit development of the proposed subdivision to 108 dwelling units, in any combination of dwelling units allowed in the underlying zone, until such time that a second permanent improved street connection provides access to the proposed subdivision.

### *Circulation*

*Policy 132.41.00 Residential Street Network – A safe and convenient network of residential streets should serve neighborhoods. When assessing the adequacy of local traffic circulation, the following considerations are of high priority:*

- 1. Pedestrian circulation;*
- 2. Enhancement of emergency vehicle access;*
- 3. Reduction of emergency vehicle response times;*
- 4. Reduction of speeds in neighborhoods; and*
- 5. Mitigation of other neighborhood concerns such as safety, noise, and aesthetics.  
(Ord. 4922, February 23, 2010)*

*Policy 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)*

*Policy 132.41.20 Modal Balance – The improvement of roadway circulation must not impair the safe and efficient movement of pedestrians and bicycle traffic. (Ord. 4922, February 23, 2010)*

*Policy 132.41.25 Consolidate Access – Efforts should be made to consolidate access points to properties along major arterial, minor arterial, and collector roadways. (Ord. 4922, February 23, 2010)*

*Policy 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)*

**APPLICANT'S RESPONSE:** Policies 132.41.00(1-5), 132.41.05, 132.41.20, 132.41.25 and 132.41.30 are satisfied by this request in that the proposed street pattern provides a safe, interconnected and efficient network of residential accessibility to serve the proposed and adjacent existing residential neighborhoods. The one cul-de-sac street in this plan is proposed in response to the noted existence of an adjacent wetland and the unique shape this portion of the site where provision of a through-street is not possible. There are no arterial or collector



streets within or adjacent to this development site. The proposed street system is designed to promote a balance of safe and efficient movement of vehicles, pedestrians and bicycles as required by the McMinnville TSP and is augmented for pedestrians through the provision of additional walking paths within and surrounding the proposed development. Vehicular access to the adjacent street system promotes safe street connectivity to the surrounding transportation network.

A Transportation Impact Study for this Oak Ridge Meadows proposal has been completed by the transportation planning and transportation engineering firm DKS and is attached to this proposal (Exhibit 28). In sum, this Study concludes that the proposed development is anticipated to result in the following impacts:

- The development will consist of 108-unit single family homes. The ultimate buildout of the site includes a connection to NW Baker Creek Road via an extension of NW Shadden Drive. In the interim, the development will be accessed via NW Pinot Noir Drive, NW Oak Ridge Drive, and Merlot Drive.
- The development is expected to generate 80 (20 in, 60 out) AM peak hour trips, 107 (67 in, 40 out) PM peak hour trips, and 1,020 daily trips.
- Intersection operations during the Interim Build and Full Build of Oak Ridge Meadows will continue to operate well under-capacity and will meet City of McMinnville operating standards. The addition of Oak Ridge Meadows traffic will not have a significant impact on the operations or delay experienced at the intersections of NW Baker Creek Road/NW Oak Ridge Drive and NW Baker Creek Road/Merlot Drive.
- An evaluation of the livability of neighborhood streets, as defined by the volume of traffic the streets were designed to handle (1,200 vpd), confirmed that the Oak Ridge Meadows development is not expected to have an adverse impact on the existing neighborhood streets.

Please refer to the Oak Ridge Meadows Transportation Impact Study (Exhibit 28) for additional detail.

The need for a temporary emergency-only access to support this proposal was addressed above relative to Policy 132.32.00 and is addressed below relative to Policy 155.00. This temporary emergency only access roadway will also aid in reducing emergency vehicle response times as it can provide a more direct route to some portions of Phase I until such time that it is replaced with a dedicated fully improved local public street across adjacent land. Additionally, travel speeds within this site are based on an adopted street classification scheme identified in the adopted McMinnville TSP. All streets in the proposed development are designed as local streets and, as such, are limited to a legal vehicular travel speed of 25 miles per hour as are the local streets in the adjacent residential neighborhoods. This residential vehicle speed limitation and the adopted local street design standards have been successful in McMinnville in mitigating neighborhood issues related to noise, pedestrian and bicycle movement, and aesthetics as evidenced in the adjacent residential neighborhoods; the closest being the adjacent multi-phased Oak Ridge neighborhood.

**FINDING: SATISFIED WITH CONDITION 15.** The City concurs with the applicant's findings, with the exception that full development of the proposed 108 lots may have an adverse effect, should that full development include two-family dwellings or accessory dwelling units, which are permitted uses in the underlying zone. The Traffic Impact Analysis shows that the addition of

108 proposed single-family lots in a subdivision with initially only one improved street access would push the volume of traffic on the immediately adjacent local residential street (NW Pinot Noir Drive, northwest of Oak Ridge Drive) to its maximum threshold (1,200 vpd) it was designed to carry. The TIA shows that until a second, permanent improved street connection provides access to the proposed subdivision, the traffic generated by 108 single-family dwelling units would increase the vpd on the northwest portion of NW Pinot Noir Drive to its 1,200 vehicle limit. The TIA uses 108 single-family dwelling units (one dwelling unit per lot) as a basis for its average daily trip generation. However, two-family dwellings and accessory dwelling units are also permitted uses in the underlying R-2 zone. Should a lot(s) be developed with a two-family dwelling or an ADU, the increased daily trips from that additional dwelling units would push the volume of traffic carried by NW Pinot Noir Drive over its design limit of 1,200 vpd. Therefore, to mitigate other neighborhood concerns such as safety, noise, and aesthetics, a condition of approval is included to limit development of the proposed subdivision to 108 dwelling units, in any combination of dwelling units allowed in the underlying zone, until such time that a second permanent improved street connection provides access to the proposed subdivision.

### *Environmental Preservation*

*Policy 132.46.00 Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010)*

**APPLICANT'S RESPONSE:** Policy 132.46.00 is satisfied by the proposal in that the street design, construction and maintenance methods required by the City were adopted to, in part, implement each element of this policy. These design, construction and maintenance methods administered by the City are satisfied as demonstrated in this proposal and as will be adhered to through the balance of the design, construction, inspection and approval process prior to the platting of this phased subdivision.

**FINDING: SATISFIED.** The City concurs with the applicant's findings. Additionally, the proposed street layout is designed to avoid or minimize impact on geographical and environmental features found on site, including mature tree stands, steep slopes, and wetlands. Where proposed streets do impact these features, the impact is the minimal amount necessary to provide required street access and connectivity to proposed lots and adjacent parcels. Mitigation of wetlands impacted by street construction would be required by the Department of State Lands, who maintains regulatory authority over delineated wetlands. All proposed streets would be required to meet City standards.

*Policy 132.46.05 Conservation – Streets should be located, designed, and improved in a manner that will conserve land, materials, and energy. Impacts should be limited to the minimum necessary to achieve the transportation objective. (4922, February 23, 2010)*

**APPLICANT'S RESPONSE:** This Policy is satisfied through this proposal's compliance with the applicable elements of the McMinnville Transportation System Plan and the McMinnville Zoning Ordinance as addressed in these findings of fact and attached Exhibits. The streets are proposed to be located in an efficient manner as described in this proposal and designed in a manner compliant with all City requirements for local residential streets as shown in the attached Exhibits.

**FINDING: SATISFIED.** The City concurs with the applicant's findings. Additionally, the proposed street layout is designed to avoid or minimize impact on geographical and environmental features found on site, including mature tree stands, steep slopes, and wetlands. Where proposed streets do impact these features, the impact is the minimal amount necessary

to provide required street access and connectivity to proposed lots and adjacent parcels. Mitigation of wetlands impacted by street construction would be required by the Department of State Lands, who maintains regulatory authority over delineated wetlands. All proposed streets would be required to meet City standards.

### *Pedestrian Programs*

*Policy 132.54.00 Promoting Walking for Health and Community Livability – The City will encourage efforts that inform and promote the health, economic, and environmental benefits of walking for the individual and McMinnville community. Walking for travel and recreation should be encouraged to achieve a more healthful environment that reduces pollution and noise to foster a more livable community. (Ord. 4922, February 23, 2010)*

**APPLICANT’S RESPONSE:** Policy 132.54.00 is satisfied by this proposal in that, with its approval, the City will have demonstrated support and encouragement for efforts that promote the health, economic and environmental benefits of walking for the individuals as well as for the greater McMinnville community. This would be achieved by the City’s receipt of a 5.6 acre public open-space greenway dedication improved with a walking path as well as supporting the creation of an active private neighborhood park to be provided with a curvilinear walking path connecting two neighborhood streets and the establishment of permanent child appropriate play features. The development of the greenway pedestrian path will occur proportionally with the completion of Phase 1 and Phase 2 of this development prior to platting; Premier Development recommends that this commensurate phasing of the greenway path improvement be made a condition of approval of this request. This municipal endorsement of the creation of these open spaces not only promotes walking for health and community livability, but also helps to preserve a more healthy environment by preserving natural elements both within and surrounding this residential development proposal.

**FINDING: SATISFIED WITH CONDITIONS 8, 9.** The City concurs with the applicant’s findings, and notes that conditions of approval requiring public and private open space as proposed have been included.

**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.

### *Sanitary Sewer System*

*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 within the framework outlined below:*

- 1. Sufficient municipal treatment plant 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.*

#### *Storm Drainage*

*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.*

#### *Water System*

*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 a 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.*

#### *Water and Sewer – Land Development Criteria*

*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.*

**APPLICANT'S RESPONSE:** Goal VII 1 and Policies 136.00, 139.00 (1-4), 142.00, 143.00, 144.00, 145.00 (1-4), 147.00 and 151.00 (1-5) are satisfied by the request as 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 serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. The City's administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville is required to 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. Additionally, the subject site will be converted in an orderly manner to urbanizable standards through the coordinated extension and provision of utilities and services (in particular, Exhibits 7, 25 and 29), and as conditioned through approval of this phased development proposal.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

#### *Police and Fire Protection*

*Policy 153.00 The City 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.*

**APPLICANT'S RESPONSE:** Policies 153.00 and 155.00 are satisfied in that emergency service departments will be provided the opportunity to review this proposal. Additionally, all emergency services will have direct public street access to every lot within the proposed two-phased tentative subdivision plan on streets designed to meet all applicable City of McMinnville requirements.

Since this Planned Development Amendment application requests to amend Ordinance 4822, it is important to identify all such proposed amendments. Relative to Policy 155.00, Condition of Approval 5 of Ordinance 4822 currently states:

“That the number of lots allowed within the Oak Ridge Meadows subdivision shall be limited to a maximum of 76 lots. Additional lots may be permitted consistent with the submitted tentative plan upon the completion and acceptance of public street improvements to City standards that extend south from Pinehurst Drive (as labeled on the applicant’s submitted tentative subdivision plan) and connect to Baker Creek Road.”

With this current proposal, Premier Development offers a more achievable and timely alternative which complies with the Fire Department’s unsprinkled dwelling unit limitation relative to emergency vehicle access requirements. Specifically, and as noted in the Finding provided above at 132.32.00 and incorporated into this Finding by this reference, Premier Development proposes utilization of a temporary emergency-only access which will be placed in an easement and will be graded and finished with compacted rock to applicable standards and extend northward from the intersection of NW Shadden Drive and NW Baker Creek Road, across land currently owned by Stafford Land Company, to the southern edge of the Oak Ridge Meadows site at a point between proposed Lots 55 and 56 (Exhibit 26). [It is possible that this temporary emergency-only access may be shorter in length under a potential scenario described by Gordon Root of Stafford Land Company in an email where Stafford Land Company agrees to the granting of this temporary easement (Exhibit 27).] This temporary emergency-only accessway would then proceed northward on Premier Development’s site along the proposed Phase 2 alignment of NW Pinehurst Drive to its intersection with “A” Street and then proceed generally eastward along the proposed “A” Street alignment to the western edge of Lot 25 which is to be the westernmost lot along “A” Street in Phase I of the Oak Ridge Meadows subdivision. Fire Department approved gates would be located at both ends of this compacted gravel emergency-only accessway as directed by the McMinnville Fire Department. The McMinnville Fire Department has stated that, if such gates needed to be locked, they would be so with Fire Department approved locks. At such time that this adjacent land is to develop, this easement would then be revoked and public right-of-way be dedicated and improved to City standards providing a permanent second public street connection to the Oak Ridge Meadows development. This easement is relevant to the Findings presented here for this policy and its description and relevance is also hereby, with this reference, incorporated in the Finding for Policy 132.32.00.

Premier Development requests that the City modify Condition of Approval 5 of Ordinance 4822 to require provision of the currently described and proposed temporary emergency-only access easement in place of the secondary access requirement as currently stated by the condition.

**FINDING: SATISFIED WITH CONDITION 14.** The City concurs with the applicant’s findings, and a condition of approval is included to require a temporary emergency-only access until such time that a permanent, improved street is built and provides a second vehicular access to the proposed development.

*Parks and Recreation*

**GOAL VII 3:** TO PROVIDE PARKS AND RECREATION FACILITIES, OPEN SPACES, AND SCENIC AREAS FOR THE USE AND ENJOYMENT 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.*

**APPLICANT’S RESPONSE:** Goal VII 3 and Policy 163.00 are satisfied in that park fees shall be paid for each housing unit at the time of the building permit application as required by McMinnville Ordinance 4282, as amended. These fees may be offset in part or in total by

Premier Development's receipt of park SDC credits made available by way of their forthcoming public dedication of the approximately 5.6-acre openspace greenway park within this planned development area.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

*Policy 163.05 The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands. (Ord. 4840, January 11, 2006)*

*Policy 166.00 The City of McMinnville shall recognize open space and natural areas, in addition to developed park sites, as necessary elements of the urban area.*

*Policy 167.00 The City of McMinnville shall encourage the retention of open space and scenic areas throughout the community, especially at the entrances to the City.*

*Policy 168.00 Distinctive natural features and areas shall be retained, wherever possible, in future urban developments.*

*Policy 169.00 Drainage ways in the City shall be preserved, where possible, for natural areas and open spaces and to provide natural storm run-offs.*

*Policy 170.05 For purposes of projecting future park and open space needs, the standards as contained in the adopted McMinnville Parks, Recreation, and Open Space Master Plan shall be used. (Ord. 4796, October 14, 2003)*

**APPLICANT'S RESPONSE:** Policies 163.05, 166.00, 167.00, 168.00, 169.00 and 170.05 are satisfied by this proposal in that an approximately 5.6 acre public open-space greenway park is proposed to be dedicated by Premier Development for the use and enjoyment of the public. This greenway park is located around the west, north and most of the east perimeter of the site. In discussion regarding this project's proposed park spaces with the McMinnville Parks and Recreation Department, it was requested by the Department that this greenway be improved with a habitat friendly bark-chip trail similar in design and width to the greenway trail located along the Joe Dancer Park's South Yamhill River edge. The existing ability of this linear greenway to accommodate natural storm run-off will be retained and will be further supported by the proposed storm drainage system that will be designed and installed within the public right-of-way; additionally, and as shown on the submitted Overall Utility Plan, a ten-foot wide public storm easement is proposed to be created along the full distance of the southern property boundary of Lot 79, then transitioning to a rip-rap channel to be installed within the greenway. Additional stormwater detention is proposed along the site's eastern edge beyond the proposed cul-de-sac street (see Exhibits 6 and 29).

The City's receipt of this greenway park dedication is an important first step for the City of McMinnville as it will be the City's first acquisition of public greenway space along Baker Creek toward implementing its aspiration of acquiring public open space along the Baker Creek greenway connecting Tice Park to the BPA recreational trail and even beyond to the City's western urban edge. This dedication will preserve important natural open space, scenic areas and distinctive natural features along this greenway. Discussions in May of 2018 with the Planning Department resulted in direction from the Department that the City is requesting to have this land dedicated and improved to provide a public trail system at this site. Additionally, that the City is interested in the public dedication of the land necessary for that trail system, both

along Baker Creek and on the western side of the property, to connect to a proposed trail system to be dedicated by Stafford Land on adjacent property to the west as part of their forthcoming development proposal for that site. Premier Development welcomes this direction and clarity from the City, and supports the Planning and Park Departments' guidance and is proud to dedicate this land and provide the requested improvement for public enjoyment of the natural greenway along this portion of Baker Creek.

The McMinnville Parks and Recreation Department, relying on guidance provided in the McMinnville Parks, Recreation, and Open Space Master Plan, also supports Premier Development's proposal to create the approximately 0.85 acre active private neighborhood park as part of Phase I of this subdivision. This active private neighborhood park will also be improved with a pedestrian pathway connecting NW Pinot Noir Drive with the lower elevation of NW Pinehurst Drive to the east and with the installation of permanent child-appropriate play equipment on the upland portion of the park. Both of these parks will preserve existing tree cover as much as practicable and as recommended by a certified arborist report and found acceptable by the McMinnville Planning Director.

**FINDING: SATISFIED WITH CONDITIONS 8, 9.** The City concurs with the applicant's findings, and conditions of approval have been included to require public and private open space as described and proposed.

#### *Energy Conservation*

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

#### *Energy Supply Distribution*

*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.*

**APPLICANT'S RESPONSE:** Goal VIII 1 and Policies 173.00 and 177.00 are satisfied in that McMinnville Water and Light and Northwest Natural Gas will be provided opportunity to review and comment regarding this proposal prior to the issuance of the Planning Department's staff report.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

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

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

**APPLICANT'S RESPONSE:** Goal VIII 2 and Policy 178.00 are satisfied by the request as the development proposes a compact form of urban development allowing smaller lots where possible and larger lots as dictated by the site shape and topography. The average minimum lot size of this proposal is slightly greater than the average minimum lot size of 7,500 square feet (Exhibit 10) as specified by Condition of Approval 2 of Ordinance 4822 (Exhibit 2). Utilities



presently about the site and can be extended in a cost effective and energy efficient manner commensurate with this proposal and as shall be required by an approved phasing plan.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, but notes that a condition of approval amends the previously approved average lot size of 7,500, which was interpreted to mean average minimum lot size, to the proposed average lot size of approximately 7,770 square feet.

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

**APPLICANT'S RESPONSE:** Goal IX 1 is satisfied in that the subject site is located within both the McMinnville urban growth boundary and the McMinnville city limits and so identified for urban development according to adopted applicable goals, policies, standards and requirements. All urban services are currently available and adjacent to the site making the conversion of this site to urban uses orderly and timely.

**FINDING: SATISFIED.** The City concurs with the applicant's findings.

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

**GOAL X 2:** TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.

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

**APPLICANT'S RESPONSE:** Goals X 1, X 2, and Policy 188.00 are satisfied in that the City of McMinnville has adopted a Neighborhood Meeting program that requires applicants of most types of land use applications to hold at least one public Neighborhood Meeting prior to submittal of a land use application; this is further addressed under findings relative to McMinnville Zoning Ordinance Section 17.72.095, below. Additionally, the City of McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request at an advertised public hearing. All members of the public with standing are afforded the opportunity to provide testimony and ask questions as part of the public review and hearing process.

**FINDING: SATISFIED.** The process for a planned development amendment provides an opportunity for citizen involvement throughout the process through the neighborhood meeting provisions, the public notice, and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

**McMinnville Zoning Ordinance**

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

### **Chapter 17.03. 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.

**APPLICANT'S RESPONSE:** Section 17.03.020 is satisfied by this request for the reasons enumerated in Conclusionary Findings for Approval No. 1, 2, 3, 4 and 5 above.

**FINDING: SATISFIED.** The purpose of the Zoning Ordinance would be met by the proposal as described in Conclusionary Findings.

### **Chapter 17.15. R-2 Single-Family Residential Zone**

**17.15.010 Permitted Uses.** In an R-2 zone, the following uses and their accessory uses are permitted:

- A. Site built single-family dwelling [..]

**APPLICANT'S RESPONSE:** This criterion is satisfied as Premier Development proposes to construct only site built single-family detached dwellings within this phased subdivision.

**FINDING: SATISFIED.** The City concurs with the applicant's findings. The City also notes that permitted uses in the R-2 zone also include two-family dwellings, single-family common wall dwellings, and accessory dwelling units. Compliance with the Lot Sales policy of the Comprehensive Plan will allow lots to be purchased and developed by others besides Premier Development.

**17.15.030 Lot Size.** In an R-2 zone, the lot size shall not be less than seven thousand square feet except as provided in Section 17.15.010 (C) of this ordinance. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**APPLICANT'S RESPONSE:** This criterion is satisfied as the subject site is currently governed by Planned Development Ordinances 4722 and 4822 which both support and allow lot size averaging within the subject site. This subdivision application is being submitted concurrent with requests to modify Ordinances 4722 and 4822 as described above while retaining the existing authorization of lot size averaging.

The current average minimum lot size for a portion of the subject site is 7,000 square feet as conditioned by Ordinance 4722 and the current average minimum lot size for the balance of this site is 7,500 square feet as conditioned by Ordinance 4822. This currently proposed two-phased residential subdivision exceeds these requirements for the subject site as well as within each of the two individual proposed phases of this subdivision (Exhibit 10). As the proposed average minimum lot sizes described are greater than the 7,000 square foot minimum lot size required by 17.15.030, this criterion has been satisfied. -- Section 17.15.010(C) referenced by this

standard speaks only to single-family common-wall dwellings and is not applicable as no single-family common-wall dwellings are proposed as part of this development.

**FINDING: SATISFIED WITH CONDITION 3.** A condition of approval of the planned development amendment defines the average lot size to be approximately 7,770 square feet per the applicant's proposal. As the average lot size is greater than the 7,000 square foot minimum lot size required in the underlying R-2 zone, the planned development amendment is consistent with the lot size requirements.

**17.15.040 Yard Requirements.** In an R-2 zone, each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:

- A. A front yard shall not be less than twenty feet;
- B. A rear yard shall not be less than twenty feet;
- C. A side yard shall not be less than seven and one-half feet, except an exterior side yard on the street side of a corner lot shall be not less than twenty feet. (Ord. 4912 §3, 2009; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**APPLICANT'S RESPONSE:** This criterion is satisfied as the subject site is currently governed by Ordinances 4722 and 4822 which both support and allow amended setbacks for certain lots and amended setbacks for lots in certain circumstances. Approval of these setback adjustments were based on sensitivity to existing tree locations, the natural topography and shape of the site, and Premier Development's proposal to provide homes on lots of varying sizes and configurations to provide a wider range of choice in the residential market than would be found in a standard residential subdivision. As this application proposes to incorporate the undeveloped fourth phase of the Oak Ridge Planned Development area into the Oak Ridge Meadows Planned Development area, Premier Development requests modifications to Condition of Approval 3 of Ordinance 4822. As currently adopted, Condition of Approval 3 of Ordinance 4822 states:

"That setbacks for the Oak Ridge Meadows subdivision are as follows:

- Front Yard: 20 feet
- Side Yard: (Lots less than 6,000 square feet in area): 6 feet
- Side Yard (all other lots): 7.5 feet
- Exterior Side Yard (Lots 40, 45, 46, 52, 54, and 55): 15 feet
- Exterior Side Yard (all other lots): 20 feet
- Rear Yard: 20 feet
- Open side of garage: 20 feet

The Planning Director is authorized to permit reductions or increases to these setback standards as may be necessary to provide for the retention of trees greater than nine (9) inches in diameter measured at 4.5 feet above grade. In no case, however, may the rear yard setback or the side yard setback be reduced to less than five feet, or the exterior side yard setback to 15 feet, or the distance from the property line to the front opening of a garage to less than 18 feet without approval of the Planning Commission pursuant to the requirements of Chapter 17.69 (Variance). A request to adjust the setbacks for these lots shall be accompanied by a building plan for the subject site that clearly indicates the location of existing trees. Trees to be retained shall be protected during all phases of home construction."

For those same reasons noted in reference to the adoption of Condition of Approval 3 of Ordinance 4822, specifically, sensitivity to existing tree locations, the natural topography and shape of the site, and Premier Development's proposal to provide homes on lots of varying sizes and configurations to provide a wider range of choice in the residential market, and as further

articulated in these conclusionary Findings, Premier Development proposes that Condition 3 of Ordinance 4822 be modified as follows; this recommended condition of approval retains the same Planning Director setback modification authority as currently exists in Condition of Approval 5 of Ordinance 4722 and Condition of Approval 3 of Ordinance 4822 except that Premier Development is no longer desiring to retain the previously allowed Planning Director authority to reduce the setback to the open side of a garage to 18 feet as is currently allowed by Ordinance 4822:

“That setbacks for the Oak Ridge Meadows subdivision shall be as follows:

- Front Yard: 20 feet
- Side Yard: 5 feet
- Exterior Side Yard: 10 feet
- Rear Yard: 20 feet
- Open side of garage: 20 feet

The Planning Director is authorized to permit reductions or increases to these setback standards as may be necessary to provide for the retention of trees greater than nine (9) inches in diameter measured at 4.5 feet above grade. In no case, however, may the rear yard setback be reduced to less than five feet, or the exterior side yard setback to less than 10 feet without approval of the Planning Commission pursuant to the requirements of Chapter 17.74 (Variance). A request to adjust the setbacks for these lots shall be accompanied by a building plan for the subject site that clearly indicates the location of existing trees. Trees to be retained shall be protected during all phases of home construction.”

**FINDING: SATISFIED WITH CONDITION 4.** The City concurs with the applicant’s findings. A condition of approval has been included to amend the required setbacks, and would allow flexibility for the preservation of significant trees found on individual lots.

**17.15.060 Density requirements.** In an R-2 zone, the lot area per family shall not be less than seven thousand square feet, except that the lot area for two-family corner lots and common wall, single-family corner lots shall not be less than eight thousand square feet for two families. This requirement does not apply to accessory dwelling units. (Ord. 4796 §1(b), 2003; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**APPLICANT’S RESPONSE:** The tentative phased subdivision plan submitted with this application proposes an average minimum lot size of 7,500 square feet as required by Ordinance 4822 and which surpasses that required by Ordinance 4722 and by 17.15.060 of the McMinnville Zoning Ordinance. The tentative subdivision plan also proposes lot size averaging as described and supported by the findings provided addressing Section 17.15.030, above and findings previously provided supporting the adoption of Ordinances 4722 and 4822. This proposed average minimum lot size of 7,500 square feet for this site also satisfies this standard with the proposed modifications to Planned Development Ordinance 4822. Therefore, this criterion is met.

**FINDING: SATISFIED.** The total square foot average for all 108 lots in the applicant’s proposed tentative subdivision plan is approximately 7,770 square feet. This overall average lot size is consistent with the density requirements of the underlying R-2 zone and the existing planned development overlays.

## **Chapter 17.51. Planned Development Overlay**

**17.51.010 Purpose.** The purpose of a planned development is to provide greater flexibility and greater freedom of design in the development of land than may be possible under strict interpretation of the

provisions of the zoning ordinance. Further, the purpose of a planned development is to encourage a variety in the development pattern of the community; encourage mixed uses in a planned area; encourage developers to use a creative approach and apply new technology in land development; preserve significant man-made and natural features; facilitate a desirable aesthetic and efficient use of open space; and create public and private common open spaces. A planned development is not intended to be simply a guise to circumvent the intent of the zoning ordinance.

**APPLICANT'S RESPONSE:** Section 17.51.010 is satisfied by the request in that the applicant proposes a development plan to provide for single-family residential lots displaying a range of lot sizes, varied lot characteristics and that would be available at various price points. Premier Development also proposes adjustments to lot setbacks and allowances to exceed both the preferred lot depth-to-width ratio, allowances for some lots to have side lot lines oriented other than at right angles to the street upon which the lots front, and block length standards as further addressed in these conclusionary findings for approval. While these adjustments are requested, Premier Development also proposes to preserve significant natural features, facilitate a desirable aesthetic and efficient use of open space, and create public greenspace and private active open spaces for the benefit of the neighborhood and the greater community primarily by providing an approximately 0.85-acre active private neighborhood park and an approximately 5.6-acre open-space greenway to be dedicated to the public along the site's Baker Creek edge and extending further to the south along the site's western edge. Preservation of the majority of wetlands along the site's eastern edge is also provided as part of this development proposal along with wetland mitigation in some areas. Additional tree protection is also proposed through Premier Development's proposal to submit a tree survey prepared by a certified arborist that will be instrumental to tree preservation on individual lots. This application of balancing adjustments to standards in exchange for public benefits is allowed and encouraged to be supported through the Planned Development Amendment application and review process. Beyond the provision of public sidewalks as part of the pedestrian network within the public street system as described in the Comprehensive Plan addressed in other Findings above, Premier Development also proposes to extend pedestrian pathways through the entirety of both of the offered park spaces to aid in enhancing pedestrian mobility and both active and passive recreational opportunities within the area.

To provide assured variety in house plans and front façade treatment viewable from public rights-of-way, Premier Development offers a specific design amenity to further address the portion of the Planned Development purpose statement "A planned development is not intended to be simply a guise to circumvent the intent of the zoning ordinance." Specifically, Premier Development proposes to create and provide an Architectural Pattern Book of specific design elements to be used in the construction of the residences for the two-phased residential development. This Architectural Pattern Book will result in a more pedestrian friendly streetscape for the proposed development to help set a new residential aesthetic above that found in other portions of the urban area and to help visually blend these residences in with those of the adjacent established residential neighborhoods. Premier Development offers the following two conditions to achieve this vision and requests that they be made conditions of approval of this proposal.

That, prior to issuance of residential building permits, the applicant shall submit a residential Architectural Pattern Book to the Planning Director for review and approval. The purpose of the Architectural Pattern Book is to provide an illustrative guide for residential design in the Oak Ridge Meadows development. This book will contain architectural elevations, details, materials and colors of each building type. The dominant building style for residences in the area identified in the Oak Ridge Meadows subdivision tentative plan can be best described as generally Northwest Craftsman or English Cottage style dwelling. In order to protect property values, front entries will need

to be clearly defined, at least two material types will need to be used on the front elevations, driveways should be adjacent to each other to enhance opportunities for front yards and landscaping, and a variety of color schemes should be used throughout the development that are distinctly different from each other but enhance each other.

At a minimum, the Architectural Pattern Book shall contain sections addressing:

- a) Style and Massing
- b) Quality and Type of Exterior Materials
- c) Front Porches / Entry Areas
- d) Roof Design and Materials
- e) Exterior Doors and Windows
- f) Garage Door Types
- g) Exterior Lighting
- h) Sample Exterior Colors

And,

In order to eliminate a cookie-cutter stylization of the neighborhood, no same home design shall be built in adjacency to another, including both sides of the street.

Premier Development is pleased to suggest that these conditions be made binding with the approval of this proposal. With that however, it is also instructive to note that without approval of a Planned Development application request or a request to amend an existing Planned Development, the City does not currently have the authority to require such design standards of residential subdivision development as the means to do so do not otherwise exist within McMinnville's regulatory authority. This further highlights the value of the interplay and balancing of public and private benefits woven into the Planned Development and Planned Development Amendment review processes and is, in part, why Comprehensive Plan Policy 72.00 states that Planned Developments shall be encouraged as a favored form of residential development as long as social, economic, and environmental savings will accrue to the residents of the development and the city.

**FINDING: SATISFIED WITH CONDITION 16, 17.** The City concurs with the applicant's findings. The proposed conditions described above to require an Architectural Pattern Book and elimination of cookie cutter stylization would help facilitate a desirable aesthetic in the planned development, and have been included as conditions of approval.

**17.51.020 Standards and requirements.** The following standards and requirements shall govern the application of a planned development in a zone in which it is permitted:

- A. The principal use of land in a planned development shall reflect the type of use indicated on the comprehensive plan or zoning map for the area. Accessory uses within the development may include uses permitted in any zone, except uses permitted only in the M-2 zone are excluded from all other zones. Accessory uses shall not occupy more than twenty-five percent of the lot area of the principal use;
- B. Density for residential planned development shall be determined by the underlying zone designations. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**APPLICANT'S RESPONSE:** Section 17.51.020 (A-B) is satisfied by the request in that Premier Development proposes a development type (Single-Family detached residential dwelling) consistent with the residential zoning indicated on the comprehensive plan map and zoning map as well as Chapter 17.15 of the McMinnville Zoning Ordinance. While Sub B of this standard states that the density of the residential planned development shall be determined by the

underlying zone designations, Condition of Approval 2 of Ordinance 4822 sets the average minimum lot size as being 7,500 square feet for its associated portion of the site which is slightly less dense than the maximum density that could be theoretically achieved on otherwise unencumbered and fully developable R-2 zoned land. Premier Development is not proposing to modify this condition (Condition 2) of Ordinance 4822 and has designed this proposal to maximize the unique topography and shape of the site and to honor the standing 7,500 square foot average minimum lot size requirement. This Finding is additionally supported by Findings provided in Section 5, above.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, but notes that a condition of approval would amend the 7,500 square foot average lot size set by Ordinance 4822 to the approximately 7,770 square foot average lot size proposed in the tentative subdivision request.

**17.51.030 Procedure.** The following procedures shall be observed when a planned development proposal is submitted for consideration:

- C. The Commission shall consider the preliminary development plan at a meeting at which time the findings of persons reviewing the proposal shall also be considered. In reviewing the plan, the Commission shall need to determine that:
  1. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
  2. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;
  3. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;
  4. The plan can be completed within a reasonable period of time;
  5. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;
  6. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;
  7. The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole;

**APPLICANT'S RESPONSE:** Section 17.51.030 is satisfied by the request in that there are physical site conditions (e.g., shape and topography) and design objectives of this proposal (creation of an active private neighborhood park and a large public open-space greenway dedication, in addition to providing a wide range of lot sizes to enhance market choice) that warrant a departure from standard regulation requirements and that necessitate modification of Planned Development Ordinances 4722 and 4822 that currently govern the site. This proposal helps to enact the intended residential density of Ordinance 4822 and the comprehensive plan objectives for this area and can be completed within a reasonable period of time; targeted platting of Phase 1 is approximately two years and the targeted platting of Phase 2 would occur in approximately three subsequent years for a total of an estimated five years afforded to achieve the platting of both phases. Designed to meet and implement adopted City standards, the proposed local street network is safe and adequate to support anticipated traffic which can also be sufficiently accommodated and supported by the surrounding existing street network (Exhibit 28). Adequate access to and efficient provision of services to adjoining parcels will also be provided by extending streets and utilities to the edges of the site for future extension to serve adjacent lands to the east and south (Exhibits 6, 7 and 11); a temporary compacted gravel emergency-only access roadway and easement is also proposed as addressed above in Finding of Fact No. 5. Public utility and drainage facilities currently exist adjacent to the site and have the capacity to adequately be extended to and sufficiently serve the proposed population density

and single-family detached residential development represented by this proposal and as represented in the attached Exhibits (inclusive of Exhibits 7, 8, 25 and 29) and addressed further in findings provided below. As this site is designated Residential on the McMinnville Comprehensive Plan Map and R-2 PD on the McMinnville Zoning Map, and this proposed development complies with all applicable Comprehensive Plan purpose statements, policies, goals, requirements, standards and guidelines as provided in these conclusionary Findings of Fact, there are no indications that the proposal will have an adverse effect due to pollutants on surrounding areas, public utilities or the City as a whole.

**FINDING: SATISFIED.** Section 17.51.030 is satisfied in that the Commission would have reviewed the preliminary development plan and findings at a meeting. Discussion of the criteria listed in subsection C is provided below, as those criteria are the review criteria for a Planned Development Amendment, as found in 17.74.070 of the Zoning Ordinance.

**17.53.103 Blocks.**

1. General. The length, width, and shape of blocks shall take into account the need for adequate lot size and street width and shall recognize the limitations of the topography.
2. Size. No block shall be more than 400 feet in length between street corner lines or have a block perimeter greater than 1,600 feet unless it is adjacent to an arterial street, or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet.

**APPLICANT’S RESPONSE:** As shown on the tentative subdivision plans, the planned street alignment requires, in some cases, blocks that exceed 400 hundred feet in length due to the topography and the physical configuration of the site, as well as the street pattern of an adjacent platted neighborhood. Given these site factors, Premier Development has configured the proposed local street plan to be as close to the recommended standard as possible. The proposed street pattern and resulting block lengths are very similar that previously approved by the City Council to implement the Ordinance 4822 Planned Development.

Block Length exceeding 400 feet in length:

- 1) NW Pinehurst Drive from “A” Court to its temporary southeastern terminus;
- 2) NW Pinot Noir Drive from NW Blake Street to “A” Street;
- 3) “A” Street along its northern edge from its intersections with NW Pinot Noir Drive and NW Pinehurst Drive;
- 4) “B” Street from its intersections with NW Pinot Noir Drive and NW Pinehurst Drive;
- 5) NW Pinehurst Drive from its intersection with the east end of “C” Street to its intersection with the west end of “C” Street.

There are no connecting blocks that exceed 1,600 feet in perimeter length. Therefore this requirement is met.

**FINDING: SATISFIED WITH CONDITION 7.** The City concurs with the applicant’s findings with regard to the topographical and geographical limitations found on the site. The City further finds that an exception to the standard maximum block length is warranted due to the topographical, geographical, and physical limitations of the site. The site is bounded to the north and east by McMinnville city limits, and steep slopes define the perimeter of the northern parcel of the subject site. As such, there is no opportunity a connecting street to penetrate any block created along the perimeter of the northern parcel (NW Pinehurst Drive from its southwestern terminus to “A” Court). Additionally, the southeastern portion of the subject site is also bounded by city limits. Buildable land in the southeastern portion of the site is limited to area defined to the north and east by delineated wetlands, and to the south and west by steep slopes and previously built



residential development. Development of a street network in the planned development that would provide connectivity and access to adjacent lots would necessarily create a long block (NW Pinehurst Drive from "A" Court to its southeastern terminus) without opportunity for a connecting street to penetrate said block. Other block lengths identified as exceeding the standard are in response to the geographical and physical limitations of the site. Therefore, a condition of approval allowing a maximum block length of approximately 2,305 feet (the maximum length of the block from NW Pinehurst Drive from its southwestern terminus to "A" Court, around the northern peninsula of the site).

3. Easements.

3. Pedestrian ways. When desirable for public convenience, safety, or travel, pedestrian ways not less than 10 (ten) feet in width may be required to connect to cul-de-sacs, to pass through unusually long or oddly shaped blocks, to connect to recreation or public areas such as schools, or to connect to existing or proposed pedestrian ways. (Ord. 4922, §4B, 2010)

**APPLICANT'S RESPONSE:** As shown on the proposed tentative plans, a 10-foot wide pedestrian access path is proposed to be provided connecting NW Pinot Noir Drive to NW Pinehurst Drive through the approximately 0.85 acre active private neighborhood park. An additional 10-foot wide public pedestrian path is proposed to be provided along the length of the approximately 5.6-acre public greenway which will encircle the subject site and lead to the site's southwestern most point west of Lot 56. The pathway to be located within this greenway area is proposed to be improved with a bark chip trail as recommended by the McMinnville Parks Department as previously described. Three pedestrian access pathways are also proposed to be provided to access this open-space greenway and are to be located between Lots 42 and 43, between Lots 75 and 76, and along the south side of Lot 56 (which will be temporary in nature until such time that the public pathway, previously described, in the forthcoming Stafford Land development adjacent to the west is completed). There are no other public amenities (schools, etc.) for Premier Development to serve with a pedestrian way adjacent to this development. Therefore, this criterion is met.

**FINDING: SATISFIED WITH CONDITIONS 7, 8.** The site exhibits limiting geographical, topographical, and physical characteristics that warrant block lengths in excess of the recommended standard. Because unusually long blocks would be allowed, particularly along the northern perimeter of the site adjacent to a public open space, and between the previously built Oak Ridge residential development and the wetland open space tract, it is desirable for public convenience, safety, and travel, for the developer to provide pedestrian ways not less than 10 feet in width to pass through the unusually long blocks described above. The active private neighborhood park is proposed to have a pedestrian path that connects Pinot Noir Drive to Pinehurst Drive through the unusually long block. Other opportunities to lessen the block length do not exist to the southeast due to the full development of the Oak Ridge subdivisions. Therefore, a condition of approval requiring this through-block connectivity through the Private Active Neighborhood Park has been included. Additionally, a condition of approval requiring pedestrian ways provided at a maximum spacing of approximately 800 feet would provide multiple points of through-block connectivity from Pinehurst Drive to the proposed public greenway trail system. This is desirable for public convenience, safety, and travel to connect to the proposed greenway recreation area, a major feature of the planned development area.

**17.74.070. Planned Development Amendment – Review Criteria.** An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120, and include the following:

- An increase in the amount of land within the subject site;
- An increase in density including the number of housing units;

- A reduction in the amount of open space; or
- Changes to the vehicular system which results in a significant change to the location of streets, shared driveways, parking areas and access.

An amendment to an existing planned development may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

**17.74.070(A).** *There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;*

**APPLICANT’S RESPONSE:** While much of this information was previously described and discussed in the Findings provided above, it is important to also discuss here in order to help satisfy this criterion for approval of a Planned Development Amendment request. The last approved subdivision design that existed to implement Ordinance 4822 showed that the intersection of NW Pinot Noir Drive and NW Pinehurst Drive (which was needed to enable the construction of the southerly portion of Pinehurst Drive and “A” Court (Exhibit 4) as part of the fourth phase of the Oak Ridge subdivision) was last approved by the City Council as being located within the Oak Ridge Meadows tentative subdivision plan and within the Oak Ridge Meadows Planned Development boundary (ZC 12-04/S 14-04). Following this approval, Premier Development filed an appeal with the Oregon Land Use Board of Appeals (LUBA) on the decision. At issue was Condition of Approval number five (5) of Ordinance 4822 related to a limitation on the number of lots allowed within the Oak Ridge Meadows subdivision until such time that NW Pinehurst Drive was extended southward to connect to Baker Creek Road. LUBA remanded the decision back to the City Council. The Council held a public hearing as directed by the remand and concluded to adopt additional findings in support of their April decision to adopt Ordinance 4822. This action was then memorialized by the adoption of such additional findings as referenced in Ordinance 4845 (Exhibit 5) which the Council approved on March 14, 2006. The Council’s approval of the S 14-04 tentative subdivision plan, including the locating of this intersection within the Oak Ridge Meadows Planned Development site, remained unchanged through the subsequent Land Use Board of Appeals (LUBA) remand (LUBA 2005-065) of the City’s approval of ZC 12-04/ S 14-04.

Apart from the Council’s approvals of ZC 12-04 and S 14-04, the connecting roadway segment of Pinot Noir Drive necessary to enable access to the Oak Ridge Meadows site, and the location of the afore mentioned Pinot Noir Drive and Pinehurst Drive intersection, yet remained as part of the earlier Oak Ridge tentative subdivision plan and Planned Development boundary approvals. This resulted in a situation where, essentially, neither of the two adjacent subdivisions could be constructed without the prior completion of a portion of the other. Had the economy not convulsed as it did for a number of years, this would not have been a concern as the adjacent subdivision phases, although located within different Planned Development boundaries, could have been developed simultaneously and the noted street improvements effectively constructed concurrently and seamlessly.

This current proposal seeks to achieve that intended development pacing by bringing the two adjacent undeveloped parcels of land together under one Planned Development Amendment approval and construct both of the afore mentioned street improvements as part of Phase 1 of the proposed tentative residential subdivision plan.

While Premier Development is requesting specific modifications to the existing Oak Ridge Meadows Planned Development ordinance (Ordinance 4822) conditions of approval, it is instructive and relevant to note the change in total number of lots within the combined Oak Ridge and Oak Ridge Meadows Planned Development sites. Oak Ridge was originally approved to allow the platting of a maximum of 107 lots in three phases. Through subdivision amendments

to that plan, including subdivision phasing, that were approved by the McMinnville Planning Director a total of 82 lots were ultimately platted in three phases leaving an additional new fourth unplatted phase with the theoretical opportunity to realize the platting of up to the remaining maximum of 25 additional lots. Subsequently, the Oak Ridge Meadows Planned Development was approved supporting a two-phased subdivision proposing the platting of a maximum of 99 lots. Together, these two Planned Developments, if fully realized, would have resulted in the platting of 206 total lots. The current proposal is for approval of a Planned Development supporting a tentative subdivision plan for the platting of 108 lots. Adding the 82 currently platted lots to the 108 proposed lots yields a new combined total of 190 residential lots which is 16 lots less than the 206 lots which were once envisioned and conceptually approved for this area. When reviewing the original approved Oak Ridge Meadows subdivision plan and comparing it to the current proposal it is clear that the overall reduction of lots that were once envisioned and tentatively approved has in large part been the result of a number of factors. In particular, shifting of NW Pinehurst Drive a bit westward to attain additional tree retention, the currently proposed creation of a 0.85-acre active private neighborhood park within Phase 1 of the subdivision, the proposed dedication of 5.6-acres of public greenspace around the site perimeter; this larger proposed public open space dedication has resulted in the loss of the “double-row” of lots that were once to be located along the western-most edge of the subdivision and to be accessed by a series of private easements.

In order for this current development proposal to move forward, it is necessary that the area representing the 11.47-acre unplatted fourth phase of the Oak Ridge subdivision be removed from Planned Development area of Ordinance 4722 and added to the existing 24-acre Oak Ridge Meadows Planned Development area. This action and approval of the requested modifications Ordinance 4822 as articulated above will help Premier Development achieve the special objectives of the proposed subdivision and which warrant departure from standard regulation requirements.

Part of Premier Development’s vision and proposal for this site is achieved by the “trade-offs” attainable through the Planned Development and Planned Development Amendment processes. Primary to the enabling of the proposed development plan is the ability to receive approval of available flexibility in the City’s standards regarding lots with side lot lines that do not all run perpendicularly to the right-of-way and also regarding instances where the lot depth to width ratio exceeds the desired 2:1 ratio of 17.53:105. In addition to setback adjustments noted above, Premier Development requests these allowances due to the unique shape, topography and other previously noted challenges of the site in addition to their desire to design a residential subdivision proposal that provides a wide range of residential lot sizes to enhance residential market choice and also provides significant recreation amenities (both passive and active) to the neighborhood and the broader community. Further responses to be incorporated here as part of this Finding are found in Finding of Fact 5 relative to Policies 72.00-78.00.

**FINDING: SATISFIED.** As stated in the McMinnville Zoning Ordinance, the purpose of a planned development is to provide greater flexibility and greater freedom of design in the development of land than may be possible under strict interpretation of the provisions of the zoning ordinance. Further, the purpose of a planned development is to encourage a variety in the development pattern of the community; encourage mixed uses in a planned area; encourage developers to use a creative approach and apply new technology in land development; preserve significant man-made and natural features; facilitate a desirable aesthetic and efficient use of open space; and create public and private common open spaces. A planned development is not intended to be simply a guise to circumvent the intent of the zoning ordinance.

Consideration of a planned development request includes weighing the additional benefits provided to the development and city as a whole through the planned development process that

go above and beyond what would be provided through a standard subdivision application against the zoning departures requested. It should be noted that the McMinnville Zoning Ordinance does not contain mechanisms to achieve the many of the additional benefits possible through Planned Development outside of that process. Each of the applicant's requested amendments to Ordinance 4822 is directly related to a stated purpose of a planned development, and demonstrate special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standards established in Ordinance 4822 and the underlying R-2 zone.

The addition of the unplatted fourth phase of the Oak Ridge subdivision to the Oak Ridge Meadows Planned Development Overlay boundary will allow efficient use of open space, greater freedom in the development of the land, and allow for the preservation of significant natural features (wetlands) on the property. Additionally, a portion the property would be established as a private neighborhood park.

Requested lot size averaging would allow flexibility and variety in the development pattern of the community. A wider variety of lot sizes would increase the types of housing products and price points to be made available.

The request to modify setbacks would support the flexibility and variety in the development provided by varied lot sizes, and allow greater flexibility to preserve significant trees. A provision would allow for the adjustment of setbacks on a lot by lot basis to preserve significant trees.

A request to allow side lot lines at non-90 degree angles would allow flexibility to employ a creative development approach in response to unique geographic features of the subject site.

A request to allow lots with larger than standard depth to width ratio due to site shape and topography would allow preservation of natural features (significant trees and slopes) by allowing larger lots in ecologically sensitive areas with buildable area away from sensitive natural features.

Allowing longer than standard block lengths would allow flexibility in the design and development of the land by letting the design respond to unique geographic features of the subject site.

Establishment of a private park in the development would encourage mixed use in the planned area and create a private common open space.

Dedication of a public greenway park would encourage mixed use in the planned area and create a public common open space.

**17.74.070(B).** *Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;*

**APPLICANT'S RESPONSE:** When the Planning Commission received an application from Premier Development in October of 1999 (CPA 10-99/ZC 19-99/S 6-99), a thorough review of applicable Comprehensive Plan policies followed in order for the Planning Commission to reach a recommendation for approval to the City Council of these comprehensive plan and zone change amendment requests. The City Council's approval of those requests was memorialized through their adoption of Ordinance 4722 in February 2000. The development resulting from these approved requests now exists as three platted and fully developed residential subdivisions; Oak Ridge, Oak Ridge First Addition and Oak Ridge Second Addition. The currently requested removal of the subject 11.47 undeveloped acres from the boundary of this approved Planned Development (ZC 19-99) will not cause any inconsistency between those

existing subdivisions and the conditions of approval of Ordinance 4722 or the Comprehensive Plan objectives for this area. Additionally, there is found no Comprehensive Plan Policy inconsistency by including the subject acreage within the boundary of the adjacent Planned Development (Ordinance 4822). Removal of the subject 11.47 acres from the Oak Ridge Planned Development area does not place any of the three existing phases of the Oak Ridge development in conflict with any of the requirements of Ordinance 4722 or other such development related permits subsequently approved.

Further responses to this criterion relative to the proposal's compliance with the Comprehensive Plan objectives for the area, and to be incorporated here as part of this Finding, are as articulated in Section V - Conclusionary Findings for Approval, Finding 5, above.

**FINDING: SATISFIED.** The City concurs with the applicant's findings. With conditions, the proposed Planned Development Amendment would not be inconsistent with the applicable goals and policies of the Comprehensive Plan, as described in more detail above in the specific findings for each Comprehensive Plan goal and policy.

**17.74.070(C).** *The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;*

**APPLICANT'S RESPONSE:** The existing developed portion of the Oak Ridge Planned Development was designed and constructed to meet all applicable municipal requirements and to provide for adequate access and service provision to and through the planned neighborhoods. The current temporary terminus of NW Pinot Noir Drive, located at the northern end of the Oak Ridge Second Addition subdivision, is proposed to continue northward to serve what was once approved to be the fourth phase of Oak Ridge and the first phase of Oak Ridge Meadows further to the north. Approval of this requested Planned Development Amendment to allow the removal of the remaining undeveloped 11.47 acres of the Oak Ridge Planned Development site from this Planned Development boundary and, concurrently, approving its inclusion in the Oak Ridge Meadows Planned Development site will allow this northerly extension of NW Pinot Noir Drive as was previously envisioned and planned. The existing adjacent developed residential neighborhoods will not be negatively affected by allowing this undeveloped land to be located within the boundary of an amended boundary of an adjacent Planned Development as adequate access to and the provision of sufficient services to adjoining parcels will continue.

As noted above in these Findings, the proposed street pattern provides a safe, interconnected and efficient network of residential accessibility to serve the proposed and adjacent existing residential neighborhoods. The one cul-de-sac street in this plan is proposed in response to the noted existence of an adjacent wetland and the unique shape this portion of the site where provision of a through-street is not possible. There are no arterial or collector streets within or adjacent to this development site. The proposed street system is designed to promote a balance of safe and efficient movement of vehicles, pedestrians and bicycles as required by the McMinnville TSP and is augmented for pedestrians through the provision of additional walking paths within and surrounding the proposed development. Vehicular access to the adjacent street system promotes safe street connectivity to the surrounding transportation network.

A Transportation Impact Study for this Oak Ridge Meadows proposal has been completed by the transportation planning and transportation engineering firm DKS and is attached to this proposal (Exhibit 28). In sum, this Study concludes that an evaluation of the livability of neighborhood streets, as defined by the volume of traffic the streets were designed to handle (1,200 vehicles per day), confirmed that the Oak Ridge Meadows development is not expected to have an adverse impact on the existing neighborhood streets inclusive of the intersections of Baker Creek Road and NW Pinot Noir Drive, NW Oak Ridge Drive and NW Merlot Drive.

Further, that both the Interim Build and Full Build of Oak Ridge Meadows, as proposed, will continue to operate well under-capacity and will meet City of McMinnville safe operating standards. Please refer to Exhibit 28 for additional detail.

The need for a temporary emergency-only access to support this proposal was addressed above relative to Policy 132.32.00 and Policy 155.00. This temporary emergency only access roadway will also aid in reducing emergency vehicle response times as it can provide a more direct route to some portions of Phase I until such time that it is replaced with a dedicated fully improved local public street across adjacent land. Additionally, travel speeds within this site are based on an adopted street classification scheme identified in the adopted McMinnville TSP. All streets in the proposed development are designed as local streets and, as such, are limited to a legal vehicular travel speed of 25 miles per hour as are the local streets in the adjacent residential neighborhoods. This residential vehicle speed limitation and the adopted local street design standards have been successful in McMinnville in mitigating neighborhood issues related to noise, pedestrian and bicycle movement, and aesthetics as evidenced in the adjacent residential neighborhoods; the closest being the adjacent multi-phased Oak Ridge neighborhood.

Further responses relative to the specific street design standards are found in Section V - Conclusionary Findings for Approval, Findings of Fact 6, above.

**FINDING: SATISFIED WITH CONDITION 13.** The proposed development is designed within the existing street network surrounding the subject site. Currently that network, consists only of NW Pinot Noir Drive. The Planned Development Amendment request would allow the northerly extension of Pinot Noir Drive as planned. With the development of the first phase of the proposed Oak Ridge Meadows subdivision, NW Pinehurst Drive would be extended to the easternmost property line of parcel R441701300 so as to provide future access and provision of services to the adjacent parcel. That adjacent parcel is currently not in the McMinnville city limits, but should the time come for that parcel to be annexed and developed, the proposed development would be in place to provide access and services. Development of the street network in the second phase of the proposed subdivision, namely the continuation of Pinehurst Drive to the southern property line of parcel R440700602, would provide access and services to adjacent undeveloped parcels to the south and west.

A Traffic Impact Analysis (TIA) for the proposed development indicates the addition of 108 proposed single-family lots in a subdivision with initially only one improved street access would push the volume of traffic on the immediately adjacent local residential street (NW Pinot Noir Drive, northwest of Oak Ridge Drive) to its maximum threshold it was designed to carry. Livability of a street is generally determined by factors such as vehicle speeds and volumes relating to pedestrian safety, bicycle safety, and vehicle movements along a neighborhood street. McMinnville has not adopted a livability standard measure, but has adopted a design capacity of 1,200 vehicles per day (vpd) on local neighborhood streets. The TIA shows that until a second, permanent improved street connection provides access to the proposed subdivision, the traffic generated by 108 single-family dwelling units would increase the vpd on the northwest portion of NW Pinot Noir Drive to its 1,200 vehicle limit. The TIA uses 108 single-family dwelling units (one dwelling unit per lot) as a basis for its average daily trip generation. However, two-family dwellings and accessory dwelling units are also permitted uses in the underlying R-2 zone. Should a lot be developed with a two-family dwelling or an ADU, the increased daily trips from that additional dwelling units would push the volume of traffic carried by NW Pinot Noir Drive over its design limit of 1,200 vpd. Therefore, a condition of approval is included to limit development of the proposed subdivision to 108 dwelling units, in any combination of single-family dwellings, two-family dwellings, or accessory dwellings, until such time that a second permanent improved street connection provides access to the proposed subdivision.

**17.74.070(D).** *The plan can be completed within a reasonable period of time;*

**APPLICANT'S RESPONSE:** Premier Development intends to begin work on the proposed Oak Ridge Meadows residential subdivision as soon as permitting is issued and reasonable weather allows, and plans to continue work through platting as an estimated five-year plan; targeted platting of Phase 1 is approximately two years and the targeted platting of Phase 2 would occur in approximately three subsequent years for a total of an estimated five years afforded to achieve the platting of both phases. This criterion is satisfied.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, and considers the proposed development pacing and schedule to be reasonable.

**17.74.070(E).** *The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;*

**APPLICANT'S RESPONSE:** Premier Development plans to continue the local street network through the proposed Oak Ridge Meadows Planned Development area as a natural and logical extension of that developed to serve the three existing phases of the adjacent Oak Ridge Planned Development area. This proposed street design is very similar to the street design of the previous subdivision approvals supported by the adoptions of Ordinances 4722 and 4822. In this current application, all proposed streets will be public and will be developed to public standards. It is also pertinent to note that during the time that the existing phases of the adjacent Oak Ridge development were constructed and platted, public local street design required a 26-foot wide paved section. This standard has since been modified by Council action to require a 28-foot wide paved section for local public residential streets which is the standard that Premier Development proposes for all such streets within this two-phase residential subdivision.

Regarding anticipated traffic, the McMinnville City Council adopted the City of McMinnville Transportation System Plan (TSP) in 2010. As part of the TSPs modeling analysis, the site of this application was assumed to build out to the residential density of its underlying R-2 zone. The TSP notes no traffic volume capacity issues or unsafe road or intersection conditions resulting from that assumption and modeling. As Ordinance 4822 limits the average minimum lot size in the original Oak Ridge Meadows site to no less than 7,500 square feet, and Premier Development proposes to comply with this requirement (Ordinance 4822, Condition of Approval 2) for the requested expanded Oak Ridge Meadows Planned Development area, the resulting density, and associated vehicle trip generation, is less than was anticipated and modeled in the McMinnville TSP adopted by the City Council. Additionally, as the tentative subdivision plan described above proposes 16 lots less than was once envisioned and conceptually approved for this area, the currently proposed single-family residential development plan will also generate fewer vehicle trips than anticipated by the earlier approvals.

As addressed in the Findings for Circulation Policies in Finding of Fact 5 above, a Transportation Impact Study for this Oak Ridge Meadows proposal has been completed by the transportation planning and transportation engineering firm DKS and is attached to this proposal (Exhibit 28). In sum, this Study concludes that the proposed development is anticipated to result in the following impacts:

- The development will consist of 108-unit single family homes. The ultimate buildout of the site includes a connection to NW Baker Creek Road via an extension of NW Shadden Drive. In the interim, the development will be accessed via NW Pinot Noir Drive, NW Oak Ridge Drive, and Merlot Drive.
- The development is expected to generate 80 (20 in, 60 out) AM peak hour trips, 107 (67 in, 40 out) PM peak hour trips, and 1,020 daily trips.

- Intersection operations during the Interim Build and Full Build of Oak Ridge Meadows will continue to operate well under-capacity and will meet City of McMinnville operating standards. The addition of Oak Ridge Meadows traffic will not have a significant impact on the operations or delay experienced at the intersections of NW Baker Creek Road/NW Oak Ridge Drive and NW Baker Creek Road/Merlot Drive.
- An evaluation of the livability of neighborhood streets, as defined by the volume of traffic the streets were designed to handle (1,200 vpd), confirmed that the Oak Ridge Meadows development is not expected to have an adverse impact on the existing neighborhood streets.

Please refer to the Oak Ridge Meadows Transportation Impact Study (Exhibit 28) for additional detail.

The following component of this Finding is found at the Finding provided at 132.32.00 and is also relevant here. As there is only one public street connection currently in place to serve the two-phased Oak Ridge Meadows subdivision, a temporary emergency-only access will be required in order to exceed the 30 unsprinkled home limitation described above. This emergency access, which will be placed in an easement, will be graded and finished with compacted rock to applicable standards and extend northward from the intersection of NW Shadden Drive and NW Baker Creek Road, across land currently owned by Stafford Land Company, to the southern edge of the Oak Ridge Meadows site at a point between proposed Lots 55 and 56 (Exhibit 26). [It is possible that this temporary emergency-only access may be shorter in length under a potential scenario described by Gordon Root of Stafford Land Company in an email where Stafford Land Company agrees to the granting of this temporary easement (Exhibit 27).] This temporary emergency-only accessway would then proceed northward on Premier Development's site along the proposed Phase 2 alignment of NW Pinehurst Drive to its intersection with "A" Street and then proceed generally eastward along the proposed "A" Street alignment to an alignment even with the proposed western edge of Lot 25 which is to be the westernmost lot along "A" Street in Phase I of the Oak Ridge Meadows subdivision. Fire Department approved gates would be located at both ends of this compacted gravel emergency-only accessway as directed by the McMinnville Fire Department. The McMinnville Fire Department has stated that, if such gates needed to be locked, they would be so with Fire Department approved locks. At such time that this adjacent land is to develop, this easement would then be revoked and public right-of-way be dedicated and improved to City standards providing a permanent second public street connection to the Oak Ridge Meadows development. This criterion is satisfied.

**FINDING: SATISFIED WITH CONDITION 14.** The density of the proposed development is within the density standards for the underlying R-2 zone. McMinnville's Transportation System Plan (TSP) is based on the full build-out of the zone at maximum density. The proposed planned development amendment would not increase the density beyond that which has been incorporated into the TSP, and will not overload the streets in the planned area. However, the Traffic Impact Analysis (TIA) submitted by the applicant shows the addition of 108 proposed single-family lots in a subdivision with only one improved street access would push the volume of traffic on the immediately adjacent local residential street (NW Pinot Noir Drive, northwest of Oak Ridge Drive) to its maximum threshold it was designed to carry. McMinnville has adopted a design capacity of 1,200 vehicles per day (vpd) on local neighborhood streets. The TIA shows that until a second, permanent improved street connection provides access to the proposed subdivision, the traffic generated by 108 single-family dwelling units would increase the vpd on the northwest portion of NW Pinot Noir Drive to its 1,200 vehicle limit. The TIA uses 108 single-family dwelling units (one dwelling unit per lot) as a basis for its average daily trip generation. However, two-family dwellings and accessory dwelling units are also permitted uses in the underlying R-2 zone. Should a lot be developed with a two-family dwelling or an ADU, the



increased daily trips from that additional dwelling units would push the volume of traffic carried by NW Pinot Noir Drive over its design limit of 1,200 vpd. Therefore, a condition of approval is included to limit development of the proposed subdivision to 108 dwelling units, in any combination of single-family dwellings, two-family dwellings, or accessory dwellings, until such time that a second permanent improved street connection provides access to the proposed subdivision.

**17.74.070(F).** *Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;*

**APPLICANT'S RESPONSE:** Responses to the criteria relative to the proposed utility and drainage facilities to serve this proposed development, and relevant associated modifications to Ordinance 4822, are found under the Section V - Conclusionary Findings for Approval, Finding 6, above. This criterion is satisfied.

**FINDING: SATISFIED.** The City concurs with the applicant's findings. 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 serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site.

**17.74.070(G).** *The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.*

**APPLICANT'S RESPONSE:** The effects on noise, air and water pollutants anticipated to be caused by this development have already been addressed through the prior review of more impactful development proposals (e.g., a greater number of proposed residential lots) for this site and the Council's related supportive approval of Ordinances 4722 and 4822. This current proposal impacts the site and adjacent neighborhoods to a lesser degree than the combined effect of the earlier subdivision approvals due to the current proposal to plat 16 fewer single-family residential lots than was originally proposed and approved for the Oak Ridge and Oak Ridge Meadows sites. The anticipated pollutant impact of this current plan is also lessened by Premier Development's proposal to provide both an approximately 0.85-acre active private neighborhood park and dedicate approximately 5.6-acres of open space to the public for use as preserved greenway along the south side of Baker Creek. Additionally, the majority of the existing wetlands on the site will be preserved and these wetlands and their supported wildlife can be viewed and enjoyed for extended lengths of time by residents' use of the benches proposed to be installed by Premier Development along the lower, eastern portion NW Pinehurst Drive as previously described. Further discussion of noise, air, and water pollutants potentially caused by the proposed development is found in findings presented above. This criterion is satisfied.

**FINDING: SATISFIED.** The City concurs with the applicant's findings, though The City notes that previous wetland mitigation for construction associated with the previously approved Oak Ridge residential development was identified by the Department of State Lands as having failed. Among other functions, wetlands protect and improve water quality by reducing water pollutants, be they from adjacent development or from upstream. Though it is not anticipated the development of the site would cause noise, air, or water pollutants sufficient to have an adverse effect on the surrounding areas or city as a whole, encroachment into and loss of adjacent wetlands would detract from the water quality function of the wetland.

JF



**ORDINANCE NO. 5070**

**AN ORDINANCE APPROVING A TENTATIVE SUBDIVISION FOR A 108 LOT, PHASED SINGLE-FAMILY DETACHED RESIDENTIAL DEVELOPMENT AT R441701300/R440700602.**

**RECITALS:**

The Planning Department received an application (S 3-18) from Premier Development, LLC, property owner, requesting approval of a Tentative Subdivision for the construction of a 108 lot, two phase single-family residential development on approximately 35.47 acres of land, referred to as Oak Ridge Meadows.; and

The subject site is located generally north of Baker Creek Road and NW Pinot Noir Drive, south of Baker Creek (Tax Lot 1300, Section 17, T. 4 S., R. 4 W., W.M. and Tax Lot 602, Section 7, T. 4 S., R. 4 W., W.M.); and

A public hearing before the McMinnville Planning Commission was held on April 18, 2019, after due notice had been provided in the local newspaper on April 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 voted to continue the public hearing; and

The public hearing before the McMinnville Planning Commission was continued on May 16, 2019, after due notice had been provided in the local newspaper on May 7, 2019; and

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

The Planning Commission, being fully informed about said request, found that the requested amendment conformed to the applicable Comprehensive Plan goals and policies, as well as the Tentative Subdivision review criteria listed in Section 17.53 of the McMinnville Municipal Code 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 7-2, recommended approval of said Tentative Subdivision to the Council; and

The City Council having received the Planning Commission recommendation and staff report, and having deliberated, requested a public hearing; and

A public hearing before the McMinnville City Council was held on July 23, 2019 after written notice had been mailed to property owners within 300 feet of the affected property on June 27, 2019; and

At said public hearing, a staff report was presented, and applicant and public testimony was received; and having deliberated;

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

1. That the Council adopts the Findings of Fact, Conclusionary Findings, Decision and Conditions of Approval as documented in Exhibit A approving S 3-18; and
2. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 23<sup>rd</sup> day of July 2019, by the following votes:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

\_\_\_\_\_

MAYOR

Attest:

Approved as to form:

\_\_\_\_\_  
CITY RECORDER

\_\_\_\_\_  
CITY ATTORNEY



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

503-434-7311  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, CONDITIONS, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF A TENTATIVE SUBDIVISION FOR A 108 LOT, PHASED SINGLE-FAMILY DETACHED RESIDENTIAL DEVELOPMENT AT R441701300/R440700602.**

- DOCKET:** S 3-18 (Tentative Subdivision)
- REQUEST:** Approval of a Tentative Subdivision (more than 10 lots) for a 108 lot, two phase single-family detached residential development.
- LOCATION:** Generally north of Baker Creek Road and the multi-phased Oak Ridge residential development, and south of Baker Creek (Tax Lot 1300, Section 17, T. 4 S., R 4 W., W.M. and Tax Lot 602, Section 7, T. 4 S., R 4 W., W.M.)
- ZONING:** R-2 PD (Single Family Residential Planned Development)
- APPLICANT:** Premier Development, LLC (property owner)
- STAFF:** Jamie Fleckenstein, PLA, Associate Planner
- DATE DEEMED COMPLETE:** January 24, 2019
- HEARINGS BODY & ACTION:** The McMinnville Planning Commission makes a recommendation for approval or denial to the City Council.
- HEARING DATE & LOCATION:** April 18, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon, continued to May 16, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon; July 23, 2019, Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville Oregon
- PROCEDURE:** An application for a Tentative Subdivision (more than 10 lots) 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 are specified in Chapter 17.53 of the Zoning Ordinance. In addition, the goals, policies, and proposals in Volume II of the Comprehensive Plan are to be applied to all land use decisions as criteria for approval, denial, or modification of the proposed request. Goals and policies are mandated; all land use decisions must conform to the applicable goals and

policies of Volume II. "Proposals" specified in Volume II are not mandated, but are to be undertaken in relation to all applicable land use requests.

**APPEAL:**

The Planning Commission makes a recommendation to the City Council, and the City Council makes the final decision. The City Council's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date written notice of the City Council's decision is mailed to parties who participated in the local proceedings and entitled to notice and as provided in ORS 197.620 and ORS 197.830, and Section 17.72.190 of the McMinnville Municipal Code. Per the applicant's requests on March 1, 2019 to extend the 120 day decision timeframe for an additional 60 days and on June 5, 2019 for an additional 21 day extension, the City's final decision is subject to a 201 day processing timeline, and a decision will need to be rendered by August 13, 2019.

**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 Oregon Department of State Lands. Their comments are provided in this document.

**DECISION**

Based on the findings and conclusionary findings, the City Council **APPROVES** the Tentative Subdivision (S 3-18) **subject to the conditions of approval provided in Section II of this document.**

//  
**DECISION: APPROVAL WITH CONDITIONS**  
//

City Council: \_\_\_\_\_  
Scott Hill, Mayor of McMinnville

Date: \_\_\_\_\_

Planning Commission: \_\_\_\_\_  
Roger Hall, Chair of the McMinnville Planning Commission

Date: \_\_\_\_\_

Planning Department: \_\_\_\_\_  
Heather Richards, Planning Director

Date: \_\_\_\_\_

## **I. APPLICATION SUMMARY:**

The applicant has provided extensive information in their application narrative and findings (attached) regarding the history of land use decisions for the subject site(s) and the request(s) under consideration. City has found the information provided to accurately reflect the current Subdivision request and the relevant background, and excerpted portions are provided below to give context to the request, in addition to staff's comments.

### ***Subject Property & Request***

The request is for approval of a Tentative Subdivision for the construction of a 108 lot, two phase single-family residential development on approximately 35.47 acres of land, referred to as Oak Ridge Meadows. If approved, the subdivision would provide the opportunity for the construction of 108 single-family homes on lots ranging in size from approximately 4,950 to 14,315 square feet and averaging approximately 7,771 square feet in size. In addition, an approximately 0.85-acre active private neighborhood park and an approximately 5.6-acre public open-space greenway dedication along Baker Creek are proposed. **See Vicinity Map (Figure 1) and Zoning Map (Figure 2) below.**

Concurrent to the Tentative Subdivision application, two (2) Planned Development Amendments are requested to allow exceptions to the underlying planned development (Ordinance 4822) and R-2 zone, including lot size averaging; modified sideyard and exterior sideyard setbacks; allow for some lots with side lot lines oriented other than at right angles to the street upon which the lots face; allow for some lots to exceed the recommended lot depth to width ratio; and allow some block lengths to exceed the recommended maximum block length standard. The requested Planned Development Amendment would also allow for the designation of an approximately 0.85-acre active private neighborhood park; and, allow for dedication of an approximately 5.6-acre public open-space greenway dedication along Baker Creek.

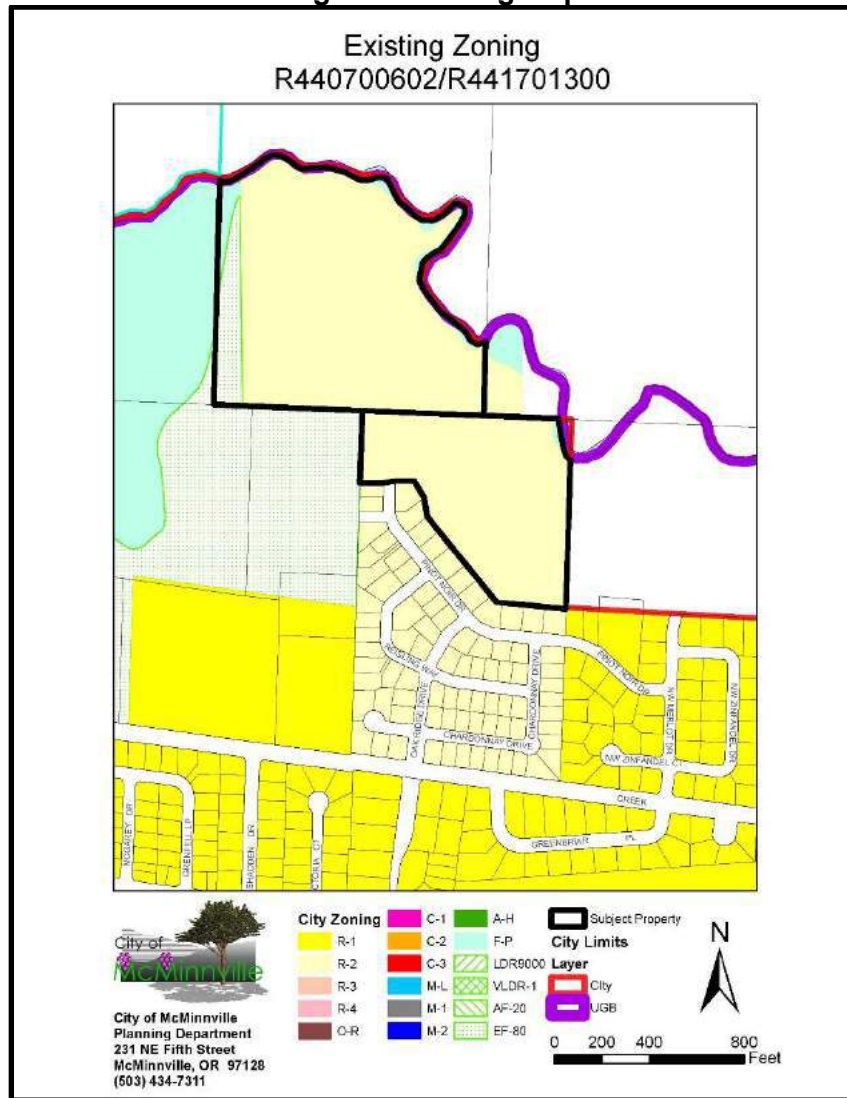
The subject property is located generally north and east of NW Pinot Noir Drive and south of Baker Creek. The subject property is zoned R-2 PD (Single Family Residential Planned Development) and is currently undeveloped. South of the subject site are Phases One, Two, and Three of the Oak Ridge Planned Development, single family developments also zoned R-2 PD. North and west of the site is the undeveloped land subject to the Oak Ridge Meadows Planned Development, zoned R-2 PD and the subject of the concurrent Planned Development Amendment request (PDA 4-18). **See Vicinity Map (Figure 1) and Zoning Map (Figure 2) below.**

Figure 1. Vicinity Map





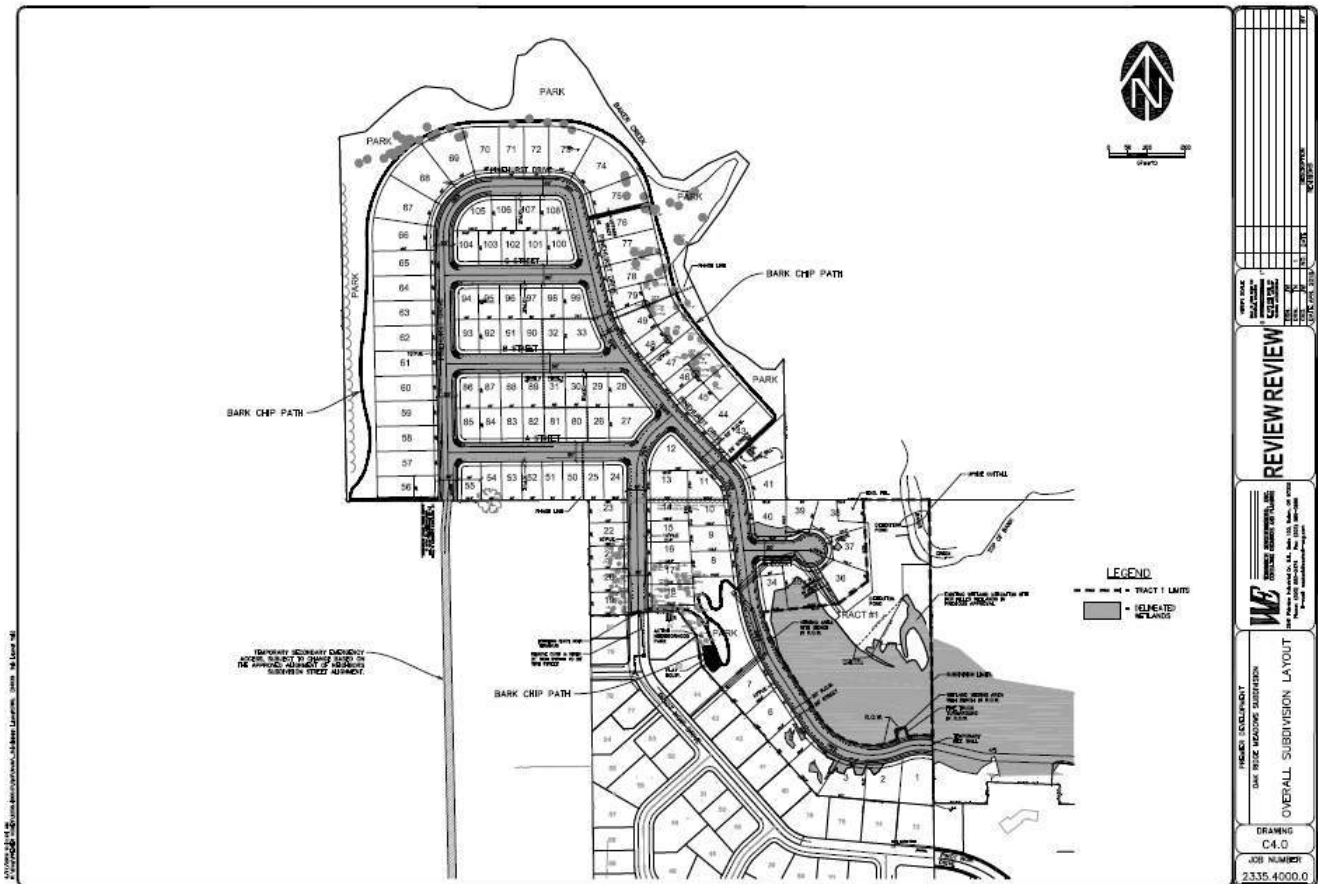
**Figure 2. Zoning Map**



**Summary of Criteria & Issues**

The proposed tentative subdivision plan is provided below for reference. **See Oak Ridge Meadows Tentative Subdivision Plan (Figure 3) below.**

Figure 3. Oak Ridge Meadows Tentative Subdivision Plan



Excerpts from Land Use Application Narrative and Findings:

For general orientation to the main elements of the proposed tentative subdivision, the larger residential lots are identified as being generally located around the west, north and east perimeter of the site which has the benefit of preserving as much of the steeper elevations of the site as possible and allowing for building envelopes that allow preservation of much of the associated natural greenway and tree cover. Lots that are more centrally located within the site are proposed to be moderately sized (generally between approximately 4,950 and 8,825 square feet in size) and those that are proposed to be located toward the southern end of the site along the west side of NW Pinot Noir Drive are designed to approximate the sizes of the nearby existing developed lots to the south and also located along the west side of NW Pinot Noir Drive to purposefully help the proposed development blend cohesively with the current adjacent established neighborhood. Lots proposed to be located along the east side of this same length of NW Pinot Noir Drive are a bit larger than those found along the west side but not quite as large as the nearby existing developed lots to the south and located along the east side of NW Pinot Noir Drive. This transition from existing to proposed lot sizes along the east side of NW Pinot Noir Drive is mitigated by a proposed 15-foot wide public pedestrian access path leading eastward from NW Pinot Noir Drive to provide pedestrian access to the approximately 36,833 square foot (0.85-acre) active private neighborhood park connecting NW Pinot Noir Drive and NW Pinehurst Drive. The varied arrangement of proposed lot sizes within the two-phased subdivision plan complements the existing adjacent residential development pattern, preserves environmentally sensitive and scenic areas and will provide a range of lots sizes at varying price points within the residential market.

This plan also preserves a very similar vehicular circulation pattern to that previously tentatively approved for the area that was to become the Oak Ridge fourth phase and the Oak Ridge Meadows tentative residential subdivision plan by continuing the northerly extension of NW Pinot Noir Drive to serve an almost identical pattern of previously proposed interconnected local streets. One cul-de-sac street is currently proposed which is in the same general location as was supported in the previous Oak Ridge subdivision approval due to the presence of adjacent wetlands along the site's southeastern edge. Access necessary to allow for inspection and maintenance functions related to the sewer system in this area is also provided from this cul-de-sac and is proposed to be located within easements centered along the common property line of Lots 35 and 36 (Exhibit 7). NW Pinehurst Drive is proposed to continue southward beyond this cul-de-sac to serve proposed lots to be located along the west side of NW Pinehurst Drive; this was also approved as part of the previous Oak Ridge approval.

The dedication of a public greenway inclusive of a pedestrian pathway is being proposed to encircle the west, north and most of the eastern edges of the site. This greenway dedication is proposed to begin at the site's outer edge and extend inward toward the toe of the encircling slope effectively forming a ring around the majority of the outer edge of the site. This public greenway will vary in width based on the location of the site boundary and the location of the steeper portions of the slope. It is anticipated that the width of this public greenway may extend to a width of some 300-feet at its widest. In conversations with the McMinnville Parks and Recreation Department it was determined that a bark chip path, similar to that located along the greenway river edge of Joe Dancer Park, would be the desired improvement to request of Premier Development to provide enabling pedestrian mobility through this public open space greenway. With the exception of the portion of the bark chip path proposed to be temporarily provided along the south edge of Lot 56 (which is further described in Findings below) the entirety of the bark chip path would be located in areas dedicated to the public. This dedication totals approximately 5.6 acres of public open space located adjacent to this neighborhood for the use and enjoyment of the general community.

This proposal also includes for the creation of the approximately 0.85 acre (approximately 36,833 square feet) active private neighborhood park mentioned above and proposed to be located in Phase One of this development. This park will afford neighborhood residents a convenient location from which to enjoy the scenic viewshed of the preserved wetlands to the east. Access through the active private neighborhood park would be provided by a curvilinear pedestrian pathway connecting NW Pinot Noir Drive to NW Pinehurst Drive. The active private neighborhood park will also provide a designated area on the upland portion from which to view the wetlands to the east; additional wetland viewing benches are also proposed along the eastern side of NW Pinehurst Drive adjacent to the wetlands. Premier Development also proposes to install suitable permanent child-appropriate playground equipment within this upland portion of the park to provide active recreational opportunities for children residing within the neighborhood. With the proposed arrangement of park spaces, pedestrians will be able to enjoy continuous access from the active private neighborhood park entrance on NW Pinot Noir Drive through to NW Pinehurst Drive and, then by walking northward along the public sidewalk for approximately 300 feet, they will be able to then move east along the public access walkway leading from NW Pinehurst Drive and enjoy the walking trail which will wind its way through the entire greenway that will wrap the neighborhood all the way to subject site's southwestern-most corner; at this point the public pedestrian pathway will have the opportunity to be extended as a pedestrian feature as part of the future development of adjacent land to the south and west which is currently owned by Stafford Land Company. Additional public pedestrian accesses to this greenway path will be provided by way of park chip paths leading to the greenway from NW Pinehurst Drive to be located between lots 75 and 76 and along the south side of lot 56. Premier Development proposes that the forthcoming Homeowner's Association for this proposed Oak Ridge Meadows development will be responsible for full maintenance responsibilities of the

entirety of the publicly dedicated greenway path and its associated access paths until the year 2032 at which time all such maintenance responsibilities shall become the full responsibility of the City in perpetuity; the pedestrian pathway to be created by easement along the southern portion of Lot 56 is to be temporary, the maintenance of which will not be transferred to the City, and will be eliminated at such time as described below.

It is anticipated that the Stafford Land Company intends to provide a continuation of this public greenway system along the northern edge of their adjacent forthcoming development proposal located generally west of the Oak Ridge Meadows site. As part of that proposal it is understood that a permanent public pedestrian access path to this greenway will be proposed to be provided by Stafford Land Company connecting a local public residential street located approximately 100 feet south of the temporary access path that Premier Development will be providing along the south side of lot 56. If and when this permanent pedestrian access path to the greenway is provided by Stafford Land Company, the temporary access path provided by Premier Development by way of an easement along the south side of lot 56 will be extinguished.

## **II. CONDITIONS:**

1. That the decision for approval of Oak Ridge Meadows Tentative Subdivision (S 3-18) is not rendered, and does not take effect, until and unless the Planned Development Amendment requests (PDA 3-18 and PDA 4-18) are approved by the City Council.
2. That the applicant plant street trees within curbside planting strips in accordance with a street tree plan to be prepared by the applicant and submitted to the Landscape Review Committee for their review and approval. The street tree plan shall identify the locations of all street lights, fire hydrants, utility vaults, transformers, and other public and private utilities. The placement of those utilities shall be strategic to allow for as many street trees to be planted within the subdivisions as possible. 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. In planting areas that may be constrained, additional consideration shall be given to the tree species and other planting techniques, as determined by the Landscape Review Committee, may be required to allow for the planting of street trees without compromising adjacent infrastructure. 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 October 1 to April 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 street 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.
3. That a landscape plan, including landscaping and improvements in common area tracts, shall be submitted to the McMinnville Landscape Review Committee for their review and approval. Improvements in the Private Active Neighborhood Park shall include, at a minimum, commercial

grade play equipment featuring at least ten different play elements for ages 2-12 and appropriate seating and trash/recycling collection. Improvements in the wetland viewing areas in Tract 1 shall include, at a minimum, appropriate seating and trash/recycling collection.

4. That restrictive Covenants, Conditions, and Restrictions (CC&Rs) shall be prepared for the development that are consistent with those in place for existing adjacent single family developments and must meet with the approval of the Planning Director prior to final plat approval.
5. That 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. Additionally, the Homeowner's Association shall be assigned maintenance responsibilities of the dedicated public open space greenway until 2032, at which point maintenance responsibilities shall be transferred to the City in perpetuity. In order to assure that the Homeowner's Association maintains and repairs any needed improvements, the Covenants, Conditions, and Restrictions (CC&Rs) shall explicitly require the Homeowner's Association to provide notice to the City prior to amending the CC&Rs, and that all such amendments shall be subject to approval by the Planning Director. Additionally, the CC&Rs shall prohibit the Homeowner's Association from disbanding without the consent of the Planning Director. The CC&Rs shall be reviewed by and subject to City approval prior to final plat approval.
6. That plat phasing is approved as depicted in the applicant's submittal listed as Exhibit 6 in the applicant's submittal and generally described as:
  - a. Phase 1 – Lots 1 through 49, the northerly extension of Pinot Noir Drive, Pinehurst Drive generally south of "B" Street, "A" Court, and the easterly portions of "A" and "B" Streets. When required to meet applicable Fire Code requirements, homes shall be sprinkled.
  - b. Phase 2 – The balance of Oak Ridge Meadows inclusive of the temporary emergency-only access.

Both Phase 1 and Phase 2 shall be recorded for final plat within (5) years (two years for Phase 1 and a subsequent 3 years for Phase 2) from the date this approval decision is final without appeal and the decisions of PDA 3-18 and PDA 4-18 are final without appeal. The developer shall be responsible for requesting approval of the Planning Commission for any major change of the details of the adopted plan. Minor changes to the details of the adopted plan may be approved by the Planning Director. It shall be the Planning Director's decision as to what constitutes a major or minor change. An appeal from a ruling by the Planning Director may be made only to the Commission. Review of the Planning Director's decision by the Planning Commission may be initiated at the request of any one of the Commissioners.

7. That the applicant shall provide twenty-five percent (25%) of the single family lots (27 of the proposed 108 single family lots) for sale to the general public for a period of six months following recording of the final plat. The applicant shall provide information detailing the number of lots that will be made available for individual sale to builders for review and approval by the Planning Director prior to recording of the final plat. Upon approval, the referenced lots will be made available for sale to the general public for a minimum of one hundred eighty (180) days prior to building permit issuance for said lots.
8. That the Private Active Neighborhood Park shall be constructed at the time the fifteenth building permit has been issued for Phase 1. Per Section 17.53.075(D) of the Zoning Ordinance, prior to final plat of Phase 1, the applicant shall enter into a construction agreement with the City for

the improvements in the Private Active Neighborhood Park. A bond or other assurance for the greenway improvements shall be filed with the agreement for improvement.

9. That the dedicated greenway trail system and access ways shall be constructed prior to the issuance of building permits for Phase 2 per Section 17.53.075(D) of the McMinnville Municipal Code.
10. That a pedestrian/bicycle way be provided between Lot 56 and Lot 75 such that the distance between pedestrian ways along Pinehurst Drive from its temporary southwest terminus and "A" Court does not exceed 800 feet. This pedestrian/bicycle way shall be constructed per the specifications outlined the conditions of approval for PDA 4-18.
11. *That the developer and the Homeowner's Association shall enter into a Revocable License Agreement with the City to establish and maintain a minimum of two (2) wetland viewing areas in the right-of-way that are accessible, meet city specifications and are maintained by the developer and Homeowner's Association.*
12. That the proposed subdivision be limited to 108 dwelling units until such time that a second permanent improved street connection provides access to the proposed subdivision.
13. 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.
14. Prior to the construction of any private storm facilities, the applicant shall obtain the necessary permits from the City's Building Division.
15. 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.
16. That the applicant secures from the Oregon Department of Environmental Quality (DEQ) 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.
17. That all fill placed in the areas where building sites are expected shall be engineered and shall meet with the approval of the City Building Division and the City Engineering Department.
18. That 10-foot utility easements shall be provided along both sides of all public rights-of-way for the placement and maintenance of required utilities.
19. That cross sections for the entire street system shall be prepared which show utility location, street improvement elevation and grade, park strips, sidewalk location, and sidewalk elevation and grade.
20. Said cross sections shall be submitted to the Community Development Director for review and approval prior to submittal of the final plat. If the submitted information so indicates, the Planning Director may require the tentative subdivision plan be revised in order to provide for a more practical configuration of lots, utilities, and streets. All such submittals must comply with the

requirements of 13A of the Land Division Ordinance and must meet with the approval of the City Engineer.

21. That all streets within the proposed 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 Ordinance for local residential streets. Additionally, the applicant shall widen the existing cross-section of NW Pinot Drive north of Blake Street to 28-feet to be consistent with the local residential street standard.
22. That prior to construction of the proposed subdivision, the applicant shall secure all required state and federal permits, including, if applicable, those related to the federal Endangered Species Act (if applicable), Federal Emergency Management Act, and those required by the Oregon Division of State Lands, and U.S. Army Corps of Engineers. Copies of the approved permits shall be submitted to the City.
23. That the construction of Pinehurst Drive through the wetland fill area shall be done under the direction of, and per the requirements of a licensed geotechnical engineer.
24. That barricades shall be installed by the applicant at the terminus of all public streets, consistent with City standards. The barricades shall include text stating: "This street is planned for extension in the future to serve proposed development."
25. That the applicant provide information to the City Engineer as to the design capacity of the existing downstream sanitary sewer pump station located in the Crestbrook subdivision, First Addition. If the information and studies provided by the applicant indicate that adequate capacity does not exist to support the proposed development of the Oak Ridge Meadows subdivision, then the applicant shall make improvements to the system as may be necessary and required by the City Engineer. Such improvements shall be at the expense of the applicant and shall be completed prior to release of the final plat.
26. On-street parking will not be permitted within a 30-foot distance of street intersections measured from the terminus of the curb returns.
27. 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.
28. The final plat shall include use, ownership, and maintenance rights and responsibilities for all easements and tracts.
29. That the required public improvements shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat. Prior to the construction of the required public improvements, the applicant shall enter into a Construction Permit Agreement with the City Engineering Department, and pay the associated fees.
30. 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.

31. That the Tentative Subdivision Plan, Phase One shall expire two (2) years from the date this decision is final without appeal and the decisions of PDA 3-18 and PDA 4-18 are final without appeal. If the property owner wishes a one-year extension of the Planning Commission approval of this tentative plan under the provisions of MMC Section 17.53.075 (Submission of Final Subdivision Plat), 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.
32. That the Tentative Subdivision Plan, Phase Two shall expire five (5) years from the date of this approval. If the property owner wishes a one-year extension of the Planning Commission approval of this tentative plan under the provisions of MMC Section 17.53.075 (Submission of Final Subdivision Plat), 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.
33. 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.
34. That, prior to issuance of residential building permits, the applicant shall submit a residential Architectural Pattern Book to the Planning Director for review and approval. The purpose of the Architectural Pattern Book is to provide an illustrative guide for residential design in the Oak Ridge Meadows development. This book will contain architectural elevations, details, materials and colors of each building type. In order to protect property values, front entries will need to be clearly defined, at least two material types will need to be used on the front elevations, driveways should be adjacent to each other to enhance opportunities for front yards and landscaping, and a variety of color schemes should be used throughout the development that are distinctly different from each other but enhance each other.

At a minimum, the Architectural Pattern Book shall contain sections addressing:

- a) Style and Massing
  - b) Quality and Type of Exterior Materials
  - c) Front Porches / Entry Areas
  - d) Roof Design and Materials
  - e) Exterior Doors and Windows
  - f) Garage Door Types
  - g) Exterior Lighting
  - h) Sample Exterior Colors
35. In order to eliminate a cookie-cutter stylization of the neighborhood, no same home design shall be built in adjacency to another, including both sides of the street.
  36. Public pedestrian/bicycle access paths ways, from the public right-of-way to the rear lot line of adjacent lots, shall be 20 feet in width, with a 10 foot wide multi-use path built to City specifications to be provided by the City to the developer/property owner with a five foot buffer on each side, and minimum of (1) public pedestrian/bicycle access path to the greenway trail shall be improved to accommodate maintenance vehicles. The temporary pedestrian/bicycle access way adjacent to Lot 56 shall be developed with a path consistent with the greenway trail.



### **III. ATTACHMENTS:**

1. S 3-18 Application and Attachments (on file with the Planning Department)
2. S 3-18 Application – Supplemental Materials
  - a. Errata Memorandum, April 17, 2019, Ron Pomeroy, Navigation Land Use Consulting (representing Premier Development) (on file with the Planning Department)
  - b. Wetland Delineation Report, Pacific Habitat Services (on file with the Planning Department)
3. Public Notices (on file with the Planning Department)
4. Agency Comments (on file with the Planning Department)
5. Testimony Received (on file with the Planning Department)
  - a. Public Testimony
    - i. Steve and Catherine Olsen, 2650 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - ii. Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - iii. Sandi Colvin, 2718 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - iv. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received April 10, 2019 (on file with the Planning Department)
    - v. Friends of Baker Creek, 501-3C (submitted by Mike Colvin), Letter received April 10, 2019 (on file with the Planning Department)
    - vi. Friends of Baker Creek, 501-3C, Letter received April 10, 2019 (on file with the Planning Department)
    - vii. Tim and Margaret Roberts, 1069 NW Baker Crest Court, Letter received April 15, 2019 (on file with the Planning Department)
    - viii. Friends of Yamhill County, Email received April 15, 2019 (on file with the Planning Department)
    - ix. Yamhill Soil & Water Conservation District, Email received April 16, 2019 (on file with the Planning Department)
    - x. Jan and Randy Hartzell, 1093 NW Baker Crest Court, Email received April 17, 2019 (on file with the Planning Department)
    - xi. Housing Land Advocates and Fair Housing Council of Oregon, Letter received April 17, 2019 (on file with the Planning Department)
    - xii. Glen Westlund, Email received April 18, 2019 (on file with the Planning Department)
    - xiii. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
    - xiv. Carmen Mendenhall, 2410 NW Zinfandel Loop, Letter received April 18, 2019 (on file with the Planning Department)
    - xv. Friends of Baker Creek, PowerPoint slides received April 18, 2019 (on file with the Planning Department)
    - xvi. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
    - xvii. Gail Norby, 2840 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
    - xviii. Scott Wellman, 2756 NW Pinot Noir Drive, Letter received April 18, 2019 (on file with the Planning Department)
    - xix. Bill Kabeiseman, Bateman Seidel, Letter received April 18, 2019 (on file with the Planning Department)
    - xx. Valerie Kelly, McMinnville, Email received April 22, 2019 (on file with the Planning Department)

- xxi. Helen Bitar, 30500 SW Moriah Lane, Sheridan, Email received May 6, 2019 (on file with the Planning Department)
- xxii. Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive, Letter received May 6, 2019 (on file with the Planning Department)
- xxiii. Michael and Sherill Roberts, 2812 NW Pinot Noir Drive, Letter received on May 7, 2019 (on file with the Planning Department)
- xxiv. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received May 8, 2019 (on file with the Planning Department)
- xxv. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received May 8, 2019 (on file with the Planning Department)
- xxvi. Steve and Catherine Olson, 2650 NW Pinot Noir Drive, Letter received May 8, 2019 (on file with the Planning Department)
- xxvii. Rob Stephenson, 1081 NW Baker Crest Court, Letter received May 8, 2019 (on file with the Planning Department)
- xxviii. Baker Creek Hydrologic Analysis, PBS Engineering (prepared for Friends of Baker Creek), received May 8, 2019 (on file with the Planning Department)
- xxix. Les Toth, 2700 NW Pinehurst Drive, Letter received May 13, 2019 (on file with the Planning Department)
- xxx. Stephanie Rudolph, 2849 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxi. Rodney Pedersen, 2664 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxii. Melba Smith, 2780 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxiii. Mike Colvin, 2718 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxiv. Terry and Beth Uhrinak, 2731 NW Pinot Noir Drive, Email received on May 13, 2019 (on file with the Planning Department)
- xxxv. Anniedear Chappell, 1334 NW Zinfandel Court, Email received on May 13, 2019 (on file with the Planning Department)
- xxxvi. Erin Stanton & Sarah Hadfield, 2687 NW Pinot Noir Drive, Email received on May 14, 2019 (on file with the Planning Department)
- xxxvii. Anniedear Chappell, 1334 NW Zinfandel Court, Email received on May 14, 2019 (on file with the Planning Department)
- xxxviii. Carmen Mendenhall, 2410 NW Zinfandel Loop, Letter received May 16, 2019 (on file with the Planning Department)
- xxxix. Scott Wellman, 2756 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xl. Steve and Sarah Fox, 2687 NW Oak Ridge Drive, PowerPoint slides received May 16, 2019 (on file with the Planning Department)
  - xli. Catherine Olsen, 2650 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
  - xlii. Ray and Nina Clevidence, 1493 NW Riesling Way, Letter received May 16, 2019 (on file with the Planning Department)
  - xliii. Bill Kabeiseman, Bateman Seidel, Letter received May 16, 2019 (on file with the Planning Department)
  - xliv. Friends of Baker Creek, PowerPoint slides received April 18, 2019 (on file with the Planning Department)
  - xlv. Sandi Colvin, 2718 NW Pinot Noir Drive, PowerPoint slides received May 16, 2019 (on file with the Planning Department)
  - xlvi. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)

- xlvi. Michael and Sherill Roberts, 2812 NW Pinot Noir Drive, Letter received May 16, 2019 (on file with the Planning Department)
- xlvii. Unattributed, Letter received May 16, 2019 (on file with the Planning Department)
- xlvi. Justin Maynard, PBS (submitted by Catherine Olsen), 415 W 6<sup>th</sup> Street, Vancouver, WA, Letter received May 16, 2019 (on file with the Planning Department)
  - i. Melba Smith, 2780 NW Pinot Noir Drive, Photograph received May 16, 2019 (on file with the Planning Department)
  - ii. Unattributed, Letter received May 18, 2019 (on file with the Planning Department)
  - iii. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received June 18, 2019 (on file with the Planning Department)
  - iiii. Mike Colvin, 2718 NW Pinot Noir Drive, Letter received June 18, 2019 (on file with the Planning Department)
  - lv. Justin Maynard, PBS (submitted by Catherine Olsen), 415 W 6<sup>th</sup> Street, Vancouver, WA, Letter received June 18, 2019 (on file with the Planning Department)
  - lv. Rick and Linda Thomas, 2631 NW Merlot Drive, Email received July 14, 2019 (on file with the Planning Department)
  - lvi. Sandi Colvin, 2718 NW Pinot Noir Drive, Letter received July 15, 2019 (on file with the Planning Department)
  - lvii. Carmen Mendenhall, 2410 NW Zinfandel Loop, Email received July 15, 2019 (on file with the Planning Department)
  - lviii. Friends of Baker Creek, Testimony binder received July 15, 2019 (on file with the Planning Department)
- b. Applicant Rebuttal Testimony
  - i. Premier Development, 1312 NE Highway 99W, Frequently Asked Questions received May 3, 2019 (on file with the Planning Department)
  - ii. Lacy Brown, DKS Associates (representing Premier Development), 117 Commercial Street NE, Suite 310, Salem, Supplemental Traffic Evaluation Memo received May 9, 2019 (on file with the Planning Department)
  - iii. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Letter received May 15, 2019 (on file with the Planning Department)
  - iv. Ron Pomeroy, Navigation Land Use Consulting (representing Premier Development), PO Box 1514, McMinnville, Memorandum received May 15, 2019 (on file with the Planning Department)
  - v. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Thalweg Comparison Chart received May 16, 2019 (on file with the Planning Department)
  - vi. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Precipitation Chart received May 16, 2019 (on file with the Planning Department)
  - vii. Lacy Brown, DKS Associates (representing Premier Development), 117 Commercial Street NE, Suite 310, Salem, Supplemental Traffic Evaluation received July 15, 2019 (on file with the Planning Department)
  - viii. Josh Wells, Westech Engineering, Inc. (representing Premier Development), 3841 Fairview Industrial Drive SE, Suite 100, Salem, OR, Letter received July 15, 2019 (on file with the Planning Department)
  - ix. Wendie Kellington, Kellington Law Group (representing Premier Development), PO Box 159, Lake Oswego, OR, Letter received July 15, 2019 (on file with the Planning Department)

- c. Staff Memorandums
  - i. Planning Department Staff, Memorandum in response to News-Register articles, April 17, 2019 (on file with the Planning Department)
  - ii. Planning Department Staff, Memorandum in response to written testimony, April 17, 2019 (on file with the Planning Department)
  - iii. Planning Department Staff, Memorandum in response to written testimony, May 15, 2019 (on file with the Planning Department)
- 6. PDA 3-18, PDA 4-18, S 3-18 Staff Memorandum, April 17, 2019 and Staff Report, April 18, 2019 (on file with the Planning Department)
- 7. PDA 3-18, PDA 4-18, S 3-18 Staff Report, May 16, 2019 (on file with the Planning Department)

**IV. COMMENTS:**

**Agency Comments**

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

- McMinnville Park and Recreation Department

The McMinnville Comprehensive Plan includes the following provisions:

*159.00 The City of McMinnville’s Parks, Recreation, and Open Space Master Plan shall serve to identify future needs of the community, available resources, funding alternatives, and priority projects. (Ord. 4796, October 14, 2003)*

*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.*

*163.05 The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands. (Ord. 4840, January 11, 2006)*

*Comment: Per the McMinnville Comprehensive Plan Policy #163.05 the City should locate greenways and trails in the floodplain to connect community and other park types to each other. The proposed dedication of a trail that connects Tice Park to a potential future park and/or the BPA trail appears to satisfy this criterion.*

*164.00 The City of McMinnville shall continue to acquire floodplain lands through the provisions of Chapter 17.53 (Land Division Standards) of the zoning ordinance and other available means, for future use as natural areas, open spaces, and/or parks.*

*Comment: Per the McMinnville Comprehensive Plan Policy #164.00, the City shall continue to acquire floodplain lands through the provisions of Chapter 17.53 (Land*

*Division Standards) of the zoning ordinance and other available means, for future use as natural areas, open spaces, and/or parks. The proposed floodplain land to be dedicated to the city for a natural trail and greenway system along Baker Creek appears to satisfy this criterion.*

166.00 *The City of McMinnville shall recognize open space and natural areas, in addition to developed park sites, as necessary elements of the urban area.*

167.00 *The City of McMinnville shall encourage the retention of open space and scenic areas throughout the community, especially at the entrances to the City.*

168.00 *Distinctive natural features and areas shall be retained, wherever possible, in future urban developments.*

*Comment: Per the McMinnville Comprehensive Plan Policy #166.00 and #168.00, the city should recognize and retain distinctive natural features and areas in future urban developments. Baker Creek and its associated riparian environment is a natural feature in the proposed Oak Ridge Meadows Subdivision and the proposed dedication of this land to the city for a trail appears to satisfy this criterion.*

170.05 For purposes of projecting future park and open space needs, the standards as contained in the adopted McMinnville Parks, Recreation, and Open Space Master Plan shall be used. (Ord. 4796, October 14, 2003)

*Comment: Per the McMinnville Comprehensive Plan Policy #170.05, the City should use the standards in the McMinnville Parks, Recreation, and Open Space Master Plan, which are as follows:*

The McMinnville 1999 Parks Master Plan contains the following relevant recommendations:

- Develop special use parks to protect and highlight unique natural areas and to respond to the particular recreation needs of McMinnville residents;
- Protect natural areas and stream corridors by acquiring greenways along creeks and the Yamhill river;
- Provide public access to natural areas and trail-related recreation by developing trails through greenways and in natural areas. (p. 38)

*Comment: Table 10 of the Parks Master Plan outlines underserved areas in our City related to parks, this property can be found in planning area 3 and specifically recommends acquiring a greenway "along Baker Creek connecting Tice/BPA Easement" as a first tier priority for the action plan. The Master Plan Map shows a multi-purposed trail along Baker Creek in this general area which is reflected in the development proposal, therefore this element of the Parks Master Plan appears to be met by the application as proposed.*

Thank you for the opportunity to comment. Please let me know if you have any further questions or need anything additional from the Parks and Recreation Department.

- McMinnville Engineering Department

Additionally, I offer the following suggestions conditions of approval re: the subdivision:

- 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.

- Prior to the construction of any private storm facilities, the applicant shall obtain the necessary permits from the City's Building Division.
- 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.
- That the applicant secures from the Oregon Department of Environmental Quality (DEQ) 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.
- That all fill placed in the areas where building sites are expected shall be engineered and shall meet with the approval of the City Building Division and the City Engineering Department.
- That 10-foot utility easements shall be provided along both sides of all public rights-of-way for the placement and maintenance of required utilities.
- That cross sections for the entire street system shall be prepared which show utility location, street improvement elevation and grade, park strips, sidewalk location, and sidewalk elevation and grade.
- Said cross sections shall be submitted to the Community Development Director for review and approval prior to submittal of the final plat. If the submitted information so indicates, the Planning Director may require the tentative subdivision plan be revised in order to provide for a more practical configuration of lots, utilities, and streets. All such submittals must comply with the requirements of 13A of the Land Division Ordinance and must meet with the approval of the City Engineer.
- 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 Ordinance for local residential streets.
- That prior to construction of the proposed subdivision, the applicant shall secure all required state and federal permits, including, if applicable, those related to the federal Endangered Species Act (if applicable), Federal Emergency Management Act, and those required by the Oregon Division of State Lands, and U.S. Army Corps of Engineers. Copies of the approved permits shall be submitted to the City.
- That the construction of Pinehurst Drive through the wetland fill area shall be done under the direction of, and per the requirements of a licensed geotechnical engineer.
- That barricades shall be installed by the applicant at the terminus of all public streets, consistent with City standards. The barricades shall include text stating: "This street is planned for extension in the future to serve proposed development."

- That the applicant provide information to the City Engineer as to the design capacity of the existing downstream sanitary sewer pump station located in the Crestbrook subdivision, First Addition. If the information and studies provided by the applicant indicate that adequate capacity does not exist to support the proposed development of the Oak Ridge Meadows subdivision, then the applicant shall make improvements to the system as may be necessary and required by the City Engineer. Such improvements shall be at the expense of the applicant and shall be completed prior to release of the final plat.
- On-street parking will not be permitted within a 30-foot distance of street intersections measured from the terminus of the curb returns.
- 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.
- The final plat shall include use, ownership, and maintenance rights and responsibilities for all easements and tracts.
- That the required public improvements shall be installed to the satisfaction of the responsible agency prior to the City's approval of the final plat. Prior to the construction of the required public improvements, the applicant shall enter into a Construction Permit Agreement with the City Engineering Department, and pay the associated fees.
- 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.

- McMinnville Fire Department

We have no comments on these amendments.

- McMinnville Public Works Department

Parks:

1. It is my understanding that this application seeks to add a private .85 acre "nature park", and a 5.6 acre public greenway space. The narrative and included maps indicate that the public open space would essentially follow Baker Creek around the perimeter of the subdivision. The narrative notes that the concept includes pedestrian trails with chipped material proposed for surfacing. It appears the proposed public park lies in the floodplain area.
  - a. While we recognize the value of such open space, and the opportunity for future connections along Baker Creek, our position remains that the Public Works Division is not in a position to take on additional public parkland and the associated maintenance costs and responsibilities at this time. The recent "add-back" funding proposal for parks maintenance was intended to allow the Division to begin to restore service levels to pre-

2013 levels, begin to address maintenance backlogs and to include maintenance costs for the planned NW Neighborhood park. The addition of new lands at this point, especially in light of the fact we are adding the NW park, will result in negative service level impacts at existing facilities. **Based on those concerns, our recommendation would be that the proposed greenway remain privately owned until such time that resources are available to maintain and operate it as public open space.**

- b. The site as proposed would present significant challenges to get equipment and or vehicles in to perform maintenance.
- c. The proposal notes that chipped trails would be provided for both the private and public parks. Such a surface would not be accessible, and I don't believe it would meet either PROWAG or ADAAG requirements.
- d. The proposal shows only two access points to the proposed greenway. Whether the greenway is public or private, we might suggest considering additional entry points to improve access.

- McMinnville Water and Light

MW&L has no issues with these submittals.

Please note that the submitted preliminary water plan is not approved and will need to follow MW&L approval process. Please contact MW&L for a Design Application and fees for this project.

- Oregon Department of State Lands

The Department had a permit for the earlier construction along Pinot Noir, which required mitigation. The mitigation failed. The permittee submitted a wetland delineation in 1999. Because of the number of years and changes to the landscape since the delineation, the Department would require a new delineation to review before an application is submitted.

During the removal-fill application review, the Department looks for an applicant to have avoided or minimized the impacts to wetlands and waters, which may result in changes to the layout.

## 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, April 9, 2019. As of the date Planning Commission public hearing on May 16, 2019, fifty one (51) written public testimonies had been received by the Planning Department from twenty nine (29) entities.

- Mike Colvin, 2718 NW Pinot Noir Drive
  1. Letter - April 10, 2019 - expressing opposition of the application based on increased risk of downstream flooding.
  2. Letter - April 18, 2019 - expressing opposition to the application based on potential downstream flooding impact, loss of unique natural habitats that could be preserved as recreation/park space.
  3. Letter - April 18, 2019 - expressing opposition to the application based on impact of proposed public improvements on the wetlands.
  4. Letter - May 8, 2019 - expressing opposition to the application based on impact of proposed development of traffic on Baker Creek Road.
  5. Letter - May 8, 2019 - expressing opposition to the application based on Comprehensive Plan policies that do not support development on the 11.47 acre parcel and instead support it being left in a natural state for drainage and recreation.



6. Letter - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and calling on neighbors to submit testimony.
  7. Letter - May 16, 2019 - expressing opposition to the applications based on a comparison of Comprehensive Plan polices as they relate to individual parcels of the overall proposed development.
  8. Letter – June 18, 2019 - expressing opposition to the applications based the timing of the development of Shadden Drive north of Baker Creek Road.
  9. Letter – June 18, 2019 - expressing opposition to the applications based potential for increased downstream flooding.
- Sandi Colvin, 2718 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application stating that removal of the 11.47 acre parcel from the Oak Ridge Planned would circumvent Oak Ridge CC&Rs, and that the proposed development is held to lesser standards than the current PDs.
    2. PowerPoint slides - May 16, 2019 - expressing opposition to the applications based on extension of Pinehurst Drive to eastern property line, and potential impacts on downstream flooding.
    3. Letter – July 15, 2019 - expressing opposition to the application, citing the example of Johnson Creek in the Portland area.
  - Friends of Baker Creek, 501c3 Non-Profit, 2718 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application based on lack of two access points to proposed development.
    2. Letter - April 10, 2019 - expressing opposition of the application based on development in the wetland, emergency access to the development, retention of an isolated preservable tree, impact of park maintenance on HOA fees, development of the private active neighborhood park, Federal and State agency permitting, and FEMA floodplain mapping.
    3. PowerPoint slides - April 18, 2019 - used as imagery and talking points for several oppositional testimonies at the April 18, 2019 public hearing.
    4. Baker Creek Hydrologic Analysis (prepared by PBS Engineering for FoBC) – May 9, 2009 – providing analysis indicated that FEMA floodplain maps are in need of revision, proposed development could occur in areas of flood risk but with FEMA designation, and that proposed development would not significantly increase downstream flow.
    5. Power Point slides - May 16, 2019 - used as imagery and talking points for several oppositional testimonies at the May 16, 2019 public hearing.
    6. Testimony Binder – July 15, 2019 – A collection of testimony expressing opposition to the applications due to Pinehurst Drive, lack of Shadden Drive access, outdated FEMA maps, increased downstream flooding, updated Baker Creek hydrology, environmental impacts, and the Johnson Creek case study.
  - Steve and Catherine Olsen, 2650 NW Pinot Noir Drive
    1. Letter - April 10, 2019 - expressing opposition of the application based on concerns of development in the wetland, increased traffic in the Oak Ridge developments, Great Neighborhood Principles, and Federal and State agency permitting, and FEMA floodplain mapping.
    2. Letter - May 8, 2019 - expressing opposition to the application because of impact of the proposed development on traffic, public safety, and existing Oak Ridge CC&Rs, and the desire to preserve the 11.47 acre parcel as a nature preserve.
    3. Letter - May 16, 2019 - expressing opposition to the applications and support for preserving 11.47 acre parcel as a nature preserve.

- Rodney and Judy Pedersen, 2664 NW Pinot Noir Drive
  1. Letter - April 10, 2019 - expressing opposition of the application based on concerns of development in the wetland, steep slopes, construction access, potential loss of trees, and loss of lifestyle on Pinot Noir Drive.
  2. Letter - May 6, 2019 - expressing opposition to the application based on traffic impact to the surrounding neighborhoods, and the impact of development on the lifestyle of the surrounding neighborhoods.
  3. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
  
- Tim and Margaret Roberts, 1069 NW Baker Crest Court
  1. Letter - April 15, 2019 - expressing opposition of the application based on concern for potential downstream flooding impact.
  
- Friends of Yamhill County, 501c3 Non-Profit, PO Box 1083, McMinnville
  1. Letter - April 15, 2019 - expressing opposition of the application based on impact to wetlands.
  
- Yamhill Soil & Water Conservation District, 2200 SW 2<sup>nd</sup> Street
  1. Email - April 16, 2019 - expressing concern over the proposed development based on potential impacts to wetlands, and removal of vegetation along Baker Creek.
  
- Jan and Randy Hartzell, 1093 NW Baker Crest Court
  1. Email - April 17, 2019 - expressing opposition to the application based on potential downstream flooding impact and inaccurate FEMA maps.
  
- Housing Land Advocates and Fair Housing Council of Oregon, 501c3 Non-Profit, 1221 SW Yamhill Street #305, Portland
  1. Letter - April 17, 2019 - expressing concern that Statewide Goal 10 findings had not been made, and the proposal not evaluated under the HNA and BLI.
  
- 1. Glen Westlund (no address provided)
  1. Email - April 18, 2019 - expressing concern over the proposed development based on potential impacts to wetlands and wildlife habitat.
  
- 2. Carmen Mendenhall, 2410 NW Zinfandel Loop
  1. Letter - April 18, 2019 - expressing opposition to the applications based on the impact of the proposed development on neighborhood livability.
  2. Email - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, development impact to the Baker Creek riparian corridor, and loss of wetlands.
  3. Email – July 15, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood, downstream flooding, and the inability to apply Great Neighborhood Principles.
  
- 3. Gail Norby, 2840 NW Pinot Noir Drive
  1. Letter - April 18, 2019 - expressing opposition to the application based on potential impact of traffic on neighborhood livability.
  
- 4. Scott Wellman, 2756 NW Pinot Noir Drive

1. Letter - April 18, 2019 - expressing opposition to the application based on potential impact on wildlife habitat.
  2. Letter - May 16, 2019 - expressing opposition to the applications based on loss of wetlands.
5. Bill Kabeiseman, Bateman Seidel (representing Friends of Baker Creek), 888 SW 5<sup>th</sup> Avenue, Suite 1250, Portland
1. Letter - April 18, 2019 - expressing opposition to the application based on impact on the wetlands that would be inconsistent with the Comprehensive Plan, that Ordinance 4845 limits Oak Ridge Meadows to 76 lots, and that there is no approved wetland delineation or mitigation plan.
  2. Letter - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, extension of Pinehurst Drive to eastern property line, potential impacts on downstream flooding, and loss of wetlands.
6. Valerie Kelly, McMinnville
1. Email – April 22, 2019 - expressing opposition to the application based on potential downstream flooding impact and inaccurate FEMA maps.
7. Helen Bitar, 30500 SW Moriah Lane, Sheridan
1. Email - May 6, 2019 - expressing opposition to the application based on loss of wetlands.
8. Michael and Sherill Roberts, 2812 NW Pinot Noir Drive
1. Letter – May 7, 2019 - expressing concern for public safety and livability during construction of proposed development. The testimony suggests requiring the improvement of Shadden Drive for construction access, and expediting the restriping project for Baker Creek Road.
  2. Letter - May 16, 2019 - expressing concern for public safety and livability during construction of proposed development. The testimony suggests requiring the improvement of Shadden Drive for construction access, and expediting the restriping project for Baker Creek Road.
9. Rob Stephenson, 1081 NW Baker Crest Court
1. Letter – May 8, 2019 - expressing opposition to the application based on potential downstream flooding impact, and impact of the development on wetlands.
- Les Toth, 2700 NW Pinehurst Drive
    1. Letter – May 13, 2019 - expressing opposition to the applications based on impact of proposed Pinehurst Drive on wetlands and adjacent property.
  - Stephanie Rudolph, 2849 NW Pinot Noir Drive
    1. Email - May 13, 2019 - expressing concern about traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
  - Melba Smith, 2780 NW Pinot Noir Drive
    1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and impact on existing streets.
    2. Photograph - May 16, 2019 - indicating extent development impact on existing wetlands.
  - Terry and Beth Uhrinak, 2731 NW Pinot Noir Drive

1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road.
- Anniedear Chappell, 1334 NW Zinfandel Court
    1. Email - May 13, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood.
    2. Email - May 14, 2019 - expressing concern over existing traffic systems and pedestrian safety in Oak Ridge neighborhood that would be compounded by new traffic.
  - Erin Stanton & Sarah Hadfield, 2687 NW Pinot Noir Drive
    1. Email - May 14, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and calling on neighbors to submit testimony.
  - Steve and Sarah Fox, 2687 NW Oak Ridge Drive
    1. PowerPoint slides - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and concern over previous land fill activity.
  - Ray and Nina Clevidence, 1493 NW Riesling Way,
    1. Letter - May 16, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood prior to development of Shadden Drive north of Baker Creek Road, and loss of wetlands.
  - Justin Maynard (submitted by Catherine Olsen), PBS Engineering, 415 W 6<sup>th</sup> Street, Vancouver, WA
    1. Letter - May 16, 2019 - summarizing the analysis and findings of the Baker Creek Hydrologic Analysis. The analysis indicated that FEMA floodplain maps are in need of revision, and proposed development could occur in areas of flood risk but with FEMA designation.
    2. Letter – June 18, 2019 – rebutting applicant’s rebuttal of the Baker Creek Hydrologic Analysis, and confirming the conclusions of the report.
  - Rick and Linda Thomas, 2631 NW Merlot Drive,
    1. Email – July 15, 2019 - expressing opposition to the applications based on traffic impact on the existing neighborhood, outdated FEMA maps, and increased downstream flooding.
  - Unattributed (no name provided)
    1. Letter - May 16, 2019 – provided at the public hearing - listing several Comprehensive Plan policies related to natural features, transportation and traffic systems, and provision of open space and natural areas.
    2. Letter – May 18, 2019 – posted to several public buildings – expressing opposition to proposed development based on lack of affordable housing and loss of wetlands.

**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 July 26, 2018.
2. The property owner, Premier Development, LLC, submitted the Tentative Subdivision application (S 3-18) on October 24, 2018.

3. The application was deemed complete on January 24, 2019.
4. After planning staff requested clarification on a couple of items, the applicant submitted a revised application on March 28, 2019.
5. The applicant provided written notice requesting a 60 day extension of the 120 day land use decision time limit on March 1, 2019 to July 23, 2019.
6. 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, Oregon Department of State Lands.

Comments received from agencies are addressed in the Decision Document.

7. Notice of the application and the April 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.
8. Notice of the application and the April 18, 2019 Planning Commission public hearing was published in the News Register on Tuesday, April 9, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.
9. On April 18, 2019, the Planning Commission held a duly noticed public hearing to consider the request. The Planning Commission continued the public hearing to May 16, 2019.
10. Notice of the May 16, 2019 Planning Commission public hearing was published in the News Register on Tuesday, May 7, 2019, in accordance with Section 17.72.120 of the Zoning Ordinance.
11. On May 16, 2019, the Planning Commission held a duly noticed public hearing to consider the request.

On June 5, 2019, the applicant provided written notice requesting a 21 day extension of the land use decision time limit on March 1, 2019. The land use decision time limit now expires on August 13, 2019.

12. On June 25, 2019, City Council considered the Planning Commission's recommendation, and requested a public hearing.
13. Notice of the July 23, 2019 City Council 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.

## **VI. FINDINGS OF FACT - GENERAL FINDINGS:**

1. **Location:** Generally north of Baker Creek Road and NW Pinot Noir Drive, south of Baker Creek (Tax Lot 1300, Section 17, T. 4 S., R 4 W., W.M. and Tax Lot 602, Section 7, T. 4 S., R 4 W.,

W.M.)

2. **Size:** 35.47 acres.
3. **Comprehensive Plan Map Designation:** Residential
4. **Zoning:** R-2 PD (Single Family Residential Planned Development)
5. **Overlay Zones/Special Districts:** None
6. **Current Use:** Undeveloped
7. **Inventoried Significant Resources:**
  - a. **Historic Resources:** None
  - b. **Other:** Wetlands
8. **Other Features:** The site is level at the existing terminus of Pinot Noir Drive, then slopes steeply downhill to the northeast, towards Baker Creek. Mature native oak trees are found on the uphill portion of the site, and wetlands are found on the lower portion of the site.
9. **Utilities:**
  - a. **Water:** Water service is available to the property.
  - b. **Electric:** Power service is available to the property.
  - c. **Sewer:** Sanitary sewer service is available to the property.
  - d. **Stormwater:** A storm water facility serving the Oak Ridge development is in the northeast corner the subject site. A storm drain easement provides storm sewer access for that facility.
  - e. **Other Services:** Other utility services are available to the property. Northwest Natural Gas and Comcast is available to serve the site.
10. **Transportation:** No streets or public rights-of-way exist within the subject site. NW Pinot Noir Drive is classified as a Local Residential Street in the Transportation System Plan (TSP). The street terminates at the property line of the subject property. At its termination, NW Pinot Noir Drive has a curb-to-curb dimension of 21 feet.

## **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 are specified in Section 17.53.070 of the Zoning Ordinance.

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

### **Comprehensive Plan Volume II:**

The 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, polices, and proposals as they apply to this application.

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

**GOAL II 1:** TO PRESERVE THE QUALITY OF THE AIR, WATER, AND LAND RESOURCES WITHIN THE PLANNING AREA.

*Policy 2.00 The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints, including, but not limited to, excessive slope, limiting soil characteristic, and natural hazards.*

*Policy 5.00 The quality of the air resources in McMinnville shall be measured by the standards established by the Oregon Environmental Quality Commission and the Federal Environmental Protection Agency.*

*Policy 9.00 The City of McMinnville shall continue to designate appropriate lands within its corporate limits as "floodplain" to prevent flood induced property damages and to retain and protect natural drainage ways from encroachment by inappropriate uses.*

*Policy 12.00 The City of McMinnville shall insure that the noise compatibility between different land uses is considered in future land use decisions and that noise control measures are required and instituted where necessary.*

**APPLICANT'S RESPONSE:** Goal II 1 and Policies 2.00, 5.00, 9.00 and 12.00 are satisfied by this proposal in that no development is proposed on lands with identified building constraints such as excessive slope, limiting soil characteristic(s) and/or natural hazards; wetlands and wetland mitigation shall be discussed further in findings provided below. Any and all infrastructure and right-of-way improvements shall be designed, proposed, reviewed and permitted as per standards and requirements administered and supported by the City of McMinnville. While there are no residential development requirements or standards addressing the quality of air resources in McMinnville, the City is cognizant of standards established by the Oregon Environmental Quality Commission and the Federal EPA as they relate to impactful commercial or industrial uses within the city.

Additionally, there are no lands being proposed for development that are identified as Floodplain on the McMinnville Comprehensive Plan Map or as being located within zone AE of the associated Federal Emergency Management Association (FEMA) Flood Insurance Rate Maps (FIRM); any storm drainage outfall as described further in the application shall only occur as reviewed and permitted by the City of McMinnville Engineering Department inclusive of any additional review or permitting as directed by the City. Noise compatibility between adjacent single-family residential developments is established in that there are no adopted policies that address adjacent same-type development as being potentially noise incompatible. The intent of this proposal is to allow the creation of single-family residential development to be located adjacent to existing single-family residential development and is therefore not an incompatible proposed use.

**FINDING: SATISFIED WITH CONDITION 4.** City concurs with the applicant's findings, and adds that the City of McMinnville shall require evidence of compliance with all applicable local, state, and federal standards and regulations relating to development controls on lands with identified building constraints, including but not limited to, excessive slope, limiting soil characteristics, natural hazards, and wetlands. A condition of approval requiring the final

wetland delineation and report for the wetlands on the site and any required wetland mitigation to be reviewed and approved by the Department of State Lands has been included.

**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.*

**APPLICANT'S RESPONSE:** Goal V 1 and Policy 58.00 are met by this proposal in that a range of residential lot sizes are proposed that will provide opportunity for development of a variety of housing sizes and densities. The existing Planned Development (Ordinance 4822) requires a minimum average minimum lot size of 7,500 square feet which Premier Development is not proposing to amend. While this currently required average minimum lot size is 500 square feet larger than that required of the adjacent multi-phased Oak Ridge Planned Development (Ordinance 4722), and by the base standards of the R-2 zone, Premier Development is supportive of the City Council's prior decision for the Oak Ridge Meadows site and has incorporated that minimum average lot size requirement into this current proposal; and also within each individual phase of this proposed two phase subdivision (a spreadsheet has been prepared showing the proposed sizes of each lot in each subdivision phase (Exhibit 10). The existing Planned Development condition establishing an average minimum lot size allows for the provision of a range of lot sizes within the development area which adds to the variety of housing opportunities to be made available within the community.

**FINDING: SATISFIED.** City concurs with the applicant's findings. The proposed subdivision would comply with the companion planned development amendment (PDA 4-18) allowing an average lot size of 7,771 square feet. Lot size averaging allows variety in the size of lots, and therefore variety in the housing products and localized densities within the overall planned area. The overall density of the planned development would meet the requirements of the underlying R-2 zone.

**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.*

*Westside Density Policy*

*Policy 71.01 The City shall plan for development of the property located on the west side of the city that is outside of planned or existing transit corridors (1/4 mile either side of the route) to be limited to a density of six units per acre. It is recognized that it is an objective of the City to disperse multiple family units throughout the community. In order to provide higher density housing on the west side, sewer density allowances or trade-offs shall be allowed and encouraged. (Ord. 4961, January 8, 2013; Ord.4796, October 14, 2003)*



*Policy 71.06 Low Density Residential Development (R-1 and R-2) Low-density residential development should be limited to the following:*

- 1. Areas which are committed to low density development and shown on the buildable lands inventory as “developed” land;*
- 2. Areas where street facilities are limited to collector and local streets;*
- 3. Areas with mapped development limitations such as steep slopes, floodplains, stream corridors, natural drainageways, and wetlands; and*
- 4. Areas with limited capacity for development identified in approved facility master plans, including sanitary sewer, water, drainage, and transportation facilities. (Ord. 4796, October 14, 2003)*

*Policy 71.08 Slightly higher densities (R-2) should be permitted on lands that exhibit the above-listed characteristics (Policy 71.06), and following factors or areas:*

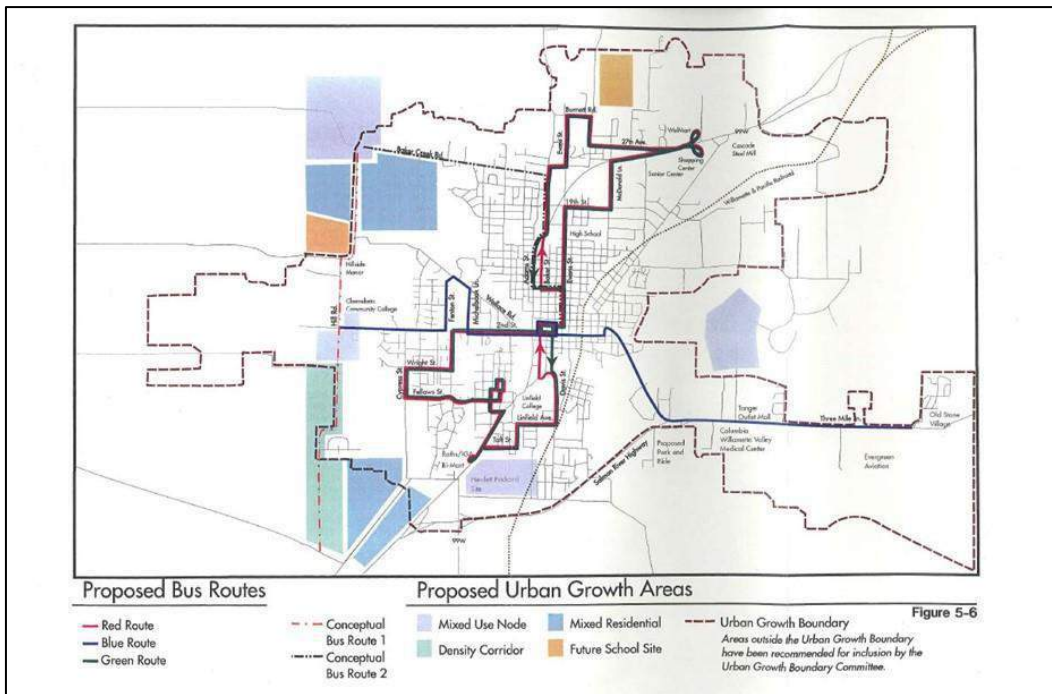
- 1. The capacity of facilities and services;*
- 2. Within one mile of existing or planned transit;*
- 3. Lower sloped areas within the West Hills;*
- 4. Riverside South area (lands more than 500 feet from planned and existing heavy industrial lands);*
- 5. Proximity to jobs, commercial areas, and public facilities and services, should be zoned for smaller lots; and*
- 6. Proximity to and having potential impact upon identified floodplains and other environmentally sensitive areas (the higher the potential impact, the lower the allowed density). (Ord. 4796, October 14, 2003)*

**APPLICANT’S RESPONSE:** Goal V 2 and Policies 68.00, 71.00, 71.01, 71.05, 71.06 (1-4), and 71.08 (1-6) are met by this proposal in that the two requested Planned Development Amendment requests are processed as zone changes in McMinnville and are binding on the sites. The subject site is identified as Residential on the McMinnville Comprehensive Plan Map and carries zoning designations R-2 PD set by the previous approvals of Ordinances 4722 and 4822. Approval of these proposed Planned Development Amendment requests and phased subdivision plan will result in this site retaining an R-2 PD zoning designation and a new, binding, development plan memorialized by adoption of a new ordinance. The resulting R-2 PD designation of this site is a zoning designation allowed and supported by the Residential designation of the site on the McMinnville Comprehensive Plan Map.

This proposal provides a range of residential single-family lot sizes thereby promoting an energy-efficient and land intensive development pattern. This proposal encourages both social and environmental benefits by planning for residential lots of various sizes in a cohesive arrangement of opportunities throughout the development. While the more moderate and smaller lots tend to be more centrally located within the development, this arrangement is far from exclusive and results in a complementary blending of similarly sized lots with the lots nearby in the adjacent Oak Ridge development (please refer to the more detailed description of

this lot arrangement found in Section IV above as additional support in satisfying these policies). The resultant lot sizes and dimensions that are proposed to be located around the perimeter of the site allow for reasonable sized building envelopes to be located on the upper portions of each lot and thereby preserve the natural slope and tree cover that will make up the extended backyard areas of some of these lots. Retention of the existing natural downslope surface drainage capacity is preserved by the proposed public dedication of the approximately 5.6 acres of open greenspace located at the toe of the slope that exists around the perimeter of much of this planned development site. The site contains a wetland on its eastern side which eliminates that land from being developed. Premier Development also proposes the creation of an approximately 0.85-acre active private neighborhood park, to be maintained by a Homeowner's Association to be created by Premier Development, which will preserve a number of the mature Oak trees that exist on that site. Both of these open space areas are new to this development proposal and were not part of that which was previously supported and approved by the McMinnville City Council. These open spaces are unique and innovative to McMinnville prior residential planning approvals and will be a unique natural environmental resource and a recreational benefit to the residents of this development and other neighborhoods.

While not close to McMinnville's urban center, the subject site is located in an area already committed to low density residential development and served by access to an adjacent local street network. City services can be extended from adjacent development sufficient to adequately accommodate and serve this proposal. Planned public transit is shown well within the one-mile requirement of the site and is identified as Conceptual Bus Route 2 on Figure 5-6 of the adopted McMinnville Transit Feasibility Study shown below.



In addition, land comprising the entirety of the subject site is currently zoned R-2 PD. This proposal does not exceed a residential density of 6 dwelling units per acre and so does not exceed maximum allowable density of the underlying R-2 zone of this site. This proposed subdivision, and each of the two individual phases of the proposed subdivision, also complies with Condition of Approval 2 of Ordinance 4822 (Exhibit 2) which states "That the average lot size within the Oak Ridge Meadows subdivision shall be 7,500 square feet." - While this Condition uses common McMinnville Planning Department, Planning Commission and City Council parlance of the time stating that the average lot size shall be 7,500 square feet, it is

established as understood to mean an *average minimum* lot size of the stated figure. This intent and understanding is evident by the legal platting and subsequent build-out of numerous residential Planned Development approvals over the decades relying on such conditions to mean an *average minimum* lot size. If, however, the McMinnville Planning Department, Planning Commission and/or City Council determines that it is uncomfortable with this practice of the adopted language meaning an *average minimum* lot size of 7,500 square feet, then Premier Development requests that Condition of Approval 2 of Ordinance 4822 be modified to refer to an average minimum lot size of 7,500 square feet in place of the current language referring to an average lot size of 7,500 square feet.

**FINDING: SATISFIED.** The subject site of the proposed subdivision and planned development is designated Residential on the Comprehensive Plan map and is in an area where urban services are already available. The proposed subdivision and companion Planned Development Amendment (PDA 4-18) would allow development of the land to provide a variety of housing types through the lot size averaging provision of the planned development. The proposed planned development density of 108 dwelling units on 35.47 acres is below the six unit per acre limit established by the Westside Density Policy. Because the site has mapped development limitations such as floodplains and wetlands, and street facilities limited to local streets, the low-density residential development supported by the companion Planned Development Amendment is appropriate. The proposed subdivision would help achieve buildable land planned and zoned for residential housing, helping to meet McMinnville's housing needs. City notes that the applicant's finding indicates an approved development plan would be binding, however binding the development plan to the zone is not a condition of approval of the request.

#### *Planned Development Policies*

- Policy 72.00 Planned developments shall be encouraged as a favored form of residential development as long as social, economic, and environmental savings will accrue to the residents of the development and the city.*
- Policy 73.00 Planned residential developments which offer a variety and mix of housing types and prices shall be encouraged.*
- Policy 74.00 Distinctive natural, topographic, and aesthetic features within planned developments shall be retained in all development designs.*
- Policy 75.00 Common open space in residential planned developments shall be designed to directly benefit the future residents of the developments. When the open space is not dedicated to or accepted by the City, a mechanism such as a homeowners association, assessment district, or escrow fund will be required to maintain the common area.*
- Policy 76.00 Parks, recreation facilities, and community centers within planned developments shall be located in areas readily accessible to all occupants.*
- Policy 77.00 The internal traffic system in planned developments shall be designed to promote safe and efficient traffic flow and give full consideration to providing pedestrian and bicycle pathways.*
- Policy 78.00 Traffic systems within planned developments shall be designed to be compatible with the circulation patterns of adjoining properties.*

**APPLICANT'S RESPONSE:** The seven Planned Development policies listed immediately above have already been met by this proposal in that these policies having already been

determined to be met by evidence of the City Council's previous adoption of Ordinance 4722 and Ordinance 4822 for what is now the subject site. This current proposal also seeks to amend Ordinance 4722 by making its boundary smaller by removing its undeveloped portion of land for placement within the boundary of the adjacent Planned Development area currently represented by Ordinance 4822, but not compromise Ordinance 4722's compliance with these policies. This proposal also seeks to amend Ordinance 4822 to include this referenced land area, and in other specific ways stated within this proposal, that will continue compliance with these policies. The additional findings provided below further support and demonstrate compliance with McMinnville Planned Development policies listed above in addition to the findings relied on by the City in the adoption of Ordinances 4722 and 4822.

In discussion with the McMinnville Planning Department, it has been made clear that the intent of Policies 72.00 and 74.00 is essentially to address the potential impact of the proposal on future residents of the development and the city relative to Oregon Planning Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources). In addressing these policies it is helpful to observe that the larger lots in this phased development plan are generally proposed to be located around much of the perimeter of the site to allow for reasonably sized building envelopes to be located on the upper portions of those lots and thereby preserve and retain the natural slope and existing tree cover that will make up the extended backyard areas of many of these lots. This intentional design to achieve slope preservation complements the proposed adjacent public dedication of the approximately 5.6 acres of open greenspace located beyond the toe of the slope that exists around the perimeter of much of this planned development. Additionally, the creation of the approximately 0.85-acre active private neighborhood park to be created by Premier Development and maintained by a Homeowners Association will preserve an additional number of the mature Oak trees that exist on the site. Of great environmental, neighborhood and community importance is the afore mentioned approximately 5.6 acres of public open space located along the southern edge of Baker Creek to be dedicated to the City by Premier Development, LLC. This large greenway open-space will be improved with a bark chip pedestrian walking trail, as recommended by the McMinnville Parks and Recreation Department, and will be accessed by three additional public pedestrian trail heads beginning at the edge of their adjacent public rights-of-way. Both of these different types of open space areas (the active private neighborhood park and the public greenway) are new to this development proposal and were not part of either of the two Planned Development/Subdivision proposals that were previously reviewed by and approved by the McMinnville City Council for this site. These open spaces will provide a unique natural environmental resource and a recreational benefit to the residents of this development. Creation of a Homeowner's Association to administer neighborhood covenants, codes and restrictions (CC&Rs) are recommended to be a condition of approval of this proposal.

In addition to the findings of the ordinances referenced above, Policy 73.00 is also satisfied by this proposal in that a wide range of lot sizes (4,950 square feet to 14,315 square feet in size) and configurations have been designed to provide a much greater choice of lot size and price point, and therefore a wider variation of housing size, design and cost, than found in most other approved neighborhoods in McMinnville. The chosen arrangement of these varying lot sizes in this proposal is intentional, partially based on topography and our desire to preserve natural site habitat features. Another driving reason for the proposed lot variation and arrangement of lots is our goal of arranging housing opportunities in a cohesive manner throughout the development that is both internally harmonious within the development site and is equally sensitive to and respectful of the sizes of nearby existing lots of the adjacent neighborhood. Exhibit 9 (Preliminary Subdivision Plat) is provided to assist with viewing the description of this lot arrangement in a spatial form. We have also prepared and provided Exhibit 10 (Oak Ridge Meadows Lot Sizes and Averages) to assist in identifying the square footage areas of individual lots to further demonstrate the proposal's sensitivity to existing adjacent lot sizes found within the abutting neighborhood as well as the topography and environmental features of the site. So while the more moderately sized and smaller lots tend to be more centrally located within the

development, this arrangement is far from exclusive and results in a complementary blending of similarly sized lots with nearby lots presently located in the adjacent Oak Ridge development.

Policies 75.00 and 76.00 are satisfied for reasons provided in Conclusionary Finding for Approval Number 4 above relative to the previously described range and location of both private and common open spaces.

Policies 77.00 and 78.00 are satisfied by this proposal in that the proposed street network complies with current adopted City public street standards and the requirements of the adopted McMinnville Transportation System Plan and will be constructed according to all applicable standards and requirements as amended by approval of this request in order to promote safe and efficient traffic flow for vehicles, pedestrians and bicyclists compatible with adjacent development as required by the City.

**FINDING: SATISFIED WITH CONDITION 6, 12.** The proposed subdivision proposal would be consistent with the companion planned development amendment (PDA 4-18) and therefore the planned development policies of the Comprehensive Plan. The design and layout of the subdivision allows for a variety of housing to be constructed on a variety of lot sizes. Lots would be oriented to preserve and retain natural features within the subject as far as is practical through compliance with the zoning departures established in the companion planned development amendment.

Common open space in the form of a private active neighborhood park, public open space greenway is designated in the subdivision as required by the companion planned development. Tract 1 containing the delineated wetlands is also commonly owned open space. The public open space greenway would be readily accessible to users with multiple access points to the trail. The private active neighborhood park is located in a generally central location within the unusually shaped subdivision so as to be readily accessible. Wetland viewing areas adjacent to the wetland would provide a benefit to the community. As shown on the applicant's Exhibit 6, a wetland viewing area east of the private active neighborhood park is proposed within the public-right-of-way. A condition of approval requiring a homeowner's association with maintenance responsibilities for common open space as well as the public open space greenway until 2032 has been included. A condition of approval requiring the relocation of the wetland viewing area into the common open space Tract 1 has been included. This condition will ensure that the subdivision's homeowner's association is assigned maintenance responsibilities for all common open space amenities.

Traffic systems internal to the subdivision would be built to City standards, which provide for safe and efficient traffic flow and give full consideration to pedestrian and bicycle pathways. Additional pedestrian ways included in the subdivision to break up unusually long block lengths provide further consideration of pedestrian and bicycle traffic flow.

The street network would be compatible with existing and anticipated circulation patterns of adjoining properties, as shown by the extension of Pinehurst Drive to proposed temporary termini at the southeast and southwest property lines, where it could be extended if and when adjacent properties develop. Because the planned development places limits on the number of dwelling units allowed within the subdivision until a second permanent street connection is provided, traffic expected on the adjacent with the condition of approval limiting the number of dwelling units allowed in the planned development until a second street connection provides access to the development and reduces traffic volume on NW Pinot Noir Drive.

*Residential Design Policies*

- 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, 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)*
- 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.*
- Policy 81.00 Residential designs which incorporate pedestrian and bikeway paths to connect with activity areas such as schools, commercial facilities, parks, and other residential areas, shall be encouraged.*
- Policy 82.00 The layout of streets in residential areas shall be designed in a manner that preserves the development potential of adjacent properties if such properties are recognized for development on the McMinnville Comprehensive Plan Map.*
- Policy 83.00 The City of McMinnville shall review the design of residential developments to insure site orientation that preserves the potential for future utilization of solar energy.*

**APPLICANT'S RESPONSE:** Policies 79.00, 80.00, 81.00, 82.00 and 83.00 are met by this proposal in that the overall residential density, while compliant with the underlying R-2 zoning requirements, is set by the existing Planned Development which governs the minimum density of the majority of this site (Ordinance 4822, Condition 2). Premier Development is not proposing to modify that condition of approval and has designed this current development to respect and implement that condition. Similarly, Condition 3 of Ordinance 4722 also sets the density minimum for the currently unbuilt, 4th phase of the Oak Ridge development. This proposed Oak Ridge Meadows phased development plan has been designed to comply with each of these area-related density minimums relative to both Ordinance 4722 and 4822 in addition to complying with the R-2 density minimum of the McMinnville Zoning Ordinance for the entire site. As part of this proposed development, the natural drainage and most of the wetland features are proposed to be preserved as previously described in this application and as shown on the attached exhibits; for additional graphic and design information related to site topography, natural features, site drainage, and related street profiles, please refer to Exhibits 7, 11, and 29 – 45 (Exhibit 32 is a Streets Sheet Key for the related Street Plan & Profile Exhibits that follow). In addition to preservation of natural drainage and other site and project elements addressed above, Policy 80.00 speaks of the preservation of isolated preservable trees. This is particularly relevant to this development proposal in that there is an Oak tree with an approximately 66-inch diameter trunk located along the south edge of Lot 54 in Phase II of the proposed subdivision. The center of the trunk of this large Oak tree sits approximately 1.15 feet south of the southernmost edge of Premier Development's property and some 364-feet east of the subject site's southwestern corner. Premier Development endeavors and proposes to protect and maintain the health of this Oak tree during all phases of development including during the construction of this lot's future home. However, as the majority of this tree is not located on Premier Development's property, Premier Development does not maintain complete control of this situation. Regarding tree protection on the Oak Ridge Meadows site, Condition of Approval 4 of Ordinance 4822 addresses existing trees greater than 9 inches DBH.

Specifically:

“That existing trees greater than nine inches DBH (diameter at breast height) shall not be removed without prior review and written approval by the Planning Director. In addition, all trees shall be protected during home construction. A plan for such protection must be submitted with the building permit application and must meet with the approval of the Planning Director prior to release of construction or building permits within the subject site.”

To address the desire to protect this above referenced large Oak tree, Premier Development proposes that Condition of Approval 4 of Ordinance 4822 be modified by the City in such a way to provide for the sufficient protection of this “shared” tree throughout the infrastructure and platting phase of this development and through initial home construction on this lot as far as practicable.

Additionally, Premier Development requests that approval of the two-phased subdivision proposal be conditioned to require that an arborist’s inventory and report be provided to the Planning Director for review and approval prior to the removal of any tree greater than nine inches DBH located in those areas of the site which may be impacted by the construction of streets, utilities, and future residences. It is proposed that such inventory and report be provided prior to the issuance of permits for the construction of the Oak Ridge Meadows subdivision. -- A copy of the 1999 arborist’s report for Oak Ridge is attached to this proposal for reference (Exhibit 46) as it provides a tree inventory for the portion of the subject site generally characterized as the fourth phase of the Oak Ridge development. However, as this report is now 20 years old, Premier is recommending that this area representing the fourth phase of the Oak Ridge subdivision be included as part of the new arborist’s analysis area.

In addition to findings provided supportive of the adoption of Ordinances 4722 and 4822, the following additional findings are also provided relative to Policies 81.00 and 82.00. The submitted street layout proposes to connect with the existing surrounding street network and provide for the ability to access other adjacent undeveloped land to serve future potential development proposals (Exhibit 6). This is accomplished by the proposed street layout in two ways.

First, by the construction of NW Pinehurst Drive to the eastern extent of the site and then to be temporarily terminated with a street barricade and appropriate signage as directed and required by the McMinnville Engineering Department. This temporary terminus would then allow for the future extension of SW Pinehurst Drive to serve and connect to property to the east. Second, by the construction of NW Pinehurst Drive to the southwestern-most extent of the site (between proposed lots 55 and 56 of Phase 2). This temporary terminus would then allow for the future extension of SW Pinehurst Drive to serve and connect to property to the south. Additionally, a temporary emergency-only compacted gravel access easement is being proposed on adjacent land to meet Fire Department requirements as an interim measure to provide secondary emergency-only access to this site until such time that a full public street improvement across that adjacent land replaces this access’s temporary construction. This easement is relevant to the Findings presented here for these policies and is further addressed below at Findings 132.32.00 and 155.00 and such is also herein incorporated in this current Finding.

Dedication and construction of this local street network will provide required mobility opportunities for automobiles, as well as for pedestrians and bicyclists (particularly through the provision of public sidewalks built to public standards and through the provision of both private and public pathways leading to and through the open spaces provided as part of this

development proposal) in addition to providing public connection opportunities to undeveloped areas to the west and to the east.

The City's transportation design and construction standards and requirements have been adopted to satisfy and implement this and other related Comprehensive Plan policies addressed in these findings, and to preserve and enhance livability in McMinnville. Through this proposal's compliance and implementation of these applicable policies, standards and requirements and those applicable portions of the City's adopted Transportation System Plan as addressed by this proposal and these findings of fact, this Policy is satisfied.

**FINDING: SATISFIED.** City concurs with the applicant's findings, and notes that the companion planned development amendment would establish the average lot size to be approximately 7,770 square feet. The proposed development responds to density requirements of the underlying R-2 zone and existing planned development, as well as topographical features of the property with lots that average 7,771 square feet in area. Additionally, streets within the subdivision whose layout does not directly respond to the limiting topography and geography of the site ("A", "B", and "C" Streets, and "A" Court) are generally oriented in an east-west direction. This maximizes the potential for unobstructed solar access to lots along these streets, which account for approximately half the proposed lots. To the extent physically possible, given the site size, shape and street connection design standards, the proposed lots are provided the potential for unobstructed solar access to the maximum extent feasible.

#### *Urban Policies*

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

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

**APPLICANT'S RESPONSE:** As provided on the submitted Overall Utility Plan (Exhibit 7), the Detention Pond Grading Plan (Exhibit 29) and as represented in the Toth Sanitary Sewer Easement (Exhibit 25), Policy 99.00 (1-5) is met by this proposal as adequate levels of sanitary sewer collection, storm sewer and drainage facilities, municipal water distribution systems and supply, and proposed street systems (additional street system detail provided elsewhere within these collective findings) within the development either presently serve or can be made available to adequately serve the site. Additional overall site grading information is also provided on Exhibits 30 and 31. The Water Reclamation Facility has the capacity to sufficiently accommodate flow resulting from development of this site.

**FINDING: SATISFIED.** City concurs with the applicant's findings.



**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.

*Streets*

*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.*
- 8. 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.*
- 9. 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)*

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

**APPLICANT'S RESPONSE:** Goal VI 1 and Policies 117.00, 118.00 (1-5) and 119.00 are satisfied by this proposal in that each of the proposed lots will abut public streets developed to City standards with adequate capacity to safely accommodate the expected trip generation resulting from this development. Local residential streets proposed within the development will connect at intersections and provide street stubs to adjacent land where appropriate. One cul-de-sac street is proposed due to the presence of adjacent wetlands and the configuration of the site in that location. The proposed street design will have minimal adverse effects on, and promotes advantageous utilization of, natural features of the land. In particular, the site's steep slopes are being avoided for purposes of right-of-way dedication and development, a large area of the site is identified as wetland and protected as depicted in Exhibits 6 and 8, and other lowlands are being utilized to create a public open space along the Baker Creek greenway. Much of the natural tree cover on the site will be retained and will generally exist as downslope backyard areas for some of the future residences. While wetland mitigation is anticipated to account for the construction of certain lower elevation portions of NW Pinehurst Drive, the proposed Fire Truck turn-around near the eastern end of NW Pinehurst Drive, and encroachment on some of the lower-lying proposed residential lots, this mitigation is the minimal amount possible in order to preserve the wetland features of the land as much as possible while still allowing economic use of the land to help meet McMinnville's identified housing needs.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

*Policy 122.00 The City of McMinnville shall encourage the following provisions for each of the three functional road classifications.*

- 3. Local Streets*  
*–Designs should minimize through-traffic and serve local areas only.*

- Street widths should be appropriate for the existing and future needs of the area.
- Off-street parking should be encouraged wherever possible.
- Landscaping should be encouraged along public rights-of-way.

**APPLICANT’S RESPONSE:** Policy 122.00 is satisfied by this proposal in that the proposed street design is comprised of local residential streets that will serve the local area only. The street widths (a 28-foot wide paved section within a 50-foot wide right-of-way) is appropriate for both the existing and future needs of this development site and adjacent residential development. Off-street parking shall be provided at 200% the requirement found in the McMinnville Zoning Ordinance as described further below in these findings. Landscaping shall also be provided as approved by the Landscape Review Committee’s forthcoming approval of a tree planting plan along both sides of all proposed rights-of-way.

**FINDING: SATISFIED.** City concurs with the applicant’s findings.

*Parking*

*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 rights-of-way as transportation routes.*

**APPLICANT’S RESPONSE:** Policies 126.00 and 127.00 are satisfied by this proposal in that offstreet parking will be required for all single-family residences as specified by the McMinnville Zoning Ordinance. Such off-street parking (a minimum of two onsite parking spaces for each residence as per 17.60.060(A)(5) of the McMinnville zoning ordinance) shall be required of each single-family residence as a condition of building permit approval. It is also Premier Development’s intent to provide four paved off-street parking spaces for each residence which is at a level that is 200% of what is required by the McMinnville Zoning Ordinance.

**FINDING: SATISFIED.** City concurs with the applicant’s findings.

*Bike Paths*

*Policy 130.00 The City of McMinnville shall encourage implementation of the Bicycle System Plan that connects residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities. (Ord.4922, February 23, 2010)*

*Policy 131.00 The City of McMinnville shall encourage development of bicycle and footpaths in scenic and recreational areas as part of future parks and activities.*

*Policy 132.00 The City of McMinnville shall encourage development of subdivision designs that include bike and foot paths that interconnect neighborhoods and lead to schools, parks, and other activity areas. (Ord. 4922, February 23, 2010; Ord. 4260, August 2, 1983)*

*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.*

**APPLICANT’S RESPONSE:** Policies 130.00, 131.00, 132.00 and 132.15 are satisfied by this proposal in that the public sidewalks that will be constructed as part of the required street improvements will provide pedestrian connections within and beyond this subdivision.

A meandering pedestrian pathway will also provide pedestrian access traversing the proposed active private neighborhood park that will connect NW Pinot Noir Drive with the lower elevation of NW Pinehurst Drive for the enjoyment of residents and enhanced pedestrian mobility within the neighborhood. This pathway will also provide an alternative opportunity to gain access to the NW Pinehurst Drive entry point of the open space greenway trail that will encircle most of the perimeter of the Oak Ridge Meadows development. Two other additional public access pathways to this greenway will also be provided; one to be provided along the south side of Lot 56 and the other to be located between Lots 75 and 76. This greenway path will also provide a future opportunity to extend and continue through adjacent residential land to the west when that land develops.

Public streets designed to implement the requirements of the Bicycle System Plan (Chapter 6) of the McMinnville Transportation System Plan (TSP) provide for enhanced bicycle connection of residential areas to activity areas such as the downtown core, areas of work, schools, community facilities, and recreation facilities. These design elements of the Bicycle System Plan are specifically applicable to collector and arterial streets and, as identified in Exhibit 2-4 of the TSP (Complete Street Design Standards) not part of the street design standards of either Neighborhood Connectors or Local Residential streets. Exhibit 2-4 (provided below and also available on the City of McMinnville website) of the McMinnville TSP also states that bike facilities are noted as being Shared Lanes for Neighborhood Connector and Local Residential streets; all of the streets designed and proposed as part of this development plan are identified as Local Residential streets and will accommodate bike facilities in the form of Shared Lanes. By designing and constructing the proposed local residential streets to the applicable requirements of the TSP’s Complete Streets Design Standards, and as evidenced by the Findings presented above, these Policies have been met.

Exhibit 2-4 Complete Streets Design Guideline

|   |  |                                    |                             | Arterial         |                          | Collector                |   | Neighborhood Connector | Local Residential | Alley     |
|---|--|------------------------------------|-----------------------------|------------------|--------------------------|--------------------------|---|------------------------|-------------------|-----------|
|   |  |                                    |                             | Major            | Minor                    | Major                    | Minor                                       |                        |                   |           |
| <b>Streetscape</b>                      | <b>Street Profile</b>  | Auto/Truck Amenities (lane widths) | 2-4 lanes (12 ft.)          | 2 lanes (11 ft.) | 2 lanes (11 ft.)         | 2 lanes (10 ft.)         | See Street Width                            | See Street Width       | 20 ft.            |           |
|   |  |                                    | Median / Center Turn Lane   | 14 ft.           | 12 ft.                   | 10 ft.                   | None  | None                   | None              |           |
|   |  | Bike                               | Bike Facility               | 2 Lanes (5 ft.)  | 2 Lanes (5 ft.)          | 2 Lanes (5 ft.)          | 2 Lanes (5 ft.) or Shared Lane              | Shared Lane            | Shared Lane       | None      |
|   |  |                                    | Curb-to-curb Street Width   | na               | na                       | na                       | 30 or 40 ft.                                | 28 ft.                 | 28 ft.            | Not Apply |
|   | <b>Pedestrian Zone</b><br><small>(with 5-foot minimum)</small> | Pedestrian Amenities               | On-Street Parking Two Sides | na               | na                       | na                       | 30 or 40 ft.                                | 28 ft.                 | 28 ft.            | Not Apply |
|   |  |                                    | None                        | 74 ft.           | 46 ft.                   | 44 ft.                   | 5 ft.                                       | 5 ft.                  | None              |           |
|   |  | Sidewalks (both sides)             | 8 ft. Com                   | 5 ft. Res        | 5 ft. Res                | 5 ft. Res                | 5 ft.                                       | 5 ft.                  | None              |           |
|   |  |                                    | 10-12 ft. Com               | 10-12 ft. Com    | 10-12 ft. Com            | 10-12 ft. Com            | 5 ft. Res                                   | 5 ft. Res              | None              |           |
|   |  | Planter Strips                     | 6 ft. Res                   | 6 ft. Res        | 6 ft. Res                | 6 ft. Res                | 5 ft. Res                                   | 5 ft. Res              | None              |           |
|   |  |                                    | na. Com                     | na. Com          | na. Com                  | na. Com                  |   |                        |                   |           |
| Preferred Adjacent Land Use - Intensity | High   | Medium to High                     | Medium                      | Medium           | Medium to Low            | Low                      | Low   |                        |                   |           |
| Maximum Average Daily Traffic           | 32,000   | 20,000                             | 16,000                      | 10,000           | 1,200 - 3,000            | 1,200                    | 500   |                        |                   |           |
| <b>Traffic Management</b>               | Traffic Calming  | Not Typical                        | Not Typical                 | Not Typical      | Permissible/ Not Typical | Permissible/ Not Typical | Typical                                     | Not Typical            |                   |           |
|   | Managed Speed  | 35 mph                             | 30-35 mph                   | 25-30 mph        | 25 mph                   | 25 mph                   | 15-25 mph                                   | 10 mph                 |                   |           |
|   | Through-traffic Connectivity                                   | Primary                            | Typical                     | Typical          | Typical                  | Not Typical              | Not Permissible                             | Not Permissible        |                   |           |
|   | Access Control   | Yes                                | Yes                         | Some             | Some                     | No                       | No  | No                     |                   |           |
|   | Maximum Grade  | 6%                                 | 6%                          | 10%              | 10%                      | 12%                      | 12%   | 12%                    |                   |           |
| <b>Right-of-Way:</b>                    |  |                                    |                             | 104 ft.          | 96 ft.                   | 74 ft.                   | 56 ft. (no bike lane)<br>66 ft. (bike lane) | 50 ft.                 | 50 ft.            | 20 ft.    |

**General Design Notes:**

- Lane widths shown are the preferred construction standards that apply to existing streets adjacent to areas of new development, and to newly constructed streets. For arterial and collector streets within industrial zones, lane widths shall be 12 feet.
- An absolute minimum bike lane width for safety centers is 5 ft. on arterial and 4 ft. on collector streets, which is expected to occur only in locations where existing development along an established route or other severe physical constraints preclude construction of the preferred facility width.
- Street design for each development shall provide for emergency and fire vehicle access.
- Sidewalks 10-12 feet in width are required in commercial areas to accommodate the Pedestrian zone. Street trees are to be placed in tree wells. Placement of street trees and fixtures and treatment access are to meet ADA requirements for pedestrian access.
- Speeds in the central business district may be 20-25 mph. Traffic calming techniques, signal timing, and other efforts will be used to keep traffic within the desired managed speed ranges for each Functional Class. Design of a corridor's vertical and horizontal alignment will focus on providing an excellent degree of safety for the managed speed.
- Streets with no-street parking.

**Street Design Standard Notes:**

- Exclusion of side slope easements which may be required in addition to the curbs and ditches in rough terrain.
- The right-of-way and street width may be varied after consideration of the unique characteristics of the land including topography, geology, unique vegetation, and its relation to land development already present or proposed in the area.
- The right-of-way and street width improvement standards and functional class of commercial/industrial/office and streets shall be dependent upon the type of vehicle traffic to be served.
- Wherever possible, streets shall be designed to accommodate a 20-foot wide emergency access easement. The design of a local residential street segment to be served, parking along the local street shall not be permitted.
- Sidewalks and planter strips shall not be required along driveways.
- For all de-cas greater than 700 feet in length, fire hydrants may be required to be installed at the end of the block and appropriately spaced along the front of the cul-de-sac as determined by the McMinnville Fire Department.

**FINDING: SATISFIED.** City concurs with the applicant’s findings.

### *Connectivity and Circulation*

*Policy 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)*

**APPLICANT'S RESPONSE:** Policy 132.26.05 is satisfied by this proposal in that the new street connections and associated pedestrian and bicycle features provided in this proposal and its exhibits are consistent with the applicable local street connectivity elements outlined in the McMinnville Transportation System Plan (TSP) and administered by the City.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

### *Supportive of General Land Use Plan Designations and Development Patterns*

*Policy 132.27.00 The provision of transportation facilities and services shall reflect and support the land use designations and development patterns identified in the McMinnville Comprehensive Plan. The design and implementation of transportation facilities and services shall be based on serving current and future travel demand—both short-term and long-term planned uses. (Ord. 4922, February 23, 2010)*

**APPLICANT'S RESPONSE:** Policy 132.27.00 is satisfied by this proposal in that the proposed street design reflects and supports the Residential land use designation of the site as identified on the McMinnville Comprehensive Plan Map and urban development patterns within the surrounding area identified by elements of the Comprehensive Plan identified and addressed within this application. The proposed transportation facilities and services are appropriate to serve the needs of the proposed development and are supportive of adjacent neighborhoods as determined by the City's adopted standards identified in this application, findings and exhibits.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

### *Public Safety*

*Policy 132.32.00 The safe, rapid movement of fire, medical, and police vehicles shall be an integral part of the design and operation of the McMinnville transportation system. (Ord. 4922, February 23, 2010)*

**APPLICANT'S RESPONSE:** Policy 132.32.00 is satisfied by this proposal in two ways as addressed above in these findings. First, by the construction of NW Pinehurst Drive to the eastern extent of the site and then temporarily terminated with a street barricade and appropriate signage as directed and required by the McMinnville Engineering Department. A temporary turn-around found to be acceptable to the McMinnville Engineering and Planning Departments and the McMinnville Fire Department, would be provided near this terminus and along the north side of NW Pinehurst Drive (Exhibits 6, 9 and 47 in particular). This temporary terminus would then allow for the future extension of SW Pinehurst Drive to serve and connect to property to the east. Second, by the construction of NW Pinehurst Drive to the southwestern-most extent of the site (between proposed lots 55 and 56 of Phase 2). This temporary terminus would then allow for the future extension of SW Pinehurst Drive to serve and connect to property to the south.

Due to this site currently being served by only one public street, an additional access is required by Fire Department standards to support the development process as described below. The McMinnville Fire Code Applications Guide states, in part:

Multiple Access Roads: Developments of one and two family dwellings where the number of dwelling units exceeds 30, [...] shall be provided with not less than two approved means of access. Exceptions may be allowed for approved automatic sprinkler systems.

Premier Development proposes to comply with the McMinnville Fire Department's application of this standard and provide approved automatic sprinkler systems in residences in Phase 1 sufficient to remain in compliance with this standard.

Additionally, as there is only one public street connection currently in place to serve the two-phased Oak Ridge Meadows subdivision, a temporary emergency only access will be required in order to exceed the 30 unsprinkled home limitation described above. This emergency access, which will be placed in an easement, will be graded and finished with compacted rock to applicable standards and extend northward from the intersection of NW Shadden Drive and NW Baker Creek Road, across land currently owned by Stafford Land Company, to the southern edge of the Oak Ridge Meadows site at a point between proposed Lots 55 and 56 (Exhibit 26). [It is possible that this temporary emergency-only access may be shorter in length under a scenario described by Gordon Root of Stafford Land Company in an email where Stafford Land Company agrees to the granting of this temporary easement (Exhibit 27).] This temporary emergency-only accessway would then proceed northward on Premier Development's site along the proposed Phase 2 alignment of NW Pinehurst Drive to its intersection with "A" Street and then proceed generally eastward along the proposed "A" Street alignment to an alignment even with the proposed western edge of Lot 25 which is to be the westernmost lot along "A" Street in Phase I of the Oak Ridge Meadows subdivision. Fire Department approved gates would be located at both ends of this compacted gravel emergency-only accessway as directed by the McMinnville Fire Department. The McMinnville Fire Department has stated that, if such gates needed to be locked, they would be so with Fire Department approved locks. At such time that this adjacent land is to develop, this easement would then be revoked and public right-of-way be dedicated and improved to City standards providing a permanent second public street connection to the Oak Ridge Meadows development. This easement is relevant to the Findings presented here for this policy and its description and relevance is also hereby, with this reference, incorporated in the Finding for Policy 155.00.

**FINDING: SATISFIED.** City concurs with the applicant's findings, and notes that the temporary, emergency only access is proposed to be provided as required by the planned development for the subject site.

### *Livability*

*Policy 132.35.00 Transportation facilities in the McMinnville planning area shall be, to the degree possible, designed and constructed to mitigate noise, energy consumption, and neighborhood disruption, and to encourage the use of public transit, bikeways, sidewalks, and walkways. (Ord. 4922, February 23, 2010)*

**APPLICANT'S RESPONSE:** Policy 132.35.00 is satisfied by this proposal in that the City's transportation design and construction standards and requirements have been adopted to satisfy and implement this and other related Comprehensive Plan policies and to preserve and enhance livability in McMinnville. Through this proposal's compliance and implementation of these standards and requirements and those applicable portions of the City's adopted

Transportation System Plan as addressed by this proposal and these findings of fact, this Policy is satisfied.

**FINDING: SATISFIED.** City concurs with the applicant's findings to the extent that transportation facilities within the proposed subdivision would be designed and constructed to City standards. A Traffic Impact Analysis (TIA) for the proposed development provided a Neighborhood Livability Evaluation. The TIA states:

“The livability of a street is generally determined by key factors such as vehicle speeds and volumes as related to pedestrian safety, bicycle safety and other vehicle movements along a neighborhood street. The City of McMinnville has not adopted or proposed a livability standard to measure the livability of local streets through neighborhoods, but the City has adopted a design capacity of 1,200 vehicles per day (vpd) on local neighborhood streets. In addition, other cities around the country have used Neighborhood Traffic Management Plans that trigger mitigation efforts when the average daily traffic (ADT) exceeds 1,000 vpd. While there is no specific volume threshold to indicate when the livability of the neighborhood has been reduced, these design standards provide a reasonable threshold.”

The analysis indicates the addition of 108 proposed single-family lots in a subdivision with initially only one improved street access would push the volume of traffic on the immediately adjacent local residential street (NW Pinot Noir Drive, northwest of Oak Ridge Drive) to its maximum threshold (1,200 vpd) it was designed to carry. The TIA shows that until a second, permanent improved street connection provides access to the proposed subdivision, the traffic generated by 108 single-family dwelling units would increase the vpd on the northwest portion of NW Pinot Noir Drive to its 1,200 vehicle limit. The TIA uses 108 single-family dwelling units (one dwelling unit per lot) as a basis for its average daily trip generation. However, two-family dwellings and accessory dwelling units are also permitted uses in the underlying R-2 zone. Should a lot(s) be developed with a two-family dwelling or an ADU, the increased daily trips from that additional dwelling units would push the volume of traffic carried by NW Pinot Noir Drive over its design limit of 1,200 vpd. The developer would be required to comply with the condition of approval of the planned development that limits development of the proposed subdivision to 108 dwelling units until such time that a second permanent improved street connection provides access to the proposed subdivision.

### *Circulation*

*Policy 132.41.00 Residential Street Network – A safe and convenient network of residential streets should serve neighborhoods. When assessing the adequacy of local traffic circulation, the following considerations are of high priority:*

- 1. Pedestrian circulation;*
- 2. Enhancement of emergency vehicle access;*
- 3. Reduction of emergency vehicle response times;*
- 4. Reduction of speeds in neighborhoods;; and*
- 5. Mitigation of other neighborhood concerns such as safety, noise, and aesthetics.  
(Ord. 4922, February 23, 2010)*

*Policy 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)*

*Policy 132.41.20 Modal Balance – The improvement of roadway circulation must not impair the safe and efficient movement of pedestrians and bicycle traffic. (Ord. 4922, February 23, 2010)*

*Policy 132.41.25 Consolidate Access – Efforts should be made to consolidate access points to properties along major arterial, minor arterial, and collector roadways. (Ord. 4922, February 23, 2010)*

*Policy 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)*

**APPLICANT’S RESPONSE:** Policies 132.41.00(1-5), 132.41.05, 132.41.20, 132.41.25 and 132.41.30 are satisfied by this request in that the proposed street pattern provides a safe, interconnected and efficient network of residential accessibility to serve the proposed and adjacent existing residential neighborhoods. The one cul-de-sac street in this plan is proposed in response to the noted existence of an adjacent wetland and the unique shape this portion of the site where provision of a through-street is not possible. There are no arterial or collector streets within or adjacent to this development site. The proposed street system is designed to promote a balance of safe and efficient movement of vehicles, pedestrians and bicycles as required by the McMinnville TSP and is augmented for pedestrians through the provision of additional walking paths within and surrounding the proposed development. Vehicular access to the adjacent street system promotes safe street connectivity to the surrounding transportation network.

A Transportation Impact Study for this Oak Ridge Meadows proposal has been completed by the transportation planning and transportation engineering firm DKS and is attached to this proposal (Exhibit 28). In sum, this Study concludes that the proposed development is anticipated to result in the following impacts:

- The development will consist of 108-unit single family homes. The ultimate buildout of the site includes a connection to NW Baker Creek Road via an extension of NW Shadden Drive. In the interim, the development will be accessed via NW Pinot Noir Drive, NW Oak Ridge Drive, and Merlot Drive.
- The development is expected to generate 80 (20 in, 60 out) AM peak hour trips, 107 (67 in, 40 out) PM peak hour trips, and 1,020 daily trips.
- Intersection operations during the Interim Build and Full Build of Oak Ridge Meadows will continue to operate well under-capacity and will meet City of McMinnville operating standards. The addition of Oak Ridge Meadows traffic will not have a significant impact on the operations or delay experienced at the intersections of NW Baker Creek Road/NW Oak Ridge Drive and NW Baker Creek Road/Merlot Drive.
- An evaluation of the livability of neighborhood streets, as defined by the volume of traffic the streets were designed to handle (1,200 vpd), confirmed that the Oak Ridge Meadows development is not expected to have an adverse impact on the existing neighborhood streets.

Please refer to the Oak Ridge Meadows Transportation Impact Study (Exhibit 28) for additional detail.

The need for a temporary emergency-only access to support this proposal was addressed above relative to Policy 132.32.00 and is addressed below relative to Policy 155.00. This temporary emergency only access roadway will also aid in reducing emergency vehicle response times as it can provide a more direct route to some portions of Phase I until such time that it is replaced with a dedicated fully improved local public street across adjacent land. Additionally, travel speeds within this site are based on an adopted street classification scheme identified in the adopted McMinnville TSP. All streets in the proposed development are designed as local streets and, as such, are limited to a legal vehicular travel speed of 25 miles per hour as are the local streets in the adjacent residential neighborhoods. This residential vehicle speed limitation and the adopted local street design standards have been successful in McMinnville in mitigating neighborhood issues related to noise, pedestrian and bicycle movement, and aesthetics as evidenced in the adjacent residential neighborhoods; the closest being the adjacent multi-phased Oak Ridge neighborhood.

**FINDING: SATISFIED.** City concurs with the applicant's findings, with the exception that full development of the proposed 108 lots may have an adverse effect, should that full development include two-family dwellings or accessory dwelling units, which are permitted uses in the underlying zone. The Traffic Impact Analysis shows that the addition of 108 proposed single-family lots in a subdivision with initially only one improved street access would push the volume of traffic on the immediately adjacent local residential street (NW Pinot Noir Drive, northwest of Oak Ridge Drive) to its maximum threshold (1,200 vpd) it was designed to carry. The TIA shows that until a second, permanent improved street connection provides access to the proposed subdivision, the traffic generated by 108 single-family dwelling units would increase the vpd on the northwest portion of NW Pinot Noir Drive to its 1,200 vehicle limit. The TIA uses 108 single-family dwelling units (one dwelling unit per lot) as a basis for its average daily trip generation. However, two-family dwellings and accessory dwelling units are also permitted uses in the underlying R-2 zone. Should a lot(s) be developed with a two-family dwelling or an ADU, the increased daily trips from that additional dwelling units would push the volume of traffic carried by NW Pinot Noir Drive over its design limit of 1,200 vpd. Therefore, to mitigate other neighborhood concerns such as safety, noise, and aesthetics, the developer would be required to comply with the condition of approval of the planned development that limits development of the proposed subdivision to 108 dwelling units until such time that a second permanent improved street connection provides access to the proposed subdivision.

*Environmental Preservation*

*Policy 132.46.00 Low impact street design, construction, and maintenance methods should be used first to avoid, and second to minimize, negative impacts related to water quality, air quality, and noise in neighborhoods. (Ord. 4922, February 23, 2010)*

**APPLICANT'S RESPONSE:** Policy 132.46.00 is satisfied by the proposal in that the street design, construction and maintenance methods required by the City were adopted to, in part, implement each element of this policy. These design, construction and maintenance methods administered by the City are satisfied as demonstrated in this proposal and as will be adhered to through the balance of the design, construction, inspection and approval process prior to the platting of this phased subdivision.

**FINDING: SATISFIED.** City concurs with the applicant's findings. Additionally, the proposed street layout is designed to avoid or minimize impact on geographical and environmental features found on site, including mature tree stands, steep slopes, and wetlands. Where



proposed streets do impact these features, the impact is the minimal amount necessary to provide required street access and connectivity to proposed lots and adjacent parcels. Mitigation of wetlands impacted by street construction would be required by the Department of State Lands, who maintains regulatory authority over delineated wetlands. All proposed streets would be required to meet City standards.

*Policy 132.46.05 Conservation – Streets should be located, designed, and improved in a manner that will conserve land, materials, and energy. Impacts should be limited to the minimum necessary to achieve the transportation objective. (4922, February 23, 2010)*

**APPLICANT’S RESPONSE:** This Policy is satisfied through this proposal’s compliance with the applicable elements of the McMinnville Transportation System Plan and the McMinnville Zoning Ordinance as addressed in these findings of fact and attached Exhibits. The streets are proposed to be located in an efficient manner as described in this proposal and designed in a manner compliant with all City requirements for local residential streets as shown in the attached Exhibits.

**FINDING: SATISFIED.** City concurs with the applicant’s findings. Additionally, the proposed street layout is designed to avoid or minimize impact on geographical and environmental features found on site, including mature tree stands, steep slopes, and wetlands. Where proposed streets do impact these features, the impact is the minimal amount necessary to provide required street access and connectivity to proposed lots and adjacent parcels. Mitigation of wetlands impacted by street construction would be required by the Department of State Lands, who maintains regulatory authority over delineated wetlands. All proposed streets would be required to meet City standards.

#### *Pedestrian Programs*

*Policy 132.54.00 Promoting Walking for Health and Community Livability – The City will encourage efforts that inform and promote the health, economic, and environmental benefits of walking for the individual and McMinnville community. Walking for travel and recreation should be encouraged to achieve a more healthful environment that reduces pollution and noise to foster a more livable community. (Ord. 4922, February 23, 2010)*

**APPLICANT’S RESPONSE:** Policy 132.54.00 is satisfied by this proposal in that, with its approval, the City will have demonstrated support and encouragement for efforts that promote the health, economic and environmental benefits of walking for the individuals as well as for the greater McMinnville community. This would be achieved by the City’s receipt of a 5.6 acre public open-space greenway dedication improved with a walking path as well as supporting the creation of an active private neighborhood park to be provided with a curvilinear walking path connecting two neighborhood streets and the establishment of permanent child appropriate play features. The development of the greenway pedestrian path will occur proportionally with the completion of Phase 1 and Phase 2 of this development prior to platting; Premier Development recommends that this commensurate phasing of the greenway path improvement be made a condition of approval of this request. This municipal endorsement of the creation of these open spaces not only promotes walking for health and community livability, but also helps to preserve a more healthy environment by preserving natural elements both within and surrounding this residential development proposal.

**FINDING: SATISFIED WITH CONDITIONS 9, 10.** City concurs with the applicant’s findings, and notes that the companion planned development amendment would require public and private

open space as proposed. Conditions of approval have been included to describe the proportional development of the public and private open space.

**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.

#### *Sanitary Sewer System*

*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 within the framework outlined below:*

- 1. Sufficient municipal treatment plant 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.*

#### *Storm Drainage*

*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.*

#### *Water System*

*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 a 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.*

*Water and Sewer – Land Development Criteria*

*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.*

**APPLICANT’S RESPONSE:** Goal VII 1 and Policies 136.00, 139.00 (1-4), 142.00, 143.00, 144.00, 145.00 (1-4), 147.00 and 151.00 (1-5) are satisfied by the request as 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 serve the site. Additionally, the Water Reclamation Facility has the capacity to accommodate flow resulting from development of this site. The City’s administration of all municipal water and sanitary sewer systems guarantee adherence to federal, state, and local quality standards. The City of McMinnville is required to 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. Additionally, the subject site will be converted in an orderly manner to urbanizable standards through the coordinated extension and provision of utilities and services (in particular, Exhibits 7, 25 and 29), and as conditioned through approval of this phased development proposal.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

*Police and Fire Protection*

*Policy 153.00 The City 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.*

**APPLICANT'S RESPONSE:** Policies 153.00 and 155.00 are satisfied in that emergency service departments will be provided the opportunity to review this proposal. Additionally, all emergency services will have direct public street access to every lot within the proposed two-phased tentative subdivision plan on streets designed to meet all applicable City of McMinnville requirements.

Since this Planned Development Amendment application requests to amend Ordinance 4822, it is important to identify all such proposed amendments. Relative to Policy 155.00, Condition of Approval 5 of Ordinance 4822 currently states:

"That the number of lots allowed within the Oak Ridge Meadows subdivision shall be limited to a maximum of 76 lots. Additional lots may be permitted consistent with the submitted tentative plan upon the completion and acceptance of public street improvements to City standards that extend south from Pinehurst Drive (as labeled on the applicant's submitted tentative subdivision plan) and connect to Baker Creek Road."

With this current proposal, Premier Development offers a more achievable and timely alternative which complies with the Fire Department's unsprinkled dwelling unit limitation relative to emergency vehicle access requirements. Specifically, and as noted in the Finding provided above at 132.32.00 and incorporated into this Finding by this reference, Premier Development proposes utilization of a temporary emergency-only access which will be placed in an easement and will be graded and finished with compacted rock to applicable standards and extend northward from the intersection of NW Shadden Drive and NW Baker Creek Road, across land currently owned by Stafford Land Company, to the southern edge of the Oak Ridge Meadows site at a point between proposed Lots 55 and 56 (Exhibit 26). [It is possible that this temporary emergency-only access may be shorter in length under a potential scenario described by Gordon Root of Stafford Land Company in an email where Stafford Land Company agrees to the granting of this temporary easement (Exhibit 27).] This temporary emergency-only accessway would then proceed northward on Premier Development's site along the proposed Phase 2 alignment of NW Pinehurst Drive to its intersection with "A" Street and then proceed generally eastward along the proposed "A" Street alignment to the western edge of Lot 25 which is to be the westernmost lot along "A" Street in Phase I of the Oak Ridge Meadows subdivision. Fire Department approved gates would be located at both ends of this compacted gravel emergency-only accessway as directed by the McMinnville Fire Department. The McMinnville Fire Department has stated that, if such gates needed to be locked, they would be so with Fire Department approved locks. At such time that this adjacent land is to develop, this easement would then be revoked and public right-of-way be dedicated and improved to City standards providing a permanent second public street connection to the Oak Ridge Meadows development. This easement is relevant to the Findings presented here for this policy and its description and relevance is also hereby, with this reference, incorporated in the Finding for Policy 132.32.00.

Premier Development requests that the City modify Condition of Approval 5 of Ordinance 4822 to require provision of the currently described and proposed temporary emergency-only access easement in place of the secondary access requirement as currently stated by the condition.

**FINDING: SATISFIED.** City concurs with the applicant's findings, and a notes that the companion planned development amendment would require a temporary emergency-only access until such time that a permanent, improved street is built and provides a second vehicular access to the proposed development.

*Parks and Recreation*

**GOAL VII 3:** TO PROVIDE PARKS AND RECREATION FACILITIES, OPEN SPACES, AND SCENIC AREAS FOR THE USE AND ENJOYMENT 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.*

**APPLICANT'S RESPONSE:** Goal VII 3 and Policy 163.00 are satisfied in that park fees shall be paid for each housing unit at the time of the building permit application as required by McMinnville Ordinance 4282, as amended. These fees may be offset in part or in total by Premier Development's receipt of park SDC credits made available by way of their forthcoming public dedication of the approximately 5.6-acre open space greenway park within this planned development area.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

*Policy 163.05 The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands. (Ord. 4840, January 11, 2006)*

*Policy 166.00 The City of McMinnville shall recognize open space and natural areas, in addition to developed park sites, as necessary elements of the urban area.*

*Policy 167.00 The City of McMinnville shall encourage the retention of open space and scenic areas throughout the community, especially at the entrances to the City.*

*Policy 168.00 Distinctive natural features and areas shall be retained, wherever possible, in future urban developments.*

*Policy 169.00 Drainage ways in the City shall be preserved, where possible, for natural areas and open spaces and to provide natural storm run-offs.*

*Policy 170.05 For purposes of projecting future park and open space needs, the standards as contained in the adopted McMinnville Parks, Recreation, and Open Space Master Plan shall be used. (Ord. 4796, October 14, 2003)*

**APPLICANT'S RESPONSE:** Policies 163.05, 166.00, 167.00, 168.00, 169.00 and 170.05 are satisfied by this proposal in that an approximately 5.6 acre public open-space greenway park is

proposed to be dedicated by Premier Development for the use and enjoyment of the public. This greenway park is located around the west, north and most of the east perimeter of the site. In discussion regarding this project's proposed park spaces with the McMinnville Parks and Recreation Department, it was requested by the Department that this greenway be improved with a habitat friendly bark-chip trail similar in design and width to the greenway trail located along the Joe Dancer Park's South Yamhill River edge. The existing ability of this linear greenway to accommodate natural storm run-off will be retained and will be further supported by the proposed storm drainage system that will be designed and installed within the public right-of-way; additionally, and as shown on the submitted Overall Utility Plan, a ten-foot wide public storm easement is proposed to be created along the full distance of the southern property boundary of Lot 79, then transitioning to a rip-rap channel to be installed within the greenway. Additional stormwater detention is proposed along the site's eastern edge beyond the proposed cul-de-sac street (see Exhibits 6 and 29).

The City's receipt of this greenway park dedication is an important first step for the City of McMinnville as it will be the City's first acquisition of public greenway space along Baker Creek toward implementing its aspiration of acquiring public open space along the Baker Creek greenway connecting Tice Park to the BPA recreational trail and even beyond to the City's western urban edge. This dedication will preserve important natural open space, scenic areas and distinctive natural features along this greenway. Discussions in May of 2018 with the Planning Department resulted in direction from the Department that the City is requesting to have this land dedicated and improved to provide a public trail system at this site. Additionally, that the City is interested in the public dedication of the land necessary for that trail system, both along Baker Creek and on the western side of the property, to connect to a proposed trail system to be dedicated by Stafford Land on adjacent property to the west as part of their forthcoming development proposal for that site. Premier Development welcomes this direction and clarity from the City, and supports the Planning and Park Departments' guidance and is proud to dedicate this land and provide the requested improvement for public enjoyment of the natural greenway along this portion of Baker Creek.

The McMinnville Parks and Recreation Department, relying on guidance provided in the McMinnville Parks, Recreation, and Open Space Master Plan, also supports Premier Development's proposal to create the approximately 0.85 acre active private neighborhood park as part of Phase I of this subdivision. This active private neighborhood park will also be improved with a pedestrian pathway connecting NW Pinot Noir Drive with the lower elevation of NW Pinehurst Drive to the east and with the installation of permanent child-appropriate play equipment on the upland portion of the park. Both of these parks will preserve existing tree cover as much as practicable and as recommended by a certified arborist report and found acceptable by the McMinnville Planning Director.

**FINDING: SATISFIED.** City concurs with the applicant's findings, and notes that the proposed subdivision would provide public and private open space as described and proposed above, and as required by the companion planned development amendment (PDA 4-18).

#### *Energy Conservation*

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

#### *Energy Supply Distribution*

*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.*

**APPLICANT'S RESPONSE:** Goal VIII 1 and Policies 173.00 and 177.00 are satisfied in that McMinnville Water and Light and Northwest Natural Gas will be provided opportunity to review and comment regarding this proposal prior to the issuance of the Planning Department's staff report.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

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

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

**APPLICANT'S RESPONSE:** Goal VIII 2 and Policy 178.00 are satisfied by the request as the development proposes a compact form of urban development allowing smaller lots where possible and larger lots as dictated by the site shape and topography. The average minimum lot size of this proposal is slightly greater than the average minimum lot size of 7,500 square feet (Exhibit 10) as specified by Condition of Approval 2 of Ordinance 4822 (Exhibit 2). Utilities presently abut the site and can be extended in a cost effective and energy efficient manner commensurate with this proposal and as shall be required by an approved phasing plan.

**FINDING: SATISFIED.** City concurs with the applicant's findings, but notes that the average lot size that would be established by the companion planned development amendment is 7, 771 square feet.

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

**APPLICANT'S RESPONSE:** Goal IX 1 is satisfied in that the subject site is located within both the McMinnville urban growth boundary and the McMinnville city limits and so identified for urban development according to adopted applicable goals, policies, standards and requirements. All urban services are currently available and adjacent to the site making the conversion of this site to urban uses orderly and timely.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

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

**GOAL X 2: TO MAKE EVERY EFFORT TO ENGAGE AND INCLUDE A BROAD CROSS SECTION OF THE COMMUNITY BY MAINTAINING AN ACTIVE AND OPEN CITIZEN INVOLVEMENT PROGRAM THAT IS ACCESSIBLE TO ALL MEMBERS OF THE COMMUNITY AND ENGAGES THE COMMUNITY DURING DEVELOPMENT AND IMPLEMENTATION OF LAND USE POLICIES AND CODES.**

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

**APPLICANT’S RESPONSE:** Goals X 1, X 2, and Policy 188.00 are satisfied in that the City of McMinnville has adopted a Neighborhood Meeting program that requires applicants of most types of land use applications to hold at least one public Neighborhood Meeting prior to submittal of a land use application; this is further addressed under findings relative to McMinnville Zoning Ordinance Section 17.72.095, below. Additionally, the City of McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request at an advertised public hearing. All members of the public with standing are afforded the opportunity to provide testimony and ask questions as part of the public review and hearing process.

**FINDING: SATISFIED.** The process for a tentative subdivision approval provides an opportunity for citizen involvement throughout the process through the neighborhood meeting provisions, the public notice, and the public hearing process. Throughout the process, there are opportunities for the public to review and obtain copies of the application materials and the completed staff report prior to the advertised public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

**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**

**17.53.101 Streets.**

A. **General.** The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. Where location is not shown in a comprehensive plan, the arrangement of streets in a subdivision shall:

1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

**APPLICANT’S RESPONSE:** The planned street layout provides for the northerly extension of NW Pinot Noir Drive to serve the subject site. The plan also provides for the future easterly continuation of NW Pinehurst Drive beyond the easterly edge of the site, and the southerly continuation of NW Pinehurst drive from the temporary terminus proposed to be located between Lots 55 and 56, both of which will provide future public access opportunities to other adjacent sites. The proposed streets are local streets to be permitted and constructed to City standards. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant’s findings.

2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; or



**APPLICANT’S RESPONSE:** Due to the rather peninsular shape of a large portion of the subject site, and the site being bounded, in part, by Baker Creek and wetlands, continuation opportunities for streets to adjacent properties are limited as was recognized in the City’s prior approvals of development proposals memorialized by the City Council’s adoption of Ordinances 4722 and 4822 and their attendant preliminary subdivision plans. Since Premier Development is proposing to dedicate approximately 5.6 acres of open greenway space to the public for preservation and pedestrian enjoyment, a westerly street extension from this site is infeasible. However, as described above in the Finding for 17.35.101(A)(1), feasible street stubs will be provided to adjacent properties east and south. Additionally, while the adjacent Oak Ridge subdivision phases to the south incorporate a curb-to-curb dimension of 26-feet, Premier Development will not be continuing this design standard as the curb-to-curb street dimension requirement has since changed by City ordinance and is now required to be 28-feet in width at the curb-to-curb dimension. Premier Development proposes to comply with the current design standard which will result, not only in design compliance, but also in increased vehicle mobility and public safety which were main purposes in the revision of that street standard.

**FINDING: SATISFIED.** City concurs with the applicant’s findings. The tentative subdivision would comply with the planned development requirements established for Oak Ridge Meadows in the companion planned development amendment (PDA 4-18).

3. Maximize potential for unobstructed solar access to all lots or parcels. Streets providing direct access to abutting lots shall be laid out to run in a generally east-west direction to the maximum extent feasible, within the limitations of existing topography, the configuration of the site, predesigned future street locations, existing street patterns of adjacent development, and the preservation of significant natural features. The east-west orientation of streets shall be integrated into the design.

**APPLICANT’S RESPONSE:** As shown on the tentative subdivision plans, the extension of NW Pinot Noir Drive and the creation of the majority of NW Pinehurst Drive that creates the outer street edge of the proposed development are generally configured in a north-south orientation. This is due to the configuration of the site, the placement of the current terminus of NW Pinot Noir Drive and the need to provide public street access to the extents of the site. All of the remaining streets and the northernmost portion of NW Pinehurst Drive are proposed with an east-west orientation and allow maximum opportunities for solar access to all adjacent lots. The Findings related to solar access provided in Finding of Fact 4 above are hereby with this reference are also incorporated into this Finding of Fact. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant’s findings.

- B. Rights-of-way and street widths. The width of rights-of-way and streets shall be adequate to fulfill city specifications as provided in Section 17.53.151 of this chapter. Unless otherwise approved, the width of rights-of-way and streets shall be as shown in the following table [“McMinnville Transportation System Plan, Exhibit 2-4 – Complete Streets Design Standards”]:

**APPLICANT’S RESPONSE:** As shown on the tentative subdivision plans (e.g., Exhibits 6, 9 and 11) all proposed streets will meet all applicable right-of-way, street width and streetscape requirements inclusive of the requirements of Section 17.51.151 of the McMinnville Zoning Ordinance and McMinnville Transportation System Plan, Exhibit 2-4 – Complete Streets Design Standards. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant’s findings.

C. Reserve strips. Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the Planning Commission under conditions approved by them.

**APPLICANT'S RESPONSE:** As shown on the tentative subdivision plans (e.g., Exhibits 6, 9 and 11) all proposed streets will meet all applicable right-of-way, street width and streetscape requirements inclusive of the requirements of Section 17.51.151 of the McMinnville Zoning Ordinance and McMinnville Transportation System Plan, Exhibit 2-4 – Complete Streets Design Standards. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

D. Alignment. As far as practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet.

**APPLICANT'S RESPONSE:** All streets in this subdivision proposal are local streets and are shown on the tentative subdivision plans exhibiting rights-of-way and design features commensurate with local streets. While safe and efficient vehicular circulation is provided by this proposal, there are eight "T" intersections in the proposed street design:

1. The intersection of "A" Street and NW Pinehurst Drive located between Lots 55 and 85 that will be stubbed to the south;
2. The east and west ends of "B" Street at their intersections with NW Pinehurst Drive;
3. The east and west ends of "C" Street at their intersections with NW Pinehurst Drive;
4. The intersection of "A" Street and NW Pinot Noir Drive;
5. The intersection of NW Pinot Noir Drive and NW Pinehurst Drive; and,
6. The intersection of "A" Court and NW Pinehurst Drive.

None of these "T" intersections are of a design that exhibit alignments with streets oriented in the same, or approximately the same, direction. As can be observed on Exhibit 9 (Preliminary Subdivision Plat), all centerline street offsets of proposed "T" intersections exceed 125 feet. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

E. Future extension of streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision; and the resulting dead-end streets may be approved without a turnaround. Local streets shall provide connectivity as identified in Exhibit 2-1 of the McMinnville Transportation System Plan or connectivity that is functionally equivalent. Reserve strips and street plugs may be required to preserve the objectives of street.

**APPLICANT'S RESPONSE:** As shown on Exhibit 6 for example, this proposal provides for the future continuation of NW Pinehurst Drive to adjacent lands both to the south and east. The subject site is currently also served by public street access from developed land to the south. Baker Creek and its greenway lie adjacent to the site to the north and does not warrant a street stub at the site's northern edge. The proposed approximately 5.6-acre public greenway dedication to occur along the western edge of the site precludes a public street stub to the west; the land to the west has the opportunity to be served by approval of a forthcoming development

proposal utilizing Premier Development's southwesterly NW Pinehurst Drive street stub in addition to the creation of streets leading northward from Baker Creek Road as means of providing public street access to that future development site. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- F. Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 60 (sixty) degrees unless there is a special intersection design. The intersection of an arterial or collector street with another street shall have at least 100 feet of tangent, measured from right-of-way adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 (fifty) feet of tangent measured from property line adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than 80 (eighty) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 (twenty) feet and maintain a uniform width between the roadway and the right-of-way line.

**APPLICANT'S RESPONSE:** As shown on the tentative subdivision plans, there are five intersections that are proposed to be laid out approximating right angles:

1. The intersection of "A" Street and NW Pinehurst Drive located between Lots 55 and 85 that will be stubbed to the south;
2. The west end of "A" Street at its intersection with NW Pinehurst Drive;
3. The west end of "B" Street at its intersection with NW Pinehurst Drive;
4. The west end of "C" Street at its intersection with NW Pinehurst Drive; and,
5. The intersection of NW Pinot Noir Drive and NW Pinehurst Drive.

As can be observed on the submitted preliminary subdivision plans, the proposed street design complies with the requirements above and provides at least 50 (fifty) feet of tangent measured from property line adjacent to the intersection. At intersections which contain an acute angle of less than 80 (eighty) degrees there is a minimum corner radius sufficient to allow for a roadway radius of 20 (twenty) feet and the maintenance of a uniform width between the roadway and the rightof-way line (Exhibit 6). Therefore, this criteria is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- G. Existing streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision. The City may consider a reduction in arterial or collector street lane widths (lanes no less than 10 feet wide) by restriping existing travel lanes.

**APPLICANT'S RESPONSE:** This project abuts only one existing right-of-way which is the temporary northerly terminus of NW Pinot Noir Drive which was developed to meet current City right-of-way and design standards at the time of construction. Since that time, the City has amended the paved section requirement of local streets from 26-feet in width to 28-feet in width. NW Pinot Noir Drive will be extended northward as shown on the submitted preliminary subdivision plans and will initiate a transition to a paved section of 28-feet in width immediately north NW Pinot Noir Drive's current temporary terminus and will then continue further northward into the subject site to serve and provide access to other planned streets within the proposed neighborhood. No additional right-of-way from adjacent existing streets is needed to support approval of this proposal. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- H. Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.

**APPLICANT'S RESPONSE:** As shown on the submitted tentative subdivision plans, there are no half streets proposed as part of this development plan. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- I. Cul-de-sacs. A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve not more than 18 (eighteen) dwelling units. A cul-de-sac shall terminate with a turnaround.

**APPLICANT'S RESPONSE:** As shown on the tentative subdivision plans, there is one cul-de-sac planned as part of this proposal; "A" Court located in Phase I. At approximately 200-feet in total length, "A" Court is proposed to serve no more than seven (7) dwelling units if all of those proposed lots (Lots 34-40) were provided direct vehicular access from "A" Court. Therefore, this criterion is satisfied.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- J. Eyebrows. Where conditions do not warrant the use of cul-de-sacs and the land available in the proposed plan does not allow for a discontinuous minor street extension and where there are no more than three (3) dwelling units proposed to take access, the City Engineer or Planning Director may allow eyebrows. Eyebrows shall be limited to a maximum length of 125 feet, when measured from the main street right-of-way from which the eyebrow takes access. The City Engineer or Planning Director may allow less than that required in (d) above, after taking into consideration the effects upon traffic flows. The right-of-way width shall be 36 (thirty-six) feet, with a paved 10 (ten) foot curb-to-curb radius at the terminus. Sidewalks shall not be installed within eyebrows without additional right-of-way dedication. (Amended 11/18/94 by Ordinance 4573.)

**APPLICANT'S RESPONSE:** As shown on the tentative subdivision plans, no eyebrows are planned. Therefore, this criterion is satisfied.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- K. Street Names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the City. Street names shall be subject to the approval of the Planning Director. The naming of new streets with names of local historic significance and/or where appropriate in alphabetical order is encouraged. (Amended 10/9/90 by Ordinance No. 4477.)

**APPLICANT'S RESPONSE:** With the exceptions of NW Pinot Noir Drive and NW Pinehurst Drive, all other street names shown on the Tentative Subdivision Plan, are, at this time, conceptual in nature. The future naming of new streets will not propose names that will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the City. Further, all proposed street names and all street numbers shall be as approved by the City. Therefore, this criterion is satisfied.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- L. Grades and curves. Grades shall not exceed six (6) percent on arterials, 10 (ten) percent on collector streets, or 12 (twelve) percent on any other street except as described below. Any local street grad exceeding 12 (twelve) percent shall be reviewed for approval by the Fire Code Official during the land use application process. When a local residential street is approved to exceed 12 (twelve) percent the following shall be required.
1. A maximum of 200 feet of roadway length may be allowed with a grade between 12 (twelve) percent and 15 (fifteen) percent for any one section. The roadway grade must reduce to no more than 12 (twelve) percent for a minimum of 75 linear feet of roadway length between each such section for firefighting operations.
  2. Fire sprinklers shall be installed in all residential and commercial structures whose access road is constructed at a grade higher than 12 (twelve) percent. The approval of such fire sprinklers shall be accomplished in accordance with the provisions of ORS 455.610(6).

Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even 10 (ten) feet. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept sharper curves.

**APPLICANT'S RESPONSE:** The proposed streets are local streets and are not planned to exceed a grade of 12 (twelve) percent. As depicted on the submitted tentative subdivision plans and as will be reviewed by the McMinnville Engineering Department and Planning Department, the centerline radii of curves is not less than 100 feet as required by this standard except in locations dictated by the unique shape of the site and, as such, are approvable by the Planning Commission. Additionally, as shown on the attached Exhibits (e.g., Exhibits 30, 31, and 33-45), the proposed street grades comply with these requirements. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

Criteria not Applicable: The following subsections of Section 17.53.101 are not applicable to this request as these circumstances do not exist within or adjacent to this proposal:

- M. Streets adjacent to a railroad right-of-way
  - N. Frontage roads/streets
  - O. Alleys
  - P. Private way/drive
  - Q. Bikeways [along arterial or collector streets]
  - R. Residential Collector Spacing
  - U. Gates
- S. Sidewalks. Along arterials and along major collectors with bikeways in commercial areas, sidewalks shall be eight (8) feet in width or, where less than eight (8) feet of right-of-way is available, shall extend to the property line and be located adjacent to the curb. Sidewalks in all other locations shall be five (5) feet in width and be placed one (1) foot from the right-of-way line. Sidewalks adjacent to a cul-de-sac bulb shall be located adjacent to the curb. (Amended 11/8/94 by Ordinance 4573.)

**APPLICANT'S RESPONSE:** All proposed streets will meet all applicable right-of-way, street width and streetscape requirements inclusive of curbside planter strips. All public sidewalks are shown on the attached Exhibits to be proposed to be five-feet in width and are to be placed one-foot from the right-of-way line along both sides of all proposed streets within this development. Therefore, this criteria is satisfied.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- T. Park Strips. Park strips shall be provided between the curb and sidewalk along both sides of all streets except (a) commercial arterial and collector streets, in which case street trees may be placed in tree wells as specified by the McMinnville Street Ordinance; or (b) cul-de-sac bulbs. Street trees shall be planted and maintained within the park strip as specified in Chapter 17.58 (Trees) of the McMinnville Zoning Ordinance.

**APPLICANT'S RESPONSE:** As shown on the tentative subdivision plans, all proposed streets will meet all applicable right-of-way, street width and streetscape requirements inclusive of a curbside planter strip along both sides of all proposed streets. Premier Development also proposes one physical element to be placed within the planter strip along the east side of NW Pinehurst Drive, south of "A" Court. Premier Development is proposing the permanent installation of a bench within this portion of the planter strip to afford convenient long-term viewing of the adjacent wetlands for neighborhood residents and the community at large. This is being offered as an enhancement of the opportunity to enjoy this wetland area in a convenient and comfortable manner. This criterion is met.

While not directly related to park strip improvement requirements, Premier Development is also proposing the installation of a second permanent wetland viewing bench to be located at the northwest corner of the proposed fire truck turnaround to be located near the easternmost extent of NW Pinehurst Drive (Exhibits 6 and 9); this fire truck turnaround is proposed to satisfy Fire Department requirements related to emergency vehicle access and maneuverability. This fire truck turnaround is depicted on numerous submitted Exhibits inclusive of Exhibits 6, 7, 9, and 47.

**FINDING: SATISFIED.** City concurs with the applicant's findings, however, City notes that the planned development for the subject site requires a minimum of two (2) wetland viewing areas within Tract 1, the common open space tract in the southeast portion of the site. The proposed wetland viewing area within the fire truck turnaround would meet this criteria, but the second wetland viewing area south of "A" Court proposed in the right-of-way does not. There appears to be room in Tract 1 outside of the delineated wetland to accommodate a second wetland viewing area. Therefore, a condition of approval requiring the relocation of the wetland viewing area from the right-of-way into Tract 1 is included.

**17.53.103 Blocks.**

1. General. The length, width, and shape of blocks shall take into account the need for adequate lot size and street width and shall recognize the limitations of the topography.
2. Size. No block shall be more than 400 feet in length between street corner lines or have a block perimeter greater than 1,600 feet unless it is adjacent to an arterial street, or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet.

**APPLICANT'S RESPONSE:** As shown on the tentative subdivision plans, the planned street alignment requires, in some cases, blocks that exceed 400 hundred feet in length due to the topography and the physical configuration of the site, as well as the street pattern of an adjacent platted neighborhood. Given these site factors, Premier Development has configured the proposed local street plan to be as close to the recommended standard as possible. The proposed street pattern and resulting block lengths are very similar that previously approved by the City Council to implement the Ordinance 4822 Planned Development.  
Block Length exceeding 400 feet in length:

- 1) NW Pinehurst Drive from "A" Court to its temporary southeastern terminus;
- 2) NW Pinot Noir Drive from NW Blake Street to "A" Street;
- 3) "A" Street along its northern edge from its intersections with NW Pinot Noir Drive and NW Pinehurst Drive;
- 4) "B" Street from its intersections with NW Pinot Noir Drive and NW Pinehurst Drive;
- 5) NW Pinehurst Drive from its intersection with the east end of "C" Street to its intersection with the west end of "C" Street.

There are no connecting blocks that exceed 1,600 feet in perimeter length. Therefore this requirement is met.

**FINDING: SATISFIED.** The proposed block lengths comply with the requirements of the planned development. The planned development allows a maximum block length of approximately 2,305 feet (the maximum length of the block from NW Pinehurst Drive from its southwestern terminus to "A" Court, around the northern peninsula of the site). No proposed block length exceeds this maximum, and no full, connecting block has a perimeter exceeding the 1,600 foot standard.

### 3. Easements.

1. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated whenever necessary. The easements shall be at least 10 (ten) feet wide and centered on lot lines where possible, except for utility pole tieback easements which may be reduced to six (6) feet in width. Easements of 10 (ten) feet in width shall be required along all rights-of-way. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat. The governing body of a city or county may not place additional restrictions or conditions on a utility easement granted under this chapter.

**APPLICANT'S RESPONSE:** Ten-foot wide public utility easements will be provided along all public rights of way and other locations as required to accommodate the installation of such utilities and maintenance opportunities as necessary as shown on Exhibit 6. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

2. Water courses. If a subdivision is traversed by water courses such as a drainage way, channel, or stream, there shall be provided a storm unit easement or drainage right-of-way conforming substantially with the lines of the water course and of such width as will be adequate for the purpose, unless the water course is diverted, channeled, or piped in accordance with plans approved by the City Engineer's office. Streets or parkways parallel to major water courses may be required.

**APPLICANT'S RESPONSE:** As shown on Exhibits 6, 7 and 11, the proposed subdivision is not impacted by drainageways, channels or streams except at the lowest elevations in locations where development is not proposed except for the following, generally described:

- Engineered fill will exist as the northeastern corner of Lot 38 and will also occur on Lot 42.
- A ten-foot wide public storm easement is proposed to be created between Lots 75 and 76 from the public right-of-way to the public greenway to then transition to a rip-rap channel to be installed within the greenway.
- There are wetlands located along the southeast portion of the site that will be impacted by the proposed construction of portions of NW Pinehurst Drive and "A" Court and on some of the proposed residential lots adjacent to these locations. The proposed impacted wetland areas are shown on Exhibit 6 and other attached Exhibits.

Tract 1, located east of the southern portion of NW Pinehurst Drive, has upland area where there is an existing detention and water quality treatment area for Phase I. The majority of the remaining area in Tract 1 is identified as a wetland area that has been previously delineated and mitigated and is bound by protections in that plan (Exhibit 8).

Relative to the proposed location of a portion of NW Pinehurst Drive that was the subject of that mitigation plan, it has been found through recent analysis by the well-established environmental consulting team Pacific Habitat Services, Inc. that some part of the adjacent wetland area has since manifested again into some location(s) of the already mitigated roadway area over the ensuing fifteen years since that plan's approval. Additionally, there are also found to be wetlands identified within a portion of proposed "A" Court and on some of the proposed residential lots adjacent to these locations. While the delineation of these wetlands has been completed and is reflected on numerous submitted Exhibits inclusive of Exhibits 6, 7, 8 and 9, a final report has not yet been issued by Pacific Habitat Services, Inc.

Premier Development, LLC requests that a Condition of Approval of this proposal require the submittal of the final report from Pacific Habitat Services, Inc. to the Division of State Lands (DSL) for review and approval. Additionally, that a wetland mitigation plan be approved by DSL. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

3. Pedestrian ways. When desirable for public convenience, safety, or travel, pedestrian ways not less than 10 (ten) feet in width may be required to connect to cul-de-sacs, to pass through unusually long or oddly shaped blocks, to connect to recreation or public areas such as schools, or to connect to existing or proposed pedestrian ways. (Ord. 4922, §4B, 2010)

**APPLICANT'S RESPONSE:** As shown on the proposed tentative plans, a 10-foot wide pedestrian access path is proposed to be provided connecting NW Pinot Noir Drive to NW Pinehurst Drive through the approximately 0.85 acre active private neighborhood park. An additional 10-foot wide public pedestrian path is proposed to be provided along the length of the approximately 5.6-acre public greenway which will encircle the subject site and lead to the site's southwestern most point west of Lot 56. The pathway to be located within this greenway area is proposed to be improved with a bark chip trail as recommended by the McMinnville Parks Department as previously described. Three pedestrian access pathways are also proposed to be provided to access this open-space greenway and are to be located between Lots 42 and 43, between Lots 75 and 76, and along the south side of Lot 56 (which will be temporary in nature until such time that the public pathway, previously described, in the forthcoming Stafford Land development adjacent to the west is completed). There are no other public amenities (schools, etc.) for Premier Development to serve with a pedestrian way adjacent to this development. Therefore, this criterion is met.

**FINDING: SATISFIED WITH CONDITION 11.** The planned development amendment (PDA 4-18) has a condition of approval requiring a maximum distance of 800 feet between a street corner intersection and a pedestrian way, or between two consecutive pedestrian ways, on the same side of the street. The proposed subdivision contains two blocks longer than 800 feet where pedestrian ways would be required to provide through-block connectivity. The first, Pinehurst Drive from Pinot Noir Drive to its southeast terminus, is approximately 1250 feet in length. A pedestrian way is proposed through the private active neighborhood park. The distance from the Pinot Noir/Pinehurst Drive street corner intersection to the proposed pedestrian way is approximately 480 feet, and from the pedestrian way to the temporary



southeast terminus of Pinehurst Drive is approximately 770 feet. Therefore, the standard for distance between pedestrian ways on this block is met.

The block from the southwest terminus of Pinehurst Drive along the northern perimeter of the site to "A" Court has a length of approximately 2,305 feet. The distance from "A" Court to the first pedestrian access to the north, between Lots 42 and 43, into the public open space greenway is approximately 215 feet, complying with the standard. From that first pedestrian access way north of "A" Court to the second, between Lots 75 and 76, is approximately 730 feet, also complying with the standard. However, the distance between the pedestrian way between Lots 75 and 76 and the temporary pedestrian way easement on the south side of lot 56, is approximately 1,295 feet, exceeding the maximum distance between pedestrian ways required by the planned development. Therefore, a condition of approval requiring a pedestrian way between Lots 56 and 75 such that the distance to the next pedestrian way on the block does not exceed 800 feet is included.

**17.53.105 Lots.**

A. Size and shape. Lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated. All lots in a subdivision shall be buildable.

1. Lot size shall conform to the zoning requirement of the area. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use contemplated. The depth of lot shall not ordinarily exceed two times the average width.

**APPLICANT'S RESPONSE:** As shown on the submitted tentative plans the proposed lots are generally rectangular in shape as much as can be achieved given the unique peninsula like shape and topography of the site in addition to the site's protected wetland area along its eastern edge. The proposed lot sizes and orientation are appropriate for the type of use contemplated and given the current request for modifications to two existing Planned Development approvals. Additionally, all proposed lots are buildable.

Due to the limiting physical factors mentioned, and the need to provide adequate public street access throughout the site, there are a number of lots with a depth dimension exceeding two times their width. At this point, it is important to note the precise wording of this subject portion of 17.50.105(A)(1) which is that "the depth of lot shall not *ordinarily* exceed two times the average width." [emphasis added] The word "ordinarily" is meaningful in this context and this word was placed in this standard for a reason and that is to provide relief to the desired dimensional lot ratio when atypical site considerations prevail. To look closely, the word "ordinarily" evokes a standard of something being rather common and routine. In fact, for something to be ordinary, it evokes the majority and not the exception.

The lots that uncommonly exceed the 2:1 depth to width ratio in this proposal are lots 15-18, lots 42-49, and lots 56-79 (36 lots, or some 34 percent of the proposed lots in this two-phased plan). Premier Development has tried to avoid exceeding this desired lot depth to width ratio but given the physical characteristics of this site not all lots were able to be made to conform to this dimensional preference. With 34 percent of the proposed lots exceeding the 2:1 ratio, and some 66 percent of the proposed lots conforming to this ratio, Premier Development submits that it is clearly *not* ordinary that the proposed lots exceed this desired standard. In fact, 66 percent of the proposed lots, by far the majority, are dimensioned sufficiently to meet this desired dimensional lot ratio and the lots that do not meet the ratio have atypical physical characteristics that make it impractical to meet those requirements.

In addition to the discussion above, it is instructive to recall that this subdivision application accompanies two additional applications requesting amendments to existing Planned Developments that are currently part of the zone and binding on the subject site (Ordinances 4722 and 4822). Additional findings relative to lot size and dimensions are found in the portion of this application addressing the Planned Development Amendment request to modify Ordinance 4822 at 17.74.070 (A) and (B). Therefore, this criterion is satisfied.

**FINDING: SATISFIED.** City concurs with the applicant's findings. The proposed subdivision would comply with the lot shape requirements established by the proposed companion Planned Development Amendment.

- B. Access. Each lot shall abut upon a street other than an alley for a width of at least 25 (twenty-five) feet or shall abut an access easement which in turn abuts a street for at least 15 (fifteen) feet if approved and created under the provisions of 17.53.100(C). Direct access onto a major collector or arterial street designated on the McMinnville Comprehensive Plan Map shall be avoided for all lots subdivided for single-family, common wall, or duplex residential use, unless no other access point is practical.

**APPLICANT'S RESPONSE:** As shown on the submitted subdivision plans each lot will abut a public street for a width of at least 25 (twenty-five) feet. There will be no direct access onto a major collector or arterial street as no such designated street is within or adjacent to the subject site. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- C. Through lots. Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 (ten) feet wide, and across which there shall be no right of access, may be required along the line of lots abutting such a traffic artery or other incompatible use.

**APPLICANT'S RESPONSE:** One such through lot is proposed and is identified as Lot 12 in Phase I of the subdivision. Lot 12 sits at the northernmost portion of the block bounded by NW Pinot Noir Drive on the west and NW Pinehurst Drive on the west. This lot is generally triangular in shape and is some 10,232 square feet in size. The circumstances that precipitated the design of this lot relate directly to site configuration, topography, the placement of the existing portion of NW Pinot Noir Drive and the goal of providing public street access to the buildable portions of the site. The design of this one through lot overcomes the site's challenges and provides a buildable lot with enough area to allow for flexible placement of a future residence. This lot should also not be seen as uncommon for the surrounding area as Lots 1 – 11 of the Oak Ridge Subdivision to the south are fronted by Baker Creek Road on the south and either Cabernet Court or Chardonnay Drive on the north and are all consequently defined, approved and platted as through lots. This criterion has been satisfied.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

- D. Lot side lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.

**APPLICANT'S RESPONSE:** As shown on the submitted tentative subdivision plans, the side lines of lots run at right angles to the street upon which the lots face as far as practicable. Given the unique shape of the site, accurately referenced before as being somewhat peninsularly shaped, in addition to the location of the site's protected wetland area along its eastern edge

and the need to provide adequate public street access throughout the site for the creation of buildable lots, there are some lots that cannot fully meet this standard (particularly those lots located around the northern curves along NW Pinehurst Drive and lots being accessed from the "A" Court cul-de-sac). This standard allows for a consideration of physical factors in its application (".. as far as practicable ..") and Premier Development has worked toward achieving this standard as far as practicable given the unique shape of this site and other physical factors previously discussed. While a number of the proposed lots do not provide side lot lines running at right angles to the street as can be seen on the submitted preliminary subdivision plans, Premier Development contends that it has met this standard as far as can practicably be achieved. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings. The proposed subdivision would comply with the lot shape requirements established by the proposed companion Planned Development Amendment.

E. Flag lots. The creation of flag lots shall be discouraged and allowed only when it is the only reasonable method of providing access to the rear of a lot which is large enough to warrant partitioning or subdividing.

**APPLICANT'S RESPONSE:** There are no flag lots proposed as part of this residential development plan. Therefore, this criterion is met.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

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

- A. Streets, including related improvements such as curbs and gutters, shoulders, and median strips, and including suitable provisions for necessary slope easements;
- B. Drainage facilities;
- C. Sidewalks in pedestrian ways;
- D. Sewers and sewage disposal facilities.

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

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

- G. Private way/drive. The subdivider shall grade and improve to conform to City specifications in terms of structural standards.
- H. Street trees consistent with the requirements of Chapter 17.58 of the McMinnville Zoning Ordinance and an approved street tree plan for the subdivision.

**APPLICANT'S RESPONSE:** 17.53.151 (A)-(D) and 17.53.153 (A)-(H) are satisfied in that the City Council has adopted the specifications referenced above as being appropriate and applicable to and administered by the City of McMinnville. As shown on Exhibits 7, 25 and 29, all lots shall be served by City water, electrical, sanitary and storm sewer systems including planned storm outfalls toward the eastern side of the development site. All streets will be graded and improved to city standards. No private ways or drives are proposed within the subject site. Dedication and improvement of public streets shall occur as required by City standards inclusive of curbs and gutters, five-foot wide sidewalks and planter strips; should this subdivision request be approved, a street tree planting plan shall be required as a condition of its approval which will require submittal of a plan to be reviewed for approval by the Landscape Review Committee. Therefore, these criteria are satisfied.

**FINDING: SATISFIED.** City concurs with the applicant's findings.

JF



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June 17, 2019

To: Scott Hill, Mayor  
City Council

From: David Koch, City Attorney

Re: Supplemental Findings for Oak Ridge Meadows (PDA 3-18, PDA 4-18, and S 3-18)

Following the decision by the Planning Commission to recommend that the Council approve the proposed Planned Development Amendment (PDA) and Subdivision applications, the applicant prepared Supplemental Findings for consideration by the Council to address evidence, argument and testimony considered by the Planning Commission prior to their making their decision.

The purpose of the Supplemental Findings is to document the City's treatment of matters raised after the preparation of the final staff report and findings document, but prior to the close of the public hearing. The Supplemental Findings are not intended to present any new evidence, argument or testimony, and are simply intended to meet the City's obligation to provide written findings to support the City's decision.

If the Council chooses to follow the Planning Commission's recommendation to approve the PDA and Subdivision applications, the Council may elect to:

- Adopt the findings of the Planning Commission standing alone;
- Adopt the findings of the Planning Commission together with the Supplemental Findings prepared by the applicant; or
- Adopt new findings prepared by staff and/or the applicant following its decision and presented to the Council at a subsequent meeting."

## Supplemental Findings

- I. PDA 3-18 (Amending Ord 4722 by removing the undeveloped 11.47 acres from its scope).
1. The Council has reviewed the record and concludes that all but one of the parties are in agreement that the 11.47 acres should be removed from Ord 4722. Specifically, the attorney for opponents Friends of Baker Creek (FOBC) urged the City to approve PDA 3-18. Kabeiseman May 16, 2019 Letter, page 1. The testimony of the Yamhill Soil & Water District and Friends of Yamhill County are not inconsistent with FOBC's request. Accordingly, the Council understands that these opponents' objections to relate only to PDA 4-18 and S 3-18.
  2. The testimony of the Fair Housing Council and Housing Land Advocates (April 17, 2019 letter) argues that Statewide Planning Goal 10 (Housing) applies to the "proposed amendments and subdivision plan" and that findings for all of those decisions "must demonstrate that the proposed development plan and amendments do not leave the City with less than adequate residential land supplies of the types, locations and affordability ranges affected." The Council disagrees that Goal 10 applies to any of the proposals. Goal 10 applies to amendments to the City's Comprehensive Plan. Neither the PDAs nor the subdivision application seek to amend any comprehensive plan. The objection of these organizations is surprising to say the least. Regardless of the fact that Goal 10 does not apply, the Council notes that the proposal does not remove any developable residential land to serve the residential land uses that it is zoned to serve. In fact, it improves the City's ability to achieve the type and density of housing contemplated for the subject property. PDA 3-18 removes 11.47 acres of land from one PDA and puts it into another PDA so that the entire 35.47 acre property (including the 11.47 acres) can be residentially developed. As explained in the minutes of the Planning Commission's April 18, 2019 hearing, at Planning Commission May 16, 2019 Packet, page 616, the current development situation for the subject 35.47 acre property makes its development with housing very difficult. The proposal removes barriers to the appropriate development of the subject property to deliver the residential uses that its zoning contemplates. There is nothing about the proposal that leaves the City with less than adequate residential land supplies in any respect.
  3. Three applications were filed concurrently – two PDA amendment applications (3-18 and 4-18) and one subdivision application (S 3-18). The Planning Commission approved S 3-18 and recommended approval of PDA 3-18 and 4-18. McMinnville Zoning Ordinance (MZO) 17.72.070 provides "When a proposal involves more than one application for the same property, the Applicant may submit concurrent applications *which shall be processed simultaneously*. In so doing, the applications shall be subject to the hearing procedure that affords the most opportunity for public hearing and notice." (Emphasis added). Staff understands the italicized language to mean that the Planning Commission's approval of S 3-18 (subdivision) had to be processed simultaneously with the PDA's through Council decision, and that meant that the subdivision decision could not become final after its Planning Commission approval. Rather, the subdivision approval too had to be processed as a recommendation so it could secure Council review

and approval. The Council agrees with staff's interpretation that in the situation here, where the three applications were filed concurrently and are interdependent upon one another and two of those concurrent applications require Council approval, that they all then must be processed simultaneously through Council approval, without a party being required to bring the subdivision before the Council by filing an appeal.

4. MZO 17.72.120 lists planned developments and planned development amendment applications as subject to quasi-judicial processes and MZO 17.72.130(5) makes Planning Commission decisions on the same, recommendations for Council decision. MCZO 17.72.130(6) requires the Council to either approve the applications and to adopt findings of approval based upon the Planning Commission record, or to call for a public hearing. The Council has reviewed the Planning Commission record and finds that its professional planning staff did a thorough and commendable job in its review and analysis of the proposals, that the City Planning Commission did a good and thoughtful job in conducting two separate public hearings, considering all of the evidence and arguments of the parties in reaching its decision and the parties presented exhaustive testimony and evidence regarding their positions. In such circumstances, the Council finds that no purpose is served in conducting yet another public hearing. The Council will decide the matter on the record. It adopts these supplemental findings in deference to LUBA's rule that requires where a relevant issue is raised in the local land use proceedings, that the findings supporting the final decision must address the issue and where the findings do not do so, remand is required. *Space Age Fuel, Inc. v. Umatilla County*, 72 Or LUBA 92 (2015). The Council finds that its code does not prevent it from responding to this LUBA command in its final decision. Adopting findings responsive to this LUBA requirement, does not require that parties have a right to rebut those findings. *Rawson v. Hood River Co.* 77 Or LUBA 571, 574-75 (2018).

The Council finds that the proposal complies with all relevant standards and is approved.

- II. PDA 4-18 (Amending Oak Ridge Meadows Planned Development by repealing and replacing ORD 4822 to include the 11.47 acres removed from ORD 4722 and the terms of this approval decision PDA 4-18). In addition to the other findings supporting the proposal the following findings are also adopted.
  1. Three applications were filed concurrently – two PDA amendment applications (3-18 and 4-18) and one subdivision application (S 3-18). The Planning Commission approved S 3-18 and recommended approval of PDA 3-18 and 4-18. McMinnville Zoning Ordinance (MZO) 17.72.070 provides “When a proposal involves more than one application for the same property, the Applicant may submit concurrent applications *which shall be processed simultaneously*. In so doing, the applications shall be subject to the hearing procedure that affords the most opportunity for public hearing and notice.” (Emphasis added). Staff understands the italicized language to mean that the Planning Commission's approval of S 3-18 (subdivision) had to be processed simultaneously with the PDA's through Council decision, and that meant that the subdivision decision could

not become final after its Planning Commission approval. Rather, the subdivision approval too had to be processed as a recommendation so it could secure Council review and approval. The Council agrees with staff's interpretation that in the situation here, where the three applications were filed concurrently and are interdependent upon one another and two of those concurrent applications require Council approval, that they all then must be processed simultaneously through Council approval, without a party being required to bring the subdivision before the Council by filing an appeal.

2. MZO 17.72.120 lists planned developments and planned development amendment applications as subject to quasi-judicial processes and MZO 17.72.130(5) makes Planning Commission decisions on the same, recommendations for Council decision. MCZO 17.72.130(6) requires the Council to either approve the applications and to adopt findings of approval based upon the Planning Commission record, or to call for a public hearing. The Council has reviewed the Planning Commission record and finds that its professional planning staff did a thorough and commendable job in its review and analysis of the proposals, that the City Planning Commission did a good and thoughtful job in conducting two separate public hearings, considering all of the evidence and arguments of the parties in reaching its decision and the parties presented exhaustive testimony and evidence regarding their positions. In such circumstances, the Council finds that no purpose is served in conducting yet another public hearing. The Council will decide the matter on the record. It adopts these supplemental findings in deference to LUBA's rule that requires where a relevant issue is raised in the local land use proceedings, that the findings supporting the final decision must address the issue and where the findings do not do so, remand is required. *Space Age Fuel, Inc. v. Umatilla County*, 72 Or LUBA 92 (2015). The Council finds that its code does not prevent it from responding to this LUBA command in its final decision. Adopting findings responsive to this LUBA requirement, does not require that parties have a right to rebut those findings. *Rawson v. Hood River Co.* 77 Or LUBA 571, 574-75 (2018).
3. Opponents argue that Ord 4845, which amended the findings for Ord 4822, has continuing relevance when Ord 4822 is repealed. Council finds opponents are mistaken. As recommended by the McMinnville Planning Commission, PDA 4-18 repeals Ord 4822 in its entirety, which includes repeal of all of its supportive findings. Ord 4845 is nothing more than supportive findings for Ord 4822 and has no relevance when Ord 4822 is repealed as herein approved. To the extent that is unclear, the McMinnville City Council hereby repeals Ord 4845.
4. Related to the above, opponents argue that the Ord 4822 limitation on the development to only 76 lots unless and until NW Shadden Drive is established as a permanent public street connection from the proposed planned development to Baker Creek Road, should be retained. The Council finds that the previously imposed 76-lot limitation was imposed to comply with fire department requirements at the time. Since that time the fire department has determined that, so long as the temporary NW Shadden Drive emergency access is in place, that the 76 lot limitation is unnecessary. Moreover, the Oregon Fire Code now imposes sprinkling requirements that will be applied as necessary until such time that the temporary NW Shadden Drive connection is established, further establishing



that the 76-lot limit can be removed as unnecessary. A condition of approval is added to ensure that this limitation is observed until such time as the permanent public right-of-way connection to NW Shadden Drive is established.

5. Opponents contend that the proposal may not be approved without the Department of State Land (DSL)'s concurrence in the wetland delineation that the Applicant submitted to that agency. The Council finds that no approval standard requires DSL's concurrence in the wetland delineation for the property before City approval may be given. DSL must eventually concur in the Applicant's delineation and DSL required mitigation as a matter of state law and so Condition 11 to this approval requires such DSL approval to occur. Relatedly, some opponents object to the proposal which will fill 1.06 acres of wetland. The Council finds that no approval standard is violated by the proposal to fill a portion of the wetlands on the site and to mitigate that fill consistent with DSL requirements and subject to DSL approval. The City leaves wetland regulation including fill and mitigation to the expertise of the Oregon DSL. The City lacks expertise in such matters. Where the proposal to fill wetland potentially bears on a relevant City standard, it is addressed under that standard.
6. Opponents request that an environmental impact study (EIS) be completed for the proposal. No City standard requires an EIS be completed for this proposal. An EIS is required when a major federal action is to be taken that affects natural resources. No federal action of any type is at issue here. This objection provides no basis for denial or any condition of approval.
7. Opponents ask the City to designate the 11.47 acres as a "nature preserve" that would be set aside for public enjoyment. The Council declines to do so. The entire proposal consists of only 35.47 acres. Requiring the Applicant to either dedicate to the public or make undevelopable as a set aside for public enjoyment 32.3% of the developable R-2 zoned area cannot pass the United States Constitution's Fifth Amendment unconstitutional conditions tests of *Nollan v. California Coastal Commission* 483 US 825 (1987) or *Dolan v. City of Tigard*, 512 US 374 (1994). Such would not pass *Nollan* because there is no legislatively adopted standard that requires such a dedication or set aside for public enjoyment. Such would not comply with *Dolan* because it is not possible to make adequate findings that such a taking of private property for public use is roughly proportional to the impacts of the proposed development.
8. Opponents argue that the City's recently adopted "Great Neighborhoods Principles" should be applied. The Council declines to apply these principles because they were adopted by the Council on April 9, 2019, effective on May 9, 2019, and were not in effect until after the date that this application was submitted to the City. As a matter of law under ORS 227.178(3), those provisions cannot be applied.
9. Opponents argue that the proposal is contrary to Statewide Planning Goal 10 (Housing). First, the Council finds that Goal 10 does not apply. The proposal is not one for a comprehensive plan amendment and Goal 10 applies only to comprehensive plan amendments. Regardless, the Council finds that there is nothing about the proposal that adversely affects the City's housing inventory. Rather, the proposal increases the chances that the entire 35.47 acres will be developed for housing consistent with its

residential zoning. As explained in other findings, the current land use approval situation that applies to the entire 35.47 acres creates barriers that has made the development of these properties difficult. The Council does not understand how the proposal could impact or violate Goal 10 in any respect. Goal 10, the City's Comprehensive Plan, the needed housing statute, and caselaw interpreting these authorities, all encourage the development of housing on land planned and zoned for housing, as is the case here. The totality of the subject 35.47 acre property is planned residential, is zoned R-2, the R-2 zone implements the City's comprehensive plan and existing housing needs analysis and existing buildable lands analysis as a part of the City's existing acknowledged strategy to provide needed housing. The City's R-2 zone in general, and as applied to the subject property, is acknowledged to comply with Goal 10. There is nothing about the proposal that undermines any housing policy or state rule; in fact precisely the opposite is true. There is no need or purpose served in re-justifying the subject property as R-2 land. The demand to do so is not warranted by Goal 10 or any other applicable standard.

10. Opponents argue that the proposal must comply with McMinnville Zoning Ordinance (MZO) 17.48.005 and fails to do so. MZO 17.48.005 states "Purpose. The purpose of a floodplain is to establish and regulate land uses in those areas designated as hazardous due to periodic flooding in order to protect the community from financial burdens through flood damage losses. Further, this zone is intended to protect natural floodways and drainage ways from encroachment by uses and/or indiscriminate land filling or diking which may adversely affect the overall stream and downstream flood levels. Finally, the floodplain zone shall set aside an area which shall, for the most part, be preserved in its natural state or farmed to provide open spaces, natural habitats, and recreational places." This zoning requirement is inapplicable because it applies only to the City designated floodplain. No part of the proposed development is located in the City designated floodplains, which are designated consistent with FEMA mapping – that is other than a small amount of the 5.06 acre greenway park which the code allows to be in the floodplain as explained below.
11. Opponents contend that the 11.47 acres that is being removed from ORD 4722 is subject to Oak Ridge subdivision CC&Rs. They are mistaken. The evidence in the record is that the CC&Rs cover only the developed portions of the Oak Ridge phased subdivision and not the 11.47 acres.
12. Opponents argue that the proposal does not comply with McMinnville Zoning Ordinance (MZO) 17.74.070(B), which provides: "Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area." They contend that the proposal is inconsistent with several provisions in the City's comprehensive plan. The Council finds that they are mistaken and that the proposal complies with MZO 17.74.070(B), because it is consistent with the plan objectives for the area.

The Plan policies about which opponents' express concern, and Council's specific responses to those concerns, are below:

- a. Opponents argue that the proposal is inconsistent with Plan Policy 2.00 which provides “The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints including, but not limited to, excessive slope, limiting soil characteristics and natural hazards.” They contend that the “Baker Creek Hydrologic Analysis” (BCHA) they submitted to the Planning Commission for its May 16, 2019 continued public hearing, demonstrates this standard and other standards are not met. This is incorrect. Relatedly, opponents argue that the City should change its designated 100-year floodplain to designate some part of the subject property as 100-year floodplain. The Council declines to do so in part because the record does not support that such is appropriate and also because this application is subject to ORS 227.178(3) which locks in the standards that apply to those in effect at the time the application was filed. At the time the application was filed, the proposed development (other than a small part of the 5.06 acre park) was not in the designated 100-year floodplain.

Accordingly, first, the Council adopts the Applicant’s response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at page 86 regarding this plan policy.

Second, the Council specifically finds that plan Policy 2.00 requires enforcement of *adopted* City code standards and is not a moving target. Policy 2.00 contemplates that the City will enforce *adopted* City code standards imposing building constraints inclusive of building code requirements and restrictions, the City’s adopted standards regulating development in the 100-year floodplain and prohibiting development in the floodway and other standards in the City’s code identified by the City’s professional staff or in others the public hearings processes. The proposal does not include development within the City’s adopted 100-year floodplain, or the Baker Creek floodway, and is not contrary to any other code adopted development constraint that has been identified in the record or that the Council is aware of. Development will occur only in a manner that is consistent with all applicable requirements and development controls.

Moreover, the following findings are relevant to Policy 2.00 and other Plan Policies and standards that opponents’ claim should prohibit or restrict the proposal based upon the 100-year floodplain or flooding generally, and their BCHA which purports to show that if an application for a Letter of Map Amendment or “LOMA” were submitted to FEMA at some point in the future, that the 100-year flood plain might be differently mapped. As explained above, even if their BCHA showed this, approval of PDA 4-18 is not inconsistent with Policy 2.00 because Policy 2.00 speaks only to enforcement of existing adopted code standards (e.g., “shall continue to enforce”) – including the existing mapped 100-year floodplain, not the 100-year floodplain as it might be mapped in the future.

Further, the Council disagrees that the opponents’ BCHA shows that the proposal will cause downstream flooding and harm. To the contrary, opponents’ BCHA

demonstrates that the proposal shows *a decrease* in downstream flood impacts if the proposal is approved. Opponents' BCHA at Page 26, Table 16 shows that the maximum water surface elevation at Cross Section 11843 for *existing* conditions is 127.42 ft., while water surface elevations for *future* conditions is shown at 127.41 ft.

While opponents BCHA concludes at page 29, second paragraph: "the potential downstream impact of the blockage for the proposed development amounts to less than one hundredth of a foot of *increase* adjacent to existing residences", the math is plain that this is a **decrease** of 0.01 ft. The Council further notes that, as pointed out by the Applicant's attorney's May 15, 2019 letter to the Planning Commission, opponents' BCHA contains other methodological errors that make it unreliable and the Council therefore does not rely upon the opponents' BCHA. While opponents' attorney asserts that only an engineer can point out faults in the opponents' BCHA, he is mistaken. The errors in the BCHA are plain on their face and also evident from a review of the other evidence in the record. And, regardless, BCHA errors were confirmed at the May 16, 2019 Planning Commission public hearing by the Applicant's engineer, Mr. Wells.

Opponents also contend that the proposal to place a portion of NW Pinehurst Drive in a location partially identified as containing wetland area will cause water pollution and downstream flooding. The proposal to place part of NW Pinehurst Drive in a filled wetland does not cause water pollution or downstream flooding. Rather, the Council agrees with the Applicant, the City's professional staff and the Planning Commission, that the drainage and water quality effects of the development of NW Pinehurst Drive will be adequately managed in compliance with adopted City standards by an appropriately sized detention pond, water treatment and water discharged to Baker Creek, at a controlled rate of flow, as authorized and governed by the City's Storm Water Management Standards. The Council finds that the proposal is consistent with Plan Policy 2.00.

b. Opponents assert that the proposal is inconsistent with Plan Policy 74.00 which provides "Distinctive natural, topographic, and aesthetic features within planned developments shall be retained in all development designs." They contend that the wetlands situated on the property are all "distinctive" natural features and as a result all of the wetlands must be retained to be consistent with this plan policy. The Council disagrees. First, the Council adopts the Applicant's findings and the staff response at PDA 4-18, within the May 16, 2018 Planning Commission packet at pages 90-92. These make clear that the distinctive natural features protected by this policy are those that the City has adopted as protected Statewide Planning Goal 5 (Goal 5) resources. No City identified Goal 5 resources are impacted by the proposal. Second, even if the policy protected other natural features not identified as protected natural resources on the City's Goal 5 inventory, the Council interprets this plan policy to require retention of distinctive natural features, but not all distinctive natural features within a development site. While the proposal results in fill and mitigation for 1.06 acres of wetlands, the proposal retains 2.03 acres of wetlands, and includes viewing areas set aside for residents to enjoy the aesthetics of said wetlands. *See*

Condition 10. The proposal preserves steep slopes. The proposal includes parks and pathways and trees within such park and pathway areas for aesthetic enjoyment. Trees are preserved per PDA 4-18 Condition 13. The Council finds that the proposal is consistent with this plan policy.

c. Opponents assert that the proposal is inconsistent with Plan Policy 80.00 which provides “In proposed residential developments, distinctive or unique natural features such as wooded areas, isolated preservable trees, and drainage swales shall be preserved wherever feasible.” Opponents contend that the proposal should be re-designed to preserve all of the site’s wetlands. The Council incorporates its discussion in the previous findings regarding the meaning of “distinctive” natural areas referring to City inventoried Goal 5 resources and that there are no inventoried Goal 5 resources on the subject property. Moreover, the wetlands on the subject property are not “unique” but rather are typical of wetlands scattered throughout the City. Similarly, there are no other “unique” natural features on the subject 35.47 acre property within the meaning of this Plan Policy. Further, the Council adopts the Applicant’s response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at pages 93-95 regarding this plan policy. The Council also finds that this plan policy requires preservation of identified natural features where feasible. The use of the term *feasible* in this plan policy recognizes that there are other competing values that are also expressed as plan policies and code standards that must be considered. Further, the use of the term “preservable trees” means those trees that can be preserved while still allowing the proposed development to move forward. This objective is achieved through the imposition of Condition 13.

Policy 80.00 is written as a balance to require distinctive or unique natural features be preserved when it is reasonably feasible to do so, while also approving housing contemplated by the zoning designation to enable the City to comply with its housing policies and Statewide Planning Goal 10 (Housing). See McMinnville Goal V2 and Policies 68.00-71.00. ORS 197.307(3) similarly requires that needed housing “shall be permitted.” The proposal is for a type of City recognized needed housing. Here the subject property is zoned R-2 and the City has obligations to allow that zone to deliver the intended residential density of that zone as much as is reasonably possible, to avoid the need to expand the urban growth boundary in the future. The proposal is already slightly under the density contemplated for the R-2 zone. Additional density reductions would be required for any redesign having no impact on wetlands, trees or steep slopes, and the Council does not wish to see any further residential density reductions in the proposal. Further, in this case, it must be recognized that in the absence of the proposal, the existing approved Planned Development Ordinances for the project area, which is comprised of 35.47 acres, which includes the 11.47 acres from the Oak Ridge Planned Development and the entire area of the Oak Ridge Meadows Planned Development, authorize the development of 129 lots versus the proposed 108 proposed lots at issue in this case. The reduced number of lots proposed here, is a direct response to the Applicant, in part, adjusting the alignment of the eastern portion of NW Pinehurst Drive to be located further to the west thereby

preserving more natural features, and incorporating public and private parks and walking path amenities which do not exist as a part of the previously approved Planned Development Ordinances that this proposal supersedes. The Council finds that in these circumstances, in any event the proposal preserves natural features – whether distinctive or unique or neither of those - “wherever feasible” and is consistent with this plan policy.

d. Opponents assert that the proposal is inconsistent with Plan Policy 118.00 which provides “The City of McMinnville shall encourage development of roads that include the following design factors:

“1. Minimal adverse impacts on, and advantageous utilization of, natural features of the land.”

Opponents contend that because the easternmost portion of NW Pinehurst Drive (the portion within the 11.47 acres to be removed from ORD 4722), will be developed in a wetland area requiring some of the wetland to be filled, the proposal is necessarily inconsistent with this plan policy. The Council disagrees. First, Council hereby adopts the Applicant’s response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at page 96, regarding this plan policy. Second, the terminus of this portion of NW Pinehurst Drive stubbing to the Toth property is now reflected in the City’s Transportation System Plan (TSP), as is explained in other findings. It would not be reasonably possible to establish this segment of NW Pinehurst Drive in any location and avoid wetlands and still stub to the Toth property as is contemplated and reflected in the City’s acknowledged TSP. The location of NW Pinehurst Drive within the 11.47 acre area, is directly responsive to the Applicant minimizing adverse impacts on area wetlands, avoiding cutting into steep slopes and stubbing NW Pinehurst in the location that the City’s TSP shows the connecting stub to be located. This demonstrates that the proposal is consistent with Plan Policy 118.00, because it advantageously utilizes natural features, but at the same time minimizes adverse impacts upon them and does so within the acknowledged framework of the City’s TSP location of the existing NW Pinehurst Drive stub at the Toth property.

Finally, the Council expressly interprets this plan policy to be aspirational and to encourage, but not require, minimizing adverse impacts and advantageous utilization of natural features in any event. It is not an approval standard. Minimizing adverse impacts to and the advantageous utilization of natural features has been sufficiently encouraged by the approval of the proposal. The proposal is consistent with this plan policy.

e. Opponents argue that the proposal is inconsistent with Plan Policy 132.029.00 which provides “The construction of transportation facilities in the McMinnville planning area shall be timed to coincide with community needs and shall be implemented so as to minimize impacts on existing development.” They argue that to “minimize impacts on existing development”, that the existing traffic outlets onto

Baker Creek Road of NW Merlot Drive and NW Oak Ridge Drive, which the proposal will use, must be supplemented by public dedication and completion of a NW Shadden Drive right-of-way connection between the subject site and NW Baker Creek Road across property owned by another (Stafford Land) that is not owned or controlled by the Applicant.

The Council disagrees. This plan provision has two parts: (1) that transportation facilities be constructed coincidentally at the time when the community needs them, and (2) when such transportation facilities are constructed, that they are implemented in a way that minimizes impacts to existing development. The proposal is consistent with this plan policy.

With one exception, there is no dispute that the construction of the proposed extensions of NW Pinehurst Drive and NW Pinot Noir Drive to serve the proposal will be timely to meet community needs. The exception is that the opponents argue that the proposal is inconsistent with this plan provision because they contend that there is no “community need” to stub out NW Pinehurst Drive to the neighboring property to the east owned by Mr. Toth. They are mistaken. The stubbed connection of NW Pinehurst Drive to the Toth property already exists in City planning documents and is shown on Exhibit 2-3 (Street Functional Classification) the City’s adopted and acknowledged Transportation System Plan (TSP).



Below is an enlarged portion of the above graphic showing the NW Pinehurst Drive street stub in more detail.



Accordingly, a connection stubbed at the Toth property must be presumed to be a community need because it has been legislatively adopted as such in the City's TSP. It is well-established that it is improper to collaterally attack the city's acknowledged planning instruments including the City's TSP.

As to the second prong of the plan provision, the Council finds that impacts of the proposal on existing development are minimized within the meaning of this plan provision by PDA 4-18 Condition 15, limiting the number of lots to 108 lots in the development unless NW Shadden Drive is constructed. This ensures that the number of traffic trips associated with the proposal is consistent with the design capacity of the affected streets as explained by the Applicant's transportation engineer in her TIA and supplemental report in the record.

Moreover, the proposal will involve widening a particularly narrow section of NW Pinot Noir Drive from its intersection with NW Blake Street to improve NW Pinot Noir Drive to current standards, within the existing right-of-way, improving mobility and thus livability in this part of the existing Oak Ridge Subdivision development. Further, the Applicant's Transportation Impact Analysis (TIA) and TIA supplement both demonstrate that all intersections and traffic volumes will function well within applicable city standards as proposed without NW Shadden Drive.

The Council finds that this standard does not require that the Applicant construct a street connection (NW Shadden Drive) on property that is neither owned nor controlled by the Applicant, where such is otherwise not required by applicable standards, as is the case here. As demonstrated in the Applicant's traffic report and supplemental traffic report, traffic is expected to move in and out of the existing development and move around inside of the existing development, well within the limits of all applicable City standards. The Council further notes that the fire department has determined that a temporary emergency-only vehicular connection between the western temporary terminus of NW Pinehurst Drive to NW Baker Creek



Road for emergency access is adequate to serve emergency needs, as explained in other findings.

Finally opponents requested that the NW Shadden Drive emergency access be used for construction vehicles for the proposal so that construction vehicles are not using the public road system within the existing Oak Ridge subdivision development. The Council finds that this standard does not require that construction vehicles for the proposed planned development be prohibited from using the public road system and be required to use instead only the temporary emergency-only access to be constructed across adjacent land to the west in the approximate alignment of the future extension of NW Shadden Drive. The Council declines to impose such a condition because it is not required by this or any other standard and also the owner of the land under the temporary NW Shadden Drive emergency access has not consented to such use, which would unnecessarily and unfairly burden his property. Further, such use may be inconsistent with applicable standards that will be applied to that neighboring property (which is owned by Stafford Land) where the proposed temporary emergency vehicle access is to be situated. That property owner has submitted an application for a tentative plat approval for the property. While opponents state otherwise, they are mistaken. Such application has been submitted to the City and is currently under consideration.

A permanent NW Shadden Drive connection between the proposed planned development and NW Baker Creek Road will be a required part of that adjacent subdivision (owned by Stafford Land) on which the NW Shadden Drive connection will be located. However, reserving the NW Shadden Drive connection as the exclusive construction access for the proposed planned development, which can be developed over a period of five (5) years, is unreasonable and foreseeably could adversely affect the timing and development of such other property (owned by Stafford land) as well as could improperly limit the City's approval options for that development. Imposition of such a condition also establishes a precedent for other residential developments that they must obtain approval to provide construction access from unowned neighboring undeveloped properties and such a precedent is untenable. The Council declines to impose such a condition. The proposal is consistent with this Plan Policy.

f. Opponents argue that the proposal is inconsistent with Policy 132.35.00 which provides "Transportation facilities in the McMinnville Planning area shall be, to the degree possible, designed and constructed to mitigate noise, energy consumption, and neighborhood disruption, and to encourage the use of public transit, bikeways, sidewalks and walkways." Similar to their arguments under Plan Policy 132.29.00, opponents argue that developing the proposed planned development without the construction of the permanent NW Shadden Drive connection is inconsistent with this standard because it does not mitigate noise and neighborhood disruption and also that the required NW Pinehurst Drive street stub to the Toth property to the east will be disruptive by virtue of its very existence. The Council disagrees and finds that the proposal is consistent with this policy.

First, Council hereby adopts the Applicant's response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at pages 100-101 regarding this plan policy.

Second, the Council specifically interprets the use of the terms "to the degree possible" in this plan provision to be meaningful. The plan provision is not absolute; it does not require that there be no neighborhood disruption or no noise associated with transportation facilities for a development proposal. Rather, this standard requires that roadways be designed consistently with their functional classifications and meet City level of service and other standards. All McMinnville citizens must expect that vacant land to which they are proximate will develop consistently with its zoning including to have the transportation facilities that would be required by the City code and plan. The proposal is consistent with the functional classifications of affected streets and meets all level of service and other transportation related standards. Moreover, this plan provision focuses on ensuring that residents within planned developments have a variety of transportation options available to them. The proposal includes generous opportunities for walking, and biking, as well as being situated within one mile of planned transit, thus ensuring that there will be adequate vehicle transportation opportunities. Regarding transit, such is located within one-mile of the site as a "Conceptual Bus Route" on the City's adopted "Transit Feasibility Study" and as articulated within the May 16, 2019 Planning Commission packet at pages 88-89.

Finally, the Council notes that neighborhood disruption is not per se established by the Applicant providing a required public street stub to the Toth property at the eastern temporary terminus of NW Pinehurst Drive consistent with the City's adopted TSP. Rather, stubbing to the Toth property as contemplated by the City's TSP demonstrates compliance with this plan policy. The proposal is consistent with this plan policy.

- g. Opponents contend that the proposal is inconsistent with Plan Policy 142.00, which provides "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." The Council finds that the proposal is consistent with this Plan Policy as it is properly interpreted. Specifically, this policy does not apply directly to development proposals but rather it is implemented by an Applicant's compliance with the City's Storm Water Management Standards. The Applicant has established that the proposal will comply with the City's Storm Water Management Standards. Accordingly, the proposal is consistent with this Plan Policy.
- h. Opponents contend that the proposal is inconsistent with Policy 143.00, which provides "The City of McMinnville shall encourage the retention of natural drainage ways for storm water drainage." They assert that the filling of any wetlands is

inconsistent with this policy. They also contend that development within a 100-year floodplain is inconsistent with this policy. The Council disagrees that the proposal to fill a portion of the wetlands located on the property is inconsistent with the plan policy and also disagrees as explained above that the proposal includes unauthorized development within the City's mapped 100-year floodplain.

The Council begins by noting that opponents' interpretation of this plan policy is absolute; but the plan policy is aspirational and not mandatory (e.g., "The City of McMinnville shall encourage.."). As such, it is not an approval standard for the proposal.

Second, the Council adopts the Applicant's response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at page 106, regarding this plan policy.

Third, the Council finds that the wetlands proposed to be filled subject to the approval of the Department of State Lands (DSL), are not "drainage ways" within the meaning of this plan policy, in any event. The "drainage way" is Baker Creek. The proposal is not inconsistent with this plan policy.

i. Opponents argue that the proposal is inconsistent with Plan Policies relating to parks. Generally, they argue that there are no funds to maintain the public 5.06 acre park. The Council disagrees. A condition of approval requiring a homeowner's association with maintenance responsibilities for common open space as well as the public open space (the 5.06 acre park) until 2032 has been included in the subdivision approval adopted concurrently herewith as S 3-18. Moreover, the Council finds that by 2032 the City will have adequate funds to maintain this 5.06 acre greenway park. While City Parks Department recommended a condition limiting transfer of maintenance responsibility "until such time as resources are available to maintain and operate it as public open space", the Council declines to impose such an open ended condition. Rather, the County finds that by 2032 the City shall have the means to maintain the 5.06 acre park. Failing to do so means the City fails its citizens and the obligations imposed upon the City in its plan and the Council declines to be so pessimistic. The Council finds that the park will be adequately maintained by the City in 2032 and thereafter.

Specifically with regard to parks, opponents express concerns about the proposal's consistency with the following plan policies.

A. Opponents argue that the proposal is inconsistent with Plan Policy 160.00, which provides "The City of McMinnville shall encourage the improvement of existing parks and recreation facilities as a priority consideration." The Council finds that this plan policy does not apply to this proposal. No existing parks and recreation facilities exist within or are affected by the proposed planned development.

- B. Opponents argue that the proposal is inconsistent with Plan Policy 161.00 which provides “The City of McMinnville shall encourage cooperation between public and private recreation agencies and groups to provide a full complement of recreational and leisure time activities, to share existing facilities, and to discourage duplication of expenditures and programs.” The Council finds that this plan policy does not apply here and, even if it did, that there is nothing about the proposal that is inconsistent with this plan policy.
  
- C. Opponents argue that the proposal is inconsistent with Plan Policy 163.00, which provides “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.” The Council finds that the proposal is consistent with this plan policy because it provides two park amenities and a natural trail walking/jogging pathway system.
  
- D. Opponents argue that the proposal is inconsistent with Plan Policy 163.05, which provides “The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands.”

First, the Council adopts the Applicant’s response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at pages 108-109 regarding this standard.

Second, the Council finds that the adopted McMinnville Parks, Recreation, and Open Space Master Plan defines seven park types. Two of those park types are required by Comprehensive Plan Policy 163.05 to be located outside of the 100-year floodplain. Those two park types are Community parks and Neighborhood parks.

Of the two parks proposed as part of the Oak Ridge Meadows Planned Development (PDA 4-18), only one park, the public Greenway Park contains some portion of land identified as being located within the 100-year floodplain. Policy 163.05 states that Greenways are appropriate recreational uses of land in floodplains. The Council finds that the Greenway Park is a greenway within the meaning of this plan policy and that is it not a neighborhood or community park. The Council further finds that the small portion of the Greenway Park that is within the 100-

year floodplain is allowed to be located in the floodplain under this policy. Accordingly, the proposal is consistent with this plan policy.

- E. Opponents argue that the proposal is inconsistent with Plan Policy 164.00 which provides “The City of McMinnville shall continue to acquire floodplain lands through the provisions of Chapter 17.53 (Land Division Standards) of the zoning ordinance and other available means, for future use as natural areas, open spaces, and/or parks.” The Council recognizes that the McMinnville Parks and Recreation Department determined that the proposal met this plan standard. *See* Planning Commission May 16, 2019 packet at p 76. Regardless, the Council finds that this plan policy does not apply to this application for a planned development, because the City does not acquire floodplain land as a goal of approving a residential development application. Regardless, the Council concurs that the proposal is consistent with this plan policy in the sense that a small amount of the 100-year floodplain is situated within the 5.06 acre park which will be dedicated to the public.
- F. Opponents argue that the proposal is inconsistent with Plan Policy 166.00 which provides “The City of McMinnville shall recognize open space and natural areas, in addition to developed park sites, as necessary elements of the urban area.” The Council finds that the proposal is consistent with this plan policy. The proposal includes generous amounts of open space and natural areas amenities reflecting both the Applicant’s and the City’s recognition of the importance of the same to a pleasant living experience in the urban area.
- G. Opponents argue that the proposal is inconsistent with Plan Policy 167.00, which provides “The City of McMinnville shall encourage the retention of open space and scenic areas throughout the community, especially at the entrances to the City.” The Council disagrees that the proposal is inconsistent with this Plan Policy.

First, this plan policy is not a mandatory standard, but rather is aspirational. Accordingly, it is not an approval standard for the proposal.

Second, it largely does not apply to the proposal at all. The proposed project is not at the entrance to the City. There are no existing “open space” areas on the subject property. Rather, the subject property is entirely composed of privately owned property designated as R-2, which has long been subject to planned developments and subdivision approvals that simply never materialized for a variety of reasons. The undeveloped R-2 zoned land at issue in this proposal does provide scenic areas that the developed subdivision in the sense that the wetlands are visually appealing. The Applicant has been encouraged to retain and has

retained many of those scenic wetland areas and has provided specific viewing areas for the enjoyment of all neighbors – new and existing ones. The proposal is consistent with this plan policy.

- H. Opponents argue that the proposal is inconsistent with Plan Policy 168.00, which provides “Distinctive natural features and areas shall be retained, wherever possible, in future urban developments.” The Council finds that the proposal is consistent with this policy, as properly interpreted. First, the Council adopts herein the Applicant’s Response and Staff Findings contained within the May 16, 2019 Planning Commission packet at page 108-109. Second, the Council herein adopts its findings concerning Plan Policies 74.0 and 80.0 as they relate to distinctive natural features. Third, the Council specifically finds that this plan policy is not absolute, but rather contemplates retention of distinctive natural features where it is possible to do so and still achieve other goals and standards in the City’s Plan and zoning ordinance. This means that even if there were distinctive natural features on the subject property, they are retained as much as reasonably possible by the generous provision of park and recreation opportunities, a majority of the wetlands being retained, and the tree protection provisions in Conditions 12 and 13, while still achieving the density of housing contemplated by the R-2 zoning district.

I Opponents argue that the proposal is inconsistent with Plan Policy 169.00 which provides “Drainage ways in the City shall be preserved, where possible, for natural areas and open spaces and to provide natural storm run-off”. The Council finds that the proposal is consistent with this Plan Policy. First, the Council adopts the Applicant’s Response and the Staff Findings at the May 16, 2019 Planning Commission Packet at pages 108-09. Second, the Council incorporates herein its findings of consistency with Policy 143.00. Third, the Council finds that this standard contemplates that drainage ways in the City (here, Baker Creek), will be preserved for natural areas and open spaces and to provide a means to accept natural storm water run-off. Baker Creek is untouched under the proposal and will retain its role as a natural area and open space and to accept natural storm water run-off. The proposal is consistent with this plan policy.

- J. Opponents argue that the proposal is inconsistent with Plan Policy 187.050(1)(a) which provides “Neighborhood shall be designed to preserve significant natural features including, but not limited to, watercourses, sensitive lands, steep slopes, wetlands, wooded areas and landmark trees.” Plan policy 187.50 expresses “Great Neighborhood

Principles.” This policy was adopted by the Council on April 9, 2019, effective on May 9, 2019, and was not in effect at the time the application was first submitted to the City and therefore as a matter of law under ORS 227.178(3) cannot be applied to the proposal. However, even if this plan policy applied, the proposal is not inconsistent with it. The policy requires the preservation of certain described features but not all such certain described natural features. The “neighborhood” created by the proposal preserves many natural features – far more than were approved under the original approvals that would cover the subject property if the proposal were not approved. This plan policy is inapplicable and even if it applied, the proposal is not inconsistent with it.

- j. Opponents argue the proposal is inconsistent with Plan Policy Proposal 29.00 which provides “The City of McMinnville should continue to monitor the location and size of lands acquired through the parkland (subdivision) ordinance. Methods of developing and maintaining the smaller parks in a manner less expensive to the City should be encouraged and explored.” First, the Council finds that this policy is merely “proposed” in the Plan but is not adopted. Further, regardless, the Council also finds that the McMinnville Parks and Recreation Department monitors the location and size of parkland acquired by the City. Additionally, the smaller of the two proposed parks will be privately owned and maintained by a Homeowner’s Association and will not be maintained by the City. Even if the City adopts this policy in the future, this proposal is not inconsistent with this Plan Policy proposal.
11. As an overarching matter, the Council finds that the evidence in the record establishes that the proposal does not develop homes or roads within the City’s adopted 100-year floodplain and is unlikely to cause flooding or other harms to harm to downstream properties.
12. Opponents argue that the proposal does not meet MZO 17.74.070(C) which provides “The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels.” First, Council hereby adopts the Applicant’s response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at pages 121-123 regarding this standard.

Additionally, the Council finds that the supplemental traffic evaluation performed by DKS Associates and the resulting summary memo dated May 7, 2019, submitted into the record for the May 16, 2019 Planning Commission public hearing on this proposal states: “Neither the analysis reported in the TIA nor the subsequent field observations support the claim of significant vehicle delays while accessing Baker Creek Road from the Oak Ridge neighborhood. These findings (combined with the City’s planned improvements to Baker Creek Road and the anticipated phasing of the Oak Ridge Meadows development) confirm that the traffic impacts related to the Oak Ridge Meadows development will be limited and all facilities will continue to meet the City’s operating and design standards.” The Council finds that this conclusion in the DKS supplemental traffic evaluation is

credible and persuasive. The Council determines that the proposal complies with MCC 17.74.070(C).

Opponents argue that the proposal does not meet MZO 17.74.070(F), which provides the Applicant must demonstrate that “Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.” They are mistaken. First, Council hereby adopts the Applicant’s response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at page 125 regarding this plan policy. Second, the Council finds that the property is already planned and zoned for the population densities proposed and the type of residential development that is proposed. Public utility and drainage facilities currently exist adjacent to the site and have the capacity to adequately be extended to and sufficiently serve the proposed population density and single-family detached residential development represented by this proposal.

13. Opponents argue that the proposal does not comply with MZO 17.74.0070(D), which requires a finding that “The plan can be completed within a reasonable period of time.” The Council disagrees. Opponents argue that The Council does not agree. As City Associate Planner Fleckenstein explained at the April 18, 2019 public hearing before the Planning Commission (see Minutes at Planning Commission May 16, 2019 Packet, page 616):

“The current zoning of the site for PDA 3-18 was R-2 PD, single family residential. The Oak Ridge Planned Development had approved 107 lots which were reallocated from 3 phases to 4 phases. Phase 4 had 30 lots that were yet to be developed. In the original Planned Development there would be an intersection at Pinot Noir Drive and Pinehurst Drive, and that intersection was moved north into the Oak Ridge Meadows Planned Development. That created a situation where both Oak Ridge Phase 4 and Oak Ridge Meadows would have to be developed at the same time. This became problematic during the recession and neither subdivision was built. The request was to remove the 11.47 acres of undeveloped property that had been planned to be Phase 4 of the Oak Ridge Planned Development and to keep the R-2 PD zoning on the parcel until it was rezoned. Staff noted this request met the Comprehensive Plan policies and code criteria for a Planned Development Amendment. The first 3 phases of Oak Ridge that had been built out met the intent and covenants of the Comprehensive Plan and code requirements. If this land was successfully removed, but not successfully added to the Oak Ridge Meadows, the land would be rezoned from R-2 PD to R-2 and future development would need to be compliant with the R-2 zone. He then discussed the approval criteria for PDA 3-18. The special physical condition was that previously approved plans for Oak Ridge and Oak Ridge Meadows made the simultaneous development necessary and co-dependent on each other. This became problematic in the execution and timing of the build out for both subdivisions. The special objective was to bring the adjacent undeveloped parcels together into one master planned development.”



The Council agrees that this history makes the development posture of the subject properties unique and that coupled with the interposition of the Great Recession explains why the subject property has not developed previously. Joining the undeveloped parts into a single planned development eliminates the “chicken and egg” problem that otherwise plagued the properties and the economic climate is satisfactory for the development of the proposal. Accordingly, the Council agrees with the Applicant’s Response and Staff Findings for PDA 3-18, May 16, 2019 Planning Commission packet at 58, and adopts the Applicant’s Response and Staff Finding at May 16, 2019 Planning Commission packet, page 123, that the evidence establishes that the plan for the proposed planned development can be completed within a reasonable period of time.

12. Opponents argue that the proposal does not meet MCC 17.74.070(G) which provides the Applicant must demonstrate that “The noise, air and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities or the city as a whole.” First, Council hereby adopts the Applicant’s response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at pages 125-126, regarding this plan policy, with one exception. The staff findings state “the loss of adjacent wetlands would detract from the water quality function of the wetland.” While this is true, Council notes that mitigation required for such losses are proposed which will replace the functionality of the wetlands to be filled. Specifically, the current function of the wetland is to retain and filter storm water into nearby Baker Creek or percolate the water into the ground. Similarly here, the proposal includes a detention pond that will detain and percolate water, treat it to provide water quality and release storm water to Baker Creek at levels required by the City’s Stormwater Management Plan.

The Council finds that the proposal complies with all relevant standards and is approved.

*13. New Language is added to CONDITION 14 in PDA 4-18:*

*At no point will occupancy permits be issued for the approved 108 homes in the planned development approved by this ordinance, unless such homes are constructed in compliance with the requirements of the Oregon Fire Code.*

Supplemental Findings

- III. S 3-18. In addition to the other findings supporting the proposal, the following supplemental findings are adopted.

14. Three applications were filed concurrently – two PDA amendment applications (3-18 and 4-18) and one subdivision application (S 3-18). The Planning Commission approved S 3-18 and recommended approval of PDA 3-18 and 4-18. McMinnville Zoning Ordinance (MZO) 17.72.070 provides “When a proposal involves more than one application for the same property, the Applicant may submit concurrent applications *which shall be processed simultaneously*. In so doing, the applications shall be subject to the hearing procedure that affords the most opportunity for public hearing and notice.” (Emphasis

added). Staff understands the italicized language to mean that the Planning Commission's approval of S 3-18 (subdivision) had to be processed simultaneously with the PDA's through Council decision, and that meant that the subdivision decision could not become final after its Planning Commission approval. Rather, the subdivision approval too had to be processed as a recommendation so it could secure Council review and approval. The Council agrees with staff's interpretation that in the situation here, where the three applications were filed concurrently and are interdependent upon one another and two of those concurrent applications require Council approval, that they all then must be processed simultaneously through Council approval, without a party being required to bring the subdivision before the Council by filing an appeal.

15. MZO 17.72.120 lists planned developments and planned development amendment applications as subject to quasi-judicial processes and MZO 17.72.130(5) makes Planning Commission decisions on the same, recommendations for Council decision. MCZO 17.72.130(6) requires the Council to either approve the applications and to adopt findings of approval based upon the Planning Commission record, or to call for a public hearing. The Council has reviewed the Planning Commission record and finds that its professional planning staff did a thorough and commendable job in its review and analysis of the proposals, that the City Planning Commission did a good and thoughtful job in conducting two separate public hearings, considering all of the evidence and arguments of the parties in reaching its decision and the parties presented exhaustive testimony and evidence regarding their positions. In such circumstances, the Council finds that no purpose is served in conducting yet another public hearing. The Council will decide the matter on the record. It adopts these supplemental findings in deference to LUBA's rule that requires where a relevant issue is raised in the local land use proceedings, that the findings supporting the final decision must address the issue and where the findings do not do so, remand is required. *Space Age Fuel, Inc. v. Umatilla County*, 72 Or LUBA 92 (2015). The Council finds that its code does not prevent it from responding to this LUBA command in its final decision. Adopting findings responsive to this LUBA requirement, does not require that parties have a right to rebut those findings. *Rawson v. Hood River Co.* 77 Or LUBA 571, 574-75 (2018).
16. Opponents contend that the subdivision may not be approved without the Department of State Land (DSL)'s concurrence in the wetland delineation that the Applicant submitted to that agency. The Council finds that no approval standard requires DSL's concurrence in the wetland delineation for the property before City approval may be given. DSL must eventually concur in the Applicant's delineation and DSL required mitigation as a matter of state law and so Condition 22 to this subdivision approval requires all required DSL permits to be in place and PDA 4-18 Condition 11 also specifically requires such DSL approval to occur. Relatedly, opponents object to the proposal which will fill 1.06 acres of wetland. The Council finds that no approval standard is violated by the proposal to fill a portion of the wetlands on the site and to mitigate that fill consistent with DSL requirements and subject to DSL approval. The City leaves wetland regulation including fill and mitigation to the expertise of the Oregon DSL. The City lacks expertise in such

matters. Where the proposal to fill wetland potentially bears on a relevant City standard, it is addressed under that standard.

17. Opponents request that an environmental impact study (EIS) be completed for the proposal. No City standard requires an EIS be completed for this proposal. An EIS is required when a major federal action is to be taken that affects natural resources. No federal action of any type is at issue here. This objection provides no basis for denial or any condition of approval.
18. Opponents ask the City to designate the 11.47 acres as a “nature preserve” that would be set aside for public enjoyment. The Council declines to do so. The entire proposal consists of only 35.47 acres. Requiring the Applicant to either dedicate to the public or make undevelopable as a set aside for public enjoyment 32.3% of the developable R-2 zoned area cannot pass the United States Constitution’s Fifth Amendment unconstitutional conditions tests of *Nollan v. California Coastal Commission* 483 US 825 (1987) or *Dolan v. City of Tigard*, 512 US 374 (1994). Such would not pass *Nollan* because there is no legislatively adopted standard that requires such a dedication or set aside for public enjoyment. Such would not comply with *Dolan* because it is not possible to make adequate findings that such a taking of private property for public use is roughly proportional to the impacts of the proposed development.
19. Opponents argue that the City’s recently adopted “Great Neighborhoods Principles” should be applied. The Council declines to apply these principles because they were adopted by the Council on April 9, 2019, effective on May 9, 2019, and were not in effect until after the date that this application was submitted to the city. As a matter of law under ORS 227.178(3), those provisions cannot be applied.
20. Opponents argue that the proposal is contrary to Statewide Planning Goal 10 (Housing). First, the Council finds that Goal 10 does not apply. The proposal is a subdivision and is not one for a comprehensive plan amendment and Goal 10 applies only to comprehensive plan amendments. Regardless, the Council finds that there is nothing about the proposal that adversely affects the City’s housing inventory. Rather, the approval of this subdivision increases the chances that the entire 35.47 acres will be developed for housing consistent with its residential zoning. As explained in other findings, the current land use approval situation that applies to the entire 35.47 acres creates barriers that has made the development of these properties difficult. The Council does not understand how the proposed subdivision could impact or violate Goal 10 in any respect. Goal 10, the City’s Comprehensive Plan, the needed housing statute, and caselaw interpreting these authorities, all encourage the development of housing on land planned and zoned for housing, as is the case here. The totality of the subject 35.47 acre property is planned residential, is zoned R-2, the R-2 zone implements the City’s comprehensive plan and existing housing needs analysis and existing buildable lands analysis as a part of the City’s existing acknowledged strategy to provide needed housing. The City’s R-2 zone in general, and as applied to the subject property, is acknowledged to comply with Goal 10. There is nothing about the proposal that undermines any housing policy or state rule; in fact precisely the opposite is true. There is no need or purpose served in re-justifying

the subject property as R-2 land. The demand to do so is not warranted by Goal 10 or any other applicable standard.

21. Opponents argue that the proposal must comply with McMinnville Zoning Ordinance (MZO) 17.48.005 and fails to do so. MZO 17.48.005 states “Purpose. The purpose of a floodplain is to establish and regulate land uses in those areas designated as hazardous due to periodic flooding in order to protect the community from financial burdens through flood damage losses. Further, this zone is intended to protect natural floodways and drainage ways from encroachment by uses and/or indiscriminate land filling or diking which may adversely affect the overall stream and downstream flood levels. Finally, the floodplain zone shall set aside an area which shall, for the most part, be preserved in its natural state or farmed to provide open spaces, natural habitats, and recreational places.” This zoning requirement is inapplicable because it applies only to the City designated floodplain. No part of the proposed development is located in the City designated floodplain, which is designated consistent with FEMA mapping – that is other than a small amount of the 5.06 acre greenway park which the code allows to be in the floodplain as explained below.
22. Opponents contend that the 11.47 acres that is being removed from ORD 4722 is subject to Oak Ridge subdivision CC&Rs. They are mistaken. The evidence in the record is that the CC&Rs cover only the developed portions of the Oak Ridge phased subdivision, and not the 11.47 acres.
23. Opponents argue that the proposal does not comply with various plan policies. At the outset the Council finds that the proposal is for a subdivision within the UGB which is specifically defined in state law as a limited land use decision. ORS 197.015(12)(a). That means that the City comprehensive plan is inapplicable to the proposed subdivision unless the plan contains individual provisions which are specifically incorporated into the zoning ordinance. ORS 197.195. There are no such plan policies. The McMinnville Comp Plan Volume II, page 1 states “Volume II, Goals and Policies, contains the goal, policy, and proposal statements which shall be applied to all *land use decisions*.” By its express terms it does not apply to limited land use decisions. Regardless, in an abundance of caution, the Council reviews plan policies about which the opponents take issue, but do so without waiver of the fact that these plan standards do not apply.
  - a. Opponents argue that the proposal is inconsistent with Policy 2.00 which provides “The City of McMinnville shall continue to enforce appropriate development controls on lands with identified building constraints including, but not limited to, excessive slope, limiting soil characteristics and natural hazards.” They contend that the “Baker Creek Hydrologic Analysis” (BCHA) they submitted to the Planning Commission for its May 16, 2019 continued public hearing, demonstrates this standard and other standards are not met. This is incorrect.

First, the Council adopts the Applicant’s response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at page 86 regarding this plan policy.

Second, the Council specifically finds that plan Policy 2.00 requires enforcement of *adopted* City code standards and is not a moving target. Policy 2.00 contemplates that the City will enforce *adopted* City code standards imposing building constraints inclusive of building code requirements and restrictions, the City's adopted standards regulating development in the 100-year floodplain and prohibiting development in the floodway and other standards in the City's code identified by the City's professional staff or in others the public hearings processes. The proposal does not include development within the City's adopted 100-year floodplain, or the Baker Creek floodway, and is not contrary to any other code adopted development constraint that has been identified in the record or that the Council is aware of. Development will occur only in a manner that is consistent with all applicable requirements and development controls.

Moreover, the following findings are relevant to Policy 2.0 and other Plan Policies and standards that opponents' claim should prohibit or restrict the proposal based upon the 100-year floodplain or flooding generally, and their BCHA which purports to show that if an application for a Letter of Map Amendment or "LOMA" were submitted to FEMA at some point in the future, that the 100-year flood plain might be differently mapped. Even if their BCHA showed this, approval of PDA 4-18 is not inconsistent with Policy 2.00 because Policy 2.00 speaks only to enforcement of existing adopted code standards (e.g., "shall continue to enforce") – including the existing mapped 100-year floodplain, not the 100-year floodplain as it might be mapped in the future. Further, the Council notes that the opponents' claim their BCHA shows that the proposal will cause downstream flooding and harm. The Council disagrees that opponents' BCHA demonstrates that the proposal will result in downstream flooding or harms. To the contrary, opponents' BCHA demonstrates that the proposal shows a *decrease* in downstream flood impacts if the proposal is approved. Opponents' BCHA at Page 26, Table 16 shows that the maximum water surface elevation at Cross Section 11843 for existing conditions is 127.42 ft., while water surface elevations for *future* conditions is shown at 127.41 ft.

While opponents BCHA concludes at page 29, second paragraph: "the potential downstream impact of the blockage for the proposed development amounts to less than one hundredth of a foot of *increase* adjacent to existing residences", the math is plain that this is a **decrease** of 0.01 ft. The Council further notes that, as pointed out by the Applicant's attorney's May 15, 2019 letter to the Planning Commission, opponents' BCHA contains other methodological errors that make it unreliable and the Council does not rely upon it. While opponents' attorney asserts that only an engineer can point out faults in the opponents' BCHA, he is mistaken. The errors in the BCHA are plain on their face and also evident from a review of the other evidence in the record. And, regardless, BCHA errors were confirmed at the May 16, 2019 Planning Commission public hearing by the Applicant's engineer, Mr. Wells.

Opponents also contend that the proposal to place a portion of NW Pinehurst Drive in a location partially identified as containing wetland area will cause water pollution and downstream flooding. The proposal to place part of NW Pinehurst Drive in a

filled wetland does not cause water pollution or downstream flooding. Rather, the Council agrees with the Applicant, the City's professional staff and the Planning Commission, that the drainage and water quality effects of the development of NW Pinehurst Drive will be adequately managed in compliance with adopted City standards by an appropriately sized detention pond, water treatment and water discharged to Baker Creek, at a controlled rate of flow, as authorized and governed by the City's Storm Water Management Standards. The Council finds that the proposal complies with Plan Policy 2.00.

b. Opponents assert that the proposal is inconsistent with Plan Policy 74.00 which provides "Distinctive natural, topographic, and aesthetic features within planned developments shall be retained in all development designs." The Council finds that this Plan Policy does not apply to the subdivision proposal but rather only to the planned development proposal approved by PDA 4-18.

c. Opponents assert that the proposal is inconsistent with Plan Policy 80.00 which provides "In proposed residential developments, distinctive or unique natural features such as wooded areas, isolated preservable trees, and drainage swales shall be preserved wherever feasible." Opponents contend that the proposal should be re-designed to preserve all of the site's wetlands. The Council incorporates its discussion in the previous findings regarding the meaning of "distinctive" natural areas referring to City inventoried Goal 5 resources and that there are no inventoried Goal 5 resources on the subject property. Moreover, the wetlands on the subject property are not "unique" but rather are typical of wetlands scattered throughout the City. Similarly, there are no other "unique" natural features on the subject 35.47 acre property within the meaning of this Plan Policy. Further, the Council adopts the Applicant's response and Staff Findings regarding S 3-18 contained within the May 16, 2018 Planning Commission packet at pages 155-57 regarding this plan policy. The Council also finds that this plan policy requires preservation of identified natural features where feasible. The use of the term *feasible* in this plan policy recognizes that there are other competing values that are also expressed as plan policies and code standards that must be considered. Further, the use of the term "preservable trees" means those trees that can be preserved while still allowing the proposed development to move forward.

Policy 80.00 is written as a balance to require distinctive or unique natural features be preserved when it is reasonably feasible to do so, while also approving housing contemplated by the zoning designation to enable the City to comply with its housing policies and Statewide Planning Goal 10 (Housing). See McMinnville Goal V2 and Policies 68.00-71.00. ORS 197.307(3) similarly requires that needed housing "shall be permitted." The proposal is for a type of City recognized needed housing. Here the subject property is zoned R-2 and the City has obligations to allow that zone to deliver the intended residential density of that zone as much as is reasonably possible to avoid the need to expand the urban growth boundary in the future. The proposal is already slightly under the density contemplated for the R-2 zone. Additional density reductions would be required for any redesign had no impact on wetlands, trees or steep slopes, and the Council does not wish to see any

further residential density reductions. Further, in this case, it must be recognized that in the absence of the proposal, the existing approved Planned Development Ordinances for the project area, which is comprised of 11.47 acres from the Oak Ridge Planned Development and the entire area of the Oak Ridge Meadows Planned Development, authorize the development of 129 lots versus the proposed 108 proposed lots at issue in this case. The reduced number of lots proposed here, is a direct response to the Applicant, in part, adjusting the alignment of the eastern portion of NW Pinehurst Drive to be located further to the west thereby preserving more natural features, and incorporating public and private parks and walking path amenities which do not exist as a part of the previously approved Planned Development Ordinances that this proposal supersedes. The Council finds that in these circumstances, the proposal preserves natural features – whether distinctive or unique - “wherever feasible” and is consistent with this plan policy.

d. Opponents assert that the proposal is inconsistent with Plan Policy 118.00 which provides “The City of McMinnville shall encourage development of roads that include the following design factors:

“1. Minimal adverse impacts on, and advantageous utilization of, natural features of the land.”

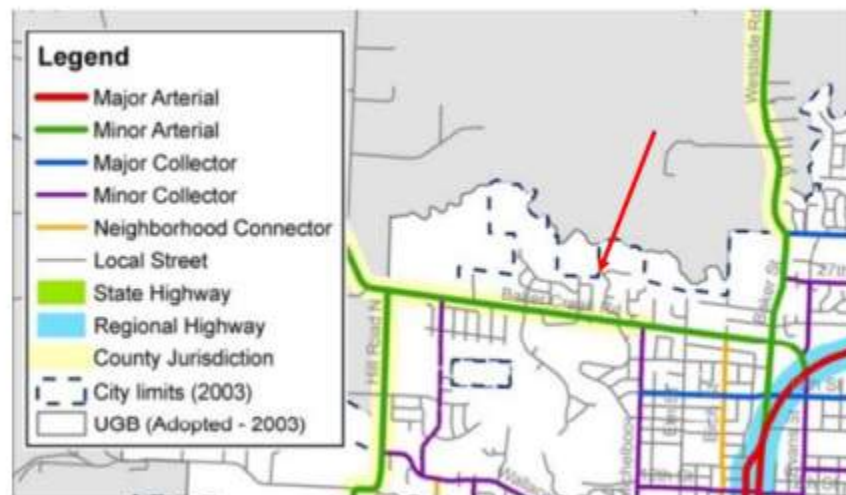
Opponents contend that because the easternmost portion of NW Pinehurst Drive (the portion within the 11.47 acres to be removed from ORD 4722), will be developed in a wetland area requiring some of the wetland to be filled, the proposal is necessarily inconsistent with this plan policy. First, Council hereby adopts the Applicant’s response and Staff Findings regarding PDA 4-18 contained within the May 16, 2018 Planning Commission packet at pages 158-59 regarding this plan policy. Second, the terminus of this portion of NW Pinehurst Drive stubbing to the Toth property is now reflected in the City’s TSP as is explained in later findings. It would not be possible to establish this segment of NW Pinehurst Drive in any location and avoid wetlands and still stub to the Toth property as is contemplated and reflected in the City’s acknowledged TSP. The location of NW Pinehurst Drive within the 11.47 acre area, is directly responsive to the Applicant minimizing adverse impacts on area wetlands, avoiding cutting into steep slopes and stubbing NW Pinehurst in the location that the City’s TSP shows the connecting stub to be located. This demonstrates that the proposal is consistent with Plan Policy 118.00, because it advantageously utilizes natural resources but at the same time minimizes adverse impacts upon them and does so within the acknowledged framework of the City’s TSP location of the existing NW Pinehurst Drive stub at the Toth property.

Finally, the Council expressly interprets this plan policy to be aspirational and to encourage, but not require, minimizing adverse impacts and advantageous utilization of natural features in any event. It is not an approval standard. Minimizing adverse impacts to and the advantageous utilization of natural features has been sufficiently encouraged by the approval of the proposal. The proposal is consistent with this plan policy.

e. Opponents argue that the proposal is inconsistent with Plan Policy 132.029.00 which provides “The construction of transportation facilities in the McMinnville planning area shall be timed to coincide with community needs and shall be implemented so as to minimize impacts on existing development.” They argue that to “minimize impacts on existing development”, that the existing traffic outlets onto Baker Creek Road of NW Merlot Drive and NW Oak Ridge Drive, which the proposal will use, must be supplemented by the public dedication and completion of a NW Shadden Drive right-of-way connection between the subject site and NW Baker Creek Road across property that is not a part of the development proposal and is not owned or controlled by the Applicant.

The Council disagrees. This plan provision has two parts: (1) that transportation facilities be constructed coincidentally at the time when the community needs them, and (2) when such transportation facilities are constructed, that they are implemented in a way that minimizes impacts to existing development. The proposal is consistent with this plan policy.

With one exception, there is no dispute that the construction of the proposed extensions of NW Pinehurst Drive and NW Pinot Noir Drive to serve the proposal will be timely to meet community needs. The exception is that the opponents argue that the proposal is inconsistent with this plan provision because they contend that there is no “community need” to stub out NW Pinehurst Drive to the neighboring property to the east owned by Mr. Toth. They are mistaken. The stubbed connection of NW Pinehurst Drive to the Toth property already exists in City planning documents and is shown on Exhibit 2-3 (Street Functional Classification) the City’s adopted and acknowledged Transportation System Plan (TSP).



Below is an enlarged portion of the above graphic showing the NW Pinehurst Drive street stub in more detail.





Accordingly, a connection stubbed at the Toth property must be presumed to be a community need because it has been legislatively adopted as such in the City's TSP. It is well-established that it is improper to collaterally attack the city's acknowledged planning instruments including the City's TSP.

As to the second prong of the plan provision, the Council finds that impacts of the proposal on existing development are minimized within the meaning of this plan provision by PDA 4-18 Condition 15, limiting the number of lots to 108 lots in the development unless NW Shadden Drive is constructed. This ensures that the number of traffic trips associated with the proposal is consistent with the design capacity of the affected streets as explained by the Applicant's transportation engineer in her TIA and supplemental report in the record.

Moreover, the proposal will involve widening a particularly narrow section of NW Pinot Noir Drive from its intersection with NW Blake Street to improve NW Pinot Noir Drive to current standards, within the existing right-of-way, improving mobility and thus livability in this part of the existing Oak Ridge Subdivision development. Further, the Applicant's Transportation Impact Analysis (TIA) and TIA supplement both demonstrate that all intersections and traffic volumes will function well within applicable city standards as proposed without NW Shadden Drive.

The Council finds that this standard does not require that the Applicant to construct an additional permanent public street connection (NW Shadden Drive) on property that is neither owned nor controlled by the Applicant, where such is otherwise not required by applicable standards, as is the case here. As demonstrated in the Applicant's traffic report and supplemental traffic report, traffic is expected to move in and out of the existing development and move around inside of the existing development, well within the limits of all applicable city standards. The Council further notes that the fire department has determined that a temporary emergency-only vehicular connection between the western temporary terminus of NW Pinehurst

Drive to NW Baker Creek Road for emergency access is adequate to serve emergency needs, as explained in other findings.

Finally opponents requested that the NW Shadden Drive emergency access be used for construction vehicles for the proposal so that construction vehicles are not using the public road system within the existing Oak Ridge subdivision development. The Council finds that this standard does not require that construction vehicles for the proposed planned development be prohibited from using the public road system and be required to use instead only the temporary emergency-only access to be constructed across adjacent land to the west in the approximate alignment of the future extension of NW Shadden Drive. The Council declines to impose such a condition because it is not required by this or any other standard and also the owner of the land (Stafford Land) under the temporary NW Shadden Drive emergency access has not consented to such use. Further, such use of the Stafford Land property may be inconsistent with applicable standards that will be applied to that neighboring property for its residential subdivision development (it too is zoned R-2), where the proposed temporary emergency vehicle access is to be situated. That Stafford Land property owner has submitted an application for a tentative plat approval for that property. While opponents state otherwise, they are mistaken. Such application has been submitted to the city for approval of a residential subdivision and is currently under City consideration.

A permanent NW Shadden Drive public road connection between the proposed planned development and NW Baker Creek Road will be a required part of that adjacent subdivision on which the NW Shadden Drive connection will be located. However, reserving the NW Shadden Drive connection as the exclusive construction access for the proposed planned development, which can be developed over a period of five (5) years, is unreasonable and foreseeably could adversely affect the timing and development of such other property as well as could improperly limit the City's approval options for that development. Imposition of such a condition also establishes a precedent for other residential developments that they must obtain approval to provide construction access from unowned neighboring undeveloped properties and such a precedent is untenable. The Council declines to impose such a condition. The proposal is consistent with this Plan Policy.

f. Opponents argue that the proposal is inconsistent with Policy 132.35.00 which provides "Transportation facilities in the McMinnville Planning area shall be, to the degree possible, designed and constructed to mitigate noise, energy consumption, and neighborhood disruption, and to encourage the use of public transit, bikeways, sidewalks and walkways." Similar to their arguments under Plan Policy 132.29.00, opponents argue that developing the proposed planned development without the construction of the permanent NW Shadden Drive connection is inconsistent with this standard because it does not mitigate noise and neighborhood disruption and also that the required NW Pinehurst Drive street stub to the Toth property to the east will be disruptive by virtue of its very existence. The Council disagrees and finds that the proposal is consistent with this policy.

First, Council hereby adopts the Applicant's response and Staff Findings regarding S 3-18 contained within the May 16, 2018 Planning Commission packet at pages 162-163 regarding this plan policy.

Second, the Council specifically interprets the use of the terms "to the degree possible" in this plan provision to be meaningful. The plan provision is not absolute; it does not require that there be no neighborhood disruption or no noise associated with transportation facilities for a development proposal. Rather, this standard requires that roadways be designed consistently with their functional classifications and meet city level of service and other standards. All McMinnville citizens must expect that vacant land to which they are proximate will develop consistently with its zoning including to have the transportation facilities that would be required by the city code and plan. The proposal is consistent with the functional classifications of affected streets and meets all level of service and other transportation related standards. Moreover, this plan provision focuses on ensuring that residents within planned developments have a variety of transportation options available to them. The proposal includes generous opportunities for walking, and biking, as well as being situated within one mile of planned transit, thus ensuring that there will be adequate vehicle transportation opportunities. Regarding transit, such is located within one-mile of the site as a "Conceptual Bus Route" on the city's adopted "Transit Feasibility Study" and as articulated within the May 16, 2019 Planning Commission packet at pages 88-89.

Finally, the Council notes that neighborhood disruption is not per se established by the Applicant providing a required public street stub to the Toth property at the eastern temporary terminus of NW Pinehurst Drive consistent with the City's adopted TSP. Rather, stubbing to the Toth property as contemplated by the City's TSP demonstrates compliance with this plan policy. The proposal is consistent with this plan policy.

- g. Opponents contend that the proposal is inconsistent with Plan Policy 142.00, which provides "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." First, the Council adopts the Applicant's Response and Staff Finding at p 168. Second, the Council finds that the proposal is consistent with this Plan Policy as it is properly interpreted. Specifically, this policy does not apply directly to development proposals but rather it is implemented by an Applicant's compliance with the City's Storm Water Management Standards. The Applicant has established that the proposal will comply with the City's Storm Water Management Standards. Accordingly, the proposal is consistent with this Plan Policy.
- h. Opponents contend that the proposal is inconsistent with Policy 143.00, which provides "The City of McMinnville shall encourage the retention of natural drainage

ways for storm water drainage.” They assert that the filling of any wetlands is inconsistent with this policy. They also contend that development within a 100-year floodplain is inconsistent with this policy. The Council disagrees that the proposal to fill a portion of the wetlands located on the property is inconsistent with the plan policy and also disagrees as explained above that the proposal includes unauthorized development within the City’s mapped 100-year floodplain.

The Council begins by noting that opponents’ interpretation of this plan policy is absolute; but the plan policy is aspirational and not mandatory (e.g., “The City of McMinnville shall encourage..”). As such, it is not an approval standard for the proposal.

Second, the Council adopts the Applicant’s response and Staff Findings regarding S 3-18 contained within the May 16, 2018 Planning Commission packet at page 168 regarding this plan policy.

Third, the Council finds that the wetlands proposed to be filled subject to the approval of the Department of State Lands (DSL), are not “drainage ways” within the meaning of this plan policy, in any event. The “drainage way” is Baker Creek. The proposal is not inconsistent with this plan policy.

- i. Opponents argue that the proposal is inconsistent with Plan Policies relating to parks. Generally, they argue that there are no funds to maintain the public 5.06 acre park. The Council disagrees. A condition of approval requiring a homeowner’s association with maintenance responsibilities for common open space as well as the public open space (the 5.06 acre park) until 2032 has been included at Condition 5. Moreover, the Council finds that by 2032 the City will have adequate funds to maintain this 5.06 acre greenway park. While City Parks Department recommended a condition limiting transfer of maintenance responsibility “until such time as resources are available to maintain and operate it as public open space”, the Council declines to impose such an open ended condition. Rather, the County finds that by 2032 the City shall have the means to maintain the 5.06 acre park. Failing to do so means the City fails its citizens and the obligations imposed upon the City in its plan and the Council declines to be so pessimistic. The Council finds that the park will be adequately maintained by the City in 2032 and thereafter.

Specifically with regard to parks, opponents express concerns about the proposal’s consistency with the following plan policies.

- A. Opponents argue that the proposal is inconsistent with Plan Policy 160.00, which provides “The City of McMinnville shall encourage the improvement of existing parks and recreation facilities as a priority consideration.” The Council finds that this plan policy does not apply to this proposal. No existing parks and recreation facilities exist within or are affected by the proposed planned development.

- B. Opponents argue that the proposal is inconsistent with Plan Policy 161.00 which provides “The City of McMinnville shall encourage cooperation between public and private recreation agencies and groups to provide a full complement of recreational and leisure time activities, to share existing facilities, and to discourage duplication of expenditures and programs.” The Council finds that this plan policy does not apply here and, even if it did, that there is nothing about the proposal that is inconsistent with this plan policy.
- C. Opponents argue that the proposal is inconsistent with Plan Policy 163.00, which provides “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.” The Council finds that the proposal is consistent with this plan policy because it provides two park amenities and a natural trail walking/jogging pathway system.
- D. Opponents argue that the proposal is inconsistent with Plan Policy 163.05, which provides “The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands.”

First, the Council adopts the Applicant’s response and Staff Findings regarding S 3-18 contained within the May 16, 2018 Planning Commission packet at pages 170-71 regarding this standard.

Second, the Council finds that the adopted McMinnville Parks, Recreation, and Open Space Master Plan defines seven park types. Two of those park types are required by Comprehensive Plan Policy 163.05 to be located outside of the 100-year floodplain. Those two park types are Community parks and Neighborhood parks.

Of the two parks proposed as part of the Oak Ridge Meadows Planned Development (PDA 4-18), only one park, the public Greenway Park contains some portion of land identified as being located within the 100-year floodplain. Policy 163.05 states that Greenways are appropriate recreational uses of land in floodplains. The Council finds that the Greenway Park is a greenway within the meaning of this plan policy and that is it not a neighborhood or community park. The Council further finds that the small portion of the Greenway Park that is within the 100-

year floodplain is allowed to be located in the floodplain under this policy. Accordingly, the proposal is consistent with this plan policy.

- E. Opponents argue that the proposal is inconsistent with Plan Policy 164.00 which provides “The City of McMinnville shall continue to acquire floodplain lands through the provisions of Chapter 17.53 (Land Division Standards) of the zoning ordinance and other available means, for future use as natural areas, open spaces, and/or parks.” The Council recognizes that the McMinnville Parks and Recreation Department determined that the proposal met this plan standard. *See* Planning Commission May 16, 2019 packet at p 140. Regardless, the Council finds that this plan policy does not apply to this application for a planned development, because the City does not acquire floodplain land as a goal of approving a residential development application. Regardless, the Council concurs that the proposal is consistent with this plan policy in the sense that a small amount of the 100-year floodplain is situated within the 5.06 acre park which will be dedicated to the public.
- F. Opponents argue that the proposal is inconsistent with Plan Policy 166.00 which provides “The City of McMinnville shall recognize open space and natural areas, in addition to developed park sites, as necessary elements of the urban area.” The Council finds that the proposal is consistent with this plan policy. The proposal includes generous amounts of open space and natural areas amenities reflecting both the Applicant’s and the City’s recognition of the importance of the same to a pleasant living experience in the urban area.
- G. Opponents argue that the proposal is inconsistent with Plan Policy 167.00, which provides “The City of McMinnville shall encourage the retention of open space and scenic areas throughout the community, especially at the entrances to the City.” The Council disagrees that the proposal is inconsistent with this Plan Policy.

First, this plan policy is not a mandatory standard, but rather is aspirational. First, this plan policy is not a mandatory standard, but rather is aspirational. Accordingly, it is not an approval standard for the proposal.

Second, it largely does not apply to the proposal at all. The proposed project is not at the entrance to the City. There are no existing “open space” areas on the subject property. Rather, the subject property is entirely composed of privately owned property designated as R-2, which has long been subject to planned developments and subdivision approvals that simply never materialized for a variety of reasons. The undeveloped R-2 zoned land at issue in this proposal does provide scenic areas that the developed subdivision in the sense that the wetlands are

visually appealing. The Applicant has been encouraged to retain and has retained many of those scenic wetland areas and has provided specific viewing areas for the enjoyment of all neighbors – new and existing ones. The proposal is consistent with this plan policy.

- H. Opponents argue that the proposal is inconsistent with Plan Policy 168.00, which provides “Distinctive natural features and areas shall be retained, wherever possible, in future urban developments.” The Council finds that the proposal is consistent with this policy, as properly interpreted. First, the Council adopts herein the Applicant’s Response and Staff Findings contained within the May 16, 2019 Planning Commission packet at page 170-71. Second, the Council herein adopts its findings concerning Plan Policies 74.0 and 80.0 as they relate to distinctive natural features. Third, the Council specifically finds that this plan policy is not absolute, but rather contemplates retention of distinctive natural features where it is possible to do so and still achieve other goals and standards in the City’s Plan and zoning ordinance. This means that even if there were distinctive natural features on the subject property, they are retained as much as reasonably possible by the generous provision of park and recreation opportunities, a majority of the wetlands being retained, and the tree protection provisions in Condition 2, while still achieving the density of housing contemplated by the R-2 zoning district.
- I. Opponents argue that the proposal is inconsistent with Plan Policy 169.00 which provides “Drainage ways in the City shall be preserved, where possible, for natural areas and open spaces and to provide natural storm run-off”. The Council finds that the proposal is consistent with this Plan Policy. First, the Council adopts the Applicant’s Response and the Staff Findings at the May 16, 2019 Planning Commission Packet at pages 170-71. Second, the Council incorporates herein its findings of consistency with Policy 143.00. Third, the Council finds that this standard contemplates that drainage ways in the City (here, Baker Creek), will be preserved for natural areas and open spaces and to provide a means to accept natural storm water run-off. Baker Creek is untouched under the proposal and will retain its role as a natural area and open space and to accept natural storm water run-off. The proposal is consistent with this plan policy.
- j. Opponents argue that the proposal is inconsistent with Plan Policy 187.050(1)(a) which provides “Neighborhood shall be designed to preserve significant natural features including, but not limited to, watercourses, sensitive lands, steep slopes, wetlands, wooded areas and landmark trees.” Plan policy 187.50 expresses “Great Neighborhood Principles.” This policy was adopted by the Council on April 9, 2019, effective on May 9, 2019, and was not in effect at the time the application was first

submitted to the City and therefore as a matter of law under ORS 227.178(3) cannot be applied to the proposal. However, even if this plan policy applied, the proposal is not inconsistent with it. The policy requires the preservation of certain described features but not all such certain described natural features. The “neighborhood” created by the proposal preserves many natural features – far more than were approved under the original approvals that would cover the subject property if the proposal were not approved. This plan policy is inapplicable and even if it applied, the proposal is not inconsistent with it.

k. Opponents argue the proposal is inconsistent with Plan Policy Proposal 29.00 which provides “The City of McMinnville should continue to monitor the location and size of lands acquired through the parkland (subdivision) ordinance. Methods of developing and maintaining the smaller parks in a manner less expensive to the City should be encouraged and explored.” First, the Council finds that this policy is merely “proposed” in the Plan, but is not adopted. Unadopted plan provisions cannot be applied to development proposals. ORS 227.178(3). Further, regardless, the Council also finds that the McMinnville Parks and Recreation Department monitors the location and size of parkland acquired by the City. Additionally, the smaller of the two proposed parks will be privately owned and maintained by a Homeowner’s Association and will not be maintained by the City. Even if the City adopts this policy in the future, this proposal is not inconsistent with this Plan Policy proposal.

24. As an overarching matter, the Council finds that the evidence in the record establishes that the proposal does not develop homes or roads within the City’s adopted 100-year floodplain and is unlikely to cause flooding or other harms to harm to downstream properties.

The Council finds that S 3-18 complies with all relevant standards and is therefore approved.



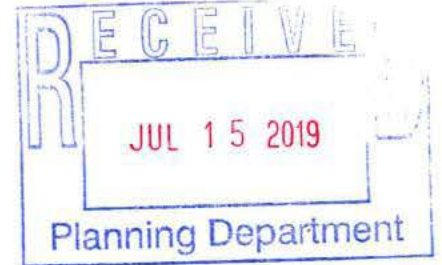


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July 15, 2019

Via Electronic Mail  
Honorable Mayor Hill  
Members of the City of McMinnville City Council  
c/o Planning Department  
230 NE 2<sup>nd</sup> St. McMinnville, Or 97128



RE: Premier Development LLC PDA 3-18, PDA 4-18 and S 3-18

Dear Honorable Mayor Hill and Members of the City Council:

This firm represents the applicant in the above referenced matter. Please include this letter and its attachments in the record of the above matters. Thank you for your time and consideration.

This letter responds to information from opponents post-dating the Planning Commission’s approval decision on the above referenced matters.

**May 24, 2019 PBS Letter**

We appreciate PBS’ clarification of its positions taken before the Planning Commission. However, PBS does not change the conclusion in its original report<sup>1</sup> that there is no adverse downstream impact from development of the proposal. Accordingly per PBS’ original report, the development of the proposed subdivision will result in either a **decrease** in the flood elevation of 0.01 ft. (page 26, Table 16) or result in “less than one hundredth of a foot of increase adjacent to existing residences”. See PBS conclusion at p 29. Either way, there can be no reasonable dispute that the development of this residentially planned and zoned land as proposed, has no appreciable adverse downstream flood impacts.

PBS’ conclusion that it is possible that a Letter of Map Amendment could result in a change to the FEMA 100-year floodplain, is unhelpful and irrelevant. State law (ORS 227.178(3)) and parallel city code provisions lock in the standards that apply to approval or denial of the proposal, to those in effect at the time the application was first submitted. Accordingly, the only 100-year floodplain that matters is the one now in effect and adopted by the City code.

While a lot of ink is devoted to the issue, we know from the PBS report and PBS’ May 24, 2019 letter supplement that the proposal results in no downstream flood harms. We also

<sup>1</sup> While PBS’ May 24, 2019 letter states it attaches an updated report, such is not the case.

know that the applicant, City professional planning staff and Planning Commission (after two long public hearings), have all correctly applied the 100-year FEMA floodplain to these matters, and it is plain that no development is proposed to be located within the 100-year floodplain.

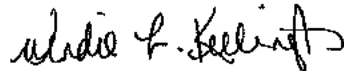
### **Traffic Concerns**

Project opponents raise various traffic issues. However, the City's professional staff, the applicant's traffic engineer (in three different reports analyzing different traffic issues to address concerns) and the City's Planning Commission have all concluded that the evidence demonstrates that the proposal meets all applicable traffic standards.

### **Summary**

The proposal is for a less dense, more attractive, residential development than that which is currently approved for the property. The project includes recreational, natural and other amenities that the City can be proud of. The City's professional staff and Planning Commission have thoughtfully evaluated all of the evidence and concluded that the proposed residential development meets all relevant standards. It is sincerely hoped that you too can give this residential project, on residentially planned and zoned land, your approval. Thank you.

Very truly yours,

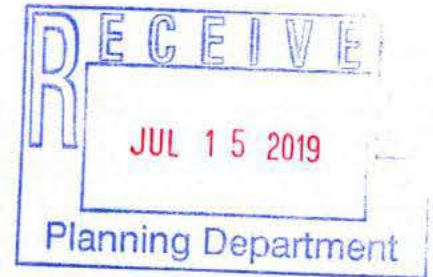


Wendie L. Kellington

WLK:wlk  
CC: Client



Via Electronic Mail  
 Honorable Mayor Hill  
 Members of the City of McMinnville City Council  
 C/o Planning Department  
 230 NE 2<sup>nd</sup> St. McMinnville, OR 97128



RE: Premier Development LLC PDA 3-18, PDA 4-18, and S 3-18

Dear Honorable Mayor Hill Members of the City of McMinnville City Council,

This letter is in response to PBS May 24, 2019 letter (PBS Response Letter) to Friends of Baker Creek's response to Kellington Law Groups response to PBS Report (Hydrologic Analysis of Baker Creek). Our responses are numbered in accordance to that provided in the PBS letter.

**1. Topographical Error**

It is noted that PBS agreed that they made a typographical error in their report. We do not have a copy of the PBS developed HEC-HMS model so cannot confirm that their model was developed properly

**2. Unit Discharges**

We agree that unit discharges are not the only way to evaluate the reasonableness of peak flows for a watershed and that each watershed is unique. However, FEMA uses unit discharges to help review results of a hydrologic models when used for a Flood Insurance Study to ensure the model results are reasonable.

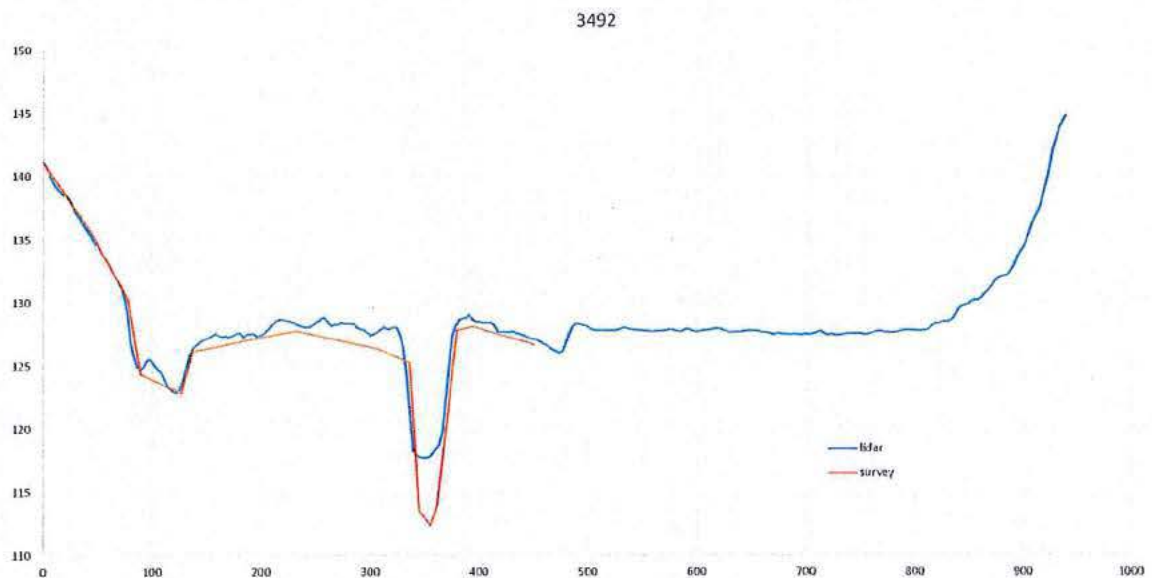
Our primary concern was that PBS states in the last sentence on page 9 of their May 2019 report that "Of the modeled calibration watersheds, Butte Creek and Tualatin Creek watersheds are the most similar in composition to the Baker Creek drainage area." Yet the unit discharges for Butte Creek and Tualatin River are 154 cfs/mi<sup>2</sup> and 141 cfs/mi<sup>2</sup>, respectively while the unit discharge for Scoggins Creek (assumed to be less similar in composition to Baker Creek) is 230 cfs/mi<sup>2</sup>. They do not explain in their report or their rebuttal the justification for the significantly higher unit discharge of 239 cfs/mi<sup>2</sup> for Baker Creek when compared to the two watersheds that are most similar in composition. The comparison to other watersheds in western Oregon shown in the PBS Response Letter makes it appear that their model results are in the ballpark. However, since they are using a Log-Log scale plot for their comparison, the ballpark is rather large.

PBS “calibrates” their Baker Creek HMS model using synthetic 100-year storm events for Butte, Tualatin, and Scoggins Creek basins. They adjust the curve numbers and lag times for each basin so that the model output matches the 100-year peak discharges that were developed from statistics of stream gauge data. This is an apples to oranges comparison. A more appropriate approach to calibration is to use rainfall data from specific storm events and attempt to reproduce the peak flows recorded by the stream gauge by adjusting model parameters. Those adjustments can then inform the level of adjustment that would be appropriate for the Baker Creek model.

### 3. Lidar Data and Channel Discharge Capacity

The first sentence on page 1, paragraph 4, of the May 2019 report states “The analysis herein supports the development of calibrated hydrologic and hydraulic models”. There is nothing in the PBS Report to indicate that the hydraulics component is “ancillary” as stated in the PBS Response Letter.

Survey of the channel indicates that there is significant additional conveyance area in the cross section than is indicated by the LiDAR data. The following figure is an example that illustrates this point. The low flow portion of the surveyed channel has roughly 150 square feet of additional conveyance area compared to the LiDAR cross section. Assuming 5 ft/sec average channel velocity for 100-yr discharge, this equates to 750 cfs of additional flow that is not accounted for by the LiDAR cross section.



### 4. Use of Lake Oswego Rain Gauge Data

Using data from a rain gauge that is located nowhere close to the basin of interest is not justified by the temporary inability to obtain the appropriate data. We appreciate that PBS has conducted additional analysis using the rainfall data from the McMinnville Airport as should have been done originally.

In summary, PBS does not attempt to change the conclusions of the PBS Report in the PBS Response Letter. In the PBS Response Letter they admit that the PBS Report lacks the data and the analysis to be considered a "MT-2 Narrative" that would be required to remap the floodplain, which indicates that the findings could be suspect. In any event, PBS stands behind their findings and conclusions. Their conclusions of the PBS Report per Table 16 of their report states that the 100-yr flood elevation prior to the Oak Ridge Development is 127.42, and after the buildout of Oak Ridge Development the 100-yr flood elevation is 127.41. Based on the PBS Report the 100-yr floodplain elevation decreases 0.01-ft with the buildout of the Oak Ridge Subdivision. In addition, the PBS Report on page 29 states, "Based on the modeled flow hydrographs, the potential downstream impact of blockage for the proposed development amounts to less than one hundredth of a foot of increase adjacent to existing residences...". Therefore, the PBS Report concludes that there are no downstream 100-yr flood impacts on neighboring property owners.

Sincerely,

**WESTECH ENGINEERING, INC.**



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W. Josh Wells, P.E.

wjw



## MEMORANDUM

DATE: July 9, 2019

TO: Lori Zumwalt | Premier Development, LLC

FROM: Lacy Brown, Ph.D., P.E. | DKS Associates

SUBJECT: Oak Ridge Meadows – Supplemental Traffic Evaluation

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This memorandum provides a summary of additional field observations and traffic analysis conducted in July 2019 related to the development of the Oak Ridge Meadows subdivision in McMinnville, Oregon. The findings in this memorandum address concerns raised regarding the impact the development will have on the transportation system, with an emphasis on vehicle delay incurred while accessing NW Baker Creek Road from adjacent neighborhoods.

### FIELD OBSERVATIONS

Although field work conducted previously showed no excessive delay was incurred by drivers at the intersections of NW Baker Creek Road/NW Oak Ridge Drive and NW Baker Creek Road/Merlot Drive, the scope of field observations was expanded to verify that nearby intersections operated similarly.<sup>1</sup>

DKS conducted field observations during the morning and evening peak hours to observe vehicle delay at the following five intersections.<sup>2</sup>

- NW Baker Creek Road/ NW Oak Ridge Drive
- NW Baker Creek Road/ NW Greenbriar Drive
- NW Baker Creek Road/Merlot Drive
- NW Baker Creek Road/ NW Pinehurst Drive
- NW Baker Creek Road/ NW Alice Kelly Drive

These intersections were selected for observation and analysis because they are adjacent to the study area and, due to the volume of traffic along NW Baker Creek Road, will have higher vehicle delays than the local street intersections within the adjacent neighborhoods. In other words, evaluation of these intersections captures the “worst case scenario” of the potential traffic impacts of the Oak Ridge Meadows development. It should be noted that these observations were collected only to confirm the validity of the vehicle delays estimated through capacity analysis, as described in the following section.

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<sup>1</sup> Oak Ridge Meadows Supplemental Traffic Evaluation Memorandum. DKS Associated. May 2019.

<sup>2</sup> Field observations conducted from 4:00-5:30 PM on July 2, 2019 and 7:30-9:00 AM on July 3, 2019.

As shown in Table 1, the average delays range from 1.5 to 15.4 seconds, which corresponds to a level of service (LOS) of C or better. These values are consistent with the findings of the existing conditions analysis in the original Traffic Impact Analysis (TIA), the field observations conducted in May 2019, and the existing conditions analysis presented later in this memorandum.<sup>3</sup>

**Table 1. Observed Vehicle Delay**

| Intersection  | Observed Delay - AM Peak |         |            | Observed Delay - PM Peak |         |             |
|---|--------------------------|---------|------------|--------------------------|---------|-------------|
|   | Minimum                  | Maximum | Average    | Minimum                  | Maximum | Average     |
| NW Baker Creek Road /NW Oak Ridge Drive (NW Doral Street)   | 3.0                      | 11.5    | <b>6.3</b> | 1.0                      | 34.0    | <b>9.8</b>  |
| NW Baker Creek Road/NW Greenbriar Place-West                | 3.0                      | 3.0     | <b>3.0</b> | 1.0                      | 2.5     | <b>1.5</b>  |
| NW Baker Creek Road/Merlot Drive (NW Greenbriar Place-East) | 1.0                      | 14.0    | <b>4.8</b> | 2.5                      | 39.0    | <b>15.4</b> |
| NW Baker Creek Road/NW Pinehurst Drive                      | 2.5                      | 13.0    | <b>5.2</b> | 2.0                      | 16.5    | <b>8.5</b>  |
| NW Baker Creek Road/NW Alice Kelly Court                    | 1.5                      | 1.5     | <b>1.5</b> | 2.5                      | 18.0    | <b>8.5</b>  |

Delay = Delay (sec.) for side-street stop-controlled movements  
 Note: Average vehicle delay is the standard metric for evaluating intersection operations.  
 Note: Side-street traffic volumes are very low at these intersections, resulting in a low number of observable vehicles at each location. Average delay times are calculated from a minimum of two and maximum of nine observations per location.

## TRAFFIC OPERATIONS ANALYSIS

In addition to delay observations, DKS also conducted traffic operations analysis (using standard Highway Capacity Manual methodologies) at the intersections listed above as well as the following five intersections.

- NW Oak Ridge Drive/ NW Chardonnay Drive
- NW Oak Ridge Drive/ NW Riesling Way
- NW Oak Ridge Drive/NW Pinot Noir Drive
- Merlot Drive/NW Zinfandel Loop
- Merlot Drive/NW Pinot Noir Drive

### Intersection Traffic Volumes

Peak hour turning movement volumes were collected at the intersections of NW Baker Creek Road/NW Oak Ridge Drive and NW Baker Creek Road/Merlot Drive as part of the original TIA for the Oak Ridge Meadows development. During field observations, DKS collected additional peak 15-

<sup>3</sup> Oak Ridge Meadows Traffic Impact Analysis. DKS Associates. March 2019.

minute turning movement counts at the intersection of NW Baker Creek Road/NW Pinehurst Drive, which were used to estimate the peak hour volumes at this intersection.<sup>4</sup> Peak hour turning movement volumes at the remaining intersections were estimated based on traffic counts at adjacent intersections and the number of residential units that can be accessed via each of the intersections. In all cases, the higher of observed or estimated volumes were used to provide the most conservative evaluation of traffic conditions. Because of this, traffic volumes for certain movements at some locations are higher in this analysis than the previously collected traffic counts. Traffic volumes and operational analysis reports are included as an attachment to this memorandum.

## Analysis Results

The existing conditions intersection operations analysis results for all ten study intersections are shown in Table 2.<sup>5</sup> As shown, all intersections operate well under capacity with minimal delay and meet all City operating standards.

**Table 2. Existing Intersection Operations**

| Intersection  | Existing - AM Peak |     |      | Existing - PM Peak |     |      |
|---|--------------------|-----|------|--------------------|-----|------|
|   | Delay              | LOS | v/c  | Delay              | LOS | v/c  |
| NW Baker Creek Road /NW Oak Ridge Drive (NW Doral Street)   | 18.3               | C   | 0.14 | 15.7               | C   | 0.05 |
| NW Baker Creek Road/NW Greenbriar Place-West                | 13.4               | B   | 0.03 | 14.5               | B   | 0.01 |
| NW Baker Creek Road/Merlot Drive (NW Greenbriar Place-East) | 18.5               | C   | 0.12 | 16.6               | C   | 0.03 |
| NW Baker Creek Road/NW Pinehurst Drive                      | 21.0               | C   | 0.08 | 15.2               | C   | 0.07 |
| NW Baker Creek Road/NW Alice Kelly Court                    | 17.4               | C   | 0.07 | 14.5               | B   | 0.03 |
| NW Oak Ridge Drive/NW Chardonnay Drive                      | 7.3                | A   | 0.01 | 7.2                | A   | 0.01 |
| NW Oak Ridge Drive/NW Riesling Way                          | 7.2                | A   | 0.01 | 7.1                | A   | 0.01 |
| NW Oak Ridge Drive/NW Pinot Noir Drive                      | 8.5                | A   | 0.01 | 8.5                | A   | 0.01 |
| Merlot Drive/NW Zinfandel Loop                              | 7.2                | A   | 0.01 | 7.2                | A   | 0.01 |
| Merlot Drive/NW Pinot Noir Drive                            | 8.3                | A   | 0.01 | 8.3                | A   | 0.01 |

Delay = Average Intersection Delay (sec.)  
 LOS = Level of Service  
 v/c = Volume-to-Capacity Ratio for worst lane

<sup>4</sup> Peak 15-minute period occurred from 7:45-8:00 AM and 4:55-5:10 PM, determined from the two-hour traffic counts collected for the March 2019 TIA.

<sup>5</sup> Intersections that are currently uncontrolled (no stop signs present) were analyzed as all-way stop.



The same ten intersections were also analyzed for future interim build conditions, which assumes 100% of the volume of traffic generated by the Oak Ridge Meadows development will travel through the existing neighborhood to access NW Baker Creek Road (no connection at NW Shadden Drive).<sup>6</sup> This scenario captures the “worst case” traffic conditions at all study intersections. It should be noted that forecasted traffic volumes and intersection operations at NW Pinehurst Drive and NW Alice Kelly Court will remain the same with or without an extension of NW Shadden Drive, as all Oak Ridge Meadows traffic will load on-to and off-of NW Baker Creek Road upstream of those locations regardless of the access configuration.

The results of the future interim build analysis are presented in Table 3. As shown, all intersections will continue to operate at acceptable levels with ample excess capacity once the Oak Ridge Meadows development is completed.

**Table 3. Future Interim Build Intersection Operations (no Shadden Drive connection)**

| Intersection  | Interim Build - AM Peak |     |      | Interim Build - PM Peak |     |      |
|---|-------------------------|-----|------|-------------------------|-----|------|
|   | Delay                   | LOS | v/c  | Delay                   | LOS | v/c  |
| NW Baker Creek Road /NW Oak Ridge Drive (NW Doral Street)   | 22.7                    | C   | 0.33 | 18.0                    | C   | 0.15 |
| NW Baker Creek Road/NW Greenbriar Place-West                | 14.0                    | B   | 0.03 | 15.5                    | C   | 0.01 |
| NW Baker Creek Road/Merlot Drive (NW Greenbriar Place-East) | 20.9                    | C   | 0.20 | 18.2                    | C   | 0.08 |
| NW Baker Creek Road/NW Pinehurst Drive                      | 23.6                    | C   | 0.09 | 16.8                    | C   | 0.08 |
| NW Baker Creek Road/NW Alice Kelly Court                    | 19.1                    | C   | 0.08 | 15.8                    | C   | 0.03 |
| NW Oak Ridge Drive/NW Chardonnay Drive                      | 7.5                     | A   | 0.01 | 7.4                     | A   | 0.01 |
| NW Oak Ridge Drive/NW Riesling Way                          | 7.3                     | A   | 0.01 | 7.3                     | A   | 0.01 |
| NW Oak Ridge Drive/NW Pinot Noir Drive                      | 8.9                     | A   | 0.02 | 9.0                     | A   | 0.06 |
| Merlot Drive/NW Zinfandel Loop                              | 7.3                     | A   | 0.01 | 7.3                     | A   | 0.01 |
| Merlot Drive/NW Pinot Noir Drive                            | 8.4                     | A   | 0.03 | 8.4                     | A   | 0.02 |

Delay = Average Intersection Delay (sec.)  
 LOS = Level of Service  
 v/c = Volume-to-Capacity Ratio for worst movement

<sup>6</sup> This analysis maintains the same trip generation and trip distribution assumptions outlined in the March 2019 TIA, which assumed 70% of trips would use NW Oak Ridge Drive and 30% would use Merlot Drive to access NW Baker Creek Road.

Table 4 summarizes the estimated net change in average delay that drivers will experience once the Oak Ridge Meadows development is constructed and fully occupied (Future Interim Build delay minus Existing Conditions delay). As shown, most intersections will see an increase in delay of less than one second during peak periods. The largest increase in average delay is 4.4 seconds at the intersection of NW Baker Creek Road/NW Oak Ridge Drive during the AM peak hour.

**Table 4. Expected Increase in Delay with Oak Ridge Meadows Traffic**

| Intersection  | AM Peak                  |          | PM Peak                  |          |
|---|--------------------------|----------|--------------------------|----------|
|   | Delay Increase (seconds) | Movement | Delay Increase (seconds) | Movement |
| NW Baker Creek Road /NW Oak Ridge Drive (NW Doral Street)   | 4.4                      | SB LT    | 2.3                      | SB LT    |
| NW Baker Creek Road/NW Greenbriar Place-West                | 0.6                      | NB LT    | 1.0                      | NB LT    |
| NW Baker Creek Road/Merlot Drive (NW Greenbriar Place-East) | 2.4                      | SB LT    | 1.6                      | SB LT    |
| NW Baker Creek Road/NW Pinehurst Drive                      | 2.6                      | NB LT    | 1.6                      | SB LT    |
| NW Baker Creek Road/NW Alice Kelly Court                    | 1.7                      | SB LT    | 1.3                      | SB LT    |
| NW Oak Ridge Drive/NW Chardonnay Drive                      | 0.2                      | WB LT    | 0.2                      | WB LT    |
| NW Oak Ridge Drive/NW Riesling Way                          | 0.1                      | WB LT    | 0.2                      | WB LT    |
| NW Oak Ridge Drive/NW Pinot Noir Drive                      | 0.4                      | NB LT    | 0.5                      | NB LT    |
| Merlot Drive/NW Zinfandel Loop                              | 0.1                      | SB LT    | 0.1                      | WB LT    |
| Merlot Drive/NW Pinot Noir Drive                            | 0.1                      | EB LT    | 0.1                      | EB LT    |

Delay = Average Delay (sec.) for worst movement  
 LT = Left Turn

## FINDINGS

The primary concern raised by neighbors has been the impact that the Oak Ridge Meadows development will have on traffic operations, particularly with the ability of residents to turn out onto NW Baker Creek Road from the neighborhood streets. Two separate field studies were completed to observe traffic operations, queuing, and delay at intersections in the vicinity of the site.

Despite the perception of excessive side-street vehicle delays under current traffic conditions, field observations indicated that drivers accessing NW Baker Creek Road experience delays that are within typical ranges for two-way stop controlled intersections. These findings were further confirmed by the operational analyses completed as part of this memorandum and the original TIA, which followed national best practices and showed that all intersections operate acceptably with minimal delay and are well below intersection capacity thresholds set forth by the City.

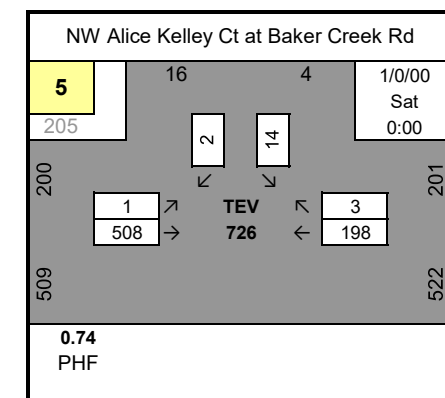
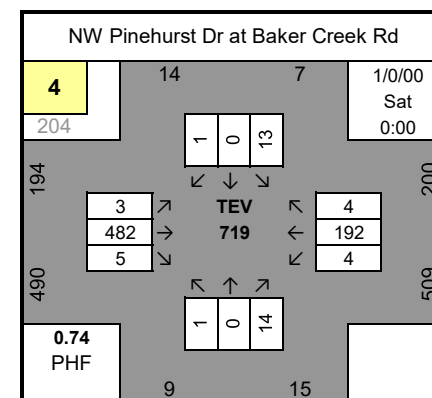
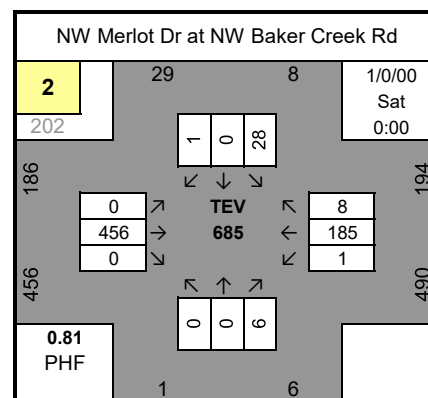
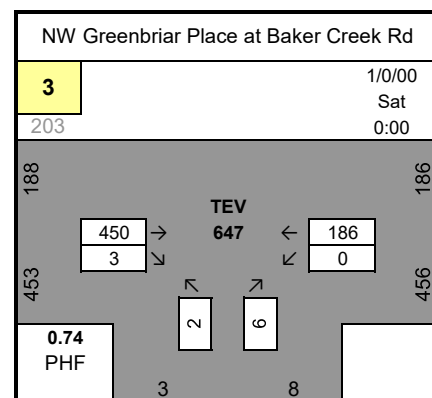
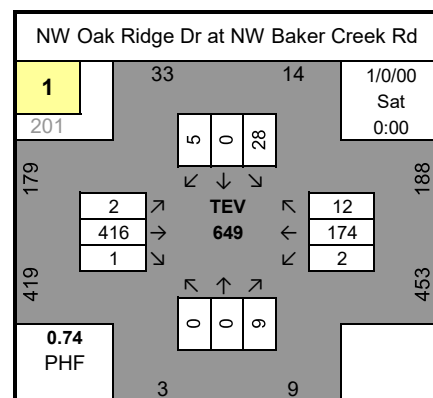
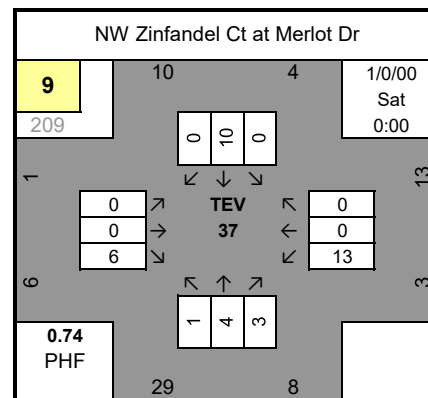
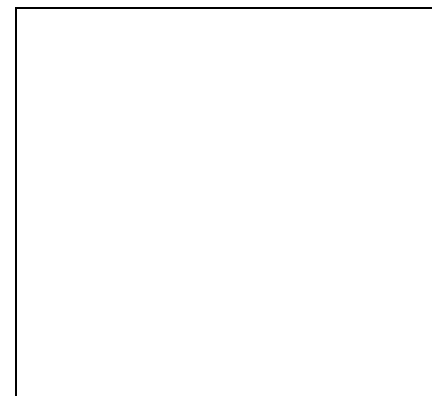
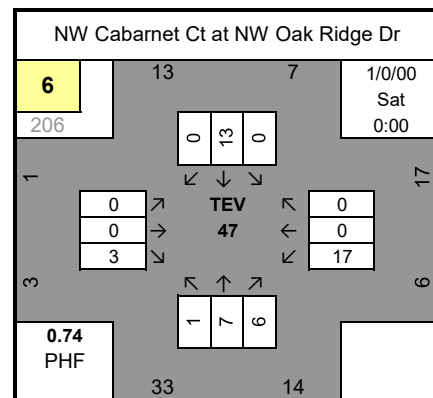
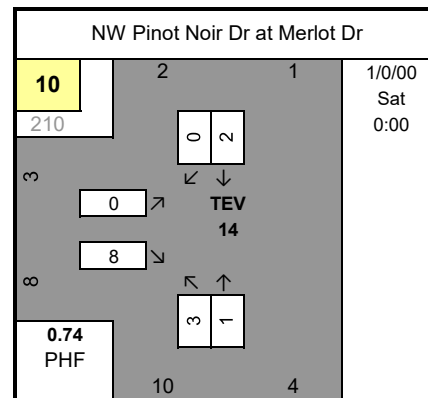
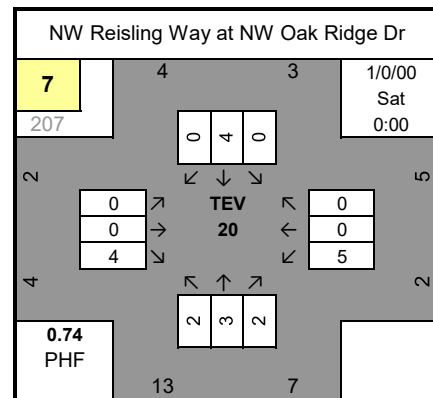
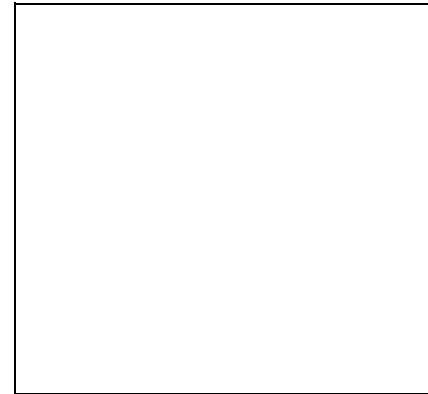
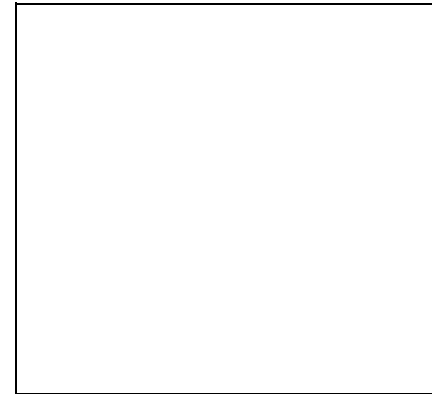
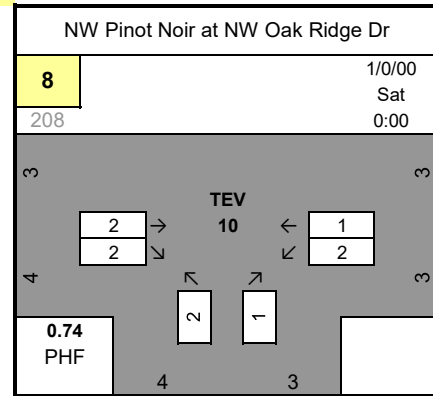
There is no evidence that the additional traffic generated by the Oak Ridge Meadows development will degrade traffic operations, and the estimated increases in delay for accessing NW Baker Creek Drive are, for all intents and purposes, negligible (less than five seconds).

## APPENDIX A

### Traffic Volumes

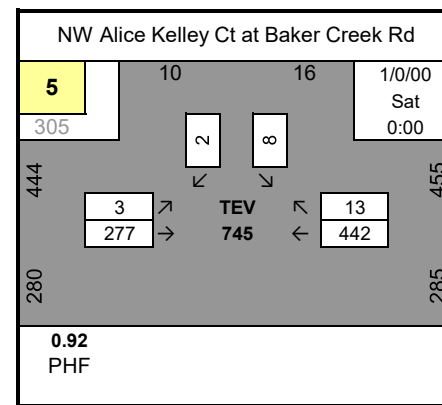
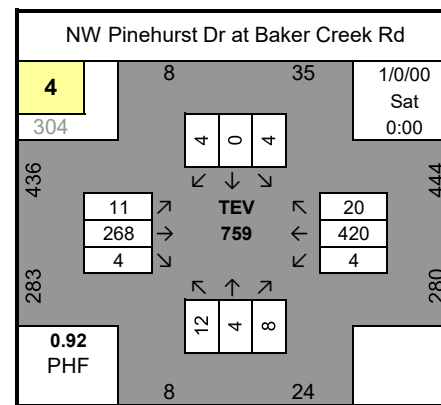
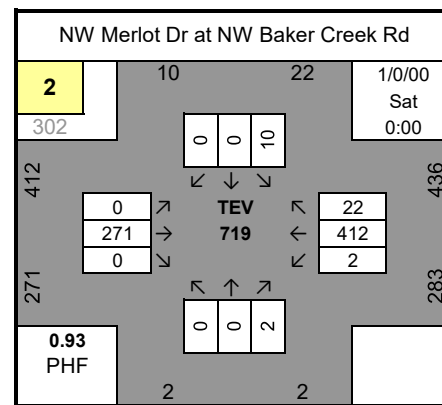
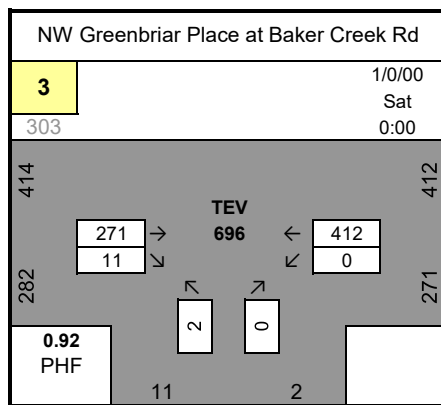
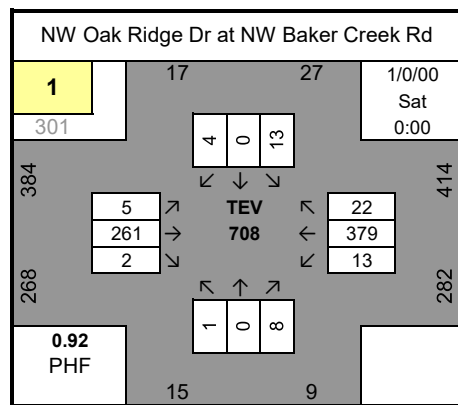
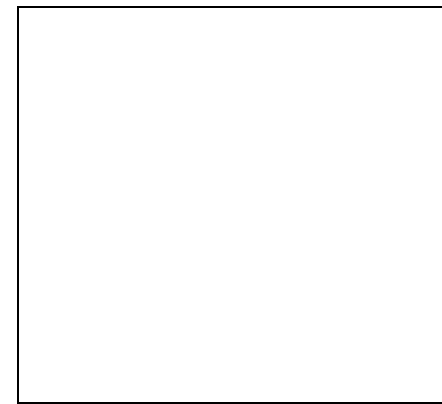
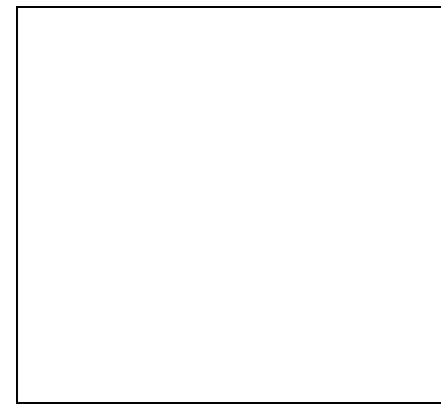
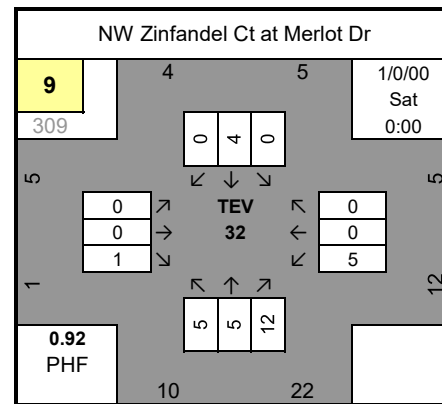
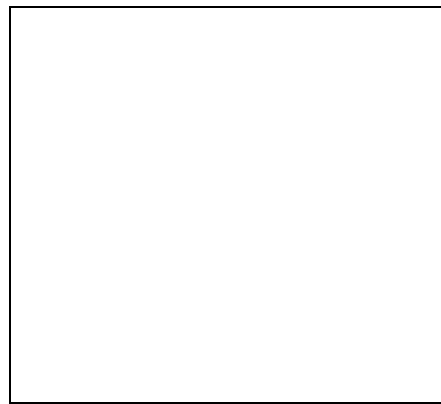
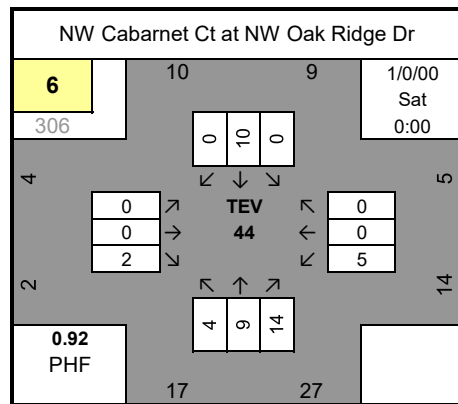
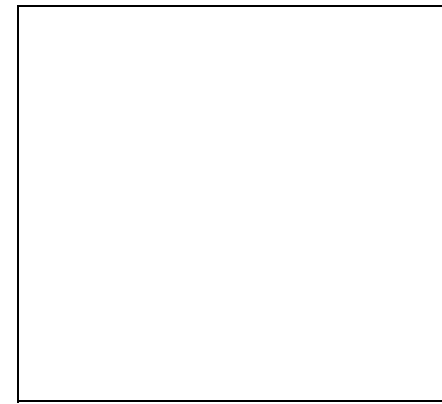
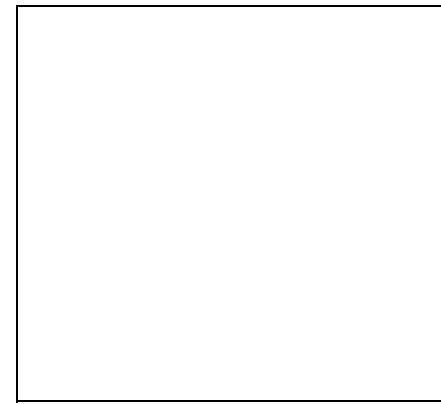
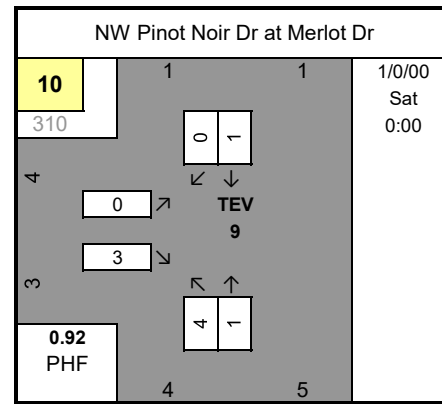
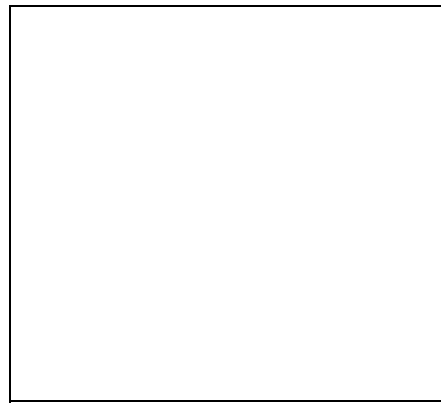
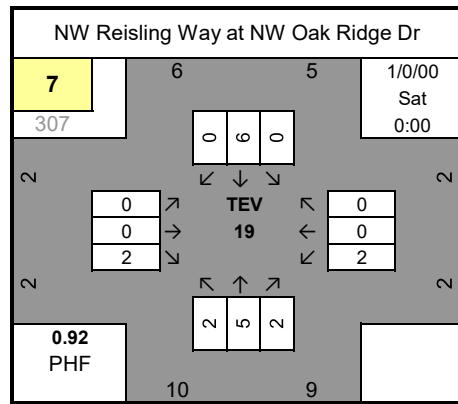
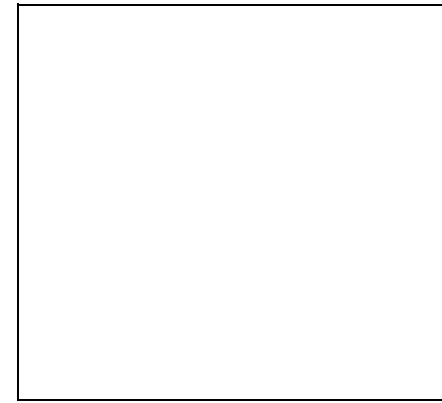
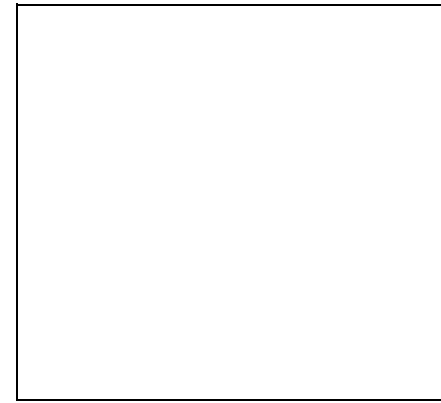
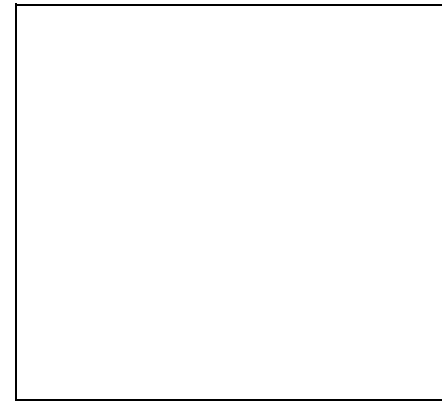
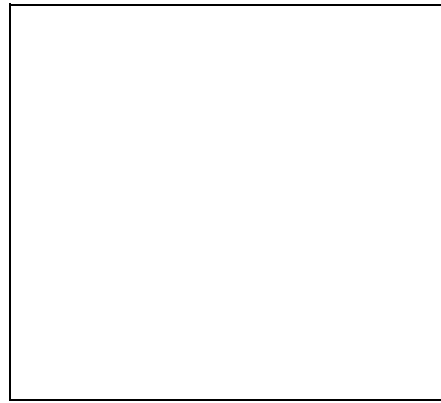
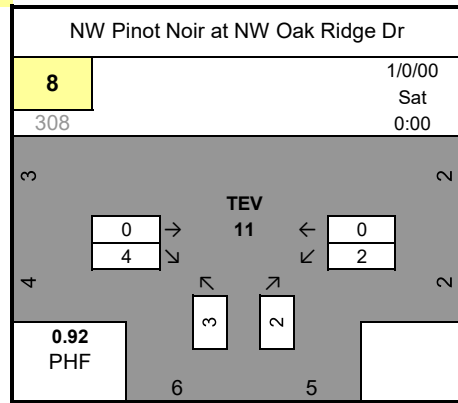
# Balanced AM Trips

200



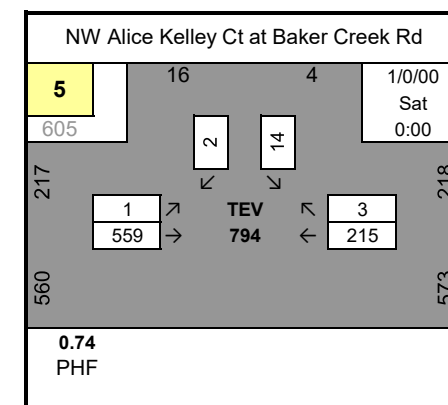
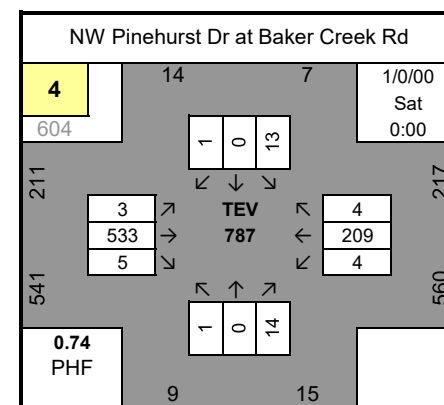
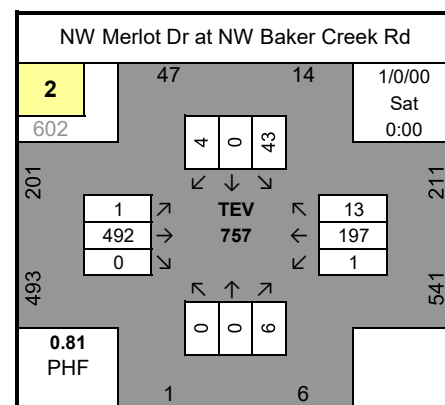
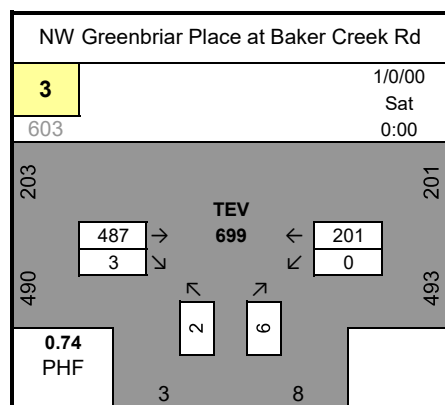
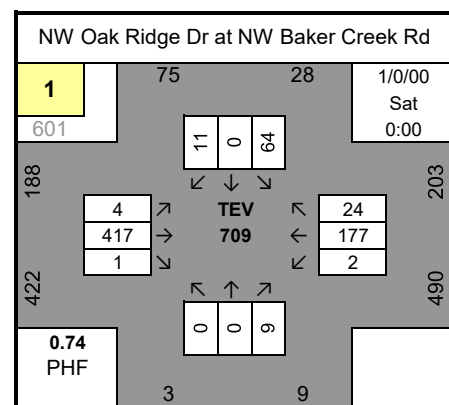
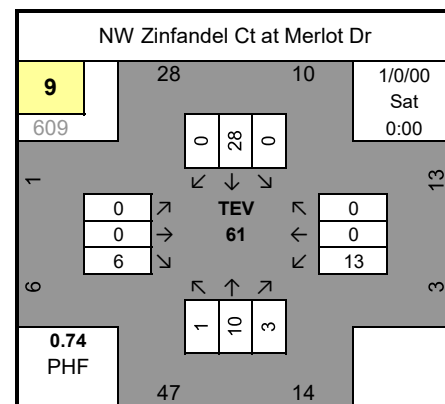
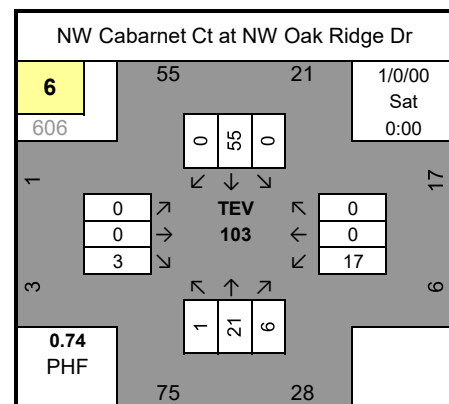
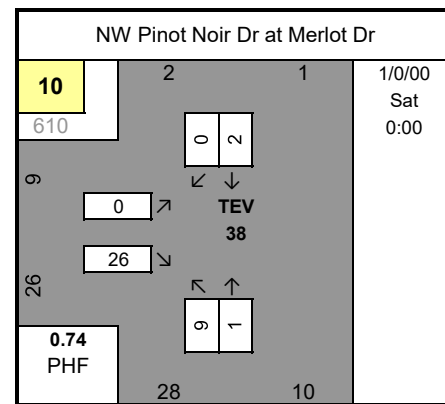
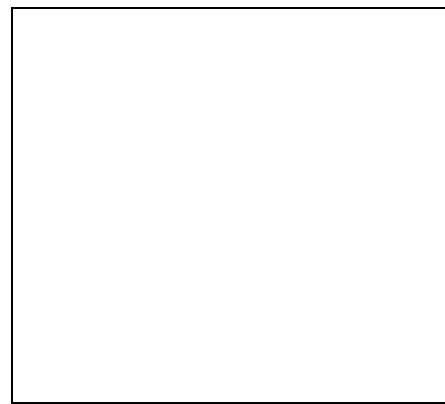
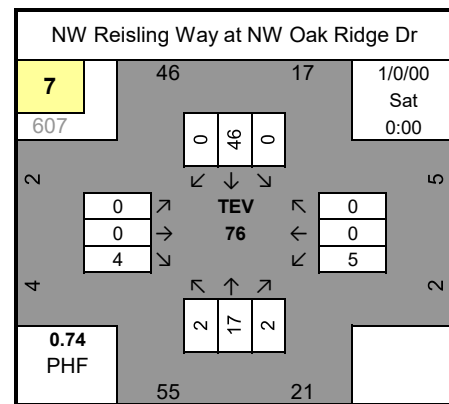
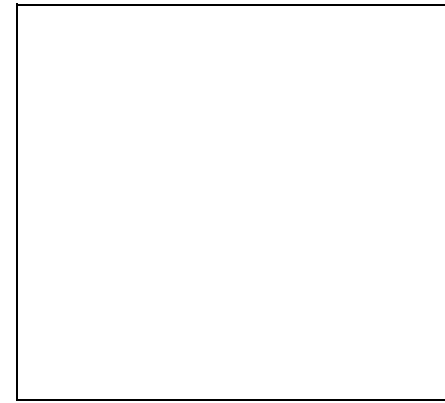
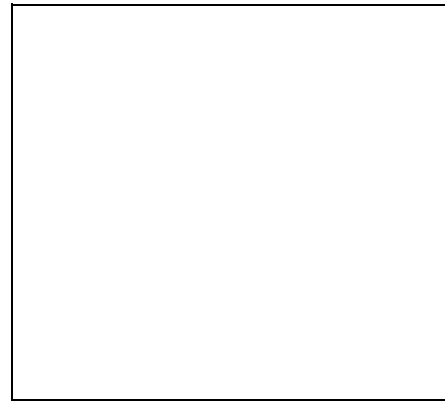
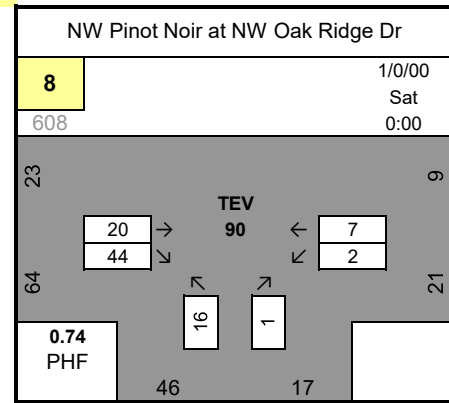
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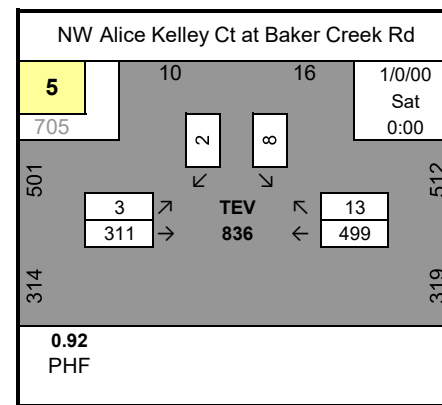
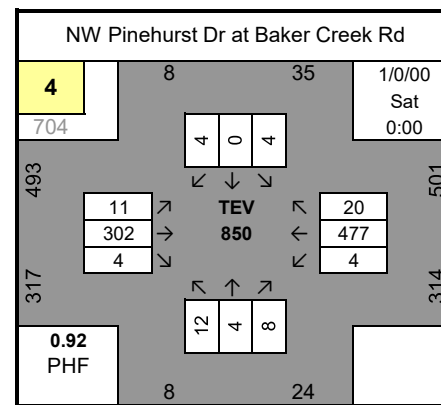
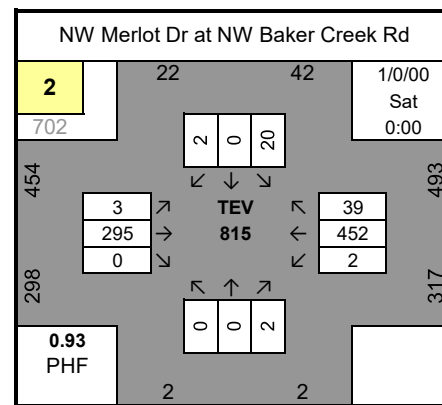
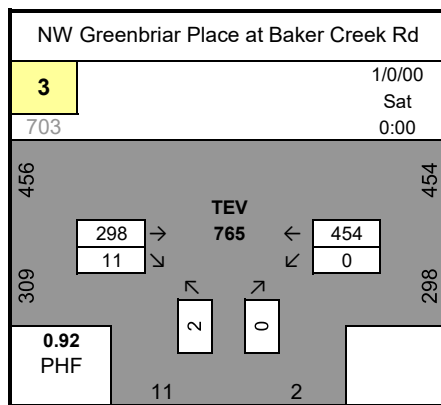
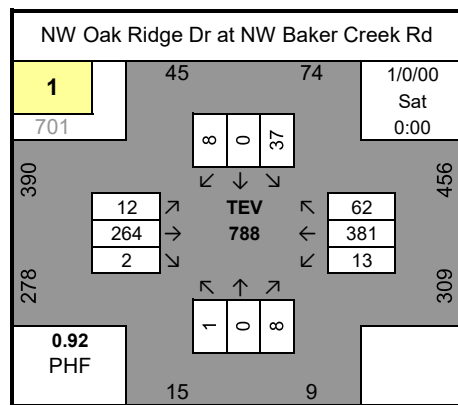
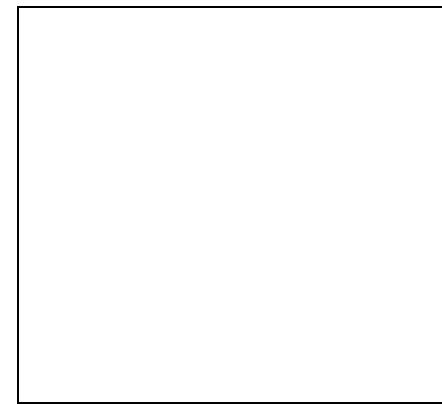
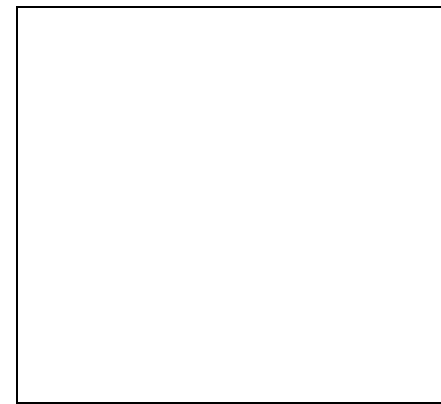
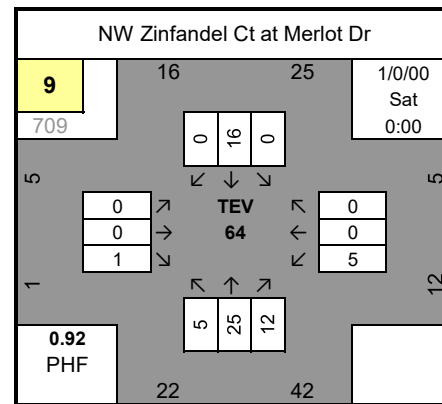
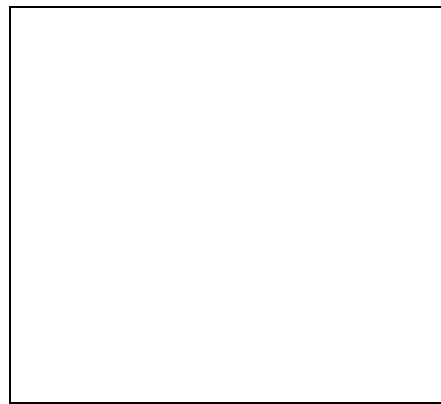
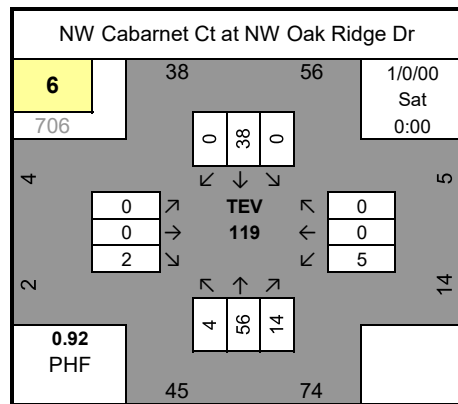
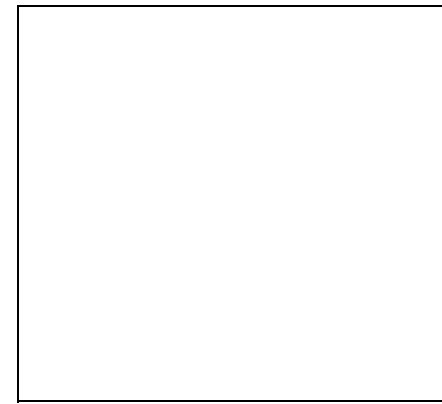
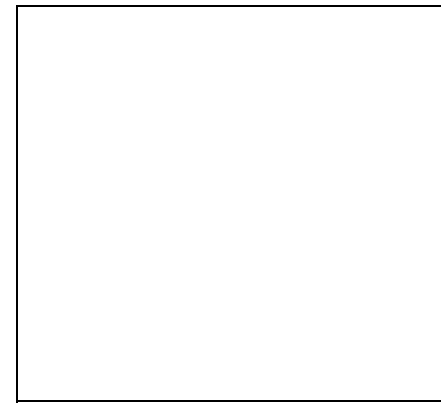
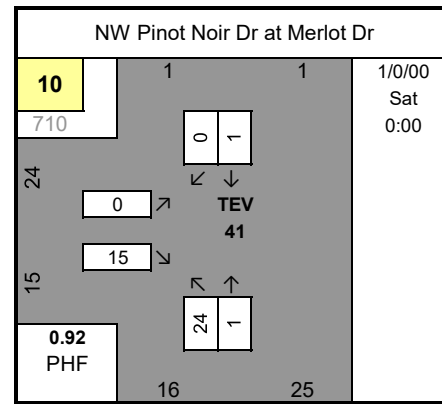
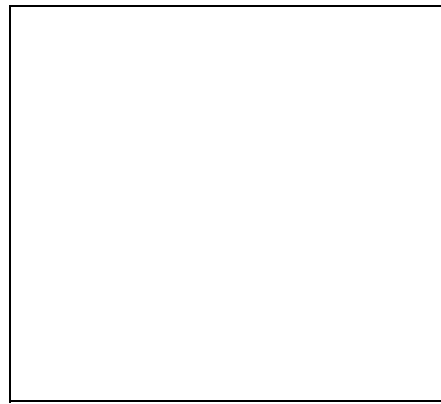
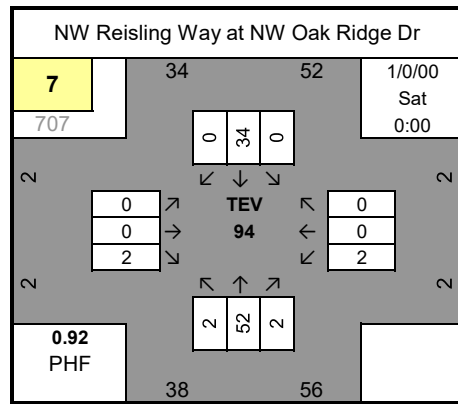
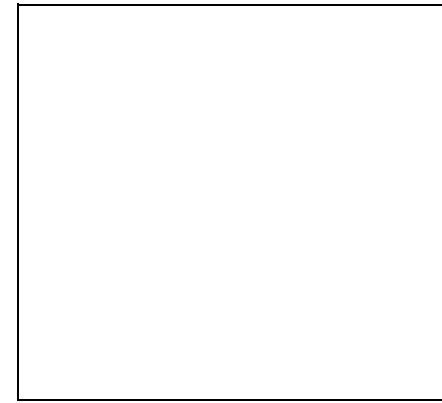
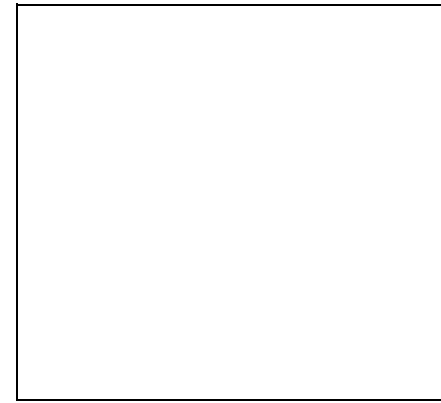
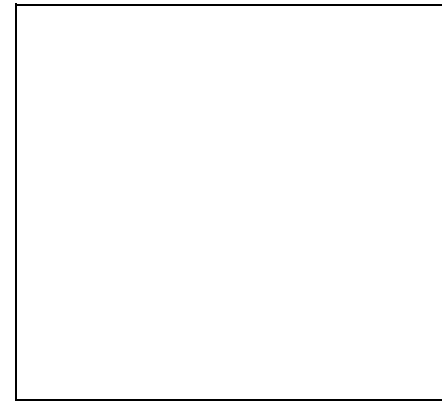
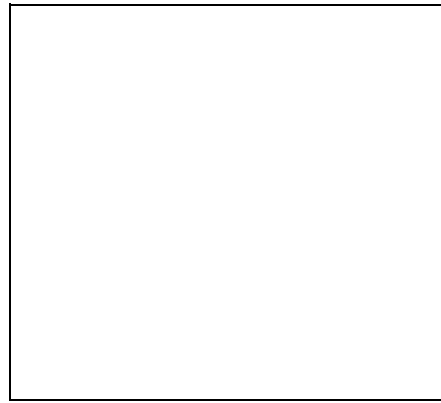
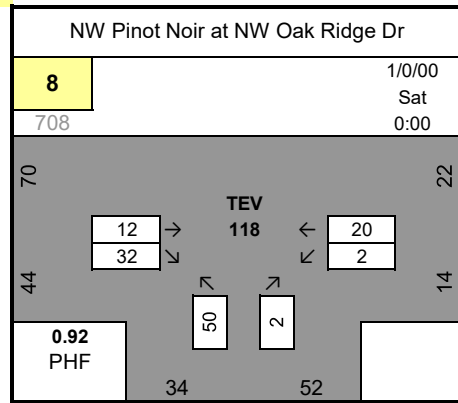
# Interim Buildout - AM

600



# Interim Buildout - PM

700



## APPENDIX B

### HCM Intersection Analysis



| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 1.1  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 2    | 416  | 1    | 2    | 174  | 12   | 0    | 0    | 9    | 28   | 0    | 5    |
| Future Vol, veh/h        | 2    | 416  | 1    | 2    | 174  | 12   | 0    | 0    | 9    | 28   | 0    | 5    |
| Conflicting Peds, #/hr   | 3    | 0    | 0    | 0    | 0    | 3    | 0    | 0    | 1    | 1    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 1    | 0    | 0    | 6    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 3    | 562  | 1    | 3    | 235  | 16   | 0    | 0    | 12   | 38   | 0    | 7    |

| Major/Minor          | Major1 |   |   | Major2 |   |   | Minor1 |     |     | Minor2 |     |     |
|----------------------|--------|---|---|--------|---|---|--------|-----|-----|--------|-----|-----|
| Conflicting Flow All | 254    | 0 | 0 | 563    | 0 | 0 | 822    | 829 | 564 | 828    | 821 | 246 |
| Stage 1              | -      | - | - | -      | - | - | 569    | 569 | -   | 252    | 252 | -   |
| Stage 2              | -      | - | - | -      | - | - | 253    | 260 | -   | 576    | 569 | -   |
| Critical Hdwy        | 4.1    | - | - | 4.1    | - | - | 7.1    | 6.5 | 6.2 | 7.1    | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | - | 2.2    | - | - | 3.5    | 4   | 3.3 | 3.5    | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1323   | - | - | 1019   | - | - | 295    | 308 | 529 | 293    | 312 | 798 |
| Stage 1              | -      | - | - | -      | - | - | 511    | 509 | -   | 757    | 702 | -   |
| Stage 2              | -      | - | - | -      | - | - | 756    | 697 | -   | 506    | 509 | -   |
| Platoon blocked, %   | -      | - | - | -      | - | - | -      | -   | -   | -      | -   | -   |
| Mov Cap-1 Maneuver   | 1319   | - | - | 1019   | - | - | 291    | 305 | 528 | 284    | 309 | 796 |
| Mov Cap-2 Maneuver   | -      | - | - | -      | - | - | 291    | 305 | -   | 284    | 309 | -   |
| Stage 1              | -      | - | - | -      | - | - | 509    | 507 | -   | 752    | 698 | -   |
| Stage 2              | -      | - | - | -      | - | - | 747    | 693 | -   | 492    | 507 | -   |

| Approach             | EB |  |  | WB  |  |  | NB |  |  | SB   |  |  |
|----------------------|----|--|--|-----|--|--|----|--|--|------|--|--|
| HCM Control Delay, s | 0  |  |  | 0.1 |  |  | 12 |  |  | 18.3 |  |  |
| HCM LOS              |    |  |  |     |  |  | B  |  |  | C    |  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 528   | 1319  | -   | -   | 1019  | -   | -   | 315   |
| HCM Lane V/C Ratio    | 0.023 | 0.002 | -   | -   | 0.003 | -   | -   | 0.142 |
| HCM Control Delay (s) | 12    | 7.7   | 0   | -   | 8.5   | 0   | -   | 18.3  |
| HCM Lane LOS          | B     | A     | A   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0.1   | 0     | -   | -   | 0     | -   | -   | 0.5   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.9  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 0    | 456  | 0    | 1    | 185  | 8    | 0    | 0    | 6    | 28   | 0    | 1    |
| Future Vol, veh/h        | 0    | 456  | 0    | 1    | 185  | 8    | 0    | 0    | 6    | 28   | 0    | 1    |
| Conflicting Peds, #/hr   | 3    | 0    | 0    | 0    | 0    | 3    | 2    | 0    | 2    | 2    | 0    | 2    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   |
| Heavy Vehicles, %        | 0    | 2    | 0    | 0    | 3    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 0    | 563  | 0    | 1    | 228  | 10   | 0    | 0    | 7    | 35   | 0    | 1    |

| Major/Minor          | Major1 |   |   | Major2 |   |   | Minor1 |     |     | Minor2 |     |     |
|----------------------|--------|---|---|--------|---|---|--------|-----|-----|--------|-----|-----|
| Conflicting Flow All | 241    | 0 | 0 | 563    | 0 | 0 | 801    | 806 | 565 | 807    | 801 | 238 |
| Stage 1              | -      | - | - | -      | - | - | 563    | 563 | -   | 238    | 238 | -   |
| Stage 2              | -      | - | - | -      | - | - | 238    | 243 | -   | 569    | 563 | -   |
| Critical Hdwy        | 4.1    | - | - | 4.1    | - | - | 7.1    | 6.5 | 6.2 | 7.1    | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | - | 2.2    | - | - | 3.5    | 4   | 3.3 | 3.5    | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1337   | - | - | 1019   | - | - | 305    | 318 | 528 | 302    | 320 | 806 |
| Stage 1              | -      | - | - | -      | - | - | 514    | 512 | -   | 770    | 712 | -   |
| Stage 2              | -      | - | - | -      | - | - | 770    | 708 | -   | 511    | 512 | -   |
| Platoon blocked, %   | -      | - | - | -      | - | - | -      | -   | -   | -      | -   | -   |
| Mov Cap-1 Maneuver   | 1333   | - | - | 1019   | - | - | 304    | 317 | 527 | 296    | 319 | 802 |
| Mov Cap-2 Maneuver   | -      | - | - | -      | - | - | 304    | 317 | -   | 296    | 319 | -   |
| Stage 1              | -      | - | - | -      | - | - | 514    | 512 | -   | 768    | 709 | -   |
| Stage 2              | -      | - | - | -      | - | - | 767    | 705 | -   | 503    | 512 | -   |

| Approach             | EB |  |  | WB |  |  | NB   |  |  | SB   |  |  |
|----------------------|----|--|--|----|--|--|------|--|--|------|--|--|
| HCM Control Delay, s | 0  |  |  | 0  |  |  | 11.9 |  |  | 18.5 |  |  |
| HCM LOS              |    |  |  |    |  |  | B    |  |  | C    |  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL  | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 527   | 1333 | -   | -   | 1019  | -   | -   | 303   |
| HCM Lane V/C Ratio    | 0.014 | -    | -   | -   | 0.001 | -   | -   | 0.118 |
| HCM Control Delay (s) | 11.9  | 0    | -   | -   | 8.5   | 0   | -   | 18.5  |
| HCM Lane LOS          | B     | A    | -   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0     | 0    | -   | -   | 0     | -   | -   | 0.4   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.2  |      |      |      |      |      |
| Movement                 | EBT  | EBR  | WBL  | WBT  | NBL  | NBR  |
| Lane Configurations      |      |      |      |      |      |      |
| Traffic Vol, veh/h       | 450  | 3    | 0    | 186  | 2    | 6    |
| Future Vol, veh/h        | 450  | 3    | 0    | 186  | 2    | 6    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 608  | 4    | 0    | 251  | 3    | 8    |

| Major/Minor          | Major1 | Major2 | Minor1 | Minor2 | Minor3 |
|----------------------|--------|--------|--------|--------|--------|
| Conflicting Flow All | 0      | 0      | 612    | 0      | 861    |
| Stage 1              | -      | -      | -      | -      | 610    |
| Stage 2              | -      | -      | -      | -      | 251    |
| Critical Hdwy        | -      | -      | 4.1    | -      | 6.4    |
| Critical Hdwy Stg 1  | -      | -      | -      | -      | 5.4    |
| Critical Hdwy Stg 2  | -      | -      | -      | -      | 5.4    |
| Follow-up Hdwy       | -      | -      | 2.2    | -      | 3.5    |
| Pot Cap-1 Maneuver   | -      | -      | 977    | -      | 329    |
| Stage 1              | -      | -      | -      | -      | 546    |
| Stage 2              | -      | -      | -      | -      | 795    |
| Platoon blocked, %   | -      | -      | -      | -      | -      |
| Mov Cap-1 Maneuver   | -      | -      | 977    | -      | 329    |
| Mov Cap-2 Maneuver   | -      | -      | -      | -      | 329    |
| Stage 1              | -      | -      | -      | -      | 546    |
| Stage 2              | -      | -      | -      | -      | 795    |

| Approach             | EB | WB | NB   |
|----------------------|----|----|------|
| HCM Control Delay, s | 0  | 0  | 13.4 |
| HCM LOS              |    |    | B    |

| Minor Lane/Major Mvmt | NBLn1 | EBT | EBR | WBL | WBT |
|-----------------------|-------|-----|-----|-----|-----|
| Capacity (veh/h)      | 441   | -   | -   | 977 | -   |
| HCM Lane V/C Ratio    | 0.025 | -   | -   | -   | -   |
| HCM Control Delay (s) | 13.4  | -   | -   | 0   | -   |
| HCM Lane LOS          | B     | -   | -   | A   | -   |
| HCM 95th %tile Q(veh) | 0.1   | -   | -   | 0   | -   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.7  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 3    | 482  | 5    | 4    | 192  | 4    | 1    | 0    | 14   | 13   | 0    | 1    |
| Future Vol, veh/h        | 3    | 482  | 5    | 4    | 192  | 4    | 1    | 0    | 14   | 13   | 0    | 1    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 4    | 651  | 7    | 5    | 259  | 5    | 1    | 0    | 19   | 18   | 0    | 1    |

| Major/Minor          | Major1 |   |   | Major2 |   |   | Minor1 |     |     | Minor2 |     |     |
|----------------------|--------|---|---|--------|---|---|--------|-----|-----|--------|-----|-----|
| Conflicting Flow All | 264    | 0 | 0 | 658    | 0 | 0 | 935    | 937 | 655 | 944    | 938 | 262 |
| Stage 1              | -      | - | - | -      | - | - | 663    | 663 | -   | 272    | 272 | -   |
| Stage 2              | -      | - | - | -      | - | - | 272    | 274 | -   | 672    | 666 | -   |
| Critical Hdwy        | 4.1    | - | - | 4.1    | - | - | 7.1    | 6.5 | 6.2 | 7.1    | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | - | 2.2    | - | - | 3.5    | 4   | 3.3 | 3.5    | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1312   | - | - | 939    | - | - | 248    | 267 | 470 | 244    | 266 | 782 |
| Stage 1              | -      | - | - | -      | - | - | 454    | 462 | -   | 738    | 688 | -   |
| Stage 2              | -      | - | - | -      | - | - | 738    | 687 | -   | 449    | 460 | -   |
| Platoon blocked, %   | -      | - | - | -      | - | - | -      | -   | -   | -      | -   | -   |
| Mov Cap-1 Maneuver   | 1312   | - | - | 939    | - | - | 246    | 264 | 470 | 232    | 263 | 782 |
| Mov Cap-2 Maneuver   | -      | - | - | -      | - | - | 246    | 264 | -   | 232    | 263 | -   |
| Stage 1              | -      | - | - | -      | - | - | 452    | 460 | -   | 734    | 684 | -   |
| Stage 2              | -      | - | - | -      | - | - | 732    | 683 | -   | 429    | 458 | -   |

| Approach             | EB |  |  | WB  |  |  | NB   |  |  | SB |  |  |
|----------------------|----|--|--|-----|--|--|------|--|--|----|--|--|
| HCM Control Delay, s | 0  |  |  | 0.2 |  |  | 13.5 |  |  | 21 |  |  |
| HCM LOS              |    |  |  |     |  |  | B    |  |  | C  |  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 443   | 1312  | -   | -   | 939   | -   | -   | 244   |
| HCM Lane V/C Ratio    | 0.046 | 0.003 | -   | -   | 0.006 | -   | -   | 0.078 |
| HCM Control Delay (s) | 13.5  | 7.8   | 0   | -   | 8.9   | 0   | -   | 21    |
| HCM Lane LOS          | B     | A     | A   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0.1   | 0     | -   | -   | 0     | -   | -   | 0.2   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.4  |      |      |      |      |      |
| Movement                 | EBL  | EBT  | WBT  | WBR  | SBL  | SBR  |
| Lane Configurations      |      | ↶    | ↷    |      | ↶    | ↷    |
| Traffic Vol, veh/h       | 1    | 508  | 198  | 3    | 14   | 2    |
| Future Vol, veh/h        | 1    | 508  | 198  | 3    | 14   | 2    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | -    | 0    | 0    | -    | 0    | -    |
| Grade, %                 | -    | 0    | 0    | -    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 1    | 686  | 268  | 4    | 19   | 3    |

| Major/Minor          | Major1 | Major2 | Minor2 |   |     |
|----------------------|--------|--------|--------|---|-----|
| Conflicting Flow All | 272    | 0      | -      | 0 | 958 |
| Stage 1              | -      | -      | -      | - | 270 |
| Stage 2              | -      | -      | -      | - | 688 |
| Critical Hdwy        | 4.1    | -      | -      | - | 6.4 |
| Critical Hdwy Stg 1  | -      | -      | -      | - | 5.4 |
| Critical Hdwy Stg 2  | -      | -      | -      | - | 5.4 |
| Follow-up Hdwy       | 2.2    | -      | -      | - | 3.5 |
| Pot Cap-1 Maneuver   | 1303   | -      | -      | - | 288 |
| Stage 1              | -      | -      | -      | - | 780 |
| Stage 2              | -      | -      | -      | - | 503 |
| Platoon blocked, %   |        | -      | -      | - |     |
| Mov Cap-1 Maneuver   | 1303   | -      | -      | - | 288 |
| Mov Cap-2 Maneuver   | -      | -      | -      | - | 288 |
| Stage 1              | -      | -      | -      | - | 779 |
| Stage 2              | -      | -      | -      | - | 503 |

| Approach             | EB | WB | SB   |
|----------------------|----|----|------|
| HCM Control Delay, s | 0  | 0  | 17.4 |
| HCM LOS              |    |    | C    |

| Minor Lane/Major Mvmt | EBL   | EBT | WBT | WBR | SBLn1 |
|-----------------------|-------|-----|-----|-----|-------|
| Capacity (veh/h)      | 1303  | -   | -   | -   | 313   |
| HCM Lane V/C Ratio    | 0.001 | -   | -   | -   | 0.069 |
| HCM Control Delay (s) | 7.8   | 0   | -   | -   | 17.4  |
| HCM Lane LOS          | A     | A   | -   | -   | C     |
| HCM 95th %tile Q(veh) | 0     | -   | -   | -   | 0.2   |

| Intersection              |   |
|---------------------------|---|
| Intersection Delay, s/veh | 7 |
| Intersection LOS          | A |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 3    | 17   | 0    | 0    | 1    | 7    | 6    | 0    | 13   | 0    |
| Future Vol, veh/h   | 0    | 0    | 3    | 17   | 0    | 0    | 1    | 7    | 6    | 0    | 13   | 0    |
| Peak Hour Factor    | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 4    | 23   | 0    | 0    | 1    | 9    | 8    | 0    | 18   | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB  |
|----------------------------|-----|-----|-----|-----|
| Opposing Approach          | WB  | EB  | SB  | NB  |
| Opposing Lanes             | 1   | 1   | 1   | 1   |
| Conflicting Approach Left  | SB  | NB  | EB  | WB  |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1   |
| Conflicting Approach Right | NB  | SB  | WB  | EB  |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1   |
| HCM Control Delay          | 6.4 | 7.3 | 6.8 | 7.1 |
| HCM LOS                    | A   | A   | A   | A   |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 7%    | 0%    | 100%  | 0%    |
| Vol Thru, %            | 50%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 43%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 14    | 3     | 17    | 13    |
| LT Vol                 | 1     | 0     | 17    | 0     |
| Through Vol            | 7     | 0     | 0     | 13    |
| RT Vol                 | 6     | 3     | 0     | 0     |
| Lane Flow Rate         | 19    | 4     | 23    | 18    |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.02  | 0.004 | 0.027 | 0.019 |
| Departure Headway (Hd) | 3.717 | 3.381 | 4.168 | 3.961 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 964   | 1059  | 861   | 905   |
| Service Time           | 1.734 | 1.399 | 2.18  | 1.978 |
| HCM Lane V/C Ratio     | 0.02  | 0.004 | 0.027 | 0.02  |
| HCM Control Delay      | 6.8   | 6.4   | 7.3   | 7.1   |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0.1   | 0     | 0.1   | 0.1   |

| Intersection              |     |
|---------------------------|-----|
| Intersection Delay, s/veh | 6.9 |
| Intersection LOS          | A   |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 4    | 5    | 0    | 0    | 2    | 3    | 2    | 0    | 4    | 0    |
| Future Vol, veh/h   | 0    | 0    | 4    | 5    | 0    | 0    | 2    | 3    | 2    | 0    | 4    | 0    |
| Peak Hour Factor    | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 5    | 7    | 0    | 0    | 3    | 4    | 3    | 0    | 5    | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB |
|----------------------------|-----|-----|-----|----|
| Opposing Approach          | WB  | EB  | SB  | NB |
| Opposing Lanes             | 1   | 1   | 1   | 1  |
| Conflicting Approach Left  | SB  | NB  | EB  | WB |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1  |
| Conflicting Approach Right | NB  | SB  | WB  | EB |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1  |
| HCM Control Delay          | 6.4 | 7.2 | 6.9 | 7  |
| HCM LOS                    | A   | A   | A   | A  |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 29%   | 0%    | 100%  | 0%    |
| Vol Thru, %            | 43%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 29%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 7     | 4     | 5     | 4     |
| LT Vol                 | 2     | 0     | 5     | 0     |
| Through Vol            | 3     | 0     | 0     | 4     |
| RT Vol                 | 2     | 4     | 0     | 0     |
| Lane Flow Rate         | 9     | 5     | 7     | 5     |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.01  | 0.005 | 0.008 | 0.006 |
| Departure Headway (Hd) | 3.811 | 3.33  | 4.13  | 3.928 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 944   | 1079  | 871   | 915   |
| Service Time           | 1.816 | 1.338 | 2.136 | 1.934 |
| HCM Lane V/C Ratio     | 0.01  | 0.005 | 0.008 | 0.005 |
| HCM Control Delay      | 6.9   | 6.4   | 7.2   | 7     |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0     | 0     | 0     | 0     |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 4    |      |      |      |      |      |
| Movement                 | EBT  | EBR  | WBL  | WBT  | NBL  | NBR  |
| Lane Configurations      |      |      |      |      |      |      |
| Traffic Vol, veh/h       | 2    | 2    | 2    | 1    | 2    | 1    |
| Future Vol, veh/h        | 2    | 2    | 2    | 1    | 2    | 1    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 3    | 3    | 3    | 1    | 3    | 1    |

| Major/Minor          | Major1 | Major2 | Minor1 | Minor2 | Minor3 |
|----------------------|--------|--------|--------|--------|--------|
| Conflicting Flow All | 0      | 0      | 6      | 0      | 12     |
| Stage 1              | -      | -      | -      | -      | 5      |
| Stage 2              | -      | -      | -      | -      | 7      |
| Critical Hdwy        | -      | -      | 4.1    | -      | 6.4    |
| Critical Hdwy Stg 1  | -      | -      | -      | -      | 5.4    |
| Critical Hdwy Stg 2  | -      | -      | -      | -      | 5.4    |
| Follow-up Hdwy       | -      | -      | 2.2    | -      | 3.5    |
| Pot Cap-1 Maneuver   | -      | -      | 1628   | -      | 1013   |
| Stage 1              | -      | -      | -      | -      | 1023   |
| Stage 2              | -      | -      | -      | -      | 1021   |
| Platoon blocked, %   | -      | -      | -      | -      | -      |
| Mov Cap-1 Maneuver   | -      | -      | 1628   | -      | 1011   |
| Mov Cap-2 Maneuver   | -      | -      | -      | -      | 1011   |
| Stage 1              | -      | -      | -      | -      | 1023   |
| Stage 2              | -      | -      | -      | -      | 1019   |

| Approach             | EB | WB  | NB  |
|----------------------|----|-----|-----|
| HCM Control Delay, s | 0  | 4.8 | 8.5 |
| HCM LOS              |    |     | A   |

| Minor Lane/Major Mvmt | NBLn1 | EBT | EBR | WBL   | WBT |
|-----------------------|-------|-----|-----|-------|-----|
| Capacity (veh/h)      | 1034  | -   | -   | 1628  | -   |
| HCM Lane V/C Ratio    | 0.004 | -   | -   | 0.002 | -   |
| HCM Control Delay (s) | 8.5   | -   | -   | 7.2   | 0   |
| HCM Lane LOS          | A     | -   | -   | A     | A   |
| HCM 95th %tile Q(veh) | 0     | -   | -   | 0     | -   |



| Intersection              |     |
|---------------------------|-----|
| Intersection Delay, s/veh | 6.9 |
| Intersection LOS          | A   |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↔    |      |      | ↔    |      |      | ↔    |      |      | ↔    |      |
| Traffic Vol, veh/h  | 0    | 0    | 6    | 13   | 0    | 0    | 1    | 4    | 3    | 0    | 10   | 0    |
| Future Vol, veh/h   | 0    | 0    | 6    | 13   | 0    | 0    | 1    | 4    | 3    | 0    | 10   | 0    |
| Peak Hour Factor    | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 8    | 18   | 0    | 0    | 1    | 5    | 4    | 0    | 14   | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB |
|----------------------------|-----|-----|-----|----|
| Opposing Approach          | WB  | EB  | SB  | NB |
| Opposing Lanes             | 1   | 1   | 1   | 1  |
| Conflicting Approach Left  | SB  | NB  | EB  | WB |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1  |
| Conflicting Approach Right | NB  | SB  | WB  | EB |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1  |
| HCM Control Delay          | 6.4 | 7.2 | 6.8 | 7  |
| HCM LOS                    | A   | A   | A   | A  |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 12%   | 0%    | 100%  | 0%    |
| Vol Thru, %            | 50%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 38%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 8     | 6     | 13    | 10    |
| LT Vol                 | 1     | 0     | 13    | 0     |
| Through Vol            | 4     | 0     | 0     | 10    |
| RT Vol                 | 3     | 6     | 0     | 0     |
| Lane Flow Rate         | 11    | 8     | 18    | 14    |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.011 | 0.008 | 0.02  | 0.015 |
| Departure Headway (Hd) | 3.755 | 3.356 | 4.149 | 3.953 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 956   | 1069  | 866   | 908   |
| Service Time           | 1.767 | 1.367 | 2.158 | 1.964 |
| HCM Lane V/C Ratio     | 0.012 | 0.007 | 0.021 | 0.015 |
| HCM Control Delay      | 6.8   | 6.4   | 7.2   | 7     |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0     | 0     | 0.1   | 0     |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 6.3  |      |      |      |      |      |
| Movement                 | EBL  | EBR  | NBL  | NBT  | SBT  | SBR  |
| Lane Configurations      | T    |      | T    |      | T    |      |
| Traffic Vol, veh/h       | 0    | 8    | 3    | 1    | 2    | 0    |
| Future Vol, veh/h        | 0    | 8    | 3    | 1    | 2    | 0    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Stop | Stop | Free | Free | Free | Free |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | 0    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 0    | 11   | 4    | 1    | 3    | 0    |

| Major/Minor          | Minor2 | Major1 |      | Major2 |   |
|----------------------|--------|--------|------|--------|---|
| Conflicting Flow All | 12     | 3      | 3    | 0      | 0 |
| Stage 1              | 3      | -      | -    | -      | - |
| Stage 2              | 9      | -      | -    | -      | - |
| Critical Hdwy        | 6.4    | 6.2    | 4.1  | -      | - |
| Critical Hdwy Stg 1  | 5.4    | -      | -    | -      | - |
| Critical Hdwy Stg 2  | 5.4    | -      | -    | -      | - |
| Follow-up Hdwy       | 3.5    | 3.3    | 2.2  | -      | - |
| Pot Cap-1 Maneuver   | 1013   | 1087   | 1632 | -      | - |
| Stage 1              | 1025   | -      | -    | -      | - |
| Stage 2              | 1019   | -      | -    | -      | - |
| Platoon blocked, %   |        |        |      | -      | - |
| Mov Cap-1 Maneuver   | 1011   | 1087   | 1632 | -      | - |
| Mov Cap-2 Maneuver   | 1011   | -      | -    | -      | - |
| Stage 1              | 1023   | -      | -    | -      | - |
| Stage 2              | 1019   | -      | -    | -      | - |

| Approach             | EB  | NB  | SB |
|----------------------|-----|-----|----|
| HCM Control Delay, s | 8.3 | 5.4 | 0  |
| HCM LOS              | A   |     |    |

| Minor Lane/Major Mvmt | NBL   | NBT | EBLn1 | SBT | SBR |
|-----------------------|-------|-----|-------|-----|-----|
| Capacity (veh/h)      | 1632  | -   | 1087  | -   | -   |
| HCM Lane V/C Ratio    | 0.002 | -   | 0.01  | -   | -   |
| HCM Control Delay (s) | 7.2   | 0   | 8.3   | -   | -   |
| HCM Lane LOS          | A     | A   | A     | -   | -   |
| HCM 95th %tile Q(veh) | 0     | -   | 0     | -   | -   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.7  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 5    | 261  | 2    | 13   | 379  | 22   | 1    | 0    | 8    | 13   | 0    | 4    |
| Future Vol, veh/h        | 5    | 261  | 2    | 13   | 379  | 22   | 1    | 0    | 8    | 13   | 0    | 4    |
| Conflicting Peds, #/hr   | 5    | 0    | 0    | 0    | 0    | 5    | 1    | 0    | 4    | 4    | 0    | 1    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 5    | 284  | 2    | 14   | 412  | 24   | 1    | 0    | 9    | 14   | 0    | 4    |

| Major/Minor          | Major1 |   |   | Major2 |   |   | Minor1 |     |     | Minor2 |     |     |
|----------------------|--------|---|---|--------|---|---|--------|-----|-----|--------|-----|-----|
| Conflicting Flow All | 441    | 0 | 0 | 286    | 0 | 0 | 750    | 764 | 289 | 761    | 753 | 430 |
| Stage 1              | -      | - | - | -      | - | - | 295    | 295 | -   | 457    | 457 | -   |
| Stage 2              | -      | - | - | -      | - | - | 455    | 469 | -   | 304    | 296 | -   |
| Critical Hdwy        | 4.1    | - | - | 4.1    | - | - | 7.1    | 6.5 | 6.2 | 7.1    | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | - | 2.2    | - | - | 3.5    | 4   | 3.3 | 3.5    | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1130   | - | - | 1288   | - | - | 330    | 336 | 755 | 325    | 341 | 629 |
| Stage 1              | -      | - | - | -      | - | - | 718    | 673 | -   | 587    | 571 | -   |
| Stage 2              | -      | - | - | -      | - | - | 589    | 564 | -   | 710    | 672 | -   |
| Platoon blocked, %   | -      | - | - | -      | - | - | -      | -   | -   | -      | -   | -   |
| Mov Cap-1 Maneuver   | 1125   | - | - | 1288   | - | - | 323    | 328 | 752 | 314    | 333 | 625 |
| Mov Cap-2 Maneuver   | -      | - | - | -      | - | - | 323    | 328 | -   | 314    | 333 | -   |
| Stage 1              | -      | - | - | -      | - | - | 714    | 670 | -   | 581    | 560 | -   |
| Stage 2              | -      | - | - | -      | - | - | 576    | 553 | -   | 696    | 669 | -   |

| Approach             | EB  |  |  | WB  |  |  | NB   |  |  | SB   |  |  |
|----------------------|-----|--|--|-----|--|--|------|--|--|------|--|--|
| HCM Control Delay, s | 0.2 |  |  | 0.2 |  |  | 10.6 |  |  | 15.7 |  |  |
| HCM LOS              |     |  |  |     |  |  | B    |  |  | C    |  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 655   | 1125  | -   | -   | 1288  | -   | -   | 356   |
| HCM Lane V/C Ratio    | 0.015 | 0.005 | -   | -   | 0.011 | -   | -   | 0.052 |
| HCM Control Delay (s) | 10.6  | 8.2   | 0   | -   | 7.8   | 0   | -   | 15.7  |
| HCM Lane LOS          | B     | A     | A   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0     | 0     | -   | -   | 0     | -   | -   | 0.2   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.3  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 0    | 271  | 0    | 2    | 412  | 22   | 0    | 0    | 2    | 10   | 0    | 0    |
| Future Vol, veh/h        | 0    | 271  | 0    | 2    | 412  | 22   | 0    | 0    | 2    | 10   | 0    | 0    |
| Conflicting Peds, #/hr   | 8    | 0    | 4    | 4    | 0    | 8    | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   |
| Heavy Vehicles, %        | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 0    | 291  | 0    | 2    | 443  | 24   | 0    | 0    | 2    | 11   | 0    | 0    |

| Major/Minor          | Major1 |   |   | Major2 |   |   | Minor1 |     |     | Minor2 |     |     |
|----------------------|--------|---|---|--------|---|---|--------|-----|-----|--------|-----|-----|
| Conflicting Flow All | 475    | 0 | 0 | 295    | 0 | 0 | 754    | 774 | 295 | 759    | 762 | 463 |
| Stage 1              | -      | - | - | -      | - | - | 295    | 295 | -   | 467    | 467 | -   |
| Stage 2              | -      | - | - | -      | - | - | 459    | 479 | -   | 292    | 295 | -   |
| Critical Hdwy        | 4.1    | - | - | 4.1    | - | - | 7.1    | 6.5 | 6.2 | 7.1    | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | - | 2.2    | - | - | 3.5    | 4   | 3.3 | 3.5    | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1098   | - | - | 1278   | - | - | 328    | 332 | 749 | 326    | 337 | 603 |
| Stage 1              | -      | - | - | -      | - | - | 718    | 673 | -   | 580    | 565 | -   |
| Stage 2              | -      | - | - | -      | - | - | 586    | 558 | -   | 720    | 673 | -   |
| Platoon blocked, %   | -      | - | - | -      | - | - | -      | -   | -   | -      | -   | -   |
| Mov Cap-1 Maneuver   | 1090   | - | - | 1273   | - | - | 326    | 327 | 746 | 322    | 332 | 598 |
| Mov Cap-2 Maneuver   | -      | - | - | -      | - | - | 326    | 327 | -   | 322    | 332 | -   |
| Stage 1              | -      | - | - | -      | - | - | 715    | 670 | -   | 575    | 559 | -   |
| Stage 2              | -      | - | - | -      | - | - | 585    | 552 | -   | 718    | 670 | -   |

| Approach             | EB |  |  | WB |  |  | NB  |  |  | SB   |  |  |
|----------------------|----|--|--|----|--|--|-----|--|--|------|--|--|
| HCM Control Delay, s | 0  |  |  | 0  |  |  | 9.8 |  |  | 16.6 |  |  |
| HCM LOS              |    |  |  |    |  |  | A   |  |  | C    |  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL  | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 746   | 1090 | -   | -   | 1273  | -   | -   | 322   |
| HCM Lane V/C Ratio    | 0.003 | -    | -   | -   | 0.002 | -   | -   | 0.033 |
| HCM Control Delay (s) | 9.8   | 0    | -   | -   | 7.8   | 0   | -   | 16.6  |
| HCM Lane LOS          | A     | A    | -   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0     | 0    | -   | -   | 0     | -   | -   | 0.1   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0    |      |      |      |      |      |
| Movement                 | EBT  | EBR  | WBL  | WBT  | NBL  | NBR  |
| Lane Configurations      |      |      |      |      |      |      |
| Traffic Vol, veh/h       | 271  | 11   | 0    | 412  | 2    | 0    |
| Future Vol, veh/h        | 271  | 11   | 0    | 412  | 2    | 0    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 295  | 12   | 0    | 448  | 2    | 0    |

| Major/Minor          | Major1 | Major2 | Minor1 |   |         |
|----------------------|--------|--------|--------|---|---------|
| Conflicting Flow All | 0      | 0      | 307    | 0 | 749 301 |
| Stage 1              | -      | -      | -      | - | 301 -   |
| Stage 2              | -      | -      | -      | - | 448 -   |
| Critical Hdwy        | -      | -      | 4.1    | - | 6.4 6.2 |
| Critical Hdwy Stg 1  | -      | -      | -      | - | 5.4 -   |
| Critical Hdwy Stg 2  | -      | -      | -      | - | 5.4 -   |
| Follow-up Hdwy       | -      | -      | 2.2    | - | 3.5 3.3 |
| Pot Cap-1 Maneuver   | -      | -      | 1265   | - | 382 743 |
| Stage 1              | -      | -      | -      | - | 755 -   |
| Stage 2              | -      | -      | -      | - | 648 -   |
| Platoon blocked, %   | -      | -      | -      | - | -       |
| Mov Cap-1 Maneuver   | -      | -      | 1265   | - | 382 743 |
| Mov Cap-2 Maneuver   | -      | -      | -      | - | 382 -   |
| Stage 1              | -      | -      | -      | - | 755 -   |
| Stage 2              | -      | -      | -      | - | 648 -   |

| Approach             | EB | WB | NB   |
|----------------------|----|----|------|
| HCM Control Delay, s | 0  | 0  | 14.5 |
| HCM LOS              |    |    | B    |

| Minor Lane/Major Mvmt | NBLn1 | EBT | EBR | WBL  | WBT |
|-----------------------|-------|-----|-----|------|-----|
| Capacity (veh/h)      | 382   | -   | -   | 1265 | -   |
| HCM Lane V/C Ratio    | 0.006 | -   | -   | -    | -   |
| HCM Control Delay (s) | 14.5  | -   | -   | 0    | -   |
| HCM Lane LOS          | B     | -   | -   | A    | -   |
| HCM 95th %tile Q(veh) | 0     | -   | -   | 0    | -   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.8  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 11   | 268  | 4    | 4    | 420  | 20   | 12   | 4    | 8    | 4    | 0    | 4    |
| Future Vol, veh/h        | 11   | 268  | 4    | 4    | 420  | 20   | 12   | 4    | 8    | 4    | 0    | 4    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 12   | 291  | 4    | 4    | 457  | 22   | 13   | 4    | 9    | 4    | 0    | 4    |

| Major/Minor          | Major1 |   |   | Major2 |   |   | Minor1 |     |     | Minor2 |     |     |
|----------------------|--------|---|---|--------|---|---|--------|-----|-----|--------|-----|-----|
| Conflicting Flow All | 479    | 0 | 0 | 295    | 0 | 0 | 795    | 804 | 293 | 800    | 795 | 468 |
| Stage 1              | -      | - | - | -      | - | - | 317    | 317 | -   | 476    | 476 | -   |
| Stage 2              | -      | - | - | -      | - | - | 478    | 487 | -   | 324    | 319 | -   |
| Critical Hdwy        | 4.1    | - | - | 4.1    | - | - | 7.1    | 6.5 | 6.2 | 7.1    | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | - | 2.2    | - | - | 3.5    | 4   | 3.3 | 3.5    | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1094   | - | - | 1278   | - | - | 308    | 319 | 751 | 306    | 323 | 599 |
| Stage 1              | -      | - | - | -      | - | - | 698    | 658 | -   | 574    | 560 | -   |
| Stage 2              | -      | - | - | -      | - | - | 572    | 554 | -   | 692    | 657 | -   |
| Platoon blocked, %   | -      | - | - | -      | - | - | -      | -   | -   | -      | -   | -   |
| Mov Cap-1 Maneuver   | 1094   | - | - | 1278   | - | - | 302    | 314 | 751 | 295    | 318 | 599 |
| Mov Cap-2 Maneuver   | -      | - | - | -      | - | - | 302    | 314 | -   | 295    | 318 | -   |
| Stage 1              | -      | - | - | -      | - | - | 689    | 649 | -   | 567    | 558 | -   |
| Stage 2              | -      | - | - | -      | - | - | 566    | 552 | -   | 671    | 648 | -   |

| Approach             | EB  |  |  | WB  |  |  | NB   |  |  | SB   |  |  |
|----------------------|-----|--|--|-----|--|--|------|--|--|------|--|--|
| HCM Control Delay, s | 0.3 |  |  | 0.1 |  |  | 15.2 |  |  | 14.3 |  |  |
| HCM LOS              |     |  |  |     |  |  | C    |  |  | B    |  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 380   | 1094  | -   | -   | 1278  | -   | -   | 395   |
| HCM Lane V/C Ratio    | 0.069 | 0.011 | -   | -   | 0.003 | -   | -   | 0.022 |
| HCM Control Delay (s) | 15.2  | 8.3   | 0   | -   | 7.8   | 0   | -   | 14.3  |
| HCM Lane LOS          | C     | A     | A   | -   | A     | A   | -   | B     |
| HCM 95th %tile Q(veh) | 0.2   | 0     | -   | -   | 0     | -   | -   | 0.1   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.2  |      |      |      |      |      |
| Movement                 | EBL  | EBT  | WBT  | WBR  | SBL  | SBR  |
| Lane Configurations      |      | ↶    | ↷    |      | ↶    |      |
| Traffic Vol, veh/h       | 3    | 277  | 442  | 13   | 8    | 2    |
| Future Vol, veh/h        | 3    | 277  | 442  | 13   | 8    | 2    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | -    | 0    | 0    | -    | 0    | -    |
| Grade, %                 | -    | 0    | 0    | -    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 3    | 301  | 480  | 14   | 9    | 2    |

| Major/Minor          | Major1 | Major2 | Minor2 |   |         |
|----------------------|--------|--------|--------|---|---------|
| Conflicting Flow All | 494    | 0      | -      | 0 | 794 487 |
| Stage 1              | -      | -      | -      | - | 487 -   |
| Stage 2              | -      | -      | -      | - | 307 -   |
| Critical Hdwy        | 4.1    | -      | -      | - | 6.4 6.2 |
| Critical Hdwy Stg 1  | -      | -      | -      | - | 5.4 -   |
| Critical Hdwy Stg 2  | -      | -      | -      | - | 5.4 -   |
| Follow-up Hdwy       | 2.2    | -      | -      | - | 3.5 3.3 |
| Pot Cap-1 Maneuver   | 1080   | -      | -      | - | 360 585 |
| Stage 1              | -      | -      | -      | - | 622 -   |
| Stage 2              | -      | -      | -      | - | 751 -   |
| Platoon blocked, %   |        | -      | -      | - |         |
| Mov Cap-1 Maneuver   | 1080   | -      | -      | - | 359 585 |
| Mov Cap-2 Maneuver   | -      | -      | -      | - | 359 -   |
| Stage 1              | -      | -      | -      | - | 620 -   |
| Stage 2              | -      | -      | -      | - | 751 -   |

| Approach             | EB  | WB | SB   |
|----------------------|-----|----|------|
| HCM Control Delay, s | 0.1 | 0  | 14.5 |
| HCM LOS              |     |    | B    |

| Minor Lane/Major Mvmt | EBL   | EBT | WBT | WBR | SBLn1 |
|-----------------------|-------|-----|-----|-----|-------|
| Capacity (veh/h)      | 1080  | -   | -   | -   | 389   |
| HCM Lane V/C Ratio    | 0.003 | -   | -   | -   | 0.028 |
| HCM Control Delay (s) | 8.3   | 0   | -   | -   | 14.5  |
| HCM Lane LOS          | A     | A   | -   | -   | B     |
| HCM 95th %tile Q(veh) | 0     | -   | -   | -   | 0.1   |

| Intersection              |     |
|---------------------------|-----|
| Intersection Delay, s/veh | 6.9 |
| Intersection LOS          | A   |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 2    | 5    | 0    | 0    | 4    | 9    | 14   | 0    | 10   | 0    |
| Future Vol, veh/h   | 0    | 0    | 2    | 5    | 0    | 0    | 4    | 9    | 14   | 0    | 10   | 0    |
| Peak Hour Factor    | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 2    | 5    | 0    | 0    | 4    | 10   | 15   | 0    | 11   | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB |
|----------------------------|-----|-----|-----|----|
| Opposing Approach          | WB  | EB  | SB  | NB |
| Opposing Lanes             | 1   | 1   | 1   | 1  |
| Conflicting Approach Left  | SB  | NB  | EB  | WB |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1  |
| Conflicting Approach Right | NB  | SB  | WB  | EB |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1  |
| HCM Control Delay          | 6.4 | 7.2 | 6.8 | 7  |
| HCM LOS                    | A   | A   | A   | A  |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 15%   | 0%    | 100%  | 0%    |
| Vol Thru, %            | 33%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 52%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 27    | 2     | 5     | 10    |
| LT Vol                 | 4     | 0     | 5     | 0     |
| Through Vol            | 9     | 0     | 0     | 10    |
| RT Vol                 | 14    | 2     | 0     | 0     |
| Lane Flow Rate         | 29    | 2     | 5     | 11    |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.03  | 0.002 | 0.006 | 0.012 |
| Departure Headway (Hd) | 3.641 | 3.374 | 4.172 | 3.935 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 988   | 1063  | 860   | 914   |
| Service Time           | 1.644 | 1.387 | 2.184 | 1.941 |
| HCM Lane V/C Ratio     | 0.029 | 0.002 | 0.006 | 0.012 |
| HCM Control Delay      | 6.8   | 6.4   | 7.2   | 7     |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0.1   | 0     | 0     | 0     |



| Intersection              |     |
|---------------------------|-----|
| Intersection Delay, s/veh | 6.9 |
| Intersection LOS          | A   |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 2    | 2    | 0    | 0    | 2    | 5    | 2    | 0    | 6    | 0    |
| Future Vol, veh/h   | 0    | 0    | 2    | 2    | 0    | 0    | 2    | 5    | 2    | 0    | 6    | 0    |
| Peak Hour Factor    | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 2    | 2    | 0    | 0    | 2    | 5    | 2    | 0    | 7    | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB  |
|----------------------------|-----|-----|-----|-----|
| Opposing Approach          | WB  | EB  | SB  | NB  |
| Opposing Lanes             | 1   | 1   | 1   | 1   |
| Conflicting Approach Left  | SB  | NB  | EB  | WB  |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1   |
| Conflicting Approach Right | NB  | SB  | WB  | EB  |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1   |
| HCM Control Delay          | 6.3 | 7.1 | 6.9 | 6.9 |
| HCM LOS                    | A   | A   | A   | A   |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 22%   | 0%    | 100%  | 0%    |
| Vol Thru, %            | 56%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 22%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 9     | 2     | 2     | 6     |
| LT Vol                 | 2     | 0     | 2     | 0     |
| Through Vol            | 5     | 0     | 0     | 6     |
| RT Vol                 | 2     | 2     | 0     | 0     |
| Lane Flow Rate         | 10    | 2     | 2     | 7     |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.01  | 0.002 | 0.002 | 0.007 |
| Departure Headway (Hd) | 3.824 | 3.331 | 4.131 | 3.915 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 941   | 1079  | 871   | 919   |
| Service Time           | 1.825 | 1.335 | 2.135 | 1.916 |
| HCM Lane V/C Ratio     | 0.011 | 0.002 | 0.002 | 0.008 |
| HCM Control Delay      | 6.9   | 6.3   | 7.1   | 6.9   |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0     | 0     | 0     | 0     |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 5.2  |      |      |      |      |      |
| Movement                 | EBT  | EBR  | WBL  | WBT  | NBL  | NBR  |
| Lane Configurations      | ↔    |      |      | ↔    | ↔    |      |
| Traffic Vol, veh/h       | 0    | 4    | 2    | 0    | 3    | 2    |
| Future Vol, veh/h        | 0    | 4    | 2    | 0    | 3    | 2    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 0    | 4    | 2    | 0    | 3    | 2    |

| Major/Minor          | Major1 | Major2 | Minor1 | Minor2 | Minor3 |
|----------------------|--------|--------|--------|--------|--------|
| Conflicting Flow All | 0      | 0      | 4      | 0      | 6      |
| Stage 1              | -      | -      | -      | -      | 2      |
| Stage 2              | -      | -      | -      | -      | 4      |
| Critical Hdwy        | -      | -      | 4.1    | -      | 6.4    |
| Critical Hdwy Stg 1  | -      | -      | -      | -      | 5.4    |
| Critical Hdwy Stg 2  | -      | -      | -      | -      | 5.4    |
| Follow-up Hdwy       | -      | -      | 2.2    | -      | 3.5    |
| Pot Cap-1 Maneuver   | -      | -      | 1631   | -      | 1021   |
| Stage 1              | -      | -      | -      | -      | 1026   |
| Stage 2              | -      | -      | -      | -      | 1024   |
| Platoon blocked, %   | -      | -      | -      | -      | -      |
| Mov Cap-1 Maneuver   | -      | -      | 1631   | -      | 1020   |
| Mov Cap-2 Maneuver   | -      | -      | -      | -      | 1020   |
| Stage 1              | -      | -      | -      | -      | 1026   |
| Stage 2              | -      | -      | -      | -      | 1023   |

| Approach             | EB | WB  | NB  |
|----------------------|----|-----|-----|
| HCM Control Delay, s | 0  | 7.2 | 8.5 |
| HCM LOS              |    |     | A   |

| Minor Lane/Major Mvmt | NBLn1 | EBT | EBR | WBL   | WBT |
|-----------------------|-------|-----|-----|-------|-----|
| Capacity (veh/h)      | 1046  | -   | -   | 1631  | -   |
| HCM Lane V/C Ratio    | 0.005 | -   | -   | 0.001 | -   |
| HCM Control Delay (s) | 8.5   | -   | -   | 7.2   | 0   |
| HCM Lane LOS          | A     | -   | -   | A     | A   |
| HCM 95th %tile Q(veh) | 0     | -   | -   | 0     | -   |

| Intersection              |     |
|---------------------------|-----|
| Intersection Delay, s/veh | 6.8 |
| Intersection LOS          | A   |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 1    | 5    | 0    | 0    | 5    | 5    | 12   | 0    | 4    | 0    |
| Future Vol, veh/h   | 0    | 0    | 1    | 5    | 0    | 0    | 5    | 5    | 12   | 0    | 4    | 0    |
| Peak Hour Factor    | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 1    | 5    | 0    | 0    | 5    | 5    | 13   | 0    | 4    | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB |
|----------------------------|-----|-----|-----|----|
| Opposing Approach          | WB  | EB  | SB  | NB |
| Opposing Lanes             | 1   | 1   | 1   | 1  |
| Conflicting Approach Left  | SB  | NB  | EB  | WB |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1  |
| Conflicting Approach Right | NB  | SB  | WB  | EB |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1  |
| HCM Control Delay          | 6.4 | 7.2 | 6.7 | 7  |
| HCM LOS                    | A   | A   | A   | A  |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 23%   | 0%    | 100%  | 0%    |
| Vol Thru, %            | 23%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 55%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 22    | 1     | 5     | 4     |
| LT Vol                 | 5     | 0     | 5     | 0     |
| Through Vol            | 5     | 0     | 0     | 4     |
| RT Vol                 | 12    | 1     | 0     | 0     |
| Lane Flow Rate         | 24    | 1     | 5     | 4     |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.024 | 0.001 | 0.006 | 0.005 |
| Departure Headway (Hd) | 3.633 | 3.353 | 4.15  | 3.929 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 990   | 1071  | 866   | 915   |
| Service Time           | 1.636 | 1.361 | 2.158 | 1.934 |
| HCM Lane V/C Ratio     | 0.024 | 0.001 | 0.006 | 0.004 |
| HCM Control Delay      | 6.7   | 6.4   | 7.2   | 7     |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0.1   | 0     | 0     | 0     |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 6    |      |      |      |      |      |
| Movement                 | EBL  | EBR  | NBL  | NBT  | SBT  | SBR  |
| Lane Configurations      | W    |      |      | W    | W    |      |
| Traffic Vol, veh/h       | 0    | 3    | 4    | 1    | 1    | 0    |
| Future Vol, veh/h        | 0    | 3    | 4    | 1    | 1    | 0    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Stop | Stop | Free | Free | Free | Free |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | 0    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 0    | 3    | 4    | 1    | 1    | 0    |

| Major/Minor          | Minor2 | Major1 | Major2 |   |   |   |
|----------------------|--------|--------|--------|---|---|---|
| Conflicting Flow All | 10     | 1      | 1      | 0 | - | 0 |
| Stage 1              | 1      | -      | -      | - | - | - |
| Stage 2              | 9      | -      | -      | - | - | - |
| Critical Hdwy        | 6.4    | 6.2    | 4.1    | - | - | - |
| Critical Hdwy Stg 1  | 5.4    | -      | -      | - | - | - |
| Critical Hdwy Stg 2  | 5.4    | -      | -      | - | - | - |
| Follow-up Hdwy       | 3.5    | 3.3    | 2.2    | - | - | - |
| Pot Cap-1 Maneuver   | 1015   | 1090   | 1635   | - | - | - |
| Stage 1              | 1028   | -      | -      | - | - | - |
| Stage 2              | 1019   | -      | -      | - | - | - |
| Platoon blocked, %   |        |        |        | - | - | - |
| Mov Cap-1 Maneuver   | 1013   | 1090   | 1635   | - | - | - |
| Mov Cap-2 Maneuver   | 1013   | -      | -      | - | - | - |
| Stage 1              | 1026   | -      | -      | - | - | - |
| Stage 2              | 1019   | -      | -      | - | - | - |

| Approach             | EB  | NB  | SB |
|----------------------|-----|-----|----|
| HCM Control Delay, s | 8.3 | 5.8 | 0  |
| HCM LOS              | A   |     |    |

| Minor Lane/Major Mvmt | NBL   | NBT | EBLn1 | SBT | SBR |
|-----------------------|-------|-----|-------|-----|-----|
| Capacity (veh/h)      | 1635  | -   | 1090  | -   | -   |
| HCM Lane V/C Ratio    | 0.003 | -   | 0.003 | -   | -   |
| HCM Control Delay (s) | 7.2   | 0   | 8.3   | -   | -   |
| HCM Lane LOS          | A     | A   | A     | -   | -   |
| HCM 95th %tile Q(veh) | 0     | -   | 0     | -   | -   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 2.6  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 4    | 417  | 1    | 2    | 177  | 24   | 0    | 0    | 9    | 64   | 0    | 11   |
| Future Vol, veh/h        | 4    | 417  | 1    | 2    | 177  | 24   | 0    | 0    | 9    | 64   | 0    | 11   |
| Conflicting Peds, #/hr   | 3    | 0    | 0    | 0    | 0    | 3    | 0    | 0    | 1    | 1    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 1    | 0    | 0    | 6    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 5    | 564  | 1    | 3    | 239  | 32   | 0    | 0    | 12   | 86   | 0    | 15   |

| Major/Minor          | Major1 |   |   | Major2 |   |   | Minor1 |     |     | Minor2 |     |     |
|----------------------|--------|---|---|--------|---|---|--------|-----|-----|--------|-----|-----|
| Conflicting Flow All | 274    | 0 | 0 | 565    | 0 | 0 | 844    | 855 | 566 | 846    | 839 | 258 |
| Stage 1              | -      | - | - | -      | - | - | 575    | 575 | -   | 264    | 264 | -   |
| Stage 2              | -      | - | - | -      | - | - | 269    | 280 | -   | 582    | 575 | -   |
| Critical Hdwy        | 4.1    | - | - | 4.1    | - | - | 7.1    | 6.5 | 6.2 | 7.1    | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | - | 2.2    | - | - | 3.5    | 4   | 3.3 | 3.5    | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1301   | - | - | 1017   | - | - | 285    | 298 | 528 | 284    | 304 | 786 |
| Stage 1              | -      | - | - | -      | - | - | 507    | 506 | -   | 746    | 694 | -   |
| Stage 2              | -      | - | - | -      | - | - | 741    | 683 | -   | 502    | 506 | -   |
| Platoon blocked, %   | -      | - | - | -      | - | - | -      | -   | -   | -      | -   | -   |
| Mov Cap-1 Maneuver   | 1297   | - | - | 1017   | - | - | 278    | 294 | 527 | 275    | 300 | 784 |
| Mov Cap-2 Maneuver   | -      | - | - | -      | - | - | 278    | 294 | -   | 275    | 300 | -   |
| Stage 1              | -      | - | - | -      | - | - | 504    | 503 | -   | 739    | 690 | -   |
| Stage 2              | -      | - | - | -      | - | - | 725    | 679 | -   | 487    | 503 | -   |

| Approach             | EB  |  |  | WB  |  |  | NB |  |  | SB   |  |  |
|----------------------|-----|--|--|-----|--|--|----|--|--|------|--|--|
| HCM Control Delay, s | 0.1 |  |  | 0.1 |  |  | 12 |  |  | 22.7 |  |  |
| HCM LOS              |     |  |  |     |  |  | B  |  |  | C    |  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 527   | 1297  | -   | -   | 1017  | -   | -   | 304   |
| HCM Lane V/C Ratio    | 0.023 | 0.004 | -   | -   | 0.003 | -   | -   | 0.333 |
| HCM Control Delay (s) | 12    | 7.8   | 0   | -   | 8.5   | 0   | -   | 22.7  |
| HCM Lane LOS          | B     | A     | A   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0.1   | 0     | -   | -   | 0     | -   | -   | 1.4   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 1.4  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 1    | 492  | 0    | 1    | 197  | 13   | 0    | 0    | 6    | 43   | 0    | 4    |
| Future Vol, veh/h        | 1    | 492  | 0    | 1    | 197  | 13   | 0    | 0    | 6    | 43   | 0    | 4    |
| Conflicting Peds, #/hr   | 3    | 0    | 0    | 0    | 0    | 3    | 2    | 0    | 2    | 2    | 0    | 2    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   | 81   |
| Heavy Vehicles, %        | 0    | 2    | 0    | 0    | 3    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 1    | 607  | 0    | 1    | 243  | 16   | 0    | 0    | 7    | 53   | 0    | 5    |

| Major/Minor          | Major1 |   |   | Major2 |   |   | Minor1 |     |     | Minor2 |     |     |
|----------------------|--------|---|---|--------|---|---|--------|-----|-----|--------|-----|-----|
| Conflicting Flow All | 262    | 0 | 0 | 607    | 0 | 0 | 867    | 873 | 609 | 871    | 865 | 256 |
| Stage 1              | -      | - | - | -      | - | - | 609    | 609 | -   | 256    | 256 | -   |
| Stage 2              | -      | - | - | -      | - | - | 258    | 264 | -   | 615    | 609 | -   |
| Critical Hdwy        | 4.1    | - | - | 4.1    | - | - | 7.1    | 6.5 | 6.2 | 7.1    | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | - | 2.2    | - | - | 3.5    | 4   | 3.3 | 3.5    | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1314   | - | - | 981    | - | - | 275    | 291 | 499 | 274    | 294 | 788 |
| Stage 1              | -      | - | - | -      | - | - | 486    | 488 | -   | 753    | 699 | -   |
| Stage 2              | -      | - | - | -      | - | - | 751    | 694 | -   | 482    | 488 | -   |
| Platoon blocked, %   |        | - | - |        | - | - |        |     |     |        |     |     |
| Mov Cap-1 Maneuver   | 1310   | - | - | 981    | - | - | 272    | 290 | 498 | 268    | 293 | 784 |
| Mov Cap-2 Maneuver   | -      | - | - | -      | - | - | 272    | 290 | -   | 268    | 293 | -   |
| Stage 1              | -      | - | - | -      | - | - | 486    | 488 | -   | 750    | 696 | -   |
| Stage 2              | -      | - | - | -      | - | - | 744    | 691 | -   | 473    | 488 | -   |

| Approach             | EB |  |  | WB |  |  | NB   |  |  | SB   |  |  |
|----------------------|----|--|--|----|--|--|------|--|--|------|--|--|
| HCM Control Delay, s | 0  |  |  | 0  |  |  | 12.3 |  |  | 20.9 |  |  |
| HCM LOS              |    |  |  |    |  |  | B    |  |  | C    |  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 498   | 1310  | -   | -   | 981   | -   | -   | 284   |
| HCM Lane V/C Ratio    | 0.015 | 0.001 | -   | -   | 0.001 | -   | -   | 0.204 |
| HCM Control Delay (s) | 12.3  | 7.8   | 0   | -   | 8.7   | 0   | -   | 20.9  |
| HCM Lane LOS          | B     | A     | A   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0     | 0     | -   | -   | 0     | -   | -   | 0.8   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.2  |      |      |      |      |      |
| Movement                 | EBT  | EBR  | WBL  | WBT  | NBL  | NBR  |
| Lane Configurations      |      |      |      |      |      |      |
| Traffic Vol, veh/h       | 487  | 3    | 0    | 201  | 2    | 6    |
| Future Vol, veh/h        | 487  | 3    | 0    | 201  | 2    | 6    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 658  | 4    | 0    | 272  | 3    | 8    |

| Major/Minor          | Major1 | Major2 | Minor1 |   |         |
|----------------------|--------|--------|--------|---|---------|
| Conflicting Flow All | 0      | 0      | 662    | 0 | 932 660 |
| Stage 1              | -      | -      | -      | - | 660 -   |
| Stage 2              | -      | -      | -      | - | 272 -   |
| Critical Hdwy        | -      | -      | 4.1    | - | 6.4 6.2 |
| Critical Hdwy Stg 1  | -      | -      | -      | - | 5.4 -   |
| Critical Hdwy Stg 2  | -      | -      | -      | - | 5.4 -   |
| Follow-up Hdwy       | -      | -      | 2.2    | - | 3.5 3.3 |
| Pot Cap-1 Maneuver   | -      | -      | 936    | - | 298 467 |
| Stage 1              | -      | -      | -      | - | 518 -   |
| Stage 2              | -      | -      | -      | - | 778 -   |
| Platoon blocked, %   | -      | -      | -      | - | -       |
| Mov Cap-1 Maneuver   | -      | -      | 936    | - | 298 467 |
| Mov Cap-2 Maneuver   | -      | -      | -      | - | 298 -   |
| Stage 1              | -      | -      | -      | - | 518 -   |
| Stage 2              | -      | -      | -      | - | 778 -   |

| Approach             | EB | WB | NB |
|----------------------|----|----|----|
| HCM Control Delay, s | 0  | 0  | 14 |
| HCM LOS              |    |    | B  |

| Minor Lane/Major Mvmt | NBLn1 | EBT | EBR | WBL | WBT |
|-----------------------|-------|-----|-----|-----|-----|
| Capacity (veh/h)      | 409   | -   | -   | 936 | -   |
| HCM Lane V/C Ratio    | 0.026 | -   | -   | -   | -   |
| HCM Control Delay (s) | 14    | -   | -   | 0   | -   |
| HCM Lane LOS          | B     | -   | -   | A   | -   |
| HCM 95th %tile Q(veh) | 0.1   | -   | -   | 0   | -   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.7  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 3    | 533  | 5    | 4    | 209  | 4    | 1    | 0    | 14   | 13   | 0    | 1    |
| Future Vol, veh/h        | 3    | 533  | 5    | 4    | 209  | 4    | 1    | 0    | 14   | 13   | 0    | 1    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 4    | 720  | 7    | 5    | 282  | 5    | 1    | 0    | 19   | 18   | 0    | 1    |

| Major/Minor          | Major1 |   | Major2 |     | Minor1 |   | Minor2 |      |     |      |      |     |
|----------------------|--------|---|--------|-----|--------|---|--------|------|-----|------|------|-----|
| Conflicting Flow All | 287    | 0 | 0      | 727 | 0      | 0 | 1027   | 1029 | 724 | 1036 | 1030 | 285 |
| Stage 1              | -      | - | -      | -   | -      | - | 732    | 732  | -   | 295  | 295  | -   |
| Stage 2              | -      | - | -      | -   | -      | - | 295    | 297  | -   | 741  | 735  | -   |
| Critical Hdwy        | 4.1    | - | -      | 4.1 | -      | - | 7.1    | 6.5  | 6.2 | 7.1  | 6.5  | 6.2 |
| Critical Hdwy Stg 1  | -      | - | -      | -   | -      | - | 6.1    | 5.5  | -   | 6.1  | 5.5  | -   |
| Critical Hdwy Stg 2  | -      | - | -      | -   | -      | - | 6.1    | 5.5  | -   | 6.1  | 5.5  | -   |
| Follow-up Hdwy       | 2.2    | - | -      | 2.2 | -      | - | 3.5    | 4    | 3.3 | 3.5  | 4    | 3.3 |
| Pot Cap-1 Maneuver   | 1287   | - | -      | 886 | -      | - | 215    | 236  | 429 | 212  | 235  | 759 |
| Stage 1              | -      | - | -      | -   | -      | - | 416    | 430  | -   | 718  | 673  | -   |
| Stage 2              | -      | - | -      | -   | -      | - | 718    | 671  | -   | 411  | 428  | -   |
| Platoon blocked, %   | -      | - | -      | -   | -      | - | -      | -    | -   | -    | -    | -   |
| Mov Cap-1 Maneuver   | 1287   | - | -      | 886 | -      | - | 213    | 233  | 429 | 201  | 232  | 759 |
| Mov Cap-2 Maneuver   | -      | - | -      | -   | -      | - | 213    | 233  | -   | 201  | 232  | -   |
| Stage 1              | -      | - | -      | -   | -      | - | 414    | 428  | -   | 714  | 668  | -   |
| Stage 2              | -      | - | -      | -   | -      | - | 712    | 666  | -   | 391  | 426  | -   |

| Approach             | EB |  | WB  |  | NB   |  | SB   |  |
|----------------------|----|--|-----|--|------|--|------|--|
| HCM Control Delay, s | 0  |  | 0.2 |  | 14.4 |  | 23.6 |  |
| HCM LOS              |    |  |     |  | B    |  | C    |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 402   | 1287  | -   | -   | 886   | -   | -   | 212   |
| HCM Lane V/C Ratio    | 0.05  | 0.003 | -   | -   | 0.006 | -   | -   | 0.089 |
| HCM Control Delay (s) | 14.4  | 7.8   | 0   | -   | 9.1   | 0   | -   | 23.6  |
| HCM Lane LOS          | B     | A     | A   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0.2   | 0     | -   | -   | 0     | -   | -   | 0.3   |



| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.4  |      |      |      |      |      |
| Movement                 | EBL  | EBT  | WBT  | WBR  | SBL  | SBR  |
| Lane Configurations      |      | ↶    | ↷    |      | ↶    |      |
| Traffic Vol, veh/h       | 1    | 559  | 215  | 3    | 14   | 2    |
| Future Vol, veh/h        | 1    | 559  | 215  | 3    | 14   | 2    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | -    | 0    | 0    | -    | 0    | -    |
| Grade, %                 | -    | 0    | 0    | -    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 1    | 755  | 291  | 4    | 19   | 3    |

| Major/Minor          | Major1 | Major2 | Minor2 |      |     |
|----------------------|--------|--------|--------|------|-----|
| Conflicting Flow All | 295    | 0      | 0      | 1050 | 293 |
| Stage 1              | -      | -      | -      | 293  | -   |
| Stage 2              | -      | -      | -      | 757  | -   |
| Critical Hdwy        | 4.1    | -      | -      | 6.4  | 6.2 |
| Critical Hdwy Stg 1  | -      | -      | -      | 5.4  | -   |
| Critical Hdwy Stg 2  | -      | -      | -      | 5.4  | -   |
| Follow-up Hdwy       | 2.2    | -      | -      | 3.5  | 3.3 |
| Pot Cap-1 Maneuver   | 1278   | -      | -      | 254  | 751 |
| Stage 1              | -      | -      | -      | 762  | -   |
| Stage 2              | -      | -      | -      | 467  | -   |
| Platoon blocked, %   | -      | -      | -      | -    | -   |
| Mov Cap-1 Maneuver   | 1278   | -      | -      | 254  | 751 |
| Mov Cap-2 Maneuver   | -      | -      | -      | 254  | -   |
| Stage 1              | -      | -      | -      | 761  | -   |
| Stage 2              | -      | -      | -      | 467  | -   |

| Approach             | EB | WB | SB   |
|----------------------|----|----|------|
| HCM Control Delay, s | 0  | 0  | 19.1 |
| HCM LOS              |    |    | C    |

| Minor Lane/Major Mvmt | EBL   | EBT | WBT | WBR | SBLn1 |
|-----------------------|-------|-----|-----|-----|-------|
| Capacity (veh/h)      | 1278  | -   | -   | -   | 277   |
| HCM Lane V/C Ratio    | 0.001 | -   | -   | -   | 0.078 |
| HCM Control Delay (s) | 7.8   | 0   | -   | -   | 19.1  |
| HCM Lane LOS          | A     | A   | -   | -   | C     |
| HCM 95th %tile Q(veh) | 0     | -   | -   | -   | 0.3   |

| Intersection              |     |
|---------------------------|-----|
| Intersection Delay, s/veh | 7.3 |
| Intersection LOS          | A   |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 3    | 17   | 0    | 0    | 1    | 21   | 6    | 0    | 55   | 0    |
| Future Vol, veh/h   | 0    | 0    | 3    | 17   | 0    | 0    | 1    | 21   | 6    | 0    | 55   | 0    |
| Peak Hour Factor    | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 4    | 23   | 0    | 0    | 1    | 28   | 8    | 0    | 74   | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB  |
|----------------------------|-----|-----|-----|-----|
| Opposing Approach          | WB  | EB  | SB  | NB  |
| Opposing Lanes             | 1   | 1   | 1   | 1   |
| Conflicting Approach Left  | SB  | NB  | EB  | WB  |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1   |
| Conflicting Approach Right | NB  | SB  | WB  | EB  |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1   |
| HCM Control Delay          | 6.6 | 7.5 | 7.1 | 7.4 |
| HCM LOS                    | A   | A   | A   | A   |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 4%    | 0%    | 100%  | 0%    |
| Vol Thru, %            | 75%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 21%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 28    | 3     | 17    | 55    |
| LT Vol                 | 1     | 0     | 17    | 0     |
| Through Vol            | 21    | 0     | 0     | 55    |
| RT Vol                 | 6     | 3     | 0     | 0     |
| Lane Flow Rate         | 38    | 4     | 23    | 74    |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.041 | 0.004 | 0.027 | 0.082 |
| Departure Headway (Hd) | 3.881 | 3.511 | 4.298 | 3.976 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 922   | 1011  | 829   | 902   |
| Service Time           | 1.908 | 1.561 | 2.343 | 1.995 |
| HCM Lane V/C Ratio     | 0.041 | 0.004 | 0.028 | 0.082 |
| HCM Control Delay      | 7.1   | 6.6   | 7.5   | 7.4   |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0.1   | 0     | 0.1   | 0.3   |

|                           |     |  |  |  |  |  |  |  |  |  |  |  |
|---------------------------|-----|--|--|--|--|--|--|--|--|--|--|--|
| <b>Intersection</b>       |     |  |  |  |  |  |  |  |  |  |  |  |
| Intersection Delay, s/veh | 7.1 |  |  |  |  |  |  |  |  |  |  |  |
| Intersection LOS          | A   |  |  |  |  |  |  |  |  |  |  |  |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 4    | 5    | 0    | 0    | 2    | 17   | 2    | 0    | 46   | 0    |
| Future Vol, veh/h   | 0    | 0    | 4    | 5    | 0    | 0    | 2    | 17   | 2    | 0    | 46   | 0    |
| Peak Hour Factor    | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 5    | 7    | 0    | 0    | 3    | 23   | 3    | 0    | 62   | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB  |
|----------------------------|-----|-----|-----|-----|
| Opposing Approach          | WB  | EB  | SB  | NB  |
| Opposing Lanes             | 1   | 1   | 1   | 1   |
| Conflicting Approach Left  | SB  | NB  | EB  | WB  |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1   |
| Conflicting Approach Right | NB  | SB  | WB  | EB  |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1   |
| HCM Control Delay          | 6.5 | 7.3 | 7.1 | 7.2 |
| HCM LOS                    | A   | A   | A   | A   |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 10%   | 0%    | 100%  | 0%    |
| Vol Thru, %            | 81%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 10%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 21    | 4     | 5     | 46    |
| LT Vol                 | 2     | 0     | 5     | 0     |
| Through Vol            | 17    | 0     | 0     | 46    |
| RT Vol                 | 2     | 4     | 0     | 0     |
| Lane Flow Rate         | 28    | 5     | 7     | 62    |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.031 | 0.005 | 0.008 | 0.068 |
| Departure Headway (Hd) | 3.929 | 3.46  | 4.26  | 3.942 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 913   | 1029  | 838   | 912   |
| Service Time           | 1.944 | 1.499 | 2.297 | 1.951 |
| HCM Lane V/C Ratio     | 0.031 | 0.005 | 0.008 | 0.068 |
| HCM Control Delay      | 7.1   | 6.5   | 7.3   | 7.2   |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0.1   | 0     | 0     | 0.2   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 1.8  |      |      |      |      |      |
| Movement                 | EBT  | EBR  | WBL  | WBT  | NBL  | NBR  |
| Lane Configurations      |      |      |      |      |      |      |
| Traffic Vol, veh/h       | 20   | 44   | 2    | 7    | 16   | 1    |
| Future Vol, veh/h        | 20   | 44   | 2    | 7    | 16   | 1    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 27   | 59   | 3    | 9    | 22   | 1    |

| Major/Minor          | Major1 | Major2 | Minor1 | Minor2 | Minor3 |
|----------------------|--------|--------|--------|--------|--------|
| Conflicting Flow All | 0      | 0      | 86     | 0      | 72     |
| Stage 1              | -      | -      | -      | -      | 57     |
| Stage 2              | -      | -      | -      | -      | 15     |
| Critical Hdwy        | -      | -      | 4.1    | -      | 6.4    |
| Critical Hdwy Stg 1  | -      | -      | -      | -      | 5.4    |
| Critical Hdwy Stg 2  | -      | -      | -      | -      | 5.4    |
| Follow-up Hdwy       | -      | -      | 2.2    | -      | 3.5    |
| Pot Cap-1 Maneuver   | -      | -      | 1523   | -      | 937    |
| Stage 1              | -      | -      | -      | -      | 971    |
| Stage 2              | -      | -      | -      | -      | 1013   |
| Platoon blocked, %   | -      | -      | -      | -      | -      |
| Mov Cap-1 Maneuver   | -      | -      | 1523   | -      | 935    |
| Mov Cap-2 Maneuver   | -      | -      | -      | -      | 935    |
| Stage 1              | -      | -      | -      | -      | 971    |
| Stage 2              | -      | -      | -      | -      | 1011   |

| Approach             | EB | WB  | NB  |
|----------------------|----|-----|-----|
| HCM Control Delay, s | 0  | 1.6 | 8.9 |
| HCM LOS              |    |     | A   |

| Minor Lane/Major Mvmt | NBLn1 | EBT | EBR | WBL   | WBT |
|-----------------------|-------|-----|-----|-------|-----|
| Capacity (veh/h)      | 939   | -   | -   | 1523  | -   |
| HCM Lane V/C Ratio    | 0.024 | -   | -   | 0.002 | -   |
| HCM Control Delay (s) | 8.9   | -   | -   | 7.4   | 0   |
| HCM Lane LOS          | A     | -   | -   | A     | A   |
| HCM 95th %tile Q(veh) | 0.1   | -   | -   | 0     | -   |

| Intersection              |     |
|---------------------------|-----|
| Intersection Delay, s/veh | 7.1 |
| Intersection LOS          | A   |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 6    | 13   | 0    | 0    | 1    | 10   | 3    | 0    | 28   | 0    |
| Future Vol, veh/h   | 0    | 0    | 6    | 13   | 0    | 0    | 1    | 10   | 3    | 0    | 28   | 0    |
| Peak Hour Factor    | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 | 0.74 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 8    | 18   | 0    | 0    | 1    | 14   | 4    | 0    | 38   | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB | SB  |
|----------------------------|-----|-----|----|-----|
| Opposing Approach          | WB  | EB  | SB | NB  |
| Opposing Lanes             | 1   | 1   | 1  | 1   |
| Conflicting Approach Left  | SB  | NB  | EB | WB  |
| Conflicting Lanes Left     | 1   | 1   | 1  | 1   |
| Conflicting Approach Right | NB  | SB  | WB | EB  |
| Conflicting Lanes Right    | 1   | 1   | 1  | 1   |
| HCM Control Delay          | 6.5 | 7.3 | 7  | 7.1 |
| HCM LOS                    | A   | A   | A  | A   |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 7%    | 0%    | 100%  | 0%    |
| Vol Thru, %            | 71%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 21%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 14    | 6     | 13    | 28    |
| LT Vol                 | 1     | 0     | 13    | 0     |
| Through Vol            | 10    | 0     | 0     | 28    |
| RT Vol                 | 3     | 6     | 0     | 0     |
| Lane Flow Rate         | 19    | 8     | 18    | 38    |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.02  | 0.008 | 0.021 | 0.042 |
| Departure Headway (Hd) | 3.859 | 3.413 | 4.206 | 3.959 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 929   | 1047  | 852   | 907   |
| Service Time           | 1.878 | 1.438 | 2.228 | 1.974 |
| HCM Lane V/C Ratio     | 0.02  | 0.008 | 0.021 | 0.042 |
| HCM Control Delay      | 7     | 6.5   | 7.3   | 7.1   |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0.1   | 0     | 0.1   | 0.1   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 7.5  |      |      |      |      |      |
| Movement                 | EBL  | EBR  | NBL  | NBT  | SBT  | SBR  |
| Lane Configurations      | T    |      | T    |      | T    |      |
| Traffic Vol, veh/h       | 0    | 26   | 9    | 1    | 2    | 0    |
| Future Vol, veh/h        | 0    | 26   | 9    | 1    | 2    | 0    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Stop | Stop | Free | Free | Free | Free |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | 0    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 74   | 74   | 74   | 74   | 74   | 74   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 0    | 35   | 12   | 1    | 3    | 0    |

| Major/Minor          | Minor2 | Major1 |      | Major2 |   |
|----------------------|--------|--------|------|--------|---|
| Conflicting Flow All | 28     | 3      | 3    | 0      | 0 |
| Stage 1              | 3      | -      | -    | -      | - |
| Stage 2              | 25     | -      | -    | -      | - |
| Critical Hdwy        | 6.4    | 6.2    | 4.1  | -      | - |
| Critical Hdwy Stg 1  | 5.4    | -      | -    | -      | - |
| Critical Hdwy Stg 2  | 5.4    | -      | -    | -      | - |
| Follow-up Hdwy       | 3.5    | 3.3    | 2.2  | -      | - |
| Pot Cap-1 Maneuver   | 992    | 1087   | 1632 | -      | - |
| Stage 1              | 1025   | -      | -    | -      | - |
| Stage 2              | 1003   | -      | -    | -      | - |
| Platoon blocked, %   |        |        |      | -      | - |
| Mov Cap-1 Maneuver   | 985    | 1087   | 1632 | -      | - |
| Mov Cap-2 Maneuver   | 985    | -      | -    | -      | - |
| Stage 1              | 1018   | -      | -    | -      | - |
| Stage 2              | 1003   | -      | -    | -      | - |

| Approach             | EB  | NB  | SB |
|----------------------|-----|-----|----|
| HCM Control Delay, s | 8.4 | 6.5 | 0  |
| HCM LOS              | A   |     |    |

| Minor Lane/Major Mvmt | NBL   | NBT | EBLn1 | SBT | SBR |
|-----------------------|-------|-----|-------|-----|-----|
| Capacity (veh/h)      | 1632  | -   | 1087  | -   | -   |
| HCM Lane V/C Ratio    | 0.007 | -   | 0.032 | -   | -   |
| HCM Control Delay (s) | 7.2   | 0   | 8.4   | -   | -   |
| HCM Lane LOS          | A     | A   | A     | -   | -   |
| HCM 95th %tile Q(veh) | 0     | -   | 0.1   | -   | -   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 1.4  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 12   | 264  | 2    | 13   | 381  | 62   | 1    | 0    | 8    | 37   | 0    | 8    |
| Future Vol, veh/h        | 12   | 264  | 2    | 13   | 381  | 62   | 1    | 0    | 8    | 37   | 0    | 8    |
| Conflicting Peds, #/hr   | 3    | 0    | 0    | 0    | 0    | 3    | 0    | 0    | 1    | 1    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 1    | 0    | 0    | 6    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 13   | 287  | 2    | 14   | 414  | 67   | 1    | 0    | 9    | 40   | 0    | 9    |

| Major/Minor          | Major1 |   | Major2 |      | Minor1 |   | Minor2 |     |     |     |     |     |
|----------------------|--------|---|--------|------|--------|---|--------|-----|-----|-----|-----|-----|
| Conflicting Flow All | 484    | 0 | 0      | 289  | 0      | 0 | 794    | 826 | 289 | 799 | 794 | 451 |
| Stage 1              | -      | - | -      | -    | -      | - | 314    | 314 | -   | 479 | 479 | -   |
| Stage 2              | -      | - | -      | -    | -      | - | 480    | 512 | -   | 320 | 315 | -   |
| Critical Hdwy        | 4.1    | - | -      | 4.1  | -      | - | 7.1    | 6.5 | 6.2 | 7.1 | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | -      | -    | -      | - | 6.1    | 5.5 | -   | 6.1 | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | -      | -    | -      | - | 6.1    | 5.5 | -   | 6.1 | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | -      | 2.2  | -      | - | 3.5    | 4   | 3.3 | 3.5 | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1089   | - | -      | 1284 | -      | - | 308    | 310 | 755 | 306 | 323 | 613 |
| Stage 1              | -      | - | -      | -    | -      | - | 701    | 660 | -   | 571 | 558 | -   |
| Stage 2              | -      | - | -      | -    | -      | - | 571    | 540 | -   | 696 | 659 | -   |
| Platoon blocked, %   | -      | - | -      | -    | -      | - | -      | -   | -   | -   | -   | -   |
| Mov Cap-1 Maneuver   | 1086   | - | -      | 1284 | -      | - | 297    | 300 | 754 | 295 | 313 | 611 |
| Mov Cap-2 Maneuver   | -      | - | -      | -    | -      | - | 297    | 300 | -   | 295 | 313 | -   |
| Stage 1              | -      | - | -      | -    | -      | - | 691    | 651 | -   | 561 | 548 | -   |
| Stage 2              | -      | - | -      | -    | -      | - | 554    | 530 | -   | 678 | 650 | -   |

| Approach             | EB  |  | WB  |  | NB   |  | SB |  |
|----------------------|-----|--|-----|--|------|--|----|--|
| HCM Control Delay, s | 0.4 |  | 0.2 |  | 10.7 |  | 18 |  |
| HCM LOS              |     |  |     |  | B    |  | C  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 644   | 1086  | -   | -   | 1284  | -   | -   | 325   |
| HCM Lane V/C Ratio    | 0.015 | 0.012 | -   | -   | 0.011 | -   | -   | 0.151 |
| HCM Control Delay (s) | 10.7  | 8.4   | 0   | -   | 7.8   | 0   | -   | 18    |
| HCM Lane LOS          | B     | A     | A   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0     | 0     | -   | -   | 0     | -   | -   | 0.5   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.6  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 3    | 295  | 0    | 2    | 452  | 39   | 0    | 0    | 2    | 20   | 0    | 2    |
| Future Vol, veh/h        | 3    | 295  | 0    | 2    | 452  | 39   | 0    | 0    | 2    | 20   | 0    | 2    |
| Conflicting Peds, #/hr   | 3    | 0    | 0    | 0    | 0    | 3    | 2    | 0    | 2    | 2    | 0    | 2    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   | 93   |
| Heavy Vehicles, %        | 0    | 2    | 0    | 0    | 3    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 3    | 317  | 0    | 2    | 486  | 42   | 0    | 0    | 2    | 22   | 0    | 2    |

| Major/Minor          | Major1 |   | Major2 |      | Minor1 |   | Minor2 |     |     |     |     |     |
|----------------------|--------|---|--------|------|--------|---|--------|-----|-----|-----|-----|-----|
| Conflicting Flow All | 531    | 0 | 0      | 317  | 0      | 0 | 837    | 858 | 319 | 840 | 837 | 512 |
| Stage 1              | -      | - | -      | -    | -      | - | 323    | 323 | -   | 514 | 514 | -   |
| Stage 2              | -      | - | -      | -    | -      | - | 514    | 535 | -   | 326 | 323 | -   |
| Critical Hdwy        | 4.1    | - | -      | 4.1  | -      | - | 7.1    | 6.5 | 6.2 | 7.1 | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | -      | -    | -      | - | 6.1    | 5.5 | -   | 6.1 | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | -      | -    | -      | - | 6.1    | 5.5 | -   | 6.1 | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | -      | 2.2  | -      | - | 3.5    | 4   | 3.3 | 3.5 | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1047   | - | -      | 1255 | -      | - | 288    | 297 | 726 | 287 | 305 | 566 |
| Stage 1              | -      | - | -      | -    | -      | - | 693    | 654 | -   | 547 | 539 | -   |
| Stage 2              | -      | - | -      | -    | -      | - | 547    | 527 | -   | 691 | 654 | -   |
| Platoon blocked, %   |        | - | -      | -    | -      | - |        |     |     |     |     |     |
| Mov Cap-1 Maneuver   | 1044   | - | -      | 1255 | -      | - | 285    | 295 | 725 | 284 | 303 | 563 |
| Mov Cap-2 Maneuver   | -      | - | -      | -    | -      | - | 285    | 295 | -   | 284 | 303 | -   |
| Stage 1              | -      | - | -      | -    | -      | - | 691    | 652 | -   | 544 | 536 | -   |
| Stage 2              | -      | - | -      | -    | -      | - | 543    | 524 | -   | 686 | 652 | -   |

| Approach             | EB  | WB | NB | SB   |
|----------------------|-----|----|----|------|
| HCM Control Delay, s | 0.1 | 0  | 10 | 18.2 |
| HCM LOS              |     |    | B  | C    |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 725   | 1044  | -   | -   | 1255  | -   | -   | 297   |
| HCM Lane V/C Ratio    | 0.003 | 0.003 | -   | -   | 0.002 | -   | -   | 0.08  |
| HCM Control Delay (s) | 10    | 8.5   | 0   | -   | 7.9   | 0   | -   | 18.2  |
| HCM Lane LOS          | B     | A     | A   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0     | 0     | -   | -   | 0     | -   | -   | 0.3   |



| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0    |      |      |      |      |      |
| Movement                 | EBT  | EBR  | WBL  | WBT  | NBL  | NBR  |
| Lane Configurations      |      |      |      |      |      |      |
| Traffic Vol, veh/h       | 298  | 11   | 0    | 454  | 2    | 0    |
| Future Vol, veh/h        | 298  | 11   | 0    | 454  | 2    | 0    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 324  | 12   | 0    | 493  | 2    | 0    |

| Major/Minor          | Major1 | Major2 | Minor1 |   |         |
|----------------------|--------|--------|--------|---|---------|
| Conflicting Flow All | 0      | 0      | 336    | 0 | 823 330 |
| Stage 1              | -      | -      | -      | - | 330 -   |
| Stage 2              | -      | -      | -      | - | 493 -   |
| Critical Hdwy        | -      | -      | 4.1    | - | 6.4 6.2 |
| Critical Hdwy Stg 1  | -      | -      | -      | - | 5.4 -   |
| Critical Hdwy Stg 2  | -      | -      | -      | - | 5.4 -   |
| Follow-up Hdwy       | -      | -      | 2.2    | - | 3.5 3.3 |
| Pot Cap-1 Maneuver   | -      | -      | 1235   | - | 346 716 |
| Stage 1              | -      | -      | -      | - | 733 -   |
| Stage 2              | -      | -      | -      | - | 618 -   |
| Platoon blocked, %   | -      | -      | -      | - | -       |
| Mov Cap-1 Maneuver   | -      | -      | 1235   | - | 346 716 |
| Mov Cap-2 Maneuver   | -      | -      | -      | - | 346 -   |
| Stage 1              | -      | -      | -      | - | 733 -   |
| Stage 2              | -      | -      | -      | - | 618 -   |

| Approach             | EB | WB | NB   |
|----------------------|----|----|------|
| HCM Control Delay, s | 0  | 0  | 15.5 |
| HCM LOS              |    |    | C    |

| Minor Lane/Major Mvmt | NBLn1 | EBT | EBR | WBL  | WBT |
|-----------------------|-------|-----|-----|------|-----|
| Capacity (veh/h)      | 346   | -   | -   | 1235 | -   |
| HCM Lane V/C Ratio    | 0.006 | -   | -   | -    | -   |
| HCM Control Delay (s) | 15.5  | -   | -   | 0    | -   |
| HCM Lane LOS          | C     | -   | -   | A    | -   |
| HCM 95th %tile Q(veh) | 0     | -   | -   | 0    | -   |

| Intersection             |      |      |      |      |      |      |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.8  |      |      |      |      |      |      |      |      |      |      |      |
| Movement                 | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
| Lane Configurations      |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h       | 11   | 302  | 4    | 4    | 477  | 20   | 12   | 4    | 8    | 4    | 0    | 4    |
| Future Vol, veh/h        | 11   | 302  | 4    | 4    | 477  | 20   | 12   | 4    | 8    | 4    | 0    | 4    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Free | Free | Stop | Stop | Stop | Stop | Stop | Stop |
| RT Channelized           | -    | -    | None | -    | -    | None | -    | -    | None | -    | -    | None |
| Storage Length           | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Grade, %                 | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    | -    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 12   | 328  | 4    | 4    | 518  | 22   | 13   | 4    | 9    | 4    | 0    | 4    |

| Major/Minor          | Major1 |   |   | Major2 |   |   | Minor1 |     |     | Minor2 |     |     |
|----------------------|--------|---|---|--------|---|---|--------|-----|-----|--------|-----|-----|
| Conflicting Flow All | 540    | 0 | 0 | 332    | 0 | 0 | 893    | 902 | 330 | 898    | 893 | 529 |
| Stage 1              | -      | - | - | -      | - | - | 354    | 354 | -   | 537    | 537 | -   |
| Stage 2              | -      | - | - | -      | - | - | 539    | 548 | -   | 361    | 356 | -   |
| Critical Hdwy        | 4.1    | - | - | 4.1    | - | - | 7.1    | 6.5 | 6.2 | 7.1    | 6.5 | 6.2 |
| Critical Hdwy Stg 1  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Critical Hdwy Stg 2  | -      | - | - | -      | - | - | 6.1    | 5.5 | -   | 6.1    | 5.5 | -   |
| Follow-up Hdwy       | 2.2    | - | - | 2.2    | - | - | 3.5    | 4   | 3.3 | 3.5    | 4   | 3.3 |
| Pot Cap-1 Maneuver   | 1039   | - | - | 1239   | - | - | 264    | 280 | 716 | 262    | 283 | 554 |
| Stage 1              | -      | - | - | -      | - | - | 667    | 634 | -   | 532    | 526 | -   |
| Stage 2              | -      | - | - | -      | - | - | 530    | 520 | -   | 662    | 633 | -   |
| Platoon blocked, %   | -      | - | - | -      | - | - | -      | -   | -   | -      | -   | -   |
| Mov Cap-1 Maneuver   | 1039   | - | - | 1239   | - | - | 258    | 275 | 716 | 252    | 278 | 554 |
| Mov Cap-2 Maneuver   | -      | - | - | -      | - | - | 258    | 275 | -   | 252    | 278 | -   |
| Stage 1              | -      | - | - | -      | - | - | 658    | 625 | -   | 525    | 523 | -   |
| Stage 2              | -      | - | - | -      | - | - | 523    | 517 | -   | 640    | 624 | -   |

| Approach             | EB  |  |  | WB  |  |  | NB   |  |  | SB   |  |  |
|----------------------|-----|--|--|-----|--|--|------|--|--|------|--|--|
| HCM Control Delay, s | 0.3 |  |  | 0.1 |  |  | 16.8 |  |  | 15.7 |  |  |
| HCM LOS              |     |  |  |     |  |  | C    |  |  | C    |  |  |

| Minor Lane/Major Mvmt | NBLn1 | EBL   | EBT | EBR | WBL   | WBT | WBR | SBLn1 |
|-----------------------|-------|-------|-----|-----|-------|-----|-----|-------|
| Capacity (veh/h)      | 332   | 1039  | -   | -   | 1239  | -   | -   | 346   |
| HCM Lane V/C Ratio    | 0.079 | 0.012 | -   | -   | 0.004 | -   | -   | 0.025 |
| HCM Control Delay (s) | 16.8  | 8.5   | 0   | -   | 7.9   | 0   | -   | 15.7  |
| HCM Lane LOS          | C     | A     | A   | -   | A     | A   | -   | C     |
| HCM 95th %tile Q(veh) | 0.3   | 0     | -   | -   | 0     | -   | -   | 0.1   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 0.2  |      |      |      |      |      |
| Movement                 | EBL  | EBT  | WBT  | WBR  | SBL  | SBR  |
| Lane Configurations      |      | ↶    | ↷    |      | ↶    |      |
| Traffic Vol, veh/h       | 3    | 311  | 499  | 13   | 8    | 2    |
| Future Vol, veh/h        | 3    | 311  | 499  | 13   | 8    | 2    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | -    | 0    | 0    | -    | 0    | -    |
| Grade, %                 | -    | 0    | 0    | -    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 3    | 338  | 542  | 14   | 9    | 2    |

| Major/Minor          | Major1 | Major2 | Minor2 |   |         |
|----------------------|--------|--------|--------|---|---------|
| Conflicting Flow All | 556    | 0      | -      | 0 | 893 549 |
| Stage 1              | -      | -      | -      | - | 549 -   |
| Stage 2              | -      | -      | -      | - | 344 -   |
| Critical Hdwy        | 4.1    | -      | -      | - | 6.4 6.2 |
| Critical Hdwy Stg 1  | -      | -      | -      | - | 5.4 -   |
| Critical Hdwy Stg 2  | -      | -      | -      | - | 5.4 -   |
| Follow-up Hdwy       | 2.2    | -      | -      | - | 3.5 3.3 |
| Pot Cap-1 Maneuver   | 1025   | -      | -      | - | 315 539 |
| Stage 1              | -      | -      | -      | - | 583 -   |
| Stage 2              | -      | -      | -      | - | 722 -   |
| Platoon blocked, %   |        | -      | -      | - |         |
| Mov Cap-1 Maneuver   | 1025   | -      | -      | - | 314 539 |
| Mov Cap-2 Maneuver   | -      | -      | -      | - | 314 -   |
| Stage 1              | -      | -      | -      | - | 581 -   |
| Stage 2              | -      | -      | -      | - | 722 -   |

| Approach             | EB  | WB | SB   |
|----------------------|-----|----|------|
| HCM Control Delay, s | 0.1 | 0  | 15.8 |
| HCM LOS              |     |    | C    |

| Minor Lane/Major Mvmt | EBL   | EBT | WBT | WBR | SBLn1 |
|-----------------------|-------|-----|-----|-----|-------|
| Capacity (veh/h)      | 1025  | -   | -   | -   | 343   |
| HCM Lane V/C Ratio    | 0.003 | -   | -   | -   | 0.032 |
| HCM Control Delay (s) | 8.5   | 0   | -   | -   | 15.8  |
| HCM Lane LOS          | A     | A   | -   | -   | C     |
| HCM 95th %tile Q(veh) | 0     | -   | -   | -   | 0.1   |

| Intersection              |     |
|---------------------------|-----|
| Intersection Delay, s/veh | 7.2 |
| Intersection LOS          | A   |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 2    | 5    | 0    | 0    | 4    | 56   | 14   | 0    | 38   | 0    |
| Future Vol, veh/h   | 0    | 0    | 2    | 5    | 0    | 0    | 4    | 56   | 14   | 0    | 38   | 0    |
| Peak Hour Factor    | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 2    | 5    | 0    | 0    | 4    | 61   | 15   | 0    | 41   | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB  |
|----------------------------|-----|-----|-----|-----|
| Opposing Approach          | WB  | EB  | SB  | NB  |
| Opposing Lanes             | 1   | 1   | 1   | 1   |
| Conflicting Approach Left  | SB  | NB  | EB  | WB  |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1   |
| Conflicting Approach Right | NB  | SB  | WB  | EB  |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1   |
| HCM Control Delay          | 6.6 | 7.4 | 7.2 | 7.2 |
| HCM LOS                    | A   | A   | A   | A   |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 5%    | 0%    | 100%  | 0%    |
| Vol Thru, %            | 76%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 19%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 74    | 2     | 5     | 38    |
| LT Vol                 | 4     | 0     | 5     | 0     |
| Through Vol            | 56    | 0     | 0     | 38    |
| RT Vol                 | 14    | 2     | 0     | 0     |
| Lane Flow Rate         | 80    | 2     | 5     | 41    |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.086 | 0.002 | 0.007 | 0.046 |
| Departure Headway (Hd) | 3.842 | 3.513 | 4.312 | 3.973 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 935   | 1011  | 826   | 903   |
| Service Time           | 1.853 | 1.561 | 2.358 | 1.99  |
| HCM Lane V/C Ratio     | 0.086 | 0.002 | 0.006 | 0.045 |
| HCM Control Delay      | 7.2   | 6.6   | 7.4   | 7.2   |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0.3   | 0     | 0     | 0.1   |

|                           |     |  |  |  |  |  |  |  |  |  |  |  |
|---------------------------|-----|--|--|--|--|--|--|--|--|--|--|--|
| <b>Intersection</b>       |     |  |  |  |  |  |  |  |  |  |  |  |
| Intersection Delay, s/veh | 7.2 |  |  |  |  |  |  |  |  |  |  |  |
| Intersection LOS          | A   |  |  |  |  |  |  |  |  |  |  |  |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↕    |      |      | ↕    |      |      | ↕    |      |      | ↕    |      |
| Traffic Vol, veh/h  | 0    | 0    | 2    | 2    | 0    | 0    | 2    | 52   | 2    | 0    | 34   | 0    |
| Future Vol, veh/h   | 0    | 0    | 2    | 2    | 0    | 0    | 2    | 52   | 2    | 0    | 34   | 0    |
| Peak Hour Factor    | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 2    | 2    | 0    | 0    | 2    | 57   | 2    | 0    | 37   | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB  | SB  |
|----------------------------|-----|-----|-----|-----|
| Opposing Approach          | WB  | EB  | SB  | NB  |
| Opposing Lanes             | 1   | 1   | 1   | 1   |
| Conflicting Approach Left  | SB  | NB  | EB  | WB  |
| Conflicting Lanes Left     | 1   | 1   | 1   | 1   |
| Conflicting Approach Right | NB  | SB  | WB  | EB  |
| Conflicting Lanes Right    | 1   | 1   | 1   | 1   |
| HCM Control Delay          | 6.5 | 7.3 | 7.2 | 7.1 |
| HCM LOS                    | A   | A   | A   | A   |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 4%    | 0%    | 100%  | 0%    |
| Vol Thru, %            | 93%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 4%    | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 56    | 2     | 2     | 34    |
| LT Vol                 | 2     | 0     | 2     | 0     |
| Through Vol            | 52    | 0     | 0     | 34    |
| RT Vol                 | 2     | 2     | 0     | 0     |
| Lane Flow Rate         | 61    | 2     | 2     | 37    |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.066 | 0.002 | 0.003 | 0.041 |
| Departure Headway (Hd) | 3.921 | 3.47  | 4.271 | 3.953 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 917   | 1026  | 835   | 908   |
| Service Time           | 1.93  | 1.509 | 2.31  | 1.965 |
| HCM Lane V/C Ratio     | 0.067 | 0.002 | 0.002 | 0.041 |
| HCM Control Delay      | 7.2   | 6.5   | 7.3   | 7.1   |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0.2   | 0     | 0     | 0.1   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 4.1  |      |      |      |      |      |
| Movement                 | EBT  | EBR  | WBL  | WBT  | NBL  | NBR  |
| Lane Configurations      |      |      |      |      |      |      |
| Traffic Vol, veh/h       | 12   | 32   | 2    | 20   | 50   | 2    |
| Future Vol, veh/h        | 12   | 32   | 2    | 20   | 50   | 2    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Free | Free | Free | Free | Stop | Stop |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | -    | -    | -    | -    | 0    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 13   | 35   | 2    | 22   | 54   | 2    |

| Major/Minor          | Major1 | Major2 | Minor1 | Minor2 | Minor3 |
|----------------------|--------|--------|--------|--------|--------|
| Conflicting Flow All | 0      | 0      | 48     | 0      | 57     |
| Stage 1              | -      | -      | -      | -      | 31     |
| Stage 2              | -      | -      | -      | -      | 26     |
| Critical Hdwy        | -      | -      | 4.1    | -      | 6.4    |
| Critical Hdwy Stg 1  | -      | -      | -      | -      | 5.4    |
| Critical Hdwy Stg 2  | -      | -      | -      | -      | 5.4    |
| Follow-up Hdwy       | -      | -      | 2.2    | -      | 3.5    |
| Pot Cap-1 Maneuver   | -      | -      | 1572   | -      | 955    |
| Stage 1              | -      | -      | -      | -      | 997    |
| Stage 2              | -      | -      | -      | -      | 1002   |
| Platoon blocked, %   | -      | -      | -      | -      | -      |
| Mov Cap-1 Maneuver   | -      | -      | 1572   | -      | 954    |
| Mov Cap-2 Maneuver   | -      | -      | -      | -      | 954    |
| Stage 1              | -      | -      | -      | -      | 997    |
| Stage 2              | -      | -      | -      | -      | 1001   |

| Approach             | EB | WB  | NB |
|----------------------|----|-----|----|
| HCM Control Delay, s | 0  | 0.7 | 9  |
| HCM LOS              |    |     | A  |

| Minor Lane/Major Mvmt | NBLn1 | EBT | EBR | WBL   | WBT |
|-----------------------|-------|-----|-----|-------|-----|
| Capacity (veh/h)      | 957   | -   | -   | 1572  | -   |
| HCM Lane V/C Ratio    | 0.059 | -   | -   | 0.001 | -   |
| HCM Control Delay (s) | 9     | -   | -   | 7.3   | 0   |
| HCM Lane LOS          | A     | -   | -   | A     | A   |
| HCM 95th %tile Q(veh) | 0.2   | -   | -   | 0     | -   |

| Intersection              |   |
|---------------------------|---|
| Intersection Delay, s/veh | 7 |
| Intersection LOS          | A |

| Movement            | EBL  | EBT  | EBR  | WBL  | WBT  | WBR  | NBL  | NBT  | NBR  | SBL  | SBT  | SBR  |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Lane Configurations |      | ↔    |      |      | ↔    |      |      | ↔    |      |      | ↔    |      |
| Traffic Vol, veh/h  | 0    | 0    | 1    | 5    | 0    | 0    | 5    | 25   | 12   | 0    | 16   | 0    |
| Future Vol, veh/h   | 0    | 0    | 1    | 5    | 0    | 0    | 5    | 25   | 12   | 0    | 16   | 0    |
| Peak Hour Factor    | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 | 0.92 |
| Heavy Vehicles, %   | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow           | 0    | 0    | 1    | 5    | 0    | 0    | 5    | 27   | 13   | 0    | 17   | 0    |
| Number of Lanes     | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 1    | 0    |

| Approach                   | EB  | WB  | NB | SB |
|----------------------------|-----|-----|----|----|
| Opposing Approach          | WB  | EB  | SB | NB |
| Opposing Lanes             | 1   | 1   | 1  | 1  |
| Conflicting Approach Left  | SB  | NB  | EB | WB |
| Conflicting Lanes Left     | 1   | 1   | 1  | 1  |
| Conflicting Approach Right | NB  | SB  | WB | EB |
| Conflicting Lanes Right    | 1   | 1   | 1  | 1  |
| HCM Control Delay          | 6.4 | 7.3 | 7  | 7  |
| HCM LOS                    | A   | A   | A  | A  |

| Lane                   | NBLn1 | EBLn1 | WBLn1 | SBLn1 |
|------------------------|-------|-------|-------|-------|
| Vol Left, %            | 12%   | 0%    | 100%  | 0%    |
| Vol Thru, %            | 60%   | 0%    | 0%    | 100%  |
| Vol Right, %           | 29%   | 100%  | 0%    | 0%    |
| Sign Control           | Stop  | Stop  | Stop  | Stop  |
| Traffic Vol by Lane    | 42    | 1     | 5     | 16    |
| LT Vol                 | 5     | 0     | 5     | 0     |
| Through Vol            | 25    | 0     | 0     | 16    |
| RT Vol                 | 12    | 1     | 0     | 0     |
| Lane Flow Rate         | 46    | 1     | 5     | 17    |
| Geometry Grp           | 1     | 1     | 1     | 1     |
| Degree of Util (X)     | 0.048 | 0.001 | 0.006 | 0.019 |
| Departure Headway (Hd) | 3.777 | 3.413 | 4.21  | 3.946 |
| Convergence, Y/N       | Yes   | Yes   | Yes   | Yes   |
| Cap                    | 953   | 1048  | 851   | 911   |
| Service Time           | 1.782 | 1.435 | 2.232 | 1.954 |
| HCM Lane V/C Ratio     | 0.048 | 0.001 | 0.006 | 0.019 |
| HCM Control Delay      | 7     | 6.4   | 7.3   | 7     |
| HCM Lane LOS           | A     | A     | A     | A     |
| HCM 95th-tile Q        | 0.2   | 0     | 0     | 0.1   |

| Intersection             |      |      |      |      |      |      |
|--------------------------|------|------|------|------|------|------|
| Int Delay, s/veh         | 7.3  |      |      |      |      |      |
| Movement                 | EBL  | EBR  | NBL  | NBT  | SBT  | SBR  |
| Lane Configurations      | T    |      |      | T    |      | T    |
| Traffic Vol, veh/h       | 0    | 15   | 24   | 1    | 1    | 0    |
| Future Vol, veh/h        | 0    | 15   | 24   | 1    | 1    | 0    |
| Conflicting Peds, #/hr   | 0    | 0    | 0    | 0    | 0    | 0    |
| Sign Control             | Stop | Stop | Free | Free | Free | Free |
| RT Channelized           | -    | None | -    | None | -    | None |
| Storage Length           | 0    | -    | -    | -    | -    | -    |
| Veh in Median Storage, # | 0    | -    | -    | 0    | 0    | -    |
| Grade, %                 | 0    | -    | -    | 0    | 0    | -    |
| Peak Hour Factor         | 92   | 92   | 92   | 92   | 92   | 92   |
| Heavy Vehicles, %        | 0    | 0    | 0    | 0    | 0    | 0    |
| Mvmt Flow                | 0    | 16   | 26   | 1    | 1    | 0    |

| Major/Minor          | Minor2 | Major1 |      | Major2 |   |
|----------------------|--------|--------|------|--------|---|
| Conflicting Flow All | 54     | 1      | 1    | 0      | 0 |
| Stage 1              | 1      | -      | -    | -      | - |
| Stage 2              | 53     | -      | -    | -      | - |
| Critical Hdwy        | 6.4    | 6.2    | 4.1  | -      | - |
| Critical Hdwy Stg 1  | 5.4    | -      | -    | -      | - |
| Critical Hdwy Stg 2  | 5.4    | -      | -    | -      | - |
| Follow-up Hdwy       | 3.5    | 3.3    | 2.2  | -      | - |
| Pot Cap-1 Maneuver   | 959    | 1090   | 1635 | -      | - |
| Stage 1              | 1028   | -      | -    | -      | - |
| Stage 2              | 975    | -      | -    | -      | - |
| Platoon blocked, %   |        |        |      | -      | - |
| Mov Cap-1 Maneuver   | 944    | 1090   | 1635 | -      | - |
| Mov Cap-2 Maneuver   | 944    | -      | -    | -      | - |
| Stage 1              | 1012   | -      | -    | -      | - |
| Stage 2              | 975    | -      | -    | -      | - |

| Approach             | EB  | NB  | SB |
|----------------------|-----|-----|----|
| HCM Control Delay, s | 8.4 | 6.9 | 0  |
| HCM LOS              | A   |     |    |

| Minor Lane/Major Mvmt | NBL   | NBT | EBLn1 | SBT | SBR |
|-----------------------|-------|-----|-------|-----|-----|
| Capacity (veh/h)      | 1635  | -   | 1090  | -   | -   |
| HCM Lane V/C Ratio    | 0.016 | -   | 0.015 | -   | -   |
| HCM Control Delay (s) | 7.2   | 0   | 8.4   | -   | -   |
| HCM Lane LOS          | A     | A   | A     | -   | -   |
| HCM 95th %tile Q(veh) | 0     | -   | 0     | -   | -   |



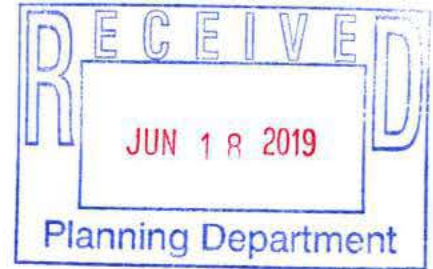


May 24, 2019

Catherine Olsen  
Friends of Baker Creek  
2650 NW Pinot Noir Drive  
McMinnville, OR 97128

Via email: cdolsen@earthlink.net

Regarding: Baker Creek Hydrologic Analysis  
McMinnville, OR  
PBS Project 71440.000



Dear Catherine:

As you know, in May of this year, PBS prepared a Hydrologic Analysis of Baker Creek (PBS Report) for your organization. On May 15, 2019, PBS was made aware of a response to the PBS Report by the Kellington Law Group (Kellington), on behalf of the Oak Ridge Development applicant, Premier Development, LLC. This letter discusses responds, point by point, to the assertions in the Kellington letter and explains why PBS' conclusions in the PBS Report are valid and PBS stands by its Report.

Kellington first indicates that the "consultant report would not support a FEMA LOMR..." This comment ignores the intent of the PBS Report; the PBS Report was never intended to support a FEMA LOMR –the PBS report is pointedly a "Hydrology Study" and not an "MT-2 Narrative" that would support a LOMR. as explained in the Executive Summary of the PBS Report, PBS was asked to "perform a hydrologic analysis of Baker Creek and evaluate potential floodplain impacts of recent and future development." That is what the PBS Report did and, as explained in the Report, the conclusion that it reached is that the City's current flood insurance rate maps are outdated and in need of revision.

Kellington then goes on to claim that the mathematic calculations presented in the report are inaccurate for several reasons. Those reasons are each addressed below.

1. **The response states that the PBS report “vastly...overestimates the peak flow rates of water in Baker Creek.” Kellington asserts that PBS “jiggered” the numbers so that the concentration of peak flow happens earlier than it does.**

PBS acknowledges that the Report contained a typographical error, but the analysis was performed correctly, notwithstanding the typo. The typo mistakenly discusses and provides the definition for time of concentration. This section should have described the calculated parameters as lag time. This section should, therefore read as follows:

**3.4 Lag Time**

Curve number methodology in the HEC-HMS model requires that a lag time be estimated for each watershed in order to apply the unit hydrograph and calculate runoff. The SCS method prescribes a watershed lag method for calculating time of concentration as follows:

$$L = \frac{l^{0.8}(S + 1)^{0.7}}{1,900 * Y^{0.5}}$$

Where:  $L$  = Lag Time (hours)  
 $l$  = Longest Flow Path (LFP) length (feet)  
 $S = \frac{1,000}{CN} - 10$  = Maximum potential retention (inches)  
 $Y$  = Average watershed land slope (%)

Calculation of the maximum potential retention parameter requires the CN value for the watershed, estimated as described in Section 3.3. This equation has been developed to represent the lag time for watersheds of varying type and size.

What Kellington overlooked is that the proper input to the HEC-HMS model is, in fact, the lag time, and **not** the time of concentration. The lag equation was, therefore, *intentionally* applied to the basins. We recognize the typographical error contained in the PBS report but can assure that the calculated lag time was properly input into the hydrologic model. We have revised the PBS report accordingly, but correcting the typo does not change the result of our analysis.

2. **Kellington goes on to claim that the hydrologic model is undermined by the choice of calibration watersheds, providing unit discharges for two of the calibration watersheds (140 cfs per square mile and 154 cfs per square mile for Butte and Tualatin Creeks, respectively)**

Kellington has utilized unit discharge as reasoning to support the implication that a “whopping” 249 cfs per square mile is out of the realm of possibility. What Kellington selectively omits is that the gage statistics for the third calibration watershed (Scoggins Creek) indicate that its 100-year peak unit discharge for that gage is over 230 cfs per square mile, which is very similar to that estimated for the Baker Creek watershed.

Unit discharges are not a reliable way to compare watersheds in isolation. Unit discharge is ultimately influenced by a number of factors, including watershed geometry, soil types, and land cover types. One reason for higher unit discharge occurring in the Baker Creek watershed than in the Tualatin and Butte watersheds is that the calculated curve number parameter is higher than in the other watersheds, which results in a greater volume of runoff from the surfaces in the watershed. It stands out that a watershed with more similar size and calculated curve number parameter, all included in the report, has very similar unit discharge to Baker Creek.

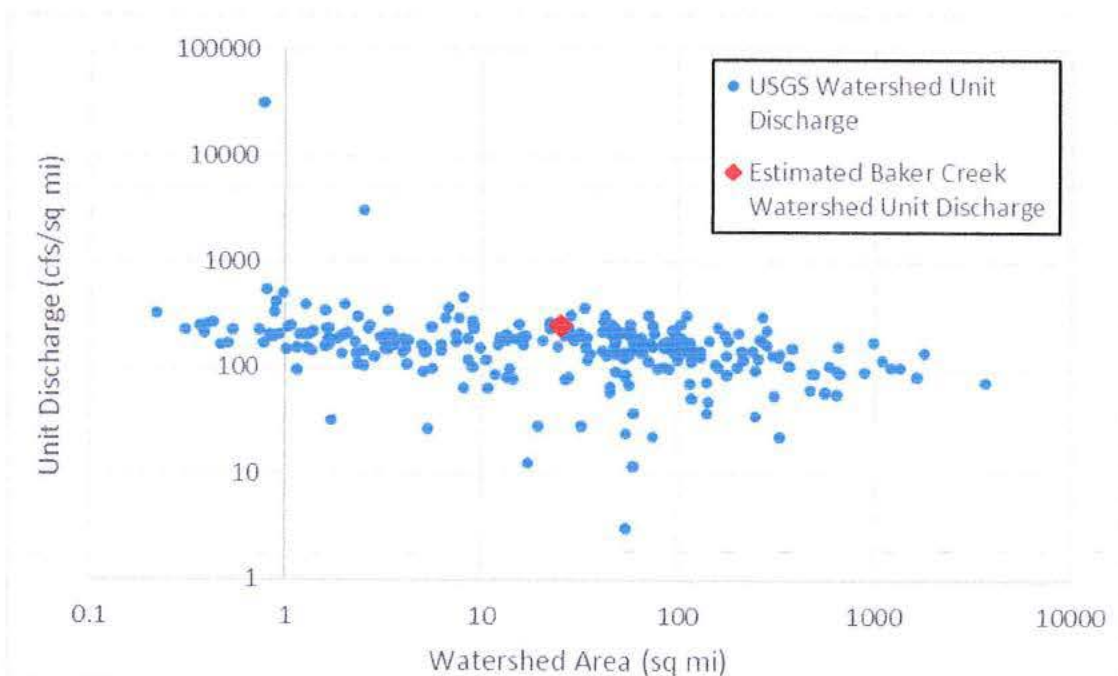
Choice of calibration watersheds is based on a number of factors, including:

- a. Watershed Area
- b. Watershed Geometry

- c. Soil and Land Use Make-up
- d. Location in relation to the study watershed

Ideally, these factors are all the same in the calibration watershed as in the study watershed. However, each watershed is unique and this is almost never the case – there simply aren't enough stream gages present to support an ideal analysis. These factors must be balanced by a qualified Engineer when such analysis is performed.<sup>1</sup> Adjustments in the PBS report to curve numbers were based on the watersheds sharing the greatest similarity balanced with proximity to Baker Creek; however, no two watersheds are completely alike.

This is most easily observed using a study of Western Oregon watersheds by the USGS, in which the regression equations for flow estimates in ungaged watersheds are based. 100-year flows and watershed areas extracted from that study, placed on a log-log plot show that the estimated Baker Creek unit discharge is not an obvious outlier from watersheds of similar size:

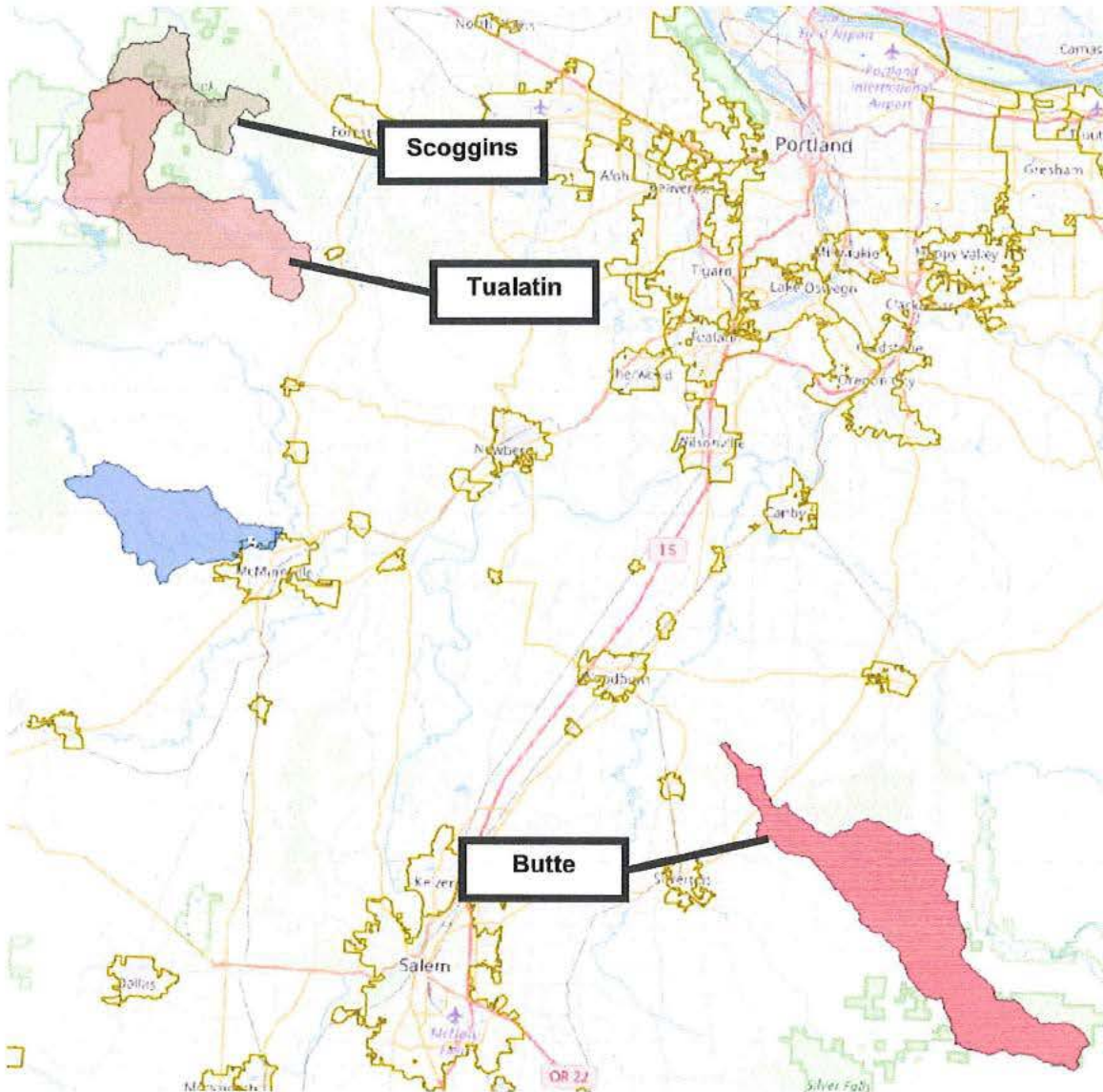


The calibration is founded on adjustment of the Curve Number according to the soil conditions and land uses present in the watershed. Curve number adjustment is therefore primarily based on the watershed with the closest physical properties (reference Table 10 and 11) and proximity. Even for a watershed with similar unit discharge (Scoggins), the curve number adjustment required to achieve a match to the 100-year gage statistic for peak flow is greater than that required for the other two watersheds.

If curve number adjustment were performed based on similar unit discharge alone, the result would actually have been higher peak discharge for Baker Creek. However, greater weight was given to the watersheds with more similar soil properties. This is an exercise of engineering judgment, based on experience calibrating Curve Number methodology.

<sup>1</sup> It is worth noting that Ms. Kellington is an attorney – not an engineer – and provides no basis to believe that she had the training or qualifications to undertake any such judgments or analysis. It is worth noting that the applicant has retained an engineer, but that engineer either did not perform the analysis, or was unwilling to put his name on the arguments made by Ms. Kellington.

For reference, a figure of the watersheds is provided below.



This leaves a multitude of reasons that the Baker Creek unit discharge is higher than the calibration watersheds, none of which have anything to do with improper calibration of curve number values. The most obvious reason is a higher curve number due to the presence of larger concentrations of Type C/D soils and somewhat more urbanization and agricultural uses, as well as a far more complex geometry. Baker Creek also has a relatively large northern branch (drainage area 3) coming to a confluence with flows from drainage areas 1 and 2. This lends itself to a somewhat different aspect ratio from the calibration watersheds, which do not have a significant tributary branch.

If every gaged watershed were eliminated from consideration in a calibration on the foundation of Kellington's assertions of dissimilarity of unit discharge, no calibration would be possible. Again, the arguments in Kellington's letter provides no reason for PBS to change the conclusions in its report.

- 3. Kellington notes that the hydraulic model relies exclusively upon LIDAR data and that the “Date of the LIDAR data used is not revealed – it could have been from spring or winter when the stream channel was full of water.” Kellington also indicates that the report’s “point of beginning – the capacity of the channel to handle storm water – is faulty.” The response further notes that the channel survey result came in May 15, 2019. Kellington makes the assertion that the “discharge capacity within the channel could be as much as 500 to 1,000 cfs greater than what the...hydraulic model indicates”.**

Although there is no requirement to include the date of the LiDAR data, the LiDAR dataset utilized in the study is the 2012 Tillmaook-Yamhill Bare Earth returns, collected between September 23<sup>rd</sup> and October 5<sup>th</sup>, 2012 (Full LiDAR metadata is available on the DOGAMI website). The assertion that the report’s “point of beginning” is an analysis of the capacity of the channel is, once again, a misrepresentation of the purpose of this report. The report is, after all, a *Hydrology Study*, with an ancillary Hydraulics element to it. Kellington’s assertion that the conclusions of this impact analysis are “fallacious” is unwarranted and incorrect, constituting a misrepresentation of the purpose of the hydraulic modeling, and demonstrating that these analyses should be left to qualified engineers. The LiDAR data was used primarily as an impact analysis tool in this report and was found to be the best available information at the time that the study was performed. Regardless of the water surface elevations present in the channel, if an activity is going to have an impact on this hydraulic model, the nature of that impact (increase or decrease) will remain the same regardless of the ground surface inputs.

PBS understands that LiDAR accuracy is susceptible to water surface elevations; however, no better elevation data was available at the time of the study that might have improved accuracy.<sup>2</sup> Without survey data, one could also assume that geomorphological processes have had an impact on the creek in the 40 years since the FIS was published. Contrary to the assertion in the Kellington letter, observation of the LiDAR cross sections did not show an unnaturally flat channel bottom that would indicate water surface interference. The channel centerline utilized in this study does not match the FEMA channel centerline, so morphological change couldn’t be placed out of the realm of possibility.

Kellington also provides testimony of ground surface difference that provides neither reference to locations nor figures to support their evaluation of the LiDAR data. The Kellington letter further never provides the datum of the elevations to which they are comparing the LiDAR.

In any case, PBS would not, and did not, base a LOMR application on unverified topographical data. LiDAR, for the purposes of this study, was used merely to illustrate the potential differences in water surface elevations from the published BFEs due to development and agricultural activity in the watershed, and to identify the potential for flood risk outside of the effective floodplains. This report does not claim to support a LOMR, and it does not propose new flood hazard areas. The report explicitly notes that, if a LOMR application were performed, hydraulic structures should also be added to the modeling to ensure compliance with FEMA’s modeling requirements (reference to Section 4.1.3).

Setting aside the accuracy of the topography, Kellington has provided testimony on channel capacity, stating that “the discharge capacity within the channel could be as much as 500 to 1,000 cfs more than what the opponents’ hydraulic model indicates.” No numerical support has been provided for this estimate, nor are any documents or credentials cited that back Kellington’s assertion regarding the channel capacity.

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<sup>2</sup> Frankly, this only highlights to the PBS Report’s ultimate conclusion that the City’s current flood insurance maps are outdated and are in desperate need of revision.

Looking at the FIS independent of any ground surface data, the estimated 500-year flow is 2,400 cfs, which is only 370 cfs greater than the published 100-year flow rate. Zone X areas noted as areas of 0.2% chance (500-year) flood risk have clearly extended beyond the channel's banks. Based on this information, it is reasonable to state that the peak 100-year flow rate estimated by the PBS Report would extend flood hazard areas beyond the banks of the Creek. Such a vast increase in flow from the effective FIS, which clearly didn't take into account the complexity of the watershed geometry in its blind use of regression statistics, supports the conclusion of the PBS Report that the FEMA effective mapping is not reflective of current watershed conditions and the City's flood insurance maps are in need of updating.

**4. Kellington notes that Lake Oswego rain gage data was used to provide an evaluation of the hydraulic model's performance.**

**Kellington notes that the report relies for verification on anecdotal photographs that are undated and could have been taken at any time. Kellington states that this "can't be accurate" on the grounds that the "largest 24-hour storm event in November 2015 had a total rainfall for McMinnville airport of 1.53 inches, which is unlikely to be enough rainfall to cause [this] kind of flooding."**

The Lake Oswego Gage was originally used in the analysis because at the time, data downloads from the CDO website were not working due to server errors. The cause of these errors is not known. Since the report was issued, PBS has been able to download data from the NOAA CDO website.

Since the report was issued, residents have also clarified what dates their photos were taken and provided metadata for the photo files supporting clarification to the model verifications. The year of the photos in the PBS report were reversed, Figure 16 in the report was an observation of flooding during a December 7, 2015 rainfall event, while Figure 17 was taken during a December 18, 2018 rainfall event. These dates have been clarified in the attached revised report.

Kellington's evaluation far oversimplifies the complexity of both storm events and watershed response, citing 24-hour rainfall totals and making the claim solely based on those values that flooding is unlikely. The rainfall depth cited must be taken at face value in that it was taken at a single point in a 25 square mile watershed and does not provide a sub-24-hour duration analysis. A real storm event that brings 1.53 inches of precipitation over 24 hours at McMinnville airport can include a single hour that includes the vast majority of that 24-hour total. A single one-hour precipitation total can also bring "10-year" rainfall at one point in a watershed and "25-year" rainfall totals in another.

Hydrologic analyses such as that presented in the PBS Report are based on balanced, synthetic storm events that assume that a storm is not varying in its return period throughout its duration. While these are referred to as "24-hour storm events", that synthetic storm event includes a 2-year, 1-hour rainfall total, a 2-year, 6-hour rainfall total, and so on. In reality, a single hour of that event in isolation, due to its high intensity, could be capable of causing flooding regardless of the surrounding hourly rainfall.

Observation of the McMinnville Airport gage data on December 18, 2018 shows a single hour from approximately 11 AM to 12 PM that recorded 0.68 inches of rainfall. A 2-year, 1-hour rainfall total based on the ODOT precipitation GIS grid and a NOAA Type 1A storm distribution is about 0.70 inches in depth.

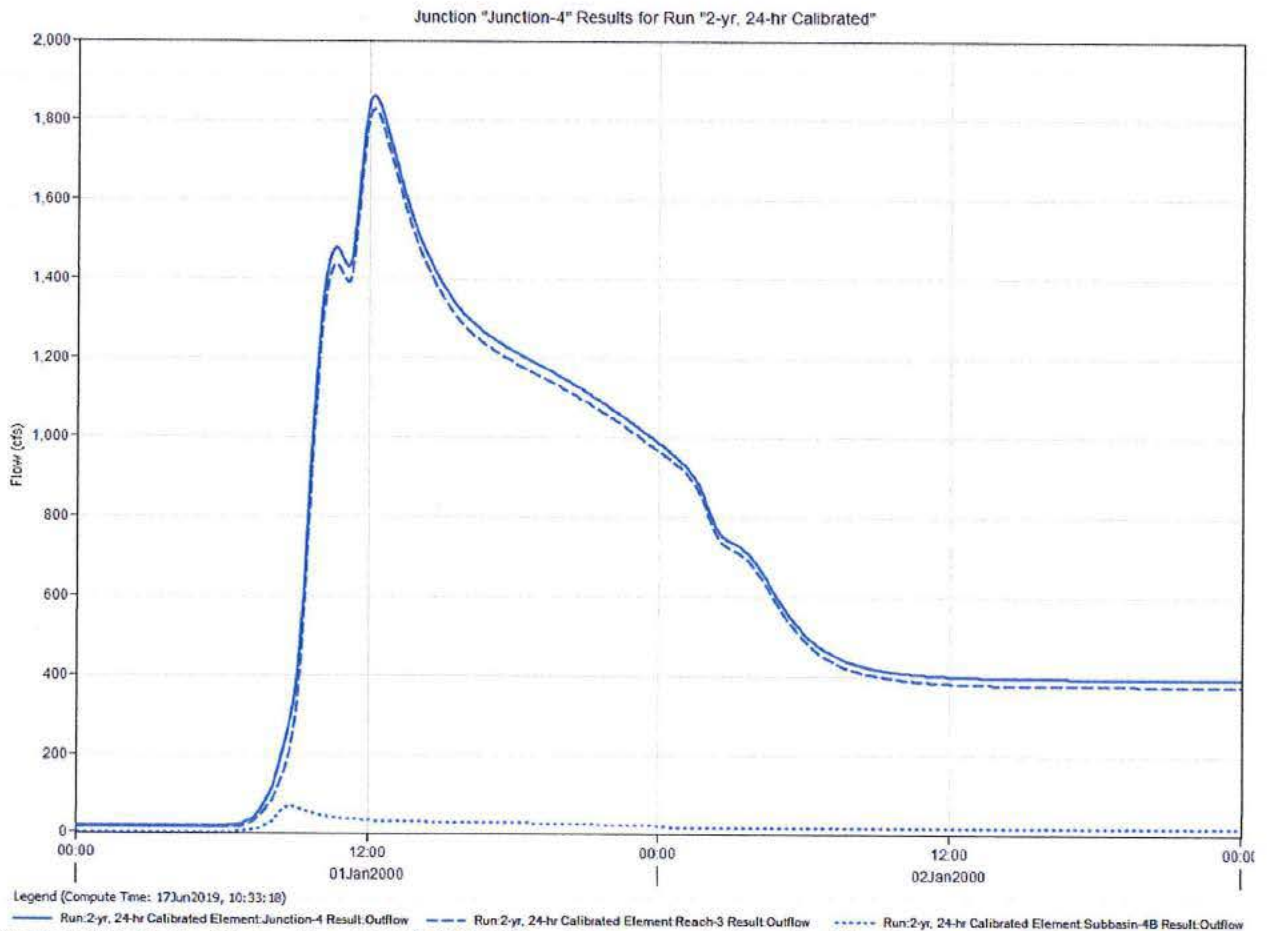
On December 7, 2015, 6- and 12-hour rainfall totals at the Airport gage registered 1.11 inches and 1.99 inches, respectively. Based on the same ODOT data, 2-year, 6-hour and 2-year, 12-hour

events produce approximately 1.39 and 1.83 inches of rainfall, respectively, on the Type 1A distribution used in the analysis.

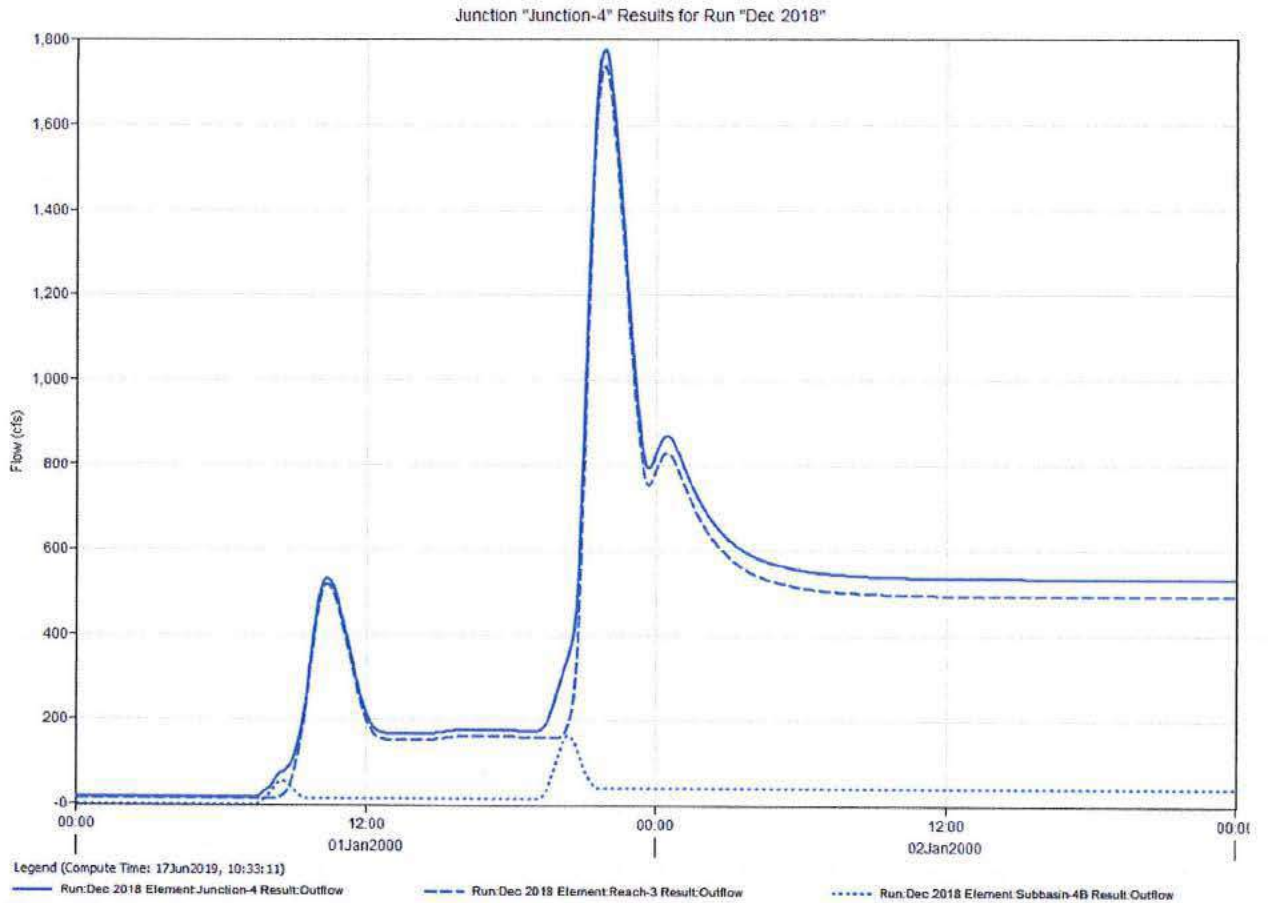
While the 24-hour rainfall totals for both flooding events may not have registered as a 2-year return period, sub-durations that would produce the bulk of a balanced 24-hour storm used in modeling did reach that level.

In order to illustrate this possibility, 1-hour precipitation readings from the McMinnville Airport gage for December 18, 2018 were input into the HEC-HMS hydrology model in order to roughly estimate peak flow produced by the watershed. The figures below provide the 2-year result first for a synthetic, Type 1A storm event, then for the December 18, 2018 event. This result indicates that peak flow values at the watershed's point of concentration from the two models fall within approximately 5% of one another.

While PBS recognizes that running precipitation data from a single point through the model may not represent the spatial distribution of the actual storm event, this exemplifies the reason that one cannot discount the possibility that these two events could cause overtopping of Baker Creek's banks.



**2-year Synthetic Storm Event HEC-HMS Flow Hydrograph Result at the Baker Creek Model's Point of Concentration (Peak Flow ~1,860 cfs).**



**December 2018 Rainfall Event HEC-HMS Model Result (Peak Flow ~1,780 cfs).**

What Kellington further does not acknowledge is that these photos, regardless of their exact dates, provide clear and specific evidence that flood waters encroached into areas beyond the 100-year FEMA-defined special flood hazard areas.



In sum, the Kellington's testimony does not impact the conclusions of the PBS Report, as the comments on the analysis were based on a typographical error that did not affect the accuracy of the model and the omission of data presented in the report to support their claims. Kellington's evaluation of the Hydraulic model as if it was intended to provide anything but an illustration of potential floodplain impacts is a misrepresentation of the intent of this report, which is to show that the currently effective FEMA study does not accurately depict the current extent of the floodplain.

We acknowledge that the typographical error in the report may have been the cause of some confusion in the interpretation of the Hydrologic analysis; accordingly, we have provided with this letter a revised copy of the report correcting this error, as well as providing a citation of the LiDAR dataset used and more specific photo dates and local rainfall data. Most importantly, our conclusions have not changed – it appears possible that a portion of the development proposed could lie within the 100-year floodplain based on modern modelling methods and statistics, and the effective flood insurance maps need to be updated.

Please feel free to contact me at 360.567.2105 or [justin.maynard@pbsusa.com](mailto:justin.maynard@pbsusa.com) with any questions or comments.

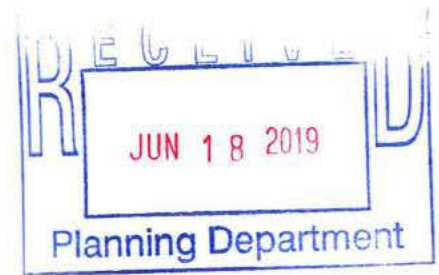
Sincerely,

Justin Maynard  
Civil/Water Resources Engineer

Attachments:  
*Kellington Law Group Testimony*  
*Revised Hydrology Report*

# ATTACHMENT I

JEFF TOWERY MEETING



Our group is not trying to block progress! And our claims are not false.

But approving a building project in a floodplain area is the opposite of what the comprehensive plan attempts to stop. And is clearly NOT progress.

I have included 8 pictures that we feel show that the Oak Ridge Meadows application really doesn't "technically" meet Comprehensive code requirements as the planning department strongly claims they do. But that Commissioners were basically bullied into supporting the application based on BS/unproven claim by both the applicant's attorney – and the city's own planning director that the actual facts we were presenting – were false and misleading. We truly want the city to look at all of the facts. And then make the best – and the safest decision.

1. EXHIBIT 1 -- FEMA map the applicant uses of the 11.47 acres that Premier is proposing to develop outlined in red and Toth's property in green. – both properties were buildable in 1983.
  - A. It is a 2010 picture/ – BUT, since the city's FEMA contact at that time (Ron Pomeroy) did not send FEMA 27 years of updated hydrology information (1983-2010) –
  - B. Since there were 8-9 developments built along Baker Creek road in that period – that directed All of their storm drainage to the Baker Creek Basin – it is obvious that the 100 and 500 year floodplains shown on the current FEMA map are totally incorrect.
  
2. EXHIBIT 2 -- 2<sup>nd</sup> FEMA map that also shows the quadrant 2-3 miles west of the lower 4722 property we are attempting to get removed from the Oak Ridge Meadows proposal.
  - A. Still 1983 hydrology info on a 2010 map – BUT it shows that the Baker Creek drainage covers a much larger area than the developer wanted Commissioners to realize.
  - B. Baker Creek drainage at bottom left. – And Berry Creek drainage at upper left.
  - C. Note that about ¼ mile east of where the two drainages combine – the Baker Creek bridge was in the 100 year floodplain even in 1983.
  
3. EXHIBIT 3 -- TIMELINE – OF DATES – AND MAJOR FLOODING EVENTS ON PREMIER'S AND TOTH'S PROPERTY.
  - A. This timeline chart shows that there were no major floods between 1996 and 2015.
  - B. BUT by 2015 – there had been enough development along Baker Creek Road – with so much additional storm drainage directed to the Baker Creek basin – that it only took 3.5 inches of rain to create the same approximate flooding as 12-14 inches did in 1996.
  
4. EXHIBIT 4 --- 2015 FLOOD PICTURES – LOOKING EAST FROM BROTT'S DECK - 12/8/15
  - A. Picture from Norma Brott's deck looking east – with Les Toth's barn at far right. And fence is on the property line.
    - A1. If you look at FEMA map – all the property east of fence is 500 year floodplain under 1s under 2-4 feet of water.

- A2. At least 3.5 acres of the land on the 4722 property west of the fence classified “wetlands” – is flooded to the same depth as the 500 year floodplain property.
  - A3. The water to the furthest right and east of fence (in front of Toth’s barn) is in the route Of the proposed extension to Pinehurst. – it will be illegal to build on as soon as FEMA Map is updated --- So the several times that the Planning Directors forcefully promised The Commissioners that Pinehurst will eventually be connected WERE MISLEADING, IMPROPER, AND FALSE.
  - A4. An updated FEMA map will also classify some of the 4722 property proposed for Fill, a road, and houses is most likely 100 year floodplain too.
- B. EXHIBIT 5 -- Picture 2 --- LOOKING – NORTH FROM BROTT’S DECK – 12/8/15
- B1. The fence to the right shows how much of the 11.47 acres west of the fence floods Yearly now.
  - B2. The ground under the red X was 3-4 feet lower in a 2004 google map. So, has been Filled with a lot of non-permitted fill.
  - B3. Again, if the city will update its FEMA map in the next 5-6 months – much of the property that Premier wants to fill and build a road/houses on will be reclassified as floodplain or 100 year floodplain – which would be illegal if not for the goal post rule.
  - B4. ALSO, the goal post rule doesn’t count towards mitigation does it? This picture Clearly shows that the applications claims of only 3 acres of wetlands are Another “technical” misrepresentation involving delineation? From my untrained Eye, it looks like at least 85% of this 11.47 acres is either floodplain, 100 year floodplain, 500 year floodplain, or wetlands. And the application uses the 1983 map to claim NO floodplain. And totally misrepresents the amount of actual wetlands area – to lower the cost of mitigation by several acres.
- C. EXHIBIT 6 - 2018 FLOOD PICTURE FROM COLVIN’S DECK (one house east of Brott’s)- 12/8/18 after approximately 2 inches of rain. – So flooding similar to 2015 --- WITH 1.0 – 1.5 FEWER INCHES OF RAIN! -- obviously the increased flooding is tied to the increased amount of storm drainage from new infrastructure projects.
- C1. Again, all the 500 yr floodplain property east of the fence is flooded several feet deep.
  - C2. And much of the “wetland” property west of the fence is flooded. – This is 2<sup>nd</sup> time This “wetland” area flooded 2-4 feet deep in two years – obviously floodplain now.
  - C3. The little channel of water an inch in from the bottom right corner is in the fill/road Area. This area would certainly be classified as floodplain or 100 yr floodplain in An updated FEMA study – and illegal to build on “if” FEMA current.
- D. EXHIBIT 7 – 12/8/18 PICTURE FROM TIM ROBERTS HOUSE IN LOWER CRESTBROOK.
- D1. The gate in picture is Tim’s flood gauge. – And 2 inches of rain from 5am on 17<sup>th</sup> To 5am on the 18<sup>th</sup> - created the highest flood water on Tim’s gate post in 25 years.
  - D1. To us – this proves how much more storm drainage was added to the Baker Creek basin

Between 2015 and 2018.

D2. About all of the 500 year floodplain is flooded.

E. EXHIBIT 8 – 12/08/15 PICTURE FROM ROB STEPHENSON’S PROPERTY. – looking northwest at property that 1980’s urban growth boundary report listed as “BUILDABLE LAND INVENTORY INSIDE THE URBAN GROWTH BOUNDARY” – this property and the 7-8 acres west of it are obviously “why” McMinnville’s planning director has tried so forcefully to gain access to the Baker Creek Basin.

E1. – 3.5 inches of rain flooded all of that property 3-4 feet deep in 2015

E2. – With storm drainage still being added to the basin --- how much higher would  
The water be from 3.5 inches of rain today?

CONCLUSION ON FLOODING - There has been so much storm runoff aimed at Baker Creek over the last 36 years that it now requires a very low amount of rainfall to threaten flooding in Crestbrook. It is time for the city to follow policy #143 – and not allow the filling and diking of a portion of the basin that is needed for overflow. Filling and diking will just increase the risk of flooding Crestbrook – and make the city a much easier target for the lawsuits that will certainly follow.

PLEASE ORDER A HYDROLOGY STUDY AND FEMA UPDATE TOMORROW. The benefits to the city are:

- 1) It will move the goal posts forward 36 years, so future development applications will be easier to rule on.
- 2) It will legally remove Pinehurst street as a possible access street – forever.
- 3) The floodplain property will be accurately classified – WHICH IS THE SAFE WAY TO ELIMINATE THE ACRES LISTED AS “BUILDABLE INVENTORY” FORTY YEARS AGO – FROM THE URBAN GROWTH CALCULATION WITHIN A YEAR.
- 4) It will save the city from unnecessarily trashing any more neighborhoods.



standards-flood-risk-analysis-and-mapping)

What's New (Whats-new-flood-hazard-mapping)

Software (/software)

Tutorials and Training (/online-tutorials)

Technical Mapping Advisory Council (/technical-mapping-advisory-council)

Living with Levees (/living-levees-its-shared-responsibility)

Numerical Models Meeting the Minimum Requirements (/numerical-models-meeting-minimum-requirements-national-flood-insurance-program)

User Groups (/user-groups)

Coordinated Needs Management Strategy (/coordinated-needs-management-strategy)

(/national-flood-insurance-program-flood-hazard-mapping/mt-1-application-forms-instructions) or MT-2 (/national-flood-insurance-program-flood-hazard-mapping/mt-2-application-forms-and-instructions) paper forms submitted through the mail.

## ✓ What Is The Difference Between ELOMA And Online-LOMC?

The eLOMA tool is a web-based application that provides licensed land surveyors and professional engineers (Licensed Professionals or LPs) and other FEMA approved Certified Professionals (CPs) with a system to submit LOMA requests that are not considered to be within a coastal zone (Zone V), an alluvial fan, or modified by fill to raise the elevation of the structure to FEMA. The eLOMA tool is designed specifically for registered LP and CP users to generate a determination from FEMA within minutes of submitting required information and data for the request. For more information on the eLOMA tool, [visit the eLOMA page](https://hazards.fema.gov/femaportal/wps/portal/%21ut/p/c4/04_5B8K8xL1M9MSSzPy8xBz9CP0os3gDCyNfiPC_7_082M67PSC80C2GORG6400000000000000_ContentData=%2Fresources%2Fwhatiseloma.htm) ([https://hazards.fema.gov/femaportal/wps/portal/%21ut/p/c4/04\\_5B8K8xL1M9MSSzPy8xBz9CP0os3gDCyNfiPC\\_7\\_082M67PSC80C2GORG6400000000000000\\_ContentData=%2Fresources%2Fwhatiseloma.htm](https://hazards.fema.gov/femaportal/wps/portal/%21ut/p/c4/04_5B8K8xL1M9MSSzPy8xBz9CP0os3gDCyNfiPC_7_082M67PSC80C2GORG6400000000000000_ContentData=%2Fresources%2Fwhatiseloma.htm)).

The Online LOMC tool is available to any applicant who would like to submit a LOMC request directly to FEMA and does not require a surveyor or engineer to submit. All types of LOMC requests may be processed through the Online LOMC tool and applicants may check the status of their application at any time. A determination resulting from information submitted via Online LOMC is not received until after FEMA reviews the supporting documentation and receives payment (if required). This process may take up to 60 days for amendment applications and up to 90 days for revision applications.

## ✓ Benefits Of The Online LOMC Application

Applicants receive immediate benefits when applying through the online application versus applying by mail. These benefits include:

- Ability to save information and complete amendment or revision applications at the applicant's convenience
- Immediate receipt of a case number once the completed online application is submitted
- Real-time updates on the application status as well as an inventory of all in-progress and previous applications submitted online
- Convenient online payment of fees (if required)
- Frequent applicants can manage multiple LOMC requests online
- Clear and intuitive interface
- More efficient communications with LOMC processing staff

## ✓ Who Can Submit An Online LOMC Application?

Community officials, property owners or lessees or designated authorized persons (e.g., agents, surveyors, engineers) can submit flood map change requests to FEMA.

## ✓ Documents Required To Complete The Online LOMC Application

The Online LOMC application requires specific information regarding the property (parcels) of land or structure(s), including the location, legal description and use of fill. In accordance with NFIP regulations, FEMA uses the information required in the Online LOMC application process to make a determination on whether or not a property is located within a designated SFHA.

In certain instances, additional data may be required. A FEMA representative will notify the applicant of any additional requirements needed to complete the request.

#### **Additional documents that may be required when requesting a LOMC:**

- **Elevation Form or Existing Elevation Certificate\*** - This document is located within the Online LOMC application
- **Subdivision Plat Map or Property Deed with Tax Assessor's Map or Other Suitable Map** - This document is located with the County/Parish Clerk, Recorder or Registrar of Deeds for the Community
- **Community Acknowledgement Form** - This document is located within the Online LOMC application
- **ESA Compliance Documentation\*\*** - This documentation can be satisfied by contacting the National Marine Fishery Service, U.S. Fish and Wildlife Service, State Wildlife Agency Office or an independent biologist
- **Riverine Hydrology and Hydraulics Form** - This document is located in the [FEMA Library \(/resource-document-library\)](#)
- **Riverine Structures Form** - This document is located in the [FEMA Library \(/resource-document-library\)](#)
- **Overview and Concurrence Form** - This document is located in the [FEMA Library \(/resource-document-library\)](#)
- **Coastal Analysis Form** - This document is located in the [FEMA Library \(/resource-document-library\)](#)
- **Coastal Structures Form** - This document is located in the [FEMA Library \(/resource-document-library\)](#)
- **Alluvial Fan Flooding Form** - This document is located in the [FEMA Library \(/resource-document-library\)](#)

**\* NOTE:** If the request is to make a determination on the structure and an NFIP Elevation Certificate has already been completed for this property, it may be submitted in lieu of the Elevation Form. Check with your community to see if an Elevation Certificate is already on file for your property or structure.

**\*\*NOTE:** The purpose of the ESA is to conserve threatened and endangered species and the ecosystems upon which they depend. Go to the [Compliance with the Endangered Species Act for Letters of Map Change \(/national-flood-insurance-program-endangered-species-act\)](#) to receive more guidance on how to obtain this documentation.

#### ✓ Start The Online LOMC Application

Getting started is easy and simple. Visit the [Online LOMC application \(https://hazards.fema.gov/femaportal/onlinelomc/signin\)](#) and start the process today! To register, select "New User? Click here to Sign Up!"

Users of Internet Explorer 9 and 10 should take the following steps, so they may be able to access Online LOMC:

1. Open Internet Options under the Tools Menu
2. Click the Advanced tab
3. Scroll down to Security and confirm the following items are checked: "Use TLS 1.1" and "Use TLS 1.2"
4. Click OK to exit Internet Options

#### Valuable Online LOMC Resources:

- [Online LOMC Flyer](http://www.fema.gov/media-library/assets/documents/29954?id=6735) ([//www.fema.gov/media-library/assets/documents/29954?id=6735](http://www.fema.gov/media-library/assets/documents/29954?id=6735))
- [Online LOMC FAQ](http://www.fema.gov/media-library/assets/documents/29948?id=6734) ([//www.fema.gov/media-library/assets/documents/29948?id=6734](http://www.fema.gov/media-library/assets/documents/29948?id=6734))
- [Online LOMC Training Tutorial](#) ([/online-lomc-training](#))

To receive updates about the Online LOMC sign up for the [Flood Hazard Mapping mailing list](#) ([email](#)).


For questions about the Online LOMC, contact a FEMA Map Specialist by calling the FEMA Map Information eXchange (FMIX) at 1-877-FEMA-MAP (1-877-336-2627) or e-mailing [FEMAMapSpecialist@riskmaprcds.com](mailto:FEMAMapSpecialist@riskmaprcds.com) (<mailto:FEMAMapSpecialist@riskmaprcds.com>).

#### ✓ How Do I Check The Status Of My Application?

If you submitted a LOMC application through Online LOMC, you may check the status of your application by logging into your [Online LOMC account](#) (<https://hazards.fema.gov/femaportal/onlinelomc/signin>). The application status is listed on the homepage after you log in. For more information, view the application [status definitions](#) ([/status-map-change-requests/status-map-change-requests/status-map-change-requests](#)).

If you submitted a request for a LOMC through the mail using the paper MT-1, MT-2, MT-EZ forms or used the eLOMA application process, visit the [Status of Map Change Requests](#) ([/status-map-change-requests/status-map-change-requests/status-map-change-requests](#)) webpage for more information.

Last Updated: 11/30/2018 - 09:47

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(<https://www.oig.dhs.gov/hotline>)

 Official website of the Department of Homeland Security



Exhibit #1

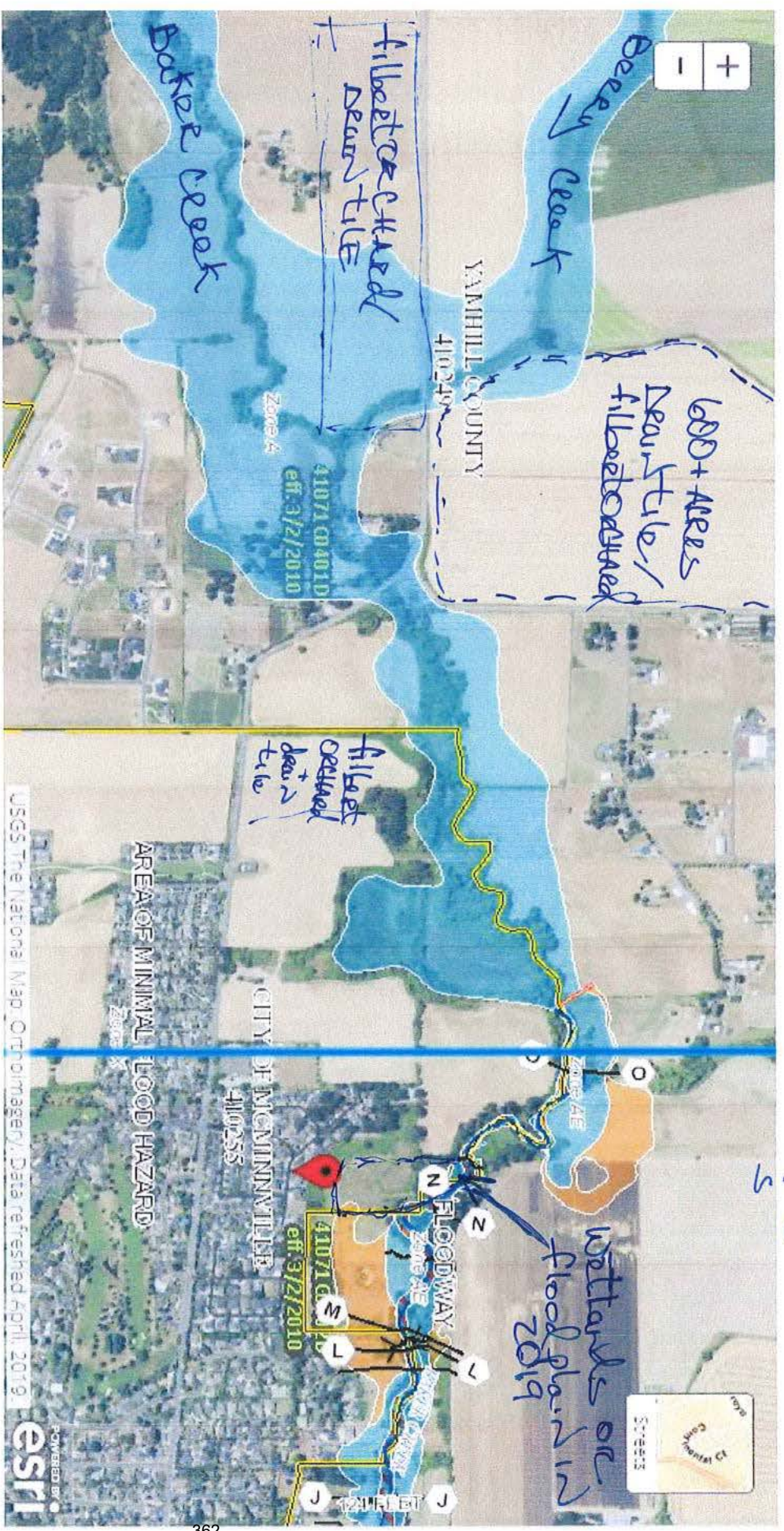


\* 1983/2010 FEMA Map shows the brown area surrounding Toth's baseball diamond has only a .2% chance of flooding

\*AND the "wetland" field west of the 500 year flood plain has a zero percent chance of flooding

\* This view from several thousand feet in the air - and 36 years into the past, looks very non-threatening

W  
N  
S  
E



- This FEMA MAP ALSO SHOWS 1983 INFORMATION
- But from 2-3 miles west -which shows a lot more water comes down out of the least Ravine
- That Beerley Creek drain age also adds to the Baker Creek flow
- And where approx 1200 acres of farm field drain tile has also increased the volume of drainage

Exhibit #3

| Year | Date of Flood   | Amount of Precipitation | Time between Major Floods |
|------|---|-------------------------|---------------------------|
| 1996 |   | 12"-14"                 | ?                         |
| 1997 |   |                         |                           |
| 1998 |   |                         |                           |
| 1999 |   |                         |                           |
| 2000 |   |                         |                           |
| 2001 |   |                         |                           |
| 2002 |   |                         |                           |
| 2003 | <p>NOTE: We Agree that the risk of flooding was very low until 2015 - when enough storm runoff had been directed to the basin in 19 years - That it only took 3.50 inches of rain to flood the basin equal to what 12-14 inches did in 1996</p> |                         |                           |
| 2004 |   |                         |                           |
| 2005 |   |                         |                           |
| 2006 |   |                         |                           |
| 2007 |   |                         |                           |
| 2008 |   |                         |                           |
| 2009 |   |                         |                           |
| 2010 |   |                         |                           |
| 2011 |   |                         |                           |
| 2012 |   |                         |                           |
| 2013 |   |                         |                           |
| 2014 |   |                         |                           |
| 2015 | Dec. 8, 2015  | 3.52"                   | 19 Years                  |
| 2016 |   |                         |                           |
| 2017 |   |                         |                           |
| 2018 | Dec. 18, 2018   | 2"                      | 3 Years                   |
| 2019 | Feb 12, 2019  | 2"                      | 2 Months                  |
| 2020 | ?   | ?                       | ?                         |
| 2021 |   |                         |                           |
| 2022 |   |                         |                           |



By 2015 there was enough additional storm drainage from road and new housing developments, that as little as 3.52 inches over a three day period was enough to flood:

- \* All of the 500 year flood plain
- \* Most of the basin and wetland areas
- \* AND almost flooding the homes in Crestbrook

NOTE: East of fence = 500 year flood plain

West of fence = Wetlands and basin on 1983 and 2010  
FEMA maps

Note: Proposed Extension Road to Pinetrest is under 2-3 feet of water (Right side of Picture towards white Garage/Barn)



### December 2015 Flood from Lot #41 EX: 26 Map

\* This is another picture from Norma Brott's deck aimed more northward that shows just how much of the 1983 wetlands and basin floods regularly.

NOTE: The western tip of flood water is just under the proposed cul-de-sac in the Oak Ridge Meadows proposal.

ALSO: X = Shows an island of approximately one acre of fill five to six feet in depth that we couldn't find any permit for. It appears that applicant has already narrowed the drainage way at least once.



December 18, 2018 Flood picture from Colvin Deck  
(Lot 40 Exhibit 26)

\* After less than 2 inches of rain in 24 hours!

Our point is that our 1983 “wetland and basin” now floods almost annually. It does so with probably one quarter of the rainfall required to do the same thing in 1983!

NOTE: Additional storm drainage since 2015 likely comes from:

- West Wind development
- The rebuild of Hill Road
- Baker Creek East/West (Stafford)
- At least 1000 acres of new farm drain tile within 1-3 miles upstream of the basin and wetlands installed in the summer of 2018

Note: Just since 2017/2018 - at least 3-4 acres of 4722 property has flooded once or twice per winter. - so proposed fill house/road area is now likely in 100 yr floodplain - If City will order an updated FEMA Report



### December 2018 flooding in Crestbrook

Tim Roberts gate where he stated that the water was the highest in 25 years after only 1.75 inches of rain in a 24 hour period.

There has obviously been much more storm drainage directed to the Baker Creek drainage since 2014/2015 period when the following projects were started:

- Hill Road Rebuild
- West Wind
- Baker Creek East/West - Stafford - 125 acres
- At least 1000 acres of drain tile installed in 2018 under newly planted filbert orchards within 1-3 miles of the basin and wetlands.



December 2015 flooding in Crest Brook.

- This picture from Rob Stephenson's property
- Toth's Sport Court is NW of Stephenson's
- Water is 2.5-3.0 ft high on side wall of shed
- The Area of the Sport Court and West - is the property that is listed as "buildable inventory" in McMinnville's Urban Growth Boundary.
- An updated FEMA "LOMR" study would take approximately 6 months - and would get the 10-15 acres currently listed as buildable - and Pinehurst Street removed from buildable inventory.



## ATTACHMENT J

### TOWERY MEETING – SHADDEN ACCESS



In the first hearing, I thought that the goal post rule and a lack of time to clarify the dates and location of flooding kept the Commissioners from understanding just how severe the problem has become – so the failure to make the Commissioners understand the problem more clearly is on us.

BUT, on the issue of Shadden street --- the reason that Planning Commissioners did not name Shadden street an access street was clearly because the city planning staff – developed a sudden case of amnesia, and claimed they did not know the answer to 5-6 Commissioner questions about the availability of Shadden as an access street – that they clearly know. I feel strongly that “if” the Commissioners question had been answered honestly – that the commissioners would have voted to have Shadden street named the primary access street instead of a street that dead ends ¼ short of Pinehurst street.

Premier’s Exhibit 27 is the document that: 1) answers all the key questions that the Commissioners asked about the availability of Shadden street. And; 2) also shows that planning staff had taken part in at least two meetings on the availability of Shadden. So they knew that Stafford is developing Shadden Street in their Phase 1. And that Stafford is more than happy to let Premier use Shadden street as access in Phase 1 too. --- But, if so --- Premier would just have to pay to develop 50% of the Shadden extension between Baker Creek road, and the Oak Ridge Meadows property!!

So, Premier would rather inconvenience 600-700 people in three developments (Oak Ridge Meadows, Compton Crest, and Oak Ridge) for up to five years – than to pay to extend Shadden street to their property in phase 1. --- AND BECAUSE STAFF’S AMNESIA KEPT THE COMMISSIONERS IN THE DARK ABOUT STAFFORD’S WILLINGNESS TO MAKE SHADDEN STREET AVAILABLE – THAT LACK OF INFORMATION FORCED THE COMMISSIONERS TO VOTE FOR THE ONLY CHOICES OF ACCESS THAT THE PLANNING STAFF LEFT THEM. – Which was Pinot Noir as the only access for up to 5 years. ---

Please read my version of the questions that Commissioners did ask about the availability of Shadden street. – And the “nothing submitted”, “working on it”, and “no time frame” answers that staff gave to Commissioners on those questions. --- Then I ask you to confirm with the Commissioners that if their questions would have been answered with the information in Exhibit 27 --- that their vote on a Shadden street access would have been different.

My personal belief is that staff “wanted” to keep Pinehurst alive as an access street to the “buildable inventory” property (that is now floodplain). Pinehurst makes absolutely no sense if the Commissioners were aware that Shadden is available. -- And that is why staff actively attempted to keep the Commissioners in the dark on the availability of Shadden Street.

I think that the intent of Oregon’s complex planning system is to end up with the best solution for the city – and its residents. BUT this situation shows that by controlling the amount of information that goes to Planning Commissioners – that they can manipulate the Commissioners into “technically” having one choice to vote for – even though that vote is not in the best interest of the city or its residents.

MY REASONS FOR THINKING THAT PLANNING STAFF KNEW THE ANSWERS TO THE QUESTIONS THEY AVOIDED ANSWERING.

On this page I listed the instances where the Planning Staff either avoided answering – or gave the Commissioners a misleading answer to a Commissioners questions. ---- AND then under the questions, I listed the evidence that to me – clearly shows the Planning staff knew the correct answers to those questions. – The result of those non-answers was – THAT THE COMMISSIONERS NEVER BECAME AWARE THAT STAFFORD DEVELOPMENT IS WILLING TO ALLOW PREMIER ACCESS TO SHADDEN STREET – WHICH “IF” COMMISSIONERS ARE ASKED – I BELIEVE AT LEAST 3-4 MORE WOULD HAVE VOTED TO MAKE SHADDEN STREET THE PRIMARY ACCESS TO OAK RIDGE MEADOWS (2 did vote no. That would have given us a majority).

1. COMMISSIONER QUESTION: DOES STAFF KNOW “WHEN” STAFFORD IS PLANNING TO DEVELOP THEIR PROPERTY? (that is between Oak Ridge Meadows and Baker Creek road). – that question was at 1:34:05 of the first hearing.
  - A. (For the record, I think that Jamie is a good guy who Heather put in a tough spot.) Anyway, Jamie is a terrible liar. He stuttered for a few seconds – while his face turned all red, and then looked to Heather for help. – Her answer was pure avoidance by an expert: “nothing submitted. Working on it. – No time frame”.
  - B. In a News Register article about westside development a few months ago, Heather bragged about how great Baker Creek E/W was going to be. – AND then stated that she had also been working with Stafford and Premier on the developments coming on the north side of Baker Creek road for over a year. – and they were going to be equally great for everybody. – -- So, she had admitted in public that she had been working hand in hand with both developers.
  - C. From working with Premier and Stafford, staff knew that Stafford had already held their neighborhood meeting. And that their development that was just 90 days behind the Oak Ridge Meadows app – which my wife and I attended. Sandi took a picture of Stafford’s proposed plan. – So in my testimony after Heather’s “no time frame” answer – I showed a slide of Stafford’s plan – matched up with the Oak Ridge Meadows plan (that picture included in this packet). Which clearly showed:
    - C1. Stafford had held their neighborhood meeting, so are only 90 days behind.
    - C2. That Shadden Street is obviously a primary access street in Stafford’s plan.
    - C3. That the far western end of Premier’s Pinehurst street – was simply an extension of Shadden Street. – And even though Premier WAS NOT claiming Shadden as an access Street – it was really that short section of Pinehurst (that was really Shadden) met ALL The Comp plan transportation claims in the application (3/4rs of Pinehurst that lies on The 4722 property does not meet any policies for circulation, connectivity, efficiency, emergency access, etc.)
  - D. Conclusion -- Since staff has been working with both developers for a year, they knew Stafford’s plans. And since she knew a public, neighborhood meeting had been held – was, “no time frame known” a true or honest answer to the commissioners question?

2. AFTER COMMISSIONERS BECAME AWARE THAT STAFFORD PLANS TO GO FORWARD SHORTLY AFTER OAK RIDGE MEADOWS – ONE COMMISSIONER ASKED IF STAFF KNEW IN – “WHAT PHASE” OF STAFFORD’S DEVELOPMENT THAT SHADDEN WAS GOING TO BE DEVELOPED? (I know that our group, and probably the commissioners were assuming it would be phase 3 or 4).
  - A. I plead guilty here too. I thought I’d read everything. But missed Stafford’s easement letter to Premier in Exhibit 27. It holds the answer to the next 2-3 questions.
  - B. In the second paragraph, Mr. Root tells Lori, from Premier that – they will be developing a temporary gravel Shadden street extension in Phase 1 of their project.
  - C. In paragraph three – Mr. Root makes it clear that McMinnville’s planning staff had been involved in the negotiations over Shadden street access – and some changes had even been made at their request.
  - D. Conclusion --- Since staff had been involved in this agreement. And since Exhibit 27 is part of Premier’s application (public record) – I don’t see how this fact slipped from staffs memory. – The answer was pure avoidance. – AND I believe an honest answer to the commissioners – would have made a big difference in the decision they made.
  
3. ON COMMISSIONERS QUESTION OF – “IF” STAFFORD WOULD BE OPEN TO ALLOWING PREMIER TO USE THE TEMPORARY GRAVEL ROAD ACCESS FOR COMMERCIAL VEHICLES DURING THE INITIAL STAGE OF DEVELOPING ROADS/SERVICES. – This is the area of both Premier’s and the planning departments largest “whoppers”. The Oak Ridge Meadows application goes out of its way to point out several times that – this is an “emergency, fire truck access only.” And the easement ends at the end of construction phase.
  - A. There had been a Stafford representative at both neighborhood meetings I attended (Oak Ridge Meadows and Stafford north?). And at both meetings, citizens asked him if Stafford would be open to making Shadden an available access to Oak Ridge Meadows. – BOTH times, that guy lit up (he’d been waiting for the question), and stated they would be happy to “work with Premier to make Shadden available.”
  - B. Also, in paragraph 2 of Exhibit 27 – Mr. Root stated:
    - B1. They’d be happy to make Shadden available.
    - B2. And, that it would be, “strong enough to support a fire truck in the rain”. – But, he certainly DID NOT LIMIT THE EASEMENT TO JUST A FIRE TRUCK like Premier claims.
  - C. And lastly, also in paragraph 2 Mr. Root states the reason “why” I think Premier has tried so hard to make Shadden street NOT available in Phase 1 of their development. – His statement is basically that the length of Stafford’s temporary road will vary depending “if” Premier chooses to use it in their phase 1 – or a later phase.
    - C1. If in Phase #1 – Stafford will only build/develop the road 50% of the way to the Oak Ridge Meadows property – SO, Premier would have to pay 50% of the cost of developing The gravel road on Stafford’s property. And rather than pay that cost – Premier would Rather unfairly penalize about 700 residents in 3 neighborhoods for up to five years.
  - D. Conclusion - So, certainly part of the reason that Premier has tried to avoid “naming” Shadden street an access street in their application – is because they want to avoid the cost of building 50% of Shadden street that lies on Stafford’s property (blackmail). So I

- B. Any path of the proposed extension road east through Toth's property – would have to pass through at least 200 yards of property that was listed as 500 year floodplain in 1983 (so legal to develop). --- But in the winter 2018 and 2019 – that area flooded a couple of feet deep twice (Dec 18, and Feb 12) – and was standing water much of the time. – SO, AN UPDATED FEMA STUDY WILL CLEARLY CLASSIFY THIS PROPERTY FLOODPLAIN TODAY – WHICH WILL MAKE A CONNECTING ROAD ILLEGAL.
  - C. By the end of the 2<sup>nd</sup> hearing, I think that Heather realizes this property is now floodplain, and won't be legal to build on (as soon as FEMA study done). – UNFORTUNATELY, the fill and road down from the high 4822 property to the west – also gives her great access to the basin area for the park and trails they are proposing. If true, that tells you that her priorities for trail/park access is much higher than:
    - C1. Her cost concerns for the maintenance, update, and security issues the city will be taking over – for a very limited use (7 homes) dead end road that will be partially build on 100 year floodplain property. And,
    - C2. Several million dollars in potential civil liability – from lawsuits from two groups of people when houses begin flooding – and the city wakes up to the fact that they allowed filling and diking in a floodplain area --- that additional volumes of storm runoff are still increasing!! -- I still can't imagine that the city hasn't immediately ordered a FEMA update after seeing out flooding pictures.
  - D. CONCLUSION ON PINEHURST – I believe city leaders have been convinced that we are just a bunch of NIMBY's – and that Pinehurst street (and the lowlands) do not have a flooding problem – so are safe to build on proposed lots from 40 years ago. And the road will also gain citizen access to a great park and walking basin.
    - D1. We agree that the basin should be converted to a park/trails – but it would be much less expensive, and the park approximately 3 acres larger "if" they started the trail in the higher 4822 property. And they didn't tear up 3 acres of the basin to build what should be an illegal road.
    - D2. And believing a road will ever connect to Pinehurst is pure fools gold. And will lead to millions of dollars in lawsuits (see Johnson Creek property repurchase page included).
    - D3. And by far the safest and best way to solve the problem of that property counting against the city's "buildable inventory" – IS TO DO A DAMNED FEMA UPDATE. – that will reclassify all the 1983 buildable inventory to floodplain property – that can then be removed from the list of buildable inventory in the urban growth boundary computation – so strengthen the city's case for expanding the UGB to property that is much safer to build on.
2. SHADDEN STREET – IT APPEARS THAT THE MAJORITY OF THE REASON THAT PREMIER DOES NOT WANT TO BUILD SHADDEN IN THEIR PHASE 1 – IS THAT THEY DON'T WANT TO PAY TO DEVELOP 50% OF THE SHADDEN EXTENSION THAT IS ON STAFFORD'S PROPERTY. – So they are willing to penalize the convenience and safety of about 700 people in three neighborhoods (Oak Ridge Meadows, Compton Crest, and Oak Ridge) for up to five years to avoid that cost. – BUT "WHY" DID THE PLANNING DEPARTMENT GO TO SUCH LENGTHS TO HIDE THE AVAILABILITY OF SHADDEN STREET TO THE PLANNING COMMISSIONERS? I can think of three answers – none good.

**Exhibit 27**

**From:** [gordonroot@aol.com](mailto:gordonroot@aol.com)

**Subject:** Re: Baker Creek North and Oak Ridge Meadows connection

**Date:** July 9, 2018 at 3:03:24 PM PDT

**To:** [loriz.premier@gmail.com](mailto:loriz.premier@gmail.com), [gordon@staffordlandcompany.com](mailto:gordon@staffordlandcompany.com)

**Cc:** [morgan@staffordlandcompany.com](mailto:morgan@staffordlandcompany.com), [ryanobrien1@frontier.com](mailto:ryanobrien1@frontier.com)

Hi Lori:

In our pre-app meeting for Baker Creek North, in which all departments were represented, we told them that we have are preparing to grant you a temporary secondary access easement over our property in order for you to proceed. We discussed the possible alignment and they preferred an alignment which follows the future alignment of Shadden Drive.

Basically, they would like to see a road base laid down that can support a fire truck in the rain. Depending upon your timing, the length of such will vary, as if you develop concurrent with our first phase, the temporary access road will be shorter, as we would be putting in the portion from Baker Creek Road to a point about 50% of the way to your project.

We have made many revisions to our site plan since I last sent you one based upon City Planning Staff input, and attached is a more recent version. Our final version is now being drawn in CAD. I will forward it to you once we have the plan back.

Morgan/Ryan, please confirm and make adjustments as necessary.

From what I can see, it looks as if we miss the tree.

Thank you,

Gordon Root | Principal

**STAFFORD**  
LAND COMPANY  
INC

[StaffordLandCompany.com](http://StaffordLandCompany.com)

503.720.0914 | Cell

[gordon@staffordlandcompany.com](mailto:gordon@staffordlandcompany.com)

[485 South State Street, Lake Oswego, OR 97034](https://www.staffordlandcompany.com/485-South-State-Street-Lake-Oswego-OR-97034)

Below - picture taken at Stafford north neighborhood meeting - matched up to Oak Ridge Headers map.

- Stafford is developing Shadden in step 1
- Stafford states Premier is welcome to use a Shadden access in Exhibit 27.



**From:** [Jamie Fleckenstein](#)  
**To:** [RICK THOMAS](#)  
**Cc:** [Sarah Sullivan](#); [Heather Richards](#)  
**Subject:** RE: Some Common Sense, Please.  
**Date:** Monday, July 15, 2019 8:05:56 AM

---

Hi Rick and Linda,

Thank you for providing this testimony for the upcoming public hearing for proposed Oak Ridge Meadows development. This will be entered into the record for consideration by City Council.

Thank you,

**Jamie Fleckenstein, PLA**  
**Associate Planner**

City of McMinnville  
231 NE 5<sup>th</sup> Street  
McMinnville, OR 97128  
(503) 474-4153  
[jamie.fleckenstein@mcminnvilleoregon.gov](mailto:jamie.fleckenstein@mcminnvilleoregon.gov)

**From:** RICK THOMAS [mailto:rthomas26345@msn.com]  
**Sent:** Sunday, July 14, 2019 9:31 AM  
**To:** Jamie Fleckenstein <Jamie.Fleckenstein@mcminnvilleoregon.gov>  
**Subject:** Some Common Sense, Please.

**This message originated outside of the City of McMinnville.**

---

Common sense needs to be brought to bear in the decision regarding Premier Development's proposed development .

Reliance on outdated FEMA flood plain reports is terribly misguided in light of the significant changes to the use and hydrology of the Baker Creek drainage upstream from the proposed development. Clear cuts and tiling of agricultural fields have brought substantially more water into the creek than occurred at the time of the latest FEMA report. One needs only to look at pictures of Lake Baker Creek in the 100 and 500 year flood zones along Pinot Noir Drive three times in the last two years to appreciate the change. Couple this with the increased runoff that thousands of square feet of new hardscape from new development will bring and the fill proposed in the site's wetland area and it is not hard to imagine the flooding that could occur downstream.

Limiting access to the new development to Pinot Noir Drive is simply irresponsible for both reasons of safety and livability. Years of construction traffic through a quiet and relatively narrow city street is a recipe for disaster. As a parent I would not have wanted my children playing out front in such a situation

and I can imagine as the driver of a large dump truck not being too enthusiastic about dodging cars parked on the curb and children darting about. At the very least, the city needs to enter into an agreement with Stafford Development to move construction traffic through the planned extension of Shadden Drive.

Rick & Linda Thomas  
2631 NW Merlot Drive  
McMinnville, OR 97128



## ATTACHMENT L

July 15, 2019

Re: Oak Ridge Meadows Sub-Division, Public Hearing July 23, 2019



Plans have been made for Great Neighborhoods throughout Mac, but it only seems that will apply to neighborhoods whose permits were applied for AFTER that decision was made – S.O.L to those of you affected by already applied for neighborhoods (less safety, more traffic), we aren't going to let you have that. You Lose, Developer Wins.

Decisions have been made to make saving natural areas priorities – but only when the development that would be affected by them isn't applied for yet. Sorry Baker Creek Wetlands, we are going to destroy you (sorry animals, sorry homeowners whose homes WILL flood and frequently). You Lose, Developer Wins.

Neither sounds right and neither is.

A decision, based on business factors (a recession, a housing market bubble bursting, etc), led Premier to delay the development of this part of their land holdings. With any business decisions comes risk. That's business. Premier should not be allowed to avoid the business risk they took on when they made that decision years ago and our three neighborhoods should not be the ones to bear it.

We, the existing neighborhoods affected, should not have to shoulder all the downfalls of their decision to delay.

- Increased traffic on narrow streets that are BARELY wide enough for two parked cars and a standard full-sized truck to navigate between.
- Less safety taking ourselves, our kids, our pets on walks, or bike rides through the neighborhood. All things Great Neighborhoods are supposed to provide to their inhabitants. These are all things you are telling us we will lose; and face it, we will never get them back to the same level we've enjoyed. Once our safety and security are gone, they are gone. This goes entirely against the Great Neighborhood principal.
- Annual flooding of homes – for both existing and new homes located in the flood plain/wetland. This completely ignores the directive of saving natural areas. Nature is an amazing thing on its own, and when left to act as it is supposed to it protects us. But, when we mess with it, it hits us hard. The wetland is Mother Nature's flood control – or what's left of it after everything else you've approved has altered it (tiled filbert orchards, e.g.) – you take the rest of it and it won't be a matter of if, but when, how often, and how damaging the floods are that happen.

It's the City's duty to protect its citizens, to maintain the livability of its citizens, to protect the safety of its citizens and by letting the development proceed as is, based on OLD permitting and EVEN OLDER flood reports while not even asking for the most current flood data is the City NOT DOING IT'S DUTY.

I've heard that there isn't any way to make Stafford develop Shadden because they haven't even applied for permits yet. Ok. But then think outside the box; maybe, while waiting for a new 2019 flood report, come up with a solution that allows the extension of Shadden to be developed for more than just an emergency/fire lane. Why can't the City, Stafford, and Premier be good neighbors to all of us and come up with a way for the extension of Shadden to happen now so the development of the Premier property (wetlands excluded) can happen without harming the Great Neighborhoods that already exist in Crestbrook, Compton Crest, and Oakridge?

Stopping the development has never been the point, the point has been to protect the wetlands that protects the homes around it from devastating floods; and to protect the neighborhoods that are already established from losing their already Great Neighborhood properties and identities.

Progress isn't trying to be stopped, but we can't be good neighbors if we don't treat each other with respect. And isn't that the jist of the Great Neighborhood idea, to be good neighbors to one another?

Placing five years of construction and construction vehicles, 1,000 – 1,200 more car trips/day, and creating inevitable flooding on the backs of our neighborhoods isn't respecting us at all. That's not understanding the impact on us, it's not being a good neighbor to us.

The only one you, as a City, are showing you care about, is the developer, their bottom line, and the taxes it will generate for the City. You aren't showing us you care about us in the least because if you were you would ask for a new flood study, you would make more effort into finding a way for a direct access to Baker Creek Rd that isn't through existing neighborhoods, and you would care about the wetland.

Carmen Mendenhall  
Compton Crest homeowner

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JUL 15 2019

COMMUNITY DEVELOPMENT  
CENTER

July 15, 2019

City of McMinnville Planning Department  
Attn: Jamie Fleckenstein, Associate Planner  
231 NE Fifth St. – McMinnville OR 97128

RE: July 23, 2019 City Council Hearing  
City Council Review of Two (2) Major Amendments to Planned Development Overlay Ordinances  
and 108 Lot Subdivision Request  
Oak Ridge Meadows

Submitted by: Sandi Colvin

### Will McMinnville's Baker Creek become the next Johnson Creek?

McMinnville City Council needs to take a good look at Portland's Johnson Creek fiasco.

Johnson Creek in the Portland area is spending millions of dollars re-purchasing property that was originally developed in wetlands and areas prone to "nuisance" flooding. They're spending millions of dollars in lawsuits and settlements from those homeowners who now have no homes. They're spending millions of dollars re-creating those same wetlands that they didn't think were important enough to be saved.

Is Baker Creek next? The wetlands are being considered unimportant and are being "mitigated" (in an entirely different county), so that a road and 7 houses can be built. What? We're destroying wetlands for the sake of 7 homes? We're putting, at risk, the farm fields from flooding once a filled road/dike is dropped into the flood prone basin? We're putting existing neighborhoods at risk from that same flooding potential?

Learning from other's mistakes will save the taxpayers of McMinnville millions of dollars. We hope the planning department and city council will keep that in mind when they decide whether 7 houses are worth the risk. Otherwise, there is a very high probability that Baker Creek **will** become the next Johnson Creek.

## Case Study:

## JOHNSON CREEK RESTORATION, PORTLAND, OREGON

### Challenge:

Johnson Creek has been plagued by “nuisance” flood events throughout its history, particularly in and around Foster Road, a residential area that flooded as often as every one to two years. In 1964, Johnson Creek experienced one of its largest floods; almost 1,200 structures were flooded, and the next several years marked numerous ineffective attempts at flood mitigation, as well as the near total loss of the salmon and trout species in the river.

### History

Johnson Creek is a 26-mile river in a 54-square-mile watershed; nearly half of the area falls within the Portland watershed. Prior to urbanization, Johnson Creek was forested; however, as pioneers settled along the banks of the river, they cleared many of the trees for housing and railroad materials.

In the 1930s the Works Progress Administration (WPA) lined and channelized 15 miles of Johnson Creek with rocks, under the mistaken assumption that this would reduce flooding. There have since been dozens of ideas on how to arrest the flooding, but none proved successful until 1995, when the Portland Bureau of Environmental Services (BES) finalized the Johnson Creek Resources Management Plan, with a focus on natural infrastructure.

### Solution

In October of 1996, the Portland City Council adopted the Flood and Landslide Hazard Mitigation Plan, which recommended the acquisition of the most vulnerable properties in the floodplain. In 1997, the BES began acquiring vulnerable properties and moving people out of the floodplain. Since that time, more than 70 structures have been removed and 107 acres are in permanent conservation.

With many of the most vulnerable structures out of the way, BES began reconnecting Johnson Creek to its floodplain. This initially required the removal of more than 50,000 cubic yards of soil, or approximately 5,000 dump truck loads from the lowlands adjacent to the creek. The BES restored approximately 63 acres of wetland and floodplain habitat and over half a mile of Johnson Creek,



### Project Details

- **Location:** Foster Floodplain, Portland OR
- **Population:** 620,000 (Portland metro area)
- **Strategies:** Buy-outs, Floodplain restoration, Berm removal
- **Cost:** \$20M
- **Benefits:** Reduced flood damages, Ecosystem restoration, Water quality, Recreation

## Case Study:

### JOHNSON CREEK RESTORATION, PORTLAND, OREGON

specifically in the Foster Floodplain Restoration Area, making it habitable once more for ESA-listed Coho and Chinook salmon and steelhead trout. They then added over 200 large pieces of wood to improve habitat along the stream bank and created two backwater channels to provide resting areas for fish during peak flows. The BES additionally re-vegetated the stream bank by planting 20,500 native trees, 70,500 native shrubs, 4,750 wetland plants, and 1,000 pounds of native grasses, sedges, and forbs to further improve the area's habitat for local fauna.

Finally, the BES rectified the creek's channelization by removing the rock lining, as well as three bridges and three roads, increasing the capacity of the floodplain to absorb floodwaters.

#### Partners and Funding

The Johnson Creek Restoration Project was in part funded through a large grant from the Federal Emergency Management Agency (FEMA) for the sum of \$2.7 million. Additional funding came in the form of Community Development Block Grants from the U.S. Department of Housing and Urban Development (HUD) as well as commitments from the City of Portland's stormwater funding.

While BES was the main agency involved in implementing the project, it is important for projects like these to possess a champion. In this instance, Ann Riley, who worked with the Waterways Restoration Institute at the time, was the champion of using natural infrastructure to decrease flood risk in Johnson Creek.

#### Benefits

The Johnson Creek neighborhood was noticeably improved after this project. The restoration created a publicly-accessible natural area in east Portland, and included the creation of a pedestrian trail and bridge for wildlife viewing in the Foster Floodplain Restoration Area. BES also installed sidewalks, street trees, and stormwater sewers along Foster Road to better absorb or divert heavy rainfall.



In 2004, an ecosystem services valuation of the restored area found that the project would produce approximately \$30 million in benefits over the course of 100 years from avoided property damages to residents and businesses, avoided traffic delays, avoided utility damage, water quality benefits, parks and open space benefits, fish and wildlife benefits, and air quality improvements.

This project is relatively recent, but it has already been proven effective. The Johnson Creek area experienced heavy rains in January of 2012, pushing Johnson Creek to more than 2 feet above its historic flood stage, and filling the restoration site with water. Despite the pressure, the floodplain held the high water, keeping Foster Road dry and local businesses open.

July 15, 2019

City of McMinnville Planning Department  
Attn: Jamie Fleckenstein, Associate Planner  
231 NE Fifth St. – McMinnville OR 97128

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JUL 15 2019

COMMUNITY DEVELOPMENT  
CENTER

RE: July 23, 2019 City Council Hearing  
City Council Review of Two (2) Major Amendments to Planned Development Overlay Ordinances  
and 108 Lot Subdivision Request  
Oak Ridge Meadows

The following are submitted to the Planning Department by Friends of Baker Creek for inclusion in the public record for the above referenced hearing.

#1 - Testimony to the Planning Department.

#2 - Eight binders of testimony addressed to the seven council members and City Manager. They contain the same information as the testimony hereby submitted to the Planning Department.

They are designation for:

- City Manager, Jeff Towery
- McMinnville Mayor, Scott Hill
- Council President Kellie Menke, Ward 2
- Councilor Sal Peralta, Ward 1
- Councilor Wendy Stassens, Ward 1
- Councilor Zack Geary, Ward 2
- Councilor Remy Drabkin, Ward 3
- Councilor Adam Garvin, Ward 3

After you have done your due diligence to ensure the original testimony submitted to the Planning Department matches the testimony in the seven binders of testimony addressed to the City Manager and City Council members, we ask those binders be submitted, in their entirety, to the members as addressed.

Friends of Baker Creek

Cc: Melissa Bisset, City Recorder  
Melissa.Bisset@mcminnvilleoregon.gov

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[https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning/page/9821/fbc\\_hydrologic\\_analysis\\_received\\_5-8-19\\_reduced\\_size.pdf](https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning/page/9821/fbc_hydrologic_analysis_received_5-8-19_reduced_size.pdf)

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City Councilors,

We want to thank you for allowing our group to present our recommendations to the city council.

Our Friends of Baker Creek group went into the first hearing with two simple recommendations to make Oak Ridge Meadows a safer and better development for both its residents, and the four hundred or so residents and our three neighborhoods. The two recommendations were:

1. To have Shadden street named the primary access to Oak Ridge Meadows instead of a dead-end, no legal access Pinehurst Street.
2. To notify the commissioners that after almost 40 years of directing new storm drainage into the Baker Creek basin (policy #142) – that most of the basin now floods to the brim a couple of times per year. So, an updated FEMA LOMR study is needed to determine if it is still safe to build in the basin or not.

That sounded simple at the time. But in the first meeting we were educated on the goal post rule. And in the second hearing, we had to watch in dismay as commissioners questions to staff about the availability of Shadden street as an access – received a series on non-answers by planning staff (not official yet, working on it, etc) who had been involved in meetings with Premier and Stafford on that very subject that had led to the letter on Exhibit 27 – that contains answers to all the “availability” questions the Planning Commissioners asked. So, as it stands now, the commissioners voted to leave Oak Ridge Meadows residents with just ONE access road for up to five years.

But, the most frustrating part of the first two hearings was that after we completed our three-minute testimonies – the applicants attorney (and planning staff) were allowed unlimited time to denounce our testimony as false and misleading (which it wasn't). And again, we weren't given any opportunity to challenge what we feel were their false claims.

Rather than put the city councilors or, ourselves through that again, we have decided to put together presentation manuals to hand in to the city councilors a week before the hearing. We apologize for all the reading. But it was the only way we could figure out to get our complete story to you councilors. And, also to include all the pictures, facts, and information that show our claims are true, not false misrepresentations.

We feel strongly that the facts and evidence we are supplying clearly shows that in spite of goal posts that are 36 years out of date, the Oak Ridge Meadows application doesn't meet Comprehensive Plan goals and policies in several other non-flood related areas (mitigation, legal access, environmental, etc). So, should be denied on those facts alone. We are also hoping that our flooding pictures and hydrology summary will make the council aware that the flooding issue could become a serious liability issue if an updated FEMA LOMR report is not ordered soon. That report will let commissioners know if the current FEMA flood classifications are 60-70 per cent inaccurate as our hydrology report claims. Or, if the basin is perfectly safe to build in as the applicant and the city planning staff are claiming.

We still think that our recommendations benefit Oak Ridge Meadows residents and the city as much as our three developments. Please vote to keep the 4722 property separate until a FEMA LOMR report (on the whole basin, not just 4722 property) can determine how much capacity is left in the basin.

Thank you for allowing us to present our full information,

## WHY PINEHURST SHOULD NO LONGER QUALIFY AS THE PRIMARY ACCESS TO OAK RIDGE MEADOWS

### YES, PINEHURST STREET DID LEGALLY QUALIFY AS AN ACCESS STREET IN 2005

Pinehurst street lies a full 3/4 miles east of the main portion of Oak Ridge Meadows development. And, requires developing a road that will be an environmental challenge through areas that were identified as wetlands and 500 year floodplain areas in a 1983 FEMA study. – There were three reasons that forced this approval in 2005:

1. IT WAS THE ONLY LEGAL AND QUALIFIED CHOICE AVAILABLE – There were no other streets that qualified to the north, south, or west. So, even though Pinehurst street was in the third development to the east of Oak Ridge Meadows (Oak Ridge, Compton Crest, Crestbrook) – it was the 1<sup>st</sup> “thru” street that qualified.
2. PREMIER DEVELOPMENT POSSESSED LEGAL ROADWAY RIGHTS TO BUILD A ROAD CONNECTING PINEHURST TO OAK RIDGE MEADOWS IN 2005. – Premier development did not own the 15 acre piece that connected their property to Pinehurst street in 2005. But, they did possess an option to purchase the property at the time 4822 was approved.
3. PINEHURST STREET AND MUCH OF THE 15 ACRES INCLUDED IN THE PURCHASE OPTION DID FIT INTO SEVERAL CITY LONG TERM DEVELOPMENT PLANS IN 2005 – So it was thought that this connecting road would eventually tie in with further housing down in the basin. So, since it met future UGB, TSP, and a few other long term plans – a low road connecting Oak Ridge Meadows to Pinehurst street was approved.

Even though Pinehurst was an environmental challenge and not efficient access to Oak Ridge Meadows, it was approved because it was the only option. And, as importantly because it fit into future UGB and TSP plans. – BUT, the city council must have recognized what an environmental challenge the connecting road would be. The April 18, 2005 letter from then Planning Director, Doug Montgomery, to Premier Development listed the 25 requirements that Premier had to accomplish before the city would approve the connecting road (letter attached). Today, Premier claims it was the economy that kept them from buying the 15 acre piece of property and building the connecting road. But the economy was going full tilt in 2005. Maybe the reason they did not go through with the property purchase and build the road was because they realized they couldn't meet those 25 requirements?

### THE THREE MAJOR FACTORS THAT HAVE CHANGED IN FOURTEEN YEARS THAT SHOULD DISQUALIFY PINEHURST STREET AS AN ACCESS TO OAK RIDGE MEADOWS IN 2019?

Changes in three different areas have occurred since 2005 that should have disqualified Pinehurst as an access:

1. LEGAL – Premier no longer possesses legal roadway access to Pinehurst street. – Premier gave up their purchase option to the 15 acres of property needed to connect their property to Pinehurst street. Les and Kathleen Toth purchased the property. Les has entered two letters (attached) into testimony stating that he is not willing to grant a roadway easement to Premier Development. Doesn't the lack of legal access to Pinehurst disqualify Pinehurst street as a legal access street?

2. **ENVIRONMENTAL** – The Baker Creek Basin has been used to accomplish a totally different Comprehensive Plan policy for about forty years. Policy #142 – recommends directing the storm drainage along creek and river corridors into those drainage ways. The amount of storm drainage directed to the Baker Creek basin has continued to increase for over 36 years as new infrastructure projects have extended westward. In recent years, the volume of runoff has increased to the point where the majority of the basin now floods once or twice annually. Our group understands that a “goal post rule” prevents this fact from being considered on the Oak Ridge Meadows application. BUT – we have entered pictures of 2015 and 2018 into testimony (with accurate dates and photographers names) that clearly prove that the section of the proposed Pinehurst connection that lies on Toth’s property now floods yearly (it is classified as 500 year floodplain in 2010 FEMA map). As soon as a FEMA LOMR hydrology update is done, that proposed connecting road, and the whole acreage listed as “buildable inventory” in the UGB, should become classified as floodplain property. Hopefully at that time, the city will revise their long term UGB, TSP, and other long term plans to recognize that after 36 years of added drainage, policy #142 has made further development to the north of Oak Ridge, Compton Crest, and Crestbrook developments unfeasible.
3. **COMPREHENSIVE CODE REASON** – Development along Baker Creek Road has progressed enough since 2005 that a far superior access street to Oak Ridge Meadows has now become available. In 2018, Shadden and Cottonwood streets were connected on the south side of Baker Creek Road. In the letter from Stafford Development to Premier (Exhibit 27 attached), Stafford development stated that:
  - A. Stafford will be developing their property to the south of Oak Ridge Meadows this year.
  - B. Stafford will be developing Shadden street on the north side of Baker Creek Road in phase 1.  
And;
  - C. Stafford is willing to give Premier usage of a temporary Shadden street until they fully pave and develop Shadden. They will then turn the right of way over to the city of McMinnville.
 Since Shadden street is available, and is by far the best access street for future Oak Ridge Meadows residents in several major comprehensive code areas (efficiency, circulation, environmental, habitat protection, and especially connectivity ), doesn’t the comprehensive plan require that it be named the primary access street (and Pinot the secondary access)? And that the dead-end road that the commissioners approved – THAT HAS NO LEGAL ACCESS TO PINEHURST. AND, WOULD LEAVE OAK RIDGE MEADOWS RESIDENTS WITH ONLY ONE ACCESS FOR UP TO FIVE YEARS – SHOULD NOT EVEN QUALIFY AS AN ACCESS STREET?

**CONCLUSION:** Pinehurst street was approved in 2005 because it was the only option. And because developing the 1980’s wetlands area did match up with long term UGB and TSP goals. In the fourteen years since, a much better access street has become available. PLUS, the continued increases in storm drainage has converted the whole lower basin to a floodplain area. Building in a floodplain is not feasible. And would not be allowed under comprehensive plan policies – IF the planning goal posts were current. Please order an updated FEMA LOMR. That report will allow the city to update their long term UGB and TSP plans. And also get planning goal posts moved forward 36 years. Once that is done, the city can determine just how much volume of storm drainage capacity is remaining. Please do not make the same mistake the City of Portland made with Johnson Creek. See [nrssolutions.org/johnson-creek-restoration-portland-oregon/](http://nrssolutions.org/johnson-creek-restoration-portland-oregon/)

Pictures showing that proposed Pinckney  
connecting Road now floods regularly



## PROPOSED ROAD CONNECTING TO PINEHURST

Note:

Yellow line is approximate route of road connecting to Pinehurst

All the road route on Toth's property, until about 15' west of the white barn has flooded several feet deep three times in the past five years (Dec. 8, 2015, Dec. 18, 2018, Feb. 2019)

All of the 500 year flood plain area on Toth's property has also flooded at the same times, as has the basin on 4722.

The proposed fill/dike area on 4722 will likely be classified a 100 year flood plain if FEMA gets updated with a LOMR.



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December 18, 2018 Flood picture from Lot #40, Exhibit 26

- \*After less than 2" of rain in 24 hours (a.m. 17th - a.m. 18th)
- \*Pinehurst route on Toth's property flooded
- \*500 year flood plain and 80's UGB area of Toth's property flooded
- \* 3-4 acres of 1983 "Wetlands" on 4722 property flooded (mitigation failed)
- \*Standing water in bottom/right area is where filling/diking/road are proposed. It is likely 100 year flood plain now.
- \* Water in far left corner is where proposed road comes down to basin. It is also likely flood plain or 100 eyar flood plain today.

2005 LETTER FROM PLANNING DIRECTOR  
TO PREMIER DEVELOPMENT OUTLINING 25  
CONDITIONS FOR APPROVAL

And

TWO LESTOTH LETTERS DENYING ROADWAY  
ACCESS TO PINOCHUEST STREET





230 NE Second Street • McMinnville, Oregon 97128 • [www.ci.mcminnville.or.us](http://www.ci.mcminnville.or.us)

April 18, 2005

Premier Development LLC  
1312 NE Highway 99W  
McMinnville, OR 97128

RE: ZC 12-04/S14-04

Dear Jeff & Lori:

This is to advise you that, at a meeting of the McMinnville City Council on Tuesday, April 12, 2005, they took action to approve the attached ordinance and findings relative to your application for approval of a zone change from a County EF-80 (Exclusive Farm Use – 80 acre minimum) zone to a City R-2 PD (Single-Family Residential, Planned Development) zone on approximately 23 acres of land. The subject property is located north of Pinot Noir Drive and the Oak Ridge residential development and is more specifically described as a portion of Tax Lot 600, Section 7 and Tax Lot 200, Section 8, T. 4 S., R. 4 W., W.M.

As you may be aware, the Council took separate action on March 8, 2005, to approve your tentative subdivision plan for the same property. The conditions of approval for this subdivision are as follows:

1. That the subdivision approval does not take effect until and unless the companion zone change request is approved by the City Council.
2. 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.
3. 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.
4. That the applicant secures from the Oregon Department of Environmental Quality (DEQ) 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.

Community Development Department  
Planning Department (503) 434-7311 FAX (503) 472-4104

5. That the developer enter into a construction permit agreement with the City Engineering Department for all public improvements and gain a fill and grading permit for lot fill and grading from the City Building Division.
6. That restrictive covenants shall be prepared for the development. At a minimum, the covenants shall address planting and maintenance of trees within the curbside planting strip, and requirements for tree removal, consistent with the planned development approved for this subdivision. The proposed covenants must meet with the approval of the Planning Director.
7. That the applicant plant street trees within curbside planting strips along all proposed streets in accordance with a street tree plan to be prepared by the applicant and submitted to the Landscape Review Committee for their review and approval. 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. In addition, street trees shall not be planted within 30 feet of street intersections. 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 that does not meet this standard.

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. All required trees shall be installed by the applicant prior to final platting, or security equal to 120 percent of the cost of installing the required street trees shall be posted with the City. The amount and form of such security shall be as required by the Planning Director.

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 that may die due to neglect or vandalism, for two years from the date of planting.

8. That all fill placed in the areas where building sites are expected shall be engineered and shall meet with the approval of the City Building Division and the City Engineering Department.
9. That prior to the submittal of the final plat, the names of all proposed streets shall be reviewed and approved by the Planning Director.
10. That 10-foot utility easements shall be provided along both sides of all public rights-of-way for the placement and maintenance of required utilities.
11. That cross sections for the entire street system shall be prepared which show utility location, street improvement elevation and grade, park strips, sidewalk location, and sidewalk elevation and grade.

12. Said cross sections shall be submitted to the Community Development Director for review and approval prior to submittal of the final plat. If the submitted information so indicates, the Planning Director may require the tentative subdivision plan be revised in order to provide for a more practical configuration of lots, utilities, and streets. All such submittals must comply with the requirements of 13A of the Land Division Ordinance and must meet with the approval of the City Engineer.
13. That all streets within the subdivision shall be improved with a 26-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 Ordinance for local residential streets.
14. That the applicant extend water service to the subject site in accordance with McMinnville Water and Light requirements. Easements as may be required for the extension of water shall also be provided.
15. That approved, working fire hydrants must be installed prior to the issuance of building permits for the subject site.
16. That if the property owner wishes a one-year extension of the Commission approval of this tentative plan under the provisions of Section 16 of Ordinance No. 3702, 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.
17. That a plan for the provision of secondary emergency access to the subject site shall be submitted to the McMinnville Fire Department for review and approval. At a minimum the required secondary emergency access must be constructed to include a 12-foot-wide paved travel lane with 20 feet of vertical clearance. All improvements required by this approved plan shall be constructed by the applicant prior to the filing of a final plat for the proposed subdivision.
18. That prior to construction of the proposed subdivision, the applicant shall secure all required state and federal permits, including, if applicable, those related to the federal Endangered Species Act (if applicable), Federal Emergency Management Act, and those required by the Oregon Division of State Lands, and U.S. Army Corps of Engineers. Copies of the approved permits shall be submitted to the City.
19. That barricades shall be installed by the applicant at the terminus of all public streets, consistent with City standards. The barricades shall include text stating: "This street is planned for extension in the future to serve proposed development."
20. That the submitted tentative plan shall be revised to include a public street extending south from "A" Street to serve future development of adjacent land. The street shall be centered approximately 225 feet east of the easterly right-of-way line of Pinehurst Drive so as to allow the future platting of lots some 100 feet in depth within the adjacent property to the south. In addition, the proposed cul-de-sac street ("C" Court) shall be redesigned as a through street connecting "B" Street and "A" Street. Adjustment of the submitted tentative plan is authorized as may be necessary to accommodate the provision of these streets.

21. That direct access to Lots 1-20, and 81-84 from Pinehurst Drive shall be prohibited. Access shall be provided by private joint access easements adjacent to and recorded on each lot. Such easements are required to be a minimum of 15 feet in width and otherwise dimensioned as proposed by the applicant (see Driveway and Easement Detail of the submitted Oak Ridge Meadows tentative plan).
22. That the applicant provide information to the City Engineer as to the design capacity of the existing downstream sanitary sewer pump station located in the Crestbrook subdivision, First Addition. If the information and studies provided by the applicant indicate that adequate capacity does not exist to support the proposed development of the Oak Ridge Meadows subdivision, then the applicant shall make improvements to the system as may be necessary and required by the City Engineer. Such improvements shall be at the expense of the applicant and shall be completed prior to release of the final plat.
23. That plat and construction phasing as described on the tentative plan is approved.
24. That the applicant provide to the Planning Department a mapped inventory of all trees greater than nine inches DBH (diameter at breast height) located within those areas of the subject site which may be impacted by the construction of streets, utilities, and future residences. This inventory shall be provided prior to construction of the proposed Oak Ridge Meadows subdivision.
25. 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.

Please be advised that if no appeal is submitted to the Land Use Board of Appeals (LUBA) by May 9, 2005, the decision of the City Council as regards the subdivision and the zone change will become final.

If you have any questions or comments about this, please call me at (503) 434-7311.

Sincerely,



Doug Montgomery, AICP  
Planning Director

DRM:pja  
Encl.

- c: Norm Hill, Webb, Martinis & Hill, 1114 - 12<sup>th</sup> St. SE, Salem, OR 97302  
Dan Kizer, WesTech Engineering, 3841 Fairview Industrial Dr. SE, Ste. 100, Salem 97302  
Jerry Hart, Craig, Brand, Lake & Hart, 330 N. Evans St., McMinnville  
John Boskett, DKS Associates, 1400 SW Fifth Ave., Ste. 500, Portland 97201  
Andrew Mortensen, The Transpo Group, 309 NE 3<sup>rd</sup> St., Ste. #5, McMinnville  
Jeff Parr, 2718 NW Pinot Noir Drive, McMinnville



March 20, 2019

To Whom it May Concern:

I have owned the property adjacent to the development where Premier Homes is planning to build a sub-division. My 15 acres is made up of flood plain and wetland areas. My property floods numerous times during the year when Baker Creek rises over the banks.

I have had multiple questions from concerned residents concerning rumors that Pinehurst Dr is going to extend through my property. I have not given an easement for a road to go across my property, nor do I intend to do so. I also have no interest in selling my property or any part of it.

If you have any questions please see my contact information above.

Sincerely,

A handwritten signature in black ink that reads "Les Toth". The signature is written in a cursive, somewhat stylized font.

Les Toth

.....

LES TOTH LETTER DENYING ACCESS TO PINEHURST STREET  
5/6/2019

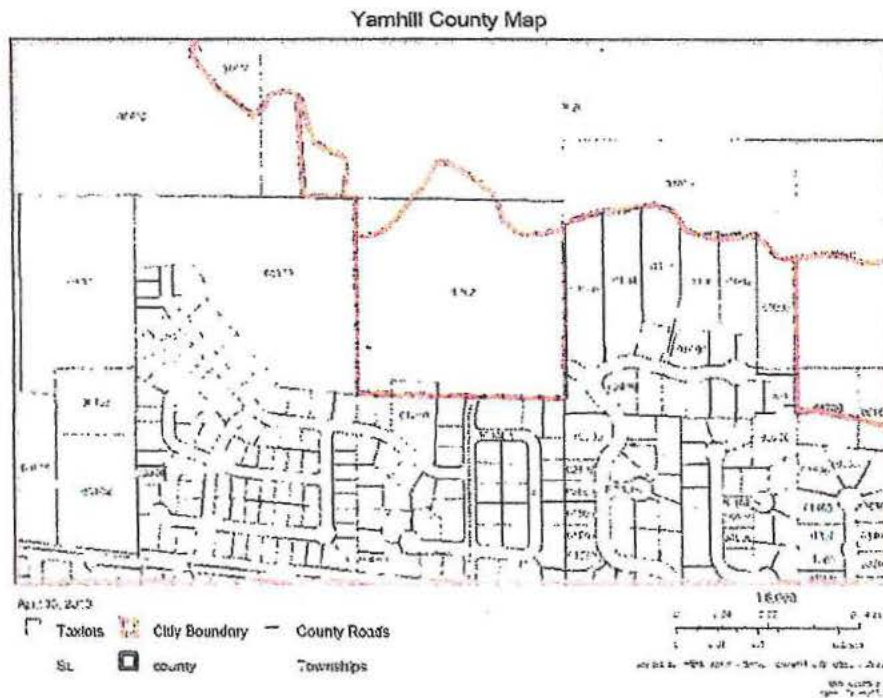
McMinnville Planning Commission  
c/o Planning Department  
230 NE 2nd Street  
McMinnville, OR 97128

Re: Premier Development Applications  
PDA 3-18/PDA 4-18/S 3-18 (Planned Development Amendments and  
Subdivision)

Dear Planning Commission:

My name is Leslie Toth and I own the property that is immediately to the east of the property that Premier Development is trying to develop – the road extension would dead end on my western boundary. I write this letter to you asking that the Planning Commission either deny the applications of Premier Development or, at the very least, remove the development of the road in the wetland.

My property is located at 2700 NW Pinehurst Drive and is marked on the map below as Tax Lot 01202:



5/6/2019

My property is south of Baker Creek and immediately to the east of the property currently in the Oak Ridge Planned Development that Premier Development wishes to transfer to the Pine Ridge Meadows Planned Development. Although my property is inside the McMinnville Urban Growth Boundary, it is not within the City of McMinnville – it is in Yamhill County and is zoned EF-80, an exclusive farm use zone.

Even though the property is within an exclusive farm use zone, I use it mainly for ball fields for family and friends, as it is not realistically farmable because it floods regularly. Most importantly, I do not want the property annexed to the City and I have no intention or desire to develop the property and it will not be developed in my lifetime. Accordingly, I am adamantly opposed to having a road dead-end into my property.

I believe the construction of the road labelled “Pinehurst” on Premier Development’s plans makes no sense; it dead ends at the city limits – and my backyard. It is the definition of a road to nowhere.

The construction of such a road will also destroy valuable wetlands. Wetlands serve many valuable purposes, including improved water quality, flood control, and wildlife and fisheries habitat. Keeping them healthy is critical to maintain clean water and to support wildlife and fish populations. This is recognized in the City’s policies, including the following:

- Planned Development Policy 74.00 – requires planned developments to “Distinctive natural, topographic, and aesthetic features.” Destroying over one-third of the natural wetlands on the site does not “retain” the natural wetland features. The fact that the state allows mitigation of this destruction elsewhere does not affect whether the applicant has met this standard.
- Planned Development Policy 80.00 – requires the preservation of “distinctive or unique natural features such as wooded areas, isolated preservable trees, and drainage swales” to the extent feasible. It is feasible to preserve all of the wetlands on the site and that should be done.
- Streets Policy 118.00(1) – requires roads to be designed to have “minimal adverse effects on . . . natural features of the land.” Destroying one-third of the wetlands on the property is not a “minimal” effect on the natural wetland

5/6/2019

and, again, mitigation elsewhere does not make up for the destruction of this land.

Beyond the destruction of the wetland, placing the roadway and additional homes on the wetlands will almost certainly have significant impacts to my property. When the wetlands are destroyed, that water will have to go somewhere else and that somewhere else will almost certainly include my property. Although my fields regularly flood, my house does not, at this point. When the wetlands are replaced by upland, including a road that will act as a dike, it will funnel the water from the wetlands onto my field and likely into my home. I can assure you that I will look to the city for any flooding that I suffer.

Moreover, I am very concerned by what I have heard regarding Pinehurst Drive. I understand that the City's Planning Director has indicated that the proposed new section of Pinehurst Drive would be connected to the currently existing Pinehurst Drive sometime in the next 5-7 years. I can tell you, as the current owner of the property that would be required to connect those two roadways, that it will not happen. As I stated above, I have no intent to develop my property and this connection simply will not happen.

In conclusion, I ask you to stop and consider the impact your actions will have on my property. Would you want a brand new dike destroying wetlands and causing additional flooding built next door to you? Would you like a brand new road dead ending into your backyard? I urge you to deny the application of Premier Development or, at least, require the elimination of the new road in the wetland.

Very truly yours,

Leslie Toth

cc: City Manager



## WHY SHADDEN STREET SHOULD BE NAMED THE PRIMARY ACCESS STREET TO OAK RIDGE MEADOWS

COMPREHENSIVE PLAN GOALS/POLICIES CLEARLY SHOW THAT SHADDEN STREET IS A FAR SUPERIOR PRIMARY ACCESS STREET TO THE OAK RIDGE MEADOWS DEVELOPMENT – THAN A DEAD-END STREET WITH NO LEGAL ACCESS TO THE STREET IT IS NAMED FOR (PINEHURST).

THERE WERE THREE REASONS THE PLANNING COMMISSIONERS DID NOT CHOOSE SHADDEN – A LACK OF KNOWLEDGE WAS THE REASON FOR ALL THREE.

1. The Oak Ridge Meadows application stated that Stafford had given Premier a temporary access easement – for emergency fire vehicles only. With locked gates, etc. And the commissioners obviously believed that statement.
2. The Commissioners had apparently not read Stafford's letter to Premier in exhibit 27 where Stafford stated their plans to develop Shadden in their phase 1. And clearly gave Premier permission to use Shadden in their phase 1 development too. – with no fire/emergency vehicle limitation. And;
3. In the commissioner hearings – When the Planning Commissioners asked staff several questions about Stafford's willingness to allow Premier to use Shadden as an access street to Oak Ridge Meadows, when Staffords development would start, etc. – EVEN THOUGH STAFF HAD BEEN INVOLVED IN THE MEETINGS THAT LED TO GORDON ROOTS LETTER IN EXHIBIT 27, the planning staff apparently developed a case of amnesia, and answered the commissioners questions with some form of, "nothing official yet", "nothing official", "working on it", etc. In Stafford's letter to Premier in exhibit 27, Mr. Root had made it clear to Premier that:
  - A. Stafford would be developing their property this summer.
  - B. Stafford would be developing a gravel, temporary Shadden in phase 1.
  - C. That Premier was welcome to use Shadden in their phase 1 also.
  - D. That according to planning staff request, the temporary road would be strong enough to support a fire truck in the rain – But there was NO limitation to emergency vehicles only.
  - E. The only limitation was that if Premier did choose to use Shadden as an access in their phase 1, that Stafford would then only develop the road halfway from Baker Creek road to the Oak Ridge Meadows property. – And, Premier would be responsible for the cost of developing that gravel road the rest of the way to the Oak Ridge Meadows property.

THE RESULT OF THE ABOVE ACTIONS WAS THAT THE PLANNING COMMISSIONERS NEVER LEARNED ABOUT THE AVAILABILITY OF SHADDEN STREET AS AN ACCESS! SO, SUPPORTING THE ONLY CHOICE LEFT TO THEM:

- PINOT NOIR AS THE "ONLY" ACCESS STREET TO OAK RIDGE MEADOWS FOR UP TO FIVE YEARS. AND;
- A DEAD-END STREET WITH NO LEGAL ACCESS TO PINEHURST THAT PLANNING STAFF PROMISED WOULD BE CONNECTED "SOMEDAY" WAS NAMED THE EVENTUAL PRIMARY ACCESS. WOW!!!

In reading Comprehensive plan, Shadden street is the "poster boy" of what the goals/policies the plan calls for in an access street. It has by far the shortest, most direct access to Baker Creek road. It also offers the best connectivity (with Stafford's Baker Creek north), circulation, bike/trail access, easiest

emergency vehicles access, no environmental issues, etc, etc, etc. IF COMMISSIONERS HAD BEEN MADE AWARE THAT SHADDEN STREET WAS AVAILABLE, WE ARE CONFIDENT THAT THEY WOULD HAVE NAMED IT THE PRIMARY ACCESS. – WE INVITE CITY COUNCILORS TO ASK THEM THAT QUESTION.

Two other events where Stafford's representatives stated they were willing to make Shadden street available to Premier was at the separate neighborhood meetings for both Oak Ridge Meadows and Baker Creek North. The Stafford rep's were asked the question about the availability of Shadden street by citizens at both meetings. The reps actually seemed to perk up when asked this question (like they'd hoped someone would ask). And responded that they would be happy to make Shadden available to Premier.

There was one other opportunity where the commissioners had an opportunity to discover that Shadden street was available. – It was after the staff presentation in the first hearing, where in response to a commissioner asking about, "the road in Stafford development. When will they start?" At approximately 1:34:05, staff answered, "nothing submitted", "working on it", "no time frame". Well, my wife and I had attended Stafford's neighborhood meeting about a month before that. And in my three minute presentation after the staff presentation was over, I showed a slide of Stafford's preliminary layout of their Baker Creek north development superimposed on Premier's Exhibit 26 development map THAT CLEARLY SHOWED THAT STAFFORD IS PLANNING TO DEVELOP THEIR PROPERTY THIS SUMMER. AND THAT THEY ARE DEVELOPING SHADDEN AS AN ACCESS TO THAT PROJECT. (picture attached). I used that picture again in the second hearing. And pointed out that Stafford was only 90 days or so behind Premier in their development plans at that point. And again, I received no questions. It seemed they did not want to broach that subject in public.

In conclusion, it seems to us that gaining access to the Baker Creek basin (via a dead-end Pinehurst) was more important to the applicant, and the planning staff than providing Oak Ridge Meadows residents with a better access street that would be available on day 1, not five years from now. The letter in Exhibit 27 makes it clear that Stafford is willing to make Shadden street available to Premier. Since it is available, it clearly meets far more comprehensive plan goals/policies than a dead-end road that no longer has legal access to the real Pinehurst street.

We are asking the city council to give Oak Ridge Meadows residents a legitimate 2<sup>nd</sup> access street immediately, not five years from now by naming Shadden street the primary access street to Oak Ridge Meadows. If Premier is not willing to meet Stafford's request to pay to develop 50% of the roadway from Baker Creek road to the Oak Ridge Meadows property – then please have Premier wait until 2020 to develop Oak Ridge Meadows. It sounds like Stafford will have developed 100% of north Shadden developed to Premier's property line by then.

EXHIBIT 27 letter from STAFFORD to Premier  
granting a temporary Access easement

AND

PRELIMINARY STAFFORD NORTH LAYOUT  
SUPERIMPOSED ONTO OAK RIDGE MEADOWS  
EXHIBIT 26 MAP

# STAFFORD'S ACCESS PLAN letter to PREMIER

## Exhibit 27

**From:** [gordonroot@aol.com](mailto:gordonroot@aol.com)

**Subject: Re: Baker Creek North and Oak Ridge Meadows connection**

**Date:** July 9, 2018 at 3:03:24 PM PDT

**To:** [loriz.premier@gmail.com](mailto:loriz.premier@gmail.com), [gordon@staffordlandcompany.com](mailto:gordon@staffordlandcompany.com)

**Cc:** [morgan@staffordlandcompany.com](mailto:morgan@staffordlandcompany.com), [ryanobrien1@frontier.com](mailto:ryanobrien1@frontier.com)

Hi Lori:

In our pre-app meeting for Baker Creek North, in which all departments were represented, we told them that we have are preparing to grant you a temporary secondary access easement over our property in order for you to proceed. We discussed the possible alignment and they preferred an alignment which follows the future alignment of Shadden Drive.

Basically, they would like to see a road base laid down that can support a fire truck in the rain. Depending upon your timing, the length of such will vary, as if you develop concurrent with our first phase, the temporary access road will be shorter, as we would be putting in the portion from Baker Creek Road to a point about 50% of the way to your project.

We have made many revisions to our site plan since I last sent you one based upon City Planning Staff input, and attached is a more recent version. Our final version is now being drawn in CAD. I will forward it to you once we have the plan back.

Morgan/Ryan, please confirm and make adjustments as necessary.

From what I can see, it looks as if we miss the tree.

Thank you,

Gordon Root | Principal

**STAFFORD**  
LAND COMPANY  
INC

[StaffordLandCompany.com](http://StaffordLandCompany.com)

503.720.0914 | Cell

[gordon@staffordlandcompany.com](mailto:gordon@staffordlandcompany.com)

[485 South State Street, Lake Oswego, OR 97034](https://www.staffordlandcompany.com/485-South-State-Street-Lake-Oswego-OR-97034)

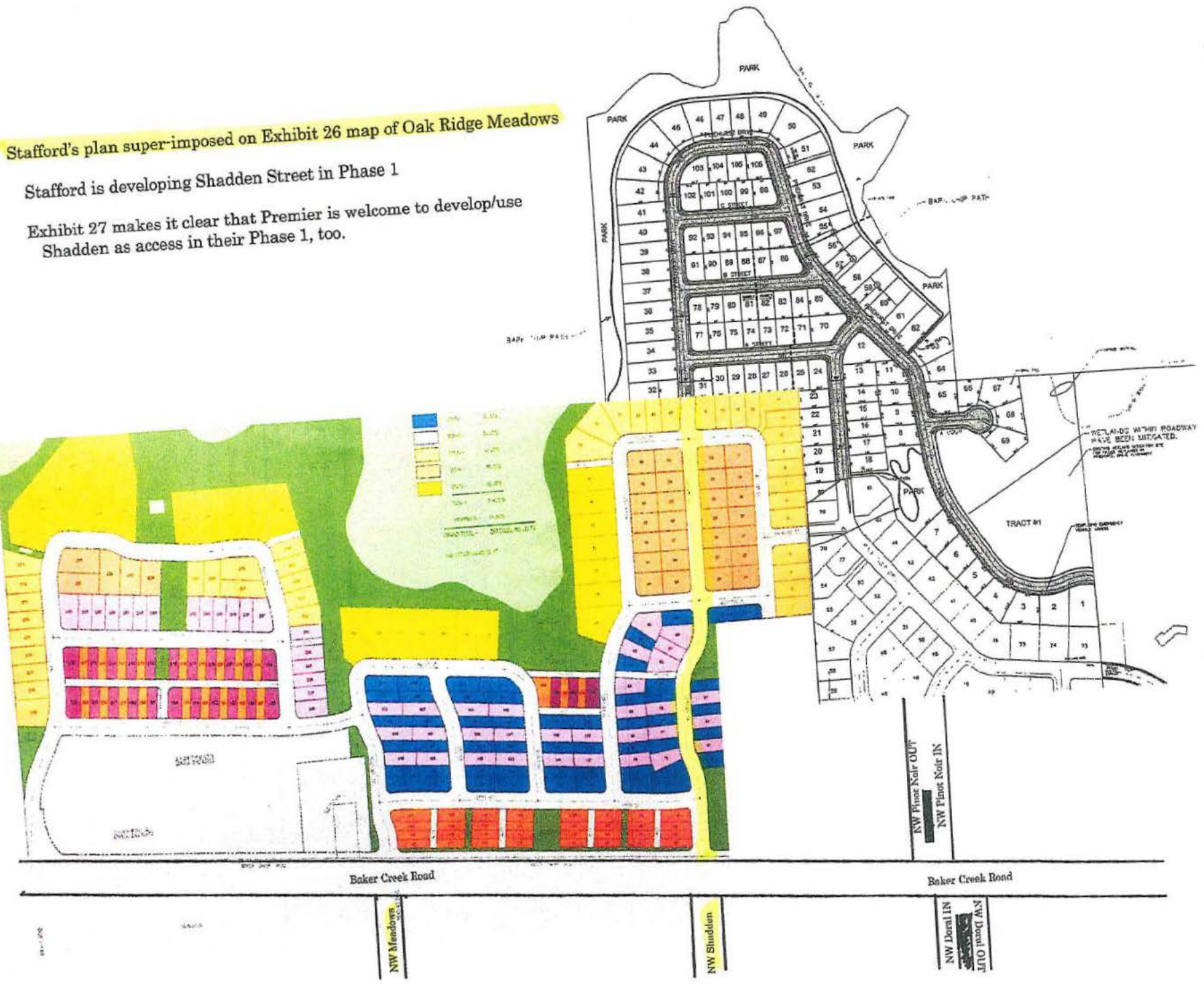


Stafford's plan super-imposed on Exhibit 26 map of Oak Ridge Meadows

Stafford is developing Shadden Street in Phase 1

Exhibit 27 makes it clear that Premier is welcome to develop/use Shadden as access in their Phase 1, too.

405



Baker Creek Road

Baker Creek Road

NW Meadows

NW Shadden

NW Dorland

NW Phase Nair OUT  
NW Phase Nair IN

**IS THE HYDROLOGY/FLOODPLAIN CLASSIFICATION ON THE 2010 FEMA MAP ACCURATE? OR WAS THE MAP JUST AN UPDATED SATELLITE PICTURE – THAT JUST TRANSFERRED 1983 FEMA FLOODPLAIN LOCATIONS?**

- **THE APPLICANT AND PLANNING STAFFS POSITION** – is that the 2010 map is accurate. A year or two before the 2010 FEMA update that the planning staff worked with both FEMA and some state water agency on hydrology related topics. And apparently determined in-house that the FEMA flood classifications in the Baker Creek basin are accurate. But, planning staff clearly skirts around answering the question of, “do the floodplain classifications on the 2010 map reflect 1983 or 2010 hydrology/storm drainage information?”
- **THE FRIENDS OF BAKER CREEK’S POSITION ON FLOODPLAIN CLASSIFICATIONS ON THE 2010 FEMA MAP** is that it was FEMA who updated their entire national mapping program to a digital format in the 2010 time period. All cities in the U.S.A. apparently received a FEMA map update that included: 1) a satellite flyover picture, and 2) digitized and colorized mapping of identified flood zones based on each city’s previous hydrology update (1983 in McMinnville’s case). – BUT FEMA does not change floodplain locations or classifications – unless a city chose to send them updated hydrology information.
- Our group contends that that McMinnville’s 2010 planning department DID NOT send FEMA information on the 27 years of hydrology changes between 1983 and 2010. So, the 2010 map actually shows 1983 floodplain locations, not 2010 locations. Letters from our two sources confirming our claim are included: 1) a letter from Justin Maynard stating that the FEMA site shows that WEST Consultants were contracted by FEMA to do McMinnville’s modernization program (to a digital format). – and that NO updated statistical analysis was done. And, 2) Also, a 2010 letter from FEMA to Kathy George (county commissioner) – that listed all the FEMA updates in Yamhill County between 1979 and 2010. There were no updates of the Baker Creek basin listed.
- **WHY ARE ACCURATE FLOODPLAIN LOCATIONS IMPORTANT.** We have found that at least two long term planning goals made in the late 70’s or early 80’s are based on FEMA’s location of 100 and 500 year floodplains (UGB buildable inventory and TSP). That would work fine “if” any of those plans were checked and updated periodically. But, what we are finding in this case is that the FEMA floodplain locations have not updated for 36 years. That has caused three very unfortunate things can happen: 1) A development that shouldn’t qualify can hide behind a 36 year old goal post. 2) unbeknownst to the city, their UGB and TSP plans have become unfeasible too. And worst of all; 3) The applicants can hide behind all of those outdated/inaccurate city plans – AND CLAIM THAT IT IS OUR GROUP MISREPRESENTING FACTS! What makes us even sadder, is that it is the city’s own comp plan policy #142 (directing storm drainage into the Baker Creek basin for over 36 years) – that has caused what was a buildable wetlands area in 1983 into a 2019 floodplain. PLEASE ORDER A NEW LOMR UPDATE – so Toth’s property can be updated and reclassified before more innocent neighborhoods are unfairly penalized.

7/8/2019

Justin Maynard email containing all terms map  
contains 1983 floodplain locations - NOT 2010

Gmail IA update questions



Mike Colvin <mikecolvin49@gmail.com>

## FEMA update questions

Justin Maynard <Justin.Maynard@pbsusa.com>

Thu, Jun 6, 2019 at 4:03 PM

To: Mike Colvin <mikecolvin49@gmail.com>

Cc: Catherine & Steve Olsen <cdolsen@earthlink.net>, Cathy Goekler <cathy@cannonbeachconstruction.com>, "sandicolvin@gmail.com" <sandicolvin@gmail.com>

Ah! I understand what you meant. Sorry about that. I just double checked the 2010 publication of the Flood Insurance Study, and it turns out the modernization was actually performed under a FEMA contract by WEST Consultants. I thought it had been Yamhill County that initiated it, but I was mistaken (I'm glad I checked). The effective FIS is attached, but to summarize:

Page 54 is the start of the full description of the Countywide Update process. This section essentially says that floodplain boundaries for most creeks were simply digitized from the previous effective FIRM and Floodway panels from the 1980s (plus any LOMRs that may have been done between then and 2010).

Floodplain boundaries were adjusted based on aerial images and USGS topographic maps with a 2-foot contour interval at certain creeks (including Baker). It was assumed that the channel geometry, flood elevations, and flows from the old study were still applicable.

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What this essentially amounts to is that no actual statistical analysis or modeling went into redefining the floodplains. Which means that the statistically derived flows from the 1980s study are still considered effective today. I can send you the 1983 FIS as well if you'd like to have it.

Representatives from all communities in the County had the opportunity to comment on and review the countywide update in 2006 and 2009 (page 2 of the 2010 FIS). I'd guess that ultimately, the FEMA contract was simply intended to modernize the maps to the new flood zone designations, and it was likely left up to the Cities and County to do restudies if that was something they wanted to do.

Justin Maynard, P.E. | Civil Engineer III | PBS Vancouver | 360.567.2105 (direct)

From: Mike Colvin <mikecolvin49@gmail.com>

Sent: Thursday, June 6, 2019 3:40 PM

To: Justin Maynard <Justin.Maynard@pbsusa.com>

Cc: Catherine & Steve Olsen <cdolsen@earthlink.net>; Cathy Goekler <cathy@cannonbeachconstruction.com>; sandicolvin@gmail.com

Subject: Re: FEMA update questions

Justin,

[Quoted text hidden]

[Quoted text hidden]

41071C V000A - Yamhill County FIS.pdf  
3241K

FEMA updates in Yamhill County between 1979 - 2010  
NO Baker Creek basin ENTRIES



## Federal Emergency Management Agency

Washington, D.C. 20472

MARCH 4, 2010

Ms. Kathy George, Chairperson  
Yamhill County Board of Commissioners  
535 NE 5th Street  
McMinnville, OR 97128

Case No: 07-10-0716V  
Community: Yamhill County  
Community No.: 410249  
Effective Date: March 03, 2010  
LOMC-VALID

Dear Ms. George:

This letter revalidates the determinations for properties and/or structures in the referenced community as described in the Letters of Map Change (LOMCs) previously issued by the Department of Homeland Security's Federal Emergency Management Agency (FEMA) on the dates listed on the enclosed table. As of the effective date shown above, these LOMCs will revise the effective National Flood Insurance Program (NFIP) map dated March 02, 2010 for the referenced community, and will remain in effect until superseded by a revision to the NFIP map panel on which the property is located. The FEMA case number, property identifier, NFIP map panel number, and current flood insurance zone for the revalidated LOMCs are listed on the enclosed table.

Because these LOMCs will not be printed or distributed to primary map users, such as local insurance agents and mortgage lenders, your community will serve as a repository for this new data. We encourage you to disseminate the information reflected by this letter throughout your community so that interested persons, such as property owners, local insurance agents, and mortgage lenders, may benefit from the information.

For information relating to LOMCs not listed on the enclosed table or to obtain copies of previously issued LOMR-Fs and LOMAs, if needed, please contact our Map Assistance Center, toll free, at 1-877-FEMA-MAP (1-877-336-2627).

Sincerely,

Handwritten signature of Kevin C. Long in cursive.

Kevin C. Long, Acting Chief  
Engineering Management Branch  
Mitigation Directorate

Enclosure

cc: Community Map Repository  
Mile Brandt, Director of Planning & Development, Floodplain Administrator



**REVALIDATED LETTERS OF MAP CHANGE FOR YAMHILL COUNTY , OR**  
**Case No: 07-10-0716V** **Community No.: 410249**

March 03, 2010

| Case No.     | Date Issued | Identifier   | Map Panel No. | Zone |
|--------------|-------------|--|---------------|------|
| 199531324MBJ | 05/24/1979  | 20055 NE DOPP ROAD, COUNTY ROAD 111 -- PORTION OF SECTION 28, T2S, R3W, W.M.           | 41071C0225D   | X    |
| 96-R10-114   | 02/07/1996  | 11650 NW OLD RAILROAD GRADE ROAD -- PORTION OF SECTION 6, T3S, R4W                     | 41071C0178D   | X    |
| 96-10-100A   | 05/07/1996  | 12797 MW PIKE ROAD-- PORTIONS OF THOMAS HARRIS DLC, SECTION 25,T2S, R5W, W.M.          | 41071C0176D   | X    |
| 96-10-113A   | 05/17/1996  | 19545 BISHOP SCOTT ROAD -- PORTION OF SECTION 32, T2N, R4W, W.M.                       | 41071C0177D   | X    |
| 96-10-148A   | 06/17/1996  | PORTION OF SECTION 25, T2S, R6W, W.M.  | 41071C0175D   | X    |
| 97-10-044A   | 11/19/1996  | 23029 NW FLYING M RD-- A PORTION OF SECTION 30,TOWNSHIP 2 SOUTH,RANGE 5 WEST           | 41071C0175D   | X    |
| 97-10-107A   | 01/22/1997  | HEATHER GLEN, BLOCK 2, LOT 15-- 1684 BONNIE JEAN PLACE                                 | 41071C0404D   | X    |
| 97-10-193A   | 05/01/1997  | 29851 NW OLSON ROAD-- PORTION OF SECTION 2, T2S, R4W, W.M.                             | 41071C0075D   | X    |
| 97-10-206A   | 05/22/1997  | 17900 NORTH VALLEY ROAD-- PORTION OF SECTION 9, T3S, R3W, W.M.                         | 41071C0208D   | X    |
| 97-10-364A   | 10/10/1997  | F.C. GRAHAM'S COVE ORCHARD, A PORTION OF TRACT NO. 155-- 21880 HIGHWAY 47              | 41071C0182D   | X    |
| 98-10-415A   | 10/09/1998  | 8250 GOPHER VALLEY ROAD -- A PORTION OF SECTIONS 24 & 25, T4S, R6W, W.M.               | 41071C0400D   | X    |
| 99-10-167A   | 01/28/1999  | 20380 GOPHER VALLEY ROAD; A PORTION OF SECTION 25, T5S, R6W, W.M.                      | 41071C0580D   | X    |
| 01-10-203A   | 02/26/2001  | 17920 NORTH VALLEY ROAD -- PORTION OF SECTION 9, T3S, R3W, W.M.                        | 41071C0208D   | X    |
| 01-10-223A   | 03/07/2001  | 20055 NE DOPP ROAD -- PORTION OF SECTION 28, T2S, R3W, W.M.                            | 41071C0225D   | X    |
| 02-10-028A   | 11/07/2001  | 28805 NE WILSONVILLE ROAD -- PORTION OF LUKE MCKERN D.L.C., SECTION 21, T3S, R2W, W.M. | 41071C0237D   | X    |

**REVALIDATED LETTERS OF MAP CHANGE FOR YAMHILL COUNTY , OR**  
**Case No: 07-10-0716V** **Community No.: 410249**

March 03, 2010

| <b>Case No.</b> | <b>Date Issued</b> | <b>Identifier</b>  | <b>Map Panel No.</b> | <b>Zone</b> |
|-----------------|--------------------|--|----------------------|-------------|
| 02-10-202A      | 02/06/2002         | 7007 NE HIGHWAY 240 -- PORTION OF ROBINSON DLC NO. 85, SECTION 3, T3S, R4W, W.M.           | 41071C0183D          | X           |
| 02-10-042A      | 02/15/2002         | 26730 SMITHVILLE ROAD -- PORTION OF SECTION 14, T5S, R6W, W.M.                             | 41071C0375D          | X           |
| 02-10-266A      | 04/10/2002         | 3705 SE PATTY LANE -- PORTION OF CLAYTON RICHARDSON DLC NO. 46, SECTION 32, T5S, R4W, W.M. | 41071C0605D          | X           |
| 02-10-269A      | 04/10/2002         | 23400 WILLAMINA CREEK ROAD -- PORTION OF JEREMIAH LAMSON DLC, SECTION 36, T5S, R7W, W.M.   | 41071C0553D          | X           |
| 02-10-560A      | 07/24/2002         | HIDDEN HILLS, BLOCK 1, LOT 6 -- 14575 BAKER CREEK ROAD                                     | 41071C0400D          | X           |
| 02-10-731A      | 10/16/2002         | 11771 NW OAK RIDGE ROAD -- PORTION OF SECTION 6, T3S, R4W, WM                              | 41071C0178D          | X           |
| 02-10-690A      | 10/30/2002         | 17924 GOPHER VALLEY ROAD -- PORTION OF SECTIONS 13 & 24, T5S, R6W, W.M.                    | 41071C0375D          | X           |
| 03-10-0518A     | 06/27/2003         | HIDDEN HILLS, BLOCK 1, LOT 5 -- 14605 SW BAKER CREEK ROAD                                  | 41071C0400D          | X           |
| 03-10-0562A     | 07/24/2003         | 8620 & 8628 SW RIVERBEND ROAD -- PORTION OF SECTION 8, T5S, R4W, W.M. (TL: 300 & 301)      | 41071C0414D          | X           |
| 04-10-0511A     | 06/14/2004         | 8160 NW MEADOW LAKE ROAD   | 41071C0187D          | X           |
| 05-10-0237A     | 03/28/2005         | 10170 NORTH HIGHWAY 99 WEST  | 41071C0184D          | X           |
| 05-10-0753A     | 10/20/2005         | 22740 SW LOGANBERRY LANE   | 41071C0580D          | X           |
| 06-10-B070A     | 02/02/2006         | 8200 MEADOW LAKE ROAD - PARCEL 1, PARTITION PLAT NO. 1992-84                               | 41071C0187D          | X           |
| 06-10-B212A     | 07/05/2006         | 7465 NE HIGHWAY 240  | 41071C0183D          | X           |
| 07-10-0024A     | 02/06/2007         | 18670 SW GOPHER VALLEY ROAD -- PORTION OF SECTION 24, T5S, R6W, W.M. (OR)                  | 41071C0400D          | X           |
| 07-10-0144A     | 02/08/2007         | Creekside Meadows No. 2, Lot 96 -- 2380 SW Taylor Drive                                    | 41071C0403D          | X           |
| 07-10-0782A     | 10/23/2007         | 20900 GRAND ISLAND LOOP ROAD --LOTS 3 AND 4, PORTION OF SECTION 24, T5S, R3W, W.M.         | 41071C0635D          | X           |

**REVALIDATED LETTERS OF MAP CHANGE FOR YAMHILL COUNTY , OR**  
**Case No: 07-10-0716V** **Community No.: 410249**

March 03, 2010

| <b>Case No.</b> | <b>Date Issued</b> | <b>Identifier</b>   | <b>Map Panel No.</b> | <b>Zone</b> |
|-----------------|--------------------|---|----------------------|-------------|
| 09-10-0085A     | 12/18/2008         | 8975 SE MORGAN LANE -- A<br>PORTION OF SECTION 28, T4S, R4W,<br>W.M.              | 41071C0408D          | X           |
| 09-10-0204A     | 01/27/2009         | A PORTION OF SECTION 14, T4S,<br>R5W, W.M.  | 41071C0400D          | X           |
| 09-10-0274A     | 02/17/2009         | A PORTION OF PARCEL 2, SECTION<br>2, T4S, R4W, W.M. -- 4800 NE HAWN<br>CREEK ROAD | 41071C0195D          | X           |
| 09-10-0193A     | 03/26/2009         | PORTION OF SECTION 24, T5S, R7W,<br>W.M., PARCEL 1 & 2                            | 41071C0551D          | X           |
| 09-10-0397A     | 04/07/2009         | 6155 SW GOPHER VALLEY ROAD --<br>PORTION OF SECTION 24, T4S, R6W,<br>W.M.         | 41071C0551D          | X           |
| 09-10-0482A     | 04/23/2009         | 17750 SW WILLAMINA CREEK ROAD<br>-- Sec 13, T5S, R7W, W.M.                        | 41071C0375D          | X           |
| 09-10-0529A     | 05/21/2009         | 7609 SE WALLACE ROAD  | 41071C0435D          | X           |
| 09-10-0595A     | 06/23/2009         | 18701 NE LAUGHLIN ROAD -- A<br>PORTION OF SECTION 35, T2S, R4W,<br>W.M.           | 41071C0182D          | X           |

**WHAT HAS CAUSED THE INCREASED FLOODING IN THE BAKER CREEK BASIN – AND WHY  
IT IS TAKING A DECREASED AMOUNT OF RAIN TO CAUSE THESE FLOODS**

We have found that the hydrology/flooding issue involves math and science levels well over our heads. So, for our part, we will be sticking to high school math and our flooding pictures. We think it is clear that, over time, a 1983 wetland became a 2019 floodplain. And since the FEMA map and city long term plans weren't adjusted, the current city council is faced with a big problem!

- The large increase of flooding in the Baker Creek basin in the last 5-6 years has been caused by the city's following of its own policy. – Comp plan policy #142 that states: "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 natural drainage ways, where required."
- Besides the natural drainage off the coast range 4-5 miles to the west of the Baker Creek basin also includes the Berry Creek drainage – (FEMA map attached).
- There is also an in-town Baker Creek storm drainage system that is one of the 6-7 river/creek drainages in town that surface storm drainage is directed to (drainage map attached).
- The Baker Creek drainage area runs from approximately Hill Street on the west to Evans street on the east. But it also runs quite a way north around westside road to the Hembree/Grandhaven area.
- We think directing storm flow to the basin started over 40 years ago when most of the area west of Michelbook Lane was still country and open fields. The north was undeveloped too.
- So, storm flows to the basin have been increasing yearly for over 36 years. The additional volume did not cause any problems until about 2010 or so. That seems to be when people living on the edges of the basin started recognizing increased flooding in fields and 100 year floodplain areas after only average rainfalls.
- 2015 seems to be the year where the cumulative storm flow volume from increased infrastructure and building projects in all three areas (rural, west of Michelbook Lane, and in the northern section around Hembree/Grandhaven). See the flooding timeline included, but December 8<sup>th</sup>, 2015 was the first major flood since 1996 (when record rainfalls 10-13 inches almost flooded homes in the lower Crestbrook neighborhood).
- Even though the 2015 flood that was approximately equal to the 1996 floods – the difference was that it only took 3.5 inches of rain to cause this flood. This demonstrates that storm flows are now coming from a much larger area. Several more infrastructure projects took place between 2015 and 2018 – AND, one rural project that surprised us after the fact, was that in 2018, approximately 1,000 – 1,200 acres of field drain tile was installed on both sides of Baker Creek road from 1-3 miles west under new filbert orchards.
- We think the major flood that happened on December 18<sup>th</sup>, 2018 – was the "canary in the coal mine" event. After the driest summer and fall on record, about a half an inch of rain fell on December 16<sup>th</sup>. And the Mac airport recorded 1.25 inches on December 17<sup>th</sup>. Which wouldn't have caused much excitement even ten years ago. But on the morning of the 18<sup>th</sup>, everyone was amazed to see that the whole basin was flooded to similar levels that 3.5 inches had caused only three years previous with less than 2 inches of rain!
- Our point is that the flooding we are experiencing is not from large storms, or one-time events. They are from cumulative amounts of storm volume that have added up for over 36 years of replacing fields with roads and roofs. And, also from draining a much larger area.
- That is why wetlands that were buildable in 1983, are now 2019 floodplains that we think are unsafe to build in. Our hydrology study, and flooding pictures are pretty clear evidence of that.

# Flood ZONE Map

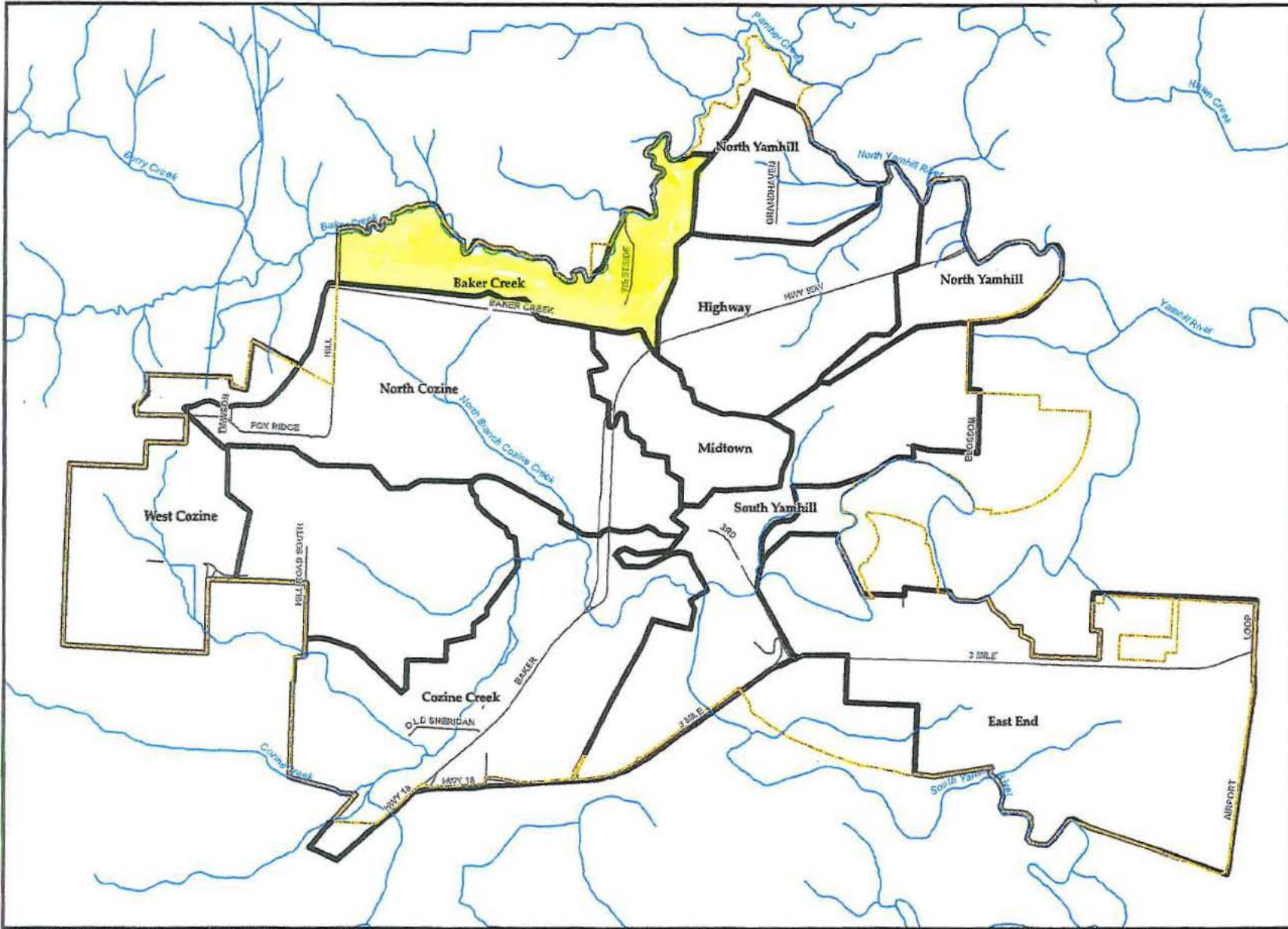
Map of FEMA 1983 ZONE locations  
(100 year and 500 year)

Expanded FEMA Map showing the Berry  
CREEK and BAKER CREEK drainages coming  
off the Coast Range Hills

Timeline of MAJOR Flooding EVENTS  
and the SMALLER Amounts of Rain  
Required to cause the Floods

THEN

Several flooding pictures with dates  
and Locations and directions we  
neglected to supply originally



**FIGURE 4-1**

**MAJOR BASIN MAP**

City of McMinnville  
Stormwater Drainage Master Plan

**Legend**

- Creek/River
- Major Roads
- Proposed UGB
- Major Basin

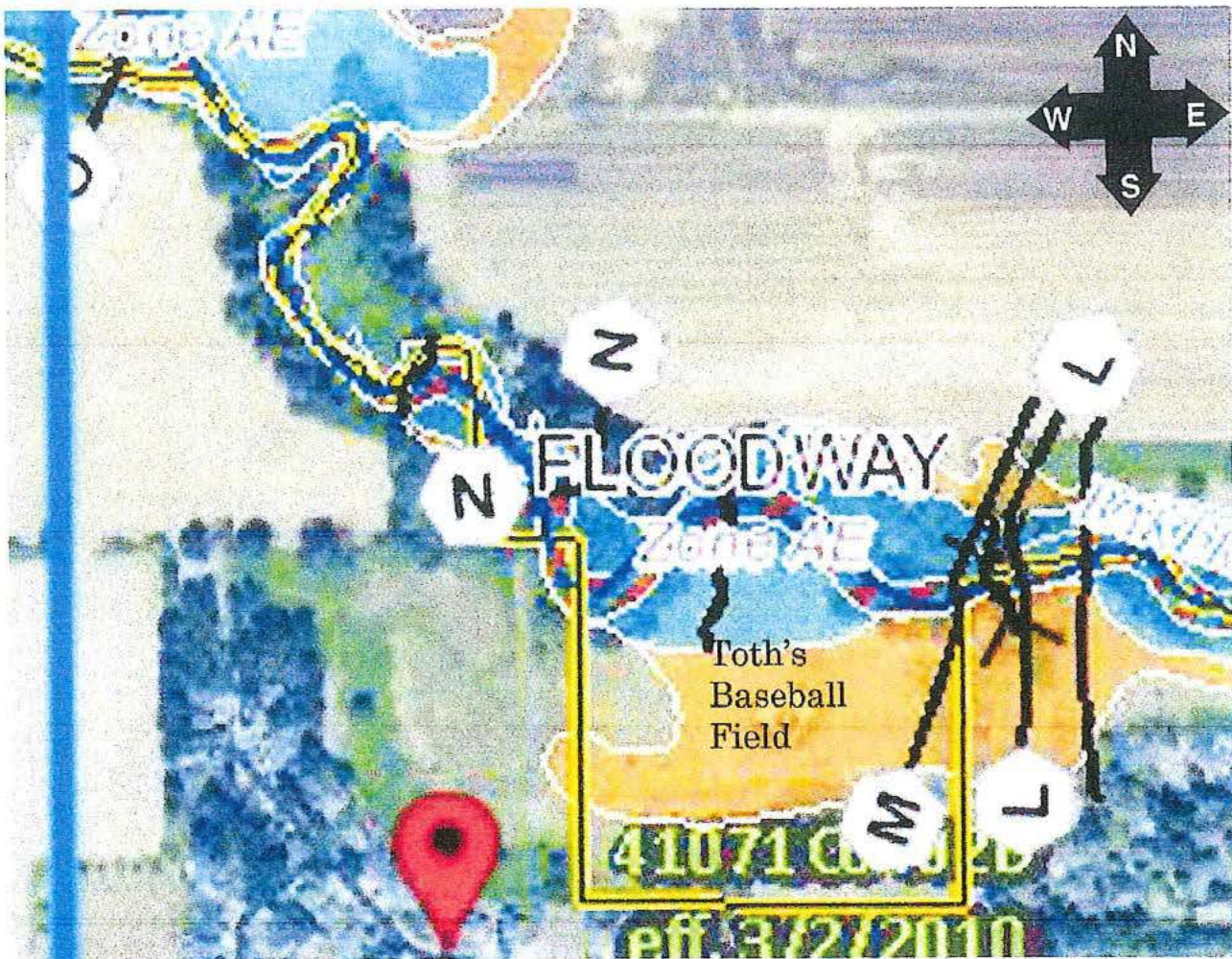
1 inch = 2,500 feet

**CH2MHILL**

Date: 4/10/2009

4-14

## Exhibit #1 1983 Wetland/Flood Plain Locations



1983/2010 FEMA Map shows the brown area surrounding Toth's baseball diamond has only a .2% chance of flooding.

AND the "wetland" field west of the 500 year flood plain has a ZERO percent chance of flooding

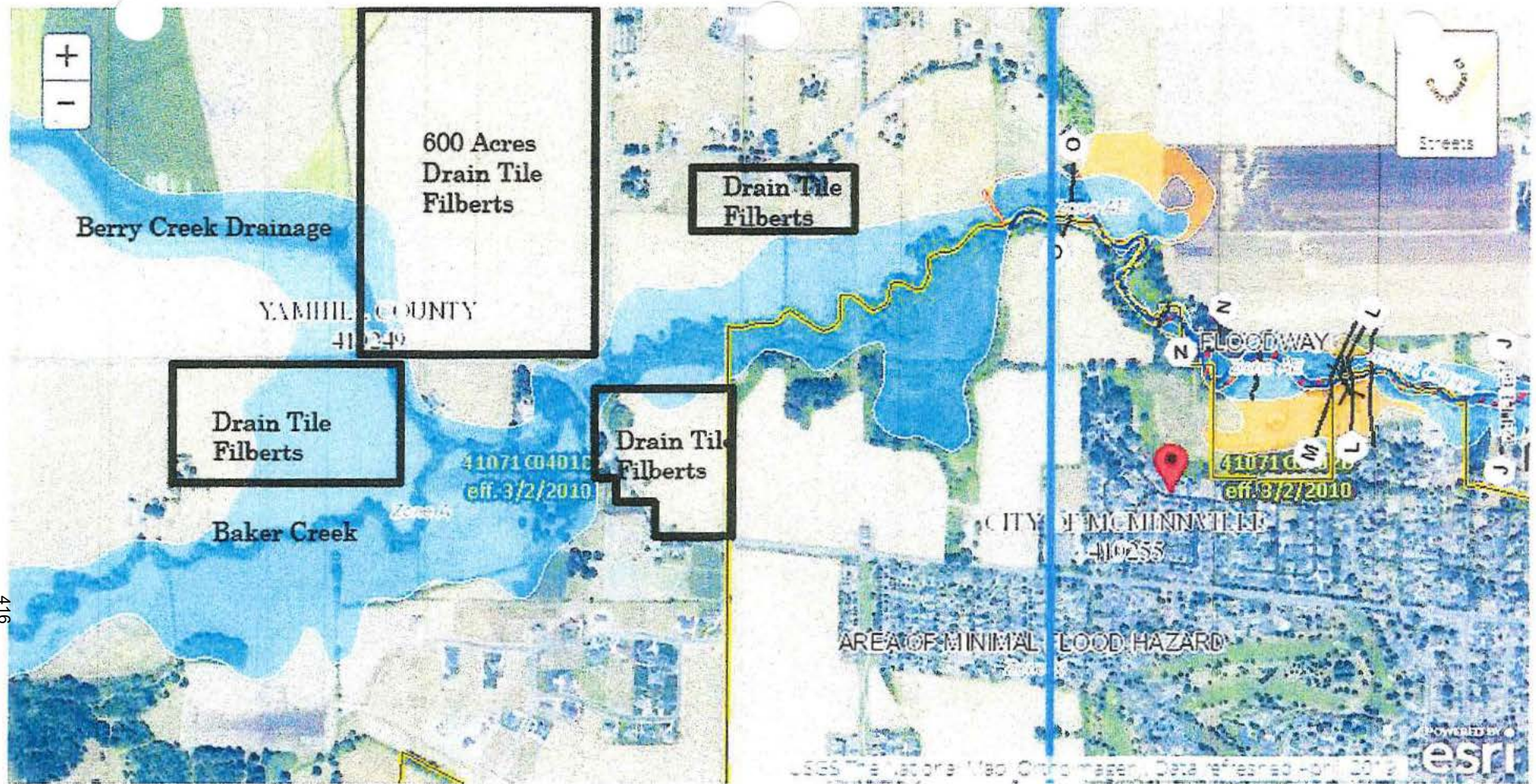
This view from several thousand feet in the air and 36 years into the past, looks very non-threatening.

Compare these 1983 flood plain locations with 2015/18 pictures:

Toth's 500 year flood plain (that 80's UGB identifies as buildable property), now floods 1-2 times per year.

3-4 acres of 4722 property claimed to be mitigated wetlands, also floods 1-2 times per year.

PBS Hydrology report states that an updated FEMA report will likely classify part of the fill/dike area on 4722 property as 100 year flood plain.



2010 Satellite picture with 1983 flood plain locations

Shows that both Baker Creek and Berry Creek drainages come off coast range hills. So, drains a large area

Filbert orchards with drainage tile identified

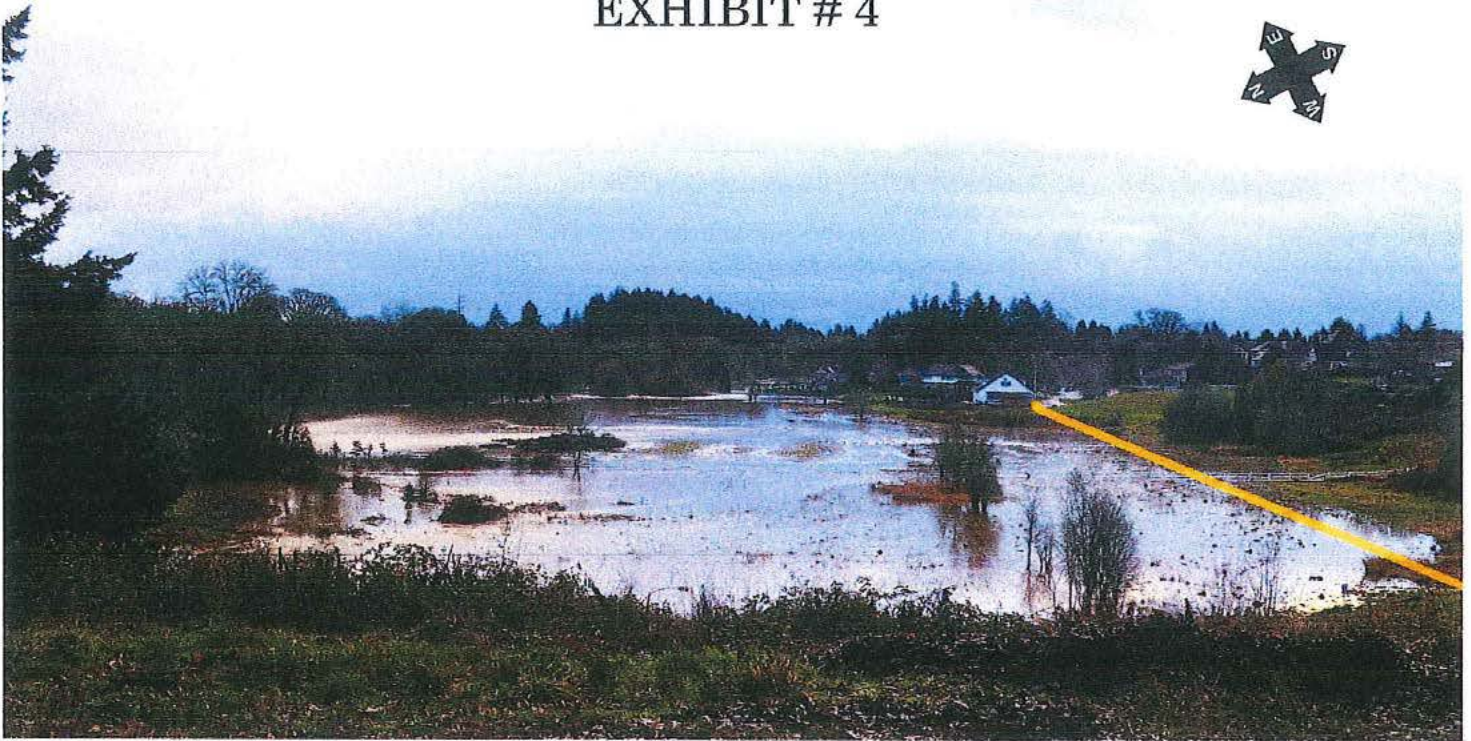
Future projects out Baker Creek Road will add additional storm flow volume in the future - Abrams Property?  
Alan Rudden?



### EXHIBIT #3 Timeline of Major Flooding

| Year | Date of Flood  | Amount of Precipitation | Time between Major Floods |
|------|--|-------------------------|---------------------------|
| 1996 |  | 12"-14"                 | ?                         |
| 1997 |  |                         |                           |
| 1998 |  |                         |                           |
| 1999 |  |                         |                           |
| 2000 |  |                         |                           |
| 2001 |  |                         |                           |
| 2002 | NOTE: We agree that the risk of flooding was very low until 2015 - when enough storm run-off had been directed to the basin in 19 years - that it only took 3.52 inches of rain to flood the basin equal to what 12-14 inches did in 1996. |                         |                           |
| 2003 |  |                         |                           |
| 2004 |  |                         |                           |
| 2005 |  |                         |                           |
| 2006 |  |                         |                           |
| 2007 |  |                         |                           |
| 2008 |  |                         |                           |
| 2009 |  |                         |                           |
| 2010 |  |                         |                           |
| 2011 |  |                         |                           |
| 2012 |  |                         |                           |
| 2013 |  |                         |                           |
| 2014 |  |                         |                           |
| 2015 | Dec. 8, 2015   | 3.52"                   | 19 Years                  |
| 2016 |  |                         |                           |
| 2017 |  |                         |                           |
| 2018 | Dec. 18, 2018  | 2"                      | 3 Years                   |
| 2019 | Feb 12, 2019   | 2"                      | 2 Months                  |
| 2020 |  |                         |                           |
| 2021 |  |                         |                           |
| 2022 |  |                         |                           |

## EXHIBIT # 4



By 2015 there was enough additional storm drainage from road and new housing developments in the Baker Creek Hydrology area, that as little as 3.52 inches over a three day period was enough to flood:

All of the 500 year flood plain  
Most of the basin and wetlands  
AND almost flooding the homes in Crestbrook

NOTE: East of fence = 500 year flood plain  
West of fence = Wetlands and basin on 1983 and 2010  
FEMA maps

Proposed route to Pinehurst is flooded in 2015 after only 3.15" of rain, (in 2018 & 2019, only 2" of rain)

This photo was taken by Norma Brott on December 8, 2015 from her back deck (Lot #41 on Exhibit #26 map)

- \* Fence is over 3 feet deep in most areas
- \* Proposed Pinehurst Route flooded
- \* Much of proposed fill/dike area close to being flooded
- \* All "Buildable Inventory" in 80s UGB - several feet under water.



### December 2015 Flood from Lot #41 EX: 26 Map

\* This is another picture from Norma Brott's deck aimed more northward that shows just how much of the 1983 wetlands and basin floods regularly.

NOTE: The western tip of flood water is just under the proposed cul-de-sac in the Oak Ridge Meadows proposal.

ALSO: X = Shows an island of approximately one acre of fill five to six feet in depth that we couldn't find any permit for. It appears that applicant has already narrowed the drainage way at least once.



December 18, 2018 Flood picture from Lot #40, Exhibit 26

- \*After less than 2" of rain in 24 hours (a.m. 17th - a.m. 18th)
- \*Pinehurst route on Toth's property flooded
- \*500 year flood plain and 80's UGB area of Toth's property flooded
- \* 3-4 acres of 1983 "Wetlands" on 4722 property flooded (mitigation failed)
- \*Standing water in bottom/right area is where filling/diking/road are proposed. It is likely 100 year flood plain now.
- \* Water in far left corner is where proposed road comes down to basin. It is also likely flood plain or 100 eyar flood plain today.



Tim Roberts Property 12/18/18 looking NW from Crestbrook

- \* Shows how close 2" of rain came to flooding Crestbrook homes
- \* Water 2-3 feet high on Toth's Goal Post - the REAL GOAL POST - makes it clear that 36 year old UGB and TSP Plans for building in the basin are no longer realistic.



Tim Roberts Property 12/18/18 looking North from Crestbrook

Tim Roberts gate where he stated that the water was the highest in 25 years after less than 2" of rain in a 24 hour period.

PLEASE order an updated FEMA LOMR report. It will:

- \* Reset outdated planning goal posts along Baker Creek
- \* Give the city updated information needed to make more accurate long-term UGB and TSP master plans
- \* It should make it easier to remove property listed as buildable in the 1980s - out of current UGB calculations.

Hydrology Study

PBS ENGINEERING + JUSTIN'S QUALIFICATIONS

JUSTIN MAUNARD'S ORIGINAL SUMMARY OF  
THE HYDROLOGY STUDY

JUSTIN'S INDIVIDUAL RESPONSES TO MS.  
KELLINGTON'S CRITICISM OF HIS ORIGINAL REPORT

# PBS AND JUSTIN MAYNARD'S Qualifications

At the April 18, 2019 Planning Commission hearing, Friends of Baker Creek presented to the commissioners a hydrology study of the Baker Creek Basin. It concluded the possibility that a portion of the proposed development could lie within the 100-year floodplain based on modern modeling methods and statistics, and the effective flood insurance maps should be updated to reflect current flood risks.

It was prepared by **PBS Engineering and Environmental Inc.** The company was founded in 1982. Headquartered in Portland OR, they employ over 200 professionals where they provide engineering and environmental consulting services. With revenues of \$37M, they are in the top 500 engineering firms in the nation; according to Engineering News Record they are ranked #10 in Civil Engineering in the Northwest.

The engineer responsible for the project is **Civil and Water Resources Engineer Justin Maynard**. He has a BS in Civil Engineering, focusing in Geotechnical, Structural, and Water Resources, from UCLA and an MS in Environmental Fluid Mechanics and Hydrology from Stanford. Since then he has specialized in water resources for five years and is licensed in Washington, Oregon, and California. This includes storm drainage master planning, NPDES permit compliance projects, flood studies, dam and levee evaluations, flood protection and stream restoration, and storm-water pump station designs. He has done some sanitary pump stations and water system work, but those are less relevant to hydrology.

Below is a list of heavily hydrology-oriented projects when he worked for Schaaf and Wheeler Consulting Civil Engineers in Santa Clara, CA.

- Storm Drain Master Plans for the City of Santa Clara, City of Palo Alto, City of Soledad, and City of Cupertino
- Forensic flooding analysis in the City of South San Francisco and City of San Mateo
- Anderson Dam Stochastic Reliability Analysis (Dam reconstruction project in Morgan Hill, CA)
- Dublin Crossing Development Flood Study and **CLOMR** (HEC-HMS and HEC-RAS 1-D/2-D)
- Christopher Ranch Flood Study and **LOMR** (HEC-RAS 1-D/2-D modeling)
- Enterprise Storm Basin **LOMR** (this included an extensive HEC-HMS model, similar to Baker Creek, and a 2-D HEC-RAS model)
- Moffett Gateway Development Flood Study (HEC-HMS and HEC-RAS)
- Fisher Creek Flood Study and Detention Storage Evaluation (HEC-HMS and RAS modeling)
- Zone 7 Water Agency Calibrated Hydrology Model Development
- Foster City Levee Deficiency and Wave Runup Analysis
- Coyote Point and Poplar Avenue Pump Stations in San Mateo, CA (included basin hydrology, flood study, and **CLOMR**)
- Anderson Dam Seismic Retrofit Dewatering Plan (part of the same dam reconstruction project as above)
- Dam Failure Inundation Studies for South Feather Water and Power (three dams)
- Dam Failure Inundation study for California Water Service (Bear Gulch Water Supply Reservoir)
- Matadero Creek Pump Station Rehabilitation (included a statistical evaluation of levees in the Creek pre- and post-Project)
- Base Flood Delineation for Foster City Central Lagoon
- He presented the Foster City Levee modeling and Anderson Dam Statistical modeling at the Floodplain Management Association conferences in 2016 and 2017.

With PBS, he has been doing more design work but is still been doing quite a bit of the same water-focused work as well. In addition to Baker Creek, this work has included:

- Magnolia and Magnolia Heights Subdivision storm drainage system design
- Hydrology and drainage design for a few roadway projects (Brady Road in Camas, Lake and Everett Intersection in Camas, Highway 101 Sidewalks in Lincoln City, and SR502/SR503 intersection in Battle Ground, WA)



- North 10<sup>th</sup> Street Fish Passage Culvert Crossing and downstream analysis (HEC-RAS)
- La Center Middle School storm design (HydroCAD – storm pipe systems and pond design)
- Lexington Elementary School storm pump design and downstream analysis (HydroCAD for hydrology, AutoDesk SSA for pump modeling, and HEC-RAS 2-D for hydraulics)
- Finnegan Creek Bridge Replacement Scour Analysis (HydroCAD and HEC-RAS)
- No-Rise analysis for temporary construction staging in the floodway along the South Umpqua River, south of Roseburg, OR

At the May 16<sup>th</sup> Planning Commission meeting, Wendi Kellington, of the Kellington Law Group, prepared a rebuttal to PBS's report. She called into question the reputation and reliability of PBS Engineering. The bulk of her letter attacks the report but there is no indication she has any engineering training or expertise in analyzing hydrologic flows.

At the May 16<sup>th</sup> hearing, attorney **Bill Kabeiseman**, of Bateman Seidel in Portland, **entered into testimony** information on the two successful **LUBA lawsuits that disallowed consideration of her testimony**. His testimony states "...LUBA has previously held that a letter from an attorney opining on matters that require expertise is not substantial evidence to support a decision. *Oregon Coast Alliance v. City of Brookings*, 72 Or LUBA222 (2015) and *Weuster v. Clackamas County*, 25 Or LUBA 425 (1993)". The City attorney neglected to advise the commissioners that Ms. Kellington's comments should not be taken into account. Yet during deliberations, the Planning Commission appeared to put a great deal of importance to her comments.

Ms. Kellington misrepresented the PBS report when she indicates the report would not support a FEMA LOMR. This comment ignores the fact the report was never intended to support a FEMA LOMR. It is a hydrologic analysis of Baker Creek and the potential floodplain impacts of recent and future development. While Mr. Maynard acknowledges there was a typographical error in the original report, Ms. Kellington's evaluation of the hydraulic model is a misrepresentation of the intent of PBS's report. His revisions do not change the outcome of the original conclusions.

It appears possible that a portion of the development in the 11.47 acres [4722] could lie within the 100-year floodplain based on modern modeling methods and statistics. Without an updated FEMA map, the City could be opening itself up to future lawsuits. Just look to the Johnson Creek project in Portland. Due to nuisance" flood events throughout its history, restoration of wetlands is costing the City of Portland millions of dollars. The website <http://nrcsolutions.org/johnson-creek-restoration-portland-oregon/> provides a cautionary tale for McMinnville.

PBS's June 17, 2019 rebuttal to Ms. Kellerman's May 15, 2019 opponent response is included with this packet. It explains why PBS's conclusions in their report are valid and PBS stand by its original report.



May 13, 2019

Catherine Olsen  
Friends of Baker Creek  
2650 NW Pinot Noir Drive  
McMinnville, OR 97128

JUSTIN'S ORIGINAL SUMMARY  
of the hydrology study

Via email: cdolsen@earthlink.net

Regarding: Baker Creek Hydrologic Analysis  
McMinnville, OR  
PBS Project 71440.000

Dear Catherine:

This letter summarizes the analysis and findings of the Baker Creek Hydrologic Analysis, completed by PBS Engineering and Environmental on May 8, 2019. The analysis applied technically sound methods to estimate runoff from the approximately 26 square mile Baker Creek watershed. A hydrologic model was developed and calibrated based on stream gage statistics in nearby watersheds as well as equations published by the USGS and developed specifically for Western Oregon. Industry standard hydraulic modeling software was used to estimate floodplain extents and elevations based on current soil data, land cover information, and elevation data intended in part for use in watershed-scale studies.

This analysis indicated first and foremost that effective FEMA floodplain mappings are in need of revision to reflect modern data and statistics not available at the time of original mapping. The technical basis for current FEMA flood mapping for Baker Creek is a detailed study performed prior to the original 1983 mapping. The 2010 modernization simply placed the previously established base flood elevations over updated topography without estimating flood flows or water surface elevations based on modern data. The results of the PBS study show that areas of the wide floodplain currently mapped as "Zone X" (areas of 500-year flood risk) can be inundated at approximately a 2-year return period. This magnitude of flood frequency has been verified anecdotally by residents and was documented photographically on numerous occasions.

Development currently planned in the vicinity of the floodplain would potentially place residential lots in an area of flood risk without a FEMA flood hazard designation, leaving potential buyers unaware of the risk and allowing for blockage of a floodplain. Currently planned developments and the recent installation of tiled drain systems on altered agricultural lands in a small area of the watershed have an impact on runoff characteristics. Allowed to occur unchecked as urban growth continues, further development and agricultural activities that increase runoff volume and peak intensity can have a much greater aggregate impact on the floodplain.

Beyond near-term activities, replacement of forested and grassland land covers lying west of the City could irrevocably alter drainage patterns, even further compound impacts on the Baker Creek floodplain, and put life and property in the City of McMinnville and Yamhill County at risk.

Consideration of such factors is a necessary part of protecting residents and businesses from increased flood risk, whether by way of revised flood hazard mapping, foresight in policy-making to mitigate impacts to Baker Creek and other watersheds, or other efforts to maintain watershed and stream health.

Please feel free to contact me at 360.567.2105 or [justin.maynard@pbsusa.com](mailto:justin.maynard@pbsusa.com) with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jm', written over a horizontal line.

Justin Maynard  
Civil/Water Resources Engineer

PBS RESPONSE TO KELLINGTON CRITICISM OF ORIGINAL SUMMARY



May 24, 2019

Catherine Olsen  
Friends of Baker Creek  
2650 NW Pinot Noir Drive  
McMinnville, OR 97128

Via email: cdolsen@earthlink.net

Regarding: Baker Creek Hydrologic Analysis  
McMinnville, OR  
PBS Project 71440.000

Dear Catherine:

As you know, in May of this year, PBS prepared a Hydrologic Analysis of Baker Creek (PBS Report) for your organization. On May 15, 2019, PBS was made aware of a response to the PBS Report by the Kellington Law Group (Kellington), on behalf of the Oak Ridge Development applicant, Premier Development, LLC. This letter discusses responds, point by point, to the assertions in the Kellington letter and explains why PBS' conclusions in the PBS Report are valid and PBS stands by its Report.

Kellington first indicates that the "consultant report would not support a FEMA LOMR..." This comment ignores the intent of the PBS Report; the PBS Report was never intended to support a FEMA LOMR –the PBS report is pointedly a "Hydrology Study" and not an "MT-2 Narrative" that would support a LOMR. as explained in the Executive Summary of the PBS Report, PBS was asked to "perform a hydrologic analysis of Baker Creek and evaluate potential floodplain impacts of recent and future development." That is what the PBS Report did and, as explained in the Report, the conclusion that it reached is that the City's current flood insurance rate maps are outdated and in need of revision.

Kellington then goes on to claim that the mathematic calculations presented in the report are inaccurate for several reasons. Those reasons are each addressed below.

NOTE: His summary is highlighted in yellow on page 9

1. **The response states that the PBS report “vastly...overestimates the peak flow rates of water in Baker Creek.” Kellington asserts that PBS “jiggered” the numbers so that the concentration of peak flow happens earlier than it does.**

PBS acknowledges that the Report contained a typographical error, but the analysis was performed correctly, notwithstanding the typo. The typop mistakenly discusses and provides the definition for time of concentration. This section should have described the calculated parameters as lag time. This section should, therefore read as follows:

**3.4 Lag Time**

Curve number methodology in the HEC-HMS model requires that a lag time be estimated for each watershed in order to apply the unit hydrograph and calculate runoff. The SCS method prescribes a watershed lag method for calculating time of concentration as follows:

$$L = \frac{1.48(S + 1)^{0.7}}{1,900 * Y^{0.5}}$$

Where:  $L$  = Lag Time (hours)  
 $l$  = Longest Flow Path (LFP) length (feet)  
 $S = \frac{1,000}{CN} - 10$  = Maximum potential retention (inches)  
 $Y$  = Average watershed land slope (%)

Calculation of the maximum potential retention parameter requires the CN value for the watershed, estimated as described in Section 3.3. This equation has been developed to represent the lag time for watersheds of varying type and size.

What Kellington overlooked is that the proper input to the HEC-HMS model is, in fact, the lag time, and not the time of concentration. The lag equation was, therefore, *intentionally* applied to the basins. We recognize the typographical error contained in the PBS report but can assure that the calculated lag time was properly input into the hydrologic model. We have revised the PBS report accordingly, but correcting the typo does not change the result of our analysis.

2. **Kellington goes on to claim that the hydrologic model is undermined by the choice of calibration watersheds, providing unit discharges for two of the calibration watersheds (140 cfs per square mile and 154 cfs per square mile for Butte and Tualatin Creeks, respectively)**

Kellington has utilized unit discharge as reasoning to support the implication that a “whopping” 249 cfs per square mile is out of the realm of possibility. What Kellington selectively omits is that the gage statistics for the third calibration watershed (Scoggins Creek) indicate that its 100-year peak unit discharge for that gage is over 230 cfs per square mile, which is very similar to that estimated for the Baker Creek watershed.

Unit discharges are not a reliable way to compare watersheds in isolation. Unit discharge is ultimately influenced by a number of factors, including watershed geometry, soil types, and land cover types. One reason for higher unit discharge occurring in the Baker Creek watershed than in the Tualatin and Butte watersheds is that the calculated curve number parameter is higher than in the other watersheds, which results in a greater volume of runoff from the surfaces in the watershed. It stands out that a watershed with more similar size and calculated curve number parameter, all included in the report, has very similar unit discharge to Baker Creek.

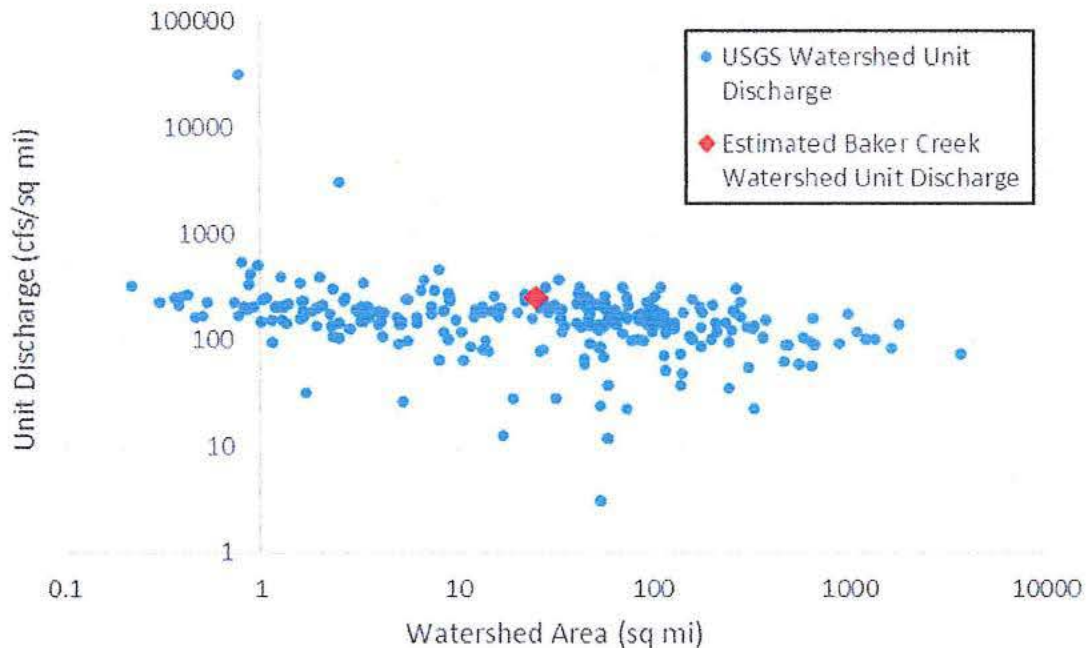
Choice of calibration watersheds is based on a number of factors, including:

- a. Watershed Area
- b. Watershed Geometry

- c. Soil and Land Use Make-up
- d. Location in relation to the study watershed

Ideally, these factors are all the same in the calibration watershed as in the study watershed. However, each watershed is unique and this is almost never the case – there simply aren't enough stream gages present to support an ideal analysis. These factors must be balanced by a qualified Engineer when such analysis is performed.<sup>1</sup> Adjustments in the PBS report to curve numbers were based on the watersheds sharing the greatest similarity balanced with proximity to Baker Creek; however, no two watersheds are completely alike.

This is most easily observed using a study of Western Oregon watersheds by the USGS, in which the regression equations for flow estimates in ungaged watersheds are based. 100-year flows and watershed areas extracted from that study, placed on a log-log plot show that the estimated Baker Creek unit discharge is not an obvious outlier from watersheds of similar size:

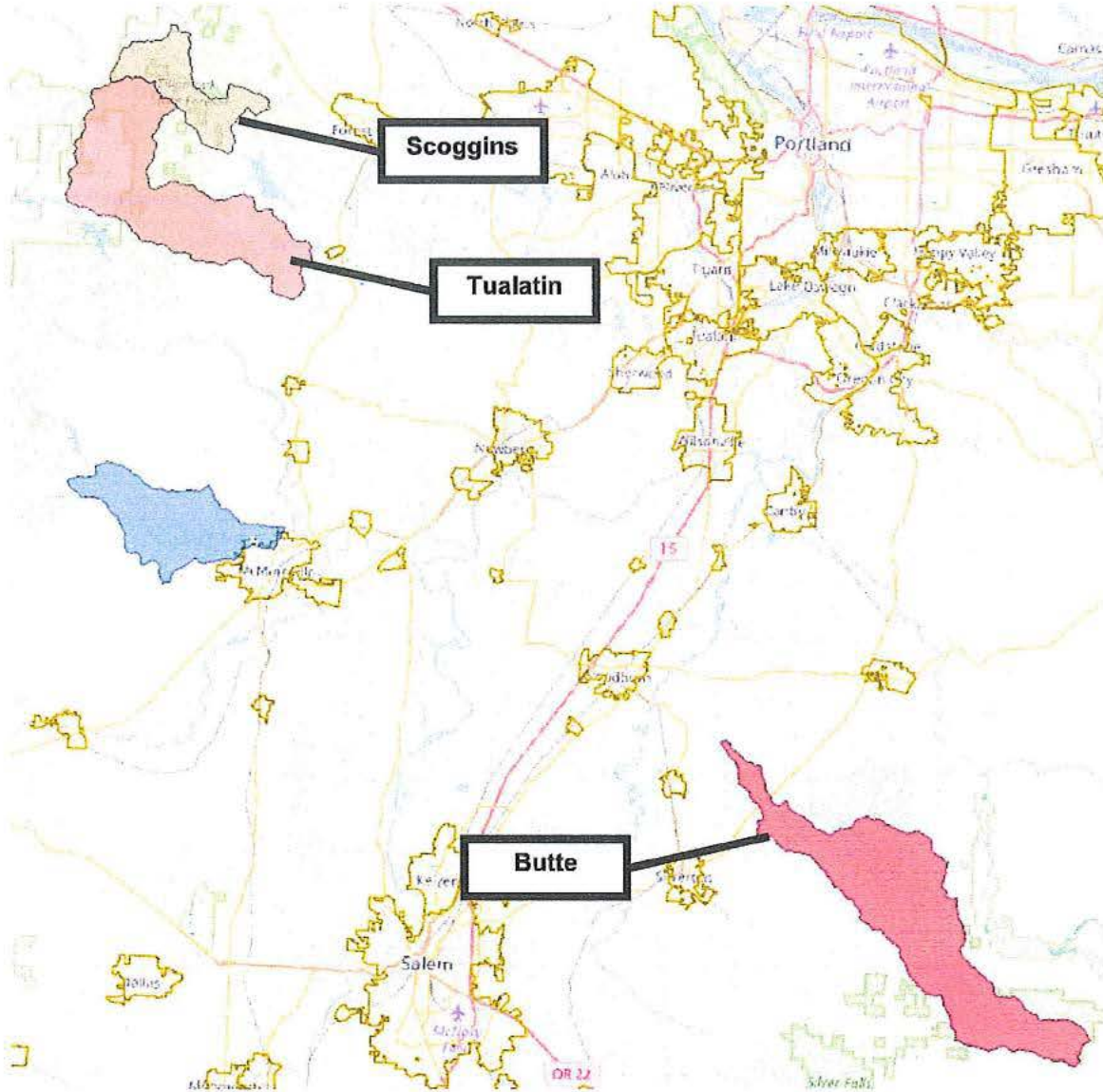


The calibration is founded on adjustment of the Curve Number according to the soil conditions and land uses present in the watershed. Curve number adjustment is therefore primarily based on the watershed with the closest physical properties (reference Table 10 and 11) and proximity. Even for a watershed with similar unit discharge (Scoggins), the curve number adjustment required to achieve a match to the 100-year gage statistic for peak flow is greater than that required for the other two watersheds.

If curve number adjustment were performed based on similar unit discharge alone, the result would actually have been higher peak discharge for Baker Creek. However, greater weight was given to the watersheds with more similar soil properties. This is an exercise of engineering judgment, based on experience calibrating Curve Number methodology.

<sup>1</sup> It is worth noting that Ms. Kellington is an attorney – not an engineer – and provides no basis to believe that she had the training or qualifications to undertake any such judgments or analysis. It is worth noting that the applicant has retained an engineer, but that engineer either did not perform the analysis, or was unwilling to put his name on the arguments made by Ms. Kellington.

For reference, a figure of the watersheds is provided below.



This leaves a multitude of reasons that the Baker Creek unit discharge is higher than the calibration watersheds, none of which have anything to do with improper calibration of curve number values. The most obvious reason is a higher curve number due to the presence of larger concentrations of Type C/D soils and somewhat more urbanization and agricultural uses, as well as a far more complex geometry. Baker Creek also has a relatively large northern branch (drainage area 3) coming to a confluence with flows from drainage areas 1 and 2. This lends itself to a somewhat different aspect ratio from the calibration watersheds, which do not have a significant tributary branch.

If every gaged watershed were eliminated from consideration in a calibration on the foundation of Kellington's assertions of dissimilarity of unit discharge, no calibration would be possible. Again, the arguments in Kellington's letter provides no reason for PBS to change the conclusions in its report.

- 3. Kellington notes that the hydraulic model relies exclusively upon LIDAR data and that the "Date of the LIDAR data used is not revealed – it could have been from spring or winter when the stream channel was full of water." Kellington also indicates that the report's "point of beginning – the capacity of the channel to handle storm water – is faulty." The response further notes that the channel survey result came in May 15, 2019. Kellington makes the assertion that the "discharge capacity within the channel could be as much as 500 to 1,000 cfs greater than what the...hydraulic model indicates".**

Although there is no requirement to include the date of the LIDAR data, the LIDAR dataset utilized in the study is the 2012 Tillmaook-Yamhill Bare Earth returns, collected between September 23<sup>rd</sup> and October 5<sup>th</sup>, 2012 (Full LIDAR metadata is available on the DOGAMI website). The assertion that the report's "point of beginning" is an analysis of the capacity of the channel is, once again, a misrepresentation of the purpose of this report. The report is, after all, a *Hydrology Study*, with an ancillary Hydraulics element to it. Kellington's assertion that the conclusions of this impact analysis are "fallacious" is unwarranted and incorrect, constituting a misrepresentation of the purpose of the hydraulic modeling, and demonstrating that these analyses should be left to qualified engineers. The LIDAR data was used primarily as an impact analysis tool in this report and was found to be the best available information at the time that the study was performed. Regardless of the water surface elevations present in the channel, if an activity is going to have an impact on this hydraulic model, the nature of that impact (increase or decrease) will remain the same regardless of the ground surface inputs.

PBS understands that LIDAR accuracy is susceptible to water surface elevations; however, no better elevation data was available at the time of the study that might have improved accuracy.<sup>2</sup> Without survey data, one could also assume that geomorphological processes have had an impact on the creek in the 40 years since the FIS was published. Contrary to the assertion in the Kellington letter, observation of the LIDAR cross sections did not show an unnaturally flat channel bottom that would indicate water surface interference. The channel centerline utilized in this study does not match the FEMA channel centerline, so morphological change couldn't be placed out of the realm of possibility.

Kellington also provides testimony of ground surface difference that provides neither reference to locations nor figures to support their evaluation of the LIDAR data. The Kellington letter further never provides the datum of the elevations to which they are comparing the LIDAR.

In any case, PBS would not, and did not, base a LOMR application on unverified topographical data. LIDAR, for the purposes of this study, was used merely to illustrate the potential differences in water surface elevations from the published BFEs due to development and agricultural activity in the watershed, and to identify the potential for flood risk outside of the effective floodplains. This report does not claim to support a LOMR, and it does not propose new flood hazard areas. The report explicitly notes that, if a LOMR application were performed, hydraulic structures should also be added to the modeling to ensure compliance with FEMA's modeling requirements (reference to Section 4.1.3).

Setting aside the accuracy of the topography, Kellington has provided testimony on channel capacity, stating that "*the discharge capacity within the channel could be as much as 500 to 1,000 cfs more than what the opponents' hydraulic model indicates.*" No numerical support has been provided for this estimate, nor are any documents or credentials cited that back Kellington's assertion regarding the channel capacity.

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<sup>2</sup> Frankly, this only highlights to the PBS Report's ultimate conclusion that the City's current flood insurance maps are outdated and are in desperate need of revision.



Looking at the FIS independent of any ground surface data, the estimated 500-year flow is 2,400 cfs, which is only 370 cfs greater than the published 100-year flow rate. Zone X areas noted as areas of 0.2% chance (500-year) flood risk have clearly extended beyond the channel's banks. Based on this information, it is reasonable to state that the peak 100-year flow rate estimated by the PBS Report would extend flood hazard areas beyond the banks of the Creek. Such a vast increase in flow from the effective FIS, which clearly didn't take into account the complexity of the watershed geometry in its blind use of regression statistics, supports the conclusion of the PBS Report that the FEMA effective mapping is not reflective of current watershed conditions and the City's flood insurance maps are in need of updating.

**4. Kellington notes that Lake Oswego rain gage data was used to provide an evaluation of the hydraulic model's performance.**

**Kellington notes that the report relies for verification on anecdotal photographs that are undated and could have been taken at any time. Kellington states that this "can't be accurate" on the grounds that the "largest 24-hour storm event in November 2015 had a total rainfall for McMinnville airport of 1.53 inches, which is unlikely to be enough rainfall to cause [this] kind of flooding."**

The Lake Oswego Gage was originally used in the analysis because at the time, data downloads from the CDO website were not working due to server errors. The cause of these errors is not known. Since the report was issued, PBS has been able to download data from the NOAA CDO website.

Since the report was issued, residents have also clarified what dates their photos were taken and provided metadata for the photo files supporting clarification to the model verifications. The year of the photos in the PBS report were reversed, Figure 16 in the report was an observation of flooding during a December 7, 2015 rainfall event, while Figure 17 was taken during a December 18, 2018 rainfall event. These dates have been clarified in the attached revised report.

Kellington's evaluation far oversimplifies the complexity of both storm events and watershed response, citing 24-hour rainfall totals and making the claim solely based on those values that flooding is unlikely. The rainfall depth cited must be taken at face value in that it was taken at a single point in a 25 square mile watershed and does not provide a sub-24-hour duration analysis. A real storm event that brings 1.53 inches of precipitation over 24 hours at McMinnville airport can include a single hour that includes the vast majority of that 24-hour total. A single one-hour precipitation total can also bring "10-year" rainfall at one point in a watershed and "25-year" rainfall totals in another.

Hydrologic analyses such as that presented in the PBS Report are based on balanced, synthetic storm events that assume that a storm is not varying in its return period throughout its duration. While these are referred to as "24-hour storm events", that synthetic storm event includes a 2-year, 1-hour rainfall total, a 2-year, 6-hour rainfall total, and so on. In reality, a single hour of that event in isolation, due to its high intensity, could be capable of causing flooding regardless of the surrounding hourly rainfall.

Observation of the McMinnville Airport gage data on December 18, 2018 shows a single hour from approximately 11 AM to 12 PM that recorded 0.68 inches of rainfall. A 2-year, 1-hour rainfall total based on the ODOT precipitation GIS grid and a NOAA Type 1A storm distribution is about 0.70 inches in depth.

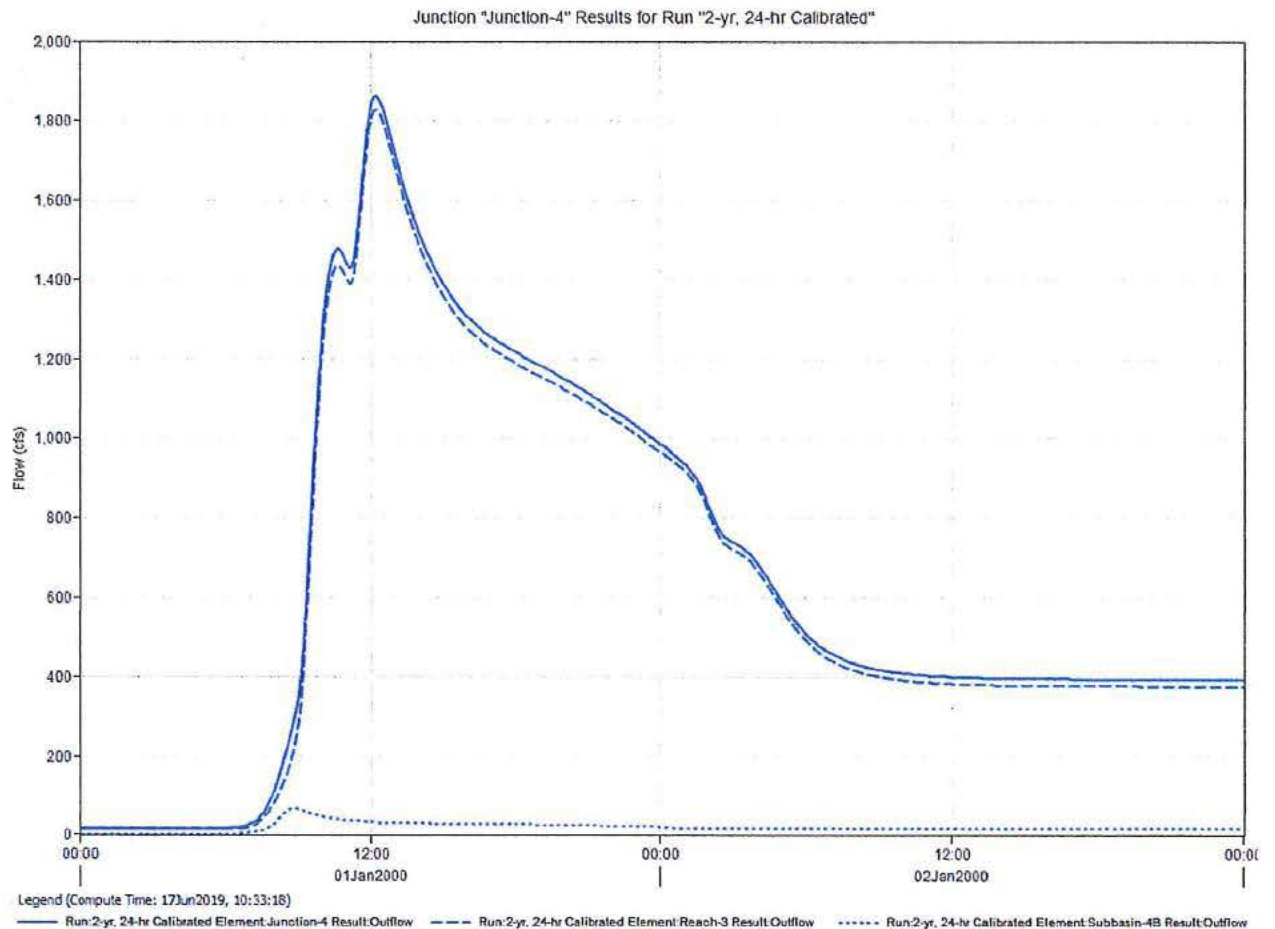
On December 7, 2015, 6- and 12-hour rainfall totals at the Airport gage registered 1.11 inches and 1.99 inches, respectively. Based on the same ODOT data, 2-year, 6-hour and 2-year, 12-hour

events produce approximately 1.39 and 1.83 inches of rainfall, respectively, on the Type 1A distribution used in the analysis.

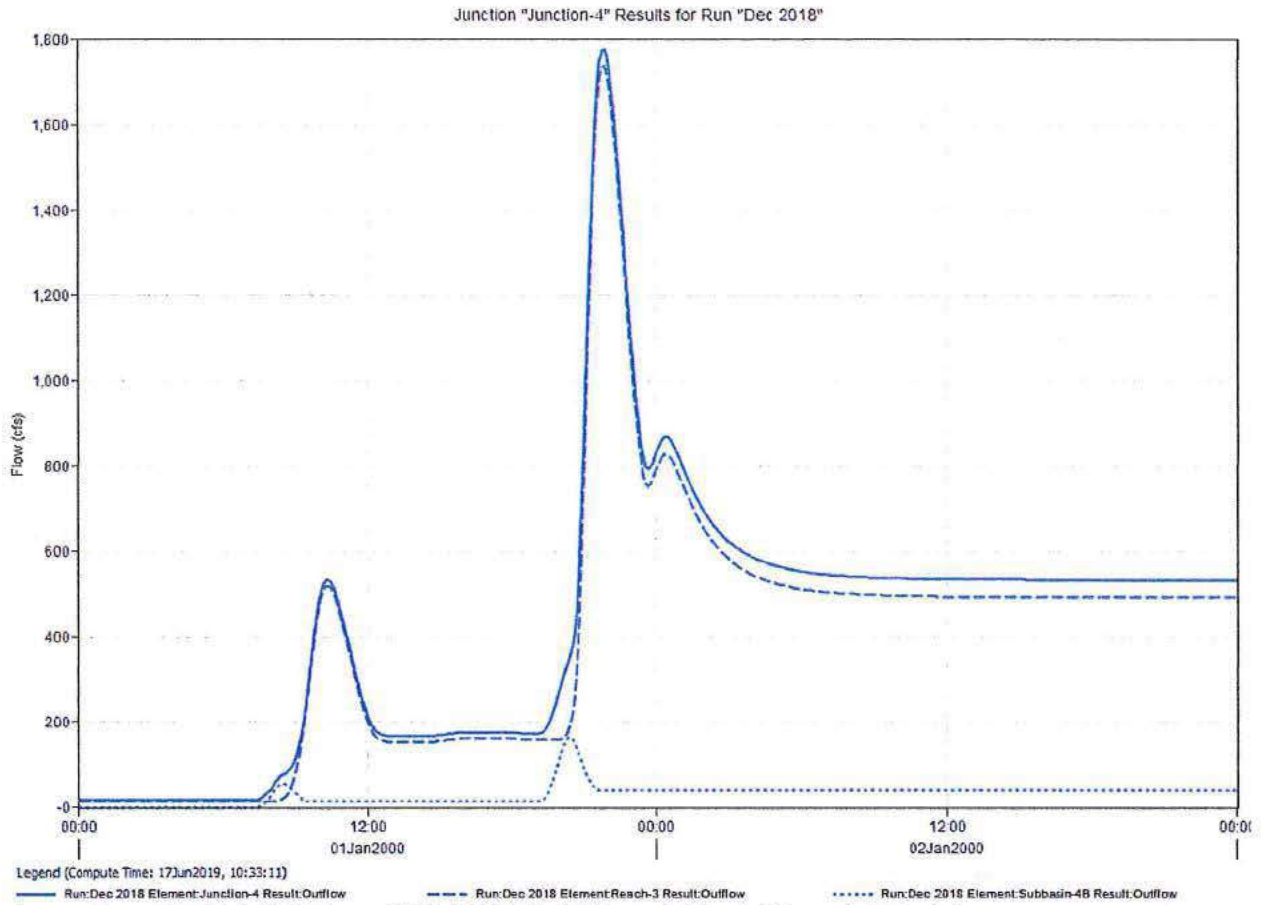
While the 24-hour rainfall totals for both flooding events may not have registered as a 2-year return period, sub-durations that would produce the bulk of a balanced 24-hour storm used in modeling did reach that level.

In order to illustrate this possibility, 1-hour precipitation readings from the McMinnville Airport gage for December 18, 2018 were input into the HEC-HMS hydrology model in order to roughly estimate peak flow produced by the watershed. The figures below provide the 2-year result first for a synthetic, Type 1A storm event, then for the December 18, 2018 event. This result indicates that peak flow values at the watershed's point of concentration from the two models fall within approximately 5% of one another.

While PBS recognizes that running precipitation data from a single point through the model may not represent the spatial distribution of the actual storm event, this exemplifies the reason that one cannot discount the possibility that these two events could cause overtopping of Baker Creek's banks.



**2-year Synthetic Storm Event HEC-HMS Flow Hydrograph Result at the Baker Creek Model's Point of Concentration (Peak Flow ~1,860 cfs).**



**December 2018 Rainfall Event HEC-HMS Model Result (Peak Flow ~1,780 cfs).**

What Kellington further does not acknowledge is that these photos, regardless of their exact dates, provide clear and specific evidence that flood waters encroached into areas beyond the 100-year FEMA-defined special flood hazard areas.

In sum, the Kellington's testimony does not impact the conclusions of the PBS Report, as the comments on the analysis were based on a typographical error that did not affect the accuracy of the model and the omission of data presented in the report to support their claims. Kellington's evaluation of the Hydraulic model as if it was intended to provide anything but an illustration of potential floodplain impacts is a misrepresentation of the intent of this report, which is to show that the currently effective FEMA study does not accurately depict the current extent of the floodplain.

We acknowledge that the typographical error in the report may have been the cause of some confusion in the interpretation of the Hydrologic analysis; accordingly, we have provided with this letter a revised copy of the report correcting this error, as well as providing a citation of the LiDAR dataset used and more specific photo dates and local rainfall data. Most importantly, our conclusions have not changed – it appears possible that a portion of the development proposed could lie within the 100-year floodplain based on modern modelling methods and statistics, and the effective flood insurance maps need to be updated.

Please feel free to contact me at 360.567.2105 or [justin.maynard@pbsusa.com](mailto:justin.maynard@pbsusa.com) with any questions or comments.

Sincerely,

Justin Maynard  
Civil/Water Resources Engineer

Attachments:  
*Kellington Law Group Testimony*  
*Revised Hydrology Report*

## Environmental Impacts

We don't claim to be experts in environmental impacts of mitigation, filling (legal or otherwise), delineation, riparian zones, or any other area of environmental concern. We do, however, have other agencies that have stepped up and supported our efforts to deny building on the wetlands and in the flood-prone basin (Friends of Yamhill County & Yamhill Soil & Water Conservation District) based on those environmental impacts. We also have been in close contact with the Department of State Lands and have been educated on processes and requirements which we feel have not been met by the developer.

The following pages illustrate environmental impacts that have already happened or will be allowed to happen unchecked if this development moves forward.

### Mitigation

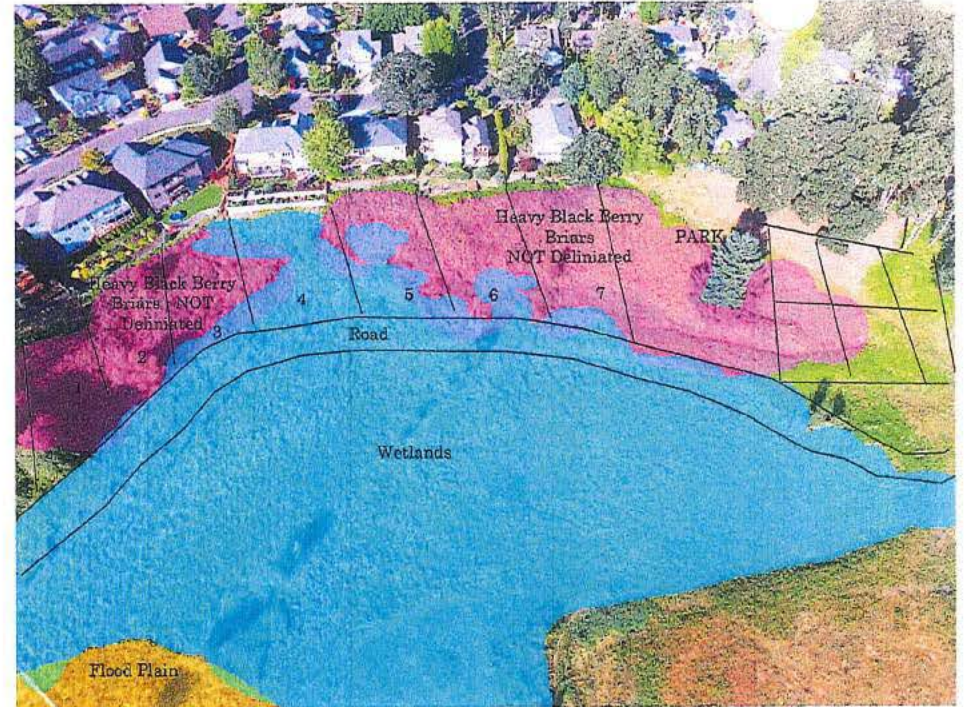
Riparian zone damages already incurred

Filling (without permits) already incurred

Incomplete Delineation

DSL concurrence with the incomplete delineation

To our knowledge, no permits have been filed. No contact has been made with DEQ or Army Corp of Engineers for permitting. No contact has been made with DSL despite Mike DeBlasi inviting Premier to discuss the delineation report.



Delimitation from Pacific Habitat

Neighbors watched as Pacific Habitat crews delimitated the area in the basin. There is heavy blackberry cover on a large portion of the property where Premier is planning to build homes.

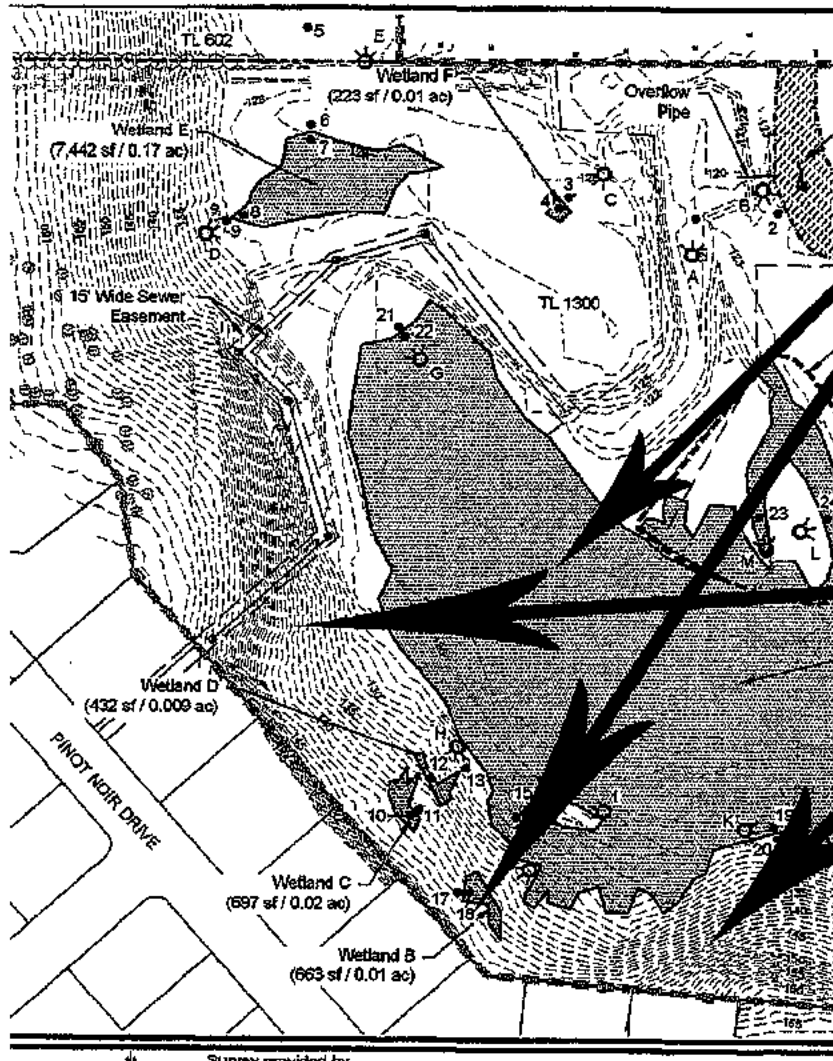
We believe that Pacific Habitat did NOT delimitate within the blackberry bushes. All around the bushes, the areas were deemed to be wetlands according to their report. If we are correct, there are a lot more wetlands being affected than Premier is claiming.

You can compare the Pacific Habitat reported areas of wetlands with this drone photo and see that according to their report, the wetlands are located in non-blackberry property, and all around them.

Having the assumption be that if it wasn't delimitated because of inaccessibility, it's not wetlands isn't an accurate conclusion.

According to the Wetland Use Notice Response from the Department of State Lands, Mike DeBlasi, also noted that not all of the area had been delimitated. When FOBC brought this up at the Planning Commission meeting, it was dismissed as unimportant and not relevant by Premier.

A copy of the Pacific Habitat delimitation area is attached for comparison as well as a copy of the comment by Mike DeBlasi on the Wetland Use Notice Response.



Wetlands

Heavy Blackberry cover

Page 21 from Pacific Habitat  
Delineation Report

- The National Wetlands Inventory shows wetland, waterway or other water features on the property
- The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.
- The property includes or is adjacent to designated Essential Salmonid Habitat.
- This property includes a compensatory mitigation.

## Your Activity

- It appears that the proposed project **may** impact Essential Salmonid Habitat and, therefore, **may** require a State permit.
- It appears that the proposed project **will** impact wetlands and **requires** a State Permit.
- An onsite inspection by a qualified wetland consultant is recommended prior to site development to determine if the site has wetlands or other waters that may be regulated. The determination or delineation report should be submitted to DSL for review and approval. Approved maps will have a DSL stamp with approval date and expiration date.

- The proposed parcel division may create a lot that is largely wetland and thus create future development problems.

## Applicable Oregon Removal-Fill Permit Requirement(s)

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.
- A state permit is required for any amount of fill, removal, and/or other ground alteration in Essential Salmonid Habitat and within adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to the stream.
- A state permit is required for any amount of fill or removal activity within a compensatory mitigation site.

## Closing Information

### Additional Comments

The DSL recently received a wetland delineation that partially studies these subject parcels. In addition, the delineation studies only a portion of the area proposed for development in this subdivision plan. **The DSL would welcome the applicant to call Mike DeBlasi (503-986-5226) for a pre-application meeting to discuss the project configuration prior to submitting a Joint Permit Application for any proposed wetland removal/fill.**

This is a preliminary jurisdictional determination and is advisory only.





# Wetland Land Use Notice Response

## Response Page

Department of State Lands (DSL) WN# \*  
WN2019-0178

### Responsible Jurisdiction

|                          |                          |                     |
|--------------------------|--------------------------|---------------------|
| <b>Staff Contact</b>     | <b>Jurisdiction Type</b> | <b>Municipality</b> |
| Jamie Fleckenstein       | City                     | McMinnville         |
| <b>Local case file #</b> | <b>County</b>            |                     |
| PDA 3-18/PDA 4-18/S 3-18 | Yamhill                  |                     |

### Activity Location

|                 |              |                |                   |                   |
|-----------------|--------------|----------------|-------------------|-------------------|
| <b>Township</b> | <b>Range</b> | <b>Section</b> | <b>QQ section</b> | <b>Tax Lot(s)</b> |
| 04S             | 04W          | 17             |                   | 1300              |

|                   |                           |
|-------------------|---------------------------|
| Street Address    |                           |
| Address Line 2    |                           |
| City              | State / Province / Region |
| Postal / Zip Code | Country                   |
|                   | Yamhill                   |

|                 |                  |
|-----------------|------------------|
| <b>Latitude</b> | <b>Longitude</b> |
| 45.23041        | -123.216862      |

|                 |              |                |                   |                   |
|-----------------|--------------|----------------|-------------------|-------------------|
| <b>Township</b> | <b>Range</b> | <b>Section</b> | <b>QQ section</b> | <b>Tax Lot(s)</b> |
| 04S             | 04W          | 07             |                   | 602               |

|                   |                           |
|-------------------|---------------------------|
| Street Address    |                           |
| Address Line 2    |                           |
| City              | State / Province / Region |
| Postal / Zip Code | Country                   |

|                 |                  |
|-----------------|------------------|
| <b>Latitude</b> | <b>Longitude</b> |
| 45.23041        | -123.216862      |

### Wetland/Waterway/Other Water Features

There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

**Contact Information**

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

**Response Date**

4/19/2019

**Response by:**

Daniel Evans

**Response Phone:**

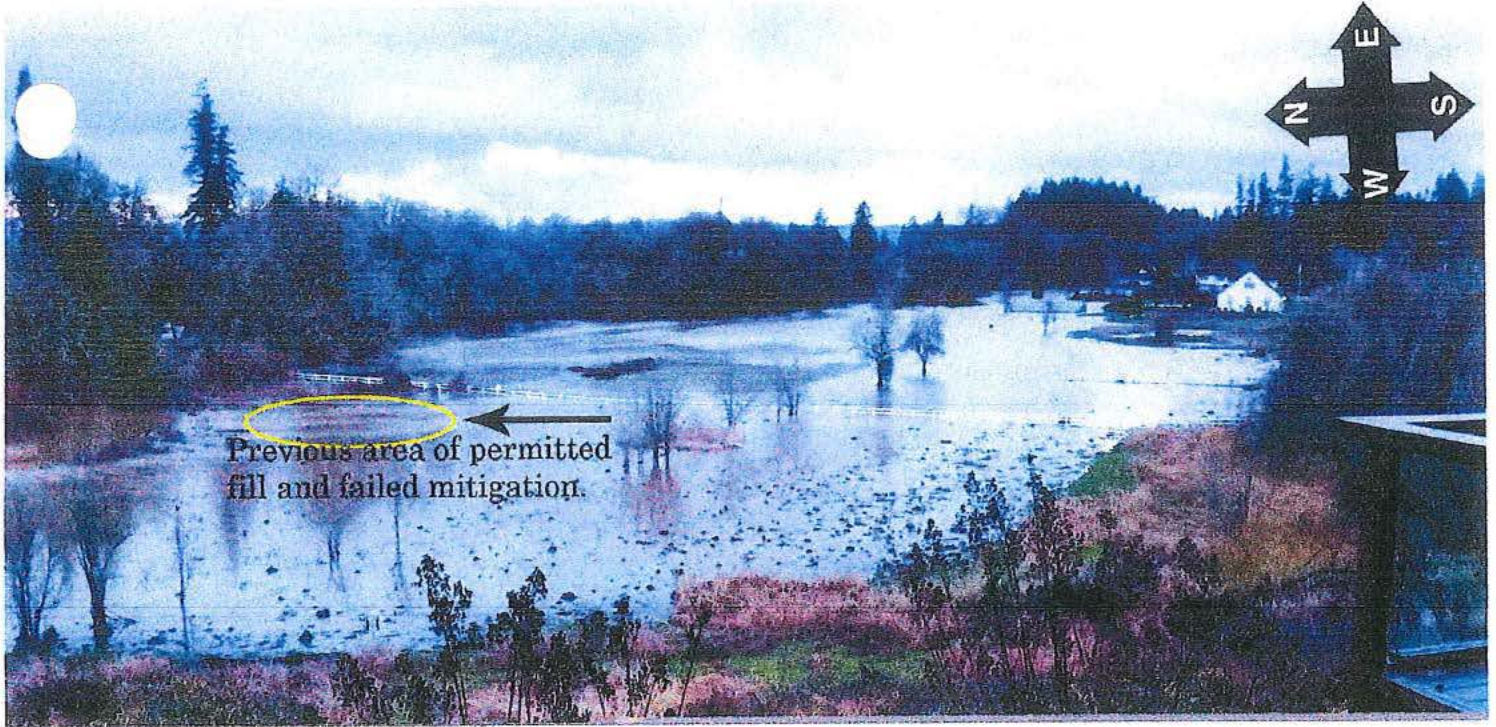
503-986-5271



443

○ = "Island" of unpermitted fill from 2005. Google Earth clearly shows that berm did not exist in 2004, but roads and fill came in 2005 under the ownership of Premier. We can find no record of permit for this fill in an area of probable wetlands at the time.





By 2015, enough additional storm drainage from road and new housing developments, that as little as 3.52 inches of rain over a three day period, was enough to flood the basin and:

All of the 500 year flood plain

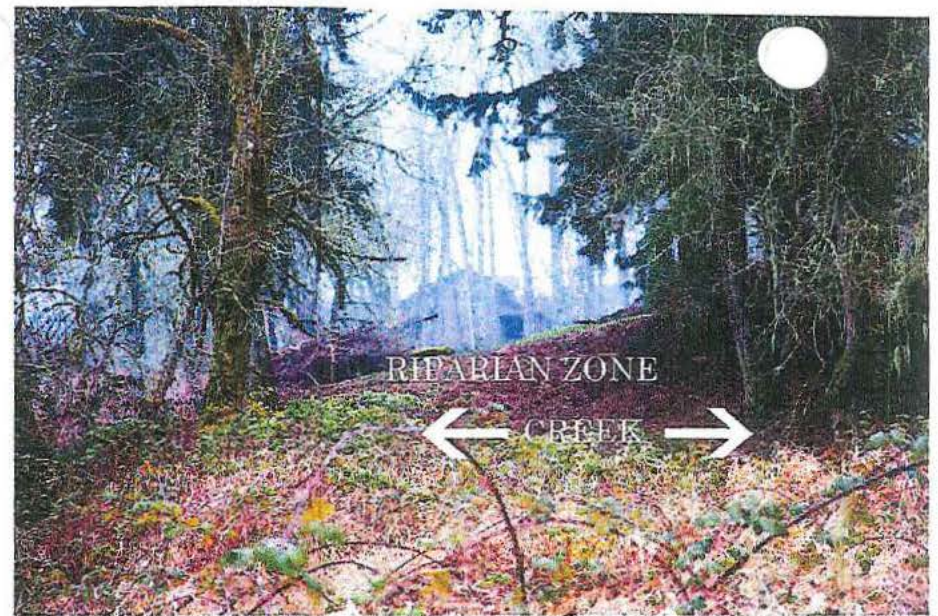
A large portion of the wetland area west and upstream of the flood plain

Almost the homes in Crestbrook.

NOTE: East of fence = 500 year flood plain

West of fence = wetlands in 1983 & 2010 FEMA maps

Yellow outline is permitted fill area and failed mitigation from early 2000s.



### Riparian Zone Damage - 4822

445

Riparian zones were completely stripped of vegetation on steep slopes and in some cases, the vegetation was dumped directly into the creek. You can see the piles of small trees and vegetation on the top left of the right-hand photograph.

Riparian zones are there to protect the waterways from contamination from run-off, shade for fish habitat, and protection from erosion of the banks. No vegetation makes for a much prettier “park” but with a water-way considered a salmon habitat, the damage to the riparian zone should never have happened.

Had this been on the north side (county control) of Baker Creek, it would not have been permitted to happen at all. The County doesn't allow for riparian zones to be damaged according to the Yamhill Soil & Water Conservation District and would have required a permit under strict guidelines.



## FILL ON 4822

Google Earth photos clearly show area of fill on the SW section of 4822 where homes and greenway will be located.

We could, again, find no permit on record.

10-20 dump-truck loads of fill dirt per day came through the Oak Ridge neighborhood for weeks at a time in 2017 & 2018.

Dump truck was driven by Jeff Zumwalt, personally witnessed by multiple neighbors. It went in full of dirt and came out empty.

According to testimony given by Premier's attorney, the farmer leasing the field from Premier, requested the fill to even out the field surface.

Using riparian area debris, logs and other fill material doesn't seem very farmer or tractor friendly.



## Case Study:

# JOHNSON CREEK RESTORATION, PORTLAND, OREGON

### Challenge:

Johnson Creek has been plagued by “nuisance” flood events throughout its history, particularly in and around Foster Road, a residential area that flooded as often as every one to two years. In 1964, Johnson Creek experienced one of its largest floods; almost 1,200 structures were flooded, and the next several years marked numerous ineffective attempts at flood mitigation, as well as the near total loss of the salmon and trout species in the river.

### History

Johnson Creek is a 26-mile river in a 54-square-mile watershed; nearly half the area falls within the Portland watershed. Prior to urbanization, Johnson Creek was forested; however, as pioneers settled along the banks of the river, they cleared many of the trees for housing and railroad materials.

In the 1930s the Works Progress Administration (WPA) lined and channelized 15 miles of Johnson Creek with rocks, under the mistaken assumption that this would reduce flooding. There have since been dozens of ideas on how to arrest the flooding, but none proved successful until 1995, when the Portland Bureau of Environmental Services (BES) finalized the Johnson Creek Resources Management Plan, with a focus on natural infrastructure.

### Solution

In October of 1996, the Portland City Council adopted the Flood and Landslide Hazard Mitigation Plan, which recommended the acquisition of the most vulnerable properties in the floodplain. In 1997, the BES began acquiring vulnerable properties and moving people out of the floodplain. Since that time, more than 70 structures have been removed and 107 acres are in permanent conservation.

With many of the most vulnerable structures out of the way, BES began reconnecting Johnson Creek to its floodplain. This initially required the removal of more than 50,000 cubic yards of soil, or approximately 5,000 dump truck loads from the lowlands adjacent to the creek. The BES restored approximately 63 acres of wetland and floodplain habitat and over half a mile of Johnson Creek,



### Project Details

- **Location:** Foster Floodplain, Portland OR
- **Population:** 620,000 (Portland metro area)
- **Strategies:** Buy-outs, Floodplain restoration, Berm removal
- **Cost:** \$20M
- **Benefits:** Reduced flood damages, Ecosystem restoration, Water quality, Recreation

## Case Study:

## JOHNSON CREEK RESTORATION, PORTLAND, OREGON

specifically in the Foster Floodplain Restoration Area, making it habitable once more for ESA-listed Coho and Chinook salmon and steelhead trout. They then added over 200 large pieces of wood to improve habitat along the stream bank and created two backwater channels to provide resting areas for fish during peak flows. The BES additionally re-vegetated the stream bank by planting 20,500 native trees, 70,500 native shrubs, 4,750 wetland plants, and 1,000 pounds of native grasses, sedges, and forbs to further improve the area's habitat for local fauna.

Finally, the BES rectified the creek's channelization by removing the rock lining, as well as three bridges and three roads, increasing the capacity of the floodplain to absorb floodwaters.

### Partners and Funding

The Johnson Creek Restoration Project was in part funded through a large grant from the Federal Emergency Management Agency (FEMA) for the sum of \$2.7 million. Additional funding came in the form of Community Development Block Grants from the U.S. Department of Housing and Urban Development (HUD) as well as commitments from the City of Portland's stormwater funding.

While BES was the main agency involved in implementing the project, it is important for projects like these to possess a champion. In this instance, Ann Riley, who worked with the Waterways Restoration Institute at the time, was the champion of using natural infrastructure to decrease flood risk in Johnson Creek.

### Benefits

The Johnson Creek neighborhood was noticeably improved after this project. The restoration created a publicly-accessible natural area in east Portland, and included the creation of a pedestrian trail and bridge for wildlife viewing in the Foster Floodplain Restoration Area. BES also installed sidewalks, street trees, and stormwater sewers along Foster Road to better absorb or divert heavy rainfall.



In 2004, an ecosystem services valuation of the restored area found that the project would produce approximately \$30 million in benefits over the course of 100 years from avoided property damages to residents and businesses, avoided traffic delays, avoided utility damage, water quality benefits, parks and open space benefits, fish and wildlife benefits, and air quality improvements.

This project is relatively recent, but it has already been proven effective. The Johnson Creek area experienced heavy rains in January of 2012, pushing Johnson Creek to more than 2 feet above its historic flood stage, and filling the restoration site with water. Despite the pressure, the floodplain held the high water, keeping Foster Road dry and local businesses open.



## WHAT ACTIONS ARE THE FRIENDS OF BAKER CREEK REQUESTING

From the beginning, our group has only been opposed to the portion of the application on the 4722 property where all the filling, diking, and road building activities in the Baker Creek basin are proposed. Our recommendations to the council are:

1. **DENY THE COMBINED 35 ACRE SUBDIVISION REQUEST OUTRIGHT.** We feel that we have shown that the Oak Ridge Meadows application does not meet comprehensive plan goal/policies in several areas (access, mitigation, environmental, etc). If approving the removal of the 11.47 acres from Oak Ridge Meadows and leaving it in limbo for awhile – but not approving the connection to 4822 is the way to accomplish that, that is fine too.
2. **REQUIRE DEVELOPER TO START OVER WITH APPROVALS FROM DSL, DEQ, AND ARMY CORPS OF ENGINEERS – BEFORE TURNING PLANS IN TO THE CITY NEXT TIME.** – We have talked to all three agencies. And they all stated that the developer is supposed to start with their approvals in step #1. – ESPECIALLY IN DEVELOPMENTS ALONG RIVERS, CREEKS AND WETLANDS. But the only permit we ever found expired years ago. Please don't allow the applicant and one city department to convince city leaders to skirt around state required environmental permits. If there is future fallout, it will probably be the city council who citizens will blame.
3. **PLEASE ORDER AN UPDATED FEMA LOMR REPORT.** It is an online update that an independent engineering company can do for the city. Both a FEMA rep and our engineer have told us those reports can be completed in 5-7 months. Besides bringing the goal posts along Baker Creek forward thirty-six years, it will allow councilors to:
  - A. Update city master plans on UGB land inventory and TSP in the basin. They appear to be as inaccurate as the FEMA hydrology. Like the 36 year old goal posts, those outdated plans allowed the applicant to argue that we are being selfish for arguing against city master plans. If city master plans were accurate, today's situation would not exist.
  - B. It sounds like that part of a LOMR update is to have the independent engineer audit the city's hydrology records for accuracy. Baker Creek hydrology records have probably never been audited by an outside agency for at least 36 years. We don't think the planning staff would have argued so hard that our hydrology claims are false "IF" their in-house records were even close to accurate.
  - C. Speaking of long-term planning – Updating FEMA floodplain locations is needed to inform the city manager and city councilors if there is still capacity in the basin today or not. BUT, without a question, as Justin Maynard's summary stated, "Beyond near-term activities, replacement of forested and grassland land covers lying west of the City could irrevocably alter drainage patterns, even further compound impacts on the Baker Creek floodplain, and put life and property in the City of McMinnville and Yamhill County at risk." Great long-term planning is what has made McMinnville one of the greatest cities in the Northwest. Please don't mess that up.

STATEMENT by Cathy Boekler

President

FRIENDS of Baker Creek

CITY COUNCIL  
7-23-19

The 120 day clock is ticking and sometimes when we feel pressed by time we don't do our best.

This proposal was deemed complete by the Planning Department. We had trouble telling which lot plan was in fact being submitted. Exhibit 4 is not the same as Exhibits 6,7,9,11, and 26. And Exhibits 21 and 22 were of yet a different plan. We had to call the planning department to see which plan the builder really meant to submit.

We were further confused by EXHIBIT 8, DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE OAKRIDGE WETLAND MITIGATION SITE. (exhibit attached) We called DSL and spoke with Mike DeBlasi about the "Permit Number DSL # 32996-RF". The permit expired years ago. The applicant has to start all over. The mitigation site on Exhibit B shows a tiny portion of the wetlands to be considered for development. Why submit outdated information? Very confusing.

We were surprised to see Exhibit B From: Les & Kathleen Toth To: The City of McMinnville (see attached). It almost looks like the Toth's submitted these documents. We understood from county records (Les Toth's property in question for this planned development is in Yamhill County) that in 2004 Les Toth had opposed development on his land. He continues to oppose any development on his land and has submitted letters to that effect (attached in other portions of this submission). So how can this developer promise connection to a road on property he doesn't own and which the owner has presented written opposition to?

We were confused that this complete application had only one access street and that through an existing neighborhood when city fire code requires two. It was confusing to see how on earth a dead end street named Pinehurst qualified as one of the two required streets. No matter how you cut it a dead end street is still a dead end street. Promises of connection in the future were questionable when the owner of that land is opposed to that proposal. This is the same owner who generously allows the local ball teams to play on fields that he maintains.

We were surprised to see Exhibit 3 from 2005, addressed to "Dear Jeff and Lori". If today's application wasn't the same plan as submitted in 2005, then why was this being included?

A completed Delineation Study was not submitted. Interesting since building on the 11.42 acres is on wetlands. Interesting too that a delineation study was begun. We watched as blue flags denoting wetlands began blooming along our fence lines, places not identified as wetlands on any of the maps being submitted to the city.

Another concern was the promise of a five year build out, particularly because the first part of the information requests moving 11.47 acres which was part of a five year promise never fulfilled. The

reason stated was The Great Recession of 2007. Twelve years this promised build out has been unfulfilled. We can't know what the next five years will bring. We're being promised that Pinot Noir will be relieved of its burden of carrying 100% of the traffic for this planned development within five years. Can you imagine what it will be like to have your neighborhood suddenly have 1000-1200 vehicles a day added to the load your streets already carry? It certainly seems to be overload to us! Five year promises can be difficult to keep as 4722 reveals (2005-2019), especially on an issue as vital as traffic flow. This development could be an island serviced only by Pinot Noir for a very long future.

And this application was deemed complete? Why?

We were also disheartened by the 0.85 acre park. This is NOT proposed to be turned over to the city. This is to be a private park managed by the HOA. This lovely parkland is mostly a steep slope covered with blackberries. This steep slope also has a spring. The proposal includes a play structure and a path down the slope. Trash will be an on-going issue. This park will be an attractive nuisance since entrance is from public paths top and bottom. The slope will be difficult to maintain, especially with a spring keeping everything wet, not to mention rain. This is part of the land NOT delineated and therefore NOT listed as wetlands. The spring sort of gives it away. So do the wetland vegetation at the top and bottom of this slope. Neighborhood HOA's often have difficulty finding people to fill office let alone become park managers and carry liability insurance. The only feasible option is to re-label this donated land a nature preserve and leave it as is. What looks wonderful on paper will be an in-perpetuity nightmare.

Then there's the issues raised by the denial by the county in January 8, 2004 for fill to be placed in the floodplain on Les Toth's land. Under Ordinance Provisions and Analysis B.6 (see attached)we read:

*"Regarding criterion (D), the applicant must coordinate with the Division of State Lands and the Army Corps of Engineers for proper permitting regarding the placement of fill dirt within the wetland area. **They have stated in their application that they are aware of these requirements and they do not yet have the required wetlands fill permits.**"*

A 2004-2005 Google map search shows significant fill placed in two of the areas to be developed in this application. We have not found any permits for that fill.

A 2018 look at Google maps shows more fill being added along the creek. Again we can find no permit for that fill, permits which in 2004 they said they were aware of. In that chummy letter to "Jeff and Lori" from the city in 2005 there are twenty-five conditions of approval. Number eight states *"That all fill placed in the areas where building sites are expected shall be engineered and shall meet with the approval of the City Building Division and the City Engineering Department."*

We called the city to express our concern since this fill is along Baker Creek, an ESH (essential salmon habitat). Members of City Engineering and City Planning came out and looked at the fill. To our knowledge no action was taken. Mike DeBlasi from Oregon Department of State Lands states that he has not yet received an application. Neither has Kinsey Friesen from Army Corps of Engineers nor Dave Belyea from DEQ. We continue to be deeply concerned and hope you will take action.

In the City of McMinnville Memorandum dated December 8, 2003 (see attached) we read: *“Based upon this direction provided by DSL, it would seem that Premier Development LLC would be advised to **first** obtain concurrence from that agency...”* This advice was given yet again in a conversation with Mike DeBlasi. He stated that what the state permits may differ from that of the city and it is wise to begin with the state before taking up city time. It would certainly have saved the city, the developer and our neighborhoods if the developer had heeded knowledge given in 2003.

This process has been long and arduous to be able to have effective citizen input. We've been accused in the newspaper by Ms Richards of “spreading misinformation”. We've been treated like political adversaries rather than citizens with a right to voice their concerns. We've been deeply frustrated that at the initial Planning Commission meeting the city and developer were allowed to essentially filibuster until after nine pm which meant of the many people who came to give public testimony left before they were allowed to do so. Again that idea of a complete application comes in. If what the city and developer submitted in print were complete then why did it have to be read to the Planning Commission? And we've been deeply frustrated that the city and applicant have unlimited time to present their views and we've been limited to three minutes per person, which is then offered to unlimited rebuttal.

Lastly, it is too easy to take the narrow view of this application. That would be a mistake for more than one reason.

One is the obvious – whatever we do with this development affects Baker Creek and its ecology all the way from upstream to where it **joins the Yamhill River**.

This development abuts a floodplain. What we do here will have effects on flooding in multiple areas beyond this development.

This development borders Yamhill County. It pays to be a good neighbor and not abuse our side of Baker Creek so they have to deal with the effects of the City's poor decisions. Farmer's fields are already flooding causing loss.

Stafford has several developments in this same area which will also add to the drainage into Baker Creek. There is only so much that creek can handle. Annual flooding these past several years with minimal rain tells us the creek is reaching its capacity. While we may take steps to channel the water on our side of the bank, we are still responsible for what it does on the other side.

Please learn from Portland's Johnson Creek debacle. We don't have that large of a tax base to recover such costs.

With so much at stake we respectfully request that the city heed its own wisdom from 2003 and stop the clock on development of 4722. Require the applicant to get all the DEQ, DSL and ACE permits required to see if any of the building plans on the wetlands are feasible. Then bring the plan to the table.

We ask that the City approve Shadden as the primary access .

We ask that the City require all relevant permits for the fill already dumped along Baker Creek and for all other state and federal permits applicable.

# Exhibit 8

OFFICIAL SEASIDE COUNTY RECORDS  
JAN COLEMAN, COUNTY CLERK



00183090200400225940070078

200422594

9:30:27 AM 11/05/2004

PR-CRPR Cnt=1 Str=3 SUSAN  
\$35.00 \$10.00 \$11.00

\$56.00

## DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE Oak Ridge Wetland Mitigation Site

THIS DECLARATION is made this 1st day of November 2004, by Premier Development, LLC. , ("Declarant"). This Declaration of Covenants is required as a permit condition which is part of the mitigation of impacts to wetlands regulated under Oregon's Removal-Fill Law, ORS 196.800 et seq. ORS 182.060 provides that "Any instrument creating a[n]...easement...may be indexed and recorded in the records of deeds of real property in the county where such real property is located." Further, ORS.060 provides that "When requested by a state board or commission, the county clerk shall file or record, or both, in the office of the clerk any instrument affecting real property and immediately shall return to the board or commission a receipt for the instrument, aptly describing it and showing the legal charge for the filing or recording or the instrument." Therefore, the Division of State Lands, operating under the State Land Board, requires the recording of this instrument as described above.

### RECITALS

1. WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and by this reference incorporated herein as the "Property", and desires to create thereon wetlands to be maintained in accordance with the Permit Number approved by the Oregon Division of State Lands ("Division"), attached as Exhibit B;

2. WHEREAS, Declarant desires to provide for the preservation and enhancement of the wetland values of the Property and for the maintenance and management of the Property and improvements thereon, and to this end desires to subject the Property to the covenants, restrictions, easements and other encumbrances hereinafter set forth, each and all of which is and are for the benefit of the Property.

NOW, THEREFORE, the Declarant declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements and other encumbrances hereinafter set forth in this Declaration.

## ARTICLE 1 DEFINITIONS

1.1 "Declaration" shall mean the covenants, restrictions, and all other provisions set forth in the Declaration of Covenants and Restrictions.

1.2 "Declarant" shall mean and refer to Premier Development, LLC., its successors or assigns.

1.3 "Removal fill permit" shall mean the final document approved by the Division that formally establishes the wetland mitigation and stipulates the terms and conditions of its construction, operation and long-term management.

1.4 "Property" shall mean and refer to the wetland mitigation site described in Exhibit "A".

## ARTICLE 2 PROPERTY SUBJECT TO THIS DECLARATION

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Yamhill County, Oregon and is more particularly described as the wetland mitigation site described in Exhibit "A".

## ARTICLE 3 GENERAL PLAN OF DEVELOPMENT

Declarant currently manages the property for the purpose of wetland mitigation. Current management is in accordance with Permit Number DSL #32996-RF.

## ARTICLE 4 USE RESTRICTIONS AND MANAGEMENT RESPONSIBILITIES

The Property shall be used and managed for wetland mitigation purposes in accordance with Permit Number DSL #32996-RF. Declarant and all users of the Property are subject to any and all easements, covenants and restrictions of record affecting the Property.



1. There shall be no removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of any vegetation on the restricted property, nor any disturbance or change in the natural habitat of the property, except to remove non-native species.
2. There shall be no agricultural, commercial, or industrial activity undertaken or allowed in the property; nor shall any right of passage across or upon the property be allowed or granted if that right of passage is used in conjunction with agricultural, commercial or industrial activity.
3. No domestic animals shall be allowed on the property.
4. There shall be no filling, excavating, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock minerals or other materials, nor any dumping of ashes, trash, garbage, or of any other material, and no changing of the topography of the land of the Property in any manner without written approval from the state and federal wetland regulatory agencies.
5. There shall be no construction or placing of buildings, mobile homes, advertising signs, billboards, or other advertising material, or other structures on the Property.
6. Crossings of the restricted property for utility line installation shall be allowed only if complete restoration of grades and vegetation is done.

#### ARTICLE 5

#### RESOLUTION OF DOCUMENT CONFLICTS

In the event of any conflict between this Declaration and Permit Number

DSL #32996-RF, the permit shall control.

IN WITNESS WHEREOF, the undersigned being Declarant herein, has executed this instrument this 3<sup>rd</sup> day of November, 2004.

Premier Development, LLC:  
Yamhill County, Oregon

By: Lori J. Sumwalt, Member  
Title: Member

# EXHIBIT "A"

1 of 2

Matt Dunkel & Assoc.  
3765 Riverside Drive  
McMinnville, Oregon. 97128  
Phone: 472-7904  
Fax: 472-0367

Date: 1 Sept. 2004

## PREMIER BUILDERS - Legal Description of Wetland Mitigation Area

A tract of land in Section 17, Township 4 South, Range 4 West, Yamhill County, Oregon, being more particularly described as follows:

Beginning at a point that is North  $83^{\circ}59'30''$  East 405.48 feet from the north east corner of Lot 44 of OAK RIDGE SUBDIVISION, in the City of McMinnville; thence southeasterly 46.71 feet along a curve (C1) concave to the north having a radius of 147.70 feet (chord=South  $51^{\circ}48'24''$  East 46.51 feet);  
thence southeasterly 37.67 feet along a curve (C2) concave to the south having a radius of 2220.97 feet (chord=South  $60^{\circ}22'49''$  East 37.67 feet);  
thence southeasterly 21.84 feet along a curve (C3) concave to the north having a radius of 71.46 feet (chord=South  $68^{\circ}38'57''$  East 21.75 feet);  
thence southeasterly 20.12 feet along a curve (C4) concave to the north having a radius of 182.94 feet (chord=South  $80^{\circ}33'17''$  East 20.11 feet);  
thence southeasterly 13.81 feet along a curve (C5) concave to the south having a radius of 78.400 feet (chord=South  $78^{\circ}39'27''$  East 13.80 feet);  
thence southeasterly 10.39 feet along a curve (C6) concave to the south having a radius of 16.56 feet (chord=South  $55^{\circ}38'35''$  East 10.22 feet);  
thence southeasterly 18.03 feet along a curve (C7) concave to the north having a radius of 37.44 feet (chord=South  $51^{\circ}28'16''$  East 17.85 feet);  
thence southeasterly 17.06 feet along a curve (C8) concave to the south having a radius of 131.81 feet (chord=South  $61^{\circ}33'27''$  East 17.05 feet);  
thence southeasterly 12.51 feet along a curve (C9) concave to the north having a radius of 24.68 feet (chord=South  $72^{\circ}22'29''$  East 12.38 feet);  
thence northeasterly 18.99 feet along a curve (C10) concave to the north having a radius of 19.98 feet (chord=North  $65^{\circ}52'03''$  East 18.28 feet);

Page 1 of 2

↓ EXHIBIT "A" 2/2/04

Date: 1 Sept. 2004

**PREMIER BUILDERS - Legal Description of Wetland Mitigation Area**

thence northeasterly 10.77 feet along a curve (C11) concave to the north having a radius of 27.57 feet (chord=North 28°03'55" East 10.11 feet);  
 thence North 00°08'22" West 16.72 feet;  
 thence northwesterly 18.04 feet along a curve (C12) concave to the east having a radius of 136.99 feet (chord=North 13°07'56" West 18.03 feet);  
 thence northwesterly 9.52 feet along a curve (C13) concave to the west having a radius of 52.08 feet (chord=North 14°35'46" West 9.51 feet);  
 thence northwesterly 15.76 feet along a curve (C14) concave to the east having a radius of 99.89 feet (chord=North 15°18'53" West 15.74 feet);  
 thence northwesterly 24.01 feet along a curve (C15) concave to the west having a radius of 130.60 feet (chord=North 16°03'41" West 23.97 feet);  
 thence northwesterly 17.35 feet along a curve (C16) concave to the west having a radius of 79.66 feet (chord=North 27°34'03" West 17.32 feet);  
 thence northwesterly 19.62 feet along a curve (C17) concave to the east having a radius of 99.73 feet (chord=North 28°10'18" West 19.59 feet);  
 thence northwesterly 23.84 feet along a curve (C18) concave to the west having a radius of 107.10 feet (chord=North 28°54'48" West 23.80 feet);  
 thence northwesterly 21.30 feet along a curve (C19) concave to the east having a radius of 54.99 feet (chord=North 24°11'43" West 21.17 feet);  
 thence northwesterly 15.36 feet along a curve (C20) concave to the west having a radius of 101.28 feet (chord=North 17°26'39" West 15.34 feet);  
 thence northwesterly 34.56 feet along a curve (C21) concave to the west having a radius of 1369.28 feet (chord=North 22°30'42" West 34.55 feet);  
 thence South 43°31'41" West 175.64 feet to the point of beginning as shown by Exhibit "\_\_\_".

Page 2 of 2

# Exhibit "B"

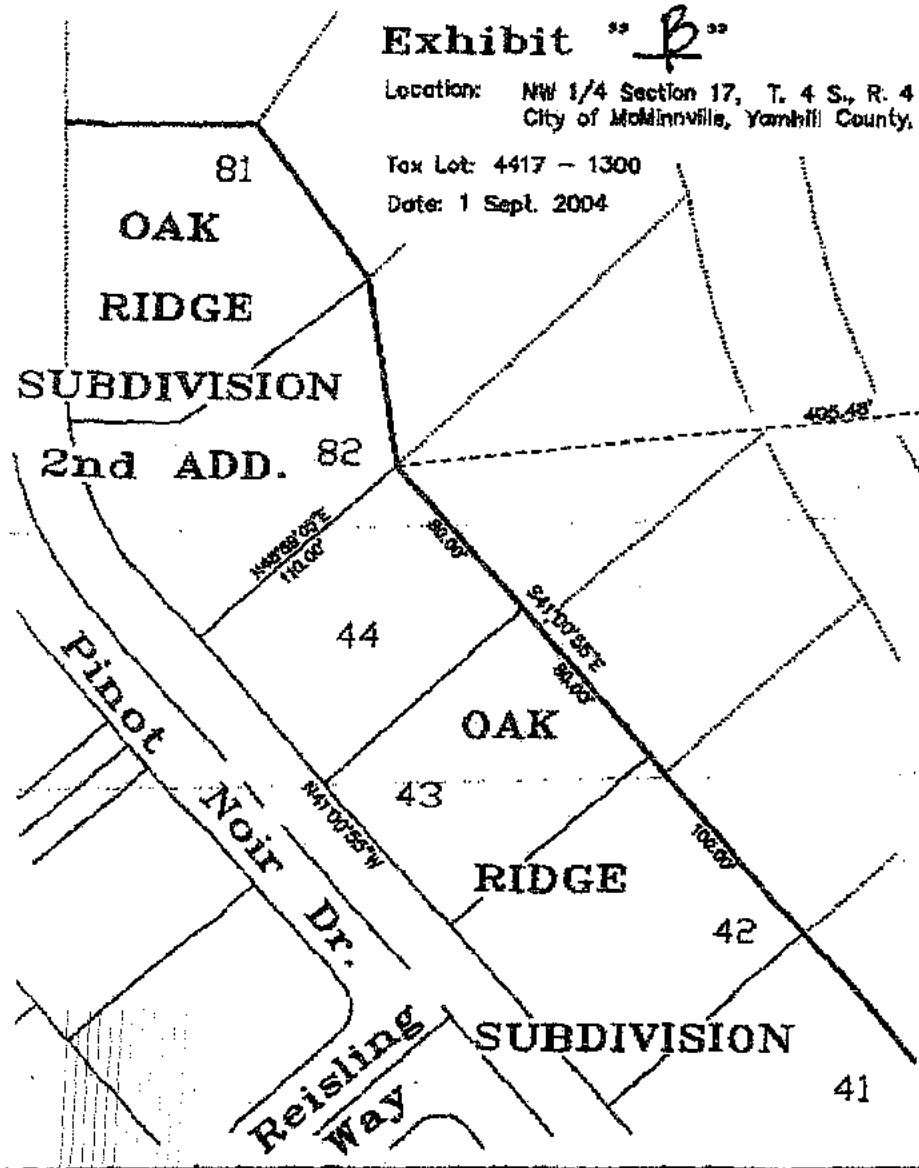
Location: NW 1/4 Section 17, T. 4 S., R. 4 W., WM.,  
City of Molokini, Yamhill County, OR

Tax Lot: 4417 - 1300  
Date: 1 Sept. 2004

Scale: 1" = 100'

Wetland  
Mitigation Area  
0.48 Acres

North



| CURVE TABLE |         |        |             |               |                |
|-------------|---------|--------|-------------|---------------|----------------|
| CURVE       | RADIUS  | LENGTH | DELTA ANGLE | CHORD BEARING | CHORD DISTANCE |
| C1          | 147.70  | 46.71  | 18°07'09"   | S81°48'24"E   | 46.61          |
| C2          | 2220.97 | 57.67  | 0°58'18"    | S80°22'48"E   | 57.67          |
| C3          | 71.46   | 21.84  | 17°30'35"   | S66°38'52"E   | 21.75          |
| C4          | 182.84  | 20.12  | 6°18'06"    | S80°33'17"E   | 20.11          |
| C5          | 78.40   | 13.81  | 10°06'46"   | S78°39'27"E   | 13.80          |
| C6          | 16.38   | 10.39  | 38°58'58"   | S59°35'35"E   | 10.22          |
| C7          | 57.44   | 18.03  | 27°35'20"   | S51°28'16"E   | 17.86          |
| C8          | 131.61  | 17.08  | 7°24'56"    | S61°33'27"E   | 17.05          |
| C9          | 24.88   | 12.51  | 28°02'58"   | S72°22'38"E   | 12.38          |
| C10         | 18.98   | 18.89  | 84°27'67"   | N85°52'03"E   | 18.28          |
| C11         | 27.57   | 10.17  | 21°08'18"   | N28°03'45"E   | 10.11          |
| C12         | 136.89  | 18.04  | 7°32'48"    | N13°07'36"W   | 18.03          |
| C13         | 52.08   | 8.52   | 10°28'30"   | N14°35'46"W   | 8.51           |
| C14         | 99.89   | 15.76  | 9°02'17"    | N15°18'53"W   | 15.74          |
| C15         | 130.80  | 24.01  | 10°31'54"   | N16°03'41"W   | 23.97          |
| C16         | 79.66   | 17.35  | 12°28'51"   | N27°34'03"W   | 17.32          |
| C17         | 39.73   | 19.82  | 11°18'21"   | N28°10'18"W   | 19.59          |
| C18         | 107.10  | 23.84  | 12°45'20"   | N28°54'48"W   | 23.80          |
| C19         | 54.88   | 21.30  | 22°11'30"   | N24°11'43"W   | 21.17          |
| C20         | 101.28  | 19.36  | 8°41'22"    | N17°28'39"W   | 19.34          |
| C21         | 1358.28 | 34.56  | 1°26'45"    | N22°30'42"W   | 34.56          |

Matt Dunckel & Assoc.  
3765 Riverside Drive  
Molokini, Oregon 97128  
Phone: 503-472-7804  
Fax: 503-472-0367  
Email: dunckel@molink.com

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Matthew E. Dunckel*

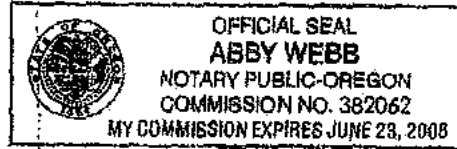
OREGON  
MAY 19 2004  
MATTHEW E. DUNCKEL  
1942

Renewable 31 December 2005  
5144

STATE OF OREGON )

County of Yamhill )

SS:



This instrument was acknowledged and signed before me on November 3, 2004  
by Lori L. Zumwalt.

Abby Webb

Signature of Notarial Officer


My Commission Expires: June 23, 2008

7/7

EXPIRES 31 DECEMBER 2018

Leland MacDonald & Assoc., LLC  
Land Surveyors  
3765 Riverside Drive  
McMinnville, OR 97128  
Phone: 472-7904  
Fax: 472-0367

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

  
OREGON  
JANUARY 16, 2002  
Leland A. MacDonald  
53226

**EXHIBIT "A"**

7 May 2018

Description of Real Property for: Les & Kathleen Toth & The City of McMinnville: Easement description

An easement located in Section 17, Township 4 South, Range 4 West of the Willamette Meridian in Yamhill County, Oregon, being a portion of that tract of land described by Deed from Compton Family Limited Partnership to Compton Crest, LLC and recorded in Instrument No. 200408905, Yamhill County Deed and Mortgage Records, and being a portion of Parcel 1 of Yamhill County Partition Plat 2000-37, being 20 feet in width, lying 10 feet each side of the centerline thereof, said centerline being more particularly described as follows:

Commencing at an iron rod marking the northeast corner of Lot 26 of Compton Crest subdivision, said point being on the east line of said Parcel 1; thence North 00°07'08" West 315.00 feet along said east line to a point on the centerline of an existing sanitary sewer easement, said easement being 20 feet in width, lying 10 feet each side of centerline, recorded in Instrument No. 200503254, Deed Records of Yamhill County, Oregon; thence South 89°49'57" West 15.00 feet along said centerline to a point; thence South 64°36'04" West 243.01 feet to an angle point in said centerline and the POINT OF BEGINNING; thence South 58°21'07" West 172.52 feet to a point on an existing sanitary sewer easement, said easement being 20 feet in width, lying 10 feet each side of centerline, recorded in Partition Plat 2000-37, Survey Records of Yamhill County, Oregon, as shown on a map attached, hereto and made a part thereof, the sidelines of said easement to extend and shorten with the west margin of said Instrument No. 200503254 and with the North and South margin of said easement per Partition Plat 2000-37.

End of Description

From: Les & Kathleen Toth  
 To: The City of McMinnville

Location: Section 17 T. 4 S., R. 4 W., WM.,  
 City of McMinnville  
 Yamhill County, OR

Tax Lot: 4417 - 1202

Date: 4 May 2018

Scale: 1" = 60'

**Exhibit " B "**  
**Easement Map**

By : Leland MacDonald & Assoc., LLC  
 Formerly dba Matt Dunckel & Assoc.  
 3765 Riverside Drive  
 McMinnville, Oregon 97128  
 Phone : 503-472-7904  
 Fax: 503-472-0367  
 Email: lee@macdonaldsurveying.com

**REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR**

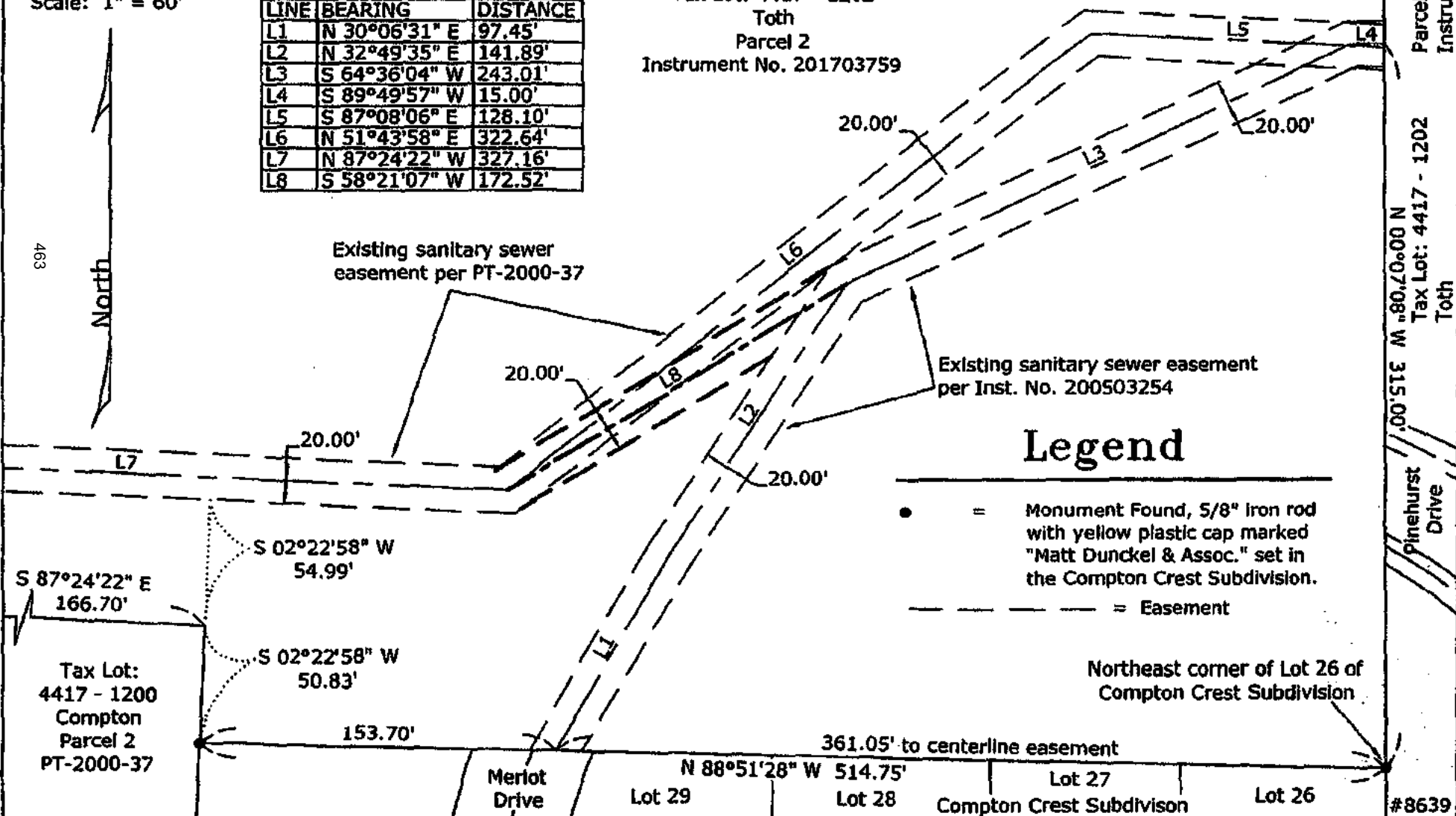
*[Signature]*

**OREGON**  
 January 16, 2002  
**LELAND A. MACDONALD**  
 53226

Expires 31 December 2018

| Sanitary Centerline Table |               |          |
|---------------------------|---------------|----------|
| LINE                      | BEARING       | DISTANCE |
| L1                        | N 30°06'31" E | 97.45'   |
| L2                        | N 32°49'35" E | 141.89'  |
| L3                        | S 64°36'04" W | 243.01'  |
| L4                        | S 89°49'57" W | 15.00'   |
| L5                        | S 87°08'06" E | 128.10'  |
| L6                        | N 51°43'58" E | 322.64'  |
| L7                        | N 87°24'22" W | 327.16'  |
| L8                        | S 58°21'07" W | 172.52'  |

Tax Lot: 4417 - 1202  
 Toth  
 Parcel 2  
 Instrument No. 201703759



**Legend**

- = Monument Found, 5/8" iron rod with yellow plastic cap marked "Matt Dunckel & Assoc." set in the Compton Crest Subdivision.
- = Easement

Northeast corner of Lot 26 of Compton Crest Subdivision

Parcel 1  
 Instrument No. 201703759  
 Tax Lot: 4417 - 1202  
 Toth  
 Pinehurst Drive  
 #8639

## Exhibit 3



230 NE Second Street • McMinnville, Oregon 97128 [www.ci.mcminnville.or.us](http://www.ci.mcminnville.or.us)

April 18, 2005

Premier Development LLC  
1312 NE Highway 99W  
McMinnville, OR 97128

RE: ZC 12-04/S14-04

Dear Jeff & Lori:

This is to advise you that, at a meeting of the McMinnville City Council on Tuesday, April 12, 2005, they took action to approve the attached ordinance and findings relative to your application for approval of a zone change from a County EF-80 (Exclusive Farm Use - 80 acre minimum) zone to a City R-2 PD (Single-Family Residential, Planned Development) zone on approximately 23 acres of land. The subject property is located north of Pinot Nair Drive and the Oak Ridge residential development and is more specifically described as a portion of Tax Lot 600, Section 7 and Tax Lot 200, Section 8, T. 4 S., R. 4 W., W.M.

As you may be aware, the Council took separate action on March 8, 2005, to approve your tentative subdivision plan for the same property. The conditions of approval for this subdivision are as follows:

1. That the subdivision approval does not take effect until and unless the companion zone change request is approved by the City Council.
2. 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.
3. 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.
4. That the applicant secures from the Oregon Department of Environmental Quality (DEQ) 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.

Community Development Department  
Planning Department (503) 434-7311 FAX (503) 472-4104



12. Said cross sections shall be submitted to the Community Development Director for review and approval prior to submittal of the final plat. If the submitted information so indicates, the Planning Director may require the tentative subdivision plan be revised in order to provide for a more practical configuration of lots, utilities, and streets. All such submittals must comply with the requirements of 13A of the Land Division Ordinance and must meet with the approval of the City Engineer.
13. That all streets within the subdivision shall be improved with a 26-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 Ordinance for local residential streets.
14. That the applicant extend water service to the subject site in accordance with McMinnville Water and Light requirements. Easements as may be required for the extension of water shall also be provided.
15. That approved, working fire hydrants must be installed prior to the issuance of building permits for the subject site.
16. That if the property owner wishes a one-year extension of the Commission approval of this tentative plan under the provisions of Section 16 of Ordinance No. 3702, 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.
17. That a plan for the provision of secondary emergency access to the subject site shall be submitted to the McMinnville Fire Department for review and approval. At a minimum the required secondary emergency access must be constructed to include a 12-foot-wide paved travel lane with 20 feet of vertical clearance. All improvements required by this approved plan shall be constructed by the applicant prior to the filing of a final plat for the proposed subdivision.
18. That prior to construction of the proposed subdivision, the applicant shall secure all required state and federal permits, including, if applicable, those related to the federal Endangered Species Act (if applicable), Federal Emergency Management Act, and those required by the Oregon Division of State Lands, and U.S. Army Corps of Engineers. Copies of the approved permits shall be submitted to the City.
19. That barricades shall be installed by the applicant at the terminus of all public streets, consistent with City standards. The barricades shall include text stating: "This street is planned for extension in the future to serve proposed development."
20. That the submitted tentative plan shall be revised to include a public street extending south from "A" Street to serve future development of adjacent land. The street shall be centered approximately 225 feet east of the easterly right-of-way line of Pinehurst Drive so as to allow the future platting of lots some 100 feet in depth within the adjacent property to the south. In addition, the proposed cul-de-sac street ("C" Court) shall be redesigned as a through street connecting "B" Street and "A" Street. Adjustment of the submitted tentative plan is authorized as may be necessary to accommodate the provision of these streets.

Premier Development LL(.,  
April 18, 2005

Page 5

Jerry Stellflug, 2684 NW Pinot Noir Drive, McMinnville  
Dudley Frost, 506 Altivo Avenue, La Selva Beach, CA 95076  
Jeff & Carol Mason, 2610 Riesling Way, McMinnville  
Melba L. Smith, 2780 NW Pinot Noir Dr., McMinnville  
Robert & Dolores Blechman, 2812 NW Pinot Noir Dr., McMinnville  
Emily Stater Duerfeldt, 1545 NW Cabernet Ct., McMinnville  
Bart Ellinger, 2660 Pinehurst Drive, McMinnville  
Paul Lunsford, 2737 NW Pinot Noir Drive, McMinnville  
John Paul, 2731 NW Pinot Noir Drive, McMinnville  
Lisa McKinney, 2684 NW Pinot Noir Drive, McMinnville  
Dale & Rosalie McKinney, 1220 NW Greenbriar Place, McMinnville  
Randy Hartzell, 1093 NW Baker Crest Court, McMinnville  
Raymond & Nina Clevidence, 1493 NW Riesling Way, McMinnville



**DATE:** December 8, 2003  
**TO:** Michael Brandt, Yamhill County Planning Director  
**FROM:** Doug Montgomery, McMinnville Planning Director  
**SUBJECT:** DOCKET NO. FP-08-03

**RECEIVED**

DEC 08 2003

YAMHILL COUNTY PLANNING

Regarding the above referenced land use application, the McMinnville Planning Department offers the following comments for your consideration:

1. The application appears premature.

The applicant states in their submitted material that: "There is no use proposed for the subject property at this time, other than to fill an area of property within the floodplain." It begs the question that, if there is no use proposed at this time, why should fill material be allowed within the floodplain?

Also within the applicant's submitted material is a letter from the Oregon Division of State Lands (DSL), dated December 13, 1999, which states:

"In evaluating a permit application [for working within a delineated wetland], our agency will first consider whether there is an analysis of alternatives that avoid or minimize wetland or waterway impacts. Please advise you client that state law establishes a preference for avoidance of wetland impacts."

Based upon this direction provided by DSL, it would seem that Premier Development LLC would be advised to first obtain concurrence from that agency as to their efforts in minimizing impacts through a study of alternative designs. Yamhill County should also defer recommending approval of this request until and unless such approvals are granted by the State. From my perspective, it seems premature for the County to take action on this request at this time, particularly given the DSL's stated position and the possibility that they might not approve subsequent actions necessary to permit this area's use for residential housing, as intended by the applicant.

ORDINANCE NO. 4921

An Ordinance adopting certain Federal Emergency Management Agency (FEMA) studies and maps as part of the McMinnville Comprehensive Plan; amending the McMinnville Comprehensive Plan and Zoning maps as necessary to incorporate updates to 100-year flood information; amending Chapter 17.48 (F-P Flood Area Zone) of the McMinnville Zoning Ordinance as necessary to satisfy federal floodplain management requirements and remain eligible in the National Flood Insurance Program; and declaring an emergency.

RECITALS

In 2007, the Federal Emergency Management Agency (FEMA) advised the City of McMinnville that they intended to review the 1982 Flood Insurance Rate Maps (FIRM) that cover lands within the City and provide updated maps for our use in administering the National Flood Insurance Program (NFIP). In summary, these maps provide the location and elevation of the floodplains and floodways associated with the various waterways within our jurisdiction. Staff uses this information to advise residents, lending institutions, and other interested parties of the floodplain's location and to ensure that development within this area is consistent with the City's F-P Flood Area zone requirements.

On March 2, 2010, the Federal Emergency Management Agency (FEMA) will begin using the updated Flood Insurance Rate Maps (FIRMs) and corresponding Flood Insurance Study (FIS) for Yamhill County. To maintain eligibility for participation in the NFIP, McMinnville must adopt the updated FIRMs and FIS by March 2, 2010, and reflect these boundary adjustments on both the Comprehensive Plan map and Zoning map. Also by this date, the City must amend its zoning ordinance consistent with new Federal floodplain code requirements if it wishes to continue to participate in the NFIP.

Staff has been working with FEMA since 2007 to help them update their flood maps in preparation for the March 2, 2010 date. This has involved providing FEMA with the City's elevation data, annexation and road map information, and several site-specific data sets. In April 2009, FEMA released their draft FIS and FIRM updates for City and public review. In May 2009, FEMA held an explanatory workshop for residents of Yamhill County at which staff was in attendance as well as an additional workshop for staff. The public voiced no concerns at that time. The official maps have been on file and available for public review at the Planning office since mid November 2009. During that time, there have been no inquiries from the public regarding the proposed amendments.

Based upon the NFIP Coordinator for Oregon's review of McMinnville's ordinance, certain amendments are necessary in order to bring the City's floodplain into compliance with these federal rules, and to maintain our eligibility in the flood insurance program. Consistent with this directive, City staff prepared amendments to Chapter 17.48 (F-P Flood Area Zone) of the McMinnville zoning ordinance and presented them to the McMinnville Planning Commission at a public hearing held on January 21, 2010. Notice of this hearing was provided in the local newspaper on January 13, 2010.

At said public hearing, after studying the draft amendments, and providing opportunity for public testimony, the Planning Commission voted unanimously to recommend to the City Council that Chapter 17.48 of the McMinnville Zoning Ordinance be amended as recommended by staff. In addition, the Commission recommended that FEMA's March 2, 2009 FIS and FIRM be adopted, thereby supplanting the existing floodplain boundary within McMinnville and

amending the McMinnville Comprehensive Plan Map and McMinnville Zoning Map accordingly.

The City of McMinnville's continuing participation in the National Flood Insurance Program is contingent upon the adoption of these changes. Now therefore;

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That the Federal Insurance Administration report entitled "The Flood Insurance Study (FIS) for Yamhill County, Oregon and Incorporated Areas" and accompanying Flood Insurance Rate Maps (FIRM), effective date March 2, 2010, are adopted.

Section 2. That the McMinnville Comprehensive Plan Map specific to "Floodplain" designated lands is amended as necessary to reflect the location of "Special Flood Hazard Areas" (100-year flood) as identified by the Federal Insurance Administration in the report entitled "The Flood Insurance Study (FIS) for Yamhill County, Oregon and Incorporated Areas" and accompanying Flood Insurance Rate Maps (FIRM) (effective date March 2, 2010)

Section 3. That the McMinnville Zoning Map specific to "Flood Area (F-P) zoned lands is amended as necessary to reflect the location of "Special Flood Hazard Areas" (100-year flood) as identified by the Federal Insurance Administration in the report entitled "The Flood Insurance Study (FIS) for Yamhill County, Oregon and Incorporated Areas" and accompanying Flood Insurance Rate Maps (FIRM) (effective date March 2, 2010)

Section 4. That Chapter 17.48 F-P Flood Area Zone) of the McMinnville Zoning Ordinance (No. 3380) is amended as follows (~~deletions~~; **additions**):

A. That section 17.48.010 is amended to read as follows:

17.48.010 Established—Area included. In accordance with Section 17.09.010, all property within the corporate limits of the City lying **within Special Flood Hazard Areas (100-year flood) identified by the Federal Insurance Administration in the report entitled "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas," (effective date March 2, 2010), and accompanying Flood Insurance Rate Maps (FIRM)** ~~at or below the 100-year flood level as established by the Federal Emergency Management Agency for the National Flood Insurance program~~ is declared to be flood area zone property **and subject to the requirements of this Chapter.** (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

B. That Section 17.48.025 (B) is amended to read as follows:

"B. "Floodway" – The floodway is the channel of the **river or watercourse stream**—plus any adjacent floodplain areas that must be kept free from encroachment in order that the 100-year flood may be carried without ~~substantial increases in flood heights~~ **without increasing the water surface elevation more than one foot;**"

C. That Section 17.48.040 is amended to read as follows:

That Section 17.48.040 (D) is amended as follows:

"D. Landfill or diked land, **including culvert and bridge installations,**

subject to the following procedures:"

That Section 17.48.040 (D) is amended by adding the following new text; subsections that follow are renumbered accordingly:

**"2. The City shall provide written notice to the City Recorder's office in adjacent communities, Yamhill County, and the Oregon Department of Land Conservation and Development prior to any alteration or relocation of a watercourse (i.e. stream channel), and shall submit a copy of that notification to the Federal Insurance Administration."**

The renumbered Section 17.48.040 (D)(3) is amended as follows:

**"3. The Planning Department shall prescribe the form and information required for applications made for any fill or dike conditional use listed in this subsection."**

D. That Section 17.48.060 is amended to read as follows:

Section 17.48.060 (B) is deleted in its entirety; subsections that follow are renumbered accordingly:

~~B. The first floor elevation of any structure for the shelter of humans shall be situated at least three feet above the established water crest elevation for a flood with a probability rate of one percent;~~

The renumbered Section 17.48.060 (C) is amended to read as follows:

**"C. Within the floodway and flood fringe, no encroachment will be allowed which causes any increase in the flood height or which would result in hazardous velocities (see floodway schematic). To demonstrate compliance with this requirement, the applicant shall submit an engineering certification stating the proposed development will not impact the pre-project base floodway and flood fringe elevations. The certification shall be signed and sealed by a professional engineer and be supported by the appropriate technical data and studies, which are typically based upon the standard step-backwater computer model utilized to develop the 100-year floodway and flood fringe shown on the appropriate Federal Insurance Rate Map (FIRM) and tabulated in the adopted Flood Insurance Study. (Ord. 4684 §3, 1998; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968.)"**

E. That a new Section 17.48.070 is added to read as follows:

**"17.48.070 Use of other base flood data. When base flood elevation data has not been provided (FIRM zones A), the applicant shall provide alternative base flood elevation as available from a Federal, State, or other source in order to comply with this chapter."**

Section 5. It is imperative to the public welfare that the City maintain its eligibility to participate in NFIP. In order to do so, this ordinance must become effective March 2, 2010. Therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect on March 2, 2010.

Passed by the Council this 9<sup>th</sup> day of February 2010 by the following votes:

Ayes: Hansen, Hill, Jeffries, May, Menke, Yoder

Nays: \_\_\_\_\_

Approved this 9<sup>th</sup> day of February 2010.



\_\_\_\_\_  
MAYOR

Attest:



\_\_\_\_\_  
CITY RECORDER

Approved as to Form:



\_\_\_\_\_  
CITY ATTORNEY

MCMINNVILLE CITY CODE, FLOODPLAIN ORDINANCE

17.06.030 Flood Area Zone Related Definitions. For the purpose of the Flood Area Zone (Chapter 17.48), the following definitions shall apply.

**Fill** – The placement or removal of any kind of material (natural or man-made) in the floodplain which has the effect of altering the contour elevations or configurations therein. Included in this definition is the relocation of material which is already in the floodplain.

**Flood Insurance Rate Map (FIRM)** – The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to McMinnville.

**Floodway** – The channel of the river or watercourse plus any adjacent floodplain areas that must be kept free from the encroachment in order that the 100-year flood may be carried without increasing the water surface elevation more than one foot.

**Floodway Fringe** – The area between the floodway and the boundary of the 100-year flood. (Ord. 4921 §4B, 2010; Ord. 4821 (part), 1981; Ord. 3380 (part), 1968.)

**Substantial Damage** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Ord. 4977 §2, 2014).

Chapter 17.48

F-P FLOOD AREA ZONE

Sections:

- 17.48.005 Purpose
- 17.48.010 Established—Area included.
- 17.48.020 Boundaries indicated on map.
- 17.48.025 Definitions.
- 17.48.030 Permitted uses.
- 17.48.040 Conditional uses.
- 17.48.045 Conditional use factors.
- 17.48.060 Use limitations.
- 17.48.070 Use of other base flood data.



17.48.005 Purpose. The purpose of a floodplain is to establish and regulate land uses in those areas designated as hazardous due to periodic flooding in order to protect the community from financial burdens through flood damage losses. Further, this zone is intended to protect natural floodways and drainage ways from encroachment by uses and/or indiscriminate land filling or diking which may adversely affect the overall stream and downstream flood levels. Finally, the floodplain zone shall set aside an area which shall, for the most part, be preserved in its natural state or farmed to provide open spaces, natural habitats, and recreational places. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.010 Established—Area included. In accordance with Section 17.09.010, all property within the corporate limits of the City lying within Special Flood Hazard Areas (100-year flood) identified by the Federal Insurance Administration in the report entitled “The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas,” (effective date March 2, 2010), and accompanying Flood Insurance Rate Maps (FIRM) is declared to be flood area zone property and subject to the requirements of this Chapter. (Ord. 4921 §4A, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.020 Boundaries indicated on map. The boundaries for the zone established by Section 17.48.010 shall be indicated on the McMinnville Zoning Map. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.025 Definitions. For the purpose of this section refer to Section 17.06.030 for Flood Area related definitions. (Ord. 4952 §1, 2012).

17.48.030 Permitted uses. In an F-P zone, the following uses and their accessory uses are permitted (subject to the provisions of Section 17.48.060):

- A. Farming;
- B. Public park and recreation facility, not requiring the use of any structure;
- C. Sewage pump station. (Ord. 4684 §1, 1998; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.040 Conditional uses. In an F-P zone, the following uses and their accessory uses may be permitted, subject to the provisions of Section 17.48.045 and Chapters 17.72 and 17.74:

- A. Boat landing and launching facility;
- B. Open land recreation facility requiring the use of any structure;
- C. Removal of sand, gravel, topsoil, or rock;
- D. Landfill or diked land, including culvert and bridge installations, subject to the following procedures:
  - 1. Preliminary submittal of the proposal shall be made to the Planning Department, which shall check the proposal to insure its compliance to the ordinance. Said proposal shall then be submitted to the Planning Commission.
  - 2. The City shall provide written notice to the City Recorder’s office in adjacent communities, Yamhill County, and the Oregon Department of

Land Conservation and Development prior to any alteration or relocation of a watercourse (i.e. stream channel), and shall submit a copy of that notification to the Federal Insurance Administration.

3. The Planning Department shall prescribe the form and information required for applications made for any conditional use listed in this subsection. No application shall be accepted unless it complies with such requirements and is verified as to the correctness thereto. There shall be included, as a part of the application, an accurate map. Such plans shall be in triplicate, drawn at a scale of not larger than one inch equals fifty feet nor smaller than one inch equals five hundred feet, and shall show:
  - a. 100-year flood projection elevation on the subject site. State source of information.
  - b. Property boundaries and dimensions.
  - c. Ground elevations shown by contour lines of not less than two foot vertical intervals. State source of information.
  - d. Existing and proposed structures.
  - e. Dimensions and elevations of existing and/or proposed fill.
  - f. Location of stream channel in relationship to items "a" through "e" above.
  - g. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed fill and high-water information.
  - h. Profile showing the slope of the bottom of the channel or flow line of the stream, and the slope line of the proposed fill.
  - i. Specifications of fill material, grading, channel improvement or maintenance plans, dimensions, and restoration of completed project.
- E. Weapons Training Facility subject to the following conditions:
  1. The property on which the facility is located must be owned or leased by a Federal, State, or local government agency for the exclusive use of public safety personnel engaged in firearms or other related training;
  2. The facility must be located no closer than 2,640 feet (one-half mile) to any land planned and zoned for residential use; and
  3. Only those firearms or weapons authorized by a government agency and utilized for law enforcement related purposes shall be allowed within the area approved for a weapon training facility. Possession of other firearms or weapons at a weapon training facility site shall be considered a violation of this ordinance.
- F. Wireless communications facilities, not to include antenna support structures and their associated facilities, subject to the provisions of Chapter 17.55 (Wireless Communications Facilities). (Ord. 4921 §4C, 2010; Ord. 4732, 2000; Ord. 4684 §2, 1998; Ord. 4559 §1, 1994; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.045 Conditional use factors. The Planning Commission shall consider the following factors and special conditions when making a decision regarding a conditional use in the floodplain zone:

- A. Factors to be Considered:
  - 1. The danger to life and property due to increased flood heights or velocities caused by any proposed fill.
  - 2. The danger that materials may be swept onto other lands or downstream to the injury of others.
  - 3. The importance to the community of the service provided by the proposed facility.
  - 4. The availability of alternative locations not subject to flooding.
  - 5. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - 6. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - 7. The compatibility of the proposed use with the potential of the site and the surrounding floodplain area for open space, natural habitats, and recreational places.
  - 8. The impact of the proposed use on fish and wildlife habitat.
  - 9. Such other factors which are relevant to the purposes of this section.
- B. Special Conditions. Upon consideration of the factors listed above and the purposes of this section, the Planning Commission may attach such conditions to the granting of a conditional use permit as it deems necessary to further the purposes of this portion of the zoning ordinance. The following such conditions, but not exclusively limited thereto, may be included:
  - 1. Limitations on periods of use and operation, and upon the area to be filled and the elevation of the fill as well as to the kinds of material which may be so emplaced.
  - 2. Imposition of operational controls, sureties, and deed restrictions.
  - 3. Requirements for construction of channel modifications, dikes, levees, and other protective measures.
  - 4. Limitations on the removal or destruction of critical fish and wildlife habitat including any area of riparian vegetation. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

[17.48.050 Signs. Moved to Chapter 17.62 (Signs), by Ord. 4900 November 5, 2008.]

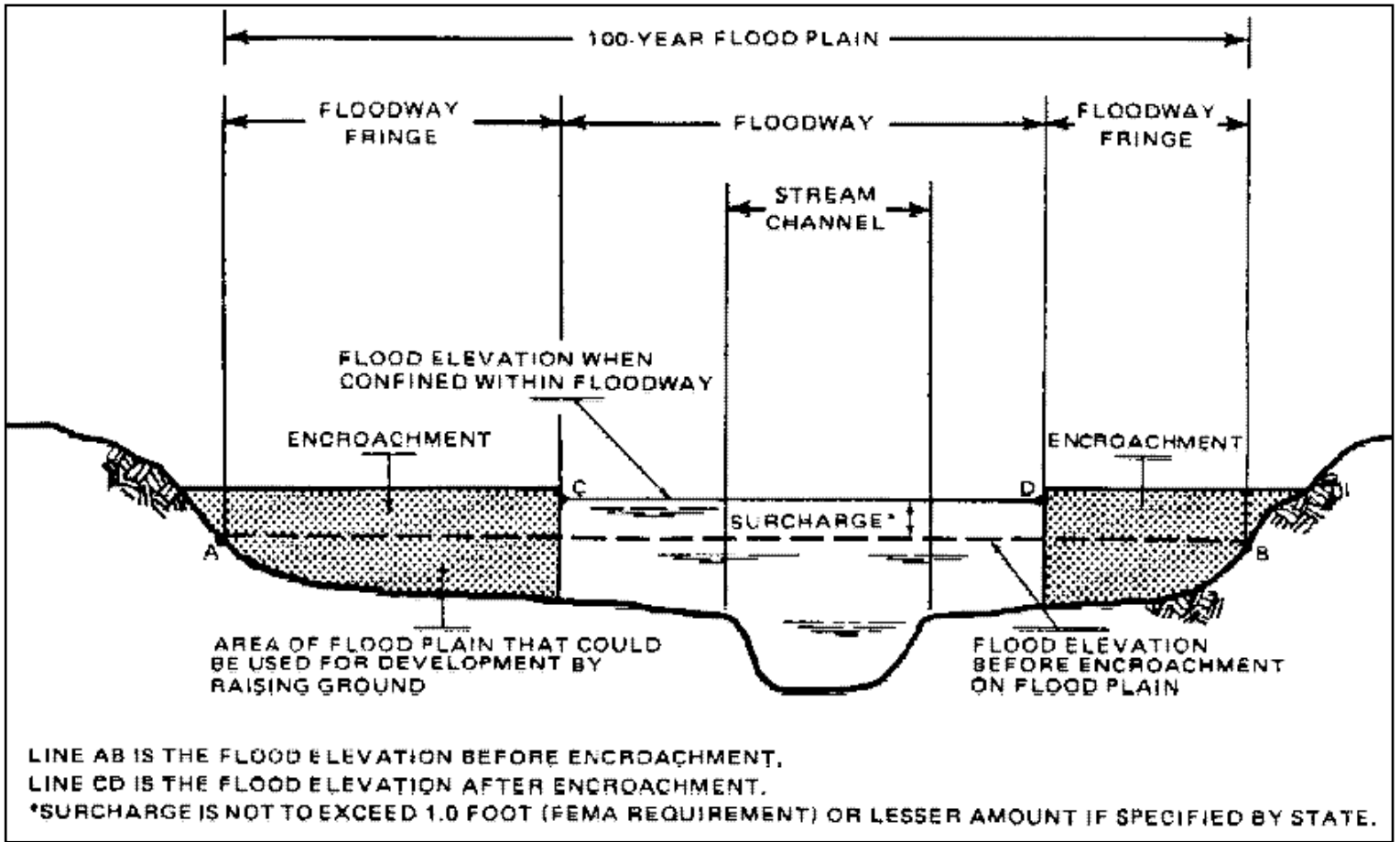
17.48.060 Use limitations. In an F-P zone, the following limitations shall apply:

- A. No residence shall be constructed;
- B. A lot shall not be less than one acre in area;
- C. Within the floodway and flood fringe, no encroachment will be allowed which causes any increase in the flood height or which would result in hazardous velocities (see floodway schematic). To demonstrate compliance with this requirement, the applicant shall submit an engineering certification stating the proposed development will not impact the pre-project base floodway and

flood fringe elevations. The certification shall be signed and sealed by a professional engineer and be supported by the appropriate technical data and studies, which are typically based upon the standard step-backwater computer model utilized to develop the 100-year floodway and flood fringe shown on the appropriate Federal Insurance Rate Map (FIRM) and tabulated in the adopted Flood Insurance Study. (Ord. 4921 §4D, 2010; Ord. 4684 §3, 1998; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.070 Use of other base flood data. When base flood elevation data has not been provided (FIRM zones A), the applicant shall provide alternative base flood elevation as available from a Federal, State, or other source in order to comply with this chapter. (Ord. 4921 §4E, 2010)

# FLOODWAY SCHEMATIC



**From:** [Mike Colvin](#)  
**To:** [Mike Bisset](#)  
**Cc:** [Heather Richards](#); [Jamie Fleckenstein](#); [Jeff Towery](#)  
**Subject:** Re: map or diagram of areas where storm drainage is directed to the Baker Creek basin  
**Date:** Tuesday, July 2, 2019 9:32:51 AM

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**This message originated outside of the City of McMinnville.**

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Sorry, I somehow got in my head that the white lines were main drain lines, not border lines. And if no drainage has been added to the west of us since 2010, I'm more confused than ever because the flooding events have been much more common since 2015 certainly. And coincided with the projects to our west. The drain tile under the filbert orchards just upstream in 2018 certainly had a noticeable effect last winter, but they can't be the whole cause.

I guess I'll look through the other maps to the south and east today. There has been a lot of building around Grandhaven. I know our flooding seems to start at west side road and back up west as more water backs up. Could a back up further downstream be one reason our flooding is happening with lower amounts of rain? Any suggestions would be appreciated. Thanks,

Mike

Sent from my iPad

On Jul 2, 2019, at 7:54 AM, Mike Bisset <[Mike.Bisset@mcminnvilleoregon.gov](mailto:Mike.Bisset@mcminnvilleoregon.gov)> wrote:

Hi Mike – The Baker Creek E/W developments by Stafford also drain to the south. All of that area, including the Hill Road improvements drain to the south to the Mill Race....then through the golf course and to Cozine Creek.

I am not aware of any new developments draining to Baker Creek (upstream of your house) since 2010. Certainly new houses in your neighborhood would be a new contribution.

The white lines on the map denote approximate subbasin boundaries....they are not storm pipes.

The storm pipes are in blue, green, yellow, and red. Any storm lines that aren't blue indicate lines that potentially need to be upsized in the future. The coloring denotes the severity of potential capacity issues during the design storm, with green being least constrained and red being most constrained.

mb

**From:** Mike Colvin <[mikecolvin49@gmail.com](mailto:mikecolvin49@gmail.com)>

**Sent:** Monday, July 1, 2019 9:10 PM

**To:** Mike Bisset <[Mike.Bisset@mcminnvilleoregon.gov](mailto:Mike.Bisset@mcminnvilleoregon.gov)>

**Subject:** Re: map or diagram of areas where storm drainage is directed to the Baker Creek basin

**This message originated outside of the City of McMinnville.**

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Wow. I sure had that wrong. Those big catch ponds up by Hillside manor, and the way the road slopes towards Baker Creek were why we thought the drainage off Hill would drain north. How about Baker Creek E/W that is still being built out? Does that drain to Baker Creek? Again, everyone along the basin has witnessed a large increase in flooding at normal rainfall amounts in the last 5-6 years. So additional volume has to be coming from somewhere. Any chance you can just list the projects from 2010 to 2019 that drain to the Baker Creek basin?

I understand the black lines outline that drainage basin, But several of the white main lines that run to the creek come from way to the south. And the furthest white line to the west stops at the border of B-2. Is that the line that runs south? I will try to figure it out in the morning. But would appreciate any guidance to what the new sources have been since about 2010 or so.

And lastly, there has to be some basis for establishing the colored drainage line system. Is it something simple like the number of homes hooked to each line? Or does the hydrology issue come in, and the altitude, type of soil, slope, and ten other variables come into play? I apologize for bugging you. But the system is more complex than I realized.

On Mon, Jul 1, 2019 at 4:15 PM Mike Bisset  
<[Mike.Bisset@mcminnvilleoregon.gov](mailto:Mike.Bisset@mcminnvilleoregon.gov)> wrote:

Hi Mike – The earlier chapters of the plan outline the modeling that was done to estimate flows in the various basins. RE: what drains to Baker Creek. Here is a snip from Figure 7-B2. The black lines delineate the approximate basin limits. Storm drainage lines are shown in blue/green/ etc. As you can see some of the area north of Baker Creek Road drains to the south away from Baker Creek itself.

None of the drainage from the Hill Road drains north to Baker Creek, it is all conveyed south.

<image001.png>

**From:** Mike Colvin <[mikecolvin49@gmail.com](mailto:mikecolvin49@gmail.com)>  
**Sent:** Monday, July 1, 2019 3:46 PM  
**To:** Mike Bisset <[Mike.Bisset@mcminnvilleoregon.gov](mailto:Mike.Bisset@mcminnvilleoregon.gov)>  
**Cc:** Heather Richards <[Heather.Richards@mcminnvilleoregon.gov](mailto:Heather.Richards@mcminnvilleoregon.gov)>; Jeff Towery <[Jeff.Towery@mcminnvilleoregon.gov](mailto:Jeff.Towery@mcminnvilleoregon.gov)>; Jamie Fleckenstein <[Jamie.Fleckenstein@mcminnvilleoregon.gov](mailto:Jamie.Fleckenstein@mcminnvilleoregon.gov)>  
**Subject:** Re: map or diagram of areas where storm drainage is directed to the Baker Creek basin

**This message originated outside of the City of McMinnville.**

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Mike,

Thanks for the maps and info. I do have a couple of questions. 1) What hydrology/drainage information was this project based on? in-house or the 2009 FEMA map ? (when the CH2M study was done). 2) What I'm trying to determine is how far south is drainage to Baker Creek coming from. It looks like north Cozine, but there are two mainlines heading east from the crest of that line too. I'm assuming those are incoming drainage flowing south to north? and; 3) The B1 map was done before Baker Creek east/west, and the Hill road rebuild. I've been assuming those both drain to the Baker Creek system. Is that correct?

The 7.5.1 General Description describes the system eastward from Michelbook Lane to Evans. And I am more interested in the drainage west of Michelbook Lane to Hill Road. And Between Wallace and Baker Creek road. I'm assuming there is a break point somewhere in there where all drainage on one side heads to Baker Creek road? And all drainage on the other side heads to Cozine or the south Yamhill?

I want to get this right. If you can send me some directional flow information, and the drainage info on Baker Creek E/W and Hill Road projects. I can probably figure it out. What we see in our neighborhoods are the results at the end of the line (Baker Creek). In talking to both the folks upstream (Denny Draper and Allen Schwartz), and the 25 year residents in Crestbrook (Toth, Stephenson, Roberts) - it sounds like the higher water/flooding issues became a little more common in the 2000 to 2010 range. But we have all seen the volume and flooding increase a lot between 2015 and 2019. So, we are really trying to identify the sources of the additional flow between 2000 and 2019. - Even neighborhood and street descriptions will help to my map-impaired brain.

Thanks,

Mike

On Mon, Jul 1, 2019 at 10:21 AM Mike Bisset <[Mike.Bisset@mcminnvilleoregon.gov](mailto:Mike.Bisset@mcminnvilleoregon.gov)> wrote:



Good morning Mike – Here is a link to the City’ storm drainage master plan on the City’s website: <https://www.mcminvilleoregon.gov/engineering/page/storm-drainage-master-plan>

Chapter 4, and Figure 4-1 outline the City’s major drainage basins.

Chapter 7 includes more specific detail regarding the basins. In particular, Figures 7-B1 and 7-B2 show the Baker Creek drainage basin, and section 7.5 of that chapter includes a written summary of the basin.

Let me know if you have any other questions.....mb

**From:** Mike Colvin <[mikecolvin49@gmail.com](mailto:mikecolvin49@gmail.com)>

**Sent:** Friday, June 28, 2019 1:07 PM

**To:** Jeff Towery <[Jeff.Towery@mcminvilleoregon.gov](mailto:Jeff.Towery@mcminvilleoregon.gov)>; Mike Bisset <[Mike.Bisset@mcminvilleoregon.gov](mailto:Mike.Bisset@mcminvilleoregon.gov)>

**Subject:** map or diagram of areas where storm drainage is directed to the Baker Creek basin

**This message originated outside of the City of McMinville.**

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Jeff and Mike,

Our group appreciates the opportunity the city council has given us. Thank your. Now it is our responsibility to make clear and accurate presentations to the council in the 2-3 areas we think that plan modifications will benefit the city as much as our four neighborhoods (including Oak Ridge Meadows).

On of those areas is that we would like to make the city councilors aware of how much storm drainage is now directed to the Baker Creek basin - and from how far distant to the south. We have a rough idea, but would like to be accurate. Plus, we have found that with only 3 minute presentations - that maps and pictures are the best way to get a point across quickly. I know that the goal post rule makes flooding a non issue on our Oak Ridge Meadows case. --- BUT Heather brought up the 1980's plan of developing 10-15 acres on the basin floor. We think the fact that that area floods several feet deep after only a couple of inches of rain now makes those 1980's plans unrealistic. So will be asking/encouraging the councilors to order an updated FEMA map before a development application can be turned in on that property. If the FEMA report confirms what we are claiming, won't it help the city in three important areas: 1) move the goal post forward 36 years to make future planning decisions in the basin easier. and; 2) make the councilors aware that the 1980's plan is no longer doable, so they will need to refocus long term plans to another area of town. and; 3) doesn't the official FEMA floodplain classification make it easier to get those acres removed from the buildable inventory designation - which makes it easier to expand

the urban growth boundary?

So, back to the drainage diagram issue. Even though the location of today's floodplains are a non-issue in our case, I do think that showing the city councilors that it is the increased development along Baker Creek road and Hill Road that is causing the increased flooding in the basin should wake up the councilors to the fact that they really need to do an updated FEMA now to get a handle on just how much capacity is left in the basin. So they can determine if filling/diking off Crestbrook will be safe - or if it will just push the problem downstream further. I didn't want to approach Mike without Jeff's approval, so thought I'd just email you both. Hopefully it is OK. Let me know. Thanks,

Mike Colvin

**OREGON MODEL  
FLOOD DAMAGE PREVENTION ORDINANCE**

**Effective January 2009**

**Modified August 2009**

**Modified January 2014**

Adoption of this ordinance will ensure compliance with the standards for participation in the National Flood Insurance Program (NFIP). The model includes standards and provisions that encourage sound flood plain management and if implemented allows property owners to obtain flood insurance at a more affordable rate.

**Development Permits**

FEMA requires that a permit be issued for all development (see DEFINITIONS) in the regulatory floodplain. A floodplain development permit is not the same as a building permit. A floodplain development permit is intended to provide a mechanism for jurisdictions to review all proposed development in the regulatory floodplain.

**Lowest Floor**

NFIP minimum standards require that residential buildings have their lowest floor elevated to the base flood elevation (BFE). However, the Oregon Residential Specialty Code requires that the lowest floor be elevated one foot or more above BFE. Elevating one foot above the base flood elevation allows homeowners to receive a substantial reduction in the cost of their flood insurance. Also, as increased development happens, flood elevations can increase, and the one foot above standard allows for an additional margin of safety.

The NFIP allows non-residential buildings to be elevated or floodproofed. NFIP requires that an operations and maintenance plan be provided to the insurance agent in order to rate the policy. As a result, this requirement is included in this model.

**Below-grade Crawlspace**

Below-grade refers to the inside of the crawlspace being below-grade on all sides, similar to how FEMA defines basement. FEMA would prefer that NFIP communities prohibit below-grade crawl spaces in Special Flood Hazard Areas. If, however, your community decides to allow below grade crawl spaces, specific language must be included in your code. The model code contained herein was derived from Technical Bulletin 11-01: Crawlspace Construction for Buildings located in Special Flood Hazard Areas.

If crawlspace standards are not included in local code, FEMA considers crawlspaces to be basements, which are not allowed as new construction or substantial improvements.

### **Manufactured Dwellings**

The 2011 Oregon Manufactured Dwelling and Park Specialty Code requires that manufactured dwellings be elevated such that the bottom of the chassis is at base flood elevation. The Code also requires that electrical cross-over connections be elevated at least 12" above Base Flood Elevation. Furthermore, the Code makes no distinction between existing and new manufactured dwelling parks. All new installations, repair of substantial damage, or substantial improvements must be elevated above the base flood elevation.

### **Accessory and Agricultural Buildings**

Finally, the NFIP requires that accessory structures, including agricultural buildings be elevated or floodproofed. Agricultural buildings located in the Special Flood Hazard Area are not exempt from building codes.

#### **Agricultural Buildings:**

ORS 455.315 exempts certain agricultural buildings from application of the Oregon Structural Specialty Code, however, **the exemption does not apply to:**

- (A) A dwelling;
- (B) A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;
- (C) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;
- (D) A structure used by the public; or
- (E) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.**

### **AO and V Zones**

This model code includes sections for development in Shallow Flooding Areas (AO Zones), Section 5.5 and Coastal High Hazard Areas (V1-V30, VE and/or V), Section 5.6. If your community does not have either of these zones designated on your Flood Insurance Rate Map, it is not necessary to adopt these sections of the model code.

If you have any questions concerning adoption of this model or participation in the NFIP, please contact our Regional Office at (425) 487-4677.

## KEY

Items in *underlined italics* (on electronic copies) or *underlined italics* (on paper copies) of the ordinance need to be filled in by the community.

Highlighted text recommended but not in CFR or Oregon Building Codes

Blue means V-zone requirement

# OREGON MODEL FLOOD DAMAGE PREVENTION ORDINANCE

## SECTION 1.0 AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

### 1.1 AUTHORIZATION

The State of Oregon has in \_\_\_\_\_<sup>1</sup> delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the *city/town/county*, does ordain as follows: {change for tribal government}

### 1.2 FINDINGS OF FACT

- (1) The flood hazard areas of *city/town/county/tribe* are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

### 1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;

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<sup>1</sup> Almost all Oregon cities and some Oregon counties will derive their authority to adopt a flood damage prevention ordinance from the home rule provisions of the Oregon Constitution. See Article XI, Section 2 of the Oregon Constitution and your local government charter, if applicable. All counties, including those without home rule charters, have been granted authority to enact ordinances under Oregon Revised Statute 203.035.

- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### 1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
- (6) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.

## SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“APPEAL” means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

“AREA OF SHALLOW FLOODING” means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

“AREA OF SPECIAL FLOOD HAZARD” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

“BASE FLOOD” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letters A or V.

“BASEMENT” means any area of the building having its floor subgrade (below ground level) on all sides.

“BELOW-GRADE CRAWL SPACE” means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point

“BREAKAWAY WALL” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“COASTAL HIGH HAZARD AREA” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

“CRITICAL FACILITY” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

“DEVELOPMENT” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

“ELEVATED BUILDING” means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“FLOOD” OR “FLOODING” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or



- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

“FLOOD INSURANCE RATE MAP (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“FLOOD INSURANCE STUDY” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

“FLOODWAY” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“LOWEST FLOOR” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 5.2-1(2).

“MANUFACTURED DWELLING” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured dwelling” does not include a “recreational vehicle.”

“MANUFACTURED HOME PARK OR SUBDIVISION” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“NEW CONSTRUCTION” means structures for which the “start of construction” commenced on or after the effective date of this ordinance.

“RECREATIONAL VEHICLE” means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;  
and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“START OF CONSTRUCTION” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date.

The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“STRUCTURE” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“SUBSTANTIAL DAMAGE” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“VARIANCE” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

“WATER DEPENDENT” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

## **SECTION 3.0 GENERAL PROVISIONS**

### **3.1 LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of city/town/county/tribe.

### **3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the city/town/county/tribe – use county if FIRMs are in countywide format,” dated month day, 20yr, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at location. The best available information for flood hazard area identification as outlined in Section 4.3-2 shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section 4.3-2.

### **3.3 PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ amount or imprisoned for not more than number days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city/town/county/tribe from taking such other lawful action as is necessary to prevent or remedy any violation.

### **3.4 ABROGATION AND SEVERABILITY**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and

another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

### 3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit or repeal any other powers granted under State statutes.

### 3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of city/town/county/tribe, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

## SECTION 4.0 ADMINISTRATION

### 4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

#### 4.1-1 Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

#### 4.1-2 Application for Development Permit

Application for a development permit shall be made on forms furnished by the dept., e.g. Planning, Engineering, etc. and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level of floodproofing in any structure;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

#### 4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The \_\_\_\_\_ is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

#### 4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the local administrator shall include, but not be limited to:

##### 4.3-1 Permit Review

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.4 are met.

##### 4.3-2 Use of Other Base Flood Data (In A and V Zones)

When base flood elevation data has not been provided (A and V Zones) in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the local administrator shall obtain, review, and

reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 5.2, SPECIFIC STANDARDS, and 5.3 FLOODWAYS.

#### 4.3-3 Information to be Obtained and Maintained

- (1) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.3-2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 4.3-2:
  - (i) Verify and record the actual elevation (in relation to mean seal level), and
  - (ii) Maintain the floodproofing certifications required in Section 4.1-2(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

#### 4.3-4 Alteration of Watercourses

- (1) Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

#### 4.3-5 Requirement to Submit New Technical Data

- (1) Notify FEMA within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Revision (LOMR).
- (2) The property owner shall be responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.
- (3) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.

#### 4.3-5 Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.4.

NOTE: If you do not include Section 4.4 (Variance Procedure), end the above sentence after the word "interpretation," and add the following sentence: "such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

#### 4.4 VARIANCE PROCEDURE

##### 4.4-1 Appeal Board

- (1) The \_\_\_\_\_ as established by *ordinance* shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The \_\_\_\_\_ shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the *city/town/county/tribe* in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the \_\_\_\_\_, or any taxpayer, may appeal such decision to the \_\_\_\_\_, as provided in *ordinance*.
- (4) In passing upon such applications, the \_\_\_\_\_ shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - (i) The danger that materials may be swept onto other lands to the injury of others;
  - (ii) The danger to life and property due to flooding or erosion damage;
  - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (iv) The importance of the services provided by the proposed facility to the community;
  - (v) The necessity to the facility of a waterfront location, where applicable;
  - (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (vii) The compatibility of the proposed use with existing and anticipated development;
  - (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

- (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (x) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of Section 4.4-1(4) and the purposes of this ordinance, the \_\_\_\_\_ may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (6) The *local floodplain administrator* shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

#### 4.4-2 Conditions for Variances

- (1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.4-1(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
- (3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
  - (i) A showing of good and sufficient cause;
  - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.1-4(4), or conflict with existing local laws or ordinances.



- (6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- (7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 4.4-2(1), and otherwise complies with Sections 5.1-1 through 5.1-3 of the GENERAL STANDARDS.
- (8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## **SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **5.1 GENERAL STANDARDS**

In all areas of special flood hazards, the following standards are required:

#### **5.1-1 Anchoring**

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

#### **5.1-2 Construction Materials and Methods**

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using

methods and practices that minimize flood damage.

- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### 5.1-3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

#### 5.1-4 Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

#### 5.1-5 Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

#### 5.1-6 AH Zone Drainage

Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

## 5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, Use of Other Base Flood Data (In A and V Zones), the following provisions are required:

### 5.2-1 Residential Construction

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (ii) The bottom of all openings shall be no higher than one foot above grade.
  - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

### 5.2-2 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development

- and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.3-3(2);
- (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2);
  - (5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below.
  - (6) Applicants shall supply a comprehensive Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.
  - (7) Applicants shall supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.

#### 5.2-3 Manufactured Dwellings

- (4) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with 5.1-1(2) above;
- (5) The bottom of the longitudinal chassis frame beam in A zones, shall be at or above BFE;
- (6) The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
- (7) Electrical crossover connections shall be a minimum of 12 inches above BFE.

#### 5.2-4 Recreational Vehicles

Recreational vehicles placed on sites are required to:

- (1) Be on the site for fewer than 180 consecutive days, and
- (2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (3) Meet the requirements of 5.2-3 above and the elevation and anchoring

requirements for manufactured homes.

#### 5.2-5 Small Accessory Structures

Relief from elevation or floodproofing as required in 5.2-1 or 5-2-2 above may be granted for small accessory structures that are:

- (1) less than 200 square feet and do not exceed one story;
- (2) not temperature controlled;
- (3) not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;
- (4) not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall unless confined in a tank installed in compliance with this ordinance or stored at least one foot above Base Flood Elevation
- (5) located and constructed to have low damage potential;
- (6) constructed with materials resistant to flood damage;
- (7) anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
- (8) constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or
  - (i) provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - (ii) the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;
  - (iii) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.
- (9) constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

## 5.2-6 Below-grade crawl spaces

Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:

- (1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- (2) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
- (3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- (4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- (5) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
- (6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- (7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles

or gravel or crushed stone drainage by gravity or mechanical means.

- (8) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

For more detailed information refer to FEMA Technical Bulletin 11-01.

#### **ADDITIONAL OPTIONS**

Include the diagrams from the Technical Bulletin in the ordinance to illustrate the 2 ft./4 ft. rules but revise to correctly reference the state building code requirements to elevate 1 ft. above BFE for residential structures.

Include language advising citizens about the increased insurance cost associated with below-grade crawlspaces. There is a charge added to the basic policy premium for a below-grade crawlspace.

### 5.3 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

### 5.4 FLOODWAYS

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Except as provided in paragraph (3), prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If Section 5.4(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction

provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.

(3) Projects for stream habitat restoration may be permitted in the floodway provided:

- (i) The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023); and,
- (ii) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
- (iii) No structures would be impacted by a potential rise in flood elevation; and,
- (iv) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

(4) Temporary structures placed in the floodway: Relief from no-rise evaluation, elevation or dry flood-proofing standards may be granted for a non-residential structure placed during the dry season (June – October) and for a period of less than 90 days. A plan for the removal of the temporary structure after the dry season or when a flood event threatens shall be provided. The plan shall include disconnecting and protecting from water infiltration and damage all utilities servicing the temporary structure.

(5) Temporary storage of goods and materials, not including hazardous materials, is allowed in the floodway for a period of less than 90 days within the dry season (June – October).

## 5.5 STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

- (1) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified).
- (2) New construction and substantial improvements of nonresidential structures



within AO zones shall either:

- (i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
  - (ii) Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in section 5.2-2(3).
- (3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- (4) Recreational vehicles placed on sites within AO Zones on the community's FIRM either:
- (i) Be on the site for fewer than 180 consecutive days, and
  - (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - (iii) Meet the requirements of 5.5 above and the elevation and anchoring requirements for manufactured homes.

## 5.6 COASTAL HIGH HAZARD AREAS

Located within areas of special flood hazard established in Section 3.2 are Coastal High Hazard Areas, designated as Zones V1-V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this ordinance and **state building code**, the following provisions shall also apply:

- (1) All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:
- (i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the base flood level; and
  - (ii) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building

components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval);

- (2) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (i) and (ii) of this Section.
- (3) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.
- (4) All new construction shall be located landward of the reach of mean high tide.
- (5) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - (i) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - (ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- (6) If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- (7) Prohibit the use of fill for structural support of buildings.
- (8) Prohibit man-made alteration of sand dunes which would increase potential flood damage.

(9) All manufactured homes to be placed or substantially improved within Zones V1-V30, V, and VE on the community's FIRM on sites:

- (i) Outside of a manufactured home park or subdivision,
- (ii) In a new manufactured home park or subdivision,
- (iii) In an expansion to an existing manufactured home park or subdivision, or
- (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

meet the standards of paragraphs 5.6(1) through (8) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the FIRM meet the requirements of Section 5.2-3.

(10) Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either:

- (i) Be on the site for fewer than 180 consecutive days,
- (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (iii) Meet the requirements of Section 4.1-1(Permitting requirements) and paragraphs 5.6(1) through (8) of this section.

(11) For construction of new essential and new special occupancy structures refer to ORS 455.446 and 447 which states that new essential and new special occupancy structures may not be constructed in the Tsunami Inundation Zone. The Tsunami Inundation Zone would include V, A, and potentially other flood zones. If an exception is granted then the Coastal High Hazard Area construction standards in the model ordinance shall apply to the building of these new structures in the Tsunami Inundation Zone.

Coastal communities should be encouraged to adopt Coastal High Hazard Area standards to all new structures or substantially improved or damaged structures that fall within the Tsunami Inundation Zone.

## 5.7 CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain).

Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

CITY OF MCMINNVILLE - CASH AND INVESTMENT BY FUND  
April 2019

| FUND #      | FUND NAME                      | GENERAL OPERATING |                | TOTAL          |
|-------------|--------------------------------|-------------------|----------------|----------------|
|             |                                | CASH IN BANK      | INVESTMENT     |                |
| 01          | General                        | \$682,495.37      | \$8,711,539.67 | \$9,394,035.04 |
| 05          | Special Assessment             | 770.83            | 145,618.82     | 146,389.65     |
| 07          | Transient Lodging Tax          | 577.02            | 41,000.00      | 41,577.02      |
| 10          | Telecommunications             | 849.19            | 1,030.00       | 1,879.19       |
| 15          | Emergency Communications       | 943.49            | 171,094.81     | 172,038.30     |
| 20          | Street (State Tax)             | 929.40            | 1,984,089.13   | 1,985,018.53   |
| 25          | Airport Maintenance            | 460.72            | 83,749.03      | 84,209.75      |
| 45          | Transportation                 | 990.87            | 6,640,825.29   | 6,641,816.16   |
| 50          | Park Development               | 474.18            | 1,525,276.64   | 1,525,750.82   |
| 58          | Urban Renewal                  | 308.37            | 266,511.67     | 266,820.04     |
| 59          | Urban Renewal Debt Service     | 560.70            | 229,526.67     | 230,087.37     |
| 60          | Debt Service                   | 182.49            | 1,293,764.61   | 1,293,947.10   |
| 70          | Building                       | 927.82            | 1,254,500.00   | 1,255,427.82   |
| 75          | Sewer                          | 358.70            | 1,477,761.07   | 1,478,119.77   |
| 77          | Sewer Capital                  | 683.95            | 29,634,103.65  | 29,634,787.60  |
| 79          | Ambulance                      | 943.29            | (868,164.72)   | (867,221.43)   |
| 80          | Information Systems & Services | 979.47            | 211,713.61     | 212,693.08     |
| 85          | Insurance Reserve              | 939.44            | 1,912,290.54   | 1,913,229.98   |
| CITY TOTALS |                                | 694,375.30        | 54,716,230.49  | 55,410,605.79  |

| MATURITY DATE | INSTITUTION                | TYPE OF INVESTMENT                      | INTEREST RATE | CASH VALUE              |
|---------------|----------------------------|---|---------------|-------------------------|
| N/A           | Key Bank of Oregon         | Checking & Repurchase Sweep Account     | 0.20%         | \$ 693,775.30           |
| N/A           | Key Bank of Oregon         | Money Market Savings Account            | 0.02%         | 8,520,714.25            |
| N/A           | State of Oregon            | Local Government Investment Pool (LGIP) | 2.50%         | 41,111,445.79           |
| N/A           | State of Oregon            | Park Improvement Bonds (LGIP)           | 2.50%         | 631,503.77              |
| N/A           | State of Oregon            | Transportation Bond (LGIP)              | 2.50%         | 3,516,042.81            |
| N/A           | State of Oregon            | Urban Renewal Loan Proceeds (LGIP)      | 2.50%         | 281,326.41              |
| N/A           | MassMutual Financial Group | Group Annuity                           | 3.00%         | 655,797.46              |
|               |                            |   |               | <u>\$ 55,410,605.79</u> |

CITY OF McMinnville  
MINUTES OF WORK SESSION  
of the McMinnville City Council  
Held at the McMinnville Community Center  
McMinnville, Oregon

Tuesday, May 28, 2019 at 5:00 p.m.

Presiding: Kellie Menke, Council President

Recording Secretary: Melissa Grace

Councilors: Present  
Remy Drabkin  
Zack Geary  
Sal Peralta  
Wendy Stassens

Excused Absence  
Adam Garvin  
Scott Hill, Mayor

Also present were City Manager Jeff Towery, City Attorney David Koch, Fire Chief Rich Leipfert, Human Resources Manager Kylie Bayer-Fertterer-Fertterer, Information Systems Director Scott Burke, Library Director Jenny Berg, Planning Director Heather Richards, Police Chief Matt Scales, and members of the News Media – Dave Adams, KLYC Radio, and Tom Henderson, *News Register*.

1. CALL TO ORDER: Council President Menke called the meeting to order at 5:20 p.m.
2. DEBRIEF OF TRAINING BY RYAN DOWD – THE LIBRARIAN’S GUIDE TO HOMELESSNESS  
  
Ryan Dowd, Executive Director of Hesed House, shared the history of the homeless shelter in Aurora, Illinois.  
  
Discussion ensued regarding federal funding and Continuum of care.  
  
Mr. Dowd suggested focusing on one subpopulation initially.  
  
Discussion ensued regarding the importance of partnerships.
3. ADJOURN: The meeting adjourned at 5:40 p.m.

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Melissa Bisset, City Recorder

CITY OF McMinnville  
MINUTES OF WORK SESSION  
of the McMinnville City Council  
Held at the McMinnville Community Center  
McMinnville, Oregon

Tuesday, May 28, 2019 at 5:45 p.m.

Presiding: Kellie Menke, Council President

Recording Secretary: Melissa Grace

Councilors: Present  
Remy Drabkin  
Wendy Stassens  
Sal Peralta  
Zack Geary  
Adam Garvin

Excused Absence  
Scott Hill, Mayor

Also present were City Manager Jeff Towery, City Attorney David Koch, Fire Chief Rich Leipfert, Human Resources Manager Kylie Bayer-Fertterer-Fertterer, Information Systems Director Scott Burke, Library Director Jenny Berg, Planning Director Heather Richards, Police Chief Matt Scales, and members of the News Media – Dave Adams, KLYC Radio, and Tom Henderson, *News Register*.

1. CALL TO ORDER: Council President Menke called the meeting to order at 5:47 p.m.

2. PEOPLE WITHOUT HOMES

2.a DONOR ADVISED FUND THROUGH OREGON COMMUNITY EDUCATION

Jenn Columbus, Oregon Community Foundation (OCF) Philanthropic Advisor and Regional Director explained the purpose of the Oregon Community Foundation. She stated that community foundations provided grant making to improve the lives of people in a defined community. Their vision was for a healthy, thriving, sustainable Oregon and mission was to improve the lives of all Oregonians through the power of philanthropy. She described the various types of funds that offered ways to serve this mission. She explained that donors gave an asset (most commonly cash) and OCF would accept the asset and advise the donors on the options and what they wanted to focus on. A Donor Relations Officer was then assigned to the donor. She stated that what the City was doing was unique in identifying a community priority and looking for ways to move

forward. In this situation, OCF would be a way to bring dollars together and hold those dollars until the time they were ready to invest in the next steps. Partnering with OCF would give them that flexibility and time. With a donor advised fund they could start with a gift of \$5,000 or more, but the fund must reach \$25,000 before grant making could begin. They may recommend grants to qualified nonprofit public charities, religious institutions, and governmental entities. Funds could be endowed or fully exhausted over a period of time. They would have 1-3 advisors to the fund who would work directly with OCF staff to recommend grant distributions. Each OCF fund worked closely with a Donor Relations Officer who would provide ongoing information and technical assistance. OCF brought together generous Oregonians to transform individual philanthropy into sustained, community-driven impact.

Council President Menke explained that this was an option and an avenue to explore in helping with the homeless crisis in McMinnville. She asked what the investment return would be for a fully expendable option.

Ms. Columbus clarified that there was a fully expendable fund where it could be completely exhausted or a permanently endowed option where it was co-invested with other donors. The fully expendable option had very minimal returns because they needed access to expend the money at any time.

Councilor Stassens asked what kind of fees were involved in the management of the funds. Ms. Columbus explained that OCF charged an annual fee of just under 1% up to the first \$2,000,000.00.

Councilor Stassens asked if the only limitation on the use of the fund was established by the donor or donors that started the fund. Ms. Columbus said that was correct unless the organization was unable to receive the funds and in that case OCF would work the organization to get it back in good standing.

Councilor Stassens liked the idea for others to participate. It was very organized and they would be able to utilize the knowledge of OCF on distributing the funds effectively. It also gave them the opportunity to have more resources available to do more for the benefit of the community.

Councilor Drabkin stated that it seemed like a lot of possibility but she was thinking about YCAP, Habitat for Humanity, St. Barnabas, and other organizations that were already serving the community and had independent fundraising. It was a positive to have a consolidated effort but she also did not want to draw from their funding. She would like to have a lot more information before pursuing anything.



Councilor Geary also thought there needed to be more information and discussion. He was not terribly excited about the option, but appreciated the potential efficiencies.

Council President Menke stated that the idea was not taking money away from other organizations, but to help supplement and meet the goals of the Affordable Housing Task Force.

Councilor Garvin was open to the idea, but thought more information was needed. It would bring the funds together so there was no redundancy in the community. He thought it would take some money from other organizations and would look similar to how Love, Inc. operated in Newberg. It looked more positive than negative.

Councilor Peralta also wanted more information. Love, Inc. in Newberg seemed to be a good model.

There was consensus to direct staff to come back with suggestions on how the City could use this option as well as to get recommendations from the Affordable Housing Task Force.

2.b.

#### LOW BARRIER SHELTER CONCEPT

City Manager Towery presented. Low barrier shelters were based on a Housing First program which meant that before anyone could access treatment for addiction, mental health, or any other chronic issue they needed a safe and secure shelter. He stated that low barrier shelters had some success in some communities and not in others. He asked the Council a series of questions to lead the discussion. These included:

- Who is the shelter serving?
- How does the shelter respond to community need?
- Is this the best solution given the need and resources?
- Who will operate the shelter?
- What is the sustainable operating revenue for the shelter?
- What is the minimum standard for participation?
- Are there other communities of similar size to McMinnville with similar resources that have successful low barrier shelters? What can we learn from them?
- Are there other communities of similar size to McMinnville with similar resources that have not had successful low barrier shelters? What went wrong and what can we learn from them?

- Do Low Barrier Shelters work well in communities with limited shelter opportunities? Is it a safe environment for vulnerable populations – women, children, disabled?
- What does success look like?

Council President Menke stated when they discussed this possibility in the Affordable Housing Task Force meeting, they did not think there was enough information and direction about how to proceed.

Councilor Drabkin explained one of the first things the Affordable Housing Task Force did was exempt non-profit affordable housing builders from SDC fees. They had looked at what other communities were doing and brought back a recommendation to Council with something that would work for the City. It was considered a well vetted conversation and well researched recommendation. The concept of low barrier shelters was not one that originated in the Affordable Housing Task Force, but was an idea started as a conversation at the City Council. If this was something that the Council would like the Affordable Housing Task Force to research, they would be happy to do so. They were not at the point of being able to bring forth a recommendation at this time. They would like the opportunity and time if this was what the Council and community wanted. In the staff report, the two concepts of low barrier shelters and their recent recommendation were linked, but she wanted to separate them. They were happy to do the work in researching the program, but their recommendation was related to a program that already existed but had not been made robust enough to make it effective, which was the safe overnight parking program. This program allowed 1-3 vehicles at one location but no more than three at one location. The sites were managed by a non-profit partner called Champion Team who was funded through a grant from Oregon Housing and Community Services. The City was not spending any tax payer money and the grant was conditional on activating a certain number of sites. At the last Council meeting it was said that this program was not working. She disagreed and thought that the program was not working enough. In the City there were 10 private property owners using the ordinance as intended. There was also one City site and in the first 30 days of someone staying there they were able to gain employment. The Affordable Housing Task Force recommendation was to continue to support the program. They were also asking for additional sites so that Champion Team could maintain its funding. This program allowed for discreet installations throughout the City of McMinnville, but it would take community support. They were not only asking the City Council to direct staff to identify additional properties, they were also asking community members to do the same. She met with the County

Commissioners and had a conversation about providing additional sites. They had community members signed up to host community gatherings to give out accurate information about this program. Community members also signed up to go to businesses and ask if they would be willing to participate and some signed up to present the program to their service clubs. This program had a 20 year track record of helping people transition from being without homes to being housed. That was how they viewed the program, a transitional housing program. If this program was robust enough and there were enough sites the current ordinances would be enforceable. The conversation had come up that this was enabling people to move here and be homeless. This program had a strict code of conduct and behavioral agreement. It targeted people who were trying to change their situation and were seeking employment. Without the stability of a safe place they could be every night it was a struggle to do so. She asked Council to direct staff to designate safe overnight camping places. The locations would be outfitted with a porta potty and garbage and there was no storage outside of the vehicle. It was at zero cost to taxpayers.

Council President Menke said the City already had four sites in mind, and there had been discussion on others.

Councilor Peralta thanked Councilor Drabkin for her work on the Task Force and outside of the Task Force. He asked about the locations the City had in mind, costs, and the continuity of the funding stream.

Councilor Drabkin stated that the locations had not been disclosed because they did not want people to be harassed. The City sites operated from dusk to dawn as safe, dependable places to be at night. Code Enforcement checked in on these sites. Tax payers were not paying for the porta potties or garbage. The garbage service was provided by Recology. They had both the Oregon Housing and Community Services grant and businesses that had pledged a year of garbage service for one or two sites. This was a pilot program.

Councilor Peralta asked if there had been any incidents at the 11 current locations. In terms of cost effectiveness, Lane County did a lot of research on low barrier shelter options, and most were \$1.6 million for a 50-75 person unit, which was about \$21,000 per person.

Councilor Drabkin stated that there were 10 unmanaged sites meaning they had a family member or a friend who had access to an RV and were being allowed to live in an RV on their property. This would not have been allowed prior to the passage of Ordinance 5057. They had one managed site and she was asking for additional managed sites. She was asking for those sites because the grant funding was dependent upon

having a certain number that were active within the next couple of weeks. There was the potential for five additional sites within the City that would accommodate enough vehicles to secure the grant funding. There was another government entity that had pledged an additional site and one faith based community that was in discussion about a potential site and one private business owner who was ready to move forward with a site. Those were not active yet, and they needed the additional City sites in order to secure the grant funding.

Councilor Peralta asked about the process for how the applicants were screened.

Councilor Drabkin stated that the property owners could put whatever restrictions they wanted. She provided an example of a location at an industrial site where the property owner wanted someone who had animals and they helped stop the theft that was occurring. The behavioral contract could include any number of specifications. It was up to Champion Team to screen the applicants and make a good match of the site and the person using the site. The sites were not permanent and the property owner could choose to terminate the contract at any time.

Council President Menke asked about other positive outcomes of this program.

Councilor Drabkin stated she had heard about foreclosed or unoccupied properties and having the presence of someone there acted as a natural deterrent for crime. The people in these programs tended to have a great desire to maintain their ability to stay in that location and not allowing others to congregate in their area. They were keeping their areas clean. She noted that there was no exchange of money or services which was a protection for the property owner in that they were not becoming a landlord. The biggest benefit was that it allowed someone to get a job, get an apartment, get their child to school, and that people could participate in the community beyond basic survival needs.

Councilor Stassens asked about the rules that were in place to make sure these sites were transitional and not long term housing.

Councilor Drabkin explained each property owner was not only able to say what their requirements were and could set terms, they could also put time restrictions. The property owner maintained the right to end participation in the program at any time. The program that this was modeled after had been in place for 20 years and had 70 functional sites and she had only heard of one instance where someone had to be forcibly removed from a property.

Councilor Stassens asked if Champion Team helped people move through the process so the site could be available for someone else who was in need.

Councilor Drabkin responded that if someone did not follow the contract for the site, Champion Team would automatically remove that person and give it to someone else. Champion Team also did regular check ins and helped the families get to the services. They were receiving the grant funding through YCAP and there was already a flow that was happening from Champion Team to YCAP.

Councilor Drabkin stated that this wasn't a fix-all but it was part of the solution.

2.c.

#### COMMUNICATION ACROSS BARRIERS

City Manger Towery discussed the opportunity for community training with Communication Across Barriers. This was developed about 20 years ago by Dr. Donna Beagle. It provided a research based model to assist people on how to move out and stay out of poverty. If the Council was interested, he would work with other community organizations to co-sponsor an event in McMinnville.

Council President Menke shared that Ryan Dowd performed a three hour training earlier today. This was another opportunity to provide information regarding the homeless issue.

There was consensus to direct staff to schedule training with Dr. Donna Beagle.

3. ADJOURN: The meeting adjourned at 6:46 p.m.

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Melissa Bisset, City Recorder

CITY OF McMinnville  
MINUTES OF REGULAR MEETING  
of the McMinnville City Council  
Held at the McMinnville Community Center  
McMinnville, Oregon

Tuesday, May 28, 2019 at 7:00 p.m.

Presiding: Kellie Menke, Council President

Recording Secretary: Melissa Grace

Councilors: Present  
Remy Drabkin  
Adam Garvin  
Zack Geary  
Sal Peralta  
Wendy Stassens

Excused Absence  
Scott Hill, Mayor

Also present were City Manager Jeff Towery, City Attorney David Koch, Community Development Director Mike Bisset, Fire Chief Rich Leipfert, Human Resources Manager Kylie Bayer-Fertterer-Fertterer, Information Systems Director Scott Burke, Library Director Jenny Berg, Planning Director Heather Richards, Police Chief Matt Scales, and members of the News Media – Dave Adams, KLYC Radio, and Tom Henderson, *News Register*.

1. CALL TO ORDER: Council President Menke called the meeting to order at 7:00 p.m.
2. INVITATION TO CITIZENS FOR PUBLIC COMMENT: Council President Menke invited the public to comment.

Alan Cain, discussed the issue of homeless children. He was running under the assumption that there were offenders that were living down there and had done his own research. He had found one result of a man who was registered, but had killed himself, Pride Jones. He was reassured that DHS had done welfare checks on numerous occasions and found that the children were safe and were able to stay in this environment. If parole and probation was required to vet an address before someone could be registered there, how were they letting someone at that status live with children? Who was going to protect those kids who were already in crisis?

Howie Harkema, McMinnville resident, agreed with Councilor Drabkin about the need for additional locations for the car and RV parking

program. He asked about those who were living in tents, what should they do? Some were not well enough to pack up their belongings in the morning and come back in the evening on a daily basis. Where would they go during the daytime hours and what would they do with their things? If a low barrier shelter campground was not possible, what would happen to our houseless neighbors? He thought they would start trickling back into neighborhoods. Many on social media wanted to put them on a bus and get them out of the City, however some of them were from McMinnville and had lived here all of their lives. He felt it was not correct to send our houseless citizens away from their hometown.

Michael Conaway, McMinnville resident, was concerned about the Police Department's ability to enforce laws and the cost of responding to calls. He thought they were incentivizing homelessness due to access to services and no mechanism to determine who was temporary. He stated there was a big difference between homeless and squatting. He felt they needed to do better and involve systems that actually helped people. He did not want to send people away, but wanted to have services provided that got the job done.

Desmond Curran, McMinnville resident, was concerned about people's homes being taken away and about putting them in a worse situation. He had been trying to organize trash pickups and water drop offs for the homeless. They were just people and he did not think they should be run out of town.

Stacey Mayhew, McMinnville resident, thought the car camping program was part of the solution but was not the entire solution. She stated that when people decided to squat on public property it was very difficult to get them to obey the laws or to move them. This crisis had to be addressed with something that worked. She thought this was a good start.

Ted Urton, Dundee resident and McMinnville rental property owner, thought the timeframes were harsh as a family with children would have to get up at 5 to 5:30 a.m. to move their tent. It was especially cruel to mothers and children because they would have no place to go during winter weather conditions. They would have to leave the warmth of their sleeping bags in order to disperse somewhere, especially when most businesses and services did not open until 8 or 9 a.m. He also questioned what these families would do with their belongings. Those who did not comply would have their tents and belongings confiscated and could retrieve them at the Police Department at night. He thought this would lead to more people camping downtown. He did not think this was a good solution.

Liz Stein, McMinnville resident, announced Town Hall meetings on the third Wednesday of each month to discuss solutions to these issues. She had forwarded a list to the Council of solutions that had come out of the first meeting that was held. She discussed some of the issues that were addressed at that meeting.

David Mihm, McMinnville resident, was concerned about the costs involved with responding to emergency calls. There were dangers present in the low barrier shelters. They were lax in drug laws and did not have the facilities to help with the mental health issues. If people weren't willing to help themselves, how could they force them out of these situations? He questioned moving people every morning and their valuables. He had seen the valuables and piles of egg cartons, stacks of broken bicycle parts, etc. He stated that this was what happened when people were on drug and that these valuables were not movable, and they were not valuable. Someone would be responsible for moving those things out, and the public would pay for it as well as the police and fire response. He stated they needed to do something now because they were in crisis.

Tucker Williams, owner of Reynolds Dog Resort, was speaking as a father and small business owner and citizen of McMinnville. He had a growing concern with the homeless population. An overwhelming number of employees within his profession were females and it was becoming more difficult to hire and retain quality employees. He recently spoke with an employee who left because she felt uneasy coming to work in the evenings and late night dog runs due to the nearby homeless camp. He had received a number of complaints from customers. He had purchased a home and business in McMinnville and this growing concern was threatening his future and was an issue for all nearby local businesses. He was willing to help but wanted to find a solution that did not come at the expense of business owners or citizens. He did not know if the low barrier shelters would be an answer as they would have to go to and from the camp and would be walking up and down his street at odd hours of the day.

Leanna Gautney, McMinnville resident, had personal and professional concerns about safety, theft, vandalism, and fear of walking through certain parts of town. People here knew what they needed and wanted to make it functional. Citizens chose to elect the Council and they needed to make decisions based on the voices of the people. She stated the City was not run by one person, but a collected many. They had not asked what citizens and businesses wanted. She did not think citizen requests and demands on its leadership were being taken seriously. A lot of efforts had been made, but the visual affect was inaction through allowing camping on streets and sidewalks. She stated a good neighbor didn't litter or



defecate on sidewalks or park their broken or inoperable vehicles on streets while other citizens were paying taxes to fix the streets and sidewalks they were residing on.

Tim McDaniel, McMinnville resident, asked where was the compassion for those who had struggled for a lifetime to build enough value into their homes and businesses to make it to the end of life with enough equity to survive. Where was the compassion for people who had done what society and life had asked? They had elected the Council to help keep this a stable community. He felt it was not compassion to have built an estate and have it converted to a place where there must be provisions for sidewalk obstructing and camping, which was nothing more than squatters' rights. He stated compassion for the poor was important, and giving a hand up to someone willing to work was part of being a faith based community. He felt that the more that was given without being earned by resident vagrants the more they came to town to find a place and meal for themselves. The word traveled rapidly. He thought it was a nonsense world on Marsh Lane and Dustin Court and that stopping the influx of vagrants into the city's safe and clean home settings was common sense leadership. There were plenty of compassionate words to explain why the streets and sidewalks should be new homes to a protected class of people, but who would be compassionate when equities were ruptured and failed.

Dean Klaus owned the farm field next to Dustin Court. He stated that kindness had become the City's burden and felt there was a limit to how much they could provide for someone before they started taking advantage of it. He thought the City was being taken advantage of. It took money and resources to solve the problem. It would not solve everyone's problems completely and would need to be worked on continually. He stated that there hadn't been many rules in place and there hadn't been much enforcement. He received a letter that he had trash in front of another one of his properties and he needed to clean it up. He felt they could not expect something out of somebody and not expect the same from others.

Jacob Miller discussed the amount of harassment, oppression, discrimination, and threats of violence his family had received from the public since he last spoke here. They were trying to live peacefully and lawfully. More laws or taxes would not solve the problem. He encouraged a viable solution rooted in love.

Gioia Goodrum, Chamber of Commerce, had some questions about camping being done in other areas of town, such as in front of homes once people had been moved from whatever location they had been in, and how that would be addressed. Regarding the franchise fees, they were concerned that the Council planned to vote on the resolution tonight. The

Chamber was not involved in any discussion on the franchise fee topic. They were already paying taxes on properties, insurance, and gross receipts and now the City wanted to charge them for wastewater. According to the resolution the funds would go to the General Fund. It appeared they would use the fund for unrelated expenses other than the homeless crisis, however the Chamber's desire would be for the funds to go to a specific purpose and for a designated amount of time. The fees would hurt everyone in the community especially low income housing, elderly, working families, and small businesses. The Chamber opposed the franchise fees.

Brad Bassit, stated that the City Council and the City Attorney should be ashamed as they had tattered the name of McMinnville by allowing things to happen on the City's streets that were completely illegal. Citizens were not proud of what the Council and Attorney were doing. He stated the Ninth Circuit Court of Appeals did not justify setting up tents on public rights-of-way. He thanked Chief Scales for bringing up the Ordinance and thought it was a solution to this growing problem. He asked why the wastewater franchise fees needed to be raised by 5% as it was \$500,000 out of the community that could have gone towards jobs. He thought that was ridiculous that it was stated that the locations of the car camping sites were not being released because they were fearful of retaliation.. Citizens had come to the Council to communicate their frustrations with how the City was being managed, but that did not make them angry and attacking people.

Scott Thor kilson, McMinnville resident stated the Police Chief was going to the City Council to endorse the proposed Ordinance. He thought it was the right direction to go. He stated that last week he counted 80 squatters. He thought there was a huge problem and they were trying to solve it with a Q-tip. He stated that some of the squatters had been there for over a year and rights-of-way had never been meant to keep a person alive for a year.

Rhonda Langley had lived in McMinnville for 16 years and had seen a drastic change in the people. Near her home she had seen people loitering, smoking, and selling drugs. She stated the police used to know the homeless in town, but now they did not the homeless entering the City or their criminal records. This winter when it got down to 25 degrees and snowing she had discovered 5 tarps and tents that were set up in a neighboring forest. She stated the homeless were choosing to live without heat, water, garbage, and toilet facilities when there were plenty of beds at the local mission shelter. During the winter the drug and alcohol policies were relaxed at the mission and the homeless were allowed to stay for 30 days. The mission did not force anyone to participate in religious activities

in order to get services. She stated that the YCAP shelter also had several beds available. After the remodel at the mission, there would be 52 beds available. She felt they should support the mission and other local facilities instead of free campsites that were only perpetuating the situation and enabling people.

Dan Hilbert, McMinnville resident, stated that there was a lot of passion on the issue. He stated that increasing sewer rates to pay for homeless shelters which were unrelated to the expense and daily operation of McMinnville Water and Light was bad government. He thought it was an unjust increase in sewer rates as they just had a 2.8% sewer rate increase in January. They did not need another increase in sewer rates. The tourism tax was already generating a huge amount of money which could be used to offset the expenses for the homeless. He questioned where the money would go.

3. PRESENTATIONS

3.a. Visit McMinnville Annual Budget

Jeff Knapp, Executive Director, and Kitri McGuire, Director of Marketing, said their main goal was to promote McMinnville as a year round tourism destination. They gave a review of last year's progress and the proposed plan for this year. They were a Board driven organization and he introduced the members of the Board. They were up 16% in annual website visits which was 127,000 unique visits. In the McMinnville Strategic Plan, Visit McMinnville fit into strategic plan 6.2, become the preferred destination for wine-related tourism, 6.3, diversify tourism destinations beyond wine, and 6.4, market and promote McMinnville.

Tourism was an economic driver in McMinnville. There was a 49.5% increase in tourism spending since 2010 (with over \$119.6 million in tourism spending). There were 1,800 plus tourism industry jobs in Yamhill County which was up 50% since 2010. That generated transient lodging tax (TLT) receipts of \$295,882, which was a 41.7% increase since 2015. The wine industry was an almost \$6 billion economic impact statewide and the majority of that was located in Yamhill County. There were over 250 wineries located within 20 miles of the City creating 7,625 jobs and \$215 million in earnings. He predicted a conservative growth this year in tax receipts of about \$100,000.

Mr. Knapp displayed a chart of the lodging demands in the City. Vacation rental demand had increased by 69% year over year and hotel demand had increased by 19% year over year. They were working on attacking the low numbers in the fall and winter, but there had been large growth in supply/demand and there was room for growth in the market. Visit McMinnville

was an economic development organization and focused on destination management through communications and promotions and destination development.

Ms. McGuire explained that one of the biggest efforts this last year was a branding and Land of Plenty Campaign. The first step was to gather data. They asked what they wanted to visually communicate about McMinnville and what action they wanted potential visitors to take. They did this through a half day session with the Board and stakeholders doing branding exercises. They also held two consumer surveys, one for people who visited McMinnville for themselves and one for people who thought about coming to McMinnville but chose a different destination. From stakeholders and community members four brand attributes were created: honest, elegant, friendly, and flexible. They combined all of the attributes to create a custom font that became their logo. It showed how McMinnville is not one type of destination and it could be a lot of things to a lot of people. The survey of those that had visited McMinnville stated that there was a little something magical about the community. Those who traveled elsewhere stated that there was a sense that there wasn't enough to do here. This feedback led to the Land of Plenty Campaign. She explained how the campaign was meant to grab attention through ads and videos with engaging colors, statements, and visuals that stood out from typical wine country advertising. This campaign would be used for the next two years to reach targeted consumer groups. Last month they were awarded the Travel Oregon Tourism Marketing Award for these efforts. Media relations was sometimes called earned or unpaid media because pieces written about McMinnville in publications were not paid for, but were earned through establishing relationships with writers, editors, and influencers. She explained that McMinnville was written about in 203 publications. They also hosted an activation in New York where over 30 event media guests attended. They were very pleased with the results and had received several write ups because of the event. They brought three high level writers out to McMinnville following the event as well. They planned to do another activation in New York to continue the momentum.

Mr. Knapp then discussed Destination Development. He stated that the main driving item in McMinnville was food and beverage and in order to be a world-renowned destination they needed to diversify. He stated that there were opportunities in outdoor recreation, arts and culture, agritourism, and group sales. Cycling had been identified as a low hanging fruit for outdoor recreation. He had worked with partners to create safe cycling routes. He had also been working on an Art Walk with public and private galleries and creating a public art map. He had hired monthly contributors to write about arts and culture for the area and their second

largest traffic for website visits was for people looking for things to do in addition to food and wine. They had invested in an employee to work on group travel sales. This person hosted familiarization tours for event planners, hosted visiting tour operators, pitched regional organizations on McMinnville event assets, promoted add-on stays for Portland conferences, and maintained the event planner database. There was regional effort coordination as well. When they became an organization in 2015, McMinnville was an island in tourism limbo that was disconnected from the other tourism agencies. That had been changing and they had been working with many organizations and targeted Seattle as a market for their focus and efforts for the coming year. Seattle was the number two largest supplier of visitors to the City. In the next two years an economic slowdown was expected and people tended to travel by car in those times. They had partnered with the Willamette Valley Visitors Association to focus marketing efforts on the Seattle metro area for the next two years. In order to make an impact they had partnered and leveraged funds strategically.

Mr. Knapp explained the proposed Fiscal Year 2019-20 budget. They anticipated 5% growth in transient lodging tax revenue. The total estimated TLT revenue was \$1.2 million. Visit McMinnville would receive about \$866,000, and the City would receive about \$389,000. This was the first year they were spending a large amount on advertising as they were trying to reach the Seattle market.

Councilor Geary asked about fiscal forecasting for the next couple of years since they were forecasting conservatively yet seeing great growth.

Mr. Knapp thought they would always budget conservatively. They were operating under the assumption that they would continue the current agreement with the City. If the laws were changed, such as with SB 595, and there was an ability to allocate TLT funds to other efforts, they would have the conversation at that time. The majority of their expenses were discretionary. Their job was to spend what they had as an investment to see a return. They were as effective as their resources.

Councilor Geary asked if stakeholder businesses were coming to him and asking how they could invest in the community and get returns.

Mr. Knapp said yes, and they provided data to those people. Tourism on a state level was a \$12 billion industry and wine travel was a \$6 billion industry. People came to Oregon primarily for outdoor recreation or food/wine travel. The system and structure to represent the area on the state level were grant funding and representation by the Willamette Valley Visitors Association. Historically this Association had been a volunteer

board for thirty years without an executive director and a seat representing McMinnville's interests for several years. He had been working to restore that seat and open the channel of funding and resources. They now had a governing board and were hiring an executive director and he hoped there would be better equity among the regions. He had also been working with the County to take a role in tourism. McMinnville had a lot of assets, a lot to offer, and could be a leader in the region.

Council President Menke stated there was a perception that tourism jobs were low paying jobs and she asked if that was true in this area.

Mr. Knapp stated that there were entry levels to everything but if they were breaking it down, they were living wage jobs. The average part time entry level wine tourism front office staff was \$14 per hour, but average management salaries were \$50,000 to \$60,000 and top executives were making \$80,000 to \$100,000.

Councilor Garvin said there was a lot of growth last year due to the Atticus Hotel. He asked what they would be looking at to leverage this year to continue the growth since there was not another big project like that coming up.

Mr. Knapp stated that they had seen growth in the TLT because of the Atticus, but he thought they would still be growing revenue. They would still promote the Atticus, but there were other businesses coming up that would help make the community even more interesting.

Councilor Garvin asked what the biggest potential unknown was.

Mr. Knapp responded that people might not understand what they did and not tying the work back to economic impact because they were working too much on outward focus and not focusing inward. He saw nothing but upward growth of local and international investment.

Councilor Garvin asked what drove them to focus on Seattle.

Mr. Knapp responded that Seattle was a number two market and was a top priority market for Travel Oregon. It was attainable enough and a large enough market of people who did not know about McMinnville. It was close enough that if there was an economic downturn people could still make the trip in their cars.

Councilor Peralta explained how the TLT worked. Visit McMinnville automatically got the 70%. They had been doing a good job with the money, however his view was that the City Council should take a look at the 800,000 and decide what the best allocation for the City was. While he was supportive of the marketing efforts in this budget, he was mindful of

the fact that it could be used on a variety of other things. Current service levels for local governments were dropping because of increased costs and declining revenues. He stated they needed to be more conscientious of how the dollars were spent. He thought they should revisit the contract moving forward.

The Council took a five minute break at 8:18 p.m. and reconvened at 8:26 p.m.

Mr. Knapp said their organization had conversations with the City about different ways to invest the funds. The data and strategy that they had taken led their efforts thus far. Tourism dollars could be used for facilities, but those facilities would have to be proven to be servicing tourists 51% or more of the time. These laws were set to protect the tourism stakeholder businesses. If the City wanted to look into it, he hoped they would take the data driven strategic approach as when Visit McMinnville was created. He thought the plan they had presented was the best use of the funds strategically for the biggest economic impact. The better that they were doing, the more revenue was created for the City.

Councilor Drabkin stated that initially these dollars were administered into the community through grants. They hadn't always been used for Visit McMinnville.

Mr. Knapp said at the time they had settled on a grant program that proved to not be the most effective investment for those funds. They looked at another model that could be more impactful and created Visit McMinnville.

Councilor Drabkin remembered reaching out to Mr. Knapp regarding the use of these funds and he had explained the TLT definitions from the statutes and highlighted all of the definitions for allowable facilities for TLT dollars. She didn't believe that capital improvements at the airport would be an allowable use of TLT dollars as a certain amount of the dollars had to be a tourism related activity.

Mr. Knapp clarified that funds for tourism related infrastructure projects had to serve 51% or more tourists. He would like to be part of the strategy and thought it should be something done in the future.

Councilor Peralta stated that the 51% was not addressed in the statute. What was referenced was conference centers, convention centers, and other tourism related facilities. He thought an airport would fit the description as well. He thought the time to discuss this was now as they had to address the City's budget shortfall. He had a hard time justifying \$400,000 in paid marketing given the other pressing needs.

Mr. Knapp stated that they were operating within the laws and contract that they had with the City.

City Attorney Koch explained they were in a period of a one year extension. In order for either party to terminate or make changes to the contract, notice would have to be given by January 1 for the upcoming fiscal year. This had not happened, and both parties were locked into the contract for the second one year period beginning July 1, 2019 going to June 30, 2020. There was one more extension through this contract and if there was no notice by January 1, 2020 the extension would go into effect to June 30, 2021. Both parties could agree to amend the contract at any time, but the City could not force a change to the contract until the 2020-21 fiscal year and had to give notice by January 1, 2020.

Council President Menke stated that Visit McMinnville was doing an incredible job in helping accomplish what they wanted in the City.

Councilor Drabkin moved to approve the business plan and budget as submitted; seconded by Councilor Garvin.

Councilor Peralta raised these same issues last year about considering different uses for the money. Going forward he would like to have the conversation about how TLT was being allocated.

Councilor Geary would also like to have the discussion on what they could allocate tourism dollars for and clarifying what a tourism related facility was. He thought they should earmark the 30% towards a project.

City Manager Towery stated that the Budget Committee had asked for an exploration of the 30% that went towards the General Fund. If the City Council wanted to direct a formal discussion with alternative uses and priorities for the 70%, Council needed to give that direction.

Councilor Drabkin stated that before diving into reevaluating a contract, perhaps the Council needed to have a clear understanding of TLT funds.

City Manager Towery thought they could schedule a work session on the topic.

Councilor Garvin added that he would like to explore taking some of the 30% for a special project.

Councilor Stassens agreed that the Council needed to be educated on how the money could be spent.

The motion passed 4-2 with Councilors Geary and Peralta opposed.



3.b.

### Classification and Compensation Analysis Update

Human Resources Manager Bayer-Fertterer provided a background on the Classification and Compensation Study. This was a way to create a plan or system to group an organization's positions into categories. They wanted to find a way to evaluate the positions based on the major functions of the jobs and the responsibilities held in each job and apply a methodology on how to group them and how to apply a compensation strategy. They would be looking at job descriptions and making sure they had up to date essential functions of the jobs and minimum qualifications. One of the most important things was to have a consistent methodology that was applied across the board. This work was critical and the strategic plan called for it. One of the goals was to invest in the City's workforce. They also had to comply with state law that an objective analysis was done on the compensation of all positions.

There were six phases to the project. The first was a planning session with a project launch meeting, presentation with the Council, a classification study which would include employee interviews and position description questionnaires, salary surveys, and internal equity assessment. At the completion of that work, there would be an opportunity for appeals. There would be a final report and presentation with the employees and Council. It would be a 6-8 month project. There would be two opportunities for changes in salary. One was through the internal equity assessment which made sure the City was following the Oregon Equal Pay Act. If there were discrepancies, the lower paid employee would need to be increased to the higher paid employee. Staff would come back to Council for guidance on how that might impact the budget. The other was through salary surveys. She thought it was likely that the surveys would show the City's compensation was lagging in some areas. The project would cost \$70,000 to \$80,000 plus the unknown cost of the implementation of the project recommendations. There would also be a significant impact on staff time due to interviews, position description questionnaires, and appeals process.

She asked for policy direction on what kind of data they would like to use for the compensation survey. They could look at public sector data only or they could look at both public and private sector data. Public sector data was readily available, more easily comparable, and cost effective. Public and private sector data was the customized salary survey that showed how total compensation varied between sectors and increased the total project cost. The recommendation from the City was to use public sector data only. The next steps were to select the consultant, enter into a contract, and then launch. She was hoping to wrap the project up by the end of the

calendar year. In order to strengthen the City of McMinnville's ability to prioritize and deliver municipal services with discipline and focus, the City must invest in our workforce.

Councilor Geary declared a potential conflict of interest as his wife worked at the library. He asked if the study would also look at non-traditional benefit packages.

Human Resources Manager Bayer-Fertterer said they would only be looking at salary and wages.

Councilor Drabkin asked if the funds for the study were already in the budget.

Human Resources Manager Bayer-Fertterer said they had budgeted for the study in this fiscal year and next fiscal year, but not for any of the potential additional costs for staff time, appeals, and pay raises.

Councilor Drabkin asked what was the other driver for this other than the Oregon Equal Pay Act.

Human Resources Manager Bayer-Fertterer explained that this was a project that had been promised to staff for years.

Councilor Drabkin asked if there were departments that could be excluded. For instance if there were departments that already looked at comparables as they revised their own contracts, would it be necessary to contract it out as those departments were regularly looking at comparables.

Human Resources Manager Bayer-Fertterer responded that internal equity was important. If they did not analyze all of the City's positions, they ran a risk of making an error there.

Councilor Stassens asked about the requirements based on what the report produced, was there a required timeframe for implementation? What was state mandated?

Human Resources Manager Bayer-Fertterer explained the only thing state mandated was the Oregon Equal Pay Act. That required immediate fixes if there were employees performing equitable work but did not receive equal pay. As for the recommendations from the salary surveys, it was up to the City Council on how they would be implemented.

Councilor Garvin asked if there was any retroactive pay mandated by the state.

Human Resources Manager Bayer-Fertterer said Oregon Equal Pay Act would go back to January 1, 2019.

Councilor Peralta asked about other cities that had done this and if there had been significant changes in their budgets.

Human Resources Manager Bayer-Fertterer gave an example of the City of Portland where over 500 employees received pay increases. When the budget impact was significant they would have to come to the Council with recommendations on how to implement any changes.

Council President Menke asked about a timeline for implementation.

Human Resources Manager Bayer-Fertterer explained they could implement it in whatever timeline would work best for the City.

The majority of the Council was in favor of using public sector data only.

4. CONSENT AGENDA

a. Consider the Minutes of the April 9, 2019 City Council Regular Meeting.

Councilor Geary MOVED to adopt the consent agenda as presented; SECONDED by Councilor Drabkin. Motion PASSED unanimously.

5. RESOLUTION

5.a. **Resolution No. 2019-35:** A Resolution establishing revised sanitary sewer user fees; establishing a franchise fee for wastewater services; and repealing Resolutions 2018-12 and 2019-08.

City Manager Towery stated that in November/December of last year the Council reviewed the annual rate report that indicated a 2.8% sewer increase to cover capital and operating costs. Based on recent conversations and direction from the Council on May 14<sup>th</sup>, the Council directed bringing forward a franchise fee for wastewater services to provide stimulus money for projects and services for people without homes. The Budget Committee had approved the budget assuming Council action on the franchise fee. Staff would be presenting alternative revenues to the Council in the future. This would increase the sewer fees by 7.8% and would generate approximately \$780,000 in revenue.

Councilor Geary was in favor of the resolution as there was a need for additional revenue as the City's costs were going up and reserves were declining. He would like a future discussion on putting a portion of the revenues towards bolstering reserves.

Councilor Drabkin was in favor as well. It would help support some affordable housing initiatives including supporting community partners, establishing a regional homeless coordinator position, land banking,

competitive projects for affordable housing, and leverage for gap financing for projects.

Councilor Stassens was also in support. There were not funds currently available to help solve some of the issues regarding homelessness.

Councilor Garvin said with the declining reserves he was open to additional revenue streams. He thought that money generated for homeless projects should be coming from the TLT as he saw a direct correlation as the demand for vacation home rentals kept rising and cheap rentals kept declining. They should be transparent about what the franchise fees would be used for.

Councilor Peralta agreed they needed to be clear about where the money was going. He thought some should be allocated to helping address homelessness.

Councilor Drabkin MOVED to adopt **Resolution No. 2019-35** establishing revised sanitary sewer user fees; establishing a franchise fee for wastewater services; and repealing Resolutions 2018-12 and 2019-08; SECONDED by Council President Menke.

Councilor Stassens asked at what point they would have the conversation about how the funds would be allocated.

City Manager Towery explained the Budget Committee had made a motion to budget the revenue and place the expense in contingency. The funds would stay in contingency until there was Council direction on how to utilize the funds.

Councilor Peralta would like to see how the money was spent before passing the resolution.

City Manager Towery explained that it took 30 days to establish a franchise fee and if they chose to take action now, the fee would go into effect July 1. If they waited to a subsequent date, the effective date would be delayed and would have a revenue impact.

Community Development Director Bisset stated that the resolution had already been adopted for the rate increase of 2.8%. If they did not take action on the resolution that rate increase was still in place. He asked the Council to consider the billing impact to McMinnville Water and Light if they delayed.

Councilor Drabkin stated that multiple times Council had given direction that there was a need for more funds that would be equitably distributed and worked out in the budget process. She was confused as to why at this time they seemed to be running into a wall.

Councilor Stassens stated that without a doubt the funds were needed and she was in favor.

Councilor Peralta was in favor of allocating money to address these issues. It would be helpful to have better clarity on how the money was spent before they made the decision.

Councilor Garvin stated that there was a need for the revenue, but he thought they should know how the money would be spent first.

The motion passed 4-2 with Councilors Geary and Garvin opposed.

6. ORDINANCE

- 6.a. Consider first reading with possible second reading of **Ordinance No. 5064**: An Ordinance Relating to Camping within the City of McMinnville; amending MMC Chapter 8.36.

No Councilor present requested that the Ordinance be read in full.

City Attorney Koch read by title only Ordinance No. 5064 relating to camping within the City of McMinnville; amending MMC Chapter 8.36.

Police Chief Scales presented. On May 14<sup>th</sup> the City Council conducted a work session surrounding the topic of homelessness. One of the topics discussed was the impact of homeless camping in public rights-of-way. During the course of the work session, City Council heard from the City Manager, numerous department heads, as well as the City Attorney on the topic. Public rights-of-way camping had been a problem impacting our citizens, public safety, public works, public health, private non-profits, private businesses and City held entities such as McMinnville Water and Light. The staff report submitted on May 14<sup>th</sup> had further details surrounding the current legal hurdles impacting our inability to enforce McMinnville Municipal Code (MMC) 8.36 as it related to prohibited camping in McMinnville. In addition he referred to the direct impacts both financial and calls for service to the Police Department which strove to provide a community that was safe while protecting the City's livability. At the conclusion of the work session, City Council directed staff to return to the next Council meeting with an ordinance which updated McMinnville Municipal Code that was modeled after the City of Vancouver, Washington. In addition, they requested the MMC be updated to possibly protect locations within the City at all times. Staff had completed an ordinance amending MMC 8.36 taking into consideration the situations/conditions which the City currently faced. The updated MMC 8.36 mirrored that of Vancouver, Washington allowing camping on the public rights-of-way during the hours of 9:30 p.m. and 6:30 a.m. Between the hours of 6:30 a.m. and 9:30 p.m. no public rights-of-way

camping (to include vehicles) would be allowed. The storage of property to include “camp facilities” (other than vehicles) would not be allowed under the MMC. In essence one may camp on the public rights-of-way during allowed times and in approved areas, however after that time one must remove their property from public property or the public rights-of-way (see ordinance for complete language). Discussion remained with respect to the outright prohibition of camping in the Urban Renewal area as well as residential areas. Staff prepared the MMC to prohibit camping in these areas to protect against the creation of blighted conditions and protect significant investments that had been made to areas targeted for improvement.

Councilor Peralta asked what enforcement looked like for the large encampments in town.

Police Chief Scales said the ordinance allowed for a thirty day window during which time the Police Department and their partners would be out doing outreach informing populations on Marsh Lane, Dustin Court, and 4<sup>th</sup> and Adams about the upcoming code changes. At the end of the 30 days, people would be contacted by officers to move. If they chose not to move then they would be in violation of the code which was a Class C misdemeanor with a maximum of 30 days imprisonment.

Councilor Peralta asked if the ordinance gave the Police Department the authority they needed to be able to appropriately respond to those who chose not to comply.

Police Chief Scales stated that yes, it would.

Councilor Drabkin asked if the ordinance had been contested in Vancouver. She wanted to make sure they did not violate the Ninth Circuit Court decision.

Police Chief Scales did not think it had been contested. This was the mechanism they had been using since 2015 and it was working. He noted that they could not expect 100% compliance.

City Attorney Koch stated there was always a potential that the City could be sued. The question was whether or not the City could prevail in the lawsuit. The courts allowed reasonable time, place, and manner restrictions to be placed on activities. The ordinance set reasonable time restrictions on the activity as well as place restrictions. He thought it fit within the guidelines that had been set by the courts.

Councilor Peralta thought that if they had low barrier shelters they could have an absolute ban on camping City-wide.

City Attorney Koch stated they could not criminalize someone from sleeping in a public place if they did not have another place to go. If there was a choice of somewhere to go, and someone still chose to sleep on the street then criminal action could be taken.

Councilor Drabkin was confused because Ordinance 5057 prohibited camping in all public rights-of-way which would have been enforceable except for the Ninth Circuit Court decision. The changes proposed would actually allow camping in the public rights-of-way, which was prohibited by the current ordinance. Business owners wanted equitable enforcement of the laws, and the City had not been able to enforce the laws. There had been public input on the timeframes and getting kids up and ready in the morning and moving by 6:30 a.m. It would be a challenge especially if it had to be done seven days a week. She questioned whether it was a reasonable time. She asked if the Ordinance was to pass and people had to vacate the area by 6:30 a.m., who would take care of the debris that was left behind?

Police Chief Scales explained that personal belongings of value left behind would be tagged and taken to the Police Department and could be picked up later. If it was garbage, Police staff would work with Recology and Public Works to pick it up.

Councilor Drabkin was concerned that the garbage left behind would be unpredictably taken care of. She asked how they could ensure the Police Department would not be picking up the trash.

Police Chief Scales explained that they would be asking for assistance, but ultimately if garbage was left behind they might need to be the ones to clean it up. He expected that the amount of garbage would be reduced because they would not be in the same area for a long amount of time.

Councilor Drabkin asked if there was anything to stop people from returning to Dustin, Marsh, or 4<sup>th</sup> every night.

Police Chief Scales said 4<sup>th</sup> was in the Urban Renewal area. He noted that the Fire Chief was working with Public Works on striping fire lanes down one side of the street on Dustin and Marsh. However, people would be allowed to return to those areas.

Councilor Drabkin asked if allowing people to still sleep on the side of property and businesses every night would satisfy the community's concerns.

Police Chief Scales stated that this was a step forward to address the long term issue.

Councilor Drabkin asked if he thought it was better to pass the ordinance as opposed to creating places for people to go and keeping the City's current no camping ordinance.

Police Chief Scales stated yes, because as the current ordinance was written it did not satisfy time, place, and manner. This got the needle moving and the other avenues still needed to be considered.

Councilor Drabkin asked about the difference between a C violation and C misdemeanor.

City Attorney Koch explained that a violation was a non-criminal offense with a monetary fine and no jail time associated. That applied to the safe overnight camping program. The misdemeanor related to the prohibited camping section of the ordinance would be a criminal offense with a fine and jail time.

Councilor Stassens was in strong support of the ordinance. She asked what it would look like for RVs.

Police Chief Scales stated RVs would be told to move if they were in a residential area. If they refused to leave, the person could be arrested and go to jail and the RV could be impounded.

Councilor Peralta MOVED to pass **Ordinance No. 5064** to a second reading; SECONDED by Councilor Garvin. Motion PASSED unanimously.

City Attorney Koch read by title only for a second time Ordinance No. 5064.

Councilor Stassens MOVED to approve **Ordinance No. 5064** relating to camping within the City of McMinnville; amending MMC Chapter 8.36; SECONDED by Councilor Garvin. Ordinance No. 5064 PASSED 5-0-1 by roll-call vote with Councilor Drabkin abstaining.

7. ADJOURN: The meeting adjourned at 10:01 p.m.

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Melissa Bisset, City Recorder



CITY OF McMinnville  
MINUTES OF REGULAR SESSION  
of the McMinnville City Council  
Held at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday June 11, 2019 at 7:00 p.m.

Presiding: Kellie Menke, Council President

Recording Secretary: Melissa Bisset

|             |  |                                      |
|-------------|--|--------------------------------------|
| Councilors: | <u>Present</u><br>Remy Drabkin<br>Adam Garvin<br>Zack Geary<br>Sal Peralta<br>Wendy Stassens | <u>Excused Absence</u><br>Scott Hill |
|-------------|--|--------------------------------------|

Also present were City Attorney David Koch, City Manager Jeff Towery, Community Development Director Mike Bisset, Finance Director Marcia Baragary, Human Resources Manager Kylie Bayer-Fertterer, Parks and Recreation Director Susan Muir, Planning Director Heather Richards, Police Chief Matt Scales, and members of the News Media – Tom Henderson and Jerry Eichten, McMinnville Community Media.

AGENDA ITEM

1. CALL TO ORDER: Council President Menke called the meeting to order at 7:01 p.m. and welcomed all in attendance.
2. PLEDGE OF ALLEGIANCE: Councilor Garvin led the pledge of allegiance.
3. PRESENTATIONS
- 3.a. 2020 US Census

US Census Bureau Partnership Specialist Jim Graham presented. He explained the importance of the 2020 census in State representation and federal funding. He reviewed the challenges to an accurate count including mobile population, increasing diversity, complex living arrangements, and rapidly changing use of technology. The hard to count populations were children under 5 and young families, non-English speakers, senior citizens, immigrants, homeless/transient/migrant workers, people with disabilities, and veterans. He emphasized the need to convince people to respond to the census. He thought the declining response rates were due to a polarized society, distrust of government, information, misinformation, and disinformation explosion, citizenship question, fear of retribution, presidential primaries, and distractions. The questions that would be asked on the census were people's address, phone number, count of each person

at that address, name, gender, age and date of birth, race, Hispanic, Latino, or Spanish origin, whether someone lives somewhere else, relationship, and citizenship. He explained that the data collected was private and confidential noting that results were reported in aggregate only and they were prohibited by law from releasing personal information to any person or organization. He shared the language options that would be offered on the internet as well as on the paper form, questionnaire help, enumerators, mailed items, and language card and guides. There was a Response Outreach Area Mapper tool that could be found at [www.census.gov/ROAM](http://www.census.gov/ROAM). He reviewed the ROAM attributes of McMinnville census tracts showing the non-response rates for different areas of the City. He reviewed the timeline for the census and shared that they were currently hiring census workers. He asked for community support for an accurate count and provided examples of ways to support the count. He also asked that the City show support through forming a Complete Count Committee or issuing a proclamation in support of the census efforts.

Discussion ensued regarding little to no cost options to promote the census efforts.

Councilor Garvin was in support of low budget impact options with a high value return, such as a flyer in the McMinnville Water and Light bills. He was opposed to any high dollar expense.

Councilor Peralta agreed with Councilor Garvin. He was supportive of a proclamation.

Councilor Geary was in support of a proclamation as well as low dollar options. Councilors Drabkin and Stassens agreed.

There was consensus to direct staff to form a Complete Count Committee and issue a proclamation.

### 3.b. Oregon Accreditation Alliance

Executive Director of the Oregon Accreditation Alliance Ed Boyd presented the McMinnville Police Department with their third consecutive Award of Accreditation. Accreditation was all about standards of accountability, performance, and conduct. The accreditation process was a way of helping law enforcement agencies evaluate and improve their overall performance and it provided formal and professional recognition that an organization met or exceeded best practice expectations of service and quality in the profession. To be accredited, the agency must meet 102 professional standards comprised of over 400 separate requirements contained within those standards. It took courage for the organization to take on the rigorous accreditation process. It also showed commitment, transparency, and extreme dedication. The McMinnville Police Department joined the Accreditation Alliance in July 2009.

### 3.c. Merina and Company

Tonya Moffitt from Merina and Company reviewed the findings from the Recology Rate Review that had been conducted. They had looked at three years of rates from 2016, 2017, and 2018. The information agreed with the source documents they had received from Recology. Their findings were that the information agreed and they were given access to the information that they requested.

Councilor Stassens asked if there was a portion of the information from the Merina and Company review that could be provided to citizens. Ms. Moffitt was not sure what was confidential and what was not confidential. She stated that the information that was provided by Recology agrees to the information given to the City and it is consistently reported over the three year period and they had anything they asked for on behalf of the City.

Councilor Geary asked about the timeframe for the audit.

Ms. Moffitt said they contracted with the City in March and completed the report in May.

#### 4. ADVICE/ INFORMATION ITEMS

##### 4.a. Reports from Councilors on Committee and Board Assignments

Councilor Geary reported on the last Historic Landmarks Committee meeting, Landscape Review Committee meeting, and McMinnville Community Media. He noted the Parks and Recreation Survey was out until June 21.

Councilor Drabkin reported on things the Affordable Housing Task Force and Homelessness Subcommittee were not doing that had been miscommunicated in social media. A large homeless camp or low barrier shelter had not been proposed and there would be no permitted drug use in the City. They were not purchasing RVs for the homeless and were not working against the Police Department. The funding through the wastewater franchise fee had not come from these committees. She acknowledged that these were her committee assignments and it was her job to report on the programming that they were developing. She supported the safe overnight parking program and her family was a host for one of these sites.

Councilor Stassens acknowledged that Councilor Drabkin had a very difficult job and had put in many hours. She was in support of all the work that was being done. Councilor Drabkin was a citizen that was volunteering her time and did not complain about it. Councilor Stassens reported on the last McMinnville Urban Renewal Advisory Committee (MURAC) meeting where they received a report from the Engineering and Aerospace Sciences Academy (EASA) about the sensors for the parking garage that would provide data about the use of the garage. They also talked about the Hidalgo Market application and Third Street Streetscape project.

Councilor Garvin shared that there would be a Yamhill Communications Agency (YCOM) meeting this week to adopt the budget. The Airport Commission was in the final stages of discussions with the Oregon International Air Show. There would be one last Kids on the Block (KOB) meeting.

Councilor Peralta stated that Yamhill County might be reconsidering joining the Tri-County Continuum of Care. He acknowledged James Vander Meide of Coastal Springs Water who provided free water for events around town.

Council President Menke stated that the Buildable Lands and Housing Needs Analysis work was almost completed. There was a Three Mile Lane meeting this week. Visit McMinnville shared the new tourism related businesses since 2015 that had come to McMinnville due to the destination marketing that had been done and she listed the businesses. Tourism dollars were working and it was exciting to see new businesses in town.

4.b. Department Head Reports

Police Chief Scales stated that there were six Park Rangers patrolling downtown this summer. There was information about the newly adopted Camping Ordinance on the City's website. He stated that there were community partners getting the word out as well. He acknowledged all of the support the Police Department had received from Councilor Drabkin.

Parks and Recreation Director Muir discussed the Parks and Recreation Survey and encouraged everyone to go to [www.whatdoyouthinkmac.org](http://www.whatdoyouthinkmac.org) to respond. They would be reporting back to the Council on July 17<sup>th</sup> with the results.

Planning Director Richards stated that there would be a public open house on the Buildable Lands and Housing Needs Analysis in July. There would be a public open house on the Three Mile Lane area plan on June 26<sup>th</sup> at Chemeketa Community College.

Human Resources Manager Bayer-Fertterer said staff was selecting the vendor for the Classification and Compensation Study. She gave an update on the Division Chief Training Officer recruitment and new McMinnville Economic Development Partnership (MEDP) intern.

City Attorney Koch stated that a new City prosecution team had been hired: Sam and Shannon Erskine. He explained that Municipal Court was held on Wednesdays.

City Manager Towery stated that there would be a future work session with the Council and Judge Kaufman regarding making improvements to the Municipal Court.

5. PUBLIC HEARINGS

5.a. Proposed Fiscal year 2019-2020 Budget as approved by the Budget Committee

Council President Menke opened the public hearing at 7:58 p.m.

Staff Report: Finance Director Baragary stated that on May 15<sup>th</sup> the Budget Committee approved the 2019-2020 Fiscal Year Budget. The notice of this budget hearing and financial summary had been published as required on May 28<sup>th</sup> and it was also posted on the City's website.

Councilor Drabkin stated that there had been some discussion about designating the 30 percent of the Transient Lodging Tax (TLT) the City already received for housing initiatives.

City Manager Towery stated that he had a slide presentation regarding the TLT funds.

City Manager Towery gave a context of this issue in relation to the Council Priorities addressing increasing workforce housing, camping within the community's quality of life standards, and ensuring diverse and affordable housing options. Some Council Priority Action Items were to strategically participate in local and regional partnerships, right-size services and address insufficient resources by finding new sustainable funding sources, and creating a Housing Strategy that would be renewed every 10 years. On May 28<sup>th</sup> the Council enacted a Wastewater Franchise Fee with the intent to provide stimulus funds for projects and services for the homeless. It would generate about \$500,000 into the General Fund and was not currently allocated for expenditure. There was also discussion regarding the potential connection between the Transient Lodging Tax and support for affordable housing initiatives. The City currently received about \$375,000 in TLT which was allocated to existing General Fund services. There were other revenue sources to be evaluated and considered. Currently the TLT was shared among the Police fund at \$137,063 (36.3%), Fire fund at \$61,470 (16.3%), Park and Recreation fund at \$47,713 (12.7%), and other funds at \$130,953 (34.7%).

The Affordable Housing Task Force recommendations for expenditure options were:

- Leverage for gap financing for affordable housing projects.
- Annual Competitive process for affordable housing development projects.
- Support private development of affordable housing.
- Land banking.
- Fund Regional Homeless Coordinator.

Councilor Drabkin stated that the job of the Affordable Housing Task Force was to address housing at 0-120% of median family income. It was a broad look at creating more housing in McMinnville. It was not specific to those earning 0%. The City of Newberg had approved funds for a Regional Homeless Coordinator and McMinnville had been partnering with them and the Housing Authority to fund that position. They currently had a grant into Meyer Memorial Trust to help with funds. The Housing Authority would be available to house that position.

Council President Menke stated that there was a need to be able to help non-profits if they were providing administrative services for the City in the form of case workers.

The Executive Team identified potential costs to recent City actions:

- Vehicle Towing/ Storage.
- Facility Costs (i.e. restrooms, garbage, enforcement, clean-up).
- Storage of belongings.
- Legal defense.

Additional Options:

- Support or expansion of existing General Fund Services.
- Stabilizing the General Fund Reserve.
- Address Capital Improvement Needs (Facilities).

City Manager Towery said regarding facilities needs, there were 20 year unmet capital needs for facilities that were used for General Fund activities of about \$34 million. The additional \$500,000 from the franchise fee would generate one-third of the immediate needs that were identified. Regarding the General Fund reserve, based on the 19-20 Budget he was predicting a reserve of 13.6 percent. The estimated ending fund balance for 18-19 would be closer to 25 percent rather than the 21 percent that the Budget Committee saw which would translate to 16.7 percent for the ending fund balance in 19-20. If they identified all of the \$500,000 from the franchise fee to support the General Fund Reserve it would bump the 19-20 reserve to 18.5 percent and would be 16.3 percent reserve the next year. If the \$375,000 transient lodging tax (TLT) was to be dedicated to new programs for affordable housing and they used the \$500,000 franchise fee to supplant that revenue in the General Fund and dedicate the balance to the General Fund Reserve, they would be looking at a 16.9 percent General Fund ending fund balance in 19-20 and 13.4 percent in 20-21. If they dedicated all \$500,000 to additional revenue programs, there would be a 16.4 percent General Fund Reserve in 19-20 and 12.5 percent in 20-21.

Public Testimony:

Brad Bassitt, asked about the potential costs of recent City actions, such as for restrooms and garbage.

City Manager Towery responded that there might be additional impacts to facilities where camping was allowed, such as in parks or downtown buildings. They did not know exactly where those impacts would occur.

Council President Menke closed the public hearing at 8:18 p.m.

Council Deliberation: Councilor Garvin stated that there was discussion about collaborating with Newberg on a Regional Homeless Coordinator. He asked how much that position would cost.

Councilor Drabkin explained the position had been outlined, but was still in the development stage. The hope was that it would reduce redundancy and map services. They had not identified a specific pay scale for the position. They needed a person at the forefront collecting and disseminating information.

Councilor Garvin thought 10% of the 30% of the TLT dollars that went into the General Fund should be allocated to affordable housing and to backfill that amount with the franchise fee and set the rest aside for reserves. It would slow down the rapidly depleting reserve that they had been spending down for a number of years. The Affordable Housing Task Force could leverage the funds for projects.

Councilor Drabkin noted that the City of Newberg identified \$140,000 for the Regional Homeless Coordinator.

City Manager Towery noted that the budget would not be adopted tonight. If they had scenarios that they would like brought forward to the next Council meeting, they would be brought back along with the budget for adoption.

Councilor Garvin stated as tourism rose, vacation home rentals came on board and entry level apartments were refurbished and became flats for tourism. This harmed housing. As tourism increased, dollars for affordable housing should also be increased. There were other impacts of tourism on all City departments and there should still be TLT funds allocated to the General Fund. He felt that putting the rest of the \$500,000 in reserves would help with the goal to increase reserves by the end of the year.

Councilor Drabkin agreed that the departments currently receiving dollars from the TLT shouldn't be losing money from their budgets. She thought they would be able to backfill those dollars with the franchise fee. She would like a real budget to work with in affordable housing. Funding would allow them to make larger strides. The City was in a difficult place as they did not have additional buildable lands, could not add substantially to the tax base, and there were a lot of financial needs to address. She thought all of the TLT dollars that currently went to the General Fund should be given to the Affordable Housing Task Force to make a substantive difference.

Councilor Geary was interested in dedicating half of the TLT funds in the General fund to affordable housing and half for a tourism related facility. He thought that 100 percent of the \$500,000 franchise fee should go to reserves.

Councilor Stassens liked the idea of dedicating a portion of the TLT dollars to affordable housing so that a significant impact could be made. She thought they should backfill whatever was taken from other departments with the franchise fee and the remainder of the franchise fee should go to the reserves. She would like more data about what would be a reasonable amount of TLT funds to go to affordable housing.

Council President Menke would like to see \$250,000 allocated to affordable housing needs. These needs included the coordinator position, contingency funds to stimulate or help non-profit programs, and land banking.

Councilor Peralta stated that his concern was that he was expecting a loss of service in the future particularly in 2022. There needed to be funds allocated to affordable housing and particularly increased enforcement of the new camping ordinance. He agreed with the \$250,000 range with some of the funds being dedicated to enforcement.

Council President Menke stated that in the fall other revenue sources would be discussed and this would not be the only possibility for funding.

City Manager Towery stated City staff was working on a three year plan to stabilize the reserves. The decision on the budget and these funds would be made at the next Council meeting and would set the context for that work.

Councilor Peralta would generally be more favorable if he knew exactly where the funds were going.

Councilor Garvin asked how Councilor Geary anticipated backfilling the General Fund for the TLT dollars or did he recommend not backfilling it and it would be budget cuts for those departments?

Councilor Geary was open to backfilling the departments with the franchise fee.

Councilor Garvin would not want to dedicate more than 15% of the TLT funds or \$188,000 to the Affordable Housing Task Force. If a strong project came forward, he would be open to dedicating more. The 15% would give the Task Force a dependable source of revenue that they could use year after year.

Councilor Drabkin stated that if Council decided on anything less than 100 percent, perhaps they could allocate 50 percent of the current TLT dollars and any additional TLT dollars in the future could come to the Task Force as well.

Councilor Stassens stated that whatever was approved also needed to have funds dedicated to handle the effects of the decision.

City Manager Towery stated that the budget was a one year spending plan and that there was flexibility as needs changed. If there was a need to deal with an issue, the City would find a way to do that. What Council would decide on at the next meeting would be the spending plan for the next year and if a high priority project or significant need emerged, staff would come back to Council with potential solutions.

5.b. Proposed Uses of State Revenue Sharing for Fiscal Year 2019-2020 as approved by the Budget Committee.

Council President Menke opened the public hearing at 8:46 p.m. and read the hearing statement.

Staff Report: Finance Director Baragary stated that a resolution must be passed and public hearings must be held to receive state revenue sharing funds. This was discretionary money.

There were no public comments.

Council President Menke closed the public hearing at 8:48 p.m.

5.c. Renewal of the Downtown Economic Improvement District (EID)

Council President Menke opened the public hearing at 8:49 p.m.

Staff Report: City Manager Towery said the City established an EID to support development in downtown about 33 years ago. State law set out how an EID could be renewed. The current EID would expire at the end of July. Notices were sent to all affected property owners.

Public Testimony: Jenny Berg, McMinnville resident and McMinnville Downtown Association (MDA) Board President, said the funding had been requested by the MDA to continue for another three years to support the work they did in downtown. It was a significant source of funding for the MDA and they leveraged that funding to create more funds through the Farmers Market, Concerts on the Plaza, UFO Festival, Christmas lights, Santa Parade and tree lighting, Halloween, Spring Fling, gift card program, banners, and partnership in the Park Rangers program. The funding from events and memberships went to fund many other activities downtown. The EID was foundational funding that allowed the MDA to do this work. The MDA Board had been in conversations with property owners in the last couple of weeks. They had renewed excitement and interest in engaging with property owners as well as members. They



needed three property owners on the MDA Board as stated in their bylaws but they would be looking specifically towards the large property owners to make sure that they had representation and would reinstitute quarterly meetings. They wanted to make sure that the MDA was able to manage the changes in the community and continue to make the downtown a great place to visit, to live, and for locals to spend their time. She thanked the supporters in the audience. She thought they were headed in a good direction.

Jeb Bladine, downtown property owner and business owner, was not in opposition but opposed the status quo treatment of the EID. It was time to look at it differently. More recently the EID had become more complex as there were more players, overlapping economic development projects, new regulations on downtown properties, and a different mix of businesses. When the EID process was first introduced, a cohesive, tight group of people embraced it and were able to carry out many things in partnership with the City. He handed out a map which showed that they had surrounded the EID with an expansive Urban Renewal District that had created a broader economic development process and many more regulations. All had a huge impact on the complexity of an economic improvement process. He was not questioning the EID renewal, but he wanted to know if the City had a vision for the EID and if the MDA was adequately representing the property owners who were paying the EID. It was more complex and difficult to figure out what the MDA's role was as it related to economic development initiatives. If there was a facilitator process, he hoped that the City would consider helping finance that, perhaps through Urban Renewal. Without a strong MDA and clear goals, they risked having the downtown go downhill. He urged Council to look at it on a broader scale and think about how to move forward in the right way.

Dave Haugeberg, McMinnville resident and business owner, thought that it was critically important to look at what had been done in the past and the results that were achieved and if it had the trajectory they wanted to make for their community. He thought they should continue the journey and to continue the incredibly unique partnership. It was very special and he thanked the City for being the facilitator.

Walt Gowell, McMinnville resident and property owner, stated that he benefitted from the EID that was used to help manage downtown. Downtown was busy, healthy, and vibrant which was a testament to the success of the MDA. The MDA had been the spine of the downtown movement and the EID was the backbone of the MDA and he hoped they would continue to extend the EID for another 3 years. The MDA was an investment in management and vision. The downtown was a dynamic thing and over the next several years there might be a larger map and a larger number of businesses that might want to be included. He hoped that the Council would continue the EID and allow the MDA to continue managing a very successful downtown.

Steve Rupp, McMinnville resident, said the public art program in McMinnville was born through the MDA. Without the MDA he would never have gotten involved. He asked Council to keep downtown growing and not to let it die.

Jeff Knapp, Visit McMinnville Executive Director, said there would be no Visit McMinnville without the MDA. He thought downtown was the crown jewel of the City. There was a lot of work left to do and he encouraged Council to continue the EID.

Council President Menke closed the public hearing at 9:09 p.m.

5.d. Housing Rehabilitation Community Development Block Grant Application.

Council President Menke opened the public hearing at 9:09 p.m.

Staff Report: Planning Director Richards said this was a collaborative application for a state grant for \$500,000 to help with housing rehabilitation of manufactured homes in the City. It was a partnership between the City and Housing Authority. The program had been around since the 1980s and was a grant program to help bring manufactured homes up to code, stabilize home conditions, and make them habitable and accessible. There were 177 applications on a waitlist and there were 126 families located in McMinnville. The Housing Needs Analysis had just been completed and they had over 1,100 manufactured homes in the City which was about 15 percent of the City's single family dwelling unit stock. It was an important housing product for the City as it was an affordable housing product and because of land supply constraints it was a vulnerable housing product.

Planning Director Richards read the follow statement as part of the grant requirement:

The City of McMinnville is eligible to apply for a 2019 CDBG from the Oregon Business Development Department. CDBG funds come from the U.S. Department of Housing and Urban Development. The grants can be used for public facilities and housing improvements for persons with low and moderate incomes.

The purpose of this hearing is for the City Council of McMinnville to obtain citizen views and to respond to questions and comments about: community development and housing needs, especially the needs of low and moderate income persons, as well as other needs in the community that might be assisted with CDBG funds, and the proposed project.

**Project Details**

1. Approximately \$12 Million in CDBG funds will be awarded to Oregon non-metropolitan cities and counties in 2019. The maximum grant a city or county can receive is \$2,500,000 for infrastructure projects. The maximum amount a city can receive for housing rehabilitation projects is \$500,000. If the City of McMinnville is awarded a 2019 Housing Rehabilitation CDBG, it would make up to \$500,000.00 available during fiscal years 2019 thru 2021.

2. The range of activities that may be carried out with these funds includes but is not limited to:

- A. Lead and asbestos testing, treatment, and abatement.
- B. Inspections, assessments, repairs and replacements of: private septic tanks, drain fields, water lines, sewer lines, and wells.
- C. Improvements necessary to meet the needs of persons with disabilities, or reasonable accommodation requests.

- D. Improvements to upgrade substandard: electrical, plumbing, roofing, siding, insulation, windows and doors, heating systems, hot water heaters, dry rot repairs, and weatherization.
- E. Purchase and installation of permanent fixtures such as: light fixtures, and built in appliances.
- F. Grant Administration and Management.

3. It is estimated that the project would benefit at least 120 persons, of whom 100% will be low or moderate income.

4. The proposed activities of this project is not likely to result in the displacement of any persons or businesses. If Displacement becomes necessary, alternatives will be examined to minimize the displacement and provide required/reasonable benefits to those displaced. Any low and moderate income housing which is demolished or converted to another use will be replaced.

Councilor Stassens asked how much this would add to Planning Director Richards' work load.

Planning Director Richards answered the grant administration and management of funds would be done by the Housing Authority. She would work with the Housing Authority to certify and approve the projects. She did not think it would add a lot to her work load.

There were no public comments.

Council President Menke closed the public hearing at 9:16 p.m.

Council President Menke recessed the meeting at 9:16 p.m. and reconvened at 9:24 p.m.

## 6. ORDINANCE

- 6.a. Consider first reading with possible second reading of **Ordinance No. 5071**: An Ordinance extending the duration of the McMinnville Downtown Economic Improvement Assessment District.

No Councilor present requested that the Ordinance be read in full.

City Attorney Koch read by title only Ordinance No. 5071 extending the duration of the McMinnville Downtown Economic Improvement Assessment District.

City Manager Towery said the ordinance would extend the pre-existing downtown EID. There was testimony tonight in favor and staff recommended adoption of the ordinance.

Councilor Garvin was in favor of extending the EID for another three years. Within that three years there should be a discussion regarding the vision for the EID dollars and how MDA could align with that vision.

Councilor Peralta was in support as well. He thought it sounded like the MDA might benefit from more engagement with their members.

Councilor Geary was a big fan and in support. He thought they should focus on the cultural, economic, and historic character of downtown.

Councilor Drabkin said the downtown district was often referred to as McMinnville's living room and it was the MDA that brought the City to that place. There was a great opportunity for the MDA to forge and engage property and business owners and to refresh and more clearly define their mission. She was also curious about the relationships between the MDA, Chamber, and Visit McMinnville and if there was any overlap in those missions and if there was overlap it would be good to know how they were combining their efforts and resources. The MDA was crucial in creating the downtown they had and she looked forward to the future.

Councilor Stassens was in support of the EID. The MDA played a critical part in what downtown was today. She thought the MDA should be involving property owners going forward. There was an MDA representative on MURAC and they helped inform the work that was happening particularly on Third Street. The connection the City had with the MDA was amazingly valuable for the work they were doing in the Urban Renewal District.

Council President Menke was also in strong support of continuing the EID.

Councilor Geary MOVED to pass **Ordinance No. 5071** to a second reading; SECONDED by Councilor Garvin. Motion PASSED unanimously.

City Attorney Koch read by title only for a second time Ordinance No. 5071.

Councilor Peralta MOVED to approve **Ordinance No. 5071** extending the duration of the McMinnville Downtown Economic Improvement Assessment District; SECONDED by Councilor Geary. Ordinance No. 5071 PASSED 6-0 by roll-call vote.

7. RESOLUTIONS

- 7.a. Consider **Resolution No. 2019-36**: A Resolution to submit an application for a McMinnville 2019 Housing Rehabilitation Community Development Block Grant (CDBG) to the Oregon Business Development Department (OBDD), and appointing Planning Director, Heather Richards, as both the project and environmental review certifying officer.

Councilor Stassens was in favor of the resolution. There was a need in the community and she appreciated it was being recognized. It would be a great thing to leverage and improve citizens' lives as long as there was no significant impact to staff's work load.

Councilor Drabkin was in full support as it would help keep people in the homes they were already in.

Councilor Geary was also in support.

Councilor Peralta stated that there were a lot of manufactured homes in his ward that were in need of rehabilitation. He appreciated staff finding this grant funding.

Councilor Garvin was also in support as his ward also had a lot of manufactured housing.

Council President Menke was in favor as well.

Councilor Drabkin MOVED to adopt **Resolution No. 2019-36** submitting an application for a McMinnville 2019 Housing Rehabilitation Community Development Block Grant (CDBG) to the Oregon Business Development Department (OBDD), and appointing Planning Director, Heather Richards, as both the project and environmental review certifying officer; SECONDED by Councilor Peralta. Motion PASSED unanimously.

- 7.b. Consider **Resolution No. 2019-37**: A Resolution approving a collection rate adjustment not to exceed 5% for Recology, Inc.

City Manager Towery said on November 28, 2017, the City Council adopted Resolution No. 2017-69, which authorized Recology Inc., the City's exclusive franchisee for the collection of solid waste, to make an out-of-calendar rate adjustment of 10%, related to the diversion of solid waste away from the Riverbend landfill in Yamhill County. The Resolution included a provision that "no further rate adjustments shall be submitted with an effective date prior to July 1, 2019." Since the passage of Resolution 2017-69, there had been significant and unforeseen disruptions in the global recycling markets that had substantially increased the costs for Recology to handle and process recycled materials. For example, the value for mixed recycling had transitioned from a positive value of \$10/ton to a negative value of \$70/ton. Although rates had now stabilized, the "new normal" had resulted in rate surcharges in more than 34 surrounding communities in the past year. On October 8, 2018, Recology submitted a formal request to the City for consideration of an out-of-calendar rate adjustment of 10.47%, to be effective January 1, 2019, which included a 5.70% adjustment related to unanticipated increased costs of handling recycling materials, and a 4.77% rate increase related to cost-of-living increases. Recology's request was presented to the Council during its work session on November 13, 2018. After reviewing the request, the Council found that a portion of the Recology proposal was reasonable and in the public interest to be effective January 1, 2019, and that the remainder of the request would be considered following an appropriate rate review study. That study had been conducted by Merina and Company, the City's auditor, from March to May of this year. Some of the data of the study was not subject to public disclosure as they were trade secrets and/or business records. A summary report had been submitted that night. The resolution identified a collection rate adjustment not to exceed 5 percent for Recology, Inc.

Councilor Stassens and Councilor Garvin both asked for an update on how the new Styrofoam program was rolling out.

Councilor Peralta was satisfied with the report from Merina and Company indicating the need for the increase. Recology was an excellent partner for the City and he looked forward to continue to work with them.

Councilor Garvin was concerned about the testimony from Mark Davis about the need for transparency.

Carl Peters, Recology, stated that 2.83 tons of Styrofoam had been collected. It was quite a lot from a volume standpoint. He understood the concerns and passion in the

community about Styrofoam. He thought they would collect more, but it was an indication that there was not as much Styrofoam out there.

Councilor Garvin asked if there was a calculation that a ton equaled so many cubic feet of Styrofoam. Mr. Peters said about 40 yards of Styrofoam was equal to 500 pounds. The Styrofoam was going to Tigard and being remade into other Styrofoam.

Councilor Drabkin asked if there was a reason why Styrofoam was separated from the rest of the recycling. Mr. Peters stated that they wanted to make sure that it was managed right, kept clean, and it took up a lot of space. They wanted to make sure that it met the standards, which was why it was a drop off program.

Councilor Dabkin asked if there was any reason to not be collecting number 6 plastics as well. Mr. Peters responded that the logistics of trying to figure out what material was number 6 plastics was confusing. He wanted to get this part down first and then look at adding additional materials.

Councilor Geary asked if there was a way to quantify Recology's contributions to community events. Mr. Peters responded that last year they had contributed in-kind, cash, or time to over 125 organizations in the greater McMinnville area.

Councilor Stassens asked what education had been done with all of the changes in recycling. Mr. Peters stated that they were starting an initiative called whatbin.com. They were also working on education in the schools.

Councilor Peralta MOVED to adopt **Resolution No. 2019-37** approving a collection rate adjustment not to exceed 5% for Recology, Inc.; SECONDED by Councilor Garvin. Motion PASSED unanimously.

- 7.c. Consider **Resolution No. 2019-38**: A Resolution awarding the contract for the 2019 Slurry Seal, Project 2019-5.

Community Development Director Bisset referred the Council to the staff report which outlined the bid opening and proposed contract for the summer slurry seal project to Pave NW, Inc. in the amount of \$116,495.22. Notices would go out to the surrounding neighborhoods about the project.

Councilor Garvin MOVED to adopt **Resolution No. 2019-38** awarding the contract for the 2019 Slurry Seal, Project 2019-5; SECONDED by Councilor Stassens. Motion PASSED unanimously.

- 7.d. Consider **Resolution No. 2019-39**: A Resolution accepting the transfer of jurisdiction of a portion of Old Sheridan Road within the City of McMinnville.

Community Development Director Bisset stated the Old Sheridan Road corridor project was the last project in the 2014 voter approved Transportation Bond. It was under County jurisdiction and they were asking for transfer of that jurisdiction to the City which would allow the City to design and upgrade the corridor to City standards and would simplify the process to acquire the needed right-of-way and easements. The project was on track for planned construction in the next calendar year. There would be public outreach and

open houses this summer. The jurisdiction transfer would keep the project moving forward.

Councilor Stassens MOVED to adopt **Resolution No. 2019-39** accepting the transfer of jurisdiction of a portion of Old Sheridan Road within the City of McMinnville; SECONDED by Councilor Geary. Motion PASSED unanimously.

8. INVITATION TO CITIZENS FOR PUBLIC COMMENT: Council President Menke invited the public to comment.

There was no public testimony.

9. ADJOURNMENT: Council President Menke adjourned the Regular City Council Meeting at 9:57 p.m.

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Melissa Bisset, City Recorder



City Recorder Use

Final Action: \_\_\_\_\_

Approved     Disapproved

**Liquor License Recommendation**

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BUSINESS NAME / INDIVIDUAL: 7-Eleven Inc  
 BUSINESS LOCATION ADDRESS: 840 NE 3<sup>rd</sup> Street  
 LIQUOR LICENSE TYPE: Off-Premises

Is the business at this location currently licensed by OLCC  
 Yes     No

If yes, what is the name of the existing business:  
 \_\_\_\_\_

Hours of operation: 24/7  
 Entertainment: N/A  
 Hours of Music: N/A  
 Seating Count: N/A

EXEMPTIONS:  
 (list any exemptions)

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Tritech Records Management System Check:  Yes     No  
 Criminal Records Check:  Yes     No  
 Recommended Action:  Approve     Disapprove

  
 \_\_\_\_\_  
 Chief of Police / Designee

\_\_\_\_\_  
 City Manager / Designee





|  |                                      |
|--|--------------------------------------|
| City Recorder Use                            |                                      |
| Final Action:                                | _____                                |
| <input checked="" type="checkbox"/> Approved | <input type="checkbox"/> Disapproved |

### Liquor License Recommendation

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BUSINESS NAME / INDIVIDUAL: Splash Partnership, LLP  
 BUSINESS LOCATION ADDRESS: 405 NE 3<sup>rd</sup> St suites 8 & 9  
 LIQUOR LICENSE TYPE: Limited On-Premises

Is the business at this location currently licensed by OLCC

Yes     No

If yes, what is the name of the existing business:

\_\_\_\_\_

Hours of operation: Wednesday – Sunday 5 pm – 11 pm  
 Entertainment: Live music, Recorded music, DJ music, Dancing  
 Hours of Music: 8 pm- 11 pm  
 Seating Count: 27

EXEMPTIONS:  
 (list any exemptions)

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Tritech Records Management System Check:  Yes     No  
 Criminal Records Check:  Yes     No  
 Recommended Action:  Approve     Disapprove

\_\_\_\_\_  
 Chief of Police / Designee

\_\_\_\_\_  
 City Manager / Designee



|  |                                      |
|--|--------------------------------------|
| City Recorder Use                            |                                      |
| Final Action: _____                          |                                      |
| <input checked="" type="checkbox"/> Approved | <input type="checkbox"/> Disapproved |

### Liquor License Recommendation

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BUSINESS NAME / INDIVIDUAL: Zen Asian Bistro LLC DBA: Pho 3  
BUSINESS LOCATION ADDRESS: 913 N Hwy 99W suite C  
LIQUOR LICENSE TYPE: Limited on-premises

Is the business at this location currently licensed by OLCC

Yes     No

If yes, what is the name of the existing business:

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Hours of operation: Sunday – Thursday 11 am – 9 pm, Friday and Saturday  
11 am – 10 pm  
Entertainment: N/A  
Hours of Music: N/A  
Seating Count: 46

EXEMPTIONS:  
(list any exemptions)

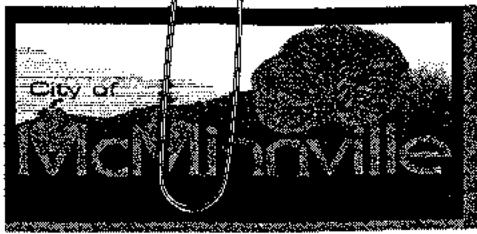
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Tritech Records Management System Check:  Yes     No  
Criminal Records Check:  Yes     No  
Recommended Action:  Approve     Disapprove

Chief of Police / Designee

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City Manager / Designee



|                                   |                                      |
|-----------------------------------|--------------------------------------|
| City Recorder Use                 |                                      |
| Final Action: _____               |                                      |
| <input type="checkbox"/> Approved | <input type="checkbox"/> Disapproved |

## Liquor License Recommendation

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BUSINESS NAME / INDIVIDUAL: ForGood Enterprises, LLC DBA: Insiders Wine Club  
 BUSINESS LOCATION ADDRESS: 1250 NW Meadows Dr.  
 LIQUOR LICENSE TYPE: Off-premises

Is the business at this location currently licensed by OLCC

Yes     No

If yes, what is the name of the existing business:

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Hours of operation: N/A

Entertainment: N/A

Hours of Music: N/A

Seating Count: N/A

EXEMPTIONS:

(list any exemptions)

Online business only

---

Tritech Records Management System Check:  Yes     No

Criminal Records Check:  Yes     No

Recommended Action:  Approve     Disapprove

Chief of Police / Designee

City Manager / Designee



**City of McMinnville  
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230 NE Second Street  
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## STAFF REPORT

**DATE:** July 23, 2019  
**TO:** Mayor and City Councilors  
**FROM:** Melissa Bisset, City Recorder/ Elections Official  
**SUBJECT:** Charter Amendment: Restricts City Regulations and Fees on Care Facilities

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### Background:

The City received a prospective petition from Arthur Bradley on December 7, 2019. The Chief petitioner, Mr. Bradley, was notified that State Law requires 15% of the registered voters in the City the day the prospective petition is filed sign the petition signature sheets. According to the Yamhill County Elections Office there were 20,627 registered voters in the City of McMinnville and 3,095 signatures were needed to qualify the petition for the ballot.

On December 21, 2018, the City Attorney certified and filed the ballot title in compliance with ORS 250.035. The ballot title along with directions for petitioning the ballot title were posted on the City of McMinnville's website and public notice of the ballot title was published in the December 28<sup>th</sup> *News Register*. The Chief Petitioner filed a petition for review of the ballot title with the Yamhill County Circuit Court. On March 5<sup>th</sup> Circuit Court Judge Jennifer Chapman issued a letter of opinion regarding the ballot title.

On May 17<sup>th</sup> the Chief petitioner met the requirements outlined in State Statute and began to circulate the petition. Petition signature sheets were returned to the Elections Official on July 3<sup>rd</sup>. The County Clerk is in the process of reviewing signatures and will confirm the number of valid signatures by Friday, July 19<sup>th</sup>. If the initiative contains the required number of signatures, an additional memo and resolution will be provided to Council for discussion and action.



**City of McMinnville**  
**Community Development Department**  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7312  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## STAFF REPORT

**DATE:** July 23, 2019  
**TO:** Mayor and City Councilors  
**FROM:** Mike Bisset, Community Development Director  
**SUBJECT:** 2019 Statewide Airport Pavement Maintenance Program

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**Report in Brief:** A resolution authorizing the City Manager to execute an intergovernmental agreement with the Oregon Department of Aviation.

**Discussion:** The McMinnville Municipal Airport is in the core system of airports identified in the Oregon Aviation Plan. The Statewide Airport Pavement Maintenance Program (PMP) is a state-funded program to assist airports in undertaking pavement maintenance. The Oregon Department of Aviation (ODA) has included the McMinnville Municipal Airport (MMV) in this year's PMP project.

The PMP project work at MMV will include approximately 11,324 lineal feet of crack sealing on runway 17/35, airport taxiways and taxi-lanes. Additionally, approximately 934 square feet of pavement patching will be completed. The work areas are shown on the project map included in the attached Intergovernmental Agreement.

The ODA will manage this project in all phases of the work including developing project specifications and documents, bidding, and inspection. The work will be completed this calendar year.

The most recent PMP work completed at MMV by ODA was in 2013.

**Attachments:**

1. Resolution
2. Intergovernmental Agreement No. 33705
3. State Sponsorship Agreement.

**Fiscal Impact:** ODA requests that the City contribute 25% of local matching funds which can come from a FAA Non-Primary Airport Entitlement Grant. The estimated cost for this project is \$82,970.90. The City's share would be \$20,742.72. Since ODA is proposing to use FAA Grant money for the City's share of the cost, no local City funds will be needed

**Recommendation:** Staff recommends that the City Council authorize the City Manager to execute Intergovernmental Agreement No. 33705 for the 2019 Statewide Airport Pavement Maintenance Program.

RESOLUTION NO. 2019-51

A Resolution authorizing the City Manager to execute Intergovernmental Agreement No. 33705 with the Oregon Department of Aviation.

RECITALS:

The McMinnville Municipal Airport is in the core system of airports identified in the Oregon Aviation Plan. The Statewide Airport Pavement Maintenance Program (PMP) is a state-funded program to assist airports in undertaking pavement maintenance. The Oregon Department of Aviation (ODA) has included the McMinnville Municipal Airport (MMV) in this year's PMP project.

The PMP project work at MMV will include approximately 11,324 lineal feet of crack sealing on runway 17/35, airport taxiways and taxi-lanes. Additionally, approximately 934 square feet of pavement patching will be completed. The work areas are shown on the project map included in the attached Intergovernmental Agreement.

ODA requests that the City contribute 25% of local matching funds which can come from a FAA Non-Primary Airport Entitlement Grant. The estimated cost for this project is \$82,970.90. The City's share would be \$20,742.72. Since ODA is proposing to use FAA Grant money for the City's share of the cost, no local City funds will be needed.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. That entry into an Intergovernmental Agreement between the City of McMinnville and the Oregon Department of Aviation for the purpose of the 2019 Statewide Airport Pavement Maintenance Program is hereby approved.
2. The City Manager is hereby authorized and directed to execute Intergovernmental Agreement No. 33075.
3. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until revoked or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 23rd day of July 2019 by the following votes:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Approved this 23rd day of July 2019.

\_\_\_\_\_  
MAYOR

Approved as to form:

\_\_\_\_\_  
CITY ATTORNEY

**INTERGOVERNMENTAL AGREEMENT**  
**McMinnville Municipal Airport**  
**2019 Statewide Airport Pavement Maintenance Program**  
**No Local Match – PMP ODA ORV FAA Entitlement Funds Only**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Aviation, hereinafter referred to as “State,” and City of McMinnville acting by and through its elected officials, hereinafter referred to as “Airport Sponsor,” both herein referred to individually or collectively as “Party” or “Parties.”

**RECITALS**

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. McMinnville Municipal Airport is a public use airport owned and operated by City of McMinnville.
3. ORS 836.072 provides State the authority to establish and fund a program to maintain and preserve the pavements used for runways, taxiways, and aircraft parking areas at public use airports in this state.
4. The Statewide Airport Pavement Maintenance Program (PMP) is a state-funded program to assist airports in undertaking pavement maintenance needed for the following reasons:
  - a. To address stop gap maintenance projects for safety reasons.
  - b. There is limited or no funding available at many smaller airports to address pavement maintenance.
  - c. Pavement preventive maintenance is the most cost-effective means to helping preserve the system’s airports pavements.
5. The PMP protects Oregon’s airport investments by preserving airport pavement consistent with the goals of the Oregon Aviation Plan v6.0 and funds eligible pavement preventive maintenance projects, including crack sealing, patching and fog seals.
6. McMinnville Municipal Airport is identified by the Oregon Aviation Plan v6.0 as a Category II airport. These airports support all general aviation aircraft and accommodate corporate aviation activity, including piston and turbine engine aircraft, business jets, helicopters, gliders, and other general aviation activity. The most demanding user requirements are business-related. These airports service a

large/multi-state geographic region, or experience high levels of general aviation activity.

7. Airport Sponsor or its controlling jurisdiction has established airport overlay zoning as required per Oregon Administrative Rule (OAR) Chapter 660, Division 013, Airport Planning. If OAR 660-013 has not yet been implemented, Airport Sponsor or its controlling jurisdiction must provide an action plan to establish compliance within the next three (3) years to remain eligible for the PMP.

**NOW THEREFORE**, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

### **TERMS OF AGREEMENT**

1. Under such authority, State and Airport Sponsor agree that State or its contractor shall perform pavement maintenance work at McMinnville Municipal Airport, described in Exhibit A, hereinafter referred to as "Project." Project description and budget are further described in Exhibit A.
2. Project cost is estimated at \$82,970.90 in state PMP and FAA entitlement funds, which is subject to change. The state PMP funds are estimated at \$62,228.18. For this specific project the Airport Sponsor has no local match contribution. The current ODA ORV FAA entitlement funds shall contribute twenty-five percent (25%) in FAA entitlement funds for this project, estimated at \$20,742.72 toward the total Project cost.
3. For this Project, the required contribution of matching funds is provided by an FAA Non-Primary Airport Entitlement grant and ODA hereby agrees to draw down those funds in lieu of an entitlement transfer directly from the participating sponsor, as provided in State Obligations, Paragraph 6 of this Agreement, ODA ORV entitlement funds will be used. The State confirms that the current FAA grant funds in the ORV entitlement balance will be sufficient to fund the entire matching obligation and no local Airport Sponsor funds need to be contributed.
4. This term of this Agreement is effective on the date all required signatures are obtained and shall terminate upon completion of the Project.

### **AIRPORT SPONSOR OBLIGATIONS**

1. In consideration for receipt of program funds, Airport Sponsor agrees to keep the airport open for public use for a minimum of twenty (20) years from the date of this Agreement. If this condition is not met, Airport Sponsor shall immediately reimburse all State funds used on Project to State. The amount reimbursed shall be the total amount of State funds divided by twenty (20), times the difference between twenty (20) and the number of years that the Airport remained open to the public after the funds were distributed.



2. The Project shall not provide pavement maintenance for any areas of the Airport that are private or exclusive use areas.
3. Airport Sponsor shall communicate through State with State's contractor regarding contract administration and scope of the Project.
4. Airport Sponsor agrees that, if problems with State's contractor arise during construction, it shall communicate these concerns to State, which shall be responsible for resolving these concerns.
5. Airport Sponsor shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Airport Sponsor expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
6. Airport Sponsor representative shall be available on arrival of State's contractor work crews to meet with Project inspector to review work to be completed and to ensure appropriate NOTAMs (Notice to Airmen) have been issued prior to commencement of work.
7. Airport Sponsor acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Airport Sponsor which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of Project. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
8. Airport Sponsor certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Airport Sponsor, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Airport Sponsor.
9. Airport Sponsor's Project Manager for this Project is Mike Bisset, City of McMinnville, 231 NE Fifth St, McMinnville, OR 97128, 503-434-7312, mike.bisset@mcminnvilleoregon.gov, assigned designee upon individual's absence. Airport Sponsor shall notify the other Party in writing of any contact information changes during the term of this Agreement.

## **STATE OBLIGATIONS**

1. State shall develop all contract specifications and bid documents for the Project.
2. State shall negotiate with a selected engineer for a contract with State that includes the required price and services necessary to complete the Project.
3. State shall advertise for construction bids and intends to award a construction contract with State based on the lowest responsible bid received.
4. State or its contractor shall design and construct the Project in accordance with applicable FAA and State design standards and regulations.
5. State's contracted engineer shall inspect Project to ensure conformity with specifications and to verify quantities for contract payments.
6. State shall draw down from ODA ORV FAA Non-Primary Account to obtain Airport Sponsor's local matching funds based on initial and final construction and engineering costs. State PMP Program shall pay the remainder of the construction and engineering costs required under the contract.
7. State's Project Manager for this Project is Heather Peck, Aviation Program Manager, ODA – 3040 25<sup>th</sup> Street SE, Salem, OR 97302, 503-378-3168, heather.peck@aviation.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

## **GENERAL PROVISIONS**

1. This Agreement may be terminated by mutual written consent of both Parties.
2. State may terminate this Agreement effective upon delivery of written notice to Airport Sponsor, or at such later date as may be established by State under any of the following conditions:
  - a. If State fails to receive state and/or FAA funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
  - b. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
3. Any termination of this agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Airport Sponsor with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
5. With respect to a Third Party Claim for which State is jointly liable with Airport Sponsor (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Airport Sponsor in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Airport Sponsor on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Airport Sponsor on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
6. With respect to a Third Party Claim for which Airport Sponsor is jointly liable with State (or would be if joined in the Third Party Claim), Airport Sponsor shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Airport Sponsor on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Airport Sponsor on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Airport Sponsor's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
7. State and Airport Sponsor hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid,

unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provisions held to be invalid.

8. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
9. This Agreement, and attached exhibit constitute the entire Agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.
10. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that its signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The Director of the Department of Aviation or his designee is authorized to act on behalf of State in approving and executing this Agreement.

**City of McMinnville** by and through its  
elected officials

By \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**STATE OF OREGON**, by and through its  
Oregon Department of Aviation

By \_\_\_\_\_

Director of Aviation

Date \_\_\_\_\_

**Airport Sponsor Contact:**

Mike Bisset  
City of McMinnville  
231 NE Fifth St  
McMinnville, OR 97128  
(503) 434-7312  
mike.bisset@mcminnvilleoregon.gov

**State Contact:**

Heather Peck, Aviation Program Manager  
Oregon Department of Aviation  
3040 25<sup>th</sup> Street SE  
Salem, OR 97302  
503-378-3168  
heather.peck@aviation.state.or.us

**APPROVED AS TO LEGAL SUFFICIENCY**

By \_\_\_\_\_

Department of Justice

Date \_\_\_\_\_

Exhibit A  
 Pavement Maintenance Program - 2019  
 Oregon Department of Aviation

**Northern Airports - Schedule C: McMinnville Municipal**

Program Eligible Work (ODA funded with Local Match)

| No. | Bid Item                | Quantity | Unit | Unit Price   | Extended Price      |
|-----|-------------------------|----------|------|--------------|---------------------|
| B1  | Mobilization            | 1        | LS   | \$ 12,000.00 | \$ 12,000.00        |
| B2  | Crack Sealing           | 11,324   | LF   | \$ 1.25      | \$ 14,155.00        |
| B3  | Joint Repair            | 46       | LF   | \$ 50.00     | \$ 2,300.00         |
| B4  | AC Patching             | 934      | SF   | \$ 35.00     | \$ 32,690.00        |
|     | <b>Subtotal</b>         |          |      |              | <b>\$ 61,145.00</b> |
|     | Contingency - allow 10% | 1        | LS   | \$ 6,114.50  | \$ 6,114.50         |
|     | Engineering             | 1        | LS   | \$ 15,711.40 | \$ 15,711.40        |
|     | <b>Total</b>            |          |      |              | <b>\$ 82,970.90</b> |
|     |                         |          |      | 25% Match    | \$ 20,742.72        |

Airport Sponsor Funded Work (100% Local Funds)

| No. | Bid Item                           | Quantity | Unit | Unit Price | Extended Price |
|-----|------------------------------------|----------|------|------------|----------------|
|     | --No Sponsor Funded Work Elected-- |          |      |            |                |
|     |                                    |          |      |            |                |
|     |                                    |          |      |            |                |
|     | <b>Subtotal</b>                    |          |      |            | <b>\$ -</b>    |
|     | Contingency - allow 10%            | 1        | LS   | \$ -       | \$ -           |
|     | Engineering                        | 1        | LS   | \$ -       | \$ -           |
|     | <b>Total</b>                       |          |      |            | <b>\$ -</b>    |
|     |                                    |          |      | 100% Match | \$ -           |

Project Summary of Sponsor Costs

| Type of Work                | Total Cost          |
|-----------------------------|---------------------|
| Program Eligible Work       | \$ 20,742.72        |
| Airport Sponsor Funded Work | \$ -                |
| <b>Total Sponsor Costs</b>  | <b>\$ 20,742.72</b> |

Qualifier: This Exhibit is the Engineer's opinion of probable cost for the subject project at completion of Final Design. It will be updated at the following milestones: Bid Results (post bid) and Contract completion (post-construction). Until contract completion, it is only an estimate.



STATE SPONSORSHIP AGREEMENT (reference FAA Appendix form)

DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
CONSENT FOR STATE SPONSORSHIP AND  
STATEMENT OF AIRPORT SPONSOR'S OBLIGATION

**McMinnville Municipal Airport**  
Airport

**McMinnville/Yamhill County**  
Associated City/County

In accordance with Title 49 of the United States Code (U.S.C.), section 47105(a)(1)(b).

**City of McMinnville**  
Name of Airport Sponsor

herein called the "Airport Sponsor", hereby consents to project sponsorship by the STATE OF OREGON.

**OREGON DEPARTMENT OF AVIATION**  
Name of State Agency

for a project at the above airport and associated city/county described as follows:

Project description: 2019 PMP Rehabilitate apron, taxiway pavement, including crack sealing, patching and sealing.

Airport Sponsor also assures and certifies that it will comply with all terms, conditions, and assurances contained in project application submitted to the Federal Aviation Administration. copy of the project application assurances and grant agreement conditions is attached and made part of this consent for State sponsorship and statement of Airport Sponsor's obligations.

**City of McMinnville**  
Name of Airport Sponsor

BY \_\_\_\_\_  
TITLE \_\_\_\_\_  
DATE \_\_\_\_\_

**CERTIFICATE OF AIRPORT SPONSOR'S ATTORNEY**

Acting as Attorney for Airport Sponsor, I do certify that I have examined the foregoing agreement and find that the execution by said Airport Sponsor has been duly authorized and is in all respects due and proper in accordance with the laws of the State of Oregon, and that in my opinion said State Sponsorship Agreement constitutes a legal and binding obligation of the Airport Sponsor in accordance with the terms thereof.

FOR: **City of McMinnville**  
Name of Airport Sponsor

BY: \_\_\_\_\_  
TITLE \_\_\_\_\_  
DATE: \_\_\_\_\_

**Completed and signed attachments:**

- Attachment 1 Airport Improvement Program Projects
- Attachment 2 Standard DOT Title VI Assurances
- Attachment 3 Contractor Contractual Requirements (No Signature Required)
- Attachment 4 Clauses for deeds, licenses, leases, permits or similar instruments (No Signature Required)
- Attachment 5 Certification for Contracts, Grants, Loans, and Cooperative Agreements
- Attachment 6 Certification Regarding Drug-Free Workplace Requirements
- Attachment 7 Airport Sponsor Assurances (No signature Required)



**REQUIRED STATEMENTS**  
**AIRPORT IMPROVEMENT PROGRAM PROJECTS**

**AIRPORT:** McMinnville Municipal Airport

**LOCATION** McMinnville, Oregon

**AIP PROJECT NO.:** AIP 3-41-4100-035-2019

**STATEMENTS APPLICABLE TO THIS PROJECT:**

- a. **INTEREST OF NEIGHBORING COMMUNITIES:** In formulating this project, consideration has been given to the interest of communities that are near (Exact name of airport) McMinnville Municipal Airport.
- b. **THE DEVELOPMENT PROPOSED IN THIS PROJECT** will not require the use of publicly owned land from a public park, recreation area, wildlife and fowl refuge, or a historical site under Federal, State, or Local jurisdiction.
- c. **FBO COORDINATION:** The airport development proposed in this project has been coordinated with the Fixed Base Operator(s) utilizing (Exact name of airport) McMinnville Municipal Airport, and they have been informed regarding the scope and nature of this project.
- d. **THE PROPOSED PROJECT IS CONSISTENT** with existing approved plans for the area surrounding the airport.

The above statements have been duly considered and are applicable to this project. (Provide comment for any statement not checked).

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

SPONSORING AGENCY: \_\_\_\_\_

**NOTE: Where opposition is stated to an airport development project, whether expressly or by proposed revision, the following specific information concerning the opposition to the project must be furnished.**

- a. Identification of the Federal, state, or local governmental agency, or the person or persons opposing the project;
- b. The nature and basis of opposition;
- c. Sponsor's plan to accommodate or otherwise satisfy the opposition;
- d. Whether an opportunity for a hearing was afforded, and if a hearing was held, an analysis of the facts developed at the hearing as they relate to the social, economic, and environmental aspects of the proposed project and its consistency with the goals and objectives of such urban planning as has been carried out by the community.
- e. If the opponents proposed any alternatives, what these alternatives were and the reason for nonacceptance;
- f. Sponsor's plans, if any, to minimize any adverse effects of the project;
- g. Benefits to be gained by the proposed development; and
- h. Any other pertinent information which would be of assistance in determining whether to proceed with the project.

**STANDARD DOT TITLE VI ASSURANCES**

City of McMinnville (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. Without limiting the above general assurance, the Sponsor agrees concerning this grant that:

1. Each "program" and "facility" (as defined in Section 21.23(a) and 21.23(b)) will be conducted or operated in compliance with all requirements of the Regulations.
2. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.
3. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
4. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
5. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Sponsor with other parties:
  - (a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this project; and
  - (b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.
6. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Sponsor or any transferee for the longer of the following periods:
  - (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - (b) the period during which the Sponsor retains ownership or possession of the property.
7. It will provide for such methods of administration for the program as are found by the Secretary of transportation of the official to whom he delegates specific authority to give reasonable guarantees that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the act, the Regulations, and this assurance.

8. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the Sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED \_\_\_\_\_

\_\_\_\_\_  
City of McMinnville  
(Sponsor)

\_\_\_\_\_  
(Signature of Authorized Official)

## CONTRACTOR CONTRACTUAL REQUIREMENTS

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations. The contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or lease of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contract is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
  - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
  - b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

**CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS**

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of Assurances 5(a) and 5(b).

1. The (grantee, licensee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
  
2. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

## CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal Grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL "Disclosure of Lobby Activities", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Signed** \_\_\_\_\_ **Date** \_\_\_\_\_  
**Sponsor's Authorized Representative**

**Title** \_\_\_\_\_

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**  
**Alternate I. (Grantees Other Than Individuals)**

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition:

(b) Establishing an ongoing drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notices shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f),

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

**4000 NE Cirrus Ave**

**McMinnville, OR 97128**

**Yamhill County**

Check  if there are workplaces on file that are not identified here.

\_\_\_\_\_  
**Signature of certifying official**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**





## **ASSURANCES**

### **Airport Sponsors**

---

#### **A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

#### **B. Duration and Applicability.**

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

### 3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

## C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

### 1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

#### Federal Legislation

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- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.<sup>1 2</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.<sup>1</sup>
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.<sup>1</sup>
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

### **Executive Orders**

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- a. Executive Order 11246 - Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- f. Executive Order 12898 - Environmental Justice

### **Federal Regulations**

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- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].<sup>4, 5, 6</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.<sup>1</sup>
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.<sup>1</sup>
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).<sup>1</sup>
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.<sup>3</sup>
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.<sup>1 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.<sup>1</sup>
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

### **Specific Assurances**

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Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

### **Footnotes to Assurance C.1.**

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- <sup>1</sup> These laws do not apply to airport planning sponsors.
- <sup>2</sup> These laws do not apply to private sponsors.
- <sup>3</sup> 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- <sup>4</sup> On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

<sup>5</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

<sup>6</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

**2. Responsibility and Authority of the Sponsor.**

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

**3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

**4. Good Title.**

a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

**5. Preserving Rights and Powers.**

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

**6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

**7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

**8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

**9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

**10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

**11. Pavement Preventive Maintenance.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

**12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and

has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

**13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

**14. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

**15. Veteran's Preference.**

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

**16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans,



specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

**17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

**18. Planning Projects.**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

**19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal,

state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
  - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

**20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

**21. Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

**22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or

to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
  - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
  - e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
  - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
  - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
  - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
  - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

### **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or

operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
  - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
  - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

**27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

**28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

**29. Airport Layout Plan.**

- a. It will keep up to date at all times an airport layout plan of the airport showing
  - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and

roads), including all proposed extensions and reductions of existing airport facilities;

- 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
  - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

### **30. Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
  - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
  - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a



covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

- a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

### **31. Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another

eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

**32. Engineering and Design Services.**

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

**33. Foreign Market Restrictions.**

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

**34. Policies, Standards, and Specifications.**

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated \_\_\_\_\_ (the latest approved version as of this grant offer) and included in this grant, and in accordance

with applicable state policies, standards, and specifications approved by the Secretary.

**35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

**36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

**37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

**38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

**39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
  - 1) Describes the requests;
  - 2) Provides an explanation as to why the requests could not be accommodated; and
  - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.