

**STAFF REPORT**

**PLANNING DIRECTOR DECISION**

DATE: November 24, 2008

FILE NO.: MIS-08-12/WRG-08-03 (Planning Directors Decision)

SUBJECT: Willamette River Greenway Permit and Flood Management Area Permit to build new house on existing lot of record on lot directly north of 2338 Volpp Street

PLANNER: Tom Soppe, Associate Planner

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## **SPECIFIC DATA**

### **OWNER/**

**APPLICANT:** Ed & Sheila Bietschek, 2338 Volpp Street, West Linn, OR 97068

**CONSULTANT:** Ben Altman, SFA Design Group, LLC, 9020 SW Washington Square Road, Ste. 350, Portland, OR 97223

**SITE LOCATION:** Parcel immediately north of 2338 Volpp Street

**SITE SIZE:** 0.78 acres

### **LEGAL**

**DESCRIPTION:** 3 1E 02AC, Tax Lot 1301

### **COMP PLAN**

**DESIGNATION:** Low-Density Residential

**ZONING:** R-10, Single-Family Residential

### **APPROVAL**

**CRITERIA:** CDC chapters 27 Flood Management Area, 28 Willamette River Greenway

**120-DAY RULE:** The application became complete on October 29, 2008. The 120-day period ends on February 27, 2008.

**PUBLIC NOTICE:** Notice was mailed to property owners within 500 feet of the subject property and the Willamette Neighborhood Association on October 31, 2008. A sign was posted on the property on November 6, 2008. Notice was also published in the West Linn Tidings at least 10 days before the decision date. The notice was also posted on the City's website. Therefore, public notice requirements of Community Development Code Chapter 99 have been met.

## **EXECUTIVE SUMMARY**

The applicants originally applied for a Planned Unit Development and Minor Partition along with the Flood Management Area permit and Willamette River Greenway permit. However since the entire site is within the FEMA 100 year floodplain, Chapter 24 does not allow it to be partitioned or subdivided. The applicant withdrew the PUD and Minor Partition applications and now requests to build just one house on this lot of record that cannot be divided. As this is new development within the Willamette River Greenway line, it does need a Willamette River Greenway permit to be built. As it is an existing lot of record in the R-10 zone within the 100 year floodplain, it can be developed with one single family house, but still needs the Flood Management Area permit. The parcel lies on the intersection of two undeveloped right of

ways, Third Avenue and Seventh Street. The closest developed street is Volpp Street, and the site will access via a driveway built down the 7<sup>th</sup> Street ROW to Volpp Street. The Willamette River lies across Volpp Street from the site and surrounding parcels. Most lots on the north side of Volpp Street south and west of the site are developed, whereas much of the area north and west of the site is undeveloped, developed with large lot housing, or contains wetlands. Industrial use ponds, owned and used by Blue Heron Paper Company and surrounded by a high berm, lie across the 7<sup>th</sup> Street ROW from the site. These ponds and the land to their east zoned General Industrial, whereas the site and the other residential and undeveloped land in the area is zoned R-10 (10,000 square foot lots minimum).

## **PUBLIC COMMENTS**

### **Rhonda & Jeff Valentine, P.O. Box 42451, Portland, OR, November 4, 2008**

We would like you to be aware of our concerns regarding the application for the Flood Management Area permit to build a house on the existing lot of record north of 2338 Volpp Street. (File No. MIS-08-12/WRG-08-03)

We do not wish to set a precedent that there can be additional Flood Management Permits requested as the existing wetlands would surely be compromised by more houses encroaching on the already surrounded area. We feel that if a permit is granted for this particular request, there will be additional requests for building on or near wetlands and greenways in the area in question.

It is time to stop the development of this area. The addition of more houses will surely cause the water from the wetlands to divert into other surrounding areas – and will encroach on the already shrinking bird and wildlife habitat as it stands today.

Please carefully review this request and any further requests to develop this rapidly shrinking oasis.

## **RECOMMENDATION**

Based on findings contained in the applicant's submittal in the City record, staff finds and recommends that there are sufficient grounds to **approve** this application with the following conditions of approval.

1. At the time of building permit issuance, color and material samples shall be submitted. The building permit plans shall show appropriate screening for any outdoor equipment such as an air conditioner.
2. The lowest finished floor of the house must be at 76.44 feet, which is 1 foot above the highest recorded flood elevation at this location, or higher.
3. The applicant shall submit grading plans at the time of building permit application that are prepared by a professional civil engineer licensed to practice in Oregon.

4. The applicant shall present proof that any necessary State and Federal permits have been obtained at the time of building permit application.
5. Construction of the new house shall fulfill the provisions of 27.080(B)-(C), 27.080(D), or 27.080(E).
6. Before any permit is granted allowing the construction of a driveway or construction access to the property along the 7<sup>th</sup> Street right of way, the applicant shall complete paperwork with City of West Linn Public Works establishing the applicant's right to develop access in this right of way and establishing that maintenance of such access will remain the responsibility of the owner of the site, not the City.

I/We declare to have no interest in the outcome of this decision due to some past or present involvement with the applicant, the subject property, or surrounding properties, and therefore, can render an impartial decision. The provisions of the Community Development Code Chapter 99 have been met.

Bryan A. Brown  
 BRYAN BROWN, Planning Director

11.24.08  
 DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$2500. The appeal must be filed by an individual who has established standing by submitting written comments prior to or on April 30, 2008. Approval will lapse 3 years from effective approval date unless an extension is obtained.

Mailed this 26 day of November, 2008.  
 Therefore, the 14-day appeal period ends at 5 p.m., on

December 10, 2008.

p:/devrvw/staff reports/MIS-08-15

# ADDENDUM

## APPROVAL CRITERIA AND FINDINGS

### WRG-08-02

Staff recommends adoption of the findings for approval contained within the applicant's submittal, with the following exceptions and additions:

#### **27.060 APPROVAL CRITERIA**

*The Planning Director shall make written findings with respect to the following criteria when approving, approving with conditions, or denying an application for development in flood management areas.*

*A. Development, excavation, and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.*

*B. No net fill increase in any floodplain is allowed. All fill placed in a floodplain shall be balanced with an equal amount of soil material removal. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage. Any excavation below bankful stage shall not count toward compensating for fill.*

*C. Excavation to balance a fill shall be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.*

*D. Minimum finished floor elevations must be at least one foot above the design flood height or highest flood of record, whichever is higher, for new habitable structures in the flood area.*

*E. Temporary fills permitted during construction shall be removed.*

*F. Prohibit encroachments, including fill, new construction, substantial improvements, and other development in floodways unless certification by a professional civil engineer licensed to practice in the state of Oregon is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.*

*G. All proposed improvements to the floodplain or floodway which might impact the flood carrying capacity of the river shall be designed by a professional civil engineer licensed to practice in the state of Oregon.*

*H. New culverts, stream crossings, and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects*

*shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.*

*I. Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable land.*

*J. The applicant shall provide evidence that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required. (ORD 1522)*

#### **27.070 CONSTRUCTION MATERIALS AND METHODS**

*A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage using methods and practices that minimize flood damage.*

*B. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*

*C. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.*

*D. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.*

*E. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

*F. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.*

#### **FINDING NO. 1:**

Staff adopts the applicant's findings. Within said findings the applicant pledged to have the eventual grading plans designed by a professional civil engineer licensed in Oregon and to build the house's lowest finished floor at no lower than 76.44, 1 foot above the highest recorded flood in this location, which equals or exceeds the 100 year base flood elevation indicated by the FEMA floodplain maps. The applicant has committed to obtaining any other permits from other agencies that are needed by the time of building permit application. Conditions of approval 2-4 have been added above to ensure these are remembered by staff at the time of building permit issuance. Condition of Approval 6 has been added to ensure proper access rights are gained to develop the driveway in the undeveloped right of way and to establish that maintenance of the driveway in the right of way will be privately maintained.

#### **27.080 RESIDENTIAL CONSTRUCTION**

*A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.*

*B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a professional civil engineer or architect licensed to practice in the state of Oregon, and must meet or exceed the following minimum criteria:*

- 1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.*
- 2. The bottom of all openings shall be no higher than one foot above grade.*
- 3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry or exit of floodwaters.*
- 4. Fully enclosed areas below the base flood elevation shall only be used for parking, access, and limited storage.*
- 5. Service equipment (e.g., furnaces, water heaters, washer/dryers, etc.) is not permitted below the base flood elevation.*
- 6. All walls, floors, and ceiling materials located below the base flood elevation must be unfinished and constructed of materials resistant to flood damage.*

*C. Crawlspace. Crawlspace are a commonly used method of elevating buildings in Special Flood Hazard Areas (SFHAs) to or above the Base Flood Elevation (BFE), and are allowed subject to the following requirements:*

- 1. The building is subject to the Flood-Resistant Construction provisions of the Oregon Residential Specialty Code.*
- 2. They shall be designed by a professional engineer or architect licensed to practice in the State of Oregon to meet the standards contained in the most current Federal Emergency Management Agency's (FEMA) Technical Bulletin.*
- 3. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.*
- 4. Flood vent openings shall be provided on at least two sides that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. The total area of the flood vent openings must be no less than 1 square inch for each square foot of enclosed area. The bottom of each flood vent opening can be no more than 1 foot above the lowest adjacent exterior grade. For guidance on flood openings, see FEMA Technical Bulletin 1-93, Openings in Foundation Walls.*
- 5. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls (studs and sheathing), but also any, joists, insulation, or other materials that extend below the BFE. For more detailed*

*guidance on flood-resistant materials see FEMA Technical Bulletin 2-93, Flood-Resistant Materials Requirements.*

*6. Utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters. For further guidance on the placement of building utility systems in crawlspaces, see FEMA 348, Protecting Building Utilities From Flood Damage. Flood-resistant materials and utilities, access, and ventilation openings in crawlspaces are further addressed in this bulletin.*

*7. The interior grade of a crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG).*

*8. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet at any point. This limitation will also prevent these crawlspaces from being converted into habitable spaces.*

*9. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. Possible options include natural drainage through porous, well-drained soils and drainage systems such as low-point drains perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity.*

*10. The velocity of floodwaters at the site should not exceed 5 feet per second for any crawlspace. For velocities in excess of 5 feet per second, other foundation types should be used.*

*11. For more detailed information refer to FEMA Technical Bulletin 11-01 or the most current edition.*

*12. The use of below grade crawlspaces to elevate the building to 1-ft. above the BFE may cause an increase in flood insurance premiums which, are beyond the control of the City. (ORD. 1565)*

*D. A poured slab placed over fill can be used to elevate the lowest floor of a structure above the base flood elevation. However, when a building site is filled, it is still in the floodplain and no basements are permitted.*

*E. Placing a structure on piers, piles, and posts is allowed provided supporting members are designed to resist hydrostatic and hydrodynamic forces.*

**FINDING NO. 2:**

Staff adopts the applicant's findings. Condition of approval 2 ensures the lowest finished floor will be at least 1 foot above the highest recorded flood elevation. The house is not proposed at this time, so Condition of Approval 5 ensures that when the new house is built, construction shall fulfill the provisions of 27.080(B)-(C), 27.080(D), or 27.080(E).

## CHAPTER 28: WILLAMETTE RIVER GREENWAY

### 28.100 APPROVAL CRITERIA

*The approval authority shall make a finding on each of the following criteria when approving, approving with conditions, or denying an application for a Willamette River Greenway Permit. Nothing in this criterion should be interpreted to infringe on private property rights.*

*A. The development shall comply with the following criteria as applicable:*

*1. Access in Single Family Residential Zoned Areas*

- a. Private lands within the WRG shall be recognized and respected.*
- b. Where a legal pre-existing public access to the river or elsewhere in the WRG exists, that legal public right shall be recognized and respected.*
- c. To construct a water dependent structure such as a dock, ramp, or gangway shall require that all pre-existing legal public access or similar legal rights in the WRG be recognized and respected. Where pre-existing legal public access, such as below the OLW is to be obstructed by, for example, a ramp, the applicant shall provide a reasonable alternate route around, over or under the obstruction. The alternate route shall be as direct as possible. The proposed route, to include appropriate height clearances under ramps/docks, specifications for safe passage over or around ramps and docks, shall be reviewed and approved by the Planning Director for adequacy.*
- d. Any public or private water dependent use or facility shall be within established DSL authorized areas.*

#### **FINDING NO. 3:**

The site is in a single-family residential zoned area. Development will occur on private land owned by the applicant. No river access is involved. The criterion is met.

- 3. Significant fish and wildlife habitats shall be protected. Where habitat areas are challenged or ill defined, the city shall contact ODFW to determine their existence and value and delineate the habitat area.*

#### **FINDING NO. 4:**

The site is not part of the riparian habitat along the river. It lies north of 2338 Volpp Street, which itself is across the street from the river that lies to the south. There are no wetlands or drainageways on site. The applicant's biologist's field investigation did not find the habitat on site to be significant. The Goal 5 inventory on Snap Map does not consider the site to be

wildlife habitat. The City Arborist has determined that there are no significant trees on the site. The criterion is met.

*4.a. Significant views of the Willamette River shall be protected as much as possible as seen from the following public viewpoints: Mary S. Young Park, Willamette Park, Cedar Oak Park, Burnside Park, Maddox Park, Cedar Island and the Oregon City Bridge. Where options exist in the placement of ramps and docks, the applicant shall select the least visually intrusive location as seen from a public viewpoint. However if no options exist, then the ramp, pilings and dock shall be allowed at the originally proposed location.*

**FINDING NO. 5:**

The development will not block views of the river from any of these sites. The criterion is met.

*5. Natural areas of annual flooding, flood plains and wetlands shall be preserved in their natural state to the maximum possible extent.*

*6. Extraction of aggregate deposits or dredging shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety, and to promote necessary reclamation. (ORD. 1270)*

**FINDING NO. 6:**

The applicant has applied for a flood management area permit as this is in the 100-year floodplain. See findings 1-2. There will be no extraction or dredging.

*B. The site development plan shall comply with each of the following applicable standards:*

*1. Site modifications:*

*a. Existing predominant topographical features of the bank line and escarpment shall be preserved and maintained except for disturbance necessary for the construction or establishment of a water related or water dependent use. Measures necessary to reduce potential bank and escarpment erosion, landslides, or flood hazard conditions shall also be taken.*

*Any construction to stabilize or protect the bank with rip rap, gabions etc. shall only be allowed where there is clear evidence of erosion or similar hazard and shall be the minimum needed to stop that erosion or to avoid a specific*

*and identifiable hazard. A geotechnical engineers stamped report shall accompany the application with evidence to support the proposal.*

*b. The applicant shall establish to the satisfaction of the approval authority that steps have been taken to minimize the impact of the proposal on the riparian environment (areas between the top of the bank and the low water mark of the river including lower terrace, beach and river edge)*

*2. Riparian vegetation: Vegetative ground cover and trees upon the site shall be preserved, conserved, and maintained according to the following provisions:*

*a. Riparian vegetation below OHW removed during development shall be replaced with indigenous vegetation, which shall be compatible with and enhance the riparian environment and approved by the approval authority as part of the application.*

*b. Vegetative improvements to areas within the greenway may be required if the site is found to be in an unhealthy or disturbed state by the City Arborist or his designated expert. "Unhealthy or disturbed" includes those sites that are heavily populated by exotic or non-indigenous species, areas overgrown with invasive plants, or areas that lack the proper balance of canopy trees, understory plants, and soil stabilizing groundcovers. "Vegetative improvements" consists of submitting a plan, which calls for removal of non-indigenous, exotic, or invasive species which will be replaced by plant species in a manner to be approved by the City Arborist and consistent with the purposes of Chapter 30. Once approved, the applicant is responsible for implementing the plan prior to final inspection. (ORD. 1382)*

*c. Tree cutting shall be prohibited below OHW area except that:*

*i) Diseased trees or trees in danger of falling may be removed with City Arborist's approval and*

*ii) Tree cutting may be permitted in conjunction with those uses listed in Section 28.030 with City Arborist approval; to the extent necessary to*

*accommodate the listed uses.*

*d. Selective cutting in accordance with the Oregon Forest Practices Act, if applicable, shall be permitted with City Arborist approval within the area between the OHW and the greenway boundary provided the natural scenic qualities of the greenway are maintained.*

**FINDING NO. 7:**

There will be no development at or below the OHW, on the bank, or in riparian vegetation areas. The criteria are met.

*3. Structures: All buildings and structures, including supporting members, and all exterior mechanical equipment should be screened, colored, or surfaced so as to blend with the riparian environment. Surfaces shall be nonpolished/reflective or at least expected to lose their luster within a year. In addition to the specific standards and criteria applicable to water dependent uses (docks), all other provisions of Chapter 28 shall apply to water dependent uses, and any structure shall be no larger than necessary to accommodate the use.*

*4. Additional standards for water dependent structures (e.g. docks)*

*5. Additional standards for joint docks*

*6. Signs and graphics:*

*7. Lighting: Lighting shall not be focused or oriented onto the surface of the river except as required by the Coast Guard. Lighting elsewhere in the WRG shall be the minimum necessary and shall not create off site glare or be omni directional. Screens and covers will be required.*

*8. Parking and unenclosed storage areas located within or adjacent to the WRG boundary shall be screened from the river in accordance with Chapter 46, Off Street Parking.*

*9. Greenway setback: All buildings shall be set back 35 feet from the OHW of the Willamette River, with the following exceptions: (ORD. 1211)*

**FINDING NO. 8:**

The application does not involve any docks or other water dependent structures. There will be no signs and graphics. Any lighting will not be focused to the surface of the river as the site is north of the existing house and tax lot to the south, which are across Volpp Street from the river. The development will be over 35 feet from the OHW. To address (3), a condition of

approval on these aesthetic issues has been applied (see Condition of Approval 1) to be implemented at the time of building permit issuance. The criteria are met.



November 4<sup>th</sup>, 2008

Mr. Tom Soppe  
West Linn City Hall  
22500 Salamo Road  
West Linn, OR 97068

Dear Mr. Soppe,

We would like you to be aware of our concerns regarding the application for the Flood Management Area permit to build a house on the existing lot of record north of 2338 Volpp Street. (File No. MIS-08-12/WRG-08-03)

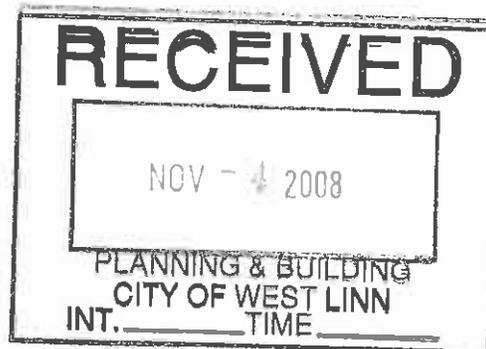
We do not wish to set a precedent that there can be additional Flood Management Permits requested as the existing wetlands would surely be compromised by more houses encroaching on the already surrounded area. We feel that if a permit is granted for this particular request, there will be additional requests for building on or near wetlands and greenways in the area in question.

It is time to stop the development of this area. The addition of more houses will surely cause the water from the wetlands to divert into other surrounding areas – and will encroach on the already shrinking bird and wildlife habitat as it stands today.

Please carefully review this request and any further requests to develop this rapidly shrinking oasis.

Sincerely,

Rhonda Valentine  
Jeff Valentine  
P.O. Box 42451  
Portland, OR 97242



10-31-08 108  
**MAILED**

### AFFIDAVIT OF NOTICE

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

**GENERAL** (PUD-08-02)  
File No. MISC-08-121 Applicant's Name ed + Sheila Butschek  
Development Name Willamette River Greenway + Flood Management lot 16 of 2332 Volpp  
Scheduled Meeting/Decision Date 11/24/08

**NOTICE:** Notices were sent at least 20 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check one below)

- Type A
- A. The applicant (date) 10-31-08 (signed) Cb
  - B. Affected property owners (date) 10-31-08 (signed) Cb
  - C. School District/Board (date) \_\_\_\_\_ (signed) \_\_\_\_\_
  - D. Other affected gov't agencies (date) 10-31-08 (signed) Cb
  - E. Affected neighborhood assns. (date) 10-31-08 (signed) Cb
  - F. All parties to an appeal or review (date) \_\_\_\_\_ (signed) \_\_\_\_\_

At least 10 days prior to the scheduled hearing or meeting, notice was published/posted:  
Tidings (published date) 11/13/08 (signed) \_\_\_\_\_  
City's website (posted date) 11/5/08 (signed) FB

- Type B \_\_\_\_\_
- A. The applicant (date) \_\_\_\_\_ (signed) \_\_\_\_\_
  - B. Affected property owners (date) \_\_\_\_\_ (signed) \_\_\_\_\_
  - C. School District/Board (date) \_\_\_\_\_ (signed) \_\_\_\_\_
  - D. Other affected gov't agencies (date) \_\_\_\_\_ (signed) \_\_\_\_\_
  - E. Affected neighborhood assns. (date) \_\_\_\_\_ (signed) \_\_\_\_\_

Notice was posted on the City's website at least 10 days prior to the scheduled hearing or meeting.  
Date: \_\_\_\_\_ (signed) \_\_\_\_\_

- Type C \_\_\_\_\_
- A. The applicant (date) \_\_\_\_\_ (signed) \_\_\_\_\_
  - B. Affected property owners (date) \_\_\_\_\_ (signed) \_\_\_\_\_
  - C. Affected neighborhood associations (date) \_\_\_\_\_ (signed) \_\_\_\_\_

Notice was posted on the City's website at least 10 days prior to the scheduled hearing or meeting.  
Date: \_\_\_\_\_ (signed) \_\_\_\_\_

**SIGN**  
At least 10 days prior to the scheduled hearing, meeting or decision date, a sign was posted on the property per Section 99.080 of the Community Development Code.  
(date) \_\_\_\_\_ (signed) \_\_\_\_\_

**STAFF REPORT** mailed to applicant, City Council/Planning Commission and any other applicable parties 10 days prior to the scheduled hearing.  
(date) \_\_\_\_\_ (signed) \_\_\_\_\_

**FINAL DECISION** notice mailed to applicant, all other parties with standing, and, if zone change, the County surveyor's office.  
(date) \_\_\_\_\_ (signed) \_\_\_\_\_

***CITY OF WEST LINN  
PLANNING DIRECTOR  
DECISION***

**FILE NO. MIS-08-12/WRG-08-03**

The West Linn Planning Director is considering the request of Ed & Sheila Bietschek for a Flood Management Area permit and a Willamette River Greenway permit to build a house on an existing lot of record north of 2338 Volpp Street. The decision will be based on the approval criteria in chapters 27 and 28 of the Community Development Code. A summary of the specific approval criteria is available for review at City Hall, in the CDC at the City Library, and on our website [www.ci.west-linn.or.us](http://www.ci.west-linn.or.us).

You have been notified of this proposal because County records indicate that you own property within 500 feet of the site located at Tax Lot 1301, Clackamas County Assessor's Map 3-1E-02AC.

All relevant materials in the above noted file are available for inspection at no cost, or copies may be obtained for a minimal charge per page. Although there is no public hearing, your comments and ideas can definitely influence the final decision of the Planning Director. Planning staff looks forward to discussing the application with you. **The final decision is expected to be made on, and no earlier than, November 24, 2008**, so please get in touch with us prior to this date. For further information, please contact Tom Soppe, Associate Planner, at City Hall, 22500 Salamo Rd., West Linn, OR 97068, telephone (503) 742-8660, or e-mail to [tsoppe@ci.west-linn.or.us](mailto:tsoppe@ci.west-linn.or.us).

Any appeals to this decision must be filed within 14 days of the final decision date with the Planning Department. Failure to raise an issue in person or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes the raising of the issue at a subsequent time on appeal or before the Land Use Board of Appeals.



BIETSCHEK EDWIN F & SHEILA W  
2338 VOLPP ST  
WEST LINN, OR 97068

BIETSCHEK KENNETH W  
19250 WHITNEY LN  
OREGON CITY, OR 97045

BLUE HERON PAPER CO  
419 MAIN ST  
OREGON CITY, OR 97045

BRADFORD JON R & ELLEN V  
2280 VOLPP ST  
WEST LINN, OR 97068

BUNDY TROY S  
1215 5TH ST  
WEST LINN, OR 97068

DOLLAR DAN B & SANDY L  
2366 VOLPP ST  
WEST LINN, OR 97068

EVANS BRIAN P & JERILYN K  
1221 9TH ST  
WEST LINN, OR 97068

FOX CAPITAL CORP  
9860 SW ATLANTA ST  
TIGARD, OR 97223

MILLER ANN D  
1009 9TH ST  
WEST LINN, OR 97068

MURR MICHAEL S & LINDA L  
1312 7TH ST  
WEST LINN, OR 97068

PHILLIPS TIMOTHY  
2260 VOLPP ST  
WEST LINN, OR 97068

PORTLAND GEN ELEC CO  
121 SW SALMON ST  
PORTLAND, OR 97204

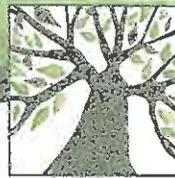
VALENTINE JEFFREY R & RHONDA S  
PO BOX 42451  
PORTLAND, OR 97242

WEST LINN PAPER PROP CO  
4800 MILL ST  
WEST LINN, OR 97068

US Corp of Engineers  
Attn: Bill Davis  
P.O. Box 2946  
Portland, OR 97208

*Willamette + ALL*

Ben Altman  
SFA Design Group  
9020 SW Washington Sq Ste: 350  
Portland, OR 97223



CITY OF  
**West Linn**

October 30, 2008

Ed & Sheila Bietschek  
2338 Volpp Street  
West Linn, OR 97068

**MAILED**  
10/30/08

Re: MIS-08-12/WRG-08-03

Dear Mr. and Ms. Bietschek,

Review of your land use application re-submittal received October 29, 2008 reveals that the application is complete. The City is now obliged to exhaust all local review within 120-days of this date. This 120-day period lapses on February 27, 2009. You will soon receive in the mail a notice of the Planning Director's decision date.

Please call me at 503-742-8660 if you have any planning related questions or, for faster response, e-mail me at [tsoppe@westlinnoregon.gov](mailto:tsoppe@westlinnoregon.gov).

Sincerely,

Tom Soppe  
Associate Planner

C: Ben Altman, SFA Design Group, 9020 SW Washington Square Drive, Portland, OR 97223

Devrev-completeness-complete-MIS-08-12

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October 28, 2008

Tom Soppe, Associate Planner  
 City of West Linn  
 22500 Salamo Road, Suite 1000  
 West Linn, OR 97068

RE: Revised Application PUD-08-02/MLP-08-03/MIS-08-12/WRG-08-03 (Bietschek Partition).

Dear Tom:

As you know the applicant has withdrawn the Partitioning portion of the application. However, they wish to pursue the Flood Management Area (FMA) and Willamette River Greenway (WRG) permits required for construction of one single family house on Tax Lot 1301, 3S 1E 2AC.

We are providing revised findings to address the changes in the application, which is now limited to the FMA and WRG permits. We have revised the Plan Set drawings, eliminating the partition and providing a single house site plan. We have also provided a corrected topographic survey with the Existing Conditions Plan Sheet. The topographic survey has been verified to three different bench marks, so it accurately reflects site elevations. We are providing three (3) copies of all revisions for Completeness Review.

We previously provided a revised Table 1, in the Narrative at page 8, and Plan Sheet 5, which does not change from that submitted in response to the Letter of Incomplete application. Table 1 reflects the tabular breakdown and mapping of all Type I, II, III, & IV lands, Table 1 (below), except that the footnote regarding the flood plain is eliminated with the revised topo base.

**Table 1**  
**Square Footage of Site Comprising Slopes by Various Classifications**

Slope Classification	Total Gross Area (Square Feet)	Percentage of Site
0-4.99 percent	34,127	96.2
5-14.99 percent	1,347	3.8
15-24.99 percent	0	0
25-34.99 percent	0	0
35- percent or more	0	0
Type I Land (Flood Plain - Drainage)	35,474	100
Type II Land	0	0
Type III Land	0	0
Type IV Land	35,474	100
Non-type I & II lands for Tree Protection	0	0

The Slope Analysis shows that a majority of the site (96 percent) has an existing slope less than 5 percent. There are no slopes greater than 15 percent. The potential tree protection area for non-type I and II lands is 20%. However, the City Arborist found that there are no "significant trees" on the property. Therefore no tree protection area is required.

*Section 27.050(F) On the site plan, show the delineation of the flood management area (if boundary is on map) and label it (even if the entire map consist of it, label it so).*

## **RESPONSE**

As reflected on Figure 5-1, Flood Management Area – Goal 5, the FMA essentially covers all land south of 4<sup>th</sup> Avenue and east of 8<sup>th</sup> Street, and all land south of 3<sup>rd</sup> Avenue west of 8<sup>th</sup> Street over to 10<sup>th</sup> Street. This zoning has been added to Existing Conditions Plan Sheet 2 to reflect existing zoning.

## **REVISED FINDINGS**

### ***Flood Management Areas***

**27.020 Applicability** *A flood management area permit is required for all development in the Flood Management Area Overlay Zone. The standards that apply to the flood management areas apply in addition to state or federal restrictions governing floodplains or flood hazard areas.*

**27.030 Exemptions** *CDC Chapter 27 does not apply to work necessary to protect, repair, or maintain, existing public or private structures, utility facilities, roadways, driveways, accessory uses, and exterior improvements, or replace small public structures, utility facilities, or roadways in response to emergencies. Within thirty days after the work has been completed, the party responsible for the work shall initiate a flood management permit designed to analyze any changes effectuated during the emergency and mitigate adverse impacts.*

### **27.050 The Application**

*Applications for a flood management area permit must include the following:*

- A. A pre-application conference as a prerequisite to the filing of the application.*
- B. An application initiated by the property owner, or the owner's authorized agent, and accompanied by the appropriate fee.*
- C. An application submittal that includes the completed application form and three copies of written responses addressing CDC Sections 27.060, 27.070, 27.080 (if applicable), and 27.090 (if applicable), three copies of maps and plans at the original scale, and three copies of all maps and plans reduced to a paper size not greater than 11 x 17 inches.*

- D. *A map of the parcel indicating the nature of the proposed alteration and its relationship to property zones, structures, trees, and any other pertinent features of the parcel.*
- E. *Information regarding the elevation of the site prior to development, the base flood elevation data for subdivisions (if applicable), and a description of water course alterations, if proposed.*
- F. *A topographic map of the site at contour intervals of five feet or less showing a delineation of the flood management area, which includes, but is not limited to, areas shown on the flood management Area map. The City Engineer or Building Official, as applicable, may, at his/her discretion, require the map to be prepared by a registered surveyor to insure accuracy. A writing narrative explaining the reason why the owner wishes to alter the floodplain shall accompany the site map.*
- G. *The elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.*
- H. *The elevation in relation to mean sea level to which any structure has been floodproofed (non-residential only).*

**RESPONSE** The FMA zoning is reflected on Plan Sheet 2, Existing Conditions Plan and is based on the City's Goal 5, Figure 5-1, Flood Management Area Overlay Zone (FMA), and confirmed with filed survey. The FMA essentially covers all land south of 4<sup>th</sup> Avenue and east of 8<sup>th</sup> Street, and all land south of 3<sup>rd</sup> Avenue west of 8<sup>th</sup> Street over to 10<sup>th</sup> Street. Therefore the entire subject property is within the FMA Overlay Zone.

Regarding applications for flood management areas, Section 27.050(B) requires the application to be initiated by the property owner or the owner's authorized agent, and accompanied by the appropriate fee. The applicant is the owner, who is also represented by SFA Design Groups as their authorized agent.

Sub-C requires a completed application form and three copies of written responses addressing CDC Sections 27.060, 27.070, 27.080 (if applicable), and 27.090 (if applicable), three copies of maps and plans at the original scale, and three copies of all maps and plans reduced to a paper size not greater than 11 x 17 inches. The applicant has met these requirements, as confirmed by the staff's determination of "Complete Application".

The applicant is not proposing any alteration of the flood plain at this time. However, the intent is to construct one single family home on this property, therefore it is anticipated that limited grading (balanced cut/fill) will be necessary for construction of utilities, the driveway, and the house foundation. Because the site is within the FMA, a flood management permit is required, with demonstration of compliance with Chapter 27.

The entire site is shown within the FMA Overlay. The newly adopted 2008 FEMA Firm identifies the Base Flood Elevation (100-year), at 75 feet mean sea level (msl). Based on the City's GIS mapping the top of bank ("bank full elevation") for the river at this location is at or below 68 feet. Plus, as noted, this site is over 400 feet from the river.

The revised application provides all of the information required under Section 27.050, as follows:

- A pre-application conference was held on June 21, 2007.
- This application was signed by the property owners and the appropriate fees have been paid.
- The application includes:
  - i. the completed application form and three copies of the written narrative, herein, responding to Sections 27.060, 27.070, 27.080.
  - ii. section 27.090 is not applicable.
  - iii. three copies of maps and plans (Plan Sheets 1-4) at the original scale, and
  - iv. three copies of all maps and plans reduced to a paper size not greater than 11 x 17 inches.
- maps (Plan Sheets 1, 3 & 4) of the parcel indicating the nature of the proposed alteration and its relationship to property zones, structures, trees, and any other pertinent features of the parcel.
- A topographic survey, prepared by a registered surveyor, was prepared for this application and is shown on Plan Sheet 2, Existing Conditions.
- The Base Flood Elevation is reflected on Plan Sheet 2, at 75 feet mean sea level. The minimum finished floor elevation of the future home is shown on Plan Sheet 1 at 76 feet msl within the building envelope, based on R-10 setbacks.

Based on the revised site specific survey, only a small area along the southern property line is suitable for home construction, with elevations at or near the Base Flood Elevation of 75 feet mean sea level. The subject site has elevations ranging from 75 feet at the south edge sloping down to 69 feet at the northeast corner at 7<sup>th</sup> Street.

No water course alterations are proposed and no structures are proposed at this time. But, consistent with flood plain regulations, the lowest floor of the future home to be built will be at or above 76 feet msl.

**27.060 Approval Criteria** *The Planning Director shall make written findings with respect to the following criteria when approving, approving with conditions, or denying an application for development in flood management areas.*

- A. *Development, excavation, and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.*
- B. *No net increase in any floodplain is allowed. All fill placed in a floodplain shall be balanced with an equal amount of soil material removal. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage. Any excavation below bankful stage shall not count toward compensating for fill.*
- C. *Excavation to balance a fill shall be located on the same parcel as the fill*

*unless it is not reasonable or practicable to do so. In such cases, the excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.*

- D. Minimum finished floor elevations must be at least one foot above the design flood height or highest flood of record, whichever is higher, for new habitable structures in the flood area.*
- E. Temporary fills permitted during construction shall be removed.*
- F. Prohibit encroachments, including fill, new construction, substantial improvements, and other development in floodways unless certification by a professional civil engineer licensed to practice in the state of Oregon is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.*
- G. All proposed improvements to the floodplain or floodway which might impact the flood carrying capacity of the river shall be designed by a professional civil engineer licensed to practice in the state of Oregon.*
- H. New culverts, stream crossings, and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.*
- I. Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable land.*
- J. The applicant shall provide evidence that all necessary permits have been obtained from those Federal, State, or local government agencies from which prior approval is required.*

**RESPONSE** The property is within the base flood elevation of 75 feet, but is not within the floodway. The top of bank (“bank full stage”) is at or below 68 feet along this reach of the river. The majority of the property is above the “bank full” elevation with the low point of 69 feet at the northeast corner to 75 feet along the southern boundary. Therefore no excavation, necessary to balance fill, will occur below the “bank full stage”.

The applicant is not proposing any alteration of the flood plain, except as will be necessary for construction of utilities, driveway, and house foundation. Consequently, all proposed development including, excavation, fill, home construction, and street improvements will occur above the 70 foot elevation feet, with a balanced cut/fill to maintain flood storage capacity consistent with the Code. Therefore the development will be performed in a manner that ensures maintenance of the existing flood storage and conveyance capacity, and there will be no net increase in the base flood elevations resulting from this development.

No specific house design is proposed at this time. This application only involves securing the required WRG and FMA permits. Therefore at the time of building permit, the applicant or builder will be responsible to demonstrate full compliance with this section.

Relative to the WRG and FMA permits, the site plan shows the existing grades and notes that the floor elevation must be at least 1.0 feet above base flood of 75 feet. The building design will require a foundation design to ensure that the lowest finished floor elevation will be no lower than 76.44 feet, which is the design flood height or highest flood of record (75.44 feet), adjusted to the NAVD 88 Datum. Further, because of the existing elevation of the property, there will be no basement.

Any temporary fill permitted during construction will be removed at the closeout of construction. This development will not result in any encroachments, including fill, new construction, substantial improvements, and other development in a floodway.

At the time of building permit, the applicant or home builder will be required to provide a grading plan and demonstrate compliance with this section, including balance cut and fill. The grading plans must be designed by a professional civil engineer licensed to practice in the state of Oregon. No new culverts related to street improvements, which would affect or required a balanced cut and fill are anticipated. There will also not be any stream crossings or bridges involved with this development.

Any excavation and fill required for the construction of storm detention facilities or structures (i.e., rain garden design), and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. No levees are proposed. At the time of application for building permit, the applicant will provide evidence that all necessary permits have been obtained from those Federal, State, or local government agencies from which prior approval is required, if any.

#### **28.70 Construction Materials and Methods**

- A. *All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage using methods and practices that minimize flood damage.*
- B. *Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*
- C. *New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.*
- D. *New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.*
- E. *On-site waster disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

- F. *All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.*

**27.80 Residential Construction**

- A. *New construction and substantial improvements of any residential structure shall have the lowest floor, including basement, elevated to a least one foot above the base flood elevation.*
- B. *Fully enclosed areas below the lowest floor that are subject to flooding area prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either certified by a professional civil engineer or architect licensed to practice in the state of Oregon, and must meet or exceed the following minimum criteria:*
1. *A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.*
  2. *The bottom of all openings shall be no higher than one foot above grade.*
  3. *Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry or exit of floodwaters.*
  4. *Fully enclosed areas below the base flood elevation shall only be used for parking, access, and limited storage.*
  5. *Service equipment (e.g., furnaces, water heaters, washers/dryers, etc.) is not permitted below the base flood elevation.*
  6. *All walls, floors, and ceiling materials located below the base flood elevation must be unfinished and constructed of materials resistance to flood damage.*
- C. *A poured slab placed over fill can be used to elevate the lowest floor of a structure above the base flood elevation. However, when a building site is filled, it is still in the floodplain and no basements are permitted.*
- D. *Placing a structure on piers, piles, and posts is allowed provided supporting members are designed to resist hydrostatic and hydrodynamic forces.*

**RESPONSE** The proposed site, utilities, and access improvements have been designed by an Oregon licensed civil engineer, and are designed consistent with the standards in Section 27.070. No specific home design is proposed at this time. However, the applicant does intend to construct one home on this property. At the time of building permit, the applicant or builder will need to design and construct the building to meet the standards of Section 27.080(B)(1-6).

Section 27.050(G) Show approximately where you expect structures to be, and their elevation.

## RESPONSE

The revised plans reflect the proposed building envelope at the south central portion of the property. The building envelope is based on the standard R-10 setbacks, and constitutes the area within which the home can be constructed. However, it is noted that the rear yard is shown at 35 feet (20' standard) to accommodate the 15 foot wide access easement along the back of the lot.

No buildings are proposed at this time, just the plot plan relative to the FMA and WRG permit requirements.

### 27.100 *Subdivision Proposal*

- A. *All subdivision proposals shall be designed to minimize flood damage and not increase flood levels;*
- B. *Lowest floor of all structures must be at least one foot above the base flood elevation;*
- C. *All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;*
- D. *All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage and streets should drain rapidly; and*
- E. *Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for any land division proposal.*

**RESPONSE** The revised application does not include a Land Partition or Subdivision. Even so, the proposed development will be one single family residential home and therefore the site plan has been designed to minimize flood damage and not increase flood levels on or off site. The site plan provides for citing the home on the highest ground, so that the lowest floor of the structure will be more than one foot above the base flood elevation of 75 feet. The finished floor must be at least 76 feet, and the builder will be required to provide a Floor Elevation Certification. The lowest existing elevation on the property is 69 feet at the northeast corner, with the land rising slightly to the south to 75 feet at the southwest corner.

The access and public utilities and facilities such as sewer, gas, electrical, and water systems are located within the Seventh Street right-of-way and will be constructed to minimize flood damage. The proposed storm drainage design provides for adequate drainage to reduce exposure to flood damage and so the streets will drain rapidly. Therefore the FMA criteria are met.

## ***Willamette River Greenway (WRG)***

### ***28.20 Applicability***

- A. The Willamette River Greenway (WRG) zone is an overlay zone. The zone boundaries are identified on the city's zoning map.*
- B. All uses permitted under the provisions of the underlying base zone and within the WRG zone are allowed in the manner prescribed by the base zone subject to applying for and obtaining a WRG permit issued under the provisions of this chapter.*
- C. Development as used in this chapter includes any change of use or intensification of the use on land or water, to include construction of structures (such as docks and associated pilings or piers), significant grading or impacts to existing vegetation below the ordinary high water (OHW) line, except the allowed activities listed in Section 28.030 are exempt from the requirements of this chapter and therefore considered allowed uses.*

### ***28.080 The Application***

- A. An application for a Greenway permit shall be initiated by the property owner or the owner's authorized agent...*
- B. A prerequisite to the filing of an application is a pre-application conference...*
- C. An application for a Greenway permit shall include the completed application and:
  - 1. Narrative which addresses the criteria of Section 28.100.*
  - 2. A site plan, (28.130)*
  - 3. A grading plan if applicable, (28.150)*
  - 4. Architectural drawings if applicable, (28.150)*
  - 5. A landscape plan if applicable (28.160)**
- D. The applicant shall pay the requisite fees.*
- E. The applicant shall apply for State and/or Federal permits if applicable.*
- F. The applicant shall include a DSL map, if available, of the preference rights area if a water surface structure is proposed.*

**RESPONSE** The applicant, who is the property owner, has initiated this application and paid the requisite fees. The application form has been corrected to accurately reflect the WRG request. The application includes this revised code compliance narrative, with supporting site plan, utilities and access improvements plan, and grading plan.

There will be no direct access to the river and no water surface structures are proposed. No buildings are proposed at this time, so architectural drawings are not applicable, but will be provided at the time of building permit application. Because no home is proposed, as part of this application, no landscaping plan has been provided. The builder will be required to provide the landscaping plan, consistent with this section.

While the subject property is within the mapped WRG boundary, it is actually located about 415 feet north of the river. Because of the intervening topography and existing homes along Volpp Street this property is not actually visible from the river.

It appears that the primary focus of WRG regulations is linked to views from the river. Because of the distance from the river, the site's topography, and intervening development, the applicant does not believe there is any relevant relationship between the proposed partition plat and future homes to be constructed and the provisions of this Chapter.

### ***28.100 Approval Criteria***

*The approval authority shall make a finding on each of the following criteria when approving, approving with conditions, or denying an application for a Willamette River Greenway Permit. Nothing in this criterion should be interpreted to infringe on private property rights.*

- A. *The development shall comply with the following criteria as applicable:*
  1. *Access in Single Family Residential Zoned Areas*
    - a. *Private lands within WRG shall be recognized and respected.*
    - b. *Where a legal pre-existing public access to the river or elsewhere in the WRG exists, that legal public right shall be recognized and respected.*
    - c. *To construct a water dependent structure such as a dock, ramp, or gangway shall require that all pre-existing legal public access or similar legal rights in the WRG be recognized and respected. Where pre-existing legal public access, such as the OLW is to be obstructed by, for example, a ramp, the applicant shall provide a reasonable alternative route around, over of under the obstruction. The alternative route shall be as direct as possible. The proposed route, to include appropriate height clearances under ramps/docks, shall be reviewed and approved by the Planning director for adequacy.*
    - d. *Any public or private water dependent use or facility shall be within established DSL authorized areas.*
  2. *Access in Non-Single Family Residential Zoned Areas*
  3. *Significant fish and wildlife habitats shall be protected.*  
*Where habitat areas are challenged or ill defined, the city shall contact ODFW to determine their existence and value and delineate the habitat area.*

4. *Significant views of the Willamette River shall be protected as much as possible as seen from the following public viewpoints: Mary S. Young Park, Willamette Park, Cedar Oak Park, Burnside Park, Maddox Park, Cedar Island and the Oregon City Bridge. Where options exist in the placement of ramps and docks, the applicant shall select the least visually intrusive location as seen from the public viewpoint. However, if no options exist, then the ramp, pilings and dock shall be allowed at the originally proposed location.*
5. *Natural areas of annual flooding, flood plains and wetlands shall be preserved in their natural state to the maximum possible extent.*
6. *Extraction of aggregate deposits or dredging*

**RESPONSE** The subject property is private land. The proposed use is for one single family home, which is an allowed use under the based R-10 zoning. There is no pre-existing public access to the river from this property and no new river access is proposed. No access use to the river, no water dependent use, and no development or use along the river bank is proposed. No DSL authorization is required for the proposed development.

Based on the GIS map received from the City, there are no identified wetlands on the subject site. Wetlands are identified on the adjacent property to the west, and to the north across 3<sup>rd</sup> Avenue, which have been reflected on the Site Plan and Existing Conditions Plan, Plan Sheets 1 & 2.

The Resource Biologist, ES & A, conducted a field investigation to identify existing wetlands and fish & wildlife habitat on the subject site, see attached Memorandum, dated August 27, 2008. The investigation was previously submitted and concluded:

- There are no resources located within the site boundary that would be regulated by the US Corp of Engineers or the Oregon Department of State Lands.
- No resources are present within the site boundary, which meet the definition of wetlands, waterways or drainageways in the City Code (CDC Chapters 30 & 32).
- The nearest jurisdictional resources are located off-site approximately 150 feet north of the site.
- The wetland boundary delineated by ES & A on the adjacent parcel to the west is 110 feet from the site boundary.
- The on-site habitat values are relatively low. Habitat functions provided on-site are limited to cover, passage, minimal forage, and periodic staging for migratory species. But, large open space tracts in the surrounding area provide the same functions, so loss of these functions on-site will not be significant.

These findings are consistent with the City's GIS map.

The subject site is not within the view corridor of any of the listed public viewpoints, and no access to the river is proposed. Flood plain impacts have been minimized as previously addressed. There is no extraction of aggregate deposits or dredging proposed as part of this application.

*B. The site development plan shall comply with each of the following applicable standards:*

- 1. Site modifications: (related to river bank line and escarpment)*
- 2. Riparian vegetation: Vegetative ground cover and trees upon the site shall be preserved, conserved, and maintained according to the following provisions:*
- 3. Structures: All buildings and structures, including supporting members, and all exterior mechanical equipment should be screened, colored, or surfaced so as to blend with the riparian environment.*
- 4. Additional standards for water dependent structures (e.g. docks)*
- 5. Additional standards for joint docks:*
- 6. Signs and graphics:*
- 7. Lighting:*
- 8. Parking and unenclosed storage*
- 9. Greenway setback: All buildings shall be set back 35 feet from the OHW of the Willamette River,...*

**RESPONSE** The criteria in this section appear to apply to site modifications at the bank of the Willamette River or visible from the river or river's edge. However, the subject site is located over 400 feet from the banks of the Willamette River (see Plan Sheet 2) so site development will not impact the river bank, escarpments, or the riparian vegetation associated with the river. No dock or water dependent structures or uses are proposed, and no signage, lighting or parking will be visible from the river. Because of the physical separation from the river, and the type of development proposed, the applicant believes these criteria are not applicable.

#### **28.130 Site Plan**

*A. All site plans and maps shall include the name, address and telephone number of the applicant, a lineal scale of the plot plan, a north arrow and a vicinity map.*

*B. The applicant shall submit a site plan drawn to an appropriate scale (in order of preference; 1" = 10' to 1" = 30'), which contains the following information:*

- 1. The subdivision name, block and lot number or the section, township, range and tax lot number.*

**RESPONSE** The application includes the required site plan, which has been revised for one single family home instead of the previously proposed 3-Lot Partition. This

application has been revised and no longer includes a land partition or subdivision. Therefore no plat name is required.

The relevant assessor map information – Township 3S Range 1E, Map 2AC, Tax Lot 1301, which is part of Block 16, Willamette & Tualatin Tracts, in the City of West Linn, Clackamas County, Oregon.

**28.150 Architectural Drawings** *Architectural drawings shall be submitted at 1:10 to 1:30 scale, as described in the site plan, showing:*

- A. Elevations of structure(s);*
- B. The exterior building materials: type, color, and texture.*
- C. For docks,...*

**RESPONSE** The applicant is not submitting building plans, as part of this application. Therefore architectural drawings are not available. The Builder will be responsible to demonstrate compliance with this section at the time of building permit application. However, it is anticipated that the future home will be designed similar to those in the immediate neighborhood, including wood frame, two-story, with either attached or detached garage. Exterior materials will be determined by the purchaser/builder. The allowable building envelope shown on the Site Plan (Sheet 1) is based on the standard R-10 setbacks. No dock is proposed.

**28.160 Landscaping Plan** *The landscape plan shall be prepared on the Site Plan (Section 20.100) and in addition shall show:*

- A. The location, size and type of existing trees and location and type of vegetation to be removed and to be retained;*
- B. The location and design of landscaped areas;*
- C. the varieties and sizes of trees and materials to be planted;*  
*The proposed irrigation system above top of bank (optional);*
- D. The location and height of fences and other buffering or screening materials;*  
*and*
- E. The location, material, dimensions and design of terraces, decks, patios, shelters, footpaths, retaining walls and play areas.*

**RESPONSE** No specific home is proposed as part of this application. House plans will be submitted separately for building permits after the FMA and WRG permits are approved. Consequently, no fences, decks, terraces, patios, shelters, footpaths, retaining walls or play areas are proposed as part of this application.

As previously noted, this site is over 400 feet from the river bank and site development, including homes, will not be visible from the river or its bank. Therefore site improvements will not adversely impact the visual corridor for the river.

## ***Wetland and Riparian Area***

### ***30.030 Applicability***

- A. *The Wetland and Riparian Area (WRA) zone is an overlay zone. The WRA zone is delineated on the West Linn zoning map. In addition, any wetland meeting the wetland definition of Section 30.020 is within the Wetland and Riparian Area overlay zone.*

**RESPONSE:** The subject site does not contain any delineated wetland and does not include any area zoned with a WRA Overlay. Therefore this Section is not applicable. There are, however, wetlands to the north and west of the property, which adds to the character of the neighborhood. But, the presence of the wetlands does not affect the site design.

## **RESPONSES TO ENGINEERING COMMENTS ARE REVISED AS FOLLOWS**

### ***Street Improvements***

- *Provide dimension for the 3<sup>rd</sup> Avenue, 8<sup>th</sup> Street, and Volpp Street right-of-ways.*

**RESPONSE** The revised Site Plan shows a 15 foot wide driveway to be constructed within the right-of-way of 7<sup>th</sup> Avenue. The Plan Sheets have been revised to show dimensions of the right-of-ways for 3<sup>rd</sup> Avenue and 8<sup>th</sup> Street. However, Volpp Street is not a dedicated road. It does not have a dedicated right-of-way, so it cannot be labeled. Pavement width of Volpp Street is labeled on revised Sheets 1 and 2.

- *9.0' dedication required.*

**RESPONSE** With the revised plan no partitioning will occur, therefore no dedication is required.

- *7<sup>th</sup> Street shall be designed per public works standards structurally. Correct the pavement section detail. Street shall be shed toward the development property instead of the opposite side.*

**RESPONSE** This is not a "Completeness" issue and can be addressed at final design through Conditions of Approval. However, with the revised application, no street improvements are proposed, just a driveway. The home builder will be required to provide storm system improvements necessary for the impervious area managed as outlined in our preliminary conveyance, water quality and detention analysis.

- *Provide 6' wide sidewalk.*

**RESPONSE** With the revised application, no street improvements are proposed, so there is no requirement for a sidewalk.

- *Rain garden shall be 6' wide minimum and have a minimum 2.0' wide bottom everywhere and 12" from the edge of the pavement where curb is not installed.*

**RESPONSE** The home builder will be responsible to modify the storm system, and may or may not utilize the rain garden design originally anticipated.

- *Provide curb radius at intersection of 7<sup>th</sup> Street and Volpp Street.*

**RESPONSE** There is no curb proposed at the intersection of 7<sup>th</sup> Street and Volpp Street, so a curb radius is not applicable.

### ***Storm Drainage Improvements***

- *Rain garden shall be designed per comment in the Street Improvement section above.*
- *Provide landscaping plan for the rain garden per City of West Linn detail. See rain garden detail attached.*
- *Provide onsite treatment for roof run-off if needed.*

### ***Sanitary Sewer Connection***

- *Provide sanitary sewer profile.*

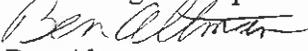
**RESPONSE** At this time, we do not know if the rain garden design will be used. The home builder will be responsible to provide this information at the time of building permits.

### ***Franchise Utility***

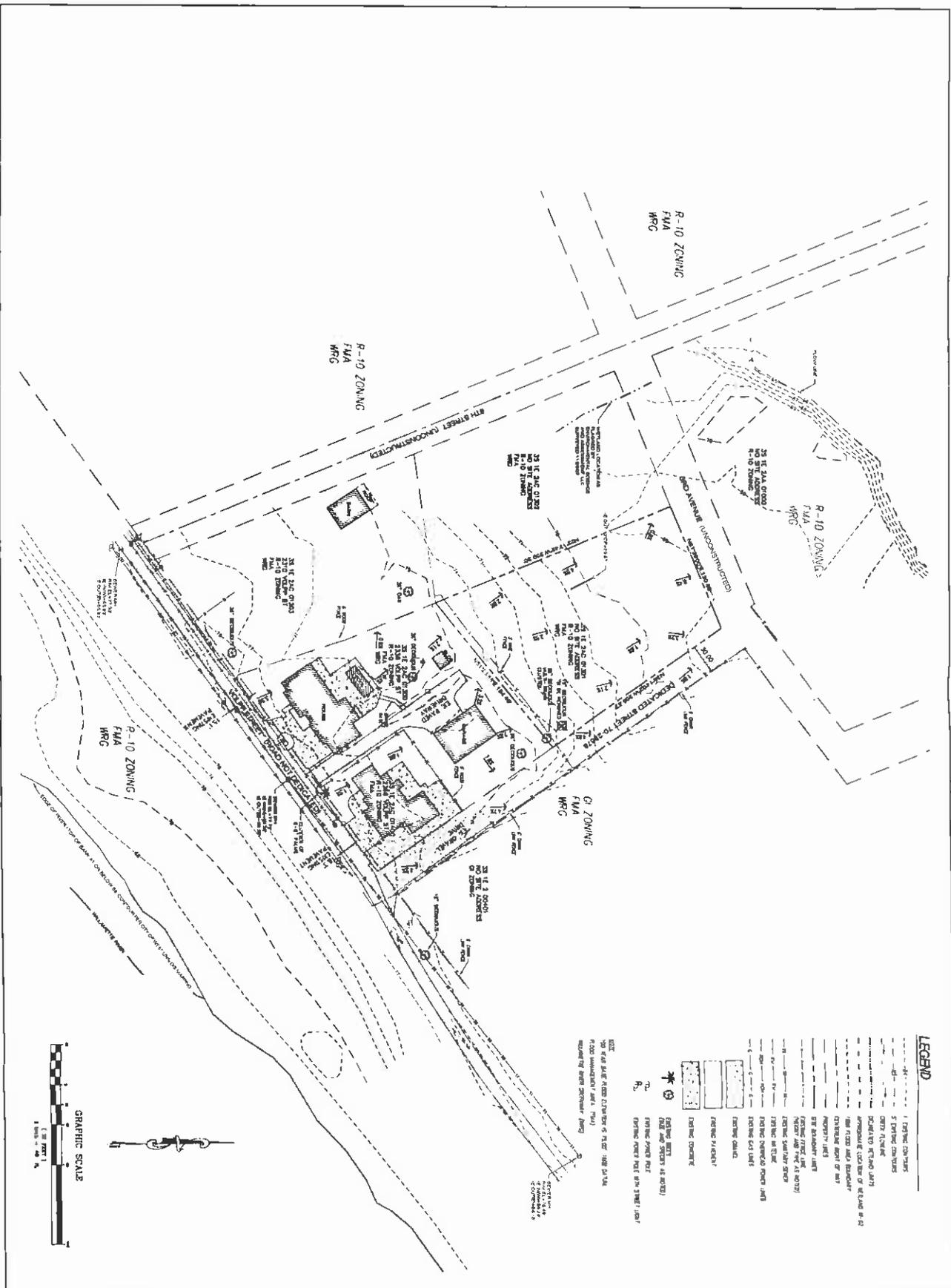
- *Please provide a note on the site plan to indicate that all franchise utilities such as natural gas, power, cable, and telephone will be installed underground.*
- *Show utility easements.*

**RESPONSE** The Plan Sheets have been revised to reflect these items.

With these revisions we believe our application will be complete. Any additional issues should be able to be adequately addressed by Conditions of Approval. Please contact me immediately, if you need any additional information.

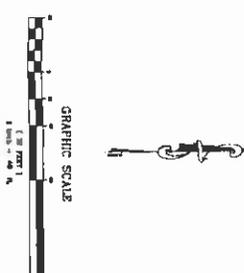
Sincerely,  
SFA Design Group  
  
Ben Altman  
Senior Planner/Project Manager





**LEGEND**

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<p><b>EXISTING CONDITIONS</b> <b>BIETSCHKEK RESIDENCE</b></p>		<p><b>SFA Design Group, LLC</b> SFA Design Group, LLC 10000 13th Street, Suite 200 Boulder, CO 80501 303.440.8888 www.sfa.com</p>	
<p>DRAWN BY: <u>ML</u> DATE: <u>02/01/11</u></p> <p>REVIEWED BY: <u>ML</u> DATE: <u>02/01/11</u></p> <p>PROJECT NO: <u>100-000000</u></p> <p>SCALE: <u>AS SHOWN</u></p>	<p>SHEET: <u>2</u> OF <u>2</u></p> <p>DATE: <u>02/01/11</u></p>	<p>NO. DATE</p> <p>1 02/01/11</p> <p>2 02/01/11</p> <p>3 02/01/11</p> <p>4 02/01/11</p> <p>5 02/01/11</p> <p>6 02/01/11</p> <p>7 02/01/11</p> <p>8 02/01/11</p> <p>9 02/01/11</p> <p>10 02/01/11</p>	<p>30</p>