



June 25, 2015

Land Use File(s): CSU-2015-004, NR-2015-002, WG-2015-002

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on June 23, 2015.

**Applicant(s):** North Clackamas Parks & Recreation District  
(Tonia Burns, co-applicant) for City of Milwaukie  
(property owner)

**Location(s):** 1880 SE Sparrow St (Spring Park)

**Tax Lot(s):** 1S1E35DD, lots 6000, 6100, 6200, 6300, 6400,  
6500, and 6601

**Application Type(s):** Community Service Use (Major Modification),  
Natural Resource Review, Willamette Greenway  
Review

**Decision:** Approved

**Review Criteria:** Milwaukie Zoning Ordinance:

- Section 19.1006 Type III Review
- Section 19.904 Community Service Uses
- Section 19.402 Natural Resources
- Chapter 19.401 Willamette Greenway Zone WG
- Section 19.301 Low Density Residential Zones  
(incl. R-5)

**Neighborhood(s):** Island Station

**Appeal period closes: 5:00 p.m., July 10, 2015**

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Brett Kelter, Associate Planner, at 503-786-7657 or [kelterb@milwaukieoregon.gov](mailto:kelterb@milwaukieoregon.gov), if you wish to view this case file.

**This decision may be appealed by 5:00 p.m. on July 10, 2015, which is 15 days from the date of this decision.** Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is

filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

### **Findings in Support of Approval**

1. The applicant, North Clackamas Parks and Recreation District, acting on behalf of the City of Milwaukie (the property owner), has applied for approval to enhance the existing natural area in Spring Park. The site consists of multiple tax lots located at 1880 SE Sparrow Street and is zoned Residential R-5, with Willamette Greenway and Natural Resource overlays. The proposal implements Phase II of the Spring Park Master Plan, which was adopted as an ancillary document to the Milwaukie Comprehensive Plan (Comp Plan), and so is a major modification of the park as an approved Community Service Use (CSU). The land use application master file number is CSU-2015-004, with associated file numbers NR-2015-002 and WG-2015-002.
2. The proposed activity is focused on restoration of the existing natural area within Spring Park. The project involves realigning the existing trail to reduce its wetland impact, designating an overlook area, stabilizing and enhancing the stream bank alcove with log structures (in and out of the water), planting native vegetation, and installing an interpretive sign at the trailhead.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.1006 Type III Review
  - MMC Section 19.904 Community Service Uses
  - MMC Section 19.402 Natural Resources NR
  - MMC Section 19.401 Willamette Greenway Zone WG
  - MMC Section 19.301 Low Density Residential Zones (incl. R-5)

The proposed activity does not result in expansion of any existing square footage. The municipal code relies on an increase in building square footage to calculate vehicle trip generation to and from the site; the Engineering Department has determined that MMC Chapter 19.700 Public Facility Improvements does not apply to this application.

4. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held by the Planning Commission on June 23, 2015, as required by law.
5. MMC Section 19.904 Community Service Uses

MMC 19.904 provides standards and procedures for review of applications for community service uses. These are uses that are not specifically allowed outright in most zoning districts but that address a public necessity or otherwise provide some public benefit. Community service uses may include schools, government buildings, hospitals, religious institutions, utilities, parks, or communication facilities.

  - a. MMC 19.904.2 establishes applicability of the Community Service Use (CSU) regulations.

The proposed activity is a restoration effort within the natural area at Spring Park, a City-owned park. The park is a public recreation facility as identified in MMC 19.904.2.C.

The Planning Commission finds that the standards of MMC 19.904 are applicable to the proposed development.

- b. MMC 19.904.3 establishes the review process for CSUs. Except for wireless communication facilities and minor modifications to existing CSUs, applications for CSUs are subject to Type III review (MMC 19.1006).

The proposed activity is not a wireless communication facility, nor does it represent a minor modification to the existing CSU. The proposed restoration effort is Phase II of the park development identified in the adopted park master plan and as such it represents a major modification of the existing park use.

The Planning Commission finds that the proposed activity is subject to the procedures for Type III review outlined in MMC 19.1006.

- c. MMC 19.904.4 establishes the following approval criteria for CSUs:

- (1) The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met.

The subject property is zoned Residential R-5. For the proposed activity, which does not involve construction of any new structures, the only applicable standard for the base zone is the minimum vegetation requirement. There is no specific standard for minimum required landscaping for parks. The minimum vegetation requirement for the R-5 zone is 25% of lot area.

The total site area is approximately 7 acres, with well over 75% in natural landscaping. The proposed activity will not decrease the existing percentage of vegetation on the site.

The Planning Commission finds that the proposed activity meets the applicable development standards of the underlying R-5 zone.

- (2) Specific standards for the proposed uses as found in MMC 19.904.7-11 are met.

As a park, the proposed activity is subject to the relevant standards for facilities not covered by other subsections of the community service use regulations, provided in MMC 19.904.9. The standards of MMC 19.904.9 applicable to the proposed activity are addressed as follows:

- (a) MMC 19.904.9.A requires that utilities, streets, or other improvements necessary for the institutional use shall be provided by the agency constructing the use.

No utility, street, or other improvements are necessary for the proposed activity. This standard is met.

- (b) MMC 19.904.9.B encourages access to be provided on a collector street if practicable.

Access to the subject property is provided from SE 19<sup>th</sup> Avenue and SE Sparrow Street, both of which are classified as local streets in the City's Transportation System Plan. There are no collector streets in the

surrounding area, so access from a collector street is not practicable. This standard is met.

- (c) MMC 19.904.9.C requires community service uses in residential zones to provide setbacks equal to two-thirds the height of the principal structure.

No new buildings are included in the proposed activity. This standard is not applicable.

- (d) MMC 19.904.9.E requires noise-generating equipment to be sound-buffered when adjacent to residential areas.

The proposal does not include any noise-generating equipment. This standard is not applicable.

- (e) MMC 19.904.9.F requires lighting to be designed to avoid glare on adjacent residential uses and public streets.

The proposal does not include any lighting. This standard is not applicable.

- (f) MMC 19.904.9.G encourages hours and levels of operation to be adjusted to be compatible with adjacent uses where possible.

The adjacent properties are railroad right-of-way and single-family residential uses. As per MMC Subsection 9.28.020.F, City parks open 30 minutes before sunrise and close 30 minutes after sunset. Spring Park employs these same hours, so it is a facility for daytime use. No changes to hours or levels of operation are proposed, and no adjustments are warranted by the proposed activity. This standard is met.

- (g) MMC 19.904.9.H allows a spire on a religious institution to exceed the maximum height limitation.

The park is not a religious institution. This standard is not applicable.

- (h) MMC 19.904.9.I establishes that the minimum landscaping required for institutions is the lesser of 15% of the total site area and the percentage required by the underlying zone.

The park is not a religious institution. This standard is not applicable.

- (i) MMC 19.904.9.J allows park-and-ride facilities to be encouraged for institutions along transit routes that do not have days and hours in conflict with weekday uses. Such uses may be encouraged to allow portions of their parking areas to be used for park-and-ride lots.

No transit route currently exists adjacent to the park site. There is a bus route on SE 22<sup>nd</sup> Avenue, with a transit stop almost 800 ft away via Sparrow St. The park does not provide any on-site parking, and none is proposed. This standard is not applicable.

The Planning Commission finds that the proposed activity meets the applicable standards of MMC 19.904.9.

- (3) The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses.

As discussed in Finding 6-c-(2)-(f), the proposed activity will not affect the hours and levels of operation of the existing park use, which are reasonably compatible with surrounding uses.

The Planning Commission finds that this standard is met.

- (4) The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.

The proposed activity will enhance the public benefits of the existing park use. The park hours or levels of operation will remain the same with the proposed development. The restoration effort will improve habitat conditions at the site. The existing trail will be rerouted to minimize damage to wetland areas, reduce grades, and maintain a reasonable distance from the southern property boundary. An overlook will be delineated to reduce the area of disturbance at a particular viewpoint.

The proposed activity will not increase the intensity of the existing CSU. The existing trail will be physically improved for better longevity, but the overall trail network will not be expanded. The effort is to restore and improve existing habitat and better maintain the park, not to expand park facilities. There are no new impacts on the neighborhood.

The Planning Commission finds that this standard is met.

- (5) The location is appropriate for the type of use proposed.

Spring Park, located in the heart of the Island Station neighborhood, is designated as a neighborhood park. No change in location is proposed.

The Planning Commission finds that this standard is met.

As conditioned, the Planning Commission finds that the proposed activity meets the approval criteria of MMC 19.904.4.

- d. MMC 19.904.5 establishes the procedures for reviewing CSUs.

- (1) MMC 19.904.5.A requires the Planning Commission to hold a public hearing to consider the establishment of new CSUs or the major modification of existing CSUs. The Commission shall determine whether the proposed use meets the approval criteria of MMC 19.904.4.

The proposed activity represents a major modification to a CSU, in the form of implementing Phase II of the park development identified in the adopted park master plan. The Planning Commission held a public hearing on June 23, 2015, to evaluate the proposed major modification to the CSU in the context of the approval criteria of MMC 19.904.4. This standard is met.

- (2) MMC 19.904.5.B establishes the types of conditions that the Planning Commission may impose on CSUs to ensure compatibility with other uses in the vicinity. Conditions may involve such aspects as hours or intensities of operation, measures to limit noise or glare, special yard setbacks, design of vehicle access points, and size or location of a building.

The Planning Commission has evaluated the proposed restoration project and finds that the modified CSU will remain compatible with the other uses in the vicinity, which are primarily residential.

The Planning Commission finds that the existing CSU remains compatible with other uses in the vicinity. This standard is met.

- (3) MMC 19.904.5.C authorizes the Planning Director to approve minor modifications to an approved CSU through the Type I review process, subject to compliance with specific criteria.

The proposed activity represents a major, not minor, modification to the existing CSU.

The Planning Commission finds that MMC 19.904.5.C does not apply to this application.

The Planning Commission finds that the applicable standards of MMC 19.904.5 are met.

- e. MMC 19.904.6 establishes the application requirements for CSUs, including a narrative describing the proposed use, maps showing the vicinity and existing uses, and detailed plans for the project.

The applicant's submittal materials include site plans and a narrative description of the proposed activity.

The Planning Commission finds that this standard is met.

The Planning Commission finds that the proposed activity meets all applicable standards of MMC 19.904 and is approvable as a major modification to a CSU.

6. MMC Section 19.402 Natural Resources

MMC 19.402 establishes regulations for designated natural resource areas. The standards and requirements of MMC 19.402 are an acknowledgment that many of the riparian, wildlife, and wetland resources in the community have been adversely impacted by development over time. The regulations are intended to minimize additional negative impacts and to restore and improve natural resources where possible.

- a. MMC 19.402.3 establishes applicability of the Natural Resource (NR) regulations, including all properties containing Water Quality Resources (WQRs) and Habitat Conservation Areas (HCAs) as shown on the City's NR Administrative Map.

The site is adjacent to the Willamette River and includes delineated wetlands. As per MMC Table 19.402.15, these primary protected water features, along with their associated vegetated corridors, constitute a WQR on the site. The City's Natural Resource (NR) Administrative Map also shows the HCA designation over the entire site except for a small triangle in the northeastern corner.

As evidenced by the applicant's submittal materials, the proposed activity will disturb approximately 0.25 acres (roughly 11,000 sq ft) of WQR and/or HCA area. The proposed activity is not listed as exempt according to the standards outlined in MMC 19.402.4.

The Planning Commission finds that the requirements of MMC 19.402 are applicable to the proposed activity.

- b. MMC 19.402.6 establishes that certain activities within a designated WQR and/or HCA are subject to Type I review (MMC 19.1004). As per MMC 19.402.6.D, this includes natural resource management plans that have been approved by a qualified agency and meet the standards provided in MMC 19.402.10.A.

The proposed activity is focused on restoration of the existing natural area within Spring Park. As such, the activity can be reviewed against the standards set in MMC 19.402.10 for natural resource management plans.

As discussed in Finding 6-e, the proposed activity is based on a natural resource management plan that is eligible for Type I review. However, the proposed activity requires other applications (i.e., Community Service Use, Willamette Greenway) that are being processed concurrently with Type III review. As provided in MMC 19.1001.6.B.1, concurrent applications shall be processed according to the highest numbered review type, with a single decision to be issued that includes findings for all concurrent applications. The Planning Commission finds that the natural resource management plan shall be processed with Type III review as well.

- c. MMC 19.402.7 establishes that certain activities within a designated WQR and/or HCA are subject to Type II review (MMC 19.1005). As per MMC 19.402.6.E, this includes boundary verification for substantial corrections to the NR Administrative Map that are in accordance with MMC 19.402.15.A.2.

As discussed in Finding 6-f, the applicant's submittal materials include a map showing the location of wetlands on the site that are not shown on the current version of the NR Administrative Map. These wetlands will be added to the NR Administrative Map, which is a substantial correction and therefore subject to Type II review as per MMC 19.402.15.A.2. However, the proposed activity requires other applications (i.e., Community Service Use, Willamette Greenway) that are being processed concurrently with Type III review. As provided in MMC 19.1001.6.B.1, concurrent applications shall be processed according to the highest numbered review type, with a single decision to be issued that includes findings for all concurrent applications. The Planning Commission finds that the boundary verification for substantial corrections to the NR Administrative Map shall be processed with Type III review as well.

- d. MMC 19.402.9 establishes standards for construction management plans, which are required for projects that disturb more than 150 sq ft of natural resource area as well as for natural resource management plans. Construction management plans must provide information related to site access, staging of materials and equipment, and measures for tree protection and erosion control.

The Planning Commission finds that the erosion control plan included with the applicant's submittal materials includes sufficient information to satisfy the requirements of MMC 19.402.9.

- e. MMC 19.402.10 establishes standards for natural resource management plans.

- (1) MMC 19.402.10.A allows Type I review for plans that have already been approved by another agency with technical expertise related to natural resource management. The Oregon Department of Fish and Wildlife (ODFW) has been directly involved with the project planning, reviewing the proposed project design, providing feedback, and writing letters of support to potential funders.

As an agency qualified in natural resource management, ODFW's support of the project constitutes approval of the proposed natural resource management plan, making the plan eligible for Type I review as per MMC 19.402.10.A.

- (2) MMC 19.402.10.C provides approval criteria for natural resource management plans. A plan must demonstrate that it encourages restoration activities with any of a number of positive effects, including improving the trend of habitat function to support a more complex and self-sustaining system and correcting conditions caused by past management.

The proposal is for restoration of the existing natural area within Spring Park. The project involves realigning the existing trail to reduce its wetland impact, designating an overlook area, stabilizing and enhancing the stream bank alcove with log structures (in and out of the water), planting native vegetation, and installing an interpretive sign at the trailhead. These various activities will improve the habitat function of the resource and will better manage and limit impacts to the natural area stemming from everyday use by park patrons.

- (3) MMC 19.402.10.D requires a construction management plan in conjunction with a natural resource management plan. As noted in Finding 6-d, the erosion control plan included in the applicant's submittal materials is sufficient for satisfying this requirement.

The Planning Commission finds that the proposed natural resource management plan meets the applicable standards of MMC 19.402.10.

- f. MMC 19.402.15 establishes standards for verifying the boundaries of WQRs and HCAs and for administering the City's Natural Resource (NR) Administrative Map. The locations of WQRs are determined based on the provisions of MMC Table 19.402.15. In general, for primary protected water features the WQR includes the feature itself and a vegetated corridor that extends 50 ft from the top of bank (for streams) or delineated edge of the feature (for wetlands).

MMC 19.402.15.A.2.a establishes the standards and approval criteria for corrections to mapped WQRs, including wetlands.

- (1) MMC 19.402.15.A.2.a(1) provides the submittal requirements for proposed corrections to WQRs. A delineation report approved by the Oregon Department of State Lands (DSL) is required, with a topographic map of the site showing the specific location on the subject property.

The application submittal includes a DSL-approved delineation of wetlands on the site. A condition has been established to ensure that a topographic map, with contour intervals of 5 ft or less, is provided to show the specific location of the wetlands on the site as approved by the Department of State Lands. The applicant's materials do not present any challenge to the mapped locations of any other WQR or HCA as shown on the City's NR Administrative Map.

- (2) MMC 19.402.15.A.2.a(2) provides the approval criteria for corrections to mapped WQRs, including wetlands. The City shall update the NR Administrative Map if the wetland report demonstrates that there was an error in the original mapping, that the boundaries of the WQR have changed since the most recent update to the NR Administrative Map, or that a primary protected water feature no longer exists because the area was legally filled, culverted, or developed prior to January 16, 2003, the effective date of the City's first regulations for WQRs.

The applicant's report, which includes delineations of wetlands on the site, demonstrates that there was an error in the original mapping, which did not show any wetland areas on the site.

The Planning Commission finds that the City's NR Administrative Map shall be corrected to show the location of wetland areas on the site. Furthermore, the Planning Commission finds that the applicant has not disputed the representation of the other WQR areas or the HCA on the site, as shown on the City's NR



Administrative Map. The Planning Commission finds that, as conditioned, the standards of MMC 19.402.15 for boundary verification and map administration have been met.

As conditioned, the Planning Commission finds that the proposed restoration and enhancement of the natural resource area on the subject property meets all applicable standards of MMC 19.402.

7. MMC Section 19.401 Willamette Greenway Zone

MMC 19.401 establishes standards for the Willamette Greenway overlay designation. The subject property is within the Willamette Greenway zone as shown on the City's zoning map.

a. MMC Subsection 19.401.5 Procedures

MMC 19.401.5 establishes procedures related to proposed uses and activities in the Willamette Greenway zone. Development in the Willamette Greenway zone requires conditional use review, subject to the standards of MMC Section 19.905 and in accordance with the approval criteria established in MMC Subsection 19.401.6.

By virtue of stabilizing and enhancing the stream bank alcove with log structures (in and out of the water), the project involves the substantial alteration of natural site characteristics and constitutes "development" as defined in MMC Subsection 19.401.4. The proposed activity is subject to conditional use review standards of MMC 19.905 and the approval criteria of MMC 19.401.6.

b. MMC Subsection 19.401.6 Criteria

MMC 19.401.6 establishes the criteria for approving conditional uses in the Willamette Greenway zone.

(1) Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan

The State Willamette River Greenway Plan defines "lands committed to urban use" as "those lands upon which the economic, developmental and locational factors have, when considered together, made the use of the property for other than urban purposes inappropriate. Economic, developmental and locational factors include such matters as ports, industrial, commercial, residential or recreational uses of property; the effect these existing uses have on properties in their vicinity, previous public decisions regarding the land in question, as contained in ordinances and such plans as the Lower Willamette River Management Plan, the city or county comprehensive plans, and similar public actions."

Although the subject property is developed as a public park, the project area (which is a majority of the site) is designated as a natural preserve within the park. The land is committed to a non-urban use and will remain protected as a natural resource area.

(2) Compatibility with the scenic, natural, historic, economic, and recreational character of the river

The project area is adjacent to the river, within an existing natural area. The proposed activity includes designating an overlook area, stabilizing and enhancing the stream bank alcove with log structures (in and out of the water), and planting native vegetation. The proposed activity is designed to enhance the

natural area and better manage the impacts of visitation to the site. The project presents no significant impacts to the character of the river and is compatible.

- (3) Protection of views both toward and away from the river

The project area is adjacent to the river, and the site includes an overlook viewpoint. The proposed activity includes planting native vegetation, as well as designating an overlook area to concentrate the impacts of visitation and use. Views toward and away from the river will not be significantly changed as a result of this project.

- (4) Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable

The project area is adjacent to the river, with existing vegetation both in the riparian fringe and further upland. Additional native vegetation will be planted within the project area to enhance the existing habitat.

- (5) Public access to and along the river, to the greatest possible degree, by appropriate legal means

Public access to the river is currently provided through an existing dirt trail leading into the site from the park entrance at the corner of Sparrow St and 19<sup>th</sup> Ave. The proposed improvements include rerouting the trail in some places to reduce impacts to existing wetlands as well as rebuilding the trail to be more sustainable, with a crushed rock surface. The proposed activity will enhance public access to and along the river.

- (6) Emphasis on water-oriented and recreational uses

The site is a public park, with a natural area adjacent to the river. The proposed activity will enhance the existing condition of the park.

- (7) Maintain or increase views between the Willamette River and downtown

The project area is approximately a half mile linear distance from the nearest portion of downtown Milwaukie on the east side of Highway 99E and is not directly visible from downtown. The proposed activity will have little or no effect on views between the river and downtown.

- (8) Protection of the natural environment according to regulations in Section 19.402

The focus of the proposed activity is to enhance and protect the existing natural area within the park, a majority of which has either a WQR or HCA natural resource designation. As addressed in Finding 6, the proposed activity is being conducted in accordance with a natural resource management plan approved by ODFW.

- (9) Advice and recommendations of the Design and Landmark Committee, as appropriate

The subject property is not within a downtown zone and the proposed activity did not require review by the Design and Landmarks Committee (DLC).

- (10) Conformance to applicable Comprehensive Plan policies

The Willamette Greenway Element in the Milwaukie Comprehensive Plan includes policies related to land use, public access and view protection, and maintenance of private property. These policies include the requirement of a

conditional use permit for new development and intensification of existing uses; encouragement for uses that are not water-dependent or water-related to be directed away from the river; evaluation of development impacts to visual corridors; and limitations on authorizing the unrestricted public use of private land.

The proposed activity is being reviewed through the Willamette Greenway conditional use process, although the Planning Commission finds that it is not considered new development or an intensification of the existing approved park use. The proposed activity will more formally designate an existing overlook area and will not impact visual corridors. The proposed activity is on the public park site alone and will not authorize the use of private land.

- (11) The request is consistent with applicable plans and programs of the Division of State Lands

The proposed activity is not inconsistent with any known plans or programs of the Department of State Lands (DSL). In fact, DSL has approved the delineation of wetlands on the site, which has helped guide the relocation of an existing trail.

- (12) A vegetation buffer plan meeting the conditions of Subsections 19.401.8.A through C

The project area includes lands within 25 ft of the river. The proposed activity involves stabilization and enhancement of the stream bank, as well as significant plantings of native vegetation within the 25-ft buffer area.

The Planning Commission finds that the proposed activity meets all relevant approval criteria provided in MMC 19.401.6.

The Planning Commission finds that the proposed activity meets all applicable standards of the Willamette Greenway zone.

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

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

As per MMC Subsection 19.1001.7.E.2.b, land use approvals shall expire unless both steps noted above have been completed or unless the review authority specifies a different expiration date in the land use decision to accommodate large, complex, or phased development projects.

9. The application was referred to the following departments and agencies on May 18, 2015:

- Milwaukie Building Department
- Milwaukie Engineering Department
- Clackamas Fire District #1
- Island Station Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
- Oregon Department of Transportation (ODOT)
- Oregon Parks and Recreation Department

- Department of State Lands (DSL)
- Oregon Department of Fish and Wildlife
- State Marine Board

The comments received are summarized as follows:

- Milo Denham, resident at 12106 SE 19<sup>th</sup> Ave:** Supportive of the restoration effort. Concerned about delineation of the southern boundary and encroachment from either side. Suggested that the City survey the southern boundary and then mark with bollards.
- Pamela Denham, member of Island Station NDA LUC:** Concerned about encroachment into park by adjacent property owner to the south, due to impacts on habitat restoration efforts. Noted that parking for Spring Park and Elk Rock Island presents a problem for the neighborhood, and requested that the issue be addressed. Questioned whether there is a plan to deal with silt accumulation in the back-channel alcove.
- Matt Amos, Fire Inspector, Clackamas Fire District #1:** No comments for this proposal.
- Samantha Vandagriff, City Building Official, Milwaukie Building Department:** No formal comments.
- Brad Albert, Civil Engineer, Milwaukie Engineering Department:** MMC Chapter 19.700 (Public Facility Improvements) is not applicable to the proposed activity. Other requirements related to flood hazard mitigation and stormwater management have been noted with the conditions of approval.

### **Conditions of Approval**

1. At the time of submission of the associated development permit application, the following shall be resolved:
  - a. Final plans submitted for building permit review shall be in substantial conformance with plans approved by this action, which are the plans stamped received by the City on April 7, 2015, and except as otherwise modified by these conditions.
  - b. Provide a narrative describing all actions taken to comply with these conditions of approval.
  - c. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.
  - d. As per Finding 6-f, provide a topographic map, with contour intervals of 5 ft or less, showing the specific location of all delineated wetlands on the site as approved by the Department of State Lands.

### **Other requirements**

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code and Public Works Standards that are required at various point in the development and permitting process.

1. Development Review

An application for Type I development review is required in conjunction with the submittal of the associated development permit application(s).

2. Flood Hazard Mitigation

Comply with Milwaukie Municipal Code Title 18 “Flood Hazard Regulations” prior to approval of building permits.

a. Provide additional information with the building permit application as follows:

- (1) Scaled plans showing nature, location, dimensions, and elevations of the development property, including existing and proposed structures, fill, storage of materials, and drainage facilities. Include both the floodplain and floodway boundaries.
- (2) Elevation in relation to mean sea level of all structures
- (3) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

b. Provide an anchor design by a registered professional engineer, such that all new construction within the 100-year floodplain is anchored to prevent flotation, collapse, or lateral movement of the structure(s). Include a written summary with the building permit materials of how the design of the structure(s) meets this requirement.

c. Construct all structures within the 100-year floodplain utilizing materials resistant to flood damage. Include a written summary with the building permit materials of how the design of the structure(s) meets this requirement.

d. Placement of fill or structures that displaces more than ten (10) cubic yards of flood storage area shall comply with the following standards:

- (1) No net fill in any floodplain is allowed, including the volume of structures within the floodplain.
- (2) All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removed.
- (3) Any excavation below bankful stage shall not count toward compensating for fill.
- (4) Excavation to balance a fill shall be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation may be located in the same drainage basin and as close as possible to the fill site.

e. Placement of fill or structures within the floodway shall comply with flood storage area requirements and the following additional requirements:

- (1) The proposed excavation and fill shall not increase flood impacts for surrounding property as determined through hydrologic and hydraulic analysis or “no rise certification.”
- (2) If an increase in the base flood elevation is unavoidable, a conditional approval of such increase is required from the FEMA regional office prior to permitting the development.

3. Stormwater Management

Submit a stormwater management plan prepared by a qualified professional engineer with required development/building permits as part of the proposed development. The plan

shall conform to Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards.

- a. The stormwater management plan shall demonstrate that the post-development runoff does not exceed the pre-development, including any existing stormwater management facilities serving the development site.
- b. The stormwater management plan shall demonstrate compliance with water quality standards in accordance with the City of Portland Stormwater Management Manual.
- c. Development/building permits will not be issued for construction until the stormwater management plan has been approved by the City of Milwaukie.

4. Limitations on Development Activity

Development activity on the site shall be limited to 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday, as per MMC 8.08.070(l).

5. Expiration of Approval

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

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

As per MMC 19.1001.7.E.2.b, land use approvals shall expire unless both steps noted above have been completed or unless the review authority specifies a different expiration date in the land use decision to accommodate large, complex, or phased development projects.

**Exhibits**

None



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Dennis Egner, AICP  
Planning Director

cc: Tonia Burns for North Clackamas Parks & Recreation District, co-applicant (150 Beaver Creek Rd, Oregon City, OR 97045)  
Mitch Neiman for City of Milwaukie, co-applicant (*via e-mail*)  
Planning Commission (*via e-mail*)  
Alma Flores, Community Development Director (*via e-mail*)  
Jason Rice, Engineering Director (*via e-mail*)  
Brad Albert, Civil Engineer (*via e-mail*)  
Samantha Vandagriff, Building Official (*via e-mail*)  
Bonnie Lanz, Permit Specialist (*via e-mail*)  
Mike Boumann and Matt Amos, CFD#1 (*via e-mail*)  
NDA: Island Station (*via e-mail*)  
Interested Persons  
Land Use File(s): CSU-2015-004, NR-2015-002, WG-2015-002