



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday July 13, 2010, 6:30 PM

MILWAUKIE CITY HALL
10722 SE MAIN STREET

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
 - 2.1 May 11, 2010
 - 2.2 June 22, 2010
- 3.0 Information Items**
- 4.0 Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 Public Hearings** – Public hearings will follow the procedure listed on reverse
 - 5.1 Summary: Pond House Deck and Landscaping
Applicant/Owner: Paul Shirey / City of Milwaukie
Address: 2215 SE Harrison St
File: WQR-10-02, CSU-10-06
Staff Person: Susan Shanks
- 6.0 Worksession Items**
 - 6.1 Summary: Review Procedures Code Amendment project briefing part 2
Staff Person: Susan Shanks
- 7.0 Planning Department Other Business/Updates**
- 8.0 Planning Commission Discussion Items** – This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 Forecast for Future Meetings:**
 - July 27, 2010 1. Public Hearing: CPA-10-01 North Clackamas Park North Side Master Plan
 - August 10, 2010 1. Worksession: Natural Resources Overlay update *tentative*

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 speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email planning@ci.milwaukie.or.us. Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at www.cityofmilwaukie.org
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TME 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 less than five (5) business days prior to the meeting.

Milwaukie Planning Commission:

Jeff Klein, Chair
Nick Harris, Vice Chair
Lisa Batey
Teresa Bresaw
Scott Churchill
Chris Wilson
Mark Gamba

Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Senior Planner
Brett Kelder, Associate Planner
Ryan Marquardt, Associate Planner
Li Alligood, Assistant Planner
Alicia Stoutenburg, Administrative Specialist II
Paula Pinyerd, Hearings Reporter

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, May 11, 2010
6:30 PM**

COMMISSIONERS PRESENT

Jeff Klein, Chair
Nick Harris, Vice Chair
Lisa Batey
Teresa Bresaw
Scott Churchill

STAFF PRESENT

Katie Mangle, Planning Director
Ryan Marquardt, Associate Planner
Brad Albert, Civil Engineer
Bill Monahan, City Attorney

COMMISSIONERS ABSENT

Chris Wilson

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:31 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 March 23, 2010

Commissioner Bresaw moved to approve the March 23, 2010 Planning Commission meeting minutes as presented. Commissioner Batey seconded the motion, which passed unanimously.

3.0 Information Items–None.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

5.1 Summary: Riverfront Park

Applicant/Owner: City of Milwaukie

File: DR-09-01, TPR-09-03, WG-09-01, WQR-09-01, and VR-09-03

Staff Person: Ryan Marquardt

41 **Chair Klein** called the hearing to order and read the conduct of minor quasi-judicial hearing
42 format into the record.

43

44 **Ryan Marquardt, Associate Planner**, cited the applicable approval criteria of the Milwaukie
45 Municipal Code (MMC) as found on 5.1 Page 11 of the packet, which was entered into the
46 record. Copies of the report were made available at the sign-in table.

47

48 **Chair Klein** asked if any Commissioners had a conflict of interest or any ex parte contacts to
49 declare.

50

51 **Commissioner Batey** responded no, but noted that she was involved in the City's process for
52 permitting events at Riverfront Park. She believed it was a very different issue from the land use
53 application before the Commission tonight, so she did not have a conflict of interest. She
54 declared that she did not have a bias and could review the application with an open mind.

55

56 **Bill Monahan, City Attorney**, confirmed that Commissioner Batey's concern with uses at
57 Riverfront Park was based on today's existing park and not related to the application.

58

59 **Chair Klein** clarified that he was not related to the Gary Klein family who graciously donated the
60 land for Klein Point. He thanked Mr. Klein and family for their generous donation.

61

62 Each Commissioner had visited the site. No Commissioner, however, declared a conflict of
63 interest, bias, or conclusion from their site visit. No Commissioner's participation was challenged
64 by any member of the audience, nor was the jurisdiction of the Planning Commission to hear the
65 application.

66

67 **Mr. Marquardt** presented the staff report via PowerPoint, responding to clarifying questions
68 from the Commission and reviewing key issues regarding the Riverfront Park project, which
69 included:

- 70 • Whether the project adequately mitigated its impacts to the Water Quality Resource (WQR)
71 area.
- 72 • WQR standards allowed for development within the WQR area, although the area had to
73 be avoided when possible and unavoidable impacts had to be minimized in their area of

- 74 disturbance as much possible, and also mitigated. The Applicant had detailed the
75 justification for park elements that extended into the WQR area.
- 76 • The proposed park would increase the existing 54,000 sq ft area of disturbance to
77 about 61,000 sq ft within the WQR area. In considering mitigation for that 8,600 sq ft
78 increase, staff noted that the project would also increase the existing 2,600 sq ft of
79 WQR area in good condition to 64,000 sq ft, improving roughly 61,000 sq ft from a
80 degraded or marginal condition to a good condition. Re-vegetating the area,
81 stabilizing the banks, and other such activities would bring the degraded areas up to
82 good condition.
 - 83 • The City's WQR consultant reviewed the plans and concurred with staff's basic
84 assessment that the project was self-mitigating, with the impacts offset by the restoration
85 work being done along with the other parts of the project.
 - 86 • Staff recommended two conditions regarding the WQR area as follows:
 - 87 • The pedestrian bridge between the overlook and boat ramp area should not be
88 improved at this time due to the remaining amount of design work needed on it and
89 the footings in the WQR area. Staff suggested that it return for approval after the
90 design was more fleshed out.
 - 91 • Pervious asphalt and concrete should be used to the greatest extent practicable for
92 the areas of pavement within the WQR area, including boat drive aisles, paths, etc.
93 The Applicant agreed to provide as much pervious material as possible within the
94 WQR area.
 - 95 • Variance criteria for the 6-month substantial construction deadline. The park was a
96 Conditional Use (CU) because it was in the Willamette Greenway (WG) Zone. All CUs were
97 subject to a 6-month substantial construction deadline, otherwise the approval was voided.
98 The Planning Commission could grant one, 1-year extension, essentially allowing 1½ years
99 for substantial construction. The Applicant and staff were concerned that the project would
100 not meet the substantial construction deadline, so a variance was requested.
 - 101 • Staff believed the application met the variance criteria, which included unusual
102 conditions related to the physical characteristics of the property. Among other issues, the
103 project was in and near several waterways, so other agencies were required to review
104 the Applicant's materials and a response could take months. After approvals were
105 received, the Applicant would have to draw up final plans in conformance with
106 requirements from the agencies and the City, which could take additional months to
107 complete. Staff really had no control over these things, so the Applicant would probably

- 108 not meet the adjusted 1½-year deadline. There were no feasible alternatives to this
109 timeline-based standard.
- 110 • Staff did not identify adverse impacts on other properties if the Applicant required
111 additional time to meet the substantial construction deadline. Staff believed the park
112 project would still be appropriate if substantial construction was reached years beyond
113 the 1½-year deadline. No adverse impacts were identified and staff believed the use
114 would still be consistent with the community's vision for the Riverfront Park.
 - 115 • The Design and Landmarks Committee (DLC) reviewed the application at their November
116 2009 meeting and was generally comfortable that it met the Downtown Design Guidelines.
117 DLC suggested alterations to meet some design guidelines. A post-approval review process
118 was set up when the Applicant had 100% plans for construction to see how the alterations
119 were incorporated into the final design.
 - 120 • Staff believed the park was well designed to accommodate the envisioned day-to-day use
121 throughout the year. For larger events, staff proposed a condition requiring the City to have
122 an event management plan to handle transportation to reduce the number of car trips and
123 overflow parking, as well as protect the WQR area when large numbers of people were on
124 site. The event management plan did not limit the types or number of events, but required
125 that the City have a plan to mitigate the impacts of those events.
 - 126 • The City's Engineering Department and on-call traffic review consultant looked at the
127 Applicant's traffic impact study and did not have any major concerns about traffic
128 impacts resulting from the park's development. The only comment from the Oregon
129 Department of Transportation (ODOT) was that a left-hand turn pocket was needed for
130 northbound traffic to enter the site, which was included in the Applicant's plans.
 - 131 • The proposed aerial site plan was displayed with 4 red circles indicating possible phasing for
132 the project. The project areas could be built independently of one another. As each project
133 area was built, the mitigation area associated with the general project area was built and
134 any events planned within that area were to be included in the event management plan.
 - 135 • He concluded by noting that the Applicant had already submitted a waiver to the 120-day
136 land use clock, removing the time pressure. The next deadline to be aware of was Fall 2010.
- 137
- 138 **Chair Klein** asked if staff had received correspondence regarding the application, other than
139 those included in the agenda material.

141 **Mr. Marquardt** noted his memorandum dated May 11, 2010, that listed the nine separate items
142 that were attached and to be entered into the record. The materials included:

- 143 • A letter from Dave Green, Milwaukie Riverfront Board, in support of the project and the
144 pedestrian bridge across Kellogg Creek.
- 145 • A letter from Michael Martin, Milwaukie Riverfront Board, in support of the project as
146 proposed.
- 147 • A concept design idea submitted by Rebecca Ives for the restroom building and plaza area
148 at the site.
- 149 • A letter from Mike Stacy, Milwaukie Riverfront Board, enthusiastically supporting the plan.
- 150 • Additional material submitted from the Applicant that included numbers and analysis about
151 the WQR area, detailing the areas in good, marginal, and degraded condition. These were
152 not received in time for inclusion in the packet.
- 153 • A letter and list of questions from Pat Russell, along with staff's responses.
- 154 • Comments received from agencies such as Division of State Lands (DSL) and TriMet,
155 stating they had no objections or comments regarding the project.

156

157 **Commissioner Churchill** noted Mr. Russell's comments were interesting regarding the location
158 of the 1996 flood line on the site, and asked the Applicant to address the location of the 100-
159 year flood plain versus the flood high point.

- 160 • **Ms. Mangle** responded that the current FEMA flood line was about the same as the 1996
161 flood line. The City's WQR map used both the FEMA and 1996 flood lines, which did not
162 make a difference in this stretch along the Willamette River. The FEMA 100-year floodplain
163 line was shown on the most recent version of the Park Plan Existing Conditions Maps on
164 page 101 of the Municipal Zoning Code. Figure 2D of the supplemental packet showed a
165 100-year flood elevation. [also Figures 2, 2A-2C]

166

167 **Chair Klein** called for the Applicant's testimony.

168

169 **JoAnn Herrigel, Community Services Director**, stated that the City of Milwaukie had been
170 working on the Riverfront Park for 30 years. Tonight's project was the culmination of many years
171 of work. She presented the application via PowerPoint with the following additional comments:

- 172 • The plan before the Commission has been vetted to the public, guided by seven very
173 dedicated community members in the form of the Riverfront Board (Board). Over the years,
174 the members have shifted slightly, but are always ardent advocates for what this community

- 175 wants and needs at the Riverfront. It was a microcosm of the City of Milwaukie that included
176 voters, open space advocates, and everyone in between. She believed the proposed plan
177 contained all the elements the community had actually asked for. It had play areas, picnic
178 space, a performance amphitheater, boat ramp, parking, and perhaps most importantly, a
179 place to view the river and all the creatures and activities that it hosts. The 7 member
180 Riverfront Board was established by City Council in 1998. Two of the original 7 members are
181 still on the Board. The Board's purpose was to advise and make recommendations to the
182 City Council, and provide long-term continuity and short-term problem solving and the
183 successful completion of the Riverfront.
- 184 • She reviewed the Riverfront Park project's timeline and how the Board worked with other
185 projects and organizations to ensure prior improvements would not interfere with the
186 proposed park plans.
 - 187 • A public survey was conducted in 2005, regarding 2 concepts for the boat ramp and
188 parking. Concept 1 had a 2 docks going into the water between the 2 creeks, with
189 auxiliary parking south of Kellogg Creek. The second concept received 75% of the
190 survey responses and had a boat ramp, an associated dock, parking, and access to the
191 boat ramp.
 - 192 • The top 6 things people wanted to do in the park were: boat, view the water, go to
193 concerts, play on the playground, walk and bike, and picnic; so the Board designed
194 features accordingly.
 - 195 • In May 2006, the Board took a final concept of Riverfront Park to the City Council. David
196 Evans & Associates, Inc. was hired in September 2006 to design the project. In January
197 2007, a community open house was held to talk about the concept, building designs and
198 materials. The land use applications were submitted in March 2008 for the
199 Comprehensive Plan map zoning change, et cetera. In January 2009, a joint permit
200 application was submitted to the Army Corps of Engineers (Corps) and DSL, which was
201 still being reviewed. The Board did not expect to hear from the Corps until December
202 2010. Department of Environmental Quality (DEQ) would review the project and provide
203 their response to the Corps, who would then get back to the Board.
 - 204 • The DLC suggested working on several things at the November 2009 hearing. She
205 would return to talk with DLC about a variety of responses that might be considered on
206 each issue.
 - 207 • So many different agencies were reviewing the project and providing comments that she did
208 not want to go to 100% design until all comments were received. Modifying the design cost

- 209 extra money, so she was trying to do a lot of upfront interaction with the agencies reviewing
210 it. When all reviews were completed, the combined comments could be integrated and
211 brought to 100% design.
- 212 • She reviewed major project design challenges as follows:
 - 213 • The site is very small. Many uses were being put in a very small space. The bulk of the
214 area was on 6.2 acres between the 2 creeks. Moving any feature even slightly misplaced
215 other site features.
 - 216 • Site peculiarities included hard contours which created a stair-step down to the river
217 from McLoughlin Blvd. The Board proposed shaving off the hard edges to make a steady
218 slope. There was also a very steep slope in between Washington St and the entrance to
219 Kellogg Treatment Plant that precluded entering the site in an alternate way than
220 proposed at this time.
 - 221 • The Board attempted to place the elements to work well on the site, to meet the
222 requirements of the permitting agencies, to maximize the funding potential for construction
223 grants, and to acknowledge the varied user interests, including boaters, open spacers, bike
224 riders, and those wanting to canoe or sail.
 - 225 • She reviewed certain site design elements influenced by multiple factors, including:
 - 226 • The boat ramp and parking lot locations needed to maximize the open space to the
227 north. If the boat ramp remained at Jefferson St, it would go right through the main lawn
228 area. The vehicle/pedestrian interface was separated as much as possible with the
229 vehicles kept to the south end and the people and open spaces to the north.
 - 230 • The plaza was central to the design, creating a wheel in the middle from which
231 everything radiated out. By locating it near Monroe St, people would be potentially drawn
232 from downtown to the plaza and into the park.
 - 233 • The play area was located far away from vehicles; however, the DLC suggested it might
234 be too far from the bathrooms in the central plaza. Design modifications were being
235 considered to move the play area closer to the bathrooms. The current placement of the
236 play area maintained a larger lawn area; however, it might be able to be tucked up by
237 the bathroom without detrimental aspect to the design.
 - 238 • The donation agreement with the Kleins for the Klein Point area at the north end of the
239 park included a request that the area be kept relatively natural. Nothing more than a
240 pathway should be added.
 - 241 • She discussed 4 big issues/challenges for the project as follows:

- 242 • Issue #1 Changing vehicle access to the park. Closing and replacing the Jefferson St
243 and Washington St entrances with one access at the southern end of the site was a
244 major challenge. The proposed entrance was on property owned by the County, not the
245 City. The Board was working on that relationship.
- 246 • Trucks from Kellogg Treatment Plant removed biosolids from the site and exited at
247 Washington St, which has a full traffic signal. The proposed entrance south of
248 Kellogg Creek would allow the trucks to go south or enter the left-hand turn lane
249 without any problem, but turning north from Riverfront Park onto McLoughlin Blvd
250 would be a problem for all vehicles. If the proposed access area had to be modified,
251 it could affect other aspects of the park.
- 252 • **Chair Klein** noted that a signal light existed, which would protect traffic turning
253 into the southbound lane of McLoughlin Blvd when red.
- 254 • She reviewed traffic circulation for boaters, noting that the area around the existing
255 Washington St entrance was very steep and had a small turning radius.
- 256 • Issue #2 The transient dock was located in an area being questioned by many of the
257 agencies reviewing the project. The transient dock itself was not a challenge, but its
258 location with respect to the boat ramp and mouth of Kellogg Creek, and the increased
259 activity between the two. There was concern about the impact to the fish passage in
260 Kellogg Creek, but to date, no one had stated exactly what the worry was. It was the
261 Board's job to prove that the dock would not have a negative impact on fish. The
262 transient dock could be eliminated, but the Board was trying to hold on to it as long as
263 possible.
- 264 • Issue #3 The pedestrian bridge. Staff suggested that the bridge be removed from the
265 current application and revisited at a later date because it was expensive to design and
266 build due to engineering details. Other regulatory agencies were also hesitant about the
267 pedestrian bridge. The Board was not sure what staff and other regulatory agencies did
268 not like about the bridge, but when it was designed, the Board would be back.
- 269 • Issue #4 The boat ramp was strategically located after 8 years of hard work, close to
270 Kellogg Creek and in the WQR area. If the ramp had to be moved, it would change the
271 dynamics of the whole site. Different locations had already been explored, discussed,
272 and rejected.
- 273 • She summarized the next steps for Riverfront Park. The project was at 75% design and
274 would be at 100% after all comments were received. DLC comments were in-hand and the
275 Board would interact with the DLC regarding design changes to meet their criteria. The

276 Board would work with the County and ODOT on the access issue over the next couple of
277 months. The Corps' conditions were expected by December 2010. Final approval from the
278 DLC and Planning Commission would be needed before moving forward on major steps.
279 The Board hoped to apply for grants from the Oregon Parks and Recreation Department,
280 Oregon State Marine Board (Marine Board), and some foundations in April 2011.

281

282 **Gil Williams, David Evans & Associates**, 2100 SW River Parkway, Portland, OR 97201
283 reviewed the proposed Riverfront Park design via PowerPoint with the following additional
284 comments, while also addressing clarifying questions from the Commission:

- 285 • The project had multiple layers physically and from a regulatory standpoint in addition to the
286 program and community needs for the park. The design attempted to balance all those
287 needs with the regulatory compliance.
- 288 • Being involved in the original Downtown Land Use Framework Plan, he has heard the
289 public's comments and input about the riverfront for years and understood the diversity of
290 opinions as well as the considerable change in opinions.
 - 291 • The riverfront was one of the City's greatest amenities so accessing the water was
292 important, as well as providing a diversity of activity.
- 293 • The park was separated into 4 major parts: the overlook area, which was separated by
294 Kellogg Creek, the boat ramp, plaza, and amphitheater/playground area. The desire was to
295 break up the spaces and create some separation between autos and pedestrians.
- 296 • Overlook at Kellogg Creek. The 18-ft to 20-ft elevation drop from the curb to the lawn area
297 near the existing Washington St access made grading difficult and entry to the Kellogg
298 Treatment Plant and boat ramp almost impossible.
 - 299 • A slight grade separation did exist between the deck and parking area to facilitate
300 stormwater treatment. Runoff from the impervious area was directed into swales and
301 sunken planters within the plaza. He also indicated a grade change needed to
302 accommodate an Americans with Disabilities Act (ADA) accessible slope across the
303 bridge.
 - 304 • While the overlook deck was indicated as solid concrete, the material had not yet been
305 vetted. The idea was to use precast concrete panels to save costs. Other possibilities
306 were a tray with pavers on top or transparent grading, which was not necessarily the
307 right choice with a sheet pile underneath.

- 308 • The Marine Board criteria required restrooms within 50 ft of the top of a boat ramp, so in
309 order to get Marine Board funding, the pedestrian bridge on the north side at the top of the
310 boat ramp had to lead to a restroom.
- 311 • Stormwater overflow was managed onsite, so no direct runoff was released into the river.
312 Examples of roadside and parking lot stormwater treatment facilities common in Portland
313 and installed on Logus Rd in Milwaukie were shown.
- 314 • He explained that pervious asphalt was an oil-based product versus concrete, which is a
315 cement-based product. Impervious concrete is more porous than typical concrete and
316 looks like concrete, but water goes right through it. Different solutions were available
317 including pavers with gravel joints that allowed for infiltration of stormwater.
- 318 • The sheet pile wall was very prominent, so the design tried to de-emphasize it by shortening
319 the parapet by 2½ ft to 3 ft, capping it, cantilevering the deck and installing a rail to bring the
320 height down visually from the river. Some of the look could also be mitigated with plantings,
321 although they required more maintenance. The patina of the sheet pile under the deck may
322 not be a bad look. The cantilever and precast concrete would help keep the underside clear
323 of support structures as much as possible, allowing for a cleaner look. Public art was
324 potentially a good way to mask the form work.
- 325 • Faint drawings on the Kellogg Creek Bridge slide indicated the future possibility of a
326 pedestrian underpass beneath McLoughlin Blvd to the downtown area. Underpassage
327 connection had been considered as part of the original scheme.
- 328 • Plaza The main plaza met the community's strong desire to make the park an extension of
329 downtown. McLoughlin Blvd was seen as an obstruction that separated downtown from the
330 river. The plan was to create a physical and visual connection to downtown. The look of
331 McLoughlin Blvd would be softened by a median and street trees on both sides of the street,
332 substantial sidewalks, and crossings, which could be enhanced. The main intent was to de-
333 emphasize McLoughlin Blvd and emphasize the east/west connection to the river. Once in
334 the park, the intent was to create elements to draw people through the plaza to the water.
335 The main flow of the plaza was parallel to McLoughlin Blvd, but the perpendicular features
336 would draw people to the water.
- 337 • The fountains were designed for wading, with areas to sit, get in, and touch/interact with
338 water. He displayed examples of other fountains featuring basalt rock.
- 339 • He confirmed that the water flowed and recirculated through 3 connected pools on the
340 north side of the steps and that a third water feature was a single large basalt on its side
341 with a channel carved in the top for water to flow.

- 342 • The restoration of the riverbank would include dense, low, riparian vegetation, and not
343 grass, which would encourage people to use the trail and steps to the river instead of
344 tracking down the bank. Another sticking point with federal regulators was providing any
345 access to the river, but again, the Board was balancing civic desires with regulatory
346 compliance.
- 347 • Proposed interactive fountain features were displayed with shallow wading pools at end of
348 the steps. He described the transition from the city's urban environment across the plaza
349 with some sense of a natural element in the middle, then breaking down the urban
350 hardscape into a more natural softscape with the grass and then ultimately down to the
351 Willamette River.

352

353 **Commissioner Churchill:**

- 354 • Asked how non-motorized boat launching would occur.
- 355 • **Mr. Williams** replied that non-motorized boats would launch from the boat ramp,
356 boarding dock, or transient dock. At one point, the area north of the boat ramp was
357 proposed for non-motorized boats, but they believed regulators were balking at that idea.
- 358 • Stated that eliminating non-motorized boat launching seemed like an oversight. Offloading
359 roof-mounted kayaks and canoes in an area of vehicles backing trailers down the ramp
360 seemed like a collision. He understood it was a regulatory-driven process, but it seemed
361 there should be some push back to accommodate more than motorized boat traffic.
- 362 • **Mr. Williams** responded that the existing boat ramp was a single lane. The proposed
363 design would hopefully provide some order, rather than the random launching of boats.
364 Queuing space was available along the entry road where people could take non-
365 motorized boats off to hopefully limit conflicts. They had considered the issue.
- 366 • Was not convinced yet that it was well resolved. He wanted to understand more studies that
367 the Applicant completed.

368

369 **Commissioner Bresaw** asked if kayaks could be carried down the steps.

- 370 • **Mr. Williams** responded that the stairs were not necessarily for that purpose being located a
371 long way from parking. They had planned for non-motorized launching north of the actual
372 boat ramp, but regulators wanted to limit access along the riverbank, so the Board kind of
373 gave in on that, however the idea could be expanded on.

374

375 **Mr. Williams** continued reviewing the Riverfront Park design via PowerPoint slides:

- 376 • He noted that the slides showed vegetation, but explained that shaded areas on the slides
377 indicated high water. Though much of the riverfront would be inundated at times, the design
378 maximizes use of the space. The graphics showed low water conditions.
- 379 • Amphitheatre/Play Area The amphitheatre was a small performance space on the north
380 side. No play structures were shown, but the play area would include some vertical
381 elements. The restroom was approximately 120 ft from the play area.
- 382 • He explained that physical earth buffers, including a 10-ft sidewalk, a planting strip,
383 berms and grading, would isolate the children in the play area from McLoughlin Blvd,
384 while also providing a sound buffer for the recessed amphitheater.
- 385 • The amphitheater was about 150-ft across with many informal areas, such as seating on
386 the slope. He showed the possibility of moving the play area closer to restroom, with the
387 potential to expand the amphitheatre. People would probably sit on the playground
388 equipment and retaining walls.
- 389 • The Johnson Creek overlook would not be addressed specifically. He confirmed the
390 intent of the overlook was to be able to look up into Johnson Creek and down the
391 Willamette River. He reviewed the architecture of the overlook, which would maintain the
392 existing oak tree, provide a natural stone path, and a stone plaza with a small sitting
393 wall. This was the natural end of the park at the mouth of Johnson Creek, so the idea
394 was a more passive, less active use.
- 395 • Restrooms The main restroom's design was low profile to keep it out of the viewshed. The
396 location was on the lower terrace, so ideally the view from McLoughlin Blvd would be over
397 the top of the restroom. He indicated plantings that would further obscure the building. Some
398 DLC comments suggested lowering the wing walls' parapets. He explained how the
399 restroom was situated on the site. Single occupancy restrooms were on either wing for off-
400 use times, providing the City flexibility in terms of use.
- 401
- 402 **Commissioner Churchill** asked if any comments were received from the police regarding
403 oversight of the park during off hours.
- 404 • **Ms. Herrigel** responded that the Board had not specifically asked the police department to
405 review the plan yet, but a team would review the operational aspects, from the fountain to
406 policing, including what materials were best for vandals. The maintenance people from
407 North Clackamas Park were reviewing the plan and proposed materials. Asking the police to
408 also review the plans for hiding and view was a good idea.
- 409

410 **Chair Klein** asked if the Board had considered a green roof for the restroom.

- 411 • **Mr. Williams** replied there had been questions about incorporating a green roof. Ideally,
412 they were very low maintenance. The small surface areas of the proposed roofs already
413 drained into adjacent planters, so incorporating a green roof would only limit water that
414 would eventually end up in a planter. The net gain for incorporating a green roof had to be
415 considered, as well as the maintenance aspects. The handout submitted by landscape
416 designed Rebecca Ives showed a small green roof that could be done. Green roofs were
417 good ideas but the ultimate value had to be weighed.

418

419 **Mr. Williams** continued his presentation, noting the following design aspects:

- 420 • The DLC commented that they did not necessarily like the concrete base of the main
421 restroom facility, so options were being reviewed to soften the look.
- 422 • The smaller single-occupancy restroom at the top of the boat ramp was the same style
423 and finish as the larger restroom.
- 424 • He described the Park's proposed lighting plan and patterns. The idea was to keep the park
425 fairly low-lit at night, to avoid light pollution and maintain views.
- 426 • The transient dock would be lit so boats did not hit it at night. The regular decorative
427 streetlights on McLoughlin Blvd would provide some ambient light to the park. Overhead
428 cobra lights would also provide a lot of light wash.
- 429 • He showed the existing and proposed WQR areas indicating the areas of disturbance and
430 the plantings proposed to mitigate disturbances.
- 431 • He reviewed the proposed plants shown in the planting plan. Many of the same plants used
432 in the city and along McLoughlin Blvd were incorporated into the park planting plan.
- 433 • He displayed a stabilization treatment project on Portland's South Waterfront completed
434 about 12 years ago. The existing grade was similar to what they were dealing with at
435 Riverfront Park. The type of material used to create a stable base varied, but they would try
436 to match existing materials. He noted that some of the Applicant's submitted graphics
437 showed what looked like lawn beneath the pathway; however, the riverbank design slide
438 better represented those plantings, which would limit people from randomly leaving the trail.

439

440 **Chair Klein:**

- 441 • Stated that he did not see bike racks or bike access near the restroom.
- 442 • **Mr. Williams** responded that bike racks were part of site furnishings, and would be
443 included on a long list of benches, water fountains, and trashcans. They would be at

444 least to Code if not more, with bike parking in different parts of the park. Large plaza
445 areas would also accommodate site furnishings.

446 • **Ms. Herrigel** indicated that 2 bike racks were already in the design of the overlook at
447 Kellogg Creek. Another bike rack was proposed for the play area.

448 • Asked if bike access to the trails from McLoughlin Blvd was easy enough. It did not appear
449 wide enough to ride a bicycle to the bathrooms and then continue south onto the Trolley
450 Trail.

451 • **Mr. Williams** indicated where the onsite bike trail connected with the Trolley Trail and
452 described bike traffic circulation on the site. The onsite bike path maintained a width to
453 accommodate both pedestrians and bikes.

454

455 **Commissioner Batey** asked if the pedestrian bridge could be made less bike-friendly to urge
456 bike riders to go another way. Was it cheaper or easier to resolve some of the planning issues if
457 the bridge was quite narrow and pedestrian oriented.

458 • **Mr. Williams** indicated it was intuitive for bikes to go back up along/over Kellogg Bridge
459 rather than the pedestrian bridge, due to steps and the narrow way. Ballards could also be
460 installed at the entries. Some width needed to be maintained for foot traffic both ways
461 because people would want to stop to look at the views.

462

463 **Commissioner Churchill:**

464 • Commented that Smith and Bybee Lakes were non-motorized lakes that had ample boat
465 access and were good examples of how to get access. They were more sensitive waterfowl
466 areas than Willamette River. Removing the transient ramp to the transient dock would cause
467 a collision of non-motorized boat haulers and pedestrians and seemed a huge oversight in
468 the plan. He asked what the reaction was from regulatory agencies and what options were
469 considered. He thought non-motorized boat access was addressed several years ago in the
470 plan, so was surprised that it was not addressed now.

471 • **Mr. Williams** responded that the original plans showed a small path for non-motorized
472 boats, similar to the canoe launch at Smith Lake. However, Smith and Bybee Lakes
473 were not under the same regulations as Riverfront Park. The Applicants had a pre-
474 application meeting with the Corps, National Marines Fishery Service (NMFS), and DEQ
475 at the site and showed them conceptual drawings that included the path for non-
476 motorized boats. The regulators specifically said they wanted to discourage having a lot

- 477 of different access points along the river. The Board had to choose their battles and
478 knew that other things would require favorable decisions.
- 479 • Wanted to be supportive of the project, but was very disappointed that non-motorized boat
480 access was not addressed now that the plan was at 70% design phase. He wanted to be
481 respectful of all the work that had been done, but caving in and giving water access to a
482 single-lane motorized boat access was a huge hole in the project. Even the transient dock
483 was in question. He wanted to have confidence that the Commission's feedback would be
484 taken and the issue looked at again; however, he did not believe it was still being
485 considered.
 - 486 • **Mr. Williams** responded that it was not so much a function of where they were with the
487 design documents, but when the Joint Permit Application (JPA) was submitted. The
488 issue could certainly be raised verbally with the regulators, but changing anything below
489 ordinary high water at this point would represent a change in the application and the
490 Board had to be very careful about that. He could ask if it was possible to reincorporate
491 what the NMFS reviewer saw.
 - 492 • Stated that earlier concepts featured a lot of non-motorized access to the park. It was not
493 well publicized or noted that the access was removed from the project.
 - 494 • **Commissioner Batey** asked if any conversations occurred with Willamette Riverkeeper
495 or representatives of non-motorized boaters.
 - 496 • **Mr. Williams** replied that unless those representatives were at the public meetings,
497 he was not sure if they were specifically represented.
 - 498 • Noted that those groups would have to closely track the application to notice the loss of non-
499 motorized boat access. He did follow the development of the application and missed that
500 change, which was a loss for the City.
- 501
- 502 **Chair Klein** asked hypothetically, what would be non-motorized access to the river. He did not
503 pay close enough attention in the early stages to understand what was necessarily lost. What
504 was done at other locations to create access for non-motorized vehicles?
- 505 • **Mr. Williams** said there was an informal, asphalt boat ramp at Smith and Bybee Lakes into
506 the Columbia Slough on the south side of the lake. On the Smith Lake side, which was used
507 a lot, on-street parking existed with about a 50-ft long gravel path winding down to the edge
508 of the water.
- 509
- 510 **Commissioner Churchill:**

- 511 • Commented that there were 3 launches at the lakes. The one along the rail corridor off
512 Marine Dr was heavily used.
- 513 • **Mr. Williams** clarified that boat ramp was a gravel path with wood sides.
- 514 • Clarified the issue involved dedicated portaging, so non-motorized boaters were not fighting
515 with vehicular-based boat launching, bikes, et cetera. But now, it was down to not much
516 access except for motorized boats.

517

518 **Chair Klein:**

- 519 • Requested a more detailed drawing of the boat launch area.
- 520 • **Mr. Williams** said they only had engineering drawings showing how it functioned. He
521 indicated where the high water line was, noting it was not that far from the parking area.
522 He confirmed that the brown area on the map was a boarding dock, which would be
523 hinged to raise and lower with the river's level.
- 524 • Confirmed the boarding dock could be widened, which would be an option for non-motorized
525 boat access.
- 526 • **Mr. Williams** explained that the Corps was trying to limit dark places for predator fish to
527 hide, especially at the mouths of creeks where juvenile fish migrated. The wider that
528 path was the bigger area the predators had to hide. It could be wider, but it would be
529 more problematic than a gravel path to the water's edge.
- 530 • The drive ramp was about 15-ft wide, and the boarding dock about 6-ft wide.
- 531 • **Ms. Herrigel** agreed the lack of non-motorized access was an oversight. She believed
532 non-motorized boats typically need a dock that is 6 in off the water's surface, as
533 opposed to the transient dock or boat ramp dock which were about 1 ft off the water's
534 surface. She suggested putting non-motorized boat access off the side of the transient
535 dock; however, if the transient dock was removed, the non-motorized access would also
536 be gone. The non-motorized boat dock on the east side esplanade by Alder Creek still
537 had a fairly long ramp, so she was not worried about it with the transient dock. She
538 would have the Andrew Jansky of Flowing Solutions talk with the Corps and ask where
539 non-motorized access could be integrated. Staff could probably tell how the project
540 might be conditioned to integrate it or return to the Commission with another idea. She
541 stated the Board was open to researching new ideas.

542

543 **Commissioner Churchill** stated the default was that people would trash the riparian area at the
544 edge of the water, which he did not want to happen. He was interested in how the issue slipped
545 through and was surprised it was not addressed.

546
547 **Chair Klein** called for public testimony in favor of, opposed, and neutral to the application.

548
549 **Gary Klein, 10795 SE Riverway Ln**, indicated on the map where his family had lived on Klein
550 Point since 1948. He was a neighbor to the park, donated the land on the north side, and is vice
551 chair of the Riverfront Park Board.

- 552 • He was in favor of the whole idea. It was a great improvement to what existed. He
553 understood the concern about launching non-motorized boats, but the project's cost was a
554 consideration. The Marine Board was one source of assistance and was funded by
555 motorized boats. Anything else would come out of the City's pockets. They were not trying
556 to skip anything, but it was a matter of funding millions of dollars.
- 557 • The north end of the park would be a natural area, which he was looking forward to.
- 558 • Some emergency improvements had been done to the boat dock, but the project would
559 make the boat launch nicer. He owned a canoe and hoped he could launch it from the ramp.
- 560 • He liked the idea of moving the boat launch to a safer location because there was an eddy
561 on the north side and during the winter it reversed directions. The current went upstream
562 along the northern part of the park, so its location was an iffy spot for launching boats. He
563 noted that the water did come up high and indicated where the water rises. He recalled that
564 water flooded a portion of McLoughlin Blvd in 1996. Only the high points especially north of
565 the park would be above water level in a storm like that. He believed the 100-yr flood plain
566 had been raised slightly.

567
568 **Dave Green, Riverfront Board Chair, 5431 SE Willow St**, stated he had been on the Board
569 since 1998. He supported the proposed plan as described. The whole Board supported and
570 unanimously backed the design. He assured the Planning Commission that the Board had
571 worked tirelessly over the last 13 years to move the project forward. Some compromises had
572 been made, but the park represented the community and a lot of input from people in the
573 community. He offered to answer questions.

574

575 **Commissioner Churchill** asked about the suggested reorientation of the play area closer to
576 the restrooms. He heard from Mr. Green that the entire Board was unanimously supportive of
577 the design as presented today.

- 578 • **Mr. Green** responded that the play area relocation was a suggestion from the DLC, but
579 there were multiple sides to that discussion. He believed that having the play area lower in
580 the park and protected from McLoughlin Blvd made it more secure than putting it closer to
581 the plaza and access to McLoughlin Blvd. The entire park was just 8.5 acres, so it was not a
582 huge distance from one end of the park to another. He believed it was fairly easy to make
583 the trek from the playground to the restroom at its current location. He did not know that the
584 Board felt particularly strong about it. They did like the design as proposed. There were
585 advantages to having the play area near the amphitheatre where children might be able to
586 play while adults attend a concert.
- 587 • In response to concerns about non-motorized boat access, he said they had been pushed
588 back from the water's edge more than expected.
 - 589 • He believed it might be worth attempting to provide another access north of the
590 proposed boat ramp near the pedestrian bridge. Even an informal launch for canoes
591 would appeal to people, who could park in the parking lot and come down to the river
592 away from other boat traffic. Without structured trails, there would be rabbit trails through
593 the brush as people made their way to the river.
 - 594 • It might be nice to convince the regulatory agencies that doing something a bit more
595 structured might prevent the rabbit trails. He believed the Board would be supportive, but
596 they were just responding to the push back from regulators.

597
598 **Greg Hemer, DLC Member, 5822 SE Harrison St**, stated that the DLC had comments about
599 the structures, but believed the overall plan was very nice. The DLC liked the aspect of the river
600 flow throughout the design, which tied into the front of City Hall and the bus shelter at Jackson
601 St. The park's design gave an overall theme of the rivers, flows, and creeks. The park was very
602 well set up for activities that can happen over the summer.

603
604 There was no further public testimony.

605
606 The Commission took a brief recess and reconvened at 8:54 p.m.

607

608 **Chair Klein** asked if the Commission had any specific questions regarding traffic since the
609 City's traffic consultants, DKS & Associates, were available.

610

611 **Commissioner Bresaw** believed traffic was a concern that was not ironed out yet, especially
612 with cars turning left to head north from the park, and specifically since Clackamas County
613 owned the property. She did not know if there was a solution at this point.

614

615 **Chris Maciejewski, DKS & Associates**, stated that the left turn out of the site met ODOT's
616 standards, but did not meet the City's Level of Service (LOS) D standard, which was delay-
617 based. In peak hours, the findings would be LOS F, which meant one minute or more to turn left
618 out of the site. ODOT's standard was not based on delay, but on capacity during the hour, so it
619 met their requirement because not enough volume existed to warrant a traffic signal at that
620 location. Because the turn met ODOT standards, trying to get ODOT to permit something
621 different would be difficult. Because a median was present and it was a T intersection, one
622 option was to consider striping a certain way so vehicles could turn left into the median and then
623 merge over, creating a 2-stage left turn, which would significantly reduce delays. That option
624 was possible if enough distance was available for proper striping between Washington St and
625 the proposed access point.

626 • He clarified that a traffic signal would provide a fair amount of opportunity for right turns, but
627 the left turn would be difficult.

628

629 **Commissioner Churchill** asked for ideas regarding the length of the left-hand turn lane pocket
630 heading north on McLoughlin Blvd, given the size and length of boat trailers, etc.

631 • **Mr. Maciejewski** replied he had not seen any potential design drawings, so had not
632 reviewed that aspect. The City would also want to account for trucks turning into the
633 treatment plant, as well as boats and trailers. ODOT design standards for left-turn pockets
634 tended to require longer lengths than typical city street standards. There would be minimum
635 taper and storage lengths to meet ODOT requirements, which might be enough.

636 • **Mr. Williams** stated from the audience that the queue was designed to ODOT standards.

637

638 **Commissioner Batey** asked if building the left-turn lane meant extending the surface of
639 McLoughlin Blvd to the west. No capacity was available to the east due to the bank of Kellogg
640 Creek.

- 641 • **Mr. Maciejewski** replied that from the information he reviewed, the width of the road could
642 handle restriping. He did not anticipate any widening of McLoughlin Blvd.

643

644 **Commissioner Churchill:**

- 645 • Asked if the railing on McLoughlin Blvd's eastern edge was considered, because it was very
646 tight with not much of a shoulder. Adding a lane was discussed, which would push the street
647 to the west.

- 648 • **Mr. Williams** responded outside of the range of the microphone.

- 649 • Asked how many trailer parking stalls were onsite.

- 650 • **Mr. Maciejewski** responded that the 40 existing trailer parking stalls were being reduced
651 to 32 parking stalls.

652

653 **Chair Klein** called for additional comments from staff.

654

655 **Mr. Marquardt** confirmed the Commission had no questions regarding stormwater management
656 or flood plain regulations. He thanked the Board and DLC members for attending.

- 657 • He clarified that one condition regarding the WQR area limited trails to areas where it was
658 necessary to provide pedestrian connections. Staff understood the trail leading from the
659 plaza to Kellogg Creek area was for a future improvement to Kellogg Creek, so
660 recommended that it not be built until an actual connection was to be made.

- 661 • Another suggested condition was that the design of the small restroom facility include a
662 green roof to minimize stormwater impacts.

663

664 **Commissioner Batey** understood staff suggested that the variance should be open-ended. She
665 believed that some timeframe, like 5 years, might be better than leaving it open-ended.

- 666 • **Mr. Marquardt** responded that it was difficult to set time limits and completion goals
667 because the project was multi-phased. Staff opted to not have the Applicant return to the
668 Commission for review of substantial completeness.

- 669 • **Ms. Mangle** stated that part of the Conditional Use (CU) aspect of the Willamette Greenway
670 was to address impacts. Since this use as a riverfront park was so deeply ingrained in the
671 City's policies, Comprehensive Plan, Riverfront Plan, Downtown Plan, and zoning, a zone
672 change would be required if the site was improved for any other use. There were no offsite
673 impacts to mitigate, so it seemed less important to have a time limitation. CUs were typically

674 along the lines of a business in a residential neighborhood, where more traditional impacts
675 were seen. Staff was open to suggestions from the Commission, however.

676

677 **Chair Klein** confirmed that river flow was the reason the dock was on the south and not the
678 north side of the boat launch. If the boat launch was moved to the north side, it would have less
679 impact on Kellogg Creek and may ease pedestrian and non-motorized boat access because
680 they would not cross in front of the boat launch to get to the ramp. Although, the driver would
681 have to go to the passenger side to tie the boat down when backing a boat down the ramp.

682 • **Mr. Green** confirmed the boat launch location was a functional issue of water currents
683 moving to the north. Boat users do not want to tie up upstream of the walkway because the
684 boat was constantly slammed into the ramp. When the water level was very high, the boat
685 was actually pushed up against the ramp. Boat users like to tie boats downstream of the
686 ramp/walkway to have better control of their boat.

687 • **Commissioner Churchill** stated that having launched boats before, it was when pulling
688 away from the dock one wanted to drift out over the trailer as opposed to having to pull it
689 away from the dock toward the trailer.

690 • **Mr. Green** added that thinking about the back end of the boat swinging around while pulling
691 away from the dock made it difficult to maneuver.

692

693 **Commissioner Batey:**

694 • Confirmed that regulators were not concerned about the size of the dock, but the crossover
695 traffic. The proposed transient dock was larger than the dock proposed in previous iterations
696 of the plan with 2 long straight docks going out.

697 • **Mr. Williams** added that people would be launching and pulling back and forth across
698 the Kellogg Creek channel. The Applicants had to prove how many boats would harm
699 how many fish. The regulators were asking the Applicant to defend having the transient
700 dock. The closest point of the transient dock was in 20 ft of water at a low water level. It
701 was a scour edge and dropped off fairly rapidly.

702 • Asked what could be done and what the Commission could do about non-motorized access.

703

704 **Commissioner Churchill** asked Mr. Williams to expound on the steps he might take regarding
705 non-motorized access and asked what regulatory agency was in charge.

706 • **Mr. Williams** clarified that NMFS was pushing the non-motorized boat access issue. The
707 Corps handled and distributed the application to various agencies for reply, including DEQ

708 and NMFS, and to the public for comment. Prior to submitting the application, a pre-
709 application conference was held onsite. The specific issue of non-motorized access was
710 discussed by biologists at the meeting, as well as an issue with the proximity of the 2 docks
711 to the mouth of Johnson Creek. The regulators still had an issue with access from the plaza
712 down to the water, and the Board needed to further detail the intent of those areas.

713

714 **Commissioner Bresaw** asked if the regulators would prefer getting rid of the transient dock
715 and having access for people carrying kayaks and canoes; if the City had to weigh one over the
716 other.

- 717 • **Mr. Williams** responded the regulators would probably prefer nothing there. Mike Stacey of
718 the Board talked a lot from the standpoint of mostly motorized boat users. The transient
719 dock was there because a bigger group of people wanted it. It was a small site and they
720 tried to accommodate as many programs as possible.

721

722 **Chair Klein** did not necessarily think the dock was just a vessel to be used by boaters, but
723 something to get people out onto the water as well.

- 724 • **Mr. Williams** agreed the dock would inevitably be used for that.

725

726 **Commissioner Batey** asked if the Corps or NOAA process for public comment included
727 publishing something in the federal register for public comment and if so, had it occurred. It
728 would provide an opportunity for non-motorized boat users to know what was happening.

- 729 • **Mr. Williams** confirmed that the public notice timeframe had passed. Non-motorized boat
730 access had not disappeared. The Board thought they could accommodate it on the same
731 dock. The Commission's points were well taken, and some things could still be done,
732 including lowering the dock to make it more accessible for non-motorized boat launching.

733

734 **Commissioner Churchill:**

- 735 • Asked if NOAA would be open for more discussion.

- 736 • **Mr. Williams** affirmed that the Board could absolutely talk more with NOAA about non-
737 motorized access.

- 738 • Understood the economic pressures of financing the project and the importance of getting
739 the Marine Board on board. However, he was considering the impact to fish in the area from
740 prop wash versus a little loss of riparian area for a non-motorized boat launch. He was trying
741 to understand the concern of NOAA, who was clearly comfortable with a motorized boat

742 launch. Motorized boats tended to gun their boats to get them up on their trailers, as
743 opposed to using their winch, causing a lot of prop wash and jet wash, which had a huge
744 impact on the fish.

745
746 **Commissioner Batey** added that especially in light of all the riparian restoration in the plan, it
747 seemed like **[inaudible]**.

748 • **Mr. Williams** responded that he was told by a permit expert to throw reason out the window
749 when dealing with regulatory agencies. He was frustrated and understood the Commission's
750 frustration. The Board was responding more to what they were hearing from regulatory
751 agencies.

752
753 **Chair Klein** commented that 16,400 questionnaires were sent out and 75% of the 1,779 that
754 were returned had motorized boat use on them.

755
756 **Commissioner Batey** did not recall that the questionnaire differentiated between motorized and
757 non-motorized boat access.

758
759 **Chair Klein** said he did not know either, but believed that 75% of the respondents probably
760 were not going to kayak.

761
762 **Commissioner Churchill** stated boat access to the river certainly was a big concern.

763
764 **Commissioner Batey:**
765 • Asked whether a 5-year time limit on the variance was enough. Ms. Mangle made a good
766 point that the project was consistent with the zone, but the Downtown Plan was now 10
767 years old and everything downtown was completely inconsistent with the Downtown Plan.
768 The City looked very different over the course of 10 years, so she wondered if 5 years was a
769 reasonable time-limit window.

770 • **Mr. Williams** clarified that funding was a big issue.
771 • **Ms Herrigel** noted her 2006 memo said she needed \$100,000 for 6 months and the
772 Riverfront Park would be built. It was now 2010 and she had spent almost \$500,000. If a
773 lump sum of money was available and the park could just be built, it could be done in 5
774 years. The project was incredibly complex with several agencies monitoring it and
775 multiple sources of funding needed. She asked what the fear was in 5 years.

- 776 • Believed the Board should have to return in 5 years if the project was not completed and
777 deal with the Commission at that time.
- 778 • **Ms. Herrigel** said that if she had to come back in 5 years, then that's what she had to
779 do. The reality was it could take at least 5 years with the phases. If it was really an
780 administrative procedure, it was not that arduous.
- 781 • **Ms. Mangle** clarified that it would not be just an administrative procedure, but involved a
782 whole new application and hearing. The intent of the time limit was not to encourage
783 projects to happen, but to mitigate for impacts. Adding any extra steps for this project
784 would not make this project go any faster, but would be one more thing for the Applicant
785 to do.
- 786 • **Ms. Herrigel** agreed having to submit another application would take longer.
- 787 • **Ms. Mangle** asked the Commission to be sensitive to that and if they believed
788 something needed to be checked on, to be clear about what they wanted to achieve, and
789 structure it accordingly.

790

791 **Vice Chair Harris** requested input from the Applicant about staff's recommendation to remove
792 the pedestrian bridge and walkways from the application.

- 793 • **Ms. Herrigel** understood that staff was not saying to eliminate the pedestrian bridge, but
794 when the design was completed, the Board should return for review at that time. Currently,
795 they had not shown the design or materials. She was fine with returning to submit the design
796 for pedestrian bridge and attached areas in context with the rest of the riverfront.

797

798 **Chair Klein** closed the public hearing testimony portion of the hearing at 9:24 p.m. He
799 summarized that the key issues regarded the variance, left-turn, non-motorized boat access,
800 and removal of the pedestrian bridge.

801

802 **Commissioner Batey** asked if the Commission should consider continuing the hearing. They
803 had not had a chance to look at the received comments and she was especially interested in
804 Mr. Russell's remarks. A continuance might also allow the Applicant to provide more
805 information.

806

807 **Commissioner Bresaw** said that the application could also be conditioned so that unresolved
808 issues could return to the Commission for review.

809

810 **Commissioner Churchill** understood this was the Commission's one shot at the project
811 because it would return only as a limited review of the pedestrian bridge. If there were issues to
812 discuss, particularly the non-motorized boat access, he wanted to give the Applicant a chance
813 to respond. Some understanding and tweaking of the design features were needed. Otherwise,
814 the Commission should just deny or approve the project based on Code issues.

815

816 **Ms. Mangle** suggested proceeding with deliberations instead of worrying about continuation,
817 because it was not yet clear to staff what additional information the Commission wanted.

818

819 **Commissioner Batey** stated that her only concern was the non-motorized boat access, but she
820 did want to read the submitted comments.

821

822 **Chair Klein** stated he had no issue with the time limit variance and not much of a concern with
823 the turning issue. However, the non-motorized boat access was now more important to him. He
824 believed a non-motorized boat access could work, but wanted to see something better. He
825 understood that the Board had been working on the project for 12 years, which was amazing,
826 but he agreed with Commissioner Churchill that the Commission really only had one chance.

827

828 **Commissioner Bresaw** believed the play area was in the best place, away from McLoughlin
829 Blvd and protected. She had grandchildren and the distance from the play area to the restroom
830 distance would work. She did not like the bare concrete planned for the restroom, but if stamped
831 or accented like the picture submitted by Becky Ives, it would be very good. Though not the
832 most important thing, it was nice to have a curve to the main stairs. An arched gateway would
833 be nice to consider; something like a steel arch at the semicircle, laser cut with the inscription
834 "Milwaukie Riverfront Park." She favored non-motorized over motorized boats because they
835 were quieter; however, she hoped there was room for both. She was also concerned about the
836 Kellogg Creek area, but there was not much space there.

837

838 **Commissioner Churchill** complimented the Board on the placement of the boat ramp. It was
839 very nice to have it further south, leaving the more prominent point out in the middle where the
840 festival lawn is nearer to Klein Point. The overall design was very successful.

841 • He commented that current reviewing agencies had a fear of access to water. The
842 pendulum may have swung too far in the current culture. It was true no one wanted a

843 crowded beach and park, but a balance of connection with nature was appropriate. He was
844 surprised the regulatory agencies were giving grief about the access point.

845 • Milwaukie and the surrounding communities had encouraged non-vehicular access with bike
846 routes through the city and reducing fossil fuel transportation. The same pendulum swing
847 would come around eventually about boat access. Although the Marine Board was a great
848 source of funding, the amount of non-motorized boat traffic on the waterways was gaining
849 momentum over the last 10 years. The project may not be built for another 5 to 10 years, so
850 it should be considered, just as bike racks were not important 10 to 15 years ago.

851
852 **Commissioner Batey** restated that her only real issues were reading the comments and non-
853 motorized boat access. She was willing to go for an indefinite variance, but was concerned
854 about the precedent the Commission was setting on variance issues. This project qualified for a
855 variance because of the combination of the lack of neighbors impacted and the number of
856 layers of agencies needing to review. She would not vote for the variance based on the size of
857 the project alone.

858
859 **Vice Chair Harris** supported the variance, shared the Commissioners' concerns about non-
860 motorized boat access, and needed time to review the comments. He also wanted more time to
861 review the recommended conditions of approval to ensure he understood them completely.

862
863 **Chair Klein:**

864 • Acknowledged that the hearing would be continued and wanted to provide direction to staff
865 and the Riverfront Board regarding the non-motorized boat access.

866 • **Mr. Marquardt** believed that staff understood the basic concern about the importance of
867 providing non-motorized boat access, but asked what kind of information was needed in
868 2 weeks to sway a decision one way or another. Staff needed to be able to relate how
869 non-motorized boat access might affect an approval criterion.

870 • Commented that many decisions about non-motorized boat use would come from pressure
871 from the Board and the City's partners, rather than the Commission requiring it. Some of the
872 agencies might not allow something different than what was out there.

873
874 **Commissioner Churchill** understood the Board had moved past the point of pushing back
875 about non-motorized boats. He asked the Board to revisit the discussion with the appropriate

876 approval agencies and return to the Commission with a detailed finding that included more than,
877 "We just don't want that."

- 878 • It was not tied to the Commission process, but affected the design features of the park. He
879 believed it would take 4 weeks to get a response from the regulatory agencies.

880

881 **Chair Klein** asked if language could be crafted to say, "The Planning Commission had a desire
882 to move this into this area." He believed the issue of non-motorized boats was very important to
883 the Commission, but approval or denial of the project's design review did not hinge on that
884 issue.

885

886 **Commissioner Batey** agreed and doubted the Commission would vote against the project
887 based on the non-motorized boat issue, but the issue was not a design review one. Several
888 other applications were before the Commission.

- 889 • She believed the issue did go somewhat to the WQR for the protection of the riparian area
890 and avoidance of goat trails; the creation of something that was systematic and dedicated
891 for this purpose and minimizes the impact on the riparian area. The non-motorized boat
892 issue could be tied to the WQR.
- 893 • A single dedicated gravel path was better than multiple rabbit trails as people try to reach
894 the river.

895

896 **Chair Klein** noted the Commission was dragging the project out at best 4 weeks.

897

898 **Commissioner Batey** responded that the agencies would not answer until December and
899 questioned whether the Commission was under a rush at this point.

900

901 **Mr. Marquardt** clarified an outer timeline of 1 year existed for any land use application from the
902 date it is deemed complete. That deadline for this application was September 2010.

903

904 **Chair Klein** commented that having worked with staff, once a project got through planning the
905 process, it became easier. One month out of a 12-year process did not seem like that big of a
906 deal. He wondered what the Commissioners would get from reading the comments and
907 returning in 2 weeks to formulate a different plan. He was fine with a 2-week continuance, but
908 cautious about 4 weeks. He was not interested in waiting for regulatory agencies to make a

909 decision before the Commission approved the application based on an issue that was not a
910 deal-breaker at this point.

911

912 **Commissioner Churchill** confirmed that this was the only formal commission review the City
913 would have because the project would not go to City Council.

914

915 **Ms. Mangle** clarified the application would formally return to the DLC, unless as Commissioner
916 Bresaw suggested, the Commission wanted to see the project again. If so, it would have to be
917 structured and specific. Generally this was the last land use hearing. She confirmed that the
918 application could be appealed to City Council, but only by people who had commented to date.

919

920 **Commissioner Bresaw** believed they could condition the application enough to pass it tonight.

921

922 **Commissioner Churchill** agreed, but wanted to honor the process that took 12 years to get to
923 this point. A lot of information had to be absorbed about the project. He noted that he had
924 missed that non-motorized boat access was dropped from the project and was probably not the
925 only one to miss that. It deserved an answer for the public record and an awareness of what
926 happened.

927

928 **Chair Klein** asked if the Commission was reviewing just the information received so far since
929 the public testimony portion had been closed, or if the public testimony portion should be
930 opened again for new information.

931

932 **Ms. Mangle** asked what other information the Commission wanted to receive.

933

934 **Commissioner Churchill** stated that some discouragement came about and should be
935 documented. It may be, but he had not seen it and would like to understand how it happened.
936 He might have missed the public hearing process at NOAA to address non-motorized boat
937 access, but he did not believe he was the only person in Milwaukie who was interested in non-
938 motorized access for boats. It was included earlier on in the plans, which may have given
939 people comfort that the project was headed the right way.

940

941 **Commissioner Batey** said she had at least 2 people every summer ask about non-motorized
942 boat access because they did not want to portage out to Elk Rock Island.

943

944 **Commissioner Churchill** noted that a fair amount of people use the graveled banks of the
945 Willamette River near the current boat ramp for non-motorized boat access.

946

947 **Chair Klein** clarified that the Commission was asking the Applicant to go through their
948 information and provide an outline of the level of pushback they received from which agencies.

949

950 **Commissioner Churchill** requested that the Board provide some correspondence to explain
951 what the level of the pushback was, so the Commission could understand why non-motorized
952 boat access was not in the plan. Sometimes it came down to individuals representing agencies
953 on a field walk. Maybe it was a policy the agency had, in which case an explanation was needed
954 so the Commission could explain to the community why it happened.

955

956 **Chair Klein** asked if the Commission had any issues with the variance request.

957

958 **Commissioner Churchill** stated that his concerns about the variance were similar to
959 Commissioner Batey's, but he understood that the layers of bureaucracy reviewing the project
960 made it very complex. He was sympathetic toward an open-ended timeline.

961

962 **Chair Klein** recalled that it took 6 years to get funding for the Ball Michel Park, which was much
963 smaller and less complicated than Riverfront Park.

964

965 **Commissioner Bresaw** wished the project could start at the north end at Klein Point and move
966 south, because the riverfront would be improved. She believed Kellogg Creek needed more
967 work, and noted Mr. Russell's comment that fish passage should be considered first before
968 everything else.

969

970 **Chair Klein** added there would be a lot more happening with Kellogg Creek in the future, but it
971 was still up in the air. He confirmed that the Commission did not need more information about
972 the variance. He asked about the turn pocket issue.

973

974 **Commissioner Batey** requested more information about the turn pocket issue and how
975 McLoughlin would be restriped.

976

977 **Mr. Marquardt** noted Tab 6 of the current packet titled "Left turn Lane" showed the existing curb
978 and proposed striping.

979

980 **Commissioner Churchill** asked Brad Albert, Civil Engineer, to submit something via staff
981 stating how many trailered vehicles could fit in the 140-ft left-turn pocket and that the size was
982 sufficient according to traffic standards.

983

984 **Chair Klein** confirmed that the Commission favored having the pedestrian bridge removed from
985 the subject application and returning at a later date. He asked how the Commission should
986 proceed with regard to public comment, so the hearing was continued to just one meeting.

987

988 **Mr. Monahan** noted no one had spoken in opposition to the application, so advised allowing the
989 Applicant the opportunity to submit the new information either prior to or at the meeting, and
990 open the public hearing to comment only on the new information. If someone raised an
991 objection and requested additional time to review the new information, it should be granted. But
992 the Commission could get through the next meeting as the final action, unless additional time
993 was requested. Public testimony could also be restricted to addressing the new information
994 only, if Chair Klein stated that tonight.

995

996 The Commission discussed public comment procedures, debating whether to leave the
997 application open for comments about just the variance, non-motorized boat access, and left-turn
998 pocket. The decision was to err on the side of leaving the entire application open to public
999 comment. The application had a lot of information to understand, but the Commission did not
1000 anticipate a riot of public comment.

1001

1002 **Mr. Marquardt** stated that the Applicant did not believe 2 weeks was enough time for comments
1003 back from any regulatory agency.

1004

1005 **Ms. Mangle** understood that the request was for documentation of the process provided thus
1006 far, in which case 2 weeks was sufficient.

1007

1008 **Commissioner Churchill** clarified that if the discussion happened with a representative of a
1009 regulatory agency as they were walking the site, he did not consider that sufficient information
1010 for the Commission.

1011

1012 **Ms. Mangle** stated that she heard the request was for documentation of the discouragement
1013 that had happened thus far.

1014

1015 **Chair Klein** interjected that even if the worst-case scenario was received, while important, it
1016 was not a deal breaker. He suggested that the Commission get the information. The multiple
1017 agencies would not provide their reasoning at this point in time, because they would be
1018 deliberating on it for months. The Commission had to put a date on the application to move it
1019 forward.

1020

1021 **Commissioner Churchill** noted that the continued hearing was the last public hearing in front
1022 of the City.

1023

1024 **Commissioner Bresaw** asked why not condition the application to require the inclusion of non-
1025 motorized boats.

1026

1027 **Ms. Mangle** requested a brief recess to allow staff to confer with the applicant.

1028

1029 The Commission took a brief recess and reconvened at 10:05 p.m.

1030

1031 **Ms. Mangle** said that to best address the issues being raised, staff would work with the
1032 Applicant to document the past discouragement regarding the non-motorized boat access and
1033 try to address how the existing application could possibly accommodate non-motorized access.
1034 However, staff did not typically change an application, which is what was being proposed by the
1035 Commissioners, so conditioning the application to perform differently was preferred. If any
1036 Commissioner believed they would deny the application based on this issue, she asked that
1037 they work with staff to figure out what part of the Code it did not comply with because that would
1038 be serious and she wanted to be prepared for it. It was not clear to her that it did not comply
1039 with the Code. Perhaps the site could be better, or water quality issues addressed or that boat
1040 access could be addressed better by a different agency.

1041

1042 **Commissioner Batey** asked why it was different than a condition.

1043

1044 **Mr. Monahan** explained that a condition had to address how to make the application compliant
1045 with a Code provision with which it did not comply. The Commission had to identify where the
1046 Code stated that non-motorized access must be provided.

1047
1048 **Ms. Mangle** clarified that all conditions are tied to findings in the Code. They did not need to do
1049 so now, if non-motorized boat access was that big of a concern for any individual, they needed
1050 to have that conversation with staff.

1051
1052 **Commissioner Batey** said she was trying to understand why this issue was different from
1053 others that the Commission conditioned. For instance, stating that minimizing goat trails was a
1054 protection for the WQR.

1055
1056 **Mr. Monahan** said that might be the approach, but something was needed in the record to show
1057 that danger existed; that what was being proposed had the potential of harming the resource, so
1058 the Commission could craft a condition to prevent that harm from happening in order to maintain
1059 the resource at the proper standard.

1060
1061 **Ms. Mangle** added that the Commission could say that a motorized ramp was too impactful and
1062 that only a non-motorized ramp was wanted because it would be smaller. However, in this case,
1063 they were adding an additional feature, a non-motorized boat access.

- 1064 • She stated that staff would return with information about the number of vehicles that could
1065 stack in the potential left-turn pocket, documentation of the past discussions about non-
1066 motorized watercraft, and information about how the plan could potentially accommodate
1067 non-motorized watercraft. The record would remain open for all public comment.
1068 • She confirmed that staff's response to Mr. Russell's comments about the Kellogg Creek fish
1069 passage was included in the material attached to the blue memorandum.

1070
1071 **Commissioner Batey moved to continue Milwaukie Riverfront Park Redevelopment Files**
1072 **DR-09-01, TPR-09-03, WG-09-01, WQR-09-01, and VR-09-03 to a date certain of May 25,**
1073 **2010. Commissioner Churchill seconded the motion, which passed unanimously.**

1074
1075 **Mr. Monahan** confirmed that the Commission had left the record open.

1076
1077 **6.0 Worksession Items—None**

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7.0 Planning Department Other Business/Updates

Ms. Mangle distributed information about the City Council annual volunteer recognition party on May 24th. All the Commissioners were invited.

8.0 Planning Commission Discussion Items

Chair Klein noted that participation in the Race for Daze 5K Run and Walk on May 22nd at the waterfront was only \$25. A free pancake breakfast would be provided by Bob's Red Mill. All the funds went to Milwaukie Daze. Information was available online at <http://racefordaze.eventbrite.com> or people could contact Chair Klein.

Ms. Mangle noted that staff had distributed a replacement of the Riverfront Park Lighting Pattern Plan that had not printed correctly in the packet. It was the same graphic included in Mr. Williams' presentation.

9.0 Forecast for Future Meetings:

May 25, 2010 1. Worksession: Review Procedures Code Project

June 8, 2010 1. Joint Session with Advisory Group: Natural Resources Project

Ms. Mangle stated she would still like to hold the worksession for the Review Procedures Code Project after the Riverfront Park hearing closed. June 8th would be a group meeting with the Natural Resources Overlay Advisory Group and might be held at the Public Safety Building to allow for a larger crowd.

Meeting adjourned at 10:15 p.m.

Respectfully submitted,

- 1111 Paula Pinyerd, ABC Transcription Services, Inc. for
- 1112 Alicia Stoutenburg, Administrative Specialist II
- 1113
- 1114
- 1115
- 1116 _____
- 1117 Jeff Klein, Chair

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, June 22, 2010
6:30 PM**

COMMISSIONERS PRESENT

Jeff Klein, Chair
Nick Harris, Vice Chair via phone
Chris Wilson
Mark Gamba

STAFF PRESENT

Katie Mangle, Planning Director

COMMISSIONERS ABSENT

Teresa Bresaw
Lisa Batey
Scott Churchill

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:32 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 April 27, 2010

Chair Klein moved to continue the April 27, 2010 meeting minutes to the Special Planning Commission meeting on June 29, 2010. Commissioner Wilson seconded the motion, which passed unanimously.

3.0 Information Items – None

4.0 Audience Participation – This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

5.1 Summary: 19th Ave Replat and Duplex
Applicant/Owner: Gary Michael and Carolyn Tomei
Address: 11907 SE 19th Ave
File: WG-10-01, WQR-10-01, VR-10-01, R-10-01
Staff Person: Brett Kelter

42 **Chair Klein** called the hearing to order and read the conduct of minor quasi-judicial hearing
43 format into the record.

44

45 **Commissioner Gamba moved to continue the public hearing for WG-10-01, WQR-10-01,**
46 **VR-10-01, R-10-01 to the Special Planning Commission meeting on June 29, 2010.**

47 **Commission Wilson seconded the motion, which passed unanimously.**

48

49 **6.0 Worksession Items - None**

50

51 **7.0 Planning Department Other Business/Updates – None**

52

53 **8.0 Planning Commission Discussion Items – None**

54

55 **9.0 Forecast for Future Meetings:**

56 July 13, 2010 1. Public Hearing: WQR-10-02, CSU-10-06 Pond House Deck &
57 Landscaping

58 2. Worksession: Review Procedures Code Project briefing part

59

60 July 27, 2010 1. Public Hearing: CPA-10-01 North Clackamas Park North Side
61 Master Plan

62

63 Meeting adjourned at 6:41 p.m.

64

65

66 Respectfully submitted,

67

68

69 Alicia Stoutenburg, Administrative Specialist II

70

71

72

73

74 _____
Jeff Klein, Chair

75



To: Planning Commission

Through: Katie Mangle, Planning Director

From: Susan P. Shanks, Senior Planner

Date: July 6, 2010, for July 13, 2010 Public Hearing

Subject: Files: WQR-10-02 & CSU-10-06

Owner/Applicant: Paul Shirey, Operations Director, for City of Milwaukie

Site Address: 2215 SE Harrison Street (Pond House)

Site Legal Description (Map & Taxlot): 1S1E36BB01600 & 1S1E25CC00900

NDA: Historic Milwaukie

ACTION REQUESTED

Approve applications WQR-10-02 and CSU-10-06 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow the City to replace the rear deck and stairs on the Pond House facility, which extends approximately 2.5 feet over a designated water quality resource (WQR) area, and install a stepping stone path and footings for a bench and artwork in the WQR area buffer.

BACKGROUND INFORMATION

The City purchased the Pond House in 2006 for the purpose of providing additional space for community meetings, cultural and artistic events, and Ledding Library storage needs. The Pond House is directly east of the Ledding Library and southeast of Scott Park. The three sites together provide a unique publicly-owned venue for outdoor music, cultural events, and neighborhood gatherings due to their proximity to Scott Lake and Spring Creek.

The Pond House, including the original rear deck and stairs, were built prior the City's adoption of WQR regulations. Given that the entire site is within a WQR area buffer, the Pond House is considered a legally existing and nonconforming structure. In 2009, the City's Operations Director consulted with the Planning Department about replacing the rear deck and stairs as they were considered unsafe due to age and wear. In general, property owners are allowed to maintain nonconforming structures in reasonable repair, but they are not allowed to expand or significantly alter them without City review and approval.

The Planning Department determined that replacement of the deck and stairs could be approved pursuant to a Type 1 (i.e. administrative) WQR review if the deck and stairs utilized the existing footings, were built in the same location, and remained the same size. Any change in size or location of the deck, stairs, or footings would trigger Minor Quasi-judicial (i.e. Planning Commission) WQR review.

Some of the detail of this determination was lost in translation between the Operations Director, Facilities Maintenance Coordinator, and the contractor that the City employed to replace the deck and stairs. As a result, when the contractor realized that the footings for the original deck were undersized and needed to be larger in order to safely support its replacement, he proceeded to pour new footings without realizing that this additional disturbance in the WQR area required minor quasi-judicial review and approval. Once this oversight was discovered, the City stopped all work on the replacement deck and stairs and submitted the appropriate land use applications for review.

A. Site and Vicinity

The site is located at 2215 SE Harrison, Milwaukie, OR 97222, which is within the Historic Milwaukie neighborhood at the intersection of 23rd Ave and Harrison St. The site is approximately 11,651 sq ft in size and contains a single structure that is a former single-family residential dwelling. The building was used as an office for several years prior to being purchased by the City. Refer to the aerial photo on the next page for more detail.

The western half of the site contains a designated WQR in the form of a manmade pond known as Scott Lake. This pond is part of the Spring Creek waterway. It is located south and west of the creek and is separated from the creek by a concrete wall that serves as a walkway during low flow periods. Spring Creek itself is piped underneath the front yard of the Pond House and is discharged through a small building just downstream of the wall. Drainage into the pond is from its topographic and engineered catchment bounded on the east and south by Harrison St and on the west by the sloped bank behind the Ledding Library. Drainage into the pond also occurs from the municipal storm sewer system through an outfall that is 50 ft south of the Pond House.

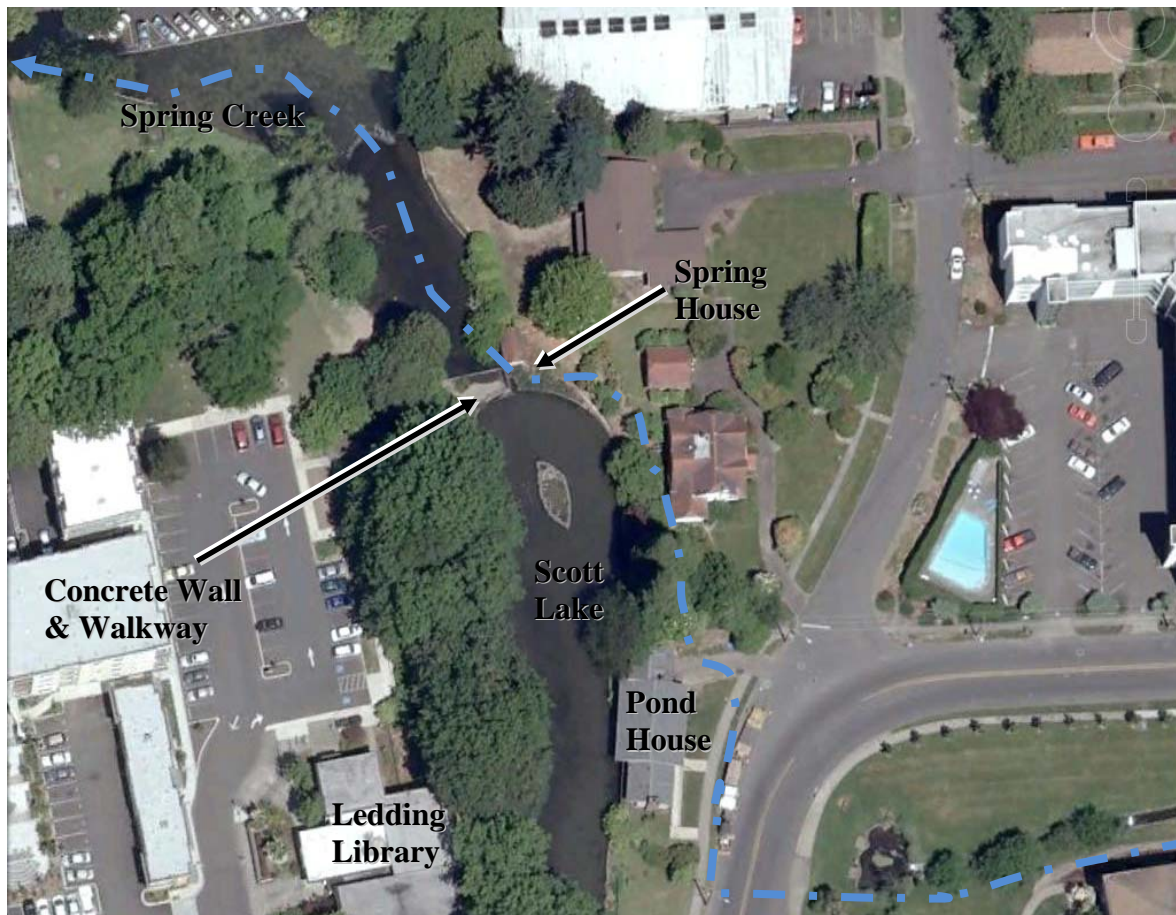
The surrounding area consists of a mix of uses consistent with Residential-Business-Office (R-1-B) and Downtown Storefront (DS) zoning. The Portland Waldorf School is directly across the street from the site to the east and south.

B. Zoning Designation

The site is zoned Residential-Business Office-Commercial (R-1-B) and a WQR overlay zone covers the entire site. The overlay zone includes the designated water quality resource and a buffer area to protect the resource. The site contains some regionally-designated Habitat Conservation Area (HCA), but the WQR and its more restrictive policies override the HCA designation.

C. Comprehensive Plan Designation

The site has a land use designation of Town Center (TC).



Aerial Photograph dated June 19, 2008, showing Scott Lake (i.e. the pond) and concrete wall and walkway in relation to approximate course of Spring Creek. Note that the creek is fully piped from the small pond in the lower right hand corner to the Spring House in the middle of the photograph. Spring Creek flows from right to left. *Source: Photo and text from Applicant's materials.*

D. Land Use History

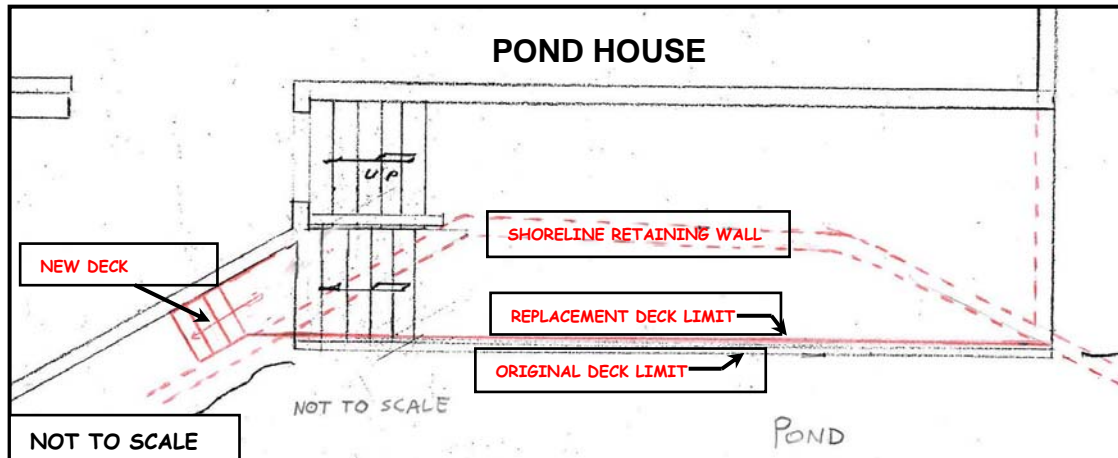
January 2009: Planning Commission approved land use applications CSU-08-05 and TPR-08-05 to establish a new community service use (CSU) that allows for several community-based retail activities at this location, including a yearly plant sale, several garage sales, and a small book store in the former garage area of the house. The book store is run by volunteers from Friends of the Ledding Library, and its proceeds support Ledding Library activities.

There are no other known land use approvals for this site. The site's previous owner used the structure as a dental office, a use that was outright allowed in the R-1-B zone.

E. Proposal

The Applicant's proposal has two components. The first involves the replacement of the deck and stairs that were removed from the rear of the Pond House in early 2009. The deck and stairs were removed because they were no longer safe to use due to age and wear. The proposed deck is approximately 0.5 feet narrower than the previous deck, resulting in a decrease in deck area of 11 sq ft, but it is slightly longer to accommodate a reconfigured stair landing on the northern end, resulting in an increase in deck/stair area of 21 sq ft, for a total surface area increase of 10 sq ft. The reconfigured stairs allow the deck to remain roughly the same size and keeps the outside edge of the stairs parallel to the foundation wall. Upon removal of the old deck

it was determined that the original footings were not large enough to adequately support a replacement deck. Consequently, the proposal also includes an increase of 8.6 sq ft of impervious surface (in the form of concrete footings) in the WQR area buffer to meet building code requirements.



Source: Applicant's materials.

The purpose of the replacement deck and stairs are to provide a second egress from the Pond House main common area and to allow for the public's enjoyment of Scott Lake and the adjacent natural areas across the pond at Ledding Library and Scott Park.

The second aspect of the Applicant's proposal involves a landscaping plan to replace some of the existing front lawn and weedy shrub/lawn areas to the south of the building with shrubs and trees that will improve shading, visual interest, and water holding capacity. The proposed plant list includes Pacific NW native plants and others that are well adapted to the existing site conditions. The proposal also includes the addition of new impervious surface in the form of stepping stones and footings for a bench and artwork, for a total of approximately 39 sq ft of additional impervious area in the WQR area buffer. **The landscape plantings are allowed outright. It is the addition of new impervious surface that requires WQR land use review.**

The Applicant describes the proposal as follows:

"The proposed plants and materials have all been chosen with the understanding of the sensitivity of the stream side location, the limited city maintenance resources available, and the Library's desire to make the Pond House a "show case" for Milwaukie. The proposed landscape improvements will more than make up for the proposed disturbances/new impervious areas by improving the water holding capacity of the landscape and by making the site more enjoyable for Pond House visitors."

The purpose of these landscaping improvements is to beautify the site with plantings and artwork, partially restore it to a more natural state given its proximity to a WQR area, and allow for the public's enjoyment of the site through the provision of a bench, art, and stepping stones down to the lower lawn area.

The proposal requires approval of the following two applications:

1. WQR-10-02
2. CSU-10-06

KEY ISSUES

Summary

Staff has identified the following key issues for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

- A. Are the proposed improvements consistent with the City's water quality resource regulations?
- B. Do the proposed improvements meet the applicable approval criteria, and are they appropriate for the approved community service use?

Analysis

A. Are the proposed improvements consistent with the City's water quality resource regulations?

Planning staff believes the proposed improvements are consistent with the City's water quality resource regulations. All required documentation and analysis was submitted and best management practices will be utilized during the construction process to minimize impacts to the WQR area.

The proposed impacts to the WQR area are relatively minor in nature and consist of the addition of approximately 9 sq ft of new impervious surface in the form of two larger footings for the replacement deck and stairs, and 39 sq ft of new impervious surface in the form of three new footings for a bench and artwork, and a path of stepping stones. No reasonably practicable alternative design exists that would not disturb the WQR area due to the fact that the entire site is within the WQR area. The area that would be disturbed by the proposed replacement deck is currently unvegetated, as it was fully shaded by the original deck and will be shaded by the replacement deck. This constitutes a "Degraded Existing Vegetated Corridor" per MMC Table 19.322.9.E. The area that would be disturbed by the proposed landscape improvements also constitutes a "Degraded Existing Vegetated Corridor," as it consists mostly of turf lawn with some weedy shrub areas.

One alternative considered by the Applicant was to not replace the deck and stairs. The Pond House, however, was designed with a rear egress to a deck and stairs. This rear egress is the only other egress from the main common area besides the front door. An occupant load of 49 would trigger a requirement for a second egress. The current occupant load for the Pond House is 45. Even though a second egress is not required, the Applicant believes that it is prudent to maintain a second egress at this location. Moreover, a replacement deck and stairs at this location would require less disturbance in the WQR area than stairs alone because additional stairs would be needed to cross over the second retaining wall that extends from the southwest corner of the house to the shoreline wall.

Staff believes that the proposed locations for the bench, artwork, and stepping stones are appropriate for the site's approved uses and are sensitive to the adjacent WQR area. The 39 sq ft of impervious area proposed as part of the landscape improvements is dispersed over the site in three locations, with no one impervious area larger than four square feet. The bench and artwork are located away from the WQR area and take advantage of the site's existing development in order to minimize impacts. The stepping stone path to the lower lawn allows for enjoyment of the area while simultaneously minimizing impacts to the WQR area through the use of native rock, instead of a solid concrete path, and the use of mulch and plantings along the pathway to capture stormwater runoff and improve water absorption.

The proposal does not include revegetation of the area that would be directly impacted by the proposed replacement deck. The proposed deck would completely shade the ground beneath it, making it unsuitable for planting. The area on either side of the proposed replacement deck would also not be suitable for planting given its narrowness and proximity to the shoreline wall and house foundation. Staff believes that any plantings in these areas would require some form of maintenance, which could result in more disturbance than benefit to the WQR area, and plantings that close to a retaining wall and house foundation may eventually cause root damage. On the other hand, the proposed replacement deck would provide the same water quality benefit to Scott Lake as the original deck (in the form of shading) and the proposal includes landscaping improvements that could be used to mitigate for the impacts of the proposed replacement deck.

The proposed Landscaping Plan (see Attachment 3) calls for the replacement of approximately 175 sq ft of turf lawn with native and nonnuisance plantings on the east side of the building and approximately 350 sq ft of weeds, bark mulch, and grass with native and non-nuisance plantings on the south side of the building. The Engineering Department has indicated that most of the proposed plants are appropriate for use in water quality facilities, which means that the proposed landscaping improvements would help to clean the site's stormwater runoff before entering Scott Lake and Spring Creek (see Attachment 4).

Given the minor nature of the impacts that would result from this project (i.e. 48 sq ft of new impervious surface and 10 sq ft of new pervious surface) relative to the proposed improvements (i.e. 525 sq ft of native and nonnuisance landscaping), staff believes that the proposed plantings mitigate for the short-term disturbance and long-term impacts caused by the proposed deck and stairs, stepping stone path, and footings for a bench and artwork.

B. Do the proposed improvements meet the applicable approval criteria and are they appropriate for the approved community service use?

The Planning Director determined that the proposed improvements constitute a minor physical modification to the Pond House site, an existing community service use (CSU). A minor modification of an existing CSU is normally a staff level decision when not being processed with a minor quasi-judicial application. Minor modification approval criteria require that the Applicant demonstrate that the proposal will:

- Not intensify the use.
No additional uses and no increase in the frequency or length of existing uses are proposed, and the replacement of the deck will not alter the occupancy load for the building. The Pond House facility will continue to operate within the bounds of its original 2009 CSU approval.
- Meet the standards of the underlying zone.
The proposed improvements meet the standards of the R-1-B Zone.
- Not result in the deterioration or loss of a protected natural feature.
All impacts to the WQR area and buffer can be mitigated.
- Not negatively affect nearby properties.
Neighboring properties are over 100 ft away and include other public and private facilities on large sites, e.g. Ledding Library and Portland Waldorf School. As a result, no adverse impacts to neighboring properties from noise or light are anticipated.
- Not alter or contravene previous land use approvals issued by the Planning Commission or City Council.
The site's only land use approval occurred in 2008. The proposal does not alter or contravene any of the site's 2008 conditions of approval.
- Not cause any public facility to fail.

The only public facility that the proposed improvements could impact is the City's storm system, which utilizes Scott Lake and Spring Creek for drainage. Stormwater runoff from the proposed improvements is minimal and will not negatively affect any public stormwater facility on or near the site.

Staff believes that the proposal meets the applicable approval criteria. Staff also believes that the proposed low-impact improvements are appropriate for this location and for the approved community service use. The Pond House is a City-owned facility that is used for small community meetings, cultural events, and community-based retail activities. Staff believes that it is appropriate to maintain the second egress from the rear of the house for safety reasons. While not required by the Building Code, a second egress would provide a second way for the public to exit the main common area in case of emergency. The deck would also enable the public to enjoy the site's unique natural setting. Staff also believes that it is appropriate to allow the installation of a stepping stone path down to the lower lawn area and a bench and artwork at the front of the house. These improvements would serve to make the site more aesthetically appealing for Pond House visitors and generally support its purpose as a community facility. Replacement of the deck would also reinforce the building's relationship to the library across the pond.

CONCLUSIONS

A. Staff recommendation to the Planning Commission is as follows:

1. Approve applications WQR-10-02 and CSU-10-06. This action would allow the City to replace the rear deck and stairs on the Pond House facility and install a stepping stone path and footings for a bench and artwork in the WQR area buffer.
2. Adopt the attached Findings and Conditions of Approval.

B. Staff recommends the following key conditions of approval (see Attachment 2 for the full list of Conditions of Approval):

- Site improvements shall be in substantial conformance with the mitigation, construction, and landscaping plans approved by this action, which are the plans stamped received by the City on May 28, 2010.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC).

- Section 19.307 R-1-B Zone
- Section 19.321 Community Service Use
- Section 19.322 Water Quality Resource Regulations
- Section 19.402 Accessory Structures and Uses
- Subsection 19.1011.3 Minor Quasi-Judicial Review

This application is subject to minor quasi-judicial review, which requires the Planning Commission to consider whether the Applicant has demonstrated compliance with the code sections shown above. In quasi-judicial 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 with the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Any modifications need to be read into the record. If the deck replacement element of the application is denied, staff recommends that the Planning Commission add a condition of approval that requires the Applicant to mitigate for the enlarged footings that have already been installed. The proposed landscaping improvements may serve as mitigation.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by September 25, 2010, in accordance with the Oregon Revised Statutes and the Code. The Applicant can waive the time period in which the application must be decided.

COMMENTS

The proposal was referred to the following departments and associations on June 4, 2010: City of Milwaukie Engineering and Building Departments and Historic Milwaukie Neighborhood District Association. The following is a summary of the comments received by the City. See Attachment 4 for further details.

- **Brad Albert, Civil Engineer, City of Milwaukie:** Indicated that the proposed plantings will improve water quality in Spring Creek.
- **Tom Larsen, Building Official, City of Milwaukie:** Indicated that new and larger footings are necessary for a replacement deck at this location.

ATTACHMENTS

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Recommended Findings in Support of Approval (attached)
2. Recommended Conditions of Approval (attached)
3. Applicant's Application Materials dated May 28, 2010 (attached)
4. Comments Received
5. Exhibits List

ATTACHMENT 1
Recommended Findings in Support of Approval
Casefile # WQR-10-02 & CSU-10-06
(Pond House Deck and Landscaping Proposal)

1. The applicant, Paul Shirey, City of Milwaukie Operations Director, submitted the appropriate land use applications to replace the rear deck and stairs on the Pond House facility and install a stepping stone path and footings for a bench and artwork in the Pond House yard. The proposed replacement deck, as compared to the original deck, will utilize slightly larger deck footings and relocate the deck stairs a few feet to the north, increasing the total surface area of the deck and stairs in the WQR buffer by approximately 10 sq ft. The proposed stepping stone path and bench and artwork footings will add approximately 39 sq ft of new impervious surfaces in the WQR area buffer. Land use review is required because the proposal will disturb the WQR area and buffer and constitutes a physical change to an existing community service use (CSU). The Pond House is a City-owned facility located at 2215 SE Harrison Street. The land use applications are WQR-10-02 and CSU-10-06.
2. The site is zoned Residential-Business Office-Commercial (R-1-B). A WQR overlay zone covers the entire site due to the presence of Scott Lake, a manmade pond that is part of the Spring Creek waterway.
3. The City purchased the Pond House in 2006 for the purpose of providing additional space for community meetings, cultural and artistic events, and Ledding Library storage needs. The Pond House is directly east of the Ledding Library and southeast of Scott Park. The three sites together provide a unique publicly-owned venue for outdoor music, cultural events, and neighborhood gatherings due to their proximity to Scott Lake and Spring Creek. Planning Commission approved land use applications CSU-08-05 and TPR-08-05 establishing a new CSU at the Pond House that allows for several community-based retail activities at this location, including a yearly plant sale, several garage sales, and a small book store in the former garage area of the house.
4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC or the Code):
 - Section 19.307 R-1-B Zone
 - Section 19.321 Community Service Use
 - Section 19.322 Water Quality Resource Regulations
 - Section 19.402 Accessory Structures and Uses
 - Subsection 19.1011.3 Minor Quasi-Judicial Review
5. Sections of the Milwaukie Municipal Code not addressed in these findings are found to be not applicable to the decision on this application.
6. Public notice has been provided in accordance with MMC Subsection 19.1011.3 Minor Quasi-Judicial Review. A public hearing was held on July 13, 2010, as required by law.
7. MMC Subsection 19.307.3 contains applicable R-1-B Zone development standards

- A. A front yard and rear yard shall be at least 15 feet. A side yard shall be at least 5 feet, and there shall be 1 additional foot of side yard for each 3 feet of height over 2 stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street.

The proposed replacement deck will be attached to the primary structure and is therefore considered part of the primary structure for yard requirement purposes. As proposed, it will be located in the rear yard, approximately 25 ft from the rear property line and 70 ft from the side property line. The proposed stepping stones will not be attached to the house, will not be above 18 inches in height, and will not have a fixed base. As a result, they are not subject to yard requirements. The proposed bench and artwork are also not proposed to be attached to the primary structure, but they will have fixed bases in the form of footings. As a result, they are considered accessory structures and are subject to different yard requirements that are discussed under Finding 8 below. This standard is met.

- B. Maximum area that may be covered by the principal structure and accessory buildings shall not exceed 50% of the total area of the lot. Minimum area that must be left or planted in trees, grass, shrubs, etc., shall be 15% of the total area of the lot.

The site is approximately 11,651 sq ft in area. The house covers 2275 sq ft, or 19% of the lot. The proposed replacement deck and stairs will bring the lot coverage up to 20%, which is below the maximum lot coverage allowance of 50%. Sidewalks, including an accessible ramp, and the former driveway area and rock walls cover an additional 1056 sq ft. The proposed impervious landscape improvements cover an additional 39 sq ft. As proposed, the deck and landscape improvements will reduce the vegetated area on the lot to 70%; this exceeds the minimum vegetation requirement of 15%. This standard is met.

The Planning Commission finds that the applicable development standards of the R-1-B zone are met.

8. MMC 19.402.1.D contains the City's applicable accessory structure standards.

- A. Accessory structures excluding fences, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.

The proposed bench and artwork will be located in the required front yard area. This is in large part because the subject lot is wide but not very deep, as it is bounded on the east by Harrison St and on the west by Scott Lake. The house, which was built in 1950, was located as close as possible to Scott Lake and has a relatively small footprint, but, even so, the site has a very limited front yard area. The proposed bench and artwork are technically considered accessory structures because they have fixed bases in the form of footings. Neither object has to have a fixed base, but a fixed base is being proposed to prevent theft, to provide a stable base that will allow for safe public use, and to maintain the life of the objects by avoiding direct contact with the ground. The Planning Commission finds that the proposed bench and artwork are similar in nature to pergolas, arbors, and trellises in that they are small in size and overall mass. They also serve similar purposes in that they augment and support the landscaping experience, not the uses inside the primary structure. As a result, the Planning Commission finds that the proposed bench and artwork may be located in the front yard of the Pond House.

The Planning Commission finds that the proposed bench and artwork are similar in nature to pergolas, arbors, and trellises and are therefore exempt from the front yard requirement for accessory structures.

9. MMC Subsection 19.321.6.C contains criteria for approving minor modifications to existing community service uses (CSU).

A. Does not increase the intensity of any use.

No additional uses and no increase in the frequency or length of existing uses are proposed, and the replacement of the deck will not alter the occupancy load for the building. The Pond House facility will continue to operate within the bounds of its original 2009 CSU approval. This criterion is met.

B. Meets all requirements of the underlying zone relating to building size and location and off-street parking and the standards of Title 19.

The proposed improvements meet all relevant requirements of the underlying R-1-B zone as described in Finding 7 above. The only applicable standard pertaining to accessory structures is discussed in Finding 8 above. The only applicable CSU development standard is contained in MMC Subsection 19.321.12.C, which requires that setbacks be equal to a minimum of two-thirds the height of the principal structure. The principal structure is a 1-1/2-story house that is approximately 20 ft tall as measured to the midpoint of the roof. The proposed replacement deck will be more than 20 ft away from both the side and rear property lines. This criterion is met.

C. Does not result in deterioration or loss of any protected natural feature or open space, and does not negatively affect nearby properties.

Impacts of the proposed replacement deck, stairs, and landscape improvements on the adjacent WQR area are discussed in Findings 10, 11, and 12 below. As proposed, the replacement deck will be attached to the back of the Pond House and overlook Scott Lake, which is directly across the water from the back side of Ledding Library. The deck will be over 100 ft away from all of its neighbors. Consequently, the minor change to the deck footings and stairs will not negatively affect nearby properties. Moreover, since there is no anticipated change in use, there will be no additional noise or light impacts from the either the deck replacement or the landscape improvements. This criterion is met.

D. Does not alter or contravene any conditions specifically placed on the development by the Planning Commission or City Council.

The only land use approval granted by the Planning Commission for this site occurred in January 2009. (See land use files CSU-08-05 and TPR-08-05.) The proposed replacement deck and landscape improvements will not alter or contravene any conditions contained in this approval. The proposal includes installation of a more permanent enclosure to screen the trash and recycling containers, a condition of the CSU-08-05 approval. This criterion is met.

E. Does not cause any public facility, including transportation, water, sewer and storm drainage, to fail to meet any applicable standards relating to adequacy of the public facility.

The only public facility that the proposed improvements could impact is the City's storm system, which utilizes Scott Lake and Spring Creek for drainage. The proposed

replacement deck will be roughly the same size and configuration as the original deck. Consequently, drainage patterns will be roughly the same as before. Rainfall which would naturally go to Scott Lake will land on the inert deck surface or the coated/encased supporting structure before dripping into the lake, and rainfall which falls beyond the Pond House roofline but behind the retaining wall will drain to the backfill rock. The 39 sq ft of impervious area proposed as part of the landscape improvements will be dispersed over the site in three locations, with no one impervious area larger than four square feet. Storm water runoff from these small impervious areas will be minimal and will be managed by surrounding vegetated areas. Runoff will not affect any public facility on or near the site, and the proposed plantings will improve the site's water holding capacity and Scott Lake's water quality. This criterion is met.

The Planning Commission finds that the minor modification approval criteria are met.

10. MMC Section 19.322 contains the City's water quality resource (WQR) regulations. WQR regulations apply to all properties containing protected water features as shown on the City's adopted WQR maps. It is not the intent of these regulations to:

- Impose any obligation on property owners for the restoration of existing developed sites to predevelopment or natural condition. *The Pond House property is an existing developed site.*
- Impose any hardship or limitation against the continued maintenance of existing legal site conditions. Conditions legally existing as of December 17, 2002 that are inconsistent with this chapter are considered legal nonconforming situations. *Per the County Assessor records, the Pond House was built in 1950. As such, it is considered a legal nonconforming situation.*

Per MMC Subsection 19.322.7.G, additions, alterations, rehabilitation, or replacement of existing structures and development that increase the structural footprint or disturbed area within the WQR area requires minor quasi-judicial review by the Planning Commission. The July 13 Planning Commission hearing fulfills this requirement.

11. MMC Subsection 19.322.9 contains application requirements for minor quasi-judicial review.

The Planning Commission finds that the Applicant submitted all required information and that the alternatives analysis and mitigation plan are acceptable. An overview and discussion of key points is provided below:

- There are no wetlands in the area of the proposed improvements.
- The elevation of ordinary high water is 0.36 ft below the top of the concrete retaining wall behind the building. Therefore, all proposed work will be performed above the ordinary high water mark.
- The area that will be disturbed by the proposed replacement deck and stairs is currently unvegetated, as it was fully shaded by the original deck and will be shaded by the replacement deck. This constitutes a "Degraded Existing Vegetated Corridor" per MMC Table 19. 322.9.E.
- The area that will be disturbed by the proposed landscape improvements also constitutes a "Degraded Existing Vegetated Corridor," as it consists mostly of turf lawn with some weedy shrub areas.

- The original deck provided shading of surface waters. Because surface tributary waters to Johnson Creek, such as Spring Creek, are subject to a temperature Total Maximum Daily Load by Oregon Department of Environmental Quality, any shading is considered useful. However, shading by either the original or replacement decks is minimal compared to the unshaded surface area of Scott Lake and is not expected to produce a measurable positive impact on water quality.

For the proposed replacement deck, the applicant shall demonstrate that:

- A. No reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed.

No reasonably practicable alternative design exists that will not disturb the WQR area due to the fact that the entire site is within the WQR area. The Pond House building is a legally existing and nonconforming structure that was designed with a rear egress to a deck. This rear egress is the only other egress from the main common area besides the front door. To retrofit the back egress with stairs alone would necessitate even more disturbance in the WQR area because additional stairs would be needed to cross over the second retaining wall that extends from the southwest corner of the house to the shoreline wall. The proposed replacement deck maintains the second egress with slight modifications to the footings and deck configuration that will result in a safer deck and minimal impacts to the WQR area.

- B. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource Area to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement, or rehabilitation.

The proposed deck will be approximately 0.5 feet narrower than the original deck, for a total decrease in deck area of 11 sq ft, but will be slightly longer to accommodate a reconfigured stair landing on the northern end. The reconfigured stairs will allow the deck to remain roughly the same size and will keep the outside edge of the stairs parallel to the foundation wall. Upon removal of the original deck it was determined that the original footings were not large enough to adequately support a replacement deck. Consequently, the proposal also includes an increase of 8.6 sq ft of impervious surface (in the form of concrete footings) in the WQR area buffer to meet building code requirements. The proposed footings are the minimum size necessary to accommodate the replacement deck.

The adverse impacts caused by replacement of the deck with one nearly identical in size and dimension are: (1) the potential for spilling concrete or construction debris into the pond, and (2) the leaching of pentachlorophenol into the pond. Suitable construction-phase best management practices for control of cement and other solid waste and encapsulation of portions of pressure-treated lumber so as to prevent leaching will be employed to minimize water quality impacts to the pond. Hand construction and limited access to the site will also be employed to minimize adverse site impacts.

All work will occur above ordinary high water during the in-water work period of July 15-August 31, 2010.

- C. Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.

Due to the existing site conditions there is no net benefit to revegetating the area in the immediate vicinity of the proposed replacement deck. The deck will completely shade

the ground beneath it, making it unsuitable for planting. The area on either side of the proposed replacement deck is also not suitable for planting given its narrowness and proximity to the shoreline wall and house foundation. Any plantings in these areas will require some form of maintenance, which could result in more disturbance than benefit to the WQR area, and plantings that close to a retaining wall and house foundation may eventually cause root damage. On the other hand, the proposed replacement deck will provide the same water quality benefit to Scott Lake in the form of shading as was provided by the original deck.

There are other opportunities on the site that are within the WQR area buffer that are suitable for planting. As conditioned, the impacts to the WQR area will be proportionally mitigated.

For the proposed landscape improvements, including new impervious areas in the form of stepping stones and footings for a bench and artwork, the applicant shall demonstrate that:

- D. No practicable alternatives to the requested development exist that will not disturb the Water Quality Resource Area.

No practicable alternatives to the requested development exist that will not disturb the WQR area due to the fact that the entire site is within the WQR area. The adverse impacts created by the addition of 39 sq ft of new impervious surface is limited to a negligible amount of localized stormwater runoff which can be readily absorbed and cleaned before entering Scott Lake. None of the improvements will result in direct stormwater discharge to Scott Lake.

- E. Development in the Water Quality Resource Area has been limited to the area necessary to allow for the proposed use.

Development in the WQR area has been limited to the area necessary to allow for the proposed improvements. The proposed footings for the bench and artwork will be small in size, totaling approximately 5 sq ft, and will be located near existing concrete areas. The bench will utilize the existing concrete walkway to support the front legs, and individual footings will be used to support the rear legs instead of a single large concrete slab.

The stepping stone path to the lower lawn area will allow for enjoyment of the WQR area while simultaneously minimizing impacts to the area through the use of native rock, instead of a solid concrete path, and the use of mulch and plantings along the pathway to capture stormwater runoff and improve water absorption.

- F. The Water Quality Resource Area can be restored to an equal or better condition in accordance with Table 19.322.9.E.

An area proportionate in size to the impacted area will be restored to an equal or better condition in accordance with Table 19.322.9.E. While the Code is silent on proportionality with respect to WQR mitigation, the City Attorney has indicated that it is fair and appropriate to require WQR mitigation that is proportionate to WQR impacts. In this case, 39 sq ft of area will be impacted and approximately 525 sq ft of new landscaping is being proposed. The amount of proposed new landscaping will exceed the Code's requirement for mitigation. The plants chosen to replace the existing lawn/weedy planting bed area will be a combination of Pacific Northwest native plants and others that are well adapted to the existing site. None of the plants chosen are identified as nuisance plants per Milwaukie's Native Plant List. As a result, all of the proposed plantings can count toward meeting the project's mitigation requirement.

Approximately 175 sq ft of turf lawn will be replaced with new plantings on the east side of the building; and approximately 350 sq ft of weeds, bark mulch, and grass will be replaced with new plantings on the south side of the building. Once the plants mature, their canopies will fill in the area. Right after planting any bare soil will be covered with bark mulch to reduce the possibility of erosion and to help control weeds.

- G. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized.

The addition of a bench, artwork, and stepping stones will enhance the community's enjoyment of the site.

A wooden bench was chosen for its quality and design aesthetic. Providing footings for the bench legs will make the bench more stable and secure and will keep it off of the ground, which will extend its useable life. The site for the proposed bench was chosen to take advantage of the existing concrete walkway. The bench's front legs will be bolted to the existing concrete, which then requires only two 8-in x 8-in (or smaller) areas of new concrete under its back legs. The proposed art (not yet selected) will need a concrete base to support and secure it; however, the concrete will be sized only large enough to do its job. It is not a decorative element, so all efforts will be made to reduce its area.

The proposed stepping stone path is situated to direct foot traffic from the existing concrete walkway, through the new landscaped area, to the existing stone steps in the rock wall to the lower lawn area. Stepping stones were chosen because they will add less impervious surface than a concrete path.

12. MMC Subsection 19.322.10 contains applicable development standards.

- A. The WQR area shall be protected throughout the construction process and restored and maintained in accordance with the mitigation plan.

The Planning Commission finds that the Applicant's construction and mitigation plans as summarized in Finding 11 and date stamped received by the City on May 28, 2010 are acceptable. This standard is met.

- B. Additions, alterations, rehabilitation, or replacement of existing structures shall not encroach closer to the protected water feature than the existing development.

The Planning Commission finds that the proposed replacement deck and landscape improvements do not encroach closer to the protected water feature than the existing development. The proposed deck is 0.5 ft narrower than the original deck and the proposed landscaping improvements are all behind the manmade rock wall that delineates the shoreline of Scott Lake. This standard is met.

- C. Where proposed, development of trails, rest points, viewpoints, and other facilities for the enjoyment of the resource must be done in such a manner so as to reduce impacts on the natural resource while allowing for the enjoyment of the resource.

The Planning Commission finds that the stepping stone path to the lower lawn area allows for enjoyment of the WQR area while simultaneously minimizing impacts to this area through the utilization of native rock, instead of a solid concrete path, and the use of mulch and plantings along the pathway to capture stormwater runoff and improve water absorption. This standard is met.

- D. Stormwater flows as a result of proposed development within and to natural drainage courses shall not exceed predevelopment flows.

The Planning Commission finds that the modifications to the proposed replacement deck and the addition of 39 sq ft of new impervious surface for landscaping improvements will not create a measurable difference in stormwater flows on the site. This standard is met.

13. The proposal was referred to the following departments and associations on June 4, 2010: City of Milwaukie Engineering and Building Departments and Historic Milwaukie Neighborhood District Association. The comments received are summarized as follows:
- **Brad Albert, Civil Engineer, City of Milwaukie:** Indicated that the proposed plantings will improve water quality in Spring Creek.
 - **Tom Larsen, Building Official, City of Milwaukie:** Indicated that new and larger footings are necessary for a replacement deck at this location.

ATTACHMENT 2
Recommended Conditions in Support of Approval
Casefile # WQR-10-02 & CSU-10-06
(Pond House Deck and Landscaping Proposal)

1. Site improvements shall be in substantial conformance with the mitigation, construction, and landscaping plans approved by this action, which are the plans stamped received by the City on May 28, 2010.
2. At least 19 sq ft of plantings shall be installed prior to or concurrent with the installation of the deck and stairs to mitigate for the larger footings and additional deck/stair surface area in the WQR area buffer.
3. At least 39 sq ft of plantings shall be installed prior to or concurrent with the installation of the stepping stone path and bench and artwork footings to mitigate for the additional impervious surface in the WQR area buffer.
4. Deck and stair construction shall occur during the in-water work period of July 15 - August 31. Landscaping improvements, including the installation of the stepping stone path and the bench and artwork footings, may occur at any time as long as the mitigation requirements of Conditions #3 and #4 are met.



PLANNING DEPARTMENT ATTACHMENT 3
6101 SE JOHNSON CREEK BLVD.
MILWAUKIE, OREGON 97206

PHONE: (503) 786-7630
FAX: (503) 774-8236

Application for Land Use Action

WATER QUALITY RESOURCE REVIEW

Admin. I Minor QJ Leg.
 Admin. II Major QJ

RESPONSIBLE PARTIES:

(Please print or type)

APPLICANT(S): <i>Paul Shirey, COM Operations Director</i>	Phone: <i>503-786-7614</i>
Address: <i>6101 SE Johnson Creek Blvd, Milwaukie</i>	Zip: <i>97206</i>
PROPERTY OWNER(S): <i>City of Milwaukie</i>	Phone: <i>503-786-7555</i>
Address: <i>10722 SE Main Street, Milwaukie</i>	Zip: <i>97222</i>

SITE INFORMATION:

"Pond House"

1S1E36 BB 01600 +

Address: <i>2245 SE Harrison St.</i>	Map & Tax Lot(s): <i>1S1E25 CC00900</i>
Comprehensive Plan Designation: <i>TC</i>	Zoning: <i>R-1-B</i> Size of property: <i>~11651 sq.ft.</i>

PROPOSAL (describe briefly):

Replace worn deck adjacent to Spring Creek pond at Ledding Library Pond House facility and improve landscaping.

PLEASE NOTE: The Land Use Committee (LUC) of your Neighborhood District Association (NDA) will receive a review copy of this application. They may contact you and/or you may wish to contact them:

NDA: *Historic Milwaukie* LUC Chair: *Ed Zumwalt* Phone: *503-654-2493*

ATTEST: I am the property owner or I have attached the owner's authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: *[Signature]* Date: *May 28, 2010*

THIS SECTION FOR OFFICE USE ONLY:

File #: <i>WQR-10-02</i>	Fee: \$ <i>0</i>	Rcd. by: <i>SPS</i>	Date stamp:
Notes:			<p>RECEIVED</p> <p>MAY 28 2010</p> <p>CITY OF MILWAUKIE PLANNING DEPARTMENT</p>

SEE REVERSE SIDE FOR APPLICATION CHECKLIST

MEMORANDUM

TO: Community Development Department
THROUGH: Gary Parkin, Director of Engineering
FROM: Brad Albert, Civil Engineer
RE: Community Service Use – Pond House
CSU-10-06, WQR-10-02
DATE: June 18, 2010

Proposed reconstruction of a 198 square foot wood deck and site re-landscaping.

1. MMC Chapter 19.1400 – Transportation Planning, Design Standards, and Procedures

The Engineering Department finds that MMC Chapter 19.1400 does apply to this application.

Recommended Conditions of Approval

None

Other notes

The use of native plants for the re-landscaping portion of the project is very beneficial. Most of the plants listed to be used are on the City of Portland's Stormwater Management Manual for water quality facilities. The use of native plants helps to clean the stormwater runoff before it enters Spring Creek. This is a vast improvement over the existing lawn currently onsite.

**CITY OF MILWAUKIE
BUILDING
DEPARTMENT**

Memo

To: Susan Shanks, Senior Planner
From: Tom Larsen, Building Official
Date: June 21, 2010
Re: Pond House Deck

I visited the site (2215 SE Harrison) with Willie Miller, Facilities Coordinator sometime this past winter. Although there is no permit required for the reconstruction of the deck, it was clear that the existing footings were undersized and in poor condition. The soil bearing capacity near waterways is typically quite poor, which necessitated the larger spread footings.

ATTACHMENT 5
Exhibits List
Casefile # WQR-10-02 & CSU-10-06
(Pond House Deck and Landscaping Proposal)

The following documents are part of the official record for this application as of July 6, 2010. This list will be updated as new documents are received up until the expiration of the appeal deadline as noted in the Notice of Decision.

- A. Land Use Application Materials
 - 1. Current Application: WQR-10-02 & CSU-10-06
 - 2. Completeness letter dated May 28, 2010

- B. Notification information:
 - 1. Referral sheet dated June 4, 2010
 - 2. Notice mailed to adjacent properties dated June 23, 2010
 - 3. Returned notice envelopes from adjacent properties
 - 4. Mailing list for adjacent property notification
 - 5. Notice published in Clackamas Review
 - 6. Affidavit of Clackamas Review notice publication
 - 7. Notice posted on the site

- C. Materials from City Planning Staff:
 - 1. Staff Report dated July 6, 2010 for July 13, 2010 hearing
 - 2. Recommended Findings in Support of Approval
 - 3. Recommended Conditions of Approval

- D. Agency Responses:
 - 1. City of Milwaukie Engineering Department dated June 18, 2010
 - 2. City of Milwaukie Building Department dated June 21, 2010

- E. Comments Received: None received

- F. Materials Received at the Hearing:
 - 1. Staff PowerPoint presentation dated July 13, 2010

- G. Public Testimony:
 - 1. Sign-in sheet for July 13, 2010 Planning Commission hearing

- H. Notice of Decision dated: _____



To: Planning Commission

From: Katie Mangle, Planning Director
Susan P. Shanks, Senior Planner

Date: July 6, 2010 for July 13, 2010 Worksession

Subject: Review Procedures Code Amendment Project – Briefing #2

ACTION REQUESTED

None. This is a briefing for informational purposes only.

BACKGROUND INFORMATION

The City and its consultant, Angelo Planning Group (APG), have been working on revising the City's review procedures since the project's kick-off in April 2010. Review procedures provide the basic framework for how the City conducts land use review. They determine what kinds of projects trigger land use review, who receives notices about hearings and decisions, when the City has to make a land use decision, and who makes the final decision. The City currently has five types of land use review levels: Type I, Type II, Minor Quasi-judicial, Major Quasi-judicial, and Legislative. Type I and II applications are decided by the Planning Director; Minor Quasi-judicial applications are decided by Planning Commission; and Major Quasi-judicial and Legislative applications are decided by City Council after being review by Planning Commission.

The goals of this project are to create a code that is:

Smart. A smart code is one that contains everything it should and nothing that it shouldn't. Its structure and content are easy to understand and follow.

Flexible. A flexible code is one that enables the City to meet all of its legal requirements for processing applications while not hampering its desire to maintain high service standards.

Local. A local code is one that provides for meaningful public involvement in a way that reflects Milwaukie's small-town and neighborhood-based character.

A. History of Prior Actions and Discussions

- **July 2010:** Briefing #1 on Review Procedures Code Amendment Project.
- **March 2010:** Staff provided the Commission with a copy of the intergovernmental agreement between the City and the State of Oregon that commits the City to prepare

draft code amendments based on priorities that were identified in the 2009 Smart Growth Code Assessment Final Report.

- **October 2009:** Staff presented the 2009 Smart Growth Code Assessment Final Report to Council. Council concurred with the code amendment priorities identified in the report and requested that staff move forward with the next phase of the project.
- **September 2009:** Design and Landmarks Committee held a worksession to discuss the residential design standards element of the code assessment project.
- **August 2009:** Planning Commission reviewed and provided concurrence on the Action Plan presented in the 2009 Smart Growth Code Assessment Final Report.
- **August 2009:** Planning Commission held a worksession to discuss the consultant's code assessment findings prepared during Phase I of the Smart Growth Code Assistance project.
- **July 2009:** Planning Commission held a worksession to discuss the consultant's code assessment findings prepared during Phase I of the Smart Growth Code Assistance project.

B. Review Procedures – Draft #1

APG has prepared a first draft of the Review Procedures Chapter (see Attachment 1). While Commissioners are welcome to read and comment on any aspect of this first draft, staff would specifically like to solicit the Commission's feedback on the following question and significant proposed changes.

July 13 briefing agenda

1. Time limits and extensions on approvals: What problem is the City trying to solve?
2. Overview of significant procedural and structural changes being proposed.
3. Description of and need for new development review process.

The first agenda item continues a recent discussion that the Commission had earlier this year on whether to extend a project's conditional use approval. Certain types of projects, namely conditional uses and projects that were approved with variances, have a limited timeframe within which to utilize the land use approvals that they receive. The existing code requires substantial construction of such projects within 6 months of approval, with allowance for a 1 year extension. All other types of projects, such as community service uses, theoretically have an unlimited timeframe within which to begin and complete construction. The Planning Commission previously indicated that this section of code needed to be clarified and possibly extended to other types of approvals.

As a result, APG included language in the first draft that defines substantial construction and extends time limits on approvals to all land use decisions (see page 5 of Attachment 1, specifically Subsections 19.1001.7.C and D). Before staff directs APG to further refine this language, staff would like the Planning Commission to help define the problem that the new code language is trying to solve. Below are some of the problems associated with land use approvals that don't expire that staff has identified.

- Project construction is delayed or dragged out for a long period of time and this results in extended disruption to neighbors and visual blight.

- Surrounding conditions change between project approval and construction, and the project has unmitigated impacts on the neighborhood, a natural resource area, or the transportation network.
- Staff changes between project approval and construction, and this results in less efficient and/or effective review of the project during development review.
- Neighbors are surprised when the project is constructed years or decades after an approval has been issued.

As for the second and third agenda items, staff will provide an overview of all significant procedural and structural changes being proposed. Procedural changes are changes to the way the City reviews and processes land use applications. Structural changes are changes to the overall organization of the code itself. As part of this latter discussion, staff will also describe the City's need for an improved development review process and the pros and cons associated with restructuring the code to include such a process. See Attachment 2 for a memo from APG that evaluates the City's code restructuring options.

C. Next Steps

Staff will solicit targeted feedback from the Commission during the development of draft chapters for Development Review, Conditional Use, Variance, and Nonconforming Situations. Staff anticipates having the first drafts of these chapters available for review by the Commission in September 2010.

ATTACHMENTS

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Draft Review Procedures and Administration Chapter dated June 2010
2. APG Restructuring Recommendation Memo dated April 29, 2010