

Agenda Bill 2023-07-10-08

Date Prepared: June 26, 2023

For Meeting Date: July 10, 2023

To: Rory Bialostosky, Mayor
West Linn City Council

Through: Elissa Preston, Deputy City Manager *EP*

From: Darren Wyss, Planning Manager *DSW*

Subject: Appeal of the Planning Commission Denial of VAR-23-01

Purpose

To hold a public hearing and consider an appeal ([AP-23-03](#)) by Tracey & Derek Peterson of [VAR-23-01](#), a Class II Variance at 2622 Marylhurst Drive and 18600, 18680, and 18690 Midhill Circle.

Question(s) for Council:

Shall the Council approve appeal AP-23-03, or deny the appeal and uphold the Planning Commission denial of VAR-23-01?

Public Hearing Required:

Yes

Background & Discussion:

The applicant (Tracy & Derek Peterson) applied for a Class II Variance on March 21, 2023. The variance (VAR-23-01) is to allow six nonconforming lots of record to be serviced by shared private accessway. The variance is necessary as CDC 48.030.B.2 limits the number of homes on a private accessway to no more than four. As discussed in the staff report contained in Attachment 1, the applicant is pursuing the variance in response to steep slopes and nonconforming lot configuration that make compliance with access standards difficult.

The application was deemed complete on April 20, and denied by the Planning Commission at a public hearing on [May 17, 2023](#). A [Final Decision and Order](#) was mailed to parties of record on May 31, 2023.

The appellants submitted a timely [appeal](#) of the decision on June 14, 2023. The grounds for the appeal specifically address the Planning Commission's findings and provide additional information and findings in support of the variance request. This includes additional plan sheets that illustrate the slopes on the site, the potential locations of future driveways if the variance is not approved, and written justifications as to why the variable width access way meets city and TVF&R standards.

Appeal Hearing Responsibility

The City Council is assigned the responsibility to hear an appeal of a Planning Commission decision by CDC 99.060.C(3).

Appeal Applicable Criteria

The applicable criteria for this appeal are CDC Chapters 48, 75, and 99. Agenda Bill Attachment 1 is the Staff Report to Council regarding AP-23-03. Attachment 2 is the Planning Commission Final Order and Decision denying the application. Attachment 3 contains the appellants findings in support of the appeal.

Appeal Hearing Process

Appeal hearings in the City of West Linn are de novo, meaning new information can be submitted for consideration (CDC 99.280). The appellant’s appeal application (Attachment 3) provides findings that directly respond to the Planning Commissions findings for denial (Attachment 2)

Budget Impact:

None

Sustainability Impact:

None

Council Options:

1. Uphold the Planning Commission denial of VAR-23-01 by denying the appeal (AP-23-03).
2. Overturn the Planning Commission denial of VAR-23-01 by approving the appeal (AP-23-03), thus approving the proposal.
3. Overturn the Planning Commission denial of VAR-23-01 by approving the appeal (AP-23-03) with modifications to the proposal.

Staff Recommendation:

Staff recommends Council consider the appeal (AP-23-03) based on the findings contained in Agenda Bill Attachments 1, 2, and 3 (VAR-23-01 / AP-23-03).

Potential Motion:

1. Move to tentatively deny appeal AP-23-03 and **uphold** the Planning Commission denial of VAR-23-01 and direct staff to bring back findings for adoption.
2. Move to tentatively approve appeal AP-23-03 and **overturn** the Planning Commission denial of VAR-23-01, and direct staff to bring back findings for adoption.
3. Move to tentatively approve appeal AP-23-03 and **overturn** the Planning Commission denial of VAR-23-01 with the following modifications (**list modifications**), and direct staff to bring back findings for adoption.

Attachments:

1. Staff Report to Council for AP-23-03
2. [Planning Commission Final Decision and Order for VAR-23-01](#) (hyperlink)
3. [Appellant application AP-23-03, dated June 14, 2023.](#) (hyperlink)



**STAFF REPORT
FOR THE CITY COUNCIL**

FILE NUMBER: AP-23-03

HEARING DATE: July 10, 2023

REQUEST: Appeal of the Planning Commission’s denial of VAR-23-01, a Class II variance to allow more than 4 lots (six total) to be served from a private driveway on Marylhurst Drive, approximately midblock between Upper and Lower Midhill Circle.

APPROVAL CRITERIA: Chapter 48: Access, Egress and Circulation; Chapter 75: Variances and Special Waivers; Chapter 99: Procedures for Decision-Making: Quasi-Judicial.

STAFF REPORT PREPARED BY: John Floyd, Associate Planner

Planning Manager: DSW

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GENERAL INFORMATION

APPELLANT/ PROPERTY OWNER:	Tracy & Derek Peterson 24350 SW Nodaway Lane Wilsonville OR 97070
APPEAL DEADLINE:	The appeal deadline was 5:00pm on June 14, 2023. The applicant filed a complete appeal application on June 14, 2023, thus meeting the deadline.
PUBLIC NOTICE:	Public notice was mailed to all persons with standing, the Robinwood Neighborhood Association, and all persons within 500 feet of the subject property on June 20, 2023. The property was posted with a notice sign on June 28, 2023. The notice was published in the West Linn Tidings on June 28, 2023. The notice requirements of CDC Chapter 99 was met. In addition, the application was posted on the City's website on June 20, 2023.
SITE LOCATION:	2622 Marylhurst Drive and 18600, 18680, and 18690 Midhill Circle
LEGAL DESCRIPTION:	Lots 2 & 15-19 of the 1926 Replat of Robinwood Clackamas County Assessor's Map 2S1E14DC; Tax Lots 5800, 6500, 6600, 6601, 6700, and 6701,
SITE SIZE:	0.7 Acres
ZONING:	R-10, Residential
COMP PLAN DESIGNATION:	Low-Density Residential
120-DAY PERIOD:	This application became complete on April 18, 2023. The 120-day maximum application-processing period ends on August 16, 2023.

BACKGROUND

Site Conditions

The project site includes six lots of record that were created in 1926 under the Replat of Robinwood (Clackamas County Plat No. 541, Lots 2 and 15 through 19). All are nonconforming with current dimensional requirements of the R-10 zone, which applies to the project site and surrounding properties. No environmental overlays are present.

The existing lots range in width between 38 and 47 feet (50 feet is currently required), and range in size between 4,483 and 5,057 square feet (10,000 square-feet is currently required). An existing single-family home is located at the western corner of the site.



As shown in the appeal materials and original application in Exhibits 1 and 2, the topography of the site slopes downhill from west to east, with substantial slopes along the Midhill Circle frontages and levelling out towards the middle of the block. The drop in elevation along the Midhill Circle frontages ranges in height between approximately 9 and 13 feet, resulting in an approximate 29% slope per the application materials.

Project Description

The applicant is proposing a single, consolidated access for all six lots through a mid-block alley to be created through an access easement. This consolidated access way would function like an alley for purposes of vehicle access and parking. The underlying basis for the consolidation is to avoid construction of six new driveways on slopes of up to 29% along the Midhill Circle frontages, by relocating vehicular access to a flatter portion of the site and working with the

slope rather than against it. All new traffic generated by development of the existing lots would be directed onto Marylhurst Drive, a collector, rather than the adjoining local street of Midhill Circle. The consolidated access would be 20 feet wide near the entrance along Marylhurst Drive, before narrowing to 14 feet for to allow for the use of a retaining wall. A Class II variance is required to approve the accessway because CDC [48.030.B.2](#) limits private accessways to no more than four dwelling.

An advantage of this approach is that it avoids the potential need for multiple variances to driveway slope standards along Midhill Circle, or variances to spacing standards for new accessways onto a collector (Marylhurst Drive) and a local street (Midhill Circle). These standards required 35 feet from intersections and 75 feet between new accessways along Marylhurst Drive, and the size of the blocks and nonconforming lots make compliance with these standards challenging.

In addition to driveway consolidation, frontage improvements required for development of the six lots would be concentrated along the entirety of the Marylhurst Drive frontage, in lieu of improvements along Midhill Circle. The improvements would be constructed concurrent with the proposed private accessway, and provide for a continuous sidewalk connection between Upper and Lower Midhill Circle where none exists. As the city is currently in the design phase for a capital improvement project to construct sidewalk improvements for the block east of the project site, the combined effect of the two projects would result in a continuous pedestrian pathway from Upper Midhill Drive to Willamette Drive (Highway 43).

Tualatin Valley Fire & Rescue (TVF&R) has issued Service Provider Permit #2023-0034 that approves the private accessway as proposed, and the West Linn Engineering Division did not have any comments on the application.

Public comment:

No public comments have been submitted in regards to the appeal.

PROCEDURAL HISTORY

The applicant (Tracy & Derek Peterson) applied for a Class II Variance on March 21, 2023. The application was deemed complete on April 20, and denied by the Planning Commission on May 17, 2023.

The initial evidentiary hearing commenced with a staff report presented by John Floyd, Associate Planner, with a recommendation of approval with four conditions. 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. Primary concerns raised during testimony included:

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

After closing of the public hearing, the Planning Commission deliberated and discussed concerns regarding the adequacy of the proposed design and the lack of specific information, which made approval of the proposal difficult. Specific comments included the following:

- Commissioner Mathews expressed concern regarding the adequacy of a 14-foot-wide access drive given the number of potential homes.
- Commissioner Walvatne expressed concern that there was missing information that would be useful to the Planning Commission, specifically whether middle-housing was being proposed on the existing lots, and noting that the Planning Commission would not have the opportunity to review middle-housing after the fact.
- Commissioner Watton expressed uncertainties regarding the exact meaning of TVF&R comments and conditions on the Service Provider Permit, and how the future homes would relate to existing homes as a result of the access configuration.
- Commissioner Metlen expressed concern that there was insufficient information regarding potential alternatives to the proposed access configuration, and a lack of sufficient information to meet approval criterion 75.020.B.1.a that requires the proposal be the “minimum variance necessary to make reasonable use of the property.”

A motion was made by Commissioner Mathews to deny the application, which was then withdrawn after staff intervened in deliberations to remind the Planning Commission that the city had until August 30th to make a final decision under the 120 day rule, and could therefore continue the hearing to allow the applicant and staff time to research particular questions and provide additional information.

Immediately after the withdrawal of the initial motion, Commissioner Walvatne stated unprompted staff comments were inappropriate and made a motion to deny VAR-23-01 as the application had not demonstrated compliance CDC Chapter 48.030 regarding access widths, and CDC Chapter 75.020.B.1(a) that requires that the variance is the minimum necessary to make reasonable use of the property. Commissioner Mathews seconded the motion. The motion passed four in favor (Mathews, Metlen, Walvatne, Watton) and one opposed (Carr).

The Planning Commission denial of VAR-23-01 was appealed on June 14, 2023 by the Appellant, pursuant to CDC 99.250. The appellant met the application requirements by completing an

application form, providing the requisite fee, and referencing the findings of the Final Order and Decision. As the appellant is both the applicant for VAR-23-01 and owner of the project site, the appellant has standing.

The grounds for the appeal specifically address the Planning Commission's findings and provide additional information and findings in support of the variance request. This includes additional plan sheets that illustrate the slopes on the site, the potential locations of future driveways if the variance is not approved, and written justifications as to why the variable width access way meets city and TVF&R standards.

APPELLANT RESPONSE AND STAFF ANALYSIS

In this Analysis, staff has provided the applicable provisions of the West Linn Community Development Code as identified in the Final Decision and Order for VAR-23-01. The Analysis includes information gleaned from the appeal, the record for VAR-23-01, and supplemental information resulting from communication with Tualatin Valley Fire & Rescue.

Appeal Issue 1: Response to Planning Commission Finding regarding CDC 48.030.B(2).

The Final Decision and Order made the following finding of noncompliance with CDC 48.030.B(2), which reads as follows:

2. Two to four single-family residential homes equals a 14- to 20-foot-wide paved or all-weather surface. Width shall depend upon adequacy of line of sight and number of homes.

In making a finding of noncompliance, the Planning Commission interpreted the discretionary language within the code as requiring a full 20-feet of width due to the number of homes:

"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."

The appellant responds to this finding with the following response:

"Standard 48.030(8)(2), referenced by Planning Commission, requires a driveway to be between 14 and 20 feet wide when serving two to four single family homes. The requested variance by the property owner would allow the driveway to serve six single-family lots (there are no existing or proposed homes with this application) and

consolidate six potential single driveways into one to eliminate the need for significant grading. The driveway has been designed to be 20 feet wide where the driveway meets Marylhurst Drive and then is reduced down to 14 feet wide for the remainder of the driveway. The reduced driveway width would serve four of the six lots and would be approximately 150 feet in length. This design, which is supported by both Tualatin Valley Fire and Rescue and the City's Engineering Division, allows for emergency vehicles to fully pull into the private driveway without blocking any of the street on Marylhurst Drive while also providing a buffer between the project site and the existing home to the east off Midhill Circle that is not part of the project site.

It is possible to make the driveway 20 feet wide the entire length of the driveway, but this would require the driveway to be on the property line and multiple feet above the home to east. There would not be any room for landscaping to screen the vehicles from the driveway, so instead of proposing this design, the applicant has designed the driveway to be slightly narrower (but still meet the minimum required by code) and include a five-foot buffer between the project site and the existing homes to increase privacy for the residents.

The design submitted complies with the driveway width required by Standard 48.030(B)(2) and has been approved by both Tualatin Valley Fire and Rescue and the West Linn Engineering department. Neither the fire professionals nor the engineering professionals have any concerns about the proposed design."

Staff will note that applicable code section contains discretion regarding this residential design standard. The fact that the standard is not clear and objective recommends a conservative reading of the code, unless there is a clear demonstration of need for 20 feet of pavement for the full length of the access way.

As noted above in the procedural history, questions were raised regarding the approval stamps on the TVF&R Service Provider Permit, including a condition requiring the applicant/appellant to construct the roadway to 20 feet in width for the entire length. Planning Staff contacted TVF&R and requested clarification of the Service Provider Permit (SPP), including whether the approval stamps on the site plan required the final design to demonstrate a 20-foot-wide access road along the entire length. In discussing the application, Deputy Fire Marshall Jason Arn confirmed the following:

- TVF&R has approved the proposed roadway design as proposed, inclusive of the 14 wide paved section.

- The notation on SPP-2023-0034 requires the posting of “No Parking” signs, and does not require the applicant to widen the proposed design. The reference to a 20’ minimum road width is a result of you not being allowed to modify fire code language when stamping plan sheets.

Had the Planning Commission been in possession of this clarifying information, deliberations may have resulted in a different outcome.

Appeal Issue 2: Response to Planning Commission Finding regarding CDC 75.020.B.1(a).

The Final Decision and Order made the following finding of noncompliance with CDC 75.020.B.1(a), which reads as follows:

1. Class II Variance Approval Criteria. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared.

a. The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:

- 1) Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.*
- 2) Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.*
- 3) The potential for economic development of the subject property.*

In making a finding of noncompliance, the Planning Commission determined that the applicant had not provided sufficient evidence to meet the burden of proof:

“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.”

The appellant responds to this finding with the following response:

“The two primary reasons the project site cannot provide individual access to each of the six lots on the project site are 1) the required distance spacing requirements could not be met, and 2) the steep topography of the site near Midhill Circle.

- 1) In the City of West Linn’s Transportation Systems Plan (Figure 17) Marylhurst Drive is classified as a Collector Street and Midhill Circle is classified as a Local Street. Therefore, based on Standard 48.060(C)(5) and Standard 48.060(D)(3) no intersection is permitted closer than 35 feet from the street intersections or 30 feet from any other curb cut on the same side of the street. The six properties included in the project site are nonconforming existing lots of record that are approximately 35 feet to 40 feet wide. With this layout, and the existing layout of the public streets, it would be very difficult to meet the spacing standards with six separate driveways. On average, the driveways would be approximately 28 feet apart from on the same side of the street, and not meet the minimum spacing standard of 30 feet. This alternative driveway location is shown on Exhibit Sheet 3 and 4 of the attached civil plans.*
- 2) The natural topography of the project site slopes steeply down from Midhill Circle, leveling out somewhat where the proposed private shared driveway is proposed, and then sloping back up to the other side of Midhill Circle. If the applicant were to provide individual driveways from Midhill Circle, they would have to be constructed on a slope with grades of 29%. Standard 48.030(B)(3) states that the maximum grade permitted on a driveway is 15%, or the property owner would need to request a variance to allow for a steeper grade. In order to limit the amount of grading required to construct a driveway from Midhill Circle, the applicant is proposing the shared driveway where the project site has minimal slopes and could easily access all six lots without substantial grading within a single shared driveway.*

In addition to the above responses to the concerns of the Planning Commission, the applicant is submitting civil exhibits that show the topography of the site, grade of the existing slopes off Midhill Circle, and alternative driveway placements that are infeasible and undesirable by the City Engineering Department.”

Staff notes that this approval criterion provides the decision-making authority with substantial discretion on which facts or circumstances may be used when considering this standard, and the amount of weight granted to each factor. The CDC defines reasonable use as “uses, similar in size, intensity and type, to uses allowed on other properties in the City, that have the same zoning designation as the subject property.”

Planning staff also concur with the applicant, in that development of the site will likely require a variance no matter the configuration. Likely scenarios include a variance to driveway slope standards, driveway spacing standards, and/or the maximum number of homes on a private accessway. These challenges are due in part not only to the steep terrain, but the historical creation of these lots prior to subdivision standards. If approved, the proposed variance would likely result in the least grading of the site, the least disruption to the Midhill Circle right of way, and would reduce the number of driveways fronting a collector street.

RECOMMENDATION

Should Council decide to grant the appeal and overturn the Planning Commission denial, staff recommends approval of application AP-23-01 subject to the following conditions, with findings to be prepared upon Council Direction and adopted at a continued hearing date.

1. **Site Plans.** With the exception of modifications required by these conditions, the project shall substantially conform to all Tentative Plan Sheets and TVF&R Service Provider Permit 2023-0034.
2. **Demolition and Construction.** Prior to issuance of building permits on the affected lots, the applicant shall obtain a demolition permit and receive final demolition inspection for the existing home on the site.
3. **Easement.** Prior to the issuance of building permits, the applicant shall record a private access and utility easement for the shared access drive. A draft of the easement shall be presented to the City Engineering and Planning Divisions for review and approval prior to recordation.
4. **Improvements.** Prior to final inspection and issuance of a certificate of occupancy for a new dwelling unit on the affected lots, all proposed private and public improvements in Exhibit CC-1 shall be completed and accepted by the city.

EXHIBIT CC-1: APPELLANT APPLICATION



DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT John Floyd	PROJECT No(s). AP-23-03	PRE-APPLICATION NO.
NON-REFUNDABLE FEE(S) \$400	REFUNDABLE DEPOSIT(S)	TOTAL \$400

Type of Review (Please check all that apply):

- | | | |
|---|---|---|
| <input type="checkbox"/> Annexation (ANX)
<input checked="" type="checkbox"/> Appeal (AP)
<input type="checkbox"/> CDC Amendment (CDC)
<input type="checkbox"/> Code Interpretation (MISC)
<input type="checkbox"/> Conditional Use (CUP)
<input type="checkbox"/> Design Review (DR)
<input type="checkbox"/> Tree Easement Vacation (MISC)
<input type="checkbox"/> Expediated Land Division (ELD)
<input type="checkbox"/> Extension of Approval (EXT) | <input type="checkbox"/> Final Plat (FP)
<input type="checkbox"/> Flood Management Area (FMA)
<input type="checkbox"/> Historic Review (HDR)
<input type="checkbox"/> Lot Line Adjustment (LLA)
<input type="checkbox"/> Minor Partition (MIP)
<input type="checkbox"/> Modification of Approval (MOD)
<input type="checkbox"/> Non-Conforming Lots, Uses & Structures
<input type="checkbox"/> Planned Unit Development (PUD)
<input type="checkbox"/> Street Vacation | <input type="checkbox"/> Subdivision (SUB)
<input type="checkbox"/> Temporary Uses (MISC)
<input type="checkbox"/> Time Extension (EXT)
<input type="checkbox"/> Right of Way Vacation (VAC)
<input type="checkbox"/> Variance (VAR)
<input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP)
<input type="checkbox"/> Water Resource Area Protection/Wetland (WAP)
<input type="checkbox"/> Willamette & Tualatin River Greenway (WRG)
<input type="checkbox"/> Zone Change (ZC) |
|---|---|---|

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

Site Location/Address: 2622 Marylhurst Drive and 18600-18690 Midhill Circle	Assessor's Map No.: 2S1E14DC
	Tax Lot(s): 5800, 6500, 6600, 6601, 6700, 6701
	Total Land Area: 0.7 acres

Brief Description of Proposal:

The applicant and property owner are appealing the Planning Commission decision on VAR-23-01.

Applicant Name*: **Tracy & Derek Peterson**
 Address: **24350 SW Nodaway Lane**
 City State Zip: **Wilsonville, OR 97070**
 Phone: **503-726-9929**
 Email: **tracy@tracypetersonhomes.com**

Owner Name (required): **Tracy & Derek Peterson**
 Address: **24350 SW Nodaway Lane**
 City State Zip: **Wilsonville, OR 97070**
 Phone: **503-726-9929**
 Email: **tracy@tracypetersonhomes.com**

Consultant Name: **Hillary Harris, Planner and Alex Simpson, PE**
 Address: **205 SE Spokane Street, Suite 200**
 City State Zip: **Portland, OR 97202**
 Phone: **503-221-1131**
 Email: **hillaryh@hhpr.com and alexs@hhpr.com**

1. Application fees are non-refundable (excluding deposit). Applications with deposits will be billed monthly for time and materials above the initial deposit. ***The applicant is financially responsible for all permit costs.**
2. The owner/applicant or their representative should attend all public hearings.
3. A decision may be reversed on appeal. The decision will become effective once the appeal period has expired.
4. Submit this form, application narrative, and all supporting documents as a single PDF through the [Submit a Land Use Application](https://westlinnoregon.gov/planning/submit-land-use-application) web page: <https://westlinnoregon.gov/planning/submit-land-use-application>

The undersigned property owner authorizes the application and grants city staff the **right of entry** onto the property to review the application. Applications with deposits will be billed monthly for time and materials incurred above the initial deposit. The applicant agrees to pay additional billable charges.

Tracy Peterson 6/14/23
 Applicant's signature Date

Tracy Peterson 6/14/23
 Owner's signature (required) Date

TO: City of West Linn City Council

FROM: Harper Houf Peterson Righellis, Inc.
Hillary Harris, Planner
Alex Simpson, PE



and

BHG Real Estate & Development
Tracy Peterson, Property Owner

DATE: June 14, 2023

RE: Appeal Filing Case Number VAR-23-01

Introduction and Background

The project site includes six pre-existing lots of record located off Marylhurst Drive and Midhill Circle (Tax Lots 2S1E14DC5800, 6500, 6600, 6601, 6700, and 6701). The area is approximately 0.7 acres in size and zoned R-10 in the West Linn Zoning Map.



As shown on the grading plan, the topography of the site slopes downhill from west to east, with substantial slopes along Midhill Circle frontages. In lieu of providing multiple steep individual driveways and substantial site grading, the property owner is proposing to consolidate access through the center of the block where the grade is relatively flat. The property owner has coordinated with Tualatin Valley Fire and Rescue and the City of West Linn's Engineering Department to come to the solution of a single shared driveway that engineering and fire professionals support and prefer, while still allowing the sites to be developed in the future.

On March 6 the applicant submitted the Class II Variance application and the City of West Linn Community Development supported the variance in their Staff Report. Planning Commission heard the variance request at their May 17 hearing and denied the variance. Below are the reasons for the denial made in the signed final decision from the Planning Commission and the applicant's appeal to the City Council for consideration of why the proposal is more beneficial to the City than having individual driveways.

Response to Planning Commission Findings

- *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.*

Response: Standard 48.030(B)(2), referenced by Planning Commission, requires a driveway to be between 14 and 20 feet wide when serving two to four single family homes. The requested variance by the property owner would allow the driveway to serve six single-family lots (there are no existing or proposed homes with this application) and consolidate six potential single driveways into one to eliminate the need for significant grading. The driveway has been designed to be 20 feet wide where the driveway meets Marylhurst Drive and then is reduced down to 14 feet wide for the remainder of the driveway. The reduced driveway width would serve four of the six lots and would be approximately 150 feet in length. This design, which is supported by both Tualatin Valley Fire and Rescue and the City's Engineering Division, allows for emergency vehicles to fully pull into the private driveway without blocking any of the street on Marylhurst Drive while also providing a buffer between the project site and the existing home to the east off Midhill Circle that is not part of the project site.

It is possible to make the driveway 20 feet wide the entire length of the driveway, but this would require the driveway to be on the property line and multiple feet above the home to east. There would not be any room for landscaping to screen the vehicles from the driveway, so instead of proposing this design, the applicant has designed the driveway to be slightly narrower (but still meet the minimum required by code) and include a five foot buffer between the project site and the existing homes to increase privacy for the residents.

The design submitted complies with the driveway width required by Standard 48.030(B)(2) and has been approved by both Tualatin Valley Fire and Rescue and the West Linn Engineering department. Neither the fire professionals nor the engineering professionals have any concerns about the proposed design.

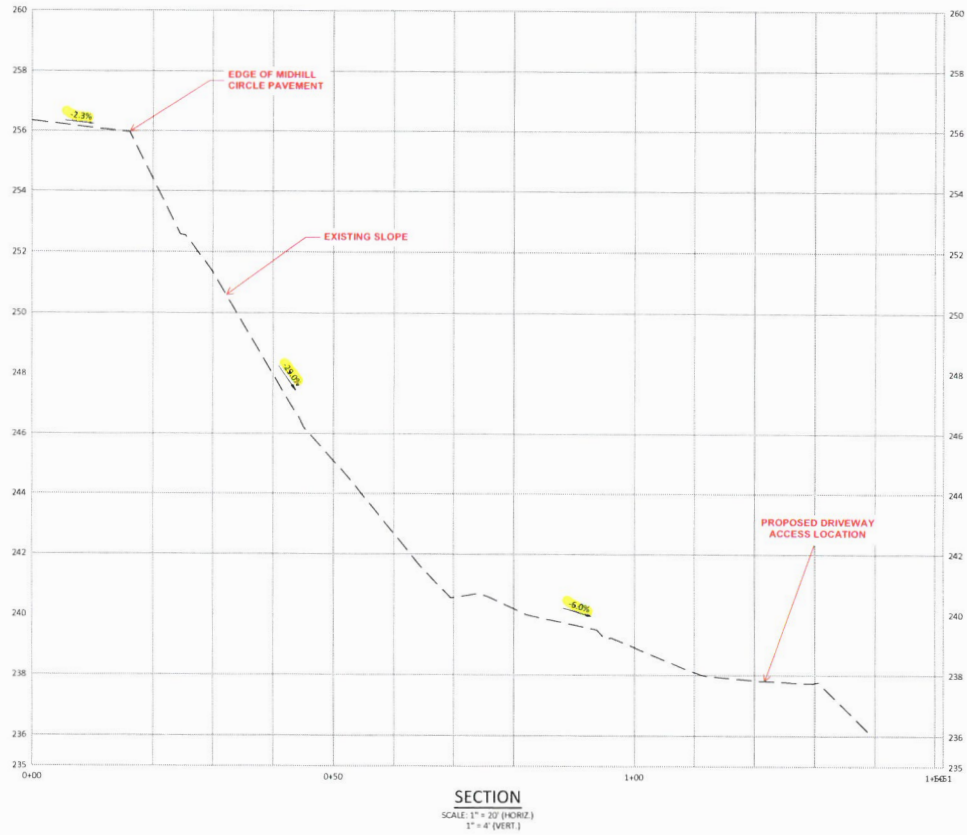
- *The Commission finds the applicant did not meet its burden of proof to show all six lots required shared access from one driveway. The applicant did not provide evidence that either the four lots fronting Midhill Circle could not reasonably take access from that street, which would eliminate the need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

Response: The two primary reasons the project site cannot provide individual access to each of the six lots on the project site are 1) the required distance spacing requirements could not be met, and 2) the steep topography of the site near Midhill Circle.

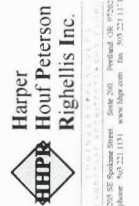
- 1) In the City of West Linn's Transportation Systems Plan (Figure 17) Marylhurst Drive is classified as a Collector Street and Midhill Circle is classified as a Local Street. Therefore, based on Standard 48.060(C)(5) and Standard 48.060(D)(3) no intersection is permitted closer than 35 feet from the street intersections or 30 feet from any other curb cut on the same side of the street. The six properties included in the project site are nonconforming existing lots of record that are approximately 35 feet to 40 feet wide. With this layout, and the existing layout of the public streets, it would be very difficult to meet the spacing standards with six separate driveways. On average, the driveways would be approximately 28 feet apart from on the same side of the street, and not meet the minimum spacing standard of 30 feet. This alternative driveway location is shown on Exhibit Sheet 3 and 4 of the attached civil plans.
- 2) The natural topography of the project site slopes steeply down from Midhill Circle, leveling out somewhat where the proposed private shared driveway is proposed, and then sloping back up to the other side of Midhill Circle. If the applicant were to provide individual driveways from Midhill Circle, they would have to be constructed on a slope with grades of 29%. Standard 48.030(B)(3) states that the maximum grade permitted on a driveway is 15%, or the property owner would need to request a variance to allow for a steeper grade. In order to limit the amount of grading required to construct a driveway from Midhill Circle, the applicant is proposing the shared driveway where the project site has minimal slopes and could easily access all six lots without substantial grading within a single shared driveway.

Conclusion

In addition to the above responses to the concerns of the Planning Commission, the applicant is submitting civil exhibits that show the topography of the site, grade of the existing slopes off Midhill Circle, and alternative driveway placements that are infeasible and undesirable by the City Engineering Department.



GRADING DETAILS
MARYLHURST SUBDIVISION
WEST LINN, OR



DESIGNED	HHPR
DRAWN	HHPR
CHECKED	HHPR
DATE	03/15/2023

SHEET NO.
EX-2
JOB NO.
TPH-02

ALTERNATIVE DRIVEWAYS LOCATED FROM MIDHILL CIRCLE
 INFEASIBLE & UNDESIRABLE AS THERE ARE EXTREME SLOPES (29%), RESULTS IN MORE DRIVEWAYS, LOCATED CLOSER TOGETHER



LEGEND

- ASPHALT CONCRETE (AC)
- ASPHALT PAVEMENT
- CONCRETE
- CONSTRUCTION ENTRANCE
- TREE PROTECTION FENCE
- SEDIMENT FENCE
- LIMITS OF GRADING
- INLET PROTECTION
- EXISTING CONTOUR
- PROPOSED MINOR CONTOUR
- PROPOSED MAJOR CONTOUR
- EXISTING ROW LINE
- PROPOSED ROW LINE
- RETAINING WALL
- PUBLIC UTILITY EASEMENT (PUE)
- STORM LINE
- STORMWATER MANHOLE
- CATCH BASIN

- CONSTRUCTION NOTES:**
- 1 PROPOSED INLET PROTECTION PER DETAIL ON SHEET C6.4.
 - 2 PROPOSED SEDIMENT FENCE PER DETAIL ON SHEET C6.4.
 - 3 PROPOSED CONSTRUCTION ENTRANCE PER DETAIL ON SHEET C6.4.
 - 4 INSTALL 6' TALL CHAINLINK TREE PROTECTION FENCING.
 - 5 LIMITS OF GRADING.

NOTE:
 ALL GRADING FILL MATERIAL PROPOSED ON SITE SHALL BE COORDINATED AND APPROVED BY A GEOTECHNICAL ENGINEER PRIOR TO CONSTRUCTION. HHPR PROVIDES NO INSTRUCTION AND TAKES NO RESPONSIBILITY REGARDING FILL MATERIAL AND PLACEMENT DURING CONSTRUCTION.

MASS GRADING & EROSION CONTROL PLAN
MARYLHURST SUBDIVISION
 WEST LINN, OR

Harper Houff Peterson
HHPR
Righellis Inc.
 209 SE Spokane Street, Suite 200 Portland, OR 97202
 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

DESIGNED	HHPR
DRAWN	HHPR
CHECKED	HHPR
DATE	03/15/2023
REVISION	
NO.	DESCRIPTION

SHEET NO.
EX-4
 JOB NO. **TPH-02**

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Marylhurst Drive Variance
Land Use Application Narrative & Findings Document
Class II Variance

Owner/Applicant: Tracy & Derek Peterson
24350 SW Nodaway Lane
Wilsonville, OR 97070

Planner: Hillary Harris, Planner
Harper Houf Peterson Righellis, Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202
(503) 221-1131
hillaryh@hhpr.com

Engineer: Alex Simpson, PE
Harper Houf Peterson Righellis, Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202
(503) 221-1131
alexs@hhpr.com

Site Location: 2622 Marylhurst Drive & 18600-18690 Midhill Circle

Tax Map: 2S1E14DC

Tax Lots: 5800, 6700, 6701, 6601, 6600, 6500

Parcel Size: 0.7 acres

Zoning Designation: R-10

Summary of Request: The applicant is requesting a Type II variance to allow for more than four lots (six lots total) to be served from one private driveway.

Date: March 6, 2023

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I. PROJECT OVERVIEW

EXISTING CONDITIONS & PROPOSAL

The project site includes six properties located off Marylhurst Drive and Midhill Circle (Tax Lots 2S1E14DC5800, 2S1E14DC6500, 2S1E14DC6600, 2S1E14DC6601, 2S1E14DC6700, and 2S1E14DC6701). The site is approximately 0.7 acres in size and zoned R-10 on the West Linn Zoning Map. The site has been subdivided and approved for the construction of single-family homes.

Due to the limited space of the project site, the steep topography, and the City prioritizing the area for future walkability, the properties can only be accessed from a single private driveway off Marylhurst Drive. The West Linn Community Development Code allows for up to four properties to take access from a shared private drive, and there are a total of six properties on the project site. Therefore, the applicant is requesting a Class II Variance to allow for all six properties on the project site to be accessed from the shared private drive.

VICINITY MAP



II. RESPONSE TO APPLICABLE APPROVAL CRITERIA FOR A CLASS II VARIANCE

CHAPTER 11: SINGLE-FAMILY RESIDENTIAL DETACHED, R-10

SECTION 11.030: PERMITTED USES

The following are uses permitted outright in this zoning district:

1. Single-family attached or detached residential unit.
 - a. Duplex residential units.
 - b. Triplex residential units.
 - c. Quadplex residential units.
2. Cottage clusters.
3. Townhouse.
4. Community recreation.
5. Family day care.
6. Residential home.
7. Utilities, minor.
8. Transportation facilities (Type I).
9. Manufactured home.
10. Community building on City-owned property at 3706 Cedaroak Drive and indicated on the map below.

Response: The project site is comprised of six existing lots that are proposed for eventual development as either single-family attached or detached residential dwellings. However, there is no proposed development with this application, only the request for a variance.

CHAPTER 48: ACCESS, EGRESS, AND CIRCULATION

SECTION 48.020: APPLICABILITY AND GENERAL PROVISIONS

- A. The provisions of this chapter do not apply where the provisions of the Transportation System Plan or land division chapter are applicable and set forth differing standards.

Response: Neither the provisions of the Transportation System Plan nor the land division chapter are applicable to this project. Therefore, the standards of Section 48.020 apply.

- B. All lots shall have access from a public street or from a platted private street approved under the land division chapter.

Response: The applicant is proposing all six lots have access from Marylhurst Drive, a public street, via a shared private driveway. Standard (B) above is satisfied with the proposed design – please see the attached site plan for details.

- C. No building or other permit shall be issued until scaled plans are presented to the City and approved by the City as provided by this chapter, and show how the access, egress, and circulation requirements are

to be fulfilled. Access to State or County roads may require review, approval, and permits from the appropriate authority.

Response: Included with this application is a detailed and scaled civil plan set that includes a site plan and grading plan. Please see these plans for details on compliance with the standards of this chapter.

D. Should the owner or occupant of a lot, parcel or building enlarge or change the use to which the lot, parcel or building is put, resulting in increasing any of the requirements of this chapter, it shall be unlawful and a violation of this code to begin or maintain such altered use until the provisions of this chapter have been met, and, if required, until the appropriate approval authority under Chapter 99 CDC has approved the change.

Response: The property owner is not proposing to change the use of the existing lots or enlarge the lots included in the project site.

E. Owners of two or more uses, structures, lots, parcels, or units of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the requirements as designated in this code; provided, that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases, or contracts to establish joint use. Copies of said instrument shall be placed on permanent file with the City Recorder.

Response: The property owner owns all six lots included on the project site and proposes to have all six lots utilize a joint access driveway from Marylhurst Drive. This combined access satisfies all requirements of this code or is requesting a variance to the code standard.

SECTION 48.025: ACCESS CONTROL

B. Access control standards.

1. Traffic impact analysis requirements. The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also CDC 55.125, Transportation Impact Analysis.)

Response: A traffic impact analysis is not required or included with this variance application.

2. The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.

Response: The applicant is requesting a variance to allow for the consolidation of driveways and allow for all six properties to take access from a single point off Marylhurst Drive. In addition, the applicant will provide frontage improvements along Marylhurst Drive, including a six foot wide sidewalk and new street paving. Please see the attached site plan, Sheet C3.0, for details on the proposed improvements.

3. *Access options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (planned access shall be consistent with adopted public works standards and TSP). These methods are "options" as approved by the City Engineer.*
 - a. *Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.*
 - b. *Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.*
 - c. *Option 3. Access is from a public street adjacent to the development lot or parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in subsection (B)(6) of this section.*

Response: The applicant proposes to construct a shared private driveway from Marylhurst Drive, a public street directly adjacent to the development site. Under Access Option (3)(c) above, this is a permitted method of providing access to the subject properties.

4. *Subdivisions fronting onto an arterial street. [...]*

Response: The applicant is not proposing a subdivision or new residential land division with this application. Therefore, the above standard does not apply, and the remaining code language has been omitted from this narrative.

5. *Double-frontage lots. When a lot or parcel has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. When a lot or parcel has frontage opposite that of the adjacent lots or parcels, access shall be provided from the street with the lowest classification.*

Response: One of the lots (Tax Lot 5800) has frontage on both Marylhurst Drive (a Collector) and Midhill Circle (a Local Street). However, with the requested variance, all of the tax lots on the project site will take access from the shared driveway from Marylhurst Drive.

6. *Access spacing.*
 - a. *The access spacing standards found in the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections and non-traversable medians. Deviation from the access spacing standards may be granted by the City Engineer if conditions are met as described in the access spacing variances section in the adopted TSP.*

Response: The applicant is not proposing any new public street intersections with this application. Therefore, Standard (6)(a) does not apply.

- b. *Private drives and other access ways are subject to the requirements of CDC 48.060.*

Response: The proposed shared driveway on the project site complies with all applicable standards of CDC 48.060. Please see the responses in that section of this narrative for details on compliance.

7. *Number of access points. For single-family (detached and attached), two-family, and duplex housing types, one street access point is permitted per lot or parcel, when alley access cannot otherwise be provided; except that two access points may be permitted corner lots (i.e., no more than one access per street), subject to the access spacing standards in subsection (B)(6) of this section. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with subsection (B)(8) of this section, in order to maintain the required access spacing, and minimize the number of access points.*

Response: Each of the lots included on the project site will only have one access point. All six lots take access from the shared driveway off Marylhurst Drive. Please see the attached site plan for details on site access.

8. *Shared driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:*
 - a. *Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent lot or parcel develops. "Developable" means that a lot or parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).*

Response: The applicant is proposing all six lots take access from a shared driveway off Marylhurst Drive. The consolidation of the driveways will prevent multiple driveways onto the adjacent streets and maximize the frontage improvements that can be provided on Marylhurst Drive. Please see the attached site plan for details on site access.

- b. *Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.*

Responses: Acknowledged by the applicant.

- C. *Street connectivity and formation of blocks required. In order to promote efficient vehicular and pedestrian circulation throughout the City, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards: [...]*

Response: The applicant is not proposing any new streets or blocks with this application. Only a variance to allow for a single shared driveway for all six lots is requested. Therefore, Standard (C) above does not apply to this application and the remaining code language has been omitted.

SECTION 48.030: MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES

- A. *Direct individual access from single-family dwellings and duplex lots to an arterial street, as designated in the transportation element of the Comprehensive Plan, is prohibited for lots or parcels created after the effective date of this code where an alternate access is either available or is expected to be available by imminent development application. Evidence of alternate or future access may include temporary cul-de-sacs, dedications or stub outs on adjacent lots or parcels, or tentative street layout plans submitted at one time by adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question.*

Response: Marylhurst Drive is classified as a Collector, not an Arterial Street. Therefore, the above standard does not apply to this application.

- B. *When any portion of any house is less than 150 feet from the adjacent right-of-way, access to the home is as follows: [...]*
- C. *When any portion of one or more homes is more than 150 feet from the adjacent right-of-way, the provisions of subsection B of this section shall apply in addition to the following provisions. [...]*

Response: There are no existing houses on the project site, nor are there any houses proposed with this variance application. Therefore, Standards (B) and (C) above do not apply and the remaining code language has been omitted.

- D. *Access to five or more single-family homes shall be by a street built to full construction code standards. All streets shall be public. This full street provision may only be waived by variance.*

Response: The applicant is requesting a variance to allow for a driveway to be constructed to serve all six of the residential lots on the development site. This driveway will be 20 feet wide and comply with all applicable standards for a driveway.

- E. *Access and/or service drives for multi-family dwellings shall be fully improved with hard surface pavement: [...]*

Response: The applicant is not proposing any multi-family dwellings with this application. Therefore, Standard (E) does not apply, and the remaining code language has been omitted.

- F. *Where on-site maneuvering and/or access drives are necessary to accommodate required parking, in no case shall said maneuvering and/or access drives be less than that required in Chapters 46 and 48 CDC.*

Response: When developed, each residential site will have adequate parking provided that complies with the West Linn Community Development Code.

- G. *The number of driveways or curb cuts shall be minimized on arterials or collectors. Consolidation or joint use of existing driveways shall be required when feasible.*



Response: Granting the requested variance will allow for only one driveway to be constructed on Marylhurst Drive, minimizing the number of curb cuts and possible vehicle-pedestrian conflicts on the street. Because the orientation and location of the site, as well as the City’s desire to make the area a more pedestrian oriented and walkable neighborhood, consolidating all six driveways into one shared private driveway is not only feasible, but ideal for the site.

H. In order to facilitate through traffic and improve neighborhood connections, it may be necessary to construct a public street through a multi-family site.

Response: The applicant is not proposing any multi-family dwellings with this application. Therefore, Standard (H) does not apply to this application.

I. Gated accessways to residential development other than a single-family home are prohibited.

Response: The applicant is not proposing any gated accessways with this application. Therefore, Standard (I) does not apply to this application.

SECTION 48.060: WIDTH AND LOCATION OF CURB CUTS AND ACCESS SEPARATION REQUIREMENTS

- A. Minimum curb cut width shall be 16 feet.*
- B. Maximum curb cut width shall be 36 feet, except along Highway 43 in which case the maximum curb cut shall be 40 feet. For emergency service providers, including fire stations, the maximum shall be 50 feet.*

Response: The proposed driveway off Marylhurst Drive has a curb cut of 20 feet, complying with the minimum and maximum curb cut width allowed above. Please see the attached site plan, Sheet C3.0, for details.

- C. No curb cuts shall be allowed any closer to an intersecting street right-of-way line than the following:*
 - 1. On an arterial when intersected by another arterial, 150 feet.*
 - 2. On an arterial when intersected by a collector, 100 feet.*
 - 3. On an arterial when intersected by a local street, 100 feet.*
 - 4. On a collector when intersecting an arterial street, 100 feet.*
 - 5. On a collector when intersected by another collector or local street, 35 feet.*
 - 6. On a local street when intersecting any other street, 35 feet.*

Response: In the City of West Linn’s Transportation Systems Plan (Figure 17), Marylhurst Drive is classified as a Collector Street and Midhill Circle is classified as a Local Street. Therefore, no curb cut is allowed any closer than 35 feet of these intersecting. The proposed curb cut is well over 100 feet from both intersections, complying with the above standard. Please see the attached site plan, Sheet C3.0, for details.

- D. There shall be a minimum distance between any two adjacent curb cuts on the same side of a public street, except for one-way entrances and exits, as follows:*
 - 1. On an arterial street, 150 feet.*
 - 2. On a collector street, 75 feet.*
 - 3. Between any two curb cuts on the same lot or parcel on a local street, 30 feet.*



Response: The applicant is only proposing one curb cut on the development site that is over 100 feet from both intersections of Midhill Circle and Marylhurst Drive. If the variance was not granted and two driveways had to be provided on Marylhurst Drive (a collector) or four to five on Midhill Circle (a local street), it would be very difficult to meet the minimum distance requirements with the site dimensions and local topography. Granting the variance allows for just a single driveway on Marylhurst Drive that can meet all minimum distance requirements.

E. A rolled curb may be installed in lieu of curb cuts and access separation requirements.

Response: The applicant is not proposing to install a rolled curb adjacent to the development site. Therefore, the above standard does not apply to this application.

F. Curb cuts shall be kept to the minimum, particularly on Highway 43. Consolidation of driveways is preferred. The standard on Highway 43 is one curb cut per business if consolidation of driveways is not possible.

Response: The applicant is requesting a variance to allow for all six residential properties to have vehicle access from a single shared driveway. Granting the requested variance will allow for all the properties to consolidate their access into one shared driveway and only require one curb cut on Marylhurst Drive.

CHAPTER 75: VARIANCES AND SPECIAL WAIVERS

SECTION 75.020: CLASSIFICATION OF VARIANCES

B. Class II Variance. Class II variances may be utilized when strict application of code requirements would be inconsistent with the general purpose of the CDC and would create a burden upon a property owner with no corresponding public benefit. A Class II variance will involve a significant change from the code requirements and may create adverse impacts on adjacent property or occupants. It includes any variance that is not classified as a Class I variance or special waiver.

- 1. Class II Variance Approval Criteria. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared.*
 - a) The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:*
 - 1) Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.*
 - 2) Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.*
 - 3) The potential for economic development of the subject property.*

Response: The requested variance is the minimum necessary to make reasonable use of the property while also prioritizing pedestrian safety and walkability of the area for the following reasons:

1. The physical characteristics of the lots, including size and shape, make two separate access drives from Marylhurst Drive impractical. This would require multiple curb cuts on the street, closer proximity

between driveways and street intersections, as well as requiring additional space on the lots themselves, limiting the buildable area of the residential properties.

2. Due to the topography of the project site and the extremely steep slopes that requires retaining walls, minimizing the number of driveways onto Marylhurst Drive will limit pedestrian-vehicle and vehicle-vehicle conflicts.
3. It should be noted that the City requested the property owner abandon the original development plans for the project site that had each lot taking individual direct access from Midhill Circle in lieu of making all public improvements and access off Marylhurst Drive. The property owner revised the development plan in accordance with the City's request to support the potential future redevelopment vision of pedestrian safety and walkability down to Highway 43.

b) The variance will not result in violation(s) of any other code standard, and the variance will meet the purposes of the regulation being modified.

Response: The requested variance will not result in a violation of any other known code standards while still meeting the purpose of the regulation being modified. Chapter 48 in the CDC seeks to balance mobility and the need to provide efficient and safe access to individual properties. Allowing for all six lots to be accessed via a single private drive creates a more practical development pattern for the area, as well as a safer situation for access, egress, and pedestrian circulation by limiting curb cuts on a Collector. Additionally, the requested variance will produce more well-designed homes relative to the site size, shape and existing development pattern of the area and on Marylhurst Drive.

c) The need for the variance was not created by the applicant and/or owner requesting the variance.

Response: The two primary reasons the property owner is requesting a variance to allow for all six lots to take access from a single shared private drive is the steep topography of Marylhurst Drive and the project site and the City's request to not have access from Midhill Circle. Neither the steepness of the area nor the City's request was created by the property owner.

d) If more than one variance is requested, the cumulative effect of the variances results in a project that is consistent with the overall purpose of the zone.

Response: Only one variance is requested, and that variance would apply to all six lots and the road would remain private and our responsibility.

CHAPTER 96: STREET IMPROVEMENT CONSTRUCTION

SECTION 96.010: CONSTRUCTION REQUIRED

- A. *Street improvements for residential construction are required when:*
1. *Construction of a new single-family attached or detached structure (replacement of an existing structure is exempt); or*
 2. *Construction of a new multifamily structure; or*
 3. *Increase in dwelling unit density on site (accessory dwelling units are exempt).*

Response: The applicant is not proposing the construction of any new residential units at this time. However, the property will eventually be developed with single-family attached or detached homes in the future. With the requested variance to allow all the properties on the development site to have access from a single shared driveway, the applicant is also proposing street frontage improvements on Marylhurst Drive, including a six foot sidewalk, stormwater facilities, and new street paving. Please see the attached civil plan set for details on the proposed improvements.

B. Street improvements for commercial construction are required when: [...]

Response: The applicant is not proposing any commercial construction on the project site. Therefore, Standard (B) does not apply, and the remaining code language has been omitted.

SECTION 96.030: STANDARDS

Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided the applicant submit sufficient security in an amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.

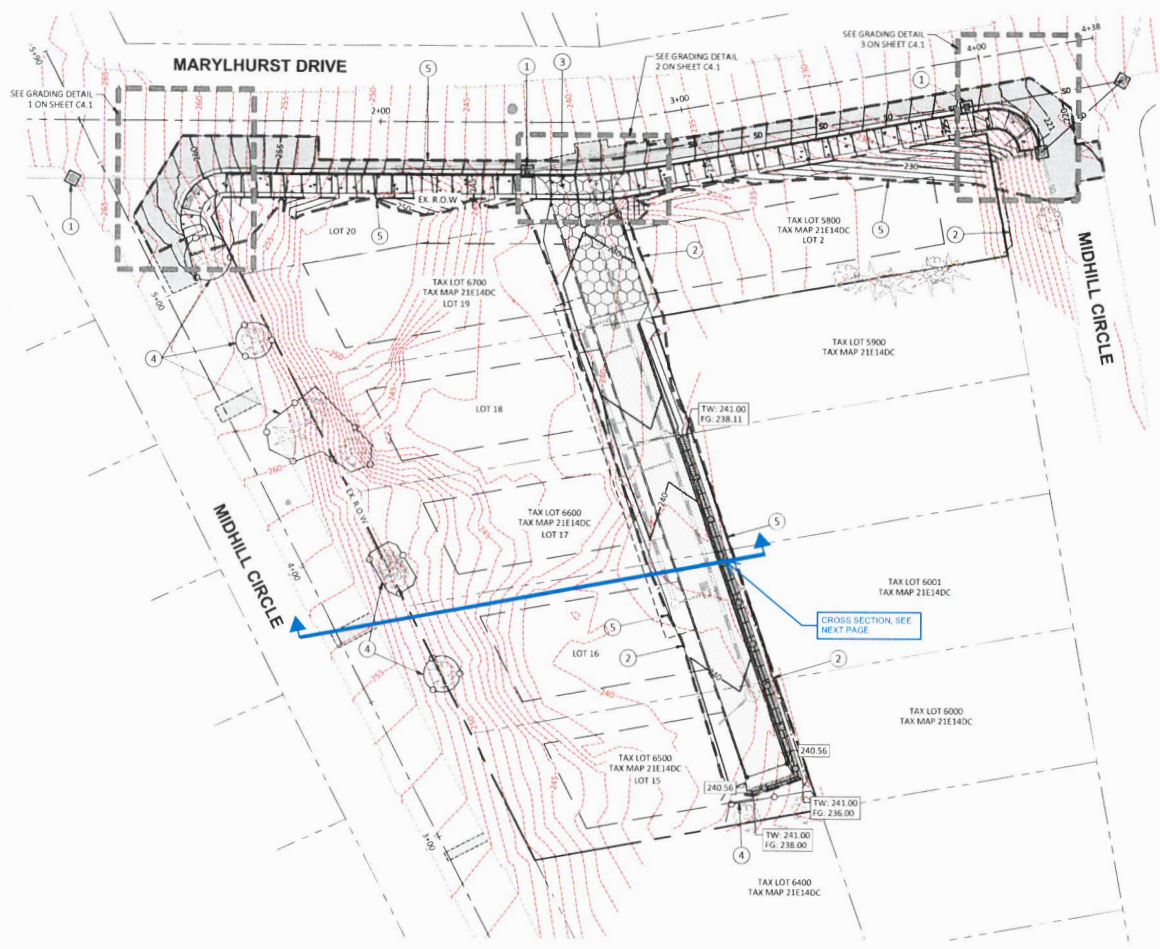
Response: The applicant is proposing street improvements on Marylhurst Drive and Midhill Circle, including right-of-way dedication, a sidewalk, and improved asphalt concrete paving. These street improvements will be installed according to all applicable City standards and complete prior to the issuance of any occupancy permit for the residential sites.

III. CONCLUSION

This written statement and the accompanying supporting documents demonstrate compliance with the applicable approval criteria for a Class II Variance in the City of West Linn. Therefore, the applicant respectfully requests that the City approve the application.



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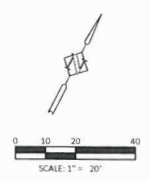


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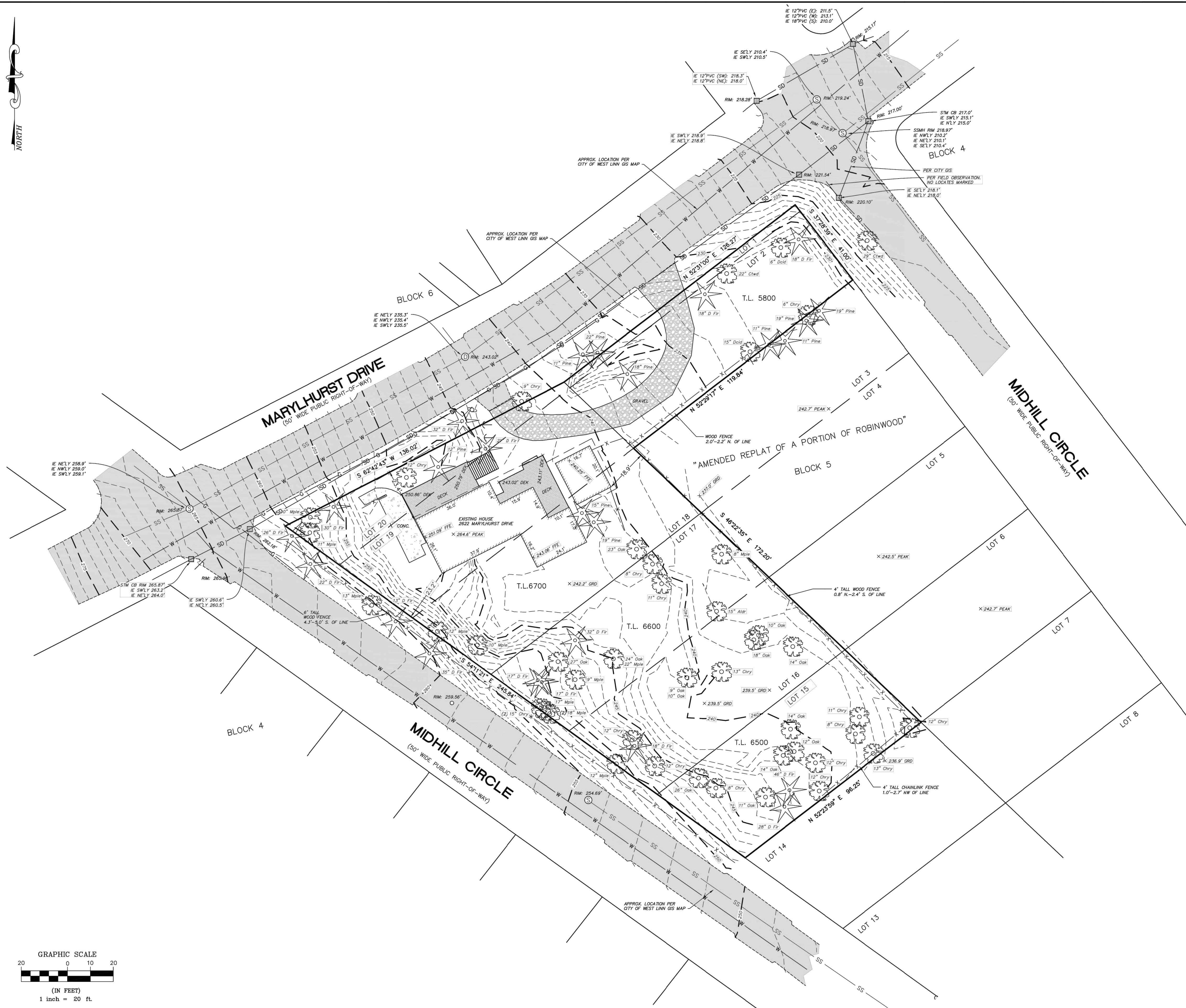
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JOB NO. **TPH-02**



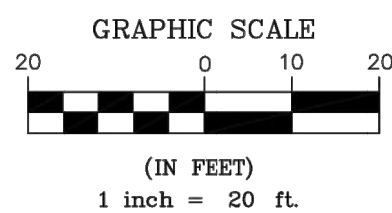
TOPOGRAPHIC SURVEY
 FOR:
TRACY PETERSON
 BEING LOTS 15-19, 2,
 AND PORTIONS OF 1 AND 20, BLOCK 5,
 "AMENDED REPLAT OF A PORTION OF ROBINWOOD"
 IN THE SE 1/4 OF SECTION 14
 T.2S, R.1E, W.M.
 CITY OF WEST LINN
 CLACKAMAS COUNTY, OREGON
 TAX MAP 2 1E 14DC
 JUNE 22, 2022



- NOTES:**
- ELEVATIONS ARE ON NAVD83, DERIVED BY GPS OBSERVATIONS. NO GEODETIC BENCHMARK HAS BEEN REFERENCED IN THIS SURVEY.
 - THE BOUNDARIES AS SHOWN ON THIS MAP ARE BASED ON FOUND MONUMENTS, AND RECORD SURVEY AND DEED INFORMATION. THIS MAP DOES NOT REPRESENT A SURVEY TO BE RECORDED, BUT WAS DONE FOR SITE/TOPO INFORMATION ONLY.
 - THIS SURVEY IS MADE FOR THE ORIGINAL PURCHASER OF THE SURVEY ONLY. ANDY PARIS & ASSOCIATES, INC. ASSUMES NO LIABILITY FOR INFORMATION SHOWN HEREON TO ANY OTHER INSTITUTIONS OR SUBSEQUENT PURCHASERS OF THE PROPERTY.
 - SURVEY IS VALID ONLY IF PRINT HAS SEAL AND SIGNATURE OF SURVEYOR.
 - THE LOCATION AND OR EXISTENCE OF UTILITY SERVICE LINES AS SHOWN ON THIS MAP ARE BASED ON FIELD OBSERVATION OF ABOVE GROUND STRUCTURES AND UNDERGROUND UTILITY LOCATIONS BY OREGON UTILITY NOTIFICATION CENTER. THERE MAY EXIST ADDITIONAL SERVICE LINES NOT SHOWN ON THIS SURVEY.
 - SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT.
 - THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SURVEYOR. THERE MAY EXIST EASEMENTS, CONDITIONS, OR RESTRICTIONS THAT COULD AFFECT THE TITLE OF THIS PROPERTY. NO ATTEMPT HAS BEEN MADE IN THIS SURVEY TO SHOW SUCH MATTERS THAT MAY AFFECT TITLE.

LEGEND

	AREA DRAIN OR CATCH BASIN
	CLEAN OUT
	FIRE HYDRANT
	GUY ANCHOR
	SANITARY SEWER MANHOLE
	UTILITY BOX
	WATER VALVE
	GROUND SHOT - SPOT ELEVATION
	EDGE OF CONCRETE - SPOT ELEVATION
	EDGE OF GRAVEL - SPOT ELEVATION
	EDGE OF PAVEMENT - SPOT ELEVATION
	FINISH FLOOR - SPOT ELEVATION
	ROOF PEAK - SPOT ELEVATION
	TOP OF DECK - SPOT ELEVATION
	UNDERGROUND GAS LINE
	UNDERGROUND STORM LINE
	UNDERGROUND SANITARY LINE
	UNDERGROUND COMMUNICATION LINE
	UNDERGROUND WATER LINE
	FENCE LINE AS NOTED
	DECIDUOUS TREE
	EVERGREEN TREE



C2.0

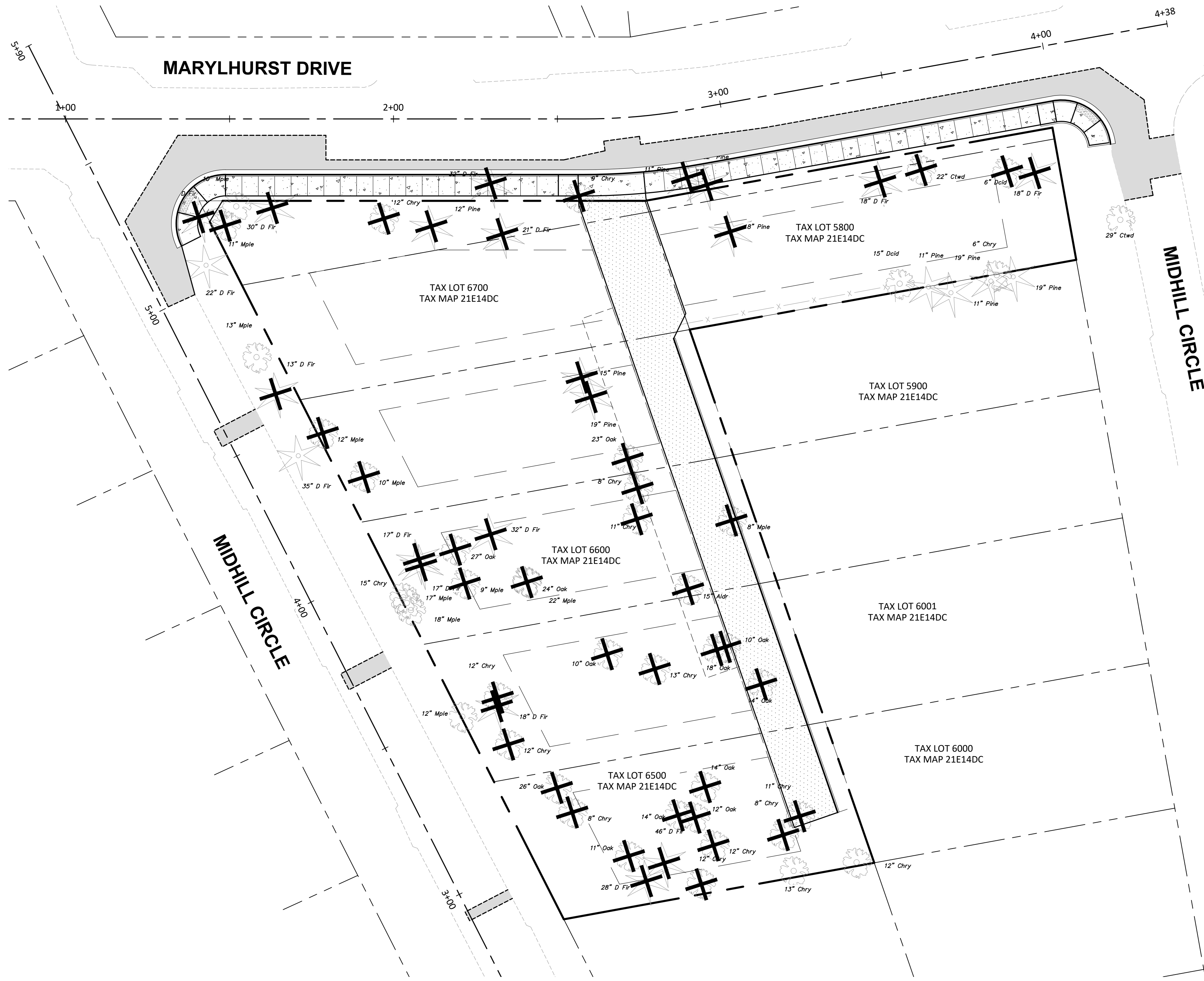
REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

 OREGON
 SEPTEMBER 10, 2019
 BRIAN LEGOS
 716679 S
 RENEWS: DEC. 31, 2022

(SINCE 1952)
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 PROFESSIONAL LAND SURVEYORS
 16057 BOONES FERRY ROAD
 LAKE OSWEGO, OREGON 97035
 PH: 503-636-3341
 www.andyparis.com

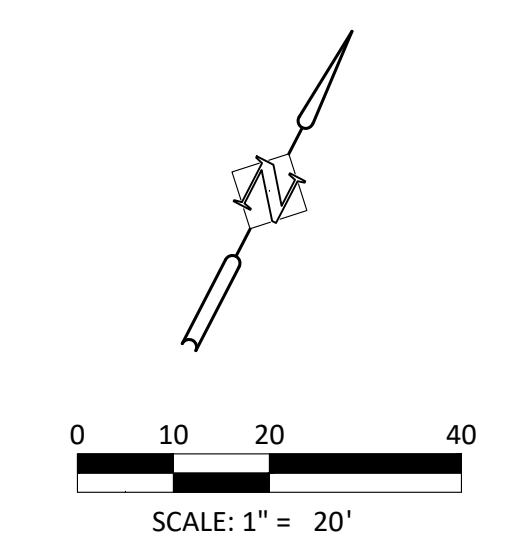
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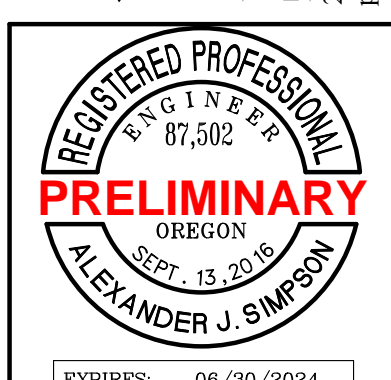
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- TREE REMOVAL
- EXISTING DECIDUOUS TREE TO REMAIN
- EXISTING CONIFER TREE TO REMAIN



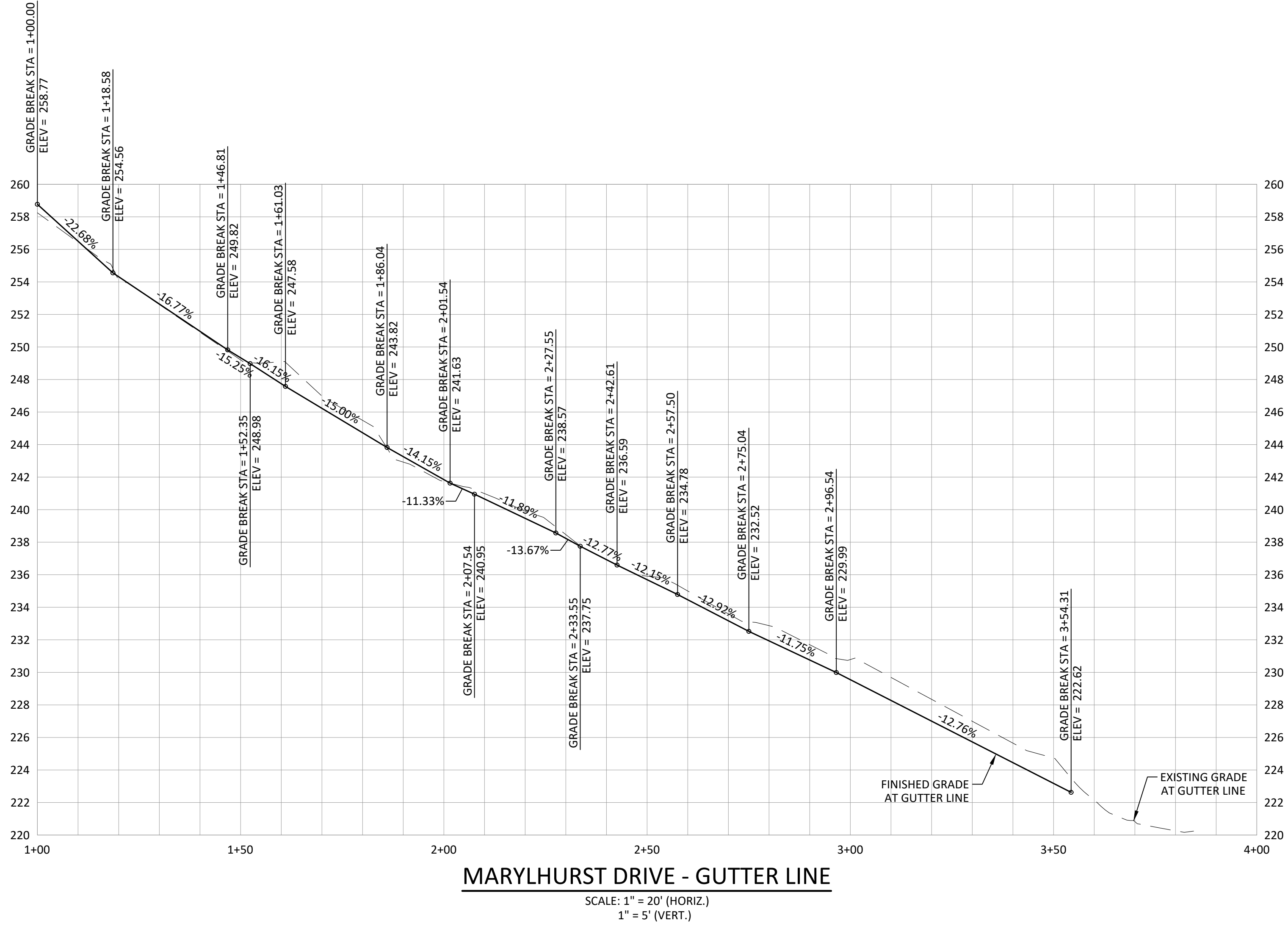
TREE PRESERVATION & REMOVAL PLAN
MARYLHURST SUBDIVISION
 WEST LINN, OR

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Righellis Inc.
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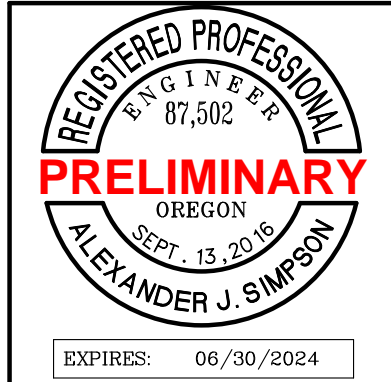


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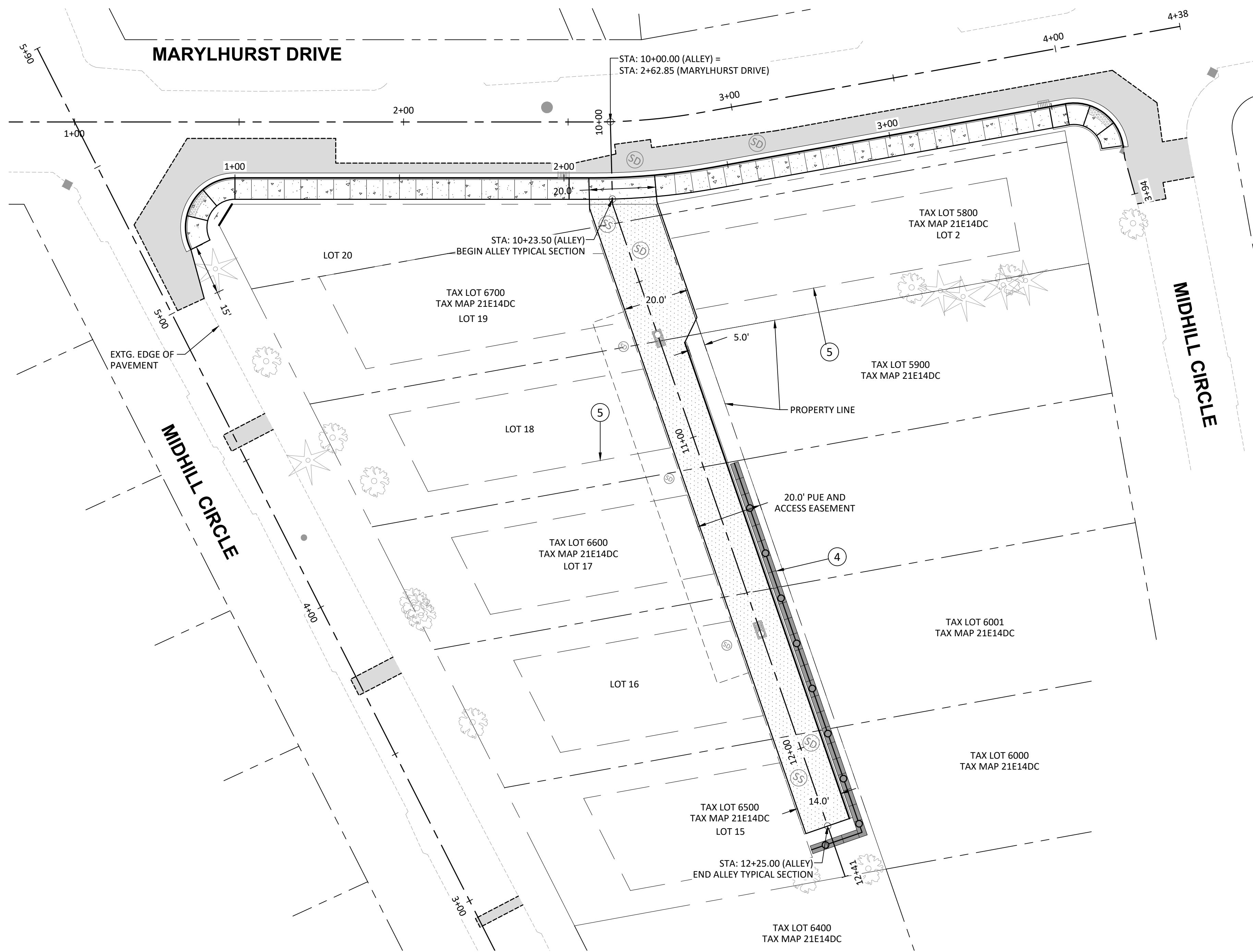


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C3.1
 JOB NO. TPH-02

MARYLHURST DRIVE GUTTER PROFILE
MARYLHURST SUBDIVISION
 WEST LINN, OR

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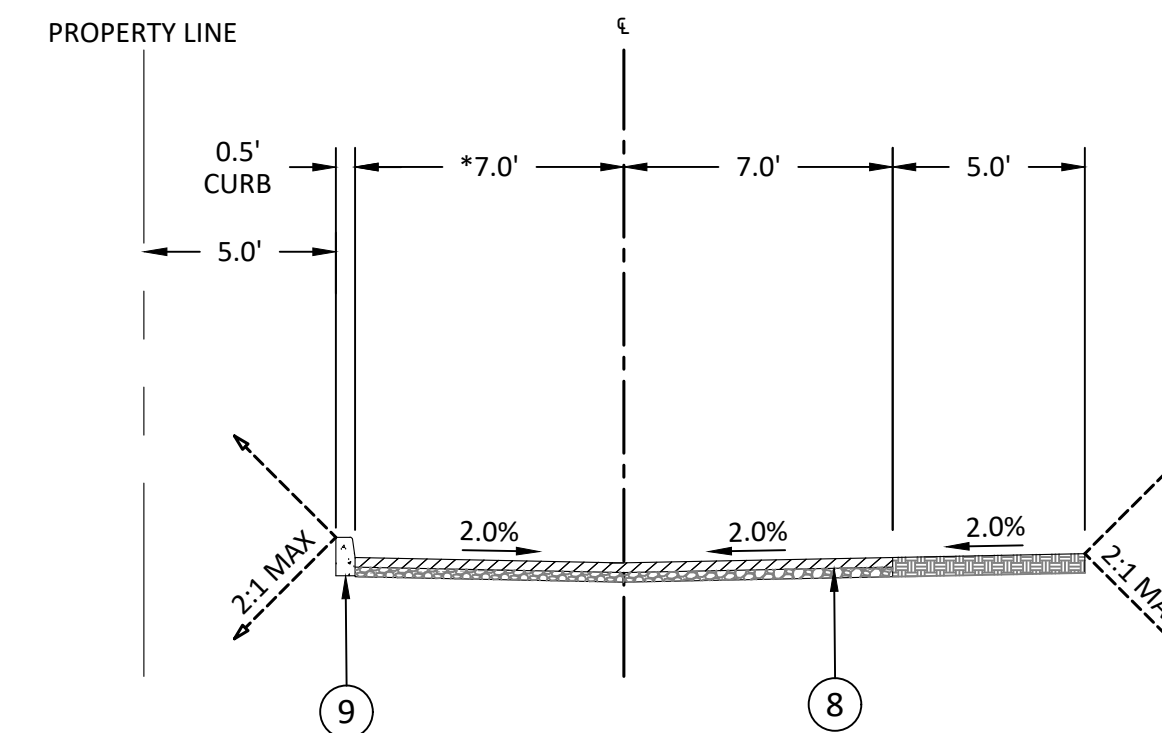


CONSTRUCTION NOTES:

- ④ CONSTRUCT ULTRABLOCK RETAINING WALL (OR EQUIVALENT) WITH CHAINLINK FALL-PROTECTION FENCING MOUNTED TO TOP OF WALL. WALL TO BE DESIGN-BUILD. CONTRACTOR TO SUBMIT ENGINEERED (STAMPED & SIGNED) SHOP-DRAWINGS TO ENGINEER FOR REVIEW PRIOR TO CONSTRUCTION. COORDINATE WITH GEOTECHNICAL ENGINEER FOR SUBGRADE PREPARATION AND REVIEW PRIOR TO CONSTRUCTION.
- ⑤ SETBACK LINE/FUTURE BUILDING ZONE FOOTPRINT (TYP.).
- ⑧ CONSTRUCT ASPHALT PAVEMENT SECTION PER DETAIL ON SHEET C6.4.
- ⑨ CONSTRUCT PRIVATE CURB PER STANDARD DETAIL ON SHEET C6.4.

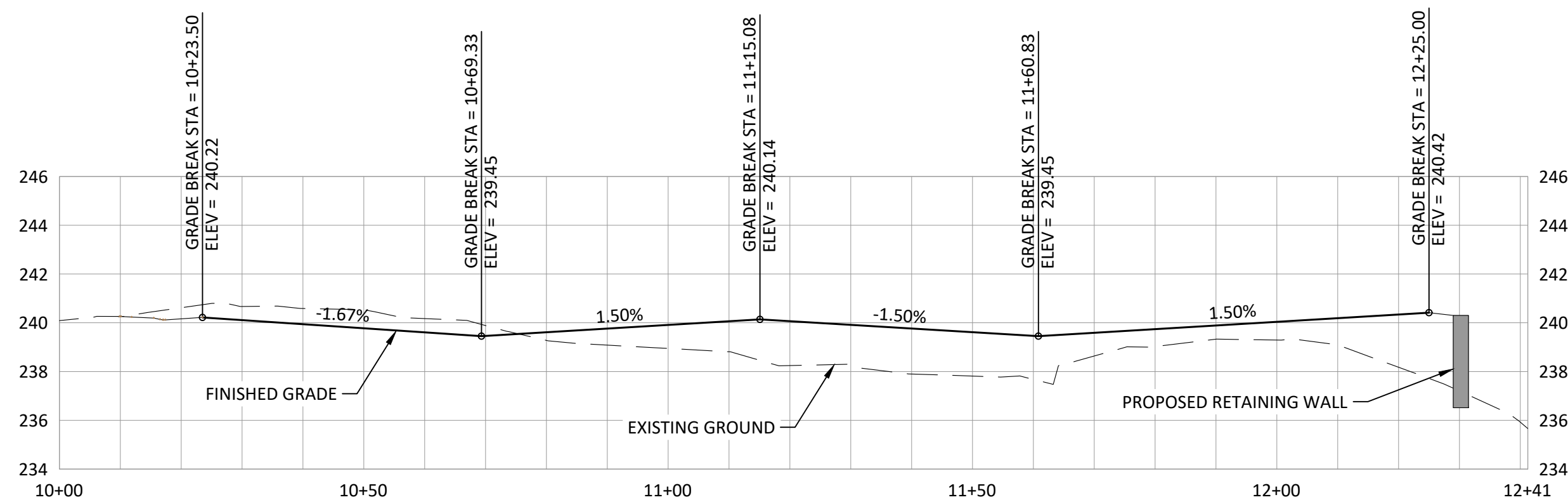
LEGEND

- ASPHALT CONCRETE (AC)
- ASPHALT PAVEMENT
- CONCRETE
- PROPOSED RETAINING WALL
- SAWCUT LINE
- EXISTING ROW LINE
- PROPOSED ROW LINE
- EXISTING PROPERTY LINE
- CENTERLINE
- FALL-PROTECTION FENCE
- PUBLIC UTILITY EASEMENT (PUE)
- SETBACK LINE/FUTURE BUILDING ZONE FOOTPRINT

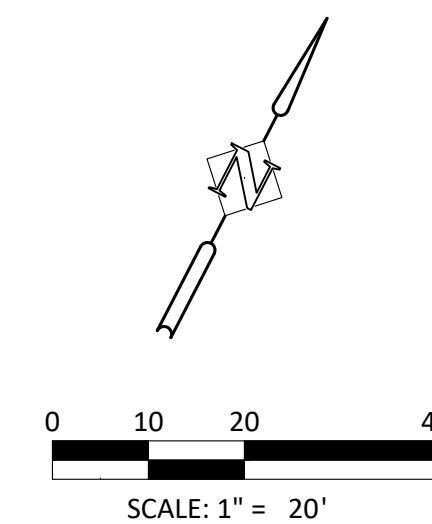


ALLEY TYPICAL SECTION

STA. 10+23.50 - STA. 12+25.00
 *STA 10+23.50 - 10+66.16, 13.0' WIDTH
 *STA 10+23.50 - 10+71.96, NO CURB



PRIVATE ALLEY
 SCALE: 1" = 20' (HORIZ.)
 1" = 5' (VERT.)



PRIVATE ALLEY PLAN AND PROFILE
MARYLHURST SUBDIVISION
 WEST LINN, OR

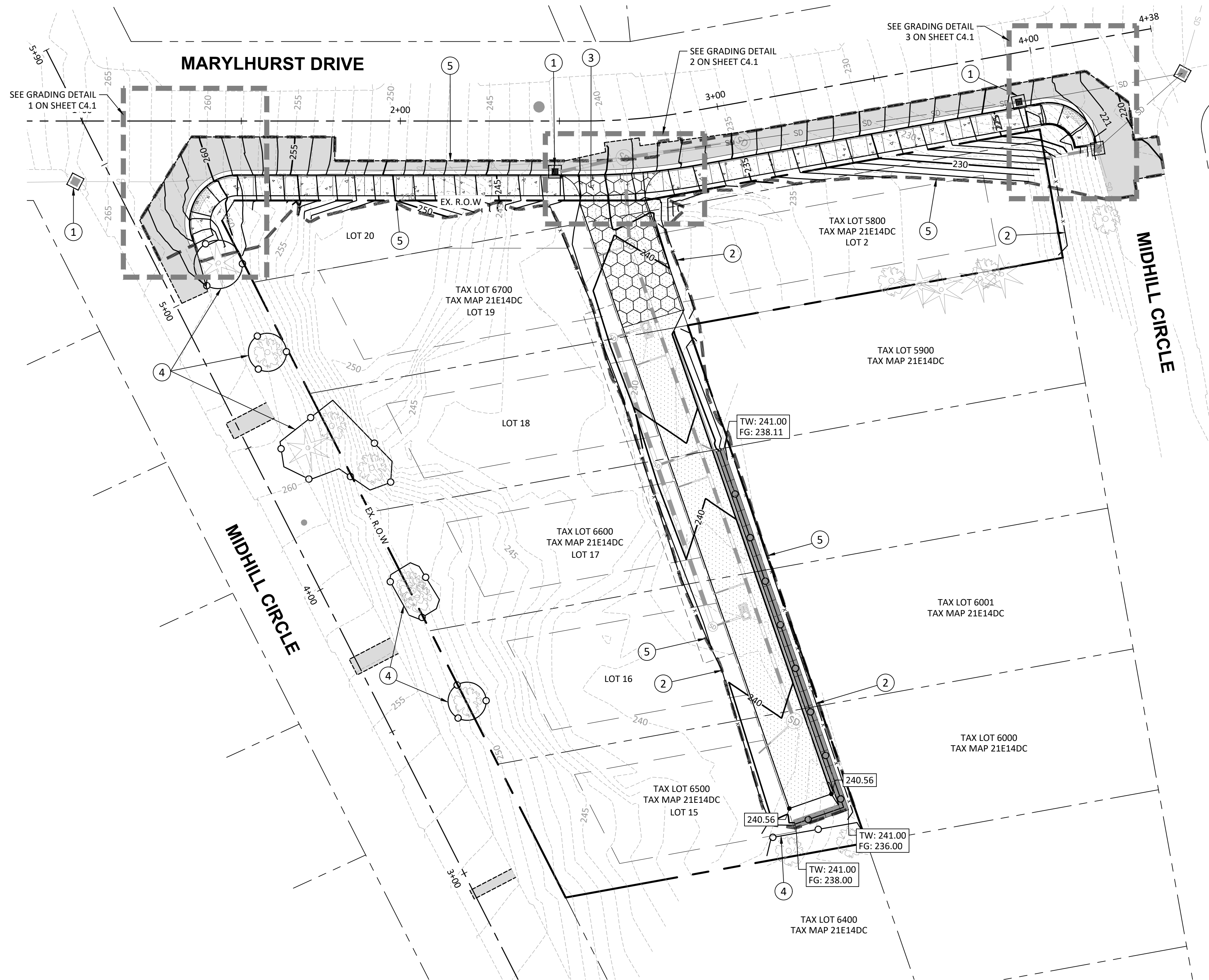
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REGISTERED PROFESSIONAL ENGINEER
 PRELIMINARY
 OREGON
 SEPT. 15, 2016
 ALEXANDER J. SIMPSON
 EXPIRES: 06/30/2024

DESIGNED:	HHPR	HHPR	HHPR	DATE:	02/02/2023
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SHEET NO.
C3.2
 JOB NO.
 TPH-02

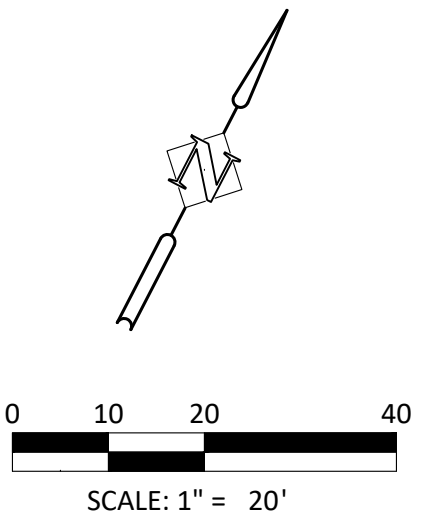


LEGEND

- ASPHALT CONCRETE (AC)
- ASPHALT PAVEMENT
- CONCRETE
- CONSTRUCTION ENTRANCE
- TREE PROTECTION FENCE
- SEDIMENT FENCE
- LIMITS OF GRADING
- INLET PROTECTION
- 100 EXISTING CONTOUR
- 101 PROPOSED MINOR CONTOUR
- 105 PROPOSED MAJOR CONTOUR
- EXISTING ROW LINE
- PROPOSED ROW LINE
- RETAINING WALL
- PUBLIC UTILITY EASEMENT (PUE)
- STORM LINE
- STORMWATER MANHOLE
- CATCH BASIN

- ### CONSTRUCTION NOTES:
- ① PROPOSED INLET PROTECTION PER DETAIL ON SHEET C6.4.
 - ② PROPOSED SEDIMENT FENCE PER DETAIL ON SHEET C6.4.
 - ③ PROPOSED CONSTRUCTION ENTRANCE PER DETAIL ON SHEET C6.4.
 - ④ INSTALL 6' TALL CHAINLINK TREE PROTECTION FENCING.
 - ⑤ LIMITS OF GRADING.

NOTE:
 ALL GRADING FILL MATERIAL PROPOSED ON SITE SHALL BE COORDINATED AND APPROVED BY A GEOTECHNICAL ENGINEER PRIOR TO CONSTRUCTION. HHPR PROVIDES NO INSTRUCTION AND TAKES NO RESPONSIBILITY REGARDING FILL MATERIAL AND PLACEMENT DURING CONSTRUCTION.



MASS GRADING & EROSION CONTROL PLAN
MARYLHURST SUBDIVISION
 WEST LINN, OR

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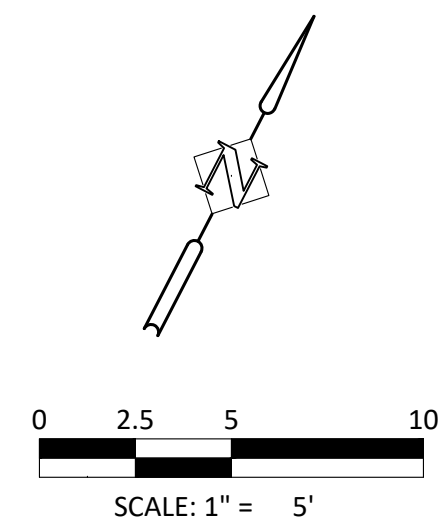
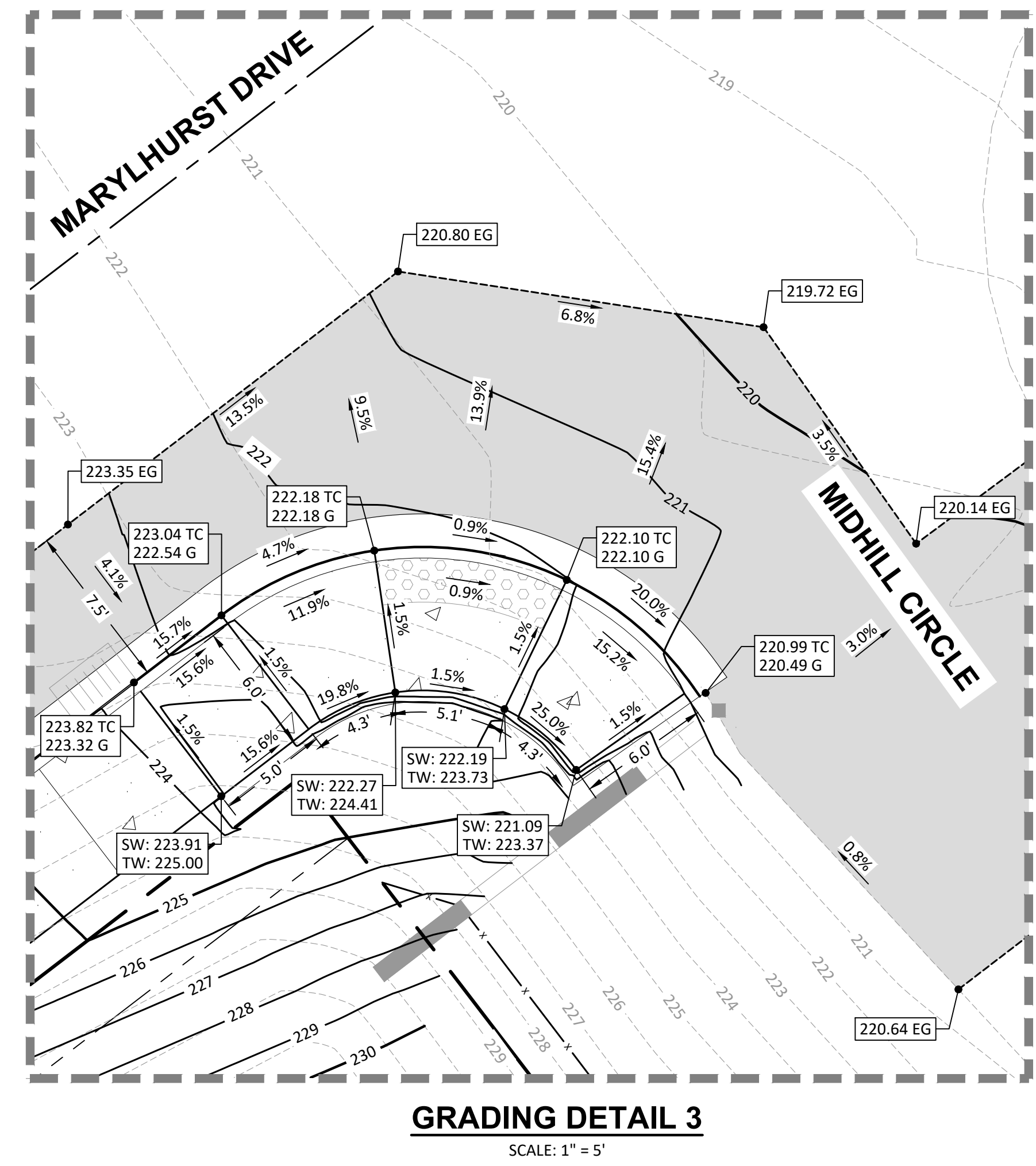
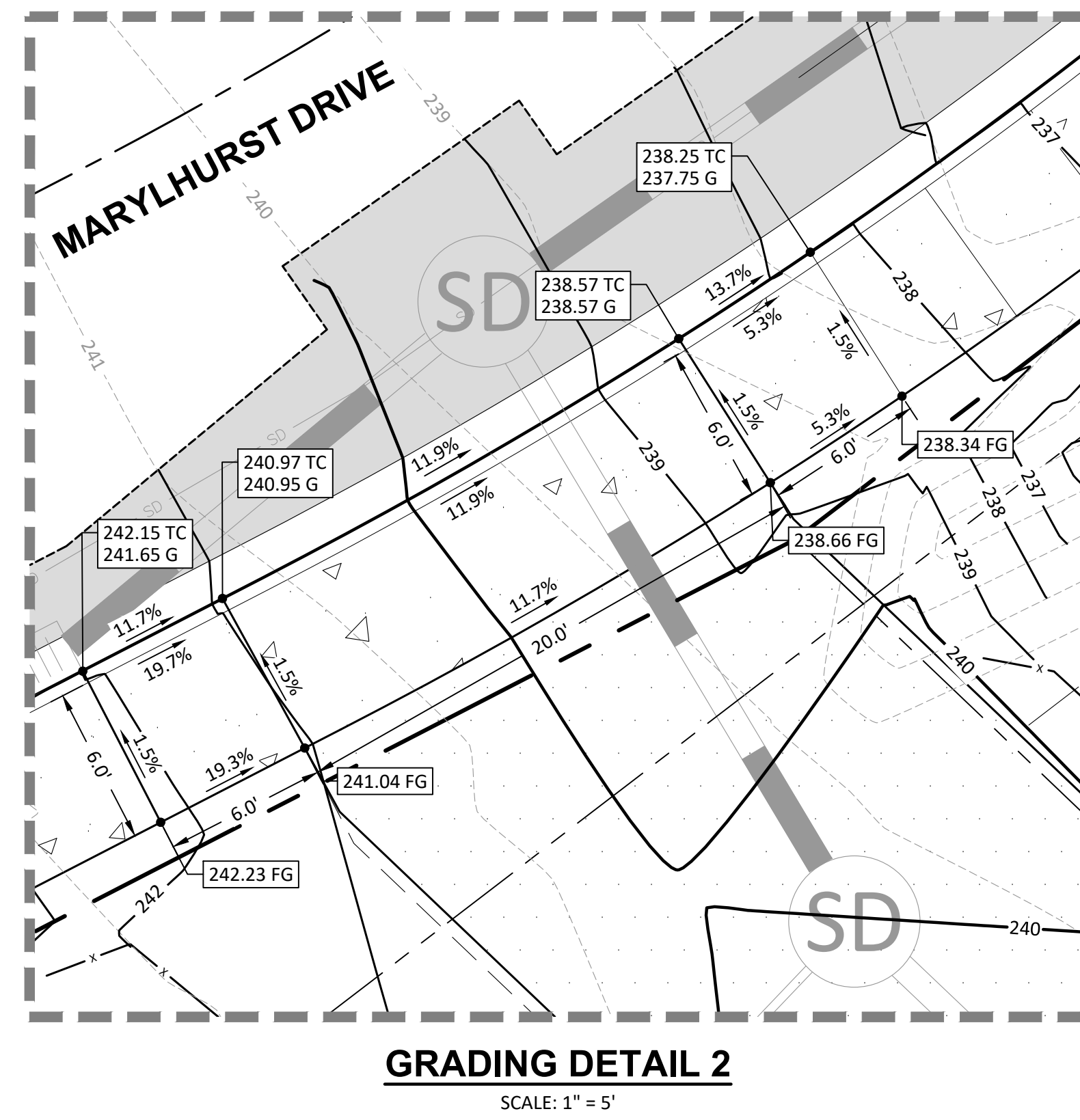
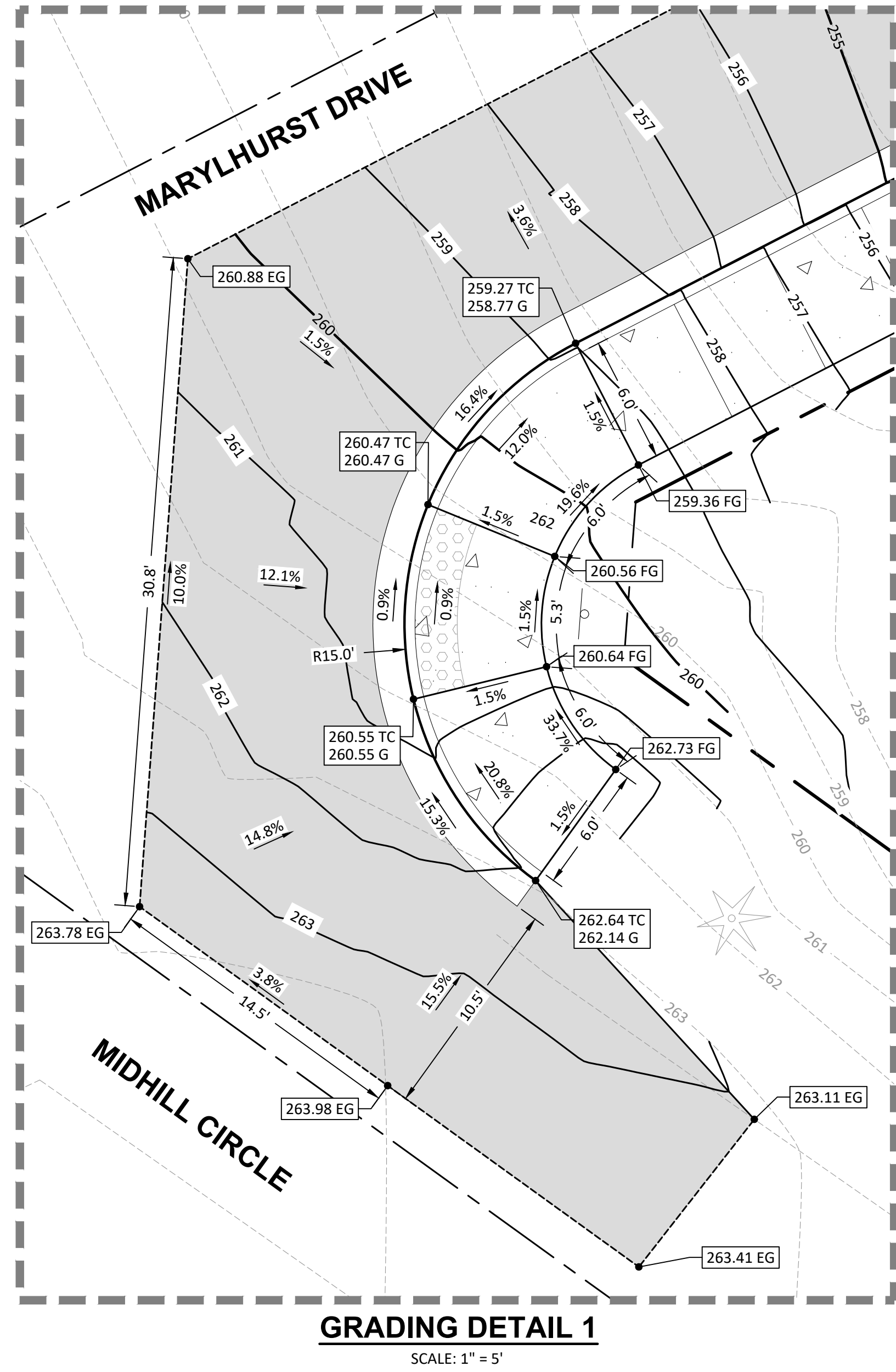
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 PRELIMINARY
 OREGON
 SEPT. 15, 2016
 ALEXANDER J. SIMPSON
 EXPIRES: 06/30/2024

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DATE	NO.	DESCRIPTION

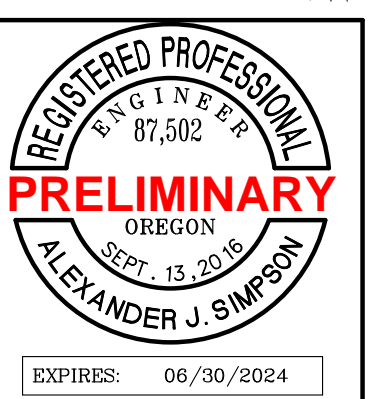
SHEET NO.
C4.0
 JOB NO.
 TPH-02

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GRADING DETAILS
MARYLHURST SUBDIVISION
WEST LINN, OR

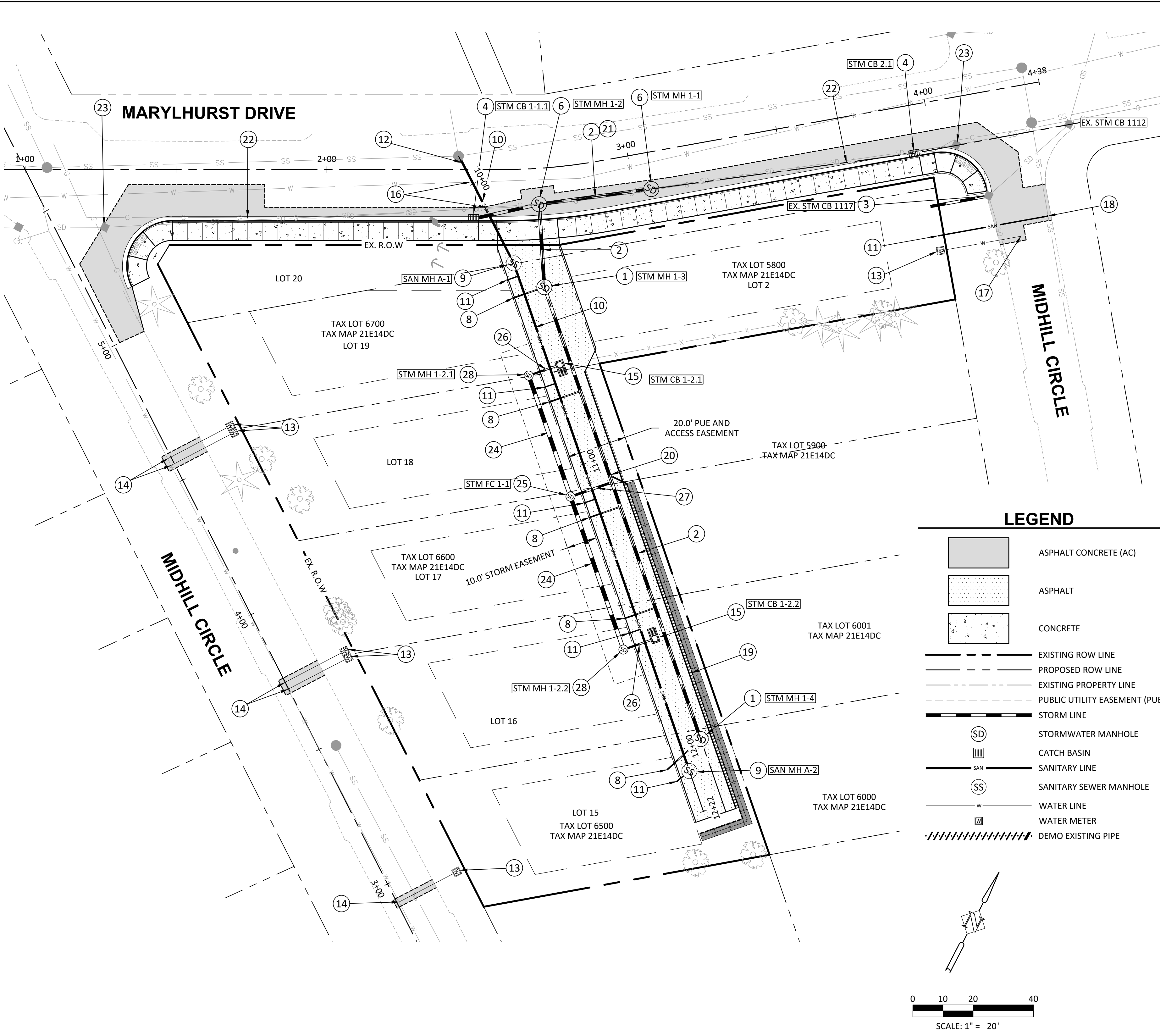
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SHEET NO.
C4.1
JOB NO.
TPH-02

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CONSTRUCTION NOTES:

- 1 CONSTRUCT PUBLIC 48" STORM MANHOLE PER RD335 AND RD336 ON SHEET C6.1.
- 2 CONSTRUCT PUBLIC 12" PVC (ASTM D-3034) STORM MAIN.
- 3 CORE NEW 10" STORM LATERAL INTO EXISTING CATCH BASIN. ADJUST (RAISE) EXTG. CB RIM TO FINISHED GRADE.
- 4 CONSTRUCT PUBLIC STORM CG-2 CATCH BASIN PER ODOT STD. DWG. RD366 ON SHEET C6.2.
- 6 CONSTRUCT PUBLIC 48" STORM MANHOLE OVER EXISTING STORM LINE. CONTRACTOR TO POTHOLE EXISTING STORM MAIN PRIOR TO CONSTRUCTION TO CONFIRM EXISTING SIZE AND INVERT ELEVATIONS. CAUTION: EXISTING GAS LINE NEARBY. CONTRACTOR TO COORDINATE WITH NW NATURAL PRIOR TO CONSTRUCTION TO DETERMINE IF CONFLICT EXISTS.
- 8 CONSTRUCT 4" STORM LATERAL.
- 9 CONSTRUCT PUBLIC 48" SANITARY MANHOLE.
- 10 CONSTRUCT PUBLIC 8" PVC (ASTM D-3034) SANITARY MAIN.
- 11 CONSTRUCT 4" SANITARY LATERAL PER CITY OF WEST LINN STANDARD DRAWING WL-RD341 ON SHEET C6.1.
- 12 CONNECT TO EXISTING SANITARY MANHOLE.
- 13 PROPOSED 3/4" DOMESTIC WATER SERVICE AND METER BY CITY OF WEST LINN. COORDINATE WITH CITY OF WEST LINN PUBLIC WORKS PRIOR TO CONSTRUCTION.
- 14 HOT TAP EXISTING PUBLIC WATER MAIN FOR NEW DOMESTIC WATER SERVICE BY CITY OF WEST LINN CREWS. COORDINATE WITH CITY OF WEST LINN PUBLIC WORKS PRIOR TO CONSTRUCTION. CITY OPERATIONS CREW TO INSTALL NEW SERVICES, CONTRACTOR TO PERFORM STREET PATCHING REPAIR.
- 15 CONSTRUCT STORMFILTER CATCHBASIN PER DETAIL SHEET C6.3.
- 16 PROPOSED SANITARY CROSSING WITH EXISTING PUBLIC STORM MAIN, WATER LINE, GAS LINE. CONTRACTOR TO POTHOLE EXISTING UTILITIES AT CROSSING LOCATIONS PRIOR TO CONSTRUCTION AND NOTIFY ENGINEER.
- 17 HOT TAP EXISTING PUBLIC WATER MAIN FOR NEW DOMESTIC WATER SERVICE. WATER MAIN LOCATION IS BASED ON CITY OF WEST LINN GIS AND HAS NOT BEEN SURVEYED. CONTRACTOR TO LOCATE WATER MAIN LOCATION AND COORDINATE WITH CITY OF WEST LINN PUBLIC WORKS PRIOR TO CONSTRUCTION, CITY OPERATIONS CREW TO INSTALL NEW SERVICES.
- 18 TEE 4" SANITARY LATERAL INTO MAIN PER CITY OF WEST LINN STANDARD DRAWING WL-RD341 ON SHEET C6.1.
- 19 INSTALL 4" DIAMETER PERFORATED WALL DRAIN AT BOTTOM OF RETAINING WALL.
- 20 CONNECT 4" PERFORATED WALL DRAIN TO STORM SYSTEM. INSTALL BACKWATER VALVE (CLEANCHECK OR EQUAL) ON SOLID STORM PIPE CONNECTION.
- 21 REMOVE EXISTING STORM LINE.
- 22 CAUTION! EXISTING NW NATURAL GAS MAINLINE. CONTRACTOR TO POTHOLE PRIOR TO CONSTRUCTION TO CONFIRM LOCATION AND DEPTH. IF CONFLICT EXISTS, CONTRACTOR SHALL NOTIFY NW NATURAL FOR INSPECTION PRIOR TO AND DURING CONSTRUCTION.
- 23 REMOVE EXISTING CATCH BASIN. REPAIR EXISTING PUBLIC 12" STORM PIPE SYSTEM AT NEAREST PIPE JOINTS WITH NEW STORM PIPE. REPAIR ASPHALT PAVEMENT.
- 24 CONSTRUCT 15" PVC (ASTM-3034) STORM PIPE.
- 25 CONSTRUCT 30" NYLOPLAST FLOW CONTROL STRUCTURE PER DETAIL ON SHEET 6.3. CONNECT TO 12" STORM MAIN WITH 8" X 12" TEE.
- 26 CONSTRUCT PUBLIC 6" PVC (ASTM D-3034) STORM PIPE.
- 27 CONSTRUCT PUBLIC 8" PVC (ASTM D-3034) STORM PIPE.
- 28 CONSTRUCT 24" NYLOPLAST DRAIN BASIN WITH LOCKING FRAME AND COVER PER MANUFACTURER DETAILS AND SPECIFICATIONS PER DETAIL ON SHEET C6.3.

NOTE: SEE SHEET C5.1 FOR UTILITY PROFILES

STORM LATERAL TABLE			
LOT #	LOCATION	IE AT LOT	COVER AT LOT
LOT 2	STM 1, STA: 8+84.48, 18.32 L	223.03	7.03'
LOT 15	STM 1, STA: 12+03.93, 13.84 R	235.07	5.26'
LOT 16	STM 1, STA: 11+51.94, 11.00 R	234.57	5.15'
LOT 17	STM 1, STA: 11+16.54, 11.00 R	234.38	5.87'
LOT 18	STM 1, STA: 10+76.02, 11.00 R	234.15	5.57'
LOT 19	STM 1, STA: 10+39.55, 11.00 R	234.12	5.96'

SANITARY LATERAL TABLE			
LOT #	LOCATION	IE AT LOT	COVER AT LOT
LOT 2	MARYLHURST DRIVE, STA: 3+96.45, 44.27' R	223.83	6.91'
LOT 15	SAN A, STA: 12+09.44, 5.15' R	236.81	3.56'
LOT 16	SAN A, STA: 11+57.86, 4.00' R	236.67	2.96'
LOT 17	SAN A, STA: 11+12.23, 4.00' R	236.42	3.84'
LOT 18	SAN A, STA: 10+71.71, 4.00' R	236.20	3.45'
LOT 19	SAN A, STA: 10+34.08, 4.00' R	235.99	4.23'

SANITARY STRUCTURE TABLE				
NUMBER	DESCRIPTION	LOCATION	RIM ELEV.	INVERT ELEV.
EX. SAN MH	EXISTING SANITARY SEWER MANHOLE	MARYLHURST DRIVE STA: 2+43.58, 4.44' (L)	243.02	8" IE IN (SE) = 235.50 8" IE IN (SW) = 235.50 8" IE IN (NW) = 235.40 8" IE OUT (NE) = 235.30
SAN MH A-1	48" SAN MH	SAN A STA: 10+29.58, 0.00' (I)	240.46	8" IE IN (SE) = 235.72 8" IE OUT (NW) = 235.72
SAN MH A-2	48" SAN MH	SAN A STA: 12+07.58, 0.00' (I)	240.23	8" IE OUT (NW) = 236.70 4" IE IN (SW) = 236.70

STORM STRUCTURE TABLE				
NUMBER	DESCRIPTION	LOCATION	RIM ELEV.	INVERT ELEV.
EX. STM CB 1112	EX. CB	STM 1 STA: 8+34.46, 0.11' (R)	217.19	15" IE IN (SW) = 215.08 18" IE OUT (N) = 214.76
EX. STM CB 1117	EXISTING CATCH BASIN ADJUST (RAISE) CB RIM TO FG	MARYLHURST DRIVE STA: 4+15.30, 34.13' (R)	220.50	10" IE IN (SW) = 218.20 12" IE IN (SE) = 218.10
STM CB 1-1-1	CB	MARYLHURST DRIVE STA: 2+48.62, 15.93' (R)	241.92	12" IE OUT (NE) = 232.18
STM CB 1-2-1	STORMFILTER CB	STM 1 STA: 10+66.71, 3.50' (R)	239.47	6" IE OUT (SW) = 234.18
STM CB 1-2-2	STORMFILTER CB	STM 1 STA: 11+60.41, 3.50' (R)	239.47	6" IE OUT (SW) = 234.18
STM CB 2-1	CB	MARYLHURST DRIVE STA: 3+93.52, 15.93' (R)	223.51	12" IE IN (SW) = 218.90 15" IE OUT (NE) = 218.80
STM FC 1-1	30" NYLOPLAST FLOW CONTROL STRUCTURE	STM 1 STA: 11+07.96, 14.50' (R)	240.27	15" IE IN (NW) = 234.06 15" IE IN (SE) = 234.06 8" IE OUT (NE) = 234.06
STM MH 1-1	STANDARD MANHOLE (ECCENTRIC)	STM 1 STA: 9+74.53, 0.02' (L)	234.59	12" IE IN (SW) = 229.11
STM MH 1-2	48" STM MH	MARYLHURST DRIVE STA: 2+69.59, 11.89' (R)	239.32	12" IE IN (SW) = 231.74 12" IE OUT (NE) = 232.02 12" IE IN (SE) = 232.02
STM MH 1-2-1	24" NYLOPLAST DRAIN BASIN & ACCESS STRUCTURE	STM 1 STA: 10+65.53, 14.50' (R)	239.73	6" IE IN (NE) = 234.06 15" IE OUT (SE) = 234.06
STM MH 1-2-2	24" NYLOPLAST DRAIN BASIN & ACCESS STRUCTURE	STM 1 STA: 11+61.58, 14.50' (R)	239.71	6" IE IN (NE) = 234.06 15" IE OUT (NW) = 234.06
STM MH 1-3	48" STM MH	STM 1 STA: 10+39.55, 0.00' (I)	240.00	12" IE IN (SE) = 233.40 12" IE OUT (NW) = 233.40 4" IE IN (SW) = 233.90
STM MH 1-4	48" STM MH	STM 1 STA: 11+97.98, 0.00' (I)	240.10	12" IE OUT (NW) = 234.27 4" IE IN (S) = 234.77

UTILITY PLAN
MARYLHURST SUBDIVISION
 WEST LINN, OR

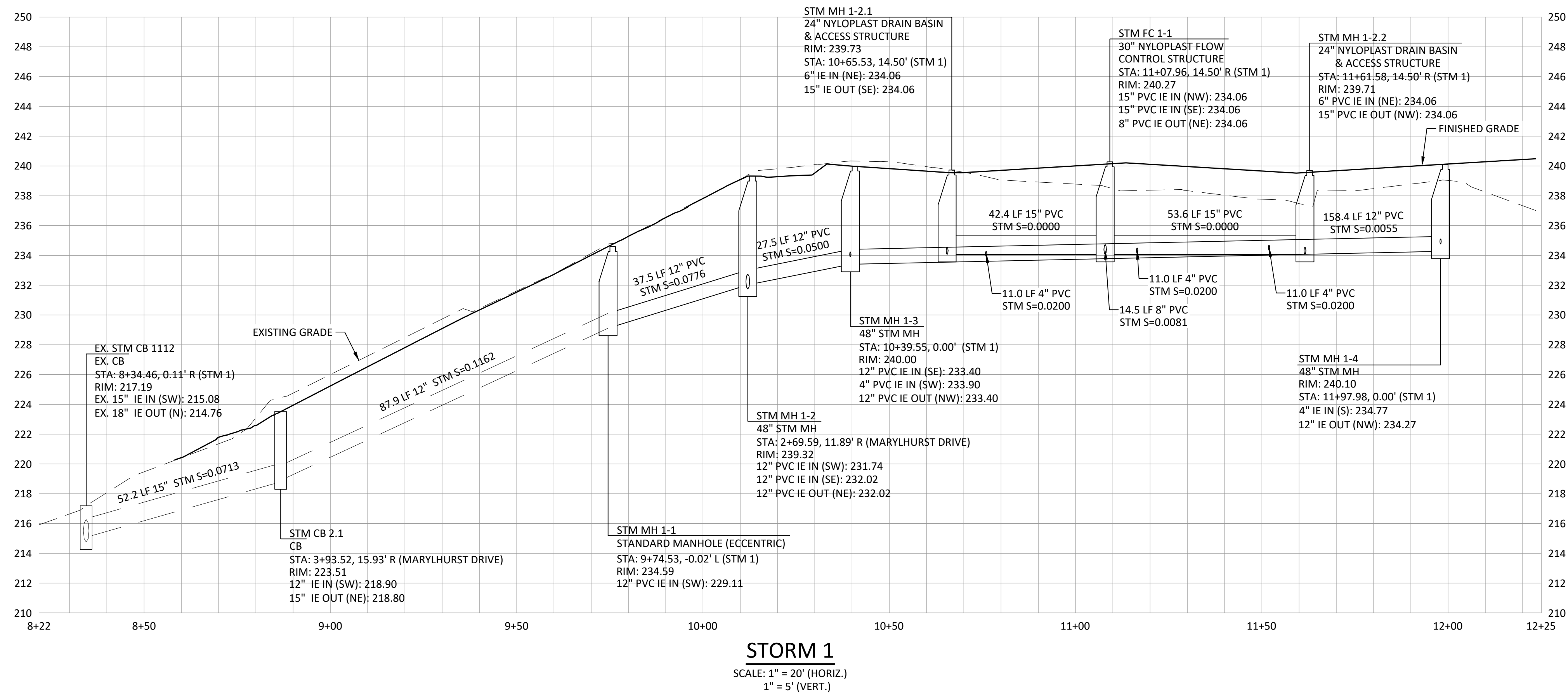
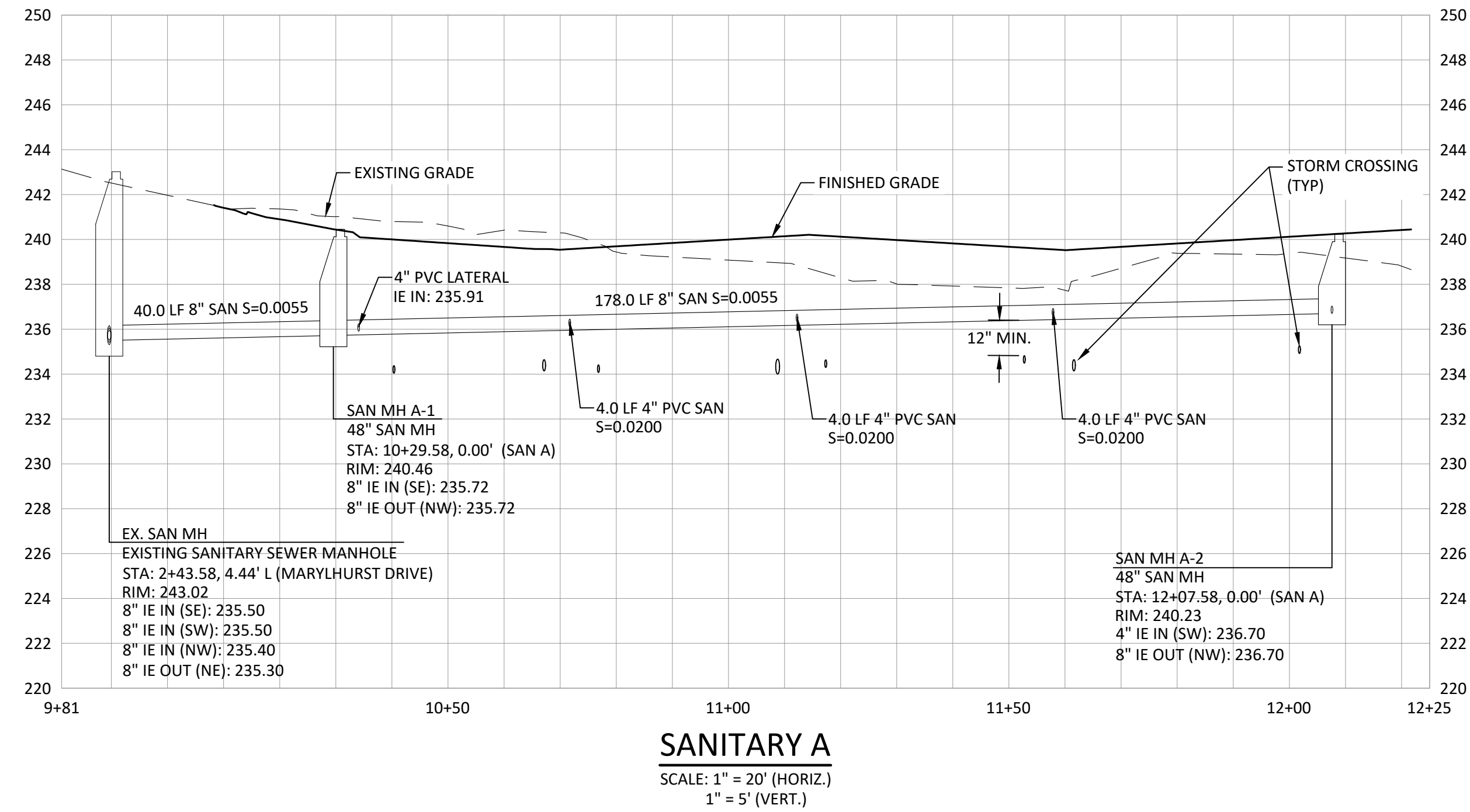
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REGISTERED PROFESSIONAL ENGINEER
 PRELIMINARY
 ALEXANDER J. SIMPSON
 EXPIRES: 06/30/2024

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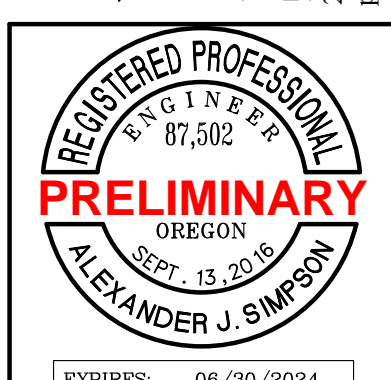
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C5.0
 JOB NO. TPH-02

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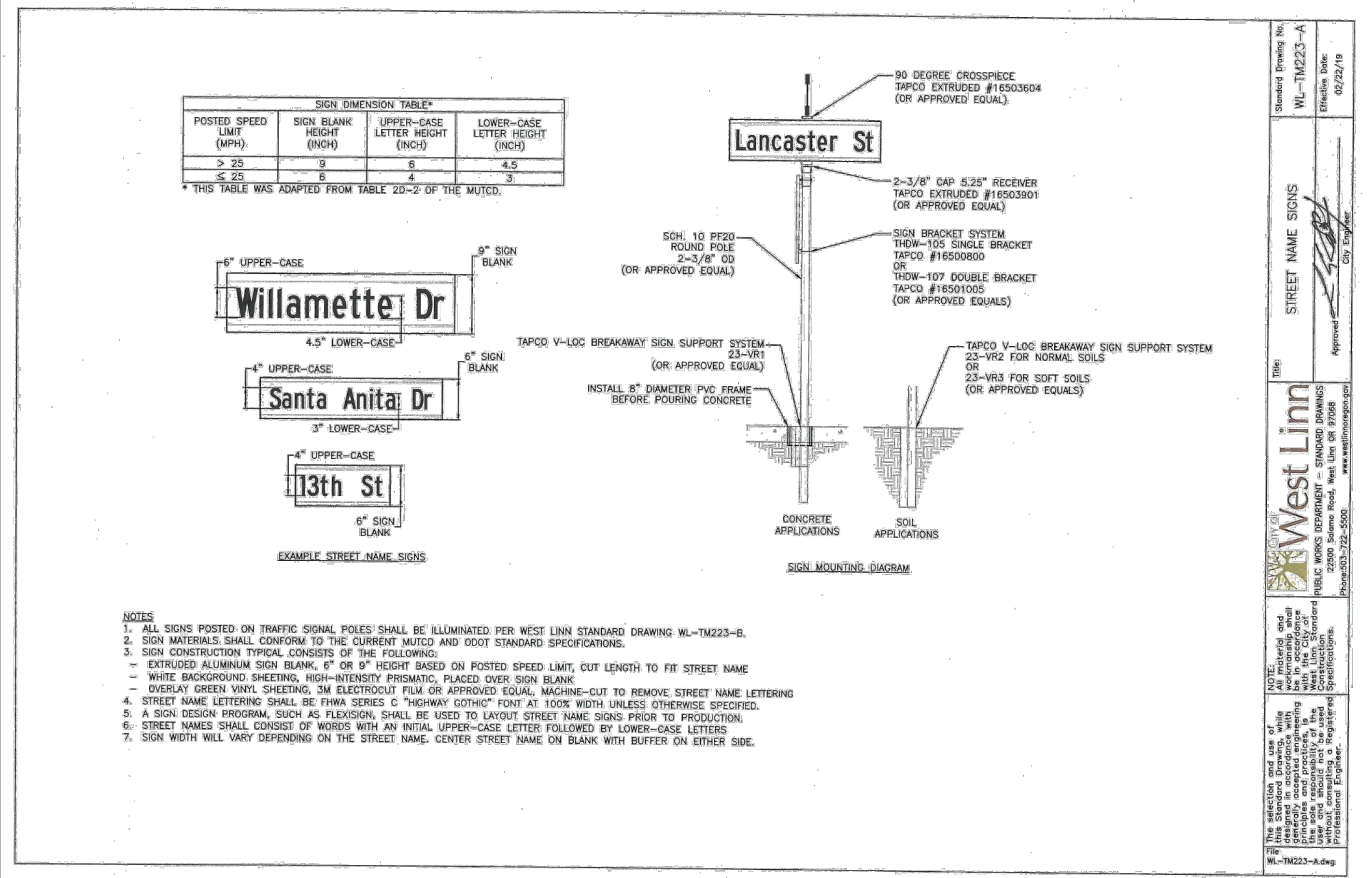
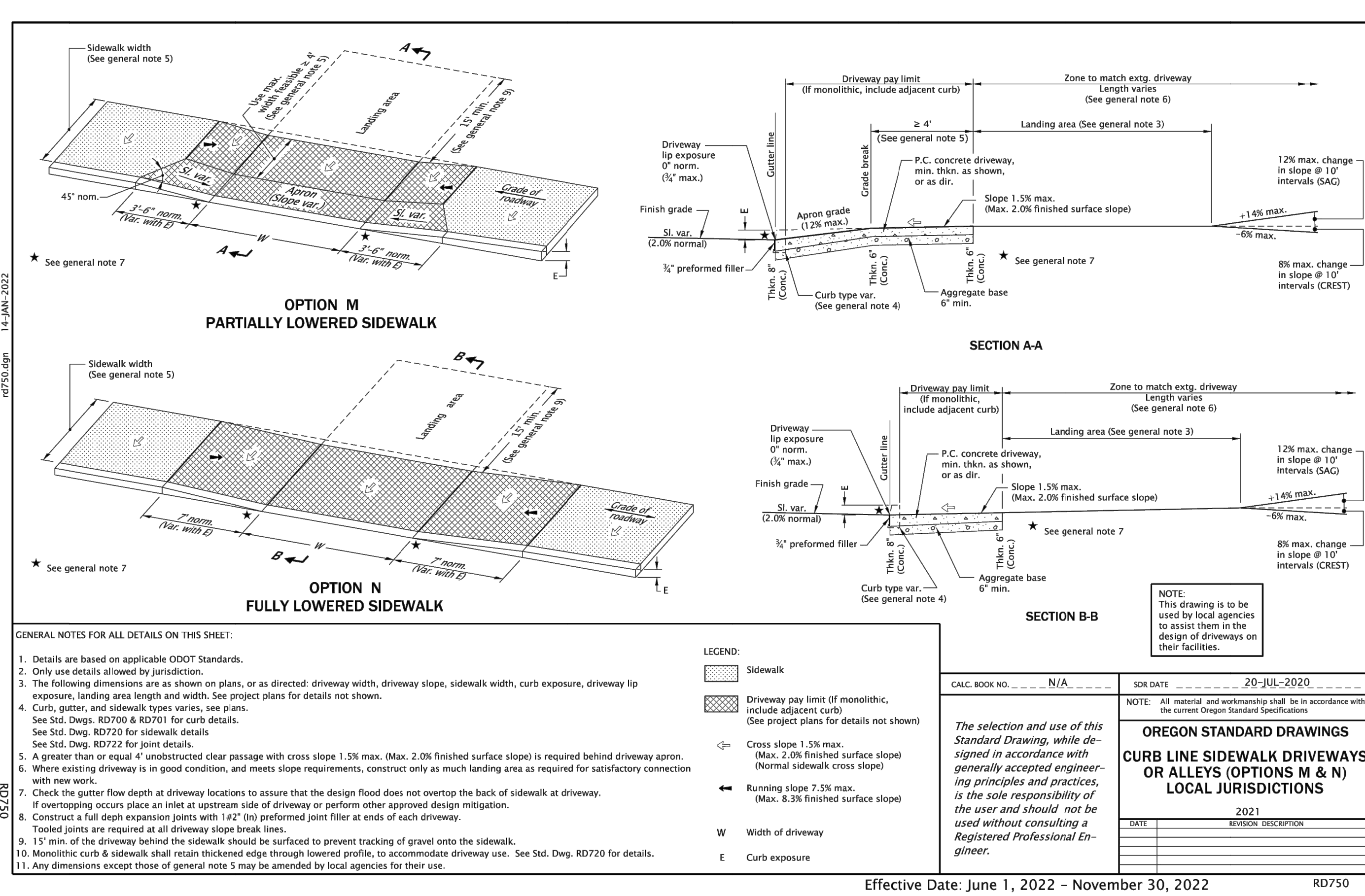
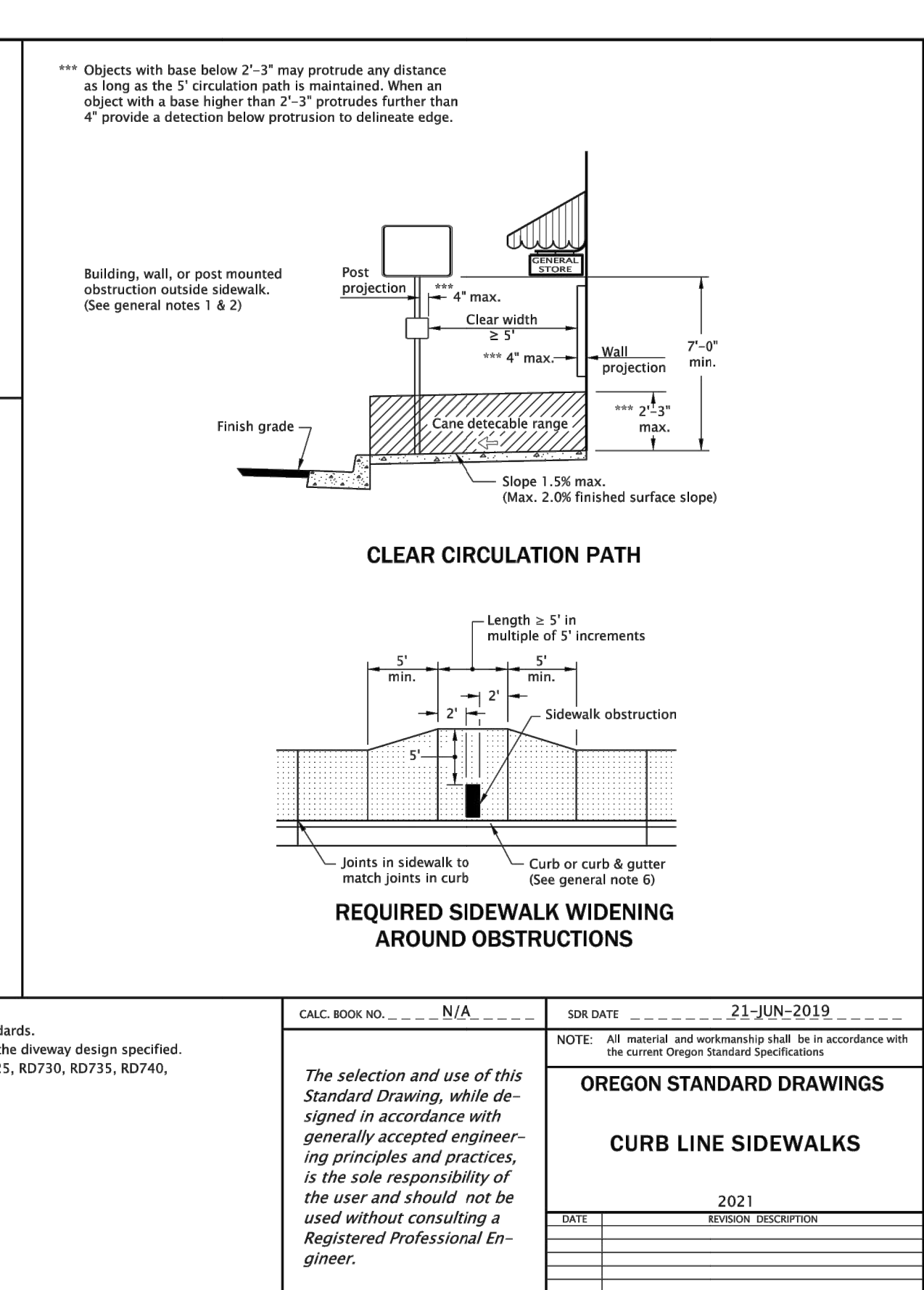
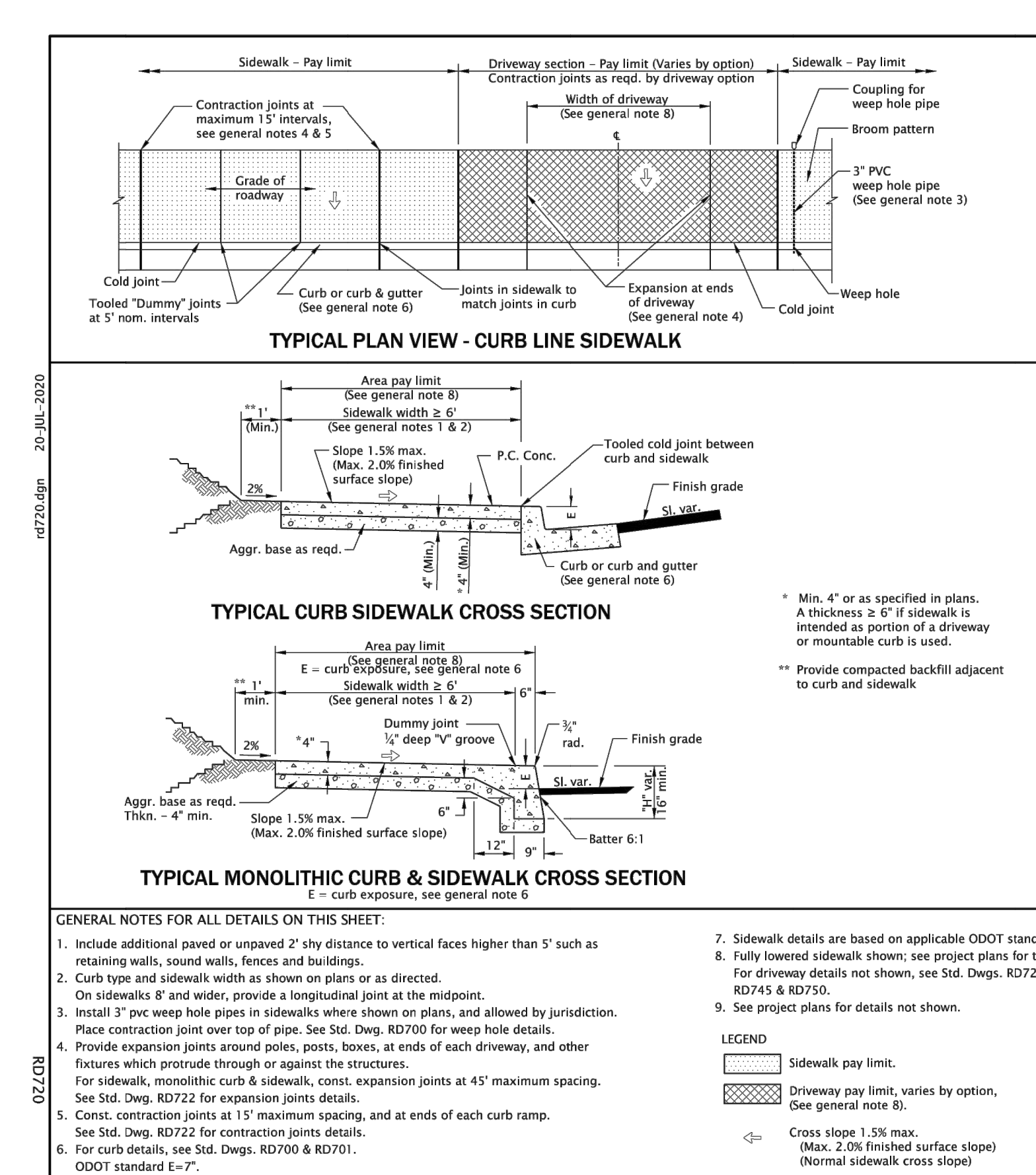
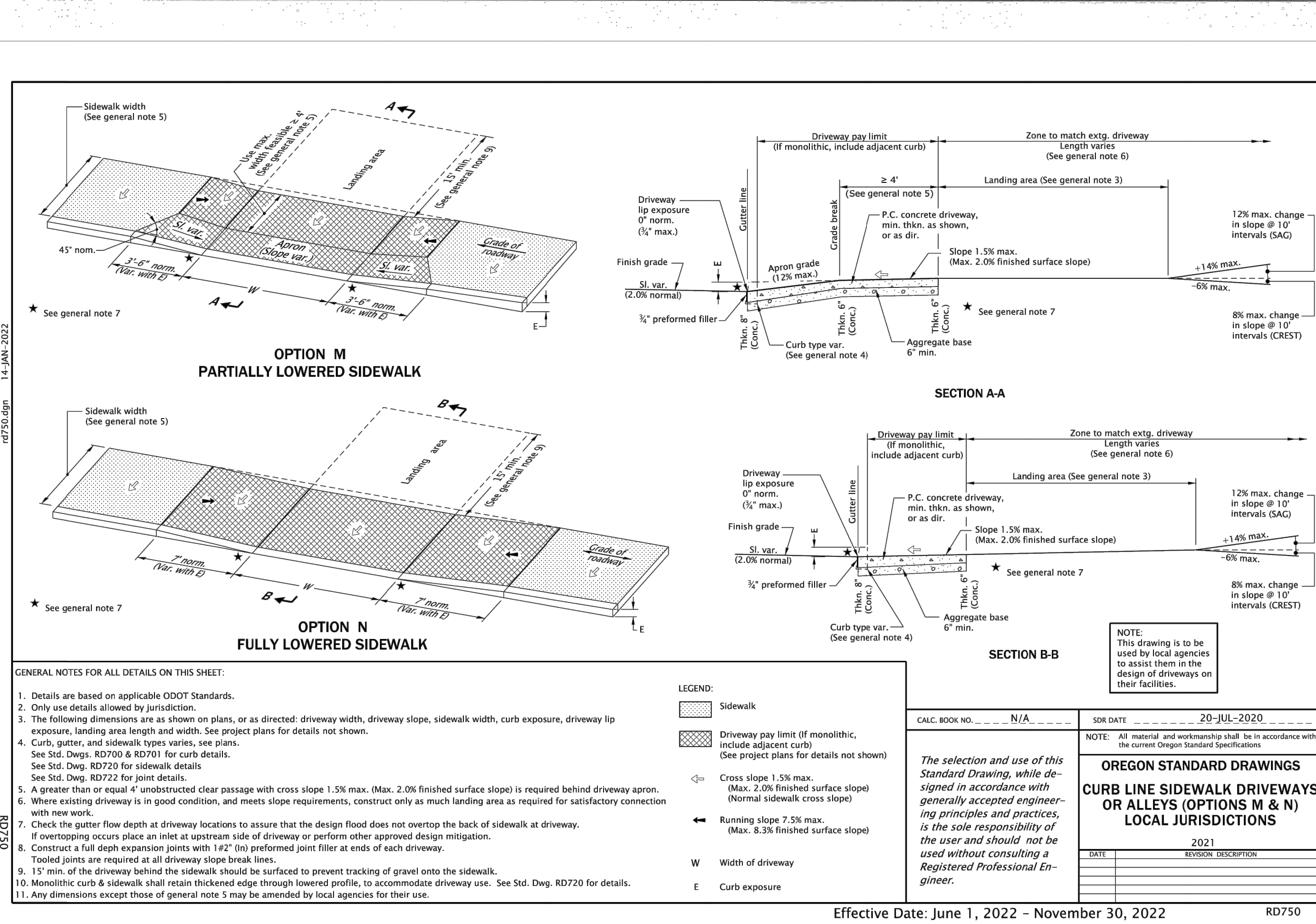
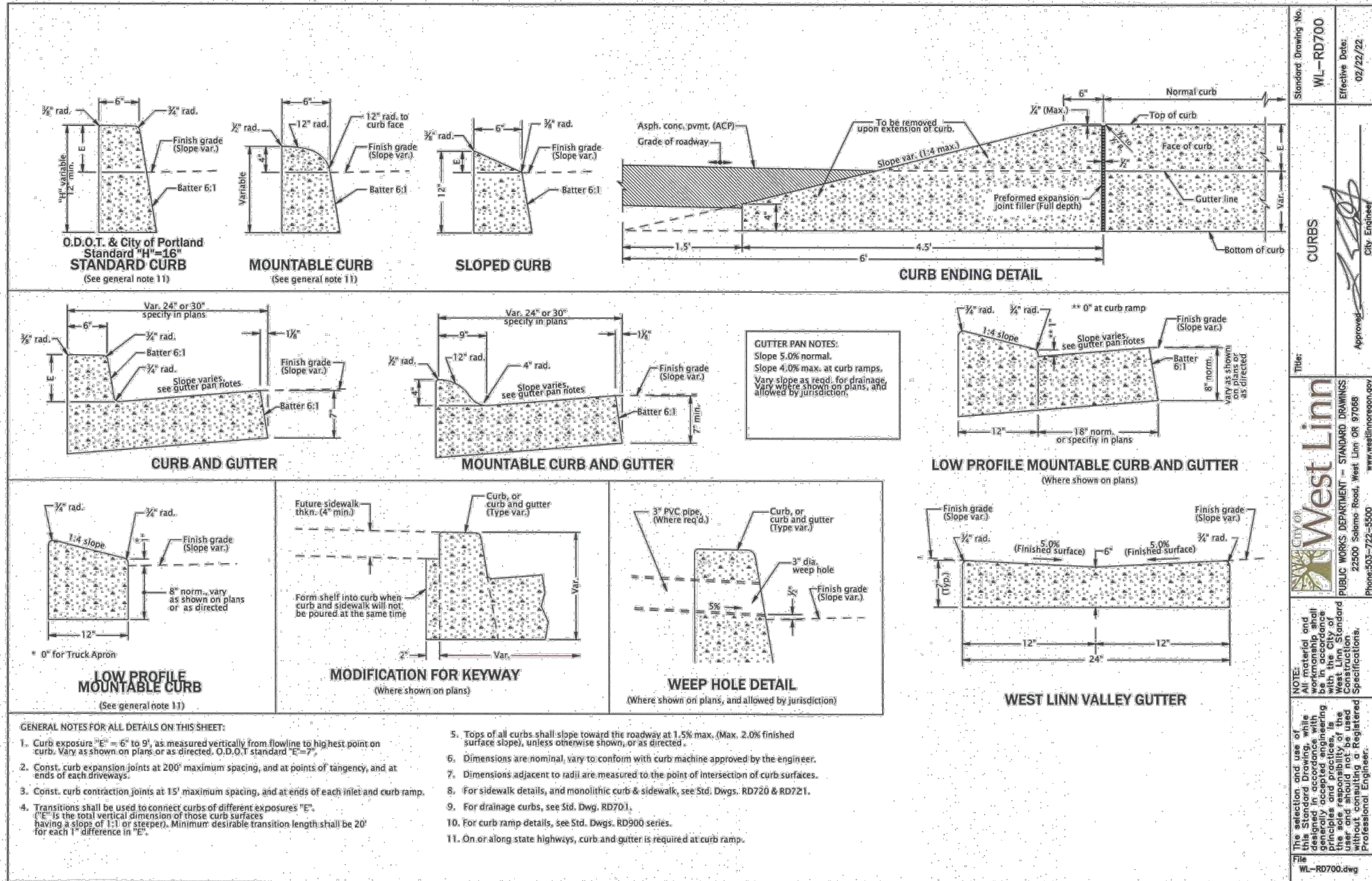
UTILITY PROFILES
MARYLHURST SUBDIVISION
 WEST LINN, OR

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MARYLHURST SUBDIVISION
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DETAILS

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REGISTERED PROFESSIONAL ENGINEER
ALEXANDER J. SIMPSON
PRELIMINARY
EXPIRES: 06/30/2024

DESIGNED:	HPHR
DRAWN:	HPHR
CHECKED:	HPHR
DATE:	02/02/2023

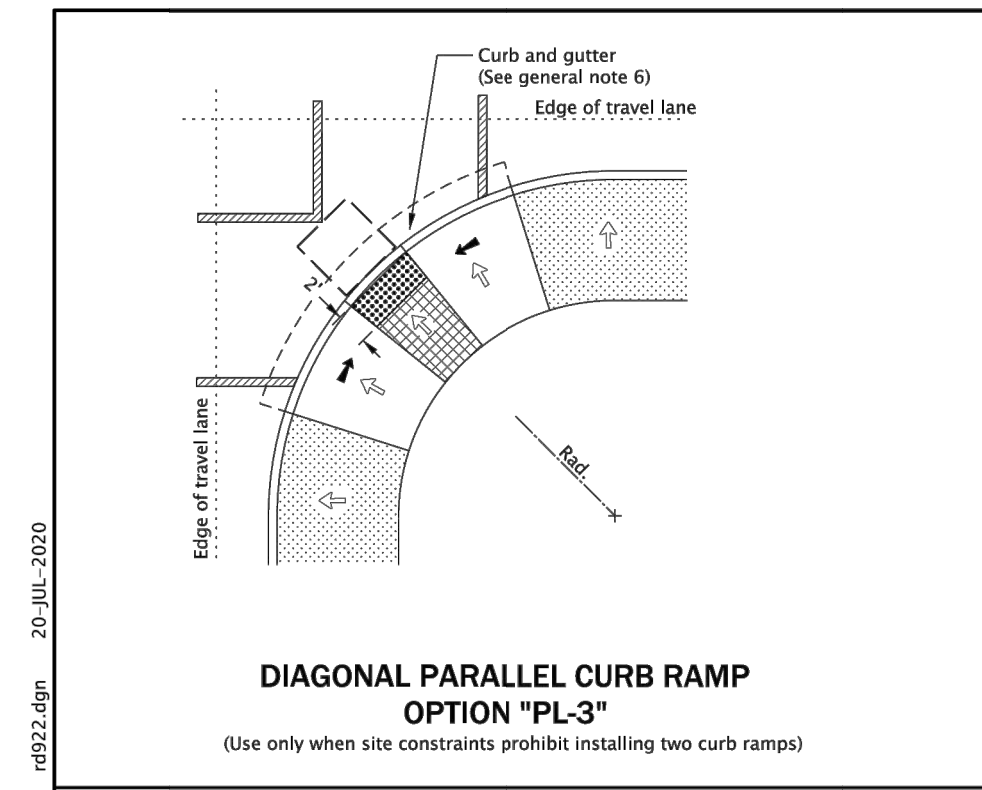
R E V I S I O N S

DATE	NO.	DESCRIPTION

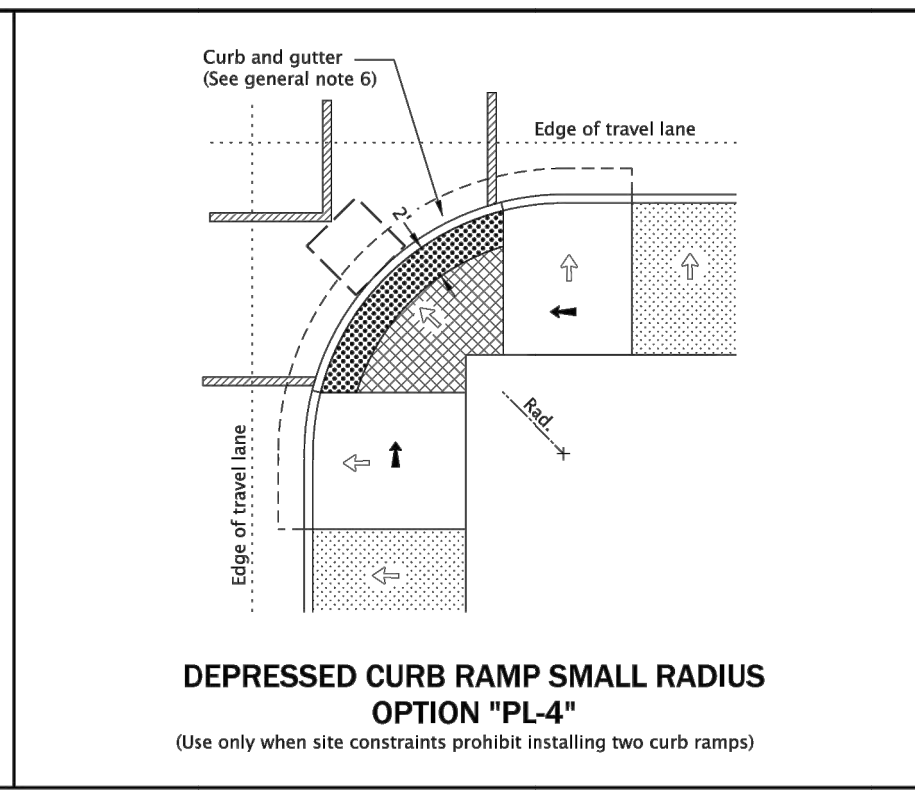
SHEET NO. **C6.0**

JOB NO. **TPH-02**

P:\01-Portland\TPH (Trey Peterson)\TPH02-DWG\SS\Sheets\C6.0 - DETAILS.dwg



DIAGONAL PARALLEL CURB RAMP OPTION "PL-3"



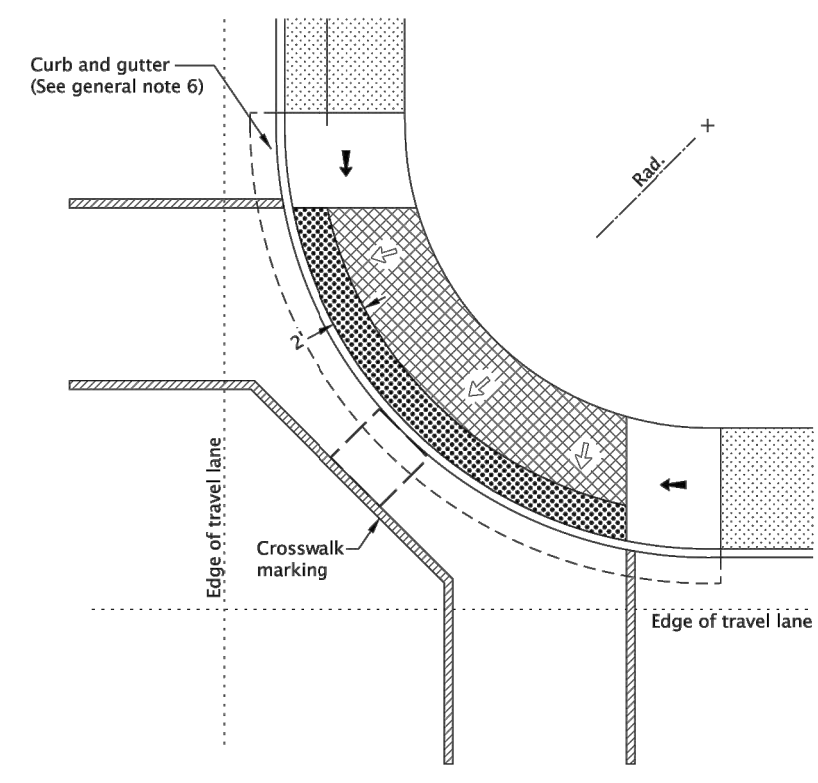
DEPRESSED CURB RAMP SMALL RADIUS OPTION "PL-4"

GENERAL NOTES FOR ALL DETAILS ON THIS SHEET: 1. Curb ramp details are based on applicable ODOT Standards...

- LEGEND: Marked or intended crossing location, Sidewalk, Detectable warning surface, Level area (Turning space/landing)...

Table with columns: CALC. BOOK NO., SDR DATE, OREGON STANDARD DRAWINGS, PARALLEL CURB RAMP SINGLE RAMP, DATE, REVISION DESCRIPTION.

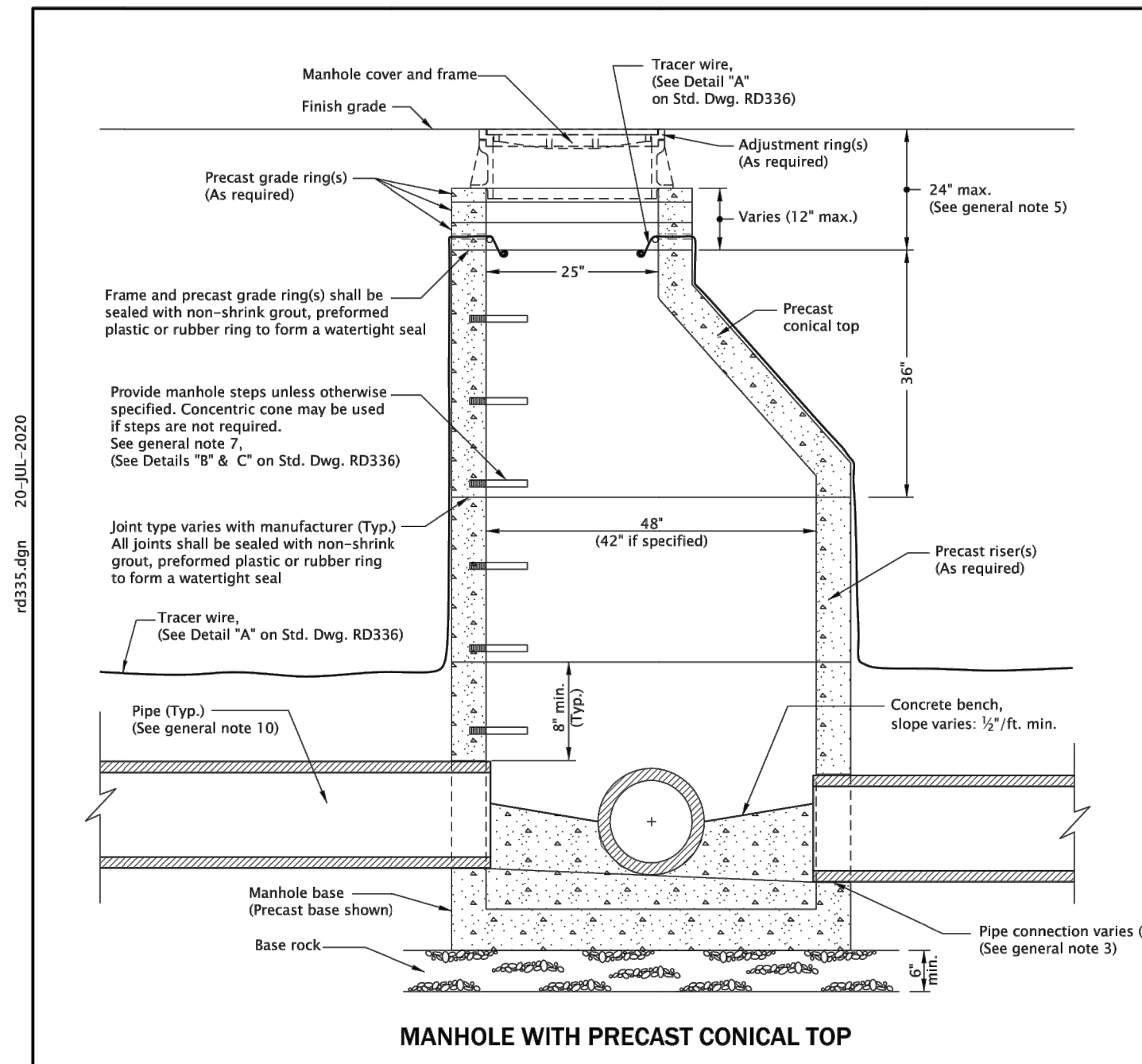
Effective Date: June 1, 2022 - November 30, 2022 RD922



DEPRESSED CURB RAMP LARGE RADIUS OPTION "PL-5"

GENERAL NOTES FOR ALL DETAILS ON THIS SHEET: 1. All precast products shall conform to requirements of ASTM C478...

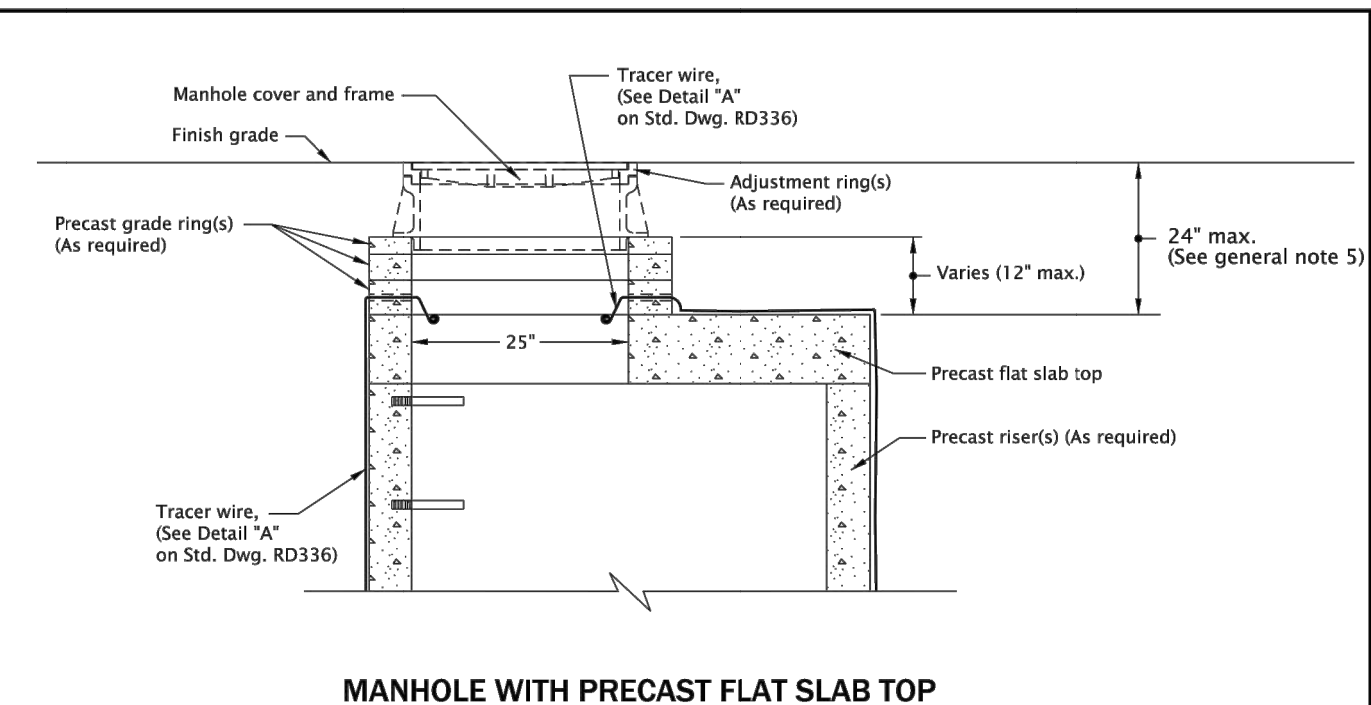
Effective Date: June 1, 2022 - November 30, 2022 RD922



MANHOLE WITH PRECAST CONICAL TOP

GENERAL NOTES FOR ALL DETAILS ON THIS SHEET: 1. All precast products shall conform to requirements of ASTM C478...

Effective Date: June 1, 2022 - November 30, 2022 RD335

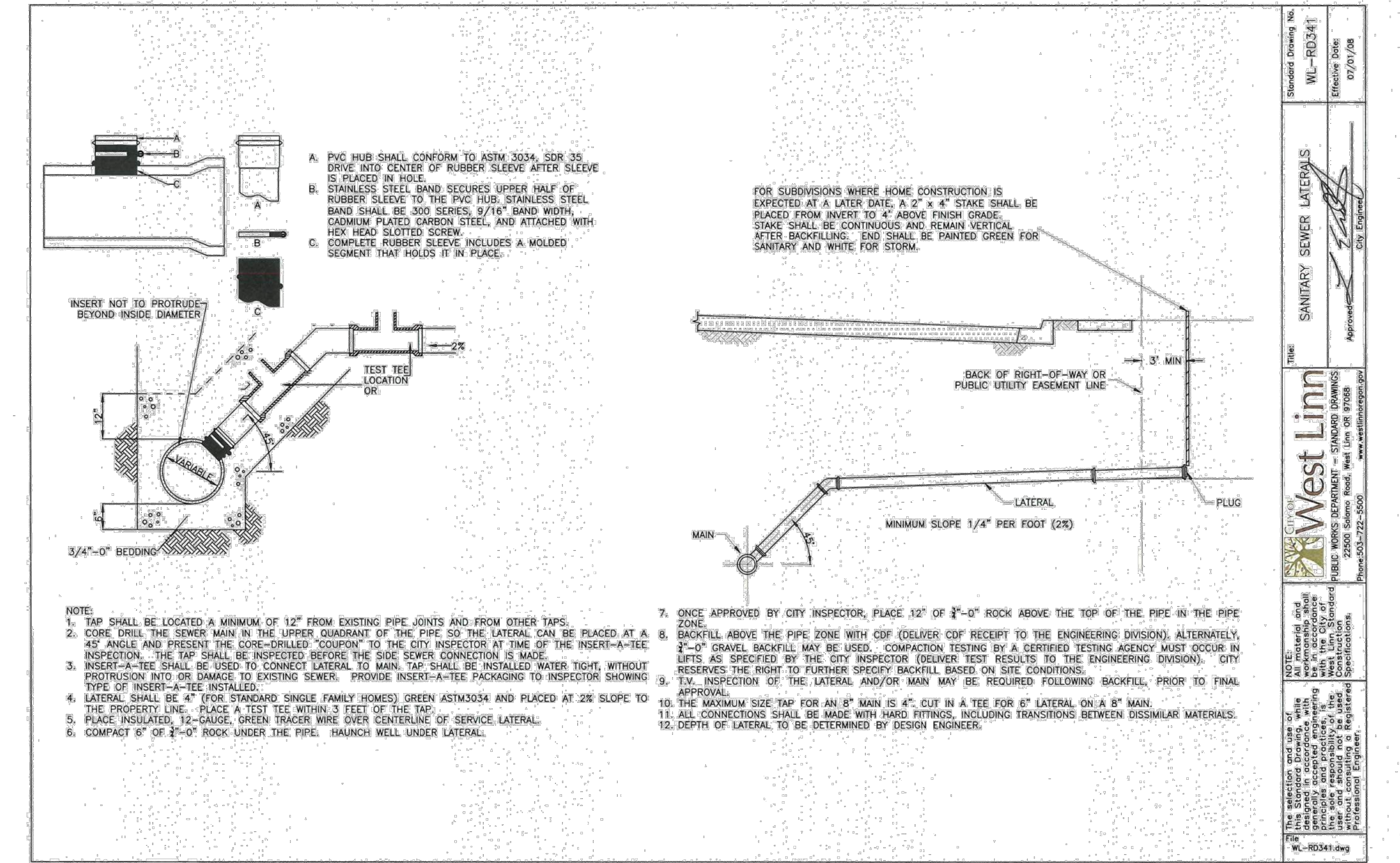


MANHOLE WITH PRECAST FLAT SLAB TOP

GENERAL NOTES FOR ALL DETAILS ON THIS SHEET: 1. All precast products shall conform to requirements of ASTM C478...

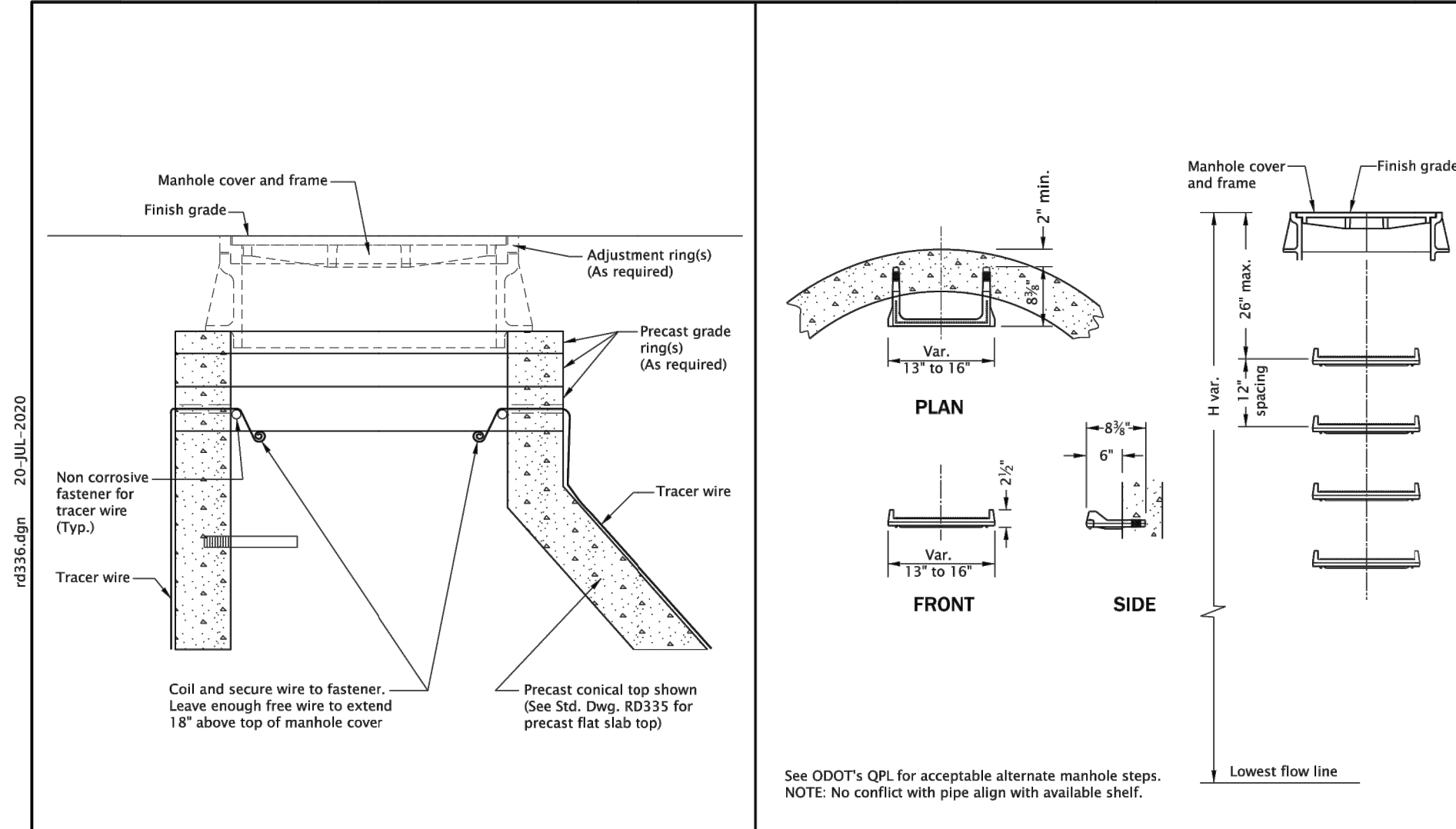
GENERAL NOTES FOR ALL DETAILS ON THIS SHEET: 1. All precast products shall conform to requirements of ASTM C478...

Effective Date: June 1, 2022 - November 30, 2022 RD335



Professional Engineer seal for West Linn, Oregon, dated 07/07/08.

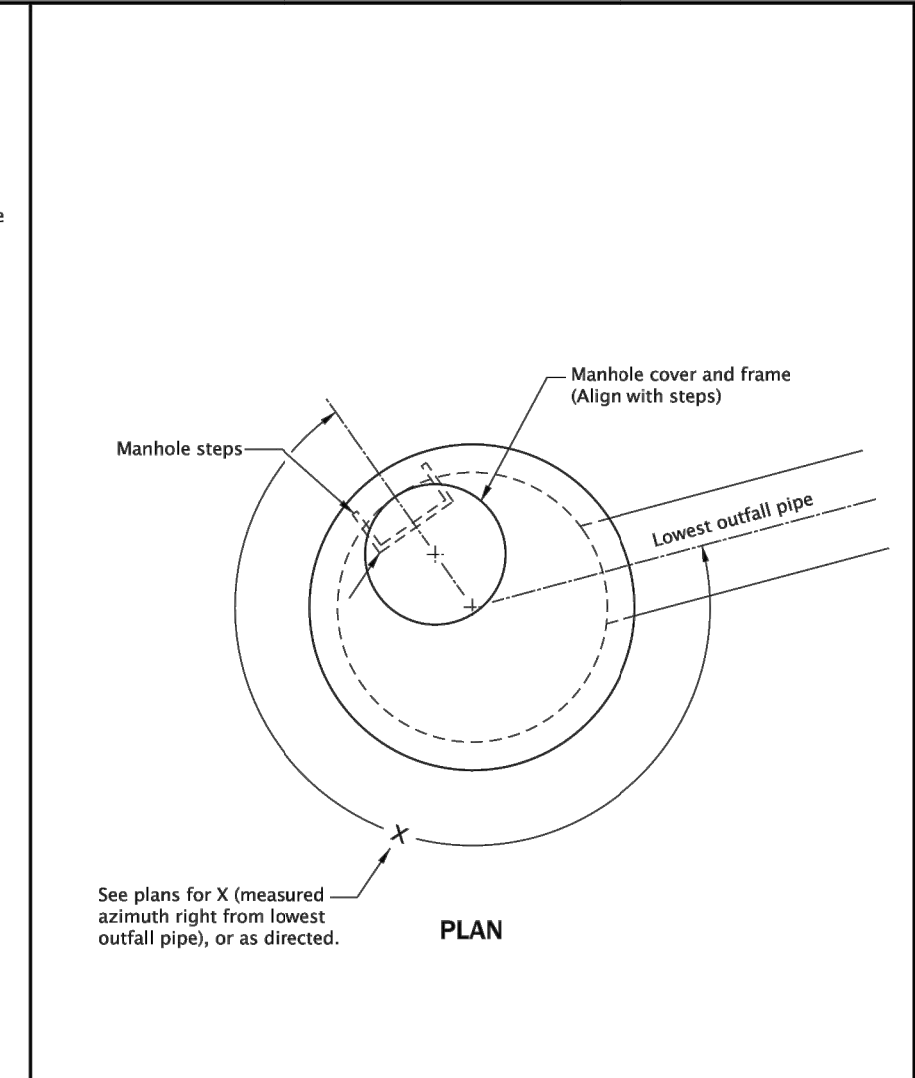
Effective Date: June 1, 2022 - November 30, 2022 RD922



DETAIL "A" TRACER WIRE

GENERAL NOTES FOR ALL DETAILS ON THIS SHEET: 1. All precast products shall conform to requirements of ASTM C478...

Effective Date: June 1, 2022 - November 30, 2022 RD336



DETAIL "C" PRECAST CONICAL TOP OR PRECAST FLAT SLAB TOP AND MANHOLE STEPS ORIENTATION

GENERAL NOTES FOR ALL DETAILS ON THIS SHEET: 1. All precast products shall conform to requirements of ASTM C478...

Effective Date: June 1, 2022 - November 30, 2022 RD336

DETAILS MARYLHURST SUBDIVISION WEST LINN, OR

Harper Houf Peterson Righellis Inc. ENGINEERS & PLANNERS LANDSCAPE ARCHITECTS & SURVEYORS

REGISTERED PROFESSIONAL ENGINEER PRELIMINARY ALEXANDER J. SIMPSON

Table with columns: DESIGNED, DRAWN, CHECKED, DATE, SHEET NO. C6.1, JOB NO. TPH-02

G-1, CG-1 FRAME (TYPE 2)
(Bicycle-safe)

G-2, G-2M, G-2MA, CG-2 GRATE (TYPE 2)
(Bicycle-safe)
(2 grates required per inlet, as shown)

G-2, G-2M, G-2MA, CG-2 GRATE (TYPE 1)
(See general note 2)

G-1, CG-1 FRAME

G-2, G-2M, G-2MA, CG-2 FRAME

GENERAL NOTES FOR ALL DETAILS ON THIS SHEET:

- For inlet details, see appropriate inlet standard drawing(s).
- Type 1 grate allowed only in locations not subject to bicycle or pedestrian use.
- 3/8" cross bars shall be flush with the top of grate surface and may be fillet welded, resistance welded or electroformed to bearing bars.
- Hot dip galvanize after fabrication.
- Cast iron grate and frame are acceptable alternates. See ODOT's QPL.

Effective Date: June 1, 2022 - November 30, 2022

GENERAL NOTES FOR ALL DETAILS ON THIS SHEET:

- Where precast inlets are used as an alternate to cast-in-place inlets, a 4" compacted leveling bed of sand or 1/4"-0 crushed aggregate shall be provided. All precast inlets shall conform to requirements of ASTM C913.
- Graphics show CG-1 inlet with Type 2 grate. See Table A for inlet dimensions. Type 1 grate allowed only in locations not subject to bicycle or pedestrian use. For frame and grate details, see Std. Dwg. RD365.
- Provide sump only where shown on plans, and allowed by jurisdiction. See Detail B for inlet without sump.
- For curb details, see Std. Dwg. RD700 & RD701.
- See Std. Dwg. RD336 for tracer wire details, or approved alternate.
- Max. pipe diameter varies with pipe material.
- Location, elevation, diameter, slope, and number of pipe(s) varies, see project plans.
- All concrete shall be commercial grade concrete.
- 1/2" preformed filler (in concrete pavement or gutter only) to extend through thickness of concrete. (Pay limit for inlet is expanded when curb and gutter are monolithic)
- See Std. Dwg. RD363 for gutter transition section, when curb and gutter are required.
- See Std. Dwg. RD339 for pipe to structure connections.

SECTION B - B

SECTION A - A

DETAIL B WITH-OUT SUMP

DETAIL A CURB OPENING

BAR "a" DETAILS

TABLE A		
INLET TYPE	W	W ₁
CG-1	2'-8 1/4"	1'-8 1/4"
CG-2	3'-3 3/8"	2'-3 3/8"

NOTES:

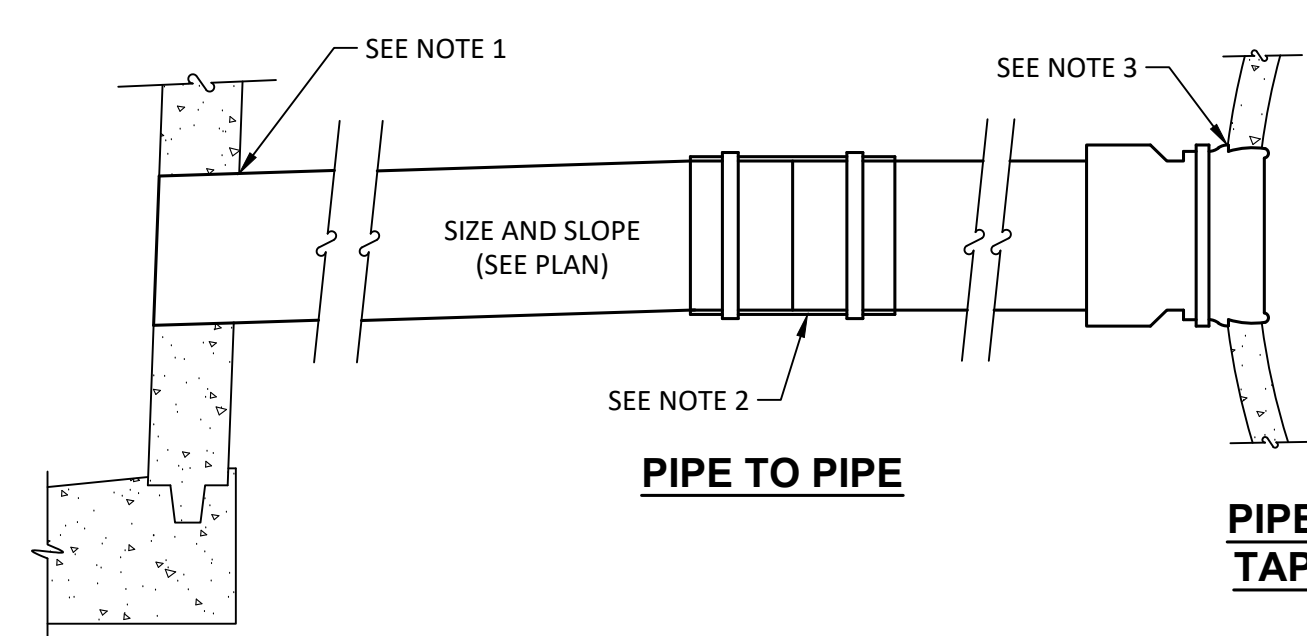
- #3 "a" bars to be placed during curb construction.
- All bars to be placed 1/2" clear of nearest face of concrete unless shown or noted otherwise.
- All bars shall be full length.

PLAN

GENERAL NOTES FOR ALL DETAILS ON THIS SHEET:

- The selection and use of this Standard Drawing, while designed in accordance with generally accepted engineering principles and practices, is the sole responsibility of the user and should not be used without consulting a Registered Professional Engineer.

Effective Date: June 1, 2022 - November 30, 2022



MANHOLE OR CATCH BASIN

NOTES:

- BREAK OUT WALL 2" MIN., 4" MAX. CLEAR OF PIPE WALL. GROUT SPACE WITH NON-SHRINK GROUT. FOR SANITARY CONNECTION INSTALL SAND COLLAR AS DIRECTED BY WATER ENVIRONMENT SERVICES (WES).
- USE "FERNCO" FLEXIBLE COUPLING WITH STAINLESS STEEL CLAMPS OR APPROVED EQUAL AS REQUIRED.
- CUT HOLE INTO PIPE AND INSTALL "FOWLER" SEWER BOOT TAP OR APPROVED EQUAL.

PIPE CONNECTION
NTS

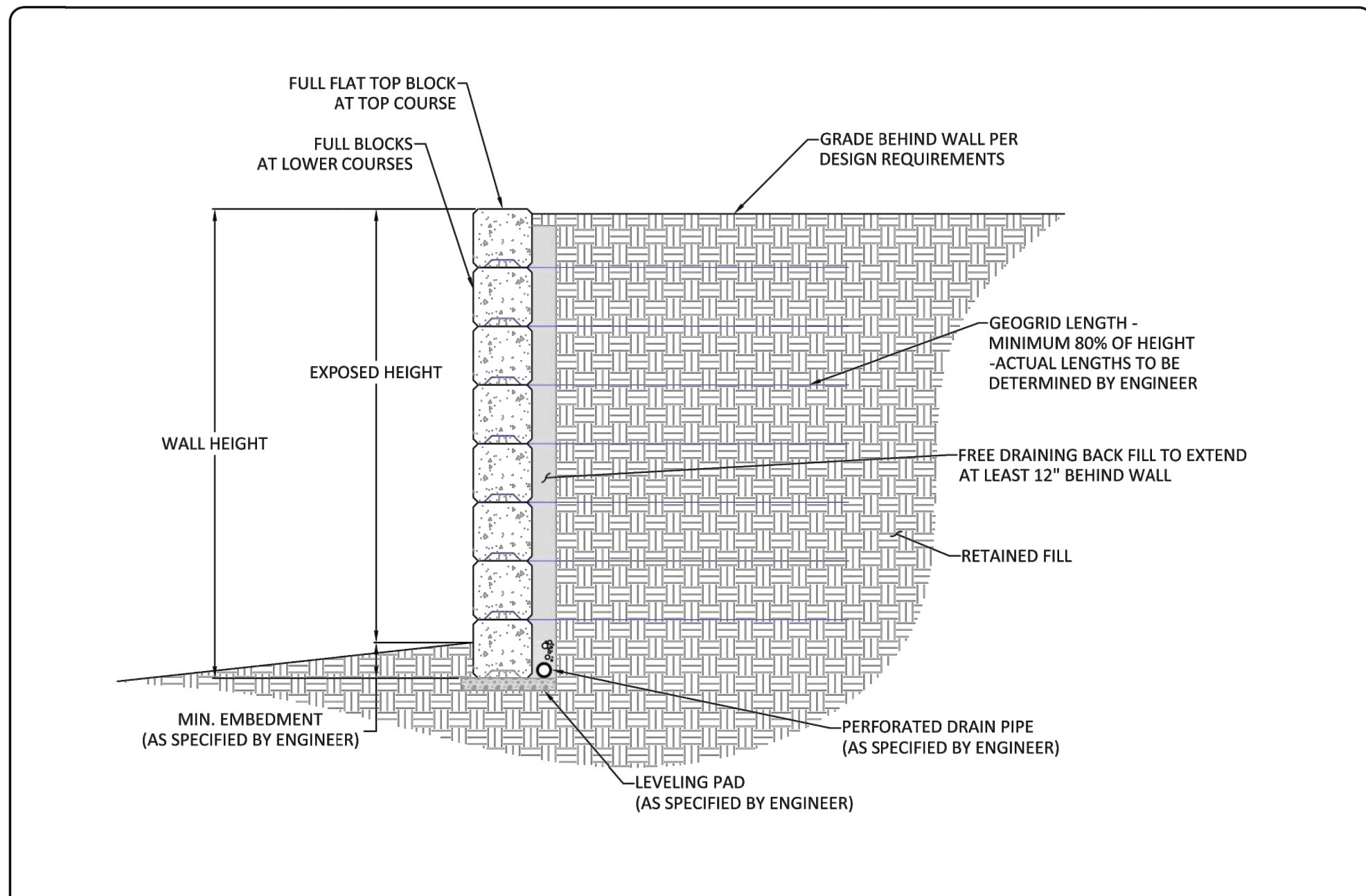
DETAILS
MARYLHURST SUBDIVISION
WEST LINN, OR

Harper Houf Peterson Righellis Inc.
ENGINEERS & PLANNERS
LANDSCAPE ARCHITECTS & SURVEYORS
206 SE Spokane Street, Suite 200, Portland, OR 97202
phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

REGISTERED PROFESSIONAL ENGINEER
PRELIMINARY
ALEXANDER J. SIMPSON
SEPT. 15, 2016
EXPIRES: 06/30/2024

DESIGNED:	HHPR	DRAWN:	HHPR	CHECKED:	HHPR	DATE:	02/02/2023
DATE:		NO.		DESCRIPTION			

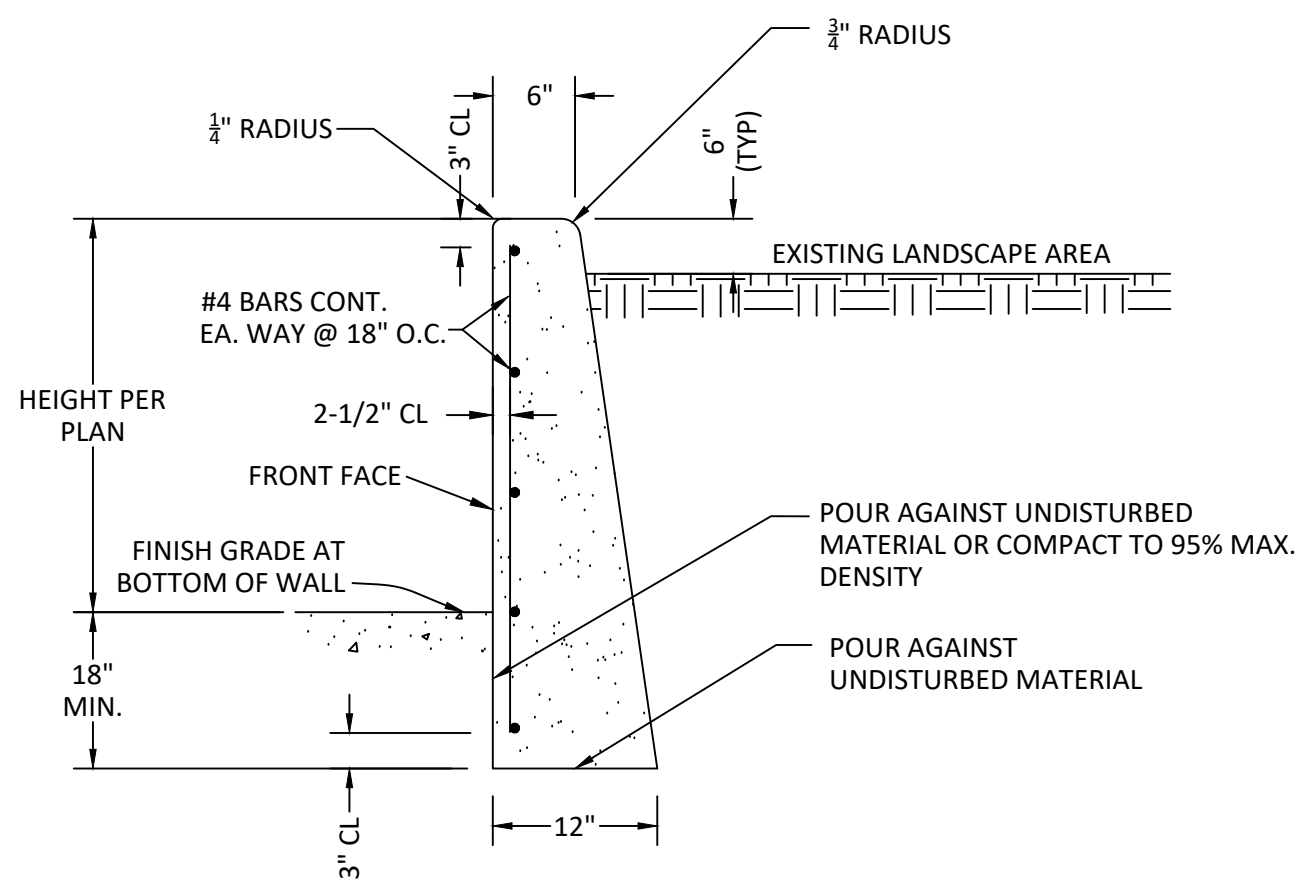
SHEET NO.
C6.2
JOB NO.
TPH-02



ULTRABLOCK, INC.
 815 N.E. 172nd Ave.
 VANCOUVER, WA 98684
 800-377-3877 PH
 360-694-0281 FAX

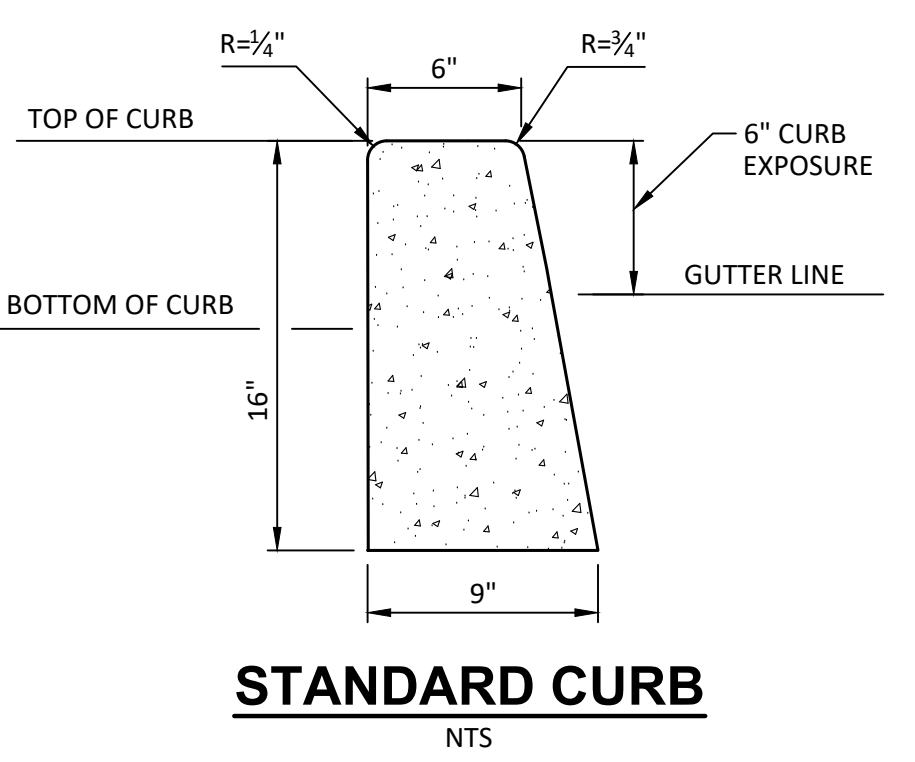
TITLE: Ultrablock - MSE Wall
 DRAWN BY: MLN
 DATE: 9/23/19
 SCALE: NTS
 SHEET #: UB-01

** PRELIMINARY - BLOCK LAYOUTS TO BE APPROVED BY ENGINEER **

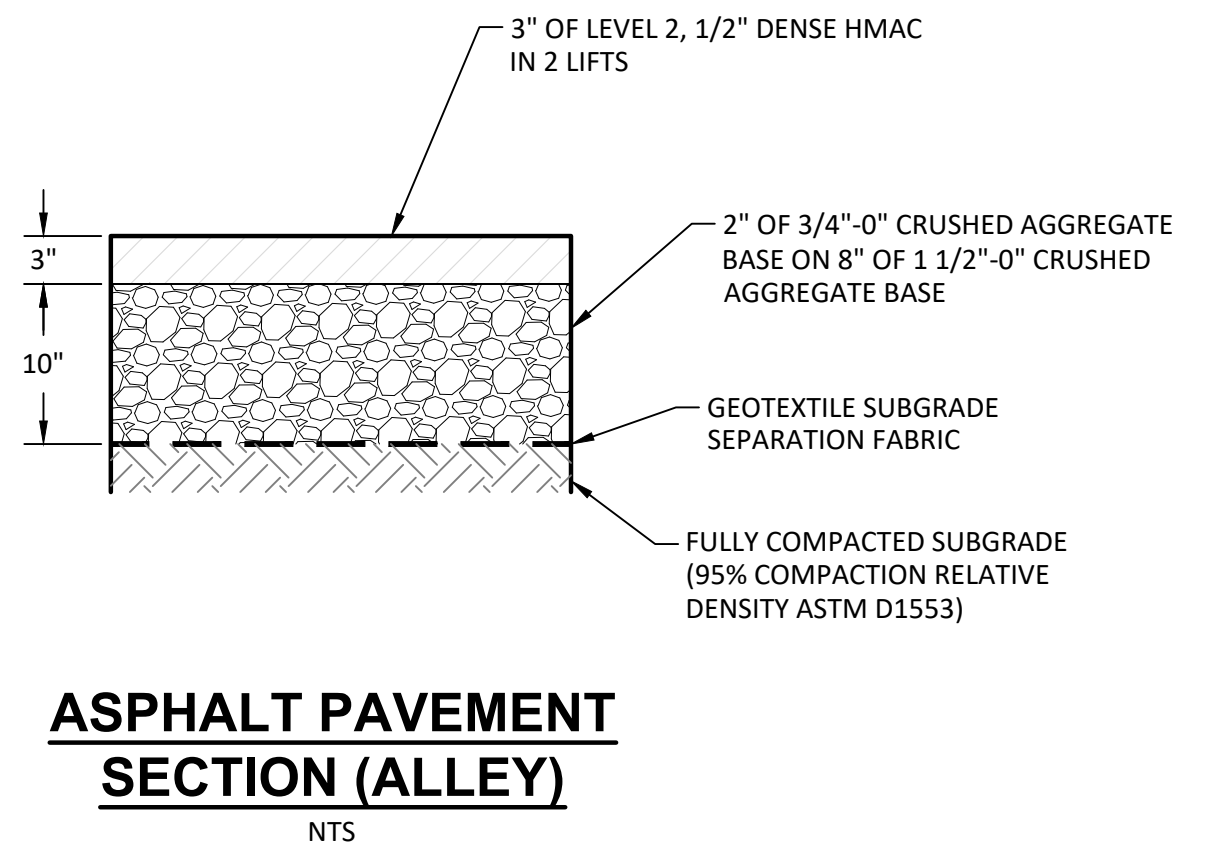


1. ALL REINFORCING STEEL SHALL CONFORM TO AASHTO M31, GRADE 60, ASTM SPECIFICATION A706 OR A615, GRADE 60. ALL #4 BAR SPLICES SHALL BE 1'-4".
2. ALL CONCRETE SHALL BE "COMMERCIAL GRADE CONCRETE" 4,000 PSI.
3. PLACE EXPANSION JOINTS AT APPROX. 15'-0" CTRS. UNLESS OTHERWISE SHOWN.

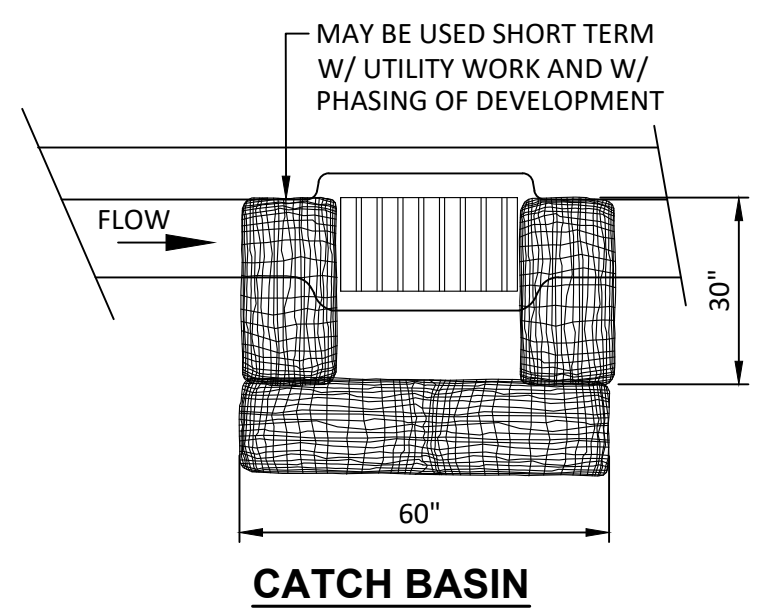
RETAINING/THICKENED CURB DETAIL
 N.T.S.



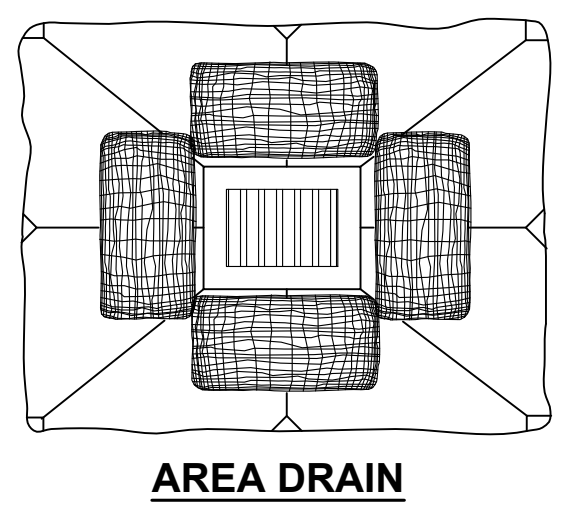
STANDARD CURB
 N.T.S.



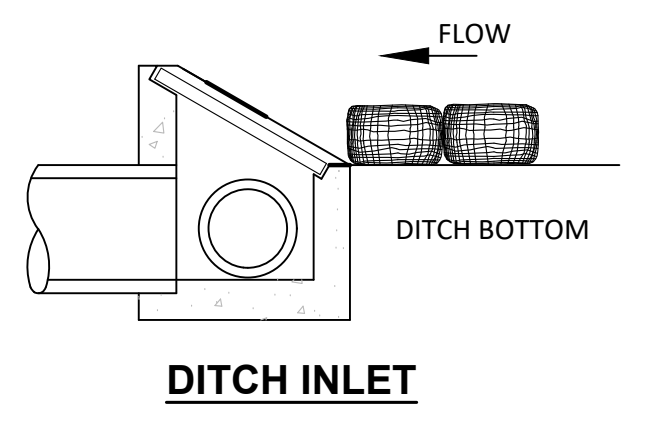
ASPHALT PAVEMENT SECTION (ALLEY)
 N.T.S.



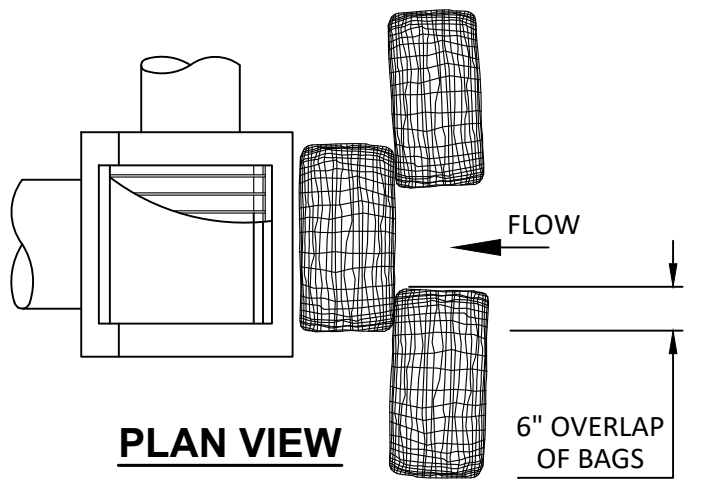
CATCH BASIN



AREA DRAIN



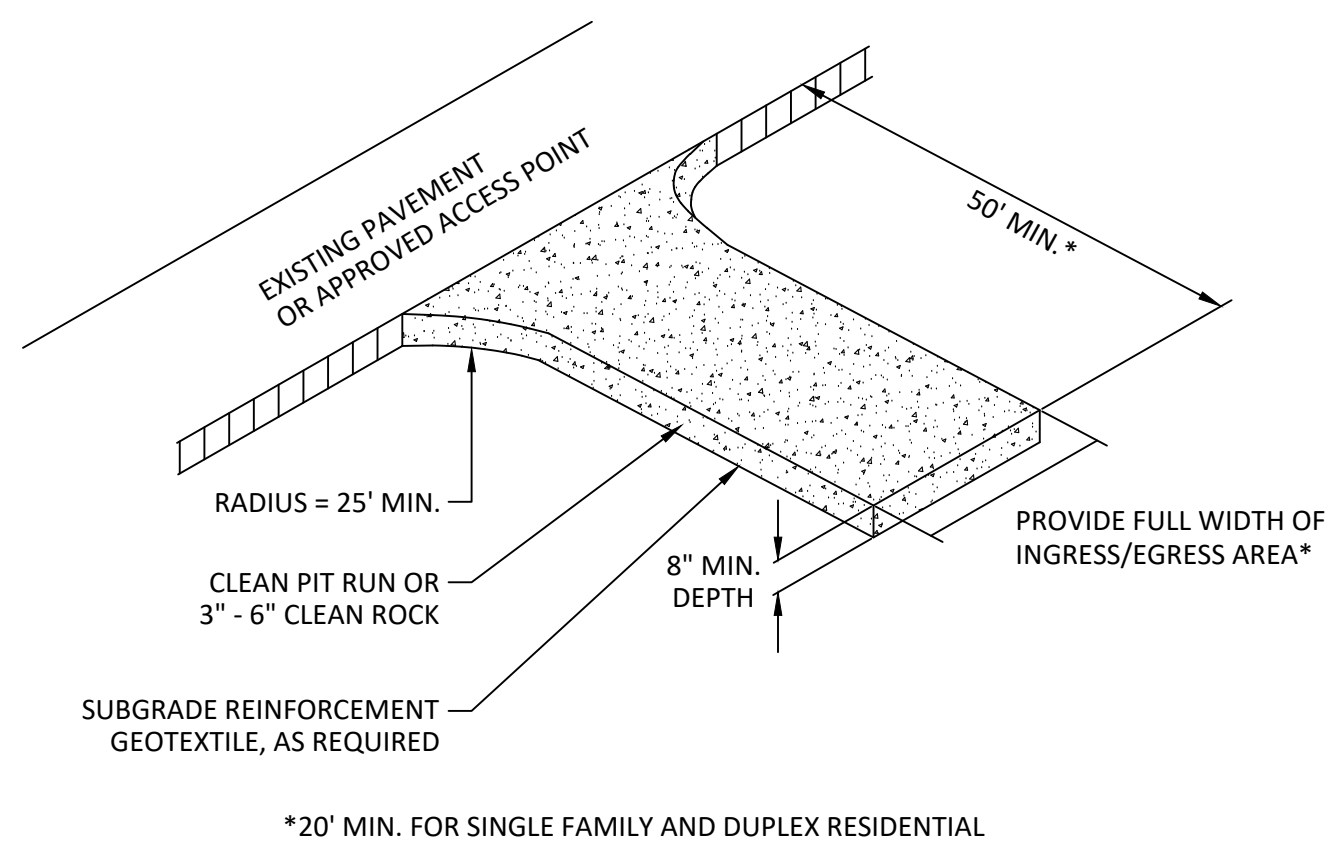
DITCH INLET



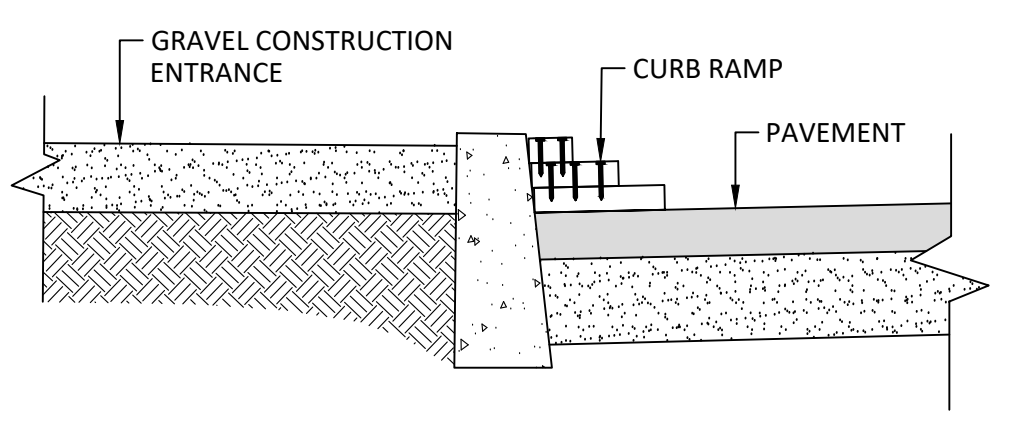
PLAN VIEW

- NOTES:**
1. ADDITIONAL MEASURES MUST BE CONSIDERED DEPENDING ON SOIL TYPES.
 2. BIO-FILTER BAGS SHOULD BE STAKED WHERE APPLICABLE USING (2) 1"x2" WOODEN STAKES OR APPROVED EQUAL PER BAG.
 3. WHEN USING 30" BIO-BAGS TO PROTECT A CATCH BASIN YOU MUST HAVE 4 BAGS AND THEY SHALL BE OVERLAPPED BY 6".

INLET PROTECTION TYPE 4
 N.T.S.

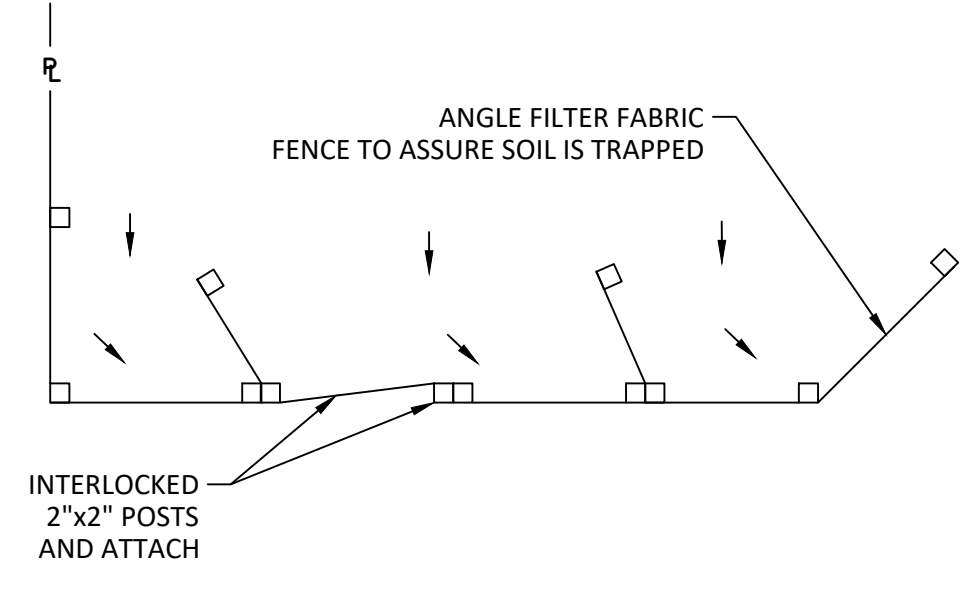


*20' MIN. FOR SINGLE FAMILY AND DUPLEX RESIDENTIAL

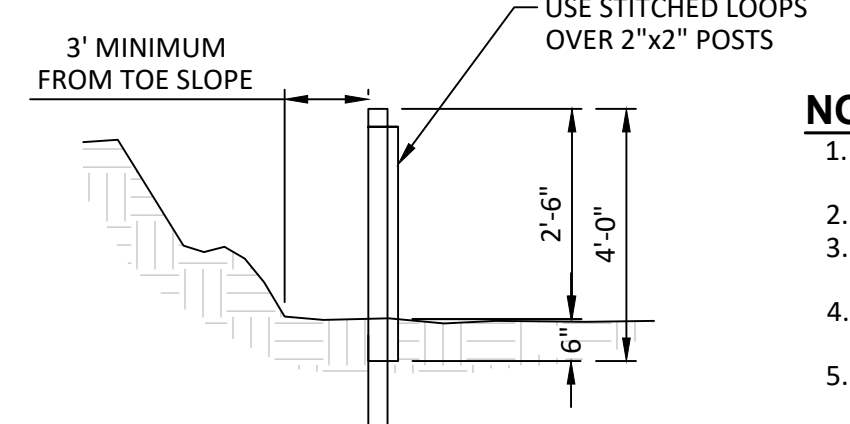


- NOTES:**
1. THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHT-OF-WAYS. THIS MAY REQUIRE TOP DRESSING, REPAIR AND/OR CLEAN OUT OF ANY MEASURES USED TO TRAP SEDIMENT.
 2. WHEN NECESSARY, WHEELS SHALL BE CLEANED PRIOR TO ENTRANCE ONTO PUBLIC RIGHT-OF-WAY.
 3. WHEN WASHING IS REQUIRED, IT SHALL BE DONE ON AN AREA STABILIZED WITH CRUSHED STONE THAT DRAINS INTO AN APPROVED SEDIMENT TRAP OR SEDIMENT BASIN.
 4. WHERE RUNOFF CONTAINING SEDIMENT LADEN WATER IS LEAVING THE SITE VIA THE CONSTRUCTION ENTRANCE, OTHER MEASURES SHALL BE IMPLEMENTED TO DIVERT RUNOFF THROUGH AN APPROVED FILTERING SYSTEM.
 5. DIMENSIONS
 SINGLE FAMILY
 20' LONG BY 20' WIDE 8" DEEP OF 3/4" MINUS CLEAN ROCK.
 COMMERCIAL
 50' LONG BY 20' WIDE 3-6" CLEAN ROCK.
 GOVERNING AUTHORITY MAY REQUIRE GEOTEXTILE FABRIC TO PREVENT SUB-SOIL PUMPING.

CONSTRUCTION ENTRANCE
 N.T.S.

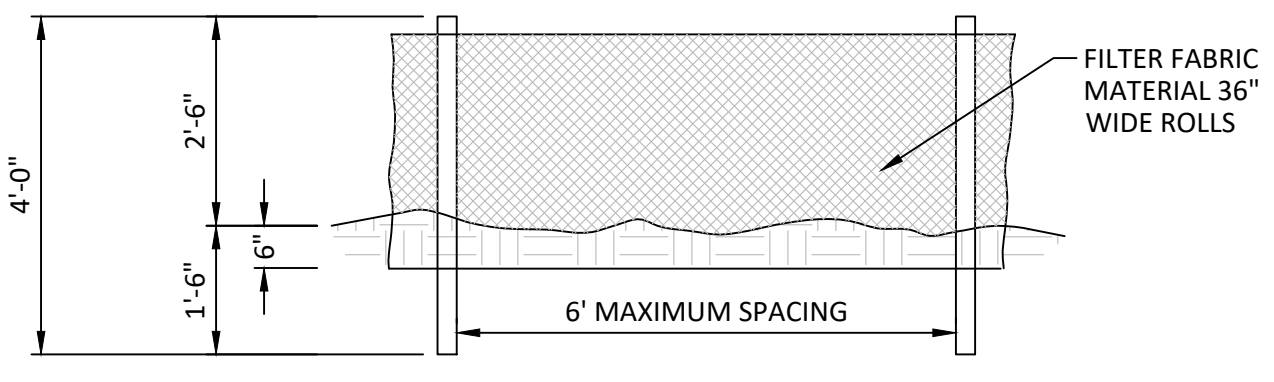


PLAN VIEW



PROFILE

- NOTES:**
1. BURY BOTTOM OF FILTER FABRIC 6" VERTICALLY BELOW FINISHED GRADE.
 2. 2"x2" FIR, PINE OR STEEL FENCE POSTS.
 3. POSTS TO BE INSTALLED ON UPHILL SIDE OF SLOPE.
 4. COMPACT BOTH SIDES OF FILTER FABRIC TRENCH.
 5. PANELS MUST BE PLACED ACCORDING TO SPACING ON DETAIL.



FRONT VIEW

SEDIMENT FENCE
 N.T.S.

DETAILS
MARYLHURST SUBDIVISION
 WEST LINN, OR

Harper Houf Peterson Righellis Inc.
 ENGINEERS * PLANNERS
 LANDSCAPE ARCHITECTS * SURVEYORS
 206 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhprr.com fax: 503.221.1171

REGISTERED PROFESSIONAL ENGINEER
 PRELIMINARY
 OREGON
 SEPT. 15, 2016
 ALEXANDER J. SIMPSON
 EXPIRES: 06/30/2024

DESIGNED:	HHPR	HHPR	HHPR
DRAWN:	HHPR	HHPR	HHPR
CHECKED:	HHPR	HHPR	HHPR
DATE:	02/02/2023		

DATE	NO.	DESCRIPTION
		R E V I S I O N S

SHEET NO.
C6.4
 JOB NO. TPH-02

P:\01-Portland\TPH (Tracy Peterson)\TPH02 (Marylhurst)\TPH02-DWG\CS\Sheets\C6.0 - DETAILS.dwg

EXHIBIT CC-2: RECORD OF VAR-23-01



CITY OF West Linn

WEST LINN PLANNING COMMISSION NOTICE OF FINAL DECISION FILE NO. VAR-23-01

At the May 17, 2023 meeting, the West Linn Planning Commission held a public hearing to consider the request by Tracy Peterson to approve a proposal for a Class II Variance at 2622 Marylhurst Drive and 18600, 18680, and 18690 Midhill Circle (Lots 2, and 15-20) of the 1926 Replat of Robinwood, Clackamas County Plat 541). The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The Planning Commission denied the application, with four votes in favor of the denial and one opposed (4-1), for noncompliance with CDC Chapters 48.030 and 75.020.B.1(a). The decision was based on the facts, findings, and conclusions found in the record.

The Final Decision and Order and application are posted on the City's website, <https://westlinnoregon.gov/planning/2622-marylhurst-drive-class-2-variance-driveway-access>. Alternatively, the Final Decision and Order, complete application, and all documents or evidence are available for inspection at City Hall at no cost. Copies may be obtained at a reasonable cost.

Planning Commission decisions are final upon the date of the signature on the decision and effective 14 days from when the final, signed decision is mailed. If the fourteenth day falls on any legal holiday, Saturday, Sunday, or day that City Hall is closed, the effective date and time shall be at 5:00 p.m. on the next business day.

Persons who have established standing in this matter may appeal this decision to the West Linn City Council within 14 days of the Final Decision Notice mailing date pursuant to the provisions of CDC Chapter 99 and any other applicable rules and statutes.

Appeals must be filed with the West Linn Community Development Department with the \$400 appeal fee by 5:00 pm. An appeal must include:

- The \$400 appeal fee;
- A reference to the decision (project number) to be appealed;
- The name, address, and signature of the appellant; and
- A statement explaining how the petitioner qualifies as a party of standing, as provided by CDC 99.140.
- The appeal application may state the grounds for appeal.

Any questions should be directed to **Associate Planner John Floyd at 503-742-6058 or jfloyd@westlinnoregon.gov**.

This decision shall become effective at 5:00 p.m. on the fourteenth day from the date of mailing this notice of final decision, unless appealed.

Mailed May 31, 2023

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

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.



CITY OF West Linn

Memorandum

Date: May 17, 2023

To: Chair Carr
West Linn Planning Commission

From: John Floyd, Associate Planner

Subject: Public Comments Received for VAR-23-01

Three individuals submitted written testimony after the publication of the staff report and before the expiration of the written comment period at noon today. Comments are attached and names listed below:

- Elizabeth Apen
- Christine Blanche
- Richard Yep

Issues raised by these parties will be addressed during the staff presentation.

From: [Schroder, Lynn](#)
 To: [Hoyt, John](#)
 Subject: FW: Question on File no VAR-23-01
 Date: Monday, May 8, 2023 8:55:30 AM
 Attachments: [Screenshot 2023-05-06 at 4:12:38 PM.png](#)

From: Elizabeth Apen <[REDACTED]>
 Sent: Saturday, May 6, 2023 4:33 PM
 To: Planning Commission (Public) <askthepc@westlinnoregon.gov>
 Subject: Question on File no VAR-23-01

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.

Hello, WL planning commission!

I received notice for public hearing on variance noted in subject line and have a few questions.

-Since the current variance request does not include plans for development, where in the process going forward will ensure that current the R10 zoning will be complied with? If this is to be some type of subdivision that does not require a zoning change, can you please let me know where to review this in the CDC? I pulled what I think is the relevant information on minimum lot size from the COWL website as below. Based on the lot size posted on Redfin (0.7 acres), my estimate would be there should be no more than 3 or perhaps 4 houses in that area to comply with current zoning.

-We went through a similar experience with the planning commission in 2003 on the tax lots designated 2671 and 2695 Marylhurst Drive. The outcome of that meeting was not to allow the building of two houses on those tax lots because it would be a de facto change in the zoning.

Also during that meeting, evidence was presented by a Mr. Seims of Marylhurst Drive which described the creation of tax lots in 1929 not as intended to be the determinant for the number of houses in the neighborhood, but were used to ensure septic systems had large enough leach fields for the structures built (3 bathrooms required a set number of lots, 2 bathrooms fewer lots, etc.). Is there a way that the records related to that commission meeting could be pulled/reviewed in this case as well?

Lastly, how can I obtain a copy of the summary/notes from that commission meeting? My recollection is that the meeting was held in Sept or Oct 2003 so the records are not available on the COWL website that I can find.

If you are not the correct team to address this request, please let me know who I should contact.

Thanks in advance for your help!
 Elizabeth Apen
 503.577.8123

MINIMUM RESIDENTIAL LOT SIZES (square feet)

ZONE	SINGLE FAMILY DETACHED UNIT	SINGLE FAMILY ATTACHED UNITS	DUPLEX UNITS	MULTI-FAMILY UNITS
R2.1	4,000	2,700	7,000	2,100
R3	3,000	3,000	3,000	3,000
R4.5	4,500	4,000	8,000	N/A
R-5	5,000	4,500	9,000	N/A
R-7	7,000	5,500	11,000	N/A
R-10	10,000	N/A	N/A	N/A
R-15	15,000	N/A	N/A	N/A
R-20	20,000	N/A	N/A	N/A
R-40	40,000	N/A	N/A	N/A
MU	4,500	4,500	4,500	4,500*

*Maximum 10,000 sq. ft. unless an existing lot of record

Lynn Schroder
 Administrative Assistant
 Community Development

#6061



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

From: [Christine H Blanche](#)
To: [Floyd, John](#)
Subject: Testimony for VAR-23-01, a Class 2 Variance at 2622 Marylhurst Drive
Date: Tuesday, May 9, 2023 9:17:04 AM

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.

Hello John,

I wish to provide testimony against approval of the variance. The location of this development is precariously located for drivers coming downhill on Marylhurst Dr. I'm already concerned about multiple homes being built off a private drive between Upper & Lower Midhill, as an influx of new drivers emerging onto Marylhurst Dr. without a stop sign could make for a dangerous situation. Adding even further homes, 4 to 6, would increase the amount of cars coming in and out of this private drive. Has a traffic study been conducted?

Also, the property where these homes would be built is quite small, and the density of adding 6 homes in the location would involve the removal of even more trees on a hill and may contribute to runoff issues for downstream neighbors. Has a study regarding runoff and flooding been conducted?

Thank you for noting these considerations.

Best,
Christine Blanche

From: [Richard Yep](#)
To: [Floyd, John](#)
Subject: public hearing file VAR-23-01 i vote no
Date: Thursday, May 11, 2023 9:54:15 AM

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.

I am against the request for variance 23-01. It suggests that 6 units be placed where only 4 should be.

Aside from owners lack neglect of current property as evidenced by 1. falling / leaning trees



2. Disrepair of Broken fence on midhill which is in violation of city code which has been reported to code enforcement



What will make the addition of 6 houses any better?????

Additional 6 households will need places to park their vehicles and lack of adequate parking on Midhill circle will result in dangerous conditions and traffic and potential ill will between neighbors.

Additional traffic from 6 households using the proposed private drive onto Marylhurst will create dangerous situation for pedestrians walking the area.

Additional 6 units will create and additional strain on water, sewage, and electrical systems in place.

Additional 6 households will create lots more noise in our quiet neighborhood.

I do not want the variance of 4 to 7 to be approved and am against it as a homeowner within 500 feet of their address.

Richard Yep
18670 Midhill Circle
West Linn OR 97068
5037392626



**STAFF REPORT
FOR THE PLANNING COMMISSION**

FILE NUMBER: VAR-23-01

HEARING DATE: May 17, 2023

REQUEST: Class II variance to allow more than 4 lots (six total) to be served from a private driveway on Marylhurst Drive, approximately midblock between Upper and Lower Midhill Circle.

APPROVAL CRITERIA: Community Development Code (CDC) Chapter 11: Residential (R-10); Chapter 48: Access, Egress and Circulation ; Chapter 75: Variances and Special Waivers; Chapter 99: Procedures for Decision-Making: Quasi-Judicial.

STAFF REPORT PREPARED BY: John Floyd, Associate Planner

Planning Manager: DSW

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GENERAL INFORMATION

OWNER/APPLICANT: Tracy & Derek Peterson
24350 SW Nodaway Lane
Wilsonville OR 97070

APPLICANT'S REPRESENTATIVE: Hillary Harris
HHPR
205 SE Spokane Street, Suite 200
Portland, OR 97202

SITE LOCATION: 2622 Marylhurst Drive and 18600, 18680, and 18690 Midhill Circle

LEGAL DESCRIPTION: Lots 2 & 15-19 of the 1926 Replat of Robinwood
Clackamas County Assessor's Map 2S1E14DC; Tax Lots 5800,
6500, 6600, 6601, 6700, and 6701,

SITE SIZE: 0.7 Acres

ZONING: R-10, Residential

COMP PLAN DESIGNATION: Low-Density Residential

120-DAY PERIOD: This application became complete on April 18, 2023. The 120-day maximum application-processing period ends on August 16, 2023.

PUBLIC NOTICE: Notice was mailed to property owners within 500 feet of the subject property and the Robinwood Neighborhood Association on April 25, 2023. Notice was published in the West Linn Tidings on May 3, 2023. The property was posted with a notice sign on May 4, 2023. The notice and application were posted on the City's website on April 24, 2023. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The applicant is requesting a Class II variance to allow more than four lots (6 total) to be served from a private accessway on Marylhurst Drive, approximately midblock between Upper and Lower Midhill Circle in an alley configuration.

The project site includes six lots of record that were created in 1926 under the Replat of Robinwood (Clackamas County Plat No. 541) and include Lots 2 and 15 through 19. All are undeveloped with the exception of a single-family home on lot 19, which the applicant intends to remove prior to development.



As shown on the grading plan, topography on the site slopes downhill from west to east, with substantial slopes along the Midhill Circle frontages which is the basis for the variance.

In lieu of providing steep driveways and substantial grading, the applicant is proposing consolidated access through the center of the block where the grades are less steep. The private accessway would include two 7' travel lanes, a 5-foot sidewalk, and a curb. Along the southernmost portion, a retaining wall with safety fence would be included to maintain grade. This single accessway would remove up to six new driveways onto Midhill Circle.

Frontage improvements are also proposed along Marylhurst Drive, identified as a Collector in the West Linn Transportation System Plan.

The project site and surrounding neighborhood are zoned residential, R-10, and are substantially built out. No environmental overlays or restrictions are on or adjacent to the project site.

Tualatin Valley Fire & Rescue (TVF&R) has issued Service Provider Permit #2023-0034 that approves the proposed access, and the West Linn Engineering Division did not have any comments on the application.

Public comment:

One public comment was received as of the writing of this report. On May 4, 2023, a letter was submitted by Arnold H. Sackett, JR (Exhibit PC-5). His letter made four requests related to the restriction of building heights, the placement of no parking signs along Midhill Circle, the restriction of water and sewer connections to Marylhurst Drive, and mandatory removal of a large fir tree adjacent to 18670 Midhill Circle. As the application is limited to a variance regarding the number of lots utilizing a private accessway, and these matters are better addressed by the Transportation Safety Committee and West Linn Code Enforcement, no further action or conditions are recommended by Planning Staff in response to this testimony.

RECOMMENDATION

Staff recommends approval of application VAR-23-01, based on: 1) the findings submitted by the applicant, which are incorporated by this reference, 2) supplementary staff findings included in the Addendum below, and 3) the addition of conditions of approval below. With these findings, the applicable approval criteria are met. The conditions are as follows:

1. **Site Plans.** With the exception of modifications required by these conditions, the project shall substantially conform to all Tentative Plan Sheets and TVF&R Service Provider Permit 2023-0034 in Exhibit PC-1.
2. **Demolition and Construction.** Prior to issuance of building permits on the affected lots, the applicant shall obtain a demolition permit and receive final demolition inspection for the existing home on the site.
3. **Easement.** Prior to the issuance of building permits, the applicant shall record a private access and utility easement for the shared access drive. A draft of the easement shall be presented to the City Engineering and Planning Divisions for review and approval prior to recordation.
4. **Improvements.** Prior to final inspection and issuance of a certificate of occupancy for a new dwelling unit on the affected lots, all proposed private and public improvements in Exhibit PC-1 shall be completed and accepted by the city.

**ADDENDUM
PLANNING COMMISSION STAFF REPORT**

**STAFF EVALUATION OF THE PROPOSAL’S COMPLIANCE
WITH APPLICABLE CODE CRITERIA**

CHAPTER 11

RESIDENTIAL, R-10

11.030 PERMITTED USES

The following are uses permitted outright in this zoning district:

1. *Single-family attached or detached residential unit.*
 - a. *Duplex residential units.*
 - b. *Triplex residential units.*
 - c. *Quadplex residential units.*

Staff Finding 1: The proposal is to provide alternative access for the future development of single-family attached or detached residential units. This standard is met.

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

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

<i>STANDARD</i>	<i>REQUIREMENT</i>	<i>ADDITIONAL NOTES</i>
<i>Minimum lot size Average minimum lot or parcel size for a townhouse project</i>	<i>10,000 sf 1,500 sf</i>	<i>For a single-family attached or detached unit</i>
<i>Minimum lot width at front lot line</i>	<i>35 ft</i>	<i>Does not apply to townhouses or cottage clusters</i>
<i>Average minimum lot width</i>	<i>50 ft</i>	<i>Does not apply to townhouses or cottage clusters</i>
<i>Minimum yard dimensions or minimum building setbacks</i>		<i>Except as specified in CDC 25.070(C)(1) through (4) for the Willamette Historic District. Front, rear, and side yard setbacks in a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.</i>
<i>Front yard</i>	<i>20 ft</i>	<i>Except for steeply sloped lots where the provisions of CDC 41.010 shall apply</i>
<i>Interior side yard</i>	<i>7.5 ft</i>	<i>Townhouse common walls that are attached may have a 0-ft side setback.</i>
<i>Street side yard</i>	<i>15 ft</i>	
<i>Rear yard</i>	<i>20 ft</i>	

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

Staff Finding 2: No development is proposed at this time, but the proposed plans in Exhibit PC-1 include building envelopes sufficient to comply with setback requirements listed above. These standards will be met at the time of development.

CHAPTER 48

ACCESS, EGRESS, AND CIRCULATION

48.020 APPLICABILITY AND GENERAL PROVISIONS

[...]

- B. All lots shall have access from a public street or from a platted private street approved under the land division chapter.*
- C. No building or other permit shall be issued until scaled plans are presented to the City and approved by the City as provided by this chapter, and show how the access, egress, and circulation requirements are to be fulfilled. Access to State or County roads may require review, approval, and permits from the appropriate authority.*

[...]

- E. Owners of two or more uses, structures, lots, parcels, or units of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the requirements as designated in this code; provided, that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases, or contracts to establish joint use. Copies of said instrument shall be placed on permanent file with the City Recorder.*

F. *Property owners shall not be compelled to access their homes via platted stems of flag lots if other driveways and easements are available and approved by the City Engineer.*

Staff Finding 3: As shown on the scaled civil plan and grading plan in PC-1, all affected lots will be provided access to Marylhurst Drive, a public street. A condition of approval requiring the recording of a cross-access and utility easement over the proposed joint accessway is recommended to ensure compliance with “E” and “F”. As conditioned, this standard will be met.

48.025 ACCESS CONTROL

A. *Purpose. The following access control standards apply to public, industrial, commercial and residential developments including land divisions. Access shall be managed to maintain an adequate level of service and to maintain the functional classification of roadways as required by the West Linn Transportation System Plan.*

B. *Access control standards.*

1. *Traffic impact analysis requirements. The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also CDC 55.125, Transportation Impact Analysis.)*

Staff Finding 4: The proposal to increase the number of lots utilizing a shared driveway from four to six does not warrant a traffic impact analysis due to the minimal impact and disproportional burden it would impose. This standard does not apply.

2. *The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.*

Staff Finding 5: The proposal is for a variance to allow the consolidation of six potential driveways into a single access point on Marylhurst Drive. A condition of approval is recommended to ensure a reciprocal access easement is recorded. This standard is met.

3. *Access options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (planned access shall be consistent with adopted public works standards and TSP). These methods are “options” as approved by the City Engineer.*

a) *Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.*

b) *Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., “shared driveway”). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.*

c) Option 3. Access is from a public street adjacent to the development lot or parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in subsection (B)(6) of this section.

Staff Finding 6: The applicant proposes to construct a shared private driveway from Marylhurst Drive, a public street adjacent to the development site. Under Access Option (3)(b) above, this is a permitted method of providing access to the subject properties. This standard is met.

4. Subdivisions fronting onto an arterial street. New residential land divisions fronting onto an arterial street shall be required to provide alleys or secondary (local or collector) streets for access to individual lots. When alleys or secondary streets cannot be constructed due to topographic or other physical constraints, access may be provided by consolidating driveways for clusters of two or more lots (e.g., includes flag lots and mid-block lanes).

Staff Finding 7: A land division is not proposed. This standard does not apply.

5. Double-frontage lots. When a lot or parcel has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. When a lot or parcel has frontage opposite that of the adjacent lots or parcels, access shall be provided from the street with the lowest classification.

Staff Finding 8: Two of the tax lots have frontages on both Marylhurst Drive (a collector) and Midhill Circle (a local Street). However, with the requested variance, all of the tax lots on the project site will take access from the shared driveway from Marylhurst Drive. With the variance, this standard is met.

6. Access spacing.

a. The access spacing standards found in the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections and non-traversable medians. Deviation from the access spacing standards may be granted by the City Engineer if conditions are met as described in the access spacing variances section in the adopted TSP.

b. Private drives and other access ways are subject to the requirements of CDC 48.060.

Staff Finding 9: The applicant is not proposing any new public street intersections with this application, and the proposed shared driveway complies with all applicable standards of CDC 48.060 as addressed in staff finding 17. Therefore, this standard does not apply.

7. Number of access points. For single-family (detached and attached), two-family, and duplex housing types, one street access point is permitted per lot or parcel, when alley access cannot otherwise be provided; except that two access points may be permitted corner lots (i.e., no more

than one access per street), subject to the access spacing standards in subsection (B)(6) of this section. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with subsection (B)(8) of this section, in order to maintain the required access spacing, and minimize the number of access points.

Staff Finding 10: Each of the six lots will only have one access point. All six lots take access from the shared driveway off Marylhurst Drive.

8. *Shared driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:*

- a. *Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent lot or parcel develops. "Developable" means that a lot or parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).*
- b. *Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.*

[...]

Staff Finding 11: The applicant is proposing the consolidation of access for six developable lots onto a shared driveway on Marylhurst Drive. The consolidation of access will prevent multiple driveways onto the adjacent streets and maximize the frontage improvements that can be provided on Marylhurst Drive. As noted in prior staff findings, a condition of approval requiring the recordation of an access and utility easement is recommended. As conditioned, these standards are met.

48.030 MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES

A. Direct individual access from single-family dwellings and duplex lots to an arterial street, as designated in the transportation element of the Comprehensive Plan, is prohibited for lots or parcels created after the effective date of this code where an alternate access is either available or is expected to be available by imminent development application. Evidence of alternate or future access may include temporary cul-de-sacs, dedications or stubouts on adjacent lots or parcels, or tentative street layout plans submitted at one time by adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question.

[...]

Staff Finding 12: Marylhurst Drive is classified as a Collector, not an Arterial Street. Therefore, the above standard does not apply to this application.

B. When any portion of any house is less than 150 feet from the adjacent right-of-way, access to the home is as follows:

1. One single-family residence, including residences with an accessory dwelling unit as defined in CDC 02.030, shall provide 10 feet of unobstructed horizontal clearance. Dual-track or other driveway designs that minimize the total area of impervious driveway surface are encouraged.
2. Two to four single-family residential homes equals a 14- to 20-foot-wide paved or all-weather surface. Width shall depend upon adequacy of line of sight and number of homes.
3. Maximum driveway grade shall be 15 percent. The 15 percent shall be measured along the centerline of the driveway only. Variations require approval of a Class II variance by the Planning Commission pursuant to Chapter 75 CDC. Regardless, the last 18 feet in front of the garage shall be under 12 percent grade as measured along the centerline of the driveway only. Grades elsewhere along the driveway shall not apply.
4. The driveway shall include a minimum of 20 feet in length between the garage door and the back of sidewalk, or, if no sidewalk is proposed, to the paved portion of the right-of-way.

Staff Finding 13: As shown on the civil sheets in Exhibit PC-1, the applicant is proposing a 20-foot wide paved driveway for the first two lots, followed by a 14-foot wide driveway with a five-foot-wide sidewalk. Finished grade along centerline will be under 2%, well below maximum grade. Tualatin Valley Fire & Rescue has approved the adequacy of the proposed cross section per the Service Provider contained in Exhibit PC-1. Driveway depths will be confirmed at the time of building permits. Therefore, these standards are met.

C. When any portion of one or more homes is more than 150 feet from the adjacent right-of-way, the provisions of subsection B of this section shall apply in addition to the following provisions.

1. A turnaround may be required as prescribed by the Fire Chief.
2. Minimum vertical clearance for the driveway shall be 13 feet, six inches.
3. A minimum centerline turning radius of 45 feet is required unless waived by the Fire Chief.
4. There shall be sufficient horizontal clearance on either side of the driveway so that the total horizontal clearance is 20 feet.

Staff Finding 14: Tualatin Valley Fire & Rescue has issued a Service Provider Permit for the application and has not requested a turnaround. Total horizontal clearance will be twenty feet based upon the proposed cross section. No structures are proposed above the proposed accessway that would limit the vertical clearance. These standards are met.

D. Access to five or more single-family homes shall be by a street built to full construction code standards. All streets shall be public. This full street provision may only be waived by variance.

[...]

Staff Finding 15: The proposed variance is to permit access to six existing lots of record on a shared, private access drive. With the variance, this standard no longer applies.

G. The number of driveways or curb cuts shall be minimized on arterials or collectors. Consolidation or joint use of existing driveways shall be required when feasible.
[...]

Staff Finding 16: The proposal would result in a single, consolidated access on Marylhurst Drive, a collector. This standard is met.

48.060 WIDTH AND LOCATION OF CURB CUTS AND ACCESS SEPARATION REQUIREMENTS

- A. Minimum curb cut width shall be 16 feet.
- B. Maximum curb cut width shall be 36 feet, except along Highway 43 in which case the maximum curb cut shall be 40 feet. For emergency service providers, including fire stations, the maximum shall be 50 feet.

Staff Finding 17: The proposed curb cut is 20 feet, in compliance with the minimum and maximum curb cut widths. These standards are met.

- C. No curb cuts shall be allowed any closer to an intersecting street right-of-way line than the following:
- 1. On an arterial when intersected by another arterial, 150 feet.
 - 2. On an arterial when intersected by a collector, 100 feet.
 - 3. On an arterial when intersected by a local street, 100 feet.
 - 4. On a collector when intersecting an arterial street, 100 feet.
 - 5. On a collector when intersected by another collector or local street, 35 feet.
 - 6. On a local street when intersecting any other street, 35 feet.

Staff Finding 18: The proposed accessway fronts Marylhurst Drive, a collector, and will be located approximately 150 feet from the intersecting lines of Midhill Circle, a local street, substantially in excess of the 35-foot minimum. This standard is met.

- D. There shall be a minimum distance between any two adjacent curb cuts on the same side of a public street, except for one-way entrances and exits, as follows:
- 1. On an arterial street, 150 feet.
 - 2. On a collector street, 75 feet.
 - 3. Between any two curb cuts on the same lot or parcel on a local street, 30 feet.

Staff Finding 19: The applicant is only proposing a consolidated curb cut on the development site that is over 100 feet from both intersections of Midhill Circle and Marylhurst Drive. If the variance is not granted and two driveways had to be provided on Marylhurst Drive (a collector) or four to five on Midhill Circle (a local street), it would be very difficult to meet the minimum distance requirements with the site dimensions and local topography. Granting the

variance allows for just a single driveway on Marylhurst Drive that can meet all minimum distance requirements. With the variance, this standard is met.

E. A rolled curb may be installed in lieu of curb cuts and access separation requirements.

Staff Finding 20: The applicant is not proposing to install a rolled curb adjacent to the development site. Therefore, this standard does not apply.

F. Curb cuts shall be kept to the minimum, particularly on Highway 43. Consolidation of driveways is preferred. The standard on Highway 43 is one curb cut per business if consolidation of driveways is not possible.

Staff Finding 21: The applicant is requesting a variance to allow the consolidation of six required access points into a single shared driveway, thus minimizing the number of future curb cuts. This standard is met.

CHAPTER 75, VARIANCES AND SPECIAL WAIVERS

75.020 CLASSIFICATION OF VARIANCES

B. Class II Variance. Class II variances may be utilized when strict application of code requirements would be inconsistent with the general purpose of the CDC and would create a burden upon a property owner with no corresponding public benefit. A Class II variance will involve a significant change from the code requirements and may create adverse impacts on adjacent property or occupants. It includes any variance that is not classified as a Class I variance or special waiver.

1. Class II Variance Approval Criteria. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared.

a. The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:

- 1) Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.*
- 2) Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.*
- 3) The potential for economic development of the subject property.*

Staff Finding 22: Staff incorporates applicant findings (Exhibit PC-1) as described below:

“The requested variance is the minimum necessary to make reasonable use of the property while also prioritizing pedestrian safety and walkability of the area for the following reasons:

- 1. The physical characteristics of the lots, including size and shape, make two separate access drives from Marylhurst Drive impractical. This would require multiple curb cuts on the street, closer proximity between driveways and street intersections, as well as**

requiring additional space on the lots themselves, limiting the buildable area of the residential properties.

2. Due to the topography of the project site and the extremely steep slopes that requires retaining walls, minimizing the number of driveways onto Marylhurst Drive will limit pedestrian-vehicle and vehicle-vehicle conflicts.
3. It should be noted that the City requested the property owner abandon the original development plans for the project site that had each lot taking individual direct access from Midhill Circle in lieu of making all public improvements and access off Marylhurst Drive. The property owner revised the development plan in accordance with the City's request to support the potential future redevelopment vision of pedestrian safety and walkability down to Highway 43."

This criterion is met.

b. The variance will not result in violation(s) of any other code standard, and the variance will meet the purposes of the regulation being modified.

Staff Finding 23: Staff incorporates applicant findings (Exhibit PC-1) as described below: "The requested variance will not result in a violation of any other known code standards while still meeting the purpose of the regulation being modified. Chapter 48 in the CDC seeks to balance mobility and the need to provide efficient and safe access to individual properties. Allowing for all six lots to be accessed via a single private drive creates a more practical development pattern for the area, as well as a safer situation for access, egress, and pedestrian circulation by limiting curb cuts on a Collector. Additionally, the requested variance will produce more well-designed homes relative to the site size, shape and existing development pattern of the area and on Marylhurst Drive."

This criterion is met.

c. The need for the variance was not created by the applicant and/or owner requesting the variance.

Staff Finding 24: The steep topography was not created by the applicant/owner, nor was the lot layout which was replatted in 1926. This criterion is met.

d. If more than one variance is requested, the cumulative effect of the variances results in a project that is consistent with the overall purpose of the zone.

Staff Finding 25: The applicant has requested one variance. This criterion does not apply.

96.010 CONSTRUCTION REQUIRED

A. Street improvements for residential construction are required when:

1. Construction of a new single-family attached or detached structure (replacement of an existing structure is exempt); or

[...]

Staff Finding 26: The applicant is not proposing the construction of any new residential units at this time. However, the six lots of record will eventually be developed with single-family attached or detached homes as permitted in the R-10 zone. With the requested variance to allow all the properties on the development site to have access from a single shared driveway, the applicant is also proposing street frontage improvements on Marylhurst Drive, including a six foot sidewalk, stormwater facilities, and new street paving. The length of improvements along Marylhurst is approximately 283 feet, which is greater than the approximately 255 feet of frontage improvements that would be required if provided along Midhill Circle. As the lots may be sold to different buyers prior to development and therefore constructed on differing timetables, a condition of approval has been added requiring the construction of the improvements prior to the first home to ensure the work is completed. As conditioned, this standard is met.

96.020 FEE-IN-LIEU

A. *An applicant may apply for a waiver of street improvements and the option to pay a fee-in-lieu (in accordance with the City's adopted fee structure) of constructing street improvements if one of the following are met:*

1. *Located on a cul-de-sac with no existing curb and/or no existing sidewalk; or*
2. *Located on a street less than 1,320 linear feet in length and not planned as a through street; or*
3. *Located more than 1,320 linear feet from nearest street improvements on the same street or connecting street. (Ord. 1739 § 2 (Exh. B), 2022)*

CHAPTER 99, PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL

99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

(...)

B. *Pre-application conferences.*

1. *Subject to subsection (B)(4) of this section, a pre-application conference is required for, but not limited to, each of the following applications:*

(...)

o. *Variances;*

(...)

Staff Finding 13: A pre-application meeting was held on February 16, 2023 (Exhibit PC-4). This standard is met.

99.060 APPROVAL AUTHORITY

B. *Planning Commission authority. The Planning Commission shall have the authority to:*

(...)

e. *Class II variance or special waiver (Chapter 75 CDC).*

(...)

Staff Finding 14: The applicant proposal will be heard by the Planning Commission at a public hearing scheduled for May 17, 2023. This standard will be met.

99.080 NOTICE

Notice shall be given in the following ways:

A. Class A Notice. (...)

Staff Finding 15: The applicant proposal has been properly noticed by the City per Exhibit PC-6. This standard is met.

EXHIBIT PC-1: APPLICANT SUBMITTAL



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

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT John Floyd	PROJECT NO(S). VAR-23-01	PRE-APPLICATION NO. PA-22-02
NON-REFUNDABLE FEE(S) \$2,900	REFUNDABLE DEPOSIT(S)	TOTAL \$2,900

Type of Review (Please check all that apply):

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

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

Site Location/Address: 2622 Marylhurts Drive and 18600-18690 Midhill Circle	Assessor's Map No.: 2S1E14DC
	Tax Lot(s): 5800, 6700, 6701, 6601, 6600, 6500
	Total Land Area: 0.7 acres

Brief Description of Proposal:

The applicant is requesting a Type II variance to allow for more than four lots (six total) to be served from one private driveway.

Applicant Name: Tracy Peterson <small>(please print)</small> Address: 24350 SW Nodaway Lane Wilsonville, OR 97070 City State Zip:	Phone: Email:
--	------------------

Owner Name (required): Tracy & Derek Peterson <small>(please print)</small> Address: 24350 SW Nodaway Lane Wilsonville, OR 97070 City State Zip:	Phone: Email:
---	------------------

Consultant Name: Hillary Harris, Harper Houf Peterson Righellis <small>(please print)</small> Address: 205 SE Spokane Street, Suite 200 Portland, OR 97202 City State Zip:	Phone: 503-221-1131 Email: hillaryh@hhpr.com
---	---

1. All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
2. The owner/applicant or their representative should be present at all public hearings.
3. A decision may be reversed on appeal. The permit approval will not be effective until the appeal period has expired.
4. Submit this form and supporting documents through the [Submit a Land Use Application](https://westlinnoregon.gov/planning/submit-land-use-application) web page:
<https://westlinnoregon.gov/planning/submit-land-use-application>

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

Tracy Peterson <small>Applicant's signature</small>	3/17/2023 1:38 PM	DocuSigned by: Derek Peterson <small>Owner's signature (required)</small>
	Date	Date

Marylhurst Drive Variance
Land Use Application Narrative & Findings Document
Class II Variance

Owner/Applicant: Tracy & Derek Peterson
24350 SW Nodaway Lane
Wilsonville, OR 97070

Planner: Hillary Harris, Planner
Harper Houf Peterson Righellis, Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202
(503) 221-1131
hillaryh@hhpr.com

Engineer: Alex Simpson, PE
Harper Houf Peterson Righellis, Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202
(503) 221-1131
alexs@hhpr.com

Site Location: 2622 Marylhurst Drive & 18600-18690 Midhill Circle

Tax Map: 2S1E14DC

Tax Lots: 5800, 6700, 6701, 6601, 6600, 6500

Parcel Size: 0.7 acres

Zoning Designation: R-10

Summary of Request: The applicant is requesting a Type II variance to allow for more than four lots (six lots total) to be served from one private driveway.

Date: March 6, 2023

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I. PROJECT OVERVIEW

EXISTING CONDITIONS & PROPOSAL

The project site includes six properties located off Marylhurst Drive and Midhill Circle (Tax Lots 2S1E14DC5800, 2S1E14DC6500, 2S1E14DC6600, 2S1E14DC6601, 2S1E14DC6700, and 2S1E14DC6701). The site is approximately 0.7 acres in size and zoned R-10 on the West Linn Zoning Map. The site has been subdivided and approved for the construction of single-family homes.

Due to the limited space of the project site, the steep topography, and the City prioritizing the area for future walkability, the properties can only be accessed from a single private driveway off Marylhurst Drive. The West Linn Community Development Code allows for up to four properties to take access from a shared private drive, and there are a total of six properties on the project site. Therefore, the applicant is requesting a Class II Variance to allow for all six properties on the project site to be accessed from the shared private drive.

VICINITY MAP



II. RESPONSE TO APPLICABLE APPROVAL CRITERIA FOR A CLASS II VARIANCE

CHAPTER 11: SINGLE-FAMILY RESIDENTIAL DETACHED, R-10

SECTION 11.030: PERMITTED USES

The following are uses permitted outright in this zoning district:

1. Single-family attached or detached residential unit.
 - a. Duplex residential units.
 - b. Triplex residential units.
 - c. Quadplex residential units.
2. Cottage clusters.
3. Townhouse.
4. Community recreation.
5. Family day care.
6. Residential home.
7. Utilities, minor.
8. Transportation facilities (Type I).
9. Manufactured home.
10. Community building on City-owned property at 3706 Cedaroak Drive and indicated on the map below.

Response: The project site is comprised of six existing lots that are proposed for eventual development as either single-family attached or detached residential dwellings. However, there is no proposed development with this application, only the request for a variance.

CHAPTER 48: ACCESS, EGRESS, AND CIRCULATION

SECTION 48.020: APPLICABILITY AND GENERAL PROVISIONS

- A. The provisions of this chapter do not apply where the provisions of the Transportation System Plan or land division chapter are applicable and set forth differing standards.

Response: Neither the provisions of the Transportation System Plan nor the land division chapter are applicable to this project. Therefore, the standards of Section 48.020 apply.

- B. All lots shall have access from a public street or from a platted private street approved under the land division chapter.

Response: The applicant is proposing all six lots have access from Marylhurst Drive, a public street, via a shared private driveway. Standard (B) above is satisfied with the proposed design – please see the attached site plan for details.

- C. No building or other permit shall be issued until scaled plans are presented to the City and approved by the City as provided by this chapter, and show how the access, egress, and circulation requirements are

to be fulfilled. Access to State or County roads may require review, approval, and permits from the appropriate authority.

Response: Included with this application is a detailed and scaled civil plan set that includes a site plan and grading plan. Please see these plans for details on compliance with the standards of this chapter.

D. Should the owner or occupant of a lot, parcel or building enlarge or change the use to which the lot, parcel or building is put, resulting in increasing any of the requirements of this chapter, it shall be unlawful and a violation of this code to begin or maintain such altered use until the provisions of this chapter have been met, and, if required, until the appropriate approval authority under Chapter 99 CDC has approved the change.

Response: The property owner is not proposing to change the use of the existing lots or enlarge the lots included in the project site.

E. Owners of two or more uses, structures, lots, parcels, or units of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the requirements as designated in this code; provided, that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases, or contracts to establish joint use. Copies of said instrument shall be placed on permanent file with the City Recorder.

Response: The property owner owns all six lots included on the project site and proposes to have all six lots utilize a joint access driveway from Marylhurst Drive. This combined access satisfies all requirements of this code or is requesting a variance to the code standard.

SECTION 48.025: ACCESS CONTROL

B. Access control standards.

1. Traffic impact analysis requirements. The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also CDC 55.125, Transportation Impact Analysis.)

Response: A traffic impact analysis is not required or included with this variance application.

2. The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.

Response: The applicant is requesting a variance to allow for the consolidation of driveways and allow for all six properties to take access from a single point off Marylhurst Drive. In addition, the applicant will provide frontage improvements along Marylhurst Drive, including a six foot wide sidewalk and new street paving. Please see the attached site plan, Sheet C3.0, for details on the proposed improvements.

3. *Access options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (planned access shall be consistent with adopted public works standards and TSP). These methods are "options" as approved by the City Engineer.*
 - a. *Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.*
 - b. *Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.*
 - c. *Option 3. Access is from a public street adjacent to the development lot or parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in subsection (B)(6) of this section.*

Response: The applicant proposes to construct a shared private driveway from Marylhurst Drive, a public street directly adjacent to the development site. Under Access Option (3)(c) above, this is a permitted method of providing access to the subject properties.

4. *Subdivisions fronting onto an arterial street. [...]*

Response: The applicant is not proposing a subdivision or new residential land division with this application. Therefore, the above standard does not apply, and the remaining code language has been omitted from this narrative.

5. *Double-frontage lots. When a lot or parcel has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. When a lot or parcel has frontage opposite that of the adjacent lots or parcels, access shall be provided from the street with the lowest classification.*

Response: One of the lots (Tax Lot 5800) has frontage on both Marylhurst Drive (a Collector) and Midhill Circle (a Local Street). However, with the requested variance, all of the tax lots on the project site will take access from the shared driveway from Marylhurst Drive.

6. *Access spacing.*
 - a. *The access spacing standards found in the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections and non-traversable medians. Deviation from the access spacing standards may be granted by the City Engineer if conditions are met as described in the access spacing variances section in the adopted TSP.*

Response: The applicant is not proposing any new public street intersections with this application. Therefore, Standard (6)(a) does not apply.

- b. *Private drives and other access ways are subject to the requirements of CDC 48.060.*

Response: The proposed shared driveway on the project site complies with all applicable standards of CDC 48.060. Please see the responses in that section of this narrative for details on compliance.

7. *Number of access points. For single-family (detached and attached), two-family, and duplex housing types, one street access point is permitted per lot or parcel, when alley access cannot otherwise be provided; except that two access points may be permitted corner lots (i.e., no more than one access per street), subject to the access spacing standards in subsection (B)(6) of this section. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with subsection (B)(8) of this section, in order to maintain the required access spacing, and minimize the number of access points.*

Response: Each of the lots included on the project site will only have one access point. All six lots take access from the shared driveway off Marylhurst Drive. Please see the attached site plan for details on site access.

8. *Shared driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:*
 - a. *Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent lot or parcel develops. "Developable" means that a lot or parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).*

Response: The applicant is proposing all six lots take access from a shared driveway off Marylhurst Drive. The consolidation of the driveways will prevent multiple driveways onto the adjacent streets and maximize the frontage improvements that can be provided on Marylhurst Drive. Please see the attached site plan for details on site access.

- b. *Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.*

Responses: Acknowledged by the applicant.

- C. *Street connectivity and formation of blocks required. In order to promote efficient vehicular and pedestrian circulation throughout the City, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards: [...]*

Response: The applicant is not proposing any new streets or blocks with this application. Only a variance to allow for a single shared driveway for all six lots is requested. Therefore, Standard (C) above does not apply to this application and the remaining code language has been omitted.

SECTION 48.030: MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES

- A. *Direct individual access from single-family dwellings and duplex lots to an arterial street, as designated in the transportation element of the Comprehensive Plan, is prohibited for lots or parcels created after the effective date of this code where an alternate access is either available or is expected to be available by imminent development application. Evidence of alternate or future access may include temporary cul-de-sacs, dedications or stub outs on adjacent lots or parcels, or tentative street layout plans submitted at one time by adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question.*

Response: Marylhurst Drive is classified as a Collector, not an Arterial Street. Therefore, the above standard does not apply to this application.

- B. *When any portion of any house is less than 150 feet from the adjacent right-of-way, access to the home is as follows: [...]*
- C. *When any portion of one or more homes is more than 150 feet from the adjacent right-of-way, the provisions of subsection B of this section shall apply in addition to the following provisions. [...]*

Response: There are no existing houses on the project site, nor are there any houses proposed with this variance application. Therefore, Standards (B) and (C) above do not apply and the remaining code language has been omitted.

- D. *Access to five or more single-family homes shall be by a street built to full construction code standards. All streets shall be public. This full street provision may only be waived by variance.*

Response: The applicant is requesting a variance to allow for a driveway to be constructed to serve all six of the residential lots on the development site. This driveway will be 20 feet wide and comply with all applicable standards for a driveway.

- E. *Access and/or service drives for multi-family dwellings shall be fully improved with hard surface pavement: [...]*

Response: The applicant is not proposing any multi-family dwellings with this application. Therefore, Standard (E) does not apply, and the remaining code language has been omitted.

- F. *Where on-site maneuvering and/or access drives are necessary to accommodate required parking, in no case shall said maneuvering and/or access drives be less than that required in Chapters 46 and 48 CDC.*

Response: When developed, each residential site will have adequate parking provided that complies with the West Linn Community Development Code.

- G. *The number of driveways or curb cuts shall be minimized on arterials or collectors. Consolidation or joint use of existing driveways shall be required when feasible.*



Response: Granting the requested variance will allow for only one driveway to be constructed on Marylhurst Drive, minimizing the number of curb cuts and possible vehicle-pedestrian conflicts on the street. Because the orientation and location of the site, as well as the City’s desire to make the area a more pedestrian oriented and walkable neighborhood, consolidating all six driveways into one shared private driveway is not only feasible, but ideal for the site.

H. In order to facilitate through traffic and improve neighborhood connections, it may be necessary to construct a public street through a multi-family site.

Response: The applicant is not proposing any multi-family dwellings with this application. Therefore, Standard (H) does not apply to this application.

I. Gated accessways to residential development other than a single-family home are prohibited.

Response: The applicant is not proposing any gated accessways with this application. Therefore, Standard (I) does not apply to this application.

SECTION 48.060: WIDTH AND LOCATION OF CURB CUTS AND ACCESS SEPARATION REQUIREMENTS

- A. Minimum curb cut width shall be 16 feet.*
- B. Maximum curb cut width shall be 36 feet, except along Highway 43 in which case the maximum curb cut shall be 40 feet. For emergency service providers, including fire stations, the maximum shall be 50 feet.*

Response: The proposed driveway off Marylhurst Drive has a curb cut of 20 feet, complying with the minimum and maximum curb cut width allowed above. Please see the attached site plan, Sheet C3.0, for details.

- C. No curb cuts shall be allowed any closer to an intersecting street right-of-way line than the following:*
 - 1. On an arterial when intersected by another arterial, 150 feet.*
 - 2. On an arterial when intersected by a collector, 100 feet.*
 - 3. On an arterial when intersected by a local street, 100 feet.*
 - 4. On a collector when intersecting an arterial street, 100 feet.*
 - 5. On a collector when intersected by another collector or local street, 35 feet.*
 - 6. On a local street when intersecting any other street, 35 feet.*

Response: In the City of West Linn’s Transportation Systems Plan (Figure 17), Marylhurst Drive is classified as a Collector Street and Midhill Circle is classified as a Local Street. Therefore, no curb cut is allowed any closer than 35 feet of these intersecting. The proposed curb cut is well over 100 feet from both intersections, complying with the above standard. Please see the attached site plan, Sheet C3.0, for details.

- D. There shall be a minimum distance between any two adjacent curb cuts on the same side of a public street, except for one-way entrances and exits, as follows:*
 - 1. On an arterial street, 150 feet.*
 - 2. On a collector street, 75 feet.*
 - 3. Between any two curb cuts on the same lot or parcel on a local street, 30 feet.*



Response: The applicant is only proposing one curb cut on the development site that is over 100 feet from both intersections of Midhill Circle and Marylhurst Drive. If the variance was not granted and two driveways had to be provided on Marylhurst Drive (a collector) or four to five on Midhill Circle (a local street), it would be very difficult to meet the minimum distance requirements with the site dimensions and local topography. Granting the variance allows for just a single driveway on Marylhurst Drive that can meet all minimum distance requirements.

E. A rolled curb may be installed in lieu of curb cuts and access separation requirements.

Response: The applicant is not proposing to install a rolled curb adjacent to the development site. Therefore, the above standard does not apply to this application.

F. Curb cuts shall be kept to the minimum, particularly on Highway 43. Consolidation of driveways is preferred. The standard on Highway 43 is one curb cut per business if consolidation of driveways is not possible.

Response: The applicant is requesting a variance to allow for all six residential properties to have vehicle access from a single shared driveway. Granting the requested variance will allow for all the properties to consolidate their access into one shared driveway and only require one curb cut on Marylhurst Drive.

CHAPTER 75: VARIANCES AND SPECIAL WAIVERS

SECTION 75.020: CLASSIFICATION OF VARIANCES

B. Class II Variance. Class II variances may be utilized when strict application of code requirements would be inconsistent with the general purpose of the CDC and would create a burden upon a property owner with no corresponding public benefit. A Class II variance will involve a significant change from the code requirements and may create adverse impacts on adjacent property or occupants. It includes any variance that is not classified as a Class I variance or special waiver.

- 1. Class II Variance Approval Criteria. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared.*
 - a) The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:*
 - 1) Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.*
 - 2) Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.*
 - 3) The potential for economic development of the subject property.*

Response: The requested variance is the minimum necessary to make reasonable use of the property while also prioritizing pedestrian safety and walkability of the area for the following reasons:

1. The physical characteristics of the lots, including size and shape, make two separate access drives from Marylhurst Drive impractical. This would require multiple curb cuts on the street, closer proximity

between driveways and street intersections, as well as requiring additional space on the lots themselves, limiting the buildable area of the residential properties.

2. Due to the topography of the project site and the extremely steep slopes that requires retaining walls, minimizing the number of driveways onto Marylhurst Drive will limit pedestrian-vehicle and vehicle-vehicle conflicts.
3. It should be noted that the City requested the property owner abandon the original development plans for the project site that had each lot taking individual direct access from Midhill Circle in lieu of making all public improvements and access off Marylhurst Drive. The property owner revised the development plan in accordance with the City's request to support the potential future redevelopment vision of pedestrian safety and walkability down to Highway 43.

b) The variance will not result in violation(s) of any other code standard, and the variance will meet the purposes of the regulation being modified.

Response: The requested variance will not result in a violation of any other known code standards while still meeting the purpose of the regulation being modified. Chapter 48 in the CDC seeks to balance mobility and the need to provide efficient and safe access to individual properties. Allowing for all six lots to be accessed via a single private drive creates a more practical development pattern for the area, as well as a safer situation for access, egress, and pedestrian circulation by limiting curb cuts on a Collector. Additionally, the requested variance will produce more well-designed homes relative to the site size, shape and existing development pattern of the area and on Marylhurst Drive.

c) The need for the variance was not created by the applicant and/or owner requesting the variance.

Response: The two primary reasons the property owner is requesting a variance to allow for all six lots to take access from a single shared private drive is the steep topography of Marylhurst Drive and the project site and the City's request to not have access from Midhill Circle. Neither the steepness of the area nor the City's request was created by the property owner.

d) If more than one variance is requested, the cumulative effect of the variances results in a project that is consistent with the overall purpose of the zone.

Response: Only one variance is requested, and that variance would apply to all six lots and the road would remain private and our responsibility.

CHAPTER 96: STREET IMPROVEMENT CONSTRUCTION

SECTION 96.010: CONSTRUCTION REQUIRED

- A. *Street improvements for residential construction are required when:*
1. *Construction of a new single-family attached or detached structure (replacement of an existing structure is exempt); or*
 2. *Construction of a new multifamily structure; or*
 3. *Increase in dwelling unit density on site (accessory dwelling units are exempt).*

Response: The applicant is not proposing the construction of any new residential units at this time. However, the property will eventually be developed with single-family attached or detached homes in the future. With the requested variance to allow all the properties on the development site to have access from a single shared driveway, the applicant is also proposing street frontage improvements on Marylhurst Drive, including a six foot sidewalk, stormwater facilities, and new street paving. Please see the attached civil plan set for details on the proposed improvements.

B. Street improvements for commercial construction are required when: [...]

Response: The applicant is not proposing any commercial construction on the project site. Therefore, Standard (B) does not apply, and the remaining code language has been omitted.

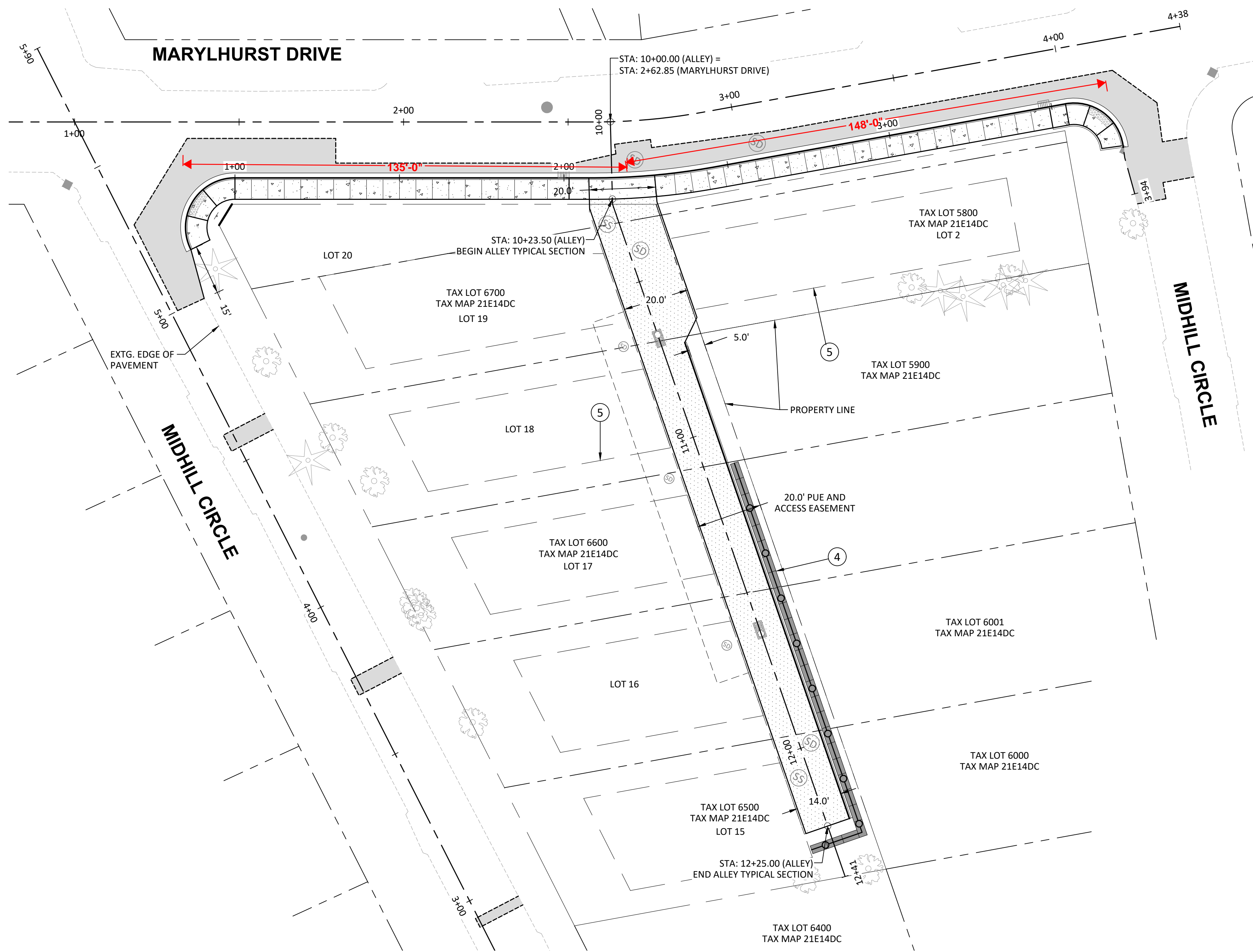
SECTION 96.030: STANDARDS

Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided the applicant submit sufficient security in an amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.

Response: The applicant is proposing street improvements on Marylhurst Drive and Midhill Circle, including right-of-way dedication, a sidewalk, and improved asphalt concrete paving. These street improvements will be installed according to all applicable City standards and complete prior to the issuance of any occupancy permit for the residential sites.

III. CONCLUSION

This written statement and the accompanying supporting documents demonstrate compliance with the applicable approval criteria for a Class II Variance in the City of West Linn. Therefore, the applicant respectfully requests that the City approve the application.

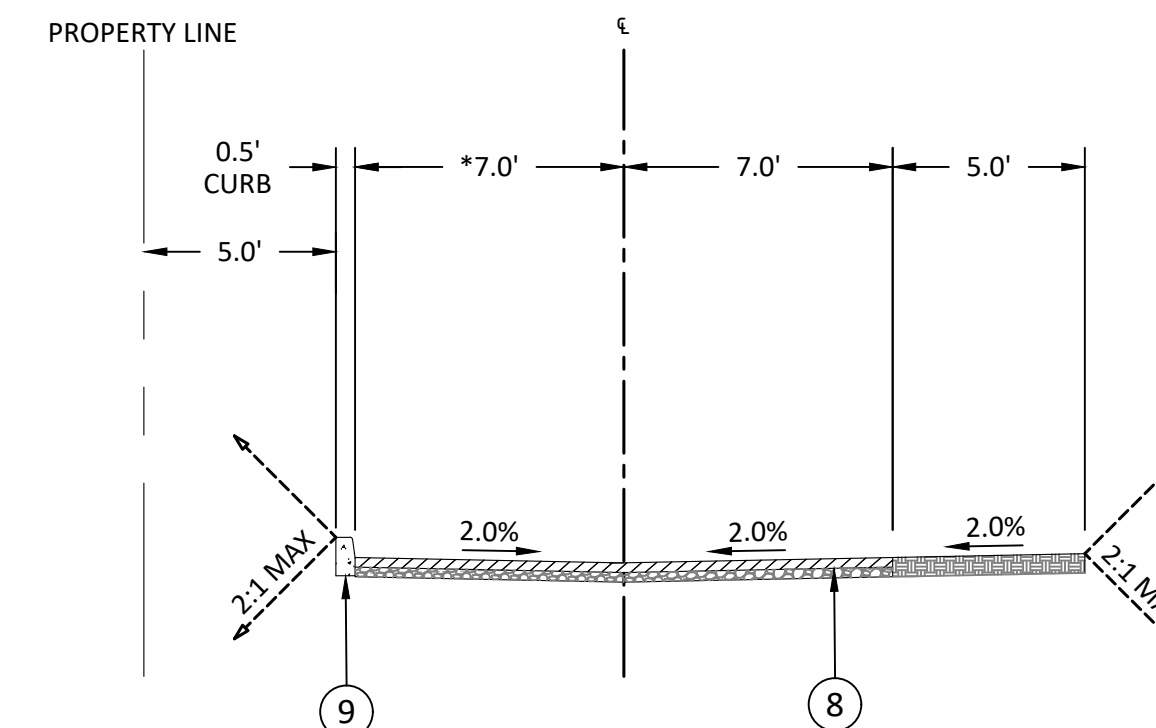


CONSTRUCTION NOTES:

- 4 CONSTRUCT ULTRABLOCK RETAINING WALL (OR EQUIVALENT) WITH CHAINLINK FALL-PROTECTION FENCING MOUNTED TO TOP OF WALL. WALL TO BE DESIGN-BUILD. CONTRACTOR TO SUBMIT ENGINEERED (STAMPED & SIGNED) SHOP-DRAWINGS TO ENGINEER FOR REVIEW PRIOR TO CONSTRUCTION. COORDINATE WITH GEOTECHNICAL ENGINEER FOR SUBGRADE PREPARATION AND REVIEW PRIOR TO CONSTRUCTION.
- 5 SETBACK LINE/FUTURE BUILDING ZONE FOOTPRINT (TYP.).
- 8 CONSTRUCT ASPHALT PAVEMENT SECTION PER DETAIL ON SHEET C6.4.
- 9 CONSTRUCT PRIVATE CURB PER STANDARD DETAIL ON SHEET C6.4.

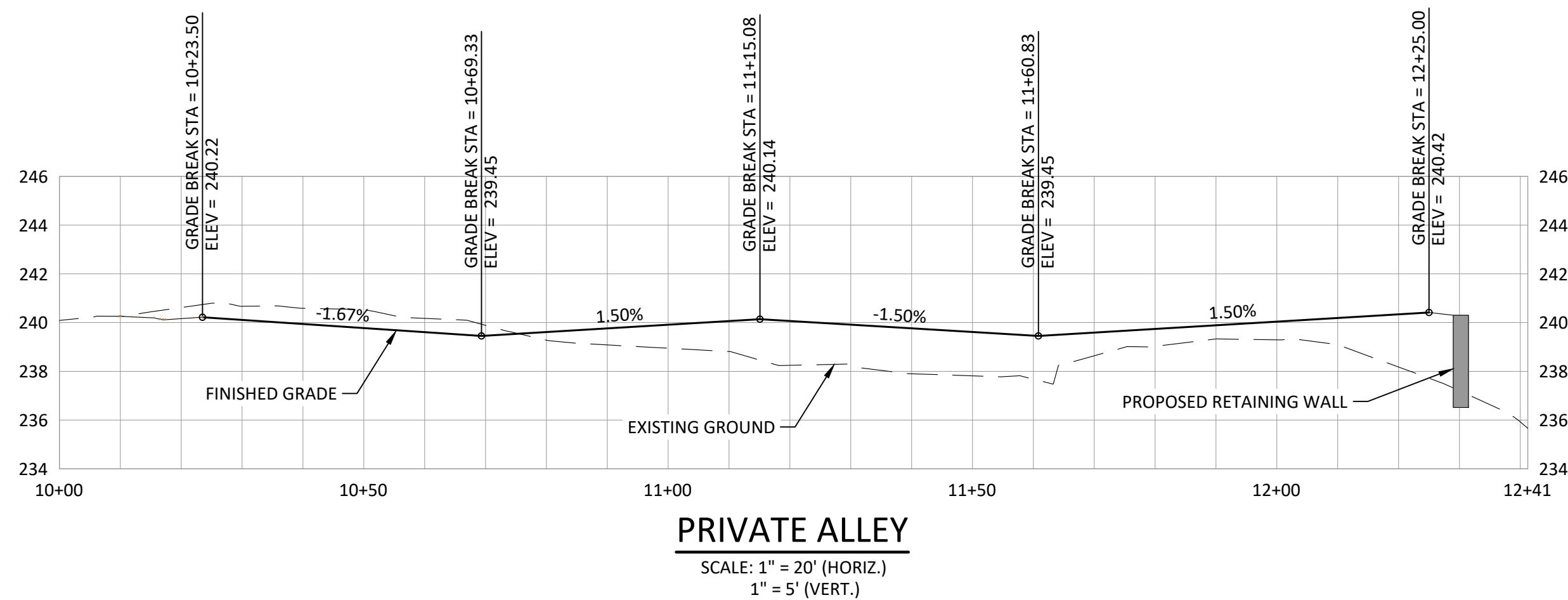
LEGEND

- ASPHALT CONCRETE (AC)
- ASPHALT PAVEMENT
- CONCRETE
- PROPOSED RETAINING WALL
- SAWCUT LINE
- EXISTING ROW LINE
- PROPOSED ROW LINE
- EXISTING PROPERTY LINE
- CENTERLINE
- FALL-PROTECTION FENCE
- PUBLIC UTILITY EASEMENT (PUE)
- SETBACK LINE/FUTURE BUILDING ZONE FOOTPRINT

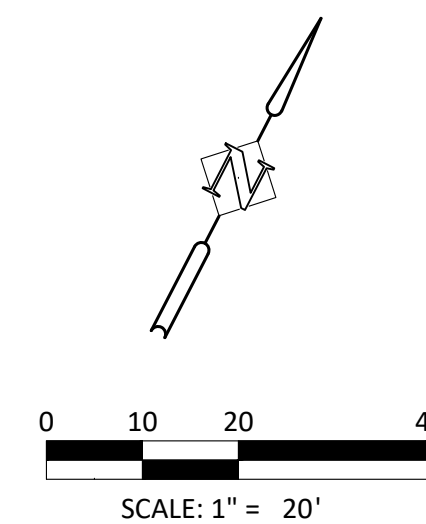


ALLEY TYPICAL SECTION

STA. 10+23.50 - STA. 12+25.00
 *STA 10+23.50 - 10+66.16, 13.0' WIDTH
 *STA 10+23.50 - 10+71.96, NO CURB



PRIVATE ALLEY
 SCALE: 1" = 20' (HORIZ.)
 1" = 5' (VERT.)



PRIVATE ALLEY PLAN AND PROFILE
MARYLHURST SUBDIVISION
 WEST LINN, OR

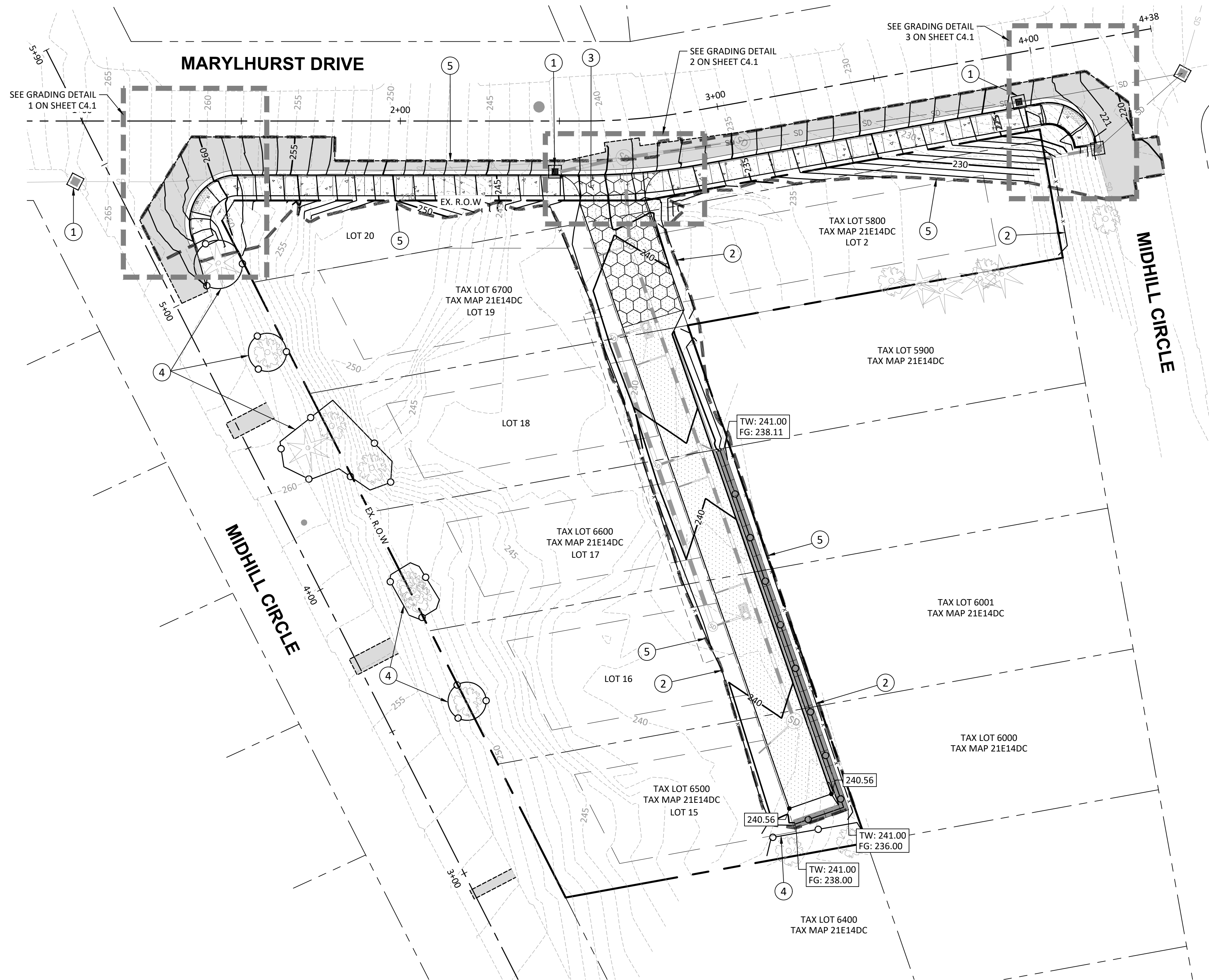
Harper Houf Peterson Righellis Inc.
 ENGINEERS * PLANNERS
 LANDSCAPE ARCHITECTS * SURVEYORS
 206 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

REGISTERED PROFESSIONAL ENGINEER
 ALEXANDER J. SIMPSON
 OREGON
 SEPT. 15, 2016
 EXPIRES: 06/30/2024

DESIGNED:	HHPR
DRAWN:	HHPR
CHECKED:	HHPR
DATE:	02/02/2023

DATE	NO.	DESCRIPTION

SHEET NO.
C3.2
 JOB NO.
 TPH-02

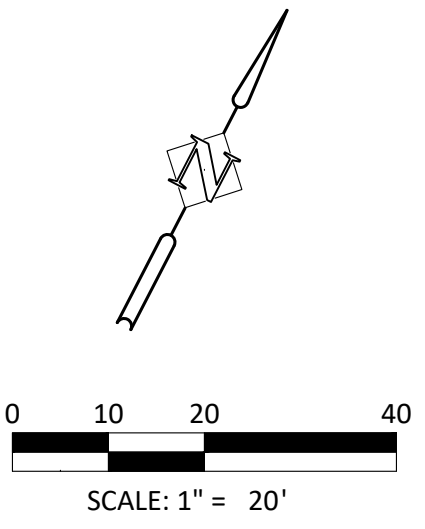


LEGEND

- ASPHALT CONCRETE (AC)
- ASPHALT PAVEMENT
- CONCRETE
- CONSTRUCTION ENTRANCE
- TREE PROTECTION FENCE
- SEDIMENT FENCE
- LIMITS OF GRADING
- INLET PROTECTION
- EXISTING CONTOUR
- PROPOSED MINOR CONTOUR
- PROPOSED MAJOR CONTOUR
- EXISTING ROW LINE
- PROPOSED ROW LINE
- RETAINING WALL
- PUBLIC UTILITY EASEMENT (PUE)
- STORM LINE
- STORMWATER MANHOLE
- CATCH BASIN

- ### CONSTRUCTION NOTES:
- ① PROPOSED INLET PROTECTION PER DETAIL ON SHEET C6.4.
 - ② PROPOSED SEDIMENT FENCE PER DETAIL ON SHEET C6.4.
 - ③ PROPOSED CONSTRUCTION ENTRANCE PER DETAIL ON SHEET C6.4.
 - ④ INSTALL 6' TALL CHAINLINK TREE PROTECTION FENCING.
 - ⑤ LIMITS OF GRADING.

NOTE:
 ALL GRADING FILL MATERIAL PROPOSED ON SITE SHALL BE COORDINATED AND APPROVED BY A GEOTECHNICAL ENGINEER PRIOR TO CONSTRUCTION. HHPR PROVIDES NO INSTRUCTION AND TAKES NO RESPONSIBILITY REGARDING FILL MATERIAL AND PLACEMENT DURING CONSTRUCTION.



MASS GRADING & EROSION CONTROL PLAN
MARYLHURST SUBDIVISION
 WEST LINN, OR

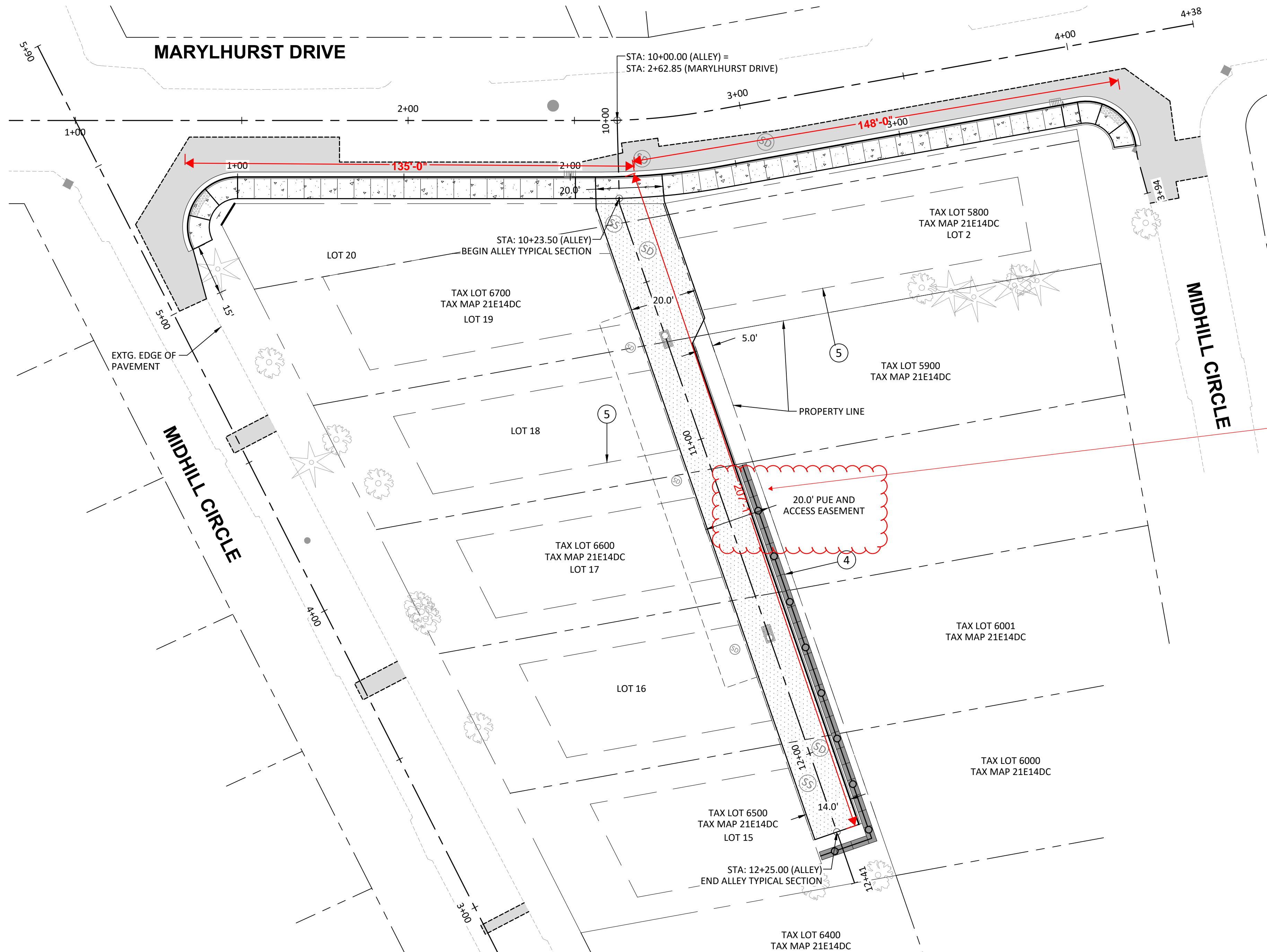
Harper Houf Peterson Righellis Inc.
 ENGINEERS * PLANNERS
 LANDSCAPE ARCHITECTS * SURVEYORS
 206 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

REGISTERED PROFESSIONAL ENGINEER
 PRELIMINARY
 OREGON
 SEPT. 15, 2016
 ALEXANDER J. SIMPSON
 EXPIRES: 06/30/2024

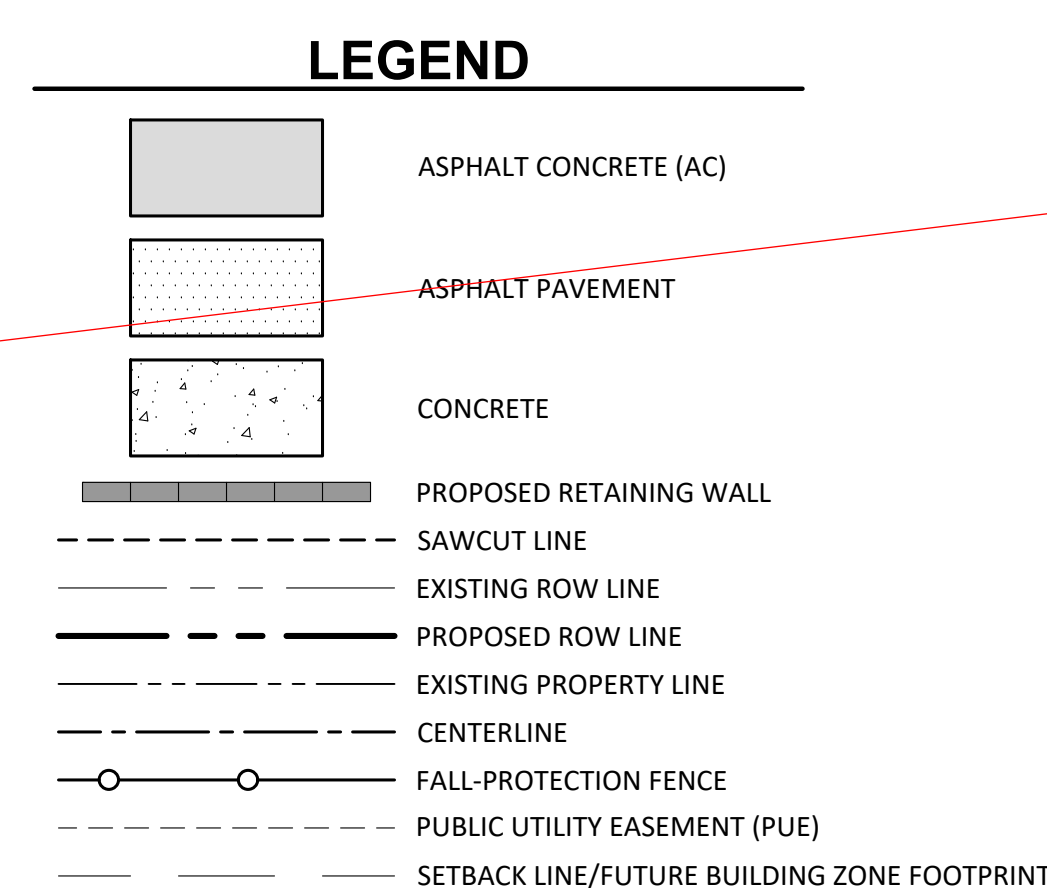
DESIGNED:	HHPR
DRAWN:	HHPR
CHECKED:	HHPR
DATE:	03/15/2023

DATE	NO.	DESCRIPTION

SHEET NO.
C4.0
 JOB NO.
 TPH-02



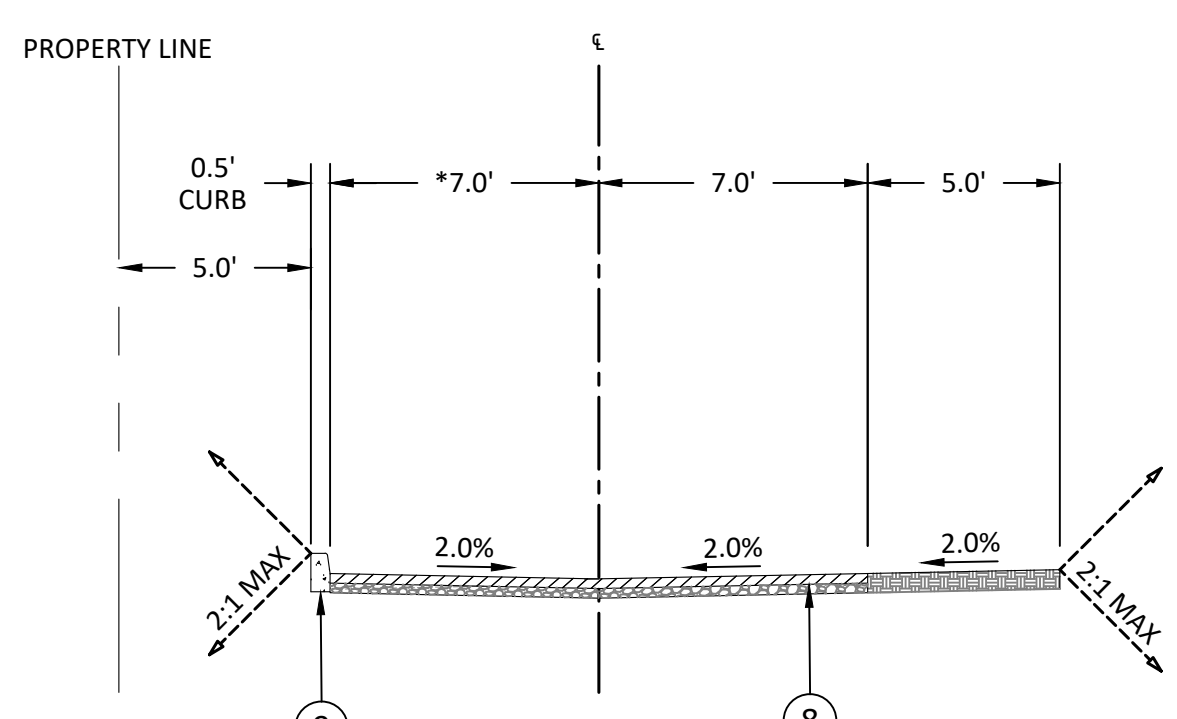
- CONSTRUCTION NOTES:**
- ④ CONSTRUCT ULTRABLOCK RETAINING WALL (OR EQUIVALENT) WITH CHAINLINK FALL-PROTECTION FENCING MOUNTED TO TOP OF WALL. WALL TO BE DESIGN-BUILD. CONTRACTOR TO SUBMIT ENGINEERED (STAMPED & SIGNED) SHOP-DRAWINGS TO ENGINEER FOR REVIEW PRIOR TO CONSTRUCTION. COORDINATE WITH GEOTECHNICAL ENGINEER FOR SUBGRADE PREPARATION AND REVIEW PRIOR TO CONSTRUCTION.
 - ⑤ SETBACK LINE/FUTURE BUILDING ZONE FOOTPRINT (TYP.).
 - ⑧ CONSTRUCT ASPHALT PAVEMENT SECTION PER DETAIL ON SHEET C6.4.
 - ⑨ CONSTRUCT PRIVATE CURB PER STANDARD DETAIL ON SHEET C6.4.



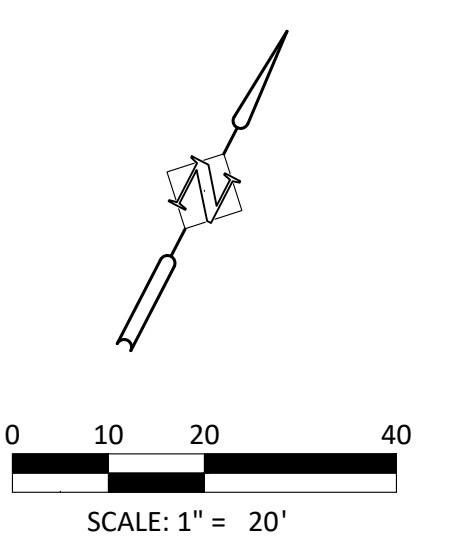
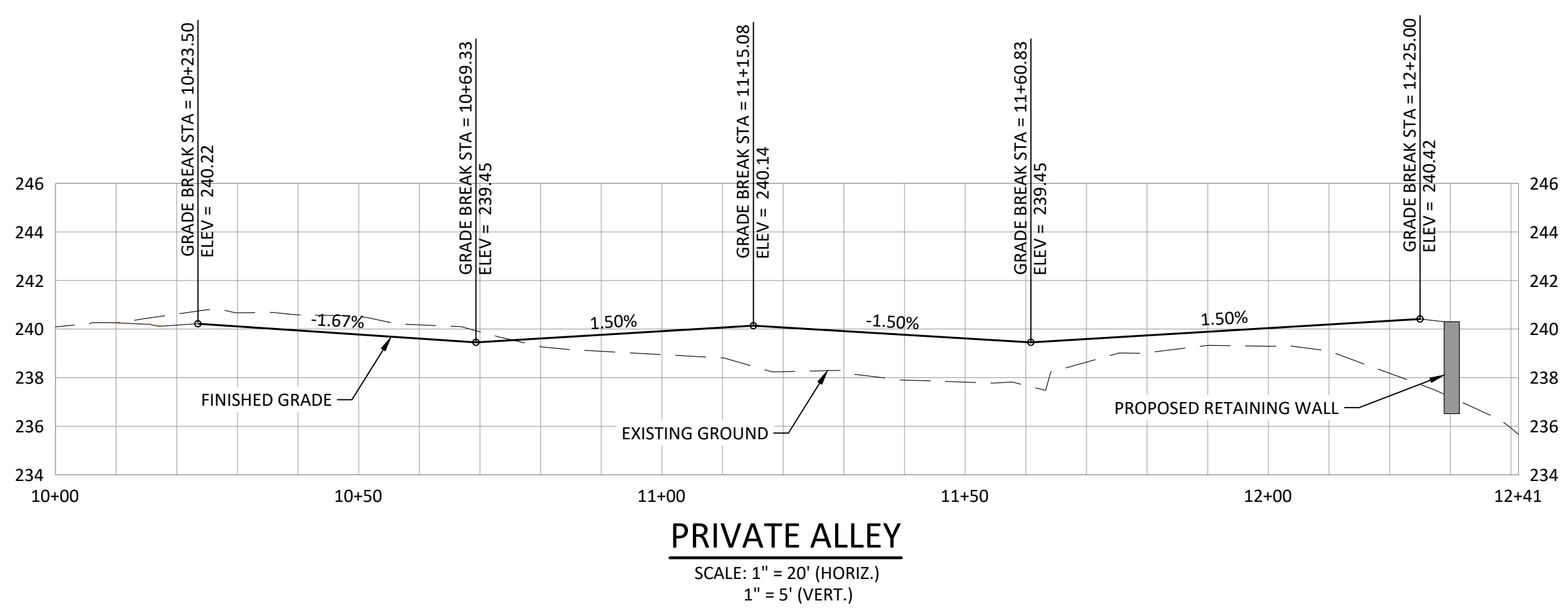
FD NOTES:

FIRE ACCESS is within TVF&R'S 200' allowance as per fire code exception 1.3 OFC 503.1.1 for 1 & 2 family residences.

NO PARKING fire lane signs required along private road. 20' minimum road width OFC D103.6.1-2.

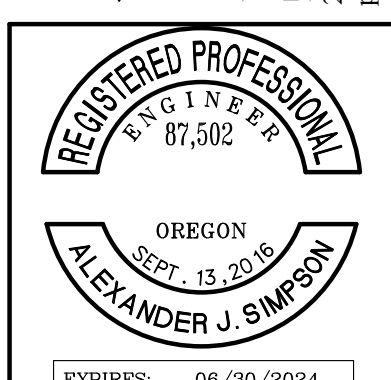


ALLEY TYPICAL SECTION
 STA. 10+23.50 - STA. 12+25.00
 *STA 10+23.50 - 10+66.16, 13.0' WIDTH
 *STA 10+23.50 - 10+71.96, NO CURB



PRIVATE ALLEY PLAN AND PROFILE
MARYLHURST SUBDIVISION
 WEST LINN, OR

Harper Houf Peterson Righellis Inc.
 ENGINEERS * PLANNERS
 LANDSCAPE ARCHITECTS * SURVEYORS
 206 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhpri.com fax: 503.221.1171



DESIGNED:	HHPR
DRAWN:	HHPR
CHECKED:	HHPR
DATE:	02/02/2023

DATE	NO.	DESCRIPTION

SHEET NO.
C3.2
 JOB NO.
 TPH-02

From: Lumpkin, Jameson
Sent: Wednesday, February 15, 2023 7:38 AM
To: Myers, Chris
Cc: Schroder, Lynn
Subject: Request for Comment - PA-23-02, Proposed Class 2 Variance

Good Morning Chris,

I apologize for getting my comments back a day later than requested.

Engineering does believe it would be beneficial to allow additional access from the private drive for this subdivision. Engineering has no other comments regarding this request.

Best,
Jameson

Jameson Lumpkin
Associate Engineer
Public Works

[#4739](#)



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

EXHIBIT PC-2: REPLAT OF ROBINWOOD

MAP
 OF
AMENDED REPLAT OF A PORTION OF ROBINWOOD
SITUATE IN THE GABRIEL WALLING D.L.C.
T. 2 S., R. 1 E., W.M.
CLACKAMAS COUNTY OREGON

Scale 100ft = 1 inch

Surveyed Sept. 1926
 By U. Ernest Nelson
 Civil Engineer

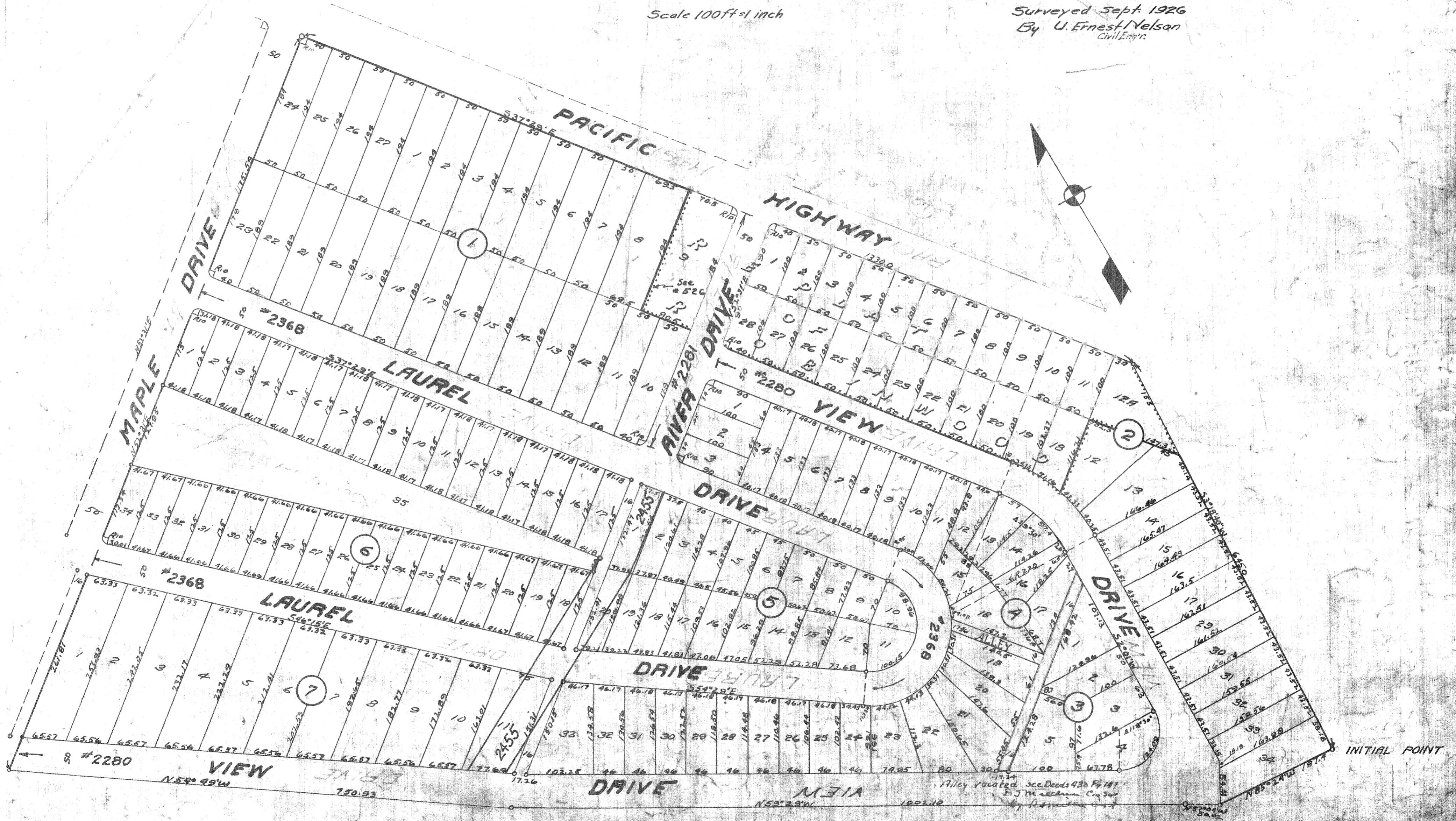


EXHIBIT PC-3: COMPLETENESS LETTER



CITY OF
West Linn

April 18, 2023

Hillary Harris
Harper Houf Peterson Righellis
205 SE Spokane Street, Suite 200
Portland, OR 97202

SUBJECT: VAR-23-01 Application for a Class II Variance at 2622 Marylhurst Drive

Dear Ms. Harris:

The city accepted this application for review on March 21, 2022. The Planning and Engineering Departments find the revised application to be **complete** as of April 18, 2023. The city has 120 days to exhaust all local review once an application has been deemed complete; that period ends August 16th, 2023.

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

A 20-day public notice will be prepared and mailed. This notice will identify the earliest potential decision date by the Planning Commission which is tentatively scheduled for May 17th, 2023.

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

Sincerely,

John Floyd
Associate Planner

EXHIBIT PC-4: PRE-APPLICATION MEETING SUMMARY NOTES

CITY OF WEST LINN
PRE-APPLICATION CONFERENCE MEETING
SUMMARY NOTES
February 16, 2023

SUBJECT: Proposed Variance for a 6 lot private access drive
FILE: PA-23-02
ATTENDEES: Applicant: Tracy Peterson; Hillary Harris
Staff: Chris Myers (Planning), Lynn Schroder (Planning)
Public: No public in attendance

The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any "follow-up" items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.

Site Information:

Site Address: 2622 Marylhurst Drive & 18600-18690 Midhill Circle
Tax Lot No.: 21E14DC06700, 5800, 6700, 6701, 6601, 6600, 6500
Site Area: .70 acres +/- per site plan submitted with application
Neighborhood: Robinwood Neighborhood Association
Comp. Plan: Low Density Residential
Zoning: Residential, R-10
Zoning Overlays: N/A

Project Site and Proposed Project

Relevant details of the project and project site include the following:

- The proposed project is to construct a shared access drive for 6 lots of record.
- Variance is required as the Community Development Code allows for no more than 4 lots takes access from a shared access drive.
- A class II Variance is required which requires a pre-application conference
- The decision making authority for a Class II Variance is the Planning Commission
- All 6 lots are lots of record and thus each can be developed independently of one another. This is not a subdivision which would require street improvements
- There are no environmental constraints on the property. No streams, no riparian corridor restrictions, no easements on any of the properties, and the properties are not located within a Flood Management Area.
- The site has slope which makes access from Midhill Circle challenging. The slope can be mitigated by taking access from the proposed shared access drive.

Planning Staff Comments

Planning staff has the following comments on the application:

- For a Class II Variance there are four total Community Development Code (CDC) chapters that apply:
 - Chapter 11 Single-Family Residential Detached R-10
 - Chapter 48 Access, Egress, and Circulation
 - Chapter 75 Variances and Special Waivers
 - Chapter 96 Street Improvement Construction
 - Chapter 99 Procedures for Decision Making: Quasi-Judicial

- The West Linn Public Works and Engineering Departments express (via email) that they support the single shared access drive for all six lots as the safest option for motor vehicles and pedestrians alike.

Discussion:

Staff :

- Staff discussed each chapter that is applicable to the variance application with notations of relevant sub-chapters.
 - Chapter 11: Single-Family Residential Detached, R-10
 - Chapter 48: Access, Egress, and circulation
 - 48.020 Applicability and General Provisions
 - 48.025 Access Control
 - 48.030 Minimum Vehicle Requirements for Residential Uses
 - 48.060 Width and Location of Curb Cuts and Access Separation Requirements
 - Chapter 75: Variances and Special Waivers
 - 75.020 Classifications of Variances
 - Chapter 96: Street Improvement Construction
 - 96.010 Construction Required
 - 96.020 Standards
 - Chapter 99: Procedures for Decision Making Quasi-Judicial
 - 99.030 Application Process: Who May Apply, Pre-Application Conference, Requirements...
 - 99.060 Approval Authority

Further discussion during the pre-app conference:

- Tualatin Valley Fire & Rescue service provider permit required prior to land use application

Engineering:

The Engineering department provided the following comments. For further details, please contact Maryna Asuncion at 503-722-3436 or MAasuncion@westlinnoregon.gov.

Building:

For building code and ADA questions, please contact Adam Bernert at abernert@westlinnoregon.gov or 503-742-6054 or Alisha Bloomfield at abloomfield@westlinnoregon.gov or 503-742-6053.

Tualatin Valley Fire & Rescue:

Please contact Jason Arn at jason.arn@tvfr.com or 503-259-1510 with any questions. **Note that a Service Provider Permit must be presented with the application in order for the application to be deemed complete.**
<https://www.tvfr.com/399/Service-Provider-Permit>

Process:

For the proposal, address the submittal requirements and standards for decision making in the Community Development Code (CDC) chapters in the compliance narrative, plans, and other submittal requirements:

- Chapter 11: Residential, R-10
- Chapter 48: Access, Egress, and Circulation
- Chapter 75: Variances and Special Waivers (if needed)
- Chapter 92: Street Improvement Construction
- Chapter 99: Procedures for Decision Making: Quasi-Judicial

Compliance Narrative:

When preparing the compliance narrative, N/A is not an acceptable response to the approval criteria. The submittal requirements may be waived, but the applicant must first identify the specific submittal requirement and request, in letter form, that it be waived by the Planning Manager and must identify the specific grounds for that waiver.

Fees:

The **fee** for a Class II Variance is \$2900.

Timelines: Once the application and deposit/fee are submitted, the City has 30 days to determine if the application is complete or not. If the application is not complete, the applicant has 180 days to make it complete or provide written notice to staff that no other information will be provided. Once complete, the City has 120 days from the date of completeness to make a final decision on the application.

Typical land use applications can take 6-10 months from beginning to end.

DISCLAIMER: This summary discussion covers issues identified to date. It does not imply that these are the only issues. The burden of proof is on the applicant to demonstrate that all approval criteria have been met. These notes do not constitute an endorsement of the proposed application **or provide any assurance of potential outcomes**. Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc. could emerge as the application is developed. Pre-application notes are void after 18 months. After 18 months with no application approved or in process, a new pre-application conference is required. Any changes to the CDC standards may require a different design or submittal.

EXHIBIT PC-5: SACKET COMMENT LETTER 05.04.23

File # Var. - 23-01
Class # Variance, Lots 2, and 15-20
Plat 541

From Arold H. Sackett Jr
18665 Midhill Cir., West Linn, Ore 97068

to. John Floyd, Associate Planner, City
Hall, 22500' Salamo Rd., West Linn, Ore

Concerns about Variance - 23-01

1. No Houses or Structures taller than the House located at 18670 Midhill Cir.
2. ~~Parking~~ No Parking signs, 24 Hours a day between 18670 Midhill Circle to Marylhurst Dr. on North or Northeast side of Midhill Circle. Subject to be towed.
3. Water supply and Sewer lines to be taken off of Marylhurst Drive and NOT off Midhill Cir.
4. The Big Fir tree closest to 18670 Midhill Circle to be taken down before any building of homes starts.

EXHIBIT PC-6: AFFIDAVIT AND NOTICE PACKET

**CITY OF WEST LINN PLANNING COMMISSION
PUBLIC HEARING NOTICE
FILE NO. VAR-23-01**

The West Linn Planning Commission will hold a hybrid public hearing on **Wednesday, May 17, 2023** at 6:30 pm in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider a request for a Class II Variance at 2622 Marylhurst Drive and 18600, 18680, and 18690 Midhill Circle (Lots 2, and 15-20) of the 1926 Replat of Robinwood, Clackamas County Plat 541). The applicant is requesting approval to allow more than 4 lots (six total) to be served from a private driveway on Marylhurst Drive, approximately midblock between Upper and Lower Midhill Circle.

The Planning Commission will make its decision based on applicable criteria found in Chapters 11, 48, 75, 96, and 99 of the Community Development Code (CDC). The CDC approval criteria are available for review on the City website <http://www.westlinnoregon.gov/cdc> or at City Hall and the City Library.

The application is posted on the City's website, <https://westlinnoregon.gov/planning/2622-marylhurst-drive-class-2-variance-driveway-access>. The application, all documents or evidence relied upon by the applicant, and applicable criteria are available for inspection at City Hall at no cost. Copies may be obtained at a reasonable cost. The staff report will be posted on the website and available for inspection at no cost, or copies may be obtained at a reasonable cost, at least ten days before the hearing.

The hearing will be conducted according to CDC Section 99.170 in a hybrid format with some Commissioners, staff, presenters, and members of the public attending remotely via Webex and others attending in-person at City Hall. The public can watch the meeting online at <https://westlinnoregon.gov/meetings> or on Cable Channel 30.

Anyone wishing to present written testimony for consideration should submit all materials before 12:00 pm on the meeting day to jfloyd@westlinnoregon.gov or mail them to City Hall.

Those who wish to participate remotely should complete the speaker form at <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> **before 4:00 pm on the meeting day** to receive an invitation to join the meeting. Virtual participants can log in through a computer, mobile device, or call-in.

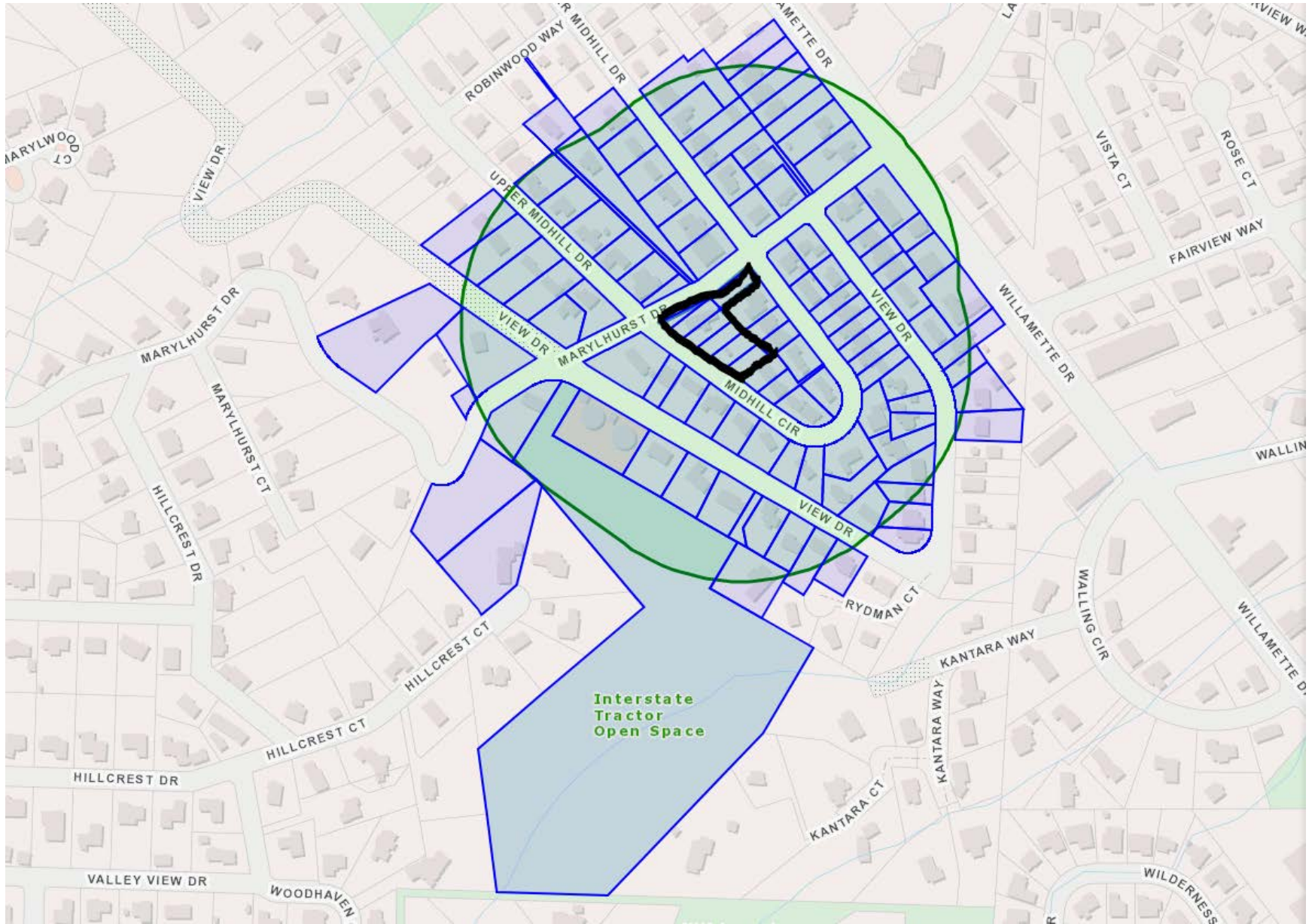
It is important to submit all testimony in response to this notice. All comments submitted for consideration of this application should relate specifically to the applicable criteria. Failure to raise an issue in a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes appeal to the Oregon Land Use Board of Appeals based on that issue (CDC Section 99.090).

The final decision will be posted on the website and available at City Hall. Persons with party status may appeal the decision by submitting an appeal application to the Planning Department within 14 days of mailing the final decision notice pursuant to CDC [99.240](#).

For additional information, please contact John Floyd, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-742-6058 for additional information.

Publish: West Linn Tidings May 4, 2023

VAR-23-01 - NOTIFIED PROPERTIES WITHIN 500 FT OF 2622 Marylhurst Circle & 18600, 18680, and 18690 Midhill Circle





**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # VAR-23-01
MAIL: April 25, 2023 TIDINGS: May 3, 2023**

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.

**AFFIDAVIT OF NOTICE
TYPE A
PLANNING COMMISSION DECISION**

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

PROJECT

File No.: VAR-23-01

Applicant's Name: **Tracy & Derek Peterson**

Development Address: 2622 Marylhurst Circle & and 18600, 18680, and 18690 Midhill Circle

Planning Commission Decision no earlier than May 17, 2023

APPLICATION

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

4/24/23	<i>Lynn Schroder</i>
----------------	----------------------

MAILED NOTICE

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

Tracy & Derek Peterson, applicant	4/25/23	<i>Lynn Schroder</i>
Hillary Harris, applicant representative	4/25/23	<i>Lynn Schroder</i>
Property owners within 500ft of the site perimeter	4/25/23	<i>Lynn Schroder</i>
Robinwood Neighborhood Association	4/25/23	<i>Lynn Schroder</i>

EMAILED NOTICE

Notice of Upcoming Planning Manager Decision was emailed at least 20 days before the decision date to:

All Neighborhood Associations	4/24/23	<i>Lynn Schroder</i>
Tracy & Derek Peterson, applicant	4/24/23	<i>Lynn Schroder</i>
Hillary Harris, applicant consultant	4/24/23	<i>Lynn Schroder</i>

WEBSITE

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

4/24/23	<i>Lynn Schroder</i>
----------------	----------------------

TIDINGS

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

5/3/23	<i>Lynn Schroder</i>
---------------	----------------------

SIGN

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

5/4/23	<i>John M Floyd</i>
---------------	---------------------

STAFF REPORT

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

	<i>Lynn Schroder</i>
--	----------------------

FINAL DECISION

Notice of Final Decision was mailed to the applicant, all parties with standing, and posted on the City's website, per Section 99.040 of the CDC.

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CITY OF West Linn

April 18, 2023

Hillary Harris
Harper Houf Peterson Righellis
205 SE Spokane Street, Suite 200
Portland, OR 97202

SUBJECT: VAR-23-01 Application for a Class II Variance at 2622 Marylhurst Drive

Dear Ms. Harris:

The city accepted this application for review on March 21, 2022. The Planning and Engineering Departments find the revised application to be **complete** as of April 18, 2023. The city has 120 days to exhaust all local review once an application has been deemed complete; that period ends August 16th, 2023.

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

A 20-day public notice will be prepared and mailed. This notice will identify the earliest potential decision date by the Planning Commission which is tentatively scheduled for May 17th, 2023.

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

Sincerely,

John Floyd
Associate Planner

From: [Arn, Jason S.](#)
To: [Floyd, John](#)
Cc: [Wyss, Darren](#); [Gardner, Benjamin](#)
Subject: RE: SPP-2023-0034
Date: Thursday, April 13, 2023 3:15:29 PM

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.

Hi John,

This is a TVF&R specific exception referencing our ability to modify section [503.1](#). Our fire access exception has to do with the length of a fire access road measured for each individual house. The number of houses does not come into play and is not called out as a factor in our referenced guide.

Great question. Please reach out if there are additional questions.

Thanks!

Jason Arn | Deputy Fire Marshal CFI

Tualatin Valley Fire & Rescue

Direct: 503-259-1510

www.tvfr.com

From: Floyd, John <JFloyd@westlinnoregon.gov>
Sent: Thursday, April 13, 2023 12:29 PM
To: Arn, Jason S. <Jason.Arn@tvfr.com>
Cc: Wyss, Darren <dwyss@westlinnoregon.gov>; Gardner, Benjamin <BGardner@westlinnoregon.gov>
Subject: SPP-2023-0034

*****The sender is from outside TVF&R – Do not click on links or attachments unless you are sure they are safe*****

Hi Jason,

Your agency recently issued SPP 2023-0034 which pertains to a variance application to allow a private driveway for five existing lots. It looks like you granted the exception based on exception 1.3 of OFC 503.1.1 that allows not more than two R-3 occupancies. I'm just wondering if the exception is per building or per lot.

Asking as our zoning permits up to four attached or detached dwelling units per lots (duplex, triplex, fourplex), or townhomes...so in theory we could end up with 20 dwellings being served by this driveway. While unlikely, we want to make sure we understand TVFR's understanding of the

exception and the limit of your SPP so we can condition it appropriately. I did review the 2019 OFC and didn't find the clarity I was looking for, though I'll be the first to admit that it's outside of my authority and understanding.

If phone is easier, my direct line is 503-742-6058.

Much appreciated!

John

John Floyd

Associate Planner

Planning

Pronouns: he, him, his

22500 Salamo Rd.

West Linn, Oregon 97068

JFloyd@westlinnoregon.gov

westlinnoregon.gov

503-742-6058



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: [Lumpkin, Jameson](#)
To: [Floyd, John](#)
Cc: [Schroder, Lynn](#)
Subject: RE: Completeness Check and Comment for Class 2 Variance for a Driveway Access at 2622 Marylhurst Drive
Date: Wednesday, April 12, 2023 10:28:30 AM

Good morning John,

Per my comments for the pre-app regarding this variance, Engineering does believe this variance would be beneficial. Engineering has no other comments regarding this variance.

Let me know if you need anything else.

Best,
Jameson

From: Schroder, Lynn <LSchroder@westlinnoregon.gov>
Sent: Monday, March 20, 2023 9:45 AM
To: Asuncion, Maryna <MASuncion@westlinnoregon.gov>; Clark, James <jclark@westlinnoregon.gov>; Jones, Ron <rjones@westlinnoregon.gov>; Lais, Erich <elais@westlinnoregon.gov>; Lumpkin, Jameson <JLumpkin@westlinnoregon.gov>; Perkins, Michael <mperkins@westlinnoregon.gov>
Cc: Floyd, John <JFloyd@westlinnoregon.gov>
Subject: Completeness Check and Comment for Class 2 Variance for a Driveway Access at 2622 Marylhurst Drive

On March 17, 2023, the Planning Department received an application for a [Class II variance to allow for more than four lots to be served by a private driveway \(VAR-23-01\)](#).

John Floyd is the staff planner. Please review the application on the project page and email any comments or concerns to John by 4/14/23. City staff response is required, including no comment.

Please address all approval conditions, including sanitary sewer, water, storm drainage, streets, dedications, and resource protection. Include a reference to statutes or policy memorandum that demonstrate why the proposed conditions of approval are required. The Planner will address your comments in the staff report.

Thank you,

Lynn Schroder
Administrative Assistant
Community Development

[#6061](#)



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

Jameson Lumpkin
Associate Engineer
Public Works

[#4739](#)



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

FIRE CODE / LAND USE / BUILDING REVIEW APPLICATION



North Operating Center
11945 SW 70th Avenue
Tigard, OR 97223
Phone: 503-649-8577

South Operating Center
8445 SW Elligsen Rd
Wilsonville, OR 97070
Phone: 503-649-8577

REV 6-30-20

Project Information

Applicant Name: Tracy Peterson
Address: 24350 SW Nodaway Lane, Wlsv. OR 97070
Phone: 503-726-9929
Email: Tracy.Peterson@frontier.com
Site Address: 2622 Marylhurst Dr. & 18600-18690 Midhill Cir.
City: West Linn, OR 970608
Map & Tax Lot #: 5800, 6700, 6701, 6601, 6600, 6500
Business Name: Marylhurst LLC
Land Use/Building Jurisdiction: West Linn
Land Use/ Building Permit # _____

Choose from: Beaverton, Tigard, Newberg, Tualatin, North Plains, West Linn, Wilsonville, Sherwood, Rivergrove, Durham, King City, Washington County, Clackamas County, Multnomah County, Yamhill County

Project Description

Requesting a variance to allow for more than four (4) homes to be served from one private drive. For safety reasons for Pedestrians, one access off Marylhurst as opposed to three would allow for Pedestrians to safely travel on the sidewalk down to Marylhurst Drive. Requesting that TVFR support our drive access as designed for variance since alley is not more than 200' long.

Permit/Review Type (check one):

- Land Use / Building Review - Service Provider Permit
- Emergency Radio Responder Coverage Install/Test
- LPG Tank (Greater than 2,000 gallons)
- Flammable or Combustible Liquid Tank Installation (Greater than 1,000 gallons)
- Exception: Underground Storage Tanks (UST) are deferred to DEQ for regulation.
- Explosives Blasting (Blasting plan is required)
- Exterior Toxic, Pyrophoric or Corrosive Gas Installation (in excess of 810 cu.ft.)
- Tents or Temporary Membrane Structures (in excess of 10,000 square feet)
- Temporary Haunted House or similar
- OLCC Cannabis Extraction License Review
- Ceremonial Fire or Bonfire (For gathering, ceremony or other assembly)

For Fire Marshal's Office Use Only

TVFR Permit # 2023-0034
Permit Type: SPP- West Linn
Submittal Date: 3-16-23
Assigned To: DFM Arn
Due Date: NA
Fees Due: Ø
Fees Paid: Ø

Approval/Inspection Conditions (For Fire Marshal's Office Use Only)

This section is for application approval only

[Signature] 3-16-23
Fire Marshal or Designee Date

Conditions: See approved fire service plans.

See Attached Conditions: Yes No

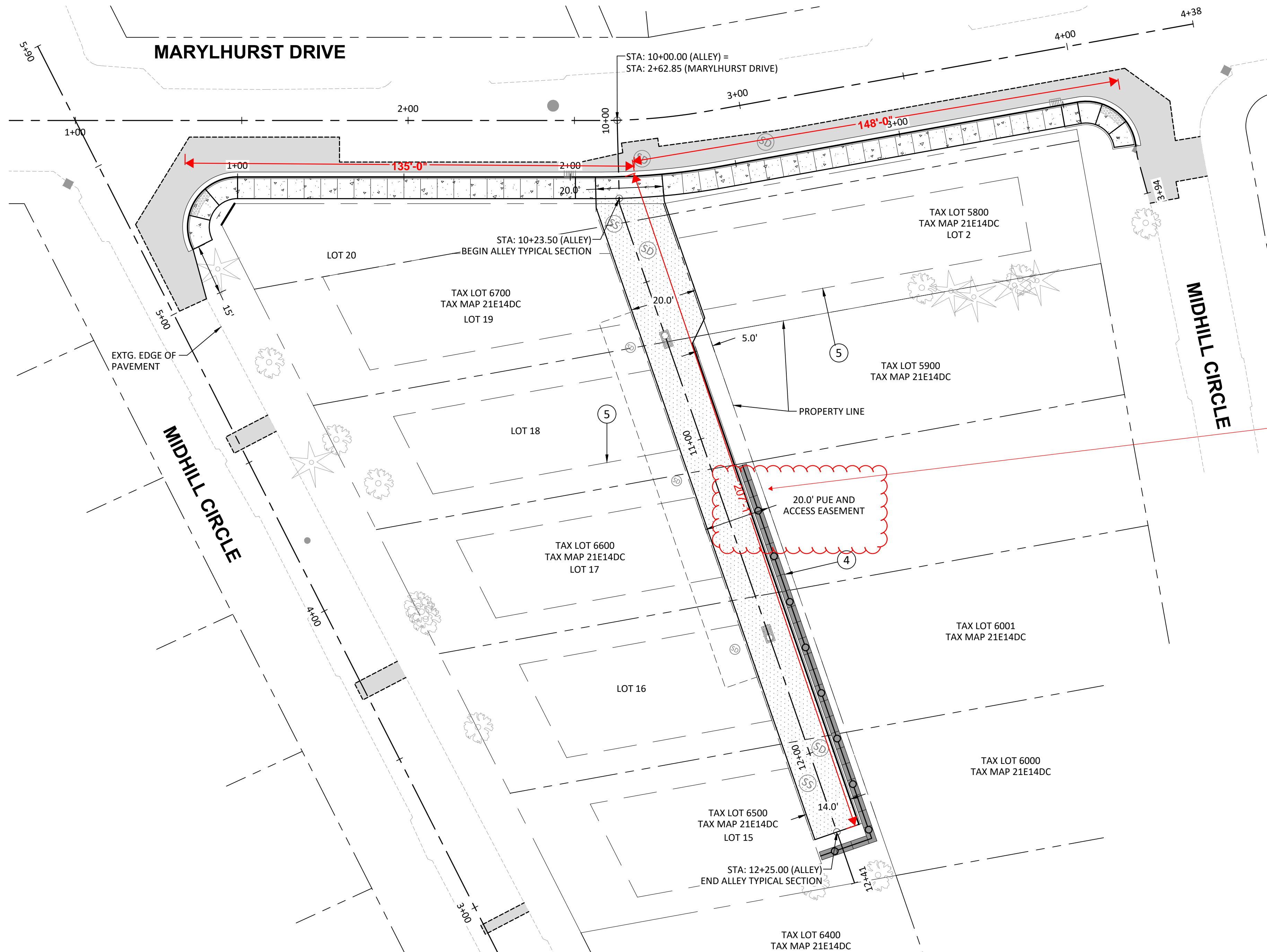
Site Inspection Required: Yes No

This section used when site inspection is required

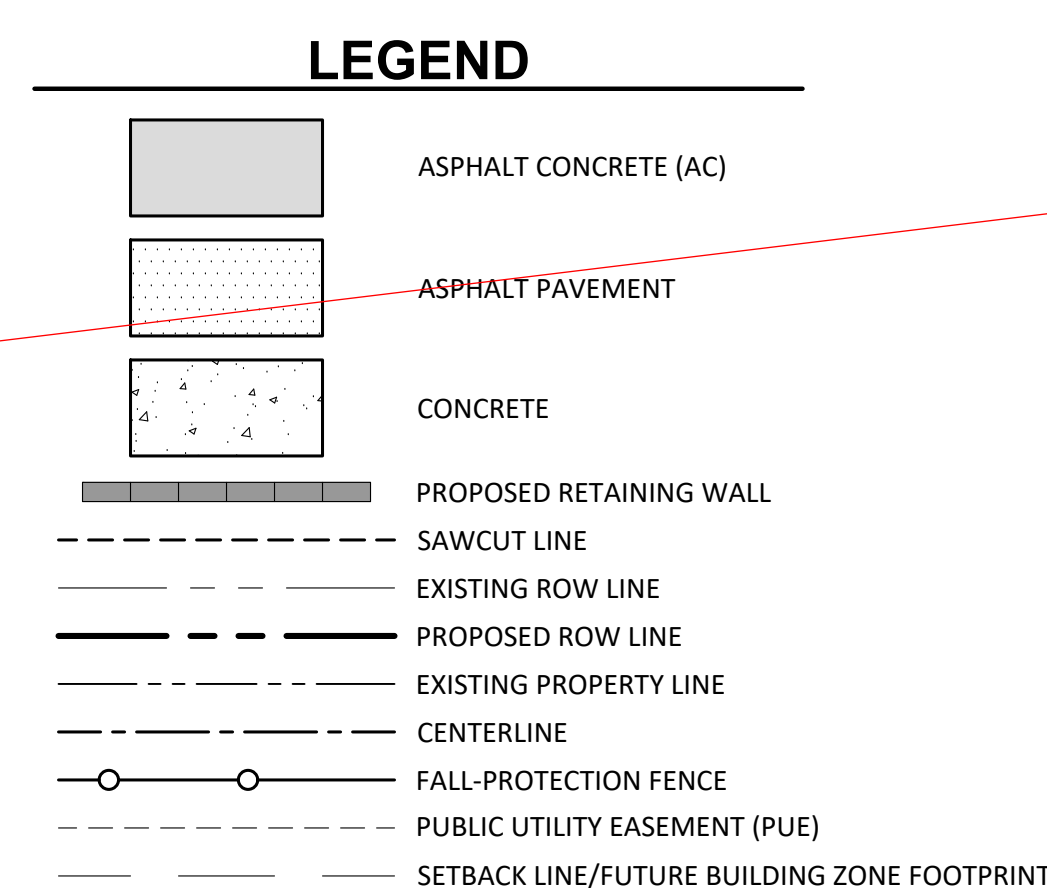
Inspection Comments:

Final TVFR Approval Signature & Emp ID Date

P:\01-Portland\TPH (Tracy Peterson)\TPH02 (Maryhurst)\TPH02-DWG\Sheets\C3.0 - PLAN AND PROFILE.dwg



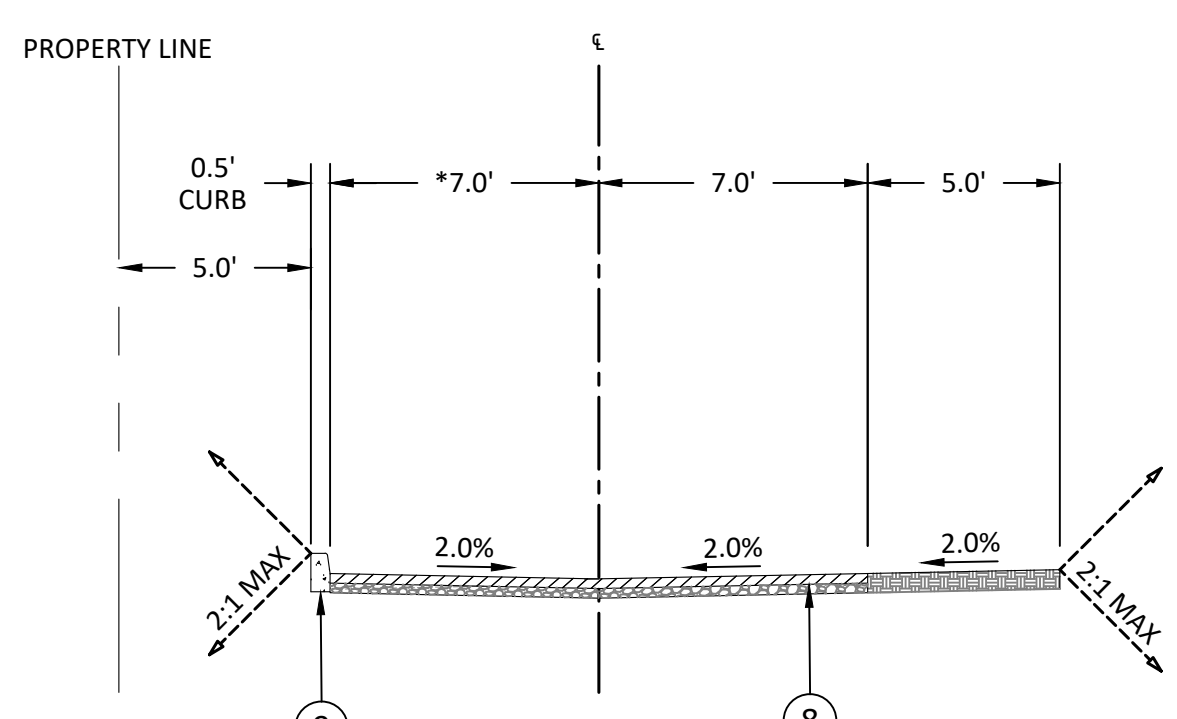
- CONSTRUCTION NOTES:**
- 4 CONSTRUCT ULTRABLOCK RETAINING WALL (OR EQUIVALENT) WITH CHAINLINK FALL-PROTECTION FENCING MOUNTED TO TOP OF WALL. WALL TO BE DESIGN-BUILD. CONTRACTOR TO SUBMIT ENGINEERED (STAMPED & SIGNED) SHOP-DRAWINGS TO ENGINEER FOR REVIEW PRIOR TO CONSTRUCTION. COORDINATE WITH GEOTECHNICAL ENGINEER FOR SUBGRADE PREPARATION AND REVIEW PRIOR TO CONSTRUCTION.
 - 5 SETBACK LINE/FUTURE BUILDING ZONE FOOTPRINT (TYP.).
 - 8 CONSTRUCT ASPHALT PAVEMENT SECTION PER DETAIL ON SHEET C6.4.
 - 9 CONSTRUCT PRIVATE CURB PER STANDARD DETAIL ON SHEET C6.4.



FD NOTES:

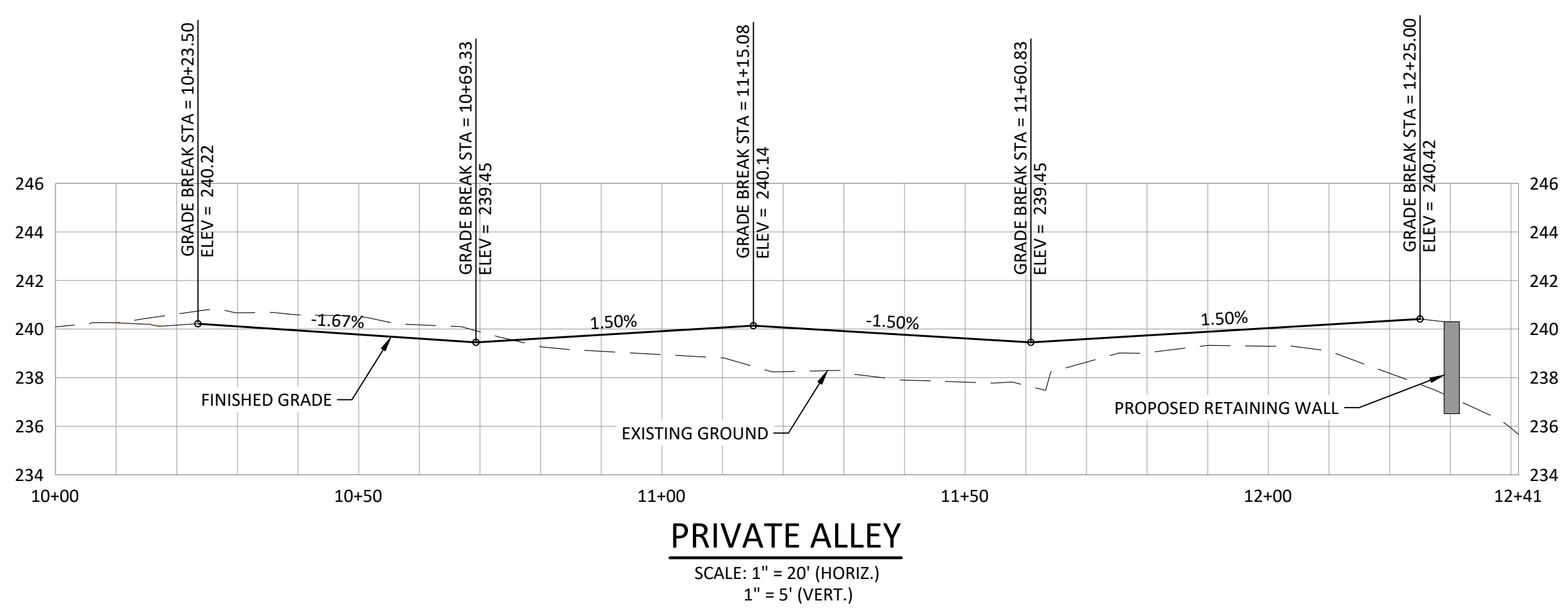
FIRE ACCESS is within TVF&R'S 200' allowance as per fire code exception 1.3 OFC 503.1.1 for 1 & 2 family residences.

NO PARKING fire lane signs required along private road. 20' minimum road width OFC D103.6.1-2.

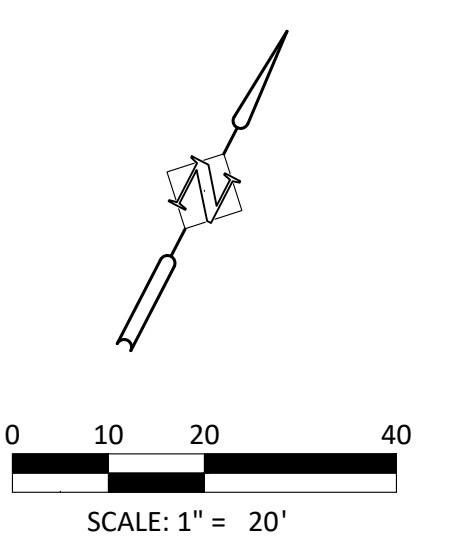


ALLEY TYPICAL SECTION

STA. 10+23.50 - STA. 12+25.00
 *STA 10+23.50 - 10+66.16, 13.0' WIDTH
 *STA 10+23.50 - 10+71.96, NO CURB

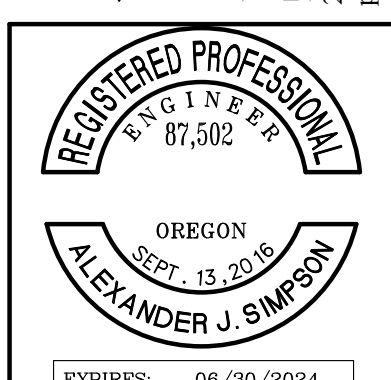


TVF&R
 Tualatin Valley
 Fire & Rescue
 APPROVED PLANS
 APPROVAL OF PLANS IS NOT AN APPROVAL OF OMISSIONS OR OVERSIGHTS.
 Jason Ann
 Deputy Fire Marshal II
 TVF&R Permit# 2023-0034



PRIVATE ALLEY PLAN AND PROFILE
MARYLHURST SUBDIVISION
 WEST LINN, OR

Harper Houf Peterson Righellis Inc.
 ENGINEERS * PLANNERS
 LANDSCAPE ARCHITECTS * SURVEYORS
 206 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171



DESIGNED:	HHPR
DRAWN:	HHPR
CHECKED:	HHPR
DATE:	02/02/2023

DATE	NO.	DESCRIPTION

SHEET NO.
C3.2
 JOB NO.
 TPH-02



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

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT John Floyd	PROJECT NO(S). VAR-23-01	PRE-APPLICATION NO. PA-22-02
NON-REFUNDABLE FEE(S) \$2,900	REFUNDABLE DEPOSIT(S)	TOTAL \$2,900

Type of Review (Please check all that apply):

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

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

Site Location/Address: 2622 Marylhurts Drive and 18600-18690 Midhill Circle	Assessor's Map No.: 2S1E14DC
	Tax Lot(s): 5800, 6700, 6701, 6601, 6600, 6500
	Total Land Area: 0.7 acres

Brief Description of Proposal:

The applicant is requesting a Type II variance to allow for more than four lots (six total) to be served from one private driveway.

Applicant Name: Tracy Peterson <small>(please print)</small> Address: 24350 SW Nodaway Lane Wilsonville, OR 97070 City State Zip:	Phone: Email:
--	------------------

Owner Name (required): Tracy & Derek Peterson <small>(please print)</small> Address: 24350 SW Nodaway Lane Wilsonville, OR 97070 City State Zip:	Phone: Email:
---	------------------

Consultant Name: Hillary Harris, Harper Houf Peterson Righellis <small>(please print)</small> Address: 205 SE Spokane Street, Suite 200 Portland, OR 97202 City State Zip:	Phone: 503-221-1131 Email: hillaryh@hhpr.com
---	---

1. All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
2. The owner/applicant or their representative should be present at all public hearings.
3. A decision may be reversed on appeal. The permit approval will not be effective until the appeal period has expired.
4. Submit this form and supporting documents through the [Submit a Land Use Application](https://westlinnoregon.gov/planning/submit-land-use-application) web page:
<https://westlinnoregon.gov/planning/submit-land-use-application>

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

Applicant's signature	3/17/2023 1:38 PM	DocuSigned by: Owner's signature (required)	3/17/2023 1:40 PM
Date	Date	Date	Date

Marylhurst Drive Variance
Land Use Application Narrative & Findings Document
Class II Variance

Owner/Applicant: Tracy & Derek Peterson
24350 SW Nodaway Lane
Wilsonville, OR 97070

Planner: Hillary Harris, Planner
Harper Houf Peterson Righellis, Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202
(503) 221-1131
hillaryh@hhpr.com

Engineer: Alex Simpson, PE
Harper Houf Peterson Righellis, Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202
(503) 221-1131
alexs@hhpr.com

Site Location: 2622 Marylhurst Drive & 18600-18690 Midhill Circle

Tax Map: 2S1E14DC

Tax Lots: 5800, 6700, 6701, 6601, 6600, 6500

Parcel Size: 0.7 acres

Zoning Designation: R-10

Summary of Request: The applicant is requesting a Type II variance to allow for more than four lots (six lots total) to be served from one private driveway.

Date: March 6, 2023

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I. PROJECT OVERVIEW

EXISTING CONDITIONS & PROPOSAL

The project site includes six properties located off Marylhurst Drive and Midhill Circle (Tax Lots 2S1E14DC5800, 2S1E14DC6500, 2S1E14DC6600, 2S1E14DC6601, 2S1E14DC6700, and 2S1E14DC6701). The site is approximately 0.7 acres in size and zoned R-10 on the West Linn Zoning Map. The site has been subdivided and approved for the construction of single-family homes.

Due to the limited space of the project site, the steep topography, and the City prioritizing the area for future walkability, the properties can only be accessed from a single private driveway off Marylhurst Drive. The West Linn Community Development Code allows for up to four properties to take access from a shared private drive, and there are a total of six properties on the project site. Therefore, the applicant is requesting a Class II Variance to allow for all six properties on the project site to be accessed from the shared private drive.

VICINITY MAP



II. RESPONSE TO APPLICABLE APPROVAL CRITERIA FOR A CLASS II VARIANCE

CHAPTER 11: SINGLE-FAMILY RESIDENTIAL DETACHED, R-10

SECTION 11.030: PERMITTED USES

The following are uses permitted outright in this zoning district:

1. *Single-family attached or detached residential unit.*
 - a. *Duplex residential units.*
 - b. *Triplex residential units.*
 - c. *Quadplex residential units.*
2. *Cottage clusters.*
3. *Townhouse.*
4. *Community recreation.*
5. *Family day care.*
6. *Residential home.*
7. *Utilities, minor.*
8. *Transportation facilities (Type I).*
9. *Manufactured home.*
10. *Community building on City-owned property at 3706 Cedaroak Drive and indicated on the map below.*

Response: The project site is comprised of six existing lots that are proposed for eventual development as either single-family attached or detached residential dwellings. However, there is no proposed development with this application, only the request for a variance.

CHAPTER 48: ACCESS, EGRESS, AND CIRCULATION

SECTION 48.020: APPLICABILITY AND GENERAL PROVISIONS

- A. *The provisions of this chapter do not apply where the provisions of the Transportation System Plan or land division chapter are applicable and set forth differing standards.*

Response: Neither the provisions of the Transportation System Plan nor the land division chapter are applicable to this project. Therefore, the standards of Section 48.020 apply.

- B. *All lots shall have access from a public street or from a platted private street approved under the land division chapter.*

Response: The applicant is proposing all six lots have access from Marylhurst Drive, a public street, via a shared private driveway. Standard (B) above is satisfied with the proposed design – please see the attached site plan for details.

- C. *No building or other permit shall be issued until scaled plans are presented to the City and approved by the City as provided by this chapter, and show how the access, egress, and circulation requirements are*

to be fulfilled. Access to State or County roads may require review, approval, and permits from the appropriate authority.

Response: Included with this application is a detailed and scaled civil plan set that includes a site plan and grading plan. Please see these plans for details on compliance with the standards of this chapter.

D. Should the owner or occupant of a lot, parcel or building enlarge or change the use to which the lot, parcel or building is put, resulting in increasing any of the requirements of this chapter, it shall be unlawful and a violation of this code to begin or maintain such altered use until the provisions of this chapter have been met, and, if required, until the appropriate approval authority under Chapter 99 CDC has approved the change.

Response: The property owner is not proposing to change the use of the existing lots or enlarge the lots included in the project site.

E. Owners of two or more uses, structures, lots, parcels, or units of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the requirements as designated in this code; provided, that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases, or contracts to establish joint use. Copies of said instrument shall be placed on permanent file with the City Recorder.

Response: The property owner owns all six lots included on the project site and proposes to have all six lots utilize a joint access driveway from Marylhurst Drive. This combined access satisfies all requirements of this code or is requesting a variance to the code standard.

SECTION 48.025: ACCESS CONTROL

B. Access control standards.

1. Traffic impact analysis requirements. The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also CDC 55.125, Transportation Impact Analysis.)

Response: A traffic impact analysis is not required or included with this variance application.

2. The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.

Response: The applicant is requesting a variance to allow for the consolidation of driveways and allow for all six properties to take access from a single point off Marylhurst Drive. In addition, the applicant will provide frontage improvements along Marylhurst Drive, including a six foot wide sidewalk and new street paving. Please see the attached site plan, Sheet C3.0, for details on the proposed improvements.

3. *Access options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (planned access shall be consistent with adopted public works standards and TSP). These methods are "options" as approved by the City Engineer.*
 - a. *Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.*
 - b. *Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.*
 - c. *Option 3. Access is from a public street adjacent to the development lot or parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in subsection (B)(6) of this section.*

Response: The applicant proposes to construct a shared private driveway from Marylhurst Drive, a public street directly adjacent to the development site. Under Access Option (3)(c) above, this is a permitted method of providing access to the subject properties.

4. *Subdivisions fronting onto an arterial street. [...]*

Response: The applicant is not proposing a subdivision or new residential land division with this application. Therefore, the above standard does not apply, and the remaining code language has been omitted from this narrative.

5. *Double-frontage lots. When a lot or parcel has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. When a lot or parcel has frontage opposite that of the adjacent lots or parcels, access shall be provided from the street with the lowest classification.*

Response: One of the lots (Tax Lot 5800) has frontage on both Marylhurst Drive (a Collector) and Midhill Circle (a Local Street). However, with the requested variance, all of the tax lots on the project site will take access from the shared driveway from Marylhurst Drive.

6. *Access spacing.*
 - a. *The access spacing standards found in the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections and non-traversable medians. Deviation from the access spacing standards may be granted by the City Engineer if conditions are met as described in the access spacing variances section in the adopted TSP.*

Response: The applicant is not proposing any new public street intersections with this application. Therefore, Standard (6)(a) does not apply.

- b. *Private drives and other access ways are subject to the requirements of CDC 48.060.*

Response: The proposed shared driveway on the project site complies with all applicable standards of CDC 48.060. Please see the responses in that section of this narrative for details on compliance.

7. *Number of access points. For single-family (detached and attached), two-family, and duplex housing types, one street access point is permitted per lot or parcel, when alley access cannot otherwise be provided; except that two access points may be permitted corner lots (i.e., no more than one access per street), subject to the access spacing standards in subsection (B)(6) of this section. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with subsection (B)(8) of this section, in order to maintain the required access spacing, and minimize the number of access points.*

Response: Each of the lots included on the project site will only have one access point. All six lots take access from the shared driveway off Marylhurst Drive. Please see the attached site plan for details on site access.

8. *Shared driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:*
 - a. *Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent lot or parcel develops. "Developable" means that a lot or parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).*

Response: The applicant is proposing all six lots take access from a shared driveway off Marylhurst Drive. The consolidation of the driveways will prevent multiple driveways onto the adjacent streets and maximize the frontage improvements that can be provided on Marylhurst Drive. Please see the attached site plan for details on site access.

- b. *Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.*

Responses: Acknowledged by the applicant.

- C. *Street connectivity and formation of blocks required. In order to promote efficient vehicular and pedestrian circulation throughout the City, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards: [...]*

Response: The applicant is not proposing any new streets or blocks with this application. Only a variance to allow for a single shared driveway for all six lots is requested. Therefore, Standard (C) above does not apply to this application and the remaining code language has been omitted.

SECTION 48.030: MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES

- A. *Direct individual access from single-family dwellings and duplex lots to an arterial street, as designated in the transportation element of the Comprehensive Plan, is prohibited for lots or parcels created after the effective date of this code where an alternate access is either available or is expected to be available by imminent development application. Evidence of alternate or future access may include temporary cul-de-sacs, dedications or stub outs on adjacent lots or parcels, or tentative street layout plans submitted at one time by adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question.*

Response: Marylhurst Drive is classified as a Collector, not an Arterial Street. Therefore, the above standard does not apply to this application.

- B. *When any portion of any house is less than 150 feet from the adjacent right-of-way, access to the home is as follows: [...]*
- C. *When any portion of one or more homes is more than 150 feet from the adjacent right-of-way, the provisions of subsection B of this section shall apply in addition to the following provisions. [...]*

Response: There are no existing houses on the project site, nor are there any houses proposed with this variance application. Therefore, Standards (B) and (C) above do not apply and the remaining code language has been omitted.

- D. *Access to five or more single-family homes shall be by a street built to full construction code standards. All streets shall be public. This full street provision may only be waived by variance.*

Response: The applicant is requesting a variance to allow for a driveway to be constructed to serve all six of the residential lots on the development site. This driveway will be 20 feet wide and comply with all applicable standards for a driveway.

- E. *Access and/or service drives for multi-family dwellings shall be fully improved with hard surface pavement: [...]*

Response: The applicant is not proposing any multi-family dwellings with this application. Therefore, Standard (E) does not apply, and the remaining code language has been omitted.

- F. *Where on-site maneuvering and/or access drives are necessary to accommodate required parking, in no case shall said maneuvering and/or access drives be less than that required in Chapters 46 and 48 CDC.*

Response: When developed, each residential site will have adequate parking provided that complies with the West Linn Community Development Code.

- G. *The number of driveways or curb cuts shall be minimized on arterials or collectors. Consolidation or joint use of existing driveways shall be required when feasible.*

Response: Granting the requested variance will allow for only one driveway to be constructed on Marylhurst Drive, minimizing the number of curb cuts and possible vehicle-pedestrian conflicts on the street. Because the orientation and location of the site, as well as the City’s desire to make the area a more pedestrian oriented and walkable neighborhood, consolidating all six driveways into one shared private driveway is not only feasible, but ideal for the site.

H. In order to facilitate through traffic and improve neighborhood connections, it may be necessary to construct a public street through a multi-family site.

Response: The applicant is not proposing any multi-family dwellings with this application. Therefore, Standard (H) does not apply to this application.

I. Gated accessways to residential development other than a single-family home are prohibited.

Response: The applicant is not proposing any gated accessways with this application. Therefore, Standard (I) does not apply to this application.

SECTION 48.060: WIDTH AND LOCATION OF CURB CUTS AND ACCESS SEPARATION REQUIREMENTS

- A. Minimum curb cut width shall be 16 feet.*
- B. Maximum curb cut width shall be 36 feet, except along Highway 43 in which case the maximum curb cut shall be 40 feet. For emergency service providers, including fire stations, the maximum shall be 50 feet.*

Response: The proposed driveway off Marylhurst Drive has a curb cut of 20 feet, complying with the minimum and maximum curb cut width allowed above. Please see the attached site plan, Sheet C3.0, for details.

- C. No curb cuts shall be allowed any closer to an intersecting street right-of-way line than the following:*
 - 1. On an arterial when intersected by another arterial, 150 feet.*
 - 2. On an arterial when intersected by a collector, 100 feet.*
 - 3. On an arterial when intersected by a local street, 100 feet.*
 - 4. On a collector when intersecting an arterial street, 100 feet.*
 - 5. On a collector when intersected by another collector or local street, 35 feet.*
 - 6. On a local street when intersecting any other street, 35 feet.*

Response: In the City of West Linn’s Transportation Systems Plan (Figure 17), Marylhurst Drive is classified as a Collector Street and Midhill Circle is classified as a Local Street. Therefore, no curb cut is allowed any closer than 35 feet of these intersecting. The proposed curb cut is well over 100 feet from both intersections, complying with the above standard. Please see the attached site plan, Sheet C3.0, for details.

- D. There shall be a minimum distance between any two adjacent curb cuts on the same side of a public street, except for one-way entrances and exits, as follows:*
 - 1. On an arterial street, 150 feet.*
 - 2. On a collector street, 75 feet.*
 - 3. Between any two curb cuts on the same lot or parcel on a local street, 30 feet.*



Response: The applicant is only proposing one curb cut on the development site that is over 100 feet from both intersections of Midhill Circle and Marylhurst Drive. If the variance was not granted and two driveways had to be provided on Marylhurst Drive (a collector) or four to five on Midhill Circle (a local street), it would be very difficult to meet the minimum distance requirements with the site dimensions and local topography. Granting the variance allows for just a single driveway on Marylhurst Drive that can meet all minimum distance requirements.

E. A rolled curb may be installed in lieu of curb cuts and access separation requirements.

Response: The applicant is not proposing to install a rolled curb adjacent to the development site. Therefore, the above standard does not apply to this application.

F. Curb cuts shall be kept to the minimum, particularly on Highway 43. Consolidation of driveways is preferred. The standard on Highway 43 is one curb cut per business if consolidation of driveways is not possible.

Response: The applicant is requesting a variance to allow for all six residential properties to have vehicle access from a single shared driveway. Granting the requested variance will allow for all the properties to consolidate their access into one shared driveway and only require one curb cut on Marylhurst Drive.

CHAPTER 75: VARIANCES AND SPECIAL WAIVERS

SECTION 75.020: CLASSIFICATION OF VARIANCES

B. Class II Variance. Class II variances may be utilized when strict application of code requirements would be inconsistent with the general purpose of the CDC and would create a burden upon a property owner with no corresponding public benefit. A Class II variance will involve a significant change from the code requirements and may create adverse impacts on adjacent property or occupants. It includes any variance that is not classified as a Class I variance or special waiver.

- 1. Class II Variance Approval Criteria. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared.*
 - a) The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:*
 - 1) Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.*
 - 2) Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.*
 - 3) The potential for economic development of the subject property.*

Response: The requested variance is the minimum necessary to make reasonable use of the property while also prioritizing pedestrian safety and walkability of the area for the following reasons:

1. The physical characteristics of the lots, including size and shape, make two separate access drives from Marylhurst Drive impractical. This would require multiple curb cuts on the street, closer proximity

between driveways and street intersections, as well as requiring additional space on the lots themselves, limiting the buildable area of the residential properties.

2. Due to the topography of the project site and the extremely steep slopes that requires retaining walls, minimizing the number of driveways onto Marylhurst Drive will limit pedestrian-vehicle and vehicle-vehicle conflicts.
3. It should be noted that the City requested the property owner abandon the original development plans for the project site that had each lot taking individual direct access from Midhill Circle in lieu of making all public improvements and access off Marylhurst Drive. The property owner revised the development plan in accordance with the City's request to support the potential future redevelopment vision of pedestrian safety and walkability down to Highway 43.

b) The variance will not result in violation(s) of any other code standard, and the variance will meet the purposes of the regulation being modified.

Response: The requested variance will not result in a violation of any other known code standards while still meeting the purpose of the regulation being modified. Chapter 48 in the CDC seeks to balance mobility and the need to provide efficient and safe access to individual properties. Allowing for all six lots to be accessed via a single private drive creates a more practical development pattern for the area, as well as a safer situation for access, egress, and pedestrian circulation by limiting curb cuts on a Collector. Additionally, the requested variance will produce more well-designed homes relative to the site size, shape and existing development pattern of the area and on Marylhurst Drive.

c) The need for the variance was not created by the applicant and/or owner requesting the variance.

Response: The two primary reasons the property owner is requesting a variance to allow for all six lots to take access from a single shared private drive is the steep topography of Marylhurst Drive and the project site and the City's request to not have access from Midhill Circle. Neither the steepness of the area nor the City's request was created by the property owner.

d) If more than one variance is requested, the cumulative effect of the variances results in a project that is consistent with the overall purpose of the zone.

Response: Only one variance is requested, and that variance would apply to all six lots and the road would remain private and our responsibility.

CHAPTER 96: STREET IMPROVEMENT CONSTRUCTION

SECTION 96.010: CONSTRUCTION REQUIRED

- A. *Street improvements for residential construction are required when:*
1. *Construction of a new single-family attached or detached structure (replacement of an existing structure is exempt); or*
 2. *Construction of a new multifamily structure; or*
 3. *Increase in dwelling unit density on site (accessory dwelling units are exempt).*

Response: The applicant is not proposing the construction of any new residential units at this time. However, the property will eventually be developed with single-family attached or detached homes in the future. With the requested variance to allow all the properties on the development site to have access from a single shared driveway, the applicant is also proposing street frontage improvements on Marylhurst Drive, including a six foot sidewalk, stormwater facilities, and new street paving. Please see the attached civil plan set for details on the proposed improvements.

B. Street improvements for commercial construction are required when: [...]

Response: The applicant is not proposing any commercial construction on the project site. Therefore, Standard (B) does not apply, and the remaining code language has been omitted.

SECTION 96.030: STANDARDS

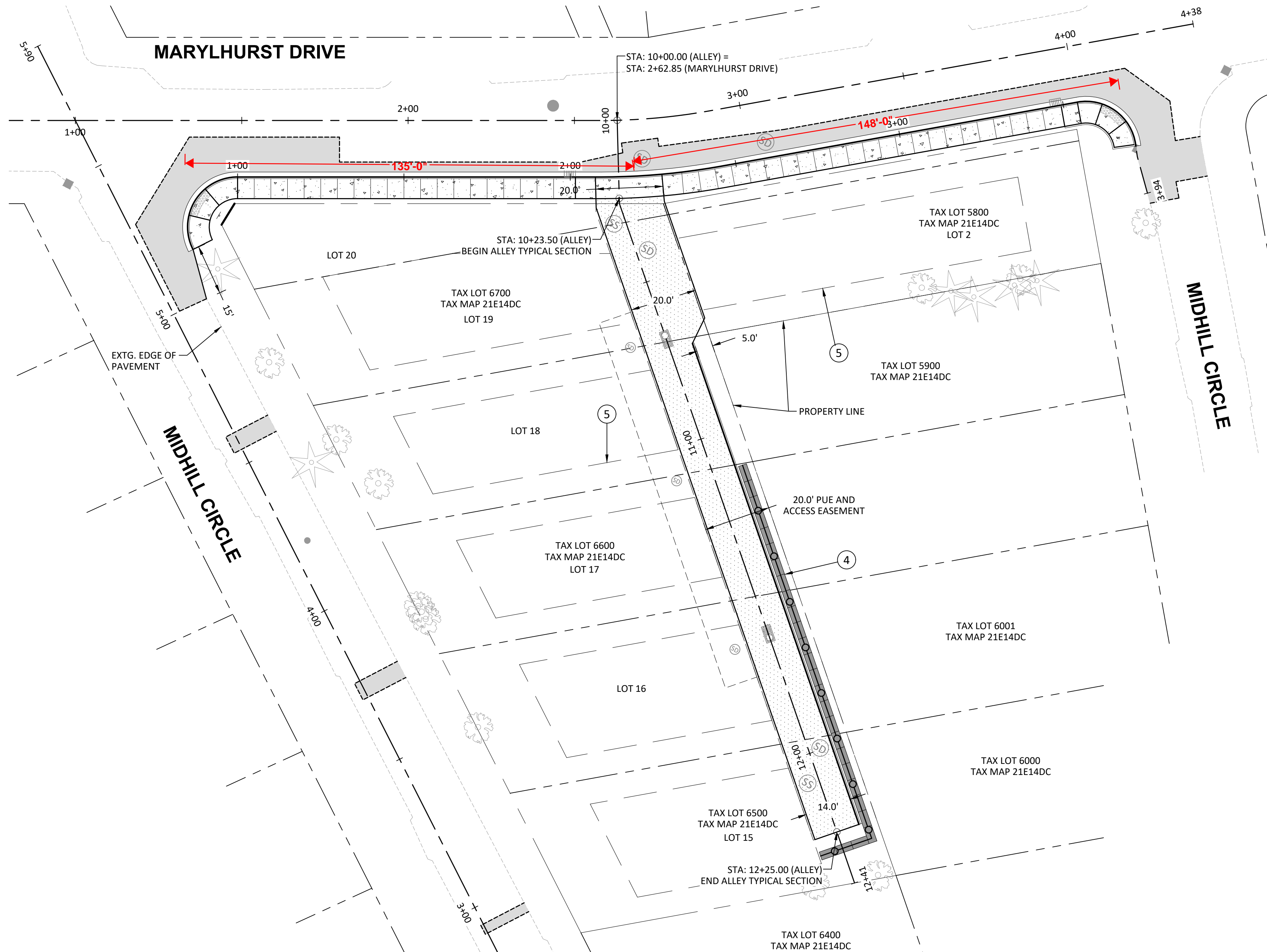
Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided the applicant submit sufficient security in an amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.

Response: The applicant is proposing street improvements on Marylhurst Drive and Midhill Circle, including right-of-way dedication, a sidewalk, and improved asphalt concrete paving. These street improvements will be installed according to all applicable City standards and complete prior to the issuance of any occupancy permit for the residential sites.

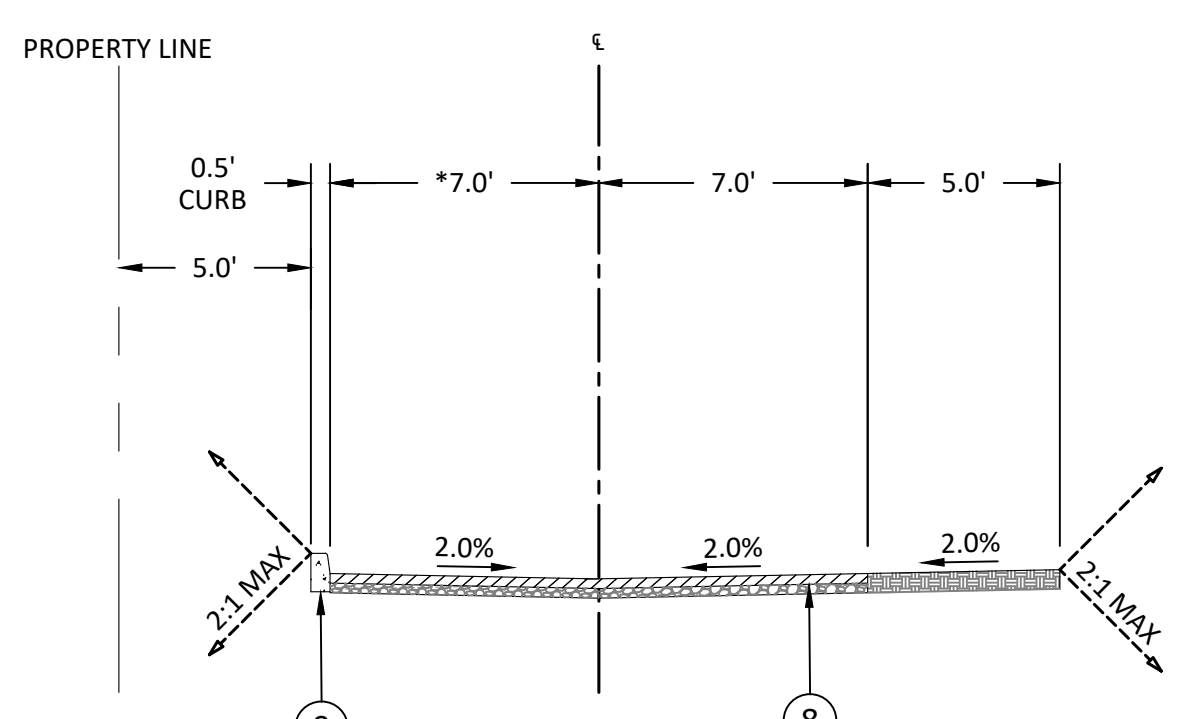
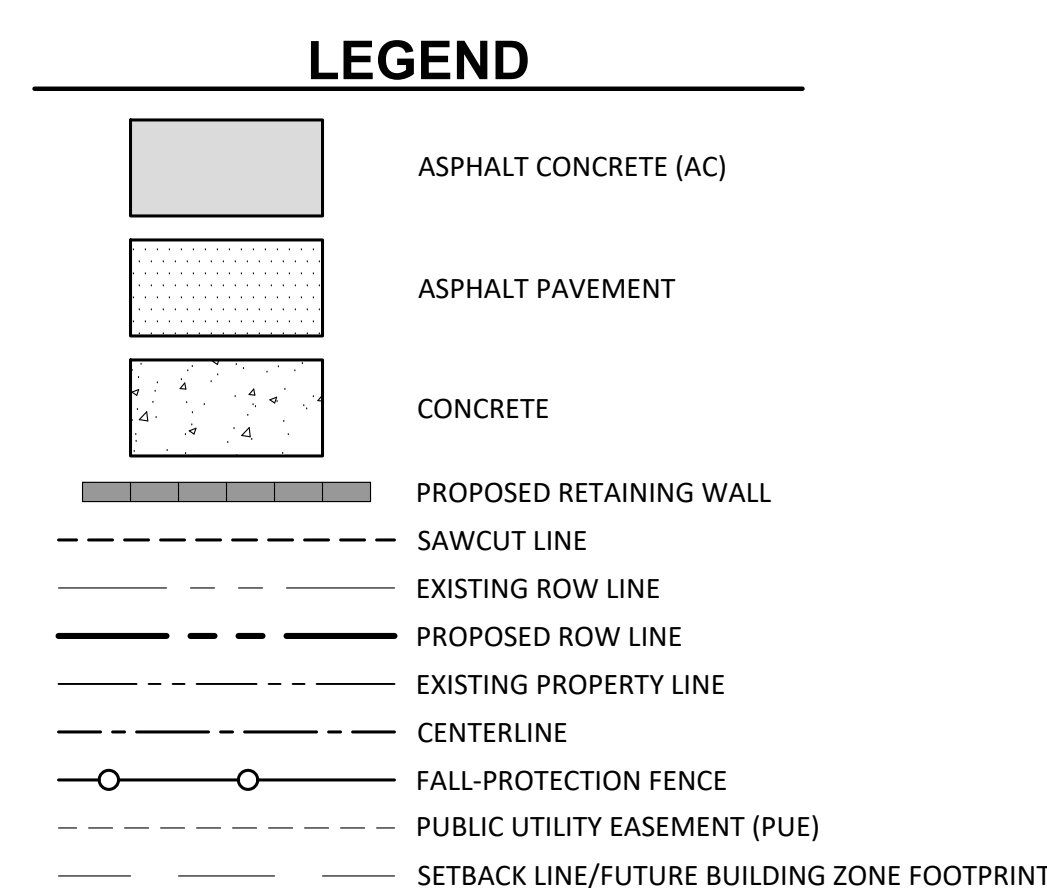
III. CONCLUSION

This written statement and the accompanying supporting documents demonstrate compliance with the applicable approval criteria for a Class II Variance in the City of West Linn. Therefore, the applicant respectfully requests that the City approve the application.

P:\01-Portland\TPH (Tracy Peterson)\TPH02 (Maryhurst)\TPH02-DWG\GISheets\C3.0 - PLAN AND PROFILE.dwg

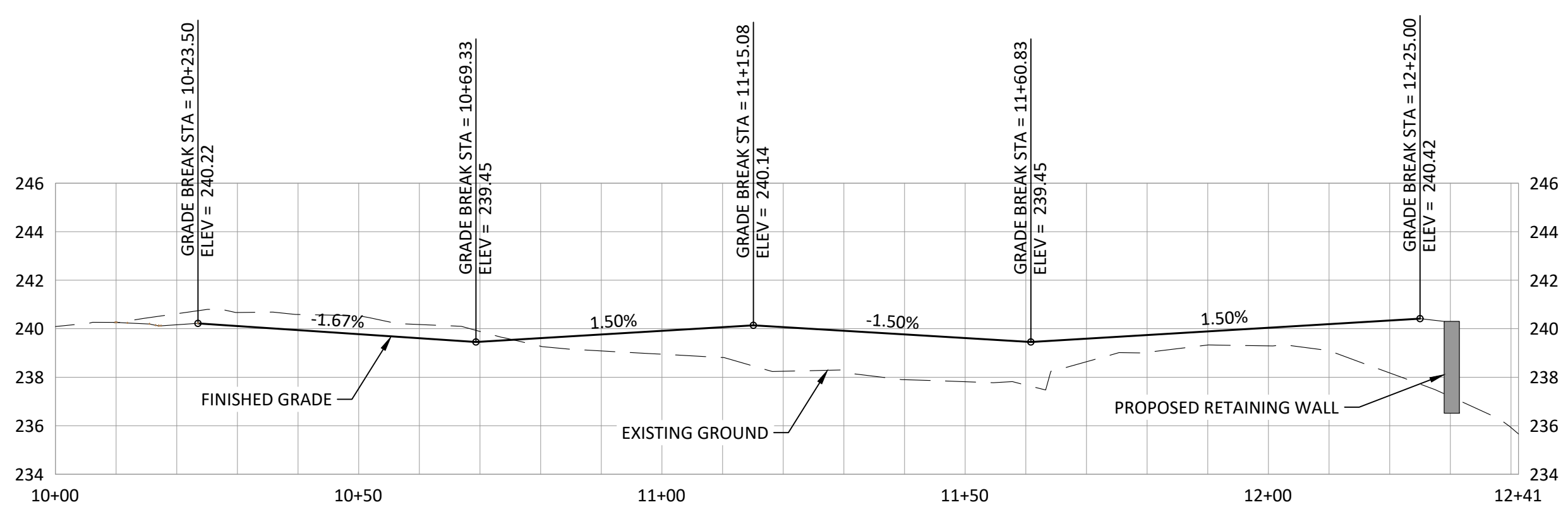


- CONSTRUCTION NOTES:**
- 4 CONSTRUCT ULTRABLOCK RETAINING WALL (OR EQUIVALENT) WITH CHAINLINK FALL-PROTECTION FENCING MOUNTED TO TOP OF WALL. WALL TO BE DESIGN-BUILD. CONTRACTOR TO SUBMIT ENGINEERED (STAMPED & SIGNED) SHOP-DRAWINGS TO ENGINEER FOR REVIEW PRIOR TO CONSTRUCTION. COORDINATE WITH GEOTECHNICAL ENGINEER FOR SUBGRADE PREPARATION AND REVIEW PRIOR TO CONSTRUCTION.
 - 5 SETBACK LINE/FUTURE BUILDING ZONE FOOTPRINT (TYP.).
 - 8 CONSTRUCT ASPHALT PAVEMENT SECTION PER DETAIL ON SHEET C6.4.
 - 9 CONSTRUCT PRIVATE CURB PER STANDARD DETAIL ON SHEET C6.4.

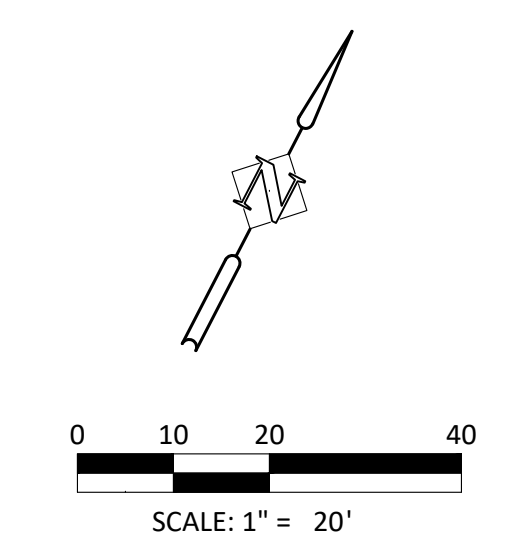


ALLEY TYPICAL SECTION

STA. 10+23.50 - STA. 12+25.00
 *STA 10+23.50 - 10+66.16, 13.0' WIDTH
 *STA 10+23.50 - 10+71.96, NO CURB

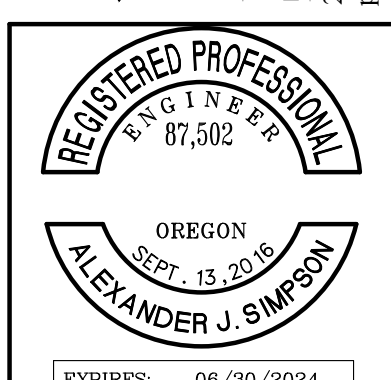


PRIVATE ALLEY
 SCALE: 1" = 20' (HORIZ.)
 1" = 5' (VERT.)



PRIVATE ALLEY PLAN AND PROFILE
MARYLHURST SUBDIVISION
 WEST LINN, OR

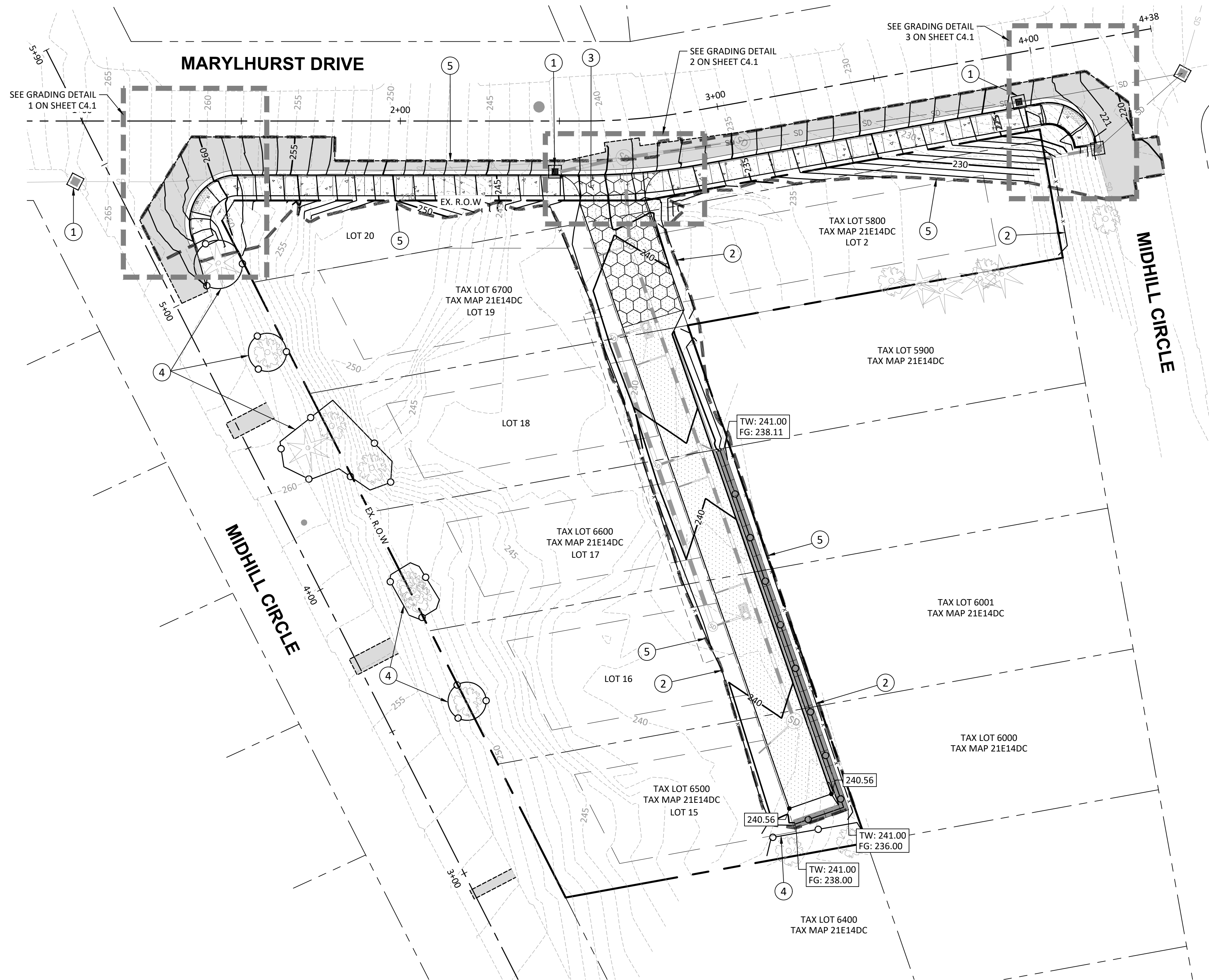
Harper Houf Peterson Righellis Inc.
 ENGINEERS * PLANNERS
 LANDSCAPE ARCHITECTS * SURVEYORS
 206 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171



DESIGNED:	HHPR
DRAWN:	HHPR
CHECKED:	HHPR
DATE:	02/02/2023

DATE	NO.	DESCRIPTION

SHEET NO.
C3.2
 JOB NO.
 TPH-02

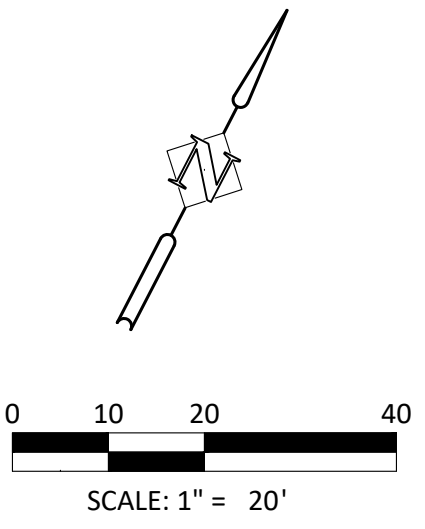


LEGEND

- ASPHALT CONCRETE (AC)
- ASPHALT PAVEMENT
- CONCRETE
- CONSTRUCTION ENTRANCE
- TREE PROTECTION FENCE
- SEDIMENT FENCE
- LIMITS OF GRADING
- INLET PROTECTION
- 100 EXISTING CONTOUR
- 101 PROPOSED MINOR CONTOUR
- 105 PROPOSED MAJOR CONTOUR
- EXISTING ROW LINE
- PROPOSED ROW LINE
- RETAINING WALL
- PUBLIC UTILITY EASEMENT (PUE)
- STORM LINE
- STORMWATER MANHOLE
- CATCH BASIN

- ### CONSTRUCTION NOTES:
- ① PROPOSED INLET PROTECTION PER DETAIL ON SHEET C6.4.
 - ② PROPOSED SEDIMENT FENCE PER DETAIL ON SHEET C6.4.
 - ③ PROPOSED CONSTRUCTION ENTRANCE PER DETAIL ON SHEET C6.4.
 - ④ INSTALL 6' TALL CHAINLINK TREE PROTECTION FENCING.
 - ⑤ LIMITS OF GRADING.

NOTE:
 ALL GRADING FILL MATERIAL PROPOSED ON SITE SHALL BE COORDINATED AND APPROVED BY A GEOTECHNICAL ENGINEER PRIOR TO CONSTRUCTION. HHPR PROVIDES NO INSTRUCTION AND TAKES NO RESPONSIBILITY REGARDING FILL MATERIAL AND PLACEMENT DURING CONSTRUCTION.



MASS GRADING & EROSION CONTROL PLAN
MARYLHURST SUBDIVISION
 WEST LINN, OR

Harper Houf Peterson
Righellis Inc.
ENGINEERS * PLANNERS
 LANDSCAPE ARCHITECTS * SURVEYORS
 206 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

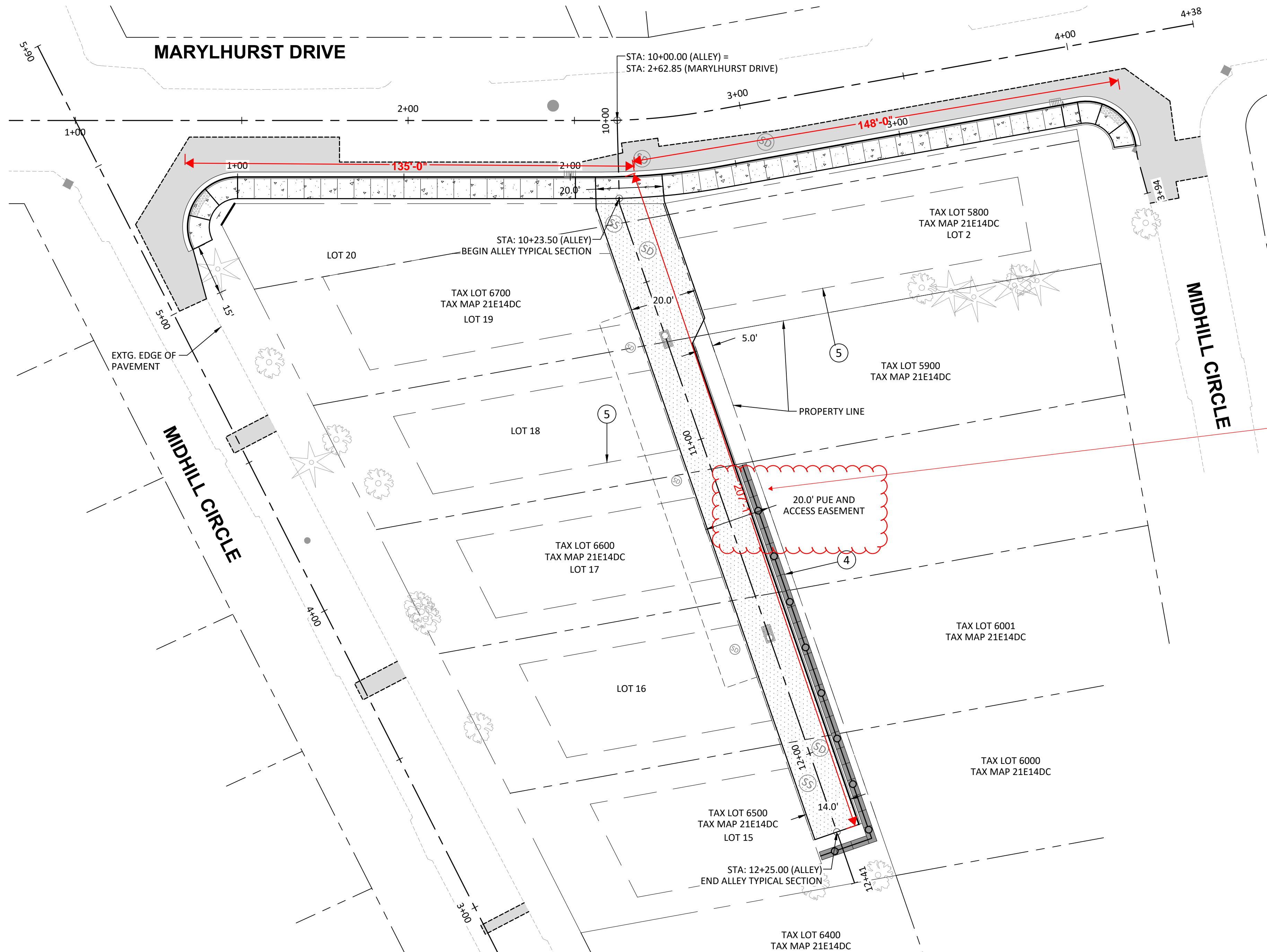
PRELIMINARY
 ALEXANDER J. SIMPSON
 EXPIRES: 06/30/2024

DESIGNED:	HHPR
DRAWN:	HHPR
CHECKED:	HHPR
DATE:	03/15/2023

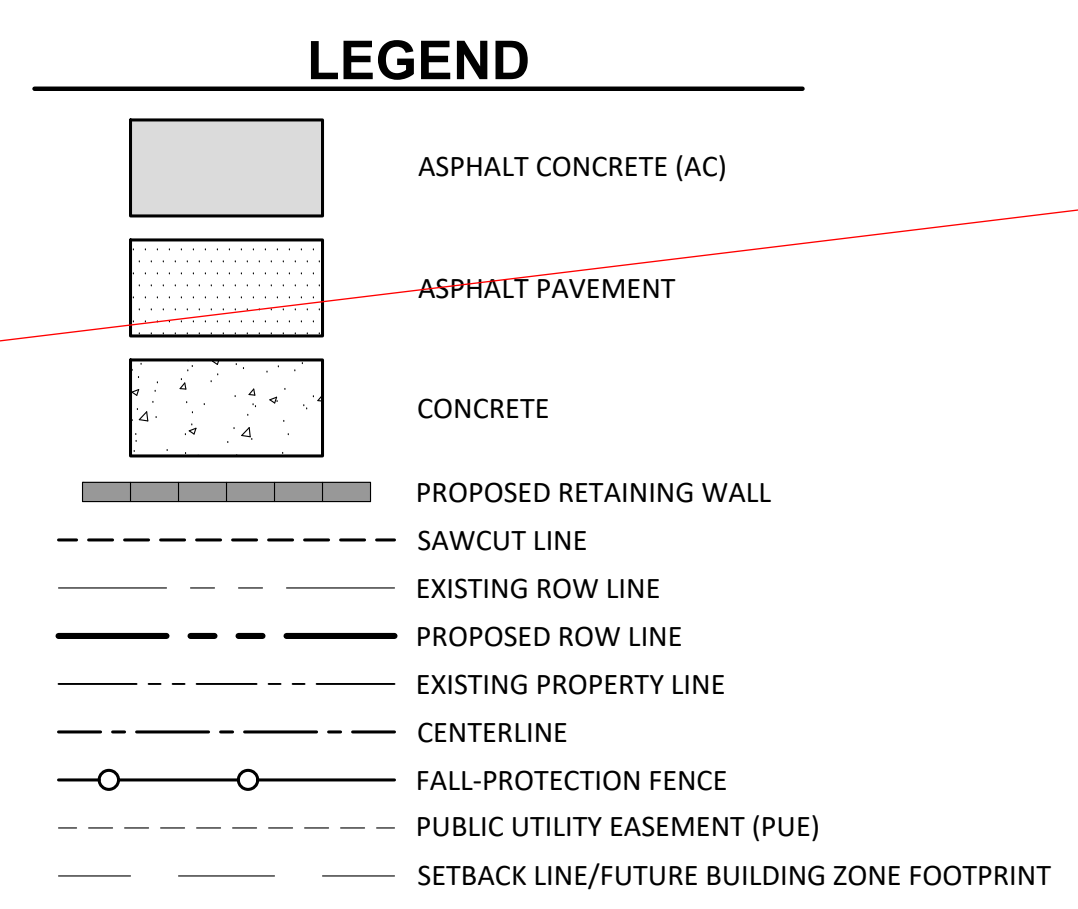
DATE	NO.	DESCRIPTION

SHEET NO.
C4.0
 JOB NO.
 TPH-02

P:\01-Portland\TPH (Tracy Peterson)\TPH02 (Maryhurst)\TPH02-DWG\Sheets\C3.0 - PLAN AND PROFILE.dwg



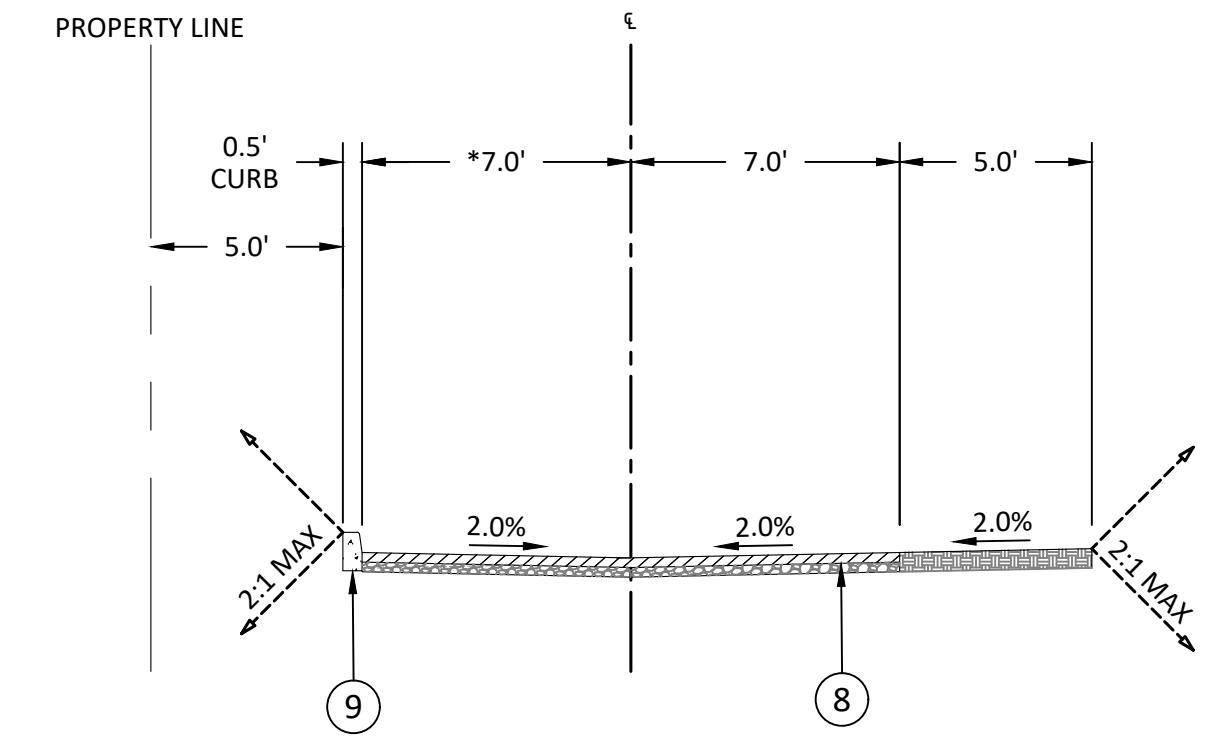
- CONSTRUCTION NOTES:**
- 4 CONSTRUCT ULTRABLOCK RETAINING WALL (OR EQUIVALENT) WITH CHAINLINK FENCE MOUNTED TO TOP OF WALL. WALL TO BE DESIGN-BUILD. CONTRACTOR TO SUBMIT ENGINEERED (STAMPED & SIGNED) SHOP-DRAWINGS TO ENGINEER FOR REVIEW PRIOR TO CONSTRUCTION. COORDINATE WITH GEOTECHNICAL ENGINEER FOR SUBGRADE PREPARATION AND REVIEW PRIOR TO CONSTRUCTION.
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FD NOTES:

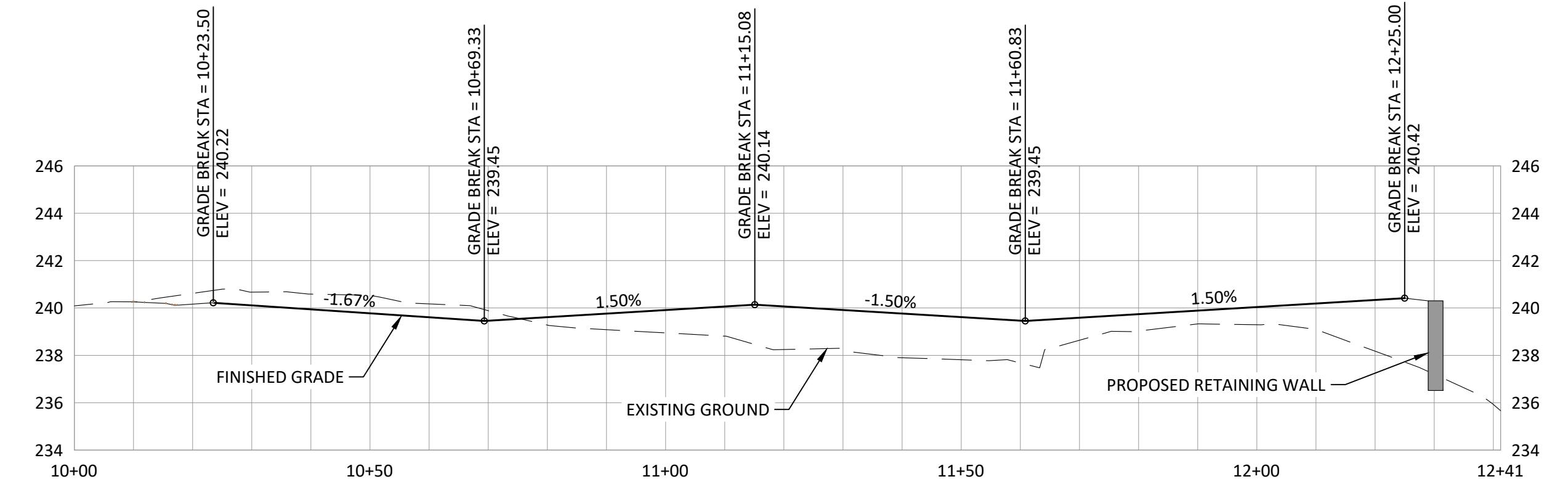
FIRE ACCESS is within TVF&R'S 200' allowance as per fire code exception 1.3 OFC 503.1.1 for 1 & 2 family residences.

NO PARKING fire lane signs required along private road. 20' minimum road width OFC D103.6.1-2.

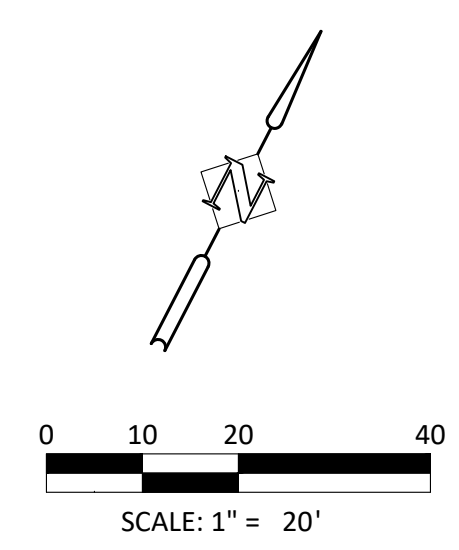


ALLEY TYPICAL SECTION

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 *STA 10+23.50 - 10+66.16, 13.0' WIDTH
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PRIVATE ALLEY
 SCALE: 1" = 20' (HORIZ.)
 1" = 5' (VERT.)



PRIVATE ALLEY PLAN AND PROFILE
MARYLHURST SUBDIVISION
 WEST LINN, OR

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 206 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

REGISTERED PROFESSIONAL ENGINEER
 ALEXANDER J. SIMPSON
 OREGON
 SEPT 15 2016
 EXPIRES: 06/30/2024

DESIGNED:	HHPR
DRAWN:	HHPR
CHECKED:	HHPR
DATE:	02/02/2023

DATE	NO.	DESCRIPTION

SHEET NO.
C3.2
 JOB NO.
 TPH-02

From: Lumpkin, Jameson
Sent: Wednesday, February 15, 2023 7:38 AM
To: Myers, Chris
Cc: Schroder, Lynn
Subject: Request for Comment - PA-23-02, Proposed Class 2 Variance

Good Morning Chris,

I apologize for getting my comments back a day later than requested.

Engineering does believe it would be beneficial to allow additional access from the private drive for this subdivision. Engineering has no other comments regarding this request.

Best,
Jameson

Jameson Lumpkin
Associate Engineer
Public Works

[#4739](#)



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

EXHIBIT CC-3: PLANNING COMMISSION DRAFT MEETING NOTES



PLANNING COMMISSION
Draft Meeting Notes of May 17, 2023

Commissioners present: John Carr, Gary Walvatne, Charles Mathews, Joel Metlen, and Tom Watton.

Members of the Public: Hillary Harris, Tracy Peterson, Michael Tomaszek, Arnold Sackett, and Shaun Harbour

Staff present: Planning Manager Darren Wyss, City Attorney Ed Trompke, Associate Planner John Floyd, and Administrative Assistant Lynn Schroder

The meeting video is available on the [City website](#).

0. Pre-Meeting Work Session

Chair Carr introduced the agenda for the upcoming meeting and discussed meeting logistics. Planning Manager Wyss introduced Ed Trompke as the City Attorney and noted that the meeting had two public hearings – legislative and quasi-judicial. He said additional comments for both hearings were submitted after the staff reports were emailed to Commissioners before the meeting.

1. Call To Order and Roll Call

Chair Carr called the meeting to order at 6:30 pm. Wyss took the roll.

2. Public Comment Related To Land Use Items Not On The Agenda

Kathie Halicki, President of the Willamette Neighborhood Association, testified about a WNA resolution on upcoming Volpp Street improvements, the need for pedestrian improvements on 9th Street, and concerns about pedestrian safety and congestion on roads serving Athey Creek Middle School. She requested a forum with the City to discuss the WNA concerns.

Elizabeth Rocchia, a Willamette resident, testified about the impact on Fields Bridge Park from the upcoming Willamette Falls Drive improvement project. She requested that the project be paused to allow citizen participation in the design of the road improvements.

3. Approval of Meeting Notes: [04.19.2023](#)

Commissioner Watton moved to approve the meeting notes for 4.19.23. Walvatne seconded. **Ayes: Watton, Mathews, Metlen, Walvatne, and Carr. Nays: None. Abstentions: None. The motion passed 5-0-0.**

4. Public Hearing (Quasi-Judicial): [VAR-23-01, A Request for a Class II Variance to allow more than four lots to be served by a private driveway at 2622 Marylhurst Drive](#)

Chair Carr introduced application VAR-23-01, a request for a Class 2 variance to allow more than four lots to be served by a private driveway (VAR-23-01). Carr explained the hearing procedures provided in CDC Chapter 99.170 and opened the public hearing.

City Attorney Trompke addressed legal standards and appeal rights. The substantive criteria that apply to the application are contained in Community Development Code (CDC) Chapter 11: Residential (R-10); Chapter 48: Access, Egress and Circulation; Chapter 75: Variances and Special Waivers; Chapter 99: Procedures for Decision-Making: Quasi-Judicial.

City Attorney Trompke addressed Planning Commission conflicts of interest, ex-parte communications,

jurisdiction, and bias challenges. No Commissioner declared any potential bias or ex parte contacts. Trompke asked if any audience member wished to challenge the Planning Commission's jurisdiction or the impartiality or ex parte disclosures of any members of the Planning Commission. There were none.

Associate Planner John Floyd presented the staff report. The applicant requested a Class II variance to allow more than four lots (6 total) to be served from a private accessway on Marylhurst Drive, approximately midblock between Upper and Lower Midhill Circle, in an alley configuration. The six lots were created in 1925 and can be developed as a matter of right.

Instead of providing steep driveways and substantial grading, the applicant proposed consolidating access through the block's center, where the grades are less steep. The proposed private accessway included two 7' travel lanes, a 5-foot sidewalk, and a curb. A retaining wall with a safety fence was included along the southernmost portion to maintain grade. The proposed single accessway would have removed up to six new driveways onto Midhill Circle and provide frontage improvements along Marylhurst Drive.

Tualatin Valley Fire & Rescue (TVF&R) issued Service Provider Permit that approves the proposed access. The West Linn Engineering Division did not have any comments on the proposal.

Hillary Harris, Consultant with HHPR presented on the applicant's behalf. She testified that the six lots were pre-existing, legally established lots. The consolidated access was necessary due to the steep grade and topography of the lots. The consolidated access would require less grading on the lots and provide adequate distance for intersections and driveways. She stated that the proposal meets all development standards and criteria for a Class 2 variance, as demonstrated in the application and staff report. No development was proposed with this variance request. When development is proposed, the applicant would submit all required permits, and the proposed residential development would comply with all setbacks and residential criteria. She noted that the property owner would address leaning fir tree and fence installation during site development.

Chair Carr asked for public testimony. Michael Tomaszek, Arnold Sackett, and Shaun Harbour provided oral testimony at the hearing. The primary concerns raised during testimony included:

- Number of lots that would be built on;
- Number of vehicle trips that would be generated;
- Number of trees that would be removed;
- Parking on Marylhurst;
- Hazard Tree removal;
- Traffic safety; and
- Construction traffic safety and parking.

The applicant responded that construction parking would be on the lot. She noted that the City requested the sidewalk and public improvements on Marylhurst Drive.

There were no requests for continuances.

Chair Carr closed the public hearing and opened deliberations. Commissioners discussed the width of the shared driveway versus TVF&R standards. They wanted to know how many dwelling units would be built, their relationship to Midhill Circle, and whether the request met the minimum necessary to reasonably use the property. Commissioner Mathews did not think six lots could be adequately serviced with a 14-foot driveway. Commissioner Walvatne did not believe that the Planning Commission could determine that the variance is the minimum necessary to reasonably use the property because the applicant needed to indicate how any residential units would use the driveway. He thought a determination could only be made by knowing how

the lots would be developed. Commissioner Watton was concerned about the driveway narrowing from 20 feet to 14 feet. He was curious to know if TVF&R specifically approved the driveway as proposed. Additionally, Watton wanted to understand how the residential frontage would be oriented. Commissioner Metlen agreed that more information about the development was required to determine that the variance was the minimum necessary to use the property reasonably. He needed to get a sense of what factors necessitated the variance as opposed to alternative designs.

Commissioner Mathews moved to deny the application, then withdrew to allow consideration of a motion to provide a continuance.

Commissioner Walvatne moved to deny VAR-23-01 and directed staff to prepare a Final Decision and Order based on the findings in the May 17, 2023 hearing staff report. Commissioner Mathews seconded.

Ayes: Metlen, Mathews, Walvatne, and Watton. Nays: Carr. Abstentions: None. The motion passed 4-1-0.

5. **Public Hearing (Legislative):** [CDC-23-01, Proposed CDC Chapter 34 Code Amendments to update Accessory Dwelling Unit standards](#)

Chair Carr opened a legislative hearing for CDC-23-01, a proposal to amend the West Linn Community Development Code Chapter 34 to update the Accessory Dwelling Unit standards. The proposed amendments update siting and design standards for accessory dwelling units and ensure the code complies with state statutes and administrative rules.

City Attorney Trompke addressed legal standards and appeal rights. He addressed Planning Commission conflicts of interest. No Planning Commissioner declared a conflict of interest. Trompke asked if any member of the audience wished to challenge the Planning Commission's impartiality of any member of the Planning Commission. There were none.

Planning Manager Wyss presented the staff report. West Linn City Council prioritized a policy review of the City's ADU regulations and requested the PC to recommend a code amendment package. The Commission held five work sessions from November 2022 to April 2023 to review 11 policy questions related to siting and design standards for ADUs. The Commission recommended removing most requirements but amending the maximum size and height of detached ADUs to provide additional flexibility for property owners. The Planning Commission reached a consensus on April 5, 2023 on a proposed ADU Code Amendment Package and directed staff to bring it forward into the legislative adoption process.

The proposed ADU code would allow:

- A. One ADU, either attached or detached on the same lot in conjunction with a primary dwelling
 1. Public services can serve both dwelling units
 2. Maximum size of an ADU shall be:
 - a. 1,000 sq. ft. when attached
 - b. 1,000 sq. ft. or 75 percent of gross square footage of primary dwelling , whichever is less, when detached
 3. ADU in conformance with setback and lot coverage of underlying zone
 4. Maximum height of detached ADU shall be greater of:
 - a. the height of the primary structure; or
 - b. 26 feet

The City received four public comments. Three of the comments were submitted by West Linn Economic Development Committee members in support of the proposed amendments. The fourth comment was sent by a member of the Metro planning team, confirming conformance with the Urban Growth Management Functional Plan and supporting the City's efforts to reduce barriers to ADU construction.

Commissioners asked clarifying questions. Watton asked if plexes could have ADUs. Planning Manager Wyss responded that plexes could not have ADUs. Commissioner Mathews asked how far set back from the primary structure an ADU could be placed on the property.

Chair Carr asked for public testimony. There was none.

Chair Carr closed the public hearing and opened deliberations.

Commissioner Walvatne moved to recommend the proposed amendments to the City Council as presented. Commissioner Watton seconded. **Ayes: Mathews, Watton, Metlen, Walvatne, and Carr. Nays: None. Abstentions: None. The motion passed 5-0-0.**

6. Planning Commission Announcements

None.

7. Staff Announcements

Planning Manager Wyss reviewed the upcoming Planning Commission schedule.

8. Adjourn

Chair Carr adjourned the meeting at approximately 8:30 pm.

EXHIBIT CC-4: AFFIDAVIT AND NOTICE PACKET

**CITY OF WEST LINN CITY COUNCIL
PUBLIC HEARING NOTICE
FILE NO. AP-23-03**

The West Linn City Council will hold a hybrid public hearing on **July 10, 2023 at 6:00 pm** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider an appeal **by Tracey & Derek Peterson of VAR-23-01, a Class II Variance at 2622 Marylhurst Drive and 18600, 18680, and 18690 Midhill Circle (Lots 2, and 15-20) of the 1926 Replat of Robinwood, Clackamas County Plat 541).**

The appellant stated grounds for appeal is that their application has demonstrated findings in support of a Class II Variance and the result is more beneficial to the City than standard development.

City Council will decide the appeal based on applicable criteria in Community Development Code (CDC) Chapters 48, 75 and 99 The CDC approval criteria are available for review on the City website <http://www.westlinnoregon.gov/cdc> or at City Hall and the library.

The appeal is a de novo hearing and not limited to the stated grounds for the appeal. City Council may consider all relevant issues. All evidence presented to the lower authority shall be considered and given equal weight as evidence presented on appeal. City Council may affirm, reverse, or modify the decision which is the subject of the appeal.

You have been notified of this appeal as required by CDC Chapter 99.140 and 99.260.

The appeal is posted on the City's website, <https://westlinnoregon.gov/planning/2622-marylhurst-drive-appeal-var-23-01-class-2-variance>. The appeal application and record are available for inspection at City Hall at no cost. Copies may be obtained at a reasonable cost. The staff report will be posted on the website and available for inspection at no cost, or copies may be obtained at a reasonable cost, at least ten days before the hearing.

The hearing will be conducted according to CDC Section 99.170 in a hybrid format with some Councilors, staff, presenters, and members of the public attending remotely via Webex and others attending in-person at City Hall. The public can watch the meeting online at <https://westlinnoregon.gov/meetings> or on Cable Channel 30.

Anyone wishing to present written testimony for consideration shall submit all material before 12:00 pm on July 10, 2023. Written comments may be submitted to jfloyd@westlinnoregon.gov or mailed to City Hall.

Those who wish to participate remotely should complete the speaker form at <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> before 4:00 pm on the meeting day to receive an invitation to join the meeting. Virtual participants can log in through a computer, mobile device, or call in.

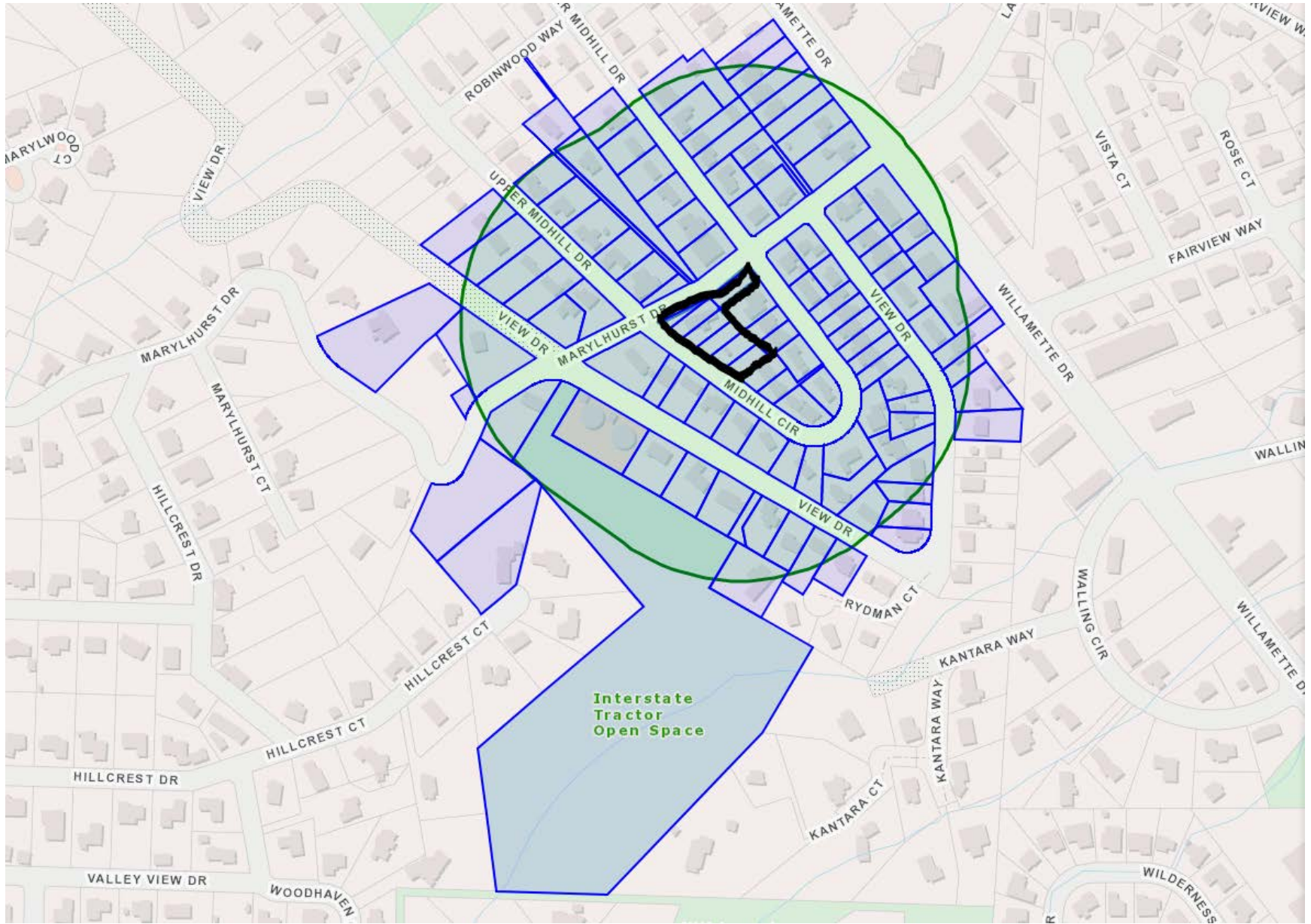
It is important to submit all testimony in response to this notice. All comments submitted for consideration of this appeal should relate specifically to the applicable criteria. Failure to raise an issue in a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the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

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



Scan this QR Code to go to Project Web Page:

VAR-23-01 - NOTIFIED PROPERTIES WITHIN 500 FT OF 2622 Marylhurst Circle & 18600, 18680, and 18690 Midhill Circle





**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # AP-23-03
MAIL: June 20, 2023 TIDINGS: June 28, 2023**

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.

**AFFIDAVIT OF NOTICE
TYPE A
City Council 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.: AP-23-03

Development Address: 2622 Marylhurst Drive

City Council Decision no earlier than 7/10/23

Applicant's Name: **Tracy Peterson**

APPLICATION

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

6/14/23	<i>Lynn Schroder</i>
---------	----------------------

MAILED NOTICE

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

Tracy Peterson, applicant	6/20/23	<i>Lynn Schroder</i>
Hillary Harris, applicant representative	6/20/23	<i>Lynn Schroder</i>
Parties of Record for VAR-23-01	6/20/23	<i>Lynn Schroder</i>
Property owners within 500ft of the site perimeter	6/20/23	<i>Lynn Schroder</i>
Robinwood Neighborhood Association	6/20/23	<i>Lynn Schroder</i>

EMAIL Notice to Applicant and PC Agenda List 6/20/23

EMAILED NOTICE

Notice of Upcoming Planning Manager Decision was emailed at least 20 days before the decision date to:

All Neighborhood Associations	6/20/23	<i>Lynn Schroder</i>
Tracy Peterson, applicant	6/20/23	<i>Lynn Schroder</i>
Hillary Harris, applicant consultant	6/20/23	<i>Lynn Schroder</i>

WEBSITE

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

6/20/23	<i>Lynn Schroder</i>
---------	----------------------

TIDINGS

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

6/28/23	<i>Lynn Schroder</i>
---------	----------------------

SIGN

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

6/28.23	<i>John Floyd</i>
---------	-------------------

STAFF REPORT

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

	<i>Lynn Schroder</i>
--	----------------------

FINAL DECISION

Notice of Final Decision was mailed to the applicant, all parties with standing, and posted on the City’s website, per Section 99.040 of the CDC.

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