

City of West Linn
PRE-APPLICATION CONFERENCE
SUMMARY NOTES

July 17, 2009

SUBJECT: Water Resource Area Permit, Flood Management Area (FMA) Permit and Willamette River Greenway Permit for 3831 Calaroga Drive

ATTENDEES: Kevin Bryck
Dennis Wright (Engineering Manager, City of West Linn)
Shaun Rohret (Associate Environmental Engineer, City of West Linn)
Khoi Le (Civil Engineer, City of West Linn)
Chris Kerr (Acting Planning Director, City of West Linn)
*Applicant was not present

The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any “follow-up” items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.

Project Details

Work requiring each of these permits has already been done along the south and east sides of the property at 3831 Calaroga Drive, near both the Willamette River and Trillium Creek. The property is located at the confluence of these two waterways. The applicant has removed vegetation, landscaped the area, installed short rock walls along the hillside, and re-landscaped the paths through this area of the property. The applicant plans to complete the project by re-vegetating the area with native plants.

Per Community Development Code (CDC) Section 27.020 “A flood management area permit is required for all development in the Flood Management Area Overlay Zone.” “Development” is defined in CDC Chapter 2: Definitions; as, “Any man-made change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading or site clearing, and grubbing in amounts greater than 10 cubic yards on any lot or excavation.” This overlay zone includes the, Willamette River Floodway; the river’s 100-year floodplain; and, areas inundated by the Willamette River during the 1996 flood. The portion of this property where work is being performed is within this overlay and therefore a Flood Management Area (FMA) permit is required.

Trillium Creek is a significant riparian corridor. The transition area for the creek is at minimum 100 feet from the edge of the stream or 50 feet beyond the top of the bank, whichever is larger (not to exceed 200 feet). Therefore, all of the work that has been completed is within the transition area of Trillium Creek. Per CDC 32.020(C), “The provisions of this chapter shall apply to development proposals that have water resource

areas within their project boundary.” CDC 32.025 states, “No person shall be permitted to fill, strip, install pipe, undertake construction, or in any way alter an existing water resource area without first obtaining a permit to do so from the decision making authority, paying the requisite fee, and otherwise complying with all applicable provisions of this ordinance.” Additionally, the work that has been done does not fall under any of the exceptions listed in 32.020(D) Exceptions. Therefore, a Water Resources Area permit is needed.

The Willamette River Greenway overlay zone includes areas of the subject property that are within approximately 60 feet of the river. All development in this overlay zone requires a Willamette River Greenway permit unless it falls under at least one of the exceptions of CDC 28.040. This work does not fall within the exceptions, including; where the development takes place within areas classified to allow development outright per Metro’s Habitat Conservation Area mapping (explained in 28.040[S]). Please see the attachment to these notes showing that in addition to work being performed in areas labeled as “allow development,” some of the work that has been completed is in high and moderate habitat conservation areas

Process

The Flood Management Area permit is covered in Chapter 27 of the CDC, the Willamette River Greenway permit in Chapter 28, and the Water Resources Area permit in Chapter 32. Each chapter has specific submittal requirements and criteria. A narrative responding to the criteria of each chapter will be required. A development review application with the appropriate applicant and property owner signatures and boxes checked for all three of these permits will be required. Beyond this, some of the submittal requirements of each chapter involve site plans, topographic maps, etc. These do not need to be submitted separately for each permit; i.e. one site plan map can be used for all three permits as long as it includes each permit’s required elements as listed in each permit’s respective chapter.

For the application, three copies of all material submitted are required. This includes three large copies of all maps/plans as well as three copies of the maps/plans that are 11 x 17 or smaller. A compact disk with digital copies of all application materials is also required.

Check the criteria of each chapter as soon as possible to see if the application can meet each criterion. A variance can be added later if needed, whether or not it was covered at the pre-app, but it is good to know by the pre-app or at least by the initial application if this might be needed. This avoids further delay in the completeness review. Class II Variances, which would include any variance needed here, are \$1800 and require the entire application to undergo Planning Commission review instead of Planning Director review.

The application fee will be \$1,050 for the Flood Management Area permit, \$1,700 for the Willamette River Greenway permit, and \$1,850 for the Water Resources Area permit; for

a total permit fee of \$4,600 (excluding any potential variances). All three permits are subject to a decision by the Planning Director and require public notice and solicitation of public comment, but do not involve a public hearing unless subsequently appealed to City Council. The following is staff's general summary of the submittal requirements for each chapter; be sure to fulfill the submittal requirements listed in each chapter thoroughly:

Chapter 27: Flood Management Area permit

- Map of site indicating alterations and their relationships to trees, house, and any other prominent features of site.
- Elevation prior to development/alteration.
- Topographic map of contour intervals of 5 feet or less, showing flood management area boundary. A written narrative explaining why the alterations are being performed should accompany the map.
- Responses to approval criteria in 27.060. "N/A" is not acceptable. If something doesn't apply, write that it doesn't and write why.
- If it looks like the alterations don't meet criteria in 27.060 and this can't be corrected, see 27.130 regarding variances.

Chapter 28: Willamette River Greenway permit

- Evidence shall be provided to demonstrate that the applicant has the legal right to use the land above the Ordinary Line of Water (OLW). (i.e. documentation showing they own the property)
- Narrative addressing criteria of 28.110. "N/A" is not acceptable. If something doesn't apply, write that it doesn't and write why.
- Metro Habitat Conservation Area boundaries (as discussed in this chapter) should be shown on the site plan. Go to <http://www.metro-region.org/index.cfm/go/by.web/id=8385>. Be sure site plan includes all elements in 28.120.
- Grading plan, follow 28.130.
- Landscape plan, follow 28.150.
- Discuss if any state or federal permits are required. Show evidence these have been applied for, if any are required.

Chapter 32: Water Resources Area permit

- Narrative responding to 32.050 criteria. Address in narrative form why the owner has altered the water resource area.
- Present evidence per 32.040(F) that what has happened or will happen is consistent with accepted engineering practices.
- Inventory and calculations about vegetation per 32.040(G).
- Re-vegetation plan is needed, follow 32.080.
- If there is square footage within the water resource area that was vegetated before the alterations and will now not be vegetated, a mitigation plan is necessary. Follow 32.070. You can mitigate on site if there is an appropriate area within the water resource area setback on site, per 32.070(1)/32.050(K). If there is no such

area or no area large enough, coordinate with the Parks Department as to where you can mitigate off site.

- Site plan shall include everything required by 32.060.

Staff bills time against the deposit fees. The applicant must initiate a request for refund of any unused deposit fees once the final decision is rendered.

The City has 30 days to determine whether or not the application is complete (most applications are incomplete). The applicant then has 180 days to make it complete. Once complete, staff prepares public notice and schedules the decision date. The public notice period is 20 days and involves notifying all property owners within a 500-foot radius of the site. The Planning Director's decision becomes final after 14 days if no appeals are filed. If appealed, it will be brought before the City Council for a public hearing. The City has a total of 120 days to exhaust all local review and appeals. Subsequent appeals go to the state's Land Use Board of Appeals (LUBA).

If permits are approved, the applicant has three years to substantially fulfill the entitlements granted by the permits.

The applicant should verify if permits must also be obtained through the US Army Corps of Engineers and the Department of State Lands.

Typical land use applications can take 6-10 months from beginning to end.

DISCLAIMER: This summary discussion covers issues identified to date. It does not imply that these are the only issues. The burden of proof is on the applicant to demonstrate that all approval criteria have been met. These notes do not constitute an endorsement of the proposed application. Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc. could emerge as the application is developed.