

October 21, 2013

City of West Linn Mr. Peter Spir Associate Planner 22500 Salamo Road West Linn, OR 97068

SUBJECT: WEATHERHILL (SUB-13-04)

Dear Peter,

I am writing on behalf of JT Smith Companies to request that the application for the Subdivision of the Weatherhill Properties (SUB-13-04) be deemed complete upon receipt of this letter. I have prepared this letter, as well as a revised preliminary development plat (dated October 21, 2013) to show that the revised plans satisfactorily address the comments provided by the City in the August 29, 2013 incompleteness notification letter and to show that CDC 85.200(A)(1) and (11) are satisfied. As the applicant has shown below and within the previous submission materials, no feasible alternative exists, therefore a cul-de-sac should be permitted.

1. Initial Layout Discussions

There have been a significant number of discussions regarding the Applicant's proposed street design for this subdivision. The Applicant's original design proposal for this subdivision was very similar to the cul-de-sac design of the current plan. The cul-de-sac plan was originally proposed by the Applicant to respond to the existing grades on the site, the presence of significant tree groves, and because of the presence of unknown and unmapped resources on adjoining properties. Staff initially responded to the applicant's site plan with the following excerpt from the pre-application conference notes:

Maslen Property



Applicant's March 2013 pre-application conference submission

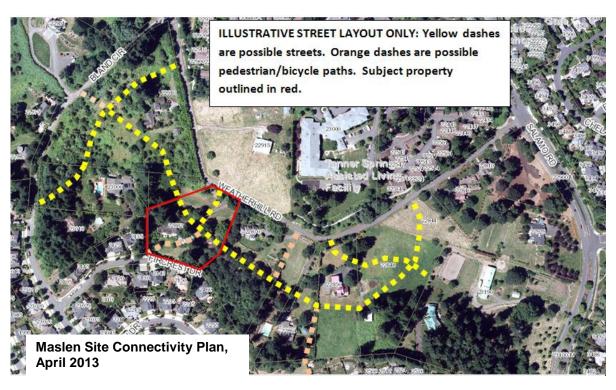
"To the east of the property is a single family home on a 2.58 acre parcel. That property is unincorporated. It is heavily forested in its southern portion which is the origin of an intermittent stream. To the west is a similarly forested vacant .56 acre parcel. To the south is a private driveway which is an extension of Fircrest Drive. Because no part of the subject property is contiguous to a public section of Fircrest Drive, the this subdivision connection of southwards is not possible.

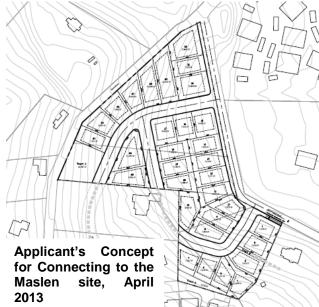
2. The Maslen Property

Staff did not initially support the proposed cul-de-sac design, suggesting that provisions for both east and west connections should be provided within the Applicant's proposed design. This suggestion was made in consideration of a pre-application conference which has held for the Maslen properties, located to the north east of the property.

The Maslen property was previously approved for development by the City in 2007. Upon receipt of this information, the Applicant began a redesign effort for the site. The Applicant also reviewed the existing approved construction documents and entered into a discussion with the owner of the Maslen property for potential purchase.

The drawing below shows a connectivity plan prepared by the Applicant's representatives for the Maslen property and for the properties located south of Weatherhill Road. This plan was created as a suggestion by the Maslen's engineers.





The Applicant reviewed the construction plans for the Maslen site and expressed several significant concerns about the costs and constructability of the approved subdivision design. The approved design for the site, also constrained by the hillside, had significant fills and a series of very large and very long retaining walls. Some of the walls exceeded 15 feet at different parts the plan.

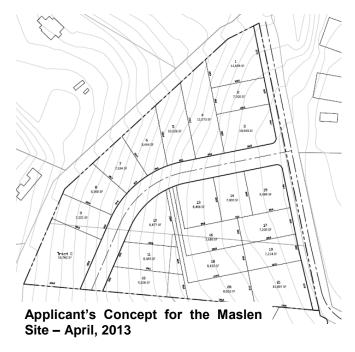
The Applicant also noted that there would be little opportunity to preserve significant trees on both the Applicant's property and on neighbor's properties with future streets aligned directly at significant tree groves.



Based upon the presence of the trees on the Applicant's properties and the neighboring grove, the City agreed in July, by an email from the planning department, that the cul-de-sac better allowed for tree retention.

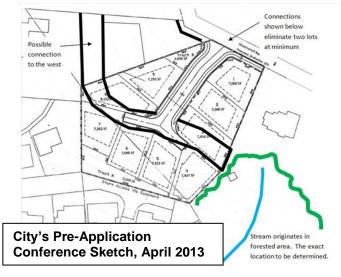
3. Disadvantages to connecting to the Maslen Property

If the Applicant were to reapply for the Subdivision for the Maslen property, the layout would more closely reflect the design shown below. The design below removes one of the previously approved street connections allowing for fewer grading constraints on the property. Site grading is dictated, in part, by the number of required road connections. Within hillside development, fewer connections are almost always better for the grading and wall requirements on site.



4. Disadvantage of a connection to the Dean Property

A connection to the east was also explored by both staff and the applicant. The connection to east was ruled out initially because of the presence of an stream headwaters which is known to be located on the property to the east. This resource was drawn in by staff on the map below:



While the City staff has discussed this potential stream with the neighbor and determined through their discussions that the potential resource is a seasonal drainage, staff has not employed the services of a professional wetland biologist to determine whether or not the stream will be considered jurisdictional by the state of Oregon.

Our experience with streams is that even seasonal resources can be jurisdictional and impacts to the streams should be avoided wherever possible. Due to the uncertainty of the classification and the location of the stream on the neighboring



property, the Applicant is proposing a pedestrian only connection rather than a full street connection. Unless the neighboring property owner invests in a delineation of the resource by a qualified biologist and a survey to determine its precise location on the site, the location and classification of the resources on the neighbors' property will remain subject to speculation.

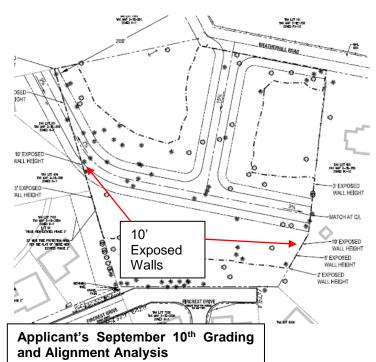
5. Why is connectivity an issue?

Connectivity is an issue within this area because of a recent change to the City's community development codes. Section 85.200 of the West Linn Community Development Code was updated in July 2013 to define the standards under which new cul-de-sacs may be created. Section 85.200(A)(11)(a) provides the following:

- "a. New cul-de-sacs and other closed-end streets (not including stub streets intended to be connected) on sites containing less than 5 acres, or sites accommodating uses other than residential or mixed use development, are not allowed unless the applicant demonstrates that there is no feasible alternative due to:
- 1) physical constraints (e.g., existing development, the size or shape of the site, steep topography, or a fish bearing stream or wetland protected by CDC Chapter 32), or
- 2) existing easements or leases."

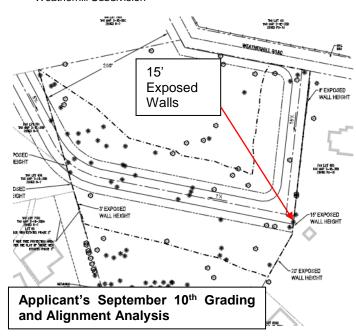
There are significant physical constraints which preclude the applicant's ability to connect to the adjacent properties. These constraints include steep slopes and the presence of significant trees. These constraints are also present on the properties located to the east and west of the Applicant's property. If the Applicant were to propose a layout with connections to the east and west, development of the neighboring properties will be negatively affected due to the walls and road alignments that the development will require.

An analysis of the potential to connect both east and west was presented to the City in August of 2013. The following two plans show potential roadway connections both east and west, with different access points along Weatherhill Road.



For the two alignments that the Applicant explored, the Applicant prepared a road alignment and a preliminary grading plan showing the envelope of the grading required to construct the roads to grades acceptable by the fire department. Within both plans, the proposed road alignment would require construction of exposed walls along edges of the Applicant's property. In several cases, the walls would be between ten and fifteen feet tall. Tying into these walls and re-engineering them or removing them would become the responsibility of the neighboring property owners. The redevelopment of these walls would represent significant а cost imposition on the owners of the





The proposed road alignments would also require the removal of the majority of the significant trees on the Applicant's property. In the case of the road extension to the northwest, a significant grove of trees on the neighbor's property would almost certainly need to be cleared to facilitate the road connection.

The Applicant's current proposal would retain nearly 50% of the existing significant tree canopy on the Applicant's site, would avoid the placement of retaining walls on the neighboring sites, and would avoid the need for the compulsory removal of significant trees on neighboring properties to facilitate road extensions.

The City's staff responded to the conceptual road alignments provided by the Applicant by preparing their own "regional plan" for the area south of Weatherhill Road. This plan is shown in the map below.



City's October 4th Regional Concept Plan

The alignment of the roadways suggested by the City would result in a near clear cut of the significant trees on the Applicant's site. The roadway plan would also result in the removal of the trees on the neighboring property to the northwest of the Applicant's site. The full impacts of the proposed alignment have not been evaluated as the City has not provided a grading plan showing the full impacts of the imposition of the roadway. The City has also not indicated how these



properties would be able to develop on an individual basis. While the overall concept may be viable, to have one property develop in isolation from the others may require the construction of significant and expensive retaining walls along each property's boundary. This concept was illustrated in the Applicant's August submission of the conceptual grading plans showing the connected street network.

In any case, the proposed alignment that the City provided can only be regarded as a suggestion as it has not been adopted by the City. In order to require conformance with the suggested plan, the City should further vet the issues associated with the proposed alignment and adopt the plan as a "special area plan or a local street connectivity plan" within the City's Comprehensive Plan or Transportation System Plan (TSP). This process would require a public review of the proposed alignment and a formal plan amendment process. This type of process would be highly unusual for a local street as the TSP typically only prescribes the alignment of higher classification streets.

6. The Current Site Plan

The Applicant has explored a variety of connectivity options for the property. Each of these options has been shared with staff and support for a cul-de-sac has been issued and then subsequently withdrawn. To summarize our discussions and timeline:

- The Applicant first submitted the cul-de-sac design in early April, 2013 and received confirmation that the City would be comfortable with the layout to avoid significant trees.
- The Applicant then received word in late August, 2013 that the City was not comfortable with the design and wanted a road connection to the northwest.
- The Applicant provided a copy of two alternative road alignments which explored the grading and wall construction for the connected layouts. Both layouts resulted in retaining walls along the boundaries of the property and near clear-cuts of the site.
- On October 4, two months after the discussion began, the City released a "preferred road alignment" for the area south of Weatherhill but did not provide sufficient detail to explain why the alignment was better than the Applicant's proposal. The City also did not offer an explanation of how the connected road network could be constructed without the full participation of all of the parties affected by the road.
- Since the release of the preferred road alignment, the City released an additional option for the developer's consideration. On October 15 2013, the City released the drawing below, acknowledging that this alignment would be favorably received by the City.



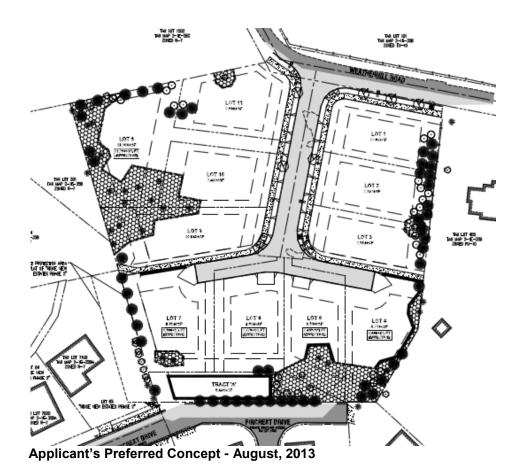


City's October 15th Concept

Rather than utilizing one of staff's suggested alignments for the road network, the Applicant has opted to retain the original design for the subdivision application. The design has been retained for the following reasons:

- The access road from Weatherhill has been graded to a 10% slope. If we were to connect to
 the neighboring properties, the road grade would need to be closer to 15%. 15% is a quite
 uncomfortable for normal vehicle traffic and very uncomfortable for larger trucks, moving
 vans, and fire vehicles.
- The site plan does not impose a pre-determined road connection on the neighbors and avoids the need for engineered retaining walls along the edges of the property. This will save the property owners of the adjoining properties from having to remove or redesign these walls when connecting new road extensions.
- Connectivity, in the form of a pedestrian connection has been provided to both the east and west. Within a local setting, a new local road is not needed or practical. Pedestrian connectivity will be more of an amenity to future residents than a new roadway.
- The proposed development has achieved significant tree retention of 23% of the significant tree canopy within easement. The plan also achieves 50% retention of the existing significant tree canopy. The layouts provided by the City to try to accommodate the road connections resulted in a near clear-cut of the applicant's property.
- The removal of the need for the road extensions allows the property owner to the northwest
 the opportunity to plan around the significant tree grove located on their property. The
 alignment also allows the property owner to the east to plan around the non-delineated
 resource corridor.





The following has been provided to document our response to each of the requests listed within the August 29th incompleteness notification. The applicant is providing all of the missing information identified in the incompleteness determination as required by ORS 227.178(2)(a). The issue regarding compliance with CDC 85.200(A)(11) is not a completeness issue but is instead a compliance issue. While the applicant hopes that the staff will agree a cul-de-sac is allowed because there is no reasonable alternative due to physical constraints, the application includes all of the information required to allow for Planning Commission review.

Within the materials below, Code sections and staff comments have been listed to the left and the Applicant's responses have been provided to the right. Engineering's comments have been accepted by the Applicant as comments and not as completeness items.

	Applicant's Response
ntion of the	
F ר ז 2	The Applicant's 8/1 submission contains a legal description on the Existing Conditions Plan and on the Tentative Subdivision Plat. The description reads "Tax Lots 200,301, and 402 located in the NW ¼ of Section 35, T.2S., R.1E., W.M. City of West Linn, Clackamas County, Oregon."
n the site. r	The Applicant has submitted an arborist's report for the project. We understand that the City's arborist has since confirmed the
	ventory of n the site.



	his assessment.	significant trees listed within the report.
Section 85.170(J)(9)	Retention of significant trees on type I and II lands	The Applicant has provided a revised slope analysis showing the trees proposed to be retained and removed and the proposed road grading envelopes. All significant trees which are not affected by road grading and therefore exempted through section 55.100(B)(2)(f) will be retained.
85.200(B)(3)	Lot Size and Shape – Lot 9 does not meet the 2.5 times rule of 12.070(D).	Measuring from the center of lot 9, the ratio of width to depth is 2.47. This meets the requirements of section 12.070(D).
85.200(A)(1)(8)(11)	Provide narrative responses that address whether the paths meet the ADA, grade, and defensible space criteria	85.200.A, "Streets". 1. Introduction. The application proposes a hammerhead local street because two (2) physical constraints prevent a continuation of the local street system to the adjacent properties and because, consistent with CDC; 85.200(A)(1), "General", the continuation of the local street is not a continuation of a "principal" street and would impede and adversely affect development of adjoining lands. Additionally, CDC 85.200(11), "Cul-de-sacs", allows a "closed end street" (this term is not defined in the CDC) because there is no "feasible alternative" due to physical constraints and the lack of existing easements that, in one case, prevent a connection. The application shows a local street system that is reasonable given existing topographic, legal and physical constraints that allow the City to approve a street system without connections to adjoining lots. 2. Subsection (1), "General". This is one of two (2) relevant subsections that address street connectivity. Notwithstanding that subsection (11) is more specific as to culde-sacs, the City must give effect to this subsection, as well. A. Location of streets in relation to existing and planned streets, to the reasonable layout of streets on adjacent undeveloped parcels, topographical conditions and to the proposed use of land to be served by the streets.
		proposed use of land to be served by the



the subdivision is proposed to connect to Weatherhill Road, a local City street. The site is fairly steep (10-25% grades across the property). Site grading necessary to meet street grade standards and fire code standards requires significant site grading.

There are three (3) adjacent lots to this subdivision site. The two (2) adjacent lots on the east and west are undeveloped because they are capable of being divided (both lots have existing dwellings; one lot is not in the City). The lots to the south are developed but are served by a private street system that does not provide for public use from a connecting public street.

The City can find that a closed-end street is allowed under this criterion for the following reasons. This section uses the word "shall" which means it is mandatory language and the City must give consideration to its requirements.

- (a) First, this subsection provides that the location and grade of streets "SHALL" be considered to the generalized layout of streets on undeveloped lots. This site's grading proposes a closed-end street because in order to connect to either the east or west lot, resulting site grading would make the proposed lots far too steep, make driveway connections too steep, which creates dangerous conditions in winter weather and make the lots less desirable. The proposed site grading that is appropriate for this site results in significant grade differences between this site and the two adjoining lots that would adversely affect development of those lots. As a result, a connecting street system would either adversely affect this site or development of the two adjoining lots.
- (b) This site and the adjoining undeveloped lots do not require a connecting street system. All three (3) lots are served by a local street, Weatherhill, which has sufficient capacity to serve development of these three (3) lots. If the sole connecting street were a street type that discouraged local access, then a connecting street system might be necessary. This application does not require the continuation of an "existing principal street system". However, a



connecting street system would "impede or adversely affect development of adjoining lands" for the reasons explained here.

- (c) This section provides that the emphasis "SHOULD" be on a continuous system of connected streets. The use of the word "should" means that this statement is a goal and not a mandatory approval standard.
- (d) The adjoining lot to the south contains a private street stub abutting this site. The private street is owned by the subdivision's homeowners association and is for the purpose of serving the lots in that subdivision. There is no legal right to connect a public street to the private street. Subsection (A)(1) does not require a connection where an existing legal right prevents the connection and there is no likelihood of such right being changed.
- (e) Conclusion. This subsection does not require that a connecting street system be provided to the adjoining 3 lots because a principal street is not involved, the connection would adversely affect the development of this site and the two adjoining lots on the east and west sides of the site and is not allowed by the private street to the south.
- 3. Subsection (11), "Cul-de-sacs".
- (a) Subsection (11)(a) allows closed-end streets on sites less than five (5) acres such as this if the applicant demonstrates that there is no "feasible alternative" due to "physical constraints", including steep topography (without limitation) and a stream protected by CDC Chapter 32, "Water Resource Area Management".
- (b) As explained above, steep topography on both this site and the two adjoining lots to the east and west present no feasible alternative allowing connectivity. Connecting streets will either adversely affect this site's development or the development of the adjoining properties.
- (c) The City's current 2006 Surface Water Management Plan (the "Plan") shows an "open channel" on the adjoining lot to the east. See Figure 4.5, page 4-24. An open



		channel may contain wetlands. However, there is no delineation for this area and neither the applicant nor the City may conduct one without the property owner's authorization. CDC 32.020(A) applies where there is a natural drainage way, without exception. While CDC 32.050(A) allows the City Engineer to map the precise location of the open channel; he may not ignore it regardless of seasonality, an action to delete the channel from the Plan. Such an action would require the Plan to be amended by the adopting body, the West Linn City Council. Because the open channel may contain wetlands, this subsection allows a closedend street system to the east. (d) The lot to the south is not required to have a street connection because it does not have an easement over the existing private street allowing a public connection. (e) The application satisfies subsection (11)(b) because the closed-end street will either be less than 200' long or will meet TVFD standards.
		(f) The application satisfies subsection (11)(e) because it provided direct pedestrian and bicycle access ways that can be constructed at reasonable cost and that are nor precluded by physical constraints. These smaller access ways can be accommodated on the steep topography whereas streets cannot because of the differing requirements.
		(g) The application satisfies subsection (11)(f) because turnarounds can be provided.
		(h) Conclusion. The City can find that a closed-end street system is allowed because of steep topography, potential wetlands in an open channel identified on the Plan and the lack of an easement for public use of a private street.
99.038(E)(1)	Provide a copy of the certified letters sent to the neighborhood association with return receipt.	Within the digital version of the submission, copies of the certified mailing receipts as well as the return receipts were provided to the City. A hard copy and an electronic of



		these items has been submitted as an attachment to this letter.
99.038(E)(5)	Provide copy of audio tape of the neighborhood meeting	Digital audio recordings of both the May 7 th and May 8 th neighborhood meetings were provided to the City in an electronic format within the initial submission. The recordings have been submitted on disk as an attachment to this letter.

There are Engineering comments provided on pg. 2 of the August 29, 2013 completeness letter that are not necessarily completeness related items. Although important to note, these items will be addressed during the post approval construction document review period. One item we would like to raise at this time is the water availability for the site. Currently, each of the lots within the development will be located above the 600 foot elevation and therefore serviced by the Rosemont Pressure Zone. At this time there is no water line for this zone available to the site. We understand that the City of West Linn has initiated a capital improvement project to complete the water improvements within Weatherhill which would facilitate the delivery of services to the site. Since the completion date of these improvements has not yet been determined, we are aware of the fact that an agreement may need to be completed between the City and the Developer if the Developer is required to complete the off-site improvements required to facilitate these connections. This agreement would allow the developer to complete the waterline improvement along the frontage of Weatherhill with the City then reimbursing the developer for costs associated with these improvements through SDC credits or other funding mechanism.

We trust that these responses and materials will assist in the City's favorable evaluation of the application. Please feel free to contact us with any questions that you may have. We will be ready to respond to any questions or requests for any further clarification.

Sincerely,

Andrew Tull Senior Planner 3J Consulting, Inc.

Attachments:

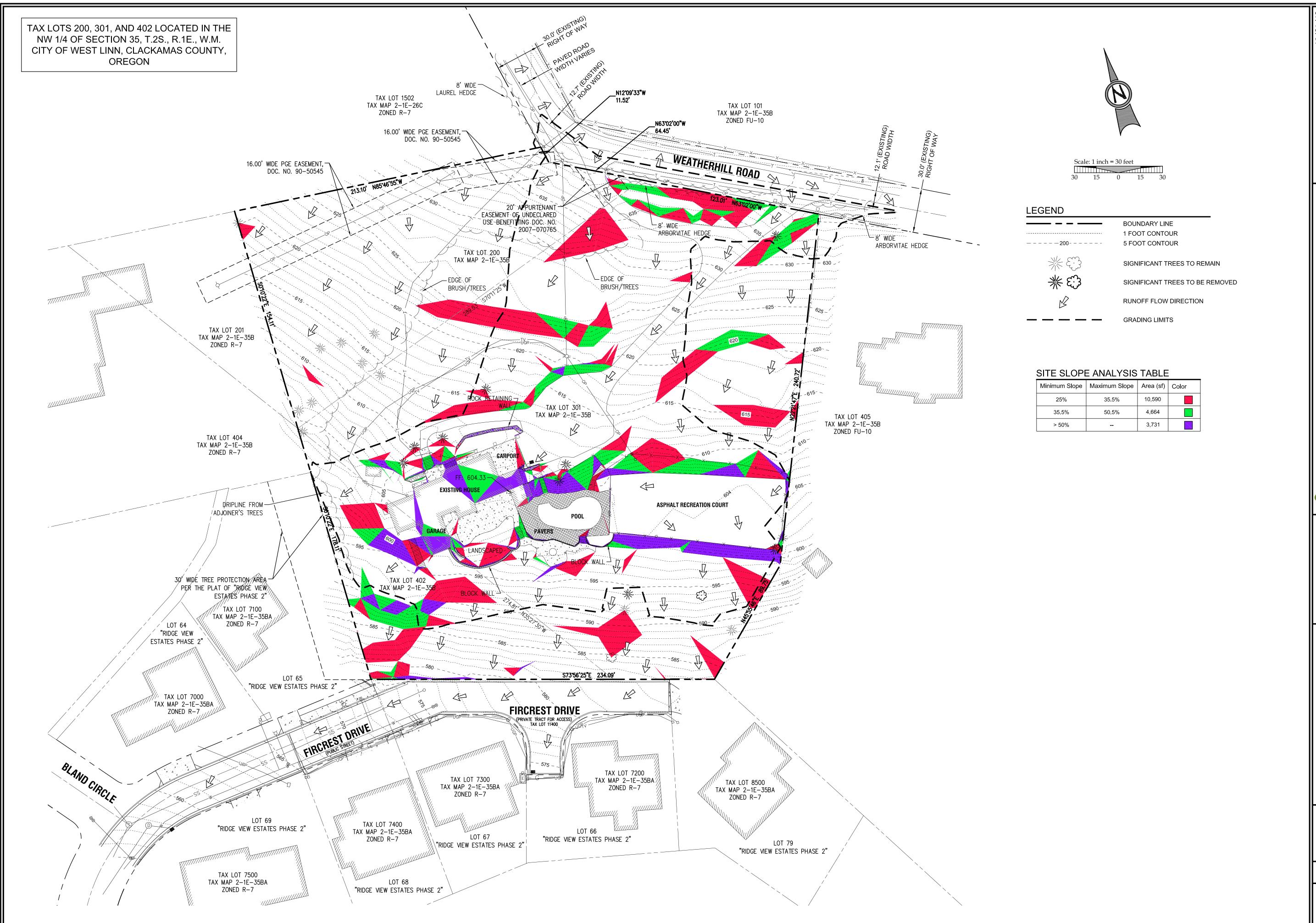
Revised Preliminary Plat and Slope Analysis – Dated October 21, 2013 DVD containing neighborhood meeting recordings

copy: Mr. John Wyland, JT Smith Companies

Mr. Mike Robinson, Perkins Coie Mr. Brian Feeney, 3J Consulting, Inc

File

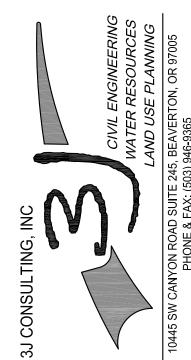




LYSIS PLAN W/SIGNIFICANT TREES

ATHERHIII

J.T. SMITH companies



3J JOB ID # | 13118

LAND USE # | _____

TAX LOT #'S | 2S1E35B 200, 301, 402

DESIGNED BY | CLF

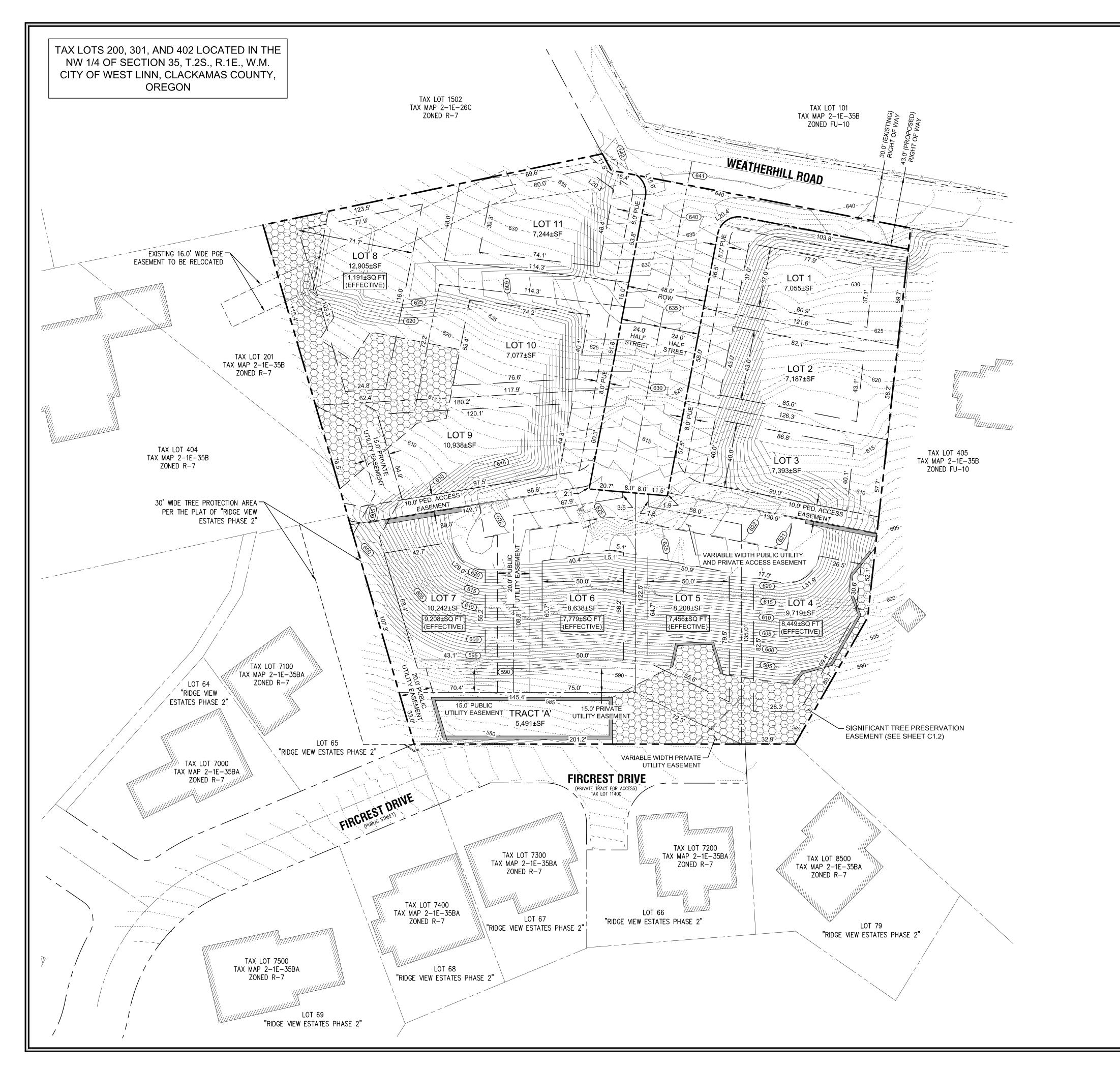
CHECKED BY | LBKE

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SHEET TITLE

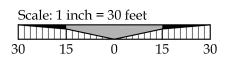
SLOPE ANALYSIS

SHEET NUMBER

C1.4







LEGEND

	BOUNDARY LINE
	EXISITNG RIGHT-OF-WAY
	EXISTING CENTERLINE
	EXISTING LOT LINE
	PROPOSED RIGHT-OF-WAY
	PROPOSED LOT LINE
	PROPOSED CENTERLINE
	PROPOSED SETBACK LINE
	PROPOSED EASEMENT LINE
	PROPOSED TREE PRESERVATION EASEMEN

SITE STATISTICS	
SITE ADDRESS	22882 WEATHERHILL ROAD WEST LINN, OR 97068
TAXLOT	2S1E35B 200, 301, 402
JURISDICTION	CITY OF WEST LINN
GROSS SITE AREA	2.59 ACRES
PROPERTY ZONING	R-7
FLOOD HAZARD MAP NUMBER	41005C0257D ZONE X (UNSHADED)

SUBDIVISION STATISTICS	
RIGHT OF WAY DEDICATION	0.25 ACRES
MINIMUM ALLOWABLE EFFECTIVE LOT SIZE	7,000 SF
MINIMUM LOT DENSITY	9.8 UNITS
MAXIMUM LOT DENSITY	14 UNITS
PROPOSED LOT DENSITY	4.6 UNITS/ACRE
MINIMUM LOT DENSITY (PER R-7 ZONING)	4.3 UNITS/ACRE
MAXIMUM LOT DENSITY (PER R-7 ZONING)	6.2 UNITS/ACRE
SETBACKS:	
FRONT	20 FEET
SIDE	7.5 FEET
REAR	20 FEET
STREET SIDE	15 FEET
MAX. HEIGHT	35 FEET

PROJECT TEAM

OWNER/APPLICANT

LF 7, LLC C/O: J.T. SMITH COMPANIES 5285 MEADOWS ROAD, SUITE #171 LAKE OSWEGO, OR 97035 CONTACT: JOHN WYLAND jwyland@jtsmithco.com

PLANNING CONSULTANT

3J CONSULTING, INC 10445 SW CANYON ROAD, SUITE 245 BEAVERTON, OR 97005 CONTACT: ANDREW TULL PHONE: 503-946-9365 EMAIL: andrew.tull@3j-consulting.com

LAND SURVEYOR

COMPASS SURVEYING 4107 SE INTERNATIONAL WAY, SUITE 705 MILWAUKIE, OR 97222 CONTACT: DON DEVLAEMINCK, PLS PHONE: 503-653-9093 dond@compass-engineering.com

CIVIL ENGINEER

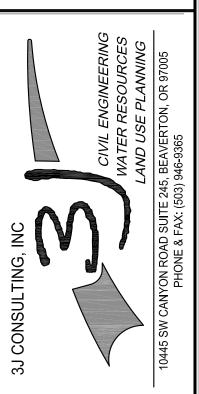
3J CONSULTING, INC. 10445 SW CANYON ROAD, SUITE 245 BEAVERTON, OR 97005 CONTACT: BRIAN FEENEY PHONE: (503) 946-9365 brian.feeney@3j-consulting.com

GEOTECHNICAL CONSULTANT

GEOPACIFIC ENGINEERING, INC. 14835 SW 72ND AVENUE PORTLAND, OR 97224 CONTACT: SCOTT HARDMAN PHONE: (503) 625-4455 shardman@geopacificeng.com







3J JOB ID # | 13118 LAND USE # |____ TAX LOT #'S | 2S1E35B 200, 301, 402 DESIGNED BY | CLF CHECKED BY | BKF

SHEET TITLE SUBDIVISION PLAT

SHEET NUMBER