



To: Planning Commission

Through: Katie Mangle, Planning Director

From: Susan P Shanks, Senior Planner

Date: November 15, 2011 for November 17, 2011 Public Hearing

Subject: Supplemental Information on Kronberg Park

Project: PMLR Kellogg Bridge

File: WG-11-01, DR-11-01, HCA-11-01, WQR-11-03, and CSU-11-09

Applicant: TriMet

ACTION REQUESTED

None. Staff is providing additional information about Kronberg Park to be considered within the context of the continued public hearing on the Kellogg Bridge.

BACKGROUND INFORMATION

The Planning Commission opened the hearing on the Kellogg Bridge on Nov 8, 2011 and continued it to Nov 17, 2011. In addition to reviewing the bridge over Kellogg Lake, the continued hearing includes a review of the applicant's proposal to use a portion of Kronberg Park as a temporary construction staging area and mitigation planting site. The temporary construction staging area requires Community Service Use (CSU) approval and the mitigation proposal requires Water Quality Resource (WQR) and Habitat Conservation Area (HCA) review.

A number of questions were asked both before and after the Nov 8 hearing with regard to the site's suitability for staging and mitigation plantings. As a result of these questions, staff conferred with the City's natural resource consultant and re-evaluated existing documents related to the site, including but not limited to the project's FEIS de minimis determination (see Attachment 1) and past geotechnical and environmental assessments (see list under Source Materials).

With respect to using a portion (approximately 9%) of the park for construction staging, staff has concluded that the proposed use meets all applicable approval criteria. In summary, the site:

- Is physically suited for the proposed use (i.e. it is flat, geotechnically stable, accessible from a major thoroughfare, and minimally vegetated).

- Is appropriately situated immediately adjacent to the construction site for the bridge.
- Has been appropriately sized for the proposed use (i.e. it has been minimized in area as much as possible to avoid impacts to the park and associated natural resource areas).
- Can be restored to an equal or better condition once the bridge and mitigation plantings have been completed pursuant to the recommended conditions of approval and the City's existing agreement with the applicant (Attachment 2).

With respect to using a portion of the park for mitigation plantings, staff believes that the bank of Kronberg Park is a viable mitigation location and meets all mitigation requirements. Past technical studies have determined that there is a very low probability of soil or groundwater contamination and that the area is stable from a geotechnical standpoint. See Attachment 3 for more detailed information from these studies and about the site's history.

While the site contains fill material composed of sandy gravel with some silt and concrete debris, the presence of these materials in and of themselves would not prevent the success of the proposed mitigation plantings. Debris can be removed and soils can be augmented as needed to ensure the required 80% survival rate. As conditioned, staff believes that proposed mitigation plan can be effectively and successfully implemented.

SOURCE MATERIALS

1. Preliminary Geotechnical Investigation by Deep River Geotechnical Services dated October 11, 1990
2. Natural Resources Assessment by Scientific Resources, Inc. circa 1990
3. Environmental Property Assessment by PBS Environmental dated January 1992
4. Supplemental Information for Environmental Property Assessment by PBS Environmental dated February 27, 1992

ATTACHMENTS

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Kronberg Park *de minimis* determination from FEIS (attached)
2. Letter from City to TriMet regarding use of Kronberg Park for staging dated Jan 28, 2010 (attached)
3. Staff responses to Kronberg Park questions from Planning Commissioner Clare Fuchs (attached)

1.1 *DE MINIMIS* DETERMINATION – ROBERT KRONBERG PARK

1.1.1 Property Description

Robert Kronberg Park is an open space area that was deeded to the City of Milwaukie as a park and is located south of the railroad trestle on SE McLoughlin Boulevard and adjacent to Kellogg Lake. This area was named Robert Kronberg Park in 2006 and was sold to the City of Milwaukie by the Kronberg family at a reduced cost with the intent that this area would become a park. The park is part of a proposal to improve connections between the city and the Willamette River waterfront area and restore a creek that is now impounded as Kellogg Lake. The land is currently undeveloped open space with vegetated areas and limited landscaping. It does not include any capital facilities or other amenities. The City of Milwaukie has not yet completed a Master Plan for the park, and there are no funds committed specifically for its development. FTA, TriMet, and Metro have been coordinating design and development of the Portland Milwaukie Light Rail Project with the City of Milwaukie concurrent with the development of Robert Kronberg Park.

1.1.2 Locally Preferred Alternative (LPA) to Park Avenue

The LPA to Park Avenue alignment would not require any right-of-way from the park property, but it would construct a new bridge on the western boundary of the park. The new bridge would be adjacent to an existing railroad trestle that separates Robert Kronberg Park from the Milwaukie Local Share Parcel. The LPA to Park Avenue alignment requires a temporary use for construction staging within the park. In addition, Kellogg Lake, within Robert Kronberg Park, will be enhanced as part of mitigation for wetland impacts in other project areas.

The construction staging will require approximately 0.3 acres of Robert Kronberg Park located within a 50-foot wide area immediately southeast of the light rail alignment. The park is currently open space, and public access is not restricted. It has no developed facilities and no formally designated activities, features, or attributes. During construction, the site would generally remain open to public access except for the 50-foot staging area. The construction staging area will be used for approximately three and one-half years during the estimated four-year construction period.

A natural resources mitigation measure proposed for the project would remove non-native vegetation along Kellogg Lake and replant native vegetation to enhance shoreline area functions and values. During the Kellogg Creek shoreline area restoration, an additional buffer area of the park may also be closed for public access, but the closure would be for fewer than six months.

Neither the temporary use of parkland nor the construction and operation of the light rail structure adjacent to the park are anticipated to impair or diminish the open space, natural attributes, or recreational character of the park. The majority of the park's area and access will continue to be available during construction, and current park activities, such as walking and viewing nature, will continue to be possible. Because Robert Kronberg Park contains an existing railroad trestle that remains in operation, and the park is also bounded by SE McLoughlin Boulevard, a busy thoroughfare, the LPA to Park Avenue will not greatly alter the park setting or atmosphere.

The LPA to Park Avenue alignment also includes several features that would benefit long-term plans to develop the park, including a bridge structure over Kellogg Creek that is designed to accommodate a future trail between downtown Milwaukie and the park, and the nearby station, which would improve the public's access to the park.

Specific park access plans and final enhancement area designs will be agreed upon with the City of Milwaukie during final design and engineering phases. A letter between FTA, TriMet, Metro, and the City of Milwaukie concurring that the temporary and mitigation use of Robert Kronberg Park is a *de minimis* use is included as an attachment to this document.



January 28, 2010

Ms. Bridget Wieghart
Metro
600 NE Grand
Portland, OR 97232

Dear Ms. Wieghart:

The City of Milwaukie agrees that a proposed temporary occupancy to allow a construction staging area on a portion of Robert Kronberg Park, as proposed for the Portland Milwaukie Light Rail Project, is acceptable given the following conditions:

- (1) Duration will be temporary, i.e., less than the projected four years that are needed for construction of the overall project, and the City will retain ownership of the land;
- (2) The scope of the work as proposed is minor, involving construction staging on a currently undeveloped portion of the property;
- (3) There are no anticipated permanent adverse physical impacts, nor will there be interference with the activities, features, or attributes of the property, on either a temporary or permanent basis, as the park is currently an open space with no formally designated activities;
- (4) TriMet shall fully restore the areas to be used, returning the property to a condition which is at least as good as that which existed prior to the project.

The City recognizes that specific details of the property agreement between the City and TriMet, including compensation, restoration plans, or other benefits remain to be determined, based on final design and other project development activities following the release of the Final EIS. We look forward to working with TriMet to formalize an agreement to allow the project to use the property during construction.

We also wish to again express our support and preference for the LPA to Park Avenue, as described in the FEIS, which we believe provides the greatest access to downtown Milwaukie, while also having the least permanent impacts to the community, particularly compared to the MOS with a terminus station and park and ride in our downtown area.

We look forward to working with Metro and TriMet as it completes the Final EIS and begins final design and permitting phases for the project.

Sincerely,

Kenny Asher
Community Development Director

cc: JoAnne Herrigel, City of Milwaukie
Dave Unsworth, TriMet

COMMUNITY DEVELOPMENT
BUILDING * ECONOMIC DEVELOPMENT * ENGINEERING * PLANNING
6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206
P) 503-786-7600 * F) 503-774-8236
www.cityofmilwaukie.org

Kronberg Park Questions

Project: PMLR Kellogg Bridge

Date: November 15, 2011

1. Would it be possible to get some direction or history on whether this area is a designated brownfield or Superfund site by DEQ or EPA or...?

It is neither. In the original bargain and sale deed of Kronberg Park it stated that “at the time of transfer, the City will conduct a Level I environmental audit. The results of this audit must be satisfactory to the City prior to recording its interest. In the event that this audit reveals information concerning environmental risks associated with the property that are unacceptable to the City, the property will revert to the donor.” PBS Environmental conducted a Level I audit for the City in 1992 and determined that there was a very low probability of soil or groundwater contamination at the site. Their audit included soil samples that were analyzed for the following compounds: Volatile Organic compounds (EPA 8010/8020), Phenols (EPA 8040), and PCBs (EPA 8080). None were detected. Furthermore, based on a 1990 geotechnical report that was conducted to assess the site’s suitability for multifamily housing by the previous owner, the shallow subsurface soils on the site were determined to be composed of fill material varying from 4 to over 9-1/2 feet in thickness. The fill is primarily sandy gravel with some silt intermixed with debris. Soil is well mixed with the debris material and no voids were encountered. The debris is composed primarily of concrete chunks. Though concrete is considered debris, it is an inert compound and is used in shoreline treatments such as break walls and rip-rap banks and marine restoration projects. Unlike asphalt, which is a composite of heavy oils (binding agent) and aggregate (gravels), concrete does not leach chemicals into surrounding soils or water.

2. What are TriMet's legal obligations to it, if any with their *de minimis* finding?

See Attachment 1 of this staff report for the exact *de minimis* language from the FEIS.

3. Has any effort ever been made to try to get the companies that have dumped there over the years to pay for cleanup?

Not that the City is aware. The property was owned by the Kronbergs when it was “filled.” It is the City’s understanding that most of the fill came from the Kellogg Plant site when it was developed and was not placed there illegally. This is supported by the findings from various test pits that were dug during the course of the 1990 geotechnical analysis discussed above.

4. Will TriMet have an easement or ROW over the area when the bridge gets built?

No. The easement from the City for use of a portion of Kronberg Park is a temporary construction easement, as no permanent structures are proposed in Kronberg Park as part of the bridge application. The bridge (including the temporary construction bridge) will be completely located in the existing railroad ROW which TriMet is purchasing.

5. Will this change their obligation to any contamination of the area at that time?

No. TriMet’s temporary use of Kronberg Park for construction staging does not obligate them to remove the fill from the site. They would be obligated to restore the temporarily disturbed area in Kronberg Park to an equal or better condition. If the Planning Commission adopts the recommended findings and conditions of approval, they would also be obligated to provide and

monitor mitigation plantings along the bank of Kronberg Park for five years. Mitigation involves the removal of invasive and nonnative species and the removal of debris and noxious materials per MMC Table 19.402.9.E to the extent that such things are discovered in the course of planting the area.

6. Has the City, Park District, or County ever applied for a grant to get the area cleaned up?

No. None of these organizations has ever applied for a grant to remove the fill from this site.

7. How bad is it out there?

The answer depends on what is meant by “bad.” The site is not composed of undisturbed native soils. Debris exists primarily in the form of concrete chunks, but concrete is not considered toxic to the environment. Additionally, the 1992 soil tests did not detect any toxic substances, and the 1990 geotechnical report concluded that the site was suitable for multifamily development from a geotechnical standpoint.