

WEST LINN PLANNING COMMISSION
FINAL DECISION AND ORDER
SUB-18-03, WAP-18-04, and WRG-18-03

**IN THE MATTER OF A PROPOSAL TO DEVELOP THE “TRILLIUM CREEK” SIX-LOT
SUBDIVISION**

I. Overview

At its meeting on April 3, 2019, the West Linn Planning Commission (“Commission”) held the initial evidentiary public hearing to consider the request by Icon Construction and Development LLC, applicant, to approve a proposal to develop the “Trillium Creek” six-lot subdivision with a Water Resource Area Permit (WAP) and Willamette River Greenway Permit (WRG) at 3841/3843 Mapleton Drive. The approval criteria for land division are found in Chapter 85, the WAP permit in Chapter 32, and the WRG permit in Chapter 28 of the Community Development Code (CDC). The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The initial evidentiary hearing commenced with a staff report presented by Darren Wyss, Associate Planner. Rick Givens, Planning Consultant, and Bruce Goldson, Theta Engineering, presented on the applicant’s behalf. Steve Hopkins, Matthew Williams, Mary Robinson, Cindy Kauffman, Shane Hu, and Helen Lee provided oral testimony. Steve Hopkins also submitted written testimony. The primary concerns raised during testimony included:

- Questions regarding the setback requirements from Trillium Creek
- The danger of “daylighting” the piped section of Trillium Creek across the property
- Disruptions to the neighborhood from construction activity
- Questioned evidence provided to re-designate the habitat conservation area boundary
- Impact to the wildlife living on the property
- Lack of separation with the existing homes at the rear of the property
- Whether there is sufficient buildable area for Lots 5 and 6
- Problems associated with lack of improvements on adjacent partition
- Speeding vehicles are a danger to bikes/pedestrians
- Recommend installation of a sidewalk along subdivision frontage to improve safety
- Impact of development and “daylighting” creek on downstream properties
- Questions on the standard for a 15 foot setback
- Close proximity of driveways on Mapleton Drive
- Stormwater system should be designed to treat/detain 100-year event

Applicant representatives provide rebuttal and answered questions using statements or reports found in the land use application. Cindy Kauffman requested a continuance and the Planning Commission left the public hearing open and continued the hearing to April 17, 2019.

At the continued hearing on April 17, 2019, the Planning Commission heard additional oral testimony from Sam Murphy, Mary Robinson, Steve Hopkins, Cindy Kauffman, and Lisa Ledson. Steve Hopkins, Mary Robinson, and Cindy Kauffman also submitted written testimony. The primary concerns raised at the continued hearing included:

- Impact to downstream properties from “daylighting” the creek and who is accountable for damage
- Request to redesign the project so the access drive does not cross the creek
- What assurances do the neighbors have that the applicant follows through on the proposal
- Environmental damage and danger imposed by the proposal
- Potential for flooding from water main break in Mapleton Drive
- Safety issue with disabled children in neighborhood and support for installation of street improvements including sidewalks

The hearing was closed and the Planning Commission deliberated, including a discussion on the option of installing street improvements versus allowing payment of a fee-in-lieu. The Commission found the testimony submitted supported the installation of street improvements as part of the subdivision for improved safety along Mapleton Drive. A motion was made by Commissioner Kelly and seconded by Commissioner King to approve the application with six existing conditions of approval and including the addition of two new conditions of approval (shown on Page 3 as Conditions of Approval 7 and 8). The motion was passed with five votes in favor (Commissioners Kelly, King, Mathews, Metlen, and Pellett) and one vote opposed (Commissioner Farrell).

II. The Record

The record was finalized at the April 17, 2019, hearing. The record includes the entire file from SUB-18-01/WAP-18-04/WRG-18-03.

III. Findings of Fact

- 1) The Overview set forth above is true and correct.
- 2) The applicant is Icon Construction & Development, LLC.
- 3) The Commission finds that it has received all information necessary to make a decision based on the Staff Report and attached findings; public comment; and the evidence in the whole record, including any exhibits received at the hearing.

IV. Findings

The Commission adopts the Staff Report for April 3, 2019, with attachments, as its findings, which are incorporated by this reference with the original six conditions of approval and addition of conditions of approval 7 and 8. The Commission concludes that all of the required approval criteria are met subject to the following conditions of approval:

1. **Site Plan.** With the exception of modifications required by these conditions, the project shall substantially conform to all Tentative Plan Sheets.
2. **Engineering Standards.** All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. These must be designed, constructed, and completed prior to final plat approval.
3. **HCA Boundary.** The HCA Boundary is revised to align with the proposed riparian setback for the “daylighted” section of Trillium Creek across the subject property as identified on the Tentative Plan (Staff Finding 6). A copy of the map change report and final findings shall be provided to Metro and the City’s GIS mapping to initiate the change.
4. **Reciprocal Access and Maintenance Agreement.** The applicant shall record a reciprocal access and maintenance agreement for the private street serving Lots 2, 3, 4, and 5. The private street shall be named and the name shown on the final plat. The agreement shall be recorded with the final plat.
5. **Private Access Drive Public Utility Easement.** The applicant shall record a public utility easement over the private street for future maintenance of the public sanitary sewer line serving Lots 2, 3, 4, and 5. The easement shall be recorded with the final plat.
6. **Reduced Water Resource Area Document.** The applicant shall record a legal document that includes a legal description and map, signed by a City representative, describing the reduced WRA prior to final plat approval. The map must be coordinated with the City’s GIS Analyst.
7. **Stormwater and Creek Maintenance.** The applicant shall record a mutual maintenance agreement or other mechanism for all six lots:
 - a. to maintain and make necessary repairs to the private stormwater system; and
 - b. to make necessary repairs to the “daylighted” Trillium Creek in case of failure that impedes or reroutes the flow from the approved plans.
8. **No Parking Signs.** The applicant shall place no parking signs on one-side of the private access drive according to TVF&R spacing and design standards.

V. Order

The Commission concludes that SUB-18-03/WAP-18-04/WRG-18-03 is approved based on the Record, Findings of Fact and Findings above.

Charlie Mathews

CHARLIE MATHEWS, VICE-CHAIR
WEST LINN PLANNING COMMISSION

4/24/19

DATE

This decision may be appealed to the City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. This decision will become effective 14 days from the date of mailing of this final decision as identified below.

Mailed this 24th day of April, 2019.

Therefore, this decision becomes effective at 5 p.m., May 8, 2019.