



July 23, 2024

Brenda Bateman
Director
Department of Land Conservation and Development
635 Capitol Street, NE, Suite 150
Salem, OR 97301-2540

(Sent via Email)

RE: City of McMinnville Response to Objections Raised by 1000 Friends of Oregon and Friends of Yamhill County, Regarding Ordinance No. 5141 - McMinnville Housing Capacity Analysis, Economic Opportunity Analysis, and Buildable Lands Inventory

Dear Director Bateman,

Please find below the City of McMinnville's response to Objection #6 raised by 1000 Friends of Oregon and Friends of Yamhill County (FRIENDS) to the City of McMinnville's Ordinance No. 5141, adopting a Housing Capacity Analysis and Economic Opportunity Analysis.

We sent our response to all other objections under separate correspondence on July 22, 2024.

We appreciate the opportunity to respond.

Objection 5. Refill, Redevelopment, and Employment on Non-Employment Land.
(Continued from July 22, 2024 Correspondence)

While locating the information for Objection #6 below, staff discovered that the above objection is discussed at length in Appendix B of the EOA (Index Record, pages 314 – 317), and that the assumption recommended by the Project Advisory Committee to the City Council for adoption is based on empirical data of past performance in McMinnville.

Recommended approach and assumptions

This update could simply carry forward the 17% refill/redevelopment assumption from the 2013 EOA for all categories, but the analysis of empirical data, calculations of effective density, and comparisons with other cities and the DLCDC Goal 9 Guidebook suggest that assumption is high, and that McMinnville hasn't achieved this historically. Further, even if that level of refill/redevelopment had been achieved historically, carrying over an assumption for each planning period would have a compounding effect of assuming unlimited, successively higher capacity of the same existing developed sites to absorb more employment each time. This would push the employment density for those developed lands up each planning cycle, where infill and redevelopment would have already theoretically occurred and increased in each previous planning cycle.

A reasonable assumption would be 5% refill/redevelopment for both commercial and industrial employment, which is what we would recommend. This would result in an increase in employment density on currently developed sites, still exceeding the empirical employment densities from the 2013 EOA.

The assumed 17% refill/redevelopment rate from the 2013 EOA would be an aspirational assumption that exceeds the empirical densities and exceeds the aspirational density from the 2013 EOA. It is an estimate that we don't anticipate will be achieved, and is higher than most comparisons. The 2001/03 EOA refill/redevelopment assumption of 17% for industrial and 15% for commercial is another aspirational assumption that hasn't been observed historically.

The tables below show the result of the 5%, 10%, and 17% refill/redevelopment assumptions for comparison for the 2021-2041 period.

The government land use type is excluded from the remaining employment forecast calculations, as we account for government employment in calculations for other land needs.

(Index Record, page 317)

Objection 6. Assumed Reduction in Commercial Jobs Per Acre.

FRIENDS asserts that the EOA violates Goal 14 and Goal 2 (adequate factual basis for the City's assumption of commercial jobs per acre arguing that since it is not the same assumption as the City's previous EOA).

The factual basis for the City's assumptions of commercial jobs per acre can be found in Appendix B of the EOA (Index Record, pages 319 – 325). Appendix B demonstrates two critical factors:

- 1) The commercial jobs per acre in the City's previous EOA were aspirational and not reflective of empirical data.

The 2013 McMinnville EOA used the following assumptions for employment density:

- **Industrial:** 11 employees per acre
- **Commercial:** 26 employees per acre

The 2013 EOA included an empirical analysis of employment density. The 11 employee/acre industrial density was the empirical calculated density. The empirical commercial employment density was 22 employees per acre. The 26 employee/acre density was an aspirational, policy-based assumption.

(Index Record, page 319)

- 2) The Project Advisory Committee used many different data sets to formulate its recommendation for employment density to the City Council, ensuring that the City was making its decisions in a true factual context.

The City examined several different data sets:

- Data collected from utilizing the “developed” lots in the buildable lands inventory and analyzing the jobs per acre based on comprehensive plan designation (industrial and commercial). Land in wetlands was removed from the acreage calculation to better account for land used for employment, and employment density was calculated as total employees per acre. The results of that calculation were:
 - Industrial: 10 employees per acre
 - Commercial: 23 employees per acre
- Data collected from sample scenarios of built employment land. This approach was admittedly limited as it did not apply across all of McMinnville. The results of that calculation were:
 - Industrial: 11 employees per acre
 - Office commercial: 29 employees per acre
 - Retail commercial: 19 employees per acre
- Reference to *DLCD's Industrial and Other Employment Lands Analysis – Basic Guidebook*, which states:

“Typical employment densities per net acre range from 8 – 12 jobs for industrial; 14 – 20 jobs for commercial; and 6 – 10 jobs for institutional/other jobs.”

Demand Task 5. Estimate job density.

There are several methods for estimating job density. The second method, *population/developed land ratio*, is the easiest to use, as most jurisdictions have current- year population estimates and forecasts. The third method, *employment/ developed land ratio*, is similar to the first, it relies on local employment estimates and forecasts. The first method, *employees per area*, requires assumptions. Employment density varies considerably by industry—and even within industries. Typical employment densities per net acre range from 8 - 12 jobs for industrial; 14 - 20 jobs for commercial; and 6 - 10 jobs for institutional/other jobs. Of importance is whether the assumption is for net acres (land that is available for sale in parcels, or lots after roads, environmental lands, and other infrastructure have already been deducted); or gross acres (total land before those deductions). As a general rule, it is assumed that there are more employees per acre on a net acre than on a gross acre.

Tab
Basic Methods for Est

(DLCD’s Industrial and Other Employment Lands Analysis – Basic Guidebook)

- Comparison of other cities employment densities that are similar in scope and context to McMinnville. McMinnville’s employment density assumptions are higher than all other cities in the comparison index except for Corvallis (which could be identified as an outlier due to the presence of OSU in Corvallis).

Exhibit 8. Employment densities for comparison cities

City	Employment Density (employees per acre)			Rationale/Approach	Date
	Industrial	Commercial	Retail		
Ashland	12	17	--	Reasonable judgement/comparison (pg. C-6)	2007
Newberg	11	21	21	Empirical analysis (pg. 84 McMinnville 2013 EOA)	2010
Redmond	5 (low) - 12 (high)	12 (low) - 20 (high)	--	Empirical analysis/comparison (pg. 5-29)	2005
Grants Pass	10	17	17	Reasonable judgement/comparison (pg.8-47)	
Albany	12	--	20	Reasonable judgement/comparison (pg 11)	2007
Corvallis	10	35	25	Empirical analysis (pg 4-60)	2016
Bend	--	--	--	<i>Note: Bend did not use an EPA approach for the 2016 EOA.</i>	2016

(Index Record, page 323)

FRIENDS is choosing to use just the sample area data set for their argument and assertion that the City must choose this data set as the only factual basis for its assumptions in the EOA. The PAC, after reviewing several different data sets, voted to recommend to City Council an employment density that was more reflective of the data trend for the whole city and not just sample areas, and still higher than other comparable cities, as well as what DLCD identifies for typical employment densities.

FRIENDS recommends substituting their preferred assumptions for needed employment land and sites rather than the assumptions recommended by the City's Project Advisory Committee, recommended by the Planning Commission, and adopted by the City Council.

The following language was in a 9/5/2019 memo to the PAC:

https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning/page/1675/us_eoa_pac_2_9-5-2019_agenda_and_packet.pdf

As with redevelopment rates, there is little detailed empirical analysis readily available for jurisdictions outside the urbanized portion of the Portland metro (tri-county) area. However, in conjunction with updating its non-residential buildable lands inventory (BLI), it has been possible to assess current employment densities for commercial uses in McMinnville's UGB. Based on review of the updated BLI together with employment data, the job density for commercial retail and service/office uses is estimated at an overall average of approximately 22 employees per acre. In discussion with the EOA Advisory Committee, four criteria were identified as a means to address employment density questions for commercial uses:

- Meet at least the minimum DLCD Goal 9 Guidebook guidelines for employment densities. Both the prior EOA and alternative commercial job density methods considered with this update are well above the DLCD range of 14-20 jobs per acre for commercial uses.
- Use locally driven information. Comparison to other communities can be useful as general guide to bracket a potential range of alternatives. This EOA process has included comparisons to a diversity of other western Oregon communities – including Salem-Keizer, Corvallis, Albany, Newberg, Beaverton and the Portland metro area.³¹ Each comparable is associated with its own pros and cons; none appears as directly applicable to McMinnville's economic profile or opportunities. DLCD input indicates that McMinnville need not compare itself with any other city, so long as EOA data and accompanying narrative clearly describe why a McMinnville-specific density figure is being selected.
- Provide empirical support for EOA findings whenever possible. Coming up with valid empirical employment density information has proven to be one of the more daunting data challenges with EOAs across Oregon. However, the updated BLI coupled with employment data have made it possible to provide a reasonable quantitative estimate of existing McMinnville commercial employment densities. To the extent that the forecast process reflects this data as a basis for findings, the resulting adopted EOA should also prove to be more defensible in the event of potential challenges.
- Balance historic community trends with current conditions and aspirations. As DLCD representatives have noted throughout the Committee discussion process, the Goal 9 process allows for considerable local community discretion so long as final recommendations and findings are clearly explained and supported by EOA documentation.

As with other objections, it appears FRIENDS would like to hold the City of McMinnville's 20-year need assumptions to an unreasonably high level of precision. And when not satisfied with the outcome of the City's decisions, they object to the final decisions based on the fact that enough analysis or data was provided to support that decision. However, the City, working with a Project

Letter Re: McMinnville Response to FRIENDS Objections, Sequential UGB Work Task 1

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Advisory Committee, community engagement, local empirical data as well as other data sets, made decisions that best reflected McMinnville's values and growth patterns. Legally, the City has the right to do that. OAR 660-024-0040 provides as follows:

660-024-0040

Land Need

(1) The UGB must be based on the appropriate 20-year population forecast for the urban area as determined under rules in OAR chapter 660, division 32, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. **The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.**

At what point is it determined that the City is being held to an unreasonably high level of precision?

The objections provided by FRIENDS and Mark Davis are not the only concerns that these groups and individual expressed during this planning process. Representatives from FRIENDS and Mark Davis were members of the PAC and involved in the entire process. As identified in the record, they expressed their concerns throughout the process to the PAC and eventually the Planning Commission. Many of their concerns and ideas were accepted by the City and were incorporated into the HNA and EOA. These objections are what remain and they consist of either (1) arguments for a different policy course, contrary to the one chosen by the City, or (2) arguments that are inconsistent with what is required under the applicable statutes, goals and regulations. At the end of the day, the City asks that you acknowledge them and allow the City to move forward with the next step of its planning process. If you should have any questions regarding the submittal, please contact me at Heather.Richards@mcminnvilleoregon.gov, or 503-474-5107.

Sincerely,



Heather Richards, PCED
Community Development Director



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

**INDEX FOR PUBLIC RECORD FOR ORDINANCE NO. 5141, ADDENDUM #2
DOCKETS G 1-20 AND G 3-20 – (4 Pages) McMinnville Housing Capacity
Analysis, Economic Opportunity Analysis and Buildable Lands Inventory**

Document	Date	Pages
Confirmation from DLCD of Amended to Public Notice File #003-20	April 15, 2021	1
Confirmation from DLCD of Public Notice DLCD File #003-20	May 14, 2020	2
Public Notice to DLCD of EOA	May 14, 2020	3 - 4

Tom Schauer

From: DLCDC Plan Amendments <plan.amendments@state.or.us>
Sent: Thursday, April 15, 2021 4:46 PM
To: Tom Schauer
Subject: Confirmation of PAPA Online submittal to DLCDC

This message originated outside of the City of McMinnville.

McMinnville

Your notice of a revised proposal for a change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: G 3-20

DLCD File #: [003-20](#)

Original Proposal Received: 5/14/2020

Date of Revision: 4/15/2021

First Evidentiary Hearing: 5/20/2021

Final Hearing Date: 6/13/2023

Submitted by: tom.schauer

If you have any questions about this notice, please reply or send an email to plan.amendments@state.or.us.

From: [Tom Schauer](#)
To: [Sarah Sullivan](#)
Subject: FW: Confirmation of PAPA Online submittal to DLCDCD
Date: Wednesday, May 20, 2020 9:55:53 AM

Tom Schauer, AICP

Senior Planner
City of McMinnville
231 NE 5th Street
McMinnville, OR 97128

503-474-5108

tom.schauer@mcminnvilleoregon.gov

From: DLCDCD Plan Amendments [mailto:plan.amendments@state.or.us]

Sent: Thursday, May 14, 2020 11:56 PM

To: Tom Schauer <Tom.Schauer@mcminnvilleoregon.gov>

Subject: Confirmation of PAPA Online submittal to DLCDCD

This message originated outside of the City of McMinnville.

-

McMinnville

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: G 3-20

DLCDCD File #: [003-20](#)

Proposal Received: 5/14/2020

First Evidentiary Hearing: 5/20/2021

Final Hearing Date: 6/22/2021

Submitted by: tom.schauer

If you have any questions about this notice, please reply or send an email to plan.amendments@state.or.us.



Oregon Department of Land Conservation and Development

PAPA Online Submittal

Tom Schauer

[Home](#)
[\(/PAPA Online/\)](#)
Reports
https://db.lcd.state.or.us/papa_online_reports

McMinnville (Read Only)
(/PAPA_Online/Jurisdictions/Jurisdiction/Get/162)
-> Amendment 003-20

Report a Problem
(mailto:plan.amendments@state.or.us?subject=PAPA_PR
Report a Problem)

DLCD File #: 003-20 Status: Web Notice Posted Revision Type: Department Review

Revise Withdraw Deny Adopt

Local File #: G 3-20

Date of 1st Hearing: 05/20/2021

371 Days difference

Date of Final Hearing: 06/22/2021

404 Days difference

- Type:
- Comprehensive Plan Map Change
 - Zoning Map Change
 - Comprehensive Plan Map & Zoning Map Change
 - Comprehensive Plan Text Change
 - Land Use Regulation Change
 - UGB using Simplified Method (div 38)
 - UGB amendment by city with population less than 2,500 within UGB (div24)
 - UGB amendment of 50 acres or less by a city with population 2,500 or more within UGB (div 24)
 - UGB amendment adding more than 50 acres by city with population 2,500 or more within UGB (div 24)
 - UGB amendment that adds more than 100 acres by Metro (div 24)
 - Urban Reserve designation by Metro or a city with population 2,500 or more within UGB
 - Urban Reserve amendment to add over 50 acres by a city with population 2,500 or more within UGB
 - Urban Reserve designation or amendment by a city with population less than 2,500 within UGB
 - Urban Reserve amendment by Metro
 - Urban Reserve Other
 - Other
 - Periodic Review Task

Summary: EOA, Employment Land BLI, and Other Land Needs

An exception to a statewide planning goal is proposed:

Total Acres: 0.00

Locations (If there's a large number of tax lots associated with this amendment, please contact DLCD for assistance. plan.amendments@state.or.us (mailto:plan.amendments@state.or.us?subject=PAPA%20on-line%20location%20entry%20assistance))

Type	Tax Lot	From	To	Acres
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Additions and changes to tax lots won't be permanently saved until you click the "Save" button at the bottom of this page.

Contacts

Contacts
Tom Schauer Senior Planner (Local)

Documents

Upload supporting documentation. Administrative rule requires that you include all of the following materials that may apply:

- The text of the amendment (e.g., plan or code text changes, exception findings, justification for change)

- Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained
- A map of the affected area showing existing and proposed plan and zone designations
- A copy of the notice or a draft of the notice regarding a quasi-judicial land use hearing, if applicable
- Any other information necessary to advise DLCD of the effect of the proposal

Uploaded	Name	User
5/14/2020	Proposal_4--McMinnville Economic Opportunities Analysis_v15_clean_2020-05-14_11-53-53.pdf (/PAPA_Online/Document/Get?documentID=248512)	
5/14/2020	Proposal_3--DRAFT EOA Executive Summary_02_21_20_2020-05-14_11-54-26.pdf (/PAPA_Online/Document/Get?documentID=248513)	

July 15, 2024

Brenda Bateman
Director
Department of Land Conservation and Development
635 Capitol Street, NE, Suite 150
Salem, OR 97301-2540

(Sent via Email)

RE: City of McMinnville Response to Objections Raised by Mark Davis, Regarding Ordinance No. 5141 - McMinnville Housing Capacity Analysis, Economic Opportunity Analysis, and Buildable Lands Inventory

Dear Director Bateman,

Please find below the City of McMinnville's response to the objections raised by Mark Davis to the City of McMinnville's Ordinance No. 5141, adopting a Housing Capacity Analysis and Economic Opportunity Analysis.

We appreciate the opportunity to respond.

Objection 1: Buildable Land Need Overstated by 168 Acres.

Mark Davis' argument that the City's park land need is overstated since it is based on a 1999 Parks and Recreation Master Plan that was not achieved in terms of performance and is presumably outdated does not have legal basis. The City has adopted Comprehensive Plan Policies that direct the City to use the Parks, Recreation and Open Space Master Plan to identify land need.

Mark Davis brought up this same testimony in written form to the Planning Commission, dated September 5, 2023 (Index Record, pages 2126 – 2225), and the City responded in a memorandum dated September 18, 2023, (Addendum, pages 16, 17 and 18), which is excerpted below.

In his letter dated September 5, 2023, Mark Davis contends that the Parks Master Plan has expired and was never fully implemented so it should not be used as a means of projecting future land use need for parks.

However, the 1999 McMinnville Parks Recreation and Open Space Master Plan has never been repealed and is still in effect. And more importantly, per

Letter Re: McMinnville Response – Mark Davis Objection

Date: July 15, 2024

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

The 1999 McMinnville Parks Recreation and Open Space Master Plan is the currently adopted plan that should be used. Table 2 of the Plan establishes the following standards for future land use needs for parks.

Parks Master Plan , Recommended Levels of Service, (Table 2, Page 11)

2.00 Acres / Neighborhood Park per 1000 capita

6.00 Acres / Community Park per 1000 capita

6.00 Acres / Greenways and Open Spaces per 1000 capita

14.00 Acres per 1000 capita

Per Comprehensive Plan Policy #163.05, neighborhood parks and community parks needed to be located outside of the flood plain.

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

This policy does not direct the city to locate all other parks in the floodplains but directs the city to acquire floodplain lands for future use as natural areas, open spaces, and/or parks.

When the City goes through a land-use efficiency process it should identify locationally based on the attributes described in the Parks, Recreation, and Open Space Master Plan where the greenway and open space should be located.

Table 2
PARK STANDARDS AND ANTICIPATED NEED

Facility	Existing Standards	Recommended Standards	Anticipated Need 2017 pop 38,000
Mini-Parks/Playlots	0.10 - 0.30 acres/1000	ns	
Neighborhood Parks	2.00 acres/1000	2.0 acres/1000	76
Community Parks	5.00 - 8.00 acres/1000	6.0 acres/1000	104
Linear Parks	ns	ns	
Special Use Parks	ns	ns	
Greenspace/Greenways/ Natural Areas	ns	6.0 acres/1000	116
Trails and Connectors	ns	1 system	
Total	7.1-10.3 acres/1000	14.0 acres/1000	295.54 acres

The City continued to refute this argument in the same memorandum from legal counsel, stating, (Addendum, pages 80 – 81).

Capacity of Lands Designated Urban Holding and Projection of Future Park Needs.

The first issue identified by the Friends is that the HNA assumes that too much land will be parks schools and institutions, and cites what it calls the “expired” parks plan. As the Friends point out, the City’s most recent parks plan, the “Parks Recreation, and Open Space Master Plan,” was adopted in 1999 and specifically notes that “[t]he Master Plan describes how the City will strive to provide parks and recreation opportunities to residents for the next 20 years.”

Based on that statement, the Friends assert that it “cannot be relied upon to justify land needs through either 2041 or 2067.” However, the Friends provide no legal support for that position. LUBA has reviewed so-called “expired” plans in only a few situations, most pertinently in series of cases from the city of Tangent. Lengkeek v. City of Talent, 50 Or LUBA 367 (2005), 52 Or LUBA 509 (2006), and 54 Or LUBA 160 (2007) (“Lengkeek I,” “Lengkeek II,” and “Lengkeek III.” In that

series of cases, the City’s buildable land inventory projected lands through 2005, and the city “extrapolated” from those trends to find additional need. LUBA rejected that approach, concluding that it could not rely on the extrapolated BLI because it had not been incorporated into the city’s comprehensive plan. In particular, LUBA relied on a recent Court of Appeals case, 1000 Friends of Oregon v. City of Dundee, 203 Or App 207, 216 (2005), in which the Court of Appeals held as follows:

“The comprehensive plan is the fundamental document that governs land use planning. Citizens must be able to rely on the fact that the acknowledged comprehensive plan and information integrated in that plan will serve as the basis for land use decisions, rather than running the risk of being ‘sandbagged’ by government’s reliance on new data that is inconsistent with the information on which the comprehensive plan was based.”

This situation is not similar; McMinnville is not relying on extrapolations from an outdated plan. Instead, McMinnville is relying on the explicit policies that have been incorporated into the City’s Comprehensive Plan. In particular, Policy 159.00 explicitly incorporates the Parks, Recreation, and Open Space Master Plan “to identify future needs of the community” and, more importantly, Policy 170.05 explicitly addresses the projection of future park needs:

“For purposes of projecting future park and open space needs, the standards as contained in the adopted McMinnville Parks, Recreation, and Open Space Master Plan shall be used.”

In this case, the City can properly rely on the policies set forth in that plan to identify the “future” parks needs of the city.

Mark Davis’ argument that all greenways and greenspaces should be located in unbuildable land is an opinion argument and not supported by the City’s comprehensive plan policies or adopted Parks, Recreation and Open Space Plan.

Comprehensive Plan Policy #163.05 does not make an absolute statement that all linear parks, greenways, open space, trails and special use parks should be located on floodplain land. Furthermore, as identified in the chart above, linear parks, special use parks, and trails are not part of the city’s overall land need level of service of 14.0 Acres/1000 capita.

Mark Davis believes that all greenspaces and greenways should be located on unbuildable land. The City believes that it should be located based on functionality and long range planning goals for the City, such as connectivity and equitable access to open space. The City adopted a McMinnville Growth Management and Urbanization Plan (MGMUP), and a Framework Plan for its current UGB expansion lands identifying the future location of linear parks, trails greenways and greenspaces with these goals in mind.

Letter Re: McMinnville Response – Mark Davis Objection

Date: July 15, 2024

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The City's long-range planning is adopted through a comprehensive public input and community visioning process. Plans such as the Parks, Recreation and Open Space Master Plan as well as the McMinnville Growth Management Urbanization Plan and Framework Plan reflect that community input and public process. The City should be able to move forward with implementation accordingly.

Objection 2: The 2041 Need for Park Land is Overstated by 76 Acres.

Mark Davis' assertion that the 76 acres of undeveloped park land identified in the bullet point of Appendix E of the EOA, (Index Record, page 337) should be considered future park land is misrepresenting the data. The City's memorandum dated September 18, 2023, included an exhibit which was a memorandum provided to the Public Lands Project Advisory Committee on October 10, 2019. This memorandum provided a table of all park land and open space land. The park land was identified as 273 acres. The additional 76 acres was identified as open space as it is mostly remnant land acquired by the City through a variety of different actions. (Addendum, pages 50 – 54). The PAC discussed this land and concluded it was not part of the park land inventory. This is reinforced by the bullet point found on the same page that Mark Davis references which identifies the following "The 2017 need was approximately 480 acres; there's a deficit of approximately 207 acres of developed park land." (Index Record, page 337). 480 acres minus 273 acres equals 207 acres.

If you should have any questions regarding the submittal, please contact me at Heather.Richards@mcminnvilleoregon.gov, or 503-474-5107.

Sincerely,



Heather Richards, PCED
Community Development Director

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July 22, 2024

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RE: City of McMinnville Response to Objections Raised by 1000 Friends of Oregon and Friends of Yamhill County, Regarding Ordinance No. 5141 - McMinnville Housing Capacity Analysis, Economic Opportunity Analysis, and Buildable Lands Inventory

Dear Director Bateman,

Please find below the City of McMinnville's response to the objections raised by 1000 Friends of Oregon and Friends of Yamhill County (FRIENDS) to the City of McMinnville's Ordinance No. 5141, adopting a Housing Capacity Analysis and Economic Opportunity Analysis.

We appreciate the opportunity to respond.

We would like to state for the record that the City of McMinnville is currently in a housing crisis. Compared to previous decades, dwelling unit building permits issued annually have trended significantly lower. McMinnville has found itself in a game of cat and mouse with its growth planning. At the same time, nearly every growth planning milestone enacted by the City has been challenged by 1000 Friends of Oregon, Friends of Yamhill County, and a few select individuals within the city limits and the surrounding county. McMinnville's last effort to respond to its projected housing land need has become the subject of folklore through the state's planning community. The amount of years, staff time, and city resources that were spent on responding to challenges, appeals and remands in order to eventually expand its urban growth boundary in 2021 to meet a housing land need for the planning horizon of 2003 – 2023 is astounding and appalling. At a time when we are examining our land use system for inequities, undue influence, privilege and entitlement, the story of McMinnville's growth planning is illustrative of an unbalanced program. Our annual population growth has dwindled considerably, in part due to constrained land supply and available housing. "No growth" advocates love it. But there are unintended consequences. Our community is gentrifying as housing costs have risen exponentially in the past five to ten years due to limited housing supply. Lower and moderate-income households are being displaced. The schools are facing declining enrollment as young families can no longer afford to live in McMinnville. We are losing our multi-generational, mixed-income rural community charm. We do not believe that this was the intent of the founders of the Oregon land use system, nor is it sustainable over the long-term.

The City has limited staff capacity and resources. We would prefer to spend our time doing the necessary planning to support the annexation and development of our recently expanded UGB

Our Mission: Providing excellent customer service, public engagement, and proactive planning programs to promote McMinnville as the most livable and prosperous city in the state of Oregon now and into the future.

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areas to promote housing production for all incomes, the development of great neighborhoods with a mixture of land uses, alternative transportation options and public amenities.

FRIENDS has raised many objections. Their proposed remedy for most objections is to remand the work back to the City and require the City to use new data or reevaluate the data used in the analysis.

We assert that growth planning in Oregon is not an exact science. It is a forecast of projections based on historical trends, current trends, and future community aspirations. 1000 Friends of Oregon and Friends of Yamhill County would like the City to choose different goals and aspirations that they feel are appropriate for McMinnville in order to reduce the need for a UGB amendment. The City would like to choose goals and aspirations based on what is best for the current and future community of McMinnville, and their quality of life living within the city limits of McMinnville. The resulting product is based on local data and policy decisions of the McMinnville City Council within the constructs of Oregon's land use planning goals after engaging the citizens of McMinnville. We are planning for necessary growth but we are planning for the necessary growth based on McMinnville's choices of how the community wants to grow. The law allows McMinnville to make those choices. It is clear that 1000 Friends of Oregon and Friends of Yamhill County do not like all of those choices and some of their objections are based purely on their arguments that they believe the City should make different choices. Some of their objections are based on non-compliance with state laws and administrative rules. We tried to make the distinction during our local public hearing process and have tried to do the same with this response. We encourage DLCD to distinguish between the two types of arguments as well.

There are also many references to the City not doing the appropriate land use efficiencies work prior to identifying the need for a UGB amendment. We agree that the submitted work has not examined land use efficiency measures, but that is on purpose. As you know, the City is engaged in a sequential UGB work plan. Identifying the forecasted land need is the first step (Task 1 of our work plan). After this task is complete we will start a discussion and evaluation of land use efficiencies that are appropriate within the existing UGB to meet the forecasted need and, if after that analysis and work is completed, there is still a need for additional land to meet our housing, employment and institutional land needs outside of the existing UGB we will start to work on a UGB amendment. But the land use efficiencies analysis has not yet commenced, and we understand it cannot commence until such time that this initial forecasted land need work is acknowledged by DLCD. Therefore, we believe that any arguments that 1000 Friends of Oregon and Friends of Yamhill County have about land use efficiencies is premature. We followed the process and rules outlined in ORS and OAR for forecasting housing and employment land need in this first step, and we will do the same for the next step of land use efficiencies when we commence on that work. We encourage DLCD to make that distinction in their review of this initial task in our sequential UGB work plan as authorized by DLCD in a letter dated February 7, 2024 (Index Record, pages 411 – 414).

Background Statement:

“OAR 660-024-0050(4) requires that “Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB.” McMinnville has not met made the threshold requirements for a UGB expansion.” Ordinance No. 5141 is not a UGB amendment submittal and no UGB expansion is proposed in this submittal. As was made clear, several times during the adoption process of the Housing Needs Analysis (HNA), Economic Opportunities Analysis (EOA) and Buildable Lands Inventory (BLI), Ordinance No. 5141 was simply the first step in identifying whether or not a UGB amendment would be necessary. The City was clear during its presentations both with the Planning Commission and the City Council, that the City planned to engage in a Sequential UGB Work Plan in order to evaluate land-use efficiencies in 2025 after submitting the HNA/EOA and BLI per the deadline requirements of ORS 197.296. In fact, the City did not officially adopt Ordinance No. 5141 until the sequential work plan was approved by both Yamhill County and DLCD, and the City entered the approved work plan into the record on February 27, 2024 (Index Record, pages 411 – 414).

“McMinnville is not meeting the housing needs of its residents under Goal 10 and related housing statutes and rules.” The City of McMinnville agrees. The City of McMinnville is not able to meet its housing needs of its residents due to a long-protracted challenge of its 2003 UGB amendment by many of these same objectors. In fact, that UGB amendment for a planning horizon of 2003 – 2023 was only acknowledged in April, 2021 without further appeal. The constant appeals and challenges of the City of McMinnville’s growth planning by 1000 Friends of Oregon and Friends of Yamhill County for the past twenty years has put the City of McMinnville into a housing crisis with demonstrated depressed housing growth over the past fifteen years, supply scarcity, and exponentially rising housing costs. The City of McMinnville would like to focus on the necessary planning to entitle its new UGB expansion areas to prepare them for much-needed housing development. However, ORS 197.296 required the City of McMinnville to submit a new Housing Capacity Analysis by December 31, 2023. With limited resources and staff capacity, the City of McMinnville finds itself once again trying to meet state-mandated growth planning performance deadlines and then defending that growth planning from objections and challenges from 1000 Friends of Oregon, Friends of Yamhill County and Mark Davis, rather than devoting those resources and staff capacity to the public facility planning still needed to entitle the 2021 UGB expansion areas for future housing development that was identified as needed for the planning horizon of 2003 - 2023. Accountability for the City of McMinnville not meeting its housing needs of its residents under Goal 10 and related housing statutes and rules is held by many more responsible parties than just the City of McMinnville.

Objection 1. Residential Density for Needed Housing.

FRIENDS says that the average density in the HNA (5.46 dwelling units per gross buildable acre) is less than that used in the McMinnville Growth Management and Urbanization Plan (MGMUP), which resulted in the 2020 UGB expansion (5.7 dwelling units per gross buildable acre).

The density estimate in the HNA (5.46 dwelling units per acre) is based on an analysis of historical achieved densities over the 2000 to July 2018 period, using McMinnville’s building permit data. This analysis is shown in Exhibit 22 of the 2023 HNA report. (Index Record, page 81). The historical density analysis forms the basis for the estimate of future housing capacity of buildable land, which is shown in Exhibit 98 in the 2023 HNA report. (Index Record, page 160). This analysis and estimate of future capacity is consistent with the requirements of ORS 197.296(5)(a)(A).

As provided in the September 18, 2023 legal memorandum from Bateman Seidel, the City may choose whether to use the safe harbor provided, or it must use data based on actual development that has occurred in the UGB since the last Housing Needs Analysis. (Index Record, page 82)

ORS 197.296(5) states:

Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity pursuant to subsection (3)(a) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last review under subsection (2)(a)(B) of this section. The data shall include:

- A The number, density and average mix of housing types of urban residential development that have actually occurred;
- B Trends in density and average mix of housing types of urban residential development;
- C Market factors that may substantially impact future urban residential development; **and**
- (D) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

In this case, the last Housing Needs Analysis calculated building permits up until 2000. This Housing Needs Analysis calculated building permits from 2000 -2018. The Housing Needs Analysis Project Advisory Committee chose to go with the local data for its baseline.

The density used in the HNA is taken directly from the historic development that has “actually occurred” in the city and that it fully consistent with the requirements of ORS 197.296(5). The City does not have authority to ignore the density of development that actually occurred in the City.

State law does not require all cities to have the same density requirements in their land-use program. However, it does require the needs analysis to establish a baseline based on factual data of historic density of development in the community.

FRIENDS also argues that the City did not use “trends in density and the mix of housing types” and “market factors that will influence future development” in its future density calculations. Chapter 5 of the Housing Needs Analysis entitled, “Housing Need in McMinnville (Index Record, pages 133 – 156) and Appendix B of the Housing Needs Analysis entitled “Scenario Modeling (Index Record, pages 169 – 177), go into detailed analysis about all of the different factors that the City used to develop its future housing density assumptions including historic permit trend data and market factors.

In addition, McMinnville updated its zoning code in 2022 to allow middle housing types as required by House Bill 2001 (2019). ORS 197.296(6)(b) limits a city to increasing the future density expectations to 3% over the historical densities without “quantifiable validation” for a larger assumption about increases in density. McMinnville assumed a 3% increase over historical densities (in Exhibit 22¹) to account for complying with complying with HB 2001 (2019). (Addendum Record, pages 62 – 63).

¹ When this memorandum refers to a specific exhibit, the exhibit is from either the 2023 HNA report or the 2023 EOA report, unless earlier versions of the HNA or EOA reports are specifically referenced.

FRIENDS argues that this should be a land-use efficiencies adjustment and not one that occurs with the Housing Needs Analysis. The City's understanding from the law is that the City can elect to use it as part of the Housing Needs Analysis if the analysis occurs after the zoning amendments to support HB 2001 have been enacted.

The City believes that it followed the appropriate process for determining future density calculations in the Housing Needs Analysis.

Objection 2. Current Housing Needs

The City is confused by this objection and is uncertain of the legal basis for the argument. FRIENDS argues that the City is not meeting the needs of all of its current residents and is only focused on its new residents. FRIENDS goes on to argue that the City has not identified how it is going to meet the needs of its lowest income residents or its highest income residents.

Outside of the allowances in the local regulatory framework for the development of housing of all types of density and housing types to serve all of its residents, the City does not understand what other mechanisms that FRIENDS would like to require as part of a Housing Needs Analysis that is not addressed in a Housing Production Strategy.

The difficulty with the FRIENDS position is twofold. First, the regulatory framework for the preparation of the HNA is to determine whether the City has sufficient capacity to accommodate the housing needs of the entire population based on the City's projected population, which does not distinguish between those residents who are housed and those that are homeless. Second, a Housing Needs Analysis is about "planning" for meeting future need. The issue identified by the FRIENDS here is better addressed in the City's forthcoming Housing Production Strategy ("HPS"), which is an additional requirement that will follow once the HNA is adopted (OAR 660-008-0050). The HPS specifically requires the development of a "housing shortage analysis" that will address this concern.

Addressing unmet housing needs of existing residents is a complex topic. One way to understand the unmet housing needs of existing residents is through housing affordability. Residents who cannot afford their existing housing or people experiencing homelessness have unmet housing needs. The 2023 HNA provides information about housing costs in Exhibit 63 through 67 and about housing affordability in Exhibit 68 through Exhibit 77 (Index Record, pages 122 – 128). The HNA also provides information about people experiencing homelessness in Yamhill County from the Point-in-Time counts in Exhibit 57 and students experiencing homelessness in Exhibit 58 (Index Record, page 116).

People who live in McMinnville, except for people experiencing homelessness, have an existing place to live, even if it is unaffordable. An HNA does not assume that new housing is needed for every household that cannot afford their current housing. An HNA is expected to present information to understand the extent of affordability challenges.

Cities are expected to identify policies to address unmet housing needs of existing residents in their Housing Production Strategy (HPS), which is a newer State requirement. An HPS includes policies to: (1) support development of housing that is more affordable, especially for low-income households, (2) preserve existing affordable housing, (3) address homelessness, and (4) meet other (related) State requirements. Policies in an HPS may include: zoning-related strategies to reduce housing costs (such as lowering minimum lot sizes), financial strategies to support development of affordable housing and preservation of existing affordable housing, partnerships to support development and preservation of affordable housing, and many other approaches.

McMinnville is currently underway with its HPS and expects to adopt it in the Spring of 2025.

Objection 3. Land Needs Not Identified in the Average Employment Densities.

FRIENDS objects to the 49 acres of employment land identified in Exhibit 58 on page 92 (Index Record, page 283), that were isolated as important for the City's adopted economic development strategy and were not adequately accounted for in the EOA's traditional assignment of employment classifications. These represent 8 projects that the City is actively promoting as part of its economic development strategy that are land consumptive and do not employ many people – ie they are anomalies in the assignment of employees/acre but critical for the city's economic development strategy.

FRIENDS argues that this approach is not supported by Goal 9, Goal 14 or Goal 2. And that the City does not provide adequate basis for the inclusion of these projects in the EOA.

The EOA provides the basis for concluding that these projects are critical to the City's adopted economic development strategy and thus supported by Goal 9. Appendix C of the EOA as well as pages 89 – 96 of the EOA explain the analysis, methodology of assignment of acreage, and employment forecasts to justify the land need.

Goal 9 requires that the City consider land supply needs to support its adopted economic development strategy, and stresses that the economic opportunity analysis should be focused on local visions for economic development based upon a thoughtful evaluation of strengths, weaknesses and opportunities and the goals of the community for economic development.

The City of McMinnville spent two years researching, evaluating and engaging the public on the MAC Town 2032 Economic Development Strategic Plan (Plan). The Project Advisory Committee for the EOA spent two meetings (January 20, 2020 and February 27, 2020) reviewing that plan and all of the projects and programs identified in it to ensure that the EOA would support it. The plan has 8 goals and 57 strategies, with approximately 180 potential tasks or projects, 57 of which have land-use or site-related needs. Of those it was determined that 47 could be met within the employment forecast and 10 would have additional unique land needs to be implemented. These were then researched with the local economic development agencies and similar projects were reviewed in other communities for land-use needs and job capacity. That list was reduced to 8 projects with the 2023 update.

The Economic Development Strategic Plan has been vetted and adopted, and is currently being implemented by the City, McMinnville Chamber of Commerce, McMinnville Downtown Association, Visit McMinnville, McMinnville Economic Development Partnership, and the McMinnville Economic Vitality Leadership Council. Members from those economic development groups participated in the PAC for the EOA. Opposition to this approach was conveyed at the PAC by Sid Friedman as a member of the PAC representing Friends of Yamhill County and the PAC elected to still move forward with including this exhibit and calculation in the EOA due to their convictions that these projects were critical to the city's adopted economic development strategic plan, and that they were not accounted for in any other land need analysis.

The City Council heard the 1000 Friends and Friends of Yamhill County objections as part of the local land use process, but they elected to keep these projects and analysis in the EOA, again

with the conviction that these projects were critical to the success of the adopted economic development strategic plan and not accounted for in any other land need analysis.

FRIENDS says that the Other Needed Employment Sites (see Exhibit 58 of the 2023 EOA) are low-job-density uses, some of which would be publicly owned and occur on public lands, and should be identified in other land-use need analysis, such as park land or institutional land. However, these projects have not been identified by the City in other land need plans since they are specifically included in the City's adopted economic development strategic plan.

The land needs in this section, "Other Employment Sites" include a total of 49 acres for: a community center and recreation facility, outdoor stage/amphitheater, arts and culture focused event center, Evergreen Aviation and Space Museum expansion, Wings and Waves expansion, conference center, food hub and public market, and makerspace/innovation hub.

Any of these uses could be privately owned and run, and some may be public uses. There are instances of the following uses being privately owned (FRIENDS asserts these would be public uses): conference centers, arts and cultural centers, or public markets. There are privately-owned arts and cultural centers, conference centers, food hubs/public market, and outdoor stages in communities across Oregon (see pages 93 to 96 of the EOA). While community centers may be more likely to be publicly owned, land for these uses is not otherwise accounted for in McMinnville's existing planning documents.

The EOA contains an estimate of demand for commercial and industrial land; in that estimate, the EOA notes that the City's adopted Economic Development Strategic Plan identifies several specific sites that are not necessarily captured in the buildable land inventory, such as a community center, an outdoor stage/amphitheater, event center, etc. . . . The EOA concludes that, because the characteristics of these uses are not adequately reflected in the average employment density calculations, the City should increase the land needs to accommodate those uses. The Friends acknowledge that some of these uses do present some "unique features not typically included in commercial land," but still recommend that the City delete these "other sites" and the additional 49 acres of land needs that result.

There is no guidance in Goal 9 or OAR 660-009 that discusses or prohibits planning for land needs that are out of the ordinary for economic and employment uses. The City asserts that since these uses are specifically identified in the adopted MAC Town 2032 Economic Development Strategy, and since the City assigned employment forecasts to the specific uses after researching employment averages for each type of use, ultimately reducing the overall employment forecast accordingly, that it is meeting the intent of the EOA and Goal 9 in terms of identifying the types of land and supply of land to enact the city's economic development strategy and accommodation of needed future employment.

Objection 4. Retail Leakage

McMinnville has documented significant retail leakage and the resultant commercial land deficit. The EOA strives to respond to the retail leakage with a land need analysis. FRIENDS argues that this is additive to the safe harbor that the City elects to take for the calculation of land need based on commercial employment needs. The EOA concludes that the city needs an additional 12 acres of commercial land to accommodate this retail leakage in addition to its other commercial land needs, as it is fixing an existing proven deficit and not a future forecast.

The EOA does include both a forecast of employment growth based on the population forecast, as well as an additional analysis of land needed to address retail leakage. The retail leakage analysis addresses existing deficits in retail businesses in McMinnville. These deficits were documented in the report *McMinnville Three Mile Lane Area Plan: Market Analysis*, Leland Consulting Group, April 2019.

As identified in the EOA, there is a significant amount of retail leakage and the EOA includes measures to address that concern, as there is no other outlet in Oregon land use planning for rectifying this type of land deficit. There is nothing in Goal 9 or the implementing regulations that prohibits or restricts this approach.

Objection 5. Refill, Redevelopment, and Employment on Non-Employment Land.

As part of the EOA, the City adopted an assumption that 5% of employment would occur as a factor of refill, redevelopment and employment on non-employment lands. FRIENDS argues that this figure is too low – ie more than 5% of McMinnville's future employment will be based on redevelopment, employment on non-employment lands and refill.

Appendix B of the EOA provides the detailed analysis that the City used to arrive at its conclusion. McMinnville's job base is medical, manufacturing, government and retail. All four industries are working on lean efficiencies to reduce labor costs through automation or reduced program delivery. These industries are not actually adding more jobs for existing services. The PAC talked about the previous EOA's assumption of 17% and felt that it was too high and aspirational, and not reflective of the reality in McMinnville after the data showed that the jobs/acre had either decreased (industrial) or increased by only 4% (commercial) .

The data shows that the employment densities for industrial and commercial lands have remained almost unchanged since the 2001/03 EOA. Industrial job densities have decreased from 11 jobs per acre to 10 jobs per acre, and commercial job densities have increased from 22 jobs/acre to 23 jobs/acre. This is demonstrative that the past 17% assumption of refill and redevelopment was unrealistic for McMinnville.

FRIENDS also argues that the 5% assumption does not take into account remote workforce. Remote workforce (when not an individual home occupation which is part of the data used for the 5% calculation by the PAC) in exurban environments is typically reflective of office employment that is in a hybrid work environment, meaning a percentage of time working remotely and at the office.

The data that FRIENDS provided as part of their testimony is from 2023 based on the most recent ACS data collected during the pandemic years. (Index Record, page 1665) and outside of the data years included in this analysis.

With that said, there is no data to indicate how much of that remote workforce is captured in McMinnville as new jobs on non-employment land and how many jobs have been lost in McMinnville due to remote work opportunities. Recently two large companies have indicated that the majority of their workforce moved from McMinnville when the opportunity for remote work presented itself. This is a phenomenon that needs more data to understand more fully the ramifications to a community like McMinnville and should be part of the next EOA analysis. For

this EOA, the City is relying on the data structure that was available at the time in 2017 when this analysis was first initiated.

FRIENDS also argues that the assumption used by the City is significantly lower than other communities, and they provide a list of communities in their objections. Some of their information and data is recent data collected or adopted after the scope of this work was done and not relevant to this analysis. The City's data is identified in Exhibit 2 of Appendix B of the EOA (Index Record, page 314). The EOA PAC reviewed this data and the City's own data to conclude their assumption.

The EOA PAC reviewed a significant amount of data and scenarios at their meeting on October 10, 2019 (Addendum Record, pages 26 – 49). The data, scenarios and conclusion of the PAC are described in Appendix B of the EOA and discussed further below.

There is no dispute that some level of jobs will be accommodated through refill, redevelopment and other non-employment land, so there is not a legal question about whether the City can do this, but just how much.

The Goal 9 administrative rules (OAR 660-009) do not explicitly require EOA's address refill (which is typically defined as a combination of infill and redevelopment). OAR 660-009-0015(3) envisions that cities will address redevelopment potential through the buildable lands inventory:

“Inventory of Industrial and Other Employment Lands. Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use.”

The rule uses the following definitions of *vacant* and *developed* lands:

“Developed Land” means non-vacant land that is likely to be redeveloped during the planning period. (OAR 660-009-0005(1)

(14) “Vacant Land” means a lot or parcel:

(a) Equal to or larger than one half-acre not currently containing permanent buildings or improvements; or

(b) Equal to or larger than five acres where less than one half-acre is occupied by permanent buildings or improvements.

DLCD's Goal 9 Guidebook² briefly touches on an alternative approach, which is to deduct a percentage of employment that can be accommodated in vacant buildings and/or underutilized sites.

“Growth that can be accommodated in vacant buildings and/or underutilized sites. As there is little empirical data on the share of employment growth that can

² https://www.oregon.gov/lcd/Publications/goal9guidebook_2005.pdf

be accommodated in vacant or redeveloped buildings, a general rule-of-thumb is 10% to 15%.”

Research conducted by the University of Oregon’s Community Service Center (now the Institute for Policy Research & Engagement) for the Division 38 rulemaking process validates the statement in the Goal 9 guidebook “there is little empirical data on the share of employment growth that can be accommodated in vacant or redeveloped buildings.” In a survey of municipal planners, the CSC found that “most cities surveyed (62%) indicated that they cities surveyed did not monitor redevelopment. Those that did tended to be smaller cities; no cities over 25,000 reported that they systematically monitor redevelopment activity.”³

The implication is that cities have little data upon which to base assumptions about infill and redevelopment. In McMinnville’s case, the City analyzed what data were available and presented that data to the Project Advisory Committee for review, comment, and ultimately a recommendation.

The 2023 EOA states (pg. viii):

“The City assumed 5% of new employment would be accommodated on sites that don’t require new vacant land, through infill, redevelopment, and locations that don’t require new employment land.”

Considerable evidence exists in the record for how the city got to that assumption. Staff included a detailed analysis in the October 10, 2019 PAC meeting packet (Addendum Record, pages 26 – 49).⁴ The gist of the analysis was summarized as follows:

“The effect of applying refill and redevelopment rates to existing developed land is to implicitly increase the employment density on those lands.” (page 13 of 29)

The packet includes analysis of how various refill/redevelopment assumptions impact overall employment densities (Exhibits 3A through 3C). The analysis then concludes:

“Both the industrial and commercial employment densities have remained nearly the same over time: from the 2001/03 EOA, the empirical calculations in the 2013 EOA, and the empirical calculations in the current (2020 EOA) analysis. Industrial densities have decreased slightly from about 11 employees/acre to about 10 employees/acre. Commercial densities have increased slightly from about 22 employees/acre to about 23 employees/acre.” (page 14 of 29)

The narrative goes on to state that data show that employment densities “don’t appear to have increased consistent with those rates,” providing additional commentary on the potential reasons (page 14 of 29) and ultimately concluding:

³ *Analysis of Mixed-Use Development and Redevelopment in Oregon Cities, A Report to the HB 2254 Rules Advisory Committee*, University of Oregon Community Service Center, September 2015, page iii.
https://www.oregon.gov/lcd/UP/Documents/UO_Report_MixedUse_Redevelopment_UGB_2015.pdf

⁴ https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning/page/1675/us_eoa_pac_3_10-10-2019_agenda_and_packet.pdf

“An assumption of 5% industrial refill/redevelopment would result in an increase in employment density from about 10 employees/acre to about 11 employees/acre on existing developed sites. This is generally consistent with McMinnville’s historic trends.”

The packet goes on to make the following recommendation to the PAC:

“A reasonable assumption would be 5% refill/redevelopment for both commercial and industrial employment, which is what we would recommend. This would result in an increase in employment density on currently developed sites, still exceeding the empirical employment densities from the 2013 EOA.”

The PAC had considerable discussion about the refill/redevelopment assumption and ultimately recommended the 5% assumption. This is the assumption that the City Council adopted. The EOA includes the following narrative about the assumption:

Some employment growth in McMinnville will not require vacant (or partially vacant) employment land over the planning period. This includes redevelopment of areas with existing employment, where redevelopment increases the intensity of employment uses (i.e., more employees are accommodated on the same amount of land). The 2013 EOA assumed that 17% of employment for each land use type would not require vacant commercial or industrial land.¹⁰⁰ **Based on the information presented in Appendix B, the PAC determined that a reasonable assumption would be 5% refill/redevelopment for both commercial and industrial employment.**

Thus, the city included substantial evidence in the record supporting the 5% refill/redevelopment assumption and that evidence was thoroughly vetted through the PAC which endorsed the assumption.

Objection 6. Assumed Reduction in Commercial Jobs Per Acre.

To be provided in a separate memorandum/communication.

Objection 7. Land for Parks.

Sub-objection A: Inflated Park Land Projections.

FRIENDS argues that the City’s findings for park land need is in error, and that the park land need represents a calculation of 34.8 acres per thousand persons and not 14 acres per thousand persons per the City’s adopted park land need level of service. However, FRIENDS’ calculation of 34.8 acres per thousand persons is in error. They are isolating the City’s overall park land need to the differential of new population served and not the total population of the City of McMinnville in the planning horizon. After arguing that the City was not able to achieve its adopted park land need level of service of 14 acres per thousand persons, FRIENDS neglects to accommodate the fact that the current population faces a significant park land deficit.

The City's planning horizon of 2041 has a projected population forecast of 47,498 people. As identified in Appendix E of the EOA, with a level of service of 14 acres/1000 people, a population of 47,498 people would require 665 acres of park land. At the time of the calculated park land need, the City had 273 acres of parks, resulting in the need for an additional 392 acres to serve a population of 47,498 people by 2041. (Index Record, page 337).

FRIENDS continues to argue that the City has no "identified strategy" to acquire that much park land, nor does it have any mechanism to ensure that land included in the boundary for parks will not be converted to other uses. This argument is also in error. The City's Parks, Recreation and Open Space Master Plan does have a strategy for the acquisition and development of parks in its plan, including an adopted Parks CIP and SDC methodology, and a zoning ordinance that allows for land use exactions where future parks are identified.

Additionally, the City has an adopted future Parks map in its Parks, Recreation and Open Space Master Plan for its existing city boundaries, as well as an adopted Framework Plan identifying the future location of needed parks in the 2020 UGB expansion areas.

FRIENDS' then goes on to argue that the City should have used the Parks, Recreation and Open Space Master Plan update that is currently underway as the basis for its land need analysis. There is no legal basis for this argument. The current parks planning process was not concluded or adopted by the City when the land need was calculated, and per the City's Comprehensive Plan policies the City needed to use the parks plan that was acknowledged and adopted by the City to calculate the land need. At the writing of this response, the City still has not adopted through an acknowledgement process a new Parks, Recreation and Open Space Master Plan. If the City does adopt a new plan with an adjusted land need level of service, the City can use this new level of service as part of its land-use efficiencies analysis in the upcoming year.

Sub-objection B: The City Wrongly Assigns All Parkland Needs to Buildable Land.

FRIENDS argues that "a significant portion of the estimated park land need can be reasonably accommodated on unbuildable land already inside the UGB", and that "about one-third of buildable, vacant, urbanizable residential land within the existing UGB will be consumed by parks."

Per the City's Comprehensive Plan, park land need should be identified by the City's Parks, Recreation and Open Space Master Plan. The City's Parks, Recreation and Open Space Master Plan identifies park land need based on two factors: 1) a level of service of acres per thousand persons for certain park types (14 acres per thousand persons for community and neighborhood and greenways); and 2) equitable access for residents to parks based on location and functionality. The City's Comprehensive Plan Policy #163.05 states that *The City of McMinnville shall locate future community and neighborhood parks above the boundary of the 100-year floodplain. Linear parks, greenways, open space, trails, and special use parks are appropriate recreational uses of floodplain land to connect community and other park types to each other, to neighborhoods, and services, provided that the design and location of such uses can occur with minimum impacts on such environmentally sensitive lands.* This policy does not state that all parks that are not community and neighborhood parks should be located on unbuildable land, contrary to FRIENDS' assertion.

Comprehensive Plan Policy #163.05 focuses on floodplain land, and does not make an absolute statement that all linear parks, greenways, open space, trails and special use parks should be located on floodplain land. As identified in the chart below, linear parks, special use parks, and

trails are not part of the city’s overall land need level of service of 14.0 Acres/1000 capita, and would be above that level of service.

Table 2
PARK STANDARDS AND ANTICIPATED NEED

Facility	Existing Standards	Recommended Standards	Anticipated Need 2017 pop 38,000
Mini-Parks/Playlots	0.10 - 0.30 acres/1000	ns	
Neighborhood Parks	2.00 acres/1000	2.0 acres/1000	76
Community Parks	5.00 - 8.00 acres/1000	6.0 acres/1000	104
Linear Parks	ns	ns	
Special Use Parks	ns	ns	
Greenspace/Greenways/ Natural Areas	ns	6.0 acres/1000	116
Trails and Connectors	ns	1 system	
Total	7.1-10.3 acres/1000	14.0 acres/1000	295.54 acres

Parks Master Plan , Recommended Levels of Service, (Table 2, Page 11)

2.00 Acres / Neighborhood Park per 1000 capita

6.00 Acres / Community Park per 1000 capita

6.00 Acres / Greenways and Open Spaces per 1000 capita

14.00 Acres per 1000 capita

In addition, Comprehensive Plan Policy #164.00 states that “The City of McMinnville shall continue to acquire floodplain lands through the provisions of Chapter 17.53 (Land Division Standards) of the zoning ordinance and other available means, for future use as natural areas, open spaces, and/or parks.”

This policy does not direct the city to locate all other parks in the floodplains but directs the city to acquire floodplain lands for future use as natural areas, open spaces, and/or parks.

FRIENDS believes that all parks that are not community and neighborhood parks should be located on unbuildable land. The City believes that, consistent with its Comprehensive Plan policies, those parks should be located based on functionality and long range planning goals for the City, such as connectivity and equitable access to open space. The City adopted a McMinnville Growth Management and Urbanization Plan (MGMUP), and a Framework Plan for its current UGB expansion lands identifying the future location of linear parks, trails greenways and greenspaces with these goals in mind.

The City's long-range planning is adopted through a comprehensive public input and community visioning process. Plans such as the Parks, Recreation and Open Space Master Plan as well as the McMinnville Growth Management Urbanization Plan and Framework Plan reflect that community input and public process. As LUBA and the Courts have held, the City is required to rely on those adopted plans in making planning decisions. The City should be able to move forward with implementation accordingly.

Objection 8: Exclusion of buildable Land from Inventories Based on Ownership.

Traditionally land owned by government, schools, and churches have been identified as committed land on buildable lands inventory due to the specialty assignment of the land. FRIENDS argues that the City cannot show these sites as committed and must show them as vacant for residential or commercial uses depending upon their underlying zone, even though these properties are set aside for uses other than residential or commercial development.

The City asserts that, because of their ownership and anticipated use, these lands will not be developed to meet the City's needs in terms of future housing and employment, and including them in the BLI as doing so would be a false premise of met need.

The City took the time to visit with the property owners (churches and schools) to discuss their future plans for their properties asking them if the property would be developed in the future as either housing or employment.

Sub-objection A: Buildable Land Owned by Churches

In terms of churches, FRIENDS argues that the vacant or partially vacant land owned by existing churches should fulfill the land need for future churches identified in Appendix E of the EOA, or for future housing and employment land needs.

In 2017, McMinnville's Affordable Housing Committee met with all of the churches in McMinnville that had vacant or partially vacant land to see if they would partner on affordable housing projects. All eventually indicated that their congregations were not interested in making their land available for that purpose. The City provided their database and maps used for this analysis as part of a memorandum dated September 18, 2023. This information was shared with the PAC on October 10, 2019, when it was discussed whether or not the City should consider church-owned property for housing. (Index Record, pages 55 – 60). Based on the churches' responses, the PAC did not include the church owned property in the BLI.

Sub-objection B: Linfield University Parcel

FRIENDS asserts that property owned by Linfield College should be identified in the City's buildable lands inventory as land available to support the City's future housing needs or the City's future employment needs, even though Linfield College has provided a letter for the record explicitly stating that the "City should not assume non-college use or sale of further property during the planning period". (Appendix E of the EOA, Index Record, page 347).

FRIENDS asserts that Linfield College will "necessarily" use this land for either housing or employment needs of Linfield and therefore meet the housing and employment needs of the City. However, we do not know if this land will be developed as housing or employment. It could be

used for athletic fields, open space, and other campus amenities that do not include housing or employment.

In short, Linfield has made its intentions clear that the land in question will not be sold or used for non-college purposes, so the exclusion of the land from the BLI is appropriate.

Objection 9. Urban Reserves

FRIENDS never provided an objection at the local level that was just focused on the Urban Reserves population forecast. At the local level, FRIENDS testimony dated August 30, 2023, objected to the “Population Forecast” used for the entire analysis. (Index Record, page 2089), and no other record can be found in their testimony relative specifically to the population forecast analysis to 2067.

This response is regarding the objection found in the public record from August 30, 2023, from FRIENDS which presumably includes the potential analysis of “Urban Reserves” based on the population analysis to 2067.

FRIENDS argues that the City should use the updated population forecast that was published June 30, 2020, after the City noticed the first evidentiary hearing for the HNA and EOA in May 2020.

Per OAR 660-032-0020(5), Population Forecasts for Land Use Planning,

“If a local government outside the Metro boundary initiates a periodic review or any other legislative review of its comprehensive plan that concerns an urban growth boundary or other matter authorized by [OAR 660-032-0040 \(Interim Forecasts\)](#)(2) after the Portland State University Population Research Center issues a final population forecast for the local government, but prior to the issuance of a final forecast by PRC in the subsequent forecasting cycle described in OAR 577-050-0040(7), the local government may continue its review using the forecast issued in PRC’s previous forecasting cycle.”

FRIENDS asserts that the City is required to use the most recent official population forecast, which was released on 6/30/2020.

The HNA and EOA use the official population forecast that was released on 6/30/2017. When the City noticed its intention to adopt the HNA and EOA in May 2020, the 6/30/2020 population forecast had not yet been released. Completing and adopting an HNA and EOA often takes years (and sometimes many years). The official population forecast is generally issued once every four years but was issued at a three year interval in this instance (which is not common or standard practice).

The practice in Oregon has been that a city can notice the State the intention to adopt an HNA or EOA when the report is complete (or substantially complete). Once the city notices the intention to adopt the report, the city is not expected to update the document to use a new population forecast. If cities did not have some way to “lock in” the key assumptions, especially population forecasts, then cities would be constantly revising the HNA and EOA analysis. The results of an HNA or EOA can change substantially with changes in key assumptions, like the population forecasts, which can require additional public outreach, policy analysis, and discussions with decision makers.

Ideally, the City would be able to begin and complete analyses such as the HNA and EOA before new estimates and information became available, but that's not realistically possible, nor what the law requires. The City submitted its Post-Acknowledgment Plan Amendment notice to DLCD in May of 2020, prior to the release of the new information identified by FRIENDS. To the extent the City was required to use the newly released information, it would require a complete restructuring of the HNA and EOA which is not legally required.

The City recognizes that the PAPA notice for the EOA was not included in the indexed record. The City is providing that as an attachment to this response. The notice was duly provided and posted as required by state law on May 20, 2020. (Please see attachment – Addendum #2, Public Record)

Objection 10. McMinnville Urbanization Report

FRIENDS asserts that the McMinnville Urbanization Report was never the subject of a public hearing and should not have been adopted as part of Ordinance No. 5141. FRIENDS does though recognize that the Urbanization Report was not adopted as part of McMinnville's Comprehensive Plan by Ordinance No. 5141, and simply adopted as a stand-alone document.

The Urbanization Report is an executive summary of the Housing Needs Analysis and Economic Opportunities Analysis. The City chose to utilize this format following the example of many other communities that had prepared similar documents in order to present a very complicated analysis and evaluation in a publicly accessible manner. The ordinance adopting the Urbanization Report deliberately does not describe it as an amendment to the Comprehensive Plan, and adopts it as an independent document recognizing it as a summary document and not a land-use acknowledged document.

With that said, the Urbanization Report was included in all staff reports and public hearings as an executive summary of the Housing Needs Analysis and Economic Opportunity Analysis that were proposed to be adopted by the City of McMinnville as amendments to the comprehensive plan per the following record.

- Provided as part of the staff report dated May 20, 2021 for the initial public hearing. As described in the staff report, the ***“Urbanization Report. (June 2020 Draft). This report doesn't include new analysis or information. It provides a user-friendly summary and compilation of the key information in the HNA, as updated by Addendum 1, as well as the key information in the EOA document.”*** (Indexed Record, pages 3225 – 3231, and 3626 – 3657)
- Provided as part of the staff report for the continued second public hearing on September 7, 2023, ***“The updated McMinnville Urbanization Report (attached) provides a summary of the key data and findings for the Housing Needs Analysis, Economic Opportunities Analysis, and Public Land Needs Analysis.”*** (Indexed Record, pages 1727 – 1734, and 1735 – 1766)
- Provided as part of the staff report for the third public hearing on September 21, 2023, ***“The updated McMinnville Urbanization Report (attached) provides a summary of the key data and findings for the Housing Needs Analysis, Economic Opportunities Analysis, and Public Land Needs Analysis.”*** (Indexed Record, pages 1657 - 1663)

Letter Re: McMinnville Response – 1000 Friends of Oregon and Friends of Yamhill County Objection
Date: July 22, 2024

Page 17

Per the title, preamble and action of Ordinance No. 5141, the Urbanization Report was not adopted as an amendment to the city's comprehensive plan. (Index Record, pages 4 – 5).

It should be noted that the objections discussed above are not the only concerns that these groups and individuals have expressed. They have been involved in this entire process and many of their concerns and ideas were accepted by the City and have made their way into the HNA and EOA. These objections are what remain and they consist of either (1) arguments for a different policy course, contrary to the one chosen by the City, or (2) arguments that are inconsistent with what is required under the applicable statutes, goals and regulations. At the end of the day, the City asks that you acknowledge them and allow the City to move forward with the next step of its planning process. If you should have any questions regarding the submittal, please contact me at Heather.Richards@mcminnvilleoregon.gov, or 503-474-5107.

Sincerely,

A handwritten signature in black ink, appearing to read 'Heather Richards', written in a cursive style.

Heather Richards, PCED
Community Development Director



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

**INDEX FOR PUBLIC RECORD FOR ORDINANCE NO. 5141, ADDENDUM #2
DOCKETS G 1-20 AND G 3-20 – (4 Pages) McMinnville Housing Capacity
Analysis, Economic Opportunity Analysis and Buildable Lands Inventory**

Document	Date	Pages
Confirmation from DLCD of Amended to Public Notice File #003-20	April 15, 2021	1
Confirmation from DLCD of Public Notice DLCD File #003-20	May 14, 2020	2
Public Notice to DLCD of EOA	May 14, 2020	3 - 4

Tom Schauer

From: DLCDC Plan Amendments <plan.amendments@state.or.us>
Sent: Thursday, April 15, 2021 4:46 PM
To: Tom Schauer
Subject: Confirmation of PAPA Online submittal to DLCDC

This message originated outside of the City of McMinnville.

McMinnville

Your notice of a revised proposal for a change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: G 3-20

DLCDC File #: [003-20](#)

Original Proposal Received: 5/14/2020

Date of Revision: 4/15/2021

First Evidentiary Hearing: 5/20/2021

Final Hearing Date: 6/13/2023

Submitted by: tom.schauer

If you have any questions about this notice, please reply or send an email to plan.amendments@state.or.us.

From: [Tom Schauer](#)
To: [Sarah Sullivan](#)
Subject: FW: Confirmation of PAPA Online submittal to DLCD
Date: Wednesday, May 20, 2020 9:55:53 AM

Tom Schauer, AICP

Senior Planner
City of McMinnville
231 NE 5th Street
McMinnville, OR 97128

503-474-5108

tom.schauer@mcminnvilleoregon.gov

From: DLCD Plan Amendments [mailto:plan.amendments@state.or.us]

Sent: Thursday, May 14, 2020 11:56 PM

To: Tom Schauer <Tom.Schauer@mcminnvilleoregon.gov>

Subject: Confirmation of PAPA Online submittal to DLCD

This message originated outside of the City of McMinnville.

-

McMinnville

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: G 3-20

DLCD File #: [003-20](#)

Proposal Received: 5/14/2020

First Evidentiary Hearing: 5/20/2021

Final Hearing Date: 6/22/2021

Submitted by: tom.schauer

If you have any questions about this notice, please reply or send an email to plan.amendments@state.or.us.



Oregon Department of Land Conservation and Development

PAPA Online Submittal

Tom Schauer

[Home](#)
[\(/PAPA Online/\)](#)
Reports
https://db.lcd.state.or.us/papa_online_reports

McMinnville (Read Only)
(/PAPA_Online/Jurisdictions/Jurisdiction/Get/162)
-> Amendment 003-20

Report a Problem
(mailto:plan.amendments@state.or.us?subject=PAPA_PR Report a Problem)

DLCD File #: 003-20 Status: **Web Notice Posted** Revision Type: **Department Review**

Revise Withdraw Deny Adopt

Local File #: G 3-20

Date of 1st Hearing: 05/20/2021

371 Days difference

Date of Final Hearing: 06/22/2021

404 Days difference

- Type:
- Comprehensive Plan Map Change
 - Zoning Map Change
 - Comprehensive Plan Map & Zoning Map Change
 - Comprehensive Plan Text Change
 - Land Use Regulation Change
 - UGB using Simplified Method (div 38)
 - UGB amendment by city with population less than 2,500 within UGB (div24)
 - UGB amendment of 50 acres or less by a city with population 2,500 or more within UGB (div 24)
 - UGB amendment adding more than 50 acres by city with population 2,500 or more within UGB (div 24)
 - UGB amendment that adds more than 100 acres by Metro (div 24)
 - Urban Reserve designation by Metro or a city with population 2,500 or more within UGB
 - Urban Reserve amendment to add over 50 acres by a city with population 2,500 or more within UGB
 - Urban Reserve designation or amendment by a city with population less than 2,500 within UGB
 - Urban Reserve amendment by Metro
 - Urban Reserve Other
 - Other
 - Periodic Review Task

Summary: EOA, Employment Land BLI, and Other Land Needs

An exception to a statewide planning goal is proposed:

Total Acres: 0.00

Locations (If there's a large number of tax lots associated with this amendment, please contact DLCD for assistance. plan.amendments@state.or.us (mailto:plan.amendments@state.or.us?subject=PAPA%20on-line%20location%20entry%20assistance))

Type	Tax Lot	From	To	Acres
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Additions and changes to tax lots won't be permanently saved until you click the "Save" button at the bottom of this page.

Contacts

Contacts
Tom Schauer Senior Planner (Local)

Documents

Upload supporting documentation. Administrative rule requires that you include all of the following materials that may apply:

- The text of the amendment (e.g., plan or code text changes, exception findings, justification for change)

- Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained
- A map of the affected area showing existing and proposed plan and zone designations
- A copy of the notice or a draft of the notice regarding a quasi-judicial land use hearing, if applicable
- Any other information necessary to advise DLCD of the effect of the proposal

Uploaded	Name	User
5/14/2020	Proposal_4--McMinnville Economic Opportunities Analysis_v15_clean_2020-05-14_11-53-53.pdf (/PAPA_Online/Document/Get?documentID=248512)	
5/14/2020	Proposal_3--DRAFT EOA Executive Summary_02_21_20_2020-05-14_11-54-26.pdf (/PAPA_Online/Document/Get?documentID=248513)	