
The comments of this pre-app are preliminary in nature and subject to change based upon the submittal of additional or different information. The Planning Commission or City Council are the final decision making authority of the City, and are not bound by the comments made by the Staff as part of this pre-application.

**ASHLAND PLANNING DIVISION
PRE-APPLICATION CONFERENCE
COMMENT SHEET** March 2, 2022

SITE: Open space no SITUS
Adjacent to 192 N Mountain
APPLICANT: AVHOA
REQUEST: Physical & Environmental
Constraints Review, WRPZ Limited Use

PLANNING STAFF COMMENTS:

This pre-application conference is intended to highlight significant issues of concern to staff and bring them to the applicant's attention prior to their preparing a formal application submittal.

Summary/General: Staff are supportive of the proposal and look forward to its successful implementation. Procedurally, both a Physical and Environmental Constraints Review Permit for Floodplain Development / steep slope and a Limited Use/Activity Permit within a Water Resource Protection Zone are required because the proposal involves in-stream work and triggers threshold levels of disturbance in terms of surface area and volume. See P&E map at right.

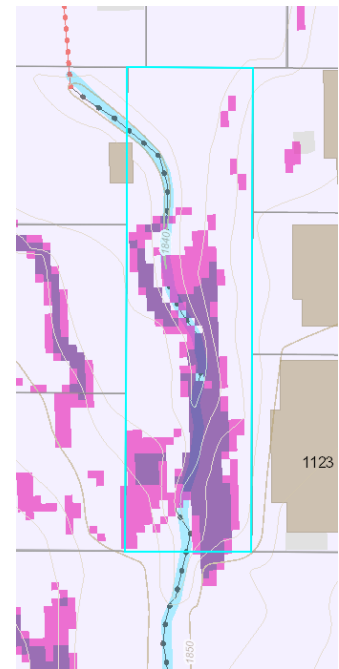
Restoration and enhancement activities resulting in a net gain in stream bank corridor functions not otherwise associated with development (i.e. not involving buildings, grading or paving) are encouraged, and planning application fees associated with reviewing these activities for compliance with applicable land use standards may be waived by the Staff Advisor.

As this is a property owner-initiated project to correct years of neglect a performance guarantee will not be needed but the final application should include specifics on a multi-year maintenance plan. This would enable you to have on-going regular maintenance once the initial restoration and enhancement is complete without having to go back through the process

The code provides two options for Mitigation Requirements for Water Resource Protection Zones at AMC 18.3.11.110. Staff recommends that the applicant consult with either a Landscape architect or environmental consultant to consider the benefits of the prescriptive version vs. the performance options.

A complete planning application will require the following:

- a detailed grading and planting plan sufficient to determine conformance with the mitigation standards. The planting plan should include detail on the appropriateness of species selection.
- The plan shall address cut / fill and needs to ensure that no fill is being introduced to the flood plain.



- Consideration should be given to reducing in stream work, and implantation of erosion and sediment control as well as turbidity.
- What are the specific impacts to the banks, trees and other vegetation within the Water Resource Protection Zones? How will these be minimized and mitigated?
- What mechanisms will be in place to insure the long-term maintenance/management of the proposed improvements? The Water Resource Permit typically seeks both mitigation and maintenance plans through the application process.
- Conditions of approval will typically include an initial site inspection prior to any site work, staging or storage of materials to verify that initial requirements of these plans are in place according to plan.

Federal & State Permitting: Be aware that, depending on the nature of the work proposed, this could trigger permit requirements from the Oregon Department of State Lands (DSL) and/or the Army Corps of Engineers. The city is not involved in the state or federal permitting processes, which can sometimes be lengthy. The best advice I've heard is to get a site assessment by a local DSL representative and they can tell you if what you have in mind will need their permitting and may also be able to help make the determination about whether federal permits are necessary. It may be helpful if the application makes clear what federal and state permit approvals are being sought in conjunction with the proposal and the status of these approvals at application.

Jevra Brown, Aquatic Resource Planner
 Department of State Lands
 503-580-3172
Jevra.Brown@DSL.Oregon.gov

Work Window: local riparian regulations which limit the removal and mowing of blackberries to before May 1 or after July 31 to protect nesting birds; the irrigation season; and any restrictions posed by the Oregon Department of Forestry for fire season. (*Removal of non-native, noxious and invasive vegetation and replacement with local native plants is exempt from WRPZ permit requirements provided that it does not trigger removal of native vegetation.*)

Written Findings/Burden of Proof: Applicants should be aware that written findings addressing the ordinance and applicable criteria are required, and are heavily depended on when granting approval for a planning action. In addition, the required plans are explained in writing below. The burden of proof is on the applicant(s) to ensure that all applicable criteria are addressed in writing and that all required (*scalable*) plans, written findings, and other materials are submitted even if those items were not discussed in specific, itemized detail during this initial pre-application conference.

Physical and Environmental Constraints Permit: A Physical and Environmental Constraints (P&E) Review Permit is required because the restoration involves work constituting development within a designated Flood Plain Corridor. By ordinance, the threshold levels that qualify as development and require a P&E Permit are earth moving involving 20 cubic yards or more, or 1,000 square feet of surface disturbance; any construction of a building, road, driveway or “other structure”; or culverting or

diversion of any stream. In large part, the standards for floodplain development speak to fill, crossings, structures, streets and utilities while the criteria for approval speak more broadly to how impacts have been considered, any adverse impacts minimized, and any hazards mitigated to reduce adverse environmental impacts.

Limited Activity within Stream Bank Water Resources Protection Zone: AMC 18.3.11.060.B.1 provides that stream restoration and enhancement projects resulting in a net gain in stream bank corridor functions require a Limited Uses and Activities Permit subject to the requirements of AMC 18.3.11.060.D, including written findings addressing the approval criteria, plans detailing the work proposed, a mitigation plan as detailed in AMC 18.3.11.111, and a management plan as detailed in AMC 18.3.11.110.C. As noted above, key considerations include:

APPROVAL CRITERIA

18.3.10.050 Approval Criteria (P&E)

- A.** Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.
- B.** That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.
- C.** That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum development permitted by this ordinance.

18.3.11.060.D. Limited Activities and Uses Permit Approval Criteria

1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resource Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.
2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on water resources.
3. On stream beds or banks within the bank-full stage, in wetlands, and on slopes of 25 percent or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.
4. Water, storm drain, and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.
5. Stream channel repair and enhancement, riparian habitat restoration and enhancement, and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in section [18.3.11.110](#), Mitigation Requirements.
6. Long-term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described

in subsection [18.3.11.110.C](#), except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

Downstream Impacts: For staff, perhaps the key issues to consider in terms of the floodplain are identifying any possible hazards posed and how they are to be mitigated, and addressing the potential downstream impacts of stream corridor reconstruction. In staff's view, it would be beneficial if the technical memo provided, which speaks to Jackson County code requirements, were updated to address relevant City of Ashland codes in terms of the downstream impacts (**AMC 15.10**) and proposed mitigation landscaping (**AMC 18.3.11.110**).

Tree Preservation/Protection/Removal Plan: Applications are required to identify all trees of six-inches or more in diameter on the property and on adjacent property within 15 feet of the property line and detail their health, ability to tolerate proposed development, whether they are to be removed or protected, and what protective measures will be enacted. The application will need to be clear how many trees and of what size and species are proposed for removal and how remaining trees are to be preserved and protected. Removal of trees associated with the establishment or alteration of any public park under Ashland Parks and Recreation Commission jurisdiction, or from single family lots occupied only by a detached single family residence and not eligible to be further partitioned or subdivided, are exempt from Tree Removal Permit requirements. Tree removal is however also considered in terms of the overall impacts as part of the Physical & Environmental and Water Resource permits.

State Historic Preservation Office (SHPO): The Parks staff and consultant team worked with SHPO in developing Ashland Creek Park to carefully monitor any impacts to archaeological resources on site in conjunction with site work. It would be in the applicant's best interest to verify any potential issues in areas likely to be disturbed and to consult with SHPO regarding any potential issues or permitting requirements.

Neighborhood Outreach: As the applicants are aware, projects involving changes to established patterns can be a concern for neighbors, and staff always recommends that applicants approach the affected neighbors, make them aware of the proposal, and try to address any concerns as early in the process as possible. Notices for any applications are sent to neighbors within a 200-foot radius of the property.

OTHER DEPARTMENTS' COMMENTS

BUILDING DEPT: No comments provided at this stage; please contact the Building Division for any Building Codes-related information at 541-488-5305.

CODE COMPLIANCE: For any compliance-related information, please contact Planning at 541-488-5305.

CONSERVATION: For information on available Conservation Programs, including potential rebates, tax credits, and financial or technical assistance with energy efficiency improvements, please contact the

City of Ashland Conservation Division at 541-488-5305.

ENGINEERING: The Public Works/Engineering Department had no comments at this time. Please contact Karl Johnson at (541) 552-2415 or e-mail: karl.johnson@ashland.or.us for any Engineering-related questions (utilities, streets, storm drainage, etc.).

FIRE DEPARTMENT: The Fire Department had no comments at this time. Please contact Division Chief & Fire Marshal Ralph Sartain of Ashland Fire & Rescue for Fire Code-related information at (541) 552-2229 or e-mail ralph.sartain@ashland.or.us .

WATER AND SEWER SERVICE: The Water Department had no comments at this time. Please contact Steve Walker at [541-552-2326](tel:541-552-2326) or e-mail walkers@ashland.or.us with any questions regarding water utilities.

ELECTRIC SERVICE: The Electric Department had no comments at this time. Please contact Dave Tygerson at [541-552-2389](tel:541-552-2389) or e-mail tygersod@ashland.or.us with any questions regarding electric utilities.

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PROCEDURE: Both Physical & Environmental Constraints Review Permits and Limited Use and Activity Permits are “Type I” applications (see the process flowchart available on-line at: [http://www.ashland.or.us/SIB/files/Flowchart_Type_I_FY18-19\(2\).pdf](http://www.ashland.or.us/SIB/files/Flowchart_Type_I_FY18-19(2).pdf)), and could be reviewed administratively with a staff decision, with notice provided to surrounding properties and the potential for appeal to the Planning Commission.

Type I Application Requirements (AMC 18.5.1.050.A)/Administrative Decision with Notice

1. Application Form and Fee. Applications for Type I review shall be made on forms provided by the Staff Advisor. One or more property owners of the property for which the planning action is requested, and their authorized agent, as applicable, must sign the application. The application shall not be considered complete unless the appropriate application fee accompanies it.
2. Submittal Information. The application shall include all of the following information.
 - a. The information requested on the application form (application form available on-line at: <http://www.ashland.or.us/Files/Zoning%20Permit%20Application.pdf>).
 - b. Plans and exhibits required for the specific approvals sought.
 - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail.
 - d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, as applicable.
 - e. The required fee.

The Ashland Land Use Ordinance in its entirety is available on-line at:

<https://ashland.municipal.codes/LandUse>

Ashland's "Stream & Wetlands Enhancement Guide" may also be useful:

http://www.ashland.or.us/SIB/files/Stream_Wetland_guide_Aug2015_web.pdf

AMC 15.10, which is located outside of the Land Use Ordinance but is referenced as needing to be addressed as part of the floodplain development standards, is available on-line at:

<https://ashland.municipal.codes/AMC/15.10>

Plan Requirements

Two (2) *readable* copies of the plans below on paper no larger than 11-inches by 17-inches are required, in addition to at least one full-sized set of plans. Note: The 11x17 copies are used for the Planning Commission packets and for the notices mailed to neighbors. Please submit clear, reproducible copies drawn to a standard scale. **The final application submittal need to include scalable drawings with a graphic scale to facilitate review by staff, commissioners and the public.**

- Two (2) copies of the plans required for a Limited Uses and Activities Permit as detailed in AMC 18.3.11.100.
- Two (2) copies of plans required for a Physical and Environmental Constraints Permit as detailed in AMC 18.3.10.040.
- Two (2) copies of plans required for Severe Constraints Lands as detailed in AMC 18.3.10.110.D. (*All areas within a floodway channel as defined in AMC 15.10 are considered to be severe constraints lands.*)
- Two (2) Copies of a Tree Protection Plan as required in chapter 18.4.5.030 (*if the application will involve any site disturbance that would impact trees*).
- Two (2) Copies of the plans required for a Tree Removal Permit as required in chapter 18.5.7.030 (*if tree removal is proposed*).

Narrative Submittal Requirements:

Applicants are advised that in addition to required plans, written findings addressing how the ordinance criteria are satisfied in narrative format are required. The applicable criteria are referenced below:

- Two (2) copies of written findings addressing the criteria from Chapter 18.3.11.060.D for a Limited Uses and Activities Permit.
- Two (2) copies of written findings addressing the criteria from Chapter 18.3.10.050 for a Physical & Environmental Constraints Permits. (These findings should also address *relevant* Development Standards for Flood Plain Corridor Lands in AMC 18.3.10.080).
- Two (2) copies of written findings addressing the following criteria from chapter 18.5.7.040.B.2. for Tree Removal Permit to remove a tree that is not a hazard (*if applicable to the final proposal*).

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UPCOMING APPLICATION DEADLINES:

First Friday each month

UPCOMING PC MEETINGS:

Second Tuesday each month

FEES: Physical & Environmental Constraints Permit

\$ waived

Limited Use & Activity Permit

\$ waived

Tree Removal Permits/Exceptions

\$0

***NOTE:**

- *AMC 18.3.11.060.B.1 provides that Stream Restoration and enhancement activities resulting in a net gain in stream bank corridor functions not otherwise associated with development are encouraged, and planning application fees associated with reviewing these activities for compliance with applicable land use standards may be waived by the Staff Advisor. **Staff would consider a fee waiver on this basis.***
- *Applications are accepted on a first come-first served basis.*
- *All applications received are reviewed by staff, and must be found to be complete before being processed or scheduled at a Planning Commission meeting.*
- *Applications will not be accepted without a complete application form signed by the applicant(s) and property owner(s), all required materials and full payment.*
- *Applications are reviewed for completeness in accordance with ORS 227.178.*
- *Applications submitted are processed in the order received, and complete actions are scheduled at the next available Planning Commission meeting.*

For further information, please contact:

March 2, 2022

Derek Severson, *Senior Planner*

Date

City of Ashland, Department of Community Development

Phone: 541-552-2040 or e-mail: derek.severson@ashland.or.us