

## DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT <b>Myers</b>	PROJECT NO(S). <b>MISC-20-07</b>	PRE-APPLICATION NO.
NON-REFUNDABLE FEE(S)	REFUNDABLE DEPOSIT(S) <b>\$3,950.00</b>	TOTAL <b>\$3,950.00</b>

**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 (CJP)                 | <input type="checkbox"/> Lot Line Adjustment (LLA)                        | <input checked="" type="checkbox"/> Time Extension                       |
| <input type="checkbox"/> Design Review (DR)                    | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input 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.

<b>Site Location/Address:</b> Property is to the west of the southern terminus of Evah Lane	<b>Assessor's Map No.:</b> 31E 2BC
	<b>Tax Lot(s):</b> 3800
	<b>Total Land Area:</b> ±40,960 SF

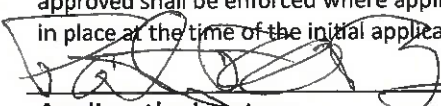
**Brief Description of Proposal:**

Extension of land use approval in West Linn File No. MIP-17-03/WAP-17-02/WRG-17-05

<b>Applicant Name:</b> <small>(please print)</small>	Patrick R. O'Brien	Phone: *See Consultant
<b>Address:</b>	208 NW 21st Ave. Suite 201	Email: *See Consultant
<b>City State Zip:</b>	Portland, Or 97209	
<b>Owner Name (required):</b> <small>(please print)</small>	Patrick R. O'Brien	Phone: *See Consultant
<b>Address:</b>	208 NW 21st Ave. Suite 201	Email: *See Consultant
<b>City State Zip:</b>	Portland, Or 97209	
<b>Consultant Name:</b> <small>(please print)</small>	AKS Engineering & Forestry, LLC/Zach Pelz, AICP	Phone: 503-400-6028
<b>Address:</b>	3700 River Road N, Suite 1	Email: PelzZ@aks-eng.com
<b>City State Zip:</b>	Keizer, OR 97303	

1. All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
2. The owner/applicant or their representative should be present at all public hearings.
3. A decision may be reversed on appeal. No permit will be in effect until the appeal period has expired.
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 in place at the time of the initial application.

  
Applicant's signature

11-11-20  
Date

  
Owner's signature (required)

11-11-20  
Date



November 11, 2020

Darren Wyss, Acting Planning Manager  
City of West Linn  
22500 Salamo Road  
West Linn, OR 97068

**RE: Request for Extension of City of West Linn Land Use File MIP-17-03/WAP-17-02/WRG-17-05 (3-Parcel Partition, Water Resource Area, Flood Management Area, Tualatin River Greenway)**

Mr. Wyss,

Our Client (O'Brien and Company, LLC) received approval for the above-referenced City of West Linn land use file on January 29, 2018. The cause for delay in the completion of this project relates to construction issues beyond our Client's control. However, our Client is prepared to move forward with this 3-parcel partition and has been communicating with the City in relation to this extension request.

Pursuant to City of West Linn Community Development Code (CDC), our current approval expires on January 29, 2021. Per CDC 99.325(A):

- A. *An extension may be granted by the original decision-making body by an additional two years from the effective date of approval pertaining to applications listed in CDC 99.060(A), (B), (C), (D) or (E), as applicable, upon finding that:*
1. *The applicant has demonstrated that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and*
  2. *There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or*
  3. *The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.*

In response to these criteria, we attest that:

- Per item 1 above, the Client intends to move forward with construction of the project pursuant to the original approval. No modifications are requested.
- Per 2 above, there are no material misrepresentations, errors, omissions, or changes in facts that directly impact the project.
- Finally, in response to item 3 above, and as stated above, the Client has not yet obtained building permits because of delays in construction beyond its control. The Client is working diligently to move forward with construction and to plat this 3-parcel partition according to the underlying land use approval with conditions.

For the above reasons, all relevant criteria necessary to receive an extension of the application are met. If granted, the new expiration date will become January 29, 2023. Thank you for your consideration of this request and please do not hesitate to contact me with any questions.

Sincerely,

**AKS ENGINEERING & FORESTRY, LLC**



Zach Pelz, AICP, Associate

3700 River Road N, Suite 1

Keizer, OR 97303

(503) 400-6028 | [pelzz@aks-eng.com](mailto:pelzz@aks-eng.com)

Attached:

City of West Linn Development Review Application

Check in the amount of \$3,950.00

Notice of Decision (MIP-17-03/WAP-17-02/WRG-17-05)

**STAFF REPORT  
PLANNING MANAGER DECISION**

DATE: January 29, 2018

FILE NO.: MIP-17-03/WAP-17-02/WRG-17-05

REQUEST: Approval of a three-lot minor partition, Water Resource Area and Tualatin River Protection permits at the south end of Evah Lane

PLANNER: Peter Spir, Associate Planner

Planning Manager *JB*      Development Review Engineer *EL*

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## GENERAL INFORMATION

**OWNER/  
APPLICANT:** O'Brien and Company, LLC  
PO Box 4008  
Wilsonville, OR 97068

**CONSULTANT:** AKS Engineering, 12965 SW Herman Road, Suite 100, Tualatin, OR 97062

**SITE LOCATION:** Property is to the west of the southern terminus of Evah Lane

**SITE SIZE:** 40,960 square feet

**LEGAL  
DESCRIPTION:** Tax lot 3800 Assessor's Map 31E 2BC (including part of tax lot 4001 by lot line adjustment (LLA-17-02))

**COMP PLAN  
DESIGNATION:** Low-Density Residential

**ZONING:** R-10, Single-Family Residential Detached (10,000 sq. ft. min. lot size)

**APPROVAL  
CRITERIA:** Community Development Code (CDC) Chapter 11: Single-Family Residential Detached, R-10; Chapter 28: Tualatin River Protection Area; Chapter 32: Water Resource Area; Chapter 48: Access, Egress and Circulation; Chapter 85: Land Division, General Provisions; Chapter 92: Required Improvements; Chapter 99: Procedures for Decision Making: Quasi-Judicial.

**120-DAY RULE:** The application became complete on December 5, 2017. The 120-day period therefore ends on April 4, 2018.

**PUBLIC NOTICE:** Notice was mailed to property owners within 500 feet of the subject property and the Willamette Neighborhood Association on December 7, 2017. A sign was placed on the property on December 11, 2017. The notice was also posted on the City's website on December 7, 2017. Therefore, public notice requirements of CDC Chapter 99 have been met.

## EXECUTIVE SUMMARY

The applicant seeks approval for a three-lot partition of a 40,960 square foot lot located on the west side of the southern terminus of Evah Lane. All flag lots will access Evah Lane using a private driveway along the north property line. The applicant proposed, and CDC 85.200 and 92.010 allows, the construction of equivalent Evah Lane street improvements north of the site instead of improvements adjacent to the property as generally shown in Figure 10 and stated in Condition of Approval 3.

All lots will exceed 10,000 square feet, consistent with the R-10 zone designation.

Water Resource Area and Tualatin River Protection permits are also required; however, no development of those areas is proposed other than the temporary disturbance associated with installing sanitary sewer connections to the existing sewer main.

**Public comments:** John and Kathleen Kreitzberg submitted an e-mailed comment on December 27, 2017. (See Public Comments Exhibit)

## DECISION

The Planning Manager (designee) approves this application (MIP-17-03), based on: 1) the findings submitted by the applicant, which are incorporated by this reference, 2) supplementary staff findings included in the Addendum below, and 3) the addition of conditions of approval below. With these findings, the applicable approval criteria are met. The conditions are as follows:

1. **Site Plan.** With the exception of modifications required by these conditions, the final plat shall conform to the submitted Tentative Plan, revised date of 3-2-2017, (Figure 8 and 9 of this report).
2. **Engineering Standards.** All public improvements and facilities including street improvements, utilities, grading, onsite storm water design, street lighting, street trees, easements, and easement locations are subject to the Public Works Director's review, modification, and approval per the City adopted Public Works standards. The applicant shall provide an updated utility and public improvements plan for review and approval by the Public Works Director that addresses the required changes identified in the attached Staff Findings. All improvements must be designed, constructed, and completed prior to final plat approval. The Director of Public Works may allow a waiver of improvements as allowed by Code.
3. **Evah Lane Improvements.** Prior to the approval of the final plat, the applicant shall complete agreed upon off-site street improvements commencing in the Evah

Lane ROW 20 feet south of the northeast corner of the property and extending north approximately 130 feet as generally shown in Figure 10.

4. **Mutual access and utility easement.** A 24 foot wide mutual access and utility easement shall be recorded on the face of the final plat benefitting lots 1, 2, 3 and 1390 Evah Lane.
5. **Minimum lot width.** Proposed parcels shall be reconfigured on the final plat to provide an average width of at least 50 feet.
6. **Shared Driveway.** The shared driveway shall be widened to a 20 foot paved width for that portion in front, or to the north, of lot 3 and may transition to a 16 foot width west of the driveway serving the house on lot 3. The driveway section serving lots 1 and 2 shall be 16 feet wide.
7. **Future ROW Vacation.** The applicant shall provide and record a legal document, acceptable to the City, that waives remonstrance to future vacation of Evah Lane ROW, adjacent to lot 3, by current and future owners of these partitioned lots.

The provisions of the Community Development Code Chapter 99 have been met. Per CDC 99.160 (B) (7), I declare to have no past or present involvement with the applicant, other interested persons or the property and I am able to render a fair and impartial decision.

*Peter Spir*

*Jan. 29, 2018*

\_\_\_\_\_  
Peter Spir, Associate Planner  
(Designee)

\_\_\_\_\_  
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 Director 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 29th day of January, 2018.

Therefore, the 14-day appeal period ends at 4 p.m., on February 12, 2018.

**ADDENDUM  
APPROVAL CRITERIA AND FINDINGS  
MIP-16-04**

This decision adopts the findings for approval contained within the applicant’s submittal, with the following exceptions and additions:

**CHAPTER 11  
SINGLE-FAMILY RESIDENTIAL DETACHED, R-10**

**11.030 PERMITTED USES**

*The following are uses permitted outright in this zoning district*

1. *Single-family detached residential unit. (...)*

**Staff Finding 1: The application is for the creation of three lots to accommodate one single family detached residential unit on each lot. Single family detached residential units are permitted uses. The criteria is 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:*

1. *The minimum lot size shall be 10,000 square feet for a single-family detached unit.*
2. *The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.*
3. *The average minimum lot width shall be 50 feet. (...)*
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 rear yard, 20 feet.*
6. *The maximum building height shall be 35 feet, except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.*
7. *The maximum lot coverage shall be 35 percent. (...)*
9. *The floor area ratio shall be 0.45. (...)*

**Staff Finding 2: The 40,960 square foot property will be divided into three lots. All lots will exceed the 10,000 square foot minimum lot size. Section 11.070(3) requires an average minimum lot width of 50 feet. The proposed lot average widths are 57 feet for lot 3 and 51 feet for lot 1. Lot 2 has an average lot width of 49 feet each, just under the required 50 foot**



average minimum lot width. An adjustment in lot lines at final platting can achieve the requisite lot widths. Condition of approval 5 addresses this. The criteria is met.

At the time that building permits are applied for, the front, side and rear setbacks, building height, lot coverage, FAR and sidewall transition requirements will be reviewed for compliance. The criteria is met.

## **CHAPTER 28: WILLAMETTE AND TUALATIN RIVER PROTECTION AREA**

### **28.110 APPROVAL CRITERIA**

*A. Development: All sites.*

*1. Sites shall first be reviewed using the HCA Map to determine if the site is buildable or what portion of the site is buildable. HCAs shall be verified by the Planning Director per CDC 28.070 and site visit. Also, "tree canopy only" HCAs shall not constitute a development limitation and may be exempted per CDC 28.070(A). The municipal code protection for trees and Chapters 55 and 85 CDC tree protection shall still apply.*

*2. HCAs shall be avoided to the greatest degree possible and development activity shall instead be directed to the areas designated "Habitat and Impact Areas Not Designated as HCAs," consistent with subsection (A)(3) of this section.*

*(....)*

**Staff Finding 3:** The applicant delineated the HCA boundary on Sheet P02 which agrees with the adopted City's adopted Habitat Conservation Area (HCA) mapping. No exemption per 28.070(A) is appropriate since this is not a "tree canopy only" HCA given the proximity of the delineated wetland on the property. The southern half of this property is within an HCA. No development will occur in that area with the exception of the temporary disturbance associated with trenching sanitary sewer laterals. All permanent development will occur in lands designated "Habitat and Impact Areas Not Designated as HCAs" (Sheet P07). By avoiding the HCAs, the criteria is met.

*C. Setbacks from top of bank.*

*1. Development of single-family homes or attached housing on lands designated as "Habitat and Impact Areas Not Designated as HCAs" shall require a structural setback of 15 feet from any top of bank that represents the edge of the land designated as "Habitat and Impact Areas Not Designated as HCAs."*

**Staff Finding 4:** All development, including home construction, will occur on lands designated as "Habitat and Impact Areas Not Designated as HCAs". Although the upper edge of the HCA is on a slope, it is not associated with a top of bank; therefore a 15 foot setback is not required from the HCA boundary. The criteria is met.

*H. Partitions, subdivisions and incentives.*

- 1. When dividing a property into lots or lots, an applicant shall verify the boundaries of the HCA on the property.*
- 2. Applicant shall partition or subdivide the site so that all lots or lots have a buildable site or envelope available for home construction located on non-HCA land or areas designated "Habitat and Impact Areas Not Designated as HCAs" per the HCA Map.*
- 3. Development of HCA-dominated lands shall be undertaken as a last resort. A planned unit development (PUD) of Chapter 24 CDC may be required.*

**Staff Finding 5: Staff has verified the location of the HCA on the property based on Metro's criteria. The applicant's lot layout accommodates home construction on non-HCA land or areas designated "Habitat and Impact Areas Not Designated as HCAs." No development of HCA lands will occur. (Temporary disturbance of the HCA will occur for the purpose of installing private sanitary sewer lines from homes to the existing public sanitary sewer line at the bottom of the hill as shown in the applicant's Sheet P09. Once the private sanitary sewer lines are installed, the trenches will be backfilled, the original grade will be restored and revegetated, per CDC 32.080, with native plant material.) The criteria is met.**

- 4. Incentives are available to encourage provision of public access to, and/or along, the river. By these means, planned unit developments shall be able to satisfy the shared outdoor recreation area requirements of CDC 55.100(F). Specifically, for every square foot of riverfront path, the applicant will receive credit for two square feet in calculating the required shared outdoor recreation area square footage.*

(...)

**Staff Finding 6: No public access from the terminus of Evah Lane to the Tualatin River is appropriate since the applicant's property is not contiguous to the Tualatin River and this is not a Planned Unit Development application. (Public access to the Tualatin River is already facilitated by a trail located 400 feet to the west of Evah Lane through the City owned "River Bluff Open Space".) The criteria does not apply.**

- L. Roads, driveways, utilities, or passive use recreation facilities. Roads, driveways, utilities, public paths, or passive use recreation facilities may be built in those portions of HCAs that include wetlands, riparian areas, and water resource areas when no other practical alternative exists but shall use water-permeable materials unless City engineering standards do not allow that. Construction to the minimum dimensional standards for roads is required. Full mitigation and revegetation is required, with the applicant to submit a mitigation plan pursuant to CDC 32.070 and a revegetation plan pursuant to CDC 32.080. The maximum disturbance width for utility corridors is as follows:*

- 1. For utility facility connections to utility facilities, no greater than 10 feet wide.*

(...)

**Staff Finding 7: Temporary disturbance of the HCA and WRA will occur for the purpose of installing private sanitary sewer laterals from homes to the existing public sanitary sewer line**

at the bottom of the hill as shown in the applicant's Sheet P09. There is no alternative sewer routing available. The temporary trenches will be less than 10 feet wide. Once the private sanitary sewer laterals are installed, the trenches will be backfilled and revegetated, per CDC 32.090 and 32.100. The criteria is met.

*T. Changing the landscape/grading.*

*1. Existing predominant topographical features of the bank line and escarpment shall be preserved and maintained except for disturbance necessary for the construction or establishment of a water related or water dependent use. Measures necessary to reduce potential bank and escarpment erosion, landslides, or flood hazard conditions shall also be taken.*

**Staff Finding 8: The Tualatin River bank line is 135 feet from the partition site; therefore this criteria does not apply. (There is no "escarpment" along this section of the Tualatin River.)**

*U. Protect riparian and adjacent vegetation. Vegetative ground cover and trees upon the site shall be preserved, conserved, and maintained according to the following provisions:*

*1. Riparian vegetation below OHW removed during development shall be replaced with indigenous vegetation, which shall be compatible with and enhance the riparian environment and approved by the approval authority as part of the application.*

(...)

**Staff Finding 9: "Riparian and adjacent vegetation" describes vegetation in areas adjacent to the river; specifically, below the Ordinary High Water (OHW) Mark. This property is 135 feet from the river and the OHW so this criteria does not apply.**

## **CHAPTER 32: WATER RESOURCE AREA PROTECTION**

### **32.060 APPROVAL CRITERIA (STANDARD PROCESS)**

*No application for development on property containing a WRA shall be approved unless the approval authority finds that the proposed development is consistent with the following approval criteria, or can satisfy the criteria by conditions of approval:*

*A. WRA protection/minimizing impacts.*

*1. Development shall be conducted in a manner that will avoid or, if avoidance is not possible, minimize adverse impact on WRAs.*

*2. Mitigation and re-vegetation of disturbed WRAs shall be completed per CDC 32.090 and 32.100, respectively.*

**Staff Finding 10: The WRA is associated with a delineated wetland at the southern edge of the property. The hill adjacent to the wetland has a slope of 22-24 percent. According to Table 32-2 and Figure 32-3, where there is a slope under 25 percent, the transition area shall extend 65 feet up the hill. No development will occur in this area. Temporary disturbance of**

the WRA transition area, will occur for the purpose of installing private sanitary sewer laterals from homes to the existing public sanitary sewer line at the bottom of the hill as shown in the applicant’s Sheet P09. The temporary trenches will be less than 10 feet wide. Once the private sanitary sewer laterals are installed, the trenches will be backfilled and revegetated, per CDC 32.090 and 32.100. The criteria is met.

*B. Storm water and storm water facilities.*

1. *Proposed developments shall be designed to maintain the existing WRAs and utilize them as the primary method of storm water conveyance through the project site unless (...)*
2. *Public and private storm water detention, storm water treatment facilities and storm water outfall or energy dissipaters (e.g., rip rap) may encroach into the WRA if: (...)*

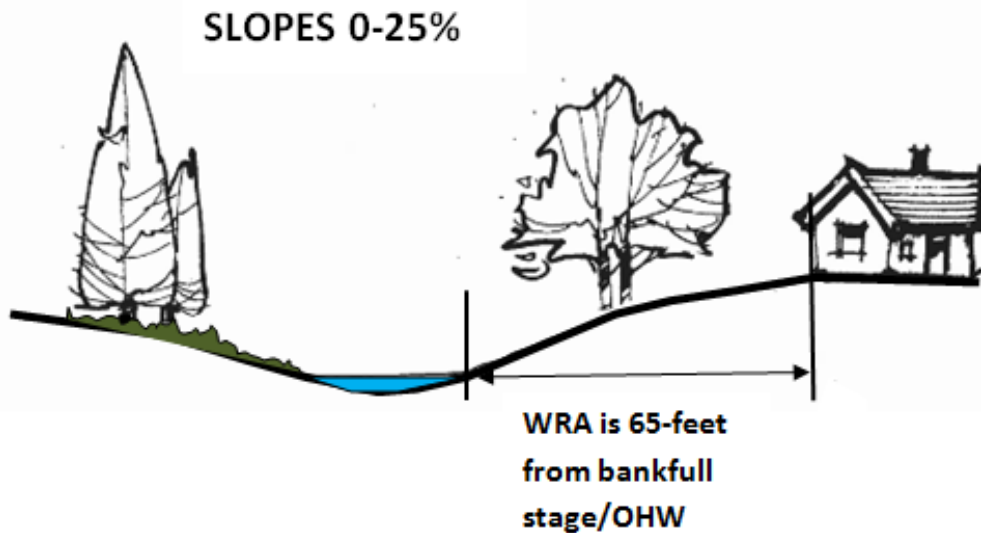
**Staff Finding 11: No storm water facilities are proposed in the WRA. The applicant shows the proposed rain garden locations being a minimum of 60 feet outside the WRA transition area (see Sheet P09). The criteria is met.**

*D. WRA width. Except for the exemptions in CDC 32.040, applications that are using the alternate review process of CDC 32.070, or as authorized by the approval authority consistent with the provisions of this chapter, all development is prohibited in the WRA as established in Table 32-2 below:*

Table 32-2. Required Width of WRA

Protected WRA Resource (see Chapter 2 CDC, Definitions)	Slope Adjacent to Protected Water Resource <sup>1, 3</sup>	Starting Point for Measurements from Water Resource <sup>1, 3</sup>	Width of WRA on Each Side of the Water Resource
A. Water Resource	0% - 25%	OHW or delineated edge of wetland	65 feet

Figure 32-3



**Staff Finding 12:** The WRA is associated with a delineated wetland at the southern edge of the property. The hill adjacent to the wetland has a slope of 22-24 percent. According to Table 32-2 above, where there is a slope under 25 percent, the transition area shall extend 65 feet up the hill. No development will occur in this area. Whereas the applicant shows a transition area (“*Water Resource Area Boundary*”) of 50 feet on applicant’s Map/Sheet P02, it should be 65 feet. Any future development (homes, accessory structures, etc.) will be required to meet the correct setback at the time of building permit application. The criteria is met.

*E. Per the submittals required by CDC [32.050\(F\)\(4\)](#), the applicant must demonstrate that the proposed methods of rendering known or potential hazard sites safe for development, including proposed geotechnical remediation, are feasible and adequate to prevent landslides or other damage to property and safety. The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to mitigate known risks of landslides or property damage.*

**Staff Finding 13:** Review of adopted City Hazard Map 16: “*Potential Landslides*” (Figure 6) indicates that there are no areas of geologic instability or potential landslides at this location. However, Hazard Map 17: “*Landslide Vulnerability Analysis*” indicates that this is a “landslide hazard area”, based on the presence of slopes over 25 percent. To address this, the Building Official has the authority to require site specific geologic/soil testing at the time of building permit application. The criteria is met.

Please note that this application was submitted September 7, 2017 which is prior to the November 8, 2017 effective date of Ordinance 1662 which requires additional geotechnical study. Therefore, this application is vested under the provisions in place at the time of the application and the newly adopted provisions do not apply.

*F. Roads, driveways and utilities.*

1. *New roads, driveways, or utilities shall avoid WRAs unless the applicant demonstrates that no other practical alternative exists. In that case, road design and construction techniques shall minimize impacts and disturbance to the WRA by the following methods:*

*(....)*

**Staff Finding 14:** No permanent disturbance or development (roads or driveways) in the WRA is proposed. Temporary disturbance of the WRA will occur for the purpose of installing private sanitary sewer laterals from homes to the existing public sanitary sewer line at the bottom of the hill as shown in the applicant's Sheet P09. The temporary trenches will be less than 10 feet wide and subsequently backfilled and revegetated, per CDC 32.090 and 32.100. The criteria is met.

## **CHAPTER 48 ACCESS, EGRESS AND CIRCULATION**

### **48.020 APPLICABILITY AND GENERAL PROVISIONS**

B. All lots shall have access from a public street or from a platted private street approved under the land division chapter.

**Staff Finding 15:** Lots 1, 2 and 3 will access Evah Lane using eight foot wide flag lot stems overlaying a paved driveway on the north edge of the property as allowed by 48.030(B) (2). The paved driveway is currently 16 feet wide. In order to facilitate a turn radius for TVFR, the shared driveway shall be widened to a 20 foot paved width for that portion in front, or to the north, of lot 3 and may transition to a 16 foot width to the west of the driveway serving the house on lot 3 per condition of approval 6.

A shared 24 foot wide mutual access easement and utility easement for the benefit of all lots will be established and recorded per Condition of Approval 4. (1390 Evah Lane already has a recorded 20 foot access easement and use of the existing driveway across the subject property.) The criteria is met.

*F. Property owners shall not be compelled to access their homes via platted stems of flag lots if other driveways and easements are available and approved by the City Engineer.*

**Staff Finding 16:** The applicant will use flag lots to access Evah Lane. The use of a flag lot configuration is appropriate since no reasonable street access is possible on those portions of Evah Lane ROW where there is a 22-24 percent slope which exceeds the allowed street grade of 15 percent. The flag lot stems will overlay an existing paved driveway across the north edge of the property. The owner of 1390 Evah Lane currently has legal access via that driveway and a 20 foot wide access easement recorded in 1980. The criteria is met.

48.025 ACCESS CONTROL

B. Access Control Standards

1. *Traffic impact analysis requirements. The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also CDC 55.125, Traffic Impact Analysis.)*

**Staff Finding 17: No Traffic Impact Analysis (TIA) is required since none of the criteria of 85.170(B) (2) are met. For example, an Average Daily Trip count (ADT) of 250 is required before a TIA is needed. The addition of three new homes should only generate a combined ADT of 28.71 trips per day based on the Institute of Traffic Engineers (ITE) expected trip generation of 9.57 trips per household. This criteria is met.**

2. *The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.*

**Staff Finding 18: The use of the shared driveway will appropriately consolidate access for all lots. The dimensions of the driveway are stated in Condition of Approval 6. A 24 foot wide mutual access and utility easement, for the benefit of Lots 1, 2, 3 and 1390 Evah Lane, will be required to overlay the shared driveway per Condition of Approval 4. This criterion is met.**

(...)

48.030 MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES

B. *When any portion of any house is less than 150 feet from the adjacent right-of-way, access to the home is as follows:*

1. *One single-family residence, including residences with an accessory dwelling unit as defined in CDC 02.030, shall provide 10 feet of unobstructed horizontal clearance. Dual-track or other driveway designs that minimize the total area of impervious driveway surface are encouraged.*

2. *Two to four single-family residential homes equals a 14- to 20-foot-wide paved or all-weather surface. Width shall depend upon adequacy of line of sight and number of homes.*

3. *Maximum driveway grade shall be 15 percent.*

(....)

**Staff Finding 19:** The home on lot 3 is expected to be less than 150 feet from Evah Lane ROW. The driveway shall be 20 feet wide for that portion in front, or to the north, of lot 3 and may transition to a 16 foot width west of the driveway serving the house on lot 3. The driveway serving lots 1 and 2 will be 16 feet wide. A 24 foot wide mutual access and utility easement will be established per Condition of Approval 4. The proposed driveway widths meet the 14-20 foot standard of 48.030(B) (2). The existing driveway has a 12 percent grade which also meets the allowed 15 percent standard. The criteria is met.

*C. When any portion of one or more homes is more than 150 feet from the adjacent right-of-way, the provisions of subsection B of this section shall apply in addition to the following provisions.*

- 1. A turnaround may be required as prescribed by the Fire Chief.*
- 2. Minimum vertical clearance for the driveway shall be 13 feet, six inches.*
- 3. A minimum centerline turning radius of 45 feet is required unless waived by the Fire Chief.*
- 4. There shall be sufficient horizontal clearance on either side of the driveway so that the total horizontal clearance is 20 feet.*

**Staff Finding 20:** Portions of the homes on lots 1 and 2 are expected to be more than 150 feet from Evah Lane ROW. The applicant's proposal to use an existing 16 foot wide paved driveway to access Lots 1 and 2, plus 1390 Evah Lane, is appropriate. The portion of the driveway adjacent to lot 3 must be widened to 20 feet. The driveway in front of lot 3 may transition to a 16 foot width west of the driveway serving the house on lot 3. These driveway dimensions meet the required 14-20 foot driveway width of 48.030(B) (2). The driveway has a 12 percent grade which meets the maximum allowed grade of 15 percent per 48.030(B) (3). To satisfy the requirements of 48.030 (C), Ty Darby, TVFR Deputy Fire Marshall stated in an October 21, 2016 e-mail, that *"it would be safest for our apparatus to perform turn-a-round movements at the top of the hill. In the NE corner of Evah Lane there appears to be a small existing vehicle turn-a-round which would be beneficial for fire apparatus turning movements."* The widened driveway adjacent to lot 3 will provide improved turning radius for TVFR. The criteria is met.

## **CHAPTER 55 DESIGN REVIEW**

### **55.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW**

*(Design Review is only applicable to significant trees as cross referenced by CDC 85.200(J) (9))*

*B. Relationship to the natural and physical environment.*



1. *The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the municipal code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction.*

2. *All heritage trees, as defined in the municipal code, all trees and clusters of trees (“cluster” is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections (B)(2)(a) through (f) of this section. (...)*

*Non-residential and residential projects on Type I and II lands shall protect all heritage trees and all significant trees and tree clusters by limiting development in the protected area. (...)*

**Staff Finding 21: There are no heritage trees and only two significant trees on the subject property. The two trees are #20031 – 48” Douglas Fir and #20046 – 47” Douglas Fir located on lot 3 (see Sheet P06). Both trees will be preserved. Additionally, the applicant proposes to retain 21 trees out of 31. The criteria is met.**

## **CHAPTER 85**

### **GENERAL PROVISIONS (LAND DIVISION)**

#### *85.200 APPROVAL CRITERIA*

*No tentative subdivision or partition plan shall be approved unless adequate public facilities will be available to provide service to the partition or subdivision area prior to final plat approval and the Planning Commission or Planning Director, as applicable, finds that the following standards have been satisfied, or can be satisfied by condition of approval.*

#### *A. Streets.*

1. *General. The location, width and grade of streets shall be considered in their relation to existing and planned streets (...) Internal streets are the responsibility of the developer. All streets bordering the development site are to be developed by the developer with, typically, half-street improvements or to City standards prescribed by the Public Works Director. (...)*

**Staff Finding 22: All flag lots will access a public street (Evah Lane) via the shared driveway. The driveway shall be 20 feet wide for that portion in front, or to the north, of lot 3 and may transition to a 16 foot width west of the driveway serving the house on lot 3. The driveway serving lots 1 and 2 will be 16 feet wide. A 24 foot wide mutual access and utility easement will be established per Condition of Approval 4. The criteria is met.**

The applicant proposed, and CDC 85.200 and 92.010 allows, the construction of equivalent Evah Lane street improvements north of the site instead of improvements adjacent to the property as generally shown in Figure 10 and stated in Condition of Approval 3. This adjustment in street improvements was necessitated due to the steep 22-24 percent grade in the adjacent Evah Lane ROW and the finding that there is no opportunity for the extension or connectivity of Evah Lane to 14<sup>th</sup> Street.

The off-site improvements commence 20 feet south of the northeast corner of the property and extend north approximately 130 feet as shown in Figure 10 and as required in Condition of Approval 3. Since the applicant has agreed to this, no nexus and proportionality analysis is required. The criteria is met.

2. *Right-of-way and roadway widths.*

3. *Street widths. Street widths shall depend upon which classification of street is proposed. The classifications and required cross sections are established in Chapter 8 of the adopted TSP. (...)*

4. *The decision-making body shall consider the Public Works Director's recommendations on the desired right-of-way width, pavement width and street geometry of the various street types within the subdivision after consideration by the Public Works Director of the following criteria: (...)*

**Staff Finding 23:** The Evah Lane right of way (ROW) adjacent to the property is 60 feet wide. This ROW width meets the recommended ROW width for local streets per the adopted 2016 Transportation System Plan (TSP). No additional ROW is needed.

The applicant proposed, and CDC 85.200 and 92.010 allows, the construction of equivalent Evah Lane street improvements north of the site instead of improvements adjacent to the property as generally shown in Figure 10 and stated in Condition of Approval 3. This adjustment in street improvements was necessitated due to the steep 22-24 percent grade in the adjacent Evah Lane ROW and the finding that there is no opportunity for the extension or connectivity of Evah Lane to 14<sup>th</sup> Street.

The off-site improvements commence 20 feet south of the northeast corner of the property and extend north approximately 130 feet as shown in Figure 10 and as required in Condition of Approval 3. The existing 12 foot wide street north of the property will be reconstructed to a 20 foot width with a sidewalk on the west side. These improvements are consistent with the TSP "Local Constrained" street cross section. Since the applicant has agreed to this, no nexus and proportionality analysis is required.

Since the Evah Lane ROW adjacent to the site is not being improved except for the northern 20 feet, and there is no need for the ROW as a street, the applicant shall provide and record a legal document, acceptable to the City, that waives remonstrance to future vacation of the adjacent Evah Lane ROW by current and future owners of these portioned lots, per Condition of Approval 7. The criteria is met.

(...)

16. *Sidewalks. Sidewalks shall be installed per CDC 92.010(H), Sidewalks. The residential sidewalk width is six feet plus planter strip...or to match existing sidewalks or right-of-way limitations.*

(...)

**Staff Finding 24: The applicant will provide approximately 130 lineal feet of street improvements, including a sidewalk, for Evah Lane to the north of the partition property. The criteria is met.**

(...)

19. *All lots in a subdivision shall have access to a public street. Lots created by partition may have access to a public street via an access easement pursuant to the standards and limitations set forth for such accessways in Chapter 48 CDC.*

**Staff Finding 25: All lots will access a public street (Evah Lane) via the shared driveway. The driveway shall be 20 feet wide for that portion in front, or to the north, of lot 3 and may transition to a 16 foot width west of the driveway serving the house on lot 3. The driveway serving lots 1 and 2 will be 16 feet wide. A 24 foot wide mutual access and utility easement will be established per Condition of Approval 4. The criteria is met.**

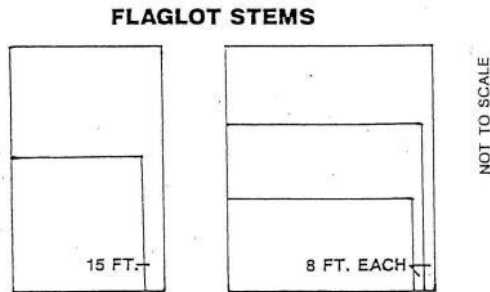
(...)

22. *Based upon the determination of the City Manager or the Manager's designee, the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis commissioned to address CDC 85.170(B)(2) that are required to mitigate impacts from the proposed subdivision. ....*

**Staff Finding 26: The applicant proposed, and CDC 85.200 and 92.010 allows, the construction of equivalent Evah Lane street improvements north of the site instead of improvements adjacent to the property as generally shown in Figure 10 and stated in Condition of Approval 3. This adjustment in street improvements was necessitated due to the steep 22-24 percent grade in the adjacent Evah Lane ROW and the finding that there is no opportunity for the extension or connectivity of Evah Lane to 14<sup>th</sup> Street.**

**The off-site improvements commence 20 feet south of the northeast corner of the property and extend north approximately 130 feet as shown in Figure 10 and as required in Condition of Approval 3. The existing 12 foot wide street north of the property will be reconstructed to a 20 foot width with a sidewalk on the west side. These improvements are consistent with the TSP "Local Constrained" street cross section. Since the applicant has agreed to this, no nexus and proportionality analysis is required. The criteria is met.**

B. 7. Flag lots. Flag lots can be created where it can be shown that no other reasonable street access is possible to achieve the requested land division. A single flag lot shall have a minimum street frontage of 15 feet for its accessway. Where two to four flag lots share a common accessway, the minimum street frontage and accessway shall be eight feet in width per lot. Common accessways shall have mutual maintenance agreements and reciprocal access and utility easements. The following dimensional requirements shall apply to flag lots:



**Staff Finding 27:** The use of a flag lot configuration is appropriate in this application since no reasonable street access is possible on Evah Lane ROW where there is a 22-24 percent slope which exceeds the allowed street grade of 15 percent.

All flag lots will have eight foot stems. All flag lots will access a public street (Evah Lane) via the shared driveway. The driveway shall be 20 feet wide for that portion in front, or to the north, of lot 3 and may transition to a 16 foot width west of the driveway serving the house on lot 3. The driveway serving lots 1 and 2 will be 16 feet wide. A 24 foot wide mutual access and utility easement will be established per Condition of Approval 4.

A shared 24 foot wide mutual access easement and utility easement for the benefit of all lots will be established and recorded per Condition of Approval 4. (1390 Evah Lane already has a recorded 20 foot access easement and use of the existing driveway across the subject property.) The criteria is met.

C. Pedestrian and bicycle trails.  
(...)

**Staff Finding 28:** The TSP does not identify Evah Lane in the Pedestrian (including Trails) or Bike Plans. (See Figures 7 and 9 of the TSP.) The street design north of the property will include a sidewalk. The criteria is met.

E. Grading. Grading of building sites shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

1. All cuts and fills shall comply with the excavation and grading provisions of the Uniform Building Code and the following (...)

**Staff Finding 29:** The “Preliminary Grading, Erosion and Sediment Control Plan” has been submitted (Sheet P 08) and will comply with the Uniform Building Code. The criteria is met.

(This application was submitted on September 6, 2017 which pre-dates subsequent CDC amendments relating to erosion control, grading and geotechnical studies which became effective November 9, 2017 (Ordinance 1662). Therefore, the application is vested and reviewed by the earlier standards.)

F. Water.

1. *A plan for domestic water supply lines or related water service facilities shall be prepared consistent with the adopted Comprehensive Water System Plan, plan update, March 1987, and subsequent superseding revisions or updates.*
  2. *Adequate location and sizing of the water lines.*
- (....)

**Staff Finding 30:** There is an eight inch water line in Evah Lane that terminates at a fire hydrant adjacent to this property. No extension or looping of that water line is needed.

Private laterals from this water line will serve the lots. The Water Master Plan confirms the adequacy of existing water services and fire flow to serve the three lots.

G. Sewer.

1. *A plan prepared by a licensed engineer shall show how the proposal is consistent with the Sanitary Sewer Master Plan (July 1989). Agreement with that plan must demonstrate how the sanitary sewer proposal will be accomplished and how it is gravity-efficient. The sewer system must be in the correct basin and should allow for full gravity service. (....)*

**Staff Finding 31:** The Sewer Master Plan has confirmed that there is sufficient sanitary system and sewage treatment facility capacity. The applicant proposes to install private laterals from the future homes to the public sanitary sewer line at the bottom of the hill. The criteria is met.

J. Supplemental Provisions

1. *Wetland and natural drainageways.*

**Staff Finding 32:** On-site wetlands and WRAs are discussed in Findings 10-14. The criteria is met.

2. *Willamette and Tualatin Greenways. The Willamette and Tualatin River Greenways shall be protected as required by Chapter 28 CDC, Willamette and Tualatin River Protection.*

**Staff Finding 33: The southern portion of the property is overlain by HCAs associated with the Tualatin River Protection Area and is discussed in Findings 3-9. The criteria is met.**

85.200 (J)...

3. *Street trees. Street trees are required as identified in the appropriate section of the municipal code and Chapter 54 CDC.*

4. *Lighting. All subdivision street or alley lights shall meet West Linn Public Works Design Standards.*

**Staff Finding 34: The applicant will provide street trees and street lighting on Evah Lane, north of the property, as required by the Public Works standards and Condition of Approval**

**2. The criteria is met.**

(...)

6. *Underground utilities.*

*All utilities, such as electrical, telephone, and television cable, that may at times be above ground or overhead shall be buried underground in the case of new development. The exception would be in those cases where the area is substantially built out and adjacent properties have above-ground utilities and where the development site's frontage is under 200 feet and the site is less than one acre. (...)*

**Staff Finding 35: The subject property is exempt from this requirement in that it has less than 200 feet of frontage and is less than an acre (.95 acres). The criteria does not apply.**

(...)

9. *Heritage trees/significant tree and tree cluster protection.*

*All heritage trees, as defined in the Municipal Code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction. All non-heritage trees and clusters of trees (three or more trees with overlapping dripline; however, native oaks need not have an overlapping dripline) that are considered significant by virtue of their size, type, location, health, or numbers shall be saved pursuant to CDC 55.100(B)(2).*

**Staff Finding 36: The City Arborist identified two significant trees on the subject property, both on lot 3. Both trees will be saved. Additionally, 21 of 31 trees on the property will be preserved. There are no heritage trees on this property. The criteria is met.**

**V. CHAPTER 92, REQUIRED IMPROVEMENTS**

**92.020 IMPROVEMENTS IN PARTITIONS**

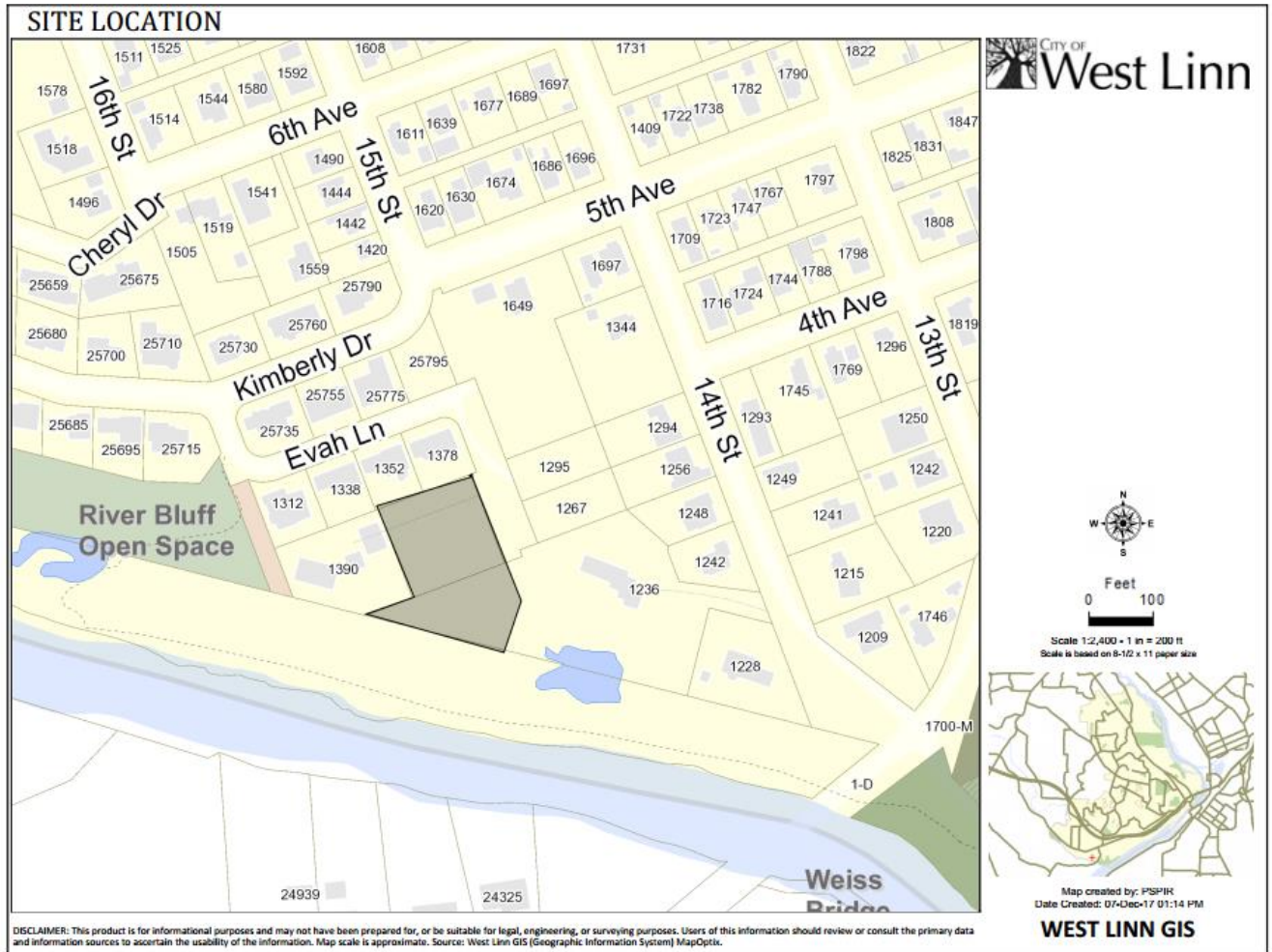
*The same improvements shall be installed to serve each lot of a partition as are required of a subdivision. However, if the approval authority finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, at the written request of the applicant those improvements may be waived. If the street improvement requirements are waived, the applicant shall pay an in-lieu fee for off-site street improvements, pursuant to the provisions of CDC 85.200(A)(1).*

*In lieu of accepting an improvement, the Planning Director may recommend to the City Council that the improvement be installed in the area under special assessment financing or other facility extension policies of the City.*

**Staff Finding 37: The construction of Evah Lane street improvements adjacent to the site: where the 22-24 percent slope exceeds the allowable 15 percent street grade and where there is no possibility for future extension or connectivity- is unreasonable. The applicant proposed, and CDC 85.200 and 92.010 allows, the construction of equivalent Evah Lane street improvements north of the site instead of improvements adjacent to the property as generally shown in Figure 10 and stated in Condition of Approval 3. This adjustment in street improvements was necessitated due to the steep 22-24 percent grade in the adjacent Evah Lane ROW and the finding that there is no opportunity for the extension or connectivity of Evah Lane to 14<sup>th</sup> Street.**

**The off-site improvements commence 20 feet south of the northeast corner of the property and extend north approximately 130 feet as shown in Figure 10 and as required in Condition of Approval 3. The existing 12 foot wide street north of the property will be reconstructed to a 20 foot width with a sidewalk on the west side. These improvements are consistent with the TSP “Local Constrained” street cross section. Since the applicant has agreed to this, no nexus and proportionality analysis is required. The criteria is met.**

**FIGURE 1: LOCATION**

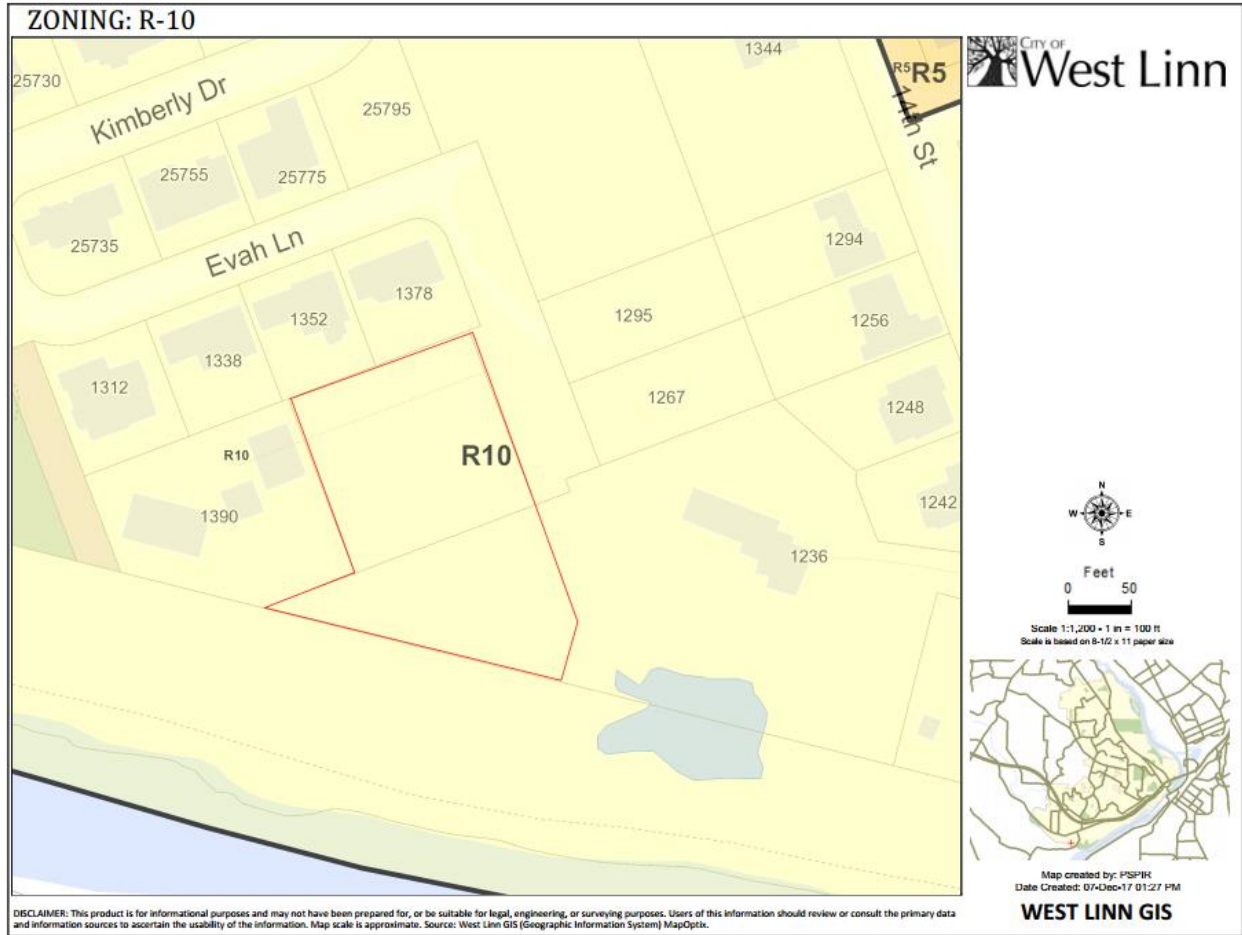




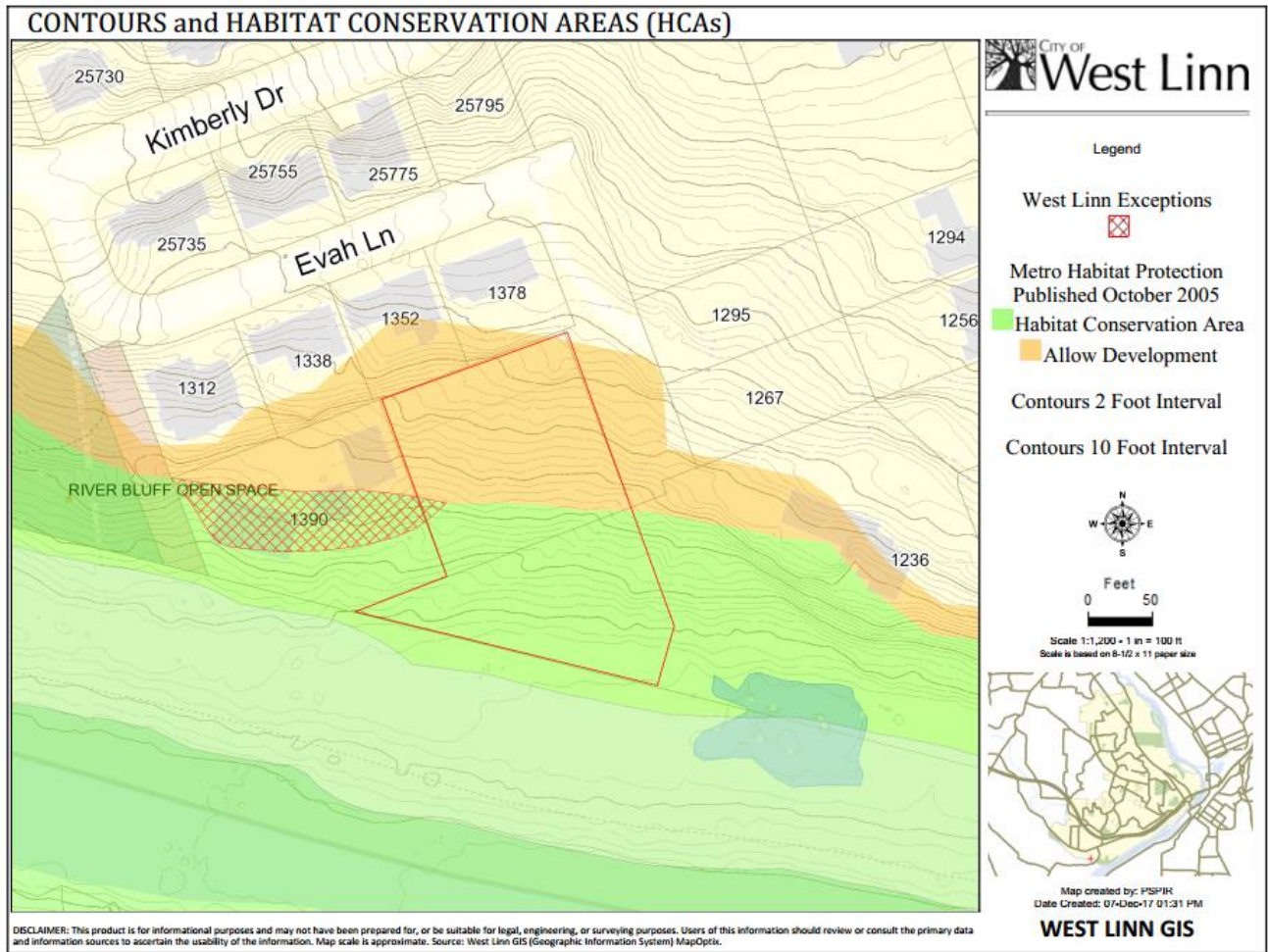
**FIGURE 2: PHOTO OF SITE**



**FIGURE 3: ZONING**

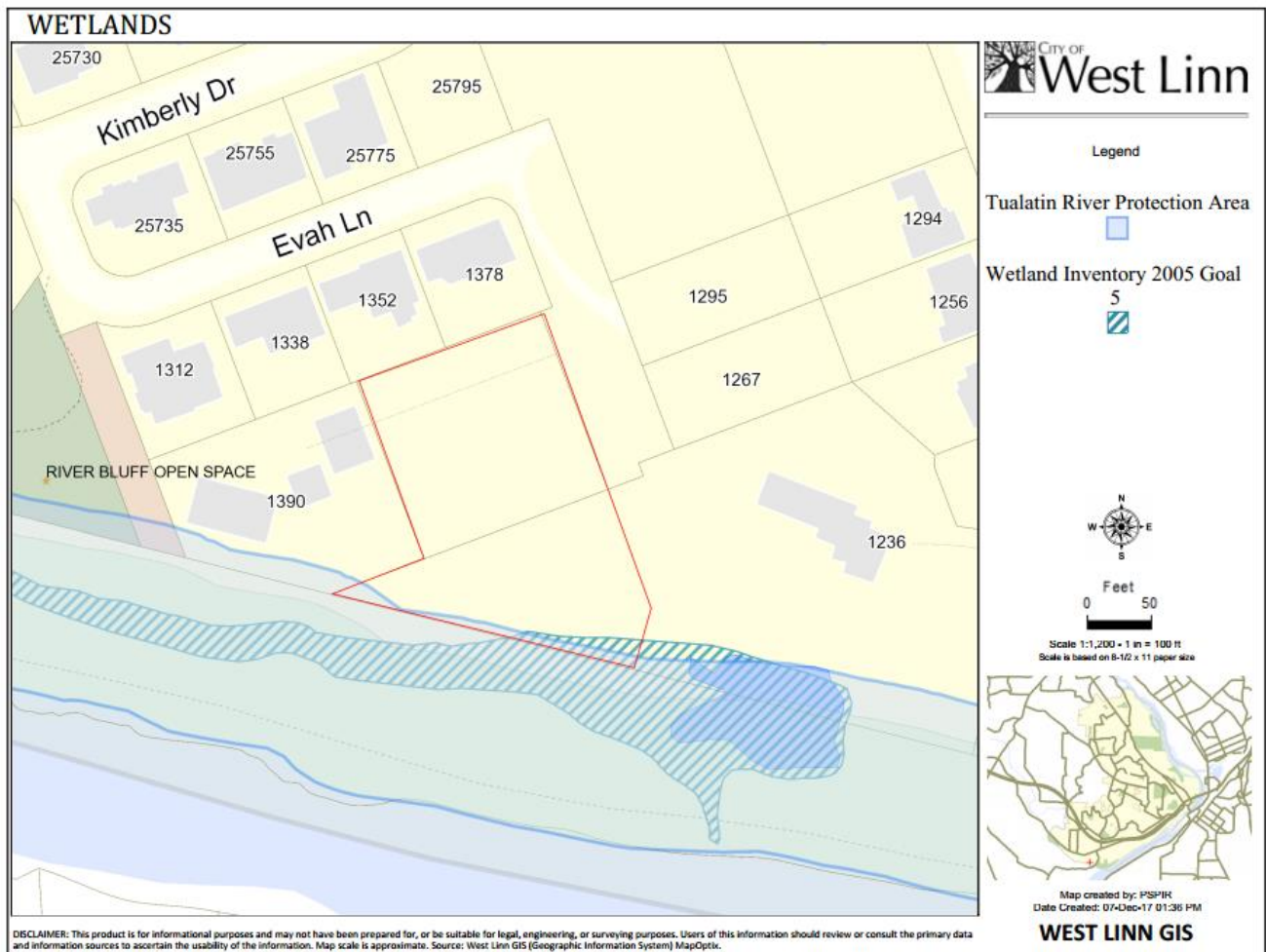


**FIGURE 4: CONTOURS and HABITAT CONSERVATION AREAS (HCAs)**

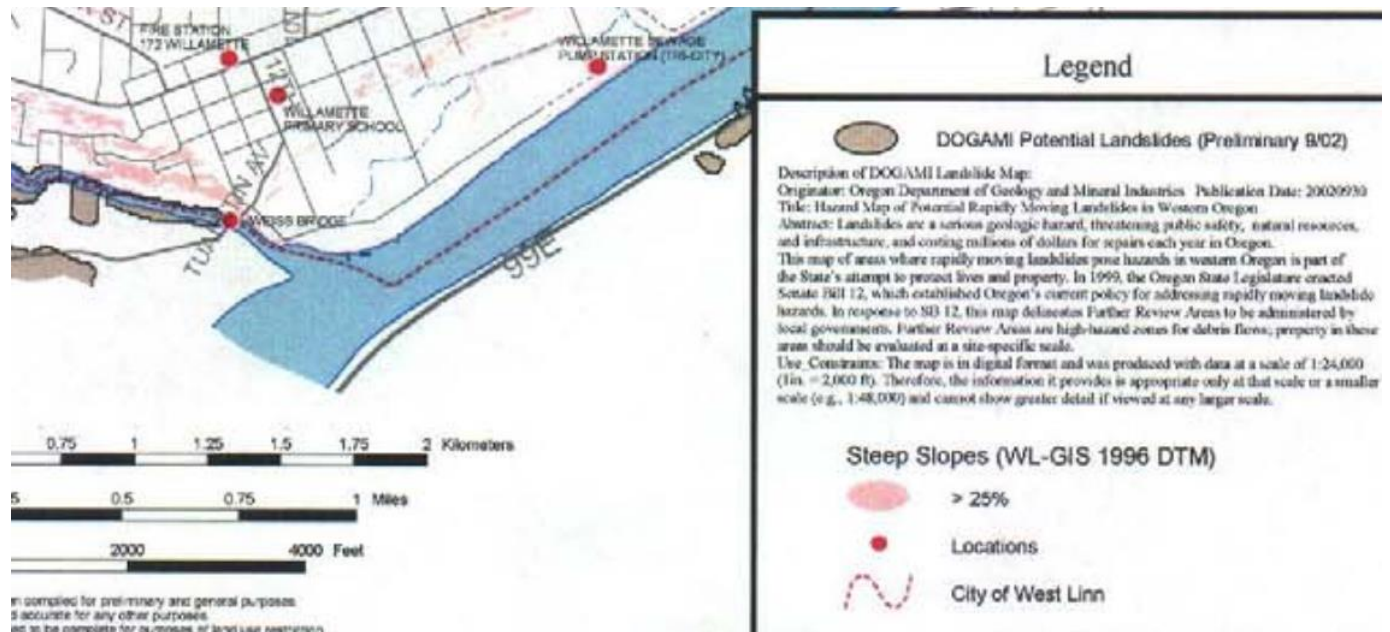
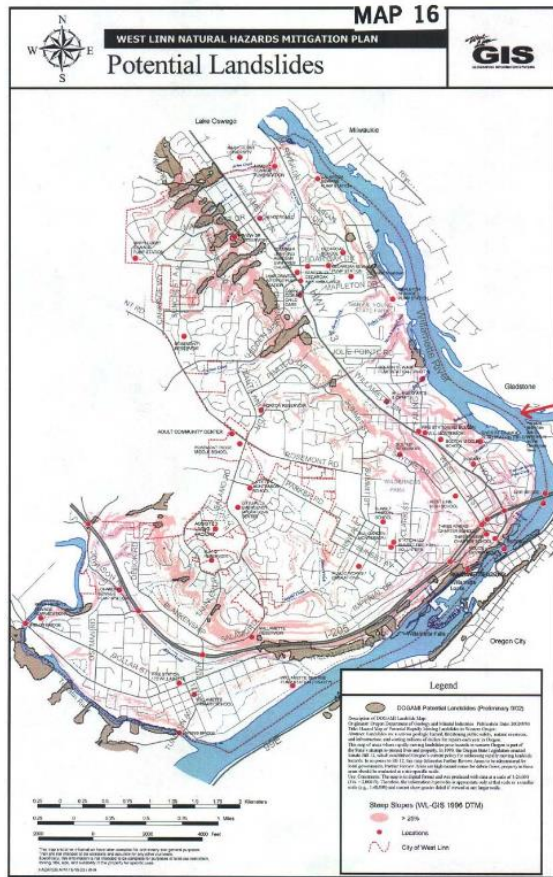




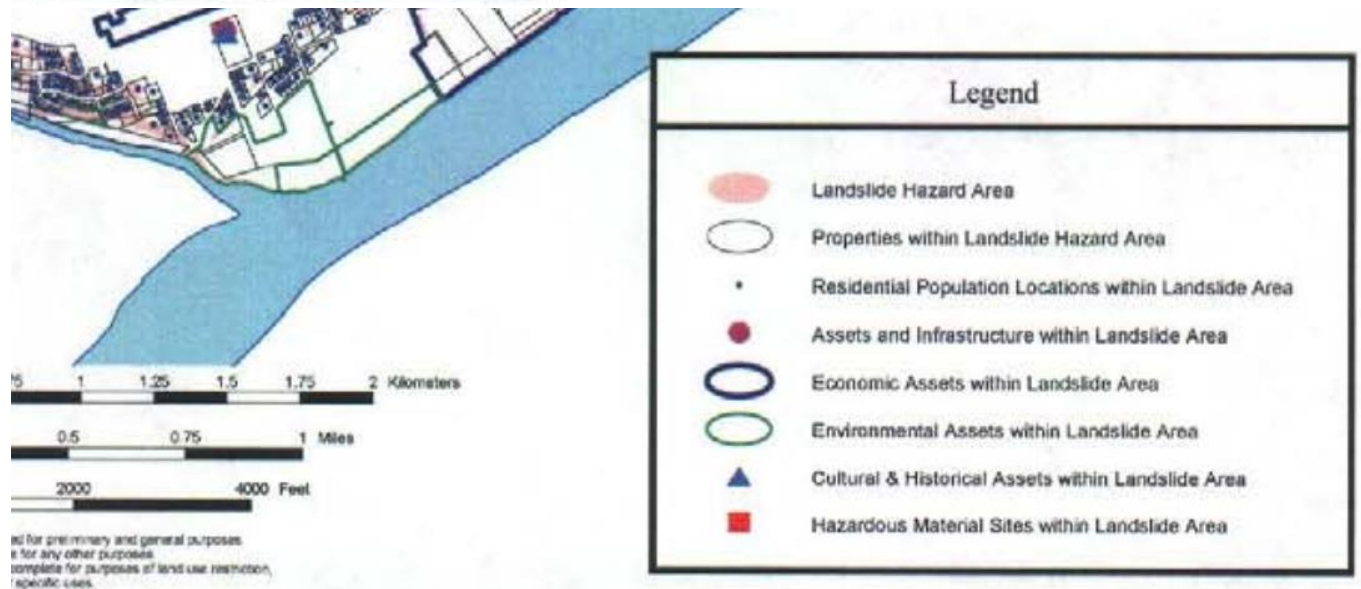
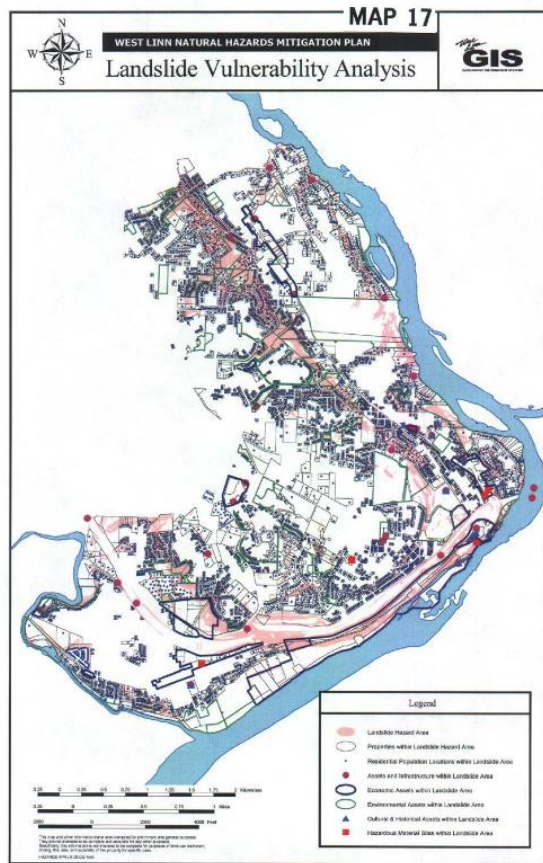
**FIGURE 5: WETLANDS and TUALATIN RIVER PROTECTION AREA**



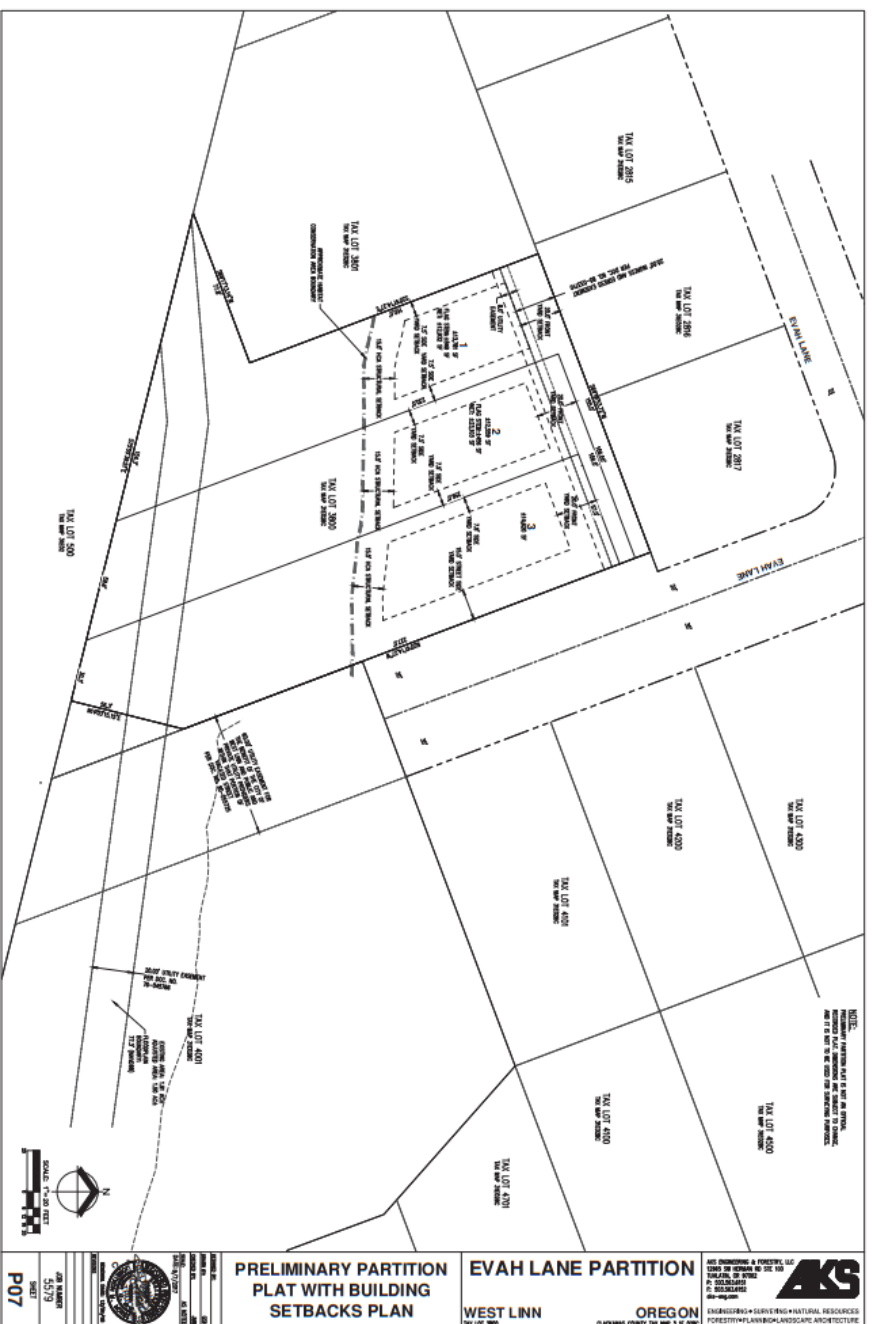
**FIGURE 6: HAZARD MAPS/POTENTIAL LANDSLIDES**



**FIGURE 7: HAZARD MAPS/LANDSLIDE VULNERABILITY ANALYSIS**

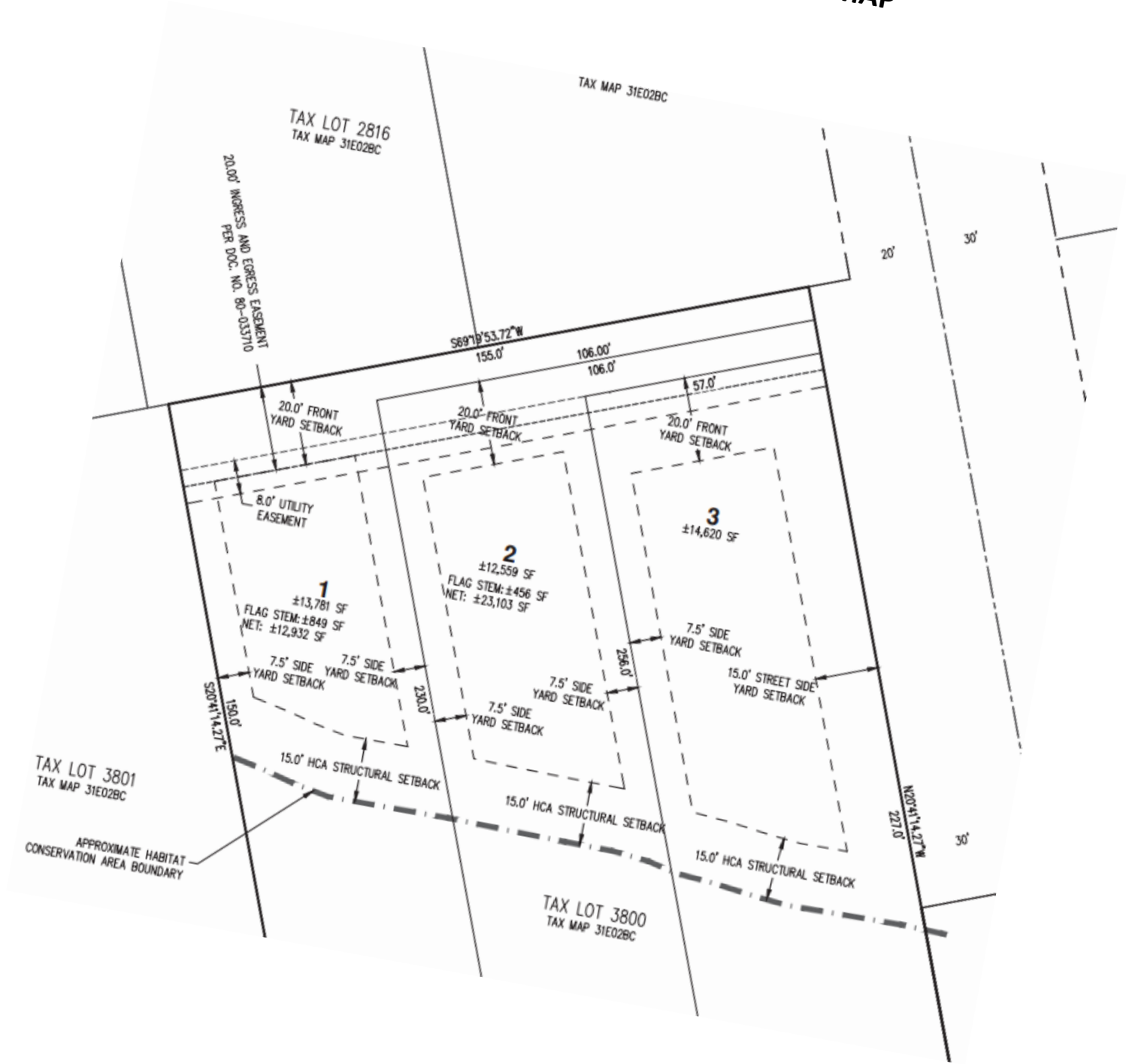


**FIGURE 8: APPROVED 3-2-2017 TENTATIVE PLAN MAP**



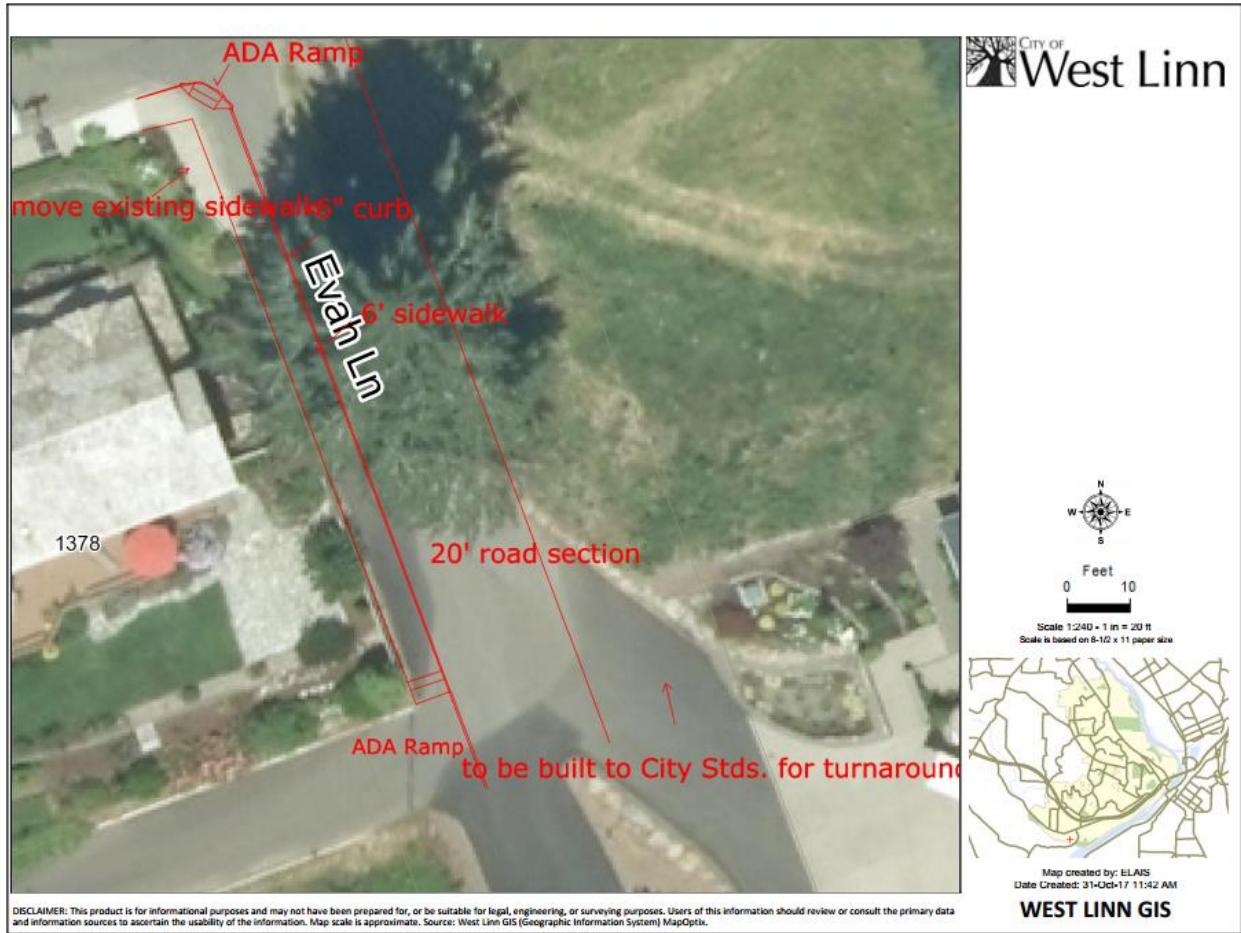


**FIGURE 9: APPROVED 3-2-2017 TENTATIVE PLAN MAP**  
(enlarged)





**FIGURE 10: ADJACENT AND OFF-SITE ROW IMPROVEMENTS**



**PD-1 AFFADAVIT AND NOTICE PACKET**

## **PD-2 COMPLETENESS LETTER**

## **PD-3 APPLICANT'S SUBMITTAL**

## **PD-4 PUBLIC COMMENTS**