



CITY OF
West Linn

**STAFF REPORT
PLANNING MANAGER DECISION**

DATE: December 28, 2020
FILE NO.: VAR-20-06
REQUEST: Class I Variance to reduce front yard setback standard up to 20 percent at 5983 West A Street
PLANNER: Jennifer Arnold, Associate Planner

West Linn Planning Manager

DSW

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GENERAL INFORMATION

**OWNER/
APPLICANT:** Mitica Leontescu
23300 SW Stafford Hill Drive
West Linn, OR 97068

SITE LOCATION: 5983 West A Street

SITE SIZE: 11,112 Square feet

**LEGAL
DESCRIPTION:** Map and Tax Lot Number 21E25AD05300

**COMP PLAN
DESIGNATION:** Low Density Residential

ZONING: R-10 (single family residential detached, R-10; 10,000 square foot minimum lot size)

**APPROVAL
CRITERIA:** Community Development Code (CDC) Chapter 11 R-10 Zone; Chapter 75 Variances and Special Waivers.

120-DAY RULE: The application became complete on November 10, 2020. The 120-day period therefore ends on March 3, 2021.

EXECUTIVE SUMMARY

The applicant requested a variance for “Required yard and minimum lot dimensional requirements.” The request considers a reduction of the front yard setback up to the 20 percent allowed in a Class I Variance (20% of a 20’ setback is a 4’ reduction). The property owner/applicant is remodeling the existing home and added a covered front porch that encroached into the front yard setback by 8.5 feet. CDC 38.060(F) allows a front porch to encroach 5 feet into the front yard setback. The Class I Variance provides “minor relief from certain code provisions” that will not harm adjacent properties and conforms to any other code provisions. With approval of the variance, the front yard setback would be reduced to 16 feet, making the front porch compliant with CDC 38.060(F).

Public comments:

No public comments were received by Staff regarding this application.

DECISION

The Planning Manager (designee) approves this application (VAR-20-06), based on: 1) the findings submitted by the applicant, which are incorporated by this reference; 2) supplementary staff findings included in the Addendum; and, 3) by the condition of approval below:

Condition of Approval

- 1. The final plan shall conform to the submittal dated 10/20/2020. (See Staff Finding 1)**

The provisions of the Community Development Code Chapter 99 have been met.

Jennifer Arnold
Jennifer Arnold, Associate Planner

12/28/2020
DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$400. An appeal to City Council of a decision by the Planning Manager shall be heard on the record. The appeal must be filed by an individual who has established standing by submitting comments prior to the decision date. Approval will lapse 3 years from effective approval date if the final plat is not recorded.

Mailed this 6th day of **January 2021**.

Therefore, the 14-day appeal period ends at 5 p.m., on **January 20, 2021**.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
VAR-20-06**

I. CHAPTER 11, SINGLE-FAMILY RESIDENTIAL DETACHED, R-10

11.030 PERMITTED USES

The following uses are permitted outright in this zone.

1. Single-family detached residential unit.

(...)

Staff Finding 1: The subject property has one single family detached home and no proposed change to the use with this application. The criteria are met.

11.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

(...)

5. Except as specified in CDC 25.070(C)(1) through (4) for the Willamette Historic District, the minimum yard dimensions or minimum building setback area from the lot line shall be:

a. For the front yard, 20 feet; except for steeply sloped lots where the provisions of CDC 41.010 shall apply.

b. For an interior side yard, seven and one-half feet.

c. For a side yard abutting a street, 15 feet.

d. For a rear yard, 20 feet.

(...)

Staff Finding 2: The applicant is requesting a variance to the dimensional requirements. See Staff Response 3. The applicant has constructed a front porch cover which extends into the standard front yard setback. The reduction in the front yard setback requirement would allow the covered front porch to encroach into the front yard setback by the maximum allowed of 20 percent, or 4 feet for a Class I Variance.

III. CHAPTER 75, VARIANCE

A. Class I Variance. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:

1. Required Yard and Minimum Lot Dimensional Requirements. Required yards may be modified up to 20 percent, lot dimensions by up to 10 percent and lot area by up to five percent if the decision-making authority finds that the resulting approval:

a. Provides for a more efficient use of the site;

- b. Preserves and incorporates natural features into the overall design of the project;*
 - c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and*
 - d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.*
- (...)

Staff Finding 3: The applicant has requested a Class I Variance to reduce the setback requirement and allow for the covered front porch on the existing structure. The reduction would allow the covered front porch to encroach into the front yard setback by the maximum allowed 20 percent, or 4 feet, for a Class I Variance. The applicant is not proposing any changes to the off-street parking nor the vehicular or pedestrian access to the subject property. The Class I Variance does not pose any adverse effects on adjoining property regarding light, air circulation, noise levels, privacy, and fire hazards as the covered front porch projects towards West A Street and not towards adjoining property. The criteria are met.

EXHIBIT PD-1 APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only

STAFF CONTACT Jennifer Arnold	PROJECT No(s). VAR-20-06	PRE-APPLICATION N/A
NON-REFUNDABLE FEE(S) \$825	REFUNDABLE DEPOSIT(S)	TOTAL \$825

Type of Review (Please check all that apply):

- | | | |
|---------------------------------------|--|---|
| Annexation (AN0) | Historic Review | Subdivision (SUB) |
| Appeal and Review (AP) | Legislative Plan or Change | Temporary Uses |
| Conditional Use (CLP) | Lot Line Adjustment (LLA) | Time Extension |
| Design Review (DR) | Minor Partition (MIP) (Preliminary Plat or Plan) | Variance (VAR) |
| Easement Vacation | Non-Conforming Lots, Uses & Structures | Water Resource Area Protection/Single Lot (WAP) |
| Extraterritorial Ext. of Utilities | Planned Unit Development (PUD) | Water Resource Area Protection/Wetland (WAP) |
| Final Plat or Plan (FP) | Pre-Application Conference (PA) | Willamette & Tualatin River Greenway (WRG) |
| Flood Management Area | Street Vacation | Zone Change |
| Hillside Protection & Erosion Control | | |

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

Site Location/Address: 5983 W. A. STREET. WEST LINN OR 97068	Assessor's Map No.:
	Tax Lot(s):
	Total Land Area:

Brief Description of Proposal: APPLICATION FOR CLASS 1 VARIANCE TO ALLOW 8'x6' FRONT ENTRY COVER TO REMAIN AS IS.

Applicant Name: MITICA LEONTESCU Phone: **503-969-8850**
Address: 23300 SW STAFFORD HILL DR. Email:
City State Zip: WEST LINN OR 97068 **MITICA@COMCAST.NET**

Owner Name (required): MITICA LEONTESCU Phone: **503-969-8850**
Address: 23300 SW STAFFORD HILL DR. Email:
City State Zip: WEST LINN OR 97068 **MITICA@COMCAST.NET**

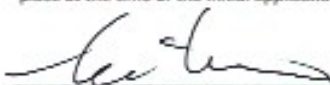
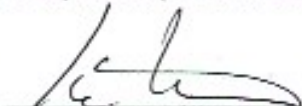
Consultant Name: Phone:
Address: Email:
City State Zip:

- 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 decision may be reversed on appeal. No permit will be in effect until the appeal period has expired.

Development Review Application (Rev. 2020.07)

- 4. One complete hard-copy set of application materials must be submitted with this application.**
One complete digital set of application materials must also be submitted electronically in PDF format.
If large sets of plans are required in application please submit one set.

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 place at the time of the initial application.

 **10.29.20**  **10.29.20**
 Applicant's signature Date Owner's signature (required) Date

75.020 CLASSIFICATION OF VARIANCES

A. Class I Variance. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:

1. Required Yard and Minimum Lot Dimensional Requirements.
Required yards may be modified up to 20 percent, lot dimensions by up to 10 percent and lot area by up to five percent if the decision-making authority finds that the resulting approval:

a. Provides for a more efficient use of the site;

The setback adjustment for new 8'x6' front entry cover provides not only a balanced, more appealing look for front of house, but in comparison to the old 5x5 landing with 18'x5' ramp it creates more efficiency in terms of use of space for the front yard.

b. Preserves and incorporates natural features into the overall design of the project.

Setback adjustment accommodating new cover does not impede pre-existing landscape or trees in any way.

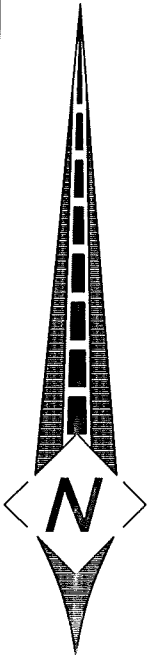
c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards”and

New cover does not block light, air circulation, noise levels in any way. It does not impede into neighbors privacy or create any fire hazard.

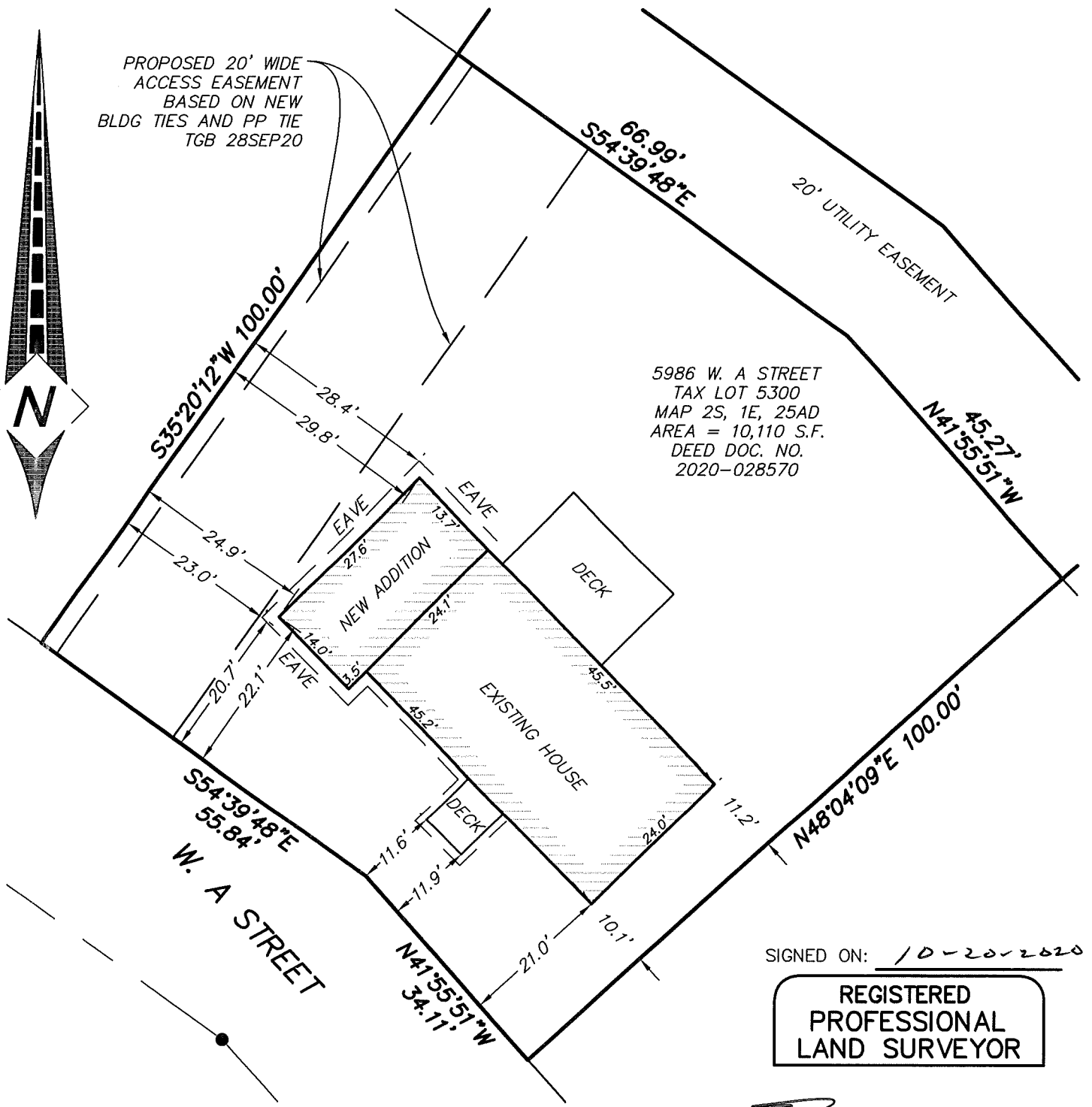
d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.

The setback adjustment does not interfere with vehicular or pedestrian access and circulation in any way. Property will have a driveway for parking and proposed cover is not in area of pedestrian right of way or in close proximity to driveway.

PROPOSED 20' WIDE
ACCESS EASEMENT
BASED ON NEW
BLDG TIES AND PP TIE
TGB 28SEP20



5986 W. A STREET
TAX LOT 5300
MAP 2S, 1E, 25AD
AREA = 10,110 S.F.
DEED DOC. NO.
2020-028570



SIGNED ON: 10-20-2020

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
NOVEMBER 30, 2007
JAMES BURTON BROWN
60379

RENEWS: DECEMBER 31, 2021

CLIENT: LEONTESCU
ORIG. DATE: 10-20-2020
DRAWN BY: CJB
SHEET No. 1 OF 1

STAKEOUT
TL 5300, MAP 2S, 1E, 25AD
 CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON
 Scale: 1"=20'

CENTERLINE CONCEPTS
 LAND SURVEYING, INC.
 19376 MOLALLA AVE., SUITE 120
 OREGON CITY, OREGON 97045
 PHONE 503.650.0188 FAX 503.650.0189

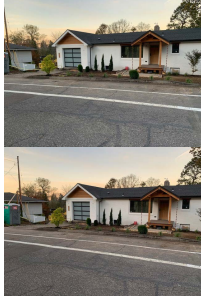


EXHIBIT PD-2 COMPLETENESS LETTER



CITY OF
West Linn

November 10, 2020

Mitica Leontescu
23300 SW Stafford Hill Dr.
West Linn, OR 97068

SUBJECT: VAR-20-06 application for a Class I Variance to front yard setback requirements at 5983 West A Street.

Dear Mr. Leontescu:

You submitted this application on October 29, 2020 which was deemed incomplete on November 3, 2020. After reviewing the supplemental submittal from November 4, 2020, the Planning Department finds that this application is now **complete**. The city has 120 days to exhaust all local review; that period ends March 3, 2021.

Please be aware that determination of a complete application does not guarantee a recommendation of approval from staff for your proposal as submitted – it signals that staff believes you have provided the necessary information for the Planning Manager to render a decision on your proposal.

A 14-day public notice will be prepared and mailed. This notice will identify the earliest potential decision date by the Planning Manager.

Please contact me at 503-742-6057, or by email at jarnold@westlinnoregon.gov if you have any questions or comments.

Sincerely,

Jennifer Arnold
Associate Planner

EXHIBIT PD-3 AFFADIVIT AND NOTICE PACKET

AFFIDAVIT OF NOTICE
Type B

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

PROJECT

File No.: VAR-20-06

Applicant's Name: Mitica Leontescu

Development Name: 5983 West A Street

Scheduled Decision Date: Planning Manager Decision no earlier than December 23, 2020

MAILED NOTICE

Notices were mailed at least 14 days prior to the decision date per Section 99.080 of the Community Development Code to:

1	Mitica Leontescu, Applicant	12/8/20	<i>Lynn Schroder</i>
3	ODOT	12/8/20	<i>Lynn Schroder</i>
4	Property Owners within 300 feet	12/8/20	<i>Lynn Schroder</i>
5	All Neighborhood Associations	12/8/20	<i>Lynn Schroder</i>

WEBSITE

Notice was posted on the City's website at least 14 days prior to the scheduled decision:

12/8/20	<i>Lynn Schroder</i>
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SIGN

At least 10 days prior to the decision date, a sign was posted on the property per Section 99.080 of the Community Development Code:

12/14/20	<i>Jennifer Arnold</i>
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FINAL DECISION notice mailed to applicant and all other parties with standing:

01/06/2021	<i>Lynn Schroder</i>
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**CITY OF WEST LINN
NOTICE OF UPCOMING
PLANNING MANAGER DECISION
FILE NO. VAR-20-06**

The West Linn Planning Manager is considering a request for a reduction of the front yard setback up to the 20% allowed in a Class I Variance (20% of a 20' setback is a 4' reduction) at 5983 West A Street.

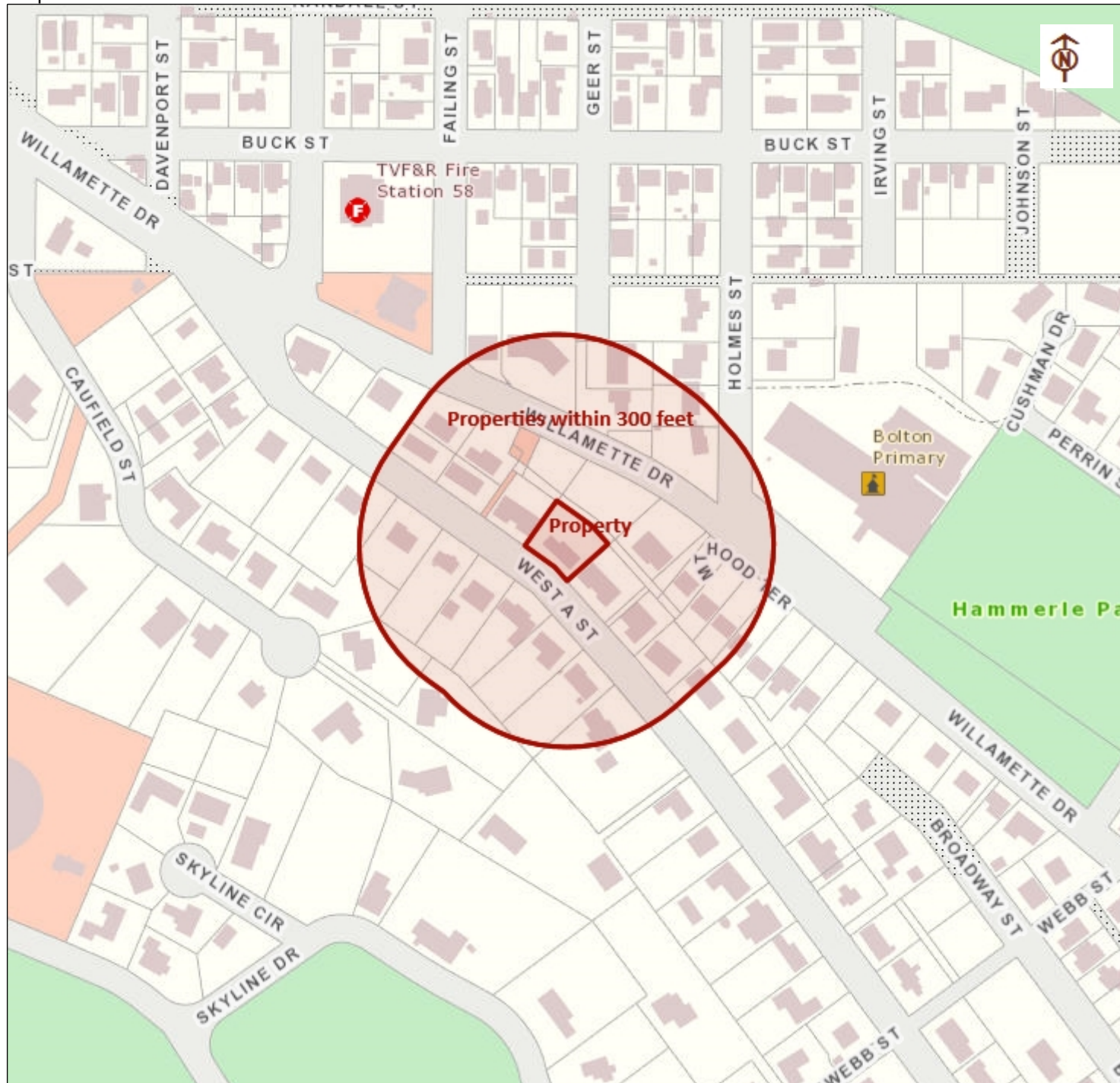
The decision will be based on the approval criteria in Chapters 11 and 75 of the Community Development Code (CDC). The approval criteria from the CDC are available for review at City Hall, at the City Library, and at <http://www.westlinnoregon.gov/cdc>.

You have received this notice because County records indicate that you own property within 300 feet of this property (Tax Lot 05300 of Clackamas County Assessor's Map 21-E25AD) or as otherwise required by Chapter 99 of the CDC.

All relevant materials in the above noted file are available for inspection at no cost at City Hall, and on the city web site <https://westlinnoregon.gov/planning/5983-west-street-class-1-variance> or copies may be obtained for a minimal charge per page. A public hearing will not be held on this decision. **Anyone wishing to present written testimony for consideration on this matter shall submit all material before 4:00 p.m. on December 22, 2020. Persons interested in party status should submit their letter along with any concerns related to the proposal by the comment deadline.** For further information, please contact Jennifer Arnold, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, (503) 742-6057, jarnold@westlinnoregon.gov.

Any appeals to this decision must be filed within 14 days of the final decision date with the Planning Department. **It is important to submit all testimony in response to this notice.** Failure to raise an issue in person or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes the raising of the issue at a subsequent time on appeal or before the Land Use Board of Appeals.

Properties within 300-feet of the 5983 West A Street



Legend

- City Limit
- Unimproved ROW
- Parks and Open Space
- City Owned Property

0 0.06 0.11 Miles



1: 4,514



Notes

This map was automatically generated using Geocortex Essentials.
 Planning Manager Decision



**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # VAR-20-06
MAIL: 12/8/2020 TIDINGS: n/a**

CITIZEN CONTACT INFORMATION

To lessen the bulk of agenda packets and land use application notice, and to address the concerns of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.