



# CITY OF MILWAUKIE

## REVISED AGENDA

June 11, 2019

### PLANNING COMMISSION

City Hall Council Chambers  
10722 SE Main Street  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

- 1.0 **Call to Order - Procedural Matters** — 6:30 PM
- 2.0 **Planning Commission Minutes** — Motion Needed
  - 2.1 October 23, 2018 ~~tentative~~
- 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: New Private Dock in Willamette Greenway  
Applicant/Owner: Eric Schilling and Marie Hoskins  
Address: 12435 SE 18<sup>th</sup> Ave  
File: WG-2019-002  
Staff: Mary Heberling, Assistant Planner
  - Summary: Clackamas Community College Harmony Campus/Harmony Rd  
Right-of-Way Annexation  
Applicant: City of Milwaukie  
Address: 7716, 7726, 7738 SE Harmony Rd  
File: A-2016-006  
Staff: Dennis Egner, Planning Director
- 6.0 **Worksession Items**
  - 6.1 Summary: Comprehensive Plan Housing Policies  
Staff: David Levitan, Senior Planner
- 7.0 **Planning Department Other Business/Updates**
- 8.0 **Planning Commission Committee Updates and Discussion Items** — This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 **Forecast for Future Meetings:**
  - June 25, 2019
    - 1. City Council Joint Session: Cottage Cluster/ADU Presentation/Discussion
    - 2. Public Hearing: VR-2019-003 Monroe Apartments Building Height Variance (*continued from 5/28/19*)
    - 3. Worksession: Comprehensive Plan Block 3 Policies *tentative*
    - 4. Worksession: Planned Development Code Amendments *tentative*
  - July 9, 2019
    - 1. Public Hearing: AP-2019-001 Appeal of MLP-2018-001 (*continued from 2/12/19*)
  - July 23, 2019
    - 1. Public Hearing: NR-2018-005 Elk Rock Estates (*continued from 5/28/19*)

### 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@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov). Thank you.
- 2. PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at [www.milwaukieoregon.gov/meetings](http://www.milwaukieoregon.gov/meetings).
- 3. FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
- 4. TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

#### Public Hearing Procedure

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

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

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

#### **Milwaukie Planning Commission:**

Kim Travis, Chair  
John Henry Burns, Vice Chair  
Adam Argo  
Joseph Edge  
Greg Hemer  
Lauren Loosveldt  
Robert Massey

#### **Planning Department Staff:**

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





# CITY OF MILWAUKIE

## PLANNING COMMISSION MINUTES

City Hall Council Chambers  
10722 SE Main Street  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

October 23, 2018

**Present:** Kim Travis, Chair  
John Henry Burns, Vice Chair  
Adam Argo  
Joseph Edge  
Sherry Grau  
Greg Hemer  
Scott Jones

**Staff:** David Levitan, Senior Planner  
Vera Kolas, Associate Planner  
Tim Ramis, City Attorney

### 1.0 Call to Order — Procedural Matters\*

**Chair Travis** called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

*Note: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.*

### 2.0 Planning Commission Minutes – None.

### 3.0 Information Items

**Mr. Levitan** noted tonight was Commissioner Jones' last Planning Commission meeting and thanked him for his service on the Commission and Design and Landmarks Committee (DLC).

**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: City Hall Chambers  
Applicant/Owner: City of Milwaukie  
Address: 10722 SE Main St.  
File: HR-2018-001  
Staff: Vera Kolas, Associate Planner

**Chair Travis** called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

**Commissioner Hemer** noted that he sent an email regarding the Climate Action Plan (CAP) and the need for the City to go paperless to the City Council, staff, and other community leaders, including Commissioner Edge. He read the email message into the record. As it related to the current hearing item, he urged the City Manager to consider including electronic devices in the future dais to allow paperless access to meeting materials.

**Commissioner Edge** declared an ex parte contact, noting he was present at the October 1 meeting of the Design and Landmarks Committee (DLC). He did not participate in the discussion.

**Vera Kolias, Associate Planner** presented the staff report via PowerPoint and reviewed the Historic Resources and Downtown Design Review applications as well as the requested modification to the Community Service Use. The DLC's recommendations to the Commission were included in the staff report. She presented the submitted revised drawings that reflected the DLC's recommendations. Staff recommended approval of the applications and that the Commission include a condition to address any potential conditions from the State Historic Preservation Office (SHPO) once its review was complete.

**Lauren Loosveldt, DLC Chair**, described the DLC's recommendations to retain or protect the existing historic south side windows, provide more transparency in the roll-up doors, and install security barriers, such as bollards or landscaping, on the site at Main St.

**Chair Travis** called for the applicant's testimony.

**Damien Farwell, City Fleet and Facilities Supervisor**, described the deteriorating conditions of the windows in the 1938 building, their effect on the building, and the costs related to window maintenance and replacement. The goal was to identify a type of replacement window for the garage bay that would inform future decisions to replace windows, especially in the west facing façade within the next year. Currently, there were different window designs throughout the building and the goal for replacement windows was for low maintenance and to closely match the original design. He believed the fiberglass clad window option, with its frame dimensions and setback, was the best replacement option when compared to the original windows. Custom trim could be added.

**Tracy Orvis, Project Architect, Di Loreto Architecture**, compared two of the replacement window types currently seen in the building via PowerPoint, noting the differences in key elements like setbacks, window jambs, mullions, muntins, etc. She also presented the wood and fiberglass clad window options proposed for replacement.

**Ms. Orvis** and **Mr. Farwell** addressed questions from the Commission as follows:

- The fire pole would be repurposed inside the room in some way.
- The only window replacement that would require some brick to be removed was where the new ADA entrance would be constructed. The size of the existing window would remain the same.
- The top cornice design of the existing wood windows could not be replicated by the fiberglass window option. The design team was working with the manufacturer to find a way to attach an over clad of wood to mimic the design.
- The design team was still working out the details regarding the flashing technique and would be working with an envelope consultant to protect the windows from environmental conditions to protect window and minimize maintenance.
- Physical samples of the two proposed window types were presented and questions were addressed about the options and characteristics of each. Removable muntins were an option on the fiberglass window and the wood window option design most closely represented the original.
- The level of detail SHPO would provide on the project was uncertain. SHPO review usually occurred after a structure was already on the National Register of Historic Places, but City Hall was simply eligible and not yet on the registry, so the project team was surprised that SHPO needed to be involved.
- The existing driveway would be maintained allow for vehicular access to the garage bay.

Removable bollards would be used in case the garage served a different function in the future.

- Staff wanted to proceed with the hearing even without SHPO's comments, knowing the project might have to change based on SHPO's response, particularly about the windows. The Facilities Department wanted the project to move forward quickly. Staff wanted the interior and exterior work done at the same time.

**Ms. Loosveldt** said the DLC reviewed the sections of glazing and still had concerns about the proposed fiberglass condition being significantly off from the historical profile of the existing windows. She wanted to know if the design team had researched alternatives and considered working with other manufacturers for a custom product to get closer to the historic profiles.

**Chair Travis** confirmed there was no further testimony and closed the public testimony portion of the hearing.

The Planning Commission discussed waiting for SHPO's report, respecting the proper procedure and timeline, and providing the DLC opportunity to see SHPO's comments to make an informed recommendation to the Commission. Delaying the hearing would also allow the design team time to explore design options per the DLC's recommendations. **Commissioner Edge** hoped to have a revised proposal reflecting a compromise between the City and DLC. **Vice Chair Burns** preferred to move forward for efficiency, adding that a condition could be crafted about SHPO's pending recommendations.

**Ms. Kolias** clarified via Ms. Loosveldt that the DLC was not pushing solely for wood windows but that other options for fiberglass windows would be a better match to the original design.

**Commissioner Hemer** suggested having an interpretive sign and perhaps, a picture of an old fire truck, near the fire pole when it was relocated. He also suggested moving the bollards into the right-of-way because the fire bay driveway area was used as a plaza during City events.

**Commissioner Jones** asked if the delay from SHPO had resulted because the applicant had not submitted the materials in a timely matter.

**Ms. Kolias** explained staff did not believe submitting to SHPO was necessary because the building was not listed on the National Registry but learned it was necessary after speaking with SHPO

**Vice Chair Burns moved and Commissioner Argo seconded to continue the hearing to a date certain of November 13, 2018. The motion passed 6 to 1 with Commissioner Jones opposed.**

- 5.2 Summary: Housekeeping 2018 Code Amendments  
Applicant/Owner: City of Milwaukie  
Address: 10722 SE Main St.  
File: ZA-2018-005  
Staff: Vera Kolas, Associate Planner

**Chair Travis** called the public hearing to order and read the conduct of quasi-judicial hearing format into the record.

**Ms. Kolia**s presented the staff report via PowerPoint, reviewing the background and proposed amendments, which were limited specifically to public recreational trails and pathways to increase the maximum width to 12-ft to reflect ODOT's existing standards. The key issue regarded whether allowing low impact, at-grade paths or trails up to 12-ft in width and set back 150 ft from the river was consistent with Goal 15. She described the Kronberg Park Trail project, which facilitated the proposed amendments to exempt these specific public trails and pathways from Type III review. The only comment received was from the Department of Land Conservation and Development (DLCDD), which suggested revising Code definitions regarding "change of use" and "intensification" to justify a local clarification for the construction of such trails, rather than adding such pathways to the list of activities exempted from Type III review. These changes were made in the proposed code language. Staff recommended approval of the proposed amendments, which were tentatively scheduled for public hearing at City Council on November 20, 2018 should the Planning Commission recommend approval. She addressed clarifying questions about the City's current review processes for pathways within Natural Resource and Water Quality Resource (WQR) areas and explained the 150 ft setback was the minimum required by Goal 15, adding the City's overlay zones extended well beyond that.

**Commissioner Hemer** expressed concern about constructing 12-ft pathways without any review or input by the general public, especially in the Willamette Greenway. Parks and natural resource areas should have master plans vetted through the public process.

**Ms. Kolia**s clarified Kronberg Park did have a master plan that currently included a 10-ft path. A Type III review, which included a public hearing, would be required to widen the path to 12 ft. The Kronberg Park Trail project would still be posted within the park and follow all noticing requirements of a Type II Natural Resources review.

**Commissioner Edge** expressed concern about the 150-ft rule excluding much of Kellogg Lake from Willamette Greenway Review. Kellogg Lake was a natural floodplain of the Willamette River and a functional part of the greenway. Although much of the area was WQR and Habitat Conservation Area (HCA) and would be captured in the Natural Resources Review, it was not just recreational and scenic. 'Natural' was listed first and 'recreational' last and there was a reason for that sequence. He was hesitant to exclude portions of Kellogg Lake that were more than 150 ft from the river from Greenway Review.

**Ms. Kolia**s noted that because much of the Kellogg Lake area was WQR and Habitat Conservation Area (HCA), it would be captured in the Natural Resources Review.

**Chair Travis** confirmed there was no public testimony and closed the public hearing.

### **Planning Commission Deliberation**

**Commissioner Edge** explained he was concerned about protecting Kellogg Lake, which functioned historically as a floodplain of the Willamette River, with the same protections afforded other areas in the Greenway.

**Commissioner Hemer** confirmed that the proposed code amendment language was specific only to low impact trails 150 ft from the Willamette Greenway and that the Greenway boundary would not be changed.

Staff clarified that a significant deviation from the approved master plan for Kronberg Park would

require a public process. The Planning Director would determine if a proposed path was consistent with the master plan and whether a public hearing process was required. The proposed exemption was only for the width of the path, not for additional pathways.

**Vice Chair Burns** believed specifying permeable paths provided a good balance between the natural resource and recreation. He was comfortable with aligning path widths to ODOT standards and did not see anything objectionable to the proposal.

**Commissioner Hemer moved and Commissioner Argo seconded to recommend to City Council approval application ZA-2018-005 and adoption of the recommended findings of approval found in Attachment 2. The motion was passed unanimously.**

## **6.0 Worksession Items**

- 6.1 Summary: Comprehensive Plan Update project update  
Staff: David Levitan, Senior Planner

**David Levitan, Senior Planner**, reviewed the staff report, updating the Commission on the Town Hall, Online Open House, Neighborhood Hubs concept, and upcoming meetings. On November 5<sup>th</sup>, the Comprehensive Plan Advisory Committee (CPAC) would review policies and develop preliminary policy language for the Commission's feedback at the November 13<sup>th</sup> worksession. The City received a grant from the Department of Land Conservation & Development (DLCDC) to look at equitable housing policies and a grant from Metro to consider cottage cluster development and how to potentially amend the code. He noted that as a severely rent-burdened community, the City was required to hold a public meeting by the end of the year. Staff was considering if that meeting would be part of the Community Housing Forum scheduled for December 6<sup>th</sup> or a separate meeting. He would request the Community Development Director provide an update to the Commission of the current housing initiatives at a future meeting.

Technical issues with the Online Open House were briefly discussed, as well as the improvements made to how public meetings were structured, which resulted in more dialogue, more input, and more being accomplished.

**Commissioners Edge and Grau** confirmed they were interested in working with the housing subcommittee.

- 6.2 Summary: Work Program and Bylaws Discussion  
Staff: David Levitan, Senior Planner

**Mr. Levitan** stated the staff report provided a high-level overview about how the Council's goals and work program influenced the Commission's work, especially with regard to housing and the Climate Action Plan, which would likely result in code amendments. He noted public involvement was beginning on the Hillside Master Plan and visioning sessions would be held at Milwaukie Providence Hospital on October 24<sup>th</sup>.

**Chair Travis** said she wanted to meet with the Neighborhood District Association (NDA) Land Use Committee (LUC) chairs to learn more about the challenges that they saw and ways they could work better together. She wanted to anticipate any changes as updates were made to the Comprehensive Plan around Goal 1.

**Commissioner Edge** added it would be appropriate to talk with the LUC chairs to learn about their concerns before beginning the final block of work on the Comprehensive Plan Update.

## **7.0 Planning Department Other Business/Updates**

### **7.1 Planning Commission Notebook Interim Update Pages**

**Commissioner Hemer** read the reply he received from the City Manager regarding his email about going paperless. The Planning Commission was no longer restricted to using paper copies of the staff report. Everyone was allowed to use their electronic devices for meetings. He did not want any paper unless it was not included in the online packet.

**Commissioner Grau** understood the concern was really about having the Commissioners' devices seized for accusatory actions, such as messaging each other during deliberations or anything that might jeopardize the meeting.

**Tim Ramis, City Attorney**, believed the concern could be addressed if the Commissioners were only accessed the information available to the public online through the agenda and packet.

## **8.0 Planning Commission Discussion Items**

There were none.

## **9.0 Forecast for Future Meetings:**

November 13, 2018 1. Public Hearing: ZA-2018-004 Housekeeping 2018 Code Amendments

November 27, 2018 1. TBD

Meeting adjourned at approximately 9:13 pm.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

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Kim Travis, Chair



# CITY OF MILWAUKIE

**To:** Planning Commission  
**Through:** Dennis Egner, Planning Director  
**From:** Mary Heberling, Assistant Planner  
**Date:** June 3, 2019, for June 11, 2019, Public Hearing  
**Subject:** **File:** WG-2019-002  
**Applicant & Owner (s):** Eric Schilling and Marie Hoskins  
**Address:** 12435 SE 18<sup>th</sup> Ave.  
**Legal Description (Map & Tax Lot):** 11E35DD06700  
**NDA:** Island Station

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## **ACTION REQUESTED**

Approve application WG-2019-002 and adopt the recommended Findings and Conditions of Approval found in Attachment 1. This action would allow for the applicant to construct a 400-sq ft recreational floating boat dock with a 212-ft long gangway access system within the Willamette Greenway Zone.

## **BACKGROUND INFORMATION**

### **A. Proposal**

The applicants, Eric Schilling and Marie Hoskins, are seeking approval of a Conditional Use for development in the Willamette Greenway Zone at 12435 SE 18<sup>th</sup> Ave. The applicant intends to construct a new private, noncommercial recreational floating boat dock with a gangway access system. The dock would be less than 400 sq ft in area, and be connected to shore by a 4-ft wide elevated aluminum gangway. The dock and gangway would extend approximately 90 ft into the Willamette River.

The project requires approval of the following applications:

1. Willamette Greenway Review (WG-2019-002)

### **B. Site and Vicinity**

The site is located at 12435 SE 18<sup>th</sup> Ave. The subject property is approximately 79,796 sq ft (1.83 acres) in area and is currently developed with a detached single-family dwelling. The surrounding area consists of detached single-family homes to the north and south of the property. Spring Park is located immediately to the north of the neighboring residential



property to the north. The City boundary abuts the property to the south and east (see Figure 1). The shore of the applicant’s property gradually slopes toward the river. There is no significant vegetation along the shore. No grading or removal of existing ground cover is proposed.

The proposed private, noncommercial dock is located within the Willamette Greenway and any development is subject to Conditional Use approval for development within the Greenway.

Construction of a private, noncommercial dock is subject to a Willamette Greenway (WG) review, which is the only application before the Commission for this project. For areas with both a WG review and Natural Resource overlay, and where there are conflicts between the two reviews, the more restrictive provision shall be controlling. In this case, the WG requirements are consistent and not in conflict with the mitigation and minimal impact requirements for the Natural Resource overlay. Therefore, a Natural Resource overlay review has not been required as part of the development proposal. See Finding 7 in Attachment 1: Recommended Findings for more information on this decision.



Figure 1. Site and Vicinity

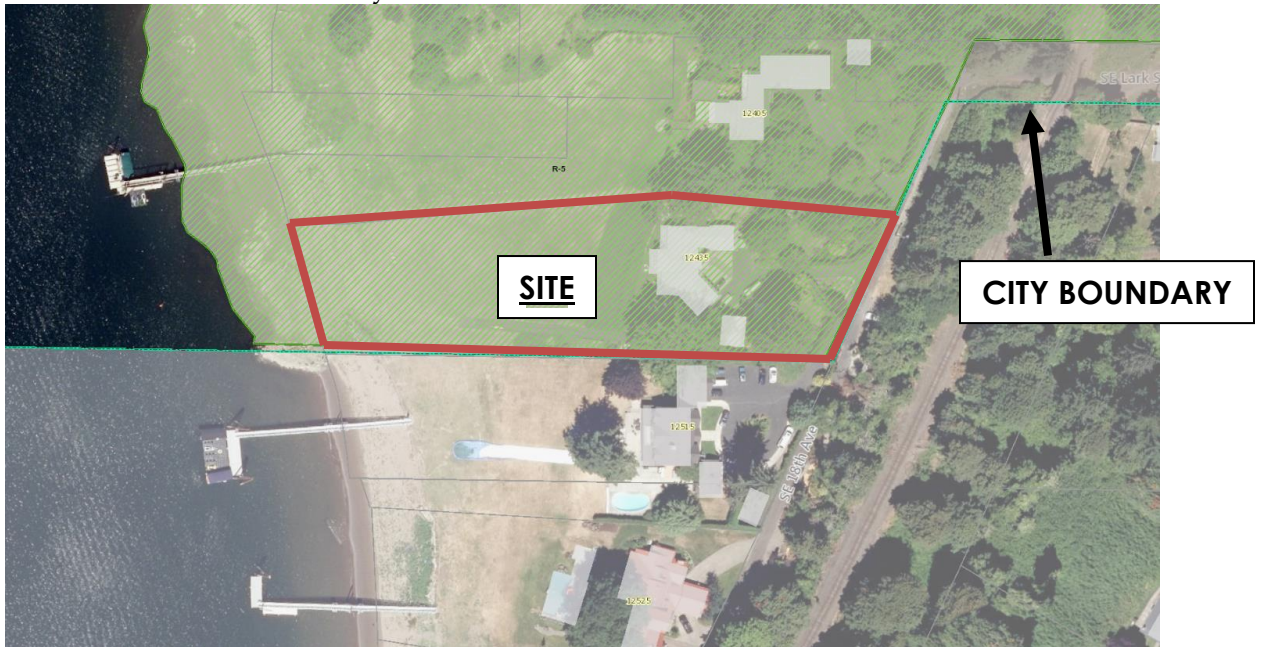
### C. Zoning Designation

Residential R-5

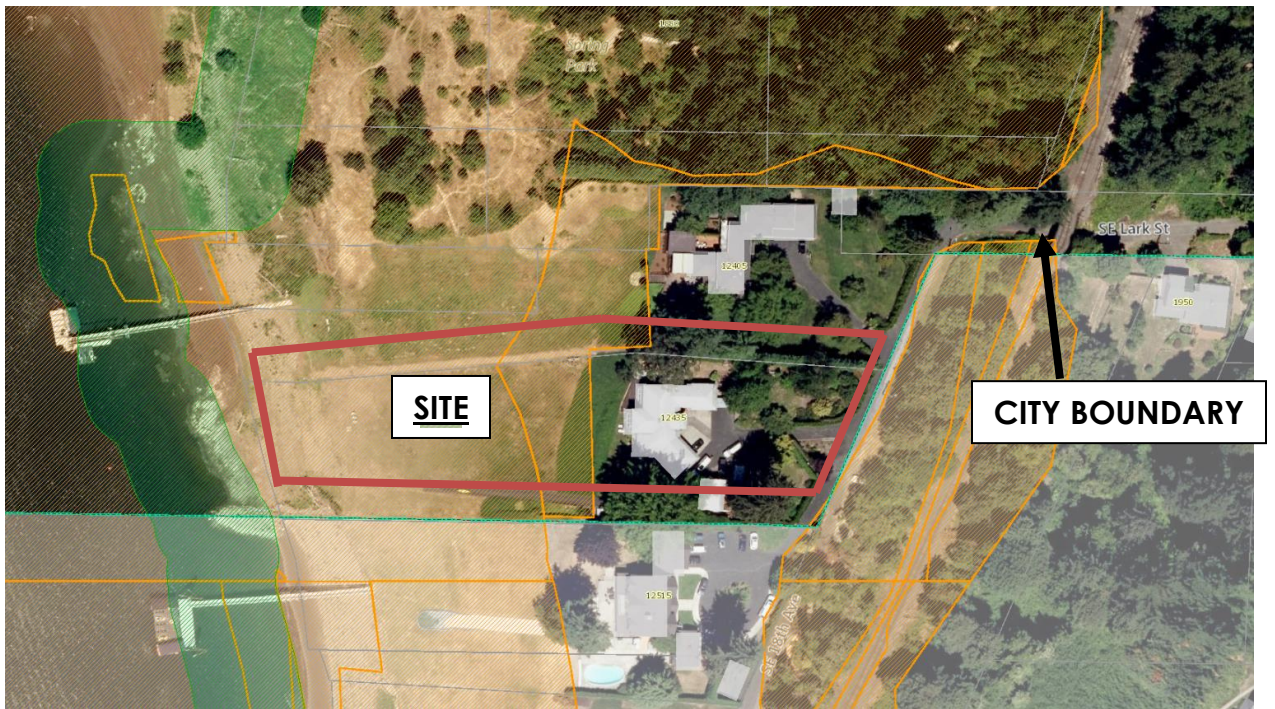
Willamette Greenway WG overlay zone



Natural Resource NR overlay zone



**Figure 2 Zoning Map** – Land Use and the Willamette Green Way Zone



**Figure 3 Natural Resource Map** – Water Quality Resource (WQR) and Habitat Conservation Area (HCA)



## D. Comprehensive Plan Designation

Moderate Density (MD)

## E. Land Use History

**WG-2008-001** – Previous land use approval for the same proposal: a private, noncommercial dock. The applicant ended up not building the approved dock and has submitted another request for land use review (this proposal).

## 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. Does the proposal meet the approval criteria for a dock?
- B. Would the project impact the protected riparian area?
- C. Would the project impact protected fish and wildlife?

### Analysis

#### A. Does the proposal meet the approval criteria for a dock?

Private, noncommercial docks are an allowed use within the Willamette Greenway Zone, subject to the specific criteria in that section of code (MMC 19.401.9). These criteria are listed below, followed by staff's assessment of how the proposal meets each criterion:

- *Only one dock per lot of record on the river.* This would be the only dock permitted for this site.
- *Additional requirements from Division of State Lands may be added.* The Division of State Lands received the application and has not indicated that there are additional regulations for the dock.
- *Private, noncommercial docks shall not exceed 400 square feet.* The proposed dock meets this requirement.
- *Docks, piles, and walkways shall be wood or painted in an earth tone.* This standard is outdated and in conflict with environmental best practices for docks. The City is aware that state and federal agencies discourage or prohibit wood for docks, pilings, and walkways. Further, painting these items in dark earth tones is also discouraged or prohibited. Wood and painting materials are not used because of adverse environmental impacts associated with treated wood in the river and paint flaking off into the river. The applicant is using durable, non-painted materials that, although they are not earth tone in color, do not introduce foreign chemicals into the river.
- *Docks shall not interfere with boat access for surrounding property, interfere with commercial use of the river, significantly add to recreational boating congestion, or interfere with fish and wildlife habitat.* The dock would be spaced far enough from existing docks that it would



not interfere with their access. It will be approximately 125 ft from the existing docks to the north and the south. The river is about 1,000 ft wide at the site of the proposed dock, and would extend approximately the same amount into river as the docks on either side. The dock does not extend far enough to interfere with commercial use of the river. The dock is only large enough to serve one private boat and would not significantly add to recreational boating congestion. The impacts to fish and wildlife are discussed in the subsequent key issues.

Staff believes that the proposed dock meets these approval criteria, and can be permitted in the Willamette Greenway zone.

### **B. Would the project impact the protected riparian area?**

The site's frontage on the river is generally flat and devoid of vegetation. See Figures 1 and 2 below. Aerial photographs from the 1970s and 1980s show that it has remained in its current state for several decades. For this reason, staff has few concerns about grading or loss of vegetation than would be typical for work in riparian areas.



**Figure 4:** River frontage where the dock would be installed.



**Figure 5:** Looking upland from the river.

#### Installation Process

Construction of the dock and gangway would occur off site. The placement of the piles and installation of the dock and gangway would take place from floating cranes and barges, and would have little effect on the shore. The piles and the shoreward edge of the gangway are the only items that would be in contact with the ground in the riparian area. Figure 6 below shows a dock installed on the adjacent property to the north. The proposed dock would be nearly identical in construction to this existing dock. The proposal does not include any regrading or removal of vegetation as a result of this project.



Figure 6: A dock on the adjacent property to the north is similar to the proposed dock.

### Review by Other Agencies

The application for a dock also requires review by the Army Corps of Engineers, the Division of State Lands, Oregon Department of Fish and Wildlife, and other state agencies. These agencies review the proposal and monitor the installation process to ensure that the work and structures would not adversely affect the environment. When this application was referred to the Army Corps, they stated that they did not see any issues for the proposal at this time. Based on this comment and the review by agencies with authority to more thoroughly regulate environmental impacts, staff believes that the installation and presence of the dock would have minimal adverse impacts.

### City of Milwaukie Regulations

The WG and NR overlay zone are both present on the site. The WG zone contains specific regulations for a buffer along the river that is 25 ft upland from the ordinary high water line. The regulations for this buffer deal mostly with protecting and restoring vegetation during the development process. Most of these regulations are not applicable to this site because almost no significant vegetation exists on the site now and the dock would have almost no impact to the buffer area. MMC 19.401.8.B.5 states that there may be a plan for enhancing lands within the buffer area. However, this is not required. The recommended finding and condition of approval with regard to the buffer are that any existing vegetation that is disturbed shall be replanted. The applicant has the option to replant the buffer area with native vegetation, but it is not required in order to meet the approval criteria for permitting a dock in the WG zone.

As seen in Figure 3, the site contains or is within 100 ft of both Habitat Conservation Areas (HCA) and the Water Quality Resource (WQR) areas, which are part of the NR overlay zone. For areas with both a WG and NR overlay, per MMC 19.402.2, the NR regulations apply only where they are more restrictive. In this case, the buffer requirements for the WG overlay are more restrictive and comparable to the development standards in the NR overlay. The applicant has proposed a 50-ft vegetation buffer that covers the area on the property where the WQR area exists and part of the HCA. As noted, the vegetation buffer requires river stabilization, scenic view protection, retention of existing native vegetation and large trees, restoration of native vegetation, and enhancement of vegetation buffer area. These requirements for the vegetation buffer are consistent with the mitigation requirements that would be required in the Natural Resource zone through a discretionary review process. Those mitigation requirements include avoid/minimize/or mitigate adverse impacts to the designated natural resource, revegetate

where existing vegetation has been removed, and natural vegetation will remain connected or contiguous.

Requirements for private, noncommercial docks, in the WG also include restrictions on interfering with critical fish and wildlife habitat or fishing use in the river, which is consistent with requirements in the NR zone which states minimization of impacts on wildlife and corridors and fish passage. Staff finds that requirements in the WG zone are consistent and not in conflict with requirements in the NR zone and does not require an additional natural resource review.

Engineering staff are responsible for reviewing the dock development permit for compliance with federal flood hazard regulations. The Public Works Department would oversee any erosion control permits required for the proposed work.

In conclusion, staff believes that there would be minimal impact to the river and riparian environment due to the limited impacts of the proposed dock and the site characteristics. Impacts that occur at the water line or below would be managed by the appropriate state and federal agencies.

### **C. Would the project impact protected fish and wildlife?**

The dock floats and it is designed to minimize the impact to the fish and wildlife by incorporating steel or plastic grating called "fish windows" that allow sunlight through the dock surface into the water. These windows help to minimize the shadows below the water surface that a dock creates. The foam floatation devices for the dock and gangway are also permanently encapsulated so that pieces of the floats do not enter the river. Lastly, there would be caps on top of the piles that prevent predatory birds from perching.

The City does not have any direct authority regarding fish and wildlife habitat in the river. However, staff believes the applicant has incorporated features that minimize the dock's impact to fish and wildlife. Further, staff believes that the review by state and federal agencies responsible for oversight of these habitats ensures that any impacts would be appropriately mitigated.

## **CONCLUSIONS**

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

1. Approve the Willamette Greenway conditional use application for the proposed development. This will result in a new private, noncommercial dock within the Willamette Greenway Zone.
2. Adopt the attached Findings and Conditions of Approval.

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

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

- MMC 19.401 Willamette Greenway Zone
- MMC 19.905 Conditional Uses
- MMC 19.301 Low Density Residential Zones
- MMC 19.402 Natural Resources NR
- MMC 19.1006 Type III Review

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

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

The final decision on these applications, which includes any appeals to the City Council, must be made by August 23, 2019, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

## COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Building and Engineering, Island Station Neighborhood District Association (NDA), and Clackamas Fire District #1, Oregon State Marine Board, Department of State Lands – Wetlands & Waterways, Army Corps of Engineers, and North Willamette Watershed Dist., ODFW. The following is a summary of the comments received by the City.

- **Jessica Menichino, Army Corps of Engineers:** Ms. Menichino did not identify any issues from an initial review. She notes that the Corps will do a thorough review once the applicant submits an application.

## ATTACHMENTS

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

	Early PC Mailing	PC Packet	Public Copies	Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Aerial Photos of Subject Site (1977 & 1987)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

	Early PC Mailing	PC Packet	Public Copies	Packet
4. Applicant's Narrative and Supporting Documentation dated April 1, 2019.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
a. Application	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Narrative	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Submittal Requirements	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Warranty Deed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d. Site Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Dock Renditions/Drawings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
f. Notice of Decision – WG-2008-001	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

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

Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-30>.

**Recommended Findings in Support of Approval  
File #WG-2019-002, 18<sup>th</sup> Ave Private Dock -12435 SE 18<sup>th</sup> Ave.**

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

1. The applicants, Eric Schilling and Marie Hoskins, are seeking approval of a Conditional Use for development in the Willamette Greenway Zone at 12435 SE 18<sup>th</sup> Ave. The applicant intends to construct a new recreational floating boat dock with a gangway access system. This site is in the R-5 Residential Zone, Willamette Greenway Zone WG, Natural Resource (NR) overlay zone, and requires Willamette Greenway Conditional Use Approval. The land use application file number is WG-2019-002.
2. The subject property is approximately 79,796 sq ft (1.83 acres) in size and is currently developed with a detached single-family dwelling. The property owners seek to construct a new, private, non-commercial dock with a gangway access system.

The proposed dock is 400 sq ft in size and would extend approximately 90 ft into the Willamette River from the ordinary low water line on the east bank of the river. The main use of the dock is to moor the applicant's boat. The characteristics of the proposed dock system are as follows:

- a. The dock would be 10 ft wide by 36 ft long, with an additional 6 ft by 6 ft area that connects to the gangway. The dock would be constructed of a steel frame, vinyl decking, and plastic skirtboards. The center 2 ft of the dock and connection would have fish light panels, which are plastic or steel grating that allows sunlight into the water below the dock.
  - b. An aluminum gangway would provide access from the shore to the dock. The gangway would be 48 in wide have a total length of 212 ft from where it rests on the applicant's property to where it connects with the dock. The shore end of the gangway would rest on a steel support arm welded to the side of a pile, and would not have a fixed foundation on shore. The remainder of the gangway would be elevated above ground.
  - c. The dock would be floated by permanently encapsulated foam. Four steel piles that are twelve inches in diameter would secure the dock and gangway. The piles would be fitted with caps that prevent perching by predatory birds. The sections of the gangway would also have floats to prevent immersion.
  - d. The construction of the dock will be designed to minimize impacts to the shore and river to the greatest extent practicable. The dock and gangway would be constructed off-site and floated to the site by barge and tug boat. The piles would be driven by a vibratory hammer by crane barge. An air hammer would be used if the vibratory hammer is not effective.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):



- MMC 19.401 Willamette Greenway Zone
- MMC 19.905 Conditional Uses
- MMC 19.301 Low Density Residential Zones
- MMC 19.402 Natural Resources NR
- MMC Section 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on June 11, 2019, as required by law.

4. MMC 19.401: Willamette Greenway Zone

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

a. MMC Subsection 19.401.5 Procedures

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

*The project involves the alteration of natural site characteristics and constitutes "development" as defined in MMC Subsection 19.401.4. The proposed development is subject to conditional use review standards of MMC 19.905 and the approval criteria of MMC 19.401.6.*

b. MMC Subsection 19.401.6 Criteria

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

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

The Statewide Planning Goal 15 - Willamette River Greenway defines "lands committed to urban use" as "those lands upon which the economic, developmental and locational factors have, when considered together, made the use of the property for other than urban purposes inappropriate. Economic, developmental and locational factors include such matters as ports, industrial, commercial, residential or recreational uses of property; the effect these existing uses have on properties in their vicinity, previous public decisions regarding the land in question, as contained in ordinances and such plans as the Lower Willamette River Management Plan, the city or county comprehensive plans, and similar public actions."

*The subject property is zoned for R-5 moderate density residential use and is already developed with a single-family home. The land is committed to an urban use.*

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

*The proposed dock is consistent with the scenic, natural, historic, economic, and recreational character of the Willamette River. Private docks are a common use along the river in urban areas and do not degrade the scenic character of the river. The dock directly supports the recreational character of the river. Review by state and federal agencies ensures that the dock will not adversely impact the natural features of the river or interfere with the commercial use of river.*

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

*The proposed dock does not affect views toward or away from the river. The dock and gangway are either at or close to the water level, and the piles are not a significant visual obstruction. Docks are a common use along the river and are not considered to affect views toward or away from the river.*

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

*The proposed dock does not affect the landscaping or vegetation that exists at the site. The property gradually slopes toward the river and has an open, sandy riparian area without significant vegetation.*

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

*The dock does not affect public access to or along the river. The dock would not impede the ability of others to travel along the river. The applicant's site is private property and as such does not currently provide public access to the river. Therefore, the dock would not affect public access to the river.*

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

*The dock is a water-dependent use that facilitates recreation on the river is consistent with the criterion.*

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

*The dock is not in the vicinity of downtown Milwaukie and would not impact views between downtown and the River.*

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

*The dock would not adversely affect the natural environment of the area. No vegetation would be removed. No structures would be built in the riparian area and no grading of the site will occur. Review by federal and state agencies ensures that there will not be adverse impacts to wildlife.*

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

*The proposed development is not subject to review by the Design and Landmarks Committee.*

(10) Conformance to applicable Comprehensive Plan policies

The Willamette Greenway Element in the Milwaukie Comprehensive Plan includes policies related to land use, public access and view protection, and maintenance of private property. The applicable policies are:

- Intensification of uses, changes in use, or development of new uses are permitted only when consistent with the City's adopted Willamette Greenway Element, the Greenway Design Plan, the Downtown and Riverfront Land Use Framework Plan, and the Town Center Master Plan.
- Within the Willamette Greenway Boundary, a Willamette Greenway Conditional Use Permit must be obtained prior to any new construction or intensification of an existing use.
- The City will evaluate all proposals within the vicinity of the Greenway for their effect on access to the visual corridors to the Willamette River and Kellogg Lake.

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

*The dock is consistent with applicable comprehensive plan policies. It is consistent with the Willamette Greenway element of Chapter 4 – Land Use within the Comprehensive Plan. It increases the recreational use of the river without adversely impacting the natural, scenic, or other qualities of the river.*

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

*The Division of State Lands did not comment that the request is inconsistent with that agency's programs and plans.*

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

*The vegetation buffer plan described in Finding 4c (below) demonstrates that, as conditioned, the proposal is consistent with the criterion.*

*As conditioned, the Planning Commission finds that the proposed development meets all relevant approval criteria provided in MMC 19.401.6.*

c. MMC Subsection 19.401.8 Vegetation Buffer Requirements

- (1) A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location 25 ft upland from the

ordinary high water line. The area shall be preserved, enhanced, or reestablished.

*The area between the river and 25 ft upland of the ordinary high water mark is currently sandy and devoid of vegetation. The applicant does not propose removal of any existing vegetation. The applicant proposes a 50-ft vegetative buffer zone to be planted with native vegetation if any vegetation is removed in the process.*

*As conditioned, the Planning Commission finds this requirement met.*

- (2) Prior to development, within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:

(a) Riverbank stabilization

The plan shall identify areas of riverbank erosion, and provide stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.

*Based on site description and aerial photos, there is no evidence of riverbank erosion. From this information, the applicant does not need to meet the requirements of riverbank stabilization within the vegetation buffer plan.*

(b) Scenic View Protection (Screening)

The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.

*The applicant has not proposed removal or disturbances of any areas of existing vegetation or placement of the dock, gangway, or piles (an area irrelevant to that of the disturbance) shall be replanted with native vegetation.*

(c) Retain Existing Native Vegetation and Large Trees

The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. Removal of native vegetation and large trees is allowed pursuant to the following standards:

- (i) Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.
- (ii) Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.
- (iii) Tree and vegetation removal may be allowed to create 1 view window from the primary residential structure to the river when

suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 100 ft or 50% of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for the purpose.

*The applicant is not proposing removal of any trees. The area is currently sandy and devoid of vegetation, however, the applicant proposes that if any areas of existing vegetation must be disturbed by construction or placement of the dock, the disturbance area will be replanted with native vegetation.*

(d) Restore Native Vegetation

The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.

*The area is currently sandy and devoid of vegetation, however, the applicant proposes that if any areas of existing vegetation that are disturbed by construction or placement of the dock, the disturbance area will be replanted with native vegetation.*

(e) Enhance Vegetation Buffer Area

The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed. New plant materials in the buffer strip shall be native vegetation.

*Any enhancement and/or new plantings within the buffer area shall be native plants and meet the other requirements within MMC 19.401.8 Vegetation Buffer Requirements.*

(f) Security that the Plan will be Carried Out

The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.

*A condition has been recommended for the applicant to meet the requirements to establish an approved vegetation buffer plan prior to the issuance of any permit for development.*

*As conditioned, the Planning Commission finds that the requirements for a Vegetation Buffer are met.*

d. MMC Subsection 19.401.9 Private Noncommercial Docks

Private noncommercial docks are subject to the following requirements:

- (1) Only 1 dock is allowed per riverfront lot of record.

- (2) In areas designated as open water areas or special management areas by the Division of State Lands, docks may be restricted or additional requirements may be applied to docks. Restrictions or additional requirements will be identified by DSL in their review of the development application.
- (3) Private, noncommercial docks shall not exceed 400 sq ft.
- (4) Docks, pilings, and walkways shall either be dark natural wood colors, or painted dark earthtones (dark brown or green).
- (5) Private noncommercial docks shall not:
  - (a) Restrict boat access to adjacent properties;
  - (b) Interfere with the commercial navigational use of the river, including transiting, turning, passing, and berthing movements;
  - (c) Interfere with critical fish and wildlife habitat or fishing use of the rivers as determined by Oregon Department of Fish and Wildlife; nor
  - (d) Significantly add to recreational boating congestion.

*The proposed dock is 400 sq ft and 212 ft from where it rests on the applicant's property to where it connects with the dock. The length of the gangway is similar in size and length to surrounding docks adjacent to the property. Boat access, commercial navigation, and fish and wildlife habitat will not be inhibited with the proposed dock. The Willamette River is almost 1,000 ft wide at the site of the proposed dock, which leaves ample room for other commercial and recreational vessels to navigate the river. The City referred this application to the Department of State Lands – Wetlands & Waterways and the Army Corps of Engineers. Neither of these agencies commented with any concern about impacts to fish and wildlife habitat. The dock would serve only the applicant's boat, and would not significantly add to recreational boating congestion.*

*The City is aware that state and federal agencies discourage or prohibit wood for docks, pilings, and walkways. Further, painting these items in dark earthtones is also discouraged or prohibited. Wood and painting materials are not used because of adverse environmental impacts associated with treated wood in the river and paint flaking off into the river. The Planning Commission finds that this standard is not consistent with requirements from other agencies nor with the purpose statement of the Willamette Greenway zone to protect the river's natural qualities. The dock, pilings, and gangway may be constructed with the colors and materials proposed by the applicant.*

*The Planning Commission finds that the proposed development meets all of the applicable standards for private, noncommercial docks.*

*As conditioned, the Planning Commission finds that the proposed development meets all applicable standards of the Willamette Greenway zone.*

5. MMC 19.905: Conditional Uses

MMC 19.905 establishes regulations for conditional uses, including standards for reviewing modifications to existing conditional uses.

a. MMC Subsection 19.905.3 Review Process

MMC 19.905.3 establishes the process by which a new conditional use, or a major or minor modification of an existing conditional use, must be reviewed.

*As noted in Finding 4-a, the proposed development is an activity within the Willamette Greenway zone that requires review as a conditional use.*

MMC 19.905.3.A requires that a new conditional use be evaluated through the Type III review process per MMC Section 19.1006.

b. MMC Subsection 19.905.4 Approval Criteria

MMC 19.905.4.A establishes the general criteria for approval of a new conditional use or a major modification to an existing conditional use.

- (1) The characteristics of the lot are suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features.

*The characteristics of the site are suitable for the proposed dock due to the river frontage, little existing vegetation, and a gentle topography toward the river. These features require almost no disturbance of the existing features for installation of the dock. The applicant shall provide a plan for a vegetation buffer as described in Finding 4c in the event vegetation is disturbed during construction.*

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

- (2) The operating and physical characteristics of the proposed use will be reasonably compatible with, and have minimal impact on, nearby uses.

*As stated in Finding 4d, the proposed dock is 400 sq ft and 212 ft from where it rests on the applicant's property to where it connects with the dock. The length of the gangway is similar in size and length to surrounding docks adjacent to the property. Boat access, commercial navigation, and fish and wildlife habitat will not be inhibited with the proposed dock. The Willamette River is almost 1,000 ft wide at the site of the proposed dock, which leaves ample room for other commercial and recreational vessels to navigate the river.*

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

- (3) All identified impacts will be mitigated to the extent practicable.

*The proposal will meet the standards and conditions listed in Finding 4c for a vegetation buffer to mitigate any potential impacts to natural vegetation on the site. No other impacts have been identified by the proposed development.*

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

- (4) The proposed use will not have unmitigated nuisance impacts, such as from noise, odor, and/or vibrations, greater than usually generated by uses allowed outright at the proposed location.

*The proposed addition will not have unmitigated nuisance impacts greater than what is normal for a residential development, which is an allowed use in the R-5 zone.*

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

- (5) The proposed use will comply with all applicable development standards and requirements of the base zone, any overlay zones or special areas, and the standards in Section 19.905.

*The use meets the standards of the Residential zone R-5 standards as described in Finding 6 and the standards for the Willamette Greenway Zone as described in Finding 4.*

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

- (6) The proposed use is consistent with applicable Comprehensive Plan policies related to the proposed use.

*As provided in Finding 4.b.10, the dock is consistent with applicable comprehensive plan policies. It is consistent with the Willamette Greenway element of Chapter 4 – Land Use within the Comprehensive Plan. It increases the recreational use of the river without adversely impacting the natural, scenic, or other qualities of the river.*

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

- (7) Adequate public transportation facilities and public utilities will be available to serve the proposed use prior to occupancy pursuant to Chapter 19.700.

*The proposed use does not require any additional public facilities and will not affect the transportation system.*

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

c. MMC Subsection 19.905.5 Conditions of Approval

MMC 19.905.5 establishes the types of conditions that may be imposed on a conditional use to ensure compatibility with nearby uses. Conditions may be related to a number of issues, including access, landscaping, lighting, and preservation of existing trees.

*The Planning Commission finds that, as conditioned with height limits to the piling height and the vegetation buffer plan conditions, the new development sufficiently mitigates any negative impacts as proposed and that no additional conditions, beyond what are required in the Willamette Greenway overlay zone standards, are necessary to ensure compatibility with nearby uses.*

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

d. MMC Subsection 19.905.6 Conditional Use Permit



MMC 19.905.6 establishes standards for issuance of a conditional use permit, including upon approval of a major modification of an existing conditional use. The provisions include a requirement to record the conditional use permit with the Clackamas County Recorder’s Office and provide a copy to the City prior to commencing operations allowed by the conditional use permit.

*The Planning Commission finds that this standard will be met upon recording of the Conditional Use permit.*

6. MMC 19.301 Low Density Residential Zones

MMC 19.301 contains standards for the Residential R-5 zone. The development standards of this zone that are applicable for this proposal are height and minimum vegetation standards. See Table 1 for a comparison of the development standards with the proposed development.

Table 1:

<b>Development Standard</b>	<b>Requirement</b>	<b>Proposed</b>
Height	Maximum: 35 ft	The piles located above the ordinary high-water line will not exceed 35 ft above ground level.
Minimum Vegetation	25%	48%

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

7. MMC 19.402 Natural Resources

MMC 19.402 establishes regulations for development within the natural resource (NR) zone: Habitat Conservation Area (HCA) and Water Quality Resource (WQR).

a. MMC 19.402.2 Coordination with Other Regulations

- (1) MMC 19.402.2.C, when applicable provisions of Sections 19.402 and 19.401 are in conflict, the more restrictive provision shall be controlling.

*The property does have both HCA and WQR areas on the property, which could trigger Natural Resource review, however, the Willamette Greenway overlay zone requires a vegetation buffer as part of the criteria. The applicant has proposed a 50 ft vegetation buffer that covers the area on the property where the WQR area exists and part of the HCA. As noted in Finding 4c, the vegetation buffer requires river stabilization, scenic view protection, retention of existing native vegetation and large trees, restoration of native vegetation, and enhancement of vegetation buffer area. These requirements for the vegetation buffer are consistent with the mitigation requirements that would be required in the Natural Resource zone for a discretionary review process. Those mitigation requirements include avoid/minimize/or mitigate adverse impacts to the designated natural resource, revegetate where existing vegetation has been removed, and natural vegetation will remain connected or contiguous.*

*Requirements for private, noncommercial docks, in the Willamette Greenway also include restrictions on interfering with critical fish and wildlife habitat or fishing use in the river, which is consistent with requirements in the Natural Resource zone which states minimization of impacts on wildlife and corridors and fish passage.*

*Planning Commission finds that requirements in the Willamette Greenway zone are consistent and not in conflict with requirements in the Natural Resource zone and does not require an additional natural resource review.*

8. The application was referred to the following departments and agencies on May 2, 2019:
- Milwaukie Building Division
  - Milwaukie Engineering Department
  - Clackamas County Fire District #1
  - Island Neighborhood District Association Chairperson and Land Use Committee
  - Army Corps of Engineers
  - North Willamette Watershed Dist., ODFW
  - Department of State Lands, DSL Wetlands & Waterways

Notice of the application was also sent to surrounding property owners and residents within 300 ft of the site on May 22, 2019, and a sign was posted on the property on May 22, 2019.

The only comments received were from Army Corps of Engineers as summarized:

**Jessica Menichino, Army Corps of Engineers:** Ms. Menichino did not identify any issues from an initial review. She notes that the Corps will do a thorough review once the applicant submits an application.

## ATTACHMENT 2

### RECOMMENDED CONDITIONS OF APPROVAL FILE #WG-2019-002, 18<sup>TH</sup> AVE PRIVATE DOCK

#### Conditions

1. Prior to any building permit submissions, the applicant will:
  - a. Show on plans that pilings installed above the ordinary highwater line shall not be over 35 ft above ground.
  - b. Provide a vegetation buffer plan that indicates that the applicant will any areas disturbed by installation or placement of the dock, pilings, or gangway. The Planning Director or designee shall inspect the site after installation of these items to determine that re-vegetation has occurred consistent with the vegetation buffer plan.
2. Conditional Use Permit

As per MMC Subsection 19.905.6, the City will issue a conditional use permit upon approval of an application to establish a conditional use (including Willamette Greenway conditional uses). The applicant must record the conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City prior to commencing operations allowed by the conditional use permit.

#### Additional Requirements

3. Prior to any earth disturbance, the applicant shall obtain an erosion control permit from the City.
4. At the time of submission of any building permit application, the following shall be resolved:
  - a. Final plans submitted for building permit review shall be in substantial conformance with plans approved by this action, which are the plans stamped received by the City on April 1, 2019, except as otherwise modified by these conditions.
  - b. Provide a narrative describing all actions taken to comply with these conditions of approval.
  - c. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.
5. Limitations on Development Activity

Development activity on the site shall be limited to 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday, as per MMC Subsection 8.08.070.(1).
6. Expiration of Approval

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

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

ATTACHMENT 3

Aerial Photos of Subject Property

1977



1987



## ATTACHMENT 4

Eric Schilling and Marie Hoskins  
12435 SE 18<sup>th</sup> Ave  
Milwaukie, Oregon 97222

City of Milwaukie  
Planning Department  
6101 SE Johnson Creek Blvd.  
Milwaukie, Oregon 97206

**Applicant/Owner:** Eric Schilling and Marie Hoskins  
12435 SE 18<sup>th</sup> Ave  
Milwaukie, Oregon 97222

**Property Address:** 12435 SE 18<sup>th</sup> Ave  
Milwaukie, Oregon 97222

**Tax Map/Lot:** Map 11E35DD, Lot 6700  
River Mile 19.5

**Zoning Designation:** R-5/Willamette Greenway

**Comprehensive Plan Designation:** Medium Density Residential

**Request:** Conditional use and Greenway development approval for a private noncommercial dock benefiting adjacent property on the east side of the Willamette River.

### I. INTRODUCTION

This submission will address the applicable standards and review criteria of the City of Milwaukie's Municipal Code and Comprehensive Plan.

Applicant requests use approval for a 400 sq. foot recreational floating boat dock and gangway access system extending from the subject property to the Willamette River. The City's code provides that a dock is a permitted conditional use on the subject property. Since applicant's property is within the Willamette River Greenway overlay, the request is also subject to Water Quality Resource Review and Willamette River Greenway code and comprehensive plan elements.

The subject property is located in the Island Station neighborhood of the City of Milwaukie. The 1.84 acre property is zoned for, developed with, and used as a single family residence. The home was constructed in 1993. The dock is proposed in front of applicant's property. The private dock will be used to moor applicant's boat. The proposed use is common in the area and elsewhere along the Willamette River.

The character of the subject site and surrounding area is urban residential. Surrounding property is highly parcelized and developed with residences and accessory structures. There are numerous private gangways, docks, and boathouses on and along the Willamette River near the subject property, also subject to Willamette River Greenway Standards and Goal 15.

The shoreline in the vicinity of the site is ringed with homes set back approximately 100-300 feet from the river's sandy shore. Much if not all of the shoreline has historically been devoid of



vegetation. The banks of the river slope very gradually from the property to the water. The river bottom also slopes gradually, until it reaches a deep-water drop off.

Applicant seeks approval to construct a 400 sq. ft. recreational floating boat dock and gangway access system. The gangway, providing access to the dock, will be 4 feet wide and run 212 feet. The length of the gangway is dictated by the site's topography, the gentle slope of the land and the river bottom, and federal US Army Corps of Engineers (Corps) and National Oceanic and Atmospheric Administration (NOAA) requirements. The dock will be located at a minimum depth of 20 feet to ensure the protection of federally protected fish species, as required by NOAA and the Corps. The dock will be constructed of a steel frame, vinyl decking and plastic skirtboards. The dock surface will incorporate steel or plastic grating to allow sunlight to penetrate the dock structure. The grating will be aligned to maximize light. The dock floatation will be a foam filled permanently encapsulated system. The dock will be floated by two 12 inch steel piles connected to two 12 inch steel batter piles. The gangway will connect the shore with the floating dock. The gangway will be elevated above the water level as required by federal regulations, although the gangway will be equipped with floats to prevent grounding and immersion at any water level. The gangway will be located by three 12 inch steel piles, each equipped with a steel arm welded to the side of the pile to support the gangway. The plan is to install all piles by the drop hammer method to minimize site impact. All piles tops will be fitted with caps to prevent perching by predatory birds. The shore end of the gangway will rest on a steel support arm welded to the side of the shore pile. The shore pile will be located above the ordinary high water mark, resulting in less than ten square feet of disturbance to the river bank. The dock and gangway will be constructed off-site to minimize in water work time and site disturbance.

The river at the site is approximately 1000 feet wide, subject to seasonal variations. The river upstream from the site is approximately 1200 feet wide. The subject site is one of the widest points in the river south of Elk Rock Island. Based in the width of the river at the site, construction of the dock will not unreasonable interfere with waterborne access along the River.

The proposed gangway and dock is consistent and compatible with existing area structures and uses. To the north and south, on both sides of the river, well over 50 docks and boathouses exist and extend into the river to a similar extent as the proposed dock. To the south (upstream), the river is about 500-600 feet wide. This area is characterized by dozens of boat docks and boathouses extending into the river. The existing docks and structures do not unreasonably interfere with river users, nor will applicant's. The river channel, at all points, specifically in front of the applicant's property, does now and will continue to provide adequate water surface for boaters, skiers, and other river users. Boaters and users commonly navigate around other docks in the area. The dock will be visible to river users and thus further ensure public safety.

The Department of Army Corps, in conjunction with NOAA, are agencies responsible to ensure docks and gangways will not have adverse effects on wildlife, particularly species protected under the Endangered Species Act. They have jurisdiction over work performed in or affecting a navigable waterway of the United States. As required, applicants submitted their proposal to the Corps for authorization to perform work in or affecting the Willamette River. Pursuant to Section 10 of the Rivers and Harbors Act of 1899. Application has been made with the Corps.

## **II: APPLICABLE APPROVAL CRITERIA**

### **A. Zoning Ordinance**

Conditional use/development standards

- a. Section 19.601.2 – Conditional Use Review Criteria
- b. Section 19.303.3 Residential Zone R-5 Development Standards (only height and minimum vegetation standards are applicable.)
- c. Section 19.320 Willamette Greenway Zone: 19.320.5 Procedures, 19.320.6 Criteria, 19.320.8 Vegetation Buffer Requirements, and 19.320.9 Docks. Regarding 19.320.9.D, explain how this section is in conflict with 19.320.1 and reference other agencies’ requirements to avoid treated wood, painted wood and other painted materials to protect fish habitat and water resources.
- d. Section 19.322.2.B. Water quality resource regulations and development standards may apply to your proposed dock installation if any are more restrictive than the WG regulations or standards. Your response to this section should identify which regulations or standards, if any, are more restrictive as they relate to your specific proposal.
- e. Chapter 16.28 Erosion Control
- f. Title 18 Flood Hazard Regulations

B. Comprehensive Plan – Willamette Greenway Element.

III. COMPLIANCE WITH APPLICABLE APPROVAL CRITERIA

COMMENT: The applicable approval standards are in *bold italic* print. Applicant’s response to each follows the standards as a COMMENT.

A. ZONING ORDINANCE

i. Conditional Use/Development Standards

Section 19.601.2 Applicant’s responsibilities

*19.601.2 Review Criteria. Applicants for conditional use shall provide evidence that all requirements of this title relative to the proposed use are satisfied, and demonstrate that the proposed use also satisfies the following criteria:*

*A. The use meets the requirements of a conditional use in the zone currently applied to the site.*

COMMENT: The subject property is located within the Willamette Greenway Zone. Private noncommercial docks are a water dependent use and permitted in the zone pursuant to Section 19.320.9 of the City’s municipal code.

*B. The use meets the standards for the underlying zone.*

COMMENT: As demonstrated by and throughout this submission, the dock meets the standards of the underlying zone.

*C. The proposal satisfies the goals and policies of the comprehensive plan which apply to the proposed use.*

COMMENT: As demonstrated by Section B below, the proposal satisfies applicable goals and policies of the Comprehensive Plan.



*D. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.*

COMMENTS: Applicant proposes a noncommercial private dock, a water dependent use. The subject site is adjacent to and has approximately 141 feet of Willamette River frontage. The site slopes gently from a manicured lawn down to a sandy beach along the river. There is no vegetation along the river. As such, the characteristics of the site are suitable for a dock.

*E. The proposed use is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.*

COMMENT: The proposed use is not dependent upon the adequacy of transportation facilities and services, existing or planned.

*F. The proposed use complies with the transportation requirements and standards of Chapter 19.1400.*

COMMENT: : The proposed use is not dependent upon the adequacy of transportation facilities and services, existing or planned.

#### Section 19.303.3 Applicant's responsibilities

*G. Height restriction: Maximum height of a structure shall be two and one-half stories or thirty-five (35) feet, whichever is less.*

COMMENT: Applicant will comply with this standard.

*I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc. will be twenty-five percent (25%) of the total area of the lot.*

COMMENT: Applicant proposes a 50 foot vegetative buffer zone, 25 feet below the ordinary high water mark and 25 feet above, to be planted with native vegetation. The area is presently devoid of vegetation and has been so historically. Although the area may be able to support some plants, the rise and fall and flow of the river, as well as sandy soils, will make revegetating the area below the high water mark difficult. Vegetation on the property does and will continue to exceed 25% of the total area of the lot.

#### 19.320 Willamette Greenway zone WG

*In a WG zone, the following regulations shall apply:*

##### 19.320.5 Procedures. The following procedures shall govern the application of WG zones:

*A. In the WG zone, all uses and their accessory uses are permitted subject to the provisions of Chapter 19.600.*

COMMENT: Applicant is providing information to meet provisions.

*B. The Oregon Department of Transportation shall be notified according to the provision of subsection 19.1011.3D.*

COMMENT: Applicant will comply with the provision.

*C. The provisions of the WG zone in Section 19.320 shall apply until adoption of the Willamette Greenway design plan.*

COMMENT: Applicant has provided buffer plan with application under 19.320.6.

*D. A greenway conditional use is required for all intensification or change of use, or alteration of the vegetation buffer area, or development, as defined in this chapter. Approval shall be granted only if the criteria in subsection 19.320.6 are met.*

COMMENT: Applicant has provided buffer plan with application under 19.320.6.

*E. Submittal Requirements. A vegetation/buffer plan must be submitted for each application for a greenway conditional use permit.*

COMMENT: Applicant has provided buffer plan with application under 19.320.6.

*F. Written notice, including a copy of the application, will be sent upon receipt to the Oregon Parks and Recreation Department by certified mail—return receipt requested. The Oregon Division of State Lands, Oregon Department of Fish and Wildlife, and State Marine Board shall also be notified of each application.*

COMMENT: Written notice shall be completely and done by certified mail required.

*G. Written notice shall be provided to the Oregon Division of State Lands after the land use action is final for activities affecting wetlands or submerged or submersible lands within the Willamette River Greenway. The notice shall include local government conditions of approval.*

COMMENT: Written notice shall be completely and done by certified mail required.

19.320.6 Criteria. The following shall be taken into account in the consideration of a conditional use:

*A. Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan*

COMMENT: The Subject property is planned, zoned, and developed with an urban residential use.

*B. Compatibility with the scenic, natural, historic, economic, and recreational character of the river;*

COMMENT: The proposal is compatible with uses in the area and the recreational character of the Willamette River. The proposal will not have a significant or detrimental impact on the scenic natural, historic or economic character of the river. Applicant proposes a private dock to

support recreational use of the river. To the north and south, on both sides of the river, well over 50 docks and boathouses exist and extend into the river to a similar extent as the proposed dock. The area to the south, where the river is about 500-600 feet wide, is characterized by dozens of boat docks and boathouses extending into the river. The proposed gangway and dock is consistent and compatible with existing area structures and uses.

*C. Protection of views both toward and away from the river;*

COMMENT: Applicant's proposal will not adversely affect views. The dock will be at water level. The gangway will be just above water level, and thus not block views to or from the water. Docks are a common use of waterfront property and very common throughout the subject area. Docks are part of the existing views towards and away from the river.

*D. Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable;*

COMMENT: The shoreline adjacent to the site is devoid of vegetation. A sandy beach characterizes the shoreline. A manicured lawn sloping gently towards the river characterizes the property. No trees or vegetation will be removed.

*E. Public access to and along the river, to the greatest possible degree, by appropriate legal means;*

COMMENT: The proposal does not impact public access. Applicant's private property extends to the low water mark, as the deed describes the property to the meandering line of the river. As such, public use of the area between the low and high water marks is not affected. The public has no access to applicant's property or access rights on the site. Objective 6 of the City's Willamette Greenway Comprehensive plan Element states: "nothing within the State of Oregon or City of Milwaukie Greenway program is intended to authorize the unrestricted public use of private land."

*F. Emphasis on water-oriented and recreational uses;*

Comment: Applicant proposes a private noncommercial recreational dock. The dock is a water-dependent use.

*G. Maintain or increase views between the Willamette River and downtown;*

COMMENT: The subject property does not have a view to downtown. The views between the Willamette River and downtown will not be impacted.

*H: Protection of the natural environment according to regulations in the natural resource overlay zone;*

COMMENT: The proposed use is permitted by the Willamette Greenway overlay regulations, Section 19.320.9. The Department of Army Corps, in conjunction with NOAA, are agencies responsible to ensure docks and gangways will not have adverse effects on wildlife, particularly species protected under the Endangered Species Act. They have jurisdiction over work performed in or affecting a navigable waterway of the United States. As required, applicants submitted their proposal to the Corps for authorization to perform work in or affecting the Willamette River.

*I. Advice and recommendations of the design review committee, as appropriate;*

**Comment:** Applicant has not received any advice and recommendations of the design review committee. It is applicant's understanding the proposal is not subject to the design review committee. Applicant has employed Ken Floation Services to design the dock and gangway. Ken Floation Services is very experienced and employs the newest, environmentally sound materials and technology.

*J. Conformance to applicable comprehensive plan policies;*

**COMMENT:** Applicant has demonstrated compliance with applicable comprehensive plan policies below.

*K. The request is consistent with applicable plans and programs of the Division of State Lands;*

**COMMENT:** Applicant has communicated with the Division of State Lands and submitted a Waterway Structure Application pursuant to the Division's request and rules to register the dock. Applicant will submit a Foam Encapsulation Certification form as required by the Oregon State Marine Board. No State/Federal removal or fill permit is required.

*L. A vegetation buffer plan meeting the conditions of subsection 19.320.8(A)-(C)*

**COMMENT:** Applicant has demonstrated compliance with 19.320.8(A)-(C) below.

19.320.8 Vegetation Buffer Requirements.

*A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location twenty-five feet upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this title, and subject to the requirements of subsection B below.*

**COMMENT:** Applicant proposes a 50 foot vegetative buffer zone, 25 feet below the ordinary high water mark and 25 feet above, to be planted with native vegetation. The area is presently devoid of vegetation and has been so historically. Although the area may be able to support some plants, the rise and fall and flow of the river, as well as sandy soils, will make renegotiating the area below the high water mark difficult.

*B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:*

**COMMENT:** Applicant does not propose to remove any vegetation or alter the natural site conditions above the ordinary high water mark. Less than ten square feet of land will be disturbed.



12435 SE 18<sup>th</sup> Ave.  
 Milwaukee, OR 97222

"Site"  
 45.4329°N  
 -122.6471°W

Schilling/Haskins



R. Mile  
19.5

← 10' →



Existing Deck  
→ 110'

Existing Deck  
← 120'

← 90' 2.5' →

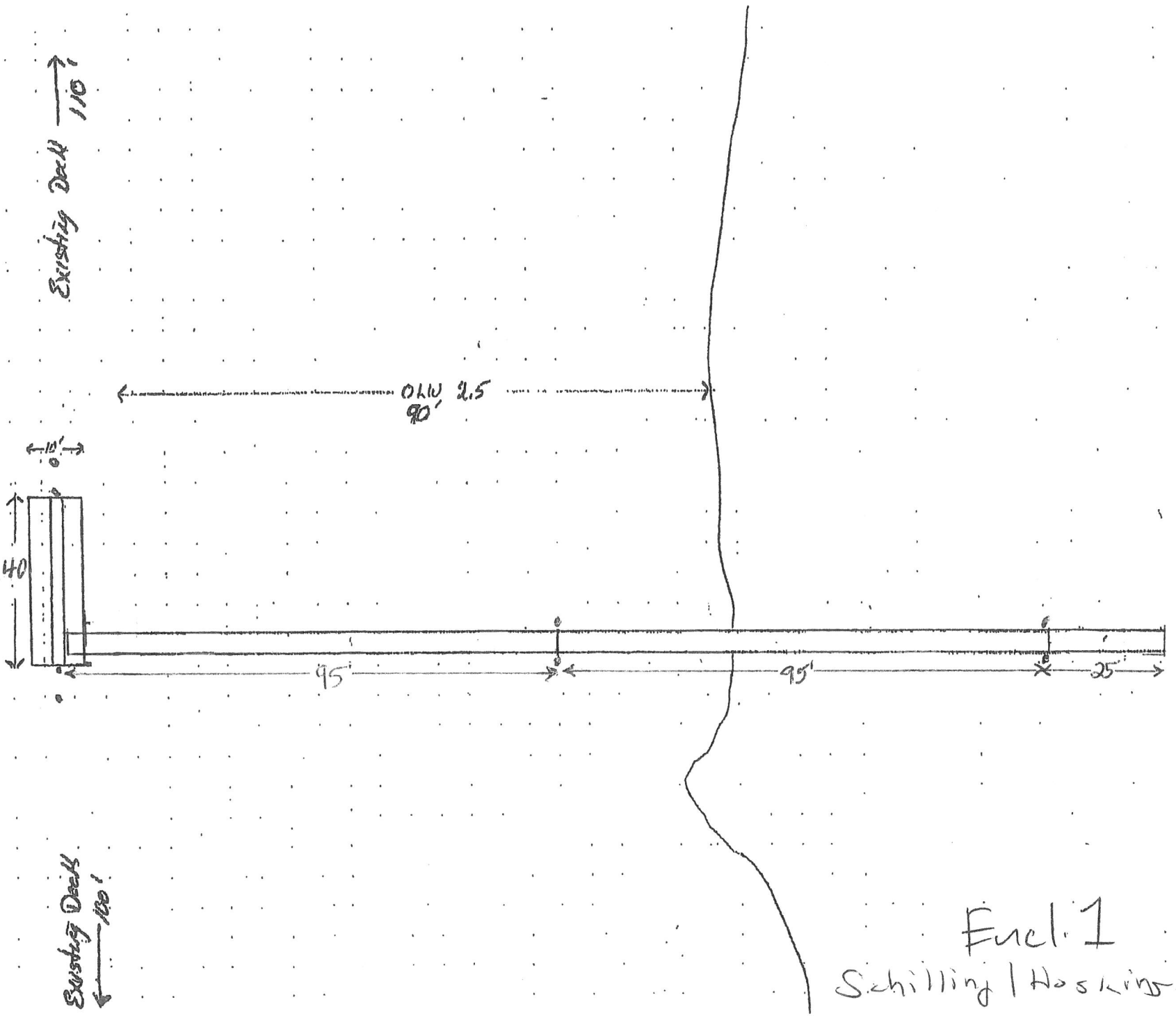
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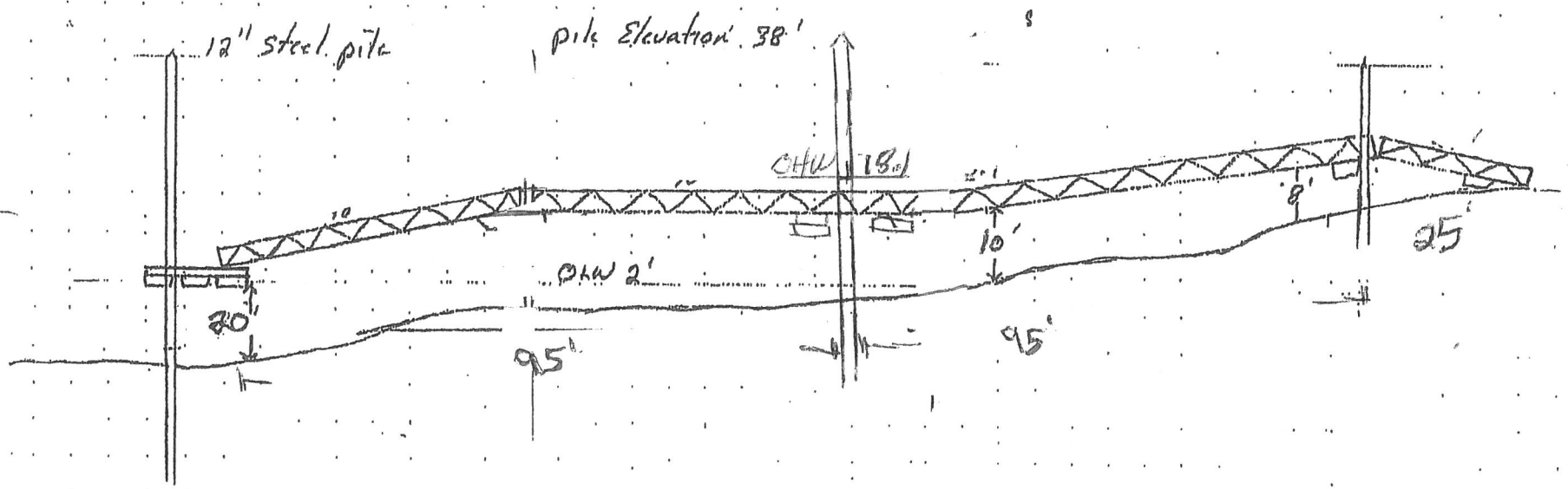
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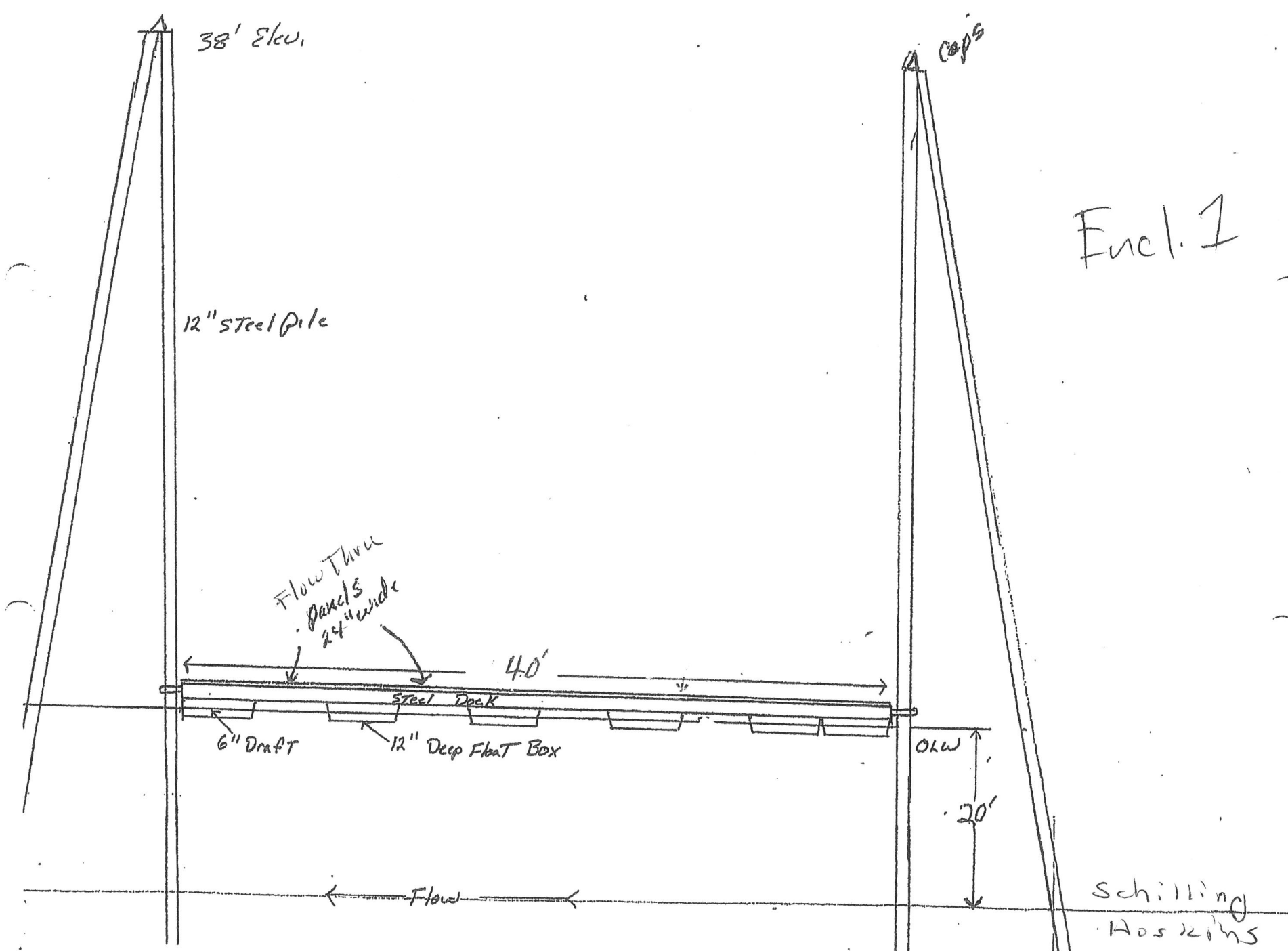
25'

Encl. 1  
Schilling / Hoskins





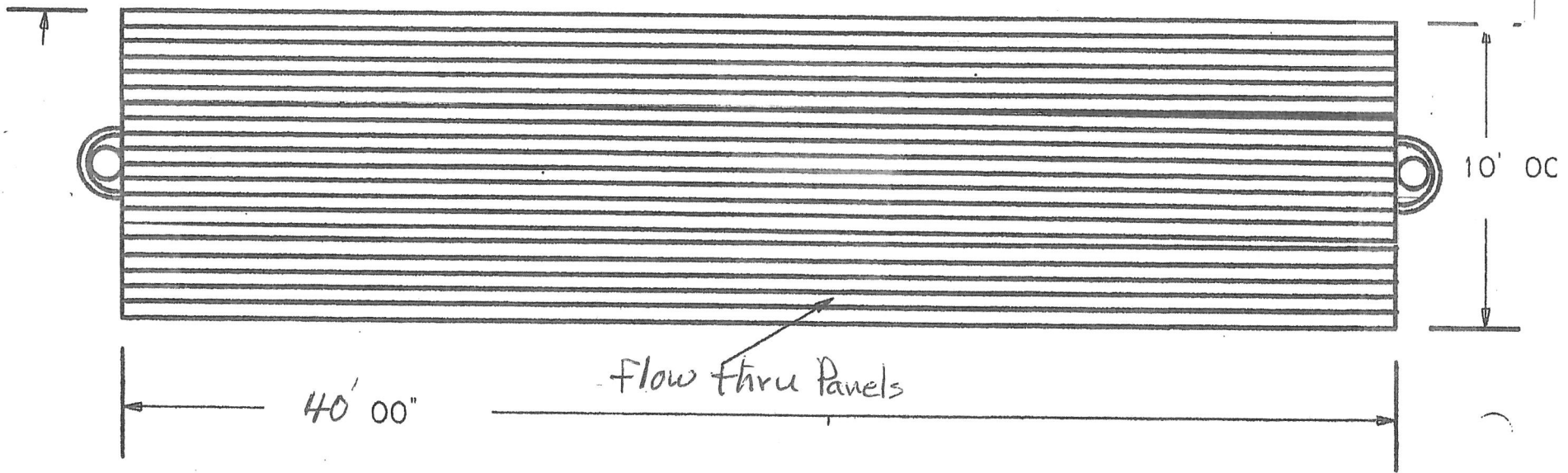
Schilling / Hoskins



Encl. 1

Schilling  
Hoskins





Schilling / Hoskins

ZTec Engineers, Inc.  
Civil-Structural-Surveying

3737 S.E. 8<sup>th</sup> Avenue  
Portland, Oregon 97202  
(503)- 235-8795 Fax (503) 233-7889

John McI. Middleton, P.E. e-mail: ztec@ztecengineers.com Chris C. Fischborn, P.L.S.  
Ronald b. Sellards, S.E., P.E.

June 4, 2008

City of Milwaukie Planning Department

Milwaukie, Oregon 97222

Re: private dock in Willamette River – mile 19.5  
TI #6700, SE 35 T 01S R 1E  
12435 SE 18<sup>TH</sup> Ave, Milwaukie 97222

Dear Planner:

In pursuant to Milwaukie Building Departments request, I investigated the encroachment dock in the Willamette River. I have not made a detailed hydraulic analysis of the waterway. I don't believe that one is necessary in my best Engineering judgement to demonstrate the following:

- (1) The flood carrying capacity for the altered or relocated portion of the watercourse will be maintained;
- (2) The area subject to inundation by the base flood discharge will not be increased;
- (3) The alteration or relocation will cause no measurable increase in base flood levels.

This private dock will have NO measurable increase in flood levels, flood velocities and will not relocate the base flood area or watercourse. For this application this concern should be waived and not even considered. Common sense says that much of the debris floating down the river will alter the flood level more than this application. The inclusion of a small private dock should not be a concern on large streams. When one calculates the increase capacity or increase of the level of the river, it is immeasurable.

If I can be of further assistance, please contact me at 503-235-8795.

Sincerely yours,

*Ronald b Sellards*  
Ronald b. Sellards, S.E., P.E.



May 14, 2008

File: WG-08-01

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on May 13, 2008.

**Applicant:** Eric Schilling and Marie Hoskins  
**Location:** 12435 SE 18<sup>th</sup> Avenue  
**Tax Lot:** 1S 1E 35DD 06700  
**Application Type:** Willamette Greenway Review  
**Decision:** Approved, with Conditions  
**Review Criteria:** Milwaukie Zoning Ordinance:

- MMC 19.303, Residential zone R5
- MMC 19.320, Willamette Greenway zone WG
- MMC 19.600, Conditional Uses

**Neighborhood:** Island Station

The Planning Commission's decision on this matter may be appealed to the Milwaukie City Council. An appeal of this action must be filed within 15 days of the date of this notice, as shown below.

**Appeal period closes: 5:00 p.m., May 29, 2008**

Appeals to the City Council must be accompanied by the appeal fee, be submitted in the proper format, address applicable criteria, and be made on forms provided by the Planning Department. Milwaukie Planning staff (503-786-7630) can provide information regarding forms, fees, and the appeal process.

### Findings in Support of Approval

1. The applicants, Eric Schilling and Marie Hoskins, have applied for approval to construct a private, non-commercial dock on their property at 12435 SE 18<sup>th</sup> Avenue. This site is in the Residential zone R5 and is partially covered by the Willamette Greenway and Water Quality Resource overlay zones. The land use application is WG-08-01.
2. Sections of the Milwaukie Municipal Code (MMC) not addressed in these findings are found to be not applicable to the application.
3. The application has been reviewed through the Minor Quasi-judicial review process, as described in MMC 19.1011.3. Notice has been posted in the newspaper, posted at the site, and mailed to surrounding property owners within 300 feet of the site as required. The Planning Commission held a duly advertised public hearing considering the application on May 13, 2008.
4. The proposed dock is 400 square feet in size and would extend approximately 90 feet into the Willamette River from the ordinary low water line on the east bank of the river. The main use of the dock is to moor the applicant's boat. The characteristics of the proposed dock system are as follows:
  - A. The dock would be 10 feet wide by 36 feet long, with an additional 6 foot by 6 foot area that connects to the gangway. The dock would be constructed of a steel frame, vinyl decking, and plastic skirtboards. The center two feet of the dock and connection would have fish light panels, which are plastic or steel grating that allows sunlight into the water below the dock.
  - B. An aluminum gangway would provide access from the shore to the dock. The gangway would be 48 inches wide have a total length of 212 feet from where it rests on the applicant's property to where it connects with the dock. The shore end of the gangway would rest on a steel support arm welded to the side of a pile, and would not have a fixed foundation on shore. The remainder of the gangway would be elevated above ground.
  - C. The dock would be floated by permanently encapsulated foam. Four steel piles that are twelve inches in diameter would secure the dock and gangway. The piles would be fitted with caps that prevent perching by predatory birds. The sections of the gangway would also have floats to prevent immersion.
  - D. The construction of the dock will be designed to minimize impacts to the shore and river to the greatest extent practicable. The dock and gangway would be constructed off-site and floated to the site by barge and tug boat. The piles would be driven by a vibratory hammer by crane barge. An air hammer would be used if the vibratory hammer is not effective.
  - E. The estimated length of construction is three days, and can occur between July 1<sup>st</sup> and October 31<sup>st</sup>.
5. The construction of a new, private, non-commercial dock is subject to a Willamette Greenway review as outlined in Milwaukie Municipal Code (MMC) Chapter 19.320, Willamette Greenway review. The proposed dock complies with this chapter as follows:
  - A. MMC 19.320.5 establishes review procedures for the Willamette Greenway zone (WG). As described below, these procedures have been followed:
    - i) Per MMC 19.320.5(A), in the WG zone, all uses are subject to conditional use review. The application complies with conditional use review as described in Finding 6.

- ii) As required in MMC 19.320.5(B), the Oregon Department of Transportation has been notified.
  - iii) Per MMC 19.320.5(D), approval of a Willamette Greenway review may only be granted in the criteria of MMC 19.320.6 are met. These criteria are met as described in Finding 5(B).
  - iv) MMC 19.320.5(E) requires a vegetation buffer plan. The applicant's plan for the buffer area is described in the application submitted on March 26, 2008.
  - v) MMC 19.320.5(F) requires notice of the application be provided to Oregon Parks and Recreation Department, Oregon Division of State Lands, Oregon Department of Fish and Wildlife, and the State Marine Board. As required, these agencies have been notified.
  - vi) MMC 19.320.5(G) requires the Oregon Division of State Lands receive notice of the final action on this application. This notice will be provided after the hearing by the Planning Commission on May 13, 2008.
- B. MMC 19.320.6 establishes approval criteria for Willamette Greenway review. These criteria are met as follows:
- i) The property where the dock is proposed is developed and has been committed to a medium density residential urban use. The proposal is consistent with the criterion of MMC 19.320.6(A).
  - ii) The proposed dock is consistent with the scenic, natural, historic, economic, and recreational character of the Willamette River. Private docks are a common use along the river in urban areas and do not degrade the scenic character of the river. The dock directly supports the recreational character of the river. Review by state and federal agencies ensures that the dock will not adversely impact the natural features of the river or interfere with the commercial use of river. The proposal is consistent with the criterion of MMC 19.320.6(B).
  - iii) The proposed dock does not affect views toward or away from the river. The dock and gangway are either at or close to the water level, and the piles are not a significant visual obstruction. Docks are a common use along the river and are not considered to affect views toward or away from the river. The proposal is consistent with the criterion of MMC 19.320.6(C).
  - iv) The proposed dock does not affect the landscaping or vegetation that exists at the site. The property gradually slopes toward the river and has an open, sandy riparian area without significant vegetation. The proposal is consistent with the criterion of MMC 19.320.6(D).
  - v) The dock does not affect public access to or along the river. The dock would not impede the ability of others to travel along the river. The applicant's site is private property and as such does not currently provide public access to the river. Therefore, the dock would not affect public access to the river. The proposal is consistent with the criterion of MMC 19.320.6(E).
  - vi) The dock is a water-dependant use that facilitates recreation on the river and is consistent with the criterion of MMC 19.320.6(F).

- vii) The dock is not in the vicinity of downtown Milwaukie and would not impact views between downtown and the River. The proposal is consistent with MMC 19.320.6(G).
- viii) The dock would not adversely affect the natural environment of the area. No vegetation would be removed. No structures would be built in the riparian area and no grading of the site will occur. Review by federal and state agencies ensures that there will not be adverse impacts to wildlife. The proposal is consistent with the criterion of MMC 19.320.6(H).
- ix) The application is not subject to design review and does not require review from the design committee. The proposal is consistent with the criterion of MMC 19.320.6(I).
- x) The dock is consistent with applicable comprehensive plan policies. It is consistent with the Willamette Greenway element of Chapter 4 - Land Use within the Comprehensive Plan. It increases the recreational use of the river without adversely impacting the natural, scenic, or other qualities of the river. The proposal is consistent with the criterion of MMC 19.320.6(J).
- xi) The Division of State Lands did not comment that the request is inconsistent with that agency's programs and plans. The proposal is consistent with the criterion of MMC 19.320.6(K).
- xii) The vegetation buffer plan described in Finding 5(C) demonstrates that the proposal is consistent with the criterion of MMC 19.320.6(L).

C. MMC 19.320.8 requires a vegetation buffer between the river and 25 feet upland of the ordinary high water mark. This area is currently sandy and devoid of vegetation. The applicant does not propose removal of any existing vegetation. The applicant proposes a 50-foot vegetative buffer zone to be planted with native vegetation.

The Planning Commission finds that MMC 19.320.8 does not require vegetation to be planted unless existing vegetation is removed due to the project. Since the area has been devoid of vegetation for several decades, the Planning Commission finds that re-vegetation is not required.

As conditioned, any areas of existing vegetation that are disturbed by construction or placement of the dock, gangway, or piles shall be replanted with native vegetation.

D. MMC 19.320.9 contains development standards for private non-commercial docks in the Willamette Greenway zone. The proposed dock complies with these standards as described below.

- i) MMC 19.302.9(A) allows only one dock per riverfront lot of record. The proposed dock would be the only dock for the lot owned by the applicants.
- ii) MMC 19.320.9(B) states that the Division of State Lands may identify additional requirements for docks along certain areas of the river. This application was referred to the Division of State Lands and that agency did not identify any additional regulations.
- iii) MMC 19.320.9(C) requires that private non-commercial docks not exceed 400 square feet, as measured from the outer edge of the structure. The main part of the dock has one 10 foot by 36 foot wide area, and one 6



- E. MMC 19.601.2(E) require that the proposed use is timely considering the adequacy of public facilities to serve the use. The proposed use does not require any additional public facilities and will not affect the transportation system.
- F. MMC 19.601.2(F) requires that the proposed use meet the requirements of MMC Chapter 19.1400. The applicability of Chapter 19.1400 depends upon the permit value of the proposed improvements. Compliance with this chapter will be evaluated at the time that the City reviews permits for the project. Currently, the site does not have frontage on a public street and would not have any requirements with regard to MMC Chapter 19.1400.
7. MMC Section 19.303 contains standards for the Residential zone R5. The development standards of this zone that are applicable for this proposal are height and minimum vegetation standards. As conditioned, the piles located above the ordinary high water line will not exceed 35 feet above ground level. The site is approximately 79,800 square feet in area and requires at least 25% of the site, or 19,950 square feet, to be vegetated. The back yard of the site is entirely vegetated and has an area of over 38,000 square feet. The proposed dock will not disturb more than 10 square feet; therefore this standard is met.
8. MMC Section 19.322, Water Quality Resource Regulations applies to sites with areas of the Water Quality Resource (WQR) overlay. MMC 19.322.2, Coordination with the Willamette Greenway Overlay, states that provisions of the WQR overlay shall apply where they are more restrictive than the standards of MMC Section 19.320. Due to the lack of existing vegetation on the site, the Planning Commission finds that the standards of MMC 19.322.10, Development Standards, are not more restrictive than MMC Section 19.320, and are not applicable to this application.
9. The project is within the 100 Year Floodplain as defined by Federal Emergency Management Agency, and is subject to MMC Title 18, Flood Hazard Regulations. Compliance with these regulations will be reviewed when a development permit for the project is submitted to the City of Milwaukie.
10. Title 16 of the Milwaukie Municipal Code requires that the applicant obtain an erosion control permit prior to construction or commencement of any earth disturbing activities. As conditioned, the applicant will comply with MMC Title 16 – Erosion Control.
11. MMC 19.1013 states that actions authorized by MMC Chapters 19.600, 19.700 and 19.800 shall be void after six months unless substantial construction has taken place. All uses within the WG overlay are conditionally allowed, and subject to MMC Chapter 19.600. As conditioned, substantial construction of the proposed dock shall take place within six months after approval. The Planning Commission may grant a one year extension to this deadline upon request.
12. The application was referred to the following department and agencies on April 16, 2008: Milwaukie Building Department, Milwaukie Engineering Department, Clackamas County Fire District #1, Island Station Neighborhood District Association Chairperson and Land Use Committee, Oregon Department of Transportation, Oregon State Marine Board, Oregon Department of State Lands, Oregon Parks and Recreation Department, and Oregon Department of Fish and Wildlife. The comments received are summarized as follows:
- The Milwaukie Building Department commented that the proposal does not require Building Department Review.
  - The Milwaukie Engineering Department commented that the project will be reviewed for compliance with MMC Chapter 19.1400, Transportation Planning, Design Standards, and Procedures, and MMC Title 18, Flood Hazard Regulations when development permits are reviewed. Currently, the

foot by 6 foot area leading to the gangway. As proposed, the structure complies with this standard.

- iv) MMC 19.320.9(D) requires that docks, pilings and walkways be either dark natural wood colors or painted in dark earthtones. The City is aware that state and federal agencies discourage or prohibit wood for docks, pilings and walkways. Further, painting these items in dark earthtones is also discouraged or prohibited. Wood and painted materials are not used because of adverse environmental impacts associated with treated wood in the river and paint flaking off into the river. The Planning Commission finds that this standard is not consistent with requirements from other agencies nor with the purpose statement of the Willamette Greenway zone to protect the river's natural qualities. The dock, pilings, and gangway may be constructed with the colors and materials proposed by the applicant.
- v) MMC 19.320.9(E) requires that private non-commercial docks not restrict boat access to adjacent properties, interfere with commercial use of the river, interfere with fish or wildlife habitat, or significantly add to recreational boating congestion. The proposed dock would extend approximately as far into the river as docks to the north and south of the applicant's property. The proposed dock would be at least 50 feet from the adjacent docks and would not interfere with use of the existing docks. The Willamette River is almost 1,000 feet wide at the site of the proposed dock, which leaves ample room for other commercial and recreational vessels to navigate the river. The City referred this application to the Oregon State Marine Board and Oregon Department of Fish and Wildlife. Neither of these agencies commented with any concern about impacts with fish or wildlife habitat. The dock would serve only the applicant's boat, and would not significantly add to recreational boating congestion.

6. MMC Chapter 19.320, Willamette Greenway zone, states that all uses are conditionally permitted in the overlay zone, subject to the standards of MMC Chapter 19.600, Conditional Uses. The proposed dock conforms to the review criteria for conditional uses in MMC 19.601.2 as follows:

- A. MMC 19.601.2(A) requires that the use meets the requirements of a conditional use in the current zoning of the site. Docks are not listed as a conditional use in the Residential zone R5, but are allowed in the Willamette Greenway overlay zone.
- B. MMC 19.601.2(B) requires that the use meets the requirements of the zone currently applied to the site. The use meets the standards of the Residential zone R5 standards as described in Finding 7 and the standards for the Willamette Greenway zone as described in Finding 5.
- C. MMC 19.601.2(C) requires that the proposal satisfy the goals and policies of the comprehensive plan which apply to the propose use. As described in Finding 5(B)(x) above, the proposed dock complies with the Willamette Greenway Element in Chapter 4 – Land Use in the Comprehensive Plan.
- D. MMC 19.601.2(D) requires that the characteristics of the site are suitable for the proposed use. The characteristics of the site are suitable for a dock due to the fact that it has river frontage, little existing vegetation, and a gentle topography toward the river. These features require almost no disturbance of the existing features for installation of the dock.



requirements of MMC Chapter 19.1400 apply only to frontages along public street frontages. Because the property does not currently have frontage on a public street, the requirements of this chapter would not apply. The site is within the 100 Year Floodplain, and the requirements of MMC Title 18 would apply.

- The Island Station Neighborhood District Association (NDA) discussed the application by phone on April 28, 2008. In general, the NDA has no objections to this application. The following items were noted: the proposed dock is consistent with existing docks on either side of the property; it is too bad that the dock has to extend so far to reach deep water; there is some inconsistency regarding the description of how the piles will be driven; and a suggestion that vegetation be replanted only if vegetation is removed during construction.

### **Conditions of Approval**

1. The applicant shall submit plans to the Engineering and Planning Department for review and approval. The plans shall be in substantial conformance with the plans reviewed in Land Use Application #WG-08-01, received March 26, 2008.
2. Pilings installed above the ordinary high water line shall not be over 35 feet above ground.
3. The plans submitted to the City of Milwaukie must be reviewed and approved by the Engineering Department and Planning Department prior to commencement of work for the proposed project.
4. Prior to any earth disturbance, the applicant shall obtain an erosion control permit from the City.
5. Substantial construction of the dock shall occur within six months of final approval of the land use application. The Planning Commission may grant a one year extension if requested to do so, per the provisions of MMC 19.1013.
6. The applicant is required to replant any areas disturbed by installation or placement of the dock, pilings, or gangway. The Planning Director or designee shall inspect the site after installation of these items to determine what re-vegetation will be required.

---

Katie Mangle  
Planning Director

cc: Applicant  
Planning Commission  
Kenny Asher, Community Development/Public Works Director  
Gary Parkin, Engineering Director  
Zach Weigel, Civil Engineer  
Tom Larsen, Building Official  
Bonnie Lanz, Permit Specialist  
Mace Childs, Deputy Fire Marshal  
NDA: Island Station  
Interested Persons  
Mike McCabe, Oregon Division of State Lands  
File: WG-08-01



# Oregon

Theodore R. Kulongoski, Governor

Department of State Lands  
775 Summer Street NE, Suite 100  
Salem, OR 97301-1279  
(503) 986-5200  
FAX (503) 378-4844  
www.oregonstatelands.us.

June 13, 2008

State Land Board

AP410\40468-RG  
ERIC SCHILLING AND MARIE HOSKINS  
12435 SE 18<sup>TH</sup> AVE  
MILWAUKIE OR 97222

Theodore R. Kulongoski  
Governor

Bill Bradbury  
Secretary of State

Randall Edwards  
State Treasurer

## REGISTRATION 40468-RG

Dear Mr. Schilling and Ms. Hoskins:

This letter is to inform you that your dock has been authorized. The issue date is June 1, 2008 and the expiration date is May 31, 2013.

Under OAR 141-082-0160(4) you will still be required to notify the Department of any of the following changes:

- a) Change in the location of registered structure ninety (90) days prior to such change.
- b) Change in ownership of a registered structure within ninety (90) days of the transfer of ownership.

Your registration must be renewed every five (5) years. The Department will notify you by mail and provide a form to renew the registration ninety (90) days prior to the expiration date of the registration.

Sincerely,

Stephen J. Purchase  
Assistant Director  
Land Management Division

C: Clackamas County Assessors  
Clackamas County Planning  
Oregon State Marine Board

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commander  
United States Coast Guard  
Thirteenth District

915 Second Ave.  
Seattle, WA. 98174-1067  
Staff Symbol: //dpw//  
Phone: (206) 220-7270  
Fax: (206) 220-7265

16518

MAY - 6 2008

Mr. Eric Schilling  
12435 SE 18<sup>th</sup> Avenue  
Milwaukie, OR. 97222

Dear Mr. Schilling:

I am writing in regards to your Army Corps of Engineers Notification Letter (NWP-2008-83), dated March 20<sup>th</sup>, 2008, which was received by this office and discusses the placement of a new dock on the Willamette River at river mile 19.3 near Milwaukie, Oregon.

I have no objection to the placement of your structure and do not find it necessary to require this structure be marked with Private [marine] Aids to Navigation (PATON) at this time. However, please be aware that the placement of new PATON would require permission from the Coast Guard. The definition of a Private Aid to Navigation (PATON) can be found at "<http://www.uscg.mil/d13/oan/paton.htm>".

If you have any questions contact my representative Mr. Timothy Westcott at (206) 220-7285 or by email at: "d13-pf-paton@uscg.mil."

Sincerely,

A handwritten signature in black ink, appearing to read "J. E. Moriarty".

J. E. MORIARTY  
Commander, U.S. Coast Guard  
Chief, Waterways Management Branch



**DEPARTMENT OF THE ARMY**  
PORTLAND DISTRICT, CORPS OF ENGINEERS  
POST OFFICE BOX 2946  
PORTLAND, OREGON 97208-2946

April 13, 2010

REPLY TO  
ATTENTION OF:

Operations Division  
Regulatory Branch  
Corps No.: NWP-2008-83

Mr. Eric Schilling and Ms. Marie Hoskins  
12435 SE 18<sup>th</sup> Avenue  
Milwaukie, OR 97222

Dear Mr. Schilling and Ms. Hoskins:

The U.S. Army Corps of Engineers (Corps) received your request for Department of the Army authorization to perform work in the Willamette River as shown on Enclosure 1. The project is located at river mile 19.3 of the Willamette River, 12435 SE 18<sup>th</sup> Avenue, in Milwaukie, Clackamas County, Oregon (Section 35, Township 2 South, Range 1 East).

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), you are hereby authorized by the Secretary of the Army to install your residential boat dock with this Letter of Permission (LOP). You may install a 400-square foot private boat dock with a 212-foot long by 48-inch wide aluminum gangway with each structure incorporating 24-inch wide light-penetrating panels. The 400-square foot dock will be composed of steel and composite materials. No treated lumber, Styrofoam, or wood decking will be used for the dock or gangway. The dock will be 90 feet from the shore and will have 20 feet of water depth when measured at low water. The dock and gangway will be constructed offsite and floated to the site by barge and tug boat. The gangway will be anchored above the ordinary high water mark to allow the dock and gangway to float during high water. Four 12-inch diameter steel piles will anchor the gangway and four 12-inch diameter steel piles will anchor the L-shaped dock. The piles will have caps installed to prevent perching by piscivorous birds. The piles will be driven by vibratory hammer, but if that method fails, then an impact hammer may be used as a last resort. The anticipated length of construction onsite is three days. Construction will occur during the August 1<sup>st</sup> to October 31<sup>st</sup> in-water work window. Construction activities and equipment will access the site from the water, not the bank.

The work is shown on the attached drawings (Enclosure 1) and is subject to the attached General and Special Conditions (Enclosure 2). The time limit for completing the work authorized ends on April 12, 2013.

Corps regulations have established a process through which you may object to certain terms and conditions of this permit and ask that the permit be modified accordingly. Enclosure 3 is the approved jurisdictional determination (JD) form that identifies the basis for asserting jurisdiction.

If you are not in agreement with the approved JD or LOP, you can make an administrative appeal under 33 CFR 331. Please see the enclosed Notification of Administrative Appeal Options and Process and Request for Appeal for further information about that process and Request for Appeal for further information about that process (Enclosure 4). This approved JD is valid for a period of 5 years from the date of March 5, 2008 unless new information warrants revision of the determination.

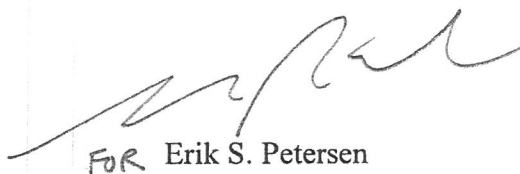
Upon completion of the permitted work or activity, please fill out the enclosed Compliance Certification (Enclosure 5) and submit it to this office at the letterhead address. If the permitted work or activity is not carried out by the expiration date of this permit, you should note this fact on the Compliance Certification and submit it to this office.

Please be aware that this permit does not obviate the need to obtain other Federal, state, or local authorization required by law.

We would like to hear about your experience working with the Portland District Regulatory Branch. Please complete a customer service survey form at the following address:  
<http://per2.nwp.usace.army.mil/survey.html>.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

FOR THE COMMANDER, STEVEN R. MILES, P.E. COLONEL, CORPS OF ENGINEERS,  
DISTRICT COMMANDER:



FOR Erik S. Petersen  
Chief, Regulatory Office

Enclosures

# MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL  
10722 SE MAIN STREET

## AGENDA TUESDAY, May 13, 2008 6:30 PM

		ACTION REQUIRED
1.0	<b>Call to Order</b>	
2.0	<b>Procedural Matters</b> 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. Thank You.	
3.0 3.1	<b>Planning Commission Minutes –</b> March 11, 2008 Approved PC Minutes can be found on the City web site at: <a href="http://www.cityofmilwaukie.org">www.cityofmilwaukie.org</a>	Motion Needed
4.0	<b>Information Items – City Council Minutes</b> City Council Minutes can be found on the City web site at: <a href="http://www.cityofmilwaukie.org">www.cityofmilwaukie.org</a>	Information Only
5.0	<b>Public Comment</b> This is an opportunity for the public to comment on any item not on the agenda	
6.0 6.1	<b>Public Hearings</b> Amendments to Title 18 - Flood Hazard Regulations to comply with FEMA flood insurance requirements Applicant/Owner: City of Milwaukie Address: Entire City File: ZA-08-01 Staff Person: Brett Kelper	Discussion and Motion Needed For These Items
6.2	Appeal of denial of property line adjustment. Applicant/Owner: Philip Favorite Address: 12293 SE 40th Avenue File: AP-08-01 Staff Person: Susan Shanks <b>Appellant's supplemental information follows staff report and begins on 6.2 Pg. 85.</b>	
6.3	Willamette Greenway Review to construct Private Dock Applicant/Owner: Eric Schilling and Marie Hoskins Address: 12435 SE 18th Avenue File: WG-08-01 Staff Person: Ryan Marquardt	
7.0	<b>Worksession Items</b> None	Information Only
8.0	<b>Discussion Items</b> This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	<b>Old Business</b> Southgate Park and Ride project update	
10.0	<b>Other Business/Updates</b>	Information Only Review and Comment
11.0	<b>Next Meeting:</b> May 27, 2008 - The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

Forecast for Future Meetings: June 24, 2008 A-07-02 Harmony Annexation (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

### Public Hearing Procedure

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.** The staff report is followed by any verbal or written correspondence that has been received since the Commission was presented with its packets.
3. **APPLICANT'S PRESENTATION.** We will then have the applicant make a presentation, followed by:
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **COMMENTS OR QUESTIONS.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** We will then take testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** When you testify, we will ask you to come to the front podium and give your name and address for the recorded minutes. Please remain at the podium until the Chairperson has asked if there are any questions for you from the Commissioners.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all testimony, we will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. We will then enter into deliberation among the Planning Commissioners. From this point in the hearing we will not receive any additional testimony from the audience, but we may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION/ACTION.** It is our intention to make a decision this evening on each issue before us. Decisions of the Planning Commission may be appealed to the City Council. If you desire to appeal a decision, please contact the Planning Department during normal office hours for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** The Planning Commission may, if requested by any party, allow a continuance or leave the record open for the presentation of additional evidence, testimony or argument. Any such continuance or extension requested by the applicant shall result in an extension of the 120-day time period for making a decision.
12. **TIME LIMIT POLICY.** All meetings will end at 10:00pm. The Planning Commission will pause hearings/agenda items at 9:45pm to discuss options of either continuing the agenda item to a future date or finishing the agenda item.

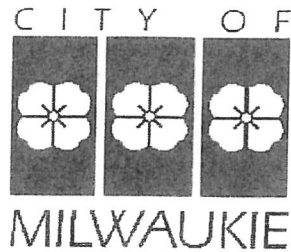
#### Milwaukie Planning Commission:

Jeff Klein, Chair  
Dick Newman, Vice Chair  
Lisa Batey  
Teresa Bresaw  
Scott Churchill  
Paulette Qutub  
Charmaine Coleman

#### Planning Department Staff:

Katie Mangle, Planning Director  
Susan Shanks, Associate Planner  
Bob Fraley, Associate Planner  
Brett Kolver, Assistant Planner  
Ryan Marquardt, Assistant Planner  
Michelle Rodríguez, Administrative Assistant  
Marcia Hamley, Administrative Assistant  
Paula Pinyerd, Hearings Reporter





**To:** Planning Commission  
**Through:** Katie Mangle, Planning Director *KM*  
**From:** Ryan Marquardt, Assistant Planner *RM*  
**Date:** May 6, 2008 for May 13, 2008 Public Hearing  
**Subject:** File: WG-08-01  
 Applicant: Eric Schilling and Marie Hoskins  
 Address: 12435 SE 18<sup>th</sup> Avenue  
 Legal Description (Map & Taxlot): 1S 1E 35 DD 06700  
 NDA: Island Station

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#### **Action Requested**

Approve land use application WG-08-01 to allow the applicants to construct a dock along the Willamette River, with the recommended findings and conditions of approval found in Attachments 1 and 2, respectively.

#### **Project Description**

The applicants propose to construct a private, non-commercial dock on the eastern shore of the Willamette River. The dock would be less than 400 square feet in area, and be connected to shore by a 4 foot wide elevated aluminum gangway. Four steel piles that are 12 inches in diameter would secure the dock and gangway. The dock and gangway would extend approximately 90 feet into the Willamette River.

The shore of the applicant's property at 12435 SE 18<sup>th</sup> Avenue gradually slopes toward the river. There is no significant vegetation along the shore. No grading or removal of existing ground cover is proposed. The applicant's proposal, site plans, and responses to approval criteria of the Milwaukie Municipal Code are found in Attachment 3.

Construction of a private non-commercial dock is subject to a Willamette Greenway (WG) review, which is the only application before the Commission for this project. For areas with both a WG and Water Quality Resource (WQR) overlay, the WQR regulations apply only where they are more restrictive. In this case, the buffer requirements for the WG overlay are more restrictive than the development standards in the WQR overlay. Therefore the WQR overlay is not applicable to this application.

### Key Issues

- 1) Does the proposal meet the approval criteria for a dock?
- 2) Would the project impact the protected riparian area?
- 3) Would the project impact protected fish and wildlife?

### Analysis of Key Issues

#### **Key Issue 1) Does the proposal meet the approval criteria for a dock?**

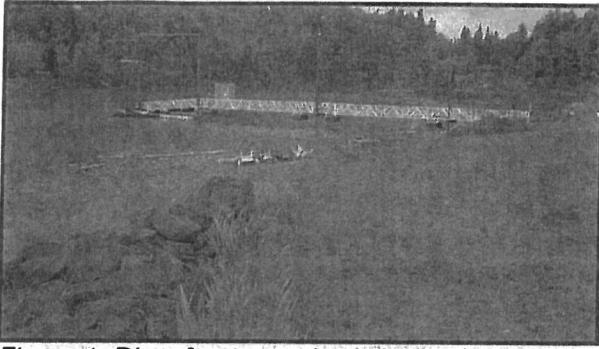
Private, non-commercial docks are an allowed use within the Willamette Greenway Zone, subject to the specific criteria in that section of code (MMC 19.320.9). These criteria are listed below, followed by staff's assessment of how the proposal meets each criterion:

- *Only one dock per lot of record on the river.* This would be the only dock permitted for this site.
- *Additional requirements from Division of State Lands may be added.* The Division of State Lands received the application and has not indicated that there are additional regulations for the dock.
- *Private, non-commercial docks shall not exceed 400 square feet.* The proposed dock meets this requirement.
- *Docks, piles, and walkways shall be wood or painted in an earth tone.* This standard is outdated and in conflict with environmental best-practices for docks. The applicant is using durable, non-painted materials that, although they are not earth tone in color, do not introduce foreign chemicals into the river.
- *Docks shall not interfere with boat access for surrounding property, interfere with commercial use of the river, significantly add to recreational boating congestion, or interfere with fish and wildlife habitat.* The dock would be spaced far enough from existing docks that it would not interfere with their access. The river is about 1,000 feet wide at the site of the proposed dock, and would extend approximately the same amount into river as the docks on either side. Staff does not believe the dock would interfere with commercial use of the river. The dock is only large enough to serve one private boat and would not significantly add to recreational boating congestion. The impacts to fish and wildlife are discussed in the subsequent key issues.

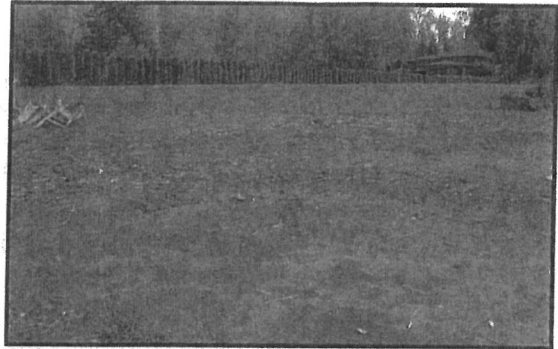
Staff believes that the proposed dock meets these approval criteria, and can be permitted in the Willamette Greenway zone.

#### **Key Issue #2) Would the project impact the protected riparian area?**

The site's frontage on the river is generally flat and devoid of vegetation. See Figures 1 and 2 on the following page. Aerial photographs from the 1970s and 1980s show that it has remained in its current state for several decades. For this reason, staff has fewer concerns about grading or loss of vegetation than would be typical for work in riparian areas.



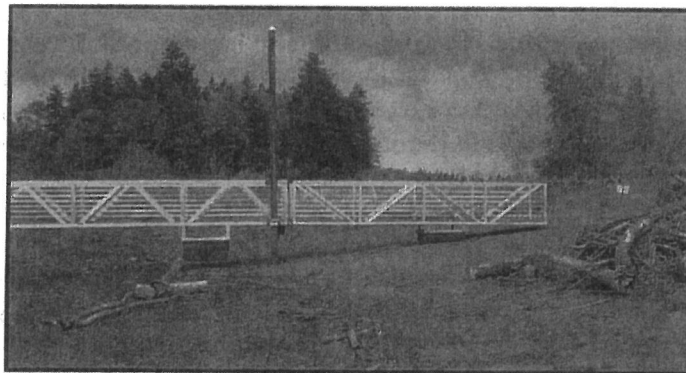
*Figure 1: River frontage where the dock would be installed.*



*Figure 2: Looking upland from the river.*

### Installation Process

Construction of the dock and gangway would occur off site. The placement of the piles and installation of the dock and gangway would take place from floating cranes and barges, and would have little effect on the shore. The piles and the shoreward edge of the gangway are the only items that would be in contact with the ground in the riparian area. Figure 3 below shows a dock recently installed on the adjacent property to the north. The proposed dock would be nearly identical in construction to this existing dock.



*Figure 3: A dock on the adjacent property to the north similar to the one proposed.*

The proposal does not include any re-grading or removal of vegetation as a result of this project. Construction would occur only during the in-water work window of July 1<sup>st</sup> through October 31<sup>st</sup>, as allowed by the Army Corps of Engineers.

### Review by Other Agencies

The application for a dock also requires review by the Army Corps of Engineers, the Division of State Lands, Oregon Department of Fish and Wildlife, and other state agencies. These agencies review the proposal and monitor the installation process to ensure that the work and structures would not adversely affect the environment. The Army Corps' Notification of Letter of Permission states that, "The proposed work is believed to be minor, is not expected to have significant impact on environmental values, and should not encounter opposition." See Attachment 3: Applicant's application and site plans. Based on this comment and the review by agencies with authority to more thoroughly regulate environmental impacts, staff believes that the installation and presence of the dock would have minimal adverse impacts.

### City of Milwaukie Regulations

The WG and WQR overlay zones are both present on the site. The WG zone contains specific regulations for a buffer along the river that is 25 feet upland from the ordinary high water line. The regulations for this buffer deal mostly with protecting and restoring vegetation during the development process. Most of these regulations are not applicable to this site because almost no significant vegetation exists on the site now and the dock would have almost no impact to the buffer area. MMC 19.320.8(B)(5) states that there may be a plan for enhancing lands within the buffer area. However, this is not required. The recommended finding and condition of approval with regard to the buffer are that any existing vegetation that is disturbed shall be replanted. The applicant has the option to replant the buffer area with native vegetation, but it is not required in order to meet the approval criteria for permitting a dock in the WG zone.

For areas with both a WG and WQR overlay, the WQR regulations apply only where they are more restrictive. In this case, the buffer requirements for the WG overlay are more restrictive than the development standards in the WQR overlay. Therefore the WQR overlay is not applicable to this application.

Engineering staff would review the dock development permit for compliance with federal flood hazard regulations. The Building Department would oversee any erosion control permits required for the proposed work.

In conclusion, staff believes that there would be minimal impact to the river and riparian environment due to the limited impacts of the proposed dock and the site characteristics. Impacts that occur at the water line or below would be managed by the appropriate state and federal agencies. If the installation of the dock does affect existing vegetated areas, the City would require those areas to be replanted.

### **Key Issue #3) Would the project impact protected fish and wildlife?**

The dock, its floats, and the piles all have features that are designed to minimize the impact to the fish and wildlife in the vicinity. The dock has been designed to incorporate steel or plastic grating called "fish windows" that allow sunlight through the dock surface into the water. These windows help to minimize the shadows below the water surface that a dock creates. The foam floatation devices for the dock and gangway are also permanently encapsulated so that pieces of the floats do not enter the river. Lastly, there would be caps on top of the piles that prevent predatory birds from perching.

The City does not have any direct authority regarding fish and wildlife habitat in the river. However, staff believes the applicant has incorporated features that minimize the dock's impact to fish and wildlife. Further, staff believes that the review by state and federal agencies responsible for oversight of these habitats ensures that any impacts would be appropriately mitigated.

### **Conclusions**

In conclusion, staff believes the proposed dock, piles, and gangway would have minimal impacts to the river and riparian area on the site. The application meets all of the applicable regulations for permitting a dock in the Willamette River. Staff recommends that the Planning Commission approve the Willamette Greenway application.

### **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).

- MMC 19.303.3, Residential zone R5
- MMC 19.320, Willamette Greenway zone
- MMC 19.322, Water Quality Resource Regulations
- MMC 19.600, Conditional Uses

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 final decision on these applications, which includes any appeals to the City Council, must be made by July 24, 2008, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

### **Comments**

The application was referred to the following department and agencies on April 16, 2008: Milwaukie Building Department, Milwaukie Engineering Department, Clackamas County Fire District #1, Island Station Neighborhood District Association Chairperson and Land Use Committee, Oregon Department of Transportation, Oregon State Marine Board, Oregon Department of State Lands, Oregon Parks and Recreation Department, and Oregon Department of Fish and Wildlife. The comments received are summarized as follows. See Attachment 4 for further details.

- The Milwaukie Building Department commented that the proposal does not require Building Department Review.
- The Milwaukie Engineering Department commented that the project will be reviewed for compliance with MMC Chapter 19.1400, Transportation Planning, Design Standards, and Procedures, and MMC Title 18, Flood Hazard Regulations when development permits are reviewed. Currently, the requirements of MMC Chapter 19.1400 apply only to frontages along public street frontages. Because the property does not currently have frontage on a public street, the requirements of this chapter would not apply. The site is within the 100 Year Floodplain, and the requirements of MMC Title 18 would apply.
- The Island Station Neighborhood District Association (NDA) discussed the application by phone on April 28, 2008. In general, the NDA has no objections to this application. The following items were noted: the proposed dock is consistent with existing docks on either side of the property; it is too bad that the dock has to extend so far to reach deep water; there is some inconsistency regarding the description of how the piles would be driven; and a suggestion that vegetation be replanted only if vegetation is removed during construction.

**Attachments**

(Provided only to the Planning Commission unless noted. 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 and Site Plans
4. Comments Received (attached)



## Attachment 1: Recommended Findings in Support of Approval

1. The applicants, Eric Schilling and Marie Hoskins, have applied for approval to construct a private, non-commercial dock on their property at 12435 SE 18<sup>th</sup> Avenue. This site is in the Residential zone R5 and is partially covered by the Willamette Greenway and Water Quality Resource overlay zones. The land use application is WG-08-01.
2. Sections of the Milwaukie Municipal Code (MMC) not addressed in these findings are found to be not applicable to the application.
3. The application has been reviewed through the Minor Quasi-judicial review process, as described in MMC 19.1011.3. Notice has been posted in the newspaper, posted at the site, and mailed to surrounding property owners within 300 feet of the site as required. The Planning Commission held a duly advertised public hearing considering the application on May 13, 2008.
4. The proposed dock is 400 square feet in size and would extend approximately 90 feet into the Willamette River from the ordinary low water line on the east bank of the river. The main use of the dock is to moor the applicant's boat. The characteristics of the proposed dock system are as follows:
  - A. The dock would be 10 feet wide by 36 feet long, with an additional 6 foot by 6 foot area that connects to the gangway. The dock would be constructed of a steel frame, vinyl decking, and plastic skirtboards. The center two feet of the dock and connection would have fish light panels, which are plastic or steel grating that allows sunlight into the water below the dock.
  - B. An aluminum gangway would provide access from the shore to the dock. The gangway would be 48 inches wide have a total length of 212 feet from where it rests on the applicant's property to where it connects with the dock. The shore end of the gangway would rest on a steel support arm welded to the side of a pile, and would not have a fixed foundation on shore. The remainder of the gangway would be elevated above ground.
  - C. The dock would be floated by permanently encapsulated foam. Four steel piles that are twelve inches in diameter would secure the dock and gangway. The piles would be fitted with caps that prevent perching by predatory birds. The sections of the gangway would also have floats to prevent immersion.
  - D. The construction of the dock will be designed to minimize impacts to the shore and river to the greatest extent practicable. The dock and gangway would be constructed off-site and floated to the site by barge and tug boat. The piles would be driven by a vibratory hammer by crane barge. An air hammer would be used if the vibratory hammer is not effective.
  - E. The estimated length of construction is three days, and can occur between July 1<sup>st</sup> and October 31<sup>st</sup>.
5. The construction of a new, private, non-commercial dock is subject to a Willamette Greenway review as outlined in Milwaukie Municipal Code (MMC) Chapter 19.320, Willamette Greenway review. The proposed dock complies with this chapter as follows:
  - A. MMC 19.320.5 establishes review procedures for the Willamette Greenway zone (WG). As described below, these procedures have been followed:



## WG-08-01 Recommended Findings

- i) Per MMC 19.320.5(A), in the WG zone, all uses are subject to conditional use review. The application complies with conditional use review as described in Finding 5.
  - ii) As required in MMC 19.320.5(B), the Oregon Department of Transportation has been notified.
  - iii) Per MMC 19.320.5(D), approval of a Willamette Greenway review may only be granted in the criteria of MMC 19.320.6 are met. These criteria are met as described in Finding 5(B).
  - iv) MMC 19.320.5(E) requires a vegetation buffer plan. The applicant's plan for the buffer area is described in the application submitted on March 26, 2008.
  - v) MMC 19.320.5(F) requires notice of the application be provided to Oregon Parks and Recreation Department, Oregon Division of State Lands, Oregon Department of Fish and Wildlife, and the State Marine Board. As required, these agencies have been notified.
  - vi) MMC 19.320.5(G) requires the Oregon Division of State Lands receive notice of the final action on this application. This notice will be provided after the hearing before the Planning Commission on May 13, 2008.
- B. MMC 19.320.6 establishes approval criteria for Willamette Greenway review. These criteria are met as follows:
- i) The property where the dock is proposed is developed and has been committed to a medium density residential urban use. The proposal is consistent with the criterion of MMC 19.320.6(A).
  - ii) The proposed dock is consistent with the scenic, natural, historic, economic, and recreational character of the Willamette River. Private docks are a common use along the river in urban areas and do not degrade the scenic character of the river. The dock directly supports the recreational character of the river. Review by state and federal agencies ensures that the dock will not adversely impact the natural features of the river or interfere with the commercial use of river. The proposal is consistent with the criterion of MMC 19.320.6(B).
  - iii) The proposed dock does not affect views toward or away from the river. The dock and gangway are either at or close to the water level, and the piles are not a significant visual obstruction. Docks are a common use along the river and are not considered to affect views toward or away from the river. The proposal is consistent with the criterion of MMC 19.320.6(C).
  - iv) The proposed dock does not affect the landscaping or vegetation that exists at the site. The property gradually slopes toward the river and has an open, sandy riparian area without significant vegetation. The proposal is consistent with the criterion of MMC 19.320.6(D).
  - v) The dock does not affect public access to or along the river. The dock would not impede the ability of others to travel along the river. The applicant's site is private property and as such does not currently provide public access to the river. Therefore, the dock would not affect public

## WG-08-01 Recommended Findings

- access to the river. The proposal is consistent with the criterion of MMC 19.320.6(E).
- vi) The dock is a water-dependant use that facilitates recreation on the river and is consistent with the criterion of MMC 19.320.6(F).
  - vii) The dock is not in the vicinity of downtown Milwaukie and would not impact views between downtown and the River. The proposal is consistent with MMC 19.320.6(G).
  - viii) The dock would not adversely affect the natural environment of the area. No vegetation would be removed. No structures would be built in the riparian area and no grading of the site will occur. Review by federal and state agencies ensures that there will not be adverse impacts to wildlife. The proposal is consistent with the criterion of MMC 19.320.6(H).
  - ix) The application is not subject to design review and does not require review from the design committee. The proposal is consistent with the criterion of MMC 19.320.6(I).
  - x) The dock is consistent with applicable comprehensive plan policies. It is consistent with the Willamette Greenway element of Chapter 4 - Land Use within the Comprehensive Plan. It increases the recreational use of the river without adversely impacting the natural, scenic, or other qualities of the river. The proposal is consistent with the criterion of MMC 19.320.6(J).
  - xi) The Division of State Lands did not comment that the request is inconsistent with that agencies programs and plans. The proposal is consistent with the criterion of MMC 19.320.6(K).
  - xii) The vegetation buffer plan described in Finding 5(C) demonstrates that the proposal is consistent with the criterion of MMC 19.320.6(L).
- C. MMC 19.320.8 requires a vegetation buffer between the river and 25 feet upland of the ordinary high water mark. This area is currently sandy and devoid of vegetation. The applicant does not propose removal of any existing vegetation. The applicant proposes a 50-foot vegetative buffer zone to be planted with native vegetation.
- The Planning Commission finds that MMC 19.320.8 does not require vegetation to be planted unless existing vegetation is removed due to the project. Since the area has been devoid of vegetation for several decades, the Planning Commission finds that re-vegetation is not required.
- As conditioned, any areas of existing vegetation that are disturbed by construction or placement of the dock, gangway, or piles shall be replanted with native vegetation.
- D. MMC 19.320.9 contains development standards for private non-commercial docks in the Willamette Greenway zone. The proposed dock complies with these standards as described below.
- i) MMC 19.302.9(A) allows only one dock per riverfront lot of record. The proposed dock would be the only dock for the lot owned by the applicants.

- ii) MMC 19.320.9(B) states that the Division of State Lands may identify additional requirements for docks along certain areas of the river. This application was referred to the Division of State Lands and that agency did not identify any additional regulations.
  - iii) MMC 19.320.9(C) requires that private non-commercial docks not exceed 400 square feet, as measured from the outer edge of the structure. The main part of the dock has one 10 foot by 36 foot wide area, and one 6 foot by 6 foot area leading to the gangway. As proposed, the structure complies with this standard.
  - iv) MMC 19.320.9(D) requires that docks, pilings and walkways be either dark natural wood colors or painted in dark earthtones. The City is aware that state and federal agencies discourage or prohibit wood for docks, pilings and walkways. Further, painting these items in dark earthtones is also discouraged or prohibited. Wood and painted materials are not used because of adverse environmental impacts associated with treated wood in the river and paint flaking off into the river. The Planning Commission finds that this standard is not consistent with requirements from other agencies nor with the purpose statement of the Willamette Greenway zone to protect the river's natural qualities. The dock, pilings, and gangway may be constructed with the colors and materials proposed by the applicant.
  - v) MMC 19.320.9(E) requires that private non-commercial docks not restrict boat access to adjacent properties, interfere with commercial use of the river, interfere with fish or wildlife habitat, or significantly add to recreational boating congestion. The proposed dock would extend approximately as far into the river as docks to the north and south of the applicant's property. The proposed dock would be at least 50 feet from the adjacent docks and would not interfere with use of the existing docks. The Willamette River is almost 1,000 feet wide at the site of the proposed dock, which leaves ample room for other commercial and recreational vessels to navigate the river. The City referred this application to the Oregon State Marine Board and Oregon Department of Fish and Wildlife. Neither of these agencies commented with any concern about impacts with fish or wildlife habitat. The dock would serve only the applicant's boat, and would not significantly add to recreational boating congestion.
6. MMC Chapter 19.320, Willamette Greenway zone, states that all uses are conditionally permitted in the overlay zone, subject to the standards of MMC Chapter 19.600, Conditional Uses. The proposed dock conforms to the review criteria for conditional uses in MMC 19.601.2 as follows:
- A. MMC 19.601.2(A) requires that the use meets the requirements of a conditional use in the current zoning of the site. Docks are not listed as a conditional use in the Residential zone R5, but are allowed in the Willamette Greenway overlay zone.
  - B. MMC 19.601.2(B) requires that the use meets the requirements of the zone currently applied to the site. The use meets the standards of the Residential zone R5 standards as described in Finding 7 and the standards for the Willamette Greenway zone as described in Finding 5.

## WG-08-01 Recommended Findings

- C. MMC 19.601.2(C) requires that the proposal satisfy the goals and policies of the comprehensive plan which apply to the proposed use. As described in Finding 5(B)(x) above, the proposed dock complies with the Willamette Greenway Element in Chapter 4 – Land Use in the Comprehensive Plan.
  - D. MMC 19.601.2(D) requires that the characteristics of the site are suitable for the proposed use. The characteristics of the site are suitable for a dock due to the fact that it has river frontage, little existing vegetation, and a gentle topography toward the river. These features require almost no disturbance of the existing features for installation of the dock.
  - E. MMC 19.601.2(E) requires that the proposed use is timely considering the adequacy of public facilities to serve the use. The proposed use does not require any additional public facilities and will not affect the transportation system.
  - F. MMC 19.601.2(F) requires that the proposed use meet the requirements of MMC Chapter 19.1400. The applicability of Chapter 19.1400 depends upon the permit value of the proposed improvements. Compliance with this chapter will be evaluated at the time that the City reviews permits for the project. Currently, the site does not have frontage on a public street and would not have any requirements with regard to MMC Chapter 19.1400.
7. MMC Section 19.303 contains standards for the Residential zone R5. The development standards of this zone that are applicable for this proposal are height and minimum vegetation standards. As conditioned, the piles located above the ordinary high water line will not exceed 35 feet above ground level. The site is approximately 79,800 square feet in area and requires at least 25% of the site, or 19,950 square feet, to be vegetated. The back yard of the site is entirely vegetated and has an area of over 38,000 square feet. The proposed dock will not disturb more than 10 square feet; therefore this standard is met.
  8. MMC Section 19.322, Water Quality Resource Regulations applies to sites with areas of the Water Quality Resource (WQR) overlay. MMC 19.322.2, Coordination with the Willamette Greenway Overlay, states that provisions of the WQR overlay shall apply where they are more restrictive than the standards of MMC Section 19.320. Due to the lack of existing vegetation on the site, the Planning Commission finds that the standards of MMC 19.322.10, Development Standards, are not more restrictive than MMC Section 19.320, and are not applicable to this application.
  9. The project is within the 100 Year Floodplain as defined by Federal Emergency Management Agency, and is subject to MMC Title 18, Flood Hazard Regulations. Compliance with these regulations will be reviewed when a development permit for the project is submitted to the City of Milwaukie.
  10. Title 16 of the Milwaukie Municipal Code requires that the applicant obtain an erosion control permit prior to construction or commencement of any earth disturbing activities. As conditioned, the applicant will comply with MMC Title 16 – Erosion Control.
  11. MMC 19.1013 states that actions authorized by MMC Chapters 19.600, 19.700 and 19.800 shall be void after six months unless substantial construction has taken place. All uses within the WG overlay are conditionally allowed, and subject to MMC Chapter 19.600. As conditioned, substantial construction of the proposed dock shall take place within six months after approval. The Planning Commission may grant a one year extension to this deadline upon request.

12. The application was referred to the following department and agencies on April 16, 2008: Milwaukie Building Department, Milwaukie Engineering Department, Clackamas County Fire District #1, Island Station Neighborhood District Association Chairperson and Land Use Committee, Oregon Department of Transportation, Oregon State Marine Board, Oregon Department of State Lands, Oregon Parks and Recreation Department, and Oregon Department of Fish and Wildlife. The comments received are summarized as follows:
- The Milwaukie Building Department commented that the proposal does not require Building Department Review.
  - The Milwaukie Engineering Department commented that the project will be reviewed for compliance with MMC Chapter 19.1400, Transportation Planning, Design Standards, and Procedures, and MMC Title 18, Flood Hazard Regulations when development permits are reviewed. Currently, the requirements of MMC Chapter 19.1400 apply only to frontages along public street frontages. Because the property does not currently have frontage on a public street, the requirements of this chapter would not apply. The site is within the 100 Year Floodplain, and the requirements of MMC Title 18 would apply.
  - The Island Station Neighborhood District Association (NDA) discussed the application by phone on April 28, 2008. In general, the NDA has no objections to this application. The following items were noted: the proposed dock is consistent with existing docks on either side of the property; it is too bad that the dock has to extend so far to reach deep water; there is some inconsistency regarding the description of how the piles will be driven; and a suggestion that vegetation be replanted only if vegetation is removed during construction.

## **Attachment 2:**

### **Recommended Conditions of Approval**

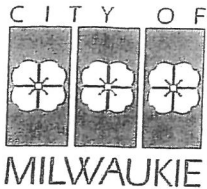
1. The applicant shall submit plans to the Engineering and Planning Department for review and approval. The plans shall be in substantial conformance with the plans reviewed in Land Use Application #WG-08-01, received March 26, 2008.
2. Pilings installed above the ordinary high water line shall not be over 35 feet above ground.
3. The plans submitted to the City of Milwaukie must be reviewed and approved by the Engineering Department and Planning Department prior to commencement of work for the proposed project.
4. Prior to any earth disturbance, the applicant shall obtain an erosion control permit from the City.
5. Substantial construction of the dock shall occur within six months of final approval of the land use application. The Planning Commission may grant a one year extension if requested to do so, per the provisions of MMC 19.1013.
6. The applicant is required to replant any areas disturbed by installation or placement of the dock, pilings, or gangway. The Planning Director or designee shall inspect the site after installation of these items to determine what re-vegetation will be required.

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**ATTACHMENT 3**  
**Applicant's Application and Site Plans**  
**(Provided only to Planning Commission)**

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# Application Referral

<b>DATE SENT:</b> April 16, 2008	<b>PLANNING COMMISSION HEARING</b>
<b>COMMENTS DUE:</b> April 30, 2008	<b>TENTATIVE DATE:</b> May 13, 2008
<b>Site location:</b> 12435 SE 18 <sup>th</sup> Avenue	<b>Review type:</b> Minor Quasi-Judicial
<b>Applicant:</b> Eric Schilling and Marie Hoskins	<b>File #(s):</b> WG-08-01
<b>Applicant phone:</b> 503-314-1825	<b>Application type(s):</b> Willamette Greenway Review

## TO:

- CD/PW Director (cover sheet only)
- Engineering Dept. Zach Weigel, Civil Engineer
- Building Official  Police Chief
- Planning Director  City Attorney
- Administration  PW Operations
- Fire Marshal: Mace Childs
- NDA Chair & LUC: Island Station
- NDA Liaison: Beth Ragel (Island Station)
- ODOT: Gail Curtis, 123 NW Flanders, Portland, OR 97209
- OR. St. Marine Board: Doug Baer, PO BOX 14145 Salem, OR 97309
- OR. Dep. of State Lands: Mike McCabe, 775 Summer St. NE, Salem, OR 97301-1279
- OR Parks & Rec.: Kathy Schutt  
725 Summer St NE, Suite C  
Salem OR 97301
- OR Dept. of Fish & Wildlife: North Willamette Watershed District Office (Regional Office) 17330 SE Evelyn Street, Clackamas, OR 97015

## FROM:

Ryan Marquardt, Assist. Planner (503) 786-7658  
[marquardtr@ci.milwaukie.or.us](mailto:marquardtr@ci.milwaukie.or.us)  
 Planning Department  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 PHONE: (503) 786-7630  
 FAX: (503) 774-8236

*Project does not require  
 Building Department Review  
 R 4-21-08*

## PROPOSAL:

Construct a private non-commercial dock

**ZONE: R5**

Please comment on the following applicable code sections:

(If no comment, please respond in kind to [marquardtr@ci.milwaukie.or.us](mailto:marquardtr@ci.milwaukie.or.us))

- MMC 19.600, Conditional Uses
- MMC 19.320, Willamette Greenway zone
- MMC 16.28, Erosion control
- MMC Title 18, Flood Hazard Regulations

MEMORANDUM

TO: Community Development Department  
THROUGH: Gary Parkin, Director of Engineering  
FROM: Zach Weigel, Civil Engineer  
RE: Willamette Greenway – 12435 SE 18<sup>th</sup> Avenue  
WG-08-01  
DATE: May 1, 2008

Proposal: Construct a private non-commercial dock within the Willamette Greenway.

RECOMMENDED CONDITIONS OF APPROVAL

None

ADVISORY NOTES

Transportation Requirements

Chapter 19.1400 of the Milwaukie Municipal Code, herein referred to as the Code, applies to partitions, subdivisions, and new construction. However, Code Section 19.1403.1(A) states that all development other than partitions, subdivisions, and single-family residential is exempt from Adequacy Requirements when the value of improvements is less than improvement value threshold, currently \$107,465.00.

In the event the permit value of the home improvement meets substantial improvement requirements or exceeds the improvement value threshold, the applicant shall be subject to the requirements of Chapter 19.1400 at the time of building permit review.

Currently, the requirements of Chapter 19.1400 apply only to public street frontage. The development property does not front a public street. As a result, the current requirements of Chapter 19.1400 do not apply to the proposed development.

Flood Hazard Regulations

The proposed development is located within the 100-year floodplain. As a result, a development permit is required prior to construction and is subject to the requirements of Title 18.

Marquardt, Ryan

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**From:** Charles L Bird [charlesbird@juno.com]  
**Sent:** Monday, April 28, 2008 5:01 PM  
**To:** Marquardt, Ryan  
**Cc:** carolyntomei@earthlink.net; mrjimbonn2@aol.com; mjh12014@hotmail.com; aliham10@hotmail.com  
**Subject:** WG-08-01 Greenway Review



MINUTES,  
illingHoskinsDock08

Ryan Marquardt,

I conducted a phone pole of the members, counting myself the attached minutes include a consensus of and comments from three of the four members. One member is on vacation.

Basically we have not objection to the proposed dock

Sincerely,

Charles Bird, P. E., LUC Chair,  
Island Station Neighborhood Association  
12312 SE River Road  
Milwaukie, Oregon 97222  
www.birdengineering.us  
Phone - 503.513.5457 Fax - 503.653.5854 Mobile - 503.318.5065

Phone Meeting  
LAND USE DISTRICT REVIEW COMMITTEE MEETING MINUTES  
Island Station Neighborhood District  
Date: 2008April28

Members Present:

Charles Bird, Chair  
Gary Michael – By Phone 080428 4:15 PM  
Molly Hanthorne – By Phone 080428 4:30 PM  
Jim Mishler – On Vacation

I. CALL TO ORDER - Members poled by phone

II. INTRODUCTIONS

II. CONSENT AGENDA

Willamette Greenway Review, Eric Shilling and Marie Hoskins 503.314.1825 Minor  
Quasi-Judicial WG-08-01, Comments due April 30, 2008 to Ryan Marquardt, Assistant  
Planner [marquardtr@ci.milwaukie.or.us](mailto:marquardtr@ci.milwaukie.or.us)

Findings - No objections

III. REPORTS – Application Referral from the Planning Dept.

IV. DISCUSSION

- The dock appears to be consistent with the docks on either side.
- It is too bad that they have to extend so far to get to deep water.
- The pile driving method in the US ACE permit application is Vibratory and in the Greenway is drop hammer.
- 50' vegetation buffer not detailed. Noted as problematic in the city review comments. Since there will be no intended disturbance it may be wise to ask them to plant nothing unless it is to repair unintended damage made during construction.

V. MATTERS FROM THE COMMITTEE

VI. INFORMATION SHARING

VII. FUTURE MEETING DATE/AGENDA ITEMS

VIII. ADJOURN

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Charles Bird, Chair

CC. Alicia Hamilton, Secretary ISNA







# CITY OF MILWAUKIE

**To:** Planning Commission

**Through:** Dennis Egner, Planning Director

**From:** Brett Kelter, Associate Planner

**Date:** May 24, 2019, for June 11, 2019, Public Hearing

**Subject:** **File:** A-2016-006

**Applicant/Owner:** City of Milwaukie and Clackamas Community College

**Location:** 7616, 7726, and 7738 SE Harmony Rd, and Harmony Rd right-of-way from Linwood Ave to near 80<sup>th</sup> Ave

**Legal Description (Map & Tax Lot):** 2S2E05A 00400, 00402, & 00403

**NDA:** NA

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## **ACTION REQUESTED**

Recommend approval of annexation file #A-2016-006, including adoption of the proposed ordinance and exhibits found in Attachment 1. This action would allow for annexation of the Harmony Road campus of Clackamas Community College and the adjacent public right-of-way (ROW) in SE Harmony Road, from SE Linwood Avenue to the eastern boundary of the campus near 80<sup>th</sup> Ave.

## **BACKGROUND INFORMATION**

The Board of Clackamas Community College has applied to annex the Harmony Road campus (the Annexation Properties) to the city. In addition, the city is annexing the public ROW for SE Harmony Road from SE Linwood Avenue to the eastern boundary of the community college campus near SE 80<sup>th</sup> Avenue to provide the necessary contiguity for the campus parcels. The Annexation Properties have commercial Clackamas County land use and zoning designations and will receive equivalent commercial city land use and zoning designations. Upon annexation, the existing institutional use of the site will be a de facto community service use (CSU), subject to the city's zoning ordinance for review and approval of any proposed alterations.

### **A. Site and Vicinity**

The Annexation Properties are the three legal lots of record that comprise the Harmony Road campus of Clackamas Community College, addressed as 7616, 7726, and 7738 SE

Harmony Rd. The site is developed with two community college buildings, and construction of an administrative office building for Clackamas Fire District #1 is planned for the near future on the westernmost portion of the site.

The Annexation Properties will be contiguous to the existing city limits as a result of the annexation of the SE Harmony Road ROW from SE Linwood Avenue to the eastern boundary of the college campus. The Annexation Properties are within the city's urban growth management area (UGMA). The surrounding area consists of residential dwellings (mostly single-family, with some multifamily) to the north across SE Harmony Road, the Three Creeks Natural Area to the south, the North Clackamas Aquatic Park to the southeast, and a retail commercial store site to the east.

## **B. Zoning Designation**

Office Commercial (OC) (*Clackamas County's zone—corresponds to Milwaukie's Limited Commercial (C-L) zone*)

## **C. Comprehensive Plan Designation**

Office Commercial (OC) (*Clackamas County's designation—corresponds to Milwaukie's Commercial (C) designation*)

## **D. Land Use History**

As the property is not yet annexed, there are no City records regarding previous land use actions for this site. The timeline of annexation-related actions in the City is as follows:

- **July 1990:** Clackamas County Order No 90-726 established an urban growth management agreement in which the city and county agreed to coordinate the future delivery of services to the unincorporated areas of North Clackamas County.
- **May 2016:** The Board of Education of the Clackamas Community College District adopted a resolution authorizing the consent to annexation of the Harmony Road campus.
- **September 2016:** Staff at Clackamas Community College submitted the annexation petition and other materials required to initiate the expedited annexation process.
- **2017-2018:** The planning director explored the legal ramifications of using the annexation of the SE Harmony Road ROW to access the community college campus. Recent case law involving the City of Happy Valley suggested that Clackamas County might contest a "cherry stem" annexation.
- **January 2019:** The planning department coordinated with a surveyor at Compass Engineering to obtain a legal description and map for the public ROW on SE Harmony Road to be annexed.

## **E. Proposal**

The applicant is seeking land use approval for annexation. The proposal includes the following:

1. Annexation into the city of 7616, 7726, & 7738 SE Harmony Road (Tax Lots 2S2E05A 0400, 0402, and 0403), the "Annexation Properties."
2. Annexation into the city of the public ROW for SE Harmony Road from SE Linwood Avenue to the eastern boundary of the community college campus near SE 80<sup>th</sup> Avenue.
3. Application of a commercial (C) comprehensive plan land use designation and a limited commercial (C-L) zoning designation to the Annexation Properties.
4. Amendments to the city's comprehensive plan land use map and zoning map to reflect the city's new boundary and the Annexation Properties' new land use and zoning designations.
5. Withdrawal of the Annexation Properties from the following urban service districts:
  - Clackamas County Service District for Enhanced Law Enforcement
  - Clackamas County Service District No. 5 for Street Lights

The project requires approval of an adopting ordinance for annexation.

## **CONCLUSIONS**

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

Recommend that City Council adopt the proposed ordinance for annexation, based on the information provided in application #A-2016-006. This will result in annexation into the city of the Harmony Road campus of Clackamas Community College and the adjacent public ROW in SE Harmony Road.

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

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

- MMC Section 19.1007 Type IV Review
- MMC Chapter 19.1100 Annexations and Boundary Changes

This application is subject to Type IV review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above and make a recommendation to the City Council for a final decision. In Type IV reviews, the Commission may recommend that the City Council approve or deny the application with or without changes, providing a written justification for the recommendation.

The Commission has 2 decision-making options as follows:

- A. Recommend approval of the proposed annexation with the Recommended Findings in Support of Approval.
- B. Recommend denial of the proposed annexation upon finding that it does not meet approval criteria.

Annexation applications are not subject to the 120-day clock, so there is no deadline for a final decision.

## ATTACHMENTS

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

	PC Packet	Public Copies	Packet
1. Annexation Ordinance			
a. Exhibit A—Findings in Support of Approval	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Exhibit B—Legal Description and Tax Map	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Annexation Site Map			
3. Applicant's Annexation Application	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-30>.



## COUNCIL ORDINANCE No.

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING TRACTS OF LAND IDENTIFIED AS TAX LOTS 2S2E05A 0400, 0402, AND 0403 (THE HARMONY ROAD CAMPUS OF CLACKAMAS COMMUNITY COLLEGE) AS WELL AS THE PUBLIC RIGHT-OF-WAY OF SE HARMONY ROAD FROM SE LINWOOD AVENUE TO THE EASTERN BOUNDARY OF THE COMMUNITY COLLEGE CAMPUS NEAR SE 80<sup>TH</sup> AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2016-006).**

**WHEREAS**, the territory proposed for annexation is contiguous to the city's boundary and is within the city's urban growth management area; and

**WHEREAS**, the requirements of the Oregon Revised Statutes for initiation of the annexation were met by providing written consent from a majority of land owners who own a majority of real property representing a majority of the assessed value of the land within the territory proposed for annexation; and

**WHEREAS**, the territory proposed for annexation lies within the territories of both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights; and

**WHEREAS**, the annexation and withdrawals are not contested by any necessary party; and

**WHEREAS**, the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

**WHEREAS**, Table 19.1104.1.E of the Milwaukie Municipal Code provides for the automatic application of city zoning and comprehensive plan land use designations; and

**WHEREAS**, the city conducted a public meeting and mailed notice of the public meeting as required by law; and

**WHEREAS**, the city prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tracts of land and public right-of-way and withdrawal from all applicable districts based on findings and conclusions attached hereto as Exhibit A;

**Now, Therefore, the City of Milwaukie does ordain as follows:**

Section 1. The Findings in Support of Approval attached as Exhibit A are hereby adopted.

Section 2. The tracts of land and public right-of-way described and depicted in Exhibit B are hereby annexed to the City of Milwaukie.

Section 3. The tracts of land and public right-of-way annexed by this ordinance and described in Section 2 are hereby withdrawn from both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights.

Section 4. The tracts of land annexed by this ordinance and described in Section 2 are hereby assigned a comprehensive plan land use designation of commercial (C) and a municipal code zoning designation of limited commercial (C-L).

Section 5. The city shall immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030, ORS 222.005, and ORS 222.177. The annexation and withdrawal shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on \_\_\_\_\_, and moved to second reading by \_\_\_\_\_ vote of the City Council.

Read the second time and adopted by the City Council on \_\_\_\_\_.

Signed by the Mayor on \_\_\_\_\_.

\_\_\_\_\_  
Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

\_\_\_\_\_  
Justin D. Gericke, City Attorney

## FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for the annexation of the Harmony Road campus of Clackamas Community College and the adjacent public right-of-way for Harmony Road, the Milwaukie City Council finds:

1. The Annexation Properties consist of three tax lots comprising a total of 9.66 acres (Tax Lots 2S2E05A 0400, 0402, and 0403). In addition, the larger Annexation Territory includes the public right-of-way (ROW) for SE Harmony Road from SE Linwood Avenue to the eastern boundary of the community college campus near SE 80<sup>th</sup> Avenue. The Annexation Territory is contiguous to the existing city limits via multiple properties on the north side of SE Harmony Road between SE Linwood Avenue and SE 71<sup>st</sup> Avenue. The Annexation Properties will be contiguous to the newly extended city limits through the SE Harmony Road ROW being annexed. The Annexation Territory is within the regional urban growth boundary and also within the city's urban growth management area (UGMA).

The Annexation Properties are developed with two buildings comprising the Harmony Road campus of Clackamas Community College, with a large off-street parking area. Construction of an administrative office building for Clackamas Fire District #1 is planned for the westernmost portion of the site. The surrounding area consists of residential dwellings (mostly single-family with some multifamily) to the north across Harmony Road, the Three Creeks Natural Area to the south, the North Clackamas Aquatic Park to the southeast, and a retail commercial store site to the east.

2. The owner of the Annexation Properties seeks annexation to the city as part of an agreement related to the current provision of city sewer service to the Annexation Properties site. The city seeks annexation of the SE Harmony Road ROW to provide contiguity of the city limits to the Annexation Properties.
3. The annexation petition was initiated by a majority of land owners who own a majority of real property representing a majority of the assessed value of the land within the affected area (a.k.a., a "triple majority" annexation) on September 19, 2016, with an application for annexation submitted to the city on the same day (September 19, 2016). It meets the requirements for initiation set forth in ORS 222.170(1), Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1102.2.A.1.
4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.170(1), Metro Code Section 3.09.045, and MMC 19.1102.
5. The annexation application includes a request for city comprehensive plan land use and zoning designations to the Annexation Properties. The existing comprehensive plan land use and zoning designations in the county are both office commercial (OC). The applicant has requested city comprehensive plan land use and zoning designations for the Annexation Properties to be commercial (C) and limited commercial (C-L), respectively.
6. The approval criteria for annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.



- A. The subject site must be located within the city's urban growth boundary (UGB);

*The Annexation Territory is within the regional UGB and within the city's UGMA.*

- B. The subject site must be contiguous to the existing city limits;

*The Annexation Territory is contiguous to the existing city limits via properties on the north side of SE Harmony Road between SE Linwood Avenue and SE 71<sup>st</sup> Avenue as well as through the newly annexed SE Harmony Road ROW itself.*

- C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;

*Joanne Truesdell, president of Clackamas Community College in 2016, consented to the annexation by signing the petition. There are no registered voters for the Annexation Properties. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors, if any, residing in the Annexation Territory.*

- D. The proposal must be consistent with Milwaukie Comprehensive Plan policies;

*Chapter 6 of the comprehensive plan contains the city's annexation policies. Applicable annexation policies include: (1) delivery of city services to annexing areas where the city has adequate services and (2) requiring annexation in order to receive a city service. City sewer service is available to the Annexation Properties in SE Harmony Road. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.*

- E. The proposal must comply with the criteria of Metro Code Section 3.09.050, which refers to criteria (d) and (e) of Section 3.09.045.

*The annexation proposal is consistent with applicable Metro code sections for annexations, as detailed in Finding 7.*

- F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

*The annexation would add new territory within the city limits, and the new territory must be designated on both the zoning map and the comprehensive plan map for land use. These additions effectively constitute amendments to the zoning map and comprehensive plan map.*

The approval criteria for zoning map amendments and comprehensive plan amendments are provided in MMC Subsections 19.902.6.B and 19.902.3.B, respectively. Collectively, the criteria address issues such as compatibility with the surrounding area, being in the public interest and satisfying the public need, adequacy of public facilities, consistency with transportation system capacity, consistency with goals and policies of the Milwaukie Comprehensive Plan and relevant Metro plans and policies, and consistency with relevant State statutes and administrative rules.

*MMC Table 19.1104.1.E establishes automatic zoning map and comprehensive plan map designations for expedited annexations. Compliance with the table is essentially equivalent to specific findings that address individual criteria for zoning map and comprehensive plan map*

*amendments, such as compatibility, public need, etc. In essence, if a proposed designation is consistent with the table, it is consistent with the various applicable plans and policies.*

*In the case of the proposed annexation, the applicant has proposed to designate the Annexation Properties according to the guidance of MMC Table 19.1104.1.E, from a county zoning designation of Office Commercial (OC) to city designations of Limited Commercial (C-L) for zoning and Commercial (C) for land use. The approval criteria for both proposed amendments are effectively met.*

7. Prior to approving an annexation, the city must apply the provisions set forth in Subsection 3.09.050.D of the Metro Code, which references subsections D and E of Section 3.09.045. They are listed below with findings in italics.

A. Find that the change is consistent with expressly applicable provisions in:

- (1) Any applicable urban service agreement adopted pursuant to ORS 195.205;

*There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The city has an UGMA agreement with Clackamas County that outlines procedures and practices for coordinating land use planning activities. The proposed annexation is in keeping with the city's policy of requiring properties to annex to the city in order to connect to city services.*

- (2) Any applicable annexation plan adopted pursuant to ORS 195.205;

*There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.*

- (3) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;

*There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.*

- (4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

*Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The city subsequently adopted this plan as an ancillary comprehensive plan document. The plan contains four elements:*

- Sanitary Sewerage Services*
- Storm Drainage*
- Transportation Element*
- Water Systems*

*The proposed annexation is consistent with the four elements of this plan as follows:*

*Sewer: The city maintains a public sewer system that can adequately serve the Annexation Properties.*

Storm: The Annexation Properties are developed with on-site stormwater facilities and for overflow are connected to a public stormwater system managed by Clackamas County Water Environment Services (WES). Treatment and management of on-site stormwater will be required when any new development occurs.

Transportation: Clackamas County currently maintains SE Harmony Road. In the future, following county improvements, the city will initiate a transfer of jurisdiction. The city may then require public street improvements along the Annexation Properties' frontage when any new development occurs.

Water: Clackamas River Water (CRW) is the identified water service provider in this plan. However, the city's more recent UGMA agreement with the county identifies the city as the lead urban service provider in the area of the proposed annexation. The city's water service master plan for all of the territory within its UGMA addresses the need to prepare for future demand and coordinate service provision changes with CRW. As per the city's intergovernmental agreement (IGA) with CRW, CRW will continue to provide water service to the Annexation Properties.

(5) Any applicable comprehensive plan.

As discussed in Finding 6, the proposed annexation is consistent with the Milwaukie Comprehensive Plan. The Clackamas County Comprehensive Plan contains no specific language regarding city annexations. The comprehensive plans, however, contain the city-county UGMA agreement, which identifies the area of the proposed annexation as being within the city's UGMA. The UGMA agreement requires that the city notify the county of proposed annexations, which the city has done. The agreement also calls for city assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The city will initiate a transfer of jurisdiction for the newly annexed SE Harmony Road ROW once the annexation is official and the county makes planned improvements to the road.

B. Consider whether the boundary change would:

(1) Promote the timely, orderly, and economic provision of public facilities and services;

The city is the identified urban service provider in the area of the proposed annexation, and the proposed annexation will facilitate the timely, orderly, and economic provision of urban services to the Annexation Properties.

The city has public sewer service in this area via a sewer line in the SE Harmony Road ROW.

(2) Affect the quality and quantity of urban services; and

The Annexation Properties consist of three tax lots under the same ownership. The site is developed with two buildings comprising the Harmony Road campus of Clackamas Community College, an administrative office building for Clackamas Fire District #1, and associated off-street parking. Annexation of the site is not expected to affect the quality or quantity of urban services in this area, given the surrounding level of urban development and the existing level of urban service provision in this area.

- (3) Eliminate or avoid unnecessary duplication of facilities and services.

*Upon annexation, the Annexation Properties will be served by the Milwaukie Police Department. The city will also assume responsibility for maintaining street lights in the Annexation Territory. To avoid duplication of law enforcement and street lighting services, the site will be withdrawn from both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights, respectively, upon annexation.*

- C. A city may not annex territory that lies outside the UGB, except that it may annex a lot or parcel that lies partially within and partially outside the UGB.

*The Annexation Territory is entirely within the regional UGB.*

8. The city is authorized by ORS Section 222.120(5) to withdraw annexed territory from non-city service providers and districts upon annexation of the territory to the city. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the city's comprehensive plan policies relating to annexation.

Wastewater: *The Annexation Properties are within the city's sewer service area and are served by the city's 8-in sewer line accessible in SE Harmony Road.*

Water: *The Annexation Properties are currently served by CRW through CRW's water line in SE Harmony Road adjacent to the Annexation Properties. Pursuant to the city's IGA with CRW, the Annexation Properties should not be withdrawn from this district at this time.*

Storm: *The Annexation Properties are developed with on-site stormwater facilities and for overflow are connected to a public stormwater system managed by WES. Treatment and management of on-site stormwater will be required when any new development occurs.*

Fire: *The Annexation Properties are currently served by Clackamas Fire District #1 and will continue to be served by the district upon annexation, since the entire city is within this district.*

Police: *The Annexation Properties are currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the site. To avoid duplication of services, the site will be withdrawn from this district upon annexation to the city.*

Street Lights: *The Annexation Properties are currently within Clackamas County Service District #5 for Street Lights but will be withdrawn from this district upon annexation.*

Other Services: *Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the city and will be available to the site upon annexation. The Annexation Properties will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, and North Clackamas Parks and Recreation District.*

**Annexation to the City of Milwaukie  
LEGAL DESCRIPTION for 3 PROPERTIES**

**Milwaukie Annexation File No. A-2016-006**

Property Address: 7616 SE Harmony Rd, Milwaukie OR 97222

Tax Lot Description: 2S2E05A 00400

Legal Description: Parcel 1 of Partition Plat 1992-41

Property Address: 7726 SE Harmony Rd, Milwaukie OR 97222

Tax Lot Description: 2S2E05A 00402

Legal Description: Parcel 7 of Partition Plat No. 2007-104, except that part lying in SE Harmony Road, in the County of Clackamas and State of Oregon

Property Address: 7738 SE Harmony Rd, Milwaukie OR 97222

Tax Lot Description: 2S2E05A 00403

Legal Description: Parcel 8 of Partition Plat No. 2007-104, except that part lying in SE Harmony Road, in the County of Clackamas and State of Oregon



LEGAL DESCRIPTION  
HARMONY ROAD  
CITY OF MILWAUKIE

#8174  
2/1/19 MAR

A STRIP OF LAND, VARIABLE WIDTH, LOCATED IN THE SOUTHWEST ONE-QUARTER AND THE SOUTHEAST ONE-QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 2 EAST AND THE NORTHWEST ONE-QUARTER AND THE NORTHEAST ONE-QUARTER OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8 INCH DIAMETER IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CLACKAMAS COUNTY DTD", FOUND AT THE NORTHEAST CORNER OF PARCEL 6, PARTITION PLAT 2006-003, CLACKAMAS COUNTY PLAT RECORDS, BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF SE HARMONY ROAD (COUNTY ROAD NO. 115, WIDTH VARIES); THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING 15 COURSES: N.87°39'46"W., 50.00 FEET; THENCE S.01°33'06"W., 12.00 FEET; THENCE N.87°39'46"W., 301.51 FEET; THENCE N.88°26'54"W., 473.13 FEET; THENCE N.01°33'06"E., 22.00 FEET; THENCE N.88°26'54"W., 701.10 FEET; THENCE 196.41 FEET ALONG THE ARC OF A 686.17 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 16°24'00" (THE CHORD OF WHICH BEARS S.83°21'06"W., 195.74 FEET); THENCE S.75°09'06"W., 332.02 FEET; THENCE 199.48 FEET ALONG THE ARC OF A 602.95 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 18°57'20" (THE CHORD OF WHICH BEARS S.84°37'46"W., 198.57 FEET); THENCE N.85°53'34"W., 337.13 FEET; THENCE 213.66 FEET ALONG THE ARC OF A 1115.90 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 10°58'14" (THE CHORD OF WHICH BEARS S.88°37'19"W., 213.34 FEET); THENCE S.83°08'12"W., 262.86 FEET; THENCE 141.84 FEET ALONG THE ARC OF A 2321.77 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 03°30'01" (THE CHORD OF WHICH BEARS S.84°53'12"W., 141.82 FEET); THENCE S.86°38'13"W., 964.12 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF SOUTHERN PACIFIC RAILROAD (60.00 FEET WIDE); THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE, N.64°51'48"W., 223.63 FEET TO A POINT; THENCE N.25°08'12"E., 60.00 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID SE HARMONY ROAD; THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING 21 COURSES: S.64°51'48"E., 83.73 FEET; THENCE 244.16 FEET ALONG THE ARC OF A 490.85 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 28°29'59" (THE CHORD OF WHICH BEARS S.79°06'47"E., 241.65 FEET); THENCE N.86°38'13"E., 485.96 FEET; THENCE N.86°30'17"E., 359.95 FEET; THENCE N.80°34'30"E., 50.27 FEET; THENCE 66.19 FEET ALONG THE ARC OF A 2256.77 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 01°40'50" (THE CHORD OF WHICH BEARS N.83°58'37"E., 66.19 FEET); THENCE N.75°03'00"E., 35.54 FEET; THENCE N.83°08'12"E., 100.00 FEET; THENCE N.56°34'18"E., 89.44 FEET; THENCE N.83°08'12"E., 47.67 FEET; THENCE 61.34 FEET ALONG THE ARC OF A 1225.90 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 02°52'00" (THE CHORD OF WHICH BEARS N.84°34'12"E., 61.33 FEET); THENCE S.63°09'47"E., 60.75 FEET; THENCE 116.97 FEET ALONG THE ARC OF A 1195.90 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 05°36'14" (THE CHORD OF WHICH BEARS S.88°41'41"E., 116.92 FEET); THENCE S.85°53'34"E., 93.65 FEET; THENCE S.04°06'26"W., 20.00 FEET; THENCE S.85°53'34"E., 87.09 FEET; THENCE



S.86°08'35"E., 79.03 FEET; THENCE S.86°04'39"E., 104.58 FEET; THENCE 152.41 FEET ALONG THE ARC OF A 542.95 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 16°04'58" (THE CHORD OF WHICH BEARS N.83°11'35"E., 151.91 FEET); THENCE N.75°09'06"E., 439.54 FEET; THENCE S.88°26'54"E., 1575.49 FEET; THENCE N.01°33'06"E., 10.00 FEET; THENCE S.88°26'54"E., 57.74 FEET; THENCE S.01°33'06"W., 84.82 FEET TO THE POINT-OF-BEGINNING, CONTAINING 299577 SQUARE FEET, (6.88 ACRES) MORE OR LESS.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS SN 23425, CLACKAMAS COUNTY SURVEY RECORDS.

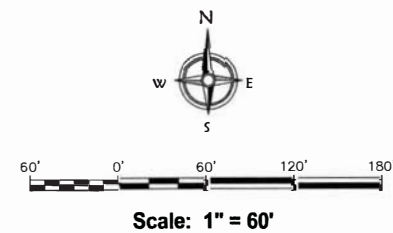
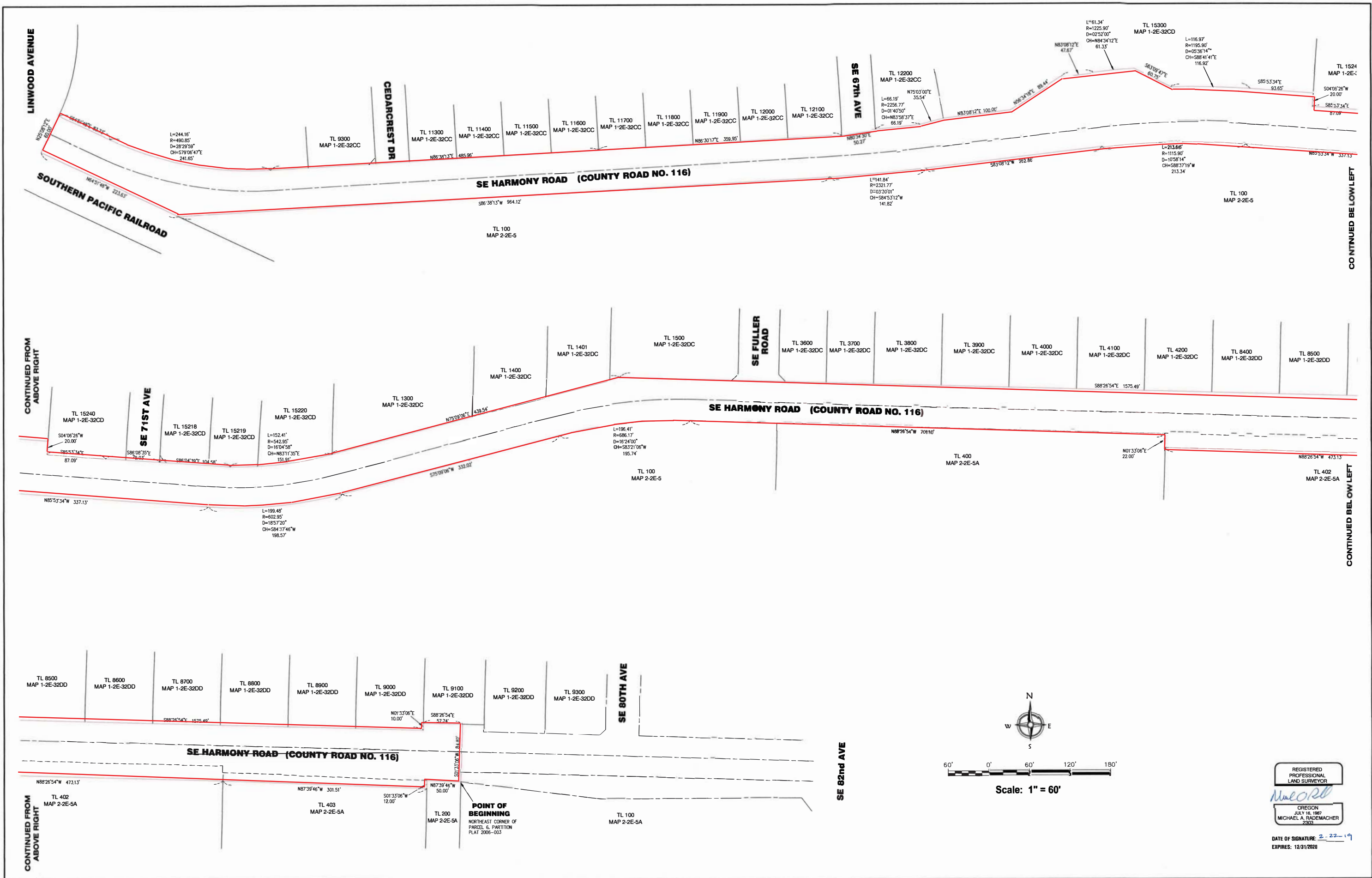
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR



OREGON  
JULY 16, 1987  
MICHAEL A. RADEMACHER  
2303

DATE OF SIGNATURE: 2-6-19

EXPIRES: 12/31/2018



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Michael A. Riedemacher*

OREGON  
JULY 16, 1989  
MICHAEL A. RIEDEMACHER  
2303

DATE OF SIGNATURE: 2-22-19  
EXPIRES: 12/31/2020

DATE	NO.	REVISION

DRAWN	MMM	CHECK	JMC
SCALE	1" = 60'	DATE	02/2019
PLAN	8174 Exh A.dwg		



**COMPASS** Land Surveyors  
4107 SE International Way, Suite 705  
Milwaukie, Oregon 97222 503-653-9093

**CITY OF MILWAUKIE**  
10722 SE MAIN STREET  
MILWAUKIE, OREGON 97222

**HARMONY ROAD LEGAL DESCRIPTION**  
LOCATED IN THE SW 1/4 AND THE SE 1/4 SECTION 32, T.1S., R.2E.,  
AND THE NW 1/4 AND THE NE 1/4 SECTION 5, T.2S., R.2E., W.M.  
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

# Harmony Rd ROW being annexed

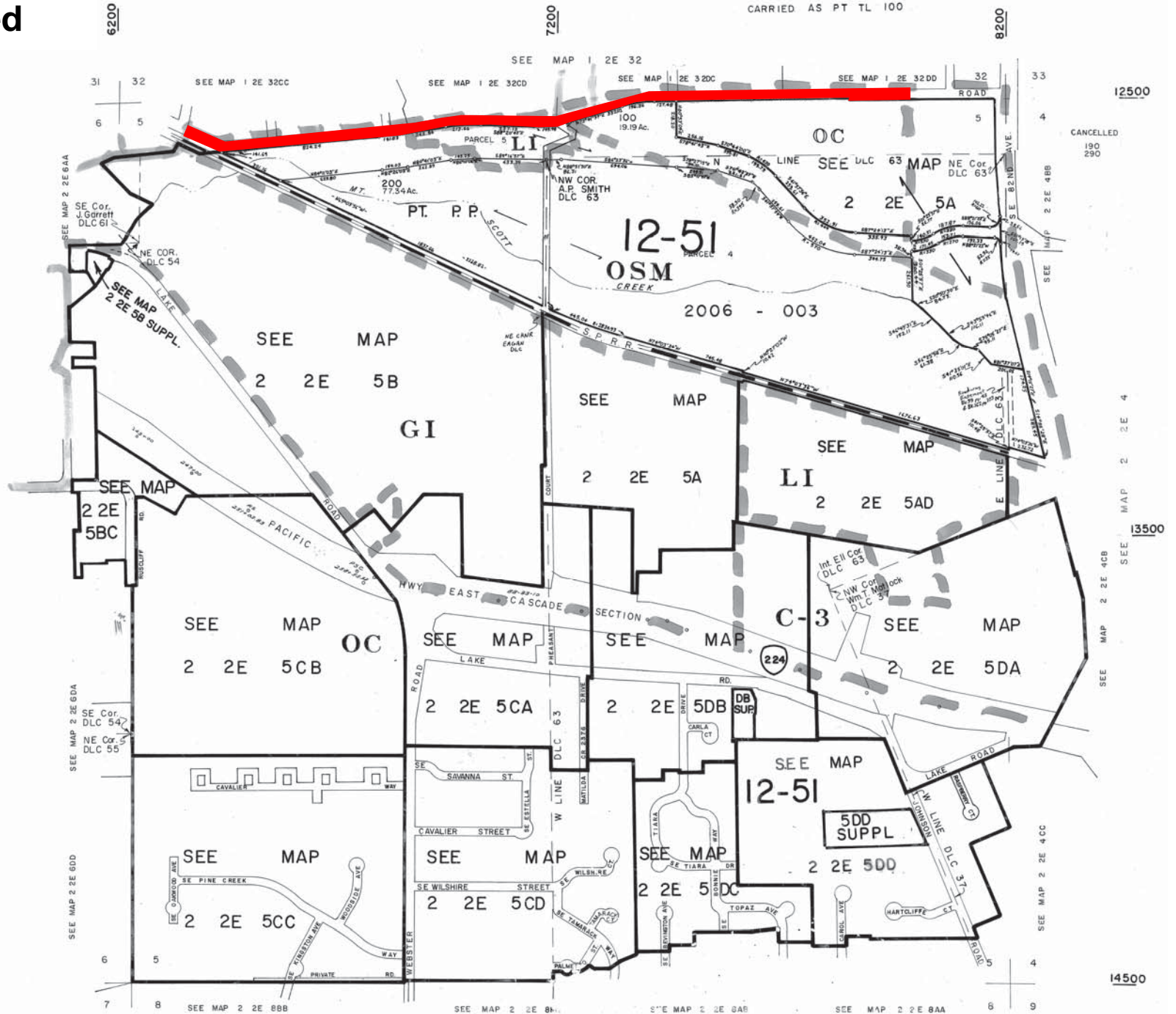
This map was prepared for  
assessment purpose only.

SECTION 5 T.2S.R.2E. W.M.  
CLACKAMAS COUNTY  
1" = 400'

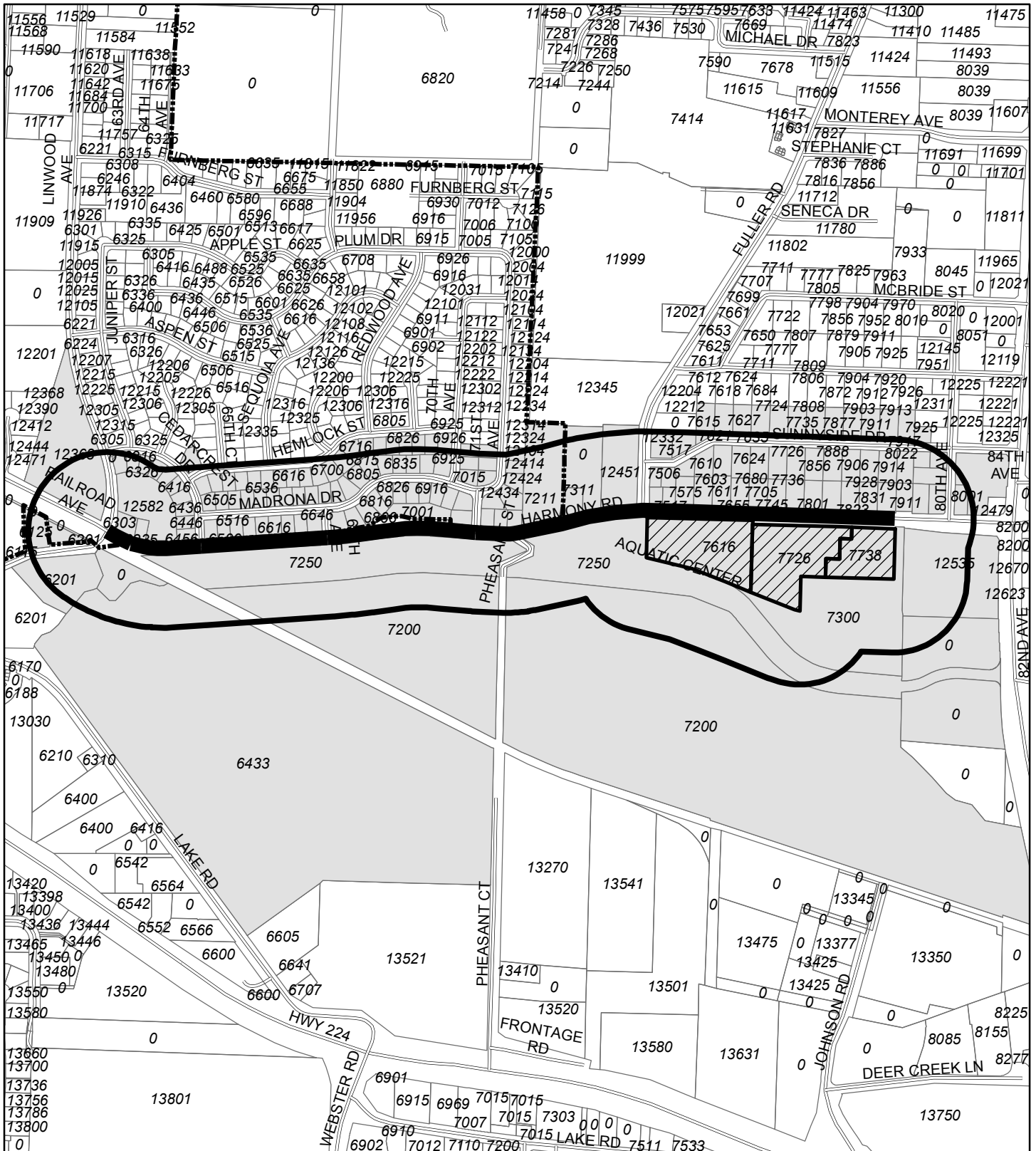
D. L. C.  
WILLIAM T. MATLOCK NO. 37  
JOHN D. GARRETT NO. 61  
A. P. SMITH NO. 63

2 2E 5  
INDEX

NOTE-CANCELLED MAP 2 2E 05BA NOW  
CARRIED AS PT TL 100








ATTACHMENT 2



**Site Map**  
**7616, 7726, & 7738 SE Harmony Rd**  
**and Harmony Rd right-of-way (ROW)**  
**(Tax ID: 2S2E05A, lots 400, 402, & 403)**  
**File #A-2016-006**



**Legend**

-  Properties being annexed
-  Harmony Rd ROW being annexed
-  400-ft notice boundary
-  Properties receiving notice
-  Other tax lots





**PLANNING DEPARTMENT**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206

PHONE: 503-786-7630  
 FAX: 503-774-8236  
 E-MAIL: [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov)  
 WEB: [www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

# Expedited Annexation Application

601-16-00007 6  
PLNG

**RESPONSIBLE PARTIES:**

File #: A-2016-006

<b>APPLICANT</b> (owner or other eligible applicant): Joanne Truesdell, President of Clackamas Community College	
Mailing address: 19600 Molalla Avenue Oregon City, OR	Zip: 97045
Phone(s): (503) 594-6000	E-mail: <a href="mailto:presidentsoffice@clackamas.edu">presidentsoffice@clackamas.edu</a>
<b>APPLICANT'S REPRESENTATIVE</b> (if different than above): Bob Cochran	
Mailing address: 19600 Molalla Avenue Oregon City, OR	Zip: 97045
Phone(s): 503-594-6790	E-mail: <a href="mailto:bobc@clackamas.edu">bobc@clackamas.edu</a>

**SITE INFORMATION:**

Address(es): 7726, 7738 & 7616 SE Harmony Road	Map & Tax Lot(s): 2S 2E 05A Lots 400, 402, 403	Property size: 3.83, 1.96 & 3.87 Acres
Existing County zoning: OC	Proposed City zoning: C-L	
Existing County land use designation: Office Commercial	Proposed City land use designation: Commercial	

**PROPOSAL (describe briefly):**

Annexation of the above-listed properties into the City of Milwaukie.

**LIST OF ALL CURRENT UTILITY PROVIDERS:**

Check all that apply (do not list water or sewer service providers)

<b>Cable, internet, and/or phone:</b>	<input checked="" type="checkbox"/> Comcast	<input type="checkbox"/> CenturyLink (formerly Qwest)
<b>Energy:</b>	<input checked="" type="checkbox"/> PGE	<input checked="" type="checkbox"/> NW Natural Gas
<b>Garbage hauler:</b>	<input checked="" type="checkbox"/> Waste Management	<input type="checkbox"/> Mel Deines <input type="checkbox"/> Hoodview Disposal and Recycling
	<input type="checkbox"/> Wichita Sanitary	<input type="checkbox"/> Oak Grove Disposal <input type="checkbox"/> Clackamas Garbage
<input type="checkbox"/> Other (please list):		

**SIGNATURE:**

**ATTEST:** I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. I have attached all owners' and voters' authorizations to submit this application. I understand that uses or structures that were not legally established in the County are not made legal upon annexation to the City. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: *Joanne Truesdell* Date: 9/19/16

CONTINUED ON REVERSE

**THIS SECTION FOR OFFICE USE ONLY:**


<b>File #:</b> A-2016-006 <b>Fee:</b> \$ 150. <sup>00</sup> <b>Receipt #:</b> <b>Rcd. by:</b>	<b>Date stamp:</b>
<b>Associated application file #'s:</b>	<p>RECEIVED SEP 21 2016 CITY OF MILWAUKIE PLANNING DEPARTMENT</p>
<b>Neighborhood District Association(s):</b>	
<b>Notes</b> (include discount if any):	

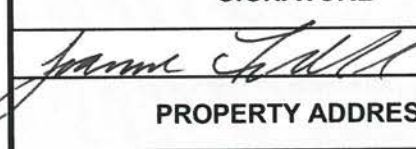


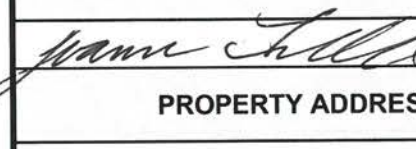


# PETITION SIGNERS

NOTE: This petition may be signed by qualified persons even though they may not know their property description or voter precinct number.

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	Joanne Truesdell	X			9/19/16
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
7726 SE Harmony Road	2S	2E	05A	402	421

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	Joanne Truesdell	X			9/19/16
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
7738 SE Harmony Road	2S	2E	05A	403	421

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	Joanne Truesdell	X			9/19/16
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
7616 SE Harmony Road	2S	2E	05A	400	421

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

\*PO = Property Owner    RV = Registered Voter    OV = Owner and Registered Voter

**CERTIFICATION OF PROPERTY OWNERSHIP OF  
100% OF LAND AREA**

I hereby certify that the attached petition contains the names of the owners<sup>1</sup> (as shown on the last available complete assessment roll) of 100% of the land area of the territory proposed for annexation as described in the attached petition.



Name CRAIG FERRIS *Craig Ferris*  
Title CARTOGRAPHER III  
Department ASSESSMENT & TAX  
County of CLACKAMAS  
Date 9-20-16

<sup>1</sup> Owner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If a parcel of land has multiple owners, each consenting owner shall be counted as a percentage of their ownership interest in the land. That same percentage shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.

## CERTIFICATION OF LEGAL DESCRIPTION AND MAP

I hereby certify that the description of the territory included within the attached petition (located on Assessor's Map 22E05A) has been checked by me. It is a true and exact description of the territory under consideration and corresponds to the attached map indicating the territory under consideration.



Name CRAIG FERRIS  
Craig Ferris  
Title CARTOGRAPHER III  
Department ASSESSMENT & TAX  
County of CLACKAMAS  
Date 9-20-2016

## CERTIFICATION OF REGISTERED VOTERS

I hereby certify that the attached petition contains the names of at least 50% of the electors registered in the territory proposed for annexation as described in the attached petition.

Name PAUL HANES  
Title DEPUTY CLERK  
Department CLERK/ELECTIONS  
County of CLACKAMAS  
Date 9/20/16



CLACKAMAS COUNTY ELECTIONS  
SHERRY HALL, COUNTY CLERK  
1710 RED SOILS CT, SUITE 100  
OREGON CITY, OR 97045



# NOTICE LIST

(This form is NOT the petition)

**LIST THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS AND REGISTERED VOTERS IN THE TERRITORY PROPOSED FOR ANNEXATION.**

	Mailing Street Address	Property Address
	Mailing City/State/Zip	Property Description <small>(township, range, ¼ section, and tax lot)</small>
1	Joanne Truesdell 19600 Molalla Avenue Oregon City, OR	7726, 7738 & 7616 SE Harmony Road 2S 2E 05A Lots 400, 402 & 403
2		
3		
4		
5		
6		
7		
8		
9		
10		

**RESOLUTION NO. R15/16-48**

**CLACKAMAS COMMUNITY COLLEGE**

**A RESOLUTION APPROVING THE CONSENT TO ANNEX AUTHORIZATION FOR  
REAL PROPERTY IN MILWAUKIE, OREGON**

**WHEREAS**, Clackamas Community College owns an undivided 100% interest in real property and improvements located at 7738 S.E. Harmony Road and 7726 S.E. Harmony Road in the city of Milwaukie, legally described as Lot 7 and 8 of Partition Plat 2007-104 in the County of Clackamas and the State of Oregon; and

**WHEREAS**, Clackamas Community College owns an undivided 100% interest in real property and improvements located along S.E. Harmony Road in the city of Milwaukie, legally described as Lot 1 of Partition Plat 1992-41 in the County of Clackamas and the State of Oregon; and

**WHEREAS**, these contiguous lots make up the Clackamas Community College Harmony Campus; and

**WHEREAS**, the Phase II development of the Harmony Campus is in the permitting stage; and

**WHEREAS**, as a condition of the Harmony Phase II construction project building to connect to the City of Milwaukie sewer system, the property must be annexed into the City of Milwaukie; and

**WHEREAS**, as a condition of obtaining the building permit for the Harmony Phase II construction project, the College must demonstrate its intent to annex these properties to the City of Milwaukie; and

**WHEREAS**, the CITY OF MILWAUKIE CONSENT TO ANNEXATION & AGREEMENT NOT TO CONTEST ANNEXATION form is required to document the College's intent to the City of Milwaukie and begin the annexation process;

**Now, therefore**, the Board of Education resolves as follows:

Clackamas Community College is authorized to provide the City of Milwaukie the CITY OF MILWAUKIE CONSENT TO ANNEXATION & AGREEMENT NOT TO CONTEST ANNEXATION form indicating the College's intent to annex the real property and improvements located 7738 S.E. Harmony Road and 7726 S.E. Harmony Road in the city of Milwaukie, legally described as Lot 7 and 8 of Partition Plat 2007-104, and Lot 1 of Partition Plat 1992-41 in the County of Clackamas and the State of Oregon (the "Property"), to the City of Milwaukie.

Any and all actions taken by the President or her designees to cause Clackamas Community College to enter into an ANNEXATION & AGREEMENT NOT TO CONTEST ANNEXATION with City of Milwaukie, or otherwise in furtherance of these resolutions is hereby ratified and approved.

Joanne Truesdell, as the President of Clackamas Community College, or her designee, for and on behalf of and in the name of the Clackamas Community College, is authorized to do and perform such

acts and deeds and execute, acknowledge, and deliver all documents, agreements, instruments, and certificates as may be necessary, desirable or appropriate in connection with the annexation consent, and upon such terms and conditions as determined by the President or her designee, in their reasonable discretion.

ADOPTED by the Board of Education of the Clackamas Community College District, Clackamas County, Oregon this 11th day of May, 2016.

**CLACKAMAS COMMUNITY COLLEGE DISTRICT,  
CLACKAMAS COUNTY, OREGON**

By: Jerome M. Beckstrop  
Chair

**ATTEST:**

By: James T. [Signature]  
President



**AFTER RECORDING RETURN TO:**  
Planning Director  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206

*This Space For County Recording Use Only*

<b><u>FOR OFFICE USE ONLY</u></b>
Annexation File No. _____
Date Received _____

RECEIVED  
JUN 09 2016  
CITY OF MILWAUKIE  
PLANNING DEPARTMENT

**CITY OF MILWAUKIE  
CONSENT TO ANNEXATION &  
AGREEMENT NOT TO CONTEST ANNEXATION**

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In consideration for the City of Milwaukie for the property described below:

All owners of the property listed below, and their successors and assigns, consent to annex the following described real property into the City of Milwaukie by preparing and signing all relevant annexation documents that the City of Milwaukie desires, including but not limited to a "Petition" for annexation and/or a "Covenant of Waiver of Rights and Remedies," so that the following described real property located in Clackamas County, Oregon, and within the Urban Growth Management Area of the City of Milwaukie, can be annexed into the City of Milwaukie.

All owners of the property listed below further agree that they, their successors and assigns, will not oppose, in any manner, requests or attempts to annex the following described real property into the City of Milwaukie:

**PROPERTY DESCRIPTION**

Street Address: 7726 SE Harmony Road & 7738 SE Harmony Road

City: Milwaukie State: OR Zip Code: 97222

Tax Map ID: Township 2 South Range 2 East Section NE ¼ of Section 5  
Tax Lot(s) 22E05A 00400, 22E05A 00402, 22E05A 00403

\*\*\*\*\*

**I/WE, THE UNDERSIGNED PROPERTY OWNER(S), AFFIRM BY MY/OUR SIGNATURE(S) THAT THE INFORMATION CONTAINED IN THIS DOCUMENT AND ASSOCIATED SUBMISSIONS IS TRUE AND CORRECT.**

Property Owner Joanne Truesdell Date: 6/1/16  
Signature

Joanne Truesdell, President Clackamas Community College  
Printed Name

Property Owner \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Property Owner \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Property Owner \_\_\_\_\_ Date: \_\_\_\_\_  
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Printed Name

Property Owner \_\_\_\_\_ Date: \_\_\_\_\_  
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Printed Name

Property Owner \_\_\_\_\_ Date: \_\_\_\_\_  
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\_\_\_\_\_  
Printed Name

Property Owner \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Property Owner \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name





# CITY OF MILWAUKIE

**To:** Planning Commission  
**Through:** Dennis Egner, Planning Director  
**From:** David Levitan, Senior Planner  
**Date:** June 4, 2019, for June 11, 2019 Worksession  
**Subject:** Final Review of Comprehensive Plan Housing Policies

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## **ACTION REQUESTED**

Review and provide final comments and edits on the updated housing policies for the Comprehensive Plan. Staff will incorporate Commission comments into the final set of recommended policies, which are scheduled to be “pinned down” by resolution by the City Council at their July 16 meeting.

## **BACKGROUND INFORMATION**

### **History of Prior Actions and Discussions**

- [August 14, 2018](#): Staff solicited Commission feedback on the proposed scope of the Comprehensive Plan’s housing policy work, The City Council subsequently decided to separate the housing discussion into its own block of work.
- [December 18, 2018](#): The Commission held a joint meeting with the City Council and Design and Landmarks Committee (DLC) to debrief on the December 6 [Housing Forum](#).
- [March 26, 2019](#): Staff briefed the Commission on recent housing policy work, and gathered input on the potential structure of the [April 18 Housing Town Hall](#).
- [April 9, 2019](#): Staff provided an update on the April 18 Housing Town Hall.
- [May 21, 2019](#): The Commission held a joint work session with the City Council to review the latest draft of Comprehensive Plan housing policies.

## **BACKGROUND**

The city is currently undertaking the first major update to its Comprehensive Plan since 1989, a two-year process that will result in updated goals and policies. The project work plan includes three six-month blocks of work, with a separate block that is focused on housing running concurrently to blocks 2 and 3. The Council will adopt a resolution “pinning down” the list of goals and policies for each block of topics before adopting the entirety of the Comprehensive Plan

by ordinance in late 2019 or early 2020. The goals and policies for block 1 were pinned down by resolution on [August 21, 2018](#), and those for block 2 were pinned down on [January 15, 2019](#).

The city launched the housing discussion for the Comprehensive Plan by hosting a [Housing Forum](#) on December 6, 2018 at Clackamas Community College's Harmony Campus. That event was followed by a [December 18 joint meeting](#) of the Council, Planning Commission, and DLC to debrief on the Housing Forum and discuss topics to address in the Comprehensive Plan update. On April 18, approximately 80 people attended a Housing Town Hall and provided input on their housing priorities and how Milwaukie might best plan for future residential growth. A companion Online Open House was launched on April 23, which over two weeks saw 314 unique visitors. A more detailed review of public outreach is available in the staff report for the May 21 work session.

### Comprehensive Plan Housing Policies

In late April, staff developed the first draft of Comprehensive Plan housing policies, which were reviewed by the CPAC at their [April 29 meeting](#). Staff incorporated the CPAC's input from that meeting into a revised set of policies, which were reviewed by the Council and Commission during a [May 21 joint work session](#) and by the CPAC during their [May 23](#) and [June 3](#) meetings.

Staff has incorporated Council, Commission, and CPAC Comments from those three meetings into the current draft of housing policies, which are available in both track changes (Attachment 1) and clean (Attachment 2) versions. The track changes version highlights changes made to the policies since the Commission last reviewed them on May 21.

The City Council is scheduled to "pin down" the housing policies by resolution at their July 16 regular session, before they are brought back in late 2019 (along with the block 1-3 policies) to be adopted by ordinance. In advance of that meeting, staff is requesting that the Planning Commission review and provide comments on the current draft of housing policies. Staff will also be circulating the policies to the CPAC via email to allow them a final opportunity to suggest revisions, and will be notifying the NDAs that the housing policies will be reviewed by the Commission at their June 11 meeting.

Commissioner Edge was unable to attend the May 21 joint work session with the Council and has indicated that he is likely to miss the June 11 work session as well. As such, he has submitted a matrix of comments (Attachment 3) on the set of policies that were reviewed during the May 21 joint work session. Staff has yet to incorporate Commissioner Edge's comments into the revised set of policies included in Attachments 1 and 2, although several of them overlap with comments from CPAC members, councilors, and commissioners that have been incorporated into the revised policies. Staff is requesting that commissioners review Commissioner Edge's comments as they consider potential revisions to the policies.

At the May 21 joint work session, Commissioner Argo noted the need for the City to do a better job of "storytelling" and explaining why we are doing this work; CPAC members have expressed similar thoughts in recent meetings. Staff has attempted to incorporate some of the "why we are doing this" into the policy language and is proposing to address this topic in the two-page introduction at the beginning of the housing chapter. As commissioners review the policies, please consider ways that the City can better relay this message to the Milwaukie community.

Questions for Commission

1. Are their specific goals or policies that should be added, revised, or removed?
2. Are there concepts or ideas from Commissioner Edge’s matrix (Attachment 3) that the Commission wants to make sure to incorporate?

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

	PC Packet	Public Copies	E- Packet
1. Revised Housing Policies – Track Changes since May 21	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Revised Housing Policies – Clean Version	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Commissioner Edge Comments (on May 21 set of policies)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

E-Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-30>.

## City of Milwaukie Draft Comprehensive Plan Housing Policies

Incorporates comments from May 21 Joint CC/PC Meeting and May 23/June 3 CPAC Meetings

**EQUITY GOAL:** *Provide housing options and reduce housing barriers for people of all ages and abilities, with a special focus on people of color, aging populations, and those with low incomes.*

1. Provide the opportunity for a wider range of housing choices in Milwaukie, including additional middle housing types in residential neighborhoods of the City by allowing that offer a variety of rental (~~accessory dwelling, duplex and small apartment~~) and ownership (~~cottage cluster, tiny home, and rowhouse~~) options in low and medium density zones. Options include, but are not limited to, such as accessory dwelling units, duplexes, triplexes/fourplexes, cottage clusters, tiny homes, rowhouses and garden apartments.
2. Establish development standards that are less reliant on density distinctions and more reliant on regulating size, shape, and form, and design details compared to what has been historically permitted in city neighborhoods.
3. Ensure zoning and code requirements ~~do not create~~ are written in consideration of potential barriers to home ownership and rental opportunities for vulnerable populations such as people of color, aging populations, ~~and~~ and people with low incomes, and people with disabilities.
4. Leverage resources and programs to help ensure that housing (including existing housing) remains affordable and available to residents in all residential neighborhoods of Milwaukie.
5. Encourage development of homes that can accommodate people of all ages and abilities through use of universal design.
6. Consider cultural ~~differences~~ preferences and values when ~~adopting~~ implementing development and design standards, including but not limited to the need to accommodate extended family members and provide opportunities for multi-generational housing.
7. Support the Fair Housing Act and ~~programs and policies~~ other federal and state regulations that aim to affirmatively further fair housing.
8. ~~Support~~ Enable a continuum of programs led by community partners that address the needs of ~~homeless-unhoused~~ persons and families, including ~~through the provision of~~ temporary shelters, long-term housing, and supportive services.
9. ~~Prevent~~ Reduce the displacement of ~~tenants of rental housing~~ renters through tenant protection policies such as required notice for ~~no-cause~~ evictions, tenant relocation considerations, and ~~or~~ educational programs or other initiatives.
10. Develop, monitor and periodically update metrics that evaluate the City's success in achieving this chapter's Equity Goal.



**AFFORDABILITY GOAL:** *Provide opportunities to develop housing that is affordable at a range of income levels.*

1. Continue to develop and update housing affordability strategies that meet the needs of Milwaukie households ~~individuals~~ and acknowledge ~~reflect~~ market ~~changes and~~ conditions.
2. Allow and encourage development of ~~additional middle~~ housing types with lower construction costs and sales prices per unit that can help meet the needs of low or moderate-income households. Examples include middle housing types such as accessory dwelling units (ADUs), duplexes, triplexes, fourplexes, rowhouses cottage cluster housing, and ~~small apartment complexes~~ garden apartments in low and medium density zones, as well as larger apartment and condominium developments in high-density and mixed-use zones.
3. Consider programs and incentives that reduce the impacts that development/design standards and fees have on housing affordability, including modifications to parking requirements, system development charges, and frontage improvements. Allow for a reduction in required off-street parking for new development within walking distance of light rail stations and frequent bus service corridors in an effort to lower development costs and better meet the housing needs of low and moderate-income residents.
4. Provide ~~opportunities for home owners to generate long-term rental income or house family members through~~ a simple, straightforward, and cost-effective permitting process for the development of accessory dwelling units (ADUs) or conversion of single-family homes into duplexes or other “middle housing” types.
5. ~~Continue to seek and maintain~~ Expand partnerships with non-profit housing developers and other affordable housing providers and agencies ~~to create the opportunity to that~~ provide new low to moderate income -housing units, create opportunities for first-time homeownership, and rehabilitation activities within Milwaukie and help vulnerable homeowners maintain and stay in their homes.
6. Support the continued use and preservation of manufactured homes, both on individual lots and within manufactured home parks as an affordable housing choice.
7. Support the use of tiny homes, including those on wheels, as an affordable housing choice, while addressing adequate maintenance of these and other housing types through the City’s code enforcement program.
8. Clearly define and implement development code provisions to permit ~~homeless~~ shelters and transitional housing for people without housing in Milwaukie.
9. Monitor and regulate ~~the location and quantity of~~ vacation rentals to reduce their impact on availability and long-term affordability of housing.
10. Develop, monitor and periodically update metrics that evaluate the City’s success in achieving this chapter’s Affordability Goal.

**SUSTAINABILITY GOAL:** *Promote environmental and socially sustainable practices associated with housing development and construction.*

1. Ensure that the scale and location of new housing is consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy, and protect wetland, floodplains, and other natural resource or hazard areas.
- ~~1.2.~~ Provide additional flexibility in site design and development standards in exchange for increased protection and preservation of trees and other natural resources.
- ~~2.3.~~ Use incentives to encourage, and where appropriate require, new housing development, redevelopment, or rehabilitation projects to include features that increase energy efficiency, improve building durability, produce ~~energy~~ or use renewable energy, conserve water, use deconstructed or sustainably produced materials, manage stormwater naturally, and/or employ other environmentally sustainable practices.
4. Promote the use of active transportation modes and transit to help reduce driving by neighborhood residents ~~and workers~~, and
- ~~3.5.~~ Increase economic opportunities for locally owned and operated businesses by encouraging development of more housing located close to transit, shopping, ~~other commercial services~~, local businesses, parks, and schools.
- 4.6. Encourage the adaptive reuse of existing buildings in residential and mixed-use areas that can help meet Milwaukie's housing needs.
7. Prepare, regularly monitor and periodically update an inventory of the buildable supply of residential land that can help meet the City's future housing needs in an efficient and sustainable manner.
8. Allow for a reduction in required off-street parking for new development within walking distance of light rail stations and frequent bus service corridors (MOVED FROM AFFORDABILITY POLICY 3).
9. Advocate for additional frequent transit service in areas with the potential for significant residential growth.
10. Develop, monitor and periodically update metrics that evaluate the City's success in achieving this chapter's Sustainability Goal.

**LIVABILITY GOAL:** *Enhance the ability of Milwaukie's neighborhoods to meet community members' economic, social, and cultural needs, and promote their health, well-being, and universal access.*

1. Implement land use and public investment decisions and standards that foster creation of denser development in centers, corridors, and neighborhood hubs to support community gathering places, commercial uses, and other amenities that give people opportunities to socialize, shop, and recreate together.
2. Require that new housing projects ~~contribute to the creation of a walkable and bike-friendly environment~~improve the quality and connectivity of active transportation modes by providing infrastructure and connections that make it easier and more direct for people to walk or bike to destinations such as parks, schools, commercial services, and neighborhood gathering places.
3. Administer development code standards that require ~~the design and/or siting of~~new housing to make a positive contribution to the public realm by orienting the front of the building to the street and through the provision of appropriate setback and lot coverage standards.
- 3.4. Ensure that multi-family housing units have access to usable open space, either on-site or adjacent to the site.
4. ~~Regulate the size, shape, and/or position of new housing to ensure that it is similar in form to the housing that is permitted in the surrounding neighborhood, while meeting the intent of equity and affordability related housing policies.~~
5. Implement development or design requirements to help create transitions between lower and higher density residential development areas where the mass, size or scale of the developments differ substantially. Requirements could include massing, buffering, screening, height, or setback provisions.
6. Reduce development code barriers to cohousing and other types of intentional communities that help foster a sense of community.
7. Create and monitor performance measures and metrics that track the City's 1) success in developing new housing and preserving existing housing for households of all income levels, household sizes, and housing tenure and 2) infrastructure improvements needed to accommodate future growth targets.
8. Develop, monitor and periodically update metrics that evaluate the City's success in achieving this chapter's Livability Goal.

## ATTACHMENT 2

### City of Milwaukee Draft Comprehensive Plan Housing Policies

Incorporates comments from May 21 Joint CC/PC Meeting and May 23/June 3 CPAC Meetings

**EQUITY GOAL:** *Provide housing options and reduce housing barriers for people of all ages and abilities, with a special focus on people of color, aging populations, and those with low incomes.*

1. Provide the opportunity for a wider range of housing choices in Milwaukee, including additional middle housing types that offer a variety of rental and ownership options in low and medium density zones. Options include, but are not limited to accessory dwelling units, duplexes, triplexes/fourplexes, cottage clusters, tiny homes, rowhouses and garden apartments.
2. Establish development standards that are less reliant on density distinctions and more reliant on regulating size, shape, and form.
3. Ensure zoning and code requirements are written in consideration of potential barriers to home ownership and rental opportunities for vulnerable populations such as people of color, aging populations, people with low incomes, and people with disabilities.
4. Leverage resources and programs to help ensure that housing (including existing housing) remains affordable and available to residents in all residential neighborhoods of Milwaukee.
5. Encourage development of homes that can accommodate people of all ages and abilities through use of universal design.
6. Consider cultural preferences and values when adopting development and design standards, including but not limited to the need to accommodate extended family members and provide opportunities for multi-generational housing.
7. Support the Fair Housing Act and other federal and state regulations that aim to affirmatively further fair housing.
8. Enable a continuum of programs led by community partners that address the needs of unhoused persons and families, including temporary shelters, long-term housing, and supportive services.
9. Reduce the displacement of renters through tenant protection policies such as required notice for evictions, tenant relocation considerations, and educational programs or other initiatives.
10. Develop, monitor and periodically update metrics that evaluate the City's success in achieving this chapter's Equity Goal.

**AFFORDABILITY GOAL:** *Provide opportunities to develop housing that is affordable at a range of income levels.*

1. Continue to develop and update housing affordability strategies that meet the needs of Milwaukie households and acknowledge market conditions.
2. Allow and encourage development of housing types with lower construction costs and sales prices per unit that can help meet the needs of low or moderate-income households. Examples include middle housing types such as accessory dwelling units (ADUs), duplexes, triplexes, fourplexes, rowhouses cottage cluster housing, and garden apartments in low and medium density zones, as well as larger apartment and condominium developments in high-density and mixed-use zones.
3. Consider programs and incentives that reduce the impacts that development/design standards and fees have on housing affordability, including modifications to parking requirements, system development charges, and frontage improvements. .
4. Provide a simple, straightforward, and cost-effective permitting process for the development of accessory dwelling units (ADUs) or conversion of single-family homes into duplexes or other “middle housing” types.
5. Expand partnerships with non-profit housing developers and other affordable housing providers and agencies that provide new low to moderate income -housing units, create opportunities for first-time homeownership, and help vulnerable homeowners maintain and stay in their homes.
6. Support the continued use and preservation of manufactured homes, both on individual lots and within manufactured home parks as an affordable housing choice.
7. Support the use of tiny homes, including those on wheels, as an affordable housing choice, while addressing adequate maintenance of these and other housing types through the City’s code enforcement program.
8. Clearly define and implement development code provisions to permit shelters and transitional housing for people without housing.
9. Monitor and regulate vacation rentals to reduce their impact on availability and long-term affordability of housing.
10. Develop, monitor and periodically update metrics that evaluate the City’s success in achieving this chapter’s Affordability Goal.

**SUSTAINABILITY GOAL:** *Promote environmental and socially sustainable practices associated with housing development and construction.*

1. Ensure that the scale and location of new housing is consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy, and protect wetland, floodplains, and other natural resource or hazard areas.
2. Provide additional flexibility in site design and development standards in exchange for increased protection and preservation of trees and other natural resources.
3. Use incentives to encourage, and where appropriate require, new housing development, redevelopment, or rehabilitation projects to include features that increase energy efficiency, improve building durability, produce or use renewable energy, conserve water, use deconstructed or sustainably produced materials, manage stormwater naturally, and/or employ other environmentally sustainable practices.
4. Promote the use of active transportation modes and transit to help reduce driving by neighborhood residents.,
5. Increase economic opportunities for locally owned and operated businesses by encouraging development of more housing near transit, shopping, local businesses, parks, and schools.
6. Encourage the adaptive reuse of existing buildings in residential and mixed-use areas that can help meet Milwaukie's housing needs.
7. Prepare, regularly monitor and periodically update an inventory of the buildable supply of residential land that can help meet the City's future housing needs in an efficient and sustainable manner.
8. Allow for a reduction in required off-street parking for new development within walking distance of light rail stations and frequent bus service corridors.
9. Advocate for additional frequent transit service in areas with the potential for significant residential growth.
10. Develop, monitor and periodically update metrics that evaluate the City's success in achieving this chapter's Sustainability Goal.

**LIVABILITY GOAL:** *Enhance the ability of Milwaukie's neighborhoods to meet community members' economic, social, and cultural needs, and promote their health, well-being, and universal access.*

1. Implement land use and public investment decisions and standards that foster creation of denser development in centers, corridors, and neighborhood hubs to support community gathering places, commercial uses, and other amenities that give people opportunities to socialize, shop, and recreate together.
2. Require that new housing projects improve the quality and connectivity of active transportation modes by providing infrastructure and connections that make it easier and more direct for people to walk or bike to destinations such as parks, schools, commercial services, and neighborhood gathering places.
3. Administer development code standards that require new housing to make a positive contribution to the public realm by orienting the front of the building to the street and through the provision of appropriate setback and lot coverage standards.
4. Ensure that multi-family housing units have access to usable open space, either on-site or adjacent to the site.
5. Implement development or design requirements to help create transitions between lower and higher density residential development areas where the mass, size or scale of the developments differ substantially. Requirements could include massing, buffering, screening, height, or setback provisions.
6. Reduce development code barriers to cohousing and other types of intentional communities that help foster a sense of community.
7. Create and monitor performance measures and metrics that track the City's 1) success in developing new housing and preserving existing housing for households of all income levels, household sizes, and housing tenure and 2) infrastructure improvements needed to accommodate future growth targets.
8. Develop, monitor and periodically update metrics that evaluate the City's success in achieving this chapter's Livability Goal.



## ATTACHMENT 3

### David Levitan

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**From:** Joseph Edge <joseph.edge@gmail.com>  
**Sent:** Tuesday, May 28, 2019 3:38 PM  
**To:** David Levitan; Dennis Egner  
**Subject:** Draft Comp Plan Housing Policies Comments  
**Attachments:** CPAC Housing Policies comments.pdf

Hi David and Denny,

Please find attached my comments to the draft Housing Policies. I missed the meeting last week due to allergies (again), but there wouldn't have been enough time for me to share all of these comments anyway, so it's probably preferable to submit these in writing.

I also expect to miss the June 11 PC meeting (my 40th birthday) so this serves as my commentary for that work session. Please share my comments with the PC and City Council, and CPAC if appropriate (not sure if we're done with Housing block now or not).

Oh, and the attached document wants to be printed on 11x17 paper.

Please let me know if you have any questions.

Thank you,

Joseph

<p><b>How to Read this Document</b></p> <p>There is one table per Goal (Equity, Affordability, Sustainability, Livability). Each row in the table (below the heading) numbers and identifies a draft Policy. Columns are present for each of the four lenses; in each row within each lens column is a commentary about how that policy addresses or conflicts with that lens.</p> <p>Many policies have overlapping attributes and benefits or impacts for one or more of the lenses. In these cases, you may see the text similar to “<i>See #1S above.</i>” These references refer to other comments in the same table (the number is the row number, the letter is the lens column - E, A, S, L), unless formatted like “<i>See Sustainability #2E above,</i>” in which case you look in the “Sustainability Goal” table, to row 2 and column E (Equity). These references should apply in their entirety to the current policy and do not expect the reader to substitute terms or concepts to apply to the current policy.</p> <p>There are no citations to external resources or references. It is expected that all of the policy assertions can easily be validated by contemporary planning literature or published research. In the event that any assertions can not be easily verified, please contact me and I will share sources.</p>	<p><b>Notes</b></p> <p>Certain policies will yield results that are contrary to the objectives of other policies. Guidance may be appropriate for resolving these conflicts in some cases rather than deferring to future City Councils, Planning Commissions, or Planning Directors to interpret intent or priority.</p> <p>Guidance for conflicting policies may be in the form of an expressly-stated preference for one goal, objective, or policy over certain others (e.g., <i>more housing is always preferred over neighborhood character</i>); instructions to leverage the best available data to more flexibly support a policy objective (e.g., <i>protecting salmon habitat vs. public access to nature and waterways can be weighted by using the best-available science to guarantee salmon habitat protections even if some public access to habitat is permitted</i>); a balancing test of several objectives (e.g., in sum, how many objectives are satisfied by intensifying a residential land use by redevelopment vs. adaptive reuse); or a specific preference based on some condition (e.g., policies requiring off-street parking may be waived completely during a <i>declared housing emergency</i>).</p> <p>By using a toolkit of various approaches to conflict resolution, future leaders and decision authorities can be directed towards the preferred approach while allowing for new information or developments that may lead to different priorities than we have today. However, some policies or objectives may be so critical as to warrant explicit prioritization instructions that should apply in all cases.</p>
<p><b>Key Definitions</b></p> <p>Active measures: programs or activities that offer incentives, disincentives, or regulations to land use or development occurrences to support affirmative progress towards achieving policy objectives. May include a monitoring and tracking component. May include any form of incentive or disincentive.</p> <p>Vulnerable populations: people of color, cognitive or mobility challenged and aging populations, and people with low incomes.</p>	

		Comments re: four lenses			
	EQUITY GOAL: Provide housing options and reduce housing barriers for people of all ages and abilities, with a special focus on people of color, aging populations, and those with low incomes.	Equity	Sustainability	Livability	Affordability
1	Provide the opportunity for a range of middle housing types in residential neighborhoods of the City by allowing a variety of rental (accessory dwelling, duplex and small apartment) and ownership (cottage cluster, tiny home, and rowhouse) options in low and medium density zones.	Improves equitable access to benefits of living in residential neighborhoods by legalizing housing types that are less expensive to produce and require less land area per dwelling than contemporary single family houses. More units per acre reduces the land cost per dwelling and simply provides a greater quantity to respond to an increasing population, reducing competition for dwellings and thusly reducing prices. People of color and historically disadvantaged communities are shown to have lower incomes than those who live and own contemporary single family houses in low density residential neighborhoods. A more equitable Milwaukie would take measures to “lift up” disadvantaged populations to ensure they have the same opportunities and access to low and medium density residential neighborhoods as the households who already live and own there.	Improves sustainability by reducing land required per dwelling unit, reducing the need to expand the regional urban growth boundary to accommodate an increasing population. Increasing the overall percentage of housing that is attached housing will conserve energy compared to the maintaining the current percentage that is detached housing. Attached housing typologies offer greater flexibility in site design that can better protect habitat and open space.	Greater diversity of residents and more neighbors to participate in community life, provide security via “eyes on the street” and sustain local business. Attached housing typologies offer greater flexibility in site design that can better protect habitat and open space.	Legalizes housing types that are less expensive to produce and require less land area per dwelling than contemporary single family houses. More units per acre reduces the land cost per dwelling and simply provides a greater quantity to respond to an increasing population, reducing competition for dwellings and thusly reducing prices.
2	Establish development standards that are less reliant on density distinctions and more reliant on regulating size, shape, form, and design details compared to what has been historically permitted in city neighborhoods.	Current practice of restricting the quantity of dwellings per acre is known as “exclusionary zoning” and has been used historically to leverage market pricing pressures (via manipulation of supply and demand principles) to limit access to city neighborhoods by people of color and lower income households. A more equitable Milwaukie would seek to remedy this historic and racist practice by taking active measures to improve access to city neighborhoods for households of color and historically disenfranchised communities.	See #1S above.	See #1L above. Also addresses aesthetic concerns about neighborhoods, which is often declared as a livability concern.	See #1A above.
3	Ensure zoning and code requirements do not create barriers to home ownership and rental opportunities for vulnerable populations such as	See #2E above. Also expressly declares intent of zoning/code to provide opportunities for all	See #1S above.	See #1L above.	See #1A above. Also expressly declares intent of zoning/code to provide opportunities for people with low incomes.

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	people of color, aging populations and people with low incomes.	residents with a specific focus on vulnerable populations, getting to the very heart of equity.			
4	Leverage resources and programs to help ensure that housing (including existing housing) remains affordable and available to residents in all residential neighborhoods of Milwaukie.	See #3E above. Exercise caution about providing a public subsidy to land- or dwelling-owners to maintain a use that benefits a very small number of residents in cases where a larger number of residents would benefit and other policies would be better satisfied.	See #1S above.	See #1L above. Also helps preserve the existing fabric of neighborhoods by limiting displacement of vulnerable residents.	See #3A above. Missing instructions to leverage “best available data” to track affordability and displacement measures and establish thresholds for action to guarantee affirmative progress towards this policy throughout the planning horizon.
5	Encourage development of homes that can accommodate people of all ages and abilities through use of universal design.	Expressly supports equitable access to housing for residents of different abilities.	In residential neighborhoods this would be implemented as dwellings that can be accessed without stairs. Detached single family dwellings addressing this policy would require more land area per dwelling, requiring some mitigation to be consistent with the Sustainability lens.	See #1L above. See #5S left. To mitigate for Livability lens would need to address reduced walkability, fewer eyes on the street.	Universal design has affordability implications by increasing construction costs. In detached single-family typologies, costs are further increased due to more land per dwelling or mechanical systems such as elevators. Active measures may be required to guarantee affordability, including multifamily construction, planned developments, cottage clusters, up-and-down duplexes, reduced minimum lot sizes, etc.
6	Consider cultural differences and values when implementing development and design standards, including the need to accommodate extended family members and provide opportunities for multi-generational housing.	Gets to the heart of equitable development. Offers appropriate and essential flexibility for implementation.	Consider a policy to instruct or provide guidance towards mitigating design that conflicts with sustainability objectives.	Consider a policy to instruct or provide guidance towards mitigating design that conflicts with livability objectives.	Consider a policy to instruct or provide guidance towards mitigating design that conflicts with affordability objectives.
7	Support the Fair Housing Act and programs and policies that aim to affirmatively further fair housing.	Gets to the heart of equitable development.	See #6S above.	See #6L above.	Directly supports Affordability.
8	Support a continuum of programs led by community partners that address the needs of homeless persons and families, including through the provision of temporary shelter, long-term housing, and supportive services.	Policy should support guidelines or standards for guaranteeing equitable distribution of program resources.	See #6S above.	See #6L above.	Directly supports Affordability.

9	Prevent displacement of tenants of rental housing through tenant protection policies such as required notice for no-cause evictions, tenant relocation considerations, and/or educational programs or other initiatives.	Gets to the heart of equitable housing objectives. People deserve reasonable protections from the consequences of inadequate (event if well-intended) housing policy, such as a failure of the market to deliver enough housing units to meet demand.	See #6S above.	See #4L above.	Missing instructions to leverage “best available data” to track affordability and displacement measures and establish thresholds for action to guarantee affirmative progress towards this policy throughout the planning horizon.
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		Comments re: four lenses			
	AFFORDABILITY GOAL: Provide opportunities to develop housing that is affordable at a range of income levels.	Affordability	Sustainability	Livability	Equity
1	Continue to develop and update housing affordability strategies that meet the needs of individuals and reflect market changes and conditions.	<p>Missing instructions to leverage “best available data” to track affordability and displacement measures and establish thresholds for action to guarantee affirmative progress towards this policy throughout the planning horizon.</p> <p>It is appropriate that the Comp Plan allow for flexibility in the specific responses or strategies employed by the City to maintain or improve supply of housing affordable to all income levels. Guidance may be appropriate for which approaches may be preferred so that the City could consider an incremental phasing-in of successive approaches based on the level of success measured towards affordability objectives. E.g., if a Centers-based approach is ineffective at reducing rent increases or displacement after two years, a Corridors-based approach kicks in. If after two years, rents and displacement are still not controlled effectively, a Dispersed strategy kicks in.</p>	Consider a policy to instruct or provide guidance towards mitigating design that conflicts with sustainability objectives.	Consider a policy to instruct or provide guidance towards mitigating design that conflicts with livability objectives.	Policy should support guidelines or standards to optimize equitable distribution of affordable housing delivered by strategies.
2	Allow and encourage development of additional middle housing types with lower construction costs and sales prices that can help meet the needs of low or moderate- income households. Examples include accessory dwelling units (ADUs), duplexes, triplexes, fourplexes, cottage cluster housing, and small apartment complexes.	Directly supports affordability. Key to making housing accessible for lower-income households.	Directly supportive of Sustainability lens by using land more efficiently than present typologies. Policies could guide these typologies to locate close to transit, regional trails, or centers, and would seek to require less motor vehicle parking to incur less driving, which has positive impacts on all aspects of	Greater diversity of residents and more neighbors to participate in community life, provide security via “eyes on the street” and sustain local business. Attached housing typologies offer greater flexibility in site design that can better protect habitat and open space.	Improves equitable access to benefits of living in residential neighborhoods by legalizing housing types that are less expensive to produce and require less land area per dwelling than contemporary single family houses. More units per acre reduces the land cost per

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			sustainability. See also #3S.		dwelling and simply provides a greater quantity to respond to an increasing population, reducing competition for dwellings and thusly reducing prices. People of color and historically disadvantaged communities are shown to have lower incomes than those who live and own contemporary single family houses in low density residential neighborhoods. A more equitable Milwaukie would take measures to “lift up” disadvantaged populations to ensure they have the same opportunities and access to low and medium density residential neighborhoods as the households who already live and own there.
3	Allow for a reduction in required off-street parking for new development within walking distance of light rail stations and frequent bus service corridors in an effort to lower development costs and better meet the housing needs of low and moderate-income residents.	Direct implications for Affordability. This is the lowest-hanging fruit towards improving affordability. Parking spaces cost \$25,000 each to construct (closer to \$100,000 per space in basement/structured parking garages), costs that are ultimately incurred by residents, whether or not they own cars.	Supports all aspects of Sustainability including economic (lower household costs of vehicle ownership and maintenance, lower public costs for infrastructure and pollution mitigation, as well as reducing the public and private costs resulting from deaths, injuries and health impacts that only occur due use of motor vehicles), social (less driving will result in fewer deaths and injuries and increased level of street-level direct social interaction), and environmental sustainability (reduced air pollution from exhaust and reduced groundwater pollution from brake dust, motor oil, etc.).	Accommodating fewer privately owned vehicles permits roadway cross sections that are more human-scaled, and are thus more livable, comfortable, navigable, and inviting. Fewer vehicles means less traffic and less danger to vulnerable road users.  Due to current point in history, a presently high but falling proportion of urban dwellers own private motor vehicles. Policies should explicitly prescribe that all parking facilities - private, public, and in the public right-of-way - are to be designed and constructed with future reuse/ redevelopment capability demonstrated in permit applications.	The sum of #3A, S, and L describe a very Equitable scenario whereby lower-income and historically disadvantaged households incur less of the costs - social, economic, environmental, public and private - associated with private vehicle ownership and operation. Today - and likely throughout the ~20 year planning horizon of this process - the costs of private vehicle ownership will continue to be disproportionately borne by households that do not own a motor vehicle. Lower-income households own fewer motor vehicles than wealthier households and the share of lower-income households that own no vehicles at all is much greater than it is for higher income households. To achieve equity, policies should seek to “lift up” historically disadvantaged populations to a level playing field - e.g., their contributions to the transportation system are



					<p>proportionate to the impacts caused by their use and the benefit they receive relative to higher-income households, and be progressive based on household income.</p> <p>Given that much of this formula is outside the scope of the City's authority to regulate, every available measure to disaggregate the cost of motor vehicle accommodations should be leveraged to most equitably levy those costs directly upon those who demand or benefit from those accommodations, with measures to mitigate for the impacts of those accommodations upon vulnerable populations. This policy is essential as written but barely scratches the surface of what will be necessary to equitably distribute the costs of the transportation system.</p>
4	<p>Provide opportunities for home owners to generate long-term rental income or house family members by through a simple, straightforward, and cost-effective permitting process for the development of accessory dwelling units (ADUs) or conversion of single- family homes into duplexes or other "middle housing" types.</p>	<p>While clearly protecting the ability of homeowners to continue to afford to remain in their homes, if ADUs and single-family to duplex conversions are intended to fulfill a long-term housing supply need then policies are needed to require monitoring and regulation to guarantee that these dwelling units are not undermining affordability and equity objectives and policies.</p>	<p>While leveraging the embodied energy and carbon of an existing structure and perhaps delaying its demolition, this policy could result in anemic intensification of uses on oversized lots, delaying potential redevelopment that could benefit a much larger group of people. Policies should clearly favor redevelopment and infill for (larger) sites with that potential.</p>	<p>Supports Livability by adding "gentle density" that supports more services and vibrant community life without causing a transformative effect on the neighborhood.</p>	<p>Exercise caution about providing a public subsidy to land- or dwelling-owners to maintain a use that benefits a very small number of residents in cases where a larger number of residents would benefit and other policies would be better satisfied.</p>
5	<p>Continue to seek and maintain partnerships with non-profit housing developers and other affordable housing providers and agencies to create the opportunity to provide low to moderate income -housing and rehabilitation activities within Milwaukie.</p>	<p>Support affordable housing providers by streamlining permitting and approvals, increasing certainty by developing standards for cost-saving incentives (like reducing parking), and issuing guidelines for equitable distribution of and access to resources.</p>	<p>To address the Sustainability lens, the City's role is to consider the overall sustainability of an Affordable Housing development for its total lifecycle. Affordable Housing has a surplus of value for the Social element, but might need guidance from City policies to implement measures that address total-lifecycle affordability (energy use, quality of</p>	<p>Greater diversity of residents and more neighbors to participate in community life, provide security via "eyes on the street" and sustain local business.</p>	<p>See #1E above.</p>

			materials, etc.). Programs could allow for phased implementation of sustainability measures (like energy generation and capture, water capture and reuse) or City subsidies or grants to implement design features that will better guarantee economic and environmental sustainability over the total lifecycle of the development.		
6	Support the continued use and preservation of manufactured homes, both on individual lots and within manufactured home parks as an affordable housing choice.	Expressly supporting this housing typology formalizes support of a very affordable housing option.	Total lifecycle sustainability should be considered for this housing typology. Energy and transportation costs should be considered and mitigated, perhaps by a program that permits construction of small dwellings in parks to replace manufactured homes that have surpassed their lifespan.	While considering costs, ensure frontage improvements at parks are supportive of neighborhood livability, or appropriate mitigation.	The City should seek to guarantee equitable access to manufactured home parks.
7	Support the use of tiny homes, including those on wheels, as an affordable housing choice, while addressing adequate maintenance of these and other housing types through the City's code enforcement program.	See #6A above.	Few sustainability impacts, but presents an opportunity to guarantee that upon conclusion of the use, the previously disturbed land can be returned to natural use.	Adds housing and residents where there currently are none, increasing safety via "eyes on the street".	Historically, enforcement activities are disproportionately leveraged against people of color. Very deliberate care must be taken to ensure that enforcement activities do not place a disproportionate burden on people of color.
8	Clearly define and implement development code provisions to permit homeless shelters and transitional housing in Milwaukie.	Helps to mitigate the impacts of an inadequate supply of housing that is affordable to all income levels.	Consider a policy to instruct or provide guidance towards mitigating design that conflicts with sustainability objectives.	Consider a policy to instruct or provide guidance towards mitigating design that conflicts with livability objectives.	The City should issue guidelines or standards to ensure equitable access and distribution of homeless shelters and transitional housing.
9	Monitor and regulate the location and quantity of vacation rentals to reduce their impact on availability and long-term affordability of housing.	This is essential and directly benefits affordability at all income levels.	Consider a policy to instruct or provide guidance towards mitigating design that conflicts with sustainability objectives.	Consider a policy to instruct or provide guidance towards mitigating design that conflicts with livability objectives.	See #7E above.

		Comments re: four lenses			
	SUSTAINABILITY GOAL: Promote environmental and socially sustainable practices associated with housing development and construction.	Sustainability	Affordability	Livability	Equity
1	Ensure that the scale and location of new housing is consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy; and protect wetland, floodplains, and other natural resource or hazard areas.	This is an excellent policy that provides a great deal of flexibility in achieving the desired sustainability outcomes across environmental, social, and economic elements.	Housing opportunities that would be lost due to hazards, habitat, or open space designations should be allowed to be transferred on-site or to off-site “opportunity zones” where housing is encouraged to avoid reducing supply and negatively impacting affordability.	This policy strongly supports the Livability lens by increasing tree canopy, open space, and access to nature.	Active measures may be needed to ensure equitable distribution of tree canopy to include lower-income neighborhoods. Construction of housing typologies that target lower-income households should not be located in areas not well-served by transit or the active transportation network, nor in areas outside of regulatory hazard areas but inside of practical hazard areas (outside the “100-year floodplain” but inside the “500-year floodplain”).
2	Use incentives to encourage, and where appropriate require, new housing development, redevelopment, or rehabilitation projects to include features that increase energy efficiency, produce energy or use renewable energy, conserve water, use sustainably produced materials, manage stormwater naturally, or employ other environmentally sustainable practices.	It may be appropriate to offer guidance about thresholds that trigger a requirement for various features.	City programs should be maintained that provide grants, rebates, or other incentives for low-income housing developments to include features that also reduce the ongoing operational costs for residents.	Energy production and other sustainability features should not be located adjacent to pedestrian spaces or public rights-of-way unless designed to enhance the pedestrian experience (interactive/educational features, rain gardens/stormwater planters, etc.).	Active measures may be needed to ensure equitable access to housing where desirable but costly sustainability features are included in the development.
3	Promote the use of active transportation modes, reduce driving by neighborhood residents and workers, and increase economic opportunities for locally owned and operate businesses by encouraging development of more housing located close to transit, shopping, other commercial services, parks, and schools.	Reducing dependence and utilization of motor vehicles has myriad benefits across all sustainability elements. Environmental: Reduces air pollution from exhaust and toxic water pollution from brake dust metals, motor oils and fluids, and can lead to improved groundwater infiltration if significant pavement removal is achieved. Economic: Reduces public cost of construction and maintenance of transportation infrastructure when a larger share of trips are served by	Active measures may be needed to ensure affordability across multiple income levels for housing located near desirable amenities that facilitate living without a motor vehicle.	Directly supports livability by reducing motor vehicle traffic over the long term and improving safety and walkability through the addition of active transportation infrastructure as development takes place. Americans who live in communities with a richer array of neighborhood amenities are twice as likely to talk daily with neighbors than those in neighborhoods with fewer amenities. In low-amenity suburbs, 55% of residents report a high degree of social isolation, vs. ~30% in high-amenity suburbs.	Active measures may be needed to ensure equitable access to housing where desirable active transportation infrastructure is located. 23% of Americans live in high-amenity communities, 44% in moderate-amenity communities, and 33% in low-amenity communities. Due to limited supply of high-amenity neighborhoods, residents are disproportionately whiter, wealthier, and better educated. Guidance may be appropriate for preference to improve equitable distribution of new housing in high-amenity

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		<p>space-efficient modes such as walking, bicycling, or even transit use. Reduces private household costs resulting from maintenance and operation, storage, insurance, medical costs resulting from injuries sustained from motor vehicle collisions. Reduces costs of building and maintaining parking facilities and the opportunities lost from devoting so much land area to motor vehicle storage. Higher concentrations of residents are more easily able to sustain a diverse array of small business in the community.</p> <p>Social: Reduces social impacts from injuries, deaths and health impacts of motor vehicle use. If streets can be redesigned, improves livability of streetscapes to be community spaces rather than motor vehicle thoroughfares.</p>		<p>Residents living in high-amenity urban neighborhoods are twice as likely to trust their neighbors and coworkers, and to trust and have confidence in their local government.</p>	<p>neighborhoods vs. improving equitable distribution of new amenities into existing low-amenity neighborhoods.</p> <p>People of color and lower-income households are more likely to bike or walk for transportation and make up a disproportionate share of roadway fatalities.</p> <p>The single largest group of Americans who bike to work earn under \$10,000 per year.</p> <p>A more equitable Milwaukie would design infrastructure and reallocate public right-of-way to guarantee the same level of comfort, safety, and convenience to vulnerable and historically disadvantaged populations as that enjoyed by wealthier households.</p>
4	Encourage the adaptive reuse of existing buildings in residential and mixed-use areas that can help meet Milwaukie's housing needs.	Leverages the embodied energy in already existing structures, at a lower cost than new construction.	Generally supports affordability by requiring less capital to develop per unit than new construction.	Contributes to vibrant streetscape by maintaining a diverse array of building types and styles.	Active measures may be needed to ensure equitable access to housing in adaptively reused buildings.
5	Prepare, regularly monitor and periodically update an inventory of the buildable supply of residential land that can help meet the City's future housing needs in an efficient and sustainable manner.	Hints at sustainability but ambiguous. Buildable supply should consider sustainability metrics.	Add "and key affordability metrics" after "residential land"	Buildable supply should consider livability metrics and weight development potential by density of amenities within walking distance.	Consider adding "equitable" after "efficient"

		Comments re: four lenses			
	LIVABILITY GOAL: Enhance the ability of Milwaukie's neighborhoods to meet community members' economic, social, and cultural needs, and promote their health, well-being, and universal access.	Livability	Affordability	Sustainability	Equity
1	Implement land use and public investment decisions and standards that foster creation of denser development in centers, corridors, and neighborhood hubs to support community gathering places, commercial uses, and other amenities that give people opportunities to socialize, shop, and recreate together.	Americans who live in communities with a richer array of neighborhood amenities are twice as likely to talk daily with neighbors than those in neighborhoods with fewer amenities. In low-amenity suburbs, 55% of residents report a high degree of social isolation, vs. ~30% in high-amenity suburbs. Residents living in high-amenity urban neighborhoods are twice as likely to trust their neighbors and coworkers, and to trust and have confidence in their local government.	Affordability can be a challenge in high-amenity neighborhoods due to the limited supply of overall housing that is available in these areas. Only 23% of Americans live in high-amenity neighborhoods and, accordingly, these communities command a premium price. Policies and actions should seek to both increase the supply of housing in high-amenity neighborhoods and to equitably distribute high-amenity neighborhoods throughout the City. Care must be taken to minimize or prevent displacement and increase affordability of housing in high-amenity neighborhoods to within reach of a greater share of households.	Denser land use patterns result in increased use of active transportation and transit, reducing impacts associated with motor vehicle use. See Sustainability #3S.	Care must be taken to ensure an equitable process by which land uses change to facilitate high-amenity neighborhoods. The end result is certainly far more equitable than today, but the process could be disruptive to vulnerable populations if left to market forces alone.
2	Require that new housing projects contribute to the creation of a walkable and bike- friendly environment by providing infrastructure and connections that make it easier for people to walk or bike to destinations such as parks, schools, commercial services, and neighborhood gathering places.	See #1L above.	Extracting the cost of constructing new public livability infrastructure from private investment in new housing directly increases the cost of developments which is always passed on to tenants or buyers, or may reduce the scale of a development to fit within available financing, which could lead to fewer housing units being added, reducing the ability of the development to moderate aggregate housing prices City-wide. Care must be taken to ensure policies do not undermine	New active transportation infrastructure will result in increased use of active transportation and transit, reducing impacts associated with motor vehicle use. See Sustainability #3S.	See #1E above.

			other policies. Guidance may be appropriate for prioritizing policies under certain conditions, such as housing emergencies.		
3	Administer development code standards that require the design and/or siting of new housing such that units have access to adequate light and air and that multi-family units have access to open space either on-site or adjacent to the site.	Require is a very strong word and implementations of this policy could run counter to other Livability lens objectives such as public open space, residences facing streets and sidewalks (“eyes on the street”), and walkability. Guidance may be appropriate for when to “require” certain features, or definitions or constraints that guarantee that “adequate light and space” provisions do not result in inefficient land use patterns.	Care should be taken that “adequate light and space” provisions are not used as justification to deliver fewer housing units or fewer affordable housing units than in a more efficient site development pattern that is equally feasible.	See #3A left. Similarly, inefficient land use patterns tend to result in developments that are less energy efficient and where residents own more motor vehicles and drive more often.	Care should be taken that “adequate light and space” provisions are defined in a manner that they can be distributed equitably without compromising other policy objectives.
4	Regulate the size, shape, and/or position of new housing to ensure that it is similar in form to the housing that is permitted in the surrounding neighborhood, while meeting the intent of equity and affordability related housing policies.	This is an excellent policy that seeks to bridge the divide to satisfy both “character” and “quantity” objectives. However, care should be taken that inefficient land use patterns that do not support other Livability objectives are not perpetuated to comply with this policy. See #1L above.	Guidance may be appropriate for meeting affordability objectives. Large-lot/high-income neighborhoods may be suitable for tri- or quad-plexes that could be “affordable,” but may not be equitable when considering transportation costs or access to services and amenities.	See #3S above. However, attached housing (including plexes) is more energy-efficient than detached single family housing.	Guidance may be appropriate for meeting equity objectives. An equitable distribution of housing could be interpreted as increasing equitable access to housing even in areas where lower-income or households or mobility-impaired residents may not have easy access to low-cost transportation or amenities.
5	Implement development or design requirements to help create transitions between lower and higher density residential development areas where the mass, size or scale of the developments differ substantially. Requirements could include massing, buffering, screening, height, or setback provisions.	Transition area design standards should not reduce development potential for the base zone. Intensity permitted by-right should be permitted to be transferred to other areas of the site without triggering a variance process, excepting natural resource buffers.	If transition area design standards reduce the housing potential of sites it will reduce the ability of these sites to fully contribute to the supply of housing, and will diminish the desirable impacts on affordability. Active measures may be required to guarantee that transition area developments include affordable units to offset the reduced contribution to the overall supply of housing.	Care should be taken that transition area design standards do not sacrifice the environmental, economic, or social aspects of sustainability. Limiting the scale, intensity, or housing potential for a site does impact all three aspects of sustainability.	Transition area design standards should not reduce an equitable distribution of housing or limit access to housing in high-amenity neighborhoods when compared to the base zone.