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*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.*

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**ASHLAND PLANNING DEPARTMENT  
PRE-APPLICATION CONFERENCE  
COMMENT SHEET**  
January 5, 2021

**SITE:** 545 Holly St.  
**APPLICANT:** Eric Recors  
**REQUEST:** WRPZ limited use permit and  
P&E permit for flood plain

## **PLANNING STAFF COMMENTS:**

*This pre-application conference is intended to highlight significant issues before the applicant prepares and submits a formal application.*

**Situation:** The applicant recently did unpermitted work in a watercourse identified in the adopted Water Resource Protection Zone Maps which appears to exceed the thresholds established for work exempt from permitting. The property is also known to have a history of flooding. The application materials provided very little information on the amount of rock and fill that was brought to the site, or how the topography has been modified. The work that has been done falls under these two chapters:

### **Relevant chapters of the land use ordinance:**

- 18.3.10 - Physical and Environmental Constraints Overlay
- 18.3.11 - Water Resources Protection Zones (WRPZ)

### **Land Classification:**

AMC 18.3.10.3.060.A.3 -All lands which have physical or historical evidence of flooding in the historical past.

AMC 18.3.11.040.A.3 - Intermittent and Ephemeral Streams. For streams classified as Intermittent and Ephemeral Streams on the Water Resource Protection Zones map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands within 30 feet from the centerline of the stream.

### **Applicability:**

AMC 18.3.10.020.A.1.a - Earth-moving activities such as grading, filling, stripping, or cutting involving more than 20 cubic yards on any lot, or earth-moving activity disturbing a surface area greater than 1000 square feet on any lot.

AMC 18.3.10.020.A.1.c - Culverting or diversion of any stream designated by chapter [18.3.10](#).

AMC 18.3.11.020.D - All Water Resource Protection Zones shall be protected from alteration and development, except as specifically provided in this chapter. No person or entity shall alter or allow to be altered any real property designated as a Water Resource Protection Zone, except as set forth in an exemption, approved planning application or permit authorized in this chapter.

### **WRPZ exemptions:**

AMC 18.3.11.050 lists a number of activities and uses that are exempt from regulation including stream restoration and enhancement so long as "The restoration and enhancement project may include minor earth moving activities involving excavation or placement of up to five cubic yards of soil and earth-moving activity disturbing a surface area of no more than 1,000 square feet."

The first step will require an engineer to make a determination that the work done has caused no adverse impact on downstream flooding, and two) that the measures that have been done were necessary for flood management (see more below).

An engineer's determination on both issues will determine which course the application will take moving forward to resolve the situation. It is highly recommended that the applicant works with an engineer who has demonstrable experience with hydrological modeling and working with the Ashland Land Use Ordinance. Our approach to address revegetation and mitigation will need to be addressed in a **future pre-application** once an engineer has made a determination on downstream affects, and that the methods used meet the standard provided in AMC 18.3.11.060.B.8. Once we have that information, we will be able to determine a pathway forward for permitting limited work in the WRPZ.

**Trees:** Were any trees removed in the process of the work that was done? If so mitigation plantings should be consistent with the provisions of the WRPZ chapter.

### **18.3.10.050 P&E Approval Criteria**

An application for a Physical Constraints Review Permit is subject to the Type I procedure in section [18.5.1.050](#) and shall be approved if the proposal meets all of the following criteria.

- 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.

AMC 18.3.11.060 provides for limited activities and uses that can be permitted in the WRPZ:

AMC 18.3.11.060.A.2.b - Storm Water Treatment Facilities. The ongoing routine maintenance of storm water treatment facilities such as detention ponds or sediment traps, vegetated swales, and constructed wetlands in order to maintain flow and prevent flooding. Routine maintenance of storm water treatment facilities in accordance with an approved management plan is exempted as outline in subsection [18.3.11.050.A.2.c](#).

AMC 18.3.11.060.B.1 - Stream Restoration and Enhancement. Restoration and enhancement projects resulting in a net gain in stream bank corridor functions unless otherwise exempted in subsection [18.3.11.050.B.2](#). Restoration and enhancement activities not otherwise associated with development involving building, 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.

AMC 18.3.11.060.B.8 - Flood Control Measures. Installation or expansion of structural flood control measures, including but not limited to concrete retaining walls, gabions, gravity blocks, etc., shall generally be prohibited, but approved only if demonstrated that less-invasive, non-structural methods will not adequately meet the stabilization or flood control needs. (emphasis added)

**Physical and Environmental Constraints Development:** AMC 18.3.10.020.A defines development as 1) earth-moving activity such as grading, filling, stripping, or cutting involving more than 20 cubic yards on any lot, or disturbing a surface area greater than 1,000 square feet; or 2) the construction of any road, driveway, or parking area. The Physical and Environmental Constraints chapter regulates lands in this project area with over 35-percent slope and floodplain corridor lands. Demonstrating the amount of earth-moving and surface area of disturbance in those lands will determine whether a P&E Permit is required.

**Tree Health and Protection:** An inventory of trees that are greater than 6-inch DBH (location, species, diameter, health, hazard, recommendations for treatment) within 15-feet of the project site is required and any trees proposed for removal shown. The applicants will need to provide plans assessing the health of the trees and their ability to survive the impact of the proposed disturbance as part of the application; if a tree is unlikely to survive and its removal would ultimately involve substantially less disturbance within the Water Resources Protection Zone, removal may be the preferred option. If the trees are evaluated to live through construction, a tree protection plan will also have to be submitted. Work to be done inside the protection area will require an arborist to be on site to oversee the work. Fencing will have to be installed and inspected before work can commence. (Tree Protection Plans must typically address all trees on the subject properties and on adjacent properties within 15 feet of property lines. (In this instance, staff believe that the plan could be limited to areas within 15 feet of proposed disturbance.)

**Neighborhood Outreach:** Staff always advised applicants to make affected property owners and those neighboring a project (within 200 feet) aware of the proposal and attempt to address any issues in advance of their receiving notice of the project from the City. This is all the more important here given the nature of the proposal and adjacent property owners' relationship to the greenway. It is recommended that discussion with neighboring property owners begin as soon as possible (potential neighborhood meeting), especially with those who will be affected by the construction of the pathway. Also, it is recommended to focus (in layman terms) on mitigation and potential impact to and near the pond as that is likely the area the neighborhood will be most concerned with.

**Written Findings/Burden of Proof:** 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. 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 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.

## **OTHER DEPARTMENTS' COMMENTS:**

**BUILDING DEPT:** None. Please contact the Building Division for any further information at 541-488-5309.

**CONSERVATION:** None. Please contact the Conservation Division at 541-552-2062 or [pearcer@ashland.or.us](mailto:pearcer@ashland.or.us) .

**ENGINEERING:** None. Please contact Karl Johnson of the Engineering Division for any further information at 552-2415.

**FIRE:** Please contact Fire Marshal Ralph Sartain of the Fire Department for any additional Fire Department-related information at 541-552-2229 or via e-mail to [ralph.sartain@ashland.or.us](mailto:ralph.sartain@ashland.or.us).

**STREETS AND TRANSPORTATION:** Please contact Karl Johnson of the Engineering Division for any further information at 552-2415.

**WATER AND SEWER SERVICE:** Please contact Terry Oldfield of the Water Quality Division for any further information at 541-552-2326.

**STORM WATER DRAINAGE:** Please contact Karl Johnson of the Engineering Division for any further information at 552-2415.

**ELECTRIC SERVICE:** Please contact Dave Tygerson in the Electric Department for service and meter location requirements and fee information at 552-2389.

## **APPLICATION REQUIREMENTS**

### **Submittal Information.**

The application is required to include all of the following information.

- a. The information requested on the application form at <http://www.ashland.or.us/Files/Zoning%20Permit%20Application.pdf> .
- b. Plans and exhibits required for the specific approvals sought (see below).
- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail (see below).
- d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, *as applicable*.
- e. The required fee (see below).

The Ashland Land Use Ordinance, which is Chapter 18 of the Municipal Code, is available on-line in its entirety at: [http://www.ashland.or.us/SIB/files/AMC\\_Chpt\\_18\\_current.pdf](http://www.ashland.or.us/SIB/files/AMC_Chpt_18_current.pdf)

**Written Statements**

Please provide two copies of a written statements explaining how the application meets the approval criteria from the sections of the Ashland Municipal Code listed below. These written statements provide the Staff Advisor or Planning Commission with the basis for approval of the application:

**18.3.11.060.D Limited Activities and Uses Permit approval criteria**

**Plans & Exhibits Required**

Please provide two sets of exhibits (plans or drawings) addressing the submittal requirements from the sections of the Ashland Municipal Code listed below. These exhibits are used to copy the Planning Commission packets and for notices that are mailed to neighbors. Please provide two copies on paper no larger than 11-inches by 17-inches and reproducible copies that are drawn to a standard architect’s or engineer’s scale.

**18.3.11.100 Application Submission Requirements**

**PLANNING APPLICATION FEES:**

WRPZ Limited Use Permit \$1,092

**\*NOTE:** 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. The first fifteen COMPLETE applications submitted are processed at the next available Planning Commission meeting.

**For further information, please contact:**

Aaron Anderson, Associate Planner  
City of Ashland, Department of Community Development  
Phone: 541-552-2052 or e-mail: [aaron.anderson@ashland.or.us](mailto:aaron.anderson@ashland.or.us)

January 6, 2020

Date