

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT <i>CHRIS KERN</i>	PROJECT NO(S). <i>WA-1505</i>	
NON-REFUNDABLE FEE(S) <i>1300</i>	REFUNDABLE DEPOSIT(S) <i>0</i>	TOTAL <i>1300</i>

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal and Review (AP) * | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses * |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Lot Line Adjustment (LLA) */** | <input type="checkbox"/> Time Extension * |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Planned Unit Development (PUD) | <input checked="" type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Pre-Application Conference (PA) */** | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Hillside Protection & Erosion Control | | |

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address: <i>18034 SW Hillside Dr West Linn</i>	Assessor's Map No.:
	Tax Lot(s):
	Total Land Area:

Brief Description of Proposal: *Application for previously approved but expired WRA Permit*

Applicant Name: (please print) <i>Greg Sams Hymark Custom Homes</i>	Phone: <i>503.939.6015</i>
Address: <i>18811 Trillium Dr</i>	Email: <i>linksete@msn.com</i>
City State Zip: <i>West Linn OR 97068</i>	

Owner Name (required): (please print) <i>Kazi Ahmed</i>	Phone: <i>503.320.1293</i>
Address: <i>18649 midhill circle</i>	Email: <i>kahmed0616@gmail.com</i>
City State Zip: <i>West Linn OR 97068</i>	

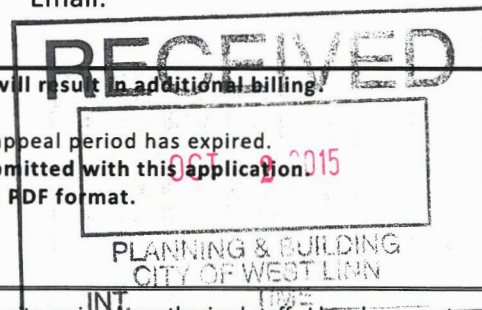
Consultant Name: (please print)	Phone:
Address:	Email:
City State Zip:	

1. All application fees are non-refundable (excluding deposit). Any overruns to deposit will result in additional billing.
2. The owner/applicant or their representative should be present at all public hearings.
3. A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
4. Three (3) complete hard-copy sets (single sided) of application materials must be submitted with this application. One (1) complete set of digital application materials must also be submitted on CD in PDF format. If large sets of plans are required in application please submit only two sets.

* No CD required / ** Only one hard-copy set needed

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

<i>Gregory Sams</i> Applicant's signature	<i>Oct 2, 2015</i> Date	<i>Kazi Ahmed</i> Owner's signature (required)	<i>10-2-15</i> Date
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APPLICATION NARRATIVE / BURDEN OF PROOF STATEMENT

DATE	October 1, 2015
REQUEST	Re-Application for Previously Approved but Expired WRA Permit.
APPLICANT/ OWNER	Kazi Ahmed 18649 Midhill Circle West Linn, Oregon 97070
APPLICANT'S REPRESENTATIVE	Andrew H. Stamp, Esq. Kruse Mercantile Professional Offices Suite 16 4248 Galewood Street Lake Oswego, Oregon 97035 Phone: 503.675.4318 Facsimile: 503.675.4319 andrewstamp@comcast.net
SITE ADDRESS/ MAILING ADDRESS	18034 Hillside Ct West Linn, Oregon 97070
LEGAL DESCRIPTION	T2S, R1E, Section 14CA, Tax Lot 114, W.M.
SITE AREA	Approximately .47 acre.
ZONING	R-10
NEIGHBORHOOD ASSN.	Robinwood

I. Overview.

The subject property is located next to headwaters of Arbor Creek, which has been classified as a "significant riparian corridor" on the Water Resources Area (WRA) Map. The applicant was previously granted approval for a WRA Permit, WAP-08-06, and began construction of a single family dwelling in reliance on that permit. Multiple factors beyond the applicant's reasonable control causes delays in the project. The applicant has a vested right to finish construction of the dwelling in accordance with the original permit. Nonetheless, the City initiated Code Enforcement proceedings in July of 2015 to force the applicant to come into compliance with the City Code by finishing the project on a more expedited schedule. The City has agreed to allow the applicant to enter into a Consent Agreement whereby the applicant agrees to apply for a new WRA permit. The Consent Agreement was signed on September 29, 2015.

Because full avoidance of the 100-foot setback associated with significant riparian corridors would deny the applicant “reasonable use” of his/her property, the Applicant sought, again seeks, to take advantage of the hardship provisions set forth at WLDC 32.110.

II. Approval Criteria

32.060 APPROVAL CRITERIA (STANDARD PROCESS)

No application for development on property containing a WRA shall be approved unless the approval authority finds that the proposed development is consistent with the following approval criteria, or can satisfy the criteria by conditions of approval:

A. WRA protection/minimizing impacts.

- 1. Development shall be conducted in a manner that will avoid or, if avoidance is not possible, minimize adverse impact on WRAs.**
- 2. Mitigation and re-vegetation of disturbed WRAs shall be completed per CDC 32.090 and 32.100 respectively.**

Applicant’s Response: The applicant proposes to minimize any adverse impacts to the WRA via thoughtful site design, revegetation, and mitigation. Access to the drainage way will not be hindered. The creek is along the south side of the development approximately 47 feet from any structures. Site drainage will go into the already established storm water systems which feed into the creek immediately downstream across the street.

Mitigation will be required due to the amount of disturbance on the site from excavation.

B. Storm water and storm water facilities.

- 1. Proposed developments shall be designed to maintain the existing WRAs and utilize them as the primary method of storm water conveyance through the project site unless:**
 - a. The surface water management plan calls for alternate configurations (culverts, piping, etc.); or**
 - b. Under CDC 32.070, the applicant demonstrates that the relocation of the water resource will not adversely impact the function of the WRA including, but not limited to, circumstances where the WRA is poorly defined or not clearly channelized.**

Re-vegetation, enhancement and/or mitigation of the re-aligned water resource shall be required as applicable.

Applicant’s Response: The applicant will leave the water resource intact and at its current location. Arbor Creek will continue to serve as the primary method of storm water conveyance, although the applicant does propose a filtration rain garden for water quality purposes.

- 2. Public and private storm water detention, storm water treatment facilities and storm water outfall or energy dissipaters (e.g., rip rap) may encroach into the WRA if:**

- a. **Accepted engineering practice requires it;**
- b. **Encroachment on significant trees shall be avoided when possible, and any tree loss shall be consistent with the City's Tree Technical Manual and mitigated per CDC 32.090;**
- c. **There shall be no direct outfall into the water resource, and any resulting outfall shall not have an erosive effect on the WRA or diminish the stability of slopes; and**
- d. **There are no reasonable alternatives available.**

A geotechnical report may be required to make the determination regarding slope stability.

Applicant's Response: The applicant proposes to add a filtration rain garden within the WRA. Given the topography of the site, the only logical location for a gravity-operated device of this nature is within the WRA. This feature was previously approved at a different location outside of the WRA. However, the change in the design of the driveway necessitates that the rain filtration feature be moved to a more southerly location.

There are no significant trees located on the portion of the subject property where development is proposed.

The applicant has designed the site drainage in a manner that avoids any direct outfall into the water resource.

The applicant previously submitted a geotechnical report from Carlsen Testing dated June 6, 2007. There are no changes in circumstances that invalidate any of the findings in that report.

3. Roadside storm water conveyance swales and ditches may be extended within rights-of-way located in a WRA. When possible, they shall be located along the side of the road furthest from the water resource. If the conveyance facility must be located along the side of the road closest to the water resource, it shall be located as close to the road/sidewalk as possible and include habitat friendly design features (treatment train, rain gardens, etc.).

Applicant's Response: Not applicable.

4. Storm water detention and/or treatment facilities in the WRA shall be designed without permanent perimeter fencing and shall be landscaped with native vegetation.

Applicant's Response: The rain filtration feature will not be fenced.

5. Access to public storm water detention and/or treatment facilities shall be provided for maintenance purposes. Maintenance driveways shall be constructed to minimum width and use water permeable paving materials. Significant trees, including roots, shall not be disturbed to the degree possible. The encroachment and any tree loss shall be mitigated per CDC 32.090. There shall also be no adverse impacts upon the hydrologic conditions of the site.

Applicant's Response: Not applicable.

C. Dedications and easements. The City shall request dedications of the WRA to the City when acquisition of the WRA by dedication or easement would serve a public purpose. When such a dedication or easement is mutually agreed upon, the applicant shall provide the documentation for the dedication or easement. Nothing in this section shall prohibit the City from condemning property if:

- 1. The property is necessary to serve an important public purpose; and**
- 2. Alternative means of obtaining the property are unsuccessful.**

Applicant's Response: The applicant has previously agree to a condition of approval requiring a dedication of a conservation easement and a pedestrian trail. The city has informed the applicant that it does not believe either of these dedications would be in the public interest at this time, and therefore, we request the deletion of those conditions

D. WRA width. Except for the exemptions in CDC 32.040, applications that are using the alternate review process of CDC 32.070, or as authorized by the approval authority consistent with the provisions of this chapter, all development is prohibited in the WRA as established in Table 32-2 below:

Applicant's Response: The WRA width in this case is 100 feet.

E. Roads, driveways and utilities.

1. New roads, driveways, or utilities shall avoid WRAs unless the applicant demonstrates that no other practical alternative exists. In that case, road design and construction techniques shall minimize impacts and disturbance to the WRA by the following methods:

a. New roads and utilities crossing riparian habitat areas or streams shall be aligned as close to perpendicular to the channel as possible.

Applicant's Response: Not applicable.

b. Roads and driveways traversing WRAs shall be of the minimum width possible to comply with applicable road standards and protect public safety. The footprint of grading and site clearing to accommodate the road shall be minimized.

Applicant's Response: The driveway is designed to be the minimum width necessary to traverse the change in grade between the street and the existing garage. This design obviated the need to conduct rock excavation on the site, which would have had greater impacts on the WRA. The driveway will be made with porous materials that will allow for the infiltration of storm water.

c. Road and utility crossings shall avoid, where possible:

- 1) Salmonid spawning or rearing areas;**

- 2) *Stands of mature conifer trees in riparian areas;*
- 3) *Highly erodible soils;*
- 4) *Landslide prone areas;*
- 5) *Damage to, and fragmentation of, habitat; and*
- 6) *Wetlands identified on the WRA Map.*

Applicant's Response: Not applicable.

2. Crossing of fish bearing streams and riparian corridors shall use bridges or arch-bottomless culverts or the equivalent that provides comparable fish protection, to allow passage of wildlife and fish and to retain the natural stream bed.

Applicant's Response: Not applicable.

3. New utilities spanning fish bearing stream sections, riparian corridors, and wetlands shall be located on existing roads/bridges, elevated walkways, conduit, or other existing structures or installed underground via tunneling or boring at a depth that avoids tree roots and does not alter the hydrology sustaining the water resource, unless the applicant demonstrates that it is not physically possible or it is cost prohibitive. Bore pits associated with the crossings shall be restored upon project completion. Dry, intermittent streams may be crossed with open cuts during a time period approved by the City and any agency with jurisdiction.

Applicant's Response: Not applicable.

4. No fill or excavation is allowed within the ordinary high water mark of a water resource, unless all necessary permits are obtained from the City, U.S. Army Corps of Engineers and Oregon Department of State Lands (DSL).

Applicant's Response: Not applicable.

5. Crossings of fish bearing streams shall be aligned, whenever possible, to serve multiple properties and be designed to accommodate conduit for utility lines. The applicant shall, to the extent legally permissible, work with the City to provide for a street layout and crossing location that will minimize the need for additional stream crossings in the future to serve surrounding properties.

Applicant's Response: Not applicable.

F. Passive recreation. Low impact or passive outdoor recreation facilities for public use including, but not limited to, multi-use paths and trails, not exempted per CDC 32.040(B)(2), viewing platforms, historical or natural interpretive markers, and benches in the WRA, are subject to the following standards:

- 1. Trails shall be constructed using non-hazardous, water permeable materials with a maximum width of four feet or the recommended width under the applicable American Association of State Highway and Transportation Officials (AASHTO) standards for the expected type and use, whichever is greater.**
- 2. Paved trails are limited to the area within 20 feet of the outer boundary of the WRA, and such trails must comply with the storm water provisions of this chapter.**
- 3. All trails in the WRA shall be set back from the water resource at least 30 feet except at stream crossing points or at points where the topography forces the trail closer to the water resource.**
- 4. Trails shall be designed to minimize disturbance to existing vegetation, work with natural contours, avoid the fall line on slopes where possible, avoid areas with evidence of slope failure and ensure that trail runoff does not create channels in the WRA.**
- 5. Foot bridge crossings shall be kept to a minimum. When the stream bank adjacent to the foot bridge is accessible (e.g., due to limited vegetation or topography), where possible, fences or railings shall be installed from the foot bridge and extend 15 feet beyond the terminus of the foot bridge to discourage trail users and pets from accessing the stream bank, disturbing wildlife and habitat areas, and causing vegetation loss, stream bank erosion and stream turbidity. Bridges shall not be made of continuous impervious materials or be treated with toxic substances that could leach into the WRA.**
- 6. Interpretive facilities (including viewpoints) shall be at least 10 feet from the top of the water resource's bankfull flow/OHW or delineated wetland edge and constructed with a fence between users and the resource. Interpretive signs may be installed on footbridges.**

Applicant's Response: This section is not applicable. The previous decision approved a pedestrian trail but city staff recently concluded that such a trail is ill advised and undesirable because of the steep terrain to the west.

G. Daylighting Piped Streams.

- 1. As part of any application, covered or piped stream sections shown on the WRA Map are encouraged to be "daylighted" or opened. Once it is daylighted, the WRA will be limited to 15 feet on either side of the stream. Within that WRA, water quality measures are required which may include a storm water treatment system (e.g., vegetated bioswales), continuous vegetative ground cover (e.g., native grasses) at least 15 feet in width that provides year round efficacy, or a combination thereof.**
- 2. The re-opened stream does not have to align with the original piped route but may take a different route on the subject property so long as it makes the appropriate upstream and downstream connections and meet the standards of subsections (G)(3) and (4) of this section.**
- 3. A re-aligned stream must not create WRAs on adjacent properties not owned by the applicant unless the applicant provides a notarized letter signed by the adjacent property owner(s) stating that the encroachment of the WRA is permitted.**

4. The evaluation of proposed alignment and design of the reopened stream shall consider the following factors:

- a. The ability of the reopened stream to safely carry storm drainage through the area without causing significant erosion.**
 - b. Continuity with natural contours on adjacent properties, slope on site and drainage patterns.**
 - c. Continuity of adjacent vegetation and habitat values.**
 - d. The ability of the existing and proposed vegetation to filter sediment and pollutants and enhance water quality.**
 - e. Provision of water temperature conducive to fish habitat.**
- 5. Any upstream or downstream WRAs or riparian corridors shall not apply to, or overlap, the daylighted stream channel.**
- 6. When a stream is daylighted the applicant shall prepare and record a legal document describing the reduced WRA required by subsections (G)(1) and (5) of this section. The document will be signed by a representative of the City and recorded at the applicant's expense to better ensure long term recognition of the reduced WRA and reduced restrictions for the daylighted stream section.**

Applicant's Response: Subsection G is not applicable because Arbor Creek has not previously been placed in a pipe at this location.

H. The following habitat friendly development practices shall be incorporated into the design of any improvements or projects in the WRA to the degree possible:

1. Restore disturbed soils to original or higher level of porosity to regain infiltration and storm water storage capacity.

Applicant's Response: The applicant will restore disturbed soils to their original level of porosity to regain infiltration and storm water storage capacity

2. Apply a treatment train or series of storm water treatment measures to provide multiple opportunities for storm water treatment and reduce the possibility of system failure.

Applicant's Response: Site constraints make this option not feasible or desired.

3. Incorporate storm water management in road rights-of-way.

Applicant's Response: Not applicable.

4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.

Applicant's Response: The Applicant proposes a Filtration Rain Garden on site.

5. Use multi-functional open drainage systems in lieu of conventional curb-and-gutter systems.

Applicant's Response: Site constraints make this option not feasible or desired.

6. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.

Applicant's Response: A green roof is not practical on this three-story building, because the design of the structure does not allow easy access to the roof.

7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.

Applicant's Response: The use of a rain barrel is potentially feasible in this case, but is not desired because only native vegetation is being proposed.

8. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.

Applicant's Response: A rain garden is proposed in this case.

9. Use pervious paving materials for driveways, parking lots, sidewalks, patios, and walkways.

Applicant's Response: The applicant proposes to use pervious paving materials for driveways, parking lots, and patios.

10. Reduce sidewalk width to a minimum four feet. Grade the sidewalk so it drains to the front yard of a residential lot or retention area instead of towards the street.

Applicant's Response: The sidewalk has already been poured in this case.

11. Use shared driveways.

Applicant's Response: Not applicable.

12. Reduce width of residential streets and driveways, especially at WRA crossings.

Applicant's Response: Not applicable.

13. Reduce street length, primarily in residential areas, by encouraging clustering.

Applicant's Response: Not applicable.

14. Reduce cul-de-sac radii and use pervious and/or vegetated islands in center to minimize impervious surfaces.

Applicant's Response: Not applicable.

15. Use previously developed areas (PDAs) when given an option of developing PDA versus non-PDA land.

Applicant's Response: Not applicable.

16. Minimize the building, hardscape and disturbance footprint.

Applicant's Response: The Applicant has designed the building to be three stories, which minimizes the disturbance area.

17. Consider multi-story construction over a bigger footprint.

Applicant's Response: The applicant proposes multi-story construction which creates a smaller building footprint.

32.090 MITIGATION PLAN

A A mitigation plan shall only be required if development is proposed within a WRA (including development of a Previously Disturbed Area (PDA). (Exempted activities of CDC 32.040 do not require mitigation unless specifically stated. Temporarily disturbed areas, including TDAs associated with exempted activities, do not require mitigation, just grade and soil restoration and re-vegetation.) The mitigation plan shall satisfy all applicable provisions of CDC 32.100, Re-Vegetation Plan Requirements.

Applicant's Response: Development is proposed within a WRA so mitigation is required.

B. Mitigation shall take place in the following locations, according to the following priorities (subsections (B)(1) through (4) of this section):

- 1. On-site mitigation by restoring, creating or enhancing WRAs.**
- 2. Off-site mitigation in the same sub-watershed will be allowed, but only if the applicant has demonstrated that:**
 - a. It is not practicable to complete mitigation on-site, for example, there is not enough area on-site; and**
 - b. The mitigation will provide equal or superior ecological function and value.**
- 3. Off-site mitigation outside the sub-watershed will be allowed, but only if the applicant has demonstrated that:**
 - a. It is not practicable to complete mitigation on-site, for example, there is not enough area on-site; and**
 - b. The mitigation will provide equal or superior ecological function and value.**

4. Purchasing mitigation credits through DSL or other acceptable mitigation bank.

Applicant's Response: The applicant originally proposed off-site mitigation on property owned by the Dept. of Parks and Recreation. However, recent discussion with managers of that Department resulted in the conclusion that a cash "in-lieu-of" payment would be more beneficial to the city in the long term.

C. Amount of mitigation.

- 1. The amount of mitigation shall be based on the square footage of the permanent disturbance area by the application. For every one square foot of non-PDA disturbed area, on-site mitigation shall require one square foot of WRA to be created, enhanced or restored.**
- 2. For every one square foot of PDA that is disturbed, on-site mitigation shall require one half a square foot of WRA vegetation to be created, enhanced or restored.**
- 3. For any off-site mitigation, including the use of DSL mitigation credits, the requirement shall be for every one square foot of WRA that is disturbed, two square feet of WRA shall be created, enhanced or restored. The DSL mitigation credits program or mitigation bank shall require a legitimate bid on the cost of on-site mitigation multiplied by two to arrive at the appropriate dollar amount.**

Applicant's Response: See response above.

D. The Planning Director may limit or define the scope of the mitigation plan and submittal requirements commensurate with the scale of the disturbance relative to the resource and pursuant to the authority of Chapter 99 CDC. The Planning Director may determine that a consultant is required to complete all or a part of the mitigation plan requirements.

Applicant's Response: No response required.

E. A mitigation plan shall contain the following information:

- 1. A list of all responsible parties including, but not limited to, the owner, applicant, contractor, or other persons responsible for work on the development site.**
- 2. A map showing where the specific adverse impacts will occur and where the mitigation activities will occur.**
- 3. A re-vegetation plan for the area(s) to be mitigated that meets the standards of CDC 32.100.**
- 4. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting. All in-stream work in fish bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife.**

5. Assurances shall be established to rectify any mitigation actions that are not successful within the first three years. This may include bonding or other surety. (Ord. 1623 § 1, 2014)

Applicant's Response: See response above.

32.100 RE-VEGETATION PLAN REQUIREMENTS

A. In order to achieve the goal of re-establishing forested canopy, native shrub and ground cover and to meet the mitigation requirements of CDC 32.090 and vegetative enhancement of CDC 32.080, tree and vegetation plantings are required according to the following standards:

1. All trees, shrubs and ground cover to be planted must be native plants selected from the Portland Plant List.

Applicant's Response: The applicant's Plant Schedule Map demonstrates compliance with this requirement.

2. Plant size. Replacement trees must be at least one-half inch in caliper, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs must be in at least a one-gallon container or the equivalent in ball and burlap and must be at least 12 inches in height.

Applicant's Response: The Applicant will comply with this requirement. A condition of approval can be added to the approval to ensure compliance with this criterion.

3. Plant coverage.

a. Native trees and shrubs are required to be planted at a rate of five trees and 25 shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times five equals 3.3, so three trees must be planted, and 0.66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

b. Trees shall be planted between eight and 12 feet on center and shrubs shall be planted between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted between eight and 10 feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements.

Applicant's Response: The Applicant's Plant Schedule Map demonstrates compliance with this requirement.

4. Plant diversity. Shrubs must consist of at least two different species. If 10 trees or more are planted, then no more than 50 percent of the trees may be of the same genus.

Applicant's Response: The Applicant's Plant Schedule Map demonstrates compliance with this requirement.

5. Invasive vegetation. Invasive non-native or noxious vegetation must be removed within the mitigation area prior to planting.

Applicant's Response: The Applicant will comply with this requirement. A condition of approval can be added to the approval to ensure compliance with this criterion.

6. Tree and shrub survival. A minimum survival rate of 80 percent of the trees and shrubs planted is expected by the third anniversary of the date that the mitigation planting is completed.

Applicant's Response: The Applicant will comply with this requirement. A condition of approval can be added to the approval to ensure compliance with this criterion.

7. Monitoring and reporting. Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die must be replaced in kind.

Applicant's Response: The Applicant will comply with this requirement. A condition of approval can be added to the approval to ensure compliance with this criterion.

8. To enhance survival of tree replacement and plantings, the following practices are required:

a. Mulching. Mulch new plantings a minimum of three inches in depth and 18 inches in diameter to retain moisture and discourage weed growth.

b. Irrigation. Water new plantings one inch per week between June 15th to October 15th, for the three years following planting.

c. Weed control. Remove, or control, non-native or noxious vegetation throughout maintenance period.

d. Planting season. Plant bare root trees between December 1st and February 28th, and potted plants between October 15th and April 30th.

e. Wildlife protection. Use plant sleeves or fencing to protect trees and shrubs against wildlife browsing and resulting damage to plants.

Applicant's Response: The applicant will comply with this requirement. A condition of approval can be added to the approval to ensure compliance with this criterion.

B. When weather or other conditions prohibit planting according to schedule, the applicant shall ensure that disturbed areas are correctly protected with erosion control measures and shall provide the City with funds in the amount of 125 percent of a bid from a recognized landscaper or nursery which will cover the cost of the plant materials, installation and any follow up maintenance. Once the planting conditions are favorable the applicant shall proceed with the plantings and receive the funds back from the City upon completion, or the City will complete the plantings using those funds. (Ord. 1623 § 1, 2014)

Applicant's Response: The applicant will comply with this requirement. A condition of approval can be added to the approval to ensure compliance with this criterion.

32.110 HARDSHIP PROVISIONS

The purpose of this section is to ensure that compliance with this chapter does not deprive an owner of reasonable use of land. To avoid such instances, the requirements of this chapter may be reduced. The decision-making authority may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief. The burden shall be on the applicant to demonstrate that the standards of this chapter, including Table 32-2, Required Width of WRA, will deny the applicant "reasonable use" of his/her property.

A. The right to obtain a hardship allowance is based on the existence of a lot of record recorded with the County Assessor's Office on, or before, January 1, 2006. The lot of record may have been, subsequent to that date, modified from its original platted configuration but must meet the minimum lot size and dimensional standards of the base zone.

Applicant's Response:

B. For lots described in subsection A of this section that are located completely or partially inside the WRA, development is permitted, consistent with this section. The maximum disturbed area (MDA) of the WRA shall be determined on a per lot basis. The MDA shall be the greater of:

- 1. Five thousand square feet of the WRA; or**
- 2. Thirty percent of the total area of the WRA.**

Applicant's Response: The MDA in this case less than 5,000. s.f.

C. The MDA shall be located as follows:

- 1. In areas where the development will result in the least square footage encroachment into the WRA.**
- 2. The applicant shall demonstrate, through site and building design, that the proposed development is the maximum practical distance from the water resource based on the functional needs of the proposed use.**
- 3. The minimum distance from a water resource shall be 15 feet.**

4. Access driveways shall be the minimum permitted width; select an alignment that is least impactful upon the WRA; and shall share use of the driveway, where possible.

Applicant's Response: In this case, the combination of site layout and setbacks create a situation where there no alternative building options other than the proposed design. Moving the building any further away from the water resource would violate the side yard setback and would bring the proposed structure unnaturally close to the northern property line and the adjacent dwelling to the north.

The lot is partially within the transition area. A different alternative for development would force the applicant to perform very expensive blasting into the hill behind the proposed house footprint and garage. Locating the garage on the South side of the property avoids this problem. Making the house narrow and long east-to-west would also involve expensive blasting into the hillside further west. Moving the development further west would also have other negative environmental impacts besides any impacts to the riparian corridor, as steep wooded slopes lie to the west. This is an R-10 zoned property and therefore mainly only single-family homes such as the proposed design are allowed. Single-family homes such as this tend to have the least environmental impact and smallest development footprint of the uses allowed in the R-10 zone

The proposed site design complies with the requirement that “the minimum distance from a water resource shall be 15 feet.”

While the use of the shared driveway is not possible due to pre-existing development on neighboring property, the applicant is proposing to make the driveway as narrow as possible. The driveway is located on a steep grade, and therefore a turnaround space is needed in front of the garage. The applicant is proposing permeable pavers as a way to mitigate the effect of this turnaround area.

D. The MDA shall include:

- 1. The footprints of all structures, including accessory structures, decks and paved water impermeable surfaces including sidewalks, driveways, parking pads, paths, patios and parking lots, etc. Only 75 percent of water permeable surfaces at grade shall be included in the MDA.**
- 2. All graded, disturbed or modified areas that are not subsequently restored to their original grade and replanted with native ground cover per an approved plan.**

Applicant's Response: The footprints of all structures, including the accessory garage structure, decks and paved water-impermeable surfaces the driveway, parking pads, paths, and patio, have been included on the map provided at Exhibit A. The code states that “[o]nly 75 percent of water permeable surfaces at grade shall be included in the MDA. That statement, though ambiguous on its face, is clarified by the context of Table 32-5. It is interpreted to mean that approved water permeable paved surfaces including driveways, parking lots, patios, and paths are considered to be a part of the MDA, but only 75% of actual square footage of permeable surface square footage is counted as MDA square footage. Thus, as an example, if the applicant proposes a 1000 s.f. driveway made out a pervious material, that this driveway will only count as 750 s.f. for purposes of the MDA calculation. In this case, all graded, disturbed or modified areas that are

not subsequently restored to their original grade and replanted with native ground cover are also counted as MDA, although in actuality this number is quite small since the applicant does propose to replant all non-paved areas with native vegetation.

E. The MDA shall not include:

- 1. Temporarily disturbed areas (TDAs) adjacent to an approved structure or development area for the purpose of grading, material storage, construction activity, trenched or buried utilities and other temporary activities so long as these areas are subsequently restored to the original grades and soil permeability, and re-vegetated with native plants per CDC 32.100, such that they are at least equal in functional value to the area prior to the initiation of the permitted activity;**
- 2. Bay windows and similar cantilevered elements (including decks, etc.) of the principal or secondary structure so long as they do not extend more than five feet towards the WRA from the vertical plane of the house, and have no vertical supports from grade;**
- 3. PDAs that are not built upon as part of the development proposal will not count in the MDA (e.g., use of an existing access driveway). (Conversely, PDAs that are built upon as part of the development proposal will count in the MDA.);**
- 4. The installation of public streets and public utilities that are specifically required to meet either the transportation system plan or a utility master plan so long as all trenched public utilities are subsequently restored to the original grades and soil permeability, and revegetated with native plants per CDC 32.100, such that they are at least equal in functional value to the area prior to the initiation of the permitted activity. All areas displaced by streets shall be mitigated for.**

Applicant's Response: The applicant plans on restoring the Temporarily Disturbed Areas (TDAs) adjacent to an approved structure or development area to their original soil permeability, and will re-vegetate these areas with approved native plants such that they are at least equal in functional value to the area prior to the initiation of the permitted activity

F. Development allowed under subsection A of this section may use the following provisions:

- 1. Setbacks required by the underlying zoning district may be reduced up to 50 percent where necessary to avoid construction within the WRA, as long as the development would otherwise meet the standards of this chapter. However, front loading garages shall be set back a minimum of 18 feet, while side loading garages shall be set back a minimum of three feet.**

Applicant's Response: To our knowledge, the applicant does not need any reductions to yard setbacks. The front loading garage is set back more than 18 feet.

- 2. Landscaping and parking requirements may be reduced for hardship properties but only if all or part of the WRA is dedicated pursuant to CDC 32.060(C) or if a restrictive deed covenant is established. These reductions shall be permitted outright and, to the extent that the practices are inconsistent with other provisions or standards of the West Linn**

CDC, this section is given precedence so that no variance is required. The allowable reductions include:

- a. Elimination of landscaping for the parking lot interior.**
- b. Elimination of the overall landscape requirement (e.g., 20 percent for commercial uses).**
- c. Elimination of landscaping between parking lots and perimeter non-residential properties.**
- d. Landscaping between parking lots and the adjacent right-of-way may be reduced to eight feet. This eight-foot-wide landscaped strip may be used for vegetated storm water detention or treatment.**
- e. A 25 percent reduction in total required parking is permitted to minimize or avoid intrusion into the WRA.**
- f. Adjacent improved street frontage with curb and sidewalk may be counted towards the parking requirement at a rate of one parking space per 20 lineal feet of street frontage adjacent to the property, subject to City Engineer approval based on the street width and classification.**
- g. The current compact and full sized parking mix may be modified to allow up to 100 percent compact spaces and no full sized spaces. However, any required ADA compliant spaces shall be provided.**

Applicant's Response: Not applicable.

G. Where a property owner owns multiple platted lots of record where each lot could be built upon under the hardship provisions, the property owner may either use the MDA for each lot on an individual lot by lot basis or may transfer 100 percent of the cumulative MDA of all the lots to those lots that are further away from, or less impactful upon, the WRA. Lot line adjustments may also be used to facilitate the density transfer. See Figure 32-8.

Applicant's Response: Not applicable.

H. Mitigation and re-vegetation of disturbed WRAs shall be completed per CDC 32.090 and 32.100 respectively.

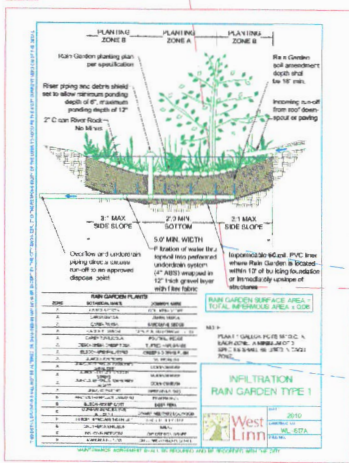
Applicant's Response: See responsive discussion elsewhere in this Application Narrative.

I. Any further modification of the standards of this chapter or the underlying zone shall require approval of a variance pursuant to Chapter 75 CDC. (Ord. 1623 § 1, 2014)

Applicant's Response: Not applicable.

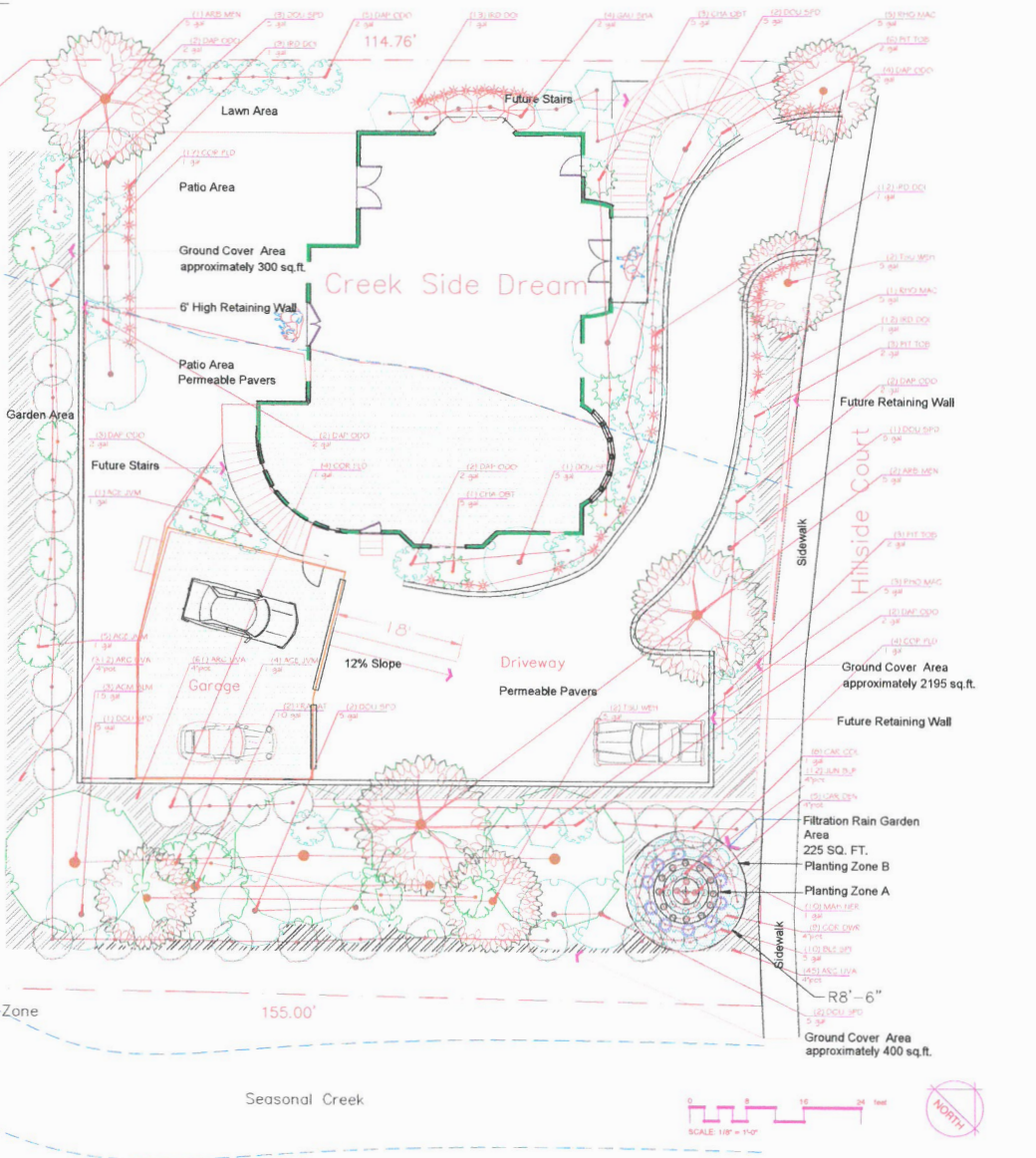
PLANT SCHEDULE

THREAT	CODE	BOTANICAL NAME / COMMON NAME	CONT	SCALE	SIZE	QTY	
NATIVE TREES	CHA DBT	Chamaecyparis obtusa / Shouke false cypress	5 gal	DBT	4"	4	
	ACE JVA	Acer circinnatum / Japanese Vire maple	1 gal	JVA	10"	10	
	ACM BLM	Aster macrophyllus / Big Leaf Aster	15 gal	BLM	3"	3	
	ARB MEN	Astragalus menziesii / Pacific Madrone	5 gal	MEN	3"	3	
	FRALAT	Fraxinus latifolia / Oregon Ash	78.45'	LAT	2"	2	
NATIVE PLANK GARDEN	TSU WBT	Thuja heterophylla / Western Hemlock	5 gal	WBT	4-4"	4	
	BLC SP	Betula spicata / Silver Birch	1 gal	SP	10"	10	
	CAR COL	Carex Apenina / Columbia sedge	1 gal	COL	6"	6	
	CAR DSD	Carex Jernia / Dense Sedge	4 gal	DSD	5"	5	
	COE DWP	Cornus sericea var. Sessilis / Dwarf red twig dogwood	4 gal	DWP	3"	3	
	JUN BLS	Juncus bulbosus / Bulbous Rush	4 gal	BLS	12"	12	
	MNH NEP	Muhlenbergia nutans / Low Oregon grass	1 gal	NEP	10"	10	
	COE FLD	Cornus Florida / Flowering Dogwood	1 gal	FLD	24"	24	
	RAF ODO	Ranunculus abortivus / Witches' Snuff	2 gal	ODO	22"	22	
	DCU DSD	Dioclea spicata / Spicata Dioclea	5 gal	DSD	12"	12	
NATIVE HERBACEOUS	SAU SPS	Saxifraga spicata / Sage	2 gal	SPS	4"	4	
	TRD DO	Trifolium Douglasii / Douglas iris	1 gal	DO	5"	5	
	HYT FOR	Hydrangea fortunei / Mock Orange	2 gal	FOR	12"	12	
	RNO MAC	Ranunculus maculatus	5 gal	MAC	5"	5	
	NATIVE GROUND COVER	APG LVA	Artemisia ludoviciana / Kunzea	4 gal	LVA	7-8"	7



KEY

- Permeable Paver Areas approximately 3200 sq. ft. 75% 2400 sq. ft.
- Impermeable Areas approximately 1800 sq. ft. 100% 1800 sq. ft.
- Impermeable Areas approximately 225 sq. ft. 100% 225 sq. ft.



General Notes

Design layout is based on information provided by client.

Field verify measurements prior to any construction.

Contractor shall be responsible for the location and protection of all underground utilities and shall accept full responsibility due to negligence.

All construction contracts shall be between owner and contractor exclusively. Landscape designer shall act as agent for owner and shall not be held liable for any portion of contract between owner and contractor.

The filtration rain garden area shall be constructed as specified by the city of west Linn WA 617 ABB-FILTRATION-RAIN GARDEN.

No.	Revision/Issue	Date
3.		
2.		
1.		

Company Info:
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Project	Sheet
Armed Residence	
Date	L 1
08-03-2016	
Scale	1 of 1
1"=8'-0"	

PLANTING PLAN

