



CITY OF West Linn

STAFF REPORT PLANNING MANAGER DECISION

DATE: December 21, 2023

FILE NO.: MISC-23-04

REQUEST: Approval for the enlargement of a non-conforming structure at 2224 Long St

PLANNER: Ben Gardner, Assistant Planner

Planning Manager DSW

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GENERAL INFORMATION

APPLICANT:	Mahsa Emamjomeh 14359 SW 169 th Ave Tigard, OR 97224
OWNER:	Cayetano Gil Sanchez 2224 Long St West Linn, OR. 97068
SITE LOCATIONS:	2224 Long St
SITE SIZE:	5000 square feet
LEGAL DESCRIPTION:	Clackamas County Assessor Map 21E36AB Tax Lot 11301
COMP PLAN DESIGNATION:	Low-Density Residential
ZONING:	R-10, Residential (10,000 sq. ft. min. lot size)
APPROVAL CRITERIA:	Oregon Revised Statute 92.031
120-DAY RULE:	The application became complete on November 20, 2023. The 120-day period therefore ends on March 19, 2024.
PUBLIC NOTICE:	Notice was mailed to property owners within 300 feet of the subject property and to the affected neighborhood association on November 21st, 2023. A sign was placed on the property on November 21st, 2023. The notice was also posted on the City's website on November 21st, 2023. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The applicant requests approval for the enlargement of a deck attached to the side of an existing single-family home located at 2224 Long St. The existing deck and stairs along its West side encroach on the interior side setback, being located approximately 4.83 ft from the property line. The R-7 zone in which this is located has interior side setback requirements of 7.5 ft. Additionally, the property itself is 5000 square feet in area and the underlying R-7 zone requires 7000 square feet. For these reasons the property and its associated dwelling are existing non-conformities.

The applicant proposes to maintain the non-conforming setback and add a set of stairs in line with the existing encroachment on its South side. In doing so, the applicant is proposing to enlarge an existing non-conformity containing a conforming use. The given stairs are proposed to be the same distance from the Westmost property line and will not increase the non-conformity. The size of the property is unaffected by this proposal. All other dimensional standards, setbacks, lot coverage, and other provisions of the underlying R-7 zone have been met.

Public Comments:


No public comments received for this application.

DECISION

The Planning Manager (designee) approves this application (MISC-23-04), based on: 1) the findings submitted by the applicant, which are incorporated by this reference, 2) supplementary staff findings included in the Addendum below, and 3) the addition of conditions of approval below. With these findings, the applicable approval criteria are met. The conditions are as follows:

1. Site Plan, Elevations, and Narrative. The project shall conform to the submitted plans, elevations, and narrative submitted in Exhibit PD-1 dated October 17, 2023.

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


Ben Gardner, Assistant Planner

December 21, 2023
Date

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$400. An appeal to City Council of a decision by the Planning Director shall be heard on the record. The appeal must be filed by an individual who has established standing by submitting comments prior to the decision date. Approval will lapse 3 years from effective approval date if the final plat is not recorded.

Mailed this 21st day of December, 2023.

Therefore, the 14-day appeal period ends at 5 p.m., on January 4th, 2024.

ADDENDUM

APPROVAL CRITERIA AND FINDINGS MISC-23-04

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

12.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Single-family attached and detached residential unit.

...

STAFF FINDING 1: The applicant proposes an addition to an existing non-conforming single-family home. Single-family detached homes are permitted uses in the R-7 zone. The criteria is met.

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

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

STANDARD	REQUIREMENT	ADDITIONAL NOTES
Minimum lot size		
For single-family detached units	7,000 sf	No yard shall be required between units
For single-family attached units	5,500 sf	
Average minimum lot or parcel size for a townhouse project	1,500 sf	
Minimum lot width at front lot line	35 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width	35 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks		Front, rear, and side yard setbacks in a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
Front yard	20 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
Interior side yard	7.5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
Street side yard	15 ft	
Rear yard	20 ft	
Maximum building height	35 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.

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

...

STAFF FINDING 2: The subject property is approximately 5000 square feet in area. This is the first element of its non-conformity, as the minimum lot size in the R-7 zone is 7000 square feet. The property has a 49.94 ft front yard width, and an average width of 49.94 ft for its length. The existing dwelling is approximately 22.2 ft from the North / front lot line, 10.25 ft from the East interior side property line, 41.69 ft from the South / rear property line, and 4.83 ft from the West interior side property line. The West interior side setback of 7.5 feet is encroached upon by an attached deck and stairs. This is the second element of its non-conformity. The structure is approximately 29.25 feet tall, with a lot coverage of approximately 31%, and an FAR of approximately 0.32. Those elements that are non-conforming are addressed by Staff Finding 4. The criteria are met.

66.040 DETERMINATION OF STATUS

A. The Planning Director shall make a determination regarding non-conforming status without giving notice.

STAFF FINDING 3: The Planning Director determined the existing structure is non-conforming based on its proximity to the Westernmost lot line and its lot size. The criteria is met.

66.080 ENLARGEMENT OF OR ALTERATION TO A NON-CONFORMING STRUCTURE: PROCESS AND APPROVAL STANDARDS

...

B. An enlargement or alteration to a non-conforming structure containing a conforming use may be permitted subject to the following:

...

2. If the enlargement, in and of itself, does not meet all provisions of the code, review and approval by the Planning Director for single-family structures, and by the Planning Commission for non-single-family structures under the provisions of CDC 99.060(B) is required subject to the following standards.

- The enlargement or alteration will not change the non-conformity; and
- All other applicable ordinance provisions will be met.

STAFF FINDING 4: The proposed addition of stairs to the deck on the West side of the dwelling is an enlargement of a non-conforming structure containing a conforming use. The enlargement does not meet the dimensional requirements of the underlying zone, as it is encroaching upon the interior side setback by approximately 2.67 ft. As it is a single-family structure, it falls under the authority of the Planning Director to review the proposal. The enlargement is proposed to be built in line with the existing deck footprint while maintaining the existing non-conformity and will therefore not change the given non-conformity. The size of the property is also non-conforming, being 5000 square feet while the requirement is 7000 square feet, but this immaterial to and unaffected by this proposal. All other applicable provisions have been met. The criteria are met.

Chapter 99: PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL
99.060 APPROVAL AUTHORITY

...

A. Planning Director authority. The Planning Director shall have the authority to:

1. Approve, deny, or approve with conditions the following applications:

...

h. Enlargement or alteration of a non-conforming single-family structure containing a conforming use (Chapter 66 CDC).

...

STAFF FINDING 5: The proposed deck cover is an enlargement of a non-conforming structure containing a conforming use. The criteria is met.

99.080 NOTICE

Notice shall be given in the following ways:

...

B. Class B Notice. Notice of a proposed action on a development application pursuant to CDC 99.060 shall be given by the Director in the following manner:

1. At least 14 days prior to the decision date, a notice shall be sent by mail to:

a. The applicant or their agent;

*b. The affected recognized neighborhood association or citizens advisory committee;
and*

c. All property owners of record within 300 feet of the site perimeter;

STAFF FINDING 6: A Class B Notice was prepared. The notice was sent via mail to the applicant, the affected neighborhood association, and all property owners within 300 ft. of the site perimeter of 2224 Long St. on 11/21/23. The criteria are met.

2. At least 10 days prior to the earliest date that the approval authority can take action on the application, the applicant shall place a sign, provided by the Community Development Department, on the subject property in plain view. The sign shall state, "This property is the subject of a land use decision," with the type of use or request indicated.

STAFF FINDING 7: A sign detailing the property's status as being the subject of a land use decision with case details was placed on the property on 11/21/23. The criteria are met.

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

STAFF FINDING 8: An affidavit of mailing of notice and posting of notice was filed in the land use case record (See Exhibit PD-4).

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

STAFF FINDING 9: The sign was removed at the conclusion of the action. The criteria are met.

EXHIBIT PD-1 APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT Ben Gardner	PROJECT NO(S). MISC-23-04	PRE-APPLICATION NO. n/a
NON-REFUNDABLE FEE(S) \$1,200	REFUNDABLE DEPOSIT(S)	TOTAL \$1,200

Type of Review (Please check all that apply):

- | | | |
|---|--|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Final Plat (FP) <u>Related File #</u> | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal (AP) | <input type="checkbox"/> Flood Management Area (FMA) | <input type="checkbox"/> Temporary Uses (MISC) |
| <input type="checkbox"/> CDC Amendment (CDC) | <input type="checkbox"/> Historic Review (HDR) | <input type="checkbox"/> Time Extension (EXT) |
| <input type="checkbox"/> Code Interpretation (MISC) | <input type="checkbox"/> Lot Line Adjustment (LLA) | <input type="checkbox"/> Right of Way Vacation (VAC) |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Minor Partition (MIP) | <input type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Modification of Approval (MOD) | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Tree Easement Vacation (MISC) | <input checked="" type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Expediated Land Division (ELD) | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Extension of Approval (EXT) | <input type="checkbox"/> Street Vacation | <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: 2224 Long St. West Linn OR 97068	Assessor's Map No.: 21E36AB11301
	Tax Lot(s):
	Total Land Area: 4,999

Brief Description of Proposal:

Remodeling an exiting non conforming deck and connecting the lower level deck to the ground by a new set of stairs. the existing lower and upper deck is encroaching the setback by 2'-8". the remodel proposal will not exceed this encroach.

Applicant Name*: Mahsa Emamjomeh Address: 14359 SW169th ave City State Zip: Tigard, OR 97224	Phone: 5035603491 Email: mahsa@murj.design
Owner Name (required): Cayetano Gil Sanchez Address: 2224 Long St City State Zip: West Linn, Or. 97068	Phone: 971-323-5788 Email: cayetanogilsanchez@gmail.com
Consultant Name: Mahsa Emamjomeh Address: 14359 SW169th ave City State Zip: Tigard, OR 97224	Phone: 5035603491 Email: mahsa@murj.design

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.


Applicant's signature

10/25/2023
Date


Owner's signature (required)

10/25/2023
Date

Client Information:
Cayetano Gil Sanchez
2224 Long St
West Linn, Or. 97068
cayetanogilsanchez@gmail.com

Planning Manager
22500 Salamo Road
West Linn, Or. 97068

Project:
Non-Conforming Review

Please see attached application and supporting documents for a non-conforming review for a remodel of a non-conforming existing deck. Below is the response addressing approval criteria of chapters 12 & 66 of the West Linn CDC.

66.080 ENLARGEMENT OF OR ALTERATION TO A NON-CONFORMING STRUCTURE:

PROCESS AND APPROVAL STANDARDS

A. An enlargement of or alteration to a non-conforming structure containing a non-conforming use may be permitted subject to review and approval by the Planning Commission under the provisions of CDC 99.060(B) and CDC 65.120 through 65.140.

Response: The existing structure to be remodeled is the existing non conforming deck

B. An enlargement or alteration to a non-conforming structure containing a conforming use may be permitted subject to the following:

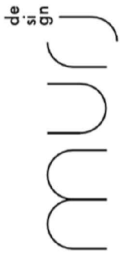
1. If the enlargement, in and of itself, meets all provisions of this code, the enlargement will be permitted. This exception does not preclude design review or other applicable provisions of this code.
2. If the enlargement, in and of itself, does not meet all provisions of the code, review and approval by the Planning Director for single-family structures, and by the Planning Commission for non-single-family structures under the provisions of CDC 99.060(B) is required subject to the following standards.
 - a. The enlargement or alteration will not change the non-conformity; and
 - b. All other applicable ordinance provisions will be met. (Ord. 1192, 1987)

Response: we're not getting any closer to the property line than the deck currently is. The non-conformity of the existing structure is that it is located 2'-8" in the setback on the west side. We're proposing a remodel to the existing deck and stairs and its structure component such as new posts and footings. We're also proposing a new set of stairs from the lower deck to the ground on the west side.

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

We have chosen to also address section 12 requirements for the R-7 Zone.

1. 7,000 min. lot size: This Lot is 4,999 sf
2. 35' min. front yard width: This lot is 49.94' wide
3. 35' Average width: This lot is 49.94' wide
4. Building setbacks:
 - a. 20' front: n/a
 - b. 7.5' side: structure is 2'-8" in the setback. the proposed remodel will not encroach any closer than the 2'.8".
 - c. 20' rear: proposed setback is 29.5'
5. 35' max. Ht.: n/a
6. Max lot coverage 35%: Existing house (940 sq ft) + Existing Deck and Stairs (615 sq ft) = 31%
total coverage.
7. FAR: No increase in heated floor area. n/a



SHELDON REAR DECK REPLACEMENT

2224 LONG ST
WEST LINN, OR 97068

PROJECT NO.

ISSUE DATE

10.17.2023

REVISIONS

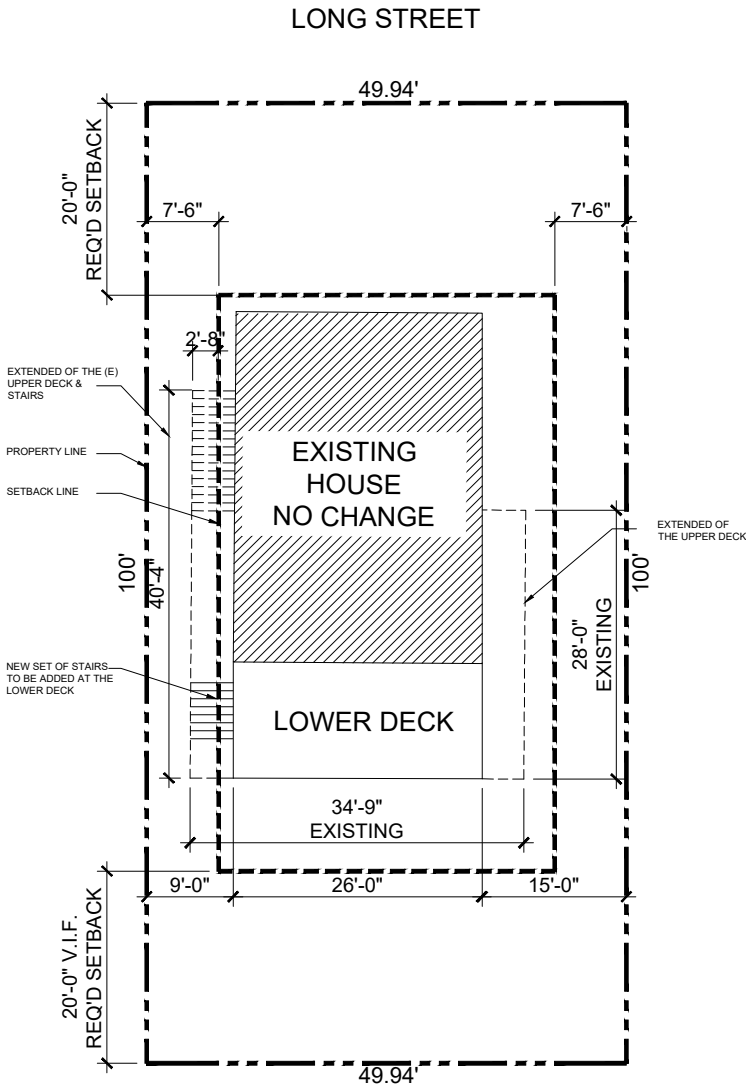
SHEET

SITE PLAN

A1.0
PERMIT

© MURJDESIGN, LLC

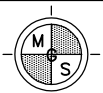
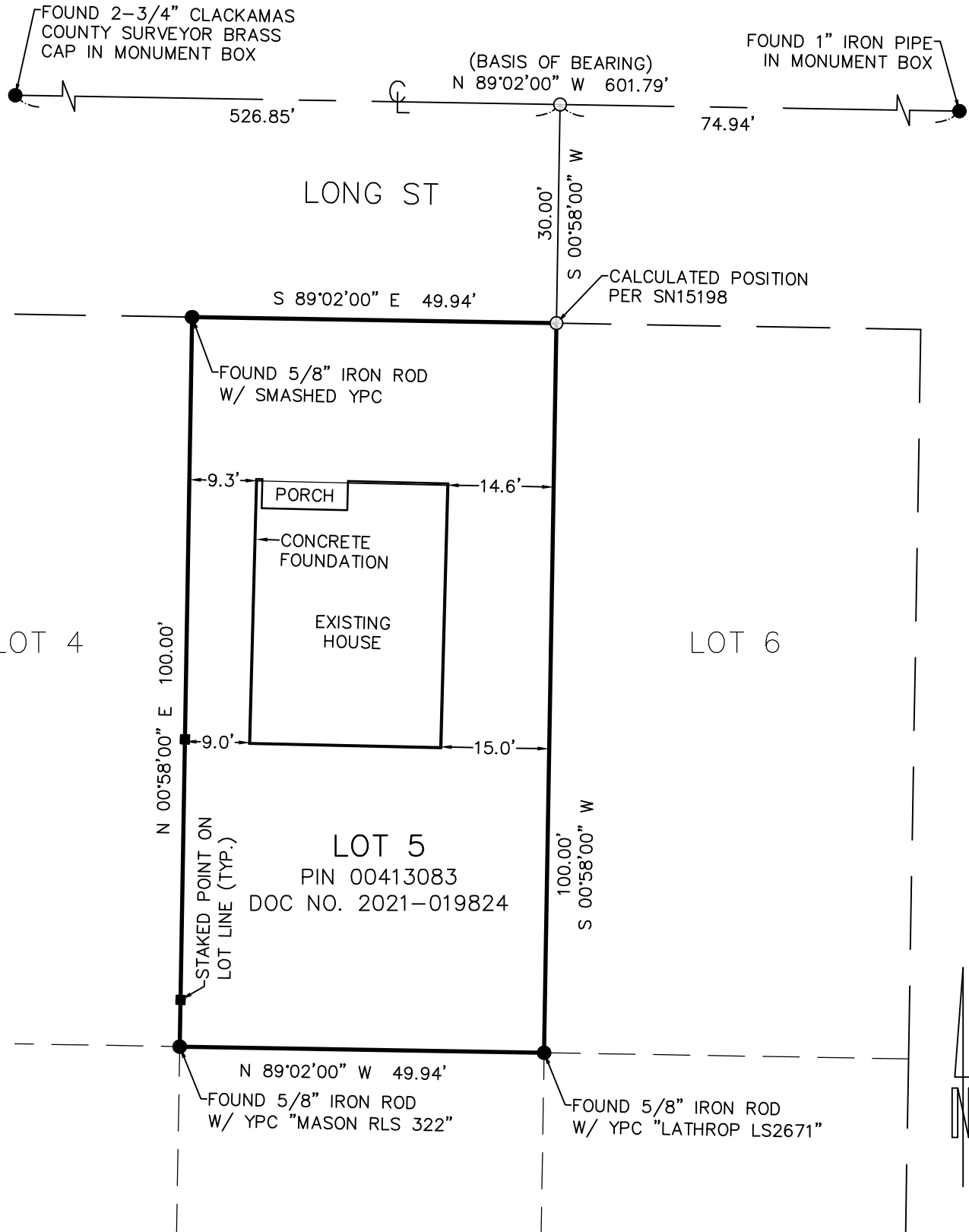
NEW (N) AND EXISTING (E) SITE INFO	
LEGAL DESCRIPTION	
PROPERTY ID	C152385
STATE ID	21E36AB11301
LANDCLASS	101
PROPERTY ADDRESS	
2224 LONG ST WEST LINN, OR 97068	
LOT AREA	
4,999 SF (0.11 ACR)	
BUILDING AREA	
1,620 SF	



SITE PLAN

1
A1.0

1" = 20'



MINISTER-GLAESER
SURVEYING INC.
2200 E. EVERGREEN BLVD.
VANCOUVER, WA 98661
(360) 694-3313

EXISTING CONDITIONS
"WESLYNN" PLAT 0043
SURVEY NO. 15198
2224 LONG ST
WEST LINN, OR 97068

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Daniel A. Renton
OREGON
JUNE 30, 1997
DANIEL A. RENTON
2830
Expires 12-31-2024

SCALE: 1"=20'
JOB NO. 23-343
DATE: 10/25/2023
DWG FILE: 23343EX1
DRAWN BY: RDH
SHEET: 1 OF 1

EXHIBIT PD-2 COMPLETENESS LETTER



CITY OF West Linn

November 20th, 2023

Mahsa Emamjomeh
14359 SW 169th Ave
Tigard, OR 97224

SUBJECT: Non-Conforming Structure Alteration at 2224 Long St (MISC-23-04)

Mahsa Emamjomeh,

Your application submitted on October 30th, 2023 has been deemed **complete**. The city has 120 days to exhaust all local review; that period ends March 19th, 2024.

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

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

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

Sincerely,

Ben Gardner
Assistant Planner

EXHIBIT PD-3 AFFIDAVIT AND NOTICE PACKET



CITY OF West Linn

AFFIDAVIT OF NOTICE PLANNING MANAGER DECISION

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

PROJECT

File No.: MISC-23-04

Address: 2224 Long St

Applicant's Name: **Mahsa Emamjomeh**

Scheduled Decision Date: **Planning Manager Decision no earlier than 12/5/23**

MAILED NOTICE

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

Mahsa Emamjomeh, applicant	11/21/23	<i>Lynn Schroder</i>
Cayetano Gil Sanchez, owner	11/21/23	<i>Lynn Schroder</i>
Property owners within 300ft of the site perimeter	11/21/23	<i>Lynn Schroder</i>
Sunset Neighborhood Association	11/21/23	<i>Lynn Schroder</i>

WEBSITE

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

11/21/23	<i>Lynn Schroder</i>
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SIGN

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

11/21/23	<i>Ben Gardner</i>
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FINAL DECISION

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

12/21/23	<i>Lynn Schroder</i>
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**CITY OF WEST LINN
NOTICE OF UPCOMING PLANNING MANAGER DECISION
FILE NO. MISC-23-04**

The West Linn Planning Manager is considering a request for an alteration of a non-conforming structure at 2224 Long St. The applicant is requesting approval for adding stairs to an existing deck.

The Planning Manager will decide the application based on criteria in Chapters 11, 66, 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/2224-long-street-alteration-residential-non-conforming-structure>. The application, all documents or evidence relied upon by the applicant and applicable criteria are available for inspection at City Hall at no cost. Copies may be obtained at reasonable cost.

A public hearing will not be held for this decision. **Anyone wishing to submit comments for consideration must submit all material before 4:00 p.m. on 12/5/23 to bgardner@westlinnoregon.gov or mail them to City Hall. All comments must be received by the deadline.**

It is important to submit all testimony in response to this notice. All comments submitted for consideration of this 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).

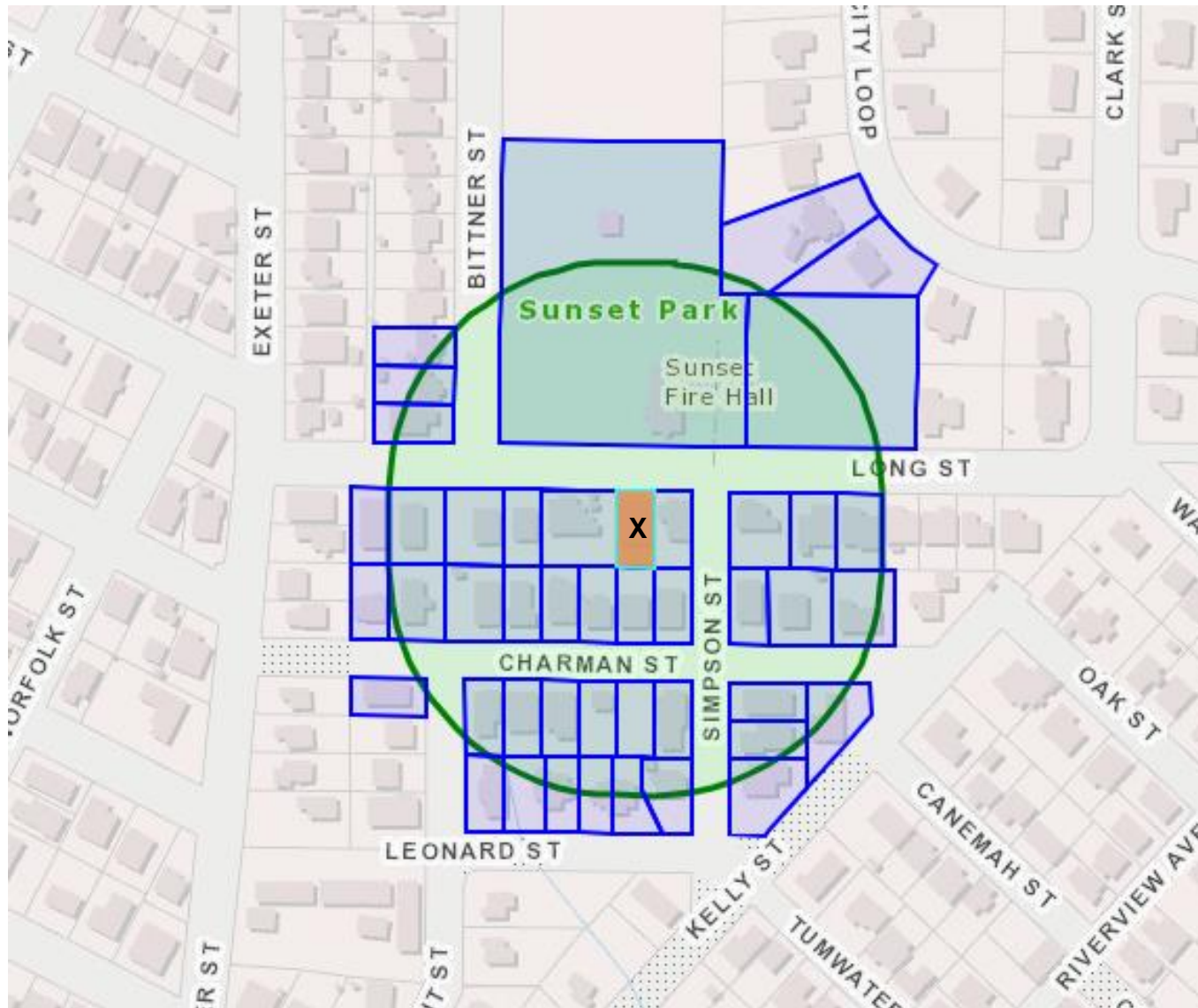
The final decision will be posted on the website and available at City Hall. Persons with party status may appeal the decision by submitting an appeal application to the Planning Department within 14 days of mailing the notice of the final decision pursuant to CDC [99.240](#).

For additional information, please contact Ben Gardner Assistant Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-742-6057.

Scan this QR Code to go to Project Web Page:



MISC-23-04 Notified Properties within 300 feet of 2224 Long St





**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # MISC-23-04
MAIL: 11/21/23 TIDINGS: N/A**

CITIZEN CONTACT INFORMATION

To lessen the bulk of agenda packets and land use application notice, and to address the concerns of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.