

**City of West Linn**  
**PRE-APPLICATION CONFERENCE MEETING**  
**SUMMARY NOTES**  
**June 7, 2012**

SUBJECT: Water Resource Area permit for single-family house on lot of record at southwest corner of Marylhurst Drive and Marylhurst Circle (east of 969 Marylhurst Circle)

ATTENDEES: Applicants: Emery Smith, Phil Lyell  
Staff: Tom Soppe (Planning)

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***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 site is a lot of record in the Marylhurst Heights 2 plat, at the southwest corner of Marylhurst Drive and Marylhurst Circle, at the further south of the two locations where these two streets intersect. (They intersect twice, as Marylhurst Circle is a loop.) The lot is not developed. It contains woods on the southern two-thirds of the lot, where this is also a drainage channel/basin (see further discussion below). There is also a row of trees along the north property line along Marylhurst Circle, and an ephemeral channel in the northwest area of the lot, overlapping the next lot to the west.



**View of site from intersection. Wooded area is to left, row of trees along Marylhurst Circle is on the right.**

The lot contains a stormwater channel on the Surface Water Master Plan stormwater map, which enters the site from a culvert that crosses under Marylhurst Drive, and exits the site to the west. The Master Plan map shows this as a linear channel going directly across the site parallel to Marylhurst Circle, bisecting the site. However, staff observations earlier this year observed that the channel covers a wider, more diffuse, harder-to-define basin area that generally includes the area shown as a channel on the map, but that also stretches south throughout much of the southern areas of the site. Per these observations in the field there is also a more ephemeral channel heading northwest through the northwestern area of the site to Marylhurst Circle. As an open channel in a relatively flat area that is not designated to be a significant riparian corridor, the transition area setback is defined as the area within 50 feet of the ordinary water's edge for the channel. The structural setback is an additional 15 feet to the rear of a structure or 7.5 feet to the side of a structure.

It should be noted that while the basin area catches the small culvert's water it does not have much of a visible pooling or channeling effect even during rainy periods and this calls into question whether it can be called a channel and covered by the provisions of Chapter 32. While the remainder of the pre-application notes below work under the assumption that it should, 32.050(A) states, "The exact location of drainageways identified in the Surface Water Management Plan, and drainageway classification (e.g., open channel vs. enclosed storm drains), may have to be verified in the field by the City Engineer." The City Engineer is allowed to make a determination as to whether and where there is an actual channel here. If he determines there is not, then Chapter 32 does not apply, although the applicant is encouraged to keep development away from ephemeral basins and channels. Under this scenario, the permit would not be needed. In order for the City Engineer to make an informed

determination the applicant is encouraged to hire a wetland and riparian area consultant to study the area and make his/her own findings.



**Woods- which has channel/basin area- along Marylhurst Drive and through southern part of site**

Assuming the basin is determined to be an open stormwater channel, practically the entire lot is within the transition area as determined by Section 32.050(E). Normally, such as on larger properties or properties that already have some development, new development is not allowed in water resource transition areas. However, the hardship provisions of Section 32.090 provide for development of sites that would not be able to be developed to their minimum economic viability without development within the transition area. Section 32.090(B) specifically provides for lots such as this one that are partially inside the transition area. (Depending on the accuracy of staff observations and City GIS maps, the entire lot, rather than just most of it, might be within 50 feet of the channel/basin boundaries. In this case 32.090[A] would apply instead.) The criteria of 32.050 (the regular approval criteria for this permit) and 32.090 require that as much development as possible take place outside the transition area instead of within, and that the applicant economically justify the amount of development proposed within. In a lot like this that is mostly within the transition area this is in all likelihood not possible, but these criteria and the Planning Department do strive to push the adequate amount of development allowed on site away from the water resource.

The applicant is allowed a maximum of 5,000 square feet of developed area within the transition area, but the less transition area can be developed instead of non-transition area, the better. As for development within a transition area, the more it can be pushed away from the resource itself the better, even if it is still within the 50 foot setback. The 5,000 square foot maximum counts not only the area of a house and garage but other landscaping, yard, sidewalks, driveways, and other modified and developed areas as well.



**Staff's approximate drawing (atop GIS aerial and storm layers) of basin, ephemeral channel (dotted line). No evidence found of main channel trajectory onto other Marylhurst Circle properties west of basin (although that is shown on GIS blue stormwater layer shown on map). Water that does not enter ephemeral channel likely diffuses eventually onto rural property to the southwest, or soaks into the ground.**

Chapter 32 requires that all transition area proposed for development mitigated for on at least a one-to-one square foot basis by increasing the transition area setback on undeveloped areas of the site, or by restoring a disturbed transition area off-site. The latter would be likely the only viable option here since there will be little to no areas currently outside the transition area that would remain undeveloped on this site upon the development of one house and its yard, garage, etc. Chapter 32 also requires that areas temporarily disturbed during construction be revegetated with native riparian vegetation and trees. See the provisions of sections 32.070 and 32.080 respectively.

In the R-15 zone, front and rear setback minimums are both 20 feet, interior side yard setback minimum is 7.5 feet, and street-facing side yard setback minimum is 15 feet. The applicant's concept plan submitted for this conference does keep the proposed house and surrounding yard, patio, etc. mainly north of the open channel/basin area, but otherwise could better maximize provisions allowing it to be proposed as far as possible from the basin. The applicant shows 20-foot setbacks from both Marylhurst Drive and the side opposite, as well as a 35 foot setback from Marylhurst Circle. On corner lots, the CDC allows some flexibility, per Chapter 2 definitions, as to what is considered the rear versus what are considered the sides of a lot. In

addition, Section 32.050(O) allows front yard setbacks to be reduced to 15 feet and side street setbacks to be reduced to 7.5 feet as part of a Water Resource Area permit to develop a lot of record, if this helps keep development away from and outside of the transition area and resource. The applicant is welcome to experiment with this flexibility in order to best situate the house to develop as generally far from the water resource as possible.

It appears that one of the best ways to maximize this orientation and setback flexibility would be to consider Marylhurst Circle a "side". Since the side street setback is a smaller requirement than the front yard setbacks, with or without using 32.050(O), it is best to use this on Marylhurst Circle since it is opposite the channel. Also, a large setback is not needed here to achieve the code-required 20-foot long driveway.

This is because Section 48.030(B)(4) states "The driveway shall include a minimum of 20 feet in length between the garage door and the back of sidewalk, or if no sidewalk is proposed, to the paved portion of the right-of-way." Therefore in an area such as this with no sidewalks the minimum 20 feet can be measured from the pavement, which is approximately 7 feet from the property line if the applicant's concept drawing is fairly accurate. (A survey will be required for this application due to this and other issues regardless.) Therefore the driveway need only be 13 feet long between property line and garage to meet the 20-foot total length requirement, putting the house less than 15 feet from the property line (therefore needing to use 32.050(O)'s side street setback provision of 7.5 feet instead of its front setback provision of 15 feet). Under this scenario the setback to Marylhurst Drive can be reduced to 15 feet, keeping the house further from the ephemeral channel to the west.

Alternately Marylhurst Circle could be the front and utilize the 15-foot setback without much difference in driveway length from the above scenario, with Marylhurst Drive being a "side" where the 7.5-foot setback can be employed to keep the house further from the ephemeral channel to the west. It is probably best overall to focus on pushing the house towards Marylhurst Drive and away from the forested basin area compared to pushing it east away from the ephemeral channel, as long as this results in less or no development in the forested area and basin while still keeping development out of the ephemeral channel.



**View of site from Marylhurst Circle, through row of trees along street. House/yard footprint should be set forward to mainly occupy grassy area.**

A house that is longer and thinner east-to-west, if economically viable, could result in loss of fewer trees and of staying better out of the basin area, especially with the modified setbacks. Related to this, if the driveway came off of Marylhurst Drive near the northeast corner of the site it could save some trees on Marylhurst Circle. Putting the driveway on Marylhurst Drive would also cause there to be no breaching of the long row of trees, with canopies grown into each other, along Marylhurst Circle, reducing in turn the potential effects on remaining trees in this row. Since there are no curbs in the area, there is no standard of how far a driveway has to be from the intersection of the two streets per Chapter 48, which only sets these standards for curb cuts. The pavement appears on GIS to be approximately 10 feet from the right of way line, so per the other driveway discussion above, the 20 feet of driveway could be achieved with a 15-foot front setback to the garage or a 10-foot (utilizing the 7.5 minimum side street from 32.050[O]) side setback, if these would help keep the footprint away from the channel/basin areas.

Raingardens are required for all new single-family houses in West Linn. The criteria of 32.050 require that the stormwater channel be used for conveyance of stormwater, with no inter-basin transfers. The raingarden will need to be located to reflect the course of drainage from the house to the on-site channel and/or basin, while (like other developed areas of the site) causing as little disturbance as possible to the channel and transition area. If it is within the transition area, which is likely considering how much of the lot is in the transition area, it will have to count towards the 5,000 maximum square feet of developed area and will have to be mitigated for per Chapter 32, even though it will have native plantings.

Street improvements or a fee-in-lieu for street improvements will be required on both frontages per Chapter 92 of the CDC, as this is a new house on an undeveloped lot.

### **Process**

A Water Resource Area permit is required, unless the City Engineer in conjunction with findings from a wetland specialist determines that this is not an actual open channel.

No neighborhood meeting is required per CDC 99.038. However, these meetings are always encouraged to solicit public input and make the public more informed of an applicant's plans. The site is in the Marylhurst Neighborhood Association, and is within 500 feet of the Skyline Ridge Neighborhood Association. Contact Jeff Treece, Marylhurst NA President, at [treece@gsp.org](mailto:treece@gsp.org) or 503-636-1218, and Kristin Campbell, Skyline Ridge NA President, at [kristinc@windermere.com](mailto:kristinc@windermere.com). If the applicant does present at a neighborhood meeting, the applicant is required to provide the neighborhood association with conceptual plans and other material at least 10 days prior to the meeting.

The Water Resource Area permit application will require a full and complete response to the submittal requirements per CDC Section 32.040. For a lot of record where construction is proposed within the transition area, this includes the submittal requirements of 32.070 Mitigation Plan and 32.080 Revegetation Plan as well. Submittal requirements may be waived but the applicant must first identify the specific submittal requirement and request, in letter form, that it be waived by the Planning Director and must identify the specific grounds for that waiver. The waiver may or may not be granted by the Planning Director. The approval criteria requiring individual narrative responses are those in sections 32.050, 32.070, 32.080, and 32.090.

The CDC is online at <http://westlinnoregon.gov/planning/community-development-code-cdc>.

Prepare the application and submit to the Planning Department with a deposit of \$2,600 for the plus a \$250 inspection fee for the eventual inspection of the revegetation and mitigation. Submit a completed application form as well.

**PLEASE NOTE that the deposit fee quoted represents an initial deposit. Staff time is charged against this deposit. It is common for there to be more staff time spent on development applications than deposits cover, and therefore additional billing is possible.**

The Planning Director will send out public notice (20 day minimum) of the Planning Commission hearing upon application completeness. A Planning Commission decision may be appealed by the applicant or anyone with standing to City Council, requiring at least one City Council hearing.

Pre-application notes are void after 18 months. After 18 months with no application approved or in process, a new pre-application conference is required. Any code amendments to the CDC during that period would have to be addressed by the applicant and could affect the proposal.

If approved and a building permit applied for, for the structure, a hub and tack survey would be required if the approved building is within 5 feet of a required setback.

***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.

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