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Portland, OR 97209-4128
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Michael C. Robinson
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February 24, 2009

VIA MESSENGER

Chris Kerr
Senior Planner
City of West Linn Planning and Building Department
Suite 1000
22500 Salamo Road
West Linn, OR 97068

Re: Parker Crest Subdivision, Lot 17; Application for Class I Variance

Dear Chris:

This office represents D.R. Horton, Inc.-Portland with regard to the above-referenced application. Enclosed with this letter is an application for a Class I Variance to the non-garage front yard setback standard for Lot 17 of the Parker Crest Subdivision located at 4300 Parker Road pursuant to City of West Linn Development Code 75.000. Enclosed with this letter are the following documents:

- A City of West Linn development review application form signed by the owner and applicant.
- An application narrative addressing the applicable approval criteria with exhibits.
- A check made payable to the City of West Linn in the amount of \$825.00 as the applicable application fee.
- Three (3) copies of the variance application.
- One (1) CD of the variance application.

I am the applicant's representative. Please provide me with copies of all correspondence to and from the City regarding this application and the completeness determination letter.

37891-0049/LEGAL15416118.1

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · LOS ANGELES · MENLO PARK
OLYMPIA · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.

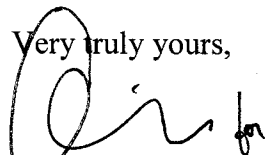
Perkins Coie LLP and Affiliates

Chris Kerr
Senior Planner
City of West Linn
February 24, 2009
Page 2

My client would very much appreciate learning of completeness as soon as your schedule allows. If the completeness review determines that additional information is required, please notify me at once and I will provide it to you as quickly as I can.

Thank you in advance for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael C. Robinson". The signature is fluid and cursive, with a large initial "M" and "C".

Michael C. Robinson

MCR:crl

Enclosures

Cc: Client (w/encs.)(via email)



DEVELOPMENT REVIEW APPLICATION

TYPE OF REVIEW (Please check all boxes that apply):

- | | |
|---------------------------------------------------------------------|-----------------------------------------------------------------|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures |
| <input type="checkbox"/> Appeal and Review * | <input type="checkbox"/> One-Year Extension * |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Planned Unit Development |
| <input type="checkbox"/> Design Review | <input type="checkbox"/> <u>Pre-Application Meeting *</u> |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Quasi-Judicial Plan or Zone Change |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Street Vacation |
| <input type="checkbox"/> Final Plat or Plan | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Flood Plain Construction | <input type="checkbox"/> Temporary Uses * |
| <input type="checkbox"/> Hillside Protection and Erosion Control | <input type="checkbox"/> Tualatin River Greenway |
| <input type="checkbox"/> Historic District Review | <input checked="" type="checkbox"/> Variance |
| <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Water Resource Area Protection/Wetland |
| <input type="checkbox"/> Lot Line Adjustment */** | <input type="checkbox"/> Willamette River Greenway |
| <input type="checkbox"/> Minor Partition (Preliminary Plat or Plan) | <input type="checkbox"/> Other/Misc |

Home Occupation / Pre-Application / Sidewalk Use Application * / Permanent Sign Review * / Temporary Sign Application require individual application forms available in the forms and application section of the City Website or at City Hall.

TOTAL FEES/DEPOSIT _____ * No CD required/** Only one copy needed

D.R. Horton, Inc.-Portland 4386 SW Macadam Ave. #102 Portland 97239 503-222-4151

OWNER'S	ADDRESS	CITY	ZIP	PHONE(res. & bus.)
D.R. Horton, Inc.-Portland c/o John R. Briscoe	4386 SW Macadam Ave. #102	Portland	97239	503-222-4151

APPLICANT'S	ADDRESS	CITY	ZIP	PHONE(res. & bus.)
Jeff Smith	4386 SW Macadam Ave. #102	Portland	97239	503-657-3402
Michael Robinson	1120 NW Couch St., Tenth Floor	Portland	97209-4128	503-727-2264

CONSULTANT	ADDRESS	CITY	ZIP	PHONE

SITE LOCATION 2921 Winkler Way

Assessor's Map No.: 21E36BB Tax Lot(s): 06000 (Lot 17) Total Land Area: 7521 sf

- All application fees are non-refundable (excluding deposit).
- The owner/applicant or their representative should be present at all public hearings.
- A denial or grant may be reversed on appeal. No permit will be in effect until the appeal period has expired.
- Four (4) complete hard-copy sets (single sided) of application materials must be submitted with this application. One (1) complete set of digital application materials must also be submitted on CD in PDF format.**

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application.

SIGNATURE OF PROPERTY OWNER(S)

X [Signature] Date 2-23-09

SIGNATURE OF APPLICANT(S)

X Michael Robinson / csc Date 2.24.09

BY SIGNING THIS APPLICATION, THE CITY IS AUTHORIZED REASONABLE ACCESS TO THE PROPERTY. ACCEPTANCE OF THIS APPLICATION DOES NOT INFER A COMPLETE SUBMITTAL. COMPLETENESS WILL BE DETERMINED WITHIN 30 DAYS OF SUBMITTAL.

PLANNING AND BUILDING; 22500 SALAMO RD #1000; WEST LINN, OR 97068; PHONE: 656-4211 FAX: 656-4106

BEFORE THE CITY OF WEST LINN PLANNING COMMISSION

In the Matter of an Application for a)	NARRATIVE ADDRESSING
Class I Variance by D.R. Horton, Inc.-)	APPLICABLE APPROVAL
Portland to Allow a Variance to the)	CRITERIA IN WEST LINN
Front Yard Setback in the Parker)	COMMUNITY
Crest Subdivision Located in the R-7)	DEVELOPMENT CODE
Zoning District)	("CDC") SECTION 75.060
)	

I. INTRODUCTION

This application requests approval of the following variance in the R-7 Zoning District:

1. A variance to allow an 18-foot 10-inch (18' 10") front yard setback where 20 feet is required for the living area (non-garage) portion of the dwelling. **(Exhibit 1.)** This variance request applies to Lot 17 of the subdivision. **(Exhibit 2.)**

West Linn Community Development Code (the "CDC") Section 75.020(B)(2) authorizes a Class I variance where the applicant requests no more than a 2 foot front yard setback reduction and a 3 foot rear yard setback reduction. This application is subject to a Class I variance since the requested setback reduction is less than two feet (2'). This variance is decided by the Planning Director. CDC Section 75.030(A).

The need for this variance was not intentional, but rather, was the result of a misunderstanding by D.R. Horton, Inc.–Portland as to the redlined comments received from the City on Lot 17's approved site plan. D.R. Horton, Inc.–Portland had previously submitted a Hub and Tack Certification for the affected lot showing the front yard setback dimension and had received foundation and footing permit approval from the City, leading D.R. Horton, Inc.–Portland to conclude that it had met the front yard setback standard.

A pre-submittal neighborhood meeting is not required for this application. CDC Section 99.038.

II. DESCRIPTION OF SITE

The Parker Crest Subdivision (the "subdivision") is located at 4300 Parker Road and identified on Assessor's Map 2-1E-36 as Tax Lot 100. The West Linn Planning Commission approved the tentative plat for the subdivision on March 23, 2006. No party appealed the Planning Commission's approval of the tentative subdivision plat.

The subdivision slopes up to the eastern boundary. A natural drainageway bisects the property from north to south. The subdivision is located on 8.2-acres and contains 31 lots. The zoning is R-7 with a minimum lot size of 7,000 square feet. Lots range in size from 7,009 to 9,813 square feet.

The internal street curves north from Beacon Hill Drive and wind its way through the site before eventually exiting the site westwards into Maxfield Subdivision. Also, a street stub out extends southwards to provide a future link to the undeveloped land to the south. There is no direct vehicular access from the subdivision to Parker Road or Lancaster Street. Pedestrian and bicycle access to Parker Road/Lancaster are provided. The applicant requests a variance to the front yard setback of less than two feet (2') for one (1) interior-facing lot.

The benefit of approving the variance is two-fold. First, the garage setback will remain at twenty feet (20'), allowing appropriate off-street parking in the garage driveway. Second, the variance will allow greater articulation on the home's front facades, thus providing more street-side interest.

This application contains the site plans and map required by CDC Section 75.070(A)(B).

III. DESCRIPTION OF REQUESTED VARIANCES

This application requests a variance to the required front yard setback on one lot in the subdivision. This application proposes that Lot 17 be allowed to have an 18-foot 10-inch (18' 10") front yard non-garage setback instead of twenty feet (20'). The variance is justified by the circumstances of approval and the lot's location within the subdivision.

1. Lot 17.

The application requests a variance to allow an 18-foot 10-inch (18' 10") front yard setback where twenty feet (20') is required for the living area (non-garage) portion of the dwelling on Lot 17. Lot 17 is an internal-facing lot that fronts a planter strip and sidewalk along a curved portion of the local road. By reducing the non-garage front yard setback, the lot will have a large useable rear yard without affecting adjacent properties because the cumulative amount of setbacks around the dwelling exceeds the minimum standards. In addition, the lot coverage and FAR standards are still met.

IV. APPLICABLE APPROVAL CRITERIA

The approval criteria for variances are contained in CDC Section 75.060. CDC Section 75.060 requires that the Planning Commission approve the variance if the criteria

are met. The Planning Commission may impose appropriate conditions of approval to ensure compliance with the approval criteria.

The approval criteria and the applicant's responses are shown below.

1. **CDC 75.060(1): "Exceptional or extraordinary circumstances apply to the property, which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances for which the applicant has no control."**

RESPONSE: The exceptional or extraordinary circumstances that apply to this property that are not generally applicable to other properties in the R-7 zoning district or in the vicinity of this site are the shape and characteristics of the affected lot, the location of the lot within the subdivision, and the building permit approval.

As shown on **Exhibit 1**, Lot 17 is an interior-facing lot that does not front any major public roadway. Moreover, as shown on **Exhibit 2**, the dwelling exceeds the required twenty feet (20') front yard setback when measured from the street because it is adjacent to a planter strip and sidewalk. Visually, the dwelling does not appear to encroach heavily into the front yard due to the curve of the street and because the dwelling is appropriately sized for the lot. The lot allows enough room to have exceeded the required amount of rear yard setback; therefore, the design results in more than the equivalent amount of setback area around the dwelling as a whole.

The need for the variance was not intentional as all other 29 lots in the subdivision meet all dimensional standards. The exceptional circumstances regarding this property include the fact that the City's building officials appeared to have approved the current front yard setback for Lot 17. As shown on **Exhibit 3**, the Hub and Tack Certification for Lot 17 clearly shows the front yard setback and was sent to and received by Jim Clark at the City prior to the foundation inspection, which was approved. **Exhibit 4** shows that the foundation and footing permit for Lot 17 was approved by the City.

The Planning Commission can find that these are exceptional circumstances not generally applicable to the R-7 zone in this vicinity

2. **CDC 75.060(2): "The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as a right possessed by owners of other property in the same zone or vicinity."**

RESPONSE: The relevant property right is the right to enjoy single-family dwellings with appropriately sized and useable front, side and rear yards. Without the

requested variance, the single-family dwelling on the requested lot will have to be razed or moved at a prohibitive cost. This is a right possessed by owners of other property in the R-7 zone.

3. **CDC 75.060(3): "The authorization of the variance will not be materially detrimental to the purposes and standards of this Code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan."**

RESPONSE: The variance will not be materially detrimental to the purpose and standards of this code. The purpose and standards for the R-7 zoning district are shown in CDC 12.010. The purpose statement for the R-7 zoning district is as follows: "**The purpose of this zone is to provide for urban development at levels which relate to the site development limitations, the proximity to commercial development, and to public facilities and public transportation. This zone is intended to implement the policies and locational criteria set forth in the Comprehensive Plan.**"

The variance is not detrimental for the purpose of the R-7 zoning district. In fact, because the purpose statement calls for this zone to accommodate urban development at levels which relate to the site development limitations, the variance is appropriate. The variance is based upon four fundamental justifications:

- the lot is an interior-facing lot which does not face a major public roadway;
- the lot fronts along a planter strip and sidewalk which are not calculated in the front yard setback calculation;
- the dwelling is appropriately sized for the lot and contains a cumulative amount of setback area that exceeds the required standards; and.
- a non-garage front yard setback variance will allow off-street driveway parking while providing for more variety in the home's articulation.

The variance is related to the site development limitations for this site.

The variance will not conflict with the policies and goals of the West Linn Comprehensive Plan. The relevant Comprehensive Plan Policy is Goal 10, Housing, Policy 5 providing as follows: "Allow for flexibility in lot design, size, and building placement to promote housing variety and protect natural resources."

This policy recognizes that the City should allow flexibility in building placement location. In this case, this policy is fulfilled by flexibility in the non-garage front yard

setback to allow a variance for an interior-facing dwelling that fronts along a planter strip and sidewalk. The appropriately sized dwelling along a curved street, which requires a front yard setback variance, also fulfill this policy by allowing housing variety and design without encroaching on adjacent properties.

The Planning Commission can find that the relevant Comprehensive Plan policy is satisfied.

4. **CDC 75.060(4): "The variance request is the minimum variance, which would alleviate the exceptional and extraordinary circumstance."**

RESPONSE: The requested variance is the minimum variances necessary to adjust the dwelling's location in order to account for the frontage along the planter strip and sidewalk and to provide useable front, side and rear yards on the lot.

To mitigate any affect from the requested variance, the applicant would agree to increase the amount of front yard landscaping and to exceed the required front yard setback on new lots in the subdivision.

5. **CDC 75.060(5): "The exceptional or extraordinary circumstance does not arise from a violation of this ordinance."**

RESPONSE: No violation of the ordinance justifies this variance.

6. **CDC 75.060(6): "The variance will not impose physical limitations on other properties or use in the area, and will not impose physical limitations on future use of neighboring, vacant or undeveloped properties as authorized by the underlying zoning classification."**

RESPONSE: The variance will have no impact on other properties or uses in the area, nor will it impose limitations on adjacent vacant or undeveloped properties. The adjacent uses are single-family homes. Because the variance is for a front yard setback on an interior lot that fronts a planter strip, sidewalk and curved street, the variance will not reduce the setback adjacent to neighboring properties.

V. CONCLUSION

The applicant respectfully requests that the Planning Commission approve the variance with any reasonable conditions of approval.

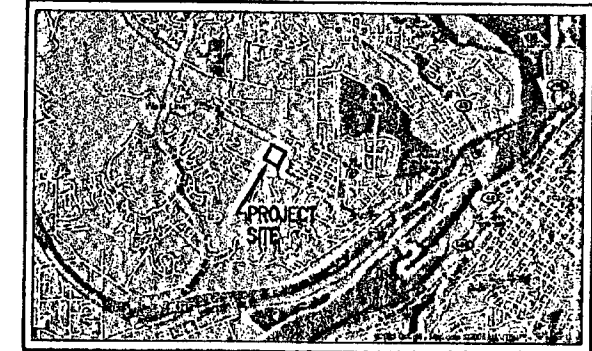
EXHIBITS

1. Tentative Subdivision Plat.
2. Approved Site plan for Lot 17.
3. Hub and Tack Certification and email to City.
4. Foundation/Footings Approval.

PARKER CREST

TENTATIVE SUBDIVISION PLAT

LOCATED IN THE SE ¼ OF SECTION 36,
TOWNSHIP 2 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN
CLACKAMAS COUNTY, OREGON



VICINITY MAP
NO SCALE

APPLICANT

KEN OLSON
6021 CAUFIELD
WEST LINN, OREGON 97068
PHONE (503) 504-1888
FAX (503) 650-5005

ENGINEER AND SURVEYOR

HARRIS-McMONAGLE ASSOCIATES, INC.
12555 SW HALL BLVD.
TIGARD, OR 97223
PHONE (503) 639-3453
FAX (503) 638-1232
CONTACT: JIM HARRIS

PLANNER

PORTER COMPANY, LLC
5510 SW DOVER LOOP
PORTLAND, OR 97225
PHONE (503) 977-0497
FAX (503) 246-3422
CONTACT: LARRY PORTER

GEOTECHNICAL ENGINEER

GEOPACIFIC ENGINEERING, INC.
7312 SW DURHAM RD.
PORTLAND, OREGON 97224
(503) 598-8445
CONTACT: JIM IMBRIE

SITE INFORMATION

4300 S PARKER ROAD
WEST LINN, OR
TAX MAP 251E36, TAX LOT 100
GROSS SITE AREA = 8.2 AC.
ZONING: CITY OF WEST LINN R-7

PARKER CREST

TENTATIVE SUBDIVISION PLAT

OCTOBER 31, 2005
REVISED DECEMBER 27, 2005, JANUARY 24, 2008,
JANUARY 26, 2008 AND MARCH 21, 2008

SHEET INDEX

- 1 Cover Sheet and Vicinity Map
- 2 Vicinity Transportation Network Map
- 3 Existing Conditions and Aerial Photo
- 4 Slope Analysis Map and Tree Plan (Revised 3/14/06)
- 5 Tentative Subdivision Plat and Typical Street Sections
- 6 Tentative Grading Plan and Tree Plan
- 7 Tentative Utility Plan
- 8 Parker Road Profile
- 9 Interior Street Profiles
- 10 Interior Street Profiles

DENSITY CALCULATIONS

GROSS SITE AREA = 8.21 ACRES

RIGHT-OF-WAY DEDICATION = 83,086 SF = 1.91 ACRES

TRACT 'A' STORM WATER FACILITY = 15,705 SF
TRACT 'B' STORM WATER FACILITY = 1,368 SF
TRACT 'C' OPEN SPACE = 10,248 SF
TRACT 'D' OPEN SPACE = 5,568 SF

TOTAL = 32,886 SF = 0.76 ACRES

NET SITE AREA = 8.21 ACRES - (1.91+0.76) ACRES = 5.54 ACRES

DENSITY = 31 LOTS/5.54 NET ACRES = 5.6 LOTS/NET ACRE
AVERAGE LOT AREA = 7,750 SF

MAX. DENSITY = 5.54 NET ACRES/7,000 S.F./LOT = 34.5 LOTS
MIN. DENSITY = 34.5 LOTS x 80% = 27.6 LOTS

BENCHMARK

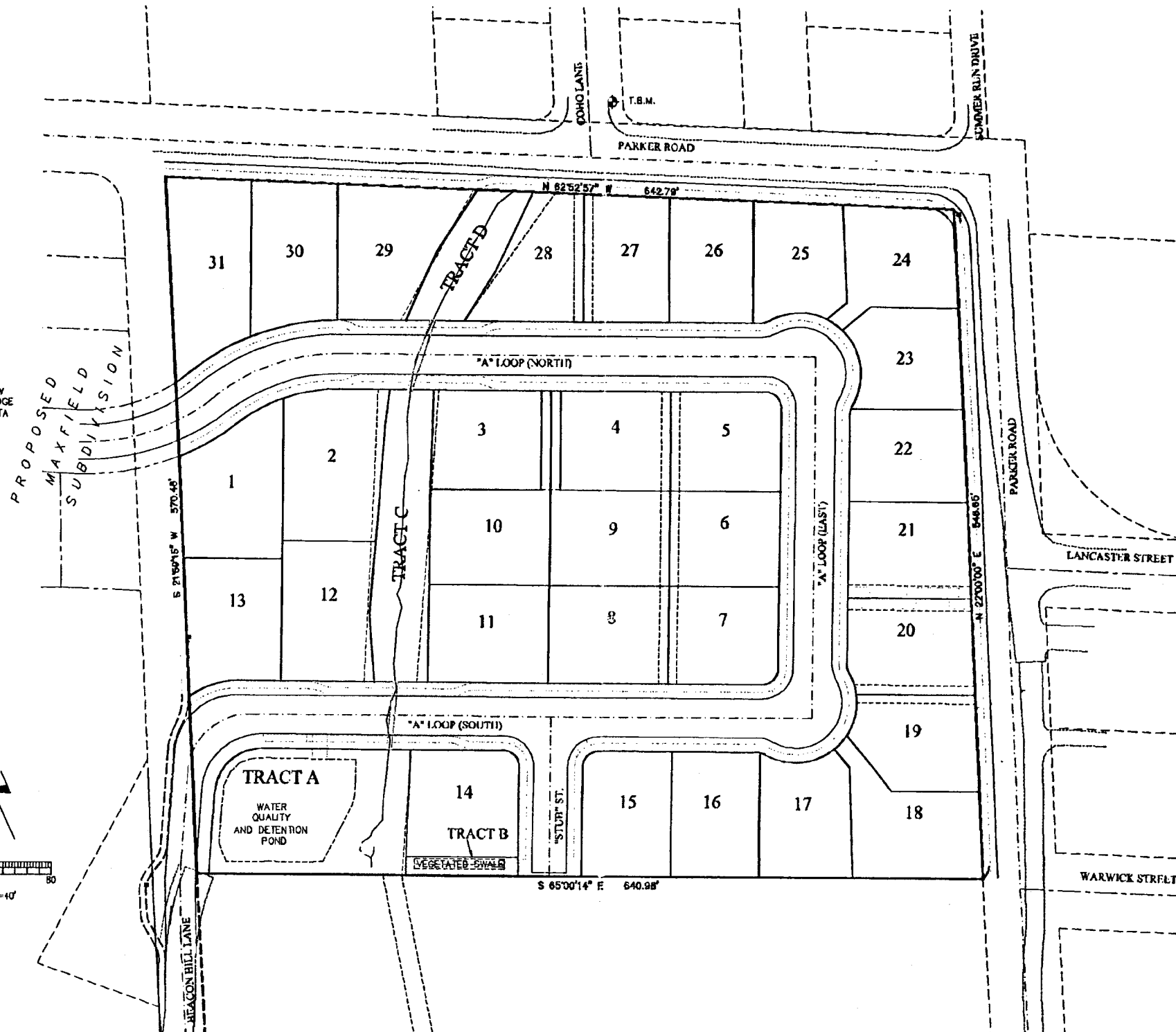
CITY OF WEST LINN BENCHMARK "B" A 3" CAP ON PIPE WITH YELLOW WATERWORKS LTD. 93.5 FEET EAST AND 17.0 FEET SOUTH OF THE EDGE OF PAVEMENT FROM 4 WAY INTERSECTION OF ROSEMONT/SANTA ANITA ELEVATION 687.22

BENCHMARK ONSITE

TOP OF FIRE HYDRANT OPERATING NUT AT THE NORTHEAST CORNER OF COHO LANE AND PARKER ROAD. ELEVATION 518.20

IMPERVIOUS AREA INFORMATION

NEW IMPERVIOUS AREA:
STREETS = 66,302 SF
NEW HOMES = 81,840 SF (2640 SF/LOT)
TOTAL NEW = 148,142 SF



CITY OF WEST LINN
SITE PLAN
APPROVED

DATE: 7-23-08 BY: [Signature]

ENGINEERING -
APPROVED - KHOI LE

NO TREE REMOVAL EXCEPT
IN APPROVED BUILDING FOOTPRINT

Date: 7-23-08 [Signature]
By: [Signature]

CITY OF WEST LINN
EROSION CONTROL

APPROVED
with conditions

DATE 7/21/08 BY SK

Erosion Control Comments

1. Keep the street free of mud, & debris at all times. Storage of construction materials on the street is not allowed.
2. Any steep slopes or stockpiles that will remain uncovered for more than 7 days during the wet weather season, shall be covered with straw, mulch, or plastic.
3. Dependent on site conditions, you may be required to cover all bare ground before occupancy is granted

Erosion Control Comments (cont)

4. Connect roof-drain downspouts, foundation drains, wall-drains, or other storm drains to an approved collection system, immediately after installation.
5. Do-not pump sediment-laden water off-site. I.E. Water that accumulates in foundations.

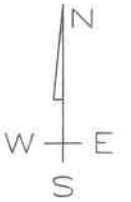
Erosion Control Comments (cont)

6. **Maintain Bio-Bags daily.** If not maintained you may be responsible for cleaning the downstream catch-basin(s) prior to approval of the final inspection.

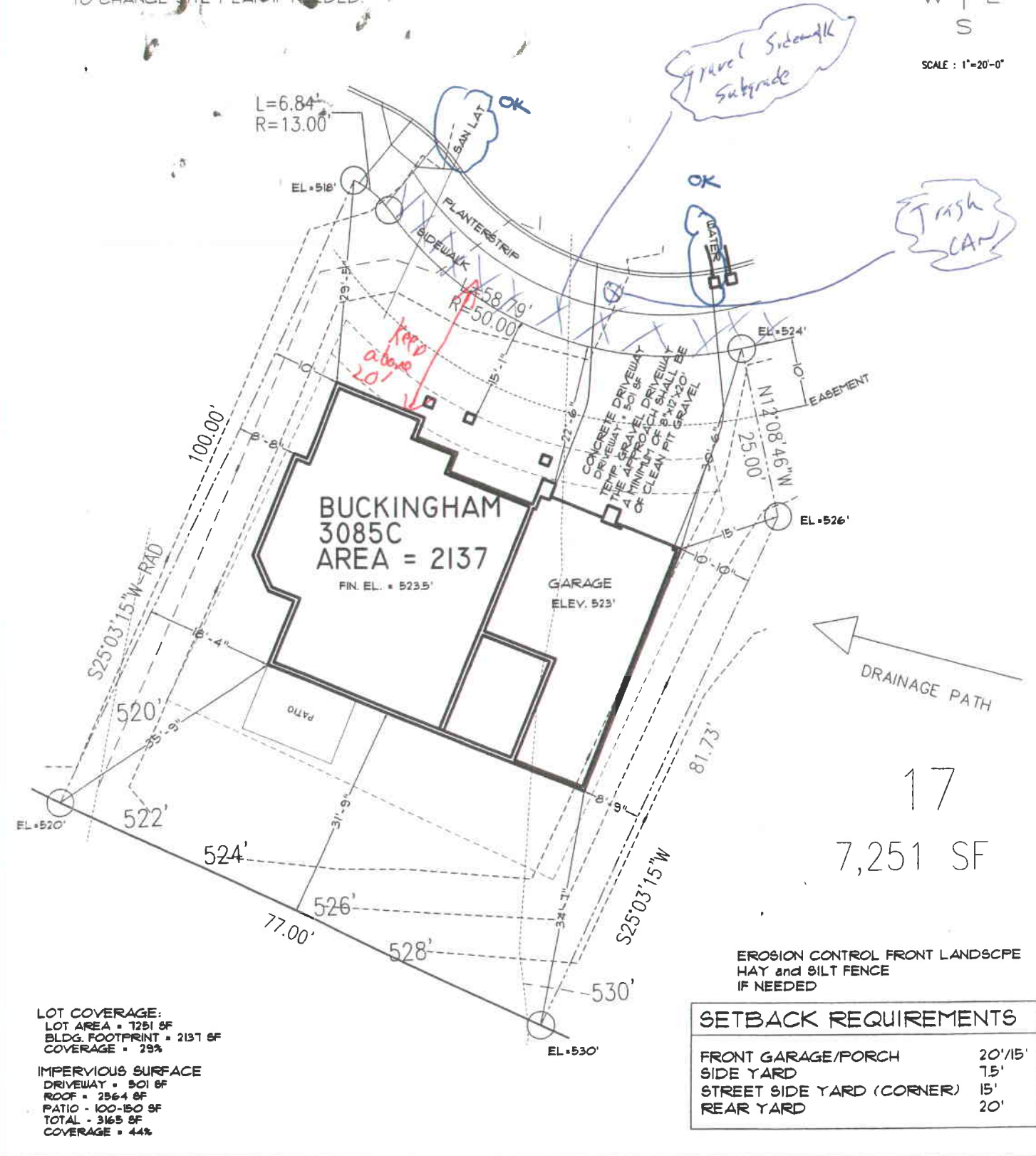
PARKER CREST
LOT - 17

WEST LINN, OR

DISCLAIMER: CITY JURISDICTION HAS AUTHORITY TO CHANGE SITE PLAN IF NEEDED.



SCALE: 1" = 20'-0"



ADDRESS: 2921 Winkler Way
PLAN: 3085
SCALE: 1" = 20'
DATE: 07/14/08

D.R. Horton Homes
4386 SW. Macadam Avenue, Suite 102
Portland Oregon
PHONE: 503.222.4151 FAX: 503.222.3717

EXHIBIT 2

17

Reed L Couch

From: Kyle J Bradstreet
Sent: Tuesday, February 17, 2009 12:44 PM
To: Reed L Couch
Subject: FW: Parker Crest Lot 17
Attachments: PC 17 hub and tack cert 001.jpg

Kyle Bradstreet
Superintendent
DR Horton- Portland
503-572-9578

This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to which they are addressed. This communication may contain PRIVILEGED ATTORNEY CLIENT COMMUNICATIONS. If you are not one of the intended recipients, any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. Please immediately destroy all copies or versions you have of this message and notify the sender at 503/222-4151 or kjbradstreet@drhorton.com in order that we can take steps to prevent any further inadvertent disclosure.

From: Kyle J Bradstreet
Sent: Thursday, September 25, 2008 7:32 PM
To: 'jclark@ci.west-linn.or.us'
Cc: Kyle J Bradstreet
Subject: Parker Crest Lot 17

Jim,
Here is the Hub and Tack Certification for Parker Crest lot 17.
Permit # 08-547
2921 Winkle Way.

I have this foundation inspection called in for Friday 9/26/08
Thank you,

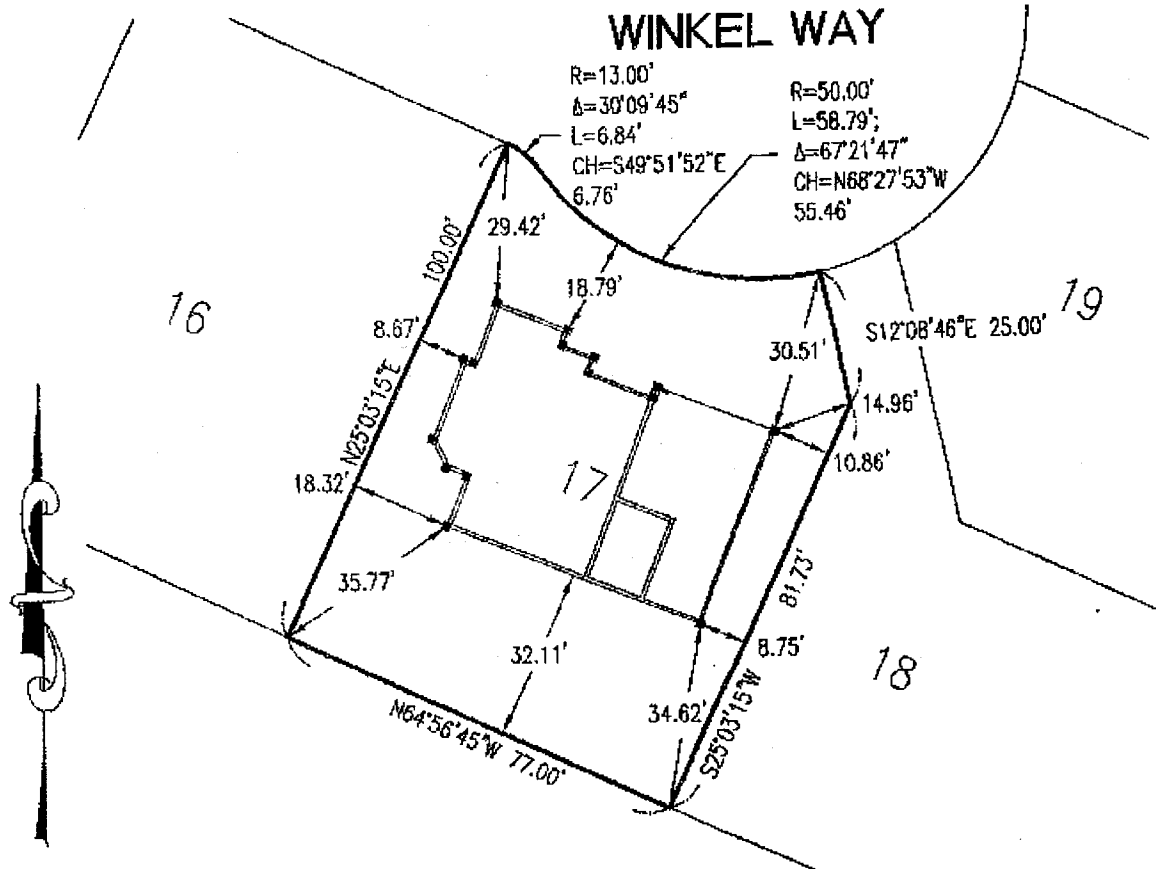
Kyle Bradstreet
Superintendent
DR Horton- Portland
503-572-9578

EXHIBIT 3

HUB AND TACK CERTIFICATION

LOT 17 "PARKER CREST"

LOCATED IN THE SW 1/4 OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON



SCALE 1" = 30 FEET



LEGEND

- SET 2" X 2" WOOD HUB W/METAL TACK

PREPARED FOR:

DR HORTON CO.
4386 SW MACADAM AVE., SUITE 102
PORTLAND, OR 97239

I, NICK WHITE, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, HEREBY CERTIFY THAT I HAVE ACCURATELY SURVEYED AND STAKED THE FOUNDATION FOR LOT 17 OF "PARKER CREST".

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Nick White
OREGON
JANUARY 8, 2007
NICK WHITE
70662LS
RENEWAL DATE: 6/30/10

JOB NAME: PARKER CREST

JOB NUMBER: 1876

DRAWN BY: JDJ

CHECKED BY: NW

DRAWING NO.: 1876STK

ENGINEERING • PLANNING • LANDSCAPE ARCHITECTURE
FORESTRY • SURVEYING



LICENSED IN OR & WA

13910 SW GALBREATH
DRIVE, SUITE 100
SHERWOOD, OR 97140
PHONE: (503) 925-8799
FAX: (503) 925-8969

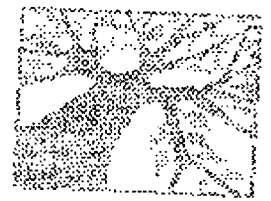
OFFICES LOCATED IN REDMOND, OR & VANCOUVER, WA

17

West
Linn
BUILDING DIVISION

Think Permits
CITY OF WEST LINN

INSPECTION REQUEST LINE: 503-722-5509
OFFICE: 503-656-4211



Permit #: 08-547

Inspection Request Date: September 26, 2008

Address: 2921 Winkel Way

Builder or Owner: _____

Date Request Received: _____

Type of Inspection: Foundation & Ftg

APPROVED

APPROVED W/CORRECTIONS

NOT APPROVED

COMMENTS:

INSPECTED BY: Jerry Marjama

DATE: 9/26/2008

22500 SALAMO RD. BOX 900 * WEST LINN OR 97068 * wbuilding@ci.west-linn.or.us