



CITY OF
West Linn

**STAFF REPORT
PLANNING MANAGER DECISION**

DATE: August 26, 2021

FILE NO.: VAR-21-07

REQUEST: Class I Variance to reduce the front yard setback standard up to 20 percent at 1497 Burns Street from 20 feet to 16 feet.

PLANNER: Betty Avila, Associate Planner

Community Development Director

JRW

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GENERAL INFORMATION

**OWNER/
APPLICANT:** Bryon and Tawyna Borntrager
1497 Burns Street
West Linn, OR 97068

SITE LOCATION: 1497 Burns Street

SITE SIZE: 11,369 Square feet

**LEGAL
DESCRIPTION:** Map and Tax Lot Number 22E30BD02600

**COMP PLAN
DESIGNATION:** Low Density Residential

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

**APPROVAL
CRITERIA:** Community Development Code (CDC) Chapter 11: R-10 Zone; Chapter 75: Variances and Special Waivers; Chapter 99: Procedures for Decision-Making: Quasi-Judicial.

120-DAY RULE: The application became complete on July 27, 2021. The 120-day period therefore ends on November 24, 2021.

PUBLIC NOTICE: Notice was mailed to property owners within 300 feet of the subject property and the Bolton Neighborhood Association on August 6, 2021. The property was posted with a notice sign on August 10, 2021. The notice and application were posted on the City's website August 6, 2021. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The applicant requested a variance for “Required yard and minimum lot dimensional requirements.” The request considers a reduction of the front yard setback up to the 20 percent allowed in a Class I Variance (20% of a 20 foot setback is a 4 foot reduction). The property owner/applicant is proposing an addition to the front of the home that would result in a front yard setback of 20 feet. The Class I Variance provides “minor relief from certain code provisions” that will not harm adjacent properties and conforms to any other code provisions. With approval of the variance, the front yard setback would be reduced to 16 feet.

Public comments:

One public comment was received in support of the proposed variance.


DECISION

The Community Development Director (designee) approves this application (VAR-21-07), based on: 1) the findings submitted by the applicant, which are incorporated by this reference; 2) supplementary staff findings included in the Addendum; and, 3) by the condition of approval below:

Condition of Approval

- 1. The final plan shall conform to the plans labeled Site Plan for Proposed Class I Variance last revised on July 14, 2021. (See Staff Finding 1)**

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



Betty Avila, Associate Planner

8/26/2021

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 Manager shall be heard on the record. The appeal must be filed by an individual who has established standing by submitting comments prior to the decision date. Approval will lapse 3 years from effective approval date unless substantial construction has taken place or an extension is granted per Chapter 99 CDC.

Mailed this **26th** day of **August 2021**.

Therefore, the 14-day appeal period ends at 5 p.m., on **September 9, 2021**.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
VAR-21-07**

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

11.030 PERMITTED USES

The following uses are permitted outright in this zone.

1. Single-family detached residential unit.

(...)

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

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

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

(...)

E. 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:

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

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

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

4. For a rear yard, 20 feet.

(...)

Staff Finding 2: The applicant is requesting a variance for the rear yard setback. See Staff Finding 3. The applicant has proposed to construct an addition to the main home that will encroach into the front yard setback. The addition will encroach into the front yard setback by the allowed 20 percent, or approximately 4 feet for a Class I Variance.

III. CHAPTER 75, VARIANCE

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

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

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

Staff Finding 3: The applicant has requested a Class I Variance to reduce the setback requirement and allow for the addition to the front of the home away from the creek in the rear of the property. A Class I variance allows for a 20 percent reduction, or 4 feet. The front yard setback would sit at 20 feet and be a 20% reduction to the required front yard setback. The applicant is not proposing any changes to the off-street parking nor the vehicular or pedestrian access to the subject property. The Class I Variance does not pose any adverse effects on adjoining property regarding light, air circulation, noise levels, privacy, and fire hazards. The criteria are met.

EXHIBIT PD-1 APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT Betty Avila	PROJECT No(S) VAR-21-07	PRE-APPLICATION No.
NON-REFUNDABLE FEE(S) \$825	REFUNDABLE DEPOSIT(S)	TOTAL \$825

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 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: 1497 BURNS STREET WEST LINN OR 97068	Assessor's Map No.: Tax Lot(s): 22E30BD02600 Total Land Area:
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Brief Description of Proposal:
PROPOSED CLASS I VARIANCE TO FRONT YARD SETBACK.

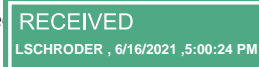
Applicant Name: BRYON AND TAWNYA BORNRAGER <small>(please print)</small> Address: 1497 BURNS ST City State Zip: WEST LINN OR 97068	Phone: 503-475-6769 Email: tborntrager@gmail.com
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Owner Name (required): BRYON AND TAWNYA BORNRAGER <small>(please print)</small> Address: 1497 BURNS ST City State Zip: WEST LINN OR 97068	Phone: 503-475-6769 Email: tborntrager@gmail.com
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Consultant Name: <small>(please print)</small> Address: City State Zip:	Phone: Email:
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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. The permit approval will not be effective until the appeal period has expired.
4. The City accepts electronic (.pdf) land use applications and project submissions from applicants. Applicants should submit this form and supporting documents through the [Submit a Land Use Application](https://westlinnoregon.gov/planning/submit-land-use-application) web page:
<https://westlinnoregon.gov/planning/submit-land-use-application>

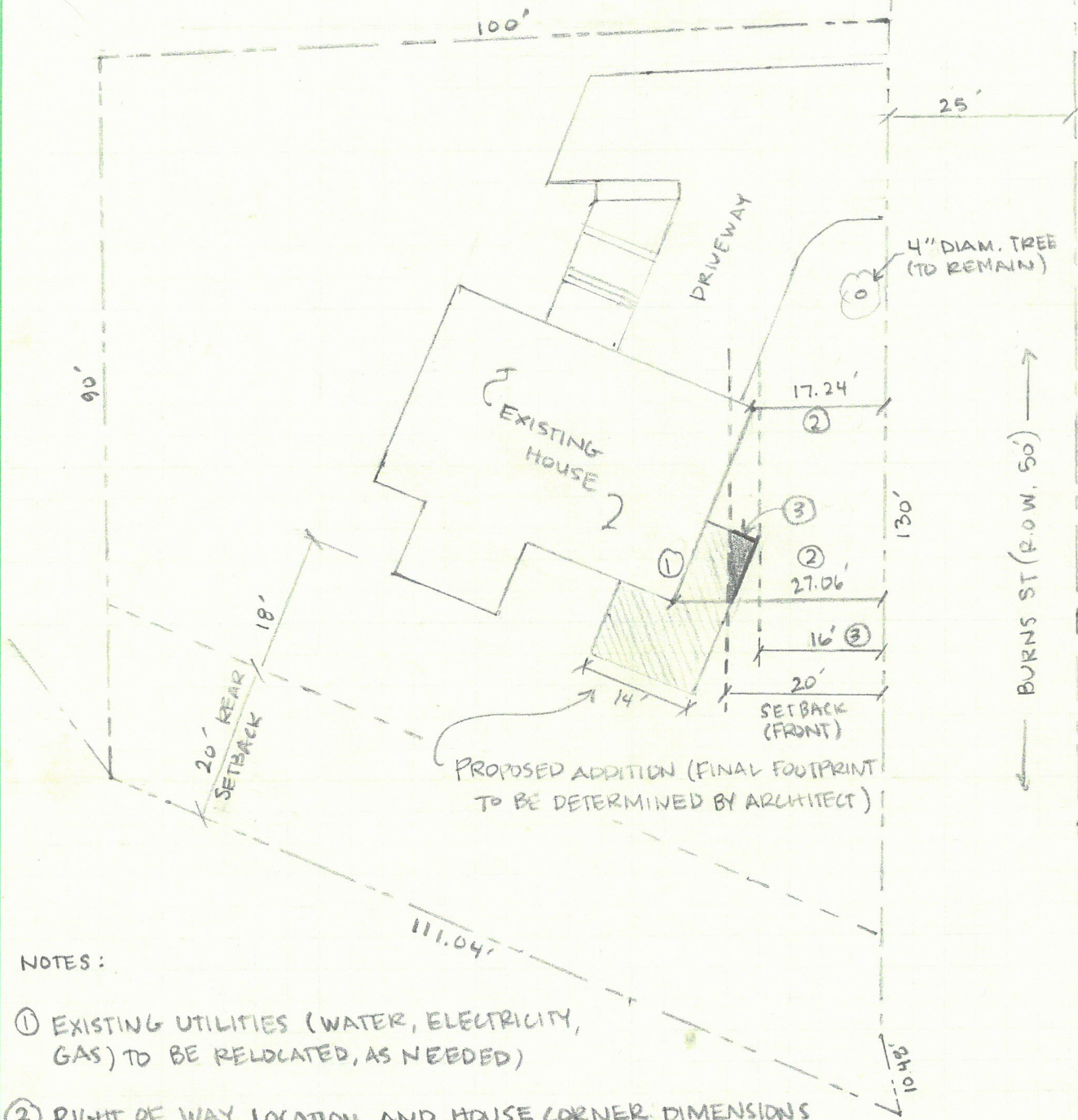
The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subse



<u><i>Tawnya Borntrager</i></u> Applicant's signature	<u>6/14/21</u> Date	<u><i>Tawnya Borntrager</i></u> Owner's signature (required)	<u>6/14/21</u> Date
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SITE PLAN FOR PROPOSED CLASS I VARIANCE TO FRONT YARD SETBACK.

ROW &



NOTES:

- ① EXISTING UTILITIES (WATER, ELECTRICITY, GAS) TO BE RELOCATED, AS NEEDED)
- ② RIGHT OF WAY LOCATION AND HOUSE CORNER DIMENSIONS PER COMPASS LAND SURVEYORS (6/11/21)
- ③ PROPOSED VARIANCE OF 20' FRONT SETBACK TO 16' FRONT SETBACK.

SE 1/4 NW 1/4 SEC 30 T2S R2E

BRYON & TAWNYA BORNTAGER
 1497 BURNS ST
 WEST LINN
 (503) 475-6769



1"=20'

6/14/21 TEB

BRYON + TANNYA BORNTRAGER
1497 BURNS ST
WEST LINN

75.050 C.1. NARRATIVE

BORNTRAGER BATHROOM/CLOSET ADDITION -
FRONT SETBACK VARIANCE REQUEST

* RESPONSES TO COMMUNITY DEVELOPMENT CODE 75.020 VARIANCE PROVISIONS

CDC 75.020 - CLASSIFICATION OF VARIANCES

A CLASS 1 VARIANCE

1. REQUIRED YARD AND MINIMAL LOT DIMENSIONAL REQUIREMENTS.

a. PROVIDE FOR A MORE EFFICIENT USE OF THE SITE;

TEB → An adjustment to the front setback allows for the addition of a second bathroom on the main living level of our home. Adding to both the back of the house and wrapping around the side provides a more aesthetically pleasing design. (Due to the orientation of our home on the lot, the front setback impacts the side of our home. The house is also built at an angle to the right of way, so the area that we're requesting a variance for is relatively small.)

b. PRESERVES AND INCORPORATES NATURAL FEATURES INTO THE OVERALL DESIGN OF THE PROJECT;

TEB → The addition will be to the side yard (minimal impact - existing river birch tree will remain and side yard will be landscaped to fit new addition) and back corner (existing arborvitae was damaged during the ice storm and, per advice from our arborist, will be removed and replaced with a new natural hedge during remodel construction).

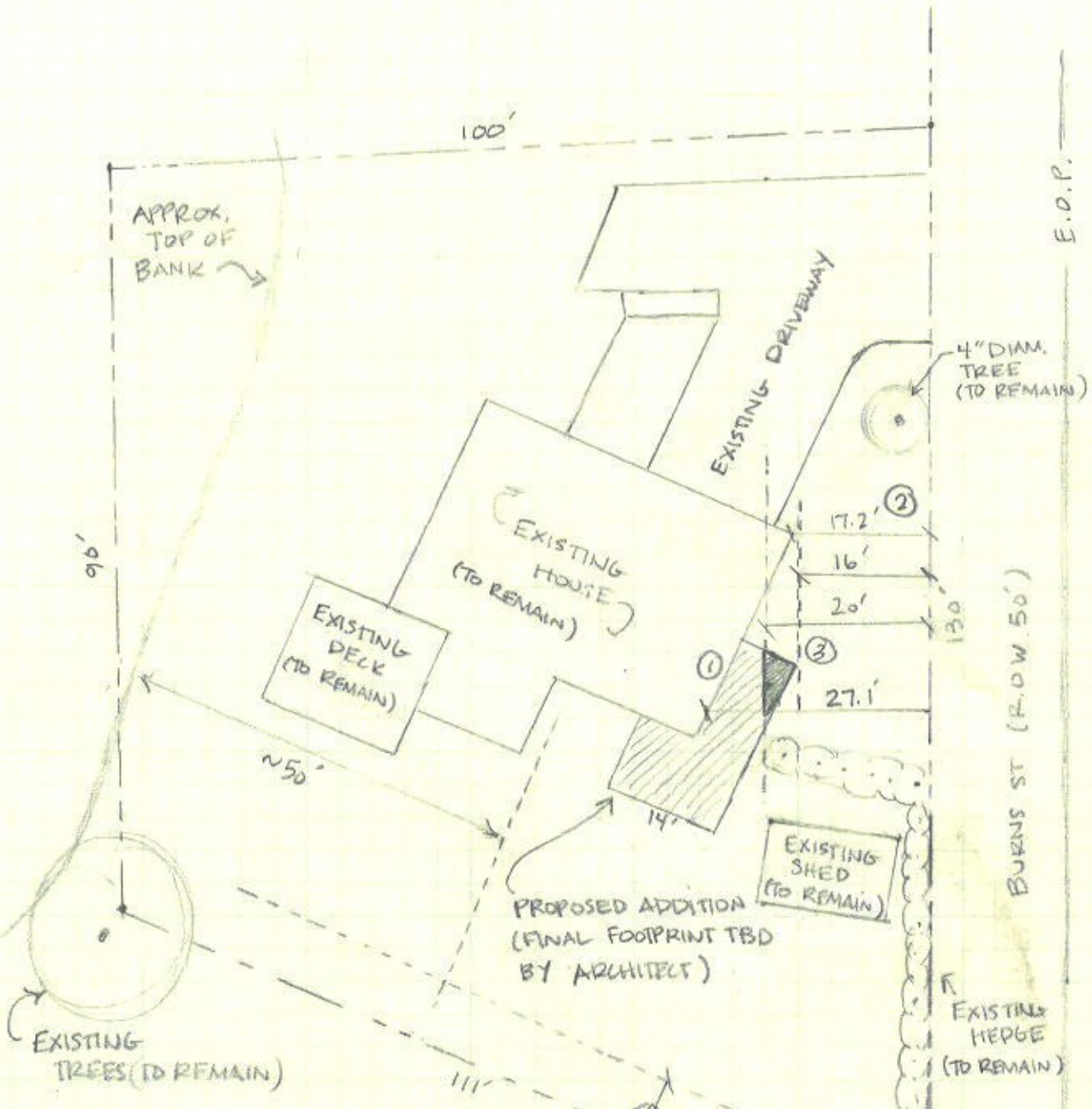
c. DOES NOT ADVERSELY AFFECT ADJOINING PROPERTIES IN TERMS OF LIGHT, AIR CIRCULATION, NOISE LEVELS, PRIVACY, AND FIRE HAZARDS;

TEB → The part of the addition that we are requesting a variance for is very small. In general, the addition as a whole is adjacent to the right of way of Burns Street and does not adversely affect the adjoining properties in any of the ways noted in 75.020 A.1.c.

d. PROVIDES FOR SAFE VEHICULAR AND PEDESTRIAN ACCESS TO THE SITE AND SAFE ON-SITE VEHICULAR AND PEDESTRIAN CIRCULATION.

TEB → Due to its size and location, the addition does not interfere with the above (75.020 A.1.d.).

SITE PLAN FOR PROPOSED CLASS 1 VARIANCE TO FRONT YARD SETBACK.

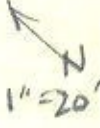


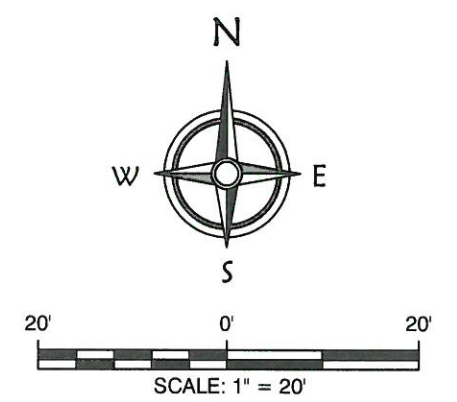
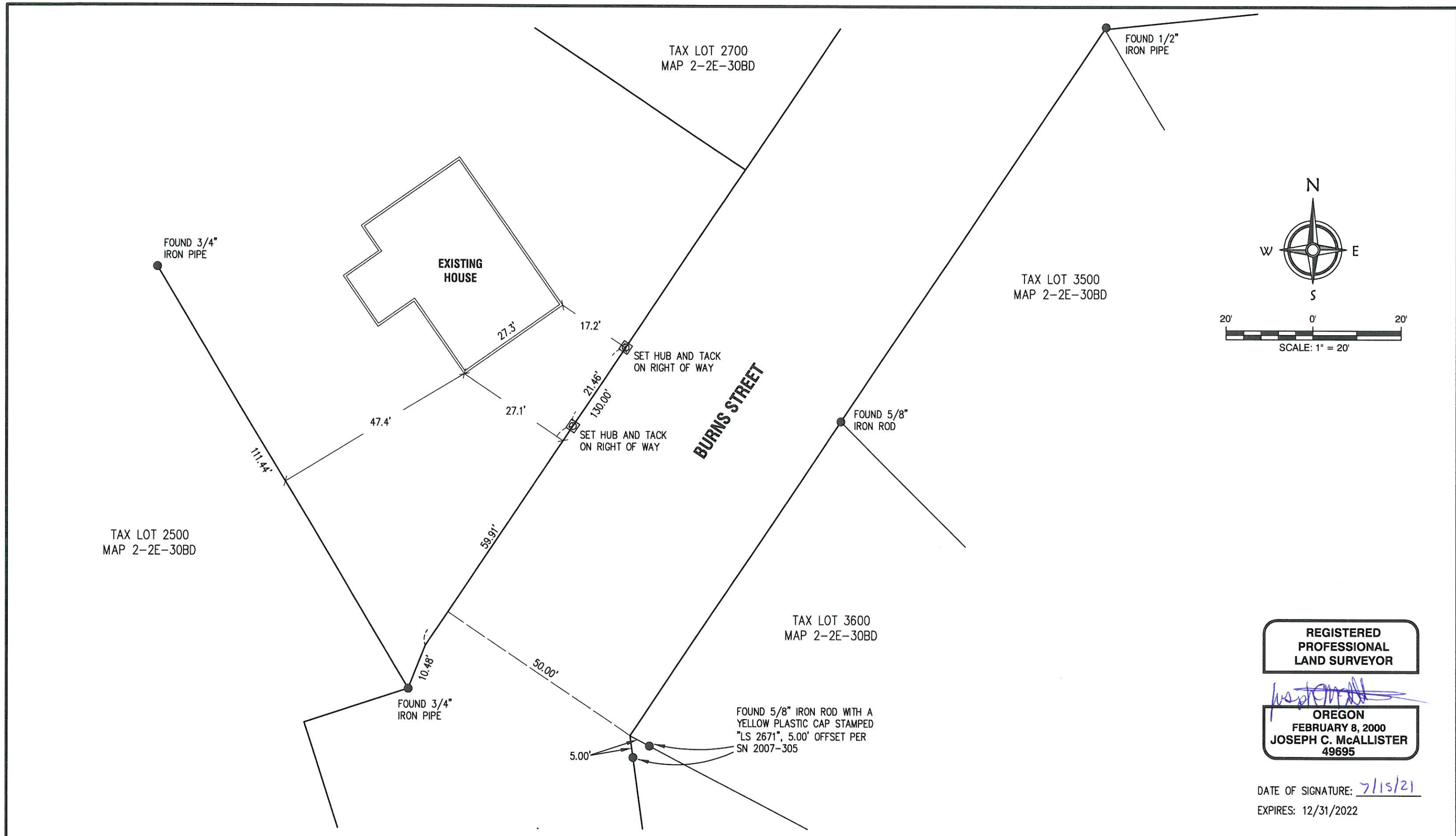
NOTES :

- ① EXISTING UTILITIES (WATER, ELECTRICITY, GAS) TO BE RELOCATED, AS NEEDED.
- ② R.O.W. LOCATION AND HOUSE DIMENSIONS PER COMPASS LAND SURVEYORS (6/11/21)
- ③ PROPOSED VARIANCE OF 20' FRONT SETBACK TO 16' FRONT SETBACK.

BRYON AND TAWNYA BORNTRAGER
 1497 BURNS ST
 WEST LINN, OR 97068

SE 1/4 NW 1/4 SEC 30 T25 R2E





**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

OREGON
 FEBRUARY 8, 2000
JOSEPH C. McALLISTER
 49695

DATE OF SIGNATURE: 7/15/21
 EXPIRES: 12/31/2022

DRAWN	MMM	CHECK	JMC
SCALE	1" = 20'	DATE	07/13/2021
PLAN	8475 H&T.dwg		


MPASS Land Surveyors
 4107 SE International Way, Suite 705
 Milwaukie, Oregon 97222 503-653-9093

BRYON AND TAWNYA BORINTRAGER
 1497 BURNS STREET
 WEST LINN, OREGON 97068

1497 BURNS STREET, WEST LINN
TAX LOT 2600, MAP 2-2E-30BD
CLACKAMAS COUNTY, OREGON

EXHIBIT PD-2 PUBLIC COMMENT

Betty Avila, Associate Planner
City Hall
22500 Salamo Rd.
West Linn, Oregon 97068

Ms. Avila:

We totally approve the request to allow for a "reduction to the front yard setback resulting in a 16 feet allowed by a Class 1 Variance (a 20% reduction of a 20' required setback is a 4' reduction) at 1497 Burns St."

We live at 5777 Cascade, across Burns from subject property.

This request for variance will have no impact on us.

In fact, the addition of a full bath will increase the value of this property, and consequently will improve the real estate value of the neighboring properties.

Thank you,



Walt and Dianne Swan
5777 Cascade St.
West Linn, Oregon 97068



EXHIBIT PD-3 COMPLETENESS LETTER



West Linn

July 27, 2021

Bryon and Tawnya Borntrager
1497 Burns Street
West Linn, OR 97068

SUBJECT: VAR-21-07 Application requesting a Class I Variance that would allow for a 20% reduction in the required front yard setback from 20 feet to 16 feet

Dear Bryon and Tawnya:

You submitted this application on June 25, 2021. The Planning Department has reviewed the submitted materials and has deemed the application is **complete**. The city has 120 days to exhaust all local review; that period ends November 24, 2021.

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Betty Avila". The signature is written in a cursive, flowing style.

Betty Avila
Associate Planner

EXHIBIT PD-4 AFFADIVIT AND NOTICE PACKET



**AFFIDAVIT OF NOTICE
Type B**

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

PROJECT

File No.: **VAR-21-07** Development Name: **1497 Burns Street**
Applicant's Name: **Bryon and Tawnya Bortrager**
Scheduled Decision Date: **Planning Manager Decision no earlier than 8/20/21**

MAILED NOTICE

As required by CDC Section 99.080, notices were mailed at least 14 days before the decision date to:

1	Bryon and Tawnya Bortrager, applicant	8/6/21	<i>Lynn Schroder</i>
2	Property owners within 300 feet	8/6/21	<i>Lynn Schroder</i>
3	Bob McCarthy, Bolton Neighborhood Association	8/6/21	<i>Lynn Schroder</i>

WEBSITE

Notice was posted on the City's website before the decision date.

8/6/21	<i>Lynn Schroder</i>
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SIGN

A sign was posted on the property at least 10 days before the decision date.

8/10/21	<i>Betty Avila</i>
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FINAL DECISION

Notice of final decision was mailed to the applicant, all other parties with standing, and posted on the City's website.

8/26/21	<i>Betty Avila</i>
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**CITY OF WEST LINN
NOTICE OF UPCOMING PLANNING MANAGER DECISION
FILE NO. VAR-21-07**

The West Linn Planning Manager is considering a request to allow for a reduction to the front yard setback resulting in a 16 feet allowed by a Class I Variance (a 20% reduction of a 20' required setback is a 4' reduction) at 1497 Burns Street.

The decision will be based on the approval criteria in Chapters 13 and 75 of the Community Development Code (CDC). The approval criteria from the CDC are available for review on the City website <http://www.westlinnoregon.gov/cdc> or at City Hall and the City Library.

You have received this notice because County records indicate that you own property within 300 feet of this property (Tax Lot 02600 of Clackamas County Assessor's Map 22-E30BD) or as otherwise required by Chapter 99 of the CDC.

All relevant materials in the above noted file are available for inspection at no cost at City Hall, and on the city website <https://westlinnoregon.gov/planning/1497-burns-street-class-1-variance> or copies may be obtained for a minimal charge per page.

A public hearing will not be held on this decision. **Anyone wishing to present written testimony for consideration on this matter shall submit all material before 4:00 p.m. on August 20, 2021. Persons interested in party status should submit their letter along with any concerns related to the proposal by the comment deadline.** For further information, please contact Betty Avila, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, (503) 742-6057, bavila@westlinnoregon.gov.

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



CITY OF West Linn

NOTICE OF PLANNING MANAGER DECISION

FILE NO. VAR 21-07

On, August 26, 2021, the West Linn Planning Manager approved a Class I Variance to allow for the reduction of the front yard setback from 20 feet to 16 feet. A Class I variance allows for a maximum of 20 percent reduction in setbacks. The land use application was filed by Bryon and Tawnya Borntrager. The decision has been based on the facts, findings, and conclusions found in the record.

The proposal and the findings are available for review in the Planning Department, located in City Hall, at 22500 Salamo Road, West Linn during regular office hours. This information is also available electronically here: <https://westlinnoregon.gov/planning/1497-burns-street-class-1-variance>

Any questions can be directed to Betty Avila, Associate Planner at 503-742-6067 or bavila@westlinnoregon.gov. Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. The cost is \$400. The appeal must be filed by an individual who has established standing by submitting comments prior to the decision date.

This notice was mailed on August 26, 2021.