

City of West Linn
PRE-APPLICATION CONFERENCE
SUMMARY NOTES

August 19, 2010

SUBJECT: Removal of existing boat ramp/dock facility and construction of a single 240 foot long dock and 130 foot long launching ramp, plus additional grading and driveways at the Cedaroak Boat Ramp (4600 Elmran Drive)

ATTENDEES: Ken Worcester (Parks Director, City of West Linn) Andrew Jansky P.E. (Flowing Solutions)
Peter Spir (Associate Planner, City of West Linn)

The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any “follow-up” items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.

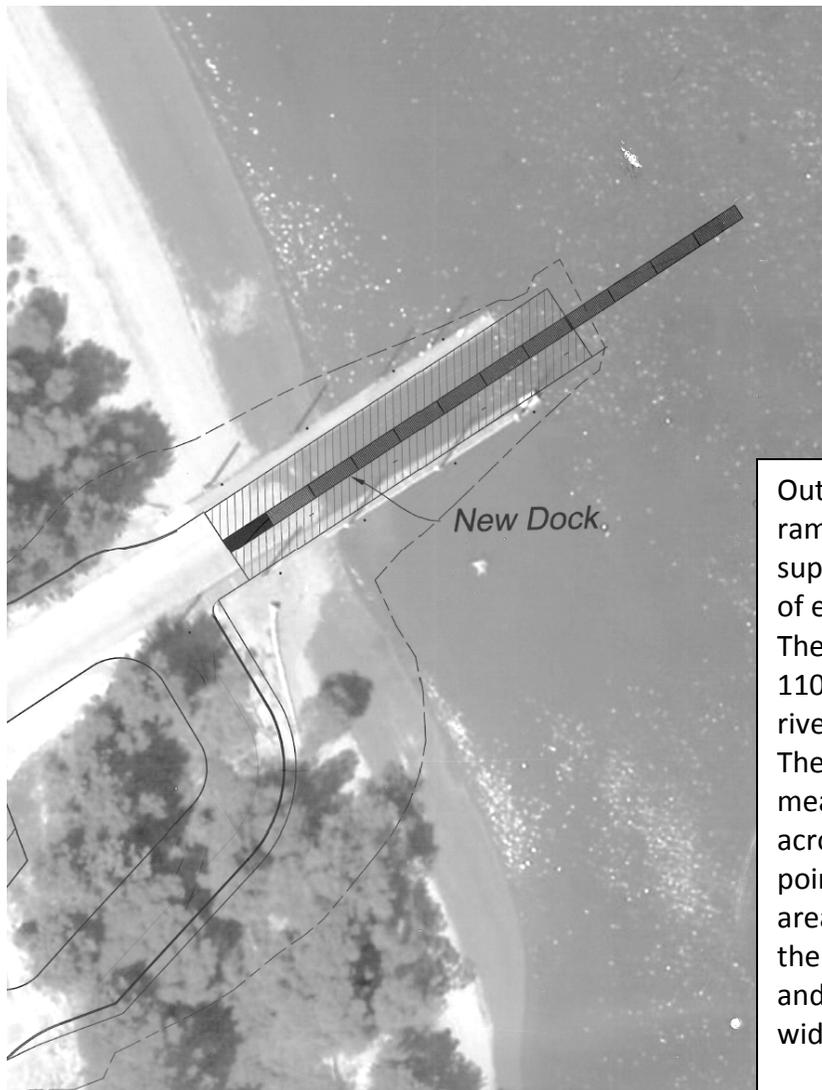
Project Details

Recent years have seen the steady build up of silt and sand deposits (accretion) on the river bottom which have reduced the river depth and thus the functionality of the existing dock at Cedaroak. In the past, the Parks Department has dredged the launching area every five years or so. The current proposal is to extend the ramp and dock further out into deeper waters with the expectation that it will provide a longer term solution.

The existing dock and ramp is 127 feet long as measured from the Ordinary High Water Mark (OHWM). According to the Parks Department, the existing facility will be removed and a new facility constructed which will extend 143 feet further out into the Willamette River for a total distance of 270 feet from the OHWM.

In a significant departure from the existing dock, which is anchored to existing grades along the river’s edge, the proposal calls for placing 8,000 cubic yards of fill on the shoreline and about 180 feet into the river to form the elevated base for the boat ramp and dock. This would allow the dock to start “further out” so the actual length of the new dock would be 190 feet.

The fill on the shoreline would accommodate a new driveway from the main parking lot to the ramp. This new driveway is intended to allow vehicles towing boat trailers to get closer to the launch point. This way, drivers will not have to maneuver backwards from the parking lot. The fill/disturbed area associated with this driveway will extend about 115 feet to the south of the existing ramp and about 60 feet to the north. It would entail the removal of riparian/native vegetation and trees and grading in both these areas. The fill would be armored. The exact form of armoring has not been specified. Armoring is generally intended to protect the fill and structure by deflecting the forces of the river and floods.



Outline of proposed fill, ramp and dock superimposed on photo of existing dock. The dock would extend 110 feet further into river than existing dock. The proposed fill measures 220 feet across at its widest point in the riparian area, 160 feet wide on the exposed beach area and averages 65 feet wide offshore.

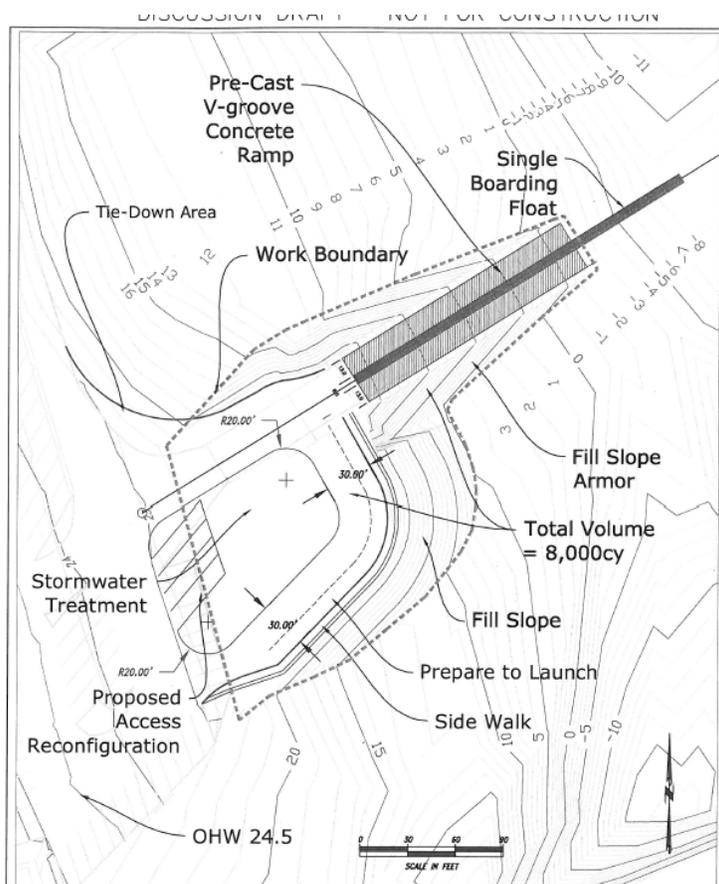
Initial staff concerns include:

- The fill and longer dock will likely hasten accretion, both upstream and downstream of the fill, resulting in reduced water/channel depths.

- Potential impact on fisheries through the loss of riparian functions and increased potential for storm runoff and associated pollution, displaced nearshore habitat typically used by migrating and rearing fish.
- Obstructing the historic and safe navigation of the channel to the south.
- Changes to hydrology and pattern of floodwaters.
- Unbalanced cut (dredge) and fill.
- Significant loss of riparian vegetation and trees that typically support terrestrial and aquatic species, including a high Habitat Conservation Area (HCA)
- Water quality issues.

A number of permits will be required to allow this proposal:

- Flood Management Area
- Willamette and Tualatin River Protection
- Class II Variances (2-3)
- Class II Parks Design Review
- Applicable federal and state permits



Flood Management Area Permit

The proposed dock and ramp are located in the Willamette River Floodway. Per Community Development Code (CDC) Section 27.020 “A flood management area permit is required for all development in the Flood Management Area Overlay Zone.”

“Development” is defined in CDC Chapter 2: Definitions; as, “Any man-made change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading or site clearing, and grubbing in amounts greater than 10 cubic yards on any lot or excavation.” This overlay zone includes the, Willamette River Floodway; the river’s 100-year floodplain; and, areas inundated by the Willamette River during the 1996 flood. The portion of this property where work is being performed is within this overlay and therefore a Flood Management Area (FMA) permit is required.

Staff’s concern is that the fill may modify the flow of floodwaters and impact properties upstream and downstream of the site. CDC 27.060(F) and (G) speak to this concern:

- 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.*
- G. *All proposed improvements to the floodplain or floodway which might impact the flood carrying capacity of the river shall be designed by a professional civil engineer licensed to practice in the state of Oregon*

CDC 27.060(B) does not allow any “unbalanced fill” in the river.

- B. *No net fill increase in any floodplain is allowed. All fill placed in a floodplain shall be balanced with an equal amount of soil material removal. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage. Any excavation below bankful stage shall not count toward compensating for fill.*

The proposal does not call for balancing cut and fill, so a Class II Variance would be required.

Willamette and Tualatin River Protection Permit

The Willamette River Protection overlay zone includes the entire project site. All development in this overlay zone requires a Willamette and Tualatin River Protection Permit. Accretion, both upstream and especially downstream of the fill, is a concern as

well as the potential impact on fisheries, riparian habitat supporting both terrestrial and aquatic species, obstructing the historic and safe navigation of the channel to the south, and construction in a high Habitat Conservation Area (HCA).

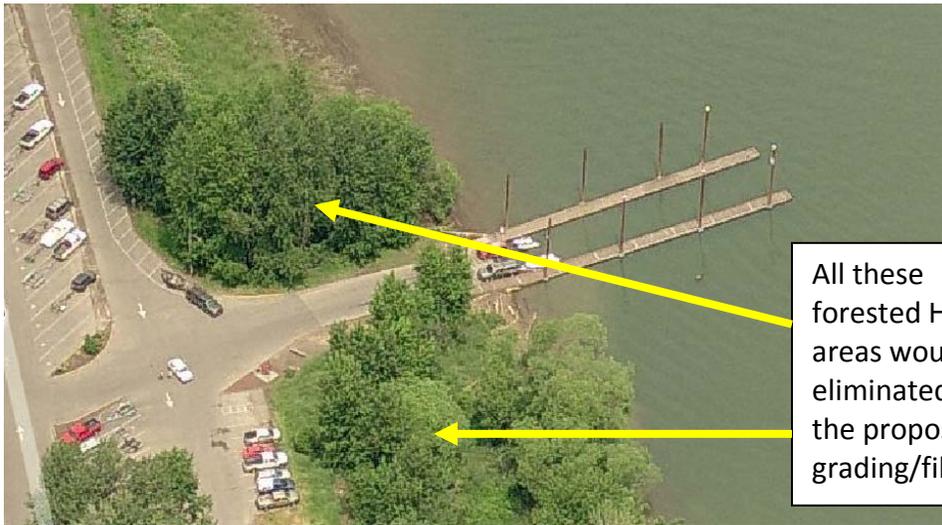


The approval criterion speaks directly to this application.

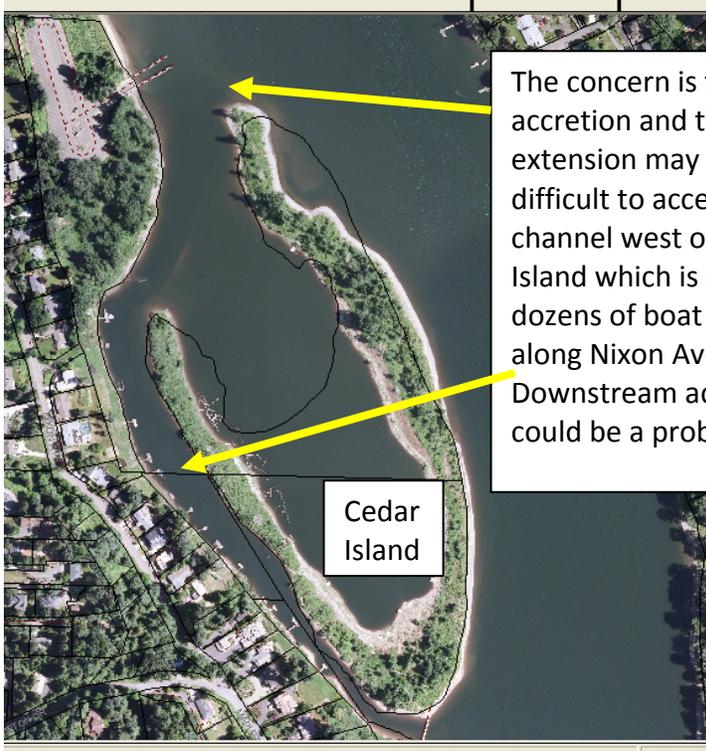
CDC 28.110(I) Private and public non-commercial docks are permitted where dredging is required so long as all applicable Federal and State permits are obtained. Dredging is encouraged if deposits silt up under an existing dock. Dredging is seen as preferable to the construction of longer docks/ramps.

2. *Both joint and single use docks shall not extend into the water any further than necessary to provide four feet between the ships keel or fixed propeller/rudder and the bottom of the water at any time during the waters lowest point.*

3. *In no case except as provided in Section 28.110 shall the ramp and dock extend more than 100 feet from OLW towards the center of the river or slough. In the case of L shaped docks, the 100 feet shall be measured from the OLW to the furthest part of the dock closest to the center of the river.* (staff note: CDC 28.110 provides no exceptions despite the reference above)



All these forested HCA areas would be eliminated by the proposed grading/fill



The concern is that accretion and the dock extension may make it difficult to access the channel west of Cedar Island which is used by dozens of boat owners along Nixon Avenue. Downstream accretion could be a problem too.

Cedar Island

Another issue that staff will be considering is the effect of the dock extension on the navigability of the channel to the south of the dock between Cedar Island and the mainland. Currently this channel is the only year round route to get to and from the main body of the Willamette River from moorages at the rear of properties along Nixon Avenue. Accretion (sand and silt deposits) is already building up at the north end of the

island to the extent that the navigable passage is limited. There are at least 15 private docks on that channel. Blocking historic, safe and uninterrupted passage is prohibited per 28.050(A) (4). The Parks Department should be able to show that reasonable passage to and from this channel is not compromised by the fill and dock extension. Similar concerns exist regarding the effects of littoral drift caused by the extended dock and ramp upon downstream docks. The Parks Department should also be able to explain why dredging was not proposed despite the fact that the CDC endorses dredging over extension.

Class II Variance

The proposed dock would be 190 feet long which exceeds the maximum 100-foot length allowed for docks per CDC 28.110(I). The CDC prohibits unbalanced cut and fill. (The applicant proposes to dump fill as the base for the concrete ramp/dock and for development along the shoreline.) Class II Variances will be needed to allow a 100 foot addition and the unbalanced cut and fill.

The CDC prohibits pilings from exceeding a maximum height of eight feet above the 100 year flood elevations. If the applicant can keep the exposed pilings under that height then a variance would not be required.

Based on the information available to staff at this time, the ability of the applicant to satisfy the following approval criteria will be challenged.

3. *The authorization of the variance will not be materially detrimental to the purposes and standards of this Code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan.*
(staff note: Goals 15, 6, 5 and 8 will be most applicable)
4. *The variance request is the minimum variance, which would alleviate the exceptional and extraordinary circumstance.*
(staff note: dredging is encouraged in the CDC and it could be argued that it represents the minimum needed to alleviate the hardship created by accretion.)
5. *The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.*
(staff note: Any accretion caused by the additional fill in the river could be considered as imposing a physical limitation on a neighboring property.)

Class II Parks Design Review

Boat ramps are classified in CDC Chapter 56 as “Special Use Areas”. Generally, the cutoff between a Class I and II Parks Design Review is a 10% increase in the structure or facility. The dock is almost doubling in length so a Class II Design Review is required. Staff notes that the submittal requirements are redundant since they will have been addressed in response to other permits. Meanwhile the approval criterion is better suited to terrestrial facilities. Very few of the criteria apply to docks.

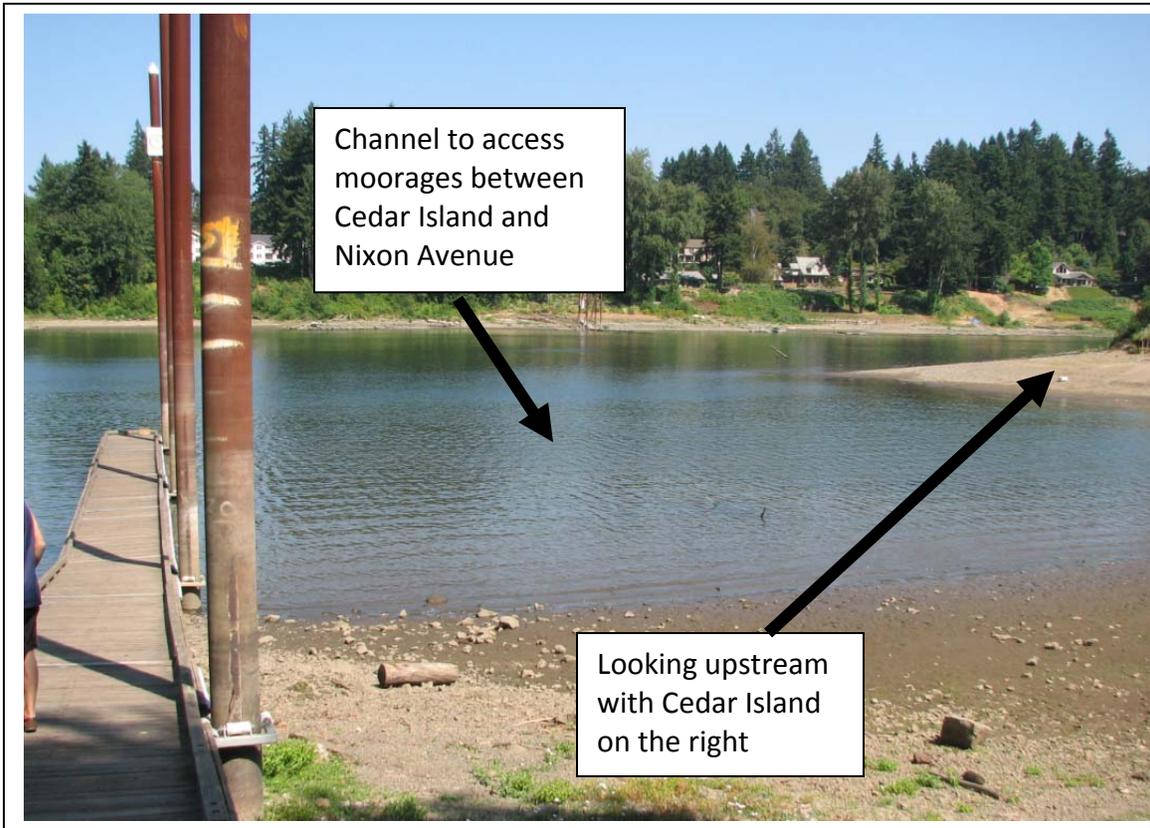


Other Issues

The site is zoned R-10. Public boat docks meet the definition of “Community Recreation” which is allowed outright in this zone.

The 2007 Parks, Recreation and Open Space Plan’s Five–Year Capitol Improvement Plan (p. 108) itemizes improvements at the Cedaroak Boat ramp but the recommended improvements are limited earlier in the plan to “ongoing maintenance and minor upgrades” (p. 54).

CDC Chapter 32: Water Resources Area permits do not apply to applications along the Willamette and Tualatin Rivers. Lands along these two rivers are exempted under the definitions of WRAs and Riparian Areas in CDC Chapter 2



Conclusion

Pursuing this proposal to add 8,000 cubic yards of fill to the river and adjacent riparian areas, remove riparian and native vegetation and exceed the maximum 100 foot dock length, etc. runs counter to the approval criterion of most of the applicable CDC chapters. There are also the additional issues of accretion and potential disruption of navigation and floodwaters.



Process

The Flood Management Area permit is covered in Chapter 27 of the CDC, the Willamette River Greenway permit in Chapter 28, The Parks Design Review in CDC Chapter 56 and Class II Variances are covered in Chapter 75. Each chapter has specific submittal requirements and approval criteria. A narrative responding to the approval criteria of each chapter will be required. A development review application with the appropriate applicant and property owner signatures and boxes checked for all applicable permits will be required. Beyond this, some of the submittal requirements of each chapter involve site plans, topographic maps, etc. These do not need to be submitted separately for each permit; i.e. one site plan map can be used for all permits as long as it includes each permit's required elements as listed in each permit's respective chapter.

No neighborhood meeting is required per CDC 99.038 but it may be helpful to the applicant's application to meet with the Robinwood Neighborhood Association (RNA). Contact Tom Boes at 699-6112 to schedule a meeting with the RNA. Please note however that this is strictly optional.

For the application, three copies of all material submitted are required. This includes three large copies of all maps/plans as well as three copies of the maps/plans that are 11 x 17 or smaller. A compact disk with digital copies of all application materials is also required.

Check the criteria of each chapter as soon as possible to see if the application can meet each criterion.

The application fee will be \$1,050 for the Flood Management Area permit, \$1,700 for the Willamette River Greenway permit, and 4% of construction value for a Parks Design Review, and \$2,700 for the two Class II Variances for a total permit fee of \$5,450 plus the 4% amount. Collectively these permits will be decided by the Planning Commission. The Planning Commission requires a public hearing. Their decision may be appealed to City Council. The following is staff's general summary of the submittal requirements for each chapter; be sure to fulfill the submittal requirements listed in each chapter thoroughly.

Chapter 27: Flood Management Area permit

- Submittal per 27.050.
- Responses to approval criteria in 27.060. "N/A" is not acceptable. If something doesn't apply, write that it doesn't and write why. Criteria of 27.070 shall be met.

Chapter 28: Willamette and Tualation River Protection permit

- Evidence shall be provided to demonstrate that the applicant has the legal right to use the land above the Ordinary Line of Water (OLW). (e.g. documentation showing they own the property)
- Submittal requirements of 28.090 shall be met. CDC 28.090C) (3) (5) (6) are waived since they are not applicable to a dock extension.
- Per CDC 28.100(A), the Planning Director finds that the following additional information is required. The applicant shall provide a professional assessment of the depth, width and navigability of the channel south of the dock and west of Cedar Island as it is currently during low water levels (summer) and what impact the extension and anticipated accretion will have upon access to that channel in terms of reducing the width and navigability of the passage once it is built. The discussion should also examine the predicted impact of littoral drift upon existing downstream docks.
- Narrative addressing approval criteria of 28.110. "N/A" is not acceptable. If something doesn't apply, write that it doesn't and write why.
- Metro Habitat Conservation Area boundaries (as discussed in this chapter) should be shown on the site plan. Go to

<http://www.metro-region.org/index.cfm/go/by.web/id=8385>.

- Site plan per 28.120.
- Architectural drawings per 28.140.
- Provide comments from any state or federal agencies.

Chapter 75: Class II Variance

- Submittal requirements of 75.050 may be waived by the Planning Director since they are redundant within the context of the submittal requirements of the other permits.
- Point by point response to the approval criteria of 75.060 for each of the variances.

Chapter 56: Parks Design Review

- Submittal requirements of 56.080 may be waived by the Planning Director since they are redundant within the context of the submittal requirements of the other permits.
- Response to approval criteria of 56.100. Most of this will not apply with the exception of crime prevention/defensible space and ADA accessibility.

Other

- Staff is aware that other state and federal agencies have permitting processes too, some with different sets of approval criteria. It is the applicant's responsibility to reconcile those different criteria and standards to the satisfaction of all agencies. If the applicant wants to make his case that a specific West Linn criterion is at odds with, for example, a Department of State Lands requirement then an additional Class II Variance might be required to modify that specific West Linn criterion. A letter from the other agency would have to be provided to identify the basis of the conflict and should explain why West Linn's should be modified by variance. The City of West Linn is not obliged to agree to any modification of criteria.

Staff bills time against the deposit fees. The applicant must initiate a request for refund of any unused deposit fees once the final decision is rendered.

The City has 30 days to determine whether or not the application is complete (most applications are incomplete). The applicant then has 180 days to make it complete. Once complete, staff prepares public notice and schedules the hearing date. The public notice period is 20 days and involves notifying all property owners within a 500-foot radius of the site. The Planning Commission's decision becomes final after 14 days if no appeals are filed. If appealed, it will be brought before the City Council for a public

hearing. The City has a total of 120 days to exhaust all local review and appeals. Subsequent appeals go to the state's Land Use Board of Appeals (LUBA).



If permits are approved, the applicant has three years to complete substantial work on the project (e.g. piling installation) or the approval is voided. Extensions are available through the Planning Commission and may be approved based upon specific criteria.

The applicant should verify if permits must also be obtained through the US Army Corps of Engineers, the Department of State Lands and other agencies. That process is independent of City review and the responsibility of the applicant.

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.

Typical land use applications can take 6-10 months from beginning to end.

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.

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