

**NOTICE OF TYPE II DECISION**  
**MINOR LAND PARTITION (MLP) 2008-00008**  
**GILBERT PARTITION**



**120 DAYS = 01/16/10**

**SECTION I. APPLICATION SUMMARY**

**FILE NAME:** \_\_\_\_\_ **GILBERT PARTITION**  
**CASE NOS.:** **Minor Land Partition (MLP)** **MLP2008-00008**

**PROPOSAL:** The applicant is requesting a Minor Land Partition to partition one (1) existing .42 acre site into two (2) parcels. The existing residence on Parcel 1 will remain and is occupied as a rental. Parcel 2 will be used for a new single family residence. Parcel 1 will be 8,535 sq. ft. and Parcel 2 will be 9,783 sq. ft. Discounting the area for the access drive “flagpole,” Parcel 2 will be 7,503 sq. ft.

**APPLICANT & OWNER:** Michelle & Jay Gilbert  
6711 SW Alden Street  
Tigard, OR 97223

**APPLICANT’S REPRESENTATIVE:** Steve Nys, Nys Associates  
10250 SW 87<sup>th</sup> Avenue  
Tigard, OR 97223

**COMPREHENSIVE PLAN**

**DESIGNATION:** R-4.5; Low-Density Residential.

**ZONE:** 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:** 6816 SW Walnut Terrace; WCTM 1S125DA, Tax Lot 04100.

**PROPOSED PARCEL 1:** 8,535 Square Feet.  
**PROPOSED PARCEL 2:** 9,783 Square Feet.

**APPLICABLE REVIEW**

**CRITERIA:** Community Development Code Chapters 18.390 (Decision-Making Procedures); 18.420 (Land Partitions); 18.510 (Residential Zoning Districts); 18.705 (Access Egress and Circulation); 18.715 (Density Computations); 18.745 (Landscaping and Screening); 18.765 (Off-Street parking and Loading Requirements); 18.790 (Tree Removal); 18.795 (Visual Clearance Areas); and 18.810 (Street and Utility Improvement Standards).

**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 APPROVAL OF THE FINAL PLAT:

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DIVISION, ATTN: GUS DUENAS 503-718-2740. The cover letter shall clearly identify where in the submittal the required information is found:

1. Prior to commencing onsite improvements, a Public Facility Improvement (PFI) permit is required for this project to cover half-street and any other work in the public right-of-way. 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.tigard-or.gov](http://www.tigard-or.gov)).
2. 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.
3. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase.
4. Prior to final plat approval, the applicant shall pay the addressing fee. (STAFF CONTACT: Bethany Stewart, Engineering, 503-718-2459).
5. Prior to final plat approval, the applicant shall plant street trees along the frontage of SW Walnut Terrace.
6. The applicant shall execute a Restrictive Covenant whereby they agree to complete or participate in the future improvements of SW Walnut Terrace adjacent to the subject property, when any of the following events occur:
  - When the improvements are part of a larger project to be financed or paid for by the formation of a Local Improvement District,
  - 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,
  - 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
  - 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.
7. The applicant shall obtain approval from the Tualatin Valley Water District for the proposed water connection prior to issuance of the City's Public Facility Improvement permit.
8. An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to the Erosion Prevention and Sediment Control Design and Planning Manual, February 2003 edition.
9. A plan for disposal of the storm water runoff from the proposed house on Lot 2 shall be provided as part of the Public Facility Improvement (PFI) permit drawings for review and approval. The storm runoff must either be connected to an approved public system, or disposed of appropriately on-site.
10. 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) as recorded in Washington County survey records. 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.

11. Final Plat Application Submission Requirements:

- 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.
- Attach a check in the amount of the current final plat review fee (Contact Planning/Engineering Permit Technicians, at (503) 639-4171, ext. 2421).
- 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.
- The right-of-way dedication for SW Walnut Terrace, providing 27 feet from centerline shall be made on the final plat.
- 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.
- After the City and County have reviewed the final plat, submit one paper copy of the final plat for City Engineer signature (for partitions), or City Engineer and Community Development Director signatures (for subdivisions).

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the PLANNING DIVISION, ATTN: HAP WATKINS 503-718-2440. The cover letter shall clearly identify where in the submittal the required information is found:**

12. Prior to final plat, the applicant shall submit a building site plan to the Planning Division indicating the locations of trees that are to be preserved on the lot during site development. In addition, the plans shall include accurate locations of tree canopy drip lines and protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the structures. All proposed protection fencing shall be installed and inspected prior to commencing construction. The fencing shall remain in place through the duration of all of the construction phases until the Certificate of Occupancy has been approved.
13. A Clean Water Services Storm Water Connection Permit Authorization must be obtained prior to plat approval and recordation. Application for the District's Permit Authorization must be in accordance with the requirements of the Design and Construction Standards, Resolution and Order No. 07-20, and is to include:
- ♦ Detailed plans prepared in accordance with Chapter 2, Section 2.04.2.b-1.
  - ♦ Provisions for water quality in accordance with the requirements of the above named design standards. Water Quality is required for all new development and redevelopment areas per R&O 07-20, Section 4.05.5, Table 4-1.
  - ♦ If private lot Low Impact Disposal Alternative (LIDA) system is proposed, it must comply with the current CWS Design and Construction Standards. A private maintenance agreement for the proposed private lot LIDA systems must be provided to the City for review and acceptance.
  - ♦ CWS, prior to issuance of any connection permits, must approve final construction plans and drainage calculations

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED  
PRIOR TO SITE WORK:**

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the PLANNING DIVISION, ATTN: HAP WATKINS 503-718-2440. The cover letter shall clearly identify where in the submittal the required information is found:**

14. Prior to site work the applicant shall submit a revised site plan to the City Arborist for review and approval showing the location of the required tree protection fencing (6-foot metal), tree protection specifications, and tree protection zone dimensions to scale in accordance with the Project Arborist's report. The plan shall be signed by the Project Arborist.
15. Prior to site work, the applicant shall position fencing as directed by the project arborist in his report to protect the trees to be retained. Fencing shall be 6-foot metal. The applicant shall allow access by the City Arborist for

the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.

16. If work is required within an established tree protection zone, the project arborist shall prepare a proposal detailing the construction techniques to be employed and the likely impacts to the trees. The proposal shall be reviewed and approved by the City Arborist before proposed work can proceed within a tree protection zone. The City Arborist may require changes prior to approval. The project arborist shall be on site while work is occurring within the tree protection zone and submit a summary report certifying that the work occurred per the proposal and will not significantly impact the health and/or stability of the trees. This note shall be included on the Tree Protection Plan.
17. The applicant shall have an on-going responsibility to ensure that the Project Arborist has submitted written reports to the City Arborist, at least once every two weeks, as the Project Arborist monitors the construction activities from initial tree protection zone (TPZ) fencing installation through the building construction phases. The reports shall evaluate the condition and location of the tree protection fencing, determine if any changes occurred to the TPZ, and if any part of the Tree Protection Plan has been violated. If the amount of TPZ was reduced, then the Project Arborist shall certify that the construction activities did not adversely impact the overall, long-term health and stability of the tree(s). If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Arborist and the Project Arborist.
18. Prior to site work, the applicant shall submit a cash assurance (letter of credit or cash deposit) for the equivalent value of mitigation required. Any trees successfully planted on or off-site, in accordance with an approved Tree Mitigation Plan and TDC 18.790.060.D, will be credited against the assurance two years after all of the trees are planted. After the plan is approved and the trees are planted, the project arborist shall submit a letter to the City Arborist to certify that all of the mitigation trees were properly planted per the approved Tree Mitigation Plan in order to set the starting point of the two year tree establishment period. After the two year establishment period, the applicant shall provide a re-inventory of the mitigation trees conducted by a certified arborist in order to document mitigation tree survival, and compliance with the approved Tree Mitigation Plan. The remaining value of caliper inches not successfully mitigated shall be paid as a fee in-lieu of planting from the original cash assurance. Failure to plant and provide documentation of mitigation tree planting by the project arborist within 6 months of final inspection shall result in the forfeiture of the cash assurance to the City's tree fund.

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

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the PLANNING DIVISION, ATTN: HAP WATKINS 503-718-2440. The cover letter shall clearly identify where in the submittal the required information is found:**

19. Prior to issuance of a building permit for Parcel 2, the applicant shall supply building elevations, site plans and a narrative to the Planning Division showing how the flag lot height and yard setback standards will be met. Requirements for flag lots are outlined in TDC 18.730.020.C.
20. Prior to building permit issuance, the applicant shall submit a revised site plan for review and approval showing specifications for the proposed hedge on the west side of the proposed access drive to Parcel 2.
21. Prior to issuance final building inspection, the applicant/owner shall record deed restrictions to the effect that any existing tree greater than 6" diameter 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 decision should either die or be removed as a hazardous tree.
22. Prior to issuance of a building permit for Parcel 2, the applicant shall submit a tree mitigation plan approved and signed by the project arborist showing the location, species, and mature canopy of the mitigation trees, and that it reflect that the placement of the mitigation trees has been reasonably calculated to provide for their growth to maturity.

23. Prior to building permit issuance, the applicant shall submit a revised site plan for review and approval that indicates the size, species, and location of street trees along both sides of the access driveway for the City Arborist's review and approval. Spacing of such trees shall be in accordance with Section 18.745.040.C.2.C of the Tigard Development Code.
24. At the time of submittal for a building permit for the home on Parcel 2, the applicant shall submit materials demonstrating that one (1) off-street parking space, which meets minimum dimensional requirements and setback requirements as specified in Title 18, will be provided on-site for the new home.
25. Prior to building permit issuance, the applicant shall submit a report from Tualatin Valley Water District that assures a minimum of 1,000 gallons per minute fire flow at 20 psi residual pressure from the nearest fire hydrant for a residential structure less than 3,600 square feet. If the structure is 3,600 square feet or greater, the required fire flow shall be determined according to IFC Appendix B (IFC B105.1).

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DIVISION, ATTN: GUS DUENAS 503-718-2470. The cover letter shall clearly identify where in the submittal the required information is found:**

26. Prior to issuance of building permits, the applicant shall provide the Engineering Department with a paper copy of the recorded final plat.
27. The City Engineer may determine the necessity for, and require submittal and approval of, a construction access and parking plan for the home building phase. If the City Engineer deems such a plan necessary, the applicant shall provide the plan prior to issuance of building permits.
28. The applicant shall either place the existing overhead utility lines along SW Walnut Terrace 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 \$3,010.00 and it shall be paid prior to issuance of building permits.
29. The project narrative calls for pumping the storm water runoff to Walnut Terrace, which drains to 69<sup>th</sup> Avenue. The plans call for installation of a drywell. The project must either connect to an approved system for storm water runoff disposal or construct an approved alternative system to dispose of the storm water onsite. The on-site disposal system on the plans must be approved by the Building Department and Clean Water Services.
30. Prior to issuance of the building permit for Parcel 2, the applicant shall pay the Transportation Development Tax (TDT) of \$4,599 as of the date of this decision. (Staff contact: Albert Shields, 503-718-2426)
31. Prior to issuance of the building permit for Parcel 2, the applicant shall pay the Systems Development Charge (SDC) of \$5,370 as of the date of this decision. (Staff contact: Albert Shields, 503-718-2426)
32. Prior to issuance of the building permit for Parcel 2, the applicant shall pay the standard water quality fee.
33. Prior to issuance of the building permit for Parcel 2, the applicant shall pay the standard water quantity fee (unless the proposed onsite disposal is approved as an alternative system).

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED  
PRIOR TO FINAL BUILDING INSPECTION:**

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the PLANNING DIVISION, ATTN: HAP WATKINS 503-639-2440. The cover letter shall clearly identify where in the submittal the required information is found:**

34. Prior to final inspection for each lot, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees and that the street trees were properly planted per the approved street tree plan. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DIVISION, ATTN: GUS DUENAS 503-639-2470. The cover letter shall clearly identify where in the submittal the required information is found:**

35. Prior to a final building inspection, the applicant shall complete the required public improvements, obtain conditional acceptance from the City, and provide a one-year maintenance assurance for said improvements.
36. Prior to a final building inspection, a final sight distance certification by an Oregon registered professional engineer must be submitted addressing the right-turn movement from 69<sup>th</sup> Avenue to Walnut Terrace.

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

### **SECTION III. BACKGROUND INFORMATION**

#### **Site and Vicinity Information**

The .42 acre site is located on the south side of SW Walnut Terrace, east of 69<sup>th</sup> Avenue. The site is zoned R-4.5 (Low Density Residential), as are all surrounding properties. An existing residence sits near the west side of the parcel, and it will remain on proposed Parcel 1. The existing residence is currently occupied as a rental. Homes in the area are single-family residences.

#### **Property History:**

A search of City records shows only the current land use case (minor land partition). No other land use approvals or other permits were found affecting this parcel.

#### **Proposal Description**

The applicant is requesting a Minor Land Partition to partition one (1) existing .42 acre site into two (2) parcels. The existing residence on Parcel 1 will remain and is occupied as a rental. Parcel 2 will be used for a new single family residence. Parcel 1 will be 8,535 sq. ft. and Parcel 2 will be 9,793 sq. ft. Discounting the area for the access drive "flagpole", Parcel 2 will be 7,503 sq. ft.

### **SECTION IV. PUBLIC COMMENTS**

The Tigard Community Development Code requires that property owners within 500 feet of the subject site be notified of the proposal, and be given an opportunity for written comments and/or oral testimony prior to a decision being made. In addition, staff has posted a notice on the site, visible from the street. Notice of application was sent on September 22, 2009. Only one comment was received during the comment period.

Comment: An e-mail was received on October 8, 2009 from David Osborne notifying the City that the Application Notice had fallen to the ground. He also asked if there was a review meeting on this proposal. He stated that he had always been interested in this property over the last many years if it were to be offered for sale. He said that he had a significant investment in Walnut Terrace and was hoping to purchase the property and improve the neighborhood with a plan that did not include a flag lot.

Response: Mr. Osborne was contacted by e-mail response stating that the property was indeed under review for a minor land partition and that if he wished to make a formal comment or had objections to the partition, he could provide them by letter or e-mail. He did not respond. He was not on the 500 foot radius mailing list.

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

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

**Adjustments for street improvement requirements (Chapter 18.810). By means of a Type II procedure, as governed by Section 18.390.040, the Director shall approve, approve with conditions, or deny a request for an adjustment to the street improvement requirements.**

No adjustments were proposed regarding this minor land partition.

**Land Partitions (18.420): Section 18.420.050 Approval Criteria.**

**The proposed partition shall comply 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 average minimum lot width required for the R-4.5 zoning district is 50 feet. The original parcel is 86 feet wide. The proposed Parcel #1 is 66 feet wide as it fronts SW Walnut Terrace. Proposed Parcel #2 is considered a flag lot, and front yards can be determined by the applicant. As proposed the east side will be the front yard. The narrowest measurement of proposed Parcel #1 running east to west is approximately 66 feet and proposed Parcel #2 is 86 feet. Therefore, this criterion is met.

**The lot area shall be as required by the applicable zoning district. In the case of a flag lot, the access way 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 two (2) lots. Parcel #1 is 8,535 square feet and Parcel #2 is 9,793 square feet minus the flag lot access drive (2,280 sq. ft.) which is not included for lot size computation. The net area for Parcel #2 is 7,503. Therefore, this criterion is met.

**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 original frontage along SW Walnut Terrace was 86 feet. The partition will leave Parcel #1 with a 66 foot frontage and the access driveway for Parcel #2 is 20 feet at SW Walnut Terrace. Therefore, this criterion is met.

**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. Because Parcel 2 is considered a flag lot, the side yard setbacks are increased to 10 feet. The setbacks for the future home on lot 2 will be reviewed at the time of building permit submittal. Setbacks for the existing home on Parcel 1 meet the requirements; setbacks are discussed further under the Residential Zoning Districts section of this decision. A condition of approval under the Residential Zoning Districts section will ensure the applicant shows the correct setbacks on the building site plans. This criterion can be met conditionally.

**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.**

Parcel 2 will be a flag lot, and any proposed structure must meet all flag lot requirements. Flag lot requirements are discussed in more detail under the Exceptions to Development Standards section of this report. This criterion can be met conditionally.

A screen shall be provided along the property line of a lot of record where the paved drive in an access way 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 driveway is proposed to have a hedge screening on the west and 6 foot fence on the east. Street trees are required also, as the driveway is in excess of 100 feet. This is shown on the site development and tree plans. This criterion can be met conditionally.

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

The response comments from Tualatin Valley Fire and Rescue approved the existing fire hydrant location, conditioned on the fact that a satisfactory fire flow report be submitted from Tualatin Valley Water District. This criterion can be met conditionally.

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.

No common driveways are proposed.

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 approximately 4,400 feet northwest of the nearest 100-year floodplain. The elevation of the floodplain is 183 feet, while the site is at 385 feet. Therefore, this standard does not apply.

FINDING: The Land Partition criteria are 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
Minimum Lot Size - Detached unit - Duplexes - Attached unit	7,500 sq. ft.	8,535 sq. ft.	7,503 sq. ft. plus 2,280 sq. ft. access
Average Minimum Lot Width - Detached unit lots - Duplex lots - Attached unit lots	50 ft. 90 ft.	66 ft.	86 ft.
Maximum Lot Coverage	-	N/A	N/A
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	20 ft. 15 ft. 5 ft. 15 ft. -- 20 ft.	63 ft. N/A W 5 ft. /E 20 ft. 15 ft. [4] N/A 55 ft.	Can be met upon review of permit application for new residence.
Maximum Height	30 ft.	< 30 ft.	Can be met
Minimum Landscape Requirement	N/A	N/A	N/A

A minimum lot size of 7,500 square feet is required for each lot. The proposed lot sizes meet this standard. Setbacks of the existing home are met for Parcel 1 as outlined above. The home is currently used as a rental. The applicant states that the standards will be met on Parcel 2. Site and building plans for Parcel 2 will be reviewed through the building permit process to ensure compliance with the R-4.5 zone and flag lot development standards, including setbacks and height restrictions.

**FINDING:** Based on the analysis above, the Residential Zoning District Standards will be met if the applicant complies with the conditions of approval.

**CONDITION:** The conditions of approval are listed in Section II of this decision.

**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.

**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.

Joint access is not proposed with this development. Parcel 1 will continue to utilize the existing drive to Walnut Terrace on the west side of the parcel and Parcel 2 will access onto Walnut Terrace on the east side. This standard is met.

**Curb cuts.** Curb cuts shall be in accordance with Section 18.810.030N

**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 proposed parcels will have access to a public street. Parcel 1 has access onto Walnut Terrace. An access drive to Walnut Terrace is proposed for Parcel 2. This standard is met.

**Access Report:** 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 plans indicate that the sight distance to the west from the proposed driveway on SW Walnut Terrace is 162 feet to the intersection of SW Walnut Terrace and 69<sup>th</sup> Avenue. Sight distance to the east from the driveway is in excess of 300 feet. SW Walnut Terrace is classified as a local street with a maximum speed of 25 mph, which requires a minimum sight distance of 250 feet. A sight distance certification by a registered engineer that addresses the right turn movement from 69<sup>th</sup> Avenue to Walnut Terrace will be required prior to final building inspection as a condition of approval of this decision. This standard can be met conditionally.

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.

This property is not located on a collector or arterial street. This standard does not apply.

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 property is not located on a collector or arterial. A local street is not being constructed within 125 feet of a local street. This standard does not apply.

**Minimum access requirements for residential use.** Table 18.705.1 states that the minimum vehicular access and egress for single-family dwelling units on individual lots shall be one, 10-foot paved driveway within a 15-foot-wide access way.

A 20-foot access with 10-foot paved drive is proposed for Parcel 2. This standard is met.

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

**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 access driveway to Parcel #2 is 113 feet which, is less than the maximum of 150 feet. This standard is met.

**FINDING:** Based on the analysis above, the Access, Egress, and Circulation Standards will be met if the applicant complies with the conditions of approval.

**CONDITIONS:** The conditions of approval are listed in Section II of this decision.

**Density Computations and Limitations (18.715):** Chapter 18.715 implements the Comprehensive Plan by establishing the criteria for determining the number of dwelling units permitted. The number of allowable dwelling units is based on the net development area. The net area is the remaining parcel area after exclusion of sensitive lands and land dedicated for public roads or parks. The net area is then divided by the minimum lot size permitted by the zoning district to determine the number of dwelling units that may be developed on a site.

Based on the formulas in Chapter 18.715 of the City of Tigard Community Development Code, the maximum and minimum number of units permitted on the site is based on the net developable area, subtracting sensitive land areas, land dedicated to public parks, land dedicated for public right-of-way, land for private streets or access drives, and lot area for the existing home from the total site area. The density is calculated as follows:

Gross Site Area	18,490 sq. ft.
Right-of-Way Dedication along SW Walnut Terrace	- 172 sq. ft.
Access way and	- 2,280 sq. ft.
Lot for Existing Home	- 8,535. ft.
Net Site Area	7,503 sq. ft.

The resulting net area is 7,503 square feet. If this area is divided by the minimum lot size for the zone (7,500), then the maximum number of additional lots permitted on this site is 1 and the minimum number is 1. The applicant's proposal to create 1 additional lot for a detached unit meets the maximum and minimum density requirements of the R-4.5 zone.

**FINDING:** Based on the analysis above, the Density Standards have been satisfied.

**Exceptions to Development Standards (18.730):**

**The maximum height for an attached or detached single-family, duplex, or multiple-family residential structure on a flag lot or a lot having sole access from an access way, private drive or easement is 1-1/2 stories or 25 feet, whichever is less, except that the maximum height may be 2-1/2 stories or 35 feet, whichever is less, provided:**

- a. The proposed dwelling otherwise complies with the applicable dimensional requirements of the zoning district;
- b. A 10 feet side yard will be preserved;

- c. **A residential structure on any abutting lot either is located 50 feet or more from the nearest point of the subject dwelling, or the residential structure exceeds 1-1/2 stories or 25 feet in height on any abutting lot; and**
- d. **Windows 15 feet or more above grade shall not face dwelling unit windows or patios on any abutting lot unless the proposal includes an agreement to plant trees capable of mitigating direct views, or that such trees exist and will be preserved.**

The applicant shows 10-foot side yard setback on Parcel 2, but no specific building design is proposed. The applicant states that residences to the north and west are within 50 feet of the proposed structure and are one story each. Additional buffering and screening will be planted as necessary with the future structure. The applicant requests that compliance with these requirements be reviewed at the time of building permit. This standard can be met conditionally.

**FINDING:** Based on the information provided, staff has determined at this time that the Exceptions to Development Standards are not met, but can be met as conditioned previously with submittal of acceptable building and site plans.

**CONDITIONS:** The conditions of approval are listed in Section II of this decision.

**Landscaping and Screening (18.745):**

**Section 18.745.030.C states that the installation of all landscaping shall be as follows:**

**All landscaping shall be installed according to accepted planting procedures.**

The accepted planting procedures are the guidelines described in the Tigard Tree Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as the standards set forth in the American Institute of Architects' Architectural Graphic Standards, 10th edition. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.

**The plant material shall be of high grade, and shall meet the size and grading standards of the American Standards for Nurberg Stock (ANSI Z-60, 1-1986, and any other future revisions); and**

**Landscaping shall be installed in accordance with the provisions of this title.**

**Certificate of Occupancy: Certificates of occupancy shall not be issued unless the landscaping requirements have been met or other arrangements have been made and approved by the City such as the posting of a bond.**

**Existing vegetation on a site shall be protected as much as possible: 1) The developer shall provide methods for the protection of existing vegetation to remain during the construction process; and 2) the plants to be saved shall be noted on the landscape plans (e.g., areas not to be disturbed can be fenced, as in snow fencing which can be placed around the individual trees).**

Tree protection is addressed under the Tree Removal section of this decision.

**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.**

This proposed project has frontage along SW Walnut Terrace. Street trees are required along SW Walnut Terrace and along both sides of the 113 foot driveway access. All street trees must be planted in accordance with the standards for size and spacing in this title, under Section 18.745.040.C. The applicant's site plan shows street trees along Walnut Terrace and both sides of the driveway access, but no size or species has been proposed. Street trees must be chosen from the approved City of Tigard street tree list. This standard can be met conditionally.

**Buffering and Screening Requirements: Section 18.745.050.5**

The proposed land partition occurs on a parcel surrounded by the same land use designation (R-4.5) as the subject parcel. Therefore, no buffering or screening pursuant to Section 18.745.050.A is required for the proposed land

partition. However, as discussed under the Minor Land Partition section of this decision, privacy screening is required pursuant to section 18.420.050.A.4.f. The applicant has proposed hedges and a 6 foot fence to meet this requirement. This standard can be met conditionally.

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

**CONDITIONS:** The conditions of approval are listed in Section II of this decision.

**Off-street Parking and Loading Requirements (18.765): This Chapter is applicable for development projects when there is new construction, expansion of existing use, or change of use in accordance with Section 18.765.070 Minimum and Maximum Off-Street Parking Requirements.**

The proposed partition will create one new lot for a single-family residence. For the new detached dwelling unit on Parcel 2, one (1) off-street parking space must be provided. There is no maximum limit on parking allowed for detached single-family dwellings or group living. This standard can be met conditionally.

**FINDING:** Based on the above analysis, the Off-street Parking and Loading Requirements will be met if the applicant complies with the conditions of approval.

**CONDITION:** The conditions of approval are listed in Section II of this decision.

**Tree Removal (18.790): Chapter 18.790.030 requires the submittal of a tree plan that identifies the location size and species of all trees on the site, a program to save existing trees over 12-inch diameter at breast height (dbh) or mitigate for their removal, identification of trees to be removed, and a protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.**

As required for partitions, the applicant submitted a tree plan conducted by Andrew Craig, certified arborist. However, the report does not contain the four required components (see explanation below).

**Plan requirements: The tree plan shall include the following:**

**Identification of the location, size and species of all existing trees including trees designated as significant by the city;**

This requirement has not been met. The Arborist's Report and the plans submitted do not agree and must be corrected. A condition of approval of revised documents by the City Arborist will be entered into the decision.

**Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:**

- Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;
- Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;
- Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;
- Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.

This requirement has not been met. The Arborist's Report and the plans submitted do not agree and must be corrected. A condition of approval of revised documents by the City Arborist will be entered into the decision.

**Identification of all trees which are proposed to be removed;**

This requirement has not been met. The Arborist's Report and the plans submitted do not agree and must be corrected. A condition of approval of revised documents by the City Arborist will be entered into the decision.

**A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.**

This requirement has not been met. The fencing and tree protection specifications outlined in the arborist report need to be transferred accurately to the site plans. Five or six foot metal fencing is proposed. The tree protection plan needs to address tree protection standards and methods for after construction. Specifically, they need to address acceptable landscaping practices and materials around preserved trees. This standard can be met conditionally.

**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 has proposed retaining trees on-site; removal of such trees is restricted. This standard can be met conditionally.

**FINDING:** Based on the analysis above, the Tree Removal standards will be met, if the applicant complies with the conditions of approval.

**CONDITIONS:** The conditions of approval are listed in Section II of this decision.

**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.

As shown on the plan submitted by the applicant, no existing or proposed structures are located within the visual clearance area. This standard has been satisfied.

### **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. Parcel 2 will connect to existing water and sanitary lines in Walnut Terrace. Storm water is proposed to be contained by an on-site system to be approved by the Building Department or connection to a public disposal system will be required. No improvements are proposed for SW Walnut Terrace, but street trees will be provided. Additional right-of-way must be dedicated along Walnut Terrace to meet current standards. Parks system development charges and the traffic development tax will be collected for the new home at building permit issuance.

The Washington County Traffic Development Tax (TDI) is a mitigation measure that is required at the time of development. Based on Washington County figures TDIs are expected to recapture 28 percent of the traffic impact of new development on the Collector and Arterial Street system. The applicant will be required to pay TDI's of

approximately \$4,599 (Effective July 1, 2009) as applied on the date of this decision.

Based on the estimate that total TDT fees cover 28 percent of the impact on major street improvements citywide, a fee that would cover 100 percent of this project's traffic impact is \$16,425 (\$4,599 divided by .28). The difference between the TDT paid, and the full impact, is considered the unmitigated impact on the street system; therefore the unmitigated impact of this project is \$11,826 (\$16,425- \$4,599). SW Walnut Terrace is partially improved; therefore the applicant is required to enter into future agreements for the required improvements. Two feet of dedication is necessary along Walnut Terrace frontage and is estimated at \$516 (86 lineal feet x 2 ft x \$3.00/square foot).

**FINDING:** Based on the above analysis, the interest in real property to be transferred is roughly proportional to the impact the proposed development will have on the public. The 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.**

This proposal does not include the construction of streets. This standard does not apply.

**Minimum Rights-of-Way and Street Widths: Section 18.810.030.E requires a Neighborhood Route (Local Street) to have a 54 foot right-of-way width and 32-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 is located along SW Walnut Terrace, which is a short local street connecting to 69<sup>th</sup> Avenue. The site is one lot removed from the intersection and is sufficiently close to require that sight distance be addressed for the right-turn movement from 69<sup>th</sup> Avenue to Walnut Terrace. This standard can be met conditionally.

At present, there is approximately 25 feet of ROW from centerline, according to the most recent tax assessor's map. The applicant shall dedicate the additional ROW to provide 27 feet from centerline. This standard can be met conditionally.

There is existing curb along the project frontage, but there are no sidewalks along this street on either side. Because the terrain drops off steeply south of the street, the construction of sidewalk and planter strip as required by the Development Code is not reasonable. However, the applicant must execute a restrictive covenant agreeing to complete or participate in future improvements of Walnut Terrace to comply with the development code. This standard can be met conditionally.

**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.**

There are no opportunities or needs for future streets or extensions of streets through this property. This standard does not apply.

**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.

This proposal does not include the construction of streets. This standard does not apply.

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.

There are no opportunities or needs for future streets or extensions of streets through this property. This standard does not apply.

**Cul-de-sacs:** 18.810.030.L states that a cul-de-sac shall be no more than 200 feet long, shall not provide access to greater than 20 dwelling units, and shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation:

- ♦ All cul-de-sacs shall terminate with a turnaround. Use of turnaround configurations other than circular, shall be approved by the City Engineer; and
- ♦ The length of the cul-de-sac shall be measured from the centerline intersection point of the two streets to the radius point of the bulb, and
- ♦ If a cul-de-sac is more than 300 feet long, a lighted direct pathway to an adjacent street may be required to be provided and dedicated to the City.

**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.

The proposal does not include the construction of streets. This standard does not apply.

**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.

The site is not located at the end of a cul-de-sac. 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.

There are no other bicycle lanes in the neighborhood. A bicycle lane will not be required.

**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.

Parcel 1 is less than 1.5 times the minimum lot size ( $7,500 \times 1.5 = 11,250$ ). Parcel 1 is 8,535 square feet. The average lot width of Parcel 1 is 66 feet, so  $2.5 \times 66 = 165$ . Parcel 1 is 132 feet at the deepest point. Parcel 2 is less than 1.5 times the minimum lot size ( $7,500 \times 1.5 = 11,250$ ). Parcel 2 is 7,503 square feet. The average lot width of Parcel 2 is 86 feet, so

2.5x86=215. Parcel 2 is 99 feet at the deepest point. This standard is met.

**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.

Parcel 1 has 66 feet of street frontage along SW Walnut Terrace. Parcel 2 has 20 feet of frontage on Walnut Terrace, five feet more than the minimum required for a flag lot. This standard is met.

**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 shall enter into a future street improvement agreement for SW Walnut Terrace, which will include public sidewalks. This standard can be met conditionally.

**Sanitary 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.

There is a public sewer line located in SW Walnut Terrace. The applicant's plans show a lateral extension from the sewer main to serve the proposed parcel. A Public Facilities Permit shall be obtained prior to final plat. This standard can be met conditionally.

**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 public sewer main is sufficient for the proposed and future development on this street. This standard is met.

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

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 storm water 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.

**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 development. This standard does not apply.

**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).

The project narrative calls for pumping of the storm water runoff to Walnut Terrace, which drains to 69<sup>th</sup> Avenue. The plans call for installation of a drywell. The project just either connect to an approved system for storm water runoff disposal created by the project or construct an approved alternative system to dispose of the storm water on-site. Contact the Building Division in the Community Development Department for approval of an alternative system if that option is selected. The fee-in-lieu charge must be paid of the storm runoff is not disposed of on-site. This standard can

be met conditionally.

**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 Terrace (south side). If the fee in-lieu is proposed, it must be approved by the Development Engineer and is equal to \$35.00 per lineal foot of street frontage that contains the overhead lines. The frontage along this site is 86 lineal feet; therefore the fee would be \$3,010.

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

**Fire and Life Safety:**

The nearest hydrant is located at the southeast corner of the intersection of SW Walnut Terrace and 69<sup>th</sup> Avenue ROW. The applicant shall submit a report from Tualatin Valley Water District that assures a minimum of 1,000 gallons per minute fire flow at 20 psi residual pressure from the nearest fire hydrant for a residential structure less than 3,600 square feet. If the structure is 3,600 square feet or greater, the required fire flow shall be determined according to IFC Appendix B (IFC B105.1). This standard can be met conditionally.

**Public Water System:**

Tualatin Valley Water District (TVWD) provides service in this area. The applicant must submit plans for review and approval to TVWD and provide their approval prior to issuance of the City's Public Improvements permit.

**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 Parcel 2. The CWS standards provide that applicants should pay a fee in-lieu of constructing a facility if deemed appropriate. Staff recommends payment of the fee in-lieu on 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 applicant shall submit an Erosion Control plan for review and approval with the PFI Permit application. This standard can be met conditionally.

### Address Assignments:

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard. 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. This standard can be met conditionally

### 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) as recorded in Washington County survey records. 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). This standard can be met conditionally.

FINDING: The Street and Utility Improvements Standards will be met if the applicant complies with the conditions of approval.

CONDITIONS: The conditions of approval are listed in Section II of this decision.

## SECTION VI. OTHER STAFF COMMENTS

The City's Building Division reviewed the proposal and had no objections.

The City of Tigard Public Works Department reviewed the proposal and had no objections.

Tigard Police were sent copies of the proposal. No comments were submitted to the Planning Division.

The Tigard Permit Coordinator provided the following comments/conditions:

- ♦ Per Washington County Code Chapter 3.17, the Washington County (WACO) Traffic Development Tax (IDT) of \$4,599 is required prior to issuance of a building permit for Parcel 2.
- ♦ Per Tigard Municipal Code section 3.24, a System Development Charge (SDC) of \$5,370 is required prior to issuance of a building permit for Parcel 2.

## SECTION VII. AGENCY COMMENTS

Clean Water Services has reviewed the proposal and provided the following comments and conditions:

- ♦ A Clean Water Services Storm Water Connection Permit Authorization must be obtained prior to plat approval and recordation. Application for the District's Permit Authorization must be in accordance with the requirements of the Design and Construction Standards, Resolution and Order No. 07-20, and is to include:
  - ♦ Detailed plans prepared in accordance with Chapter 2, Section 2.04.2.b-1.
  - ♦ Detailed grading and erosion control plan. An Erosion Control Permit will be required. Area of disturbance must be clearly identified on submitted construction plans. If site area and any offsite improvements required for this development exceed one-acre of disturbance, project will require a 1200-C Erosion Control Plan.
  - ♦ Detailed plans showing each lot within the development having direct access by gravity to public storm and sanitary sewer.
  - ♦ Provisions for water quality in accordance with the requirements of the above named design standards. Water Quality is required for all new development and redevelopment areas per R&O 07-20, Section 4.05.5, Table 4-1.
  - ♦ If use of an existing offsite or regional Water Quality Facility is proposed, it must be clearly identified on plans, showing its location, condition, capacity to treat this site and any additional improvements and/or upgrades that may be needed to utilize that facility.

- ♦ If private lot LIDA system is proposed, it must comply with the current CWS Design and Construction Standards. A private maintenance agreement, for the proposed private lot LIDA systems, needs to be provided to the City for review and acceptance.
- ♦ Show all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements must be granted to the City.
- ♦ Any proposed offsite construction activities will require an update or amendment to the current Service Provider Letter for this project.
- ♦ CWS, prior to issuance of any connection permits, must approve final construction plans and drainage calculations.

Tualatin Valley Fire and Rescue was sent a copy of the proposal, and their comments are incorporated in the conditions of approval contained in this decision..

**SECTION VIII. PROCEDURE AND APPEAL INFORMATION**

Notice: Notice was mailed to:

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

**Final Decision:**

**THIS DECISION IS FINAL ON OCTOBER 23, 2009 AND BECOMES EFFECTIVE ON NOVEMBER 7, 2009 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 NOVEMBER 6, 2009.**

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: \_\_\_\_\_ October 23, 2009  
DATE  
Hap Watkins  
Assistant Planner

APPROVED BY: \_\_\_\_\_ October 23, 2009  
DATE  
Richard Bewersdorff  
Planning Manager

- ♦ If private lot LIDA system is proposed, it must comply with the current CWS Design and Construction Standards. A private maintenance agreement, for the proposed private lot LIDA systems, needs to be provided to the City for review and acceptance.
- ♦ Show all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements must be granted to the City.
- ♦ Any proposed offsite construction activities will require an update or amendment to the current Service Provider Letter for this project.
- ♦ CWS, prior to issuance of any connection permits, must approve final construction plans and drainage calculations.

**Tualatin Valley Fire and Rescue** was sent a copy of the proposal, and their comments are incorporated in the conditions of approval contained in this decision..

**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 OCTOBER 23, 2009 AND BECOMES EFFECTIVE ON NOVEMBER 7, 2009 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.

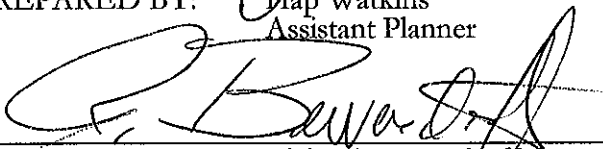
**THE DEADLINE FOR FILING AN APPEAL IS 5:00 PM ON NOVEMBER 6, 2009.**

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:   
 Map Watkins  
 Assistant Planner

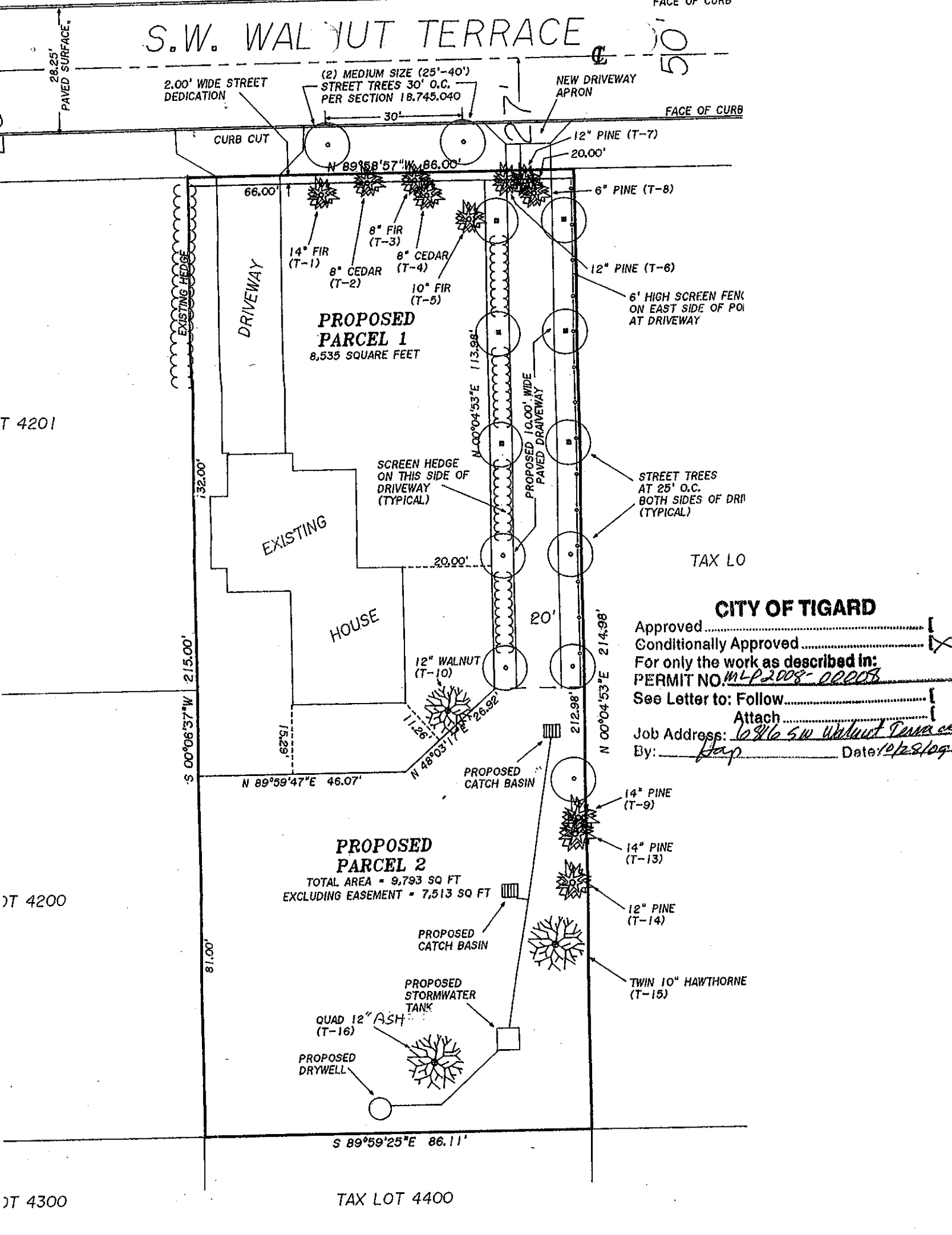
October 23, 2009  
 DATE

APPROVED BY:   
 Richard Bewersdorff  
 Planning Manager

October 23, 2009  
 DATE



# S.W. WALNUT TERRACE



## CITY OF TIGARD

Approved.....  
 Conditionally Approved.....  
 For only the work as described in:  
**PERMIT NO. M-LP-2008-00008**  
 See Letter to: Follow.....  
 Attach.....  
 Job Address: 6946 SW Walnut Terrace  
 By: [Signature] Date: 10/28/09

T 4201

T 4200

T 4300