

### 32.040 THE APPLICATION

- A. An application for development on property containing a water resource area shall be initiated by the property owner, or the owner's authorized agent, and shall be accompanied by the appropriate fee.
- B. A pre-application conference shall be a prerequisite to the filing of the application.
- C. The application shall include a site plan and topographic map of the parcel pursuant to Section 32.060. The applicant shall submit three copies of all maps and diagrams at original scale and three copies reduced to a paper size not greater than 11 x 17 inches, and an electronic copy of all maps on a compact disc. The Planning Director may require the map to be prepared by a registered land surveyor to ensure accuracy.
- D. The site plan map shall be accompanied by a written narrative addressing the approval criteria in Section 32.050 and if necessary, addressing the reason why the owner wishes to alter the natural drainageway.
- E. All proposed improvements to the drainageway channel or creek which might impact the storm load carrying ability of the drainageway shall be designed by a registered civil engineer.
- F. The applicant shall present evidence in the form of adopted utility master plans or transportation master plans, or findings from a licensed engineer to demonstrate that the development or improvements are consistent with accepted engineering practices.
- G. The applicant shall prepare an assessment of the existing condition of the water resource area consisting of an inventory of vegetation, including percentage ground and canopy coverage.

#### Inventory of vegetation:

- No native trees or shrubs exist on Lot 34 as a result of grading previously approved by the City of West Linn and performed as part of the development of Rogerfield in 2002-2003.
  - A non-native invasive species (blackberries) accounts for ~25% of the ground cover.
  - Only 1% of the property falls under canopy coverage provided by a tree off the property (in east corner).
- H. If necessary, the applicant shall also submit a mitigation plan pursuant to CDC 32.070, and a revegetation plan pursuant to CDC 32.080.



### 32.050 APPROVAL CRITERIA

No application for development on property containing a water resource area shall be approved unless the decision-making authority finds that the following standards have been satisfied, or can be satisfied by conditions of approval.

A. Proposed development submittals shall identify all water resource areas on the project site. The most currently adopted Surface Water Management Plan) shall be used as the basis for determining existence of drainageways. The exact location of drainageways identified in the Surface Water Management Plan, and drainageway classification (e.g., open channel vs. enclosed storm drains), may have to be verified in the field by the City Engineer. The Local Wetlands Inventory shall be used as the basis for determining existence of wetlands. The exact location of wetlands identified in the Local Wetlands Inventory on the subject property shall be verified in a wetlands delineation analysis prepared for the applicant by a certified wetlands specialist. The Riparian Corridor inventory shall be used as the basis for determining existence of riparian corridors.

- A private storm drainage way exists on the proposed development site as shown below in Figure 32.050-A1:



Figure 32.050-A1: Existing drainage ways on property (Source: Figure 4.5 Surface Water Collection System map from Surface Water Management Plan 2006; blown up to 1200%)

Note: Figure 32.060-A shows the precise location of the storm drain on the property in the engineering site map

## 32.070 MITIGATION PLAN

A mitigation plan shall be required if any portion of the water resource area is proposed to be permanently disturbed by development.

A. All mitigation plans must contain an alternatives analysis demonstrating that:

1. No practicable alternatives to the requested development exist that will not disturb the water resource area; and,
  2. Development in the water resource area has been limited to the area necessary to allow for the proposed use; and,
  3. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to the water resource area will be avoided and/or minimized.
- No practicable alternative to the requested development exist that will not disturb the water resource area. As shown by Figure 32.060-A, nothing more than a portion of a garage can be built outside the setback and transition area.
  - Development in the water resource area has been limited to the area necessary to allow for a house of equivalent footprint and backyard of equivalent size as the existing homes in the Rogerfield subdivision. The proposed footprint of the home at 3232 Sabo Lane is actually ~9% smaller than the neighborhood average.
    - Average footprint of houses in Rogerfield: ~2300 sqft
    - Proposed footprint of home at 3232 Sabo Lane: 2098 sqft (~9% smaller than neighborhood average)

As Figure 32.060-A shows, the proposed water resource disturbance for the backyard is less than or equal to the neighboring properties and does not extend the full length of the property.

- No additional grading disturbances are planned and a minimum home footprint and backyard size have been proposed. Further land use reductions of this lot would result in greater loss in property resale value.

B. A mitigation plan shall contain the following information:

1. A description of adverse impacts that will be caused as a result of development.
  - There will be no adverse impacts caused by the proposed development. However, the area is classified as riparian corridor.
2. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, the revegetation provisions of CDC Section 32.050(K).
  - As mitigation of the permanently disrupted area classified as riparian corridor on the owners' property, an area of equivalent size will be revegetated in a different riparian corridor of West Linn. Per the city of West Linn's request, the land owners will pay into a city fund to be used exclusively for mitigation. The cost will be \$1/sqft and \$285 +/-

10%, which includes revegetation per CDC Section 32.080, as well as administrative cost.

3. A list of all responsible parties including, but not limited to, the owner, applicant, contractor, or other persons responsible for work on the development site.
    - The land owners (Laura and Damon Sabo) are responsible for paying for the mitigation work and the city of West Linn is responsible for applying the mitigation fee to pay for and/or perform the mitigation work.
  4. A map showing where the specific mitigation activities will occur.
    - Per city request, the city will apply the mitigation fee to a riparian corridor restoration project yet to be determined.
  5. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting, and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife water work periods.
    - Per city request, the city will apply the mitigation fee to a riparian corridor restoration project yet to be determined. The land owners will pay the mitigation fee to the city after the hardship application is approved, the building permit is approved, and the proposed house and yard have officially broken ground. If the proposed house and yard are not built, the land owners will not be responsible for mitigation. The planned timeline for construction is summer of 2010.
  6. Assurances shall be established to rectify any mitigation actions that are not successful. This may include bonding or other surety.
    - Per the city's request, the city of West Linn will be fully responsible for all mitigation work.
  7. Evidence that a Joint Permit Application (to the U.S. Army Corps and OR DSL) if impacts to wetlands are greater than 0.10 acres, has been submitted and accepted for review.
    - There is no impact on wetlands.
- C. Mitigation of any water resource areas that are not wetlands that are permanently disturbed shall be accomplished by creation of a mitigation area equal in size to the area being disturbed. Mitigation areas may be land that is either
1. On-site, not within the water resource area, and is characterized by existing vegetation qualifying that does not meet the standard set forth in CDC Section 32.050(K), or

2. Off-site, and is characterized by existing vegetation that does not meet the standard set forth in CDC Section 32.050(K).

The applicant shall prepare and implement a revegetation plan for the mitigation area pursuant to CDC Section 32.080, and which shall result in the area meeting the standards set forth in CDC Section 32.050(K). Adequacy of off-site mitigation areas on city property must be consistent with and meet approval of the City Department of Parks and Recreation. Any off-site mitigation occurring on privately-owned land shall be protected with a conservation easement.

- Per city request, the city will prepare and implement a revegetation plan, applying the mitigation fee paid by the land owner, to a riparian corridor restoration project yet to be determined.

D. The Mitigation Plan for any wetland area to be disturbed shall be 1) prepared and implemented with the guidance of professionals with experience and credentials in wetland areas and values, and 2) be consistent with requirements set forth by regulatory agencies (U.S. Army Corps and OR DSL) in a Joint Permit Application, if such an Application is necessary for the disturbance. Where the alternatives analysis demonstrates that there are no practicable alternatives for mitigation on site, off-site mitigation shall be located as follows:

1. As close to the development site as is practicable above the confluence of the next downstream tributary, or if this is not practicable;
2. Within the watershed where the development will take place, or as otherwise specified by the City in an approved wetland mitigation bank.

- There is no impact on wetlands.

E. To ensure that the mitigation area will be protected in perpetuity, proof that the area has been dedicated to the City or a conservation easement has been placed on the property where the mitigation is to occur is required.

- Per the city's request, the city of West Linn will be fully responsible for all mitigation work.

### 32.080 REVEGETATION PLAN REQUIREMENTS

Metro's native plant list is incorporated by reference as a part of CDC Chapter 32, and all plants used in revegetation plans shall be plants found on the Metro native plant list. Performance standards for planting upland, riparian and wetland plants include the following:

- A. Native trees and shrubs will require temporary irrigation from June 15 to October 15 for the three years following planting.
  - Upper bank: A mitigation plan has been submitted for the permanent disturbance of the upper bank (see specific Mitigation Plan detailed in 32.070).
  - Lower bank: Native trees and shrubs will receive temporary irrigation as required
- B. Invasive non-native or noxious vegetation shall be removed within the area to be revegetated prior to planting.
  - On the lower bank of the property, outside of the building and construction zone, invasive species (blackberry bushes) are growing. This area is at the original grade and is true riparian corridor, non-wetlands land. We will remove the blackberry bushes and any other non-native species, to allow this portion of the Tanner Creek riparian corridor to grow naturally, free of invasive species. We will continue to remove any invasive species that re-generate.
- C. Replacement trees must be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round) unless they are oak or madrone, which may be one gallon size. Shrubs must be in at least a one-gallon container or the equivalent in ball and burlap and must be at least 12 inches in height.
  - Trees and shrubs will meet requirements
- D. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than 4 plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing requirements.
  - 5 trees and 20 shrubs will be planted; calculation accounts for dripline of existing tree
- E. Shrubs must consist of at least two different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same species.
  - At least two different species of shrubs will be selected. No more than 10 trees will be planted.

- Development in the water resource area has been limited to the area necessary to allow for a house of equivalent footprint and backyard of equivalent size as the existing homes in the Rogerfield subdivision. The proposed footprint of the home at 3232 Sabo Lane is actually ~9% smaller than the neighborhood average.
  - i. Average footprint of houses in Rogerfield: ~2300 sqft
  - ii. Proposed footprint of home at 3232 Sabo Lane: 2098 sqft (~9% smaller than neighborhood average)
- As Figure 32.060-A shows, the proposed water resource disturbance for the backyard is less than or equal to the neighboring properties and does not extend the full length of the property.
- The site is already construction ready as part of previously approved and completed development of Rogerfield; no additional disturbances to the existing grading are planned.
- Appropriate erosion control measures will be established throughout all phases of construction using Best Management Practices.

C. If a reduction in standards is granted pursuant to criteria of CDC 32.090(B), the reduction shall be subject to the following conditions:

1. The minimum width of the water resource area's transition and setback area shall be 15 feet on each side of a wetland or drainage course.
2. As mitigation for the permanent disturbance of any portion of the normally required water resource area, an equal area on the property which would not normally be within the water resource area shall be revegetated to meet the standards of CDC 32.050(K). If there does not exist enough site area to meet this requirement, the applicant shall revegetate the entire area of the property that would not normally be within the water resource area, adjacent to the actual water resource area, and is not proposed for permanent disturbance to meet the standards of CDC 32.050(K)

- The proposed property use does not drop below the minimum width of 15 feet; the anticipated transition and setback area minimum for the proposed house and yard is 25-30 feet.
- See mitigation plan detailed in 32.070

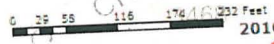
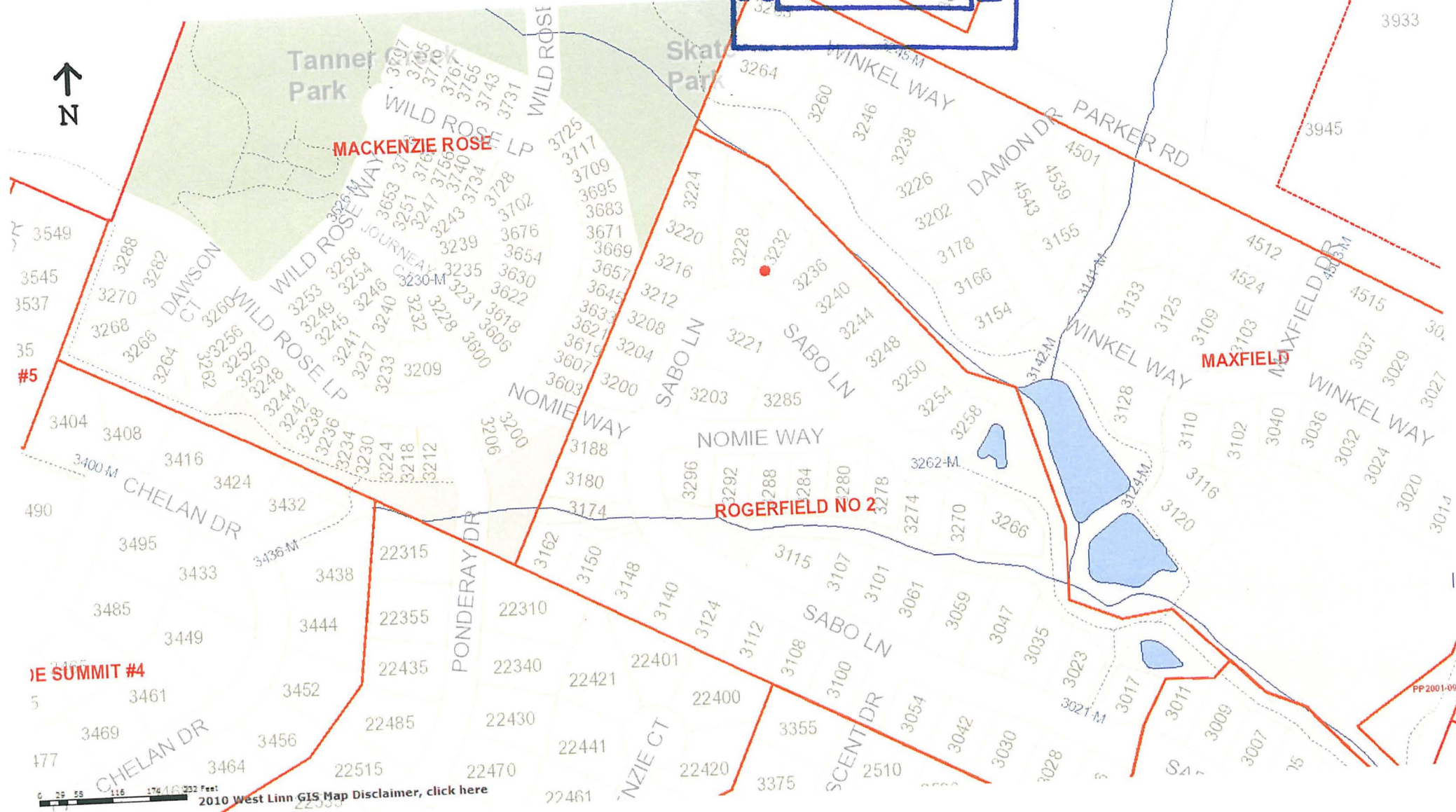
D. Any further reduction of the standards of this chapter shall require approval of a Variance pursuant to CDC Chapter 75.

- No further reductions are being requested as part of this application

Vicinity map: 3232 Sabo Ln.



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2010 West Linn GIS Map Disclaimer, click here

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Vicinity map: 3232 Sabo Ln.

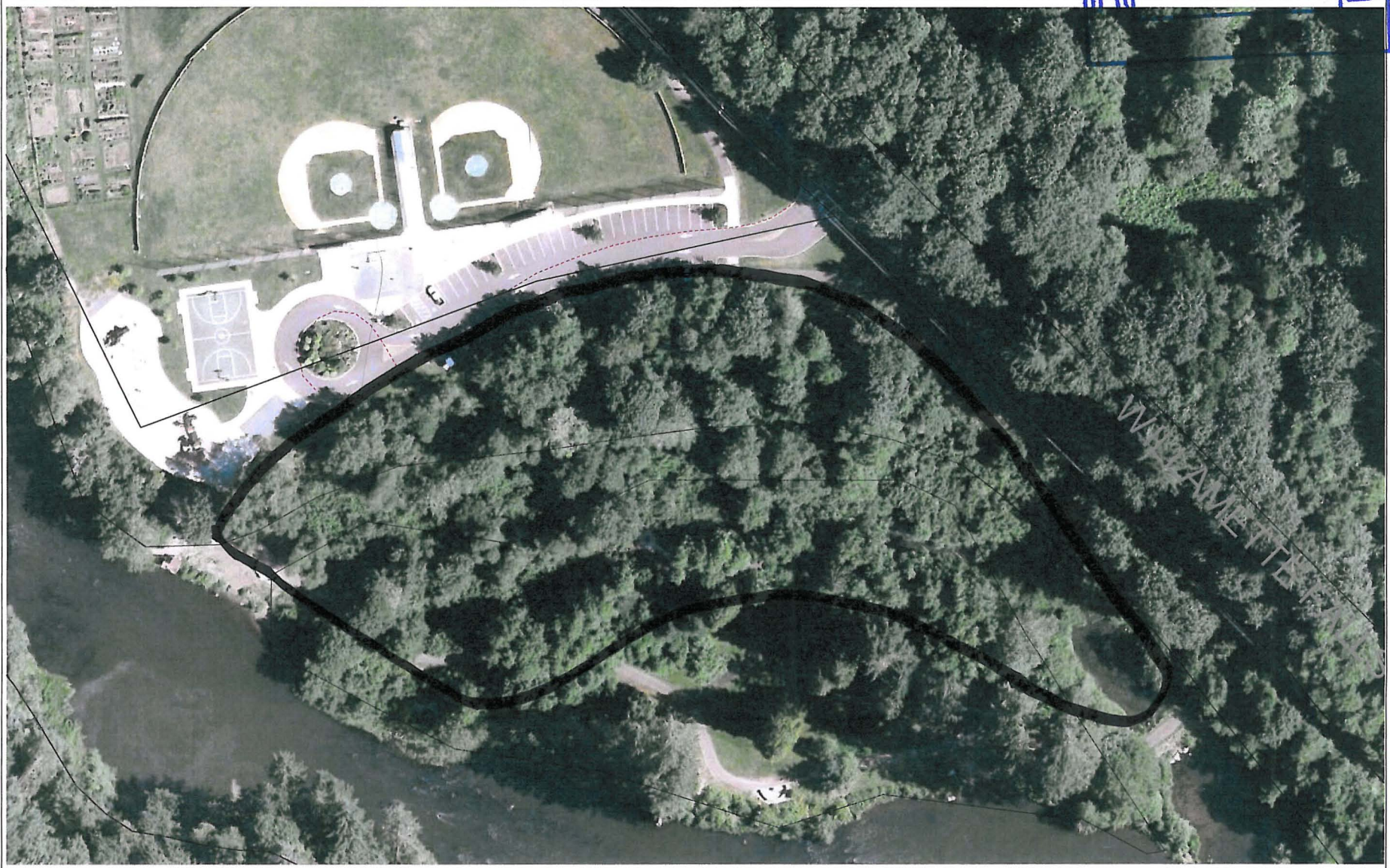
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JUN 25 2010

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# Restoration Area - Field's Bridge Park

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City of West Linn GIS (Geographic Information System), SnapMap Date: 5/6/2010

Scale: 140 Feet

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