



CITY OF West Linn

Memorandum

Date: July 14, 2020

To: West Linn Planning Commission

From: Jennifer Arnold, Associate Planner

Subject: MISC-20-04 - Two Year Extension to Previously Approved 34-Lot Subdivision (SUB-15-03/AP17/01)

On July 5, 2020 Staff received written testimony from James and Amy McNeely expressing concerns regarding the safety of Arbor Drive and HWY 43, traffic, and the safety of pedestrians.

On July 6, 2020 Staff received written testimony from David Goldenberg expressing concerns regarding the safety of Arbor Drive and HWY 43, traffic in the neighborhood, general safety, and passing cars on narrow streets.

On July 13, 2020 Staff received written testimony from Allison and Seth Olson expressing concerns regarding increased traffic, a turn lane at Arbor Drive and HWY 43, habitat removal, and would like to see the property designated as a City Park.

On July 13, 2020 Staff received written testimony from Chris and Scarlett Harris expressing concerns regarding increased traffic congestion, safety of Arbor Drive and HWY 43 intersection, habitat removal, and would also like to see the property designated as a City Park.

On July 13, 2020 Staff received written testimony from Christine Steel expressing support for the two-year time extension for a number of reasons, including the date discrepancy between when the final approval by City Council was issued (July 2017) and when the final LUBA appeal was completed (January 2018). In addition, Ms. Steel includes some background from her time on the Planning Commission when the extension code provision was added to CDC Chapter 99.

On July 13, 2020 Staff received written testimony from Kathie Halicki, on behalf of the Willamette Neighborhood Association expressing concerns regarding the need for a time extension and the standard an approval of this application type sets for future developers.

On July 14, 2020 Staff received written testimony from Peter Lang expressing support for the testimony submitted by Chris and Scarlett Harris. Mr. Lang also noted that the property had



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previously been used as a dumping site for medical waste and suggested that a soils test be conducted prior to any issuance of permits.

Arnold, Jennifer

From: James McNeely <jmcneely@pps.net>
Sent: Sunday, July 5, 2020 7:00 PM
To: Arnold, Jennifer
Subject: 34 lot subdivision Upper Midhill Drive

Follow Up Flag: Follow up
Flag Status: Flagged

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Ms. Arnold,

As a resident of Upper Midhill Dr.(18180), I strongly object to beginning the subdivision project under the current conditions. The intersection of Arbor Dr. & Hwy 43 is not equipped to safely accommodate the increase in traffic. Neither is the intersection of Arbor & Upper Midhill which, by the way , sees a large amount of pedestrian traffic which frequently includes primary school aged children.

Expansion is inevitable, but it should be done responsibly.

Sincerely,

James & Amy McNeely

Arnold, Jennifer

From: David A. Goldenberg <lilcarlover@aol.com>
Sent: Monday, July 6, 2020 4:34 PM
To: Arnold, Jennifer
Subject: 18000 Upper Midhill Drive

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Hello,

I got the notice regarding this property, which is a block from my home. I have so many concerns regarding the development of this property, but the biggest ones concern traffic overload, and safety. The traffic coming in and out of our neighborhood via Arbor Drive is already at a high volume, and we truly need a traffic light installed at the intersection of Arbor Drive and Highway 43, along with appropriate turn lanes on Highway 43 and on Arbor Drive, along with a widening of Arbor Drive. In addition, Upper Midhill Drive is a fairly narrow street; and two vehicles passing one another have difficulty under the current circumstances, especially down by Midhill Park. One vehicle must pull over to let the other pass, and this gets even more challenging when it is an oversized vehicle like a truck or school bus. The addition of 34 homes at the subject property will only compound these issues. We have a lot of little kids in the neighborhood as well, so safety is a concern. On a personal note, I have concern about the affects of our property values, should this project go forth. I think ultimately it will make the neighborhood less desirable...I actually do not know one of my neighbors who is in support of this project. It sounds like the city has already made up its mind and ok'd the project, but I thought I would voice my concerns none the less.

Regards,

David A. Goldenberg
18127 Upper Midhill Drive
West Linn, OR 97068

Arnold, Jennifer

From: Allison Olson <allison.christine.olson@gmail.com>
Sent: Monday, July 13, 2020 3:31 PM
To: Arnold, Jennifer
Cc: Seth Olson
Subject: FILE NO. MISC-20-04 / 18000 Upper Midhill Dr

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Hello City of West Linn Planning Committee,

I am reaching out to ask the city deny this request based upon the following criteria found in Chapter 85 of the Community Development Code:

85.010

“The purpose of the land division provisions of this code is to implement the Comprehensive Plan; to provide rules and standards governing the approval of plats of subdivisions (four lots or more) and partitions (three lots or fewer); to help direct the development pattern; to lessen congestion in the streets; to increase street safety; to efficiently provide water, sewage, and storm drainage service; and to conserve energy resources.”

A two year extension will increase traffic in the streets and decrease street safety especially during COVID-19 when more children are outside playing; this is contradictory to 85.010.

85.010 Section B3

“To reduce pedestrian/vehicle conflicts and create a safe and attractive environment for pedestrians and bicyclists.”

In order for this development to happen there needs to be a left turn lane at hwy 43 and Abor. The road is not wide enough, so if that lane goes in it would eliminate the bicycle lane at the guard railing north of the intersection and renders the bus stop non ADA compliant. This is in direct contradiction to 85.010 Section B3

85.010 Section B4

“To protect natural resource areas such as drainageways, Willamette and Tualatin River greenways, creeks, habitat areas, and wooded areas as required by other provisions of this code or by the layout of streets and graded areas so as to minimize their disturbance.”

This development is in direct violation of this ordinance. It is currently the wooded habitat for deer, owls, birds, and many other animals. This land is a watershed and should be protected. All of this is in direct contradiction to 85.010 B4

Our neighbors and I recommend the city of West Linn (perhaps jointly with Lake Oswego) relieve the developer of this asset and add the land to the city’s parks and recreation inventory based upon the following:

- Upper Midhill Dr. does not meet the minimum width for local roads (CDC 85.200 A3).

- This developer, and any future developer, cannot widen Upper Midhill Dr. and add the required sidewalks without the city declaring eminent domain and forcing residents to give up a portion of their property.
- The intersection of 43 and Arbor is classified by ODOT as a “level F”, a failing intersection. ODOT’s comprehensive plan for highway 43 will not address this intersection as the nearby traffic lights at Marylbrook Dr and 43, and Marylhurst Dr and 43, satisfy ODOT’s requirements. Even with ODOT approval it is not economically viable for a developer to widen 43 between Marylbrook Dr. and Marylhurst Dr.
- The West Linn Community Development Code, zoning of 18000 Upper Midhill Dr, and the inability to execute required street improvement to 43 and Upper Midhill Dr. create a situation of inverse condemnation for the owner of 18000 Upper Midhill Dr. as the property cannot be feasibly developed for the permitted uses.

Thanks for taking our concerns seriously!

Allison and Seth Olson
18233 Upper Midhill Dr
West Linn, OR 97068

Arnold, Jennifer

From: Scarlett Harris <scarlettharris@gmail.com>
Sent: Sunday, July 12, 2020 11:05 PM
To: Arnold, Jennifer
Subject: Planning Commision Hearing File NO. Misc-20-04 / 18000 Upper Midhill Dr

Follow Up Flag: Follow up
Flag Status: Completed

July 11, 2020

TO: City of West Linn

RE: Planning Commision Hearing File NO. Misc-20-04

I recommend the city deny this request based upon the following criteria found in Chapter 85 of the Community Development Code:

1. 85.010
 - a. *"The purpose of the land division provisions of this code is to implement the Comprehensive Plan; to provide rules and standards governing the approval of plats of subdivisions (four lots or more) and partitions (three lots or fewer); to help direct the development pattern; to lessen congestion in the streets; to increase street safety; to efficiently provide water, sewage, and storm drainage service; and to conserve energy resources."*
 - b. This development if implemented within the existing approval time frame will increase congestion in the streets and decrease street safety. A two year extension of approval for this development will further increase congestion in the streets and further decrease street safety; this is contradictory to the clearly stated purpose of 85.010
2. 85.010 Section B3
 - a. *"To reduce pedestrian/vehicle conflicts and create a safe and attractive environment for pedestrians and bicyclists."*
 - a. The proposed left turn lane at hwy 43 and Abor eliminates the bicycle lane at the guard railing north of the intersection and renders the bus stop non ADA compliant. This is in direct contradiction to 85.010 Section B3
3. 85.010 Section B4
 - a. *"To protect natural resource areas such as drainageways, Willamette and Tualatin River greenways, creeks, habitat areas, and wooded areas as required by other provisions of this code or by the layout of streets and graded areas so as to minimize their disturbance."*
 - a. This development will eliminate a wooded natural resource area which is a habitat for deer, pollinators, owls and other birds of prey, and many other animals. In addition, this land is a watershed. All of this is in direct contradiction to 85.010 B4

I further recommend the city of West Linn (perhaps jointly with Lake Oswego) relieve the developer of this asset and add the land to the city's parks and recreation inventory based upon the following:

Upper Midhill Dr. does not meet the minimum width for local roads (CDC 85.200 A3).

This developer, and any future developer, cannot widen Upper Midhill Dr. and add the required sidewalks without the city declaring eminent domain and forcing residents to give up a portion of their property.

The intersection of 43 and Arbor is classified by ODOT as a “level F”, a failing intersection. ODOT’s comprehensive plan for highway 43 will not address this intersection as the nearby traffic lights at Marylbrook Dr and 43, and Marylhurst Dr and 43, satisfy ODOT’s requirements. Even with ODOT approval it is not economically viable for a developer to widen 43 between Marylbrook Dr. and Marylhurst Dr.

The West Linn Community Development Code, zoning of 18000 Upper Midhill Dr, and the inability to execute required street improvement to 43 and Upper Midhill Dr. create a situation of inverse condemnation for the owner of 18000 Upper Midhill Dr. as the property cannot be feasibly developed for the permitted uses.

Best Regards,

Chris and Scarlett Harris
Upper Midhill Dr, West Linn

TO: West Linn Planning Commission
FROM: Christine Steel
DATE: July 12, 2020
RE: Hearing MISC-20-04, Two-Year Extension of Approval for Subdivision at 18000 Upper Midhill Drive
CC: John Boyd, Jennifer Arnold, John Williams, City Council Members, Robinwood Neighborhood Association

Dear Planning Commission Members,

I am sending this memo to support approval of a two-year extension for the above-referenced subdivision application for the following reasons:

1. The developer has not had the benefit of a full three year development period. This is because the "clock" started running, per the CDC, from the City Council's approval of the application in July 2017. However, the City Council's decision was subsequently appealed to LUBA, which did not publish its decision until January, 2018.
2. The application meets all criteria for the extension, per the staff report.
3. In light of the recent passing of HB 2001, failure to grant the extension for this particular application will most likely result in a future development which is more densely occupied and therefore less compatible with the existing surrounding neighborhoods.
4. The application incorporates a construction management plan, which is novel for West Linn, and which was discussed and drafted by members of the Robinwood Neighborhood Association in hopes of coordinating with the developer and mitigating foreseeable construction activity impacts to the extent possible.
5. The extension request meets the intent of the CDC extension language. I was on the planning commission in 2008/2009, which was when the extension opportunity was added to the CDC. As I recall, a group of local contractors and developers met with the planning staff and planning commission to request this option based on the extenuating circumstances caused by the recession that the country was undergoing at the time. Due to the COVID-19 pandemic, we are experiencing extenuating circumstances again. Conducting business has been and is continuing to be very difficult. I believe the present circumstances in this case are comparable to those in effect at the time the two-year extensions were introduced into the CDC.

Please consider these factors in making your decision. Personally, I would like to see the area remain natural for perpetuity -- I live only two houses away from the project entrance. However, short of this area turning into a park or permanent green space, I believe the development as previously approved and currently modified is the best outcome for the acreage and for the surrounding neighborhoods.

Thank you.

Christine Steel

18100 Upper Midhill Dr., West Linn
503-697-3119
steelc123@gmail.com

From: [Willamette Neighborhood Association President](#)
To: [Wyss, Darren](#)
Subject: 7/15 Planning Commission meeting
Date: Monday, July 13, 2020 11:51:35 AM

Please add these to the public comment.

The Willamette Neighborhood Association discussed this topic per the city's request. The conclusions we came to are:

- 1). We don't have enough information as to why an extension is needed.
- 2). We are cautious of agreeing to the extension for a couple of reasons. Real estate is a gamble, it has ups and downs, as a developer he should know better (and be prepared) for the downs. If this extension is granted it could set a precedent, what you do for one you must do for all. That would mean that any land use could request (and would then need to be granted) an extension, thus bringing our city to a 2 year halt (land use wise).

Thus without more information and the obvious need (other than financial) for an extension , we are not in favor.

Kathie Halicki, WNA president

Willamette Neighborhood Association President

President

Neighborhood Association Presidents

<#>



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Peter D. Lang
2312 College View Dr.
West Linn, OR – 97068-1229

Eve: (503) 636-4006
Cel: (503) 780-9201
e-mail: peterd1776@comcast.net

12-July-2020

City of West Linn

Re: Planning Commission Hearing File No. Misc.20-04

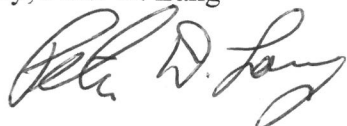
I am writing in support of the letter, copy attached, dated 11.July.2020 and submitted by Mr.and Mrs. Harris on the above referenced matter.

Specifically, I would like to support paragraph 2 in the Harris letter, citing 85.010 Section B3. This has been a difficult six months for the residents of this area of West Linn. There have been two homes under construction proximate to the intersection of Arbor Dr. and Upper Midhill.. Had it not been for the corona virus interruptions to anything like a normal life in this area of the city, City officials would have had something approaching a true crisis on their hands. There is no way school buses, rubbish pick-up trucks and emergency vehicles would have been able to access our neighborhood in a timely fashion using Upper Midhill nor Arbor Drive. We have lived with an unsafe situation at that intersection for six or eight months.

It would be an extreme case of poor judgement for City officials to agree to allow this clearly unsafe condition to be repeated or to continue. Clearly this circumstance is not at all aligned with the requirements of 85.010.

I am going to raise another issue now that has troubled me for years and about which I have never said anything. In the late 1990's someone was using the property as a dump site. Specifically, the area just beyond the paved end of Upper Midhill and to the east, someone was dumping medical waste. I never observed any dumping there. I did notice for a period of perhaps a year or more, that in that waste there was quite a large number of mercury thermometers, most of them broken. I think that was during the time when mercury thermometers were being discontinued in medical offices. Perhaps it would be wise to test the soil in that area before permits are issued.

Sincerely, Peter D. Lang



July 11, 2020

TO: City of West Linn

RE: Planning Commission Hearing File NO. Misc-20-04

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Best Regards,

Chris and Scarlett Harris
Upper Midhill Dr, West Linn