

CITY OF WEST LINN
PRE-APPLICATION CONFERENCE MEETING
SUMMARY NOTES
October 19, 2023

SUBJECT: Proposed Annexation, Zoning Designation, Residential Care Facility.

FILE: PA-23-21

APPLICANTS PRESENT: Ovi and Kelly Regalie

STAFF PRESENT: Chris Myers (Planning), Lynn Schroder (Planning), Clark Ide (Engineering)

PUBLIC PRESENT: None

These pre-application summary notes have been prepared for the applicant to identify applicable code sections and critical issues for the proposed application and summarize the application process and fees. Pre-Application summary notes are based on preliminary information and may not include all considerations. Contact the assigned planner for additional information regarding the process, approval criteria, submittal requirements, questions, and clarifications. Pre-Application Conference summary notes are valid for eighteen months from the meeting date. Once a complete application is submitted, the final decision can take 6-10 months.*

SITE INFORMATION:

Site Address: 1045 Rosemont Road
Tax Lot No.: 21E23CDS2
Site Area: 0.885 Acres +/-, 38,565 Square Feet
Neighborhood: Hidden Springs Neighborhood Association
Comp. Plan: Low Density
Zoning: No current zoning designation
Zoning Overlays: None

PROJECT DESCRIPTION:

The applicant is interested in annexing the subject property into the City of West Linn. Concurrently a zoning code designation would be applied to the property.

APPLICABLE COMMUNITY DEVELOPMENT CODE SECTIONS:

Approval standards and criteria in effect when an application is *received* will be applied to the proposed development. The following Community Development Code (CDC) Chapters apply to this proposal:

- [Chapter 10: Residential R-10](#)
- [Chapter 12: Residential R-7](#)
- [Chapter 14: Residential R-4.5](#)
- [Chapter 15: Residential R-3](#)
- [Chapter 16: Residential R-2.1](#)
- [Chapter 32: Water Resource Area Protection](#)
- [Chapter 81: Boundary Changes](#)

KEY ISSUES & CONSIDERATIONS

Staff has identified the following development issues, design considerations, or procedural issues that you should be aware of as you prepare your formal application for submittal. The identification of these issues or considerations here does not preclude the future identification of additional issues or considerations:

Chapter 10: Residential R-10

- CDC 10.030 Permitted Uses - **Residential home**. A home licensed by or under the authority of the Department of Human Resources under ORS [443.400](#) to [443.825](#) which provides residential care alone or in conjunction with treatment or training, or a combination thereof for **five or fewer** individuals who need not be related. This definition includes facilities categorized as “adult foster homes” under ORS [443.700](#) to [443.825](#). Staff persons required to meet the Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.
- **Residential facility**. A facility licensed by or under the authority of the Department of Human Resources under ORS [443.400](#) to [443.460](#) which provides residential care alone or in conjunction with treatment or training, or a combination thereof, for **six to 15 individuals** who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.
- In the R-10 zone a Residential Home is the largest care facility allowed.
- A Residential Facility is not allowed by code.

Chapter 12: Residential R-7

- CDC 12.030 Permitted Uses - **Residential home**. A home licensed by or under the authority of the Department of Human Resources under ORS [443.400](#) to [443.825](#) which provides residential care alone or in conjunction with treatment or training, or a combination thereof for **five or fewer** individuals who need not be related. This definition includes facilities categorized as “adult foster homes” under ORS [443.700](#) to [443.825](#). Staff persons required to meet the Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.
- **Residential facility**. A facility licensed by or under the authority of the Department of Human Resources under ORS [443.400](#) to [443.460](#) which provides residential care alone or in conjunction with treatment or training, or a combination thereof, for **six to 15 individuals** who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.
- In the R-7 zone a Residential Home is the largest care facility allowed.
- A Residential Facility is not allowed by code.

Chapter 14: Residential R-4.5

- A residential Facility requires a Conditional Use Permit (CUP) CDC 14.060
- **Senior citizen/handicapped housing facilities**. Living facilities which provide living units, congregate dining, recreational facilities and other services and requiring 24-hour staffing assistance. Below is a list of requirements you would need to accomplish in order to get approval.

CDC 14.060(15). Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property; provided, that in addition to the provisions of Chapter [60](#), the following conditions shall apply:

- a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.
- b. Building height restrictions shall be the same as the subject zoning district.
- c. Community space and related equipment shall be required to provide social and recreational opportunities for project occupants. Included may be such facilities as game rooms, meeting rooms, music or craft rooms. At least one community room within a project shall include a service area with a kitchen sink, counter top and storage cabinets, and shall have easy access to a storage area sized to

store tables, chairs and janitorial supplies. All complexes shall have a minimum of 15 square feet of community space per occupant, based on one person per bedroom.

- d. Congregate dining facilities providing regular daily meals for residents shall be provided.
- e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.
- f. The maximum number of units allowed in a senior citizen or handicapped housing facility shall be 50 percent above the allowed density for the property.
- g. The design of the building(s) and the site and landscaping plans shall be subject to Chapter 55 CDC, Design Review. Special considerations for this use are the following:

- 1) Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.
- 2) The building design and site layout shall define recognizable semi-public, semi-private, and private spaces; ensure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.
- 3) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate visual and sound buffering of adjacent properties.
- 4) No more than 25 percent of the total number of units may be used for nursing care patients.
- 5) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the approval authority finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

Chapter 15: Residential R-3

- A residential Facility requires a Conditional Use Permit (CUP) CDC 15.060(8)
- **Senior citizen/handicapped housing facilities.** Living facilities which provide living units, congregate dining, recreational facilities and other services and requiring 24-hour staffing assistance. Below is a list of requirements you would need to accomplish in order to get approval for

CDC 15.060(12). Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property; provided, that in addition to the provisions of Chapter 60, the following conditions shall apply:

- a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.
- b. Building height restrictions shall be the same as the subject zoning district.
- c. Community space and related equipment shall be required to provide social and recreational opportunities for project occupants. Included may be such facilities as game rooms, meeting rooms, music or craft rooms. At least one community room within a project shall include a service area with a kitchen sink, counter top and storage cabinets, and shall have easy access to a storage area sized to store tables, chairs and janitorial supplies. All complexes shall have a minimum of 15 square feet of community space per occupant, based on one person per bedroom.
- d. Congregate dining facilities providing regular daily meals for residents shall be provided.
- e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.
- f. The maximum number of units allowed in a senior citizen or handicapped housing facility shall be 50 percent above the allowed density for the property.
- g. The design of the building(s) and the site and landscaping plans shall be subject to Chapter 55 CDC, Design Review. Special considerations for this use are the following:

- 1) Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.
- 2) The building design and site layout shall define recognizable semi-public, semi-private, and private spaces; ensure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.
- 3) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate visual and sound buffering of adjacent properties.
- 4) No more than 25 percent of the total number of units may be used for nursing care patients.
- 5) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the approval authority finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

Chapter 16: Residential R-2.1

- A residential Facility requires a Conditional Use Permit (CUP) CDC 16.060(13)
- **Senior citizen/handicapped housing facilities.** Living facilities which provide living units, congregate dining, recreational facilities and other services and requiring 24-hour staffing assistance. Below is a list of requirements you would need to accomplish in order to get approval for

CDC 16.060(17). Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property; provided, that in addition to the provisions of Chapter 60, the following conditions shall apply:

- a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.
- b. Building height restrictions shall be the same as the subject zoning district.
- c. Community space and related equipment shall be required to provide social and recreational opportunities for project occupants. Included may be such facilities as game rooms, meeting rooms, music or craft rooms. At least one community room within a project shall include a service area with a kitchen sink, counter top and storage cabinets, and shall have easy access to a storage area sized to store tables, chairs and janitorial supplies. All complexes shall have a minimum of 15 square feet of community space per occupant, based on one person per bedroom.
- d. Congregate dining facilities providing regular daily meals for residents shall be provided.
- e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.
- f. The maximum number of units allowed in a senior citizen or handicapped housing facility shall be 50 percent above the allowed density for the property.
- g. The design of the building(s) and the site and landscaping plans shall be subject to Chapter 55 CDC, Design Review. Special considerations for this use are the following:

- 1) Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.
- 2) The building design and site layout shall define recognizable semi-public, semi-private, and private spaces; ensure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.
- 3) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate visual and sound buffering of adjacent properties.
- 4) No more than 25 percent of the total number of units may be used for nursing care patients.

5) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the approval authority finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

Chapter 32 Water Resource Area Protection:

- 32.020 Applicability
- 32.030 Prohibited Uses – Pay close attention to what is and is not allowed in and around a water resource area.
- 32.040 Exemptions – There are a few exemptions. Staff does not see any that qualify on the subject property but worth applicant’s time to double check.
- 32.050 Application- Carefully ensure that your application meets the standards listed in 32.050. An incomplete application slows down the process.
- 32.060 Approval Criteria – Read through this sub-chapter to understand the criteria that will be used to check and decide on your application. Your application will need to address all applicable criteria.
- Table 32-2 Required Width of the Water Resource Area
- 32.090 Mitigation Plan – these are the standards for mitigating any disturbance of the WRA
- 32.100 Re-Vegetation Plan Requirements – Read carefully as these are the requirements for replanting after construction.
- 32.120 WRA Map – You can hire a Geo-Tech firm to analyze the wetland and riparian corridor. This may allow for a smaller buffer zone thus giving you more property to work with.

Chapter 81: Boundary Changes (West Linn Municipal Code 2.920-2.930) and (Metro Code 3.09)

- Annexations go through a two-step process. At Council discretion, both steps can be completed on the same hearing date. Step one is a land use decision, as outlined in WLMC 2.920, and determines whether the proposed annexation is consistent with the intent of the West Linn Comprehensive Plan, CDC Chapter 81 and Metro Code 3.09. Step one includes Council assignment a zoning designation for the property at this time.
- Step two review is a legislative or policy decision that applies the standards of WLMC 2.930. During step two, the Council, in its discretion may: 1) decide to set a public hearing for the annexation request; 2) delay a public hearing on the requested annexation; or, 3) pass a resolution placing the annexation request on a ballot for an advisory vote.
- At the conclusion of step two, the Council may approve an annexation request if it finds that the annexation is in the best interest of the City based on the report prepared by the Planning Director; testimony and evidence presented at the public hearing; and any other information, evidence, or analysis the City or the Council deems relevant to the application.
- The Council may deny an annexation acting in its legislative capacity even after it has approved the annexation application through the step one process.
- In summary: Step One is the Land Use Decision and Step Two is the Legislative/Policy Decision
- **Clackamas County Water and Environmental Services commented via email.**
 - **Tri-City Service District is the sanitary sewer provider for the area. The subject property is not within the TCSD boundaries. Prior to connecting to the public sanitary sewer system the property will need to annex into the TCSD. WES administers the annexation process on behalf of TCSD. Annexation can be completed concurrent with City annexation. To be clear, these are two separate/different annexations.**
 - **Annexation fee is \$225 paid to Clackamas County and \$125 paid to Metro**
 - **Link to [TCSD annexation](#)**

RESPONSE TO APPLICANT QUESTIONS:

1. Is achieving a zoning of R-2.1 or R-4.5 feasible?
 - a. Staff response – Zoning designations typically reflect the same or similar designations to adjacent properties. In this case either the R-7 or R-10 Zone. There is opportunity to make a case for a higher density zoning designation such as R-2.1, R-3, or R-4.5. However, a new zoning designation is a City Council decision (see Process Steps #3 Zoning Designations below).
2. What conditions might the City of West Linn put in place that might stop this from moving forward?
 - a. Staff response – The City will not put any conditions in place to stop annexation from moving forward. Codes that exist on the day the application is received are the applicable codes for that application.
3. What can we plan for or try to mitigate in the process?
 - a. Staff response – The applicant will need to hire an Eco-Tech firm in an attempt to shrink the environmental protection overlays on the property. Specifically, there is a need to ensure the riparian corridor overlay and the wetland overlay are the appropriate size for the property. These overlays will be critical in the ability for the applicant in determining what can be built on the property.
4. If R-4.5 is achievable, what is the Conditional Use Permitting process?
 - a. Staff response – A Conditional Use Permit (CUP) is a land-use action and requires a separate application, Chapter 60 of the Community Development Code <https://www.codepublishing.com/OR/WestLinn/#!/WestLinnCDC/WestLinnCDC60.html>. The type and size of facility the applicant would like to construct is allowed in the R-4.5 and R-2.1 zones as a Conditional Use.
5. What would be the potential concerns might the City have with this structure on this property?
 - a. Staff response – The size of structure the applicant desires will be difficult to fit on the subject property. There are multiple environmental overlays on the property. Parking will also be problematic although not impossible.
6. What kind of parking, driveway, safety access may be needed/required?
 - a. Staff response – The required parking and access points will be determined by the type of facility and size of facility the applicants are allowed to put on the property. The size and type will be determined by the zone on the property.

PROCESS STEPS:

There will be several processes that will need to be addressed below is a brief synopsis of the primary steps.

1. **Environmental Overlays** – There are 3 environmental overlays on the subject property. Applicants will need to hire a Geo-Tech Engineer to evaluate the location of the overlays and to determine if the overlays can be shrunk to allow for more use of the property for development. Without shrinking the overlays the applicant will, more than likely, not be able to fit the facility and subsequent required parking onto the subject property.
2. **Annexation** – the subject property needs to be legally incorporated into the City of West Linn. Concurrently the subject property will need to be annexed into the Tri-City Service District (TCSD) for sanitary sewer ([Link to TCSD Annexation](#)).
3. **Zoning Designation** – concurrently with annexation the subject property will receive a zoning designation. As part of the application the applicant will make a case for their preferred zone. The three criteria City Council uses for zoning designations (per CDC 81.055[A, B, C]) are:
 - A. Specific site characteristics such as topography, drainage, and existing vegetation
 - B. The existing zoning and development patterns of surrounding properties
 - C. The capacity of the City to provide road, sanitary sewer, storm drainage, and water service to the site

4. **Conditional Use Permit** – If granted an R-4.5, R-3, or R-2.1 zoning designation the applicant will/would be able to move forward with an application for a Conditional Use Permit (CUP). A CUP is a land-use decision made by the West Linn Planning Commission.

PUBLIC COMMENT:

No public comments were made during the pre-application conference.

ENGINEERING:

The Engineering department did not have any comments or questions. For further details, contact Jameson Lumpkin at 503-722-4739 or Jlumpkin@westlinnoregon.gov.

BUILDING:

For building code and ADA questions, contact Adam Bernert at abernert@westlinnoregon.gov or 503-742-6054 or Alisha Bloomfield at abloomfield@westlinnoregon.gov or 503-742-6053.

TREES:

For information on the tree requirements for this proposal, contact the Ron Jones, City Arborist at rjones@westlinnoregon.gov or 503-722-4728.

PROCESS:

Annexations go through a two-step process. At Council discretion, both steps can be completed on the same hearing date. Step one is a land use decision, as outlined in WLMC 2.920, and determines whether the proposed annexation is consistent with the intent of the West Linn Comprehensive Plan, CDC Chapter 81 and Metro Code 3.09. Step one includes Council assignment a zoning designation for the property at this time.

Step two review is a legislative or policy decision that applies the standards of WLMC 2.930. During step two, the Council, in its discretion may: 1) decide to set a public hearing for the annexation request; 2) delay a public hearing on the requested annexation; or, 3) pass a resolution placing the annexation request on a ballot for an advisory vote.

At the conclusion of step two, the Council may approve an annexation request if it finds that the annexation is in the best interest of the City based on the report prepared by the Planning Director; testimony and evidence presented at the public hearing; and any other information, evidence, or analysis the City or the Council deems relevant to the application.

The Council may deny an annexation acting in its legislative capacity even after it has approved the annexation application through the step one process.

NEIGHBORHOOD MEETING:

No neighborhood meeting is required for an Annexation.

HOW TO SUBMIT AN APPLICATION:

Submit a complete application in a single PDF document through the [Submit a Land Use Application](#) web portal. A complete application should include:

1. A [development application](#);
2. A project summary outlining the scope of the project;
3. Full written responses to approval criteria in the identified CDC chapters;

COMPLIANCE NARRATIVE:

Written responses supported by substantial evidence must address all applicable approval standards and criteria. Written materials must explain how and why the proposed application will meet each applicable approval criteria. “Not Applicable” 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 writing, that the Planning Manager waive the requirement. The applicant must identify the specific grounds for the waiver. The Planning Manager will respond with a written determination about the waiver request before applying.

APPLICATION FEES & DEPOSITS:

The Planning Division Fee Schedule can be found on our website: <https://westlinnoregon.gov/finance/current-fee-schedule>

- **FEE** for Annexation = \$8000 base fee + \$1000 per acre above 1.0 acre
- **DEPOSIT** for Conditional Use Permit = \$4500 + \$500 Inspection Fee
- **FEE** for Water Resource Area Permit = \$2850

Applications with deposits will be billed monthly for time and materials. Please provide the name and address of the party responsible for the final invoice in your application.

TIMELINES:

Once the application and payment are received, the City has 30 days to determine if the application is complete. If the application is incomplete, the applicant has 180 days to complete it or provide written notice to staff that no other information will be provided. Once complete, the City has 120 days from the completeness determination to make a final decision on the application. Typical land use applications can take 6-10 months from beginning to end.

** **DISCLAIMER:** These pre-application notes have been prepared per [CDC Section 99.030.B.7](#). The information provided is an overview of the proposal considerations and requirements. Staff responses are based on limited material presented at the pre-application conference. New issues and requirements can emerge as the application is developed. Failure to provide information does not constitute a waiver of the applicable standards or requirements. The applicant has the burden of proof to demonstrate that all approval criteria have been satisfied. These notes do not constitute an endorsement of the proposed application or assure project approval.*