

**ORDER NO. 2020-01**

**ORDER CONSIDERING AN APPEAL OF PLANNING COMMISSION ACTION;  
GRANTING AN ADJUSTMENT OF UP TO 20 PERCENT TO REAR YARD  
SETBACKS WITHIN THE GALES CREEK TERRACE PLANNED RESIDENTIAL  
DEVELOPMENT; FILE NUMBER 311-19-000034-PLNG**

**WHEREAS**, City Council adopted Order 2014-06, approving the Gales Creek Planned Residential Development (Development); and

**WHEREAS**, Order 2014-06 established building setbacks including rear yard setbacks throughout the Development; and

**WHEREAS**, on September 26, 2019, Gales Creek Terrace LLC (Applicant), submitted to the City an application for 20% adjustments to the rear yard setbacks for certain lots in the Development; and

**WHEREAS**, the Applicant sought approval of the adjustments to allow encroachment of decks over 3-feet in height into certain rear yards; and

**WHEREAS**, the Director elevated the application to the Planning Commission for a decision as authorized by Forest Grove Development Code §17.1.510; and

**WHEREAS**, the Planning Commission held a Public Hearing on this application on November 18, 2019; and

**WHEREAS**, the Planning Commission considered the application, staff report and public testimony presented during the public hearing; and

**WHEREAS**, the Planning Commission deliberated and considered several motions pertaining to the request; and

**WHEREAS**, all motions considered by the Planning Commission failed on a 3-3 vote; and

**WHEREAS**, since all Planning Commission motions failed the application was not approved; and

**WHEREAS**, the Applicant filed a timely appeal of the Planning Commission's action on December 4, 2019; and

**WHEREAS**, the City Council held a Public Hearing on the record on January 13, 2020; and

**WHEREAS**, the City Council considered the Applicant's appeal petition dated December 4, 2019, and the findings of fact and conclusions contained in the record for the Planning Commission proceedings dated November 18, 2019.

**NOW, THEREFORE, THE CITY OF FOREST GROVE ORDERS AS FOLLOWS:**

**Section 1.** Based on the evidence in the record including the Applicant's appeal petition dated December 4, 2019, and the findings of fact included in staff report dated November 8, 2019, the City Council hereby approves the Applicant's request for 20 percent adjustments to allow decks constructed three feet or more above grade to encroach either 2.4-feet or 3-feet into required 12-foot and 15-foot year yards respectively for those lots within the Gales Creek Terrace Planned Residential Development highlighted on Exhibit A.

**Section 2.** This Order is effective immediately upon its enactment by the City Council.

**PRESENTED AND PASSED** the 13<sup>th</sup> day of January, 2020.

  
\_\_\_\_\_  
Anna D. Ruggles, City Recorder

**APPROVED BY THE MAYOR** the 13<sup>th</sup> day of January 2020.

  
\_\_\_\_\_  
Peter B. Truax, Mayor

# EXHIBIT A

## GCT 20% Adjustment to Rear Setback to Decks over 3' in Height



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<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>8.</u>
MEETING DATE:	<u>01/13/2020</u>
FINAL ACTION:	<u>ORDER 2020-01</u>

**CITY COUNCIL STAFF REPORT**

**TO:** *City Council*

**FROM:** *Jesse VanderZanden, City Manager*

**MEETING DATE:** *January 13, 2020*

**PROJECT TEAM:** *Daniel Riordan, Senior Planner  
Bryan Pohl, Community Development Director*

**SUBJECT TITLE:** *Public Hearing and Order No. 2020-01 to Consider an Appeal to Planning Commission Action for an Adjustment of Up to 20 Percent to Rear Yard Setbacks Within the Gales Creek Terrace Planned Residential Development*

<b>ACTION REQUESTED:</b>	<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Order	<input type="checkbox"/> Resolution	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Informational
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*X all that apply*

**ISSUE STATEMENT:** On November 18, 2019, the Planning Commission considered an application submitted by Gales Creek Terrace LLC (Applicant) to allow adjustments of up to 20% affecting certain lots within the Gales Creek Terrace Planned Residential Development (Development). The Planning Commission considered several motions pertaining to the adjustments. Each motion failed on tied 3 to 3 votes. As a result the Planning Commission did not render a decision. Subsequently, on December 4, 2019, Gales Creek Terrace LLC filed a timely appeal of the Planning Commission’s action to allow City Council consideration of the adjustment request.

**BACKGROUND:** City Council adopted Order 2014-06 approving the Gales Creek Terrace Planned Residential Development generally located west of D Street and south of Pacific Avenue. The development includes 197 homes on 186 lots in an area zoned Residential Multifamily High (RMH).

Order 2014-06 established building setbacks for individual lots. The established rear yard setback is either 12-feet or 15-feet depending on location within the development. Lots with 15-foot rear yards are those near the urban growth boundary along the southern edge of the development.

On September 26, 2019, the Applicant submitted to the City an application for 20% adjustments to the rear yard setbacks of some lots within the Development. The Applicant sought approval of the adjustments to allow encroachment of decks over 3-feet in height into certain rear yards. If approved, the adjustments would allow decks constructed 3-foot or higher above grade to encroach 2.4-feet into lots with required 12-foot rear yards and 3-feet into lots with required 15-foot rear yards. Ordinarily, an adjustment of 10% to 20% of the setback, height or lot coverage standard is processed administratively by staff. The Forest Grove Development Code, however, grants authority to elevate an administrative application to the Planning Commission for consideration if

there is potential for neighborhood or community concern and to provide greater notice than would otherwise be required by the Code. This application was elevated to the Planning Commission due to neighborhood concerns about the Development. In addition, the Development was approved as a planned development which requires Planning Commission review. As noted above, building setbacks are established as part of the preliminary planned development approval. Since the adjustment request modifies the planned development approval, reviewing the proposal under the same process as original approval is warranted.

The Planning Commission held a Public Hearing on the adjustment request on November 18, 2019. The Planning Commission considered several motions to approve some or all of the requested adjustments based on lot locations. All motions failed on tied 3 – 3 votes. Since the Planning Commission deadlocked the applicant is appealing the Planning Commission's action to City Council to allow for Council consideration and action on the request.

Under the Forest Grove Development appeals of Planning Commission actions are conducted on the record meaning the Council's decision must be based on information addressing the approval criteria provided to the Planning Commission. In addition, Council may limit review to only those issues identified by the applicant in the applicant's appeal petition. The record of the Planning Commission's proceedings is attached for Council review.

The record includes the staff report to the Planning Commission containing findings of fact and conclusions providing the basis for approval of the requested adjustments. The record demonstrates the requested adjustments meet the approval criteria. In general, the adjustments, as proposed, are modest and will not significantly detract from the livability or appearance of the residential area, the adjustments will not reduce the useable at-grade rear yard space given the topography of the site, and allowing deck encroachments above grade will not alter the overall scale or bulk of the homes constructed at Gales Creek Terrace. Although the decks could affect privacy on neighboring lots, depending on building orientation and location in the Development, this would be expected in a high density residential area and would be possible without the decks where windows are present.

**STAFF RECOMMENDATION:** Staff recommends the City Council approve Order 2020-01, granting the 20% adjustments to established rear yard setbacks at Gales Creek Terrace to allow:

- 2.4-foot deck encroachment on certain lots with a 12-foot rear yard, and
- 3-foot deck encroachment on certain lots with a 15-foot rear yard.

**ATTACHMENT(s):**

- A. PowerPoint Presentation for City Council Hearing, January 13, 2020
- B. Order No. 2020-01
- C. Appeal Application, Gales Creek Terrace LLC, December 4, 2019
- D. Notice of Planning Commission Decision and Planning Commission Findings 2019-13
- E. Planning Commission Minutes, November 18, 2019
- F. Planning Commission Public Hearing Sign-In Sheet, November 18, 2019
- G. Planning Commission PowerPoint Presentation, November 18, 2019
- H. Planning Commission Staff Report, November 8, 2019
- I. Adjustment Application, Gales Creek Terrace LLC, September 26, 2019



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**NOTICE OF PUBLIC HEARING  
FOREST GROVE CITY COUNCIL  
APPEAL OF PLANING COMMISSION ACTION**

**NOTICE IS HEREBY GIVEN** that the Forest Grove City Council will hold a Public Hearing on **Monday, January 13, 2020, at 7:00 p.m.** or thereafter, in the Community Auditorium, 1915 Main Street, to review the following request.

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**Request:** Appeal of the Planning Commission’s action pertaining to adjustments of up to 20% to allow encroachment of decks more than three feet above grade into required yards in the Gales Creek Terrace Planned Residential Development. If approved, the adjustments would allow encroachments of 2.4 feet on some lots with a 12 foot rear yard or 3 feet on some lots with a 15 foot rear yard. The Planning Commission considered several motions to approve some or all of the requested adjustments. All motions failed on a 3-3 vote and therefore the requests were not approved.

The appeal petition identifies the following adjustment criterion for review by the City Council:

- 17.2.120(B)(2): Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified.
- 17.2.120(B)(3): If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area.

**Location:** Gales Creek Terrace Planned Residential Development located generally west of D Street and south of Pacific Avenue

**Appellant:** Gales Creek Terrace, LLC (Morgan Will)

**File Number:** 311-19-000034-PLNG

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At this time and place specified above, the City Council will consider the applicant’s appeal based on the record as allowed by Forest Grove Development Code §17.1.640(B). Only issues in the record, whether raised in writing or orally shall be raised before City Council and the hearing may be limited only to those issues raised in the filed appeal petition. Notice of the appeal hearing is provided to all parties who participated in the initial hearing and requested notice. Written notice of the City Council’s decision on the appeal will be provided to all parties participating the proceeding within seven days of the City Council’s decision. The decision of the City Council on an appeal is the City’s final decision on this matter. Information pertaining to this request may be obtained from Senior Planner Daniel Riordan, Community Development Department, 1924 Council Street, 503.992.3226, 9 am - 5 pm, [driordan@forestgrove-or.gov](mailto:driordan@forestgrove-or.gov).

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Instructional Note: Only read text in **blue**.

1. Opening the Public Hearing

The Public Hearing on [File No.311-19-000034-PLNG] is called to order.

2. Testimony

Members of the public may present oral or written testimony. If you wish to speak and you have not signed-in, please sign-in with the City Recorder. I will recognize those people wishing to speak. Please state both your name and address for the record when you come to the podium, as the hearing will be taped. Please keep testimony concise and to the point. Also, any questions of staff, the applicant or the City Council should be addressed through me (presiding officer). Written testimony may be submitted to the City Recorder.

3. Conduct of Hearing

The hearing tonight will be conducted On-The Record as follows:

- a. Staff Report
- b. Additional Correspondence
- c. Public Testimony in the Following Order:
  - i. Applicant/Appellant
  - ii. Testimony in Support of the Application
  - iii. Testimony Opposing the Application
  - iv. Neutral Testimony
  - v. Rebuttal (if any) by the Appellant
- d. Close the Public Testimony. After the record is closed for testimony, no other testimony comments will be heard from anyone unless the City Council has a specific question.
- e. Questions for Staff, if any, from the City Council
- f. Discussion by the City Council

The City Council may make a final decision tonight or the matter may be continued to a time and date certain in the future. If the matter is continued to a time and date certain in the future, this will be the only notice of that date you receive.

4. Criteria

The criteria that apply to the application in this case are listed in the staff report. These are the criteria the City Council must use to reach a decision. If you testify, please make

sure your testimony is directed toward these criteria or other criteria in the City's Comprehensive Plan or Development Code that you think apply to the decision. Also, please describe how your comments relate to the criteria.

Again, a decision on this application must be based on these criteria. Despite the importance of other issues or concerns, the City Council can only base its decision on whether the evidence shows the application meets the criteria.

5. Raise It or Waive It

Please note, failure to raise an issue in the record with sufficient specificity to allow the City Council and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals on that issue.

Similarly, failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City Council to respond to the issue in the record precludes an action for damages in circuit court.

6. Disclosure

Do any members of the City Council need to disclose any ex-parte contacts, bias, or conflicts of interest? If so, please indicate the nature and extent of the contact, bias or conflict and indicate whether you intend to participate in or abstain from the hearing.

Does anyone in the audience wish to challenge a City Councilor's impartiality?

7. Staff Report

X will now present the Staff Report.

8. Correspondence (question for staff)

Is there additional correspondence beyond those items included in the Staff Report?

9. Public Testimony

- a. The Applicant/Appellant may now present the proposal.
- b. Does anyone wish to speak in favor of the application (appeal)?
- c. Does anyone wish to speak against the application? (appeal)?
- d. Does anyone have neutral testimony? (appeal)?

e. Does the applicant wish to provide rebuttal?

10. Close Hearing

The public testimony portion of the hearing is now closed. [Gavel]

11. Staff Response to Testimony

Does staff need to respond to any questions or issues raised by the testimony?

Does the City Council have any questions of staff?

12. Council Deliberation

Is there any discussion by the City Council?

13. Motion and Decision

**SUMMARY:** The questions before the City Council is –

- A. Does the Council wish to approve ORDER 2020-01, granting the 20% adjustments to the established rear yard setbacks at Gales Creek Development to allow:
- 2.4' deck encroachment on certain lots with a 12' rear yard, and
  - 3' deck encroachment on certain lots with a 15' rear yard.

**OPTIONS:** The Council could take one of following actions:

1. Approve all the adjustments as requested;
2. Grant only 2.4' deck encroachment on lots with a 12' rear yard as requested;
3. Grant only 3' deck encroachment on lots with a 15' rear yard as requested;
4. Grant adjustments on certain identified lots;
5. Deny the request.

*Note 1: If there are any amendments to the proposed ORDER, the Mayor asks for a motion to amend; if yes, read amendment in full, ask for a second to amend and City Council votes on the amendment.*

*Note 2: It is not necessary to hold the record open on request. The City Council may decide to do so, but it is not required.*

*Note 3: If you wish to continue the matter, the Mayor should announce the time and date of the continued hearing to avoid having to publish notice.*

Date: **JANUARY 13, 2020**

Agenda Item: **8.**

Subject: **PUBLIC HEARING (ON-THE-RECORD): ORDER NO. 2020-01 CONSIDERING AN APPEAL OF PLANNING COMMISSION ACTION; GRANTING AN ADJUSTMENT OF UP TO 20 PERCENT TO REAR YARD SETBACKS WITHIN GALES CREEK TERRACE PLANNED RESIDENTIAL DEVELOPMENT, GENERALLY LOCATED WEST OF D STREET AND SOUTH OF PACIFIC AVENUE; FILE NO. 311-19-00034-PLNG**

# CITY COUNCIL MEETING

## Request to Testify at Public Hearing

**Public Hearings – Public hearings are held on each matter required by state law or City policy. Anyone wishing to testify should sign-in for the Public Hearing prior to the meeting. The Mayor or presiding officer will review the complete hearing instructions prior to testimony. The Mayor or presiding officer will call the individual or group by the name given on the sign-in form. When addressing the Mayor and Council, please move to the witness table (center front of the room). Each person should speak clearly into the microphone and must state their first and last name and provided a mailing address for the record. All testimony is electronically recorded. In the interest of time, Public Hearing testimony is limited to three minutes unless the Mayor or presiding officer grants an extension. Written or oral testimony is heard prior to any Council action.**

*Please sign-in below to testify:*

**PROPONENTS:** (Please print legibly)

**First & Last Name:**

Bryan Cavaness  
GORDON ROOT

**Address:**

**City, State & Zip Code:**

8840 Holly St Willsonville, OR 97070

**WU** **OPPONENTS:** (Please print legibly)

**First & Last Name:**

**Address:**

**City, State & Zip Code:**

**OTHERS:** (Please print legibly)

**First & Last Name:**

JOHN SCHRAG

**Address:**

**City, State & Zip Code:**

4375 HIATT RD



# GALES CREEK TERRACE

# ADJUSTMENT TO REAR YARD SETBACKS

DAN RIORDAN, Senior Planner

# HEARING PURPOSE

City Council consideration of an appeal petition submitted by Gales Creek Terrace LLC.

The applicant is appealing the Planning Commission's action related to requested adjustments to the rear yard setbacks affecting some lots in the Gales Creek Terrace Development.

# HEARING PURPOSE

If approved, the adjustments would allow encroachment of decks constructed more than 3-feet above grade into certain rear yards within the development.

# HEARING PURPOSE

Deck encroachments would be:

2.4-feet on lots with a required 12 foot rear yard, or

3-feet on lots with a required 15 foot rear yard.

# GALES CREEK TERRACE

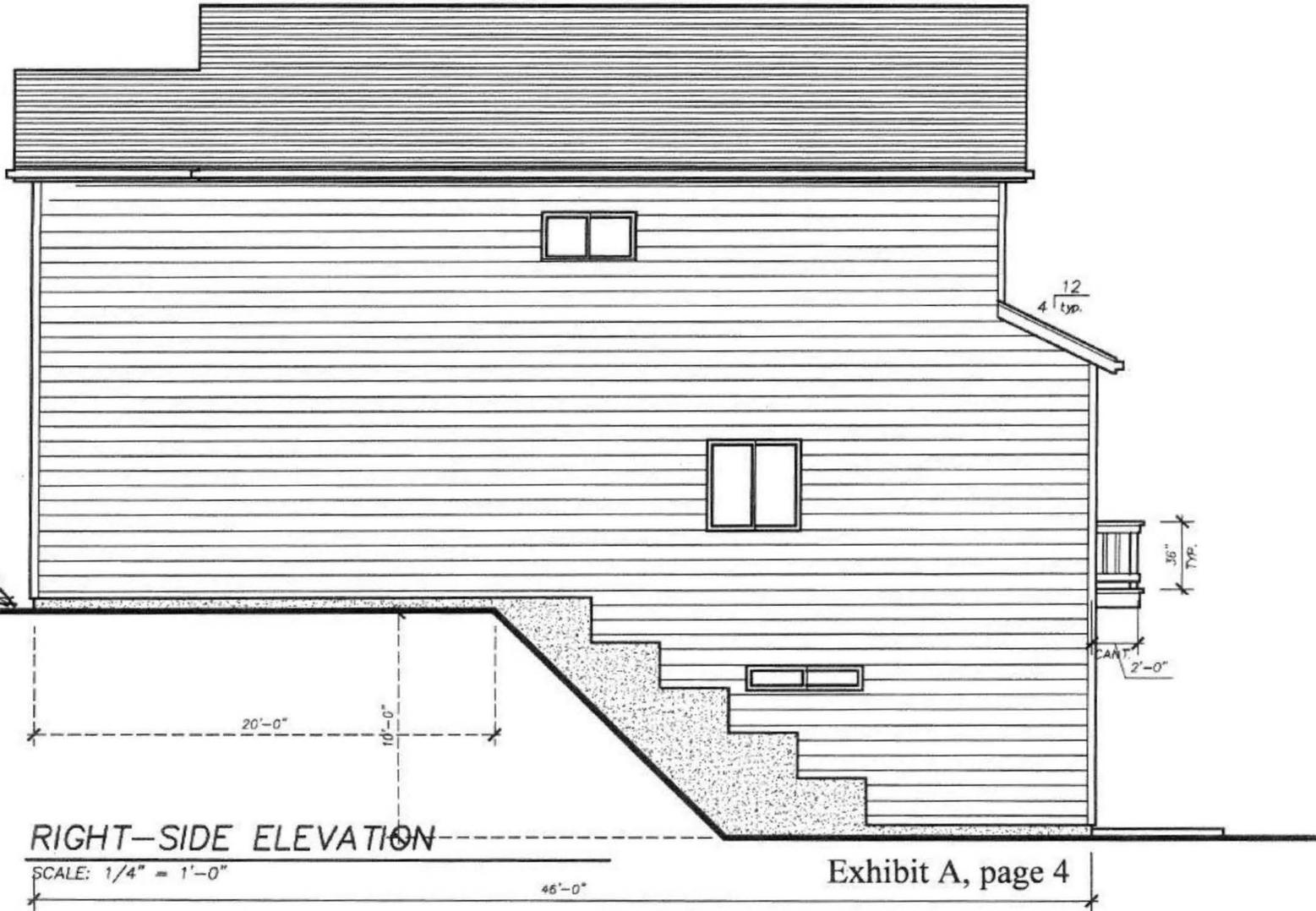


LEFT-SIDE ELEVATION

SCALE: 1/4" = 1'-0"

Exhibit A, Page 2

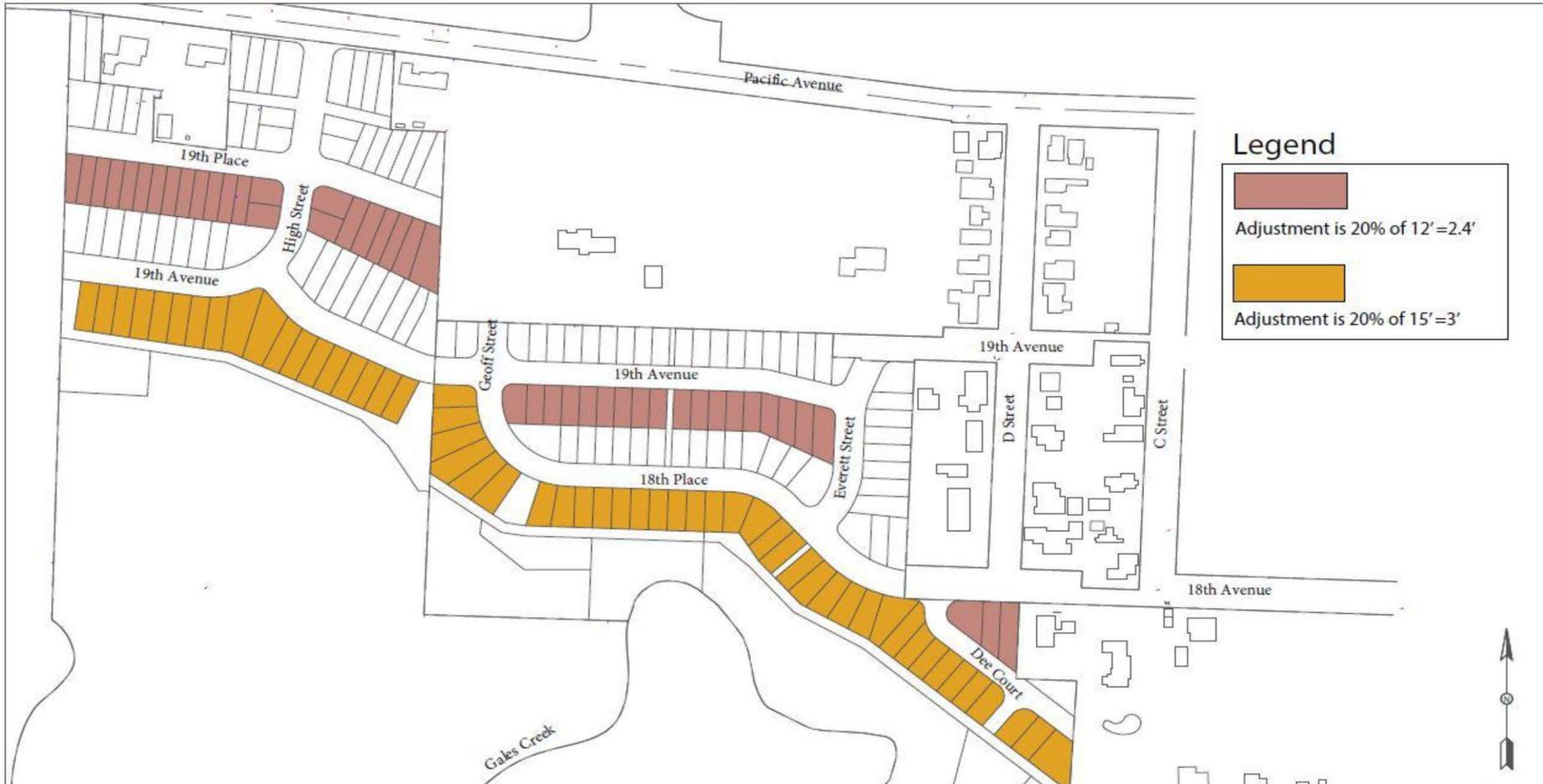
# GALES CREEK TERRACE



# GALES CREEK TERRACE

2

GCT 20% Adjustment to Rear Setback to Decks over 3' in Height



Created 9/26/2019

# HEARING PURPOSE

This appeal hearing is on the record, meaning a decision must be based on information addressing the approval criteria provided to the Planning Commission.

Council may limit review to only those issues identified by the applicant in the applicant's appeal petition.

# BACKGROUND

Adjustments are typically processed by staff.

However, the Code grants authority to the CD Director to elevate an application to the PC if there is potential for neighborhood or community concern.

Also, setbacks for GCT were established as part of original planned development approval.

Since there has been neighborhood concern and the adjustment changes the original approval, this request was elevated to the PC for a decision.

# BACKGROUND

On November 18, 2019, the Planning Commission held a public hearing on the adjustment request.

One person testified at the hearing as an opponent.

# BACKGROUND

While not necessarily opposed to the decks testimony heard included:

- Whether a similar request has been approved in the past;
- That the developer has not had a good relationship with the neighborhood; and
- The decks could result in more noise in the area.

# BACKGROUND

At the close of the hearing the Planning Commission considered several motions to grant all or some of the adjustments.

Each motion failed on a tied 3 – 3 vote.

Since the Planning Commission deadlocked the request was not approved.

# APPEAL REASONS

The applicant identifies the following general issues as the basis for the appeal:

- ❑ The Planning Commission deadlocked and was unable to find that the requested adjustment would meet the approval criteria:

To not significantly detract from the livability or appearance of the residential area; and

Be consistent with the purpose of the affected zoning district or meet or exceed the standard to be modified.

# APPEAL REASONS

The applicant's appeal petition also identifies six specific reasons for the appeal request.

This information is included with the written materials provided to Council for review.

# APPROVAL CRITERIA

The adjustment approval criteria include:

- ✓ The requested adjustment is from 10% to 20% of the setback, height, or lot coverage standard.
- ✓ Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified.

# APPROVAL CRITERIA

- ✓ If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area.
- ✓ If more than one adjustment is requested, the cumulative effect of the adjustment shall result in a project which is consistent with the overall purpose of the zone.
- ✓ Any impact resulting from the adjustment are mitigated to the extent practical.

# STAFF FINDINGS

- ✓ The proposed rear yard setback modifications qualify for an adjustment under the Development Code.
- ✓ The adjustments do not reduce the useable at-grade rear yard space. Therefore, granting the adjustment meets the purpose of the setback standard to be modified.

# STAFF FINDINGS

- ✓ Allowing deck encroachments above grade will not alter the overall scale or bulk of the homes constructed at Gales Creek Terrace.
- ✓ As such, the adjustment will not significantly detract from the livability or appearance of the residential zone.
- ✓ Only one adjustment is requested per affected lot. Therefore, granting the adjustment will not have cumulative impacts.

# STAFF FINDINGS

- ✓ Impacts from granting from the adjustments are minor. Privacy on neighboring lots could be impacted depending on building orientation and location in the development.
- ✓ This would be expected in a high density residential area and is possible without the decks where windows are present.
- ✓ Mitigating such impacts are not practical.

# STAFF RECOMMENDATION

City Council approve Order 2020-01, granting the 20% adjustments to the established rear yard setbacks at GCT to allow:

- 2.4' deck encroachment on certain lots with a 12' rear yard, and
- 3' deck encroachment on certain lots with a 15' rear yard.



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RECEIVED  
DEC 04 2019  
City of Forest Grove

Land Use Application

311-19-000034-PLNG FILE No. 1303-1.98a

APPLICATION FOR:

- Site Plan Approval
- Conditional Use
- Variance
- Appeal to PC Findings & Decision No. 2019-13

Establish a Planned Development:

- PRD  CPD  PID

Comprehensive Plan Amendment:

- Text  Map

Zoning Ordinance Amendment:

- Text  Map

Land Division:

- Subdivision  Partition
- Tentative Plat  Final Plat

Other: Adjustment

RECEIVED

DEC 04 2019

City of Forest Grove

APPLICANT:

Name: Gales Creek Development, LLC  
 Address: 8840 SW Holly Ln  
 City: Wilsonville  
 State: OR Zip 97070  
 Phone: 503.305.7647 Fax \_\_\_\_\_  
 Email: morgan@staffordlandcompany.com

PROPERTY DESCRIPTION:

Site Address: Gales Creek Terrace (PRD-14-00181)  
 Map and Tax Lot #: 7200 1S 401AA and 400, 401, 500 1S 401  
 (Please attach legal description)  
 Total Acres or Square Feet: \_\_\_\_\_  
 Acres: ~ 25 acres  
 Sq. Ft: \_\_\_\_\_

PROPERTY OWNERS:

Name: Same as applicant  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State: \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax \_\_\_\_\_  
 Email: \_\_\_\_\_

PROPERTY USE DESCRIPTION:

Existing Land Use: Vacant  
 Existing Zone: RHM  
 Proposed Zoning: \_\_\_\_\_  
 (if applicable)  
 Proposed Use: Residential

ADDITIONAL INFORMATION:

In order to expedite and complete the processing of this application, the Planning Division requires that all pertinent material required for review be submitted at the time application is made. If the application is found to be incomplete, review and processing of the request will not begin until the application is made complete. The submittal requirements relative to this application may be obtained from the specific sections of the Zoning or Land Division Ordinances pertaining to this application and from Planning Division staff. Pre-application conferences with Planning Division staff are encouraged. If there are any questions as to submittal requirements, contact the Planning Division prior to formal submission of the application. In submitting this application, the applicant should be prepared to give evidence and information which will justify the request. *The filing fee must be paid at the time of submission. This fee in no way assures approval and is non-refundable.*

Continued

I certify that the statements made in this application are complete and true to the best of my knowledge. I understand that any false statements may result in denial of this application.

Applicants Signature *Ru* Date 12/4/19

Property Owner's Signature *Ru* Date 12/4/19

For Office Use:	RECEIVED	Receipt Number <u>10627</u>
Received by <u>DEC 04 2019</u>	Date _____	Application Number <u>311-19-000034-PLNG</u>
Fee Paid <u>\$443</u>	Date <u>12/4/19</u>	File Number <u>1303-1.98a</u>
City of Forest Grove Received 2:07 pm 12/4/19 <i>JM</i>		



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City of Forest Grove Planning Division

1924 Council Street  
Forest Grove, OR 97116  
503-992-3226  
Fax: 503-992-3202  
planning@beta.or.us

# Transaction Receipt

311-19-000034-PLNG

IVR Number: 311071459843

Receipt Number: 10627

Receipt Date: 12/5/19

www.forestgrove-or.gov/city-hall/community-development

Worksite address: 1548 - 1548 19TH AVE, FOREST GROVE, OR 97116-2301

Parcel: 1S401AA07200

## Fees Paid

Transaction date	Units	Description	Account code	Fee amount	Paid amount
12/5/19	1.00 Ea	Appeal of Planning Commission decision fee Fee Notes: Flat fee.	1003100-4541	\$443.00	\$443.00

Payment Method: Check number: 2285	Payer: GALES CREEK DEVELOPMENT LLC	Payment Amount:	\$443.00
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Cashier: Shannon Reynolds

Receipt Total:

\$443.00

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# APPEAL PETITION

**Applicant/Owner:** Gales Creek Development, LLC

**Date:** December 4, 2019

**Subject:** Appeal to Forest Grove City Council of the Planning Commission Decision dated November 18, 2019 and signed November 20, 2019  
City File Number: 311-19-000026-PLNG

## **Petition for Appeal:**

The Forest Grove Planning Commission held a public hearing on November 18, 2019 to consider a request by Owner/Applicant Gales Creek Terrace, LLC to adjust rear yard setback standards in the Gales Creek Terrace Planned Residential Development (“GCT”). The record for the proceedings below is contained and set forth in City File Number 311-19-000026-PLNG/ Planning Commission Findings and Decision Number 2019-13. The Planning Commission deliberated and considered several motions related to the adjustment requests, all of which failed on 3-3 votes. The Planning Commission denied the application based on the failure of a majority of the members to affirmatively approve the adjustment requests. Pursuant to Section 17.1.640 of the Forest Grove Development Code, Owner/Applicant Gales Creek Terrace, LLC requests the Forest Grove City Council to hear and consider an appeal of the Planning Commission’s decision concerning City File Number 311-19-000026-PLNG/ Planning Commission Findings and Decision Number 2019-13, and adopt the analysis, findings, and recommendation to approve the requested setback variances contained in the Planning Director’s report dated November 8, 2019.

## **Standing to Appeal:**

Gales Creek Terrace, LLC has standing to request this appeal pursuant to Section 17.1.640(A) because it was the applicant in the underlying matter and appeared before the Planning Commission at the public hearing on November 18, 2019.

## **Timeliness of Appeal:**

Section 17.1.640 states that a party may appeal a Type III decision by the Planning Commission within 14 calendar days after the written notice of decision is provided to the parties.

The Planning Commission issued written Notice of Decision in City File Number 311-19-000026-PLNG on November 20, 2019.

The last day that a party may file an appeal is December 4, 2019.

## **Background:**

The Forest Grove City Council approved GCT on November 24, 2014 (Order 2014-06). GCT contains 186 lots that will support 157 single-family detached, 20 single-family attached, and 20 duplex dwelling

units. Section 17.3.130 of the Forest Grove Development Code specifies that the standard rear yard setback is “two feet for every three feet in building height at the eave line, whichever is greater.” The land use plan the City Council approved for GCT specified that the rear yard setback for the southern tier of lots that abut the Urban Growth Boundary lots should be fifteen (15) feet, and that rear yard setbacks for all other lots should be twelve (12) feet.

Gales Creek Terrace, LLC, the current owner of GCT and the Applicant in this matter, commenced construction of Phase 1 of the project in September 2018 and expects to record a plat for Phase 1 before the end of 2019.

**Nature of the Request:**

Gales Creek Terrace, LLC requested the Planning Director to grant a twenty percent (20%) adjustment to the rear setback standard for all lots in the GCT development for decks over three (3) feet in height pursuant to Section 17.2.120 of the Forest Grove Development Code. The requested adjustment would allow decks over three (3) feet high to extend up to 2’ 4” into the rear yard setback on lots the development plan proscribed a 12-foot setback, and up to 3’ 0” into the rear yard setback on lots the development plan proscribed a 15-foot setback.

Ordinarily, a request for an adjustment made pursuant to Section 17.2.120 is processed as a Type II land use decision that is issued by the Planning Director. However, the Planning Director elected to process the adjustment request as a Type III matter before the Planning Commission because the application requested to adjust standards the Planning Commission originally approved through a Type III process.

In a report dated November 8, 2019, the Planning Director concluded that the application demonstrated compliance with all of the Adjustment Review Criteria set forth in Section 17.2.120 and recommended that the Planning Commission approve the requested 20% adjustment to the rear yard setback requirements on all lots in the GCT development for decks that exceed a height of three feet.

**Planning Commission Decision:**

The Planning Commission held a public hearing on the application on November 18, 2019.

With respect to Applicant’s request for a 20% reduction in the rear yard setback for lots with an existing 12-foot setback standard, several members of the Planning Commission rejected the Planning Director’s analysis, findings, and recommendation to approve the requested adjustment; and concluded that they were unable to find that the requested adjustment would “not significantly detract from the livability or appearance of the residential area” as required by Section 17.2.120(B)(3) of the Development Code. The Development Code does not define the term “livability,” but several members of the Planning Commission interpreted “livability” to include negative visual and privacy impacts that might conceivably affect “future” residents on adjacent properties within the GCT development and existing residents on adjoining properties. The Planning Commission failed to approve the adjustment request because a majority of members declined to find that the setback adjustments Applicant requested for lots with an existing 12-foot rear yard setback would not result in negative visual and privacy impacts that would affect neighboring properties within and outside the development.

With respect to Applicant’s request for a 20% reduction in the rear yard setback requirement for lots with an existing 15-foot setback standard, i.e., lots with rear yards that abut the Urban Growth

Boundary, several members of the Planning Commission again rejected the Planning Director's analysis, findings, and recommendation to approve the requested adjustment. The Commissioners that voted to deny the application concluded that they were unable to find that the requested adjustment would "be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified" as required by Section 17.2.120. The Planning Commission failed to approve the adjustment request because a majority of members failed to find that the setback adjustments Applicant request for lots with an existing 15-foot rear yard setback would not meet the purpose of the setback standard a previous Planning Commission set for the GCT project, which was to "separate the buildings from the rear property line."

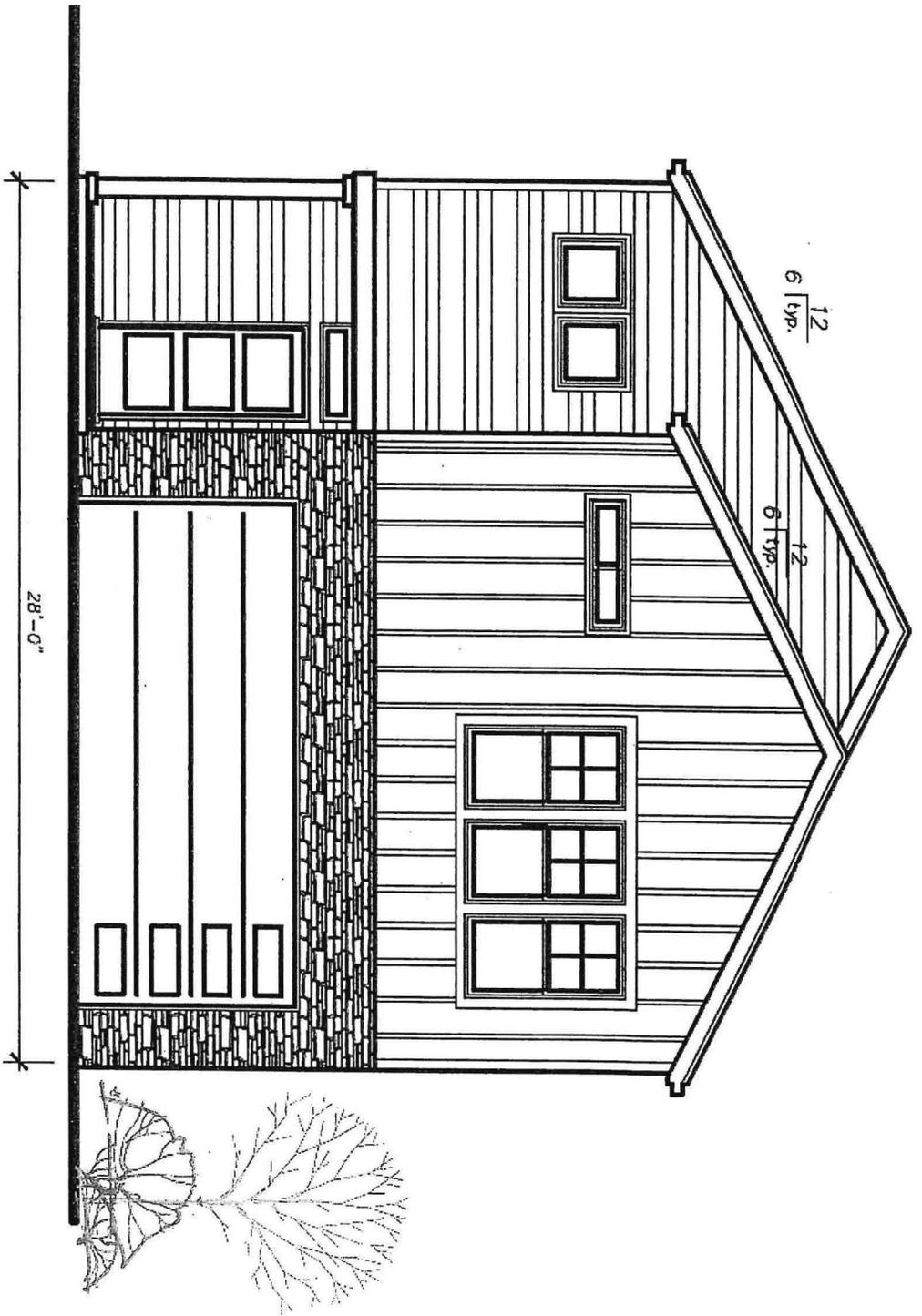
**Specific Issues Subject to Appeal:**

The City Council should adopt the analysis, findings, and recommendation to approve the requested setback variances contained in the Planning Director's report dated November 8, 2019 based on the following issues and consideration:

1. The lots that are the subject of the adjustment requests are steeply sloped. The living room and kitchen portions of the affected dwellings are located at the street level. In many instances, the rear elevations of homes constructed on the affected lots may be 8 to 12 feet below the street grade. This condition makes access to rear yard difficult from the front of the homes. One of the primary purposes of the adjustment request is to provide future residents with more functional outdoor living space adjacent to the active parts of the homes that are located in rear portions of the dwellings. As the Planning Director's report acknowledges, the record contains evidence that supports a finding that concludes the proposed adjustments comply with Section 17.2.120(2) because the ability to provide and maximize functional interior living spaces within dwelling units is a key component of purposes and intent of RMH Zone and the adjustments that were previously approved for the project.
2. The requested adjustments will allow for construction of stairways that will provide direct access to the rear lot area. This will permit and promote functional uses of outdoor living space and make the individual dwelling units the community in general more livable. The record contains evidence that supports a finding that concludes the proposed adjustments comply with Section 17.2.120(2) because the ability to provide and maximize functional outdoor living spaces is a key component of purposes and intent of RMH Zone and the adjustments that were previously approved for the project.
3. The Planning Director's report and testimony offered during the hearing made it clear that the site is in a high-density residential development and windows of the upper level and street level will give occupants the ability to see adjacent yards regardless of the adjustment request. The Planning Director's report acknowledged and considered these facts on Page 6 of the November 8, 2019 Report. The Typical Lot Cross Section demonstrates that additional deck space that may result from the requested setback adjustment would be no more intrusive into neighboring yards than the views residents will have from windows that will be located on the rear elevations of the dwellings. Significant to this discussion, several Planning Commissioners that supported approval of the requests stated on the record that decks constructed on the rear elevations of dwellings would not diminish "livability" in the community any more than windows

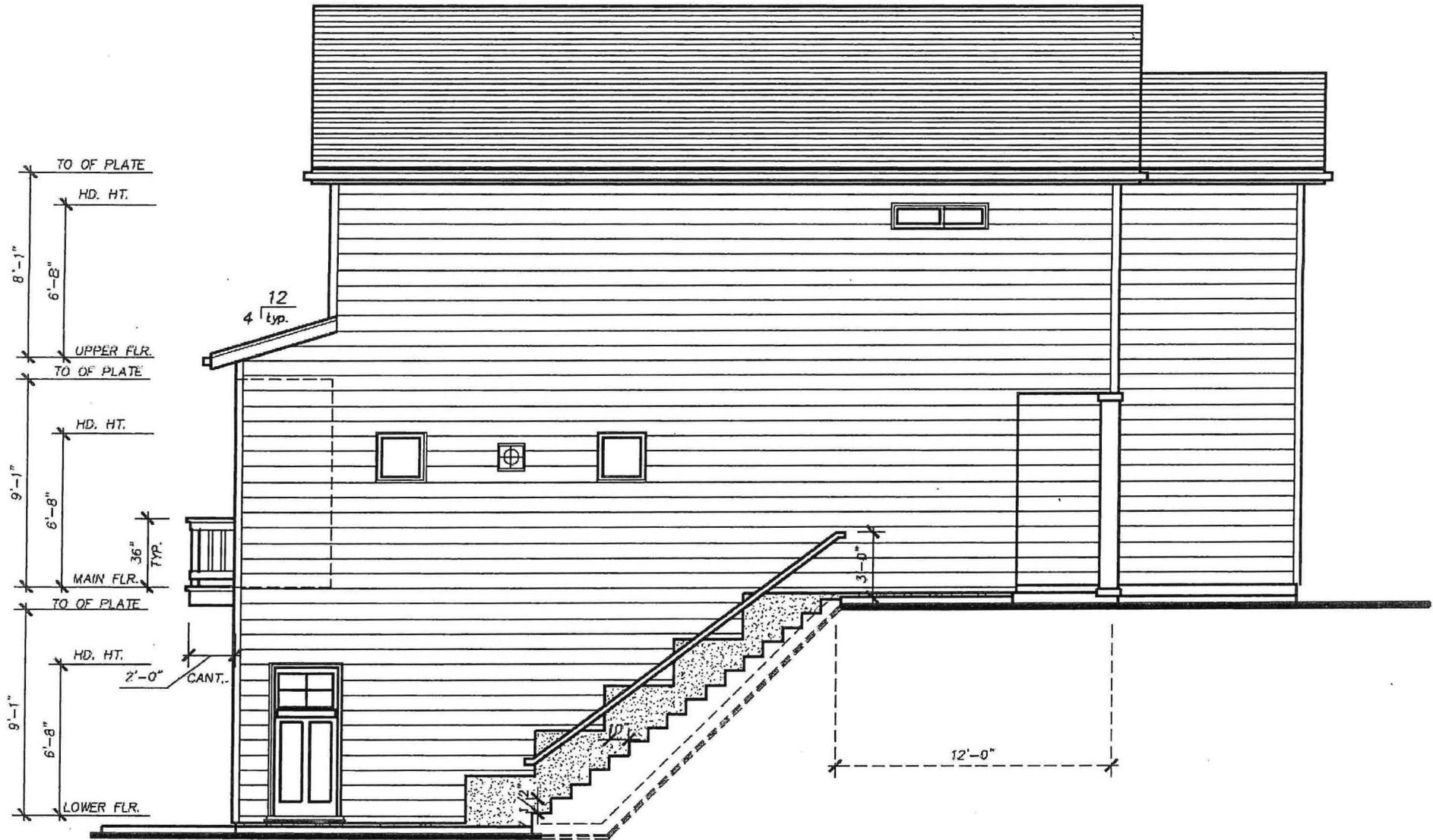
that will be present on the rear elevations of each home that will be constructed. The record contains evidence that supports a finding that concludes the proposed adjustments will “not significantly detract from the livability or appearance of the residential area” as required by Section 17.2.120(3).

4. Several Planning Commission members expressed concern that decks constructed within the extended setback area could generate noise and disruptions that would have a negative impact on livability. In response, another Planning Commissioner noted on the record that owners were free to construct decks less than 3 feet high all the way to the property line, that activities arising from normal uses in back yards could be expected to generate the same levels of noise as an exterior deck that extended an additional 2’ 4” into the setback, or even noise emanating from an open window resulting from normal and common activities within a dwelling. The record contains evidence that supports a finding that concludes the proposed adjustments will “not significantly detract from the livability or appearance of the residential area” as required by Section 17.2.120(3).
5. Planning Commissioners who opposed the setback adjustment requested for lots with an existing 12-foot setback incorrectly assumed that their opposition meant that no decks would or could be constructed on the rear portions of the affected lots. This assumption was incorrect. Nothing in the original approval for GCT prohibits the construction of exterior decks on the rear elevations of homes to address perceived or anticipated privacy or noise considerations. During the hearing Applicant advised the Planning Commission that it would be possible to construct a covered exterior deck within a “cut-out” portion on the rear elevation of affected homes that would be entirely within the current setback. An example plan set that includes an exterior deck within a “cut-out” portion of the rear building elevation and further clarifies Applicant’s testimony during the hearing is attached as Exhibit A. It is axiomatic that an exterior deck constructed within a “cut-out” on a rear building wall within approved building envelop will generate noise levels that are common in residentially zoned areas. It is also axiomatic that if an existing deck is permitted to intrude an additional a 2’ 4” into a rear setback area that it will not substantially increase the levels or types of noise that exterior decks in residential areas may reasonably be expected to generate. Likewise, there is no basis to conclude that visual impacts will be any greater, or privacy of adjoining property owners will be more significantly affected. For the reasons stated in the Planning Directors report, the record contains sufficient evidence to conclude that the requested adjustment will “not significantly detract from the livability or appearance of the residential area” as required by Section 17.2.120(B)(3).
6. Planning Commissioners that supported approval specifically noted on the record that the application did not request an adjustment for existing dwellings that are adjacent to other existing dwellings. To the contrary, as the Commissioner correctly noted, the requests concern new dwellings and prospective buyers will have ample opportunities see the site conditions and make their own independent decisions if they wish to purchase homes in GCT based on the living conditions they observe. This rationale supports the Planning Director’s conclusions and findings that the requested adjustments do “not significantly detract from the livability or appearance of the residential area” as required by Section 17.2.120(B)(3).



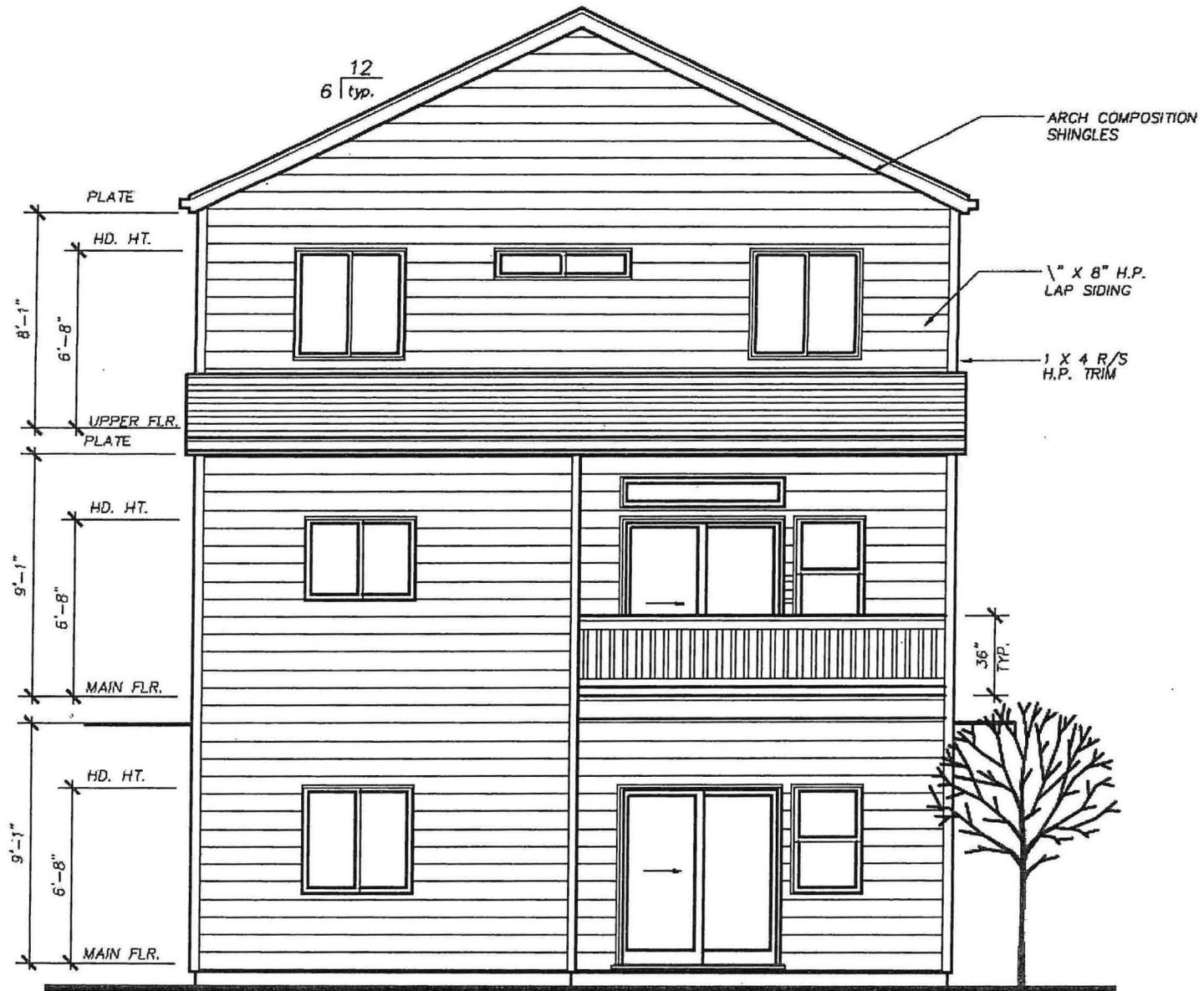
" MODERN FARM "  
**FRONT ELEVATION**  
SCALE: 1/4" = 1'-0"

Exhibit A, page 1



LEFT-SIDE ELEVATION

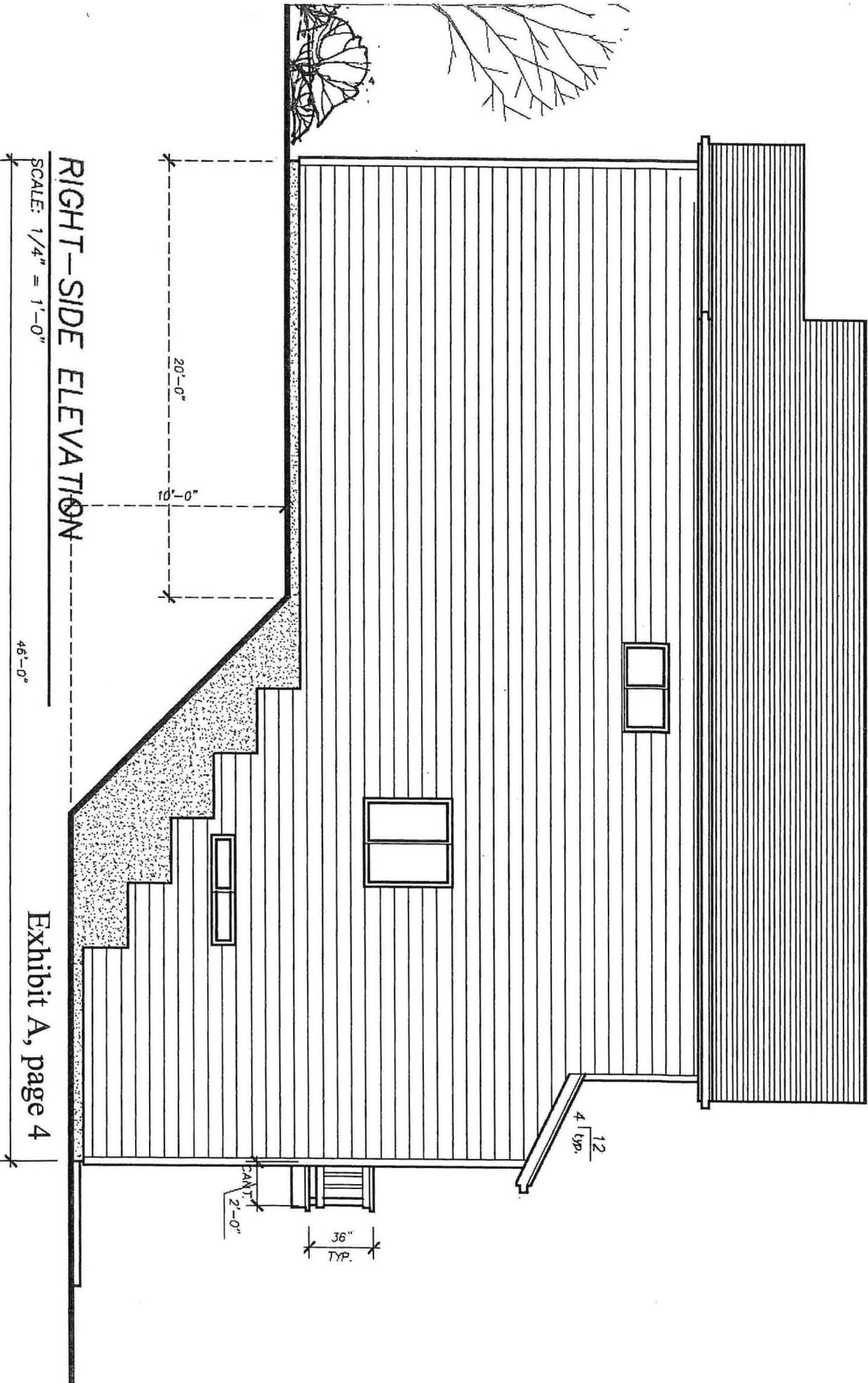
SCALE: 1/4" = 1'-0"



**REAR ELEVATION**

Exhibit A, page 3

SCALE: 1/4" = 1'-0"



RIGHT-SIDE ELEVATION

SCALE: 1/4" = 1'-0"

Exhibit A, page 4



*A place where families and businesses thrive.*

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## NOTICE OF DECISION

**TO:** Affected Parties

**FROM:** Dan Riordan, Senior Planner 

**DATE:** November 18, 2019

**RE:** Request for 20% Adjustments to Rear Yard Setbacks Affecting Certain Lots in the Gales Creek Terrace Planned Residential Development

City File Number: 311-19-000026-PLNG

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This is your notice that on November 18, 2019, the Forest Grove Planning Commission considered an applicant initiated request for 20% adjustments to the rear yard setbacks affecting certain lots in the Gales Creek Terrace Planned Residential Development.

The Planning Commission reviewed the application, staff report and public testimony presented at the public hearing. The Planning Commission considered several motions pertaining to the request. All motions made failed on a tie vote (3 ayes to 3 nays). Since the motions failed the adjustment request was not approved.

The Planning Commission's findings and decision are enclosed for your information. The Planning Commission decision is appealable to the Forest Grove City Council. The appeal must be filed with Forest Grove City Community Development Department within fourteen (14) calendars from the date the enclosed decision was signed. The appeal must be in writing and must identify the specific issues in the record being appealed. The appeal filing fee is \$443 payable to the City of Forest Grove.

If the Planning Commission's decision is appealed, the City Council will conduct an appeal hearing on the record. Only issues in the record, whether raised orally or in writing, shall be raised before the City Council and the hearing may be limited only to those issues raised in the appeal petition. If the Planning Commission decision is not appealed it will become the City's final local decision upon expiration of the fourteen (14) day appeal period.

Please contact me at [driordan@forestgrove-or.gov](mailto:driordan@forestgrove-or.gov) or (503) 992-3226 if you have any questions.

## **Planning Commission Findings and Decision Number 2019-13**

### **To Not Approve Adjustments to Established Rear Yard Setbacks for Certain Lots in the Gales Creek Terrace Planned Residential Development**

File Number 311-19-000026-PLNG

**WHEREAS**, City Council adopted Order 2014-06, approving the Gales Creek Planned Residential Development (Development); and

**WHEREAS**, Order 2014-06 established building setbacks including rear yard setbacks throughout the Development; and

**WHEREAS**, on September 26, 2019, Gales Creek Terrace LLC (Applicant), submitted to the City an application for 20% adjustments to the rear yard setbacks for 95 lots in the Development; and

**WHEREAS**, the Applicant sought approval of the adjustments to allow encroachment of decks over 3-feet in height into certain rear yards; and

**WHEREAS**, the Director elevated the application to the Planning Commission for a decision as authorized by Forest Grove Development Code §17.1.510; and

**WHEREAS**, notice of the Planning Commission public hearing was mailed to property owners and residents within 300 feet of the affected area on October 29, 2019; and

**WHEREAS**, the Planning Commission held a public hearing on this application on November 18, 2019; and

**WHEREAS**, the Planning Commission considered the application, staff report and public testimony presented during the public hearing; and

**WHEREAS**, the Planning Commission deliberated and considered several motions pertaining to the request; and

**WHEREAS**, all motions considered by the Planning Commission failed on a 3-3 vote; and

**WHEREAS**, since all motions failed the application is not approved.

**NOW THEREFORE**, The City of Forest Grove Planning Commission does hereby decide not to approve the application for 20% adjustments to the rear yard setbacks for certain lots in the Gales Creek Terrace Planned Residential Development making the following specific findings in support of this decision:

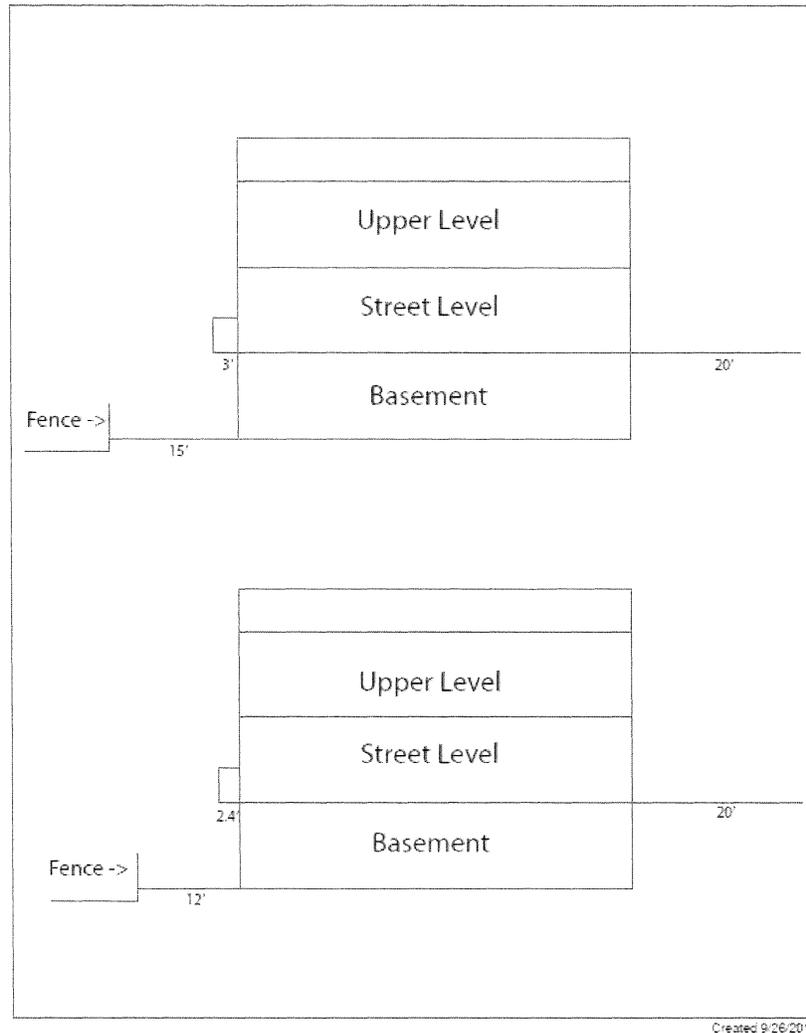
**Finding:** The applicant requests approval of a 20% adjustment to the rear yard setback standard for certain lots in the Development as indicated below:

GCT 20% Adjustment to Rear Setback to Decks over 3' in Height



**Finding:** The adjustment would allow encroachment of decks over 3-feet in height in required rear yards on certain lots with 12-foot and 15-foot rear yards established by the Development approval as indicated below:

# Typical Lot Cross Section



Finding: The Planning Commission deliberated about whether the adjustment request meets the adjustment review criterion found in Development Code §17.2.120(B)(3) which states: “If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area.” As the written record indicates, the Forest Grove Development Code does not include a definition for the word “livability.” This allows discretion to the Planning Commission to interpret the term. The record indicates the Planning Commission interpreted factors affecting livability to mean negative visual and privacy impacts affecting future residents on neighboring properties within the development and existing residents adjacent to the development site. Information included in the record indicates the development elevation ranges from about 205 feet on the north to 180 feet on the south. Combined with the compact lots in the Development a majority of the Planning Commission could not find that the deck encroachments would not result in negative visual and privacy impacts to neighboring properties given topography and proximity of the homes constructed to neighboring lots.

Finding: Testimony in the record indicates decks three feet above grade are part of the building and are therefore subject to the building setback standards. A majority of the Planning Commission could not find that the neighboring properties would not be negatively impacted by allowing a building setback and placement of decks as close as 9.6-feet on lots with a required 12-foot rear yard and as close as 12-feet on lots with a required 15-foot required rear yard. This determination is based on reduction of privacy throughout the development and neighboring properties adjacent to the development on 18<sup>th</sup> Avenue. The Commission discussed that the reduction of privacy from the decks is compounded due to the sloping topography of the development site. Information included in the record indicates the development elevation ranges from about 205 feet on the north to 180 feet on the south.

Finding: The Planning Commission deliberated about limiting decks lengths to reduce potential negative privacy and visual impacts. After deliberation, a majority of the Planning Commission did not conclude that limiting deck lengths would adequately mitigate potential privacy and visual impacts given the sloping topography of the development site and general proximity of homes constructed to neighboring lots. Therefore, the Planning Commission did not determine that the requested adjustments would meet review criterion §17.2.120(B)(5) which states “Any impacts resulting from the adjustment are mitigated to the extent practical.”

Finding: The Commission discussed approving the requested 3-foot deck encroachment on lots with a 15-foot rear yard. The Planning Commission discussed that the 15-foot rear yard standard is the minimum allowed by the Code and further reduction of the rear yard above grade does not meet the purpose of the setback standard as interpreted by the Planning Commission which is to separate the buildings from the rear property line. Therefore, the Commission did not find that the requested adjustment would meet review criterion 17.2.120(B)(2) which states: “Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified.”

Finding: At the conclusion of the November 18, 2019 public hearing, the Planning Commission considered several motions to approve the requested adjustments:

Motion: Grant approval of the adjustments as requested by the applicant. Planning Commission vote: 3-3.

Motion: Grant approval of the adjustments as requested by the applicant except for the lots with frontage on Dee Court and 18<sup>th</sup> Avenue that could impact properties adjacent to the development site. Planning Commission vote 3-3.

Motion: Grant approval of the adjustment only for lots with 15-foot rear yards along the pedestrian pathway adjacent to the urban growth boundary. Planning Commission vote 3-3.

Since the Planning Commission deadlocked on a 3-3 vote, none of the motions passed and the adjustment request is not approved.



TOM BECK, Chair



Date

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*A place where families and businesses thrive.*

**Planning Commission  
Community Auditorium  
1915 Main Street, Forest Grove, OR  
Monday, November 18<sup>th</sup>, 2019, 7:00 pm**

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**1. CALL TO ORDER:**

Chair Tom Beck called the Work Session to order at 6:15 p.m. Roll Call:

**Planning Commission Present:** Tom Beck, Chair; Phil Ruder, Vice Chair; Commissioners Dale Smith, Lisa Nakajima, Ginny Sanderson and Hugo Rojas.

**Planning Commission Excused:** None.

**Staff Present:** Community Development Director Bryan Pohl; James Reitz, Senior Planner; Dan Riordan, Senior Planner; Cassi Bergstrom, Planning Commission Coordinator

**2. WORK SESSION ITEMS:**

**A. NEIGHBORHOOD MIXED USE ZONE DISCUSSION:**

Community Development Director Bryan Pohl gave a Power Point presentation giving the background on the Neighborhood Mixed Use (NMU) zones and where they were located, along with the history of the Gales Creek NMU zone and City Council's denial of the most recent application. The NMU zone was created in 2014 as part of the Comprehensive Plan implementation funded by the Transportation and Growth Management (TGM) Grant. The NMU zone is intended to be a commercial designation located near residential areas to serve pedestrian and bicycle traffic within the 'Village Center' design.

Mr. Pohl went on to say that the Development Code does not have a definition for the 'Village Center' concept, which allows for flexibility with developers but can pose a problem when reviewing an application for a single property within the NMU zone.

There are four properties within Forest Grove zoned NMU: David Hill (West) at 29 acres with six parcels; Gales Creek at 6.7 acres with multiple parcels and a bisecting street proposal; David Hill (East) at 26 acres and two parcels; and Davidson property at 25 acres with two parcels.

A meeting with City Council held on September 23<sup>rd</sup>, 2019. Mr. Pohl summarized where Councilors said they wanted the Commissioners to consider for these Development Code revisions: Make no code changes; Amend to define Village Center; Change all NMU zones to an alternative zone; or amend the zone definition

to consider viable parcels that could be built out as NMU zones when designating the zoning.

A letter from a property owner located within the NMU zone at Gales Creek was emailed to Commissioners prior to the work session.

**COMMISSIONER DISCUSSION:**

Chair Beck opened to floor for discussion; Mr. Pohl and Mr. Riordan responded to various Commissioner questions and scenarios pertaining to the four areas currently zoned NMU. Commissioner Nakajima suggested the NMU zone be more precisely defined to only allow acreage no less than 10 acres to construct a 'Village Center', which would exclude the Gales Creek property as it is only a 6.7 acre site.

Discussion was held regarding the definition of 'Village Center', but Commissioners hesitated to strictly define it due to the fact it will limit what a developer can construct within the NMU zone. Commissioners agreed the 'Village Center' should encompass a minimum 10 acres of site area with multiple, smaller commercial opportunities oriented towards a single developer. Commissioners agreed that the Gales Creek site will need to be rezoned to a designation that works better for that area, and the 'Village Center' will need to encompass both commercial and residential with the definition to be more clearly defined yet not restricting. Chair Beck would like some more direction from Council on what the Planning Commission's next step should be.

Commissioners took no formal action nor made any formal decisions during the work session. The work session was adjourned at 6:55 p.m.

**3. PUBLIC HEARING:**

**A. PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS:**

None.

**B. PUBLIC HEARING:**

**(1.) File No. 311-19-000026-PLNG – Adjustment of 20% to the rear yard setback within the Gales Creek Terrace Planned Residential Development for decks more than three feet above ground level**

Chair Beck opened the quasi-judicial public hearing at 7:05 p.m., reading the hearing procedures, and asked for disclosure of any conflicts of interest, ex-parte contacts, bias, or abstentions. There were none, and no challenges from the public. He called for the staff report.

Dan Riordan, Long Range Planner, gave the staff report. Mr. Riordan stated that adjustments are not typically brought to the Planning Commission, but since this is a twenty percent adjustment for multiple lots within the Gales Creek Terrace

Planned Development. The Community Development Director determined that it needed to be elevated to a Type III application submittal since the project has been controversial and the building setbacks were established as part of the original project approval. The adjustment is an encroachment into the rear yard affecting 95 lots within Gales Creek Terrace. The decks will encroach 2 feet 4 inches to 3 feet from the second level of the home to allow for more livability space off the rear portion of the houses. Mr. Riordan showed the lots affected and the deck placement on the Power Point slides, stating the privacy impacts of the adjustment would be minor. Staff recommended approval of the twenty percent adjustment as it meets the adjustment approval criteria and is consistent with development allowed in the high density zone.

**CORRESPONDENCE:**

No correspondence was received.

**APPLICANT:**

**Morgan Will, Stafford Land Company, 8840 SW Holly Ln, Wilsonville 97070:**

Mr. Morgan Will from the developer Stafford Land Company came to the front and gave a summary of why the encroachment of the decks will be necessary for the livability of the high density houses. Mr. Will went through the lots showing where the decks will overlook. Commissioners questioned the use of a deck that small, and Mr. Will responded that the decks will allow for an open space to store a few patio chairs and possibly a barbeque, basically an extension of the living room. Decks can possibly be partially recessed into the house to create more square footage than just the 2-3 foot adjustment.

Commissioner Nakajima inquired as to why the adjustment was not part of the original planned development submittal, and Mr. Will explained that the plans were preliminary and the grade of the area forced some of the houses to have a daylight basement so the deck would be well over 36 inches high at street level, causing a need for a permit and meeting the minimum setback requirements.

**PROPONENTS:**

None.

**OPPONENTS:**

**John Schrag, 43578 SW Hiatt Rd, Forest Grove, OR 97116:**

Mr. John Schrag came to the front, telling Commissioners that he is the caretaker of his mom's estate located at 1810 D Street which borders the Gales Creek Terrace development. Mr. Schrag inquired with city staff if a request like this has been made in the past and what the result of that request was. Mr. Reitz stated a deck adjustment/variance was applied for in the past of a very large deck in the rear yard, but was denied because of the privacy of the downhill neighbors.

Mr. Schrag stated he is not necessarily opposed to the decks, but the developer has not had a good relationship with the existing neighboring properties. This

proposal will be a monetary benefit to the developer, and the decks could cause a potential disturbance of noise in the area. The city should consider what the developer has done to benefit the neighboring community.

**OTHER:**

None.

**REBUTTAL:**

**Bryan Cavaness, Stafford Land Company, 8840 SW Holly Ln, Wilsonville**

**97070:**

Mr. Bryan Cavaness with Stafford Land Company came to the front, and reiterated what Mr. Will had said prior. Mr. Cavaness stated there will not be extensive use of the decks, but it provides an open space for the homeowner. The intent is to provide some opening to the outside, and the privacy issue exists with the windows that are located on the rear of the house already.

Mr. Morgan Will came to the front to explain to the Commissioners which houses will need the adjustment for the decks, and explained that Stafford Land Company is the development company and not the home building company. Currently there are two homebuilders in the first phase.

Chair Beck closed the public hearing at 7:40 p.m.

**COMMISSIONER DISCUSSION:**

Chair Beck opened up the floor for discussion.

Commissioners discussed the privacy issues that could occur with the decks, as they may overlook the neighboring property. Commissioners deliberated on whether the adjustment criterion found in Development Code §17.2.120(B)(3) meets the proposal of the 3-foot deck encroachment, determining if the livability is not negatively affected regarding the neighboring properties.

Chair Beck was in favor of allowing the adjustment on the lower lots (gold color) where the rear deck faces the pathway, but the upper lots (brown color) he is not in favor of allowing the adjustment as it affects the livability of the neighboring properties.

Commissioner Sanderson was in favor of allowing all the lots, with the exception of three lots on Dee Court/18<sup>th</sup> Avenue. These new houses will be purchased with the knowledge of a deck encroachment so the livability is not affected. The three lots off Dee Court could potentially affect existing homeowners which is why they should be omitted.

Chair Beck recommended a straw vote to see where Commissioners were at:

Commissioner Rojas suggested approval of file number 311-19-000026-PLNG – Adjustment of 20% to the rear yard setback within the Gales Creek Terrace Planned Residential Development for decks more than three feet above ground level with the exception of the three lots at Dee Court. Vice Chair Ruder seconded the recommendation.

Commissioners Sanderson, Nakajima, and Rojas were in favor. Chair Beck, Vice Chair Ruder, and Commissioner Smith were not in favor. Vote split 3-3.

Commissioner Nakajima recommended to approve file number 311-19-000026-PLNG – Adjustment of 20% to the rear yard setback within the Gales Creek Terrace Planned Residential Development for decks more than three feet above ground level with the exception of all the upper (brown) lots. Vice Chair Ruder seconded the recommendation.

Chair Beck, Vice Chair Ruder, and Commissioner Smith were in favor. Commissioner Sanderson, Rojas and Nakajima were not in favor. Vote 3-3.

**Final Motions:**

**Commissioner Nakajima moved a motion to approve file number 311-19-000026-PLNG – Adjustment of 20% to the rear yard setback within the Gales Creek Terrace Planned Residential Development for decks more than three feet above ground level with the exception of all the upper (brown) lots. Vice Chair Ruder seconded the motion.**

**Roll Call Vote: AYES: Chair Beck; Vice Chair Ruder; and Commissioner Smith. NOES: Commissioners Sanderson, Nakajima, and Rojas. ABSENT: None. MOTION TIED 3-3.**

**Commissioner Nakajima moved a motion to approve file number 311-19-000026-PLNG – Adjustment of 20% to the rear yard setback within the Gales Creek Terrace Planned Residential Development for decks more than three feet above ground level with the exception of the 3 lots at Dee Court. Vice Commissioner Sanderson seconded the motion.**

**Roll Call Vote: AYES: Commissioners Sanderson, Nakajima, and Rojas. NOES: Chair Beck; Vice Chair Ruder; and Commissioner Smith. ABSENT: None. MOTION TIED 3-3.**

**Due to a tie, the motion fails.**

**C. ACTION ITEMS:**

None.

**4. BUSINESS MEETING:**

**A. APPROVAL OF MINUTES:**

Commissioner Smith moved to approve the minutes of the October 7<sup>th</sup>, 2019 meeting. Commissioner Nakajima seconded. Motion passed 6-0.

**B. REPORTS FROM COMMISSIONERS/SUBCOMMITTEES:**

None.

**C. DIRECTOR'S REPORT:**

Mr. Pohl stated that a design review and site plan approval for a proposed 18-unit apartment structure will be coming to the Commission next meeting, as well as the re-zoning of the property near the Forest Grove fire station and library to prepare for the potential construction of a new police station.

**D. ANNOUNCEMENT OF NEXT MEETING:**

The next meeting will be held on December 16<sup>th</sup>, 2019.

**E. ADJOURNMENT:**

The meeting was adjourned at 8:02 p.m.

Respectfully submitted by:

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Cassi Bergstrom  
Planning Commission Coordinator

# PUBLIC HEARING SIGN-UP SHEET

Date: 11/18/2019

Agenda Item No.: 2.C.(1.)

Subject: File No. 311-19-000026-PLNG – An adjustment of up to 20% to rear yard setbacks affecting 95 of 197 lots located in Gales Creek Terrace subdivision

*Please Print Clearly*

## PROPOSERS:

Name

W. Morgan Cavaness - Development  
W. Morgan

Mailing Address

8340 SW Holly Ln Wilsonville OR 97070

## OPPOSERS:

Name

John Schrag

Mailing Address

43578 SW Hiatt Rd Forest Grove 97116

## OTHER:

Name

Mailing Address

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# GALES CREEK TERRACE

## ADJUSTMENT TO REAR YARD SETBACKS

DAN RIORDAN, Senior Planner

11/18/19

## REQUEST

Planning Commission consideration of a request for:

- ❑ 20% adjustment to the rear yard setback for decks above three feet above ground for certain lots at the Gales Creek Terrace Planned Residential Development.
- ❑ If approved, the adjustment would allow a 2.4' encroachment into rear yards for some lots with a 12' rear yard and 3' encroachment into the rear yards for some lots with a 15' rear yard



## PROCESS

- ❑ Adjustments are typically processed by staff.
- ❑ However, the Code grants authority to the CD Director to elevate an application to the PC if there is potential for neighborhood or community concern.
- ❑ Also, setbacks for GCT were established as part of original planned development approval.
- ❑ Since there has been neighborhood concern and the adjustment changes the original approval, this request is being elevated to the PC for a decision.

5



## APPROVAL CRITERIA

Development Code Section 17.2.120:

- ✓ The requested adjustment is from 10% to 20% of the setback, height, or lot coverage standard.
- ✓ Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified.

6



## APPROVAL CRITERIA

- ✓ If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area.
- ✓ If more than one adjustment is requested, the cumulative effect of the adjustment shall result in a project which is consistent with the overall purpose of the zone.
- ✓ Any impact resulting from the adjustment are mitigated to the extent practical.

7



## FINDINGS

- ✓ The proposed rear yard setback modifications do not exceed 20% of the setbacks established by the GCT approval and qualify for an adjustment under the Development Code.
- ✓ The adjustments do not reduce the useable at-grade rear yard space. Therefore, granting the adjustment meets the purpose of the setback standard to be modified.

8



## FINDINGS

- ✓ Allowing deck encroachments above grade will not alter the overall scale or bulk of the homes constructed at Gales Creek Terrace.
- ✓ As such, the adjustment will not significantly detract from the livability or appearance of the residential zone.
- ✓ Only one adjustment is requested per affected lot. Therefore, granting the adjustment will not have cumulative impacts.

9



## FINDINGS

- ✓ Impacts from granting from the adjustments are minor. Privacy on neighboring lots could be impacted depending on building orientation and location in the development.
- ✓ This would be expected in a high density residential area and is possible without the decks where windows are present.
- ✓ Mitigating such impacts are not practical.

10



## STAFF RECOMMENDATION

The Planning Commission approve the 20% adjustments to the established rear yard setbacks at GCT to allow:

- 2.4' deck encroachment on certain lots with a 12' rear yard, and
- 3' deck encroachment on certain lots with a 15' rear yard.





# Rear Yard Setback Adjustment Staff Report and Recommendation

Community Development Department, Planning Division

**REPORT DATE:** November 8, 2019

**HEARING DATE:** November 18, 2019

**LAND USE REQUESTS:** Approval of 20% adjustments to the rear yard setback for decks above three feet above ground for certain lots at the Gales Creek Terrace Planned Residential Development. If approved, the adjustment would allow a 2.4-foot encroachment into rear yards for some lots with a 12-foot rear yard and a 3-foot encroachment into rear yard for some lots with a 15-foot rear yard.

**FILE NUMBER(S):** 311-19-000026-PLNG

**PROPERTY LOCATION:** 1548 19<sup>th</sup> Avenue, 1844 C Street, and 1336 Pacific Avenue

**LEGAL DESCRIPTION:** Washington County Tax Lots: 1S40000400, 1S4010000401, 1S4010000500

**OWNER/APPLICANT(S)** Applicant:  
Gales Creek Terrace LLC  
8840 SW Holly Ln.  
Wilsonville, OR 97070

Applicant Representative: Morgan Will

Property Owner:  
Gales Creek Terrace LLC  
8840 SW Holly Ln.  
Wilsonville, OR 97070

**COMPREHENSIVE PLAN MAP AND ZONING MAP DESIGNATIONS:** High Density Residential (HDR)  
Residential Multifamily High (RMH)

**APPLICABLE STANDARDS AND CRITERIA:** City of Forest Grove Development Code:  
§17.2.120 (Adjustment)

**REVIEWING STAFF:** Daniel Riordan, Senior Planner

**RECOMMENDATION:** Based on the information provided in the application and the analysis, findings and conclusions contained in the staff report, staff recommends the Planning Commission approve the 20% adjustments to the established rear yard setback for certain lots in the Gales Creek Terrace Planned Residential Development as shown on Exhibit A.

## I. REVIEW PROCESS

This review is for adjustments to the rear yard building setback standard to allow construction of decks more than three feet above ground on certain lots in the Gales Creek Terrace Planned Residential Development. If approved, the adjustment would affect 98 out of 197 homes in the Gales Creek Terrace development.

Ordinarily, an adjustment from 10% to 20% of the setback, height or lot coverage standard is processed as a Type II (Limited Land Use Decision) permit. Type II permits are reviewed administratively by staff and required notice is provided to property owners and residents within 300 feet of the subject property (Development Code §17.1.515 and §17.1.530).

Under Forest Grove Development Code §17.1.510, the Community Development Director has authority to elevate a Type II application to the Type III (Quasi-Judicial Land Use Decisions) process if in the opinion of the Director, there is potential for neighborhood or community concern about a proposal. Given the level of neighborhood interest expressed during the original Gales Creek Terrace approval process, that continues today, the Director decided to elevate this application to the Type III process. This provides an opportunity for a Planning Commission public hearing on this application.

In addition to the level of interest expressed by the neighborhood, the Gales Creek Development was approved as a planned development. Under Forest Grove Development Code §17.4.215(I) building setbacks are established as part of the preliminary development plan approval. Under Forest Grove Development Code §17.1.605 (Type III Applications and Approval Criteria) preliminary plan approval for a planned development is a Type III process. Since this adjustment request modifies the planned development approval, reviewing the proposal under the same process as the original approval is warranted.

## II. LAND USE HISTORY

The Gales Creek Terrace Planned Residential Development was approved by City Council on November 24, 2014 (Order 2014-06). The Gales Creek Terrace development includes 197 homes on 186 over to be built in three to four phases. The project includes single family detached, single family attached, and duplex units. A grading permit for the first project phase was issued on September 19, 2018. A structural permit for construction of retaining walls was issued on February 26, 2019. So far, the developer has completed initial grading and substantially completed public improvements including 18<sup>th</sup> Avenue and 19<sup>th</sup> Avenue, and Phase 1 retaining walls.

The land use approval established building setbacks throughout the development including rear yard setbacks. The approval establishes a 12 foot rear yard setback throughout most of the development. The approved rear yard setback for the southern tier along the urban growth boundary is 15 feet. The standard rear yard setback under the Forest Grove Development Code §17.3.130 (Residential Development Standards), Table 3-7 (Setback Requirements) is "15 feet or two feet for every three feet in building height at the eave line, whichever is greater."

### III. PROJECT DESCRIPTION AND ANALYSIS

The Gales Creek Terrace Planned Residential Development includes 20 duplex, 20 attached single family and 157 detached single family homes on a variety of lot sizes. Lots range in size from about 1,900 square feet to about 3,400 square feet. The largest lots are generally along the south edge of the project near the urban growth boundary. As noted above, the land use approval for the project established a rear yard setback of 12 feet throughout most of the development. The approved rear yard setback for the southern tier of lots along the urban growth boundary is 15 feet. The established front yard setback is 11 feet for the dwelling and 20 feet to a garage. Interior side yard setback is 3 feet from a building to the side property line. The side yard setback for lots where the side yard is on the side of a dwelling adjacent to one of the site's exterior property boundary lines is 5 feet.

The applicant requests 20% adjustments to the approved rear yard setbacks to allow for decks built more than 3 feet above ground only on certain lots with 12 foot and 15 foot rear yard setbacks as describe in Exhibit A and shown below. If approved by the Planning commission, the adjustments will allow a 2.4-foot deck encroachment into the 12 foot rear yard setback area and a 3-foot deck encroachment into the 15 foot rear yard setback area on certain lots as described in Exhibit A and shown below. The encroachments are above ground level and will not reduce the amount of useable yard space.

GCT 20% Adjustment to Rear Setback to Decks over 3' in Height



#### IV. SITE EXMINATION

The Gales Creek Terrace development site is located west of downtown Forest Grove adjacent to the urban growth boundary. The project area is generally west of D Street, south of Pacific Avenue and north of the Gales Creek 100-year floodplain boundary.

The development area is characterized by topography that slopes from Pacific Avenue towards Gales Creek and the Gales Creek floodplain. The highest elevation of the Gales Creek Terrace development site is about 235 feet near Pacific Avenue in the north and about 185 feet along the urban growth boundary to the south. The southern half of the development site closest to the urban growth boundary exhibits the steepest slopes in the project area. In this area, the elevation ranges from 225 feet in the north to 185 feet along the urban growth boundary. In this area, the characteristic slope is about 13.5%.

The Gales Creek Terrace project area is approximately 47 gross acres, in its entirety, including land outside of the urban growth boundary. About one-half of the area (25 gross acres) is within the urban growth boundary and is where development will occur. The net developable area after deducting rights-of-way, open space and of the site is approximately 13.2 acres.

The table below shows the Comprehensive Plan designations, zone districts and land uses for the Gales Creek Terrace site and surrounding area. The Gales Creek Terrace site is adjacent to an established residential neighborhood to the east that was generally developed in the mid-20<sup>th</sup> Century. The area to the north is largely institutional. This area includes Tom McCall Upper Elementary School and Forest View Cemetery. The area to the west is characterized by single family homes on acreage lots. The area to the south is outside the urban growth boundary and is undevelopable. This area includes Gales Creek and the Gales Creek floodplain.

Existing Comprehensive Plan Designation and Zoning of Site and Area

LOCATION	COMPREHENSIVE PLAN DESIGNATION	ZONE DISTRICT	LAND USE
Site	HDR	RMH	Being Developed for Single Family Detached, Single Family Attached and duplex homes
North	Public	INST	Middle School
South	EFU	EFU	Gales Creek Floodplain
East	HDR MDR	RMH RML	Single Family Dwellings
West	A-Medium B-Standard	R-7 R-5	Single Family Dwellings

## V. APPROVAL CRITERIA AND FINDINGS

To approve the adjustment request, the Planning Commission must find that the adjustment review criteria contained in Development Code §17.2.120 have been met. The applicant has the burden of proof demonstrating the criteria have been met.

### **Forest Grove Development §17.2.120 – Adjustment Review**

Development Code §17.2.120 *Adjustment Review Criteria* requires that the Commission find that the proposal complies with the following criteria for a Type II adjustment:

- 1. The requested adjustment is from 10% to 20% of the setback, height, or lot coverage standard.***

Applicant's Response: The request is for a 20% adjustment to the setback, within the range allowed, meeting this criterion.

Staff Analysis: The requested adjustment is 20% of the rear yard setback established by the Gales Creek Terrace Planned Residential Development Approval (Order 2014-06). The requested adjustment is between 10% and 20% of the setback coverage standard therefor, this criterion applies.

Finding: The requested adjustment is 20% of the established rear yard for certain lots in the Gales Creek affecting lots with 12 foot and 15 foot rear yards. The requested adjustment is between 10% and 20% of the setback coverage standard. Therefore, Criterion 1 is met.

- 2. Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified.***

Applicant's Response: This site is a planned development in the RMH zone. The purpose of residential zones is described in Section 17.3.100 of the code, where it states "the residential zones are intended to protect the livability of existing and future residential neighborhoods." Approval of the requested adjustment will allow decks in the rear yard above 3' in height which will enhance livability of the residents of this future neighborhood, which is consistent with the purpose of the code, thus this criterion is met.

Staff Analysis: The Gales Creek Terrace development site is zoned for residential development. As the applicant notes, §17.3.100 states: "the residential zones are intended to protect the livability of existing and future residential neighborhoods." Neither Development Code §17.3.100 nor Article 12 (Definitions) defines livability. As such, the Planning Commission must determine whether granting the adjustment is consistent with protecting the livability of existing and future residential neighborhoods. This is addressed further under Criterion 3 below.

The Gales Creek Terrace site is zoned Residential Multifamily High (RMH). The purpose of the RMH zone is to allow residential development at densities ranging from 16.22 units per net acre and 23.32 dwellings per net acre. As stated in Development Code §17.3.100, the regulations for the residential zones are intended to protect the livability of existing and future residential neighborhoods by encouraging

primarily residential development with compatible non-residential development at appropriate locations and at an appropriate scale. Granting the requested 20% adjustments to allow deck three feet above ground will not change the scale of the single family homes allowed by the Gales Creek Terrace approval. In addition, granting the adjustment will still allow for building separation characteristic of housing types allowed within the Residential Multifamily Housing zone including housing types with more bulk such as apartment buildings. As such, granting the adjustments is consistent with the purpose of the affected zoning district which is to allow for high density residential development. In addition, granting the adjustment meets the purpose of the standard to be modified which is to provide building separation.

Finding: The requested adjustment to the established rear yard setbacks for certain lots at the Gales Creek Terrace development is consistent with the purpose of the RMH zone and meets the purpose of the rear yard setback standard for the reasons stated above. Therefore, Criterion 2 is met.

**3. *If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area. If in a commercial or industrial zone, the adjustment will be consistent with the desired character of the area.***

Applicant Response: The adjustment is in a residential zone and will affect the rear yards, thus from the street it will not detract from the appearance of the neighborhood. The building setbacks will not change, so a deck encroachment into the rear yard of 2.4' or 3' respectively, will not significantly impact livability either. The adjustment is minor, therefore this criterion does not apply.

Staff Analysis: The project site is located in a residential zone: Residential Multifamily High (RMH). As such the Planning Commission must consider whether the proposed encroachment will significantly detract from the livability or appearance of the residential area. Both "livability" and "significant" are subjective terms not specifically defined in the Development Code. However, guidance for addressing livability is found in the Conditional Use Section of the Development Code (§17.2.220(C)). Under this Code provision, factors detracting from livability include significant adverse impacts on nearby land due to noise, glare from lights, late-night operations, odors, and litter and privacy and safety issues.

The proposed above grade deck encroachment into the rear yard will not have impacts on neighboring properties due to noise, glare from lights, late night operations, odor, litter or safety.

The only potential impact from the encroachment might be impacts to privacy on adjacent lots depending on orientation of the lots, lot location and topography. Given the topography of the Gales Creek Terrace development site such privacy impacts as those noted above are possible with or without the deck encroachment depending on building design and window locations. Furthermore, the Gales Creek Terrace project site is located within a high density residential zone. Given the development density, lot dimensions and housing types allowed in the Residential Multifamily Housing zone as described in Development Code §17.3.130 (Residential Development Standards) there will be less privacy generally compared to lower density residential districts with larger lots.

Finding: The proposed 20% adjustment to the rear yard setback for decks built more than 3 feet above grade constituting a 2.4 foot encroachment on certain lots with a 12 foot rear yard and 3 foot encroachment on certain lots with a 15 foot rear yard will not significantly detract from the livability or appearance of the residential area for the reasons stated above. Therefore, Criterion 3 is met.

**4. *If more than one adjustment is requested, the cumulative effect of the adjustment shall result in a project which is consistent with the overall purpose of the zone.***

Applicant Response: Only one adjustment is requested, therefore this criterion does not apply.

Staff Analysis: As noted by the applicant, only one adjustment is requested based on lot type. Therefore, this criterion does not apply to this request.

Finding: The request for a 20% adjustment to the rear yard setback for certain lots in the Gales Creek Terrace development. Since only one adjustment is requested Criterion 4 does not apply.

**5. *Any impact resulting from the adjustment are mitigated to the extent practical.***

Applicant Response: There are no impacts resulting from the adjustment, therefore this criterion does not apply and no mitigation is required.

Staff Analysis: Impacts from granting the adjustment request appear minor and would only affect privacy depending building orientation and location with the Gales Creek Terrace Development. Requiring mitigation is not practical given the density allowed under Development Code §17.3.130 (Residential Development Standards) and the Gales Creek Terrace approval (Order 2014-06).

Finding: Impacts resulting from granting the adjustment are minor and requiring mitigation is not practical. Therefore, no mitigation is required.

## VI. ALTERNATIVES

The Planning Commission may:

1. Approve the application as submitted if the Planning Commission finds the review criteria of Development Code §17.2.120 have been met;
2. Continue deliberations to a date certain; or
3. Deny this request if the Commission finds the review criteria of Development Code §17.2.120 have not been met.

## VII. RECOMMENDATION

Based on the information provided in the application and the analysis, findings and conclusions above, staff recommends the Planning Commission approve a 20% adjustment to the established rear yard setback for certain lots in the Gales Creek Terrace Planned Residential Development as shown on Exhibit A.

## VIII. LIST OF EXHIBITS

The following exhibits were received, marked, and entered into the record as evidence for this application at the time this staff report was written. Exhibits received after the date of this report will be marked beginning with the next consecutive letter and will be entered into the record at the time the public hearing is opened, prior to oral testimony.

**Exhibit A**    Application and Applicant's Narrative



A place where families and businesses thrive.

EXHIBIT A

Land Use Application

APPLICATION FOR:

- Site Plan Approval
Conditional Use
Variance
Appeal to

Establish a Planned Development:

- PRD
CPD
PID

Comprehensive Plan Amendment:

- Text
Map

Zoning Ordinance Amendment:

- Text
Map

Land Division:

- Subdivision
Partition
Tentative Plat
Final Plat

Other: Adjustment

APPLICANT:

Name: Gales Creek Development, LLC
Address: 8840 SW Holly Ln
City: Wilsonville
State: OR Zip: 97070
Phone: 503-305-7647 Fax:
Email: morgun@staffordlandcompany.com

PROPERTY DESCRIPTION:

Site Address: Gales Creek Terrace (PRD-14-00181)
Map and Tax Lot #: 7200 5401AA and
(Please attach legal description) 400,401,500 15401
Total Acres or Square Feet:
Acres: ~ 25 acres
Sq. Ft.:

PROPERTY OWNERS:

Name: Same as Applicant
Address:
City:
State: Zip:
Phone: Fax:
Email:

PROPERTY USE DESCRIPTION:

Existing Land Use: Vacant
Existing Zone: RMIH
Proposed Zoning:
(if applicable)
Proposed Use: Residential

ADDITIONAL INFORMATION:

In order to expedite and complete the processing of this application, the Planning Division requires that all pertinent material required for review be submitted at the time application is made. If the application is found to be incomplete, review and processing of the request will not begin until the application is made complete. The submittal requirements relative to this application may be obtained from the specific sections of the Zoning or Land Division Ordinances pertaining to this application and from Planning Division staff. Pre-application conferences with Planning Division staff are encouraged. If there are any questions as to submittal requirements, contact the Planning Division prior to formal submission of the application. In submitting this application, the applicant should be prepared to give evidence and information which will justify the request. The filing fee must be paid at the time of submission. This fee in no way assures approval and is non-refundable.

Continued

I certify that the statements made in this application are complete and true to the best of my knowledge. I understand that any false statements may result in denial of this application.

Applicants Signature Morgan Willet Date 9/20/19

Property Owner's Signature Rin Date 9/20/19

For Office Use:

Received by \_\_\_\_\_ Date \_\_\_\_\_

Fee Paid \_\_\_\_\_ Date \_\_\_\_\_

Receipt Number \_\_\_\_\_

Application Number \_\_\_\_\_

File Number \_\_\_\_\_

## ADJUSTMENT NARRATIVE

Gales Creek Terrace (GCT)  
(PRD-14-00181)

Applicant/Owner  
Gales Creek Development, LLC  
8840 SW Holly Lane  
Wilsonville, OR 97070  
503-305-7647

Applicant's Representative  
Morgan Will  
morgan@staffordlandcompany.com

Date: September 25, 2019

### Summary:

The Applicant is requesting a Type II 20% Adjustment to the rear yard setback for decks built more than 3-feet above the ground only. The approval of Gales Creek Terrace (PRD-14-00181) requires a 12-foot setback on some lots and 15-foot setback on others. Approval of the adjustment requested would allow 2.4' encroachment of a deck into the 12-foot rear yard setbacks and 3' encroachment of a deck into the 15-foot rear yard setbacks, respectfully. Approval would have no effect on the building setback. The lots where the adjustment would apply are the downhill lots shown on the preliminary plat sheets P301 and P302 dated 10/16/14 as Lots 11-34, 40-47, 68-77, 88-120, 130-144, and 171-178. (Note: Lot numbering on the phased final plat may differ.)

### ***Section 17.1.510***

***If, in the opinion of the Director, there is potential for neighborhood or community concern about a proposal, the applicant or the Director may elevate a Type II application to the Type III process to provide greater notice and opportunity to participate than would otherwise be required by this Code.***

Although Section 17.1.510 grants authority to the Community Development Director to elevate a Type II application to a Type III process, the applicant finds no potential for neighborhood or community concern about this proposal, because the lots where the setback encroachment will occur when this adjustment is approved, are internal to the project and will have no impact on the neighborhood or the community. It also only affects the decks, not the buildings so there is no significant change to the character of the development or scale of the dwellings on the lots.

### ***Section 17.2.100 PURPOSE.***

***The adjustment process provides a mechanism by which the Director may make limited modifications to yard setback, height and lot coverage standards. Adjustment reviews provide limited flexibility for unusual situations if the proposed development continues to meet the intended purpose of the regulations.***

This request for an adjustment to allow 2.4' and 3' encroachment of decks into some rear yards is a limited modification of the setback because it only applies to decks on some lots. The request is for daylight basement lots, which is an unusual situation since most lots are on flat ground. The intent of

the setback was that the building create a rear yard, and since the setback applies to decks over 3', it will mostly apply to second story decks and not impact the rear yard. This request meets the purpose of an adjustment described in this code.

***Section 17.2.110 PROCEDURE.***

- A. Requests for changes of less than 10% of the setback, height or lot coverage standard shall follow the Type I process.***
- B. Requests for changes from 10% to 20% of the setback, height or lot coverage standard shall follow the Type II process.***
- C. Requests for changes to standards other than setback, height or lot coverage, or which are for more than 20% of the setback, height or lot coverage standard are processed as variances under § 17.2.700.***

This request for an adjustment to the setback for decks over 3' in height is for a 20% reduction and will thus follow a Type II process. The request is not a variance because it is not for a change of more than 20%.

***Section 17.2.120 REVIEW CRITERIA.***

- A. Type I Adjustment Process.***
  - 1. The requested adjustment is for less than 10% of the setback, height or lot coverage standard; and***
  - 2. Granting adjustment shall be consistent with the purpose of the affected zoning.***
- B. Type II Adjustment Process.***
  - 1. The requested adjustment is from 10% to 20% of the setback, height or lot coverage standard;***
  - 2. Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified;***
  - 3. If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area. If in a commercial or industrial zone, the adjustment will be consistent with the desired character of the area;***
  - 4. If more than one adjustment is requested, the cumulative effect of the adjustments shall result in a project which is consistent with the overall purpose of the zone; and***
  - 5. Any impacts resulting from the adjustment are mitigated to the extent practical.***

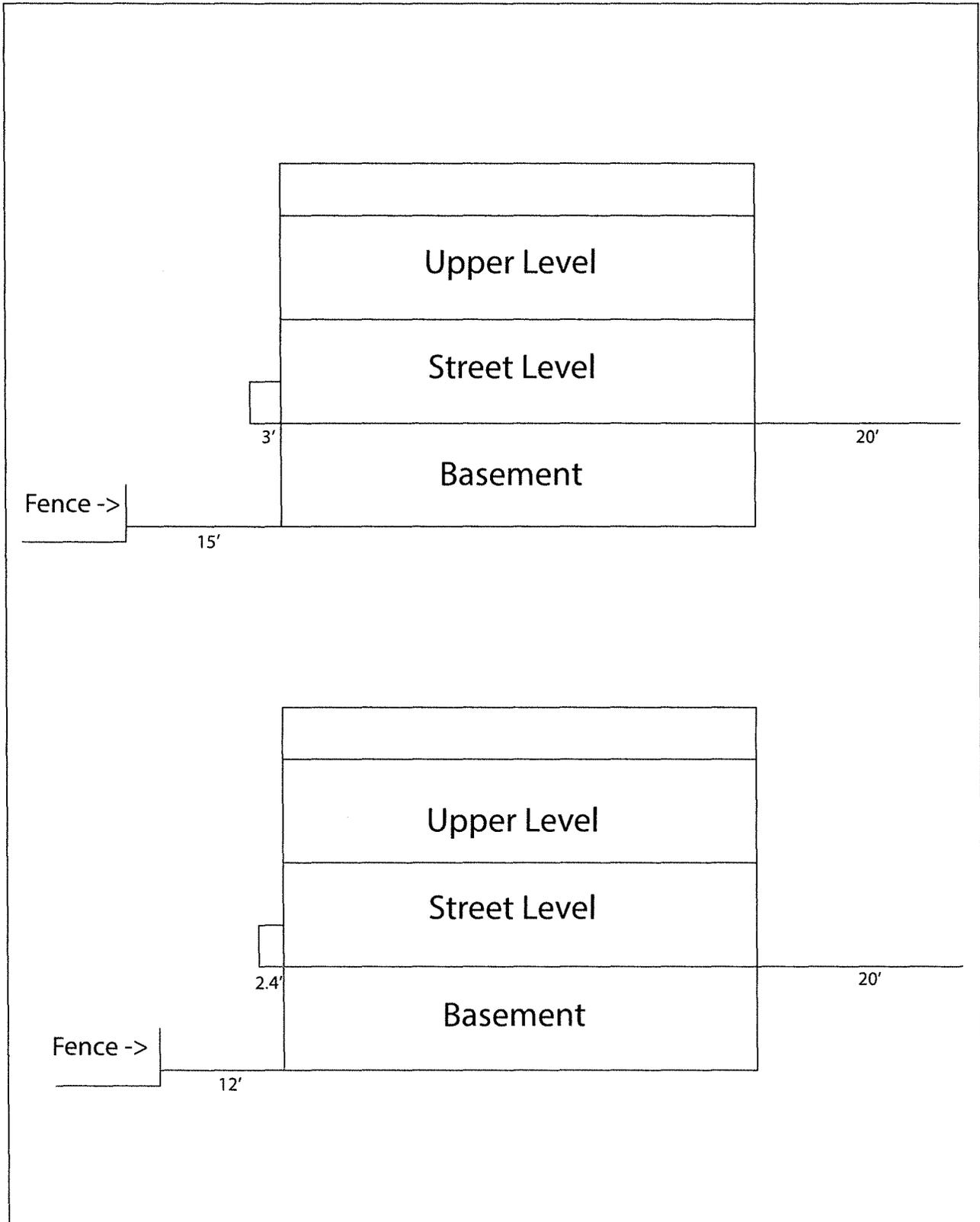
This request meets the review criteria under section 17.2.120(B)1-5 above.

- 1) The request is for a 20% adjustment to the setback, within the range allowed, meeting this criterion.
- 2) This site is a planned development in the RHM zone. The purpose of residential zones is described in Section 17.3.100 of the code, where it states, "the residential zones are intended to protect the livability of existing and future residential neighborhoods." Approval of the requested adjustment will allow decks in the rear yard above 3' in height which will enhance livability of the residents of this future neighborhood, which is consistent with the purpose of the code, thus this criterion is met.
- 3) The adjustment is in a residential zone and will affect the rear yards, thus from the street it will not detract from the appearance of the neighborhood. The building setback will not change, so a deck encroachment into the rear yard of 2.4' or 3' respectively, will not significantly impact livability, either. The adjustment is minor, therefore this criterion is met.
- 4) Only one adjustment is requested, therefore this criterion does not apply.
- 5) There are no impacts resulting from the adjustment, therefore this criterion does not apply and no mitigation is required.

# GCT 20% Adjustment to Rear Setback to Decks over 3' in Height



# Typical Lot Cross Section





# Rear Yard Setback Adjustment Staff Report and Recommendation

Community Development Department, Planning Division

**REPORT DATE:** November 8, 2019

**HEARING DATE:** November 18, 2019

**LAND USE REQUESTS:** Approval of 20% adjustments to the rear yard setback for decks above three feet above ground for certain lots at the Gales Creek Terrace Planned Residential Development. If approved, the adjustment would allow a 2.4-foot encroachment into rear yards for some lots with a 12-foot rear yard and a 3-foot encroachment into rear yard for some lots with a 15-foot rear yard.

**FILE NUMBER(S):** 311-19-000026-PLNG

**PROPERTY LOCATION:** 1548 19<sup>th</sup> Avenue, 1844 C Street, and 1336 Pacific Avenue

**LEGAL DESCRIPTION:** Washington County Tax Lots: 1S40000400, 1S4010000401, 1S4010000500

**OWNER/APPLICANT(S)** Applicant:  
Gales Creek Terrace LLC  
8840 SW Holly Ln.  
Wilsonville, OR 97070

Applicant Representative: Morgan Will

Property Owner:  
Gales Creek Terrace LLC  
8840 SW Holly Ln.  
Wilsonville, OR 97070

**COMPREHENSIVE  
PLAN MAP AND  
ZONING MAP  
DESIGNATIONS:** High Density Residential (HDR)  
Residential Multifamily High (RMH)

**APPLICABLE  
STANDARDS  
AND CRITERIA:** City of Forest Grove Development Code:  
§17.2.120 (Adjustment)

**REVIEWING STAFF:** Daniel Riordan, Senior Planner

**RECOMMENDATION:** Based on the information provided in the application and the analysis, findings and conclusions contained in the staff report, staff recommends the Planning Commission approve the 20% adjustments to the established rear yard setback for certain lots in the Gales Creek Terrace Planned Residential Development as shown on Exhibit A.

## I. REVIEW PROCESS

This review is for adjustments to the rear yard building setback standard to allow construction of decks more than three feet above ground on certain lots in the Gales Creek Terrace Planned Residential Development. If approved, the adjustment would affect 98 out of 197 homes in the Gales Creek Terrace development.

Ordinarily, an adjustment from 10% to 20% of the setback, height or lot coverage standard is processed as a Type II (Limited Land Use Decision) permit. Type II permits are reviewed administratively by staff and required notice is provided to property owners and residents within 300 feet of the subject property (Development Code §17.1.515 and §17.1.530).

Under Forest Grove Development Code §17.1.510, the Community Development Director has authority to elevate a Type II application to the Type III (Quasi-Judicial Land Use Decisions) process if in the opinion of the Director, there is potential for neighborhood or community concern about a proposal. Given the level of neighborhood interest expressed during the original Gales Creek Terrace approval process, that continues today, the Director decided to elevate this application to the Type III process. This provides an opportunity for a Planning Commission public hearing on this application.

In addition to the level of interest expressed by the neighborhood, the Gales Creek Development was approved as a planned development. Under Forest Grove Development Code §17.4.215(I) building setbacks are established as part of the preliminary development plan approval. Under Forest Grove Development Code §17.1.605 (Type III Applications and Approval Criteria) preliminary plan approval for a planned development is a Type III process. Since this adjustment request modifies the planned development approval, reviewing the proposal under the same process as the original approval is warranted.

## II. LAND USE HISTORY

The Gales Creek Terrace Planned Residential Development was approved by City Council on November 24, 2014 (Order 2014-06). The Gales Creek Terrace development includes 197 homes on 186 over to be built in three to four phases. The project includes single family detached, single family attached, and duplex units. A grading permit for the first project phase was issued on September 19, 2018. A structural permit for construction of retaining walls was issued on February 26, 2019. So far, the developer has completed initial grading and substantially completed public improvements including 18<sup>th</sup> Avenue and 19<sup>th</sup> Avenue, and Phase 1 retaining walls.

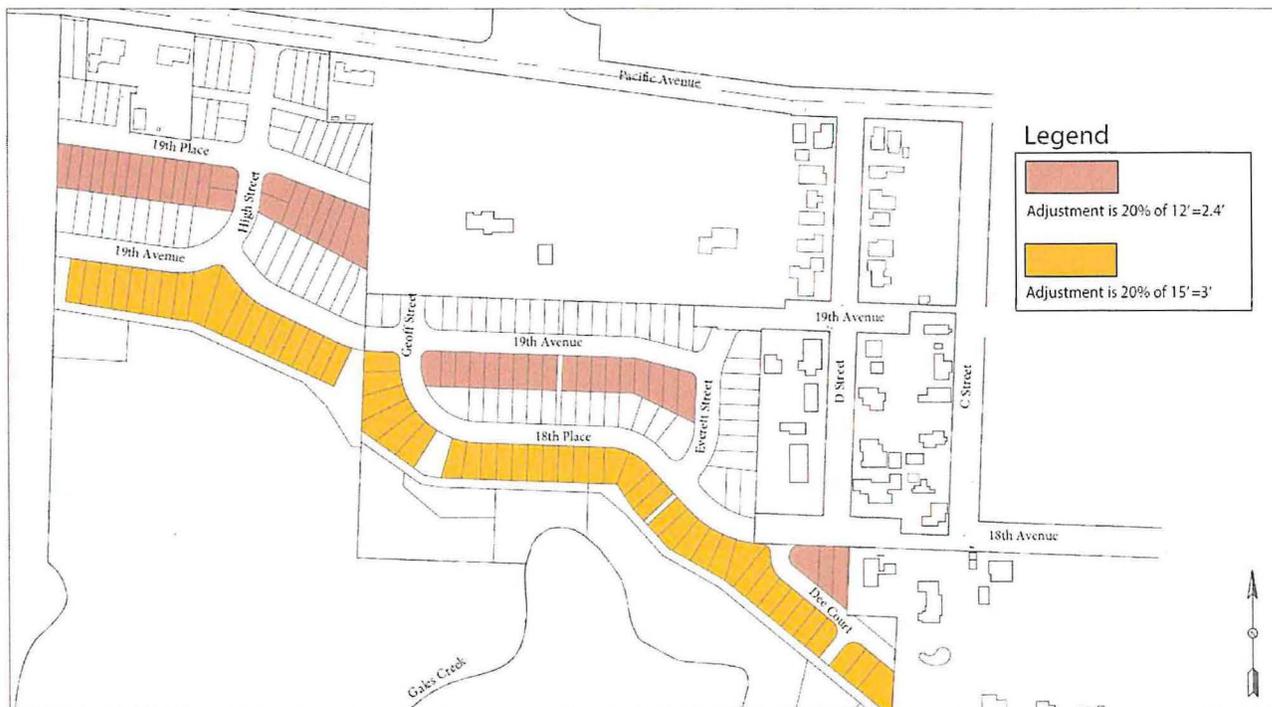
The land use approval established building setbacks throughout the development including rear yard setbacks. The approval establishes a 12 foot rear yard setback throughout most of the development. The approved rear yard setback for the southern tier along the urban growth boundary is 15 feet. The standard rear yard setback under the Forest Grove Development Code §17.3.130 (Residential Development Standards), Table 3-7 (Setback Requirements) is "15 feet or two feet for every three feet in building height at the eave line, whichever is greater."

### III. PROJECT DESCRIPTION AND ANALYSIS

The Gales Creek Terrace Planned Residential Development includes 20 duplex, 20 attached single family and 157 detached single family homes on a variety of lot sizes. Lots range in size from about 1,900 square feet to about 3,400 square feet. The largest lots are generally along the south edge of the project near the urban growth boundary. As noted above, the land use approval for the project established a rear yard setback of 12 feet throughout most of the development. The approved rear yard setback for the southern tier of lots along the urban growth boundary is 15 feet. The established front yard setback is 11 feet for the dwelling and 20 feet to a garage. Interior side yard setback is 3 feet from a building to the side property line. The side yard setback for lots where the side yard is on the side of a dwelling adjacent to one of the site's exterior property boundary lines is 5 feet.

The applicant requests 20% adjustments to the approved rear yard setbacks to allow for decks built more than 3 feet above ground only on certain lots with 12 foot and 15 foot rear yard setbacks as describe in Exhibit A and shown below. If approved by the Planning commission, the adjustments will allow a 2.4-foot deck encroachment into the 12 foot rear yard setback area and a 3-foot deck encroachment into the 15 foot rear yard setback area on certain lots as described in Exhibit A and shown below. The encroachments are above ground level and will not reduce the amount of useable yard space.

GCT 20% Adjustment to Rear Setback to Decks over 3' in Height



#### IV. SITE EXMINATION

The Gales Creek Terrace development site is located west of downtown Forest Grove adjacent to the urban growth boundary. The project area is generally west of D Street, south of Pacific Avenue and north of the Gales Creek 100-year floodplain boundary.

The development area is characterized by topography that slopes from Pacific Avenue towards Gales Creek and the Gales Creek floodplain. The highest elevation of the Gales Creek Terrace development site is about 235 feet near Pacific Avenue in the north and about 185 feet along the urban growth boundary to the south. The southern half of the development site closest to the urban growth boundary exhibits the steepest slopes in the project area. In this area, the elevation ranges from 225 feet in the north to 185 feet along the urban growth boundary. In this area, the characteristic slope is about 13.5%.

The Gales Creek Terrace project area is approximately 47 gross acres, in its entirety, including land outside of the urban growth boundary. About one-half of the area (25 gross acres) is within the urban growth boundary and is where development will occur. The net developable area after deducting rights-of-way, open space and of the site is approximately 13.2 acres.

The table below shows the Comprehensive Plan designations, zone districts and land uses for the Gales Creek Terrace site and surrounding area. The Gales Creek Terrace site is adjacent to an established residential neighborhood to the east that was generally developed in the mid-20<sup>th</sup> Century. The area to the north is largely institutional. This area includes Tom McCall Upper Elementary School and Forest View Cemetery. The area to the west is characterized by single family homes on acreage lots. The area to the south is outside the urban growth boundary and is undevelopable. This area includes Gales Creek and the Gales Creek floodplain.

Existing Comprehensive Plan Designation and Zoning of Site and Area

LOCATION	COMPREHENSIVE PLAN DESIGNATION	ZONE DISTRICT	LAND USE
Site	HDR	RMH	Being Developed for Single Family Detached, Single Family Attached and duplex homes
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South	EFU	EFU	Gales Creek Floodplain
East	HDR MDR	RMH RML	Single Family Dwellings
West	A-Medium B-Standard	R-7 R-5	Single Family Dwellings

## V. APPROVAL CRITERIA AND FINDINGS

To approve the adjustment request, the Planning Commission must find that the adjustment review criteria contained in Development Code §17.2.120 have been met. The applicant has the burden of proof demonstrating the criteria have been met.

### **Forest Grove Development §17.2.120 – Adjustment Review**

Development Code §17.2.120 *Adjustment Review Criteria* requires that the Commission find that the proposal complies with the following criteria for a Type II adjustment:

- 1. The requested adjustment is from 10% to 20% of the setback, height, or lot coverage standard.***

Applicant's Response: The request is for a 20% adjustment to the setback, within the range allowed, meeting this criterion.

Staff Analysis: The requested adjustment is 20% of the rear yard setback established by the Gales Creek Terrace Planned Residential Development Approval (Order 2014-06). The requested adjustment is between 10% and 20% of the setback coverage standard therefor, this criterion applies.

Finding: The requested adjustment is 20% of the established rear yard for certain lots in the Gales Creek affecting lots with 12 foot and 15 foot rear yards. The requested adjustment is between 10% and 20% of the setback coverage standard. Therefore, Criterion 1 is met.

- 2. Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified.***

Applicant's Response: This site is a planned development in the RMH zone. The purpose of residential zones is described in Section 17.3.100 of the code, where it states "the residential zones are intended to protect the livability of existing and future residential neighborhoods." Approval of the requested adjustment will allow decks in the rear yard above 3' in height which will enhance livability of the residents of this future neighborhood, which is consistent with the purpose of the code, thus this criterion is met.

Staff Analysis: The Gales Creek Terrace development site is zoned for residential development. As the applicant notes, §17.3.100 states: "the residential zones are intended to protect the livability of existing and future residential neighborhoods." Neither Development Code §17.3.100 nor Article 12 (Definitions) defines livability. As such, the Planning Commission must determine whether granting the adjustment is consistent with protecting the livability of existing and future residential neighborhoods. This is addressed further under Criterion 3 below.

The Gales Creek Terrace site is zoned Residential Multifamily High (RMH). The purpose of the RMH zone is to allow residential development at densities ranging from 16.22 units per net acre and 23.32 dwellings per net acre. As stated in Development Code §17.3.100, the regulations for the residential zones are intended to protect the livability of existing and future residential neighborhoods by encouraging

primarily residential development with compatible non-residential development at appropriate locations and at an appropriate scale. Granting the requested 20% adjustments to allow deck three feet above ground will not change the scale of the single family homes allowed by the Gales Creek Terrace approval. In addition, granting the adjustment will still allow for building separation characteristic of housing types allowed within the Residential Multifamily Housing zone including housing types with more bulk such as apartment buildings. As such, granting the adjustments is consistent with the purpose of the affected zoning district which is to allow for high density residential development. In addition, granting the adjustment meets the purpose of the standard to be modified which is to provide building separation.

Finding: The requested adjustment to the established rear yard setbacks for certain lots at the Gales Creek Terrace development is consistent with the purpose of the RMH zone and meets the purpose of the rear yard setback standard for the reasons stated above. Therefore, Criterion 2 is met.

**3. *If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area. If in a commercial or industrial zone, the adjustment will be consistent with the desired character of the area.***

Applicant Response: The adjustment is in a residential zone and will affect the rear yards, thus from the street it will not detract from the appearance of the neighborhood. The building setbacks will not change, so a deck encroachment into the rear yard of 2.4' or 3' respectively, will not significantly impact livability either. The adjustment is minor, therefore this criterion does not apply.

Staff Analysis: The project site is located in a residential zone: Residential Multifamily High (RMH). As such the Planning Commission must consider whether the proposed encroachment will significantly detract from the livability or appearance of the residential area. Both "livability" and "significant" are subjective terms not specifically defined in the Development Code. However, guidance for addressing livability is found in the Conditional Use Section of the Development Code (§17.2.220(C)). Under this Code provision, factors detracting from livability include significant adverse impacts on nearby land due to noise, glare from lights, late-night operations, odors, and litter and privacy and safety issues.

The proposed above grade deck encroachment into the rear yard will not have impacts on neighboring properties due to noise, glare from lights, late night operations, odor, litter or safety.

The only potential impact from the encroachment might be impacts to privacy on adjacent lots depending on orientation of the lots, lot location and topography. Given the topography of the Gales Creek Terrace development site such privacy impacts as those noted above are possible with or without the deck encroachment depending on building design and window locations. Furthermore, the Gales Creek Terrace project site is located within a high density residential zone. Given the development density, lot dimensions and housing types allowed in the Residential Multifamily Housing zone as described in Development Code §17.3.130 (Residential Development Standards) there will be less privacy generally compared to lower density residential districts with larger lots.

Finding: The proposed 20% adjustment to the rear yard setback for decks built more than 3 feet above grade constituting a 2.4 foot encroachment on certain lots with a 12 foot rear yard and 3 foot encroachment on certain lots with a 15 foot rear yard will not significantly detract from the livability or appearance of the residential area for the reasons stated above. Therefore, Criterion 3 is met.

**4. *If more than one adjustment is requested, the cumulative effect of the adjustment shall result in a project which is consistent with the overall purpose of the zone.***

Applicant Response: Only one adjustment is requested, therefore this criterion does not apply.

Staff Analysis: As noted by the applicant, only one adjustment is requested based on lot type. Therefore, this criterion does not apply to this request.

Finding: The request for a 20% adjustment to the rear yard setback for certain lots in the Gales Creek Terrace development. Since only one adjustment is requested Criterion 4 does not apply.

**5. *Any impact resulting from the adjustment are mitigated to the extent practical.***

Applicant Response: There are no impacts resulting from the adjustment, therefore this criterion does not apply and no mitigation is required.

Staff Analysis: Impacts from granting the adjustment request appear minor and would only affect privacy depending building orientation and location with the Gales Creek Terrace Development. Requiring mitigation is not practical given the density allowed under Development Code §17.3.130 (Residential Development Standards) and the Gales Creek Terrace approval (Order 2014-06).

Finding: Impacts resulting from granting the adjustment are minor and requiring mitigation is not practical. Therefore, no mitigation is required.

## VI. ALTERNATIVES

The Planning Commission may:

1. Approve the application as submitted if the Planning Commission finds the review criteria of Development Code §17.2.120 have been met;
2. Continue deliberations to a date certain; or
3. Deny this request if the Commission finds the review criteria of Development Code §17.2.120 have not been met.

## VII. RECOMMENDATION

Based on the information provided in the application and the analysis, findings and conclusions above, staff recommends the Planning Commission approve a 20% adjustment to the established rear yard setback for certain lots in the Gales Creek Terrace Planned Residential Development as shown on Exhibit A.

## VIII. LIST OF EXHIBITS

The following exhibits were received, marked, and entered into the record as evidence for this application at the time this staff report was written. Exhibits received after the date of this report will be marked beginning with the next consecutive letter and will be entered into the record at the time the public hearing is opened, prior to oral testimony.

**Exhibit A** Application and Applicant's Narrative



A place where families and businesses thrive.

EXHIBIT A

Land Use Application

APPLICATION FOR:

- Site Plan Approval
Conditional Use
Variance
Appeal to

Establish a Planned Development:

- PRD
CPD
PID

Comprehensive Plan Amendment:

- Text
Map

Zoning Ordinance Amendment:

- Text
Map

Land Division:

- Subdivision
Partition
Tentative Plat
Final Plat

Other: Adjustment

APPLICANT:

Name: Gales Creek Development, LLC
Address: 8840 SW Holly Ln
City: Wilsonville
State: OR Zip: 97070
Phone: 503-305-7647 Fax:
Email: morgun@staffordlandcompany.com

PROPERTY DESCRIPTION:

Site Address: Gales Creek Terrace (PRD-14-00181)
Map and Tax Lot #: 7200 5401AA and
(Please attach legal description) 400,401,500 15401
Total Acres or Square Feet:
Acres: ~ 25 acres
Sq. Ft.:

PROPERTY OWNERS:

Name: Same as Applicant
Address:
City:
State: Zip:
Phone: Fax:
Email:

PROPERTY USE DESCRIPTION:

Existing Land Use: Vacant
Existing Zone: RMIH
Proposed Zoning:
(if applicable)
Proposed Use: Residential

ADDITIONAL INFORMATION:

In order to expedite and complete the processing of this application, the Planning Division requires that all pertinent material required for review be submitted at the time application is made. If the application is found to be incomplete, review and processing of the request will not begin until the application is made complete. The submittal requirements relative to this application may be obtained from the specific sections of the Zoning or Land Division Ordinances pertaining to this application and from Planning Division staff. Pre-application conferences with Planning Division staff are encouraged. If there are any questions as to submittal requirements, contact the Planning Division prior to formal submission of the application. In submitting this application, the applicant should be prepared to give evidence and information which will justify the request. The filing fee must be paid at the time of submission. This fee in no way assures approval and is non-refundable.

Continued

I certify that the statements made in this application are complete and true to the best of my knowledge. I understand that any false statements may result in denial of this application.

Applicants Signature Morgan Will Date 9/20/19

Property Owner's Signature Rin Date 9/20/19

For Office Use:	
Received by _____ Date _____	Receipt Number _____
Fee Paid _____ Date _____	Application Number _____
	File Number _____

## ADJUSTMENT NARRATIVE

Gales Creek Terrace (GCT)  
(PRD-14-00181)

Applicant/Owner  
Gales Creek Development, LLC  
8840 SW Holly Lane  
Wilsonville, OR 97070  
503-305-7647

Applicant's Representative  
Morgan Will  
morgan@staffordlandcompany.com

Date: September 25, 2019

### Summary:

The Applicant is requesting a Type II 20% Adjustment to the rear yard setback for decks built more than 3-feet above the ground only. The approval of Gales Creek Terrace (PRD-14-00181) requires a 12-foot setback on some lots and 15-foot setback on others. Approval of the adjustment requested would allow 2.4' encroachment of a deck into the 12-foot rear yard setbacks and 3' encroachment of a deck into the 15-foot rear yard setbacks, respectfully. Approval would have no effect on the building setback. The lots where the adjustment would apply are the downhill lots shown on the preliminary plat sheets P301 and P302 dated 10/16/14 as Lots 11-34, 40-47, 68-77, 88-120, 130-144, and 171-178. (Note: Lot numbering on the phased final plat may differ.)

### ***Section 17.1.510***

***If, in the opinion of the Director, there is potential for neighborhood or community concern about a proposal, the applicant or the Director may elevate a Type II application to the Type III process to provide greater notice and opportunity to participate than would otherwise be required by this Code.***

Although Section 17.1.510 grants authority to the Community Development Director to elevate a Type II application to a Type III process, the applicant finds no potential for neighborhood or community concern about this proposal, because the lots where the setback encroachment will occur when this adjustment is approved, are internal to the project and will have no impact on the neighborhood or the community. It also only affects the decks, not the buildings so there is no significant change to the character of the development or scale of the dwellings on the lots.

### ***Section 17.2.100 PURPOSE.***

***The adjustment process provides a mechanism by which the Director may make limited modifications to yard setback, height and lot coverage standards. Adjustment reviews provide limited flexibility for unusual situations if the proposed development continues to meet the intended purpose of the regulations.***

This request for an adjustment to allow 2.4' and 3' encroachment of decks into some rear yards is a limited modification of the setback because it only applies to decks on some lots. The request is for daylight basement lots, which is an unusual situation since most lots are on flat ground. The intent of

the setback was that the building create a rear yard, and since the setback applies to decks over 3', it will mostly apply to second story decks and not impact the rear yard. This request meets the purpose of an adjustment described in this code.

***Section 17.2.110 PROCEDURE.***

- A. Requests for changes of less than 10% of the setback, height or lot coverage standard shall follow the Type I process.***
- B. Requests for changes from 10% to 20% of the setback, height or lot coverage standard shall follow the Type II process.***
- C. Requests for changes to standards other than setback, height or lot coverage, or which are for more than 20% of the setback, height or lot coverage standard are processed as variances under § 17.2.700.***

This request for an adjustment to the setback for decks over 3' in height is for a 20% reduction and will thus follow a Type II process. The request is not a variance because it is not for a change of more than 20%.

***Section 17.2.120 REVIEW CRITERIA.***

- A. Type I Adjustment Process.***
  - 1. The requested adjustment is for less than 10% of the setback, height or lot coverage standard; and***
  - 2. Granting adjustment shall be consistent with the purpose of the affected zoning.***
- B. Type II Adjustment Process.***
  - 1. The requested adjustment is from 10% to 20% of the setback, height or lot coverage standard;***
  - 2. Granting the adjustment will be consistent with the purpose of the affected zoning district or meet or exceed the purpose of the standard to be modified;***
  - 3. If in a residential zone, the adjustment will not significantly detract from the livability or appearance of the residential area. If in a commercial or industrial zone, the adjustment will be consistent with the desired character of the area;***
  - 4. If more than one adjustment is requested, the cumulative effect of the adjustments shall result in a project which is consistent with the overall purpose of the zone; and***
  - 5. Any impacts resulting from the adjustment are mitigated to the extent practical.***

This request meets the review criteria under section 17.2.120(B)1-5 above.

- 1) The request is for a 20% adjustment to the setback, within the range allowed, meeting this criterion.
- 2) This site is a planned development in the RHM zone. The purpose of residential zones is described in Section 17.3.100 of the code, where it states, "the residential zones are intended to protect the livability of existing and future residential neighborhoods." Approval of the requested adjustment will allow decks in the rear yard above 3' in height which will enhance livability of the residents of this future neighborhood, which is consistent with the purpose of the code, thus this criterion is met.
- 3) The adjustment is in a residential zone and will affect the rear yards, thus from the street it will not detract from the appearance of the neighborhood. The building setback will not change, so a deck encroachment into the rear yard of 2.4' or 3' respectively, will not significantly impact livability, either. The adjustment is minor, therefore this criterion is met.
- 4) Only one adjustment is requested, therefore this criterion does not apply.
- 5) There are no impacts resulting from the adjustment, therefore this criterion does not apply and no mitigation is required.

# GCT 20% Adjustment to Rear Setback to Decks over 3' in Height



# Typical Lot Cross Section

