

**NOTICE OF TYPE II DECISION
SUBDIVISION (SUB) 2007-00007
NASH GARDEN SUBDIVISION**



120 DAYS = 12/29/2007

SECTION I. APPLICATION SUMMARY

FILE NAME:	<u>NASH GARDEN SUBDIVISION</u>	
CASE NOS.:	Subdivision (SUB)	SUB2007-00007
	Adjustment (VAR)	VAR2007-00026
	Variance (VAR)	VAR2007-00042

REQUEST: The applicant is requesting approval of a four (4) lot subdivision for single-family detached residences. The existing site is approximately .43 acres. Proposed lots range from 3,196 to 5,086 square feet. An existing single-family home will remain. The applicant has requested an adjustment to the access spacing standard for the proposed private street. Required spacing along SW McDonald Street is 200 feet; the applicant is requesting a reduction to 6 feet. A variance is also requested to reduce the front yard setback on the existing home from 15 feet to 10.89 feet.

APPLICANT & OWNER:	Scott Nash 19240 NW Athena Place Portland, OR 97229	APPLICANT'S REP.:	D L Design Group, Inc. Attn: Gary Darling 9045 SW Barbur Blvd., Suite 101 Portland, OR 97219
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COMPREHENSIVE PLAN

DESIGNATION: R-12: Medium-Density Residential.

ZONE: R-12: Medium-Density Residential District. The R-12 zoning district is designed to accommodate a full range of housing types at a minimum lot size of 3,050 square feet. A wide range of civic and institutional uses are also permitted conditionally.

LOCATION: 10342 SW McDonald Street; Washington County Tax Map 2S111BB, Tax Lot 2100.

APPLICABLE REVIEW

CRITERIA: Community Development Code Chapters 18.370 (Variances and Adjustments); 18.390 (Decision Making Procedures); 18.430 (Subdivision); 18.510 (Residential Zoning Districts); 18.705 (Access, Egress and Circulation); 18.715 (Density Computation); 18.725 (Environmental Performance Standards); 18.745 (Landscaping and Screening); 18.765 (Off-Street Parking); 18.780 (Signs); 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 for a subdivision subject to certain conditions of approval. The findings and conclusions on which the decision is based are noted in Section VI of this Decision.

CONDITIONS OF APPROVAL

THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR SUBMITTAL OF THE PUBLIC FACILITY IMPROVEMENT PERMIT (PFI):

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 **CURRENT PLANNING DIVISION, ATTN: Cheryl Caines 503-639-4171, EXT 2437**. The cover letter shall clearly identify where in the submittal the required information is found:

1. Prior to the submittal of the Public Facility Improvement Plan the applicant shall submit a revised tree plan for review and approval that shows the trees to be removed and protection measures for trees being retained. This condition is to cover discrepancies between the proposed plans and the arborist's report.

THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO COMMENCING ANY ON-SITE IMPROVEMENTS, INCLUDING TREE REMOVAL, CLEARING, GRADING, EXCAVATION, AND/OR FILL:

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 **CURRENT PLANNING DIVISION, ATTN: Cheryl Caines 503-639-4171, EXT 2437**. The cover letter shall clearly identify where in the submittal the required information is found:

2. Prior to site work the applicant shall provide a revised site plan for review and approval to the Planning Division showing lot coverage and landscaping percentages for Parcel 1.
3. Prior to site work, the applicant shall submit a revised site plan showing "No Parking" signs along both sides of the proposed private street as required by TVF&R.
4. Prior to commencing site work, the applicant shall submit a revised site plan that indicates the type and location of street trees along the public street (SW McDonald Street) and the proposed private street (Tract A) 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.
5. Prior to commencing site work, the applicant shall submit an erosion control plan that shows methods for re-vegetation of disturbed areas. All areas graded during subdivision development will need to be re-seeded and/or planted to ensure stabilization.
6. Prior to issuance of the Public Facility Improvement Permit (PFI), the applicant shall submit construction drawings to both Planning and Engineering that include:
 - A. The approved Tree Removal and Protection Plan;
 - B. A note prohibiting equipment, vehicles, machinery, grading, dumping, storage, burial of debris, or any other construction-related activities in any tree protection zone; and
 - C. A note stating that only those trees identified on the approved Tree Removal plan are authorized for removal by this report. Notwithstanding any other provision of this title, any party found to be in violation of this chapter [18.790] 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: 1) Replacement of unlawfully removed or damaged trees in accordance with Section 18.790.060(D) of the Tigard Development Code; and 2) 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.
7. Prior to the issuance of site permits the applicant shall submit the following for review and approval:
 - A. A statement to the City Arborist outlining the steps to be taken during site preparation and construction to preserve trees #13, 14, 15, 16, 17 and 18.
 - B. A report from the Project Arborist that approves the retention of trees #13, 14, 15, 16, 17 and 18. The arborist must also address the feasibility of retention during construction and the sustainability of their placement in relation to the structures that will be built.

8. Prior to commencing site work, the applicant shall submit a revised corrected mitigation plan and a cash assurance (letter of credit or cash deposit) for the equivalent value of mitigation required (number of caliper inches times \$125 per caliper inch). Any trees successfully planted on the site or off site in accordance with 18.790.060.D and approved tree mitigation plan will be credited against the assurance for two years following final plat approval. After such time, the applicant shall pay the remaining value of the assurance as a fee in-lieu of planting.
9. Prior to commencing site work, the applicant shall establish fencing as directed by the project arborist to protect the trees to be retained. The applicant shall call for an inspection and allow access by the City Arborist for the purpose of monitoring the tree protection to verify that the tree protection measures are performing adequately.
10. The applicant shall submit written reports to the City Arborist at least once every two weeks from initial tree protection zone (TPZ) fencing installation through building construction. The reports shall include the condition and location of the tree protection fencing and whether any changes occurred. 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, long-term health and stability of the tree(s). 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.
11. Prior to site permit, the applicant shall submit a revised site plan for review and approval that shows the clear vision areas that meets the standard of 18.795.040.

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 DEPARTMENT, ATTN: KIM MCMILLAN 503-639-4171, EXT 2642. The cover letter shall clearly identify where in the submittal the required information is found:

12. Prior to commencing onsite improvements, a Public Facility Improvement (PFI) permit is required for this project to cover half-street improvements 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).
13. 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.
14. 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.
15. 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.
16. The applicant shall submit construction plans to the Engineering Department as a part of the Public Facility Improvement permit, which indicate that they will construct a half-street improvement along the frontage of SW McDonald Street. The improvements adjacent to this site shall include:
 - A. City standard pavement section for a Collector street from curb to centerline equal to 23 feet;
 - B. pavement tapers needed to tie the new improvement back into the existing edge of pavement shall be built beyond the site frontage;
 - C. concrete curb, or curb and gutter as needed;
 - D. storm drainage, including any off-site storm drainage necessary to convey surface and/or subsurface runoff;
 - E. 6-foot concrete sidewalk with a 5-foot planter strip;

- F. street trees in the planter strip spaced per TDC requirements;
 - G. street striping;
 - H. streetlight layout by applicant's engineer, to be approved by City Engineer;
 - I. underground utilities;
 - J. street signs (if applicable);
 - K. driveway apron (if applicable); and
 - L. adjustments in vertical and/or horizontal alignment to construct SW McDonald Street in a safe manner, as approved by the Engineering Department.
17. A profile of SW McDonald Street shall be required, extending 300 feet either side of the subject site showing the existing grade and proposed future grade.
 18. The applicant's construction drawings shall show that the pavement and rock section for the proposed private street(s) shall meet the City's public street standard for a local residential street.
 19. The applicant's plans shall show the restoration of bicycle striping on SW McDonald Street.
 20. Final design plans and calculations for the proposed private water quality facility shall be submitted to the Engineering Department (Kim McMillan) as a part of the Public Facility Improvement (PFI) permit plans. Included with the plans shall be a copy of the 3-year maintenance plan.
 21. 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."
 22. The applicant's plans shall be revised to provide a 15 foot wide public sewer easement over the private street.

**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 CURRENT PLANNING DIVISION, ATTN: Cheryl Caines 503-639-4171, EXT 2437. The cover letter shall clearly identify where in the submittal the required information is found:

23. Prior to final plat the applicant shall submit an approved copy of the Washington County plat name reservation form for the subdivision.
24. The applicant shall cause a statement to be placed on the final plat or record a separate document showing a reciprocal access easement across the private street (Tract A) for all four parcels.
25. Prior to final plat the applicant shall submit a revised site plan that shows one off-street parking space for Parcel One (1).
26. Place a note on the final plat for visual clearance easements to the benefit of to the City of Tigard and that said easements are subject to the City of Tigard Visual Clearance Area standards (Tigard Development Code Chapter 18.795).

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 DEPARTMENT, ATTN: KIM MCMILLAN 503-639-4171, EXT 2642. The cover letter shall clearly identify where in the submittal the required information is found:

27. Prior to final plat approval, the applicant shall pay the addressing fee. (STAFF CONTACT: Bethany Stewart, Engineering).
28. Lot 1 shall not be permitted to access directly onto SW McDonald Street. The applicant shall cause a statement to be placed on the final plat that prohibits direct access from Lot 1 onto SW McDonald Street.
29. The applicant shall cause a statement to be placed on the final plat to indicate that the proposed private street will be jointly owned and maintained by the private property owners who abut and take access from it.

30. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants and Restrictions (CC&R's) for this project, to be recorded with the final plat, that clearly lays out a maintenance plan and agreement for the proposed private street(s). The CC&R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure regulation of maintenance for the street(s). The applicant shall submit a copy of the CC&R's to the Engineering Department (Kim McMillan) prior to approval of the final plat.
31. Prior to approval of the final plat, the applicant shall demonstrate that they have formed and incorporated a homeowner's association.
32. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants and Restrictions (CC&R's) for this project, to be recorded with the final plat, that clearly lays out a maintenance plan and agreement for the proposed private water quality/detention facility. The CC&R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure regulation of maintenance for the facility. The applicant shall submit a copy of the CC&R's to the Engineering Department (Kim McMillan) prior to approval of the final plat.
33. 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.
34. 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 SW McDonald Street, providing 35 feet from centerline.
 - 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 two mylar copies of the final plat for City Engineer signature (for partitions), or City Engineer and Community Development Director signatures (for subdivisions).

**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 CURRENT PLANNING DIVISION, ATTN: Cheryl Caines 503-639-4171, EXT 2437. The cover letter shall clearly identify where in the submittal the required information is found:

35. Prior to issuance of building permits, the applicant shall demonstrate that the development standards required in the base zone (R-12) have been met.
36. Prior to issuance of building permits the applicant shall submit a site plan for lot 2 showing a 10-foot buffer along the western property line or a detailed landscape/screening plan for review and approval that affords the same degree of screening as a 10-foot buffer.
37. Prior to the issuance of building permits, the developer shall sign a copy of the City's sign compliance agreement.

38. Prior to the issuance of building permits, the applicant must submit a tree mitigation plan to the City Arborist for review and approval.
39. Prior to issuance of building permits, the applicant (developer or builder) shall:
 - A. Submit site plan drawings showing the accurate location of the trees that were preserved, the location of tree protection fencing.
 - B. Submit a statement and signature of approval from a certified arborist regarding the siting and construction techniques to be employed in building the house with respect to any protected trees on site.
40. Prior to issuance of building permits, the applicant shall record a deed restriction to the effect that any existing tree greater than 6 inches 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.

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: Kim McMillan 503-639-4171, EXT 2642. The cover letter shall clearly identify where in the submittal the required information is found:

41. Prior to issuance of building permits, the applicant shall provide the Engineering Department with a “photomylar” copy of the recorded final plat.
42. Prior to issuance, the applicant shall provide the City with as-built drawings of the public improvements as follows: 1) 3 mil mylar, 2) a diskette of the as-builts in “DWG” format, if available; otherwise “DXF” will be acceptable, and 3) the as-built drawings shall be tied to the City’s 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).
43. Prior to issuance of building permits, the applicant’s engineer shall submit final sight distance certification for the intersection of the private street and SW McDonald Street.
44. The applicant shall 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.
45. The applicant shall either place the existing overhead utility lines along the west side of SW 76th Avenue 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 \$3,115.00 and it shall be paid prior to issuance of building permits.
46. Prior to a final building inspection, the applicant shall demonstrate that they have entered into a maintenance agreement with Stormwater Management, or another company that demonstrates they can meet the maintenance requirements of the manufacturer, for the proposed onsite storm water treatment facility.

**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 CURRENT PLANNING DIVISION, ATTN: Cheryl Caines 503-639-4171, EXT 2437. The cover letter shall clearly identify where in the submittal the required information is found:

47. Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.

IN ADDITION, THE APPLICANT SHOULD BE AWARE OF THE FOLLOWING SECTIONS OF THE COMMUNITY DEVELOPMENT CODE; THIS IS NOT AN EXCLUSIVE LIST:

18.430.080 Improvement Agreement:

Before City approval is certified on the final plat, and before approved construction plans are issued by the City, the Subdivider shall:

1. Execute and file an agreement with the City Engineer specifying the period within which all required improvements and repairs shall be completed; and
2. Include in the agreement provisions that if such work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the subdivider.

The agreement shall stipulate improvement fees and deposits as may be required to be paid and may also provide for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.

18.430.090 Bond:

As required by Section 18.430.080, the subdivider shall file with the agreement an assurance of performance supported by one of the following:

1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the State of Oregon;
2. A surety bond executed by a surety company authorized to transact business in the State of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
3. Cash.

The subdivider shall furnish to the City Engineer an itemized improvement estimate, certified by a registered civil engineer, to assist the City Engineer in calculating the amount of the performance assurance.

The subdivider shall not cause termination of nor allow expiration of said guarantee without having first secured written authorization from the City.

18.430.100 Filing and Recording:

Within 60 days of the City review and approval, the applicant shall submit the final plat to the County for signatures of County officials as required by ORS Chapter 92.

Upon final recording with the County, the applicant shall submit to the City a mylar copy of the recorded final plat.

18.430.070 Final Plat Application Submission Requirements:

Three copies of the subdivision plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.

The subdivision 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.

STREET CENTERLINE MONUMENTATION SHALL BE PROVIDED AS FOLLOWS:

Centerline Monumentation

In accordance with Oregon Revised Statutes 92.060, subsection (2), the centerline of all street and roadway rights-of-way shall be monumented before the City accepts a street improvement.

The following centerline monuments shall be set:

1. All centerline-centerline intersection points;
2. All cul-de-sac center points; and
3. Curve points, beginning and ending points (PC's and PT's).

All centerline monuments shall be set during the first lift of pavement.

Monument Boxes Required

Monument boxes conforming to City standards will be required around all centerline intersection points, cul-de-sac center points, and curve points.

The tops of all monument boxes shall be set to finished pavement grade.

18.810 Street & Utility Improvement Standards:

18.810.120 Utilities

All utility lines including, 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.

18.810.130 Cash or Bond Required

All improvements installed by the subdivider shall be guaranteed as to workmanship and material for a period of one year following acceptance by the City.

Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the City Engineer.

The cash or bond shall comply with the terms and conditions of Section 18.810.180.

18.810.150 Installation Prerequisite

No land division improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other requirements shall be undertaken except after the plans therefore have been approved by the City, permit fee paid and permit issued.

18.810.180 Notice to City Required

Work shall not begin until the City has been notified in advance.

If work is discontinued for any reason, it shall not be resumed until the City is notified.

18.810.200 Engineer's Certification

The land divider's engineer shall provide written certification of a form provided by the City that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, and are of high grade, prior to the City acceptance of the subdivision's improvements or any portion thereof for operation and maintenance.

**THIS APPROVAL SHALL BE VALID FOR 18 MONTHS
FROM THE EFFECTIVE DATE OF THIS DECISION.**

SECTION III. BACKGROUND INFORMATION

Site Information and Proposal Description:

The applicant is requesting approval for a 4-lot single-family detached subdivision with lots ranging in size between 3,196 and 5,086 square feet (3,787 square feet on average). The subject property is approximately .43 acres. There is an existing residence that will remain on lot 1. The site slopes up gently to the south, away from McDonald Street. A search of city records indicates that a lot line adjustment was approved between the property and tax lot 1500 to the west. No other land use approvals were found.

Vicinity Information:

The proposed development lies on the south side of McDonald Street and west of 103rd. Parcels to the north, west and south are zoned R-12 like the subject property and parcels on the north side of McDonald are zoned R-3.5. Sites in the immediate area are developed with a mix of older single-family homes and apartment buildings.

SECTION IV. COMMENTS FROM PROPERTY OWNERS WITHIN 500 FEET

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 at the driveway to the site, visible from the street. Staff received no comments or letters from adjacent property owners.

SECTION V. SUMMARY OF APPLICABLE CRITERIA

A summary of the applicable criteria in this case in the Chapter order in which they are addressed in this decision are as follows:

A. Subdivision

18.430

B. Applicable Development Code Sections

18.370 (Variances and Adjustments)

18.510 (Residential Zoning Districts)

18.705 (Access, Egress and Circulation)

18.715 (Density Computation)

18.725 (Environmental Performance Standards)

18.745 (Landscaping and Screening)

18.765 (Off-Street Parking and Loading Requirements)

18.780 (Signs)

18.790 (Tree Removal)

18.795 (Vision Clearance)

C. Street and Utility Improvement

18.810 (Street and Utility Improvement Standards)

D. Decision Making Procedures

18.390 (Impact Study)

The proposal contains no elements related to the provisions of these Specific Development Standard Code Chapters: 18.710 (Accessory Residential Units), 18.740 (Historic Overlay), 18.742 (Home Occupations), 18.750 (Manufactured/Mobile Home Regulations), 18.755 (Mixed Solid Waste & Recyclable Storage), 18.760 (Nonconforming Situations), 18.775 (Sensitive Lands), 18.785 (Temporary Uses), and 18.798 (Wireless Communication Facilities). These chapters are, therefore, found to be inapplicable as approval standards.

SECTION VI. APPLICABLE REVIEW CRITERIA AND FINDINGS

A – SUBDIVISION GENERAL PROVISIONS:

Approval through two-step process. An application for a subdivision shall be processed through a two-step process: the preliminary plat and the final plat.

- ♦ The preliminary plat shall be approved by the Approval Authority before the final plat can be submitted for approval consideration; and
- ♦ The final plat shall reflect all conditions of approval of the preliminary plat.

The applicant has submitted a preliminary plat for approval consideration. Final plat review will occur after the decision is final.

Compliance with ORS Chapter 92. All subdivision proposals shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.

The applicant is responsible for ensuring that the plat satisfies any requirements of Oregon Revised Statutes (ORS) Chapter 92 beyond what is already required in the Tigard Development Code. Such conformance is assured through Washington County's plat review.

Future Re-Division.

When subdividing tracts into large lots, the Approval Authority shall require that the lots be of such size and shape as to facilitate future re-division in accordance with the requirements of the zoning district and this title.

As proposed the largest parcel is 5,086 square feet. The minimum lot size of the R-7 zoning district is 3,050 square feet. Therefore, none of the proposed parcels are large enough to be re-divided in the future. This standard has been met.

Lot Size Averaging:

Section 18.430.020.D states lot size may be averaged to allow lots less than the minimum lot size allowed in the underlying zoning district as long as the average lot area for all lots is not less than allowed by the underlying zoning district. No lot created under this provision shall be less than 80% of the minimum lot size allowed in the underlying zoning district.

The smallest lots are 3,196 square feet, which is larger than the minimum lot size (3,050 square feet). The average of all lots in the subdivision is 3,787 square feet, which is in compliance with this standard.

Temporary sales office. Temporary sales offices in conjunction with any subdivision may be granted as set forth in Chapter 18.785, Temporary Uses.

The applicant has not proposed a temporary sales office with this application.

Minimize flood damage. All subdivision proposals shall be consistent with the need to minimize flood damage.

Due to the topography of the site, storm water is anticipated to leave the site and not cause flooding. Storm drainage facilities will be reviewed by Clean Water Services and also by the City for conformance with design and construction standards.

Floodplain dedications. Where land filling and/or development is allowed within and adjacent to the 100-year floodplain outside the zero-foot rise floodway, the City shall require consideration of the dedication of sufficient open land area for a greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian bicycle pathway plan.

The site is not within nor adjacent to the 100-year floodplain. The nearest floodplain is approximately 3,622 feet to the northeast. The elevation of the nearest floodplain is 146 feet. The lowest elevation of the proposed subdivision is 276 feet. This standard is not applicable.

Need for adequate utilities. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

There are no flood hazards identified for this site. Therefore, this standard does not apply.

Need for adequate drainage. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

Drainage and storm water detention facilities are discussed in greater detail under the Street and Utility Improvement section.

Determination of base flood elevation. Where base flood elevation has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

The proposed subdivision is for 4 lots and the subject site is .43 acres. The subject property is not within the 100-year floodplain. The subject site is within Zone X on the FEMA Floodplain map. Therefore, this standard does not apply.

Section 18.430.030 (E) describes the approval process for Phased Developments.

The Approval Authority may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period for any phase be greater than two years without re-applying for a preliminary plat. The criteria for approving a phased site development review proposal are:

- ♦ **The public facilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;**
- ♦ **The development and occupancy of any phase shall not be dependent on the use of temporary public facilities:**

The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.

The applicant has not proposed a phased development. Therefore, this standard does not apply.

The Approval Authority may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

The proposed preliminary plat complies with the applicable zoning ordinance and other applicable ordinances and regulations;

Compliance with the specific regulations and standards of the zoning ordinance will be addressed further within this decision.

The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92;

The project is currently known as the Nash Garden Court subdivision. It is unknown if this name has been approved by the Washington County Surveyor's office or if the name is reserved for this property. No plat reservation form was submitted with the application. This criterion can be met as conditioned below.

The streets and roads are laid out so as to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the City determines it is in the public interest to modify the street or road pattern; and

This will be discussed in greater detail under Tigard Development Code (TDC) Chapter 18.705, Access and Chapter 18.810, Street and Utility Improvement Standards.

An explanation has been provided for all common improvements.

The applicant's narrative provides the necessary explanation for all common improvements.

Section 18.430.060A. authorizes the granting of adjustments for subdivisions in accordance with 18.430.050, provided that the application shall be made with a preliminary plat application with the criteria for granting such adjustments are contained in Section 18.370.020 C1.

The applicant has requested two adjustments with this application. An access spacing adjustment is required for the proposed private street. The front yard setback for the existing home cannot meet the current 15-foot setback requirement. Both of these are discussed under the Variances and Adjustments section of this decision. Therefore, this standard has been met.

FINDING: The Subdivision standards can be met if the applicant complies with the conditions below:

CONDITION: Prior to final plat, the applicant shall submit an approved copy of the Washington County plat name reservation form for the subdivision.

B- APPLICABLE TIGARD DEVELOPMENT CODE SECTIONS

Variances and Adjustments (18.370)

Front Yard Setback

The applicant has requested a variance to the front yard setback for lot 1. The existing home on lot one cannot meet the fifteen foot setback requirement of the R-12 residential zone. The setback for the existing home will be only 10 feet from the street after dedication of right-of-way along McDonald Street. This is a 33% reduction (5 feet). Because the reduction is more than the 20% allowed through a Type 1 adjustment, a variance has been requested. Unroofed stairs leading from the porch will also encroach into the setback. These are allowed by code section 18.730.050.D.4.

Section 18.370.010(C)(3) states, “The Director shall approve, approve with modifications, or deny an application for a subdivision variance subject to the criteria set forth in Section 18.370.010.C.

Section 18.370.010(C) lists the following approval criteria:

- a. The proposed variance will not be materially detrimental to the purposes of this title, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;**
- b. There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;**
- c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;**
- d. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms or parks will not be adversely affected any more than would occur if the development were developed as specified in the title;**
- e. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.**

The home was built in 1916 in its current location, and the current front yard setback is 15 feet. The shallow front yard area combined with the elevation differences between the finished floor and street levels, results in a difficult transition. The porch and existing stairs aid in this transition and therefore should not be removed.

Allowance of the variance is not detrimental to the purposes of this title. The reduction of the front yard setback has no effect on the distance between the existing home and neighboring units. SW McDonald Street separates the home from others to the north. Reducing the setback enables the applicant to dedicate additional right-of-way, widen the street, and make the required half-street improvements. A major historic reason for front yard setbacks was to provide for the future widening of streets.

The existing home will remain and three single-family, detached homes will be constructed on lots 2-4. Single-family detached dwellings are permitted in the R-12 zone. City standards will be maintained to the greatest extent possible. All other setbacks will be met. The development proposes four units, which is the maximum allowed for the site. Due to location of the existing home and the long, narrow shape of the site, lot configuration is limited. Even by reducing the units to the minimum (3 units), the design of the development would not change and the lot 1 front yard setback could not be met.

No natural systems exist on the site. Due to existing conditions, the hardship is not self imposed. These conditions include the location and design of the existing home, and the dedication requirements for SW McDonald Street. The applicant has requested a 5-foot reduction to reduce the setback to 10 feet. This is the minimum needed to alleviate the hardship. The request for a variance to the front yard setback is approved.

Section 18.705.020.C.5 states that 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 the following approval criteria:

- ♦ It is not possible to share access;**
- ♦ There are no other alternative access points on the street in question or from another street;**
- ♦ The access separation requirements cannot be met;**

- ◆ **The request is the minimum adjustment required to provide adequate access;**
- ◆ **The approved access or access approved with conditions will result in a safe access; and**
- ◆ **The visual clearance requirements of Chapter 18.795 will be met.**

Due to the site’s proximity to existing driveways and streets along McDonald, the applicant cannot meet the spacing standard of 200 feet along a collector. An adjustment is being requested. The applicant has proposed a private street onto McDonald Street near the site’s western boundary. An existing home to remain on the site prohibits its placement in any other location. This placement provides the maximum distance possible from public streets. It is nearly 200 feet from 103rd Avenue and exceeds 200 feet from 104th Avenue. The new private street is located 6 feet from an existing multi-family access to the west. A proposal was made to the adjacent property owner about shared access. The adjacent development is used by the Tigard Recovery Center (TRC). Due to confidentiality issues, the owner has declined the shared access request.

The request is the minimum necessary and the location does not create a hazardous situation. A sight distance certification has been prepared which shows sight distance is in excess of the required amount. Based on the site plan, there appear to be no structures existing or proposed within the vision clearance areas, but visual clearance was not specifically addressed by the applicant. A condition of approval will ensure that the standard can be met. There is no access point along the site’s frontage that meets the spacing standard. Shared access or access from another street is not possible at this time. Placement of the private street along the western boundary still provides adequate sight distance. For these reasons, the adjustment request is approved.

Residential Zoning Districts (18.510)

Lists the description of the residential Zoning District.

The site is located in the R-12: Medium Density residential zoning district.

The R-12 zoning district has the following dimensional requirements:

STANDARD	R-12
Minimum Lot Size Detached unit	3,050 sq. ft.
Average Minimum Lot Width	None
Maximum Lot Coverage	80%
Minimum Setbacks	
Front yard	15 ft.
Side facing street on corner & through lots	10 ft.
Side yard	5 ft.
Rear yard	15 ft.
Side or rear yard abutting more restrictive zoning district	30 ft.
Distance between property line and front of garage	20 ft.
Maximum Height	35 ft.
Minimum Landscape Requirement	20%

The proposed lots range in size between 3,196 and 5,086 square feet (average 3,787 square feet). The R-12 zone does not have an average minimum lot width. Parcels 2-4 are narrow lots that are 29 feet wide. The applicant will be required to comply with the setbacks, lot coverage, and height requirements during the building permit review process for parcels 2-4. No information was provided on lot coverage and landscaping for parcel 1. All lots within this subdivision are for single-family units. This is not a planned development; therefore, the setbacks are as prescribed by the base zone.

FINDING: Based on the analysis above, the residential zoning district dimensional standards can be satisfied conditionally.

- CONDITIONS:**
- ◆ Prior to issuance of building permits, the applicant shall demonstrate that the development standards required in the base zone (R-12) have been met.
 - ◆ Prior to site work the applicant shall provide a revised site plan for review and approval to the Planning Division showing lot coverage and landscaping percentages for Parcel 1.

Access, Egress and Circulation (18.705):

18.705.030 (C). describes joint access provisions. 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.

Vehicular access to the four lots will be via a private drive (Tract A). All parcels will have individual access onto the proposed private street. Tract A will be owned and maintained by the four property owners. A reciprocal access easement is required to grant access to all four parcels. This criterion can be conditionally met.

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 lots will directly access a private street (Tract A). Tract A provides access to SW McDonald Street, a public street. Shared maintenance by all four parcels is required for the new private street. (Condition #29)

Required walkway location. On-site pedestrian walkways shall comply with the following standards:

Walkways shall extend from the ground floor entrances or from the ground floor landing of stairs, ramps, or elevators of all commercial, institutional, and industrial uses, to the streets which provide the required access and egress. Walkways shall provide convenient connections between buildings in multi-building commercial, institutional, and industrial complexes. Unless impractical, walkways shall be constructed between new and existing developments and neighboring developments;

Within all attached housing (except two-family dwellings) and multi-family developments, each residential dwelling shall be connected by walkway to the vehicular parking area, and common open space and recreation facilities;

Wherever required walkways cross vehicle access driveways or parking lots, such crossings shall be designed and located for pedestrian safety. Required walkways shall be physically separated from motor vehicle traffic and parking by either a minimum 6-inch vertical separation (curbed) or a minimum 3-foot horizontal separation, except that pedestrian crossings of traffic aisles are permitted for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used. Walkways shall be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts, and shall be in compliance with ADA standards;

Required walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways may be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.

This proposal is for a single-family development, this standard does not apply.

Curb cuts shall be in accordance with Section 18.810.030N.

Inadequate or hazardous access. Applications for building permits shall be referred to the Commission for review when, in the opinion of the Director, the access proposed:

- ♦ Would cause or increase existing hazardous traffic conditions; or
- ♦ Would provide inadequate access for emergency vehicles; or
- ♦ Would in any other way cause hazardous conditions to exist which would constitute a clear and present danger to the public health, safety, and general welfare.

The lots within this subdivision will access SW McDonald Street via a private street (Tract A). Tualatin Valley Fire and Rescue and Tigard Police have been notified of the proposed subdivision and have not indicated a hazard. A preliminary sight distance certificate has been provided that demonstrates sight distance requirements are exceeded. The Director has not determined that Planning Commission review is necessary for building permits. Therefore, this standard has been satisfied.

Direct individual access to arterial or collector streets from single-family dwellings and duplex lots shall be discouraged. Direct access to collector or arterial streets shall be considered only if there is no practical alternative way to access the site. If direct access is permitted by the City, the applicant will be required to mitigate for any safety or neighborhood traffic management (NTM) impacts deemed applicable by the City Engineer. This may include, but will not be limited to, the construction of a vehicle turnaround on the site to eliminate the need for a vehicle to back out onto the roadway.

The proposed single-family lots will have access onto a private street (Tract A). No single-family lot will have direct access to a major collector or arterial. This standard has been satisfied.

In no case shall the design of the service drive or drives require or facilitate the backward movement or other maneuvering of a vehicle within a street, other than an alley. Single-family and duplex dwellings are exempt from this requirement.

The proposed single-family development is exempt from this requirement.

Access Management (Section 18.705.030.H)

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, DL Design Group, Inc., has submitted a preliminary sight distance certification for the proposed private street intersection with McDonald Street. The speed limit along McDonald Street is 35 mph, requiring 350 feet of sight distance in both directions. The engineer states that sight distance was measured to be in excess of 900 feet to the west (distance to the intersection of McDonald Street and Highway 99) and in excess of 700 feet to the east. This preliminary assessment shows that sight distance can be met at the proposed intersection.

Upon completion of the frontage improvements, the engineer shall submit a final sight distance certification for the intersection of the private street and McDonald Street. This certification must be submitted to the City Engineering staff prior to issuance of building permits.

No direct access to McDonald Street will be allowed from Lot 1. The applicant shall cause a statement to be placed on the plat that prohibits access onto McDonald Street along the entire frontage of Lot 1.

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.

McDonald Street is classified as a collector on the City of Tigard's Transportation System Plan (TSP). The proposed private street will create a new intersection with McDonald Street. The driveway for Lot 2 is located approximately 96 feet from this intersection, and in fact the driveways for Lots 3 and 4 are within 150 feet from this intersection. However, the driveways are placed as far as possible from the intersection given the limited private street frontage, thereby meeting this criterion.

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.

McDonald Street is classified as a collector on the City of Tigard's Transportation System Plan (TSP). The applicant's proposed private street is only 6 feet from an existing driveway to the west. There are at least 7 other driveways within 200 feet of the proposed private street. The proposed private street is located less than 200 feet from 103rd Avenue. The applicant has only acknowledged that the proposed private street is nearly 200 feet from 103rd Avenue. This does not meet the spacing criterion. The applicant has made a proposal to the adjacent property owner to combine accesses. The adjacent property owner has declined this proposal. The applicant is therefore requesting an adjustment to the spacing standard in accordance with 18.370.

Minimum access requirements for residential use. Vehicular access and egress for single-family, duplex or attached single-family dwelling units on individual lots and multi-family residential uses shall not be less than as provided in Table 18.705.1 and Table 18.705.2;

Access to all four lots will be via the proposed private street (Tract A). As proposed the tract is 21 feet wide with 20 feet of pavement. This standard is met.

Vehicular access to multi-family structures shall be brought to within 50 feet of the ground floor entrance or the ground floor landing of a stairway, ramp, or elevator leading to the dwelling units;

No multi-family structures are proposed with this application. Therefore, this standard does not apply.

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

All four units will access the proposed private street (Tract A). Because the street is less than 26 feet wide, "No Parking" signs must be posted on both sides of the street per comments provided by Tualatin Valley Fire and Rescue. A condition will ensure requirement is met.

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 circular, paved surface having a minimum turn radius measured from center point to outside edge of 35 feet;**
- ♦ **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;**
- ♦ **The maximum cross slope of a required turnaround is 5%.**

The proposed private street is approximately 140 feet in length. The applicant states that Tualatin Valley Fire and Rescue (TVF&R) and Pride Disposal Service were contacted regarding the length of the access drive. The Deputy Fire Marshal did not express concern provided hydrants are convenient to the site. No comments requiring a turnaround were given by the Fire Marshal, John Dalby, after his review of the application. Pride Disposal indicated the curbside pick-up service is specified along McDonald Street, and Pride trucks will not be utilizing the private street. This criterion is therefore not applicable.

Vehicle turnouts, (providing a minimum total driveway width of 24 feet for a distance of at least 30 feet), may be required so as to reduce the need for excessive vehicular backing motions in situations where two vehicles traveling in opposite directions meet on driveways in excess of 200 feet in length;

Each home will have an individual driveway onto the private street. None of the proposed lots are deep enough to have a driveway over 200 feet in length. This criterion is not applicable.

Where permitted, minimum width for driveway approaches to arterials or collector streets shall be no less than 20 feet so as to avoid traffic turning from the street having to wait for traffic exiting the site.

This standard is not applicable as there are no driveway approaches to arterial or collector streets.

FINDING: Based on the analysis above, the Access Egress and Circulation standards can be met as conditioned below.

CONDITIONS:

- ♦ The applicant shall cause a statement to be placed on the final plat or record a separate document showing a reciprocal access easement across the private street (Tract A) for all four parcels.
- ♦ Prior to site work, the applicant shall submit a revised site plan showing “No Parking” signs along both sides of the proposed private street as required by TVF&R.

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, and the existing dwelling site from the total site area. Of the total site area (18,595 square feet), 444 square feet will be dedicated for additional right-of-way along McDonald Street. An additional 2,884 square feet is subtracted for the proposed private street (Tract A). The existing house site is 5,086 square feet based on the site plan. The resulting net area is 10,181 square feet. Therefore, the maximum number of additional lots permitted on this site is 3 and the minimum number of additional lots is 2. The applicant calculates the maximum and minimum as 4 and 3 additional lots respectively based on a calculation subtracting the building square footage of the existing residence and not the actual site square footage. Regardless, the applicant’s proposal to create 3 additional lots for single-family detached homes meets the maximum and minimum density requirements of the R-12 zone.

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

Environmental Performance Standards (18.725):

These standards require that federal and state environmental laws, rules and regulations be applied to development within the City of Tigard. Section 18.725.030 (Performance Standards) regulates: Noise, visible emissions, vibration and odors.

Noise. For the purposes of noise regulation, the provisions of Sections 7.41.130 through 7.40.210 of the Tigard Municipal Code shall apply.

Visible Emissions. Within the commercial zoning districts and the industrial park (IP) zoning district, there shall be no use, operation or activity which results in a stack or other point- source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality (DEQ) rules for visible emissions (340-21-015 and 340-28-070) apply.

Vibration. No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.

Odors. The emissions of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.

Glare and heat. No direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted, and; 1) there shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and 2) these regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title.

Insects and rodents. All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

This is a detached single-family project, which is permitted within the R-12 zone. There is nothing to indicate that these standards will not be met. However, ongoing maintenance to meet these standards shall be maintained and any violation of these standards will be addressed by the City of Tigard's Code Enforcement Officer.

FINDING: The Environmental Performance standards are met.

Landscaping and Screening (18.745):

18.745.030.C, Installation Requirements The installation of all landscaping shall be as follows:

1. 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.

- 2. 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**
- 3. 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.

The applicant must provide a mitigation proposal that shows the species, location, and spacing of mitigation trees in relation to buildings, infrastructure, existing trees, street trees, and each other. No planted mitigation trees will be credited against the assurance until mitigation plans are presented in an acceptable format and approved.

Protection of Existing Landscaping. 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).**

All trees to be preserved shall be protected with five or six (5' - 6') foot high chain link fences. Fences are to be mounted on two inch diameter galvanized iron posts, driven into the ground to a depth of at least 2-feet at no more than 10-foot spacing. The applicant shall position fencing as directed by the project arborist to protect the trees to be retained. 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.

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 shown on the plans, and adequately protected.

18.745.040, Street Trees

Street tree planting list. Certain trees can severely damage utilities, streets and sidewalks or can cause personal injury. Approval of any planting list shall be subject to review by the Director.

The applicant has not indicated the spacing and species of street trees they are proposing to plant on McDonald. Also, no street trees are proposed for the private drive portion of the project. Therefore, this requirement has not been met.

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.

Street trees shall be chosen from the City of Tigard's Street Tree List unless otherwise approved by the City Arborist.

Section 18.745.050 contains the provisions and requirements for buffering and screening.

There is an apartment building on the site west of the development (Tax Lot 1500). The Buffering and Screening Matrix (Table 18.745.1) requires buffering or screening when a single-family detached residential use is proposed adjacent to an existing multi-family development. The buffer requirement is ten feet of lawn or groundcover on the development site. Based on aerial photographs, the apartments to the west are at least 20 feet from the subject site and there are existing pine trees between the two properties. The applicant can choose to submit a detailed landscaping and screening plan for approval by the Director in-lieu of the required ten foot buffer (Section 18.745.050.A.3). This criterion can be met conditionally.

Section 18.745.060 contains the provisions for re-vegetation where natural vegetation has been removed through grading. Such areas are to be replanted as set forth in this section to prevent erosion after construction activities are completed.

The applicant has provided a grading plan which outlines erosion control measures but gives no specifics on the methods of re-vegetation. The criterion is also not addressed within the narrative. All areas graded during subdivision development will need to be re-seeded and/or planted to ensure stabilization.

FINDING: The Landscaping and Screening standards will be met, if the applicant complies with the conditions below.

CONDITIONS:

- ◆ Prior to commencing site work, the applicant shall submit a revised site plan that indicates the type and location of street trees along the public street (SW McDonald Street) and the proposed private street (Tract A) 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.
- ◆ Prior to commencing site work, the applicant shall submit an erosion control plan that shows and describes methods for re-vegetation of disturbed areas. All areas graded during subdivision development will need to be re-seeded and/or planted to ensure stabilization.
- ◆ Prior to issuance of building permits the applicant shall submit a site plan for lot 2 showing a 10-foot buffer along the western property line or a detailed landscape/screening plan for review and approval that affords the same degree of screening as a 10-foot buffer.

Off-Street Parking and Loading Requirements (18.765):

Chapter 18.765, Table 18.765.2 requires that single-family residences be provided with one (1) off-street parking space for each dwelling unit.

The proposed project will create 4 lots for single-family dwellings. Table 18.765.2 requires that one (1) off-street parking space be provided per detached dwelling unit. There is no maximum limit on parking allowed for detached single-family dwellings. There is also no bicycle parking requirement for single-family dwellings. The applicant stated within the narrative each new home will have a double-car garage and two parking spaces within the driveways. Two off-street parking spaces are proposed for lot 1 along the private street. Because street trees are required along the street, these spaces will be eliminated from the plan. The applicant is conditioned to show one off-street parking space for lot 1.

FINDING: Because street trees must be added along the private street, the proposed off-street parking for Parcel 1 cannot be approved.

CONDITION: Prior to final plat the applicant shall submit a revised site plan that shows one off-street parking space for Parcel 1.

Signs (18.780):

Chapter 18.780 regulates the placement, number and design criteria for signage.

No specific signage is proposed in conjunction with this development. No parking signs will be placed along the proposed private street, but these are exempt from the sign code regulations. Any future signage will be subject to the sign permit requirements in Chapter 18.780. There has been a proliferation of sign violations from new subdivisions. In accordance with a staff policy, all new subdivisions must enter into a sign compliance agreement to facilitate a more expeditious court process for citations.

FINDING: To expedite enforcement of sign violations, a sign compliance agreement will be required.

CONDITION: Prior to the issuance of building permits, the developer shall sign a copy of the City's sign compliance agreement.

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 subdivisions, the applicant submitted a tree plan conducted by Kay Kinyon, a certified arborist. However, the report does not contain the four required components and is therefore not acceptable (See comments below for details).

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;

The Arborist Report identified the location, size and species of all existing trees, consistent with this standard.

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:

- a. 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;**
- b. 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;**
- c. 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;**
- d. Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.**

Based on the arborist's Tree Assessment, there are a total of 9 trees on site greater than 12 inches. The arborist's report states that all trees over 12 inches are proposed for removal, but the site plan shows that only 7 of these trees are to be removed. The applicant is being conditioned to submit a finalized plan that shows which trees will be removed.

Most of the trees are being removed in order to construct the private street. Site plan changes required by the conditions of approval may affect the possible retention of trees #13 and 14. Removal of 7 or all 9 trees results in retention of less than 25% of the existing trees over 12 inches. According to the mitigation schedule above, all inches lost must be mitigated. The finalized tree removal plan will determine the number of mitigation inches required (156 or 191). No specific mitigation plan was proposed; therefore the applicant is being conditioned to provide one.

Identification of all trees which are proposed to be removed;

The tree preservation plan (C3.2) and the arborist's report show conflicting information. The applicant is being conditioned to provide a finalized tree removal plan.

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

The guidelines for tree protection have been defined. However, the guidelines need to state that if any temporary or permanent alterations to the approved tree protection plan are required, a certified arborist needs to approve the changes and submit a report to the City Arborist. The report needs to document the changes and certify that the viability of the affected trees will not be significantly impacted.

The tree protection fencing shown in the arborist report does not match the protection shown on the tree preservation plan, sheet C3.2. The applicant must revise the tree plan so that the plan agrees with the arborist report.

The applicant's tree protection plan says, "Try to avoid loss of more than 30% of roots on any one side." and, "Engineer and design proposed structures and construction to avoid root loss. Bridge type foundations can save major roots." However, there is no proposal as to how trees with major losses (over 30% on one side) to their root systems will be protected during development through alternative design and/or engineering. Also, the applicant's tree protection plan says, "Avoid future conflicts with buildings and utilities." However, some of the trees to be retained appear that they may conflict with future buildings. Conditions of approval will require the applicant to consider and resolve these issues.

All trees to be preserved shall be protected with five or six (5' - 6") foot high chain link fences. Fences are to be mounted on two inch diameter galvanized iron posts, driven into the ground to a depth of at least 2-feet at no more than 10-foot spacing. The applicant shall position fencing as directed by the project arborist to protect the trees to be retained. 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.

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.

Retained trees must be protected and removal of these trees is restricted. A condition of approval will ensure that this standard is met.

FINDING: Based on the analysis above, the Tree Removal standards will be met, if the applicant complies with the conditions listed below:

CONDITIONS:

- ◆ Prior to the submittal of the Public Facility Improvement Plan the applicant shall submit a revised tree plan for review and approval that shows the trees to be removed and protection measures for trees being retained. This condition is to cover discrepancies between the proposed plans and the arborist's report.
- ◆ Prior to issuance of the Public Facility Improvement Permit (PFI), the applicant shall submit construction drawings to both Planning and Engineering that include:
 - A. The approved Tree Removal and Protection Plan;
 - B. A note prohibiting equipment, vehicles, machinery, grading, dumping, storage, burial of debris, or any other construction-related activities in any tree protection zone; and
 - C. A note stating that only those trees identified on the approved Tree Removal plan are authorized for removal by this report. Notwithstanding any other provision of this title, any party found to be in violation of this chapter [18.790] 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: 1) Replacement of unlawfully removed or damaged trees in accordance with Section 18.790.060(D) of the Tigard Development Code; and 2) 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 the issuance of site permits the applicant shall submit the following for review and approval:
 - A. A statement to the City Arborist outlining the steps to be taken during site preparation and construction to preserve trees #13, 14, 15, 16, 17 and 18.
 - B. A report from the Project Arborist that approves the retention of trees #13, 14, 15, 16, 17 and 18. The arborist must also address the feasibility of retention during construction and the sustainability of their placement in relation to the structures that will be built.
- ◆ Prior to commencing site work, the applicant shall submit a revised corrected mitigation plan and a cash assurance (letter of credit or cash deposit) for the equivalent value of mitigation required (number of caliper inches times \$125 per caliper inch). Any trees successfully planted on the site or off site in accordance with 18.790.060.D and approved tree mitigation plan will be credited against the assurance for two years following final plat approval. After such time, the applicant shall pay the remaining value of the assurance as a fee in-lieu of planting.
- ◆ Prior to commencing site work, the applicant shall establish fencing as directed by the project arborist to protect the trees to be retained. The applicant shall call for an inspection and allow access by the City Arborist for the purpose of monitoring the tree protection to verify that the tree protection measures are performing adequately.
- ◆ The applicant shall submit written reports to the City Arborist at least once every two weeks from initial tree protection zone (TPZ) fencing installation through building construction. The reports shall include the condition and location of the tree protection fencing and whether any changes occurred. 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, long-term health and stability of the tree(s). 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.
- ◆ Prior to the issuance of building permits, the applicant must submit a tree mitigation plan to the City Arborist for review and approval.
- ◆ Prior to issuance of building permits, the applicant (developer or builder) shall:
 - A. Submit site plan drawings showing the accurate location of the trees that were preserved, the location of tree protection fencing.
 - B. Submit a statement and signature of approval from a certified arborist regarding the siting and construction techniques to be employed in building the house with respect to any protected trees on site.
- ◆ Prior to issuance of building permits, the applicant shall record a deed restriction to the effect that any existing tree greater than 6 inches 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.
- ◆ Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.

Vision Clearance:

Chapter 18.795 applies to all development and requires that clear vision area shall be maintained on the corners of all property adjacent to intersecting right-of-ways and at the intersection of a public street and a private driveway. A visual clearance area shall contain no vehicle, hedge, planting, fence, wall structure, signs, or temporary or permanent obstruction exceeding three feet in height.

Vision clearance areas are not shown on the proposed site plan. The applicant addresses site distance standards in the narrative, but not vision clearance. This standard can be met as conditioned below.

FINDING: The proposed vision clearance areas do not meet the standard outlined in 18.795.040.B.

CONDITIONS:

- ◆ Prior to site permit, the applicant shall submit a revised site plan for review and approval that shows the clear vision areas that meets the standard of 18.795.040.
- ◆ Place a note on the final plat for visual clearance easements to the benefit of to the City of Tigard and that said easements are subject to the City of Tigard Visual Clearance Area standards (Tigard Development Code Chapter 18.795).

C – STREET AND UTILITY IMPROVEMENTS STANDARDS (SECTION 18.810):

Street And Utility Improvements Standards (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 Neighborhood Route to have a 54 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 lies adjacent to SW McDonald Street, which is classified as a Collector on the City of Tigard Transportation Plan Map. At present, there is approximately 30 feet of ROW from centerline, according to the most recent tax assessor's map. The applicant should dedicate the additional ROW to provide 35 feet from centerline.

SW McDonald Street is currently partially improved. In order to mitigate the impact from this development, the applicant should construct half street improvements in accordance with Figure 18.810.2 for the 70 foot ROW, as shown in the TDC.

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 for future streets or extensions of streets due to existing development and existing street patterns.

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.

There are no opportunities for street connections from this development due to pre-existing development and existing street patterns.

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.

Because the grades along SW McDonald Street, a collector, are much less than 12%, this criterion is met.

Access to Arterials and Major Collectors: Section 18.810.030.Q states that where a development abuts or is traversed by an existing or proposed arterial or major collector street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design shall include any of the following:

A parallel access street along the arterial or major collector; Lots of suitable depth abutting the arterial or major collector to provide adequate buffering with frontage along another street; screen planting at the rear or side property line to be contained in a non-access reservation along the arterial or major collector; or other treatment suitable to meet the objectives of this subsection; if a lot has access to two streets with different classifications, primary access should be from the lower classification street.

SW McDonald Street is classified as a collector street. The proposed access for all four lots will be from a private street located at the west side of the lot. There will be no direct access allowed from Lot 1 onto McDonald Street.

Private Streets: Section 18.810.030.T states that design standards for private streets shall be established by the City Engineer. The City shall require legal assurances for the continued maintenance of private streets, such as a recorded maintenance agreement. Private streets serving more than six dwelling units are permitted only within planned developments, mobile home parks, and multi-family residential developments.

The applicant has proposed a private street on the west side of the development to provide access to all four lots. The plans indicate the private street will be constructed within a 21 foot wide tract. Two parking spaces are shown adjacent to the private street in an 8 foot easement, but the spaces will be relocated to make way for street trees. A five foot wide concrete sidewalk is also shown on the east side of the private street within an easement.

The applicant shall place a statement on the face of the final plat indicating the private street(s) will be owned and maintained by the properties that will be served by it/them. In addition, the applicant shall record Conditions, Covenants and Restrictions (CC&R's) along with the final plat that will clarify how the private property owners are to maintain the private street(s). These CC&R's shall be reviewed and approved by the City prior to approval of the final plat. The City's public improvement design standards require private streets to have a pavement section equal to a public local street. The applicant will need to provide this type of pavement section.

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 2,000 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.

All of the sites surrounding the property have existing development. McDonald Street is a collector. The proposed private street to access the site does not meet spacing standards for access points along a collector. The applicant has requested an adjustment to allow the access. This in-fill development does not provide opportunities to create a new block.

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.

Based on the standard above, none of the proposed parcels can be more than 2.5 times the average lot width unless they are less than 1.5 times the minimum lot size (3,050 square feet). Only parcel 1 is greater than 1.5 times the minimum lot size ($3,050 \times 1.5 = 4,575$). The size and shape still meets the standard because the depth (76 feet) is still less than 2.5 times the average minimum width of 67 ($2.5 \times 67 = 167.5$). All four lots meet this standard.

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 is a through lot and has approximately 67 feet of frontage along McDonald Street and 136 feet along the private street (Tract A). Parcels 2 and 3 have 29.6 feet, and parcel 3 has 25 feet. This standard is met.

Through lots: Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arterials or to overcome specific disadvantages of topography and orientation, and:

- ♦ A planting buffer at least ten feet wide is required abutting the arterial rights-of-way; and
- ♦ All through lots shall provide the required front yard setback on each street.

Parcel 1 will be a through lot. The required front, street side and rear yard setback is therefore 15 feet. The setback cannot be met in the front yard, and the applicant has requested a variance to allow a 10-foot setback. The street side yard setback is 17.41, measured from the property line. Along the rear, the setback is 15.65 feet. This standard has been met.

Lot side lines: The side lines of lots, as far as practicable, shall be at right angles to the street upon which the lots front.

The side lot lines of all four lots are at right angles to either McDonald or Tract A. 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's plans indicate they will construct a 6 foot wide sidewalk with a 5 foot wide planter strip along their SW McDonald Street frontage. The plans also show a 5 foot sidewalk along the east side of the private street. This criterion is met.

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.

There is an existing 8 inch public sewer main in SW McDonald Street. The applicant's plans show the extension of the public sewer line in the private street. Lots 2, 3 and 4 are provided with separate laterals. The final plat shall include a public utility easement over the entire length of the public sewer line.

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 development.

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.

The applicant's plans show an underground pipe provided for on-site detention of stormwater.

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.

SW McDonald Street is an existing bicycle facility. The applicant shall replace the existing striping if damaged or removed during construction of public improvements.

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 McDonald Street. If the fee in-lieu is proposed, it is equal to \$35.00 per lineal foot of street frontage that contains the overhead lines. The frontage along this site is 89 lineal feet; therefore the fee would be \$3,115.00.

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

Public Water System:

There is an existing public water line located in SW McDonald Street. The applicant's plans indicate they will relocate the existing water meter and install 3 new 3/4 inch meters to serve this development.

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.

Prior to construction, the applicant shall submit plans and calculations for a water quality facility that will meet the intent of the CWS Design Standards. In addition, the applicant shall submit a maintenance plan for the facility that must be reviewed and approved by the City prior to construction.

The proposed unit from Stormwater Management is acceptable, provided the property owner agrees to hire the manufacturer (or approved equal) to provide the required maintenance of the unit for the first three years. Prior to a final building inspection, the applicant shall demonstrate that they have entered into a maintenance agreement with Stormwater Management, or another company that demonstrates they can meet the maintenance requirements of the manufacturer.

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.

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 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).

D. – IMPACT STUDY (18.390):

Section 18.390.050 states that the applicant shall provide an impact study to quantify the effect of development on public facilities and services. The study shall address, at a minimum, the transportation system including bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards, 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 the conclusion that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

Section 18.390.050 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's narrative includes an impact study which addresses impacts of the proposed development on public facilities and services. Because the proposed subdivision is only for four (4) lots, traffic from the development will not increase the impact on the existing street system to unexpected or unacceptable levels. With the construction of three additional single-family homes, an additional 30 vehicle trips per day is expected. A half-street improvement is proposed along McDonald Street with a 5-foot right-of-way dedication. Roof and site storm water will be collected and detained on-site before being released into the existing storm line in McDonald Street. A new 8-inch sewer line will be constructed within the private street (Tract A) that will connect with the existing line in McDonald Street. No negative noise impacts are anticipated from this residential development. Each new unit will be assessed a Parks Development Fee at issuance of building permit.

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. Presently, the TIF for a detached, single-family dwelling is \$3,200.

Upon completion of this development, the future builders of the residences will be required to pay TIF's totaling approximately \$9,600 (\$3,200 x 3 dwelling units). TIF credits are issued at the time of building permit for the one existing home to be demolished. 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 \$30,000 (\$9,600 divided by .32). The difference between the TIF paid and the full impact, is considered unmitigated impact. Since the TIF to be paid is \$9,600, the unmitigated impact has an estimated value of \$20,400. The site has frontage along SW McDonald Street (89 feet). Five feet of right-of-way dedication and a half-street improvement is required to meet current standards. The estimated cost of the dedication is \$267 (89 square feet x \$3.00/square foot). The half-street improvements cost an estimated \$17,800 to construct (223 lineal feet x \$200.00/lineal foot). The total value of these improvements is \$18,067.00.

Estimated Value of Impacts

Full Impact	\$ 30,000.00
Less TIF Assessment.....	\$ 9,600.00
<u>Less Mitigated Costs</u>	<u>\$ 18,067.00</u>
Estimated Value of Unmitigated Impacts.....	\$ 2,333.00

McDonald Street is a collector and thus the improvements and right-of-way dedication is considered as mitigated costs. The total value of these mitigated costs plus the TIF assessment is less than the total value of the projected impacts, and therefore roughly proportionate. The dedication and improvement of SW McDonald Street are required to meet the street improvement requirements of 18.810.030, and the applicant has proposed making these improvements.

SECTION VII. OTHER STAFF COMMENTS

Tigard Police have reviewed the proposal and suggest a monument marker along McDonald Street at the foot of the private road that identifies the house numbers for parcels 1-4.

Tigard Building Division have reviewed the proposal and made the following comments:

- ◆ private water services shall be sized per table P2910.2 ORSC and be installed by a licensed plumbing contractor
- ◆ storm detention system size and design shall be approved by the City of Tigard Engineering Division

SECTION VIII. AGENCY COMMENTS

Tualatin Valley Fire and Rescue has reviewed the proposal and endorses the proposal predicated on the following criteria and conditions of approval:

- 1) **NO PARKING SIGNS:** Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, "No Parking" signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Roads 26 feet wide or less shall be posted on both sides as a fire lane. Roads more than 26 feet wide to 32 feet wide shall be posted on one side as a fire lane. Signs shall read "NO PARKING - FIRE LANE" and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a white reflective background. (IFC D103.6)
- 2) **SINGLE FAMILY DWELLINGS - REQUIRED FIRE FLOW:** The minimum available fire flow for single family dwellings and duplexes served by a municipal water supply 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 IFC Appendix B. (IFC B105.1)

The nearest acceptable fire hydrant must be capable of providing the required fire flow demand.

- 3) **FIRE HYDRANTS – ONE- AND TWO-FAMILY DWELLINGS & ACCESSORY STRUCTURES:** Where a portion of a structure is more than 600 feet from a hydrant on a fire apparatus access road, as measured in an approved route around the exterior of the structure(s), on-site fire hydrants and mains shall be provided. (IFC 508.5.1)

The existing fire hydrant location shown on the submitted drawings does not appear to be located in a public right of way. If the fire hydrant is privately owned, it will not be acceptable.

Qwest was sent a copy, but responded to say the site is not within a Qwest service area.

Clean Water Services has reviewed the proposal. Comments have been incorporated into the decision and conditions.

SECTION IX. PROCEDURE AND APPEAL INFORMATION

Notice:

Notice was posted at City Hall and mailed to:

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

Final Decision:

THIS DECISION IS FINAL ON NOVEMBER 20, 2007 AND EFFECTIVE ON DECEMBER 7, 2007 UNLESS AN APPEAL IS FILED.

Appeal:

The Director's Decision is final on the date that it is mailed. Any party with standing 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 DECEMBER 6, 2007.

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.

Cheryl A. Caines
PREPARED BY: Cheryl Caines
Associate Planner

November 20, 2007
DATE

Richard Bewersdorff
APPROVED BY: Richard Bewersdorff
Planning Manager

November 20, 2007
DATE

GEOGRAPHIC INFORMATION SYSTEM
VICINITY MAP

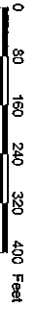
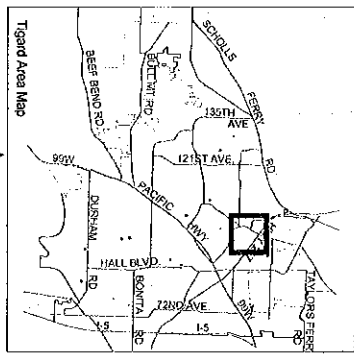
SUB2007-00007
VAR2007-00026
VAR2007-00042

NASH GARDEN
SUBDIVISION



SUBJECT
SITE

LEGEND:



1"=312.5feet



Information on this map is for general location only and should be verified with the Development Services Division, 13125 SW Hill Blvd, Tigard, OR 97223

http://www.ci.tigard.or.us

