



CITY OF
West Linn

PLANNING AND DEVELOPMENT

STAFF REPORT

PLANNING DIRECTOR DECISION

DATE: August 2, 2011

FILE NO.: WRG-11-01/MISC-11-05

REQUEST: Willamette River Greenway and Flood Management Area permits for a joint dock at 4993/5005 Mapleton Drive

PLANNER: Tom Soppe, Associate Planner

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SPECIFIC DATA

OWNERS/

APPLICANTS: Mark Mutschler, 4993 Mapleton Dr., West Linn, OR 97068;
Mitch Nippert, 2524 Peters Dr., Longview, WA 98632

SITE LOCATION: 4993/5005 Mapleton Drive

SITE SIZE: 4993 Mapleton is approximately 23,800 square feet, and 5005 Mapleton is approximately 26,200 square feet, for a total of approximately 50,000 square feet

LEGAL

DESCRIPTION: Assessor's Map 2S-1E-24BC, tax lots 600 and 700

ZONING: R-10

COMP PLAN

DESIGNATION: Low-Density Residential

APPROVAL

CRITERIA: CDC Chapter 27 Flood Management Areas; Chapter 28, Willamette and Tualatin River Protection, and; Chapter 11 Single-Family Residential Detached, R-10

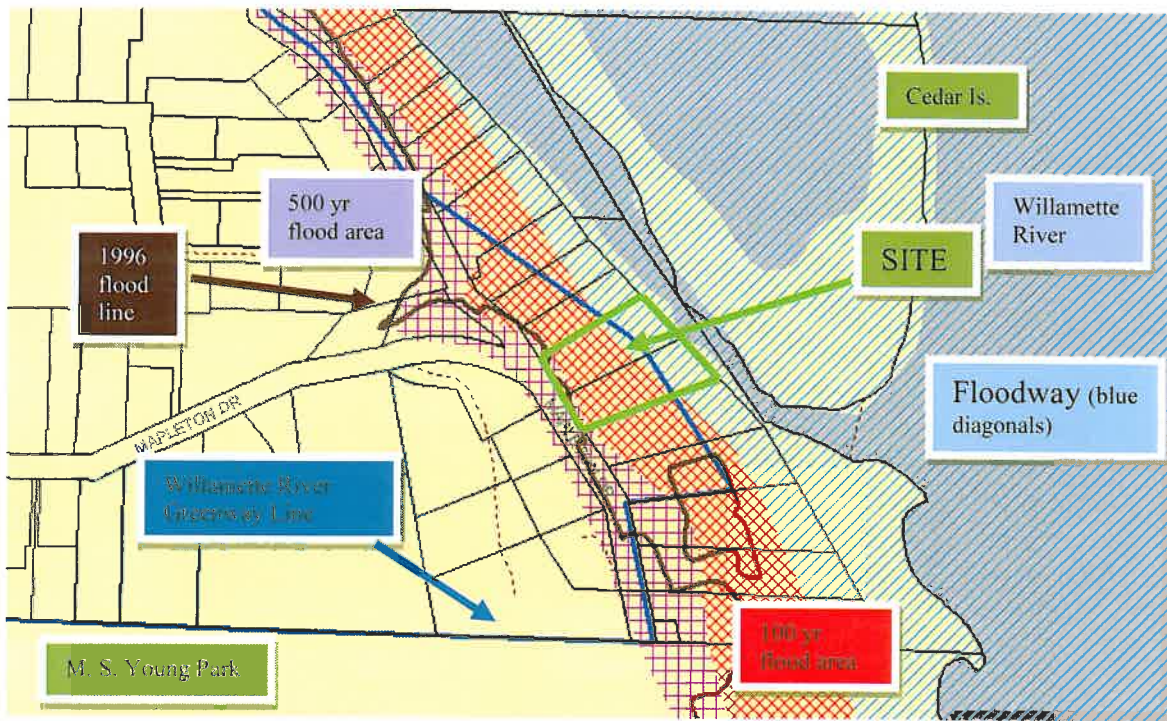
120-DAY RULE: The application became complete on July 1, 2011. The 120-day period therefore ends on November 28, 2011.

PUBLIC NOTICE: Public notice was mailed to the Robinwood Neighborhood Association, Army Corps of Engineers, and Department of State Lands on July 12, 2011. Public notice was mailed to affected property owners on July 13, 2011. The property was posted with a sign on July 14, 2011. In addition, the application has been posted on the City's website and the notice was published in the West Linn Tidings on July 21, 2011. The notice requirements have been satisfied.

BACKGROUND

The subject "site," which consists of two adjacent single-family residential properties sharing an unpermitted dock, is shown outlined in green on the following map. These two parcels are zoned R-10 and are located in the Robinwood neighborhood. They front the dead-end section of Mapleton Drive, immediately east of its intersection with Nixon Avenue, and they back up to a channel of the Willamette River. Across this channel is Cedar Island, part of Mary S. Young Park. The shared dock is located with its land base on the 5005 Mapleton Drive property

just south of the border with the other site property, 4993 Mapleton Drive. The dock was installed between 2005 and 2007, per City GIS aerial photography. All land within the 100-year floodplain, the 1996 flood line, and the floodway are designated by Chapter 2, Definitions, as being in the Flood Management Area. As can be seen on the map below, the riverside areas of the site, where the dock is located, are within the Willamette River Greenway, 1996 flood area boundaries, and the floodway. The dock is in the Willamette River Greenway and Flood Management area overlay zones. Since before the dock installation, the Willamette River Greenway permit has been required for new docks, and also since before that time the Flood Management Area permit has been required for any development in the Flood Management Area overlay. Therefore, these two permits are needed for it to be legalized and for it to remain in place.



Vicinity Map

Site Conditions. Both lots that comprise the site front on the dead-end section of Mapleton Drive, just southeast of its intersection with Nixon Avenue. These and the other lots on the east sides of Mapleton and Nixon border to the rear thin strip of City-owned land on a channel of the Willamette River. Across this narrow channel is a horseshoe-shaped island, Cedar Island, that is also City park land. The channel ranges from approximately 40 to approximately 170 feet wide along the several-block-long stretch of the island, and ranges from approximately 50 feet to approximately 80 feet wide along the site. The south edge of the island is located one lot south of the site.

Each of the project site's lots has a single family house. Both lots stretch downhill to the east from the street, with a plateau in the center area of the lot for each house and immediate backyard area, followed to the east by a slope descending to a narrow, flat area along the river channel. Only the areas of the lots partway down this final slope, along the flat area to the east of these along the river, are within the Willamette River Greenway overlay and the associated Metro-designated Habitat Conservation Areas. These eastern slopes and the flat areas along the river are also part of the Willamette River floodway, whereas most of the rest of both lots (except the very front) are in the 100-year floodplain. The very front of both lots is in the 500-year floodplain. The 1996 flood line excludes only the very front area of the lots. Grass exists in the rear yard areas of both lots, up to the shoreline. The house at 5005 Mapleton Drive was built in 1974, and the house at 4993 Mapleton Drive was built in 2004 via another Flood Management Area permit, which did not address the vegetation except for tree removal proposed at that time. Aerial photos on City GIS dating back to 1996 show similar vegetation to what is there today in the rear yard area of both lots up to the shoreline, so staff has no evidence that grass lawn area was established here illegally anytime after the implementation of the Willamette River Greenway provisions in 1987.

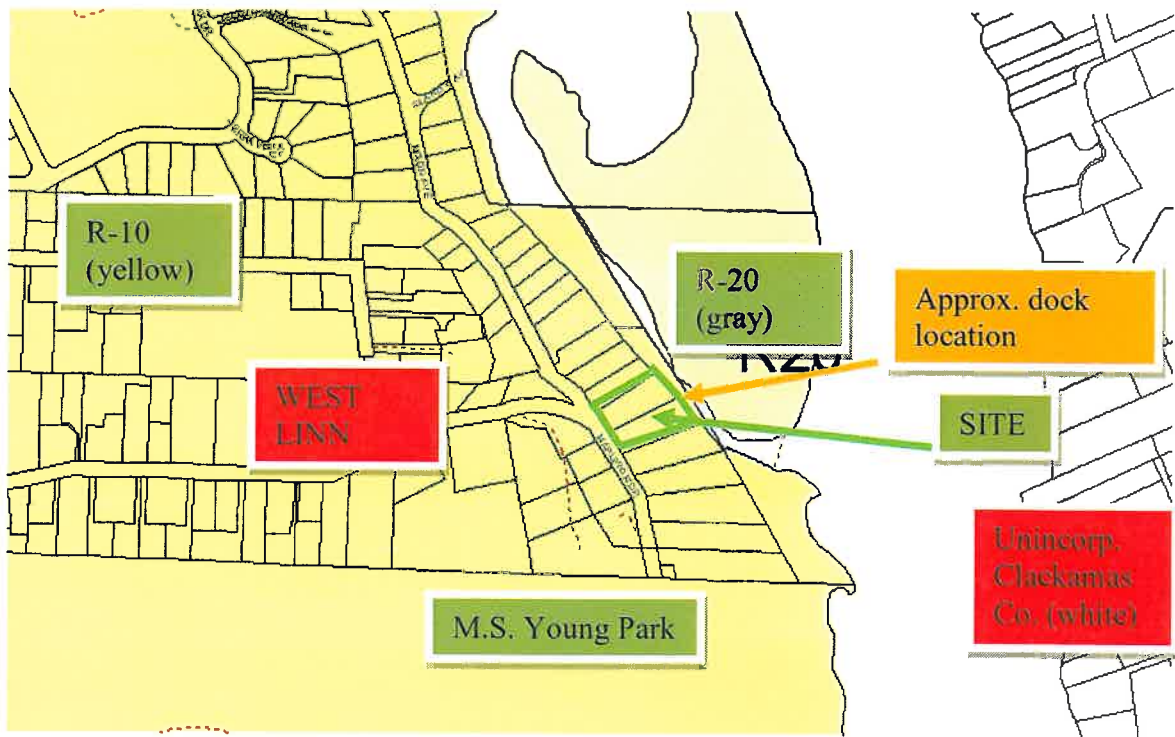
Project Description. As discussed above, the applicants have already installed a floating dock near the boundary of their two properties. An approval of this application would make the dock legal. The base of the dock is located just south of the property line on the Nippert property, 5005 Mapleton Drive. The walkway of the dock continues 28 feet east of this point, about 40% of which is above the ordinary low water mark. At the east end of the walkway, past a 3-foot-long area where the walkway widens, there is the 7 foot by 19 foot platform floating in the water. See the photos below for the existing dock that is the subject of the application.



Photo 1: Subject dock (closest dock in photo) as seen from nearby Mary S. Young Park



Photo 2: Dock as seen from uphill on Mutschler property (4993 Mapleton Drive)



Vicinity/Zoning Map

Surrounding Land Use. The site is at the east edge of the city along the Willamette River. Across the river is a residential area of unincorporated Clackamas County, Cedar Island, which is parkland, lies across the channel from the site.

Table 1 Surrounding Land Use and Zoning

DIRECTION FROM SITE	LAND USE	ZONING
West	Single-Family Residential, Lake Oswego water plant	R-10
East	Park land on island, residential across river	R-20, Clackamas County low-density residential zones
South	Low-Density Residential, Mary S. Young Park	R-10
North	Single-Family Residential	R-10

Source: West Linn GIS, 2011

Approval Criteria. As development in the floodway and 1996 flood area, Chapter 27 Flood Management Areas criteria applies to the development per Section 27.020. As a new dock within the Willamette River Greenway overlay in a Metro-designated Habitat Conservation Area, the criteria of Chapter 28 Willamette and Tualatin River Protection apply, per sections 28.030(A) and (D). The site is in the R-10 zone, so Chapter 11 criteria also apply.

PUBLIC COMMENTS

Dave and Dianne Froode, 19340 Nixon Ave., received July 15, 2011

Received notice from city on dock application for 4993-5005 Mapleton Drive. The prior owner (now deceased) had their dock for years.

Having the two neighbors now share is a very good idea and promotes the Willamette River Green Way concept. Both property owners are excellent care takers of their properties and the water way. There is nothing permanent or obtrusive. The materials are all in compliance with Chapter 28. As neighbors, we would recommend approval of their dock application.

Don Kingsborough, Nixon Ave. resident, PO Box 148, West Linn, received July 15, 2011

Mark Mutschler and his family have been my neighbours for several years now. During that time and before, Mark and his family took time and interest in taking care of their land and being courteous to their neighbours in the process. Mark and his family have made the effort to learn about ways to conserve and they have put those lessons to practice in their daily lives and home.

You should give Mark and his family every courtesy and grant them permission to build and install a new dock or remodeled dock. They are excellent West Linn Citizens and have proved themselves good stewards of the land.

RECOMMENDATION


Based on findings contained in the applicant's submittal in the City record and the staff findings, there are sufficient grounds to **approve** this application (WRG-11-01/MISC-11-05) subject to the following conditions of approval:

1. Site Plans. The improvements shall conform to the site plan on Page 35 of Exhibit PD-5 dated May 8, 2011, and the site plan on Page 40 of Exhibit PD-5.
2. Recording of Joint Dock Use Agreement. The joint dock use agreement on Page 41 of Exhibit PD-5 shall be recorded with the Clackamas County Recorder. After recording, a copy with the County Recorder's stamp shall be submitted to the City.
3. No Other Docks Allowed. The co-owners of the joint dock are prohibited from having another dock on the site.
4. Non-Transferrable Use of Joint Dock. The dock must be used only to serve the two lots of record listed in the application. Joint use cannot be transferred to, or used by, any party other than the original applicants or the future owners of these properties.
5. Conservation Easement and Revegetation in Mitigation Area. A conservation easement shall be recorded with Clackamas County over the area proposed for on-site mitigation. A copy of the recording document shall be provided to the City. The conservation easement language shall be to the satisfaction of the Planning Department. The revegetation of this area shall be consistent with the provisions of sections 32.080 and 32.050(K), as verified by the City Arborist.
6. Department of State Lands Permit. The applicant shall present the City with the approval for the Waterway Structure Registration permit required by the Department of State Lands.

I declare to have no interest in the outcome of this decision due to some past or present involvement with the applicant, the subject property, or surrounding properties, and therefore, can render an impartial decision. The provisions of the Community Development Code Chapter 99 have been met.



JOHN SONNEN, Planning Director



DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$400. The appeal must be filed by an individual who has established standing by submitting comments prior to or on August 2, 2011.

Mailed this 2nd day of August, 2011.
Therefore, the 14-day appeal period ends at 5 p.m., on

August 16, 2011

p:/devrvw/projects folder/projects 2011/WRG-11-01 (ALSO MIS-11-05) 4993 & 5005 Mapleton Dr
Shared Floating Dock/staff report WRG-11-01