



January 8, 2010

Paul Shirey  
Operations Director  
City of Milwaukie  
6101 SE Johnson Creek Blvd  
Milwaukie, OR 97206

RE: 40<sup>th</sup> Ave & Harvey St facility – Minor Modification Request (File # **CSU-10-01**)  
Building Permit Number: n/a (tree pruning and removal)  
Tax Lot: 1S1E25DD02500  
Site Address: 3800 SE Harvey St

Dear Mr. Shirey:

On January 6, 2010, you requested approval to modify an existing row of Port Orford cedar trees at the City's maintenance facility at 40<sup>th</sup> Ave and Harvey St. The trees in question are adjacent to the storage building located in the northwest corner of the site (hereafter referred to as the "40<sup>th</sup> & Harvey facility" or "40<sup>th</sup> & Harvey site"). The proposal includes removing two large trees that are growing against the storage building, removing several other smaller trees, pruning the remaining tree canopy for tree health, and planting low-level shrubs and ground cover under the remaining tree canopy.

In the current version of the Milwaukie Municipal Code (MMC), government office buildings and public works shops are specifically listed as eligible community service uses in MMC Subsection 19.321.2. Since the 40<sup>th</sup> & Harvey facility was established in 1936, prior to the City's first zoning code, the facility is considered a de facto Community Service Use (CSU).<sup>1</sup>

The proposed improvement represents a minor modification to the 40<sup>th</sup> & Harvey facility as an existing CSU. As per MMC 19.321.6.C, the Planning Director may approve minor modifications to a CSU as long as the modifications meet five specific criteria. I have reviewed the proposed project and am approving it as a minor modification to the existing CSU, with the following evaluation of how the project meets each of the relevant criteria:

**1. Does not increase the intensity of any use.**

The proposed landscaping maintenance will not affect the operational use of the 40<sup>th</sup> & Harvey site. The project will lessen the need for future large-scale repairs to the existing storage building by reducing conflicts with the existing trees. The proposed modification will not increase the intensity of use.

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<sup>1</sup> Though the original permit for the site was not reviewed as a formal community service use (CSU), the City considers facilities that were otherwise properly permitted and meet the definition of CSU provided in MMC 19.321.2.A to be de facto CSUs. Modifications may be allowed without requiring a new CSU review.

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

The 40<sup>th</sup> & Harvey site is zoned Residential R-7, with an area of approximately 90,000 sq ft. The project will not reduce the existing landscaped area, does not affect any building setbacks, and will not displace on-site parking. The proposed modification will not alter the site in any way to move it out of conformance with the applicable requirements of the R-7 Zone or the relevant standards of MMC Title 19.

**3. Does not result in deterioration or loss of any protected natural feature or open space and does not significantly affect nearby property uses.**

The proposed modification will not reduce the existing landscaped area or existing open space on the site. The landscaping maintenance will create gaps in the existing tree canopy, but that canopy already extends far above the roof of the adjacent storage building and will likely fill back in over time. As proposed, low-level plantings will be installed in the under-canopy area just north of the remaining trees, to provide ground-level screening for the storage building as viewed from Harvey St. The project does not change the location of any existing activities occurring on the site and does not significantly affect nearby property uses.

**4. Does not affect any conditions specifically placed on the development by the planning commission or city council.**

According to City records, City water wells #2 and #3 were established on the 40<sup>th</sup> & Harvey site in 1936 and 1946, respectively; a concrete water reservoir and Public Works shop were constructed in 1948; and three aerators and a pump house were added in 1989. Since sometime in the 1960s, the site was previously the home of Milwaukie Fire Department Engine Company No. 55. Clackamas County Fire District #1 relocated that fire station to the City's Public Safety Building at 32<sup>nd</sup> Ave and Harrison St in 1995, when the North Clackamas Parks and Recreation Department (NCPRD) established a maintenance facility on part of the site.

Most of these improvements have been reviewed and approved by the Planning Commission as either a conditional use (C) or as a community service use (CS or CSO) or have gone through the building permit process. The list of City records for this property is as follows:

- **Building Permit (BP) 4372 (1972)** for repair of fire damage to one of the Water District buildings.
- **BP 5787 (1977)** for an interior remodel of the City Public Works shop building.
- **C-77-21 (1977)** approved an addition to the Fire House maintenance shop. At the time, the site included the fire station, City Public Works shop, water tank, pump station, and on-site parking. No conditions of approval.
- **CSO-89-05 (1989)** approved the addition of three stripping towers (or packed aerator towers), chlorine injection system, and pump house. Conditions of approval were related to screening (landscaping or sight-obscuring fence) along the south and west property boundaries, color of towers and piping (subject to Planning staff approval), retention of existing trees, and construction of sidewalk along the Harvey St frontage.
- **Minor modification to CSO-89-05 (1995)** approved use of the site by NCPRD

for its parks maintenance facility, replacing the fire station for Engine Company No. 55, which moved to the new Public Safety Building at 32<sup>nd</sup> Ave and Harrison St. Conditions of approval were related to hours of operation (weekdays, 7:00 a.m. to 3:30 p.m.), storage of vehicles and equipment (inside existing fenced areas), secondary-containment storage of fertilizer, off-site wash-down of equipment, and provision of year-round maintenance of the entire site by NCPRD.

- **BP 02-292 (2002)** for re-roofing the pump house.
- **CSU-09-12 (2009)** was a minor modification approving the replacement of an equipment-storage structure on the portion of the property leased to NCPRD. No conditions of approval.

The proposed modification will not affect any conditions associated with the approvals noted above.

**5. Does not cause any public facility, including transportation, water, sewer, and storm drainage, to fail to meet any applicable standards for adequacy.**

The project will not affect any utilities or public facilities.

This letter constitutes approval of the requested minor modification. This decision may be appealed to the Planning Commission by filing a notice of appeal with the Planning Director within 15 days of this mailing, or by **January 23, 2010**. If you have any questions about this minor modification approval, you may contact **Brett Kelder**, Associate Planner, by phone at (503) 786-7657 or e-mail at [kerverb@ci.milwaukie.or.us](mailto:kerverb@ci.milwaukie.or.us).

Sincerely,

  
Katie Mangle  
Planning Director

**Copy:** Land Use File # CSU-10-01  
Address File (3800 SE Harvey St)  
Willie Miller, Facilities Maintenance Coordinator