



PLANNING COMMISSION ORDER 2018-13

**AN ORDER APPROVING FILE MISC318-0002, A STREAM CORRIDOR
VARIANCE FOR A PROPERTY LOCATED AT 1306 N SPRINGBROOK ROAD,
YAMHILL COUNTY TAX LOT R3216CB 00200**

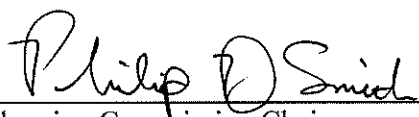
RECITALS

1. AKS Engineering, on behalf of MJG Development, submitted an application for a variance to the Stream Corridor overlay zone subdistrict regulations to allow the construction of the Meadow Creek Apartments at 1306 N Springbrook Road, Yamhill County Tax Lot R3216CB 00200.
2. After proper notice, the Newberg Planning Commission held a hearing on November 8, 2018 to consider the application. The Commission considered testimony, and deliberated.
3. The Newberg Planning Commission finds that the application meets the applicable criteria as shown in the findings shown in Exhibit "A".

The Newberg Planning Commission orders as follows:

1. Stream Corridor Variance application MISC318-0002 is hereby approved, subject to the conditions contained in Exhibit "B". Exhibit "B" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "A" are hereby adopted. Exhibit "A" is hereby adopted and by this reference incorporated.
3. This order shall be effective November 23, 2018, unless appealed prior to that date.
4. This order shall expire one year after the effective date above if the applicant does not complete all required conditions within one year.

Adopted by the Newberg Planning Commission this 8th day of November, 2018.



Planning Commission Chair

ATTEST:



Planning Commission Secretary

List of Exhibits:

- Exhibit "A": Findings
- Exhibit "B": Conditions

**Exhibit "A" to Planning Commission Order 2018-13
Findings –File MISC318-0002**

A. Stream Corridor Criteria that apply - Newberg Development Code 15.342.100

15.342.100 Type III process for exceptions and variances.

B. Variance. A variance to the standards of this chapter may be granted under the Type III process. A variance to this chapter shall be processed as a Type III procedure and shall only be subject to the following criteria:

1. A stream corridor impact report (SCIR) shall be submitted which meets the criteria indicated in NMC 15.342.140; and

2. The proposed development will result in equal or greater conservation of the identified resources and functional values on the site and will, on balance, be consistent with the purpose of the applicable regulation.

Finding: The applicant submitted a stream corridor impact report (SCIR) that addresses the applicable criteria of 15.342.140. The effects of the proposed development on resources and the site will be addressed in the findings that follow.

15.342.140 (B): Stream corridor impact report (SCIR) and review criteria.

SCIR Review Criteria. The following standards shall apply to the issuance of permits requiring an SCIR, and the SCIR must demonstrate how these standards are met in a manner that meets the project purpose.

1. Where possible, the applicant shall avoid the impact altogether.

2. Impact on the stream corridor shall be minimized by limiting the degree or magnitude of the action, by using appropriate technology, or by taking affirmative steps to avoid, reduce or mitigate impacts.

Finding: Due to the limited size of the portion of development within the Stream Corridor, the onsite enhancement within areas of degraded condition remaining in the Stream Corridor will offset the minor encroachment of this development and will result in a greater balance of on-site functional value. The applicant will also use best management practices to address turbidity.

3. The impacts to the stream corridor will be rectified by restoring, rehabilitating, or creating comparable resource values on the site or within the same stream corridor.

4. The remaining resource values on the stream corridor site shall be protected and enhanced, with consideration given to the following:

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a. Impacts to wildlife travel and migratory functions shall be maintained to the maximum extent possible; and

b. Native vegetation shall be utilized for landscaping to the extent practicable; and

c. The stream bed shall not be unnecessarily or detrimentally altered.

Finding: Approximately 1,260 square feet of the stream corridor will be impacted by planned development. To minimize any adverse impacts of the development on the ecosystem, the project's footprint is placed as close to the right-of-way as possible. Much of the stream corridor on the site contains non-native grasses and herbs, it also lacks woody vegetation and structural diversity. The applicant noted hearing American robins, a migratory bird that prefers dense shrubs and woodland, open land with short grasses, and urban areas. No other signs of wildlife were observed during the applicant's site visits.

5. The fill shall primarily consist of natural materials such as earth or soil aggregate, including sand, gravel, rock, and concrete. Culverts, bridges, reinforced retaining walls, or other similar structures which require manmade structural materials shall be permitted.

6. The amount of fill used shall be the minimum required to practically achieve the project purpose.

7. If the fill or grading is within a designated floodway, the proposed action shall maintain the flood storage capacity of the site.

8. The proposed fill or grading shall not significantly increase existing hazardous conditions or create significant new hazardous conditions related to geology, hydrology, or soil erosion.

9. Stream turbidity shall not be significantly increased by any change in a watercourse that results from the fill. Measures shall be taken to minimize turbidity during construction.

10. The removal of trees over six inches in diameter shall be minimized to the extent possible to provide the necessary improvements authorized by this chapter. [Ord. 2451, 12-2-96. Code 2001 § 151.478.]

Finding: Fill used for the Stream Corridor impact will be the minimum amount necessary. No fill or grading is proposed in a floodway. In addition, fill and grading will not increase or create hazardous conditions to the site. No trees within the Stream Corridor will be removed. This requirement is met.

15.342.100(B) 2. The proposed development will result in equal or greater conservation of the identified resources and functional values on the site and will, on balance, be consistent with the purpose of the applicable regulation.

Finding: The purpose of the stream corridor overlay subdistrict is excerpted below.

15.342.010 Purpose.

The purpose of the stream corridor (SC) overlay subdistrict is to implement the goals and policies of the comprehensive plan relating to open space, scenic, and natural resources which are intended to “. . . ensure that adequate land shall be retained in permanent open space use and that natural scenic and historic resources are protected.” Furthermore, this subdistrict is intended to “. . . protect, conserve, enhance, and maintain the Willamette River Greenway.” The subdistrict allows for a balance of protection of open space, scenic and natural resources and environmentally sensitive development. The designation of lands within this subdistrict is used to provide reasonable regulation of development in or adjacent to stream corridors. This subdistrict does not provide for or authorize public access to private properties designated within this subdistrict. Additionally, the provisions of this subdistrict do not provide measures for the public acquisition of private property. [Ord. 2451, 12-2-96. Code 2001 § 151.465.]

The purpose of the stream corridor overlay can be summarized as to protect open space and natural resources along streams, while allowing some environmentally sensitive development. The stream corridor overlay does not permit new structures in the stream corridor unless a variance is approved. The applicant has applied for a Stream Corridor variance to allow for the development of a small portion (3 units) of an apartment building in the stream corridor. The development impacts approximately 1,260 square feet of the stream corridor. Projected impacts have been minimized by the placement and size of the proposed footprint. The project is contained to the western portion of the site to avoid impacts to the onsite wetland (Wetland A) and drainage, which will be protected and not altered. The stream corridor is currently in a degraded condition, but stream corridor enhancements via replanting will be completed by the applicant per their SCIR.

B. CONCLUSION:

Based on the above findings, the application meets the required criteria within the Newberg Development Code.