

City of West Linn
PRE-APPLICATION CONFERENCE MEETING
Notes
March 21, 2013

SUBJECT: Water Resource Area (WRA) permit to construct a house on lot of record on tax lot 7600 of 21E 25AA.

ATTENDEES: Applicants: John Reeve
Staff: Peter Spir (Planning Department); Khoi Le (Engineering Division)
Public Attendees: Sally McLarty (Bolton N.A.)

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 applicant wants to build one house on tax lot 7600 of Assessor's Map 21E 25AA. A creek is adjacent to the northwest corner of the property. Because the associated transition and setback area of the creek extend onto the applicant's property a Water Resource Area (WRA) permit is required. The property comprises 9,500 square feet. The zoning for the property is R-10 (10,000 square foot minimum lot size). The property is considered a legal non-conforming lot of record.



Figure 1

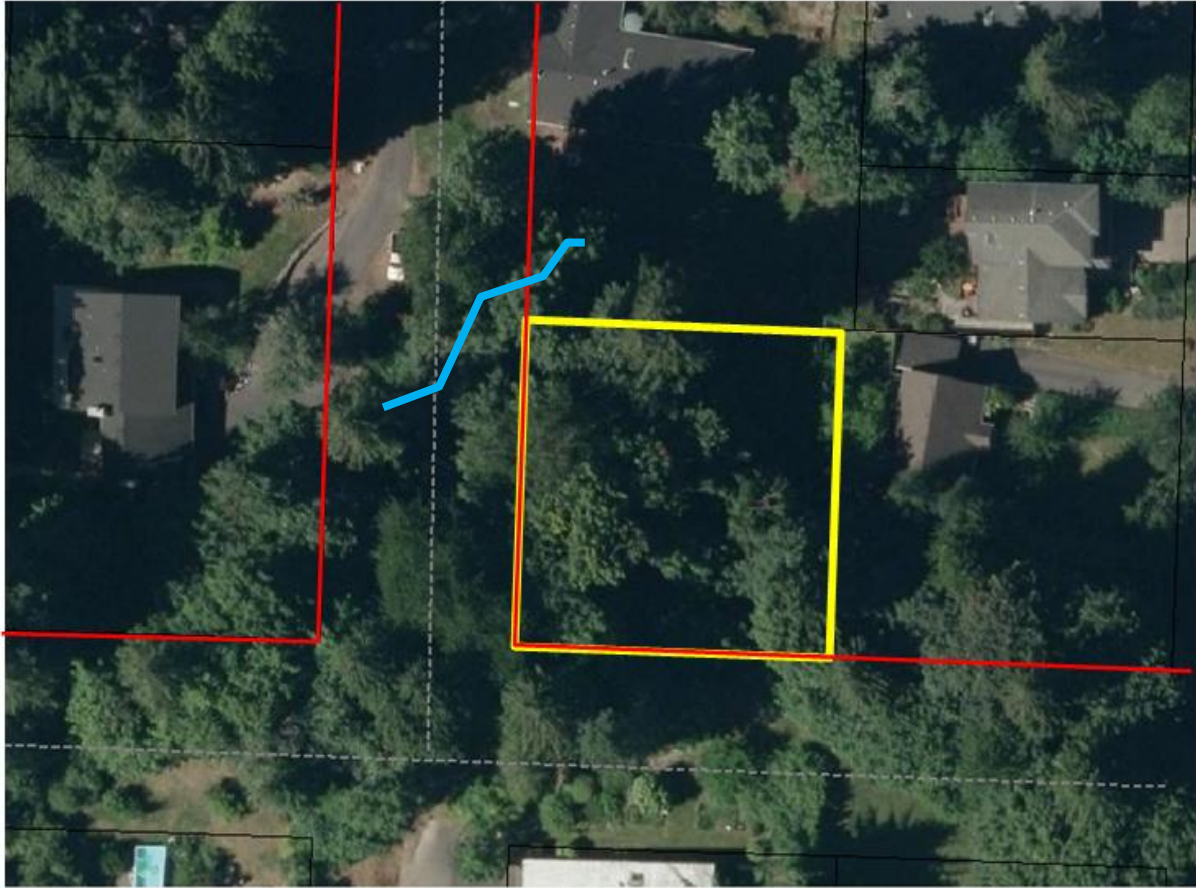


Figure 2: Property outlined in yellow, right of way (ROW) in red, generalized creek location in blue

Because of the legal lot of record status, the city is obliged to allow the construction of one house; otherwise it would be considered a “taking”. Access to the property from Tompkins Street will have to be negotiated to use the neighbor’s driveway that roughly follows the Elliot Street ROW. If the right of access cannot be negotiated, the applicant will have to construct a paved 12-foot wide driveway elsewhere within the Elliot Street ROW from the property to Tompkins Street.

Zoning. The zoning is R-10 (single family residential and single family attached 10,000 square foot minimum lot size). The lot is 9,500 square feet meaning that it is a non-conforming lot of record. (Non-conforming lots of record can be as small as 5,000 square feet in the R-10 zone and still be buildable by code.) The surrounding zoning is R-10 to the north, east and west and R-5 (single family residential 5,000 square foot minimum lot size) to the south. The two lots that comprise this parcel (Bolton Plat, Block 6, lots 9 (portion thereof) and 10) were modified by lot line adjustment at some time in the past to the extent that only one house can be built.

Land Use. The surrounding land use is single family residential.

Site Analysis. Based on the City’s LIDAR based contour map and staff’s site visits it is determined that the creek daylights from a culvert on the east side of the driveway built to

serve 1920 Tompkins Street. The creek continues in a northeasterly direction adjacent to the subject property before flowing into an intake pipe behind the house at 1880 Tompkins Street. (The Surface Water Management Plan incorrectly shows the creek alignment extending to the east edge of the subject property.)



Figure 3 and 4



The first 50 feet of the creek as it emerges from the culvert under the driveway is fairly well defined with six to ten foot high banks on the side. Per CDC Chapter 32, this section is classified as a well defined ravine (see figure 4 below). The WRA transition extends 50 feet from the top of slope. There is also an additional 7.5 to 15 foot setback depending on the orientation of the house.

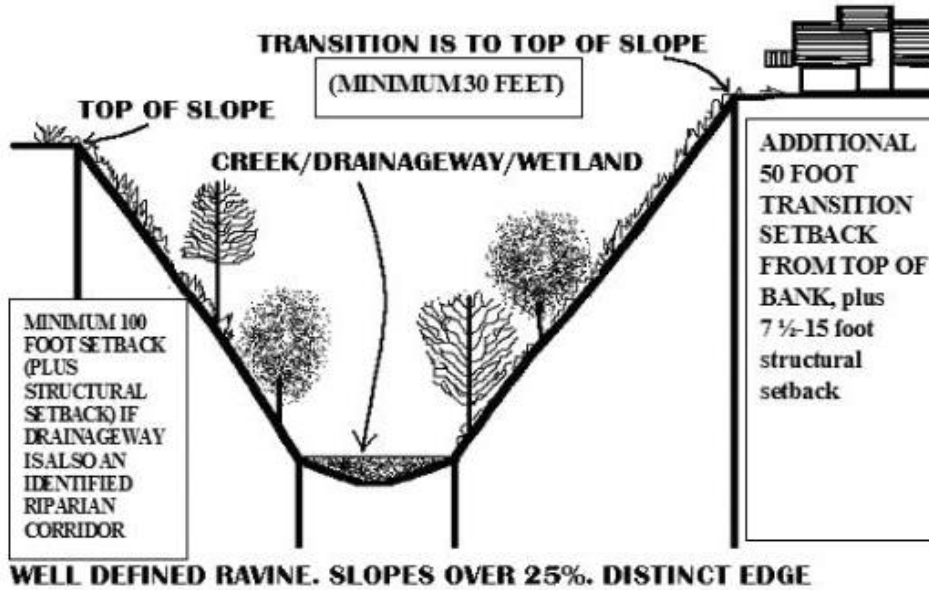


Figure 5

For the final 50 feet of the creek to the intake behind the house at 1880 Tompkins Street the slopes adjacent to the creek are in the 0-10 percent range. This category of WRA is illustrated below in figure 5 and has a transition of 50 feet as measured from the creek edge and then the additional building setback of 7.5 to 15 feet.

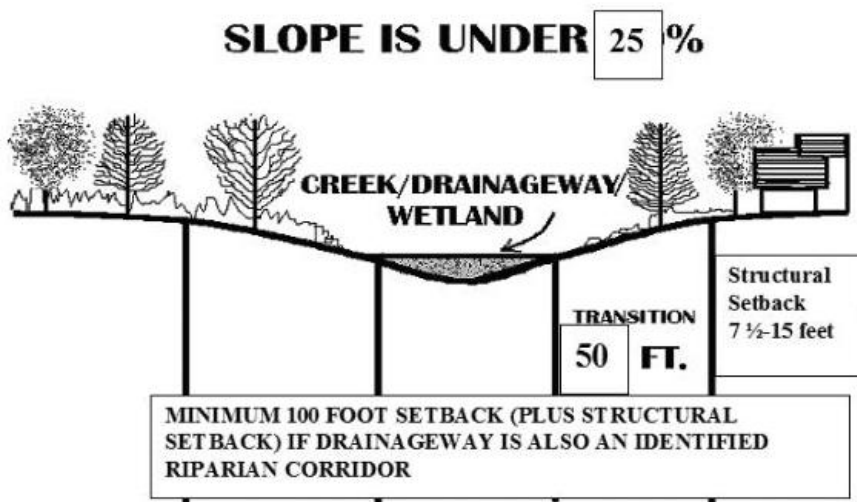


Figure 6

When these dimensions are applied to the property, about half of tax lot 7600 is within the WRA boundary.

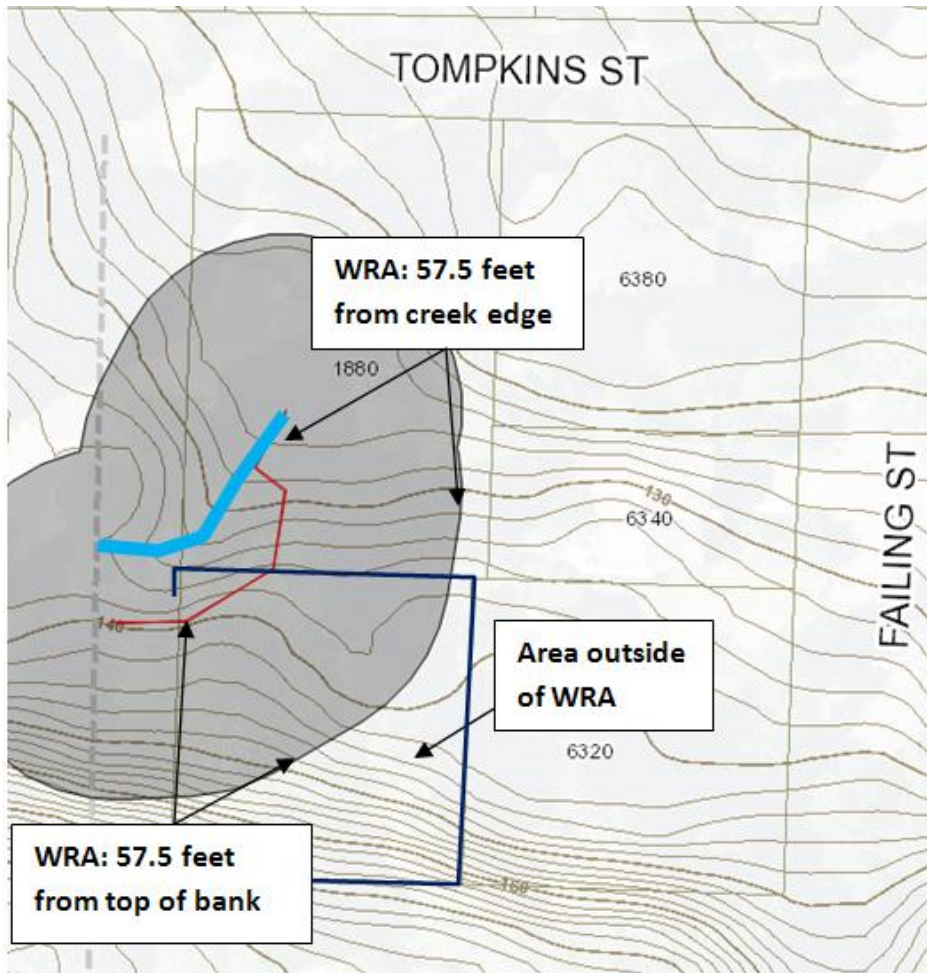


Figure 7: The figure above is a generalized illustration only. It is not a formal delineation of the WRA.

Meanwhile, the rear or south portion of the lot comprises a steeply sloped hillside which rises over 20 feet to the undeveloped Randall Street ROW.

The applicant's property has a forested canopy; dominated by a few potentially significant conifers and a collection of lesser quality deciduous trees. In addition there is a native/non-native understory and groundcover mix.

The site is not identified on the DOGAMI map as a potential land slide area but the City's Natural Hazards Mitigation Map identifies the hillside at the rear or south of the property as over 25% slope. In the event that the applicant plans to build on a portion of that hillside the Building Official may require the applicant to submit an Oregon licensed geotechnical engineer's report recommending the appropriate building location and construction techniques to address potential slope failure.

There are no wetlands or riparian corridors at this site.

Given the WRA transition areas and the hillside, the most appropriate area to build a house at the maximum distance from the WRA and off the hillside is an area in the 0-5% slope range located in the central/east portion of the site (see figure above "Area outside of WRA").

Figure 8:



Figure 9:



A WRA permit will be required for the house since the driveway onto tax lot 7600 and at least part of the house are expected to be in the WRA transition and setback areas. WRA section 32.090 has hardship provisions (below) which can make reasonable accommodation for development of lots partially within the WRA. In order to make use of those provisions the applicant needs to demonstrate that the disturbance area is the minimum needed for reasonable use of the land. Until further site analysis and surveys are completed, staff is assuming that “B. Lots located partially inside the water resource area” applies:

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 the ordinance codified in this chapter 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 Chapter [31](#) CDC. 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 Chapter [31](#) CDC, Erosion Control.*

C. If a reduction in standards is granted pursuant to criteria of subsection B of this section, 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\(K\)](#).*

(Please note that if the site is only partially within the WRA then mitigation on a square foot by square foot basis would be required for the disturbed area per (C)(2) above. This mitigation could take the form of removal of invasive plant material and replacement with native plant material, especially adjacent to the creek.)

The 5,000 square foot limit is on a lot by lot basis so any disturbance in the Elliot Street ROW is calculated separately from disturbance on the subject property.

ENGINEERING COMMENTS

Connect to sewer and water in Tompkins Street ROW via the Elliot Street ROW.

If over 500 square feet of new impervious surface is created then storm water treatment is required such as a rain garden. If over 5,000 square feet of impervious surface is created then detention is required. All storm facilities count against the WRA's 5,000 square foot disturbed area allowance.

Per CDC Chapter 32: *Stormwater treatment facilities may only encroach a maximum of 25 feet into the outside boundary of the water resource area; and the area of encroachment must be replaced by adding an equal area to the water quality resource area on the subject property. Facilities that infiltrate stormwater on site, including the associated piping, may be placed at any point within the water resource area outside of the actual drainage course so long as the forest canopy and the areas within 10 feet of the driplines of significant trees are not disturbed. Only native vegetation may be planted in these facilities.*

An alternative: Underground Injection Control Unit would be allowed as a last resort. The unit would have to be designed by an engineer.

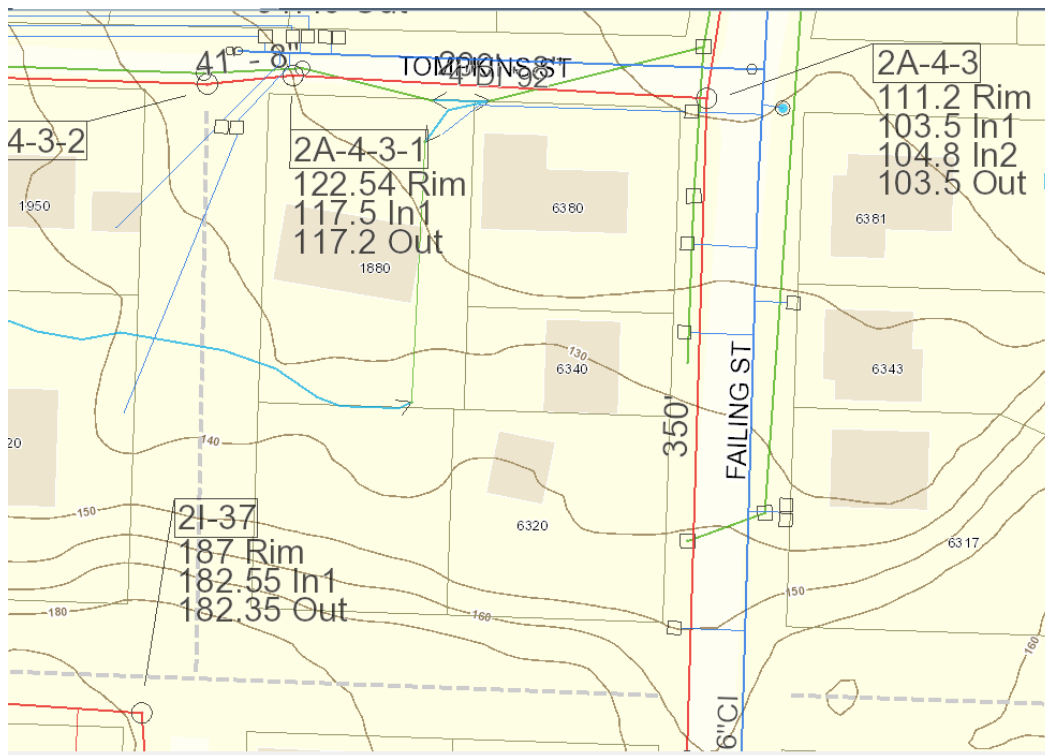


Figure 10

Street

The applicant may request a waiver of standard half street improvements including gutter, curb, planter strip and sidewalks. The waiver is directed to the City Engineer. Fees in lieu should be anticipated for sidewalk improvements in the neighborhood. The amount would be proportionate to the trips generated by one house and the distance from the house to the area of proposed sidewalk improvements.

The utilities and expanded driveway improvements in the Elliot and Tompkins ROW will require a Public Improvements/ROW permit from the Engineering Department.

Trees

City Arborist Mike Perkins should be contacted at such time that a building permit is being requested. His e-mail is mperkins@westlinnoregon.gov and his phone number is 723-2554. According to Mike Perkins, trees that are to be felled in the WRA to make room for the homes may be left in place as nursery trees but their limbs need to be removed.

Culvert Design

The culvert under the new road will be equal or greater in dimension relative to the existing culvert (probably 24 inches) and shall be bottomless. The culvert sizing and design will need to be prepared by a licensed engineer and submitted to Khoi Le P.E. at City of West Linn for review.

PROCESS

A follow up site visit by staff will be required to measure and delineate the transition area. Once that is done the applicant will prepare the WRA permit application per section 32.040, 32.060, 32.070, 32.080 and 32.090. The WRA boundary will need to be accurately mapped. **(A property survey will be needed for the building permit so it may be a good time to get that done and combine that map with staff's WRA delineation which can then be used for the WRA submittal.)** The WRA approval criteria of 32.050 must be responded to.

N/A is not an acceptable response to the approval criteria. The 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.

No neighborhood meeting is required per CDC 99.038.

Prepare the WRA application and submit it to the Planning Department with deposit fees of \$2,600. Staff bills hours against the deposit fee and returns any surplus at the conclusion of the process, regardless of whether it is approved or denied. If the application is more complex and

time consuming, the applicant will be billed above and beyond the deposit fee that has been received.

The City has 30 days to determine if the application is complete or not. Most applications are incomplete, usually due to inadequate responses to approval criteria or lack of sufficient engineering information on the drawings. 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. The Planning Director decision will usually be rendered in four to six weeks. In the event of an appeal, the review body is the City Council. Subsequent appeals go to LUBA.

The Public Improvement/ROW permit cost through the Engineering Department for work in the ROW and for the storm water facilities is variable. What makes it difficult to answer is that the culvert extension and driveway improvements over it are not defined at this time. The Engineering Department would charge "time and materials" for review of the improvements. A starting point for these permits would be around \$3,000 but that could vary considerably once the design details are better defined and preliminary plans drawn up.

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. Also note that these notes have a limited "shelf life" in that changes to the CDC standards may require a different design or submittal. Pre-application reviews are only valid for 18 months. A new pre-application conference would have to be scheduled once that period lapses.

Preap-sumry- WRA March 25 TOMPKINS-ELLIOT