

ATTACHMENT 2
Recommended Conditions of Approval
(REVISED August 6, 2019)
Working Draft – for discussion purposes only
File #NR-2018-005, Elk Rock Estates

Conditions

1. Conditional Use Permit

As per MMC Subsection 19.905.6, the City will issue a conditional use permit upon approval of an application to establish a conditional use (including the Willamette Greenway conditional use). The applicant must record the conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City prior to developing the property.

2. Prior to the approval of any building, the following shall be resolved:

- a. The applicant shall submit a Construction Management Plan (CMP) that satisfies the requirements of MMC 19.402.9 and shows the following:
 - i. The CMP must establish root protection zones (RPZs) around trees in WQR/HCA adjacent to any approved work area. Per 19.402.9, the RPZ shall extend from the trunk to the outer edge of the tree's canopy, or as close to the outer edge of the canopy as is practicable for the approved project.
 - ii. Clarify the location of all staging and access areas, and ensure that all temporary disturbance areas have been identified and accounted for in the mitigation plan.
- b. The applicant shall provide a detailed planting plan that includes the following:
 - i. Identifies existing native trees/shrubs to be retained,
 - ii. A typical planting scheme (40 x 40') – note that vine maple is not a tree; tall shrubs may not be substituted for trees,
 - iii. Details regarding site preparation and maintenance including timing and frequency for weed control,
 - iv. Plans for mitigation improvements including site access, where signage will be posted, and how irrigation will be provided across the slough.
 - v. An updated mitigation monitoring and maintenance plan and monitoring report forms. Extended on-going monitoring, including a repair and restoration program, is required to address flood damage. The timeframe for this extended monitoring program is 10 years.
- c. The applicant shall provide documentation by a professional engineer, certified floodplain manager, or other approved professional certifying compliance with

all relevant NFIP policies, Oregon Metro Title 3, and Milwaukie Municipal Code Title 18.

- d. Submit a final storm water management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. In the event the storm management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.
- e. Analyze the effect of onsite detention to downstream peak flows. If downstream peak flows are shown not to increase with this development, then on-site detention will not be required. Stormwater facilities must be designed to mitigate flooding impacts.
- f. Redesign the stormwater basin and area proposed for floodplain cut to achieve an appearance that integrates better with this natural environment. Provide mitigation plantings in this area.
- g. The Willamette River is identified as salmonid habitat; as such, fish passage needs to be considered with new development. Provide fish passage from the low-point of the proposed stormwater swale to the Willamette River, or obtain a statement from National Marine Fishery Service (NMFS) that the proposed stormwater swale is exempt from appropriate fish protection measures.
- h. Submit an operation and maintenance plan for all private stormwater facilities. Include legal documents to ensure continued maintenance and contingency in the event the proposed homeowner's association is ever dissolved.
- i. Provide plans clearly indicating the 34.5 ft NGVD contour (38.0 ft NAVD) of the Metro 1996 areas of inundation. Note that 34.5 ft NGVD, or 38.0 ft NAVD, is considered Base Flood Elevation (BFE) for this project. No net fill can occur with the 1996 areas of inundation.
- j. Provide plans clearly indicating the bankful elevation contour. Excavation below the bankful elevation shall not count towards floodplain compensatory cut.
- k. Provide separate balanced cut and fill calculations to satisfy the requirements of all special flood hazard areas. Include any soil enhancement for the mitigation area in the total fill calculations. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage.
- l. Revise plans for all portions of Private Drive 1 and Private Drive 2 to be at least one foot above design BFE.
- m. Provide documentation on current market value and cost of improvements for existing buildings. All improvements classified as substantial improvements in the flood hazard areas must follow all NFIP requirements for substantial improvements in flood hazard areas.
- n. All right-of-way improvement on SE 19th Ave shall conform with the Island Station Neighborhood Greenway plan. This includes a full street improvements with 15-foot wide pavement, an ADA route identified with tactile warning strips, sharrow pavement markings, 6-inch wide flush mount curb, 3-foot wide load

Record a deed restriction to maintain view corridors between buildings so that Elk Rock Island, the slough, and/or the Willamette River from the street system.

Additional Requirements

1. Prior to any earth disturbance activity, the applicant shall obtain an erosion control permit from the City.
2. At the time of submission of any building permit application, final plans submitted for building permit review shall be in substantial conformance with plans approved by this action, which are the plans stamped received by the City on June 24 and July 3, 2019, except as otherwise modified by these conditions.
3. Limitations on Development Activity
Development activity on the site shall be limited to 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday, as per MMC Subsection 8.08.070.(1).
4. Landscape Maintenance
As per MMC Subsection 19.402.11.B.9, a minimum of 80% of all required mitigation plantings for WQR or HCA disturbance shall remain alive on the second anniversary of the date the planting is completed. An annual report on the survival rate of all plantings shall be submitted for 2 years.
5. Submit full-engineered plans for construction of all required public improvements on SE 19th Ave, reviewed and approved by the City of Milwaukie Engineering Department.
6. Obtain a right-of-way permit for construction of all required public improvements listed in these recommended conditions of approval.
7. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
8. Provide a payment and performance bond for 100 percent of the cost of the required public improvements.
9. Install all underground utilities, including stubs for utility service prior to surfacing any streets.
10. Clear vision areas shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection.
11. Provide a final approved set of electronic "As Constructed" drawings to the City of Milwaukie prior to final inspection.
12. Remove all signs, structures, or vegetation in excess of three feet in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the proposed development. Prior to the removal of any vegetation, applicant shall confirm

with the Engineering department the location of clear vision areas and if the vegetation removal is required to comply with clear vision standards.

13. Expiration of Approval

As per MMC 19.1001.7.E.1.a, proposals requiring any kind of development permit must compete both of the following steps:

- a. Obtain and pay all necessary development permits and start construction within 2 years of land use approval.
- b. Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval.