



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

**City Council Meeting Agenda  
Tuesday, August 8, 2017**

**6:00 p.m. – Dinner Meeting  
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 desire to speak on any agenda item, please raise your hand to be recognized after the Mayor calls the item. 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 – DINNER MEETING – CONFERENCE ROOM**

1. CALL TO ORDER
2. REVIEW CITY COUNCIL AGENDA
3. ADJOURNMENT

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

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PRESENTATION
  - a. Willamette Valley Pleistocene Project – Presentation of Tusk Replica to the City of McMinnville and the McMinnville Police Department.
4. INVITATION TO CITIZENS 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 topic already on the agenda; 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 the duration of these comments.*
5. CONSENT AGENDA
  - a. Consider the Minutes of the April 25, 2017 Dinner and Regular Meetings and July 19, 2017 Special Called Work Session (Strategic Planning).
  - b. Consider request for a change in ownership on OLCC application (Tequila Grill).
6. RESOLUTION
  - a. **Resolution No. 2017-56:** A Resolution approving Task Order No.2 amending the Personal Services Contract to include services during construction for the NW Hill Road transportation bond measure project.

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. For TTY services, please dial 711.

7. ORDINANCES

- a. First reading with possible second reading of **Ordinance No. 5033**: An Ordinance amending Ordinance 4904, relating to the Solid Waste Collection Franchise.
- b. First Reading With Possible Second Reading Of **Ordinance No. 5034**: An Ordinance amending the McMinnville Zoning Ordinance specific to Chapter 17.06 (Definitions), Chapter 17.59 (Downtown Design Standards And Guidelines), Chapter 17.65 (Historic Preservation) and Chapter 17.72 (Applications And Review Process) for the Preservation of Historic Resources in McMinnville.
- c. First reading with possible second reading of **Ordinance No. 5035**: An Ordinance Amending The McMinnville City Code, Chapter 2.34, Specific To The Historic Landmarks Committee.

8. NEW BUSINESS

- a. Consider request from Ossie Bladine for a Noise Ordinance Waiver for the Walnut City Music Festival to be held on September 1 & 2, 2017 at 755 NE Alpine Avenue.

9. ADVICE/ INFORMATION ITEMS

- a. Reports from Councilors on Committee & Board Assignments
- b. Department Head Reports
- c. Building Division Report

10. EXECUTIVE SESSION UNDER ORS 192.660(2)(d) TO CONDUCT DELIBERATIONS WITH PERSONS DESIGNATED TO CARRY OUT LABOR NEGOTIATIONS.

11. ADJOURNMENT

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CITY OF McMinnville  
MINUTES OF DINNER MEETING  
of the McMinnville City Council  
Held at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday, April 25, 2017 at 6:00 p.m.

Presiding: Scott A. Hill, Mayor

Recording: Melissa Grace, City Recorder

Councilors:        Present                      Excused Absence  
Remy Drabkin  
Adam Garvin  
Kevin Jeffries  
Kellie Menke, Council President  
Alan Ruden  
Wendy Stassens

Also present were City Manager Jeff Towery, City Attorney David Koch, Community Development Director Mike Bisset, and Planning Director Heather Richards, members of the news media, Tom Henderson of the *News Register*, and Dave Adams of KLYC radio.

DINNER

CALL TO ORDER: Mayor Hill called the Dinner Meeting to order at 6:24 p.m. and welcomed all in attendance.

DISCUSSION:

Mayor Hill asked for a volunteer to lead the Pledge of Allegiance and Councilor Ruden volunteered.

Mayor Hill reviewed the agenda for the evening.

Councilor Jeffries explained that Metro is now sending their garbage to Arlington realizing that it is harmful to the farmers. On May 18<sup>th</sup> they will be making a permanent decision. Councilor Jeffries presented the Councilors with a draft resolution regarding opposition of the expansion of Riverbend Landfill and a commitment to direct the disposal and hauling franchises of the City to

not send McMinnville's trash to Riverbend landfill once the transfer station is capable of taking the City's trash to an alternative landfill. Discussion ensued and no action was taken.

City Attorney Koch discussed ex-parte contacts in land use matters. He stated that they will be sitting in a quasi-judicial role for the Public Hearing. He noted that the Council must be impartial in rendering their decision. He reminded Council that decisions must be based on criteria and the record. He stated that Councilors must disclose any ex-parte contact. He stated that site visits must also be disclosed and if they had any thoughts from the visit, the Council must disclose. Discussion ensued regarding the importance of disclosure.

City Attorney Koch also explained that the public hearing is considered a "de novo" hearing and gives the applicant the right to submit new evidence and argument and raise new issues to the Council.

ADJOURNMENT: The Dinner Meeting was adjourned at 6:59 p.m.

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Melissa Grace, City Recorder

CITY OF McMinnville  
MINUTES OF REGULAR MEETING  
of the McMinnville City Council  
Held at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday, April 25, 2017, at 7:00 p.m.

Presiding: Scott A. Hill, Mayor

Recording: Melissa Grace, City Recorder

Councilors: Present                      Excused Absence  
Remy Drabkin  
Adam Garvin  
Kevin Jeffries  
Kellie Menke, Council President  
Alan Ruden  
Wendy Stassens

Also present were City Manager Jeff Towery, City Attorney David Koch, Community Development Director Mike Bisset, Police Chief Matt Scales, Planning Director Heather Richards, Senior Planner Ron Pomeroy, Associate Planner Chuck Darnell, Parks and Recreation Director Jay Pearson, and members of the news media, Tom Henderson of the *News Register*, and Dave Adams of KLYC radio.

AGENDA ITEM

1. CALL TO ORDER: Mayor Hill called the meeting to order at 7:05 p.m. and welcomed all in attendance.
2. PLEDGE OF ALLEGIANCE: Councilor Ruden led the Pledge of Allegiance.
3. INVITATION TO CITIZENS FOR PUBLIC COMMENT: Mayor Hill invited the public to comment.

Brad Bassitt, McMinnville resident, wanted to discuss Systems Development Charges (SDC) waivers. He explained how SDC waivers worked in the Portland area which was a simple process and not a burden

on the City. He stated that it kept houses in a certain price range. This encouraged affordable housing and he thought something similar could be done in McMinnville. Councilor Drabkin discussed how the Affordable Housing Task Force was looking at a variety of methods and incentives.

4.

#### PROCLAMATIONS

a. Lemonade Day Proclamation

Mayor Hill presented a proclamation to Chamber representatives declaring May 6, 2017, as Lemonade Day.

Gioia Goodrum, Chamber President, shared that the program had been going on for three years and last year there were 172 participants from schools all over the area.

b. Construction Industry Safety Week Proclamation

Mayor Hill presented a proclamation to Al Arguedas, representative of the Safe Build Alliance declaring April 30 – May 6, 2017 as Construction Industry Safety Week. Mr. Arguedas shared the history of the Safety Alliance. The mission of the Safety Alliance is to make sure that every worker get home to their families safely every day.

c. Arbor Day Proclamation

Mayor Hill presented a proclamation to Associate Planner Chuck Darnell, declaring April 28, 2017, as Arbor Day. Jennifer Killian, representative from Oregon Community Trees was present and congratulated the City for their participation in Tree City USA and tree related activities in 2016. She explained the four standards of tree care that are required to be a Tree City USA. She presented the Tree City USA award to the City. Associate Planner Darnell said the City had been participating in this program for 20 years.

d. Historic Preservation Month Proclamation

Mayor Hill presented a proclamation to Associate Planner Darnell declaring May 2017 as Historic Preservation Month.

e. Child Abuse Prevention Month

Mayor Hill presented a proclamation to a representative of Juliette's House proclaiming April 2017 as National Child Abuse Prevention Awareness Month.

Representatives of Juliette’s House were present. They noted that they had been serving for 20 years in the community and that are many other agencies and individuals trying to protect children as well as donors and volunteers.

Mayor Hill noted that the Public Hearing (Agenda Item 5) was moved towards the end of the agenda.

6. CONSENT AGENDA

6.a. Consider the Minutes of the April 11, 2017 Dinner and Regular Meeting.

6.b. Request by The Mack Club (Fine Rock Grill) for a liquor license at 2223 NE McDaniel Lane.

Councilor Stassens MOVED to adopt the consent agenda; SECONDED by Councilor Ruden. Motion PASSED unanimously.

7. RESOLUTIONS

7.a. Resolution No. 2017-29: A Resolution awarding the contract for the OR 99W at 2nd St Signal Replacement Project, Project 2015-17.

Community Development Director Bisset referred Council to the staff report and resolution in the packet. He explained what was included in the project and that it was mostly funded by the transportation bond measure. The sewer work was funded by the wastewater capital funds and Oregon Department of Transportation (ODOT) was contributing half a million dollars for the replacement of the signals. Staff recommended approval of the Resolution to award the contract to Emery & Sons Construction Group in an amount \$1,699,995.00.

Councilor Stassens MOVED to adopt Resolution No. 2017-29 awarding the contract for the OR 99W at 2<sup>nd</sup> Signal Replacement Project, Project 2015-17; SECONDED by Council President Menke. Motion PASSED unanimously.

7.b. Resolution No. 2017-30: A Resolution awarding the contract for the 2017 Street Overlay Project, Project 2016-15.

Community Development Director Bisset stated that the resolution was related to the summer overlay project which was also funded through the transportation bond measure. This was the third year of the four year

overlay program. Twenty-one streets would be touched this summer and work would begin in June and end in September. Staff recommended approval of the Resolution to award the contract to Roy Houk Construction in an amount of \$1,240,854.40.

Councilor Jeffries MOVED to adopt Resolution No. 2017-30 awarding the contract for the 2017 Street Overlay Project, Project 2016-15; SECONDED by Councilor Garvin. Motion PASSED unanimously.

- 7.c. Resolution No. 2017-31: A Resolution awarding the contract for the design of the 12<sup>th</sup> Street Sanitary Sewer Rehabilitation Project.

Community Development Director Bisset reminded Council that in February Council approved a short list of consultants to do the design work. Murray Smith and Associates was chosen. Their work would be completed this calendar year and construction would take place next calendar year.

Councilor Garvin MOVED to adopt Resolution No. 2017-31 awarding the contract for the design of the 12<sup>th</sup> Street Sanitary Sewer Rehabilitation Project; SECONDED by Councilor Jeffries. Motion PASSED unanimously.

5. PUBLIC HEARING

- a. Ordinance No. 5021: An Ordinance Amending The Zoning Map Designation From EF- 80 (Exclusive Farm Use – 80-Acre Minimum) To R-1 PD (Single-Family Residential Planned Development) On Approximately 13.6 Acres Of Land, And From R-1 (Single Family Residential) To R-1 PD Single-Family Residential Planned Development) On Approximately 17.23 Acres Of Land, And Amending Planned Development Ordinance No. 4626 To Encompass An Additional 30.83 Acres Of Land To Allow Variation In Lot Sizes And Setback Requirement To Include: A Reduction In The Front Yard Setback For Certain Lots From 20 To 15 Feet; A Reduction In The Side Yard Setback For Certain Lots From 10 Feet To Either 7.5 Feet, 5 Feet Or 3 Feet; And A Reduction In The Exterior Side Yard Setback For Certain Lots From 20 Feet To 15 Feet.

AP 1-17

Mayor Hill read the public hearing statement and opened the public hearing at 7:47 p.m. He asked if there were any objections to Council's jurisdiction over hearing this matter.



Jeff Hayes, McMinnville resident, stated that the Hayes family sent a letter to the Council and that the timeline set by ORS 227.178 had passed which was acknowledged by staff in their letter dated November 16, 2016, and by Municipal Zoning Ordinance (MZO) 17-72-180 which clearly stated that the application must be filed within 15 calendar days of the mailing of the letter informing the applicant of the denial by the Planning Commission. He expressed his belief that the Planning Commission erred in allowing additional time to the applicant as the applicant did not have that ability. The applicant had an additional eight days beyond the 15 day timeframe. Mr. Hayes stated the MZO did not say the hearing was a de novo hearing and staff erred saying that it was. MZO 17-72-180 also stated the Council would receive a report and recommendation from the Planning Commission and this had not happened. Mr. Hayes stated that a new staff report was improper and should not be considered.

City Attorney Koch recommended that Council continue the public hearing after taking testimony so staff could consider the jurisdictional challenge prior to Council's decision.

Roger Goodwin, McMinnville resident, also challenged the jurisdiction of the City Council based on timeliness. He stated that the applicant surpassed the 15 days from the mailing of the decision to file the appeal. As such the Planning Commission's decision for denial was the end of the line.

Planning Director Richards explained the timeframe. The decision was made on February 16, 2017, and the notice was to be mailed within five working days. Because of President's Day on February 21, the notice was mailed on February 24, which met the five working days requirement. The applicant had 15 calendar days to submit an appeal, however per the zoning ordinance if it fell on a weekend day they had until Monday. In this case the 15 calendar days was March 11, which was a Saturday, and they had until March 13 to submit the appeal.

Mr. Hayes stated that he believed the 15<sup>th</sup> day should be March 10.

Mayor Hill asked if Council would like to make any disclosures or abstentions on this application.

Councilor Ruden disclosed a telephone call one and a half years ago to the applicant's office. He also mentioned that approximately four months ago someone from his office contacted the applicant's office about the neighborhood as they were neighbors. He did not have a bias.

City Attorney Koch asked Councilor Ruden if there was any information Councilor Ruden gained from these conversations that would affect his decision. Councilor Ruden stated there was none.

Mayor Hill asked if Council would like to declare any contacts or sources of information outside of staff regarding this application.

Councilor Ruden declared that he received notice as a neighbor.

Council President Menke stated she had read an article in the *News Register*. She also noted that she discussed the application with the City Planner in front of citizens tonight.

Councilor Jeffries disclosed an ex-parte contact with Steve Patterson who sat on the Board of Directors for the Country Club. Mr. Patterson mentioned he was not aware of the applicant approaching Michaelbook although this property was adjacent to the golf course.

The Mayor asked if any Councilors had visited the site.

The Mayor disclosed that he visited the site and looked at the fence. He thought the fence protected the property and hid the homes.

Planning Director Richards and Principal Planner Ron Pomeroy provided the staff report. Planning Director Richards stated that the Council's consideration was if the applicant's appeal had merit, meaning did it meet the City's Comprehensive Plan and Zoning Ordinance. If it did, then Ordinance No. 5021 was the tool to enact the decision in support of the applicant. If it did not, then the Council should vote to deny the appeal. Staff thought the application met the

policies and criteria of the Comprehensive Plan and the Zoning Ordinance and recommended approval.

Staff would be providing a brief summary of the process thus far, the application and the nuances associated with the Planning Commission denial and the staff recommendation of approval. Ms. Richards provided a summary of the record:

- Attachment A: Ordinance No. 5021
- Exhibit A: Decision Document
- Attachment 1 – Application
- Attachment 2 – Application Supplemental Materials (Exhibits A-P)
- Attachment 3 – Public Notices
- Attachment 4 – Testimony Received for the Appeal
- Attachment 5 – McMinnville Staff Report, CC 04.25.17
- Attachment 6 – Decision Letter from the PC
- Attachment 7 – McMinnville Ordinance No. 4626
- Attachment 8 – Public Testimony Received at the PC Level
- Attachment B: PC Staff Report, 02.16.17
- Attachment C: PC Minutes, 02.16.17

Planning Director Richards gave a project summary including the site location bounded by Hill Road and Baker Creek Road and two requested zone changes. One zone change was to go from EF-80 which encompassed 13.6 acres to R-1 PD and the other zone change was from R-1 to R-1 PD. The existing planned development was 26.65 acres that was adopted in 1996. Half of that property had not been developed. The applicant wanted to bring in an additional 7.82 acres from the west and 23.01 acres from the east to the planned development which would create a total planned development area of 57.48 acres. The new planned development would include: 335 dwelling units, 71% detached SFDU, 7.8% attached Single-family dwelling units (SFDU), and 20.9% multi-family for an average of 5.82 units per acre. The proposed subdivision plan of 44.36 acres was reviewed and included: a 3.8 acre C3-PD multi-family, 208 SFDU for 5.13 units per acre, 70 Multi-family dwelling units (MFDU) for 18.42 units/ acre. This would be built out in four phases over 5 years.

Planning Director Richards displayed a table of the proposed development standards and five variances of lot sizes. She stated that the minimum lot size was 3,200 square feet and the largest was 9,000 square feet. She displayed a graphic of the proposed development

reflecting the lot sizes. She noted the larger lots were in Baker Creek East and the smaller lots were in Baker Creek West.

There were other subdivisions in McMinnville where these kinds of interior side yard setbacks could be found. Planning Director Richards reviewed the various similar local developments with a 6 foot and 5 foot side yards and lot widths of 20 to 36 feet. She then showed a product in Sherwood that was similar to the proposal. These products were being built all around Oregon including rural areas.

Baker Creek East would include 23.01 acres, 83 SFDU and 3.6 units per Acre (low density). The average lot size would be 8,567 square feet. There would be an active open space of 7,934 square feet and two walkways for connectivity. This project would be completed in two phases.

Baker Creek West would include 21.35 acres, 125 SFDU and 7.12 units per acre (Medium Density). The average lot size would be 3,642 square feet. There was one lot that would be built as a multi-family complex. It would have 70 MFDU and 18.42 units per acre (High Density). The active open space was 29,000 square feet and there would be two walkways for connectivity. There would be two private parks built by the developer and transferred to the Homeowners Association (HOA). This development would be completed in two phases as well.

Planning Director Richards summarized the overall proposed amended planned development, which would include 57.48 acres total with five different lot sizes, 335 DU (265 single family dwelling units/70 multi-family dwelling units) with a density of 5.8 units/ acre, open space of 5.29 acres or 9.23% of the planned development, and active open space of 4.28 acres or 7.4% of the planned development.

The Planning Commission voted unanimously to recommend denial to the City Council on February 16, 2017. They conducted a public hearing on January 19, 2017. They closed the public hearing but kept the hearing open until February 2, 2017, and deliberated and made a decision on February 16. In their motion to recommend denial they did not provide specific findings for the denial. However, they all provided individual statements as part of the deliberation. Those clearly in

opposition alluded to the purpose statement of Planned Developments in the Zoning Ordinance, Section 17.51.010 as the basis for their opposition.

A summary of the individual concerns raised by some of the Planning Commission were as follows:

- Not enough multi-family units.
- Not enough open space.
- Concern about on-street parking and compact urban form.
- Did not provide enough quality design (urban form, open space) for flexibility requested as part of the planned development.
- Concern about the 3 foot yard setbacks.

On February 24, 2017, a decision letter was provided indicating the developers should use a creative approach and facilitate a desirable aesthetic and efficient use of open space and create public and private common open spaces. The applicant appealed the decision on March 13, 2017. The McMinnville Zoning Ordinance was not clear on whether or not the appeal was a de novo hearing, but after legal counsel review, it was determined that it was.

City Attorney Koch noted that the calculation for the 15 days began on February 24, 2017 when the letter was sent out to Saturday, March 11, 2017. That was consistent with how the City provided the calculation of dates in the Municipal Code.

Planning Director Richards stated that there were two minor revisions to the proposal: one was added active open space to Baker Creek West (21,500 sf), eliminating five lots, and the other was adding five units to the multi-family complex (65 units to 70 units).

Staff recommended approval with the drafted conditions of approval to the Planning Commission and still recommended approval with the drafted conditions of approval to the City Council because it met the Comprehensive Plan policies and goals and the code criteria in the Zoning Ordinance. Staff understood the Planning Commission and the opposition public testimony concerns and anxiety regarding high density SFD development which was new for McMinnville. Staff also understood the enduring value and “The Third Generation Test.”

Ms. Richards reviewed portions of the Comprehensive Plan:

Chapter V: Housing and Residential Development: Goal 1. To promote development of affordable, quality housing for all City residents, and Goal 2. To promote a residential development pattern that was land intensive and energy efficient, that provided for an urban level of public and private services, and that allowed unique and innovative development techniques to be employed in residential designs.

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

Goal #2: Housing – To promote land development of affordable, quality housing for all city residents.

Policy 71.13- Factors that help guide location of High density residential include:

- Direct access to a major collector or arterial street.
- No development limitations.
- Can be buffered from low-density residential.
- Adjacent to a public park.
- Within a half mile of an existing or planned public transit route.
- Areas within a quarter mile of commercial services.
- Facilities have adequate capacity for additional development.

Planning Director Richards stated the area had direct access to a minor arterial, Hill Road. It was within a half mile of an existing or planned transit route. A McMinnville Transit Feasibility Study was being conducted for the area. There was planned commercial north of Baker Road per the Comprehensive Plan. There was concern at the Planning Commission meeting that there were not adequate facilities for additional development, however the City's public facility plans had considered the needed improvements and funding those improvements for this area. Regarding buffers from low density residential, the Baker Creek East portion was low density and mirrored what was built around it. The higher density piece was buffered from low density by large public open space, a future school site, two minor arterials, and duplexes that showed a transition of density. It was supposed to be adjacent to a public park, and there was a planned future park of 5.7 acres adjacent to the bike and pedestrian path.

Policy 71.01- Residential land in west McMinnville is limited to an average of 6 Dwelling Units per acre except land within ¼ mile of transit

routes where higher density should be encouraged. “In order to provide higher density housing on the west side, density allowances or trade-offs shall be allowed and encouraged.” The amended planned development was 5.82 units per acre.

Policy 71.09 – Majority of land in McMinnville is intended to develop at Medium Density (4-8 units/ acre), including small lot single-family detached uses, and should be directed to areas with:

- Direct access from collector or arterial streets.
- Adequate service from existing facilities.
- Access to public transit within a quarter mile.
- Not geographically constrained.
- Buffered from low-density residential development.

Baker Creek East was 7.12 units per acre which was a medium density qualification.

Policy 71.06 – Low Density Residential Development (3-4 units/ acre) should be limited to:

- Land shown as Developed low density on buildable lands inventory
- Areas with only collector and local streets
- Areas with geographical constraints

Baker Creek East was 3.6 units per acre.

For Density, Policy 71.01 and Policy 79.00 applied:

Policy 71.01 – Residential land in west McMinnville is limited to an average of 6 DU per acre except land within a quarter mile of transit routes where higher density should be encouraged.

Policy 79.00 – Densities greater than those allowed by the zoning classification may be allowed through the planned development process.

Ms. Richards then reviewed the second legal test in regard to meeting the Zoning Ordinance: Zone Change: Section 17.74.020: Needs to demonstrate the following:

- Consistent with the goals and policies of the Comprehensive Plan.
- Orderly and timely, considers the patter of development in the area and surrounding land uses.
- Able to be effectively served with municipal utilities and services.

Planned Development: Section 17.51.010 (A): Needs to be carried out in accordance with 17.51.030, and accomplish substantially the same general objectives of the Comprehensive Plan and Zoning Ordinance.

Section 17.51.020

A. Principal use shall reflect the use on the Comprehensive Plan and Zoning Map.

B. Density for residential planned development shall be determined by the underlying zone designation.

Planning Director Richards reviewed the other tests related to planned developments including Section 17.51.030 (C) and Section 17.74.070. Other criteria in the Zoning Ordinance included: Parking – 2 spaces per SFDU of four bedrooms or less; Sewer, Water, and Transportation Infrastructure – adequate to serve the development; and Parks – Every residence within half a mile of a neighborhood park. There would be a barrier-free park of 5.7 acres off of Yohn Ranch Drive.

Mayor Hill asked if there was money in the budget for that park. Planning Director Richards confirmed that was correct as it was being built in collaboration with the developer.

Planning Director Richards reviewed the written public testimony that had been received. It generally spoke to concerns regarding: increased density equaling decreased neighborhood livability; whether public utilities and services could accommodate the expected service loads; whether there would be adequate pedestrian connections and convenient access to parks; and the cost of community services such as police and fire. In terms of the conditions of approval, there were 44. Condition #2 limited the C-3 PD to 70 units, 35 foot maximum height, and design standards. She shared pictures that showed what that height would look like from the road. Staff also wanted to ensure that there was additional, quality, active open space in the higher density neighborhood and Condition #4 required three active open space areas in Baker Creek West to be built by the applicant and maintained by the HOA. A recommended amended to that condition was that Tract C and D of Baker Creek West and Active Area A of Baker Creek East be turf open spaces with some amenities and that the Detention Areas be landscaped. The final designs would be approved by the Landscape Review Committee.



Planning Director Richards stated to mitigate the concern regarding producing a cookie-cutter neighborhood, the following conditions were included: No same home design shall be built in adjacency to another including both sides of the street (Condition #6), That 25% of the lots shall be offered at fair market value for six months following preliminary plat approval (or should it be final plat recording) to outside developers and builders (Condition #26), and Architectural Plan Book needed to be provided and approved (Condition #5). The Applicant would be required to submit a “pattern book” for residential design addressing:

- Quality and Type of exterior materials.
- Front porches and entry areas.
- Sample exterior colors.
- Residential style and massing.
- Roof design and materials.
- Exterior doors and windows.
- Garage door types.

Planning Director Richards noted clerical errors in the packet: the open space in Tract C in Baker Creek West should be 11,393 square feet (Condition #4) and the front yard setback should be 15 feet not 20 feet (Condition #3). She concluded that staff recommended approval of the Ordinance with the conditions of approval.

Councilor Drabkin asked staff if there was a formula to determine the correct amount of open space. Planning Director Richards replied there was not a formula in the code, but it was recommended in the future code amendments. There was a formula established by state law that only allowed the amount of open space to be proportional to the land development proposal. This application had more open space than past developments.

Councilor Drabkin asked about wetland protection. Principal Planner Pomeroy stated the City tried to preserve wetlands whenever possible. If a wetland was suspected or known, then an assessment would be conducted by the Division of State Lands. If it needed to be protected then it must be fenced off and preserved. A developer could mitigate a wetland off-site by building a new one or enhancing an existing wetland in the same or another basin. A wetland assessment would be required per Condition #27.

Councilor Ruden noted that it was great to see this property for its highest and best use. He asked about the thought process regarding the reduction

of lot sizes on the 23.01 acres. Planning Director Richards explained that the formula created these lot sizes to achieve the needed densities. Baker Creek came in with a proposal and staff noted that it fit into a variety of the policies.

Councilor Stassens asked how adding land to a planned development worked and how it impacted the existing planned development. Planning Director Richards noted that Ordinance No. 4626 created the existing planned development. Staff recommended repealing Ordinance 4626 and all the elements that still applied to the planned development as well as the conditions they wanted to carry forward would be included in the new ordinance.

Councilor Stassens asked Planning Director Richards to explain the density trade-offs. Planning Director Richards clarified that in order to create a valuable, livable neighborhood there needed to be trade-offs such as additional open space or innovative design to be able to achieve the density required but still have private walls. It allowed those elements to happen.

Councilor Jeffries asked about the multi-family location. Planning Director Richards noted that the lot had been identified, but they did not need to provide a site plan yet. There was a condition of approval that included design standards for the multi-family development.

Discussion ensued regarding multi-family units allowed in a C-3 PD zone.

Councilor Jeffries expressed concern that there was only one entrance off of Hill Road to the development. He was also concerned regarding the volume of traffic during peak times onto Hill Road. Planning Director Richards explained that many access points on minor arterials were discouraged. The intersection would be built to accommodate the extra traffic. The Transportation System Plan had taken this development into account.

Community Development Director Bisset stated that a traffic study was done for full development of this area to this level of density including the development of the elementary and high school sites and projected traffic volumes to 2035. Per the traffic analysis, both corridors would perform at a high level of service and the key intersections would operate safely. For

the intersection of Hill and 2<sup>nd</sup>, at year 2035 a traffic signal or a round about would have to be installed. Planning Director Richards explained how Hill Road was being developed and how it would look more like Baker Creek in how it accommodated traffic with additional bicycle and pedestrian amenities.

Councilor Jeffries was skeptical as he did not see it as a safe solution moving forward.

Mayor Hill announced that Council would recess for a short break at 9:25 p.m. The public hearing resumed at 9:37 p.m.

Applicant: Gordon Root stated that Stafford Development Company, LLC was both a partner and manager of Baker Creek Development, LLC, the applicant. The principals were Gordon Root and Rick Waible. The project manager was Morgan Will. Stafford Development was a local developer and home builder with 23 employees. They focused on smaller communities such as: McMinnville, Dundee, Forest Grove, Scappose, Silverton, Woodburn, Molalla, Canby and Dallas. They strove to deliver the A, B, C's of housing, affordability, balance, and choice.

Baker Creek Development, LLC was the applicant/owner. Mr. Root shared the names of the project team. They built a diversity of housing types and lot sizes, they had an innovative approach to small lot development, they focused on building "high performance homes," and they were predominantly "SPEC" home builders. He noted they were multiple awarding winning builders, such as the Street of Dreams in 2016. They sold the majority of the lots they developed, they took a long term approach to the marketplace, and wanted to be a good corporate citizen. They planned to work with the City on street improvements and creating park and open space.

Morgan Will of Stafford Development displayed the proposed development which showed the existing C-3 PD portion. The northern area had an existing R-1 overlay that was approved under Ordinance 4626. It was the area they were requesting to amend. There was a remnant of County zoning in the southern area and their intent was to change it to R-1 PD. To the east were 57 detached single family homes and duplex town homes already built out and the western area of the site was left unbuilt. The amendment to the plan included adding land. A new overlay would be

put on the unbuilt portions of the planned development. The amended planned development overlay created no change to the existing built areas, it met the Ordinance 4626 requirement that the C-3 PD portion of the site be developed with multi-family dwellings, it allowed flexibility in block dimensions to preserve and protect existing natural features, and it allowed variation from the underlying zoning district in three ways, side setbacks, front setbacks, and lot area. He continued by describing the five proposed typical lot types. For the SFD 70, no variations were being requested. They would be standard R-1 zone lots with 10 foot side yard setbacks, 20 foot street, garage, and rear setbacks, and 9,000 square foot minimum lot area. For the SFD 65, they were requesting flexibility to allow the lots to have 7.5 foot side yard setbacks and greater than 6,500 square foot average lot area. They would have up to a 50 foot wide dwelling, a minimum of four off-street parking spaces, and all other dimensions met R-1 standards. For the SFD 60, the variance requested was to have a 5 foot side setback, 15 foot front building setback, and greater than 6,000 square foot average lot area. They would have up to a 50 foot wide dwelling, a minimum of four off-street parking spaces, and all other dimensions met R-1 standards. For SFD 40, the requested variance was for 5 foot side setbacks, 15 foot front and street side setbacks, and 4,000 square foot minimum lot area. These lots would accommodate a typical 30 foot wide dwelling and would have a minimum of four off-street parking spaces. For SFD 32, the lots would be interspersed with SFD 40 so that there would be 8 feet between buildings. The variance would be for a 3 foot side setback, 15 foot front and street side setback, and 3,200 square foot minimum lot area. The lots would allow for a typical 26 foot wide dwelling with a minimum of four off-street parking spaces.

The functionality and benefits of side yards was discussed. Mr. Root clarified these were detached town homes that owners could walk all the way around and windows were on all four sides and they did not share a wall with their neighbor. They had an open floor plan. While they sacrificed side yard, they had not sacrificed the depth of the back yard. They planned to put rocks on the side yard to help with maintenance. The garbage and recycling bins could go in the side yard and be out of site.

Driveway depth was also discussed. Mr. Root said the driveway depth met the R-1 standard, which was 20 feet from the garage door to the front property line. They were full size driveways. He explained how they were pairing the driveways to create spaces for on-street parking.

Discussion ensued regarding the minimal use of finite fuels and raw materials as well as energy efficiencies. Mr. Will explained that they were meeting the housing goals of more homes in less land and more homes using less raw materials. Mr. Root stated they would be selling most of the lots and could not dictate what other people would build. Energy efficiency standards were becoming the norm. Customers were asking for that and builders were responding. A new home was generally lower in cost for heating, cooling, and maintenance. The smaller lots and homes were more energy efficient.

Mr. Will said 83 units were planning to be built for Baker Creek East which would be larger lots and 125 units for Baker Creek West which would be smaller lots.

Councilor Ruden asked about using alleys for parking instead as there would be many driveway cuts and concrete driveways. If there were alleys, street trees could be put in and it would be a more livable street. He thought the streetscape proposed was a negative to the project. Mr. Root thought that front-loaded homes were more family friendly. He had built at a much higher density than this and there was a need for this type of housing. It was what the market was demanding. There would be 8 foot spacing between the smaller homes and there would be off-street parking. He would put in as many street trees as possible.

Proposed street tree locations were discussed. The applicant was targeting one street tree per lot. It was noted that one of the conditions was for approval of the landscape plan by the Landscape Review Committee.

Pricing of the lots and homes were discussed. The lowest price point would be about \$240,000. Housing affordability was discussed.

Mr. Will continued by explaining the extension of stubbed streets including Shadden Drive, 23<sup>rd</sup> Street, and Yohn Ranch Drive as well as a network of new internal local streets.

Mr. Root reviewed the planned development approval criteria. The planned development objectives were housing affordability, diversity, and variety; focus on detached single family housing type; open space amenities; off-street parking, avoid “cookie cutter” housing; appropriate

transition of housing density; and preserve and incorporate natural amenities into the design.

Andrew Stamp, Land Use Attorney, reviewed the planned development objective of providing affordability, diversity, and variety and the Statewide Planning Goal 10 (Housing). Goal 10 stated, "...plans shall encourage the availability of adequate numbers of needed housing unit at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density...". For this project they were looking at the financial capability of the people of McMinnville and were trying to tailor the housing types to the needs of the community. They were defining affordable housing as spending no more than 30% of gross household income. And if more than 30% was being spent, it was considered a house burden. McMinnville had the highest percentage of cost burdened residents in Yamhill County. There was a high demand for homes in McMinnville, but the median home prices were rising faster than incomes. This was a danger sign for the community and there needed to be more inventory to meet the demand. This application would help to decrease the gap. Once land was in the Urban Growth Boundary (UGB), it needed to be available to be developed. The R-1 conforming lots were not very affordable. By creating many different lot sizes, the development would be appealing to the broadest possible range of home buyers. They were seeking the flexibility referenced in Goal 10 to develop a diverse variety of homes commensurate with local incomes. The median price on the market currently was \$400,000 which was only affordable to a small percentage of McMinnville residents. Their goal was to be significantly lower than that. Diversity and variety allowed people to move upward and downward on the housing spectrum while staying in the same community with their friends and neighbors. It was important to note that the development costs for the site were fixed and the more homes that could be accommodated in that space would help reduce the overall development costs. He discussed the consequences to the prices based on the increased open space that was suggested by the Planning Commission.

Mr. Root highlighted their focus on detached single family housing types. The Metro Residential Housing Preference Study showed 80% of people preferred detached single family homes and 7% indicated a preference for attached dwellings. Even though the homes were eight feet apart, they could not hear their neighbors, there were windows on all sides with light

coming in, people could walk all the way around their homes, and it was the desired housing type. The existing planned development created 54% detached single family homes and 46% attached duplexes/townhomes, and the amended planned development created 71.3% detached single family homes, 7.8% attached duplexes/townhomes, and 20% multi-family homes.

Mr. Will discussed open space amenities. They met with the Parks Department regarding the proposed future park. Originally they thought the open space in Baker Creek East would be sufficient. The Planning Commission thought Baker Creek West needed more open space. The amended plan proposed not building on two lots and using the 10,000 square feet for open space. It would be an open field for active play on Montgomery Drive. There would also be a path on the boundary with the school property to encourage walking. For Baker Creek West 2<sup>nd</sup> phase there would be a 7,500 square foot “tot lot” with playground, bench, and picnic table on Haun Drive and there would also be 11,000 square feet of active open field space. There would be a walking path on Haun Drive to Baker Creek Road to encourage walking and for future transit connections. In the Baker Creek East 1<sup>st</sup> phase there would be an 11,000 square foot tract with walkway and tree grove at Shadden to Victoria. There would also be 8,000 square feet of active open space and 16,000 square feet for a detention pond. In the Baker Creek East 2<sup>nd</sup> phase, there would be a 3,500 square foot walkway connecting Snowberry and McGarey Drive and would be adjacent to over 55,000 square feet of passive open space and natural area.

Mr. Root said regarding adequate off street parking, Code Section 17.60.060 (A)(5) required two off-street parking spaces per unit. They proposed four off-street parking spaces and with pairing the driveways, all single family homes would have more than one on-street parking space per lot. This gave them over 5 parking spaces per home. In summary, there would be 208 new detached single family homes. They were required to have 416 off-street spaces by Code and were proposing 832 off-street spaces as well as 305 on-street spaces for a total of 1,137 new parking spaces.

Mr. Root addressed the way they were avoiding “cookie cutter housing.” This would be done by a variation in lot size and side setbacks, providing not just one type of home, and a variation in size, massing and spacing. There would be a minimum of fifteen different plans for Baker Creek

West. There would also be a variety of building facades and lots would be made available to other builders. He noted that a 15 foot front yard setback allowed for some flexibility with design and variety in the streetscape. It also allowed everyone to have a front porch.

Mr. Will discussed the housing density transition which would match the existing patterns of zoning.

Discussion ensued regarding lot reservations and when the six month period would begin. Councilor Ruden thought instead of the six month period beginning at preliminary plat approval, it should begin at the recording of the plat. Mr. Root wanted to put in phase 1 and phase 2 this construction season. He agreed preliminary plat approval was nebulous, but recording of the plat might take until next year. Builders wanted the ability to pull a building permit at the plat report. He suggested that the six month period begin at the commencement of site development which was about four months from now.

Councilor Ruden still thought it should start at the recording of the plat. Mr. Root agreed that 25% of the lots would be held back until the recording of the plat.

Mr. Will continued explaining the housing density transition including the east to west pattern of large lots to the east and medium lots to duplex/townhomes in the west. The multi-family would be in the west next to school, park, and commercial sites. Another objective was protecting natural features and incorporating them into the design. They would be avoiding wetland impacts with cul-de-sacs and modified blocks and they would protect the features in open space tracts and conservation easements. He noted that 100% of the wetlands would be maintained and protected.

Mr. Stamp stated that there were a lot of competing goals and policies and they were trying to find a balance to integrate this new development into an existing community. He thought this was the best plan for this development. As the staff report concluded, the application met the criteria. The Planning Commission had denied the application and requested more open space and connectivity and they had made those changes. The Commission relied on a purpose statement as the basis for denial, and LUBA stated purpose statements should not be used for that



purpose. He read an editorial from the *News Register* regarding how open space was nice but it came at a price and how smaller lots and higher densities represented the only way single family housing could be made affordable. He requested approval of the application.

Council President Menke stepped out of the room at 11:15 p.m. and returned at 11:16 p.m.

Councilor Drabkin responded to the editorial by noting that smaller lots and higher densities did not mean the housing would be more affordable. House prices were on the rise and she was concerned that the intention of creating affordable housing would not be the end result. There was no promise that a certain percentage would be kept at the affordable housing rate. She asked if there was a way to guarantee that the SFD 32 homes would be affordable.

Discussion ensued regarding workforce housing. Mayor Hill thought this application would address that need.

Councilor Garvin questioned that this was affordable. It was market competitive, but not affordable. Mr. Root agreed this was workforce housing. Those who were currently renting and bought one of these homes would make that rental available for someone else.

Proponents:

Mark Davis, McMinnville resident, was not a fan of the planned development process. He thought there needed to be more land brought in to the UGB and that land should be given the correct zoning. He was supporting this because this was the only way to get multi-family development in the community. He noted that the Comprehensive Plan called for spreading affordable housing around the community. Those policies were 61, 67, 84, and 86. He also referenced the Economic Opportunities Analysis which was completed in November 2013 and Figure 8 on Page 15 that covered employment in 2010. In 2010 there were 13,383 jobs and of those jobs 2,933 were in the retail and dining sector with an average annual income of \$21,202. There were another 4,320 jobs in the services sector with an average annual income of \$34,274. That was 56% of the jobs in the community. Salaries had increased since then, but so had housing prices. There was a need for more affordable housing and

affordable rentals. People who had jobs in the City should be able to live in the City.

David Hahn, McMinnville resident, said this was a quasi-judicial decision. The Planning Commission hearing included what people thought about the application, but there were rules that the Council had to follow. He encouraged them to vote according to the rules. They had a planning staff that had spent many hours putting this together and had worked with the applicant. He thought the Council should rely on what the professionals said, which was to approve the application. Regarding affordable housing, the RMLS in McMinnville listed zero building sites under \$100,000. They needed more developments like this one.

Opponents:

Roger Goodwin, McMinnville resident, did not think the application met the mutually beneficial relationship criteria to the existing Shadden Claim development. In order to meet the density levels, they were using the Shadden Claim development which had a lower density to get to the less than six threshold. Some of the lot sizes on the maps were inaccurate to the existing Shadden Claim. He did not see how the variances requested alleviated a hardship. Traffic flow would be a problem, especially for the multi-family, as there was no easy access to Hill or Baker Creek. They would have to go through the neighborhood and he suggested putting in more accesses. He did not think there would be enough parking. He read the approval criteria for the variances and discussed how he did not think the application met the criteria. The project would lower property values. A lot of the proposed open space was not usable. He did not think there were special physical conditions or objectives that existed to warrant a departure from the standard requirements. He thought the homes on the smaller lots would be too close together. Most of these homes would become rentals and he thought it missed the mark for diversity. They didn't know how the development would look in the end if the applicant was only going to develop 20% of the lots. The apartment building would be too congested for the neighborhood. He recommended denial of the application.

Jeff Hayes, McMinnville resident, stated under ORS 227.178, this hearing was improper. The staff report stated the time for approval ended on March 28, 2017. According to the ORS, the time for approval, including

the resolution of all appeals, ended on that date. He thought it was improper to be holding this public hearing based on that.

City Attorney Koch explained that statutory provision created a deadline for the City to take action on the application and it was the developer's right to enforce it. It did not preclude holding a hearing tonight.

Mr. Hayes thought the City's legal counsel was mistaken. The original application should not be considered as one proposal. It was two distinct developments within two distinct areas. The applicant was seeking different modifications to the overall zoning. The two areas were not connected and there was no reason to consider them as one. Staff stated in the background information that these applications (plural) were submitted as one overall package and staff repeatedly referred to two areas. The only reason to combine them was for the applicant to manipulate the density to achieve a unit number goal. There were no CC&R's presented for approval. He questioned the wetlands survey as there was no flow of Baker Creek included. He was not opposed to development, however the concerns had not been alleviated, this was too much density and traffic for the area, and it would affect livability.

Principal Planner Pomeroy confirmed Baker Creek East and Baker Creek West were joined by Shadden Claim first addition. Since it was contiguous, the applicant was able to proceed with one proposal. Regarding density, in all planned developments the density was averaged regardless of the shape of the planned development. In this case, part of the planned development area was developed years ago. They were growing the size of the area by adding more land which allowed for density averaging. It made sense logically to discuss this in two different pieces because they were at opposite ends of this contiguous shape and they had different characteristics.

Rebuttal:

Mr. Stamp confirmed that the City Attorney correctly advised the Council on the procedural matters for ORS 227.178. The 120 days could be extended and the applicant agreed to whatever extension the Council needed. Contiguous meant joining at one point even if it was less than one foot, and in this instance there was much more than that. Regarding hardship for the variances, that was not appropriate here because they

were not seeking a variance in the traditional section of the code that dealt with variances. They were seeking a deviation from the normal R-1 standards and the points they raised warranted not applying the traditional 9,000 square foot lot size. If all of these lots were 9,000 square feet, there would not be as many buyers for them. The City needed workforce housing. Regarding the traffic, it was general transportation planning that arterials did not have many connection points because they created conflicts. It was a better situation for people to experience some congestion than having several car crashes on the arterial. He asked for approval of the ordinance.

Mr. Root said Baker Creek was on the far north of Baker Creek Road and was not part of this application.

There was discussion regarding continuing the hearing due to the late hour and to allow citizens to testify who had to leave the meeting early.

Mr. Stamp said it was the applicant's preference for the hearing to be closed and a decision made that night as he was up against a deadline to get going in this building season.

City Attorney Koch said if the Council thought there was testimony that had not been heard yet that would weigh on the Council's decision, they should continue the hearing. Otherwise he advised them to close the hearing.

Councilors Menke and Stassens thought there had been enough opportunity for citizens to provide testimony and thought the hearing should be closed.

Councilor Drabkin was not clear if this would achieve affordable or workforce housing. She thought it was not a good idea to make a decision after midnight.

Council President Menke thought it was workforce housing, not affordable housing.

By majority consensus, Mayor Hill closed the public hearing.

Deliberations:

Councilor Drabkin expressed concern regarding the numbers and whether or not the increased density would translate to affordable/workforce housing. She would like the additional housing as there was a need for it, but there was not a way to hold the applicant accountable after approval to guarantee that workforce housing.

Councilor Ruden agreed the City needed this project. He liked most of the project, but had concerns about the density of Baker Creek West and the livability of that neighborhood. He appreciated the open spaces recommended by the Planning Commission. He thanked the applicant for adjusting the six month period. He thought the criteria had been met. He suggested increasing the lot sizes of Baker Creek West by eliminating the SFD 32 lots and making them SFD 40 lots. It was a large compact area with close concrete driveways and by making the lots larger the streetscape could be improved and the traffic and noise could be cut down. He did not have an issue with the requested setbacks.

Councilor Jeffries did not have reservations about the traffic flow. He thought it would be resolved as needed. He appreciated the desire to do in-fill here and he thought it was the right place for this type of development. He was also concerned that it would not hit the price point to make the homes affordable. He did not want to lose the opportunities to solve the affordable housing problem and shared Councilor Drabkin's concerns. He hoped that having this volume of dwellings would lower the price of homes. He was also concerned about the livability of the neighborhood and the number of driveways.

Councilor Stassens said they did not have affordable lots or affordable houses in the City. Whether it was workforce housing or affordable housing, it was all needed. The location was good and she thought it met the criteria. The only criterion she wanted to hear more about was the special physical conditions or objectives, and she thought the planning staff and applicant presentations explained the need for this housing and that it was a new type of housing that would be at a lower price point. She thought it would be a nice aesthetic and they had to follow the design standards. She was in support.

Discussion ensued regarding establishing a local Homeowners Association for this project. City Attorney Koch said establishing an HOA was in the

conditions of approval through the CC&R's. The CC&R's would have to be submitted to the City for approval prior to the final plat being recorded.

Councilor Garvin had reservations about the density in Baker Creek West. He thought the criteria had been met and had merit to move forward. He did not think the SFD 32 lots would be affordable housing and thought they should all be SFD 40 lots to create a better streetscape.

Council President Menke thought the criteria had been met. Workforce housing was desperately needed. She was not in favor of converting the SFD 32 lots into SFD 40 lots because the SFD 32 lots would be less expensive and increased the chances for some people to buy a home. There was more than adequate parking, and she was not concerned about the wetlands.

City Attorney Koch said the issues of creating a condition that established the sale or rental price of some of the homes as affordable housing and eliminating the SFD 32 lots and putting in SFD 40 lots instead were not raised during the public hearing portion of the process to allow the applicant the opportunity to address them. If the Council wanted to move forward with imposing those conditions, the public hearing should be reopened for the applicant to discuss the impacts.

Councilor Drabkin thought affordable housing had been discussed with the applicant and according to the applicant's proposal, they were already suggesting that a larger percentage would be affordable housing. She was asking for a guarantee of 20% and in the application it stated 26.9% would be affordable housing.

City Attorney Koch said it came down to fairness and allowing the applicant to have input before imposing conditions that limited how they could sell certain lots or the size of the lots.

Councilor Ruden did not want to reopen the hearing for the SFD 32 lot size issue.

Councilor Drabkin said the City had a long history with local builders and she trusted that the applicant would provide affordable housing for the community which was a trade-off for the variances.

Based on the findings of fact, the conclusionary findings for approval, and the materials submitted by the applicant, Council President Menke MOVED to ADOPT Ordinance 5021 with the amendment to Condition 26 regarding the six months following final plat approval rather than preliminary plat approval; the amendment to Condition 4 fixing the typographical error of 111,393 to 11,393 square feet; the amendment to Condition 3 regarding the SFD 60 lots front yard setback as 15 feet rather than 20 feet; and the amendment to Condition 4 to add language at the end of paragraph 1 that stated “Additionally Tract C and Tract D of BCW and Active Space A of BCE shall be landscaped with turf and appropriate benches, trash cans, and picnic tables shall be provided and reviewed by the Landscape Review Committee as part of the landscape plan. All the detention areas and passive open spaces shall be landscaped and reviewed by the Landscape Review Committee as part of the landscape plan.” The motion was seconded by Councilor Ruden.

City Attorney Koch read by title only Ordinance No. 5021 amending the Zoning Map designation from EF- 80 (Exclusive Farm Use – 80-acre minimum) to R-1 PD (Single-Family Residential Planned Development) on approximately 13.6 acres of land, and from R-1 (Single Family Residential) to R-1 PD (Single-Family Residential Planned Development) on approximately 17.23 acres of land, and amending Planned Development Ordinance No. 4626 to encompass an additional 30.83 acres of land to allow variation in lot sizes and setback requirement to include: a reduction in the front yard setback for certain lots from 20 to 15 feet; a reduction in the side yard setback for certain lots from 10 feet to either 7.5 feet, 5 feet or 3 feet; and a reduction in the exterior side yard setback for certain lots from 20 feet to 15 feet. (No Councilor present requested that the Ordinance be read in full.) Ordinance No. 5021 PASSED by a unanimous roll-call vote.

City Attorney Koch said this decision could be appealed to LUBA by filing a notice of intent to appeal within 21 days after the Council’s land use decision became final, which was 30 days from today’s date.

8. ORDINANCES

- 8.a. Ordinance No. 5020: An Ordinance amending the Comprehensive Plan Map designation from Residential to Commercial, and from Commercial to Residential, on portions of an existing property and lot of record, and

rezoning portions of said property from a combination of EF-40 (Exclusive Farm Use – 40-Acre Minimum), R-1 (Single Family Residential), and C-3 (General Commercial).

Associate Planner Chuck Darnell said this ordinance amended the Comprehensive Plan map for two parcels of property at 2121 NE 27<sup>th</sup> Street. They wanted to partition the lot into two parcels. Two Comprehensive Plan designations and three zoning districts applied to the property. There were previous land use decisions on the subject site, ANX 5-86, CPA 4-86, ZC 12-86, and MP 8-86. A survey was recorded in 1995 that created the existing lot of record and this was the lot to be partitioned. The request was to remove the County zoning and designate each new property as a single land use designation on the Comprehensive Plan Map and as a single zoning district. He summarized the findings for the review criteria. The original condition of approval stated if building permits were requested for the southern parcel, landscaping would be required along the western and northern portions of the site to provide buffering. Since the Planning Commission meeting, additional testimony had been received from a neighboring property concerned about the level of noise and activity on the site. Staff communicated that concern with the applicant and the applicant was willing to add landscaping at this time to the western property line to provide buffering. Staff suggested amending Condition 4 to the zone change, to require landscaping be provided at the time of rezoning and that it would be tied to the issuance of building permits for the northern parcel. A single family home would be built on this parcel. Staff recommended approval.

City Attorney Koch read by title only Ordinance No. 5020 amending the Comprehensive Plan Map designation from Residential to Commercial, and from Commercial to Residential, on portions of an existing property and lot of record, and rezoning portions of said property from a combination of EF-40 (Exclusive Farm Use – 40-Acre Minimum), R-1 (Single Family Residential), and C-3 (General Commercial). (No Councilor present requested that the Ordinance be read in full.) Ordinance No. 5020 PASSED by a unanimous roll-call vote.

9. ADVICE/ INFORMATION ITEMS

9. a. Reports from Councilors on Committee and Board Assignments



None.

9.b. Department Head Reports

None.

9.c. Building Division Reports

None.

10. ADJOURNMENT: Mayor Hill adjourned the Regular City Council Meeting at 12:50 a.m, April 26, 2017.

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Melissa Grace, City Recorder



He reviewed Council's vision:

- Manage and plan to meet demand for city services.
- Communicate with citizens and key local partners.
- Plan and construct capital projects.
- Plan and manage financial resources.
- Promote sustainable growth and development.

Mr. Towery noted the values of the City:

- Citizen Participation
- Communication
- Courtesy
- Customers
- Economy
- Employees
- Equality
- Intergovernmental Relations

He then reviewed the objectives of Council and noted that they may be modified.

Mr. Towery provided a summary of strategic planning and stated that the process can be organic. He noted that strategic planning includes:

- What will be measured?
- What's the measurement method?
- What's the target?
- Which processes affect the target?
- Who is accountable?

The Council discussed:

- Future financial concerns.
- The need for a plan and long-range planning.
- Accountability.
- The importance of honest and direct conversations.
- That growth will need to be addressed. How and how much growth?

City Manager Towery stated that early stakeholder participation is very important to the strategic planning process.

Mayor Hill thanked the Council for their engagement on committees and emphasized that it is a key element in the process.

City Manager Towery noted that smaller focus groups are a good way to effectively engage citizens. He then discussed using consultants and Council agreed that using consultants during some parts of the strategic planning process would be useful.

City Manager Towery asked Council how they would like to be involved in the process and provided some ideas for Council participation. Mr. Towery suggested that a strategic planning committee be formed.

Council discussion ensued regarding the interaction of existing committee involvement and Council. The Council liked the idea of using existing committees to help support the strategic planning process.

Council agreed that they would like to be involved significantly in the process particularly in setting direction.

City Manager Towery noted that there would also be employee engagement.

Mayor Hill highlighted the importance of communication.

City Manager Towery stated that Staff will ask Council to take a high level approach in the process.

Chief Scales noted that the strategic planning process is a big step in identifying priorities and is a process that needs to happen. He noted the importance of finding ways to add capacity.

Department Directors shared their excitement to begin the process and expressed their thanks to Council for their support. Each Department Director noted various aspects of the process that they are looking forward to seeing and working on.

Steve Macartney, President of McMinnville Police Association noted that the City has a rich history of service. He challenged Council to choose excellence in service during the strategic planning process.

Jody Christensen, Executive Director for the McMinnville Economic Development Partnership (MEDP) noted that the strategic planning process will align the organizations and will be done together. She noted that MEDP is excited about being a part of the process.

Jeff Knapp, Executive Director for Visit McMinnville asked for Council to consider data throughout the process.

Mark Davis, McMinnville Citizen, asked that Council engage community groups that do not typically participate.

Doug Johnson, asked for the Council to dream about ways of engaging the Latino population.

Council shared their excitement and thoughts on the strategic planning process including:

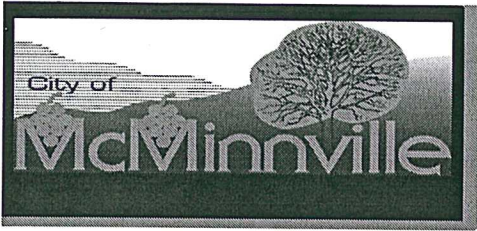
- City Manager Towery's experience for Strategic Planning.
- That the process is long-overdue.
- Strategic Planning a team process.
- Everyone is committed to the process.

The importance of engaging stakeholders and all parts of the community was highlighted.

3. ADJOURNMENT: Mayor Hill adjourned the meeting at 7:51 p.m.

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City Recorder



City Recorder Use	
Final Action:	_____
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Disapproved

### Liquor License Recommendation

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BUSINESS NAME / INDIVIDUAL: Tequila Grill / Carmen Godinez Martinez  
 BUSINESS LOCATION ADDRESS: 325 NE Hwy 99W  
 LIQUOR LICENSE TYPE: Full On Premises Sales, Commercial Establishment

Is the business at this location currently licensed by OLCC

Yes     No

If yes, what is the name of the existing business:

Tequila Grill

Hours of operation: See Application

Entertainment: None

Hours of Music: None

Seating Count: 263

EXEMPTIONS:

(list any exemptions)

NOTE: This is a change in ownership

Tritech Records Management System Check:  Yes     No

Criminal Records Check:  Yes     No

Recommended Action:  Approve     Disapprove

*No disqualifying information found.*

Chief of Police / Designee

\_\_\_\_\_  
 City Manager / Designee



**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:** August 8, 2017  
**TO:** Jeff Towery, City Manager  
**FROM:** Larry Sherwood, Project Manager  
**VIA:** Mike Bisset, Community Development Director  
**SUBJECT:** NW Hill Road Improvements Project - Services During Construction (SDC)

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### **Council Goal:**

Plan and Construct Capital Projects - Continue to plan and implement Transportation Bond improvements.

### **Report in Brief:**

This action is the consideration of a resolution to approve Task Order No. 2 amending the Personal Services Contract with CH2MHill Engineers to include services during construction (SDC) for the NW Hill Road Improvements Project, Project 2015-16.

### **Background:**

The NW Hill Road Improvements Project is the largest of the five Capital Improvement Projects identified within the Transportation Bond approved by voters in 2014. This project will construct widening and other improvements between NW 2nd Street and NW Baker Creek Road including; wider travel lanes; bike lanes; sidewalks; turn lanes; landscaping; street lighting; drainage improvements; and improved roadway geometry. The "S-curves" at Fox Ridge Road will be softened and roundabouts will be constructed at Hill Roads intersections with Baker Creek Road and Wallace Road. The project is expected to start in August 2017 and be completed by October 31, 2018.

### **Discussion:**

At their November 10, 2015 and August 23, 2016 meetings, the City Council adopted Resolution 2015-55 and Resolution 2016-60 respectively awarding the preliminary engineering and final design services for the NW Hill Road transportation bond project to CH2MHill Engineers. The attached Task Order No.2 amends the Personal Services Contract to include services during construction (SDC) for the project. The estimated cost for this work is \$ 242,523.

### **Attachments:**

1. Proposed Resolution
2. SDC Scope and Budget
3. Adopted Resolutions 2015-55 and 2016-60

### **Fiscal Impact:**

The project is funded by 2014 transportation bond proceeds and is included in the proposed FY18 Transportation Fund (Fund 45) budget.

**Recommendation:**

Staff recommends that the City Council adopt the attached resolution to approve Task Order No. 2, in the amount of \$242,523, amending the Personal Services Contract with CH2MHill Engineers to include services during construction (SDC) for the NW Hill Road Improvements Project, Project 2015-16.



RESOLUTION NO. 2017-56

A Resolution approving Task Order No.2 amending the Personal Services Contract to include services during construction for the NW Hill Road transportation bond measure project.

RECITALS:

On November 10, 2015 and August 23, 2016, the City Council adopted Resolution 2015-55 and Resolution 2016-60 respectively awarding the preliminary engineering and final design services for the NW Hill Road transportation bond project to CH2MHill Engineers.

The attached Task Order No.2 amends the Personal Services Contract to include services during construction (SDC) for the project. The estimated cost for this work is \$ 242,523.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. That Task Order No. 2 to the Personal Services Contract between the City of McMinnville and CH2M Hill Engineers, in the amount of \$242,523.00, is hereby approved.
2. The City Manager is hereby authorized to execute Task Order No. 2.
3. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a meeting held the 8<sup>th</sup> day of August, 2017 by the following votes:

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

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

Approved this 8<sup>th</sup> day of August 2017.

\_\_\_\_\_  
MAYOR

Approved as to form:

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

**TASK ORDER NO. 2**  
to the  
**PERSONAL SERVICES CONTRACT**  
with  
**CH2M Hill Engineers, Inc.**

This Task Order No. 2 amends the personal services contract, dated December 3, 2015 and amended via Task Order No. 1 on August 26, 2016, between the City of McMinnville (City) and CH2M Engineers, Inc. (Contractor) for engineering design and construction services.

The parties mutually covenant and agree as follows:

1. STATEMENT OF WORK

The Contractor will provide additional work necessary to provide services during construction (SDC) for the NW Hill Road Project as outlined in the attached proposal dated July 24, 2017. The cost for these services is estimated to be \$242,523.00.

2. EFFECTIVE DATE

This Task Order No. 2 is effective on the date at which it is fully executed. The contract time is extended to November 30, 2018.

3. COMPENSATION

The City agrees to pay the Contractor for actual hour's worked and allowable expenses incurred by the Contractor and its agents for accomplishing the work required by this Task Order No. 2, with a total sum not to exceed \$242,523.00.

4. OTHER CONDITIONS / REQUIREMENTS

The terms and conditions of the original Personal Services Contract remain in full force and effect.

For the Owner:  
Approved:

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

For the Contractor:  
Approved:

By:  \_\_\_\_\_

Title: Vice President \_\_\_\_\_

Date: July 27, 2017 \_\_\_\_\_

**City of McMinnville, Project # 2015-16**  
**NW Hill Road**  
**Service During Construction Statement of Work**

**July 24, 2017**

The City of McMinnville issued notice to proceed December 3, 2015 to CH2M HILL (CH2M) to provide preliminary engineering services for the NW Hill Road project from NW 2<sup>nd</sup> Street to NW Baker Creek Road. Final design plans for construction were prepared and bids opened on June 15, 2017. Construction notice to proceed is anticipated in August 2017. This Statement of Work adds additional scope for CH2M HILL and its team for services during construction (SDC).

**Responsibilities**

CH2M responsibilities during construction include:

- Submittal review (support role)
- Request for Information (RFI) review (support role)
- Prepare design changes
- Attend meetings (support role)
- On-call construction site monitoring
- Prepare as-built drawings
- Post-construction monumentation survey

CH2M will not be responsible for the construction Contractor's health and safety plan or compliance.

City of McMinnville responsibilities include:

- Construction management
- Construction site monitoring
- Change order and pay estimate preparation
- QA monitoring
- Submittal review and tracking (lead role)
- Request for Information (RFI) review and tracking (lead role)
- Review and approve change orders
- Review and approve pay estimates

**Task 24: SDC Project Management**

This task includes the work necessary to manage the consultant team's work efforts, communicate with the City, administer the consulting contract, monitor progress, and direct consultant's quality control activities during the SDC phase of this contract. It is assumed that these activities will continue for fifteen (15) months.

***Task 24.1 Project Instructions/Team Leadership***

CH2M will prepare updated Project and Field Safety Instructions for the project team for the SDC phase of the project. The consultant team will use these instructions as a guide

for project tasks, budgets, and schedule. Maintaining files, preparing correspondence, preparing submittals, and providing guidance to the team are all part of coordinating and managing the design team.

#### **Task 24.2 Contract Administration/Client Communication**

CH2M will coordinate and manage project development with the City. This includes preparation of monthly progress reports, cost summaries and billings for the project. Coordination meetings will be held with City staff as requested to ensure that the project team are meeting the requirements of the City. We assume that one CH2M management member will attend up to eight (8) meetings over the course of construction.

*Deliverables: Project Instructions and monthly progress reports and invoices.*

### **Task 25: Construction Administration**

Activities include attending meetings, site visits, preparing design changes and clarifications, responding to requests for information, submittal reviews, and performing inspections as requested. This task also includes time budgeted for Kittelson and Associates (KAI) and Marianne Zarkin Landscape Architect (MZLA) staff to respond to questions and modifications.

#### **Task 25.1 Preconstruction Meeting and Coordination**

CH2M shall coordinate and attend the preconstruction meeting with the City, utility companies, and the Contractor. CH2M shall prepare an agenda for the meeting and, and prepare a summary for the meeting. CH2M shall prepare conformed contract plans and prepare the electronic design files for transfer to the contractor.

*Deliverables: Preconstruction meeting agenda and summary, conformed contract plans and electronic design files.*

#### **Task 25.2 Site Visits, Meetings**

CH2M shall conduct site visits to review the construction activities as requested by the City. For budgeting purposes, up to twenty (20) site visits are assumed over the duration of construction for up to one (1) consultant staff.

CH2M shall attend construction progress meetings. For budgeting purposes, monthly meetings are assumed between August 1, 2017 through October 31, 2018. It is assumed that the progress meetings will be attended in person by one (1) consultant staff.

*Deliverables: There are no specific deliverables for this subtask.*

#### **Task 25.3 Requests for Information, Design Changes**

CH2M shall prepare responses and track requests for information (RFI) received from the construction contractor. Up to thirty (30) RFI's are assumed for budgeting purposes.

CH2M shall prepare up to two (2) design changes for the project.

Budget is also included for the CH2M to prepare up to two (2) work change directives and to review up to three (3) pay estimates.

*Deliverables: RFI responses, Design changes due to RFIs,*

#### **Task 25.4 Submittal Review**

CH2M shall review shop drawings and submittals for the project and provide responses (approval or otherwise) as appropriate. The City will maintain necessary submittal tracking documentation for the project and determine which submittals require consultant input or review. For budgeting purposes, up to twenty (20) submittal reviews are assumed, with two reviews required for each submittal, which translates to a total budget for this subtask of 148 hours

*Deliverables: Submittal review comments.*

#### **25.5 Special Inspections**

Perform site inspections of landscaping and for design implementation. These site inspections will be performed only when request by and coordinated with the City's inspector beforehand.

Landscaping – Time is allocated for the landscape architect, MZLA, to provide up to two (2) site visits to ensure compliance with the contract documents.

Design Implementation – Time is allocated for the geotechnical engineer (three (3) site visits), roadway engineer (six (6) site visits) and Illumination engineer (one (1) site visit) to visit the site to ensure compliance with the contract documents.

General Support – 500 hours are included for other field inspection support tasks, as requested by the City.

*Deliverables: There are no specific deliverables for this subtask.*

#### **25.6 Final Inspection**

Attend the final field inspection walk-through with the City and the Contractor. Contribute to the development of a punch list of items for the City to distribute to Contractor.

*Deliverables: Punch list items.*

#### **Task 26: As-Built Drawings**

CH2M shall prepare as-built record drawings of the construction. Time has been budgeted for CH2M, MZLA, and KAI. The as-built drawings will be completed on the computer and Adobe pdf files of the as-built drawings will be prepared for the City.

*Deliverables: Electronic copy of as-built drawings.*

## Task 27: Post-Construction Monumentation Survey

Following the completion of the final paving and placement of monument boxes, centerline and right-of-way monuments will be set along the project corridor.

**Field Work:** Perform the fieldwork necessary to set the centerline monuments in monument boxes previously set by the construction contractor, check/set the right-of-way boundary monuments tied in the pre-construction record of survey, and set the monuments for newly acquired right-of-way. For the purposes of budgeting, up to thirteen (13) centerline monuments will be marked & set and up to ninety (90) existing monuments and forty-five (45) new ROW monuments will be checked and/or reset if destroyed or disturbed.

**Record of Survey:** Prepare a draft Record of Survey following the completion of the fieldwork, to be filed with the Yamhill County Surveyor's Office. Respond to comments from the county review and prepare a final Record of Survey. For the purposes of budgeting, up to a six (6) page Record of Survey is assumed. Reproduction and filing fees are included in this effort. Traffic control will not be required for this effort.

*Deliverables: Record of survey filed with Yamhill County.*

Estimated Level of Effort  
 McMinnville NW Hill Road Improvements  
 Service During Construction

		CH2M							Labor	Mileage /	Total Labor		
Task	Task/Subtask	Simmons	Hoffman	Peralta-ramirez	Alves	Clausen	Atwood						
		Sr Consult	Off Eng	Dsg Eng	Off Eng	Off Eng	Sr. CAD Technician	Proj. Asst.	Acct.	Hours Total	\$ Total	Expenses	& Expenses
<b>24.0</b>	<b>SDC Project Management</b>	\$ 13,640	\$ 2,025	\$ -	\$ -	\$ -	\$ -	\$ 5,400	\$ 5,400		\$26,465	\$400	\$26,865
24.1	Proj Instructions/Team Leadership	15								15			
24.2	Contract Administration/Client Communication	47	15					60	60	182		\$400	
										0			
	<b>Task Hours</b>	<b>62</b>	<b>15</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>60</b>	<b>60</b>	<b>197</b>			
<b>25.0</b>	<b>Construction Administration</b>	\$ -	\$ 67,905	\$ 20,400	\$ 2,700	\$ 18,630	\$ 9,240	\$ 180	\$ -		\$119,055	\$2,875	\$121,930
25.1	Preconstruction Meeting and Coordination		6	4		12	4	2		28		\$50	
25.2	Site Visits, Meetings		115							115		\$1,150	
25.3	RFIs, Design Changes		42			82	80			204			
25.4	Submittal Review		20		20	40				80			
25.5	Special Inspections		312	200						512		\$1,625	
25.6	Final Inspection		8			4				12		\$50	
										0			
	<b>Task Hours</b>	<b>0</b>	<b>503</b>	<b>204</b>	<b>20</b>	<b>138</b>	<b>84</b>	<b>2</b>	<b>0</b>	<b>951</b>			
<b>26.0</b>	<b>As-Built Drawings</b>	\$ -	\$ 540	\$ -	\$ 540	\$ 5,400	\$ 6,600	\$ -	\$ -		\$13,080	\$0	\$13,080
			4		4	40	60			108			
										0			
										0			
										0			
	<b>Task Hours</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>4</b>	<b>40</b>	<b>60</b>	<b>0</b>	<b>0</b>	<b>108</b>			
<b>27.0</b>	<b>Post-Construction Monumentation Survey</b>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$0	\$0	\$0
										0			
										0			
										0			
	<b>Task Hours</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			
	<b>TOTAL HOURS</b>	<b>62</b>	<b>522</b>	<b>204</b>	<b>24</b>	<b>178</b>	<b>144</b>	<b>62</b>	<b>60</b>	<b>1,256</b>			
	<b>LABOR COST</b>	\$ 13,640	\$ 70,470	\$ 20,400	\$ 3,240	\$ 24,030	\$ 15,840	\$ 5,580	\$ 5,400		\$ 158,600	\$ 3,275	\$ 161,875

Bluedot Group										Labor	Mileage /	Total Labor
Professional Land Surveyor	Project Manager	Survey Tech V	Survey Tech IV	2-Person Field Crew	Hours Total	\$ Total	Expenses	& Expenses				
\$ 124.94	\$ 103.74	\$ 91.00	\$ 77.67	\$ 146.46								
\$ -	\$ -	\$ -	\$ -	\$ -		\$0	\$0	\$0				
					0							
					0							
					0							
0	0	0	0	0	0							
\$ -	\$ -	\$ -	\$ -	\$ -		\$0	\$0	\$0				
					0							
					0							
					0							
					0							
0	0	0	0	0	0							
\$ -	\$ -	\$ -	\$ -	\$ -		\$0	\$0	\$0				
					0							
					0							
					0							
0	0	0	0	0	0							
\$ 1,062	\$ 882	\$ 1,638	\$ 4,816	\$ 15,378		\$23,776	\$400	\$24,176				
8.5	8.5	18	62	105	202		\$400					
					0							
					0							
8.5	8.5	18	62	105	202							
8.5	8.5	18	62	105	202							
\$ 1,062	\$ 882	\$ 1,638	\$ 4,816	\$ 15,378		\$ 23,776	\$ 400	\$ 24,176				

Estimated Level of Effort  
 McMinnville NW Hill Road Improvements  
 Service During Construction

		Kittelson and Associates, Inc.							
Task	Task/Subtask	Radosta	Scarborough	Hippenstiel	Cullimore	Labor		Mileage /	Total Labor
		\$ 208.76	\$ 195.16	\$ 192.43	\$ 76.92	Hours Total	\$ Total	Expenses	& Expenses
<b>24.0</b>	<b>SDC Project Management</b>	\$ -	\$ -	\$ 2,886	\$ -		\$2,886	\$0	\$2,886
24.1	Proj Instructions/Team Leadership					0			
24.2	Contract Administration/Client Communication			15		15			
						0			
	<b>Task Hours</b>	<b>0</b>	<b>0</b>	<b>15</b>	<b>0</b>	<b>15</b>			
<b>25.0</b>	<b>Construction Administration</b>	\$ -	\$ 3,123	\$ 41,180	\$ -		\$44,303	\$1,050	\$45,353
25.1	Preconstruction Meeting and Coordination			8		8		\$50	
25.2	Site Visits, Meetings			60		60		\$600	
25.3	RFIs, Design Changes			62		62			
25.4	Submittal Review		12	48		60			
25.5	Special Inspections		4	30		34		\$350	
25.6	Final Inspection			6		6		\$50	
						0			
	<b>Task Hours</b>	<b>0</b>	<b>16</b>	<b>214</b>	<b>0</b>	<b>230</b>			
<b>26.0</b>	<b>As-Built Drawings</b>	\$ -	\$ 390	\$ 1,924	\$ 769		\$3,083	\$0	\$3,083
			2	10	10	22			
						0			
						0			
						0			
	<b>Task Hours</b>	<b>0</b>	<b>2</b>	<b>10</b>	<b>10</b>	<b>22</b>			
<b>27.0</b>	<b>Post-Construction Monumentation Survey</b>	\$ -	\$ -	\$ -	\$ -		\$0	\$0	\$0
						0			
						0			
						0			
	<b>Task Hours</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			
	<b>TOTAL HOURS</b>	<b>0</b>	<b>18</b>	<b>239</b>	<b>10</b>	<b>267</b>			
	<b>LABOR COST</b>	<b>\$ -</b>	<b>\$ 3,513</b>	<b>\$ 45,990</b>	<b>\$ 769</b>		<b>\$ 50,272</b>	<b>\$ 1,050</b>	<b>\$ 51,322</b>

Marianne Zarkin Landscape Architects					
Principal LA	Staff LA	Labor		Mileage /	Total Labor
		Hours Total	\$ Total	Expenses	& Expenses
\$ 130.00	\$ 105.00				
\$ -	\$ -		\$0	\$0	\$0
		0			
		0			
		0			
<b>0</b>	<b>0</b>	<b>0</b>			
\$ 3,640	\$ -		\$3,640	\$100	\$3,740
		0			
		0			
8		8			
8		8			
12		12		\$100	
		0			
		0			
<b>28</b>	<b>0</b>	<b>28</b>			
\$ 780	\$ 630		\$1,410	\$0	\$1,410
6	6	12			
		0			
		0			
		0			
<b>6</b>	<b>6</b>	<b>12</b>			
\$ -	\$ -		\$0	\$0	\$0
		0			
		0			
		0			
<b>0</b>	<b>0</b>	<b>0</b>			
<b>34</b>	<b>6</b>	<b>40</b>			
\$ 4,420	\$ 630		\$ 5,050	\$ 100	\$ 5,150

ALL			
Labor		Mileage /	Total Labor
Hours Total	\$ Total	Expenses	& Expenses
	\$29,351	\$400	\$29,751
15			
197			
0			
<b>212</b>			
	\$166,998	\$4,025	\$171,023
36			
175			
274			
148			
558			
18			
0			
<b>1209</b>			
	\$17,573	\$0	\$17,573
142			
0			
0			
0			
<b>142</b>			
	\$23,776	\$400	\$24,176
202			
0			
0			
<b>202</b>			
<b>1,765</b>			
	\$ 237,698	\$ 4,825	\$ 242,523



A Resolution awarding the contract for the design of the NW Hill Road (2<sup>nd</sup> St – Baker Creek Rd) transportation bond measure project.

RECITALS:

The voter approved 2014 transportation bond measure included a project to widen and improve NW Hill Road between 2<sup>nd</sup> Street and Baker Creek Road. The work will include new travel lanes, traffic control, turn lanes, bike lanes, sidewalks, landscaping, and the realignment of the existing s-curves to improve safety along the corridor.

On April 14, 2015, the City Council adopted Resolution 2015-18, establishing a list of firms qualified to provide consulting services related to the design and construction of the street improvement and repair bond projects. CH2M Hill was selected from the qualified list to provide design services on the NW Hill Road project.

Major work tasks for the NW Hill Road design work include project management; public involvement / information; surveying; traffic analysis; geotechnical work and pavement design; conceptual design and alternative development; preliminary design and plan preparation; utility coordination; and environmental documentation. The cost for this phase of the work is \$372,519.

Future work, including the final design and construction services, will be presented to the Council for approval at a later date. Construction of the improvements is targeted for the summer of 2017.

This work is funded by 2014 transportation bond proceeds, and the project design costs were included in the FY2016 Transportation Fund (fund 45) budget

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMinnville, OREGON, as follows:

1. That entry into a personal services contract between the City of McMinnville and CH2M Hill for the NW Hill Road transportation bond measure project, in the amount of \$372,519, is hereby approved.
2. The City Manager is hereby authorized to execute the personal services contract.
3. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a meeting held the 10<sup>th</sup> day of November 2015 by the following votes:

Ayes: Drabkin, Hill, Jeffries, Menke, Ruden, Yoder

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

Approved this 10<sup>th</sup> day of November 2015.

  
\_\_\_\_\_  
MAYOR

Approved as to form:

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

RESOLUTION NO. 2016 - 60

A Resolution approving Task Order No.1 to the Personal Services Contract for the final design of the NW Hill Road transportation bond measure project.

RECITALS:

On November 10, 2016, the City Council adapted Resolution 2015-55, awarding the Personal Services Contract for preliminary design services for the NW Hill Road Project to CH2M Hill Engineers in the amount of \$372,519.00.

The attached Task Order No.1 amends the Personal Services Contract to include additional work necessary to complete the final design of the project. The estimated cost for this work is \$739,800.00.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMinnville, OREGON, as follows:

1. That Task Order No. 1 to the Personal Services Contract between the City of McMinnville and CH2M Hill Engineers, in the amount of \$739,800.00, is hereby approved.
2. The City Manager is hereby authorized to execute Task Order No. 1.
3. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a meeting held the 23rd day of August 2016 by the following votes:

Ayes: Drabkin, Hill, Jeffries, Menke, Ruden, Yoder

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

Approved this 23rd day of August 2016.

  
\_\_\_\_\_  
MAYOR

Approved as to form:

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



**City of McMinnville  
City Attorney's Office**  
230 NE Second Street  
McMinnville, OR 97128  
(503) 434-7303

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

## **MEMORANDUM**

**DATE:** August 8, 2017  
**TO:** Jeff Towery, City Manager  
**FROM:** David Koch, City Attorney  
**SUBJECT:** Recology – Solid Waste Collection Franchise Amendment

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### **Council Goal:**

Plan For and Manage Financial Resources

### **Report in Brief:**

The City's exclusive Solid Waste Collection Franchise Agreement with Recology Western Oregon provides for the payment of a Franchise Administration Fee equal to 3% of Recology's Cash Receipts from services provided under the authority of the Franchise Agreement. The proposed action would phase in a fee increase to 5%, by July 1, 2018.

### **Background:**

On January 27, 2009, the City adopted Ordinance 4904, granting an exclusive franchise to Western Oregon Waste (WOW) for the collection of all Solid Waste generated within the city limits of the City of McMinnville (Franchise Agreement). On October 12, 2010, the City Council approved the transfer of the rights granted under the Franchise Agreement from WOW to Recology, Inc. (Recology).

Article IV of the Franchise Agreement provides that Recology shall pay the City a Franchise Administration Fee equal to 3% of Recology's Cash Receipts from services provided under the authority of the Franchise Agreement, and authorizes the City Council to amend the amount of the Franchise Fee at any time, at its sole discretion.

### **Discussion:**

City staff is undertaking a review of all franchise agreements awarded by the City to determine whether the agreements are current, reflect best practices for such agreements and establish an appropriate fee assessment in consideration for the franchise. Following a review of the Recology Franchise Agreement and a discussion with Recology staff, City staff has been informed that, based on the typical range for Solid Waste Collection Franchise Fees, an increase in the City's fee to 5% would not be inconsistent with regional practices.

City staff also discussed the potential timing of a fee increase and the impact that such action would have on Recology's operations. Based on this discussion, it is staff's recommendation that a phased implementation of a fee increase would meet the City's objective of updating the fee rate, while minimizing the disruption to Recology's operation.

Staff recommends that the Council approve a Franchise Fee increase as follows:

- Change from 3% to 4%, effective October 1, 2017, and
- Change from 4% to 5%, effective July 1, 2018.

The potential fiscal impact of increasing the Franchise Fee is approximately \$60,700 of additional annual revenue to the City per 1% increase. This would result in approximately \$46,000 of new revenue for Fiscal Year 2017-18, and \$126,000 of additional projected revenue starting Fiscal year 2018-19. Franchise fee payments will be based on the actual services provided and revenues received, which may vary from this estimate.

**Attachments:**

Ordinance No. 5033

**Recommendation:**

Approve Ordinance No. 5033, amending Ordinance No. 4904, relating to the Solid Waste Collection Franchise.

ORDINANCE NO. 5033

An Ordinance amending Ordinance 4904, relating to the Solid Waste Collection Franchise.

RECITALS:

On January 27, 2009, the City adopted Ordinance 4904, granting an exclusive franchise to Western Oregon Waste (WOW) for the collection of all Solid Waste generated within the city limits of the City of McMinnville (Franchise Agreement). On October 12, 2010, the City Council approved the transfer of the rights granted under the Franchise Agreement from WOW to Recology, Inc. (Recology).

Article IV of the Franchise Agreement provides that Recology shall pay the City a Franchise Administration Fee equal to 3% of Recology's Cash Receipts from services provided under the authority of the Franchise Agreement, and authorizes the City Council to amend the amount of the Franchise Fee at any time, at its sole discretion.

Following discussions with Recology regarding the potential impact of an increase to the Franchise Fee, City staff has recommended an increase in the Franchise Fee to 4%, effective October 1, 2017, and to 5%, effective July 1, 2018.

Now, therefore, THE COMMON COUNCIL FOR THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

1. Ordinance 4904 is amended as provided in the attached Exhibit 1.
2. This Ordinance shall take 30 days after approval.

Passed by the Council on August 8<sup>th</sup>, 2017, by the following votes:

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

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

Approved on August 8<sup>th</sup>, 2017.

\_\_\_\_\_  
MAYOR

Attest:

Approved as to form:

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

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

## **EXHIBIT 1**

Article IV of the Franchise Agreement adopted by the City through Ordinance 4904, is amended as follows:

### **ARTICLE IV – Franchise Administration Fee**

As consideration for the granting of this Franchise and to reimburse the City for the administration thereof, **effective October 1, 2017**, Franchisee shall collect and pay to the City quarterly a fee equal to ~~four~~three percent (~~4%~~ 3%) of Cash Receipts, and **effective July 1, 2018, Franchisee shall collect and pay to the City quarterly a fee equal to five percent (5%) of Cash Receipts. The Franchise Fee** may be amended from time to time at the sole option of the City Council.



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

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## STAFF REPORT

**DATE:** August 8, 2017  
**TO:** Mayor and City Councilors  
**FROM:** Chuck Darnell, Associate Planner  
**SUBJECT:** **Ordinance No. 5034 - G 3-17:** Zoning Text Amendments to amend Chapter 17.06 (Definitions), Chapter 17.59 (Downtown Design Standards and Guidelines), Chapter 17.65 (Historic Preservation), and Chapter 17.72 (Applications and Review Process)

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### Council Goal:

Promote Sustainable Growth and Development

### Report in Brief:

This action is the consideration of Ordinance No. 5034, an ordinance amending Chapter 17.06 (Definitions), Chapter 17.59 (Downtown Design Standards and Guidelines), Chapter 17.65 (Historic Preservation), and Chapter 17.72 (Applications and Review Process) of the McMinnville Zoning Ordinance to update and revise the City of McMinnville's Historic Preservation and Downtown Design programs. The existing Historic Preservation Ordinance (Ordinance 4401) is proposed to be repealed, and the language instead adopted into the Zoning Ordinance as a new chapter on Historic Preservation (proposed Chapter 17.65).

### Background:

Recent amendments to Oregon Administrative Rule (OAR) 660-023-0200, also known as the Historic Resources rules for complying with Goal 5 of the Statewide Planning Program, have created the need for updates to local historic preservation ordinances to ensure that they are consistent with the state rules. The Oregon Statewide Planning Goals are a set of 19 goals related to a statewide land use planning program that is administered by the state's Land Conservation and Development Commission (LCDC). Goal 5 of the Statewide Planning Goals is related to Natural Resources, Scenic and Historic Areas, and Open Spaces. The preservation of historic resources is included in the rules associated with Goal 5, and provides the framework that local governments must follow in designating and protecting significant historic resources.

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### Attachments:

*Ordinance No. 5034 including:*

- Exhibit A – G 3-17 Decision Document*
- Exhibit B – Amendments to Chapter 17.06*
- Exhibit C – Amendments to Chapter 17.59*
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The Oregon Governor's office directed a Rulemaking Advisory Committee to form, which met through a series of meetings in 2016 and recommended a draft of proposed amendments to OAR 660-023-0200 in December of 2016. On January 27, 2017, those amendments were adopted by LCDC. The adoption of the amended OAR 660-023-0200 results in the need for local governments to review their existing regulations and programs to ensure that they are consistent with the new state requirements. This process will be undertaken continually by the Planning Department as Oregon Administrative Rules (OAR) and Oregon Revised Statutes (ORS) are amended and adopted by the state.

The Historic Landmarks Committee reviewed the adopted amendments to OAR 660-023-0200 at a series of previous meetings, and staff used feedback from those meetings to draft amendments to the City of McMinnville's Historic Preservation ordinance. An update on the potential for these amendments was provided to the Planning Commission during a work session on May 18, 2017. Since that meeting, staff finalized proposed amendments to the Historic Preservation ordinance, as well as the Downtown Design Standards and Guidelines chapter of the Zoning Ordinance. The proposed amendments were presented to the Historic Landmarks Committee at their June 28, 2017 regular meeting. The Historic Landmarks Committee recommended that the proposed amendments be approved, and that they be brought forward for Planning Commission and City Council review.

### **Discussion:**

The Planning Commission held a public hearing at their regular meeting on July 20, 2017. No public testimony was received during the public hearing. After deliberation and the proposal of some minor amendments, the Planning Commission voted unanimously to recommend approval of the zoning text amendments to the City Council. The proposed zoning text amendments, as well as the minor amendments recommended by the Planning Commission, are described in detail below.

### **Updates to Historic Preservation Ordinance**

The City of McMinnville already meets many of the requirements and rules for complying with Goal 5 of the statewide planning program. However, some updates will be required to our existing historic preservation ordinance and local historic preservation program to be consistent with the new rules.

Draft amendments to the Historic Preservation Ordinance are included as exhibits in Ordinance No. 5034, which is attached to this staff report. A summary of each of the main changes to the local historic preservation ordinance is provided below.

- 1) The repealing of the existing Historic Preservation Ordinance (Ordinance 4401) to allow for a Historic Preservation chapter to be adopted into the McMinnville Zoning Ordinance, rather than existing as a stand-alone ordinance.

**Reasoning for Amendment:** As part of the process of updating the Historic Preservation regulations, staff is proposing to incorporate the regulations directly into the McMinnville Zoning Ordinance. The regulations currently exist within a stand-alone, separate ordinance (Ordinance 4401), which creates difficulty for staff in administering the regulations and difficulty for community members and property

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owners in understanding the regulations. Staff believes that the inclusion in the Zoning Ordinance will improve organization and consistency. A similar practice will be employed as the Planning Department begins to update other stand-alone land use ordinances that exist in McMinnville's land use planning program.

It is important to note that much of the existing Historic Preservation Ordinance (Ordinance 4401) language will be preserved. Major components of the existing Historic Preservation Ordinance will not be deleted, but are proposed to be copied over into the draft amendments to the Zoning Ordinance. The formatting has been updated to be consistent with other chapters in Title 17 of the McMinnville City Code, which is the Zoning Ordinance. For this reason, and to identify which text is remaining and which is being deleted, a version of the proposed amendments showing text proposed to be removed in ~~strikethrough~~ and text proposed to be added in **bold and underline** is attached for your reference. The language that is included in Ordinance No. 5034 does not show the existing text, but only shows the language proposed to be adopted into the Zoning Ordinance.

- 2) Updated review criteria to be considered in the designation of a historic resource.

Sections Amended: Section 17.65.030(C); Section 17.65.030(F)

Reasoning for Amendment: OAR 660-023-0200(5)(a) requires that local governments use the National Register Criteria for Evaluation when determining the significance of a potential historic resource. For that reason, the National Register Criteria have been added to the review criteria that the Historic Landmarks Committee will use in making decisions on additions or changes to the Historic Resources Inventory. However, the OARs give local governments the ability to use other criteria in addition to the National Register Criteria. Therefore, staff is proposing to keep the original review criteria that the Historic Landmarks Committee used to create the existing Historic Resources Inventory. Existing historic resources were scored and evaluated based on those original criteria, so staff believes it would be beneficial to still have the ability to refer to those criteria during any consideration of a change to the level of significance of an existing historic resource.

OAR 660-023-0200(9) requires different review criteria to be used in considering deletions from the Historic Resources Inventory. Those criteria have been added as Section 17.65.030(F).

- 3) Inclusion of owner consent definitions and processes to be consistent with the new rules and the ruling of *Lake Oswego Preservation Society v. City of Lake Oswego*.

Sections Amended: Section 17.65.020(I); Section 17.65.030(D); Section 17.65.030(E)

Reasoning for Amendment: OAR 660-023-0200(6)(b) requires that local governments allow for owners of historic resources to refuse designation at any point during the designation process. Also, it establishes a process by which a property owner can request that a historic resource be removed from a local inventory. This language and the process, including the criteria that an owner must meet to request and be granted removal from the Historic Resources Inventory, have been added to Section

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17.65.030(D) and Section 17.65.030(E). Also, the definition of “owner” has been added to our definitions list in Section 17.65.020(I), and refers to the same definition of “owner” that is used in the OARs.

- 4) The inclusion of the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation as review criteria for the consideration of the alteration of any historic landmark.

Sections Amended: Section 17.65.020(F); 17.65.060(B)(2)

Reasoning for Amendment: OAR 660-023-0200(7) requires that locally significant historic resources included on the Historic Resources Inventory be protected. Specifically, the OARs state that the protection of locally significant historic resources should be consistent with the Standards and Guidelines for Archeology and Historic Preservation published by the U.S. Secretary of the Interior, produced by the National Park Service. Therefore, staff has added these Secretary of the Interior Standards and Guidelines as review criteria for the consideration of an alteration of a historic landmark.

It is important to note that, as drafted, the proposed amendments result in the Secretary of the Interior Standards and Guidelines applying only to alterations to historic landmarks, which are those historic resources that are classified as “Distinctive” or “Significant” on the Historic Resources Inventory. Staff sought clarification from the State Historic Preservation Office (SHPO) as to whether the City had the ability to only apply the Secretary of the Interior Standards and Guidelines to historic landmarks, or whether those Standards and Guidelines were required to apply to all historic resources included on our Historic Resources Inventory. SHPO clarified that the Secretary of the Interior Standards only need to apply to resources that the local government determines to be Goal 5 resources – or those resources that are “locally significant historic resources”. Therefore, staff is proposing to amend the definition of “Historic Landmark” to include the following statement:

Historic Landmark: Any historic resource which is classified as “Distinctive” or “Significant” on the McMinnville Historic Resources Inventory. **Historic landmarks are also locally significant historic resources as defined by OAR 660-023-0200(1)(j).**

This will ensure that only historic landmarks are subject to the Secretary of the Interior Standards and Guidelines. This is consistent with the City of McMinnville’s existing treatment of resources that are included on the Historic Resources Inventory. Currently, only “Distinctive” and “Significant” historic resources are subject to a review process and subject to design standards and guidelines. Resources that are designated as “Contributory” or “Environmental” have never been subject to a review process or the design standards and guidelines, and the proposed amendments would not change that.

- 5) Inclusion of all National Register for Historic Places as protected resources, and the exclusion of accessory structures and non-contributing resources within a National Register nomination from the review and protection requirements.

Sections Amended: Section 17.65.040(A)

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Reasoning for Amendment: OAR 660-023-0200(8) requires that local governments protect National Register resources. There are a number of National Register resources in the city, particularly within the Historic Downtown District. While most all of the National Register resources in the city are included on the Historic Resources Inventory, some sites within the Historic Downtown District are not or are designated as “Contributory” or “Environmental” historic resources. As described above, those types of resources would not be subject to our local review process and the design standards and guidelines.

To be consistent with the OARs and ensure that all National Register resources are protected, resources that are listed on the National Register have been included specifically as a type of resource that is subject to the Certificate of Approval review process (the Certificate of Approval review process is another proposed amendment, which is discussed in more detail below).

The OARs do give local governments the ability to decide whether non-contributing resources and accessory structures within a National Register nomination should be excluded from the local protection process. Based on feedback from the Historic Landmarks Committee at previous meetings, the draft amendments proposed by staff include this exclusion of accessory structures and non-contributing resources within a National Register nomination. The Historic Landmarks Committee did not believe that it would be reasonable to subject those types of resources and accessory structures to design standards and guidelines, as they likely were not constructed during any period of significance and may not include any historical architectural characteristics.

- 6) The establishment of a public hearing process for the demolition or moving of National Register resources, as well as a review process and criteria for the consideration of the demolition or moving of National Register resources.

Sections Amended: Section 17.65.050; Section 17.65.050(D)

Reasoning for Amendment: As discussed above, OAR 660-023-0200(8) requires that National Register resources be protected by local review processes. By specifically including National Register resources as a type of resource that will be subject to the Certificate of Approval review process, any request for a demolition or moving of a National Register resource must meet specific review criteria in Section 17.65.050(B). OAR 660-023-0200(8)(a) required that these types of requests be considered against a number of factors including the historic resource’s condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Staff believes that the existing review criteria for the demolition or moving of historic resources, which will now also apply to National Register resources, were consistent with the types of factors that the OARs required to be considered, so no amendments are proposed to those review criteria in Section 17.65.050(B).

OAR 660-023-0200(8)(a) does also require that demolition or moving requests for National Register resources be considered by the Historic Landmarks Committee during a public hearing. Therefore, staff is proposing to add this requirement to our local process in Section 17.65.050(D). That amendment would require the public hearing, and would allow for the City to process it subject to the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance. This section of the zoning ordinance includes

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the notification processes, including notification in the News Register and to surrounding property owners, and timeframes for which the public hearing would be held.

- 7) Creation of a Certificate of Approval process to replace the existing Building Permit Clearance review process. Currently, only alterations that require a building permit are subject to the historic preservation standards and review process. The Certificate of Approval process will apply in more situations.

Sections Amended: Section 17.65.020(A); Section 17.65.040; Section 17.65.060

Reasoning for Amendment: The Historic Landmarks Committee, in discussion at previous meetings, expressed concern with the fact that some alterations of historic resources were not subject to review against the relevant review criteria. The review criteria for the alteration of historic resources include standards such as the retention of exterior building materials, colors, and original architectural features. However, some types of alterations could be completed to drastically alter the exterior appearance of a resource without a building permit, which would not trigger a review process to ensure that the alteration met the relevant design standards.

This discrepancy in the code was realized recently, when a property owner proposed to replace windows and change the exterior building materials on an entire building façade. Neither of those types of construction required a building permit, so the Historic Landmarks Committee had no authority to require any changes to the proposed alterations to ensure that the design standards were being met. Based on those discrepancies, staff is proposing to remove the Building Permit Clearance process currently included in the Historic Preservation Ordinance, and instead adopt a Certificate of Approval process that would apply in more situations.

The Certificate of Approval process would apply to any exterior alteration, and would not be triggered by a building permit. Rather, the definition of “alteration” is proposed to be updated as follows:

Alteration: The addition to, removal of, removal from, or physical modification and/or repair of any exterior part or portion of an historic landmark **resource that results in a change in design, materials or appearance. Painting, reroofing, and general repairs are not alterations when the new materials and/or colors match those already in use.**

There is still some subjectivity in determining when an alteration results in a change in design, materials, or appearance, and when general repairs are not considered alterations. Therefore, staff is proposing to also include, in Section 17.65.060 (review process for exterior alterations), the ability for the Planning Director to determine whether any proposed activity or exterior alteration meets the definition of an alteration. In other words, the Planning Director has the ability to determine whether a proposed activity results in a change to a historic resource’s design, materials, or appearance.

Also, as discussed above, the Certificate of Approval process for exterior alterations would only apply to historic landmarks, or those resources designated as “Distinctive” or “Significant” on the Historic

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Resources Inventory. A Certificate of Approval would also be the type of approval required for the demolition or moving of a historic resource or any resource listed on the National Register.

- 8) Relocation of the Historic Landmarks Committee bylaws.

**Sections Amended:** Sections 3, 4, and 5 from Ordinance 4401 will be removed and will not be included in the proposed Chapter 17.65 of the Zoning Ordinance

**Reasoning for Amendment:** The Planning Department is working through a process to better organize and consolidate the language throughout the city's land use planning program related to committees and commissions. Staff is proposing to adopt language into a section of the City Code related to the establishment and bylaws for the Historic Landmarks Committee, which will be considered by the City Council under Ordinance No. 5035. A similar process and consolidation was just completed for the City's Landscape Review Committee.

The Historic Landmarks Committee processes would largely remain the same, with roles, terms, number of committee members, and meeting processes unchanged. Some new language will be added for consistency with other committee and commission processes. Also, the committee would become a commission that would have the ability to hold public hearings and make quasi-judicial land use decisions.

#### **Updates to Downtown Design Standards and Guidelines**

In addition to making updates to the Historic Preservation Ordinance, staff is proposing that an update be made to the Downtown Design Standards and Guidelines chapter of the McMinnville Zoning Ordinance (Chapter 17.59). The amendments are driven by another discussion at a previous Historic Landmarks Committee meeting, and are very much related to the reasoning for the creation of the Certificate of Approval process described above. Currently, the Downtown Design Standards and Guidelines apply only to exterior building alterations that require a building permit. This creates a difficulty in allowing the City to ensure that proposed alterations actually meet the Downtown Design Standards and Guidelines.

Some of the Downtown Design Standards and Guidelines deal with aspects of a structure that normally don't require a building permit. This is particularly true for the use of exterior building materials, in terms of the types of building materials being used, changes in exterior building materials, and colors proposed for exterior building materials. Also, alterations that are subject to the Downtown Design Standards and Guidelines must be consistent with the City's Historic Preservation Ordinance, as stated in Section 17.59.040(A)(1). As discussed in more detail above, many of the Historic Preservation standards and guidelines deal with exterior building materials whose alteration may not require a building permit.

For that reason, staff is proposing to amend the applicability section (Section 17.59.020(B)) of the Downtown Design Standards and Guidelines as follows:

- A. The provisions of this ordinance shall apply to the following activities conducted within the above described area:
1. All new building construction;

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2. Any exterior building or site **alteration** ~~modification that requires a building permit~~; and,
3. All new signage.

This amendment would allow for the Downtown Design Standards and Guidelines to apply whenever an alteration is proposed. The applicability section of this chapter, in Section 17.59.020(C), also goes on to state that the Downtown Design Standards and Guidelines do not apply to the:

Maintenance of the exterior of an existing structure, such as re-roofing, re-siding, or repainting where similar materials and colors are used that comply with this ordinance.

As with the Certificate of Approval process, there is still some subjectivity as to whether an alteration complies with the Downtown Design Standards and Guidelines. Therefore, staff is proposing to add an additional provision to the applicability section to give the Planning Director the ability to determine whether any proposed maintenance activity is subject to the Downtown Design Standards and Guidelines review process. The proposed provision is as follows:

- D. The Planning Director shall determine whether any proposed maintenance activity complies with this ordinance and whether the proposed activity is subject to the review procedures contained in this chapter.**

As amendments to the Downtown Design Standards and Guidelines chapter are being considered, staff is also proposing that some additional language and updates be made to the Review Process in Section 17.59.030(C) and the Review Criteria in Section 17.59.040(A)(2). Staff is proposing to include amendments that give the Planning Department the ability to review an application for completeness, that provide notification for the review of certain applications, and that update the timeframes to complete the review to be more consistent with other land use planning review processes completed by the City.

Also, staff is proposing that the Planning Director have the ability to review minor alterations, and that only applications for major alterations or new construction would go before the Historic Landmarks Committee for review. This is consistent with the current review process, as the Planning Director has the ability to approve applications that are consistent with the Design Standards and Guidelines. The Planning Director would have the ability to determine whether a proposed alteration is minor or major.

In terms of the amendments to the review criteria, one of the current criteria is that any application would be subject to the City's Historic Preservation Ordinance and the design standards and guidelines contained in that ordinance. Staff is proposing to keep that reference to the Historic Preservation Ordinance in the Downtown Design Standards and Guidelines review criteria, but update it to reference Chapter 17.65 (the new Zoning Ordinance chapter that would replace Ordinance 4401) and only have the criteria apply to those types of structures that would normally be subject to the Historic Preservation review criteria (historic landmarks and structures listed on the National Register).

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## Updates to Chapter 17.72 - Applications and Review Process

The amendments to the Review Process in Section 17.59.030(C) and the Review Criteria in Section 17.59.040(A)(2) of the Downtown Design Standards and Guidelines, as described in more detail above, result in the need to make minor updates to the Applications and Review Process chapter of the Zoning Ordinance to maintain consistency with the other sections of the Zoning Ordinance. In addition, a request to demolish a National Register of Historic Places structure has been added as a type of application that would be considered during a public hearing by the Historic Landmarks Committee, again to maintain consistency with other chapters of the Zoning Ordinance.

## Amendments Recommended by Planning Commission and Staff

During the public hearing, the Planning Commission identified an error in Section 17.65.030 (E) of the proposed Historic Preservation chapter (Chapter 17.65). This section includes the criteria that must be met for a property owner to automatically be granted removal of their property from a historic inventory. The amendments as recommended by the Planning Commission are as follows:

- E. The Historic Landmarks Committee must remove a historic resource from the inventory if the designation was imposed on the property and the owner at the time of designation:
  1. Has retained ownership since the time of designation; and
  2. Can demonstrate that the owner objected to the designation on the public record; ~~and~~ or
  3. Was not provided an opportunity to object to the designation; ~~or~~ and
  4. Requests that the Historic Landmarks Committee remove the resource from the inventory.

The amendments to the criteria above are consistent, verbatim, with the language in the OARs. Staff reviewed the entire Historic Preservation chapter (Chapter 17.65) again to ensure that there were no other discrepancies between the proposed zoning text amendments and the adopted OARs.

One other amendment, which was identified by staff during the public hearing, was a repetitive statement in Section 17.65.020 (H), which is the definition of the Historic Resources Inventory. The repetitive statement exists in the current Historic Preservation Ordinance (Ordinance No. 4401), but is not necessary. The proposed amendments are as follows:

- H. Historic Resources inventory. ~~The product of the 1983-1984 Historic Resources Survey.~~ The initial inventory includes the resources which were evaluated and ranked by the McMinnville Historic Landmarks Committee. The inventory incorporates the surveys and inventories conducted in 1976, 1980, and 1983/84 and resources which may be included by action of the Historic Landmarks Committee under the provision of Section 17.65.030 of this chapter. The resources included in the inventory are classified as follows: [...]

Finally, after the public hearing, staff realized that the Historic Preservation definitions were listed in Section 17.65.020 of the proposed Historic Preservation chapter (Chapter 17.65). All other definitions

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in the McMinnville Zoning Ordinance are listed in one chapter (Chapter 17.06 Definitions). Therefore, staff is proposing the following amendment to Section 17.65.020 of Chapter 17.65:

17.65.020 Definitions. For the purpose of this ordinance, certain terms and words are defined as follows: words in the present tense include the future, the singular tense include the plural and vice-versa; the word “shall” is mandatory; the word “may” is discretionary; and the masculine gender includes the feminine gender. **For the purposes of this section, refer to Section 17.06.060 for Historic Preservation related definitions.**

In Section 17.06.060, staff is proposing to list all of the Historic Preservation related definitions. The definitions will retain the exact same language as was reviewed and recommended for approval by the Historic Landmarks Committee and the Planning Commission, but will just be relocated to Chapter 17.06 of the McMinnville Zoning Ordinance. This will ensure consistency with the other chapters of the Zoning Ordinance.

All of the amendments described above are incorporated into Ordinance No. 5034, which is attached to this staff report.

#### **Fiscal Impact:**

There is no anticipated fiscal impact to the City of McMinnville with this decision.

#### **Council Options:**

1. **ADOPT** Ordinance No. 5034, approving G 3-17 and adopting the Decision, Findings of Fact and Conclusionary Findings.
2. **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting.
3. **DO NOT ADOPT** Ordinance No. 5034.

#### **Recommendation/Suggested Motion:**

Staff recommends that the Council adopt Ordinance No. 5034 which would approve the zoning text amendments as recommended by the Historic Landmarks Committee and 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. 5034.”**

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## **ORDINANCE NO. 5034**

### **AN ORDINANCE AMENDING THE MCMINNVILLE ZONING ORDINANCE SPECIFIC TO CHAPTER 17.06 (DEFINITIONS), CHAPTER 17.59 (DOWNTOWN DESIGN STANDARDS AND GUIDELINES), CHAPTER 17.65 (HISTORIC PRESERVATION) AND CHAPTER 17.72 (APPLICATIONS AND REVIEW PROCESS) FOR THE PRESERVATION OF HISTORIC RESOURCES IN MCMINNVILLE.**

#### RECITALS:

The State of Oregon requires all cities and counties to address State Land Use Planning Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources; and

The City of McMinnville has adopted a Comprehensive Plan Goal “To preserve and protect sites, structures, areas, and objects of historical, cultural, architectural, or archaeological significance to the City of McMinnville”; and

The City of McMinnville ordinance governing the preservation and protection of historic resources was last updated in 1987, and is outdated; and

Over the course of six meetings in 2016 and 2017, the McMinnville Historic Landmarks Committee discussed and reviewed the existing zoning ordinance language related to historic preservation and downtown design standards. The Historic Landmarks Committee’s intent was to ensure that the language was consistent with the recently adopted amendments to Oregon Administrative Rule (OAR) 660-023-0200, also known as the Historic Resources rules for complying with Goal 5 of the Statewide Planning Program; and

In concert with the McMinnville Historic Landmarks Committee, staff drafted proposed amendments (G 3-17) to McMinnville Zoning Ordinance (Ordinance 3380) specific to Chapter 17.06 (Definitions), Chapter 17.59 (Downtown Design Standards and Guidelines), Chapter 17.65 (Historic Preservation), and Chapter 17.72 (Applications and Review Process). The amendments were reviewed over a series of Historic Landmarks Committee public meetings, and at their June 28, 2017 meeting the Historic Landmarks Committee recommended the amendments be advanced for consideration by the McMinnville Planning Commission and the McMinnville City Council; and

A public hearing before the McMinnville Planning Commission was held on July 20, 2017, after due notice had been provided in the local newspaper on Tuesday, July 11, 2017. At the July 20, 2017, Planning Commission public hearing, the application materials and a staff report were presented and no testimony was received. The Planning Commission then closed the public hearing, deliberated, and voted unanimously to recommend approval of G 3-17 to the City Council, with some minor amendments; and

The City Council, being fully informed about said request, found that the requested amendments conformed to the applicable Comprehensive Plan goals and policies, as well as the comprehensive plan text amendment criteria listed in Section 17.72.020 of the McMinnville Zoning Ordinance based on the material submitted and the findings of fact and conclusionary findings for approval contained in Exhibit A; and

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

having deliberated;

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

1. That the Council adopts the Findings of Fact, Conclusionary Findings, and Decision as documented in Exhibit A for G 3-17; and
2. That Chapter 17.06 (Definitions), Chapter 17.59 (Downtown Design Standards and Guidelines), Chapter 17.65 (Historic Preservation) and Chapter 17.72 (Applications and Review Process) are amended as provided in Exhibit B, Exhibit C, Exhibit D, and Exhibit E. Text that is added is shown in **bold underlined** font while text that is removed is shown in ~~strikeout~~ font.
3. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 8<sup>th</sup> day of August 2017, 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, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO CHAPTER 17.06 (DEFINITIONS), CHAPTER 17.59 (DOWNTOWN DESIGN STANDARDS AND GUIDELINES), CHAPTER 17.65 (HISTORIC PRESERVATION) AND CHAPTER 17.72 (APPLICATION AND REVIEW PROCESS).**

- DOCKET:** G 3-17
- REQUEST:** The City of McMinnville is proposing to amend Chapter 17.06 (Definitions), Chapter 17.59 (Downtown Design Standards and Guidelines), Chapter 17.65 (Historic Preservation) and Chapter 17.72 (Applications and Review Process) of the McMinnville Zoning Ordinance to update provisions related to the protection of historic resources in the city. The amendments will ensure consistency with recently adopted Oregon Administrative Rules related to compliance with Oregon Statewide Planning Goal 5, which provides the framework for local governments to follow in protecting historic resources. Other amendments include updates to review processes for both historic resources and properties in the Historic Downtown District.
- LOCATION:** N/A
- ZONING:** N/A
- APPLICANT:** City of McMinnville
- STAFF:** Chuck Darnell, Associate Planner
- HEARINGS BODY:** McMinnville Planning Commission
- DATE & TIME:** July 20, 2017. Meeting held at the Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon.
- DECISION MAKING BODY:** McMinnville City Council
- DATE & TIME:** August 8, 2017. Meeting held at the Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon.
- COMMENTS:** This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development. No comments in opposition have been provided.

**DECISION**

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the legislative zoning text amendments (G 3-17) to the McMinnville City Council.

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

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

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

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

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

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

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

## **Application Summary:**

The City of McMinnville is proposing to amend Chapter 17.06 (Definitions), Chapter 17.59 (Downtown Design Standards and Guidelines), Chapter 17.65 (Historic Preservation) and Chapter 17.72 (Applications and Review Process) of the McMinnville Zoning Ordinance to update provisions related to the protection of historic resources in the city. The amendments will ensure consistency with recently adopted Oregon Administrative Rules related to compliance with Oregon Statewide Planning Goal 5, which provides the framework for local governments to follow in protecting historic resources. Other amendments include updates to review processes for both historic resources and properties in the Historic Downtown District.

The Historic Landmarks Committee reviewed the adopted amendments to OAR 660-023-0200 at a series of previous meetings, and staff used feedback from those meetings to draft amendments to the City of McMinnville's Historic Preservation ordinance. An update on the potential for these amendments was provided to the Planning Commission during a work session on May 18, 2017. Since that meeting, staff finalized proposed amendments to the Historic Preservation ordinance, as well as the Downtown Design Standards and Guidelines chapter of the Zoning Ordinance. The proposed amendments were presented to the Historic Landmarks Committee at their June 28, 2017 regular meeting. The Historic Landmarks Committee recommended that the proposed amendments be approved, and that they be brought forward for Planning Commission and City Council review.

The Planning Commission reviewed and considered the amendments during a public hearing at their July 20, 2017 regular meeting. After holding the public hearing, the Planning Commission voted unanimously to recommend approval of the zoning text amendments, subject to a few minor amendments.

## **CONDITIONS OF APPROVAL**

None.

## **ATTACHMENTS**

1. Amendments to Chapter 17.06 – Definitions (Exhibit B)
2. Amendments to Chapter 17.59 – Downtown Design Standards and Guidelines (Exhibit C)
3. Amendments to Chapter 17.65 – Historic Preservation (Exhibit D)
4. Amendments to Chapter 17.72 – Applications and Review Process (Exhibit E)

## **COMMENTS**

This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development. No comments in opposition were received.

## **FINDINGS OF FACT**

1. The City of McMinnville is proposing to amend Chapter 17.06 (Definitions), Chapter 17.59 (Downtown Design Standards and Guidelines), Chapter 17.65 (Historic Preservation) and Chapter 17.72 (Applications and Review Process) of the McMinnville Zoning Ordinance to update provisions related to the protection of historic resources in the city. The amendments will ensure consistency with recently adopted Oregon Administrative Rules related to compliance with Oregon Statewide Planning Goal 5, which provides the

framework for local governments to follow in protecting historic resources. Other amendments include updates to review processes for both historic resources and properties in the Historic Downtown District.

2. The McMinnville Historic Landmarks Committee began reviewing and discussing the Oregon Administrative Rules, the Historic Preservation Ordinance (Ordinance 4401), and existing Downtown Design Standards and Guidelines chapter of the McMinnville Zoning Ordinance in 2016, and then began to consider amendments at their February 22, 2017, April 25, 2017, May 24, 2017 regular meetings. Based on conversations and recommendations from those meetings, staff developed draft zoning text amendments, and the Historic Landmarks Committee reviewed those at their June 28, 2017 regular meeting. The Historic Landmarks Committee, after final discussion, recommended that those proposed zoning text amendments, being fully endorsed by the Historic Landmarks Committee, be brought forward for review and consideration by the Planning Commission.
3. This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development. No comments in opposition have been provided.
4. Public notification of the public hearing held by the Planning Commission was published in the July 11, 2017 edition of the News Register. No comments in opposition were provided by the public prior to the public hearing.
5. The Planning Commission opened and closed the public hearing on July 20, 2017, deliberated, and then voted unanimously to recommend approval of G 3-17 to the City Council.

### **CONCLUSIONARY FINDINGS**

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

**GOAL III 2:** TO PRESERVE AND PROTECT SITES, STRUCTURES, AREAS, AND OBJECTS OF HISTORICAL, CULTURAL, ARCHITECTURAL, OR ARCHAEOLOGICAL SIGNIFICANCE TO THE CITY OF McMINNVILLE.

*Policy 15.00: The City of McMinnville shall establish a program for the identification and preservation of significant sites, structures, objects, and areas.*

*Policy 39.00: The City of McMinnville will, by the time of the first plan update (1985), conduct a thorough study (consistent with the requirements of Statewide Planning Goal #5) of the 515 resources included in the 1980 Historical Survey and the properties listed on the 1976 Inventory of Historical Sites (Figure III-1, Volume I, McMinnville Comprehensive Plan) and place those structures and sites which are found to warrant preservation on a list of historic buildings and places. The City shall also study other buildings and sites which were not included on the 1976 and 1980 inventories and place those so warranted on the list of historic buildings and places. The City shall then adopt an historic preservation ordinance which is consistent with the requirements of Statewide Planning Goal #5 and which protects the structures and sites included on the list.*

Finding: Goal III 2, Policy 15.00 and Policy 39.00 are satisfied in that the amendments to the City of McMinnville's historic preservation program will keep in place the established program, the Historic Resources Inventory, for the identification, preservation, and protection of historic resources in the city. The amendments will also ensure that the historic preservation regulations are consistent with the requirements of Statewide Planning Goal #5, as recently amended by Oregon Administrative Rule 660-023-0200.

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

*Policy 38.00: The City of McMinnville shall encourage the renovation and rehabilitation of buildings in the downtown area, especially those of historical significance or unique design.*

Finding: Goal IV 4 and Policy 38.00 are satisfied in that the amendments to the Downtown Design Standards and Guidelines chapter of the McMinnville Zoning Ordinance will allow for the City to ensure that buildings are renovated and rehabilitated to meet the already adopted standards. The historic character of the downtown area is one of the reasons that the downtown area is a cultural center of McMinnville. Having a thorough review process in place will ensure that alterations to buildings in the downtown area will meet design standards and continue to contribute to the cultural and historical character of the downtown area.

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

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

Finding: Goal X 1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request and recommendation at an advertised public hearing. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

CD:sjs

## Chapter 17.06

DEFINITIONS

(as adopted by Ord. 4952, March 13, 2012)

Sections:

- 17.06.010 Generally.
- 17.06.015 General Definitions.
- 17.06.020 Special Definitions.
- 17.06.025 Airport Overlay Zone Regulated Definitions.
- 17.06.030 Flood Area Zone Related Definitions.
- 17.06.035 Landscaping Related Definitions.
- 17.06.036 Marijuana Activity Related Definitions.
- 17.06.040 Sign Related Definitions.
- 17.06.045 Tree Related Definitions.
- 17.06.050 Wireless Communication Facilities Related Definitions.
- 17.06.060 Historic Preservation Related Definitions.**

17.06.010 Generally. For the purposes of this title, the following terms shall be defined as set forth in this chapter, which is divided into two sections. The first section contains “general definitions” (17.06.015), which are those universal to all areas of zoning and development. The second section contains “special definitions” (17.06.020) and includes definitions that are specific to unique areas of development or land use activities. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

[...]

**17.06.060 Historic Preservation Related Definitions. For the purpose of Historic Preservation (Chapter 17.65), the following definitions shall apply.**

**Alteration - The addition to, removal of, removal from, or physical modification and/or repair of any exterior part or portion of an historic resource that results in a change in design, materials or appearance. Painting, reroofing, and general repairs are not alterations when the new materials and/or colors match those already in use.**

**Certificate of Approval - A decision issued by the Planning Director or Historic Landmarks Committee, as applicable, to approve the alteration, demolition, or moving of a historic resource or landmark.**

**Demolition - To raze, destroy, dismantle, deface or in any other manner cause partial or total ruin to an historic resource.**

**Exterior - Any portion of the outside of an historic resource.**

**Historic District - A geographical definable area of local, state, or national historical significance, the boundaries of which have specifically been adopted by the City Council.**



**Historic Landmark - Any historic resource which is classified as “Distinctive” or “Significant” on the McMinnville Historic Resources Inventory. Historic landmarks are also locally significant historic resources as defined by OAR 660-023-0200(1)(j).**

**Historic Resources: Any site, structure, building, district, or object that is included on the Historic Resources Inventory.**

**Historic Resources inventory - The initial inventory includes the resources which were evaluated and ranked by the McMinnville Historic Landmarks Committee. The inventory incorporates the surveys and inventories conducted in 1976, 1980, and 1983/84 and resources which may be included by action of the Historic Landmarks Committee under the provision of Section 17.65.030 of this chapter. The resources included in the inventory are classified as follows:**

- 1. Distinctive: Resources outstanding for architectural or historic reasons and potentially worthy of nomination to the National Register of Historic Places;**
- 2. Significant: Resources of recognized importance to the City due to historical association or architectural integrity, uniqueness, or quality;**
- 3. Contributory: Resources not in themselves of major significance, but which enhance the overall historic character of the neighborhood or City. Removal or alteration would have a deleterious effect on the quality of historic continuity experienced in the community; or**
- 4. Environmental: This category includes all resources surveyed that were not classified as distinctive, significant, or contributory. The resources comprise an historic context within the community.**

**Owner - As defined by OAR 660-023-0200(1)(h).**

[...]

## Chapter 17.59

DOWNTOWN DESIGN STANDARDS AND GUIDELINES

(as adopted Ord. 4797, Oct. 23, 2003)

Sections:

- 17.59.010 Purpose
- 17.59.020 Applicability
- 17.59.030 Review Process
- 17.59.040 Review Criteria
- 17.59.050 Building and Site Design
- 17.59.060 Surface Parking Lots
- 17.59.070 Awnings
- 17.59.080 Signs

17.59.010 Purpose. To provide for the protection, enhancement and preservation of buildings, structures, and other elements in the downtown core which contribute to its special historic and cultural value. Further, it is not the purpose of this ordinance to create a “themed” or artificial downtown environment. Rather, its purpose is to build on the “main street” qualities that currently exist within the downtown and to foster an organized, coordinated, and cohesive historic district that reflects the “sense of place,” economic base, and history unique to McMinnville and the downtown core. (Ord. 4797 §1, 2003).

17.59.020 Applicability.

- A. The provisions of this Chapter shall apply to all lands located within the area bounded to the west by Adams Street, to the north by 4<sup>th</sup> Street, to the east by Kirby Street, and to the south by 1<sup>st</sup> Street. Lands immediately adjacent to the west of Adams Street, from 1<sup>st</sup> Street to 4<sup>th</sup> Street, are also subject to the provisions of this Chapter.
- B. The provisions of this ordinance shall apply to the following activities conducted within the above described area:
  - 1. All new building construction;
  - 2. Any exterior building or site **alteration** ~~modification that requires a building permit~~; and,
  - 3. All new signage.
- C. This ordinance shall not apply to the following activities or uses:
  - 1. Maintenance of the exterior of an existing structure, such as re-roofing, re-siding, or repainting where similar materials and colors are used that comply with this ordinance;
  - 2. Interior remodeling; and,
  - 3. Single-family detached housing.
- D. **The Planning Director shall determine whether any proposed maintenance activity complies with this ordinance and whether the**

**proposed activity is subject to the review procedures contained in this chapter.**

- E. This ordinance shall apply only to those portions of a building or sign that are proposed for construction or modification and shall not extend to other elements of the building or sign that may be out of compliance with the requirements of this ordinance (i.e., a permit to replace a single window shall not require that all other windows on the building that may be out of compliance with this ordinance to be replaced, unless such action is initiated by the property owner). However, if a building should be destroyed due to fire, accident, or an act of God, the new or replacement structure shall be rebuilt to conform to the requirements of this ordinance. (Ord. 4797 §1, 2003).

**17.59.030 Review Process.**

- A. An application for ~~a building permit for an~~ **any** activity subject to the provisions of this ordinance shall be submitted to the Planning Department and shall be subject to the procedures listed in (B) through (E) below.
- B. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040. The application shall include the following information:
1. The applicant shall submit two (2) copies of the following information:
    - a. A site plan (for new construction or for structural modifications).
    - b. Building and construction drawings.
    - c. Building elevations of all visible sides.
  2. The site plan shall include the following information:
    - a. Existing conditions on the site including topography, streetscape, curbcuts, and building condition.
    - b. Details of proposed construction or modification to the existing structure.
    - c. Exterior building elevations for the proposed structure, and also for the adjacent structures.
  3. A narrative describing the architectural features that will be constructed and how they fit into the context of the Downtown Historic District.
  4. Photographs of the subject site and adjacent property.
  5. Other information deemed necessary by the Planning Director, or his/her designee, to allow review of the applicant's proposal. The Planning Director, or his/her designee, may also waive the submittal of certain information based upon the character and complexity (or simplicity) of the proposal.
- C. Review Process
1. Applications shall be reviewed ~~submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040. The Planning Director shall review the application and determine whether the proposed activity is in compliance with the requirements of this ordinance.~~ **submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040. The Planning Director shall review the application and determine whether the proposed activity is in compliance with the requirements of this ordinance.** and notification shall be provided subject to the provisions of Section 17.72.110. ~~If the Planning Director finds the proposed activity to be in compliance with the requirements of this ordinance, a permit~~

~~clearance form shall be submitted to the Building Department, which will indicate that the requirements of this ordinance have been satisfied.~~

2. ~~If the Planning Director finds the proposed activity to be in noncompliance with the requirements of this ordinance, he shall immediately issue a "notice of delay" to the Building Official and call for a meeting of the Historic Landmarks Committee to review the application.~~ **The Planning Director may review applications for minor alterations subject to the review criteria stated in Section 17.59.040. The Historic Landmarks Committee shall review applications for major alterations and new construction, subject to the review criteria stated in Section 17.59.040. It shall be the Planning Director's decision as to whether an alteration is minor or major.**
3. **Notification shall be provided for the review of applications for major alterations and new construction, subject to the provisions of Section 17.72.110.**
  - a. The Historic Landmarks Committee shall meet within **30 (thirty)**~~25 (twenty-five)~~ days of the date the completed application was submitted to **deemed complete by** the Planning Department. The applicant shall be notified of the time and place of the review and is encouraged to be present, although their presence shall not be necessary for action on the plans. A failure **by the Planning Director or Historic Landmarks Committee, as applicable,** to review within **30 (thirty)**~~25 (twenty-five)~~ days shall be considered an approval of the application.
  - b. If the **Planning Director or Historic Landmarks Committee, as applicable,** finds the proposed activity to be in compliance with the provisions of this ordinance, they shall **approve the application** ~~the Planning Director, or his/her designee, to submit to the Building Department a permit clearance form.~~
  - c. If the **Planning Director or Historic Landmarks Committee, as applicable,** finds the proposed activity in noncompliance with the provisions of this ordinance, they may deny the application, or approve it with conditions as may be necessary to bring the activity into compliance with this ordinance.

D. Waiver Process

A guideline or standard contained in this ordinance may be waived as part of the design review process when it can be demonstrated that the proposed design satisfies or exceeds the downtown design goals and objectives of this ordinance. If a waiver is requested, the applicant must explain in their application how the proposed design satisfies or exceeds these goals and objectives. A request for a waiver to the standards of this ordinance shall be reviewed by the McMinnville Historic Landmarks Committee, as described in Section 17.59.030(C)(2).

E. Appeal

An appeal of a decision by the Planning Director or Historic Landmarks Committee, including an appeal of conditions placed on the permit by the committee, may be made to the Planning Commission as outlined in Section 17.72.170. (Ord. 4920, §4, 2010; Ord. 4797 §1, 2003).

17.59.040 Review Criteria

- A. In addition to the guidelines and standards contained in this ordinance, the review body shall base their decision to approve, approve with conditions, or deny the application, on the following criteria:
1. The City's historic preservation policies set forth in the Comprehensive Plan;
  2. **If a structure is designated as a historic landmark on the City's Historic Resources Inventory or is listed on the National Register for Historic Places, The—the City's historic preservation regulations in Chapter 17.65 ordinance (no. 4404), and in particular, the standards and guidelines criteria contained in Section 17.65.060(2)Section 40; and**
  3. If applicable (waiver request), that all of the following circumstances are found to exist:
    - a. There is a demonstrable difficulty in meeting the specific requirements of this Chapter due to a unique or unusual aspect of the site, an existing structure, or proposed use of the site;
    - b. There is demonstrable evidence that the alternative design accomplishes the purpose of this Chapter in a manner that is equal or superior to a project designed consistent with the standards contained herein; and
    - c. The waiver requested is the minimum necessary to alleviate the difficulty of meeting the requirements of this Chapter. (Ord. 4797 §1, 2003).

[...]

Chapter 17.65HISTORIC PRESERVATIONSections:

- 17.65.010 Purpose
- 17.65.020 Definitions
- 17.65.030 Historic Resources Inventory
- 17.65.040 Certificate of Approval Process
- 17.65.050 Demolition, Moving, or New Construction
- 17.65.060 Exterior Alteration or Remodeling
- 17.65.070 Public Notice
- 17.65.080 Appeals
- 17.65.090 Violation, Procedure, and Penalty

17.65.010 Purpose. Districts, buildings, objects, structures, and sites in the City having special historical, architectural, or cultural significance should be preserved as a part of the City's heritage. To this end, regulatory controls and administrative procedures are necessary for the following reasons:

- A. Stabilize and improve property values through restoration efforts;
- B. Promote the education of local citizens on the benefits associated with an active historic preservation program;
- C. Foster civic pride in the beauty and noble accomplishments of the past;
- D. Protect and enhance the City's attractions for tourists and visitors; and
- E. Strengthen the economy of the City.

Historic districts may have a separate set of regulatory controls and administrative procedures which take priority over this ordinance.

17.65.020 Definitions. For the purpose of this ordinance, certain terms and words are defined as follows: words in the present tense include the future, the singular tense include the plural and vice-versa; the word "shall" is mandatory; the word "may" is discretionary; and the masculine gender includes the feminine gender. For the purposes of this section, refer to Section 17.06.060 for Historic Preservation related definitions.

17.65.030 Historic Resources Inventory. The McMinnville Historic Resources Inventory, compiled in 1983/84, is hereby adopted and shall be maintained and updated as required. The inventory shall be used to identify historic districts, buildings, structures, sites, and objects for the purposes of this ordinance.

- A. The Historic Landmarks Committee shall be authorized to make all additions, deletions, and changes to the inventory. Any addition, deletion or change, including a reevaluation of the significance of any resource, shall conform to the requirements of this section.
- B. Any person may file an application with the Planning Director to amend the inventory by adding or deleting a resource or changing the level of significance of a resource. Applications shall be submitted to the Planning

Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall act on such an application within thirty (30) days of the date the application was deemed complete by the Planning Department. The Committee may delay action on an application for up to thirty (30) days from the date of their meeting so that additional information needed for a decision can be obtained. The owner of the site which is under consideration and the applicant (if different) shall be notified of the time and place of the Historic Landmarks Committee review, although their presence shall not be necessary for action to be taken on the application.

- C. The Historic Landmarks Committee shall base each decision regarding additions or changes to the inventory on the following criteria:
1. History. The resource is associated with significant past events, persons, organizations, trends, or values which were important at the city, county, state, or national level. The age of the resource relative to other local development contributes to its historic significance;
  2. Style/Design. The resource is representative of a particular style or a type of construction. The uniqueness of the resource or its quality of composition, detailing, or craftsmanship contribute to its design significance. The resource was designated or constructed by a craftsman, contractor, designer, or architect of local, state, or national importance;
  3. Integrity. The resource retains original design elements, materials, and character with relatively minor alterations, if any; and
  4. Environment. The resource contributes to the character or continuity of the street or neighborhood.
  5. Consistency with the National Register Criteria for Evaluation as follows:
    - a. The resource is associated with events that have made a significant contribution to the broad patterns of our history; or
    - b. The resource is associated with lives of significant persons in our past; or
    - c. The resource embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
    - d. The resource has yielded or may be likely to yield, information important in history or prehistory; and
  6. The designation of the resource is consistent with the priorities described in the historic preservation plan.
- D. The Historic Landmarks Committee shall allow owners of property to refuse addition to the inventory at any time during the designation process in Section 17.65.030. The Historic Landmarks Committee shall not include a site, structure, building, or object on the inventory if the owner objects to its designation on the public record. The Historic Landmarks Committee

is not required to remove a historic resource from the inventory because an owner refuses to consent to designation.

- E. The Historic Landmarks Committee must remove a historic resource from the inventory if the designation was imposed on the property and the owner at the time of designation:
  - 1. Has retained ownership since the time of designation; and
  - 2. Can demonstrate that the owner objected to the designation on the public record; or
  - 3. Was not provided an opportunity to object to the designation; and
  - 4. Requests that the Historic Landmarks Committee remove the resource from the inventory.
- F. Except as provided in Section 17.65.030 (E), the Historic Landmarks Committee shall base each decision regarding deletions from the inventory on the following criteria:
  - 1. The resource has lost the qualities for which it was originally recognized; or
  - 2. Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing; or
  - 3. The Building Official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.

17.65.040 Certificate of Approval Process. A property owner shall obtain a Certificate of Approval from the Historic Landmarks Committee, subject to the procedures listed in Section 17.65.050 and Section 17.65.060 of this chapter, prior to any of the following activities:

- A. The alteration, demolition, or moving of any historic landmark or any resource that is listed on the National Register for Historic Places;
  - 1. Accessory structures and non-contributing resources within a National Register for Historic Places nomination are excluded from the Certificate of Approval process.
- B. New construction on historical sites on which no structure exists;
- C. The demolition or moving of any historic resource.

17.65.050 Demolition, Moving, or New Construction. The property owner shall submit an application for a Certificate of Approval for the demolition or moving of an historic resource, any resource that is listed on the National Register for Historic Places, or for new construction on historical sites on which no structure exists.-Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application.

- A. The Historic Landmarks Committee may approve, approve with conditions, or deny the application.



- B. The Historic Landmarks Committee shall base its decision on the following criteria:**
- 1. The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance;**
  - 2. The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;**
  - 3. The value and significance of the historic resource;**
  - 4. The physical condition of the historic resource;**
  - 5. Whether the historic resource constitutes a hazard to the safety of the public or its occupants;**
  - 6. Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;**
  - 7. Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and**
  - 8. Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.**
- C. If the structure for which a demolition permit request has been filed has been damaged in excess of seventy percent (70%) of its assessed value due to fire, flood, wind, or other natural disaster, the Planning Director may approve the application without processing the request through the Historic Landmarks Committee.**
- D. The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of any resource listed on National Register consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.**
- E. Any approval may be conditioned by the Planning Director or the Historic Landmarks Committee to secure interior and/or exterior documentation of the resource prior to the proposed action. Required documentation shall consist of no less than twenty (20) black and white photographs with negatives or twenty (20) color slide photographs. Any approval may also be conditioned to preserve site landscaping such as individual plants or trees or to preserve selected architectural features such as doors, windows, brackets, mouldings or other details.**
- F. If any proposed new construction is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).**

**17.65.060 Exterior Alteration or Remodeling. The property owner shall submit an application for a Certificate of Approval for any exterior alteration to an**

historic landmark or any resource that is listed on the National Register for Historic Places. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Planning Director shall determine whether the proposed activities constitute an alteration as defined in Section 17.65.020 (A) of this chapter. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application. Within five (5) working days after a decision has been rendered, the Planning Department shall provide written notice of the decision to all parties who participated.

- A. The Historic Landmarks Committee may approve, approve with conditions, or deny the application.
- B. The Historic Landmarks Committee shall base its decision on the following criteria:
  1. The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance;
  2. The following standards and guidelines:
    - a. A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.
    - b. The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
    - c. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
    - d. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
    - e. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
    - f. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
    - g. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
    - h. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be



- A. All historic resources shall be preserved against decay and deterioration, and kept free of structural defects by the owner or other person(s) or entities who may have legal possession, custody and control thereof. Demolition by neglect shall be prohibited.
- B. Violations of the provisions of this chapter or other applicable provisions of this code are subject to the provisions of Chapter 17.03 (General Provisions).

Chapter 17.72

APPLICATIONS AND REVIEW PROCESS

[...]

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

<u>Review Process</u>	<u>Land Use Application</u>	<u>Zoning Ordinance Reference</u>
<b>Applications and Permits- Director’s Review Without Notification</b>	Home Occupation Permit	17.67
	Large Format Commercial Design Review (standard)	17.56.040
	Manufactured Home Park Permit	Ord. No.4220
	Model Home Permit	17.54.060
	Property Line Adjustment	17.53.050
	Recreational Vehicle Park Permit	Ord. No.4220-Section 12
	Temporary Living Unit Permit	17.54.070
	<b><u>Downtown Design Review (minor alterations)</u></b>	<b><u>17.59.030-040</u></b>
<b>Applications- Director’s Review with Notification</b>	Administrative Variance	17.74.080-090
	Bed and Breakfast	17.12.010(N)
	Classification of an Unlisted Use	17.54.010
	Large Format Commercial Design Review (variation to prescribed standards)	17.56.040
	Partition	17.53.060
	Subdivision-up to 10 lots	17.53.070
	Three Mile Lane Design Review	Ord. Nos. 4131, 4572
	Transitional Parking Permit	17.60.130
	Vacation Home Rental	17.12.010(O)
	<b><u>Downtown Design Review (major alterations or waivers, reviewed by Historic Landmarks Committee)</u></b>	<b><u>17.59.030-040</u></b>
<b>Applications Public Hearing- Planning Commission</b>	Annexations* **	Ord. No. 4357
	Appeal of Director’s Decision	17.72.170
	Application (Director’s Decision) for which a Public Hearing is Requested	17.72.120
	Comprehensive Plan Map or Text Amendment*	17.74.020
	Conditional Use Permit	17.74.030-060
	Planned Development Amendment*	17.74.070

	Legislative Amendment *	17.72.120
	Subdivision (more than 10 lots)	17.53.070
	Variance	17.74.100-130
	Zone Change*	17.74.020
<b>Public Hearing- City Council</b>	Appeal of Planning Commission’s Decision	17.72.180
	Hearings Initiated by City Council	17.72.130
<b>MUAMC***</b>	Urban Growth Boundary (UGB) Amendment	Ord. Nos. 4130,4146
<b><u>Public Hearing - Historic Landmarks Committee</u></b>	<b><u>Demolition of National Register of Historic Places Structure</u></b>	<b><u>17.65.050 (D)</u></b>

- \* Following Public Hearing, Planning Commission makes recommendation to City Council
- \*\* Following City Council recommendation, Annexation requests are subject to voter approval
- \*\*\* McMinnville Urban Area Management Commission

17.72.100 Applications and Permits – Director’s Review without Notification. The following applications are subject to the Planning Director’s review for which a decision shall be made within 20 (twenty) working days from the date that a complete application is received. Applications shall be submitted as required in Section 17.72.020.

- **Downtown Design Review (minor alterations)**
- Home Occupation Permit
- Large Format Commercial Development (not involving a variation to standards)
- Mobile Home Park Permit
- Model Home Permit
- Property Line Adjustment
- Recreational Vehicle Permit
- Temporary Living Unit Permit

Notice to neighboring property owners for the above land use applications and permits is not provided. Prior to a decision, the Director may forward the application to other City departments for review and comment. The Planning Department shall provide written notice of the decision to all parties who participated and, in the case of a Temporary Living Unit permit, to the abutting property owners.

17.72.110 Applications – Director’s Review with Notification. The following applications shall be submitted as stated above in Section 17.72.020 and shall be reviewed by the Planning Director or designee.

- Administrative Variance
- Bed and Breakfast (Less than three (3) guest sleeping rooms)
- Classification of an Unlisted Use
- Downtown Design Review (**major alterations or waivers, reviewed by Historic Landmarks Committee**)
- Large Format Commercial Development (variation to standard)
- Tentative Partition
- Tentative Subdivision (up to 10 lots)

- Three Mile Lane Design Review
  - Transitional Parking Permit
  - Vacation Home Rental
- A. Notice of the request shall be provided to owners of property within 100 feet of the site for which the application is made. For applications involving classification of an unlisted use, the only notification provided shall be that published in a newspaper of general circulation a minimum of 14 (fourteen) days prior to a decision being rendered. Notices for applications listed in Section 17.72.110 shall:
1. Provide a 14 (fourteen) day period for submission of written comments prior to the decision;
  2. State that issues which may provide the basis for an appeal to the Land Use Board of appeals (LUBA) shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;
  3. List, by commonly used citation, the applicable criteria for the decision;
  4. Set forth the street address or other easily understood geographical reference to the subject property;
  5. State the place, date and time that comments are due;
  6. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
  7. Include the name and phone number of a local government contact person;
  8. Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and
  9. Briefly summarize the local decision making process for the land use decision being made.
- B. During the 14 (fourteen) day comment period, a person who has received notice may request a public hearing following the procedure as outlined in Section 17.72.120.
- C. The Director or designee shall make a decision for the above applications within 30 (thirty) days following the close of the 14 (fourteen) day comment period. The Director's decision may be appealed as outlined in Section 17.72.170. (Ord. 4984 §1, 2014).

17.72.120 Applications – Public Hearings. The Planning Commission shall hold at least one public hearing on the following land use applications.

- Annexation
- Appeal of a Planning Director's Decision
- Application with Director's decision for which a public hearing is requested
- Comprehensive Plan Map Amendment
- Comprehensive Plan Text Amendment
- Conditional Use Permit
- **Demolition of National Register of Historic Places Structure (Public hearing held by the Historic Landmarks Committee)**
- Planned Development

- Planned Development Amendment
- Tentative Subdivision (more than 10 lots)
- Urban Growth Boundary Amendment
- Variance
- Zone Change
- Zoning Ordinance Text Amendment
- Any application listed in Section 17.72.110 for which a public hearing is requested.

The above applications are subject to the following submittal, notice, and hearing requirements:

- A. Applications must be filed not less than 35 (thirty-five) days prior to the date of the public hearing. Applications other than those involving text amendments or other legislative matters shall be reviewed for completeness as outlined above in Section 17.72.040.
- B. The Director shall send a copy of the proposal to any agency or City department identified by the Director as having interest in the proposal including those agencies and departments responsible for determining compliance with state and federal requirements. The notified agency may provide written comment regarding the proposal.
- C. An application to amend the comprehensive plan map, zoning ordinance text, comprehensive plan text or other application requiring notice to the Department of Land Conservation (DLCD) and Development Commission as a “post acknowledgment plan amendment” shall be submitted to the Planning Department a minimum of 55 (fifty-five) days prior to the date of the public hearing so that notice of the application can be provided to the DLCDC.
- D. Notice of the public hearing shall be published in a newspaper of general circulation in the City, not less than five (5) days nor more than 15 (fifteen) days prior to the date of the public hearing.
- E. Written notice of a variance request shall be mailed to the applicant and all property owners within 100 feet of the exterior boundary of the subject property, and within 200 feet of the exterior boundary of the subject property for an application for a conditional use permit not fewer than 20 (twenty) nor more than 30 (thirty) days prior to the date of the public hearing.
- F. Written notice of a request for applications other than those involving text amendments or other legislative matters shall be mailed to the applicant and all property owners within 300 feet of the exterior boundary of the subject property, not fewer than 20 (twenty) nor more than 30 (thirty) days prior to the date of the public hearing.

Written notice of an application to change a zone for all or part of a mobile home park shall be provided for the tenants of a mobile home park at least 20 (twenty) days but not more than 40 (forty) days before the date of the first public hearing on the applications. (Ord. 4984 §1, 2014).

[...]





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**Planning Department**  
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# MINUTES

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**July 20, 2017**  
**Planning Commission**  
**Regular Meeting**

**6:30 pm**  
**McMinnville Civic Hall, 200 NE 2<sup>nd</sup> Street**  
**McMinnville, Oregon**

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

**Members Absent:** Martin Chroust-Masin and Zack Geary

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

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\*Note – Due to technical difficulties, the audio recording of the July 20, 2017 Planning Commission did not record and save properly. No audio recording exists for the July 20, 2017 meeting.

## 1. Call to Order

Chair Roger Hall called the meeting to order at 6:30 pm.

## 2. Citizen Comments

None.

## 3. Approval of Minutes:

### A. May 18, 2017 Work Session

Chair Hall called for action on the Planning Commission minutes from the May 18, 2017 Work Session. Commissioner Schanche MOVED to APPROVE the minutes as presented; SECONDED by Commissioner Dirks. Motion CARRIED 7-0.

### B. May 18, 2017 Public Hearing

Chair Hall called for action on the Planning Commission minutes from the May 18, 2017 meeting. Commissioner Schanche MOVED to APPROVE the minutes as presented; SECONDED by Commissioner Dirks. Motion CARRIED 7-0.

## 4. Public Hearing (Quasi-Judicial)

**A. Conditional Use Permit (CU 3-17)**

Request: Approval of a conditional use permit to allow for the expansion of the existing Parkland Village Assisted Living Facility. The expansion would allow for the addition of 24 units to the overall facility, resulting in a total of 74 units between the existing and proposed new buildings.

Location: 3121 NE Cumulus Avenue and more specifically described as Tax Lot 100, Section 22DD, T. 4 S., R. 4 W., W.M.

Applicant: RJ Development

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

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

Chair Hall asked if any Commissioner had visited the site. If so, did they wish to discuss the visit to the site? Most of the Commission had visited the site. There was no discussion regarding the visits.

Associate Planner Darnell presented the staff report. This was a request for approval of a Conditional Use Permit to allow for the expansion of the existing Parkland Village assisted living facility located on Cumulus Avenue. The facility would be expanded by 24 units for a total of 92 residential beds. He explained the site location and surrounding area. The site was zoned R-4 PD. The property had been rezoned previously to allow for the assisted living facility to operate. The expansion would be occurring on the north side of existing facility, and it would be 23,134 square feet in size. Parking was based on the number of residential beds in the facility and based on the number of beds after the expansion, they would be required to have 46 spaces. The applicant was proposing to add 4 spaces to the site to bring the total number of parking spaces up to 49, which exceeds the minimum required parking.

Associate Planner Darnell explained that the expansion would be consistent with the existing use. As a residential care facility, the intensity of the use was low and should not have a significant increase in traffic, especially as the residents did not drive. There was a stream that ran along the north side of the property that connected with the Yamhill River and there were many trees on site. The applicant intended to preserve as much of the natural area as possible. A portion of the property was located in the flood plain, but the construction was not located in that area. There were steep slopes on the site on the north side of the property. A geotechnical report had been completed to evaluate the soil. The report identified a 35 foot setback area which was identified in the site plan, as well as recommendations for construction techniques to allow for safe construction within the setback area. Staff recommended a condition of approval regarding the geotechnical report. They included that the construction of the expansion would follow any recommendations from the geotechnical report that the Building Official deemed necessary.

Associate Planner Darnell explained that there were a number of mature trees on the property. The applicant had submitted a tree inventory that identified which trees would need to be removed during the construction of the expansion. 19 trees were identified to be removed. The site contained other mature trees in close proximity to the construction site, so staff recommended that a condition of approval be included to require protection of those trees during construction.

Associated Planner Darnell explained that there were a number of assisted living facilities in this area and the proposed expansion was compatible with the surrounding development pattern. There were single family residential uses to the west. To mitigate for that, a condition of approval was recommended to require that landscaping would be installed along the west to provide screening. The proposed expansion was a single story building and should not have bulk or large visual impact on the adjacent properties. It should also be a quiet facility and there should not be any noise issues. The design would be consistent with the existing building and staff recommended a condition that the design and elevations be provided at the time of the building permit. Landscaping would be required and the landscape plan would be reviewed by the Landscape Review Committee.

Associate Planner Darnell explained that the applicant had worked with the McMinnville Fire Department to ensure that the expanded facility would meet all fire code and emergency access requirements. In order to achieve adequate fire access, an emergency fire route was added around the east and north side of the existing building to provide emergency fire access to the new building on the north side of the site. The applicant has stated that they will design the fire access route to operate as a pedestrian walkway when not being used for emergency access, with the installation of grasscrete and bollards at the entrance to enhance the aesthetics of the fire access route and make it appear to be more of a pedestrian walkway. Staff recommended approval of the application.

Commission Dirks expressed some concern with the number of trees being removed from the site, and asked whether they would be required to replace the trees. Associate Planner Darnell stated that there is no specific requirement that they replace every tree that they remove, but that a landscape plan would need to be submitted and may include trees.

Commissioner Schanche also was concerned with the proposed tree removals, but understood the need for removal. She asked whether the condition related to the protection of trees could be amended to ensure better protection of the trees that would remain.

Commissioner Langenwaller asked about the geotechnical report and to what level of a seismic event the geotechnical analysis considered.

Commissioner Butler asked about the pedestrian walkways around the building and how they would be designed for safety near the top of the steep slope. Associate Planner Darnell stated that the applicant could provide more information on the design of the walkways.

Applicant: Josh Snodgrass was representing the Parkland Village Assisted Living facility. Their demand study had shown that assisted living facilities were a need in the community, and they wanted to explore options for adding additional units. Their updated analysis and geotechnical materials provided information on what would be required to expand the footprint of the facility near the steep slope on the north side of the property. They were willing to follow any

recommendations as may be required by the Building Official. They intended to preserve as much of the existing natural areas and trees as possible, and the building would be completely out of the flood zone.

Mr. Snodgrass stated that the pedestrian walkways near the steep slope would have barriers to prevent anyone from falling down the steep slope. These barriers would be required by the State of Oregon, who oversees the licensing and inspections of this type of assisted living facility. The applicant intends to comply with all safety and health standards that are required for this type of facility. This would be a low impact development. It would be a one story building and they were keeping the current architecture of the existing building.

Commissioner Dirks asked whether any other building footprints were explored to preserve natural areas on the site. Mr. Snodgrass stated that they explored many options, but to fit the number of units they were hoping for, the proposed layout was the best for the constrained site. They made every attempt to avoid construction near the steep slope, and have only one corner of the building encroaching into a 10 foot setback area as recommended by the geotechnical engineer.

Proponents and Opponents: None.

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

Chair Hall closed the public hearing.

Commissioner Dirks stated that she would not be voting in favor of the application, based on the proposed location near the steep slope and the fact that it impacted the surrounding natural environment and resulted in the loss of mature trees.

Commissioner Langenwalter asked if the Planning Commission could include an additional condition of approval to require that the building be constructed to withstand a high magnitude earthquake. Planning Director Richards stated that the City is required to follow the Oregon State Building Code, and they cannot require any construction above the minimum standards in the building code. Staff explained that the City would continue to rely on the Building Official to determine what is meeting minimum building code requirements, and that the recommendations from the geotechnical report would be followed as required by the building official.

Commissioner Schanche stated that she agreed with Commissioner Dirks and had concerns about the trees being removed.

Commissioner Thomas stated that she was comfortable with allowing the tree removals because the removals would be limited to the area required for the construction site and she did not feel it was realistic to leave mature trees in very close proximity to the new building that would be constructed.

Commissioner Schanche stated that she was more concerned with the protection of trees that would be remaining. Associate Planner Darnell stated that the condition related to tree protection could be amended to require protection within the critical root zone of all trees in close proximity to the construction site, rather than requiring protection within the dripline as the

condition was originally proposed by staff. Commissioner Schanche stated that she was supportive of that amendment.

Commissioner Lizut stated that he was no longer a licensed engineer, but after years of professional experience in that field, he believed that the geotechnical analysis provided was sound and would allow for construction to the highest engineered standards available. He was comfortable with the condition that the applicant would be required to follow the recommendations from the geotechnical report, as determined by the Building Official.

Chair Hall stated that he appreciated the concerns with the removal of trees and natural areas, but that the overall project satisfies other criteria and is a needed housing product in the city.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the applicant, Commissioner Schanche MOVED to approve CU 3-17 subject to the staff recommended conditions of approval and the amendment related to the tree protection condition. SECONDED by Commissioner Thomas. The motion CARRIED 6-1, with Commissioner Dirks voting in opposition.

### **B. Zoning Text Amendment (G 3-17)**

**Request:** Approval to amend Ordinance No. 4401, which is the existing Historic Preservation Ordinance. The amendments will result in the creation of a Historic Preservation chapter of the McMinnville Zoning Ordinance. A majority of the amendments are being proposed to ensure consistency with updated Oregon Administrative Rules (OAR 660-023-0200) related to the protection of historic resources, including protection of National Register historic resources, owner consent processes, updated application review criteria, and updated standards and guidelines for the alteration of historic landmarks. Another amendment being proposed is the creation of a certificate of approval process to ensure that proposed alterations meet the historic preservation requirements.

**Applicant:** City of McMinnville

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

Associate Planner Darnell provided a staff report on the proposed zoning text amendments. The amendments being proposed included amendments to the existing Historic Preservation ordinance (Ordinance No. 4401), the Downtown Design Standards and Guidelines chapter (Chapter 17.59), and the Applications and Review Process chapter (Chapter 17.72) of the McMinnville Zoning Ordinance. The majority of the proposed amendments to the City's Historic Preservation regulations and program were triggered by recent updates to the Oregon Administrative Rules (OAR) related to the preservation of historic resources. The Historic Landmarks Committee had reviewed these updates to the OAR language, and had oversaw the development of the proposed zoning text amendments. At their June 28, 2017 meeting, the Historic Landmarks Committee endorsed and recommended approval of the zoning text amendments that are being presented to the Planning Commission.

Associate Planner Darnell explained the proposed repealing of the existing Historic Preservation ordinance and the adoption of a new Historic Preservation chapter within the McMinnville Zoning Ordinance. Much of the existing ordinance language would remain, but would be reformatted to fit into the Zoning Ordinance. The amendments to the Historic Preservation chapter to ensure consistency with the updated OARs included new review criteria for historic resource designation, definitions and processes related to owner consent, updated preservation standards and guidelines based on the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, and processes for the protection of national register resources.

Associate Planner Darnell explained another amendment to the Historic Preservation chapter, which was the removal of the building permit clearance process and creation of a certificate of approval process. Many of the historic preservation standards and guidelines apply to alterations that can be completed without a building permit, and the review of these types of alterations was only triggered if a building permit was required. This had resulted in alterations occurring that were inconsistent with standards and with the historic character of historic landmarks throughout the city. The certificate of approval process would correct for this by requiring the review of any exterior alteration that results in a change in design, materials, or appearance. The Planning Director would have the ability to determine whether a proposed alteration results in a change in design, materials, or appearance.

Associate Planner Darnell explained that a similar issue existed in the review process for the Downtown Design Standards and Guidelines, in that the review was only triggered by a building permit. Therefore, the proposed amendments to the Downtown Design Standards and Guidelines chapter (Chapter 17.59) would result in the provisions of the chapter applying to any exterior building or site alteration. The Planning Director would again have the ability to determine whether any proposed alteration would be subject to review, and would also have the ability to approve minor alterations. Major alterations would be reviewed by the Historic Landmarks Committee. Finally, Associate Planner Darnell explained some amendments to the Applications and Review Process chapter (Chapter 17.72) that were required to be consistent with the amendments being made to the various historic preservation and downtown design processes. Staff recommended that the Planning Commission recommend approval of the zoning text amendments to the City Council.

Commissioner Langenwalter asked for clarification on the criteria that must be met in order for a property owner to request and automatically be granted removal from a local inventory. Staff responded that the language proposed related to the owner consent process was intended to be the exact same as is included in the updated Oregon Administrative Rules. Staff checked the language in the Oregon Administrative Rules and realized that a minor type existed, which could be amended prior to consideration by the City Council.

Chair Hall closed the public hearing.

Based on the findings of fact, conclusionary findings for approval, and materials submitted by the City of McMinnville, Commissioner Schanche MOVED to recommend approval of G 3-17 to the City Council, subject to the amendment related to consistency with the Oregon Administrative Rules. SECONDED by Commissioner Thomas. The motion CARRIED 7-0.

**5. Old/New Business**

None.

**6. Commissioner Comments**

None.

**7. Staff Comments**

None.

**8. Adjournment**

Chair Hall adjourned the meeting at 8:10 p.m.

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Heather Richards  
Secretary

DRAFT

## Chapter 17.65

### HISTORIC PRESERVATION

#### Sections:

17.65.010	Purpose
17.65.020	Definitions
17.65.030	Historic Resources Inventory
17.65.040	Certificate of Approval Process
17.65.050	Demolition, Moving, or New Construction
17.65.060	Exterior Alteration or Remodeling
17.65.070	Public Notice
17.65.080	Appeals
17.65.090	Violation, Procedure, and Penalty

17.65.010 Purpose. Districts, buildings, objects, structures, and sites in the City having special historical, architectural, or cultural significance should be preserved as a part of the City's heritage. To this end, regulatory controls and administrative procedures are necessary for the following reasons:

- A. Stabilize and improve property values through restoration efforts;
- B. Promote the education of local citizens on the benefits associated with an active historic preservation program;
- C. Foster civic pride in the beauty and noble accomplishments of the past;
- D. Protect and enhance the City's attractions for tourists and visitors; and
- E. Strengthen the economy of the City.

Historic districts may have a separate set of regulatory controls and administrative procedures which take priority over this ordinance.

17.65.020 Definitions. For the purpose of this ordinance, certain terms and words are defined as follows: words in the present tense include the future, the singular tense include the plural and vice-versa; the word "shall" is mandatory; the word "may" is discretionary; and the masculine gender includes the feminine gender. The following terms shall mean:

- A. Alteration: The addition to, removal of, removal from, or physical modification and/or repair of any exterior part or portion of an **historic resource that results in a change in design, materials or appearance. Painting, reroofing, and general repairs are not alterations when the new materials and/or colors match those already in use.** historical landmark.
- B. **Certificate of Approval: A decision issued by the Planning Director or Historic Landmarks Committee, as applicable, to approve the alteration, demolition, or moving of a historic resource or landmark.**
- C. Demolition: To raze, destroy, dismantle, deface or in any other manner cause partial or total ruin to an historic resource.
- D. Exterior: Any portion of the outside of an historic resource.
- E. Historic District: A geographical definable area of local, state, or national historical significance, the boundaries of which have specifically been adopted



by the City Council.

- F. Historic Landmark: Any historic resource which is classified as “Distinctive” or “Significant” on the McMinnville Historic Resources Inventory. **Historic landmarks are also locally significant historic resources as defined by OAR 660-023-0200(1)(j).**
- G. Historic Resources: Any site, structure, building, district, or object that is included on the Historic Resources Inventory.
- H. Historic Resources inventory: ~~The product of the 1983/84 Historic Resources Survey.~~ The initial inventory includes the resources which were evaluated and ranked by the McMinnville Historic Landmarks Committee. The inventory incorporates the surveys and inventories conducted in 1976, 1980, and 1983/84 and resources which may be included by action of the Historic Landmarks Committee under the provision of Section **17.65.0306** of this ~~chapter ordinance.~~ The resources included in the inventory are classified as follows:
  - 1. Distinctive: Resources outstanding for architectural or historic reasons and potentially worthy of nomination to the National Register of Historic Places;
  - 2. Significant: Resources of recognized importance to the City due to historical association or architectural integrity, uniqueness, or quality;
  - 3. Contributory: Resources not in themselves of major significance, but which enhance the overall historic character of the neighborhood or City. Removal or alteration would have a deleterious effect on the quality of historic continuity experienced in the community; or
  - 4. Environmental: This category includes all resources surveyed that were not classified as distinctive, significant, or contributory. The resources comprise an historic context within the community.
- ~~I. Notice of Delay: A notice submitted to the Building Department by the Planning Director which indicates that an application does not conform with the requirements of the Historic Landmarks Ordinance and sets forth delay periods on the issuance of a building permit, a demolition permit, or a moving permit for an historic landmark.~~
- ~~J. Permit Clearance: indication that an application conforms with the requirements of the Historic Landmarks Ordinance and which must be submitted to the Building Department by the Planning Director prior to any building permit, demolition permit, or moving permit being issued for an historic landmark.~~
- I. Owner: As defined by OAR 660-023-0200(1)(h).**

**17.65.030 Historic Resources Inventory.** The McMinnville Historic Resources Inventory, compiled in 1983/84, is hereby adopted and shall be maintained and updated as required. The inventory shall be used to identify historic districts, buildings, structures, sites, and objects for the purposes of this ordinance.

- A. The Historic Landmarks Committee shall be authorized to make all additions, deletions, and changes to the inventory. Any addition, deletion or change, including a reevaluation of the significance of any resource, shall conform to the requirements of this section.

- B. Any person may file an application with the Planning Director to amend the inventory by adding or deleting a resource or changing the level of significance of a resource. **Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance.** The Historic Landmarks Committee shall act on such an application within **thirty (30) ~~twenty-one (21)~~ days of the date the application was deemed complete by the Planning Department.** ~~days of the date of the application.~~ The Committee may delay action on an application for up to thirty (30) days from the date of their meeting so that additional information needed for a decision can be obtained. The owner of the site which is under consideration and the applicant (if different) shall be notified of the time and place of the Historic Landmarks Committee review, although their presence shall not be necessary for action to be taken on the application.
- C. The Historic Landmarks Committee shall base each decision regarding additions, ~~deletions,~~ or changes to the inventory on the following criteria:
1. History. The resource is associated with significant past events, persons, organizations, trends, or values which were important at the city, county, state, or national level. The age of the resource relative to other local development contributes to its historic significance;
  2. Style/Design. The resource is representative of a particular style or a type of construction. The uniqueness of the resource or its quality of composition, detailing, or craftsmanship contribute to its design significance. The resource was designated or constructed by a craftsman, contractor, designer, or architect of local, state, or national importance;
  3. Integrity. The resource retains original design elements, materials, and character with relatively minor alterations, if any; and
  4. Environment. The resource contributes to the character or continuity of the street or neighborhood.
  5. **Consistency with the National Register Criteria for Evaluation as follows:**
    - a. **The resource is associated with events that have made a significant contribution to the broad patterns of our history; or**
    - b. **The resource is associated with lives of significant persons in our past; or**
    - c. **The resource embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or**
    - d. **The resource has yielded or may be likely to yield, information important in history or prehistory; and**
  6. **The designation of the resource is consistent with the priorities described in the historic preservation plan.**
- D. **The Historic Landmarks Committee shall allow owners of property to refuse addition to the inventory at any time during the designation process in Section 17.65.030. The Historic Landmarks Committee shall**

not include a site, structure, building, or object on the inventory if the owner objects to its designation on the public record. The Historic Landmarks Committee is not required to remove a historic resource from the inventory because an owner refuses to consent to designation.

- E. The Historic Landmarks Committee must remove a historic resource from the inventory if the designation was imposed on the property and the owner at the time of designation:**
- 1. Has retained ownership since the time of designation; and**
  - 2. Can demonstrate that the owner objected to the designation on the public record; or**
  - 3. Was not provided an opportunity to object to the designation; and**
  - 4. Requests that the Historic Landmarks Committee remove the resource from the inventory.**
- F. Except as provided in Section 17.65.030 (E), the Historic Landmarks Committee shall base each decision regarding deletions from the inventory on the following criteria:**
- 1. The resource has lost the qualities for which it was originally recognized; or**
  - 2. Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing; or**
  - 3. The Building Official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.**

17.65.040 Permit Application Certificate of Approval Process. An application for a building permit, moving permit, or a demolition permit for an building, structure, site, or object shall be submitted to the Building Official and shall be subject to procedures listed in (a), (b), and (c) below and in Sections 8 and 9. **A property owner shall obtain a Certificate of Approval from the Historic Landmarks Committee, subject to the procedures listed in Section 17.65.050 and Section 17.65.060 of this chapter, prior to any of the following activities:**

- A. The alteration, demolition, or moving of any historic landmark or any resource that is listed on the National Register for Historic Places;**
- 1. Accessory structures and non-contributing resources within a National Register for Historic Places nomination are excluded from the Certificate of Approval process.**
- B. New construction on historical sites on which no structure exists;**
- C. The demolition or moving of any historic resource.**
- (a) —“Environmental” Resources. The permit application process shall proceed as usual and no additional procedures shall apply to any resource classified as “environmental” on the Historic Resource Inventory.
- (b) —“Contributory” Resources. Upon receipt of an application or an inquiry regarding a building permit, moving permit, or demolition permit for any historic resource classified as “contributory” on the Historic Resources Inventory, the Building Official shall provide the property owner with information about the City’s

historic preservation program. The permit application process shall then proceed as usual.

(c) "Historic Landmarks." The following procedures apply:

(1) Upon receipt of an inquiry regarding an application for the moving, alteration, or demolition of an historic landmark, the Building Official shall inform the Planning Director who shall direct the potential applicant to make application with the Historic Landmarks Committee.

(2) Application for a building permit, moving permit, or demolition permit for an historic landmark must include an application for permit clearance. Any application to the Historic Landmarks Committee for alteration or demolition of an historic landmark shall be processed as an application for permit clearance. The application for permit clearance shall be in such form and detail as the Historic Landmarks Committee and Planning Director prescribe, and this may require the following: written description of proposal, legal description of property, site plan, minimum of five (5) exterior photographs, materials list, and architectural drawings of any proposed alterations.

17.65.050 Demolition, Moving, or New Construction. The Building Official shall submit all requests The property owner shall submit an application for a Certificate of Approval for the demolition or moving of an historic resource, any resource that is listed on the National Register for Historic Places, landmark and or for new construction on historical sites (landmarks) on which no structure exists, to the Planning Director who shall, within twenty-one (21) days, schedule a meeting of the Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) ~~twenty-one (21)~~ days shall be considered as an approval of the application.

- A. The Historic Landmarks Committee may approve, approve with conditions, or deny the application. ~~delay the issuance of a demolition permit, moving permit, or building permit. The Historic Landmarks Committee may delay a permit for up to one hundred twenty (120) days from the date the request is received by the Building Department during which time they will provide the owner of the structure with possible alternatives for demolition, including information concerning local, state, and federal preservation programs. If the permit request affects a "distinctive" resource, the delay period may be extended an additional sixty (60) days.~~
- B. The Historic Landmarks Committee shall base its decision on the following criteria:
1. The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance;
  2. The economic use of the historic resource ~~landmark~~ and the reasonableness of the proposed action and their relationship to the historic resource ~~landmark's~~ preservation or renovation;
  3. The value and significance of the historic resource ~~landmark~~:

4. The physical condition of the historic resourcelandmark;
  5. Whether the historic resourcelandmark constitutes a hazard to the safety of the public or its occupants;
  6. Whether the historic resourcelandmark is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;
  7. Whether retention of the historic resourcelandmark would cause financial hardship to the owner not outweighed by the public interest in the resourcelandmark's preservation; and
  8. Whether retention of the historic resourcelandmark would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resourcelandmark may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.
- C. If the structure for which a demolition permit request has been filed has been damaged in excess of seventy percent (70%) of its assessed value due to fire, flood, wind, or other natural disaster, ~~permit clearance may be given by the Planning Director~~ **may approve the application** without processing the request through the Historic Landmarks Committee.
- D. **The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of any resource listed on National Register consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.**
- E. Any ~~permit~~**approval** may be conditioned by the Planning Director or the Historic Landmarks Committee to secure interior and/or exterior documentation of the resourcelandmark prior to the proposed action. Required documentation shall consist of no less than twenty (20) black and white photographs with negatives or twenty (20) color slide photographs. Any ~~permit~~**approval** may also be conditioned to preserve site landscaping such as individual plants or trees or to preserve selected architectural features such as doors, windows, brackets, mouldings or other details.
- F. **If any proposed new construction is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).**

~~17.65.060 Exterior Alteration or Remodeling. The Building Official shall submit to the Planning Director all building permit requests~~ **The property owner shall submit an application for a Certificate of Approval for any exterior alteration to an historic historical landmark or any resource that is listed on the National Register for Historic Places. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Planning Director shall determine whether the proposed activities constitute an alteration as defined in Section 17.65.020 (A) of this chapter. The Planning Director shall, within five (5) working days, review the permit application for**

compliance with the requirements as set out in Section 10 of this ordinance. **The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application. Within five (5) working days after a decision has been rendered, the Planning Department shall provide written notice of the decision to all parties who participated.**

- A. If the Planning Director finds the proposed alterations to be in compliance with Section 10, he shall submit to the Building Department a permit clearance form which will indicate that the requirements of this chapter have been satisfied by the request. **The Historic Landmarks Committee may approve, approve with conditions, or deny the application.**
- B. If the Planning Director finds the proposed alteration to be in noncompliance with the requirements of Section 10, he shall immediately issue a “notice of delay” to the Building Official and call for a meeting of the Historic Landmarks Committee to review the application. **The Historic Landmarks Committee shall base its decision on the following criteria:**
  1. The Historic Landmarks Committee shall meet within twenty-one (21) days of the date the completed permit application was submitted to the Building Department. The applicant shall be notified of the time and place of the review and is encouraged to be present, although his/her presence shall not be necessary for action on the plans. A failure to review within twenty-one (21) days shall be considered an approval of the application. **The City’s historic policies set forth in the comprehensive plan and the purpose of this ordinance;**
  2. If the Historic Landmarks Committee finds the proposed alterations to be in compliance with Section 10, they shall direct the Planning Director to submit to the Building Department a permit clearance form. **The following standards and guidelines:**
    - a. **A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.**
    - b. **The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**
    - c. **Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.**
    - d. **Changes to a property that have acquired historic significance in their own right will be retained and preserved.**
    - e. **Distinctive materials, features, finishes, and construction**

- techniques or examples of craftsmanship that characterize a property will be preserved.
  - f. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
  - g. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
  - h. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
  - i. The Guidelines for Historic Preservation as published by the United States Secretary of the Interior.
- ~~3. If the Historic Landmarks Committee finds the proposed alterations to be in noncompliance with Section 10, they must:~~
- ~~a. Approve the application subject to compliance with conditions which will bring the application into conformance with Section 10. Permit clearance will be subject to said conditions; or~~
  - ~~b. Direct the Planning Director to issue a notice of delay which places up to a sixty-day (60) delay from the date of the committee action on issuance of a building permit for the proposed alteration and provide the applicant with information concerning local, state, and federal preservation programs. If the proposed alteration affects a "distinctive" resource, the delay period may be extended an additional sixty (60) days.~~
- 3. The economic use of the historic resource and the reasonableness of the proposed alteration and their relationship to the public interest in the historic resource's preservation or renovation;**
- 4. The value and significance of the historic resource; and**
- 5. The physical condition of the historical resource.**
- C. Any ~~permit~~**approval** may be conditioned by the ~~Planning Director or the~~ Historic Landmarks Committee to secure interior and/or exterior documentation of the ~~resource~~**landmark** prior to the proposed action. Required documentation shall consist of no less than twenty (20) black and white photographs with negatives or twenty (20) color slide photographs. Any ~~permit~~**approval** may also be conditioned to preserve site landscaping such as individual plants or trees or to preserve selected architectural features such as doors, windows, brackets, mouldings, or other details.
- D. If the historic landmark is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the exterior alteration shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).**

~~Old Section 10 of Ord. No. 4401 Standards and Guidelines for the Exterior Alteration of an Historic Landmark. Generally, an application for exterior alteration of an historic landmark shall be approved if the change or the treatment proposed is determined to be harmonious and compatible with the appearance and character of the historical building and shall generally be disapproved if found detrimental to or otherwise adversely affecting the architectural significance, the integrity of historical appearance, and the educational and historical value of the building.~~

~~A. The following guidelines apply to exterior alterations to historical buildings:~~

- ~~1. Retention of original construction. So far as possible, all original exterior materials and details shall be preserved or replaced to match the original.~~
- ~~2. Height. Additional stories may be added to historic buildings provided that:
  - ~~a. (aa) The added height complies with requirements of the building and zoning codes;~~
  - ~~b. (bb) The added height does not exceed that which was traditional for the style of the building;~~
  - ~~c. (cc) The added height does not alter the traditional scale and proportions of the building style; and~~
  - ~~d. (dd) The added height is visually compatible with adjacent historic buildings;~~~~
- ~~3. Bulk. Horizontal additions may be added to historic buildings provided that:
  - ~~a. (aa) The bulk of the addition does not exceed that which was traditional for the building style;~~
  - ~~b. (bb) The addition maintains the traditional scale and proportion of the building; and~~
  - ~~c. (cc) The addition is visually compatible with adjacent historic buildings.~~~~
- ~~4. Visual Integrity of Structure. The lines of columns, piers, spandrels, and other primary structural elements shall be maintained so far as is practicable.~~
- ~~5. Scale and Proportion. The scale and proportion of altered or added building elements, the relationship of voids to solid (windows to wall) shall be visually compatible with the traditional architectural character of the historic building.~~
- ~~6. Materials, Color, and Texture. The materials, colors, and textures used in the alteration or addition shall be visually compatible with the traditional architectural character of the historic building.~~
- ~~7. Lighting and Other Appurtenances. Exterior lighting and other appurtenances, such as walls, fences, awnings, and landscaping shall be visually compatible with the traditional architectural character of the historic building.~~

~~A. The Historic Landmarks Committee shall base their decision on the following criteria:~~

- ~~1. Compliance with the guidelines in Section 10(a);~~
- ~~2. The City's historic preservation policies set forth in the Comprehensive Plan and the purpose statement of this ordinance;~~
- ~~3. The economic use of the historic landmark and the reasonableness of the proposed alteration and their relationship to the public interest in the historic~~



- landmark's preservation or renovation;
4. ~~The value and significance of the historic landmark;~~
  5. ~~The physical condition of the historical landmark; and~~
  6. ~~The general compatibility and aesthetics of exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used with the existing landmark.~~

17.65.070 Public Notice. ~~Public notice requirements shall be as follows:~~

- A. ~~After the adoption of the initial inventory, all new additions, deletions, or changes to the inventory shall comply with subsection (c) **of this section.**~~
- B. Any Historic Landmark Committee review of an **Certificate of Approval** application for a **historic resource or landmark** ~~building permit, moving permit, or demolition permit~~ shall comply with subsection (c) **of this section.**
- C. ~~Prior to the meeting, the owners of historic landmarks~~ **owners of property** located within 300 feet of the historic resource under consideration shall be notified of the time and place of the Historic Landmarks Committee meeting and the purpose of the meeting. If reasonable effort has been made to notify an owner, failure of the owner to receive notice shall not impair the validity of the proceedings.

17.65.080 Appeals.

- A. Any appeal of a decision by the Historic Landmarks Committee, including an appeal of conditions placed on a ~~permit~~ **the approval of a Certificate of Approval** by the committee, may be made to the City Planning Commission within **fifteen (15)** ~~ten (10)~~ days of the **date the written notice of the decision is mailed.** ~~Historic Landmarks Committee's decision.~~
- B. If the appeal is filed, the Planning Commission shall receive a report and a recommendation from the Historic Landmarks Committee and shall hold a public hearing on the appeal ~~at their next regularly scheduled meeting~~ **consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.** ~~Public notice of an appeal shall be made according to Section 11(c) of this ordinance. Any permit shall be invalid and no work shall be undertaken during the appeal process.~~

17.65.090 Violation, Procedure, and Penalty.

- A. **All historic resources shall be preserved against decay and deterioration, and kept free of structural defects by the owner or other person(s) or entities who may have legal possession, custody and control thereof. Demolition by neglect shall be prohibited.**
- B. **Violations of the provisions of this chapter or other applicable provisions of this code are subject to the provisions of Chapter 17.03 (General Provisions).**
- A. ~~A uniform complaint, or citation to appear, may be issued to the owner or occupier of property being used or altered in violation of the Historic Landmarks Ordinance, requiring said owner or occupier to appear in court regarding a violation of the Historic Landmarks Ordinance.~~

- ~~B. A trial shall be heard before the judge without a jury. No appeal from the decision may be taken. The standard of proof required shall be by a preponderance of the evidence.~~
- ~~C. A person convicted of violating a provision of the Historic Landmarks Ordinance shall, upon conviction, be punished by a fine of not more than five hundred (500) dollars except for demolition of a structure which shall be as provided for in Section 11(d) below.~~
- ~~D. A person convicted of demolishing an historic landmark without first securing a demolition permit shall, upon conviction, be punished by a fine of not more than fifteen hundred (\$1,500) dollars.~~
- ~~E. In the event of the owner/occupier fails to pay a fine imposed upon conviction of a violation, the court may issue a Show Cause Order to the individual so charged and require his/her presence in court to set forth the reasons for said failure to pay. If good and sufficient reasons do not exist, the court may request the Council to adopt an ordinance making the amount a lien against the property.~~

DRAFT



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## STAFF REPORT

**DATE:** August 8, 2017  
**TO:** Mayor and City Councilors  
**FROM:** Heather Richards, Planning Director  
**SUBJECT:** **Ordinance No. 5035** – Amending the McMinnville City Code to add Section 2.34, Historic Landmarks Committee.

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### **Council Goal:**

Promote Sustainable Growth and Development.

### **Report in Brief:**

This action is the consideration of Ordinance No. 5035, an ordinance adding Chapter 2.34 (Historic Landmarks Committee), to the McMinnville City Code to update the enabling language for the Historic Landmarks Committee and to co-locate all city commissions and committees enabling language in Chapter 2 of the McMinnville City Code.

### **Background:**

Since 1987, the Historic Landmarks Committee has been governed by Ordinance No. 4401. In an effort to provide some consistency in how the City of McMinnville applies its land-use codes and enables volunteer committees to serve on city appointed committees and commissions, the Planning Department is recommending that Ordinance No. 4401 be repealed in its entirety and that a new chapter for historic preservation be added to the McMinnville Zoning Ordinance that provides criteria for historic resource review and approval, and a new chapter be added to the McMinnville City Code that clarifies the roles and responsibilities of the Historic Landmarks Committee.

This effort is being conducted in conjunction with a recent state-wide effort to update the Oregon Administrative Rules for Goal 5 of the Oregon Land Use system relative to historic resources.

Enabling language for both the Airport Commission, the Planning Commission and the Landscape Review Committee are in Chapter 2 of the McMinnville City Code. This ordinance will update the enabling language for the Historic Landmarks Committee per the recommendations of the Historic Landmarks Committee and Planning Commission, and co-locate the enabling language with the Airport Commission, the Planning Commission and the Landscape Review Committee.

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*Attachments:*  
*Ordinance No. 5035*

**Discussion:**

All of the basic covenants to the current enabling language for the Historic Landmarks Committee is being recommended for inclusion in Chapter 2 of the McMinnville City Code per Exhibit A of Ordinance No. 5035.

In addition the proposed language adds the following:

- Youth Ex-Officio – allows for the appointment of a youth ex-officio under the age of 21 years old. This provides the opportunity for a young person to participate on the committee and not only gain knowledge about landscaping and trees but also the structure of city government. And it allows for the committee to benefit from the perspective of a different representative age group in their discussions.
- Establishes the need for an annual report to the City Council. In this way the committee can share with the City Council their past year’s accomplishments and work plan for the following year. And it allows the City Council to engage with the volunteer committee and provide direction if necessary.

**Fiscal Impact:**

There is no anticipated fiscal impact to the City of McMinnville with this decision.

**Council Options:**

1. **ADOPT** Ordinance No. 5035
2. **REQUEST** more information.
3. **DO NOT ADOPT** Ordinance No. 5035.

**Recommendation/Suggested Motion:**

Staff recommends that the Council adopt Ordinance No. 5035.

**“I MOVE TO ADOPT ORDINANCE NO. 5035.”**

**ORDINANCE NO. 5035**

**AN ORDINANCE AMENDING THE MCMINNVILLE CITY CODE, CHAPTER 2.34, SPECIFIC TO THE HISTORIC LANDMARKS COMMITTEE.**

RECITALS:

The State of Oregon requires all cities and counties to address State Land Use Planning Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources; and

The City of McMinnville has adopted a Comprehensive Plan Goal “To preserve and protect sites, structures, areas, and objects of historical, cultural, architectural, or archaeological significance to the City of McMinnville;” and

The City of McMinnville ordinance (#4401) governing the preservation and protection of historic resources was last updated in 1987, and is outdated; and

The City of McMinnville believes that the preservation of historic and cultural resources is a local value of the community that would best be served by a committee of volunteers dedicated to historic preservation efforts specific to the City of McMinnville; and

In order to implement its McMinnville Zoning Ordinance, Chapter 17.65 (Historic Preservation), the McMinnville City Council appoints a volunteer Historic Landmarks Committee that reviews and makes decisions and/or recommendations on the identification and protection of historic resources in the City of McMinnville; and

Historically the enabling language for this committee – purpose, authority, membership, quorum, etc. – has resided in Ordinance 4401; and

Many other volunteer, City Council appointed committees’ enabling language resides in Chapter 2 of the McMinnville City Code, such as the Airport Commission, the City Planning Commission, the Landscape Review Committee; and

In order to standardize and simplify the McMinnville City Code, all the enabling language for the city commissions and committees should reside in the same general location of the McMinnville City Code.

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

1. That Chapter 2.34 (Historic Landmarks Committee) is added to the McMinnville City Code as provided in Exhibit A to this Ordinance.
2. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 8<sup>th</sup> day of August 2017, by the following votes:

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

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

\_\_\_\_\_  
MAYOR

Attest:

Approved as to form:

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

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



**CITY OF MCMINNVILLE  
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**PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE**

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

**Chapter 2.34**

**HISTORIC LANDMARKS COMMITTEE**

**2.34.010 Purpose. To preserve and promote McMinnville’s history, stabilize and improve property values through restoration efforts, promote the education of local citizens on the benefits associated with an active historic preservation program, foster civic pride in the beauty and noble accomplishments of the past, protect and enhance the City’s attractions for tourists and visitors alike, and strengthen the economy of the City, by:**

- A. Identifying, evaluating, and designating historic and cultural resources in the City of McMinnville; and**
- B. Informing and educating the public on the historic and architectural significance of the designated historic resources; and**
- C. Informing and educating the public on the value of preserving McMinnville’s historic and cultural resources; and**
- D. Soliciting grants and other resources to help promote, advocate and undertake preservation projects in the City of McMinnville; and**
- E. Any other activities that will help preserve and promote McMinnville’s history and culture.**

**2.34.20 Responsibilities and Power.**

- A. Serve as a hearings body for matters concerning historical and cultural resources listed on the McMinnville Historic Resources Inventory, including the review any alteration, demolition, moving or new**

construction on a McMinnville Historic Landmark per Chapter 17.65 of the McMinnville Zoning Ordinance.

- B. Evaluate and designate historic districts, buildings, structures, sites, and objects as provided by Chapter 17.65 of the McMinnville Zoning Ordinance.
- C. Receive requests by any citizen, or may on its own motion make recommendations concerning identifying and preserving significant historic and cultural resources which the Committee determines to be of historical significance to the City, state or nation.
- D. Develop or adopt a system, based on historic integrity and significance, for evaluating historic and cultural resources for potential designation as historic landmarks.
- E. Compile and maintain a McMinnville Historic Resources Inventory of all historical and cultural resources within the City, the applicable tax lots and addresses, the date of landmark designation, and a brief description of the resource and reasons for inclusion.
- F. Conduct surveys, inventories, and studies of potential historic resources, and periodically revise the McMinnville Historic Resources Inventory by adding or deleting properties.
- G. Undertake to inform the citizens of, and visitors to the City or McMinnville, regarding the community's history and prehistory; promote research into its history and prehistory; collect and make available materials on the preservation of historic resources; provide information on state and federal preservation programs; document historic resources prior to their alteration, demolition, or relocation and archive that documentation; assist the owners of historic resources in securing funding for the preservation of their properties; and recommend public incentives and code amendments to the McMinnville City Council.
- H. Advise and make policy recommendations to the McMinnville City Council and the Planning Commission on matters relating to historic preservation.
- I. Perform such other duties relating to historical matters as the McMinnville City Council or Planning Director may request.
- J. Have the authority to coordinate its activities with other city, county, state or federal agencies.

**2.34.030 Membership**

- A. Number of Members. The Historic Landmarks Committee shall be composed of five members.



- B. Residency. Members shall reside in the McMinnville Urban Growth Boundary. A majority of members shall reside within the city limits. The Common Council can appoint a member to the committee who does not reside in the Urban Growth Boundary if it is determined that the member brings significant value to the purpose of the committee.
- C. Representation. Individual seats are not geographically designated. Common Council members, Planning Commissioners, and Water and Light Commissioners shall not serve as Historic Landmarks Committee members.
- D. Appointments. The Common Council will appoint the committee members. The Council will strive to appoint members with historic preservation experience or knowledge.
- E. Terms. All terms are for four years commencing with January of each year. All members may serve two consecutive four-year terms. Members who have served two full terms may be reappointed to the Historic Landmarks Committee after a four-year hiatus from the committee.
- F. Removal. A committee member may be removed by the Common Council for misconduct, nonperformance of duty, or three successive unexcused absences from regular meetings. The committee may, by motion, request that a member be removed by the appointing body. If the appropriate governing body finds misconduct, nonperformance of duties or three successive unexcused absences from regular meetings by the member, the member shall be removed.
- G. Ex-Officio Members. One ex-officio youth (21 years of age and under) may be appointed by the Common Council, to serve a three year term. The ex-officio youth shall not be a voting member.

2.34.040 Officers

- A. Chairperson / Vice-Chairperson. At its first meeting of each year, the Historic Landmarks Committee shall elect from its membership a chairperson and vice-chairperson. The chairperson or vice-chairperson, acting as chairperson, shall have the right to make or correct motions and vote on all matters before the committee. A majority of the committee may replace its chairperson or vice-chairperson with another member at any time during the calendar year.
- B. Annual Report to City Council. The Chairperson of the committee shall make an annual report to the City Council outlining accomplishments for the past year and work plan for the following year or more often as the Chairperson deems appropriate, or at the request of the Council.

2.34.050 Meeting/Quorum

- A. Meeting Schedule. The Committee shall meet as required to

accomplish their responsibilities.

B. Meeting Conduct. The Rules of Parliamentary Law and Practice as in Roberts Rules of Order Revised Edition shall govern each committee meeting.

C. Open to the Public. All meetings shall be open to the public.

D. Quorum. A majority of the members of the committee shall constitute a quorum. Quorum will be based on the number of people officially appointed to the committee at the time and should not include vacancies.

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

2.34.070 Special Provisions.

A. The Historic Landmarks Committee shall operate within the laws and guidelines of the federal government, the state government, Yamhill County and the City of McMinnville.

B. The Common Council may appoint an ad-hoc committee to address issues that are not under the purview of the existing committee.

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



**City of McMinnville**  
**City Manager**  
230 NE Second Street  
McMinnville, OR 97128  
(503) 434-7302

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

## STAFF REPORT

**DATE:** August 8, 2017  
**TO:** City Council  
**FROM:** Jeff Towery, City Manager  
**SUBJECT:** Request from Ossie Bladine for noise variance waiver for September 1<sup>st</sup> & 2<sup>nd</sup>, 2017.

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### **Report in Brief:**

This action is the consideration of a waiver from the noise Ordinance.

### **Background:**

Ossie Bladine, Walnut City Music Festival co-organizer has requested a waiver of the city's noise ordinance for the Walnut City Music Festival which will take place at the Granary District Amphitheater located at 755 NE Alpine Avenue, on Friday and Saturday September 1<sup>st</sup> and 2<sup>nd</sup>, 2017. The live performances will end no later than 11:00 PM.

The McMinnville Municipal Code, Section 8.16.150, specifies that:

A. No person shall make, assist in making or permit any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.

B. The following acts are declared (sic) to be loud, disturbing and unnecessary noises in violation of this section...

11. The use or operation of any . . . loudspeakers or any instrument for sound producing or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided, however, that *upon application to the common council, permits maybe granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment . . .* (emphasis added).

Mr. Bladine will be present at the Council meeting to answer any questions you might have.

### **Fiscal Impact:**

There is no anticipated fiscal impact.

### **Attachment:**

Email request from Mr. Bladine.

### **Recommendation:**

If you vote in favor of allowing this waiver, you would only need to direct the City Manager to write a letter to Mr. Bladine, letting him know that he has the Council's approval.

**From:** Ossie Bladine [<mailto:obladine@newsregister.com>]

**Sent:** Friday, June 23, 2017 11:07 AM

**To:** Jeff Towery <[Jeff.Towery@mcminnvilleoregon.gov](mailto:Jeff.Towery@mcminnvilleoregon.gov)>

**Subject:** Request for noise ordinance waiver

Greetings Jeff,

The Walnut City Music Festival is seeking a waiver of the City of McMinnville's noise ordinance for its event scheduled Friday and Saturday, September 1-2. The festival would like to have amplified music until 11 p.m. both evenings, located at the Granary District Amphitheater, 755 NE Alpine Ave.

#### ABOUT THE FESTIVAL

The WCMF is in its fifth year, currently operating under the auspices of Partners For Parks – a nonprofit supporting outdoor experiences in and around McMinnville. The festival hosts a mix of local, regional and national music acts. This year, performers will travel from Austin, Texas, Los Angeles, Chicago and Seattle, to perform alongside musicians from McMinnville, Portland and elsewhere in the valley. The festival offers a unique opportunity for locals to see musicians who normally play just in metropolitan areas; it also boosts McMinnville's tourism efforts by attracting concertgoers from around the state.

#### ABOUT THE REQUEST

In previous years, the festival has had outdoor music until 10 p.m. In four years, we have not received any complaints about noise. The large buildings of the Granary District do a fine job blocking much of the noise from reaching the neighborhoods.

The festival would like to expand the music to 11 p.m. because it provides an additional performance after sunset, which enhances the experience for both performers and attendees. We believe an additional hour on the schedule will increase ticket sales and create higher quality photos and videos to use as promotional materials for the festival, along with McMinnville and the Northeast Gateway Project, in the future.

#### IN CONCLUSION

The WCMF is excited to take the next step in its journey to become a regionally and nationally recognized cultural music festival. We envision that the WCMF could become the flagship event for the community developing around Alpine Avenue, putting on display the possibilities for arts and culture of this area.

We hope the City Council finds it agreeable to make an exception to the City's noise ordinance for this event.

Sincerely,

Ossie Bladine

Walnut City Music Festival co-organizer

[pbladine@gmail.com](mailto:pbladine@gmail.com)

971-237-1397

# City of McMinnville

## C404 - Privately Owned

Between 06/01/2017 and 06/30/2017

	Class Code	Permits	Bldgs	Houses	Valuation
		108	43	43	\$561,192
	<b>Sub-Totals:</b>	<b>108</b>	<b>43</b>	<b>43</b>	<b>\$561,192</b>
<b><u>Section I - Residential HouseKeeping Buildings</u></b>					
One-Family Houses Detached	101	6	6	6	\$1,341,692
	<b>Sub-Totals:</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>\$1,341,692</b>
<b><u>Section III - New Non-Residential Buildings</u></b>					
Other Nonresidential Building	328	2	2	0	\$1,393,438
	<b>Sub-Totals:</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>\$1,393,438</b>
<b><u>Section IV - Additions &amp; Alterations</u></b>					
Add or Alter Dwellings	434	3	0	0	\$35,019
Add or Alter All Other Buildings and Structures	437	3	0	0	\$830,000
	<b>Sub-Totals:</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>\$865,019</b>
<b><u>Section V - Demolitions</u></b>					
Demolish One-Family Buildings	645	2	2	2	\$12,500
Demolish All Other Than Dwellings	649	1	1	1	\$350
	<b>Sub-Totals:</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>\$12,850</b>
	<b>Grand-Totals:</b>	<b>125</b>	<b>54</b>	<b>52</b>	<b>\$4,174,191</b>

<b>C404 - Publicly Owned</b>				
Between 06/01/2017 and 06/30/2017				
	Class Code	Bldgs	Houses	Valuation
<b><u>Section IV - Additions &amp; Alterations</u></b>				
Add or Alter All Other Buildings and Structures	437	0	0	\$367,000.00
	<b>Sub-Totals:</b>	<b>0</b>	<b>0</b>	<b>\$367,000.00</b>
<b><u>Section V - Demolitions</u></b>				
Demolish All Other Than Dwellings	649	1	1	\$6,000.00
	<b>Sub-Totals:</b>	<b>1</b>	<b>1</b>	<b>\$6,000.00</b>
	<b>Grand-Totals:</b>	<b>1</b>	<b>1</b>	<b>\$373,000.00</b>

# Activity Summary Totals Report

Category: BLDG

Issued: 06/01/2017 - 06/30/2017

Type	# of Permits	Total Fees	Total Valuation
<b>BLDCOMBO</b>			
ACOM	2	\$30,757.58	\$800,000.00
AIND	1	\$1,983.11	\$30,000.00
APUB	2	\$6,797.90	\$367,000.00
ASFR	2	\$898.08	\$25,018.80
NCOM	2	\$15,151.86	\$1,393,437.50
NSFR	6	\$55,661.08	\$1,341,692.15
<b>BLDMAJOR</b>			
ASFR	1	\$208.47	\$10,000.00
<b>BLDMINOR</b>			
FOUN	1	\$401.76	\$21,650.00
OTHR	1	\$369.54	\$20,000.00
PATI	1	\$144.05	\$5,953.20
ROOF	3	\$1,710.51	\$250,176.00
<b>DEMO</b>			
PUB	1	\$91.15	\$6,000.00
RES	3	\$2,209.59	\$12,850.00
<b>FLS</b>			
ALRM	2	\$593.20	\$37,952.00
SPRK	4	\$2,078.54	\$207,829.00
<b>MECH</b>			
COM	5	\$816.42	\$0.00
IND	1	\$506.90	\$0.00
PUB	1	\$1,022.02	\$0.00
RES	30	\$1,342.48	\$0.00
<b>MISC</b>			
	34	\$26,663.25	\$0.00
<b>PLUM</b>			
COM	3	\$1,084.34	\$0.00
IND	1	\$1,696.14	\$0.00
PUB	1	\$246.40	\$0.00
RES	19	\$1,364.16	\$0.00
<b>SIGN</b>			
MONU	1	\$337.33	\$17,632.00
<b>Total:</b>	<b>128</b>	<b>\$154,135.86</b>	<b>\$4,547,190.65</b>

# Activity Summary Totals Report

Category: BLDG

Issued: 07/01/2016 - 06/30/2017

Type	# of Permits	Total Fees	Total Valuation
<b>BLDCOMBO</b>			
ACOM	27	\$309,282.01	\$13,067,383.00
AIND	4	\$4,576.25	\$111,500.00
AINS	2	\$4,696.17	\$267,000.00
APUB	8	\$82,984.10	\$7,997,711.00
ASFR	27	\$18,488.07	\$1,115,990.30
NCOM	7	\$242,926.24	\$8,288,457.86
NDUP	2	\$23,314.02	\$474,932.40
NGAR	1	\$305.12	\$15,598.80
NIND	7	\$347,579.73	\$10,470,447.45
NINS	1	\$99,642.48	\$7,874,138.00
NOTH	4	\$4,082.59	\$302,792.58
NPUB	2	\$7,143.51	\$981,926.24
NSFA	4	\$36,555.02	\$828,071.82
NSFR	52	\$492,950.58	\$13,843,720.28
<b>BLDMAJOR</b>			
ACOM	3	\$3,124.64	\$35,000.00
AGAR	3	\$673.73	\$32,200.00
APUB	1	\$6,785.34	\$1,100,000.00
ASFR	3	\$921.62	\$40,000.00
COM	1	\$256.79	\$12,100.00
DECK	1	\$176.26	\$7,500.00
NGAR	3	\$1,047.87	\$51,736.02
NOTH	3	\$1,239.42	\$94,162.00
OTHR	2	\$2,133.85	\$198,000.00
PATI	1	\$224.58	\$11,000.00
<b>BLDMINOR</b>			
DECK	11	\$2,341.53	\$110,310.80
FOUN	6	\$1,423.76	\$69,260.00
OTHR	24	\$5,012.55	\$309,672.00
PATI	4	\$510.34	\$19,848.44
PUB	1	\$144.05	\$5,580.00
ROOF	29	\$13,607.51	\$1,942,941.00
WALL	4	\$616.54	\$33,400.00
<b>DEMO</b>			
COM	1	\$1,131.91	\$9,600.00
PUB	4	\$2,512.95	\$63,440.00
RES	7	\$2,377.36	\$20,550.00
<b>FLS</b>			



Type	# of Permits	Total Fees	Total Valuation
ALRM	14	\$3,097.47	\$190,112.90
SPRK	21	\$8,081.99	\$799,335.00
SUPP	2	\$169.88	\$5,074.00
<b>MECH</b>			
COM	50	\$12,052.07	\$0.00
IND	1	\$506.90	\$0.00
PUB	4	\$6,713.92	\$0.00
RES	245	\$10,545.45	\$0.00
<b>MH</b>			
RES	5	\$2,558.35	\$61,365.04
<b>MISC</b>			
	219	\$168,731.79	\$0.00
<b>PLUM</b>			
COM	18	\$15,203.40	\$0.00
IND	5	\$2,770.75	\$0.00
INS	1	\$44.80	\$0.00
PUB	9	\$1,157.02	\$0.00
RES	189	\$11,701.39	\$500.00
<b>SIGN</b>			
MONU	2	\$433.05	\$20,632.00
POLE	4	\$1,284.88	\$67,060.00
<b>Total:</b>	1049	\$1,965,841.60	\$70,950,048.93



# City of McMinnville - Account Summary Report

For Post Dates 06/01/2017 - 06/30/2017

For Category: BLDG

Fee Items: 1000,1010,1020,1100,1200,1210,1220,1230,1300,1310,

Posted Amount

Account Code: **ESCROW ACCT**	1500 STATE SURCHG-GENERAL	\$3,909.62
		<hr/>
		\$3,909.62
Account Code: 70-4400-05	1000 PERMIT FEES-BUILDING	\$22,884.13
Account Code: 70-4400-05	1300 PLAN REVIEW-BUILDING	\$10,289.24
Account Code: 70-4400-05	1400 PLAN REV-FIRE LIFE SAFTY	\$2,744.35
		<hr/>
		\$35,917.72
Account Code: 70-4400-10	1100 PERMIT FEES-MECHANICAL	\$4,430.57
Account Code: 70-4400-10	1310 PLAN REVIEW-MECHANICAL	\$464.82
		<hr/>
		\$4,895.39
Account Code: 70-4400-15	1200 PERMIT FEES-PLUMBING	\$5,265.00
Account Code: 70-4400-15	1320 PLAN REVIEW-PLUMBING	\$39.00
		<hr/>
		\$5,304.00

Total Posted Amount: \$50,026.73

# City of McMinnville - Account Summary Report

For Post Dates 07/01/2016 - 06/30/2017

For Category: BLDG

Fee Items: 1000,1010,1020,1100,1200,1210,1220,1230,1300,1310,

		Posted Amount
Account Code: **ESCROW ACCT**	1500 STATE SURCHG-GENERAL	\$47,082.87
		<hr/>
		\$47,082.87
Account Code: 70-4400-05	1000 PERMIT FEES-BUILDING	\$267,789.28
Account Code: 70-4400-05	1300 PLAN REVIEW-BUILDING	\$169,066.27
Account Code: 70-4400-05	1400 PLAN REV-FIRE LIFE SAFTY	\$42,774.19
		<hr/>
		\$479,629.74
Account Code: 70-4400-10	1100 PERMIT FEES-MECHANICAL	\$71,344.27
Account Code: 70-4400-10	1310 PLAN REVIEW-MECHANICAL	\$12,270.88
		<hr/>
		\$83,615.15
Account Code: 70-4400-15	1200 PERMIT FEES-PLUMBING	\$52,527.00
Account Code: 70-4400-15	1320 PLAN REVIEW-PLUMBING	\$4,074.75
		<hr/>
		\$56,601.75
Account Code: 70-4400-20	1010 PERMIT FEES-MH SETUP	\$1,075.00
		<hr/>
		\$1,075.00

Total Posted Amount: \$668,004.51