

WEST LINN PLANNING COMMISSION

FINAL DECISION AND ORDER

MISC-22-03

IN THE MATTER OF A PROPOSAL FOR THE MODIFICATION OF CONDITIONS OF APPROVAL FOR A 6-LOT SUBDIVISION (SUB-20-01/AP-20-05)

I. Overview

At its meeting on July 6, 2022 the West Linn Planning Commission (“Commission”) held a public hearing to consider the request by Icon Construction (Developer) to approve the modification of two conditions of approval from a previous subdivision.

The applicant requests a modification to the conditions of approval for SUB-20-01/AP-20-05 Willow Ridge Subdivision. West Linn Planning Commission approved a 6-lot Subdivision at 4096 Cornwall Street (SUB-20-01), in November 2020. As part of the decision, there were 11 conditions of approval attached. The Planning Commission (PC) decision was appealed to City Council (AP-20-05), which denied the appeal and modified the PC decision by adding two additional Conditions of Approval (12 & 13).

As part of the approval, the applicant was required to upgrade the water line in Cornwall Street. The City of West Linn would like to also make sanitary sewer and pavement improvements at the same time to eliminate the need to trench the street again in the future and to utilize economy of scale by partnering with the applicant to install all improvements at once. The applicant was also conditioned to construct a pedestrian trail in the unused Cornwall Street right-of-way to connect to a trail to the south, which has engineering challenges due to steep slopes.

The applicant requested modifications to two of the conditions of approval:

Condition 2 – Engineering Standards. This is a standard condition the City applies to all development review approvals that require the construction of public improvements such as sidewalk, curb, gutter, storm water, street lighting, pavement, and other similar improvements. Subsequent to the approval of SUB-20-01, the City has updated this standard condition of approval to include language that the City may partner with the applicant to construct additional public improvements. This language allows the City to enter into a contract to have the applicant act as the City’s contractor, while the City pays for the additional improvements. Without this language, the City would need to utilize the public bid process, which takes time and results in increased costs. The applicant requests to add this now standard language to Condition of Approval 2, allowing coordination with the Developer to complete additional off-site improvements along Cornwall Street.

Condition 6 – Pedestrian Trail. The applicant was conditioned to construct a pedestrian trail in the Cornwall Street right-of-way south of the shared drive and Cornwall Street intersection. During preliminary design, the applicant discovered multiple engineering issues related to the steep slopes and engaged the City in options to fulfill the requirements of the condition of approval. After exploring multiple options, the applicant proposed modifying the condition to build a trail in an alternate location or pay a fee-in-lieu. Planning and Engineering staff support this modification and have identified several alternate locations to complete a trail identified in the City of West Linn 2013 Trails Master Plan. The Cornwall Street location is not identified in the 2013 Trails Master Plan.

The approval criteria for a modifications to conditions of approval are found in Chapter 92, Required Improvements, and Chapter 99, Procedures for Decision-Making: Quasi-Judicial, of the Community Development Code (CDC). The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The public hearing commenced with a staff report presented by Chris Myers, Associate Planner.

Rick Givens presented on behalf of the applicant, provided rebuttal, and answered follow-up questions.

No written or oral public testimony was received.

The hearing was closed and the Planning Commission deliberated.

A motion was made by Commissioner Pellet and seconded by Commissioner Carr to approve the application. The motion passed with seven votes in favor (Commissioners Boggess, Erwin, Metlen, Carr, Pellet, Mathews, and Walvatne).

II. The Record

The record was finalized at the July 6, 2022, hearing. The record includes the entire file from MISC-22-03.

III. Findings of Fact

- 1) The Overview set forth above is true and correct.
- 2) The applicant is Icon Construction.
- 3) The Commission finds that it has received all information necessary to make a decision based on the Staff Report and attached findings; public comment; and the evidence in the whole record.

IV. Findings

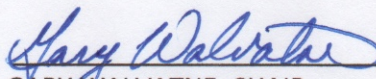
The Commission adopts the Staff Report for July 6, 2022, with attachments, as its findings, which are incorporated by this reference. The Commission concludes that all of the required approval criteria are met subject to the following conditions of approval:

1. Site Plan. With the exception of modifications required by these conditions, the final plat shall conform to the submitted and approved plans.
2. Engineering Standards. All public improvements and facilities including street improvements, utilities, grading, onsite storm water design, driveway placement and construction, pavement mitigation, street lighting, street trees, easements, and easement locations are subject to the City Engineer's review, modification, and approval per the City adopted Public Works standards. All improvements must be designed, constructed, and completed prior to final plat approval. The Director of Public Works may allow a waiver of improvements as allowed by Code. Public Works may coordinate with the applicant to complete voluntary additional off-site improvements along Cornwall Street.
3. Public Utilities. The applicant shall upgrade the water main in Cornwall Street to serve this proposed subdivision. The applicant shall extend the sanitary sewer mains to the north property lines in Landis Street and the unimproved Cornwall right-of-way to allow for future connection. All utilities shall be located within the public right-of-way or within recorded utility easements along property lines, as approved by the City Engineer.
4. Tree Protection. The applicant shall coordinate with the City's Arborist to obtain any necessary tree permits for the significant trees proposed to be removed. The applicant must also get approval from the City's Arborist that the tree protection is correctly in place. Mitigation of removed trees due to right-of-way improvements and grading shall be approved by the City Arborist prior to approval of the final plat.
5. Public Utility Easement. The applicant shall record, on the face of the plat, an eight-foot wide Public Utility Easement per Engineering Standards on all street frontages.
6. Pedestrian Trail. A pedestrian trail shall be constructed either in the Cornwall Street right-of-way south of the shared drive and Cornwall Street intersection or at an alternate location identified by the City and consistent with the 2013 West Linn Trails Master Plan. Alternately, the City may accept a fee-in-lieu equal to the cost of construction of the same length of trail.
7. Stormwater Analysis. The developer shall submit a final stormwater report with the subdivision construction drawings to be reviewed and approved by the City Engineer prior to issuance of a Public Works public improvement permit, per the *City of West Linn Public Works Construction Standards*.
8. Fee in lieu. The applicant shall initiate vacation of the unimproved right-of-way along Cornwall or submit an application for a fee in lieu for the cost to actually construct the improvements to the Public Works/Engineering Department and get approval by the City Engineer prior to approval of the Public Works public improvement permit.

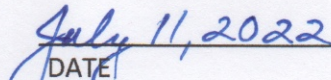
9. Building Sites. All building sites exceeding 25% slopes (Proposed Lots 3, 4, 5 & 6) shall require geotechnical conformation stating the proposed lots are buildable prior to the final plat approval. Additional analysis at the time of a building permit application as it relates to Type I and Type II lands may be required by the City's Building Official.
10. Restricted Access. The access plan submitted by the applicant showing a hammerhead design and 25' shared access for Lots 5 and 6 and emergency vehicle easement that does not connect through to Cornwall Street is approved. At the end of the shared access and emergency vehicle easement, applicant shall install appropriately spaced locking bollards in the location where the applicant's submittal proposed a gate on the Tentative Plan. The number of bollards shall be approved by Public Works/Engineering to prohibit motorized vehicular traffic between the bollards while allowing for pedestrian and bicycle access.
11. Shared Access Maintenance. The applicant shall prepare and record covenants, conditions and restrictions (CCRs) that establish responsibility for maintenance of the private shared accessway and emergency vehicle easement, as well as the bollards, is that of the property owners of lots 5 and 6. The applicant shall also record a pedestrian/bicycle public access easement over the private shared accessway/emergency accessway from Landis Street to Cornwall Street prior to the final plat approval.
12. Warranty Bond. The Applicant shall provide a warranty bond for public stormwater improvements of up to four years, or as long as is reasonably possible.
13. Recorded CC&Rs. The engineered solutions for the stormwater control system shall be included in the recorded conditions, covenants and restrictions (the "CC&Rs") and submitted to the City with the recorded subdivision plat and the City shall recognize its responsibility to the community to enforce the provisions of the CC&Rs regarding stormwater.

V. Order

The Commission concludes that MISC-22-03 is approved based on the Record, Findings of Fact and Findings above.



GARY WALVATNE, CHAIR
WEST LINN PLANNING COMMISSION



DATE

This decision may be appealed to the City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. This decision will become effective 14 days from the date of mailing of this final decision as identified below.

Mailed this 18 day of July, 2022.

Therefore, this decision becomes effective at 5 p.m., August 1, 2022, 2022.