

Appeal of the Planning Manager Decision approving permits for:

1. Willamette River/Tualatin River Greenway Protection (WRG)
2. Water Resource Area Protection (WAP)
3. Flood Management Area (FMA)

to allow the proposed road improvements to Willamette Falls Drive, including the roundabout, to be developed on riparian land in Fields Bridge Park and right of way.

AP-23-02

Karie Oakes and Teri Cummings

Purpose of this appeal

- To ensure that the proposed plans for the Willamette Falls Drive (WFD) road improvements, including the roundabout, will cause the least adverse impacts possible to the Tualatin River, wetlands, flood zone and habitat conservation areas
- To mitigate the adverse impacts to the greatest extent possible
- To see that the proposed improvements will not present safety hazards

Furthermore, this is an opportunity to correct some errors, pose questions and make recommendations on how to improve the plan.

Question 1.

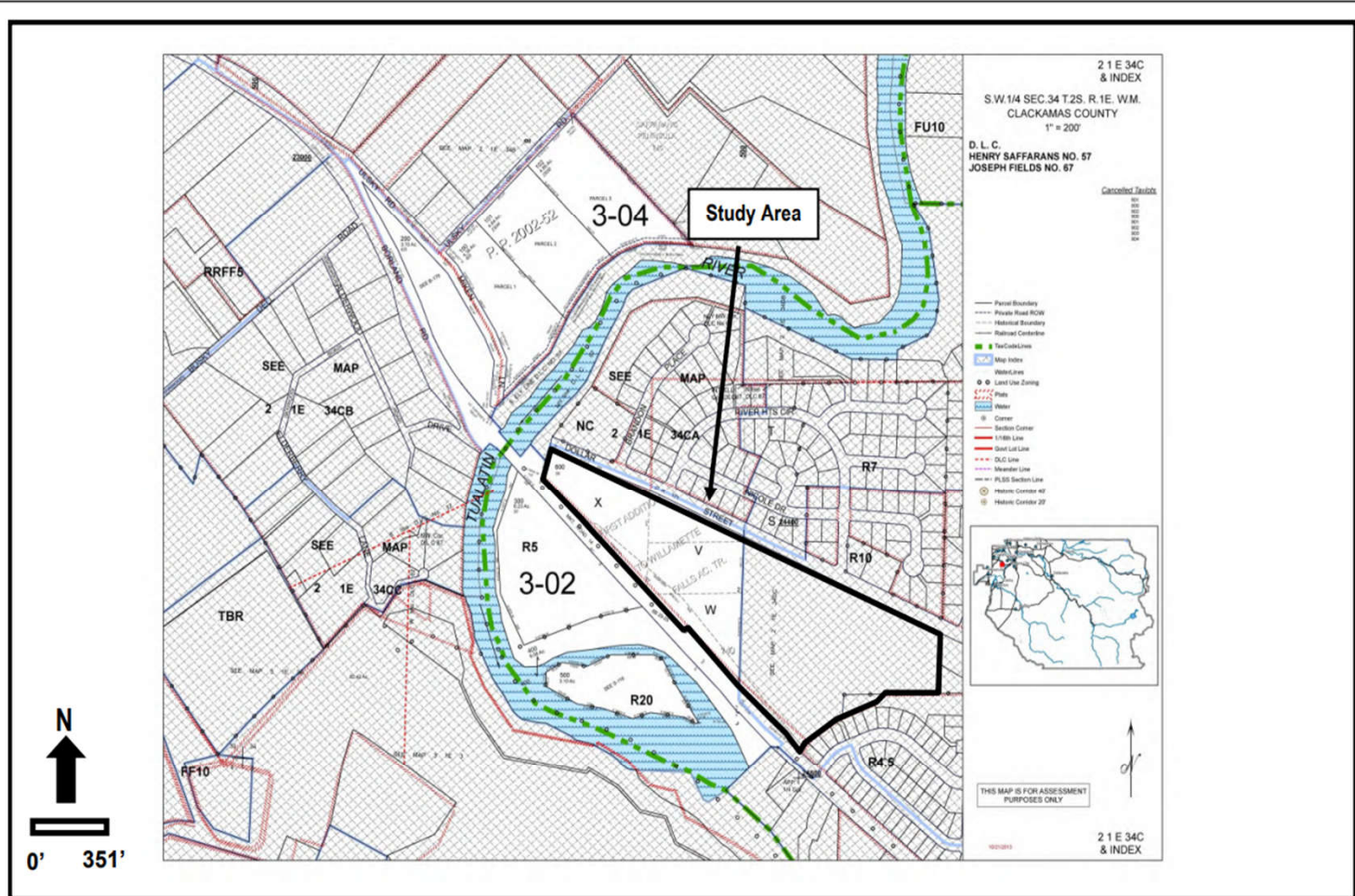
Was the roundabout approved when the West Linn Wilsonville (WLWV) school application was approved?

No, the potential roundabout and proposed south side WFD improvements were not approved when the school application was approved.

Approval of the potential roundabout requires environmental review for the WRG, WAP and FMA development permits requested by the City in this application.

The environmental review for the new Athey Creek Middle School application was limited to the school-site property shown in figure 2A of the application.

Oregon Department of Land Conservation and Development confirmed the potential roundabout was not approved in the school application.



#6960
7/29/2020
PHS

Tax Lot Map
Dollar Street West Linn School Siting - West Linn, Oregon
The Oregon Map (ormap.net)

FIGURE
2A

Email November 04, 2022

Kelly Reid

Regional Representative for Multnomah and Clackamas Counties

Oregon Department of Land Conservation and Development (OLCD)

I was able to confirm that the land use review for the new middle school included review of overlay zones that address Goals 5, 6 and 7 for steep slopes, floodplain, and water resources/habitat conservation areas – these included areas on the north side of Willamette Falls Drive and on the project site itself. Since the roundabout project affects areas south of Willamette Falls Drive that were not accounted for in the previous land use review, additional land use review will be required. Darren informed me that an application for that review has not yet come before the City. When it does, public notice will be provided.

The nuance there is that the roundabout itself was included in the land use application for the new school – it was included on the site plans - but the impacts on natural resources were not addressed, which is why another land use review is required.

Question 2.

Was the roundabout approved when the WFD Concept Plan was approved?

No, the WFD Concept Plan was adopted as an amendment to the 2016 Transportation System Plan by a legislative action, not a quasi-judicial land use decision.

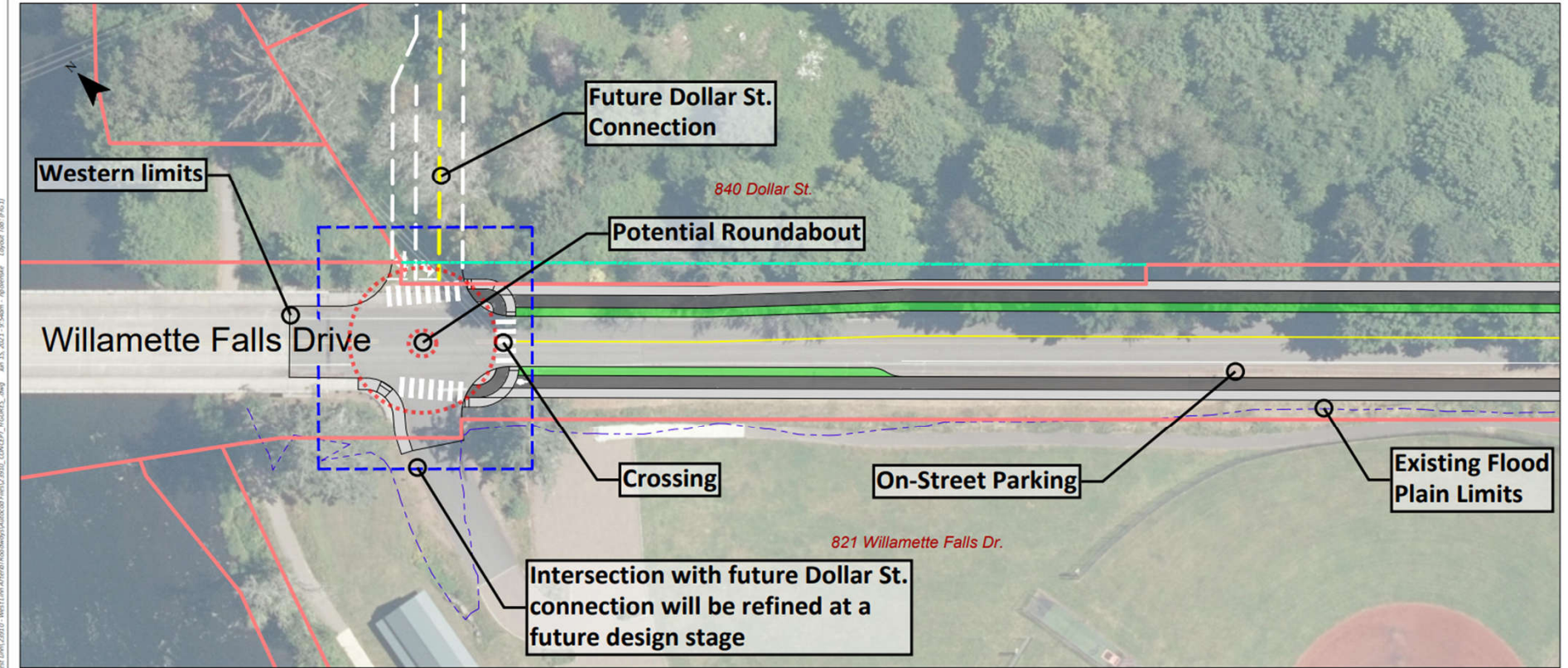
The 30% complete preliminary designs provide guidance for public involvement for transportation planning

The designs may be altered and refined in response to existing conditions and to meet the needs of the community.

The roundabout next to Fields Bridge was identified as a “potential roundabout” in the WFD Concept Plan.

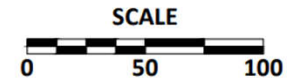
It was yet-to-be-determined whether the intersection near Fields Bridge would be better as a roundabout or a conventional crosswise intersection.

See WFD Concept Plan Figure 1.



Aerial imagery provided by City of West Linn GIS

- Sidewalk
- Protected Bike Facility
- Buffer/Landscape
- TriMet Bus Stop Location¹
- Intersection to be refined at later design stage
- Potential Right-of-way Impacts²



¹ Bus stop locations are preliminary based on existing stop locations and potential stop consolidation. Final stop locations will be determined in the design phase of the project.
² Potential Right-of-way impacts are estimated and not based on survey. Actual right-of-way impacts will be determined in the next phase after acquiring survey data and refinement of the design to account for vertical grading, stormwater retention and utility relocation.

West Linn, Oregon | Figure 1

Question 3.

Were there errors in the WFD transportation improvement process?

YES!!! Ultimately, the errors led to the alleged illicit removal of about 41 trees.

- The potential roundabout and full-street improvements, including the two park entrances, were made part of the school application on April 30, 2021.
- City staff made multiple unkept promises at City Council, Planning Commission and Neighborhood Association meetings that there would be opportunities for public involvement to refine the 30% conceptual design of the WFD Concept Plan after it was adopted August 2, 2021.

Errors continued

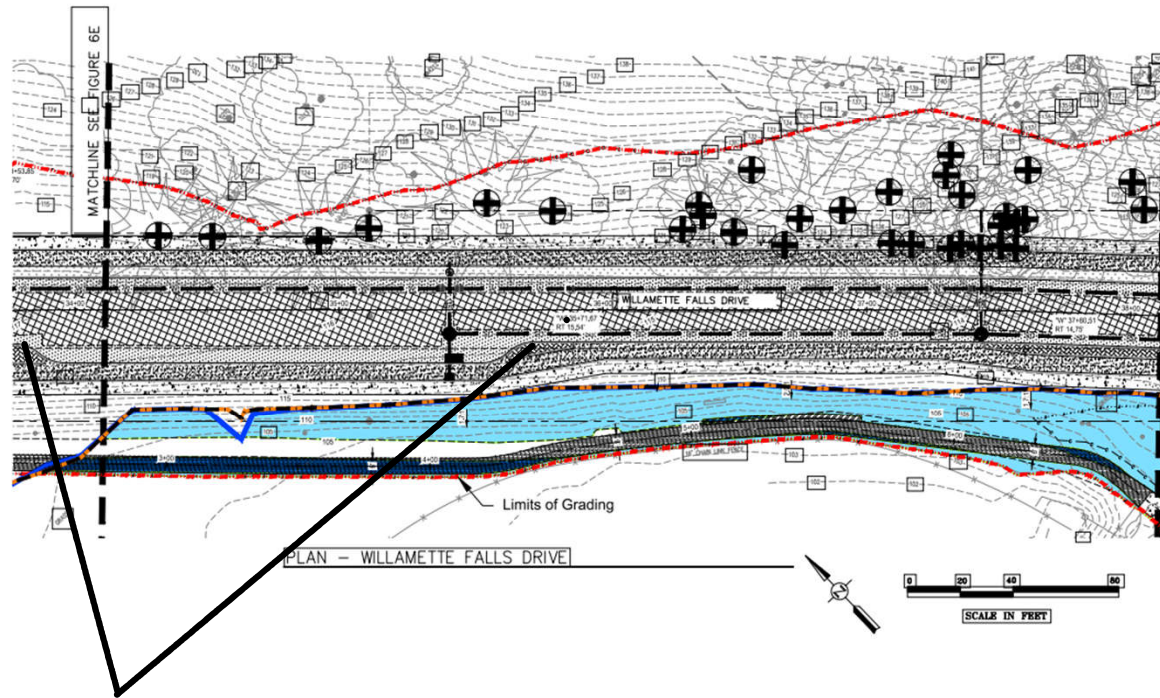
- After the school was approved, the 30% complete plans went straight to 100% engineered drawings and were approved by Eric Lais, City Engineer and applicant of this decision, on May 31, 2022.
- Approval of the engineered drawings served as the development permit for the school and the full-street WFD improvements per standard operating procedure.
- The City contracted with the School District to complete the City's portion of the WFD improvements (the project of this appeal) by an Intergovernmental Agreement (IGA) on July 11, 2022.
- Contractor for the School District removed trees in the right of way on both sides of WFD and in the Tualatin River Protection Area, Floodplain and Water Resource Protection Area and Fields Bridge Park without the required permits, mostly in July following approval of the IGA.

Question 4.

Do the proposed transportation improvements protect the environmental and public safety to the greatest extent possible?

No, two proposed on-street parallel parking areas would cause WFD improvements to encroach further into the Habitat Conservation Area (HCA) and flood plain as shown in Figures 6F, 6H and 6I.

On-street parking is not an essential, unavoidable component of the project and is inconsistent with the purpose of the project to increase safety for all modes of transportation and to install ped/bike paths and a roundabout.



- LEGEND**
- PROPERTY LINE
 - ▨ STANDARD ASPHALT PAVEMENT
 - ▨ ASPHALT TRAIL
 - ▨ ASPHALT MILL AND INLAY
 - ▨ ASPHALT BIKE PATH
 - ▨ CONCRETE SIDEWALK
 - ▨ CONCRETE DRIVEWAY
 - ▨ PERMEABLE PAVERS
 - ▨ LANDSCAPING, SEE LANDSCAPE PLANS
 - ▨ STORMWATER PLANTER
 - ▨ RETAINING WALL
 - ⊗ REMOVE TREE
 - Water Resource Area (WRA)
 - Tualatin River Protection Area
 - Habitat Conservation Area (HCA) (High HCA)
 - Habitat Conservation Area (HCA) (Moderate HCA)
 - - - Project Area / Limits of Grading (205,382 sf / 4.71 ac)
 - - - 100-Yr Floodplain
 - Moderate HCA Permanent Impact (1,543 sf / 0.04 ac)
 - Moderate HCA Temporary Impact (10,158 sf / 0.23 ac)

The widened area for the proposed parking pushes the ped/bike path into the habitat conservation area (HCA).

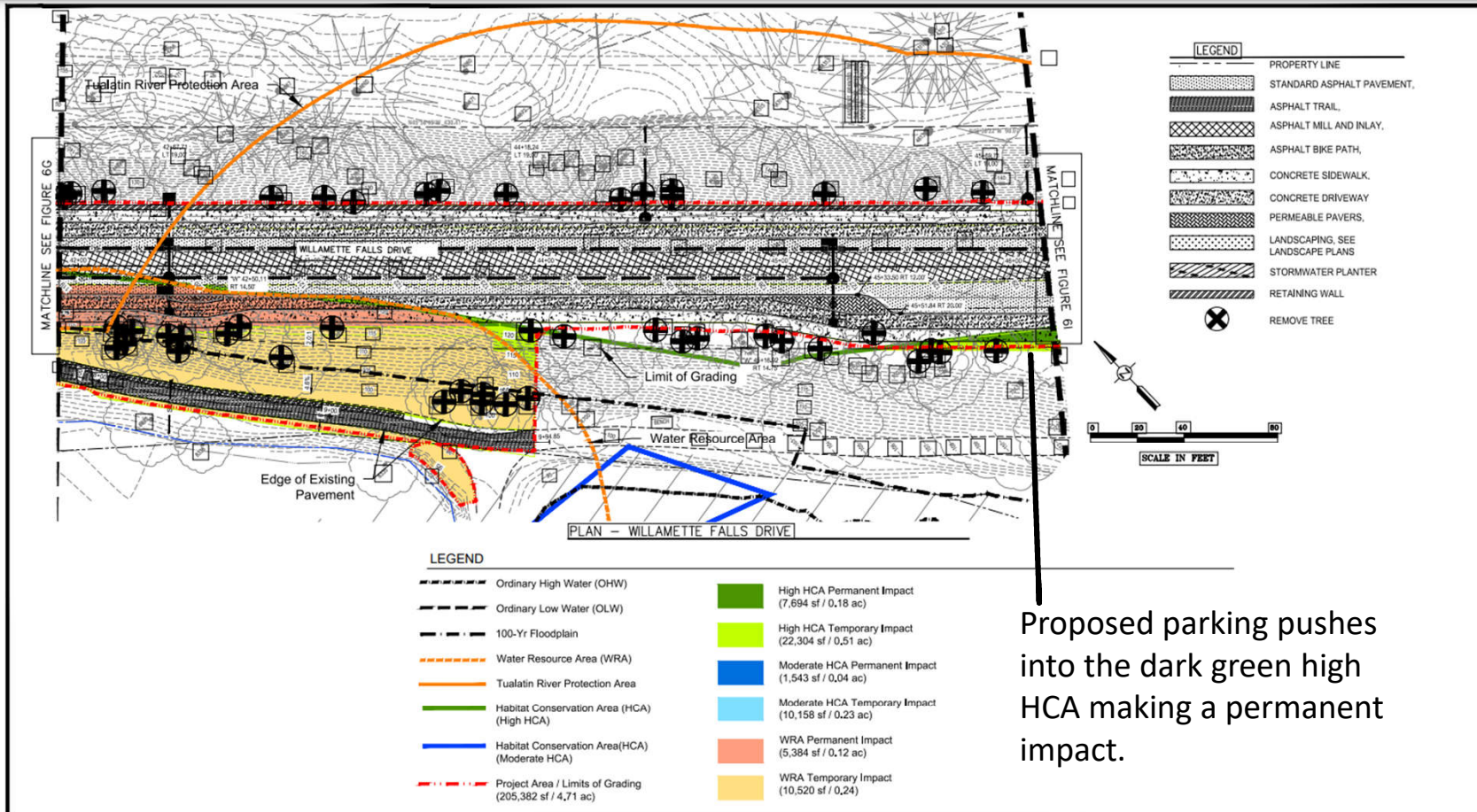


Plans Provided by KPFF

Site Plan
Willamette Falls Drive Public Improvements - West Linn, Oregon

FIGURE
6F

2-20-2023



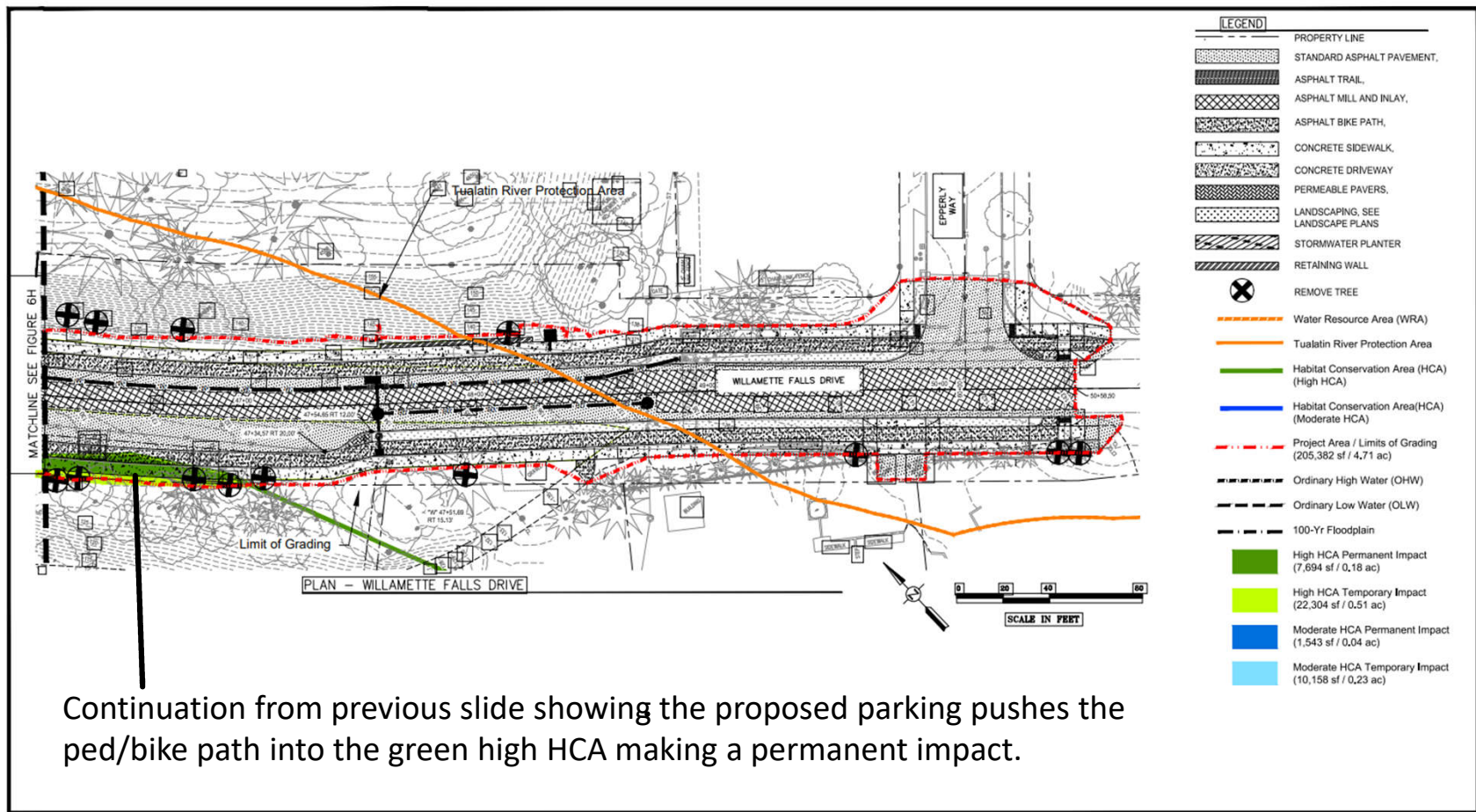
Proposed parking pushes into the dark green high HCA making a permanent impact.



Plans Provided by KPFF

Site Plan **FIGURE 6H**
 Willamette Falls Drive Public Improvements - West Linn, Oregon

2-18-2023



Continuation from previous slide showing the proposed parking pushes the ped/bike path into the green high HCA making a permanent impact.



Plans Provided by KPFF

Site Plan
Willamette Falls Drive Public Improvements - West Linn, Oregon

FIGURE
61

2-20-2023

Remove the on-street parking to meet the purpose of the project and the following approval criteria:

28.110 A.2. HCAs (Habitat Conservation Areas) shall be avoided to the greatest extent possible and development activities shall be instead directed to the areas not designated "Habitat Impact Areas not designated as HCAs, consistent with subsection (A) (3) of this section.

28.110 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 are required, with the applicant to submit a mitigation plan pursuant to CDC 32.070 and a revegetation plan pursuant to CDC 32.080.

Question 5.

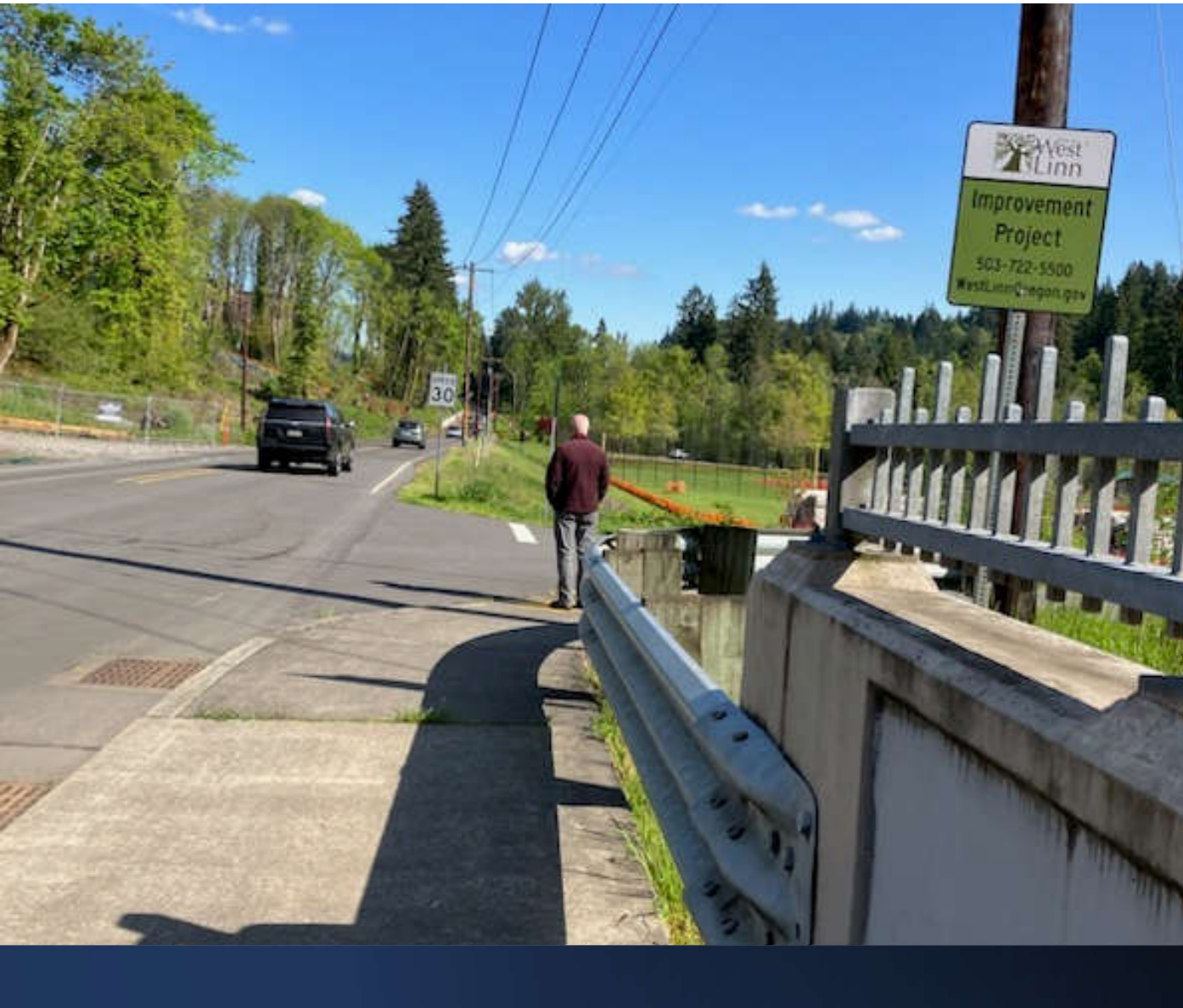
Does the proposed roundabout design provide adequate public safety?

That is yet to be determined.

No alternatives were offered to placing an intersection next to Fields Bridge to access the school and it's too late to consider if other options might be safer.

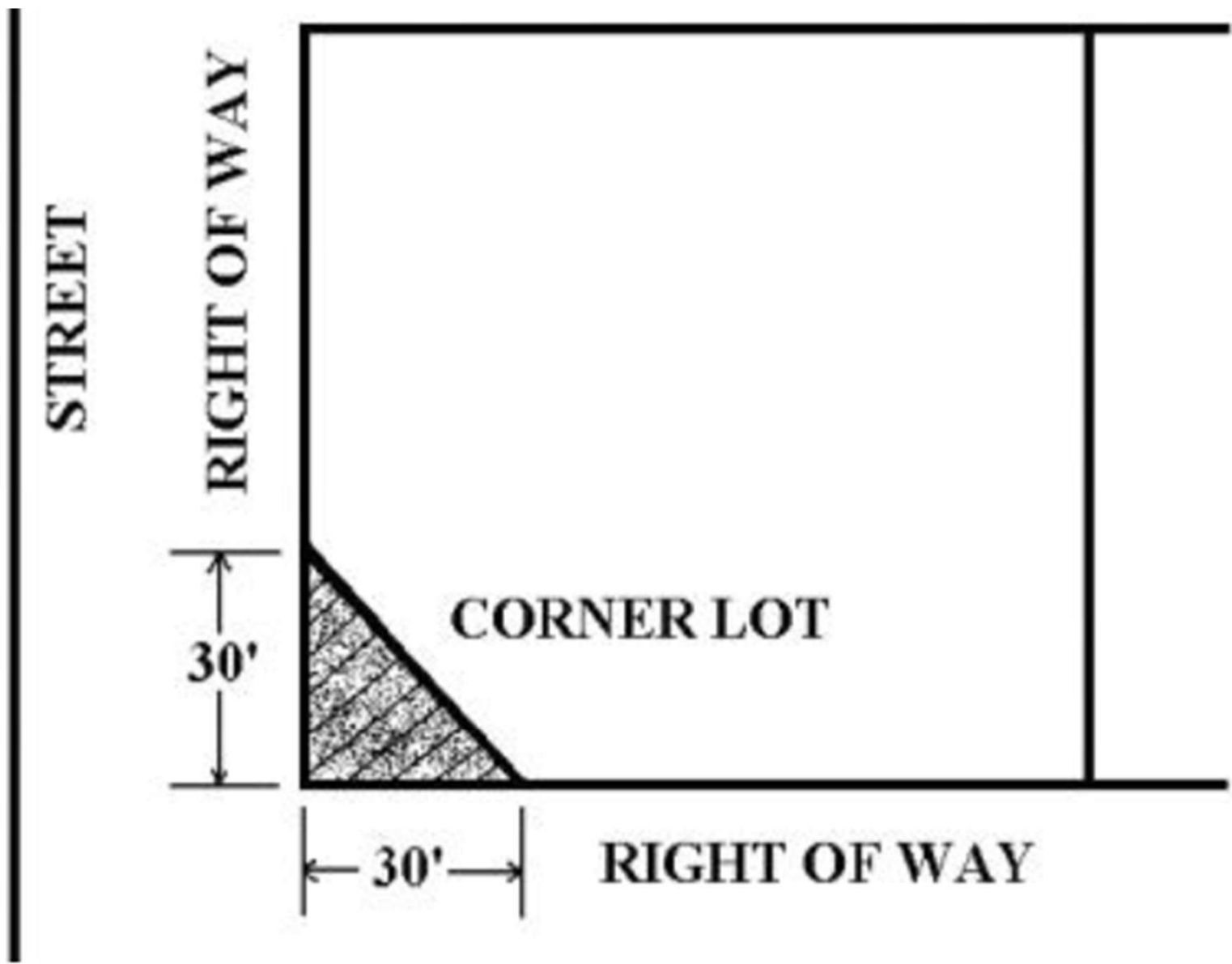
The solid concrete and iron guardrail on Fields Bridge appear to obstruct the clear vision area of the intersection as required by CDC 42.020.

The steep downward slope of the driveway into Fields Bridge Park could also impair line of sight approaching the intersection.



Guardrail to Driveway

- Distance to corner is 27 ft, requirement is 30 ft.
- Height is over 5 ft, requirement is under 3 ft.



STREET

RIGHT OF WAY

30'

CORNER LOT

30'

RIGHT OF WAY

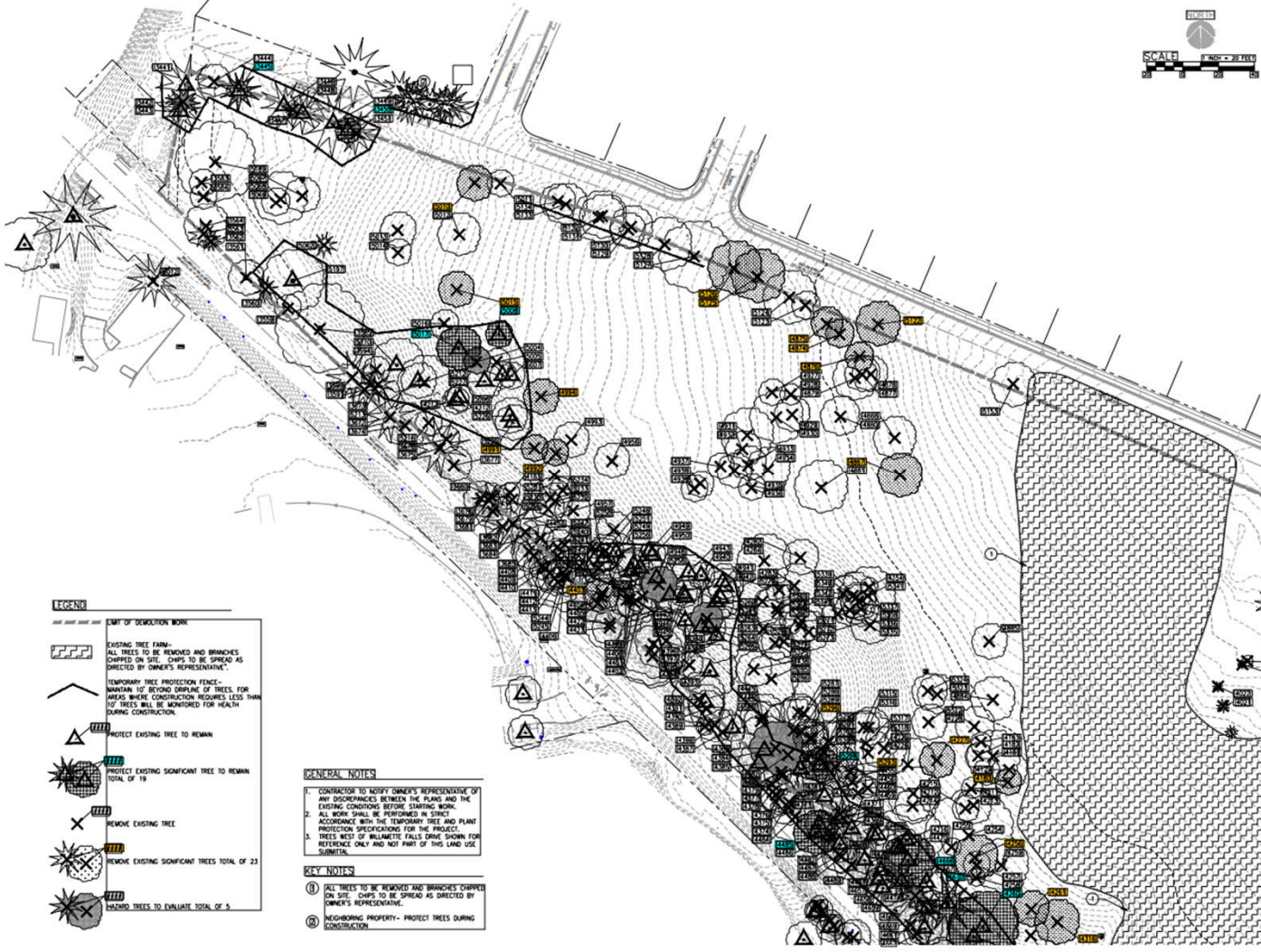
Question 6.

Were trees and environmentally sensitive areas protected to the greatest extent possible and properly permitted?

Apparently not. At least 41 trees were cut down in Fields Bridge Park in 2022 before the required WAP 23-01/WRG-23-01/FMA-23-01 permit process commenced.

A disclaimer in the General note on the New Athey Creek Middle School Tree Protection Plan project sheets L1001 and L1002, dated May 17, 2021, states in General Note 3: **TREES WEST OF WILLAMETTE FALLS DRIVE SHOWN FOR REFERENCE ONLY AND NOT PART OF THIS LAND USE SUBMITTAL.**

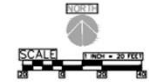
Thus, there was no removal/protection plan in place before the City allowed at least 41 trees to be cut down in Fields Bridge Park.



LEGEND

	EXISTING TREE FARM - ALL TREES TO BE REMOVED AND BRANCHES CHIPPED ON SITE. CHIPS TO BE SPREAD AS DIRECTED BY OWNER'S REPRESENTATIVE.
	TEMPORARY TREE PROTECTION FENCE - MAXIMUM 10' BEYOND DAPLINE OF TREES. FOR AREAS WHERE CONSTRUCTION REQUIRES LESS THAN 10' TREES WILL BE MONITORED FOR HEALTH DURING CONSTRUCTION.
	PROTECT EXISTING TREE TO REMAIN
	PROTECT EXISTING SIGNIFICANT TREE TO REMAIN TOTAL OF 19
	REMOVE EXISTING TREE
	REMOVE EXISTING SIGNIFICANT TREES TOTAL OF 23
	HARDED TREES TO EVALUATE TOTAL OF 5

- GENERAL NOTES**
- CONTRACTOR TO VERIFY OWNER'S REPRESENTATIVE OF ANY DISCREPANCIES BETWEEN THE PLANS AND THE EXISTING CONDITIONS BEFORE STARTING WORK.
 - ALL WORK SHALL BE PERFORMED IN STRICT ACCORDANCE WITH THE TEMPORARY TREE AND PLANT PROTECTION SPECIFICATIONS FOR THE PROJECT.
 - TREES WEST OF WILLAMETTE FALLS DRIVE SHOWN FOR REFERENCE ONLY AND NOT PART OF THIS LAND USE SUBMITTAL.
- KEY NOTES**
- ALL TREES TO BE REMOVED AND BRANCHES CHIPPED ON SITE. CHIPS TO BE SPREAD AS DIRECTED BY OWNER'S REPRESENTATIVE.
 - NEIGHBORING PROPERTY - PROTECT TREES DURING CONSTRUCTION.



West Linn-Wilsonville
School District
22210 SW Shafter Rd, Tualatin, OR 97062
CIP-03041
10/13/2021
10/13/2021
10/13/2021
10/13/2021

NOT FOR CONSTRUCTION



CONSULTANTS
WALKER & HILTY
1000 SW 10th Street, Suite 200
Portland, OR 97205
405.233.1100

IBI CONSULTANTS
1000 SW 10th Street, Suite 200
Portland, OR 97205
405.233.1100

PROJECT
New Athey Creek Middle School
145 Cedar Street
West Linn, OR 97068

PROJECT NO. 24478	DRAWN BY JK
DATE 10/13/2021	CHECKED BY JK
PROJECT NAME JK	APPROVED BY JK
SHEET TITLE TREE PROTECTION PLAN	

SHEET NUMBER
L1001 PAGE
A



GENERAL NOTES

- CONTRACTOR TO NOTIFY OWNER'S REPRESENTATIVE OF ANY DISCREPANCIES BETWEEN THE PLANS AND THE EXISTING CONDITIONS BEFORE STARTING WORK.
- ALL WORK SHALL BE PERFORMED IN STRICT ACCORDANCE WITH THE TEMPORARY TREE AND PLANT PROTECTION SPECIFICATIONS FOR THE PROJECT.
- TREES WEST OF WILMAMETTE FALLS DRIVE SHOWN FOR REFERENCE ONLY AND NOT PART OF THIS LAND USE SUBMITTAL.

KEY NOTES

- ALL TREES TO BE REMOVED AND BRANCHES CHIPPED ON SITE. CHIPS TO BE SPREAD AS DIRECTED BY OWNER'S REPRESENTATIVE.
- NEIGHBORING PROPERTY - PROTECT TREES DURING CONSTRUCTION.

LEGEND

	LIMIT OF DEMARCATION WORK
	EXISTING TREE FARM - ALL TREES TO BE REMOVED AND BRANCHES CHIPPED ON SITE. CHIPS TO BE SPREAD AS DIRECTED BY OWNER'S REPRESENTATIVE.
	TEMPORARY TREE PROTECTION FENCE - MAINTAIN 10' BEYOND CANOPY OF TREES. FOR AREAS WHERE CONSTRUCTION REQUIRED LESS THAN 10' TREES WILL BE MONITORED FOR HEALTH DURING CONSTRUCTION.
	PROTECT EXISTING TREE TO REMAIN
	PROTECT EXISTING SIGNIFICANT TREE TO REMAIN TOTAL OF 19
	REMOVE EXISTING TREE
	REMOVE EXISTING SIGNIFICANT TREES TOTAL OF 23
	REMOVE TREES TO DELINEATE TOTAL OF 5

Client
West Linn-Wilsonville
School District
22210 SW Starfish Rd, Tualatin, OR 97062

Project
New Athey Creek Middle School
445 Delta Street
West Linn, OR 97068

NOT FOR CONSTRUCTION



CONSULTANTS
WALKER HENRY
1100 SW 8th Street, Suite 200
Portland, OR 97204

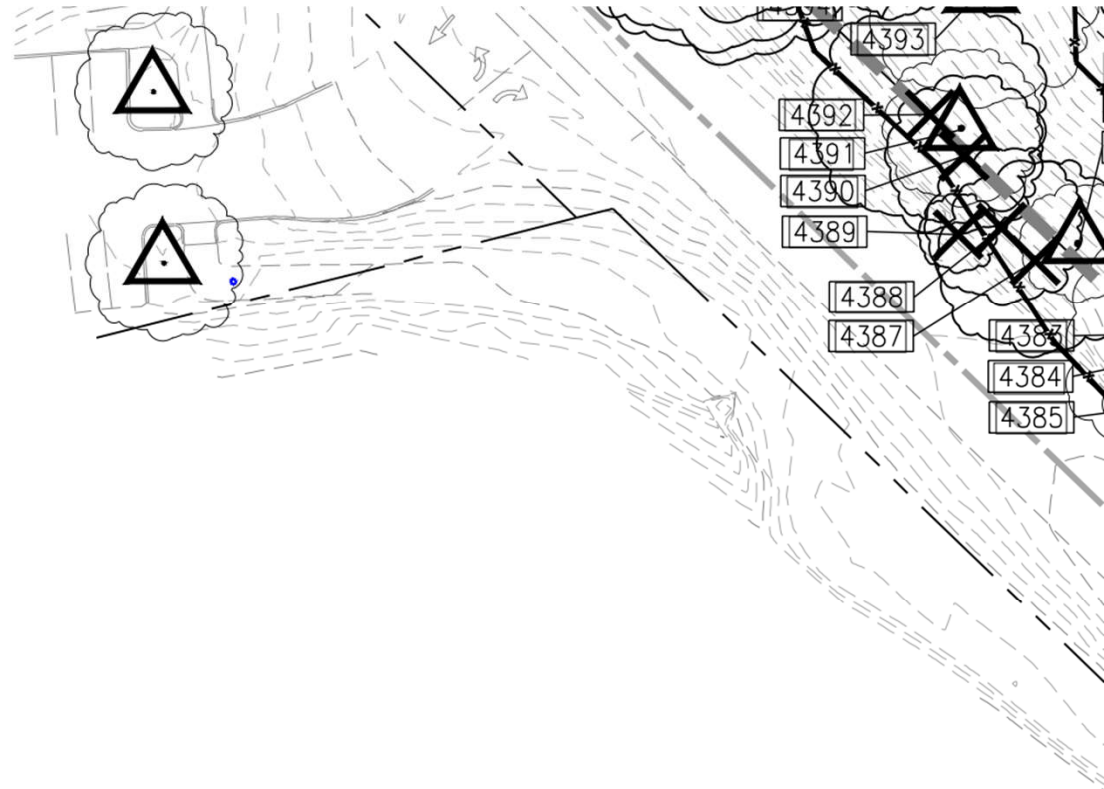
PROJECT
New Athey Creek Middle School

PROJECT NO
124778

PROJECT MANAGER
WALKER HENRY

PROJECT TITLE
TREE PROTECTION PLAN

SHEET NUMBER
L1002



GENERAL NOTES

1. CONTRACTOR TO NOTIFY OWNER'S REPRESENTATIVE OF ANY DISCREPANCIES BETWEEN THE PLANS AND THE EXISTING CONDITIONS BEFORE STARTING WORK.
2. ALL WORK SHALL BE PERFORMED IN STRICT ACCORDANCE WITH THE TEMPORARY TREE AND PLANT PROTECTION SPECIFICATIONS FOR THE PROJECT.
3. TREES WEST OF WILLAMETTE FALLS DRIVE SHOWN FOR REFERENCE ONLY AND NOT PART OF THIS LAND USE SUBMITTAL

KEY NOTES

- ① ALL TREES TO BE REMOVED AND BRANCHES CHIPPED ON SITE. CHIPS TO BE SPREAD AS DIRECTED BY OWNER'S REPRESENTATIVE.
- ② NEIGHBORING PROPERTY- PROTECT TREES DURING CONSTRUCTION

Question 7.

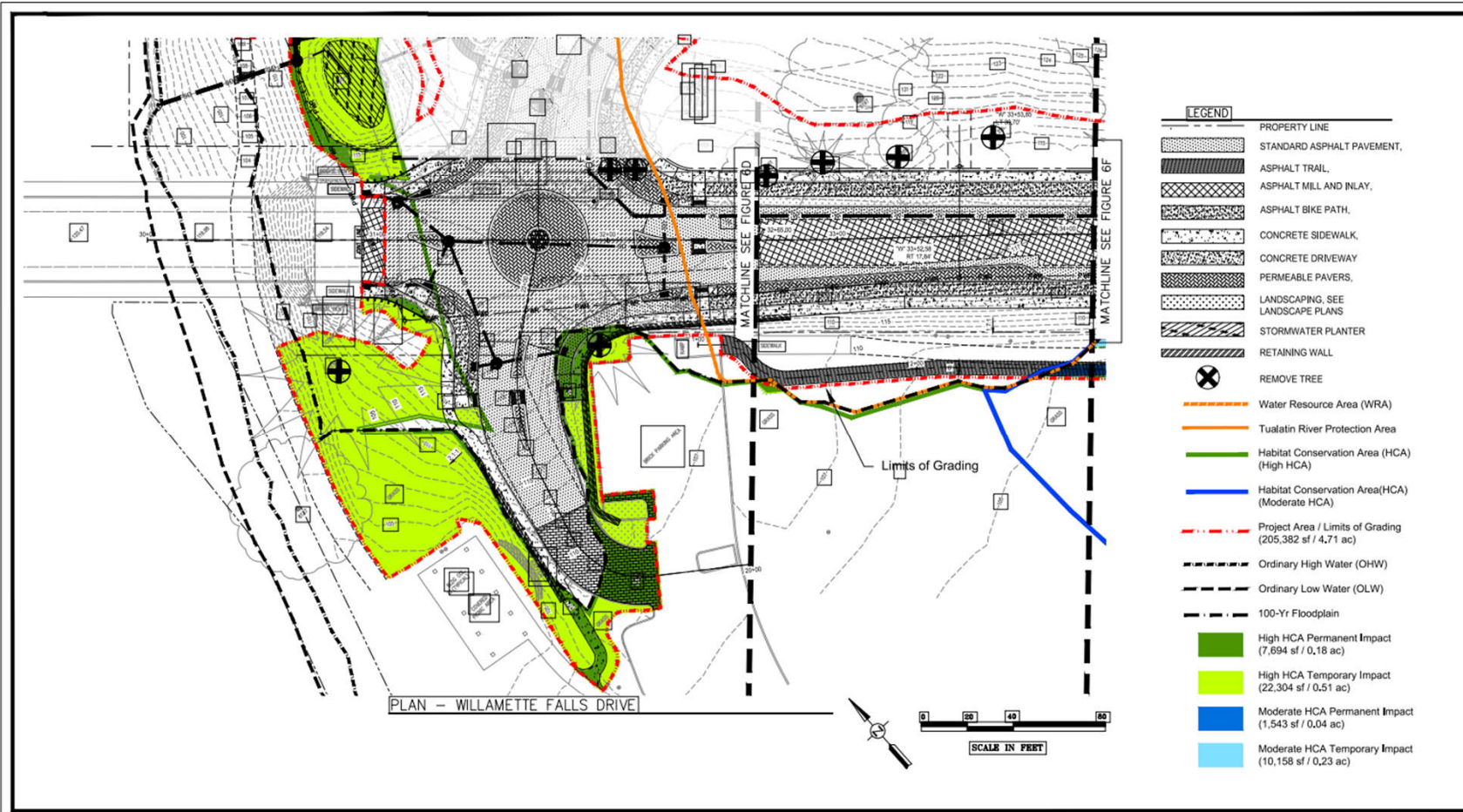
Will measures be taken per Municipal Code Chapter 8 Community Tree Ordinance regarding trees that were removed prior to this application?

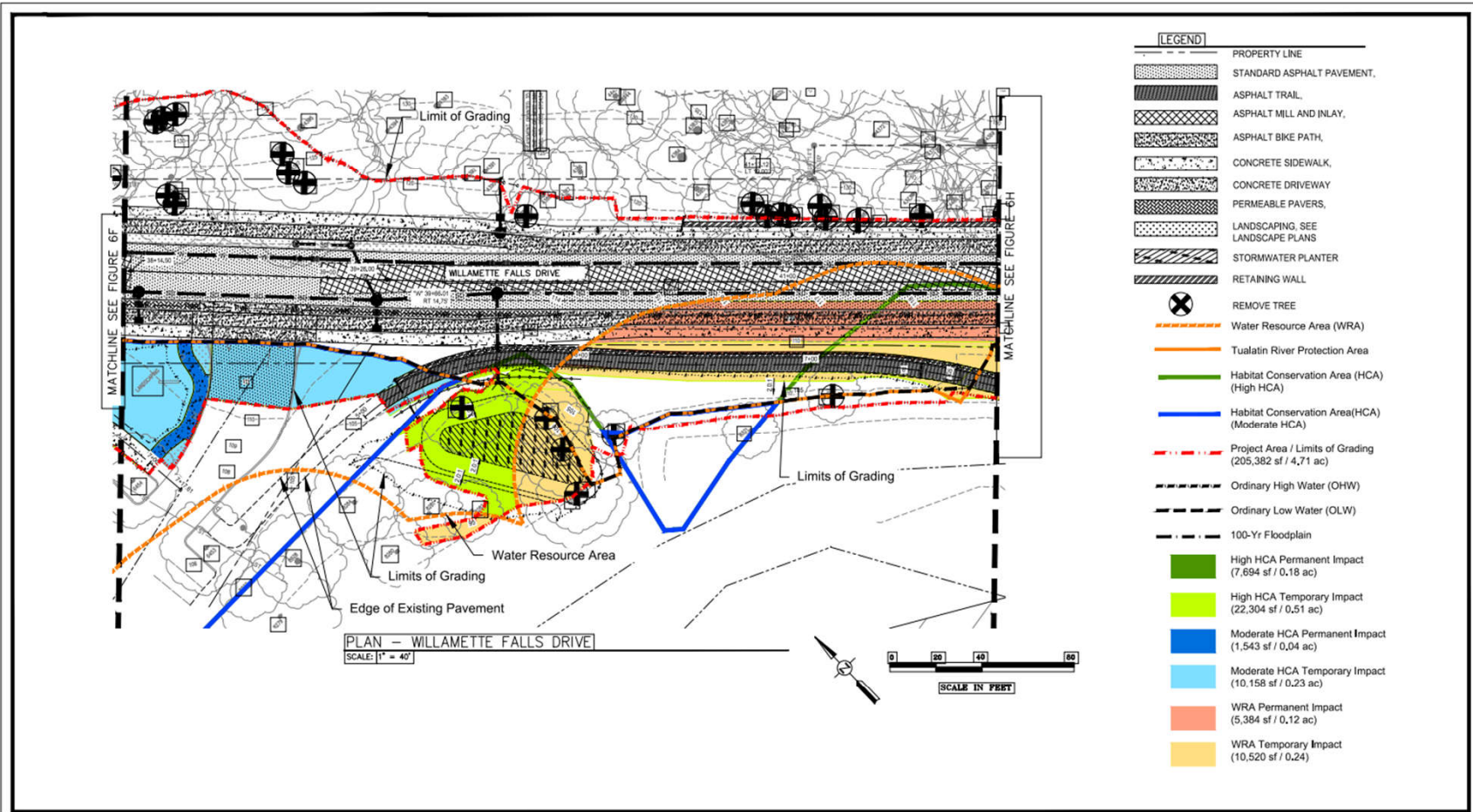
No, the application does not even acknowledge that approximately 41 trees in Fields Bridge Park were removed prior to this application!

24 of the 41 trees were within the Tualatin River Protection Area, Water Resource Area or Flood Management Area.

See Figures 6E, 6G following and 6H, 6I previously shown.

CDC 28.110.U.3 was not met because the City did not protect the trees prior to obtaining the required permits.





Plans Provided by KPFF

Willamette Falls Drive Public Improvements - West Linn, Oregon

Site Plan **FIGURE 6G**

2-20-2023

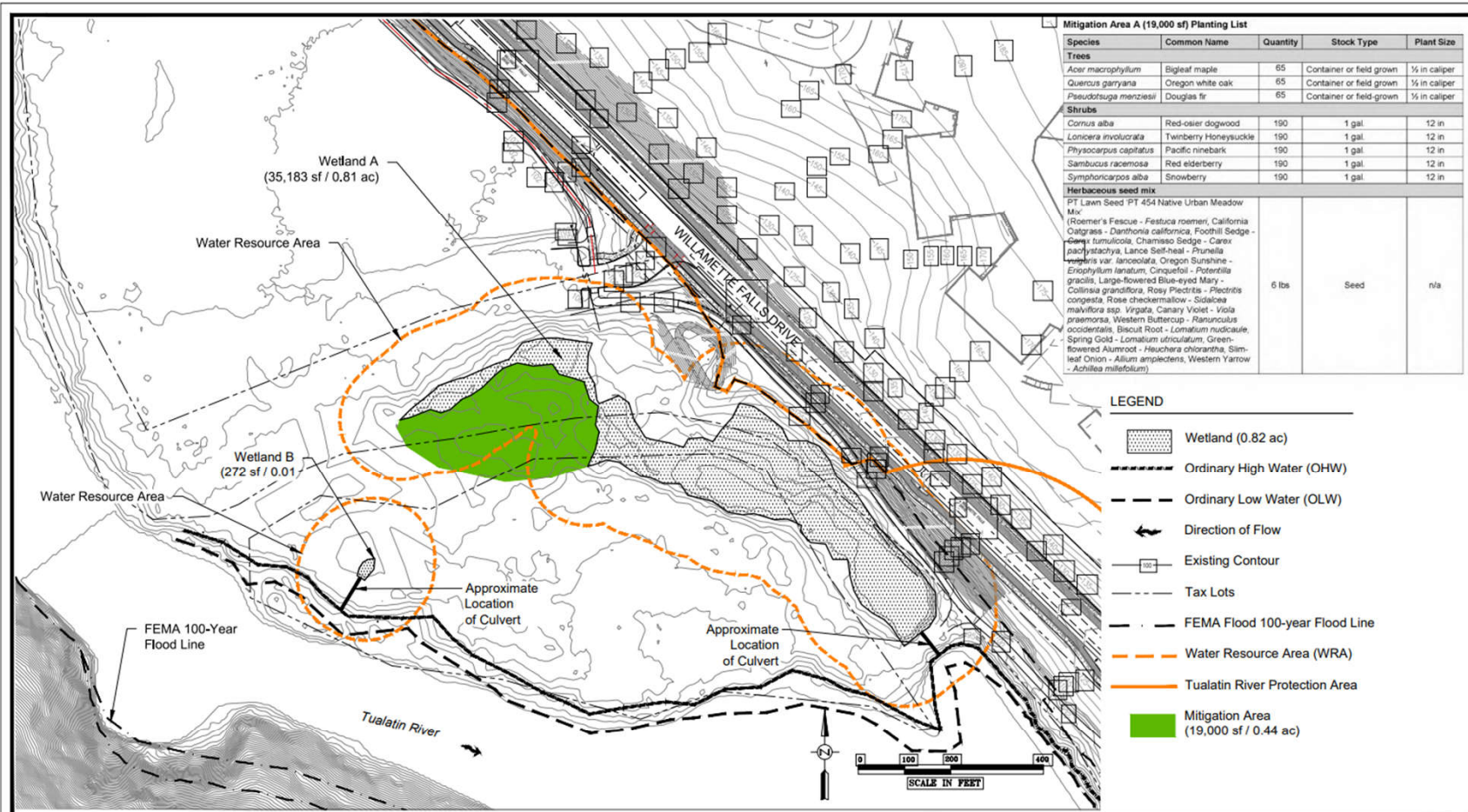
Question 8.

Will the mitigation plan and planting plan meet criteria?

Inconsistencies between the mitigation plan and planting plan make it too difficult to determine.

The Mitigation Plan Figure 10, dated 02/20/23, indicates that 195 trees, 950 shrubs and 6 lbs. of seed will be planted on 19,000 sq ft (.44acre) in Wetland A, but does not show where these things will be planted.

The Planting Plan Overview Sheet Index Figure 9C, dated 12/21/22, clearly indicates where two maple trees and other vegetation will be planted but this is not located in the mitigation area shown in Figure 10.

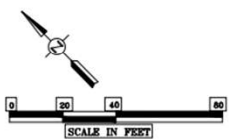
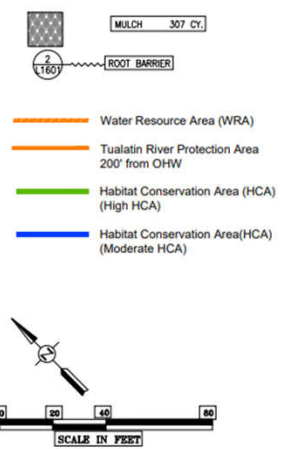
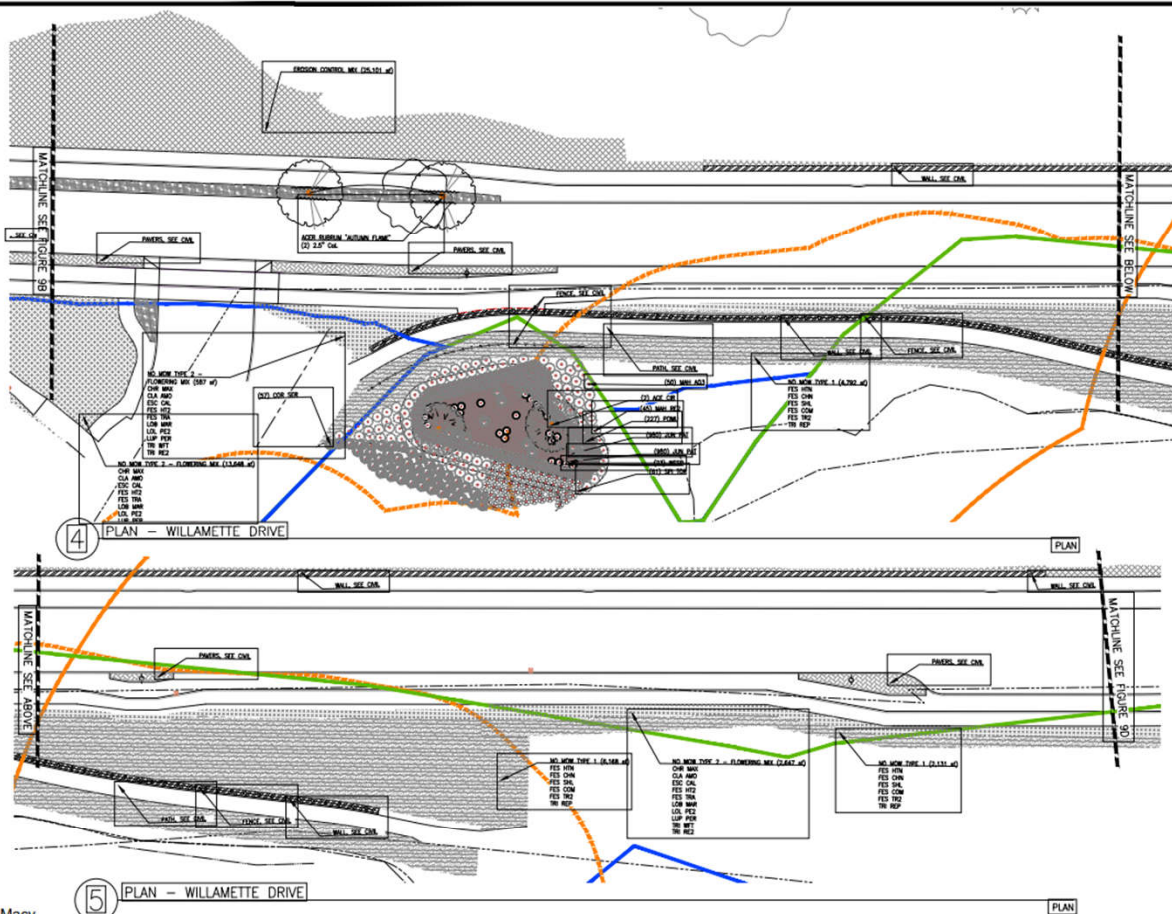


Survey includes study area boundary, wetland boundary, contours and utilities provided by Compass Land Surveying. Survey and Sample point accuracy is sub-centimeter. Culverts were placed graphically and have an accuracy of sub-meter

Mitigation Plan
Willamette Falls Drive Public Improvement - West Linn, Oregon

FIGURE
10

2-20-2023



Planting Plan Overview Sheet Index and Planting Schedule
 Willamette Falls Drive Public Improvements - West Linn, Oregon

FIGURE 9C

12-21-2022

The planting list for the Mitigation Area (.44 acre) does not appear to be a feasible plan due to the potential mature size of the 195 trees plus 950 shrubs and 6# of seed.

The planting list includes 65 Maple trees, 65 White Oak trees and 65 Douglas Fir trees, of which the White Oak and Douglas Fir trees which might not be appropriate for a wetland.

There is a huge difference between the details in these two plans. We would like an explanation as to why they do not seem to coincide.

The application does not meet the submittal requirements of CDC 28.090.C.5 Landscape Plan and CDC 28.090.C.6 Mitigation Plan.

In conclusion, the evidence is clear that the proposed roundabout and road improvement design has not been approved and this fact was acknowledged by DLCD.

Therefore, this is our opportunity to have a full discussion about the design to refine the plan as necessary to protect public safety and the environment to the greatest extent possible.

Recommended Conditions of Approval:

- Parking shall be removed and roadway realigned as far away as possible from the HCA and flood plain areas.
 - Adequate Clear Vision Area from bridge railings to the intersection shall be established per CDC Chapter 42.
- City of West Linn Municipal Code Chapter 8, Community Tree Ordinance shall be enforced for the alleged illicit tree removal.
 - City Council shall authorize the City Manager to work with the Committee for Community Involvement to develop a program to foster positive attitudes and skills for meaningful community engagement.
 - City Council shall form an ad hoc Fields Bridge Park Stewardship Committee to review and oversee tree removal, mitigation and ongoing health of trees and vegetation planted for at least four years. And evaluate the potential to replace non-native vegetation with native plants and trees in both the natural and active areas of Fields Bridge Park.

- City Council shall authorize the Planning Commission to recommend an amendment to the CDC Chapter 99 that provides decision making authority to the Planning Commission for land-use applications submitted by the City of West Linn.
- City Council shall authorize the Planning Commission to recommend an amendment to CDC Chapter 99 that provides decision making authority to the Planning Commission for WAP, WRG and FMA applications.

Thank you for considering our appeal.