

**Agenda Bill 2023-04-10-03**

Date Prepared: March 29, 2023

For Meeting Date: April 10, 2023

To: Rory Bialostosky, Interim Mayor  
West Linn City Council

Through: John Williams, City Manager *JW*

From: Darren Wyss, Planning Manager *DSW*

Subject: Appeal of WAP-22-02

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**Purpose:**

To deliberate to a decision on an appeal (AP-23-01) of the Planning Manager approval of application WAP-22-02, a Water Resource Area Permit at 19679 Wildwood Drive.

**Question(s) for Council:**

Should the Council approve the appeal AP-23-01 or deny the appeal and uphold the Planning Manager decision to approve WAP-22-02?

**Public Hearing Required:**

The public hearing was held on March 13, 2023. The hearing was closed, deliberations continued to a date certain of April 10, 2023, and the record left open for written comment, written rebuttal, and final written argument by the Applicant.

**Background & Discussion:**

Applicant Alex Kalmanson of 19679 Wildwood Drive submitted application [WAP-22-02](#) on October 6, 2022, requesting a Water Resource Area (WRA) permit utilizing the alternate review process outlined in Community Development Code (CDC) Chapter 32.070. The applicant proposed a reduction of the WRA buffer based on the evaluation that the associated stream met the CDC definition of an ephemeral stream and only requires a 15-foot buffer. The proposal included mitigation and plantings in compliance with CDC requirements to enhance the degraded stream corridor and improve its ecological function. The Planning Manager approved the application on January 17, 2023, based on the applicable criteria within chapters 32 and 99, as well as evidence submitted by the applicant.

An appeal was filed January 31, 2023, by Russ Axelrod and a public hearing was held March 13, 2023. Prior to the hearing, Council was provided an [Agenda Bill Packet](#) that included a staff report and the original approval of WAP-22-02. Written testimony was submitted prior to the comment deadline by the [Applicant](#), [Appellant](#), and the [public](#). At the hearing, through a request from a member of the public in attendance, the Council passed a motion of continuance. This motion closed the public hearing and established: 1) written testimony in response to what was heard at the public hearing would be accepted by Council by the deadline of March 20, 2023; 2) written rebuttal in response to additional

written testimony would be accepted by Council with a deadline of March 27, 2023; and 3) Council would accept the Applicant's final written argument with a deadline of noon on April 3, 2023.

The written testimony and written rebuttal (items 1 and 2 above) were sent to Council, the Applicant, and the Appellant via email and are also linked below in Attachments. Staff will provide Council the Applicant final written argument as soon as it is submitted.

**Budget Impact:**

None

**Sustainability Impact:**

Minimal increase in quality of a water resource area through applicant's proposed removal of invasive species from a degraded area and replanting of native species in a buffer along the affected extent.

**Council Options:**

1. Uphold the Planning Manager approval of WAP-22-02 by denying the appeal (AP-23-01)
2. Overturn the Planning Manager approval of WAP-22-02 by approving the appeal (AP-23-01), thus denying the Water Resource Area Permit.

**Staff Recommendation:**

Staff supports the Planning Manager Decision to approve the Water Resource Area Permit at 19679 Wildwood Drive and recommends denial of the appeal (AP-23-01) based on the findings contained in the staff report, the applicant's submittal, and all other reports, evidence, and testimony found in the records of WAP-22-02 and AP-23-01.

**Potential Motion:**

1. Move to make a tentative decision to deny the appeal (AP-23-01) and **uphold** the Planning Manager decision for approval of WAP-22-02, based on findings in the record, and direct staff to prepare a Final Decision and Order for Council adoption on a date certain of (insert date).
2. Move to make a tentative decision to approve the appeal (AP-23-01), thereby **overturning** the Planning Manager decision for approval of WAP-22-02, based on (insert reasons and evidence relied upon in the record) and direct staff to prepare a Final Decision and Order for Council adoption on a date certain of (insert date).

**Attachments:**

1. [Applicant Testimony submitted for the 3/20/23 additional testimony deadline](#)
2. [Appellant Testimony submitted for the 3/20/23 additional testimony deadline](#)
3. [Public Comments submitted for the 3/20/23 additional testimony deadline](#)
4. [Applicant Testimony submitted for the 3/27/23 testimony rebuttal](#)
5. [Appellant Testimony submitted for the 3/27/23 testimony rebuttal](#)
6. [Public Comments submitted for the 3/27/23 testimony rebuttal](#)