



March 31, 2021

City of Bend  
Planning Division  
c/ o Michelle Patrick, Aaron Henson, Bobbie VanTassel  
710 NW Wall Street  
Bend, OR 97703

**RE: Response to Public Comments for the Class C Height Variances  
Marken Summit Lot 10 (PLVAR20210050), Lot 11 (PLVAR20210051), Lot 12 (PLVAR20210052),  
Lot 13 (PLVAR20210054), Lot 15 (PLVAR20210053), and Lot 16 (PLVAR20210055)**

Please accept this letter addressing the public comments received in response to notice of the above applications provided under BDC 4.1.420. While numerous comments were submitted on the six variance applications, most were based on a form letter containing identical or very similar language, and there appear to be four primary objections to the six variance applications. Those four primary objections are quoted or paraphrased below:

- 1) The proposed design does not meet the intent of the building height restriction and an additional increase in height exacerbates incompatibility with the surrounding neighborhood.
- 2) Topographical constraints should have been addressed through subdivision design rather than height variances.
- 3) Tree removal for street construction and preparation of home sites represents an exception or substantial variance already granted.
- 4) Granting a height variance for these six lots sets a bad precedent for the remaining lots.

Most of the comments do not directly address the applicable decision criteria for a Class C variance to building height outlined in BDC 5.1.400(B)(3). However, the following supplemental narrative focusses on the applicable decision criteria in the context of the public comments.

**Objection #1: The proposed design does not meet the intent of the building height restriction and an additional increase in height exacerbates incompatibility with the surrounding neighborhood.**

Objection #1 does not relate to applicable decision criteria for a Class C variance to building height outlined in BDC 5.1.400(B)(3). Nonetheless, BDC 2.1.800 states the intent of the building height standards is “to promote land use compatibility and support the principle of neighborhood-scaled design.” BDC 2.1.800(A)(1) provides a maximum building height of 30 feet in the RS zone. The planned building height for Lots 10, 11, 12, 13, 15, and 16 are respectively 33.5 feet, 32.2 feet, 32.4 feet, 31.2 feet, 33.5 feet, and 33.3 feet. The planned building heights exceed the RS maximum by 1.2 feet (4.0%) to 3.5 feet (11.6%), a relatively minor amount and a difference unlikely to be obvious to pedestrians and neighbors, let alone those traveling in an automobile.

The area surrounding the approved Marken Summit subdivision is comprised of a series of cul-de-sac streets including NW Nordeen Way, NW Nordic Avenue and NW Rainbow Ridge Drive. The design of Marken Summit also includes two cul-de-sac streets — NW Sky Vista Court and NW Marken Street — as the potential for through streets are blocked by existing homes and Quail Park. The configuration of the planned lots and street network results in the creation of a relatively self-contained neighborhood, separate from surrounding

neighborhoods. Residents of existing homes in subdivisions abutting Marken Summit will literally have to drive out of their way to encounter the six lots subject to a height variance.

Of the six lots subject to a height variance, Lot 10 is closest to an existing home. However, Lot 10 is separated from the rear yard of existing homes by a 30-foot-wide vegetated open space buffer (in addition to rear yard setbacks), oriented perpendicular to the rear of existing homes, tucked back into the existing hillside, and screened by existing grade, a new fence, and large existing trees. All the other homes included in the variance application – Lots 11, 12, 13, 15 and 16 – do not directly abut or face existing homes and are screened and separated from existing homes by trees, hillsides, and other future homes within Marken Summit. Therefore, privacy impacts from upper floor windows will be negligible and the livability and enjoyment of property will not be impacted.



Regarding compatibility with the surrounding neighborhood, it is worth noting again that Marken Summit is a separate and self-contained neighborhood due to the lack of connectivity provided by abutting subdivision. That said, existing homes on adjacent streets represent a variety of styles, sizes, designs, and orientations on their lots. While many homes are built to the front setback, many others are pushed further back into their lots. For lots sloping up from the street, like the six lots subject to a height variance, a home sitting atop a long steep driveway is disconnected from the street and pedestrians travelling the sidewalk. Even if the home

meets the 30-foot maximum building height, it may feel less human-scaled than a home measuring 33.5 feet in height, for example, built at the front setback line and at street grade.



For example, the home pictured above has a three-story façade and looms much higher over the street and sidewalk than a 33.5-foot-tall home built at the front setback line and the same grade as the street. If building height standards are intended to promote land use compatibility and support the principle of neighborhood-scaled design, a 33.5-foot-tall three-story home built at street grade is no less compatible with the surrounding neighborhood than a 30-foot-tall three-story home built 10-20+ feet above the street.

The preceding responses to Objection #1 further demonstrate how the applicable criteria are met.

BDC 5.1.400(B)(3)(c): *The location, size, and design characteristics of the proposed structure shall have minimal adverse impact on the property values and livability of the permitted development in the surrounding area.*

None of the comments provided evidence that the location, side, and design characteristics of the six proposed home would have any adverse impact on the property values and livability of the homes in the surrounding area. To the contrary, because the six lots subject to a height variance are separated from abutting neighborhoods due to the existing street network and development pattern, and homes are planned

to be built approximately at street grade, they will have less visual impacts (i.e. looming over the street, breaking the horizon/skyline, etc.) than many other existing homes.

The varied roof articulation, including gabled and hipped roof forms, covered decks and porches, as well as variation in building color and material, further minimize the perceived height of the structure, provide visual interest, break up roof massing, and achieve an attractive home design.

*BDC 5.1.400(B)(3)(d) The structure will provide an aesthetically pleasing and functional environment and relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features to the greatest extent practical.*

As stated above, grading each lot so the home sits at the front setback line at approximately street grade provides an aesthetically pleasing and comfortable pedestrian environment. The architectural features incorporated into each home create additional visual interest. The grading plan intentionally provides each future homeowner a flat driveway and main entry doors at the street level, which is aesthetically pleasing, more functional, and more accessible than the alternative.

Additionally, flat driveways are safer and more practical than sloped driveways. Flat driveways allow residents and guests a better line of sight into the abutting street to visually check for traffic and other obstacles, provide a safer environment for children playing in front of the home, and also provide a workable outdoor area for car-washing, loading and unloading cargo, and other similar residential uses. In addition, the flat driveway design and street-level main entry is a more accessible and friendly design for people with mobility issues. During the winter months, snow and ice accumulation is easier to manage with a flat driveway design and is safer for pedestrian and vehicle use when surfaces are slick.

**Objection #2: Topographical constraints should have been addressed through subdivision design rather than height variances.**

Objection #2 does not relate to applicable decision criteria for a Class C variance to building height outlined in BDC 5.1.400(B)(3). However, contextually, it should be noted that the topographical constraints for the Marken Summit subdivision were set when abutting neighborhoods were approved and platted with cul-de-sacs which did not provide connectivity or multiple street alignment options for the subject property. In fact, the street alignment for the newly constructed NW Marken Street cul-de-sac was essentially locked into place when Awbrey View subdivision was platted in 2004.

Site grading was approved and completed in accordance with the original land use decision for the subdivision (PZ-19-0683) and the subsequent public improvement and infrastructure permit (BP-20-0937-INFR) which means the construction of public streets, site grading, and utility installation met applicable City of Bend Design Standards and Construction Specifications.

**Objection #3: Tree removal for street construction and preparation of home sites represents an exception or substantial variance already granted.**

Objection #3 does not relate to applicable decision criteria for a Class C variance to building height outlined in BDC 5.1.400(B)(3). Furthermore, the Marken Summit tentative subdivision (PZ-19-0683) decision approved removal of significant trees, consistent with BDC 3.2.200(D) and included the finding: "Preservation of all significant trees is impracticable because it would prevent construction of public streets, public utilities, necessary grading and needed housing permitted in the RS zone. The Existing Conditions and Demolition Plan

shows roughly 84 significant trees anticipated to be preserved outside areas of significant disturbance caused by site grading, utility placement requirements, construction of needed housing, and the planned street network." No exception or variance for tree removal was necessary or requested.

**Objection #4: Granting a variance sets a bad precedent for the remaining lots.**

Objection #4 does not relate to applicable decision criteria for a Class C variance to building height outlined in BDC 5.1.400(B)(3). Moreover, an administrative decision approving a variance does not legally set precedent for future variances or anything else. Nonetheless, the Applicant asserts that no additional height variances are necessary and is willing to accept a condition of approval to this effect if the six variances for Lots 10, 11, 12, 13, 15, and 16 are approved.

Thank you in advance for your time and consideration. For the reasons contained in this letter and original application submittal, the City can find that the Applicant has met its burden of proof by providing substantial evidence that the applicable approval standards are satisfied.

Sincerely,

**AKS ENGINEERING & FORESTRY, LLC**



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