



CITY OF
West Linn

**STAFF REPORT
FOR THE PLANNING COMMISSION**

FILE NUMBER: VAR-22-01

HEARING DATE: April 6, 2022

REQUEST: Class II Variance for driveway grade in excess of fifteen percent at 1201 Rosemont Road

APPROVAL CRITERIA: Community Development Code (CDC) Chapter 48: Access, Egress, and Circulation; Chapter 75: Variances and Special Waivers.

STAFF REPORT PREPARED BY: Chris Myers, Associate Planner

Planning Manager's Initials DSW Development Review Engineer's Initials ZLC

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GENERAL INFORMATION

OWNER: Christopher Jeffords & Michelle Taeko
1201 Rosemont Road
West Linn, OR 97068

APPLICANT: Marius Rosca
PO Box 209
West Linn, OR 97068

SITE LOCATION: 1201 Rosemont Road

LEGAL DESCRIPTION: Clackamas County Assessor's Map 21E26AD Taxlot 3009

SITE SIZE: 10,347 square feet

ZONING: R-10, Single-Family Residential Detached

COMP PLAN DESIGNATION: Low-Density Residential

120-DAY PERIOD: This application became complete on February 24, 2022. The 120-day maximum application-processing period ends on June 24, 2022.

PUBLIC NOTICE: Notice was mailed to property owners within 500 feet of the subject property and all neighborhood associations March 17, 2022. Notice was published in the West Linn Tidings on March 23, 2022. The property was posted with a notice sign on March 22, 2022. The notice and application were posted on the City's website March 17, 2022. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The applicant purchased an irregularly shaped, vacant lot with an existing curb cut and asphalt driveway for the purpose of constructing a new single-family detached home at 1201 Rosemont Road. The property slopes uphill from Rosemont Road at greater than 15 percent. The only access to the property is from Rosemont Road and an existing retaining wall limited the driveway to the existing location.

As part of site development, the applicant intended to meet the 15 percent maximum driveway slope per CDC Chapter 48.030.B(3), which states: the "*Maximum driveway grade shall be 15 percent*", otherwise a Class II Variance is needed to exceed the 15 percent grade. During construction, it was discovered the maximum grade could not be met and a Class II Variance is requested for a driveway grade of 17.4 percent.

Many West Linn homes have driveways that exceed a 15 percent gradient. Prior to 2005, the maximum gradient allowed was 12 percent with allowed "variations" permitted by the Planning Director due to topography constraints. In 2005, City Council adopted the current standard of 15 percent.

The West Linn Engineering Division has reviewed and supports the proposed design. The applicant has installed a fire apparatus turnaround. Tualatin Valley Fire & Rescue reviewed the design and had no conditions to add (Exhibit PC-2).

Public comment:

As of the publication date of this report, staff has received no public comment communications.

RECOMMENDATION

Staff recommends approval of application VAR-22-01, 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 Plans. With the exception of modifications required by these conditions, the project shall substantially conform to all Tentative Plan Sheets in Exhibit PC-1.**

ADDENDUM
PLANNING COMMISSION STAFF REPORT
Meeting Date: April 6, 2022

STAFF EVALUATION OF THE PROPOSAL'S COMPLIANCE
WITH APPLICABLE CODE CRITERIA

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 1: The subject property takes access from Rosemont Road via a private drive. 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 2: No Traffic Impact Analysis (TIA) is required as none of the applicable criteria of 85.170.B.2 are met.

The criteria are 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.

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 3: Access to the applicant's single-family home is from Rosemont Road. A public street with a classification of *Collector*. The West Linn Engineering Department has reviewed and supports the proposed driveway design. The proposed design will not require backing onto a public street.

The criteria are met.

4. *Subdivisions fronting onto an arterial street.*

(...)

5. *Double-frontage lots.*

(...)

Staff Finding 4: The subject property has access to only one public street, with a functional classification of *Collector*, and therefore is not a double-frontage lot.

These criteria do not apply.

6. *Access spacing.*

a. *The access spacing standards found in Chapter 8 of the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections and non-traversable medians.*

b. *Private drives and other access ways are subject to the requirements of CDC [48.060](#).*

Staff Finding 5: The proposal does not create any new intersections or non-traversable medians. CDC 48.060 is addressed in Staff Findings 16-19.

These criteria are met.

7. *Number of access points.*

(...)

8. *Shared driveways.*

(...)

Staff Finding 6: The subject property has one access to a public street. The subject property does not have a shared driveway.

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.*

Staff Finding 7: The applicant proposal is bounded by existing development and does not create any new blocks.

The criteria is not applicable.

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.*

Staff Finding 8: The subject property is bounded by existing development including public streets, sidewalks, curbs and gutters and therefore does not need to create any new street improvements.

The criteria does not apply.

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, is prohibited for lots or parcels created after the effective date of this code where an alternate access is either available or is expected to be available by imminent development application. Evidence of alternate or future access may include temporary cul-de-sacs, dedications or stubouts on adjacent lots or parcels, or tentative street layout plans submitted at one time by adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question.*

(...)

Staff Finding 9: The variance application applies to a home directly adjacent to Rosemont Road, which is classified as a *Collector*. This criteria applies to roads classified as arterials.

The criteria does not apply

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.*

Staff Finding 10: The driveway has been constructed with 20 feet of unobstructed horizontal clearance.

The criteria is met.

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.*

Staff Finding 11: The driveway serves one single-family residential home.

The criteria does not apply.

3. *Maximum driveway grade shall be 15 percent. The 15 percent shall be measured along the centerline of the driveway only. Variations require approval of a Class II variance by the Planning Commission pursuant to Chapter 75 CDC. Regardless, the last 18 feet in front of the garage shall be under 12 percent grade as measured along the centerline of the driveway only. Grades elsewhere along the driveway shall not apply.*

Staff Finding 12: The driveway gradient is 17.4 percent, thus the need for a Class II Variance. The last 20 feet in front of the garage meets the maximum 12 percent gradient requirement. Subject to the approval of the Class II Variance, the criteria are met.

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: There is approximately 95 feet between the garage door and the back of the existing sidewalk. 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 14: Approximately 8 feet of the home is more than 150 feet from the adjacent right-of-way, Rosemont Road. The developer has provided a turnaround or "hammerhead." No hindrance to vertical clearance exists. There is 20 feet of horizontal clearance. Tualatin Valley Fire & Rescue stated they have no specific fire access requirement for this variance as the house is closer than 200 feet from Rosemont Road (See Exhibit PC-3 for TVF&R Statement).

The criteria is met.

D. *Access to five or more single-family homes (...)*

E. *Access and/or service drives for multi-family dwellings shall be fully improved with hard surface pavement:*

(...)

F. *Where on-site maneuvering and/or access drives are necessary to accommodate required parking, in no case shall said maneuvering and/or access drives be less than that required in Chapters 46 and 48 CDC.*

G. *The number of driveways or curb cuts shall be minimized on arterials or collectors. Consolidation or joint use of existing driveways shall be required when feasible.*

H. *In order to facilitate through traffic and improve neighborhood connections, it may be necessary to construct a public street through a multi-family site.*

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

Staff Finding 15: The applicant proposes one single-family home on the subject property and does not propose a gated accessway. Access is from Rosemont Road, a Collector. 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, except along Highway 43 in which case the maximum curb cut shall be 40 feet. For emergency service providers, including fire stations, the maximum shall be 50 feet.

Staff Finding 16: The applicant has one curb cut on Rosemont Road with a width of 22 feet. The criteria are met.

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

1. On an arterial when intersected by another arterial, 150 feet.

(...)

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

Staff Finding 17: The subject property has one curb cut on Rosemont Road, a Collector route, to provide access to the site. The curb cut is a distance of 175 feet from the closest intersection with Salamo Road and Santa Anita Drive. The criteria are met.

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. On an arterial street, 150 feet.

2. On a collector street, 75 feet.

3. Between any two curb cuts on the same lot or parcel on a local street, 30 feet.

Staff Finding 18: The subject property is adjacent to a Collector Street and the driveway curb cut is approximately 250 feet from the nearest curb cut to the east. The criteria are met.

E. A rolled curb may be installed in lieu of curb cuts and access separation requirements.

F. Curb cuts shall be kept to the minimum, particularly on Highway 43. Consolidation of driveways is preferred. The standard on Highway 43 is one curb cut per business if consolidation of driveways is not possible.

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

Staff Finding 19: The applicant has constructed the placement of curb cuts to meet City regulations. The criteria are met.

75.020 CLASSIFICATION OF VARIANCES

B. Class II Variance. Class II variances may be utilized when strict application of code requirements would be inconsistent with the general purpose of the CDC and would create a burden upon a property owner with no corresponding public benefit. A Class II variance will involve a significant change from the code requirements and may create adverse impacts on adjacent property or occupants. It includes any variance that is not classified as a Class I variance or special waiver.

1. Class II Variance Approval Criteria. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared.

a. The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:

Staff Finding 20: The applicant is requesting a Class II Variance to allow a driveway grade in excess of 15 percent as required in CDC 48.030.B(3). The applicant proposes that “reasonable use” of an R-10 single-family residentially zoned property is to allow the construction of a single family home. This property is a platted lot of record that is accessible only by using the Rosemont Road Right-of-Way. There are no alternate means of access. The grade of the terrain in the ROW and easement is more than 15 percent, which means that any driveway built at this site will have the same gradient unless significant excavation of the site is performed. This is the minimum variance necessary to make reasonable use of the property. The criteria is met.

1) Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.

Staff Finding 21: The applicant has constructed one single-family home on a lot of record zoned R-10, and lots within the immediate vicinity are developed with single-family homes of similar size. The development of this driveway is similar in size and slope/grade to driveways on other properties located in West Linn, please see Exhibit PC-3 for a number of examples that show existing single-family homes with driveways in excess of 15 percent grade. Most of these driveways were built prior to 2005 (when the current 15 percent standard came into effect) and did not require a Class II Variance. Most examples have the same R-10 zoning designation.

The criteria is met.

2) Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.

Staff Finding 22: The topography of the subject property, combined with the only access being via the current driveway location, makes this variance necessary to make reasonable use of the property. The buildable area of this property is located at an elevation approximately 20 feet above Rosemont Road. Access to the property can only be accomplished by a steeply graded driveway. The criteria is met.

3) The potential for economic development of the subject property.

Staff Finding 23: The site has an existing single-family home. The buildable area of this property is located at an elevation approximately 20 feet above Rosemont Road. Access to the property can only be accomplished by a steeply graded driveway at its current location. The criteria is met.

b. The variance will not result in violation(s) of any other code standard, and the variance will meet the purposes of the regulation being modified.

Staff Finding 24: Approval of the variance will not result in a violation of any other code standard. As demonstrated on the proposed site plan, the 8 foot public utility easement along the southern portion of the property will not be encroached upon. All other required dimensions for the site have been achieved. The criteria is met.

c. The need for the variance was not created by the applicant and/or owner requesting the variance.

Staff Finding 25: The need for the variance is due to the topographical challenges of the site. The criteria is met.

d. If more than one variance is requested, the cumulative effect of the variances results in a project that is consistent with the overall purpose of the zone.

Staff Finding 26: The applicant has requested one variance for the existing driveway gradient. This criteria does not apply.

EXHIBIT PC-1: APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT Chris Myers	PROJECT NO(S). VAR-22-01	PRE-APPLICATION NO. PA-21-19
NON-REFUNDABLE FEE(S) \$2,900	REFUNDABLE DEPOSIT(S) n/a	TOTAL \$2,900

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANN) | <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: 1201 Rosemont Rd	Assessor's Map No.: 21E26AD
	Tax Lot(s): 3009
	Total Land Area: 0.24

Brief Description of Proposal:
variance to allow existing driveway greater than 15% but less than 20%

Applicant Name: <i>CHRIS JEFFORDS</i>	Phone: <i>408-930-6947</i>
Address: <i>1201 ROSEMONT RD.</i>	Email: <i>ChrisJeffords@gmail.com</i>
City State Zip: <i>West Linn, Oregon 97068</i>	

Owner Name (required): <i>(please print)</i>	Phone:
Address: <i>same</i>	Email:
City State Zip:	

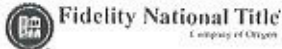
Consultant Name: <i>Bruce Goldson, PE</i>	Phone: 503-481-8822
Address: <i>PO Box 1345</i>	Email: thetaengllc@gmail.com
City State Zip: <i>Lake Oswego, Ore 97035</i>	

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 subsequent development is not vested under the provisions in place at the time of the initial application.

<i>Chris Jeffords</i>	2/24/2022	<i>Chris Jeffords</i>	2/24/2022
Applicant's signature	Date	Owner's signature (required)	Date

RECORDING REQUESTED BY:



717 NE Holladay St.
Portland, OR 97232

GRANTOR'S NAME:
Marius Rosca

GRANTEE'S NAME:
Christopher Jeffords and Michelle Taeko Jeffords

AFTER RECORDING RETURN TO:
Order No.: 45142131366-SG
Christopher Jeffords and Michelle Taeko Jeffords
1201 Rosemont Road
West Linn, OR 97068

SEND TAX STATEMENTS TO:
Christopher Jeffords and Michelle Taeko Jeffords
1201 Rosemont Road
West Linn, OR 97068

1201 Rosemont Road, West Linn, OR 97068

Clackamas County Official Records 2021-110853
Sherry Hall, County Clerk 12/23/2021 02:14:02 PM
D-D Cnt=1 Str=4 MELISSA
\$10.00 \$16.00 \$10.00 \$62.00 \$98.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Marius Rosca, Grantor, conveys and warrants to Christopher Jeffords and Michelle Taeko Jeffords, as tenants by the entirety, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Clackamas, State of Oregon:

Parcel 2, PARTITION PLAT NO 2020-045, recorded June 30, 2020 as Document No. 2020-049836, in the City of West Linn, County of Clackamas and State of Oregon.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE MILLION EIGHTY-NINE THOUSAND AND NO/100 DOLLARS (\$1,089,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 12-23-21

Marius Rosca

State of Oregon
County of Multnomah

This instrument was acknowledged before me on December 23, 2021 by Marius Rosca.

Shirley Ann Guy
Notary Public - State of Oregon
My Commission Expires: 3/11/25



Fidelity National Title of Oregon 45142131366-05



1201 Rosemont Rd
Class II Variance
City File PA 21-23

NARRATIVE:

The subject property is further identified as Tax Lot 21E26AD03009 and was created by partition. A pre-application conference was held November 18, 2021 to discuss the existing driveway gradient with respect to Chapter 48 of the development code.

48.020

C. No building or other permit shall be issued until scaled plans are presented to the City and approved by the City as provided by this chapter, and show how the access, egress, and circulation requirements are to be fulfilled. Access to State or County roads may require review, approval, and permits from the appropriate authority.

It is my understanding that a scaled site plan was submitted to the City. A copy of the plan is attached to this review. The site plan, that I have, doesn't have a profile and there is a note that a portion of an original driveway is to remain, but no grades and size. There isn't any stationing on the site plan to indicate the total distance.

48.030

3. Maximum driveway grade shall be 15 percent. The 15 percent shall be measured along the centerline of the driveway only. Variations require approval of a Class II variance by the Planning Commission pursuant to Chapter 75 CDC. Regardless, the last 18 feet in front of the garage shall be under 12 percent grade as measured along the centerline of the driveway only. Grades elsewhere along the driveway shall not apply.

The approved site plan indicates a garage floor elevation, does not specify the required 12% grade nor the maximum 15% grade. The house was staked out by surveyors prior to construction. Subsequently overall distance on the approved plan was measured with AutoCAD and using the proposed garage elevation and the existing sidewalk elevation it was calculated that the overall slope from the garage to the sidewalk was approximately 14.5%. The required 18-feet of 12% slope or less is not accounted for. As built survey finds the slope from the garage out the required 18-feet finds a 12.0 % slope and the final garaged floor is slightly higher than design. The net result finds the driveway slope greater than the maximum 15%. The as built survey finds the remainder of the drive past the 12% as 17.4% to the right of way.

99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

A. who may apply

This application is being submitted by the property owner

B. pre-application conference.

A pre-application conference has been completed.

Conclusions:

Development of this property has been a challenge and several driveway designs were investigated. The developer recognized that the driveway would not meet the standards once the construction of the house was underway. At that point alteration of the garage was not possible. Re-grading and realignment of the driveway as attempted and found not possible. To avoid erosion through the winter, the driveway was paved.

It has been my observation, because of the steep topography found in many parts of West Linn that there are examples of driveways exceeding the maximum grade. Although the City reviewed and approved the driveway plan I believe that in this case it should have been a stamped engineering plan due to site conditions.

Other jurisdictions in the Metro area allow driveways up to 20%. It is my opinion that driveways that have 20% grades can operate safely. There are no alternatives for access to this property. The existing driveway has been found to be less than 20% and a deviation from the standard should be approved by Design Review.

Prepared by:

Bruce D. Goldson, PE

Theta, LLC

January 25, 2022

2020-326.2



1201 Rosemont Rd
Class II Variance
City File PA 21-23
Incomplete Notice Response

NARRATIVE:

75.020

B. Class II Variance. Class II variances may be utilized when strict application of code requirements would be inconsistent with the general purpose of the CDC and would create a burden upon a property owner with no corresponding public benefit. A Class II variance will involve a significant change from the code requirements and may create adverse impacts on adjacent property or occupants. It includes any variance that is not classified as a Class I variance or special waiver.

1. Class II Variance Approval Criteria. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared.

a. The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:

- 1) Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.*
- 2) Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.*
- 3) The potential for economic development of the subject property.*

b. The variance will not result in violation(s) of any other code standard, and the variance will meet the purposes of the regulation being modified.

c. The need for the variance was not created by the applicant and/or owner requesting the variance.

d. If more than one variance is requested, the cumulative effect of the variances results in a project that is consistent with the overall purpose of the zone.

Response:

1) The subject property was created by partition meeting the code requirements of the zone for single family development.

2) The property meets the requirements for size and width. Topographically the property slopes from east to west at more than 20%. There are limited opportunities to design a driveway to meet the design standards for slope, connection the right of way, and sight distance. The City installed a wall along a portion of the frontage that limits where a driveway can connect to the right of way on Rosemont.

3) The property has been developed with the construction of a house and driveway connection to Rosemont. The finish elevation of the garage does not permit a driveway to be constructed with a 12% landing at the garage and meet the maximum 15% slope to the street. Driveways up to 20% are not uncommon and this driveway will be less and between 15% and 20%

75.050

A. *A variance request shall be initiated by the property owner or the owner's authorized agent.*

B. *A prerequisite to the filing of an application for a Class II variance or special waiver is a pre-application conference at which time the Planning Director shall explain the requirements and provide the appropriate form(s).*

C. *An application for a variance shall include the completed application form and:*

1. *A narrative which addresses the approval criteria set forth in CDC 75.020, and which sustains the applicant's burden of proof.*

2. *A site plan as provided by CDC 75.060.*

One original application form must be submitted. One copy at the original scale and one copy reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. One copy of all other items must be submitted. The applicant shall also submit one copy of the complete application in a digital format acceptable to the City. When the application submittal is determined to be complete, additional copies may be required as determined by the Community Development Department.

D. *Requests for more than one Class II variance for the same lot or parcel shall be consolidated in one application and reviewed concurrently by the City.*

E. *Not more than two Class II variances may be approved for any one lot or parcel in a continuous 12-month period.*

F. *The applicant shall pay the requisite fee. (Ord. 1442, 1999; Ord. 1621 § 25, 2014; Ord. 1622 §§ 9, 18, 2014; Ord. 1636 § 47, 2014)*

Response:

A. The application has been by the property owner

B. A pre-application meeting has been held

C. A narrative and drawing has been submitted

D. Only one variance is being submitted

E. Only one variance is being submitted

F. Fees have been submitted

75.060

A. *All plot plans and maps shall include the name, address, and telephone number of the applicant; the scale; north arrow; and a vicinity map.*

B. *The applicant shall submit a plot plan drawn to an appropriate scale (in order of preference: one inch equals 10 feet to one inch equals 30 feet) which shows the following:*

1. *The subdivision name, block, and lot number or the section, township, range, and tax lot number.*

2. *In the case of a request for a variance to a lot or parcel dimensional or building setback requirement:*

a. *The lot or parcel configuration and dimensions, and the location of all existing structures; the setback distances and the location of all structures on abutting units of land, and the setback distances; and*

b. *The proposed variances.*

Response:

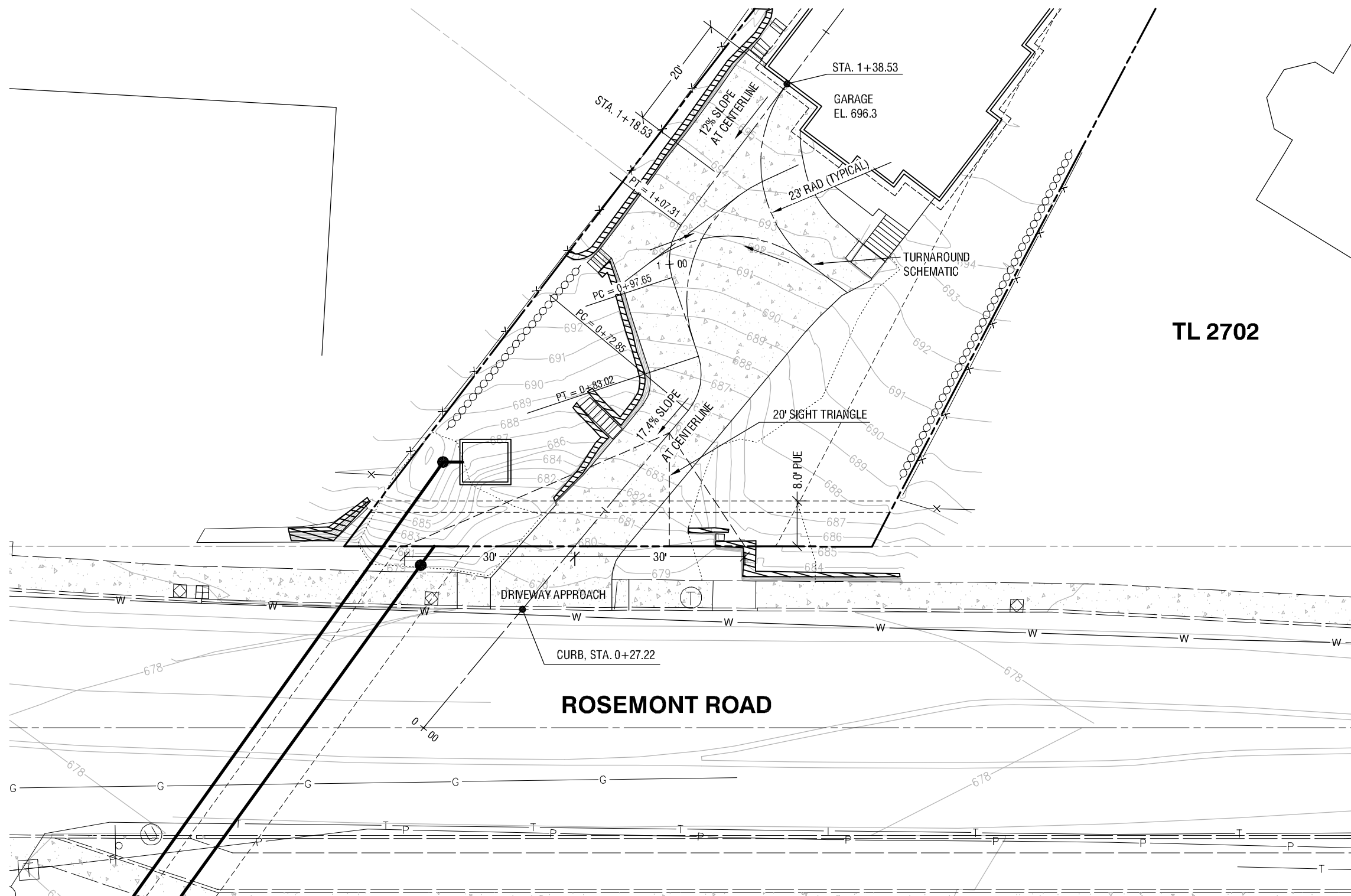
A. The plan has been updated to include the contact information

B. The plan has been updated to include the legal description

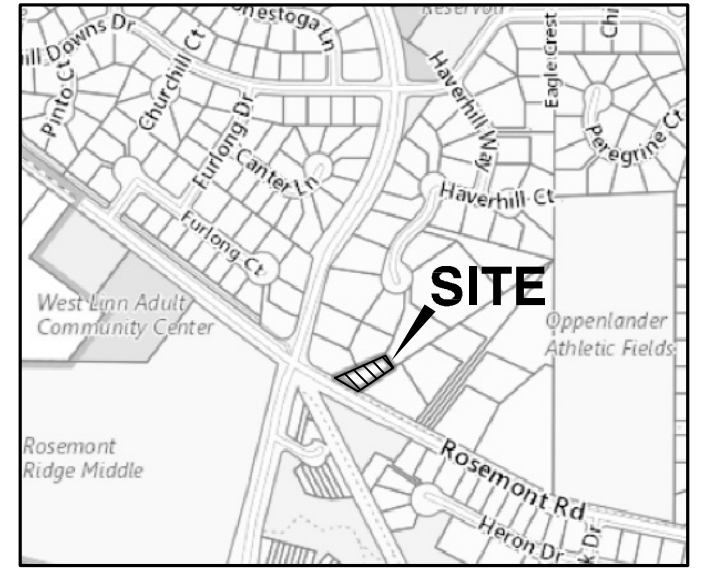
Prepared by:

Bruce D. Goldson, PE
Theta
2 18 2022

326.2

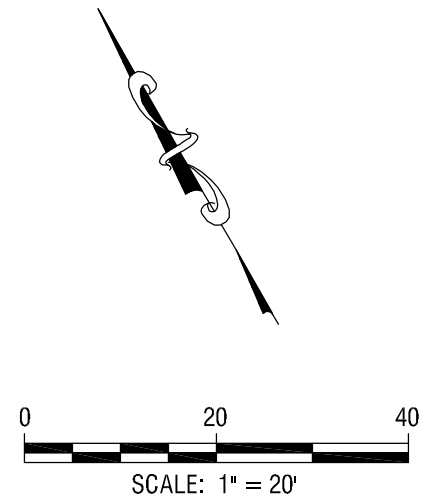


TL 2702



VICINITY MAP
SCALE: NTS

OWNER:
Marius Rosca
P.O. Box 209
West Linn, Oregon 97068
Phone: 971-506-1041



DESIGNED:	BDG
DRAWN:	BJS
SCALE:	1" - 20'
DATE:	January, 2022
FILE:	Haverhill Civil3

Theta, llc
ENGINEERING - SURVEYING - PLANNING
PO Box 1345
Lake Oswego, Oregon 97035
503/481-8822
email: thetaeng@comcast.net

Marius Rosca
Phone: 971-506-1041
mariusros79@yahoo.com

1201 Rosemont Road
West Linn, Oregon 97068

2 1E 26AD, TL 3009, PARTITION PLAT 2020-45

DRIVEWAY PLAN

EXISTING CONDITIONS MAP

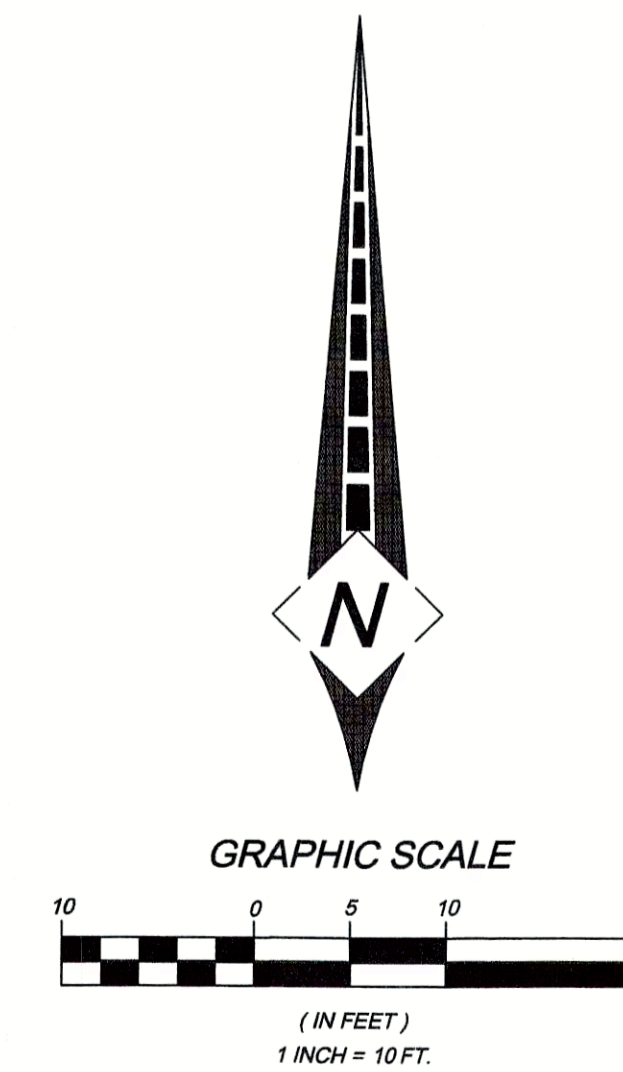
PARCEL 2, PARTITION PLAT 2020-045
 TAX LOT 3009, MAP 2S, 1E, 26AD
 LOCATED IN THE N.E. 1/4 SECTION 26, T.2S., R.1E., W.M.
 CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON
 DECEMBER 14, 2021 SCALE 1"=10'

SURVEY NOTES:

THE DATUM FOR THIS SURVEY IS BASED UPON NAVD-88, BENCH MARK "SALAMO" WITH AN IDENTIFICATION NUMBER OF PID-AJB196. THE ELEVATION OF THIS BENCH MARK IS 672.72 FEET.
 A TRIMBLE S6-SERIES ROBOTIC INSTRUMENT WAS USED TO COMPLETE A CLOSED LOOP FIELD TRAVERSE.
 THE BASIS OF BEARINGS FOR THIS SURVEY IS PER MONUMENTS FOUND AND HELD PER THE PLAT OF "TANNER RIDGE", RECORDS OF CLACKAMAS COUNTY.
 THE PURPOSE OF THIS SURVEY IS TO RESOLVE AND DETERMINE THE PERIMETER BOUNDARY OF THE SUBJECT PROPERTY, TO SHOW ALL PERTINENT BOUNDARY ISSUES AND ENCROACHMENTS. NO PROPERTY CORNERS WERE SET IN THIS SURVEY.
 NO WARRANTIES ARE MADE AS TO MATTERS OF UNWRITTEN TITLE, SUCH AS ADVERSE POSSESSION, ESTOPPEL, ACQUIESCENCE, ETC.
 NO TITLE REPORT WAS SUPPLIED OR USED IN THE PREPARATION OF THIS MAP.
 THE UNDERGROUND UTILITIES AS SHOWN ON THIS MAP HAVE BEEN LOCATED FROM FIELD SURVEY OF ABOVE GROUND STRUCTURES AND AS MARKED BY OTHERS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SURVEYOR.

LEGEND:

- Some Symbols shown may not be used on map
- | | |
|--|----------------------------|
| 12" DECIDUOUS TREE | ○ TRAFFIC SIGNAL POLE |
| 24" EVERGREEN TREE | ○ UTILITY POLE |
| ○ DEAD TREE | ○ LIGHT POLE |
| ○ STORM SEWER MANHOLE | ○ GUY WIRE |
| □ CATCH BASIN | □ ELECTRIC BOX |
| □ CURB INLET | □ ELECTRIC METER |
| □ AREA DRAIN | □ TRANSFORMER |
| □ DITCH INLET | □ ELECTRIC RISER |
| ○ SANITARY SEWER CLEANOUT | □ HEAT PUMP |
| ○ SANITARY SEWER MANHOLE | ○ GATE POST |
| ○ FIRE HYDRANT | ○ CABLE TV BOX |
| ○ WATER MANHOLE | ○ CABLE TV RISER |
| ○ WATER METER | — OH — OVERHEAD LINE |
| ○ WATER VALVE | — G — GAS LINE |
| ○ HOSE BIB | — E — ELECTRICAL LINE |
| ○ IRRIGATION CONTROL VALVE | — FO — COMMUNICATIONS LINE |
| ○ GAS VALVE | — SS — SANITARY SEWER LINE |
| ○ GAS METER | — SD — STORM DRAIN LINE |
| ○ MAILBOX | — W — WATER LINE |
| ○ UTILITY RISER | — X — FENCELINE |
| ○ UTILITY BOX | — ○ — HANDRAIL |
| ○ TELEPHONE MANHOLE | ○ ○ ○ ○ ARBORVITAE ROW |
| ○ TELEPHONE RISER | □ TRENCH DRAIN |
| ○ STORM OUTFALL | |
| ○ SIGN | |
| ○ BOLLARD | |
| ○ FOUND MONUMENT | |
| ○ DOWN SPOUT TO STORM SYSTEM | |
| ○ DOWN SPOUT TO SPLASH GUARD OR GROUND W/ PIPE DIRECTION | |
| FD = FOUND | |
| IP = IRON PIPE | |
| IR = IRON ROD | |
| YPC = YELLOW PLASTIC CAP | |
| ALC = ALUMINUM CAP | |
| RPC = RED PLASTIC CAP | |



SIGNED ON: 16 DEC 21
 REGISTERED PROFESSIONAL LAND SURVEYOR
 OREGON JULY 13, 2004
 TOBY C. BOLDEN 60377LS
 RENEWS: DECEMBER 31, 2021

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

PLOTTED: M:\PROJECTS\ROSCA-ROSEMONT-1201\DWG\AS-BUILT MAP-C3D.dwg

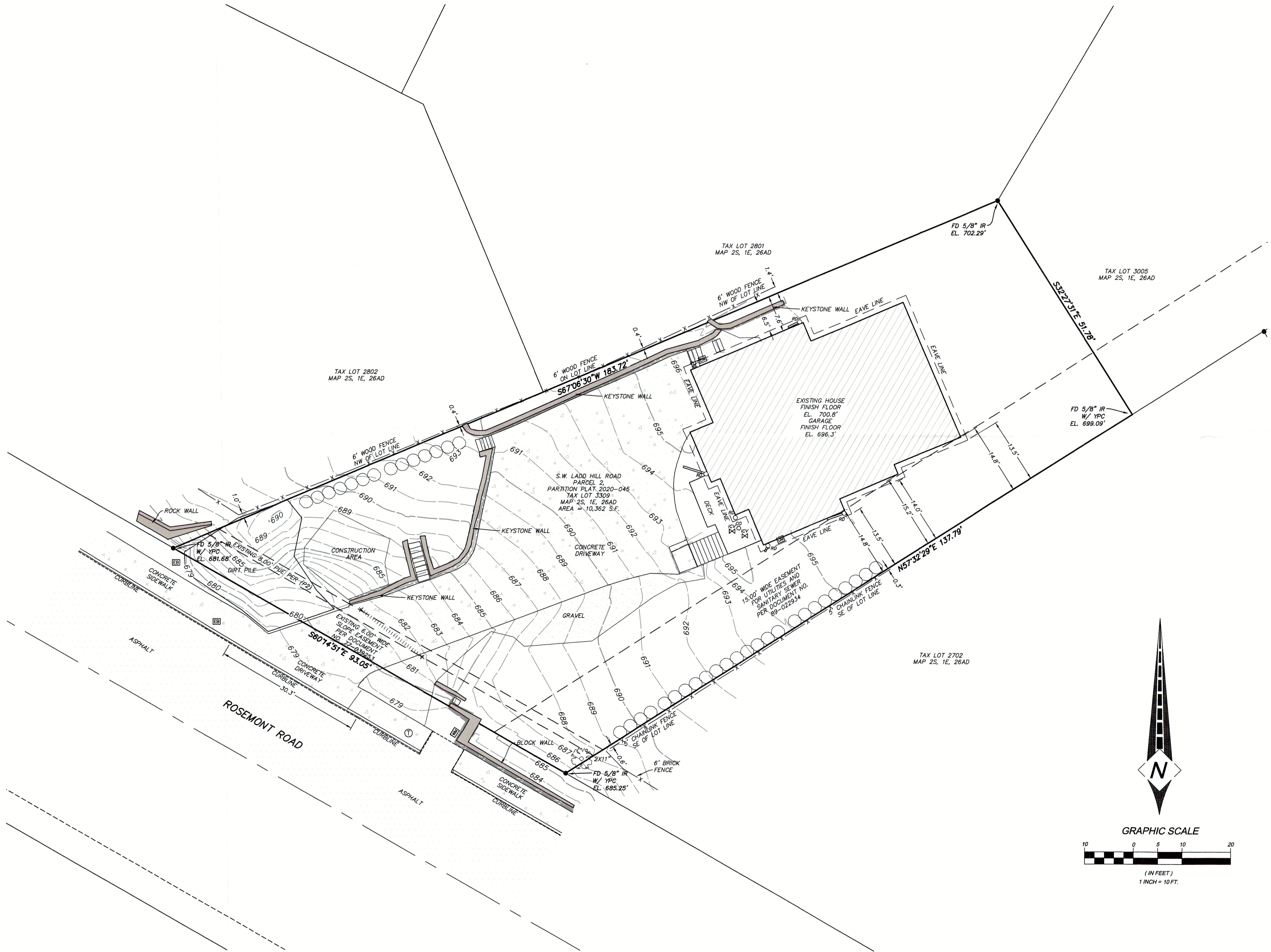


EXHIBIT PC-2: TUALATIN VALLEY FIRE & RESCUE COMMENT LETTER

From: [Arn, Jason S.](#)
Sent: Tuesday, March 22, 2022 4:38 PM
To: [Myers, Chris](#)
Subject: 1201 Rosemont Road

CAUTION: This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

Chris,

Tualatin Valley Fire & Rescue has no opposition to VAR-22-01 to allow a driveway gradient in excess of 15% at 1201 Rosemont Road. This is consistent with our Exception 1.3 for driveways not exceeding 200' feet in length OFC 503.1.1.

See TVF&R Fire Code Applications Guide for details:
<http://www.tvfr.com/DocumentCenter/View/1438>

Please let me know if you need further.

Best,

Jason Arn | Deputy Fire Marshal IAAI-CFI
Tualatin Valley Fire & Rescue
Direct: 503-259-1510
www.tvfr.com

Jason Arn | Deputy Fire Marshal IAAI-CFI
Tualatin Valley Fire & Rescue
Direct: 503-259-1510
www.tvfr.com

EXHIBIT PC-3: DRIVEWAY GRADIENT EXAMPLES



6080 Caufield Drive – 19% driveway grade



6040 Caufield Drive – 24% driveway grade



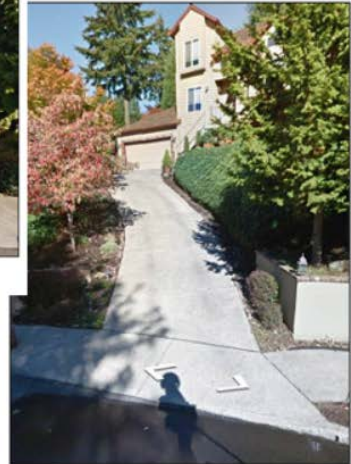
3156 Oak Tree Court – 28% driveway grade



2463 Tipperary Court – 33% driveway grade



25140 Rancho Lobo Court – 24% driveway grade



2567 Kilkenny Court – 27% driveway grade

EXHIBIT PC-4: PROPERTY MAP



EXHIBIT PC-5: COMPLETENESS LETTER



CITY OF
West Linn

March 2, 2022

Marius Rosca
PO Box 209
West Linn, OR 97068

SUBJECT: VAR-22-01 Application requesting a Class II Variance that would allow the driveway gradient to remain at 18.52% rather than the required maximum grade of 15%.

Dear Mr. Rosca,

You submitted this application on January 25, 2022 and provided revised materials on February 24, 2022. Upon review of the revised materials, the Planning Department finds that this application is **complete**. The city has 120 days to exhaust all local review; that period ends June 24, 2022.

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

A 20-day public notice will be prepared and mailed for a public hearing before the West Linn Planning Commission tentatively scheduled for April 6, 2022.

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

Sincerely,

Chris Myers

Chris Myers
Associate Planner

EXHIBIT PC 6: AFFIDAVIT 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.: **VAR-22-01**

Applicant's Name: **Marius Rosca**

Development Name: **1201 Rosemont Road**

Scheduled Decision Date: **Planning Commission Hearing on 4/6/22 at 6:30 pm**

APPLICATION

The application, all documents or evidence relied upon by the applicant, and applicable criteria were posted on the website at least 20 days prior to the hearing or decision date per Section 99.040 of the Community Development Code.

3/17/22	<i>Lynn Schroder</i>
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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	Marius Rosca, applicant	3/17/22	<i>Lynn Schroder</i>
2	Bruce Goldson, applicant's agent	3/17/22	<i>Lynn Schroder</i>
3	Property owners of record within 500 feet	3/17/22	<i>Lynn Schroder</i>
4	All Neighborhood Associations	3/17/22	<i>Lynn Schroder</i>

**Map Image for Notice incorrectly identified property as 2182 Bland Circle because the property fronts Bland Circle. The title on the map should be 2182 Tannler Drive. Noticed Property owners were correctly determined based on 2182 Tannler Drive.*

TIDINGS

Notice was posted in the West Linn Tidings at least 10 days prior to the hearing or meeting date per Section 99.080 of the Community Development Code.

3/23/22	<i>Lynn Schroder</i>
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WEBSITE

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

3/17/22	<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.

3/22/22	<i>Chris Myers</i>
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STAFF REPORT was posted on the website and mailed to the applicant and members of the decision-making body at least 10 days prior to the scheduled date of the public hearing per Section 99.040 of the Community Development Code.

3/24/22	<i>Lynn Schroder</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.

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**CITY OF WEST LINN PLANNING COMMISSION
PUBLIC HEARING NOTICE
FILE NO. VAR-22-01**

The West Linn Planning Commission will hold a hybrid public hearing on **April 6, 2022** at 6:30 pm in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider a request for VAR 22-01 at 1201 Rosemont Road. The applicant is requesting approval for a variance to allow a driveway to exceed the maximum 15% gradient.

The Planning Commission will make its decision based on applicable criteria found in Chapter 75 of the Community Development Code (CDC). The CDC approval criteria are available for review on the City website <http://www.westlinnoregon.gov/cdc> or at City Hall and the City Library.

The application is posted on the City's website, <https://westlinnoregon.gov/planning/1201-rosemont-rd-class-2-variance-allow-steeper-grade-driveway-1201-rosemont-road> 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 a reasonable cost. The staff report will be posted on the website and available for inspection at no cost, or copies may be obtained at a reasonable cost, at least ten days before the hearing.

The hearing will be conducted according to CDC Section 99.170 in a hybrid format with some Commissioners, staff, presenters, and members of the public attending remotely via Webex and others attending in-person at City Hall. The public can watch the meeting online at <https://westlinnoregon.gov/meetings> or on Cable Channel 30.

Anyone wishing to present written testimony for consideration may submit all materials before 12:00 pm on the meeting day to cmyers@westlinnoregon.gov or mail them to City Hall.

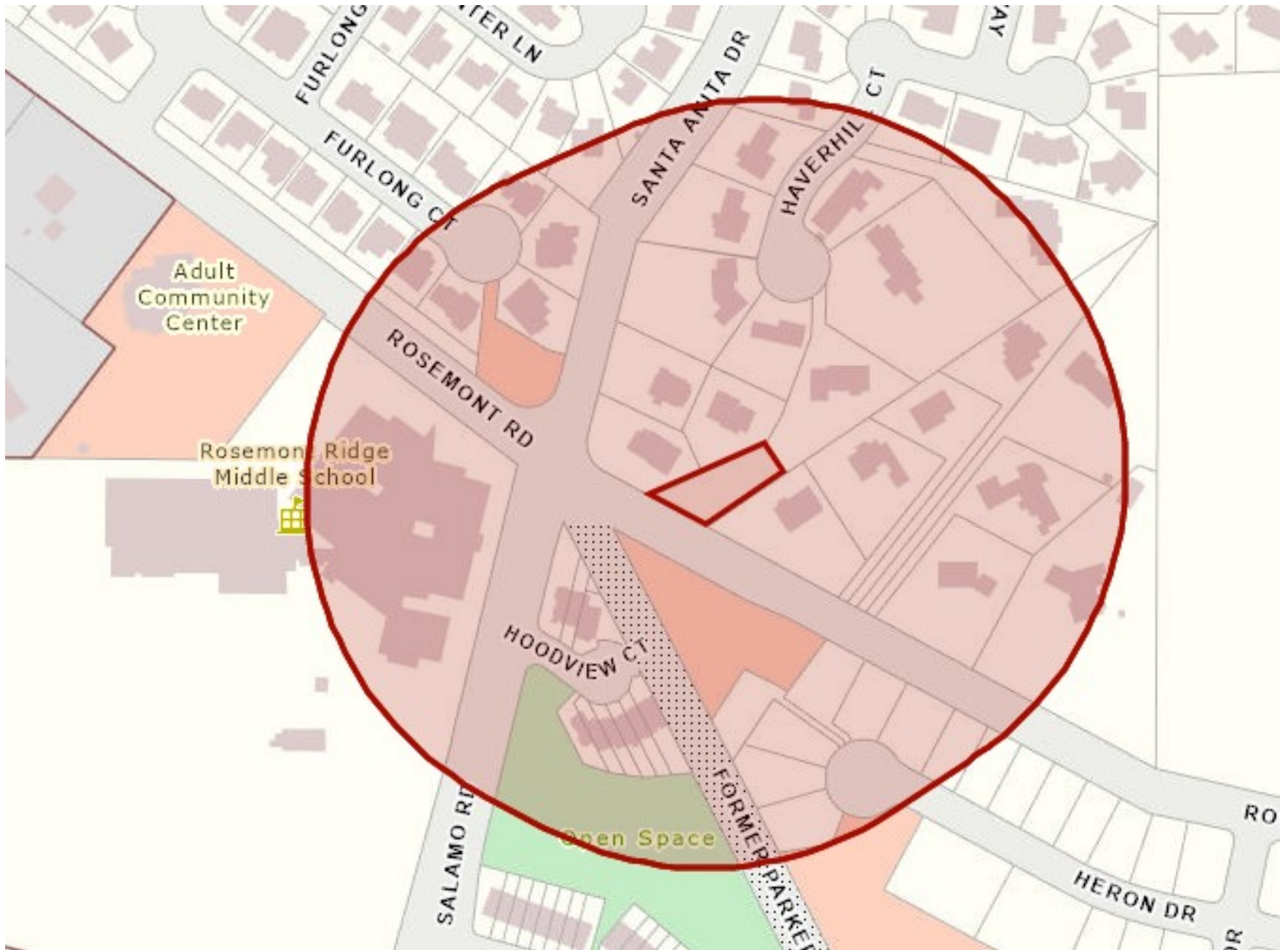
Those who wish to participate remotely should complete the speaker form at <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> **before 4:00 pm on the meeting day** to receive an invitation to join the meeting. Virtual participants can log in through a computer, mobile device, or call-in.

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 a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes appeal to the Oregon Land Use Board of Appeals based on that issue (CDC Section 99.090).

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 mailing the notice of the final decision pursuant to CDC [99.240](#).

For additional information, please contact Chris Myers, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-742-6062 for additional information.

Publish: Tidings March 23, 2022





**NOTICE OF UPCOMING
PLANNING COMMISSION PUBLIC HEARING**

**PROJECT #VAR-22-01
MAIL: MARCH 17, 2022 TIDINGS: MARCH 23, 2022**

CITIZEN CONTACT INFORMATION

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