

Pre-Application Conference

Subject: Proposed pedestrian trail along the Willamette River east of Willamette Park (south of Volpp Street)

Location: Assessor's Map 31E 2 tax lots 100, 500 and 400. Assessor's Map 21E 36 tax lot 2000

File No: PA-14-13

Date: March 6, 2014

Applicants: Ken Worcester, Grant Evenhus, Jerry Offer

Staff: Tom Soppe (Planning), Khoi Le (Engineering)

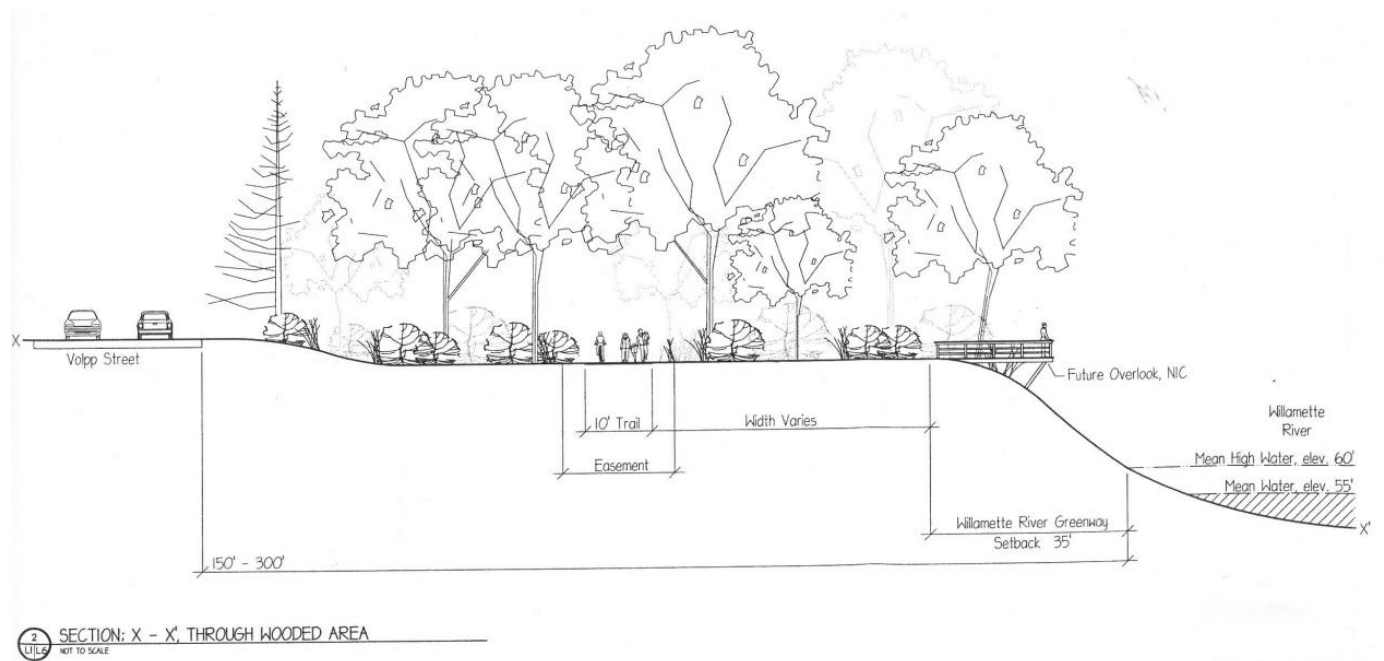
Public: Lorie Griffith

The The City of West Linn Parks Department is proposing an 8-10 foot wide all weather pedestian/bike trail along the Willamette River from Willamette Park/Benert Boat Landing/Ramp to the vicinity of Fourth Street. Along the way, benches, interpretive signs and observation platforms would be installed.



This proposal would be similar to an earlier application to construct a trail in 2005 (DR-05-12). That application was approved by the Planning Commission but the trail was never constructed so the approval lapsed. The Parks Department wants to re-submit the application but instead of extending a trail from Willamette Park/Benert Landing 1.25 miles east to the vicinity of Tanner Creek, this trail will be shorter in length and terminate on a level with Fourth Street.

The illustration below is from the 2005 application and gives a reasonable approximation of the design we can expect with this application.



As the Transportation System Plan (TSP) denotes a trail going through this general area (but showing it north of Volpp) the TSP also states that this is based on the Parks Master Plan, which now shows the trail conceptually where it is proposed in this pre-application conference. Therefore it can be considered to be the trail shown in the TSP meaning that it fits the Chapter 2 definition of a Type I Transportation Facility. This is a permitted use in both the R-10 and GI (General Industrial) zones where the applicant proposes the trail.

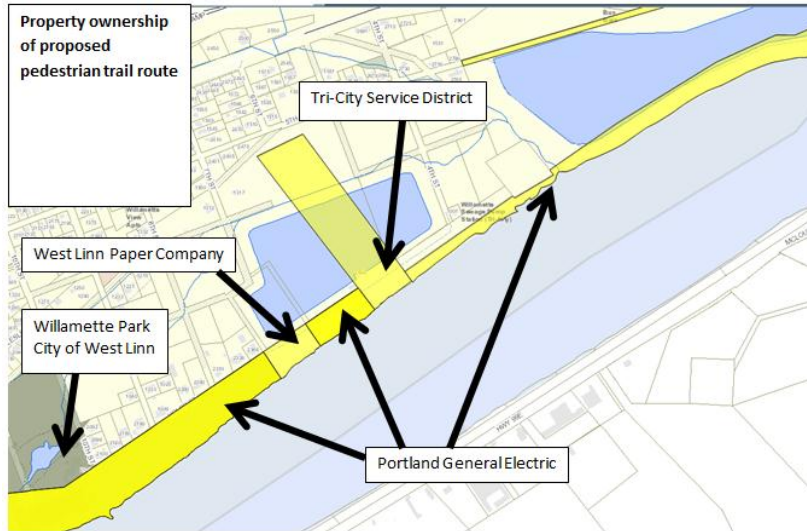
The permits required include a Flood Management Area permit, a Willamette River Greenway permit, and a Class II Parks Design Review. The applicant expressed interest in getting the trail alignment approved in the forthcoming application not just east to 4th Street but east to Bernert Creek and beyond. This would also require a Water Resource Area permit. Because of the Class II Design Review, a Planning Commission hearing will be required.

Background:

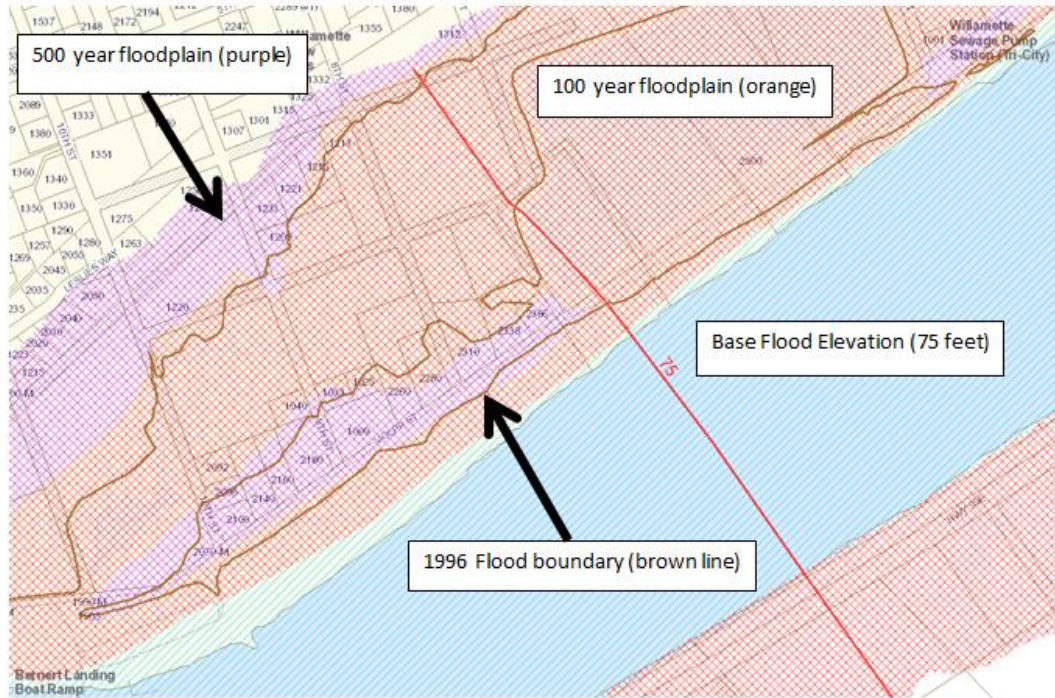
The City of West Linn Parks Department had received approval from the Planning Commission to construct a trail in the same location in 2005 (DR-05-12). That trail was not constructed so the approval lapsed.

The trail is expected to be paved and 8-10 feet wide. Numerous view points are expected to be installed along its route. Route markers and interpretive signs will be installed.

The City does not own all portions of this trail route but has, or is expected to secure, suitable easements for this use from the property owners, principal of whom is PGE.



The riverfront area is heavily treed and although most are cottonwood trees of no individual significance these trees are part of the vegetative/riparian corridor which has great value as a habitat area, for contributing to water quality, by acting as a filter to runoff and pollutants and by stabilizing the shoreline. Through careful trail routing, most of the vegetation will be retained. Any losses or removal of degraded or non-native vegetation will require mitigation onsite. The trail route also falls within the Willamette River Greenway, the 100 and 500 year floodplain boundaries and the 1996 flood boundary. Whereas the 2005 application included crossing Bernert Creek which triggered a Water Resource Area permit and a Class II Variance, this route terminates shy of Bernert Creek and its surrounding protected area, so those permits will not be required. If more of the trail is going to be proposed in the upcoming application including coming within the transition area of Bernert Creek or crossing it, including if it goes further east to cross Tanner Creek as well, the Water Resource Area permit will be required.



There is some question as to whether or not a Class I or II Design Review permit is required or if the trail is exempt. Listed under exemptions we find:

F. Construction of new sidewalks, paths, and trails that are less than 200 feet long and do not intrude into natural resource areas (NRAs). If they intrude in NRAs, then Class I parks design review is required.

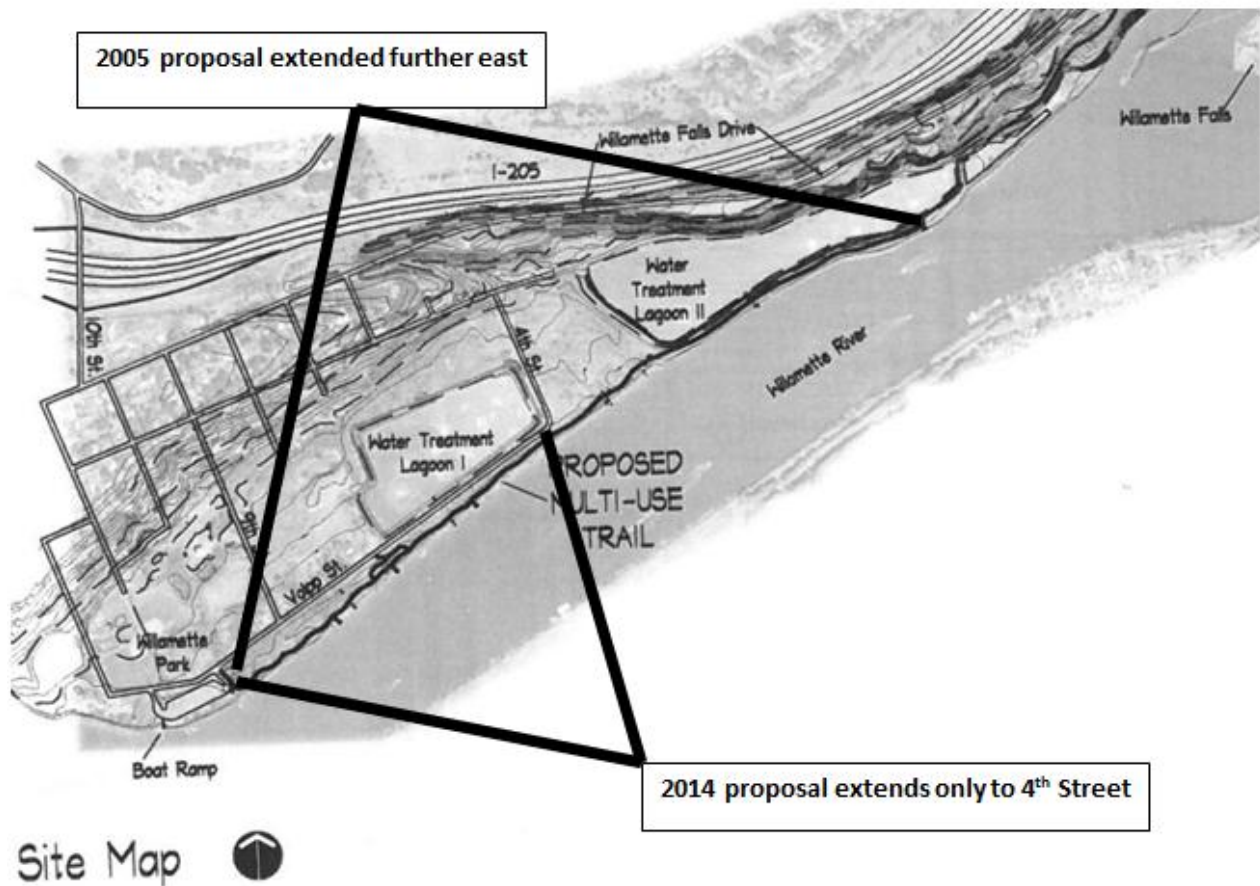
So although the trail is over 200 feet long, it is in a natural resource area and therefore, at minimum, a Class I Design Review is required.

The argument for a Class II Design Review is found in the applicability language of that CDC 56.020(D)(1,2,4,5):

D. Class II design review. The following is a non-exclusive list of Class II parks design review activities or facilities:

- 1. Site preparation for and/or development of a new park or natural area.*
- 2. Outward expansion of an existing park or natural area.*
- 4. Any program change that results in a change in the function and classification of the park or resource area (e.g., from active park with playing fields to passive park with no playing fields. Any change that puts park program at odds with, or in violation of, Parks Master Plan).*
- 5. Any change or proposed development which, by its scale or scope of work, requires that a full and comprehensive review be undertaken in the public forum.*

Responding to 56.020(D)(1,2,4,5) Staff finds that these trails represent: (1.) the development of a natural area; (2.) the eastward expansion of Willamette Park; (3.) a change in the function of the natural area; and, (4.) that the scope of the work is not minor, as in a typical Class I Design Review. Based upon these findings plus the fact the 2005 application was also processed as a Class II Design Review application, staff concludes that Class II Design Review is required.



Discussion:

Parks Design Review. The ability of this application to be approved under the Parks Design Review provisions hinges on the criteria of 56.100(I) Paths and Trails. If the path is paved, eight to ten feet wide and relatively flat, given its location adjacent to the river, the application should be able to meet the criteria. Surveillance opportunities/defensible space are addressed by the fact that the trail can be accessed at either end via the boat ramp and 4th Street. Also the trail runs parallel to, and is visible from, Volpe Street for much of its distance.

Flood Management Area . The ability to meet the Flood Management Area provisions is simplified by the fact that a trail and associated works will probably not constitute a barrier or diversion to floodwaters nor displace flood water impoundment areas. If there is any displacement of impoundment areas then the applicant may be required to respond to 27.060(F):

F. Prohibit encroachments, including fill, new construction, substantial improvements, and other development in floodways unless certification by a professional civil engineer licensed to practice in the

State of Oregon is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

Willamette River Greenway . The Willamette River Greenway purpose statement: *Protect, preserve and expand legal public use and access to and along the shoreline and river, while recognizing and preserving private property rights.* offers clear support for this trail proposal which offers access to and along the shoreline.

Approval criterion is also supportive:

5. Legal access to, and along, the riverfront in single-family residential zoned areas shall be encouraged and pursued especially when there are reasonable expectations that a continuous trail system can be facilitated. The City recognizes the potential need for compensation where nexus and proportionality tests are not met. Fee simple ownership by the City shall be preferred. The trail should be dimensioned and designed appropriate to the terrain it traverses and the user group(s) it can reasonably expect to attract. The City shall be responsible for signing the trail and delineating the boundary between private and public lands or access easements.

Staff notes that criteria includes a requirement for water permeable materials unless the applicant can justify otherwise:

N. Water-permeable materials for hardscapes. The use of water-permeable materials for parking lots, driveways, patios, and paths as well as flow-through planters, box filters, bioswales and drought tolerant plants are strongly encouraged in all "a" and "b" land classifications and shall be required in all "c" and "d" land classifications. The only exception in the "c" and "d" classifications would be where it is demonstrated that water-permeable driveways/hardscapes could not structurally support the axle weight of vehicles or equipment/storage load using those areas. Flow through planters, box filters, bioswales, drought tolerant plants and other measures of treating and/or detaining runoff would still be required in these areas.

Water Resource Area . This chapter is also supportive of allowing, with mitigation and revegetation, trail alignments across creeks to facilitate planned alignments such as this trail along the river. 32.050(F) states in part "...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 [32.070](#) and a revegetation plan pursuant to CDC [32.080](#)."

If there is more than 500 new square footage of impervious areas the applicant will have to provide storm water treatment to the satisfaction of public works standards.

Process:

The applicant shall assemble the material required in submittal requirements in 27.050 for the Flood Management Area permit, 28.090 for the Willamette River Greenway permit, and 56.070 and 56.080 for Class II Parks Design Review. The applicant shall prepare complete responses to the approval criteria of 27.060 for the Flood Management Area permit, 28.110 for the Willamette River Greenway permit, and 56.100 for the Class II Parks and Natural Area Design Review permit. If seeking approvals of the alignment to Bernert Creek and points east, the applicant shall assemble the material required in submittal requirements in 32.040 for the Water Resource Area permit and respond to the criteria of 32.050 in a narrative. If the applicant wishes to seek waivers of submittal requirements they should do so as soon as possible. For internal City applications there are no deposit fees. The inclusion of Class II Parks and Natural Area Design Review permit means that all applications will be consolidated for a Planning Commission hearing. Typical applications take 4-5 months from beginning to end.

For areas to be disturbed within the habitat conservation areas, mitigation shall occur, and revegetation shall occur for HCA areas to be disturbed during construction but restored to vegetation afterwards. This is required by 28.060. 32.050(F)(requires mitigation and revegetation for areas developed and disturbed in the water resource area and setback for creeks. Both of these chapters direct the applicant to submit plans and responses related to 32.070 and 32.080, as the Willamette River Greenway chapter uses the same revegetation and mitigation standards as Chapter 32 Water Resource Area Protection.

The City has 30 days to determine the completeness of the application. Usually, applications are found to be incomplete. Once the application is finally declared complete by City staff, public notice will be mailed to property owners within a 500 foot radius of the site perimeter at least 20 days prior to the Planning Commission hearing. Planning Commission decisions may be appealed by persons with standing to the City Council who will convene a public hearing. The City has 120 days from the date of determination of completeness to exhaust all local reviews, including any City Council appeal hearings. Appeals of City Council decisions are heard by the Land Use Board of Appeals.

This application does not require a neighborhood meeting, but these are always encouraged. If the applicant does a meeting, contact Julia Simpson, Willamette NA President, at 503-636-1292 or willamettena@westlinnoregon.gov. Conceptual plans of the development should be submitted to the neighborhood association at least 10 days before the meeting if the applicant does elect for a neighborhood meeting.

Pre-application notes are void after 18 months. After 18 months with no application approved or in process, a new pre-application conference is required.

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.

