

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT TOM SOPPE	PROJECT NO(S): VAR-14-06	
NON-REFUNDABLE FEE(S) 2900	REFUNDABLE DEPOSIT(S)	TOTAL 2900

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal and Review (AP) * | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses * |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Lot Line Adjustment (LLA) */** | <input type="checkbox"/> Time Extension * |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input checked="" type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Pre-Application Conference (PA) */** | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Hillside Protection & Erosion Control | | |

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address: 2589 Coeur D'Alene Drive, Lot 9, Teresa's Vineyard Subdivision	Assessor's Map No.: 21E35DA
	Tax Lot(s): 4409
	Total Land Area:

Brief Description of Proposal:

Type II Variance to CDC 48.030.D to allow a fifth lot to access Tract "C" in Teresa's Vineyard Subdivision

Applicant Name: Lennar Northwest, Inc. <small>(please print)</small>	Phone: 503.519.6147
Address: 11087 NE 99th Street, Suite 1170	Email: mike.loomis@lennar.com
City State Zip: Vancouver, WA 98682	

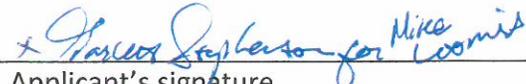
Owner Name (required): Lennar Northwest, Inc. <small>(please print)</small>	Phone: 503.519.6147
Address: 11087 NE 99th Street, Suite 1170	Email: mike.loomis@lennar.com
City State Zip: Vancouver, WA 98682	

Consultant Name: Michael C. Robinson, Perkins Coie LLP <small>(please print)</small>	Phone: 503.727.2264
Address: 1120 NW Couch Street, Tenth Floor	Email: mrobinson@perkinscoie.com
City State Zip: Portland, Oregon 97209	

- All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
- The owner/applicant or their representative should be present at all public hearings.
- A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
- Three (3) 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.
If large sets of plans are required in application please submit only two sets.

* No CD required / ** Only one hard-copy set needed

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. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

	<u>3/4/14</u>		<u>3/4/14</u>
Applicant's signature	Date	Owner's signature (required)	Date
		RYAN M SELBY VICE PRESIDENT LENNAR NORTHWEST, INC.	

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF WEST LINN, OREGON**

**In the Matter of a Request for Approval) NARRATIVE IN SUPPORT OF THE
of a Variance Application to Authorize) APPLICATION FILED BY LENNAR
Five Lots to Take Access from an) NORTHWEST, INC.
Access Tract that is Not Constructed to)
Full Local Street Standards)**

I. INTRODUCTION

This proposal (the “Application”) is for a variance to allow five (5) lots to take access from a single public access tract (“Tract C”), located in the Teresa’s Vineyard subdivision. Teresa’s Vineyard is a 30-lot subdivision approved by the City of West Linn (the “City”) in 2007 (File No. SUB-07-02, NDW 07-02, and VAR 07-01). The subdivision is located on a hillside with an average slope in excess of 10 percent¹, and several areas feature slopes in excess of 15 percent. Teresa’s Vineyard is an infill project, as the surrounding properties have been largely developed. Given the original slope, the placement of a water line, and existing adjacent development, Tract C was created to provide access for lots 10, 20, and up to two (2) future lots resulting from a partition of an adjoining parcel along the tract’s southern edge. Tract C is an approximately 20-foot wide paved public accessway linking two sides of Coeur D’ Alene Drive, which provides access to two (2) existing and two (2) potential future lots. This Application is to allow one (1) additional lot, Lot 9, to access Tract C in response to development constraints presented by the combination of the lot’s slope and the adjacent slope of Coeur D’ Alene Drive. It does this by proposing to vary CDC 48.030.D, which limits the number of lots that may access a non-standard roadway to four (4), in order to allow Lot 9, a fifth lot, to access Tract C.

II. SUMMARY OF REQUEST

A. Description of Property and Surrounding Area

Lot 9 is located 2589 Coeur D’ Alene Drive (Clackamas County Assessor’s Map 21E35DA, Lot 04409). This site is zoned R10, with a Comprehensive Plan designation of “Low-Density Residential.” It has frontage to Tract C along its south line and frontage to Coeur D’ Alene Drive along its west lot line. It consists of approximately 10,023 square feet (0.23 acres).

The original grade² of the lot slopes from approximately 482 feet at the northeast corner to 460 feet at the southwest corner, or approximately 15 percent. Coeur D’ Alene Drive features an original grade of approximately 12 percent adjacent to Lot 9. The lot is currently vacant, although lots 10, 20, and 21 have been developed.

¹ Measurement based on West Linn “MapOptix” GIS viewer.

² Original grade is based on GIS layers provided by the City of West Linn. Although original grade measurements are accurate slope baselines, they may have changed somewhat during site development work.

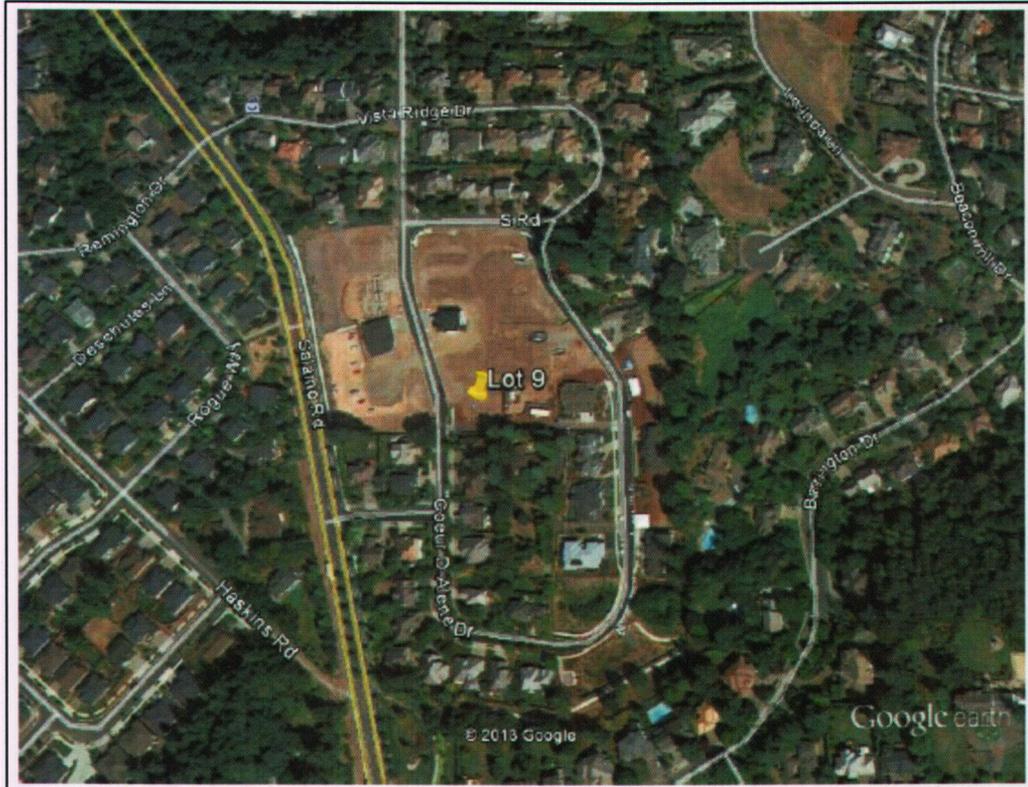


Figure 1: Lot 9 and Vicinity

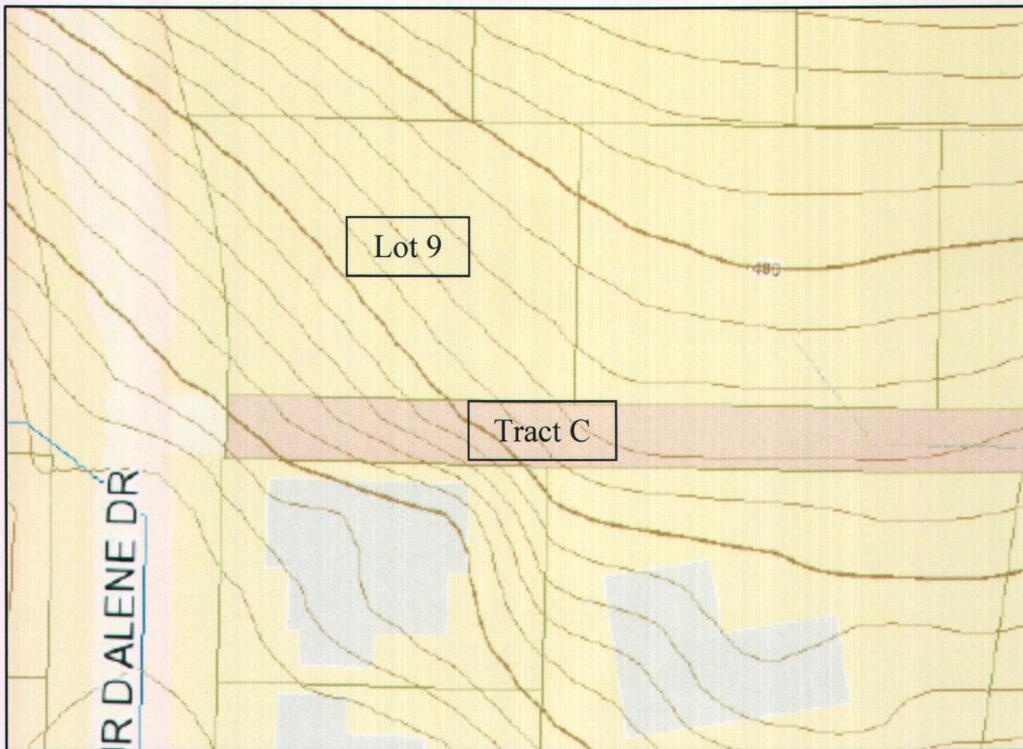


Figure 2: Lot 9 Slope in 2-Foot Contours

The surrounding area is primarily made up of vacant lots and newer homes. The character of Teresa's Vineyard is essentially identical to the character of surrounding subdivisions, with steep slopes, larger lots, and high-value homes. Public street access is provided primarily by Coeur D'Alene Drive, a looping local street with a connection to Salamo Road located approximately 300 feet southwest of Lot 9.

B. Description of Proposed Development

The proposed development is a single-family home to be built on Lot 9. The Applicant has not yet submitted permit applications for this home, as its ultimate design depends on the outcome of this Application. This variance would allow a limited deviation from CDC 48.030.D, which limits the number of lots that may access a non-standard roadway to four (4). Four (4) lots currently have access to Tract C: lots 10, 20, and a maximum of two (2) future lots resulting from a partition of a large parcel located directly south of Tract C. This variance would allow Lot 9 to also access Tract C.

Tract C is a through-accessway between the two sides of Coeur D'Alene Drive. It consists of an approximately 20-foot wide paved improvement within a recorded tract width of 20 feet. The tract was dedicated to the City (Instrument 2012-001413) and is currently maintained by the City. Unlike a flag-lot accessway, Tract C does not dead-end; rather, it functions more like a wide alley. As it runs east to west almost directly perpendicular to the hillside grade, its slope is relatively mild.

C. Planning History

Teresa's Vineyard was established through three (3) related planning approvals. Case file SUB 07-02 was the principal subdivision approval, which resulted in thirty (30) lots. A concurrent variance, VAR 07-01, was approved to allow street grades greater than 15 percent. Finally, natural drainage and wetland permits were also issued (NDW 07-02). The final plat was recorded in 2012. This Application would not result in a modification of the underlying subdivision; rather, it would allow a single additional access onto Tract C. This would result in one (1) less driveway onto Coeur D'Alene Drive and re-orientation of the future home on Lot 9 from west to south.

III. APPLICABLE APPROVAL CRITERIA

Land development in West Linn is governed by the West Linn Comprehensive Plan ("Comprehensive Plan"), any applicable neighborhood plans, and the West Linn Community Development Code ("CDC"). The CDC implements the Comprehensive Plan, Statewide Planning Goals, and applicable neighborhood plans. As such, the following is a discussion of how the Application meets applicable procedural and substantive criteria of the CDC.

A. Procedural Criteria

75.020 CLASSIFICATION OF VARIANCES

A. A Class I variance will involve a small change from the zoning requirements and will have a minor effect or no effect on adjacent property or occupants and includes the following variances:

RESPONSE: This section provides for an administrative process for minor variances to setback and lot dimensional requirements. As this Application is for a variance to access standards, this provision does not apply.

B. A Class II variance will involve a significant change from the zoning requirements and may create adverse impacts on adjacent property or occupants, and includes the following variances:

3. A variance to any of the other zoning provisions including, but not limited to, the lot coverage and building height.

RESPONSE: As this Application is for a variance to CDC 48.030.D, which is not among those standards listed in 75.020.B.1 or 2, this application must be processed as a Class II variance application. It is therefore subject to review by the West Linn Planning Commission.

C. No variances shall be granted which will allow a use which is not a permitted or a conditional use in the district, and no variance shall be granted to the density provisions.

RESPONSE: This is a variance to a development standard applicable to single-family homes. Single-family homes are permitted in the R-10 zone, and the granting of this variance will not provide for any use other than a single-family residence. As such, the Commission can find that this criterion is met.

75.030 ADMINISTRATION AND APPROVAL PROCESS

B. Class II variances shall be decided by the Planning Commission in the manner set forth in CDC 99.060(B). A petition for review by the Council may be filed as provided by CDC 99.240(B).

RESPONSE: Per the provision above, this Application is subject to review by the West Linn Planning Commission.

99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

A. Who may apply.

1. Applications for approval required under this chapter may be initiated by:

a. The owner of the property that is the subject of the application or the owner's duly authorized representative;

RESPONSE: Lennar Northwest, Inc. is the owner of the Subject Property and therefore may initiate this Application.

B. Pre-application conferences.

1. Subject to subsection (B)(4) of this section, a pre-application conference is required for, but not limited to, each of the following applications:

o. Variances;

RESPONSE: As this Application is for a variance, the Applicant was required to participate in a pre-application conference. A pre-application conference concerning this Application was held on March 6, 2014. A copy of the City's pre-application notes is enclosed as **Exhibit 3**. This criterion has been met.

C. The requirements for making an application.

RESPONSE: The Applicant has included in the Application all required documentation and provided the required review fee. The Commission can find that this criterion is met.

99.033 FEES

RESPONSE: As noted above, this Application included the required review fee. The Commission can find that this criterion is met.

99.038 NEIGHBORHOOD CONTACT REQUIRED FOR CERTAIN APPLICATIONS

Prior to submittal of an application for any subdivision, conditional use permit, multi-family project, planned unit development of four or more lots, non-residential buildings over 1,500 square feet, or a zone change that requires a Comprehensive Plan amendment, the applicant shall contact and discuss the proposed development with any affected neighborhood as provided in this section.

RESPONSE: As this Application is for a variance, a neighborhood meeting is not required. The Commission can find that neighborhood contact requirements do not apply. A representative from the Savanna Oaks Neighborhood Association was present at the pre-application conference. The Applicant is receptive to any suggestions or comments by the Savanna Oaks Neighborhood Association regarding this Application.

B. Substantive Approval Criteria

75.060 APPROVAL CRITERIA

The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared.

The approval authority may impose appropriate conditions to ensure compliance with the criteria. The approval authority shall deny the variance if any of the criteria are not met.

RESPONSE: This proposed variance would relieve the Applicant from complying with CDC 48.030.D, excerpted below:

“Access to five or more single-family homes shall be by a street built to full construction code standards. All streets shall be public. This full street provision may only be waived by variance.”

Here, the proposed development would involve one (1) additional lot gaining access to “Tract C,” for a total of five (5) lots with access to that tract. As discussed above, Tract C is a 20-foot access tract that was deeded to the City in 2012 (Instrument 2012-001411). This variance is necessary due to the fact that the original slope of Lot 9, approximately 15 percent, in combination with the original slope of Coeur D’Alene Drive, makes access to Coeur D’Alene Drive difficult. Access to Coeur D’Alene Drive would require a “garage-under” construction type to accommodate the slope, as well as cutting and grading that would reduce the area and functionality of the lot’s yard. On the other hand, access to Tract C for Lot 9 is relatively straightforward because it was constructed across the slope.

Based on conversations with City staff, it is the Applicant’s understanding that at least part of the intent of CDC 48.030.D is to prevent long, dead-end access drives that could hamper emergency accessibility. Here, the access tract is not dead-end and will not be lengthened. Also, this Application will not change the location of any lots; of the five (5) lots accessing Tract C, at least two (2) will still have frontage on a fully improved public street. Lot 9 will remain accessible to emergency vehicles on both Tract C and Coeur D’Alene Drive. As such, fire/life safety accessibility will not change as a result of this variance. For this reason, the safety concerns animating CDC 48.030.D are not implicated by this Application.

This variance will also not place additional burdens on the City. While Tract C has been dedicated to the City, if this Application is approved it will be maintained by, and entirely at the expensive of, the Teresa’s Vineyard Home Owner’s Association. To the extent that CDC 48.030.D is concerned with limiting the City’s responsibility for sub-standard street improvements, such concerns are mitigated here through private maintenance of Tract C.

Finally, given that CDC 48.030.D explicitly contemplates a variance,³ there is no public policy rationale that would preclude consideration of this Application.

Complete responses to the applicable variance criteria are provided below.

A. 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 code, topography, or other circumstances over which the applicant has no control.

³ Note that the third sentence of this standard provides that “this full street provision may only be waived by variance.”

RESPONSE: The exceptional and extraordinary circumstance here is the combination of the steep slopes of Lot 9 and Coeur D'Alene Drive, which require more drastic cutting of the site, a comparatively smaller functional yard size, a smaller functional driveway, and the construction of a less valuable and less desirable home. The proper vicinity to be considered in this Application includes other homes in the area with similar slope challenges, as it is slope that is the primary physical constraint on Lot 9. Obviously, such slope challenges are not within the Applicant's control, and as the purchaser of the lot, the Applicant was not able to seek this variance as part of the original subdivision review.

The primary constraint on Lot 9 is the combination of steep slopes on both the lot and the adjacent local street. Lot 9 is unique in that it is essentially a corner lot on a fully improved public street and a public accessway. At the same time, the requirement that Lot 9 take access from Coeur D'Alene Drive presents a restriction that does not burden most other homes on Tract C—indeed, even two (2) potential lots to the south will be able to access Tract C. Although slope does affect other lots in the vicinity, in many cases drastic site engineering or other accommodations were required to develop the lots. Where steep slopes are an issue in Teresa's Vineyard, the City has accommodated alternative development techniques, including the creation of Tract C as well as a previously approved variance (VAR 07-1) to maximum street slope. Where no alternative accesses were available on these steep slopes, large retaining walls were required, such those on flag lots 2, 3, 6, and 7. Here, the potential for accessing Tract C provides a unique alternative, but the prohibition from doing so amounts to a restriction that does not apply to most other lots along Tract C and certainly not most other lots in the area. Given that slope does not generally hamper development in the vicinity to the same extent as it does on Lot 9 and that Lot 9 is uniquely burdened by CDC 48.030.D, the Commission can find that this criterion is met.

B. 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 owners of property in the same zone (R10) and within the vicinity typically possess rights to relatively large single-family homes with large yards and safe and convenient access. This variance would allow Lot 9 to be developed with similar amenities, much like the other lots abutting Tract C. Without this variance, the future owners of a home constructed on Lot 9 will see a significant portion of that lot used for retaining and grading while the lots in the immediate vicinity are not similarly impacted. This is due to a nearly 12-foot increase in slope from Coeur D'Alene Drive to the rear of the anticipated building envelope. **Exhibits 4.a and 4.b** demonstrate that significant cutting of the site will be necessary to provide a useable driveway onto Coeur D'Alene Drive, which would be functionally smaller and steeper than if the home is oriented toward Tract C. In fact, the steepness of the driveway would be such as to hamper vehicle parking if the home is ultimately oriented toward Coeur D'Alene, potentially increasing the demand for on-street parking near Lot 9. Finally, it should be noted that with a "garage-under" home, stairways will be required from the garage to the primary living space and from the street to the main entry, reducing the comparative market for the home. In the same way, as the current owner, the Applicant would be left with a building site and resulting home of comparatively lesser value.

On the other hand, the development of a two (2)-story home with a conventional garage will involve far less cutting and grading, and retain significantly more yard space. It would therefore be less costly to build. At the same time, it would appeal to a wider market because stairs would not be required to access the garage or the street.

Approval of this Application will also result in a better home orientation. Rather than a backyard oriented to Lot 10, allowing Lot 9 to face Tract C will align the backyard of Lot 9 parallel to the backyard of Lot 10, resulting in a more uniform frontage appearance along Tract C, and more privacy between those homes. By removing a future driveway, this Application would also allow a more continuous street tree/planter strip along Coeur D'Alene Drive. Additional fencing and landscaping along this frontage would be provided, thus providing for better privacy on Lot 9's side yard and backyard.

Given that a strict application of CDC 48.030.D. will require a significant reduction in the value of the future house and the size of the yard area in comparison with the other homes accessing Tract C and other homes without slope constraints in the vicinity, this variance is necessary to preserve a property right of the Applicant. The Commission can therefore find that this criterion is met.

C. 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 Applicant has reviewed all potentially applicable goals and policies, as required by this criterion. The following goals and policies are implicated by the Application. In summary and as discussed below, the proposed variance is not inconsistent with any identifiable goal or policy in the Comprehensive Plan, the Tanner Basin Neighborhood Plan, or any other provision of the CDC. For this reason, the Commission can find that this criterion is met.

Goal 1: Citizen Involvement

RESPONSE: This Application is subject to review by the West Linn Planning Commission, which will provide an opportunity for involvement by interested parties. As this proposal is subject to the citizen involvement component of the Comprehensive Plan, implemented by the notice, comment, and decision-making procedures of the CDC, the Commission can find that this Application is not inconsistent with Goal 1.

Goal 2: Land Use Planning

Section 1: Residential Development

Policy 5: New construction and remodeling shall be designed to be compatible with the existing neighborhood through appropriate design and scale.

RESPONSE: If approved, this Application will allow a single lot to access an existing public tract that is slated to serve four (4) other lots. It is not intended to increase development density

over what was previously approved or change the character of the home to be built on Lot 9. Development of Lot 9 resulting from this variance will thus be the same in character and similar in appearance to the other homes that already access Tract C, as demonstrated by the enclosed building elevations (Exhibit 4). For this reason, the Commission can find that this Application is not inconsistent with the above policy.

Goal 10: Housing

Sub-Goal 1: Preserve the character and identity of established neighborhoods.

RESPONSE: As discussed above, this Application will provide for development of Lot 9 that will be the same in character and similar in appearance to the other homes already accessing Tract C. For this reason, this Application is not inconsistent with the above goal.

Goal 12: Transportation

RESPONSE: Please note that Goal 12, "Transportation Policies," are addressed below only insofar as they could be affected by allowing an additional access to a non-standard street. The general transportation impacts of this Application, if approved, will include one less curb cut on Coeur D' Alene Dr., and an additional curb cut on Tract 9. This would likely simplify vehicle movements near the intersection of these two roadways and would likely increase the level of safety for vehicles backing out of the Lot 9 driveway because such backing movements would occur on Tract 9. It would also provide for more off-street parking, as the preferred alternative design has a much less steep driveway. For these reasons and as will be discussed below, the proposed variance is not inconsistent with applicable transportation policies.

Policy 4: Ensure that adequate access for emergency services vehicles is provided throughout the City.

RESPONSE: As discussed above, there will be no change in emergency vehicle accessibility to Lot 9. The Commission can therefore find that the Application is not inconsistent with this policy.

Policy 7: Require new development to design and construct new internal streets to current city standards and existing adjacent through streets consistent with city standards.

RESPONSE: This Application does not involve the construction of a new street or accessway, but the intent of this policy is implemented, at least in part, by CDC 48.030.D. It is the Applicant's understanding that the requirement that only a limited number of lots take access from a non-standard roadway is to: (a) ensure that adequate emergency vehicle access is available to all structures in the City; and (b) to ensure that the City is not responsible for ultimately maintaining a street system that was not fully constructed to public street standards. As previously discussed, emergency access concerns are not implicated by this Application because it will not in any way reduce accessibility. As for the second issue, the Applicant will enter into an agreement with the City that will make the Teresa's Vineyard Home Owner's Association responsible for all maintenance to Tract C. In this way, the concerns animating

Policy 7, as they are expressed through CDC 48.030.D, are adequately addressed by this Application. The Commission can therefore find that this Application is not inconsistent with this policy.

Tanner Basin Neighborhood Plan

Goal 2: Ensure well-planned, sustainable growth in Tanner Basin that preserves and enhances neighborhood character.

POLICY 2.4: Ensure that new residential development is compatible with existing neighborhoods consistent with the Vision Statement.

RESPONSE: Existing neighborhoods consist largely of high-value homes on large lots, with large yards, and with traditional construction and style. This variance will allow the home constructed on Lot 9 to be largely similar to the homes already built and under construction in Teresa's Vineyard, as demonstrated by Exhibit 4. It will result in a home that has more functional yard and driveway area but less height, increasing its value for its future owner and enhancing its conformance with the neighborhood. By accessing Tract C, development of Lot 9 will involve substantially less cut and grading, avoid the need for any complicated retaining walls, and will require less material. Because it will result in a development that is less visually impactful but more valuable, all while requiring fewer construction resources, the Commission can find that the Application is not inconsistent with this goal and policy.

Goal 6: Enhance neighborhood safety.

POLICY 6.1: Ensure a safe pedestrian and bicycle environment throughout the neighborhood.

RESPONSE: If approved, this variance will reduce the number of driveways accessing Coeur D'Alene Drive. This would eliminate backing movements onto Coeur D'Alene Drive from Lot 9, thereby increasing the safety of pedestrians, bicycles, and other vehicles on that street. Given the proximity of a future driveway from Lot 9 onto Coeur D'Alene Drive and the entrance to Tract C, this variance would also reduce the potential for conflict between reverse turning movements from Lot 9 and northbound exit turns from Tract C. As both of these effects would increase the safety of pedestrian, bicycle, and vehicle transportation in the neighborhood, the Commission can find that the Application is not inconsistent with this goal and policy.

POLICY 6.2: Ensure adequate fire and emergency vehicle access.

RESPONSE: As discussed above, the proposed variance will not change already-sufficient fire and emergency vehicle access to Lot 9. For this reason, the Commission can find that the Application is not inconsistent with this goal and policy.

D. The variance request is the minimum variance which would alleviate the exceptional and extraordinary circumstance.

RESPONSE: As discussed above, the exceptional and extraordinary circumstance here is the combination of the steep slopes of Lot 9 and Coeur D'Alene Drive, which require more drastic

cutting of the site, comparatively smaller functional yard size, steeper and less-functional driveway, and the construction of a less valuable and less desirable home. As CDC 48.030.D is the only code provision requiring access to be taken from Coeur D'Alene Drive, it is the only standard involved in this variance proposal. It is therefore the only standard which, if varied, would alleviate the afore-mentioned exceptional and extraordinary circumstance. Accordingly, the Commission can find that the Application meets this criterion.

E. The exceptional and extraordinary circumstance does not arise from the violation of this code.

RESPONSE: The afore-mentioned exceptional and extraordinary circumstance is entirely due to the slope of Lot 9 and Coeur D'Alene Drive, as well as the preexisting improvement of Tract C. As Tract C was authorized by the City as part of the original subdivision approval, its smaller size does not result from a violation of the CDC. The Commission can therefore find that the Application meets this criterion.

F. The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.

RESPONSE: The essential result of this variance will be the net reduction of one driveway along Coeur D'Alene Drive and the ability to orient the home on Lot 9 to the south rather than to the west. It does not impose any limitations on surrounding properties or uses in the area, and in fact simplifies backing and turning movements near the intersection of Tract C with Coeur D'Alene Drive. As the access rights for all other lots adjacent to Tract C have been determined (future lots resulting from a partition of the large parcel directly south of Tract C already have access rights to Tract C), this variance, if approved, will in no way adversely affect access or development rights for neighboring vacant or undeveloped properties. For these reasons, the Commission can find that the Application meets this criterion.

IV. CONCLUSION

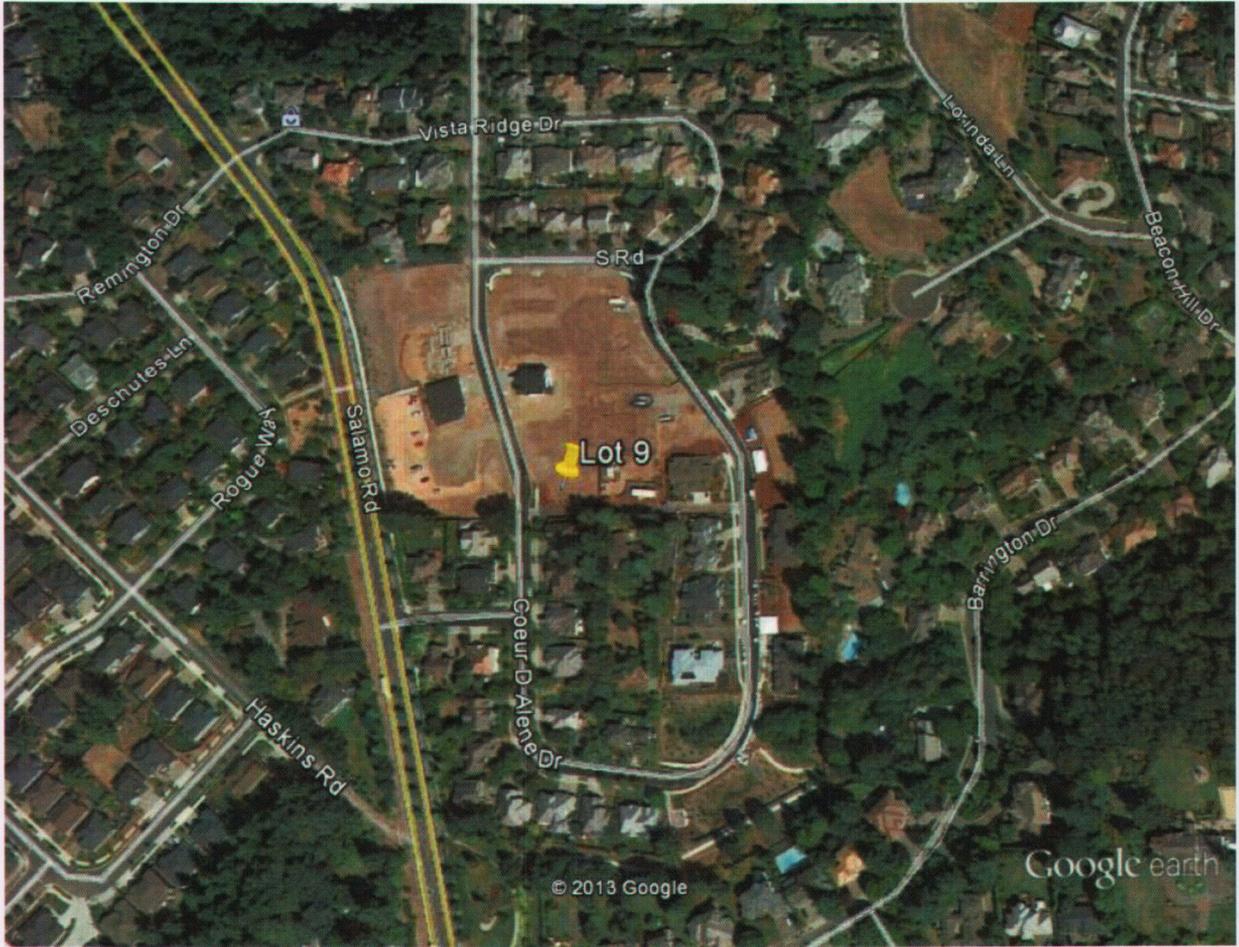
For the reasons stated above, the Commission can, and should, approve this Application.

EXHIBITS

1. Vicinity Map
2. Tax Assessor's Map
3. Pre-Application Notes
4. Conceptual Building Elevations
 - a. Future home with variance approval.
 - b. Future home without variance approval.
5. Site Photographs
6. Site Plan

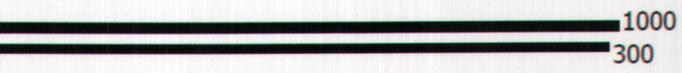
VICINITY MAP

TERESA'S VINEYARD SUBDIVISION, LOT 9



Google earth

feet
meters



2 1 E 35DA
WEST LINN

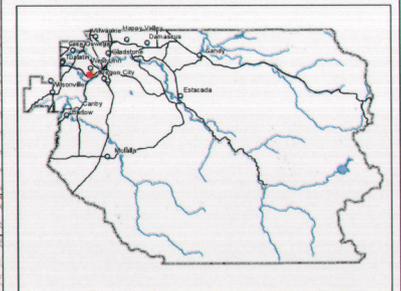
N.E. 1/4 S.E. 1/4 SEC. 35 T.2S. R.1E. W.M.
CLACKAMAS COUNTY

1" = 100'

Cancelled Taxlots

- 200
- 2000
- 2100
- 2202
- 2203
- 2300
- 2400
- 4434
- 4435
- 4498
- 4499

- Parcel Boundary
- - - Private Road ROW
- - - Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY

10/29/2013

2 1 E 35DA
WEST LINN



EXHIBIT 2

City of West Linn
PRE-APPLICATION CONFERENCE MEETING
SUMMARY NOTES
March 6, 2014

SUBJECT: Class II Variance for a 5th guaranteed individual lot driveway access to a shared accessway that is not a public street

ATTENDEES: Applicants: Mike Loomis, Garrett Stephenson
Staff: Tom Soppe (Planning), Khoi Le (Engineering)
Neighborhood: Roberta Schwarz (Savanna Oaks NA)

The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any "follow-up" items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.

Project Details

The applicant plans to request a Class II Variance to allow a 5th individual driveway on a shared driveway. While the shared driveway is in a publicly owned tract also used as a pedestrian access between two parallel sections of Coeur D'Alene Drive, it is not improved as a street up to public street standards and is not in a public right of way. Therefore it falls under the rules for shared driveways and private streets from Chapter 48 in terms of how many properties can use it as a vehicular access to their own driveways. This is required by 48.030(D).

The approval of SUB-07-02 et al. allowed this tract to be used for vehicular access to individual lots, with no variance requested then to allow more than four lots. It was specifically laid out in that approval that it be for up to two lots in Teresa's Vineyard and two potential future new lots on the dividable 3401 Haskins Lane property south of the middle area of this access tract.

Therefore the subject lot is a fifth lot that would be allowed to access it under the proposed variance, due to the applicant's implied guarantee of access to the Haskins property that the SUB-13-02 approval took into consideration. Therefore a Class II Variance is needed to overcome the limitation of four lots as set out by 48.030(D). This is a Planning Commission decision.

The applicable criteria are those of 75.060:

A. 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 code, topography, or other circumstances over which the applicant has no control.

B. 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.

C. 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.

D. The variance request is the minimum variance which would alleviate the exceptional and extraordinary circumstance.

E. The exceptional and extraordinary circumstance does not arise from the violation of this code.

F. The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.

All six criteria must be met.

This is an unusual circumstance as it is an access that is not a city street but is also NOT a dead end, and that would seemingly make it less unattractive or dangerous as an access for more than four houses. However the unusual circumstance does not force the applicant to access from the tract as they could still access directly from the street abutting the lot, as other nearby lots do. It is not a property right that is needed for the aspect of development in question, vehicular access, so it at first appears that (B) would be a hard criterion to meet. However the applicant discussed issues of grading, usable yard space, and grading and retaining wall expense not faced by other lots in the subdivision that would be faced by this lot if this variance is not granted. Staff emphasized how these aspects of the situation should be convincingly laid out in the application narrative to achieve a possible recommendation of approval due to the language of (B).

Process

Class II Variance is required for this proposal.

A neighborhood meeting is not required regarding this proposal per 99.038 but these are always encouraged. The property is in the Savanna Oaks neighborhood but is within 500 feet of the BHT neighborhood. Contact Ed Schwarz, Savanna Oaks NA president at savannaoaksna@westlinnoregon.gov. Contact Steve Garner, BHT NA President, at 503-657-5810 or bhtna@westlinnoregon.gov. Conceptual plans of the development should be submitted to the neighborhood association at least 10 days before the meeting if the applicant has a meeting.

A Variance application will require a complete response to the submittal requirements of 75.050. It will also require a narrative response to the criteria of 75.060.

Submittal requirements may be waived but the applicant must first identify the specific submittal requirement and request, in letter form, that it be waived by the Planning Director and must identify the specific grounds for that waiver. The waiver may or may not be granted by the Planning Director.

The CDC is online at <http://westlinnoregon.gov/planning/community-development-code-cdc>.

N/A is not an acceptable response to the approval criteria. Prepare the application and submit to the Planning Department with deposit fees and signed application form.

The fee for a Class II Variance is \$2,900.

When the combined application is submitted concurrently and deemed complete, staff will schedule a Planning Commission hearing regarding the concurrent approval requests and send out notice at least 20 days before the hearing. The decision may be appealed by the applicant or anyone with standing to City Council, requiring at least one City Council hearing.

Pre-application notes are void after 18 months. After 18 months with no application approved or in process, a new pre-application conference is required.

Typical land use applications can take 6-10 months from beginning to end.

DISCLAIMER: This summary discussion covers issues identified to date. It does not imply that these are the only issues. The burden of proof is on the applicant to demonstrate that all approval criteria have been met. These notes do not constitute an endorsement of the proposed application. Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc. could emerge as the application is developed. Thus, there is no "shelf life" for pre-apps.



Teresa's Vineyard

Conceptual Home Section-Elevation Fronting Private Drive

SCALE: 1/8" = 1' - 0" (AT FULL SIZE 11"X17")

NOTE: THIS PLAN IS SCHEMATIC AND FOR PRESENTATION PURPOSES ONLY. THE PLAN IS TO SCALE AND IS MEANT TO REPRESENT A TYPICAL LOT AND HOME LAYOUT.



Teresa's Vineyard

Conceptual Home Section-Elevation Fronting Coeur d'Alene Dr.

SCALE: 1/8" = 1' - 0" (AT FULL SIZE 11"X17")

NOTE: THIS PLAN IS SCHEMATIC AND FOR PRESENTATION PURPOSES ONLY. THE PLAN IS TO SCALE AND IS MEANT TO REPRESENT A TYPICAL LOT AND HOME LAYOUT.





HOMESITE
9
COMING SOON
EVERYTHING'S INCLUDED
LENNAR



Conceptual Site Plan
Teresa's Vineyard, Lot 9 & Tract C

Exhibit 6

