



CITY OF MILWAUKIE

October 17, 2018

Land Use File(s): MOD-2018-002

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on October 17, 2018.

Applicant(s):	Dan Williams for Hacker Architects and the City of Milwaukie
Location(s):	10660 SE 21 st Ave
Tax Lot(s):	11E36BB01800
Application Type(s):	Minor Modification to an Existing Approval
Decision:	Approved with Conditions
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC 19.402 Natural Resources• MMC 19.508 Downtown Site and Building Design Standards• MMC 19.904 Community Service Uses• MMC 19.907 Downtown Design Review• MMC 19.909 Modifications to Existing Approvals• MMC 1005 Type II Review
Neighborhood(s):	Historic Milwaukie

Appeal period closes: 5:00 p.m., November 1, 2018

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1005 Type II 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 Vera Kolias, Associate Planner, at 503-786-7653 or koliasv@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/MOD-2018-002.

This decision may be appealed by 5:00 p.m. on November 1, 2018, which is 15 days from the date of this decision.¹ Any person who is adversely affected or aggrieved by this decision may appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie Planning Commission 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.

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

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Dan Williams on behalf of Hacker Architects and the City of Milwaukie, has applied for approval for a modification to the approved plans for a new library at 10660 SE 21st Ave. This site is in the DMU Zone. The land use application file number is MOD-2018-002.
2. The proposal is a request to revise various aspects of the approved plans for a new library (land use file# CSU-2018-002, DR-2018-001, NR-2018-001, P-2018-002), including: reducing the footprint of the library from 20,000 sq ft to 18,000 sq ft; changing the use of the room on the SW corner to a multi-purpose room; adjusting and relocating the stormwater planters; adjusting the parking lot layout to accommodate 9'-0" widths for all parking stalls; and adjusting the driveway apron at Harrison St per the Engineering Director.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.402 Natural Resources
 - MMC 19.508 Downtown Site and Building Design Standards
 - MMC 19.904 Community Service Uses
 - MMC 19.907 Downtown Design Review
 - MMC 19.909 Modifications to Existing Approvals
 - MMC 1005 Type II Review

The application has been processed in accordance with MMC Section 19.1005 Type II Review.

4. MMC Section 19.909 Modifications to Existing Approvals

¹ As per MMC Section 19.1010, if the 15th day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

MMC 19.909 establishes a review process for modifying approved land use applications after approvals have been obtained but prior to issuance of development permits.

a. MMC Subsection 19.909.3 Review Process

MMC 19.909.3 establishes general provisions for modification requests. The Planning Director determines whether the modified proposal substantially conforms to the approved plans, as well as whether the modification is minor or major in nature. For minor modifications of approvals that were originally approved through a Type III review, the Planning Director determines whether Type I or Type II review is warranted, considering the nature and scope of the modification. This determination is not a land use decision and is not subject to appeal.

The Planning Director has determined that the proposed request to revise the approved design of the new library and the site from master land use file #CSU-2018-002 is minor in nature since the new design is for a smaller building resulting in less disturbance to the mapped natural resource areas, parking stalls that conform to code requirements, and the transparency of the building facades is either unchanged or is greater than that of the approved plans. The Planning Director has determined that Type II review is sufficient for the proposed minor modification to the original Type III approval.

b. MMC Subsection 19.909.4 Approval Criteria

MMC 19.909.4 establishes approval criteria for modifications to existing approvals. Specifically, MMC Subsection 19.909.4.A provides the following approval criteria for minor modifications:

- (1) The proposed modification complies with all applicable development standards and requirements, except as modified by the original approval.

The proposed modification would result in a building of 18,000 sq ft rather than 20,000 sq ft and it would continue to meet the street setbacks for Harrison St. The modification allows for the building to better respond to the root protection zone of the large oak tree at Harrison St. The modified building would still meet the development standards of the DMU zone.

The modified building facades are not proposed to be modified from the original approval except that the west-facing façade, facing 21st Ave, has been modified to include additional windows. These windows increase the transparency for this façade from 23% to 25%, which meets the original DLC recommendation. The proposal includes planting areas and planted cable trellises to further break up this façade.

The proposed 11-ft wide canopy would still exceed 6 ft in width and would cover 59% of the ground floor elevations, exceeding the minimum 50% requirement.

The modified design would result in a minimum and maximum parking ratio of 18 space and 22 spaces respectively. The project proposes the original 28 parking spaces as modified by the original approval, and the parking spaces will meet the required minimum size of 9 ft wide and 18 ft deep.

No other changes are proposed to the original design as they relate the development or design standards.

The Planning Direction finds that this criterion is met.

- (2) The proposed modification will continue to meet all applicable approval criteria upon which the original approval was based.

All of the required criteria and engineering requirements are met with the modification. All of the approval criteria for a major modification to a Community Service Use are met, as the use of the building will not change. All of the applicable Downtown Design Guidelines are met with the modified design, and the modification results in a west-facing façade which addresses the DLC recommendation, as it increases the transparency from 23% to 25%.

The revised planting mitigation plan, addressing MMC 19.402 is summarized as follows:

Comparison of Required Plantings for Permanent HCA Disturbance			
	HCA Disturbance Area (sq ft)	Mitigation Plantings	
		Trees	Shrubs
Original Site Design	1,926	19	96
Modified Site Design	1,427	15	71

The modification results in a net decrease in permanent impacts to the WQR and to the HCA of over 1,100 sq ft as follows:

Comparison of Impacts to WQR and HCA				
	Permanent Impacts (sq ft)		Temporary Impacts (sq ft)	
	WQR	HCA	WQR	HCA
Original Site Design	1,705	1,926	3,494	3,185
Modified Site Design	1,084	1,427	2,314	2,223

The proposed mitigation plantings meet the requirements of MMC 19.402.11.D.2. The designated shrubs will be planted in areas of temporary disturbance, in areas where invasive species are removed, and in areas where understory vegetation is sparse under existing conditions. The undisturbed HCA on the site is fully forested, providing little opportunity to plant additional trees. To ensure that the new trees will survive, a planting plan was submitted, identifying additional areas on the site which would benefit from additional trees, particularly near the pond.

The Planning Director finds that this criterion is met.

- (3) The proposed modification, as either proposed or conditioned, will not negatively impact nearby uses, protected natural features, or public facilities any more than what was identified in the original approval.

The proposed modification does not impact any nearby uses, protected natural features, or public facilities as the modification is reducing the size of the library, thereby reducing the impacts to the mapped natural resources.

The Planning Director finds that this criterion is met.

- (4) The proposed modification does not alter or contravene any conditions of approval from the original approval.

The proposed modification does not contravene any of the conditions of approval from the original approval. One of the conditions dealt with the size of the parking spaces in the original plan. The modified plan addresses that condition by proposing spaces that comply with the minimum parking space size standard. The modified plans, as addressed in Finding 4.b(2), increase the transparency of the west-facing wall to 25%, which addresses the condition dealing with the design of the west-facing wall. All other conditions apply to the proposed project with the modification.

The Planning Director finds that this criterion is met.

5. The original land use approval for CSU-2018-002; DR-2018-001; NR-2018-001; P-2018-002 expires on April 30, 2022.
6. The application was referred to the following departments and agencies on October 1, 2018: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; Milwaukie Public Works Director; Design and Landmarks Committee; Parks and Recreation Board; and the Historic Milwaukie Neighborhood District Association. Notice of the application was also sent to surrounding property owners within 300 ft of the site on October 2, 2018, and a sign was posted on the property on October 2, 2018.

No comments were received.

Conditions of Approval

All applicable conditions from the original land use approval, master land use file #CSU-2018-002, remain in effect.

Other requirements

All applicable requirements from the original land use approval, master land use file #CSU-2018-002, remain in effect.

Director's Declaration of Impartiality

I certify that neither I nor any member of my immediate family has a material, personal, or financial relationship with the applicant. I further certify that no other relationship, bias, or ethical conflict exists which would have prevented me from evaluating the land use application solely on its merits and in accordance with the Milwaukie Municipal Code.

Decision

- Approved
- Approved with Conditions
- Denied



Dennis Egner, FAICP
Planning Director

- cc: Dan Williams (via email)
Leila Aman, Development Project Manager (via email)
Tyler Nishitani, Applicant's representative (via email)
Planning Commission (via email)
Alma Flores, Community Development Director (via email)
Chuck Eaton, Engineering Director (via email)
Alex Roller, Engineering Technician II (via email)
Design and Landmarks Committee (via email)
Ann Ober, City Manager (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Matt Amos, CFD#1 (via email)
NDA(s): Historic Milwaukie (via email)

Land Use File(s): MOD-2018-002; CSU-2018-002