

**STAFF REPORT
PLANNING MANAGER DECISION**

DATE: November 18, 2021

FILE NO.: MIP-21-01/VAR-21-03

REQUEST: Approval of a Two-Parcel Minor Partition and Class I Variance at 2185 Willamette Falls Drive

PLANNER: Chris Myers, Associate Planner

Planning Manager DSW

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GENERAL INFORMATION

**APPLICANT/
OWNER:**

Ryan Hixson
2185 Willamette Falls Drive
West Linn, OR. 97068

CONSULTANT:

Ironmark Surveying
PO Box 38
St. Paul, OR. 97137

SITE LOCATION:

2185 Willamette Falls Drive

SITE SIZE:

20,870 Square Feet

LEGAL

DESCRIPTION:

Assessor's Map 31E02AB Tax Lot 03600

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 48: Access, Egress and Circulation
Chapter 75: Variances and Special Waivers
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 July 20, 2021. The 120-day period ends November 17, 2021. A written extension was granted. The application approval period ends December 17, 2021.

PUBLIC NOTICE:

Notice was mailed to property owners within 500 feet of the subject property and to all neighborhood associations August 23, 2021. A sign was placed on the property on September 2, 2021. The notice was also posted on the City's website on August 23, 2021. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The applicant is seeking approval for a two-parcel partition and variance at 2185 Willamette Falls Drive. The property is 20,870 square feet and located on the south side of Willamette Falls Drive, between 9th and 10th Streets. The property is zoned R-10, as are all adjacent properties, and located in the Willamette Neighborhood. Both parcels will take access from Willamette Falls Drive using a shared private access drive.

Proposed Parcel 2 will be a flag lot. As the pole of a flag lot does not count as part of the parcel size, a variance of 4.88% below the required 10,000 square foot lot requirement is requested for Parcel 1, which contains an existing single-family home. A variance is requested for proposed Parcel 2 of 3.26% below the required 10,000 square feet.

The adjacent Willamette Falls Drive right-of-way is approximately 110-feet wide. No right-of-way dedication is required. The site has a slope of 10 percent or less. There are no environmental overlays on the property. There are no significant trees on the property. Water, sanitary sewer, and stormwater infrastructure is available in Willamette Falls Drive. The new home on Parcel 2 will be reviewed for setbacks at the time of building permit application.

Public Comments:

No public comments received for this application

DECISION

The Planning Manager (designee) approves this application (MIP-21-01/VAR-20-03), 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 Preliminary Partition Plat dated 4/1/21 (Exhibit PD-1).
2. **Engineering Standards.** All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite storm water, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. These must be designed, constructed, and completed prior to final plat approval.

- 3. Reciprocal Access and Utility Easement. Prior to final plat approval, the applicant shall record a reciprocal access and utility easement and a mutual maintenance agreement for the shared use of the driveway. The easement recording number shall be provided on the face of the final plat.**

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

Chris J. Myers

Chris Myers, Associate Planner

November 18, 2021

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 18TH day of November 2021.

Therefore, the 14-day appeal period ends at 5 p.m., on December 2, 2021.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
MIP-21-01/VAR-20-03**

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

1. Single-family detached residential unit.

(...)

Staff Finding 1: An existing single-family detached home is located on proposed Parcel 1. A new single-family detached home is allowed on proposed Parcel 2.

The criteria are met.

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

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.

(...)

10. The sidewall provisions of Chapter 43 CDC shall apply.

Staff Finding 2: Proposed parcel one will be 9512 square feet and proposed parcel 2 will be 9674 square feet. The applicant has requested a variance for the two parcels to be less than the 10,000 square foot minimum. See staff finding 18 for variance request and findings.

The front lot line width is 100 feet for parcel one and 80 feet for parcel two. The average lot width is 100 feet for each of the two parcels. Sidewall provisions will be reviewed at time of development.

Pending approval of the proposed variance, the criteria are met

CHAPTER 48, ACCESS CONTROL

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.

(...)

E. Owners of two or more uses, structures, lots, parcels, or units of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the requirements as designated in this code; provided, that satisfactory legal evidence is presented to the City Attorney in the form of deeds,

easements, leases, or contracts to establish joint use. Copies of said instrument shall be placed on permanent file with the City Recorder.

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 3: Access to both parcels is from the section of Willamette Falls Drive classified as a Local Street. Access will be from a shared access drive. An access easement will be required (see condition of approval 3). Parcel two will be a flag lot as there are no other access options for Parcel two.

The criteria are 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 4: No traffic impact analysis (TIA) is required. Average Daily Trip (ADT) will increase approximately 10 trips per day. The threshold for a TIA is an increase of 250 ADTs. The 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 5: An access easement and maintenance agreement is required. A turnaround or hammerhead will be required for the shared driveway as the rear most structure will be more than 150 feet from the right-of-way.

3. Access Options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (planned access shall be consistent with adopted public works standards and TSP). These methods are "options" to the developer/subdivider.

a) Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.

b) Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.

c) Option 3. Access is from a public street adjacent to the development lot or parcel. If practicable, the owner/developer may be required to close or consolidate an existing access

point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in subsection (B)(6) of this section.

Staff Finding 6: Access will be taken from the section of Willamette Falls Drive that is classified as a Local Street via a shared driveway.

The criteria are met

- 4. Subdivisions fronting onto an arterial street.*
- 5. Double frontage lots.*

Staff Finding 7: The proposal is for a two-lot minor partition on the portion of Willamette Falls Drive that is a local street. A double-frontage lot is not proposed. A subdivision is not proposed.

The criteria is not applicable.

- 6. Access spacing.*
 - a. The access spacing standards found in the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections and non-traversable medians. Deviation from the access spacing standards may be granted by the City Engineer if conditions are met as described in the access spacing variances section in the adopted TSP.*
 - b. Private drives and other access ways are subject to the requirements of CDC 48.060.*

Staff Finding 8: The proposal does not include a newly established public street intersection. Access is proposed to be taken from an existing driveway that meets current CDC standards for access spacing. The nearest intersection is approximately 175 feet from the existing driveway.

The criteria is met.

- 7. Number of access points. For single-family (detached and attached), two-family, and duplex housing types, one street access point is permitted per lot or parcel, when alley access cannot otherwise be provided; except that two access points may be permitted corner lots...*

Staff Finding 9: The applicant proposes utilizing an existing driveway and curb cut that takes access from Willamette Falls Drive. The proposal is for the access way to be shared by both parcels and will utilize a reciprocal access easement and mutual maintenance agreement as required by condition of approval 3.

The criteria are met.

- 8. Shared driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. (...)*
 - a. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as*

the adjacent lot or parcel develops. "Developable" means that a lot or parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

b. Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.

c. Exception. Shared driveways are not required when existing development patterns or physical constraints (e.g., topography, lot or parcel configuration, and similar conditions) prevent extending the street/driveway in the future

Staff Finding 10: Proposed Parcels 1 and 2 will take access via a shared private driveway from the section of Willamette Falls Drive classified as a Local Street. A reciprocal access easement and mutual maintenance agreement will be recorded per Condition of Approval 3. All surrounding properties of the proposal are fully developed and prevent extension of the shared access or the development of a new street.

The criteria are met.

C. Street connectivity and formation of blocks required. In order to promote efficient vehicular and pedestrian circulation throughout the City, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

1. Block length and perimeter. The maximum block length shall not exceed 800 feet or 1,800 feet along an arterial.

2. Street standards. Public and private streets shall also conform to Chapter 92 CDC, Required Improvements, and to any other applicable sections of the West Linn Community Development Code and approved TSP.

3. Exception. Exceptions to the above standards may be granted when blocks are divided by one or more pathway(s), in conformance with the provisions of CDC 85.200(C), Pedestrian and Bicycle Trails, or cases where extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations preclude implementation, not just inconveniences or design challenges.

Staff Finding 11: The proposed land division does not include the formation of blocks or any new public or private streets. The frontage of Willamette Falls Drive is in full compliance with city street standards and therefore does not require street improvements for this application. The criteria is meet.

48.030 MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES

A. Direct individual access from single-family dwellings and duplex lots to an arterial street, as designated in the transportation element of the Comprehensive Plan (...)

Staff Finding 12: The proposal is for a partition at the section of Willamette Falls Drive classified as a Local Street.

The criteria is not applicable.

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:

(...)

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

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

4. The driveway shall include a minimum of 20 feet in length between the garage door and the back of sidewalk, or, if no sidewalk is proposed, to the paved portion of the right-of-way.

Staff Finding 13: The existing driveway will be a shared access drive. In its current condition the access way has 20 feet of horizontal clearance and is fully paved. The maximum grade is less than 15 percent. The distance between the garage and the back of the sidewalk is approximately 50 feet.

The criteria are 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 14: Proposed parcel one contains an existing single-family home and driveway. The existing driveway has a horizontal clearance of 20 feet and no vertical clearance obstructions. No changes are proposed. Proposed parcel two has a horizontal clearance of 20 feet and no vertical obstructions. Tualatin Valley Fire & Rescue will review the building permit for any new structure on proposed Parcel two and require appropriate infrastructure. The criteria are met.

D. Access to five or more single-family homes...waived by variance.

(...)

I. Gated accessways to residential development other than a single-family home are prohibited.

Staff Finding 15: The applicant is not proposing five or more single-family homes. The proposal calls for use of the existing curb cut and driveway. No through traffic is proposed. A gated access way is not proposed. No public streets are proposed.

The criteria are met.

48.060 WIDTH AND LOCATION OF CURB CUTS AND ACCESS SEPARATION REQUIREMENTS

A. Minimum curb cut width shall be 16 feet.

*B. Maximum curb cut width shall be 36 feet...
(...)*

**Staff Finding 16: The existing curb cut is 24 feet. Both parcel one and two will utilize the existing curb cut. No changes are proposed to the curb cut.
The criteria are met.**

*C. No curb cuts shall be allowed any closer to an intersecting street right-of-way line than the following:
(...)*

*6. On a local street when intersecting any other street, 35 feet.
(...)*

*D. There shall be a minimum distance between any two adjacent curb cuts on the same side of a public street, except for one-way entrances and exits, as follows:
(...)*

*1. Between any two curb cuts on the same lot or parcel on a local street, 30 feet.
(...)*

**Staff Finding 17: Both parcels one and two will take access from an existing curb cut on the section of Willamette Falls Drive classified as a Local Street. The curb cut is approximately 175 feet from the nearest intersection at Willamette Falls Drive and 10th Street. Both classified as Local Streets. The closest curb cut to the east is approximately 245 feet away.
The criteria are met.**

E. A rolled curb may be installed...

F. Curb cuts shall be kept at a minimum...

**Staff Finding 18: No changes are proposed to the existing curb cut. No new curb cuts are proposed.
The criteria are met.**

G. Adequate line of sight pursuant to engineering standards should be afforded at each driveway or accessway.

**Staff Finding 19: Proposed Parcel 1 contains an existing single-family home with a driveway that meets the standards of Chapter 42. Proposed parcel two will take access from the existing driveway that currently serves parcel one. During the building permit process the applicant shall submit documentation that the existing conditions and driveway meet the adequate line of sight standards.
The criteria are met.**

CHAPTER 75, VARIANCES AND SPECIAL WAIVERS

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;*
- 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 20: The proposal is for parcel 1 to measure 9512 square feet which will require a 4.88% variance from the minimum lot size. Parcel 2 will measure 9674 square feet, which is a 3.26% variance from the minimum lot size. The requested variance falls within the allowable 5 percent reduction for lot area.

Pending approval of the variance request, the criteria are met.

CHAPTER 85, GENERAL PROVISIONS

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 City Engineer. Additional travel lanes may be required to be consistent with adjacent road widths or to be consistent with the adopted Transportation System Plan (TSP) and any adopted updated plans.*

Staff Finding 21: The proposal does not include any internal public streets. Both proposed parcels will take access from the section of Willamette Falls Drive that is classified as a Local Street via the existing curb cut. Willamette Falls Drive is fully developed and meets City Standards. No street improvements are required. The criteria are met.

2. *Right-of-way widths shall depend upon which classification of street is proposed. The right-of-way widths are established in the adopted TSP.*

3. *Street widths. Street widths shall depend upon which classification of street is proposed. The classifications and required cross sections are established in the adopted TSP...*
4. *The decision-making body shall consider the City Engineer'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 City Engineer of the following criteria:*
5. *Additionally, when determining appropriate street width, the decision-making body shall consider the following criteria:*

Staff Finding 22: The proposal does not include any internal public streets. Both proposed parcels will take access from the section of Willamette Falls Drive that is classified as a Local Street via the existing curb cut. Willamette Falls Drive is fully developed and meets City Standards. No street improvements are required. The criteria are met.

6. *Reserve strips. Reserve strips or street plugs controlling the access to streets are not permitted unless owned by the City.*
7. *Alignment. All streets other than local streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuations of the centerlines thereof. The staggering of street alignments...*
8. *Future extension of streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision...*
9. *Intersection angles. Streets shall be laid out to intersect angles as near to right angles as practical...*

Staff Finding 23: The applicant proposes no reserve strips, no new streets or intersections, and is precluded from any potential future extension of streets by existing development patterns. The criteria are met.

10. *Additional right-of-way for existing streets. Wherever existing street rights-of-way adjacent to or within a tract are of inadequate widths based upon the standards of this chapter, additional right-of-way shall be provided at the time of subdivision or partition.*

Staff Finding 24: The existing right-of-way for Willamette Falls Drive is approximately 110 feet and is fully developed as a Local Street. No additional right-of-way is required. The criteria is met.

11. *Cul-de-sacs.*
 - a. *New cul-de-sacs and other closed-end streets...*
(...)
 - f. *All cul-de-sacs/closed-end streets shall terminate with a turnaround built to one of the following specifications (measurements are for the traveled way and do not include planter strips or sidewalks).*

Staff Finding 25: The applicant does not propose any new cul-de-sacs or closed-end streets. Both proposed parcels will take access from Willamette Falls Drive. The criteria do not apply.

12. Street Names

13. Grades and Curves

14. Access to local streets. Intersection of a local residential street with an arterial street may be prohibited...

15. Alleys

Staff Finding 26: The applicant does not propose any new public streets. The proposed partition is the section of Willamette Falls Drive classified as a Local Street. The proposal does not require access on to an arterial street. No alley is proposed. The criteria are 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.

17. Planter strip. The planter strip is between the curb and sidewalk providing space for a grassed or landscaped area and street trees. The planter strip shall be at least 6 feet wide...or in response to right-of-way limitations.

Staff Finding 27: The adjacent portion of Willamette Falls Drive is developed with a five-foot sidewalk and planter strip. No new sidewalk or planter strips are proposed. The criteria is met.

18. Streets and roads shall be dedicated without any reservations or restrictions.

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 28: Both proposed parcels will take access from an existing curb cut and driveway adjacent to Willamette Falls Drive. No new streets or roads are proposed. The criteria are met.

20. Gated streets. Gated streets are prohibited in all residential areas on both public and private streets. A driveway to an individual home may be gated.

21. Entryway treatments and street isle design...

Staff Finding 29: The applicant does not propose any gated streets or driveways, nor entryway treatments or street isle designs. The criteria are 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 30: The proposal is not a subdivision. The proposal will add one additional dwelling unit. The additional unit will generate approximately ten new trips per day. The proposal will not create impacts to off-site facilities that would require the need for improvements.

The criteria are met.

B. Blocks and Lots

1. General. The length, width, and shape of blocks shall be designed with due regard for the provision of adequate building sites for the use contemplated; consideration of the need for traffic safety, convenience, access, circulation, and control; and recognition of limitations and opportunities of topography and solar access.

2. Sizes. The recommended block size is 400 feet in length to encourage greater connectivity within the subdivision. Blocks shall not exceed 800 feet in length between street lines... Block sizes and proposed accesses must be consistent with the adopted TSP.

Staff Finding 31: The applicant does not propose new street connections or new blocks as existing development patterns preclude a new street connection across the subject property. The proposal is for a minor partition and not required to meet pedestrian/bicycle access spacing as a subdivision is required.

The criteria are met.

3. Lot size and shape. Lot or parcel size, width, shape, and orientation shall be appropriate for the location of the subdivision or partition... Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use proposed.

Staff Finding 32: The proposal is located on a section of Willamette Falls Drive with an existing block length of 420 feet. The applicant does not propose new street connections or new blocks as existing development patterns preclude a new street connection or pedestrian/bicycle access across the subject property.

The criteria are met.

4. Access. Access to subdivisions, partitions, and lots shall conform to the provisions of Chapter [48 CDC](#), Access, Egress and Circulation.

Staff Finding 33: See staff finding 3-19. Subject to the Conditions of Approval.

The criteria are met.

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...Where two to four flag lots share a

*common accessway, the minimum street frontage and accessway shall be eight feet in width per lot...The following dimensional requirements shall apply to flag lots:
(...)*

Staff Finding 34: The applicant proposes creating a flag lot as there is no other reasonable street access possible due to surrounding development. Both parcels will take access from the existing curb cut and driveway on Willamette Falls Drive. Applicant will create a shared access easement and maintenance agreement as stated in Condition of Approval 3. The criteria are 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

(...)

4. The proposed grading shall be the minimum grading necessary to meet roadway standards, and to create appropriate building sites, considering maximum allowed driveway grades.

**Staff Finding 35: The site is classified as having all Type IV lands. Grading plans will be submitted and reviewed at the time of building permit application and will conform to the Uniform Building Code. The criteria are met.
The criteria are met.**

5. Type I lands shall require a report submitted by an engineering geologist, and Type I and Type II lands shall require a geologic hazard report.

6. Per the submittals required by CDC [85.170\(C\)\(3\)](#), 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.

*7. On land with slopes in excess of 12 percent, cuts and fills shall be regulated as follows:
(...)*

*8. Land over 50 percent slope shall be developed only where density transfer is not feasible.
(...)*

Staff Finding 36: The site is classified as having all Type IV lands. Grading plans will be submitted and reviewed at the time of building permit application and will conform to the Uniform Building Code. The criteria are met.

F. Water.

G. Sewer.

Staff Finding 37: Sanitary sewer and water are available in Willamette Falls Drive to serve the proposed development. The City's sanitary sewer system has sufficient capacity to serve the proposed partition. As does the City's water system.

The criteria are met.

I. Utility Easements. Subdivisions and partitions shall establish utility easements to accommodate the required service providers as determined by the City Engineer. The developer of the subdivision shall make accommodation for cable television wire in all utility trenches and easements so that cable can fully serve the subdivision.

Staff Finding 38: The applicant will record a reciprocal access and utility easement for the shared driveway. The applicant will record an 8-foot wide public utility easement adjacent to the proposal's entire frontage.

The criteria is met.

J. Supplemental Provisions

- 1. Wetland and Natural Drainage Ways.*
- 2. Willamette and Tualatin Greenways.*
- 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 or alley lights shall meet West Linn Public Works Design Standards.*

Staff Finding 39: The subject property does not contain any wetlands or natural drainage ways, nor is it located within the Willamette or Tualatin River Greenways. The proposal is not a subdivision. The applicant is not proposing an alley.

The criteria is met.

5. Dedications and exactions.

The City may require an applicant to dedicate land and/or construct a public improvement that provides a benefit to property or persons outside the property that is the subject of the application when the exaction is roughly proportional. No exaction shall be imposed unless supported by a determination that the exaction is roughly proportional to the impact of development.

Staff Finding 40: The proposal is in compliance with the City's Transportation System Plan and will not create impacts to existing off-site facilities that would trigger the need for additional improvements. The City's sanitary sewer and water systems have sufficient capacity to serve the site. The criteria are met.

6. Underground utilities.

All utilities...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 41: The subject property meets all three exemption criteria. The area is built out with adjacent properties having above ground utilities, 100 feet of site frontage, and less than an acre (20,870 square feet). The applicant is not required to underground existing utilities. The criteria are met.

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 drip line; however, native oaks need not have an overlapping drip line) that are considered significant by virtue of their size, type, location, health, or numbers shall be saved pursuant to CDC [55.100\(B\)\(2\)](#). Trees are defined per the municipal code as having a trunk six inches in diameter or 19 inches in circumference at a point five feet above the mean ground level at the base of the trunk.

Staff Finding 42: The City Arborist has determined no heritage or significant trees are located on site.

The criteria are met.

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 43: The existing structure on parcel one is connected to the public water and sanitary sewer infrastructure. Proposed parcel two will connect to the public infrastructure at the time of development.

The criteria are met.

PD-1 APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only

STAFF CONTACT	PROJECT NO(S) MIP-21-01 VAR-21-03	PRE-APPLICATION NO. PA-20-14
NON-REFUNDABLE FEE(S) \$825	REFUNDABLE DEPOSIT(S) \$2,800	TOTAL \$3,625

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

Site Location/Address: 2185 Willamette Falls Dr. WEST LINN, OR 97068	Assessor's Map No.: 31E02AB
	Tax Lot(s): 31E02BA03600
	Total Land Area: 20,870'

Brief Description of Proposal: MINOR PARTITION FOR CREATION OF ONE ADDITIONAL TAXLOT WITH ACCOMPANYING ACCESS EASEMENT AT 2185 WILLAMETTE FALLS DR.

Applicant Name: RYAN HIXSON <small>(please print)</small>	Phone: (503)435-7756
Address: 2185 WILLAMETTE FALLS DR	Email: rrrhix@aol.com
City State Zip: WEST LINN, OR 97068	

Owner Name (required): RYAN HIXSON <small>(please print)</small>	Phone: (503)435-7756
Address: 2185 WILLAMETTE FALLS DR	Email: rrrhix@aol.com
City State Zip: WEST LINN, OR 97068	

Consultant Name: IRONMARK SURVEYING <small>(please print)</small>	Phone: (503)765-8755
Address: PO BOX 38	Email: ironmarkllc.com
City State Zip: ST. PAUL, OR 97137	

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.

	3/24/2021			3/24/2021
Applicant's signature	Date		Owner's signature (required)	Date

2185 WILLAMETTE FALLS DRIVE

Minor Partition

March 24th, 2021

APPLICATION SUMMARY

For approval of a one-lot minor partition to split the existing property at 2185 Willamette Falls drive into two legal lots.

GENERAL INFORMATION

Location

2185 Willamette Falls Dr. West Linn, OR 97068 (NE ¼ of Section 2, 2S, 1E) Lot 3600. Its location is shown in Figure 1.

Comprehensive Plan and Zoning Designations

The Comprehensive Plan designation is Low Density Residential.

Consistent with the Comprehensive Plan, the property is zoned Single Family Residential Detached (R-10).

Property Owner

Ryan and Brittany Hixson
2185 Willamette Falls Dr.
West Linn, OR 97068
Phone: 503.435.7756
E-mail: rrrhix@aol.com

Applicant's Surveyor

Joe Jewett, PLS
Ironmark Surveying
P.O. Box 38
Saint Paul, OR 97137
Phone: 503.765.8755
E-mail: joe@ironmarkllc.com

BACKGROUND INFORMATION

Site Description

The site is developed with one single family residence, with the property measuring 20,870 square feet (.4791 acres). The property includes a 1,824 square-foot building, and driveway. As shown in Figure 2, it includes Lot 3600 (taxlot 31E02BA03600).

Vicinity Information

The zoning designations and current land use of the surrounding area are summarized in Table 1.

**Table 1
Zoning and Land Use Summary**

PARCELS	ZONE DESIGNATION	LAND USE
Subject Property	R-10	Single family residences

PROPOSED MINOR PARTITION & VARIANCE

This request to create a one-lot minor partition is viewed as technical step necessary to enable future development and to remove any potential issues related to easement. West Linn Community Development Code (CDC) Chapters 11, 48, 75, 85, 92 and 99 allow for an application, such as this minor partition. The criteria are addressed below. This one-lot partition will create additional development potential, and will not require the extension or improvement of streets, or prompt the need for supplemental utilities. The proposed partition plat is shown as Exhibit A.

Chapter 11

11.030
Property falls under permitted uses.

11.070
Property meets all categories with the exception of minimum lot size, which is addressed in variances (Chapter 75 of CDC code)

Chapter 48

48.025B, 3b
New property access will be provided through a shared driveway, which will mean the creation of an easement for both properties to access the public street (Willamette Falls Drive).

48.025B, 8 a-c
Both properties conform to standards set by this section, as they will both share the driveway that accesses the new (rear) property.

48.030B-C
Both properties conform to standards in these two sections, but will require a small variance in the 20' width required for the shared driveway and easement. The easement area totals 1399', and features a 40' encroach on the required horizontal width. This is a 2.8% variance on the proposed easement. The easement area does not count toward the area of either

proposed parcel.

Chapter 75

75.020A

The shared driveway will create an access easement, which will reduce the overall area of both lots. This requires a class 1 variance. This will provide more efficient use of the site, safe vehicular and pedestrian access, and will not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy or fire hazards.

75.030A

The class 1 variance due to the easement shall be decided by the planning director in the manner set forth in CDC 99.060A.

75.050A

Initiated by property owner

75.050C

- 1. There are variances in both the lot square footage, and the proposed easement. In both cases the proposed variances are within Class 1 variance constraints set forth in CDC code 75.020.A.1: *Required lot area may be modified by up to five percent*. Parcel one measures 9512', which is a 4.88% variance. Parcel two measures 9674', which is a 3.26% variance.
- 2. Shown in Exhibit A

75.060A&B

Plot plans conform to site plan and map rules set forth in this section and are shown in Exhibit A.

Chapter 85

85.020B

This plan will conform to the code provisions in ORS Chapter 92 upon approval and recording from the City of West Linn.

85.020C

No building permit is requested as part of this lot partition.

85.030A-C & 85.040

No sales, negotiations, or building permits are requested as part of this lot partition.

85.050

No alterations or improvements of any kind are taking place as part of this lot partition.

85.070A

Application will be filed by record owner of the property. Burden of proof available if requested.

85.070B

Application submission will follow plan provided.

85.140A-C

Completed on November 4th, 2020. File PA-20-09.

85.150

Application will include all required forms and pay all fees required.

85.160A

City-wide map shown in Figure 1 and vicinity map shown in Figure 2.

85.160B

Plan prepared by licensed land surveyor Joseph P. Jewett. (87788PLS)

85.160C-F

Plan shown in Exhibit A will follow rules set forth in these sub-sections of the CDC code.

85.170A.1-9

Narrative included within this application, as well as legal description of tract. No phasing is included as part of this lot partition. No hillsides are included. Lot calculations and map included in Exhibit A.

85.200B.7

Flag lot stem shown in Exhibit A, and has the minimum 15' street frontage.

- a. Setbacks will apply to the flag lot
- c. Both lot sizes are calculated exclusive of the accessway and are not counted toward either parcel.
- e. Accessway has a minimum of 12'.

85.200E

No grading proposed or needed as part of this lot partition.

Chapter 92

92.020 – 92.040

No improvements are needed for this lot partition; verified in pre-application conference.

Chapter 99

99.030A

Application will be initiated by the property owner, who will retain both parcels. No property transactions are taking place.

99.030B

Pre-application conference was completed on November 4th, 2020. File PA-20-09.

99.030C – 99.330

This application will be complete and submitted on forms provided by the CDC, with the required fees or deposits. Application determination and final plat decided by Planning Director Authority.

99.060

This section provides the Planning Director with the authority to review and approve minor partitions. This proposal is a minor partition, and therefore, this application to the Planning Director is appropriate.

99.110A

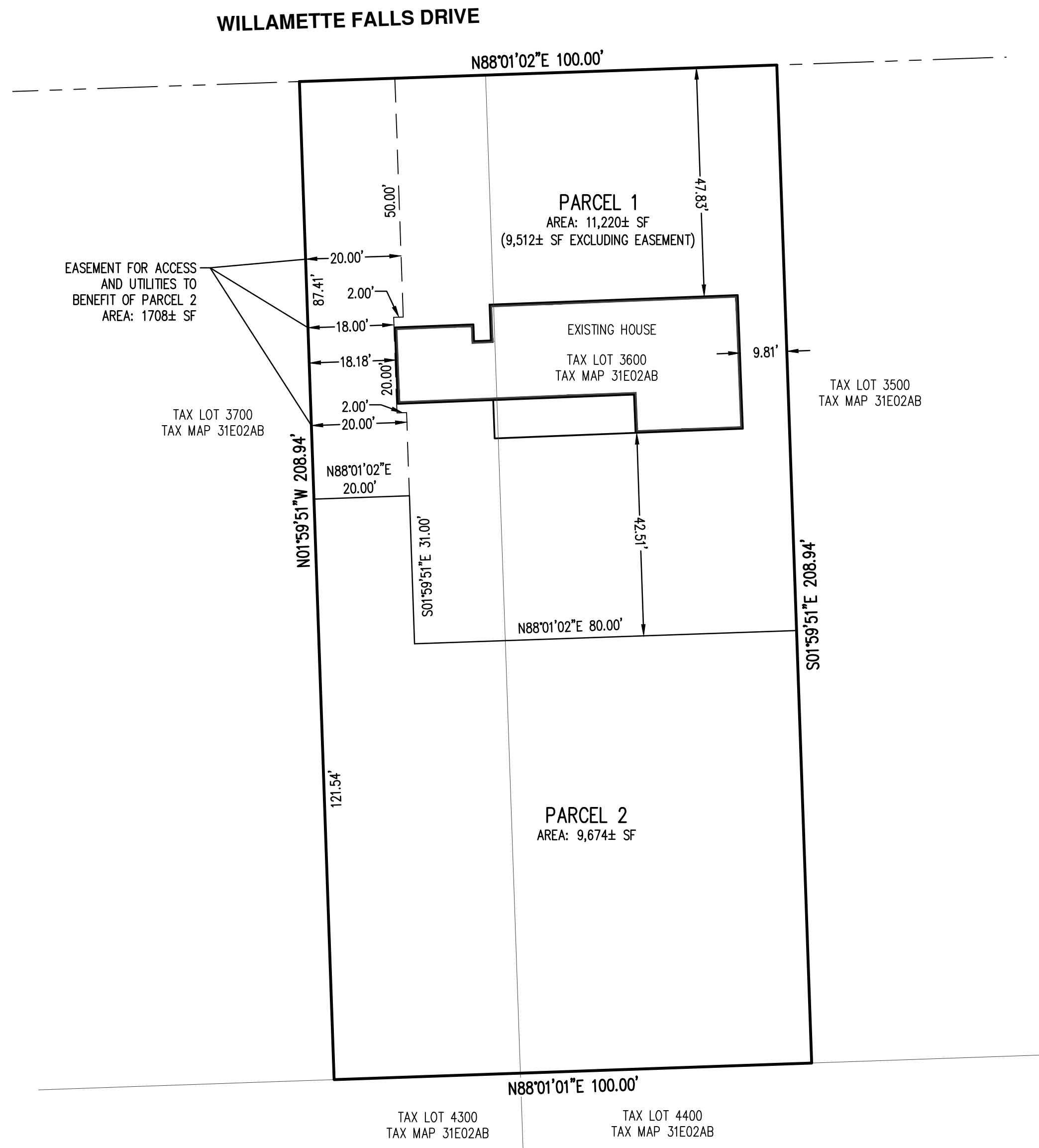
A decision shall be based upon proof provided by the applicant that the application is in full compliance with the CDC. The information and findings provided in this application satisfy this requirement.

CONCLUSION

The proposed minor partition application with access easement satisfies the relevant criteria and should be approved.

PRELIMINARY PARTITION PLAT

LOCATED IN THE NORTHWEST 1/4 OF SECTION 2, TOWNSHIP 3 SOUTH,
RANGE 1 EAST, WILLAMETTE MERIDIAN,
CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON
DATE: _____



SCALE: 1" = 20 FEET

PREPARED FOR

RYAN HIXSON
2185 WILLAMETTE FALLS DRIVE
WEST LINN, OR 97068

REGISTERED
PROFESSIONAL
LAND SURVEYOR

PRELIMINARY

OREGON
JANUARY 9, 2018
JOSEPH P. JEWETT
87788PLS
RENEWS: 6/30/21

JOB NAME:	HIXSON
JOB NUMBER:	1078
DRAWN BY:	BDT
CHECKED BY:	JPJ
DRAWING NO.:	1078PLAT

IRONMARK
SURVEYING & ENGINEERING

IRONMARK, LLC
PO BOX 38
SAINT PAUL, OR 97137

P: 503.765.8755
ironmarkllc.com

PD-2 AFFADAVIT AND NOTICE PACKET



**AFFIDAVIT OF NOTICE
Type A**

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.: **MIP-21-01** Address: **2185 Willamette Falls Drive**
Applicant's Name: **Ryan Hixson**
Scheduled Decision Date: **Planning Director Decision no earlier than 9/12/21**

MAILED NOTICE

Notices were mailed at least 20 days prior to the scheduled hearing date per Section 99.080 of the Community Development Code to:

1	Ryan Hixson, applicant	8/23/21	<i>Lynn Schroder</i>
2	Property owners of record within 500 feet	8/23/21	<i>Lynn Schroder</i>
3	Kathie Halicki, Willamette NA	8/23/21	<i>Lynn Schroder</i>

WEBSITE

Notice was posted on the City's website at least 20 days prior to the scheduled hearing date.

8/23/21	<i>Lynn Schroder</i>
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SIGN

At least 10 days prior to the schedule hearing, a sign was posted on the property per Section 99.080 of the Community Development Code.

9/2/21	<i>Chris Myers</i>
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FINAL DECISION notice mailed to applicant, parties with standing, and, if zone change, the County surveyor's office per Section 99.040 of the Community Development Code.

11/18/21	
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**CITY OF WEST LINN
NOTICE OF UPCOMING PLANNING MANAGER DECISION
FILE NO. MIP-21-01**

The West Linn Planning Manager is considering a request for a Minor Partition to create one additional tax lot at 2185 Willamette Falls Drive.

The decision will be based on the approval criteria in Chapters 11, 48, 75, 85, and 99 of the Community Development Code (CDC). The applicable approval criteria are available for review on the City's website <http://www.westlinnoregon.gov/cdc> or at City Hall and the City Library.

You have been notified of this proposal because County records indicate you own property within 500 feet of the subject property (2185 Willamette Falls Drive) or as otherwise required by CDC Chapter 99: Procedures for Decision Making.

The application is posted on the City's website, <https://westlinnoregon.gov/planning/2185-willamette-falls-drive-one-lot-partition>. Alternatively, the application, all documents or evidence relied upon by the applicant and applicable criteria are available for inspection at City Hall at no cost. Copies may be obtained at reasonable cost.

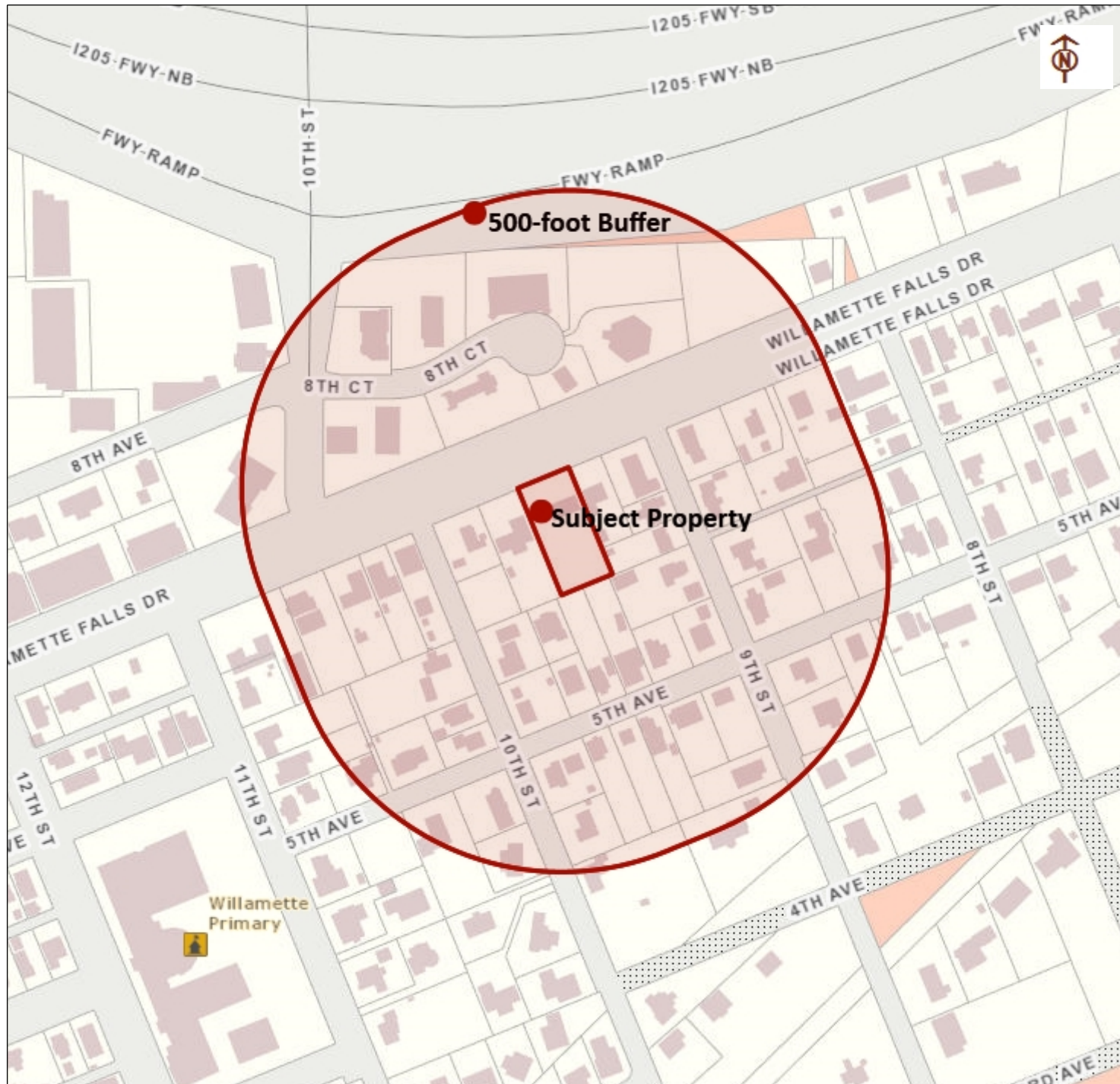
A public hearing will not be held for this decision. **Anyone wishing to present written testimony for consideration shall submit all material before 4:00 p.m. on September 12, 2021.** Persons interested in party status should submit a letter outlining any concerns about the proposal by the comment deadline to cmyers@westlinnoregon.gov.

It is important to submit all testimony in response to this notice. All comments submitted for consideration of this application should relate specifically to the applicable criteria. 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.

The final decision will be posted on the website and available at City Hall. Persons with party status may appeal the decision by submitting an appeal application to the Planning Department within 14 days of the final decision pursuant to CDC [99.240](#).

Contact Chris Myers, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, (503) 742-6062 for additional information.

Properties within 500 feet of 2185 Willamette Falls Drive



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.

**CITY OF WEST LINN
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Contact Chris Myers, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, (503) 742-6062 for additional information.

PD-3 COMPLETENESS LETTER



CITY OF
West Linn

July 20, 2021

Ryan Hixson
2185 Willamette Falls Drive
West Linn, OR 97068

SUBJECT: MIP-21-01 application for 2-lot Minor Partition at 2185 Willamette Falls Drive.

Dear Mr. Hixson,

You submitted this application on March 24, 2021. The Planning and Engineering Departments determined that the application is now **complete**.

The city has 120 days to exhaust all local review; that period ends November 17, 2021.

Please be aware that a 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 Director to render a decision on your proposal.

A 20-day public notice will be prepared and mailed. This notice will identify the earliest potential decision date by the Planning Director.

Please contact me at 503-742-6062, or by email at cmyers@westlinnoregon.gov if you have any questions or comments.

Sincerely,

Chris J Myers

Chris Myers

Associate Planner