



CITY OF
West Linn

**STAFF REPORT
PLANNING MANAGER DECISION**

DATE: December 15th, 2022

FILE NO.: VAR-22-03

REQUEST: Class I Variance to reduce the rear yard setback for an addition from 20 feet to 16 feet from the property line (20% reduction) at 1930 Arena Ct.

PLANNER: Ben Gardner, Assistant Planner

Planning Manager

DSW

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GENERAL INFORMATION

OWNER/APPLICANT: Christopher Makuakane
1930 Arena Ct
West Linn, OR 97068

SITE LOCATION: 1930 Arena Ct

LEGAL DESCRIPTION: Tax Lot Number 21E23CD10400

SITE SIZE: 7508 Square feet

COMP PLAN DESIGNATION: Low Density Residential

ZONING: Residential, R-7

APPROVAL CRITERIA: Community Development Code (CDC) Chapter 12: R-7; Chapter 38: Projections into Yards; Chapter 75: Variances and Special Waivers; Chapter 99: Procedures for Decision-Making: Quasi-Judicial.

120-DAY RULE: The application became complete on October 18th, 2022. The 120-day period therefore ends on February 15, 2022.

PUBLIC NOTICE: Notice was mailed to property owners within 300 feet of the subject property and the Hidden Springs Neighborhood Association on November 21, 2022. The property was posted with a notice sign on November 21, 2022. The notice and application were posted on the City's website November 21, 2022. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The applicant requested a Class I Variance from required yard and minimum lot dimensional requirements for the purpose of facilitating the construction of an addition. The request includes the reduction of the rear yard setback from 20 feet to 16 feet, as allowed in a Class I Variance. The purpose of the variance is to permit the property owner/applicant to construct an addition on the rear of an existing single-family dwelling at 1930 Arena Ct.

The Class I Variance provides minor relief from certain code provisions that will not harm adjacent properties and conforms to any other code provisions. With approval of the variance, the rear yard setback would be reduced to 16 feet.

Public comments:

No public comments were received.

DECISION

The Community Development Director (designee) approves this application (VAR-22-03), based on: 1) the findings submitted by the applicant, which are incorporated by this reference; 2) supplementary staff findings included in the Addendum; and, 3) by the condition of approval below:

Condition of Approval

- 1. The final plan shall conform to the plans for Proposed Class I Variance contained in PD-1.**

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



Ben Gardner, Assistant Planner

December 15, 2022
DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$400. An appeal to City Council of a decision by the Planning Manager shall be heard on the record. The appeal must be filed by an individual who has established standing by submitting comments prior to the decision date. Approval will lapse 3 years from effective approval date unless substantial construction has taken place or an extension is granted per Chapter 99 CDC.

Mailed this **15th** day of **December 2022**.

Therefore, the 14-day appeal period ends at 5 p.m., on **December 29, 2022**.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
VAR-22-03**

This decision adopts the findings for approval contained within the applicant’s submittal, with the following exceptions and additions:

CRITERIA 1:

12.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. *Single-family attached and detached residential unit.*

...

STAFF FINDING 1:

The applicant proposes an addition to an existing single-family home. Single-family detached homes are permitted uses in the R-7 zone. The criteria is met.

CRITERIA 2:

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

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

STANDARD	REQUIREMENT	ADDITIONAL NOTES
Minimum lot size		
For single-family detached units	7,000 sf	No yard shall be required between units
For single-family attached units	5,500 sf	
Average minimum lot or parcel size for a townhouse project	1,500 sf	
Minimum lot width at front lot line	35 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width	35 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks		Front, rear, and side yard setbacks in a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
Front yard	20 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
Interior side yard	7.5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
Street side yard	15 ft	
Rear yard	20 ft	

STANDARD	REQUIREMENT	ADDITIONAL NOTES
Maximum building height	35 ft	Except for steeply sloped lots in which case the provisions of Chapter <u>41</u> CDC shall apply.
Maximum lot coverage	35%	Maximum lot cover does not apply to cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. <ul style="list-style-type: none"> • This does not include detached garages, carports, or accessory structures. • A developer may deduct up to 200 sf for an attached garage or carport.
Minimum accessway width to a lot which does not abut a street or a flag lot	15 ft	
Maximum floor area ratio	0.45	Maximum FAR does not apply to cottage clusters.
Duplex, triplex, and quadplex	0.60	Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter <u>66</u> CDC.

...

STAFF FINDING 2:

The subject property is 7508 square feet in area. With the proposed addition the total footprint of coverage on the lot is 2050 square feet with a lot coverage of 27.3%. The total square footage of the structure is 2142 square feet, and therefore has a floor area ratio of 32%. The criteria are met. The rear yard setback for the zone is 20 feet. With the Class I variance reducing the rear setback to 16 feet for the proposed addition, the criteria will be met.

Criteria 3: 38.060 PROJECTIONS INTO REQUIRED YARDS

...

C. Projections that include living space such as bay windows or overhanging breakfast nooks, etc., may extend into the front or rear yard setbacks, but no more than two feet. The footprint or foundation of the house may not encroach into the front or rear setback area.

...

Staff Finding 3: The proposed addition encroaches into the rear setback of 20 feet. With the Class I Variance reducing the rear setback to 16 feet, the criteria will be met.

Criteria 4: 75.020 CLASSIFICATION OF VARIANCES

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

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

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

...

Staff Finding 4: As detailed in the project description and findings presented in Exhibit PD-1, the applicant has requested a Class I Variance to reduce the rear-yard setback by 20 percent or 4 feet (20 feet permitted, 16 feet proposed) in order to facilitate the construction of an addition to their home. The additional area will result in a more efficient use of the site, there are no natural features that will be impacted, there are no abutting properties to the rear that will be impacted by the reduction, and access to the site will be unaffected. The criteria are met.

EXHIBIT PD-1 APPLICANT SUBMITTAL



Planning & Development • 22500 Salamo Rd #1000 • West Linn, Oregon 97068
 Telephone 503.656-3535 • westlinnoregon.gov

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT Ben Gardner	PROJECT NO(S). VAR-22-03	PRE-APPLICATION NO.
NON-REFUNDABLE FEE(S)	REFUNDABLE DEPOSIT(S) \$825	TOTAL \$825

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal and Review (AP) | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses |
| <input type="checkbox"/> Code Interpretation | <input type="checkbox"/> Lot Line Adjustment (LLA) | <input type="checkbox"/> Time Extension |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input checked="" type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Modification of Approval | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Tree Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |

Pre-Application, Home Occupation, Sidewalk Use, Addressing, and Sign applications require different forms, available on the City website.

Site Location/Address: 1930 Arena Ct. West Linn, OR 97068	Assessor's Map No.: <hr/> Tax Lot(s): <hr/> Total Land Area: <hr/>
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Brief Description of Proposal:

Request 20% variance for the rear lawn set back of 20 ft for property zoned R7

Applicant Name: Christopher Makuakane <small>(please print)</small> Address: 1930 Arena Ct. West Linn, OR 97068 City State Zip:	Phone: 503-705-0535 Email: cmakuakane@gmail.com
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Owner Name (required): Christopher Makuakane <small>(please print)</small> Address: 1930 Arena Ct. West Linn, OR 97068 City State Zip:	Phone: 503-705-0535 Email: cmakuakane@gmail.com
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Consultant Name: <small>(please print)</small> Address: City State Zip:	Phone: Email:
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1. All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
2. The owner/applicant or their representative should be present at all public hearings.
3. A decision may be reversed on appeal. The permit approval will not be effective until the appeal period has expired.
4. 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.

Applicant's signature	Date	Chris Makuakane, PE	Date
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Digitally signed by Chris Makuakane, PE
 DN: cn=Chris Makuakane@lgon.com, o=Portland General
 Electric, ou=Power Supply Engineering Services, cn=Chris
 Makuakane, PE
 Reason: I attest to the accuracy and integrity of this document
 Date: 2022.09.21 19:36:08 -0700

Makuakane Residence

1930 Arena Court
West Linn, OR 97068

PROJECT NARRATIVE

The proposed home addition adds a 240 sq-ft office space to the South West corner of the existing residential home. The new addition is limited to the ground level with no impact to existing roof lines which exist over the second story in this location. The South building wall line is off-set to the south to provide some covered porch area. The magnitude of the offset was determined by the rear yard setback for zone R7. This project was submitted by Mike Montgomery dba Simple Home Designs. The permit (935-21-001521-STR) was paid for on March 22, 2022.

The purpose of the pre-application request is to pursue rear yard setback variance. The request set forth will not make any changes to the footprint dimensions of the addition. We request a 20% variance to the rear yard setback to allow the addition to be within 16 ft of the rear lot line. The benefit to the project, will avoid interference with roof drain plumbing, and relocation of the Natural Gas Meter. Further the translation of the building will increase and improve the covered outdoor living space with the building line offset.

With the roof line of the addition limited to a single story and relatively small footprint impacts to adjacent properties is likely negligible.

QUESTIONS

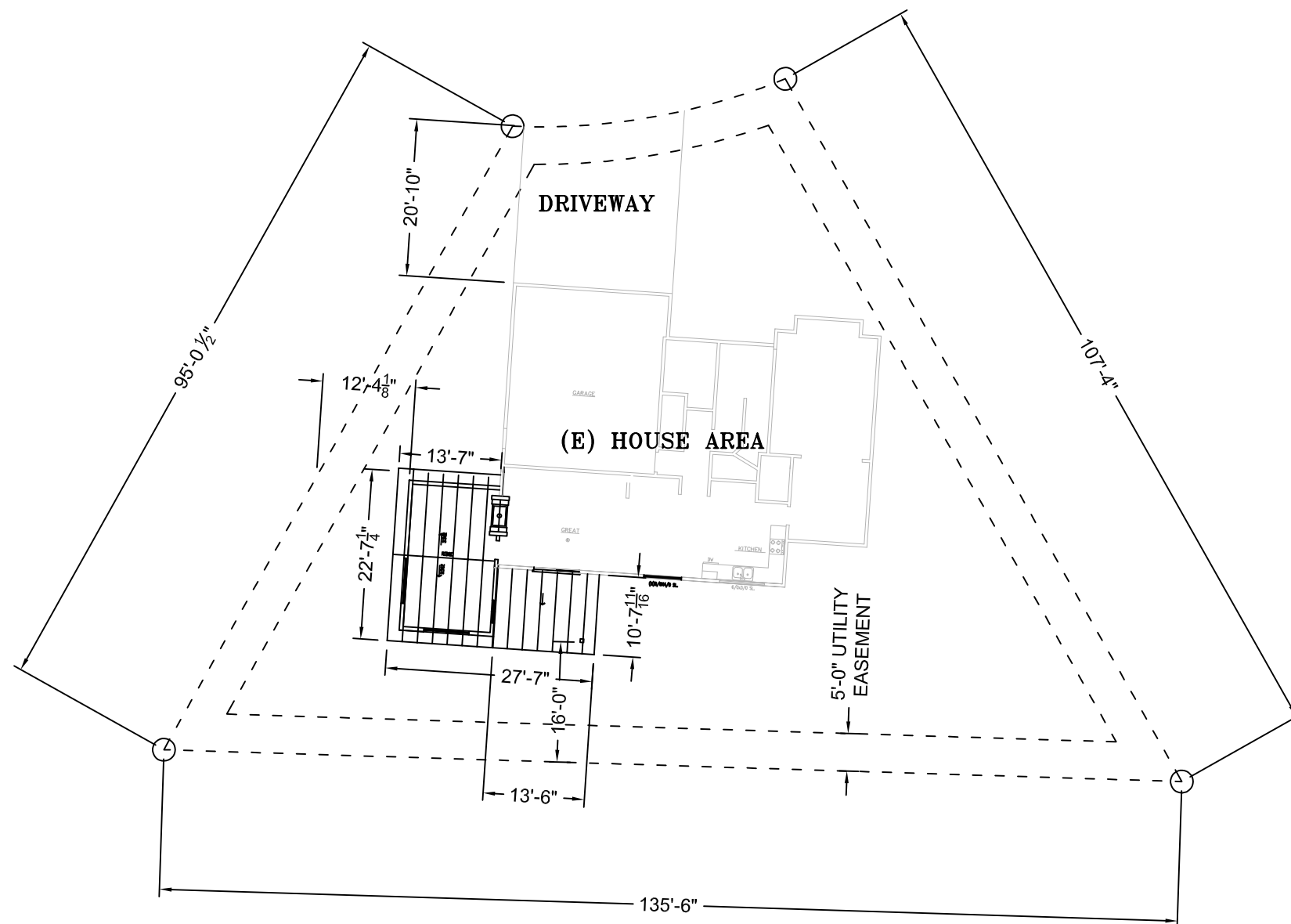
The only question we have is regarding the variance requested.

SITE PLAN



NORTH

(E) HOUSE AREA



Proposed Work: Addition to SW side of house and new patio cover at rear of house.

Lot Size - 7508 sq-ft
 Existing house footprint - 1692 sq-ft
 New addition - 220 sq-ft
 New patio cover - 138 sq-ft
 Total Footprint - 2050 sq-ft
 Building coverage - 27.3%
 FAR (2142 + 220 = 2362) 32%

SHEET S OF 1.0	DESIGNED: CKM	CHRIS & SHANNON MAKUAKANE 1930 ARENA CT WEST LINN OR 97068
	DATE: 12/15/21	
	SCALE: 1"=20'0"	
	FILE NAME: csm	

EXHIBIT PD-2 COMPLETENESS LETTER



CITY OF
West Linn

October 18th, 2022

Christopher Makuakane
1930 Arena Ct
West Linn, OR 97068

SUBJECT: Variance for a 20% adjustment of the rear setback at 1930 Arena Ct (VAR-22-03)

Christopher Makuakane:

Your application submitted on September 21st, 2022 has been deemed **complete**. The city has 120 days to exhaust all local review; that period ends January 19th, 2023.

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

A 14-day public notice will be prepared and mailed. This notice will identify the earliest potential decision date by the Planning Director.

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

Sincerely,

Ben Gardner
Assistant Planner

EXHIBIT PD-3 AFFADIVIT AND NOTICE PACKET



**AFFIDAVIT OF NOTICE
TYPE B
PLANNING MANAGER DECISION**

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

PROJECT

File No.: **VAR-22-03** Address: **1930 Arena Ct**
Applicant's Name: **Christopher Makuakane**
Scheduled Decision Date: **Planning Manager Decision no earlier than 12/8/22**

MAILED NOTICE

Notice of Upcoming Planning Manager Decision was mailed at least 14 days before the decision date, per Section 99.080 of the Community Development Code to:

Christopher Makuakane, applicant	11/21/22	<i>Lynn Schroder</i>
Property owners within 300ft of the site perimeter	11/21/22	<i>Lynn Schroder</i>
Hidden Springs Neighborhood Association	11/21/22	<i>Lynn Schroder</i>

WEBSITE

Notice was posted on the City's website 14 days before the decision date.

11/21/22	<i>Lynn Schroder</i>
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SIGN

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

11/21/22	BEN GARDNER
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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 Community Development Code.

12/15/22	<i>Lynn Schroder</i>
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**CITY OF WEST LINN
NOTICE OF UPCOMING PLANNING MANAGER DECISION
FILE NO. VAR-22-03**

The West Linn Planning Manager is considering a Class 1 Variance at 1930 Arena Ct in West Linn. The applicant is requesting approval to reduce the rear yard setback for an addition from 20 feet to 16 feet from the property line (20% reduction).

You have been notified of this proposal because County records indicate that you own property within 300 feet of the property (Clackamas County Assessor's Map 21E23CD10400), or as otherwise required by CDC Chapter 99.080.

The Planning Manager will decide the application based on criteria in Chapters 12, 75, and 99 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/1930-arena-court-class-1-variance-home-addition>. The application, all documents or evidence relied upon by the applicant and applicable criteria are available for inspection at City Hall at no cost. Copies may be obtained at reasonable cost.

A public hearing will not be held for this decision. **Anyone wishing to submit comments for consideration must submit all material before 4:00 p.m. on Thursday, December 8th, 2022 to bgardner@westlinnoregon.gov or mail them to City Hall. All comments must be received by the deadline.**

It is important to submit all testimony in response to this notice. All comments submitted for consideration of this appeal 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 Ben Gardner, Assistant Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-6058.



**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # VAR-22-03
MAIL: 11/21/22 TIDINGS: N/A**

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.