

City of West Linn
PRE-APPLICATION CONFERENCE MEETING
Notes
April 4, 2013

SUBJECT: Water Resource Area (WRA) permit to construct one single family home on a legal lot of record at 4744 Chestnut Street. Assessor's map 22E 31BB tax lot 600.

ATTENDEES: Applicant: Dave Burnett

Review Staff: Peter Spir (Associate Planner) Khoi Le (Engineer)

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 Summary

The applicant proposes to construct one home on a legal lot of record. A stream cuts north to south about five feet inside the rear property line. With the combined transition and setback width of 65 foot, as measured from the stream edge, all but the front or easternmost 30 feet of the lot is within the Water Resource Area (WRA) boundary. Pursuant to the provisions of CDC section 32.090 (B) "Hardships", the applicant can develop up to 5,000 square feet of land for the construction of one house per the lot of record.



The property originated as lot 2, block 4 of the 1892 Sunset City plat. All lots were expected to be 5,000 square feet in size and this lot exceeds that amount at 5,012 square feet. The lot configuration has remained unchanged since it was originally platted.

The zoning is R-4.5 (single family attached and detached/duplex, 4,500 square foot minimum lot size). The surrounding zoning is R-4.5. The subject lot exceeds the minimum lot size.

The existing land use is an undeveloped lot. It has an attractive collection of significant oak and madrone trees with limited ground cover. The land slopes from the front of the lot down to the creek with the rear portion being the steepest at 16 percent. Extruded rocks are seen throughout the lot, especially to the rear. (It should be noted that much of what appears to be the front yard is actually in the ROW.)

To the northeast at the end of Chestnut Street is a non-conforming multi-family housing project and to the southeast is the I-205 right of way (ROW). To the south is a single family home. To the west (rear) is a vacant lot. The lot to the north is vacant and covered with blackberries.





**View of property from
Chestnut Avenue**



**Oaks and madrones
on the property**

Street condition on Chestnut Avenue



With a total lot depth of 100 feet, a 65 foot transition and setback does not leave enough room for a house. In order to avoid a “taking” of property, CDC section 32.090 has hardship provisions that allow a 5,000 square foot encroachment into the transition and setback. 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, patios, decks, play equipment, non-native vegetation (lawns), storm water treatment and detention facilities, all buried underground utilities, etc. *(See definition of “Development” in Chapter 2 of the CDC to define what it applies to.)* The applicant should not enter into this application process with the expectation that a large house footprint and large grass lawn, patio, etc. will be allowed.

The goal is to push the house forward on the lot away from the creek. To this end 32.050(O) allows the front of the house to have a 15 foot front yard setback. (The garage must be 18 feet from the front lot line.) In addition, an unenclosed front porch may come an additional five feet closer to the front lot line for a setback of ten feet.

The “Hardship language is as follows:

32.090 REDUCTION IN STANDARDS FOR HARDSHIP

The purpose of this section is to ensure that compliance with this chapter does not cause unreasonable hardship. To avoid such instances, the requirements of this chapter may be reduced. Reductions are also allowed when strict application of this chapter 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.

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).*

D. *Any further reduction of the standards of this chapter shall require approval of a variance pursuant to Chapter 75 CDC. (Ord. 1545, 2007)*

Trees

This location has a relatively large number of oaks and madrones. Staff notes that the trees at this site have been inventoried by size and type and mapped. The City Arborist, Mike Perkins will determine which trees, are significant. The house footprint and associated disturbance areas may need to be subsequently adjusted to avoid as many of the significant trees as possible.

The applicant will need to work with the City Arborist to arrive at a building footprint that maximizes retention of significant trees. It is understood that some trees will inevitably be removed. Contact Arborist Mike Perkins at 503-723-2554 or mperkins@westlinnoregon.gov.

Engineering

Water

The City of West Linn will be upgrading the 6-inch water line on Chestnut Street this year so the applicant will not be responsible for any public water system upgrades.

Streets

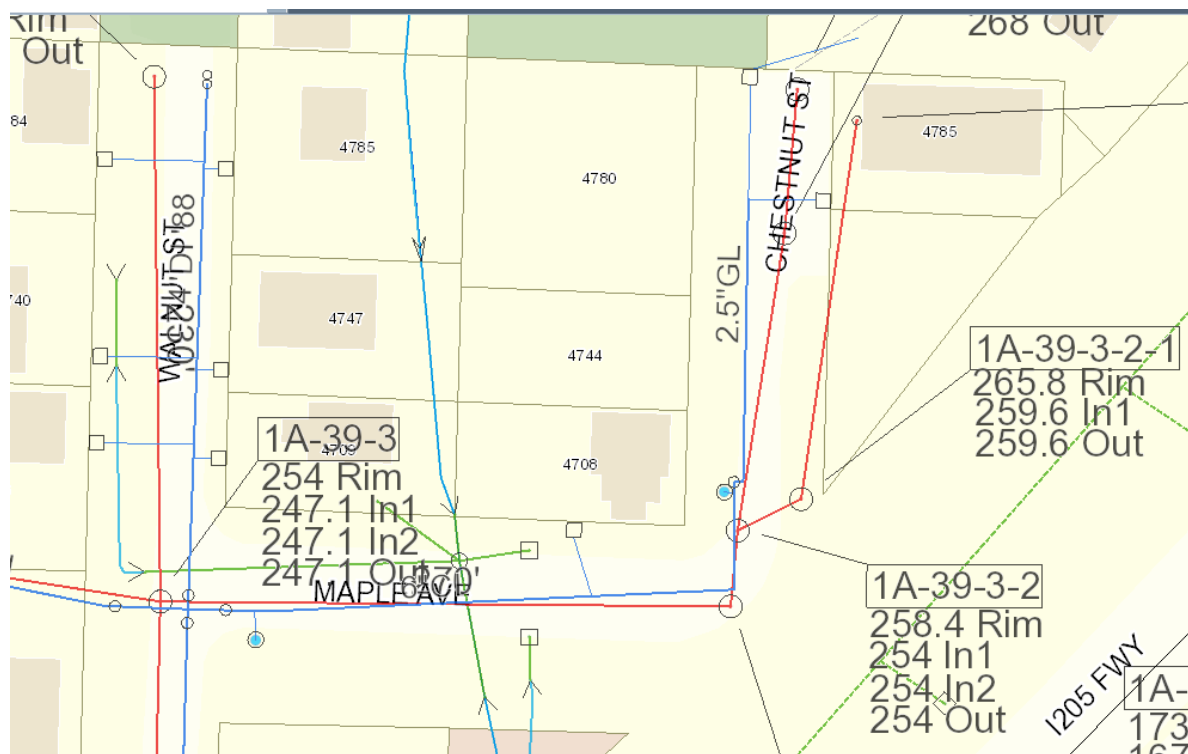
No street overlay is required. No on-site sidewalks are required; however, fees in lieu for 6 foot wide sidewalks will be required at an estimated rate of about \$7-10 per square foot for the 50 feet of frontage. That translates to about \$3,000.

Storm

A rain garden, as close as possible to the house, would be the appropriate treatment method.

Sewer

A public works permit will be required for the sewer tap.



Process

A Water Resource Area (WRA) permit is required. (This is a Planning Director's decision and does not require a public hearing.) 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. N/A is not an acceptable response to the approval criteria.

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 on appeal at the City Council level.

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. 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 Planning Director's decision date and will send out public notice at least 20 days before the decision. The Planning Director'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.