

**City of West Linn**  
**PRE-APPLICATION CONFERENCE MEETING**  
**SUMMARY NOTES**  
**October 6, 2016**

SUBJECT: Replace and repair decks at rear of a single family home within a Water Resource Area (WRA) and Habitat Conservation Area (HCA) at 18220 Upper Midhill Drive.

FILE: PA-16-26

ATTENDEES: Applicant: Patrick Balducci, Michael McDonald  
Staff: Peter Spir (Planning)

---

*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.*

**Site Information**

Site Address: 18220 Upper Midhill Drive  
Site Area: 10,176 square feet  
Comp. Plan: Medium density residential  
Zoning: R-4.5 (Single family residential attached and detached/duplex / 4,500 square foot minimum lot size)  
Applicable code: Community Development Code (CDC) Chapter 32: WRA; Chapter 28: Willamette and Tualatin River Protection Area (HCA); CDC Chapter 14: R-4.5.

**Project Details:** 84.7 percent, or all but 1,564 square feet, of this property is encumbered by a "moderate" Habitat Conservation Area (HCA). The HCA covers all of the existing house and deck area. A tributary of Arbor Creek bisects the property and runs as close as four feet (plan view) from the edge of the deck. The associated WRA boundary extends 65 feet east from the creek meaning that all of the deck areas and most of the house is within the WRA boundary.

There are two deck levels at the rear of the house adjacent to the creek. (The house was built in 1985.) The first floor deck varies from one to five feet above grade. The second floor deck is about 12 feet higher and is supported by a cantilever design. All decks are dry rotted and in need of replacement. The applicant proposes to replace the existing decking in the same footprint. Part of the proposed reconstruction involves the use of vertical pilings/supports for the upper deck to replace an inadequate cantilevered deck design. The pilings/supports would be anchored to grade within the existing first floor deck footprint. (The total number of anchor points would not increase.)

A portion of the first floor deck (at the north end) is within the five foot side yard setback and also within a six foot wide utility easement. Another utility easement generally follows the thread of the creek and is 20 feet wide.

The WRA chapter offers the Hardship provisions (section 32.100) which has the stated purpose of ensuring that *“compliance with this chapter does not deprive an owner of reasonable use of land.”* “Reasonable Use” is defined as *“Uses, similar in size, intensity and type, to uses allowed on other properties in the City that have the same zoning designation as the subject property.”* Since the existing house, deck and driveway comprise 2,774 square feet and the average square footage of hardscapes for the four homes surrounding this property is 4,106 square feet, the house is well below “reasonable use”. The “Hardship” provisions of CDC 32.110 allow 5,000 square feet or 30% of the WRA for development (whichever is greater) in addition to developable non-WRA lands. One to one (on-site) mitigation for the WRA area used under the hardship provisions is required. There is a similar 5,000 square foot allowance for development within an HCA.

### **Process**

For the WRA permit, address the submittal requirements and approval criteria of CDC Chapter 32. There is a deposit fee of \$2,600 and an inspection fee of \$250. For the WRG permit, address the submittal requirements and approval criteria of CDC Chapter 28. There is a fee of \$1,700 The CDC is online at <http://westlinnoregon.gov/cdc>.

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 Manager and must identify the specific grounds for that waiver.

Once the application and deposit/fee are submitted, the City has 30 days to determine if the application is complete or not. If the application is not complete, the applicant has 180 days to make it complete or provide written notice to staff that no other information will be provided.

Once the submittal is deemed complete, staff will provide notice per CDC Chapter 99 and schedule a decision date by the Planning Manager. A decision is usually rendered within five weeks of the determination of completeness. Appeals of the Planning Manager’s decision are heard by City Council.

A parallel process must be undertaken through the Engineering Department to modify and record the existing 20 foot wide storm water utility easement document to hold the City harmless as a result of any future work done by the City to maintain, repair or replace the storm water facility. A survey of the easement may be required.

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 ***or provide any assurance of potential outcomes.*** Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc. could emerge as the application is developed. ***A new pre-application conference would have to be scheduled one that period lapses and these notes would no longer be valid. Any changes to the CDC standards may require a different design or submittal.***