

STAFF REPORT

PLANNING DIRECTOR DECISION

DATE: May 5, 2011

FILE NO.: MIP-11-01

REQUEST: Request for a 2-lot Partition at 21510 Shannon Lane

PLANNER: Tom Soppe, Associate Planner

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SPECIFIC DATA

OWNER: Eugene Labunsky, West Coast Home Solutions, LLC, PO Box 2313, Wilsonville, OR 97070

**APPLICANT/
CONSULTANT:** Bruce D. Goldson, P.E., Theta, LLC, PO Box 1345, Lake Oswego, OR 97035

SITE LOCATION: 21510 Shannon Lane

SITE SIZE: Approximately 0.58 acres

**LEGAL
DESCRIPTION:** 2 1E 25 BC Tax Lot 4701

**COMP PLAN
DESIGNATION:** Low-Density Residential

ZONING: R-10, Single-Family Residential Detached

**APPROVAL
CRITERIA:** Community Development Code (CDC) Chapter 85 Land Division General Provisions; Chapter 11, Single-Family Residential Detached, R-10

120-DAY RULE: The application became complete on April 6, 2011. The 120-day period therefore ends on August 4, 2011.

PUBLIC NOTICE: Notice was mailed to property owners within 500 feet of the subject property and the Rosemont Summit Neighborhood Association on April 8, 2011. The notice was printed in the West Linn Tidings. A sign was placed on the property and on the nearest through street on April 11, 2011. The notice was also posted on the City's website. Therefore, public notice requirements of CDC Chapter 99 have been met.

BACKGROUND

The subject property is shown with red hatch lines on the following map. It is an R-10 zoned parcel located in the Rosemont Summit neighborhood. There is no recorded plat available for the property. It is on the east side of Shannon Lane in the dead end section of this street, north of Rosepark Drive.

A two-lot partition (MIP-07-02) was applied for and approved in 2007, but expired on June 19, 2010. Therefore the owner and applicant subsequently have restarted the

process with the current application. Street and storm improvements related to MIP-07-02 were completed and remain on site (although the street dedication coinciding with the improvements has not taken place yet), so no further street or right-of-way storm improvements are proposed as part of this application.

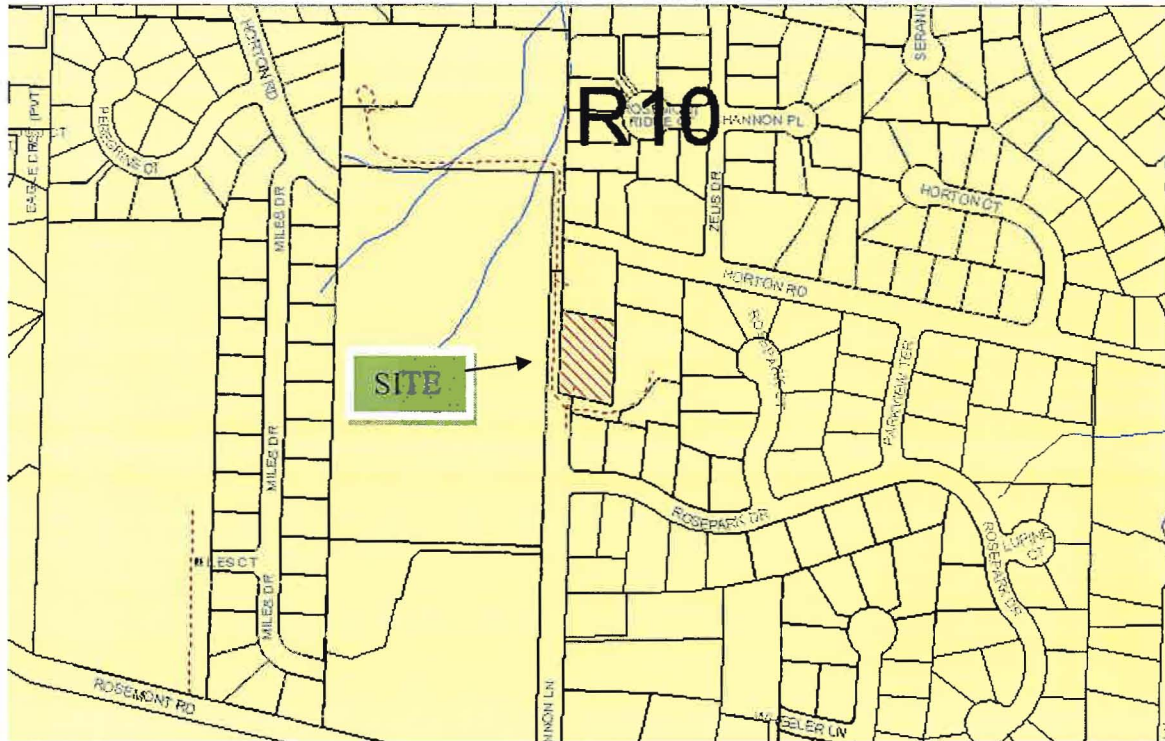


Vicinity Map (Site with red diagonal hatches, nearby streams are light blue lines)

Site Conditions. The plat was never recorded and the decision expired, but the results of the fulfillment of these conditions from MIP-07-02 remain on site. The portion of the site intended to be Parcel 2 contains an existing house, attached garage, driveway, and usable yard area. What will be Parcel 1 is already graded, trees were removed per the original decision, erosion control is in place, and is currently in an unvegetated state. Street improvements including widening, half-street improvements, sidewalk implementation have also been done per the MIP-07-02 decision. Along what is to be Parcel 2, south of this parcel's driveway, a planter strip and street trees were also installed. However, north of this driveway and along Parcel 1, a curb-tight sidewalk was built in order to preserve significant trees just east of the street. A curb cut for a driveway has also been built along the street along Parcel 1.

Project Description. The applicant proposes a two-lot partition. Approximately the southern half of the site will become Parcel 2, and the northern half will become Parcel 1 upon a potential approval of this application. This is demonstrated by the Tentative Plan on Page 74 of Exhibit PD-8. Both proposed parcels, including after proposed right-of-way dedication, would have over 10,000 square feet which is the base size in the R-10 zone. The proposed partition line runs east and west through the site, so both parcels would front directly onto Shannon Lane. The existing house is proposed to remain and would

be located on Parcel 2, the further south of the two proposed parcels. The partition line is proposed to ensure that this house meets the minimum side setback requirement of 7.5 feet on Parcel 2, as the proposed partition line is 12.5 feet from the existing house.



Zoning Vicinity Map (Site with red lines, creeks are blue lines)

Surrounding Land Use. In the immediate vicinity, large developable parcels lie west of Shannon Lane while east of Shannon Lane lie other residentially-zoned lands that have mainly been already subdivided, partitioned, and built out. The parcels immediately north and east of the site could be further partitioned.

Table 1 Surrounding Land Use and Zoning

DIRECTION FROM SITE	LAND USE	ZONING
North	Single-family residential	R-10
East	Single-family residential	R-10
South	Single-family residential. Also there is a church on the northwest corner of Rosemont Road and Shannon Lane	R-10
West	Single-family residential on parcels that could be subdivided further	R-10

Source: West Linn GIS, 2011

Approval Criteria. The site is proposed for a 2-lot Partition. The site is in the R-10 zone, so Chapter 11 criteria as well as the partition requirements of CDC Section 85.200 apply.

PUBLIC COMMENTS

Molly McWeeney, 785 7th St., Lake Oswego, OR 97034 (owns 21305 Shannon Lane), summary of phone conversation, April 13, 2011

Opposed to project. Owner has not done a good job with the work done at the site and the house already built there. He should get other work in order before getting more permits. He should not be able to take out more trees. It does not seem like there is room for another house on this part of Shannon Lane, should not be more houses on this dead end.

JT Sharp, 21504 Shannon Lane, April 14, 2011

This is in response to notice of file MIP 11-01. I am forwarding my original objection to this partition in 2007. Since that time you may be aware that the developer allowed the provisional approval to lapse. During the intervening period the developer continued work on the property at 21510 Shannon Ln and required street and infrastructure improvements. That process was a joke. Our concerns about access and safety were all borne out. The street was torn up for over 5 months. The construction was marked by repeated safety violations, delays and we were denied deliveries multiple times because vehicles would not or could not make safe passage. Emergency vehicles would not have made passage either. Legal action had to be threaten to get response on these items and with all that it still took 5 months. As we speak the street lights that were installed are not operational. Just this week did they place rock in the open drainage outlet that pours all the new runoff on to the open ground opposite our property. Based on this experience compliance seems a legitimate concern. We repeat our concerns about ingress and egress during any construction.

Also you will note that the previous approval was conditioned on siting any new residence in such a fashion as to be sensitive to our property's solar access. We have continued to hold off on investment in solar collection because of this concern. In the interim the developer has taken all of the material excavated from the road and deposited it on the lot subject to this partition application. The result has been that the developer has now artificially built up the ground level more than 5 feet from it's natural preexisting level at the time of the original application. The result is that the new level is above our fence line! I do not believe the topographic indicators on the tentative plan reflect this fact. This only exacerbates the concerns regarding solar access. Please feel free to contact me regarding any follow up or questions you may have.

(See pages 27-30 of Exhibit PD-2 for original objection to MIP-07-02 from JT and Antoinette Sharp as referred to in second line of comment above. Also see their related comment from the record of MIP-07-02 on pages 31-32 of Exhibit PD-3 which also involves details of their concerns regarding solar access.)

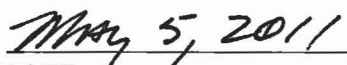
RECOMMENDATION

Based on findings contained in the applicant's submittal in the City record and the staff findings, there are sufficient grounds to **approve** this application (MIP-11-01) subject to the following conditions of approval:

1. Tentative Plan. The improvements shall conform to the Tentative Plan on Page 74 of Exhibit PD-8, except as modified by these conditions of approval. The applicant shall submit a new Tentative Plan that conforms to these conditions of approval prior to submittal of the final plat
2. Right-of-Way Dedication. The language "previous dedication 2,380 square feet" on the Tentative Plan on Page 74 of Exhibit PD-8 shall be removed. The area shown as "previous dedication 2,380 square feet" shall be dedicated to the City as right-of-way with no reservations or restrictions.
3. Utility easement. An 8-foot wide public utility easement along the front of the parcels 1 and 2 shall be depicted on the Tentative Plan.
4. Solar Access to Neighboring House. The building envelope and roofline for structures on Parcel 1 shall be designed and/or located to maintain solar access of the existing house at 21504 Shannon Lane. Prior to issuance of building permits the building design and placement shall be submitted to the Planning Department to ensure that solar access for 21504 Shannon Lane is accommodated. This condition shall be placed on the face of the plat.
5. Fill removal. Prior to the submittal of the building permit, any fill that has been placed on Parcel 1 shall be removed so that the topography on Parcel 1 conforms to the Tentative Plan's topography lines on Page 74 of Exhibit PD-8.
6. Tree Preservation. All remaining trees on site and in the right-of-way in front of the site shall be preserved.
7. Significant Tree Mitigation. The applicant shall plant 62 inches of trees on and/or off site to mitigate for significant trees removed and not mitigated for as part of work for the now-expired MIP-07-02 file.

I declare to have no interest in the outcome of this decision due to some past or present involvement with the applicant, the subject property, or surrounding properties, and therefore, can render an impartial decision. The provisions of the Community Development Code Chapter 99 have been met.


JOHN SONNEN, Planning Director


DATE


DENNIS WRIGHT, City Engineer

5/5/2011
DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$400. The appeal must be filed by an individual who has established standing by submitting comments prior to or on May 5, 2011. Approval will lapse 3 years from effective approval date.

Mailed this 10th day of May, 2011.
Therefore, the 14-day appeal period ends at 5 p.m., on

May 24, 2011.

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ADDENDUM

APPROVAL CRITERIA AND FINDINGS

MIP-11-01

Staff recommends adoption of the findings for approval contained within the applicant's submittal, with the following exceptions and additions:

Chapter 11 SINGLE-FAMILY RESIDENTIAL DETACHED, R-10

11.030 PERMITTED USES

The following are uses permitted outright in this zoning district

1. *Single-family detached residential unit.*

11.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

1. *The minimum lot size shall be 10,000 square feet for a single family detached unit.*
2. *The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.*
3. *The average minimum lot width shall be 50 feet.*
4. *The lot depth comprising non-Type I and II lands shall be less than two and one-half times the width, and more than an average depth of 90 feet. (See diagram below.)*

FINDING NO. 1:

The site contains one single-family detached residential unit on what is to become Parcel 2, and Parcel 1 will contain one more such unit. Single-family detached residential units are a use permitted outright in this zone. Each parcel will have over 10,000 square feet including after street right-of-way dedication. Each parcel will have a front lot line of over 35 feet and an average minimum lot width of over 50 feet. The lot depth for each lot will be less than 2.5 times the width of the lot. There are no Type I or II lands on site. The criteria are met.

CHAPTER 85 LAND DIVISION GENERAL PROVISIONS

85.200 APPROVAL CRITERIA

No tentative subdivision or partition plan shall be approved unless adequate public facilities will be available to provide service to the partition or subdivision area prior to final plat approval and the Planning Commission or Planning Director, as applicable, finds that the following standards have been satisfied, or can be satisfied by condition of approval.

A. Streets.

1. General. *The location, width and grade of streets shall be considered in their relation to existing and planned streets, to the generalized or reasonable layout of streets on adjacent undeveloped parcels, to topographical conditions, to public convenience and safety, to accommodate various types of transportation (automobile, bus, pedestrian, bicycle), and to the proposed use of land to be served by the streets. The functional class of a street aids in defining the primary function and associated design standards for the facility. The hierarchy of the facilities within the network in regard to the type of traffic served (through or local trips), balance of function (providing access and/or capacity), and the level of use (generally measured in vehicles per day) are generally dictated by the functional class. The street system shall assure an adequate traffic or circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried. Streets should provide for the continuation, or the appropriate projection, of existing principal streets in surrounding areas and should not impede or adversely affect development of adjoining lands or access thereto.*

To accomplish this, the emphasis should be upon a connected continuous pattern of local, collector, and arterial streets rather than discontinuous curvilinear streets and cul-de-sacs. Deviation from this pattern of connected streets should only be permitted in cases of extreme topographical challenges including excessive slopes (35 percent-plus), hazard areas, steep drainageways, wetlands, etc. In such cases, deviations may be allowed but the connected continuous pattern must be reestablished once the topographic challenge is passed. Streets should be oriented with consideration of the sun, as site conditions allow, so that over 50 percent of the front building lines of homes are oriented within 30 degrees of an east-west axis.

Internal streets are the responsibility of the developer. All streets bordering the development site are to be developed by the developer with, typically, half-street improvements or to City standards prescribed by the City Engineer. Additional travel lanes may be required to be consistent with adjacent road widths or to be consistent with the adopted Transportation System Plan and any adopted updated plans.

An applicant may submit a written request for a waiver of abutting street improvements if the Transportation System Plan prohibits the street improvement for which the waiver is requested. Those areas with numerous (particularly contiguous) under-developed or undeveloped tracts will be required to install street improvements. When an applicant requests a waiver of street improvements and the waiver is granted, the applicant shall propose a fee amount that will be reviewed by the City Manager or the Manager's designee. The City Manager or the Manager's designee will revise the proposed fee as necessary and establish the amount to be paid on a case-by-case basis. The applicant shall pay an in-lieu fee for improvements to the nearest street identified by the City Manager or Manager's designee as necessary and appropriate. The amount of the in-lieu fee shall be roughly proportional to the impact of the development on the street system as determined in subsection (A)(22) of this section.

Streets shall also be laid out to avoid and protect tree clusters and significant trees, but not to the extent that it would compromise connectivity requirements per this subsection (A)(1), or bring the density below 70 percent of the maximum density for the developable net area. The developable net area is calculated by taking the total site acreage and deducting Type I and II lands; then up to 20 percent of the remaining land may be excluded as necessary for the purpose of protecting significant tree clusters or stands as defined in CDC 55.100(B)(2).

2. Right-of-way and roadway widths. In order to accommodate larger tree-lined boulevards and sidewalks, particularly in residential areas, the standard right-of-way widths for the different street classifications shall be within the range listed below. But instead of filling in the right-of-way with pavement, they shall accommodate the amenities (e.g., boulevards, street trees, sidewalks). The exact width of the right-of-way shall be determined by the City Engineer or the approval authority. The following ranges will apply:

<u>Street Classification</u>	<u>Right-of-Way</u>
Local street	40 – 60

3. Street widths. Street widths shall depend upon which classification of street is proposed. The classifications and required cross sections are established in Chapter 8 of the adopted TSP. Streets are classified as follows.

Neighborhood routes are usually long relative to local streets and provide connectivity to collectors or arterials. Since neighborhood routes have greater connectivity, they generally have more traffic than local streets and are used by residents in the area to access the neighborhood, but do not serve Citywide/large area circulation. They are typically about one-quarter to one-half mile in total length. Traffic from cul-de-sacs and other local streets may drain onto neighborhood routes to gain access to collectors or arterials. Because traffic needs are greater than a local street, certain measures should be considered to retain the neighborhood character and livability of these streets. Neighborhood traffic management measures are often

appropriate (including devices such as speed humps, traffic circles and other devices – refer to later section in this chapter). However, it should not be construed that neighborhood routes automatically get speed humps or any other measures. While these streets have special needs, neighborhood traffic management is only one means of retaining neighborhood character and vitality.

The following table identifies appropriate street width (curb to curb) in feet for various street classifications. The desirable width shall be required unless the applicant or his engineer can demonstrate that site conditions, topography, or site design require the reduced minimum width.

City of West Linn Roadway Cross-Section Standards

Street Element	Characteristic	Width/Options
<i>Vehicle Lane Widths (minimum widths)</i>	<i>Arterial Collector Neighborhood Local Turn Lane</i>	<i>11 feet 10 feet 10 feet 12 feet 10-14 feet</i>
<i>On-Street Parking</i>	<i>Arterials Collectors Neighborhood Local</i>	<i>Limited (in commercial areas) Some (unstriped) Some (8 feet) Some (unstriped)</i>
<i>Bicycle Lanes (minimum widths)</i>	<i>New Construction Reconstruction</i>	<i>5 to 6 feet 5 to 6 feet</i>
<i>Sidewalks (minimum width) (See note below)</i>	<i>Arterial Collector Neighborhood/Local</i>	<i>6 feet 6 feet 6 feet</i>
<i>Landscape Strips</i>	<i>Can be included in all streets</i>	<i>6 feet</i>
<i>Medians</i>	<i>5-Lane 3-Lane 2-Lane</i>	<i>Optional Optional Consider if appropriate</i>
<i>Neighborhood Traffic Management</i>	<i>Arterials Collectors Neighborhood Local</i>	<i>Not recommended Under special conditions Should consider if appropriate Should consider if</i>

		<i>appropriate</i>
<i>Transit</i>	<i>Arterial/Collectors Neighborhood Route Local</i>	<i>Appropriate Only in special circumstances Not recommended</i>

NOTE: Commercial/OBC zone development on arterials requires a 12-foot-wide sidewalk which includes three feet for street trees, hydrants, street furniture, etc. Commercial/OBC zone development on local streets requires an 8-foot-wide sidewalk with no planter strip, but shall include cut-outs for street trees. In both commercial and residential areas where site constraints exist, sidewalks and planter strips may be reduced to the minimum necessary (e.g., four feet for sidewalks and no planter strip) to accommodate walking and significant natural features such as mature trees, steep embankment, grade problems, and existing structures, or to match existing sidewalks or right-of-way limitations. These natural features are to be preserved to the greatest extent possible. Requests for this configuration shall require the endorsement of the City Engineer. The City Engineer has the authority to require that street widths match adjacent street widths.

Sidewalk Location	Sidewalk Width
<i>Arterial in GC/OBC zone</i>	<i>12 feet</i>
<i>Collector/Local in GC/OBC zone</i>	<i>8 feet</i>
<i>Storefront on arterial</i>	<i>12 feet</i>
<i>Storefront on collector/local</i>	<i>8 feet</i>
<i>Residential Development</i>	<i>6 feet (+ 6-foot planter strip)</i>

(GC = General Commercial; OBC = Office Business Center)

4. The decision-making body shall consider the City Engineer's recommendations on the desired right-of-way width, pavement width and street geometry of the various street types within the subdivision after consideration by the City Engineer of the following criteria:

- a. The type of road as set forth in the Transportation Master Plan.*
- b. The anticipated traffic generation.*
- c. On-street parking requirements.*
- d. Sidewalk and bikeway requirements.*
- e. Requirements for placement of utilities.*

- f. Street lighting.*
- g. Drainage and slope impacts.*
- h. Street trees.*
- i. Planting and landscape areas.*
- j. Existing and future driveway grades.*
- k. Street geometry.*
- l. Street furniture needs, hydrants.*

5. Additionally, when determining appropriate street width, the decision-making body shall consider the following criteria:

- a. When a local street is the only street serving a residential area and is expected to carry more than the normal local street traffic load, the designs with two travel and one parking lane are appropriate.*
- b. Streets intended to serve as signed but unstriped bike routes should have the travel lane widened by two feet.*

6. Reserve strips. Reserve strips or street plugs controlling the access to streets are not permitted unless owned by the City.

7. Alignment. All streets other than local streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuations of the centerlines thereof. The staggering of street alignments resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the centerlines of streets having approximately the same direction and otherwise shall not be less than 100 feet.

8. Future extension of streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without turnarounds. (Temporary turnarounds built to Fire Department standards are required when the dead-end street is over 100 feet long.)

9. Intersection angles. Streets shall be laid out to intersect angles as near to right angles as practical, except where topography requires lesser angles, but in no case less than 60 degrees unless a special intersection design is approved. Intersections which are not at right angles shall have minimum corner radii of 15 feet along right-of-way lines which form acute angles. Right-of-way lines at intersections with

arterial streets shall have minimum curb radii of not less than 35 feet. Other street intersections shall have curb radii of not less than 25 feet. All radii shall maintain a uniform width between the roadway and the right-of-way lines. The intersection of more than two streets at any one point will not be allowed unless no alternative design exists.

10. Additional right-of-way for existing streets. Wherever existing street rights-of-way adjacent to or within a tract are of inadequate widths based upon the standards of this chapter, additional right-of-way shall be provided at the time of subdivision or partition.

FINDING NO. 2:

Shannon Lane is designated as a neighborhood street. In front of the site, the street “doglegs” to the west as the right-of-way narrows. Appropriate street improvements as required by Engineering as part of the expired MIP-07-02 process have been installed to make this a functional curve instead of an abrupt narrowing. More right-of-way will be needed to make Shannon Lane an appropriate width if and when the property across the street at 21575 Shannon Lane develops. To preserve significant trees and to align with the existing street to the north, extra right-of-way was not required to be dedicated at the north end of the site. Half street improvements and a travel lane have been provided as appropriate for this partition. The area labeled “previous dedication” on the Tentative Plan on Page 74 of Exhibit PD-8 has not been dedicated yet since the final plat for MIP-07-02 was never recorded. Condition of Approval 2 requires this to be dedicated for the final plat for the current application.

There will be no reserve strips. There are no new streets on site. The development will not prevent the future extension of the stub street on which the site is located. There are no intersections on site. The criteria are met.

The criteria are met upon the fulfillment of Condition of Approval 2.

11. Cul-de-sacs. Cul-de-sacs are not allowed except as required by topography, slope, site limitations, and lot shapes. Cul-de-sacs shall have maximum lengths of 400 feet and serve no more than 12 dwelling units, unless by variance per Chapter 75 CDC. All cul-de-sacs shall terminate with a turnaround built to one of the following specifications (measurements are for the traveled way and do not include planter strips or sidewalks).

12. Street names. No street names shall be used which will duplicate or be confused with the names of existing streets within the City. Street names that involve difficult or unusual spellings are discouraged. Street names shall be subject to the approval of the Planning Commission or Planning Director, as applicable. Continuations of existing streets shall have the name of the existing street. Streets, drives, avenues, ways, boulevards, and lanes shall describe through streets. Place and court shall describe cul-de-sacs. Crescent, terrace, and circle shall describe loop or arcing roads.

FINDING NO. 3:

The site is on an existing stub street. Both parcels will front to the existing street. No new streets will be created, including cul-de-sacs. These two criteria are not applicable.

13. Grades and curves. Grades shall not exceed 8 percent on major or secondary arterials, 10 percent on collector streets, or 15 percent on any other street unless by variance. Willamette Drive/Highway 43 shall be designed to a minimum horizontal and vertical design speed of 45 miles per hour, subject to Oregon Department of Transportation (ODOT) approval. Arterials shall be designed to a minimum horizontal and vertical design speed of 35 miles per hour. Collectors shall be designed to a minimum horizontal and vertical design speed of 30 miles per hour. All other streets shall be designed to have a minimum centerline radii of 50 feet. Super elevations (i.e., banking) shall not exceed four percent. The centerline profiles of all streets may be provided where terrain constraints (e.g., over 20 percent slopes) may result in considerable deviation from the originally proposed alignment.

FINDING NO. 4:

Shannon Lane street improvements were installed as part of the work to fulfill the final decision of MIP-07-02 which has since expired. The grade and the curve in front of the site are compliant with the criterion above.

14. Access to local streets. Intersection of a local residential street with an arterial street may be prohibited by the decision-making authority if suitable alternatives exist for providing interconnection of proposed local residential streets with other local streets. Where a subdivision or partition abuts or contains an existing or proposed major arterial street, the decision-making authority may require marginal access streets, reverse-frontage lots with suitable depth, visual barriers, noise barriers, berms, no-access reservations along side and rear property lines, and/or other measures necessary for adequate protection of residential properties from incompatible land uses, and to ensure separation of through traffic and local traffic.

15. Alleys. Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the decision-making authority. While alley intersections and sharp changes in alignment should be avoided, the corners of necessary alley intersections shall have radii of not less than 10 feet. Alleys may be provided in residential subdivisions or multi-family projects. The decision to locate alleys shall consider the relationship and impact of the alley to adjacent land uses. In determining whether it is appropriate to require alleys in a subdivision or partition, the following factors and design criteria should be considered:

FINDING NO. 5:

The site is located on a neighborhood street with no intersections with local streets, arterial streets, or other streets along the site frontage. As this is a 2-lot partition on an existing street, no alleys exist on site or are proposed. The criteria are not applicable.

16. *Sidewalks.* Sidewalks shall be installed per CDC 92.010(H), Sidewalks. The residential sidewalk width is six feet plus planter strip as specified below. Sidewalks in commercial zones shall be constructed per subsection (A)(3) of this section. See also subsection C of this section. Sidewalk width may be reduced with City Engineer approval to the minimum amount (e.g., four feet wide) necessary to respond to site constraints such as grades, mature trees, rock outcroppings, etc., or to match existing sidewalks or right-of-way limitations.

17. *Planter strip.* The planter strip is between the curb and sidewalk providing space for a grassed or landscaped area and street trees. The planter strip shall be at least 6 feet wide to accommodate a fully matured tree without the boughs interfering with pedestrians on the sidewalk or vehicles along the curblines. Planter strip width may be reduced or eliminated, with City Engineer approval, when it cannot be corrected by site plan, to the minimum amount necessary to respond to site constraints such as grades, mature trees, rock outcroppings, etc., or in response to right-of-way limitations.

FINDING NO. 6:

In front of Parcel 2, a 6-foot sidewalk and 6-foot wide planter strip has been installed as part of the work done for the now-expired application MIP-07-02. At the front of Parcel 1 there are significant trees and clusters conditioned to be saved by Condition of Approval 6. Along Parcel 1 the sidewalk has been reduced to 4.5 feet in width with no planter strip to preserve these trees. The criteria are met.

18. *Streets and roads shall be dedicated without any reservations or restrictions.*

FINDING NO. 7:

The applicant's finding in response to this criterion on Page 70 of Exhibit PD-8 states, "No added dedication of right-of-way is proposed." This apparently means that no dedication is proposed beyond the area that was originally demanded for ROW in the MIP-07-02 decision. This area has been improved as part of the unsuccessful fulfillment of that decision, and is shown as "Previous Dedication 2,380 square feet" on the applicant's Tentative Plan on Page 74 of Exhibit PD-8. The dedication did not occur yet however, since the plat for MIP-07-02 was not recorded. To ensure the dedication does occur as part of the recording of this plat and to clarify as such, Condition of Approval 2 requires this area to be dedicated as right-of-way without any reservations or restrictions.

19. *All lots in a subdivision shall have frontage on a public street. Lots created by partition may have access to a public street via an access easement pursuant to the standards and limitations set forth for such accessways in Chapter 48 CDC.*

FINDING NO. 8:

The full front side of each parcel will border on the Shannon Lane right-of-way, and the driveways will come directly off this right-of-way into the lots. The criterion is met.

20. Gated streets. Gated streets are prohibited in all residential areas on both public and private streets. A driveway to an individual home may be gated.

21. Entryway treatments and street isle design. When the applicant desires to construct certain walls, planters, and other architectural entryway treatments within a subdivision, the following standards shall apply:

FINDING NO. 9:

The site is on an existing public street, so no gated streets are proposed. There will be no entryway treatment or street isles for this 2-lot minor partition on an existing public street. The criteria are met.

22. *Based upon the determination of the City Manager or the Manager's designee, the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis commissioned to address CDC 85.170(B)(2) that are required to mitigate impacts from the proposed subdivision. The proportionate share of the costs shall be determined by the City Manager or Manager's designee, who shall assume that the proposed subdivision provides improvements in rough proportion to identified impacts of the subdivision. Off-site transportation improvements will include bicycle and pedestrian improvements as identified in the adopted City of West Linn TSP.*

FINDING NO. 10:

The only off-site improvement necessary for the contribution of a proportionate share during the review of MIP-07-02 was the planned traffic signal at the intersection of Salamo Road, Rosemont Road, and Santa Anita Drive. MIP-07-02 has since expired, resulting in the applicant starting over with the current application in order to partition the property. This traffic signal has already been paid for at this point, so no contributions from current land divisions are necessary for this or other off-site improvements. The criterion is met.

B. Blocks and lots.

1. General. *The length, width, and shape of blocks shall be designed with due regard for the provision of adequate building sites for the use contemplated; consideration of the need for traffic safety, convenience, access, circulation, and control; and recognition of limitations and opportunities of topography and solar access.*

2. Sizes. *The recommended block size is 400 feet in length to encourage greater connectivity within the subdivision. Blocks shall not exceed 800 feet in length between street lines, except for blocks adjacent to arterial streets or unless topographical conditions or the layout of adjacent streets justifies a variation. Designs of proposed intersections shall demonstrate adequate sight distances to the City Engineer's specifications. Block sizes and proposed accesses must be consistent with the adopted TSP.*

FINDING NO. 11:

The site is being partitioned from one parcel to two along an existing block of an existing street. No new blocks are being created. The criteria are not applicable.

3. Lot size and shape. Lot size, width, shape, and orientation shall be appropriate for the location of the subdivision, for the type of use contemplated, for potential utilization of solar access, and for the protection of drainageways, trees, and other natural features. No lot shall be dimensioned to contain part of an existing or proposed street. All lots shall be buildable, and the buildable depth should not exceed two and one-half times the average width. "Buildable" describes lots that are free of constraints such as wetlands, drainageways, etc., that would make home construction impossible. Lot sizes shall not be less than the size required by the zoning code unless as allowed by planned unit development (PUD).

FINDING NO. 12:

As discussed above in Finding No. 1, both parcels meet the size and dimensional requirements of the R-10 District. No street will be part of the parcels after the required right-of-way dedication occurs per Condition of Approval 2. During the review of MIP-07-02, the now-expired partition file for this property, the neighbors to the north at 21504 Shannon Lane, J.T. and Antoinette Sharp submitted comments discussing their passive-solar-oriented house, and how a house built on proposed Parcel 1 could negatively affect their house's solar access. Mr. Sharp has submitted a comment in response to this application also, and has attached to this one of his comments from the previous application. See Exhibit PD-2 on pages 27-30 for the new comment with the attached comment submitted during the review of MIP-07-02. Also see Exhibit PD-3 on pages 31-32 for their other related comment excerpted from the MIP-07-02 staff report. Because of the Sharps' concerns related to solar access, Condition of Approval 4 has been added to this staff report (this condition is similar to Condition of Approval 12 in the MIP-07-02 staff report).

Condition of Approval 4 ensures as well as possible that the applicant will choose a house plan for Parcel 1 that has the least negative effect on the solar access for the Sharp house, as approved by staff as part of building permit review. Since the approval of MIP-07-02, fill has also been placed on Parcel 1 that was not reflected in the Tentative Plan for that approval and that is not reflected in the Tentative Plan or Existing Conditions in this application (which are on pages 73-74 of Exhibit PD-8). Condition of Approval 5 requires this fill be removed to reduce the potential for diminishing solar access to the house to the north. As discussed by the applicant in Exhibit PD-1, removing the fill may have an effect on the view potential for the new house, as properties in this area tend to have a view of faraway hills to the north and east. However, the criterion above provides for sensitivity to solar access but does not mention sensitivity to potential for views, so condition of approval provisions on removing the fill and regulating the height of the house on Parcel 1 are consistent with the CDC.

4. Access. Access to subdivisions, partitions, and lots shall conform to the provisions of Chapter 48 CDC, Access, Egress and Circulation.

FINDING NO. 13:

There is already a driveway and garage for the existing house on Parcel 2. A curb cut has been provided in the sidewalk for the future driveway for Parcel 1. Curb cuts and their locations are compliant with Chapter 48, and the driveway location for Parcel 1 is appropriate to provide access to a future house on the parcel. The criterion is met.

5. Through lots and parcels. Through lots have frontage on a street at the front and rear of the lot. They are also called double-frontage lots. Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from arterial streets or adjacent non-residential activities, or to overcome specific disadvantages of topography and orientation. A planting screen or impact mitigation easement at least 10 feet wide, and across which there shall be no right of access, may be required along the line of building sites abutting such a traffic artery or other incompatible use.

6. Lot and parcel side lines. The lines of lots and parcels, as far as is practicable, should run at right angles to the street upon which they face, except that on curved streets they should be radial to the curve.

7. Flag lots. Flag lots can be created where it can be shown that no other reasonable street access is possible to achieve the requested land division. A single flag lot shall have a minimum street frontage of 15 feet for its accessway. Where two to four flag lots share a common accessway, the minimum street frontage and accessway shall be eight feet in width per lot. Common accessways shall have mutual maintenance agreements and reciprocal access and utility easements. The following dimensional requirements shall apply to flag lots:

8. Large lots. In dividing tracts into large lots or parcels which, at some future time, are likely to be redivided, the approval authority may require that the blocks be of such size and shape, and be so divided into building sites, and contain such easements and site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size. Alternately, in order to prevent further partition of oversized lots, restrictions may be imposed on the subdivision or partition plat.

FINDING NO. 14:

There will be no large lots, flag lots, or through lots and parcels. The proposed partition line will be parallel to the north and south property lines of the site, which is a practicable way to split this property and which is almost at a right angle to the right-of-way. The criteria are met.

C. Pedestrian and bicycle trails.

D. Transit facilities.

FINDING NO. 15:

This is a two-lot minor partition on an existing street with sidewalks installed along the street. No pedestrian or bicycle trails are proposed. Transit lines in West Linn are only along Highway 43, Willamette Falls Drive, and around the Willamette neighborhood. There are no transit lines near the site. These criteria are not applicable.

E. Lot grading. Grading of building sites shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

- 1. All cuts and fills shall comply with the excavation and grading provisions of the Uniform Building Code and the following:
 - a. Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically (i.e., 67 percent grade).*
 - b. Fill slopes shall not exceed two feet horizontally to one foot vertically (i.e., 50 percent grade). Please see the following illustration.**
- 2. The character of soil for fill and the characteristics of lot and parcels made usable by fill shall be suitable for the purpose intended.*
- 3. If areas are to be graded (more than any four-foot cut or fill), compliance with CDC 85.170(C) is required.*
- 4. The proposed grading shall be the minimum grading necessary to meet roadway standards, and to create appropriate building sites, considering maximum allowed driveway grades.*
- 5. Where landslides have actually occurred, where the area is identified as a hazard site in the West Linn Comprehensive Plan Report, or where field investigation by the City Engineer confirms the existence of a severe landslide hazard, development shall be prohibited unless satisfactory evidence is additionally submitted by a registered geotechnical engineer which certifies that methods of rendering a known hazard site safe for construction are feasible for a given site. The City Engineer's field investigation shall include, but need not be limited to, the following elements:*
- 6. All cuts and fills shall conform to the Uniform Building Code.*
- 7. On land with slopes in excess of 12 percent, cuts and fills shall be regulated as follows:
 - a. Toes of cuts and fills shall be set back from the boundaries of separate private ownerships at least three feet, plus one-fifth of the vertical height of the**

cut or fill. Where an exception is required from that requirement, slope easements shall be provided.

b. Cuts shall not remove the toe of any slope where a severe landslide or erosion hazard exists (as described in subsection (G)(5) of this section).

c. Any structural fill shall be designed by a registered engineer in a manner consistent with the intent of this code and standard engineering practices, and certified by that engineer that the fill was constructed as designed.

d. Retaining walls shall be constructed pursuant to Section 2308(b) of the Oregon State Structural Specialty Code.

e. Roads shall be the minimum width necessary to provide safe vehicle access, minimize cut and fill, and provide positive drainage control.

8. Land over 50 percent slope shall be developed only where density transfer is not feasible. The development will provide that:

FINDING NO. 16:

The Shannon Lane street improvements have already been installed, and no lot grading is proposed as part of the partition process. The site is not in a landslide area, and there are no slopes over 50%. Fill was placed in the last few years onto Parcel 1. This is required to be removed by Condition of Approval 5 in order to best ensure solar access for the passive solar oriented house on the property to the north. See Finding No. 12 regarding this.

F. Water.

1. A plan for domestic water supply lines or related water service facilities shall be prepared consistent with the adopted Comprehensive Water System Plan, plan update, March 1987, and subsequent superseding revisions or updates.

2. Adequate location and sizing of the water lines.

3. Adequate looping system of water lines to enhance water quality.

4. For all non-single-family developments, there shall be a demonstration of adequate fire flow to serve the site.

5. A written statement, signed by the City Engineer, that water service can be made available to the site by the construction of on-site and off-site improvements and that such water service has sufficient volume and pressure to serve the proposed development's domestic, commercial, industrial, and fire flows.

FINDING NO. 17:

Water laterals have been provided for each parcel as part of the improvements that were installed under the MIP-07-02 decision, which has since expired. The water laterals connect to the public water line under Shannon Lane. Tualatin Valley Fire and Rescue has confirmed that the size and pressure of the hydrant at Shannon Lane and Rosepark Drive just south of the site and the line the hydrant is attached to should be sufficient to serve both parcels for fire needs. The criteria are met.

G. Sewer.

1. *A plan prepared by a licensed engineer shall show how the proposal is consistent with the Sanitary Sewer Master Plan (July 1989). Agreement with that plan must demonstrate how the sanitary sewer proposal will be accomplished and how it is gravity-efficient. The sewer system must be in the correct basin and should allow for full gravity service.*
2. *Sanitary sewer information will include plan view of the sanitary sewer lines, including manhole locations and depth or invert elevations.*
3. *Sanitary sewer lines shall be located in the public right-of-way, particularly the street, unless the applicant can demonstrate why the alternative location is necessary and meets accepted engineering standards.*
4. *Sanitary sewer line should be at a depth that can facilitate connection with down-system properties in an efficient manner.*
5. *The sanitary sewer line should be designed to minimize the amount of lineal feet in the system.*
6. *The sanitary sewer line shall avoid disturbance of wetland and drainageways. In those cases where that is unavoidable, disturbance shall be mitigated pursuant to Chapter 32 CDC, Water Resource Area Protection, all trees replaced, and proper permits obtained. Dual sewer lines may be required so the drainageway is not disturbed.*
7. *Sanitary sewer shall be extended or stubbed out to the next developable subdivision or a point in the street that allows for reasonable connection with adjacent or nearby properties.*
8. *The sanitary sewer system shall be built pursuant to DEQ, City, and Tri-City Service District sewer standards. The design of the sewer system should be prepared by a licensed engineer, and the applicant must be able to demonstrate the ability to satisfy these submittal requirements or standards at the pre-construction phase.*

9. *A written statement, signed by the City Engineer, that sanitary sewers with sufficient capacity to serve the proposed development and that adequate sewage treatment plant capacity is available to the City to serve the proposed development.*

FINDING NO. 18:

There is no public sanitary sewer line in this section of Shannon Lane. Behind the parcels is a 5-foot-wide public utility easement on the neighboring properties which extends north downhill to 3830 Horton Road, which has a private sanitary sewer easement. This easement extends north downhill to the Horton Road right-of-way, where there is a public sewer line. The existing house on what is proposed to be Parcel 2 already has an existing sanitary sewer lateral extending through the rear of what is proposed to be Parcel 1, then through the aforementioned easements to the line in Horton Road. The applicant proposes a 20-foot-wide sanitary sewer easement at the rear of Parcel 1 to contain this existing sanitary sewer lateral for Parcel 2. (See Tentative Plan on Page 74 of Exhibit PD-8) The sanitary sewer lateral for Parcel 1 is proposed to follow Parcel 2's lateral through this proposed easement and through the easement on the neighboring properties downhill to the Horton Road sewer line. The proposed lateral for Parcel 1 will be across the Parcel 2 lateral from the trees at the rear of the site. The criteria are met.

H. Storm.

1. *A stormwater quality and detention plan shall be submitted which complies with the submittal criteria and approval standards contained within Chapter 33 CDC. It shall include profiles of proposed drainageways with reference to the adopted Storm Drainage Master Plan.*

2. *Storm treatment and detention facilities shall be sized to accommodate a 25-year storm incident. A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse off-site impacts from increased intensity of runoff downstream or constriction causing ponding upstream. The plan and statement shall identify all on- or off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off-site impacts from a 25-year storm.*

3. *Plans shall demonstrate how storm drainage will be collected from all impervious surfaces including roof drains. Storm drainage connections shall be provided to each dwelling unit/lot. The location, size, and type of material selected for the system shall correlate with the 25-year storm incident.*

4. *Treatment of storm runoff shall meet municipal code standards.*

FINDING NO. 19:

Improvements as requested by Engineering in the public right-of-way were installed as part of the street improvements already completed as part of the MIP-07-02 process which is now expired. These are discussed in the applicant's finding on pages 55 and 67-69 of Exhibit PD-8, and are shown on the Tentative Plan on Page 74 of Exhibit PD-8. The

new house on Parcel 1, when it is proposed, will be required to have a rain garden as is standard policy for new houses in West Linn. The criteria are met.

I. Utility easements. Subdivisions and partitions shall establish utility easements to accommodate the required service providers as determined by the City Engineer. The developer of the subdivision shall make accommodation for cable television wire in all utility trenches and easements so that cable can fully serve the subdivision.

FINDING NO. 20:

An 8-foot public utility easement is proposed along the edge of the Shannon Lane right-of-way on the two parcels, per the applicant's finding on Page 69 of Exhibit PD-8. This is not shown on the Tentative Plan. Conditions of Approval 1 and 3 ensure that the applicant will include this easement on the Tentative Plan.

J. Supplemental provisions.

1. Wetland and natural drainageways. Wetlands and natural drainageways shall be protected as required by Chapter 32 CDC, Water Resource Area Protection. Utilities may be routed through the protected corridor as a last resort, but impact mitigation is required.

2. Willamette and Tualatin Greenways. The approval authority may require the dedication to the City or setting aside of greenways which will be open or accessible to the public. Except for trails or paths, such greenways will usually be left in a natural condition without improvements. Refer to Chapter 28 CDC for further information on the Willamette and Tualatin River Greenways.

FINDING NO. 21:

The site is not in the river greenways or a wetland or drainageway transition area. These two criteria do not apply.

3. Street trees. Street trees are required as identified in the appropriate section of the municipal code and Chapter 54 CDC.

FINDING NO. 22:

Street trees were planted in the planter strip in front of Parcel 2 as part of the construction that was done to fulfill the final decision of MIP-07-02, which has since expired. These street trees still meet the current criteria. There is no planter strip in front of Parcel 1 because a curb-tight sidewalk was constructed to preserve significant trees that are just east of the sidewalk.

4. Lighting. To reduce ambient light and glare, high or low pressure sodium light bulbs shall be required for all subdivision street or alley lights. The light shall be shielded so that the light is directed downwards rather than omni-directional.

FINDING NO. 23:

The applicant agrees that street lighting installation will be to City standards, and the street light locations are shown on the Tentative Plan on Page 74 of Exhibit PD-8.

5. Dedications and exactions. *The City may require an applicant to dedicate land and/or construct a public improvement that provides a benefit to property or persons outside the property that is the subject of the application when the exaction is roughly proportional. No exaction shall be imposed unless supported by a determination that the exaction is roughly proportional to the impact of development.*

FINDING NO. 24:

Condition of Approval 2 requires the area indentified on the Tentative Plan” as previous right-of-way dedication” to be dedicated. This dedication was proposed as part of MIP-07-02, and the required street improvements were done, but the dedication did not occur as the final plat was not recorded. The dedication is necessary to functionally align the segment of Shannon Lane north of the property with that south of the property as the street realigns along the property. The dedication is proportional to the development in that with or without the dedication, the development would produce two parcels total in the R-10 zone, both of which would have more than enough room for a reasonable sized house and yard with or without the dedication. When the dedication occurs the site will be reduced in size from a total of 25,000 square feet to approximately 22,600 square feet. The criterion is met.

6. Underground utilities. *All utilities, such as electrical, telephone, and television cable, that may at times be above ground or overhead shall be buried underground in the case of new development. The exception would be in those cases where the area is substantially built out and adjacent properties have above-ground utilities and where the development site’s frontage is under 200 feet and the site is less than one acre. High voltage transmission lines, as classified by Portland General Electric or electric service provider, would also be exempted. Where adjacent future development is expected or imminent, conduits may be required at the direction of the City Engineer. All services shall be underground with the exception of standard above-grade equipment such as some meters, etc.*

FINDING NO. 25:

Underground utilities were installed as part of the MIP-07-02 construction plans.

7. Density requirement. *Density shall occur at 70 percent or more of the maximum density allowed by the underlying zoning. These provisions would not apply when density is transferred from Type I and II lands as defined in CDC 02.030. Development of Type I or II lands are exempt from these provisions. Land divisions of three lots or less would also be exempt.*

8. Mix requirement. *The “mix” rule means that developers shall have no more than 15 percent of the R-2.1 and R-3 development as single-family residential. The intent*

is that the majority of the site shall be developed as medium high density multi-family housing.

FINDING NO. 26:

The site is in the R-10 zone and is a 2-lot partition. These two criteria are not applicable.

9. Heritage trees/significant tree and tree cluster protection. All heritage trees, as defined in the Municipal Code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction. All non-heritage trees and clusters of trees (three or more trees with overlapping dripline; however, native oaks need not have an overlapping dripline) that are considered significant by virtue of their size, type, location, health, or numbers shall be saved pursuant to CDC 55.100(B)(2). Trees are defined per the municipal code as having a trunk six inches in diameter or 19 inches in circumference at a point five feet above the mean ground level at the base of the trunk.

FINDING NO. 27:

There are no heritage trees. With the exception of the street trees, all trees on site are significant trees or are part of clusters with significant trees per the City Arborist's tree map for MIP-07-02. See Page 41 of Exhibit PD-5 for this map. These were all required to be preserved by the final decision for MIP-07-02 in order to meet the 55.100(B)(2) requirement that 20% or more of the site should be preserved for significant trees and their dripline-plus-10-foot areas. Therefore Condition of Approval 6 for the current application requires all trees remaining on site to be preserved. Three trees were removed as part of work related to the approval of MIP-07-02. On the aforementioned City Arborist's map from the MIP-07-02 file, these were trees 5, 11, and 18 (different numbering system than the tree map submitted for this application on Page 75 of Exhibit PD-8 which only shows trees currently remaining on site). Trees 5, 11, and 18 on the MIP-07-02 City Arborist's map were a 26 inch incense cedar, a 6 inch white oak, and a pair of pacific madrones (14 and 16 inches) respectively. This is 62 inches total. These trees were allowed by be removed by MIP-07-02's Condition of Approval 4, but were required by MIP-07-02's Condition of Approval 1 to be mitigated on a inch per inch basis. While MIP-07-02 is expired, it would still be beneficial for the applicant to mitigate on site or off-site for the significant trees removed. Therefore Condition of Approval 7 in this application requires an inch-per-inch mitigation of these trees.

10. Annexation and street lights. Developer and/or homeowners association shall, as a condition of approval, pay for all expenses related to street light energy and maintenance costs until annexed into the City, and state that: "This approval is contingent on receipt of a final order by the Portland Boundary Commission, approving annexation of the subject property." This means, in effect, that any permits, public improvement agreements, final plats, and certificates of occupancy may not be issued until a final order is received.

FINDING NO. 28:

The site is already within the City limits. The criterion is not applicable.