

**WEST LINN PLANNING COMMISSION  
FINAL DECISION NOTICE**

**SUB-13-02/VAR-13-05/VAR-13-06/VAR-13-07/VAR-13-08/VAR-13-09**

**IN THE MATTER OF AN 11-LOT SUBDIVISION WITH FIVE VARIANCES FOR LOT  
DEPTH IN RELATION TO LOT WIDTH AT 23150 BLAND CIRCLE**

At their meeting of October 2, 2013, the West Linn Planning Commission held a public hearing to consider the request by JT Smith Companies to approve an 11-lot subdivision with five Class II Variances for lots with depths more than 2.5 times their widths. The proposed development required Subdivision and Variance approval. The approval criteria for Subdivision are found in Chapter 85 of the Community Development Code (CDC). The approval criteria for Variance are found in Chapter 75 of the CDC. The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing commenced with a staff report presented by Tom Soppe, Associate Planner. Andrew Tull of 3J Consulting presented for the applicant. Alice Richmond spoke in favor of the application. Mr. Tull and Michael Robinson of Perkins Coie provided the applicant's rebuttal. After deliberations, a motion was made, seconded, and passed to approve the application with three new findings, with the proposed conditions of approval in the staff presentation, including changes to conditions 4 and 6 recommended in the October 2 memo, and with further modifications to conditions 2A, 4, 10, and 12. The additional findings are as follows:

Additional Finding 1: In concurring with the staff report that the variances requested for the depth of lots 3 and 4 comply with six variance criteria of Section 75.060, the Planning Commission determines that the variances for the depth of lots 8, 10, and 11 also meet these criteria. For each of these lots the request for the variance relates to the exceptional and extraordinary circumstance of having a long, thin site traversed by two stubbed streets with particular necessary trajectories across the site, meeting criteria 75.060(A). In proposing the variances the applicant preserves the property right to develop at this density without creating extra tracts with no further purpose, a right enjoyed by other developers in the R-7 zone and the area, meeting criteria 75.060(B). The variances also meet criteria 75.060(C), (D), (E), and (F) for the same reasons these are met for the variances for lots 3 and 4 as stated in staff responses 8-9, 10, 11, and 12 of the staff report, respectively.

Additional Finding 2: Because all requested variances meet the criteria of Section 75.060, Tracts B and C are not necessary in the site plan and should not be included in the final plat as they serve no practical purpose and as they might create a long-term maintenance problem.

Additional Finding 3: Condition of Approval 10 is correct in allowing for the option of screening the applicant's initially proposed wall height (13 ft), because it is not clear whether engineering a step-down (terraced) wall system will be possible. However because a step-down system is preferable, the condition should be worded to require this system unless only the initial proposed design is feasible. For the best effects on the community's environment, the condition should require that all landscaping utilize native trees and vegetation.

The approved conditions of approval are as follows:

1. Site Plan. With the exception of modifications required by these conditions, the project shall conform to the Subdivision Plat, Sheet C2.0, dated September 11, 2013

2. Trail and Pedestrian/Utility Easement /Tract.

A) The applicant shall provide a 15-foot-wide trail and public utility easement between lots 9 and 10 and a 15-foot wide easement at the rear of lots 10 and 11.

B) The applicant shall provide a five-foot-wide utility easement along the eastern boundary of Lot 11.

3. Trees.

A) The three significant trees to be removed for street construction shall be mitigated for on an inch-to-inch basis. Therefore 78 inches of new trees total shall be planted on site (in addition to proposed street trees). This shall include the planting of evergreen trees beside the retaining wall adjacent to the stormwater pond where possible and planting of appropriate trees elsewhere in or beside Tract A. If all of the trees cannot be appropriately accommodated of site given their size at maturity, they may be planted on City-owned land as approved by the Parks and Recreation Department. Any trees planted on lots 1 or 2 to screen the wall on Tract A shall be placed in a conservation easement using the tree conservation easement referred to in Condition of Approval 3B. If trees are planted that fulfill the 78-inch mitigation requirements and these do not fully screen the wall, additional trees shall be planted so the wall is fully screened.

B) The applicant shall use the City's standard tree conservation easement language, available from the Planning Department, for the proposed and conditioned tree conservation easements.

4. Fence Along Trail. Prior to occupancy, the applicant shall install a three- to four-foot high black matte chain link fence (or an alternative that is acceptable to the Parks and Recreation

Department) along all trail corridors, except in areas where other fences are proposed such as along the backyards of lots.

5. Fire Access.

A) All houses along Sunbreak Lane in the subdivision shall have NFPA 13D fire sprinklers installed, or alternately the easement document for the reservoir driveway to the west of the site could be amended to allow emergency access to Sunbreak Lane and a gate built to TVFR standards located at the western end of Sunbreak Lane.

B) Post no parking signs along one side of the new segment of Sunbreak Lane.

C) Provide evidence of a current fire flow test of the nearest fire hydrant demonstrating fire flow capabilities to the satisfaction of TVFR.

6. Water Line Looping. The applicant shall work with the City Engineer to determine if a looped water line is possible and, if so, how the looped water line shall be accomplished.

7. Street Lighting. Street light fixtures shall be LED fixtures.

8. Street and Trail Improvements.

A) The applicant shall install sidewalk, curb, and ADA ramps for pedestrian connection between Sunbreak Lane and Bland Circle as shown on sheet C2.7.

B) Fee-in-Lieu for Pavement Improvement. The applicant shall pay a fee-in-lieu for the eventual pavement improvement of the dedicated street right of way between Sunbreak Lane and Bland Circle at the west edge of the site as shown on Sheet C2.7.

C) The applicant shall pay a fee in-lieu for the eventual trail in the proposed and/or required trail segments between lots 9 and 10 and at the rear of lots 10 and 11.

9. Utility Vaults. Relocate and place existing and new utility vaults outside of roadway and ramp. If in the sidewalk, both existing and new vaults must be set at appropriate grade for ADA compliances.

10. Retaining Wall in Tract A. To break up the vertical dimension of the retaining wall at the detention pond in Tract A, the applicant shall construct a step down wall system which shall include native landscaping. If that is not possible the applicant shall use the initial wall design and add trees and native vegetation of sufficient height to screen the wall and effectively diminish its visual impact.

11. Public Utility Improvement. Utilities such as storm drainage, sanitary sewer, and water must be designed to accommodate the future street connection and current condition between

Sunbreak Lane and Bland Circle. Final design of the improvement shall be reviewed and approved by City Engineer.

12. Tracts. Tracts B and C shall be eliminated.

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearings, or signed in on an attendance sheet or testimony form at either of the hearings, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.

  
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MICHAEL BABBITT, CHAIR  
WEST LINN PLANNING COMMISSION

10-8-13  
\_\_\_\_\_  
DATE

Mailed this 8<sup>th</sup> day of October, 2013.

Therefore, this decision becomes effective at 5 p.m., October 22, 2013.