

Agenda Bill 2022-03-14-02

Date Prepared: March 1, 2022

For Meeting Date: March 14, 2022

To: Jules Walters, Mayor
West Linn City Council

From: Darren Wyss, Planning Manager *DSW*

Through: John R. Williams, Community Development Director *JRW*
Jerry Gabrielatos, City Manager JG

Subject: Appeal of MISC-22-01

Purpose

To hold a public hearing and consider the appeal (AP-22-01) by Luan Ly of the Planning Director denial of a Home Occupation Permit (MISC-22-01) to operate a swim lesson business in an outdoor, above-ground swimming pool at 2245 Michael Drive.

Question(s) for Council:

Should the Council approve the appeal AP-22-01 or deny the appeal and uphold the Planning Director decision to deny MISC-22-01?

Public Hearing Required:

Yes

Background & Discussion:

The Appellant requested a Home Occupation Permit on December 9, 2021 for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

The property is zoned R-10, which permits a home occupation under the prescribed conditions of compliance with West Linn Community Development Code (CDC) Chapter 37: Home Occupations. The purpose statement of CDC Chapter 37 reads, *"The purpose of this chapter is to provide for home occupations in residential zones as a means of providing convenient employment opportunities and decreasing the dependence on the auto. The standards contained in this chapter are intended to assure that home occupations will be compatible and consistent with the residential uses, and will not have a detrimental effect on neighboring properties."* The purpose is implemented through the criteria found in CDC Chapters 37.020 and 37.030.

Staff reviewed the Appellant's request to ensure compliance with CDC Chapter 37. The review (MISC-22-01) found the request was not compatible with the definition of a home occupation (CDC Chapter 2), nor did it comply with three of the criteria, and the Home Occupation Permit was denied. The full

findings that led to the denial are found in MISC-22-01 (Attachment 1), but below is the definition of home occupation and a snapshot of the reason for denial:

1. “Home occupation. Any activity carried out for gain by a resident and conducted as a customary, incidental, and **accessory use in the resident’s dwelling unit**. Standards for home occupations are set forth in Chapter 37 CDC.”
2. Requires the home occupation **to be conducted in the house/dwelling unit** (CDC 37.020.A(1))
3. Requires in no way the home occupation **within the residence** to be conducted in a manner which would cause the premises to differ from its residential character (CDC 37.020.A(2))
4. Requires no outdoor use or storage of material or mechanical equipment that is **not part of the residential use**. Using the pool for financial gain is not part of the residential use. (CDC 37.020.A(3))

The staff analysis found the code and definitions to be clear that a home occupation was intended to be confined to either the house/dwelling unit, or an accessory building. This is critical in eliminating impacts to the surrounding residences by outdoor activity associated with the business.

Appeal Hearing Responsibility

The City Council is assigned the responsibility to hear an appeal by CDC 37.060.A(3) *The Director’s decision may be appealed by the applicant to the City Council as provided in CDC 99.240(A).*

Appeal Applicable Criteria

The applicable criteria for this appeal of a Home Occupation Permit is CDC Chapter 37. Agenda Bill Attachment 1 is the Planning Director Decision denying the home occupation application. Attachment 1 contains all applicable criteria and staff findings that support the denial.

Appeal Hearing Process

Appeal hearings in the City of West Linn are de novo, meaning new information can be submitted for consideration (CDC 99.280). An application for appeal also does not require the Appellant to identify the grounds for appeal or the applicable criteria that were misapplied. (CDC 99.250) These are the rules this appeal hearing must follow, but the Council may wish to revisit the rules in the near future. The current process has inefficiencies in that the Council, and staff, is placed in a position of potentially not knowing why an appeal has been filed until the public hearing has been opened and testimony taken. This eliminates the ability of staff to prepare a report outlining the information that is important for the Council to consider.

The Appellant’s appeal application (Attachment 2) alludes to the swim lesson business previously operating and being in effect terminated by the denial of a home occupation permit. Below is a summary of the activity by the Appellant and the City responses that has led to this appeal hearing.

- The Appellant has obtained a valid home occupation permit for several years to teach language tutoring lessons at 2245 Michael Drive.
- The Appellant purchased and installed an outdoor, above-ground swimming pool in 2021.
- The Appellant began teaching swimming lessons in the pool in 2021.

- In August 2021, the City received complaints regarding the swim lessons and discovered the Appellant did not have a business license or home occupation permit to operate the swim lesson business.
- The City directed the Appellant to apply for a business license/home occupation permit for the swim lesson business.
- The Appellant tagged the swim lesson business onto the language tutoring business license.
- The updated business license/home occupation permit was routed to Planning staff for review with the intent of researching whether an outdoor business was allowed under the home occupation rules.
- In the meantime, City Code Enforcement issued citations for operating without a license.
- The updated business license was issued, although the Planning review for compliance with home occupation rules did not occur. This led to confusion on whether only the language tutoring business was approved or both were approved.
- This led to additional citations, which were eventually revoked after conversations between City staff and the Appellant and a path forward was agreed upon.
- The City revoked the existing business license that contained both the language tutoring business and the swim lesson business. The Appellant applied for a separate license for each business.
- The language tutoring business/home occupation was renewed.
- The swim lesson business/home occupation was evaluated and denied (MISC-22-01).
- The Appellant has appealed the denial to City Council.

Budget Impact:

None

Sustainability Impact:

None

Council Goal/Priority:

Not related to a Council goal

Council Options:

1. Move to deny the appeal (AP-22-01) and uphold the Planning Director denial of a Home Occupation Permit to operate a swim lesson business in an outdoor, above-ground swimming pool at 2245 Michael Drive and adopt the findings contained in the staff report.
2. Move to make a tentative decision to approve the appeal (AP-22-01), thereby overturning the Planning Director denial of a Home Occupation Permit to operate a swim lesson business in an outdoor, above-ground swimming pool at 2245 Michael Drive (identify the reasoning/applicable criteria that were misapplied), and direct staff to bring back findings for adoption.

Staff Recommendation:

Staff recommends denial of the appeal (AP-22-01) based on the findings contained in Attachment 1 (MISC-22-01).

Potential Motion:

1. Move to deny the appeal AP-22-01 and **uphold** the Planning Director denial of a Home Occupation Permit to operate a swim lesson business in an outdoor, above-ground swimming pool at 2245 Michael Drive and adopt the findings contained in the staff report.
2. Move to make a tentative decision to approve the appeal AP-21-01, thereby **overturning** the Planning Director denial of a Home Occupation Permit to operate a swim lesson business in an outdoor, above-ground swimming pool at 2245 Michael Drive (identify the reasoning/applicable criteria that were misapplied), and direct staff to bring back findings for adoption.

Attachments:

1. Planning Director Denial of Home Occupation Permit application MISC-22-01, dated February 8, 2022.
2. Appellant application AP-22-01, dated February 17, 2022.
3. AP-22-01 Affidavit and Notice Packet.



CITY OF
West Linn

Planning Director Decision

DATE: February 8, 2022
FILE NO.: MISC-22-01
REQUEST: Home Occupation Permit at 2245 Michael Drive

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GENERAL INFORMATION

BUSINESS OWNER/ APPLICANT:

Luan Lierman (Lu's Swim School)
2245 Michael Drive
West Linn, OR 97068

PROPERTY OWNER:

Donovan and Luan Lierman
2245 Michael Drive
West Linn, OR 97068

SITE LOCATION:

2245 Michael Drive

SITE SIZE:

0.261 acres (11,385 sq. ft.)

LEGAL

DESCRIPTION:

2S 1E 34DB 00800
Block 2, Lot 3, Tualatin View Addition

COMP PLAN

DESIGNATION:

Low Density Residential

ZONING:

R-10

APPROVAL

CRITERIA:

Community Development Code (CDC) Chapter 11: Single-Family Residential Detached, Chapter 37: Home Occupations, Chapter 99: Procedures for Decision-Making: Quasi-Judicial

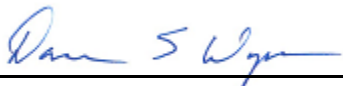
BACKGROUND INFORMATION

The applicant requested a Home Occupation Permit on December 9, 2021 for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

The property is zoned R-10, which permits a home occupation under the prescribed conditions of compliance with West Linn Community Development Code (CDC) Chapter 37: Home Occupations. The purpose statement of CDC Chapter 37 reads, *"The purpose of this chapter is to provide for home occupations in residential zones as a means of providing convenient employment opportunities and decreasing the dependence on the auto. The standards contained in this chapter are intended to assure that home occupations will be compatible and consistent with the residential uses, and will not have a detrimental effect on neighboring properties."* The purpose is implemented through the criteria found in CDC Chapters 37.020 and 37.030.

DECISION

The Planning Director **DENIES** the application for a Home Occupation Permit at 2245 Michael Drive for the purpose of operating a swim lesson business in an outdoor swimming pool in the rear-yard of the property. The decision is based on: 1) information submitted by the applicant, which is incorporated by this reference; and 2) staff findings included in the code compliance analysis below.



Darren Wyss, Planning Manager

February 8, 2022

Date

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$400. Appeals will be heard by West Linn City Council pursuant to CDC Chapter 37.060(3) and 99.240(A).

Mailed this 8th day of February, 2022.

Therefore, the 14-day appeal period ends at 5 p.m. on February 22, 2022.

CODE COMPLIANCE ANALYSIS AND FINDINGS
MISC-22-01

Chapter 11: Single-Family Residential Detached, R-10
11.020 Procedures and Approval Process

...

B. A use permitted under prescribed conditions (CDC 11.050) is a use for which approval will be granted provided all conditions are satisfied; and

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

Staff Finding 1: The Director is making the decision on issuance of a Home Occupation Permit as authorized by CDC 99.060.A.1(b) and CDC 99.060.A(2). No notice was required or sent. The criteria is met.

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

Staff Finding 2: The appeal procedures of CDC 99.240(A) were amended so a Planning Director decision is appealed to City Council. The reference to the Planning Commission is outdated and incorrect. This reference should have been amended at the time the appeal decision-making authority was changed to City Council. The correct information for appeal rights are included as part of the Decision on page 3 and the applicant has the right to appeal the decision.

...

11.050 Uses and Development Permitted Under Prescribed Conditions
The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.

...

Staff Finding 3: The Director is making the decision on issuance of a Home Occupation Permit as authorized by CDC 99.060.A.1(b) and CDC 99.060.A(2). Staff Findings 4 to 17 address the home occupation/swim lesson use and compliance with the provisions of Chapter 37.

Chapter 37: Home Occupations
37.020 General Standards

A. A home occupation shall comply with all the following operating standards:

1. The home occupation shall be a secondary use to the primary use of the house as a residence.

Staff Finding 4: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an

outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

This criteria requires a home occupation to be conducted in the house as a secondary use. House is not defined in the CDC, so it shall have the meaning specified in Webster's Third New International Dictionary of the English Language (CDC 02.010.D): *"House - A structure intended or used for human habitation."*

This criteria is also consistent with the definition found in CDC Chapter 2: *"Home occupation. Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit. Standards for home occupations are set forth in Chapter 37 CDC."* Dwelling Unit is defined in CDC Chapter 2 as *"One or more rooms designed for occupancy by one family for living purposes providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation."*

An outdoor, above-ground swimming pool does not qualify as a house or a dwelling unit. Therefore, the criteria is not met.

2. In no way shall the appearance of the residential structure or yard be altered, or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character by the use of colors, materials, construction, lighting, show windows, signs, or advertising visible outside the premises to attract customers or clients, other than a sign as permitted per subsection (A)(9) of this section.

Staff Finding 5: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

This criteria requires in no way the home occupation within the residence to be conducted in a manner which would cause the premises to differ from its residential character. Residence is not defined in the CDC, so it shall have the meaning specified in Webster's Third New International Dictionary of the English Language (CDC 02.010.D): *"Residence – A building used as a home."*

This criteria is also consistent with the definition found in CDC Chapter 2: *"Home occupation. Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit. Standards for home occupations are set forth in Chapter 37 CDC."* Dwelling Unit is defined in CDC Chapter 2 as *"One or more rooms designed for occupancy by one family for living purposes providing*

complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.”

A swimming pool does not qualify as a residence or a dwelling unit. The code requires a home occupation to be conducted within a dwelling unit. Therefore, the criteria is not met.

3. There shall be no outdoor use or storage of material or mechanical equipment that is not part of the residential use.

Staff Finding 6: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

This criteria requires no outdoor use or storage of material or mechanical equipment that is not part of the residential use. Use is defined in CDC Chapter 2 as “*The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.*”

The purpose of the land and structure is for residential use as the property is zoned R-10: Single-Family Residential Detached. The use of the swimming pool for financial gain is a commercial use. The commercial use of providing swim lessons includes outdoor use of material (the pool) and mechanical equipment (pumps and heaters) that is not part of the residential use as it is for financial gain. Therefore, the criteria is not met.

4. An accessory building which meets the provisions of Chapter [34](#) CDC may be used for the home occupation.

Staff Finding 7: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

An accessory building may be used for the home occupation. Building is defined in CDC Chapter 2 as “*Any structure used or intended for supporting or sheltering any use or occupancy.*” Accessory Structure is defined in CDC Chapter 2 as “*A subordinate structure with a maximum area of 1,500 square feet, except for agricultural buildings, located on a lot or parcel with a principal use, the use of which is clearly incidental to and associated with the principal use. Examples of accessory structures include, but are not limited to, the following:..2. Swimming Pools...*”

The definition of accessory structure includes swimming pools. This criteria allows use of an accessory building. This semantic difference is immaterial as Staff Finding 3 established the purpose of the land and structure is for residential use as the property is zoned R-10: Single-Family Residential Detached and the use of the swimming pool for financial gain is a commercial use. The commercial use of providing swim lessons includes outdoor use of material (the pool) and mechanical equipment (pumps and heaters) that is not part of the residential use as it is for financial gain. Therefore, although the swimming pool is an accessory structure, it cannot house a commercial use as it is for financial gain and not part of the residential use. Therefore, the criteria is not met.

5. *Any parking generated by patrons shall be accommodated on site.*

Staff Finding 8: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

No parking plan was provided as part of the request. A condition could be added to an approval if necessary, however, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

6. *Off-street parking areas with three or more spaces shall be screened by a fence constructed per Chapter 44 CDC specifications, topography, vegetation, or a combination of these methods. Screening vegetation must be in place by the time the applicant submits a home occupation application, or be reasonably expected to provide effective screening within one and one-half years of approval of said application.*

Staff Finding 9: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

No parking or screening plan was provided as part of the request. A condition could be added to an approval if necessary, however, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

7. *No equipment or process shall be used in a home occupation which creates noise, odor, smoke, fumes, fallout, vibration, heat, glare, or electrical interference resulting detectable to the normal senses off the lot.*

Staff Finding 10: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

A condition could be added to an approval if necessary, however, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

8. No more than three employees, other than the residents, shall be engaged in service on the premises at any given time.

Staff Finding 11: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

The applicant proposes three employees, including the resident owner. The criteria could be met, however, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

9. The use of signs shall meet the requirements of Chapter 52 CDC unless modified by this chapter.

Staff Finding 12: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

The applicant did not propose a sign, nor apply for a sign permit. However, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

10. Occupied or unoccupied vehicles associated with the home occupation shall not have engines idling at any time, except during the immediate loading or unloading of cargo, mail, packages or passengers. Vehicles associated with the home occupation shall not be loaded or unloaded between the hours of 7:00 p.m. and 7:00 a.m. Monday through Friday, or between the hours of 6:00 p.m. to 9:00 a.m. on Saturday and Sunday. Other noise-generating machinery associated with conducting a home occupation shall also follow these guidelines.

Staff Finding 13: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an

outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

The applicant did not provide proposed hours of operation. A condition could be added to an approval if necessary, however, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

11. The owner of the business must reside in the primary structure on the premises.

Staff Finding 14: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

The applicant resides in the primary structure on the premises. However, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

12. Only one vehicle no larger than a three-quarter-ton truck may be used by the occupant, directly or indirectly, in connection with a home occupation. An off-street parking space shall be provided for this vehicle.

Staff Finding 15: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

The vehicle associated with the proposed business is a sport utility vehicle. However, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

13. The use creates no more than eight total vehicle trips per day including employees, all deliveries, and customers. One trip is equal to one vehicle entering the site and exiting the site. Home occupations with pupils or students, such as, but not limited to, dance, music or language classes, are exempt from the vehicle trip limitation.

Staff Finding 16: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

The applicant did not provide proposed total vehicle trips per day. A condition could be added to an approval if necessary, however, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

37.030 Specific Home Occupation Uses Prohibited

A. Repealed by Ord. 1635.

B. Any home occupation involving the on-site sale or resale of automobiles, trucks, boats, trailers, or other motorized vehicles.

Staff Finding 17: The applicant requested a Home Occupation Permit for the operation of a business that provides swim lessons. The business is proposed to be operated in an outdoor, above-ground swimming pool located in the rear-yard of the property owned by the applicant at 2245 Michael Drive.

The applicant does not propose the on-site sale or resale of automobiles, trucks, boats, trailers, or other motorized vehicles. However, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7). Therefore, whether the criteria is met is irrelevant as the proposed use is not permitted.

37.040 The Application

A. A home occupation application shall be initiated by the occupant. If the occupant is not the owner of the premises, the signature of the owner is required on the application.

B. The applicant shall pay the requisite fee.

Staff Finding 18: The applicant is the owner of the property and occupant of the primary structure. The applicant paid the requisite fee. However, the use of an outdoor swimming pool is not permitted as part of a home occupation (see Staff Findings 4 to 7).

37.050 Permits

A. A home occupation permit shall be required for a home occupation, subject to the provisions of this chapter, prior to issuance of a business license.

B. A copy of each home occupation permit, including the permit number, shall be kept by the Planning and Building Department and on the premises of the business.

C. A home occupation permit is non-transferable to any other person or any other property, and shall expire upon discontinuance of the home occupation by the person to whom it is issued.

Staff Finding 19: A business license has not been issued for this proposed home occupation. If approved, the home occupation permit would be kept as a permanent record by the City of West Linn, be non-transferable, and expire upon discontinuance of the home occupation by the person to whom it is issued.

Chapter 99: Procedures for Decision Making: Quasi-Judicial
99.060 Approval Authority

...

A. *Planning Director Authority.* The Planning Director shall have the authority to:

1. *Approve, deny, or approve with conditions the following applications:*

...

b. *A home occupation application (Chapter 37)*

...

Staff Finding 20: The Planning Director has the authority to approve, deny, or approve with conditions an application for a home occupation permit pursuant to the criteria found in CDC Chapter 37. The Planning Director has reviewed the application and made a decision as authorized by the code. Therefore, the criteria is met.

99.80 Notice

...

E. *Table of Notices.* The following notice summary identifies the appropriate type of notice for the various land use applications of CDC 99.060.

<u>Land Use Action</u>	<u>Type of Notice</u>
------------------------	-----------------------

...

<i>Home Occupation</i>	<i>No Notice</i>
------------------------	------------------

...

Staff Finding 21: The Planning Director has the authority to approve, deny, or approve with conditions an application for a home occupation permit pursuant to the criteria found in CDC Chapter 37 without providing notice. The Planning Director has reviewed the application and made a decision without notice as authorized by the code. Therefore, the criteria is met.

PD-1 APPLICANT SUBMITTAL



quick search:

Address

Company

License #



- Home
- My Activities
- Create
- Search
- Reports
- Support Center
- Administration
- Logoff

Business License



No image found for this file, click here to upload an image.

File #: 21-000119 ...
 2245 michael dr. West Linn, OR. 97068 West Linn OR 97068
 Lu?s Swim School

- Licenses
- Reviews
- Inspections
- Activities
- Documents
- Contacts
- History

EDIT: File

Edit License: BL21-000088



- ADD:
 - Activity
 - Address
 - Alert
 - Contact
 - Document
 - Email
 - Inspection
 - Letter
 - Note
 - Payment
 - License
 - Route

License #: BL21-000088

License Type: Business Based in West Linn

Sub Type: Home Based Business

Business Name: Lu?s Swim School

Licensee: Ly & Lierman enterprise - Luan ...

Status: Online Application Received

Total Amount: \$ 194.00

Amount Paid: \$ 194.00

Balance Due: \$ 0.00

Application Date: 12/09/2021

Approval Date:

Issue Date:

Expiration Date:

Close Date:

Last Inspection:

Non-Billable:

Application Type: New

- REPORTS:
 - Custom
 - Detail
 - Summary

General Information

Is this a business being operated out of a home physically located in West Linn: Yes

Is the property owner aware and agreeable to the business operating onsite?: Yes

Business Type: Educational Services/Tutoring

Doing Business As (DBA): Lu Swim School

Operation Start Date: 05/01/2021

Is a state or federal license required for your business?: No

Note: (This is the name that will appear on your license):

State/Federal

Will you Sell

License Number, if applicable:

Liquor?:

Alarm System:

Alarm Permit #, If Applicable:

Will you be installing a Sign?:

Will you be remodeling?:

Reviewed by

Building

Department:

Business

Description:

At LuÃ¿??s swim school, we offers private and small group swimming lessons from highly trained instructors. We teach water safety and stroke development to all ages.

Will this business engage in door to door sales or activity within the city?:

Business Mailing Address:

Business City:

Business State:

Business Zip:

Business Phone Number:

Business Email Address:

Business Website URL:

Contacts

Business Owner Information:

Primary Contact Information:

Emergency Contact Information:

(Cannot be the same as Business Owner or Primary contact):

Home Occupation Authorized Vehicles

Vehicle 1 Year:

Vehicle 1 Make:

Vehicle 1 Model:

Vehicle 1 License Plate Number:

Vehicle 2 Year:

Vehicle 2 Make:

Vehicle 2 Model:

Vehicle 2 License Plate Number:

Vehicle 3 Year:

Vehicle 3 Make:

Vehicle 3 Model:

Vehicle 3 License Plate Number:

Vehicle 4 Year: Vehicle 4 Make:
 Vehicle 4 Model: Vehicle 4 License Plate Number:

Fee Computation

Is this is a 501c3 nonprofit organization?:

Is this business owned by a minor under the age of 18?:

Number of Employees ⓘ

Exactly how many full time employees, including the owner, does the business employ? (two part time employees equal one full time employee):

Working in West Linn (Including Owner):

Number of apartments, hotel rooms, trailers in the park, or dwelling units (if applicable):

Prorate Fees:

A home occupation shall comply with all the following operating standards

1. The home occupation shall be a secondary use to the primary use of the house as a residence.
2. In no way shall the appearance of the residential structure or yard be altered, or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character by the use of colors, materials, construction, lighting, show windows, signs, or advertising visible outside the premises to attract customers or clients, other than a sign as permitted per subsection (A)(9) of this section.
3. There shall be no outdoor use or storage of material or mechanical equipment that is not part of the residential use.
4. An accessory building which meets the provisions of Chapter 34 CDC may be used for the home occupation.
5. Any parking generated by patrons shall be accommodated on site.
6. Off-street parking areas with three or more spaces shall be screened by a fence constructed per Chapter 44 CDC specifications, topography, vegetation, or a combination of these methods. Screening vegetation must be in place by the time the applicant submits a home occupation application, or be reasonably expected to provide effective screening within one and one-half years of approval of said application.
7. No equipment or process shall be used in a home occupation which creates noise, odor, smoke, fumes, fallout, vibration, heat, glare, or electrical interference resulting detectable to the normal senses off the lot.
8. No more than three employees, other than the residents, shall be engaged in service on the premises at any given time.
9. a. The use of signs shall be limited to one sign not greater than one foot by six inches in area and flush-mounted to the residential dwelling. In the event that the residential dwelling is set back more than 100 feet from the abutting public street, or otherwise obstructed from view due to topography or landscaping, the allowed sign may be located at the driveway access. Freestanding signs shall be mounted on a base equal to, or less than, the width of the sign. The freestanding sign and its base shall not exceed three feet in height. Approval standards in CDC 52.210 governing sign design apply. b. Signs advertising home occupations in the historic district or in a designated historic landmark per Chapter 25 CDC shall be subject to the design standards in CDC 52.210(K).
10. Occupied or unoccupied vehicles associated with the home occupation shall not have engines idling at any time, except during the immediate loading or unloading of cargo, mail, packages or passengers. Vehicles associated with the home occupation shall not be loaded or unloaded between the hours of 7:00 p.m. and 7:00 a.m. Monday through Friday, or betw

hours of 6:00 p.m. to 9:00 a.m. on Saturday and Sunday. Other noise-generating machinery associated with conducting a home occupation shall also follow these guidelines.

11. The owner of the business must reside in the primary structure on the premises.

12. Only one vehicle no larger than a three-quarter-ton truck may be used by the occupant, directly or indirectly, in connection with a home occupation. An off-street parking space shall be provided for this vehicle.

13. The use creates no more than eight total vehicle trips per day including employees, all deliveries, and customers. One trip is equal to one vehicle entering the site and exiting the site. Home occupations with pupils or students, such as, but not limited to, dance, music or language classes, are exempt from the vehicle trip limitation.

By checking this box you agree to the thirteen conditions stipulated for operating a home based business in the City of West Linn. By submitting/signing this application, I declare that the information I have provided is true and correct and is made under the penalty of perjury and false swearing. False swearing is a Class A misdemeanor punishable by up to 365 days in the county jail and a \$6250 fine:

Fees

Quantity	Fee	Description	Amount	Total
		NO. OF EMPLOYEES (3-5)		74.00
		Home Occupation License Fee		120.00
			Application Fees:	0.00
			Other Fees:	194.00
			Total Fees:	194.00

Payments

Date	Type	Reference	Note	Receipt #	Received From	Amount
12/09/2021	Credit	7UT972314E:BL21-000088		0	Ly & Lierman enterprise - Lu	194.00
						Amount Paid:
						194.00
						Balance Due:
						0.00

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT <i>Darren Weiss</i>	PROJECT NO(S). <i>AP22-01</i>	PRE-APPLICATION NO.
NON-REFUNDABLE FEE(S)	REFUNDABLE DEPOSIT(S)	TOTAL <i>400</i>

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input checked="" 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 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: <i>2245 Michael Dr. West Linn, OR. 97068</i>	Assessor's Map No.:
	Tax Lot(s):
	Total Land Area:

Brief Description of Proposal: *MISC-22-01*
Appeal Planning's Decision in the denial of home occupation permit

Applicant Name: <i>Luan Ly</i> <small>(please print)</small> Address: <i>2245 Michael Dr.</i> City State Zip: <i>West Linn, OR. 97068</i>	Phone: <i>(206)7437425</i> Email: <i>Luanly@gmail.com</i>
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Owner Name (required): <i>Luan Ly</i> <small>(please print)</small> Address: <i>2245 Michael Dr.</i> City State Zip: <i>West Linn, OR. 97068</i>	Phone: <i>(206)7437425</i> Email: <i>Luanly@gmail.com</i>
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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 subsequent development is not vested under the provisions in place at the time of the initial application.

<i>Luan Ly</i>	<i>2/17/2022</i>	<i>Luan Ly</i>	<i>2/17/2022</i>
Applicant's signature	Date	Owner's signature (required)	Date



2/17/2022

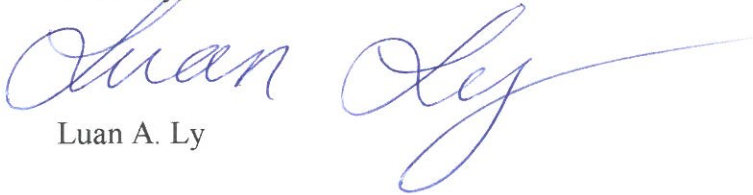
To Whom This May Concern,

I, Luan Ly, own and occupy the premises of 2245 Michael Dr. West Linn, OR. 97068. The property is titled jointly under my name and that of my husband, Donovan Lierman, as such I have legal standing to pursue this appeal.

I am appealing the decision to reject the home occupation permit file number: MISC-22-01. I do not believe the denial has legal or factual merit. I am personally aware of other similarly situated property owners who have obtained permits to carry on business on their property, and not within the confines of the dwelling itself. The appeal is based in part on my contention that this is a violation of the due process provisions of the United States Constitution, in short, because I am being singled out and treated differently without a rational basis for doing so. My appeal is further based on the fact that I was previously allowed to operate my business on the premises and my permit was wrongfully terminated without the opportunity for a hearing to contest the termination. I am aware that one neighbor has repeatedly expressed racial animosity towards me in the form of racial slurs and has contacted the West Linn Police regarding my business. I believe the city, acting on those complaints, has wrongfully terminated my prior valid permit and refused to grant my application for a new permit, based in part on those complaints. The city code has been interpreted erroneously by the planning director. The code, when read in its entirety, does not preclude businesses such as mine from being able to obtain a permit.

I will be submitting supplemental documentation for the appeal.

Sincerely,

A handwritten signature in blue ink that reads "Luan Ly". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the right.

Luan A. Ly

**AFFIDAVIT OF NOTICE
TYPE A
CITY COUNCIL DECISION**

We, the undersigned, 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.: **AP-22-01**

Applicant's Name: **Luan Ly**

Development Name: **appeal of MISC-22-01, a Planning Director decision to deny a home occupation application to conduct swim lessons in an outdoor, above-ground swimming pool at 2245 Michael Drive**

Scheduled Decision Date: **City Council Decision no earlier than March 14, 2022**

MAILED NOTICE

Notice of Upcoming Hearing was mailed at least 20 days before the hearing, per Section 99.080 of the CDC to:

Luan Ly, appellant	2/22/22	<i>Lynn Schroder</i>
Property owners within 500 ft of the site perimeter	2/22/22	<i>Lynn Schroder</i>
Willamette Neighborhood Associations	2/22/22	<i>Lynn Schroder</i>

TIDINGS

Notice was posted in the West Linn Tidings at least 10 days before the hearing, per Section 99.080 of the CDC.

3/2/22	<i>Lynn Schroder</i>
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WEBSITE

Notice was posted on the City's website at least 20 days before the hearing.

2/22/22	<i>Lynn Schroder</i>
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SIGN

A sign was posted on the property at least 10 days before the hearing, per Section 99.080 of the CDC.

3/4/22	<i>Darren Wyss</i>
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STAFF REPORT

The staff report was posted on the website and provided to the applicant and City Council at least 10 days before the hearing, per Section 99.040 of the CDC.

3/4/22	<i>Lynn Schroder</i>
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FINAL DECISION

Notice of Final Decision was mailed to the applicant, all parties with standing, and posted on the City's website, per Section 99.040 of the CDC.

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**CITY OF WEST LINN
NOTICE OF CITY COUNCIL HEARING
FILE NO. AP-22-01**

The West Linn City Council will hold a virtual public hearing on **Monday, March 14, 2022 at 6:00 pm** to consider an appeal by Luan Ly of MISC-22-01, a Planning Director decision to deny a home occupation application to conduct swim lessons in an outdoor, above-ground swimming pool at 2245 Michael Drive.

The City Council will decide the appeal based on the applicable criteria in Community Development Code (CDC) Chapters 11, 37, and 99. The approval criteria from the CDC are available for review on the City website <http://www.westlinnoregon.gov/cdc>.

The appellant stated grounds for appeal is the denial lacks legal or factual merit. The applicant did not identify any specific non-discretionary approval criteria in CDC Chapter 37 as being misapplied.

The appeal is a de novo hearing and not limited to the stated grounds for the appeal. All relevant issues may be considered. All evidence presented to the lower approval authority shall be considered and given equal weight as evidence presented on appeal. The City Council may affirm, reverse, or modify the February 8, 2022 decision.

You have been notified of this hearing because City records indicate that you have standing for MISC-22-01 or because notice is required by the CDC.

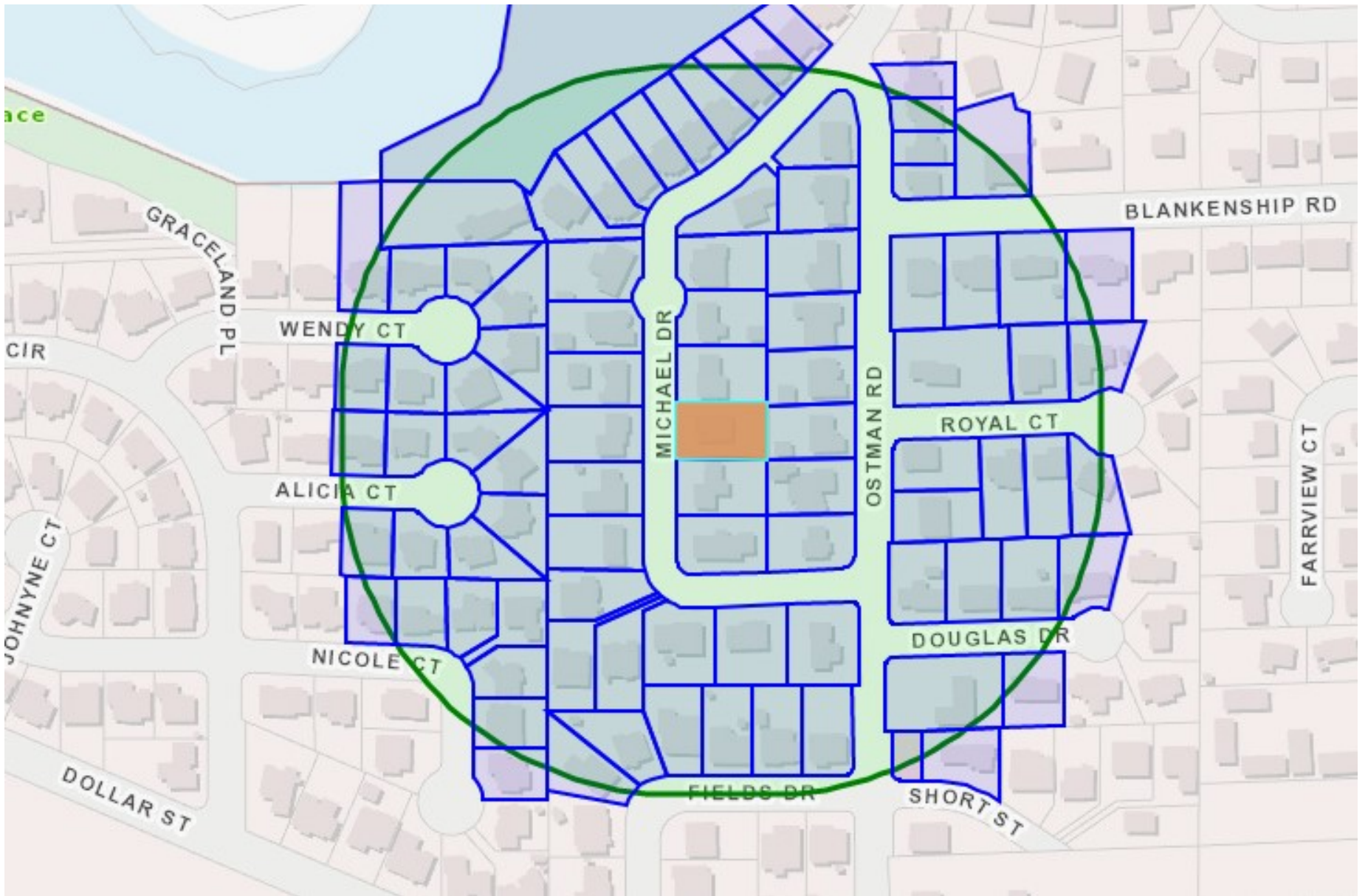
The appeal application and staff report will be posted 10 days before the hearing on the City's website, <https://westlinnoregon.gov/planning/2245-michael-drive-appeal-misc-22-01-director%E2%80%99s-decision-swimming-pool-home-occupation> Alternatively, the complete record and criteria are available for inspection at no cost, and copies at a reasonable cost at City Hall 10 days before the hearing.

The hearing will be conducted following the rules of CDC Section 99.170. **Anyone wishing to present written testimony for consideration shall submit all material before 12:00 pm on March 14, 2022**. Written comments may be submitted to dwyss@westlinnoregon.gov or mailed to City Hall.

To testify at the hearing, go to <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> to **complete the speaker sign-up form before 4:00pm on the day of the meeting**. Instructions on how to access the virtual meeting will be emailed before the meeting. If you miss the deadline and would like to speak at the meeting, please fill out the form, and staff will send you a link as time allows. If you do not have email access, please call 503-742-6061 for assistance 48 hours before the meeting.

As the decision is not a limited land use decision under ORS 197.015, there is no right to appeal the decision to the Land Use Board of Appeals.

Contact Darren Wyss, Planning Manager, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-742-6064 for additional information.





**NOTICE OF UPCOMING
CITY COUNCIL PUBLIC HEARING**

**PROJECT # AP-22-01
MAIL: 2/22/2022 TIDINGS: 3/2/2022**

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.