

**City of West Linn**  
**PRE-APPLICATION CONFERENCE MEETING**  
**SUMMARY NOTES**  
**April 6, 2017**

**SUBJECT:** Proposed Water Resource Area (WRA) Permit, Flood Management Area (FMA) Permit, Willamette River Greenway (WRG) Permit (including Habitat Conservation Area (HCA)) and Lot Line Adjustment (LLA) for development of three homes on three existing lots of record south of 1220 Ninth Street.

**FILE:** PA-17-14

**ATTENDEES:** Applicant: Roy Marvin, Emery Smith, Zach Pelz (AKS)  
Staff: Amy Pepper, Development Engineer; Peter Spir, Associate Planner

---

*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**

Tax Not No.: Tax lot 800 of Assessor's Map 31E2AC  
Site Area: 163,924 square feet  
Zoning: R-10 (Single-family residential, 10,000 sq. ft. minimum lot size)  
Environmental Overlays: FMA, HCA and WRA

**Project Details:** The applicant proposes to build three homes on three existing lots of record: lots A, B and C; Block 20 of the Willamette and Tualatin Tracts subdivision plat. The boundary between lots A and B would be modified by LLA. Access to homes on lots A and B would be via an "Alley" design street (per TSP) built in the Third Avenue ROW. The lot C home would be accessed from Ninth Street.

**Discussion:** The property is fully encompassed by the 100-year floodplain. Homes will have to be built so that all structural elements of the first habitable floor are one foot above the flood elevation. A Flood Management Area (FMA) permit is required.

A wetland delineation was done by AKS Engineering and Forestry LLC dated March 29, 2017. A Department of State Lands (DSL) jurisdictional determination is required. The WRA setback extends 65 feet south of the wetland per CDC Chapter 32. A WRA permit is required. The homes will be constructed outside of the delineated wetlands.

Per the Metro Habitat Conservation Area (HCA) map, the entire property is in a "Moderate" HCA. HCAs are regulated under CDC Chapter 28: Willamette and Tualatin River Protection (WRG). A WRG permit is required.

Both the WRA and WRG chapters have hardship provisions that accommodate the construction of single family homes on lots of record (including those modified by lot line adjustment). CDC 28.110(E) allows "construction of 5,000 square feet of total impervious surface for sites in HCAs". Although CDC 32.110(B) allows a maximum disturbed area (MDA) of (1) Five thousand square feet of the WRA; or (2) Thirty percent of the total area of the WRA, the lesser allowance of Chapter 28.110(E) means that the MDA is limited to 5,000 square feet. The use of a street in the Third Avenue ROW would not count against the 5,000 square foot allowance (per 32.110(E) (3)). All structures including cantilevered decks will count against the 5,000 square feet.

To move closer to the wetland than 15 feet, two options are available: a Class II Variance (CDC Chapter 75) or making use of CDC 32.070/32.080 "ALTERNATE REVIEW PROCESS" that applicants can use when there is reason to believe that the width of the WRA setback is larger than necessary to protect the functions and values of the water resource at a particular site. Similarly, the Metro HCA Map Verification process can be used to modify the HCA boundary per 28.070. A wetlands professional is required to support those WRA/HCA adjustments.

**Engineering Division Comments:** The applicant should contact Amy Pepper of the Engineering Department to determine required improvements at [apepper@westlinnoregon.gov](mailto:apepper@westlinnoregon.gov). Street improvements per CDC Chapter 96 will be required for Ninth Street. The "Alley" design will require stormwater treatment for the impervious surface. Street vacation of the 10<sup>th</sup> Street and part of the Third Avenue ROW would be a separate process under ORS 271 which requires City Council approval. Contact Ty Darby of TVFR at [ty.darby@tvfr.com](mailto:ty.darby@tvfr.com) for comments; particularly whether a new hydrant is required.

**Process:** For the WRA permit, address the submittal requirements of CDC Chapter 32.050 and respond to the approval criteria of 32.060 which is the standard process plus the hardship provisions of 32.110. The fee is \$2,600 plus a \$250 inspection fee. A 1:1 vegetative mitigation plan is required for any development within 65 feet of the wetland boundary per 32.090 and 32.100. Contact DSL for any additional permits.

For the FMA permit, address the submittal requirements of CDC Chapter 27.050 (including a topographic survey of the property) (scaled site plan with lineal scale showing house and driveway footprint) and respond to the criteria of 27.060 and 27.080. The deposit fee is \$1,050. Pre and post construction elevation certificates and residential crawl space flow through designs and calculations must be prepared and stamped by an Oregon licensed engineer. Any net fill proposed within the floodplain will require a HEC RAS "no rise" certificate stamped by a certified engineer. You should contact the Federal Emergency Management Agency (FEMA) regarding any additional permits.

For the WRG permit, address the submittal requirements of CDC Chapter 28.090 (28.120-28.150) and the approval criteria of 28.110. A 1:1 on-site vegetative mitigation plan is required for any development within the HCA per 32.090 and 32.100. The deposit fee is \$1,700.

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 declared complete, staff will send out public notice of the anticipated Planning Manager's decision date at least 20 days before it occurs. A sign posted on the site. The Planning Manager's decision may be appealed to City Council by the applicant or anyone with standing.

The street vacation is a separate process per ORS 271. The fee is \$6,000 and requires hearings before City Council. Ideally, the vacation would be undertaken prior to the other permits; but may be done concurrently.

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.**