

**CITY OF WEST LINN**  
**PRE-APPLICATION CONFERENCE MEETING**  
**SUMMARY NOTES**  
**October 19, 2023**

**SUBJECT:** Proposed 4-unit SB458 Division of tax lot 31E02BC03800  
**FILE:** PA-23-20  
**APPLICANTS PRESENT:** Patrick O’Brien, Zach Pelz, Daisy Goebel  
**STAFF PRESENT:** Ben Gardner (Planning), Lynn Schroder (Planning), Clark Ide (Public Works)  
**PUBLIC PRESENT:** **None present**

*These pre-application summary notes have been prepared for the applicant to identify applicable code sections and critical issues for the proposed application and summarize the application process and fees\*. Pre-Application summary notes are based on preliminary information and may not include all considerations. Contact the assigned planner for additional information regarding the process, approval criteria, submittal requirements, questions, and clarifications. Pre-Application Conference summary notes are valid for eighteen months from the meeting date. Once a complete application is submitted, the final decision can take 6-10 months.*

**SITE INFORMATION:**

Site Address: Taxlot 3800 Evah lane  
Tax Lot No: 21E14DA 03101  
Site Area: 0.943 Acres +/-, 41,072 Square Feet  
Neighborhood: Willamette Neighborhood Association  
Comp. Plan: Low Density  
Zoning: Residential R-10  
Zoning Overlays: Habitat Conservation Area, Flood Management Area, FEMA Flood Hazard, Wetland, Tualatin River Protection Area

**PROJECT DESCRIPTION:**

The applicant is interested in dividing the property.

**APPLICABLE COMMUNITY DEVELOPMENT CODE SECTIONS:**

Approval standards and criteria in effect when an application is **received** will be applied to the proposed development. The following Community Development Code (CDC) Chapters apply to this proposal:

- [Chapter 11: Residential, R-10](#)
- [Chapter 96: Street Improvement Construction](#)
- [Chapter 99: Procedures for Decision Making: Quasi-Judicial](#)

**KEY ISSUES & CONSIDERATIONS**

Staff has identified the following development issues, design considerations, or procedural issues that you should be aware of as you prepare your formal application for submittal. The identification of these issues or considerations here does not preclude the future identification of additional issues or considerations:

The applicant presented multiple potential approaches for the division and development of the given tax lot, hereby referred to as Options A, B, and C. Option A entails submitting concurrent building permit applications and a SB458 middle housing division application for the creation of a detached four-plex, Option B entails resubmitting the original application / proposal, and Option C entails submitting building permit applications for a detached four-plex and pursuing a SB458 middle housing division application at a future date.

Options A and C are essentially identical in their requirements, merely differing in their timelines. When utilizing the provisions of SB458, the Applicant is able to submit permitting and land use applications concurrently. The provisions of SB458 shown here outline the requirements for such a submittal:

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0458/Enrolled>

They also outline the minimal areas of the Community Development Code that still apply in the chapters listed in the above section. More detail is provided on this in the 'Process' section below. For examples of this type of submittal, see the response to supplemental Question 2 in the below section.

One potential complicating factor in this development is where the Applicant decides to connect to a City sanitary main. The sanitary main that runs along the Southernmost property line is within the Flood Management Area, and a connection to it from the proposed development will likely require a Flood Development Application in line with the provisions of Chapter 27 of the CDC.

## **RESPONSE TO APPLICANT QUESTIONS:**

### **SUPPLEMENTAL QUESTIONS**

Question 1 – Are there recent/upcoming code changes that will affect this submittal?

- The Clear and Objective code amendment package is linked for your reference here:  
<https://www.codepublishing.com/OR/WestLinn/html/pdfs/Ord1745.pdf>

It is adopted and applies to this prospective submittal.

Question 2 – Please provide examples of middle housing land divisions for reference.

- For examples of middle housing land divisions, see our [completed project page online here](#). Search for the phrase 'ELD' and you will find most middle housing divisions from this year. They each will serve as a good example of how other folks have been navigating SB458 submittals.

Question 3 – Please provide the deadlines associated with plat recording in the course of a SB458 division.

- Regarding deadlines for final plat—you have (3) years after approval. See the language directly from SB458 below:  
*'(7) The tentative approval of a middle housing land division is void if and only if a final subdivision or partition plat is not approved within three years of the tentative approval. Nothing in this section or ORS 197.360 to 197.380 prohibits a city or county from requiring a final plat before issuing building permits.'*

### **SUBMITTED APPLICANT QUESTION RESPONSES – GENERAL LAND USE**

1 – See the 'Process' section below.

2 – Detached quadplexes are allowed in all residential zoning districts. The given property also qualifies for middle housing division.

3 – See the 'Key Issues' and 'Process' sections of this document.

4 – See 3 above and the Public Works response on their comment sheet. Public Improvements are still required as allowed by SB458.

5 – HB2001, Chapter 96 amendments, and the Clear and Objective Standards project have been implemented since the original submittal. HB2001 and Chapter 96 amendments are in the current code available online, and the Clear and Objective Standards, while adopted, might not be available online yet, and thus have been provided in response to supplemental question 3 above. The given changes provide more flexible development options and clarity in our standards for such a development.

6 – Based on current requirements, the provided site plan is likely approvable with the exception of the street-side setback, which should be 15 feet.

7 – See 6 above and note Public Works’ comments on the frontmost easement requirements.

8 – Options A and C do not require neighborhood meetings, as they are completed under the provisions of SB458, and are a staff-level decision.

9 – See 8 above.

10 – The underlying zoning dimensional standards and the provisions of SB458 apply.

11 – See 5 above. No other code amendments are upcoming that will likely affect the application at this time.

#### **SUBMITTED APPLICANT QUESTION RESPONSES – NATURAL RESOURCES**

7 – slopes, landslide hazards, and other geotechnical issues will be addressed in building plan review. The only other natural resource regulations that may affect this submittal are related to the sanitary main on the Southernmost property line. If the Applicant connects to sanitary in the Flood Management Area, a Flood Development Application will likely be required in line with the provisions of CDC Chapter 27.

8 – this depends on the scope of improvements needed to connect to sanitary and protect it from floodwaters. See CDC Chapter 27. Staff can provide additional guidance upon submittal of preliminary plans.

9 – Not applicable based on provided scope.

10 – Not applicable based on provided scope.

11 – This may be required by Building staff in the course of the building plan review to verify that local conditions are suitable for development.

12 – Sitework that affects trees will be reviewed in the course of building plan review. Contact the City Arborist for further questions.

13 – See 12 above.

#### **PUBLIC COMMENT:**

No public comments were made during the pre-application conference.

#### **ENGINEERING:**

The Engineering Department comments are attached to the end of this document. For further details, contact Clark Ide at 503-722-3437 or [Cide@westlinnoregon.gov](mailto:Cide@westlinnoregon.gov).

#### **BUILDING:**

For building code and ADA questions, contact Alisha Bloomfield at [abloomfield@westlinnoregon.gov](mailto:abloomfield@westlinnoregon.gov) / 503-742-6053 or Adam Bernert at [abernert@westlinnoregon.gov](mailto:abernert@westlinnoregon.gov) / 503-742-6054

#### **TREES:**

For information on the tree requirements for the building permitting portion of this submittal, contact the Ron Jones, City Arborist at [rjones@westlinnoregon.gov](mailto:rjones@westlinnoregon.gov) or 503-722-4728.

#### **PROCESS:**

A SB458 division is a Planning Director’s decision. No public hearing is required. Once the application is declared complete, staff will review the application, send a 14-day public comment notice, and post a notice sign on the

property. When the comment period closes, the Planning Director will prepare a decision. The final decision must be rendered within 63 days from the completeness determination.

After the Planning Director decides, there is a 14-day appeal period. If the decision is not appealed in line with the provisions of SB458, the applicant may proceed with the development.

**NEIGHBORHOOD MEETING:**

No neighborhood meeting is required for a SB458 Subdivision.

**HOW TO SUBMIT AN APPLICATION:**

Submit a complete application in a single PDF document through the [Submit a Land Use Application](#) web portal. A complete application should include:

1. A [development application](#);
2. A project summary outlining the scope of the project;
3. Full written responses to approval criteria in the identified CDC chapters;

**COMPLIANCE NARRATIVE:**

Written responses supported by substantial evidence must address all applicable approval standards and criteria. Written materials must explain how and why the proposed application will meet each applicable approval criteria. "Not Applicable" is not an acceptable response to the approval criteria.

Submittal requirements may be waived, but the applicant must first identify the specific submittal requirement and request, in writing, that the Planning Manager waive the requirement. The applicant must identify the specific grounds for the waiver. The Planning Manager will respond with a written determination about the waiver request before applying.

**APPLICATION FEES & DEPOSITS:**

The Planning Division Fee Schedule can be found on our website: <https://westlinnoregon.gov/finance/current-fee-schedule>

- **FEE** for a SB458 Expedited Land Division = \$4900
- **FEE** for the final plat review = \$2000

Applications with deposits will be billed monthly for time and materials. Please provide the name and address of the party responsible for the final invoice in your application.

**TIMELINES:**

Once the application and payment are received, the City has 21 days to determine if the application is complete. If the application is incomplete, the applicant has 180 days to complete it or provide written notice to staff that no other information will be provided. Once complete, the City has 63 days from the completeness determination to make a final decision on the application.

**\* DISCLAIMER:** *These pre-application notes have been prepared per [CDC Section 99.030.B.7](#). The information provided is an overview of the proposal considerations and requirements. Staff responses are based on limited material presented at the pre-application conference. New issues and requirements can emerge as the application is developed. Failure to provide information does not constitute a waiver of the applicable standards or requirements. The applicant has the burden of proof to demonstrate that all approval criteria have been satisfied. These notes do not constitute an endorsement of the proposed application or assure project approval.*

## **Engineering Pre App Notes – 3800 Evah Lane**

### Land Use – General

4. Applicant would still be subject to previously discussed public improvements on Evah Ln if they opted for Option C. These improvements would still be constructed under a Public Improvement permit.

### Public Improvements/Utilities/Circulation

1. The shared access easement for all configurations is allowable.
2. Public Improvement plans from 2022 are still acceptable. Previously proposed improvements should be reviewed and updated, if required, to meet current construction codes/standards.
  - a. If the new impervious area associated with the public improvement scope on is over 1000 SFT, which is likely, a stormwater facility will be required. See COWL standards for details.
3. The addition of the fourth lot would be acceptable with the proposed public improvements.
4. No traffic analysis will be required.
5. Applicant to get approval from TVFR for fire and emergency access approval on proposed layout.
6. Additional Notes:
  - a. 24' Mutual Access and Utility Easement will overlay the 20' Ingress and Egress Easement currently in place. We recommend vacating the current 20' easement and replacing it with the 24' easement if possible.
  - b. There will need to be a maintenance agreement in place for the for the 4 properties and Lot 3801 for the access.

### Other

7. SDC charges would apply to each lot at the current rates located in the Master Fees and Charges document available on the COWL Finance website.
  - a. Under middle housing, each unit would be considered '2-4 Units, Separate'
  - b. Under a normal partition, each unit would be considered 'Single Family'