

**City of West Linn  
PRE-APPLICATION CONFERENCE  
SUMMARY NOTES**

**March 31, 2011**

**SUBJECT:** Installation of water pipeline from the Willamette River through Mary S. Young Park to the Lake Oswego Water Treatment (LOWT) facility on Kenthorpe Way and then on to Lake Oswego via Willamette Drive.

**ATTENDEES:** Eric Day, Jane Heisler, Dave Prock (City of Lake Oswego) Nick Wobbrock ,Eric Eisemann, Brett Teel (Consultants)  
Jim Whynot, Mike Cardwell, Mike Perkins,  
Khoi Le, Peter Spir (City of West Linn (COWL))  
Tom Boes (Robinwood N.A.) Kevin Bryck, Gary Hitesman (West Linn residents)

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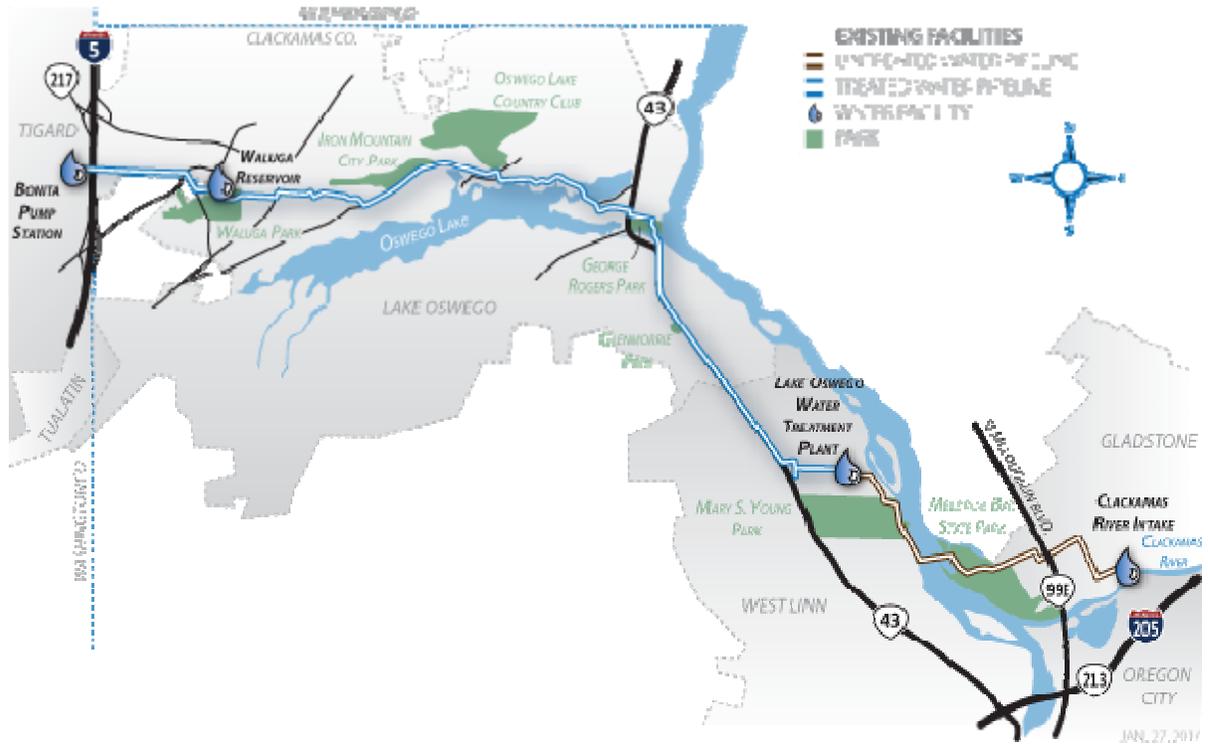
*The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any "follow-up" items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding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

**Background**

In August 2008, the cities of Lake Oswego and Tigard formally endorsed a partnership agreement for sharing drinking water resources and costs. The Lake Oswego-Tigard Water Partnership expands Lake Oswego's existing drinking water infrastructure so that it can serve both communities. Lake Oswego currently withdraws water from the Clackamas River in Gladstone as it has been for about 40 years. This water travels through a large pipe under the Willamette River to the LOWT on Kenthorpe Way where it is treated to safe drinking water standards. The treated water is then pumped through another large 27-inch pipeline to Lake Oswego and, ultimately, Tigard.

Lake Oswego and Tigard have determined that additional capacity is required for their projected growth. They plan to double the amount of water treated per day from the current 16 million gallons to 32 million gallons. This will require larger 48-inch diameter pipes from the water intake point on the Clackamas River to the LOWT facility which will also be expanded to treat the additional water. Similarly sized pipes will be installed from the LOWT to Lake Oswego. Improvements at the LOWT will include an underground reservoir, pump station, stand-by generator, surge tank and another

building with electrical equipment. These improved facilities are proposed to be located on four vacant lots, owned by Lake Oswego, that front on Mapleton Drive.



Prior to the construction of the LOWT upgrades and new pipe installation a variety of permits are required from the City of West Linn.

The applicant has chosen to divide the application into two parts. The first part will be the permits associated with just the water pipeline, the second part will be the permits associated with the LOWT upgrades at the Kenthorpe Way site.

This begs the question “Can’t the city require that the water transmission pipeline permits and the Lake Oswego Water Treatment (LOWT) facility permits be consolidated into one application?” Staff found that the West Linn Community Development Code (CDC) only requires consolidation of applications when they are submitted at the same time. The following provision addresses this issue:

**99.070 CONSOLIDATION OF PROCEEDINGS**

*Whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding. In such cases, the hearings shall be held by the approval authority having original jurisdiction over one of the applications under CDC [99.060](#), in the following order of preference: City Council, Planning Commission, or the Planning Director, except for expedited land division applications which shall be processed as described in Chapter 197 ORS. For example, if a conditional use permit (CUP) and Class I design review application were submitted, ordinarily the CUP would be heard by the Planning Commission, and Class I design review by the Planning Director. This hierarchy dictates that the higher body, the Planning Commission, would hear the consolidated hearing. (Ord. 1474, 2001; Ord. 1568, 2008)*

Therefore, because the applications are not being submitted at the same time, consolidation cannot be required per the CDC.

Are there potential advantages associated with a two part application?

Yes. Breaking the project into two parts allows the hearings body and staff to focus on permits required by the pipeline and not be distracted by part two’s LOWT permits and the testimony that is expected to focus on the LOWT. Part one’s permits are numerous and include Willamette River Protection, Flood Management Area, Water Resource Area permits, Parks Design Review, Class II Variances, Erosion Control, Stormwater Quality and Detention permits plus the Department of State Lands (DSL), Oregon Department of Fish and Wildlife and US Army Corps of Engineers (USACE) permits.

With a project of this scale which will impact, particularly during construction, a large part of the population, there is the expectation that a Conditional Use Permit would be required. Certainly the LOWT upgrade part of the application triggers that, but by breaking the transmission line into a separate application, no CUP is required for the water transmission pipeline phase.

The zoning for the pipeline corridor is all R-10 (residential) in Mary S. Young Park and in the Robinwood neighborhood along Mapleton Drive and Kenthorpe Way and a mix of General Commercial, R-4.5 and R-10 on either side of Willamette Drive north to Lake Oswego. In all those zones, minor utilities do not need a CUP while major utilities do.

CDC Chapter 3 indicates that underground water transmission lines are minor utilities and thus excused from a CUP.

The excerpt from CDC Chapter 3: Definitions reads as follows:

*Utilities. Services and utilities which can have substantial visual impact on an area. Such uses may be permitted in any zoning district when the public interest supersedes the usual limitations placed on land use and transcends the usual restraints of the district for reasons of necessary location and community-wide interest. There are two classes of utilities – major and minor.*

*Utility, major. A utility which may have a significant impact on the surrounding uses or the community in terms of generating traffic or creating noise or visual effects and includes utility, substation, pump station, water storage tank, sewer plant, or other similar use essential for the proper function of the community.*

*Utility, minor. A utility which has a minor impact on the surrounding uses or on the community in terms of generating traffic or creating noise or visual effects and includes the overhead or underground electric, telephone or cable television poles and wires, the **underground gas and water distribution systems** and the drainage or sewerage collection systems or other similar use essential for the proper functioning of the community.*

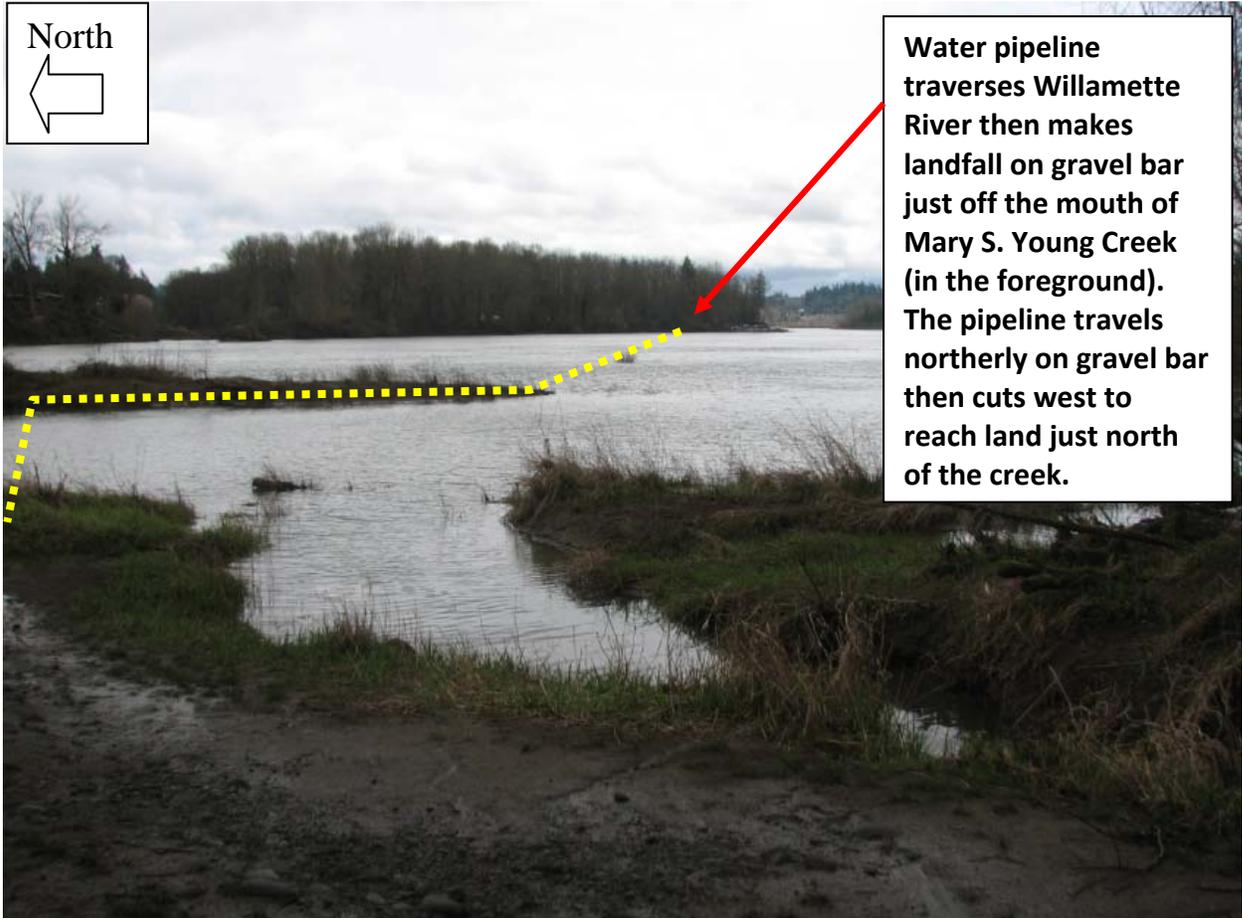
Consequently, this application (part one/phase one) will not include a CUP. However it will still go the Planning Commission for a public hearing.

### **Project Details**

The proposal is to install a new 48-inch water pipeline under the Willamette River. It will make landfall on a gravel bar just off the mouth of Mary S. Young Creek. It will traverse the gravel bar parallel to the main shoreline then westerly to the shoreline just north of Mary S. Young Creek. The pipeline will then cut north, generally through an open meadow area that has a trail running along it, before it cuts northwesterly and along the north edge of the City of West Linn’s Mapleton Sanitary Sewer pump station. (The applicant had considered directing the pipe from the meadow area up the corridor of the existing water line which is buried below a major public footpath that links the main parking lot with the waterfront. This route was discounted since it would disrupt recreational use of that corridor/trail, it would necessitate the removal of a number of mature Douglas fir trees and would require extensive grading in an area shaped by drainageways.) Once the waterline reaches the Mapleton Drive Right of Way (ROW) it follows that road up to the LOWT then west on either Mapleton Drive or Kenthorpe Way to Willamette Drive and then north to Lake Oswego. The following City of West Linn Planning Department permits are required:

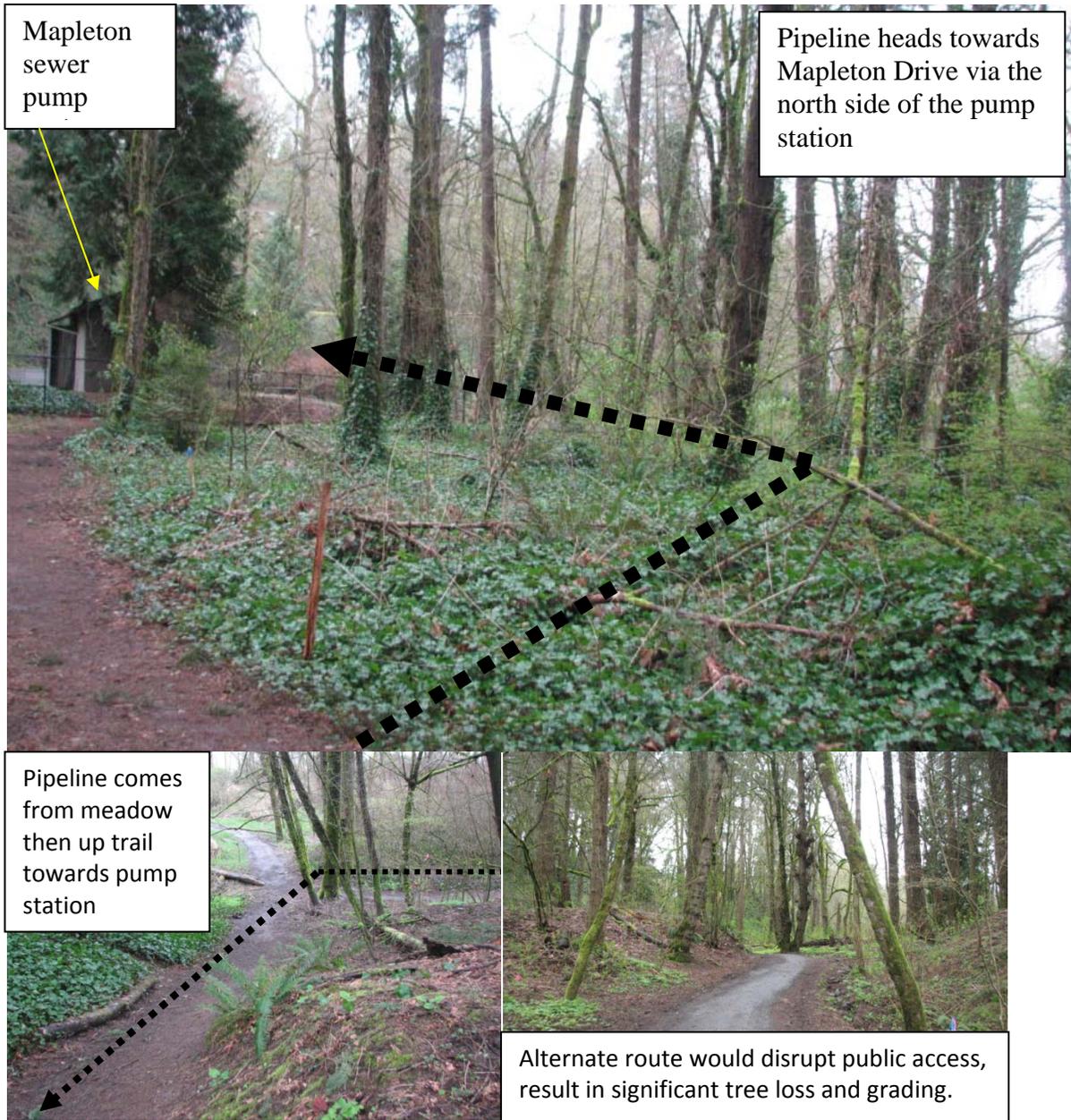
- Willamette and Tualatin River Protection Area permit
- Flood Management Area permit

- Water Resource Area permit
- Class II Variances X 2 (relating to allowed width of construction corridor)
- Erosion Control permit
- Stormwater Quality and Detention permit
- Parks Design Review permit



**Generalized route northwards through wetland-meadow . Note limited vegetation and multiple trails that have degraded the resource.**





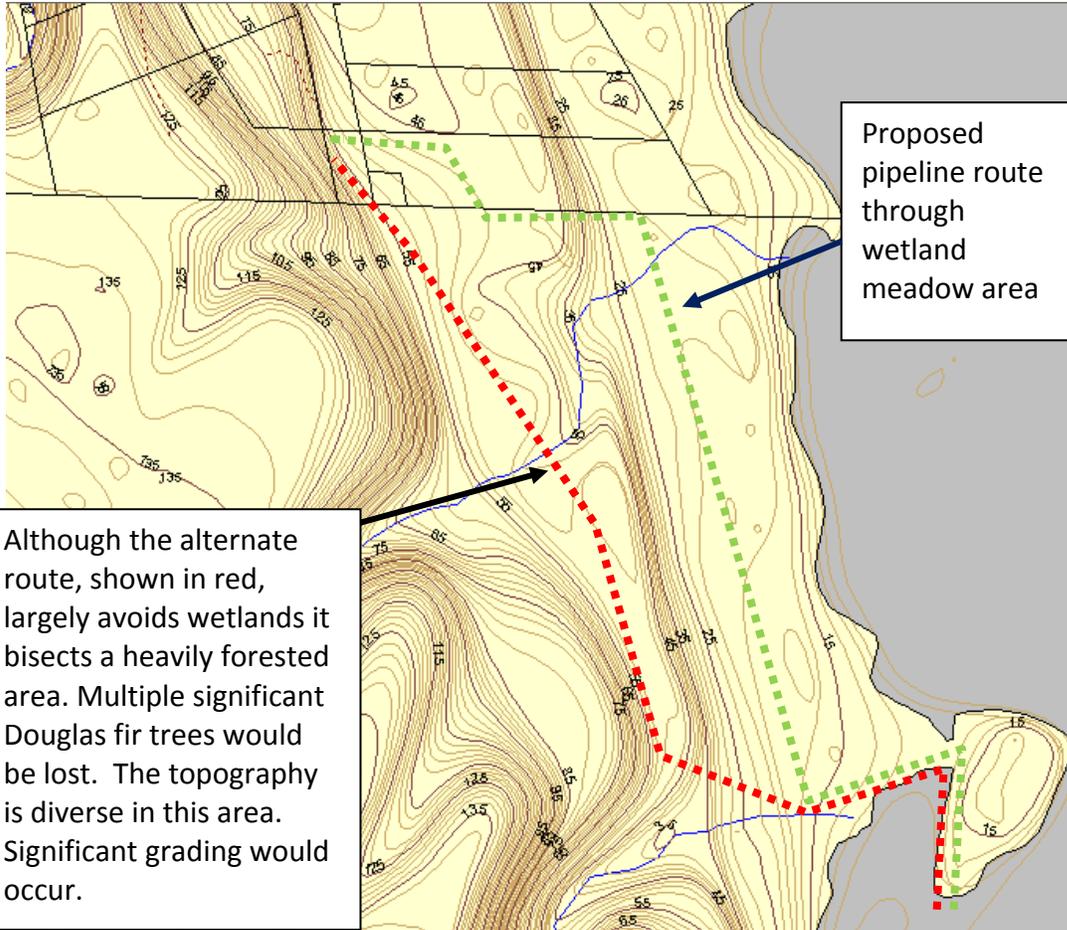
**Willamette and Tualatin River Protection Area permit**

The Willamette and Tualatin River Protection Area permit focuses on the protection of the various natural resources within the Willamette River Greenway. The resources include a wetland area, habitat areas, foreshore topography and vegetation. The greenway boundary encompasses all of Mary S. Young Park and the properties east of the Mapleton Drive ROW.

Resource areas are classified as Habitat Conservation Areas (HCA), and given levels of significance from High and Medium to Low. The applicant should select a pipeline corridor through Mary S. Young Park that minimizes disturbance of high or medium HCAs such as wetlands. Staff is aware that Lake Oswego has negotiated utility easements with Oregon State Parks, but the existence of those easements should not be used as grounds to justify encroachment upon, or disturbance of, High HCA areas when alternative routes through low HCA areas may exist. Staff is especially concerned about the protection of the wetlands along the shoreline and shown on the map below. (These areas are designated TA-07,10 and 12)

Staff noted at the pre-app that whereas protection of the wetland areas is typically paramount, the wetland meadow that the pipeline would traverse has been significantly degraded by trails crisscrossing through it. In spite of the fact the staff site visit occurred in March after a period of large rainfall it is fairly well drained area. Grasses are the dominant vegetation (see photos on page 6). If the pipeline was buried in this corridor, installation would be simplified given the fact that almost no alteration of the topography would be required and restoration could be readily accomplished given the current lack of anything more than grasses and some brush (vine maples etc.) at the north end. Indeed this would be an opportunity to vegetatively/qualitatively enhance the wetland areas.

In contrast, if the line were moved uphill (proposed route shown in red), away from the High HCA/wetland, the impacts in terms of tree loss and alteration of the topography would be significant. Mitigation for the loss of 60-foot tall Douglas firs would be extremely difficult. The alignment would also have a greater disruptive effect on the public's use of the park. For those reasons, staff was tending towards the route through the wetland meadow.



Proposed route (green) traverses already disturbed wetland meadow. Alternative to avoid wetland and high HCA (red) would traverse hillside higher up and result in tree loss and loss of existing topography.

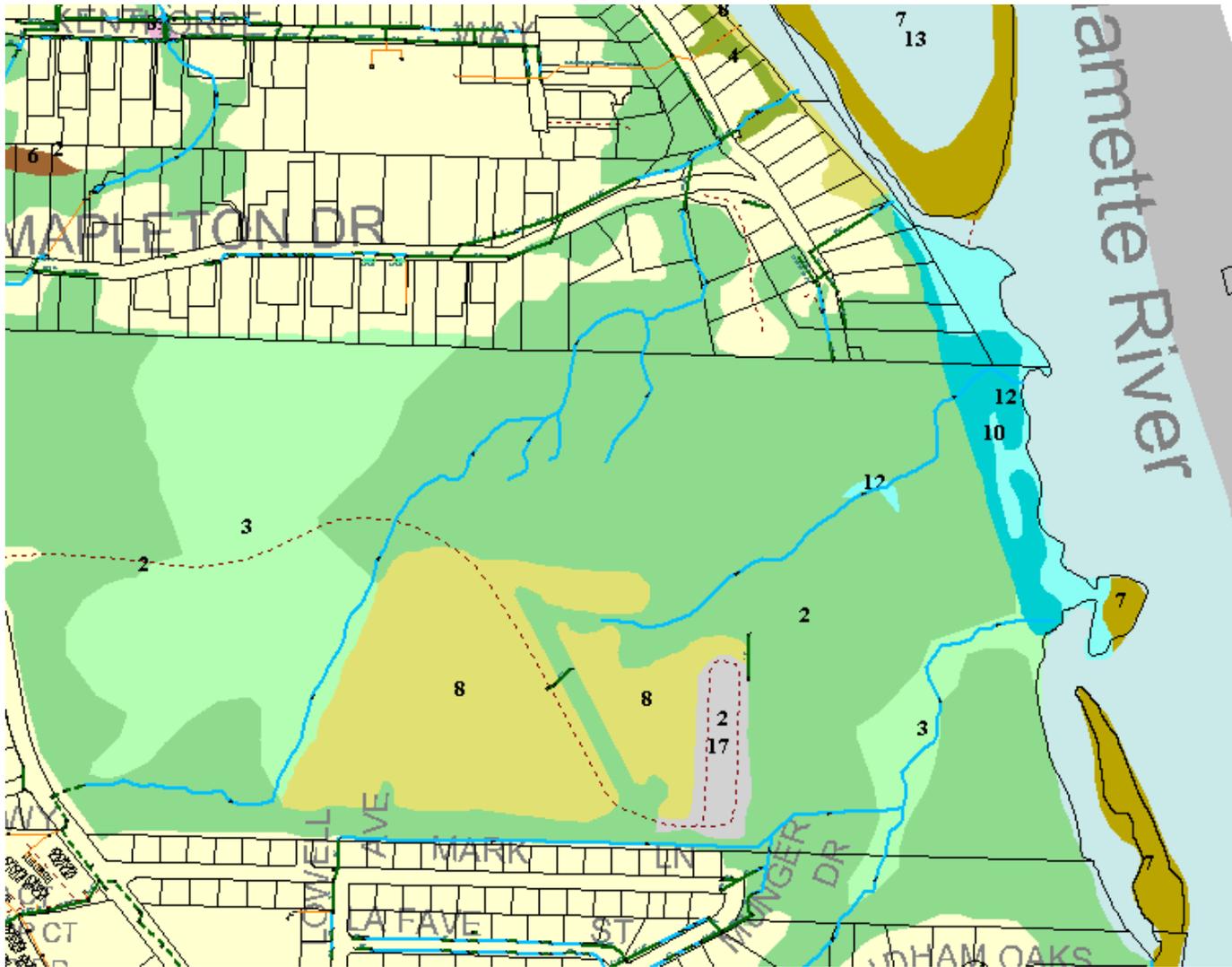


**Goal 5 Inventory Information**

 <b>Wetlands</b> TA-07 Wetland Number	 Significant Riparian Corridors
<b>Habitat</b>	
 1 - Conifer Forest	 10 - Palustrine Forested Wetland
 2 - Mixed Conifer - Hardwood Forest	 11 - Palustrine Scrub-Shrub Wetland
 3 - Hardwood Forest	 12 - Palustrine Emergent Wetland
 4 - Bottomland Forest	 14 - Wetland Mosaic
 5 - Oak Woodland	 15/16 - Parkland / Agriculture / Pasture
 6 - Shrub	 13 - Open Water
 7 - Mixed Shrub / Herbaceous	 18 - Quarry
 8 - Meadow / Grassland	 17 - Developed / Urban
	 89 - Connector

A copy of  
NOTE  
DSL  
Date

**Key to map below**



CDC 28.110(L) makes an accommodation for utilities in the high HCA-wetland areas:

*L. Roads, driveways, utilities, or passive use recreation facilities. Roads, driveways, utilities, public paths, or passive use recreation facilities may be built in those portions of HCAs that include wetlands, riparian areas, and water resource areas when no other practical alternative exists but shall use water-permeable materials unless City engineering standards do not allow that. 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](#). The maximum disturbance width for utility corridors is as follows:*

- 1. For utility facility connections to utility facilities, no greater than 10 feet wide.*
- 2. For upgrade of existing utility facilities, no greater than 15 feet wide.*

3. *For new underground utility facilities, no greater than 25 feet wide, and disturbance of no more than 200 linear feet of water quality resource area, or 20 percent of the total linear feet of water quality resource area, whichever is greater.*

Because this section limits utility corridors for the installation of new underground utility facilities (CDC 28.110(L) (3)) to a width of 25 feet, a Class II Variance will be required to accommodate a wider construction zone.

Staff will still require that the following concerns be addressed:

- Temporary 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.
- Disruption/blockage of fish passage to Mary S Young and Turkey Creeks.
- Changes to hydrology and pattern of floodwaters.
- Significant loss of riparian vegetation and trees that typically support terrestrial and aquatic species, including a high Habitat Conservation Area (HCA)
- Water quality issues.
- Loss, degradation or disturbance of wetlands.
- Temporary disruption of link between riparian habitat areas and upland habitat areas.

### **Flood Management Area (FMA) permit**

This permit speaks to the concern that grading associated with trenching and backfill could modify the flow of floodwaters and impact properties upstream and downstream of the site. CDC 27.060(F) and (G) specifically address 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*

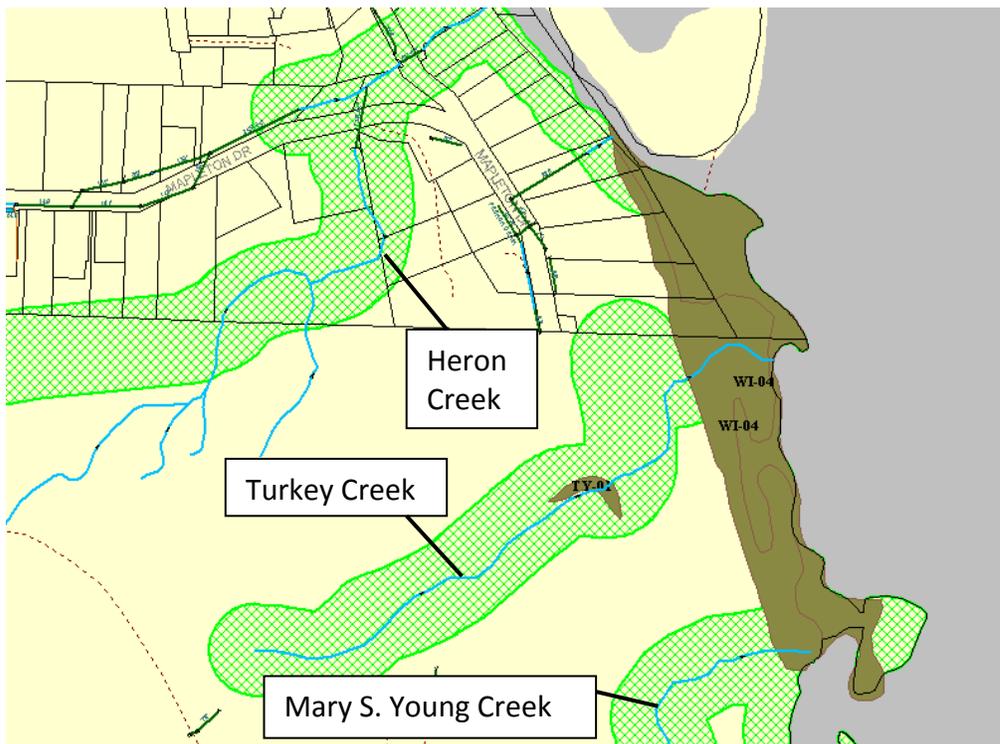
*50 percent of the square footage. Any excavation below bankful stage shall not count toward compensating for fill.*

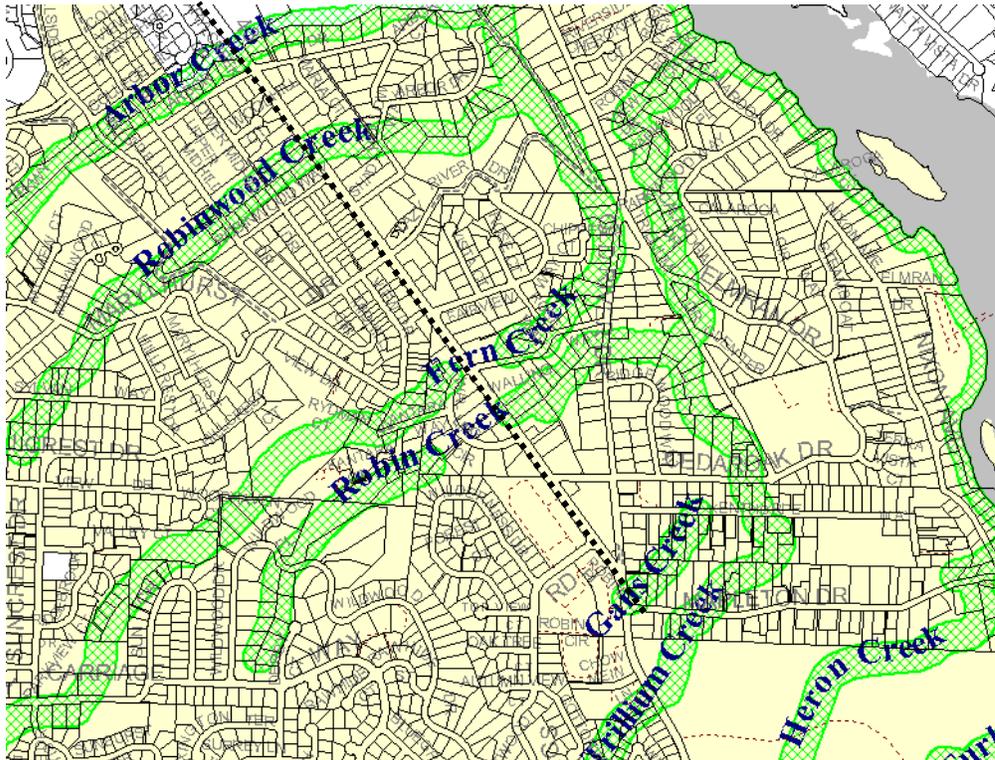
### **Water Resources Area (WRA) permit**

A CDC Chapter 32: Water Resources Area permit is required per CDC section 32.025 since the pipeline will bisect Turkey Creek and construction activity will be near Mary S. Young Creek in Mary S. Young Park. Heron Creek on Mapleton Drive may also be impacted. The allowable width of disturbed area for installation of a new pipeline is 25 feet. The preliminary estimate by Lake Oswego is that a 50 foot wide corridor will be required. Accordingly a Class II Variance will be needed. (It may be possible to tie the variance associated with Chapter 28 construction corridors in with this one.)

All areas within the transition zone and setbacks of these creeks (water features) and riparian corridors (shown in green on the maps below) are subject to review under chapter 32.

It should be noted that, in addition to the riparian corridors between the Willamette and the LOWT, there are the two additional riparian corridors associated with creeks along Kenthorpe Way and Mapleton Drive (Trillium and Gans Creeks) and three more bisected by Willamette Drive (Robin, Robinwood and Arbor Creeks).





The WRA permit application must address construction in these five additional riparian corridors. Since most of the pipeline installation will be in the street, the main concern will be having proper erosion control measures in place as well as accommodating wildlife passage.

### **Erosion Control and Stormwater Quality and Detention permits**

CDC Chapters 31 and 33 respectively address Erosion Control and Stormwater Quality and Detention. These chapters focus upon proper construction techniques and associated resource protection.

### **Parks Design Review permit**

CDC section 56.020 states as follows:

*A. This chapter applies to the development of all new parks and natural resource areas. It also applies to changes including the introduction of new facilities and major repairs at existing parks and natural resource areas. No work, except as exempted in CDC [56.025](#), may take place in these parks and natural resource areas without first obtaining a permit through this chapter and through the appropriate decision-making body.*

CDC section 02.030 defines development as: *“Any manmade 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. Within the flood management area, this term shall also include storage of equipment or materials.”* CDC 56.025 offers no exemptions for underground utilities.

The only approval criterion in CDC Chapter 56 that is applicable to utilities is CDC 56.100(C) relating to tree preservation.

## **Engineering Requirements** (Khoi Le)

### **MAPLETON DRIVE AND NIXON AVENUE**

#### **STREET IMPROVEMENT**

#### **EXISTING CONDITIONS**

Street Classification:	Collector
Right of Way Width:	50'
Pavement Width:	Varies between 24' and 16' Majority of the pavement is at 20' with the exception of the dead end where the pavement width is at 16'
Sidewalk:	No sidewalk on either side of the road
Curb:	No curb on either side of the road
Bike Lane:	No bike lane on either side of the road
Posted Speed:	25 MPH
Traffic Calming Device:	Speed Bump
Striping:	Double Solid Yellow Center Line No fog line on either side of the road

<b>ZONING</b>	R-10 (Residential 10,000 square foot lot minimum) Majority of the properties along Mapleton Drive are larger than 10,000 square feet and are potentially dividable.
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#### **TRANSPORTATION MASTER PLAN RECOMMENDATION**

Street Classification:	Collector constrained by 48' wide right of way width. 36' pavement with parking on one side and
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bike lane on the other. Sidewalk shall be 6' wide on both sides with no planter strip.

Pedestrian Plan:

Sidewalk will be installed on both sides of the street.

List as project number 26 in TSP with sidewalk along Mapleton Drive from Willamette Drive to Nixon Avenue.

List as project number 29 in TSP with sidewalk along Nixon Avenue starting from Mapleton Drive to Elmrans Avenue.

Project will cost approximately \$645,000 and \$540,000 respectively.

Bicycle Plan:

None listed on TSP

## **GENERAL REQUIREMENT**

Core sample(s) existing pavement.

Provide full half street improvement where the trench is located.

Street Section:

5" AC Pavement – 3" Class "C" over 2" Class "B" 12" of 1-1/2"-0 and 2" of 3/4"-0 leveling course

Overlay the other half street with 3" Class "C" Asphalt Concrete.

If the trench located where it would impact beyond the center line of the roadway pavement, full street improvement shall be required.

## **SANITARY SEWER IMPROVEMENT**

### **EXISTING CONDITIONS**

8" existing sanitary sewer system along Mapleton was installed at a depth varied between 5 foot and 14 foot. The average depth is approximately 8 foot deep. Pipe material is concrete.

Existing sanitary sewer system is approximately set 19' away from the existing water line.

Existing sanitary sewer system at the Mapleton Pump Station is approximately 20' deep. Pipe material is concrete.

Existing sanitary sewer system after the Mapleton Pump Station going through Marylhurst Young Park is a 12" force main. Pipe material is Cast Iron.

**GENERAL REQUIREMENT**

No construction equipment to be parked, driven, or storage on top of force main at all time.

No crossing shall be allowed.

Force main shall be replaced with new system if construction impact is unavoidable.

If services along Mapleton Drive are being removed and replaced due to utility conflict, existing sanitary sewer system along Mapleton Drive shall be replaced with new system.

**WATER IMPROVEMENT**

**EXISTING CONDITIONS**

6" Asbestos Cement Water Line is assumed to be installed at 3 foot deep and provides service for approximately 68 properties.

**WATER MASTER PLAN RECOMMENDATION**

Recommend to be replaced with 8" DI on Water Master Site Plan prepared by MSA.

**GENERAL REQUIREMENT**

Due to the construction impact, existing 6" Asbestos Cement Water Line shall be replace with 8" DI pipe.

**STORM DRAINAGE IMPROVEMENT**

There are culvert crossings along Mapleton Drive. If culverts were being impacted by the construction, existing culverts must be replaced with new ones.

**KENTHORPE WAY**

Street Classification:	Local
Right of Way Width:	50'
Pavement Width:	Varies between 24' and 13'

	Majority of the pavement is at 20' with the exception of the dead end where the pavement width is at 16'
Sidewalk:	No sidewalk on either side of the road
Curb:	A few places with curb but not all
Bike Lane:	No bike lane on either side of the road
Posted Speed:	25 MPH
Traffic Calming Device:	None
Striping:	No center line No fog line on either side of the road
<b>ZONING</b>	R-10 (Residential 10,000 square foot lot minimum)

**TRANSPORTATION MASTER PLAN RECOMMENDATION**

Street Classification:	Can be identified as Local Residential No Parking with 48' wide right of way width consisting of 24' pavement with 6 foot wide sidewalk and 6 foot wide planter strip on both sides.
Pedestrian Plan:	None listed in TSP
Bicycle Plan:	None listed in TSP

**GENERAL REQUIREMENT**

Core sample(s) existing pavement.

Provide full half street improvement where the trench is located.

Street Section:	4" AC Pavement – 2" Class "C" over 2" Class "B" 10" of 1-1/2"-0 and 2" of ¾"-0 leveling course
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Overlay the other half street with 2" Class "C" Asphalt Concrete.

If the trench located where it would impact beyond the center line of the roadway pavement, full street improvement shall be required.

## **SANITARY SEWER IMPROVEMENT**

### **EXISTING CONDITIONS**

8" existing sanitary sewer system along Kenthorpe Way was installed at a depth varied between 4 foot and 11 foot. The average depth is approximately 7 foot deep. Pipe material is concrete.

Existing sanitary sewer system is approximately set 23' away from the existing city water line and 6' from Lake Oswego water line.

### **GENERAL REQUIREMENT**

If services along Kenthorpe Way are being removed and replaced due to utility conflict, existing sanitary sewer system along Kenthorpe Way shall be replaced with new system.

## **WATER IMPROVEMENT**

### **EXISTING CONDITIONS**

6" Asbestos Cement Water Line is assumed to be installed at 3 foot deep and provides service for approximately 68 properties.

### **WATER MASTER PLAN RECOMMENDATION**

Recommend to be replaced with 8" DI on Water Master Site Plan prepared by MSA.

### **GENERAL REQUIREMENT**

Due to the construction impact, existing 6" Asbestos Cement Water Line shall be replaced with 8" DI pipe.

## **STORM DRAINAGE IMPROVEMENT**

There are culvert crossings along Kenthorpe Way. If culverts were being impacted by the construction, existing culverts must be replaced with new ones.

## MISC.

Oregon Department of Transportation Installation of the pipeline in the Willamette Drive ROW will require permits and approval from ODOT. Please contact

[James.A.Nelson@odot.state.or.us](mailto:James.A.Nelson@odot.state.or.us)

District 2A, ODOT  
6000 SW Raab Road  
Portland, OR 97221  
Office (503) 229-5267  
Fax (503) 297-6058

## GENERAL COMMENTS

West Linn residents Tom Boes, Kevin Bryck and Gary Hitesman offered comments. It was stated that a storm line goes from the LOWT and discharges at 3994 Kenthorpe Way. There are no known city records of this pipeline but that will be looked into.

The question was raised about the impact during construction on Kenthorpe Way or Mapleton Drive. The response was that at least one travel lane will be open during the project which is expected to progress at a rate of 50 lineal feet per day. It was suggested that, in addition to the neighborhood meeting with the Robinwood N.A. which is per CDC 99.038, an additional neighborhood meeting (not per 99.038 standards) should be held or at least offered to the Hidden Springs, Marylhurst and Skyline Ridge neighborhood associations.

Rather than require sidewalks on Mapleton Drive or Kenthorpe Way, it was suggested that fee in lieu money be collected to go towards Safe Routes to School facilities: sidewalks that would provide better access to Cedaroak Elementary School.

With much of Willamette Drive being torn up for the pipeline installation, it was asked if there is an opportunity to rebuild that street per the City's Highway 43 Conceptual Design Plan? The preliminary answer from the City of West Linn is that every effort should be undertaken to reconstruct the street in a manner consistent with the design plan and/or in a way that would better facilitate the design plan in the future.

Mike Perkins, City Arborist, recommended that Dave Kruse and Andy Harris of the Trillium Creek Conservancy Group be contacted. The need for a tree inventory was discussed.

The West Linn Tree Technical Manual provides the following specific requirements:

### ***DEVELOPMENT REVIEW, BUILDING PERMITS, AND PROTECTION OF TREES DURING CONSTRUCTION***

*The objective of this section is to provide guidelines to reduce the negative impacts of*

*construction on trees to a less than significant level. Trees vary in their ability to adapt to altered growing conditions. Mature trees have established stable biological systems in the pre-existing physical environment. Disruption of this environment by construction activity interrupts the tree's physiological processes causing depletion of energy reserves and a decline in vigor, often resulting in the tree's death. Typically, this reaction may develop from one to twelve years or more after disruption. The tree protection regulations are intended to guide a construction project to insure that appropriate practices will be implemented in the field to eliminate undesirable consequences that may result from uninformed or careless acts, and preserve both trees and property values.*

*Typical negative impacts that may occur during construction include:*

- Mechanical injury to roots, trunk or branches*
- Compaction of soil, which degrades the functioning roots, inhibits the development of new ones and restricts drainage, which desiccates roots and enables water mold fungi to develop*
- Changes in existing grade which can cut or suffocate roots*
- Alteration of the water table - either raising or lowering*
- Microclimate change, exposing sheltered trees to sun or wind*
- Sterile soil conditions, associated with stripping off topsoil.*

### **STEPS IN THE PROCESS**

*Construction project managers are required to implement the tree protection practices described in this section. The following steps shall be taken in regard to tree protection on any construction project in the City. For more detailed information regarding these steps, please reference the desired topic later in this section.*

- **Site Plans, Tree Surveys and Arborist Reports:** Prior to land use approval or building permit issuance, a property owner shall have prepared an appropriate Site Plan, Tree Survey, and/or Arborist Report. Any tree protection plans or reports must be approved and accepted by the City Arborist before proceeding to the next step. Notes and/or changes to the protection plans may be made or requested by the City Arborist at this time.*
- **Verification of Tree Protection:** The project arborist or contractor shall verify, in writing, that all pre-construction conditions have been met and that all tree protection measures are in place. Written verification must be submitted to and approved by the City prior to demolition, grading or building permit issuance.*
- **Pre-Construction Meeting:** The City Arborist, Project Arborist, Project Manager, Site Superintendent and other pertinent personnel may be required to meet at the site prior to beginning work to review procedures, tree protection measures and to establish haul routes, staging areas, contacts, watering, etc.*

- **Project Construction:** Project Managers, Site Superintendents and Project Arborists in conjunction with City inspectors and staff are to ensure that trees on site are protected in accordance with the approved Arborist Report for the project for the duration of construction activity.

- **Post Construction:** Project Managers, Site Superintendents and Project Arborists in conjunction with City Inspectors and staff are to ensure that post construction activity is in accordance with the approved Arborist Report for the project.

### **SITE PLANS, TREE SURVEYS, TREE APPRAISAL REPORTS, AND ARBORIST REPORTS**

A Site Plan and/or Tree Survey and Arborist Report will be required for development projects containing trees. Site Plans for individual building permits may be prepared by the applicant. Tree Surveys and Arborist Reports will be required for projects that require Design Review as referenced in the City Community Development Code (CDC), and must be prepared by a licensed surveyor and certified arborist respectively for the applicant and submitted to the City for the purpose of providing accurate information and opinion regarding the condition, welfare, maintenance, preservation or value of trees on the project site. Occasionally, information about trees offsite will be required if the project will affect them, for example, trees near the property line of a development. Site Plans and Arborist Reports will be reviewed and approved by the City Arborist. Trees are defined by the City as having a minimum 6 inch DBH for Oregon White Oak, Pacific Madrone, and Pacific Dogwood, and 12 inch DBH for all other species. Any trees not meeting these minimum thresholds need not be shown on any site plans or surveys. Following are the types of documentation that may be required by the City:

- **Site Plan:** A site plan will be required for all non-interior construction activity that requires a building permit. The site plan shall show the accurate location of property lines, existing structures, proposed new construction, staging and spoils areas, and all trees at or above the City's minimum threshold, with DBH and species indicated. Other non-tree related, City requirements may be shown on the site plan as well. A copy of the site plan will be reviewed and returned to the applicant with notes, tree protection fence locations, and other requirements. Another copy will be retained in the project file. Applicable building permits will not be issued without approved site plans.

- **Tree Survey:** For projects requiring Design Review (CDC governed), a tree survey shall be submitted to the City at the beginning of the process for the purpose of identifying significant trees. The survey shall indicate property lines, existing structures and other site conditions, as well as all trees at or above the City's minimum threshold, clearly identified by DBH and species on the plan, or in a numbered table. After receiving the survey, the City

*Arborist shall determine which trees are significant, and clearly indicate these findings on the survey. One copy of this document shall be returned to the applicant, and one copy will go into the project file as an exhibit.*

**• Tree Appraisal Report:** *Occasionally, the City may require a Tree Appraisal Report. Landscape value may contribute from seven to 20-percent of the real estate property value. An individual tree has an inherent value to the real estate that can be determined by an appraisal prepared by a certified arborist. An appraisal is a process for determining a monetary opinion of the value of a tree as it relates to either the property, a group of trees and/or the immediate community. A certified arborist is required to determine this value, and must exercise good and fair judgment by adjusting the basic value by the tree's condition and location. There are two methods to determine tree value; (1) the Replacement Method, based upon the size and availability of the replacement tree or, (2) the Trunk Formula Method, if the tree cannot be replaced (e.g. not sufficient room on site or it is too large to replace). In all cases, the type of formula used must be identified. A certified arborist must prepare the appraisal by using the most current edition of the 'Guide for Plant Appraisal', published by the Council of Tree and Landscape Appraisers.*

**• Arborist Report:** *An Arborist Report is required for all development projects governed by the Community Development Code and shall be submitted for review by the City as part of the design review documents. The Arborist Report shall assume compliance with standards this Manual.*

*All Arborist Reports shall contain the following information:*

- 1. Arborist name and certification number*
- 2. Cover letter*
- 3. Title page*
- 4. Table of contents*
- 5. Site address and date of the inspection(s)*
- 6. Tree survey as outlined above. Failure to show a tree on the plans and later determined to be affected by construction may require the work to stop until mitigation can be agreed upon by the property owner and the City.*
- 7. Tree inventory data for all trees on the project site including tree species, DBH, health, structure, etc. Tables may be used.*
- 8. Written recommendations for the health and long-term welfare of trees, that will be followed during preconstruction, demolition, construction and post construction phases of the project. Recommendations include methods of avoiding injury, damage treatment and inspection schedule. Overall project schedule shall be referenced with these recommendations.*

9. A tree protection and preservation plan showing tree protection zones (TPZ) for each tree or group of trees to be protected. The TPZ's shall be shown on all sheets within the document set as a bold dashed line with shading inside, and clearly indicated with proper notation. Additionally, all trunk locations, trunk diameters, and dripline areas shall be accurately plotted on the plans. For large groups of trees to be preserved, accurate trunk locations and dripline areas are not required for interior trees which are not affected by proposed construction activities because of the existence of perimeter trees subject to impact. Notes and details clearly outlining specific measures for protection of the trees during construction shall be included in the plan set. Any approved construction activity within the TPZ will also be clearly indicated.

10. Written recommendations for the maintenance of the trees for a minimum of two years after project completion.

If necessary, other supporting information, ISA hazard ratings, photographs, diagrams, etc. may be required or provided.

After project approval, any changes to the protection measures or preservation plans must be approved in writing by the City Arborist.

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## **PROCESS**

Although CDC 99.038 excuses this application from a neighborhood meeting there is a provision which states that the Planning Director may require a meeting if he finds that the scope or scale of the application requires it. The Planning Director has made such a finding. The specific language of that chapter is as follows:

*“99.038 NEIGHBORHOOD CONTACT REQUIRED FOR CERTAIN APPLICATIONS*

*Prior to submittal of an application for any subdivision, conditional use permit, multi-family project, planned unit development, commercial, office, or industrial development of over 1,500 square feet, or a zone change that requires a Comprehensive Plan amendment, the applicant shall contact and discuss the proposed development with any affected neighborhood as provided in this section. Although not required for other or smaller projects, contact with neighbors is highly recommended. The Planning Director may require neighborhood contact pursuant to this section prior to the filing of an application for any other development permit if the Director deems neighborhood contact to be beneficial.”*

The Planning Director has determined that that formal neighborhood contact per CDC 99.038 is required given the magnitude of this project. The applicant must meet with

the Robinwood Neighborhood Association (RNA). Contact Tom Boes at 699-6112 to schedule a meeting with the RNA. Follow the requirements of Chapter 99.038 explicitly.

**99.038 NEIGHBORHOOD CONTACT REQUIRED FOR CERTAIN APPLICATIONS**

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*A. Purpose. The purpose of neighborhood contact is to identify potential issues or conflicts regarding a proposed application so that they may be addressed prior to filing. This contact is intended to result in a better application and to expedite and lessen the expense of the review process by avoiding needless delays, appeals, remands, or denials. The City expects an applicant to take the reasonable concerns and recommendations of the neighborhood into consideration when preparing an application. The City expects the neighborhood association to work with the applicant to provide such input.*

*B. The applicant shall contact by letter all recognized neighborhood associations whose boundaries contain all or part of the site of the proposed development and all property owners within 500 feet of the site.*

*C. The letter shall be sent by certified mail, return receipt requested, to the president of the neighborhood association, and to one designee as submitted to the City by the neighborhood association, and shall be sent by regular mail to the other officers of the association and the property owners within 500 feet. If another neighborhood association boundary is located within the 500-foot notice radius, the letter shall be sent to that association's president, and to one designee as submitted to the City by the neighborhood association as well. The letter shall briefly describe the nature and location of the proposed development, and invite the association and interested persons to a meeting to discuss the proposal in more detail. The meeting shall be scheduled at the association's regularly scheduled monthly meeting, or at another time at the discretion of the association, and not less than 20 days from the date of mailing of the notice. If the meeting is scheduled as part of the association's regular monthly meeting, the letter shall explain that the proposal may not be the only topic of discussion on the meeting agenda. The letter shall encourage concerned citizens to contact their association president, or their association designee, with any questions that they may want to relay to the applicant.*

*Neighborhood contact shall be initiated by the applicant by mailing the association president, and to one designee as submitted to the City by the neighborhood association, a letter, return receipt requested, formally requesting, within 60 days, a date and location to have their required neighborhood meeting. The 60 days shall be calculated from the date that the applicant mails this letter to the association. If the neighborhood association does not want to meet within the 60-day timeframe, or if there is no neighborhood association,*

*the applicant may hold a public meeting during the evening after 6:00 p.m., or on the weekend no less than 20 days from the date of mailing of the notice. All meetings shall be held at a location open to the public within the boundaries of the association or at a public facility within the City of West Linn. If the meeting is held at a business, it shall be posted at the time of the meeting as the meeting place and shall note that the meeting is open to the public and all interested persons may attend.*

*D. On the same date the letters described in subsections A through C of this section are mailed, the applicant shall provide and post notice on the property subject to the proposed application. The notice shall be posted at a location visible from the public right-of-way. If the site is not located adjacent to a through street, then an additional sign shall be posted on the nearest through street. The sign notice shall be at least 11 inches by 17 inches in size on durable material and in clear, legible writing. The notice shall state that the site may be subject to a proposed development (e.g., subdivision, variance, conditional use) and shall set forth the name of the applicant and a telephone number where the applicant can be reached for additional information. The site shall remain posted until the conclusion of the meeting.*

*E. An application shall not be accepted as complete unless and until the applicant demonstrates compliance with this section by including with the application:*

- 1. A copy of the certified letter to the neighborhood association with a copy of return receipt;*
- 2. A copy of the letter to officers of the association and to property owners within 500 feet, including an affidavit of mailing and a copy of the mailing list containing the names and addresses of such owners and residents;*
- 3. A copy of the required posted notice, along with an affidavit of posting;*
- 4. A copy of the minutes of the meetings, produced by the neighborhood association, which shall include a record of any verbal comments received, and copies of any written comments from property owners, residents, and neighborhood association members. If there are no minutes, the applicant may provide a summary of the meeting comments. The applicant shall also send a copy of the summary to the chair of the neighborhood association. The chair shall be allowed to supplement the summary with any additional comments regarding the content of the meeting, as long as such comments are filed before the record is closed;*
- 5. An audiotape of the meeting; and*
- 6. In the event that it is discovered by staff that the aforementioned procedures of this section were not followed, or that a review of the audio tape and meeting minutes show the applicant has made a material misrepresentation of the project at the neighborhood meeting, the application shall be deemed incomplete until the applicant demonstrates compliance with this section. (Ord. 1425, 1998; Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1590 § 1, 2009)*

Each chapter has specific submittal requirements and approval criteria. Staff notes that the Planning Director may waive any requirements for the application at the applicant's request, subject to the provisions of CDC [99.035](#)(B) and (C) which is listed below:

**99.035 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED**

*A. The Planning Director may require information in addition to that required by a specific chapter in the Community Development Code; provided that:*

- 1. The chapter expressly authorizes that additional information may be required;*
- 2. The information is needed to properly evaluate the proposed site plan or proposal; and*
- 3. The need can be justified on the basis of a special or unforeseen circumstance.*

*B. The Planning Director may waive a specific requirement for information or a requirement to address a certain approval standard subject to the provisions of subsection C of this section provided:*

- 1. The Planning Director finds that specific information is not necessary to properly evaluate the application; or*
- 2. The Planning Director finds that a specific approval standard is not applicable to the application.*

*C. Where a requirement is waived, the Planning Director shall cite in the staff report on the application the specific requirements waived and the reasons for the waiver. The decision of the Planning Director to waive the requirement is subject to review and denial by the approval authority or the appeal authority. (Ord. 1568. 2008)*

The question was asked if there is overlap between the submittal requirements of the various chapters, (e.g. site analysis, site plan, grading plan, mitigation plans and re-vegetation plans. site plan), is it okay to submit just one and then refer the reader to the site plan submittal for (e.g.) CDC Chapter 56. The answer is yes. There is no need to be redundant but all the submittal requirements for the various chapters must be addressed at some point in the application.

In the response to the approval criteria, there may be sections in the various chapters that are not applicable, such as those criteria referencing architecture. The applicant may state that the criteria is not applicable (N/A) but must also state WHY the criteria are N/A.

The specific submittal requirements for WRA permits are in CDC section 32.060-32.080. The approval criterion is CDC section 32.050.

The specific submittal requirements for Willamette and Tualatin River Protection permits are in CDC section 28.120, 28.130, 28.150 and 28.160.

The approval criterion is CDC section 28.110.

The specific submittal requirements for Flood Management permits are in CDC section 27.050. The approval criterion is CDC section 27.060 and 27.070.

The specific submittal requirements for Erosion Control permit are in CDC section 31.040. The approval criterion is CDC section 31.060 and 31.070.

The specific submittal requirements for Class II Variance permits are in CDC section 75.050. The approval criterion is CDC section 75.060.

The specific submittal requirements for Stormwater Quality and Detention permits are in CDC section 33.030. The approval criterion is CDC section 33.040.

The specific submittal requirements for Parks Design Review permits are in CDC section 56.080. The approval criterion is CDC section 56.100(C) only.

The preliminary submittal shall include:

1. Five copies of the narrative response
2. Five full size sets of drawings/plans
3. Five 11 X 17 sets of drawings/plans
4. All submittal material on disk
5. Completed application form (incl. approved Oregon State Parks signature)
6. All deposit fees
7. Required submittals per CDC 99.038

At such time that the application is deemed complete the applicant shall provide 12 new copies of items 1-4 listed above including a revised updated disk.

#### Deposit Fees

The deposit fees will be as follows:

\$1,050 for the Flood Management Area permit,  
\$1,700 for the Willamette and Tualatin River Protection permit,  
\$4,000 plus 4% of construction value for a Parks Design Review to a maximum amount of \$20,000, and  
\$2,700 for the two Class II Variances (total).

There are no deposit fees listed for Erosion Control and Stormwater Quality and Detention permits.

The total amount is \$9,450 plus 4% of the project construction value.

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. Alternately, if the staff hours go beyond the deposit fees, then the applicant will be obliged to pay additional deposit amounts.

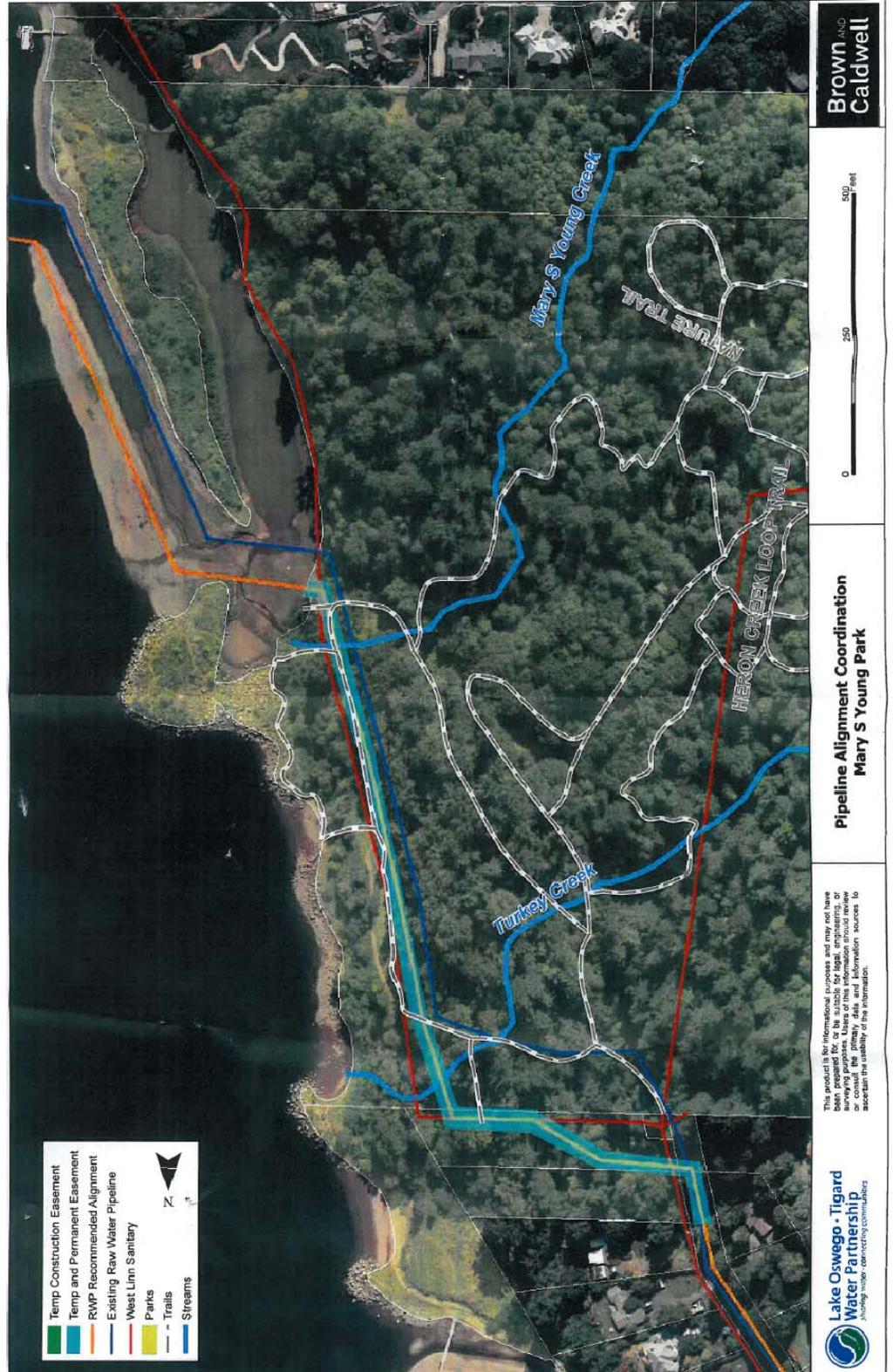
Staff is aware that other state and federal agencies (USACE, DSL, ODOT etc.) have permitting processes too, some with different sets of approval criteria. It is the applicant's responsibility to apply for these permits and to reconcile those different criteria and standards to the satisfaction of all agencies. If the applicant wants to make his case that a specific West Linn criterion is at odds with, for example, a DSL 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.

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 or the approval is voided. Extensions are available through the Planning Commission and may be approved based upon specific criteria.

***Typical land use applications can take 6-10 months from beginning to end, longer with appeals.***

**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. Pre-applications are good for 18-months only. After that date, assuming no application has been submitted; a new pre-application conference would be required.



## Pre-Application Conference Attendee Sign-up Sheet

Subject/date Water Transmission line / March 31, 2011

### Please Print

Name \_\_\_\_\_ e-mail address \_\_\_\_\_ and/or \_\_\_\_\_ phone number \_\_\_\_\_

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