



CITY OF
West Linn
PLANNING COMMISSION PUBLIC HEARING

FILE NO.: MISC-10-13

HEARING

DATE: December 1, 2010

REQUEST: Extension of Water Resource Area permit (formerly called a Natural Drainageway Permit) and a Class II Variance for side yard setback and house height for a proposed house on a vacant lot west of 19740 Wildwood Drive (subject site has sometimes been referred to as 19738 Wildwood Drive)

APPROVAL

CRITERIA: Community Development Code (CDC) Chapter 32 Water Resource Area Protection; Chapter 75, Variance; Section 99.325 Extensions of Approval; and Chapter 11 Single-Family Residential Detached R-10

STAFF REPORT PREPARED BY: Tom Soppe, Associate Planner

Planning Director's Initials 

EXECUTIVE SUMMARY

The applicant proposes a two-year extension of the approval of a Natural Drainageway Permit (now called Water Resources Area Permit) and height and side setback variances for a house on the vacant lot west of 19740 Wildwood Drive (VAR-06-04/MISC-06-47). The Planning Commission approved the original application, effective March 19, 2007, subject to two conditions of approval. The requested extension, if approved, would expire March 19, 2012. CDC Section 99.325 allows extensions provided the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; there are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or the applicant has modified the approved plans to conform with the above criteria.

The subject lot is completely within the transition area of a Water Resources Area. Water Resource Area regulations have been adopted since the original approval that affect the proposal (see findings 4-22). Staff also found two omissions that occurred during the review of the previous application that directly affect the project: a) the lack of addressing an existing 6-foot wide utility easement along the lot's sides, and b) the lack of dedication or a conservation easement, required by former and current regulations, to protect the water

resource transition area from development (see Finding No. 1 for further discussion of both of these issues). These issues are addressed respectively by Condition of Approval 5 which limits the side setback variance to a 6-foot setback (consistent with the utility easement) and by the applicant’s proposal of a conservation easement for the undeveloped transition area.

Staff finds that the proposal, coupled with the conditions listed under the recommendation on Page 7, meets all applicable criteria of chapters 11, 75, and 32, and Section 99.325; therefore, staff recommends approval.

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GENERAL INFORMATION

OWNER/ APPLICANT:

Bill and Cindy Perkins, 19740 Wildwood Drive, West Linn, OR 97068

SITE LOCATION:

Vacant lot to the west of 19740 Wildwood Drive (sometimes referred to as 19738 Wildwood Drive)

LEGAL DESCRIPTION:

21E 23 AC Tax Lot 9004

SITE SIZE:

Approximately 0.25 acres

COMP PLAN DESIGNATION:

Low-Density Residential

ZONING:

R-10, Single-Family Residential Detached

120-DAY PERIOD:

The application became complete on October 19, 2010. The 120-day period therefore ends on February 16, 2011.

PUBLIC NOTICE:

Notice was mailed to property owners within 500 feet of the subject property and the Hidden Springs and Robinwood neighborhood associations on November 9, 2010 (property is in Hidden Springs, and Robinwood is within 500 feet). On November 18, 2010 the notice was printed in the West Linn Tidings. A sign was placed on the property on November 10, 2010. The notice was also posted on the City's website. Therefore, public notice requirements of CDC Chapter 99 have been met.

BACKGROUND

Site Conditions: The subject lot is identified by a purple "x" on the map below. A lot line adjustment approved in 2006, LLA-06-02, reconfigured the lot to eliminate the portion of the adjoining house that straddled the property line. The subject lot consists almost entirely of 25% and greater slopes, descending from the highest area along Wildwood Drive to a drainageway depicted in blue on the map below. The topography is depicted on the existing conditions plan in Exhibit PC-5 on Page 58. Trees cover most the site. The subject lot is completely within the transition area of a Water Resources Area. The undeveloped portion of the lots would be contained in a conservation easement (see the Site and Disturbance Limits Plan on page 36 of Exhibit PC-5).



Site/Vicinity Aerial Photo (Site with purple “x”, the drainageway in blue line, which drains from a stormwater pipe represented by the green line)

Surrounding Land Use and Zoning: The subject lot, shown with a purple “x” and outline on the map below, is zoned R-10. It is located in the Hidden Springs Ranch No. 9 subdivision along the north side of Wildwood Drive. Other single-family residential lots, most of which are developed, lie to the east and across the street. Bordering the site to the west and north is a City-owned open space tract that contains a drainageway that extends from the subject site. The drainageway is a tributary of Robin Creek; Robin Creek itself is the drainageway depicted in the west and northwest area of the map.



Zoning /Vicinity Map (Site with purple “x” and purple border, R-10 zoning is yellow, General Commercial zoning is red, on-site drainageway and Robin Creek both in blue)

The site in a part of the City that predominately consists of R-10 zoning. As can be seen in the map above, General Commercial (GC) zoning, including a plethora of retail and office uses, lies several blocks to the northeast. The following table conveys the land uses and zoning surrounding the site.

DIRECTION FROM SITE	LAND USE	ZONING
North	City-owned open space, single-family houses	R-10
East	Single-family houses, general commercial uses several blocks down the hill along and around Willamette Drive	R-10, GC far down the hill
South	Single-family houses	R-10
West	City-owned open space, single-family houses	R-10

Project Description: Effective March 19, 2007, the Planning Commission approved a Natural Drainageway permit (now called a Water Resources Area permit) for a single-family detached house on the subject site, along with Class II variances for building height and side yard setback encroachment. The applicant requests an extension of that approval. While the original decision did not include a requested front setback variance, the current proposal calls for the house to be located 15 feet from the front lot line instead of the standard setback of 20 feet, per 32.050(O). (See Finding No. 16).

The applicant proposes a maximum 4,050 square foot, two-story house with a daylight basement that, due to the steepness of the lot, would be elevated approximately 19 feet above the house footings (see Exhibit PC-5, Page 63, the left elevation drawing). This is the same structure approved under the original application's height and side yard setback variances, moved 5 feet to the front per the provision of 32.050(O) (see Finding No. 16 below). The rear height of 57 feet, 8 inches from the lowest footing to the top of the roof is the same height approved originally. Measured from the ground elevation 5 feet away (downhill) from the house to the top of the roofline, as required per Chapter 2 Definitions, the rear of the structure is approximately 60 feet in height. The structure is proposed to be 25 feet, 8 inches tall in front, which was also proposed originally.

Public comments: No public comments have been received at the time of the publishing of the staff report.

Comments from outside agencies: Jim Everett of Tualatin Valley Fire and Rescue (TVFR) told City staff on the telephone that they approve the project as the proposed house has direct frontage on an existing through street.

ANALYSIS

Chapter 11 applies to all development in the R-10 zone. CDC Section 99.325 addresses extensions. As a proposed extension for a Natural Drainageway Permit (now called a Water Resources Area permit) and variances, chapters 32 and 75 apply but, per CDC Section 99.325, only to the extent that the regulations have changed since the application was vested and where there are errors, omissions, changes in fact, or misrepresentations.

In 2007, CDC Chapter 32 was amended to include new setback, new mitigation and revegetation requirements for sites such as the subject lot, which is completely within the transition area of a Water Resources Area. Both under the former Chapter 32 and under the current Chapter 32, vacant lots of record in a residential zone that are completely within a Water Resource Transition Area can be developed with a single-family house.

CDC Section 32.090 is intended to ensure that Chapter 32 “does not cause unreasonable hardship.” It applies when “strict application of CDC Chapter 32 would deprive an owner of all economically viable use of land.” That is the situation here as the entire lot is within the transition area and therefore would be unbuildable without the hardship provisions. See Finding No. 21 for staff’s analysis of the minimum economic viability of the land, which the applicant has achieved by agreeing with staff to implement Condition of Approval 7.

The Revegetation Plan provisions of CDC Section 32.080 call for the vegetative restoration of sections of the transition area that would be temporarily disturbed during construction. This would normally apply to projects with development within the transition area, but in the case of this development the only areas to be disturbed during construction of the house, driveway, and stormwater facility will serve as a usable front yard area or as narrow areas to access the side and rear walls of the house and the stormwater facility.

Because parts of the transition area will be permanently developed, the Mitigation Plan provisions of 32.070 apply. The applicant proposes to mitigate for both the proposed yard and house footprint within the transition area by paying a fee for the City to restore a comparable disturbed transition area in Fields Bridge Park in the Willamette neighborhood (see applicant’s mitigation area map on Page 91 of Exhibit PC-5). This proposed mitigation site is contiguous to other restoration projects. The proposed off site mitigation with City monitoring and maintenance will likely have greater restoration value, ecological impact and longevity than restoration of a small, isolated area, which tend to be quickly overtaken by invasive plants.

Chapter 75 provides for variances. The approval criteria are listed in 75.060 and have not changed since the original application. Chapter 75 provides for variances. The approval criteria are listed in 75.060, which has not changed in content since the original application. Chapter 2 Definitions requires building height to be measured from the ground 5 feet downhill from the house, to the top of the roofline. Per this measurement method the house is less than one foot greater than the 57 foot 8 inch height measured from the bottom of the footing. The proposed height via this measurement method is approximately the same as in the original approval. This is approximately 13 feet higher than the 45-foot-high maximum allowed by CDC 41.020 for the downhill side of a house on a steep lot. The house will measure 25 feet 8 inches tall in front, the same as approved before.

RECOMMENDATION

Staff recommends approval of the requested extension subject to the following conditions:

1. Site Plan. The development shall conform to the Site and Disturbance Limits Plan, dated October 18, 2010, on Page 36 of Exhibit PC-5.
2. Previous Approval. Unless modified by these conditions, the project shall conform to the conditions of original approval (VAR-06-04/MISC-06-47). (See pages 23-24 of Exhibit PC-1).
3. Interim Erosion Control Measures. The implementation of the vegetative improvement plan required by Condition of Approval 2 in file VAR-06-04/MISC-06-47 shall include interim erosion control measures to avoid erosion on exposed soil, consistent with applicable regulations.
4. Native Vegetation in Stormwater Treatment Facility. Only native vegetation shall be planted in the proposed stormwater treatment facility on site.
5. Side Setback Variance. The west side yard setback shall not be less than 6 feet.
6. Recording of Conservation Easement. The conservation easement shown on the applicant's Site and Disturbance Limits Plan (Page 36 of Exhibit PC-5) shall be recorded with Clackamas County.
7. Limitation of House Square Footage. The finished square footage of the house shall not exceed 4,050 square feet.

Notes to applicant:

1. As an extension, approval of this application will expire two years after the expiration date of the original application –March 19, 2012.
2. All conditions of approval are required to be fulfilled and all public improvements finished before the City issues a final certificate of occupancy for the proposed house.
3. The height variance is for a maximum rear height of 57 feet 8 inches as measured from the lowest footing to the peak of the roof.

**APPLICABLE REGULATIONS AND ASSOCIATED
SUPPLEMENTAL FINDINGS
MISC-10-13**

Staff recommends adoption of the findings for approval contained within the applicant's submittal, with the following exceptions and additions:

99.325 EXTENSIONS OF APPROVAL

A. The Planning Director [note: or Planning Commission as applicable] may grant an extension from the effective date of approval of two years pertaining to applications listed in CDC 99.060(A) upon finding that:

- 1. The applicant has demonstrated, and staff and the Planning Commission concur, that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and*
- 2. There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or*
- 3. The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.*

FINDING NO. 1:

As findings below document, the applicant has demonstrated that the application is in conformance with applicable CDC provisions and relevant approval criteria of chapters 11, 32, and 75, upon the fulfillment of the proposed conditions of approval.

There were two omissions in the previous application review that directly impact the project. One involves a utility easement on site which overlaps with the side setback variance as previously approved. As can be seen on the attached City GIS map (Page 25 of Exhibit PC-2) and in note number 3 of the plat for Hidden Springs Ranch No. 9, (Page 26 of Exhibit PC-2) there is a 6-foot wide utility easement on each side of the lot. The requested side setback variance is for a 5-foot setback on the west side, which would overlap the easement. As no building can be built in an easement, the City cannot approve this variance as requested; it must be modified to be a variance for a 6-foot setback to be approved. Condition of Approval 5 requires the side setback variance on the west side of the property be for a 6-foot wide building setback instead of a 5-foot wide setback.

The other omission in the previous application regards the fact that, as is the case now under CDC Section 32.050(D), Chapter 32 at that time required (under what was then 32.050[4]) that the undeveloped transition area on site be placed in a conservation easement or be

dedicated to the City. This easement or dedication was not proposed by the applicant or required by the City as part of the original application and its approval. In the extension application the applicant proposes a conservation easement for the transition area on site proposed to remain undeveloped. Condition of Approval 6 requires this to be properly recorded on the plat and with Clackamas County.

Staff found no other errors or omissions. As discussed in other findings below, the applicant has modified the approved plans to conform to current approval criteria, and staff proposes conditions of approval to ensure that all other current criteria and utility easement boundaries are complied with through the implementation of this extension. The criteria are met upon the implementation of the conditions of approval.

B. The Planning Commission may grant an extension from the effective date of approval of two years pertaining to applications listed in CDC 99.060(B), consistent with subsections (A)(1) through (3) of this section.

C. The Historic Review Board may grant an extension from the effective date of approval of two years for applications listed in CDC 99.060(D), consistent with subsections (A)(1) through (3) of this section.

D. Eligibility for extensions.

1. Only those applications approved between July 1, 2006, and December 31, 2009, shall be eligible for an extension.

2. Any application eligible for an extension under subsection (D)(1) of this section that would expire by June 30, 2010, shall be exempt from expiration pending a decision regarding the extension application; provided, that a complete application and deposit fee have been submitted to the Planning Director prior to that date. However, the extension shall begin on the date that the application's initial approval lapsed.

FINDING NO. 2:

The original application for VAR-06-04/MISC-06-47 was approved by the Planning Commission on February 22, 2007, and the decision became effective on March 19, 2007. Therefore the expiration date for the original application was March 19, 2010. The application is eligible for an extension per (D)(1) above. Also, (D)(2) above allows applications qualifying under (D)(1) that have expiration dates falling earlier than June 30, 2010 to apply for extensions if a deposit fee and application are submitted before June 30, 2010. The application for this extension was submitted on June 10, 2010. If approved, the extension will have a deadline of March 19, 2012- two years after the original approval expiration date. The criteria are met.

CHAPTER 11, SINGLE-FAMILY DETACHED R-10 DISTRICT

Chapter 11, the R-10 zone, provides use regulations and development standards that apply to the site. Single-family detached residential units are allowed outright in this zone with a minimum lot size of 10,000 square feet. Lots are required to be at least 35 feet wide along the

street frontage with average widths above 50 feet. The maximum lot coverage is 35% and the maximum floor area ratio is 0.45.

FINDING NO. 3:

This is an existing lot of record of over 10,700 square feet. The applicant proposes a single-family detached residential unit on the lot. The lot is over 35 feet wide along the street frontage, with an average width of more than 50 feet. Practically all of the lot consists of Type I and II lands (as described in CDC Chapter 2 Definitions), so Subsection 11.070(4) regarding lot depth in relation to lot width does not apply. Subsection 11.070(5)(a) requires a front house setback of 20 feet, but the applicant is utilizing the provision in 32.050(O) in which a house can be placed 15 feet from a front property line in order to ensure it is as far away as possible from a natural drainageway.

Subsection 11.070(5)(b) requires an interior side yard setback of 7.5 feet. This setback will be maintained on the east side of the house, and a variance for a 5-foot setback is requested for the west side of the house (see Finding No. 23 regarding the variance criteria of 75.060, and Finding No. 1 and Condition of Approval 5 above requiring a 6-foot setback due to the existing utility easement). The required rear yard setback of 20 feet required by Subsection 11.070(5)(d) will be met.

Subsection 11.070(6) requires a maximum building height of “35 feet, except for steeply sloped lots in which case the provisions of Section 41.000 shall apply.” This is a steeply sloped lot, and the applicant’s proposal requests a variance for the house’s height to exceed this provision and the provisions of Section 41.000 (see Finding No. 23 in which staff finds that the request for this variance meets the variance criteria of Chapter 75). The proposed house would fall below the 35% lot area coverage maximum and the 0.45 floor area ratio maximum. Section 11.070(10) requires the sidewall provisions of Chapter 43 to apply.

Section 43.040(A) requires the sidewalls to be divided into planes of 700 square feet or less. The east side elevation of the house (see Page 65 of Exhibit PC-5) meets this criterion; the west side elevation (see Page 63 of Exhibit PC-5) is exempt from this criterion per Subsection 43.040(C)(4) as this side of the lot borders a publicly owned open space. The criteria of Chapter 11 is met except for the height and side setback provisions, for which a variance was granted as part of the original application and which proposed Condition of Approval 5 ensures will be compliant with the utility easement on site.

32.050 APPROVAL CRITERIA

No application for development on property containing a water resource area shall be approved unless the decision-making authority finds that the following standards have been satisfied, or can be satisfied by conditions of approval.

A. Proposed development submittals shall identify all water resource areas on the project site. The most currently adopted Surface Water Management Plan) shall be used as the basis for determining existence of drainageways. The exact location of drainageways identified in the Surface Water Management Plan, and drainageway classification (e.g., open channel vs. enclosed storm drains), may have to be verified in the field by the City Engineer. The Local Wetlands Inventory shall be used as the basis for determining existence of wetlands. The exact location of wetlands identified in the Local Wetlands Inventory on the subject property shall be

verified in a wetlands delineation analysis prepared for the applicant by a certified wetlands specialist. The Riparian Corridor inventory shall be used as the basis for determining existence of riparian corridors.

FINDING NO. 4:

The submittal shows the entire property to be in the transition area and shows the drainageway on site. The criterion is met.

B. Proposed developments shall be so designed as to maintain the existing natural drainageways and utilize them as the primary method of stormwater conveyance through the project site unless the most recently adopted West Linn Surface Water Management Plan calls for alternate configurations (culverts, piping, etc.). Proposed development shall, particularly in the case of subdivisions, facilitate reasonable access to the drainageway for maintenance purposes.

FINDING NO. 5:

The natural draingeway will be maintained and it will still be the primary drainage destination for stormwater on the property. The criterion is met.

C. Development shall be conducted in a manner that will minimize adverse impact on water resource areas. Alternatives which avoid all adverse environmental impacts associated with the proposed action shall be considered first. For unavoidable adverse environmental impacts, alternatives that reduce or minimize these impacts shall be selected. If any portion of the water quality resource area is proposed to be permanently disturbed, the applicant shall prepare a mitigation plan as specified in CDC 32.070 designed to restore disturbed areas, either existing prior to development or disturbed as a result of the development project, to a healthy natural state.

FINDING NO. 6:

The entire lot is in the transition area. The applicant has therefore applied for this extension using the current hardship provisions of CDC Section 32.090 (see findings 21-22 below for analysis), and has submitted a mitigation plan per Section 32.070 (see Finding No. 19 below).

D. Water resource areas shall be protected from development or encroachment by dedicating the land title deed to the City for public open space purposes if either: 1) a finding can be made that the dedication is roughly proportional to the impact of the development; or, 2) the applicant chooses to dedicate these areas. Otherwise, these areas shall be preserved through a protective easement. Protective or conservation easements are not preferred because water resource areas protected by easements have shown to be harder to manage and, thus, more susceptible to disturbance and damage. Required 15-foot wide structural setback areas do not require preservation by easement or dedication.

FINDING NO. 7:

The applicant proposes a permanent disturbance area including the house (see Site and Disturbance Limits Plan, Page 36 of Exhibit PC-5), the 15-foot front setback allowed by 32.050(O), the small side yard setbacks, and a strip of 10 feet in width behind the house. This strip behind the house will include the stormwater planter box and will allow the

property owner access to this box and the rear wall of the house for maintenance. The side yard setbacks remaining outside the easement will also allow the property owner access to the side of the house for maintenance. The remainder of the lot, to the north of the disturbance area, will be placed in a conservation easement as shown on the Site and Disturbance Limits Plan. As this is an approximately 10,700 square foot lot in the R-10 zone, dedication of the undeveloped transition area on site to the City would reduce the size of the lot itself to below the required 10,000 square foot minimum lot size. In addition, splitting a property of this size into an applicant-owned lot and a City-owned tract would not be proportionate to the development's impact. Therefore a conservation easement is preferable to dedication in this situation. Condition of Approval 6 ensures that the easement will be recorded with Clackamas County.

E. The protected water resource area shall include the drainage channel, creek, wetlands, and the required setback and transition area. The setback and transition area shall be determined using the following table:

FINDING NO. 8:

The lot consists of 25%+ sloped land within 200 feet of the natural drainageway. Therefore the entire lot is within the transition area per the table in the CDC referred to in (E) above (Table 32-1). Consequently, the applicant has applied to develop part of the transition area under the hardship provisions of CDC Section 32.090. See findings 21-22 below for a discussion of Section 32.090. The remainder of the lot will be protected in a conservation easement as discussed in Finding No. 7.

F. Roads, driveways, utilities, or passive use recreation facilities may be built in and across water resource areas when no other practical alternative exists. Construction shall minimize impacts. 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 Section 32.070 and a revegetation plan pursuant to CDC Section 32.080. The maximum disturbance width for utility corridors is as follows:

- a. For utility facility connections to utility facilities, no greater than 10 feet wide.*
- b. For upgrade of existing utility facilities, no greater than 15 feet wide.*
- c. 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% of the total linear feet of Water Quality Resource Area, whichever is greater.*

FINDING NO. 9:

The entire lot is in the water resource area. A driveway will connect the house to the street and the house will be connected to basic utilities. The criterion is met.

G. Prior to construction, the water resource area shall be protected with an anchored chain link fence (or approved equivalent) at its perimeter and shall remain undisturbed except as specifically allowed by an approved water resource area permit. Such fencing shall be maintained until construction is complete. The water resource area shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals that clearly delineate the extent of the protected area.

FINDING NO. 10:

The applicant is compliant with the requirement to use these protections during the construction phase for the areas of the transition area to remain undeveloped, per the applicant's findings on pages 47 and 75 of Exhibit PC-5.

H. Paved trails, walkways, or bike paths shall be located at least 15 feet from the edge of a protected water feature except for approved crossings. All trails, walkways, and bike paths shall be constructed so as to minimize disturbance to existing native vegetation. All trails, walkways, and bike paths shall be constructed with a permeable material and utilize Low Impact Development (LID) construction practices.

I. Sound engineering principles regarding downstream impacts, soil stabilization, erosion control, and adequacy of improvements to accommodate the intended drainage through the drainage basin shall be used. Storm drainage shall not be diverted from its natural watercourse. Inter-basin transfers of storm drainage shall not be permitted.

J. Appropriate erosion control measures based on CDC Chapter 31 requirements shall be established throughout all phases of construction.

FINDING NO. 11:

None of the above facilities listed in (H) are proposed, so (H) is not applicable. Staff adopts the applicant's findings on pages 48 and 75-76 of Exhibit PC-5 to find that (I) and (J) are met. The stormwater planter box proposed behind the house (see Site and Disturbance Limits Plan on Page 36 of Exhibit PC-5) will drain treated water to the drainageway downhill behind the house.

K. Vegetative improvements to areas within the water resource area may be required if the site is found to be in an unhealthy or disturbed state, or if portions of the site within the water resource area are disturbed during the development process. "Unhealthy or disturbed" includes those sites that have a combination of native trees, shrubs, and groundcover on less than 80% of the water resource area and less than 50% tree canopy coverage in the water resource area. "Vegetative improvements" will be documented by submitting a revegetation plan meeting CDC Section 32.080 criteria that will result in the water resource area having a combination of native trees, shrubs, and groundcover on more than 80% of its area, and more than 50% tree canopy coverage in its area. Where any existing vegetation is proposed to be permanently removed, or the original land contours disturbed, a mitigation plan meeting CDC Section 32.070 criteria shall also be submitted. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Upon approval of the mitigation plan, the applicant is responsible for implementing the plan during the next available planting season.

FINDING NO. 12:

Condition of Approval 2 from the original approval requires a vegetative improvement plan that "in addition to planning for the removal and replacement of vegetation that needs to be removed for construction activity, shall plan for the removal of all non-indigenous, exotic, and invasive species on site and shall include what native vegetation will replace these species. Any debris on site shall also be removed." See this condition on pages 23-24 of Exhibit PC-1. For the mitigation plan, the applicant will submit the appropriate funds for the appropriate amount of mitigation in Fields Bridge Park (see Finding No. 19 below).

Condition of Approval 3 above requires interim erosion control measures to avoid erosion per Section (K) above. Upon the implementation of Condition of Approval 3, the criterion is met.

L. Structural Setback area: where a structural setback area is specifically required, development projects shall keep all foundation walls and footings at least 15 feet from the edge of the water resource area transition and setback area if this area is located in the front or rear yard of the lot, and 7 ¾ feet from the edge of the water resource area transition and setback area if this area is located in the side yard of the lot. Structural elements may not be built on or cantilever over the setback area. Roof overhangs of up to three feet are permitted in the setback. Decks are permitted within the structural setback area.

FINDING NO. 13:

The entire property is in the transition area, so this criterion cannot be fulfilled. When this criterion cannot be fulfilled, applicants must respond to the hardship provisions of Section 32.090, as the applicant has done. See findings 21-22.

M. Stormwater Treatment Facilities may only encroach a maximum of 25 feet into the outside boundary of the water resource area; and the area of encroachment must be replaced by adding an equal area to the water quality resource area on the subject property. Facilities that infiltrate storm water onsite, including the associated piping, may be placed at any point within the water resource area outside of the actual drainage course so long as the forest canopy and the areas within ten feet of the driplines of significant trees are not disturbed. Only native vegetation may be planted in these facilities.

FINDING NO. 14:

The proposed stormwater treatment facility will encroach more than 25 feet into the outside boundary of the water resource area, as it is proposed in the only place it can be, which is between the proposed house and the natural drainageway downhill to the north. This is acceptable per the hardship provisions of Section 32.090 which anticipate and provide for development on lots such as this one that are completely within the transition area. Condition of Approval 4 ensures that only native vegetation will be planted in this facility.

N. As part of any proposed land division or Class II Design Review application, any covered or piped drainageways identified on the Surface Water Quality Management Plan Map shall be opened, unless the City Engineer determines that such opening would negatively impact the affected storm drainage system and the water quality within that affected storm drainage system in a manner that could not be reasonably mitigated by the project's site design. The design of the reopened channel and associated transition area shall be considered on an individualized basis, based upon the following factors:

- 1. The ability of the reopened storm channel to safely carry storm drainage through the area.*
- 2. Continuity with natural contours on adjacent properties*
- 3. Continuity of vegetation and habitat values on adjacent properties.*

4. *Erosion control*
5. *Creation of filters to enhance water quality*
6. *Provision of water temperature conducive to fish habitat*
7. *Consideration of habitat and water quality goals of the most recently adopted West Linn Surface Water Management Plan.*
8. *Consistency with required site Mitigation Plans, if such plans are needed.*

The maximum required setback under any circumstance shall be the setback required as if the drainage way were already open.

The maximum required setback under any circumstance shall be the setback required as if the drainage way were already open.

FINDING NO. 15:

The application does not involve design review or land division. The criterion is not applicable.

O. The decision-making authority may approve a reduction in applicable front yard setbacks abutting a public street to a minimum of fifteen feet and a reduction in applicable side yard setbacks abutting a public street to 7 ¾ feet if the applicant demonstrates that the reduction is necessary to create a building envelope on an existing or proposed lot of at least 5,000 square feet.

FINDING NO. 16:

The applicant's plans have been modified in the extension application to take advantage of this provision in proposing a 15-foot front setback (the original application was approved for the 20-foot setback only, as this criterion did not exist in the Chapter 32 of that time). The sides of the lot do not border a public street. The criterion is met.

P. Storm Drainage Channels not identified on the Surface Water Management Plan Map, but identified through the development review process, shall be subject to the same setbacks as equivalent mapped storm drainage channels.

FINDING NO. 17:

No additional channels have been identified.

32.070 MITIGATION PLAN

A mitigation plan shall be required if any portion of the water resource area is proposed to be permanently disturbed by development.

A. All mitigation plans must contain an alternatives analysis demonstrating that:

1. *No practicable alternatives to the requested development exist that will not disturb the water resource area; and,*

2. *Development in the water resource area has been limited to the area necessary to allow for the proposed use; and,*
3. *An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to the water resource area will be avoided and/or minimized.*

B. A mitigation plan shall contain the following information:

1. *A description of adverse impacts that will be caused as a result of development.*
2. *An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, the revegetation provisions of CDC Section 32.050(K).*
3. *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.*

FINDING NO. 18:

As the entire site is in the water resource area, no alternative developments exist that will not disturb the water resource area. Development has been limited to the area necessary to build a single family house. The applicant has fulfilled the requirement to submit the material listed in the other criteria above.

4. *A map showing where the specific mitigation activities will occur.*
5. *An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting, and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife water work periods.*
6. *Assurances shall be established to rectify any mitigation actions that are not successful. This may include bonding or other surety.*
7. *Evidence that a Joint Permit Application (to the U.S. Army Corps and OR DSL) if impacts to wetlands are greater than 0.10 acres, has been submitted and accepted for review.*

C. Mitigation of any water resource areas that are not wetlands that are permanently disturbed shall be accomplished by creation of a mitigation area equal in size to the area being disturbed. Mitigation areas may be land that is either

1. *On-site, not within the water resource area, and is characterized by existing vegetation qualifying that does not meet the standard set forth in CDC Section 32.050(K), or*
2. *Off-site, and is characterized by existing vegetation that does not meet the standard set forth in CDC Section 32.050(K).*

The applicant shall prepare and implement a revegetation plan for the mitigation area pursuant to CDC Section 32.080, and which shall result in the area meeting the standards set forth in CDC Section 32.050(K). Adequacy of off-site mitigation areas on city property must be consistent with and meet approval of the City Department of Parks and Recreation. Any off-site mitigation occurring on privately-owned land shall be protected with a conservation easement.

D. The Mitigation Plan for any wetland area to be disturbed shall be 1) prepared and implemented with the guidance of professionals with experience and credentials in wetland areas and values, and 2) be consistent with requirements set forth by regulatory agencies (U.S. Army Corps and OR DSL) in a Joint Permit Application, if such an Application is necessary for the disturbance. Where the alternatives analysis demonstrates that there are no practicable alternatives for mitigation on site, off-site mitigation shall be located as follows:

- 1. As close to the development site as is practicable above the confluence of the next downstream tributary, or if this is not practicable;*
- 2. Within the watershed where the development will take place, or as otherwise specified by the City in an approved wetland mitigation bank.*

E. To ensure that the mitigation area will be protected in perpetuity, proof that the area has been dedicated to the City or a conservation easement has been placed on the property where the mitigation is to occur is required.

FINDING NO. 19:

Small, isolated native plant restoration areas used for mitigation can be quickly overrun by non-native plants. Consequently, the City is pursuing pooling mitigation in larger areas where restoration is needed, including in Fields Bridge Park. In such cases, the applicant pays the City for all of the resources, labor, and other expenses that it will take for the City to implement mitigation equivalent to the mitigation that would otherwise occur onsite. This practice makes the mitigation implementation process smoother for both the applicant and the City, and it is expected to produce better and more long-lasting results because larger, pooled mitigation areas are not as quickly and easily overrun by non-natives after restoration occurs. The applicant has agreed to implement mitigation via this practice as shown by their findings regarding these criteria on pages 52-53 and 80-81 of Exhibit PC-5.

32.080 REVEGETATION PLAN REQUIREMENTS

Metro's native plant list is incorporated by reference as a part of CDC Chapter 32, and all plants used in revegetation plans shall be plants found on the Metro native plant list. Performance standards for planting upland, riparian and wetland plants include the following:

- A. Native trees and shrubs will require temporary irrigation from June 15 to October 15 for the three years following planting.*
- B. Invasive non-native or noxious vegetation shall be removed within the area to be revegetated prior to planting.*

C. Replacement trees must be at least one-half inch in caliper, measured at 6 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.

D. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than 4 plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing requirements.

E. Shrubs must consist of at least two different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same species.

F. The responsible party shall provide an appropriate level of assurance documenting that 80 percent survival of the plants has been achieved after three years, and shall provide annual reports to the Planning Director on the status of the revegetation plan during the three year period.

FINDING NO. 20:

Because the applicant's proposal is divided into permanent disturbance areas (house, front setback area, side setback areas, stormwater planter, and 10 foot area to access stormwater planter and rear) and areas to remain undeveloped, a revegetation plan is not needed as revegetation plans are for areas to be temporarily disturbed during construction.

32.090 REDUCTION IN STANDARDS FOR HARDSHIP

The purpose of CDC Section 32.090 is to ensure that compliance with CDC Chapter 32 does not cause unreasonable hardship. To avoid such instances, the requirements of CDC Chapter 32 may be reduced. Reductions are also allowed when strict application of CDC Chapter 32 would deprive an owner of all economically viable use of land. The decision making authority may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief.

A. Lots located completely inside the water resource area. Development may occur on lots located completely within the water resource area that are recorded with the County Assessor's Office on or before the effective date of this ordinance. Development shall disturb the minimum necessary area to allow the proposed use or activity, and in any situation no more than 5,000 square feet of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards in CDC Chapter 31, and subject to a finding that the proposed development does not increase danger to life and property due to flooding and erosion.

FINDING NO. 21:

The lot is located completely within the water resource area. The proposed disturbance area is 4,700 square feet, less than the 5,000 square foot maximum allowed above.

As part of the analysis for a previous Water Resource Area permit this year, staff did research regarding the minimum value of a house that banks are generally willing to provide construction loans for in West Linn, relative to the value of the lot. Staff found that new home construction in West Linn can be expected to be about \$100 per square foot of living area and improvement costs should be approximately 3 times the value of the lot. Per the Clackamas County data available on City GIS, the current value of the subject lot is \$136,208. Three times the value of this would be \$408,624. At \$100 per square foot the minimum economically viable house here can be expected to be 4,086 square feet. While the floorplans attached on pages 66-68 of Exhibit PC-5 show a house with 4,505 square feet of finished area, the applicant has agreed to modify these before building the house so they will be 4,050 square feet or less (see Page 34 of Exhibit PC-5). This is implemented via Condition of Approval 7. The criterion is met.

Staff will ensure at the time of building permit review that the proposed development does not increase danger and that the construction adheres to the erosion and sediment control standards in CDC Chapter 31.

B. Lots located partially inside the water resource area. A reduction to avoid the loss of all economically viable use of a vacant lot recorded with the County Assessor's Office on or before the effective date of this ordinance that is partially inside the water resource area is permitted. Development on such lots shall not disturb more than 5,000 square feet of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards of CDC Chapter 31. Applicants must demonstrate the following:

- 1. Without the proposed reduction, the applicant would be denied economically viable use of the subject property. To meet this criterion, the applicant must show that no other application could result in permission for an economically viable use of the subject property. Evidence to meet this criterion shall include a list of uses allowed on the subject property.*
- 2. The proposed intrusion is the minimum necessary to allow economically viable use of the subject property.*
- 3. The proposed reduction will comply with CDC Chapter 31, Erosion Control;*

C. If a reduction in standards is granted pursuant to criteria of CDC 32.090(B), the reduction shall be subject to the following conditions:

- 1. The minimum width of the water resource area's transition and setback area shall be 15 feet on each side of a wetland or drainage course.*
- 2. As mitigation for the permanent disturbance of any portion of the normally required water resource area, an equal area on the property which would not normally be within the water resource area shall be revegetated to meet the standards of CDC 32.050(K). If there does not exist enough site area to meet this requirement, the applicant shall revegetate the entire area of the property that would not normally be within the water resource area, adjacent to the actual water resource area, and is not proposed for permanent disturbance to meet the standards of CDC 32.050(K)*

D. Any further reduction of the standards of this chapter shall require approval of a Variance pursuant to CDC Chapter 75.

FINDING NO. 22:

The property is located completely, not partially within the water resource area, so (B) and (C) do not apply. The variances requested were previously applied for and granted and are requested for extension along with the Water Resources Area (Natural Drainageway) permit. See Finding No. 23 below.

75.060 THE APPROVAL CRITERIA

The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The approval authority shall deny the variance if any of the criteria are not met.

- 1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.*
- 2. The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as a right possessed by owners of other property in the same zone or vicinity.*
- 3. The authorization of the variance will not be materially detrimental to the purposes and standards of this Code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan.*
- 4. The variance request is the minimum variance, which would alleviate the exceptional and extraordinary circumstance.*
- 5. The exceptional and extraordinary circumstance does not arise from the violation of this ordinance.*
- 6. The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.*
(ORD. 1442)

FINDING NO. 23:

The findings from the previous application that the height variance and west side setback variance are justified do not need to be revised except to find that the west side setback variance should be allowed only a 6-foot setback instead of a 5-foot setback due to the 6-foot utility easement along the side of the lot (see City GIS map and Hidden Springs Ranch No. 9 Plat map on pages 25-26, respectively, of Exhibit PC-2). No changes are proposed to the height variance.

FINAL DECISION NOTICE

VAR-06-04 & MISC-06-47

MAILED
3/5/07 US

IN THE MATTER OF A NATURAL DRAINAGEWAY PERMIT AND A CLASS II VARIANCE FOR HEIGHT, SIDE SETBACKS, AND FRONT YARD SETBACK FOR CONSTRUCTION OF A NEW HOME ON THE VACANT LOT WEST OF 19740 WILDWOOD DRIVE

At their regular meeting of February 8, 2007, the West Linn Planning Commission held a public hearing to consider the request by Bill and Cindy Perkins for a Natural Drainageway Permit and a Class II Variance. A Natural Drainageway Permit applies because of the natural drainageway on the north end of the lot. A Class II Variance applies because the proposed house would encroach into the side yard setback on the west by more than two feet and because a variance in height is requested. The approval criteria for a Natural Drainageway Permit is found in the Community Development (CDC) Chapter 32. The approval criteria for a Class II Variance is found in CDC Chapter 75. The hearing was conducted pursuant to the provisions of CDC, Chapter 99.

The hearing commenced with a staff report presented by Tom Soppe, Associate Planner. Mr. Perkins spoke, and Carl Redman and Marianne Stein of Innovation Construction also presented representing the Perkins' application. No one else spoke in favor of the application, and no one provided neutral testimony. Charles R. Roberts, Sr. spoke against the application. The public hearing was closed and the matter continued to the February 22 meeting.

At the February 22 meeting, Chair Jones reopened the public hearing on the application. Commissioner Wittenbrink recused herself as she had not been present at the February 8 hearing and had not had the chance to watch the DVD of said hearing. Mr. Soppe again gave the staff presentation. Mr. Perkins spoke again. Hafez Daraee of Jordan Schrader, PC, also spoke on behalf of the Perkins' application. Alice Richmond also spoke in favor of the application. Lynn Fox provided neutral testimony. No one spoke against the application. During the hearing, the applicant voluntarily retracted the request for the front setback variance.

A motion was made and seconded to approve the application minus the front setback variance, with the conditions of approval in the original staff report. By a vote of 4 to 1, the Commission approved the application with the following additional findings:

1. The side yard setback variance is justified due to the extraordinary and exceptional circumstances of the presence of the drainageway on site and the site's topography, both of which make it practical and environmentally beneficial to fit as much of the house at the far front of the lot as possible.
2. Immediately to the west of the subject property is public open space, rather than another residential lot. Therefore, the 2.5 foot encroachment into the west side yard setback allowed by the variance creates no ill effect on another residence or on any nearby property, and therefore 1) complies with the purpose of CDC Chapter 75 and 2) complies with CDC 75.060 in that it does not impose physical limitations on other properties or uses.
3. Due to the steep topography of the entire lot, the granting of the variance is needed for the entire façade of the house to be visible to the street and for the driveway to be

reasonably level. This would have beneficial effects on the safety and functionality of the residence as well as the appearance of the residence, and its ability to integrate visually with the rest of the neighborhood.

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearing, or signed in on the attendance sheet at the hearing, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.



MICHAEL JONES, CHAIR
WEST LINN PLANNING COMMISSION

3/1/07

DATE

Mailed this 5th day of March, 2007.

Therefore, this decision becomes final at 5 p.m., March 19th, 2007.

Devrev/Finaldecisions/final-decision-VAR-06-04

120-DAY RULE: This application was submitted complete on January 8, 2007. The City of West Linn must exhaust all local review by May 8, 2007 to meet the 120-day rule.

PUBLIC NOTICE: Public notice was mailed to property owners within 500 feet of the site on January 18, 2007 and the property was posted with a sign on January 26, 2007. Notice was also posted on the City's website. Consequently, the notice requirements of the Community Development Code (CDC) have been fully satisfied.

BACKGROUND AND MAJOR ISSUES

The applicant is proposing to build a new single-family house on an existing lot of record that is comprised of steep slopes and includes a natural drainageway. Since this is an existing lot of record, the applicants are allowed to build a house here despite the relatively severe environmental limitations. However, to build a house of sufficient size at a sufficient distance from the on-site natural drainageway near the rear of the narrow-fronted property, the applicants request a variance for front setback, side setback, and height.

The natural drainageway cuts through the northwest corner of the property on a downhill course to the northeast. The entire lot consists of steep slopes from the street to the drainageway, and the applicant plans to place the house as close to the street and as far from the drainageway as possible.

PUBLIC COMMENTS

No comments have been received to date following public notice.

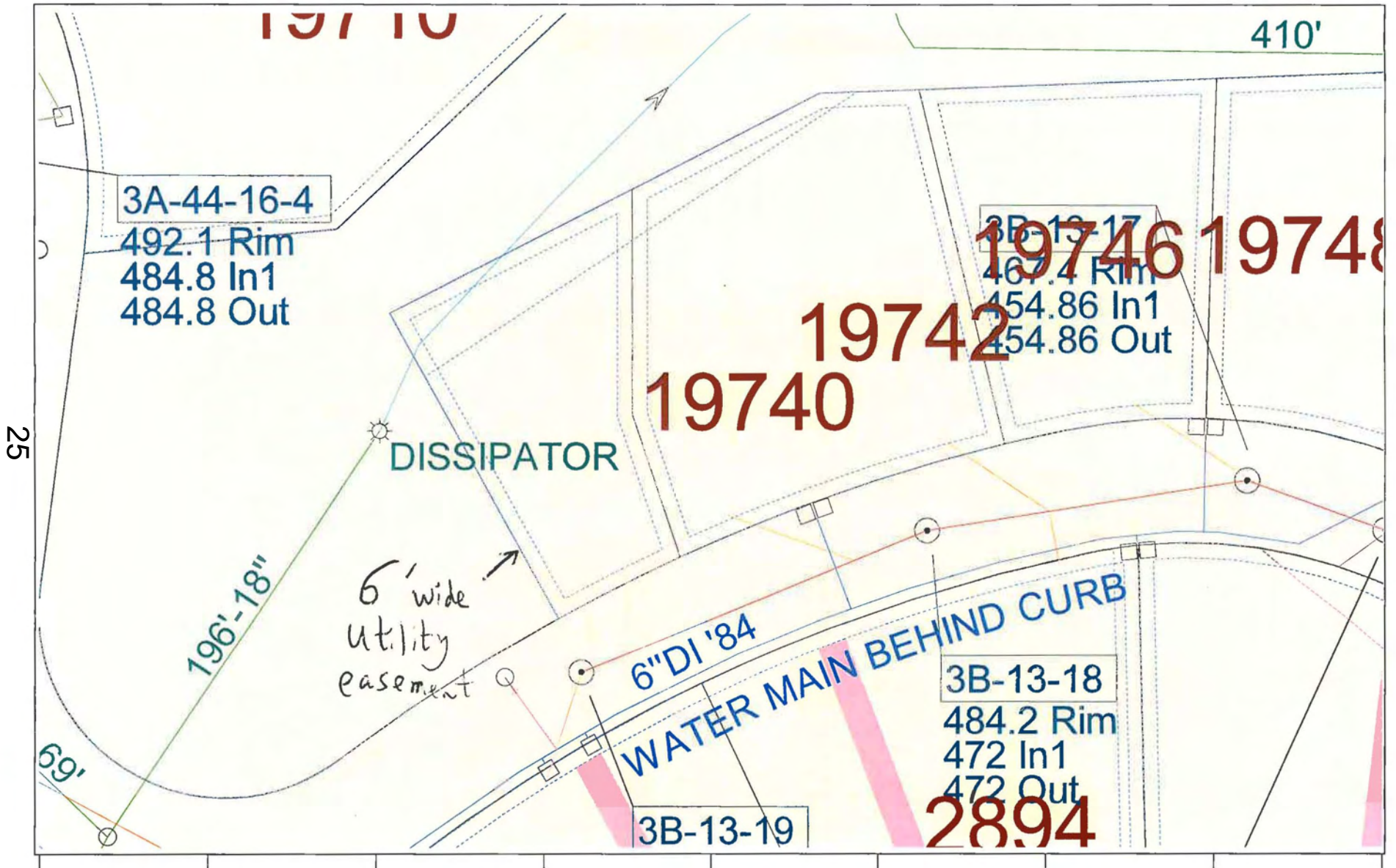
RECOMMENDATION

Based upon the findings contained in the applicants' submittal and staff findings, staff recommends approval of the application with the following conditions of approval:

1. The applicant shall construct a stormwater facility to the specifications on pages 2-66 to 2-67 of the Portland Stormwater Management Manual (these pages have been included in this report at Exhibit PC-4), which shall drain to the natural drainageway on site.
2. Applicants shall submit, at the time they submit the building permit for the proposed house, a vegetative improvement plan. This plan, in addition to planning for the removal and replacement of vegetation that needs to be

removed for construction activity, shall plan for the removal of all non-indigenous, exotic, and invasive species on site and shall include what native vegetation will replace these species. Any debris on site shall also be removed.

p:/devrvw/staff reports/VAR-06-04 & MISC-06-47



City of West Linn GIS (Geographic Information System), SnapMap Date: 10/21/2010

Scale: 067 Feet

MAP DISCLAIMER:

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

SURVEYOR'S CERTIFICATE

I, G. ROBERT TAYLOR, BEING FIRST DULY SWORN, DEPOSE AND SAY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTATION THE LAND REPRESENTED ON THE ANNEXED MAP OF "HIDDEN SPRINGS RANCH NO. 9", AND AT THE INITIAL POINT I FOUND A 5/8"-INCH IRON ROD WHICH I REPLACED WITH A 2-INCH DIAMETER GALVANIZED IRON PIPE BEING 36-INCHES LONG AND SET 6-INCHES BELOW THE SURFACE OF THE GROUND. SAID INITIAL POINT BEARS NORTH 04°58'23" WEST 503.99 FEET FROM THE NORTHERLY CORNER OF THE D.D. TOMPKINS D.L.C.; THENCE FROM THE INITIAL POINT ALONG THE NORTHERLY LINE OF WILDWOOD STREET 189.05 FEET ALONG THE ARC OF A 125.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 35°34'32" TO A POINT OF TANGENCY; THENCE SOUTH 51°24'18" WEST 10.65 FEET TO A POINT OF CURVATURE; THENCE 48.48 FEET ALONG THE ARC OF A 35.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 7°21'41" TO A POINT OF REVERSE CURVATURE ON THE NORTHERLY LINE OF CARRIAGE WAY; THENCE ALONG THE NORTHERLY LINE OF CARRIAGE WAY 339.89 FEET ALONG THE ARC OF A 29.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 61°05'34" TO A POINT OF TANGENCY; THENCE SOUTH 63°40'20" WEST 25.00 FEET TO THE SOUTHEAST CORNER OF LOT 12, BLOCK 26, HIDDEN SPRINGS RANCH NO. 6 AS RECORDED IN TOWN PLAT BOOK NO. 82 AT PAGE 3; THENCE ALONG THE EASTERN LINE OF SAID LOT 12 NORTH 26°14'40" WEST 10.00 FEET TO THE MOST SOUTHERLY CORNER OF LOT 20, SAID BLOCK 26; THENCE ALONG THE EASTERLY LINE OF SAID LOT 20 NORTH 23°09'11" EAST 207.34 FEET TO A POINT ON THE SOUTHERLY LINE OF RAWHIDE CIRCLE; THENCE ALONG THE SOUTHERLY LINE OF SAID RAWHIDE CIRCLE 111.98 FEET ALONG THE ARC OF A 125.00 RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 51°19'05" TO A POINT; THENCE RADIAL TO SAID CURVE NORTH 28°09'54" WEST 50.00 FEET TO A POINT ON THE NORTHERLY LINE OF SAID RAWHIDE CIRCLE; THENCE ALONG THE NORTHERLY LINE OF SAID RAWHIDE CIRCLE 13.81 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 1°32'58" TO A POINT OF REVERSE CURVATURE; THENCE 105.92 FEET ALONG THE ARC OF A 75.00 RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 08°17'25" TO A POINT; THENCE RADIAL NORTH 30°23'21" WEST 140.50 FEET; THENCE NORTH 61°33'31" EAST 144.45 FEET; THENCE NORTH 82°22'44" EAST 259.47 FEET TO A POINT ON THE EAST BOUNDARY OF SAID HIDDEN SPRINGS RANCH NO. 6; THENCE ALONG THE EAST LINE OF SAID HIDDEN SPRINGS RANCH NO. 6 SOUTH 04°58'23" WEST 612.40 FEET TO THE POINT OF BEGINNING AND THE INITIAL POINT.

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 17th DAY OF March 1982.

David D. ...
NOTARY PUBLIC IN AND FOR OREGON
MY COMMISSION EXPIRES 11-3-87

I HEREBY CERTIFY THAT THIS IS AN EXACT COPY OF THE PLAT OF HIDDEN SPRINGS RANCH NO. 9



REGISTERED PROFESSIONAL LAND SURVEYOR
G. Robert Taylor
OREGON
NO. 11 1478
G. ROBERT TAYLOR
3/7

DEDICATION

KNOW ALL MEN BY THESE PRESENT THAT EDWARDS INDUSTRIES, INC., AN OREGON CORPORATION, DOES HEREBY MAKE, ESTABLISH AND DECLARE THE ANNEXED MAP OF "HIDDEN SPRINGS RANCH NO. 9" AS DESCRIBED IN THE ACCOMPANYING CERTIFICATE A TRUE PLAT AND MAP THEREOF ALL LOTS BEING OF THE DIMENSIONS SHOWN ON SAID MAP AND ALL STREETS AND AVENUES BEING OF THE WIDTHS THEREON SET FORTH AND SAID EDWARDS INDUSTRIES, INC. DOES HEREBY DEDICATE TO THE USE OF THE PUBLIC AS PUBLIC WAYS FOREVER, ALL STREETS AND AVENUES AND BASEMENTS SHOWN (OR AS NOTED) ON SAID MAP.

EDWARDS INDUSTRIES, INC.

Allen C. Edwards, Jr.
ALLEN C. EDWARDS, JR. - PRESIDENT

Wayne E. Coffee
WAYNE E. COFFEE - SECRETARY

ACKNOWLEDGEMENT

STATE OF OREGON
COUNTY OF CLACKAMAS S.S.

BE IT REMEMBERED THAT ON THIS 19th DAY OF MARCH 1982, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, PERSONALLY APPEARED MR. EDWARDS AND WAYNE E. COFFEE, TO ME PERSONALLY KNOWN AND DULY SWORN, DID SHOW TO ME THEIR DEED, PRESIDENT AND VICE PRESIDENT AND SECRETARY OF EDWARDS INDUSTRIES, INC., AND THE SEAL AFFIXED TO THE WITHIN INSTRUMENT IS THE OFFICIAL SEAL OF SAID CORPORATION, AND THAT SAID INSTRUMENT WAS SIGNED AND SEALED IN BEHALF OF SAID CORPORATION BY ITS BOARD OF DIRECTORS, AND SAID ALLEN C. EDWARDS, JR. AND SAID WAYNE E. COFFEE DO HEREBY ACKNOWLEDGE SAID INSTRUMENT TO BE A FREE ACT AND DEED.

Wayne E. Coffee
NOTARY PUBLIC IN AND FOR OREGON
MY COMMISSION EXPIRES 3/73/84

NOTES AND RESTRICTIONS

1. THIS PLAT CONTAINS 14 BUILDING LOTS
2. ALL LOT LINES ARE RADIAL TO CURVES UNLESS SHOWN (NR)
3. A SIX (6) FOOT EASEMENT FOR:
A. SANITARY SEWER
B. STORM DRAINAGE
C. UTILITY PURPOSES
D. SURFACE DRAINAGE
SHALL EXIST ALONG ALL FRONT, SIDE AND REAR LOT LINES FOR CONSTRUCTION AND MAINTENANCE.
4. LOT 2 OF BLOCK 32 IS HEREBY RESTRICTED FROM FUTURE SUBDIVISION OR PARTITIONING.
5. ACCESS EASEMENTS ON LOTS 2, 3, 4, 5, 6 AND 10 SUBJECT TO TERMS OF COVENANTS AND RESTRICTIONS RECORDED AT AUDITOR'S NO. ... CLACKAMAS COUNTY RECORDS.
6. (STREET)-STREET NAMES AS ORIGINALLY PLATTED, NEW STREET NAMES ARE FROM CITY OF WEST LINN

HIDDEN SPRINGS RANCH NO. 9

SIDE 1 OF 2

(A REPLAT OF LOTS 13-19 BLOCK 26, LOTS 1-4 BLOCK 30 AND A PORTION OF PARCEL 'N' OF HIDDEN SPRINGS RANCH NO. 6)
LOCATED IN THE NE 1/4 OF SECTION 23, T. 2 S., R. 1 E., W. M.
AND ALSO BEING PART OF THE SAMUEL SHANNON D.L.C. NO. 70.

CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON

FEBRUARY 1982

6.333 ACRES
WILSEY & HAM
PORTLAND, OREGON
4-1100-8101

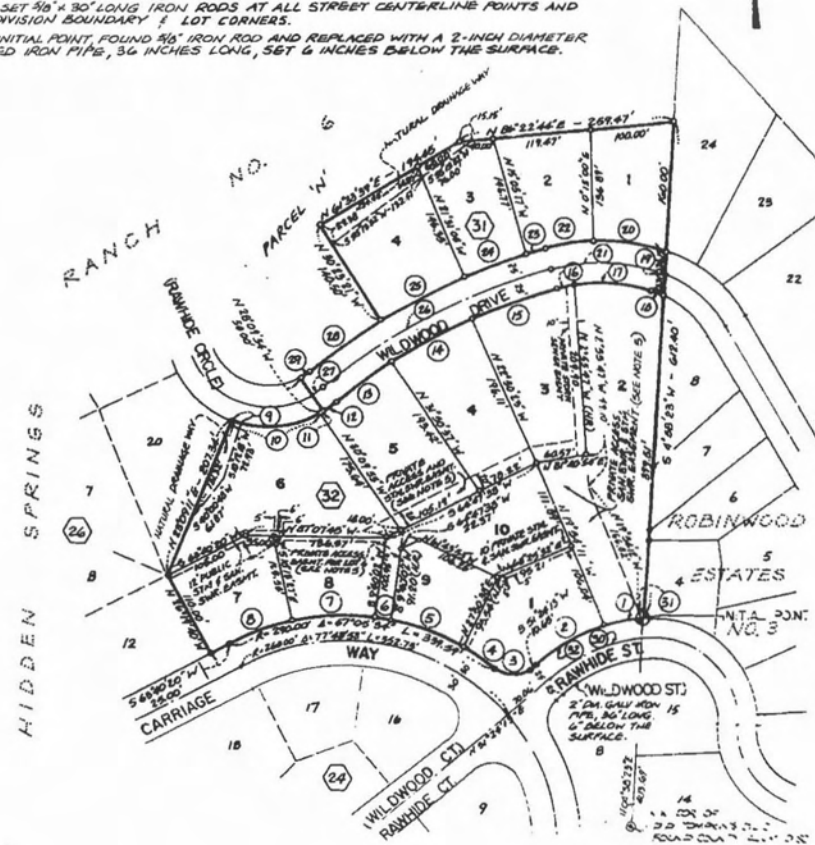
SCALE: 1"=100'

BASIS OF BEARINGS

THE PLAT OF HIDDEN SPRINGS RANCH NO. 5, RECORDED IN BOOK 76 AT PAGE 31 OF PLAT RECORDS OF CLACKAMAS COUNTY, OREGON, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP.

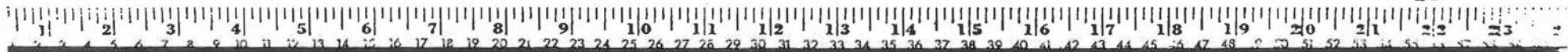
LEGEND

- DENOTES FOUND 5/8" IRON ROD, IN POSITION, UNLESS SHOWN OTHERWISE.
- DENOTES SET 3/8" x 30" LONG IRON RODS AT ALL STREET CENTERLINE POINTS AND ALL SUBDIVISION BOUNDARY & LOT CORNERS.
- DENOTES INITIAL POINT, FOUND 5/8" IRON ROD AND REPLACED WITH A 2-INCH DIAMETER GALVANIZED IRON PIPE, 36 INCHES LONG, SET 6 INCHES BELOW THE SURFACE.



26

2615



AFFIDAVIT OF NOTICE

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

GENERAL

File No. Misc-16-13 Applicant's Name Mr + Mrs Bill Perkins
Development Name Extension of Natural Drainage permit of SF Home Build
Scheduled Meeting/Decision Date 101 west of 107400 W. Industrial Dr

NOTICE: Notices were sent at least 20 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE A

- A. The applicant (date) _____ (signed) _____
- B. Affected property owners (date) _____ (signed) _____
- C. School District/ Board (date) _____ (signed) _____
- D. Other affected gov't. agencies (date) _____ (signed) _____
DSL + COE + DFW
- E. Affected neighborhood assns. (date) _____ (signed) _____
- F. All parties to an appeal or review (date) _____ (signed) _____

At least 10 days prior to the scheduled hearing or meeting, notice was published/posted:

Tidings (published date) 11/18/10 (signed) [Signature]
City's website (posted date) 11/9/10 (signed) [Signature]

SIGN

At least 10 days prior to the scheduled hearing, meeting or decision date, a sign was posted on the property per Section 99.080 of the Community Development Code.

(date) _____ (signed) _____

NOTICE: Notices were sent at least 14 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE B _____

- A. The applicant (date) _____ (signed) _____
- B. Affected property owners (date) _____ (signed) _____
- C. School District/ Board (date) _____ (signed) _____
- D. Other affected gov't. agencies (date) _____ (signed) _____
- E. Affected neighborhood assns. (date) _____ (signed) _____

Notice was posted on the City's website at least 10 days prior to the scheduled hearing or meeting.

Date: _____ (signed) _____

STAFF REPORT mailed to applicant, City Council/Planning Commission and any other applicable parties 10 days prior to the scheduled hearing.

(date) _____ (signed) _____

FINAL DECISION notice mailed to applicant, all other parties with standing, and, if zone change, the County surveyor's office.

(date) _____ (signed) _____

**CITY OF WEST LINN
PLANNING COMMISSION
PUBLIC HEARING NOTICE
FILE NO. MISC-10-13**

The West Linn Planning Commission is scheduled to hold a public hearing, on Wednesday December 1, 2010, **starting at 7:30 p.m.** in the Council Chambers of City Hall (located at 22500 Salamo Road, West Linn, OR,) to consider the request of Mr. and Mrs. Bill Perkins for a two-year extension of approval for a previously approved Natural Drainageway permit (now Water Resources Area permit) and Class II variances for height and for side setback for a single-family house on the vacant lot west of 19740 Wildwood Drive (this vacant lot also sometimes has been referred to as 19738 Wildwood Drive under the previously approved file). The previously approved file is File No. VAR-06-04/MISC-06-47. The applicant's proposal requires an Extension. The site is in the R-10 zone. Water Resources Area permit criteria are found in Chapter 32 of the Community Development Code (CDC). Variance criteria are found in Chapter 75 of the CDC. Extension criteria are found in Section 99.325 of the CDC. Criteria for development in the R-10 zone are found in Chapter 11 of the CDC. Approval or disapproval of the request by the Planning Commission will be based upon these criteria and these criteria only. At the hearing, it is important that comments relate specifically to the applicable criteria listed.

You have been notified of this proposal because County records indicate that you own property within 500 feet of the proposal site located at tax lot 9004 of Clackamas County Assessor's Map 2-1E-23AC and/or as required by Chapter 99 of the West Linn Community Development Code.

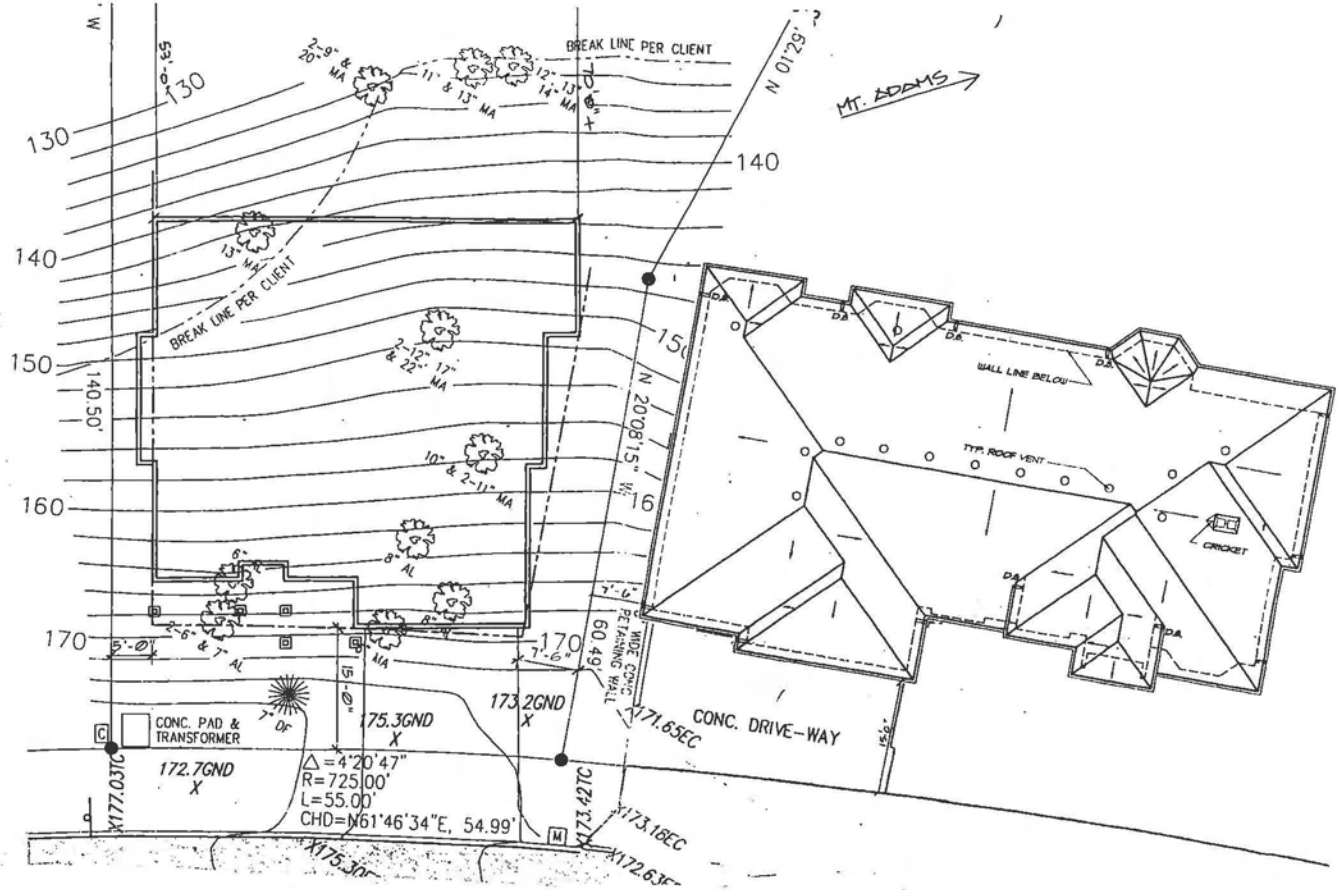
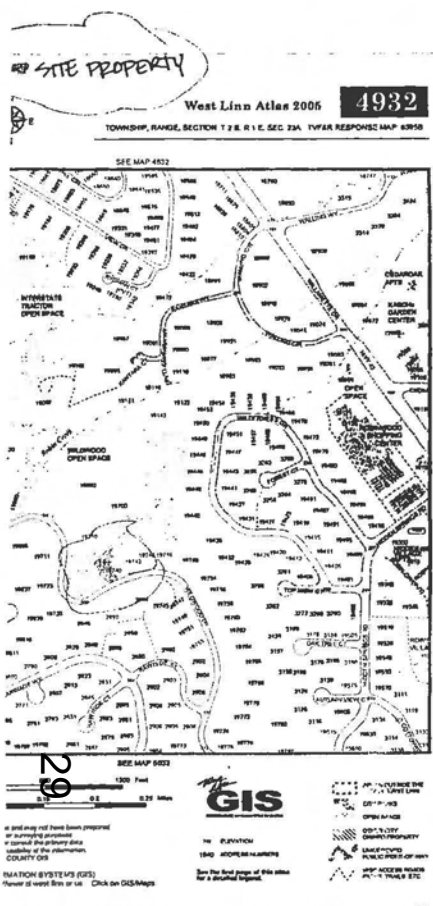
The complete application in the above noted file is available for inspection at no cost at City hall or via the web site <http://westlinnoregon.gov/planning/19738-wildwood-drive-extension-planning-commission-approval-variance-natural-drainageway-pe>, or copies can be obtained for a minimal charge per page. At least ten days prior to the hearing, a copy of the staff report will be available for inspection. A site plan is attached. For further information, please contact Tom Soppe, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, tsoppe@westlinnoregon.gov, or 503-742-8660.

The hearing will be conducted in accordance with the rules of Section 99.170 of the Community Development Code, adopted December 14, 1987, Ordinance 1129. Anyone wishing to present written testimony on this proposed action may do so in writing prior to, or at the public hearing. Oral testimony may be presented at the public hearing. At the public hearing, the Planning Commission will receive a staff report presentation from the City Planner; and invite both oral and written testimony. The Planning Commission may continue the public hearing to another meeting to obtain additional information, or close the public hearing and take action on the application. If a person submits evidence in support of the application, any party is entitled to request a continuance of the hearing. If there is no continuance granted at the hearing, any participant in the hearing may request that the record remain open for at least seven days after the hearing. Failure to raise an issue in person or by letter at some point prior to the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

TERESA ZAK
Planning Administrative Assistant

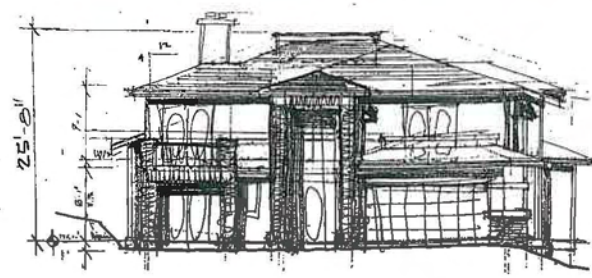
p:\devrvw\projects folder\projects 2010\misc-10-13 notice

1 GRADES.

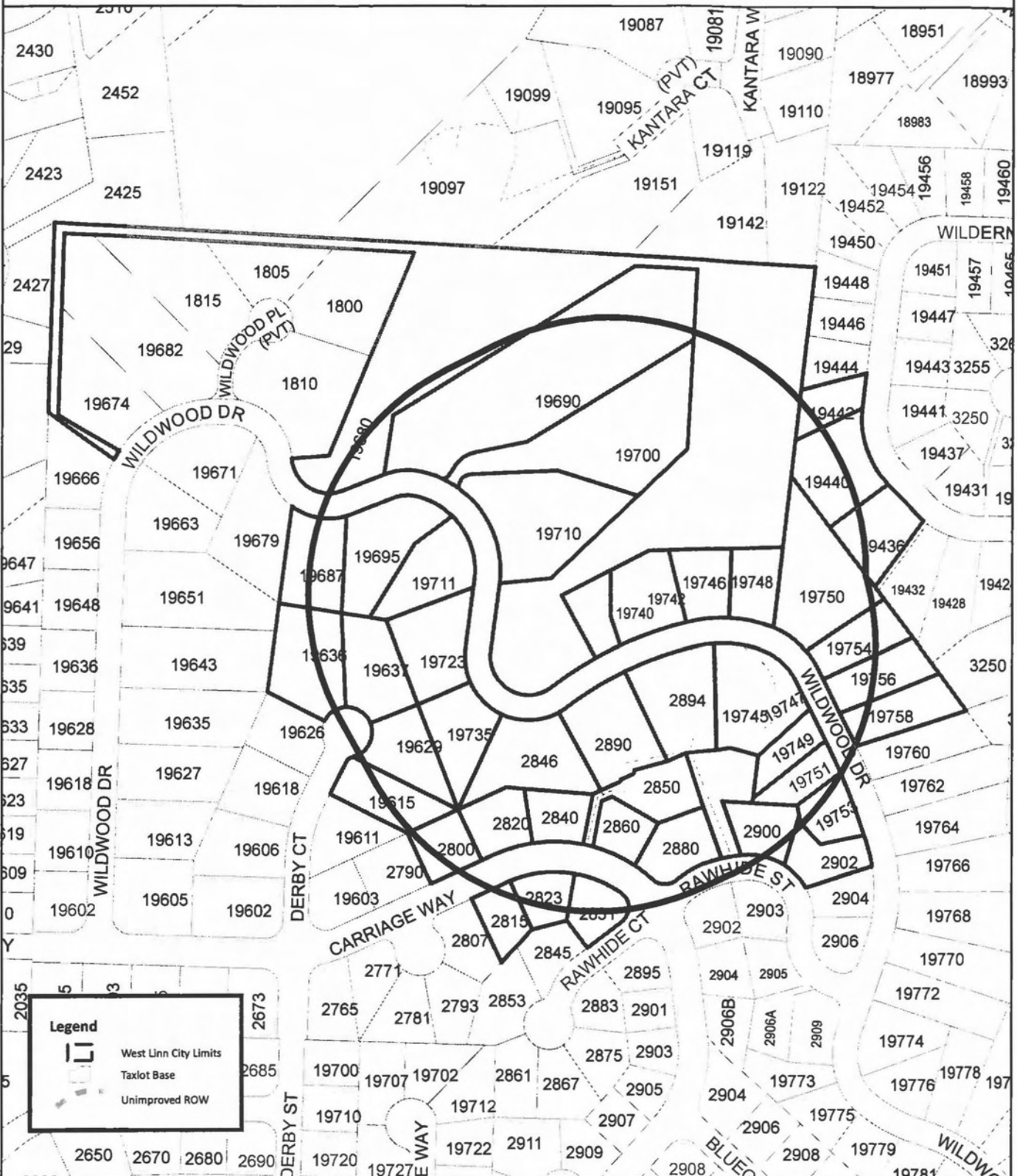


PROPOSED

Existing next door



MISC-10-13 Lot West of 19740 Wildwood Drive



Legend

- West Linn City Limits
- Taxlot Base
- Unimproved ROW

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Taxlot Base Source: Metro RLIS

NOT TO SCALE



SNAPNOTIFY.MXD / AHA APP 6-16-09

User Name: T Zak
Map Creation Date: Nov 08, 2010

ANDERSON MARY ANN
19756 WILDWOOD DR
WEST LINN OR 97068

AZIZI MERCEDE TRUSTEE
2820 CARRIAGE WAY
WEST LINN OR 97068

BACSO DELIA
19636 DERBY CT
WEST LINN OR 97068

CLARK RICHARD P TRUSTEE
PO BOX 92
WEST LINN OR 97068

CLASEN NEIL & SARAH
19440 WILDERNESS DR
WEST LINN OR 97068

CONNOLLY BRIAN JAMES STUART
19700 WILDWOOD DR
WEST LINN OR 97068

CORCORAN PATRICK J
2823 CARRIAGE WAY
WEST LINN OR 97068

CRONN RICHARD D TRUSTEE
19754 WILDWOOD DR
WEST LINN OR 97068

DAILEY WILLIAM K & KRISTIN J
2831 CARRIAGE WAY
WEST LINN OR 97068

DICKSON DAVID K & KATHRYN G
19745 WILDWOOD DR
WEST LINN OR 97068

EATON CRAIG C TRUSTEE
2880 CARRIAGE WAY
WEST LINN OR 97068

FARRELL MARK M & CATHLEEN P
2860 CARRIAGE WAY
WEST LINN OR 97068

FERRARIO RICHARD & KATHLEEN
19690 WILDWOOD DR
WEST LINN OR 97068

FLECK DAVID
19442 WILDERNESS DR
WEST LINN OR 97068

GODSEY LARRY G & JAN E HILBI
2846 CARRIAGE WAY
WEST LINN OR 97068

GRAHAM LINDA ERICKSON TRUSTEE
2890 RAWHIDE ST
WEST LINN OR 97068

GRIFFITH DANIEL B & PATRICIA D
2894 RAWHIDE ST
WEST LINN OR 97068

GRIFFITHS WILLIAM L & MARY A
19748 WILDWOOD DR
WEST LINN OR 97068

HEIDEN JOSEPH & AMY L
19751 WILDWOOD DR
WEST LINN OR 97068

HIPSHMAN LAWRENCE
19749 WILDWOOD DR
WEST LINN OR 97068

HOAG ROBERT W & LINDA L
2800 CARRIAGE WAY
WEST LINN OR 97068

IKEDA BERYL & KELVIN NG
19710 WILDWOOD DR
WEST LINN OR 97068

KAPLAN MARTIN L & FRANCES F
19436 WILDERNESS DR
WEST LINN OR 97068

LEE DAN D & VICTORIA WINANDA
19735 WILDWOOD DR
WEST LINN OR 97068

LEE EUNG DUK & KYUNG JA
2900 RAWHIDE ST
WEST LINN OR 97068

LEE KEARY & BRENDA
19637 DERBY CT
WEST LINN OR 97068

LOVETT KEITH W & LINDA C
19750 WILDWOOD DR
WEST LINN OR 97068

MADIGAN MICHAEL L & LYNN R
2850 CARRIAGE WAY
WEST LINN OR 97068

MERCURIO SCOTT
19746 WILDWOOD DR
WEST LINN OR 97068

MISUSTIN RANDY A & KAREN E
19723 WILDWOOD DR
WEST LINN OR 97068

NATHAN RANJANA S
2840 CARRIAGE WAY
WEST LINN OR 97068

PERKINS WILLIAM R & CYNTHIA J
19740 WILDWOOD DR
WEST LINN OR 97068

ROSENFELD ALAN RICHARD
19615 DERBY CT
WEST LINN OR 97068

SALTZBERG GEORGE H & ETHEL H
19629 DERBY CT
WEST LINN OR 97068

SCHLAGER JASON T
19687 WILDWOOD DR
WEST LINN OR 97068

SMITH BEVERLY J & JC
2815 CARRIAGE WAY
WEST LINN OR 97068

SMITH LOIS J
19753 WILDWOOD DR
WEST LINN OR 97068

STELL TIMOTHY J & M L
19695 WILDWOOD DR
WEST LINN OR 97068

VESTAL PAM
19758 WILDWOOD DR
WEST LINN OR 97068

WOLVERTON BRAD M TRUSTEE
5102 SW SCHOLLS FERRY RD
PORTLAND OR 97205

WU JACKIE & KAR WAI
1616 NW FOLEY CT
PORTLAND OR 97229

MR AND MRS BILL PERKINS
19740 WILDWOOD DR
WEST LINN OR 97068

TAMI HUBERT
OREGON DEPT OF STATE LANDS
775 SUMMER ST NE
SALEM OR 97301-1279

BILL DAVIS
US ARMY CORPS OF ENGINEERS
PO BOX 2946
PORTLAND OR 97208

HABITAT BIOLOGIST
OREGON DEPT OF FISH & WILDLIFE
18330 NW SAUVIE ISLAND RD
PORTLAND OR 97231

TONY WELLER
CES NW
15573 BANGY RD STE 300
LAKE OSWEGO OR 97035

SCHOTT & ASSOCIATES
21018 NE HWY 99E
PO BOX 589
AURORA OR 97002

STEVE GARNER
BHT NA PRESIDENT
3525 RIVERKNOLL WAY
WEST LINN OR 97068

SALLY MCLARTY
BOLTON NA PRESIDENT
19575 RIVER RD # 64
GLADSTONE OR 97027

ALEX KACHIRISKY
HIDDEN SPRINGS NA PRESIDENT
6469 PALOMINO WAY
WEST LINN OR 97068

JEFF TREECE
MARYLHURST NA PRESIDENT
1880 HILLCREST DR
WEST LINN OR 97068

BILL RELYEA
PARKER CREST NA PRESIDENT
3016 SABO LN
WEST LINN OR 97068

THOMAS BOES
ROBINWOOD NA PRESIDENT
18717 UPPER MIDHILL DR
WEST LINN OR 97068

DEAN SUHR
ROSEMONT SUMMIT NA PRESIDENT
21345 MILES DR
WEST LINN OR 97068

DAVE RITTENHOUSE
SAVANNA OAKS NA PRESIDENT
2101 GREENE ST
WEST LINN OR 97068

KRISTIN CAMPBELL
SKYLINE RIDGE NA PRESIDENT
1391 SKYE PARKWAY
WEST LINN OR 97068

TROY BOWERS
SUNSET NA PRESIDENT
2790 LANCASTER ST
WEST LINN OR 97068

BETH KIERES
WILLAMETTE NA PRESIDENT
1852 4TH AVE
WEST LINN OR 97068

ALMA COSTON
BOLTON NA DESIGNEE
PO BOX 387
WEST LINN OR 97068

SUSAN VAN DE WATER
HIDDEN SPRINGS NA DESIGNEE
6433 PALOMINO WAY
WEST LINN OR 97068

KEVIN BRYCK
ROBINWOOD NA DESIGNEE
18840 NIXON AVE
WEST LINN OR 97068

DOREEN VOKES
SUNSET NA SEC/TREAS
4972 PROSPECT ST
WEST LINN OR 97068

MAILED
11/9/10 *SM*
62 by *USPS*

Soppe, Tom

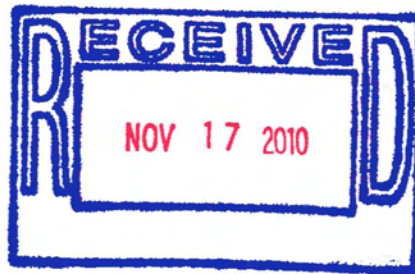
From: Tony Weller [tweller@cesnw.com]
Sent: Wednesday, November 17, 2010 4:19 PM
To: Soppe, Tom
Cc: Bill Perkins; Hayli Walker
Subject: RE: Important re MISC-10-13 (Perkins application)
Attachments: 2587-planning-SITE_111710.pdf

Tom - I have talked to the Perkins and they have agreed to reduce the interior square footage of the house to be no more than 4,050 sf to comply with economic standard of being no more than 4,086 sf. We have also reduced the total disturbance area to 4600 sf (down from 4700 sf).

I have attached a revised site plan that reflect this change and the 6-foot side yard setback we discussed earlier.

Let me know if you have any questions in this regard. - Tony

Tony Weller, P.E., P.L.S.
President
CESNW, INC.
15573 Bangy Road, Suite 300
Lake Oswego, OR 97035
503.968.6655 p
503.968.2595 f
tweller@cesnw.com
www.cesnw.com



From: Soppe, Tom [mailto:tsoppe@westlinnoregon.gov]
Sent: Tuesday, November 16, 2010 2:09 PM
To: tweller@cesnw.com
Subject: Important re MISC-10-13 (Perkins application)

Tony

Staff is finalizing the analysis for this application and working on finalizing the staff report, which will be published by Friday.

I wanted to make sure to give you a heads up on the fact that at this point we will be recommending denial instead of approval due to finding that the proposal does not meet the following of the new Ch 32 criteria:

32.090 REDUCTION IN STANDARDS FOR HARDSHIP

The purpose of this section is to ensure that compliance with this chapter does not cause unreasonable hardship. To avoid such instances, the requirements of this chapter may be reduced. Reductions are also allowed when strict application of this chapter would deprive an owner of all economically viable use of land. The decision-making authority may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief.

A. Lots located completely inside the water resource area. Development may occur on lots located completely within the water resource area that are recorded with the County Assessor's Office on or before the effective date of the ordinance codified in this chapter. Development shall disturb the minimum necessary area to allow the proposed use or activity, and in any situation no more than 5,000 square feet of the water resource area, including access

roads and driveways, subject to the erosion and sediment control standards in Chapter 31 CDC, and subject to a finding that the proposed development does not increase danger to life and property due to flooding and erosion.

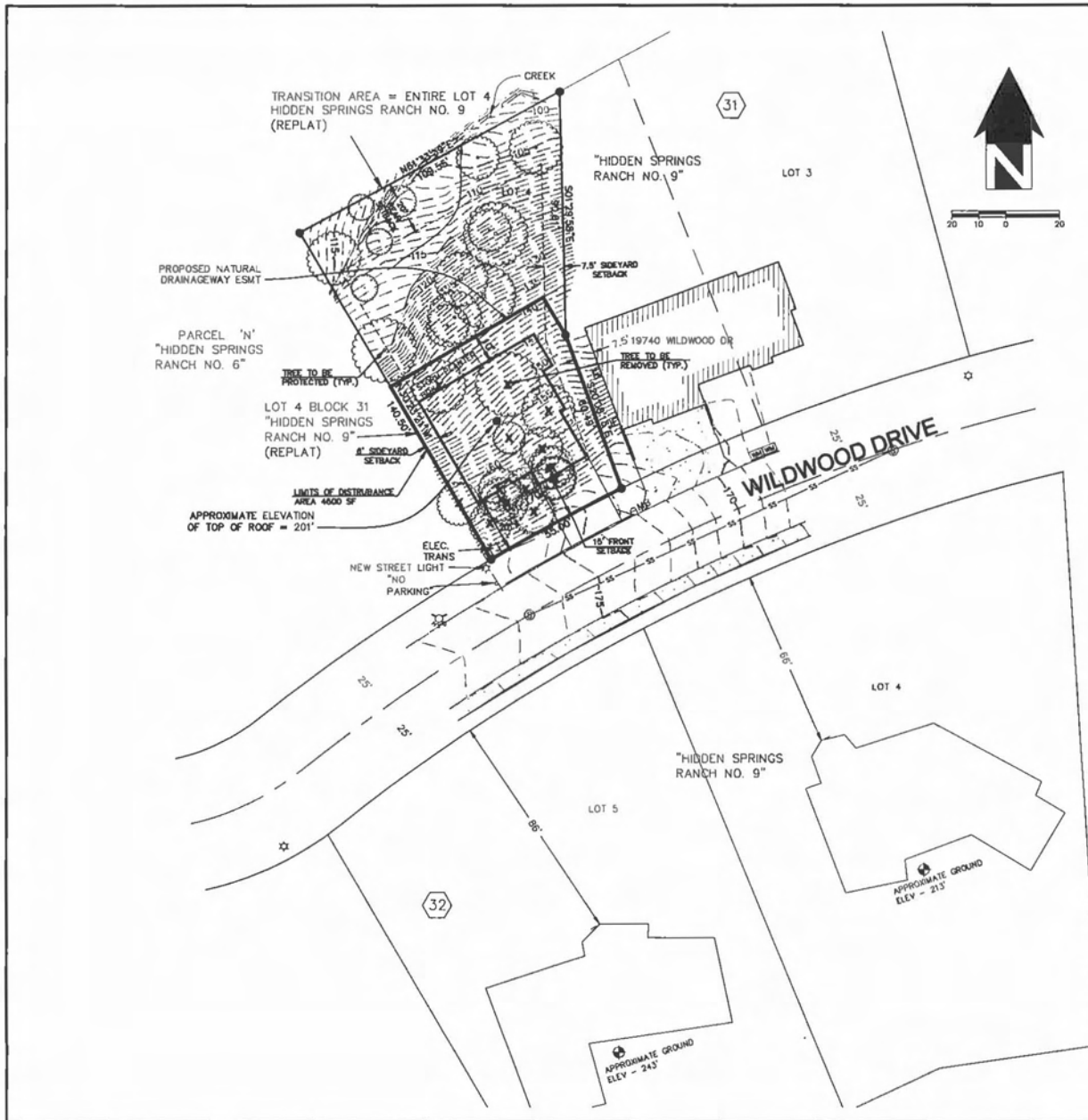
A couple of months ago we were working on another water resource area permit for a single family house on a lot of record and devised a way to figure out as best as possible the minimum economic viability. This involves using the figure of new home construction in West Linn being about \$100 per square foot of living area to get a construction loan, with improvement costs approximately 3 times the value of the lot. Per the Clackamas County data available on City GIS, the current value of the subject lot is \$136,208. Three times the value of this would be \$408,624. At \$100 per square foot the minimum economically viable house would to be 4,086 square feet. The house as proposed is 4,505 square feet which would become approximately 4,373 square feet when modified for the 6 foot side setback.

The burden of proof is on the applicant, and the applicants are welcome to make their case to the Planning Commission, who might find differently than staff. They are also welcome to ask to postpone and extend the 120 day clock to revise the site plan. I wanted to let you know now. Please let me know if there are any questions.

 Tom Soppe
tsoppe@westlinnoregon.gov
Associate Planner
22500 Salamo Rd
West Linn, OR, 97068
P: (503) 742-8660
F: (503) 656-4106
Web: westlinnoregon.gov

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SITE INFORMATION

MAP & TAX LOT: 251E 23AC, TL 9004

ZONING: R10

SETBACKS:

	REQUIRED	PROPOSED
FRONT	20'	15' PER §2.050(0)
INTERIOR SIDE YARD	7.5'	7.5' EAST
REAR	20'	6' WEST PER SETBACK VARIANCE REQUEST
HEIGHT	45'	>70' 57'-8" PER HEIGHT VARIANCE REQUEST

REQUESTED APPROVALS:

- EXTENSION OF VAR-06-04 & MISC 06-47 (NATURAL DRAINAGEWAY PERMIT, SETBACK AND HEIGHT VARIANCES)
- WATER RESOURCE AREA PERMIT

NOTES:

- THE ELEVATIONS ARE ON AN ASSUMED DATUM.
- THE UTILITIES SHOWN HAVE BEEN LOCATED IN THE FIELD AND ARE FROM OBSERVED EVIDENCE ONLY. THE EXISTENCE OF ALL UTILITIES AND SERVICE LINES ARE UNKNOWN AND ARE NOT SHOWN ON THIS SURVEY.
- THIS IS NOT A BOUNDARY SURVEY THE LINES SHOWN ARE PER RECORD OF SURVEY NUMBER 2008-200, CLATSOP COUNTY SURVEY RECORDS.

PERKINS LOT
WEST LINN, OR

CES NW
36

SITE AND DISTURBANCE
LIMITS PLAN

2

3

DELL PERKINS
19740 WILDWOOD DRIVE
WEST LINN, OR 97068
503-635-8412

1835 1/2 W. BANCY BEAULIEU
S.W. CORNER
S.W. 1/4 SECTION 36
T. 11N. R. 12E. S. 36E

PROVISION

DATE: 07/27/20

DATE: 07/27/20

DATE: 07/27/20

DATE: 07/27/20

DATE: 07/27/20

DATE: 07/27/20

DATE: 07/27/20

DATE: 07/27/20

DATE: 07/27/20

DATE: 07/27/20

DATE: 07/27/20

Soppe, Tom

From: Soppe, Tom
Sent: Friday, October 22, 2010 10:59 AM
To: 'tweller@cesnw.com'
Subject: RE: Perkins application- important issue

Great, we will just condition a 6 foot setback, and include this set of emails in the record. Thanks for getting back to me quickly.

Tom



From: Tony Weller [mailto:tweller@cesnw.com]
Sent: Friday, October 22, 2010 8:51 AM
To: Soppe, Tom
Cc: Bill Perkins
Subject: RE: Perkins application- important issue

Thanks Tom - The Perkins are ok with changing the requested variance to a 6-foot setback. Can you just note this or do we need to update our submittal package?

- Tony

From: Soppe, Tom [mailto:tsoppe@westlinnoregon.gov]
Sent: Friday, October 22, 2010 8:26 AM
To: tweller@cesnw.com
Subject: RE: Perkins application- important issue

Tony,

We wouldn't be able to authorize a variance that allows for building in an easement; whether the variance or the easement gets changed, they would have to coincide rather than overlap in this way. Thanks for checking with the Perkins'.

Tom

CITY OF
West Linn
Tom Soppe
tsoppe@westlinnoregon.gov
Associate Planner
22500 Salamo Rd
West Linn, OR, 97068
P: (503) 742-8660
F: (503) 656-4106
Web: westlinnoregon.gov

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Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: Tony Weller [mailto:tweller@cesnw.com]
Sent: Thursday, October 21, 2010 5:04 PM
To: Soppe, Tom
Cc: Bill Perkins
Subject: RE: Perkins application- important issue

Tom - Let me check with the Perkins' and I will get back to you.

One other thought would be to approve the variance with the 5-foot side yard setback but recognizing that the vacation of 1-foot in width of the side lot easement would have to occur in the future. If they don't go through the vacation process, then they end up with the 6-foot setback by default. It would be no different than any other utility easement that runs along a side lot line that is wider than the underlying setback requirement.

What do you think? - Tony

Tony Weller, P.E., P.L.S.
President
CESNW, INC.
15573 Bangy Road, Suite 300
Lake Oswego, OR 97035
503.968.6655 p
503.968.2595 f
tweller@cesnw.com
www.cesnw.com

From: Soppe, Tom [mailto:tsoppe@westlinnoregon.gov]
Sent: Thursday, October 21, 2010 4:36 PM
To: 'Tony Weller'
Subject: Perkins application- important issue

Tony,

Thanks for the resubmittal. It seems complete per Planning items and I am waiting to hear from Engineering.

I have discovered however an important issue that wasn't discovered during the original application- there is a 6 foot utility easement on the front, rear, and sides of all lots in this plat, referred to on the Hidden Springs Ranch No. 9 plat document itself. See attached (let me know if the attachment works), specifically #3 under Notes and Restrictions. The easement appears in the current easement layer on City GIS, so to my knowledge it has not been narrowed or removed.

This is of course an issue since the applicant requests, in part, a variance for a 5 foot side setback on the west. This would most easily be dealt with, process wise, if the applicant would be willing to make the house 1 foot narrower. Are they willing to do that?

Let me know if there are any questions. Thanks very much.

Tom

 Tom Soppe
tsoppe@westlinnoregon.gov
Associate Planner
22500 Salamo Rd
West Linn, OR, 97068
P: (503) 742-8660
F: (503) 656-4106
Web: westlinnoregon.gov

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Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

SURVEYOR'S CERTIFICATE

I, G. ROBERT TAYLOR, BEING FIRST DULY SWORN, DEPOSE AND SAY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTATION THE LAND REPRESENTED ON THE ANNEXED MAP OF 'HIDDEN SPRINGS RANCH NO. 9', AND AT THE INITIAL POINT I FOUND A 5/8-INCH IRON ROD WHICH I REPLACED WITH A 2-INCH DIAMETER GALVANIZED IRON PIPE BEING 36-INCHES LONG AND SET 6 INCHES BELOW THE SURFACE OF THE GROUND. SAID INITIAL POINT BEARS NORTH 04°58'23" EAST 283.47 FEET FROM THE NORTHWEST CORNER OF THE D.D. TOMPKINS D.L.C.; THENCE FROM THE INITIAL POINT ALONG THE NORTHERLY LINE OF WILLOWOOD STREET 100.00 FEET ALONG THE ARC OF A 225.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 35°54'34" TO A POINT OF TANGENCY; THENCE SOUTH 52°49'19" WEST 10.65 FEET TO A POINT OF CURVATURE; THENCE 48.48 FEET ALONG THE ARC OF A 35.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 71°21'51" TO A POINT OF REVERSE CURVATURE ON THE NORTHERLY LINE OF CARRIAGE WAY; THENCE ALONG THE NORTHERLY LINE OF CARRIAGE WAY 339.59 FEET ALONG THE ARC OF A 290.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 67°05'34" TO A POINT OF TANGENCY; THENCE SOUTH 63°40'20" WEST 25.00 FEET TO THE SOUTHEAST CORNER OF LOT 12, BLOCK 20, HIDDEN SPRINGS RANCH NO. 6 AS RECORDED IN TOWN PLAT BOOK NO. 82 AT PAGE 3; THENCE ALONG THE EASTERLY LINE OF SAID LOT 12 NORTH 26°19'40" WEST 100.00 FEET TO THE MOST SOUTHERLY CORNER OF LOT 20, SAID BLOCK 20; THENCE ALONG THE EASTERLY LINE OF SAID LOT 20 NORTH 23°09'11" EAST 207.34 FEET TO A POINT ON THE SOUTHERLY LINE OF RAWHIDE CIRCLE; THENCE ALONG THE SOUTHERLY LINE OF SAID RAWHIDE CIRCLE 111.78 FEET ALONG THE ARC OF A 125.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 51°19'05" TO A POINT; THENCE RADIAL TO SAID CURVE NORTH 28°09'54" WEST 50.00 FEET TO A POINT ON THE NORTHERLY LINE OF SAID RAWHIDE CIRCLE; THENCE ALONG THE NORTHERLY LINE OF SAID RAWHIDE CIRCLE 13.81 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 10°32'52" TO A POINT OF REVERSE CURVATURE; THENCE 105.32 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 08°19'25" TO A POINT; THENCE RADIAL NORTH 30°23'21" WEST 140.50 FEET; THENCE NORTH 61°53'34" EAST 144.45 FEET; THENCE NORTH 84°22'44" EAST 259.47 FEET TO A POINT ON THE EAST BOUNDARY OF SAID HIDDEN SPRINGS RANCH NO. 6; THENCE ALONG THE EAST LINE OF SAID HIDDEN SPRINGS RANCH NO. 6; SOUTH 04°58'23" WEST 612.40 FEET TO THE POINT OF BEGINNING AND THE INITIAL POINT.

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 17th DAY OF March 1982.

G. Robert Taylor
NOTARY PUBLIC IN AND FOR OREGON
MY COMMISSION EXPIRES 11-3-81

I HEREBY CERTIFY THAT THIS IS AN EXACT COPY OF THE PLAT OF HIDDEN SPRINGS RANCH NO. 9



REGISTERED PROFESSIONAL LAND SURVEYOR
G. Robert Taylor
OREGON
NO. 112
G. ROBERT TAYLOR
U37

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT EDWARDS INDUSTRIES, INC., AN OREGON CORPORATION, DOES HEREBY MAKE ESTABLISHED AND COUNTY PERSONALLY APPEARED MR. EDWARDS AND WAYNE E. COFFEE TO BE PERSONALLY KNOWN, WHO BEING DULY SWORN, DID SAY THAT HE, EDWARDS, IS PRESIDENT AND HE WAYNE E. COFFEE IS SECRETARY OF EDWARDS INDUSTRIES, INC., AND THE SEAL AFFIXED TO THE WITHIN INSTRUMENT IS THE OFFICIAL SEAL OF SAID CORPORATION, AND THAT SAID INSTRUMENT WAS SIGNED AND SEALED IN BEHALF OF SAID CORPORATION BY ITS BOARD OF DIRECTORS, AND SAID ALLEN C. EDWARDS, JR. AND SAID WAYNE E. COFFEE DO HEREBY ACKNOWLEDGE SAID INSTRUMENT TO BE A FREE ACT AND DEED.

EDWARDS INDUSTRIES, INC.

Allen C. Edwards, Jr.
ALLEN C. EDWARDS, JR. - PRESIDENT

Wayne E. Coffee
WAYNE E. COFFEE - SECRETARY



ACKNOWLEDGEMENT

STATE OF OREGON
COUNTY OF CLACKAMAS S.S.

BE IT REMEMBERED THAT ON THIS 19th DAY OF MARCH 1982, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY PERSONALLY APPEARED MR. EDWARDS AND WAYNE E. COFFEE TO BE PERSONALLY KNOWN, WHO BEING DULY SWORN, DID SAY THAT HE, EDWARDS, IS PRESIDENT AND HE WAYNE E. COFFEE IS SECRETARY OF EDWARDS INDUSTRIES, INC., AND THE SEAL AFFIXED TO THE WITHIN INSTRUMENT IS THE OFFICIAL SEAL OF SAID CORPORATION, AND THAT SAID INSTRUMENT WAS SIGNED AND SEALED IN BEHALF OF SAID CORPORATION BY ITS BOARD OF DIRECTORS, AND SAID ALLEN C. EDWARDS, JR. AND SAID WAYNE E. COFFEE DO HEREBY ACKNOWLEDGE SAID INSTRUMENT TO BE A FREE ACT AND DEED.

G. Robert Taylor
NOTARY PUBLIC IN AND FOR OREGON
MY COMMISSION EXPIRES 3/13/84



NOTES AND RESTRICTIONS

- THIS PLAT CONTAINS 14 BUILDING LOTS
- ALL LOT LINES ARE RADIAL TO CURVES UNLESS SHOWN (NR)
- A SIX (6) FOOT EASEMENT FOR:
 - SANITARY SEWER
 - STORM DRAINAGE
 - UTILITY PURPOSES
 - SURFACE DRAINAGE
 SHALL EXIST ALONG ALL FRONT, SIDE AND REAR LOT LINES FOR CONSTRUCTION AND MAINTENANCE.
- LOT 2 OF BLOCK 32 IS HEREBY RESTRICTED FROM FUTURE SUBDIVISION OR PARTITIONING.
- ACCESS EASEMENTS ON LOTS 2, 3, 4, 5, 6 AND 10 SUBJECT TO TERMS OF COVENANTS AND RESTRICTIONS RECORDED AT AUDITOR'S NO. CLACKAMAS COUNTY RECORDS.
- (STREET)=STREET NAMES AS ORIGINALLY PLATTED, NEW STREET NAMES ARE FROM CITY OF WEST LINN.

HIDDEN SPRINGS RANCH NO. 9

SIDE 1 OF 2

(A REPLAT OF LOTS 13-19 BLOCK 26, LOTS 1-4 BLOCK 30 AND A PORTION OF PARCEL 'N' OF HIDDEN SPRINGS RANCH NO. 6)
LOCATED IN THE NE 1/4 OF SECTION 23, T. 2 S., R. 1 E., W. M.
AND ALSO BEING PART OF THE SAMUEL SHANNON D.L.C. NO. 70.

CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON

FEBRUARY 1982

6.333 ACRES
WILSEY & HAM
PORTLAND, OREGON
4-1100-8101

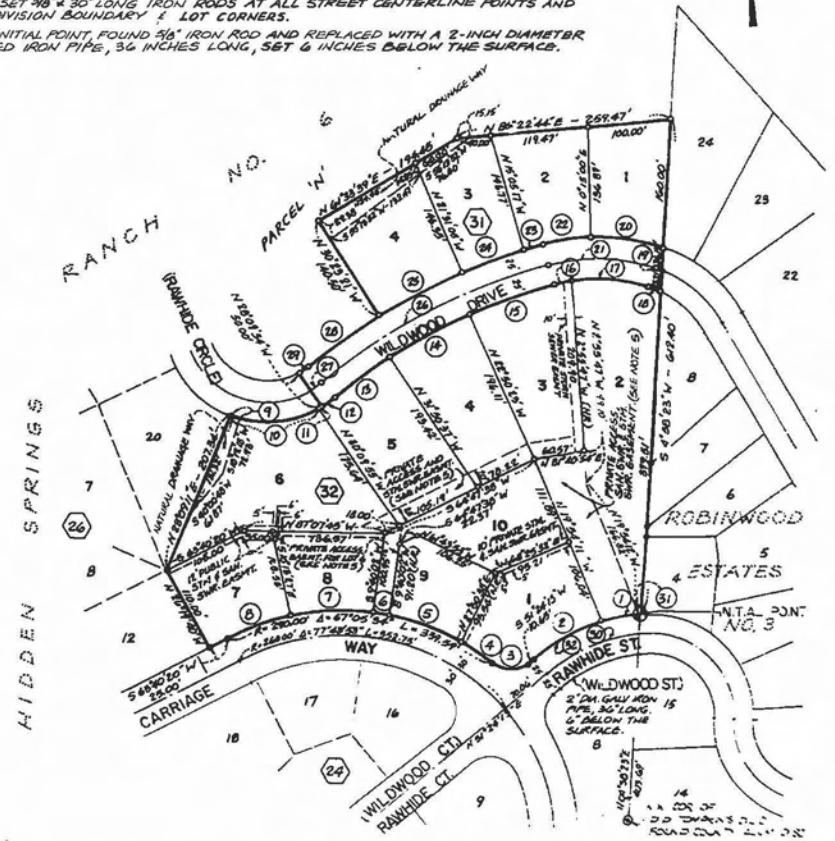
SCALE: 1" = 100'

BASIS OF BEARINGS

THE PLAT OF HIDDEN SPRINGS RANCH NO. 9, RECORDED IN BOOK 76 AT PAGE 21 OF PLAT RECORDS OF CLACKAMAS COUNTY, OREGON, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP.

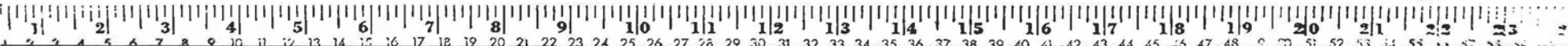
LEGEND

- DENOTES FOUND 3/8" IRON ROD, IN POSITION, UNLESS SHOWN OTHERWISE.
- DENOTES SET 3/8" x 30" LONG IRON RODS AT ALL STREET CENTERLINE POINTS AND ALL SUBDIVISION BOUNDARY & LOT CORNERS.
- ④ DENOTES INITIAL POINT FOUND 3/8" IRON ROD AND REPLACED WITH A 2-INCH DIAMETER GALVANIZED IRON PIPE, 36 INCHES LONG, SET 6 INCHES BELOW THE SURFACE.



39

2615





LETTER OF TRANSMITTAL

TO: City of West Linn
22500 Salamo Rd.
West Linn, OR 97068
ATTENTION: Tom Soppe - Planning

DATE: 10/18/2010	JOB #: 2587
SUBJECT: MIS-10-13	

WE ARE SENDING YOU

- | | | | |
|---------------------------------------|----------------------------------|-----------------------------------------|-----------------------------------------|
| <input type="checkbox"/> Prints | <input type="checkbox"/> Plans | <input type="checkbox"/> Specifications | <input type="checkbox"/> Copy of letter |
| <input type="checkbox"/> Documents | <input type="checkbox"/> Reports | <input type="checkbox"/> Change order | <input type="checkbox"/> Samples |
| <input type="checkbox"/> Other: _____ | | | |

COPIES	DATE	NO.	DESCRIPTION
4			Revised application materials re: Letter of Incomplete dated 7/2/2010
1			CD

These are transmitted as checked below:

- | | | | |
|----------------------------------------------|---------------------------------------|---------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> For approval | <input type="checkbox"/> For your use | <input type="checkbox"/> As requested | <input type="checkbox"/> For review and comment |
| <input type="checkbox"/> Other _____ | | | |
| <input type="checkbox"/> FOR BIDS DUE: _____ | | | |

REMARKS:

COPY TO: _____ SIGNED: Hayli Walker _____



#2587

CITY OF
West Linn

July 2, 2010

CESNW, INC.

JUL 03 2010

Mr. and Mrs. Bill Perkins
19740 Wildwood Drive
West Linn, OR 97068

SUBJECT: MIS-10-13- Extension for Variance and Water Resource Area (Natural Drainageway) permits for lot west of 19740 Wildwood Drive

Dear Mr. and Mrs. Perkins:

You submitted this application on June 10, 2010. The Planning and Engineering departments find that this application is **incomplete**. You have 180 days from your submittal date (until December 7, 2010) to make this application complete.

Incomplete items per the Planning Department, as listed by their Community Development Code section, are as follows. Engineering comments are at the end of this list.

Section 32.040(C)

Submit 11 x 17 or smaller versions of everything that you have supplied in 24 x 36 only.

Section 32.050(D)

The easement on the existing conditions map is not large enough. You must propose and show one covering all areas of the lot to remain undeveloped.

Section 32.060(A) and 75.070(A)

Put your phone number on all maps.

Section 32.060(B)(2)

Provide slope map described in this section.

Section 32.060(B)(3) & (5)

Show creek and transition area on all site plans.

Section 32.060(B)(4)

Show proposed stormwater facility.

Section 32.080

Respond individually to these; revegetation plan is needed for all disturbance area on site plan that will not remain developed.

Section 75.070(B)(1)

Make it clear on the site plan whether the property is in Hidden Springs Ranch No. 6 or No. 9.

Section 75.070(B)(2)(a)

Show lots directly across the street and their structures, as they are abutting lots for the purposes of the effects of these variances.

Section 75.070(B)(2)(b)

Mention height variance on site plan.

Section 75.070(B)(3)(b)

Provide drawing described in this subsection on the site plan or on its own.

Engineering Department

Client should show street improvement or pledge to pay a fee in lieu. This can be taken care of during the building permit process since it is a new house. It is necessary now to show the location of the rain garden and new street light on the site plan.

Please contact me at 503-742-8660, or by email at tsoppe@westlinnoregon.gov if you have any questions or comments, or if you wish to meet with Planning and Engineering staff regarding these issues.

Sincerely,



Tom Soppe
Associate Planner

C: Tony Weller, 15573 Bangy Road, Lake Oswego, OR 97035

C: Schott & Associates, 21018 NE Hwy 99E, P.O. Box 589, Aurora, OR 97002

p:/devrvw/projects folder/projects 2010/MIS-10-13/incompl-mis-10-13

Application Summary

Revised 10/18/10

Applicant/Owners	Bill and Cindy Perkins 19740 Wildwood Drive West Linn, OR 97068
Applicant's Representative	CESNW, Inc. Tony Weller 15573 Bangy Road, Suite 300 Lake Oswego, OR 97035 503-968-6655 tweller@cesnw.com
Site Location	Wildwood Drive
Size	+/- .25 Acres
Map and Tax Lot No	2 1E 23AC TL 9004
Current Zoning	R-10 Single Family Detached
Pre-Application Conference	March 4, 2010 PA-10-02
Request	Extension of VAR-06-04 & MISC 06-47
Date:	June 4, 2010

Table of Contents

1. Application Form
2. Narrative
3. Drawings
4. Water Resource Protection Report
5. Mitigation Email
6. Pre-application Notes

2006/7 Application Materials

7. Planning Commission Decision for VAR-06-04 & MISC-06-47
8. Staff Memo dated February 13, 2007
9. Staff Report
10. Applicant's Completeness Response
11. Applicant's Narrative
12. Applicant's Drawings

Summary of request: Per Community Development Code (CDC) 99.325, the applicant is requesting extensions to previous approvals VAR-06-04 & MISC 06-47, for setback and height variances and Natural Drainageway Permit (now called Water Resources Area Permit) for a new single family dwelling located adjacent to 19740 Wildwood Drive. There are no proposed changes to the VAR-06-04. However for MISC 06-47, CDC Chapter 32 Water Resources Area Protection has changed significantly and is fully addressed in the following narrative. A fee in lieu of street improvements is proposed.

32.000 WATER RESOURCE AREA PROTECTION

32.050 APPROVAL CRITERIA

No application for development on property containing a water resource area shall be approved unless the decision-making authority finds that the following standards have been satisfied, or can be satisfied by conditions of approval.

A. Proposed development submittals shall identify all water resource areas on the project site. The most currently adopted Surface Water Management Plan) shall be used as the basis for determining existence of drainageways. The exact location of drainageways identified in the Surface Water Management Plan, and drainageway classification (e.g., open channel vs. enclosed storm drains), may have to be verified in the field by the City Engineer. The Local Wetlands Inventory shall be used as the basis for determining existence of wetlands. The exact location of wetlands identified in the Local Wetlands Inventory on the subject property shall be verified in a wetlands delineation analysis prepared for the applicant by a certified wetlands specialist. The Riparian Corridor inventory shall be used as the basis for determining existence of riparian corridors.

Response: One water resource has been identified on the subject property. The open channel emerges from an 18-inch storm pipe and energy dissipater near the northwest property corner and runs northeasterly and crosses the northwest corner of the site. Based on the existing slopes, the entire site is located within the Water Resource Area. A Water Resource Report has been prepared by Schott & Associates and is included with this application. No wetlands were identified on the Local Wetland Inventory Map and no wetlands were determined present during the onsite visit by Schott and Associates. No Riparian Corridor was mapped on the City Natural Resource Inventory Maps. The existing drainageway is shown on the existing conditions map.

B. Proposed developments shall be so designed as to maintain the existing natural drainageways and utilize them as the primary method of stormwater conveyance through the project site unless the most recently adopted West Linn Surface Water Management Plan calls for alternate configurations (culverts, piping, etc.). Proposed development shall, particularly in the case of subdivisions, facilitate reasonable access to the drainageway for maintenance purposes.

Response: The proposed house has been sited as far away from the existing drainageway as practicable. This maintains the existing drainageway as the primary stormwater conveyance in the area. No changes to access to the existing drainageway are proposed.

C. Development shall be conducted in a manner that will minimize adverse impact on water resource areas. Alternatives which avoid all adverse environmental impacts associated with the proposed action shall be considered first. For unavoidable adverse environmental impacts, alternatives that reduce or minimize these impacts shall be selected. If any portion of the water quality resource area is proposed to be permanently disturbed, the applicant shall prepare a mitigation plan as specified in CDC 32.070 designed to restore disturbed areas, either existing prior to development or disturbed as a result of the development project, to a healthy natural state.

Response: Since the entire lot is within the water resource area, there are no alternatives available to construct a home that avoids all impacts. The house has been sited as close to the road as possible, designed to be appropriate for the neighborhood, and placed as far away as possible from the drainageway. This alternate requires variances for interior side yard setback and height as well as the front yard adjustment allowed in 32.050 (O) to minimize impacts to the resource area.

D. Water resource areas shall be protected from development or encroachment by dedicating the land title deed to the City for public open space purposes if either: 1) a finding can be made that the dedication is roughly proportional to the impact of the development; or, 2) the applicant chooses to dedicate these areas. Otherwise, these areas shall be preserved through a protective easement. Protective or conservation easements are not preferred because water resource areas protected by easements have shown to be harder to manage and, thus, more susceptible to disturbance and damage. Required 15-foot wide structural setback areas do not require preservation by easement or dedication.

Response: The lot has an existing Natural Drainageway Easement that was created when the area was originally platted. The disturbance area limits restrict residential uses to the area closest to the roadway and protects the remaining resource area. No additional dedication or conservation easements are proposed.

E. The protected water resource area shall include the drainage channel, creek, wetlands, and the required setback and transition area. The setback and transition area shall be determined using Table 32-1:

Response: The entire lot is within the water resource area, the placement of the house combined with the disturbance area limits per 32.090, provides protection for the drainageway and resource area closest to the drainageway. The design and placement of the home have minimized impacts and protected the largest resource area possible.

F. Roads, driveways, utilities, or passive use recreation facilities may be built in and across water resource areas when no other practical alternative exists. Construction shall minimize impacts...

Response: No roads are proposed. All home improvements are located as far as practicable from the drainageway. Proper erosion controls and construction protection will be placed along the disturbance limits to minimize any potential construction impacts.

G. Prior to construction, the water resource area shall be protected with an anchored chain link fence (or approved equivalent) at its perimeter and shall remain undisturbed except as specifically allowed by an approved water resource area permit. Such fencing shall be maintained until construction is complete. The water resource area shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals that clearly delineate the extent of the protected area.

Response: All improvements are located as far as practicable from the drainageway. Proper erosion controls and construction protection will be placed along the disturbance limits to minimize any potential construction impacts. After construction, the disturbance limits will be marked to clearly delineate the protected area.

H. Paved trails, walkways, or bike paths shall be located at least 15 feet from the edge of a protected water feature except for approved crossings. All trails, walkways,

and bike paths shall be constructed so as to minimize disturbance to existing native vegetation. All trails, walkways, and bike paths shall be constructed with a permeable material and utilize Low Impact Development (LID) construction practices.

Response: No trails, walkways or bike paths are proposed.

I. Sound engineering principles regarding downstream impacts, soil stabilization, erosion control, and adequacy of improvements to accommodate the intended drainage through the drainage basin shall be used. Storm drainage shall not be diverted from its natural watercourse. Inter-basin transfers of storm drainage shall not be permitted.

Response: Grading, erosion control and stormwater management will all be based on current engineering requirements of the City of West Linn. Storm drainage will not be diverted from its natural watercourse and no interbasin transfers of storm drainage will occur.

J. Appropriate erosion control measures based on CDC Chapter 31 requirements shall be established throughout all phases of construction.

Response: Erosion control measures, as required by the City of West Linn, will be implemented prior to construction and will be maintained throughout construction.

K. Vegetative improvements to areas within the water resource area may be required if the site is found to be in an unhealthy or disturbed state, or if portions of the site within the water resource area are disturbed during the development process. "Unhealthy or disturbed" includes those sites that have a combination of native trees, shrubs, and groundcover on less than 80% of the water resource area and less than 50% tree canopy coverage in the water resource area. "Vegetative improvements" will be documented by submitting a revegetation plan meeting CDC Section 32.080 criteria that will result in the water resource area having a combination of native trees, shrubs, and groundcover on more than 80% of its area, and more than 50% tree canopy coverage in its area. Where any existing vegetation is proposed to be permanently removed, or the original land contours disturbed, a mitigation plan meeting CDC Section 32.070 criteria shall also be submitted. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Upon approval of the mitigation plan, the applicant is responsible for implementing the plan during the next available planting season.

Response: The site contains a combination of native trees and groundcover in more than 95% of the water resource area. Approximately 90% of the tree canopy coverage of the native tree cover was present in the water resource area. No revegetation improvements are required per the Schott Report. As described above, erosion control measures will be fully implemented during construction. Mitigation for the 4,700 square feet of developed area will be accomplished on City owned park property, see 30.070.

L. Structural Setback area: where a structural setback area is specifically required, development projects shall keep all foundation walls and footings at least 15 feet from the edge of the water resource area transition and setback area if this area is located in the front or rear yard of the lot, and 7 ¾ feet from the edge of the water resource area transition and setback area if this area is located in the side yard of the lot. Structural elements may not be built on or cantilever over the setback area. Roof overhangs of up to three feet are permitted in the setback. Decks are permitted within the structural setback area.

Response: The entire lot is in the water resource area therefore no structural setback is possible. However, the developed area has been minimized and is in compliance with 32.090. The home is over 50–feet from its northwest corner to the drainageway and 70–feet from its northeast corner to the drainageway.

M. Stormwater Treatment Facilities may only encroach a maximum of 25 feet into the outside boundary of the water resource area; and the area of encroachment must be replaced by adding an equal area to the water quality resource area on the subject property. Facilities that infiltrate storm water onsite, including the associated piping, may be placed at any point within the water resource area outside of the actual drainage course so long as the forest canopy and the areas within ten feet of the driplines of significant trees are not disturbed. Only native vegetation may be planted in these facilities.

Response: Proposed stormwater treatment facilities will be located within the proposed disturbance area. The facility will consist of a stormwater planter, designed and constructed per City of West Linn requirements.

N. As part of any proposed land division or Class II Design Review application, any covered or piped drainageways identified on the Surface Water Quality Management Plan Map shall be opened...

Response: There are no covered or piped drainageways on the site.

O. The decision-making authority may approve a reduction in applicable front yard setbacks abutting a public street to a minimum of fifteen feet and a reduction in applicable side yard setbacks abutting a public street to 7 ¾ feet if the applicant demonstrates that the reduction is necessary to create a building envelope on an existing or proposed lot of at least 5,000 square feet.

Response: The garage has been situated 15 feet from the front property line to minimize impacts to the water resource area per this standard. No other reductions were requested under this standard. This adjustment along with the requested variances, allows a disturbance envelope of 4,700 square feet for the home, yard improvements and driveway. The existing house next door is also located with one corner of the garage at 15 feet from the front property line.

P. Storm Drainage Channels not identified on the Surface Water Management Plan Map, but identified through the development review process, shall be subject to the same setbacks as equivalent mapped storm drainage channels.

Response: No additional storm drainage channels have been identified on site and none are believed to be present.

32.070 MITIGATION PLAN

A mitigation plan shall be required if any portion of the water resource area is proposed to be permanently disturbed by development.

A. All mitigation plans must contain an alternatives analysis demonstrating that:

- 1. No practicable alternatives to the requested development exist that will not disturb the water resource area; and,*
- 2. Development in the water resource area has been limited to the area necessary to allow for the proposed use; and,*
- 3. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to the water resource area will be avoided and/or minimized.*

Response: Since the entire lot is within the water resource area, there are no alternatives available to construct a home that avoids all impacts. Per 32.090, the house has been sited as close to the road as possible, designed to be appropriate for the neighborhood, and placed as far away as possible from the

drainageway. This alternate requires variances for interior side yard setback and height as well as the front yard adjustment allowed in 32.050 (O) to minimize impacts to the resource area.

B. A mitigation plan shall contain the following information:

1. A description of adverse impacts that will be caused as a result of development.

Response: Approximately 4700 square feet of the water resource transition area will be disturbed with the home construction and related improvements. No impacts are anticipated for the drainageway or the water resource area nearest the drainageway.

2. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, the revegetation provisions of CDC Section 32.050(K).

Response: Situating the house as close as possible to the street minimizes adverse impacts to the site. The adjustment allowed in 32.050(O) together with the requested variances for the interior side yard setback and building height, provide the greatest protection to the largest and most significant portion of the water resource area. Mitigation has been provided on City owned park property. Since this is an existing lot of record which is fully located within the water resource area, provisions of 32.090 were utilized to minimize the impact areas and provide a developable area of 4,700 square feet which is less than the allowed 5,000 feet under this section.

3. 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.

Response: Persons responsible for work on the development site will be identified at the time of submittal for building permit.

4. A map showing where the specific mitigation activities will occur.

5. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting, and a contingency

plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife water work periods.

6. Assurances shall be established to rectify any mitigation actions that are not successful. This may include bonding or other surety.

7. Evidence that a Joint Permit Application (to the U.S. Army Corps and OR DSL) if impacts to wetlands are greater than 0.10 acres, has been submitted and accepted for review.

Response: As agreed upon with the City, the mitigation will consist of payment of a fee in lieu for 4700 square feet of the Field's Bridge Park wetland restoration as designed and implemented by the City of West Linn. All construction, reporting, monitoring, permitting, etc. associated with the mitigation will be managed by the City of West Linn.

C. Mitigation of any water resource areas that are not wetlands that are permanently disturbed shall be accomplished by creation of a mitigation area equal in size to the area being disturbed...

Response: The mitigation will consist of payment for 4700 square feet of the Field's Bridge Park wetland restoration which is equal to the proposed disturbance area for this project.

D. The Mitigation Plan for any wetland area to be disturbed shall be 1) prepared and implemented with the guidance of professionals with experience and credentials in wetland areas and values, and 2) be consistent with requirements set forth by regulatory agencies (U.S. Army Corps and OR DSL) in a Joint Permit Application, if such an Application is necessary for the disturbance. Where the alternatives analysis demonstrates that there are no practicable alternatives for mitigation on site, off-site mitigation shall be located as follows:

- 1. As close to the development site as is practicable above the confluence of the next downstream tributary, or if this is not practicable;*
- 2. Within the watershed where the development will take place, or as otherwise specified by the City in an approved wetland mitigation bank.*

Response: The City of West Linn will manage the project per the requirements herein.

E. To ensure that the mitigation area will be protected in perpetuity, proof that the area has been dedicated to the City or a conservation easement has been placed on the property where the mitigation is to occur is required.

Response: The mitigation project site is located on Fields Bridge Park, which is owned by the City of West Linn.

32.080 REVEGETATION PLAN REQUIREMENTS

Metro's native plant list is incorporated by reference as a part of CDC Chapter 32, and all plants used in revegetation plans shall be plants found on the Metro native plant list. Performance standards for planting upland, riparian and wetland plants include the following:

A. Native trees and shrubs will require temporary irrigation from June 15 to October 15 for the three years following planting.

Response: There will be no disturbance area on the site outside of the development area. No irrigation or revegetation improvements are required or proposed.

B. Invasive non-native or noxious vegetation shall be removed within the area to be revegetated prior to planting.

Response: There will be no disturbance area on the site outside of the development area. No revegetation improvements are required.

C. Replacement trees must be at least one-half inch in caliper, measured at 6 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.

Response: There will be no disturbance area on the site outside of the development area. No revegetation improvements are proposed.

D. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than 4 plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing requirements.

Response: There will be no disturbance area on the site outside of the development area. No revegetation improvements are required.

E. Shrubs must consist of at least two different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same species.

Response: There will be no disturbance area on the site outside of the development area. No revegetation improvements are required.

F. The responsible party shall provide an appropriate level of assurance documenting that 80 percent survival of the plants has been achieved after three years, and shall provide annual reports to the Planning Director on the status of the revegetation plan during the three year period.

Response: Per the Schott report, the site contains a combination of native trees and groundcover in more than 95% of the water resource area. Approximately 90% of the tree canopy coverage of the native tree cover was present in the water resource area. No revegetation improvements are required.

32.090 REDUCTION IN STANDARDS FOR HARDSHIP

The purpose of CDC Section 32.090 is to ensure that compliance with CDC Chapter 32 does not cause unreasonable hardship. To avoid such instances, the requirements of CDC Chapter 32 may be reduced. Reductions are also allowed when strict application of CDC Chapter 32 would deprive an owner of all economically viable use of land. The decision making authority may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief.

A. Lots located completely inside the water resource area. Development may occur on lots located completely within the water resource area that are recorded with the County Assessor's Office on or before the effective date of this ordinance. Development shall disturb the minimum necessary area to allow the proposed use or activity, and in any situation no more than 5,000 square feet of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards in CDC Chapter 31, and subject to a finding that the proposed development does not increase danger to life and property due to flooding and erosion.

Response: The lot is a lot of record and is located entirely within the water resource area. Proposed development will disturb the minimum necessary area in constructing the proposed dwelling and related improvements. The proposed disturbance area of 4700 square feet, is less than the maximum of 5000 square feet allowed under this section. Erosion and sediment control standards will be strictly adhered to. Based on the proposed location of the home, the proposed development does not increase danger to life and property due to flooding or erosion.

75.000 VARIANCE

75.060 THE APPROVAL CRITERIA

The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The approval authority shall deny the variance if any of the criteria are not met.

Response: A Class II Variance for height and west interior side-yard setback was approved by the Planning Commission in VAR-06-04. Chapter 75 has not changed since the original application. The circumstances that require the variance still exist as in the previous application.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.

Response: The lot is an existing lot of record that has steep topography and is fully contained within a water resource area. The proposed interior side yard variance from the required 7.5 foot setback to 5-foot allows the proposed home to be placed as close as practicable to the street, protecting as much of the water resource area as possible. The proposed height variance allows the home to be constructed with the least amount of grading, again protecting as much of the water resource area as possible. The two variances taken together provide a home more in character with those in the neighborhood while protecting as much of the resource area as possible.

2. The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as a right possessed by owners of other property in the same zone or vicinity.

Response: The lot is an existing lot of record that has steep topography and is fully contained within a water resource area. The lot also narrows as you get closer to the street. The most developable area of the lot is near the street which also allows protection of the most sensitive portion of the water resource area.

The proposed interior side yard variance from the required 7.5 foot setback to 5-foot allows the proposed home to be placed as close as practicable to the street, protecting as much of the water resource area as possible. This property line is adjacent to an open space tract and will not negatively impact any adjoining owners.

The proposed height variance to allow 57'-8" verses 45 feet at the rear of the home. It allows the home to be constructed with the least amount of grading, again protecting as much of the water resource area as possible. The proposed home will look appear like a typical two story home from the street and no adjacent property owners will be impacted from the height variance. The two variances taken together provide a home more in character with those in the neighborhood while protecting as much of the resource area as possible.

3. The authorization of the variance will not be materially detrimental to the purposes and standards of this Code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan.

Response: The request variances will not be detrimental to the purposes or standards of the City's Code. There will be no change in density or type of use anticipated for this property. The requested variances further the purposes of Chapter 32 while not impacting any adjoining properties or code standards.

4. The variance request is the minimum variance, which would alleviate the exceptional and extraordinary circumstance.

Response: The requested variances are the minimum necessary to alleviate the steep topography and fact that the lot is fully within a water resource area based on the recent Code change. The interior side yard setback variance was only requested on the side without adjoining structures. The height variance is only for the rear portion of the home to allow a reasonable sized home located as far as possible from the drainageway.

5. The exceptional and extraordinary circumstance does not arise from the violation of this ordinance.

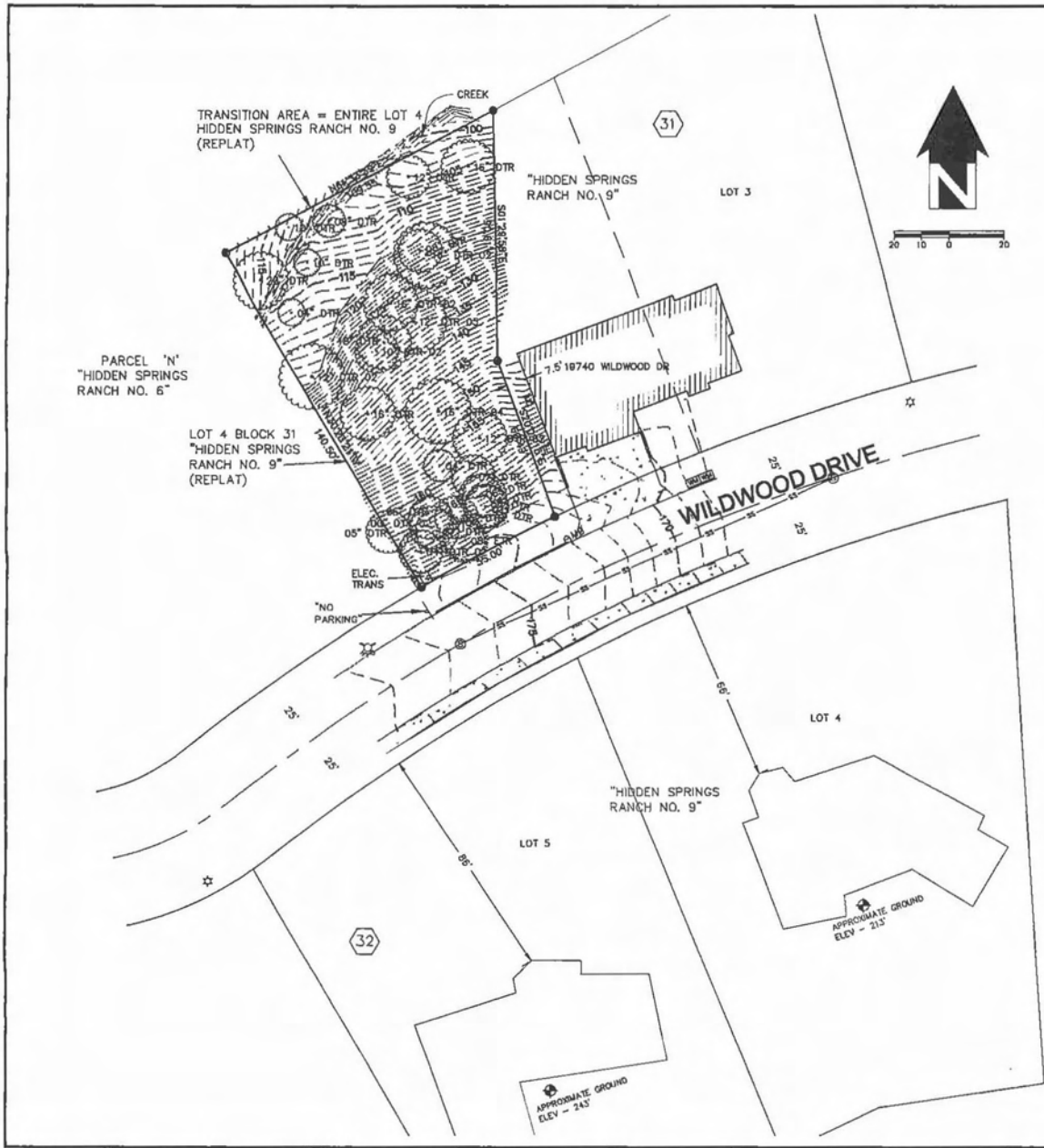
Response: There are no Code violations related to this request.

6. *The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.*

Response: The lot is located in an otherwise fully developed neighborhood. The requested variances will no impose physical limitations on any other properties or uses in the area.

Engineering Requirements: The applicant proposes to pay a fee in lieu of street improvements.

Summary: Previously, the Planning Commission found that the variances were justified due to topography and presence of the drainageway, and that it is environmentally beneficial to fit as much of the house at the far front of the lot as possible. Nothing has changed from these findings with the exception that the entire lot is now located within a Water Resource Area. The requested variances continue to support these findings.



LEGEND

- SIGN
- POWER TRANSFORMER
- POWER PEDESTAL
- ELECTRIC METER
- TELEPHONE PEDESTAL
- REGULATION CONTROL VALVE
- FIRE HYDRANT
- WATER METER
- WATER VALVE
- SIGNAL CONTROL VALVE
- GAS METER
- MAILBOX
- TV PEDESTAL
- ELECTRIC JUNCTION BOX
- TEST PIT
- SPRINKLER HEAD
- BOLLARD POST
- CATCH BASIN
- STORM SEWER MANHOLE
- SLOW POINT
- SANITARY SEWER MANHOLE
- CLEANOUT
- TELEPHONE MANHOLE
- UTILITY POLE
- LIGHT POLE W/HEAD INDICATION
- SPLIT ANCHOR
- STORM SEWER LINE
- SANITARY SEWER LINE
- UNDERGROUND TELEPHONE LINE
- UNDERGROUND WATER LINE
- UNDERGROUND GAS LINE
- OVERHEAD UTILITIES
- FENCE LINE
- IRRIGATION LINE
- SANITARY SEWER FORCE MAIN
- EDGE OF PAVEMENT
- BENCH MARK
- PARKING SPACES
- CIRCLED CURB
- DUCTILE IRON
- FINISH FLOOR
- ELEVATOR
- HORIZONTAL PAVING
- FOUND MONUMENT

TREE LEGEND

- DECIDUOUS TREE
- CONIFEROUS TREE

- CONCRETE
- PAVEMENT
- GRAVEL

NOTES:

1. THE ELEVATIONS ARE ON AN ASSUMED DATUM.
2. THE UTILITIES SHOWN HAVE BEEN LOCATED IN THE FIELD AND ARE FROM OBSERVED EVIDENCE ONLY. THE EXTENSIVE OF ALL UTILITIES AND SERVICE LINES ARE UNKNOWN AND ARE NOT SHOWN ON THIS SURVEY.
3. THIS IS NOT A BOUNDARY SURVEY. THE LINES SHOWN ARE FOR RECORDS OF SURVEY NUMBER 2008-25AL, CLATSOP COUNTY SURVEY RECORDS.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JERRY R. WILSON
ANTHONY R. WELLS
JAMES
RENEWAL 8/30/10

PERKINS LOT
WEST LINN, OR

BILL PERKINS
18740 WILDWOOD DRIVE
WEST LINN, OR 97136
503-635-3442

CES | NWI

15325 NW HANCOCK ROAD, STE. 300
JAMES OSTERGARD, OREGON PROS
503.568.6655 www.cesnw.com

58

REV 00/08

DATE: 4/1/08

SCALE: AS SHOWN

PROJECT NO.: 2008-25AL

DATE: 4/1/08

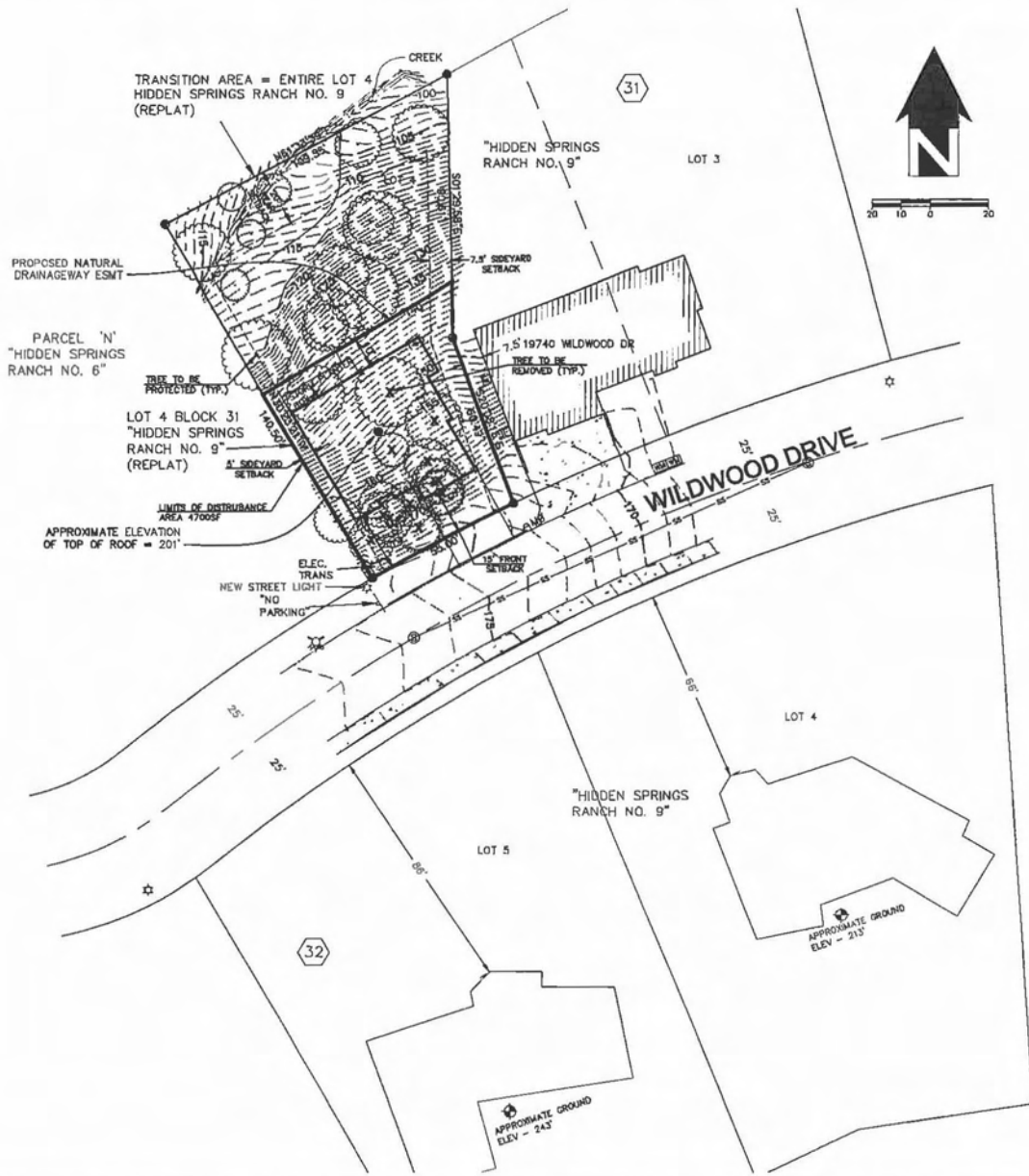
BY: JRW

OR

EXISTING CONDITIONS
PLAN

1

3



SITE INFORMATION

MAP & TAX LOT: 251E 234G, TL 8004
ZONING: R10
SETBACKS:

	REQUIRED	PROPOSED
FRONT	20'	15' PER 32.050(0)
INTERIOR SIDE YARD	7.5'	7.5' EAST
REAR	20'	5' WEST PER SETBACK VARIANCE REQUEST
HEIGHT	45'	>70' 57'-6" PER HEIGHT VARIANCE REQUEST

- REQUESTED APPROVALS:
- EXTENSION OF VAR-06-04 & MSC 06-47 (NATURAL DRAINAGEWAY PERMIT, SETBACK AND HEIGHT VARIANCES)
 - WATER RESOURCE AREA PERMIT

NOTES:

- THE ELEVATIONS ARE ON AN ASSIGNED DATUM.
- THE UTILITIES SHOWN HAVE BEEN LOCATED IN THE FIELD AND ARE FROM OBSERVED EVIDENCE ONLY. THE EXISTENCE OF ALL UTILITIES AND SERVICE LINES ARE UNKNOWN AND ARE NOT SHOWN ON THIS SURVEY.
- THIS IS NOT A BOUNDARY SURVEY THE LINES SHOWN ARE PER RECORD OF SURVEY NUMBER 2008-250, CLATSOP COUNTY SURVEY RECORDS.

PERKINS LOT
WEST LINN, OR

BILL PERKINS
18740 WILDWOOD DRIVE
WEST LINN, OR 97138
503-638-3442

CES | NW

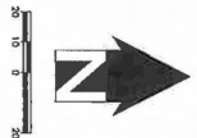
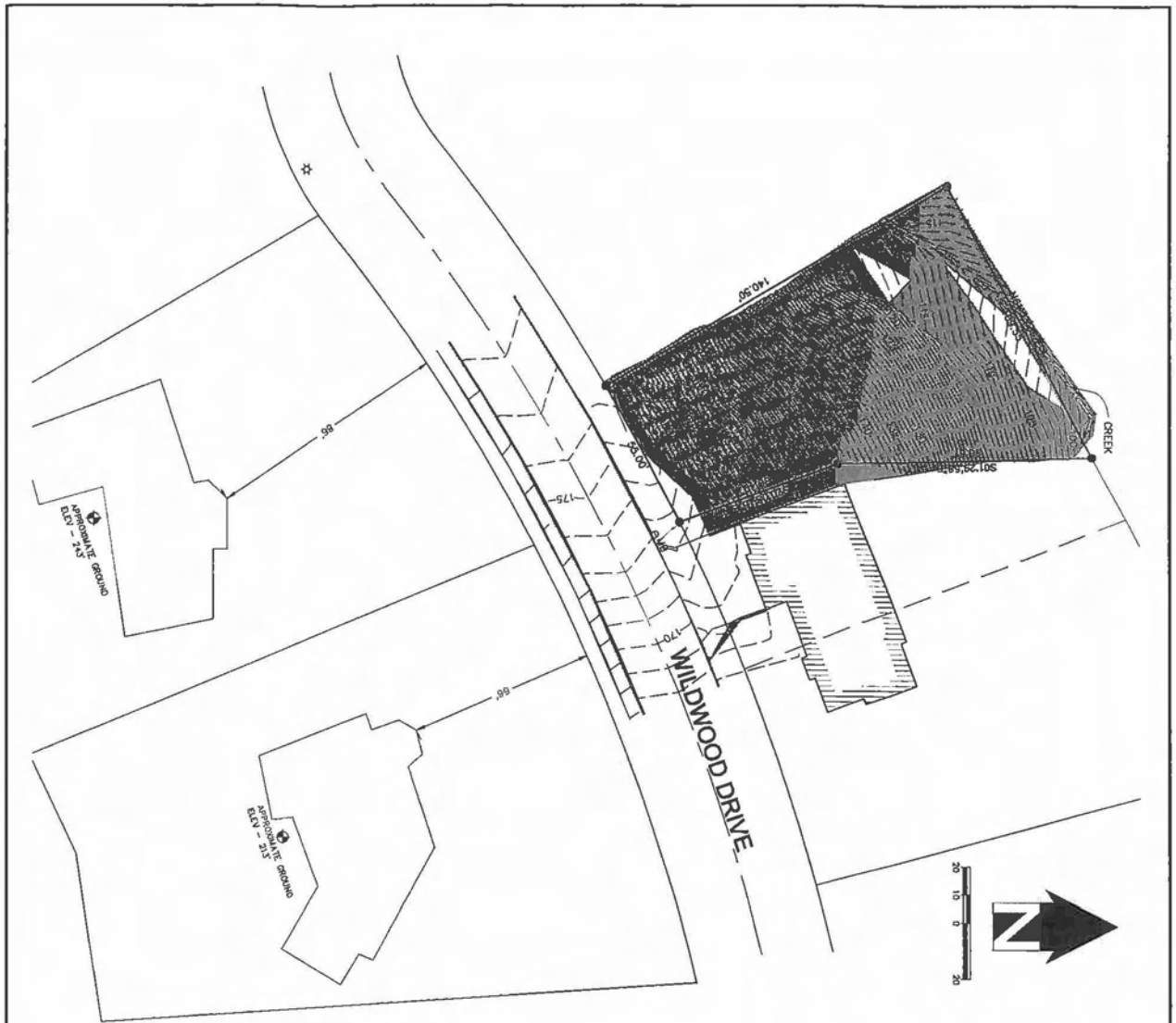
1875 BIRCHMOUNT RD, WEST LINN, OR 97138
LAKESIDE OFFICE BUILDING, ROOM 200
503-668-6655 www.cesnw.com

59

DATE: 11/27/20
SCALE: 1" = 20' (PLAN)
DATE: 11/27/20
SCALE: 1" = 20' (ELEV)

SITE AND DISTURBANCE
LIMITS PLAN

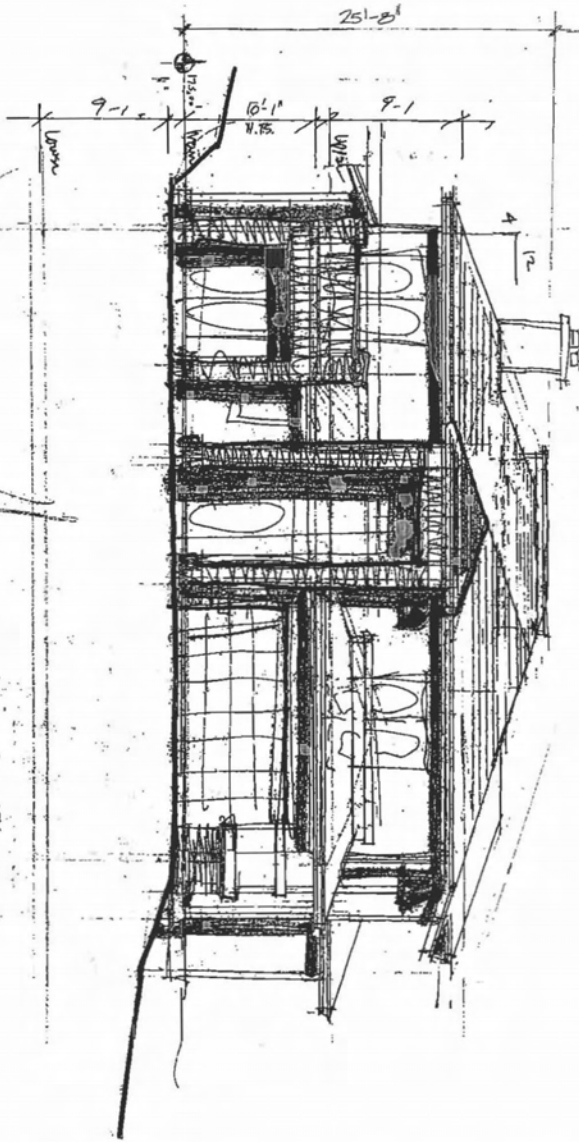
2
OF
3



SLOPE ANALYSIS

- 25% SLOPE AND GREATER
- LESS THAN 25% SLOPE

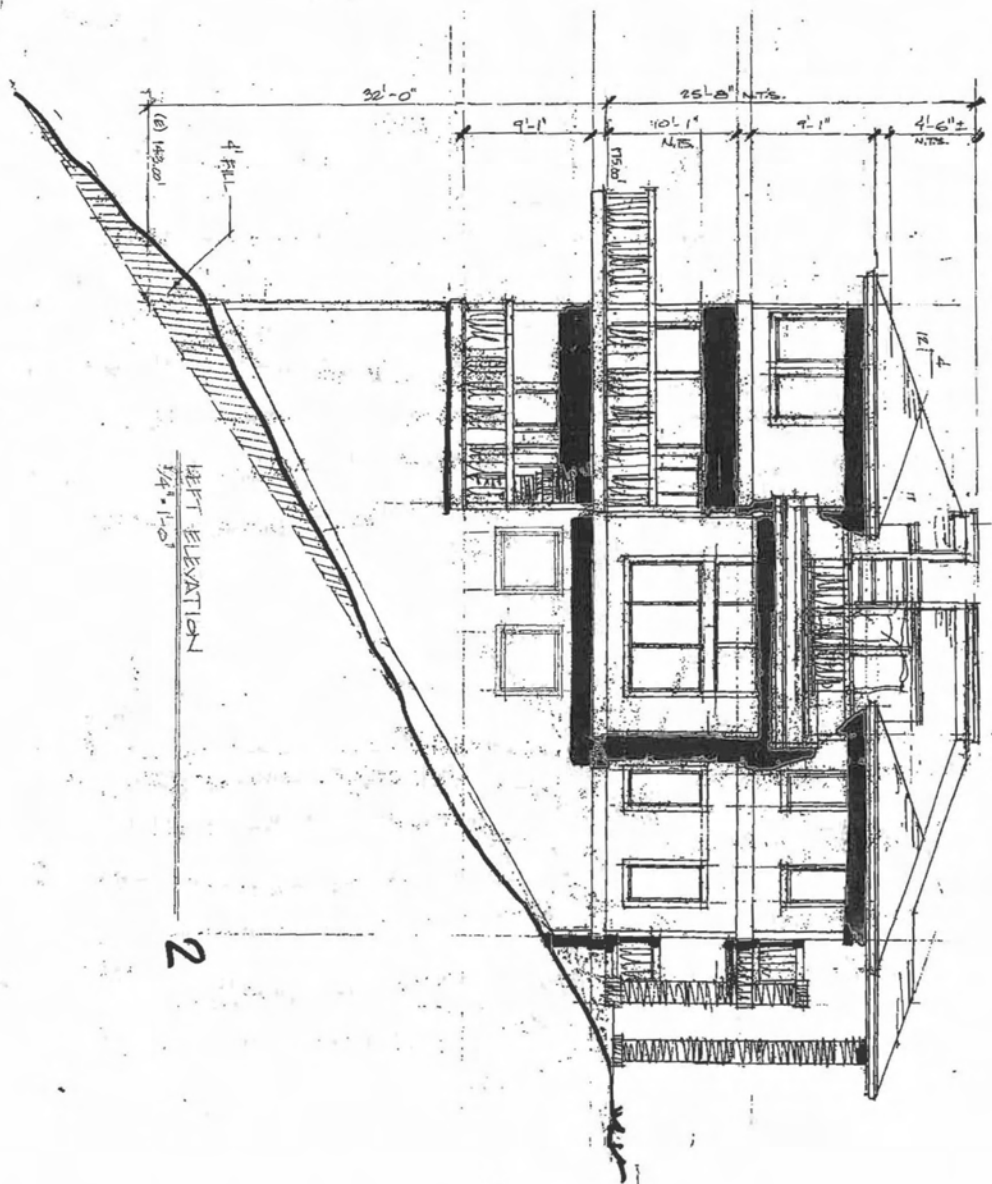
3	3	SLOPE ANALYSIS MAP	CES NW <small>15375 SW BANGY ROAD, STE 300 LAKE OSWEGO, OREGON 97036 503.568.6655 www.cesnw.com</small>	PERKINS LOT <small>WEST LINN, OR</small> BILL PERKINS <small>19740 WILDWOOD DRIVE WEST LINN, OR 97068 503-635-5442</small>
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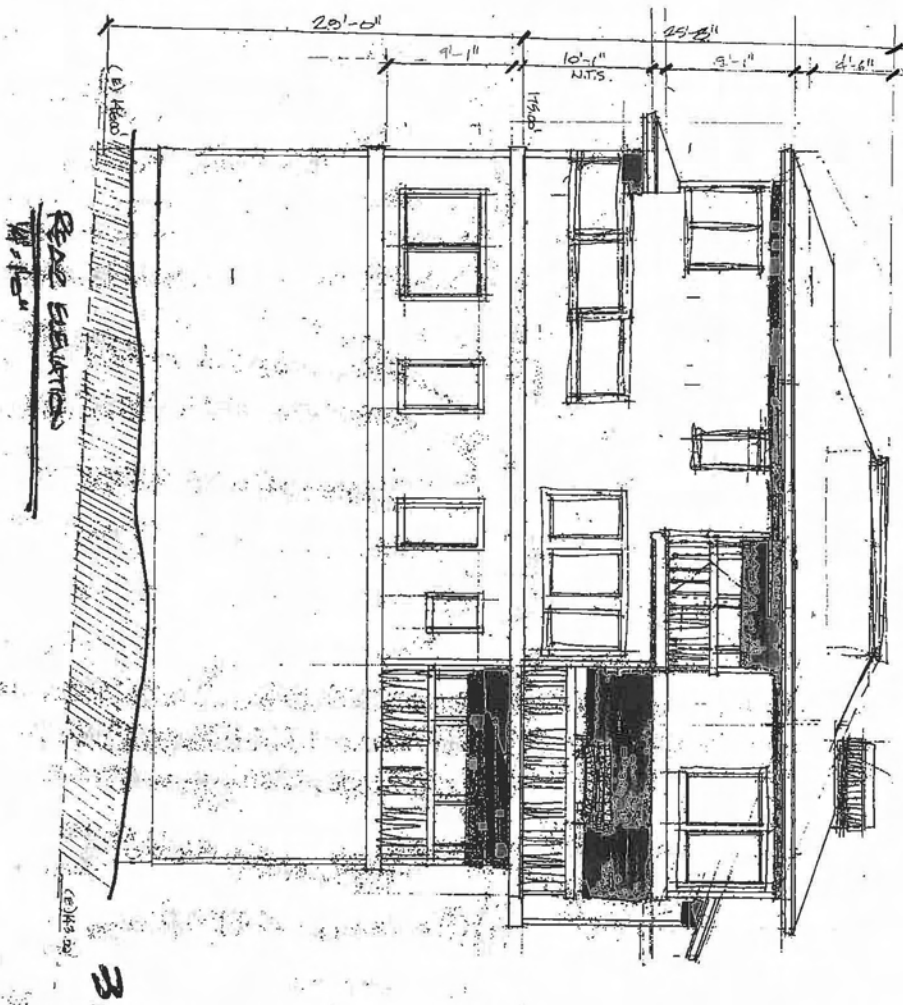


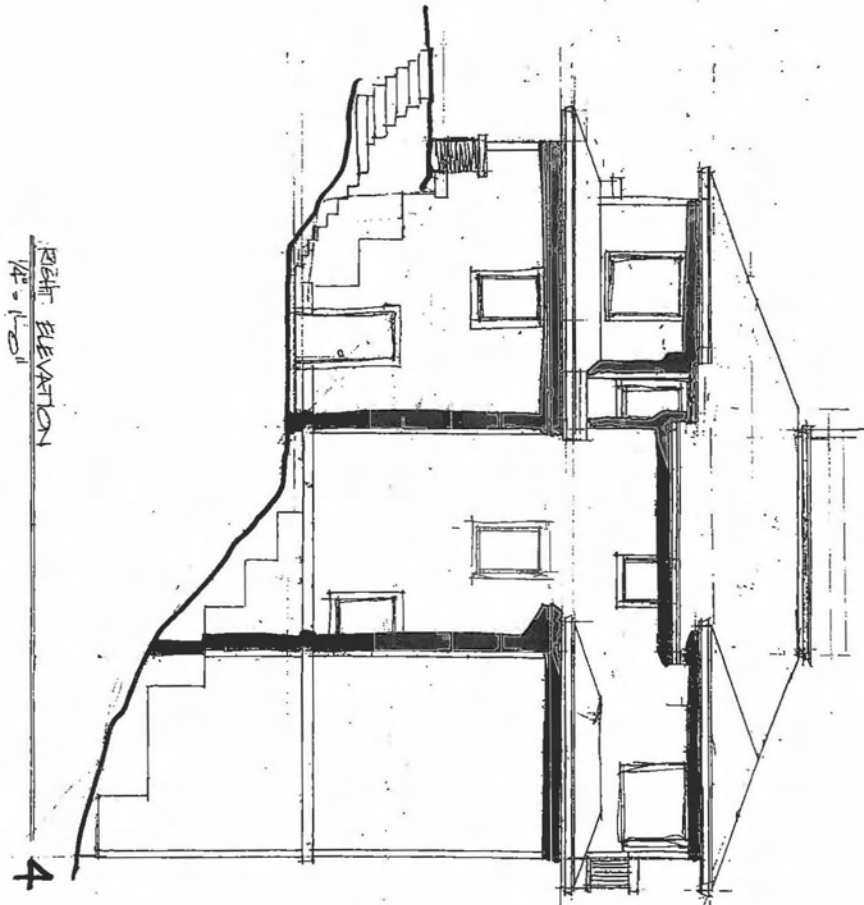
FRONT ELEVATION
1/8" = 1'-0"

NO. 1113
9-11-06
10-6-06



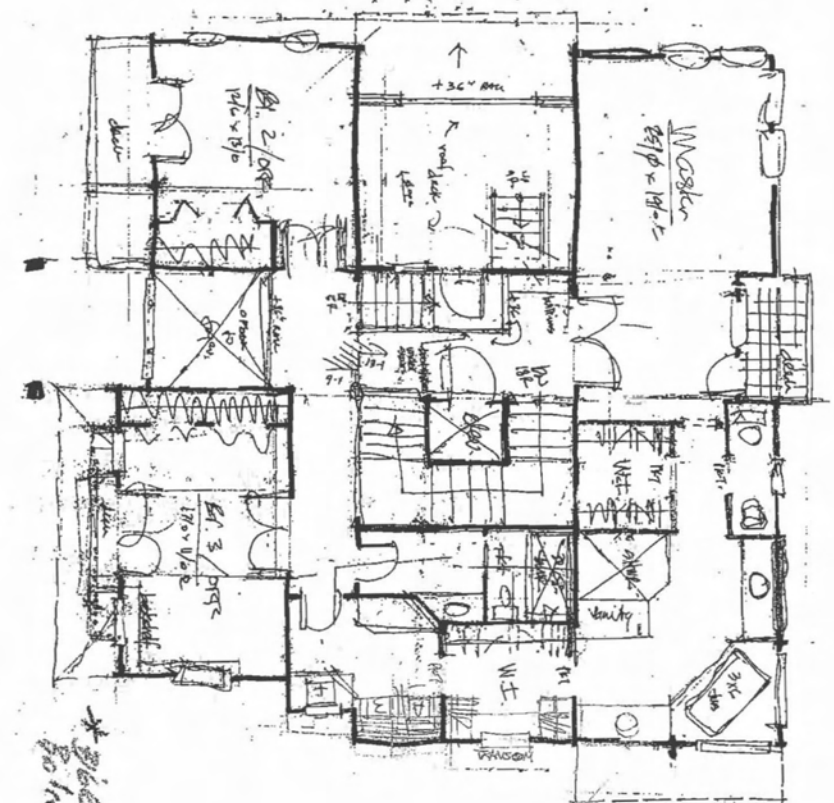




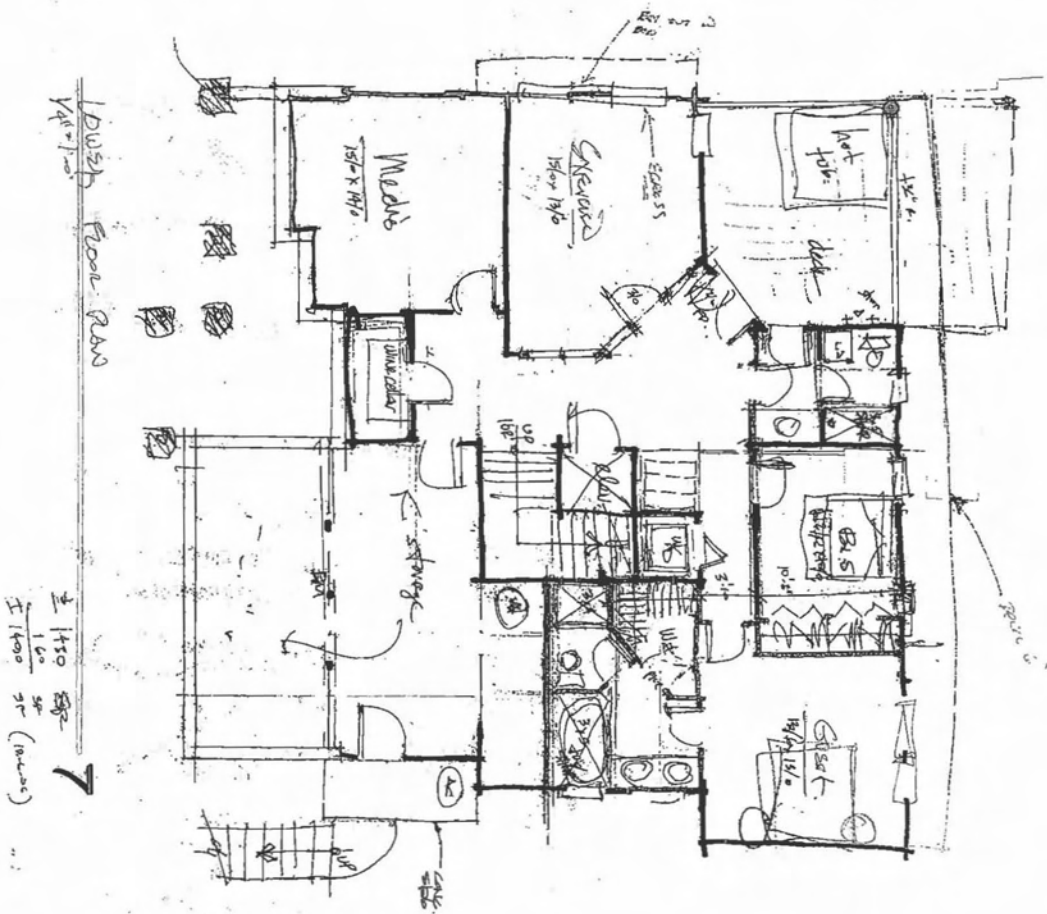


UPPER Floor 1102
1421-001

± 1400 sq
+ 70 sq
± 1470 sq (1102-001)



* please
see roof
plan



TOPOGRAPHIC SURVEY

FOR:
INNOVATION CONSTRUCTION
 BEING A PORTION OF LOT 4, BLOCK 31,
 "HIDDEN SPRINGS RANCH NO. 9"
 IN THE NE 1/4 SEC. 23, T.2S., R.1E., W.M.
 CITY OF WEST LINN
 CLACKAMAS COUNTY, OREGON

JUNE 28, 2006

MAP 2 1E 23AC

LEGEND:

- | | |
|---------------------------------------------------------------------------------------|---------------------------------------------------|
| ● FOUND 3/8" IRON ROD WITH YELLOW PLASTIC CAP
STAMPED "ANDY PARIS & ASSOC, INC." | ○ DOUGLAS FIR TREE |
| ✱ FOUND 5/8" I.R. (SMOOTH) W/PPC "LS 937"
PER PLAT OF "HIDDEN SPRINGS RANCH NO. 9" | △ ALDER TREE |
| ⊙ SANITARY SEWER MANHOLE | MA MAPLE TREE |
| ⊕ FIRE HYDRANT | 000.00FX SPOT ELEVATION TOP OF CURB |
| ⊞ MAILBOX IN BRICK COLUMN | 000.00HX SPOT ELEVATION GROUND |
| ⊠ ELECTRIC METER | 000.00PX SPOT ELEVATION EDGE OF PAVEMENT |
| ⊡ GAS METER | 000.00CX SPOT ELEVATION CENTER OF ROAD |
| ⊞ CABLE PEDESTAL | — CONC. VERTICAL CURB
(UNLESS OTHERWISE NOTED) |
| — ROAD SIGN | ▭ ASPHALT |
| ⊙ DECIDUOUS TREE AS NOTED | |
| ⊙ CONIFEROUS TREE AS NOTED | |

NOTES:

- ELEVATIONS ARE ON AN ASSUMED DATUM.
- THE BOUNDARIES AS SHOWN ON THIS MAP ARE BASED ON A PROPERTY LINE ADJUSTMENT SURVEY FOR BILL PEDDONS BY THIS FIRM ON JUNE 5, 2006.
- THIS SURVEY IS MADE FOR THE ORIGINAL PURCHASER OF THE SURVEY ONLY. ANDY PARIS & ASSOCIATES, INC. ASSUMES NO LIABILITY FOR INFORMATION SHOWN HEREON TO ANY OTHER INSTITUTIONS OR SUBSEQUENT PURCHASERS OF THE PROPERTY.
- SURVEY IS VALID ONLY IF PRINT HAS SEAL AND SIGNATURE OF SURVEYOR.
- THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND/OR EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. IF THE TRUE LOCATION OF THE UNDERGROUND UTILITY IS NEEDED, IT IS ADVISED THAT THE UTILITY BE EXPOSED AND LOCATED TO THE SATISFACTION OF THOSE NEEDING THIS INFORMATION.
- THE LOCATION AND OR EXISTENCE OF UTILITY SERVICE LINES TO THE PROPERTY SURVEYED ARE UNKNOWN AND ARE NOT SHOWN.
- SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT.
- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SURVEYOR. THERE MAY EXIST EASEMENTS, CONDITIONS, OR RESTRICTIONS THAT COULD AFFECT THE TITLE OF THIS PROPERTY. NO ATTEMPT HAS BEEN MADE IN THIS SURVEY TO SHOW SUCH MATTERS THAT MAY AFFECT TITLE.

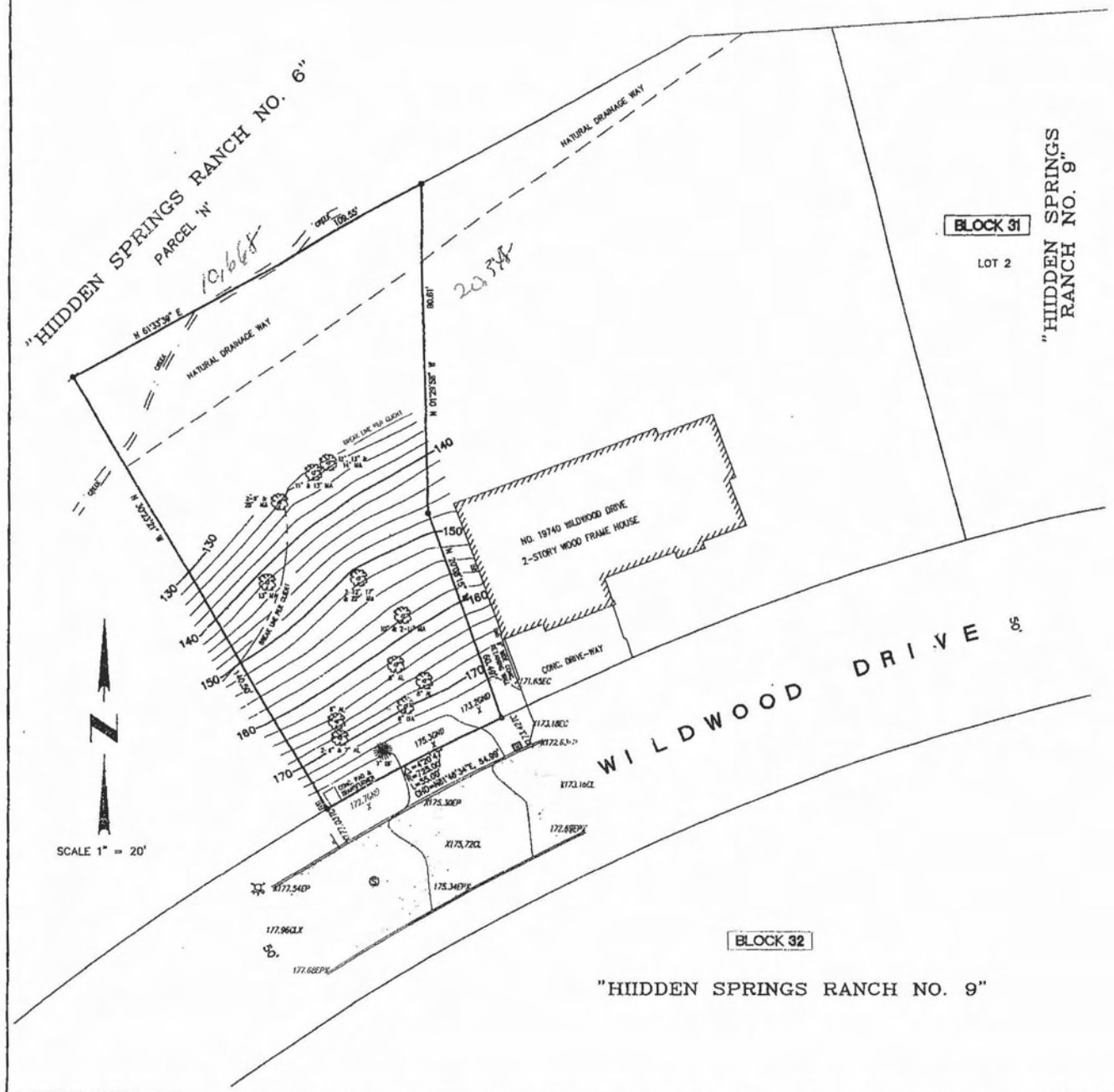
BLOCK 31

LOT 2

"HIDDEN SPRINGS RANCH NO. 9"

BLOCK 32

"HIDDEN SPRINGS RANCH NO. 9"



SCALE 1" = 20'

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
William H. Shenk
 OREGON
 JULY 29, 1982
 WILLIAM H. SHENK
 2583

EXPIRES: JUNE 30, 2008
 SURVEYED BY:
ANDY PARIS AND ASSOCIATES, INC.
 16057 S.W. BOONES FERRY ROAD
 LAKE OSWEGO, OREGON 97035
 PH: 503-636-3341
 PROJECT: 06055
 DRAWING: 05055P1.DWG
 DRAFTED: WS003009

SHEET 1 OF 1

69



SCHOTT & ASSOCIATES
Ecologists & Wetlands Specialists

21018 NE Hwy 99E • P.O. Box 589 • Aurora, OR 97002 • (503) 678-6007 • FAX: (503) 678-6011

**WATER RESOURCE PROTECTION
REPORT**

Prepared for:
Bill and Cindy Perkins
19740 Wildwood Drive
West Linn, Oregon 97068

S & A #: 2161
May 2010

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INTRODUCTION

Application is proposed for construction of a single family residence located at 19740 Wildwood Drive in Clackamas County, West Linn, Oregon (Lot 4 of Hidden Springs Ranch No. 9T2S R1E Section 23). A drainage channel is identified on the Surface Water Management Plan running south to north across the northwest corner of the subject property. Pursuant to City of West Linn Community Development Code (CDC) Chapter 32.000, Water Resource Area Protection, Schott and Associates has been retained by the applicant to submit this water resource area assessment and application.

EXISTING CONDITIONS

One water resource area was identified on the Surface Water Management Plan on the subject property. The open channel emerges from a manhole near the northwest property corner and runs east to slightly northeast across the northwest corner of the property. The intermittent drainage likely contains flowing water during the rainy season only. As per Chapter 32.050(E) the protected water resource area shall include the drainage channel, creek, wetlands, and the required setback and transition area. There are no wetlands adjacent to the waterway and none were identified on the Local Wetland Inventory.

The adjacent slope contains a slight bench and then rises up at a 60% slope to the edge of the property at Wildwood Drive. The slope is forested with a canopy cover of trees 6 inches or more in diameter at breast height. The 90% closed canopy is composed of mostly deciduous trees and shrubs, dominated by big leaf maple (*Acer macrophyllum*). Other tree species observed included one cascara (*Rhamnus purshiana*) and one Douglas fir (*Pseudotsuga menziesii*). Understory shrub coverage was sparse but included a diversity of species including vine maple (*Acer circinatum*), Indian plum (*Oemleria cerasiformis*), hazelnut (*Corylus cornuta*) and thin-leaved huckleberry (*Vaccinium membranaceum*). Salmonberry (*Rubus spectabilis*) was observed directly adjacent to the drainage. Dominant species in the ground cover were trailing blackberry (*Rubus ursinus*) and sword fern (*Polystichum munitum*). Also observed were deer fern (*Blechnum spicant*), miner's lettuce (*Montia sp.*), California brome (*Bromus carinatus*) and Henderson's sedge (*Carex hendersonii*). Overall, understory coverage is 75-80%. This area is identified as Mixed Conifer-Hardwood Forest on the Wildlife Habitat Assessment Map.

METHODS

The analysis method for this site is based on the City of West Linn Water Quality Resource Area Protection Chapter 32. Pursuant to CDC 32.050(A) an assessment was conducted by Schott and Associates, a qualified wetland specialist. The property was surveyed by CES/NW, a Professional Land Surveyor.

32.050 APPROVAL CRITERIA

No application for development on property containing a water resource area shall be approved unless the decision-making authority finds that the following standards have been satisfied, or can be satisfied by conditions of approval.

- A. Proposed development submittals shall identify all water resource areas on the project site. The most currently adopted Surface Water Management Plan shall be used as the basis for determining existence of drainageways. The exact location of drainageways identified in the Surface Water Management Plan, and drainageway classification may have to be verified in the field by the City Engineer. The Local Wetland Inventory shall be used as the basis for determining existence of wetlands. The exact location of wetlands identified in the Local Wetland Inventory shall be verified in a wetlands delineation analysis prepared for the applicant by a certified wetlands specialist. The Riparian Corridor Inventory shall be used as the basis for determining existence of riparian corridors.

One water resource area has been identified on the subject property. The open channel emerges from a manhole near the northwest property corner and runs east to slightly northeast across the northwest corner of the property.

No wetlands were located on the Local Wetland Inventory Map and no wetlands were determined to be present during the onsite visit by the wetlands specialist.

No Riparian Corridor was mapped on the City Natural Resource Inventory Maps.

- B. Proposed developments shall be so designed as to maintain the existing natural drainageways and utilize them as the primary method of stormwater conveyance through the project site unless the most recently adopted West Linn Surface Water Management Plan call for alternate configurations. Proposed development shall, particularly in the case of subdivisions, facilitate reasonable access to the drainageway for maintenance purposes.

No changes are proposed to the existing natural drainageway. The onsite drainage will continue to be utilized as the primary method of stormwater conveyance through the site.

- C. Development shall be conducted in a manner that will minimize adverse impact on water resource areas. Alternatives which avoid all adverse environmental impacts associated with the proposed action shall be considered first. For unavoidable adverse environmental impacts, alternatives that reduce or minimize these impacts shall be

selected. If any portion of the water quality resource area is proposed to be permanently disturbed, the applicant shall prepare a mitigation plan as specified in CDC 32.070 designed to restore disturbed areas, either existing prior to development or disturbed as a result of the development project, to a healthy natural state.

Development shall be conducted in a manner that will minimize adverse impacts on the water resources to the greatest extent possible. Based on the presence of steep slopes through the entirety of the subject property the entire property is located within the transition area as per Table 32-1. Proposed impacts will be limited to those for construction of the house and access driveway and will be at the southern edge of the property as far from the resource as feasible. No adverse effect to the water resource itself is expected from this activity. As per 32.090 (A) reduction of standards is allowed for lots located completely inside a water resource area. Mitigation for all impacts within the transition area shall be provided as per 32.070.

- D. Wetlands, natural drainageways and transition areas should be protected from development or encroachment by dedicating the land title deed to the City for open space proposed if either 1) a finding can be made that the dedication is roughly proportional to the impact of the development; or, 2) the applicant chooses to dedicate these areas.

The applicant is not proposing to impact the onsite drainageway, however, a portion of the transition zone will be impacted by the proposed development. The property is the minimum lot size allowed and no protection easement is proposed.

- E. The protected water resource area shall include the drainage channel, creek, wetlands, and the required setback and transition area. The setback and transition area shall be determined based on Table 32-1.

The onsite waterway is an intermittent drainage and should be defined as a Minor Drainageway. There is a gentle bench directly adjacent to the drainage, transitioning to a steep slope of over 60%. As per Table 32-1 the required width of setback and transition area shall be from the edge of the bankful flow to the top of the ravine, plus an additional 50-foot setback, plus structural setback. The property ends at the top of the ravine, approximately 135 feet at its greatest distance from the edge of the drainage. No setbacks are included as the transition zone covers the entire remaining property. The attached map shows the location of the drainage channel. The entire remainder of the property is encompassed by the transition zone.

- F. Roads, driveways, utilities, or passive use recreation facilities may be built in and across water resource areas when no other practical alternative exists. Construction shall minimize impacts. Construction to the minimum dimensional standards for roads is required. Full mitigation and revegetation is required.

No roads or utilities are proposed within the resource area. A single driveway accessing the house is proposed to be constructed within the water resource area. No other alternative is available as the entire property is within a water resource area.

- G. Prior to construction, the water resource area shall be protected with an anchored chain link fence (or approved equivalent) at its perimeter and shall remain undisturbed except as specifically allowed by an approved water resource area permit. Such fencing shall be maintained until construction is complete. The water resource area shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals that clearly delineate the extent of the protected area.

The un-impacted portion of the water resource area shall be fenced prior to construction. Because an area of the transition zone is proposed to be impacted, the fence will be located along the boundary of the construction limits. The protected water resource area shall be clearly identified with City approved markers at all boundary direction changes and at 30-50 foot intervals.

- H. Paved trails, walkways or bike paths shall be located at least 15 feet from the edge of a protected water feature except for approved crossings. All trails, walkways and bike paths shall be constructed so as to minimize disturbance to existing native vegetation.

No paved trails, walkways or bike paths are proposed as part of the project.

- I. Sound engineering principles regarding downstream impacts, soil stabilization, erosion control, and adequacy of improvements to accommodate the intended drainage through the drainage basin shall be used. Storm drainage shall not be diverted from its natural watercourse. Inter-basin transfers of storm drainage shall not be permitted.

There will be no downstream impacts as a result of this development. Existing vegetation in the transition zone is a mix of trees, shrubs and herbaceous species providing good soil stabilization despite the steep

hillside. Standard erosion control measures shall be used to protect from downstream impacts and erosion control (See Erosion Control Plan). Storm drainage shall not be diverted from its natural watercourse and inter-basin transfer is not proposed.

- J. Appropriate erosion control measures based on CDC Chapter 31 requirements shall be established through all phases of construction.

Standard erosion control measures such as silt fencing and mulching of bare areas shall be used to protect from downstream impacts and erosion control. See Erosion Control Plan.

- K. Vegetative improvements to areas within the water resource area may be required if the site is found to be in an unhealthy or disturbed state, or if portions of the site within the water resource area were disturbed during the development process. "Unhealthy or disturbed" includes those sites that have a combination of native trees, shrubs, and groundcover on less than 80% of the water resource area and less than 50% tree canopy coverage in the water resource area. Where any existing vegetation is proposed to be permanently removed, or the original land contours disturbed, a mitigation plan meeting CDC Section 32.070 criteria shall also be submitted. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Upon approval of the mitigation plan, the applicant is responsible for implementing the plan during the next available planting season.

The site contains a combination of native trees, shrubs and groundcover in more than 95% of the water resource area. Approximately 90% tree canopy coverage of native tree cover was present in the water resource area. No vegetative improvements should be necessary. Interim erosion control measures such as mulching of bare areas shall be implemented during construction.

Native vegetation, including 16 trees, shall be removed from an area of approximately 4,700 square feet. As per conversations with the City, mitigation for this impact shall be provided offsite on a City managed site.

- L. Where a structural setback is specifically required, development projects shall keep all foundation walls and footings at least 15 feet from the edge of the water resource area transition and setback area if this area is located in the front or rear yard of the lot and 7 ½ feet from the edge of the water resource transition and setback area if this area is located in the side yard of the lot.

As per 32.090, although a structural setback area is required, it is not possible to keep construction either 15 feet or 7 ½ feet from the water resource transition and setback area. The entire subject property is located within the transition area. Proposed construction will be less than 5,000 square feet as allowed by 32.090(A) and impacts will be minimized to the extent possible.

- M. Stormwater Treatment Facilities may only encroach a maximum of 25 feet into the outside boundary of the water resource area; and the area of encroachment must be replaced by adding an equal area to the water quality resource area on the subject property. Facilities that infiltrate sort water onsite, including the associated piping, may be placed at any point within the water resource area outside of the actual drainage course so long as the forest canopy and the areas within ten feet of the driplines or significant trees are not disturbed. Only native vegetation may be planted in these facilities.

No stormwater treatment facilities are required for a single family home. None are proposed within the water resource area.

- N. As part of any proposed land division or Class II Design Review application, any covered or piped drainageways identified on the Surface Water Quality Management Plan Map shall be opened, unless the City Engineer determines that such opening would negatively impact the affected storm drainage system and the water quality within that affected storm drainage system in a manner that could not be reasonably mitigated.

No covered or piped drainageways have been identified onsite on the Surface Water Quality Management Plan Map.

- O. The decision-making authority may approve a reduction in applicable front yard setbacks abutting a public street to a minimum of 15 feet and a reduction in applicable side yard setbacks abutting a public street to 7½ feet if the applicant demonstrates that the reduction is necessary to create a building envelope on an existing or proposed lot of at least 5,000 square feet.

A setback reduction to 15 feet from the front of the garage to the edge of the public street is proposed. This reduction will minimize impacts to the transition area.

- P. Storm Drainage Channels not identified on the Surface Water Management Plan Map, but identified through the development review

process, shall be subject to the same setbacks as equivalent mapped storm drainage channels.

No additional storm drainage channels have been identified on the site and none are believed to be present. If additional channels are identified during the development review process they will fall within the same water resource area that encompasses the entire property.

32.090 REDUCTION IN STANDARDS FOR HARDSHIP

The purpose of CDC Section 32.090 is to ensure that compliance with CDC Chapter 32 does not cause unreasonable hardship. To avoid such instances, the requirements of CDC Chapter 32 may be reduced. Reductions are also allowed when strict application of CDC Chapter 32 would deprive an owner of all economically viable use of land. The decision making authority may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief.

- A. Lots located completely inside the water resource area. Development may occur on lots located completely within the water resource area that are recorded with the County Assessors Office on or before the effective date of this ordinance. Development shall disturb the minimum necessary area to allow the proposed use or activity, and in any situation no more than 5,000 square feet of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards in CDC Chapter 31, and subject to a finding that the proposed development does not increase danger to life and property due to flooding and erosion.

As shown on the attached Existing Conditions Map, the entire lot is located within a water resource area. The applicant proposes to construct a single family house and driveway with a footprint of approximately 4,676 square feet with an access. Total proposed impact within the water resource area is 4,700 square feet, within the limit of 5,000 square feet allowed by this section. As described in the Erosion Control Plan and previously in this application, all erosion and sediment control standards shall be followed, and no increased danger to life and property due to flooding or erosion would result from this activity.

32.070 MITIGATION PLAN

A mitigation plan shall be required if any portion of the water resources area is proposed to be permanently disturbed by development.

- A. All mitigation plans must contain an alternatives analysis demonstrating that
 1. No practicable alternatives to the requested development exist that will not disturb the water resource area; and,

2. Development in the water resource area has been limited to the area necessary to allow for the proposed use; and,
3. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to the water resource area will be avoided and/or minimized.

Two alternatives were considered for the proposed subject property. The alternatives consist of a "no build" option and the proposed development plan.

The subject property is a distinct tax lot located entirely within a defined water resource area. No development is feasible without impacting the protected resource. The no build option would avoid all impacts to the resource but would take away all economic viability of the site. The no-build alternative could not be pursued.

As per 32.090 reductions of the requirements of CDC Chapter 32 are allowed when strict application of the Chapter would deprive an owner of all economically viable use of land. The proposed development plan allows construction of a single family residence and driveway. The plan minimizes impacts to the extent possible by building at the edge of the resource closest to the road and by minimizing the development to the area necessary for construction of the house and driveway.

B. A mitigation plan shall contain the following information:

1. A description of adverse impacts that will be caused as a result of the development.

Proposed impacts shall consist of approximately 4,700 square feet of impact within the water resource transition zone including removal of native vegetation and grading for construction of the house and driveway. No impacts are proposed within the drainage itself.

2. An explanation of how adverse impacts to resource areas will be avoided minimized and/or mitigated in accordance with, but not limited to, the re-vegetation provision of CDC Section 32.050(K).

Impacts to the onsite drainageway and transition zone are avoided to the greatest extent possible while still allowing for development of the site. The entire site is designated as water resource area and some impacts are unavoidable. Impacts have been minimized to the extent possible by placement and size of the house and driveway. Existing native vegetation is proposed to be permanently removed and/or the original land contours disturbed in an area of 4,700 square feet. This is within the allowed 5,000 square feet. Erosion control measures such as placement of silt fencing and mulching of bare areas shall be implemented to minimize impacts of the development on the water resource. Mitigation shall be provided via payment for 4,700 square feet of the Field's Bridge Park wetland restoration as designed and implemented by the City of West Linn Parks Department.

3. 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.

The mitigation site shall be the Field's Bridge Park property owned by the City of West Linn. The City shall be responsible for contracting the work as well as any monitoring requirements.

*Owner: City of West Linn Parks Department
22500 Salamo Rd.
West Linn, OR, 97068*

*Applicant: Bill and Cindy Perkins
19740 Wildwood Drive
West Linn, Oregon 97068*

4. A map showing where the specific mitigation activities will occur.
The mitigation site shall be the Field's Bridge Park property owned by the City of West Linn. The exact location will be determined by the Parks department.

5. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife water work periods.
Implementation, maintenance, monitoring etc... shall be the responsibility of the City of West Linn.

6. Assurances shall be established to rectify any mitigation actions that are not successful. This may include bonding or other surety.
The mitigation site shall be the Field's Bridge Park property owned by the City of West Linn. Success of the site shall be the responsibility of the City.

7. Evidence that a Joint Permit Application if impacts to wetlands are greater than 0.1 acres has been submitted and accepted for review.
No wetlands have been delineated onsite and no impacts to wetlands or waterways are proposed. No Joint Permit Application is required.

- C. Mitigation of any water resource areas that are not wetlands that are permanently disturbed shall be accomplished by creation of a mitigation area equal in size to the area being disturbed. Mitigation areas may be land that is either
 1. Onsite, not within the water resource area and is characterized by existing vegetation qualifying that does not meet the standard set forth in CDC Section 32.050(K), or

2. Offsite, and is characterized by existing vegetation that does not meet the standard set forth in CDC Section 32.050(K).

The applicant shall prepare and implement a revegetation plan for the mitigation area pursuant to CDC Section 32.080, and which shall result in the area meeting the standards set forth in CDC Section 32.050(K). Adequacy of offsite mitigation areas on city property must be consistent with and meet approval of the City Department of Parks and Recreation.

Mitigation for 4,700sf of transition zone shall be provided on the Field's Bridge Park property owned by the City of West Linn. Adequacy of the offsite mitigation area on city property has been determined by Mike Perkin. Preparation and implementation of a revegetation plan for the site shall be the responsibility of the City.

- D. The Mitigation Plan for any wetland area to be disturbed shall be prepared by wetland professionals and consistent with requirements set forth by regulatory agencies.

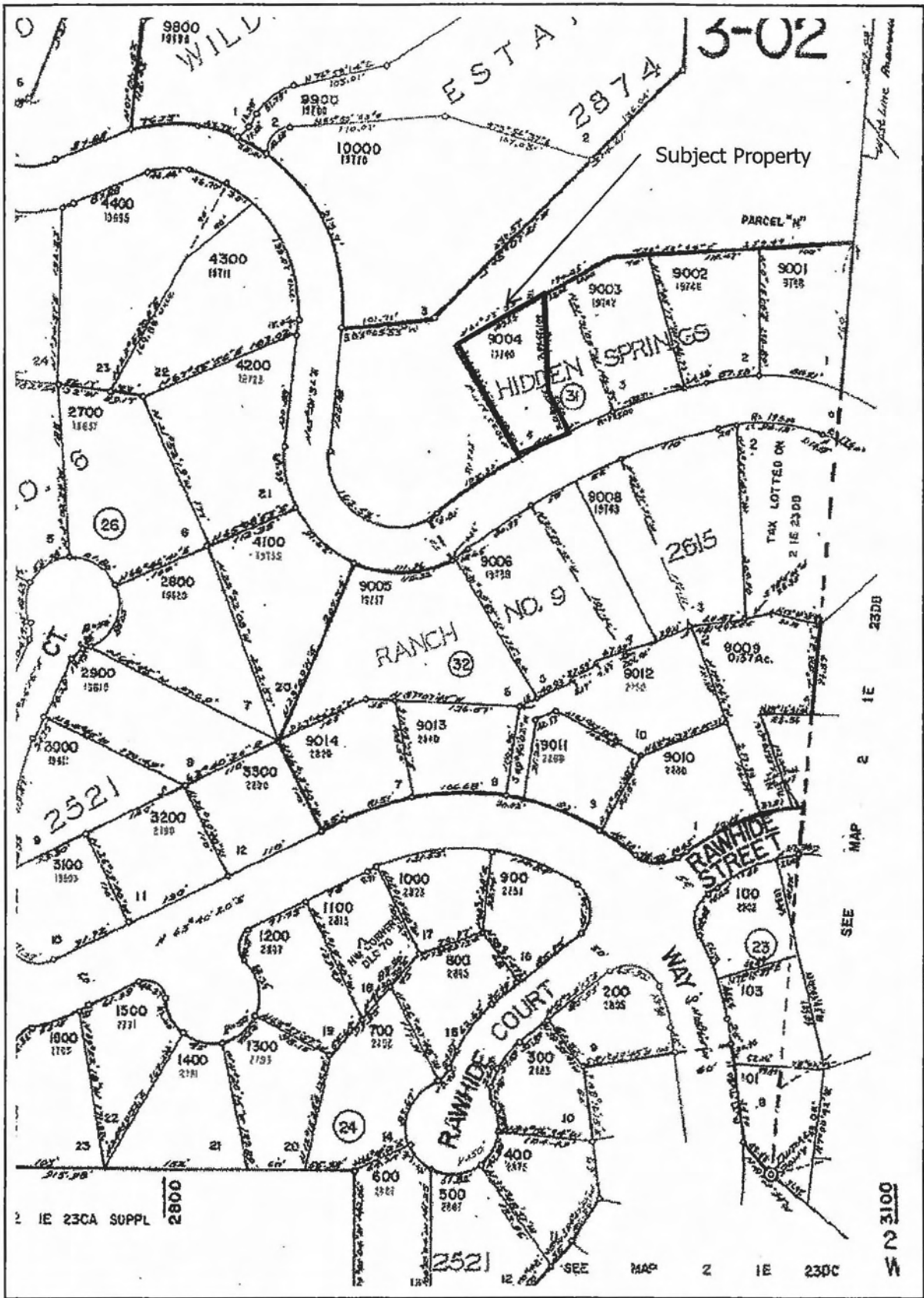
No wetland is present onsite and no wetland shall be disturbed as a result of this project.

- E. To ensure that the mitigation area will be protected in perpetuity, proof that the area has been dedicated to the City or a conservation easement has been placed on the property where the mitigation is to occur is required.

The mitigation site shall be 4,700sf of the Field's Bridge Park property owned by the City of West Linn.

APPENDIX A: EXISTING CONDITONS MAP AND SITE PLAN

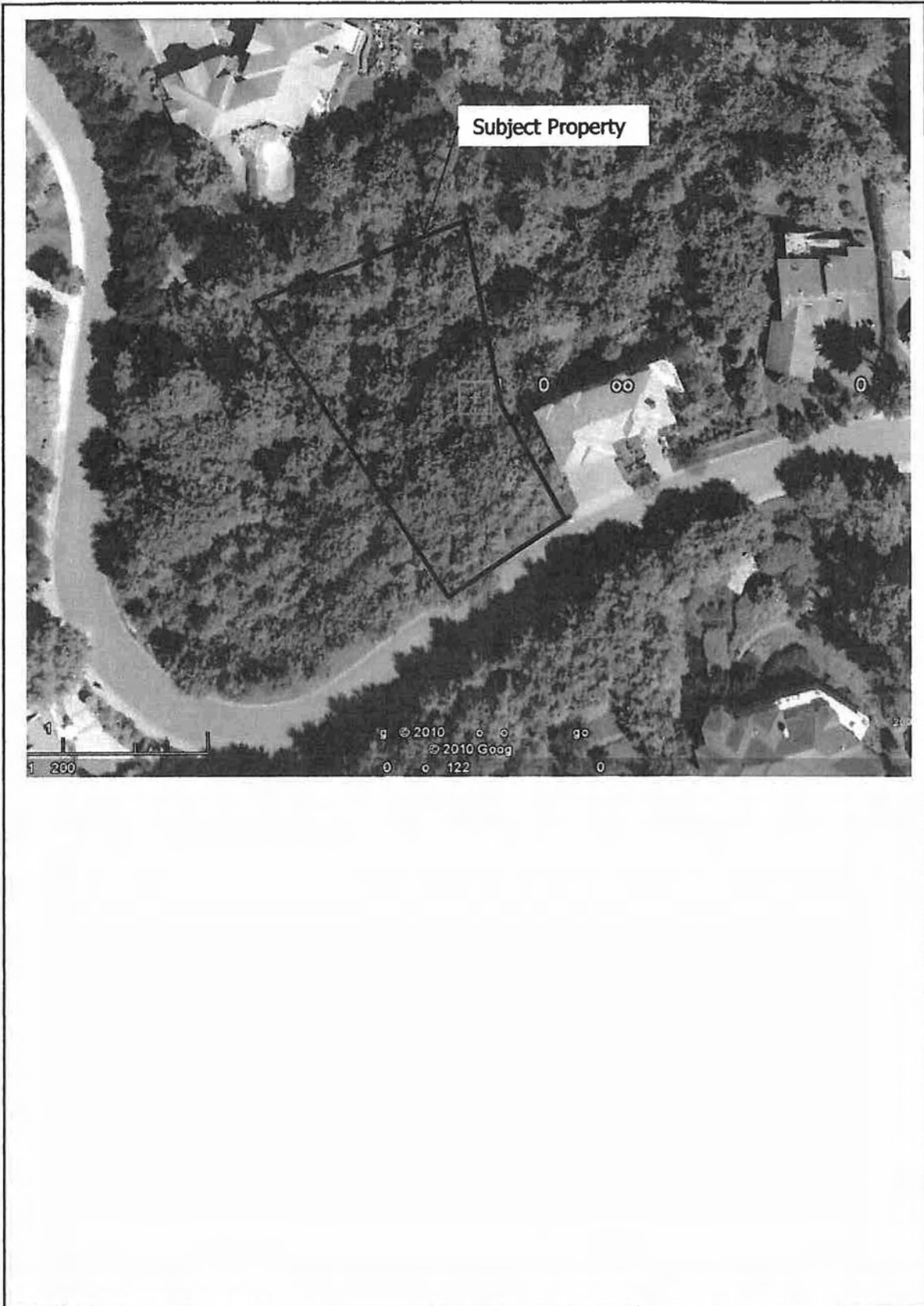
APPENDIX B: TAX MAP



Tax Map. T2S R1E Sec.23AC TL#9004
 (portion of Hident Spring I ot 4)
 Perkins Property S&A#2161

Schott & Associates
 P.O. Box 589
 Aurora, OR. 97002
 503.678.6007

APPENDIX C: AERIAL PHOTOGRAPH



Aerial Photograph – Google Earth
Perkins Property
S&A#2161

Schott & Associates
P.O. Box 589
Aurora, OR. 97002
503.678.6007

Tony Weller

From: Perkins, Michael [mperkins@westlinnoregon.gov]
Sent: Thursday, May 20, 2010 12:05 PM
To: Tony Weller
Cc: 'Bill Perkins'; 'Hayli Walker'; Soppe, Tom
Subject: RE: mitigation

Attachments: Restoration Area Map Field's Bridge Park.doc

Yes, just found out yesterday about the project location. I'll attach a map of the location so you can proceed with your application. I'm still in the process of getting a price per square foot for these areas so we know how much it's going to cost.

Mike Perkins
 City Arborist/Park Development Coordinator
 503-723-2554
 mperkins@westlinnoregon.gov

CITY OF
West
Linn

Mike Perkins
mperkins@westlinnoregon.gov
 City Arborist/Park Development Coordinator
 22500 Salamo Rd.
 West Linn, OR, 97068
 P: (503) 723-2554
 F: (503) 656-4106
 Web: westlinnoregon.gov

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.

Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: Tony Weller [mailto:tweller@cesnw.com]
Sent: Thursday, May 20, 2010 11:22 AM
To: Perkins, Michael
Cc: 'Bill Perkins'; 'Hayli Walker'
Subject: RE: mitigation

Hi Mike -

Any progress on the mitigation site. Tom Soppe mentioned that he knew there were some discussions on it. We are trying to get our application ready for end of this month. Tom thought there might have been some concerns about needing to mitigate in the same basin which he said is not what the current code requires. Maybe he can help if there is any concern about code requirements.

Let me know if there is anything we can do to help, thanks - Tony

Tony Weller, P.E., P.L.S.
 President
CESNW, INC.
 15573 Bangy Road, Suite 300
 Lake Oswego, OR 97035
 503.968.6655 p
 503.968.2595 f
tweller@cesnw.com
www.cesnw.com

From: Tony Weller [mailto:tweller@cesnw.com]
Sent: Monday, May 03, 2010 10:30 AM
To: 'Perkins, Michael'
Cc: 'Bill Perkins'
Subject: RE: mitigation

Thanks Mike - We need to get our application ready to submit as well so thanks for the help - Tony

From: Perkins, Michael [mailto:mperkins@westlinnoregon.gov]
Sent: Monday, May 03, 2010 10:28 AM
To: Tony Weller
Cc: 'Bill Perkins'
Subject: RE: mitigation

I'm sorry guys but I'm trying to arrange a meeting here so that we are all on the same page with this stuff, as it's a pretty new requirement. I'll let you know when I have more info. We're trying to sort it out this week just to give you a timeframe.

Mike Perkins
City Arborist/Park Development Coordinator
503-723-2554
mperkins@westlinnoregon.gov

 Mike Perkins
mperkins@westlinnoregon.gov
City Arborist/Park Development Coordinator
22500 Salamo Rd.
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Web: westlinnoregon.gov

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.

Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: Tony Weller [mailto:tweller@cesnw.com]
Sent: Monday, May 03, 2010 10:08 AM
To: Perkins, Michael
Cc: 'Bill Perkins'
Subject: RE: mitigation

Hi Mike - I didn't see any emails come by when I was out last week so I thought I would check in on this. Do you have a map for the location of the mitigation work ready yet?

Hope things are going well, thanks for the help - Tony

Tony Weller, P.E., P.L.S.
President
CESNW, INC.
15573 Bangy Road, Suite 300
Lake Oswego, OR 97035
503.968.6655 p
503.968.2595 f
tweller@cesnw.com

www.cesnw.com

From: Bill Perkins [mailto:billrperkins@gmail.com] **On Behalf Of** Bill Perkins
Sent: Tuesday, April 20, 2010 3:01 PM
To: 'Perkins, Michael'
Subject: RE: mitigation

Thanks, Mike.

From: Perkins, Michael [mailto:mperkins@westlinnoregon.gov]
Sent: Tuesday, April 20, 2010 2:58 PM
To: Bill Perkins
Subject: RE: mitigation

I need to make a map of the area and then send it to you to submit with your planning application. I should be able to do it tomorrow.

Mike Perkins
 City Arborist/Park Development Coordinator
 503-723-2554
 mperkins@westlinnoregon.gov

CITY OF
West
Linn

Mike Perkins
 mperkins@westlinnoregon.gov
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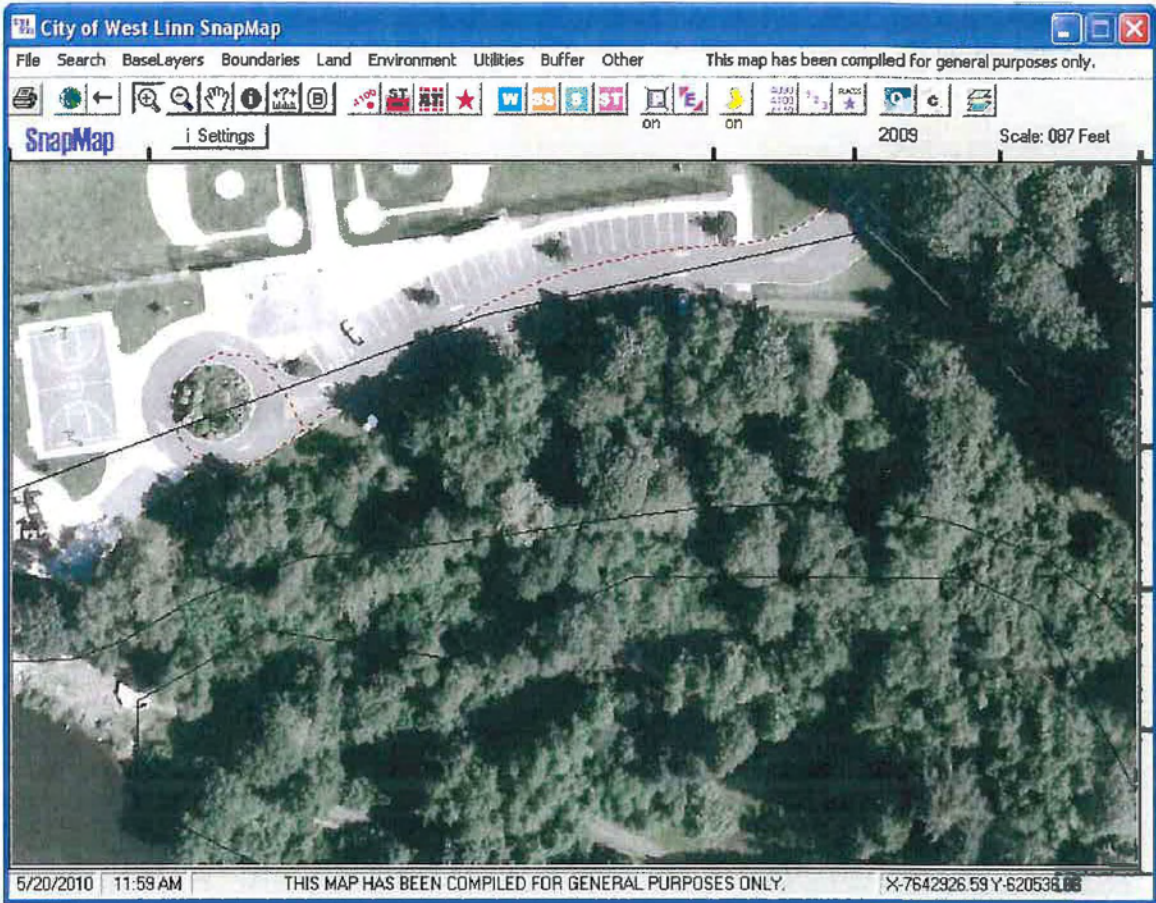
Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: Bill Perkins [mailto:billrperkins@gmail.com] **On Behalf Of** Bill Perkins
Sent: Tuesday, April 20, 2010 2:37 PM
To: Perkins, Michael
Subject: mitigation

Mike,

We talked last week about the lot next door to our home on Wildwood Drive. You indicated the city has a parcel we can use for mitigation at MS Young State Park. Would you please put that in writing so that we can make your email a part of our proposal? Our home is at 19740 Wildwood Drive and Tom can get you the lot number and address for the parcel next door.

Thanks,
 Bill Perkins



Restoration Area:
Field's Bridge Park wetland
821 Willamette Falls Dr
Owned by the City of West Linn

City of West Linn
PRE-APPLICATION CONFERENCE MEETING
Notes
March 4, 2010

SUBJECT: Extension of previous approval for variances and a Natural Drainageway Permit (now called Water Resources Area Permit) for new house at 19740 Wildwood Drive

ATTENDEES: Applicants: Bill and Cindy Perkins, Tony Weller
Staff: Tom Soppe (Planning Department), Khoi Le (Engineering Department)

The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any "follow-up" items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.

Project Details

On March 1, 2007, the Planning Commission approved the applicant's request for a Natural Drainageway Permit and a variances (Class II) for side yard setback and house height. This was file number VAR-06-04/MIS-06-47. The decision became final on March 19, 2007, and therefore the 3-year expiration date for the decision, as it has not been fulfilled, is March 19, 2010.

Community Development Code (CDC) 99.325(D)(1) states "Only those applications approved between July 1, 2006 and December 31, 2009 shall be eligible for an extension." The previous application therefore qualifies the applicant to be able to apply for an extension. CDC 99.325(D)(2) allows applicants with applications that expire before June 30, 2010 to apply for extensions by June 30, 2010 even if the application has already passed its 3-year expiration by this date. Therefore, despite the 3-year expiration date occurring on March 19, the applicant must apply for the extension not by March 19 but by June 30.

In the original application the Natural Drainageway Permit was necessary as a creek traverses the north end of the site. Since the original application was initiated, changes have been made to Chapter 32 and Natural Drainageway permits were combined with Wetlands permits to be called Water Resource Area permits. If the original application was submitted now, it would be subject to no difference in the criteria of the Variance chapter (Chapter 75) of the CDC but would face a completely revamped Chapter 32, the water resource protection chapter.

Under the revamped Chapter 32, the entire lot is within the transition area of the creek as the entire lot consists of steep slopes that comprise the creek ravine. Chapter 75 does not necessarily need to be addressed as part of the extension application (except in describing what was previously applied for and approved). However the applicant should respond to all of the appropriate (see Process section below) criteria for Chapter 32 as the revamped chapter has changed greatly, particularly in its provisions for lots such as this one.

Building in the transition area now requires the applicant to apply for the Water Resources Area permit under the hardship provisions of 32.090. It also requires the applicant to submit a revegetation plan (see 32.080) for any temporarily disturbed areas and a mitigation plan (see 32.070) for any permanently disturbed areas (i.e. the house footprint and surrounding walkways, driveways, etc. The applicant will work with the Parks Department to mitigate for the permanently disturbed square footage by restoring disturbed square footage of a wetland or drainageway transition area on City owned property, or perhaps elsewhere in the city. 32.070 does not appear to limit the applicant to City-owned sites for mitigation, so the applicant apparently can use disturbed areas of his site next door to the project site for mitigation, if these currently are not compliant with 32.050(K). As with the areas of the project site that remain undeveloped, any mitigation area on the applicant's site next door will have to be placed in a conservation easement or dedicated to the City. Usually on sites this size it is more practical to do this via easement rather than fee simple dedication to the City (i.e. to ensure minimum lot size is still fulfilled). Disturbed area on the project site shall not consist of more than 5,000 square feet of the site per 32.090(A).

The applicant should submit a site plan that reflects only the setback variances that were approved by the Planning Commission, unless the applicant is now proposing changes to what was approved that will be reviewed as part of the extension process. Minor changes are permitted to achieve compliance with new regulations. Substantive changes (including any new variances, for example) will require a completely new application.

Engineering Comments

STREET IMPROVEMENT

Wildwood Drive

Current Street and Right of Way conditions:

Wildwood Street:	Local Street
Existing Right of Way Width:	50' (Per As-Built Hidden Spring Ranch 6 Phase 2)
Existing Pavement Width:	28' (Per As-Built Hidden Spring Ranch 6 Phase 2)
Sidewalk:	On the opposite site of the project
Planter:	None
Parking:	On the opposite site of the project
Bicycle Lane:	None

Requirement Improvement:

Right of Way Width:	No additional Right of Way is required
Pavement Width:	Provide pavement improvement
Sidewalk:	Provide sidewalk improvement
Planter Strip:	No

The existing subdivision was constructed in 1983. The pavement and sub-grade of the road do not meet the current City Standards structurally. Street improvement shall be required. Developer has an option to pay a fee-in lieu of the street improvement. Sidewalk was only installed on the opposite side of the street at the time the existing subdivision was constructed. Since the TSP does not indicate area in the City where sidewalk is not required, sidewalk improvement shall be required for this development. Again the developer has an option to pay a fee-in-lieu of the sidewalk improvement.

No on-street parking shall be allowed along the project frontage.

STORM DRAINAGE IMPROVEMENT

Development shall provide storm water treatment for newly created impervious area of more than 500 square feet.

Development shall provide storm water detention for newly created impervious area of more than 5000 square feet.

SANITARY SEWER IMPROVEMENT

Existing public sanitary sewer system is available on Wildwood Drive for connection.

WATER IMPROVEMENT

Existing 6" DI public water system is available on Wildwood Drive. It is the City Engineering Manager discretion to allow this development connecting the existing public water system on Wildwood Drive.

OTHER UTILITIES

Street light shall be required since there is not any street light along the project frontage.

All existing overhead utilities and new utilities must be placed under ground.

All existing anchor poles located in the right of way that are potentially located in the future sidewalk area must be relocated outside of sidewalk.

SDC REQUIREMENTS

Street, Storm Drainage, Sanitary Sewer, Water and Park SDC shall be required.

11. Systems Development Charges

11.1. General SDC Information

- West Linn SDC fees shall be indexed for inflation annually using the Engineering News - Record Construction Cost Index (20-city average).

11.2. Street SDC

- Reimbursement Fee: \$47.00
- Improvement Fee: \$4,628.00
- Administrative Fee: \$174.00

Type Of Use	Trips Per Use:	Factor	Reimbursement	Improvement	Administrative	Total
Single family	Per house	1.01	\$47.47	\$4,674.28	\$175.74	\$4,897.49
Multi-family	Per MF Unit	0.62	\$29.14	\$2,869.36	\$107.88	\$3,006.38
Retail	Per 1,000ft ²	2.536	\$119.19	\$11,736.61	\$441.26	\$12,297.06
Office	Per 1,000 ft ²	1.314	\$61.76	\$6,081.19	\$228.64	\$6,371.59
Public Park	Per Acre	0.223	\$10.48	\$1,032.04	\$38.80	\$1,081.33
Public School	Per Student	0.08	\$3.76	\$370.24	\$13.92	\$387.92

For Existing Lots of Record – Created Prior to July 12, 1999						
Single family	Per house	\$9.55	\$41.28	\$2,052.78	\$79.79	\$2,173.85
Multi-family	Per MF Unit	\$6.47	\$27.97	\$1,390.73	\$54.06	\$1,472.76

11.3. Water SDC

- Reimbursement Fee: \$76.00
- Improvement Fee: \$4,389.00
- Administrative Fee: \$163.00

Size of Meter	Meter Equivalency	Reimbursement	Improvement	Administrative	Total
5/8"	1	\$76	\$4,389	\$163	\$4,628
3/4"	1.5	\$114	\$6,583.50	\$244.50	\$6,942
1"	2.5	\$190	\$10,972.50	\$407.50	\$11,570
1.5"	5	\$380	\$21,945	\$815	\$23,140
2"	8	\$608	\$35,112	\$1,304	\$37,024
3"	16	\$1,216	\$70,224	\$2,608	\$74,048
4"	25	\$1,900	\$109,725	\$4,075	\$115,700
6"	50	\$3,800	\$219,450	\$8,150	\$231,400
8"	80	\$6,080	\$351,120	\$13,040	\$370,240
10"	125	\$9,500	\$548,625	\$20,375	\$578,500

11.4. Storm SDC

- Based on impervious area, City stormwater per ESU (2,914ft²)
- Reimbursement Fee: \$671.00
- Improvement Fee: \$201.00
- Administrative Fee: \$44.00

Unit	Reimbursement	Improvement	Administrative	Total
Single Family	\$671.00	\$201.00	\$44.00	\$916.00

11.5. Park SDC

- Reimbursement Fee: \$0.00
- Improvement Fee: \$2,949.00
- Administrative Fee: \$81.00

Unit	Factor	Reimbursement	Improvement	Administrative	Total
Single Family	2.65	\$0.00	\$7,814.85	\$214.65	\$8,029.50
Multi-Family	1.8736	\$0.00	\$5,525.25	\$151.76	\$5,677.01

11.6. Sewer SDC

- Reimbursement Fee: \$519.00
- Improvement Fee: \$2,020.00
- Administrative Fee: \$93.00

Unit	Factor	Meter Size	Reimbursement	Improvement	Administrative	Total
Single Family	-	-	\$519.00	\$2,020.00	\$93.00	\$2,632.00
Multi-Family	-	-	\$289.08	\$1,125.14	\$51.78	\$1,466.00
Commercial	1	5/8"	\$519.00	\$2,020.00	\$93.00	\$2,632.00
Commercial	1.5	3/4"	\$778.50	\$3,030.00	\$139.50	\$3,948.00
Commercial	2.5	1"	\$1,297.50	\$5,050.00	\$232.50	\$6,580.00
Commercial	5	1.5"	\$2,595.00	\$10,100.00	\$465.00	\$13,160.00
Commercial	8	2"	\$4,152.00	\$16,160.00	\$744.00	\$21,056.00
Commercial	16	3"	\$8,304.00	\$32,320.00	\$1,488.00	\$42,112.00
Commercial	25	4"	\$12,975.00	\$50,500.00	\$2,325.00	\$65,800.00
Commercial	50	6"	\$25,950.00	\$101,000.00	\$4,650.00	\$131,600.00
Commercial	80	8"	\$41,520.00	\$161,600.00	\$7,440.00	\$210,560.00
Commercial	125	10"	\$64,875.00	\$252,500.00	\$11,625.00	\$329,000.00

Process

The Extension permit is required.

A neighborhood meeting is not required for this permit, but they are always encouraged. Contact Alex Kachirisky, President of the Hidden Springs Neighborhood Association, at (503) 343-4752 or alex.kachirisky@gmail.com, and Thomas Boes of the Robinwood Neighborhood Association at 503-699-6112 or PresidentRNA@gmail.com. The property is in Hidden Springs, but Robinwood is within 500 feet.

The following criteria shall be responded to in a narrative:

- 32.050
- 32.070
- 32.080
- 32.090(A)

The narrative shall explain that Chapter 75 has not changed since the original application, but the applicant is welcome to add narrative discussion to the criteria in Chapter 75 in light of how it may relate to the changed provisions of Chapter 32. The applicant should also submit their original plans and elevations, their Chapter 75 narrative, staff report, February 13, 2007 staff memo, and the Planning Commission final decision from the original file. The applicant should specify (particularly in the case of the site plan) which parts of the submittal are in from the original file. This file is available at the Planning Department. Copies can be made at the applicant's expense.

Submittal requirements may be waived but the applicant must first identify the specific submittal requirement and request, in letter form, that it be waived by the Planning Director and must identify the specific grounds for that waiver. The waiver may or may not be granted by the Planning Director.

N/A is not an acceptable response to the approval criteria. Prepare the application and submit to the Planning Department with deposit fees and signed application form.

The deposit for an Extension is half the deposit of the original application, in this case half the deposit for the variance and Natural Drainageway Permit that were applied for and not withdrawn. Any cost overruns to the extension deposit will result in additional billings.

Once the submittal is deemed complete, the staff will schedule a hearing with the Planning Commission and will send out public notice of the hearing at least 20 days before it occurs. The Planning Commission's decision may be appealed to City Council by the applicant or anyone with standing.

Typical land use applications can take 6-10 months from beginning to end.

DISCLAIMER: This summary discussion covers issues identified to date. It does not imply that these are the only issues. The burden of proof is on the applicant to demonstrate that all approval criteria have been met. These notes do not constitute an endorsement of the proposed application. Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc. could emerge as the application is developed. Thus, there is no “shelf life” for pre-apps.

Pre-app2010/Preapp 2010-03-04/pa-10-02

FINAL DECISION NOTICE

VAR-06-04 & MISC-06-47

MAILED
3/5/07 US

IN THE MATTER OF A NATURAL DRAINAGEWAY PERMIT AND A CLASS II VARIANCE FOR HEIGHT, SIDE SETBACKS, AND FRONT YARD SETBACK FOR CONSTRUCTION OF A NEW HOME ON THE VACANT LOT WEST OF 19740 WILDWOOD DRIVE

At their regular meeting of February 8, 2007, the West Linn Planning Commission held a public hearing to consider the request by Bill and Cindy Perkins for a Natural Drainageway Permit and a Class II Variance. A Natural Drainageway Permit applies because of the natural drainageway on the north end of the lot. A Class II Variance applies because the proposed house would encroach into the side yard setback on the west by more than two feet and because a variance in height is requested. The approval criteria for a Natural Drainageway Permit is found in the Community Development (CDC) Chapter 32. The approval criteria for a Class II Variance is found in CDC Chapter 75. The hearing was conducted pursuant to the provisions of CDC, Chapter 99.

The hearing commenced with a staff report presented by Tom Soppe, Associate Planner. Mr. Perkins spoke, and Carl Redman and Marianne Stein of Innovation Construction also presented representing the Perkins' application. No one else spoke in favor of the application, and no one provided neutral testimony. Charles R. Roberts, Sr. spoke against the application. The public hearing was closed and the matter continued to the February 22 meeting.

At the February 22 meeting, Chair Jones reopened the public hearing on the application. Commissioner Wittenbrink recused herself as she had not been present at the February 8 hearing and had not had the chance to watch the DVD of said hearing. Mr. Soppe again gave the staff presentation. Mr. Perkins spoke again. Hafez Daraee of Jordan Schrader, PC, also spoke on behalf of the Perkins' application. Alice Richmond also spoke in favor of the application. Lynn Fox provided neutral testimony. No one spoke against the application. During the hearing, the applicant voluntarily retracted the request for the front setback variance.

A motion was made and seconded to approve the application minus the front setback variance, with the conditions of approval in the original staff report. By a vote of 4 to 1, the Commission approved the application with the following additional findings:

1. The side yard setback variance is justified due to the extraordinary and exceptional circumstances of the presence of the drainageway on site and the site's topography, both of which make it practical and environmentally beneficial to fit as much of the house at the far front of the lot as possible.
2. Immediately to the west of the subject property is public open space, rather than another residential lot. Therefore, the 2.5 foot encroachment into the west side yard setback allowed by the variance creates no ill effect on another residence or on any nearby property, and therefore 1) complies with the purpose of CDC Chapter 75 and 2) complies with CDC 75.060 in that it does not impose physical limitations on other properties or uses.
3. Due to the steep topography of the entire lot, the granting of the variance is needed for the entire façade of the house to be visible to the street and for the driveway to be

reasonably level. This would have beneficial effects on the safety and functionality of the residence as well as the appearance of the residence, and its ability to integrate visually with the rest of the neighborhood.

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearing, or signed in on the attendance sheet at the hearing, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.



MICHAEL JONES, CHAIR
WEST LINN PLANNING COMMISSION

3/1/07

DATE

Mailed this 5th day of March, 2007.

Therefore, this decision becomes final at 5 p.m., March 19th, 2007.

Devrev/Finaldecisions/final-decision-VAR-06-04

**City of West Linn
PLANNING & BUILDING DEPT.
MEMORANDUM**

TO: Planning Commission (PC meeting of 2/22/07)
FROM: Tom Soppe, Associate Planner
DATE: February 13, 2007
SUBJECT: VAR-06-04/MISC-06-47 outstanding issues

At the hearing on the subject application on February 8, 2007, several issues were raised prompting a continuance of the matter to the February 22 Planning Commission meeting. Below are the results of staff's further research and findings on these issues.

Covenants, Conditions, & Restrictions

A copy of the CC&Rs for Hidden Springs Ranch #9, where the subject property is located, was submitted at the February 8 hearing by Charles R. Roberts, Sr. Mr. Roberts' full submittal is attached to this memo. Item 2 in the CC&Rs states that "All buildings shall be set back not less than twenty (20) feet from front lot lines and not less than five (5) feet from side lot lines." On the east side of the proposed house, the application as proposed is compliant with this condition. On the west side the application is compliant except for a bulge in the middle of this side of the house that would encroach two feet into this condition's setback. The front of the proposed house is compliant except for the garage which extends five feet into this CC&R setback and the room above it which extends one foot into this CC&R setback. The City can still approve the variance for front and/or side setbacks as neighborhood CC&Rs are not enforceable by the City. The applicant shall be warned however that these encroachments can be met with a successful challenge by fellow subdivision property owners and that proposing a structure that would not encroach into the condition's setbacks would avoid such a challenge.

Lot Line Adjustment Occurring after Adoption of Variance Ordinance

The subject lot is a legitimate lot of record on which building can occur. However, the lot line adjustment that created the current shape of the lot occurred in 2006, after the adoption of the Variance ordinance. In light of the new evidence presented at the February 8 hearing, staff no longer recommends allowing a variance for side setbacks. This is due to how the narrowness of the front of the lot is the only reason to allow these setbacks, and the narrowness was created by the lot line adjustment in 2006. CDC 75.060(1) states that exceptional or extraordinary circumstances used to justify variances cannot include those that "...result from lot size or shape, legally existing prior to the date of this ordinance..."

Staff concludes the height and front setback variances are justified due to the steepness of the lot and the desire to protect and maintain the greatest setback possible from the natural drainageway.

CDC 75.060(1) considers topography a legitimate exceptional circumstance and does not pose further restrictions on using topography to justify a variance.

Due to this change in recommendation, the following additional condition of approval is proposed:

3. Building encroachments into R-10 side yard setbacks of 7.5 feet shall not be allowed.

Due to the recently introduced evidence, the findings shall also be revised in the following ways:

Finding No. 8 shall now read as follows:

FINDING NO. 8:

This is an existing lot of record, so the applicants have the right to build a home here, despite the lot's topography, the natural drainageway on site, and the lot's presence within the transition zone of the drainageway. It is a very unusual lot, consisting wholly of steep ravine wall between the street and the natural drainageway, which traverses the northwest corner of the lot. The lot is also narrow in front (narrowing to 46 feet at the far front end) compared to most lots in the neighborhood in this zone, despite that the front is the only area in which development can occur due to drainageway and topography issues. The narrowness in front would perhaps otherwise justify the side yard setback variance requested, but 75.060(1) above states that the circumstance related to lot size or shape used to justify the variance must be the result of a lot size and shape that existed prior to adoption of the variance ordinance. The lot line adjustment that resulted in this shape occurred in 2006, after the adoption of the variance ordinance. The side yard setback aspect of the variance therefore should not be approved; Condition of Approval 3 ensures building in the setbacks will not occur, thereby denying this tenet of the variance request.

To fit a house of sufficient size (similar to others in the neighborhood) onto the front section of the lot and to build it as far from the natural drainageway as possible (despite still being in the transition area), the variance for height and front setback is needed. It is the height at the rear that requires a variance. The house will look like a typical two-story house from the front; the need to crowd development to the front of the lot and the steepness of the lot, requiring a low footprint, require a height variance in the rear. The total height based on the bottom of the lowest footing in the rear is 57'-8", rather than the 45' maximum allowed by CDC Chapter 41 for steep lots. The height variance providing the ability to build a second story (one story above street level) was arguably justified already; the lack of a side yard setback variance forcing the house to be stuffed further into the middle of the lot justifies it further in terms of both achieving a sufficient house size and in terms of allowing the house to have a façade that is not heavily visually dominated by the garage.

Due to the steepness of all but the far front end of the lot, the variance for the height and front setback is necessary for the applicants to build an attractive home on this residential lot of record. The criterion is met for the height and front setback variances.

Finding No. 9 shall now read as follows:

FINDING NO. 9:

The side setback variance is not being recommended by staff for reasons discussed in Finding No. 8.

The front yard setback and height variance does not create undue density or incompatible uses for the R-10 zone or this neighborhood. The height variance does not create a house with a façade or presence that is incompatible with R-10 neighborhoods. The variance for height and for front yard setback will not be materially detrimental to the purposes and standards of this code and will not be inconsistent with other regulatory requirements. The variance will actually make the proposal as compatible as possible with CDC Chapter 32 regulations regarding developing away from the natural drainageway.

Staff reviewed all Comprehensive Plan goals and policies for potential conflicts. The variance is potentially incompatible with Natural Environment Goal 2 in the Comprehensive Plan which states, "Protect sensitive environmental features such as steep slopes..." Conditions of approval 1 and 2 and the applicants' erosion control plans will ensure that the slope is sufficiently protected. The CDC allows construction on this legal lot of record. The criterion is met.

Finding No. 10 shall now read as follows:

FINDING NO. 10:

The applicants have made efforts to design a house keeping variances to a minimum while still fulfilling the goal of building a house that is comparable in size to those in the neighborhood. The lot consists of slopes that are so steep that a height variance for the rear is needed in order to build a home with a typical two-story façade at the front end of the lot; providing a two-story façade would allow the house a façade not visually dominated by a garage door. The applicants are using a low roof pitch to mitigate for the increased overall height.

The garage is allowed to be within three feet of the front, as this is a steeply sloped lot with an average slope of more than 25%. The garage is planned to be set perpendicular to the street. For these reasons the garage itself meets the front yard setback exception for steep lots from CDC Chapter 41. Most of the rest of the façade is set back 20 feet and needs no variance either; the exception to this is the bedroom above the garage which comes within approximately 19 of the front lot line as it extends above the garage. This is a very small front setback variance.

It makes the bedroom a workable size and helps to visually integrate the garage with the rest of the house, mitigating the “snouthouse” visual effect of an extended front garage.

As the sideyard setback is not needed to build a house on the lot and is not allowed per 75.060(1), staff is proposing Condition of Approval 3 to ensure this aspect of the requested variance is not allowed. The criterion is met for the height and front setback variances.

Existing Lot of Record Qualifying for a Variance

The subject lot is a legitimate lot of record on which building can occur, according to official city records. Testimony submitted on February 8 seems to claim that because 75.060 says that all criteria must be met, then the site lot in question must have each characteristic listed in 75.060(1) to be allowed any variance. This is not the case as 75.060(1) states “Exceptional or extraordinary circumstances apply to the property..., and result from lot size or shape, legally existing prior to the date of this ordinance, topography, *or* (emphasis mine) other circumstances over which the applicant has no control.” As discussed above, the lot does not have such circumstances related to size or shape existing prior to the variance ordinance; however, it does have such circumstances resulting from topography. The word “or” as emphasized above by me in 75.060(1) indicates that lots only must contain one of the characteristics listed in this section; this lot has topography issues. Therefore, this is an existing lot of record including for the purposes of 75.060.

Slope Stability

As an existing lot of record with no current development, the applicant is allowed to develop one house here despite any potential stability issues. As explained at the first hearing, a geotechnical study will be required by the Building Division at the time of building permit submission. Most of the time, geotechnical consultants are able to find ways to direct applicants to correct soil stability issues in ways that allow for development to occur. The variance and natural drainageway requests to be determined at this time by the Planning Commission are not relevant to potential slope stability issues to be addressed at the time of building permit submission.

Tree Removal

Chapter 32 and Chapter 75 criteria do not specifically address tree removal or direct analysis to the section of Chapter 55 used for design review, subdivision review, etc. City Arborist Mike Perkins visited the site on February 13, 2007 and concluded that the trees and tree canopy around the site are of generally equal value to each other. Therefore, according to Mr. Perkins, the front end of the lot is the best place to build in terms of tree impacts. This is due to the fact that the farther back on the lot a house is built, the more impact there will be to trees from the driveway that will need to traverse the lot in order to access the house.

<p>CITY OF WEST LINN PLANNING AND DEVELOPMENT</p>

PLANNING COMMISSION HEARING
FEBRUARY 8, 2007

FILE NO.: **VAR-06-04 & MISC-06-47**

REQUEST: **CLASS II VARIANCE AND NATURAL**
DRAINAGEWAY PERMIT TO BUILD NEW
SINGLE-FAMILY HOME ON EXISTING
LOT OF RECORD NEXT TO 19740
WILDWOOD DRIVE

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STAFF ANALYSIS AND RECOMMENDATION

TO: West Linn Planning Commission
FROM: West Linn Planning Staff (Tom Soppe, Associate Planner)
DATE: January 26, 2007
FILE NO: VAR-06-04 & MISC-06-47
SUBJECT: Class II Variance and Natural Drainageway Permit at 19740
Wildwood Drive

Planning Director's Initials WES
City Engineer's Initials TS

SPECIFIC DATA

OWNER: Bill & Cindy Perkins, 19740 Wildwood Dr., West Linn,
OR 97068

APPLICANT: Same

CONSULTANT: Marianne Stein, Innovation Construction, Inc., 15786 SW
Upper Boones Ferry Road, Lake Oswego OR 97035

SITE LOCATION: Lot to the west of 19740 Wildwood Dr.

SITE SIZE: approx. ¼ acre

**LEGAL
DESCRIPTION:** Assessor's Map 2-1E-23AC, Tax Lot 9004

**COMP PLAN
DESIGNATION:** Low density residential

ZONING: R-10

**APPROVAL
CRITERIA:** Chapter 32 (Natural Drainageway), Chapter 75 (Variance)

120-DAY RULE: This application was submitted complete on January 8, 2007. The City of West Linn must exhaust all local review by May 8, 2007 to meet the 120-day rule.

PUBLIC NOTICE: Public notice was mailed to property owners within 500 feet of the site on January 18, 2007 and the property was posted with a sign on January 26, 2007. Notice was also posted on the City's website. Consequently, the notice requirements of the Community Development Code (CDC) have been fully satisfied.

BACKGROUND AND MAJOR ISSUES

The applicant is proposing to build a new single-family house on an existing lot of record that is comprised of steep slopes and includes a natural drainageway. Since this is an existing lot of record, the applicants are allowed to build a house here despite the relatively severe environmental limitations. However, to build a house of sufficient size at a sufficient distance from the on-site natural drainageway near the rear of the narrow-fronted property, the applicants request a variance for front setback, side setback, and height.

The natural drainageway cuts through the northwest corner of the property on a downhill course to the northeast. The entire lot consists of steep slopes from the street to the drainageway, and the applicant plans to place the house as close to the street and as far from the drainageway as possible.

PUBLIC COMMENTS

No comments have been received to date following public notice.

RECOMMENDATION

Based upon the findings contained in the applicants' submittal and staff findings, staff recommends approval of the application with the following conditions of approval:

1. The applicant shall construct a stormwater facility to the specifications on pages 2-66 to 2-67 of the Portland Stormwater Management Manual (these pages have been included in this report at Exhibit PC-4), which shall drain to the natural drainageway on site.
2. Applicants shall submit, at the time they submit the building permit for the proposed house, a vegetative improvement plan. This plan, in addition to planning for the removal and replacement of vegetation that needs to be

removed for construction activity, shall plan for the removal of all non-indigenous, exotic, and invasive species on site and shall include what native vegetation will replace these species. Any debris on site shall also be removed.

p:/devrvw/staff reports/VAR-06-04 & MISC-06-47

ADDENDUM

STAFF FINDING

32.050.1. Proposed development submittals shall identify all natural drainageways on the project site. Drainageways that may flow intermittently and may be dry during the summer months shall be so noted. The Storm Drainage Master Plan (1996) shall be used as the basis for determining existence of drainageways. The exact location of drainageways identified in the Storm Drainage Master Plan, and drainageway classification (e.g., open channel vs. enclosed storm drains), may have to be verified in the field by the City Engineer.

FINDING NO. 1:

The submittal map shows the creek on site. The criterion is met.

32.050.2. Proposed developments shall be so designed as to maintain the existing natural drainageways and utilize them as the primary method of stormwater conveyance through the project site unless the Storm Drainage Master Plan (1996) calls for alternate configurations (culverts, piping, etc.). Proposed development shall, particularly in the case of subdivisions, facilitate reasonable access to the drainageway for maintenance purposes.

FINDING NO. 2:

The drainageway (including sections on the project site) is mainly accessible from the City-owned parcel that contains most of the drainageway both upstream and downstream from the project site. The project will not change this. The applicants report that they will address storm water conveyance during the building permit process. Condition of Approval 1 assures they will address conveyance in compliance with this criterion. The house will be built as far from the creek as possible outside the natural drainageway.

32.050.3. Development should be conducted in a manner that will minimize adverse impact on natural drainageways.

FINDING NO. 3:

The house has been placed and designed to minimize impact to and maximize distance from the drainageway. The variance for setbacks and height is to ensure that the house can reach sufficient size via height and via being built at the far front of the lot to minimize impacts to the drainageway. The applicants will use erosion control fencing, surrounding construction areas, between the drainageway and construction areas. The criterion is met.

32.050.4. Natural drainageways and transition areas should be protected from development or encroachment by dedicating the land title deed to the City for public open space purposes if either: 1) a finding can be made that the dedication is roughly proportional to the impact of the development; or, 2) the applicant chooses to dedicate these areas.

Otherwise, these areas shall be preserved through a protective easement. Protective or conservation easements are not preferred because natural drainageways and transition areas protected by easements have shown to be harder to manage and, thus, more susceptible to disturbance and damage. Natural vegetation, habitat areas, water quality, storm carrying capacity, hillside stability, typically suffer when these areas are privately held or protected only by easement.

The protected area shall include the drainage channel, creek, or wetlands, And the transition zone. The transition zone shall extend a minimum of 30 feet from the edge of the creek, drainage channel, or wetland in those cases where the land sloping away does so at less than 10 percent. A 25-foot transition shall apply when the drainage channel is determined to be a man-made drainage ditch identified on the Storm Drainage Master Plan, but not if it is a residential drainage swale as described in Section 32.020(C). When the slope is 10-25 percent, then the transition zone shall extend either: (a) 50 feet or, (b) to the point where the slope tapers off to less than 10 percent for more than 30 feet, whichever is less. If (b) applies, the transition shall be at a minimum of 30 feet.

When the slope is over 25 percent and it is determined to be a ravine with clearly delineated edges, then the top of the ravine shall mark the transition area boundary. When the slope is over 25 percent and the drainageway boundary is ill-defined due to variations of grades, slumps, fill areas, etc., the transition boundary shall be either: (a) the point where the slope tapers off to less than 10 percent for more than 50 feet (the minimum transition shall be 30 feet, or (b) when the drainageway does not taper off, then the transition shall be 150 feet. The percentage of grade is determined by the average grade of the first 50 feet from the edge of the wetland or body of water. Alternately, the City Engineer may determine which type of drainageway category applies by site visit in those cases where there are significant variations in grade that defy classification

using the above methodology. Distances are measured in plan view (i.e., as shown on the site plan).

Vacant legal residential lots of record established prior to this ordinance which would be restricted from development by these provisions shall be allowed to construct one dwelling unit consistent with the underlying zoning, but must still keep the greatest reasonable distance from the creek or wetland with a minimum distance of 30 feet. Non-residential lots of record may be built upon only after successful application for a Class II variance with minimum 30-foot setback. (ORD. 1463)

Roads, driveways, utilities, or passive use recreation facilities may be built in the transition zone and across drainageways when no other practical alternative exists. For utility purposes, the determination of what is practical shall be based upon prudent engineering practices so long as it has no significant negative impact on transition zone and wetlands.

Construction shall minimize impacts. Construction to the minimum dimensional standards for roads is encouraged. Variances to reduce road widths are encouraged as a way to minimize impacts. Full mitigation and revegetation is required.

Seasonal or intermittent streams are those streams, or portions of streams, that flow only in direct response to precipitation. They receive little or no water from springs. They carry no measurable flow for three months of the year. The transition area from the edge of these seasonal streams shall be 15 feet.

32.050.5. The transition area (an area that is to be protected) shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals that clearly delineate the extent of the protected area.

32.050.6. Consideration should be given to development of passive recreational opportunities on major drainageways.

FINDING NO. 4:

Since this is a legal residential lot of record that was established prior to the ordinance protecting natural drainageway transition areas from development, the owners of the lot (the applicants) are allowed to construct a dwelling unit on the lot. Virtually the entire lot is the transition area as it is a steep ravine with slopes over 25%. The house plans and variance are to ensure that the house will be as far away as possible from the natural drainageway. The house will be 53 feet from the creek at its northwest corner and 70 feet from the creek at its southwest corner. The entire lot is within the below-bank transition area of a steep ravine along the creek. No passive recreational opportunities will be able to be developed on the drainageway here. The criterion is legally met.

32.050.7. Sound engineering principles regarding downstream impacts, soil stabilization, erosion control, and adequacy of improvements to accommodate the intended drainage through the drainage basin are used. Storm drainage should not be diverted from its natural watercourse. Interbasin transfers of storm drainage shall not be permitted.

32.050.8. A construction fence and/or appropriate erosion control measures, as necessary, shall be established through all phases of construction along the perimeter of the transition area as described in Chapter 30 of this Code.

FINDING NO. 5:

Storm drainage will not be diverted from its natural watercourse and no interbasin transfers will occur. Construction fencing and erosion control measures will be implemented prior to construction and will be maintained throughout construction. The natural drainageway will be separated by erosion fencing from construction areas. No work will occur in the drainageway. The criterion is met.

32.050.9. Vegetative improvements to areas within the natural drainageway area may be required if the site is found to be in an unhealthy or disturbed state. "Unhealthy or disturbed" includes those sites that are heavily populated by exotic or non-indigenous species, areas overgrown with invasive plants, or areas that lack the proper balance of canopy trees, under story plants, and soil stabilizing groundcovers. Disturbed areas also include areas which have fill, debris, garbage, old tires, etc., which must be removed. "Vegetative improvements" consist of submitting a plan which calls for removal of non-indigenous, exotic, or invasive species which will be replaced by plant species in a manner to be approved by the City Parks Director and consistent with the purposes of Chapter 30. Once approved, the applicant is responsible for implementing the plan prior to final inspection or the City's acceptance of dedication of the property.

FINDING NO. 6:

The applicants plan to submit a vegetative improvement plan at the time of submitting a building permit. Condition of Approval 2 ensures that the plan will fulfill this criterion.

32.050.10. Setback area: development projects shall keep all foundation walls and footings at least 15 feet from the edge of the transition area. Decks and structural elements may not be built on or cantilever over the setback area. Roof overhangs of up to three feet are permitted in the setback.

FINDING NO. 7:

The entire lot is in the setback area as the lot consists only of ravine between the street and the drainageway. Despite this, the applicants are allowed to build here, as it is an existing lot of record that existed before these regulations. The criterion is not applicable.

75.060.1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.

75.060.2. The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as a right possessed by owners of other property in the same zone or vicinity.

FINDING NO. 8:

This is an existing lot of record, so the applicants have the right to build a home here, despite the lot's topography, the natural drainageway on site, and the lot's presence within the transition zone of the drainageway. It is a very unusual lot, consisting wholly of steep ravine wall between the street and the natural drainageway, which traverses the northwest corner of the lot. The lot is also narrow in front (narrowing to 46 feet at the far front end) compared to most lots in the neighborhood in this zone, despite that the front is the only area in which development can occur due to drainageway and topography issues. To fit a house of sufficient size (similar to others in the neighborhood) onto the front section of the lot and to build it as far from the natural drainageway as possible (despite still being in the transition area), the variance for height, front setback, and side setbacks is needed. It is the height at the rear that requires a variance. The house will look like a typical two-story house from the front; the need to crowd development to the front of the lot and the steepness of the lot, requiring a low footprint, require a height variance in the rear. The total height based on the bottom of the lowest footing in the rear is 57'-8", rather than the 45' maximum allowed by CDC Chapter 41 for steep lots. The variance for the height and setbacks is necessary for the applicants to exercise their property rights to build a home on this residential lot of record. The criterion is met.

75.060.3. The authorization of the variance will not be materially detrimental to the purposes and standards of this Code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan.

FINDING NO. 9:

This variance does not create undue density or incompatible uses for the R-10 zone or this neighborhood. The height variance does not create a house with a façade or presence that is incompatible with R-10 neighborhoods. The setback variances will not create privacy issues as the open space ravine is on the west side of the lot and a garage (rather than living area) is the closest part of the house on the lot to the east. The variance will not be materially detrimental to the purposes and standards of this code and will not be inconsistent with other regulatory requirements. The variance will actually make the proposal as compatible as possible with CDC Chapter 32 regulations regarding developing away from the natural drainageway.

Staff reviewed all Comprehensive Plan goals and policies for potential conflicts. The variance is potentially incompatible with Natural Environment Goal 2 in the Comprehensive Plan which states, "Protect sensitive environmental features such as steep slopes..." Conditions of approval 1 and 2 and the applicants' erosion control plans will ensure that the slope is sufficiently protected. The criterion is met.

75.060.4. The variance request is the minimum variance, which would alleviate the exceptional and extraordinary circumstance.

FINDING NO. 10:

The applicants have made efforts to design a house keeping variances to a minimum while still fulfilling the goal of building a house that is comparable in size to those in the neighborhood. The lot consists of slopes that are so steep that a height variance for the rear is needed in order to build a home with a typical two-story façade at the front end of the lot. The applicants are using a low roof pitch to mitigate for the increased overall height.

The garage is allowed to be within three feet of the front, as this is a steeply sloped lot with an average slope of more than 25%. The garage is planned to be set perpendicular to the street. For these reasons the garage itself meets the front yard setback exception for steep lots from CDC Chapter 41. Most of the rest of the façade is set back 20 feet and needs no variance either; the exception to this is the bedroom above the garage which comes within approximately 19 of the front lot line as it extends above the garage. This is a very small front setback variance. It makes the bedroom a workable size and helps to visually integrate the garage with the rest of the house, mitigating the "snouthouse" visual effect of an extended front garage.

Several factors contribute to the need for a side setback variance. The front of the lot is narrow (55 feet), but the house needs to be crowded in the front of the lot due to the slopes and drainageway as explained above. The house needs to breach

the setbacks on the sides to be of a typical house size for the neighborhood and still fit as close as possible to the front. The house will breach the setback line of 7.5 feet by just one foot on the east side of the lot at one corner of the house (the front east corner, at the narrowest segment of the lot). The house will breach the setback line by 2.5 feet (5 foot setback) for the majority of the west frontage, but will breach it by 4.5 feet (three foot setback) for a section in the middle. These are the smallest variances allowing this constricted but reasonably sized 45-foot wide floorplan. The criterion is met.

75.060.5. The exceptional and extraordinary circumstance does not arise from the violation of this ordinance.

FINDING NO. 11:

The unusual features of the lot and the applicants' proposals as to how to deal with them do not arise from the violation of this ordinance. Efforts have been made to make keep the variances at a minimum, but the variances are needed due to the need to build a house on steep slopes and crowd said house into the narrow front of the lot in order to exercise the applicants' right to build on this lot of record. The criterion is met.

75.060.6 The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.

FINDING NO. 12:

The setback variances will not affect the developability of adjacent lots. The parcel adjacent to the site to the north and west is City-owned and contains the drainageway and its ravine. It will not be developed as a residential lot. The property to the east is already developed to its fullest density and will have no other physical limitations imposed on it by the variance. A photo submitted by the applicant shows that constructing this house at this location to this height will not adversely affect the foreground views of homes across the street (which are uphill) and will not affect these homes' views of areas further away. The owner of the house across the drainageway from the site (the closest home to the north and west of the site) has submitted a letter (see Exhibit 'B' in applicant's original submittal) stating that the applicants' proposal will not impede her view or privacy in any way. The variance will not affect the views or privacy of any other houses either. The criterion is met.

Additional items requested from Completeness Review:

1. 32.050 NATURAL DRAINAGEWAY PROTECTION ITEMS 5 - 10

5. The transition area (an area that is to be protected) shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals that clearly delineate the extent of the protected area.

Response: *The transition area shall be identified with City approved permanent markers at all boundary direction changes and installed prior to construction fencing.*

6. Consideration should be given to development of passive recreational opportunities on major drainageways.

Response: *The terrain is too steep, thus this is not applicable.*

7. Sound engineering principles regarding downstream impacts, soil stabilization, erosion control, and adequacy of improvements to accommodate the intended drainage through the drainage basin are used. Storm drainage should not be diverted from its natural watercourse. Inter-basin transfers of storm drainage shall not be permitted.

Response: *The portion of the lot we are impacting is not the drainageway creek. We are keeping the building footprint at least 50' away from creek.*

8. A construction fence and/or appropriate erosion control measures, as necessary, shall be established through all phases of construction along the perimeter of the transition area as described in Chapter 30 of this Code.

Response: *Construction fencing and erosion control measures shall be implemented prior to construction and shall be maintained through all phases of construction.*

9. Vegetative improvements to areas within the natural drainageway area may be required if the site is found to be in an unhealthy or disturbed state. "Unhealthy or disturbed" includes those sites that are heavily populated by exotic or non-indigenous species, areas overgrown with invasive plants, or areas that lack the proper balance of canopy trees, understory plants, and soil stabilizing groundcovers. Disturbed areas also include areas which have fill, debris, garbage, old tires, etc., which must be removed. "Vegetative improvements" consist of submitting a plan which calls for removal of non-indigenous, exotic, or invasive species which will be replaced by plant species in a manner to be approved by the City Parks Director and consistent with the purposes of Chapter 30. Once approved, the applicant is responsible for implementing the plan prior to final inspection or the City's acceptance of dedication of the property.

Response: *At the time of building permit application a vegetative improvement plan shall be submitted as plants and trees shall need to be removed for the building footprint. Per photos submitted it does not appear that there are exotic or non-indigenous species growing on the property.*

10. Setback area: development projects shall keep all foundation walls and

footings at least 15 feet from the edge of the transition area. Decks and structural elements may not be built on or cantilever over the setback area. Roof overhangs of up to three feet are permitted in the setback.

Response: *As this legal lot of record is set solely in the drainageway area this item is not applicable. The plan is to set the house as far as possible from the creek and to place as close to the street as possible while keeping safety of exiting property in mind.*

2. **75.060 The Approval Criteria #5**

5. The exceptional and extraordinary circumstance does not arise from the violation of this ordinance.

Response: *The exceptional and extraordinary circumstance does not arise from the violation of this ordinance. As per response to Section 75.060 #4, the owner and architect have made every attempt to keep all variances to a minimum. The terrain of the lot is such that these variances are required.*

3. **75.070 (B)(2)(a)** On the site map, show the side setback of the area of the proposed house that extends west from the 5'0" setback. Show the side setback of the southeast corner of the proposed house that extends east of the 7'6" setback line.

Response: *See accompanying site plan with setback lines.*

4. **Section 75.070(B)(3)(b)** Include a scaled drawing to show the impact of the proposed house on properties across the street as well.

Response: *There is virtually no impact of the proposed house on properties across the street, please see accompanying photo for details. As the photo indicates, the existing home is scarcely seen while the homes across the drainageway can be seen. The proposed home will be hidden by existing vegetation on the opposite side of street.*

5. The specific grounds for incompleteness as determined by the engineering department are as follows:

- Identify property corners to prevent encroachment onto City open space.

Response: *See topographic survey that was originally included with the variance application.*

- Submit erosion control plan, showing fence above undisturbed buffer zone.

Response: See accompanying site plan with erosion control fencing diagramed.

- Show utilities on site plan including location of storm lateral for rain drains, with treatment per Portland Storm Water Manual.

Response: See topographic surveys for utilities (sewer, water, electrical) sited and accompanying site plan for storm lateral proposal. Sizing will be calculated and determined with building permit application.

Development Application Narrative for property adjacent to 19740 Wildwood Drive

William and Cindy Perkins, owners of a residential legal lot of record located adjacent to 19740 Wildwood Drive, propose to build a new single family home on this vacant lot. Their representative, Innovation Construction (applicant), has completed a Natural Drainageway Protection application and Variance application for height, side yard setbacks and front yard setbacks.

Owner and applicant have completed the pre-application meeting; notes are included with this application.

Per the requirements for the natural drainageway protection application, attached is a full and complete submittal per the requirements of CDC, Section 32.040 and a complete response to the approval criteria of CDC, Section 32.050. A site map showing the topography, the creeks, and the distance from the creeks to the proposed building is also included.

A variance for the height, side yard and front yard setbacks are considered a Class II Variance, full response to the submittal requirements and approval criteria of CDC sections 75.050 and 75.060 are included with this application.

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NATURAL DRAINAGEWAY PROTECTION

32.040 THE APPLICATION

- A. An application for altering a natural drainageway shall be initiated by the property owner, or the owner's authorized agent, and shall be accompanied by the appropriate fee.

Response: *Included with this narrative*

- B. A pre-application conference shall be a prerequisite to the filing of the application.

Response: *Included with this narrative*

- C. The application shall include a map of the parcel indicating the nature of the proposed alteration and its relationship to property zones, structures, trees, and any other pertinent features of the parcel.

Response: *Included with this narrative*

- D. The City Engineer may, at his discretion, require the map to be prepared by a registered land surveyor to insure accuracy. The site plan map shall be accompanied by a written narrative explaining the reason why the owner wishes to alter the natural drainageway.

Response: *This is a residential legal lot of record; therefore according to the CDC Chapter 32, the owner is allowed one dwelling unit, consistent with underlying zoning. The owner is complying with the zoning. The owner is planning to keep the dwelling as far away from the creek as possible, at a minimum of 30 feet. Per site plan, the owner has set the dwelling at the furthest distance from the creek, but allowing enough space in the front of house for safe access for vehicular traffic.*

- E. All proposed improvements to the drainageway channel or creek which might impact the storm load carrying ability of the drainageway shall be designed by a registered civil engineer.

Response: *Owner is not proposing to alter the drainageway creek, thus this item is not applicable.*

- F. Applicant shall present evidence in the form of adopted utility master plans or transportation master plans, or findings from a licensed engineer to demonstrate that the development or improvements are consistent with accepted engineering practices. (ORD. 1401)

Response: *Owner shall submit engineered plans at building permit phase that are consistent with accepted engineering practices.*

32.050 APPROVAL CRITERIA

The Planning Commission shall make a written finding with respect to the following criteria when approving, approving with conditions, or denying an

application for altering a natural drainageway, or for development projects that have natural drainageways within their project boundaries. (ORD. 1474)

1. Proposed development submittals shall identify all natural drainageways on the project site. Drainageways that may flow intermittently and may be dry during the summer months, shall be so noted. The Storm Drainage Master Plan (1996) shall be used as the basis for determining existence of drainageways. The exact location of drainageways identified in the Storm Drainage Master Plan, and drainageway classification (e.g., open channel vs. enclosed storm drains), may have to be verified in the field by the City Engineer.

Response: *See accompanying topographic survey.*

2. Proposed developments shall be so designed as to maintain the existing natural drainageways and utilize them as the primary method of stormwater conveyance through the project site unless the Storm Drainage Master Plan (1996) calls for alternate configurations (culverts, piping, etc.). Proposed development shall, particularly in the case of subdivisions, facilitate reasonable access to the drainageway for maintenance purposes.

Response: *Owner will be addressing storm water conveyance during building permit process, as at this time the City of West Linn is in the process of amending the storm water conveyance code.*

3. Development should be conducted in a manner that will minimize adverse impact on natural drainageways.

Response: *Owner will provide an erosion control plan during construction of home to minimize adverse impact on natural drainageway. The dwelling unit is also designed to have minimal adverse impact on drainageway and allow owner to have a structure that fits their needs.*

4. Natural drainageways and transition areas should be protected from development or encroachment by dedicating the land title deed to the City for public open space purposes if either: 1) a finding can be made that the dedication is roughly proportional to the impact of the development; or, 2) the applicant chooses to dedicate these areas. Otherwise, these areas shall be preserved through a protective easement. Protective or conservation easements are not preferred because natural drainageways and transition areas protected by easements have shown to be harder to manage and, thus, more susceptible to disturbance and damage. Natural vegetation, habitat areas, water quality, storm carrying capacity, hillside stability, typically suffer when these areas are privately held or protected only by easement. (ORD. 1442) The protected area shall include the drainage channel, creek, or wetlands, and the transition zone. The transition zone shall extend a minimum of 30 feet from the edge of the creek, drainage channel, or wetland in those cases where the land sloping away does so at less than 10 percent. A 25-foot transition shall apply when the drainage channel is determined to be a man-made drainage ditch identified on the Storm Drainage Master Plan, but not if it is a residential drainage swale as described in Section 32.020(C). When the slope is 10-25 percent, then the transition zone shall extend either: (a) 50 feet or, (b) to the point where the slope tapers off to less than 10 percent for more

than 30 feet, whichever is less. If (b) applies, the transition shall be at a minimum of 30 feet.

When the slope is over 25 percent and it is determined to be a ravine with clearly delineated edges, then the top of the ravine shall mark the transition area boundary. When the slope is over 25 percent and the drainageway boundary is ill-defined due to variations of grades, slumps, fill areas, etc., the transition boundary shall be either: (a) the point where the slope tapers off to less than 10 percent for more than 50 feet (the minimum transition shall be 30 feet, or (b) when the drainageway does not taper off, then the transition shall be 150 feet. The percentage of grade is determined by the average grade of the first 50 feet from the edge of the wetland or body of water. Alternately, the City Engineer may determine which type of drainageway category applies by site visit in those cases where there are significant variations in grade that def- classification using the above methodology. Distances are measured in plan view (i.e., as shown on the site plan).

Vacant legal residential lots of record established prior to this ordinance which would be restricted from development by these provisions shall be allowed to construct one dwelling unit consistent with the underlying zoning, but must still keep the greatest reasonable distance from the creek or wetland with a minimum distance of 30 feet. Non-residential lots of record may be built upon only after successful application for a Class II variance with minimum 30-foot setback. (ORD. 1463)

Roads, driveways, utilities, or passive use recreation facilities may be built in the transition zone and across drainageways when no other practical alternative exists. For utility purposes, the determination of what is practical shall be based upon prudent engineering practices so long as it has no significant negative impact on transition zone and wetlands. Construction shall minimize impacts. Construction to the minimum dimensional standards for roads is encouraged. Variances to reduce road widths are encouraged as a way to minimize impacts. Full mitigation and revegetation is required. Seasonal or intermittent streams are those streams, or portions of streams, that flow only in direct response to precipitation. They receive little or no water from springs. They carry no measurable flow for three months of the year. The transition area from the edge of these seasonal streams shall be 15 feet.

Response: *This is a legal residential lot of record that was established prior to this ordinance and owner shall be allowed to construct one dwelling unit consistent with the underlying zoning, while keeping the greatest reasonable distance from the creek. The owner has set the home as far forward away from the back of the property and away from the creek by 53' in the northwest corner and over 70' at the northeast corner.*

For further comments see Class II Variance narrative for height, side yard and front yard set backs.

Variance Application Narrative per CDC 75.050 and 75.060

75.050 THE APPLICATION

- A. A variance request shall be initiated by the property owner or the owner's authorized agent.

Response: See attached application and supporting documentation.

- B. A prerequisite to the filing of an application is a pre-application conference at which time the Planning Director shall explain the requirements and provide the appropriate form(s).

Response: See attached Pre-Application Conference Summary Notes from August 3, 2006.

- C. An application for a variance shall include the completed application form and:

1. A narrative which addresses the approval criteria set forth in Section 75.060, and which sustains the applicant's burden of proof.

Response: See narrative in this document and supporting information.

2. A site plan as provided by Section 75.070.
One original application form must be submitted. Three copies at the original scale and three copies reduced to 11 X 17 inches or smaller of all drawings and plans must be submitted. Three copies of all other items must be submitted. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

Response: See accompanying information

- D. The applicant shall pay the requisite fee.

Response: See accompanying fee.

75.060 THE APPROVAL CRITERIA

The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The approval authority shall deny the variance if any of the criteria are not met.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.

Response:

Height Variance: To be consistent with the home sizes in the neighborhood and to keep the driveway set back off of Wildwood for safety and visibility reasons and to stay as far away from the creek as possible, a height variance is required. The topography of the lot is very

steep and the lot narrows at the street frontage. Therefore, to maintain uniformity of building height and square footage with other homes in the area, the height at the rear elevation of the proposed home is at a height that requires a variance. The height of the building from the bottom of the lowest footing to the top of the roof line is 57'-8". The owner's intent is to keep the rear of the structure open. The walls of the structure would not extend to the ground, minimizing any impact on the movement of wildlife. The property owner on the opposite side of the ravine at 19710 Wildwood Drive has commented that they support the owner's new construction project and proposed height variance will not impede their view or privacy in any way, see Exhibit "B".

Side Yard Variance: To be consistent with the home sizes in the neighborhood and to keep the driveway set back off of Wildwood for safety and visibility reasons and to stay as far away from the creek as possible, a side yard variance is required for the west side of property from a 7'-6" setback to a 5' setback. The property to the west of this lot is owned by the City and is part of the natural drainageway. The topography of the lot is very steep and the lot narrows at street frontage. Therefore, to accommodate adequate square footage in the home the owner requests a variance for the side yard of 2'6". On the east side yard the corner of the house protrudes past the 7'-6" side yard setback by a few inches, thus a variance is needed for this corner as well.

Front Yard Variance: To be consistent with the home sizes in the neighborhood and to keep the driveway set back off of Wildwood for safety and visibility reasons and to stay as far away from the creek as possible, a front yard variance is required. The topography of the lot is very steep and the creek is located at the back of the property; the owner has set the home as far forward as possible, by 53' in the northwest corner and over 70' at the northeast corner. The garage is setback 15' and the rest of the house is setback 20'.

2. The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as a right possessed by owners of other property in the same zone or vicinity.

Response: As addressed above the property owner has the right to develop his property in a similar fashion as the owners of other property in the same vicinity. See Exhibit "A".

3. The authorization of the variance will not be materially detrimental to the purposes and standards of this Code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan.

Response: The authorization of the variance will not be materially detrimental to the purposes and standards of this Code and will not be inconsistent with all other regulatory requirements and will not conflict with the goals and policies of the West Linn Comprehensive Plan.

4. The variance request is the minimum variance, which would alleviate the exceptional and extraordinary circumstance.

Response: The owner has made every attempt to design a home that would keep the variances to a minimum. The steep slope of the lot does not allow room for a home to be of adequate square footage for the owners without a height variance. The owner and architect have attempted to keep the height as low as possible by using a lower roof pitch. The lot frontage is only 55' therefore the width of the structure is constricted and is 45', therefore a side yard setback variance is needed on the west side yard to accommodate the interior living space and garage.

5. The exceptional and extraordinary circumstance does not arise from the violation of

this ordinance.

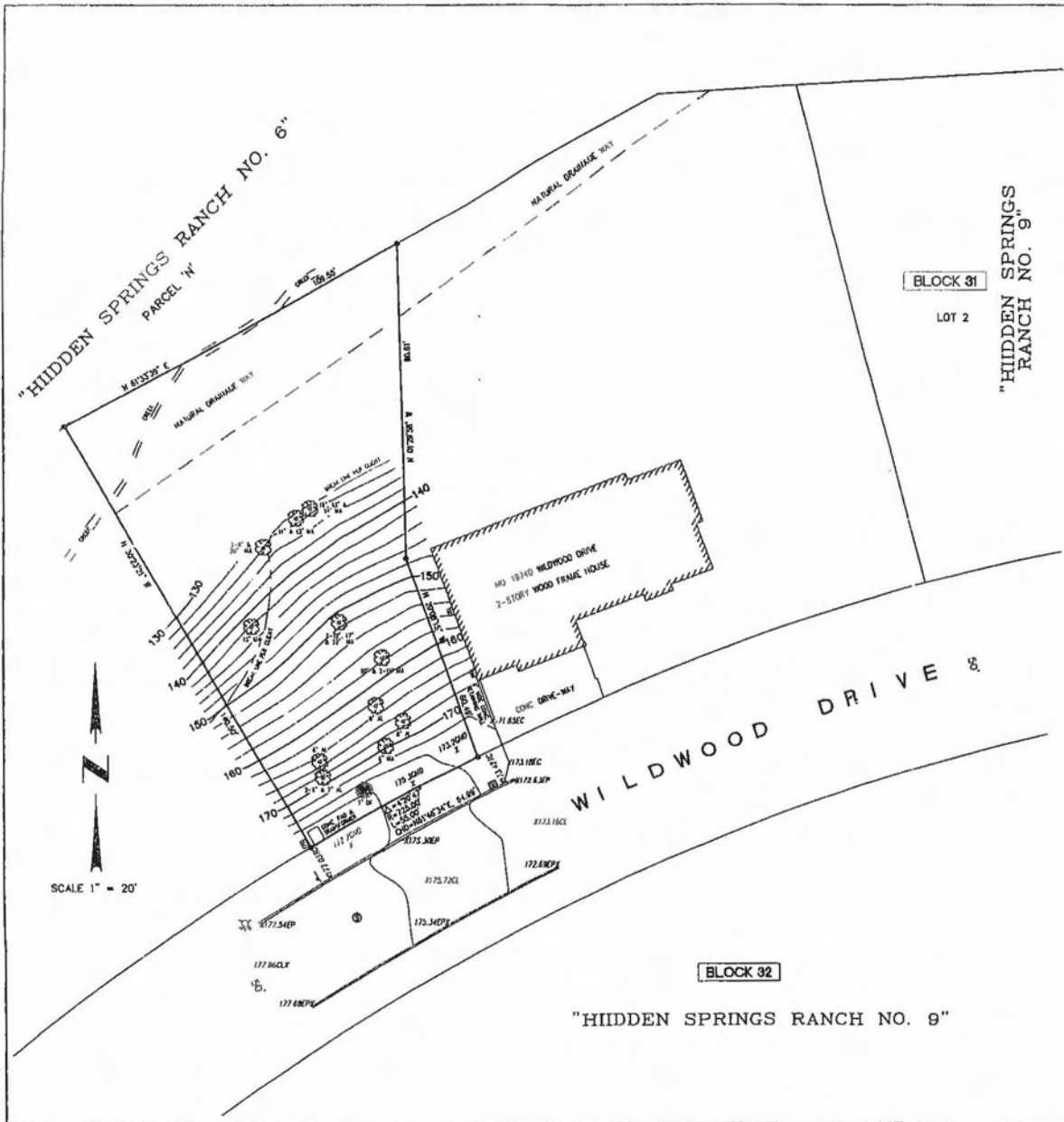
6. The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.

Response: *The variance requests will not impose physical limitations on other properties or uses in the area and will not impose physical limitations on future use of neighboring vacant properties. The City owns the property to the west and is a natural drainageway that will remain undeveloped. The property to the east and to the north is already developed.*

75.070 SITE PLANS AND MAP

- A. All plot plans and maps shall include the name, address, and telephone number of the applicant; the scale; north arrow; and a vicinity map.
- B. The applicant shall submit a plot plan drawn to an appropriate scale (in order of preference; 1" = 10' to 1" = 30') which shows the following:
 1. The subdivision name, block, and lot number or the section, township, range, and tax lot number.
 2. In the case of a request for a variance to a lot dimensional or building setback requirement:
 - a. The lot configuration and dimensions, and the location of all existing structures on the lot; the setback distances and the location of all structures on abutting lots, and the setback distances; and,
 - b. The proposed variances.
 3. In the case of a request for a variance to the building height provisions:
 - a. An elevation drawing of the structure and the proposed variances; and,
 - b. A drawing(s) to scale showing the impact on adjoining properties; for example, will the height variance, if granted, block a viewpoint from an adjoining property of a significant land feature?

Response: *See accompanying site plans and maps.*



TOPOGRAPHIC SURVEY

FOR:
INNOVATION CONSTRUCTION
 BEING A PORTION OF LOT 4, BLOCK 31,
 "HIDDEN SPRINGS RANCH NO. 9"
 IN THE NE 1/4 SEC. 23, T.2S., R.1E., W.M.
 CITY OF WEST LINN
 CLACKAMAS COUNTY, OREGON

JUNE 28, 2008 MAP 2 1E 23AC

LEGEND:

- FOUND 3/8" HIGH HOOD WITH YELLOW PLASTIC CAP STAMPED "ANDY PARIS & ASSOC. INC."
- ▲ FOUND 5/8" (R. SHOOT) W/PC "LS 837" PER PLAT OF "HIDDEN SPRINGS RANCH NO. 9"
- Ⓢ SANITARY SEWER MANHOLE
- Ⓢ FIRE HYDRANT
- Ⓢ MANHOLE IN BRICK COLUMN
- Ⓢ ELECTRIC METER
- Ⓢ GAS METER
- Ⓢ CABLE PEDESTAL
- ROAD SIGN
- Ⓢ DECIDUOUS TREE AS NOTED
- Ⓢ CONIFEROUS TREE AS NOTED
- Ⓢ DOUGLAS FIR TREE
- Ⓢ ALDER TREE
- Ⓢ MAPLE TREE
- DOPFX SPOT ELEVATION TOP OF CURB
- DGDNDX SPOT ELEVATION GROUND
- DODEPX SPOT ELEVATION EDGE OF PAVEMENT
- DODCX SPOT ELEVATION CENTER OF ROAD
- CONIC VERTICAL CURB (UNLESS OTHERWISE NOTED)
- ASPHALT

NOTES:

1. ELEVATIONS ARE ON AN ASSUMED DATUM
2. THE BOUNDARIES AS SHOWN ON THIS MAP ARE BASED ON A PROPERTY LINE ADJUSTMENT SURVEY FOR BILL PERKINS BY TBS FWH ON JUNE 3, 2006
3. THIS SURVEY IS MADE FOR THE ORIGINAL PURCHASER OF THE SURVEY ONLY ANDY PARIS & ASSOCIATES, INC. ASSUMES NO LIABILITY FOR INFORMATION SHOWN HEREON TO ANY OTHER INSTITUTIONS OR SUBSEQUENT PURCHASERS OF THE PROPERTY
4. SURVEY IS VALID ONLY IF PRINT HAS SEAL AND SIGNATURE OF SURVEYOR.
5. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND/OR EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN ENCOMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. IF THE TRUE LOCATION OF THE UNDERGROUND UTILITY IS NEEDED, IT IS ADVISED THAT THE UTILITY BE EXPOSED AND LOCATED TO THE SATISFACTION OF THOSE NEEDING THIS INFORMATION.
6. THE LOCATION AND OR EXISTENCE OF UTILITY SERVICE LINES TO THE PROPERTY SURVEYED ARE UNKNOWN AND ARE NOT SHOWN.
7. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT.
8. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SURVEYOR THERE MAY EXIST EASEMENTS, CONDITIONS, OR RESTRICTIONS THAT COULD AFFECT THE TITLE OF THIS PROPERTY. NO ATTEMPT HAS BEEN MADE IN THIS SURVEY TO SHOW SUCH MATTERS THAT MAY AFFECT TITLE.

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
William H. Shenk
 O R E G O N
 JULY 31, 1983
 WILLIAM H. SHENK
 2563

EXPIRES JUNE 30, 2008
 SURVEYED BY:
ANDY PARIS AND ASSOCIATES, INC.
 16057 S.W. BOON'S FERRY ROAD
 LAKE OSWEGO, OREGON 97035
 PH: 503-636-3341
 PROJECT: 06055
 DRAWING: 06055TP1.DWG
 DRAFTED: 1506.2006

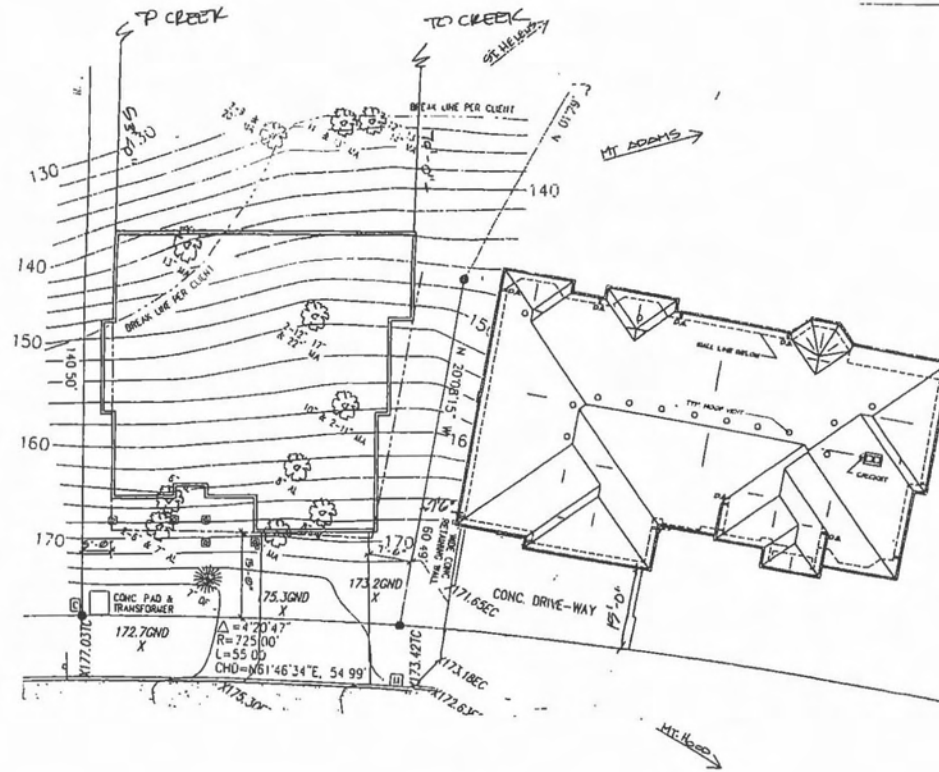
SHEET 1 OF 1

126

50

NOTE:

ALL GRADES SHOWN ARE APPROXIMATE
CONTRACTOR TO VERIFY ALL EXISTING
AND FINISH GRADES



SITE PLAN

SCALE: 1" = 10'-0"

LOT
HIDDEN SPRINGS
CLACKAMAS COUNTY, OREGON



THE KRAUSE
ARCHITECT P.C.

1000 S. 10th St.
Clackamas, Oregon 97015

STATE OF OREGON
REGISTERED ARCHITECT
JOSEPH L. KRAUSE
CLACKAMAS COUNTY, OREGON
NO. 1000
EXPIRES 12/31/06

127

TITLE
SITE PLAN
PROJECT
PERKINS RESIDENCE
OWNER
BILL and CINDY

DATE
SEPT 10, 2006
PROJECT NO.
0603
REVISIONS



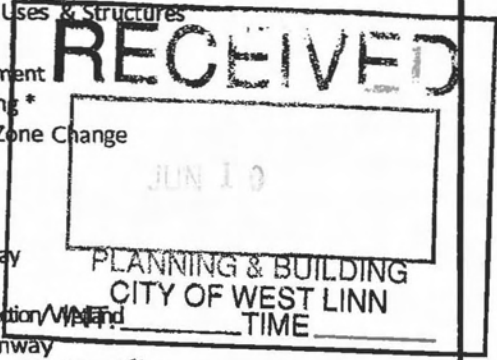
City of
**West
Linn**

DEVELOPMENT REVIEW APPLICATION

MI-1073

TYPE OF REVIEW (Please check all boxes that apply):

- | | |
|---------------------------------------------------------------------|-------------------------------------------------------------------------|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures |
| <input type="checkbox"/> Appeal and Review * | <input type="checkbox"/> One-Year Extension * |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Planned Unit Development |
| <input type="checkbox"/> Design Review | <input type="checkbox"/> Pre-Application Meeting * |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Quasi-Judicial Plan or Zone Change |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Street Vacation |
| <input type="checkbox"/> Final Plat or Plan | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Flood Plain Construction | <input type="checkbox"/> Temporary Uses * |
| <input type="checkbox"/> Hillside Protection and Erosion Control | <input type="checkbox"/> Tualatin River Greenway |
| <input type="checkbox"/> Historic District Review | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Water Resource Area Protection |
| <input type="checkbox"/> Lot Line Adjustment */** | <input type="checkbox"/> Willamette River Greenway |
| <input type="checkbox"/> Minor Partition (Preliminary Plat or Plan) | <input checked="" type="checkbox"/> Other/Misc - <i>2 yr. Extension</i> |



Home Occupation, Pre-Application, Sidewalk Use Application *, Permanent Sign Review *, Temporary Sign Application require different application forms available in the forms and application section of the City Website or at City Hall.

TOTAL FEES/DEPOSIT \$2275.00

Mr & Mrs. Bill Perkins 19740 Wildwood Dr, W.Linn 97068 503-635-8442
OWNER (PRINT) ADDRESS CITY ZIP PHONE & /OR E-MAIL

Same
APPLICANT (PRINT) ADDRESS CITY ZIP PHONE & /OR E-MAIL

~~Tony Weller 15573 Bangy Rd, STE 300, LO, 97035 503 968 6655~~
CONSULTANT (PRINT) ADDRESS CITY ZIP PHONE & /OR E-MAIL

SITE LOCATION/ADDRESS Adjacent to 19740 Wildwood Dr.

Assessor's Map No.: 2 1E 23AC Tax Lot(s): 9004 Total Land Area: 10668sf

- All application fees are non-refundable (excluding deposit).
- The owner/applicant or their representative should be present at all public hearings.
- A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
- Four (4) 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.
* No CD required / ** Only one copy 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.

SIGNATURE OF PROPERTY OWNER(S)
X Cindy Perkins William Perkins Date 6/7/2010

SIGNATURE OF APPLICANT(S)
X William Perkins Date 6/7/2010

ACCEPTANCE OF THIS APPLICATION DOES NOT INFER A COMPLETE SUBMITTAL. THE APPLICANT WAIVES THE RIGHT TO THE PROVISIONS OF ORS 94.020. 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 INTIAL APPLICATION. CONTACT: PLANNING AND BUILDING; 22500 SALAMO RD #1000; WEST LINN, OR 97068; PHONE: 656-4211 FAX: 656-4106 PLANNING@WESTLINNOREGON.GOV

CITY OF WEST LINN
 22500 Salamo Rd.
 West Linn, OR. 97068
 (503) 656-4211

PLANNING RECEIPT
 Receipt: # 935792
 Date : 06/10/2010
 Project: #MI-10-13
 BY: JN

NAME : BILL PERKINS
 ADDRESS : 19740 WILDWOOD DR
 CITY/STATE/ZIP: WEST LINN OR 97068
 PHONE # : 635-8442

SITE ADD. : 19738 WILDWOOD DR

TYPE I HOME OCCUPATIONS		HO	\$
PRE-APPLICATIONS	Level I (), Level II ()	DR	\$
HISTORIC REVIEW	Residential Major (), Minor (), New ()	DR	\$
	Commercial Major (), Minor (), New ()		
SIGN PERMIT	Face (), Temporary (), Permanent ()	DR	\$
SIDEWALK USE PERMIT		DR	\$
APPEALS	Plan. Dir. Dec. (), Subdivsion (),	DR	\$
	Plan Comm./City Coun. (), Nbhd ()		

LOT LINE ADJUSTMENT		LA	\$
CITY/METRO BUSINESS LICENSE		BL	\$

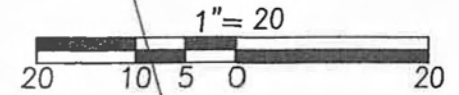
The following items are paid by billing against the up-front deposit estimate.
 If the amount of time billed to your project exceeds the amount covered by the
 deposit, additional payment may be required.

DESIGN REVIEW	Class I (), Class II ()	RD	\$
VARIANCE	Class I (), Class II ()	RD	\$
SUBDIVISION	Standard (), Expedited ()	RD	\$
ANNEXATION	"Does Not Include Election Cost"	RD	\$
CONDITIONAL USE		RD	\$
ZONE CHANGE		RD	\$
MINOR PARTITION		RD	\$
MISCELLANEOUS PLANNING		RD	\$ 2275.00

Boundry Adjustments	()		
Modification to approval	()	Water Resource	
Code Amendments	()	Area Protection	()
Comp. Plan Amendments	()	Street Vacations	()
Temporary Permit Admin.	()	Easement Vacations	()
Temporary Permit Council	()	Will. River Greenway	()
Flood Management	()	Tualatin River Grwy.	()
Inter-Gov. Agreements N/C	()	Street Name Change	()
Alter Non-Conforming Res.	()	Code Interpretations	()
Alter Non-Conforming Comm.	()	Type II Home Occ.	()
Measure 37 Claims	()	Planned Unit Dev. PUD	()

TOTAL REFUNDABLE DEPOSIT		RD	\$ 2275.00
GENERAL MISCELLANEOUS Type:		PM	\$

TOTAL	Check # 3999	Credit Card ()	Cash ()	\$ 2275.00
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SCHOTT & ASSOCIATES
 21018 NE HWY 99E
 PO BOX 589
 AURORA, OREGON 97002
 p: 503.678.6007
 f: 503.678.6011

EXISTING CONDITIONS
 AND
 SITE PLAN

05-20-10
 JJT
 Job #: 2160
 Sheet 2 OF 2

ONSITE
 DRAINAGE
 FLOWLINE

PROPOSED
 HOUSE LOCATION
 PER SITE PLAN
 PROVIDED BY KRAUSE
 ARCITECTS
 PROJECT NUMBER
 06123, DATED SEPT.
 28, 2006

PROPOSED
 IMPACT AREA WITHIN
 TRANSITION ZONE
 4,676SF

TRANSITION ZONE
 EXTENDS TO TOP OF
 SLOPE

"NO
 PARKING"

LOT 4

19740 WILDWOOD
 DRIVE (2-STORY
 WOOD FRAMED
 HOUSE)

HELD ELEVATION
 171.65' PER
 TOPOGTRAPHIC
 SURVEY BY ANDY
 PARIS AND ASSOC
 INC.

WILDV
 DRIVE

SMH
 RIM=162.16
 IE(SW)8"PVC=149.0
 IE(NE)8"PVC=148.9

