

UPDATE TO THE STAFF REPORT RESPONDING TO THE AUGUST 17, 2016

PLANNING COMMISSION HEARING INSTRUCTIONS

FILE NUMBER: CUP-16-01, DR-16-02, VAR-16-02/03, WAP-16-06, WRG-16-02

HEARING DATE: September 7, 2016 (Continued from August 17, 2016)

REQUEST: A Conditional Use Permit to construct a four story self-storage facility (106,487 square feet) at 2400-2450 Willamette Falls Drive, also requiring two variances (including a Special Waiver), Class II Design Review, Water Resource Area (WRA) permit and a Willamette and Tualatin River Protection Area permit.

The applicant submitted a revised storm water detention and treatment design, a revised landscape plan and a revised storm water report on August 11, 2016. It was subsequently made available to the public on line and provided to Planning Commission members prior to the August 17, 2016 hearing. The storm water design provided above ground storm water detention and treatment facilities to comply with the City's Construction Code standards. The Planning Commission continued the hearing to September 7, 2016 to allow public consideration and comment upon the revised design.

This report modifies applicable findings based on the revised design and plans and recommends new conditions of approval. The modified staff findings are below:

CHAPTER 28, WILLAMETTE AND TUALATIN RIVER PROTECTION

28.110 APPROVAL CRITERIA

L. Roads, driveways, utilities, or passive use recreation facilities. Roads, driveways, utilities, public paths, or passive use recreation facilities may be built in those portions of HCAs that include wetlands, riparian areas, and water resource areas when no other practical alternative exists but shall use water-permeable materials unless City engineering standards do not allow that. Construction to the minimum dimensional standards for roads is required. Full mitigation and revegetation is required, with the applicant to submit a mitigation plan pursuant to CDC

32.070 and a revegetation plan pursuant to CDC 32.080. The maximum disturbance width for utility corridors is as follows:

1. For utility facility connections to utility facilities, no greater than 10 feet wide.
2. For upgrade of existing utility facilities, no greater than 15 feet wide.
3. For new underground utility facilities, no greater than 25 feet wide, and disturbance of no more than 200 linear feet of water quality resource area, or 20 percent of the total linear feet of water quality resource area, whichever is greater.

Modified Staff Finding 85: The two driveways will traverse Bernert Creek and associated wetlands since that is the only way to access the site. No other practical alternative exist. HCAs cover 95.8 percent of the site, therefore the intrusion of the development (building, utilities, etc.) into the HCAs is unavoidable. This chapter establishes a hierarchy for development in that it prefers that development shall be directed towards non-HCA first, then low HCA, then medium HCA areas and then to high HCA as the last choice. The goal is to, at best, avoid or, at least, minimize disturbance of the HCAs. Approximately 2,500 square feet of the self-storage building and driveway are within the medium HCA while the majority of the applicant's design for the remainder of the building footprint, driveways and utilities (storm water ponds as amended by the MacKenzie August 9, 2016 submittal including the revised Sheet C3) are within the low HCA, which is consistent with the hierarchy listed above. Development will be mitigated/re-vegetated at a rate of 100 percent and addressed on-site. The storm water ponds will be planted with native vegetation per the Landscape Plan. (See Schott and Associates Mitigation plan dated August 9, 2016 and revised Appendix C: "Willamette Falls Site Development and Mitigation Planting Plan".) These criteria are met.

CHAPTER 32, WATER RESOURCE AREA PROTECTION

32.060 APPROVAL CRITERIA (STANDARD PROCESS)

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.

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.*

Modified Staff Finding 97: The project will utilize the WRA for stormwater conveyance and includes stormwater treatment and detention facilities located within the Riparian Corridor area of the subject property. This is allowed if "there are no reasonable alternatives available." In the case of the subject property, approximately 77% of the site is covered by designated WRA, and reasonable development cannot be achieved without an encroachment into the WRA. All areas between the proposed building and its access/circulation are within the WRA and no reasonable alternatives exist. The proposed facilities will be constructed in a manner consistent with the above requirements.

The revised storm water detention and treatment pond in the east half of the site replaces a smaller pond. The revised design was at the request of the Engineering Department so as to be in conformance with City of West Linn Construction Code. Those standards require above ground facilities. The initial design was a mix of buried and above ground facilities and, therefore, did not comply with the Construction Code. According to the Schott and Associates August 9, 2016, letter: the "Proposed impact within the WRA has increased from 15,214 sf to 15,805 sf due to the expansion of the water quality facilities. Proposed mitigation shall consist of enhancement of the entire remaining Riparian Area. This area has decreased from 16,454 sf to 15,863 sf and continues to exceed the required 1:1 ratio for replacement. The additional area of impact is for stormwater quality ponds which will be planted per City of Portland Stormwater Management Manual and shall not be impervious surface but rather shall contribute to the overall function of the resource."

Areas disturbed to accommodate grading for these facilities will be similarly landscaped and are comprised within the 15,863 sf mitigation. The maximum disturbed area (MDA) of the WRA is under the allowed 30 percent, at 15,805 square feet. All ponds will be landscaped with native plantings.

No outfall will be located directly into the water resource as the outfalls will be located upslope of Bernert Creek with appropriate energy dissipation utilized to ensure the proposed facilities will not result in an erosive effect on the WRA. The roadside culvert under the driveway east of the site is proposed to be extended westerly within the right-of-way to accommodate the new on-site east driveway. Stormwater facilities are not proposed to have permanent perimeter fencing and will be landscaped with native vegetation. (See Schott and

Associates Mitigation plan dated August 9, 2016 and revised Appendix C: “Willamette Falls Site Development and Mitigation Planting Plan”.)

No public stormwater facilities are proposed on-site. No significant trees will be affected by the development. The criteria is met.

19.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

A. The following standards apply to all development including permitted uses:

10. Chapter 54 CDC, Landscaping.

Staff Finding 11: The applicant is landscaping 29,412 square feet (42 percent) out of a total site area of 68,824 square feet which exceeds the minimum 20 percent landscaping requirement. The majority of the landscaping is part of a WRA mitigation plan. The planting schedule and diversity of planting meets the standards of this chapter plus the landscape mitigation requirements of Chapter 32. The criteria is met by the adoption of the revised landscape plan (“Appendix C Willamette Falls Site Development and Mitigation Planting Plan”) attached to the August 9, 2016 Schott and Associates letter.

RECOMMENDATION

Staff recommends approval of application CUP-16-01, DR-16-02, VAR-16-02/03, WAP-16-06, WRG-16-02, based on: 1) the findings submitted by the applicant, which are incorporated by this reference, 2) supplementary staff findings included in the Addendum below, and 3) the addition of conditions of approval below. With these findings, the applicable approval criteria are met. The conditions are as follows:

1. Site Plans. With the exception of modifications required by these conditions, the project shall substantially conform to all submitted drawings dated 5/11/16 (T1.0), Topographical Survey (page 1), C1.0, C1.2, C1.3, C2.0, C3.0, C4.0, SL1.0, A1.0, A2.1, A3.1, and A4.1 as amended by the MacKenzie August 9, 2016 submittal including the revised Sheet C3 (stormwater facility, grading) and the Schott and Associates Mitigation plan dated August 9, 2016 and revised Appendix C: “Willamette Falls Site Development and Mitigation Planting Plan”.
2. Engineering Standards. All public improvements and associated facilities including street improvements, utilities, grading, onsite stormwater design, street lighting, easements, and easements locations are subject to the City Engineer’s review, modification, and approval. These improvements must be designed, constructed, and

completed prior to issuance of the Building Certificate of Occupancy or secured by instruments acceptable to the City Engineer.

3. Street Improvements. The applicant shall complete half street improvements, including pavement improvements, curbs, planter strips, street trees, street lights, sidewalks, pedestrian crossings, and street storm drainage for those portions of Willamette Falls Drive abutting the subject properties.
4. Onsite Stormwater Improvements. The applicant shall provide aboveground onsite stormwater facilities per the MacKenzie August 9, 2016 submittal including the revised Sheet C3.0. The design of the onsite stormwater facilities shall be subject to the City Engineer's review and approval. The onsite stormwater facilities shall be constructed and completed prior to issuance of the Building Certificate of Occupancy.
5. Tree Protection. The applicant shall provide appropriate root zone protections, at the direction of the City Arborist, for the significant on-site oak tree at the northeast corner of the site and a nearby off-site madrone.
6. East Driveway. The applicant shall prepare, sign and record an access consolidation and cross-over easement document including an agreement to the abandonment of the east driveway and construction of a driveway connection (consistent with the dimensional standards of CDC Chapter 48), to the existing driveway on the adjacent tax lot 3600 if, at such time, that access is made available by the adjacent property owner, through that tax lot to Willamette Falls Drive. The access consolidation and cross-over easement shall be reviewed and approved by the City Engineer. The abandoned east driveway corridor shall be subsequently restored and revegetated with native vegetation. The removal of the east driveway approach, associated infrastructures and restoration in the public right of way shall be reviewed and approved by the City Engineer.
7. Fire Flow. The applicant shall perform a fire flow test and submit a letter from Tualatin Valley Fire and Rescue showing adequate fire flow is present prior to the issuance of the final building certificate of occupancy.
8. Mitigation/ Re-Vegetation. Prior to occupancy the applicant shall complete mitigation/re-vegetation per CDC 32.090 and CDC 32.100 and must be consistent with the applicant's mitigation plan. See Schott and Associates Mitigation plan dated August 9, 2016 and revised Appendix C: "Willamette Falls Site Development and Mitigation Planting Plan".