



CITY OF
West Linn

**STAFF REPORT
FOR THE PLANNING COMMISSION**

FILE NUMBER: MISC-22-10

HEARING DATE: December 7, 2022

REQUEST: Two-Year Extension of a 2018 Planning Commission decision to approve a 12 lot Subdivision at 22870 Weatherhill Drive (SUB-18-04/WAP-18-05).

APPROVAL CRITERIA: Community Development Code (CDC) Chapter 99.325: Extensions of Approval

STAFF REPORT PREPARED BY: John Floyd, Associate Planner

Planning Manager DSW

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GENERAL INFORMATION

**APPLICANT/
OWNER:**

Gary Henin
Centerpoint Homes
19305 Suncrest Drive
West Linn, OR 97068

SITE LOCATION: 22870 Weatherhill Road

SITE SIZE: **111,537 square feet (2.56 acres)**

LEGAL

DESCRIPTION: Tax lot 405 Assessor's Map 21E 35B

COMP PLAN

DESIGNATION: Low Density Residential

ZONING: Residential, R-7

**APPROVAL
CRITERIA:**

Community Development Code (CDC):

- Chapter 99.325: Extensions of Approval

120-DAY RULE: The application became complete on September 16, 2022. The 120-day period therefore ends on February 9, 2023.

PUBLIC NOTICE: Notice was mailed to property owners within 500 feet of the subject property, to all Neighborhood Associations, and posted on the City's website on October 11, 2022 and again on November 16, 2022. The property was posted with a notice sign on October 20, 2022 and November 17, 2022. The notice was published in the West Linn Tidings on October 19, 2022 and November 23, 2022. A second noticing of the project was conducted to remedy an error identified by staff prior to the first scheduled meeting on November 2, 2022. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The application is a request for a two-year extension to a previously approved 12-Lot Subdivision with Water Resource Area approval at 22870 Weatherhill Drive ([SUB-18-04/WAP-18-05](#)). The applicant is currently grading the site under Private Improvement Permit PI-21-04, and is requesting the extension in order to complete their proposed project that will expire on November 1, 2022. CDC Chapter 85.090 requires a Subdivision approval to record a final plat within three years or obtain an extension. The applicant has not requested any modifications to the original approval. Staff has recommended the same conditions of approval from SUB-18-04/WAP-18-05.

Public comments:

One comment letter was received from Ed Schwarz dated November 2, [2022] and can be found in Exhibit PC-6. The letter questioned the appropriateness of the extension and suggested three conditions of approval related to worker safety. Staff recommends the Planning Commission not impose the suggested conditions of approval as they do not relate to the narrow approval criteria for an extension.

RECOMMENDATION

Staff recommends approval of application MISC-22-10 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 Plan.** With the exception of modifications required by these conditions, the final plat shall conform to the submitted Preliminary Plat and Preliminary Site Plan, (Sheets 6/13 and 7/13, dated 8/8/2019).
 - a. The Planning Commission applied Figure 6 of the Staff Report for the August 21, 2019 hearing for the final plat configuration that included no flag lot.
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.
3. **Sewer Easement.** The Applicant shall record a sewer easement to utilize a City owned tract for the proposed sewer extension to the subject property. This easement shall be

shown on the face of the plat. Alternatively, the easement may be recorded separately and the recorded number shall be referenced on the face of the plat.

4. **Mitigation and Re-Vegetation.** Prior to recording of the final plat, all on-site mitigation and revegetation shall be completed per the Schott and Associates “Natural Resource Assessment” dated February 2019.
5. **Water Quality Tract.** The applicant shall dedicate the water quality tract to the City of West Linn and reference this dedication on the face of the plat.
6. **Weatherhill Road:** Construction activities shall not proceed until improvements to Weatherhill Road are made in accordance with the Applicant’s letter dated October 9, 2019. The applicable improvements to Weatherhill Road are presented on page 3, paragraph 4 of the referenced letter. Roadway improvements include those performed by the applicant and the City of West Linn.
7. **Construction Parking:** On the portion of Satter Street that adjoins the proposed development, where Satter Street is 24 feet wide, no construction parking shall be allowed consistent with West Linn Code and the Transportation System Plan.
8. **Parking:** Satter Street as extended into the proposed development shall be posted no parking consistent with TVFR regulations prior to approval of the final plat.
9. **Access:** Construction traffic to/from the proposed development shall be restricted to an access from Weatherhill Road to the construction site until such time the Director of Public Works determines that the access would prohibit or impair construction actions.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
MISC-22-10**

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

99.325 EXTENSIONS OF APPROVAL

- A. *An extension may be granted by the original decision-making body by an additional two years from the effective date of approval pertaining to applications listed in CDC [99.060](#)(A), (B), (C), (D) or (E), as applicable, upon finding that:*

Staff Finding 1: The West Linn Planning Commission was the original approval authority for SUB-18-04/WAP-18-05 per CDC 99.060.B.2(f). The Final Notice and Order was mailed on October 18, 2019 and effective on November 1, 2019. Therefore, the approval will expire on November 1, 2022. The applicant has filed and received a completeness determination prior to the expiration date, which is sufficient to preserve the right to an extension until such time as the Planning Commission can render a decision. Therefore, the West Linn Planning Commission is granted authority to render a decision for the extension approval. The criteria are met.

- 1. The applicant has demonstrated that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and*

Staff Finding 2: Only one relevant approval criteria has been enacted since the application was initially approved in 2019. Specifically, CDC-20-01 was adopted in 2020 which resulted in a new local street requirement of 28 feet within and adjacent to new subdivisions. The applicant is currently grading the site in advance of street and utility improvements under PI-21-04, inclusive of a 28 foot pavement width as originally approved by the Planning Commission, and has not proposed any changes to the approved project. Subject to the Conditions of Approval, the criteria are met.

- 2. There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or*

Staff Finding 3: Staff has not found any material misrepresentation, errors, omissions, or any changes of facts in the review of this application. The criteria are met.

- 3. The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.*

Staff Finding 4: The original application was found to be in conformance with the provisions of CDC Chapters 12, 32, 48, 55, 85, and 92, subject to Conditions of Approval, and was subsequently approved. Staff finds that the application continues to be in conformance with the applicable CDC provisions, including the 2020 adopted requirement for a 28 foot pavement width within and adjacent to new subdivisions. Staff does not find any evidence of a demonstrated material misrepresentation, errors, omissions or changes to the original application. No modifications to the original approval are proposed at this time and no remedies under subsection A(2) are proposed. The criteria are met.

E. Extension procedures.

1. *The application for extension of approval with modifications to the original approval may be submitted only after a pre-application meeting under CDC [99.030\(B\)](#). If no modifications are made to the original approval, a pre-application conference is not required.*

Staff Finding 5: No modifications to the original application have been proposed. The applicant is requesting additional time to complete previously approved conditions of approval. No pre-application meeting was required. The criteria are met.

2. *The application for extension of approval with modifications to the original approval shall satisfy the neighborhood meeting requirements of CDC [99.038](#) for those cases that require compliance with that section. If no modifications are made to the original approval, no neighborhood meeting is required*

Staff Finding 6: No modifications to the original application have been proposed; therefore, no neighborhood meeting is required. The criteria are met.

3. *Applications for extensions must be submitted along with the appropriate deposit to the Community Development Department.*

Staff Finding 7: The applicant has submitted the appropriate deposit and application materials found in Exhibit PC-1. The criteria are met.

4. *Notice of the decision shall be issued consistent with CDC [99.080](#).*

Staff Finding 8: CDC 99.080 states that extensions of approvals shall have the same notice as the original application. The original approval of SUB-18-04/WAP-18-05 was a Class A notice due to the Class II Design Review; therefore, a Class A notice has been sent for the extension of the approval. See staff findings 10-16 for compliance with a Class A Notice. The criteria are met.

5. *The decision shall not become effective until resolution of all appeal periods, including an opportunity for City Council call-up pursuant to this chapter.*

Staff Finding 9: The decision will not be in effect until the resolution of all appeal periods. The criteria are met.

[99.080 NOTICE](#)

Notice shall be given in the following ways:

A. *Class A Notice*. *Notice of proposed action or a development application pursuant to CDC [99.060](#) shall be given by the Director in the following manner:*

1. *At least 20 days prior to the scheduled hearing date notice shall be sent by mail to:*
 - a. *The applicant or the applicant's agent, and the property owner of record on the most recent property tax assessment roll where such property is located.*

- b. All property owners of record on the most recent property tax assessment roll where such property is located within 500 feet of the site.*
- c. Any affected governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice; plus, where applicable, the Oregon Department of Transportation, Tri-Met, neighboring local jurisdictions, Clackamas County Department of Transportation and Development, and Metro.*
- d. The affected recognized neighborhood association or citizens advisory committee.*
- e. For a hearing on appeal or review, all parties and persons with standing described in CDC 99.140 to an appeal or petition for review.*

Staff Finding 10: The application requires a Class A notice per Staff Finding 11. Notice was mailed on October 11, 2022 and November 16, 2022 to: the applicant, all property owners of record within 500 feet, recognized neighborhood association, and persons with standing. The criteria are met.

- 2. At least 10 days prior to the hearing or meeting date, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record.*
 - a. Decisions pursuant to CDC 99.060(A), Planning Director authority, are exempt from the requirements of this subsection.*

Staff Finding 11: Notice was published in the West Linn Tidings on October 19, 2022 and November 23, 2022. An affidavit of publication can be found in Exhibit PC-3. The criteria are met.

- 3. At least 10 days prior to the hearing or meeting date, the Planning Director shall cause a sign to be placed on the property which is the subject of the decision or, if the property does not have frontage on a public street, adjacent to the nearest public street frontage in plain view and shall state, "This property is the subject of a land use decision," with the type of use or request indicated. If the application is not located adjacent to a through street, then an additional sign shall be posted on the nearest through street.*

Staff Finding 12: A sign was posted on the subject property on October 19, 2022 and November 17, 2022. The criterion is met.

- 4. At least 10 days but no more than 40 days prior to hearing of a proposed zone change for manufactured home parks, notice shall be given to the respective manufactured home park residents.*

Staff Finding 13: The application is not related to a manufactured home park. The criterion does not apply.

- 5. The Director shall cause an affidavit of mailing of notice and posting of notice to be filed and made part of the administrative record.*

Staff Finding 14: The affidavit of mailing of notice has been produced and can be found in Exhibit PC-3. The criterion is met.

6. *At the conclusion of the land use action the signs shall be removed.*

Staff Finding 15: The land use action sign will be removed after the conclusion of the application for the extension of the approval. The criterion is met.

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

<i>Extensions of Approvals</i>	<i>Same notice as original application</i>
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Staff Finding 16: The applicant has applied for an extension of a previous approval (SUB-18-04/WAP-18-05); therefore, a Type A notice has been utilized. Please see Staff Findings 13 to 18. The criteria are met.

PC-1 APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only			
STAFF CONTACT JOHN FLOYD	PROJECT NO(S) MISC-22-101	PROJECT ID PT-21-07	PRE-APPLICATION NO.
NON-REFUNDABLE FEE(S) \$3,300.00	REFUNDABLE DEPOSIT(S) \$3,300	TOTAL \$3,300	

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 checked="" type="checkbox"/> Time Extension |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input 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: 22870 WEATHERHILL RD WEST LINN, OR 97068	Assessor's Map No.:
	Tax Lot(s):
	Total Land Area:

Brief Description of Proposal:
12-LOT SUBDIVISION

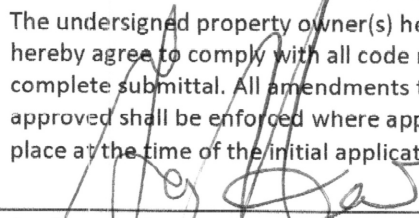
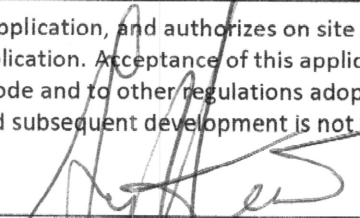
Applicant Name: (please print) GARY HENW Address: 19305 SUNCREST DR. City State Zip: WEST LINN, OR 97068	Phone: 503 784 9198 Email: GARYHENW@COMCAST.NET
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Owner Name (required): (please print) Address: SAME AS ABOVE City State Zip:	Phone: Email:
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Consultant Name: (please print) EMERIS DESIGN / PAT TORTORA Address: 6445 SW FALLBROOK PLACE suite 100 City State Zip: Beaverton OR 97008	Phone: 503 505 0117 Email: ptortora@emerisdesign.com
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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.

	9/16/22		9/16/22
Applicant's signature	Date	Owner's signature (required)	Date

CENTERPOINT HOMES, LLC

19305 SUNCREST DRIVE * WEST LINN, OR 97068 * 503-784-9198 * garyhenin@comcast.net * CCB# 209960

John Floyd
Associate Planner
City of West Linn Planning Department
22500 Salamo Rd.
West Linn, OR 97068
ifloyd@westlinnoregon.gov
503-742-6058

September 16, 2022

99.325 EXTENSIONS OF APPROVAL MEMO

John,

I am requesting a 2-year extension for SUB-18-04 at 22870 Weatherhill Rd. pursuant to 99.325 EXTENSIONS OF APPROVAL. Centerpoint Homes LLC hereby confirms that the application is in conformance with applicable CDC provisions and relevant approval criteria since the application was approved. Furthermore, there are no demonstrated misrepresentations, errors, omission, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage. The extension is needed because the wet weather in the spring prevented us from working on the project as it related to engineering soil for building pads and roads.

Please let me know if you need any further information from me.

Sincerely,

Gary Henin
Centerpoint Homes, LLC

PC-2 COMPLETENESS LETTER



CITY OF
West Linn

October 11, 2022

Gary Henin
Centerpoint Homes, LLC
19305 Suncrest Drive
West Linn, OR 97068

SUBJECT: MISC-22-10 – Request for a two year time extension of a 12-Lot Subdivision and Water Resource Area Permit at 22870 Weatherhill (SUB-18-04/WAP-18-05).

Dear Mr. Henin,

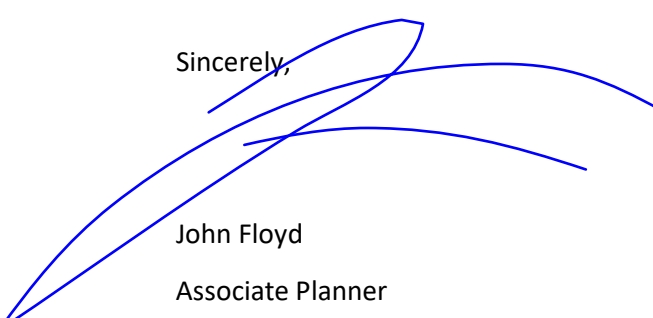
Your application submitted on September 16, 2022 has been deemed **complete**. The city has 120 days to exhaust all local review; that period ends February 9, 2023.

Please be aware that a 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 Commission to render a decision on your proposal.

A 20-day public notice will be prepared and mailed. This notice will identify the earliest potential hearing date by the Planning Commission.

Please contact me at 503-742-6058, or by email at jfloyd@westlinnoregon.gov if you have any questions or comments.

Sincerely,



John Floyd
Associate Planner

PC-3 AFFADAVIT AND NOTICE PACKET

**CITY OF WEST LINN PLANNING COMMISSION
PUBLIC HEARING NOTICE
FILE NO. MISC-22-10**

The West Linn Planning Commission will hold a hybrid public hearing on **Wednesday, December 7, 2022** at 6:30 pm in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider MISC-22-10, a request for a two-year extension to a previously approved 12-Lot Subdivision and Water Resource Area Permit at 22870 Weatherhill Road (SUB-18-04/WAP-18-05).

The Planning Commission will make its decision based on applicable criteria in Chapter 99.325 of the Community Development Code (CDC). The approval criteria from the CDC are available for review on the City website <http://www.westlinnoregon.gov/cdc> or at City Hall and the City Library.

The application is posted on the City's website, <https://westlinnoregon.gov/planning/22870-weatherhill-road-request-extension-complete-sub-18-01>. Alternatively, 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. The staff report will be 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 should submit all materials before 12:00 pm on the meeting day to jfloyd@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.

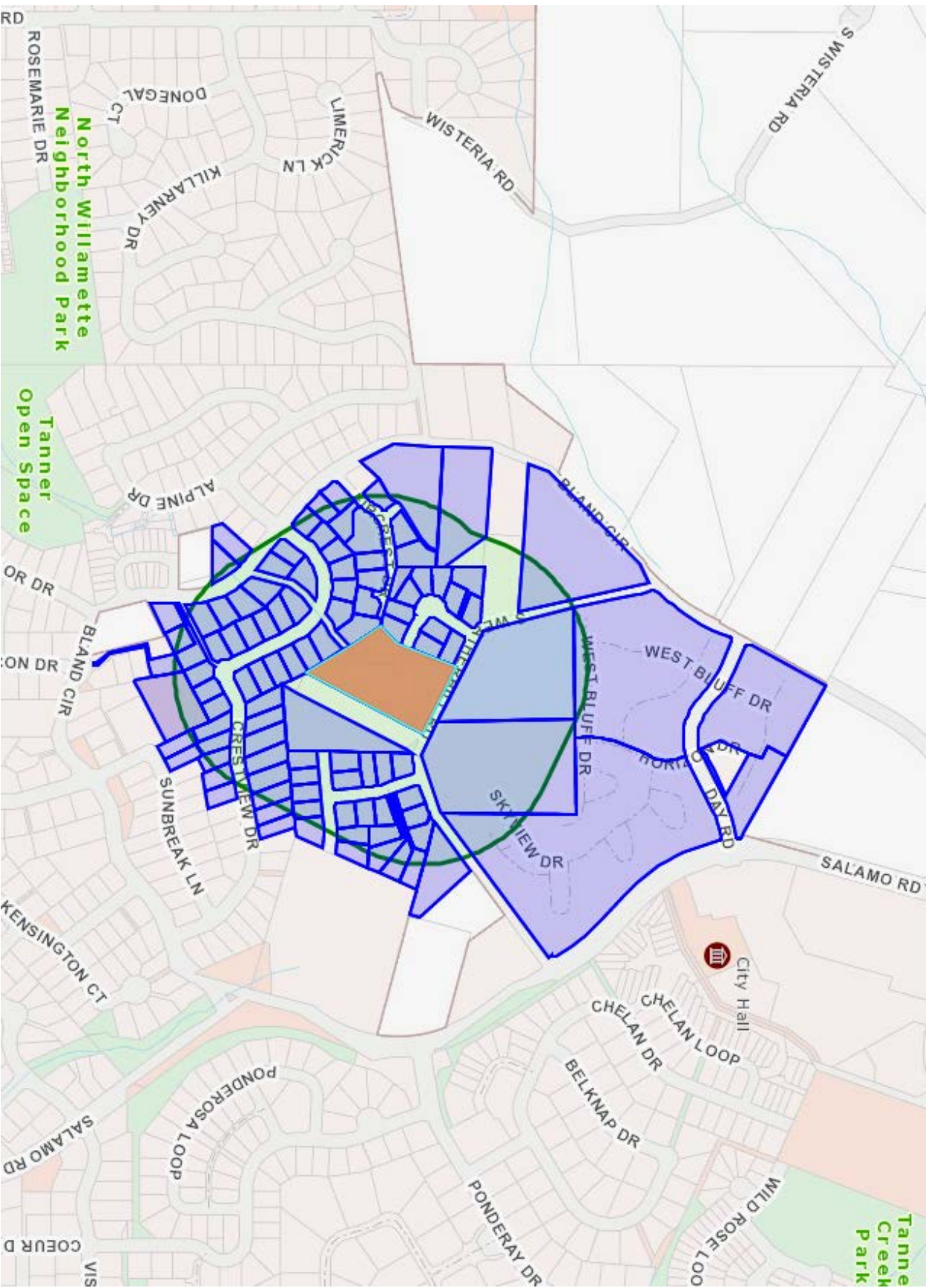
It is important to submit all testimony in response to this notice. All comments submitted for consideration of this application should relate specifically to the applicable criteria. Failure to raise an issue in a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes appeal to the Oregon Land Use Board of Appeals based on that issue.

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 John Floyd, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-742-6058 or jfloyd@westlinnoregon.gov for additional information.



MISC-22-10 - PROPERTIES WITHIN 500 FEET OF 22870 WEATHERHILL ROAD





**AFFIDAVIT OF NOTICE
TYPE A
PLANNING COMMISSION 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.: MISC-22-10

Applicant's Name: **Gary Henin**

Development Name: 22870 Weatherhill RD

Scheduled Decision Date: **Planning Commission Decision no earlier than 12/7/22**

APPLICATION

The application was posted on the website at least 20 days before the hearing. All documents or evidence relied upon by the applicant, and applicable criteria are available for review at least 20 days before the hearing at City Hall, per Section 99.040 of the Community Development Code.

10/11/22	<i>Lynn Schroder</i>
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MAILED NOTICE FIRST

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

Gary Henin, applicant	10/11/22	<i>Lynn Schroder</i>
Property owners within 500ft of the site perimeter	10/11/22	<i>Lynn Schroder</i>
All Neighborhood Associations	10/11/22	<i>Lynn Schroder</i>

WEBSITE

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

10/11/22	<i>Lynn Schroder</i>
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TIDINGS

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

10/19/22	<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.

10/20/22	<i>John Floyd</i>
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STAFF REPORT

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

10/20/22	<i>Lynn Schroder</i>
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MAILED NOTICE SECOND

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

Gary Henin, applicant	11/16/22	<i>Lynn Schroder</i>
Property owners within 500ft of the site perimeter	11/16/22	<i>Lynn Schroder</i>
All Neighborhood Associations	11/16/22	<i>Lynn Schroder</i>

WEBSITE

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

11/16/22	<i>Lynn Schroder</i>
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TIDINGS

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

11/23/22	<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.

11/17/22	<i>John Floyd</i>
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STAFF REPORT

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

	<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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PROJECT # MISC-22-10
MAIL: 11/16/22 TIDINGS: 11/23/22

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.

PC-4 FINAL DECISION AND ORDER (SUB-18-04/WAP-18-05)

WEST LINN PLANNING COMMISSION

FINAL DECISION AND ORDER

SUB-18-04/WAP-18-05

IN THE MATTER OF A PROPOSAL TO DEVELOP A 12-LOT SUBDIVISION at 22870 Weatherhill Road

I. Overview

At their meeting of August 21, 2019, the West Linn Planning Commission (“Commission”) held a public hearing to consider the request by 22870 Weatherhill LLC, property owner, to approve a proposal to develop a 12-lot subdivision. The approval criteria for land division are found in Chapter 85 of the Community Development Code (CDC). Other criteria applicable to this application are found in CDC Chapters 12, 32, 48, 55 and 92. The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing commenced with a staff report presented by Jennifer Arnold, Associate Planner. Steve Miller and Eric Evans from Emerio Design, LLC, made a presentation on behalf of the applicant. Joe Lockridge testified to express concern regarding road width, safety, and traffic for the area. Steve Kelly testified about traffic safety and tree protection. Mr. Kelly also noted that he could support the application if a detailed traffic study is done and reviewed. Following public testimony, the public hearing was closed.

A motion was made by Commissioner King to continue the action to September 18, 2019 with a limited open record to allow Public Works a chance to provide an answer to Vice Chair Mathews regarding safety on Weatherhill Road (record was left open until September 4, 2019 for Public Works to respond and then open until September 11, 2019 for the applicant to respond). The motion was seconded by Commissioner Farrell and the motion passed unanimously 6-0-0.

At their meeting of September 18, 2019 the Commission heard the continued action. After discussion with City Attorney Tim Ramis, the Commission decided to reopen the public record and allow testimony by members of the audience and the applicant. The applicant provided an extension to the 120-day-clock period, entered material into the record, and then proceeded with testimony. The public hearing was again closed. Commissioner Farrell moved to continue the action to October 16, 2019 leaving the record open to allow Public Works or any member of the public to respond to additional questions posed by the Planning Commission (deadline 9/25/19) and to allow the public to address information submitted during this open record period (deadline 10/2/19). The applicant was provided final rebuttal on any additional information submitted during this open period (deadline 10/9/19). The motion was seconded by Commissioner Kelly and passed unanimously 7-0-0.

At their meeting of October 16, 2019, the Chair recognized the hearing was closed, the record was closed, and the Planning Commission was in deliberations. Commissioner Pellett made a motion to approve the application with the Staff recommended conditions of approval as modified by the Planning Commission, which was seconded by Commissioner Mathews. The motion was passed 7 - 0.

II. The Record

The record was finalized at the October 16, 2019, hearing. The record includes the entire file from SUB-18-04.

III. Findings of Fact

- 1) The Overview set forth above is true and correct.
- 2) The applicant is Emerio Design, LLC.
- 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, if any; and the evidence in the whole record, including any exhibits received at the hearing.

IV. Findings

The Commission adopts the Staff Report for August 21, 2019, with attachments, along with the supplemental record submittals provided on 9/25/19, 10/2/19 and 10/9/19 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 Preliminary Plat and Preliminary Site Plan, (Sheets 6/13 and 7/13, dated 8/8/2019).
 - a. The Planning Commission applied Figure 6 of the Staff Report for the August 21, 2019 hearing for the final plat configuration that included no flag lot.
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.
3. **Sewer Easement.** The Applicant shall record a sewer easement to utilize a City owned tract for the proposed sewer extension to the subject property. This easement shall be shown on the face of the plat. Alternatively, the easement may be recorded separately and the recorded number shall be referenced on the face of the plat.

4. **Mitigation and Re-Vegetation.** Prior to recording of the final plat, all on-site mitigation and revegetation shall be completed per the Schott and Associates "Natural Resource Assessment" dated February 2019.
5. **Water Quality Tract.** The applicant shall dedicate the water quality tract to the City of West Linn and reference this dedication on the face of the plat.
6. **Weatherhill Road:** Construction activities shall not proceed until improvements to Weatherhill Road are made in accordance with the Applicant's letter dated October 9, 2019. The applicable improvements to Weatherhill Road are presented on page 3, paragraph 4 of the referenced letter. Roadway improvements include those performed by the applicant and the City of West Linn.
7. **Construction Parking:** On the portion of Satter Street that adjoins the proposed development, where Satter Street is 24 feet wide, no construction parking shall be allowed consistent with West Linn Code and the Transportation System Plan.
8. **Parking:** Satter Street as extended into the proposed development shall be posted no parking consistent with TVFR regulations prior to approval of the final plat.
9. **Access:** Construction traffic to/from the proposed development shall be restricted to an access from Weatherhill Road to the construction site until such time the Director of Public Works determines that the access would prohibit or impair construction actions.

V. Order

The Commission concludes that SUB-18-04 is approved based on the Record, Findings of Fact and Findings above.

Gary Walvatne
 GARY WALVATNE, CHAIR
 WEST LINN PLANNING COMMISSION

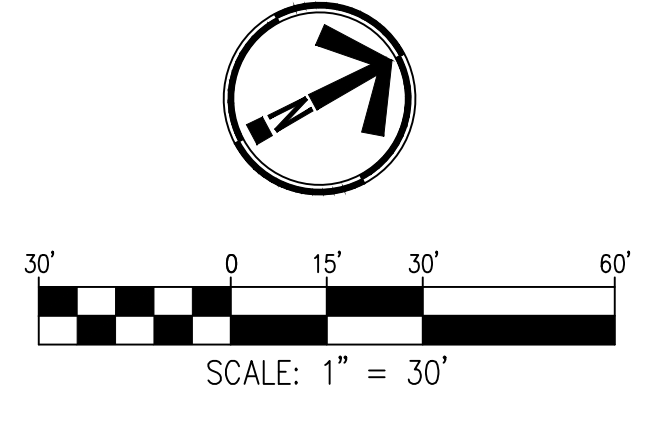
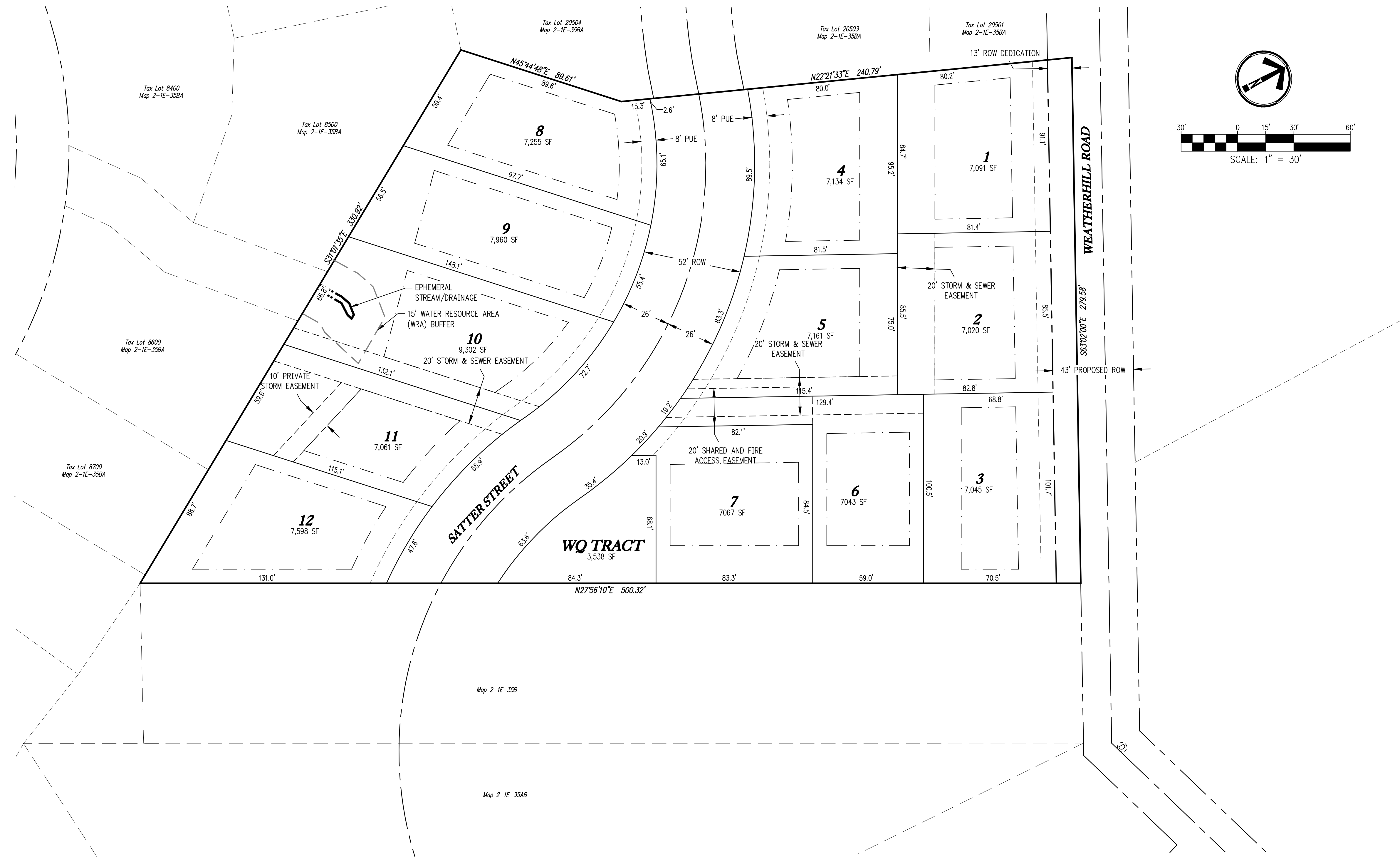
October 17, 2019
 DATE

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 October, 2019.

Therefore, this decision becomes effective at 5 p.m., November 1, 2019.

PC-5 SITE PLANS (SUB-18-04/WAP-18-05)



LEGEND	
	6' P.U.E.
	SETBACK LINES
	BOUNDARY LINE
	RIGHT-OF-WAY LINE
	LOT LINE
	PROPOSED FENCE

PARCEL DATA	
AREA:	2.57 Ac.
ZONING:	R-7
TAX MAP:	2S1E 35B
TAX LOTS:	0405
NO. OF LOTS:	12
PARCELS:	1

MINIMUM SETBACKS	
FRONT:	20'
SIDE:	7.5'
STREET SIDE:	15'
GARAGE DOOR:	20'
REAR:	20'
MAX HEIGHT:	35'
MAX LOT COVERAGE:	35%
AVERAGE MIN LOT WIDTH:	35'

SITE DATA	
ZONE:	R-7
TOTAL SITE AREA:	2.57 ACRES (112,060 SQ. FT.)
R.O.W. DEDICATION:	0.08 ACRES (3,626 SQ. FT.)
PUBLIC STREET:	0.41 ACRES (17,914 SQ. FT.)
12 LOTS/1 PARCEL	7,004 SQ. FT.
MINIMUM LOT SIZE:	9,378 SQ. FT.
MAXIMUM LOT SIZE:	9,378 SQ. FT.
AVG. LOT SIZE:	7,543 SQ. FT.

22870 S WEATHERHILL ROAD
 TAX MAP T2S R1E 35B
 TAX LOT 405
 WEST LINN, OREGON

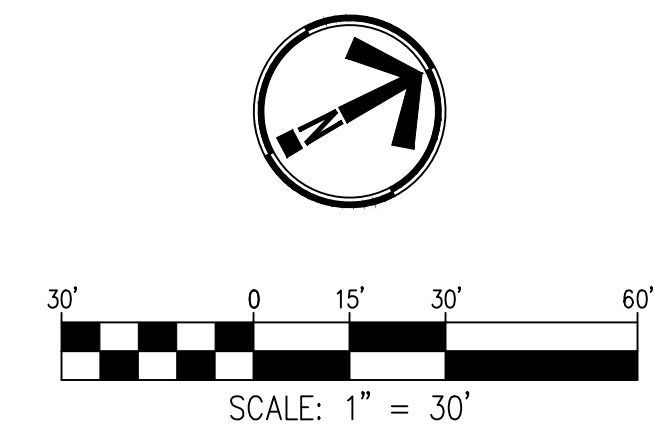
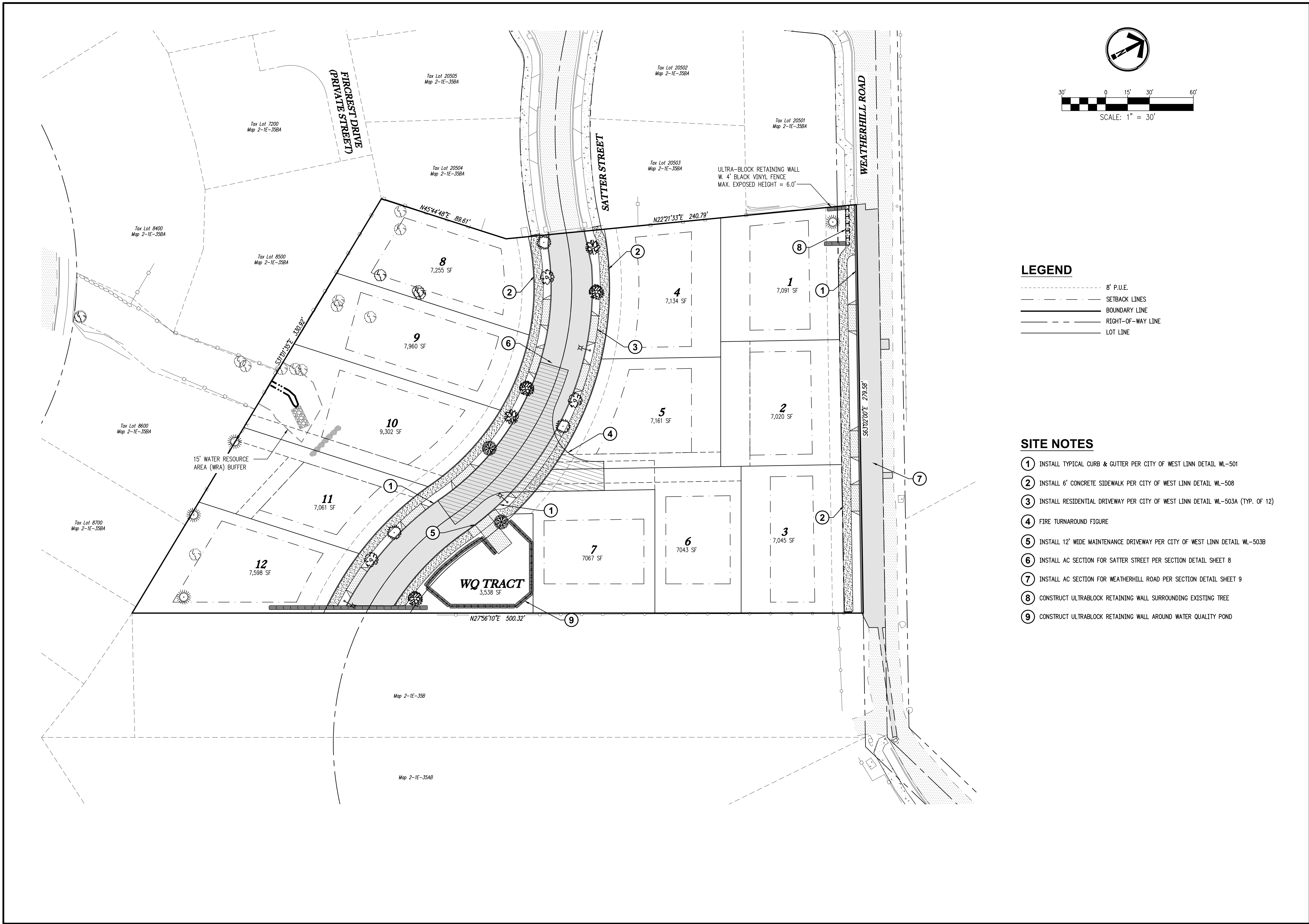
PRELIMINARY PLAT

REVISIONS		
NO.	DATE	DESCRIPTION
0	7/2018	1ST SUBMITTAL
1	4/2019	2ND SUBMITTAL

EMERIO
Design

6445 SW FALLBROOK PLACE, SUITE 100
 BEASLEY, OREGON 97008
 TEL: (503) 746-8812
 FAX: (503) 639-9592
 www.emeriodesign.com

FILE: P:\463-003 Weatherhill Road Phase 1\dwg\plan\463-003-6.plat, Layout: 6 PRELIMINARY PLAT, Plot Date: 5/15/2019 10:45 AM, by: Jacob Snyder



LEGEND

- 8' P.U.E.
- - - - - SETBACK LINES
- BOUNDARY LINE
- - - - - RIGHT-OF-WAY LINE
- LOT LINE

SITE NOTES

- ① INSTALL TYPICAL CURB & GUTTER PER CITY OF WEST LINN DETAIL WL-501
- ② INSTALL 6" CONCRETE SIDEWALK PER CITY OF WEST LINN DETAIL WL-508
- ③ INSTALL RESIDENTIAL DRIVEWAY PER CITY OF WEST LINN DETAIL WL-503A (TYP. OF 12)
- ④ FIRE TURNAROUND FIGURE
- ⑤ INSTALL 12' WIDE MAINTENANCE DRIVEWAY PER CITY OF WEST LINN DETAIL WL-503B
- ⑥ INSTALL AC SECTION FOR SATTER STREET PER SECTION DETAIL SHEET 8
- ⑦ INSTALL AC SECTION FOR WEATHERHILL ROAD PER SECTION DETAIL SHEET 9
- ⑧ CONSTRUCT ULTRABLOCK RETAINING WALL SURROUNDING EXISTING TREE
- ⑨ CONSTRUCT ULTRABLOCK RETAINING WALL AROUND WATER QUALITY POND

22870 S WEATHERHILL ROAD
 TAX MAP T2S R1E 35B
 TAX LOT 405
 WEST LINN, OREGON

PRELIMINARY SITE PLAN

REVISIONS	
NO.	DATE
0	7/2018
1	4/2019

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PC-6 PUBLIC COMMENT

November 2, 2002

Regarding: Time extension for SUB-18-04 at 22870 Weatherhill Road (MISC-22-10)

Dear Chair Walvatne and Commissioners,

My name is Ed Schwarz and I am a resident of West Linn. My comments tonight are my own and do not represent any of the Community Advisory Groups of which I am a member.

My comments are two-fold. First, I have a brief comment regarding the applicant's submission. Second, I want to discuss my concerns with how construction projects in West Linn are being handled and submit for your consideration some proposed Conditions of Approval which should be added to this, and every other, project in West Linn.

My comment related to this application for a time extension concerns the reason given for needing the extension. A rainy spring should not be sufficient grounds for granting an extension. The applicant has had three years to build this project and I find it hard to believe that one rainy spring has kept them from proceeding. This is Oregon, after all, I would think that some rain delay should be built into the schedule from the start. You might wish to explore this further with the applicant to see if there are any additional reasons for the delay in starting this project.

Now I would like to address the safety and security of West Linn citizens and the construction workers who will be working on this and other projects in West Linn.

As you may be aware, earlier this year there was a construction accident at a site near the location of this project. A tragic accident occurred in which one construction worker was killed and another seriously injured. The construction company working on that site is also working on this site and at least one other site in West Linn. Additionally, this accident, which was caused by non-working brakes and horn on a front-end loader, potentially also could have injured any resident who happened to be walking by the project.

After an investigation into the accident, the construction company was fined by Oregon Occupational Safety and Health (OSHA) for unsafe working conditions. In their report dated June 28, 2022 OSHA found that the construction equipment used on that site was unsafe and had not been properly maintained, which led to the tragic accident. OSHA further found that "...employer did not establish and administer an effective safety committee or hold effective safety meetings...". A West Linn resident also discovered that the construction company's license, which is required to do work in West Linn, had expired. Thus, they should not have been allowed to do work in West Linn until their license was renewed and in good standing. Current West Linn code requires a license be in good standing but, apparently, their's either wasn't checked by staff or it expired after it had been checked.

In my career working with electric utilities, my experience was that their utmost concern is worker safety. In my work, it was routine to have a safety meeting, also called a tailboard session, as the first item of business every morning prior to beginning work. Safety practices were reviewed, and roles were assigned in the case of a severe accident. Everyone present signed a sheet indicating that they had participated in this discussion. As far as I can tell, none of these practices are required by the city of contractors working in West Linn.

My suggestion to you is to add the following Conditions of Approval to this time extension request and to every construction project you approve:

1. Require that city staff check on a monthly basis the licenses of any contractors working in West Linn and document in the construction file for each project when the licenses were checked and by whom.
2. Require that any construction firms and contractors working in West Linn hold daily safety meetings before beginning work.
3. Require that these safety meetings be documented by the contractor and sent to the city on a weekly basis.

I do not think that the above requirements will hinder the progress of any construction in West Linn. I do think that they will improve workplace safety for all residents and construction workers in West Linn. I ask that you consider adding them to the Conditions of Approval for this project and all others moving forward.

Thank you for your time.

Ed Schwarz
West Linn