

WEST LINN PLANNING COMMISSION

FINAL DECISION AND ORDER

VAR-23-01

IN THE MATTER OF A CLASS II VARIANCE PROPOSAL FOR ALLOWING MORE THAN FOUR LOTS TO BE SERVED FROM A PRIVATE DRIVEWAY AT 2622 MARYLHURST DRIVE AND 18600, 18680, AND 18690 MIDHILL CIRCLE

I. Overview

At its meeting on May 17, 2023, the West Linn Planning Commission (“Commission”) held the initial evidentiary public hearing to consider the request by Tracy Peterson, applicant, to approve a Class II Variance to allow access from a shared driveway to more than four lots (six total lots) at 2622 Marylhurst Drive and 18600, 18680, and 18690 Midhill Circle. The approval criteria for this proposal are Community Development Code (CDC) Chapter 11, Chapter 48, Chapter 75, Chapter 96, and Chapter 99. The hearing was conducted pursuant to the provisions of CDC Chapter 99.170.

The initial evidentiary hearing commenced with a staff report presented by John Floyd, Associate Planner. Hillary Harris, Consultant with HHPR presented on the applicant’s behalf. Written testimony was submitted by Arnold Sackett, Elizabeth Apen, Christine Blanche, and Richard Yep. Oral testimony was provided at the hearing by Michael Tomaszek, Arnold Sackett, and Shaun Harbour. Applicant rebuttal was provided by Hillary Harris. The primary concerns raised during testimony included:

- Number of homes
- Parking
- Hazard Tree
- Traffic safety

The hearing was closed, and the Commission deliberated, including a discussion on width of the shared driveway versus TVF&R standards, not knowing how many dwelling units will be built or their relationship to Midhill Circle, and whether the request actually meets the minimum necessary to make reasonable use of the property language in CDC Chapter 75. A motion was made by Commissioner Mathews to deny the application, then withdrawn to allow consideration of a motion to provide a continuance. The withdrawal was followed by a motion by Commissioner Walvatne to deny the application as it did not satisfy applicable criteria found in CDC Chapter 48.030 and CDC Chapter 75.020.B.1(a). Commissioner Mathews seconded the motion. The motion passed four in favor (Mathews, Metlen, Walvatne, Watton) and one opposed (Carr).

II. The Record

The record was finalized at the May 17, 2023 public hearing.

Findings of Fact

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

III. Findings

The Commission makes this decision based on the findings below, the submitted written comments, and evidence in the whole record. The Commission concludes that the record fails to satisfy the Applicant's burden to prove compliance with all applicable criteria.

1. CDC Chapter 48.030 – Minimum access requirements for residential uses

The Commission finds the applicant did not meet its burden of proof to show compliance with minimum driveway width requirements of 48.030.B(2). The code requires a 14- to 20-foot-wide driveway when servicing two to four single-family lots. The applicant submittal shows the driveway varying from 20 to 14-feet and the Commission interprets the code to require the full 20-foot width for the length as it serves four lots.

2. CDC Chapter 75.020.B.1(a) – Minimum variance necessary to make reasonable use of the property

The Commission finds the applicant did not meet its burden of proof to show all six lots required shared access from one driveway. The applicant did not provide evidence that either the four lots fronting Midhill Circle could not reasonably take access from that street, which would eliminate the need for a variance, or that the spacing standards along Marylhurst Drive could not be met if multiple access points were utilized.

IV. Order

The Commission concludes that VAR-23-01 is denied based on the Record, Findings of Fact and Findings above.



JOHN CARR, CHAIR
WEST LINN PLANNING COMMISSION

May 30, 2023

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 31 day of May, 2023.

Therefore, this decision becomes effective at 5 p.m., June 14, 2023.

