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April 4, 2023

Daren Wyss, Planning Manager
22500 Salamo Road
West Linn, OR 97028

Submitted via email

Re: Public Comment on Willamette Falls Drive Water Resource Area Permit, Willamette River Greenway Permit, and Flood Management Area Permit

Tualatin Riverkeepers (TRK) is a community-based organization that protects and restores the Tualatin River watershed. We build watershed stewardship through engagement, advocacy, restoration, access, and education. We write to comment on the proposed permit application for the City of West Linn.

I. The proposed project has significant impacts to the Tualatin National Water Trail and recreation.

The Tualatin River is one of two federally-designated National Water Trails.¹ As the holder of this designation, Tualatin Riverkeepers should have been notified of this project due to its potential impacts to the Tualatin River. We ask to be notified of any future permit applications under this project and any future projects that could impact the Tualatin watershed.

Furthermore, the application does not dictate impacts to recreation. Field Bridge Park provides much needed access to the Tualatin River and is identified as a formal launch site. The application fails to dictate how the project will impact water recreation both short and long term. Any instream water work will need to be conducted according to ODFW requirements, meaning all instream water work will need to be done within the summer months.² While this requirement

¹ The Tualatin River received this designation in 2020 from the Department of Interior. The only other National Water Trail in the State of Oregon is the Willamette River.

²

is essential to protecting aquatic life and fish migration, it also means the project will interfere with peak recreation season. These impacts must be assessed.

II. The project must comply with existing state and federal dredge and fill requirements, which should be included in the permit application to adequately determine impacts.

The project description is incomplete and does not include approximate dredge and fill. The applicant has identified jurisdictional waters and wetlands within the project site, but does not state the approximate area of those waters and wetlands that will be temporarily or permanently affected by dredge and fill activity. This information is required both federal and state permit approval and should be included in this application so that the City may make a more informed decision.³

Additionally, applicant has acknowledged that they have consulted with state entity regarding the wetland delineation.⁴ However, the applicant should also consult with the U.S. Army Corps of Engineers as the Tualatin River is a “water of the United States” falling under their jurisdiction. Any wetland delineations must comply with the U.S. Army Corps of Engineers delineation if the proposed wetland is determined to fall under CWA § 404 jurisdiction.⁵

III. The project proposes tree removal which will have significant impacts to the Tualatin River’s water quality.

The Tualatin River has a total maximum daily load for temperature, meaning that any tree removal in close proximity to the Tualatin River could increase its likelihood for not meeting its water quality standards under the Clean Water Act. The applicant must assess these impacts, and we encourage the applicant to consult with DEQ.

Thank you for your time and consideration. Please feel free to contact me if you have any questions regarding these comments.

Sincerely,

³ 40 C.F.R. § 230.11 (Requiring U.S. Army Corps of Engineers determination on short-term and long-term impacts of dredge and fill activities); O.A.R. 141-085-0550(5)(e) (Outlining required project information needed within the permit application, including volume and area of removal and fill).

⁵ 40 C.F.R. § 328.4(c) (Dictating that jurisdiction extends to the ordinary high water mark *or*, if wetlands are present, extend beyond the ordinary high water mark to the limit of the adjacent wetland).

A handwritten signature in black ink, appearing to read "Victoria Frankeny". The signature is fluid and cursive, with the first name "Victoria" written in a larger, more prominent script than the last name "Frankeny".

Victoria Frankeny [she/her]
Riverkeeper & Staff Attorney
Tualatin Riverkeepers
victoria@tualatinriverkeepers.org

From: [Karie Oakes](#)
To: [Wyss, Darren](#)
Subject: Re: WAP-23-01/WRG-23-01/FMA-23-01 for WFD Improvements
Date: Tuesday, April 4, 2023 4:00:09 PM

Mr. Wyss,

Please submit this to the record.

Thank you,

Karie Oakes

-----Original Message-----

From: Karie Oakes [REDACTED]
To: dwyss@westlinnoregon.gov <dwyss@westlinnoregon.gov>
Sent: Tue, Apr 4, 2023 1:02 pm
Subject: Re: WAP-23-01/WRG-23-01/FMA-23-01 for WFD Improvements

Mr. Wyss,

Thanks for your reply. I don't understand some of your embedded answers below and ask please would you clarify/explain.

Regarding the requirement of the application:

32.050F 5. Boundaries of the WRA, specifically delineating the water resource, and any riparian corridor boundary. If the proposal includes development of a wetland, a wetlands delineation prepared by a professional wetland specialist will be required. The wetland delineation may be required to be accepted or waived through the Department of State Lands (DSL) delineation review process.

I don't understand what the last sentence means. It sounds like it's discretionary that DSL be involved. **What is the DSL delineation review process? What authority may require it or waive it and what are the criteria?**

Regarding your answer to my third question: Did approval of the Athey Creek School application permit the trees in the park and adjacent right of way to be removed?

As you know, I reviewed the official record file yesterday at City Hall. I found a letter dated March 9, 2023, from the school district project manager to the applicant addressing trees that were removed prior to approval of the Tualatin River Protection Permit, one of many missing pieces of the application you found incomplete twice. See the letter with attachments and the second incomplete letter attached to this email.

The letter states, "The WLWV School District performed tree removal on the North and South sides of Willamette Falls Drive in the summer of 2022. Tree removal occurred based on the approval of tree removal documents submitted with the District's Land Use permit CUP-21-02" (for the school). It explains two additional trees were removed by a separate permit, proposes seven additional trees be removed and provides land-use drawings and civil engineering drawings for clarification of the tree removal along Willamette Falls Drive and the natural areas in the park to date.

I don't understand why you would not have provided me (and the general public via the project webpage) this letter of evidence relied upon by the applicant to meet requirements of the application and address approval criteria. **I don't understand** why you suggested I make a public records request for information about the school approval when you were aware of the letter. Besides, a public record

request could not have been completed by the two-day deadline for my comments. Furthermore, information about the approved school CUP application is available on its project webpage, however you didn't point me to it.

The official record file I reviewed was on a thumb drive. **Two final questions:** Aren't the required 11 x 17 inches hard copies of maps addressing the approval criteria part of the official record file? Were there other items that were not made available to me?

It's very difficult to discern information on the multi-layered maps and documents, even with screen magnification. For example, I can't make out any of the trees in the spread sheet attached to the letter. Maybe you could offer review of hard copies to folks when they inquire about the record and be certain documents are readable before deeming applications complete. Wished I'd thought of the larger maps sooner.

Thank you again. I look forward to your reply. For your convenience, **items for clarification/explanation are bolded.**

Sincerely,

Karie Oakes

-----Original Message-----

From: Wyss, Darren <dwyss@westlinnoregon.gov>

To: Karie Oakes [REDACTED]

Sent: Fri, Mar 31, 2023 3:43 pm

Subject: RE: WAP-23-01/WRG-23-01/FMA-23-01 for WFD Improvements

Thanks for your patience while I caught up on tasks and emails. I have **embedded answers** into your questions below.

From: Karie Oakes [REDACTED]

Sent: Friday, March 31, 2023 9:04 AM

To: Wyss, Darren <dwyss@westlinnoregon.gov>

Subject: Re: WAP-23-01/WRG-23-01/FMA-23-01 for WFD Improvements

Mr. Wyss,

Would you please answer my questions? I'm trying to prepare my testimony and need this information. As you know, the deadline is a few days away.

Karie

-----Original Message-----

From: Karie Oakes [REDACTED]

To: dwyss@westlinnoregon.gov <dwyss@westlinnoregon.gov>

Sent: Wed, Mar 29, 2023 8:19 am

Subject: WAP-23-01/WRG-23-01/FMA-23-01 for WFD Improvements

Dear Mr. Wyss,

I have some questions about this project.

1. There are three applicant submittals and one letter of incompleteness that I know of. Was there a

second letter of incompleteness or some other form of communication to the applicant following the second submittal informing them of missing information?

Yes, the application was deemed incomplete on 2/3/2023 and again was deemed incomplete after a second submittal on 3/3/2023.

2. The applicant stated that they are awaiting DSL concurrence on the wetland delineation. Wouldn't that be necessary to deem the application complete?

Staff followed submittal requirements of CDC Chapter 32.050.F(5).

3. Did approval of the Athey Creek School application permit the trees in the park and adjacent right of way to be removed?

Information about the Athey Creek School approval can be obtained through a public records request. You can submit a public records request online [here](#).

Thank you.

Karie Oakes

Darren Wyss

Planning Manager

Planning

22500 Salamo Rd.
West Linn, Oregon 97068

dwyss@westlinnoregon.gov
westlinnoregon.gov

503-742-6064



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Karie Oakes

1125 Marylhurst DR

West Linn, OR 97068

April 4, 2023

RE: WAP 23 01/WRG 23 01/FMA 23 01

Dear Planning Manager Wyss,

I submit these comments for the record and your consideration.

Community Development Code (CDC) Chapter 56 PARKS AND NATURAL RESOURCE AREA DESIGN REVIEW is applicable. In addition to the proposed transportation improvements impacting Fields Bridge Park (821 Willamette Falls Drive) and the natural resources within, improvements include reconstruction of the park entrances and park nature trail, and construction of a stormwater facility in the wetland.

The proposed improvements of a roundabout, street, on street parking, bike path, sidewalk, and planter strip expand development towards the Tualatin River and wetlands of the park and require many large retaining walls and fences to be built in the park. Significant amounts of earth within the protected natural resources will be cut and filled to compensate for the steep slopes of the natural drainageway. These design elements warrant a CLASS I DESIGN REVIEW, however the scope, scale and complexity of the entire project, and the fact that it greatly impacts natural resources, requires the public review of a CLASS II DESIGN REVIEW pursuant to CDC 56.020 D(5).

5. Any change or proposed development which, by its scale or scope of work, requires that a full and comprehensive review be undertaken in the public forum. See CDC 56.025, Exemptions, for buildings over 10,000 square feet.

Review of this project in the public forum in a hearing before the Planning Commission (PC) as the decision maker provides opportunity for a better review of the design because more people will be involved (the PC alone constitutes 7 members) instead of the insular process of the review of the City project and decision by the Planning Manager (PM).

PC and PM processes differ widely. The hearing would be better publicized on the PC agenda posted on the City home page than the posting of the upcoming PM decision was at home>projects>project page>notice that an ordinary person would have had to find to know about the project.

Furthermore, a staff report is not required for a PM decision like it is for a PC decision and the level of complexity of this project and the numerous applicable permits requested demand that the findings, executive summary and recommendations of staff be made available to the public in advance for people to review and provide meaningful testimony. And of course, oral testimony is welcome in a PC decision whereas it is not allowed in a PM decision, further limiting public participation, as some people would not provide written comments to the PM.

If the purpose of this project is to provide better public transportation facilities well into the future, and improved park features, then the project design must be reviewed by the public stakeholders to

determine if the design meets their needs. It must be reviewed to determine if the project is designed to avoid the water resource and habitat areas and if not, if it is designed to avoid them to the greatest extent possible. Chapter 32 WATER RESOURCE AREA PROTECTIONS and Chapter 28 WILLAMETTE AND TUALATIN RIVER GREENWAY PROTECTIONS require it.

This project proposes much mitigation for the many adverse impacts to the natural resources, but that may be lessened if the project could be redesigned to still meet the needs of the people with less impact to the natural resources.

- There is not a need for a sidewalk along the southside of WFD because it duplicates the pedestrian access of the trail. People desiring to walk along the road may use the sidewalk on the other side of the street.
- Sidewalk width may be reduced pursuant to code because of the constraints of the natural resources.
- On street parking is not allowed on an arterial according to our Transportation System Plan. Eliminating it would reduce encroachment on the natural resource area.

There is much more that I would like to comment on, but quite frankly this process has not been easy and required most of my time to understand the project, leaving little time to comment.

I have read and concur with the comments of Teri Cummings submitted to the record.

I hope that you will find that this project needs review under PARKS AND NATURAL RESOURCE AREA CLASS II DESIGN REVIEW.

From: [Teri Cummings](#)
To: [Williams, John](#); [Digby, Dylan](#); [Wyss, Darren](#)
Subject: please add this to the record of WAP-23-01 ect
Date: Tuesday, April 4, 2023 4:04:28 PM

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Please add this to the record of WAP-23-01/WRG-23-01/

To: West Linn Planning Director and West Linn City Manager,

The application appears to have overlooked the fact that DSL requires an alternative analysis of significant changes proposed to the Tualatin River Water and Natural Resource Areas in Fields Bridge Park, most importantly, the Natural Resource and Water Resource areas. Without this, it is not possible to know if other options would provide better WRA and NRA protection.

It would help to know if the City applied for a DSL and Army Corps of Engineer permit or engaged in a pre-application conference with them. The Pacific Habitat Services analysis is frankly not sufficient or reliable enough because PHS neglected to provide alternatives to destroying the Tualatin River HCA area for the Brandon Place service road to the Athey Middle school parking lot and PHS report seemed inordinately dismissive of the significance of Clackamas County and West Linn's adopted natural hazards mitigation plan, which identified risks of potential landslide, earthquake and flood hazards on and adjacent to the school and roadway areas.

A Class II Parks and Natural Areas design review per CDC Chapter 56 should be undertaken in order to ensure that the Tualatin River Water Resource Areas and Natural Resource Areas and riparian habitat areas at and alongside Fields Bridge Park are protected to the greatest extent possible as required by State and Federal law and [West Linn's Comprehensive Plan Goal 5 and Goal 6](#).

Fields Bridge Park is classified as a [multi-use park](#) in the [2019 Parks Master Plan](#), along with Mary S. Young Park due to the active use and natural resource features at each park. The [Parks Master Plan](#) emphasizes the importance of natural area protection on page 37 as follows:

"Protecting a System of Natural Areas- Opportunities to be outdoors or in nature was identified as a top benefit offered by West Linn's parks and recreation system, as noted in Online Questionnaire results. Workshop participants emphasized the need to invest in natural area protection, especially in light of pressure from new development. Suggestions included acquiring natural areas near developing properties and restoring compromised wetlands and other environmentally sensitive areas. Participants also emphasized that riparian habitat and sensitive natural areas along the water should be preserved."

Goal 1-4 of the [Parks Master Plan](#) (page 44) is to *"Prioritize the preservation and restoration of riparian habitat and sensitive natural areas along waterfront and wetland areas."*

This cannot be accomplished unless Chapter 56 is applied to this application. The reasons for doing so are highlighted below in yellow.

[CDC Chapter 56 Parks and Natural Areas Design Review](#)

56.020 APPLICABILITY

"A. This chapter applies to the development of all new parks and natural resource areas. It also

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

C. Class I design review. The following is a non-exclusive list of Class I design review activities or facilities.

1. New sidewalks, if over 200 feet long (see CDC 56.025).

(Proposed sidewalk over 200 ft is partially on park property)

2. New trails, if over 200 feet long (see CDC 56.025).

(proposed trail on park next to the retaining wall is over 200 ft.)

3. New paths, if over 200 feet long (see CDC 56.025).

(Trail or path to park under Fields Bridge is over 200 ft)

4. Additional recreation amenities or facilities including playground equipment, picnic shelters, and playing fields so long as those facilities are consistent with the program established for the park and the impacts are expected to be minor. (An example of program consistency would be Class I design review of a proposal to add two more swing sets at an active-oriented park; conversely, it would be a Class II if the proposal would add swing sets in a natural resource area.)

(Army Corps of Engineers and DSL permit should determine if impacts are "minor" or "major," if alternatives were provided and appropriate mitigation)

5. Fences and walls, over 200 feet long (see CDC 56.025).

(Proposed retaining walls are cumulatively over 200 ft.)

6. Addition or reduction of less than 10 percent of total square footage of an existing building so long as there is no encroachment towards a resource area.

7. Minor road realignment under 200 feet long. **Realignment must not come closer to any existing resource area than it currently is.**

(Proposed changes to WFD and service road to park will come closer to the existing WRA. The importance of this should trigger a Type II design review. Army Corps of Engineer and DSL permits should determine OHWM and whether proposed cut/fill, detention pond revisions and other disturbances of WRA and NRA are "minor" or "major" and the mitigation thereof.)

8. Ten percent additions or reduction of parking stalls so long as required minimum number of spaces is still met.

(Proposed parking spaces on WFD appear to be for Fields Bridge Park)

9. Major modification of a landscape plan (including water features, ponds, pergolas, arbors, artwork, sculptures, etc.). Replacement of one type of flowers with another or tree planting would not have to go through review.

10. Minor modifications and/or minor upgrades or repairs of public or private utilities in the park or resource area. **Any proposed excavation or grading within a drainageway will require Class I review and will be covered with a natural drainageway permit.** Emergency repairs, authorized by the City Manager, would be exempt from this chapter per CDC 56.025. Post-emergency site

restoration or mitigation would, however, be required.

(Proposed grading in WRA requires design review.)

11. Americans with Disability Act (ADA) compliance (e.g., **ramps and paths**) is exempt when the improvement is outside of a natural resource area per CDC 56.025. **Construction of ADA-accessible interpretive paths and related facilities in natural resource areas shall go through Class I design review.**

(Portions of path next to the retaining wall will be inside WRA.)

12. Freestanding art and statuary under five feet tall.

13. **The addition or removal of a park or natural open space facility or site feature. This could involve, for example, the elimination of a softball diamond.**

(The addition of parking spaces for Fields Bridge Park on WFD frontage)

14. **Other land uses and activities may be added if the Planning Director makes written findings that the activity/use will not increase impacts to any nearby resource area or abutting residential property, does not conflict with the program established for the specific park or natural resource area/open space, and is consistent with the type and/or scale of activities/uses listed above.**

(The Planning Director's decision should be based on DSL and Army Corp of Engineer permit.)

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

1. Site preparation for and/or development of a new park or natural area.
2. Outward expansion of an existing park or natural area.
3. Addition or reduction of more than 10 percent of total square footage of an existing building, including any dimensional change if it would result in encroachment towards a natural resource area.
4. Any program change that results in a change in the function and classification of the park or resource area (e.g., from active park with playing fields to passive park with no playing fields. Any change that puts park program at odds with, or in violation of, Parks Master Plan).

(The off-street parking on WFD conflicts with Parks Master Plan requirement for on-site parking in Multi-Use parks such as Fields Bridge.)

5. Any change or proposed development which, by its scale or scope of work, requires that a full and comprehensive review be undertaken in the public forum. See CDC 56.025, Exemptions, for buildings over 10,000 square feet.

(The scale and scope of work in the WRA and NRA in Fields Bridge Park warrants public review per Class II design review)

56.025 EXEMPTIONS -The provisions of this chapter exempt the following activities from review:

C. Revision to parking alignment or circulation so long as it only involves restriping or painting new
dD. ADA facilities, such as access ramps and modifications to accessways to improve accessibility, outside of resource areas are exempt. These changes will be subject to CDC 99.060(A)(2).

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

(None of the 56.025 exemptions appear to apply.)

Class II Design review (CDC 56.020(D)) should be applied because the scope and scale of the potential adverse impacts of sidewalks, paths, retaining walls and fences over 200 feet long and minor or major road realignment of over 200 feet and changes to the storm water detention reservoir proposed within Natural and Water Resource Area and Water Resource Area at Fields Bridge Park merit a comprehensive review in the public forum in order to insure that reasonable alternatives are provided in order to protect and enhance natural resources to the greatest extent possible.

56.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW

The approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II parks design review application.

C. Relationship to the natural environment.

1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the municipal code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at the direction of the City Manager.

2. All heritage trees, as defined in the municipal code, and all trees and clusters of trees (“cluster” is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of CDC 55.100(B)(2). It is important to acknowledge that all trees are not significant.

(It appears that trees in the WRA and NRA areas of Fields Bridge Park may have been cut without a tree permit, prior to this application. If so, this should be mitigated per type II Design review process)

a. Areas of the park that include non-Type I and II lands shall protect all heritage trees and all significant trees through the careful layout of streets, building pads, playing fields, and utilities. The method for delineating the protected trees or tree clusters (“dripline + 10 feet”) is explained in CDC 55.100(B)(2)(a) and in subsection (C)(2)(b) of this section.

PROTECTED AREA = DRIPLINE + 10 FEET

(Potential un-permitted tree loss triggers the need for Class II public review)

b. Areas of the park that include Type I and II lands shall protect all heritage, significant and non-significant trees. Groundcover, bushes, etc., shall be protected and may only be disturbed to allow the construction of trails or accessing and repairing utilities. Exemptions permitted under CDC 55.100(B)(2)(c) through (f) shall apply.

(Potentially affected Wetland and WRA areas on park property are Type I and II and merit Class II review)

3. In the case of natural resource areas, the topography shall be preserved to the greatest degree possible. Conversely, in non-natural resource areas, it is recognized that in order to accommodate level playing fields in an active-oriented park, extensive grading may be required and the topography may be modified.

(DSL requires alternatives in order to determine “greatest extent possible.” No alternatives noted.)

4. The structures shall not be located in areas subject to slumping and sliding. The Comprehensive Plan Background Report's Hazard Map, or updated material as available and as deemed acceptable by the Planning Director, shall be the basis for preliminary determination.

(West Linn and Clackamas County Natural Hazard Mitigation Plan should be considered in Class II design review)

The application does not seem to mention the need for DSL or Army Corps of Engineer permit. Nor does the application provide any alternatives to the proposed plan that might have lesser impacts to the WRA per DSL requirements as follows:

2023 DSL manual Appendix E Appendix E: Preparing the Alternatives Analysis

Introduction

Oregon Administrative Rule (OAR 141-085-0550(5)(o)) requires that applications for removal-fill permits include "an analysis of alternatives to derive the practicable [emphasis added] alternative that has the least reasonably expected adverse impacts on waters of this state". Practicable means it can be accomplished after taking into consideration cost, existing technology, and logistics with respect to the overall project purpose. The alternatives analysis is a tool to help identify the practicable alternative with the least impact, and as such, should be introduced early in project design. It should not be used as a means to justify what has already been decided.

A good alternatives analysis is built on four foundations:

- Clearly documented project purpose (project objectives)
- Project-specific criteria used to evaluate alternatives
- A clearly articulated range of alternative locations and site designs that avoid and minimize impacts
- Documented evaluation of each alternative location and site design against the project criteria

Applicable Statutes and Rules

DSL is required by statute (ORS 196.825 (1)) to make two determinations in issuing a removal-fill permit:

1. The project described in the application must be consistent with the protection, conservation and best uses of the waters of this state.
2. The project does not unreasonably interfere with preservation of waters for navigation, fishing and public recreation.

The terms "consistent," "best uses" and "reasonableness" allow DSL considerable discretion in decision-making.

Additionally, DSL is required (ORS 196.825 (3)) to consider certain factors in making determinations related to an application:

1. The public need for the proposed fill or removal and the social, economic or other public benefits likely to result from the proposed fill or removal. When the permit applicant is a public body, DSL may accept and rely upon the public body's findings as to local public need and local public benefit.
2. The economic cost to the public if the proposed fill or removal is not accomplished.

3. The availability of alternative locations to the project for which the fill or removal is proposed.
4. The availability of alternative site designs for the proposed fill or removal.

E-2

5. If the proposed fill or removal conforms to sound policies of conservation and would not interfere with public health and safety.
6. If the proposed fill or removal is in conformance with existing public uses of the waters and with uses designated for adjacent land in an acknowledged comprehensive plan and land use regulations.
7. If the proposed fill or removal is compatible with the acknowledged comprehensive plan and land use regulations for the area where the proposed fill or removal is to take place or can be conditioned on a future local approval to meet this criterion.
8. If the proposed fill or removal is for streambank protection.
9. If the applicant has provided all practicable mitigation to reduce the adverse effects of the proposed fill or removal in the manner set forth in ORS 196.800.

The statute does not tell DSL how to include such considerations into its permit decision-making. The agency has considerable discretion to exercise its judgment in addressing these considerations provided it is in line with the general policy of the statute and any final decision on a permit conforms to the determinations set forth above.

DSL manual page 224: Special Considerations for the Alternatives Analysis

Mitigation Considerations

The alternatives analysis process is separate from compensatory mitigation. The suitability of mitigation is only considered after the practicable, least impacting alternative has been identified through the alternatives analysis.

2023 DSL manual page 225 states: Nonetheless, local land use planning and zoning do not preclude the applicant's requirement to consider project alternatives with lesser impacts on wetlands and waterways.

The need for several aspects of the proposed design is not inherently clear and no alternatives were provided for analysis.

1. The necessity of a pedestrian path on WFD in addition to the path directly below, next to the retaining wall in Fields Bridge Park, especially in light of the need to avoid encroaching into WRA flood zone area as much as possible. A full ped/bike/planter strip route will be built on the other side of WFD. Only widening WFD for a bike path will reduce WRA area encroachment. A narrower path will also cost less. This application lacks this alternative.
2. The necessity of a roundabout type of intersection is questionable because only service roads to parking lots will be intersecting WFD at Fields Bridge Park. A conventional intersection would encroach into the Tualatin River WRA less and it would cost less. Furthermore, West Linn 2016 TSP safety measures, states that "traffic circles" should not be located on minor arterials. A traffic analysis of the intersection needs to be done on a roundabout and an alternative conventional intersection.
3. It is not clear why parking is proposed on WFD approx. 100 ft. from the proposed roundabout, despite 2016 TSP table 26 restriction against parking on minor arterials except

in designated commercial zones. This part of WFD is not in a commercial zone. It does not seem safe to have children dart in and out of parking spaces near and intersection on a very busy minor arterial.

4. Please provide an alternative plan that does not involve cutting so many trees, and have it considered in a Class II Design Review public forum.

I am hereby requesting the City to get a DSL and Army Corps of Engineers permit and provide alternatives as part of a Chapter 56 Parks and Natural Resource Class II Design review.

Thank you for your time and consideration of these matters.

Teri Cummings, West Linn resident, address on file.

From: [John J. McCabe](#)
To: [Wyss, Darren](#); [Schroder, Lynn](#)
Cc: [Williams, John](#)
Subject: Re: Water Resource Permit Notification not given
Date: Tuesday, April 4, 2023 4:00:02 PM

ealing Mr. Wyss;

I did not receive a response to this email, so could have been placed in the junk file.

So I am now adding to the email I have already sent, but the first email has not been confirmed that it was received.

Rather than accepting the information on the application for the Water Resource Permit, the current contractor has had DEQ Violations that they are appealing.

The recent work along Willamette Falls Drive is truly inadequate. The water line that crossed the road to a fire hydrant failed in less than three weeks. The contractor was not hired in a process of being vetted by the City of West Linn.

In addition, the schedule to limit travel along a main arterial has been for a lengthier time than what was requested. Every week the amount of time for restricted travel just keeps on being lengthened. The public is told that we are to stay out of the way and accept the inferior activity. We do?

METRO has committed millions in this area along the Tualatin River Watershed. Does the contractor care? Highly doubtful. The environmental damage created should be limited to the damage that has been created to date.

Even with an approved permit, does not mean that the permit will be adhered to. This is why at the pre app meeting I requested that the General Contractor have a performance bond so the violations that will occur can be taken care of by other contractors, in addition to the current general contractor.

In addition, was the USGS meter used to address the river flow changes that have been occurring recently. The USGS had a training recently at Fields Bridge Park.

The training occurred after the Pine Tree that was over 50 feet tall fell into the Tualatin River. I was informed that the changing flow of the river will cause more erosion along the Tualatin River, and more incidents due to the nature of the soil. Yet the West Linn Public Works Department desires to continue rather than leaving the current sidewalks in the park as much of the pathway will be removed at the request of Lance Calvert.

So to save money, the City should get their own General Contractor as the users of the park should not be force to accept a General Contractor that has had many DEQ violations at this site in the past year.

John McCabe
503-351-5319

From: John J. McCabe
Sent: Thursday, March 23, 2023 10:38 AM
To: Wyss, Darren <dwyss@westlinnoregon.gov>
Cc: jwilliams@westlinnoregon.gov <JWilliams@westlinnoregon.gov>
Subject: Water Resource Permit Notification not given

Mr. Wyss;W

During the pre application for a Water Resource Permit, that was carried on zoom promises were made by you that are not being honored.

Every party on the zoom meeting was promised that they would be notified when the application was completed. So can I assume that the application still remains incomplete? If it is complete was everybody that was informed at the meeting provided information that the application was complete? I for one was not informed. This would require that the due date be extended since I still have no idea when the application was considered finalized.

In addition a request was made to have the General Contractor obtain a performance bond.

This would seem to be a needed requirement due to the General Contractors multiple DEQ Violations, which are being appealed. A Performance Bond should be deemed to be necessary based on the recent history. Mr. Wyss you stated that the City Manager would have to make this a requirement of this permit. Has Mr. Williams been in the loop for the Performance Bond, or was Mr. Williams not informed of the request, which again would make any permit process incomplete.

Also since it is Spring and West Linn Baseball is using Fields Bridge Park for practices, to be followed by games. What is to occur if any construction occurs during the season? It is not the Associations fault that the application took so long. This is just the regular spring activity, that is looking at the future where Oppenlander Field may not be available to the public due to an uncaring party affiliated with Oppenlander.

In addition has there been a change to the CUP for the Dollar Street project? Has the Brandon Place Extension been overridden to be more than an emergency road/no through traffic. Or

has there been a change?

John McCabe
503-351-5319

From: [John J. McCabe](#)
To: [Wyss, Darren](#)
Cc: [Williams, John](#)
Subject: Water Resource Permit Notification not given
Date: Thursday, March 23, 2023 10:38:31 AM

CAUTION: This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

Mr. Wyss;W

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John McCabe
503-351-5319

CITY OF WEST LINN
NOTICE OF UPCOMING
PLANNING MANAGER DECISION
FILE NO. WAP-23-01/WRG-23-01/FMA-23-01

The West Linn Planning Manager is considering a request for a Water Resource Area permit, a Willamette River Greenway permit, and a Flood Management Area permit for transportation improvements adjacent to Fields Bridge Park (821 Willamette Falls Drive). The improvements will also include reconstruction of the park entrances, an extension of the pedestrian path from Brandon Place, and modifications to the existing stormwater treatment facility at the northwest corner of the new Brandon Place/Willamette Falls Drive intersection.

The decision will be based on the approval criteria in Chapters 11, 13, 27, 28, 32, and 99 of the Community Development Code (CDC). The approval criteria from the CDC are available for review at City Hall, at the City Library, and at <http://www.westlinnoregon.gov/cdc>.

You have been notified of this proposal because County records indicate you own property within 500 feet of the proposed improvements or as otherwise required by Chapter 99 of the CDC.

The application is posted on the project web site <https://westlinnoregon.gov/planning/821-willamette-falls-drive-willamette-river-greenway-water-resource-area-protection-and>. Alternately, the application, all documents or evidence relied upon by the applicant and applicable criteria are available for inspection at no cost at City Hall. Copies may be obtained for a reasonable fee.

A public hearing will not be held on this decision. Anyone wishing to present written comment for consideration on this matter shall submit all material before 4:00 p.m. on April 4, 2023. Persons interested in party status should submit written comments outlining any concerns related to the proposal by the comment deadline. For further information, please contact Darren Wyss, Planning Manager, City Hall, 22500 Salamo Rd., West Linn, OR 97068, (503) 742-6064, dwyss@westlinnoregon.gov.

It is important to submit all testimony in response to this notice. All comments submitted for consideration of this application should relate specifically to the applicable criteria. Failure to raise an issue in writing, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes the raising of the issue at a subsequent time on appeal or before the Land Use Board of Appeals.

The final decision will be posted on the website and available at City Hall. Persons with party status may appeal the decision by submitting an appeal application to the Planning Department within 14 days of the final decision pursuant to CDC 99.240.

I'd like to know why a no public hearing? but that said, I trust staff is/has study all corner of this request. — this "spot" is traveled heavy as it connects to I-205 a short space further — make sure it is well signed for route change when in construction — Thanks —

*alice Richmond PENA.
3-17-23-*