

RESOLUTION NO. 5140-13

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW A SMALL-LOT SUBDIVISION IN THE MEDIUM LOW DENISTY (RML) PLANNIN DISTRICT AT 9355 SW STONO DRIVE (TAX MAP 2S1 35AC, TAX LOT 13900) (CUP 13-01).

WHEREAS, a quasi-judicial public hearing was held before the City Council of the City of Tualatin on April 22, 2013 upon the application of Darter Construction, LLC; and

WHEREAS, notice of public hearing was given as required by the Tualatin Development Code; and

WHEREAS, the Council heard and considered the testimony and evidence presented on behalf of the applicant, the City staff, and those appearing at the public hearing; and

WHEREAS, after the conclusion of the public hearing the Council vote resulted in unanimous approval of the application; and

WHEREAS, the Council finds that the applicant has provided sufficient evidence to demonstrate that all of the requirements of the Tualatin Development Code relative to a conditional use have been satisfied and that granting the conditional use permit is in the best interests of the residents and inhabitants of the City, the applicant, and the public generally.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1. Findings.** The City Council makes the following findings:

A. The subject property, Tax Lot 2S1 35AC 13900, is within the Medium Low Density (RML) Planning District. "Small-lot subdivisions" is a conditional use within the RML Planning District pursuant to TDC 41.030(2).

B. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features. The minimum lot size within the RML Planning District for a small-lot subdivision is 4,500 square feet (s.f.), approximately 0.10 acres. The subject property is approximately 0.66 acres and was developed with a single-family house, now demolished. The small-lot subdivision lots will range in size from 4,545 to 4,820 sq ft (0.10 to 0.11 acres); each lot exceeding the minimum lot size requirement. The subject property is roughly square lot

with access from SW Stono Drive and frontage along SW Quinault Lane. The proposed use is located within the RML Planning District with access from SW Stono Drive. The site is within a developed small-lot subdivision, Pennington Heights. The developed site has negligible slope that would likely necessitate grading along the north SW Quinault Street frontage, where the ground is a few feet above the sidewalk, in order to provide driveway and walkway connections for the three houses that would be built on the three lots what would front SW Quinault Lane. The site generally slopes downward north to south to the same level as the sidewalk along SW Stono Drive. The topography would not interfere with the proposed use. The site has access to paved public streets, sidewalks, and sanitary sewer, stormwater, and water lines are available for connection. Street trees are missing from the adjacent planter strips. Several trees exist on the site, including mature and tall ones.

C. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use. The site is east of SW 94th Terrace, north of SW Stono Drive, west of SW 93rd Terrace, and south of SW Quinault Lane. The adjacent streets normally required as part of residential subdivision construction already exist. They were constructed at the time of the Waterford Subdivision and Pennington Heights Subdivision. Therefore, adequate infrastructure exists to support traffic from this development. Sidewalks and street trees are requirements of residential subdivision decisions and typically installed when homes are constructed. Sidewalks are currently constructed, but there are inadequate street trees. Asbuilts show existing sanitary sewer, stormwater, and water laterals to City systems for the proposed 6 small lots. Stormwater from this site and adjacent streets flows east towards SW Boones Ferry Road then north to an existing public water quality facility. This facility, constructed with the Waterford Subdivision, is sized to accommodate streets and complete small-lot subdivision construction for all small-lots in the Waterford Subdivision and 50 small-lots in Pennington Heights Subdivision. The planned 50 lots in the Pennington Heights Subdivision included the currently proposed 6-lot small-lot development. Tualatin Valley Fire and Rescue had no objections to the proposed small-lot subdivision. Therefore, all public utility and service needs are met.

D. The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district. The subject property is in the RML Planning District. Surrounding land uses are all RML single-family houses. The proposed use is the same as the land use of surrounding properties: single-family housing on small lots. Because of this equivalency and based on the applicant's submitted information and staff review, the proposed use would not alter the character of the surrounding area in any manner which substantially limits, impairs or precludes the surrounding properties for the primary uses listed in the underlying planning districts.

E. The proposal is consistent with plan policies. The applicable Tualatin Community Plan policies and TDC regulations that apply to the proposed conditional use in the RML Planning District include TDC:

- Chapter 5 "Residential Planning Growth", Section 5.030 General Objectives
- Chapter 10 "Community Design", Section 10.050 Tree Preservation and Street Tree Objectives;
- Chapter 32 "Conditional Uses", Section 32.030 Conditional Uses – Siting Criteria;
- Chapter 34 "Special Regulations", Section 34.210 Application for Architectural Review, Subdivision or Partition Review, or Tree Removal Permit;
- Chapter 41 "Medium Low Density Residential Planning District (RML)", Section 41.010 Purpose; and
- Chapter 73 "Community Design Standards", Section 73.250 Tree Preservation.

Consistent with TDC 5.030, the development provides for the housing needs of existing and future City residents, and provide areas that will accommodate small-lot subdivisions. The development would lead to six single-family houses in place of one, increasing the number of housing units in the city, and the site is within the RML Planning District, which allows the conditional use of small-lot subdivision. Consistent with TDC 10.050(1), site redevelopment would displace trees, and it is possible to design and develop the site to maximize the number of conserved trees. The CUP process by definition allows for a use conditioned by conditions of approval, and recommended conditions found within the main body of the staff report further tree conservation. Consistent with TDC 41.010, the proposal is for a small-lot subdivision of six single-family houses, and the site is within the RML Planning District, which allows the conditional use of small-lot subdivision. The proposal satisfies those objectives and policies of the TDC that are applicable to the proposed use.

F. Based on the application, the staff report dated April 22, 2013, and the above findings, the Pennington Heights Two small-lot subdivision by Darter Construction, LLC (CUP-13-01) meets the criteria of TDC 32.030.

**Section 2.** The City Council grants a conditional use permit (CUP-13-01) to Darter Construction, LLC for a Small-lot Subdivision within the Medium Low Density (RML) Plan District at 9355 SW Stono Drive (Tax Map 2S1 35AC, Tax Lot 13900), subject to with the following conditions:

- A. Small Lot Subdivision Standards. The small-lot subdivision shall conform to the small-lot subdivision standards within Tualatin Development Code 41.030(2):
- a. All subdivision improvements shall conform to TDC Chapter 36;
  - b. All dwelling units constructed shall conform to the construction standards of the State of Oregon Uniform Building Code as adopted by the City of Tualatin;
  - c. The minimum lot area shall be 4,500 square feet;

- d. The minimum average lot width shall be 30 feet;
- e. The minimum lot width shall be 30 feet on a cul-de-sac street;
- f. The maximum building coverage shall be 45 percent; and
- g. For flag lots the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in TDC 73.400(8)-(12).

B. Setbacks, Height, & Single-Family Design: The small-lot subdivision shall conform to the following standards for:

- a. Setbacks per TDC 41.070;
- b. Height per TDC 41.090; and
- c. Single-family design per TDC 73.190.

C. Trees: The small-lot subdivision shall conform to the following:

- a. Tree Survey: The applicant shall submit as part of a subdivision application a tree survey pursuant to TDC 34.210(1)(a)(iii). This tree survey shall show the location of existing trees having a trunk diameter of eight inches or greater, as measured at a point four feet above ground level. The purpose of this survey shall be to show that, by utilizing the small lot subdivision provisions, a greater number of trees can be preserved than would be possible without use of the small lot subdivision provisions;
- b. Tree Assessment: The applicant shall submit as part of a subdivision application a tree assessment, also known as an arborist's report, pursuant to TDC 34.210(1)(a)(ii);
- c. Tree Preservation Site Plan: The applicant shall submit as part of a subdivision application a tree preservation site plan pursuant to TDC 34.210(1)(a)(i) and that illustrates that any proposed improvements would be sited to maximize tree preservation;
- d. Tree Preservation: The City, through review of a subdivision application submittal for the subject property and single-family Architectural Review (ARSF) submittal(s) for new houses, may require that the applicant:
  - i. Show proposed improvements and other information, including house building pad shapes, sizes, and placements; driveway locations, sizes, and placements; and tree drip lines;
  - ii. Revise proposed improvements and other information, including lot line delineations; house building pad shapes, sizes, and placements; driveway locations and placements; and tree drip lines; and

iii. Preserve designated trees.

e. Tree Preservation Standards: The applicant shall preserve designated trees pursuant to the tree preservation standards within TDC 73.250; and

f. Street Trees: The applicant shall submit as part of a subdivision application a street tree plan to plant street trees in the treeless public planter strips along SW Stono Drive and SW Quinault Lane adjacent to the site. The applicant should consult with the Parks Maintenance Manager within the Operations Department.

D. Clean Water Services: The applicant shall comply with the CWS Memorandum dated March 26, 2013, which is attached as Attachment A and incorporated herein. A Clean Water Services (the District) Storm Water Connection Permit Authorization must be obtained prior to plat approval and recordation. Application for the District's Permit Authorization must be in accordance with the requirements of the Design and Construction Standards, Resolution and Order No. 07-20, (or current R&O in effect at time of Engineering plan submittal), and is to include:

- a. Detailed plans prepared in accordance with Chapter 2, Section 2.04.2.b-1;
- b. Detailed grading and erosion control plan. An Erosion Control Permit will be required. Area of Disturbance must be clearly identified on submitted construction plans. If site area and any offsite improvements required for this development exceed one-acre of disturbance, project will require a 1200-CN Erosion Control Permit;
- c. Detailed plans showing each lot within the development having direct access by gravity to public storm and sanitary sewer;
- d. Provisions for water quality in accordance with the requirements of the above named design standards. Water Quality is required for all new development and redevelopment areas per R&O 07-20, Section 4.05.5, Table 4-1. Access shall be provided for maintenance of facility per R&O 07-20, Section 4.02.4;
- e. If use of an existing offsite or regional Water Quality Facility is proposed, it must be clearly identified on plans, showing its location, condition, capacity to treat this site and, any additional improvements and/or upgrades that may be needed to utilize that facility;
- f. If private lot LIDA systems proposed, must comply with the current CWS Design and Construction Standards. A private maintenance agreement, for the proposed private lot LIDA systems, needs to be provided to the City for review and acceptance;
- g. Show all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements must be granted to the City; and

h. Any proposed offsite construction activities will require an update or amendment to the current Service Provider Letter for this project.

E. General: The applicant shall comply with all applicable TDC policies and regulations.

**Section 3.** This Resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 13<sup>th</sup> day of May, 2013.

CITY OF TUALATIN, Oregon

By  \_\_\_\_\_  
Mayor

ATTEST:

By  \_\_\_\_\_  
City Recorder

Approved as to Form:

  
\_\_\_\_\_  
City Attorney



Exhibit A  
Resolution No. 5140-13

CITY OF TUALATIN  
RECEIVED

MAR 29 2013

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

**MEMORANDUM**

**Date:** March 26, 2013  
**To:** Colin Cortes, Assistant Planner, City of Tualatin  
**From:** Jackie Sue Humphreys, Clean Water Services (the District)  
**Subject:** Pennington Heights Two Subdivision, CUP-13-01, 2S135AC13900

Please include the following comments when writing your conditions of approval:

**PRIOR TO ANY WORK ON THE SITE AND PLAT RECORDING**

A Clean Water Services (the District) Storm Water Connection Permit Authorization must be obtained prior to plat approval and recordation. Application for the District's Permit Authorization must be in accordance with the requirements of the Design and Construction Standards, Resolution and Order No. 07-20, (or current R&O in effect at time of Engineering plan submittal), and is to include:

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- c. Detailed plans showing each lot within the development having direct access by gravity to public storm and sanitary sewer.
- d. Provisions for water quality in accordance with the requirements of the above named design standards. Water Quality is required for all new development and redevelopment areas per R&O 07-20, Section 4.05.5, Table 4-1. Access shall be provided for maintenance of facility per R&O 07-20, Section 4.02.4.
- e. If use of an existing offsite or regional Water Quality Facility is proposed, it must be clearly identified on plans, showing its location, condition, capacity to treat this site and, any additional improvements and/or upgrades that may be needed to utilize that facility.

- f. If private lot LIDA systems proposed, must comply with the current CWS Design and Construction Standards. A private maintenance agreement, for the proposed private lot LIDA systems, needs to be provided to the City for review and acceptance.
- g. Show all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements must be granted to the City.
- h. Any proposed offsite construction activities will require an update or amendment to the current Service Provider Letter for this project.

#### CONCLUSION

This Land Use Review does not constitute the District's approval of storm or sanitary sewer compliance to the NPDES permit held by the District. The District, prior to issuance of any connection permits, must approve final construction plans and drainage calculations.