

WEST LINN PLANNING COMMISSION

FINAL DECISION AND ORDER

MISC-20-04

**IN THE MATTER OF A PROPOSAL FOR A TWO-YEAR EXTENSION OF APPROVAL
FOR A 34-LOT SUBDIVISION: SUB-15-03/AP-17-01**

I. Overview

At its meeting on July 15, 2020, the West Linn Planning Commission (“Commission”) held the initial evidentiary public hearing to consider the request by Emerio Design, LLC, applicant on behalf of Upper Midhill Estates, LLC (owners), to approve a two-year extension to a previously approved 34-lot subdivision at 18000 Upper Midhill Drive. The approval criteria for an extension of approval are found in Chapter 99.035, of the Community Development Code (CDC). The hearing was conducted pursuant to the provisions of CDC Chapter 99.170.

The initial evidentiary hearing commenced with a staff report presented by Jennifer Arnold, Associate Planner. Steve Miller, Planning Consultant, Michael Robinson, Schwabe Williamson & Wyatt, and Matt Bell, Kittelson & Associates, presented on the applicant’s behalf. John Robins, Jason Harra, Scarlett and Chris Harris, and Oren and Keren Barkan all provided oral testimony. James and Amy McNeely, David Goldenberg, Allison and Seth Olson, Chris and Scarlett Harris, Christine Steel, Kathie Halicki on behalf of the Willamette Neighborhood Association, Peter Lang, Dorianne and Doug Palmer, Jason Harra, Bob and Terry Jordan, Xuejun Wang and Juan Shen, John and Cheryl Robins, and Anne Beltman all submitted written testimony. The primary concerns raised during testimony included:

- The intersection safety of Arbor Drive and HWY 43/Willamette Drive
- Habitat removal
- Pedestrian safety
- Traffic on existing streets

Applicant representatives provide rebuttal and answered questions using statements or reports found in the land use application. The applicant requested a continuance to develop a more detailed final written argument with no new information. The hearing was closed; however, the record was left open for 7 additional days for the applicant to submit the final written argument. The Planning Commission set a date certain of August 19, 2020 for the continuance.

At its meeting on August 19, 2020, City Attorney Ramis addressed the preliminary legal matters. Chair Walvatne and Commissioner Farrell both disclosed site visits and ex parte contacts, but determined they could still make an unbiased decision on the application.

The Planning Commission deliberated, including a discussion on alterations and additions to the Staff-recommended conditions of approval. A motion was made by Vice Chair Mathews and

seconded by Commissioner Pellett to approve the application as presented with the staff proposed conditions of approval. The motion passed 4-3.

II. The Record

The record was finalized at the August 19, 2020 public hearing with the acceptance of the Applicant's final written argument, which did not introduce any new information. The final written argument was received before 5:00 p.m. on July 22, 2020. The record includes the entire file from SUB-19-03.

III. Findings of Fact

- 1) The Overview set forth above is true and correct.
- 2) The applicant is Steve Miller of Emerio Design, LLC.
- 3) The Commission finds that it has received all information necessary to make a decision based on the Staff Report and attached findings; public comment; and the evidence in the whole record, including any exhibits received at the hearing.

IV. Findings

The Commission adopts the Staff Report for July 15, 2020, with attachments, as its findings, which are incorporated by this reference with the 18 Staff-recommended conditions of approval from the original subdivision approval (SUB-15-03/AP-17-01). The Commission concludes that all of the required approval criteria are met subject to the following conditions of approval:

1. Site Plan. With the exception of modifications required by these conditions, the project shall conform to all submitted Plan Sheets dated 1/11/2016 (C000, C100, C105, C110, C 111, C112, C113, C114, C130, C200 (Preliminary Plat), C201, C210, C220, C230, C280, C300) and sheet LI (landscaping) dated 10/14/15. Street widths will be per Road Section History Exhibit last revised October 2019 (see MISC-20-04, Exhibit PC-3).

2. Engineering Standards. All public improvements and associated facilities including street improvements (per sheets C201, C210, C220), utilities (per sheet C300), grading (per sheet C230), onsite storm water design (per sheet C230 and C300), street lighting (per sheet C280), easements (per sheet C200), and easement locations shall comply with all applicable City standards. These improvements must be designed, constructed, and completed prior to final plat approval or secured by instruments acceptable to the City Engineer.

3. Off-Site Traffic Mitigation. To mitigate the traffic impacts from the proposed subdivision until the Highway 43 Multimodal Transportation Project is constructed, and prior to the issuance of a grading permit or site development permit for the development site-, the applicant shall construct their proposed interim solution as depicted in Figure 9 of Kittelson Associates' March 1, 2017 memorandum ("KAI Memorandum") (Exhibit PC-5B) that includes restriping the highway with a northbound left turn pocket on the south

leg of the intersection and a left turn refuge/storage area on the north leg of the intersection, subject to ODOT review, modification, and approval. The applicant shall also pay a proportionate fee to the City of West Linn in the amount of \$11,600 as Applicant's proportionate share contribution toward the long-term Highway 43 Multimodal Transportation Project.

4. Storm Water Tract C. Prior to approval of the final plat, the applicant shall dedicate Storm Water Tract C to the City of West Linn.

5. Mutual Maintenance and Easements. Prior to approval of the final plat, the applicant shall provide the City of West Linn, along with the final plat, a Mutual Maintenance and Reciprocal Access and Public Utility Easement for platted Lots 13-15 to ensure continued access and necessary maintenance of the shared drive in perpetuity. Lot 12 shall be excluded from using this easement.

6. No Parking Signs. The applicant shall install signs reading "No Parking- Fire Lane" on one side of Hillside Drive. The signs shall be designed and installed in accordance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).

7. Fire Flow. Prior to approval of the final plat, the applicant shall perform a fire flow test and submit a letter from Tualatin Valley Fire and Rescue showing adequate fire flow is present.

8. Significant Tree Mitigation. Prior to approval of the final plat, the applicant will mitigate for the removal of 434 inches of DBH by planting street trees and landscape trees on the project site. The remaining trees which are not able to be planted on site will be mitigated for either in off-site plantings in a location chosen by the City's arborist or the applicant will pay a fee in lieu to the City for trees which cannot be planted on site. In the event that the geotechnical findings, as required by Condition of Approval 13, require modification of the final grading plan which, in turn, requires additional tree removal, the applicant shall mitigate for the additional tree loss on an inch by inch basis.

9. Access during Construction. Approved fire apparatus access roadways shall be installed and operational prior to any combustible construction or storage of combustible materials on the site. Temporary address signage shall also be provided during construction.

10. Hillside Drive Off-Site Sidewalk Improvements. The applicant shall construct Hillside Drive road widening and tapering plus approximately 90 feet of sidewalk on the north side of the street in front of 17849 Hillside Drive and 150 feet of sidewalk on the west side of the street commencing at the south edge of the proposed subdivision boundary to fill in gaps in the pedestrian facilities (as shown in Exhibit PC-5, pages 5 and 6).

11. Traffic Management Plan (TMP). Construction vehicles for the project shall be subject to the following traffic management restrictions.

- a. Inbound project vehicle traffic shall be routed up Arbor Drive from Willamette Drive to the site and outbound project vehicle traffic shall be routed out along Upper Midhill Drive and down Marylhurst Drive to Willamette Drive.
- b. Project vehicles shall be restricted to a maximum speed of 20 miles per hour west of Highway 43 (Willamette Drive).
- c. Flaggers shall direct construction related traffic, both exiting the site and at local intersections to be determined and on Upper Midhill Drive during school bus pickup and drop off periods as determined in consultation with the West Linn Wilsonville School District/First Student Bus Company.
- d. On-site vehicle noise will be mitigated by the modifying vehicle "backup beepers."
- e. The loop route for project vehicles, which is a loop using Arbor Drive-Upper Midhill Drive-Marylhurst Drive, will be modified to an out and back route relying exclusively on Arbor Drive if there are two filed collision reports, such as an Oregon Traffic Accident and Insurance Report or a Traffic Crash Report, in which a project vehicle was determined to be at fault.
- f. The TMP shall be amended, as necessary, to meet any new conditions realized during the planning and implementation phases of the project. Applicant shall be responsible for ensuring compliance with this Plan.

12. Crosswalk on Highway 43. The Applicant shall propose to construct a crosswalk with pedestrian-activated warning lights across Highway 43 at Arbor Street, subject to ODOT review, modification, and approval.

13. Supplemental Geotechnical Analysis. The Applicant shall prepare a supplemental geotechnical analysis addressing the soils conditions across the property and in the areas of the local streets within the subdivision, including an estimate of the amount of soil to be removed in order to construct the streets and develop the building sites. The Applicant shall submit the supplemental geotechnical analysis to the City Engineer for review and approval prior to approval of construction plans.

14. Tri-Met Bus Stops. The Applicant shall coordinate with Tri-Met, and subject to ODOT review, modification, and approval, assure that bus stops meeting applicable standards are available on Highway 43 near Arbor Street.

15. Subdivision Construction Management Plan (CMP). The Applicant shall prepare a Construction Management Plan to be valid during the subdivision development until acceptance of public improvements. The Construction Management Plan shall include:

- a. A truck wash shall be installed prior to beginning of on-site construction work.
- b. The Developer shall distribute a "flyer" door-to-door to the neighbors' houses adjacent to the Chene Blanc Subdivision Site, and to those neighbors' houses which will be impacted by the construction and development activities. The

“flyer” shall contain information pertaining to start and potential ending dates of the project, days and hours of operation, a brief description of activities planned for the site, a description of the boundaries of the site, the name and telephone number of a resource/question line, and any other information the Developer feels relevant to homeowners residing in the impacted area.

- c. Dust control/dust abatement procedures and/or plans pursuant to West Linn Municipal Code 5.477.**
- d. A plan to minimize, to the extent practical, the constant idling of engines and subsequent spread of exhaust fumes into the neighborhood.**
- e. No construction equipment, including “porta potties”, shall be located outside the exterior boundaries of the construction site.**
- f. Off-site employee street parking shall not block driveways, mailboxes, and/or collection-day trash receptacles.**
- g. No employee parking at the bottom of College View Drive in the turnaround area.**
- h. The CMP shall be amended, as necessary, to meet any new conditions realized during the planning and implementation phases of the project. Applicant shall be responsible for ensuring compliance with the plan.**

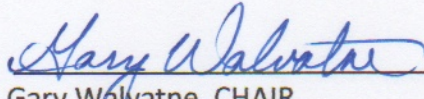
16. Pedestrian Way Finding Signs. The Applicant shall coordinate with the Neighborhood Association, and subject to the approval of the City Engineer, shall establish a series of “way finding” signs to guide pedestrians to the intersection of Oregon Highway 43 and Marylbrook Drive to reach the Tri-Met bus stop located at that intersection in accordance with Manual on Uniform Traffic Control Devices and City requirements.

17. Pedestrian Route. The applicant will install a paint stripe along Upper Midhill Drive between Arbor Drive and Marylhurst Drive to establish a safety zone for pedestrian traffic. The stripe shall be four feet from the generalized east edge of the paved street section leaving a travel lane for vehicles approximately 12 feet wide. Signs shall be installed at each end of Upper Midhill Drive identifying the area east of the line as a pedestrian route.

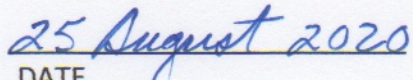
18. Community Outreach. The applicant shall provide updates at the monthly meetings of the Robinwood Neighborhood Association, from pre-construction phase to the commencement of the final plat phase.

V. Order

The Commission concludes that MISC-20-04 is approved based on the Record, Findings of Fact and Findings above.



Gary Walvatne, CHAIR
WEST LINN PLANNING COMMISSION



DATE

This decision may be appealed to the City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. This decision will become effective 14 days from the date of mailing of this final decision as identified below.

Mailed this 25th day of August 2020. _____

Therefore, this decision becomes effective at 5 p.m., September 8, 2020 _____