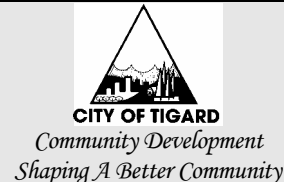


**NOTICE OF TYPE II DECISION**  
**MINOR LAND PARTITION (MLP) 2003-00020**  
**MASON PARTITION**



**120 DAYS = 10/14/2004**  
(Includes a 30-day extension)

**SECTION I. APPLICATION SUMMARY**

<b>FILE NAME:</b>		<b>MASON PARTITION</b>
<b>CASE NOS:</b>	<b>Minor Land Partition (MLP)</b>	<b>MLP2003-00020</b>
	Sensitive Lands Review	SLR2003-00012
	Adjustment	VAR2003-00112

**PROPOSAL:** The applicant is requesting Minor Land Partition approval to create a three (3) lot partition on a parcel of land containing approximately 77,101 square feet. This partition will create parcel #1 with approximately 7,523 square feet, Parcel #2 with 7,582 square feet, and Parcel #3 with 45,663 square feet. The applicant is also requesting Sensitive Lands Review approval for building on steep slopes, and an Adjustment to the driveway spacing standards of Chapter 18.705 (Access, Egress and Circulation) from the required 200 feet to 176 feet.

<b>APPLICANT:</b>	Jon and Kari Mason 12220 SW Walnut Street Tigard, OR 97223	<b>PROPERTY OWNER:</b>	Same
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**APPLICANT'S REP:** Harris-McMonagle Associates, Inc.  
12555 SW Hall Boulevard  
Tigard, OR 97223

**ZONING DESIGNATION:** R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally.

**LOCATION:** 12220 SW Walnut Street; WCTM 2S103BC, Tax Lot 700.

**APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.370, 18.390, 18.420, 18.510, 18.705, 18.715, 18.745, 18.765, 18.775, 18.790, 18.795 and 18.810.

**SECTION II. DECISION**

Notice is hereby given that the City of Tigard Community Development Director's designee has **APPROVED** the above request subject to certain conditions. The findings and conclusions on which the decision is based are noted in Section V.

## **CONDITIONS OF APPROVAL**

### **THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO COMMENCING ANY ONSITE IMPROVEMENTS, INCLUDING DEMOLITION, GRADING, CLEARING, EXCAVATION AND/OR FILL ACTIVITIES:**

**Submit to the Planning Department (Mathew Scheidegger), 639-4171, ext. 2437 for review and approval:**

1. Revise the shadow plat to show the square footage of each future parcel to show that they meet the minimum lot size required by the R-4.5 zoning district.
2. Provide documentation that Eric McMullen from Tualatin Valley Fire and Rescue has approved the proposed access.
3. Construct the proposed hammerhead at the end of the access drive shown on the preliminary grading plan.
4. Provide and implement a landscaping plan that provides plant types and procedures for revegetation.
5. Prior to any site work, the applicant shall submit a final Tree Protection Plan that follows the recommendations of the City Forester, as outlined under the discussion of Chapter 18.790, Tree Removal, in this decision.

**Submit to the Engineering Department (Kim McMillan, 639-4171, ext. 2642) for review and approval:**

6. Prior to any site work, the applicant shall submit documentation addressing the concerns of the Public Works Department. Public Works concerns can be located under Section VI. "Other Staff Comments".

### **THE FOLLOWING CONDITION SHALL BE COMPLIED WITH AT ALL TIMES:**

7. The property owner/applicant and their assigns are responsible for complying with the following requirement: The Project Arborist shall inspect the site at a minimum of every two weeks, and at any time when intrusions into the TPZ are required. The project arborist shall submit written reports to the City Forester a minimum of once every two weeks, as he monitors the construction activities and progress. These reports shall include any changes that may have occurred to the TPZ as well as indicate the condition and location of the tree protection fencing. If the amount of TPZ was reduced, then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall and long-term health and stability of the tree(s). If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan is not being followed by the contractor, the City can stop work on the project until an inspection can be done by the City Forester and the Project Arborist and appropriate remedies can be imposed, if necessary. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated.

### **THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO APPROVAL OF THE FINAL PLAT:**

**Submit to the Engineering Department (Kim McMillan, 639-4171, ext. 2642) for review and approval:**

8. A Public Facility Improvement (PFI) permit is required for this project to cover the storm culvert, driveway and any other work in the public right-of-way (ROW). Six (6) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to public improvements. Public Facility Improvement (PFI) permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page ([www.ci.tigard.or.us](http://www.ci.tigard.or.us)).

9. The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.
10. The PFI permit plan shall include the removal of the existing driveway on SW Walnut Street.
11. The final plat shall include the dedication of ROW to provide 35 feet from centerline on SW Walnut Street.
12. Prior to final plat approval, the applicant shall pay the addressing fee. (STAFF CONTACT: Shirley Treat, Engineering).
13. The applicant shall execute a Restrictive Covenant whereby they agree to complete or participate in the future improvements of SW Walnut Street adjacent to the subject property, when any of the following events occur:
  - A. when the improvements are part of a larger project to be financed or paid for by the formation of a Local Improvement District,
  - B. when the improvements are part of a larger project to be financed or paid for in whole or in part by the City or other public agency,
  - C. when the improvements are part of a larger project to be constructed by a third party and involves the sharing of design and/or construction expenses by the third party owner(s) of property in addition to the subject property, or
  - D. when construction of the improvements is deemed to be appropriate by the City Engineer in conjunction with construction of improvements by others adjacent to the subject site.
14. The applicant shall cause a statement to be placed on the final plat to indicate that the private street and utility easement will be jointly owned and maintained by the private property owners who abut and take access from it (them).
15. The applicant's engineer shall provide post-public improvement sight distance certification.
16. The final plat shall show a private water easement on Parcel 1 in favor of Parcel 2.
17. The applicant shall provide connection of proposed buildings to the public sanitary sewerage system. A connection permit is required to connect to the existing public sanitary sewer system.
18. The applicant's final plat shall contain State Plane Coordinates on two monuments with a tie to the City's global positioning system (GPS) geodetic control network (GC 22). These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:
  - ◆ GPS tie networked to the City's GPS survey.
  - ◆ By random traverse using conventional surveying methods.
19. Final Plat Application Submission Requirements:
  - A. Submit for City review four (4) paper copies of the final plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.
  - B. Attach a check in the amount of the current final plat review fee (Contact Planning/Engineering Permit Technicians, at (503) 639-4171, ext. 2421).
  - C. The final plat and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.05), Washington County, and by the City of Tigard.
  - D. The right-of-way dedication for Walnut shall be made on the final plat.
  - E. **NOTE:** Washington County will not begin their review of the final plat until they receive notice from the Engineering Department indicating that the City has reviewed the final plat and submitted comments to the applicant's surveyor.

- F. After the City and County have reviewed the final plat, submit three mylar copies of the final plat for City Engineer signature (for partitions), or City Engineer and Community Development Director signatures (for subdivisions).

**Submit to the Planning Department (Mathew Scheidegger), 639-4171, ext. 2437 for review and approval:**

20. Record access and maintenance rights for the proposed parcels.
21. Provide a plan showing street trees along SW Walnut Street and the proposed private street that are in compliance with Section 18.745.040.C.2.C of the Tigard Development Code and type of tree that is consistent with Tigard's street tree list prior to recording the final plat.
22. The applicant is required to submit and implement a tree mitigation plan for 102 inches.
23. Record deed restrictions for all trees to remain located on the proposed parcels.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED  
PRIOR TO ISSUANCE OF BUILDING PERMITS:**

**Submit to the Planning Department (Mathew Scheidegger, 639-4171, ext. 2437) for review and approval:**

24. Prior to issuance of building permits the Project Arborist shall submit to the City Forester a final report describing how the Tree Protection Plan was implemented and detailing any failures to comply with the Tree Protection Plan. The report shall also describe the health of all remaining trees on the site, with details provided as to any tree that has had its root system disturbed or that has otherwise been damaged.

**Submit to the Engineering Department (Kim McMillan, 639-4171, ext. 2642) for review and approval:**

25. Prior to issuance of building permits, the applicant shall provide the Engineering Department with a "photomylar" copy of the recorded final plat.
26. Prior to issuance of building permits, the applicant shall provide signage at the entrance of the private street that lists the addresses that are served by the given driveway or street.
27. The applicant shall either place the existing overhead utility lines along SW Walnut Street underground as a part of this project, or they shall pay the fee in-lieu of undergrounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$35.00 per lineal foot. If the fee option is chosen, the amount will be \$17,080.00 and it shall be paid prior to issuance of building permits.
28. During issuance of the building permit for Parcels 1 & 2, the applicant shall pay the standard water quality and water quantity fees per lot (fee amounts will be the latest approved by Clean Water Services (CWS)).

**THIS APPROVAL IS VALID IF EXERCISED WITHIN EIGHTEEN (18) MONTHS OF THE EFFECTIVE DATE OF THIS DECISION NOTED UNDER THE PROCESS AND APPEAL SECTION OF THIS DECISION.**

**SECTION III. BACKGROUND INFORMATION**

Property History:

The property is designated Low-Density Residential on the Tigard Comprehensive Plan and Zoning Map. No additional land use approvals were found to be on file.

### Site Information and Proposal Descriptions

The applicant is requesting Minor Land Partition approval to perform a three (3) lot partition on a parcel of land containing approximately 77,101 square feet. This partition will create parcel #1 with approximately 7,523 square feet, Parcel #2 with 7,582 square feet, and Parcel #3 with 45,663 square feet. The applicant is also requesting Sensitive Lands Review approval for building on steep slopes, and an Adjustment to the driveway spacing standards of Chapter 18.705 (Access, Egress and Circulation) from the required 200 feet to 176 feet.

## **SECTION IV. PUBLIC COMMENTS**

The City mailed notice to property owners within 500 feet of the subject site providing them an opportunity to comment. One letter was received from a nearby neighbor. The submitted letter expressed the concern that their home's value would be decreased with the development of the subject property. No evidence was provided why there would be a decrease in value. Value of surrounding properties is not addressed in Tigard's Development Code. Therefore, Staff cannot base a decision on the value of property. The applicant has addressed the applicable criteria of the Development Code below.

## **SECTION V. APPLICABLE REVIEW CRITERIA AND FINDINGS**

### **Variances and Adjustments (18.370):**

#### **18.370.020.C.5 Adjustment to access and egress standards (18.705).**

**In all zoning districts where access and egress drives cannot be readily designed to conform to Code standards within a particular parcel, access with an adjoining property shall be considered. If access in conjunction with another parcel cannot reasonably be achieved, the Director may grant an adjustment to the access requirements of Chapter 18.705 through a Type II procedure, as governed in Section 18.390.030, using approval criteria contained in Subsection 2b below.**

The applicant has requested an adjustment to the street spacing standards of Section 18.705.030H, Minimum access requirements for a residential use in order to retain and improve the existing driveway at the west end of the subject property, which is located in the influence area of a collector intersection.

**The Director may approve, approve with conditions, or deny a request for an adjustment from the access requirements contained in Chapter 18.705, based on the following criteria:**

#### **It is not possible to share access;**

The proposed parcels will share the new private street which is approximately 176 feet from the intersection of SW Walnut and 122<sup>nd</sup> Avenue. Proposed parcel #3, which is developed with an existing home, has an existing access that is less than 100 feet from the SW Walnut/122<sup>nd</sup> Avenue intersection. The applicant has proposed to terminate the existing access and use the new private street to access all three proposed parcels. The location of the new private street is the furthest away possible from the intersection due to topographical constraints. Due to topographical constraints it is impossible to share access with an adjoining parcel. Therefore, this standard has been met.

#### **There are no other alternative access points on the street in question or from another street;**

There are no other alternative access points to the subject parcels. Access further west along SW Walnut is limited by topography, wetlands and trees. Sharing access to the east would not be allowed because the site would become more non-conforming. Staff has already required the applicant to close the eastern driveway because of its close proximity to the intersection of SW Walnut and 122<sup>nd</sup> Avenue. Therefore, by allowing the applicant to share the existing driveway to the east would contradict the requirement to close the eastern most driveway of the subject property. This standard has been satisfied.

#### **The access separation requirements cannot be met.**

As mentioned above, access further west along SW Walnut is limited by topography, wetlands, trees and existing development. Therefore, this standard has been satisfied.

**The request is the minimum adjustment required to provide adequate access;**

The proposed driveway is located as far away from the existing intersection of SW Walnut and 122<sup>nd</sup> Avenue as possible. See responses above. This standard has been met.

**The approved access or access approved with conditions will result in a safe access; and**

Tualatin Valley Fire and Rescue has reviewed the proposed access drive and has not indicated that the driveway will result in an unsafe access. The driveway will serve no more than six future lots generating minimal additional traffic impact upon SW Walnut Street. Therefore, this criterion has been satisfied.

**The visual clearance requirements of Chapter 18.795 will be met.**

Visual clearance will be met as outlined in Chapter 18.795 (Visual Clearance) which is addressed later in this decision.

FINDING: Based on the analysis above, the adjustment standards have been met.

**Land Partitions (18.420):**

**The proposed partition complies with all statutory and ordinance requirements and regulations;**

The proposed partition complies or can be made to comply with all statutory and ordinance requirements and regulations as demonstrated by the analysis contained within this administrative decision and through the imposition of conditions of development approval. All necessary conditions must be satisfied as part of the development and building process. Therefore, this criterion is met.

**There are adequate public facilities available to serve the proposal;**

Public facilities are discussed in detail later in this decision under Chapter 18.810 (Street & Utility Improvement Standards). Based on the analysis provided herein, Staff finds that adequate public facilities are available to serve the proposal. Therefore, this criterion is met.

**All proposed improvements meet City and applicable agency standards; and**

The public facilities and proposed improvements are discussed and conditioned later in this decision under Chapter 18.810 (Street & Utility Improvement Standards). Improvements will be reviewed as part of the permit process and during construction, at which time the appropriate review authority will ensure that City and applicable agency standards are met. Based on the analysis in this decision, Staff finds that this criterion is met.

**All proposed lots conform to the specific requirements below:**

**The minimum width of the building envelope area shall meet the lot requirement of the applicable zoning district.**

The minimum lot width required for the R-4.5 zoning district is 50 feet. Parcel #1 is approximately 92 feet in width. Parcel #2 is approximately 105 feet in width and Parcel #3 is 150 feet in width. Therefore, this standard has been met.

**The lot area shall be as required by the applicable zoning district. In the case of a flag lot, the accessway may not be included in the lot area.**

The minimum lot area requirement in the R-4.5 zoning district is 7,500 square feet for detached single-family units. The proposed partition creates three (3) lots that are 7,523, 7,582 and 45,663 square feet respectively. The proposed lots are not considered flag lots because they will front a private street.

**Each lot created through the partition process shall front a public right-of-way by at least 15 feet or have a legally recorded minimum 15-foot wide access easement.**

The proposed partition plat illustrates that parcel #1 will have approximately 100 feet of frontage on SW Walnut Street. Proposed parcel #2 will have 26 feet of frontage onto the proposed private street. Parcel #3 has approximately 126 feet of frontage on SW Walnut. Therefore, this standard has been satisfied.

**Setbacks shall be as required by the applicable zoning district.**

Setbacks for the R-4.5 zoning district are as follows: front, 20 feet; side, 5 feet; street side, 15 feet; and rear, 15 feet. The existing home on parcel #3 has a 67 ft. front, 20 ft. side, 83 ft. rear yard setback. Setbacks for the future home will be reviewed at time of building permit. Therefore, this standard has been satisfied.

**When the partitioned lot is a flag lot, the developer may determine the location of the front yard, provided that no side yard is less than 10 feet. Structures shall generally be located so as to maximize separation from existing structures.**

No flag lots are associated with this application. Therefore, this standard does not apply.

**A screen shall be provided along the property line of a lot of record where the paved drive in an accessway is located within ten feet of an abutting lot in accordance with Sections 18.745.040. Screening may also be required to maintain privacy for abutting lots and to provide usable outdoor recreation areas for proposed development.**

The access to the proposed parcels is not within 10 feet of any adjoining parcels. Therefore, this standard does not apply.

**The fire district may require the installation of a fire hydrant where the length of an accessway would have a detrimental effect on fire-fighting capabilities.**

According to City maps, there are two fire hydrants approximately 50 feet from the east and west corners of the subject property located on the north side of SW Walnut Street. Therefore, this standard has been met.

**Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved partition map.**

Access is discussed and conditioned under the Access & Egress Standards later in this decision. Therefore, this standard has been satisfied.

**Any access way shall comply with the standards set forth in Chapter 18.705, Access, Egress and Circulation.**

This standard is addressed under Chapter 18.705 (Access, Egress and Circulation) later in this decision.

**Where landfill and/or development is allowed within or adjacent to the one-hundred year floodplain, the city shall require consideration of the dedication of sufficient open land area for greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway with the floodplain in accordance with the adopted pedestrian/bicycle pathway plan.**

The partitioned lots are not within nor adjacent to a one-hundred-year floodplain according to FEMA floodplain maps. Therefore, this standard does not apply.

**An application for a variance to the standards prescribed in this chapter shall be made in accordance with Chapter 18.370, Variances and Adjustments. The applications for the partition and variance(s)/adjustment(s) will be processed concurrently.**

An adjustment to the 200-foot street and driveway spacing standard has been requested, which has been addressed above. This standard has been satisfied.

**FINDING:** Based on the analysis above, the Land Partition standards have been met.

**Residential Zoning Districts (18.510):**

Development standards in residential zoning districts are contained in Table 18.510.2 below:

**TABLE 18.510.2  
DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES**

STANDARD	R-4.5	Parcel #1	Parcel #2	Parcel #3
Minimum Lot Size - Detached unit - Duplexes - Attached unit	7,500 sq. ft. 10,000 sq. ft.	7,523 sq. ft.	7,582 sq. ft.	45,663 sq. ft.
Average Minimum Lot Width - Detached unit lots - Duplex lots - Attached unit lots	50 ft. 90 ft.	100 ft.	110 ft.	150 ft.
Maximum Lot Coverage	-	-	-	-
Minimum Setbacks - Front yard - Side facing street on corner & through lots - Side yard - Rear yard - Side or rear yard abutting more restrictive zoning district - Distance between property line and front of garage - Side Yard Setbacks for Flag Lots [TDC 18.420.050(A)(4)(e)]	20 ft. 15 ft. 5 ft. 15 ft.  20 ft. 10 ft.	Can be met	Can be met	67 ft. - 21 ft. 82 ft. - -
Maximum Height	35 ft.	Can be met	Can be met	
Minimum Landscape Requirement		Can be met	Can be met	

A minimum lot size of 5,000 square feet is required for each lot. The proposed lot sizes of 7,523, 7,582 and 45,663 square feet meet this standard. Setbacks for future homes will be reviewed at time of building permits.

FINDING: Based on the analysis above, the Residential Zoning District Standards have been met.

**Access, Egress and Circulation (18.705):**

**Continuing obligation of property owner.** The provisions and maintenance of access and egress stipulated in this title are continuing requirements for the use of any structure or parcel of real property in the City.

Access shall be continually maintained. Therefore, this standard has been satisfied.

**Section 18.705.030.H.1 states that an access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO.**

The applicant's engineer has indicated that sight distance at the new private street can be met. The applicant's engineer shall provide post-public improvements certification that sight distance has been met. The applicant's narrative has also indicated that the visual clearance area requirement will be met at the new private street.

**Section 18.705.030.H.2 states that driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.**

The existing driveway will be removed. The location of the new private street is approximately 176 feet from the intersection, which has been addressed under the Variance and Adjustment section of this decision. Therefore, this criterion has been satisfied.

**Section 18.705.030.H.3 and 4 states that the minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet. The minimum spacing of local streets along a local street shall be 125 feet.**

The applicant has asked for an adjustment to this standard for the proposed private street (private streets serve 3 – 6 lots). The applicant's plans show the centerline of the driveway is approximately 176 feet from the centerline intersection of Walnut Street and 122<sup>nd</sup> Avenue. The applicant has stated that the proposed street cannot be located further west due to the steep slope adjacent to Walnut Street and the impact to a significant grove of trees. Staff concurs with the placement of the proposed street and therefore grants the adjustment.

**Joint Access. Owners of two or more uses, structures, or parcels 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 combined requirements as designated in this title, provided: Satisfactory legal evidence shall be presented in the form of deeds, easements, leases or contracts to establish the joint use; and copies of the deeds, easements, leases or contracts are placed on permanent file with the City.**

Proposed parcels #1, #2 and #3 will share the same access from SW Walnut Street. Therefore, the applicant will record access and maintenance rights for all three parcels on the final plat.

**Public street access. All vehicular access and egress as required in Sections 18.705.030H and 18.705.030I shall connect directly with a public or private street approved by the City for public use and shall be maintained at the required standards on a continuous basis.**

All three of the proposed parcels will have access to SW Walnut Street. This standard is met.

**Minimum access requirements for residential use. Private residential access drives shall be provided and maintained in accordance with the provisions of the Uniform Fire Code.**

Proposed parcels #1-3 will share a 20-foot-wide private street with a minimum of 20 feet of pavement that is in excess of 150 feet in length. Because the eastern most access to proposed parcel #3 has been closed, the applicant is required to provide documentation that Eric McMullen from Tualatin Valley Fire and Rescue has approved the proposed access.

**Access drives in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus by one of the following: a) A circular, paved surface having a minimum turn radius measured from center point to outside edge of 35 feet; b) A hammerhead-configured, paved surface with each leg of the hammerhead having a minimum depth of 40 feet and a minimum width of 20 feet; c) The maximum cross slope of a required turnaround is 5%.**

The applicant has shown the proposed private street to provide a future hammerhead. Because the access to the proposed parcels is in excess of 150 feet, the applicant is required to construct the proposed hammerhead at the end of the access drive shown on the preliminary grading plan.

**To provide for increased traffic movement on congested streets and to eliminate turning movement problems, the Director may restrict the location of driveways on streets and require the location of driveways be placed on adjacent streets, upon the finding that the proposed access would cause or increase existing hazardous traffic conditions; or provide inadequate access for emergency vehicles; or cause hazardous conditions to exist which would constitute a clear and present danger to the public health, safety, and general welfare.**

Staff does not foresee any need to restrict the location of access on the proposed parcels. The applicant has proposed to terminate the existing driveway to the east. Therefore, this standard has been satisfied.

**FINDING:** Based on the analysis above, the Access Egress and Circulation standards have not been fully met. However, if the applicant complies with the condition below, the standards will be met.

CONDITIONS:

- ◆ Record access and maintenance rights for the proposed parcels.
- ◆ Provide documentation that Eric McMullen from Tualatin Valley Fire and Rescue has approved the proposed access.
- ◆ Construct the proposed hammerhead at the end of the access drive shown on the preliminary grading plan.

**Density Computations (18.715):**

**A. Definition of net development area. Net development area, in acres, shall be determined by subtracting the following land area(s) from the gross acres, which is all of the land included in the legal description of the property to be developed:**

1. All sensitive land areas
2. All land dedicated to the public for park purposes;
3. All land dedicated for public rights-of-way.
4. All land proposed for private streets; and
5. A lot of at least the size required by the applicable base zoning district, if an existing dwelling is to remain on the site.

**B. Calculating maximum number of residential units. To calculate the maximum number of residential units per net acre, divide the number of square feet in the net acres by the minimum number of square feet required for each lot in the applicable zoning district.**

**C. Calculating minimum number of residential units. As required by Section 18.510.040, the minimum number of residential units per net acre shall be calculated by multiplying the maximum number of units determined in Subsection B above by 80% (0.8).**

The standards for density computation address the intensity of residential land uses, typically expressed as the number of housing units per acre. The total square footage of the subject property is 82,243 square feet. There is an existing home to be retained on proposed parcel #3. Therefore, 7,500 square feet is subtracted from the total square footage, 2,481 square feet for street dedication, 5,282 square feet for wetlands and 12,219 square feet for slopes greater than 25% slope. Therefore, the net development area is 62,481 square feet. Dividing the net developable area (62,481 sq. ft.) by the minimum lot size (7,500 sq. ft.) the maximum density for the subject site is eight units and the minimum is six. The applicant is proposing three. The applicant has provided a shadow plat showing how the property can meet minimum density in the future. However, the applicant is required to revise the shadow plat to show the square footage of each future parcel to show that they meet the minimum lot size.

**FINDING:** Based on the analysis above, the Density Computation Standards have not been met.

**CONDITION:** Revise the shadow plat to show the square footage of each future parcel to show that they meet the minimum lot size required by the R-4.5 zoning district.

**Landscaping and Screening (18.745):**

**Street trees: Section 18.745.040**

**Section 18.745.040.A.: All development projects fronting on a public street, private street or a private driveway more than 100 feet in length approved after the adoption of this title shall be required to plant street trees in accordance with the standards in Section 18.745.040C.**

The applicant has indicated that a street tree planting list will be provided with the final plat. Therefore, the applicant is required to provide a plan showing street trees along SW Walnut Street and the proposed private street that are in compliance with Section 18.745.040.C.2.C of the Tigard Development Code and type of tree that is consistent with Tigard's street tree list prior to recording the final plat.

**FINDING:** Based on the analysis above, the Landscaping standards have not been fully met. However, if the applicant complies with the conditions below, the Landscaping standards will be met.

CONDITION: Provide a plan showing street trees along SW Walnut Street and the proposed private street that are in compliance with Section 18.745.040.C.2.C of the Tigard Development Code and type of tree that is consistent with Tigard's street tree list prior to recording the final plat.

**Sensitive Lands (18.775):**

**The Director shall have the authority to issue a sensitive lands permit in the following areas by means of a Type II procedure, as governed in Section 18.390.040, using approval criteria contained in Section 18.775.070:**

The subject site has slopes that are greater than 25%. Therefore, the criterion of Section 18.775.070.C "With steep slopes" has been addressed below.

**The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;**

The proposed development is for single-family homes. The City of Tigard's Building Department requires a Geotechnical report for all construction on slopes greater than 20 percent, which will ensure stability. This standard has been satisfied.

**The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and of-site effects or hazards to life or property;**

During construction, appropriate erosion and sedimentation control measures and facilities will be in place. These facilities will stay in place subsequent to construction until the seeding and plantings in the disturbed areas have matured such that the danger from erosion is past. The City of Tigard's Building Department requires a Geotechnical report for all construction on slopes greater than 20 percent, which will ensure stability. This standard has been satisfied.

**The structures are appropriately sited and designed to ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions: wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock; and**

According to the applicant, the homes that will be constructed on the proposed parcels will be designed to ensure structural stability and proper drainage. According to the "United States Department of Agriculture Soil Conservation Service" manual, the site consists of, "Woodburn silt loam, 12 to 20 percent slopes. This moderately steep soil is along terrace escarpments. Included with this soil in mapping were areas of Aloha Amity, Willamette, Helvetia, and Dayton soils, which occupy as much as 15 percent of this mapping unit. Runoff is medium, and the hazard of erosion is moderate." Uses associated with the subject sites soils are wildlife habitat, recreation, and home sites. The Soil conservation manual did not mention any of the above soil conditions. Therefore, this standard has been satisfied.

**Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening.**

The applicant has indicated that areas not covered by structures or impervious surfaces will be replanted. Therefore, the applicant is required to provide and implement a landscaping plan that provides types and procedures for revegetation.

FINDING: Based on the analysis above, the Sensitive Lands standards have not been met. If the applicant complies with the condition below, the standards will be met.

CONDITION:

- ◆ Provide and implement a landscaping plan that provides plant types and procedures for revegetation.

**Tree Removal (18.790):**

**A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided for any lot,, parcel or combination of lots or parcels for which a development application for a subdivision, partition, site development review, planned development or conditional use is filed. Protection is preferred over removal wherever possible.**

The applicant has submitted an arborist report and tree plan that shows all trees greater than six inches in diameter. According to the report, there are a total of 30 trees greater than 12-inches in diameter. According to the preliminary grading plan, the applicant is removing ten of the trees greater than 12-inches. Therefore, the applicant is retaining 67 percent of the trees greater than 12-inches. Based on the retention of 67 percent, the applicant is required to mitigate 50 percent of the inches removed (102 inches).

Below are the City Forester's tree protection plan guidelines:

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**TREE PROTECTION PLAN REQUIREMENTS**

**The full text of these following requirements shall be placed on the tree protection plan.**

Any tree that will not be removed onsite that is within the limits of disturbance of this project must be protected. Any tree that is located on property adjacent to the construction project that will have more than 15% of its root system disturbed by construction activities shall also be protected.

Prior to construction, a Tree Protection Plan, conforming to the International Society of Arboriculture (ISA) guidelines, shall be submitted with the proposed construction drawings for review and approval by the City Forester. This plan shall include the existing and proposed grading contours and a composite utility plan to ensure minimization of utility lines and street improvements within the specified tree protection zone (TPZ). All tree protection devices, along with their details and specifications, shall be shown on the Tree Protection Plan and shall show, to scale, exactly how far the tree protection fencing will be from the face of each protected tree. This plan shall also include the proposed building footprints shown in relation to the trees being preserved. These footprints represent the maximum limits of disturbance for home construction and are binding upon the applicant and future owners of lots within the subdivision.

If construction is to occur within the trees' driplines, the applicant, through their Project Arborist, shall justify the close proximity of the construction activities to the trees. He shall certify that the activities will not adversely impact the overall and long-term health and stability of each tree. Any construction that occurs within the neighboring trees' driplines should be justified by the applicant and approved by the City Forester. The applicant shall note that damage inflicted upon neighboring trees may be subject to private civil action by the adjoining property owner. Prior to any site work, tree protection measures must be installed around all trees to be retained. Once installed, the City Forester must inspect the tree protection measures. Work may proceed on the site only after the City Forester has approved the placement of the tree protection measures.

Prior to site work, the applicant shall submit a detailed construction schedule to the City Forester with notations as to when tree protection devices will be either installed or removed throughout construction of the project.

A note shall be placed on the final set of plans indicating that equipment, vehicles, machinery, grading, dumping, storage, burial of debris, or any other construction-related activities shall not be located inside of any tree protection zone or outside of the limits of disturbance where other trees are being protected.

All tree protection devices shall be:

- ♦ Visible.
- ♦ Constructed of 11 Gauge steel chain-link fencing supported on at least 2" O.D. steel posts. Each post shall be no less than four feet high from the top of grade. Each post shall be driven into the ground to a depth of no less than two and a half feet below grade. Each post shall be spaced no further apart than four feet.
- ♦ Between each post, securely attached to the chain-link fencing, shall be a sign indicating that the area behind the fencing is protected and no construction activity, including material storage, may occur behind the fencing.

- ♦ Inspected and approved in the field by the project arborist and City Forester prior to clearing, grading, or the beginning of construction.
- ♦ Remain in place and maintained until all construction is completed and a final inspection is conducted.

To determine the size of the tree protection zone (TPZ) the project arborist shall follow one or more of the guidelines listed below:

- ♦ For individual trees follow the trunk diameter method. For every one-inch of diameter at breast height (DBH), or 4 ½ feet above the ground, allow 12 inches of space from the trunk of the tree. For example, a tree that is 15" at DBH must have at least 15' of tree protection zone around the entire canopy of the tree.
- ♦ For groups of trees the tree protection zone must be outside of the drip line of the trees on the edge of the stand. If there are conifers with narrow crowns on the edge of the stand follow the trunk diameter method or the drip line method, whichever is greater.
- ♦ Calculate and follow the Optimal Tree Protection Zone calculation as shown in "Trees and Development: A Technical Guide to Preservation of Trees During Land Development" by Nelda Matheny and James R. Clark.
- ♦ The project arborist may propose an alternate method for the establishment of the TPZ, provided the effort is coordinated with the City Forester.

If it is necessary to enter the tree protection zone at any time with equipment (trucks, bulldozers, etc.) the project arborist and City Forester must be notified before any entry occurs. Before entering the TPZ, the project arborist and City Forester shall determine the method by which entry can occur, along with any additional tree protection measures.

The Project Arborist shall submit written reports to the City Forester, at least, once every two weeks, as he monitors the construction activities and progress. These reports should include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall and long-term health and stability of the tree(s). If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan is not being followed by the contractor, the City will stop work on the project until an inspection can be done by the City Forester and the Project Arborist. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated. If a violation has occurred, one or more of the following penalties will be pursued through the infraction process.

Notwithstanding any other provision of this title, any party found to be in violation of this chapter pursuant to Chapter 1.16 of the Tigard Municipal Code shall be subject to a civil penalty of up to \$500 and shall be required to remedy any damage caused by the violation. Such remediation shall include, but not be limited to, the following:

- A. Replacement of unlawfully removed or damaged trees in accordance with Section 18.790.060 (D) of the Tigard Development Code; and
- B. Payment of an additional civil penalty representing the estimated value of any unlawfully removed or damaged tree, as determined using the most current International Society of Arboriculture's Guide for Plant Appraisal.

Prior to issuance of building permits, the Project Arborist shall submit a final certification indicating the elements of the Tree Protection Plan were followed and that all remaining trees on the site are healthy, stable and viable in their modified growing environment.

**Section 18.790.040 states that any tree preserved or retained in accordance with this section may thereafter be removed only for the reasons set out in a tree plan, in accordance with Section 18.790.030, or as a condition of approval for a conditional use, and shall not be subject to removal under any other section of this chapter. The property owner shall record a deed restriction as a condition of approval of any development permit affected by this section to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this section should either die or be removed as a hazardous tree. The form of this deed restriction shall be subject to approval by the Director.**

The applicant will be required as a condition of approval to record a deed restriction limiting the removal of trees that are retained on the project site following completion of the partition improvements, in accordance with this standard.

**FINDING:** Based on the analysis above, the Tree Removal standards are not presently met but the proposal can be made to comply, by the imposition of the following conditions:

**CONDITIONS:**

- ♦ Prior to any site work, the applicant shall submit a final Tree Protection Plan that follows the recommendations of the City Forester, as outlined under the discussion of Chapter 18.790, Tree Removal, in this decision.
- ♦ Prior to issuance of building permits the Project Arborist shall submit to the City Forester a final report describing how the Tree Protection Plan was implemented and detailing any failures to comply with the Tree Protection Plan. The report shall also describe the health of all remaining trees on the site, with details provided as to any tree that has had its root system disturbed or that has otherwise been damaged.
- ♦ The applicant is required to submit and implement a tree mitigation plan for 102 inches.
- ♦ Record deed restrictions for all trees to remain located on the proposed parcels.

**Visual Clearance Areas (18.795):**

**This Chapter requires that a clear vision area shall be maintained on the corners of all property adjacent to intersecting right-of-ways or the intersection of a public street and a private driveway. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure, or temporary or permanent obstruction exceeding three (3) feet in height. The code provides that obstructions that may be located in this area shall be visually clear between three (3) and eight (8) feet in height. Trees may be placed within this area provided that all branches below eight (8) feet are removed. A visual clearance area is the triangular area formed by measuring from the corner, 30-feet along the right of way and along the driveway and connecting these two points with a straight line.**

Submitted plans show no obstructions within the visual clearance triangles for the existing driveway and SW Walnut Street. Therefore, this standard has been satisfied.

**FINDING:** Based on the analysis above, the Visual Clearance standards have been met.

**PUBLIC FACILITY CONCERNS**

**Street And Utility Improvements Standards (Section 18.810):**

**Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:**

**Streets:**

**Improvements:**

**Section 18.810.030.A.1 states that streets within a development and streets adjacent shall be improved in accordance with the TDC standards.**

**Section 18.810.030.A.2 states that any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with the TDC.**

**Minimum Rights-of-Way and Street Widths: Section 18.810.030.E requires a Collector street to have a 70 right-of-way width and 46-foot paved section. Other improvements required may include on-street parking, sidewalks and bikeways, underground utilities, street lighting, storm drainage, and street trees.**

This site lies adjacent to SW Walnut Street, which is classified as a Collector on the City of Tigard Transportation Plan Map. At present, there is approximately 60 feet of ROW, according to the most recent tax assessor's map. The applicant should dedicate the additional ROW required to provide 35 feet from centerline.

SW Walnut is currently partially improved. In order to mitigate the impact from this development, the applicant should construct half-street improvements or enter into a restrictive covenant for these improvements. Because of the impending Washington County MSTIP improvement project, the street will be improved.

**Future Street Plan and Extension of Streets:** Section 18.810.030.F states that a future street plan shall be filed which shows the pattern of existing and proposed future streets from the boundaries of the proposed land division. This section also states that where it is necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed and a barricade shall be constructed at the end of the street. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed. A barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the City Engineer, the cost of which shall be included in the street construction cost. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.

The applicant has submitted a Future Circulation Plan showing how the future lots will be served by a private street, which extends to the southeast corner of the subject parcel. Abutting parcels to the east could feasibly be consolidated and divided in the future. The proposed private street could serve the adjacent lots in the future. This standard is satisfied.

**Street Alignment and Connections:**

Section 18.810.030.H.1 states that full street connections with spacing of no more than 530 feet between connections is required except where prevented by barriers such as topography, railroads, freeways, pre-existing developments, lease provisions, easements, covenants or other restrictions existing prior to May 1, 1995 which preclude street connections. A full street connection may also be exempted due to a regulated water feature if regulations would not permit construction.

Section 18.810.030.H.2 states that all local, neighborhood routes and collector streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is precluded when it is not possible to redesign, or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.

The existing, surrounding development does not allow for the redesign or reconfiguration of the street pattern to provide required extensions. Therefore, this criterion is met.

**Grades and Curves:** Section 18.810.030.N states that grades shall not exceed ten percent on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet). Centerline radii of curves shall be as determined by the City Engineer.

The existing grade of Walnut, a collector, does not exceed 12%, therefore the criterion is met.

**Block Designs -** Section 18.810.040.A states that the length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.

**Block Sizes:** Section 18.810.040.B.1 states that the perimeter of blocks formed by streets shall not exceed 1,800 feet measured along the right-of-way line except:

- ◆ Where street location is precluded by natural topography, wetlands or other bodies of water or, pre-existing development or;
- ◆ For blocks adjacent to arterial streets, limited access highways, major collectors or railroads.
- ◆ For non-residential blocks in which internal public circulation provides equivalent access.

No blocks are created with the proposed development, nor are blocks feasible for future partitioning. Therefore, this standard does not apply.

**Section 18.810.040.B.2** also states that bicycle and pedestrian connections on public easements or right-of-ways shall be provided when full street connection is not possible. Spacing between connections shall be no more than 330 feet, except where precluded by environmental or topographical constraints, existing development patterns, or strict adherence to other standards in the code.

No further Pedestrian and bicycle connections are required. Pedestrian and bicycles access to SW Walnut will be available through the proposed private street. Connections in other directions is prohibited by wetlands and existing development. Therefore, this standard has been satisfied.

**Lots - Size and Shape:** Section 18.810.060(A) prohibits lot depth from being more than 2.5 times the average lot width, unless the parcel is less than 1.5 times the minimum lot size of the applicable zoning district.

Proposed parcel #3 is 126 feet in width. Two and a half times the lot width is 315 feet. The lot depth of parcel #3 is approximately 253 feet. Therefore, this standard has been satisfied.

**Lot Frontage:** Section 18.810.060(B) requires that lots have at least 25 feet of frontage on public or private streets, other than an alley. In the case of a land partition, 18.420.050.A.4.c applies, which requires a parcel to either have a minimum 15-foot frontage or a minimum 15-foot wide recorded access easement. In cases where the lot is for an attached single-family dwelling unit, the frontage shall be at least 15 feet.

Proposed parcel #1 has 101 feet of frontage along SW Walnut Street. Proposed parcel #2 has 52 feet of frontage on to the newly created private street. Parcel #3 has 126 feet of frontage on to SW Walnut Street. Therefore, this standard has been satisfied.

**Sidewalks:** Section 18.810.070.A requires that sidewalks be constructed to meet City design standards and be located on both sides of arterial, collector and local residential streets. Private streets and industrial streets shall have sidewalks on at least one side.

The applicant is required to construct the half-street improvements or enter into a Restrictive Covenant, thereby meeting this criterion.

#### **Sanitary Sewers:**

**Sewers Required:** Section 18.810.090.A requires that sanitary sewer be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.

**Over-sizing:** Section 18.810.090.C states that proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.

The applicant's plan indicates that there are two existing sewer laterals that will serve the proposed lots.

## **Storm Drainage:**

**General Provisions:** Section 18.810.100.A requires developers to make adequate provisions for storm water and flood water runoff.

**Accommodation of Upstream Drainage:** Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

There are no upstream drainage ways that impact this site.

**Effect on Downstream Drainage:** Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

In 1997, Clean Water Services (CWS) completed a basin study of Fanno Creek and adopted the Fanno Creek Watershed Management Plan. Section V of that plan includes a recommendation that local governments institute a stormwater detention/effective impervious area reduction program resulting in no net increase in storm peak flows up to the 25-year event. The City will require that all new developments resulting in an increase of impervious surfaces provide onsite detention facilities, unless the development is located adjacent to Fanno Creek. For those developments adjacent to Fanno Creek, the storm water runoff will be permitted to discharge without detention.

Developments of this small size, especially residential land partitions, are not required to provide on-site detention. The applicant will be required to pay the water quantity SDC upon application for the building permit for the two new parcels.

All proposed development within the City shall be designed such that storm water runoff is conveyed to an approved public drainage system. The applicant has indicated that surface drainage from the driveway will flow into an existing ditch along Walnut Street. The engineering plans indicate that a new 12" culvert will be installed under the proposed driveway. This culvert must be included in the PFI permit from the City. The applicant has also indicated that roof drains will be directed to dissipaters and then directed overland to the existing creek that runs through the site.

## **Bikeways and Pedestrian Pathways:**

**Bikeway Extension:** Section 18.810.110.A states that developments adjoining proposed bikeways identified on the City's adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or right-of-way.

Southwest Walnut is designated as a bicycle facility. The applicant will enter into a restrictive covenant for half-street improvements that will include a bicycle lane, thereby meeting this criterion. In addition, the Washington County MSTIP project will include bike lanes.

**Cost of Construction:** Section 18.810.110.B states that development permits issued for planned unit developments, conditional use permits, subdivisions, and other developments which will principally benefit from such bikeways shall be conditioned to include the cost or construction of bikeway improvements.

The applicant will enter into a restrictive covenant for half-street improvements that will include a bicycle lane, thereby meeting this criterion.

**Minimum Width:** Section 18.810.110.C states that the minimum width for bikeways within the roadway is five feet per bicycle travel lane. Minimum width for two-way bikeways separated from the road is eight feet.

According to the current Transportation Systems Plan, the bicycle lane width for a collector is six feet. The Washington County MSTIP for SW Walnut Street is including a bike lane. Therefore, this standard has been satisfied.

**Utilities:**

**Section 18.810.120 states that all utility lines, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:**

- ◆ **The developer shall make all necessary arrangements with the serving utility to provide the underground services;**
- ◆ **The City reserves the right to approve location of all surface mounted facilities;**
- ◆ **All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and**
- ◆ **Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.**

**Exception to Under-Grounding Requirement: Section 18.810.120.C states that a developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of under-grounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which under-grounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay a fee in-lieu of under-grounding.**

There are existing overhead utility lines along the frontage of SW Walnut. If the fee in-lieu is proposed, it is equal to \$35.00 per lineal foot of street frontage. The frontage along this site is 488 lineal feet; therefore the fee would be \$17,080.00.

**ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:**

**Public Water System:**

The City of Tigard provides water service in this area. The applicant's plans shows two new water meters to serve the new lots. An easement for the water line to Parcel 2 will be required on the plat.

**Storm Water Quality:**

**The City has agreed to enforce Surface Water Management (SWM) regulations established by Clean Water Services (CWS) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.**

The CWS standards include a provision that would exclude small projects such as residential land partitions. It would be impractical to require an on-site water quality facility to accommodate treatment of the storm water from the two new parcels. Rather, CWS standards provide that applicants should pay a fee in-lieu of constructing a facility if deemed appropriate. The applicant shall pay the fee in-lieu for this application.

### **Grading and Erosion Control:**

**CWS Design and Construction Standards** also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per CWS regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.

The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb one or more acres of land. Since this site is over five acres, the developer will be required to obtain an NPDES permit from the City prior to construction. This permit will be issued along with the site and/or building permit.

A final grading plan shall be submitted showing the existing and proposed contours. The plan shall detail the provisions for surface drainage of all lots, and show that they will be graded to insure that surface drainage is directed to the street or a public storm drainage system approved by the Engineering Department. For situations where the back portions of lots drain away from a street and toward adjacent lots, appropriate private storm drainage lines shall be provided to sufficiently contain and convey runoff from each lot.

### **Address Assignments:**

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard and within the Urban Service Boundary (USB). An addressing fee in the amount of \$50.00 per address shall be assessed. This fee shall be paid to the City prior to final plat approval. The addressing fee amount may be adjusted to the current rate at the time of final plat approval.

The developer will also be required to provide signage at the entrance of each shared flag lot driveway or private street that lists the addresses that are served by the given driveway or street. This will assist emergency services personnel to more easily find a particular home.

### **Survey Requirements**

The applicant's final plat shall contain State Plane Coordinates [NAD 83 (91)] on two monuments with a tie to the City's global positioning system (GPS) geodetic control network (GC 22). These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:

- ◆ GPS tie networked to the City's GPS survey.
- ◆ By random traverse using conventional surveying methods.

In addition, the applicant's as-built drawings shall be tied to the GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (91).

### **Impact Study (18.390)**

**Section 18.360.090** states, "The Director shall make a finding with respect to each of the following criteria when approving, approving with conditions or denying an application:"

**Section 18.390.040** states that the applicant shall provide an impact study to quantify the effect of development on public facilities and services. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standard, and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users.

In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with a requirement for public right-of-way dedication, or provide evidence that supports that the real property dedication is not roughly proportional to the projected impacts of the development. **Section 18.390.040** states that when a condition of approval requires the transfer to the public of an interest in real property, the approval authority shall adopt findings which support the conclusion that the interest in real property to be transferred is roughly proportional to the impact the proposed development will have on the public.

The applicant has submitted an impact study. Any required street improvements to certain collector or higher volume streets and the Washington County Traffic Impact Fee (TIF) are mitigation measures that are required at the time of development. Based on a transportation impact study prepared by Mr. David Larson for the A-Boy Expansion/Dolan II/Resolution 95-61, TIF's are expected to recapture 32 percent of the traffic impact of new development on the Collector and Arterial Street system. The total TIF for a single-family dwelling is \$2,530 per unit.

Based on the estimate that total TIF fees cover 32 percent of the impact on major street improvements citywide, the TIF fee is \$5,060 (\$2,530 times two new units). Based on the estimate that total TIF fees cover 32 percent of the impact on major street improvements citywide, a fee that would cover 100 percent of this projects traffic impact is \$15,812 (\$5,060 divided by .32). The difference between the TIF paid and the full impact, is considered as unmitigated impact. Since the TIF paid is \$5,060, the unmitigated impact can be valued at \$10,752. Given that the estimated cost of the dedication of property along SW Walnut Street is \$7,125, the value of the dedication is less than the value of the unmitigated impacts, the exactions are proportionate.

## **SECTION VI. OTHER STAFF COMMENTS**

**City of Tigard Long Range Planning Department** has reviewed the proposal and has no objections to it.

**City of Tigard Public Works Department** has reviewed the proposal and has offered the following comments:

### Water:

- ◆ Proposed water services must be located on the west side of the new driveway.
- ◆ The applicant should work with TVFR to make sure the proposed and any future parcels will have adequate hydrant coverage.
- ◆ The applicant should be aware that the Washington County MSTIP road project for Walnut Street will include water line improvements in this area. The applicant may want to work with that project to get the proposed water services installed.
- ◆ Relocation of existing water meters is done by City crews at the applicant's expense.

### Sanitary Sewer

- ◆ The sanitary sewer laterals shown on the; plan do not exist. The applicant will need to install laterals.
- ◆ New Sanitary Sewer laterals must have cleanouts installed at the right-of-way line.

### Storm Drainage

- ◆ Public Works staff believes that there could be some runoff coming from Tax Lots 5600 and 5700 (Tippit Place) that would impact Parcel #2. Also, properties on the north side of Tippit Place may have combined private storm lines that discharge toward this site. The City does not have record of these private storm lines.
- ◆ The roadside ditch on the south side of Walnut Street will need re-grading work in order to ensure that storm water will flow properly past the new driveway. The re-grading work will likely need to start from an existing catch basin outfall to the east of the site, and be continued to the west of the new private driveway. A final design of this ditch work will need to be submitted for Engineering and Public Works approval during the construction plan review stage.

**City of Tigard Police Department** has reviewed the proposal and has offered the following comment:

- ◆ Request monument at foot of private driveway identifying the two house addresses of the proposed 2 "new" properties.

**City of Tigard Urban Forester** has reviewed the proposal and has offered the following comments:

- ◆ Tree protection fencing is still necessary although construction will not occur within the dripline of the cedars.
- ◆ Provide a more detailed description of each tree.
- ◆ It appears that the driveway will impact the 20-inch Oak. How will they protect it?
- ◆ Project arborist has to follow guidelines for tree plan under Section 18.790.030.

City of Tigard Residential Plans Examiner has reviewed the proposal and has no objections to it.

## **SECTION VII. AGENCY COMMENTS**

**Clean Water Services** comments have been discussed above under Public Facility Concerns.

**Tualatin Valley Fire and Rescue** has reviewed the proposal and offered the following comments:

- 1) Fire hydrants for single family dwellings, duplexes and sub-divisions, shall be placed at each intersection. Intermediate fire hydrants are required if any portion of a structure exceeds 500 feet from a hydrant at an intersection as measured in an approved manner around the outside of the structure and along approved fire apparatus access roadways. Placement of additional fire hydrants shall be as approved by the Chief. (UFC Sec. 903.4.2.2)
- 2) Fire hydrants shall be located not more than 15 feet from an approved fire apparatus access roadway. (UFC Sec. 903.4.2.4)
- 3) Fire hydrant locations shall be identified by the installation of reflective markers. The markers shall be blue. They shall be located adjacent and to the side of the centerline of the access road way that the fire hydrant is located on. In case that there is no center line, then assume a centerline, and place the reflectors accordingly. (UFC Sec. 901.4.3)
- 4) The minimum available fire flow for single family dwellings and duplexes shall be 1,000 gallons per minute. If the structure(s) is(are) 3,600 square feet or larger, the required fire flow shall be determined according to UFC Appendix Table A-III-A-1. (UFC Appendix III-A, Sec. 5)
- 5) Approved fire apparatus access roadways and fire fighting water supplies shall be installed and operational prior to any other construction on the site or subdivision. (UFC Sec. 8704)

Please contact me at (503) 612-7010 with any additional questions.

## **SECTION VIII. PROCEDURE AND APPEAL INFORMATION**

Notice: Notice was mailed to:

- The applicant and owners
- Owner of record within the required distance
- Affected government agencies

**Final Decision:**

**THIS DECISION IS FINAL ON SETEMBER 23, 2004 AND BECOMES  
EFFECTIVE ON OCTOBER 8, 2004 UNLESS AN APPEAL IS FILED.**

Appeal:

The Director's Decision is final on the date that it is mailed. All persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision as provided in Section 18.390.040.G.1. may appeal this decision in accordance with Section 18.390.040.G.2. of the Tigard Community Development Code which provides that a written appeal together with the required fee shall be filed with the Director within ten (10) business days of the date the Notice of Decision was mailed. The appeal fee schedule and forms are available from the Planning Division of Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon 97223.

Unless the applicant is the appellant, the hearing on an appeal from the Director's Decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the appellate body.

**THE DEADLINE FOR FILING AN APPEAL IS 5:00 PM ON OCTOBER 7, 2004.**

Questions:

If you have any questions, please call the City of Tigard Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon at (503) 639-4171.

PREPARED BY: \_\_\_\_\_  
Mathew Scheidegger  
Associate Planner

September 23, 2004  
DATE

APPROVED BY: \_\_\_\_\_  
Richard Bewersdorff  
Planning Manager

September 23, 2004  
DATE

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