

## Memorandum

**Date:** July 28, 2011

**To:** John Kovash, Mayor  
Members, West Linn City Council

**From:** Chris Jordan, City Manager *cg*

**Subject:** August 2 Work Session

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The Council is scheduled to meet in a work session on August 2 at 6:00. Other than reviewing the August 8 agenda, the only item for Council consideration is:

- **Planning Assistance for Robinwood Neighborhood.** On June 27 and on July 5, the Council heard from members of the Robinwood Neighborhood Association requesting planning in anticipation of their discussions with Lake Oswego regarding possible mitigation for the water treatment plant expansion project. Based on that request (see attached request and attached excerpt from June 27 minutes), staff prepared the attached scope of work for assistance. This scope of work has been shared with Kevin Bryck who is the contact point with the RNA on this project. Mr. Bryck has indicated that this scope is “unresponsive”.

The Council also requested that we discuss the RNA request with Lake Oswego and request that Lake Oswego contribute financially. Although I have not received a definitive answer from Lake Oswego, my interaction with both Lake Oswego and Tigard would seem to indicate that there is not an interest in contributing.

Staff requires additional guidance from the Council on this issue.

At 7:00 on August 2, the City Council is hosting a joint meeting with the Oregon City Commission to discuss the future of the Clackamas Cable Access Board and Willamette Falls Media Center. The agenda for that meeting is included in the Council’s packet along with some information from the Metropolitan Area Communications Commission. To date, we have not received any materials for advance distribution from the CCAB.

Please let us know if you have any questions.

Attachment

RFP for Planning assistance regarding the potential  
Lake Oswego-Tigard Water Project

Robinwood Neighborhood Association Great Neighbor Committee

To advise the Neighborhood Association and the Committee regarding:

Permits

Understanding the various permits required for the project by West Linn as well as some of the related state and federal permits.

How these permits intersect and relate to each other and timing of each of them.

Which permits best relate to mitigations and are best handled via them.

Public Meetings

Effective preparation and operation of charettes or forums - educating the public, setting the ground rules and asking the correct questions.

Organizing and prioritizing and our concerns regarding safety, environmental impacts, blending and value added projects.

Applicable Mitigations and Enhancements

covered under the current West Linn CDC.

currently acceptable and enforceable under current case law in Oregon.

currently under review in Oregon.

that have been overturned or remanded and the arguments and reasoning used in Oregon case law.

## Proclamations, Recognitions and Scheduled Presentations

### Old Time Fair Court Proclamations

\* Princess Ellie Jones

\* Princess Emma Waibel

\* Princess Lauren Huttula

\* Princess Sara Gowdy

\* Queen Hanna Hilton

### Proclamations

Mayor Kovash stated one of the best things about this job is some of the fun things he gets to do and one of them is recognizing the princess court. Mayor Kovash read the proclamations to the Queen and Princesses and thanked them for their service.

### Consent Agenda

#### **Agenda Bill 2011-06-27-01 Library District of Clackamas County Intergovernmental Agreement**

#### Agenda Information

Council President Jody Carson moved to approve the Consent Agenda for the June 27, 2011 West Linn City Council meeting. Councilor Mike Jones seconded the motion.

**Ayes: Council President Jody Carson, Councilor Teri Cummings, Councilor Mike Jones, Councilor Jenni Tan, and Mayor John Kovash.**

**Nays: None.**

**The motion carried 5 - 0**

#### Community Comments

Lamont King, 4257 Kenthorpe Way, West Linn resident since 1953. He has been a West Linn resident on and off for over 53 years, he was on Kenthorpe when they put in the treatment plant in 1968. The treatment plant has been a good neighbor for a long time. They have good people running it. It hasn't been overly obnoxious. There was quite a bit of dissent when they originally put it in because it was an industrial application in a residential neighborhood. They did not have a lot of say back in 1968. This issue has come up again because they want to do a significant renovation. Part of it is to upgrade it and part of it is to increase capacity from 16 million to 38 million so they can become a commercial water broker and sign formal contracts with Tigard to provide their main source of water. They already do provide Tigard water now, but they want to become a major supplier and supplement Portland as a major source. In the Robinwood Neighborhood Association we have been working with them for over one year. They have been holding good neighbor meetings and making presentations and there was some frustration that came to a head back on their May 10 meeting of this year. In

that during the course of all this, they have offered us access to our homes during construction, which was nice. They have offered to present safe conditions for our kids if they are playing around our houses but the only thing tangible they offered us was possibly a bike lane connecting Mapleton and Kenthorpe. During the May 10, 2011 meeting, the Robinwood Neighborhood Association voted to form a special committee per our bylaws to deal specifically with the water treatment plant and try to get a feel for what can we really ask for. We are not convinced we can stop them from doing this expansion, but the issue is what can we really do as far as mitigating the incredible impact they are going to have on our neighborhood. We have been doing these meetings and came up with a critical part of a work plan which is to acquire professional, practical planning advice regarding mitigation issues. We are asking the City to provide an independent planner for this purpose. The planner's role would be limited to advising the Robinwood Neighborhood Association and the committee regarding mitigation. The planner would not be tasked to negotiate with Lake Oswego on our behalf. This committee is working with the Robinwood Neighborhood Association. We will be reporting back to them to get their input and consent on whatever we come up with. We are asking for the City to help us attain a planner in order to facilitate our meetings to give us some real input as far as what can we reasonably ask Lake Oswego and help facilitate our meetings to come up with the best plan for the neighborhood and the City of West Linn.

Tim Ramis informed the Council the City needs to keep a record of Mr. King's statement and include it in the record of any land use proceeding because it technically is an ex parte communication. Council would want to disclose this communication when this case becomes a land use matter.

Alice Richmond wants to remind everyone to celebrate the Fourth of July with all their neighbors and the rest of the City. Come down to Willamette Park, there will be lots of games, fireworks, etc. Ms. Richmond asked the neighborhood to be patient with crowds and parking. The celebration is one week from today.

Karie Oakes testified two weeks ago that the City has not established the funding for the public art program as required by code. Ms. Oakes requested Council audit this fund to determine the amount of funding this should have. Staff is proposing changes to the policy. She requests Council remove this from the agenda and appoint an arts commission. She feels citizens made up of artists would be the best to advise Council. Ms. Oakes is concerned Parks and Recreation Director Ken Worcester is the only one to select art for small, informal art and City Manager Chris Jordan will appoint a selection committee when it is a big project. Ms. Oakes feels art is controversial if it is not done by open selection.

[Karie Oakes Comments](#)

Kevin Bryck is concerned about the reduction in the neighborhood stipend amount. He feels it is a small amount in the budget and feels it sends a wrong message about the importance of neighborhood associations.

# **SPECIFIC CITY PLANNER SERVICES FOR LOTW FACILITY EXPANSION AND ASSOCIATED TRANSMISSION LINE PROJECT**

## **SCOPE OF SERVICES**

Provide professional planning assistance to the Great Neighbor Committee ("GNC") for the purposes of:

- Establishing a formal communication mechanism to expedite the distribution of application materials, public hearing documents, reports, etc. to the members of the GNC. (ongoing)
- Providing information and answering questions to the GNC about the City's land use/engineering permitting processes as they relate to the proposed application(s). (3 hours)
- Providing the GNC with an understanding of the purpose and limitations of conditions of approval that can be generally imposed on projects by the City under the provisions of the CDC and State law. (3 hours)
- Meeting with the GNC at different points in the approval process to review the plans and reports and to answer questions from the members. (3 hours)
- Evaluating specific mitigation measures proposed by the GNC for consideration City-imposed conditions of approval appropriate for the project. (3 hours)

## **ACTIVITIES NOT INCLUDED IN THIS SCOPE OF SERVICES**

The following services are not included in the scope of work:

- Meetings with the RNA, or any other group outside the GNC
- Notice or facilitation of any meetings.
- Representation on behalf of the GNC or the neighborhood in negotiations with the applicant or other governing body.
- Explanations or discussions of permits or approvals that are outside of the purview of the City of the West Linn (e.g. federal, state, regional permits).
- Providing any professional legal counsel or opinions on any matters

## **TIMEFRAME**

To complete the above scope of work it is anticipated that three meetings with the GNC will be required. Meeting #1 should take place as soon as possible (prior to September 1, 2011); meeting #2 should take place after an application(s) has been submitted to the City, meeting #3 after it has been deemed complete by Staff, but before a recommendation has been completed by Staff. The estimated time to complete these tasks is between 12-15 hours of staff time.



## **Memorandum**

**Date:** July 28, 2011

**To:** John Kovash, Mayor  
Members, West Linn City Council

**From:** Chris Jordan, City Manager *ef*

**Subject:** Blue Heron Property Update

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Today, Planning Director John Sonnen, Senior Planner Chris Kerr, Associate Planner Sara Javoronok and I met with the real estate team hired on behalf of the Blue Heron estate to market Blue Heron's property and solicit bids for it. That team included representatives from CB Richard Ellis and Group Mackenzie.

In general, the discussion focused on the constraints opportunities for possible uses of the 39 acre Blue Heron property located on the Willamette River in West Linn. Attached to this memorandum is a memorandum from Chris Kerr discussing this topic.

The CB Richard Ellis team plans to develop an "Offering Memorandum" within the next few weeks which will be provided to potential interested parties. After that, a schedule will be established for soliciting and accepting bids. Ultimately, the bankruptcy trustee will make a recommendation to the bankruptcy court which has the responsibility of making a final decision on the disposition of the property.

Please let me know if you have any additional questions.

Attachment

## Memorandum

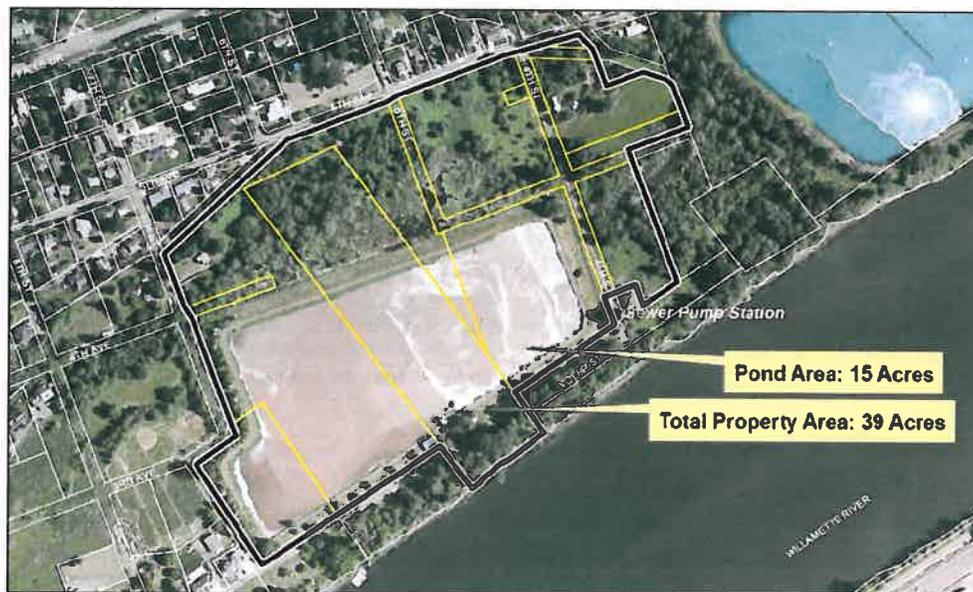
Date: July 28, 2011  
To: Chris Jordan, City Manager  
From: Chris Kerr, Senior Planner  
Subject: Evaluation of existing conditions of the Blue Heron 'pond' property

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This Memorandum provides a summary of the existing site conditions and potential issues related to the future development of the property.

### Existing Site Conditions

The property includes eight contiguous tax lots and what is commonly known as the 'mill pond', which is located just east of 7<sup>th</sup> St. and on the north side of Volpp St. in the Willamette neighborhood. The site is surrounded by residential uses on the north and west. To the south, Blue Heron owns approximately 300 feet of Willamette River frontage. The remaining river frontage is owned by the West Linn Paper Company and PGE.



The principal use on the property is the 15 acre settling pond which is used in conjunction with the paper mill plant in Oregon City. The pond is surrounded by a chain link fence and an earthen berm approximately 15 feet in height. There are several small maintenance and operations buildings and a small parking area for employees within the fenced area on the south side of the pond. The only other structure on the Blue Heron property is a privately occupied mobile home which is located on a separate tax lot on the east side of 4th St. The vacant land north of the pond includes well-established wetlands and a stream traversing the site from west to east. A steeply sloped ridge separates the subject property from the residential homes to the north.

Vehicular access to the property is from either 4th Ave. on the side of the pond or Volpp St. on the southwest. As identified on Map #1, there are several unimproved public right-of-ways within and surrounding the subject site, namely 5th St., 7th Ave. and 4th St. There are no public right-of-ways or easements south of the existing pond. Volpp Street is actually a private driveway that traverses West Linn Paper Company, Blue Heron, and PGE property.



4<sup>th</sup> Street and Volpp, Willamette River to the left/south and ponds to the right/north.



Berm containing the pond.



Mobile home located on the east side of 4<sup>th</sup> St. and south of 5<sup>th</sup> Ave.



View from 5th Ave. wetlands in the foreground with mill ponds and maintenance buildings in the background.

## Development Issues

### Land Use/Zoning

The Comprehensive Plan designates this area as Medium Density Residential and Industrial. The Medium Density Residential designation corresponds to the R-5 and R-4.5 zoning districts. However, this portion of land is actually zoned R-10, which corresponds to Low Density Residential. A Comprehensive Plan or zoning map amendment would be necessary to correct this designation. The remainder of the area, primarily where the ponds are located, is designated as General Industrial (“GI”). Two of the Blue Heron parcels include both GI and R-10 zoning. Permitted in the GI zoning district are the sales and services of the following uses: agricultural, animal, automotive and construction. It also permits manufacturing, postal services, public safety, public support, major utilities, scrap and recycling operations, and various types of storage. It allows a few prescribed and conditional uses including wireless communication facilities and Type II transportation facilities. Community recreation (parks) and participant sports and recreation (tennis courts, swimming pools, driving ranges, etc.) are not permitted in GI. The complete list of

use restrictions and development regulations for the GI zoning district are found in Chapter 23 of the CDC.

The R-10 zoning district generally permits detached single-family homes, community recreation (park) and related uses. Conditional uses include library services, public safety and support facilities, religious institutions, recycle collection center, and schools. The complete list of use restrictions and development regulations for the R-10 zoning district are found in Chapter 11 of the CDC.

Future development of the site would be processed by the City in accordance with the CDC and would likely involve at a minimum, subdivision or design review approval depending on the type of the development.

#### *Environmental Constraints*

The greatest impediment to development of the property is the size and variety of environmentally constrained lands that currently encumber the site. The accompanying environmental regulations, outlined below, significantly restrict the future development of the site and will likely require reviews and approvals from, at a minimum, city, state and federal agencies. Below is a summary of the existing environmental issues and anticipated review procedures related to the future development of the property:

- Water Resource Areas (Map 5-A): The designated wetlands and riparian areas are depicted on Map #4-A. There are several distinct, functioning wetlands on the property as well as one of the feeder streams for Bernert Creek. The City has designated this stream as a significant riparian corridor. Any development that impacts the wetlands or the stream will involve permitting through the City and potentially the U.S. Army Corps of Engineers (“USACE”) and/or the Department of State Lands (“DSL”). Riparian areas and wetlands in the City are regulated as *Water Resource Areas* (“WRA”) under Chapter 32 of the CDC. This Chapter regulates activities within a buffer of approximately 50-100 feet from both sides of each feature, depending on the adjacent slope of the ground. Map #5-A includes staff’s estimated location of the WRA’s on the subject property. Although exceptions are available for necessary driveways and utilities or if the regulations would remove all economically viable use of the property, this Chapter essentially prohibits any development activities within these buffer areas. Therefore, any future development of the site would most likely have to avoid the areas depicted as “WRA”. Beyond the City’s regulations within the WRA, any construction within the actual wetlands or stream would require permits from DSL and/or the USACE.
- Habitat Conservation Areas (HCAs) (Map 5-B): The areas identified as HCAs on Map 5-B are regulated by the City in accordance with Metro’s Titles 3 and 13. The City regulates these areas under Chapter 28 of the CDC, “Willamette and Tualatin River protection”. The purpose of these regulations is, in part, to protect and enhance the natural, scenic, historical, economic, and recreational qualities of lands along the Willamette. The majority of the site is classified as moderate or high resource value HCA lands. Under this classification, the land zoned Industrial may be developed for non-residential purposes only if it a “water dependent” use. Water dependent uses are defined as, “Any use that requires access to, or use of, the rivers”. For the remainder of the site zoned residential, a maximum of 5,000 SF

of each lot can be improved with impervious surface (this nets approximately one home per lot).

- Flood Management Areas (Map 5-C): The City regulates flood prone areas under CDC Chapter 27, Flood Management Areas (“FMA”). For the subject property, there are two components to the FMA. The shaded area of Map 5-C is the area which was flooded during the 1996 flood and the solid line identifies the Special Flood Hazard Area (“SFHA”). Any development activities within the SFHA require approval from Federal Emergency Management Agency (“FEMA”). While not all of the subject site was flooded during the 1996 flood (due to the 15’ berms which effectively served as flood walls), the vast majority of the property is included in the SFHA and is regulated by both FEMA and the City. While development is not prohibited outright in the City’s FMA, all development shall be completed, “in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations”. Also, all structures in the SFHA must have a minimum finished floor at least one foot above the highest flood of record or the base flood height, whichever is higher. Separate approval through FEMA may be required as well. The City’s regulations strongly discourage “critical facilities”, such as police and fire stations, from being located in flood hazard areas.

An important environmental ‘unknown’ regarding the development of the subject property are any potential contamination issues/remedial actions that might be related to the reclamation of the settling pond. The pond has a 1200z permit (stormwater discharge) and has previously been subject to formal site assessment reports from Department of Water Quality as well as the Environmental Protection Agency (EPA) over the years. No significant environmental issues have arisen in the past. However, due to the intense industrial nature of the pond over the years and its location adjacent to the Willamette River, staff would anticipate that the discontinuation of the site for its current use and redevelopment will result in close inspection at both the State and Federal levels involving comprehensive environmental studies.

#### **Staff Comments**

The City’s Comprehensive Plan and various supporting documents speak to the preservation of all the city’s natural areas, wetlands and riparian areas. Also, while the property is currently zoned Industrial, staff is unaware of any City policies that indicate that the City should encourage more intensive development of this site for industrial purposes. In fact, the Comprehensive Plan frequently references the future redevelopment of the City’s industrial areas for alternative purposes.

The property includes environmentally sensitive lands, and any development on those lands will be impactful to those areas (streams, floodplains, habitat). With regard to each of these areas, the CDC clearly intends to avoid any development of these areas; but, if development does take place, it should have as little impact as possible. Therefore, any future development (public or private) that occurs on this site should minimize the adverse impacts to the greatest extent possible. The CDC does recognize that there can be considerable benefit to the public in conjunction with development. As an example, an additional stated purpose of the HCA Chapter of the CDC is to, “expand legal public use and access to and along the river”. Section 28.110 G specifically

recommends encouraging public access along the river with incentives to developers who provide public access along the river through their property.

**Attachments:**

- Map 1: Ownership
- Map 2: Air Photo
- Map 3: Zoning
- Map 4: Comprehensive Plan
- Map 5-A: Wetlands / Riparian corridors
- Map 5-B: Habitat Conservation Areas
- Map 5-C: Flooding
- Map 6: Terrain

*The information provided in this Memorandum is preliminary in nature and based on limited information available to the public about the site conditions and existing uses. It is an estimation of the applicability of the various regulatory requirements likely involved in the future development of the property.*



# Blue Heron Paper Company Property in West Linn

**AIR PHOTO**

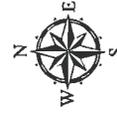
**Legend**



Blue Heron Properties, Area of Interest  
Property Owned by Blue Heron Paper Co.



Taxlot Lines (White Lines)



0 125 250 500 Feet

TAXLOT BASE SOURCE: METRO RLIS  
MAP PRODUCED BY WEST LINN GIS

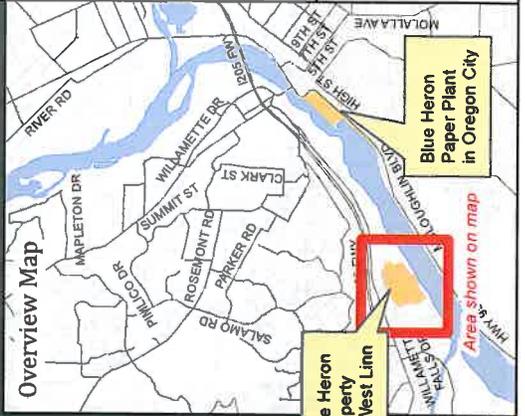
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BLUEHERONPAPERPROPERTY | AHA | 3-15-2011  
BLUEHERONPAPERPROPERTY\_201103\_AIRPHOTO.MXD



**Pond Area: 15 Acres**

**Total Property Area: 39 Acres**



Blue Heron Property in West Linn

Blue Heron Paper Plant in Oregon City

Area shown on map

The White Oak Savannah

I-205

WILKINETTE FALLS DR

Willamette Park

I-5

I-5

I-5

I-5

I-5

I-5

I-5

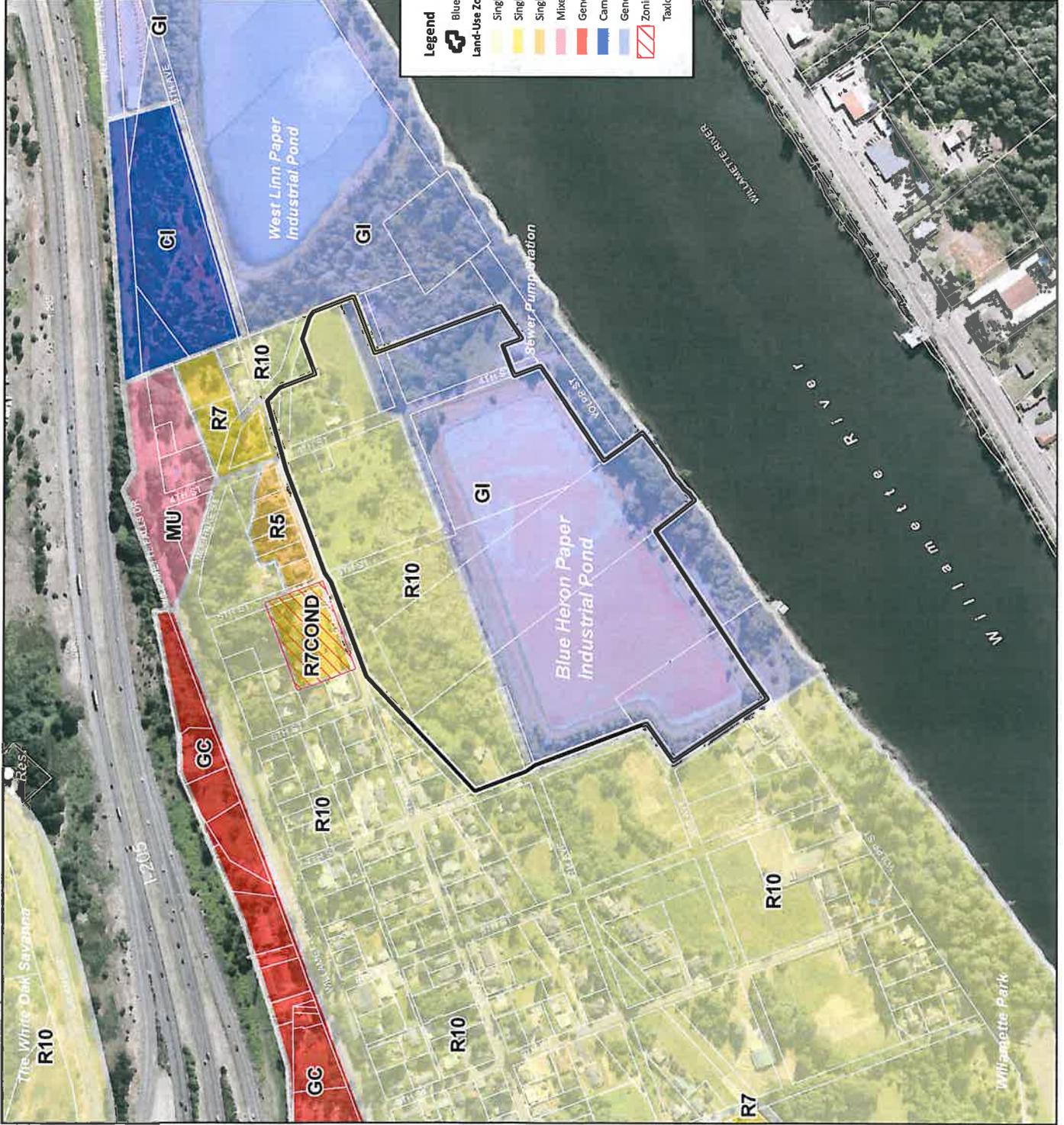
I-5

I-5

Res.

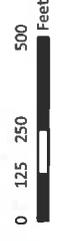
# Blue Heron Paper Company Property in West Linn

## ZONING



**Legend**

-  Blue Heron Properties, Area of Interest
- Land-Use Zones**
-  Single Family Residential Detached R10
-  Single Family Residential Detached and Attached R7
-  Single Family Residential Detached and Detached Duplex R5
-  Mixed Use Transition MU
-  General Commercial GC
-  Campus Industrial CI
-  General Industrial GI
-  Zoning Conditional Use
-  Taxlot Lines (White Lines)



TAXLOT BASE SOURCE: METRO RLIS  
MAP PRODUCED BY WEST LINN GIS

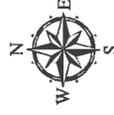
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BLUEHERONPAPERPROPERTY\_201103\_ZONING.MXD

# Blue Heron Paper Company Property in West Linn

## COMP PLAN

### Legend

-  Blue Heron Properties, Area of Interest
-  Comprehensive Plan Designation
-  Low Density Residential
-  Medium Density Residential
-  Medium High Density Residential
-  Mixed Use
-  Commercial
-  Industrial
-  Taxlot Lines (White Lines)



TAXLOT BASE SOURCE: METRO RLIS  
MAP PRODUCED BY WEST LINN GIS

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BLUEHERON/PAPER/PROPERTY\_2011.DWG | COMP/PLAN.MXD



# Blue Heron Paper Company Property in West Linn

WETLANDS/RIPARIAN CORRIDORS

## Legend

-  Blue Heron Properties, Area of Interest
-  Wetlands\*
-  Approximate WRA
-  Streams
-  Paved Roadways
-  Textot Lines
-  Buildings

**\*WETLANDS/GOAL 5 DISCLAIMER (DSL STANDARD):** Information shown on this map is for planning purposes only and wetland information is subject to change. There may be unmaped wetlands subject to regulation and all wetland boundary mapping is approximate. In all cases, actual field conditions determine wetland boundaries. You are advised to contact the Oregon Division of State Lands and the U.S. Army Corps of Engineers with any regulatory questions.



TAXLOT BASE SOURCE: METRO RLIS  
MAP PRODUCED BY WEST LINN GIS

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BLUEHERONPAPERPROPERTY\_201102\_WETLANDS.MXD



# Blue Heron Paper Company Property in West Linn

## HABITAT CONSERVATION AREAS

### Legend

-  Blue Heron Properties, Area of Interest
-  Metro's Habitat Conservation Areas\*
-  Allow Development
-  \*Published October 2005

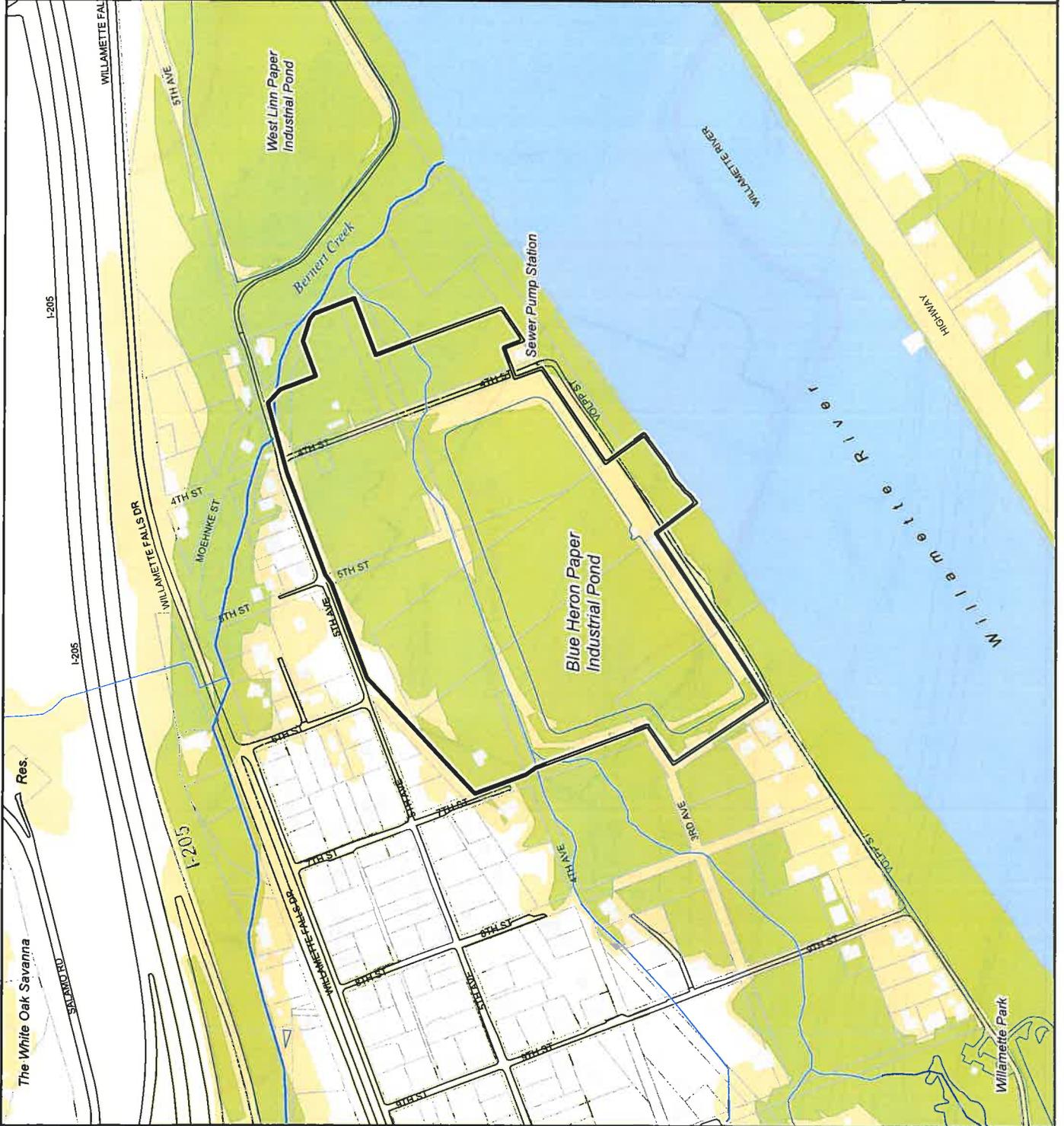
-  Paved Roadways
-  Taxlot Lines
-  Rivers
-  Streams
-  Buildings



0 125 250 500 Feet

TAXLOT BASE & HCA SOURCE: METRO RLIS  
MAP PRODUCED BY WEST LINN GIS

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BLUEHERONPAPERPROPERTY\_201103\_METROHICAS.MXD



# Blue Heron Paper Company Property in West Linn

## FLOODING

### Legend

-  Blue Heron Properties, Area of Interest
-  Approximate 1996 Flood Area
-  FEMA'S FIRM Areas, 100-Year Flood Line
-  Willamette River
-  Buildings
-  Paved Roadways
-  Taxlot Lines

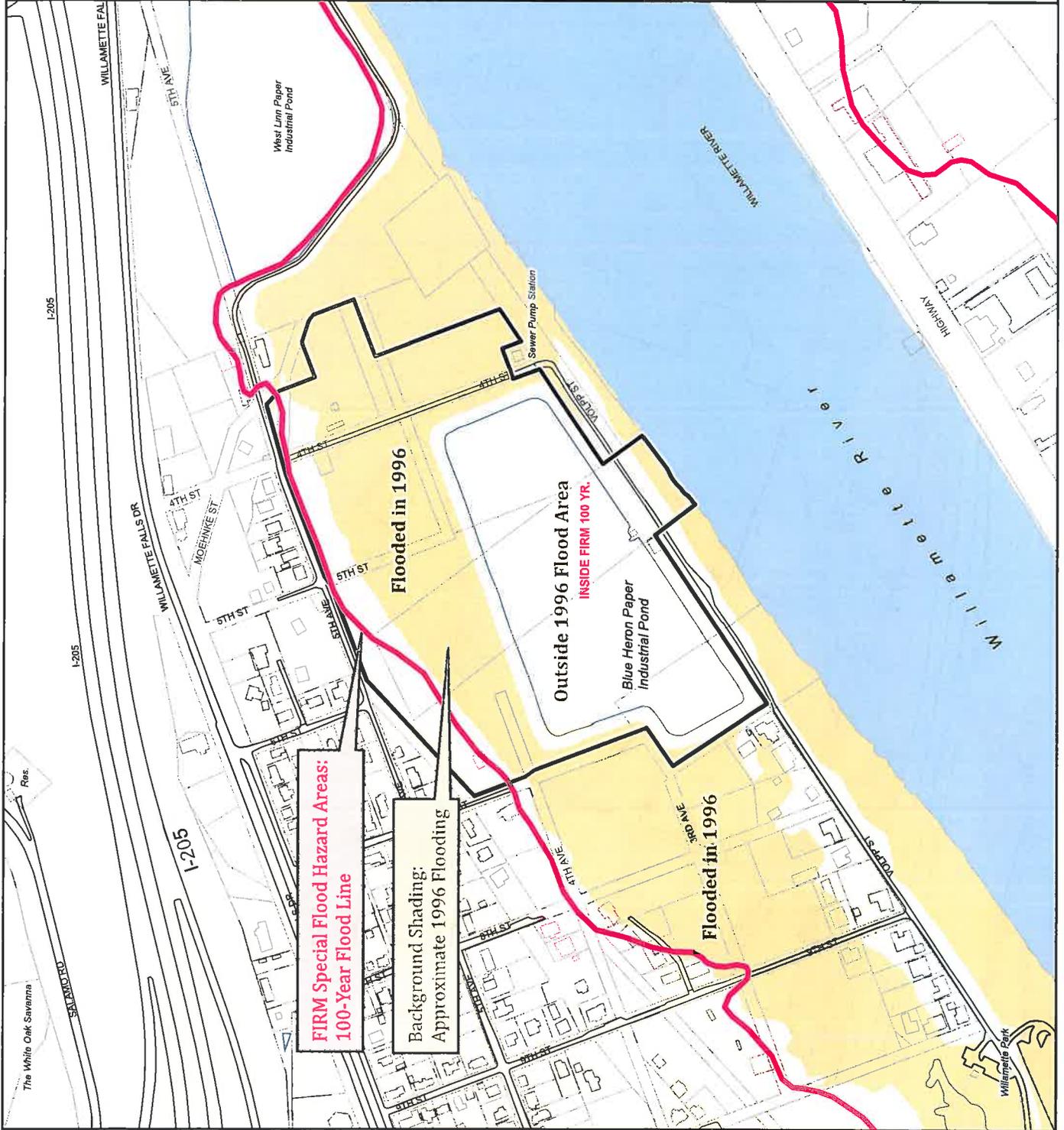
\*Flood Insurance Rate Map Areas (FIRM). Mapping information shown on this map was developed and published by the Federal Emergency Management Agency (FEMA), Effective Date: June 17, 2008. These digital data are produced in conjunction with the hardcopy FIRMs and generally match the hardcopy map. However the FEMA hardcopy flood maps and flood profiles are the authoritative document. This map information is for use in administering the National Flood Insurance Program and should not be used as the sole source of flood elevation information. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. Please contact FEMA's Map Service Center at 1-800-358-9616 or visit <http://www.fema.gov> for information on available FIRM products.



0 125 250 500 Feet

TAXLOT BASE SOURCE: METRO RLIS  
MAP PRODUCED BY WEST LINN GIS

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BLUEHERONPAPERPIPELINE | AHA | 3-16-2011  
BLUEHERONPAPERPROPERTY\_201103\_FIRMAS.MXD



# Blue Heron Paper Company Property in West Linn

## TERRAIN

### Legend

-  Blue Heron Properties, Area of Interest
-  10 Foot Interval Contours
-  2 Foot Interval Contours
-  Steep Slopes
-  Approximate WRA
-  Streams
-  Paved Roadways
-  Taxlot Lines
-  Buildings

**\*WETLANDS/GOAL 5 DISCLAIMER (DSL STANDARD):**  
Information shown on this map is for planning purposes only and wetland information is subject to change. There may be unmapped wetlands subject to regulation and all wetland boundary mapping is approximate. In all cases, actual field conditions determine wetland boundaries. You are advised to contact the Oregon Division of State Lands and the U.S. Army Corps of Engineers with any regulatory questions.



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