

PLANNING MANAGER DECISION

DATE: March 7, 2023

FILE NO.: MIP-22-05

REQUEST: Approval of an SB458 Expedited Land Division for two parcels to accommodate an HB2001 Detached-Duplex Development at 1627 Killarney Drive

PLANNER: Chris Myers, Associate Planner

Planning Manager

DSW

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GENERAL INFORMATION

APPLICANT/ OWNER:	JJ Portlock 2172 Tannler Dr West Linn, OR. 97068
SITE LOCATION:	1627 Killarney Dr (Lot 4 of Green Hills Estates IV)
SITE SIZE:	0.23 Acres (10,026 square feet)
LEGAL DESCRIPTION:	Lot 4, Green Hills Estates IV (Clackamas County Assessor Map 21E35BB Tax Lot 9600)
COMP PLAN DESIGNATION:	Low-Density Residential
ZONING:	R-10, Single-Family Residential Detached (10,000 sq. ft. min. lot size)
APPROVAL CRITERIA:	Oregon Revised Statute 92.031
120-DAY RULE:	The application became complete on January 3, 2023. The 63-day period for an expedited land division ends March 7, 2023.
PUBLIC NOTICE:	Notice was mailed to property owners within 100 feet of the subject property, public facility and services providers, and the Willamette Neighborhood Associations as required by Oregon Revised Stature 197.365. The notice was also posted on the City's website on January 17, 2023. Therefore, public notice requirements have been met.

EXECUTIVE SUMMARY

The 1627 Killarney Drive property is a 10,026 sq. ft., legal lot of record. The property is zoned R-10, Residential and the applicant will construct a detached duplex as permitted by West Linn Community Development Code Chapter 11.030.1(a), which was adopted as part of the City's HB2001 code amendment package (Ordinance 1736). The applicant has proposed to divide the property under SB458 rules adopted by the Oregon Legislature in 2021 and codified in Oregon Revised Statute 92.031. One resulting parcel will contain one dwelling unit of the detached duplex.

Proposed Parcel Sizes Parcel 1 – 5083 sq. ft. Parcel 2 – 4943 sq. ft.

The property is not located within the Willamette River Greenway (WRG) nor any FEMA flood hazard area. There is an existing stormwater drainage to the south of the property in North Willamette Park. The stormwater drainage is piped adjacent to the east property line of the subject property. Piped sections are exempt from WRA requirements (Community Development Code (CDC) Chapter 32.040.F(2)). The remaining un-piped portion of the stormwater drainage requires a 65 foot buffer per CDC 32.060(D). No portion of the proposed detached duplex is within 65 foot WRA.

The property has approximately 100 feet of frontage on Killarney Drive, which has a functional classification of Neighborhood Route. Each of the two parcels will take access from private driveways adjacent to Killarney Drive.

The Killarney Drive right-of-way is 50 feet wide. The applicant will construct half-street improvements to match the adjacent properties to the east and west and meet City of West Linn Engineering standards. No right-of-way dedication is required. Sanitary sewer and water mains are located in the Killarney Drive right-of-way to provide service to the proposed parcels.

Public comments:

The City received ten public comments prior to the closing of the public comment period. The full text of the comments can be found in Exhibit PD-3. Below staff has summarized the comments and provided a response.

Jody Amato Email 1.31.23

1. Expressed concern for the additional traffic and potential for more parked cars on Killarney Drive due to this application. Further expressed concern that the removal of the center island will allow cars to drive faster and that speed bumps should be considered if the island is removed. Staff Response: Case law limits the improvements the City can exact from a development. Any exactions must be roughly proportional to the impact from the development. In this case, two new dwelling units will generate roughly 20 new vehicle trips a day. Killarney Drive, with a functional classification of Neighborhood Route, has sufficient capacity to accommodate the additional trips. Parking vehicles on a public street is allowed and not part of the criteria for approval. The applicant has proposed to keep the island and reconfigure the shape and size to allow for the proposed development to have needed space for access. The existing travel lane widths will remain. Speeding issues are not applicable criteria and should be directed to the police non-emergency number.

Bangs Comment 1 Email 1.19.23

2. Expressed surprise at the proposal as the development has always been zoned for R-10 residential. Concern that the proposal will devalue their property.

Staff Response: The applicant proposes to develop a middle housing type (detached duplex) as permitted by the West Linn Community Development Code (see Staff Finding 1) and the land division process for middle housing types as found in SB458 (ORS 92.031).

The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to allow a duplex on the subject property (see Staff Finding 1). The applicant proposes a detached duplex (middle housing) on the subject property. The Oregon Legislature subsequently approved SB458 in 2021, requiring cities and counties to allow the division of a lot or parcel that contains middle housing, thus permitting each unit of a duplex to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.

Neither the value of the proposed dwelling units, nor the impact on the value of other housing in the neighborhood is an applicable criteria.

Bangs Comment 2 Email 1.25.23

3. Concern with the speed of traffic coming down Killarney and the removal of the island will be sure to increase the amount of speeding traffic.

Staff Response: The applicant has proposed to keep the island and reconfigure the shape and size to allow for the proposed development to have needed space for access. The existing travel lane widths will remain. Speeding issues are not applicable criteria and should be directed to the police non-emergency number.

Groppe Comment Email 1.31.23

4. Concerned that the removal of the island will make traffic safety worse. Further comments highlighted concern that the proposed application will not fit the layout or look of the neighborhood and thus change the integrity of the neighborhood.

Staff Response: The applicant proposes to develop a middle housing type (detached duplex) as permitted by the West Linn Community Development Code (see Staff Finding 1) and the land division process for middle housing types as found in SB458 (ORS 92.031).

The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to allow a duplex on the subject property (see Staff Finding 1). The applicant proposes a detached duplex (middle housing) on the subject property. The Oregon Legislature subsequently approved SB458 in 2021, requiring cities and counties to allow the division of a lot or parcel that contains middle housing, thus permitting each unit of a duplex to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.

Two new dwelling units will generate roughly 20 new vehicle trips a day. The applicant has proposed to keep the island and reconfigure the shape and size to allow for the proposed development to have needed space for access. The existing travel lane widths will remain.

Willamette Neighborhood Association Board Email 1.31.23

5. Neighborhood Association President, Kathie Halicki, expressed concerns brought to her from citizens. Specifically the concern that the tree in the middle of Killarney is a traffic and speed deterrent. Neighbors have expressed that the tree's removal is of grave concern.

Staff Response: The tree fell down during the ice storm of 2021. The tree no longer exists. However, the island built to protect the tree does still exist (see Exhibit PD-5, page 2 subdivision plat). The applicant has proposed to keep the island and reconfigure the shape and size to allow for the proposed development to have needed space for access. The existing travel lane widths will remain. Speeding issues are not applicable criteria and should be directed to the police non-emergency number.

Dennis Ortega Comment Email 1.26.23

6. Concern regarding the proposed development and the impact on traffic and neighborhood safety. The island that is proposed to be removed acts as a speed barrier. The developer should be required to replace the island with other traffic calming devices.

Staff Response: Two new dwelling units will generate roughly 20 new vehicle trips a day. Killarney Drive, with a functional classification of Neighborhood Route, has sufficient capacity to accommodate the additional trips. The applicant has proposed to keep the island and reconfigure the shape and size to allow for the proposed development to have needed space for access. The existing travel lane widths will remain. Speeding issues are not applicable criteria and should be directed to the police non-emergency number.

Jeannie Ortega Comment Email 1.27.23

7. Same comment as Dennis Ortega. Concern regarding the proposed development and the impact on traffic and neighborhood safety. The island that is proposed to be removed

acts as a speed barrier. The developer should be required to replace the island with other traffic calming devices.

Staff Response: Two new dwelling units will generate roughly 20 new vehicle trips a day. Killarney Drive, with a functional classification of Neighborhood Route, has sufficient capacity to accommodate the additional trips. The applicant has proposed to keep the island and reconfigure the shape and size to allow for the proposed development to have needed space for access. The existing travel lane widths will remain. Speeding issues are not applicable criteria and should be directed to the police non-emergency number.

Pons Robinson Comment Email 1.25.23

8. Expressed determined opposition to the proposed Middle Housing land division. Specifically traffic, ugliness, and depreciation of their home if the land division is allowed.

Staff Response: The applicant proposes to develop a middle housing type (detached duplex) as permitted by the West Linn Community Development Code (see Staff Finding 1) and the land division process for middle housing types as found in SB458 (ORS 92.031).

The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to allow a duplex on the subject property (see Staff Finding 1). The applicant proposes a detached duplex (middle housing) on the subject property. The Oregon Legislature subsequently approved SB458 in 2021, requiring cities and counties to allow the division of a lot or parcel that contains middle housing, thus permitting each unit of a duplex to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.

Two new dwelling units will generate roughly 20 new vehicle trips a day. Killarney Drive, with a functional classification of Neighborhood Route, has sufficient capacity to accommodate the additional trips. There are neither applicable design criteria to address ugliness, nor the impact on the value of other housing in the neighborhood.

Strickland Comment Email 2.1.23

9. Expressed opposition to the proposed Middle Housing Land Division. Specifically the neighborhood is established and the proposal will not fit the neighborhood plan or the City zoning regulations prior to HB2001. Further concern regarding the allowing the proposal due to aesthetic, safety, legal reasons, straightening the street will increase danger to residences, slope, and soil deterioration.

Staff Response: The applicant proposes to develop a middle housing type (detached duplex) as permitted by the West Linn Community Development Code (see Staff Finding 1) and the land division process for middle housing types as found in SB458 (ORS 92.031).

The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to allow a duplex on the subject property (see Staff Finding 1). The applicant proposes a detached duplex (middle housing) on the subject property. The Oregon Legislature subsequently

approved SB458 in 2021, requiring cities and counties to allow the division of a lot or parcel that contains middle housing, thus permitting each unit of a duplex to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.

Two new dwelling units will generate roughly 20 new vehicle trips a day. Killarney Drive, with a functional classification of Neighborhood Route, has sufficient capacity to accommodate the additional trips. The applicant has proposed to keep the island and reconfigure the shape and size to allow for the proposed development to have needed space for access. The existing travel lane widths will remain. The City has found no safety issues related to the reconfiguration of the island. Slope and soil deterioration will be addressed through the building permit process and is not applicable criteria for the SB458 expedited land division. The Building Official will require a geotechnical engineer report as necessary during the home construction process.

Wahlstrom Comment Email 1.31.23

10. Expressed opposition due to a lack of parking on the street. Concern was also expressed regarding the removal of the island and the safety hazard removal will create.

Staff Response: Parking vehicles on a public street is allowed and not part of the criteria for approval. The applicant has proposed to keep the island and reconfigure the shape and size to allow for the proposed development to have needed space for access. The existing travel lane widths will remain. The City has found no safety issues related to the reconfiguration of the island.

DECISION

The Planning Manager (designee) approves this application (MIP-22-05) for an expedited land division under the rules of SB458 based on: 1) the applicant proposes to construct middle housing on the property; 2) the findings submitted by the applicant, which are incorporated by this reference; 3) supplementary staff findings included in the Addendum; and 4) the addition of conditions of approval below. With these findings, the applicable approval criteria of ORS 92.031 are met. The conditions are as follows:

- 1. <u>Preliminary Plat</u>. With the exception of modifications required by these conditions, the final plat shall conform to the Preliminary Plat dated 12/12/2022 (Exhibit PD-1).
- 2. <u>Compliance with Oregon Residential Specialty Code</u>. The applicant shall submit building plans and obtain approval of compliance with the Oregon residential specialty code from West Linn Building staff prior to final plat approval from the City.

- 3. <u>Compliance with Siting and Design Standards</u>. The applicant shall submit building plans and obtain approval of compliance with siting and design standards from West Linn Planning staff prior to final plat approval from the City.
- 4. Engineering Standards. All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. These must be designed, constructed, and completed prior to final plat approval. Public Works may coordinate with the applicant to complete additional, voluntary, off-site improvements.
- 5. <u>Utility Easement</u>. The applicant shall show the private storm drain and utility easements on the face of the final plat and submit a copy of the recorded easements to confirm the newly created parcels have legal rights to locate, access, replace, and service all utilities within the easement prior to final plat approval by the City. The applicant shall show an eight-foot public utility easement along the Killarney Drive right-of-way frontage on the face of the plat prior to final plat approval by the City.
- <u>Final Plat Notation</u>. The applicant shall include on the face of the plat the notation "This middle housing land division approval was given under the provisions of SB458. Further division of the resulting parcels is prohibited".
- 7. <u>Final Plat Recording</u>. The approval of the tentative plat (MIP-22-05) shall be void if the applicant does not record the final partition plat within three years of approval.

The provisions of the Oregon Revised Statute 92.031 have been met.

<u>Chrís J. Myers</u>

<u>March 7, 2023</u> Date

Chris Myers, Associate Planner

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date and include a \$300 deposit for costs. An appeal of an expedited land division is decided by a referee that is not an employee or official of the City of West Linn. The appeal must be filed by the applicant or an individual who has established standing by submitting comments prior to the public comment deadline date. Approval will lapse 3 years from effective approval date if the final plat is not recorded.

Mailed this 7th day of March, 2023. Therefore, the 14-day appeal period ends at 5 p.m., on March 21, 2023.

ADDENDUM APPROVAL CRITERIA AND FINDINGS MIP-22-05

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

ORS 92.031 Middle housing land division; conditions of approval.

(1) As used in this section, "middle housing land division" means a partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 (2) or (3).

ORS 197.758(2) Except as provided in subsection (4) of this section, each city with a population of 25,000 or more and each county or city within a metropolitan service district shall allow the development of:

(a) All middle housing types in areas zoned for residential use that allow for the development of detached single-family dwellings; and

(b) A duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.

Staff Finding 1: The subject property is zoned Residential, R-10 and permits the construction of a single-family detached dwelling. ORS 197.758(2)(a) requires the City of West Linn to allow a duplex, one type of middle housing, in areas zoned for residential use that allows for the development of detached single-family dwellings. The applicant proposes the construction of a detached duplex as permitted by West Linn Community Development Code (CDC) Chapter 11.030.1(a). CDC Chapter 2 defines a duplex as *"Two attached or detached dwelling units on a lot or parcel in any configuration"*. Therefore, the proposed division of the lot, which allows the development of middle housing, is permitted. The criteria is met.

(2) A city or county shall approve a tentative plan for a middle housing land division if the application includes:

(a) A proposal for development of middle housing in compliance with the Oregon residential specialty code and land use regulations applicable to the original lot or parcel allowed under ORS 197.758 (5);

ORS 197.178(5) Local governments may regulate siting and design of middle housing required to be permitted under this section, provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable costs or delay. Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.

Staff Finding 2: The applicant proposes the construction of a detached duplex, which qualifies as a middle housing type (see Staff Finding 1). The applicant did not submit building plans for the detached duplex with this application. The applicant shall submit building plans and obtain approval of compliance with the Oregon residential specialty code from West Linn Building staff

prior to final plat approval by the City per Condition of Approval 2. Subject to the Conditions of Approval, the criteria are met.

Staff Finding 3: The applicant proposes the construction of a detached duplex, which qualifies as a middle housing type (see Staff Finding 1). The City regulates siting and design of middle housing, including minimum property line setbacks, sidewall transitions, maximum floor-area-ratio (FAR), maximum lot coverage, and maximum building height. The siting and design regulations are reviewed by West Linn Planning staff during building permit review. Minimum property line setbacks and maximum lot coverage will be applied and calculated based on the subject property boundary and total area. Sidewall transitions and maximum building height will be reviewed based on building plans. The applicant did not submit building plans for the detached duplex with this application. The applicant shall submit building plans and obtain approval of compliance with siting and design standards from West Linn Planning staff prior to final plat approval by the City per Condition of Approval 3. Subject to the Conditions of Approval, the criteria are met.

Staff Finding 4: The City has adopted protective measures pursuant to statewide land use planning goals for the Willamette River Greenway (Goals 5 and 15), Water Resource Areas (Goals 5, 6, and 7), and Floodplain Management Areas (Goal 7). The City regulates the protective measures through CDC Chapters 27, 28, and 32. The subject property is not located within the Willamette River Greenway nor a Floodplain Management Area. The proposed development will not impact any Water Resource Areas. The criteria are met.

(b) Separate utilities for each dwelling unit;

Staff Finding 5: The applicant proposes the construction of a detached duplex with separate utility connections for each dwelling unit. Utilities shall be installed in compliance with West Linn municipal code requirements per Condition of Approval 4. Subject to the Conditions of Approval, the criteria are met.

(c) Proposed easements necessary for each dwelling unit on the plan for: (A) Locating, accessing, replacing and servicing all utilities;

Staff Finding 6: The applicant proposes the construction of a detached duplex on the subject property, including the division of the lot as allowed by SB458. The City franchise agreements require an eight-foot public utility easement along Killarney Drive. The applicant shall show the utility easement on the face of the final plat prior to final plat approval by the City per Condition of Approval 5. Subject to the Conditions of Approval, the criteria are met.

(B) Pedestrian access from each dwelling unit to a private or public road;

Staff Finding 7: The applicant proposes the construction of a detached duplex on the subject property, including the division of the parcel as allowed by SB458. Both parcels will have pedestrian access to Killarney Drive, a public street, via dedicated driveways for each parcel, the criteria are met.

(C) Any common use areas or shared building elements;

Staff Finding 8: The applicant does not propose any common use areas or shared building elements, therefore no easements are required. The criteria are met.

(D) Any dedicated driveways or parking; and

Staff Finding 9: The applicant proposes the construction of a detached duplex on the subject property, including the division of the parcel as allowed by SB458. The proposal does not include any parking areas needing an easement. Access to both parcels will come directly from Killarney Drive via dedicated driveways for each parcel. The criteria are met.

(E) Any dedicated common area;

Staff Finding 10: The applicant does not propose any dedicated common use area, therefore no easements are required. The criteria are met.

(d) Exactly one dwelling unit on each resulting lot or parcel, except for lots, parcels or tracts used as common areas; and

Staff Finding 11: The applicant proposes the construction of a detached duplex as permitted by West Linn Community Development Code (CDC) Chapter 11.030.1(a). CDC Chapter 2 defines a duplex as *"Two attached or detached dwelling units on a lot or parcel in any configuration."* The division of the lot under SB458 rules will result in one dwelling unit on each resulting parcel. No common areas are proposed. The criteria are met.

(e) Evidence demonstrating how buildings or structures on a resulting lot or parcel will comply with applicable building codes provisions relating to new property lines and, notwithstanding the creation of new lots or parcels, how structures or buildings located on the newly created lots or parcels will comply with the Oregon residential specialty code.

Staff Finding 12: The applicant proposes the construction of a detached duplex, which qualifies as a middle housing type. The applicant did not submit building plans for the detached duplex with this application. The applicant shall submit building plans and obtain approval of compliance with the Oregon residential specialty code, including provisions related to new property lines, from West Linn Building staff prior to final plat approval by the City per Condition of Approval 2. Subject to the Conditions of Approval, the criteria are met.

(3) A city or county may add conditions to the approval of a tentative plan for a middle housing land division to:

(a) Prohibit the further division of the resulting lots or parcels.

Staff Finding 13: The applicant proposes the construction of a detached duplex on the subject property, including the division of the lot as allowed by SB458. The applicant shall include on the face of the plat a notation prohibiting the further division of the resulting parcels under the provisions of SB458 per Condition of Approval 6. Subject to the Conditions of Approval, the criteria are met.

(b) Require that a notation appear on the final plat indicating that the approval was given under this section.

Staff Finding 14: The applicant proposes the construction of a detached duplex on the subject property, including the division of the lot as allowed by SB458. The applicant shall include on the face of the plat a notation indicating the approval was given under the provisions of SB458 per Condition of Approval 6. Subject to the Conditions of Approval, the criteria are met.

(4) In reviewing an application for a middle housing land division, a city or county: (a) Shall apply the procedures under ORS 197.360 to 197.380.

Staff Finding 15: Please see Staff Findings 24 to 51. The criteria are met.

(b) May require street frontage improvements where a resulting lot or parcel abuts the street consistent with land use regulations implementing ORS 197.758.

Staff Finding 16: The subject property has approximately 100 feet of frontage along Killarney Drive, a Neighborhood Route. The City may exact street frontage improvements that are roughly proportional to the impact from the development (Dolan vs. City of Tigard, 1994). The proposed development of two new dwelling units on the subject property will contribute approximately 20 new vehicle trips a day.

The applicant proposes constructing half-street improvements to match the two adjacent properties to the east and west. The City finds the applicant proposal for street improvements on Killarney Drive to be roughly proportional to the impacts from the construction of two additional dwelling units on the property.

(c) May not subject an application to approval criteria except as provided in this section, including that a lot or parcel require driveways, vehicle access, parking or minimum or maximum street frontage.

Staff Finding 17: The City has not applied any approval criteria except as provided in this section. The applicant has proposed utilizing a driveway for each of the two proposed parcels. The criteria are met.

(*d*) May not subject the application to procedures, ordinances or regulations adopted under ORS 92.044 or 92.046 that are inconsistent with this section or ORS 197.360 to 197.380.

Staff Finding 18: The City has not applied any approval criteria that are inconsistent with this section or ORS 197.360 to 197.380. The criteria are met.

(e) May allow the submission of an application for a middle housing land division at the same time as the submission of an application for building permits for the middle housing.

Staff Finding 19: The applicant shall submit building plans and obtain approval of compliance with the Oregon residential specialty code, including provisions related to new property lines, from West Linn Building staff prior to final plat approval by the City per Conditions of Approval 2 and 3. Subject to the Conditions of Approval, the criteria are met.

(f) May require the dedication of right of way if the original parcel did not previously provide a dedication.

Staff Finding 20: The subject property is adjacent to Killarney Drive, public right-of-way (ROW). The existing Killarney Drive ROW measures approximately 50-feet in width. The proposed project does not require a right-of-way dedication. The criteria are met.

(5) The type of middle housing developed on the original parcel is not altered by a middle housing land division.

Staff Finding 21: The applicant proposes the construction of a detached duplex on the subject property, including the division of the lot as allowed by SB458. The type of middle housing, detached duplex, will not be altered by the land division. The criteria are met.

(6) Notwithstanding ORS 197.312 (5), a city or county is not required to allow an accessory dwelling unit on a lot or parcel resulting from a middle housing land division.

Staff Finding 22: The applicant does not propose an accessory dwelling unit on any parcel resulting from the land division. The criteria are met.

(7) The tentative approval of a middle housing land division is void if and only if a final subdivision or partition plat is not approved within three years of the tentative approval. Nothing in this section or ORS 197.360 to 197.380 prohibits a city or county from requiring a final plat before issuing building permits.

Staff Finding 23: The approval of the tentative plat (MIP-22-05) shall be void if the applicant does not record the final partition plat within three years of approval per Condition of Approval 7. Subject to the Conditions of Approval, the criteria are met.

197.360 "Expedited land division" defined; applicability.

(1) As used in this section:

(a) "Expedited land division" means a division of land under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845 by a local government that:

Staff Finding 24: The applicant proposes a middle housing development (see Staff Finding 1), which is eligible for an expedited land division under ORS 92.031, Middle Housing Land Division. The criteria are met.

(A) Includes only land that is zoned for residential uses and is within an urban growth boundary.(B) Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.

Staff Finding 25: The subject property is zoned Residential, R-10 and within the Portland Metropolitan Area Urban Growth Boundary. The applicant proposes development of a detached duplex, which is a residential use. No open space or recreational uses are proposed. The criteria are met.

(C) Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:
(i) Open spaces, scenic and historic areas and natural resources;
(ii) The Willamette River Greenway;

Staff Finding 26: The subject property is not located within the Willamette River Greenway. No development is proposed in a Water Resource Area. The criteria are met.

(iii) Estuarine resources;(iv) Coastal shorelands; and(v) Beaches and dunes.

Staff Finding 27: The subject property does not contain any estuarine resources, coastal shorelands, or beaches and dunes. The criteria are met.

(D) Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules.

Staff Finding 28: Existing development patterns prohibit street connectivity in the vicinity of the subject property. The 2016 West Linn Transportation System Plan does not include any connectivity projects adjacent to the subject property. The criteria are met.

(E) Will result in development that either:

(i) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or
(ii) Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.

Staff Finding 29: The subject property is approximately 10,026 sq. ft. and zoned Residential, R-10, which requires a minimum lot size of 10,000 sq. ft. Maximum density under a traditional CDC Chapter 85 land division would allow one dwelling unit.

The applicant proposes a detached duplex middle housing development (see Staff Finding 1), which is eligible for an expedited land division under ORS 92.031, Middle Housing Land Division. The middle housing development will result in two dwelling units, which is 200 percent of the maximum density currently permitted on the subject property. The criteria are met.

(b) "Expedited land division" includes land divisions that create three or fewer parcels under ORS 92.010 to 92.192 and meet the criteria set forth in paragraph (a) of this subsection.

Staff Finding 30: The applicant proposes an expedited land division that creates two parcels as permitted under ORS 92.031. The proposal meets the criteria set forth in paragraph (a), see Staff Findings 24 to 29. The criteria are met.

(2) An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

Staff Finding 31: The City and applicant acknowledge an expedited land division is not a land use decision or limited land use decision under ORS 197.015 or a permit under ORS 215.402 or ORS 227.160. The criteria are met.

(3) The provisions of ORS 197.360 to 197.380 apply to all elements of a local government comprehensive plan and land use regulations applicable to a land division, including any planned unit development standards and any procedures designed to regulate:

(a) The physical characteristics of permitted uses;

(b) The dimensions of the lots or parcels to be created; or

(c) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.

Staff Finding 32: The applicant proposes middle housing on the subject property through the construction of a detached duplex, including the division of the lot as allowed by SB458. The City has applied the approval criteria of ORS 92.031, including the physical characteristics of the development (see Staff Finding 3), the dimensions of the parcels to be created (see Staff Findings 6, 7, 9, and 29), and required facilities and services necessary for the proposed development (see Staff Findings 5, 6, 7, 9, 16, and 20). The criteria are met.

(4) An application for an expedited land division submitted to a local government shall describe the manner in which the proposed division complies with each of the provisions of subsection (1) of this section.

Staff Finding 33: See Staff Findings 24 to 32. The criteria are met.

197.365 Application; notice to neighbors; comment period.

Unless the applicant requests to use the procedure set forth in a comprehensive plan and land use regulations, a local government shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division under ORS 92.031:

(1)(a) If the application for a land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.

Staff Finding 34: The applicant did not request to use the procedures outlined in the West Linn Community Development Code, therefore the City processed the application as an expedited land division. The application was submitted on December 13, 2022 and deemed complete by the City on January 3, 2023. The criteria are met.

(b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

Staff Finding 35: The application was submitted on December 13, 2022 and deemed complete by the City on January 3, 2023. Approval of the application is based on the standards and criteria found in ORS 92.031 that were applicable on December 13, 2022. The criteria are met.

(2) The local government shall provide written notice of the receipt of the completed application for a land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property within 100 feet of the entire contiguous site for which the application is made. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the site.

Staff Finding 36: The City provided written notice of the receipt of a completed application to all state agencies, local governments, and special districts responsible for providing public facilities or services on January 17, 2023. The City provide written notice to property owners within 100 feet of the entire contiguous site, compiled from the most recent property owner information available, on January 17, 2023. The City provide written notice to the Willamette Neighborhood Association on January 17, 2023. The affidavit of public notice is found in Exhibit PD-5. The criteria are met.

(3) The notice required under subsection (2) of this section shall:

(a) State:

(A) The deadline for submitting written comments;

(B) That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and

(C) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.

(b) Set forth, by commonly used citation, the applicable criteria for the decision.

(c) Set forth the street address or other easily understood geographical reference to the subject property.

(d) State the place, date and time that comments are due.

(e) State a time and place where copies of all evidence submitted by the applicant will be available for review.

(f) Include the name and telephone number of a local government contact person.

(g) Briefly summarize the local decision-making process for the land division decision being made.

Staff Finding 37: The City provided written notice in compliance with subsection (3). A copy of the notice is found in Exhibit PD-5. The criteria are met.

(4) After notice under subsections (2) and (3) of this section, the local government shall: (a) Provide a 14-day period for submission of written comments prior to the decision.

Staff Finding 38: The City provided written notice under subsections (2) and (3) on January 17, 2023, with a deadline for submission of written comments on February 1, 2023. This provided a 14-day period. A copy of the notice is found in Exhibit PD-5. The criteria are met.

(b) Make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the substantive requirements of the applicable land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. For applications subject to this section, the local government:

Staff Finding 39: The application was submitted on December 13, 2022 and deemed complete by the City on January 3, 2023. The City approved the application with conditions on March 7, 2023, the 63rd day after deeming the application complete. The criteria are met.

(A) Shall not hold a hearing on the application; and

(B) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination.

Staff Finding 40: The City did not hold a hearing on the application. The City issued the Planning Manager decision with a summary statement explaining the determination. The criteria are met.

(c) Provide notice of the decision to the applicant and to those who received notice under subsection (2) of this section within 63 days of the date of a completed application. The notice of decision shall include:

(A) The summary statement described in paragraph (b)(B) of this subsection; and (B) An explanation of appeal rights under ORS 197.375.

Staff Finding 41: The City provided notice of the decision to the applicant and those who received notice under subsection (2) on March 7, 2023, the 63rd day after deeming the application complete. The notice of decision included the summary statement and an explanation of appeal rights. The criteria are met.

197.370 Failure of local government to timely act on application.

(1) Except as provided in subsection (2) of this section, if the local government does not make a decision on an expedited land division or a middle housing land division, as defined in ORS 92.031, within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the local

government to issue the approval. The writ shall be issued unless the local government shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of ORS 92.031 or 197.360. A decision of the circuit court under this section may be appealed only to the Court of Appeals.

(2) After seven days' notice to the applicant, the governing body of the local government may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited land division or a middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 92.031 and 197.360 to 197.380, including the mandamus remedy provided by subsection (1) of this section, shall remain applicable to the land division, except that the extended period shall be substituted for the 63-day period wherever applicable.

(3) The decision to approve or not approve an extension under subsection (2) of this section is not a land use decision or limited land use decision.

Staff Finding 42: The City acted in a timely manner and made the decision within the 63 day time period. The criteria are met.

197.375 Appeal of local government to referee; Court of Appeals.

(1) An appeal of a decision made under ORS 197.360 and 197.365 or under ORS 92.031 and 197.365 shall be made as follows:

(a) An appeal must be filed with the local government within 14 days of mailing of the notice of the decision under ORS 197.365 (4) and shall be accompanied by a \$300 deposit for costs.

(b) A decision may be appealed by:

(A) The applicant; or

(B) Any person or organization who files written comments in the time period established under ORS 197.365.

(c) An appeal shall be based solely on allegations:

(A) Of violation of the substantive provisions of the applicable land use regulations;

(B) Of unconstitutionality of the decision;

(C) That the application is not eligible for review under ORS 92.031 or 197.360 to 197.380 and should be reviewed as a land use decision or limited land use decision; or

(D) That the parties' substantive rights have been substantially prejudiced by an error in procedure by the local government.

Staff Finding 43: The applicant acknowledges and understands the appeal rights and process. If appealed, the City will follow the expedited land division appeal process and criteria. The criteria are applicable upon appeal.

(2) The local government shall appoint a referee to decide the appeal of a decision made under this section. The referee may not be an employee or official of the local government. However, a local government that has designated a hearings officer under ORS 215.406 or 227.165 may designate the hearings officer as the referee for appeals of a decision made under ORS 197.360 and 197.365.

Staff Finding 44: The applicant acknowledges and understands the appeal procedures. If appealed, the City will follow the expedited land division appeal process and criteria, including the appointment of a referee to decide the appeal.

(3) Within seven days of being appointed to decide the appeal, the referee shall notify the applicant, the local government, the appellant if other than the applicant, any person or organization entitled to notice under ORS 197.365 (2) that provided written comments to the local government and all providers of public facilities and services entitled to notice under ORS 197.365 (2) and advise them of the manner in which they may participate in the appeal. A person or organization that provided written comments to the local governments to the local government but did not file an appeal under subsection (1) of this section may participate only with respect to the issues raised in the written comments submitted by that person or organization. The referee may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument. The referee shall provide the local government an opportunity to explain its decision, but is not limited to reviewing the local government decision and may consider information not presented to the local government.

Staff Finding 45: If appealed, the referee appointed by the City will follow the expedited land division appeal process and criteria.

(4)(a) The referee shall apply the substantive requirements of the applicable land use regulations and ORS 92.031 or 197.360. If the referee determines that the application does not qualify as an expedited land division or a middle housing land division, as defined in ORS 92.031, the referee shall remand the application for consideration as a land use decision or limited land use decision. In all other cases, the referee shall seek to identify means by which the application can satisfy the applicable requirements.

(b) For an expedited land use division, the referee may not reduce the density of the land division application.

(c) The referee shall make a written decision approving or denying the application or approving it with conditions designed to ensure that the application satisfies the land use regulations, within 42 days of the filing of an appeal. The referee may not remand the application to the local government for any reason other than as set forth in this subsection.

Staff Finding 46: If appealed, the referee appointed by the City will follow the expedited land division appeal process and criteria.

(5) Unless the governing body of the local government finds exigent circumstances, a referee who fails to issue a written decision within 42 days of the filing of an appeal shall receive no compensation for service as referee in the appeal.

Staff Finding 47: If appealed, the referee appointed by the City will follow the expedited land division appeal process and criteria.

(6) Notwithstanding any other provision of law, the referee shall order the local government to refund the deposit for costs to an appellant who materially improves his or her position from the decision of the local government. The referee shall assess the cost of the appeal in excess of the

deposit for costs, up to a maximum of \$500, including the deposit paid under subsection (1) of this section, against an appellant who does not materially improve his or her position from the decision of the local government. The local government shall pay the portion of the costs of the appeal not assessed against the appellant. The costs of the appeal include the compensation paid the referee and costs incurred by the local government, but not the costs of other parties.

Staff Finding 48: If appealed, the referee appointed by the City will follow the expedited land division appeal process and criteria.

(7) The Land Use Board of Appeals does not have jurisdiction to consider any decisions, aspects of decisions or actions made under ORS 92.031 or 197.360 to 197.380.

Staff Finding 49: The applicant acknowledges and understands the Land Use Board of Appeals does not have jurisdiction over this decision.

(8) Any party to a proceeding before a referee under this section may seek judicial review of the referee's decision in the manner provided for review of final orders of the Land Use Board of Appeals under ORS 197.850 and 197.855. The Court of Appeals shall review decisions of the referee in the same manner as provided for review of final orders of the Land Use Board of Appeals in those statutes. However, notwithstanding ORS 197.850 (9) or any other provision of law, the court shall reverse or remand the decision only if the court finds:

(a) That the decision does not concern an expedited land division as described in ORS 197.360 or middle housing land division as defined in ORS 92.031 and the appellant raised this issue in proceedings before the referee;

(b) That there is a basis to vacate the decision as described in ORS 36.705 (1)(a) to (d), or a basis for modification or correction of an award as described in ORS 36.710; or (c) That the decision is unconstitutional.

Staff Finding 50: The applicant acknowledges and understands the right to seek judicial review of the referee's decision.

197.380 Application fees.

Each city and county shall establish application fees for an expedited land division and a middle housing land division, as defined in ORS 92.031. The fees must be set at a level calculated to recover the estimated full cost of processing an application, including the cost of appeals to the referee under ORS 197.375, based on the estimated average cost of such applications. Within one year of establishing a fee under this section, the city or county shall review and revise the fee, if necessary, to reflect actual experience in processing applications under ORS 92.031 and 197.360 to 197.380.

Staff Finding 51: The City has an adopted fee schedule, including for expedited land divisions. The applicant paid the fee at the time of submittal. 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 APPLICATI	ION
the second state of the se	For Office Use Only	
STAFF CONTACT	PROJECT NO(S). MIP-22-05	PRE-APPLICATION NO.
NON-REFUNDABLE FEE(S)	Refundable Deposit(s) \$2,800	Total \$2,800
Type of Review (Please check all th	at apply):	
Annexation (ANX)	Historic Review	Subdivision (SUB)
Appeal and Review (AP)	Legislative Plan or Change	Temporary Uses
Code Interpretation	Lot Line Adjustment (LLA)	Time Extension
Conditional Use (CUP)	Minor Partition (MIP) (Preliminary Plat or Plan)	Variance (VAR)
Design Review (DR)	Modification of Approval	Water Resource Area Protection/Single Lot (WAP)
Tree Easement Vacation	Non-Conforming Lots, Uses & Structures	Water Resource Area Protection/Wetland (WAP)
Final Plat or Plan (FP)	Planned Unit Development (PUD)	Willamette & Tualatin River Greenway (WRG)
Flood Management Area	Street Vacation	Zone Change
Pre-Application, Home Occupation, S	Sidewalk Use, Addressing, and Sign applications require of	different forms, available on the City website.
Site Location/Address:	Acce	essor's Map No.: 21535BB
14		essor's Map No.: 21535BB
1627 KIUMA	Tax WESI UNN Tax	Lot(s): 9600
	1000	al Land Area: 0,23 Acps
Brief Description of Proposal:	0	201100
MINOR LAND	PARTION UNDOR	SB458
MIDDLE IT	WSING LAMS DIVISION	
		Phone: 425-929-1966
Applicant Name: JJ R	retocic	
Address: 2172 TA	MUSE DR	Email: JJPortlock equal.
City State Zip: WEST	UNN 2897068	
Owner Name (required): (please print)		Phone:
Address:		Email:
	AME	Ernan.
City State Zip:		
Consultant Name:	1	Phone:
(please print) Address:		Email:
Auuress:	3 117	Ellidii.
City State Zip:		
1 All application fees are non-r	efundable (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 <u>Submit a Land Use Application</u> 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.

Owner's signature (required) pplicant's signature

City Planning Staff,

Please see the included required information for this proposal. I am submitting an application for a minor land partition under the SB458 middle housing land division process to create 2 child lots on the existing parent lot located at 1627 Killarney Dr. Included are the responses to the criteria required under section 2 of SB458 as well as the plans necessary to demonstrate compliance and the final layouts being proposed. Please let me know should you have any questions or need clarification.

Thanks,

JJ Portlock 425-829-1566 2172 Tannler Drive West Linn OR, 97068 SECTION 2.

(1) As used in this section, "middle housing land division" means a partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 (2) or (3).

(2) A city or county shall approve a tentative plan for a middle housing land division if the application includes:

(a) A proposal for development of middle housing in compliance with the Oregon residential specialty code and land use regulations applicable to the original lot or parcel allowed under ORS 197.758 (5);

(b) Separate utilities for each dwelling unit;

Response: Please see included plans with proposed utility plan

(c) Proposed easements necessary for each dwelling unit on the plan for:

(A) Locating, accessing, replacing and servicing all utilities;

Response: Please see included plans showing necessary easements

(B) Pedestrian access from each dwelling unit to a private or public road;

Response: No needed easements proposed

(C) Any common use areas or shared building elements;

Response: No needed easements proposed

(D) Any dedicated driveways or parking; and

Response: No needed easements proposed

(E) Any dedicated common area;

Response: No needed easements proposed

(d) Exactly one dwelling unit on each resulting lot or parcel, except for lots, parcels or tracts used as common areas; and

(e) Evidence demonstrating how buildings or structures on a resulting lot or parcel will comply with applicable building codes provisions relating to new property lines and, notwithstanding the creation of new lots or parcels, how structures or buildings located on the newly created lots or parcels will comply with the Oregon residential specialty code.

Response: Please see the attached layout demonstrating appropriate setbacks between the units to meet the Oregon residential specialty code

(3) A city or county may add conditions to the approval of a tentative plan for a middle housing land division to:

(a) Prohibit the further division of the resulting lots or parcels.

(b) Require that a notation appear on the final plat indicating that the approval was given under this section.

(4) In reviewing an application for a middle housing land division, a city or county:

(a) Shall apply the procedures under ORS 197.360 to 197.380.

(b) May require street frontage improvements where a resulting lot or parcel abuts the street consistent with land use regulations implementing ORS 197.758.

Response: Please see the attached plan with proposal for realignment and adding of frontage improvements

(c) May not subject an application to approval criteria except as provided in this section, including that a lot or parcel require driveways, vehicle access, parking or minimum or maximum street frontage.

(d) May not subject the application to procedures, ordinances or regulations adopted un der ORS 92.044 or 92.046 that are inconsistent with this section or ORS 197.360 to 197.380.

(e) May allow the submission of an application for a middle housing land division at the same time as the submission of an application for building permits for the middle housing.

(f) May require the dedication of right of way if the original parcel did not previously provide a dedication.

(5) The type of middle housing developed on the original parcel is not altered by a middle housing land division.

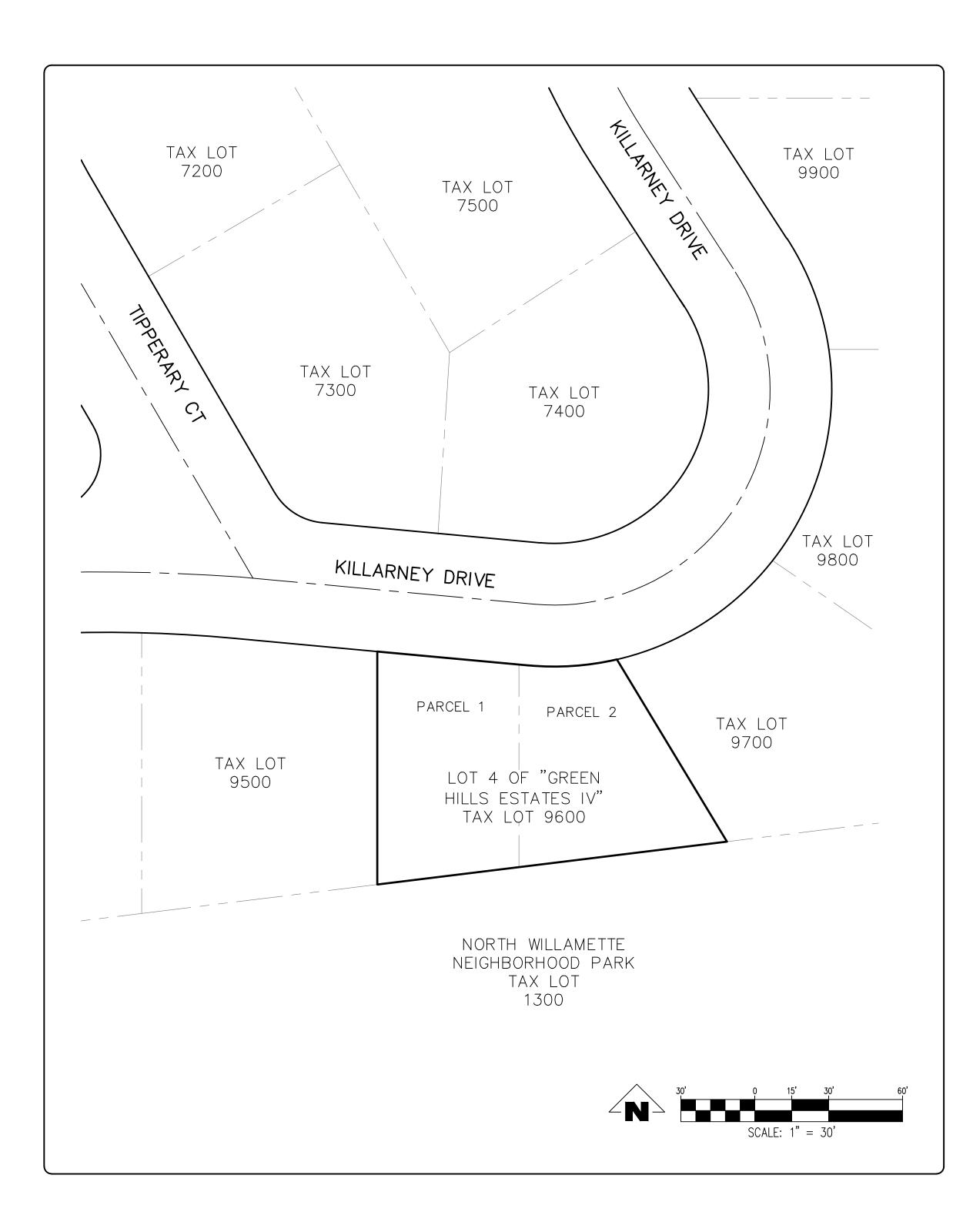
(6) Notwithstanding ORS 197.312 (5), a city or county is not required to allow an accessory dwelling unit on a lot or parcel resulting from a middle housing land division.

(7) The tentative approval of a middle housing land division is void if and only if a final subdivision or partition plat is not approved within three years of the tentative approval. Nothing in this section or ORS 197.360 to 197.380 prohibits a city or county from requiring a final plat before issuing building permits.

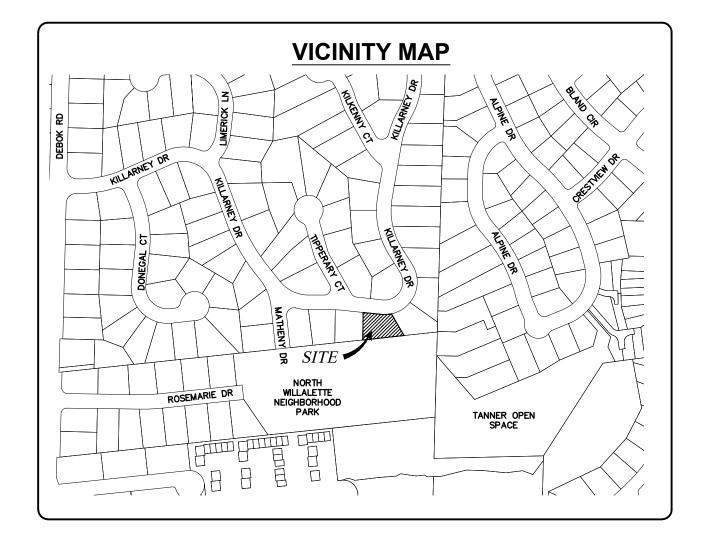
SECTION 2a.

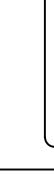
Section 2 of this 2021 Act applies only to a middle housing land division permitted on or after July 1, 2022.

1627 KILLARNEY DRIVE (2 LOT PARTITION) LOT 4, BLOCK 3, GREEN HILLS ESTATES IV N.W. 1/4, SECTION 35, T.2S., R.1E., W.M., **CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON**



LEGEND	
	BOUNDARY LINE
	ADJACENT/ADJOINING LOT LINE
	CENTER LINE ROW
	EASEMENT
<u> </u>	EXISTING 1' CONTOUR LINE
<u> </u>	EXISTING 5' CONTOUR LINE
* ۵	EXISTING TREE
GMO	EXISTING GAS METER
Opp	EXISTING UTILITY POLE
EMa	EXISTING ELECTRIC METER
$\square^{\vee}M$	EXISTING WATER METER
X22	EXISTING SANITARY SEWER LINE
XW	EXISTING WATER LINE
—— XE ——— XE ——	EXISTING ELECTRICAL LINE
o	EXISTING FENCE
_oo	TREE PROTECTION FENCE
—ss—ss—	PROPOSED SANITARY LINE
Ø	PROPOSED SANITARY CLEANOUT
•	PROPOSED WATER METER





SHEET INDEXZ:

- 01 COVER SHEET AND VICINITY MAP
- 02 PRELIMINARY PLAT
- 03 PRELIMINARY STREET AND UTILITY PLAN

SITE INFORMATION:

SITE ADDRESS: TAX MAPS: TAX LOTS: GROSS AREA: ZONING:

1627 KILLARNEY DR, WEST LINN, 97068 T2S R1E SEC. 35BB 09600 10,026 SF (0.23 ACRES) R-10

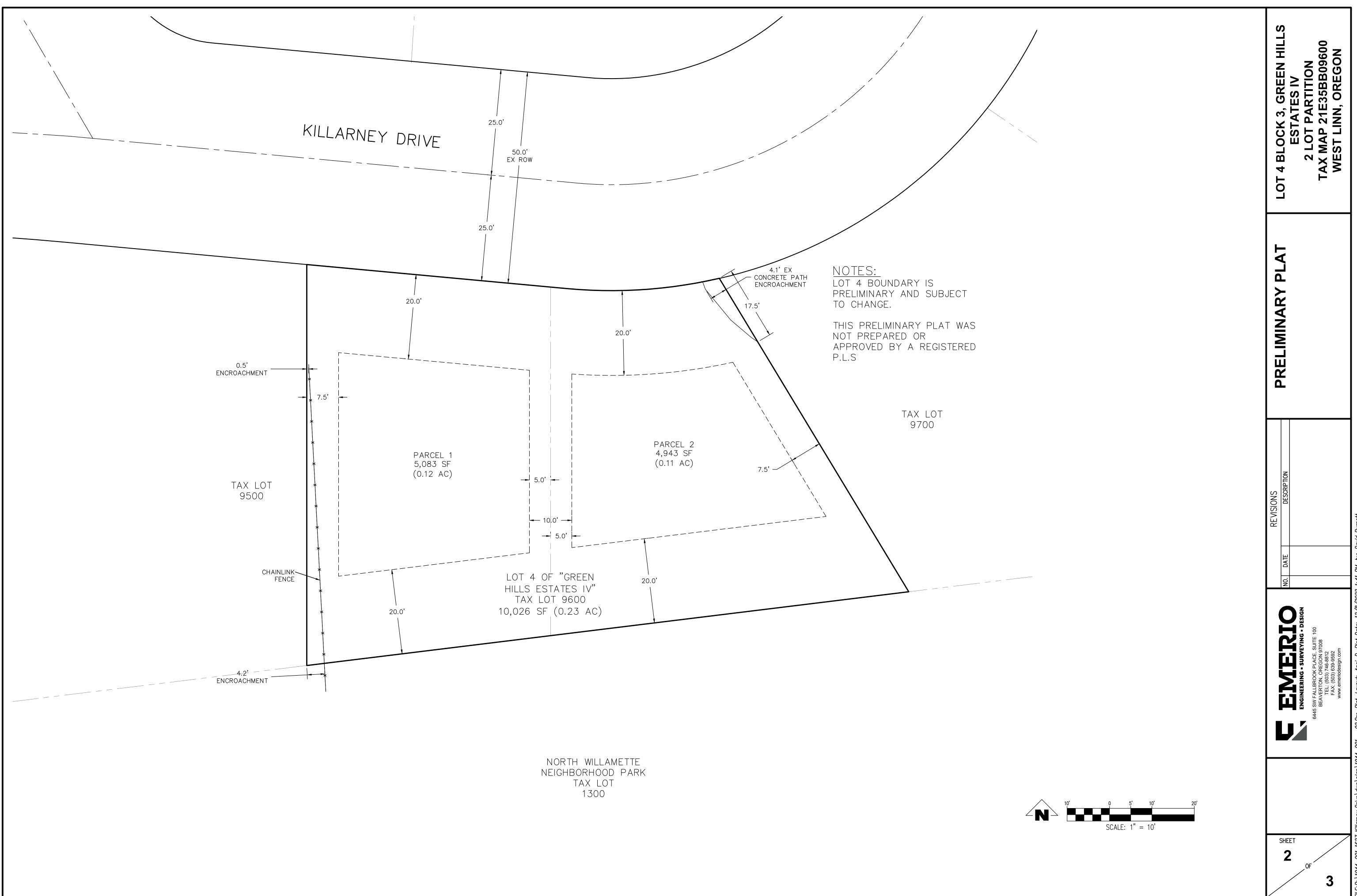
APPLICANT:

TOLL BROTHERS LAKE OSEWEGO, OREGON 97035 BEAVERTON, OR 97008 CONTACT: JJ PORLOCK

ENGINEER:

EMERIO DESIGN, LLC 1 CENTERPOINTE DR. STE. 550 6445 SW FALLBROOK PL, SUITE 100 CONTACT: NEIL FERNANDO, PE, PRINCIPAL 503-746-8812 | TEL

		Z LUI PARIIIUN TAX MAP 21E35BB09600 WEST LINN, OREGON	
	VICINITY MAP		
REVISIONS	NO. DATE DESCRIPTION		
	ELMERING - DESIGN	6445 SW FALLBROOK PLACE, SUITE 100 BEAVERTON, OREGON 97008 TEL: (503) 746-8812 FAX: (503) 639-9592 www.emeriodesign.com	
	SHEET 1	DF 3	



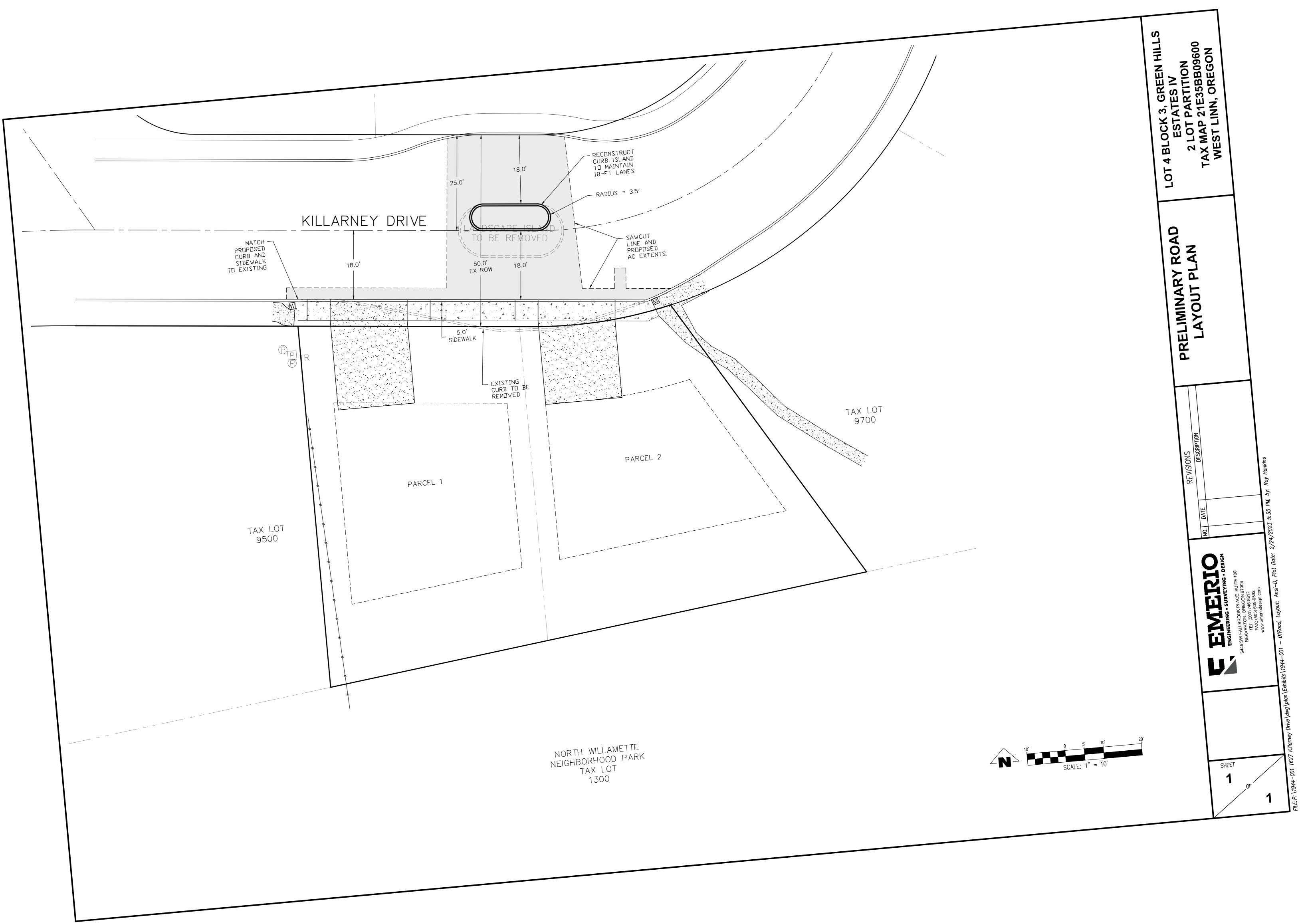
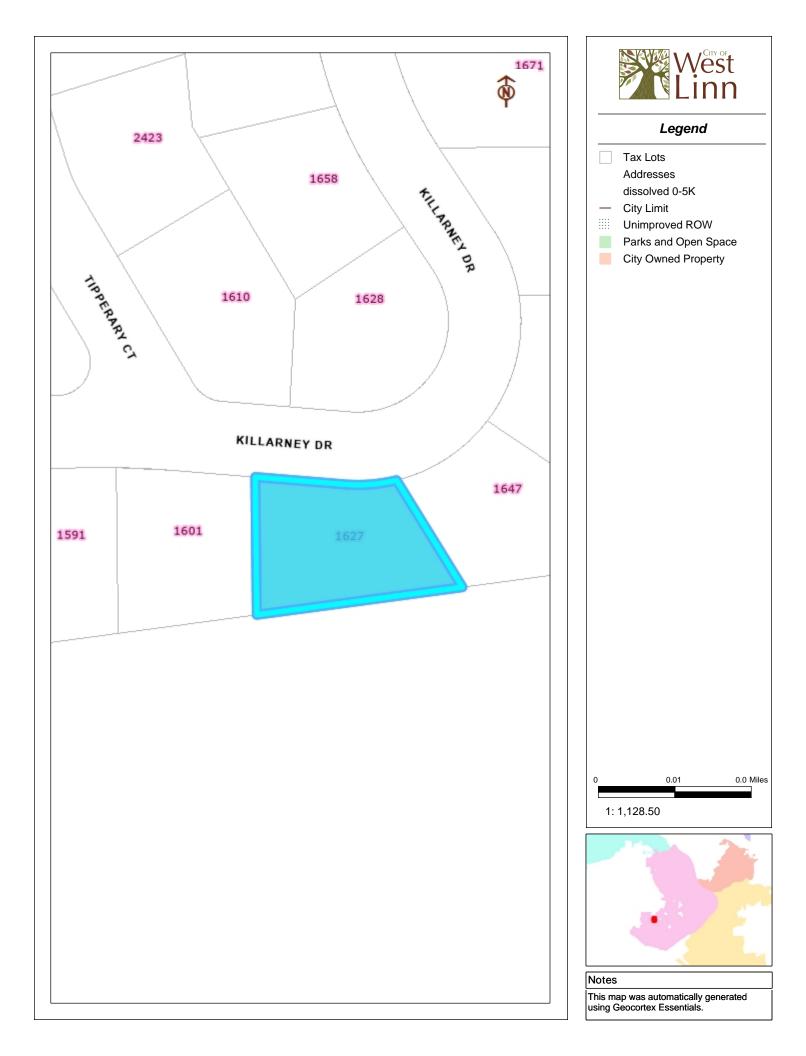


EXHIBIT PD-2 PROPERTY MAPS



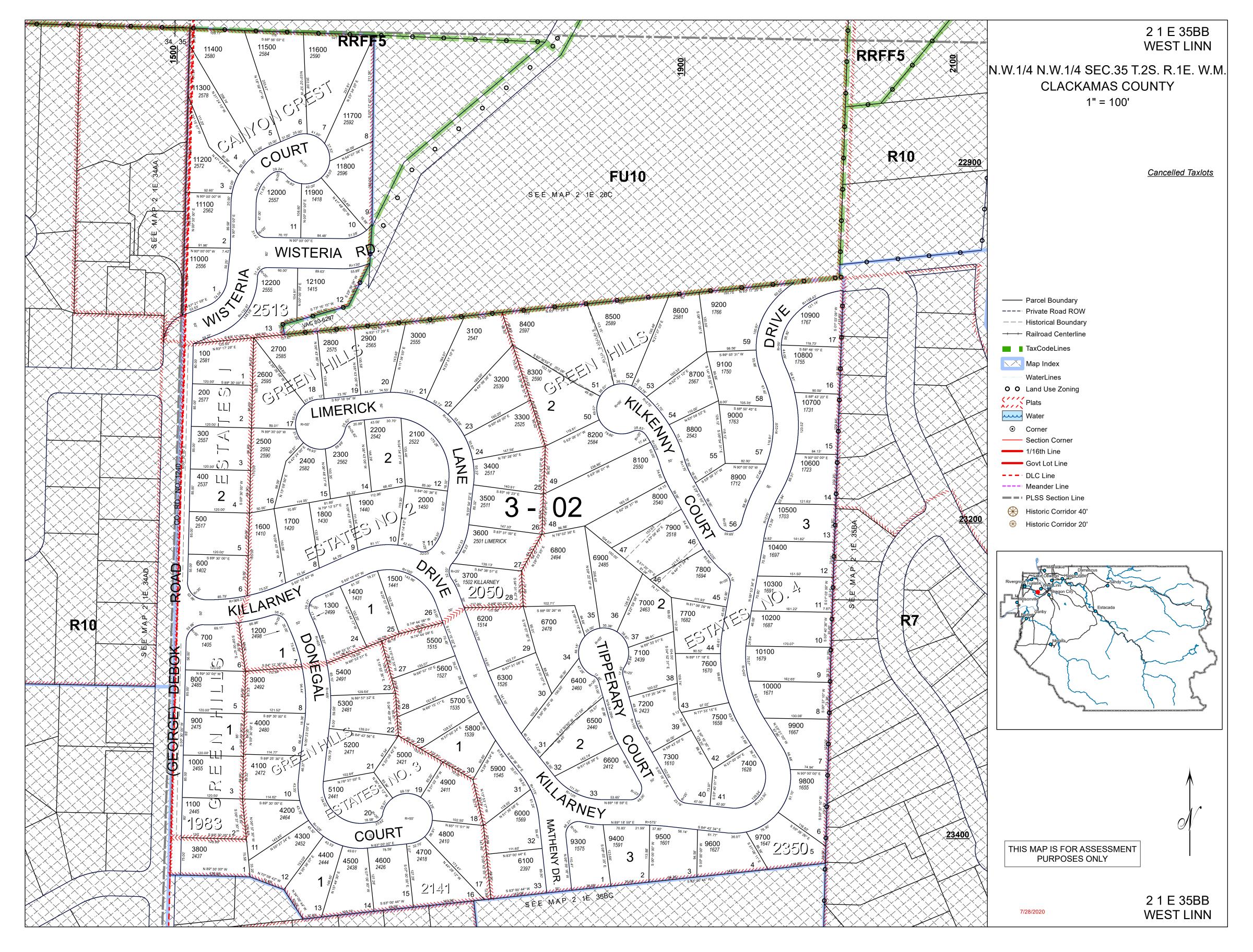


EXHIBIT PD-3 PUBLIC COMMENTS

From:	PHIL & JODI AMATO <jodi.amato@comcast.net></jodi.amato@comcast.net>
Sent:	Tuesday, January 31, 2023 9:26 PM
То:	Myers, Chris
Subject:	RE: MIP-22-05 / 1627 Killarney Drive

Chris: Thank you for your reply.

I would just like to voice my concerns regarding this proposed property partition. Although I don't live directly surrounding the property, I am in very close proximity and have concerns for the additional car traffic and parking on the street that more than one structure will undoubtedly cause. We have already had multiple parked cars ran into because of the curves as you come up Killarney, some drivers don't think that the speed limit of 25 applies to them. Removing of the center landscape is sad, but more so just allows for vehicles to drive faster in our neighborhood.

I realize that change and growth is inevitable. I am joining my neighbors in voicing my concerns. At a minimum I would like to see some speed bumps installed to help mitigate some of the issues brought forth.

Thank you-Jodi Amato - resident on Killarney drive for 23 years

> On 01/20/2023 1:45 PM Myers, Chris <<u>cmyers@westlinnoregon.gov</u>> wrote:

>

>

> Jodi,

>

> The notice requirement for an Expedited Land Division (ELD) in the State of Oregon is that a mailed notice must be sent to property owners within 100 feet of the subject property. You do not live within 100 feet of 1627 Killarney and therefore didn't receive a notice.

>

> I've pasted a link below that will take you to the project page, for this property, on our website.
<u>https://westlinnoregon.gov/planning/1627-killarney-drive-sb458-expedit</u>

> ed-land-division

>

> State of Oregon law allows property owners to partition a residential property into two separate parcels and build two structures. The ability to do so is a state law enacted by the Oregon State Senate in 2020 (SB458). There is a small list of criteria that a property owner must meet in order to partition a property under SB458. IF those criteria are met, we the City of West Linn, have no choice but to approve the partition. As long as those criteria are met we have no legal authority to deny the partition.

> I'm happy to discuss further. Take a look at the link and the owner's application for partition.

>

> Thank you,

> Chris

>

> From: PHIL & JODI AMATO <jodi.amato@comcast.net</p>

> Sent: Friday, January 20, 2023 12:58 PM

> To: Myers, Chris <<u>CMyers@westlinnoregon.gov</u>>

> Subject: MIP-22-05 / 1627 Killarney Drive

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

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> Chris: My name is Jodi Amato and I live at 1658 Killarney Drive, WL. My neighbor shared a letter she received from the city regarding an application for the property located at 1627 Killarney Drive to split it into two parcels. I don't show that I received the same letter notifying me of this application. Can you share with me what the notification requirement is?

>

> In regards to the application, is the intent to build two single family dwellings?

>

- > Thank you-
- > Jodi Amato

>

- > Chris Myers
- > Associate Planner

> Planning

>

- >
- > 22500 Salamo Rd.
- > West Linn, Oregon 97068
- > <u>CMyers@westlinnoregon.gov</u>
- > westlinnoregon.gov
- > 503-742-6062
- > [https://westlinnoregon.gov/sites/all/themes/aha_responsive_2016/logo.
- > png]<<u>http://westlinnoregon.gov</u>> Click to Connect!
- < <<u>http://go.usa.gov/XYzC</u>>

>

>

> Please consider the impact on the environment before printing a paper copy of this email.

> This e-mail is subject to the State Retention Schedule and may be made

> available to the public

From:	Sharon Bangs <sharonbangs@yahoo.com></sharonbangs@yahoo.com>
Sent:	Thursday, January 19, 2023 8:35 PM
То:	Myers, Chris
Subject:	1627 Killarney Dr. Application

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Greetings Chris Myers~

We live at 1655 Killarney Dr. We were very surprised to hear about the proposal submitted for this piece of property. Killarney has always been a single family housing street, in fact, so is the whole development. It is zoned R10 here and we are surprised the proposal is even being considered. We feel strongly it would devalue the price of our home. We live two houses up from this piece of property. I have talked with many of my neighbors and they all feel the same way. We are confident that you will decide against this proposal.

Thank You~

Troy and Sharon Bangs

From:	Sharon Bangs <sharonbangs@yahoo.com></sharonbangs@yahoo.com>
Sent:	Wednesday, January 25, 2023 3:55 PM
То:	Myers, Chris
Cc:	Troy Bangs
Subject:	1627 Killarney Dr.

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Hello Chris~

I was talking with my neighbors and they told me that two houses will be built on this lot and that the island that is currently there will be removed.

In the 33 years my husband has owned our home, he has witnessed two accidents at this corner, one of which came through our front yard.

People go really fast down the hill and we have both heard tires squeal as people try to whip around the corner and realize there is an island there. It was better when the big oak tree was still in that island, but that fell in the last ice storm. With no island there, there is sure to be more speeders and potential for head on collisions.

At the very least, we hope that speed bumps will be considered in place of the island.

Thank you for your consideration~

Sharon (and Troy) Bangs

Dear Chris Myers,

My concerns for the land split on 1627 Killarney Drive are as follows. The proposed street changes will only increase the danger on Killarney Drive, with the curb being moved out into Killarney and the center median being removed. That median has prevented many head-on collisions, and it forces traffic to slow down.

This development is not for the neighborhood ORS 197.360. Parking is already an issue, creating two lots out of what should only be a one lot would worsen this issue dramatically. We have already had 3 accidents in front of our house with the median, taking out the median would only make the situation worse.

Most households have a minimum of two cars, two houses added means there would be 4 vehicles most likely. If they have any guests over or additional cars they will be taking my parking and my down hill neighbors parking. This is foreseeable.

In addition it does not fit the layout or look for this neighborhood. When individuals purchase their homes in this neighborhood we liked what we saw. We did not think that the integrity of the neighborhood would change. We do not want our safety to be compromised. In addition to creating parking problems. I think the proposed changes will create a liability for the city of West Linn. This project is not being built for the poor and disadvantaged, it is being built for maximizing profits on one lot.

We believe there are also property line discrepancies. This response is my contest in writing.

Jeff Groppe 1647 Killarney Drive, West Linn OR

From:	Kathie Halicki <khalicki@msn.com></khalicki@msn.com>		
Sent:	Tuesday, January 31, 2023 3:56 PM		
То:	Myers, Chris		
Cc:	Julia Simpson; Strickland		
Subject:	Re: 1627 Killarney Dr.		

The letter is from the WNA Board, since there wasn't enough time to bring it before the entire membership. Kathie

Sent from my Verizon, Samsung Galaxy smartphone Get <u>Outlook for Android</u>

From: Myers, Chris <<u>CMyers@westlinnoregon.gov</u>>
Sent: Tuesday, January 31, 2023 3:27:10 PM
To: Kathie Halicki <<u>khalicki@msn.com</u>>
Cc: Julia Simpson <<u>juliasimpson.pdx@gmail.com</u>>; Strickland <<u>strickland5@comcast.net</u>>
Subject: RE: 1627 Killarney Dr.

Kathie,

I have received your comments. Can you please clarify if these comments are from the Willamette Neighborhood Association OR from you as a resident?

As a point of clarification, the tree you referenced below no longer exists. It came down during the ice storm a few years ago.

Thank you, Chris

From: Kathie Halicki <<u>khalicki@msn.com</u>>
Sent: Tuesday, January 31, 2023 1:31 PM
To: Myers, Chris <<u>CMyers@westlinnoregon.gov</u>>
Cc: Julia Simpson <<u>juliasimpson.pdx@gmail.com</u>>; Strickland <<u>strickland5@comcast.net</u>>
Subject: RE: 1627 Killarney Dr.

I am sorry. I thought I sent it from WNA email site but now can't find it. My daughter found it. Now to try to get it onto this email.

Dear Chris, Please make my concerns part of the public record.

It has been brought to my attention that there is an expatiated lot division at 1627 Killarney. To the best of my knowledge, I have not received any notice. Is this a HB2001 thing?

The residents have reached out to me about concerns of traffic, speed and the removal of the beautiful tree in the middle of the road. The tree is a traffic and speed deterrent, that is so important and

necessary, especially with the ongoing development at the top of Killarney. The residents have grave concerns about the tree's removal. The WNA Board concurs.

Kathie Halicki, WNA President

From: Myers, Chris <<u>CMyers@westlinnoregon.gov</u>> Sent: Tuesday, January 31, 2023 12:48 PM To: Kathie Halicki <<u>khalicki@msn.com</u>> Subject: RE: 1627 Killarney Dr.

Kathie,

Great to hear from you. Haven't seen or chatted with you for months.

When and where did you send your comments? I do have any in my email box. I just want to make sure we get them recorded.

Hope all is well with you and yours. Chris

From: Kathie Halicki <<u>khalicki@msn.com</u>>
Sent: Tuesday, January 31, 2023 12:39 PM
To: Myers, Chris <<u>CMyers@westlinnoregon.gov</u>>
Subject: 1627 Killarney Dr.

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

Chris,

I am having issues with my WNA email thus, I must send this from my private one.

I stand corrected. I did receive the notice for this expedited land division. It was mixed in with my bills. My apologies. My letter to still stands.

Kathie Halicki, WNA President

Chris Myers

Associate Planner Planning

22500 Salamo Rd. West Linn, Oregon 97068 <u>CMyers@westlinnoregon.gov</u> westlinnoregon.gov 503-742-6062

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Chris Myers Associate Planner Planning

22500 Salamo Rd. West Linn, Oregon 97068 <u>CMyers@westlinnoregon.gov</u> westlinnoregon.gov 503-742-6062 <u>Click to Connect!</u>

Please consider the impact on the environment before printing a paper copy of this email. This e-mail is subject to the State Retention Schedule and may be made available to the public

From:	Dennis Ortega <dortega@arlon.com></dortega@arlon.com>
Sent:	Thursday, January 26, 2023 11:52 AM
То:	Asuncion, Maryna; Myers, Chris
Cc:	Willamette Neighborhood Association President; Jeannie Ortega
	(JeannieSOrtega@gmail.com); Calvert, Lance
Subject:	1627 Killarney Drive SB458 Expedited Land Division

Chris and Maryna-

Thanks again for taking the time to talk with Steve Strickland and I last week.

As discussed, please consider this my "contest in writing" in hopes of "establishing standing" for any ongoing dialogue regarding this subject matter. Since it was established our property line will NOT be impacted (1628 Killarney Dr. West Linn OR 97068), I still wanted to express my concerns about the impact this project will have on Traffic and Neighborhood Safety.

The island that will be removed to accommodate this project has undoubtedly acted as a speed barrier throughout its existence. Even then, there are those who drive too fast despite adverse weather conditions, hill steepness, a severe / sharp turn, and pedestrian and pet traffic. There have been numerous accidents involving damaged vehicles, personal property (mailboxes, landscaping, etc.) and pets. Removing the island will only perpetuate these issues and concerns.

In my opinion, since the developer (JJ Portlock) will be removing the island to accommodate his proposed Middle Housing Land Division project, he should also be required to replace the island in the form of an alternative traffic calming device(s). When considering the impact this project (and island removal) will have on overall traffic / community safety, I believe it is the direct responsibility of the Developer to replace the island with something comparable, i.e. - speed bump and signage for both directions in the approximate vicinity.

I look forward to your response and hope you consider this to be my contest in writing.



Dennis Ortega Business Development Manager US & Canada Mobile (971) 244-3587 Website www.arlon.com



This e-mail is confidential and is intended only for the named recipient(s) and may contain information that is privileged, confidential work product or exempt from disclosure under applicable law. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer. Thank you.

From:	Jeannie Ortega <jeanniesortega@gmail.com></jeanniesortega@gmail.com>	
Sent:	Friday, January 27, 2023 1:59 PM	
То:	Myers, Chris	
Cc:	Willamette Neighborhood Association President; Calvert, Lance;	
	Asuncion, Maryna; Dennis Ortega	
Subject:	1627 Killarney Drive SB458 Expedited Land Division	

Hi Chris,

My husband, Dennis Ortega, and neighbor, Steve Strickland, spoke with you last week regarding the 1627 Killarney Drive SB458 Expedited Land Division proposal. I am writing to reinforce our concerns as well as the concerns of many of our neighbors.

Please consider this my "contest in writing" in hopes of "establishing standing" for any ongoing dialogue regarding this subject matter. Since it was established our property line will NOT be impacted (1628 Killarney Dr. West Linn OR 97068), I still wanted to express my concerns about the impact this project will have on Traffic and Neighborhood Safety.

The island that will be removed to accommodate this project has undoubtedly acted as a speed barrier throughout its existence. Even then, there are those who drive too fast despite adverse weather conditions, hill steepness, a severe/sharp turn, and pedestrian and pet traffic. There have been numerous accidents involving damaged vehicles, personal property (mailboxes, landscaping, etc.), and pets. Removing the island will only perpetuate these issues and concerns and increase the likelihood of head-on collisions on the corner.

In my opinion, since the developer (JJ Portlock) will be removing the island to accommodate his proposed Middle Housing Land Division project, he should also be required to replace the island in the form of an alternative traffic calming device(s). When considering the impact this project (and island removal) will have on overall traffic/community safety, I believe it is the direct responsibility of the Developer to replace the island with something comparable, i.e. - speed bump or dividing barrier and signage for both directions in the approximate vicinity. I look forward to your response and please consider this to be my contest in writing prior to February 1, 2023.

Have a great weekend!

Jeannie Ortega

951.387.2302

From:	Marcus Robinson <marcus_robinson@icloud.com></marcus_robinson@icloud.com>	
Sent:	Wednesday, January 25, 2023 9:05 PM	
То:	Myers, Chris	
Subject:	Comments re: FILE NO. MIP-22-05	

Hello Chris,

We are writing to express our determined opposition to the proposal for Middle Housing at 1627 Killarney Drive. Our home is directly across the street from the lot to be developed at 1610 Killarney Drive. Our opposition is based on the following concerns:

- TRAFFIC The proposal to remove the median on Killarney will open up our street to more traffic with less caution. We have four children at home and the median is the only impediment to speeding drivers coming down a steep hill once they make the turn above our house. There are many children here and straightening the street as planned will increase the possibility of accidents on an already dangerous turn where there been crashes (we have lost several mailboxes over the years). We also imagine that having multiple residences crammed onto the lot across the street with no median will be increasingly hazardous to our children and the many pedestrians that currently enjoy walking in our neighborhood.
- UGLINESS This is a long-established neighborhood of single-dwelling homes. We oppose squeezing two dwellings onto a lot that was intended for one. We deliberately purchased a home in a neighborhood made up of beautiful single-dwelling homes, not duplexes, not townhomes, not tiny homes. We do not want to live across from an ill-conceived project that does not match the aesthetic of our neighborhood.
- DEPRECIATION Our home is our primary investment. We do not want a experiment constructed across the street that may negatively impact the sweat equity we have poured into our home and neighborhood.

Thank you for considering these objections. We will continue to follow the progress of this proposal and will oppose it every step of the way.

Kind regards,

Jennifer Pons and Marcus Robinson 1610 Killarney Drive West Linn, OR 97068 (719) 244-7072

From:	strickland5@comcast.net	
Sent:	Wednesday, February 1, 2023 12:40 PM	
То:	Myers, Chris; STEVE STRICKLAND	
Subject:	1627 Killaney Dr. ELD	

Chris,

Please accept this as my input/comments on the proposed subdividing of the lot at 1627 Killarney Dr and please record my opposition to this project in the public record.

First of all this neighborhood is an older established residential neighborhood. The proposed building of two homes on this lot does not fit with the existing Green Hills Estates plan or the Cities zoning restrictions prior to HB2001. Everyone in this area moved here for the larger lots and not having another residence encroaching onto existing lots.

Please be advised that I think the city would be ill advised to approve splitting this lot for aesthetic, safety and legal reasons. If it is approved, several neighbors have expressed concerns, and I agree, that legal avenues may have to be taken.

Prior to approval of this plan, I hope the city takes a look at my concerns, some but not all are included here:

I do not believe the lot has the required set backs for the two proposed foundations. I do not believe the proper set backs are met between the street and the proposed foundations.

The proposed straightening of the street and the removal of the current street island will significantly increase the danger to the nearby residences as well as vehicular and pedestrian traffic. Will a traffic transportation plan be required? It was stated that the street currently doesn't get enough use to require a plan, however you are not considering the increased traffic from the developments on Bland Circle and at Killarney and Alpine drive, which will greatly increase the traffic daily on Killarney.

The current CMAP lists this lot as composed of mostly Loam soils and having a slope of 30 to 60%. Being the property owner on the lower side of this lot greatly concerns me. A single home in the middle of this lot would have significantly less impact on the soils, avulsion, than two homes. Will the builder be required to tie the storm runoff for the two homes into the sewer system or will he be allowed to allow run off to the back of the lot where the city has already spent significant resources mitigating an existing runoff issue in the Willamette Neighborhood park.

By allowing two homes to be built, most or a significant number of the existing Heritage trees will have to be removed which will also destabilize the steep slopes further and increase the possibility of soil and or ground water encroachment onto my lot or into the park.

For over 30 years this lot was zoned R10 and only with the passage of HB2001 has this developer stood a chance of rezoning it into 5000 square foot lots and placing two homes here. The City of West Linn should consider the wishes of the local residents, some who have been in the neighborhood for over 30 years, over the maximizing of this developers profits.

Prior to any fast tracked approval process the city should consider the safety, legal, and environmental impacts of the decision as several residents and I plan to raise these considerable concerns during the next phase of his proposal if it is allowed to proceed.

Sincerely,

Steve and Melissa Strickland 1601 Killarney Dr. West Linn, OR 503-577-5132

From:	lswfall@aol.com	
Sent:	Tuesday, January 31, 2023 1:14 PM	
То:	Myers, Chris	
Subject:	1627 Killarney Drive SB 458 Expedited Land Division	

Chris Myers,

I am responding to the following notice I finally received in the mail last week. The notice had been returned to the City of West Linn due to insufficient postage.

Notice type: *Per QRS 197.365 1627 Killarney Drive SB458 Expedited Land Division

SUBJECT: SB458 Expedited Land Division (MIP-22-05) for middle housing at 1627 Killarney Drive (Lot 4, Green Hills Estates No. 4, 21E35BB09600).

I am opposed to the division of Lot 4, Green Hills Estates No. 4, 21E35BB09600. This section of the street currently does not have enough parking. Adding an additional house will compound this situation. This section of Killarney Drive has two major curves within a short distance. Both curves have blind spots. I have lived in my house for 31 1/2 years and have witnessed traffic speeding up and down this section of the neighborhood at times barely missing moving traffic and/or parked vehicles. Currently you cannot park in front of Lot 4, Green Hills Estates No. 4, 21E35BB09600 without blocking traffic.

The next proposal to remove the island appears to be the solution. It is a solution for a minor issue only to cause major issues. Removing the island would only allow for one lane of traffic to pass through this area if there were parked cars on the street. Maybe not such a concern, except for the blind spots. I have witnessed the prevention of disasters because the island was present. I have seen cars going too fast run into the island instead of other cars and houses. During winter storms, this section becomes almost impossible to navigate safely. Over the years I watched cars slide down the hill hitting the island, mailboxes and stopping just over the sidewalk before crashing into homes. Removing the island would be removing a buffer for preventing disasters. Speed bumps may slow traffic but will not provide a needed buffer around the curve.

Thank you for letting me voice my concerns regarding the two proposals being considered. I oppose both due to significant safety concerns.

Thank you,

Laurie S. Wahlstrom 1591 Killarney Drive West Linn, OR Lswfall@aol.com

503 970-3476

EXHIBIT PD-4 COMPLETENESS LETTER



January 3, 2023

JJ Portlock 2172 Tannler Drive West Linn, OR 97068

SUBJECT: SB458 Expedited Land Division (MIP-22-05) for middle housing at 1627 Killarney Drive (Lot 4, Green Hills Estates No. 4, 21E35BB09600).

Mr. Portlock,

You submitted this application on December 12, 2022. The Planning and Engineering Departments determined that the application is now **complete**.

The application proposes a SB458 expedited land division for HB2001 middle housing development. Per SB458, the City is required to process the application under the procedures outlined in Oregon Revised Statute 197.360 to 197.380. The City has 63 days to make a decision to approve or deny the application; that period ends February 13, 2023.

Please be aware that a determination of a complete application does not guarantee an approval 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 503-742-6062, or by email at cmyers@westlinnoregon.gov if you have any questions or comments.

Sincerely, Chrís Myers

Chris Myers Associate Planner **EXHIBIT PD-5 SUBDIVISION PLAT**

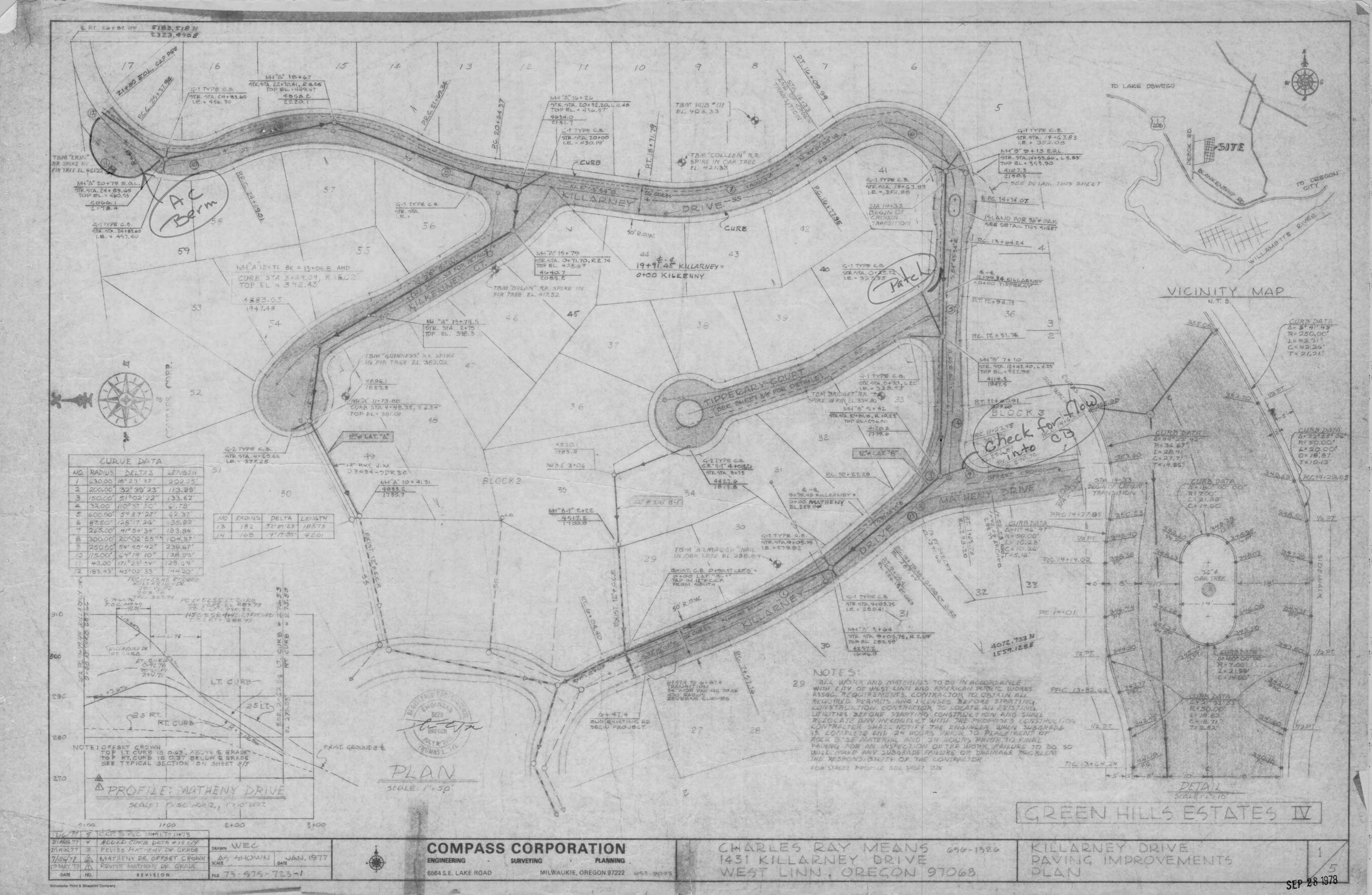


EXHIBIT PD-6 AFFIDAVIT AND NOTICE PACKET



AFFIDAVIT OF NOTICE PLANNING MANAGER 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.:

MIP-22-05

Applicant's Name: Icon Construction

Development Name:1627 Killarney DriveScheduled Decision Date:Planning Manager Decision no earlier than 2/1/23

MAILED NOTICE

Notice of Upcoming Planning Manager Decision was mailed at least 14 days before the decision.

JJ Portlock, applicant	1/17/23	Lynn Schroder
Rick Givens, applicant representative	1/17/23	Lynn Schroder
Metro	1/17/23	Lynn Schroder
WLWL SD	1/17/23	Lynn Schroder
Clackamas County	1/17/23	Lynn Schroder
PGE	1/17/23	Lynn Schroder
Comcast Cable	1/17/23	Lynn Schroder
TriMet	1/17/23	Lynn Schroder
NW Natural Gas	1/17/23	Lynn Schroder
TVF&R	1/17/23	Lynn Schroder
Property owners within 100ft of the site perimeter	1/17/23	Lynn Schroder
Willamette Neighborhood Association	1/17/23	Lynn Schroder

WEBSITE

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

1/17/23 Lynn Schroder

FINAL DECISION

Notice of Final Decision was mailed to the applicant and all parties mailed the original notice above (ORS 197.365), all parties with standing, and posted on the City's website.

Lynn Schroder

CITY OF WEST LINN NOTICE OF UPCOMING PLANNING MANAGER DECISION FILE NO. MIP-22-05

The City of West Linn has received a complete application (MIP-22-05) proposing a two-parcel Expedited Land Division (SB458) for Middle Housing (HB2001) at 1627 Killarney Drive (Clackamas County Tax Map 21E35BB09600).

The Planning Manager will make the decision after expiration of the required 14-day written comment period. The decision will be based on the criteria found in in Oregon Revised Statute 92.031. Any appeal of the decision will be reviewed by an appointed referee.

The complete application and all evidence submitted by the applicant is posted on the City's website <u>https://westlinnoregon.gov/planning/1627-killarney-drive-sb458-expedited-land-division</u>. Alternatively, the application and all evidence submitted by the applicant are available for review between the hours of 8:00am and 5:00pm, Monday through Thursday, 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 written comments for consideration must submit all material prior to the expiration of the 14-day comment period. The deadline to submit written comments is <u>4:00 p.m. on February 1, 2023</u>. Written comments can be submitted to <u>cmyers@westlinnoregon.gov</u> or to City Hall, 22500 Salamo Road, West Linn, OR 97068. All comments must be received by the deadline.

All issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period outlined above and all issues must be raised with sufficient specificity to enable the Planning Manager to respond to the issue.

For additional information, please contact Chris Myers, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, or 503-742-6062 or <u>cmyers@westlinnoregon.gov</u>.



MIP-22-05 Properties within 100 feet of 1627 Killarney Drives



NOTICE OF UPCOMING PLANNING MANAGER DECISION

PROJECT # MIP-22-05 MAIL: 1/18/23 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.