

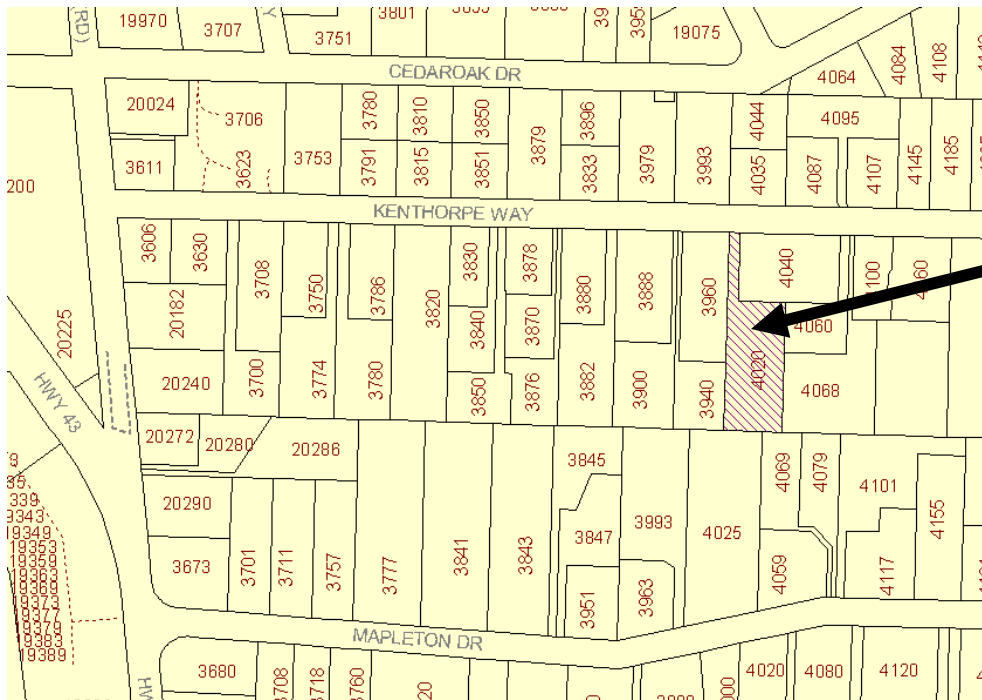
City of West Linn
PRE-APPLICATION CONFERENCE MEETING
SUMMARY NOTES
October 1, 2009

SUBJECT: Water Resource Area permit to build house on lot of record at 4020 Kenthorpe Way (Tax lot 700 Assessor's Map 21E 24BD)

ATTENDEES: Peter Spir (Planning), Khoi Le (Engineering).
Applicants: Allen Whitbey, Lona Whitbey
Members of the Public: Sharon Pollman, Ole Olsen, Richetta Wells, Karie Oakes

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



The proposal is to build one single family home on an existing 26,799 square foot lot of record that is bisected by Trillium Creek. The zoning is R-10 (10,000 sq ft minimum lot size) so the lot exceeds the minimum lot size.

From the access point on Kenthorpe Way, visitors must negotiate a narrow flag lot stem with downhill slopes in the 15-17% range. Visitors must then cross Trillium Creek which is only about 3-4 feet wide and well contained in its channel. CDC Chapter 48: Access allows a maximum driveway slope of 15%. If the driveway is over 15% then a Class II Variance would be required. The applicant stated after the pre-app that he would be able to meet that standard.

Once across Trillium Creek, the visitor is in a large relatively flat (0-5% slope) grassy meadow-like area with trees around the perimeter of the site and along the stream edge. (There are no wetlands at this site.) The stream generally defines the north, east and southern boundary of the lot. The land along the west property line slopes up at 10-15%. Land to the east of the creek also slopes upwards. The applicant would build the house in the flat grassy area which is generally on the western portion of the lot.

According to the City GIS map, a Significant Riparian Corridor overlays this site which requires a 100 foot transition plus the structural setback as measured at right angles from the edge of the creek. Staff measured the 100 feet plus 7.5 foot side setback and found that all of the lot is within the transition/setback areas. Despite this constraint, the lot is buildable.

Properties that are completely or partially within the transition and setback areas must obtain a Water Resource Area Protection (WRA) permit under CDC Chapter 32. CDC Chapter 32 has hardship provisions that allow construction of a single family home on lots that are either partially or completely within the riparian area transition and setbacks. This hardship provision, originally part of Metro's model ordinance, recognizes the property owner's reasonable interest to build a house with the City's desire to avoid a "takings" lawsuit. (By denying the applicant the right to build a house the city could be found to be "taking" from the property owner all economically viable use of the property.)



That code section states as follows:

32.090 REDUCTION IN STANDARDS FOR HARDSHIP

The purpose of CDC Section 32.090 is to ensure that compliance with CDC Chapter 32 does not cause unreasonable hardship. To avoid such instances, the requirements of CDC Chapter 32 may be reduced.

Reductions are also allowed when strict application of CDC Chapter 32 would deprive an owner of all economically viable use of land. The decision making authority may impose such conditions as are deemed

necessary to limit any adverse impacts that may result from granting relief.

- A. *Lots located completely inside the water resource area.
Development may occur on lots located completely within the water resource area that are recorded with the County Assessor's Office on or before the effective date of this ordinance.
Development shall disturb the minimum necessary area to allow the proposed use or activity, and in any situation no more than 5,000 square feet of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards in CDC Chapter 31, and subject to a finding that the proposed development does not increase danger to life and property due to flooding and erosion.*
- B. *Lots located partially inside the water resource area. A reduction to avoid the loss of all economically viable use of a vacant lot recorded with the County Assessor's Office on or before the effective date of this ordinance that is partially inside the water resource area is permitted. Development on such lots shall not disturb more than 5,000 square feet of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards of CDC Chapter 31. Applicants must demonstrate the following:*
 - 1. *Without the proposed reduction, the applicant would be denied economically viable use of the subject property. To meet this criterion, the applicant must show that no other application could result in permission for an economically viable use of the subject property. Evidence to meet this criterion shall include a list of uses allowed on the subject property.*

2. *The proposed intrusion is the minimum necessary to allow economically viable use of the subject property.*
 3. *The proposed reduction will comply with CDC Chapter 31, Erosion Control;*
- C. *If a reduction in standards is granted pursuant to criteria of CDC 32.090(B), the reduction shall be subject to the following conditions:*
1. *The minimum width of the water resource area's transition and setback area shall be 15 feet on each side of a wetland or drainage course.*
 2. *As mitigation for the permanent disturbance of any portion of the normally required water resource area, an equal area on the property which would not normally be within the water resource area shall be revegetated to meet the standards of CDC 32.050(K). If there does not exist enough site area to meet this requirement, the applicant shall revegetate the entire area of the property that would not normally be within the water resource area, adjacent to the actual water resource area, and is not proposed for permanent disturbance to meet the standards of CDC 32.050(K)*
- D. *Any further reduction of the standards of this chapter shall require approval of a Variance pursuant to CDC Chapter 75.*

Assuming that the applicant is granted a hardship per 32.090(B) he should plan on having up to 5,000 square feet of the lot for development of the house, trenching utilities and for hard surfaces like the access driveway. The access driveway will be about 150 feet long which at a minimum width of 12 feet uses up 1,800 square feet alone leaving a building envelope of 3,200 square feet less utility trenching and culvert work associated with the creek crossing and any other hardscapes. Storm treatment facilities would count against the 5,000 square feet too.

To satisfy the hardship criterion, the applicant is encouraged to push the house as far to the west as possible to maximize the house setback from the creek on the east and south perimeter of the lot. The applicant shall also inventory trees on the site and then contact the City Arborist for a site visit to determine if and where any significant trees are on the property. This tree inventory will be a submittal requirement. At the pre-app it was noted that most of the potentially significant trees are along the west edge of the property.

ENGINEERING COMMENTS

STREET IMPROVEMENT

Provide half street improvement along the frontage of the project or apply for a waiver (approved waiver shall require developer to pay a fee in-lieu of street improvement).

Development is subject to street SDC fee.

STORM DRAINAGE IMPROVEMENT

Provide improvement for storm drainage system along the project frontage on Kenthorpe Way. Collect and provide treatment for additional storm drainage run-off generated from new impervious area of more than 500 square feet.

Collect and provide detention for additional storm drainage run-off generated from new impervious area of more than 5,000 square feet.

The applicant stated that he may use water permeable driveways as a way to reduce runoff and reduce treatment/detention requirements.

Development is subject to storm drainage SDC fee.

SANITARY SEWER IMPROVEMENT

Public sanitary sewer is available on Kenthorpe Way for connection.

Development is subject to sanitary sewer SDC fee.

WATER IMPROVEMENT

The property is currently located in the Robinwood Pressure Zone.

Robinewood Zone Elevation: 218 - River

Public water is available on Kenthorpe Way for connection.
Pay dig-in fee and City Water Operation Crew can install a water meter for connection.

Development is subject to water SDC fee.

OTHER UTILITIES

All existing overhead utilities along the project frontage and new utilities must be placed under ground.

All existing anchor poles located in the right of way and will potentially be located in the future sidewalk must be relocated outside of sidewalk.

TVFR-Tualatin Valley Fire and Rescue

The applicant is responsible for contacting TVFR to determine their access requirements in particular their creek crossing requirements.

DSL/ODFW/USACE Permits

The applicant is responsible for all applicable Oregon Department of Fish and Wildlife, Division of State Lands and US Army Corps of Engineers permits.

11. Systems Development Charges

11.1. General SDC Information

- West Linn SDC fees shall be indexed for inflation annually using the Engineering News – Record Construction Cost Index (20-city average).

11.2. Street SDC

- Reimbursement Fee: \$47.00
- Improvement Fee: \$4,628.00
- Administrative Fee: \$174.00

Type Of Use	Trips Per Use:	Factor	Reimbursement	Improvement	Administrative	Total
Single family	Per house	1.01	\$47.47	\$4,674.28	\$175.74	\$4,897.49
Multi-family	Per MF Unit	0.62	\$29.14	\$2,869.36	\$107.88	\$3,006.38
Retail	Per 1,000ft ²	2.536	\$119.19	\$11,736.61	\$441.26	\$12,297.06
Office	Per 1,000 ft ²	1.314	\$61.76	\$6,081.19	\$228.64	\$6,371.59
Public Park	Per Acre	0.223	\$10.48	\$1,032.04	\$38.80	\$1,081.33
Public School	Per Student	0.08	\$3.76	\$370.24	\$13.92	\$387.92

For Existing Lots of Record – Created Prior to July 12, 1999

Single family	Per house	\$9.55	\$41.28	\$2,052.78	\$79.79	\$2,173.85
Multi-family	Per MF Unit	\$6.47	\$27.97	\$1,390.73	\$54.06	\$1,472.76

11.3. Water SDC

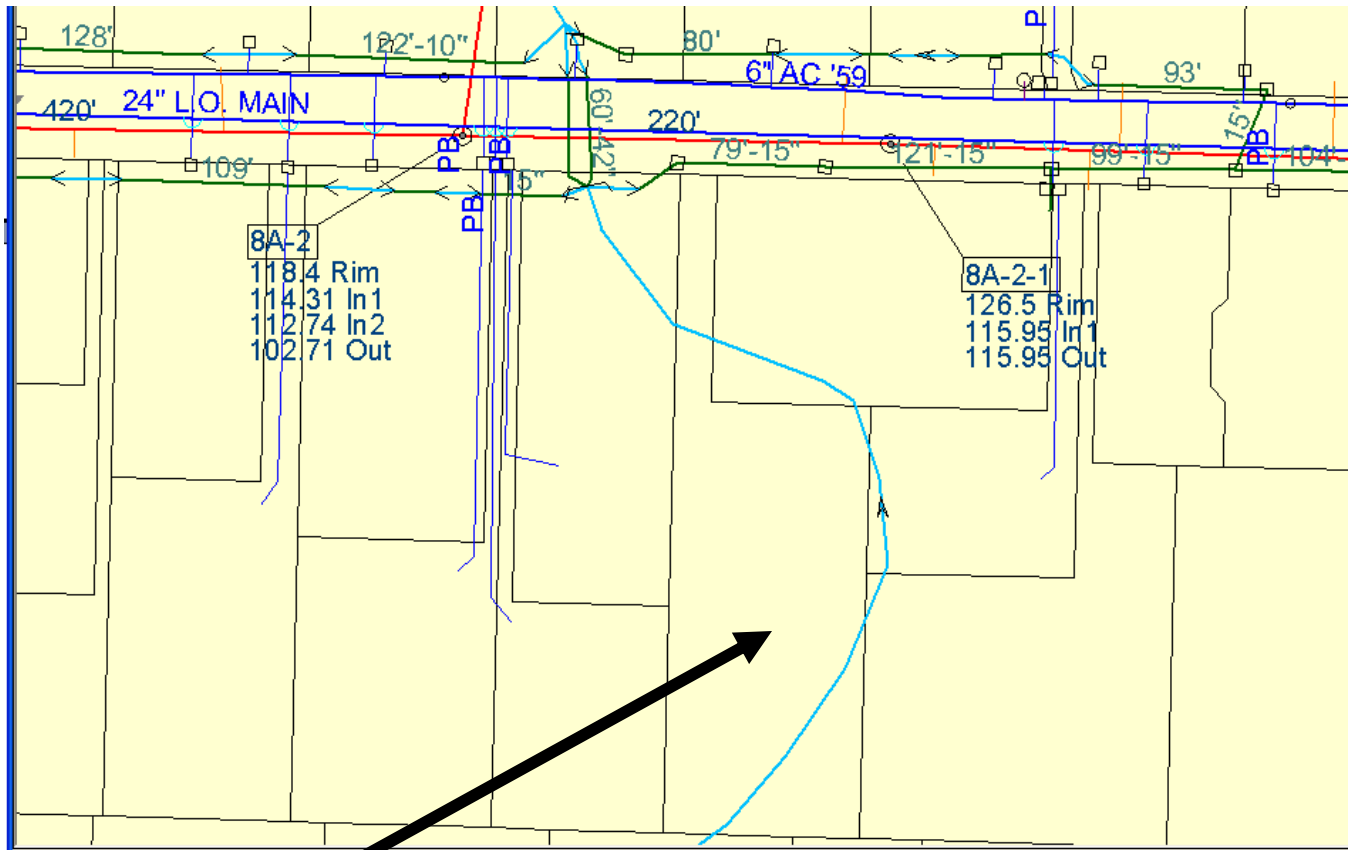
- Reimbursement Fee: \$76.00
- Improvement Fee: \$4,389.00
- Administrative Fee: \$163.00

Size of Meter	Meter Equivalency	Reimbursement	Improvement	Administrative	Total
5/8"	1	\$76	\$4,389	\$163	\$4,628
3/4"	1.5	\$114	\$6,583.50	\$244.50	\$6,942
1"	2.5	\$190	\$10,972.50	\$407.50	\$11,570
1.5"	5	\$380	\$21,945	\$815	\$23,140
2"	8	\$608	\$35,112	\$1,304	\$37,024
3"	16	\$1,216	\$70,224	\$2,608	\$74,048
4"	25	\$1,900	\$109,725	\$4,075	\$115,700
6"	50	\$3,800	\$219,450	\$8,150	\$231,400
8"	80	\$6,080	\$351,120	\$13,040	\$370,240
10"	125	\$9,500	\$548,625	\$20,375	\$578,500

11.4. Storm SDC

- Based on impervious area, City stormwater per ESU (2,914ft²)
- Reimbursement Fee: \$671.00
- Improvement Fee: \$201.00
- Administrative Fee: \$44.00

Unit	Reimbursement	Improvement	Administrative	Total
Single Family	\$671.00	\$201.00	\$44.00	\$916.00



Utility Legend

Red is sewer. Sewer rim elevation (126.5) is shown plus line elevations (115.95) below

Blue is water

Green is storm water

Additional Public Comments:

Ole Olsen encouraged the applicant to attend the Robinwood Neighborhood Association's next meeting to explain their proposal and get the neighborhood association's feedback. He also recommended that the applicant investigate the sanitary sewer depth which would be above the 'at grade' elevation of the proposed house. Khoi Le recommended that the applicant contact Public Works for information on sewer line depth.

Karie Oakes inquired about the need for a tree survey and the applicability of tree protection language such as the 20% rule. Staff explained that this is an application under CDC Chapter 32 and the 20% tree protection language only applies to Planned Unit Development, Subdivision and Design Review Chapters. Thus the 20% rule is inapplicable. Having said that, staff is committed to first protecting Trillium Creek and the riparian corridor and secondarily the trees on the site. Ideally both resources can be protected. Karie Oakes asked if there is a minimum setback from the creek in hardship cases. Staff finds that CDC 32.090(C)(1) requires a 15 foot transition from the drainage course (edge of Trillium Creek). Staff will be recommending the maximum setback possible while, at the same time, respecting the applicants right to up the 5,000 square feet of disturbed areas.

Process

Full submittal per CDC Chapter 32 is required. No neighborhood meeting is required per CDC 99.038. Full responses to the submittal requirements (unless specifically waived) and full response to the approval criterion is required. "N/A" is not an acceptable response to the approval criterion. You must explain why it is "N/A". The deposit fee for a WRA permit is 1,850 dollars. A completed application form is required.

The City has 30 days to determine if the application is complete or not (most applications are incomplete). The applicant has 180 days to make it complete, although usually it is complete within three months of the original submittal. Once complete, the City has 120 days to exhaust all local review and appeals.

Staff prepares public notice which is mailed to property owners within 100 feet of the site perimeter. The Planning Director is the decision making body for Water Resource Area permits. The Planning Director's decision is usually three to four weeks from the date the application is deemed complete. The decision may be appealed to the City Council. If appealed, the City Council hearing is usually 6-8 weeks after the Planning Director's decision date. Subsequent appeals go to LUBA.

Once approved, the applicant has three years to occupy use and satisfy conditions of approval before approval lapses and is void.

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. These pre-app notes have a limited “shelf life”. New code provisions could be adopted between the pre-app meeting and date of submittal which would be applicable and may impact the design, approval criteria and/or the application.

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