



# Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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[www.lcd.state.or.us](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

June 25, 2007

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Oregon City Plan Amendment  
DLCD File Number 004-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: July 6, 2007**

This amendment was not submitted to DLCD for review prior to adoption. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Stacy Humphrey, DLCD Metro-Portland Regional Representative  
Peter Walter, City of Oregon City

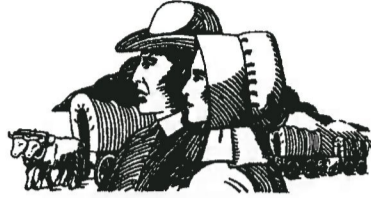
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# CITY OF OREGON CITY

## PLANNING DIVISION

320 WARNER MILNE ROAD  
TEL (503) 657-0891

OREGON CITY, OREGON 97045  
FAX (503) 722-3880



### CITY OF OREGON CITY - PLANNING DIVISION

Notice Of Decision (NOD) Mailing List  
DATE: June 15, 2007

DEPT OF

JUN 18 2007

LAND CONSERVATION  
AND DEVELOPMENT

FILE #

TP 06-06  
ZC 06-01  
VR 06-07

IN-HOUSE DISTRIBUTION

- BUILDING OFFICIAL
- ENGINEERING MANAGER
- PUBLIC WORKS- OPERATIONS
- CITY ENGINEER/P.WORKS DIRECTOR.
- TECHNICAL SERVICES (GIS)
- PARKS MANAGER
- ADDRESSING
- CITY ATTORNEY
- TRANSPORTATION CONSULTANT (DEA)

MAIL-OUT DISTRIBUTION

- CICC
- NEIGHBORHOOD ASSOCIATION (N.A.) CHAIR
- N.A. LAND USE CHAIR
- FIRE CHIEF
- CLACKAMAS COUNTY - Joe Marek
- CLACKAMAS COUNTY - Ken Kent
- SCHOOL DISTRICT 62
- TRI-MET
- ODOT - Sonya Kazen
- ODOT - Loretta Kiefer
- ~~DECD~~
- Other: \_\_\_\_\_

Owner: Icon Construction

Applicant: Icon Construction

People who testified or wrote in:

David and Mary Bell

Irma Sullivan

Katherine Salisbury

Lars and Yanah Brennan

Bob Ramsour

John Rankin

Albert Powers

Tracy Hamblet

Keith and Judy Larkin

Bernard and Michele Thoensen

\_\_\_\_\_

# CITY OF OREGON CITY

## Land Use Decision

320 WARNER MILNE ROAD  
TEL (503) 657-0891

OREGON CITY, OREGON 97045  
FAX (503) 722-3880



**NOTICE OF LAND USE DECISION**  
**ZC 06-01, TP 06-06 AND VR 06-07 (TYPE IV)**  
**DATE OF MAILING OF NOTICE OF DECISION: June 15, 2007**

**APPLICANT:** Icon Construction  
Attn: Mark Handris  
1980 SW Willamette Falls Drive, Suite 200  
West Linn, OR 97068

**OWNER:** Same as Applicant

**REPRESENTATIVE:** SFA Design Group, LLC  
Attn: Matthew Sprague  
9020 Washington Square Drive, Suite 350  
Portland, OR 97223

Iselin Architects  
Todd Iselin  
1307 7<sup>th</sup> Street  
Oregon City, OR 97045

**REQUEST:** The Applicant is requesting approval of a Zone Change from "R-10" to R-8" Single Family Dwelling District, a 27-lot subdivision and a variance to the maximum cul-de-sac length (zoned "R-10" Single-Family Dwelling District), w/ Historic Overlay District.

**LOCATION:** A parcel of land located at 554 Warner Parrott Road, Oregon City, Oregon 97045 and identified as Clackamas County Map 32E6CA, Tax Lot 3700.

**CONTACT:** Peter Walter, AICP, Associate Planner

**DECISION:** On June 6<sup>th</sup>, 2007, after reviewing all of the evidence in the record and considering all of the arguments made by the Applicant, opposing and interested parties, the City Commission voted 5-0 to approve with conditions the requested Zone Change, Subdivision and Variance. Accordingly, the Planning Commission adopted as its own the Staff Report and Conditions of Approval for File Numbers ZC 06-01, TP 06-06 AND VR 06-07.

**PROCESS:** Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled by ORS 197.763. At the evidentiary hearing held before the planning commission, all issues are addressed. If the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission either in person or in writing) may appeal the planning commission denial to the city commission. If the planning commission denies the application and no appeal has been received within ten days of the issuance of the final decision then the action of the planning commission becomes the final decision of the city. If the planning commission votes to approve the application, that decision is forwarded as a recommendation to the city commission for final consideration. In either case, any review by the city commission is on the record and only issues raised before the planning commission may be raised before the city commission. The city commission decision is the city's final decision and is appealable to the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

The application, decision, and supporting documents are available for inspection at the Oregon City Planning Division located at 320 Warner-Milne Road, Oregon City, OR 97045, (503) 657-0891, between the hours of 8am and 1pm. Copies of these documents are available (for a fee) upon request.

## CONDITIONS OF APPROVAL

Planning Files ZC 06-01, TP 06-06 and VR 06-06 and HR 07-01

June 15, 2007

### SUBDIVISION CONDITIONS OF APPROVAL

1. The Applicant is responsible for this project's compliance to Engineering Policy 00-01. The policies pertain to any land use decision requiring the Applicant to provide any public improvements.
2. The Applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement.
3. The new public water system will be designed with minimum 8-inch water mains throughout the site and be looped to the existing 8-inch water main in Warner-Parrott Road. Individual 1-inch copper water service lines shall be furnished to each lot.
4. New fire hydrants shall be located and installed per Clackamas County Fire District No. 1's requirements.
5. The new public sanitary sewer system will be designed with minimum 8-inch sanitary sewer mains throughout the site.
6. The new public storm sewer system with curb inlets will be designed with minimum 12-inch storm sewer mains throughout the site.
7. The Applicant shall provide final detention and water quality treatment design and calculations for the development to mitigate for impacts to down-stream receiving waters.
8. The Applicant shall receive Clackamas County Fire District 1 approval for the street design, or alternative, prior to the issuance of a grading permit on the site.
9. The Applicant shall receive Clackamas County Fire District 1 approval for the adequacy of fire apparatus and street layout, or alternative, prior to the issuance of a grading permit on the site.
10. The Applicant shall follow the conclusions and recommendations of the Geotechnical Investigation dated July 21, 2006, prepared by GeoPacific Engineering, Inc.
11. Full local street improvements will be required for all proposed full streets except as conditioned in Condition 12. The improved street portion the Applicant is required to provide for a full-street includes, but is not to be limited to, base rock, paved full-street width of 32 feet, curbs and gutters, 5-foot vegetated planter strips including curb width, 5-foot concrete sidewalks behind the planter strip, City utilities (water, sanitary and storm drainage facilities), curb return radii, curb (handicap) ramps, centerline monumentation in monument boxes, traffic control devices, street trees, and street lights. No public sidewalk will be installed on Lot 22.
12. The north-south entry portion of "A" Street from Warner-Parrott Road south to "B" Street shall provide for larger setbacks on Lots 23 through 27 to accommodate Historical Review Board requirements. Full local street improvements will be required for this section of "A" Street. The improved street portion the Applicant is required to provide for a full-street includes, but is not to be limited to, base rock, paved full-street width of 32 feet, curbs and gutters, 10-foot vegetated planter strips including curb width, 8-foot concrete sidewalks behind the planter strip, an additional 6-foot landscape covenant area behind the

sidewalk on the east side only, City utilities (water, sanitary and storm drainage facilities), curb return radii, curb (handicap) ramps, centerline monumentation in monument boxes, traffic control devices, street trees, and street lights.

13. Half-street Minor Arterial improvements will be required along the site's frontage with Warner-Parrott Road. The improved street portion the Applicant is required to provide includes but is not to be limited to, 24-foot pavement from centerline (6-foot turn lane, 12-foot travel lane, and 6-foot bike lane), 5.5-foot vegetated planter strip, 7-foot curb tight concrete sidewalk, City utilities (water, sanitary and storm drainage facilities), curb return radii, curb (handicap) ramps, centerline monumentation in monument boxes, traffic control devices, street trees, and street lights.
14. The Applicant shall provide non-vehicle access strips (NVAS) on the plat along the corners of each street intersection typically to leave 40 feet on the short lot side for a driveway. Actual lengths shall be adjusted during the plat review.
15. The Applicant shall dedicate Warner-Parrott Road ROW to achieve 37 feet from centerline.
16. The Applicant shall dedicate local street ROW as proposed.
17. Ten-foot PUEs along all street frontages and all public off-and on-site easements required for the final engineering plans shall be dedicated to the public on the final plat. All proposed utilities and easements shall be indicated on the construction plans. Any off-site utility easements required for this project shall be obtained and submitted to the City prior to approval of the construction plans.
18. The Applicant shall install all handicap access ramps at the time of street construction. The Applicant shall provide a mid-block ADA ramp on the east side at the intersection of "A" and "B" Streets. Applicant shall reconfigure the ramp at the corner of Lot 10 on "A" Street to provide some form of mid-block access across to the ADA ramp at the end of the eastern sidewalk at the common property line of Lots 21 and 22.
19. The Applicant shall provide an Erosion Prevention and Sedimentation Control Plan to the City for approval. The Applicant shall provide a Preliminary Residential Lot Grading Plan to the City for review prior to the approval of construction plans. A final site Residential Lot Grading Plan shall be required as part of the final construction plans per the City's Residential Lot Grading Criteria and the Uniform building Code. If significant grading is required for the lots due to its location or the nature of the site, rough grading shall be required of the developer prior to the acceptance of the public improvements. There shall not be more than a maximum grade differential of two (2) feet at all subdivision boundaries. Grading shall in no way create any water traps, or create other ponding situations. The plan shall show the existing and proposed swales.
20. The Applicant shall provide access control strips at the west end along the northern section of "B" Street where it borders Tax Lot 3500.
21. The Applicant shall consider providing an "eyebrow"-type curve finish to the west end of "A" Street that provides more street frontage to Tax Lot 3500.
22. Applicant shall submit any CC and R's for the development for review prior to their recordation with the Clackamas County Recorder's Office.
23. Applicant shall comply with the City of Oregon City Street Naming Policy.
24. The Applicant shall provide a street tree plan to the city. A street tree and planter strip planting plan shall be approved by the city prior to the issuance of grading permit for the site. The Applicant shall plant a minimum of one tree every 35 feet. The Community Development Director may approve street trees more than 35 feet apart but in no case may the total number of trees required on the site be reduced.

25. The Applicant shall provide a Five-foot (5') Landscaping area as described by a recorded covenant that will be designed to separate the sidewalk from the side yards of Lots 1 and 27. A side yard fence shall be prohibited north of the new landscaping. The Applicant shall cause to be recorded the location, landscaping plan, and identify the property owners of Lot 27 as the responsible party for the maintenance and upkeep of the landscaped area along the frontage with Warner Parrott Road. The landscaped area shall be located within an easement along the entire Warner Parrott frontage of Lots 1 and 27. The easement shall be designed to maintain an aesthetically pleasing streetscape that does not allow for the development of one continuous fence line adjacent to the sidewalk, which would separate the property from the street and would potentially create an unattractive and unsafe condition along the sidewalk of Warner Parrott Road for the public. The Applicant shall submit a design for the Landscaped area as part the Landscaping Plan for the subdivision and receive approval from the City prior to the issuance of a building permit on Lots 1 and 27.
26. Prior to receiving grading permits, the Applicant shall provide a revised tree removal and preservation plan that shows the location of the trees to be removed and replaced in relation to the setbacks of the R-8 zone. This information is necessary to determine which trees identified for removal shall be replaced as mitigation. Trees to be protected shall be clearly flagged or have clearly visible construction fencing placed around the dripline of the trees prior to issuance of a grading permit. Applicant shall prepare a final tree preservation plan for staff review as part of the construction plan submission. Planning staff shall review all flagged trees and tree protection fencing pursuant to applicant's submitted tree preservation plan prior to release of a grading permit for the site.
27. Applicant shall follow the Tree Protection recommendations provided in the Arborists Report "Tree Condition Inventory – 554 Warner Parrott Road" by registered Consulting Arborist Robert Mazany and Associates, dated September 9, 2006.
28. Regarding the Historic Home site, Applicant shall comply with Historic Review Board Conditions of Approval as approved for Planning File HR 07-01.
29. In the event that the historic home is demolished, a sidewalk shall be required to be constructed to City Engineering standards along the frontage of the historic Lot in order to provide safer pedestrian access on both sides of the street.
30. The applicant shall record an easement on Lot 22 that disallows any future partitioning of the Lot and record a preservation document that a demolition permit cannot be obtained to demolish the historic house until ten (10) years from the date that the subdivision is platted, unless required to protect the health, safety, and welfare of the community. As part of the subdivision review, a plat restriction shall be placed on the historic Lot that prohibits further partitioning.

#### **HISTORIC CONDITIONS OF APPROVAL**

31. Design Guidelines or house plans for new construction on the property shall be presented to and approved by the Historic Review Board prior to platting of the Subdivision. The Design Guidelines shall be recorded as part of the final Subdivision approval to inform future purchasers. The guidelines could be included as part of the Covenants, Conditions and Restrictions (CC&R's).
32. As part of the Subdivision review, reduced planter strips and sidewalks or curb tight sidewalks along Warner Parrot Road should be analyzed for feasibility to see if additional trees can be retained.

33. Prior to receiving a grading permit, the applicant shall present a final tree removal plan to the Historic Review Board. Trees inside the rear, side, corner side and front yard setbacks shall be retained unless deemed unfeasible or a hazard by the Historic Review Board and Staff. Retention of larger trees shall take priority. Driveway location, widths and setbacks, may need to be modified to save healthy trees. Per OCMC 16.12.310 Building site--Protection of Trees, if trees are removed in the setbacks, they are required to be replaced. In addition to the Code, the Historic Review Board is requiring that the replacement trees be trees species located onsite.
34. The Historic Review Board approves the reduction of the size of the Historic McCarver House as part of a Subdivision process. The Historic Review Board recognizes that some lot and road layout may change as part of the subdivision review process. However, if the layout of the subdivision is altered, as determined by staff, to affect the historic significance of the McCarver House, it shall be resubmitted to the Historic Review Board for additional review.
35. Prior to platting of the Subdivision, the applicant is required to submit a National Register Boundary Adjustment to the State Advisory Committee on Historic Preservation via the State Historic Preservation Office.
36. The applicant shall investigate to see if the small cottage can be relocated to a lot in the subdivision or on the historic lot. The footprint of the cottage seems to be less than 600 square feet and can fit within the existing Oregon City Accessory Building Code requirements.
37. The applicant shall record a plat restriction that provides for increased setbacks on lot 23, 24, 25, 26 and 27 of between thirty-five from the property line to allow an unimpeded view corridor of the historic home site.

ORDINANCE NO. 07-1004

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**AN ORDINANCE AMENDING TITLE 17: ZONING, CHAPTER 17.06, ZONING DISTRICT CLASSIFICATIONS, SECTION 17.06.030, OFFICIAL ZONING MAP, OF THE OREGON CITY MUNICIPAL CODE, BY CHANGING THE PROPERTY IDENTIFIED AS CLACKAMAS COUNTY MAP 3-2E-06CA, TAX LOT 3700 FROM R-10 SINGLE-FAMILY DWELLING DISTRICT TO R-8 SINGLE-FAMILY DWELLING DISTRICT AND APPROVING A VARIANCE OF CUL-DE-SAC LENGTH AND A 27 LOT SUBDIVISION ON THE PROPERTY.**

**WHEREAS**, the City of Oregon City has adopted a Zoning Map to implement the Comprehensive Plan in conformance with statutory requirements and the requirements of the Statewide Land Use goals; and

**WHEREAS**, the City of Oregon City Zoning Map implements the Comprehensive Plan Map by illustrating the location best suited for specific development; and

**WHEREAS**, the City of Oregon City Zoning Map may be amended and updated as necessary upon findings of facts that satisfy approval criteria in the City of Oregon City Municipal Code Section 17.68.020; and

**WHEREAS**, the owner of the subject site, located at Clackamas County Map 3-2E-06CA, Tax Lot 3700, and identified as 554 Warner Parrott Road, Oregon City, has requested the approval of a zone change from R-10 Single-Family Dwelling District to R-8 Single-Family Dwelling District, a variance to the maximum cul-de-sac length and a 27-lot subdivision; and

**WHEREAS**, the comprehensive plan designation of the site as Low Density Residential supports the R-8 Single-Family Dwelling District zoning designation, the variance of cul-de-sac length meets all of the criteria for approval pursuant to the City of Oregon City Municipal Code Section 17.60.030, an 26-lot subdivision is permitted and the application meets the density requirements of the R-8 Single-Family Dwelling District, and

**WHEREAS**, the zone change from R-10 Single-Family Dwelling District to R-8 Single-Family Dwelling District has been found to have no significant impact on the water, sewer, storm drainage, transportation system or schools; and

**WHEREAS**, the projected transportation impacts resulting from a zone change from R-10 Single-Family Dwelling District to R-8 Single-Family Dwelling District has been found to have no significant impact on the transportation system, complies with the Transportation System Plan and that no off-site mitigation is required; and

**WHEREAS**, the proposed variance of cul-de-sac length has been found to meet all of the criteria for approval and complies with the Transportation System Plan and that no off-site mitigation is required; and

**WHEREAS**, on September 1, 2006, a Certificate of Appropriateness was issued by the Historic Review Board (Planning HR 06-14) to reduce the lot size of an individually designated historic landmark as part of a proposed subdivision; and



**WHEREAS**, the proposed subdivision meets, or can meet through the proposed conditions of approval, the subdivision design requirements of the Oregon City Municipal Code; and

**WHEREAS**, notice of the proposed zone change and subdivision hearings were mailed to residents within 300 feet of the subject site, signs were posted on the property, notice was published in a local newspaper and the City held public hearings where the objectives and concepts of the proposal were presented and discussed; and

**WHEREAS**, on January 8, 2007 the Planning Commission held a public hearing and, after considering all the public testimony and reviewing all the evidence in the record, recommended approval with conditions to the City Commission by a 3 – 1 vote for the requested zone change, variance and subdivision application; and

**WHEREAS**, on February 21, 2007 the City Commission held a public hearing and, after considering all the public testimony and reviewing all the evidence in the record, remanded the application back to a joint hearing of the Oregon City Planning Commission and Historic Review Boards to a date certain of March 12, 2007, in order that both bodies might jointly review a revised proposal for the requested zone change, variance and subdivision application; and

**WHEREAS**, on March 12, 2007 the Planning Commission and Historic Review Board held a joint public hearing and, after considering all the public testimony and reviewing all the evidence in the record, the Historic Review Board voted 2-0 to deny the revised proposal (HR 07-01); and

**WHEREAS**, on March 12, 2007 the Planning Commission and Historic Review Board held a joint public hearing and, after considering all the public testimony and reviewing all the evidence in the record, the Planning Commission voted 3-2 to recommend to the City Commission a second time approval of the originally requested zone change, variance and subdivision application; and

**WHEREAS**, on April 18, 2007 the City Commission reviewed the recommendation of the Planning Commission and the appeals filed on that decision and voted to approve the request with an alternate layout as approved in HR 07-01; and

**WHEREAS**, approving the zone change is in compliance with the Goal and Policies of the Oregon City Comprehensive Plan and that the subdivision and variance applications as proposed and conditioned are in compliance with all applicable city requirements.

**NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:**

**Section 1.** This application (ZC 06-01, VR 06-07 and TP 06-06) is hereby approved with conditions as to this particular property: Clackamas County Tax Assessor Map 3-2E-06CA, Tax Lot 3700.

**Section 2.** The Commission also adopts the findings and conclusions that are attached to the Ordinance as Attachments A through C, as well as Attachments A through H of Item 6a of the City Commission Public Hearing of April 18, 2007, and Attachments A through N of Item 8c of the City Commission Public Hearing of February 21, 2007, and incorporated herein to support the City's approval to amend the zoning map and approve the proposed Variance and 27-lot Subdivision.

**Section 3.** The property described as Clackamas County Map 3-2E-06CA, Tax Lot 3700 is hereby rezoned from "R-10" Single-Family Residential District to "R-8" Single-Family Residential on the Official Oregon City Zoning Map.


**Section 4.** The 27-lot subdivision is approved with the conditions attached to this Ordinance as Attachment C.

**Section 5.** The Variance of Cul-de-Sac length is approved with conditions attached to this Ordinance as Attachment C.

Read for the first time at a regular meeting of the City Commission held on the 16th day of May 2007, and the City Commission finally enacted the foregoing ordinance this 6th day of June 2007.

  
\_\_\_\_\_  
ALICE NORRIS, Mayor

ATTESTED to this 6<sup>th</sup> day of June, 2007

  
\_\_\_\_\_  
Nancy Ide  
City Recorder

**BEFORE THE CITY COMMISSION  
OF THE CITY OF OREGON CITY, OREGON**

**In the matter of the Appeals of the  
Development of the land Occupied by the  
Morton Mathew McCarver House by ICON  
Construction and Development, LLC and  
Mary Bell**

)  
)  
) **FINDINGS OF FACT AND**  
) **CONCLUSIONS OF LAW**  
)  
) **City of Oregon City File AP 07-**  
) **01, AP 07-02, TP 06-06, ZC 06-**  
) **01 and VR 06-06**  
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**I. INTRODUCTION**

Two parties appealed the decisions of the Historic Review Board (“HRB”) (denying an application to alter an historic landmark, the Morton Mathew McCarver House (“House”)) and the Planning Commission (approving a 27-lot subdivision, zone change from R-10 to R-8, and variance of the maximum cul-de-sac length). The appeals were filed by ICON Construction and Development, LLC and Mary Bell. The applications are directed at development of a 6.55-acre site located at Clackamas County Map 3-2E-06CA, Tax Lot 3700, with an address of 554 Warner Parrott Road, Oregon City. The HRB and Planning Commission heard this matter together and the appeals were consolidated for hearing before the City Commission. The Commission’s decision reverses the HRB decision and modifies the Planning Commission’s decision in order to allow the development of the site with the main access centrally located on the site, rather than along the eastern edge of the property.

**II. PROCEDURAL STATUS**

The City provided notice consistent with the requirements of state and local law for the City Commission appeal hearing. No party raised any procedural objections concerning the notice or the conduct of the hearing by the City Commission.

The City Commission held the public hearing in this matter on April 18, 2007. Present were Mayor Alice Norris and City Commissioners Daphne Wuest, Damon Mabee, and Doug Neeley. The City Commission opened the hearing by reading the announcements required by ORS 197.763 and 796. No party objected to the jurisdiction of the City Commission. Mayor Norris revealed that she had *ex parte* contact in this matter with Diana Evans and Al Powers. No objections were raised to the Mayor's disclosed contacts.

Christina Robertson-Gardner, Associate Planner of the Oregon City Planning Division, presented the staff report. Peter Walter, also an Associate Planner of the Oregon City Planning Division, also presented a portion of the staff report. Todd Iselin of Iselin Architects, Matt Sprague of SFA Design Group, and Mike Robinson of Perkins Coie represented the Applicant/Co-Appellant ICON Construction and Development, LLC, and provided ICON Construction and Development, Lilac's presentation. Co-Appellant Mary Bell and Al Power spoke in favor of the center alignment of the street.

John Rankin, representing Mary Bell, spoke in opposition to the eastern alignment of the street.

No party requested that the appeal hearing be continued or that the written record be left open. After closing the public hearing and deliberating, the City Commission voted 4-0 to reverse the HRB's denial and uphold the appeal, subject to conditions as further detailed below.

### **III. APPLICABLE APPROVAL CRITERIA**

The critical issue in this appeal is Oregon City Municipal Code ("OCMC") Section 17.40.060, entitled "Exterior Alteration and New Construction." The criteria of subsection D1.-9. apply to an application for an exterior alteration to an Historic Landmark. The Planning Commission's findings relating to the subdivision, zone change and variance were not challenged and are not at issue in this appeal, except for those

portions of the conditions that implement the HRB decision. Accordingly, this decision will not directly address the criteria on those decisions but, instead, modify the conditions of approval associated with those decisions in order to implement the Commission's decision on appeal.

#### **IV. FINDINGS**

As noted above, the Planning Commission's decision on the zone change, subdivision and variance are not at issue and, therefore, the City staff report remains the City's decision on those matters, except as modified to accommodate the Commission's decision on appeal of the HRB decision. Therefore, these findings and conclusion will address only the HRB issues.

The City Commission hereby finds that, based upon substantial evidence, that this application meets the criteria of OCMC 17.40.060.D.1.-9., as follows:

##### **A. The purpose of the Historic Overlay District as set forth in Section 17.40.010(A);**

The purpose of the Historic Overlay District is to preserve the historic integrity of the House. The House is not proposed to be demolished, expanded, or otherwise compromised by the alignment of the street. In fact, the applicant is proposing to restore the House without undermining its architectural and historic values. The applicant has also proposed to increase the setbacks of adjacent residences in order to increase the visibility of the House from Warner Parrott Road. Moreover, the proposed street location and tree canopy will not detract from the House. Instead, they will highlight important features of the original House and its relationship to Warner Parrott Road. The City Commission finds that approval of the centralized street alignment will be consistent with the Historic Overlay District, and thus, this criterion is met.

##### **B. The provisions of the Oregon City Comprehensive Plan;**

The City Commission incorporates the HRB's finding that the application meets this criterion.

**C. The economic use of the historic site and the reasonableness of the proposed alteration and their relationship to the public interest in the structure's or landmark's preservation or renovation;**

The City Commission incorporates HRB's finding that the Application meets this criterion, because the applicant is maintaining a separate lot for the House. The City Commission also incorporates HRB's recognition that development of the Subdivision would provide the applicant with the resources to restore the House.

**D. The value and significance of the historic site;**

The City Commission incorporates HRB's finding that this application meets this criterion.

**E. The physical condition of the historic site;**

The City Commission incorporates HRB's finding that this application meets this criterion.

**F. The general compatibility of exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used with the historic site;**

Importantly, this factor does not require this application to be the least intrusive means or the most compatible alternative. Instead, it simply requires a finding of "general compatibility." The applicant is proposing to develop a residential subdivision with homes and lots that will incorporate but not overwhelm important architectural features of the House. Moreover, the House, which the HRB acknowledges is "in need of restoration," will be restored by the applicant, and in a manner that does not require the House to be moved, demolished, or expanded. In fact, the City Commission finds that the House and its lot will be more readily visible from Warner Parrott Road than under some other alternatives discussed by the HRB and Planning Commission. As well, the House will not be lost among the other residences in the subdivision, because it will be located on a lot that is approximately one-half acre in size. If this application is not

approved, it is unclear what will happen to the House, although it is possible that it will not be restored or even saved at all.

The lack of public sidewalks on the lot with the House will not interrupt pedestrian circulation patterns, because this is an enclosed subdivision. Moreover, the lack of sidewalks will aid in preserving the historic integrity of the House.

The City Commission finds that this criterion has been met.

**G. Pertinent aesthetic factors as designated by the Board;**

The City Commission incorporates HRB's finding that there were no additional pertinent aesthetic factors applicable to the determination.

**H. Economic, social, environmental and energy consequences; and**

HRB determined that the only significant economic, social, environmental, or energy consequence associated with this application was the negative social consequence caused by "compromising the integrity of the historic site." For the reasons set forth above, the City Commission finds that the integrity of the site is not compromised. Instead, it is actually enhanced from its current state of disrepair. Therefore, there are no significant negative economic, social, environmental, or energy consequences that will result from approval of this application, and the City Commission finds that this criterion has been met.


**I. Design guidelines adopted by the Historic Review Board.**

The City Commission incorporates City staff's determination that this criterion was not applicable to this application.

**V. DECISION**

For the reasons contained herein, the City Commission hereby reverses the HRB decision and upholds the appeal of that decision, as well as the appeal of the decision of the Planning Commission, subject to the revised Conditions of Approval attached hereto and incorporated herein by reference.

APPROVED this 16<sup>th</sup> day of May, 2007.

  
\_\_\_\_\_  
Mayor Alice Norris



## CONDITIONS OF APPROVAL

Planning Files ZC 06-01, TP 06-06 and VR 06-06 and HR 07-01

May 1<sup>st</sup>, 2007

### SUBDIVISION CONDITIONS OF APPROVAL

1. The Applicant is responsible for this project's compliance with Engineering Policy 00-01. The policies in that document set the standards for public improvements required by a land use decision.
2. The Applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement.
3. The new public water system will be designed with minimum 8-inch water mains throughout the site and be looped to the existing 8-inch water main in Warner-Parrott Road. Individual 1-inch copper water service lines shall be furnished to each lot.
4. New fire hydrants shall be located and installed per Clackamas County Fire District No. 1's requirements.
5. The new public sanitary sewer system will be designed with minimum 8-inch sanitary sewer mains throughout the site.
6. The new public storm sewer system with curb inlets will be designed with minimum 12-inch storm sewer mains throughout the site.
7. The Applicant shall provide final detention and water quality treatment design and calculations for the development to mitigate for impacts to down-stream receiving waters.
8. The Applicant shall receive Clackamas County Fire District 1 approval for the street design, or alternative, prior to the issuance of a grading permit on the site.
9. The Applicant shall receive Clackamas County Fire District 1 approval for the adequacy of fire apparatus and street layout, or alternative, prior to the issuance of a grading permit on the site.
10. The Applicant shall follow the conclusions and recommendations of the Geotechnical Investigation dated July 21, 2006, prepared by GeoPacific Engineering, Inc.
11. Full local street improvements will be required for all proposed full streets except as conditioned in Condition 12. The improved street portion the Applicant is required to provide for a full-street includes, but is not to be limited to, base rock, paved full-street width of 32 feet, curbs and gutters, 5-foot vegetated planter strips including curb width, 5-foot concrete sidewalks behind the planter strip, City utilities (water, sanitary and storm drainage facilities), curb return radii, curb (handicap) ramps, centerline monumentation in monument boxes, traffic control devices, street trees, and street lights. No public sidewalk will be installed on Lot 22.

12. The north-south entry portion of "A" Street from Warner-Parrott Road south to "B" Street shall provide for larger setbacks on Lots 23 through 27 to accommodate Historical Review Board requirements. Full local street improvements will be required for this section of "A" Street. The improved street portion the Applicant is required to provide for a full-street includes, but is not to be limited to, base rock, paved full-street width of 32 feet, curbs and gutters, 10-foot vegetated planter strips including curb width, 8-foot concrete sidewalks behind the planter strip, an additional 6-foot landscape covenant area behind the sidewalk on the east side only, City utilities (water, sanitary and storm drainage facilities), curb return radii, curb (handicap) ramps, centerline monumentation in monument boxes, traffic control devices, street trees, and street lights.
13. Half-street Minor Arterial improvements will be required along the site's frontage with Warner-Parrott Road. The improved street portion the Applicant is required to provide includes but is not to be limited to, 24-foot pavement from centerline (6-foot turn lane, 12-foot travel lane, and 6-foot bike lane), 5.5-foot vegetated planter strip, 7-foot curb tight concrete sidewalk, City utilities (water, sanitary and storm drainage facilities), curb return radii, curb (handicap) ramps, centerline monumentation in monument boxes, traffic control devices, street trees, and street lights.
14. The Applicant shall provide non-vehicle access strips (NVAS) on the plat along the corners of each street intersection typically to leave 40 feet on the short lot side for a driveway. Actual lengths shall be adjusted during the final plat review.
15. The Applicant shall dedicate Warner-Parrott Road ROW to achieve 37 feet from centerline.
16. The Applicant shall dedicate local street ROW as proposed.
17. Ten-foot PUEs along all street frontages and all public off-and on-site easements required for the final engineering plans shall be dedicated to the public on the final plat. All proposed utilities and easements shall be indicated on the construction plans. Any off-site utility easements required for this project shall be obtained and submitted to the City prior to approval of the construction plans.
18. The Applicant shall install all handicap access ramps at the time of street construction. The Applicant shall provide a mid-block ADA ramp on the east side at the intersection of "A" and "B" Streets. Applicant shall reconfigure the ramp at the corner of Lot 10 on "A" Street to provide some form of mid-block access across to the ADA ramp at the end of the eastern sidewalk at the common property line of Lots 21 and 22.
19. The Applicant shall provide an Erosion Prevention and Sedimentation Control Plan to the City for approval. The Applicant shall provide a Preliminary Residential Lot Grading Plan to the City for review prior to the approval of construction plans. A final site Residential Lot Grading Plan shall be required as part of the final construction plans per the City's Residential Lot Grading Criteria and the Uniform building Code. If significant grading is required for the lots due to its location or the nature of the site, rough grading shall be required of the developer prior to the acceptance of the public improvements. There shall not be more than a maximum grade differential of two (2) feet at all subdivision boundaries. Grading shall in no way create any water traps, or create other ponding situations. The plan shall show the existing and proposed swales.
20. The Applicant shall provide access control strips at the west end along the northern section of "B" Street where it borders Tax Lot 3500.
21. The Applicant shall consider providing an "eyebrow"-type curve finish to the west end of "A" Street that provides more street frontage to Tax Lot 3500.

22. Applicant shall submit any CC and R's for the development for review prior to their recordation with the Clackamas County Recorder's Office.
23. Applicant shall comply with the City of Oregon City Street Naming Policy.
24. The Applicant shall provide a street tree plan to the city. A street tree and planter strip planting plan shall be approved by the city prior to the issuance of grading permit for the site. The Applicant shall plant a minimum of one tree every 35 feet. The Community Development Director may approve street trees more than 35 feet apart but in no case may the total number of trees required on the site be reduced.
25. The Applicant shall provide a Five-foot (5') Landscaping area as described by a recorded covenant that will be designed to separate the sidewalk from the side yards of Lots 1 and 27. A side yard fence shall be prohibited north of the new landscaping. The Applicant shall cause to be recorded the location, landscaping plan, and identify the property owners of Lot 27 as the responsible party for the maintenance and upkeep of the landscaped area along the frontage with Warner Parrott Road. The landscaped area shall be located within an easement along the entire Warner Parrott frontage of Lots 1 and 27. The easement shall be designed to maintain an aesthetically pleasing streetscape that does not allow for the development of one continuous fence line adjacent to the sidewalk, which would separate the property from the street and would potentially create an unattractive and unsafe condition along the sidewalk of Warner Parrott Road for the public. The Applicant shall submit a design for the Landscaped area as part the Landscaping Plan for the subdivision and receive approval from the City prior to the issuance of a building permit on Lots 1 and 27.
26. Prior to receiving grading permits, the Applicant shall provide a revised tree removal and preservation plan that shows the location of the trees to be removed and replaced in relation to the setbacks of the R-8 zone. This information is necessary to determine which trees identified for removal shall be replaced as mitigation. Trees to be protected shall be clearly flagged or have clearly visible construction fencing placed around the dripline of the trees prior to issuance of a grading permit. Applicant shall prepare a final tree preservation plan for staff review as part of the construction plan submission. Planning staff shall review all flagged trees and tree protection fencing pursuant to applicant's submitted tree preservation plan prior to release of a grading permit for the site.
27. Applicant shall follow the Tree Protection recommendations provided in the Arborists Report "Tree Condition Inventory – 554 Warner Parrott Road" by registered Consulting Arborist Robert Mazany and Associates, dated September 9, 2006.
28. Regarding the Historic Home site, Applicant shall comply with Historic Review Board Conditions of Approval as approved for Planning File HR 07-01.
29. In the event that the historic home is demolished, a sidewalk shall be required to be constructed to City Engineering standards along the frontage of the historic Lot in order to provide safer pedestrian access on both sides of the street.
30. The applicant shall record an easement, or other appropriate document approved by the City, on Lot 22 that disallows any future partitioning of the Lot. The easement or other document shall also provide that no demolition permit may be obtained to demolish the historic house until ten (10) years from the date that the subdivision is platted, unless required to protect the health,

safety, and welfare of the community. As part of the subdivision review, a plat restriction shall be placed on the historic lot that prohibits further partitioning.

#### HISTORIC CONDITIONS OF APPROVAL

31. Design Guidelines or house plans for new construction on the property shall be presented to and approved by the Historic Review Board prior to platting of the Subdivision. The Design Guidelines shall be recorded as part of the final Subdivision approval to inform future purchasers. The guidelines could be included as part of the Covenants, Conditions and Restrictions (CC&R's).
32. As part of the Subdivision review, reduced planter strips and sidewalks or curb tight sidewalks along Warner Parrot Road should be analyzed for feasibility to see if additional trees can be retained.
33. Prior to receiving a grading permit, the applicant shall present a final tree removal plan to the Historic Review Board. Trees inside the rear, side, corner side and front yard setbacks shall be retained unless deemed unfeasible or a hazard by the Historic Review Board and Staff. Retention of larger trees shall take priority. Driveway location, widths and setbacks, may need to be modified to save healthy trees. Per OCMC 16.12.310 Building site--Protection of Trees, if trees are removed in the setbacks, they are required to be replaced. In addition to the Code, the Historic Review Board is requiring that the replacement trees be trees species located onsite.
34. The Historic Review Board approves the reduction of the size of the Historic McCarver House as part of a Subdivision process. The Historic Review Board recognizes that some lot and road layout may change as part of the subdivision review process. However, if the layout of the subdivision is altered, as determined by staff, to affect the historic significance of the McCarver House, it shall be resubmitted to the Historic Review Board for additional review.
35. Prior to platting of the Subdivision, the applicant is required to submit a National Register Boundary Adjustment to the State Advisory Committee on Historic Preservation via the State Historic Preservation Office.
36. The applicant shall investigate to see if the small cottage can be relocated to a lot in the subdivision or on the historic lot. The footprint of the cottage seems to be less than 600 square feet and can fit within the existing Oregon City Accessory Building Code requirements.
37. The applicant shall record a plat restriction that provides for increased setbacks on lot 23, 24, 25, 26 and 27 of between thirty-five and 40 feet from the property line to allow a view corridor of the historic home site from Warner Parrott Road.