



# CITY OF MILWAUKIE

## AGENDA

May 26, 2020

### PLANNING COMMISSION

[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

**Zoom Video Meeting:** due to the governor's "Stay Home, Stay Healthy" order, the Planning Commission will hold this meeting through Zoom video. The public is invited to watch the meeting online through the City of Milwaukie YouTube page ([https://www.youtube.com/channel/UCRFbfqe3OnDWLQSB\\_m9cAw](https://www.youtube.com/channel/UCRFbfqe3OnDWLQSB_m9cAw)) or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov). Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time.

To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-51>) and follow the Zoom webinar login instructions.

**1.0 Call to Order - Procedural Matters** — 6:30 PM

**2.0 Information Items**

**3.0 Audience Participation** — This is an opportunity for the public to comment via Zoom or by email on any item not on the agenda

**4.0 Public Hearings** — Public hearings will follow the procedure listed on the reverse side

4.1 Summary: Continuation of Railroad Avenue Subdivision  
Applicant: I&E Construction, Inc.  
Address: Vacant lot on Railroad Ave between Stanley Ave and Beckman Ave  
File: S-2018-001  
Staff: Mary Heberling, Assistant Planner

**5.0 Planning Department Other Business/Updates**

**6.0 Planning Commission Committee Updates and Discussion Items** — This is an opportunity for comment or discussion for items not on the agenda.

**7.0 Forecast for Future Meetings**

June 9, 2020 Meeting cancelled

June 23, 2020 1. Hearing Item: VR-2019-013, 32<sup>nd</sup> Ave Mixed-Use Building

July 14, 2020 No agenda items are currently scheduled for this meeting.

## Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at [www.milwaukieoregon.gov/meetings](http://www.milwaukieoregon.gov/meetings).
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

### Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

*The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no fewer than five (5) business days prior to the meeting.*

#### Milwaukie Planning Commission:

Robert Massey, Chair  
Lauren Loosveldt, Vice Chair  
Joseph Edge  
Greg Hemer  
John Henry Burns

#### Planning Department Staff:

Denny Egner, Planning Director  
David Levitan, Senior Planner  
Brett Kelter, Associate Planner  
Vera Koliass, Associate Planner  
Mary Heberling, Assistant Planner  
Dan Harris, Administrative Specialist II  
Alicia Martin, Administrative Specialist II



# CITY OF MILWAUKIE

**To:** Planning Commission

**Through:** Dennis Egner, Planning Director

**From:** Mary Heberling, Assistant Planner

**Date:** May 20, 2020, for May 26, 2020, Public Hearing

**Subject** **File:** S-2018-001, NR-2018-003, VR-2018-006, VR-2018-007  
**Applicant:** I&E Construction, Inc.  
**Owner(s):** Same  
**Address:** Vacant Lot  
**Legal Description (Map & Tax Lot):** 12E31DD03000  
**NDA:** Linwood

## **ACTION REQUESTED**

Approve application S-2018-001 (master file) and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for the division of one parcel into six new lots and a natural resource tract.

## **BACKGROUND INFORMATION**

At the Planning Commission meeting on April 28<sup>th</sup>, the Commission opened the public hearing on the proposed subdivision and heard from the staff, the applicant, and a neighbor. Staff and the applicant described the alternatives, impact analysis, and the mitigation planting plan for this project. The neighbor expressed concern about increased traffic. The Commission discussed the alternatives and mitigation planting plan without reaching a final decision on the subdivision application. The Commission continued the hearing and asked that the applicant come back with updated plans and/or information on:

- An updated mitigation planting plan that incorporates recommendations from Milwaukie urban forester Julian Lawrence
- Stormwater and water quality management enhancement for the site
- Information on the viability of eliminating the lot adjacent to the pedestrian walkway on the eastern portion of the project resulting in a five-lot subdivision.

All materials provided previously can be found on the [April 28, 2020](#) hearing website.

### A. Project Summary

The applicant is proposing a six-lot subdivision on a vacant parcel along Railroad Ave between Stanley Ave and Beckman Ave (tax lot 12E31DD03000). The site includes mapped natural resource areas, both Water Quality Resource (WQR) and Habitat Conservation Area (HCA). The application package includes five variances and a natural resource review to address WQR and HCA overlays on the site.

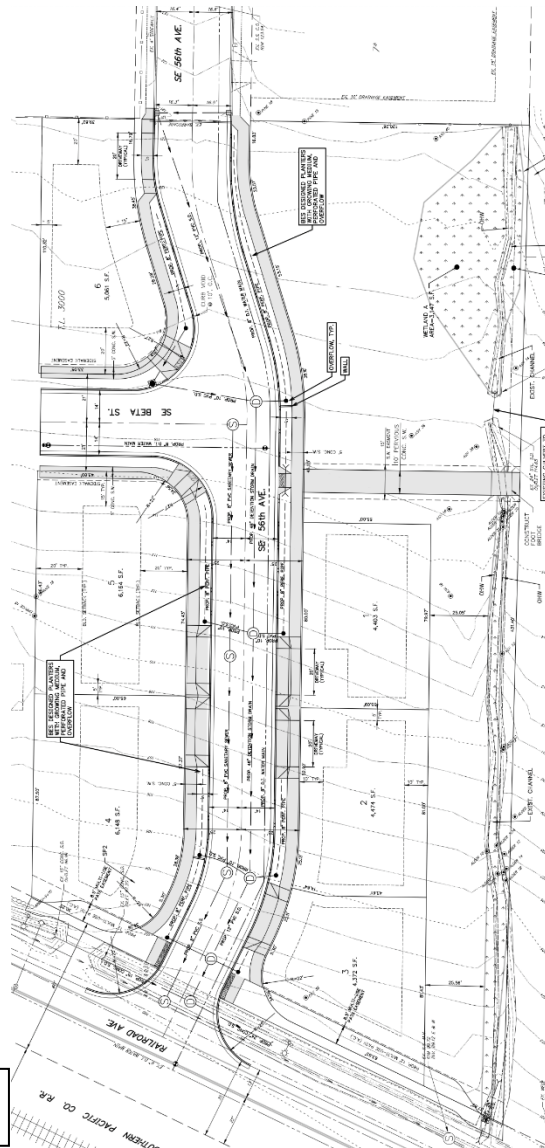


Figure 1: Alternative 3 - Revised Subdivision Plan

The proposed variances include:

1. Variance to MMC 19.301.4 to allow a reduction of the minimum depth standard of 80 ft to a range of 39 ft to 65 ft for all of the proposed lots.

2. Variance to MMC 19.301.4 to allow Lots 1, 2, and 3 to have lot sizes below the minimum lot size of 5,000 sq ft.
3. Variance to MMC 19.301.3 to reduce the front and rear yard setbacks from 20 ft to 10 ft for Lots 1, 2, and 3.
4. Variance to MMC 19.402.11.D.2 to reduce the number of trees and shrubs required for disturbance in the HCA as the calculated number is too high to meet.
5. Variance to MMC 19.402.13.I.2.a. to allow Lots 1, 2, and 3 to have buildable area within the HCA.

### **B. Revisions for the May 26 Hearing**

In response, to the Planning Commission discussion at the April 28 meeting, the applicant provided a revised subdivision plan (Figure 1) and a revised landscape mitigation planting plan (Figure 2). The subdivision plan includes minor adjustments and clarifications. In response to Commission questions about further stormwater-related enhancements, the applicant has provided a memo addressing key site constraints (see Attachment 3). The current plan (Figure 1) notes that facilities for stormwater and water quality will include swales that comply with City requirements. The applicant also submitted a new mitigation planting plan that responds to concerns about plant and tree density. The mitigation planting plan is depicted in Figure 2 and included as Attachment 4. The new plan includes:

- The site design of the preferred alternative (Alternative 3) - larger 25 ft-wide natural resource area along the eastern property boundary of Lots 1, 2, and 3.

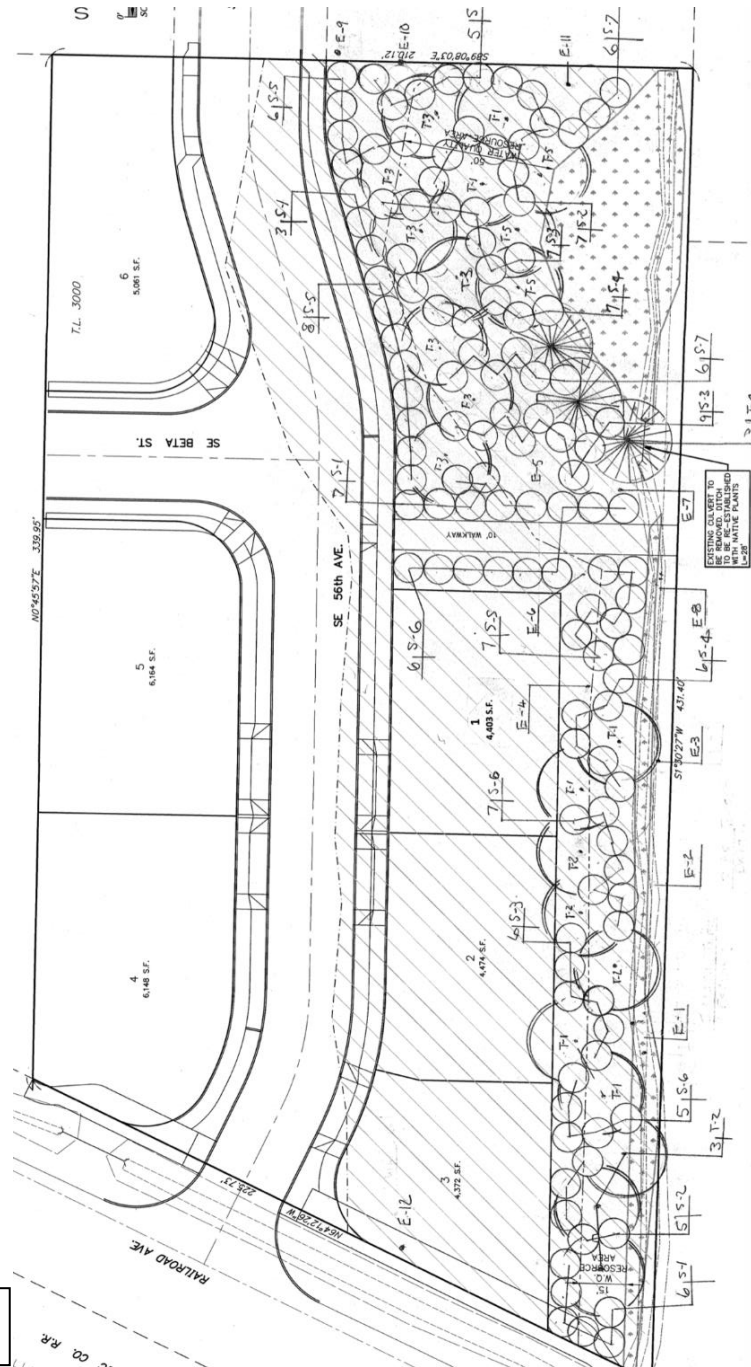


Figure 2: Updated Mitigation Plan

- Increased tree canopy within the natural resource tract.
- Tree plantings shown at 20 ft on-center.
- The addition of Oak and Ponderosa Pine trees.

Another memo was provided by the applicant with a response to Alternative #6 – the elimination of Lot 1 to create a 5-lot subdivision. See Attachment 4 for the memo.

## KEY ISSUES

Staff has identified the following key issues for the Planning Commission's deliberation.

- A. Are the conclusions in the water quality memo reasonable?
- B. Is the updated mitigation planting plan adequate?
- C. Has the applicant adequately addressed the feasibility of a five-lot subdivision?

## Analysis

### A. Are the conclusions in the water quality memo reasonable?

At the April 28 public hearing, the Planning Commission asked if further stormwater enhancement could be provided given the location of lots 1, 2, and 3 within the HCA. In response, the applicant submitted a water quality design memo (Attachment 4) noting that per City of Milwaukie standards, the development will follow the City of Portland Stormwater Management Manual. The applicant's memo states that the on-site conditions for lots 1, 2, and 3 were analyzed to determine if the lots could accommodate enhanced water quality features. The applicant had Redmond Geotechnical Services determine soil infiltration rates for the lots. The study revealed a slow infiltration rate of 0.5 to 0.7 inches per hour and seasonally high groundwater. The applicant's memo then suggested that given these conditions, additional water quality features are not recommended.

City of Milwaukie Associate Engineer Dalton Vodden reviewed the applicant's memo and has provided comments (Attachment 7). Dalton notes that on-site treatment for stormwater is required and must follow the "Presumptive Approach" method rather than the "Simplified Approach" as referenced in the applicant's memo. The Presumptive Approach requires a consulting engineer to approve the design for each lot. The Simplified Approach would allow a standard design to be applied. The City conclusion is that having a custom design for each lot through the Presumptive Approach method will be an appropriate design solution to address water quality for lots 1, 2, and 3.

### B. Is the updated mitigation planting plan adequate?

As listed above, the updated mitigation planting plan provides:

- The site design of the preferred alternative (Alternative 3) - larger 25 ft-wide natural resource area along the eastern property boundary of Lots 1, 2, and 3.
- Increased tree canopy within the natural resource tract
- Tree plantings shown at 20 ft on-center
- The addition of Oak and Ponderosa Pine trees

The updates were done based on comments from the city's Urban Forester, Julian Lawrence. At the April 28 meeting, the Planning Commission asked that the plan be updated according to Julian's comments.



City staff had Julian take a look at the updated mitigation plan and his comments can be found in Attachment 6. In particular, staff asked Julian to take a look at the proposed tree canopy to see if it could be increased, whether plantings in the wetland were appropriate, and if the plantings along the pedestrian path would provide enough shade. Julian's comments were given to the applicants who have made updates to the Mitigation Plantings Plan (See Attachment 4). The new Mitigations Plantings Plan (Figure 3) shows the changes made based on Julian's comments. They are also listed below.

Julian's comments indicated that there would be adequate canopy cover, but he would prefer different types than the proposed *Cornus nutallii* (*Pacific Dogwood*).

Response: The applicant has removed Pacific Dogwood from the mitigation plantings plan. See Figure 3 or Attachment 4.

Regarding the shrubs along the pedestrian pathway, Julian stated that the *Cornus Sericea* (*Redtwig Dogwood*) is a tall shrub and may not shade the whole 10' path at mature height. He suggested this is a better spot for the three Ponderosa pines which are currently located north of two large Ash trees. The pines' current location can be taken by *Frangula purshiana* (*Cascara buckthorn*) or *Cornus sericea* (*Redtwig Dogwood*). He also suggested a barrier could be created between the path and yard by adding *Symphoricarpos albus* (*Common Snowberry*) or *Mahonia aquifolium* (*Oregon Grape*) under them.

Response: The applicant has added Common Snowberry and Oregon Grape along the pathway. See Figure 3 or Attachment 4.

Julian also provided comments on the shrub species planted around the pathway. He said that shrub species S-1 (Pacific Ninebark), S-5 (Red Flowering Currant), S-6 (Redtwig Dogwood) should be planted at least six feet back from the sidewalk/path edge, as they can be a pruning problem once full grown. If plants are needed closer than that, S-3 (Common Snowberry) is a good option.

Response: The applicant has Common Snowberry along the northeastern portion of the pathway, closer to the roadway 56<sup>th</sup> Ave. Redflowering Currant is still along the southwestern portion of the pathway, but it is not directly next to Lot 1 where pruning issues could be a problem and closer to the intermittent stream natural area. See Figure 3 or Attachment 4.

For planting within a wetland, Julian commented that planting trees in a wetland zone is fine, so long as the water level is, at least, a couple inches below the surface at the time of planting. He approves of the smaller stock as it's not a street side planting and digging smaller holes in the wetland is preferred. Plants with a one-inch caliper minimum and a minimum of five-feet in height is appropriate. He also recommends larger shrubs (3 gal. instead of 2 gal.).

Response: The applicant has increased the size of the shrubs to 3 gallons. The proposed trees now have calipers of 1-1 ¼ inches and the Ponderosa Pine to reach 5-6 ft high. See Figure 3 or Attachment 4.



Julian’s final suggestion is to substitute other plants for the seven *Cornus nutallii* (*Pacific Dogwood*) as they’re difficult to establish, and susceptible to anthracnose infection. He suggested they plant *Frangula purshiana* (*Cascara buckthorn*) as in the previous plans or plant more oaks and pines.

Response: The applicant has replaced Pacific Dogwood with Cascara Buckthorn. See Figure 3 or Attachment 4.

City staff believes that the applicant has responded to the comments from Julian Lawrence and approves of the updated Mitigation Plantings Plan from May 19, 2020.

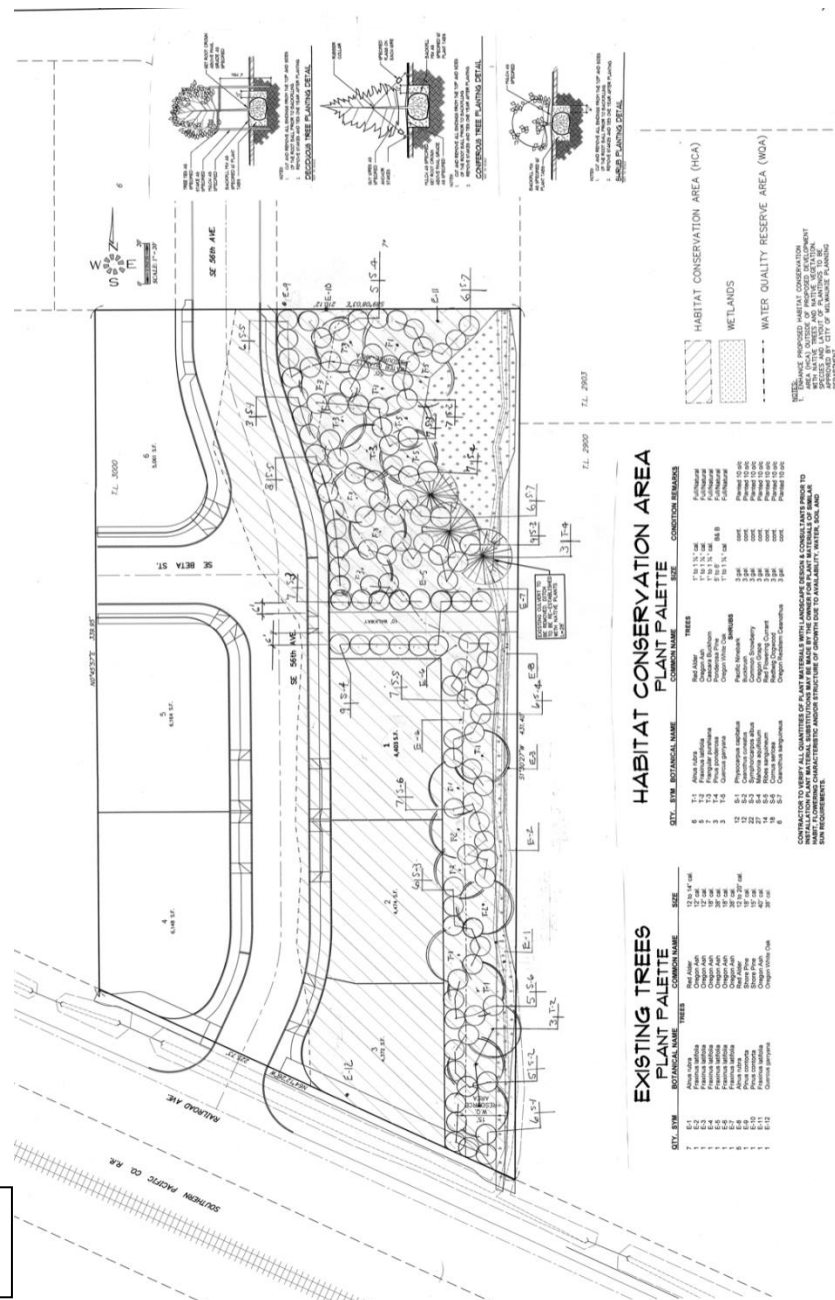


Figure 3: Updated Mitigations Planting Plan

### **C. Has the applicant adequately addressed the feasibility of a five-lot subdivision??**

At the Planning Commission hearing on April 28, 2020, there was discussion by the Planning Commissioners about ESA's recommendation of an Alternative #6 which proposed five lots instead of six by taking out Lot 1 to disturb less of the HCA.

As noted during the April 28 hearing, the main reason why the applicant does not find this to be a viable option is the economic costs of losing a lot. With the amount of public improvements being required for the subdivision, the loss of a lot would require the applicant to up the selling prices of the homes to make up the lost profit. The trade-off would be higher lot prices which will raise the cost of housing. The applicant doesn't believe that this is a good trade-off as the existing natural resources on Lot 1 consist of non-native grasses. The proposed natural resource tract would provide protection of the wetland and the riparian area along the intermittent stream. This should be considered adequate mitigation for the proposed HCA impacts.

A memo by the applicant on this has also been included in the packet in Attachment 4.

City staff agrees with this assessment and does not believe Alternative #6 is a viable option.

## **CONCLUSIONS**

### **Staff recommendation to the Planning Commission is as follows:**

Approve application S-2018-001 (master file) and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for the division of one parcel into six new lots with a natural resource tract.

## **CODE AUTHORITY AND DECISION-MAKING PROCESS**

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC).

- MMC 12 Streets, Sidewalks, and Public Places
- MMC 17.12 Application Procedure and Approval Criteria - Land Division
- MMC 17.20 Preliminary Plat
- MMC 17.28 Design Standards
- MMC 17.32 Improvements
- MMC 19.301 Low Density Residential Zones
- MMC 19.402 Natural Resources NR
- MMC 19.500 Supplementary Development Regulations
- MMC 19.600 Off-street Parking
- MMC 19.700 Public Facility Improvements
- MMC 19.911 Variances
- MMC 19.1200 Solar Access Protection
- MMC 19.1006 Type III Review

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown

above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows

- A. Approve the application upon finding that all approval criteria have been met.
- B. Approve the application subject to the recommended Findings and Conditions of Approval.
- C. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- D. Deny the application upon finding that it does not meet approval criteria.
- E. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by August 12, 2020, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

## COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Engineering Department, Building Division, Clackamas Fire District #1, Clackamas County, Metro, and the Linwood Neighborhood District Association (NDA). The following is a summary of the comments received by the City. See Attachment 5 for further details.

- **Milwaukie Engineering Department** - the Milwaukie Engineering Department responded with a memorandum regarding public improvements and stormwater.

## ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Narrative and Supporting Documentation dated May 17, 2018.			
<b>Please Note:</b> These documents are not included in this packet. They were previously included in the <a href="#">April 28, 2020 meeting packet</a> .			
a. Application	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Narrative	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Site Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Early PC Mailing	PC Packet	Packet
d. Wetland Delineation Report	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Pre-Application Conference Report	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Applicant's additional info submitted 10 days before the hearing			
a. Updated Mitigation Plantings Plan - May 8	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Water Quality Memo	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Alternative #6 Memo	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d. Updated Mitigation Plantings Plan – May 19	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Preferred Site Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5. Julian Lawrence comments from April 28, 2020	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
6. Julian Lawrence comments from May 11, 2020	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
7. Dalton Vodden, Engineering Department, Stormwater Improvements Memo	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-51>.

**Recommended Findings of Approval**  
**File #S-2018-001; NR-2018-003, VR-2018-006, VR-2018-007 – Railroad Ave**  
**Subdivision**  
**(TL 12E31DD03000, Vacant Lot on SE Railroad Ave)**

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, I&E Construction, Inc, has applied for approval to create a six-lot subdivision at tax lot 12E31DD03000, a vacant lot on SE Railroad Ave. The site is zoned Low Density Residential R-5. The land use application master file number is S-2018-001, with the accompanying file numbers NR-2018-003, VR-2018-006, VR-2018-007. For this site, the applicant previously submitted an application for a zone change from R-7 to R-5 and a Comprehensive Plan Designation change from Low Density to Moderate Density, under Land Use File #ZA-2018-002 and CPA-2018-002. The City Council approved the zone and Comprehensive Plan Designation change at a public hearing on March 7, 2019.
2. The subdivision application was submitted on May 17, 2018. It was initially deemed incomplete by City staff on June 7, 2018. The applicant revised and resubmitted the application and the City deemed the application complete as of August 12, 2019. The applicant also provided an extension to August 12, 2020. Further revisions were submitted to the City in September 2019, November 2019, February 2020, March 2020, April 2020, and May 2020.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC 12 Streets, Sidewalks, and Public Places
  - MMC 17.12 Application Procedure and Approval Criteria - Land Division
  - MMC 17.20 Preliminary Plat
  - MMC 17.28 Design Standards
  - MMC 17.32 Improvements
  - MMC 19.301 Low Density Residential Zones
  - MMC 19.402 Natural Resources NR
  - MMC 19.500 Supplementary Development Regulations
  - MMC 19.600 Off-street Parking
  - MMC 19.700 Public Facility Improvements
  - MMC 19.911 Variances
  - MMC 19.1200 Solar Access Protection
  - MMC 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was opened on September 24, 2019, as required by law. Subsequent hearings were held on October 22, 2019; December 10, 2019; January 14, 2020; February 25, 2020; and April 28, 2020.
4. MMC 12.08 Street & Sidewalk Excavations, Construction, and Repair

MMC 12.08 applies to all construction that is completed in the right-of-way that is eventually dedicated to the City.

*The applicant's public improvement process will follow MMC 12.08.020. This standard is met.*

5. MMC 12.16 Access Management

MMC Chapter 12.16.040 establishes standards for access (driveway) requirements.

A. MMC 12.16.040.A requires that all properties be provided street access with the use of an accessway.

*The proposed development, as conditioned, is to be constructed in compliance with the City of Milwaukie Public Works Standards, is consistent with MMC 12.16.040A.*

B. MMC 12.16.040.B provides requirements for access spacing onto arterial and collector streets.

*The proposed development, as conditioned, is consistent with MMC 12.16.040B.*

C. MMC 12.16.040.C provides requirements for accessway locations.

(1) Double Frontage

*The proposed development is consistent with MMC 12.16.040.C.1 as lots 3 and 4 take access from 56<sup>th</sup> Ave instead of Railroad Ave.*

(2) Limiting Driveway Access from Arterials and Collectors

*No direct driveway access is being proposed on Railroad Ave, which is a collector. The proposed development is consistent with 12.040.C.2.*

(3) Distance from Property Line

*Plans currently show the driveways for most lots located 7 feet from the side property line, where 7.5 feet is required. This will be addressed under site plan review. As conditioned, proposed driveways will conform to 12.16.040.C.3.*

(4) Distance from Intersection

*Plans currently show the driveway for lot 3 within the required 45-foot spacing from the nearest intersection. Proposed lot layout allows for the siting of houses that will facilitate the required 45-foot accessway spacing from intersections. This spacing requirement will be captured in site plan review.*

*As conditioned, the proposed development will conform to MMC 12.16.040.C.4.a.*

Driveways in the proposed development, as conditioned, are consistent with MMC 12.16.040.C.3.

D. MMC 12.16.040.D provides requirements for the number of accessway locations.

*The applicant proposes the minimum number of accessway locations. The proposed development is consistent with the standards.*

- E. MMC 12.16.040.E and MMC 12.16.040.F provide requirements for ADA standards and width for accessways.

*The proposed development, as conditioned to be constructed in compliance with the City of Milwaukie Public Works Standards, will conform to MMC 12.16.040.E and F.*

- 6. MMC 12.24 Clear Vision at Intersections

MMC 12.24.040 provides requirements for clear vision.

*The proposed driveways, accessways, and intersections in the proposed development, as conditioned, will conform to the standards in MMC 12.24.030.*

- 7. MMC 19.301 Low Density Residential Zones

MMC 19.301 establishes the development standards that are applicable to this site. The applicable development standards are listed below in Table 19.

Table 19.301.2 Residential Zone R-5 Development Standards			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	5,000 sq ft	<p>Lots 1-3 sizes are between 4,372 sq ft to 4,474 sq ft</p> <p>Lots 4-6 sizes are between 5,061 sq ft to 6,164 sq ft</p>	<p>A variance is requested for Lots 1, 2, &amp; 3. See Finding 12.</p> <p>Lots 4, 5, &amp; 6 comply with the standard.</p>
2. Minimum Lot Width	50 ft	Lot widths are between 50 and 111 ft (approximate)	Complies with the standard.
3. Minimum Lot Depth	80 ft	Lot depths are between 55 and 110 ft (approximate)	<p>Variations are requested for Lots 1-5. See Finding 12.</p> <p>Lot 6 complies with the standard.</p>



4. Minimum Setbacks	20 ft (front, rear) 5 ft (side), 15 ft (street side yard)	Lots 4-6 meet the standards.  Lots 1-3 have front and rear yard setbacks of 10 ft	Variance requested for Lots 1-3. See Finding 12.  Lots 4-6 meet the standards.
5. Frontage	35 ft	Lot street frontages range from approximately 50 ft to 154 ft	Complies with the standard.
6. Density	7.0-8.7 units/net acre	Parcel size is 0.75 acres. Minimum density is 5 units and maximum is 6 units. The applicant proposes 6 dwelling units.	Complies with the standard.

*As Conditioned, the Planning Commission finds that the proposal complies with the applicable standards of the R-5 zone.*

8. MMC 19.402.13 Natural Resources NR – Land Division and Property Line Adjustments

MMC 19.402.13 establishes standards for all forms of land division with natural resource overlay zones on the property.

*The subject property includes both Habitat Conservation Area (HCA) and Water Quality Resource (WQR) areas and the standards in MMC 19.402.13 are applicable.*

MMC 19.402.13.A Boundary Verification

The applicant shall verify the boundaries of the WQR and HCA on the property according to Subsection 19.402.15.

*Verification of the boundaries according to Subsection 19.402.15 are listed below.*

(1) MMC 19.402.15 Boundary Verification and Map Administration

The NR Administrative Map shows the locations of WQRs and HCAs. For WQRs, the NR Administrative Map is a general indicator of protected water features and their associated vegetated corridors; the location of actual WQRs is

determined according to the parameters established in Table 19.402.15. According to 19.402.13.A, the applicant shall also verify the HCA boundaries in accordance with 19.402.15.A.2.b.

*The applicant provided a Wetland Delineation Report and vegetation assessment to determine verification for WQR and HCA on the site. The findings are listed below.*

a) MMC 19.402.15.A.2 Type II Boundary Verification

Corrections to mapped WQRs and/or detailed verification of mapped HCAs may be proposed according to the following procedures.

i. Corrections to WQRs

a. Submittal Requirements

The applicant shall submit a wetland delineation report, prepared by a professional wetland specialist demonstrating the location of any wetlands on the site. The delineation report will be accepted only after approval by Department of State Lands (DSL).

*The applicant submitted a wetland delineation report completed by a wetland specialist at Schott and Associate. Their assessment determined two types of water features and a drainage that parallels the eastern property boundary and fringe wetland adjacent to the drainage at the northern end of the property. The report was submitted to DSL and approved on August 22, 2017.*

b. Approval Criteria

The City shall update the NR Administrative Map if the wetland or hydrology report submitted demonstrates that there was an error in the original mapping.

*The wetland delineation report conducted by Schott and Associates determined that there is an error in the City's original mapping. The wetland and drainage ditch were flagged, surveyed, and mapped based on methods accepted by DSL and the Corps. The flagged surveyed drainage ditch was found to be entirely onsite within the eastern property and not extending offsite to the east as shown on the NR Administrative Map.*

*A wetland delineation and site assessment of the property was conducted by Schott and Associates in September 2016. Based on soil, vegetation, and hydrology data taken in the field, two fringe palustrine emergent (PEM) wetlands totaling 3,393 sq ft were delineated onsite, surveyed and mapped. The property is nearly flat and slopes adjacent to the wetland are less than 25 %. Per Table 19.402.15 Determination of WQR Locations, the wetland is a primary protected water feature and the required vegetated corridor applied to the outer boundary of the wetland is 50 feet in width.*

*Just inside the east property boundary is a ditched drainage that enters from the residential property to the north. The drainage follows the eastern property boundary and flows south across the property entering a road ditch at the southern extent of the property which parallels Railroad Ave. The drainage flows through a culvert. A drainage engineer at Multi/Tech Engineering calculated the stream as draining 64 acres based upon the City of Milwaukie Stormwater Master Plan documentation. The drainage meets the definition of intermittent, a secondary protected water feature, with a 15-foot vegetated corridor width applied to the outer boundaries of the water feature (both banks of a watercourse).*

*Per the NR Administrative Map, the drainage (depicted as the vegetated corridor) is shown onsite west of and parallel to the east property boundary of tax lot 3000 in the approximate northern 1/3 of the property. The drainage then shows angling east onto the adjacent tax lot to the east, then directing south within that tax lot to the southern property boundary. From the delineation report conducted, the current depiction of the vegetated corridors (as described above) is incorrect. The onsite surveyed delineation shows the drainage to be entirely within tax lot 3000 property boundaries.*

*The Planning Commission finds that the approval criteria is met to correct the WQR on the site.*

- ii. Detailed Verification of HCAs
  - a. Submittal Requirements

The applicant shall submit a report prepared and signed by a knowledgeable and qualified natural resource professional. The report shall also include requirements established in MMC 19.402.15.A.2.b.1.

*The applicant submitted a report completed by a wetland specialist at Schott and Associate. A description of the type of vegetation in the HCA and its relation to the water features on the site were included in the report. The report included pictures and aerials of the vegetation and the topography of the site.*

*This requirement is met.*

b. Approval Criteria

A boundary verification request submitted shall be evaluated under the following 3-step process:

i. Verify boundaries of inventoried riparian habitat

The applicant shall locate the top bank of all streams, rivers, and open waters. They shall also locate all flood areas within 100 ft of the property and all wetlands within 150 ft of the property.

*On the NR map a drainage was mapped as partially on tax lot 3000 (subject property). As described previously, a drainage and two fringe wetlands were located, delineated, and surveyed on the subject property consistent with methods currently accepted by DSL and the Corps. The drainage was located onsite along the entire eastern property boundary of tax lot 3000. The two fringe wetlands were on each side of the drainage at the northern extent of the property. No additional wetlands or waters were identified within 150 or 200 ft of the property. No flood areas were found within 100 ft of the property.*

1. Identify the vegetative cover status of all areas on the property that are within 200 ft of the top of bank of streams, rivers, open water; 150 ft of wetlands; and 100 ft of flood areas.

*On the 2005 Metro Vegetative Cover Map, it shows the area west of the drainage is mapped scrub/shrub. The applicant believes an error was made with this designation. According to the applicant, a 2005 Google Earth Aerial, upon which the Vegetated Cover status was based, shows a majority of the site to be open field with narrow tree canopy along the eastern property boundary, some trees and a hedge line along the southern property boundary with a couple of lone trees at the northern end of the property.*

*Onsite assessment confirmed the site is predominately an open grass field dominated by spike bentgrass. Foliage along the drainage consists of an overstory of Oregon ash and cottonwood with English hawthorn, Himalayan blackberry and various grasses in the understory. Along the southern property boundary was a scattered row of English hawthorn. Near the southern boundary was a lone oak. The southwestern property boundary consisted of a laurel hedge.*

*According to Table 19.402.15.A.2.b(2)(a)(iv), areas 0-50 ft of Surface Stream features with low structure vegetation or open soils are designated as Class I Riparian areas. Areas 51-100 ft of Surface Streams with low structure vegetation or open soils are designated as Class II Riparian areas.*

*The area, 0-50 ft and 51-100 ft from the drainage meets the definition of “Low Structure Vegetation or Open Soils” as the area is mainly open field with a few trees bordering the drainage.*

*Beyond 50 ft on either side of the drainage is entirely open grass field. Per the table listed*

*above, 50-100 ft from the wetland also meets the same definition but is designated as Class II Riparian area.*

2. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 ft of the property is greater than or less than 25%, using the methodology outlined in Table 19.402.15.

*The topography is flat to gently south sloping as shown on the surveyed existing conditions map. Slopes adjacent to the wetlands and drainages are flat and less than 25%.*

3. Identify the riparian habitat classes applicable to all areas on the property using Table 19.402.15.A.2.b(2)(a)(iv) and the data identified in Subsections 19.402.15.A.2.b(2)(a)(i) through (iii).

*As mentioned previously, the areas 0-50 ft of the surface stream are “Low Structure Vegetation or Open Soils” and considered Class I Riparian area.*

*The areas 51-100 ft from the surface stream are also “Low Structure Vegetation or Open Soils” and considered Class II Riparian area.*

*The area 0-100 ft from the wetlands are also “Low Structure Vegetation or Open Soils” and considered Class II Riparian area.*

*There are no flood areas on the site.*

- ii. Determine the Property’s Urban Development Value

Use the Metro 2040 Design Type designation map to find if the property has changed from one with a lower urban development value to one with a higher urban development value.

*According to Metro 2040 Growth Concept Map, the property is listed as “Neighborhood.” It is not in the “Town Center” designation. The urban development value has not changed.*

iii. Cross-Reference Habitat Class with Urban Development Value

City verification of the locations of HCAs shall be consistent table 19.402.15.A.2.b(2)(c).

*According to the table, all Class I and Class II Riparian areas are HCA. All of the areas within 100 ft of the surface stream and wetlands shall be designated HCA. The applicant shows on site plans the new HCA boundary that meet this standard.*

*The Planning Commission finds that the approval criteria for a HCA boundary verification have been met.*

*The Planning Commission finds that the approval criteria for the correction to the WQR boundary and the detailed HCA boundary verification have been met.*

F. MMC 19.402.13.B Construction Management Plans

In accordance with Subsection 19.402.9, a construction management plan is required for applications for land division that will require physical site improvements (e.g., grading and/or construction of structures, streets, or utilities) within, or within 100 ft of, a WQR or HCA.

*The applicant will submit a construction management plan per MMC 19.402.9 with the final plat application.*

*As conditioned, the Planning Commission finds that this standard is met.*

G. MMC 19.402.13.C Impacts from Site Improvements

Applications for land division that will require physical site improvements (e.g., grading and/or the construction of streets, sidewalks, culverts, bridges, or utilities) within a WQR or HCA shall comply with the relevant standards for disturbance limitation and mitigation provided in Subsections 19.402.11 and/or 19.402.12, as applicable.

*The proposed subdivision will be required to provide physical site improvements within the WQR and HCA. The relevant standards from 19.402.11 and 19.402.12 are applied below.*



(1) MMC 19.402.11 Development Standards

(a) MMC 19.402.11.A Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards shall apply:

- (i) Work areas shall be marked to reduce potential damage to the WQR and HCA.

*The applicant will adhere to this standard.*

- (ii) Trees in WQRs and HCAs shall not be used as anchors for stabilizing construction equipment.

*The applicant will adhere to this standard.*

- (iii) Native soils disturbed during development shall be conserved on the property.

*The applicant will adhere to this standard.*

- (iv) An erosion and sediment control plan is required and shall be prepared in compliance with requirements set forth in the City's Public Works Standards.

*The applicant will provide an erosion and sediment control plan in compliance with the City's Public Work Standards.*

- (v) Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to any WQR adjacent to the project area.

*The applicant will adhere to this standard.*

- (vi) Stormwater flows that result from proposed development within and to natural drainage courses shall not exceed predevelopment flows.

*The applicant will adhere to this standard.*

- (vii) Prior to construction, the WQR and HCA that is to remain undeveloped shall be flagged, fenced, or otherwise marked and shall remain undisturbed. Such markings shall be maintained until construction is complete.

*The applicant will adhere to this standard.*

- (viii) The construction phase of the development shall be done in such a manner as to safeguard the resource portions of the site that have not been approved for development.

*The applicant will adhere to this standard.*

- (ix) 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.

*The applicant will adhere to this standard.*

- (x) All work on the property shall conform to a construction management plan prepared according to Subsection 19.402.9.

*The applicant will submit a construction management plan per MMC 19.402.9 with the application of the final plat.*

*As conditioned, the Planning Commission finds that these standards are met.*

(b) MMC 19.402.11.B General Standards for Required Mitigation

Where mitigation is required by MMC 19.402 for disturbance to WQRs and/or HCAs, general standards apply for temporary disturbances, required plants, plant size, plant spacing, plant diversity, location of mitigation area, invasive vegetation, ground cover, tree and shrub survival, and light impacts.

*The applicant will adhere to the general standards of MMC 19.402.11.B for any mitigation within the WQR and HCA.*

*As conditioned, the Planning Commission finds that these standards are met.*

(c) MMC 19.402.12 General Discretionary Review

(i) MMC 19.402.12.A Impact Evaluation and Alternatives Analysis

An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria for general discretionary review and to evaluate development alternatives for a particular property. The alternatives shall be evaluated on the basis of their impact on WQRs and HCAs, the ecological functions provided by the resource on the property, and off-site impacts within the watershed where the property is located. The evaluation and analysis shall include the following:

1. Identification of the ecological functions of riparian habitat found on the property, as described in Subsection 19.402.1.C.2.

*Identification of the ecological functions of riparian habitat was noted in the Wetland Delineation Report and Natural Resource report by Scotts and Associates. This standard is met.*

2. An inventory of vegetation, sufficient to categorize the existing condition of the WQR per Table 19.402.11.C, including the percentage of ground and canopy coverage materials within the WQR.

*An inventory of vegetation was provided via the Wetland Delineation Report and Natural Resource report. Foliage along the WQR consists of an overstory of Oregon Ash and Cottonwood with English Hawthorne, Himalayan blackberry and various grasses in the understory.*

*100% of the WQR has ground coverage and about 52% of it is tree cover. This qualifies the existing conditions of the WQR as Class A "Good" per Table 19.402.11.C.*

3. An assessment of the water quality impacts related to the development, including sediments, temperatures and nutrients, sediment control, and temperature control, or any other condition with the potential to cause the protected water feature to be listed on DEQ's 303(d) list.

*The Wetland Delineation Report assessed the water quality of all wetland and non-wetland waters. There was no indicated of conditions with the potential to cause the protected water feature to be listed on DEQ's 303(d) list.*

4. An alternatives analysis, providing an explanation of the rationale behind choosing the alternative selected, listing measures that will be taken to avoid and/or minimize adverse impacts to designated natural resources, and demonstrating that:
  - a. No practicable alternatives to the requested development exist that will not disturb the WQR or HCA.

*A list of six alternatives are provided below showing why Alternative #3 is the preferred alternative and there is no practicable alternative that would not disturb the WQR or HCA.*

*Alternative #1: Roadway Crossing to the Vacant Lot to the East*

*The subject property has large developable lots to the east and west. The lot to the east is vacant and is 125,312 sq ft in size. The lot to the west has a single-family home on a 29,832 sq ft lot. Per MMC 17.12.040.A streets must be laid out to conform to streets on adjoining property and MMC 19.708.E.3 requires that streets be extended to the property boundaries to give access to or allow for future development of adjoining properties. Alternative #1 includes an extension of 56th Ave through the site to Railroad Ave. The alternative also provides access to the property to the west and a full street stub to the larger property to the east. This street would provide enhanced connectivity between the two lots and could enhance development opportunities on the eastern vacant lot.*

*However, the new road connection to the east would require the applicant to disturb over 1,200 sq ft of the WQR and over 3,200 sq ft of HCA on the site. The Natural Resource Review memorandum by ESA stated concern over this road connection because of the level of disturbance to the natural resources. It suggested a pedestrian connection rather than a street connection to reduce disturbance while meeting the connectivity goals of the city.*

*Conclusion: Alternative #1 would not work due to the level of natural resource disturbance from the road connection to the east.*

*Alternative #2: Connection via pedestrian access*

*As mentioned in the Alternative #1 discussion above, the ESA Natural Resource Review memorandum suggested a pedestrian connection to the vacant lot to the east to reduce*

*disturbance to the natural resources on the site. Alternative #2 still proposes 6 lots, but Lot 1 has been shifted south to be farther away from the wetland. The pedestrian connection is located farther north than the road connection in Alternative #1.*

*All of the lots in this proposal meet the minimum lot size of 5,000 sq ft, but none meet the minimum lot depth of 80 ft. This is due to the constraints on the site with the 56th Ave extension and the natural resources. The proposed lots in Alternative #2 are all big enough that buildings on each lot will be able to meet the required setbacks. The proposal requires a variance for the lot depth standards.*

*As with Alternative #1, lots 1, 2, and 3 continue to be entirely within the HCA. This alternative requires a variance to the Natural Resource standard of MMC 19.402.13.I.2 which states that all proposed lots shall have adequate buildable area outside of the WQR and HCA.*

*The applicant notes that this street layout and lot pattern is preferred as it provides six lots and satisfies the requirement for a road connection through the site. Full avoidance of the HCA would result in the loss of the three lots to the east and would make the extension of 56th Ave through the site infeasible given the cost of the road and the loss of revenue from a reduced number of the lots. The applicant notes that the pedestrian connection to the east is preferred because it disturbs less of the natural resources and is less costly. The applicant also states that the proposed natural resource tract will restrict development from encroaching into the most vulnerable natural resources on the site. The portion of the site where development is proposed, including the HCA portion, is an open field that includes cut, maintained grasses without trees. The resource areas close to the intermittent stream and wetlands where there is more variety of vegetation and better-quality natural resources will be protected in a separate tract. The applicant has also proposed a mitigation plan to enhance and restore the*

*natural resource tract. The mitigation plan (Figure 9) is described later in the report and addresses a variance to the mitigation planting requirements.*

*Conclusion: The applicant initially suggested that this is the best alternative as it provides enough lots and development to pay for the 56th Ave street connection, while also minimizing and mitigating disturbance in the most vulnerable and best quality natural resources on the site.*

*Alternative #3: Expanded buffer for Lots 1, 2, and 3 – Preferred alternative*

*This alternative was suggested by City staff and is similar to Alternative #2 except that an additional 10 feet of HCA buffer is proposed along the intermittent stream to the east of Lots 1, 2, and 3. City staff acknowledges the economic argument made by the applicant about needing six lots for single-family development to pay for the 56th Ave street extension. Staff proposes that all six lots be retained, however the depth of lots 1, 2, and 3 be reduced. This will disturb less of the HCA and come closer to meeting the standard in MMC 19.402.13.I.2 which requires all proposed lots to have adequate buildable area outside the WQR or HCA. Alternate #3 would reduce the lot sizes of lots 1, 2, and 3 and provide a slightly wider natural resource tract and restrict development in more of the HCA. This alternative reduces the lot depth of all three lots by 10 ft and allow 10-ft front and yard setbacks, versus the 20 ft setback requirements in the R-5 zone. As seen in Figure 8, this would reduce the lot sizes to under 5,000 sq ft, however, this reduction would provide an additional 2,400 sq ft of area for the natural resource tract. Variances are required for lot depth, lot area, and front and rear yard setbacks.*

*Conclusion: Alternative #3 provides a 25-ft wide buffer from the intermittent stream while still allowing six lots and a full street extension through the site.*

Alternative #4: Avoidance of HCA with three lots and the 56th Ave Road extension

*Other than impacts due the extension of 56th Ave, Alternative #4 avoids impacts to the HCA by eliminating lots 1, 2, and 3 and keeping only the lots on the western portion of the site (lots 4, 5, & 6). Under this alternative 56th Ave would be extended to Railroad Ave with an additional street connection provided to the west and a pedestrian connection to the east.*

*The applicant has expressed concerns with this alternative for a number of reasons. The first being the loss of three dwelling units. Economically, the applicant believes that the required street connection through the site is not proportional to the amount of development that would be permitted. Secondly, this site was allowed a zone change from R-7 to R-5, which was approved by both Planning Commission and City Council, to allow more lots on this site. An alternative that avoids the HCA reduces the number of dwellings and conflicts with the reasoning for the zone change approval. Finally, the applicant does not believe that the quality of the HCA on the site warrants total avoidance. As described in their Natural Resource report completed by Schott and Associates, the expanded HCA is predominately an open grass field that does not provide a riparian function in connection with the intermittent stream through the site. The applicant argues that Alternatives #1, #2, and #3 protect the area adjacent to the stream through riparian plantings and setbacks.*

*Conclusion: While this alternative provides less disturbance to the designated HCA, the applicant argues that the HCA requirements are excessive given the character of the HCA as an open field. In addition, if only three lots are allowed, the development would not be proportional to the amount of street infrastructure required for the extension of 56th Ave through the site.*

Alternative #5 – Attached housing, outside of the HCA



*This alternative is similar to Alternative #4 except that rather than three lots with only single-family development, the site would be developed with a natural resources cluster development including housing such as duplexes, triplexes, or townhomes. This type of development is only allowed in the R-5 through the Natural Resource Residential Cluster Development standards (MMC 19.402.14.C). The cluster process encourages flexible site design that enables the allowable density to be transferred elsewhere on a site to protect environmentally sensitive areas.*

*The applicant does not prefer this alternative for a number of reasons. The first being that this type of development (attached housing) would need deeper lots based on the style of the housing. If the lots were deepened then the 56<sup>th</sup> Ave extension road would have to shift east going into the HCA. This would defeat the purpose of this alternative to totally avoid the HCA. Secondly, the applicant states that attached housing would not justify the same frontage improvements that can be supported through development of a single-family development. Thirdly, same as in Alternative #4, the applicant feels that the quality of the HCA doesn't warrant total avoidance.*

*Conclusion: The applicant does not prefer this alternative and believes it won't totally avoid the HCA with the style of housing. In addition, the quality of the HCA does not warrant total avoidance.*

#### Alternative #6 – 5-Lot Subdivision

*This alternative was provided by ESA as another option to limit more disturbance in the HCA. It would remove Lot 1 and provide a 5-lot subdivision instead of 6 lots.*

*The main reason why the applicant does not find this as a viable option is economic costs of losing a lot, similar to Alternative #4. With the amount of public improvements being required for the proposal, the loss of a lot would require the applicant to up the selling prices of the homes to make up the lost profit. The trade-off would be higher*

*housing prices to have more area in the natural resource tract. The applicant doesn't believe that this is a good trade-off as the natural resource in Lot 1 consists of non-native grasses.*

*The Planning Commission finds that there is no practicable alternative to avoid disturbance of the WQR and HCA. This standard is met with Alternative 3.*

- b. Development in the WQR and/or HCA has been limited to the area necessary to allow for the proposed use.

*Within the WQR, development has been avoided except for the pedestrian connection to the adjacent lot to the east. The pedestrian connection is a requirement per the Land Division Chapter (17) in the MMC stating subdivisions shall conform with any development plans of the City.*

*Development in the HCA has been limited to what is only necessary, as described below:*

- *The proposed streets and street connections within the HCA are meeting the minimum requirements for street design. The location of the proposed streets are there to connect with the existing 56<sup>th</sup> Ave north and to provide space to make lots 4, 5, and 6 big enough to be buildable within the R-5 development standards.*
- *Disturbance from Lots 1, 2, and 3 have been limited by reducing the size of the lots to increase the natural resource tract along the eastern boundary of the lot from 15 ft to 25 ft.*

*As conditioned, this standard is met.*

- c. If disturbed, the WQR can be restored to an equal or better condition in accordance with Table 19.402.11.C; and the HCA can be restored consistent with the mitigation requirements of Subsection 19.402.11.D.2.

*The existing condition of the WQR is considered Class A "Good" except that much of the HCA consists of an open*

*grass field. The proposed pedestrian connection does not show any existing trees in the WQR or HCA being cut down, which will keep the area as Class A "Good."*

*However, to combat the disturbance of the pedestrian connection, the applicant will restore the area with native species from the Milwaukie Native Plan List, using a City-approved plan developed to represent the vegetative composition that would naturally occur on the site.*

*The disturbance in the HCA will be mitigation with native trees, shrubs, and removal of invasive species. However, it will not be consistent with the requirements of Subsection 19.402.11.D.2. This subsection would require 185 trees and 927 shrubs to be planted. The applicant is proposing 24 new trees and 111 new shrubs. A variance is being requested to this HCA mitigation requirement. See Finding 12.*

*As conditioned, this standard is met.*

- d. Road crossings will be minimized as much as possible.

*The proposed road crossings are meeting the minimum requirements.*

*This standard is met.*

5. Evidence that the applicant has done the following, for applications proposing routine repair and maintenance, alteration, and/or total replacement of existing structures located within the WQR:
- a. Demonstrated that no practicable alternative design or method of development exists that would have a lesser impact on the WQR than the one proposed. If no such practicable alternative design or method of development exists, the project shall be conditioned to limit its disturbance and impact on the WQR to the minimum extent necessary to achieve the proposed repair/maintenance, alteration, and/or replacement.
  - b. Provided mitigation to ensure that impacts to the functions and values of the WQR will be mitigated or restored to the extent practicable.

*The only disturbance in the WQR is the pedestrian path to the vacant lot to the east. Per MMC 17.12.040.A streets must be laid out to conform to streets on adjoining property and MMC 19.708.E.3 requires that streets be extended to the property boundaries to give access to or allow for development of adjoining properties.*

*To meet this standard, one alternative was to provide access to the property to the west and a full street stub to the larger property to the east. This street would provide enhanced connectivity between the two lots and could enhance development opportunities on the eastern vacant lot. However, the new road connection to the east would require the applicant to disturb over 1,200 sq ft of the WQR and over 3,200 sq ft of HCA on the site.*

*To continue to meet this connectivity standard, but reduce impacts to the WQR and HCA, a 10-ft wide pedestrian path has been proposed. The path will be pervious allowing drainage and native trees and shrubs will be planted around the pathway to enhance the natural resource area. This standard is met.*

6. A mitigation plan for the designated natural resource that contains the following information:
  - A description of adverse impacts that will be caused as a result of development.
  - An explanation of measures that will be taken to avoid, minimize, and/or mitigate adverse impacts to the designated natural resource; in accordance with, but not limited to, Table 19.402.11.C for WQRs and Subsection 19.402.11.D.2 for HCAs.
  - Sufficient description to demonstrate how the following standards will be achieved:
    - Where existing vegetation has been removed, the site shall be revegetated as soon as practicable.
    - 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.

- Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous; particularly along natural drainage courses, except where mitigation is approved; so as to provide a transition between the proposed development and the designated natural resource and to provide opportunity for food, water, and cover for animals located within the WQR.
- A map showing where the specific mitigation activities will occur. Off-site mitigation related to WQRs shall not be used to meet the mitigation requirements of Section 19.402.
- An implementation schedule; including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting; as well as a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the allowable windows for in-water work as designated by ODFW.

*The applicant has provided a mitigation planting plan for both the disturbance in the WQR and HCA. Additional details to satisfy the other requirements listed above will be provided for final plat approval.*

*As conditioned, this standard is met.*

(ii) MMC 19.402.12.B Approval Criteria

Applications subject to the discretionary review process shall demonstrate how the proposed activity complies with the following criteria:

1. Avoid

The proposed activity avoids the intrusion of development into the WQR and/or HCA to the extent practicable. The proposed activity shall have less detrimental impact to the designated natural resource than other practicable

alternatives, including significantly different practicable alternatives that propose less development within the resource area.

*As stated in Finding 8.G.(1)(c)(i).4.a, there were six development alternatives for this site.*

*The extension of 56<sup>th</sup> Ave through the site to Railroad Ave will always disturb some of the HCA. There aren't any alternatives that totally avoid HCA because of 56<sup>th</sup> Ave, but there were two alternatives (#4 and #5) that provided options for greater avoidance of the HCA for the proposed lots. However, as described above neither of those alternatives are practicable and total avoidance cannot be achieved.*

*The Planning Commission finds the approval criteria met.*

2. Minimize

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity within the resource area shall minimize detrimental impacts to the extent practicable.

- a. The proposed activity shall minimize detrimental impacts to ecological functions and loss of habitat, consistent with uses allowed by right under the base zone, to the extent practicable.
- b. To the extent practicable within the designated natural resource, the proposed activity shall be designed, located, and constructed to:
  - o Minimize grading, removal of native vegetation, and disturbance and removal of native soils; by using the approaches described in Subsection 19.402.11.A, reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post, or piling foundation).
  - o Minimize adverse hydrological impacts on water resources.

- Minimize impacts on wildlife corridors and fish passage.
- Allow for use of other techniques to further minimize the impacts of development in the resource area.

*Explained above, the preferred alternative (Alternative #3) shows how disturbance is being minimized. The required connection to adjacent properties was minimized by adding a 10 ft pedestrian pathway versus a full street connection. The natural resource tract was also increased by minimizing the depth of Lots 1, 2, and 3 to create more habitat area and enhanced vegetation.*

*A condition will also be included that any fencing on Lots 1, 2, and 3 will be see-through to minimize impacts on habitat connectivity and wildlife corridors.*

*As conditioned, the Planning Commission finds that this standard is met.*

### 3. Mitigate

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity shall mitigate for adverse impacts to the resource area. All proposed mitigation plans shall meet the following standards:

- a. The mitigation plan shall demonstrate that it compensates for detrimental impacts to the ecological functions of resource areas, after taking into consideration the applicant's efforts to minimize such detrimental impacts.

*A mitigation plan will be submitted with the final plat application that demonstrates compensation for any detrimental impacts. The applicant has submitted a variance request regarding the amount of mitigation to be provided (see Section 12 below).*

- b. Mitigation shall occur on the site of the disturbance, to the extent practicable. Off-site mitigation for

disturbance of WQRs shall not be approved. Off-site mitigation for disturbance of HCAs shall be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and if the applicant has documented that they can carry out and ensure the success of the off-site mitigation as outlined in Subsection 19.402.11.B.5.

*Mitigation will not occur off-site for the WQR and some of the mitigation for the HCA will occur within the WQR buffer as it has room to accommodate more vegetation.*

- c. All revegetation plantings shall use native plants listed on the Milwaukie Native Plant List.

*The applicant will adhere to this standard.*

- d. All in-stream work in fish-bearing streams shall be done in accordance with the allowable windows for in-water work as designated by ODFW.

*There are no fish-bearing streams on this site. The standard does not apply.*

- e. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting. Compliance with the plan shall be a condition of development approval.

*That applicant will provide a mitigation maintenance plan with the final plan application.*

*As conditioned, the Planning Commission finds that this criterion is met.*

*As conditioned, the Planning Commission finds that the approval criteria for General Discretionary Review is met.*

#### H. MMC 19.402.13.D Mitigation for Future Structures or Improvements

Applications proposing a division of land on which future construction may impact a WQR or HCA shall comply with completion of the mitigation requirements for any impacts to the WQR or HCA. When mitigation is required for new streets created as



part of a subdivision, such mitigation shall be completed prior to approval of the final plat for the subdivision.

*The applicant will adhere to the mitigation requirements provided in Finding 8.G. Mitigation will be completed prior to approval of the final plat for the subdivision. Note that findings are included for a variance to the amount of mitigation plantings required (See Section 12 below).*

*As conditioned, the Planning Commission finds that this standard is met*

#### I. MMC 19.402.13.I Subdivisions

Applications for subdivisions shall comply with one of the following two standards:

- At least 90% of the property's HCA and 100% of the property's WQR shall be located in a separate tract. Applications that meet this standard are not subject to the discretionary review requirements of Subsection 19.402.12.
- If a subdivision cannot comply with the standards in Subsection 19.402.13.I.1, the application shall comply with the following standards:
  - All proposed lots shall have adequate buildable area outside of the WQR and HCA.
  - To the extent practicable, the lot and access configurations shall mitigate the potential future impacts to the WQR and HCA from access and development.
  - An Impact Evaluation and Alternatives Analysis shall be prepared in accordance with the relevant portions of Subsection 19.402.12.A.
  - For properties where the HCA covers more than 85% of the total lot area, the Impact Evaluation and Alternatives Analysis shall address how the applicant's proposal retains the greatest practicable degree of contiguity of the HCA across the new lots.

*The applicant cannot comply with the standards of Subsection 19.402.13.I.1. All proposed lots have adequate buildable area outside of the WQR and HCA, except for Lots 1, 2 and 3 where the HCA covers more than 85% of the total lot area. A variance has been requested for this standard in Finding 12.*

*An Impact Evaluation and Alternatives Analysis was conducted in Finding 9.G.(1).(c).(i) for Lots 1, 2 and 3 and all proposed areas of disturbance in the WQR and HCA. A mitigation plan and mitigation management plan will be submitted with the final plat application to ensure mitigation of future impacts.*

*As conditioned, the Planning Commission finds that these standards are met.*

J. MMC 19.402.13.J Resource Area as a Separate Tract

Where required, the new subdivision shall delineate and show all WQRs and HCAs as being located in a separate unbuildable tract(s) according to the following process:

- Prior to preliminary plat approval, the designated natural resource (whether WQR, HCA, or both) shall be shown as a separate tract(s), which shall not be part of any lot or parcel used for construction of any structures.
- Prior to final plat approval, ownership of the separate natural resource tract(s) shall be identified to distinguish it from lots or parcels intended for sale. Ownership in common or by a homeowners association is strongly discouraged. The tract(s) may be identified as any one of the following:
  - Private natural area held by the owner with a restrictive covenant and/or conservation easement.
  - For residential subdivisions, private natural area subject to an easement conveying storm and surface water management rights to the City of Milwaukie, Clackamas County Water Environment Services, and/or any other relevant jurisdiction, and preventing the owner of the tract from activities and uses inconsistent with the purposes of Section 19.402.
  - Public natural area where the tract has been dedicated to the City of Milwaukie or a private nonprofit with the mission of land conservation.
- The boundaries of all such separate tracts shall be demarcated with stakes, flags, or some similar means so that the boundaries between tracts and adjacent properties are defined in perpetuity. Fences that prevent the unfettered passage of wildlife shall not be installed along the boundary of any tract.

*The applicant has designated a tract as a natural area that shall not be part of any lot or parcel used for construction of any structures. Prior to final plat approval, ownership of a separate natural resource tract shall be identified. Boundaries of all such separate tracts shall be demarcated with stakes, flags, or some similar means.*

*As conditioned, the Planning Commission finds that these standards are met.*

9. MMC 19.607 Off-Street Parking Standards for Residential Areas

MMC 19.607 establishes off-street parking standards for residential areas.

*The applicant's materials indicate awareness of these requirements and will address compliance during the development permit process.*

11. MMC 19.700 contains regulations for Public Facility Improvements. The proposal complies with these regulations as described in this finding.

- A. MMC Chapter 19.700 applies to partitions, subdivisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

*The applicant proposes to partition the existing parcel into six new lots. The subdivision triggers the requirements of MMC Chapter 19.700.*

*MMC 19.700 applies to the proposed development.*

- B. MMC 19.703 contains the requirements for the review process for all proposed developments subject to Chapter 19.700.

(1) MMC 19.703.1 requires a pre-application conference for proposals that require a land use application. *The requirement was satisfied on February 16, 2017.*

(2) MMC 19.703.3.B requires that development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per MMC 19.705. *As conditioned, the proposal is consistent with MMC 19.703.3*

- C. MMC 19.704 requires submission of a transportation impact study documenting the development impacts on the surrounding transportation system.

*The Engineering Director determined that a transportation impact study was not required as limited impacts on the transportation system was evident given the small number of lots.*

*MMC 19.704 does not apply to the proposed development.*

- D. MMC 19.705 requires that transportation impacts of the proposed development be mitigated in rough proportion of the impacts.

*The proposed development does not trigger mitigation of impacts beyond the required frontage improvements. The impacts are minimal and the surrounding transportation system will continue to operate at an acceptable level of service, the same as prior to the proposed development.*

*The proposed development, as conditioned, is consistent with MMC 19.705.*

- E. MMC 19.708.1 requires that all development shall comply with access management, clear vision, street design, connectivity, and intersection design and spacing standards.

19.708.1.A – Access Management

*Access requirements shall comply with access management standards contained in Chapter 12.16.*

19.708.1.B – Clear Vision

*Clear vision requirements shall comply with clear vision requirements contained in Chapter 12.24.*

19.708.1.D – Development in Non-Downtown Zones

*The existing right-of-way width of SE Railroad Ave fronting the proposed development is 60 feet. The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of SE Railroad Avenue a Collector street. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a collector street is between 40 feet and 74 feet depending on the required street improvements. No dedication is required for the SE Railroad frontage.*

*Development shall conform to MMC 19.708.1.D.3 through the Conditions of Approval. The proposed development is consistent with MMC 19.708.1.D.*

MMC Section 19.708.1.E – Street Layout & Connectivity

*MMC 19.708.1.E.3.c states that access reserve strips will be required at stub streets. A reserve strip is required at the west end of SE Beta St.*

*Development shall conform to MMC 19.708.3.E through the Conditions of Approval.*

- F. MMC 19.708.1.F includes specific intersection design and spacing requirements. *Spacing between Stanley Avenue and the proposed 56<sup>th</sup> Ave extension is over the minimum 300-ft spacing requirement.*

*The proposed development is consistent with MMC 19.708.1.F.*

- G. MMC Section 19.708.2 establishes standards for street design and improvement.

*The applicant shall construct a frontage improvement on the north side of Railroad Avenue along the site's frontage. The street improvement includes the construction of a 12-foot wide pervious asphalt pedestrian path.*

*The required street construction for all 56<sup>th</sup> Ave as follows: 5-foot setback sidewalks, 5-foot landscape strips/swales, curb & gutter, 28-foot travel way. The total right-of-way width will be 50 feet. This will provide for two 8-foot travel lanes and two 6-foot parking lanes.*

*The proposed cross section for Beta Avenue do not include the required landscape strip on both sides. Development may provide for a sidewalk easement that encompasses part of the sidewalks, so the resulting tax lot dimensions will not change. Final constructed streets will be the same dimensions as 56<sup>th</sup> Ave, but the right-of-way width may remain at 42 ft.*

*19.708.A.12 addresses requirements for street tree planting when landscape strips are constructed.*

*Right-of-way improvements for internal streets in the development will conform to 19.708.2 through the Conditions of Approval.*

- H. MMC 19.708.3 requires that sidewalks shall be provided on the public street frontage of all development.

*The construction of sidewalks along the proposed development property abutting all public rights-of-way is included in the street frontage requirements.*

*19.708.3.A.2 requires that public sidewalks shall conform to ADA standards. Current proposal does not include a receiving ADA ramp on the west side of the 56<sup>th</sup> Ave & Alpha St intersection, or an ADA ramp on the east side of the 56<sup>th</sup> Ave and Beta St intersection.*

*The proposed development will conform to MMC 19.708.3.A.2 through the Conditions of Approval.*

- I. MMC 19.708.4 establishes standards for bicycle facilities.

*The portion of Railroad Ave fronting the proposed development is classified as a bike route in the Milwaukie Transportation System Plan. As a result, bicycle facility improvements on the Railroad Ave frontage are required for the proposed development.*

*The proposed development as proposed is consistent with MMC 19.708.4.*

- J. MMC 19.708.5 establishes standards for pedestrian and bicycle paths.

*A pedestrian path connection is proposed to the vacant property to the east. This connection is being provided in lieu of a roadway connection.*

*MMC 19.708.5 is satisfied by the proposed pedestrian path.*

- K. MMC Section 19.708.6 establishes standards for transit facilities.

*SE Railroad Ave is not classified as a transit route in the Milwaukie Transportation System Plan. Therefore, MMC 19.708.6 does not apply to the proposed development.*

## 12. MMC 19.911 Variances

### A. MMC 19.911.3 establishes the review process for variance applications.

*The applicant has requested five variances. The variances proposed to setbacks and depth exceed 25% of the dimensional requirements which means these variances must follow the Type III rather than the Type II process. The other variances (lot size, buildable area in the HCA, and the number of trees and shrubs required for HCA mitigation) must be processed as Type III variances since no Type II option is listed for these variances.*

*The Planning Commission finds that the variance applications for the five variances are subject to Type III Variance review.*

### B. MMC 19.911.4.B establishes criteria for approving Type III Variance applications.

An application for a Type III Variance shall be approved when all of the criteria in either 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.

The applicant has chosen to address the criteria of 19.911.4.B.1 Discretionary Relief Criteria for the variances.

#### (1) MMC 19.911.4.B.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.

*The applicant has submitted a variance application for five variances addressing the Discretionary Relief Criteria:*

- *Variance to MMC 19.301.4 to allow the lot depth of five lots to be approximately between 55 ft and 65 ft rather than the minimum 80 ft required;*
- *Variance to MMC 19.301.4 to allow Lots 1, 2, and 3 to have lot sizes below the minimum lot size of 5,000 sq ft.*
- *Variance to MMC 19.301.3 to reduce the front and rear yard setbacks from 20 ft to 10 ft for Lots 1, 2, and 3.*
- *Variance to MMC 19.402.13.I.2.a to allow three proposed lots to have buildable area within the HCA.*
- *Variance to MMC 19.402.11.D.2 to reduce the number of trees and shrubs required for disturbance in the HCA.*

Lot Depth Variance

*The applicant's proposed subdivision plan includes an extension of 56<sup>th</sup> Ave through the site. An alternatives analysis was prepared for HCA compliance. That analysis demonstrates that the site is highly constrained given its relatively narrow width and the existence of the natural resources on the site. With the Wetland Delineation Report showing wetlands and an intermittent stream on the site, the applicant proposed that these features be protected and placed in a separate natural resource tract. The right-of-way for 56<sup>th</sup> Ave plus the natural resource tract result in a reduction of buildable area and prevent the lots from meeting the lot depth standards for the zone. However, all the lots still provide reasonable building envelopes and setbacks that limit negative impacts to surrounding properties.*

*An alternative to the requested lot depth would be further encroachment into natural resource areas or the elimination of lots which would take the project below the five-lot minimum density requirement.*

Reduced Lot Size and Setback Variances for Lots 1, 2, and 3

*Variances to lot size and setbacks for Lots 1, 2, and 3 are proposed in order to provide more area for the natural resource tract. By reducing the lot sizes, an extra 10 feet of natural resource area can be provided along the length of the intermittent stream. The additional width allows for increased plantings and vegetation which will help create an enhanced riparian area.*

*The reduction of rear and front yard setbacks will give more flexibility to build within the smaller lots. The rear yards of Lots 1, 2, and 3 are not adjacent to other development and any future development on the vacant lot to the east would be buffered by the HCA along the stream.*

*Without these variances, there would potentially be greater impact on the HCA. With Lots 1, 2, and 3 as proposed, the variances are the best alternatives to minimize and mitigate impacts to the HCA.*

HCA Disturbance Variance

*The alternatives analysis is provided in Finding 9 above. Two alternatives (#4 and #5) suggest the possibility of totally avoiding the HCA. In Alternative #4, Lots 1, 2, and 3 were removed leaving only the three lots on the west side of the property. This alternative was deemed not viable due to economic costs. The public improvements, including building the 56<sup>th</sup> Ave extension, are not considered to be proportional to the development of three lots. The improvement cost would be too high to justify only*

*a 3-lot development. This would also reduce the number of dwelling units to be below the minimum density standards for the site.*

*Alternative #5 proposed attached housing on the western portion of the lot, transferring the density to only that side of the street. This option was deemed not viable due to the type of lots that would be needed for the attached housing. These lots would need to be deeper than what is currently proposed. Deeper lots would require 56<sup>th</sup> Ave to be shifted further to the east and rather than lots being in the HCA, it would be the street. This alternative would have only minimal benefit over the preferred alternative in terms of natural resource protection.*

*Mitigation Plantings Variance*

*The existing standard for determining the amount of mitigation planting in the HCA is based on the amount of area that is disturbed. For the HCA disturbance that will be required for lots 1, 2, and 3, the standards would require planting 185 trees and 927 shrubs. The City's natural resource consultant, ESA, determined that this would require trees to be planted between 9-11 ft on-center and 4 ft on-center for shrubs. When reviewed by the city's urban forester, Julian Lawrence, it was suggested that planting trees and shrubs this closely together would not be ideal for the health of the plantings. He noted that the trees should be planted 20 ft on-center.*

*The mitigation plantings plan has trees spaced at 20 ft on center and is providing 100% tree canopy over the natural resource tract (outside of the wetland). This spacing will ensure the health of the plantings over time, and also helps meet the city's tree canopy goals. This alternative is a more viable option to ensure improvement and lasting success of the natural resources on the site.*

*The Planning Commission finds that this criterion is met for the variances as noted above.*

- (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:
  - (i) The proposed variance avoids or minimizes impacts to surrounding properties.

*Lot Depth Variance*

*The applicant states that no impacts to surrounding properties have been identified. The proposed lots (4 and 5) will continue to meet the minimum lot*



*size of 5,000 sq ft and meet the setback requirements for future development. This will limit and minimize any impacts to surrounding properties.*

*Reduced Lot Size and Setback Variances for Lots 1, 2, and 3*

*As stated above, the variances to reduce lot size and setbacks for Lots 1, 2, and 3 will provide more area for the natural resource tract. By reducing the lot sizes, there will be an extra 10 ft along the intermittent stream where more vegetation can be planted to enhance the riparian area.*

*The reduction of rear and front yard setbacks will provide more room to build within a smaller lot. The rear yards of Lots 1, 2, and 3 are not adjacent to other development and any future development on the vacant lot to the east would be on the other side of the intermittent stream and separated by the HCA.*

*HCA Disturbance Variance and Mitigation Plantings Variance*

*Allowing disturbance in the HCA will provide mitigation for the site, as listed above. The additional plantings of native shrubs and trees will provide more habitat on the site and replace existing non-native species. Surrounding properties will have the ability to experience and observe the restoration of the natural areas on the site due to mitigation requirements.*

*The Planning Commission finds that this criterion is met for the variances as noted above.*

(ii) The proposed variance has desirable public benefits.

*“Public benefits” are typically understood to refer to benefits to be enjoyed by members of the general public as a result of a particular project, or preservation of a public resource.*

*Lot Depth Variance*

*The extension of 56<sup>th</sup> Ave creates a connection to Railroad Ave for residents of the surrounding neighborhood and new residents. The minimum street standards also include sidewalks, which will provide pedestrian access to Railroad Ave at a shorter distance than what is provided now.*

*Avoidance of the wetlands also provides a public benefit for the surrounding community to experience the habitat and animals that inhabit these natural resource areas while protecting the area from development or other disturbance.*

HCA Disturbance Variance and Mitigation Plantings Variance:

*The project will result in a new protected natural resource tract. While privately owned, the public will benefit from the overall increase in natural resource vegetation on the site through mitigation and restoration for both the HCA and WQR.*

*The Planning Commission finds that this criterion is met.*

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

Lot Depth Variance and Reduced Lot Size and Setback Variances for Lots 1, 2, and 3

*These variances are being proposed to respond to the natural resources on the site. They allow flexibility to the lot design and development so that additional land can be enhanced and preserved in the natural resource tract. Without these variances, there would be more disturbance to the WQR and HCA. Without the development, there would be no enhancement of the riparian corridor along the stream.*

HCA Disturbance Variance and Mitigation Plantings Variance

*Per the conditions stated above, disturbance in the HCA will require the applicant to enhance and restore the natural areas on the site to meet the mitigation requirements. Without those mitigation requirements from disturbance, the site would continue to exist with non-native vegetation and grasses. The proposed mitigation plan will be able to provide increased tree canopy, eradicate the invasive species on the site, and plant more trees and shrubs providing more diverse habitat on the site.*

*The Planning Commission finds that this criterion is met.*

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

*As noted above, the variances allow the development to occur and result in extensive mitigation planting which will increase vegetation and habitat on the site.*

*Lots 1, 2, and 3 will be required to have see-through fencing to make the natural resource area a visual amenity to lot owners and to create a sense of community ownership of the tract to keep it well maintained.*

*As conditioned, the Planning Commission finds that this criterion is met for the variances noted above.*

*As conditioned, the Planning Commission finds that the Discretionary Relief Criteria is met.*

13. MMC 19.1200 contains standards for solar access. These standards as described below.

A. MMC 19.1203.2 states that the standards of Chapter 19.1200 apply to applications for a development to create lots in single-family zones. Therefore, the chapter is applicable to the proposed subdivision.

MMC 19.1203.3 establishes the design standards for compliance with the solar access requirements. The section requires that 80% of the lots that are subject to the provisions must comply. Three options are available. The Basic Requirement is set out in subsection A and requires a north-south dimension of 90 feet or more and a front lot line that is oriented in an east-west direction (which would typical result in two 20-foot rear yards separating the structures).

Subsection B provides the Protected Solar Building Line Option. This option requires a deed restriction or plat note to ensure that lots are protected from shade by structures built to the south. The solar building line is a location on a lot where a point two feet above may not be shaded by structures or nonexempt trees.

Subsection C sets out a Performance Option. Under this option, habitable structures built on the lots must either: 1) have the long axis of the structure oriented in an east-west direction with 80% of the southern ground floor wall protected from shade by deed restrictions, or 2) have 32% of the window glazing and 500 sq ft of the roof area oriented in an east-west direction with deed restrictions to prevent shading.

In addition, MMC 19.1203.4 provides for exemptions from the standards due to existing nonexempt vegetation and other features.

*Initially, the applicant indicated that they would comply with the solar access provisions through the Performance Option but upon closer review, compliance is more complex. Lot 3 is exempted from the need to have solar access by the existing White Oak tree that is located on the southeast portion of the lot. This tree is required to be protected under the HCA provisions above under Finding 12. With the exemption of Lot 3, four of the remaining five lots (80%) must be guaranteed the right to solar access. Lot 6 meets the Basic Requirement; it is 90 feet deep and fronts on Beta St. Lots 4 and 5 can meet the Basic Requirement with a condition to treat the lot line between the lots as a rear yard lot line with 20-foot yards on each lot thus providing greater separation between the structures. As an alternative, solar protection could be provided to the northern lot (Lot 5) via the Protected Solar Line Option.*

*To reach 80% compliance for the subdivision, either lot 1 or 2 must be guaranteed solar access rights. This can be accomplished through the Performance Option but must include deed restrictions on the lot to the south (either lot 2 or 3) to guarantee protection from shade. The applicant can choose which lot needs protection and which will carry the deed restrictions.*

*With appropriate conditions, the application complies with Chapter 19.1200.*

*As conditioned, the Planning Commission finds that this criterion is met.*

14. MMC 17.12.040 contains approval criteria for a preliminary plat. These criteria are met as described below.

A. MMC 17.12.040.A.1 requires that the proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.

*These findings demonstrate that the proposed subdivision and preliminary plat comply with the applicable ordinances, regulations, and design standards in the Milwaukie Municipal Code. MMC 19.301.4 includes standards for lot depth and rear and front yard setbacks. All of the lots require a variance to either depth, setbacks, or both. A variance application has been submitted to respond to these requirements. Subject to the approval of said variances, this criterion is met.*

B. MMC 17.12.040.A.2 requires that “the proposed division will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.”

*MMC 17.12.040.A.2 requires that the proposed land division will allow reasonable development and will not create the need for a variance of any land division or zoning standard. As proposed, variances are requested to lot depth and setbacks within the subdivision. The subdivision plan has identified the building envelope for each of the lots. Each lot provides buildable lot area to accommodate a reasonably sized house so no additional variances should be required for house construction.*

*This criterion is met.*

C. MMC 17.12.040.A.3 requires that the proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

*At this time, the subdivision does not have an approved name. Prior to subdivision approval, the applicant will request a subdivision name approval through the County.*

*As conditioned to require proof of approval by the Clackamas County Surveyor, this criterion is met.*

- D. MMC 17.12.040.A.4 requires that the streets and roads are laid out to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

*The adjacent properties to the north are fully developed and a stub street is located along the north property line of the proposed subdivision site. Therefore, 56<sup>th</sup> Ave is required to extend through the proposed subdivision. This street connection will be in compliance with City standards and consistent with the already improved 56<sup>th</sup> Ave.*

*This criterion is also satisfied within the confines of what the City can obtain for street right-of-way per MMC Chapter 19.700.*

*This criterion is met.*

- E. MMC 17.12.040.A.5 requires a detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

*The applicant has submitted this information in the materials submitted for the land use application. This standard is met.*

15. MMC 17.20 contains the information required for a preliminary plat application.

*The materials submitted by the applicant satisfy the requirements of this chapter except for the necessity for a variance to the requirements of MMC 19.301.4.*

16. MMC 17.28 contains design standards for land divisions and boundary changes. The proposed subdivision satisfies these as described below.

- A. MMC 17.28.010 requires that partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City.

*The proposed street to the west and pedestrian connection the east abut properties that provide opportunity for land development in this location and to access the new street and trail. As demonstrated by these findings, and as conditioned to accommodate the future development of adjoining property, the subdivision conforms with applicable city criteria and standards.*

- B. MMC 17.28.020 requires that all land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities.

*As described elsewhere in these findings, the proposed subdivision complies with Chapter 19.700. Utilities and work within the right-of-way will be reviewed by the Milwaukee Engineering Department for conformance with Public Works Standards.*

C. MMC 17.28.040 contains standards for lot design.

- (1) MMC 17.28.040.A requires that the lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19.

*The proposed design is based on the need for variances to lot depth and setbacks. Variances are addressed under Finding 12, above. The subdivision plan has identified the building envelope for each of the lots. Each lot provides buildable lot area to accommodate a reasonably sized house so no additional variances should be required for house construction.*

*Upon approval of the variance, this standard is met.*

- (2) MMC 17.28.040.B requires that lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

*All lots are rectilinear and run at right angles to the street upon which the lots face. This standard is met.*

- (3) MMC 17.28.040.C limits compound lot lines for side or rear lot lines.

*All lots limit compound lot lines for all side and rear lot lines. This standard is met.*

- (4) MMC 17.28.040.D allows lot shape standards to be varied pursuant to MMC 19.911.

*A variance is not needed for lot shape. This standard does not apply.*

- (5) MMC 17.28.040.E states that double frontage and reversed frontage lots should be avoided except in certain situations.

*No double frontage or reversed frontage lots are proposed. This standard is met.*

- (6) MMC 17.28.040.F requires that pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access.

*As proposed, the required frontages of all lots are measured along the streets upon which they take access. This standard is met.*

- D. MMC 17.28.080 contains criteria for public open spaces.

*The Milwaukie Comprehensive Plan does not identify any planned park or open space for the site. As such, no dedication for public open space is required.*

17. MMC 17.32 describes required public improvements.

*The applicant proposes that all public improvements will meet the standards of this chapter. The proposal is consistent with MMC 17.32.*

18. As described in Finding 3, public notice of these applications was posted on site and mailed to parties as identified in the Milwaukie Municipal Code. The applications were referred for comment to the following: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; Clackamas County; Metro; and the Linwood Neighborhood District Association Chairperson and Land Use Committee. The responses received are summarized below. Agencies did not respond if a response is not listed below.

**Milwaukie Engineering Department** – the Milwaukie Engineering Department responded with a memorandum regarding public improvements and stormwater. The memorandum has been incorporated as the findings for MMC Chapter 19.700 and in the “Conditions of Approval” and “Other Requirements” sections of this notice.

**Clackamas Fire District #1 (CFD #1):** There does not appear to be any issues with access or water supply.

**Recommended Conditions of Approval  
File #S-2018-001 (master file), Railroad Ave Subdivision**

**Conditions of Approval**

1. The applicant shall submit a final plat application within six months of the preliminary plat approval in accordance with MMC Subsection 17.24.040. The applicant shall obtain approval of the final plat prior to the expiration of this preliminary plat approval.
2. The applicant's final plat application shall include the items listed on the City of Milwaukie Final Plat Checklist. The following specific items and changes are required as part of the application:
  - a. A written narrative describing all changes made to the final plat that are not related to these conditions of approval.
  - b. A final plat that substantially conforms to the plans received by the Planning Department on May 11, 2020 and approved by this action, except as modified by these conditions of approval.
  - c. The final plat shall include spaces for signatures by the Milwaukie Planning Director and Milwaukie Engineering Director, and a note indicating that this subdivision is subject to the requirements of City of Milwaukie Land Use Application S-2018-001; NR-2018-03; VR-2018-006; VR-2018-007.
  - d. A Construction Management Plan per MMC 19.402.9
  - e. A final Mitigation Plan addressing:
    - i. Standards listed in MMC 19.402.12.A.6.
    - ii. Standards showing protection of natural resources during site development listed in MMC 19.402.11.A.
    - iii. General standards for required mitigation listed in MMC 19.402.11.B.
    - iv. A maintenance plan per MMC 19.402.12.B.c.(5).
    - v. An updated version of the May 19 mitigation planting plan that:
      1. Identifies the location of the White Oak on Lot 3 and notes that the tree will be protected.
      2. Requires plat notes stating that rear yard fencing on Lots 1, 2, and 3 must be designed to be see-through to provide a strong visual connection to the riparian corridor and to minimize impacts on habitat areas.
3. Compliance with MMC 19.1203 shall be provided through the following:



- a. Lots 4 and 5 will include 20 foot yards along their common lot line or deed restrictions shall be placed on the lots to demonstrate compliance with the Protected Solar Line Option of MMC 19.1203.
  - b. Deed restrictions will be used to ensure that either lot 1 or 2 is guaranteed solar access rights under the Performance Option of MMC 19.1203. Depending on the lot selected, restrictions will be placed on the subject lot and the lot to the south.
4. Prior to approval of the final plat, the following shall be resolved:
- a. Rename Beta Street to a name that complies with City street name requirements and does not create a duplicate street name.
  - b. Proof of ownership of the separate natural resource tracts per MMC 19.402.13.J.
  - c. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department.
  - d. Submit a storm water management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. Private properties may only connect to public storm system if percolation tests show that infiltration cannot be obtained on site. In the event the storm management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.
  - e. Obtain a right-of-way permit for construction of all required public improvements listed in these recommended conditions of approval.
  - f. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
  - g. Provide a payment and performance bond for 130% of the cost of the required public improvements.
  - h. Provide an erosion control plan and obtain an erosion control permit.
  - i. Install an 8-inch DIP water main along the proposed extension of 56th Ave, connecting to the existing water mains along Railroad Ave and the south end of the existing 56th Ave. Provide an extension of 8-inch DIP to the west end of the proposed Beta St. (this is currently shown in the submitted plans dated Nov. 2017).
  - j. Sanitary service connection shall be via installing a new manhole at the existing 15-inch main in Railroad Ave. Sanitary service system must extend to the west end of Beta St by providing an 8-inch sewer line, terminating at a clean out to be installed by the applicant.
  - k. Stormwater service must extend to the west end of Beta St by providing a 12-inch sewer line, terminating at a clean out to be installed by the applicant. Applicant

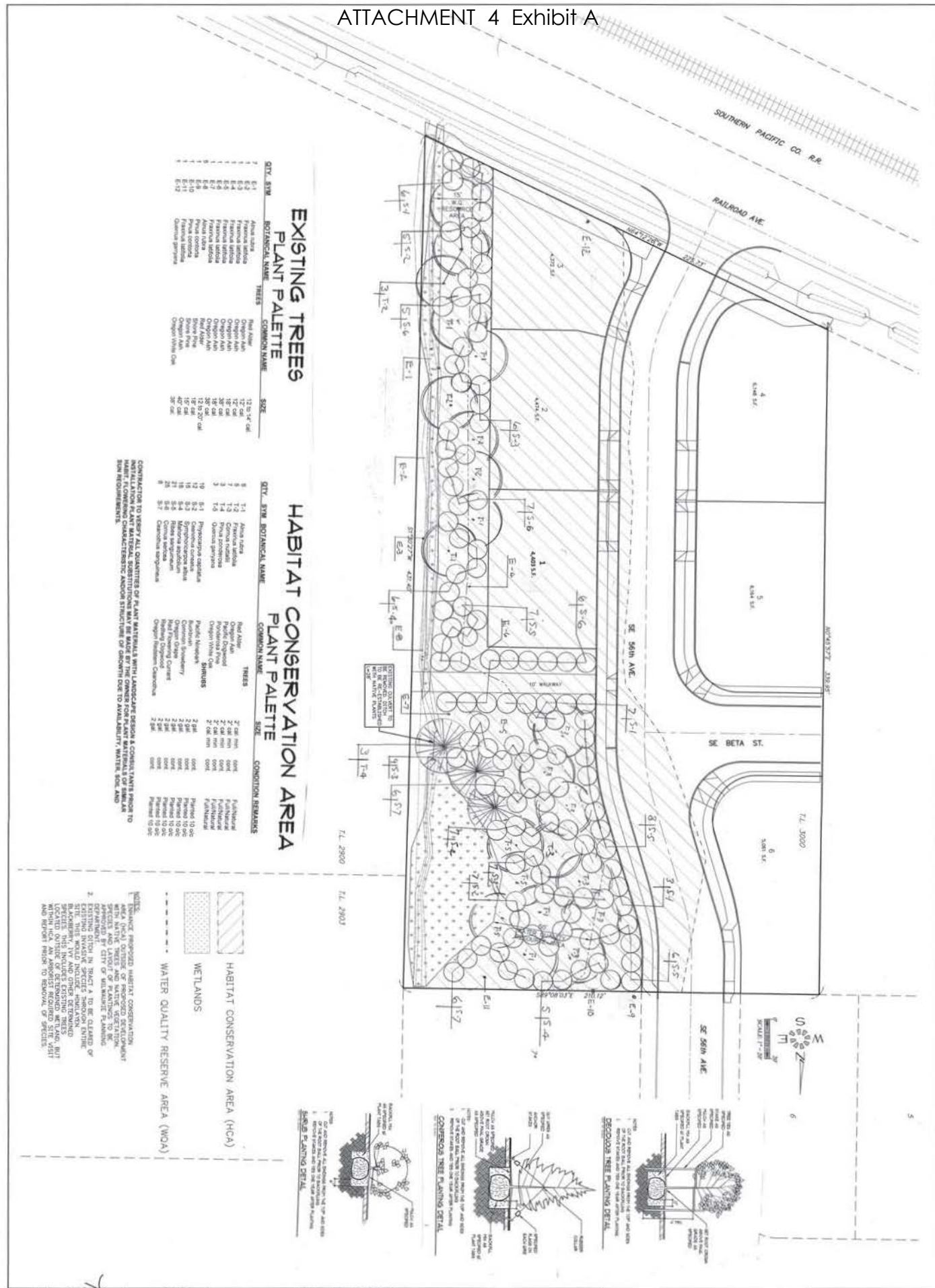
- must design Beta St so that all stormwater runoff is directed into the proposed project.
- l. Install all underground utilities, including stubs for utility service prior to surfacing any streets.
  - m. Applicant shall construct a 12-ft wide pervious asphalt multi-use path along the SE Railroad Avenue frontage.
  - n. Construct 5-ft setback sidewalks, 5-ft landscape strips, curb and gutter, 28-ft travel way and driveways on SE 56th Ave and SE Beta St. The city has agreed to allow a portion of the sidewalks along 56th Ave to be located outside of the proposed right-of-way but located within public sidewalk easements. Approved street trees will also be planted at a 40-ft spacing.
  - o. In lieu of a street connection, the city and applicant have agreed to allow a 10-ft public pathway to provide future pedestrian/bicycle connection from SE 56<sup>th</sup> Avenue to Stanley Avenue. Applicant shall construct this pathway at their costs and provide a public access easement over it.
  - p. At the end of all non-connecting sidewalks and pathways, and at the west end of Beta St. applicant must construct Type III barricades.
  - q. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to each new lot. The driveway approach aprons must be between 9 and 20 ft in width and least 7.5 feet from the side property line. All driveways will be located a minimum of 45 feet from nearest intersection.
  - r. Construct three ADA ramps at the Beta/56th intersections.
  - s. Proposed Lots 3 and 4 must have vehicular access only via 56th Ave. Provide an access control strip on Lots 3 and 4 adjacent to Railroad Ave to prohibit vehicular access to that street.
  - t. Applicant must form an Home Owners Association (HOA) that must provide maintenance to the stormwater planters, the 10-ft concrete sidewalk extending east from 56th Ave, and the open tract of land this sidewalk lies upon.
  - u. Clear vision areas must be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection.
  - v. Applicant shall install streetlighting with the project meeting city Public Works Standards, except that street lights shall be 45-watt Leotek LED roadway luminaire CCT 3000K with 30-ft Gray Direct Buried Fiberglass poles to meet current city requirements.
  - w. Provide a final approved set of electronic PDF “As Constructed” drawings to the City of Milwaukie prior to final inspection.
  - x. Remove all signs, structures, or vegetation in excess of three feet in height and below eight feet in height that are located in “vision clearance areas” at intersections of streets, driveways, and alleys fronting the proposed development.
5. Prior to final inspection for any building on the proposed development, the following shall be resolved:

- a. Connect all residential roof drains to private drywell or other approved structure.

### **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 points in the development and permitting process. They are included for the applicant's convenience and do not necessarily represent all standards or requirements that may be applicable.

1. The Time Limit on Approval established in MMC 17.04.050 applies to this proposed subdivision.
  - a. MMC 17.040.050.A: All decisions on boundary changes and land divisions shall expire one year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees. *Staff note - approval of a final plat must occur prior to the expiration of the preliminary plat approval on which the final plat is based.*
  - b. MMC 17.04.050.B: Approvals may be extended up to six months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed six months will be granted if the criteria in MMC 17.04.050.B are satisfied.
2. The requirements on MMC 17.24 for preparation and recording the final plat are as follows:
  - a. MMC 17.24.040: Within six months of City approval the applicant shall submit the final plat for City signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.
  - b. MMC 17.04.120.B: Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with the City Code and required approvals.
  - c. MMC 17.04.120.A: Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the County Surveyor within six months of City approval.



**EXISTING TREES  
PLANT PALETTE**

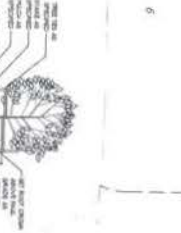
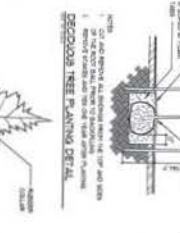
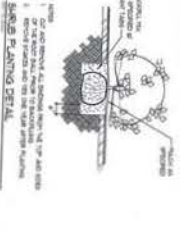
QTY.	SYM.	BOTANICAL NAME	COMMON NAME	SIZE
1	E-1	Alnus incana	White Alder	12.5" x 4" dbh
2	E-2	Fraxinus americana	White Ash	12" cal
3	E-3	Fraxinus americana	White Ash	18" cal
4	E-4	Fraxinus americana	White Ash	18" cal
5	E-5	Fraxinus americana	White Ash	18" cal
6	E-6	Fraxinus americana	White Ash	18" cal
7	E-7	Fraxinus americana	White Ash	18" cal
8	E-8	Fraxinus americana	White Ash	18" cal
9	E-9	Fraxinus americana	White Ash	18" cal
10	E-10	Fraxinus americana	White Ash	18" cal
11	E-11	Fraxinus americana	White Ash	18" cal
12	E-12	Fraxinus americana	White Ash	18" cal
13	E-13	Fraxinus americana	White Ash	18" cal
14	E-14	Fraxinus americana	White Ash	18" cal
15	E-15	Fraxinus americana	White Ash	18" cal
16	E-16	Fraxinus americana	White Ash	18" cal
17	E-17	Fraxinus americana	White Ash	18" cal
18	E-18	Fraxinus americana	White Ash	18" cal
19	E-19	Fraxinus americana	White Ash	18" cal
20	E-20	Fraxinus americana	White Ash	18" cal

**HABITAT CONSERVATION AREA  
PLANT PALETTE**

QTY.	SYM.	BOTANICAL NAME	COMMON NAME	SIZE	CONDITION/REMARKS
1	T-1	Alnus incana	White Alder	2" db	one
2	T-2	Fraxinus americana	White Ash	2" db	one
3	T-3	Fraxinus americana	White Ash	2" db	one
4	T-4	Fraxinus americana	White Ash	2" db	one
5	T-5	Fraxinus americana	White Ash	2" db	one
6	T-6	Fraxinus americana	White Ash	2" db	one
7	T-7	Fraxinus americana	White Ash	2" db	one
8	T-8	Fraxinus americana	White Ash	2" db	one
9	T-9	Fraxinus americana	White Ash	2" db	one
10	T-10	Fraxinus americana	White Ash	2" db	one
11	T-11	Fraxinus americana	White Ash	2" db	one
12	T-12	Fraxinus americana	White Ash	2" db	one
13	T-13	Fraxinus americana	White Ash	2" db	one
14	T-14	Fraxinus americana	White Ash	2" db	one
15	T-15	Fraxinus americana	White Ash	2" db	one
16	T-16	Fraxinus americana	White Ash	2" db	one
17	T-17	Fraxinus americana	White Ash	2" db	one
18	T-18	Fraxinus americana	White Ash	2" db	one
19	T-19	Fraxinus americana	White Ash	2" db	one
20	T-20	Fraxinus americana	White Ash	2" db	one

CONTRACTOR TO VERIFY ALL QUANTITIES OF PLANT MATERIALS WITH AN ASSOCIATED DESIGN CONSULTANT PRIOR TO START. ALL QUANTITIES OF PLANT MATERIALS MUST BE MADE BY THE OWNER FOR PLANT MATERIALS TO BE SUBMITTED TO THE CONTRACTOR FOR VERIFICATION AND CONSTRUCTION OF GROUNDWORK TO AVAILABILITY, WATER, SOIL, AND SUN REQUIREMENTS.

**NOTES:**  
1. EXISTING PROPOSED HABITAT CONSERVATION AREA (HCA) SHALL BE MAINTAINED AND PROTECTED TO REMAIN AS NATIVE TREES AND NATIVE VEGETATION. SPECIES AND LAYOUT OF PLANTINGS TO BE INSTALLED SHALL BE AS SHOWN ON THESE DRAWINGS.  
2. EXISTING INVASIVE SPECIES THROUGHOUT THE SITE SHALL BE REMOVED AND HAVILATION SHALL BE DONE TO ALLOW FOR PLANTING OF SPECIES. THIS INCLUDES EXISTING TREES THAT ARE DISEASED, DAMAGED, OR UNWANTED. ALL REMOVAL SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS AND REPORT PRIOR TO REMOVAL OF SPECIES.



Design: M.D.G.  
 Drawn: C.D.S.  
 Date: NOV. 2017  
 Scale: AS SHOWN  
 1 OF 1

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**RAILROAD AVENUE  
4.1 Page 555**

**WATER QUALITY RESOURCE & HABITAT CONSERVATION AREA ENHANCEMENT/ MITIGATION PLAN**

**MULTI/TECH**  
 ENGINEERING SERVICES, INC.  
 11533 LINDSEY ST. N.E. G. SALEM, OR 97302  
 503.325.3663 FAX 503.325.3663  
 www.mttechinc.com info@mttechinc.com

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# MEMO



Date: May 8, 2020  
 To: Mark D. Grenz, P.E.  
 From: Matthew W. Hendrick, P.E.  
**RE: Railroad Avenue Estates Water Quality Design**



RENEWAL DATE: 6/30/2021

In the design of the water quality facilities for the Railroad Avenue Estates subdivision, water quality facilities shall meet the design requirements of the current City of Portland, Stormwater Management Manual per City standards. Public treatment facilities will be vegetative filtration swales per standard detail SW-301 to meet said standards.

On-site private improvements were analyzed to determine if any additional facilities could be incorporated in the design of water quality features to provide additional treatment. Per the Simplified Design Approach Siting Criteria for infiltration facilities, an infiltration rate of the soil must be 2-inches per hour is a required minimum. In addition, the base of the facility must have a separation depth greater than 5-feet from the water table.

Redmond Geotechnical Services provided a site evaluation of soil infiltration rates. Per the evaluation, allowable design infiltration rates of between 0.5 and 0.7 inches per hour are recommended. This is significantly below the required rate of 2.0 inches per hour. In addition, the seasonal high groundwater elevations beneath the site are expected to rise within six feet or less of the existing ground surface during the normal wet season. Any water quality facility would penetrate a minimum of 2-feet, creating conditions of less than 5-feet of separation between the water quality facilities and the water table. Because of the above facts, additional water quality systems are not a viable option.

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## Railroad Avenue Estates Subdivision

*Consideration of 5 VS 6 Lots*

May 18<sup>th</sup>, 2020



We were asked to consider the effects on the project of the elimination of Lot 1, reducing the number of lots to be created from 6 to 5.

This is an economic question, not a physical constraint question.

As we have noted, the area proposed for the location of Lots 1 2, & 3 is within the present HCA limits. It was noted in the staff presentation that due to some errors in the mapping, the limits of the HCA did not impact the project site to the extent that is now represented.

As such, when our client made the decision to acquire the property, the developable area was considered to be much larger, without the effects of the HCA as presently is shown.

With that, the expected economic returns from the property were expected to be higher than we presently can expect. We had expected to achieve a lot yield of 8 lots, rather than 6. With that we are currently down 2 lots to begin with.

To create the three lots within the HCA as proposed, we must now enhance the remaining HCA area with added Trees and plantings, at a cost of \$ 30,000 to 40,000 depending on the final tree count and the availability of such.



The HCA that is being impacted is today only grass, no trees or native plants exist within this area.

The mitigations being proposed to the remaining HCA area is a vast improvement and will provide many benefits to the area.

As we noted in our presentation last month, a typical street improvement such as that proposed for SE 56<sup>th</sup>, Ave would have support approximately 12 or 13 lots. If you consider where we now are, the development costs for the 6 lots has more than doubled what would be typical.

Add to that the extra costs for the HCA mitigation plan and you have significantly increased the per lot development costs.

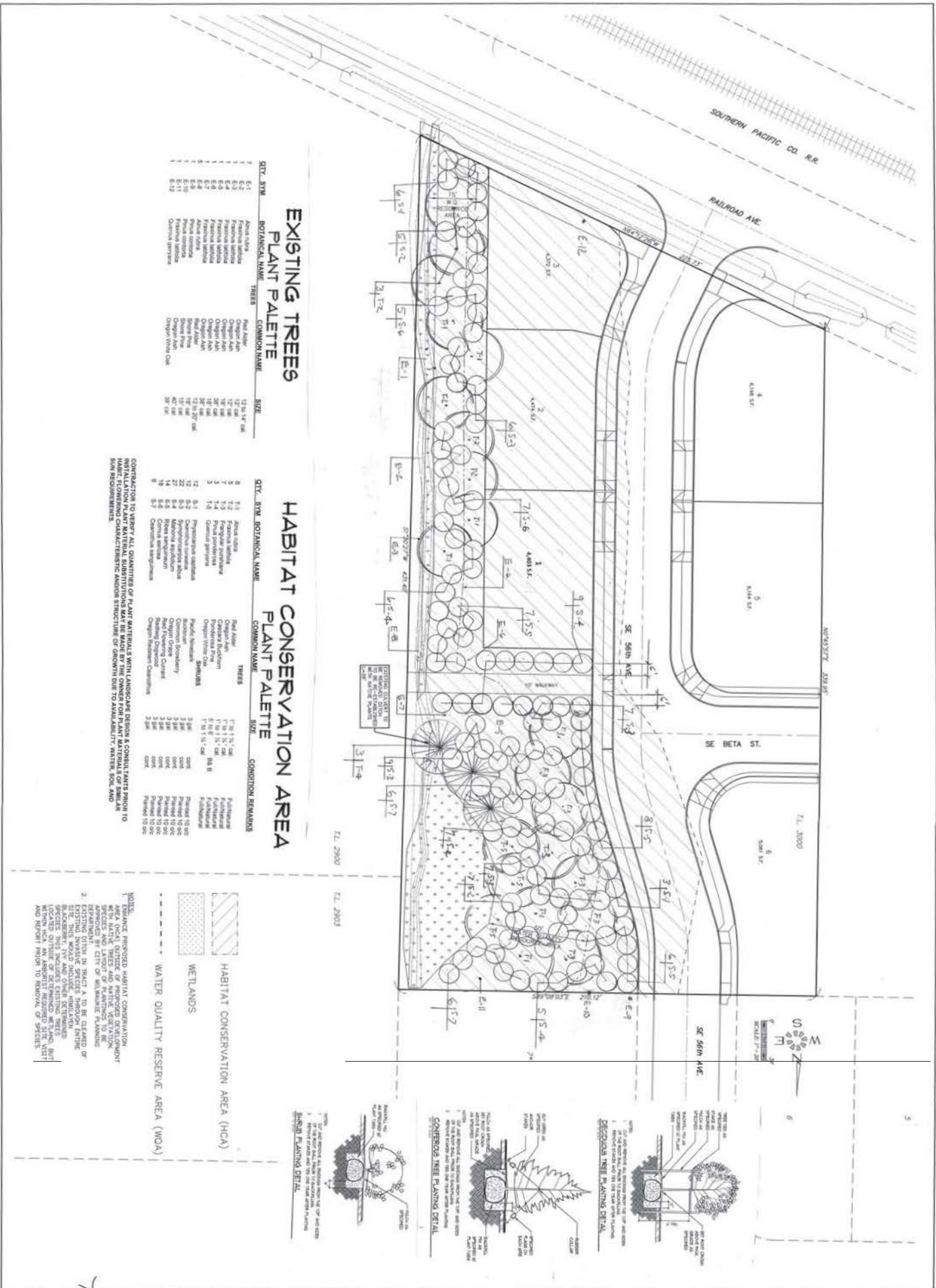
By the reduction of the developed lots from 6 to 5 the per lot costs are increased by an additional 20%. That is without the consideration of any increased mitigation requirements that may be imposed by the City for the area of Lot 1, being retained as HCA area.

Given the present economic conditions that the country is now facing, our client may end up in a position that he creates the 6 new homes without certainty that they will be sold with a reasonable rate of return. That rate of return would likely be less than 20% of sale price. If he is forced to bear the added per lot cost of 20% due to the loss of one more lot, the project could be such that it is not worth the risk.

With such, we believe that the expectations of this project with 6 lots is reasonable and will provide the most affordable housing benefits for the community.

Please let us know during the continued public hearing if there are questions on the above information.

Thanks for consideration of this additional economic justifications for the 6 lots.



### EXISTING TREES PLANT PALETTE

QTY.	SYM.	BOTANICAL NAME	TREES	COMMON NAME	SIZE	COMMENTS/REMARKS
1	E-1	Acacia salina	Red Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-2	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-3	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-4	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-5	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-6	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-7	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-8	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-9	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-10	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	E-11	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06

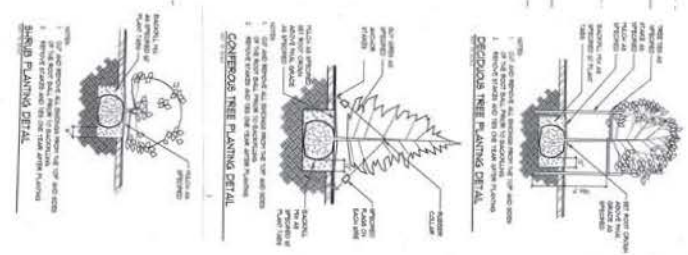
### HABITAT CONSERVATION AREA PLANT PALETTE

QTY.	SYM.	BOTANICAL NAME	TREES	COMMON NAME	SIZE	COMMENTS/REMARKS
8	T-1	Acacia salina	Red Alder	Original Alder	12" to 14" cal.	Preserved to 06
7	T-2	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
3	T-3	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	T-4	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	T-5	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	T-6	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	T-7	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	T-8	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	T-9	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06
1	T-10	Fraxinus velutina	Original Alder	Original Alder	12" to 14" cal.	Preserved to 06

**WETLANDS**  
**WATER QUALITY RESERVE AREA (WQA)**

INDICATE PROPOSED HABITAT CONSERVATION AREA (HCA) OUTSIDE OF PROPOSED DEVELOPMENT WITH LIVING TREES AND WATER VEGETATION. APPROVED BY CITY OF ELMHURST PLANNING DEPARTMENT.

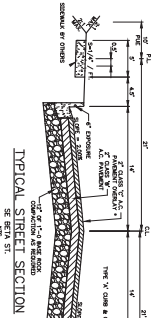
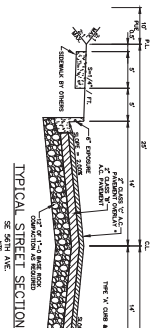
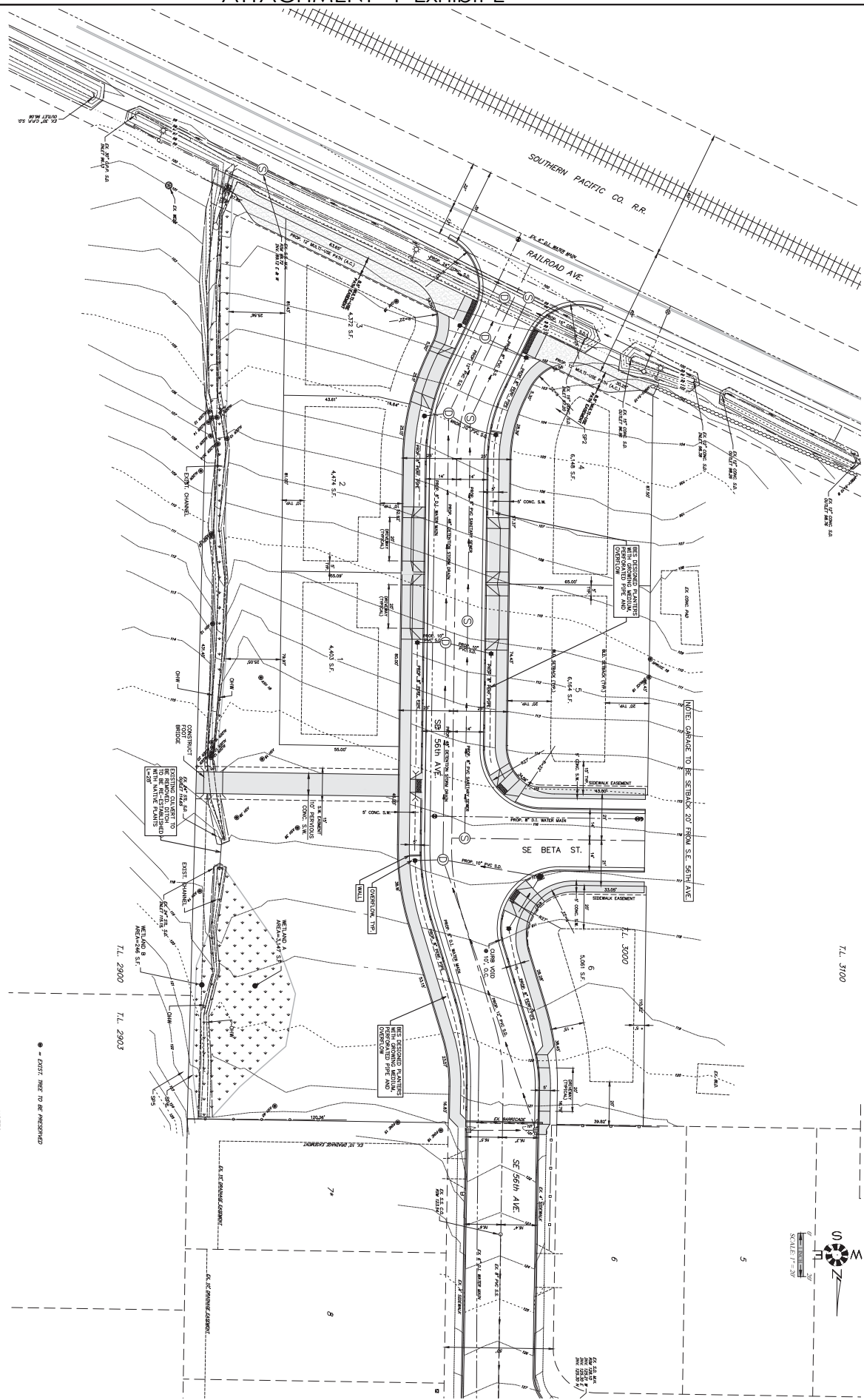
EXISTING WETLANDS IN TRACT A TO BE CLEARED OF ALL EXISTING INVASIVE SPECIES THROUGHOUT ENTIRE TRACT A. ALL EXISTING WETLANDS TO BE RELOCATED TO AN ADJACENT SITE VISIT LOCATED OUTSIDE OF DEVELOPED WETLANDS WITHIN HCA. AN ADJACENT RELOCATED SITE VISIT AND RELOCATED WETLANDS TO BE IDENTIFIED.



	Design: M.D.C. Checked: J.L.C. Date: NOV 2017 Scale: AS SHOWN	NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.	MULTI/TECH ENGINEERING SERVICES, INC. 1150 23RD ST. S.W. SALEM, OR 97302 PH: (503) 398-1100 FAX: (503) 398-1200 www.multiprojecting.com
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	1 of 1	4TH ROAD AVENUE ESTATES	WATER QUALITY RESOURCE & HABITAT CONSERVATION AREA ENHANCEMENT / MITIGATION PLAN

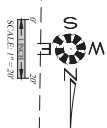
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- NOTES:
1. ENHANCE PROPOSED HABITAT CONSERVATION AREA WITH OUTSIDE OF PROPOSED DEVELOPMENT SPECIES AND LAYOUT OF PLANTINGS TO BE DEPARTMENT.
  2. EXISTING DITCH IN TRACT A TO BE CLEARED OF SITE. THIS WOULD INCLUDE HULL LARVAE LOCATED OUTSIDE OF DEPARTMENT WETLAND, BUT AND REPORT PRIOR TO REMOVAL OF SPECIES.

● EXIST. TREE TO BE PRESERVED



DESIGNER: [Logo]

Design: M.D.G.  
 Drawn: C.D.S.  
 Checked: J.C.B.  
 Date: NOV. 2017  
 Scale: AS SHOWN  
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RAILROAD AVENUE  
4.1 PLAT 63

ALTERNATIVE  
PLAT PLAN

**MULTI/TECH**  
ENGINEERING SERVICES, INC.  
 11550 130th St., S.E., SALES, OH, 97302  
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 www.multitecheng.com office@multitecheng.net

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**Re: Natural Resource Report - Railroad Ave**

Julian Lawrence <LawrenceJ@milwaukieoregon.gov>

Tue 4/28/2020 9:48 AM

To: Mary Heberling <HeberlingM@milwaukieoregon.gov>

I have no major issues with their suggestions for shrubs, though I'd skip *Salix sp.* in this small area, and use *Mahonia repens* where they suggest *Mahonia nervosa*, as it is more robust in its use of space. Minor details, and some lists don't include *M. repens* as a native while others do. As you wish.

I'm not a fan of planting trees at 10' spacing - this philosophy is one of planning on failure (compared to planning for failure): Those trees that do survive are going to be limited in their potential growth and benefits to the environment, unless they conveniently die at greater spacing. I take their point, however: 10' spacing of trees could work in clusters, just like the shrubs. My preference is to open up the spacing between trees, reducing their light/resource competition in an already challenging environment.

Ponderosa pine needs full sun access, so spacing/location should be appropriate. Cascaras and Bitter cherries are large trees when more open-grown, so I agree with their addition. The issues with how to use WRCedar (and others) are still being figured out among land managers - sticking to a Lewis & Clark era native plant list is getting seriously constraining in an urban environment. I'd choose to use them on this site for the access to intermittent water, but I could be wrong - the lines are blurry.

If you want some numbers to work with, I prefer 20' minimum spacing for trees, and full sun access for Pandy pines (not located due north of a full mature tree, or building location, etc.) Also, I am willing to see what using 10' spacing clusters looks like, if that is a path forwards.

Let me know if you need more from me,

Thanks!

**JULIAN LAWRENCE**

Urban Forester

o: 503.786.7645 c: 503.341.5619

City of Milwaukie

6101 SE Johnson Creek Blvd • Milwaukie, OR 97206

---

**From:** Mary Heberling <HeberlingM@milwaukieoregon.gov>

**Sent:** Monday, April 27, 2020 4:16 PM

**To:** Julian Lawrence <LawrenceJ@milwaukieoregon.gov>

**Subject:** Natural Resource Report - Railroad Ave

Hi Julian,

Attached is a short (3-page) report by ESA, our natural resource consultants, on the Railroad Ave subdivision proposal. In particular I'd like you to take a look at the second part of the report about the mitigation plantings. Denny was concerned that the amount of trees and

shrubs they would like planted could be an issue, especially if they are wanting trees to be planted with spacing of 10 ft from center and for shrubs spacing of 5 ft from center.

If you could take a look and let me know what you think by noon tomorrow (4/28), that would be helpful. If you can't do that, no worries, just let me know.

Thanks!

**MARY HEBERLING, AICP**

Assistant Planner

she/her/hers

503.786.7658

City of Milwaukie

6101 SE Johnson Creek Blvd • Milwaukie, OR 97206

**Re: Railroad Avenue - Updated Landscaping Plan**

Julian Lawrence <LawrenceJ@milwaukieoregon.gov>

Mon 5/11/2020 1:39 PM

To: Mary Heberling <HeberlingM@milwaukieoregon.gov>

This plan looks nice.

1. Yes, planting trees in a wetland zone is fine, so long as the water level is, at least, a couple inches below the surface at planting time.
  1. Do we need to require 2" caliper trees here? I'm ok with smaller stock as it's not a street side planting, and digging smaller holes in the wetland is preferred. 1" caliper minimum and minimum of 5' tall is fine. If we go this route, can we ask for larger shubs (3 gal. instead of 2 gal.)?
2. Yes, *Cornus sericea* is a tall shrub but may not shade the whole 10' path at mature height: That seems like a better spot for the 3 Ponderosa pines which are currently located north of 2 large Ash trees. The pines' current location can be taken by *Frangula purshiana* or *Cornus sericea*. If they are concerned about creating a barrier between the path and the yard, add *Symphoricarpos albus* (S-3) or *Mahonia aquifolium* (S-4) under them.
  1. Aside, I want to make sure that shrub species S-1, 5, 6 are planted at least 6' back from the sidewalk/path edge, as they can be a pruning problem once full grown. If plants are needed closer than that, S-3 is a good option.
3. Looking at the plans, they appear full up on trees. However, the use of 7 *Cornus nutallii* is a hail-Mary pass, as they're difficult to establish, and susceptible to anthracnose infection. I'd prefer they stay with *Frangula purshiana* as in the previous plans, or plant more oaks and pines.

Hope this helps. Let me know if I can provide more.

**JULIAN LAWRENCE**

Urban Forester

o: 503.786.7645 c: 503.341.5619

City of Milwaukie

6101 SE Johnson Creek Blvd • Milwaukie, OR 97206

---

**From:** Mary Heberling <HeberlingM@milwaukieoregon.gov>

**Sent:** Monday, May 11, 2020 11:16 AM

**To:** Julian Lawrence <LawrenceJ@milwaukieoregon.gov>

**Subject:** Fw: Railroad Avenue - Updated Landscaping Plan

Hi Julian,

Attached is the most updated version of the landscaping plan for that subdivision proposal off of Railroad Ave. Do you mind taking a look at it again? In the email below there is some detail on what adjustments they've made. A couple of things Denny and I would also like clarity from you on:

1. Can you plant trees in wetland areas or would that cause too much disturbance?



2. Along the 10 ft pathway next to the wetland area, they've lined it with a type of dogwood variation. It's labeled as a shrub, but we didn't know much about this type of dogwood and if it's really a shrub or just a smaller sized tree. If it is a shrub, would there be a good type of tree that could work there instead? Something that could provide shade along the path?
3. Does this seem like enough to really provide 100% tree canopy? Could there be more that they can do to achieve this?

Let me know if you need any clarification or have questions on this.

Thanks!

**MARY HEBERLING, AICP**

Assistant Planner

she/her/hers

503.786.7658

City of Milwaukie

6101 SE Johnson Creek Blvd • Milwaukie, OR 97206

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**From:** Jeff Bolton <JBolton@mtengineering.net>

**Sent:** Monday, May 11, 2020 8:33 AM

**To:** Mary Heberling <HeberlingM@milwaukieoregon.gov>; Dennis Egner <EgnerD@milwaukieoregon.gov>

**Subject:** Railroad Avenue

**This Message originated outside your organization.**

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Good morning,

This is the first of 2 emails, based upon our Planning Commission hearing from April 28<sup>th</sup> and the 6 lot Railroad Avenue project.

This 1<sup>st</sup> attachment is the updated landscape plan. Based upon the Planning Commission comments, we have added Oak and Ponderosa Pines to this plan. We are achieving the 100% canopy as discussed and have relocated and added additional trees with plantings now shown at 20' on center.

Jeff Bolton  
Multi/Tech Engineering  
(503) 363-9227



**MEMORANDUM**

**TO:** Community Development Department  
**THROUGH:** Steve Adams, City Engineer  
**FROM:** Dalton U. Vodden, Associate Engineer  
**RE:** Railroad Avenue Estates Water Quality Design  
Multi/Tech May 8th Memo  
**DATE:** 5/19/2020

The water quality memo provided by the applicant shares that seasonal high ground water is a concern on site. The applicant's geotechnical consultant recommends design infiltration rates of 0.5 and 0.7 inches per hour across the site. This is below the 2 inches per hour minimum required for use of the simplified design approach of the Portland Stormwater Management Manual. Due to the low infiltration rates and seasonal high groundwater, all stormwater facilities on site will be required to follow the presumptive or performance design approach. This includes water quality facilities in the right-of-way and on private property.

Through the design process, considerations will be made to ensure water quality is achieved at constrained infiltration rates. This may necessitate the use of check dams, weirs, lined facilities or other form of flow control with facilities.