



MILWAUKIE PLANNING
6101 SE Johnson Creek Blvd
Milwaukie OR 97206
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Application for Land Use Action

Primary File #: NR-2022-001;

Review type*: I II III IV V

WG-2022-001;
VR-2022-006;

DR-2022-001

CHECK ALL APPLICATION TYPES THAT APPLY:

- | | | |
|--|---|--|
| <input type="checkbox"/> Amendment to Maps and/or | <input type="checkbox"/> Land Division: | <input type="checkbox"/> Residential Dwelling: |
| <input type="checkbox"/> Comprehensive Plan Map | <input type="checkbox"/> Partition | <input type="checkbox"/> Manufactured Dwelling Park |
| <input type="checkbox"/> Amendment | <input type="checkbox"/> Property Line Adjustment | <input type="checkbox"/> Temporary Dwelling Unit |
| <input type="checkbox"/> Zoning Text Amendment | <input type="checkbox"/> Replat | |
| <input type="checkbox"/> Zoning Map Amendment | <input type="checkbox"/> Subdivision | <input type="checkbox"/> Transportation Facilities Review** |
| <input type="checkbox"/> Code Interpretation | <input type="checkbox"/> Miscellaneous: | <input type="checkbox"/> Variance: |
| <input type="checkbox"/> Community Service Use | <input type="checkbox"/> Barbed Wire Fencing | <input type="checkbox"/> Use Exception |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Mixed Use Overlay Review | <input checked="" type="checkbox"/> Variance |
| <input checked="" type="checkbox"/> Development Review | <input type="checkbox"/> Modification to Existing Approval | <input checked="" type="checkbox"/> Willamette Greenway Review |
| <input type="checkbox"/> Director Determination | <input checked="" type="checkbox"/> Natural Resource Review** | <input type="checkbox"/> Other: _____ |
| <input checked="" type="checkbox"/> Downtown Design Review | <input type="checkbox"/> Nonconforming Use Alteration | Use separate application forms for: |
| <input type="checkbox"/> Extension to Expiring Approval | <input type="checkbox"/> Parking: | • Annexation and/or Boundary Change |
| <input type="checkbox"/> Historic Resource: | <input type="checkbox"/> Quantity Determination | • Compensation for Reduction in Property Value (Measure 37) |
| <input type="checkbox"/> Alteration | <input type="checkbox"/> Quantity Modification | • Daily Display Sign |
| <input type="checkbox"/> Demolition | <input type="checkbox"/> Shared Parking | • Appeal |
| <input type="checkbox"/> Status Designation | <input type="checkbox"/> Structured Parking | |
| <input type="checkbox"/> Status Deletion | <input type="checkbox"/> Planned Development | |

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): **NCPRD, Heather Koch**

Mailing address: **7300 S.E. Harmony Road, Milwaukie** State/Zip: **OR 97222**

Phone(s): **971-337-6867** Email: **hkoch@ncprd.com**

Please note: The information submitted in this application may be subject to public records law.

APPLICANT'S REPRESENTATIVE (if different than above): **2.ink Studio**

Mailing address: **160 NE Sixth Avenue, STE 200, Portland** State/Zip: **OR 97232**

Phone(s): **503.546.4645** Email: **jbeaver@2inkstudio.com**

SITE INFORMATION:

Address: **11211 SE McLoughlin Blvd 97222** Map & Tax Lot(s): **Multiple; see attached Narrative**

Comprehensive Plan Designation: **P - Public** Zoning: **OS** Size of property: **~8.5 acres**

PROPOSAL (describe briefly):

Development of Milwaukie Bay Park including new restroom, interactive water feature, playground, picnicking areas, gathering space, Trolley Trail path, secondary pathways, and planting.

SIGNATURE: I attest that I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by:

Date: **6/24/22**

IMPORTANT INFORMATION ON REVERSE SIDE

*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.

** Natural Resource and Transportation Review applications may require a refundable deposit.

WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

DEPOSITS:

Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form

REVIEW TYPES:

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Primary file	NR-2022-001	\$ waived			
Concurrent application files	WG-2022-001	\$			
	VR-2022-006	\$			
	DR-2022-001	\$			
		\$			
Deposit (NR/TFR only)				<input type="checkbox"/> Deposit Authorization Form received	

TOTAL AMOUNT RECEIVED: \$

RECEIPT #:

RCD BY:

Associated application file #s (appeals, modifications, previous approvals, etc.):

Neighborhood District Association(s): Historic Milwaukie Island Station

Notes:

Milwaukie Bay Park Phase 3 Improvements – Land Use Application

June 2022

Submitted to:
City of Milwaukie Planning Department

Applicant:
North Clackamas Parks and Recreation District

Applicant's Representative:
2.ink Studio

Application Prepared by:
Environmental Science Associates

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INTRODUCTION

North Clackamas Parks and Recreation District (NCPRD) proposes to construct improvements to the Milwaukie Bay Park site along the Willamette River in downtown Milwaukie. A pre-application conference attended by members of the applicant team, the City of Milwaukie, and the Oregon Department of Transportation (ODOT) was held on April 28, 2022, to discuss the project, applicable chapters of the Milwaukie Municipal Code (MMC), and the land use review procedures required for the project. This application addresses the required land use reviews and the associated design standards and approval criteria outlined in the City's Pre-Application Report Summary dated May 12, 2022 (Appendix A).

The following reviews are requested with and addressed in this application:

- Willamette Greenway Review
- Natural Resources Review
- Downtown Design Review
- Variance Request

Additionally, this application identifies other design and permitting considerations raised during the pre-application meeting that the applicant team is aware of and will be addressing with the City outside of the land use review process (e.g., floodplain permit, right-of-way permit, sign permit), as final design is advanced.

SITE LOCATION AND ZONING

Milwaukie Bay Park encompasses approximately 8.5 acres of land at 11211 SE McLoughlin Blvd. in downtown Milwaukie, Clackamas County, Oregon (Figure 1). The park is generally situated between Johnson Creek to the north, Kellogg Creek to the south, SE McLoughlin Blvd. (Oregon Highway 99E) to the east, and the Willamette River to the west.

The proposed Phase 3 park improvements addressed in this application are located within an approximately 3.5-acre portion of the park on parts of the following tax lots: 11E35AD 00900, 01000, and 01001; 11E35AA 02200, 02300, 02400, 02500, 02600, 02700, 02800, 04700, 04800, 04900, and 05000. Parts of the existing and new permanent alignment of the Trolley Trail that is part of the park are also located outside of these parcels on four (4) segments of ODOT ROW along SE McLoughlin Blvd/OR99E. A Project Area map is included in Appendix B of this application.

The entire park site and project area are zoned by the City as Open Space (OS) and are within the Willamette Greenway (WG) overlay zone. Portions of the park and project area are also designated as Water Quality Resource (WQR) area and Habitat Conservation Area (HCA) on the City's Natural Resource Administrative Map, adopted August 2011.

The park is bordered by open space and residential property to the north and northwest, the Kellogg Water Resource Recovery Facility to the south, ODOT SE McLoughlin Blvd/OR99E and ROW to the east, and commercial properties in the Downtown Mixed Use (DMU) zone to the east beyond SE McLoughlin Blvd.

PROJECT DESCRIPTION

The City adopted a plan for the park in 2010 to serve as the foundation for many agencies, community partners, and local citizens to participate in shaping park improvements over the years. Many elements of the plan have been designed and constructed over the past 12 years, including the Klein Point Overlook at the Johnson Creek confluence with the Willamette River; a new boat launch and dock; auto and boat trailer parking; a single restroom facility; a temporary Trolley Trail connection; a riverside path; riverbank stabilization and plantings; an improved access bridge over Kellogg Creek; and riverbank erosion repairs with new pedestrian beach access.

The proposed Phase 3 park improvements build on previous site improvements and include a nature-themed children's play area; a gathering/event area with an open lawn, stage and fire pit for special events; a nature-themed interactive water feature; new pathways; picnic areas; a restroom structure and shade structure; improvements to the existing Trolley Trail; public art; vegetation plantings and new stormwater management infrastructure.

- Nature Play Area: This area will provide a play space on three levels of the park and incorporate natural elements including rocks and logs as well as traditional and inclusive playground equipment.
- Event Area: The event area will comprise 20,000 square feet of open lawn space for events such as concerts, movies, festivals and plays. The area will include a platform for use as a stage or small gathering spot and a reservable community fire pit for special events. The lawn features subdrainage lines to extend seasonal usability. Mitigation measures to prevent geese from using the area include barrier vegetation and low fencing, a swale, and footbridges.
- Interactive Water Feature: The water feature will be a zero-depth splash pad operated by push-button activation for seasonal use. When not in operation, the area will serve as a secondary plaza with seating and natural stone elements. Water from splash pad operation will drain to the sanitary sewer system. When not in operation, rain falling on the splash pad area will be valved to drain to a swale.
- Pathways: A series of pathways ranging in width from 6 feet to 10 feet will be constructed and will connect all park features, including those currently at the site such as Klein Point, the existing lower riverside pathway, parking lot, and crosswalks at SE McLoughlin Blvd. The paths will feature non-slip surfaces and will be ADA accessible. The 10' wide walkways will be rated for vehicular use to allow maintenance vehicles and events-related access into the park.
- Picnic Areas: Picnic areas with a variety of seating types and trash receptacles will be constructed near the Trolley Trail and the water feature.
- Restroom: A two-stall restroom structure that includes a central utility room with storage will be constructed. Exterior materials will consist of board-formed concrete and

- finished wood. A drinking fountain and bottle filler will be located on the exterior of the structure.
- Shade Structure: A trellis will be constructed to provide shade for the adjacent picnic areas. The structure will be painted steel and designed to complement the restroom structure.
 - Trolley Trail: The portion of the Trolley Trail that runs through the project site will be widened to 14 feet and tapered at north and south ends to meet existing condition (12 feet at south, 7 feet 9 inches at north). The multiuse path will be shared, with decals and signage indicating shared use in both northerly and southerly directions. Bicycle parking will also be provided near the trail.
 - Public Art: A series of heron sculptures have been proposed by Confederated Tribes of Grand Ronde to be placed seasonally at the site during the annual salmon run. The concept from CTGR is being coordinated with the City and NCPRD. The CTGR proposes to lead solicitation and installation of art annually by different sculptors.
 - Vegetation: Proposed plantings of native species are intended to increase tree canopy coverage, increase potential native habitat areas at the site, and mitigate impacts to natural resource areas, while protecting views of the river. The existing large coastal redwood on the site will be preserved, as will the street trees along SE McLoughlin Blvd.

The design drawings included in Appendix C of this application illustrate the existing conditions and the Phase 3 park improvements proposed with this project.

BASE ZONE STANDARDS (MMC 19.304)

Use Standards – Open Space

The entirety of Milwaukie Bay Park is zoned Open Space (OS), which is one of two downtown zones designated by the City and regulated under MMC 19.304 (the other being the Downtown Mixed Use [DMU] zone).

As stated in **MMC 19.304.1**, the Open Space Zone provides a specific zone to accommodate open space, park, and riverfront uses. The Open Space Zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the Open Space Zone includes parkland, open space, and riverfront amenities.

The following excerpt from **MMC Table 19.304.2 (Uses Allowed in the Downtown Zones)** identifies “parks and open space” as a Permitted use in the OS zone.

Table 19.304.2 Uses Allowed in Downtown Zones – Open Space		
Uses and Use Categories	OS	Standards/ Additional Provisions
Institutional		
Parks and open space	P	
Parks and open space uses are lands focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few buildings.		
Examples include parks, public squares, plazas, recreational trails, botanical gardens, farmers markets, boat launching areas, nature preserves, and community gardens.		

Response: The proposed Phase 3 improvements to Milwaukie Bay Park are consistent with the parks and open space category descriptions and examples and are a permitted use under MMC 19.304.2.

Dimensional Standards – Open Space

MMC 19.304.4 identifies the development standards for the DMU and OS zones. Many standards listed in MMC 19.304.4 do not apply in the OS zone. The following excerpt from **MMC Table 19.304.4** lists those standards that may apply in the OS zone.

Table 19.304.4 Downtown Zones — Summary of Open Space Development Standards		
Standard	OS	Standards/ Additional Provisions
B. Development Standards		
2. Building height (ft)		Subsection 19.304.5.B Building Height Figure 19.304-4 Base Maximum Building Heights Subsection 19.304.5.I Transition Measures Subsection 19.304.5.B.3 Height Bonuses Section 19.510 Green Building Standards Subsection 19.911.6 Building Height Variance in the Downtown Mixed Use Zone
Minimum	None	
Maximum	15	
7. Off-street parking required	Yes, where applicable	Subsection 19.304.5.G Off-Street Parking Chapter 19.600 Off-Street Parking and Loading
8. Open space	Yes, where applicable	Subsection 19.304.5.H Open Space Subsection 19.508.4.G Open Space/Plazas
C. Other Standards		
2. Signs	Yes	Section 14.16.060 Downtown Zones

Building Height:

- **The maximum allowed building height in the OS zone is 15 feet.**

Response: The only proposed building associated with the Phase 3 park improvements is the restroom building, which will be just under 11 feet tall as shown on the architectural drawings in Appendix C of this application. This standard is met.

Off-Street Parking:

- **19.304.5.G.3 Off-Street Parking Exemptions: all non-residential uses are exempt from the off-street parking requirements.**

Response: As a non-residential use, this project is exempt from the off-street parking requirements in this section of code. Milwaukie Bay Park has off-street vehicle parking that was developed in earlier phases of park development in accordance with MMC 19.600 (Parking Standards). No additional off-street parking is proposed or required as part of the Phase 3 improvements.

Open Space (Subsection 19.304.5.H):

- **When a building is set back from the sidewalk, at least 50% of the setback area shall provide usable open space, such as a public plaza or pedestrian amenities, that meets the standards of this subsection.**

Response: The restroom building will be set back from SE McLoughlin Blvd sidewalk but will abut an on-site pedestrian access path, and the building will be surrounded by usable open space. This standard is met.

- **Usable open space shall be abutted on at least two sides by retail shops, restaurants, offices, services, or residences with windows and entrances fronting on the space.**

Response: The proposed Phase 3 park improvements are within the existing Milwaukie Bay Park, which is bordered by downtown mixed-use development to the east – across SE McLoughlin Blvd – and the offices and treatment facilities of the Kellogg Water Resource Recovery Facility to the south. This standard is met.

- **Usable open space must be accessible at grade adjacent to the sidewalk.**

Response: Open space areas proposed with this project will be accessible at grade adjacent to the proposed access paths, and the park site is accessible at grade adjacent to the SE McLoughlin Blvd sidewalk. This standard is met.

- **Open space may be hardscaped or landscaped, including plazas, courtyards, gardens, terraces, outdoor seating, and small parks.**

Response: The Phase 3 park improvements proposed in this application include a mix of landscaping and hardscaped park amenities. This standard is met.

Signs (Section 14.16.060):

A. Freestanding Sign

In the downtown zones, freestanding signs shall be monument type only. The sign face shall be no less than 60% of the total area of the monument. Pole signs are prohibited.

1. Area

The maximum permitted display surface area of a freestanding sign shall be computed on 1 sq ft of area per lineal ft of street or highway frontage.

a. In the OS Zone the maximum area shall not exceed 32 sq ft per display surface and 64 sq ft overall.

2. Height and/or Clearance

a. In the DMU Zone, freestanding signs are limited to a maximum height of 7 ft. Properties with frontage on McLoughlin Blvd may have freestanding signs with a maximum height of 15 ft and shall only be located along the McLoughlin Blvd frontage. Freestanding sign height shall be measured from the top of the sign to the lowest finished grade within a 6-ft horizontal distance from the sign.

b. In the OS Zone freestanding signs are limited to a maximum height of 6 ft above grade.

3. Number

One freestanding sign is permitted on a street or highway frontage.

Response: The project would install a single freestanding sign in the park adjacent to the Trolley Trail near Monroe St. The sign will be designed to comply with the standards of this code section. A sign permit will be requested from the City, and this standard will be met.

OVERLAY ZONES (MMC 19.400)

Willamette Greenway (19.401)

The project site and the entirety of Milwaukie Bay Park are within the Willamette Greenway (WG) overlay zone regulated under MMC 19.401. Land use actions and development within the WG overlay zone are conditional uses subject to the provisions of MMC 19.905 (Conditional Uses). The approval criteria from MMC 19.905.4.A and the Willamette Greenway criteria in MMC 19.401.6 are listed and addressed in the following subsections.

Approval Criteria for Conditional Uses (19.905.4.A)

Establishment of a new conditional use, or major modification of an existing conditional use, shall be approved if the following criteria are met:

- 1. The characteristics of the lot are suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features.**

Response: The existing property is the location of Milwaukie Bay Park and its size and shape are suitable to accommodate the additional features proposed through this work. The location of the park is central to Downtown Milwaukie, accessible throughout the region, and serves as a convenient location for community gatherings. The topography of the site contains grades that are accessible for individuals and the proposed project work, but which will be improved greatly in the proposed design for more extensive ADA-compliant access. Work was recently completed on the southern portion of the site to add a boat launch and parking area; the improvements proposed through this work were designed to seamlessly integrate into existing improvements at the site. The site is situated along the Willamette River and between Johnson Creek to the north and Kellogg Creek to the south. Improvements proposed through this work have been designed to accentuate the natural features of the site and make them more accessible to the community.

- 2. The operating and physical characteristics of the proposed use will be reasonably compatible with, and have minimal impact on, nearby uses.**

Response: The proposed improvements are designed to be compatible with existing features and uses of the site, expanding upon improvements completed at Milwaukie Bay Park during earlier phases of work. The site will continue to operate as a park for recreational uses, and the proposed improvements will enhance and intensify some uses with the addition of an event area with stage, nature play area, interactive water feature, and picnic area. Park uses with the proposed improvements in place are expected to have minimal impact on nearby uses. The proposed improvements incorporate design elements intended to minimize impacts on the more sensitive nearby residential uses to the north and river recreational/natural uses to the west, by orientating the event area stage away from those areas and towards SE McLoughlin Blvd. to the east, to minimize the potential for noise impacts.

- 3. All identified impacts will be mitigated to the extent practicable.**

Response: Beyond the design considerations built into the proposal to avoid impacts to nearby uses, City Temporary Event and/or NCPRD Special Use Permits will be required for activities beyond everyday uses in the park (e.g., concerts with amplified sound, large gatherings), requiring City and NCPRD review and approval. Such permits will include conditions with considerations for mitigating potential impacts on nearby uses from noise, traffic, parking, etc.

4. The proposed use will not have unmitigated nuisance impacts, such as from noise, odor, and/or vibrations, greater than usually generated by uses allowed outright at the proposed location.

Response: The potential for nuisance impacts from the proposed use will be in line with those expected from parks uses permitted in the Open Space zone. The project maintains the existing uses of the site as a park for recreational purposes and introduces new features to facilitate additional activities, including a stage for music, movies, and plays. Trash receptacles will be provided, and the park will continue to be managed and maintained to avoid nuisance impacts from litter. No impacts from odors are expected, and any amplified sound (and related vibration) from special events such as concerts will be subject to permit approval (with decibel level and time restrictions) through an application process in which the City and NCPRD provide review and input.

5. The proposed use will comply with all applicable development standards and requirements of the base zone, any overlay zones or special areas, and the standards in Section 19.905.

Response: The proposed project will comply with all applicable requirements of the base zone and any overlay zones on the proposed project site, as documented throughout this application.

6. The proposed use is consistent with applicable Comprehensive Plan policies related to the proposed use.

Response: The proposed project and continued uses of Milwaukie Bay Park are consistent with Milwaukie’s Downtown and Riverfront Land Use Framework Plan (last updated 2015), which is an ancillary document to the Comprehensive Plan (updated 2020). As stated in the Comprehensive Plan (page 76), “A fundamental concept of the Framework Plan is creating stronger connections between downtown Milwaukie to the riverfront and enhancements to Milwaukie Bay Park.”

The proposed project is consistent with goals and policies of the of the Comprehensive Plan, including the overarching goal of the Parks and Recreation (Chapter 9) section, which is to “Enhance natural areas and provide for the recreational needs of present and future city residents of all ages and abilities with an emphasis on underserved communities.”

The proposed project also specifically helps implement goals and policies of the Willamette Greenway chapter of the Plan (Chapter 4), including the following:

GOAL 4.2 - GREENWAY DESIGN PLAN

Allow preparation of a Greenway Design Plan within the Willamette Greenway Boundary.

POLICY 4.2.1 *Utilize the adopted park master plans for Kronberg Park and Spring Park, the downtown design review approval for Milwaukie Bay Park, and the management plan for Peter Kerr Park at Elk Rock Island as the Greenway Design Plan for each of the parks. Adopt future park master plans or amendments to plans through the community service use process.*

GOAL 4.4 - NATURAL RESOURCE PROTECTION

Protect and conserve the natural resources within the Willamette River Greenway while recognizing recreation needs.

POLICY 4.4.1 *Protect and conserve natural resources in the Willamette Greenway through the City's two Natural Resource overlay zones: WQR - Water Quality Resource and HCA – Habitat Conservation Area.*

POLICY 4.4.2 *Promote an increase in tree canopy within the Willamette Greenway through tree planting programs and by mitigating for any lost tree canopy that occurs through development, while recognizing the importance of retaining certain public views of the river.*

GOAL 4.5 - RECREATION

Enhance the recreational use of lands within the Willamette Greenway boundaries while protecting and conserving natural resources.

POLICY 4.5.2 *Define the primary intent and purpose of each park within the Willamette River Greenway in the Parks and Recreation Chapter of the Comprehensive Plan. The parks within the Willamette River Greenway will serve a variety of needs for the City including:*

- *Access to the Willamette River for water sports - boating, fishing, swimming, kayaking etc.,*
- *Recreational trails along the river,*
- *River and natural area viewing,*
- *Picnicking, and*
- *Community events*

GOAL 4.6 - PUBLIC ACCESS AND VIEW PROTECTION

Provide, improve, and maintain public access and visual access to the lands and water that make up the Willamette River Greenway.

POLICY 4.6.1 *Inventory existing and encourage new public access and views within the greenway and to the Willamette River, through dedications, easements, acquisitions or other means.*

POLICY 4.6.2 *Undertake efforts to make existing points of public access more accessible and usable through maintenance and signing.*

GOAL 4.7 - DOWNTOWN

Maintain Milwaukie Bay Park, Dogwood Park, and Kronberg Park as the key public amenities in the downtown that attract people to the area to enjoy the open space, public trails, riverfront access, and riverfront-related development, consistent with the Downtown and Riverfront Land Use Framework Plan and park master plans.

POLICY 4.7.1 *Provide safe pedestrian connections between downtown Milwaukie and the Willamette River consistent with the Downtown and Riverfront Land Use Framework Plan.*

7. Adequate public transportation facilities and public utilities will be available to serve the proposed use prior to occupancy pursuant.

Response: The project site is presently served by public transportation, specifically two TriMet bus stops (#8223 and #8225) located within two blocks of the proposed project location. These stops are served by TriMet routes 29, 32, 33, 34, 70, 75, 99, and 152. The proposed project site has access to public utilities necessary for the proposed project amenities including water, sewer, and electricity.

Willamette Greenway Criteria (19.401.6)

The following shall be taken into account in the consideration of a conditional use:

A. Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan;

Response: An urban use is described in the Willamette River Greenway Plan as a use that is part of the built environment, as opposed to uses along a river that are natural, rural, or agricultural in nature. The project area is part of Milwaukie's downtown zone, and the proposed park improvements are on land established as a park - Milwaukie Bay Park. The park use is an urban use in the downtown area along the Willamette River that is committed to urban use.

B. Compatibility with the scenic, natural, historic, economic, and recreational character of the river;

Response: The proposed improvements will enhance features at Milwaukie Bay Park and will be compatible with the scenic, natural, historic, economic, and recreational character of the river. Proposed site additions will provide individuals with amenities to use while enjoying the scenery and natural resources of the site. Additionally, the proposed additions will enhance connections between the river and downtown Milwaukie. The site additions will enhance recreational opportunities at the site.

C. Protection of views both toward and away from the river;

Response: The proposed work at the project site will protect views toward and away from the river. The proposed project involves construction of one building (restroom under 11 feet in height) in addition to other features which will have minimal impacts on views. Additionally,

other site features, including landscape plantings and walkways, have been designed to accentuate and frame views from the site, in consideration of vegetation maturing over time.

D. Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable;

Response: The proposed project includes extensive landscaping and planting to promote tree canopy coverage and vegetation diversity at the site while preserving recreational function and framing views of the river. Proposed development has been sited away from the river to the extent practicable, accommodating the programmed park amenities while balancing natural resource protections along the river with public concerns about active uses (e.g., playground) adjacent to SE McLoughlin Blvd. The project avoids disturbance to the existing vegetated buffer of trees, shrubs, and groundcover along the river below the existing riverside paths.

E. Public access to and along the river, to the greatest possible degree, by appropriate legal means;

Response: The proposed project includes a series of walkways that will extend throughout the park, providing users with access to the proposed site features and integrating with existing site development, including existing access to the river from the riverside path. The project includes connections between the existing riverside paths and the Trolley Trail. The project also proposes realigning, widening, and paving (with permeable pavement) a portion of the Trolley Trail extending through Milwaukie Bay Park, providing access from communities north and south along the six-mile trail and beyond. All proposed walkways will meet relevant design and accessibility requirements.

F. Emphasis on water-oriented and recreational uses;

Response: The project contains numerous proposed improvements to enhance recreational uses. These include a playground, interactive water feature (splash pad), fire pit, bicycle parking, walking and biking paths, picnic areas, open space, and a restroom. Additionally, the project is designed to frame and accentuate views of the river, and it retains existing access to the Willamette River from the riverside trail via the stone steps constructed as part of a 2018 project. No limitations to or modifications of the boat ramp constructed in 2015 are included in this project, protecting a popular access point that creates a strong water/recreation orientation on site today.

G. Maintain or increase views between the Willamette River and downtown;

Response: Existing views between the Willamette River and downtown will be maintained with this project. The aboveground features, including the restroom structure which is the only building proposed and is under 11 feet tall, will result in negligible impacts to views between the Willamette River and downtown. Proposed landscaping at the site has been designed to accentuate and frame views, highlighting the natural features of the Willamette River and its surrounding areas. The proposed landscaping, which includes tree plantings, has been planned thoughtfully to frame views as vegetation matures.

H. Protection of the natural environment according to regulations in Section 19.402;

Response: The proposed action will comply with natural resource and environmental protections in the City of Milwaukie including those in Section 19.402. For more information on compliance with the natural resource protections of MMC 19.402, please refer to the Natural Resources Review report in Appendix D of this application.

I. Advice and recommendations of the Design and Landmark Committee, as appropriate;

Response: The Design and Landmark Committee was established to advise the Planning Commission on all matters specified in Section 2.16.010.A.9 through 2.16.010.A.12 which includes historic preservation, compliance with the Historic Resources Element of the Comprehensive Plan, recommendations related to compliance with design guidelines, and recommendations related to design review processes and procedures. The applicant will respond to any advice and recommendations made by the Design and Landmark Committee following their review, as appropriate.

J. Conformance to applicable Comprehensive Plan policies;

Response: As described in the response to 19.905.4.A.6 above, the proposed project is consistent with Milwaukie's Downtown and Riverfront Land Use Framework Plan (last updated 2015). It is also consistent with other goals and policies of the of the Comprehensive Plan, including the overarching goal of the Parks and Recreation (Chapter 9) section and the policies of the Willamette Greenway chapter of the Plan (Chapter 4), including those related to natural resource protections, recreation, public access and view protection, and connections with downtown.

K. The request is consistent with applicable plans and programs of the Division of State Lands;

Response: The proposed project does not involve work below the ordinary high water (OHW) level of the Willamette River or within adjacent wetlands subject to Oregon Department of State Lands (DSL) permitting requirements under the Oregon Removal-Fill Law or state-owned aquatic lands leasing/registration programs.

L. A vegetation buffer plan meeting the conditions of Subsections 19.401.8.A through C.

19.401.8.A through C

- A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location 25 ft upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this title, and subject to the requirements of Subsection 19.401.8.B below.**

Response: A buffer strip of native vegetation was established along the river as part of earlier phases of development within Milwaukie Bay Park. Prior work has included shoreline grading, bank stabilization, and native plantings/vegetation enhancement below the existing riverside path. The proposed Phase 3 improvements will observe this buffer and will preserve the vegetation within it through impact avoidance. No native vegetation removal within the buffer is proposed with this project.

- B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:**
- a. Riverbank Stabilization: The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.**
 - b. Scenic View Protection (Screening): The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.**
 - c. Retain Existing Native Vegetation and Large Trees: The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. Removal of native vegetation and large trees is allowed pursuant to the following standards:**
 - i. Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage,**
 - ii. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.**
 - iii. Tree and vegetation removal may be allowed to create 1 view window from the primary residential structure to the river when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 100 ft or 50% of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.**

- d. Restore Native Vegetation: The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.**
- e. Enhance Vegetation Buffer Area: The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed. New plant materials in the buffer strip shall be native vegetation.**
- f. Security that the Plan will be Carried Out: The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.**

Response: The proposed project does not involve removal of vegetation or alteration of natural site characteristics within the vegetated buffer. The project recognizes the buffer established during previous phases of park development and intentionally avoids impacting that area. This standard therefore does not apply.

- C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.**

Response: This criterion is acknowledged, and the proposed project will not place additional restrictions on ordinary pruning or vegetation maintenance.

Natural Resources (19.402)

The proposed park improvements would result in a permanent disturbance of areas designated as Water Quality Resource (WQR) and Habitat Conservation Area (HCA), which require review under MMC 19.402. Appendix D of this application contains a Natural Resource Review report that provides an impact evaluation, alternatives analysis, and mitigation proposal and addresses the applicable review criteria of MMC 19.402. Please refer to the report in Appendix D.

SUPPLEMENTARY DEVELOPMENT REGULATIONS (MMC 19.500)

Site Design Standards (19.504)

19.504.9.E On-Site Walkways and Circulation – Design Standards

Walkways shall be constructed with a hard surface material, shall be permeable for stormwater, and shall be no less than 5 ft in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average .5-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.

Response: All walkways proposed with this project will be constructed using a hard surface material and will range from 6 to 10 feet in width. Walkways along the southern portion of the project site, adjacent to the parking areas and internal driveways, will be separated from the parking and driving areas using both 6-inch raised and flush curbs. Permeable pavement is proposed for the Trolley Trail improvements proposed with this project. Permeable pavement is not proposed for other walkways, and as such, the walkways and a proposed alternative stormwater management approach are further addressed in the Variance Request section of this application.

Walkways that comprise the Riverside Pathway (along the western boundary of the project site) will be lit to calculated average of 0.5 footcandles with a maximum of 5.2 footcandles immediately surrounding the light sources. Lighting along the Riverside Pathway will be provided by existing bollard lights.

Walkways along the Trolley Trail (near the eastern boundary of the project site) will be lit to a calculated average of 1.0 footcandles with a maximum of 5.3 footcandles immediately surrounding the light sources. Lighting along the Trolley Trail will be provided by existing light posts, two relocated light posts, and two new light posts. The relocated and new light posts were included in project designs to better distribute lighting along the trail.

Internal pathways between the Riverside Pathway and the Trolley Trail will not be illuminated. The internal pathways have been designed to provide access from the Riverside Pathway, Trolley Trail, and public sidewalks adjacent to Milwaukie Bay Park to the various improvements and amenities proposed in the project design. These internal pathways are intended to complement design elements and are not intended to serve as the primary pedestrian thoroughfares through the park. The internal pathways serve as redundant access routes that ultimately provide access to the same locations as the illuminated walkways on the Riverside Pathway and Trolley Trail.

Additionally, MMC 19.402 (Natural Resources) includes development standards that state a preference for minimizing lighting into WQR and HCA areas where practicable, including:

- ***19.402.11.A.9 and 19.402.11.B.10: Where practicable, lights shall be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.***
- ***19.402.11.E.4 (Walkways and Bike Paths): Where practicable, any lights associated with the walkway or bike path shall be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.***

The proposed lighting plan recognizes these standards by avoiding unnecessary and redundant lighting on interior walkways. Lighting details are provided on the electrical drawings in Appendix C of this application.

Downtown Building and Site Design Standards (19.508)

The restroom structure proposed with this project is subject to Downtown Design Review, specifically for the following standards of MMC 19.508.4 for weather protection, exterior building materials, windows and doors, and roofs and rooftop equipment. Architectural drawings for the restroom building are included in the plans in Appendix C of this application.

19.508.4.C Weather Protection

1. Purpose

- a. Create an all-season pedestrian environment.

2. Weather Protection Required

- a. All buildings shall provide weather protection for pedestrians as follows:
 - i. Minimum Weather Protection Coverage

1. All ground-floor building entries shall be protected from the weather by canopies or recessed behind the front building façade at least 3 ft.

Response: The restroom structure roof will include a canopy that extends 4 feet out from the building over the restroom entry. This standard is met.

2. Permanent awnings, canopies, recesses, or similar weather protection shall be provided along at least 50% of the ground-floor elevation(s) of a building where the building abuts a sidewalk, civic space, or pedestrian accessway.

Response: The roof canopy will cover 100% of the ground-floor elevation areas that abut the pedestrian accessway adjacent to the restroom structure. This standard is met.

3. Weather protection used to meet the above standard shall extend at least 4 ft, and no more than 6 ft, over the pedestrian area, and a maximum of 4 ft

into the public right-of-way. Balconies meeting these dimensional requirements can be counted toward this requirement.

Response: The roof canopy used to provide weather protection will extend 4 feet over the pedestrian area at the front of the building. The building and canopy do not extend into the public right-of-way. This standard is met.

- 4. In addition, the above standards do not apply where a building has a ground-floor dwelling, as in a mixed-use development or live-work building, and the dwelling entrance has a covered entrance.**

Response: The restroom structure will not contain any dwelling. This standard does not apply.

ii. Weather Protection Design

- 1. Weather protection shall comply with applicable building codes and shall be designed to be visually compatible with the architecture of a building. Where applicable, weather protection shall be designed to accommodate pedestrian signage (e.g., blade signs) while maintaining required vertical clearance.**

Response: The weather protection has been designed to meet applicable building codes and will be compatible with the architecture of the restroom structure, as shown on the architectural plans included with this application. No signage is proposed on the restroom. This standard is met.

19.508.4.D Exterior Building Materials

1. Purpose

- a. To encourage the construction of attractive buildings with materials that evoke a sense of permanence and are compatible with downtown Milwaukie and the surrounding built and natural environment.**

2. Exterior Wall Standards

- a. The following standards are applicable to the street-facing façades of all new buildings. For the purposes of this standard, street-facing façades are those abutting streets, courtyards, and/or public squares in all of the downtown. Table 19.508.4.D specifies the primary, secondary, and prohibited material types referenced in this standard.**
 - i. Buildings shall utilize primary materials for at least 65% of each applicable building façade.**

Response: The restroom structure exterior walls are proposed to be built of cast-in-place board-formed concrete and cedar slats. Finished metal panels will be located along the roofline of the entire building perimeter to accommodate ventilation. According to Table 19.508.4.D, all proposed materials are approved for building façades. Finished wood (cedar slats) is approved as

a primary material and concrete and finished metal are secondary materials. The finished wood cedar slats will comprise 65% of the street facing façade. This standard is met.

- ii. **Secondary materials are permitted on no greater than 35% of each applicable building façade.**

Response: Cast-in-place board-formed concrete and finished metal (secondary materials) will comprise 35% of the street facing façade. This standard is met.

- iii. **Accent materials are permitted on no greater than 10% of each applicable building façade as trims or accents (e.g. flashing, projecting features, ornamentation, etc.).**

Response: No accent materials are proposed as part of the building facade. This standard is met.

- iv. **Buildings shall not use prohibited materials on any exterior wall, whether or not it is a street-facing façade.**

Response: No prohibited materials will be used on any exterior wall of the restroom building. This standard is met.

19.508.4.E Windows and Doors

1. Purpose

- a. **To enhance street safety and provide a comfortable pedestrian environment by adding interest to exterior façades, allowing for day lighting of interior space, and creating a visual connection between interior and exterior spaces.**

2. Main Street

- a. **For block faces along Main St, 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.**

Response: The restroom building is not situated along Main Street. This standard does not apply.

3. Other Streets

- a. **For all other block faces, the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:**
 - i. **40% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors.**
 - ii. **Along McLoughlin Blvd the required coverage is 30%.**

Response: The restroom structure faces SE McLoughlin Blvd, and as such, this standard would require 30% of the building facing the street to be windows. However, as the proposed structure is a restroom – and not a building such as a retail space where a visual connection between exterior and interior spaces is desired - no ground floor windows are proposed.

To address the purpose of the window standard as it would apply to a restroom in a park, which is to allow for daylighting of interior space, two skylights are included in the design to provide natural light while maintaining privacy for users of the restroom building. Downtown Design Guidelines regarding windows are related specifically to retail business and residences and do not apply to the proposed restroom building.

4. Upper Level

- a. **Along all block faces, the following standards are applicable on the upper-level building façades facing a street or public space.**
- b. **Upper building stories shall provide a minimum of 30% glazing. For the purposes of this standard, minimum glazing includes windows and any glazed portions of doors.**
- c. **The required upper-floor window/door percentage does not apply to floors where sloped roofs and dormer windows are used.**
- d. **A minimum of 60% of all upper-floor windows shall be vertically oriented. This vertical orientation applies to grouped window arrays as opposed to individual windows.**

Response: The restroom will be a single-story building and will not have an upper level. This standard does not apply.

5. General Standards

- a. **Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 in into the façade and/or incorporating trim of a contrasting material or color.**
- b. **All buildings with nonresidential ground-floor windows must have a visible transmittance (VT) of 0.6 or higher.**
- c. **Doors and/or primary entrances must be located on the street-facing block faces and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.**
- d. **The bottom edge of windows along pedestrian ways shall be constructed no more than 30 in above the abutting walkway surface.**
- e. **Ground-floor windows for nonresidential buildings shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including, but not limited to, curtains, shades, signs, or shelves.**

- f. **Signs are limited to a maximum coverage of 20% of the required window area.**

Response: As outline above, the restroom structure will not have windows given its need for privacy and the nature of its location and use. Doors to the restroom will be located on the street-facing façade of the structure and will be unlocked during operating hours.

6. Prohibited Window Elements

- a. **For all building windows facing streets, courtyards, and/or public squares in the downtown, the following window elements are prohibited:**
 - i. **Reflective, tinted, or opaque glazing.**
 - ii. **Simulated divisions (internal or applied synthetic materials).**
 - iii. **Exposed, unpainted metal frame windows.**

Response: The proposed design does not include any prohibited window elements. This standard is met.

19.508.4.F Roofs and Rooftop Equipment

1. Purpose

- a. **To create a visually interesting condition at the top of the building that enhances the quality and character of the building.**

2. Roof Forms

- a. **The roof form of a building shall follow one (or a combination) of the following forms:**
 - i. **Flat roof with parapet or cornice.**
 - ii. **Hip roof.**
 - iii. **Gabled roof.**
 - iv. **Dormers.**
 - v. **Shed roof.**
- b. **All flat roofs, or those with a pitch of less than 4/12, shall be architecturally treated or articulated with a parapet wall that projects vertically above the roofline at least 12 in and/or a cornice that projects from the building face at least 6 in.**
- c. **All hip or gabled roofs exposed to view from adjacent public or private streets and properties shall have a minimum 4/12 pitch.**

- d. **Sloped roofs shall have eaves, exclusive of rain gutters, that project from the building wall at least 12 in.**
- e. **When an addition to an existing structure, or a new structure, is proposed in an existing development, the roof forms for the new structure(s) shall have similar slope and be constructed of the same materials as the existing roofing.**

Response: The proposed roof form of the building is a shed roof. There are no existing buildings in the immediate vicinity of the proposed restroom. This standard is met.

3. Rooftop Equipment and Screening

- a. **The following rooftop equipment does not require screening:**
 - i. **Solar panels, wind generators, and green roof features.**
 - ii. **Equipment under 2 ft high, if set back a minimum of 5 ft from the outer edge of the roof.**
- b. **Elevator mechanical equipment may extend above the height limit a maximum of 16 ft, provided that the mechanical shaft is incorporated into the architecture of the building.**
- c. **Satellite dishes, communications equipment, and all other roof-mounted mechanical equipment shall be limited to 10 ft high, shall be set back a minimum of 10 ft from the roof edge, and shall be screened from public view and from views from adjacent buildings by one of the following methods:**
 - i. **A screen around the equipment that is made of a primary exterior finish material used on other portions of the building, wood fencing, or masonry.**
 - ii. **Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.**
- d. **Required screening shall not be included in the building's maximum height calculation.**

Response: The proposed restroom building will have no equipment on the roof. This standard does not apply.

4. Rooftop Structures

- a. **Rooftop structures related to shared outdoor space—such as arbors, trellises, or porticos related to roof decks or gardens—shall not be included in the building's maximum height calculation, as long as they do not exceed 10 ft high.**

Response: The proposed restroom building will have no structures on the roof. This standard does not apply.

PARKING STANDARDS (MMC 19.600)

Parks are subject to the off-street parking requirements of MMC 19.600. However, off-street vehicle parking for Milwaukie Bay Park, which is located on the southern portion of the park, was developed as part of an earlier phase of park improvements. No additional vehicle parking is required or proposed as part of the Phase 3 park improvements.

Bicycle parking requirements are listed in **MMC 19.609** and addressed below.

19.609.2 Quantity of Spaces

A. The quantity of required bicycle parking spaces shall be as described in this subsection. In no case shall less than 2 spaces be provided.

- a. Unless otherwise specified, the number of bicycle parking spaces shall be at least 10% of the minimum required vehicle parking for the use.**
- b. The number of bicycle parking spaces at transit centers shall be provided at the ratio of at least 1 space per 100 daily boardings.**
- c. Multifamily residential development with 4 or more units shall provide 1 space per unit.**

Response: Milwaukie Bay Park contains 38 total off-street vehicle parking spaces in two lots constructed during an earlier phase of work at the park. The north lot includes 17 spaces. The south lot, which is shared with Water Environmental Services (WES), who operates the adjacent Kellogg Water Resource Recovery Facility, includes 21 spaces. With 38 total vehicle parking spaces, the minimum number of required bicycle parking spaces for the park is four.

During the April 28, 2022, pre-application meeting and in the Pre-Application Summary Report (Appendix A), the City encouraged the NCPRD team to provide ample bike parking in the park as part of this project, to help accommodate large events at the park and in recognition of the City's efforts to promote alternative modes of transportation throughout the City. The proposed design includes 18 bike parking spaces with 6 spaces located on the south side of the amphitheater and 12 spaces located in the plaza near Monroe Street. This standard is met.

B. Covered or enclosed bicycle parking. A minimum of 50% of the bicycle spaces shall be covered and/or enclosed (in lockers or a secure room) in any of the following situations

- a. When 10% or more of vehicle parking is covered.**
- b. If more than 10 bicycle parking spaces are required.**
- c. Multifamily residential development with 4 or more units.**

Response: None of the vehicle parking spaces are covered, and the site does not contain any multifamily residential developments. Although the project proposes more than 10 bicycle

parking spaces, the code only requires four spaces for the site. Therefore, this standard does not apply.

19.609.3 Space Standards and Racks

A. The dimension of each bicycle parking space shall be a minimum of 2 x 6 ft. A 5-ft-wide access aisle must be provided. If spaces are covered, 7 ft of overhead clearance must be provided. Bicycle racks must be securely anchored and designed to allow the frame and 1 wheel to be locked to a rack using a high security, U-shaped, shackle lock.

Response: The proposed bicycle parking will be designed to meet the dimensions of this standard. Covered spaces are not proposed. This standard will be met.

B. Lighting shall conform to the standards of Subsection 19.606.3.F, which state:

Lighting is required for parking areas with more than 10 spaces. The Planning Director may require lighting for parking areas of less than 10 spaces if the parking area would not be safe due to the lack of lighting. Lighting shall be designed to enhance safe access for vehicles and pedestrians on the site, and shall meet the following standards:

- 1. Lighting luminaires shall have a cutoff angle of 90 degrees or greater to ensure that lighting is directed toward the parking surface.**
- 2. Parking area lighting shall not cause a light trespass of more than 0.5 footcandles measured vertically at the boundaries of the site.**
- 3. Pedestrian walkways and bicycle parking areas in off-street parking areas shall have a minimum illumination level of 0.5 footcandles, measured horizontally at the ground level.**
- 4. Where practicable, lights shall be placed so they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.**

Response: This standard applies to bicycle parking in off-street vehicle parking areas. The proposed project does not add bicycle parking to vehicle parking areas. Six bicycle parking spaces are proposed on the south side of the amphitheater, and 12 bicycle parking spaces are proposed in the plaza near Monroe Street. The 12 spaces in the Monroe Plaza will have lighting that will meet the 0.5 footcandle standard for pedestrian walkways and bicycle parking areas, as shown on the electrical/lighting plans included in Appendix C of this application. The lighting for that area will not shine directly into WQR or HCA. The relevant parts of this standard will be met.

19.609.4 Location

A. Bicycle parking facilities shall meet the following requirements:

- a. Located within 50 ft of the main building entrance.**

- b. Closer to the entrance than the nearest non-ADA designated vehicle parking space.
- c. Designed to provide direct access to a public right-of-way.
- d. Dispersed for multiple entrances.
- e. In a location that is visible to building occupants or from the main parking lot.
- f. Designed not to impede pedestrians along sidewalks or public rights-of-way.
- g. Separated from vehicle parking areas by curbing or other similar physical barriers.

Response: The bicycle parking spaces proposed near the amphitheater and the plaza near Monroe Street are intended to accommodate users of the overall park and not provide parking specific to any building; therefore, the standards related to building entrances do not apply. The proposed bicycle parking is situated so that it will not impede pedestrians along sidewalks or in public right-of-way. This standard is met.

B. The public right-of-way may be utilized for bicycle parking when parking cannot be reasonably accommodated on the site and the location is convenient to the building's front entrance. The bicycle parking area in the right-of-way must leave a clear, unobstructed width of sidewalk that meets the Engineering Department's Public Works Standards for sidewalk passage. See Figure 19.609 for illustration of space and locational standards. A right-of-way permit is required.

Response: The project will not add bicycle parking to the right-of-way. This standard does not apply.

VARIANCE REQUEST (MMC 19.911)

The On-Site Walkway and Circulation design standards of MMC 19.504.9.E prescribe that “walkways...shall be permeable for stormwater.” The proposed Trolley Trail will be constructed with porous asphalt, and the proposed playground area surfacing will be constructed with pervious materials. However, the remainder of the site walkways are proposed to be constructed of impervious pavement; therefore, a variance from the permeable pavement standard is requested.

The approval criteria for a variance request are listed and addressed below.

19.911.4 Approval Criteria

B. Type III Variances

An application for a Type III variance shall be approved when all of the criteria in either Subsection 19.911.4.B.1 or 2 have been met. An applicant may choose which set of criteria to meet based upon the nature of the variance request, the nature of the development proposal, and the existing site conditions.

Response: This variance request is based on the discretionary relief criteria in 19.911.4.B.1 below.

1. Discretionary Relief Criteria

- a. **The applicant’s alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.**

Response: The stormwater management approach and the pervious pavement variance proposed with this application are based on an analysis of existing site conditions and a comparison of infiltration vs. filtration treatment approaches. Details on the basis for the proposed stormwater management approach are provided in the *Preliminary Stormwater Management Report* prepared in support of this application by Zucker Engineering and Design, dated June 2022 (see Appendix E), with key details summarized below.

A soils evaluation and infiltration testing documented by Hart Crowser in 2018 and 2022 revealed the site to be blanketed with 1 to 3 feet of fill, with variable but generally low infiltration rates. Four of five shallow infiltration tests (depths of 2 to 3 feet) performed across the site in 2022 indicated infiltration rates of less than 1 inch per hour. A fifth test performed on the upper part of the site near SE McLoughlin Blvd. showed much higher rates of 13 inches per hour.

Pervious asphalt is proposed for the Trolley Trail portion of the project, since it is located in an area where infiltration rates were found to be high and suitable for pervious pavement. Impervious pavement draining to a vegetated surface facility (grassy swale) for filtration is proposed for the other walkways on the site.

Pervious pavement was considered for the other walkways on the site, weighing the impacts and benefits of attempting to rely on pervious pavement versus allowing water to shed from the impervious paths to a vegetated swale designed to accommodate it. Both approaches could meet City stormwater management requirements. The proposed approach to use impervious concrete for the majority of the site walkways and provide surface treatment facilities is preferred for several reasons, including the following:

- The site has generally poor infiltration rates that are not conducive to infiltration-type stormwater facilities. If adequate infiltration is not achieved and infiltration facilities do not function as designed, there is a potential for untreated runoff to enter the Willamette River. Incorporation of vegetated treatment facilities that rely on filtration rather than infiltration should provide more reliable and consistent stormwater treatment.
- Vegetated facilities provide treatment performance similar to permeable pavement in suitable conditions, but vegetated facilities provide additional benefits that permeable pavement does not provide, including:
 - Vegetated facilities provide an additional ‘green’ aesthetic.
 - At the Milwaukie Bay Park site, the proposed grassy swale will provide additional function as a barrier to geese.
 - The prevailing understanding is that vegetated stormwater facilities improve or maintain infiltration capacity over time because of root growth.
 - Microbial communities associated with root systems provide soil microbe diversity and help fix atmospheric carbon and nitrogen, and are known to break down pollutants including hydrocarbons.
- Typical concrete is more durable than permeable concrete, particularly as it relates to shear strength. The geotechnical investigation completed for this project suggests a modest settlement potential. Pavement that has cracked, settled, or otherwise degraded can present safety concerns for pedestrians, particularly those with mobility challenges. Under conditions with moderate settlement potential, typical concrete would likely outperform permeable concrete, and settled concrete joints and panels on typical concrete would be easier to repair via grinding.
- Permeable concrete requires effective maintenance over time to perform as expected. Permeable concrete at this site would be maintained; however, when particulate matter accumulates in voids over time from natural causes despite ongoing maintenance, there is a greater chance of decreasing performance. At many sites, this is not a concern that exceeds benefits, but at this site where there is low infiltration and sensitive water resources, it is important to have systems that will ensure that clogging and decreased performance over time will be less likely.

b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

(1) The proposed variance avoids or minimizes impacts to surrounding properties.

Response: The proposed variance avoids impacts to surrounding properties. Stormwater runoff from the proposed impervious concrete walkways would be captured and treated on-site through surface vegetated filtration facilities. The proposed grassy swale is designed to meet stormwater management requirements adopted by the City of Milwaukie in the form of the City of Portland's Stormwater Management Manual, and it is sized with adequate capacity to meet freeboard requirements during the peak 25-year flow event. The proposed use of impervious pavement and vegetated surface filtration facilities would not adversely impact surrounding properties through water quality or water quantity concerns. The project site's location adjacent to the Willamette River exempts it from on-site flow control requirements.

(2) The proposed variance has desirable public benefits.

Response: Typical impervious concrete is a durable, stable, all-weather material that provides a safe pedestrian travel surface over the long-term. It is generally less prone to weather-related damage and/or other degradation than pervious pavement, especially at sites where low infiltration rates are a concern. The proposed variance would benefit the public users of the park walkways by providing a more durable walking surface than permeable pavement.

(3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

Response: The proposed use of typical impervious concrete for most site walkways rather than permeable pavement is a direct response to existing soil conditions at the site, which have generally poor infiltration capacity as determined through infiltration testing. The proposed stormwater management approach incorporates a surface vegetated treatment facility that is sensitive to environmental conditions at the site (i.e., a non-structural approach to treatment) and provides creative secondary functions in the form of a vegetated barrier between lawn and path that is intended to deter geese, increase plantings, and increase the aesthetic quality of the site.

c. Impacts from the proposed variance will be mitigated to the extent practicable.

Response: The potential for adverse impacts from not infiltrating stormwater within the walkway footprints will be avoided and fully mitigated by capturing walkway runoff and treating it on-site in compliance with the City's stormwater standards, using a vegetated facility that is sized and designed in accordance with City of Portland Stormwater Management Manual requirements.

PUBLIC FACILITY IMPROVEMENTS (MMC 19.700)

The proposed project to construct new park improvements at Milwaukie Bay Park will intensify the current uses of the park and is projected to result in a projected increase in vehicle trips to the site. Accordingly, the agency notification requirements for public facility improvements apply to the project as outlined in MMC 19.707.1.

As stated in the pre-application report summary (Appendix A), the project will not require a Transportation Facilities Review (MMC 19.703) or a Transportation Impact Study (MMC 19.704), and it will not trigger the Rough Proportionality requirements of MMC 19.705 or the Transportation Requirements of MMC 19.708.

19.707.1 - Agency Notification

In addition to the general notice provisions set forth in Chapter 19.1000 for land use applications, the City shall provide notice of applications that are subject to Chapter 19.700 to the following agencies:

- 1. Oregon Department of Transportation (ODOT): If the proposed development generates more than 100 vehicle trips per day, is within 200 ft of a State highway, or is within 1,320 ft of a State highway interchange ramp.**

Response: The project is located along Oregon Route 99 East; accordingly, ODOT will be notified.

- 2. ODOT Rail Division: If the proposed development is within 300 ft of a public railroad crossing or if a modification is proposed to an existing public railroad crossing. Private crossing improvements are subject to review and licensing by the private rail service provider.**

Response: The project is not located within the vicinity of any public railroad.

- 3. Metro and Clackamas County: If the proposed development is within 200 ft of a designated arterial or collector roadway, as identified in Figure 8-1 of the TSP.**

Response: The site is located within 200-feet of a designated arterial or collector roadway; as such, Metro and Clackamas County will be notified.

- 4. Metro: If the proposed development is within 200 ft of a designated regional multiuse trail, as identified in the Regional Transportation Plan.**

Response: The project site is transected by the Trolley Trail, a designated regional multiuse trail. As such, Metro will be notified.

- 5. TriMet: If the proposed development (excluding single-family development on an existing lot) is within 200 ft of an existing or proposed transit route as identified on the current TriMet service map and Figure 7-3 of the TSP.**

Response: The site is located within 200 feet of existing transit routes, so TriMet will be notified.

Utility Requirements (MMC 19.709)

Response: The project will involve new connections to existing City utilities including water and sewer; as such, a right-of-way permit will be applied for and system development charges will be required for the new connections.

FLOOD HAZARD AREA (MMC 18)

Development Permit (MMC 18.16.030)

A floodplain development permit must be obtained through application on forms furnished by the city engineer before construction or development begins within any area horizontally within the regulatory floodplain established in Section 18.12.020.A. The floodplain development permit is required for all structures, including manufactured dwellings, and for all other development, as defined in Chapter 18.08, including fill and other development activities.

Response: The proposed action at Milwaukie Bay Park occurs within the established regulatory floodplain. An application for a Floodplain Development Permit will be submitted to the City for the project.

Elevation Certificate (MMC 18.16.020)

A certification of elevation is required for all structures constructed within the regulatory floodplain.

Response: An elevation certificate will be required and obtained for the proposed restroom structure.

Compensatory Storage (MMC 18.20.020)

Balanced cut and fill is required for grading in the 1996 Flood Inundation Area.

The placement of fill or structures that displaces ten (10) cubic yards or less of flood storage area is exempt from the requirements of this Section 18.20.020.

Response: The majority of the project site falls within the 1996 Flood Inundation Area. A cut and fill analysis completed by the project civil engineer, based on the site grading plan, indicated that the project will result in a net cut of approximately 200 cubic yards of material in areas below the 36-foot base flood elevation. This analysis will be documented in the application for a Floodplain Development Permit.

Floodways (MMC 18.20.010.B)

A No-Rise Analysis must be submitted for all manmade development in the floodway.

Response: The United States Army Corps of Engineers operates a hydraulic model for the Lower Willamette River which shows the area of Milwaukie Bay Park as an ineffective flow area. This classification means that the hydraulic model assumes the area of Milwaukie Bay Park is only flood storage without any flood conveyance. Based on the results of this hydraulic model and the net cut affiliated with the proposed project, development at this site would result in a no-

rise condition. A No-Rise Analysis will be submitted to the City with the application for a Floodplain Development Permit.

PUBLIC PLACES (MMC 12)

Right of Way Permit

12.08.020.A Permit Required

No person shall commence or continue with any work in the right-of-way except as provided in this code and in compliance with Title 19, the Milwaukie Public Works Standards, and other applicable codes, rules and regulations, and design standards. As used in this chapter, “work” means any activity in the public rights-of-way resulting in physical change thereto, including the following:

1. Excavation or placement of structures;
2. Any activity resulting in alteration of the surface of the right-of-way;
3. Pavement overlays;
4. New traffic control and changes to existing traffic control;
5. Drainage improvements;
6. New sidewalks and alterations to existing sidewalks;
7. New road construction;
8. Alteration of street configuration or geometry;
9. New traffic calming structures and alterations to existing traffic calming devices; and/or
10. New bicycle lanes or bicycle accommodations and alterations to existing bicycle lanes or accommodations.

Response: According to the City of Milwaukie in the pre-application conference, a right-of-way permit is required to construct any connections and/or extensions of City utilities (sewer and/or water) and changes to on-site pedestrian and bicycle paths. As this project will include both of those elements, a right-of-way permit will be required and will be applied for.

Appendix A

Pre-Application Conference Report

Project ID: 22-001PA



CITY OF MILWAUKIE

May 12, 2022

Jonathan Beaver
160 NE Sixth Ave., Ste 200
Portland, OR 97232

Re: Preapplication Report

Dear Jonathan:

Enclosed is the Preapplication Report Summary from your meeting with the City on 04/28/2022, concerning your proposal for action on property located at 11211 SE McLoughlin Blvd.

A preapplication conference is required prior to submittal of certain types of land use applications in the City of Milwaukie. Where a preapplication conference is required, please be advised of the following:

- Preapplication conferences are valid for a period of 2 years from the date of the conference. If a land use application or development permit has not been submitted within 2 years of the conference date, the Planning Manager may require a new preapplication conference.
- If a development proposal is significantly modified after a preapplication conference occurs, the Planning Manager may require a new preapplication conference.

If you have any questions concerning the content of this report, please contact the appropriate City staff.

Sincerely,

Will First
Administrative Specialist II



CITY OF MILWAUKIE
 6101 SE Johnson Creek Blvd
 Milwaukie OR 97206
 503.786.7600
 planning@milwaukieoregon.gov
 building@milwaukieoregon.gov
 engineering@milwaukieoregon.gov

Preapplication Conference Report

Project ID: 22-001PA

This report is provided as a follow-up to the meeting that was held on 4/28/2022 at 10:00 AM

The Milwaukie Municipal Code is available here: www.qcode.us/codes/milwaukie/

APPLICANT AND PROJECT INFORMATION

Applicant:	Jonathan Beaver, 2.ink Studio	Applicant Role:	Project Designer
Applicant Address:	160 NE Sixth Ave, Ste 200, Portland, OR 97232		
Company:	2.ink Studio		
Project Name:	Milwaukie Bay Park Phase 3 Improvements		
Project Address:	1211 SE McLoughlin Blvd	Zone:	OS
Project Description:	Park improvements including: new restroom, interactive water feature, playground, picnic areas, gathering space, pathways, plantings		
Current Use:	Park		
Applicants Present:	Heather Koch (NCPRD), Jonathan Beaver (2.ink studio), Adam Zucker (Zucker Engineering), John Vlastelicia (ESA), Christopher Olin (2.ink studio), Kevin Cayson (NCPRD), Julia Warden (2.ink studio)		
Staff Present:	Vera Kolas, Steve Adams, Beth Britell, Samantha Vandagriff, Tessie Pentice, Seth Brumley (ODOT)		

PLANNING COMMENTS

Zoning Compliance (MMC Title 19)

<input checked="" type="checkbox"/>	Use Standards (e.g., residential, commercial, accessory)	The Open Space Zone provides a specific zone to accommodate open space, park, and riverfront uses. Parks and open space are permitted uses. Some limited retail and restaurant uses are permitted as conditional uses (depending on the size).
<input checked="" type="checkbox"/>	Dimensional Standards	Table 19.304.4 includes all applicable dimensional standards, including maximum building height of 15 ft.

Land Use Review Process

<input checked="" type="checkbox"/>	Applications Needed	Downtown Design Review (Type I); Willamette Greenway Review (Type III); Natural Resources Review (Type III); Variance – if requested (Type III)
<input checked="" type="checkbox"/>	Fees	<ul style="list-style-type: none"> Type III = \$2,000 per application Type II = \$1,000 Type I = \$200

		<p><u>Note:</u> For multiple applications, there is a 25% discount offered for each application fee beyond the most expensive one.</p> <p>For technical review of a Natural Resources review, a \$3,000 deposit is required for review of the natural resources report by the city's environmental peer review consultant.</p> <p>The applicant is responsible for the final actual cost of the peer review, though the City will endeavor to have the consultant work within the initial deposit amount.</p>
<input checked="" type="checkbox"/>	Review Type: Choose an item.	<ul style="list-style-type: none"> • Willamette Greenway = Type III (\$2,000) • Natural Resources Review = Type III (\$1,500 w/ discount + \$3,000 deposit) • Variance = Type III (\$1,500 w/ discount—up to 3 variance requests per application) • Downtown Design Review = Type I (\$150 w/ discount) or Type III if exception requested (\$2,000)
Overlay Zones (MMC 19.400)		
<input checked="" type="checkbox"/>	Willamette Greenway (MMC 19.401)	<p>The entire site falls within the Willamette Greenway overlay.</p> <p>Land use actions and development within the Willamette Greenway overlay zone are conditional uses and so are subject to the provisions of MMC 19.905. Note that a conditional use permit will be provided upon approval and must be recorded with Clackamas County.</p> <p>In addition to the approval criteria for conditional uses that must be addressed (MMC 19.905.4.A), the Willamette Greenway criteria established in MMC 19.401.6 must also be addressed.</p> <p>There are no specific lighting requirements in the WG overlay.</p>
<input checked="" type="checkbox"/>	Natural Resources (MMC 19.402)	<p>The proposal would result in permanent disturbance of significant areas of designated Water Quality Resource (WQR) and Habitat Conservation Area (HCA), which requires review under the applicable provisions of MMC 19.402. The process for discretionary review is established in MMC 19.402.12 and requires a technical report prepared by a qualified professional to provide an impact evaluation, alternatives analysis, and recommendation for mitigation of the proposed disturbance.</p> <p>For permanent impacts, the code allows off-site mitigation of HCA disturbance but requires a variance for off-site mitigation of WQR impacts. The Natural Resource review will follow a discretionary process, with the approval criteria being to demonstrate how the project avoids impacts where possible, minimizes impacts where unavoidable, and adequately mitigates for all impacts. There is no specific mitigation formula or ratio in the code, though some recently approved mitigation efforts have aimed at a ratio of 1.5:1 (area of mitigation to area of disturbance). The code's general recommendation for mitigation is related to the condition of the WQR area (Good, Marginal, or Poor—see MMC Table 19.402.11.C) and focuses on restoration with native species to provide significant vegetated cover and more than 50% tree canopy coverage.</p> <p>The proposed work in the WQR is described to be bank stabilization and restoration work, so specific descriptions will be necessary to adequately outline the benefits on the impact and purpose of the disturbance.</p>
<input type="checkbox"/>	Historic Preservation	
<input type="checkbox"/>	Flex Space Overlay	
Site Improvements/Site Context		
<input type="checkbox"/>	Landscaping Requirements	
<input checked="" type="checkbox"/>	Onsite Pedestrian/Bike Improvements (MMC 19.504, 19.606, and 19.609)	19.504.9.E requires that walkways are permeable for stormwater. If the proposed design does not include this, then a Type III variance would be required.

		<p>Please note the lighting standards in 19.504.9 and provide information showing compliance with these standards.</p> <p>Required bicycle parking, per the code, is established as a percentage of required vehicle parking spaces. In this case, the park improvements and associated bike parking would be calculated by the provided vehicle parking spaces at the park. However, staff notes that this is a regional park that is a destination and will be the host for numerous large events throughout the year. The park is adjacent to the Trolley Trail and parking is limited. The city is actively promoting alternative modes of transportation throughout the city and wants to see a substantial number of bike parking racks/spaces at the park. The applicant is encouraged to provide ample bike parking throughout the park.</p>
<input type="checkbox"/>	Connectivity to surrounding properties	
<input type="checkbox"/>	Circulation	
<input type="checkbox"/>	Building Design Standards (MMC 19.505)	
<input checked="" type="checkbox"/>	Downtown Design Standards (MMC 19.508)	<p>As new development downtown, the restroom building is subject to Downtown Design Review and the procedures of MMC 19.907. If the project can meet all of the applicable design standards established in MMC 19.508, the design review portion of the project will be subject to the clear and objective Type I review process as part of the overall Type III land use review.</p> <p>The restroom is subject to Type I Downtown Design Review (if it meets the design standards in 1.508). The building is subject to the following standards:</p> <ul style="list-style-type: none"> • Weather Protection • Exterior Building Materials • Windows and Doors • Roofs and Rooftop Equipment <p>Staff notes that it appears that the building will meet the exterior building materials standard, but the application will have to show compliance. It does not appear that weather protection has been proposed in the design and this will need to be addressed in the application. Similarly, the design does not include any windows or glazing, and this will also need to be addressed in the application (perhaps some kind of opaque glazing can be used to meet the standard and still allow natural light into the restroom).</p> <p>If an exception to the design standards is sought, please refer to the section addressing 19.907.</p>
Parking Standards (MMC 19.600)		
<input type="checkbox"/>	Residential Off-Street Parking Requirements	
<input checked="" type="checkbox"/>	Multi-Family/Commercial Parking Requirements	<p>Parks are subject to off-street parking requirements. Parking has been provided as part of earlier phases of the park improvements. No additional vehicle parking is required as part of this phase.</p>
Approval Criteria (MMC 19.900)		
<input type="checkbox"/>	Community Service Use (CSU) (MMC 19.904)	
<input checked="" type="checkbox"/>	Conditional Use (MMC 19.905)	<p>Willamette Greenway review is a conditional use subject to the approval criteria in MMC 19.905.4.</p>

<input type="checkbox"/>	Development Review (MMC 19.906)	
<input checked="" type="checkbox"/>	Downtown Design Review (MMC 19.907)	<p>Variances cannot be granted for the design standards of Section 19.508. Projects that cannot meet the design standards in this section must be reviewed through a Type III downtown design review and demonstrate compliance with the Milwaukie Downtown Design Guidelines, pursuant to Section 19.907.</p> <p>An application for Type III downtown design review shall be approved when all of the following criteria have been met:</p> <ol style="list-style-type: none"> 1. Compliance with Title 19. 2. Compliance with applicable design standards in Section 19.508. 3. Substantial consistency with the purpose statement of the applicable design standard and the applicable Downtown Design Guideline(s) being utilized in place of the applicable design standard(s). <p>Downtown Design Guidelines document: https://www.milwaukieoregon.gov/sites/default/files/fileattachments/planning/page/42831/downtowndesignguidelines.pdf.</p>
<input checked="" type="checkbox"/>	Variance (MMC 19.911)	<p>The applicant has indicated that a variance may be requested to the requirement for permeable paving for walkways. This variance request requires Type III review; up to 3 variance requests can be included in a single variance application (for that single application fee).</p> <p>MMC 19.911.4.B establishes approval criteria for Type III variances in general. The applicant may choose to use either the broadly applicable Discretionary Relief criteria or the more narrowly focused Economic Hardship criteria, though please note that the Economic Hardship criteria are quite stringent.</p> <p>Please review the approval criteria for Type III Variances and address them in the application materials regarding the requirements in 19.504.9.</p>
Land Division (MMC Title 17)		
<input type="checkbox"/>	Design Standards	
<input type="checkbox"/>	Preliminary Plat Requirements	
<input type="checkbox"/>	Final Plat Requirements (See Engineering Section of this Report)	
Sign Code Compliance (MMC Title 14)		
<input checked="" type="checkbox"/>	Sign Requirements	<p>MMC 14.16.060 establishes standards for the types of signs that are allowed in downtown zones including the OS zone. MMC 14.12.010 establishes the types of signs exempted from sign review. Please keep these standards in mind when finalizing the sign package for the park.</p>
Noise (MMC Title 16)		
<input type="checkbox"/>	Noise Mitigation (MMC 16.24)	
Neighborhood District Associations		
	Historic Milwaukie	

<input checked="" type="checkbox"/>	Choose an item.	Any City-recognized neighborhood district association whose boundaries include the subject property or are within 300 ft of the subject property will receive a referral and the opportunity to provide comment on the application. Applicants are encouraged to meet with the NDA prior to application submittal: https://www.milwaukieoregon.gov/citymanager/historic-milwaukie-nda .
	Choose an item.	
Other Permits/Registration		
<input type="checkbox"/>	Business Registration	
<input type="checkbox"/>	Home Occupation Compliance (MMC 19.507)	
Additional Planning Notes		
Prior to submitting the application, particularly if it will trigger a public hearing, the applicant is encouraged to present the project at a regular meeting of the Historic Milwaukie NDA, which occurs at 6:30 p.m. on the second Monday of every month at the Libbie's Restaurant (11056 SE Main St). Contact information: https://www.milwaukieoregon.gov/citymanager/historic-milwaukie-nda .		
ENGINEERING & PUBLIC WORKS COMMENTS		
Public Facility Improvements (MMC 19.700)		
<input checked="" type="checkbox"/>	Applicability (MMC 19.702)	MMC 19.702 establishes the applicability of MMC 19.700, including partitions, subdivisions, replats, new construction, and modification and/or expansion of an existing structure or a change or intensification in use that results in a new dwelling unit, any new increase in gross floor area, and/or in any projected increase in vehicle trips. The proposed development to construct new park improvements will intensify the current use and have a projected increase in vehicle trips. MMC 19.700 applies.
<input type="checkbox"/>	Transportation Facilities Review (MMC 19.703)	A Transportation Facilities Review (TFR) is not required.
<input type="checkbox"/>	Transportation Impact Study (MMC 19.704)	A Transportation Impact Study (TIS) is not required.
<input type="checkbox"/>	Rough Proportionality (MMC 19.705)	The subject property is developed as a public park. The requirements for right-of-way (ROW) dedication and street improvements are not proportional to the impacts resulting from the proposed development. Street improvements and ROW dedication are not required.
<input checked="" type="checkbox"/>	Agency Notification (MMC 19.707)	The City shall provide notice to the following agencies: 1. Oregon Department of Transportation (ODOT) 2. Metro 3. Clackamas County 4. TriMet
<input type="checkbox"/>	Transportation Requirements (MMC 19.708)	No transportation facilities are required. See Additional Notes section for comments and requirements for the proposed multi-use path outside of the Right-of-Way.
<input checked="" type="checkbox"/>	Utility Requirements (MMC 19.709)	No additional public utility upgrades are required.

		<p>A Right-of-Way permit and system development charges will be required for any new connections to City utilities.</p> <p>If the proposed development chooses to upgrade any existing facilities, a Right-of-Way permit will be required.</p>
Flood Hazard Area (MMC 18)		
<input checked="" type="checkbox"/>	Development Permit (MMC 18.16.030)	A Floodplain Development Permit will be required. FEMA Base Flood Elevation is 36' NAVD88. The boundary of the FEMA floodplain is not the 36' topographic contour.
<input checked="" type="checkbox"/>	Elevation Certificate (MMC 18.16.020)	Elevation certificate will be required for all structures.
<input type="checkbox"/>	Nonresidential Construction (MMC 18.20.120)	All nonresidential structures will be elevated to the Flood Protection Elevation (39.4' NAVD88) or floodproofed.
<input checked="" type="checkbox"/>	Compensatory Storage (MMC 18.20.020)	Balanced cut and fill is required for grading in the 1996 Flood Inundation Area. The boundary of the 1996 Flood Inundation Area is not the 36' topographic contour, but it may be assumed to be the 36' topographic contour as this elevation encompasses the 1996 Flood Inundation Area.
<input checked="" type="checkbox"/>	Floodways (MMC 18.20.010.B)	FEMA No-Rise Analysis submitted for all the manmade/development in the floodway. Plans currently show the following development in the floodway: Grading, Flatwork, Paving, Pedestrian Bridges, River View Seating, Event Stage, Special Event Fire Pit, Drop Off / Loading Area.
Environmental Protection (MMC 16)		
<input type="checkbox"/>	Weak Foundation Soils (MMC 16.16)	
<input type="checkbox"/>	Erosion Control (MMC 16.28)	
<input type="checkbox"/>	Tree Cutting (MMC 16.32)	
Public Services (MMC 13)		
<input checked="" type="checkbox"/>	Water System (MMC 13.04)	<p>Connection and extension of City utilities is subject to plan and application review. Application for City utility billing connections shall be made on approved forms: https://www.milwaukieoregon.gov/building/water-connection-application</p> <p>A system development charge must be paid prior to new connections to city water.</p> <p>A right-of-way permit is required prior to new connections to city water.</p>
<input checked="" type="checkbox"/>	Sewer System (MMC 13.12)	<p>Connection and extension of City utilities is subject to plan and application review.</p> <p>A system development charge must be paid prior to new connections to city sanitary sewer.</p> <p>A right-of-way permit is required prior to new connections to city sanitary sewer.</p>
<input checked="" type="checkbox"/>	Stormwater Management (MMC 13.14)	<p>Stormwater mitigation must meet the city's NPDES permit through design of facilities according to the 2016 Portland Stormwater Management Manual.</p> <p>A system development charge must be paid prior to building permit issuance.</p>

<input checked="" type="checkbox"/>	System Development Charge (MMC 13.28.040)	All new development or intensification of use shall be subject to system development charges. Latest charges are determined by the Master Fee Schedule available here: https://www.milwaukieoregon.gov/finance/fees-charges
<input type="checkbox"/>	Fee in Lieu of Construction (MMC 13.32)	

Public Places (MMC 12)

<input checked="" type="checkbox"/>	Right of Way Permit (MMC 12.08.020)	A Right-of-Way permit is required to construct any connections and/or extensions of City utilities (such as sewer and/or water) and the on-site path and any other pedestrian/bicycle facilities.
<input type="checkbox"/>	Access Requirements (MMC 12.16.040)	The proposed development does not include any alterations to the existing accessway.
<input type="checkbox"/>	Clear Vision (MMC 12.24)	A clear vision area shall be maintained at all driveways and accessways.

Additional Engineering & Public Works Notes

Per ODOT comments, if the signal pole at SE Monroe Street/ OR 99E intersection will need to be relocated to accommodate the new Trolley Trail alignment, an ODOT permit will be required.

All new paths on park property shall be constructed of pervious pavement, a variance on this requirement will not be supported by engineering.

A City of Milwaukie Right-of-Way permit will be required for all on-site flat work (pathways) and all utility connections to City utilities (such as sewer/water). On-site storm mitigation plans will be reviewed during the building permit phase.

BUILDING COMMENTS

All drawings must be submitted electronically through www.buildingpermits.oregon.gov

New buildings or remodels shall meet all the provisions of the current applicable Oregon Building Codes. All State adopted building codes can be found online at: <https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx>.

All building permit applications are electronic and can be applied for online with a valid CCB license number or engineer/architect license at www.buildingpermits.oregon.gov. Each permit type and sub-permit type are separate permits and are subject to the same time review times and will need to be applied for individually. Plans need to be uploaded to their specific permits in PDF format as a total plan set (not individual pages) if size allows.

Note: Plumbing and electrical plan reviews (when required) are done off site and are subject to that jurisdiction's timelines. The City does not have any control over those timelines, so please plan accordingly.

Site utilities require a separate plumbing permit and will require plumbing plan review. **NOTE:** The grading plan submitted to the Engineering Department does not cover this review.

If you have any building related questions, please email us at building@milwaukieoregon.gov.

Additional Building Notes

Bathrooms will need to be ADA compliant.

OTHER FEES

<input type="checkbox"/>	Construction Excise Tax	Calculation: Valuation *12% (.12)
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	Affordable Housing CET – Applies to any project with a construction value of over 100,000.	
<input type="checkbox"/>	Metro Excise Tax Metro – Applies to any project with a construction value of over \$100,000.	Calculation: Valuation *.12% (.0012)
<input type="checkbox"/>	School Excise Tax School CET – Applies to any new square footage.	Calculation: Commercial = \$0.69 a square foot, Residential = \$1.39 a square foot (not including garages)

FIRE DISTRICT COMMENTS

Please see the attached memorandum for fire district comments.

COORDINATION WITH OTHER AGENCIES

Applicant must communicate directly with outside agencies. These may include the following:

- Metro
- Trimet
- North Clackamas School District
- North Clackamas Parks and Recreation District (NCPRD)
- Oregon Parks and Recreation
- ODOT/ODOT Rail
- Department of State Lands
- Oregon Marine Board
- Oregon Department of Fish and Wildlife (ODOT)
- State Historic Preservation Office
- Clackamas County Transportation and Development

MISCELLANEOUS

State or County Approvals Needed

<input type="checkbox"/>	Boiler Approval (State)	
<input type="checkbox"/>	Elevator Approval (State)	
<input type="checkbox"/>	Health Department Approval (County)	

Arts Tax

<input type="checkbox"/>	Neighborhood Office Permit	
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Other Right-of-Way Permits

<input type="checkbox"/>	Major:	
<input type="checkbox"/>	Minor:	

<input type="checkbox"/>	Painted Intersection Program Permits:	
<input type="checkbox"/>	artMOB Application	
<input type="checkbox"/>	Traffic Control Plan (Engineering)	
<input type="checkbox"/>	Parklet:	
<input type="checkbox"/>	Parklet Application/ Planning Approval	
<input type="checkbox"/>	Engineering Approval	
<input type="checkbox"/>	Building Approval	
<input type="checkbox"/>	Sidewalk Café:	
<input type="checkbox"/>	Tree Removal Permit:	

Infrastructure/Utilities

Applicant must communicate directly with utility providers. These may include the following:

- PGE
- NW Natural
- Clackamas River Water (CRW)
- Telecomm (Comcast, Century Link)
- Water Environmental Services (WES)
- Garbage Collection (Waste Management, Hoodview Disposal and Recycling)

Economic Development/Incentives

<input type="checkbox"/>	Enterprise Zone:	
<input type="checkbox"/>	Vertical Housing Tax Credit:	
<input type="checkbox"/>	New Market Tax Credits:	
<input type="checkbox"/>	Housing Resources:	

PLEASE SEE NOTE AND CONTACT INFORMATION ON THE FOLLOWING PAGE

This is only preliminary preapplication conference information based on the applicant's proposal, and does not cover all possible development scenarios. Other requirements may be added after an applicant submits land use applications or building permits. City policies and code requirements are subject to change. If a note in this report contradicts the Milwaukie Municipal Code, the MMC supersedes the note. If you have any questions, please contact the City staff that attended the conference (listed on Page 1). Contact numbers for these staff are City staff listed at the end of the report.

Sincerely,

City of Milwaukie Development Review Team

BUILDING DEPARTMENT

Samantha Vandagriff	Building Official	503-786-7611
Harmony Drake	Permit Technician	503-786-7623
Stephanie Marcinkiewicz	Inspector/Plans Examiner	503-786-7636

ENGINEERING DEPARTMENT

Steve Adams	City Engineer	503-786-7605
Jennifer Backhaus	Engineering Technician III	503-786-7608

PLANNING DEPARTMENT

Laura Weigel	Planning Manager	503-786-7654
Vera Koliass	Senior Planner	503-786-7653
Brett Kolver	Senior Planner	503-786-7657
Adam Heroux	Associate Planner	503-786-7658
Ryan Dyar	Assistant Planner	503-786-7661

COMMUNITY DEVELOPMENT DEPARTMENT

Joseph Briglio	Community Development Director	503-786-7616
Mandy Byrd	Development Programs Manager	503-786-7692
Janine Gates	Housing & Econ. Dev. Prog. Mgr.	503-786-7627
Emilie Bushlen	Administrative Specialist II	503-786-7600
Will First	Administrative Specialist II	503-786-7600

CLACKAMAS FIRE DISTRICT

Alex McGladrey	Lieutenant Deputy Fire Marshal	503-742-2662
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Clackamas Fire District #1



Pre-Application Comments:

To: Vera Kolas, Senior Planner, City of Milwaukie

From: Alex McGladrey, Deputy Fire Marshal, Clackamas Fire District #1

Date: April 14, 2022

Re: 22-001PA, Development of Milwaukie Bay Park at 11211 Se McLoughlin Blvd

This review is based upon the current version of the Oregon Fire Code (OFC), as adopted by the Oregon State Fire Marshal's Office. The scope of review is typically limited to fire apparatus access and water supply, although the applicant must comply with all applicable OFC requirements. When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the fire code official. The following items should be addressed by the applicant:

The Fire District has no comments for this proposal.

If you have any questions, please contact me at 503-742-2662 or alex.mcgladrey@clackamasfire.com

Link to Fire Code Application Guide:

*****clackamasfire.com/wp-content/uploads/2021/05/Fire-Code-Applications-Guide-2021.pdf



Oregon

Kate Brown, Governor

Department of Transportation

Region 1 Headquarters
123 NW Flanders Street
Portland, Oregon 97209
(503) 731.8200
FAX (503) 731.8259

5/9/22

ODOT #12546

ODOT Response

Project Name: Milwaukie Bay Park	Applicant: Jonathan Beaver
Jurisdiction: City of Milwaukie	Jurisdiction Case #: 22-001PA
Site Address: 11211 SE McLoughlin Blvd, Milwaukie, OR	Tax Lot(s): Various
State Highway: OR 99E	Mileposts: 5.83

The site of this proposed land use action is adjacent to OR 99E ODOT has permitting authority for this facility and an interest in ensuring that this proposed land use is compatible with its safe and efficient operation. **Please direct the applicant to the District Contact indicated below to determine permit requirements and obtain application information.**

COMMENTS/FINDINGS

ODOT has reviewed the applicant's proposal to redevelop Milwaukie Bay Park including new restroom, interactive water feature, playground, picnicking areas, gathering space, Trolley Trail, secondary pathways, and planting. North Clackamas Parks and Recreation (NCPRD) has been coordinating closely with ODOT on the Trolley Trail/sidewalk design and right of way considerations. ODOT and NCPRD will continue to work together on the following items:

- Through the ODOT surplus process, ODOT sold a small piece of right of way to facilitate the park redevelopment. The conditions of that sale are:
 1. Agreement that SB (southbound) pedestrian facility will be continuously functional, serving 99E throughout park redevelopment and construction of replacement sidewalk.
 2. Agreement on maintenance of replacement sidewalk and existing sidewalk by Parks or ODOT.
 3. 4f boundary set back from sidewalk – sidewalk along highway will be for transportation use, not recreational.

NCPRD and ODOT will work with the City to ensure those conditions are fulfilled.

- A signal pole at the SE Monroe Street/OR 99E intersection may need to be moved to accommodate the new Trolley Trail alignment. Moving the signal pole would likely trigger additional improvements such as upgrading the ADA ramps on all four corners of the intersection. ODOT will provide more information on those requirements as signal design plans are developed and reviewed.
- All alterations within the State highway right of way are subject to the ODOT Highway Design Manual (HDM) standards. Alterations along the State highway but outside of ODOT right-of-way may also be subject to ODOT review pending its potential impact to

safe operation of the highway. If proposed alterations deviate from ODOT standards a Design Exception Request must be prepared by a licensed engineer for review by ODOT Technical Services. Preparation of a Design Exception request does not guarantee its ultimate approval. Until more detailed plans have been reviewed, ODOT cannot make a determination whether design elements will require a Design Exception.

Note: Design Exception Requests may take up to 3 months to process.

All ODOT permits and approvals must reach 100% plans before the District Contact will sign-off on a local jurisdiction building permit, or other necessary requirement prior to construction.

ADVISORY INFORMATION

Frontage Improvements and Right of Way

- Curb, sidewalk, cross walk ramp(s) and bikeways shall be constructed as necessary to be consistent with local, ODOT and ADA standards.

Permits and Agreements to Work in State Right of Way

- An ODOT Miscellaneous Permit must be obtained for all work in the highway right of way. When the total value of improvements within the ODOT right of way is estimated to be \$100,000 or more, an agreement with ODOT is required to address the transfer of ownership of the improvement to ODOT. An Intergovernmental Agreement (IGA) is required for agreements involving local governments and a Cooperative Improvement Agreement (CIA) is required for private sector agreements. The agreement shall address the work standards that must be followed, maintenance responsibilities, and compliance with ORS 276.071, which includes State of Oregon prevailing wage requirements.

Note: If a CIA is required, it may take up to **6 months** to process.

- The applicant must obtain an ODOT permit to place trees in the state right of way. Tree spacing and design must be consistent with the ODOT Highway Design Manual section 4.2.6 (http://www.oregon.gov/ODOT/Engineering/Documents_RoadwayEng/HDM_04-Cross-Sections.pdf).

If proposed tree placement deviate from ODOT standards (such as placement in a planter strip), a Design Exception Request for clear zone must be prepared by a licensed engineer for review by ODOT Technical Services. Preparation of a Design Exception request does not guarantee its ultimate approval.

Note: It may take up to **3 months** to process a Design Exception.

- Illumination within the ODOT right of way must be in accordance with AASHTO illumination standards and the ODOT Lighting Policy and Guidelines, which states that local jurisdictions must enter into an Intergovernmental Agreement (IGA) with ODOT wherein the local jurisdiction is responsible for installation, maintenance, operation, and energy costs.

- An ODOT Miscellaneous Permit is required for connection to state highway drainage facilities. Connection will only be considered if the site's drainage naturally enters ODOT right of way. The applicant must provide ODOT District with a preliminary drainage plan showing impacts to the highway right of way.

A drainage study prepared by an Oregon Registered Professional Engineer is usually required by ODOT if:

1. Total peak runoff entering the highway right of way is greater than 1.77 cubic feet per second; or
2. The improvements create an increase of the impervious surface area greater than 10,758 square feet.

Please send a copy of the Land Use Notice including conditions of approval to:

ODOT Region 1 Planning
Development Review
123 NW Flanders St
Portland, OR 97209

ODOT_R1_DevRev@odot.oregon.gov

Development Review Planner: Seth Brumley	Seth.A.Brumley@odot.oregon.gov
Traffic Contact: Avi Tayar, P.E.	Abraham.TAYAR@odot.oregon.gov
District Contact: District 2B	D2BUP@odot.oregon.gov

Appendix B

Project Area Map



SOURCE: ESA, 2021; ESRI, 2022; METRO RLIS, 2022

Milwaukie Bay Park Phase 3 Improvements

Figure 1
Project Area