City of West Linn

PRE-APPLICATION CONFERENCE MEETING

Notes

September 6, 2012

SUBJECT: Water Resource Area (WRA) permit, Floodplain Management Area (FMA) permit, Willamette River Greenway (WRG) permit and Class II Variance(s) to construct three single family homes on three lots of record south of 1220 Ninth Street. Assessor's map 31 2AC tax lot 800.

ATTENDEES: Applicant: Ed Brockman, Phillip Pahlisch

Review Staff: Peter Spir (Associate Planner) Jeff Randall (Public Works)

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. <u>These comments are PRELIMINARY in nature</u>. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.

<u>Project Summary</u>

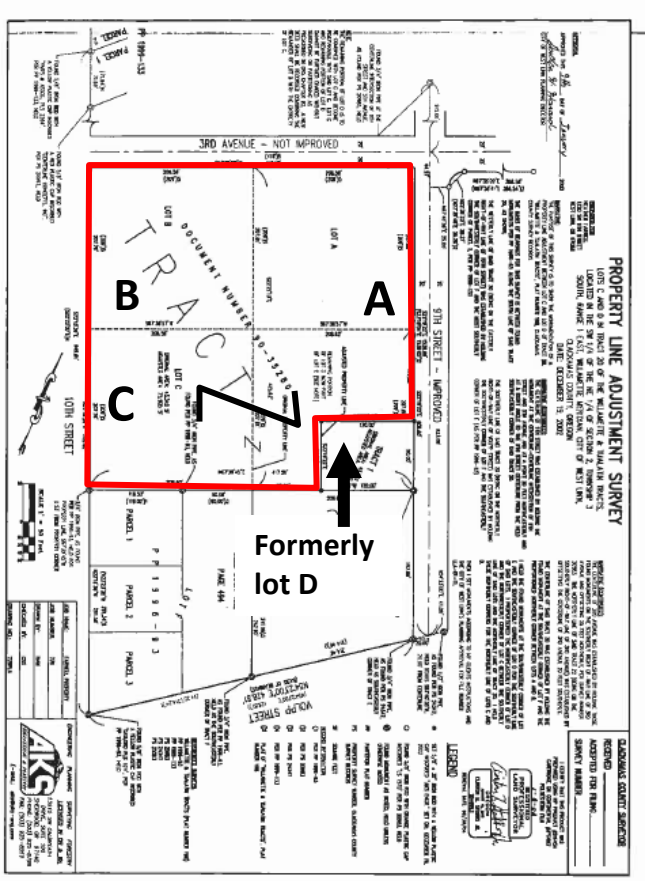
The applicant originally proposed to reconfigure, by lot line adjustment (LLA), three lots of record. Once they were reconfigured, the applicant proposed to construct three homes on those lots. Generally speaking, and per the provisions of CDC section 32.090, the applicant can develop up to 5,000 square feet of land for the construction of one house per lot of record.

But because the lots are partially within the water resource area (WRA) and modification of the lots would result in the loss of grandfather status and subsequent loss of ability to utilize the hardship provisions of CDC section 32.090, the applicant decided to leave the lots as they are. No LLA is proposed.

The property was originally configured as four equal sized square lots: A, B, C and D of the Willamette and Tualatin Tracts, Block (Tract) 20. In 2002, a lot line adjustment was applied for, and approved, to reduce lot D to a smaller 10,800 square foot lot at the southeast corner of the site. A single family home was built on this smaller lot. By the 2002 lot line adjustment, lot C was expanded in size, at lot D's expense, to its present dimension. Lot D (tax lot 801) is not part of this proposal. The area of the three lots

comprise 163,923 square feet or 3.8 acres. The property is owned by Thomas Farwell of 1220 Ninth Street. The underlying zoning is R-10 single family residential (10,000 square foot minimum lot size).

Natural constraints are the prominent feature of these lots since they collectively cover and overlay every part of the property. The property is within the High Habitat Conservation Area (HCA) of the Willamette River Greenway (WRG), the 100 year floodplain, the 1996 flood boundary, a Water Resource Area (WRA) comprising a wetlands, streams and riparian corridor plus associated transitions and setbacks.



REQUIRED PERMITS

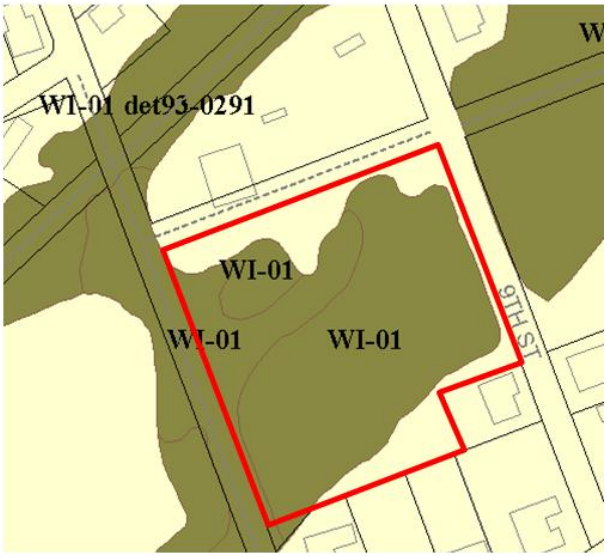
Water Resource Area (WRA) permit

Wetland

The site is dominated by a wetland. However the site is developed, a Water Resource Area (WRA) permit will be required. In order to build or develop the site, a wetland delineation by a wetland specialist or biologist will be required per section 32.060(B) (8). That delineation must meet the submittal requirements of CDC Chapter 32 and must be reviewed and approved by Department of State Lands (DSL). The DSL permit and approval is required in those cases where more than 50 cubic yards of removal/fill is expected to occur. Staff anticipates that site preparation of foundations for three homes plus access driveways will require removal/fill of over 50 cubic yards of material.

Once the wetlands are delineated, staff will be able to identify the transitions and setbacks per table 32-1 of CDC chapter 32. The slopes on this property are in the 0-25% range; consequently the transition as measured from the edge of the wetland will be 50 feet with an additional structural setback of 7.5 to 15 feet. No development is allowed

within the wetland boundaries or transitions or setbacks unless permitted by section 32.090 (hardship provisions) and/or by Class II Variance.



Wetland areas shown in olive green

The provisions of section 32.090 which allow a 5,000 square foot encroachment per lot into the wetlands or transition areas only applies to lots of record that existed prior to 2007 when the current WRA chapter was adopted. By adjusting lots through the lot line adjustment (LLA) process, the lots of record would have been modified to the extent that they would no longer have been eligible for the 5,000 square foot development. The 2002 LLA that downsized lot D into its current configuration, as tax lot 801, is duly noted. So whereas three lots A,B and C in their present form can be built upon so long as they meet the standards of CDC 32.090, any LLA to modify them will invalidate that right and only one lot (tax lot 801/3.8 acres) may be built upon. The burden is also on the applicant to demonstrate that the house location selected minimizes encroachment into the resource and is the minimum needed to accommodate the use. The 5,000 square feet is not a "given".

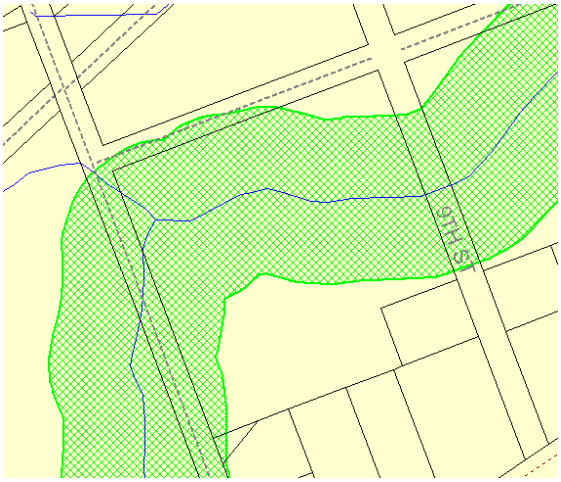
It is also noted that the 5,000 square feet of CDC 32.090 will apply to each individual discrete lot. Consequently, the construction of a driveway in the Third Avenue ROW would not count against any the lot it was providing access to. However, the allowed disturbed area in the ROW could not exceed 5,000 square feet without a variance.

<u>Riparian Corridor</u>

The WRA permit will also consider the riparian corridor that exists on the property. The transition associated with the riparian corridor extends per CDC Chapter 32 (table 32-1) a distance of 100 feet from the stream edge with an additional structural setback of 7.5 to 15 feet. No development is allowed in those areas unless permitted by Chapter 32 (e.g. hardship provisions) and/or by Class II Variance.

Stream

The WRA permit will also consider the stream and pond that exist on the property. The transition area associated with the stream extends per CDC Chapter 32 (table 32-1) a distance of 50 feet from the stream edge with an additional structural setback of 7.5 to 15 feet. No development is allowed in those areas unless permitted by Chapter 32 (e.g. hardship provisions) and/or by Class II Variance. The stream and riparian corridor (green marks) are shown below:

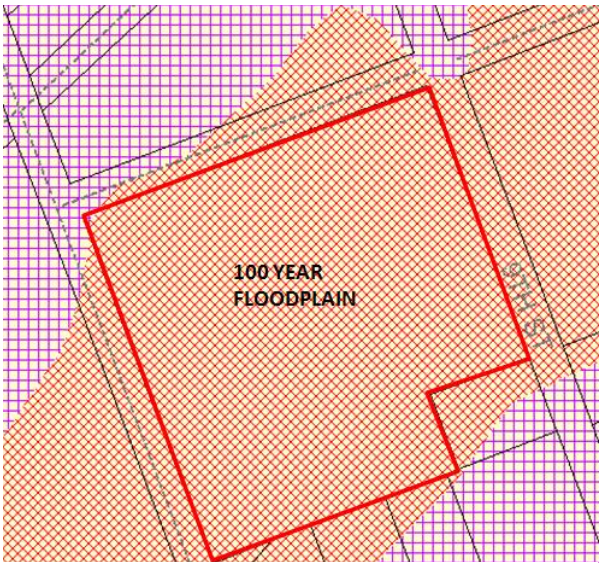


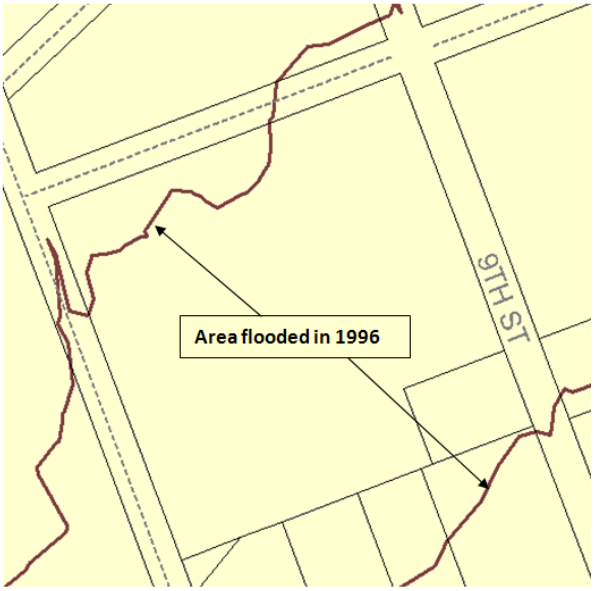
Riparian corridor shown in green with stream in blue

Flood Management Area (FMA) Permit

100 Year Floodplain/ 1996 Flood Area

The property is completely within the 100 year floodplain and the majority of the site is within the area that was flooded in 1996. Any development in the 100 year floodplain requires a Flood Management Area (FMA) Permit. The list of submittal requirements is extensive. Among the requirements is that a stamped surveyed elevation be provided for the areas proposed for home construction. Among the approval criteria of that chapter is the requirement that on site removal and fill shall balance per 27.060(B).

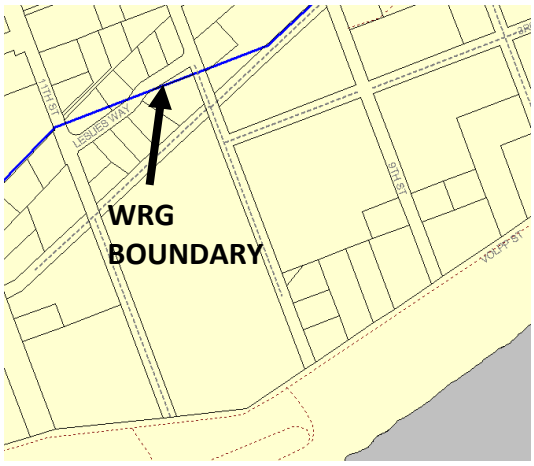


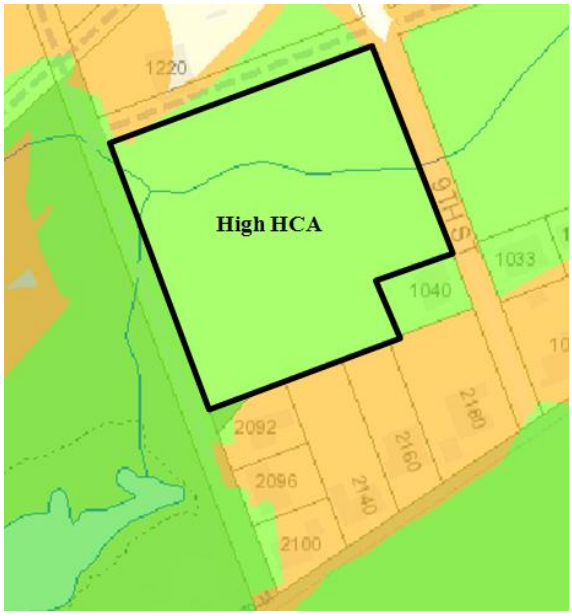


Willamette River Greenway (WRG) Permit

Willamette River Greenway/Habitat Conservation Area

The property is in the Willamette River Greenway as depicted by the blue boundary line in the map below. The fact that the property is completely within a high Habitat Conservation Area (HCA) means that the WRG chapter is applicable and not exempt from the permit per 28.040(S) (T)



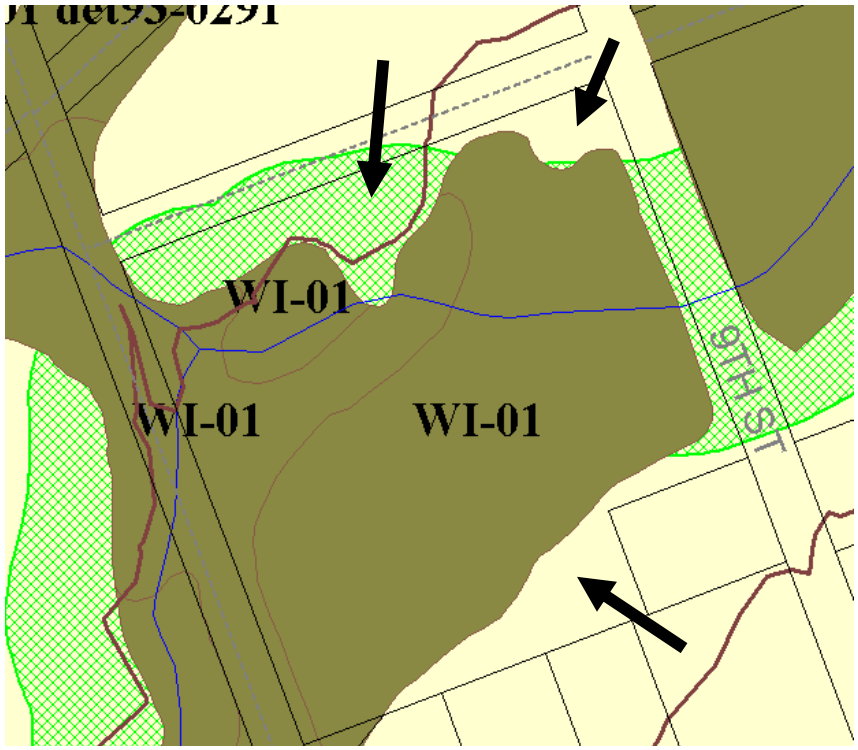


Development of lands with high HCA designations as shown above is permitted but the development must minimize intrusion into the HCA to the degree possible. Of note are the approval criteria of 28.110(B):

> *4. Development may occur on legal lots and non-conforming lots of record located completely within the HCA areas or that have the majority of the lot in the HCA to the extent that the applicant has less than 5,000 square feet of non-HCA land.*
>
> *Development shall disturb the minimum necessary area to allow the proposed use or activity, shall direct development to any available non-HCA lands and in any situation shall create no more than 5,000 square feet of impervious surface. (Driveways, paths, patios, etc., that are constructed of approved water-permeable materials will not count in calculating the 5,000-square-foot lot coverage.) The underlying zone FAR and allowable lot coverage shall also apply and may result in less than 5,000 square feet of lot coverage.*
>
> *When only HCA land is available then the structure shall be placed as far away from the water resource area or river as possible. To facilitate this, the front setback of the structure or that side which is furthest away from the water resource or river may be reduced to a five-foot setback from the front property line without a variance. Any attached garage must provide a 20-foot by 20-foot parking pad or driveway so as to provide off-street parking exclusive of the garage. The setbacks of subsection C of this section shall still apply.*

5. Driveways, paths, patios, etc., that are constructed of approved water-permeable materials will be exempt from the lot coverage calculations of subsections (B) (1) through (4) of this section and the underlying zone.

The three resource protection chapters, when they are overlayed on top of each other, identify at least three areas that could be developed to *minimize* environmental impacts. The map below shows these areas (arrows). The map does not show the 100 year floodplain or the high HCA which cover the entire property. (No part of the property avoids the environmental impacts completely.) By keeping out of the wetlands and avoiding either the 1996 flood areas or the riparian corridor it could be stated that an honest effort has been made to minimize environmental impacts on property so heavily encumbered.



Arrows indicate generalized areas that have the fewest environmental constraints on the respective lots. 100 year floodplain is not shown. It covers the entire site.

It should be stressed that the CDC limits encroachment into wetlands and riparian corridors and protected stream transitions and setbacks to a maximum disturbed area of 5,000 square feet. First point: the 5,000 square feet is the maximum area so the decision making body may determine that a smaller footprint is appropriate. Secondly, the 5,000 square feet or allowed disturbance area includes the house and accessory structures, area that is disturbed temporarily during construction, all on-site driveways, swimming pools, play equipment, non-native vegetation (lawns), storm water treatment and detention facilities, all buried underground utilities, etc. (Access via other

properties or ROWs would count against those lots and ROWs.) The applicant should not enter into this application process with the expectation that a traditional house and large grass lawn will be allowed.

Class II Variance(s)

The applicant should anticipate that one or more Class II Variances will be required to allow encroachments into Water Resource Areas (WRA), Floodplain Management Areas (FMA) and Willamette River Greenway high HCA areas beyond that which is allowed by those respective chapters. Variances from required street improvements, sidewalks, etc. may be required too.

The focus of variances is illustrated by section 75.060(D): *"The variance request is the minimum variance which would alleviate the exceptional and extraordinary circumstance."* The applicant should be prepared to show how alternate locations on the lot were not feasible and that the proposed disturbance area is the minimum needed to reasonably accommodate a single family home. Variances that seek relief from the fewest number of overlays and/or stay as close to Ninth Street would be more favorably received than locations with more constraints.

Trees

Once a generalized location or footprint for the house, associated disturbance areas and driveway are established, trees in those areas shall be inventoried and mapped for review by the City Arborist to determine which trees, if any, are significant. The alignment of the driveway and disturbance areas may need to be subsequently adjusted to avoid those trees.

Engineering Comments

I. TRANSPORTATION

9th STREET

	EXISTING CONDITIONS	POTENTIAL POST DEVELOPMENT CONDITIONS
Classification	Local	Local
Zone	R-10	R-10
Right of Way Width	40’	48’
Full Pavement Width	16’	24’
Curb and Gutter	None	Yes or pay a fee-in-lieu
Planter Strip	None defined	Discuss with Planning Department
Sidewalk	None	Yes or pay a fee-in-lieu
Bicycle Lane	None	None
Street Light	None	Yes
Overhead Power	Yes	Place existing over head underground or pay a fee-in-lieu
Street Tree	None	Yes
ADA Ramps	None	None
Post Speed	None	None
Stripe	None	None

A. MINIMUM REQUIRED IMPROVEMENTS

1. Dedication: existing right of way width does not meet current local street cross section recommended in City Transportation System Plan. 4’ dedication shall be needed.

2. Half street improvement consisting of follows:
    a. Half street pavement structural improvement:
        i. 12’ wide travel lane along the frontage plus a 10’’ wide travel lane on the of opposite direction with 4” two lifts Class “C” pavement over
        ii. 2” of ¾” -0 leveling course over
        iii. 10” of ½”-0 sub-base
    b. Install curb and gutter.
    c. Install 6’ wide sidewalk.

d. Install 6' planter strip.
e. Street tree is required. Discussed with Planning and Parks.
f. Place existing overhead power along the project frontage underground.

B. CITY TRANSPORTATION MASTER PLAN

PEDESTRIAN MASTER PLAN

There is no sidewalk currently in place along the project frontage as well as the entire 9th Street from Volpp Street to Willamette Falls Drive.
There is no sidewalk project proposed along 9th Street indicated in the City Pedestrian Master Plan.

Thus developer can propose to pay a fee-lieu in place of sidewalk improvement. Alternatively, developer can install the sidewalk in accordance with the Public Works Standards as indicating in the CDC.

BICYCLE MASTER PLAN

9th Street is not indicated in the City Bicycle Master Plan as one of the roadways with bicycle deficient. No bicycle lane improvement was listed on Bicycle Master Plan.

Thus no bicycle lane is needed.

MOTOR VEHICLE MASTER PLAN

Existing Operations Conditions

9th Street and its intersection with Volpp Street, 5th Avenue, and Willamette Falls Drive were not being analyzed in TSP.

Future Operations Conditions

No particular improvement along 9th Street was listed in TSP.

C. STREET SDC AND BIKE/PEDESTRIAN EFFECTIVE JULY 1ST 2012

Type of Use	Trip per Use	Factor	Reimbursement	Improvement	Administrative	Total
Per Factor of 1		1.00	$2,146	$4,597	$175	$6,918
Single Family	Per House	1.01	$2,115	$4,643	$177	$6,987

Type of Use	Trip per Use	Factor	Reimbursement	Improvement	Administrative	Total
Per Factor of 1		1.00	$0	$1,503	$39	$1,542
Single Family	Per House	1.00	$0	$1,503	$39	$1,542

II. STORM DRAINAGE

A. MINIMUM REQUIRED IMPROVEMENTS

1. With the exception of the existing culvert and drainage way running west east on the subject site and adjacent street, there is no other public storm system nearby for connection.
2. Provide treatment for new impervious of 500 square feet or more.
3. Provide detention for new impervious of 5000 square feet or more.
4. Storm Drainage Analysis Report is required.
5. Install appropriate storm system along project frontage on 9th Street to collect and convey run-off created from new impervious area such as pavement widening and sidewalk.

B. SURFACE WATER SDC EFFECTIVE JULY 1ST 2012

Unit		Factor	Reimbursement	Improvement	Administrative	Total
Per Factor of 1		1.00	$773	$232	$51	$1,056
Single Family	Per House	1.00	$773	$232	$51	$1,056

III. SANITARY SEWER

A. MINIMUM REQUIRED IMPROVEMENTS

1. Existing public sanitary sewer system is available on 9th Street for connection.

B. SANITARY SEWER SDC EFFECTIVE JULY 1ST 2012

Unit	Meter Size	Factor	Reimbursement	Improvement	Administrative	Total
Per Factor of 1		1.00	$597	$2,325	$108	$3,030
Single Family	Per House	1.00	$597	$2,325	$108	$3,030

Tri-City Service District Sewer SDC 1 EDU = $2,020

IV. WATER

A. PRESSURE ZONE

1. Zone: Willamette Zone
2. Overflow Elevation: 351 Upper Elevation: 280 Lower Elevation: river

B. RESERVOIR AND PUMP STATION

1. Reservoir: Horton is located on Salamo Road. The reservoir usable capacity is approximate 0.6 million gallon. The reservoir is filled by Bolton Pump Station. Willamette Pump Station is a concrete structure constructed in 1994 and located adjacent to the Willamette Reservoir. The Station contains three 500 gpm can-type vertical turbine pumps. The Station pumps water from Willamette

Reservoir to Bland Reservoir. There is a standby diesel generator at this location in case of a power failure.

C. EXISTING POPULATION AND PROJECTED POPULATION AT SATURATION

1. Existing Population: 6,192
2. Projected Population at Saturation: 7,843

D. WATER DEMAND AT SATURATION

Average Day Demand (mgd)	Maximum Day Demand (mgd)	Peak Hour Demand (mgd)
0.9	2.0	3.1

E. RESERVOIR AND PUMP STATION CURRENT OPERATNG CONDITIONS

1. In accordance with Water System Plan, both the reservoir IS listed in good conditions. The Pump Station was upgraded in 2001 with the addition of a standby generator.

F. WILLAMETTE PRESSURE ZONE PEFORMANCE

Year	MDD (mg)	Fire Flow (mg)	Total Supply Need (mg)	Normal Supply Capacity (mg)	Emergency Supply Capacity (mg)	Normal Supply Deficit (mg)	Emergency Supply Deficit (mg)
Current	**2.2**	**0.5**	**2.7**	**2.6**	**1.6**	**0.1**	**1.1**
2015	**2.3**	**0.5**	**2.8**	**2.6**	**1.6**	**0.2**	**1.2**
2030	**2.6**	**0.5**	**3.1**	**2.6**	**1.6**	**0.5**	**1.5**
Saturation	**2.7**	**0.5**	**3.2**	**2.6**	**1.6**	**0.6**	**1.6**

1. The table above indicates that there is a deficiency in supply capacity during a normal condition.

G. WILLAMETTE PRESSURE ZONE SUPPLY AND STORAGE DEFICIT

Year	Normal Conditions			Emergency Conditions		
	Supply Deficit (mgd)	Storage Volume (mg)	Overall Deficit (mgd)	Supply Deficit (mgd)	Storage Deficit (mgd)	Overall Deficit (mgd)
Current	**0.1**	**0.8**	**0**	**1.1**	**0.8**	**0.3**
2015	**0.2**	**0.8**	**0**	**1.2**	**0.8**	**0.4**
2030	**0.5**	**0.8**	**0**	**1.5**	**0.8**	**0.7**
Saturation	**0.6**	**0.8**	**0**	**1.6**	**0.8**	**0.8**

1. The table above indicates that there is no storage volume deficit during a normal condition.

H. WILLAMETTE PRESSURE ZONE MASTER PROJECT LIST

1. There are 34 SDC/Capital Projects listed in the City Water System Plan under the Willamette Pressure Zone. There is one particular project run along the proposed development frontage.

Number	Location	Ex. Diameter (inches)	Proposed Diameter (inches)	Priority	Length (ft)	SDC Allocation	Unit Cost ($/lf)	Estimated Project Cost ($)
5	12th St from Tualatin Ave to Volpp St on to 9th St up to 5th Ave.	6	8	5	2,845	0%	125	$351,125

1. The table above indicates that there is an improvement required along the proposed project frontage however since these are existing lot of records, the demand for supplying water to these lots have been accounted for in the existing water system, therefore developer is not required to provide improvement or contribution to the existing water line along 9th Street in front of the development frontage.

I. MINIMUM REQUIRED IMPROVEMENTS

1. Existing public water system is available on 9th Street for connection.

J. WATER SDC EFFECTIVE JULY 1ST 2012

Unit	Meter Size	Factor	Reimbursement	Improvement	Administrative	Total
Per Factor of 1		1.00	$571	$6,793	$191	$7,555
5/8" Meter	1		$571	$6,793	$191	$7,555

K. ENGINEERING CONTACT INFORMATION

Khoi Q. Le, PE
Development Engineer
Email: kle@westlinnoregon.gov
Phone: 503-722-5517

Process

Water Resource Area (WRA), Floodplain Management Area (FMA) and Willamette River Greenway (WRG) permits are required. One or more Class II Variances are expected to be required. The exact number of variances will be determined once the site analysis is complete, the wetland boundaries have been delineated and approved by DSL, and once the proposed house footprints and disturbance areas (including driveways) are known.

A neighborhood meeting per section 99.038 is NOT required for this application.

For the WRA permit the submittal requirements of section 32.040 and the approval criteria of section 32.050 must be addressed. For the FMA permit the submittal requirements of section 27.050 and the approval criteria of section 27.060 must be addressed. For the WRG permit the submittal requirements of section 28.090 and the approval criteria of section 28.110 must be addressed. For the Class II Variance(s) the submittal requirements of section 75.050 and the approval criteria of section 75.060 must be addressed. N/A is not an acceptable response to the approval criteria.

The applicant should anticipate having to get a permit(s) from DSL and USACE depending on the scope of work especially in wetlands ("waters of the state").

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 Planning Director's waiver may be subsequently overturned by the Planning Commission.

Prepare the application form and submit to the Planning Department with deposit fees and signed application form, including owner's signature. The WRA fee is $2,600, the WRG deposit fee is $1,700, the FMA deposit fee is $1,050, and the Class II Variance deposit fee is $1,900 for the first variance and 50% for each subsequent variance. There is a re-vegetation inspection fee of $250. (The City keeps record of the hours spent by staff on the project and bills against the deposit fees. If there are appeals or the application is very complex, it is possible that staff time will exceed the deposit fee amount so the applicant will be billed for those additional amounts.)

Once the submittal is deemed complete, the staff will schedule a hearing with the Planning Commission and will send out public notice of the hearing at least 20 days before it occurs. The Planning Commission's decision may be appealed to City Council by the applicant or anyone with standing.

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.

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. Thus, there is no "shelf life" for pre-apps.

Pre-app2011/Pre-app 2011.10.06/pa-12-14 Ninth Street wetland