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Letter of Transmittal

57926-1-R1

Date: May 3, 2016 **Project Number:** 2150120.00

To: City of West Linn
 22500 Salamo Rd.
 West Linn, OR 97068

Attention: Peter Spir

Project Name: Willamette Falls Storage Building - Due Diligence Services

Enclosed:	Quantity	Medium	Description	Comment
	1	Color Photocopy	Letter- Willametter River Permit Findings	
	1	Original	Check	
	1	Color Photocopy	Owner Consent to Submittal (email)	
	1	Color Photocopy	Figure 1 Willamette River Greenway	
	1	Color Photocopy	Figure 2 Parks & River Views Map	
	1	Color Photocopy	Figure 3 HCA Map	

Remarks:

Signed: Kaitlin Berger

Transmitted Via: Delivery AM

If enclosures are not as noted, kindly notify us at once.

RECEIVED	
MAY 3 2016	
PLANNING & BUILDING CITY OF WEST LINN	
INT. _____	TIME _____

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DESIGN DRIVEN | CLIENT FOCUSED



May 2, 2016

City of West Linn
Attention: Peter Spir
22500 Salamo Road
West Linn, OR 97068

Re: **Northwest Self Storage (PA-15-25)**
Willamette and Tualatin River Protection Area Permit
Project Number 2150120.00

Dear Peter:

The following letter includes findings in response to West Linn Community Development Code Chapter 28, Willamette and Tualatin River Protection, for the Northwest Self Storage project at 2400-2450 Willamette Falls Drive (CUP-16-01). These findings are provided in response to your email request to supplement the Conditional Use, Design Review, Water Resources Area Permit, Special Waiver, and Variance application package submitted April 11, 2016. These findings and the enclosed check represent an application for a Willamette and Tualatin River Protection Area Permit.

Chapter 28 Willamette and Tualatin River Protection

28.010 Purpose

The purposes of the Willamette and Tualatin River Protection Area are the following:

- A. *Protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along the Willamette and Tualatin Rivers.*
- B. *Implement the policies of the West Linn Comprehensive Plan and the State of Oregon's Willamette River Greenway program.*
- C. *Establish standards and requirements for the existing and future use of lands within the Willamette and Tualatin River Protection Areas.*
- D. *Provide for the review of any intensification of use, change of use, or development within the Willamette and Tualatin River Protection Areas.*
- E. *Encourage local stewardship of the Willamette and Tualatin River Protection Areas.*
- F. *Protect, preserve and expand legal public use and access to and along the shoreline and river, while recognizing and preserving private property rights.*
- G. *Create incentives to direct development to areas where it is most appropriate.*
- H. *Protect and enhance riparian habitat for native flora, fish, and wildlife within the Willamette and Tualatin Rivers and along their banks.*

Response: The subject site is not located along the Willamette or Tualatin shoreline or river, and it is not located within the adopted boundaries of the Willamette and Tualatin River Protection Area (see attached Figure 1, screen capture from City of West Linn online Geographic Information System). However, as discussed below, Willamette and Tualatin River Protection Area permit review may be required pursuant to Section 28.030.D. The Applicant provides these



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findings to demonstrate that the proposed development will not cause impacts detrimental to the purposes of the Willamette and Tualatin River Protection Area.

28.030 Applicability

A. *The Willamette and Tualatin River Protection Area is an overlay zone. The zone boundaries are identified on the City's zoning map, and include:*

1. *All land within the City of West Linn's Willamette River Greenway Area.*

Response: The subject site is not within the Willamette River Greenway Area, as indicated on the attached Figure 1. Based on the City's adopted boundaries for the Willamette River Greenway Area, the provisions of Chapter 28 are not applicable to the subject property under this subsection.

2. *All land within 200 feet of the ordinary low water mark of the Tualatin River, and all land within the 100-year floodplain of the Tualatin River.*

Response: The subject site is not within 200' of the ordinary low water mark of the Tualatin River or the 100-year floodplain of the Tualatin River. Therefore, the provisions of Chapter 28 are not applicable to the subject property under this subsection.

3. *In addition to the Willamette Greenway and Tualatin River Protection Area boundaries, this chapter also relies on the HCA Map to delineate where development should or should not occur. Specifically, the intent is to keep out of, or minimize disturbance of, the habitat conservation areas (HCAs). Therefore, if all, or any part, of a lot or parcel is in the Willamette Greenway and Tualatin River Protection Area boundaries, and there are HCAs on the lot or parcel, a Willamette and Tualatin River Protection Area permit shall be required unless the development proposal is exempt per CDC 28.040.*

Response: This provision establishes a three-part test to determine whether a Willamette and Tualatin River Protection Area permit is required:

- I. *if all, or any part, of a lot or parcel is in the Willamette Greenway and Tualatin River Protection Area boundaries,*
AND
- II. *there are HCAs on the lot or parcel,*
UNLESS
- III. *the development proposal is exempt per CDC 28.040.*

All three of the threshold criteria must be met for a Willamette and Tualatin River Protection Permit to be required under this subsection. With respect to the three-part test:

- I. The subject site is not within the Willamette River Greenway Area or Tualatin River Protection Area boundaries (see Figure 1) and therefore the initial threshold test is not met.
- II. The subject site does meet the second threshold test, being mostly within the boundary of the HCA along Bernert Creek.
- III. The proposed use of the property is not exempt under CDC 28.040, so the third threshold test is also met.

Therefore, because only two of the three threshold requirements is met, a Willamette and Tualatin River Protection Permit is not required pursuant to this subsection.

- B. *At the confluence of a stream or creek with either the Tualatin or Willamette River, the standards of this chapter shall apply only to those portions of the lot or parcel fronting the river. Meanwhile, development in those portions of the property facing or adjacent to the stream or creek shall meet the transition, setbacks and other provisions of Chapter 32 CDC, Water Resource Area Protection.*

Response: The subject site is not at or near a confluence with either of the listed rivers. This subsection does not make Chapter 28 applicable to the subject property.

- C. *All uses permitted under the provisions of the underlying base zone and within the Willamette and Tualatin River Protection Area zone are allowed in the manner prescribed by the base zone subject to applying for and obtaining a permit issued under the provisions of this chapter unless specifically exempted per CDC 28.040.*

Response: The proposed use is allowed conditionally under the base zone but the subject site is not within the Willamette River Greenway Area or Tualatin River Protection Area zone. This subsection does not make Chapter 28 applicable to the subject property.

- D. *The construction of a structure in the HCA or the expansion of a structure into the HCA when the new intrusion is closer to the protected water feature than the pre-existing structure.*

Response: There is no existing structure on the subject site. The proposal involves construction of a new structure in the HCA along Bernert Creek. City of West Linn Planning staff has advised the Applicant that Willamette and Tualatin River Protection Area permit review is required.

28.040 Exemptions/Uses Permitted Outright

The following development activities do not require a permit under the provisions of this chapter. (Other permits may still be required.)

- A. *Customary dredging and channel maintenance conducted under permit from the State of Oregon.*
- B. *Seasonal increases in gravel operations under permit from the State of Oregon and/or the United States Army Corps of Engineers.*
- C. *Scenic easements and their maintenance.*
- D. *Replacement-in-kind or minor modification by public utilities for pump stations, public bathrooms, utilities, existing utility lines, wires, fixtures, equipment, circuits, appliances, and conductors and similar facilities.*
- E. *Flood emergency procedures and the maintenance and repair of existing flood control facilities.*
- F. *Signs, markers, announcements, etc., placed by a public agency to serve the public.*
- G. *Maintenance or repair of existing residential houses, structures and docks, provided the work does not involve expansion of building square footage or building footprint.*
- H. *Storage of equipment or material associated with uses permitted, providing that the storage complies with applicable provisions of this chapter.*
- I. *A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated.*
- J. *Landscaping with native or existing vegetative materials only (excluding nuisance or prohibited plants on the Metro Native Plant List).*
- K. *Routine repair and maintenance of legally established structures, utilities, roads, and manmade water control facilities such as constructed ponds or lakes, wastewater facilities, and stormwater treatment facilities that do not alter the location or footprint of the structure, utility, or road.*
- L. *Reasonable emergency procedures necessary for the safety or protection of property.*

- M. *Minor modifications. A modification shall be considered "minor" when it results in a change in the approved design that is equal to or less than a 10 percent increase in the length, width or height of the facility. A change of location by under 20 feet laterally for any part of the structure, ramp, dock, etc., also constitutes a minor modification.*
- N. *The action of any City officer or employee of any public utility to remove or alleviate from immediate danger to life or property, to restore existing utility service or to reopen a public thoroughfare to traffic; provided, that after the emergency has passed, adverse impacts are mitigated in accordance with CDC 32.070.*
- O. *Routine maintenance activities such as removing dead or dying vegetation that constitutes a hazard to life or property, pollutants, trash, eroded material, etc.*
- P. *Wetland, riparian and upland enhancement or restoration projects done with approval of City staff and regulatory agency personnel (e.g., ODFW, DSL).*
- Q. *Temporary and minor clearing not to exceed 200 square feet for the purpose of site investigations and pits for preparing soil profiles; provided, that such areas are restored to their original condition when the investigation is complete. For wetlands, such clearing shall not occur within the actual wetland itself, but only within the adjacent wetland transition area. While such temporary and minor clearing is exempt from the provisions of this chapter, it is subject to all other City codes, including provisions for erosion control and tree removal.*
- R. *Removal of plants identified as nuisance or prohibited plants on the Metro Native Plant List and the planting or propagation of plants identified as native plants on the Metro Native Plant List. Handheld tools must be used to remove nuisance or prohibited plants, and after such removal all open soil areas greater than 25 square feet must be replanted.*
- S. *In cases where the required development standards of this chapter are applied and met with no encroachment into HCAs, and also meeting subsections T and U of this section, where applicable, then no permit under the provisions of this chapter will be required. For example, if the proposed development or action will be located in the "Habitat and Impact Areas Not Designated as HCAs" and keeps out of the habitat conservation areas, a Willamette or Tualatin River Protection Area permit shall not be required. Floodplain management area or other permits may still be required.*
- T. *The construction, remodeling or additions of home and accessory structures that take place completely within the "Habitat and Impact Areas Not Designated as HCAs" shall be exempt from a Willamette or Tualatin River Protection Area permit. Where the "Habitat and Impact Areas Not Designated as HCAs" goes to the edge of a clearly defined top of bank, the applicant's home and accessory structures shall be set back at least 15 feet from top of bank. At-grade patios and deck areas within 30 inches of grade may extend to within five feet from top of bank. No overhang or cantilevering of structures is permitted over HCA or over setback area. If these terms are met then no permit will be required under this chapter.*
- U. *Maintenance, alteration, expansion, repair and replacement of existing structures are exempt, provided impermeable surfaces do not exceed 5,000 square feet and that it complies with the provisions of Chapters 27 and 28 CDC. The following standards shall also apply:*
- 1. Rebuilding of existing residential and non-residential structures within the same foundation lines as the original structure(s) including, but not limited to, those damaged or destroyed by fire or other natural hazards; or*
 - 2. The alteration, expansion, repair and replacement of a house or structure per the standards of CDC 28.110(E) not to exceed 5,000 square feet of impermeable surface per that section; or*
 - 3. The alteration, expansion, repair and replacement of a house or structure vertically where the applicant is adding additional floors or expanding above the footprint of the existing structure regardless of whether the structure's footprint is in an HCA or not.*

- V. *Maintenance of existing gardens, pastures, lawns, and landscape perimeters, irrigation systems within existing gardens, lawns, and landscape perimeters. New irrigation systems are not permitted where none existed before. The City encourages restoration of areas within the drainageway transition to native vegetation.*
- W. *Low impact public or private outdoor recreation facilities including, but not limited to, multi-use water-permeable paths and trails to a maximum width of four feet, picnic areas, interpretive displays, benches. Gazebos or similar structures must be out of the HCA areas to be exempt. No more than 500 square feet of new lot coverage allowed under this provision.*
- X. *Interior remodeling.*
- Y. *Installation of new and/or replacement water-permeable driveways, paths and patios and two-track driveways outside of HCAs. Surface area cannot exceed amount allowed by lot coverage standards of underlying zone.*
- Z. *Accessory structures under 15 feet tall and 500 square feet located on the opposite side of the house or principal structure from the resource area requires only a building permit.*
- AA. *Lands that are designated as an HCA only due to a forested canopy shall be exempted since trees are already protected in the municipal code and Chapters 55 and 85 CDC. Development of lands that are designated as HCA due to other variables such as wetlands, flood areas and steep slopes shall still be regulated by the provisions of this chapter and not exempted.*
- BB. *Construction of a public pathway by dedication or easement accepted by the City.*
- CC. *A new dock subject to the approval criteria of this chapter.*
- DD. *Public docks, gangways, and other water related accessory facilities.*

Response: The proposal is for a new building and associated site improvements. The proposal is not one of the exempt items.

28.050 Prohibited Uses

The following are prohibited:

1. *Residential floating structures, also known as floating homes or houseboats.*
2. *Permanent ski jumps.*
3. *More than one dock with or without a boat house per riverfront lot of record, except City-owned tax lots 100, 200, 300, 400, and 500 of Assessor's Map 21 East 24.*
4. *The location of any dock under any water condition that prevents what would otherwise be historic, safe, uninterrupted water passage.*
5. *Any new lawn area or garden area consisting primarily of non-native vegetation within HCA lands. A lawn area in the "Allowed Development" area is permitted.*
6. *Planting of any species identified as nuisance or prohibited plants on the Metro Native Plant List.*
7. *Non-permitted storage of hazardous materials as defined by the Oregon Department of Environmental Quality and dumping of any materials of any kind.*
8. *Excessive trimming or removal of existing native vegetation within the HCA unless it is to reestablish native vegetation in place of non-native or invasive vegetation.*

Response: None of the above activities or uses is proposed with the proposed self-storage building. This standard is met.

28.060 Administration And Approval Process

An application for a protection area permit shall be processed pursuant to the provisions of Chapter 99 CDC, Procedures for Decision-Making: Quasi-Judicial.



Response: This request for Willamette and Tualatin River Protection Area permit is submitted for consolidated quasi-judicial review as part of the Applicant's Conditional Use, Design Review, Water Resources Area Permit, Special Waiver, and Variance application package submitted April 11, 2016.

28.070 Planning Director Verification of Metro Habitat Protection Map Boundaries

- A. *The HCA Map is the basis for identifying and designating the habitat conservation areas in the City. A copy of the latest, updated HCA Map is on file at the City and is adopted by reference for use with this chapter.*
- It is inevitable, given the large area that Metro's HCA Map covers, that there may be some errors. In cases where, for example, three properties share the same contours and the same natural features but the map shows the middle lot with an HCA designation on it, it is reasonable to question the accuracy of that HCA designation. Using tree overstory as the sole basis for HCA designation will also allow a change in designation since trees are already protected in the municipal code and Chapters 55 and 85 CDC.*
- B. *The Planning Director shall verify the appropriate HCA or non-HCA designation by site visits or consultations with Metro or by other means. Determination is based on whether the Metro criteria are met or whether the Metro designation was based solely on tree overstory in which case a redesignation is appropriate. In cases where the determination is that the map is incorrect, the Planning Director will make a written finding of this as well as the site conditions that led to that conclusion.*
- C. *Class B public notice, per Chapter 99 CDC, shall be required prior to issuance of the redesignation decision if it involves redesignation of the HCA boundary to allow the construction of, or addition to, a house.*
- D. *This determination and findings shall become part of the City record and part of the record for any associated land use application. The Planning Director shall also include in the record the revised map boundary. The Planning Director's determination and map revisions shall also be sent to Metro so that their map may be corrected as necessary.*
- E. *The Planning Director determination is appealable to the City Council per Chapter 99 CDC.*
- F. *Lands that are designated as an HCA only due to a forested overstory are exempt under CDC 28.040, Exemptions, since trees are already protected in the municipal code and Chapters 55 and 85 CDC. Similar exemptions apply to lands that exhibit no constraints.*

Response: This application does not request a Planning Director determination of HCA boundaries.

28.080 Time Limit on Approval

- A. *Approval of a protection area permit shall be void if:*
- 1. Substantial work (e.g., piling installation, etc.) is not completed within three years of the approval date, unless an extension is granted per CDC 99.325.*
 - 2. The site plan on which the approval is based is significantly modified or where actual construction deviates from the approved plans to the extent that it constitutes more than a minor modification as defined by this chapter. Any such change in the plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this chapter and Chapter 99 CDC.*

Response: Work is intended to begin within three years of the approval of this land use application. This standard will be met.

28.090 Submittal Requirements: Application

A. *An application for a protection area permit shall be initiated by the property owner or the owner's authorized agent. Evidence shall be provided to demonstrate that the applicant has the legal right to use the land above the OLW. The property owner's signature is required on the application form.*

Response: This request is submitted by the Applicant with the consent of the property owner, with whom the Applicant is in contract to purchase the subject property. The materials submitted for the Conditional Use, Design Review, Water Resources Area Permit, Special Waiver, and Variance application submitted April 11, 2016, include evidence of ownership and delineation of the stream and wetland resources present along Bernert Creek. This standard is met.

B. *A prerequisite to the filing of an application is a pre-application conference at which time the Planning Director shall explain the provisions of this chapter and provide appropriate forms as set forth in CDC 99.030(B).*

Response: A pre-application meeting was held for this project on July 8, 2015. West Linn Planning Staff has provided guidance to the Applicant with respect to the requirements of Chapter 28. This standard is met.

C. *An application for a protection area permit shall include the completed application and:*

1. *Narrative which addresses the approval criteria of CDC 28.110.*
2. *A site plan, with HCA boundaries shown and by low, moderate, high type shown (CDC 28.120).*
3. *A grading plan if applicable (CDC 28.130).*
4. *Architectural drawings if applicable (CDC 28.140).*
5. *A landscape plan if applicable (CDC 28.150).*
6. *A mitigation plan if applicable (CDC 28.160).*

One original application form must be submitted. One copy at the original scale and one copy reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. One copy of all other items, including the narrative, must be submitted. The applicant shall also submit one copy of the complete application in a digital format acceptable to the city. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Director.

Response: This requirement was satisfied by the materials submitted for the Conditional Use, Design Review, Water Resources Area Permit, Special Waiver, and Variance application submitted April 11, 2016, as well as the attached email from the owner consenting to the supplemental submittal. This standard is met.

D. *The applicant shall pay the requisite fees.*

Response: A check for the review fee of \$1,700 is included with this letter. This standard is met.

E. *The applicant shall be responsible for, and shall apply for, all applicable State and/or federal permits.*

Response: The applicant will obtain all required permits through the land use and permitting processes. This standard will be met.

F. *The applicant shall include a map, approved or acknowledged by DSL, of the preference rights and authorized areas if a water surface structure is proposed.*

Response: No water surface structures are proposed. This standard does not apply.

28.100 Additional Submittal Information Required, Waiver Of Submittal Requirements

- A. *The Planning Director may require additional information as a part of the application subject to the provisions of CDC 99.035(A).*
- B. *The Planning Director may waive any submittal requirement for the application subject to the provisions of CDC 99.035(B) and (C).*

Response: Planning staff has not advised the Applicant of additional information submittal requirements. The Applicant maintains that the materials submitted with the initial application and with this letter provide sufficient evidence to support findings of compliance with the applicable approval criteria in Section 28.110.

28.110 Approval Criteria

No application for development on property within the protection area shall be approved unless the decision-making authority finds that the following standards have been met or can be met by conditions of approval. The development shall comply with the following criteria as applicable:

- A. *Development: All sites.*
 - 1. *Sites shall first be reviewed using the HCA Map to determine if the site is buildable or what portion of the site is buildable. HCAs shall be verified by the Planning Director per CDC 28.070 and site visit. Also, "tree canopy only" HCAs shall not constitute a development limitation and may be exempted per CDC 28.070(A). The municipal code protection for trees and Chapters 55 and 85 CDC tree protection shall still apply.*

Response: With the exception of a small area adjacent to Willamette Falls Drive in the southwest corner of the site, the subject property is within the HCA along Bernert Creek. The site contains a riparian HCA, as shown in Figure 3. The Natural Resources Assessment Report included with the original submittal as Exhibit C verified the resource areas.

- 2. *HCAs shall be avoided to the greatest degree possible and development activity shall instead be directed to the areas designated "Habitat and Impact Areas Not Designated as HCAs," consistent with subsection (A)(3) of this section.*

Response: The site contains a riparian HCA, as described in the Natural Resources Assessment Report included with the original submittal as Exhibit C. Development is proposed to avoid the highest value resource areas on the site, which consist of Bernert Creek, flowing easterly through the southern part of the property, wetland areas along the creek corridor, a significant Oregon white oak tree in the northeast corner of the property, and the designated Water Resource Area (WRA), a 100-foot wide Riparian Corridor designation along Bernert Creek. Notably, the application requests approval pursuant to the hardship provisions of Chapter 32 because no feasible development of the property is possible without encroachment into the Riparian Corridor. The proposed development is therefore consistent with this requirement.

- 3. *If the subject property contains no lands designated "Habitat and Impact Areas Not Designated as HCAs" and development within HCA land is the only option it shall be directed towards the low HCA areas first, then medium HCA areas and then to high HCA as the last choice. The goal is to, at best, avoid or, at least, minimize disturbance of the HCAs. (Water-dependent uses are exempt from this provision.)*

Response: The majority of the site is mapped with a riparian HCA. Only approximately 2,926 SF (approximately 4%) of the site is non-HCA area, at the southwest corner of the site, but that area contains WRA protection for a Riparian Corridor 100' wide along the Bernert Creek. The site is not adjacent to the Willamette River (and is in fact outside the Willamette Greenway Overlay Zone). The HCA is not classified as a low, medium, or high HCA,



but the Applicant has identified the stream and buffer areas around it as the priority resource feature to protect and enhance, while also conserving the significant Oregon White Oak tree in the northeast corner of the property. By locating the proposed building as far northeast as possible while conserving the significant Oregon white oak tree in the northeast corner of the property, the proposed development complies with this requirement.

4. *All development, including exempted activities of CDC 28.040, shall have approved erosion control measures per Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual, rev. 2008, in place prior to site disturbance and be subject to the requirements of CDC 32.070 and 32.080 as deemed applicable by the Planning Director.*

Response: The applicant will obtain the required erosion control permits. Compliance with this standard can be assured through appropriate condition(s) of approval.

B. *Single-family or attached residential. Development of single-family homes or attached housing shall be permitted on the following HCA designations and in the following order of preference with "a" being the most appropriate and "d" being the least appropriate:*

- a *"Habitat and Impact Areas Not Designated as HCAs"*
- b *Low HCA*
- c *Moderate HCA*
- d *High HCA*

1. *Development of land classifications in "b," "c" and "d" shall not be permitted if at least a 5,000-square-foot area of buildable land ("a") exists for home construction, and associated impermeable surfaces (driveways, patios, etc.).*
2. *If 5,000 square feet of buildable land ("a") are not available for home construction, and associated impermeable surfaces (driveways, patios, etc.) then combinations of land classifications ("a," "b" and "c") totaling a maximum of 5,000 square feet shall be used to avoid intrusion into high HCA lands. Development shall emphasize area "a" prior to extending construction into area "b," then "c" lands.*
3. *The underlying zone FAR shall also apply as well as allowable lot coverage.*
4. *Development may occur on legal lots and non-conforming lots of record located completely within the HCA areas or that have the majority of the lot in the HCA to the extent that the applicant has less than 5,000 square feet of non-HCA land.*

Development shall disturb the minimum necessary area to allow the proposed use or activity, shall direct development to any available non-HCA lands and in any situation shall create no more than 5,000 square feet of impervious surface. (Driveways, paths, patios, etc., that are constructed of approved water-permeable materials will not count in calculating the 5,000-square-foot lot coverage.) The underlying zone FAR and allowable lot coverage shall also apply and may result in less than 5,000 square feet of lot coverage.

When only HCA land is available then the structure shall be placed as far away from the water resource area or river as possible. To facilitate this, the front setback of the structure or that side which is furthest away from the water resource or river may be reduced to a five-foot setback from the front property line without a variance. Any attached garage must provide a 20-foot by 20-foot parking pad or driveway so as to provide off-street parking exclusive of the garage. The setbacks of subsection C of this section shall still apply.

5. *Driveways, paths, patios, etc., that are constructed of approved water-permeable materials will be exempt from the lot coverage calculations of subsections (B)(1) through (4) of this section and the underlying zone.*
6. *Table showing development allowed by land classification:*

	<i>Development Allowed</i>
<i>Non-HCA ("a")</i>	<i>Yes</i>
<i>Low-Medium HCA ("b" and "c")</i>	<i>Yes, if less than 5,000 sq. ft. of non-HCA land available. Avoid "d."</i>
<i>High HCA ("d")</i>	<i>Yes, but only if less than 5,000 sq. ft. of "a," "b" and "c" land available.</i>
<i>Non-conforming Structures (structures on HCA land)</i>	<i>Yes: vertically, laterally and/or away from river. Avoid "d" where possible.</i>

(The underlying zone FAR and allowable lot coverage shall also apply.)

Response: The project does not include residential development. This section does not apply.

C. *Setbacks from top of bank.*

1. *Development of single-family homes or attached housing on lands designated as "Habitat and Impact Areas Not Designated as HCAs" shall require a structural setback of 15 feet from any top of bank that represents the edge of the land designated as "Habitat and Impact Areas Not Designated as HCAs."*
2. *At-grade water-permeable patios or decks within 30 inches of grade may encroach into that setback but must keep five feet from top of bank and cannot cantilever over the top of bank or into the five-foot setback area.*
3. *For properties that lack a distinct top of bank the applicant shall identify the boundary of the area designated as "Habitat and Impact Areas Not Designated as HCAs" which is closest to the river. A structural setback of 15 feet is required from that boundary line. That 15-foot measurement extends from the boundary line away from the river. At-grade water-permeable patios or decks within 30 inches of grade may encroach into that setback 10 feet but must keep five feet from the boundary and cannot cantilever into the five-foot setback area. For vacant lots of record that comprise no lands with "Habitat and Impact Areas Not Designated as HCAs" designation or insufficient lands with those designations so that the above setbacks cannot be met, the house shall be set back as far from river as possible to accommodate house as part of the allowed 5,000 square feet of impermeable surfaces.*

Response: The project does not include residential development, patios, or decks. This section does not apply.

D. *Development of lands designated for industrial, commercial, office, public and other non-residential uses.*

1. *Development of lands designated for industrial, multi-family, mixed use, commercial, office, public and other non-single-family residential uses shall be permitted on the following land designations and in the following order of preference with "a" being the most appropriate for development and "d" being the least appropriate:*
 - a *"Habitat and Impact Areas Not Designated as HCAs"*
 - b *Low HCA*
 - c *Moderate HCA*
 - d *High HCA*

Response: The HCA covering the majority of the site is not classified as a low, medium, or high HCA, but the Applicant has identified Bernert Creek and the buffer areas around it as the priority resource feature to protect and enhance, while also conserving the significant Oregon White Oak tree in the northeast corner of the



property. The proposed development plan satisfies the requirements for development that encroaches within the Riparian Corridor of the WRA, using a site plan and development techniques that minimize impacts on the protected water feature, Bernert Creek, and streamside wetlands.

2. *Developing HCA land.*

- a. *Where non-HCA or areas designated as "Habitat and Impact Areas Not Designated as HCAs" are lacking or are in such limited supply as to render uses allowed by the underlying zone (e.g., general industrial) functionally impractical, the HCA may be utilized and built upon but shall emphasize "b" and "c" designations.*

Response: Non-HCA and habitat/impact areas are lacking on the site. Almost all of the site is mapped with a riparian HCA. Only approximately 2,926 SF of the site (approximately 4%) of the site is non-HCA area, at the southwest corner of the site, but that area is subject to WRA protection for a Riparian Corridor 100' wide along the Bernert Creek. The HCA is not classified as a low, medium, or high ("b," "c," or "d" designation) HCA, but the Applicant has identified the stream and buffer areas around it as the priority resource feature to protect and enhance, while also conserving the significant Oregon White Oak tree in the northeast corner of the property. The proposed development plan satisfies this requirement.

- b. *Where it is proposed that a "d" or high HCA classification be used, the property owner must demonstrate that the proposed use is clearly a water-dependent use. Proximity to the river for the purpose of views is not valid grounds. However, public interpretive facilities of historic facilities such as the government locks will be permitted as well as wildlife interpretive facilities and ADA-accessible platforms.*

Response: The HCA on the site is not classified as a high ("d" designation) HCA. This standard does not apply.

E. *Hardship provisions and non-conforming structures.*

1. *For the purpose of this chapter, non-conforming structures are existing structures whose building footprint is completely or partially on HCA lands. Any additions, alterations, replacement, or rehabilitation of existing non-conforming non-water-related structures (including decks), roadways, driveways, accessory uses and accessory structures shall avoid encroachment upon the HCAs, especially high HCAs, except that:*
- a. *A 10-foot lateral extension of an existing building footprint is allowed if the lateral extension does not encroach any further into the HCA or closer to the river or water resource area than the portion of the existing footprint immediately adjacent.*
- b. *An addition to the existing structure on the side of the structure opposite to the river or water resource area shall be allowed. There will be no square footage limitation in this direction except as described in subsection (E)(1)(c) of this section.*
- c. *The same allowance for the use of, and construction of, 5,000 square feet of total impervious surface for sites in HCAs per subsections (B)(2) through (4) of this section shall apply to lots in this section.*
- d. *Vertical additions are permitted including the construction of additional floors.*
- e. *The provisions of Chapter 66 CDC, Non-conforming Structures, shall not apply.*

Response: There are no existing structures on the site. This standard does not apply.

F. *Access and property rights.*

1. *Private lands within the protection area shall be recognized and respected.*

2. *Where a legal public access to the river or elsewhere in the protection area exists, that legal public right shall be recognized and respected.*
3. *To construct a water-dependent structure such as a dock, ramp, or gangway shall require that all pre-existing legal public access or similar legal rights in the protection area be recognized and respected. Where pre-existing legal public access, such as below the OLW, is to be obstructed by, for example, a ramp, the applicant shall provide a reasonable alternate route around, over or under the obstruction. The alternate route shall be as direct as possible. The proposed route, to include appropriate height clearances under ramps/docks and specifications for safe passage over or around ramps and docks, shall be reviewed and approved by the Planning Director for adequacy.*
4. *Any public or private water-dependent use or facility shall be within established DSL-authorized areas.*
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.*

Response: The site is not adjacent to the Willamette River or the Tualatin River, and no path though the property is necessary or feasible to provide river access. Bernert Creek is not a navigable waterway suitable for locating water-dependent uses. This standard does not apply.

- G. *Incentives to encourage access in industrial, multi-family, mixed use, commercial, office, public and non-single-family residential zoned areas.*
1. *For all industrial, multi-family, mixed use, commercial, office, public and other non-single-family residential zones, this section encourages the dedication or establishment of access easements to allow legal public access to, and along, the river. Support for access may be found in the Parks Master Plan, a neighborhood plan or any applicable adopted sub-area plans. The emphasis will be upon locating paths where there is a reasonable expectation that the path can be extended to adjacent properties to form a connective trail system in the future, and/or where the trail will provide opportunities for appreciation of, and access to, the river.*
 2. *Height or density incentives may be available to developers who provide public access. Specifically, commercial, industrial, multi-family, mixed use, and public projects may be constructed to a height of 60 feet. No variance is required for the 60-foot height allowance regardless of the underlying zone height limitations; however, the following conditions must be met:*
 - a. *Provide a minimum 20-foot-wide all-weather public access path along the project's entire river frontage (reduced dimensions would only be permitted in response to physical site constraints such as rock outcroppings, significant trees, etc.); and*
 - b. *Provide a minimum 10-foot-wide all-weather public access path from an existing public right-of-way to that riverfront path or connect the riverfront path to an existing riverfront path on an adjoining property that accesses a public right-of-way.*
 - c. *Fencing may be required near steep dropoffs or grade changes.*

Response: The site is not adjacent to the Willamette River or the Tualatin River, and no path though the property is necessary or feasible to provide river access. Bernert Creek is not a navigable waterway suitable for locating water-dependent uses. This standard does not apply.

H. *Partitions, subdivisions and incentives.*

1. *When dividing a property into lots or parcels, an applicant shall verify the boundaries of the HCA on the property.*
2. *Applicant shall partition or subdivide the site so that all lots or parcels have a buildable site or envelope available for home construction located on non-HCA land or areas designated "Habitat and Impact Areas Not Designated as HCAs" per the HCA Map.*
3. *Development of HCA-dominated lands shall be undertaken as a last resort. A planned unit development (PUD) of Chapter 24 CDC may be required.*
4. *Incentives are available to encourage provision of public access to, and/or along, the river. By these means, planned unit developments shall be able to satisfy the shared outdoor recreation area requirements of CDC 55.100(F). Specifically, for every square foot of riverfront path, the applicant will receive credit for two square feet in calculating the required shared outdoor recreation area square footage. Applicants shall also be eligible for a density bonus under CDC 24.150(B). To be eligible to receive either of these incentives, applicants shall:*
 - a. *Provide a minimum 20-foot-wide all-weather public access path along the project's entire river frontage (reduced dimensions would only be permitted in response to physical site constraints such as rock outcroppings, significant trees, etc.); and*
 - b. *Provide a minimum 10-foot-wide all-weather public access path from an existing public right-of-way to that riverfront path or connect the riverfront path to an existing riverfront path on an adjoining property that accesses a public right-of-way;*
 - c. *Fencing may be required near steep dropoffs or grade changes.*

Response: No land division is proposed and the site has no access to or along the Willamette River or the Tualatin River. This standard does not apply.

I. *Docks and other water-dependent structures.*

1. *Once the preference rights area is established by DSL, the property owner identifies where the water-dependent use will be located within the authorized portion of the preference rights area. The water-dependent use should be centered or in the middle of the preference rights/authorized area or meet the side yard setbacks of the underlying zone.*

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 ship's keel or fixed propeller/rudder and the bottom of the water at any time during the water's lowest point.*
3. *In no case except as provided in this section shall a private ramp and private 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 private dock closest to the center of the river.*
4. *Docks on sloughs and similar channels shall not extend more than 30 percent of the distance between two land masses at OHW, such as between the mainland and an island or peninsula, measured in a lineal manner at right angle to the dominant shoreline. In no way shall a dock impede existing public usage or block navigation of a channel.*
5. *Boat storage associated with a rail launch facility shall be located above the OHW, either vertically raised above the ordinary high water line or set back behind the OHW. Such boat storage structure will be natural*

wood colors or similar earth tones. Private railed launch facilities are permitted for individual boat owners. The onshore setback of the storage structure is equal distance on both sides as extended perpendicular to the thread of the stream, or seven and one-half feet, whichever is the greater setback.

6. *The width of each deck section shall be no more than 12 feet wide.*
7. *For only single-user and joint-user docks, pilings shall not exceed a maximum height of eight feet above the 100-year flood elevation.*
8. *A single user non-commercial dock shall not exceed 400 square feet in deck area. The boat slip is not included in the calculation of this square footage limitation.*
9. *Private non-commercial boat houses are allowed but only if they are within 50 feet of OLW and/or in locations sufficiently screened from view so that they do not have a significant visual impact on views from adjacent and nearby homes. Building and roof colors shall be brown, gray, beige, natural or similar earth tones. Non-commercial boat houses shall not exceed 12 feet in height measured from the boat house deck level to the roof peak. The size of the boat house shall be sized to accommodate one boat only and shall not exceed a footprint greater than 500 square feet. Boatlifts are permitted within the boat house. The above provisions also apply to open-walled boat shelters with or without boatlifts.*

Response: No docks are proposed. The site is not adjacent to the Willamette River or the Tualatin River, and Bernert Creek is not a navigable waterway. The property has no capacity for docks or other water-dependent uses. This standard does not apply.

J. Joint docks.

1. *Joint use boat docks may be permitted by the reviewing authority where the applicants are riverfront property owners, ideally owners of adjacent lots of record.*
2. *Co-owners of the joint dock use shall be prohibited from having their own non-joint dock.*
3. *A joint use agreement shall be prepared which will be included in the application for review by the reviewing authority and subsequently recorded. A copy of the recorded document with the County Recorder's stamp shall be submitted to the City.*
4. *A condition of approval for any joint use permit shall be that the dock must be used to serve the same lots of record for which the dock permit was issued. Joint use cannot be transferred to, or used by, any party other than the original applicants or the future owners of those properties.*
5. *Joint docks may go on the common property line between the two landowners who are sharing the dock. Unless agreed to by the adjoining owner, joint docks not being shared with the adjacent property owner must be at least 15 feet from the preference rights area side lines or centered in the middle of the preference rights area.*

Response: No docks are proposed. The site is not adjacent to the Willamette River or the Tualatin River, and Bernert Creek is not a navigable waterway. The property has no capacity for docks or other water-dependent uses. This standard does not apply.

- K. Non-conforming docks and other water-related structures. Pre-existing non-conforming structures, including docks, ramps, boat houses, etc., as defined in this chapter may remain in place. Replacement in kind (e.g., replacement of decking and other materials) will be allowed provided the replacement meets the standards of this chapter. However, if any non-conforming structure that is damaged and destroyed or otherwise to be replaced to the extent that the rebuilding or replacing (including replacement in kind) would exceed 50 percent of the current replacement cost of the entire structure, the owner shall be required to meet all the standards of this chapter.*



Response: The site has no existing docks or other water-related structures on the Willamette River or the Tualatin River. This standard does not apply.

- 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.*

Response: As shown in the plans included with the application submitted April 11, 2016, the facilities proposed within these areas of the HCA will meet the above requirements. Compliance can be assured through imposition of appropriate condition(s) of approval. This standard is met.

- M. *Structures. All buildings and structures in HCAs and riparian areas, including all exterior mechanical equipment, should be screened, colored, or surfaced so as to blend with the riparian environment. Surfaces shall be non-polished/reflective or at least expected to lose their luster within a year. In addition to the specific standards and criteria applicable to water-dependent uses (docks), all other provisions of this chapter shall apply to water dependent uses, and any structure shall be no larger than necessary to accommodate the use.*

Response: The proposed development includes building materials and finishes that do not include high-gloss painted surfaces, consistent with these requirements. Glazing is limited so as to give the building an attractive appearance and rhythm without creating large polished/reflective surfaces, and dense tree plantings are proposed between the building and Bernert Creek as a screening and riparian corridor enhancement strategy. No water-dependent uses are proposed. Therefore, the proposed development satisfies these requirements.

- 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.*

Response: The HCA is not classified as a low, medium, or high ("b," "c," or "d" designation) HCA. As shown in the plans included with the application submitted April 11, 2016, the facilities proposed within the HCA, such as permeable paving materials and flow-through planters, will meet the above requirements. This standard is met.

- O. *Signs and graphics. No sign or graphic display inconsistent with the purposes of the protection area shall have a display surface oriented toward or visible from the Willamette or Tualatin River. A limited number of signs may be allowed to direct public access along legal routes in the protection area.*

Response: The site is not adjacent to the Willamette River or the Tualatin River, and therefore no signs or graphics can face either river. This standard does not apply.

P. *Lighting. Lighting shall not be focused or oriented onto the surface of the river except as required by the Coast Guard. Lighting elsewhere in the protection area shall be the minimum necessary and shall not create off-site glare or be omni-directional. Screens and covers will be required.*

Response: The site is not adjacent to the Willamette River or the Tualatin River, and therefore lighting will not affect either river. This standard does not apply.

Q. *Parking. Parking and unenclosed storage areas located within or adjacent to the protection area boundary shall be screened from the river in accordance with Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas. The use of water-permeable material to construct the parking lot is either encouraged or required depending on HCA classification per CDC 28.110(N)(4).*

Response: The site is not adjacent to the Willamette River or the Tualatin River, and parking will not be visible from either river. No unenclosed storage area is proposed. This standard does not apply.

R. *Views. Significant views of the Willamette and Tualatin Rivers shall be protected as much as possible as seen from the following public viewpoints: Mary S. Young Park, Willamette Park, Cedar Oak Park, Burnside Park, Maddox Park, Cedar Island, the Oregon City Bridge, Willamette Park, and Fields Bridge Park.*

Where options exist in the placement of ramps and docks, the applicant shall select the least visually intrusive location as seen from a public viewpoint. However, if no options exist, then the ramp, pilings and dock shall be allowed at the originally proposed location.

Response: The Applicant has provided a copy of the West Linn Parks & Open Spaces map with annotation to show the location of the subject property in attached Figure 2. The map indicates that the site is not adjacent to the Willamette River or the Tualatin River, nor is it located where the proposed development would conflict with significant views from any of the listed locations (such as between a park/location and a river). No docks or ramps are proposed. This standard does not apply.

S. *Aggregate deposits. Extraction of aggregate deposits or dredging shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety, and to promote necessary reclamation.*

Response: The site does not contain significant Goal 5 mineral/aggregate resources and no mining is proposed. This provision does not apply.

T. *Changing the landscape/grading.*

1. *Existing predominant topographical features of the bank line and escarpment shall be preserved and maintained except for disturbance necessary for the construction or establishment of a water related or water dependent use. Measures necessary to reduce potential bank and escarpment erosion, landslides, or flood hazard conditions shall also be taken.*

Any construction to stabilize or protect the bank with rip rap, gabions, etc., shall only be allowed where there is clear evidence of erosion or similar hazard and shall be the minimum needed to stop that erosion or to avoid a specific and identifiable hazard. A geotechnical engineer's stamped report shall accompany the application with evidence to support the proposal.

2. *The applicant shall establish to the satisfaction of the approval authority that steps have been taken to minimize the impact of the proposal on the riparian environment (areas between the top of the bank and the low water mark of the river including lower terrace, beach and river edge).*
3. *The applicant shall demonstrate that stabilization measures shall not cause subsequent erosion or deposits on upstream or downstream properties.*
4. *Prior to any grading or development, that portion of the HCA that includes wetlands, creeks, riparian areas and water resource area shall be protected with an anchored chain link fence (or approved equivalent) at its perimeter and shall remain undisturbed except as specifically allowed by an approved Willamette and Tualatin River Protection and/or water resource area (WRA) permit. Such fencing shall be maintained until construction is complete. That portion of the HCA that includes wetlands, creeks, riparian areas and water resource area shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals that clearly delineate the extent of the protected area.*
5. *Full erosion control measures shall be in place and approved by the City Engineer prior to any grading, development or site clearing.*

Response: The site is not adjacent to the Willamette River or the Tualatin River. As shown in the plans included with the application submitted April 11, 2016, appropriate measures including enhancement plantings of trees, shrubs, and other native plants are proposed in relation to Bernert Creek flowing through the property and its riparian corridor to meet these requirements. Compliance with these requirements can be assured through appropriate condition(s) of approval.

- U. *Protect riparian and adjacent vegetation. Vegetative ground cover and trees upon the site shall be preserved, conserved, and maintained according to the following provisions:*
1. *Riparian vegetation below OHW removed during development shall be replaced with indigenous vegetation, which shall be compatible with and enhance the riparian environment and approved by the approval authority as part of the application.*
 2. *Vegetative improvements to areas within the protection area may be required if the site is found to be in an unhealthy or disturbed state by the City Arborist or his designated expert. "Unhealthy or disturbed" includes those sites that have a combination of native trees, shrubs, and groundcover on less than 80 percent of the water resource area and less than 50 percent tree canopy coverage in the primary and secondary habitat conservation area to be preserved. "Vegetative improvements" will be documented by submitting a revegetation plan meeting CDC 28.160 criteria that will result in the primary and secondary habitat conservation area to be preserved having a combination of native trees, shrubs, and groundcover on more than 80 percent of its area, and more than 50 percent tree canopy coverage in its area. The vegetative improvements shall be guaranteed for survival for a minimum of two years. Once approved, the applicant is responsible for implementing the plan prior to final inspection.*
 3. *Tree cutting shall be prohibited in the protection area except that:*
 - a. *Diseased trees or trees in danger of falling may be removed with the City Arborist's approval; and*
 - b. *Tree cutting may be permitted in conjunction with those uses listed in CDC 28.030 with City Arborist approval; to the extent necessary to accommodate the listed uses;*
 - c. *Selective cutting in accordance with the Oregon Forest Practices Act, if applicable, shall be permitted with City Arborist approval within the area between the OHW and the greenway boundary provided the natural scenic qualities of the greenway are maintained.*

Response: The site is not adjacent to the Willamette River or the Tualatin River. As shown in the plans included with the application submitted April 11, 2016, appropriate measures are proposed in relation to Bernert Creek flowing through the property and its riparian corridor, including replacement of invasive species with native plants according to the

enhancement planting plan by Schott and Associates (see Exhibit C of the original submittal) to meet these requirements. The proposed development and its plan for riparian corridor enhancement satisfy this requirement.

28.120 Site Plan

- A. *All site plans and maps shall include the name, address and telephone number of the applicant, a lineal scale of the plot plan, a north arrow and a vicinity map.*
- B. *The applicant shall submit a site plan drawn to an appropriate scale (in order of preference: one inch equals 10 feet to one inch equals 30 feet), which contains the following information:*
 1. *Assessor's Map number and tax lot number.*
 2. *The lot or parcel boundaries, dimensions and gross area.*
 3. *The applicant's property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development to the adjacent property and development.*
 4. *The location, dimensions, and names of all existing and platted streets and other public ways and easements on adjacent property and on the site.*
 5. *The location, dimensions and setback distances of all:*
 - a. *Existing structures, improvements, utility facilities and drainageways on site and on adjoining properties;*
 - b. *Proposed structures or changes to existing structures, improvements, utility facilities and drainageways on the site.*
 6. *All developments shall define and map existing public access rights on, and adjacent to, the subject property.*
 7. *A slope contour map at minimum two-foot intervals showing slope classifications of zero to 25 percent and greater than 25 percent.*
 8. *If a wetland on the West Linn Local Wetland Inventory is identified on the property and the proposed activity is expected to encroach within 25 feet of the wetland, a delineation of the precise boundaries of that wetland prepared by a wetland biologist.*
 9. *The location of the ordinary high water mark and the ordinary low water mark on the property and on abutting properties.*
 10. *The delineation of areas designated "Habitat and Impact Areas Not Designated as HCAs" and HCA areas by low, medium and high designation shall be mapped based on the HCA Map and any necessary verification shall be done by the Planning Director.*

Response: The plans included with the application submitted April 11, 2016, include this information (see sheets C1.0 through C2.0). This standard is met.

28.130 Grading Plan

Docks shall be reviewed and approved by the Department of State Lands for the area within their jurisdiction. The grading plan shall be at the same scale as the site plan (CDC 28.120) and shall show or attach:

- A. *The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals.*
- B. *The location of the proposed drainageways.*
- C. *FEMA elevation certificate.*

D. "No rise analysis" for potential impacts to the designated floodplain or floodway, if necessary.

Response: The plans included with the application submitted April 11, 2016, include this information (see sheet C3.0). This standard is met.

28.140 Architectural Drawings

A. Architectural drawings shall be submitted at the same scale as the site plan scale, as described in the site plan, showing:

1. Elevations of structure(s). For additions, the drawings should clearly distinguish between existing structure and proposed addition and show distance from addition and existing structure to the protected water resource.
2. The exterior building materials: type, color, and texture.
3. For docks, all pilings and their heights shall be shown. The applicant shall indicate the depth from the end of the dock to the river bottom during typical summer months. The applicant shall also provide any available product literature and photographs from the manufacturer or installer.
4. For docks, the applicant shall provide a plan view of the structure in relation to the shoreline and river. The plans shall also indicate graphically the OLW and the OHW and the DSL's preference rights and authorized areas.

Response: The plans included with the application submitted April 11, 2016, include this information (see sheets A2.1 through A4.2). This standard is met. No docks or water-dependent uses are proposed or possible at the subject property because it is not adjacent to the Willamette River or the Tualatin River, and Bernert Creek is not a navigable waterway.

28.150 Landscape Plan

A. The landscape plan shall be prepared per site plan standards (CDC 28.120) and in addition shall show:

1. The location, size and type of existing trees and location and type of vegetation to be removed and to be retained;
2. The location and design of landscaped areas;
3. The varieties and sizes of trees and materials to be planted;
4. The location and height of fences and other buffering or screening materials; and
5. The location, materials, dimensions and design of terraces, decks, patios, shelters, footpaths, retaining walls and play areas.

B. Revegetation plan per CDC 32.080.

Response: The plans included with the application submitted April 11, 2016, include this information (see sheets C2.0 and APP.C in the plans). This standard is met.

28.160 Mitigation Plan

If any HCA is permanently disturbed as a result of the proposed development of any uses or structures, the applicant shall prepare and implement a revegetation and mitigation plan pursuant to the provisions of CDC 32.070 and 32.080.

Response: The report and plans included with the application submitted April 11, 2016, include this information (see sheet APP.C and the report in Exhibit C). This standard is met.

City of West Linn
Northwest Self Storage (PA-15-25)
Project Number 2150120.00
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28.170 Penalties

Violation of any provision or requirement of this chapter or conditions of approval is a Class A violation, and shall also constitute a public nuisance. Each day of violation constitutes a separate offense. In addition, the City retains the authority to require any water resource area which has been altered illegally to have erosion control measures put in place and be reestablished to its natural condition, including replanting trees, shrubs, etc., and reseeding open areas at the owner's expense. In addition, the City Attorney may institute any necessary legal proceedings to enforce the provisions of this chapter, or cure any problems resulting from violations of this chapter.

Response: This application does not arise from a notice of violation. This provision requires no response from the Applicant.

Sincerely,



Lee D. Leighton, AICP
Project Manager I

Enclosure(s): Check
 Owner Consent to Submittal (email)
 Figure 1 Willamette River Greenway
 Figure 2 Parks & River Views Map
 Figure 3 HCA Map

c: Tom Jones, Kevin Howard - Northwest Self Storage West Linn
 Vipul Patel - VK Northwest, Inc.

M.

Lee D. Leighton

From: Manish Patel <mpinvestments@gmail.com>
Sent: Monday, May 02, 2016 3:56 PM
To: Tom Jones
Cc: Brian Resendez; Lee D. Leighton
Subject: Re: Willamette and Tualatin River Protection Area permit required

Hi Tom,

Yes we do give your group for the NW Storage permission for the submittal to the City of Westlinn.

Manish Patel
VK Northwest Inc.

On Mon, May 2, 2016 at 9:04 AM, Tom Jones <capitalman@onlinenw.com> wrote:
Manish,

The city will accept an e-mail from You approving the submittal. Please reply all to this if you accept. I sent you a form on Friday you can disregard.

Thanks,

Tom Jones

Begin forwarded message:

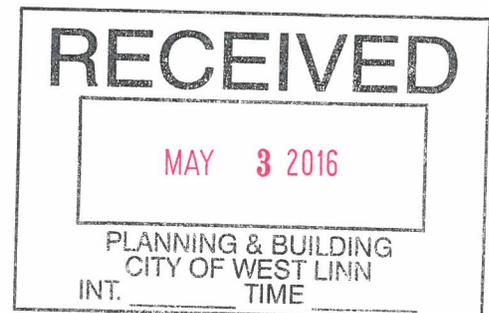
From: "Lee D. Leighton" <LLeighton@mcknze.com>
Subject: FW: Willamette and Tualatin River Protection Area permit required
Date: May 2, 2016 at 8:13:18 AM PDT
To: Tom Jones <capitalman@onlinenw.com>
Cc: Suzannah Stanley <SStanley@mcknze.com>

Hi Tom. See below from Peter Spir - the City will accept an email consent for the submittal in lieu of collecting new signatures.

Would you like me to email the supplemental materials to Manish Patel directly and ask him for a reply with the owner's consent?

Thanks,

~Lee
Lee D. Leighton, AICP
Project Manager I
Mackenzie: [503.224.9560](tel:503.224.9560)
Mobile: [503.515.5890](tel:503.515.5890)
lleighon@mcknze.com



MACKENZIE.

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RiverEast Center
1515 SE Water Ave, Suite 100
Portland OR 97214

This email is confidential, may be legally privileged, and is intended solely for the addressee. If you are not the intended recipient, access is prohibited. As email can be altered, its integrity is not guaranteed.

~Lee

From: Spir, Peter [<mailto:Pspir@westlinnoregon.gov>]
Sent: Monday, May 02, 2016 7:28 AM
To: Lee D. Leighton
Subject: RE: Willamette and Tualatin River Protection Area permit required

Lee
That would be fine so long as in our file is an email with the owner's consent to the permit application.
Peter

Peter Spir
Associate Planner
22500 Salamo Rd.
West Linn, Oregon 97068
Pspir@westlinnoregon.gov
westlinnoregon.gov
Phone [\(503\) 723-2539](tel:503.723.2539)



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This e-mail is subject to the State Retention Schedule and may be made available to the public

From: Lee D. Leighton [<mailto:LLeighton@mcknze.com>]
Sent: Friday, April 29, 2016 10:21 AM
To: Spir, Peter <Pspir@westlinnoregon.gov>
Cc: Tom Jones <capitalman@onlinenw.com>
Subject: RE: Willamette and Tualatin River Protection Area permit required

Hi Peter. We are preparing a response to this request for submittal early next week, after it is circulated for review by our client and the property owner.

A related question to you is whether we can obtain the owner's consent in an email to add the WRG request to the application package, and on that basis put an "x" in that box on the application form you already have, in lieu of having to collect signatures on a counterpart or replacement form. Please let me know what you need so we can organize our process accordingly.

Thanks,

~Lee
Lee D. Leighton, AICP
Project Manager I
Mackenzie: [503.224.9560](tel:503.224.9560)
Mobile: [503.515.5890](tel:503.515.5890)
lleeighton@mcknze.com



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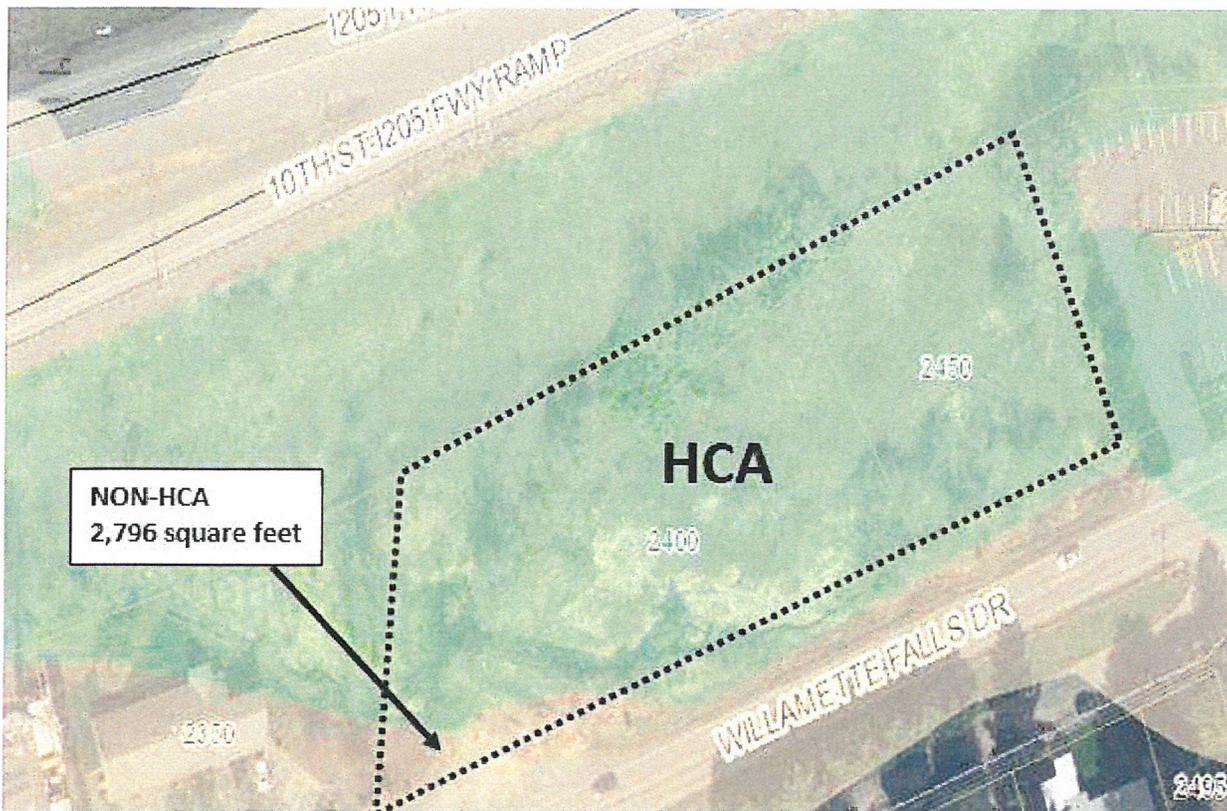
RiverEast Center
1515 SE Water Ave, Suite 100
Portland OR 97214

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From: Spir, Peter [<mailto:Pspir@westlinnoregon.gov>]
Sent: Thursday, April 21, 2016 4:26 PM
To: Lee D. Leighton
Cc: Brian Varricchione
Subject: Willamette and Tualatin River Protection Area permit required

Lee,

The Planning Manager has made a determination that Willamette and Tualatin River Protection Area permits are required for the development of upland Habitat Conservation Areas (HCAs). Your development site is almost fully encumbered by an upland HCA, as the map below shows.



The Willamette and Tualatin River Protection Area permit has a deposit fee of \$1,700. The application, including the application form, will have to be amended to include this permit application.

All the submittal standards and approval criteria of CDC Chapter 28 must be met.

Particularly relevant to your proposal is 28.110 (D)(2)(a), below in **yellow**, which should accommodate your plans.

28.110 APPROVAL CRITERIA (excerpted)

No application for development on property within the protection area shall be approved unless the decision-making authority finds that the following standards have been met or can be met by conditions of approval. The development shall comply with the following criteria as applicable:

A. Development: All sites.

1. Sites shall first be reviewed using the HCA Map to determine if the site is buildable or what portion of the site is buildable. HCAs shall be verified by the Planning Director per CDC [28.070](#) and site visit. Also, “tree canopy only” HCAs shall not constitute a development limitation and may be exempted per CDC [28.070\(A\)](#). The municipal code protection for trees and Chapters 55 and 85 CDC tree protection shall still apply.
2. HCAs shall be avoided to the greatest degree possible and development activity shall instead be directed to the areas designated “Habitat and Impact Areas Not Designated as HCAs,” consistent with subsection (A)(3) of this section.

3. If the subject property contains no lands designated “Habitat and Impact Areas Not Designated as HCAs” and development within HCA land is the only option it shall be directed towards the low HCA areas first, then medium HCA areas and then to high HCA as the last choice. The goal is to, at best, avoid or, at least, minimize disturbance of the HCAs. (Water-dependent uses are exempt from this provision.)

4. All development, including exempted activities of CDC [28.040](#), shall have approved erosion control measures per Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual, rev. 2008, in place prior to site disturbance and be subject to the requirements of CDC [32.070](#) and [32.080](#) as deemed applicable by the Planning Director.

D. Development of lands designated for industrial, commercial, office, public and other non-residential uses.

1. Development of lands designated for industrial, multi-family, mixed use, commercial, office, public and other non-single-family residential uses shall be permitted on the following land designations and in the following order of preference with “a” being the most appropriate for development and “d” being the least appropriate:

- a “Habitat and Impact Areas Not Designated as HCAs”
- b Low HCA
- c Moderate HCA
- d High HCA

2. Developing HCA land.

a. Where non-HCA or areas designated as “Habitat and Impact Areas Not Designated as HCAs” are lacking or are in such limited supply as to render uses allowed by the underlying zone (e.g., general industrial) functionally impractical, the HCA may be utilized and built upon but shall emphasize “b” and “c” designations.

b. Where it is proposed that a “d” or high HCA classification be used, the property owner must demonstrate that the proposed use is clearly a water-dependent use. Proximity to the river for the purpose of views is not valid grounds. However, public interpretive facilities of historic facilities such as the government locks will be permitted as well as wildlife interpretive facilities and ADA-accessible platforms.

The 30-day completeness review process is ongoing with a deadline of May 11, 2016.

Please contact me at [503-723-2539](tel:503-723-2539) or by e-mail if you have any questions.

Best regards

Peter

Peter Spir

Associate Planner

22500 Salamo Rd.

West Linn, Oregon 97068

Pspir@westlinnoregon.gov

westlinnoregon.gov

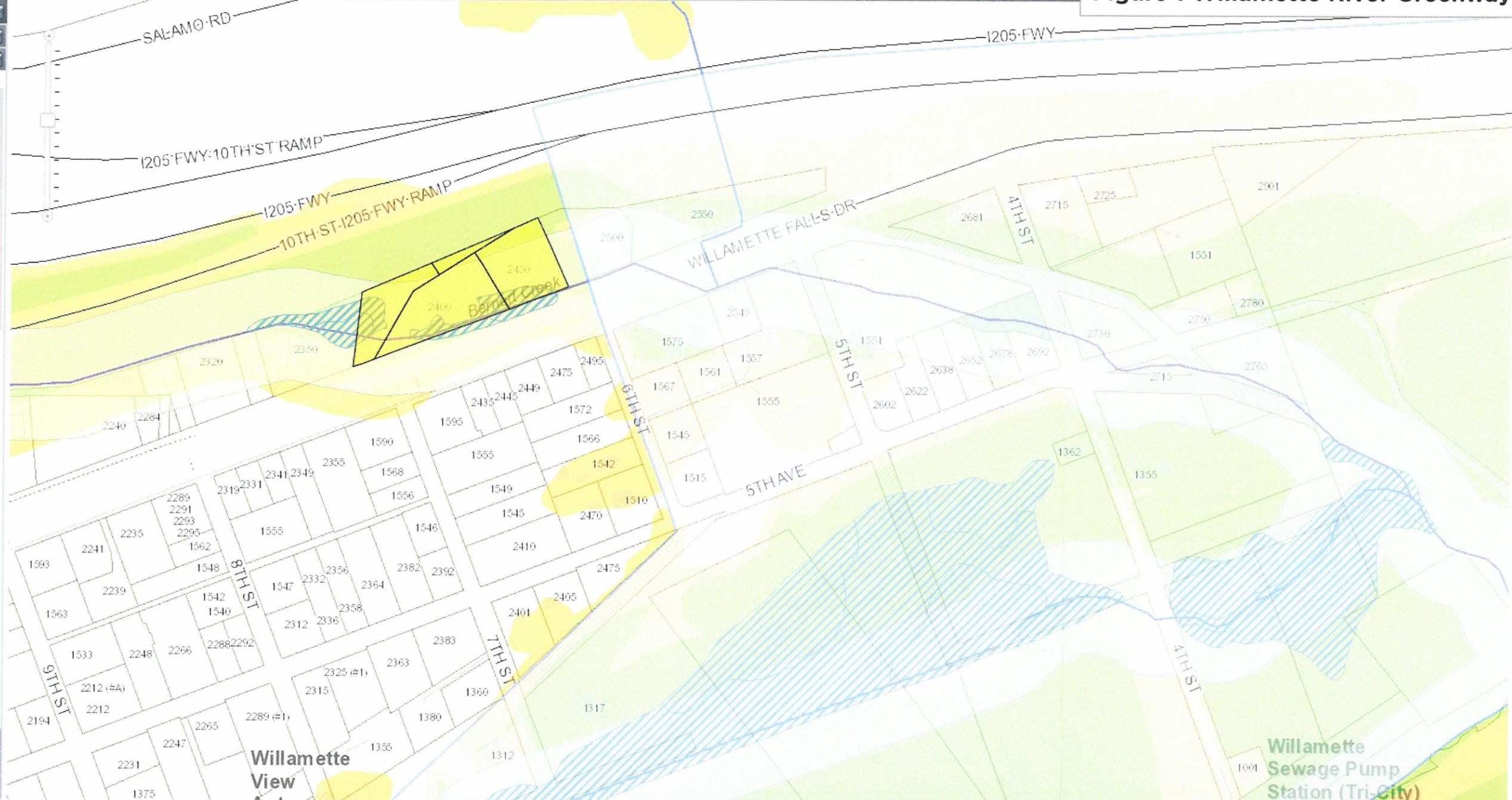
Phone [\(503\) 723-2539](tel:503-723-2539)



Click to Connect!

Figure 1 Willamette River Greenway

- Layers
- OPERATIONAL LAYERS
 - Utilities
 - Boundaries
 - Subdivisions Plats
 - Neighborhood Associations
 - Metro Urban Growth Boundary West Linn Ar
 - West Linn City Limits
 - Annexation History
 - Approx Historic Donation Land Claims
 - Approx Quarter Sections Township Range 5
 - Atlas Map Pages
 - Tualatin River Protection Area
 - Willamette River Greenway
 - Willamette Historic District National Register
 - Willamette Historic District Overlay Zone
 - Willamette Falls Drive Commercial Design D
 - Paths and Trails
 - Environment
 - Tree Inventory Preliminary
 - Flood Management Areas
 - Wetland Inventory 2005 Goal 5
 - Stream Routes
 - Significant Riparian Goal 5
 - Metro Habitat
 - West Linn Exceptions
 - Metro Habitat Protection Published Octol
 - Habitat Conservation Area
 - Allow Development
 - Geology
 - SCS Soils
 - Landslide Hazards SLIDOr2 DOGAMI



Selection/Query Results
 Tax Lot Property Information Public, 4 Features Selected

01 Tax Lot Number	03 County Site Address check against City Master Address File	09 GIS Sq Ft	10 GIS Acres	25 Plat Name References Scanned Files	26 Plat Number
11E35D 02000	NO SITUS	15734	0.36	WILLAMETTE TRACTS	147
11E35D 05300	NO SITUS	2798	0.06	WILLAMETTE TRACTS	147
11E35DD03400	2400 WILLAMETTE FALLS DR	27956	0.64	WILLAMETTE TRACTS	147
11E35DD03500	2450 WILLAMETTE FALLS DR	22157	0.51	WILLAMETTE TRACTS	147

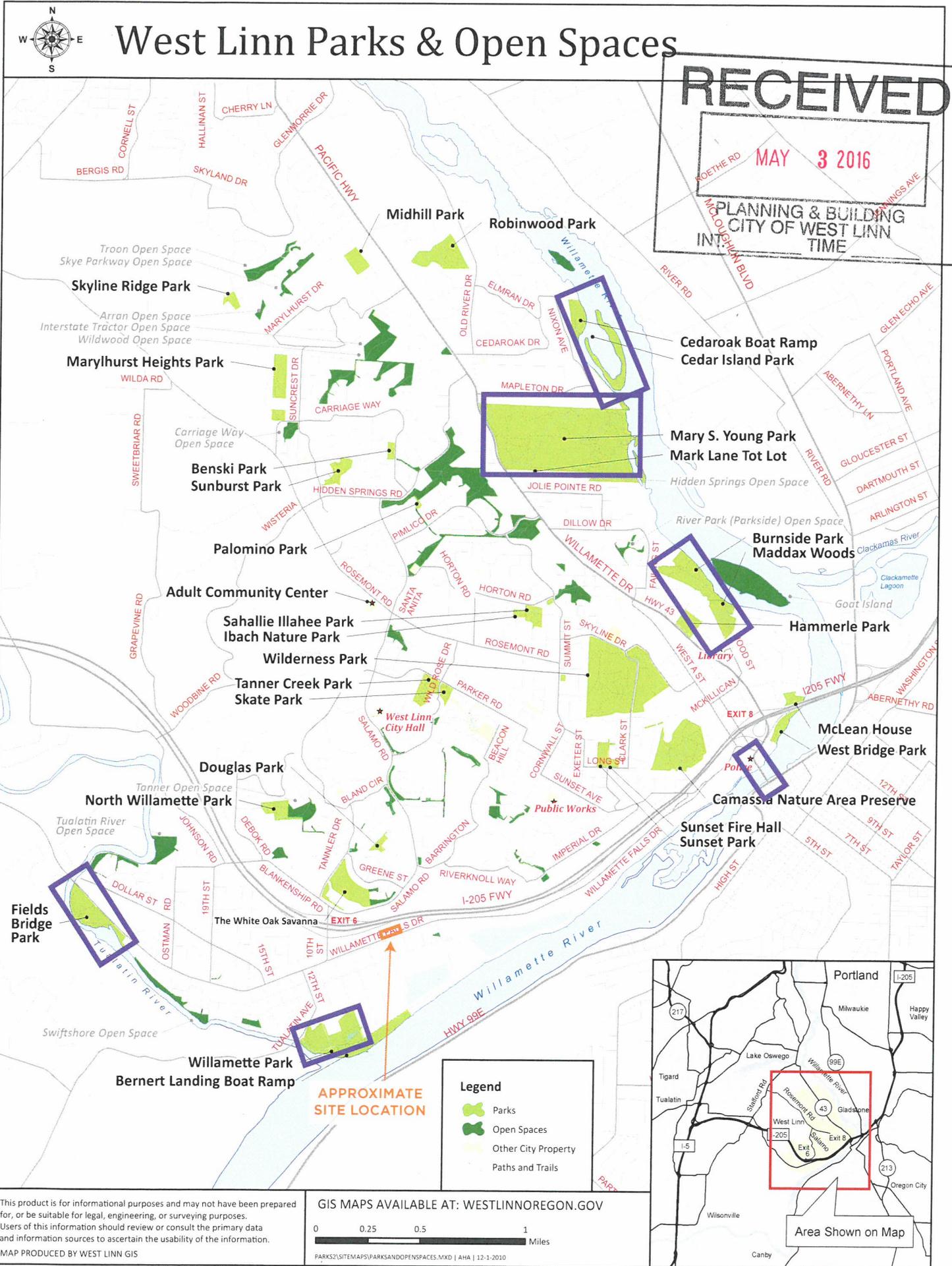
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MAY 3 2016

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 CITY OF WEST LINN

INT. _____ TIME _____

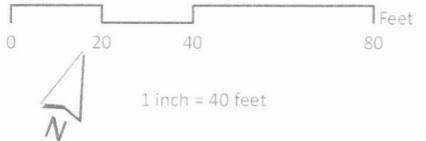
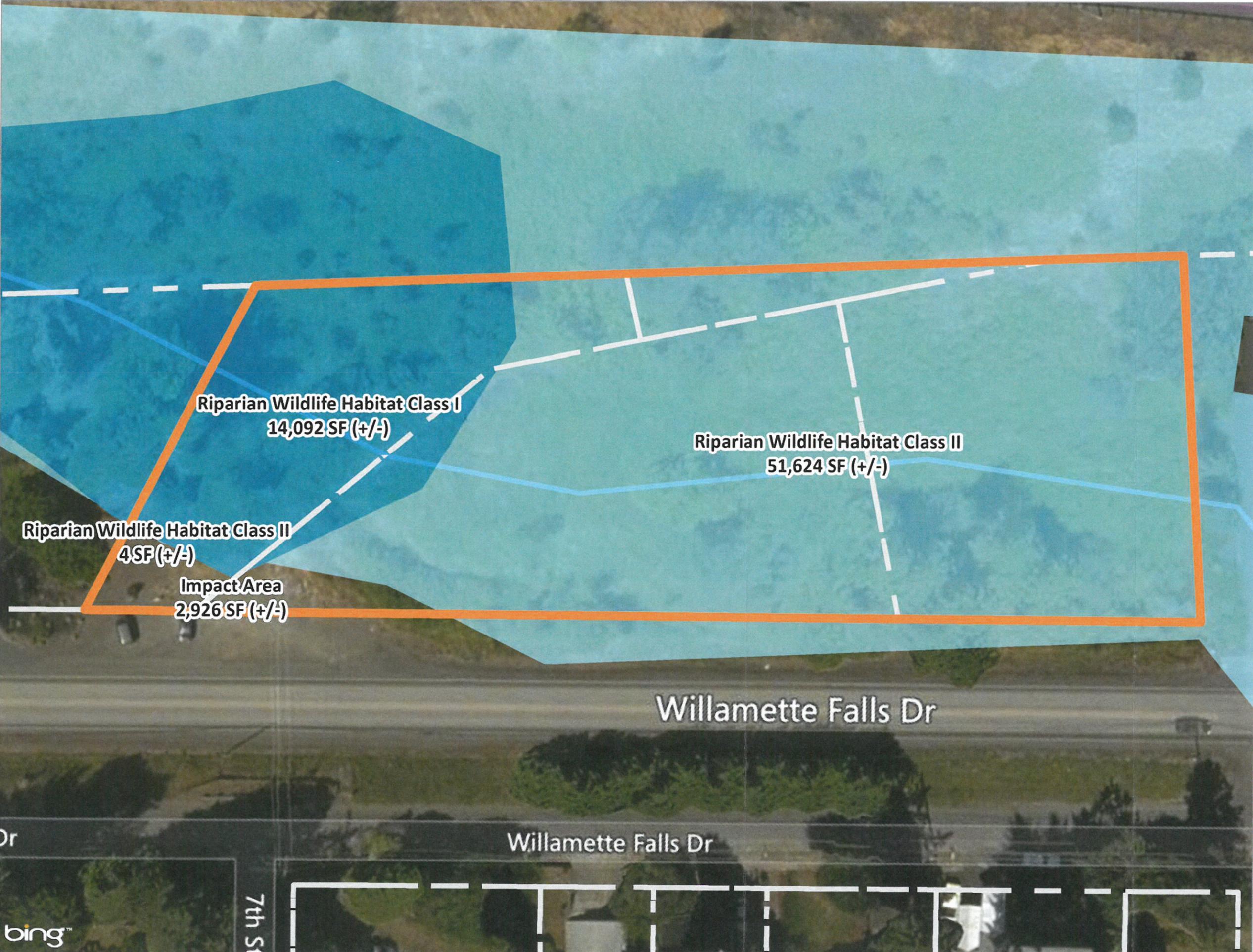
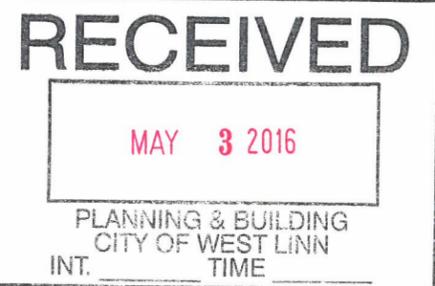
Figure 2 Parks & River Views Map



**Figure 3 - Habitat Conservation Areas (HCAs)
NW Self Storage
West Linn, Oregon**

LEGEND

-  Tax Lots
-  Subject Site
-  Stream Line
- Metro Title 13 HCA Designations**
-  Riparian Wildlife Habitat Class I
-  Riparian Wildlife Habitat Class II



SOURCE DATA: Metro RLIS Lite Base Data, Aug 2014
GEOGRAPHIC PROJECTION: NAD 83 HARN, Oregon North Lambert Conformal Conic

Date: 4/29/2016 Map Created By: SHS
File: HCA_Map Project No: 2150120.00



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