

**STAFF REPORT TO THE  
HEARINGS OFFICER  
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = June 14, 2024

**SECTION I. APPLICATION SUMMARY**

**FILE NAME:** COOK PARK RIVER ACCESS

**CASE NO.:** **SENSITIVE LANDS REVIEW (SLR)  
MAJOR MODIFICATION (MMD)**

**SLR2023-00005  
MMD2024-00001**

**REQUEST:** The City of Tigard requests a sensitive lands review and major modification to construct improvements within the floodway of the Tualatin River at Cook Park. The proposed improvements include a new pathway, gangway, and dock with kayak slip in addition to replacement of an existing dock.

**APPLICANT:** City of Tigard  
Attn: Jeff Peck  
13125 SW Hall Boulevard  
Tigard, OR 97223

**OWNER:** Same as applicant

**ZONE:** PR; Parks and Recreation

**LOCATION:** 17005 SW 92<sup>nd</sup> Avenue; WCTM 2S114DB, Tax Lot 0100

**APPLICABLE  
REVIEW**

**CRITERIA:** Community Development Code (CDC) Chapters 18.140, 18.510, 18.710, 18.765, and 18.910.

**SECTION II. STAFF RECOMMENDATION**

Staff recommends that the Hearings Officer find that the proposed Sensitive Lands Review and Major Modification Review will not adversely affect the health, safety, and welfare of the City and meets the applicable approval standards as outlined in Section VI of this report. Therefore, Staff recommends **APPROVAL**, subject to the following recommended Conditions of Approval.

## CONDITIONS OF APPROVAL

### THE FOLLOWING CONDITIONS MUST BE SATISFIED PRIOR TO COMMENCING ANY SITE WORK:

The applicant must prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the Community Development Department Attn: Jenny McGinnis, 503-718-2427. The cover letter must clearly identify where in the submittal the required information is found:

1. Prior to commencing site work, the applicant must submit an updated planting plan that meets CWS requirements for enhancement of the vegetated corridor.

The applicant must prepare a cover letter and submit it, along with any supporting documents or plans that address the following requirements to the ENGINEERING DIVISION, ATTN: Buck Smith, Principal Engineer at (503) 718-2464 or [Buck.Smith@tigard-or.gov](mailto:Buck.Smith@tigard-or.gov). The cover letter must clearly identify where in the submittal the required information is found:

2. Improvements associated with public infrastructure including street and right-of-way dedication, utilities, grading, water quality and quantity facilities, streetlights, easements, easement locations, and utility connections must be designed in accordance with the following codes and standards:
  - City of Tigard Public Improvement Design Standards
  - Clean Water Services (CWS) Design and Construction Standards
  - City of Tigard Community Development Code and Municipal Codes
  - Tualatin Valley Fire and Rescue (TVF&R) and Oregon State Fire Codes
  - Other applicable County, State, and Federal Codes and Standard Guidelines
3. Prior to commencing any site work, the applicant must submit the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the “Permittee”, and who will provide the financial assurance for the public improvements. Specify if the entity is a corporation, limited partnership, LLC, etc. and the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information will delay processing of project documents.
4. Improvements associated with public infrastructure and the private storm/surface water management system water quality enhancement and detention/outflow control components are subject to the City Engineer’s review, modification, and approval prior to the applicant receiving a Public Facility Improvement (PFI) Permit and commencing any site work.
5. Prior to commencing any site work, the applicant must submit a PFI Permit application to cover all improvements associated with public infrastructure and the private storm/surface water management system water quality enhancement and detention/outflow control components. Four (4) sets of detailed public improvement plans must be submitted for review to the Engineering Department. An engineering cost estimate of improvements associated with public infrastructure (including but not limited to, streets, grading, public utilities, stormwater facilities, streetlights, and franchise utilities) is required at the time of PFI Permit application submittal. The water system is under the City jurisdiction and an engineering cost estimate of water improvements must be listed as a separate line item from the total engineering cost estimate. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to improvement associated with public infrastructure. The PFI Permit plans must conform to City Public Improvement Design Standards, which are available at City Hall and the City’s web page ([www.tigard-or.gov](http://www.tigard-or.gov)).

6. Prior to commencing any site work, the applicant must provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase. All construction vehicle parking must be provided onsite. No construction vehicles or equipment will be permitted to park on the adjoining public streets. Construction vehicles include the vehicles of any contractor or subcontractor involved in the construction of site improvements or buildings proposed by this application and must include the vehicles of all suppliers and employees associated with the project.
7. Prior to commencing any site work, the applicant must submit site plans illustrating finish surface grading, surface drainage flow patterns, storm water management facilities, and a final storm drainage report as part of the PFI Permit process indicating how surface water run-off generated by the development (both within the public right-of-way [for new impervious surfaces] and on-site) will be collected, conveyed, quality enhanced, and detained with outflow control for review and approval. The storm drainage report must be prepared and include a maintenance plan in accordance with City and CWS Design and Construction Standards.
8. Prior to commencing any site work, the applicant must obtain a CWS Stormwater Connection Authorization prior to issuance of the City PFI Permit. Plans must be submitted to the City Engineering Division for review and approval. The City will forward plans and the storm drainage report to CWS after preliminary review for CWS's review and approval.
9. Prior to commencing any site work, the applicant must submit any required fee-in-lieu payment for any required stormwater quality treatment or detention/outflow control required facilities not provided.
10. Prior to commencing any site work, the applicant must submit an erosion control plan review and approval. The plan must conform to the "CWS Erosion Prevention and Sediment Control Design and Planning Manual" (current edition).
11. Prior to commencing any site work, the applicant must submit a final grading plan illustrating the existing and proposed contours. The plan must detail the provisions for surface drainage of the public right-of-way areas and the site and illustrate how each area will be graded to ensure that surface drainage is directed to the public or private storm/surface drainage management system approved by the Engineering Division. The design engineer must indicate, on the grading plan, which areas will have natural slopes between 10 percent and 20 percent, as well as areas that will have natural slopes in excess of 20 percent. This information will be necessary in determining if special grading inspections or permits will be necessary.
12. Prior to commencing any site work, the applicant must provide a performance bond for all public improvements and private stormwater quality enhancement and detention/outflow control facilities associated with the development.

**THE FOLLOWING CONDITIONS MUST BE SATISFIED  
PRIOR TO FINAL BUILDING INSPECTION:**

**The applicant must prepare a cover letter and submit it, along with any supporting documents or plans that address the following requirements to the ENGINEERING DIVISION, ATTN: Buck Smith, Principal Engineer at (503) 718-2464 or [Buck.Smith@tigard-or.gov](mailto:Buck.Smith@tigard-or.gov). The cover letter must clearly identify where in the submittal the required information is found:**

13. Prior to final building inspection, all improvements associated with public infrastructure under the City and CWS jurisdiction must be constructed, completed, and accepted for service and/or satisfied by the City. All public utility facilities including, but not limited to, street improvements, streetlights, street trees, sidewalks,

storm/surface drainage management (i.e., collection, conveyance, water quality enhancement, detention, and outflow control), sanitary sewer, water (domestic and fire suppression), natural gas, electrical, communication, and wireless, and private storm/surface drainage management facilities, must be constructed, completed, and accepted for service by the City. All public and private storm/surface water quality enhancement and detention/outflow control facilities must be provided with two years of maintenance assurance and entered into a stormwater maintenance agreement with the City. The applicant must provide a two-year maintenance assurance for said public infrastructure and utility facilities improvements.

### **SECTION III. BACKGROUND INFORMATION**

#### **Site Information and Proposal Description:**

The subject property is located at 17005 SW 92<sup>nd</sup> Avenue (WCTM 2S114DB, Tax Lot 0100), at the terminus of SW 92<sup>nd</sup> Avenue. The property is zoned Parks and Recreation (PR) and is the site of Cook Park. Cook Park is a community park with several amenities including athletic fields, playgrounds, picnic shelters, and a boat launch. The Tualatin River borders the site to the south and west. Adjacent properties to the north and east are zoned PR. The entire park is within the Federal Emergency Management Agency (FEMA) designated Area of Special Flood Hazard. Over half of the park is within the FEMA designated Floodway, including the project site.

The proposed development includes a new ADA-accessible dock with a kayak slip and replacement of an existing boat dock. Routine maintenance and replacement of existing facilities and off-street trails are allowed without site development review, however new structures over 600 square feet in size require a conditional use review. As Cook Park is already developed and would have been subject to a conditional use review, the proposed new dock is being reviewed as a major modification to an existing conditional use. The development will take place within the floodway, therefore a sensitive lands review is included as part of this application.

#### **Property History**

A search of land use records showed the following records associated with the property:

- Sensitive Lands Review (SLR2023-00001/MMD2023-00006) for a universally designed playground and installation of a new scoreboard for the baseball field;
- Conditional Use Permit (CUP90-00006), that was withdrawn;
- Lot line adjustment (MIS98-00019);
- Minor Modification (MMD2009-00010) to construct a new shelter and restroom that burned down; and
- Three pre-application conferences (PRE2022-00009 / PRE2022-00038 / PRE2023-00027);
- Sensitive Lands Review (SLR90-00007/ SLR90-00008 / SLR90-00013 / SLR98-00007 / SLR2020-00007) for a new playground, riverfront improvements, restroom facility, picnic shelter and pavilion, and ballfield improvements.

### **SECTION IV. PUBLIC COMMENTS**

In compliance with CDC 18.710.080, a notice of public hearing was mailed to all property owners of record within 500 feet of the subject site and to individuals on the citywide interested parties list on March 19, 2024, 20 days prior to the hearing scheduled before the Hearings Officer for April 8, 2024. Notices were also posted at the subject site on March 25, 2024, more than 14 days prior to the scheduled hearing. City staff received an email on March 23, 2024 from a citizen expressing support for the project and asking about the duration of construction and whether users will have river access during construction. City staff forwarded the inquiry to the applicant and the City of Tigard Public Works Department. As of the writing of this staff report, no other written comments were received.

### **SECTION V. SUMMARY OF APPLICABLE REVIEW CRITERIA**

**Applicable Review Criteria:**

18.140 Parks and Recreation Zone

18.510 Sensitive Lands

18.710 Land Use Review Procedures

18.765 Modifications

18.910 Improvement Standards

**SECTION VI. APPLICABLE REVIEW CRITERIA AND FINDINGS**

**18.140 PARKS AND RECREATION ZONE**

**18.140.040 Land Use Standards**

- A. **General provisions.** A list of allowed, restricted, conditional, and prohibited uses in the PR zone is provided in Table 18.140.1. If a use category is not listed, see Section 18.60.030.
- B. **Allowed development.** When associated with a Community Service use, the following types of development are allowed provided it complies with the development standards and other regulations of this title. Site development review is not required for the types of development listed below. All other applicable land use reviews apply.
1. Park furnishings such as play equipment, picnic tables, benches, bicycle racks, public art, trash receptacles, and other improvements of a similar nature.
  2. Fences.
  3. Off-street, multi-use trails.
  4. Structures up to 600 square feet in size, and no more than 15 feet high.
  5. Picnic areas designed to accommodate groups of less than 25.
  6. Outdoor recreational fields, courts, arenas, and other structures when not illuminated and not designed or intended for organized sports and competitions.
  7. Community gardens up to 5,000 square feet in size.
  8. Routine maintenance or replacement of existing facilities.
- C. **Development subject to conditional use review.** The following types of development are allowed subject to conditional use permit approval, as provided in Chapter [18.740](#), Conditional Uses.
1. Pools and aquatic centers, both indoor and outdoor.
  2. Community and senior centers providing a focus for recreational, social, education, and cultural activities. These may include gymnasiums, indoor tracks and fitness areas, meeting rooms, office and kitchen space, and other amenities designed for community use.
  3. Picnic areas designed to accommodate groups of 25 or more.
  4. Boat ramps.
  5. Off-street parking areas.
  6. Recreational fields, courts, arenas, and associated structures for organized sports and competitions.
  7. Stages and amphitheaters.
  8. Dog parks.
  9. Community gardens in excess of 5,000 square feet.
  10. Structures in excess of 600 square feet in size, or more than 15 feet high.
  11. Outdoor amplified sound systems.
  12. Illuminated athletic fields, courts, and other outdoor recreational facilities intended to be used after sunset.
  13. Camping, unless associated with an approved temporary or seasonal event as provided in Chapter [18.440](#), Temporary Uses.
  14. Golf courses, including club houses and driving ranges.
  15. Development within a high voltage transmission line right-of-way.

The proposed use is Community Service. The proposal is to replace the existing boat dock and construct a new accessible boat dock with a kayak slip. Maintenance and replacement of existing facilities is allowed without site development review in the Parks and Recreation Zone. However, construction of a new structure over 600 square feet in size or more than 15 feet high requires a conditional use review. The proposed accessible boat dock is over 600 square feet. As Cook Park is already developed and would have been subject to a conditional use review, the proposed new dock is being reviewed as a major modification to an existing conditional use. This standard is met.

#### 18.140.050 Development Standards

Development within the PR zone must comply with the following development standards, except where the applicant has obtained an adjustment as provided in Chapter [18.715](#), Adjustments.

- A. **Minimum lot size.** None.
- B. **Minimum lot width.** None.
- C. **Maximum structure height.** None, except structures within 100 feet of a residential zone are subject to the maximum height limit for the abutting residential zone.
- D. **Minimum structure setbacks.** None, except where abutting a residential zone. In such cases structures must be set back a minimum distance of 1 foot for each foot of building height.

There are no minimum standards for lot size and lot width. The boat docks are located more than 100 feet from residentially zoned properties; therefore, the maximum height standards and minimum setbacks do not apply. These standards are met.

- E. **Setbacks from future right-of-ways.** For the purpose of measuring setbacks from rights-of-way, the setbacks are measured from the ultimate right-of-way as shown in the Transportation System Plan.

The project area is not adjacent to existing streets or rights-of-ways. This standard does not apply.

- F. **Outdoor recreation facility setbacks.** Non-illuminated playgrounds must be set back a minimum of 25 feet from abutting residentially-zoned properties. Illuminated playgrounds and other constructed recreational facilities such as swimming pools, skate parks, basketball courts, soccer fields, and group picnic areas must be set back 50 feet from abutting residentially-zoned properties. Where the outdoor facility abuts a school use, the setback is reduced to 0 feet. Outdoor recreation facilities not meeting minimum setbacks provided in this subsection may be considered through conditional use review as provided in Chapter 18.740, Conditional Uses.

The boat docks are located more than 700 feet from any residentially-zoned properties. This standard is met.

- J. **Parking.** Development must comply with Chapter [18.410](#), Off-Street Parking and Loading.

As outlined in CDC Table 18.410.3, vehicle parking spaces are not required for Community Service uses and bicycle parking is required at a rate of 0.3 per 1,000 sf of floor area. No new structures with floor area are being proposed, therefore no new vehicle or bicycle parking spaces are required. The applicant is not proposing any new parking areas, although two ADA accessible parking stalls are being relocated in front of the pathway to the new accessible dock. This standard is met.

- K. **Signs.** Signs in the PR zone must comply with the regulations applicable to nonresidential land uses in residential zones, as provided in Subsection 18.435.130.A.

No signs are proposed at this time. This standard is met.

- L. **Lights and amplified sound systems.** Lights and amplified sounds systems must comply with Title 6, Nuisance Violations. In addition, glare sources must be hooded, shielded, or otherwise located to avoid direct or reflected illumination in excess of 0.5 foot candles, as measured at the site boundary or at the furthest boundary of abutting industrially-zoned properties. (Ord. 18-28 §1; Ord. 18-23 §2; Ord. 17-22 §2)

No lighting or amplified sound system is proposed. This standard is not applicable.

FINDING: Based on the analysis above, the parks and recreation zone standards have been fully met.

## **18.510 SENSITIVE LANDS**

### **18.510.020 Applicability**

#### **G. Sensitive lands approvals issued by the hearings officer.**

1. Sensitive land reviews within special flood hazard areas are processed through a Type III-HO procedure, as provided in Section 18.710.070, for the following actions:
  - a. Ground disturbance or landform alterations in all floodway areas;
  - b. Ground disturbance or landform alterations in floodway fringe locations involving more than 50 cubic yards of material;
  - c. Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50 percent of the market value of the structure prior to the improvement or the damage requiring reconstruction provided no development occurs in the floodway;
  - d. Structures intended for human habitation; and
  - e. Accessory structures that are greater than 528 square feet in size, outside of floodway areas.
2. The approval authority will approve, approve with conditions, or deny a sensitive lands review application using the approval criteria provided in Section 18.510.070.

The proposal includes ground disturbance in the floodway area, therefore requires a decision by the hearings officer. The approval criteria in Section 18.510.070 are addressed later in this staff report.

### **18.510.040 General Provisions for Special Flood Hazard Areas**

The proposed improvements are located in the FEMA 100-year Flood Zone, however, boat docks and gangways are not structures as defined by this code section and, as such, this section is not applicable.

### **18.510.070 Sensitive Lands Applications**

- A. **Approval required.** An applicant, who wishes to develop within a sensitive area, as defined in this chapter, must obtain approval in certain situations. Depending on the nature and intensity of the proposed activity within a sensitive area, either a Type II or Type III review is required, as provided in Subsections 18.510.020.F and G. The approval criteria for different types of sensitive areas are provided in Subsections 18.510.070.B–E.

The proposal includes ground disturbance in the floodway area, therefore a Type III review is required.

- B. **Within the special flood hazard area.** The approval authority will approve or approve with conditions an application for sensitive lands review within the special flood hazard area when all of the following criteria are met:
  1. Compliance with all of the applicable requirements of this title;



The project complies with the applicable requirements of this title as described below.

- 2. Land form alterations must preserve or enhance the special flood hazard area storage function and maintenance of the zero-foot rise floodway must not result in any encroachments, including fill, new construction, substantial improvements and other development unless certified by a registered professional engineer that the encroachment will not result in any increase in flood levels during the base flood discharge;**
  - a. If in the floodway and no-rise requirement is met, the development will comply with all applicable flood hazard reduction provisions.**

A no-rise analysis and certification was prepared and submitted by Chris D. Bahner, a registered professional engineer, of West Consultants, Inc. As described in the analysis, titled *Technical Memorandum – No-Rise Analysis and Certification for Cook Park Accessible Dock, Tigard, Oregon* and dated December 15, 2023, the floodway modifications created by the proposed new pathway, gangway, and dock will not result in a rise in regulatory water surface elevations along the Tualatin River for either the base flood or the floodway. The report certifies that the improvements will not result in any increase in flood level during the base flood discharge. This criterion is met.

- 3. Land form alterations or developments within the special flood hazard area are allowed only in areas designated as commercial or industrial on the comprehensive plan land use map, except that alterations or developments associated with community service uses, utilities, or public support facilities are allowed on residentially zoned properties subject to applicable zoning standards;**

The project is located within the Parks and Recreation Zone. The project is associated with a community service use. This criterion is met.

- 4. Where a landform alteration or development is allowed to occur within the special flood hazard area it will not result in any increase in the water surface elevation of the 100-year flood;**

The proposed improvements in the flood hazard area, including the replacement dock and the new dock, have been sited and designed to avoid any increase in the surface elevation of the 100-year flood. A Technical Memorandum dated December 15, 2023, prepared by Chris Bahner, a registered professional engineer, of West Consultants, Inc. was submitted. The report certifies that the improvements will not result in a rise in regulatory water surface elevations along the Tualatin River for either the base flood or the floodway. This criterion is met.

- 5. The land form alteration or development plan includes a pedestrian or bicycle pathway in compliance with the adopted Transportation System Plan or Greenways Trail System Master Plan, unless the construction of said pathway is deemed as untimely;**

An existing multi-use pathway routes users from the proposed river access improvements through Cook Park and connects to 108th Avenue, 85<sup>th</sup> Avenue and Hall Boulevard, and the Tualatin River Pedestrian bridge. No additional pedestrian or bicycle pathways are proposed. This criterion does not apply.

- 6. Pedestrian or bicycle pathway projects within the special flood hazard area must include a wildlife habitat assessment that shows the proposed alignment minimizes impacts to significant wildlife habitat while balancing the community's recreation and environmental educational goals;**

No new pedestrian or bicycle pathway projects are proposed. This criterion does not apply.



**7. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS permits and approvals must be obtained; and**

The applicant states that all necessary permits from other agencies having jurisdictional authority over the proposed development will be obtained. The applicant has submitted a permit application to the U.S. Army Corps of Engineers. A Service Provider Letter from CWS (SPL 23-003174) and permit from the Oregon Department of State Lands, Permit No. 64652RF, have been obtained by the applicant and provided with this application. This criterion is met.

**8. Where landform alterations or development are allowed within and adjacent to the special flood hazard area, the city will require the consideration of dedication of sufficient open land area within and adjacent to the special flood hazard area in compliance with the comprehensive plan. This area must include portions of a suitable elevation for the construction of a pedestrian or bicycle pathway within the special flood hazard area in compliance with the adopted Transportation System Plan or Greenways Trail System Master Plan.**

The property is already owned by the City and additional dedication is not required. This criterion is met.

FINDING: Based on the analysis above, the applicable sensitive lands criteria have been fully met.

**18.510.080 Special Provisions within Locally Significant Wetlands and Along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek**

**A. In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 666-023-0030) pertaining to wetlands, all wetlands classified as significant on the City of Tigard “Wetlands and Streams Corridors Map” are protected. No land form alterations or developments are allowed within or partially within a significant wetland, except as allowed or approved in compliance with Section [18.510.100](#).**

The proposed improvements are not within a significant wetland or significant wetland buffer. This criterion does not apply.

**B. In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 660-023-0030) pertaining to riparian corridors, a standard setback distance or vegetated corridor area, measured horizontally from and parallel to the top of the bank, is established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek.**

**3. The minimum width for “marginal or degraded condition” vegetated corridors along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek is 50 percent of the standard width, unless wider in compliance with CWS “Design and Construction Standards,” or modified in compliance with Section [18.510.100](#).**

The standard vegetated corridor width along the Tualatin River is 75 feet, however CWS “Design and Construction Standards” requires a 125-foot corridor width. The applicant submitted a Natural Resource Assessment dated November 28, 2023. According to this assessment, based on vegetative samples from the project area, the plant communities within the vegetated corridor range from degraded to marginal. Therefore, the Tualatin River vegetated corridor width that applies to the proposed work is 62.5 feet.

**5. The standard setback distance or vegetated corridor area applies to all development proposed on property located within or partially within the vegetated corridors, except as allowed below:**

- c. A pedestrian or bike path, not exceeding 10 feet in width and in compliance with the CWS “Design and Construction Standards”;**

The proposed concrete pathway from the ADA parking stalls to the gangway and accessible dock will cross through a designated vegetated corridor area. This pathway does not exceed 10 feet in width. Areas temporarily impacted by construction will be restored in-kind with groundcover. Landscaping within the vegetated corridor will be mitigated and enhanced to offset areas permanently impacted by the proposed development. Mitigation and enhancement include the planting of trees, shrubs, and groundcover to offset project impacts to the riparian area and aquatic environment in compliance with CWS standards. This criterion is met.

- g. Measures to repair, maintain, alter, remove, add to, or replace existing structures, roadways, driveways, utilities, accessory uses, or other developments provided they are in compliance with city and CWS regulations, and do not encroach further into the vegetated corridor or sensitive area than allowed by the CWS “Design and Construction Standards.”**

The project improvements include replacement of an existing degraded wooden dock in addition to construction of a new concrete pathway, gangway, and dock with kayak slip within the vegetated corridor. The applicant has provided a Service Provider Letter (File Number 23-003174) from CWS, that allows the encroachments provided the applicant enhances a total of 22,565 square feet of existing Vegetated Corridor to meet or exceed good corridor condition. The applicant proposes to replant areas temporarily disturbed by construction with native groundcover and enhance the vegetated corridor by planting trees, shrubs, and groundcover in accordance with CWS standards and conditions. This criterion is met.

**18.765 Modifications**

**18.765.020 Applicability**

**A. This chapter applies to all proposals to modify an existing or proposed use, structure, site improvement, or condition of approval—for existing developments or land use approvals—when initially approved through one of the land use applications listed below:**

- 1. Conditional uses,**
- 2. Planned developments,**
- 3. Site development reviews, or**
- 4. Subdivisions and land partitions.**

**B. This chapter also applies to all proposals to modify an existing development that was not subject to city approval when developed but would be subject to city approval, through one of the land use applications listed in Paragraph 18.765.020.A.1 through 4, if proposed for development under current city regulations.**

Structures over 600 square feet in size or over 15 feet in height are allowed in the PR zone as a conditional use. This project involves construction of a new accessible boat dock with a kayak slip that is over 600 square feet in size. The proposed development is a modification to an existing development that was not subject to city approval when developed but would be subject to city approval through a conditional use permit under current city regulations. This chapter applies.

**18.765.070 Major Modifications**

**A. Definition. A major modification has the following characteristics:**

- 1. It has more than minimal impacts on surrounding properties, sensitive lands, or public facilities but does not qualify as substantial redevelopment as defined in Subsection 18.765.040.C; and**
- 2. It does not cause the development to go out of conformance with any applicable standard or further out of conformance if already nonconforming, except where an adjustment has been approved.**

The proposed development includes replacement of the existing dock as well as a new accessible pathway, gangway and dock. These improvements are over 600 square feet in size and are located in the floodway, therefore the development has more than minimal impacts on sensitive lands. There will be no impacts on surrounding properties as the proposed improvements are located over 700 feet away from adjacent properties. The improvements will not require water, sanitary sewer, or stormwater utilities. The development does not qualify as substantial redevelopment as the proposed improvements will enhance an existing public park. As proposed, the modification does not cause the development to go out of conformance with any applicable standard. The modification meets the characteristics of a major modification.

**D. Approval criteria. The approval authority will approve or approve with conditions a major modification application when all of the following are met:**

- 1. The proposed modification qualifies as a major modification as defined in Subsection 18.765.070.A;**

As described above, the modification qualifies as a major modification. This standard is met.

- 2. The operating and physical characteristics of the modified development are reasonably compatible with surrounding properties, sensitive lands, or public facilities;**

The operating and physical characteristics of the proposed dock replacement and new gangway with accessible dock are reasonably compatible with surrounding properties, sensitive lands, and public facilities, as the site is intended and already used for public recreation. There is an existing river access for motorized watercraft at Cook Park that consists of a degraded wooden boarding dock. This will be replaced with a new aluminum and fiberglass dock that will reduce tripping hazards and be easier to maintain. As part of the proposed project, this access will also be leveled out. The existing conditions preclude this dock from meeting ADA guidelines, so a second dock is proposed. The operating characteristics for the proposed additional gangway and dock will be similar to the existing and replacement dock, but this secondary dock is intended for non-motorized watercraft users and will serve a wider variety of users. As one dock primarily serves motorized users and the other primarily serves non-motorized users, conflicts between the two will be reduced. The location and orientation of the gangway and dock have been arranged so they can meet ADA guidelines, minimize the development footprint, and are situated in the deeper portion of the river to limit bottoming out during low water.

The proposed improvements are located over 700 feet from adjacent properties and will not require water, sanitary sewer, or stormwater utilities. The project avoids impacts to sensitive lands to the extent possible. Encroachment within these areas has been minimized and will be mitigated in accordance with City of Tigard and other applicable agency standards. The proposed improvements meet the no-rise requirements for being located within the floodway and the site will be revegetated in accordance with CWS standards. Accordingly, staff finds that the operating and physical characteristics of the proposed use are reasonably compatible with the surrounding properties, sensitive lands, and public facilities. This standard is met.

- 3. Any impacts from the proposed modification are mitigated to the extent practicable;**

As this project involves unoccupied public recreation infrastructure and the improvements are located over 700 feet from all adjacent properties, staff does not anticipate any adverse impacts from this proposal such as noise, dust, odor, glare, or vibration on the surrounding neighborhood or public facilities.

Additionally, the development footprint of the proposed project has been minimized to the extent practicable while meeting the project goal of providing river access that meets all ADA guidelines. Grading has been minimized to the extent possible while still allowing for a level surface that ties into the existing grade for both the concrete walk connecting the ADA parking to the gangway and the dock. The gangway and dock location are located in a deeper portion of the river to limit bottoming out during low water. The total ground disturbance is 5,227 square feet with a net cut of 265 cubic yards.

All disturbed areas will be revegetated and the riparian area and aquatic environment will be enhanced with trees, shrubs, and groundcover in accordance with CWS standards. Temporary work pads will be provided for construction and removed upon completion of the work. The banks will be restored in-kind with a native grass seed mix intended for installation below the OHW level and groundcover. Areas that have been excavated, graded, or otherwise disturbed by construction will be stabilized with coir fabric, seeded with a native seed mix, and planted with native plants to achieve permanent erosion control.

Staff finds that no additional mitigation measures are necessary other than those proposed by the applicant, which include revegetating and enhancing all disturbed sensitive lands areas. The applicant has provided a Service Provider Letter (File Number 23-003174) from CWS that requires the applicant to enhance a total of 22,565 square feet of existing Vegetated Corridor to meet or exceed good corridor condition. The applicant has submitted a planting plan, however it only shows 21,169 square feet of the vegetated corridor being enhanced. Therefore, the following condition of approval has been included:

Prior to commencing site work, the applicant must submit an updated planting plan that meets CWS requirements for enhancement of the vegetated corridor.

With the condition of approval, this criterion is met.

4. **If the proposed modification involves development that has nonconforming structures or site improvements and exceeds the project valuation threshold listed in the city's Master Fees and Charges Schedule, the development will be improved as required by Subsection 18.765.070.E; and**

The modification does not involve development with nonconforming structures or site improvements. This criterion does not apply.

5. **If the proposal involves the modification of a condition of approval, at least one of the following criteria is met:**
  - a. **The condition cannot be implemented for reasons outside the control of the applicant or property owner;**
  - b. **The condition is no longer needed or warranted because circumstances have changed; or**
  - c. **A new or modified condition better accomplishes the purpose of the original condition.**

The development does not include a modification of a condition of approval. This criterion does not apply.

**FINDING:** As demonstrated in the analysis above, the proposed modification to the Cook Park site meets all applicable approval criteria.

### **18.910 Improvement Standards**

#### **18.910.100 Storm Drainage**

- A. **General provisions. The Director and City Engineer shall issue a development permit only where adequate provisions for stormwater and floodwater runoff have been made, and:**

1. The storm water drainage system shall be separate and independent of any sanitary sewerage system;
2. Where possible, inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street; and
3. Surface water drainage patterns shall be shown on every development proposal plan.

The improvements do not trigger stormwater management based on CWS or City of Tigard standards, however, permits required for in-water works do not have a minimum impervious area threshold of 1,000 square feet. A stormwater memo (dated December 2023) states that the site improvements will include oversizing a nearby extended dry basin to meet SLOPES for Stormwater, Transportation and Utilities. This standard is met.

**B. Easements.** Where a development is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance.

This standard does not apply.

**C. Accommodation of upstream drainage.** A culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development, and the City Engineer shall approve the necessary size of the facility, based on Clean Water Services requirements.

**D. Effect on downstream drainage.** Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the director and engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in compliance with Clean Water Services requirements.

A preliminary stormwater memo has been provided and states that the site improvements will include oversizing a nearby extended dry basin to meet SLOPES for Stormwater, Transportation and Utilities. Additionally, a CWS service provider letter has been provided. This standard is met.

Prior to commencing any site work, the applicant must provide a performance bond for all stormwater treatment facilities associated with the development.

Through the conditions of approval, this standard is met.

#### **18.910.130 Cash or Bond Required**

**A. Guarantee.** All improvements installed by the developer shall be guaranteed as to workmanship and material for a period of 1 year following acceptance by the city council.

**B. Cash deposit or bond.** Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the City Engineer.

**C. Compliance requirements.** The cash or bond shall comply with the terms and conditions of Section 18.830.070.

Prior to commencing any site work, the applicant must provide a performance bond for all public improvements and private stormwater quality enhancement and detention/outflow control facilities associated with the development.

Prior to final building inspection, all improvements associated with public infrastructure under the City and CWS jurisdiction must be constructed, completed, and accepted for service and/or satisfied by the City. All public utility

facilities including, but not limited to, street improvements, streetlights, street trees, sidewalks, storm/surface drainage management (i.e., collection, conveyance, water quality enhancement, detention, and outflow control), sanitary sewer, water (domestic and fire suppression), natural gas, electrical, communication, and wireless, and private storm/surface drainage management facilities, must be constructed, completed, and accepted for service by the City. All public and private storm/surface water quality enhancement and detention/outflow control facilities must be provided with two years of maintenance assurance and entered into a stormwater maintenance agreement with the City. The applicant must provide a two-year maintenance assurance for said public infrastructure and utility facilities improvements.

Through the conditions of approval, this standard is met.

**18.910.160      Reserved**

**18.910.170      Plan Check**

- A. Submittal requirements. Work shall not begin until construction plans and construction estimates have been submitted and checked for adequacy and approved by the City Engineer in writing. The developer can obtain detailed information about submittal requirements from the City Engineer.**
- B. Compliance. All such plans shall be prepared in compliance with requirements of the city.**

Improvements associated with public infrastructure including street and right-of-way dedication, utilities, grading, water quality and quantity facilities, streetlights, easements, easement locations, and utility connections must be designed in accordance with the following codes and standards:

- City of Tigard Public Improvement Design Standards
- Clean Water Services (CWS) Design and Construction Standards
- Tigard Community Development Codes, Municipal Codes
- Tualatin Valley Fire and Rescue (TVF&R) Fire Codes
- Other applicable County, State, and Federal Codes and Standard Guidelines

Improvements associated with public infrastructure and the private storm/surface water management system water quality enhancement and detention/outflow control components are subject to the City Engineer's review, modification, and approval prior to the applicant commencing any site work.

Prior to commencing any site work, the applicant must submit the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. Specify if the entity is a corporation, limited partnership, LLC, etc. and the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information will delay processing of project documents.

Prior to commencing any site work, the applicant must provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase. All construction vehicle parking must be provided onsite. No construction vehicles or equipment will be permitted to park on the adjoining public streets. Construction vehicles include the vehicles of any contractor or subcontractor involved in the construction of site improvements or buildings proposed by this application and must include the vehicles of all suppliers and employees associated with the project.

The applicant's narrative has acknowledged intent to comply with this requirement. It is feasible and possible to meet this standard through the conditions of approval.

**18.910.180 Notice to City**

- A. Commencement.** Work shall not begin until the city has been notified in advance.
- B. Resumption.** If work is discontinued for any reason, it shall not be resumed until the city is notified.

The applicant’s narrative has acknowledged intent to comply with this requirement. This standard is met.

**18.910.190 City Inspection of Improvements**

Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

The applicant’s narrative has acknowledged intent to comply with this requirement. This standard is met.

**18.910.200 Engineer’s Written Certification Required**

The developer’s engineer shall provide written certification of a form provided by the city that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, and are of high grade, prior to city acceptance of the subdivision’s improvements or any portion thereof for operation and maintenance.

The applicant’s narrative has acknowledged intent to comply with this requirement. This standard is met.

**FINDING:** Based on the full analysis in this report, all of the applicable site development review criteria have been met, or will be met through conditions of approval.

**SECTION VII. OTHER STAFF COMMENTS**

The following City of Tigard staff were sent a copy of the proposal:

- Development Engineering
- Building Division
- Public Works
- Transportation Planning
- Police Department

Comments from Development Engineering have been incorporated throughout this report and are also provided in Attachment 3. No other comments were received.

**SECTION VIII. AGENCY COMMENTS**

The following agencies provided comments on the proposal. Comments received are summarized below and provided in Attachment 3.

**Clean Water Services** has reviewed the proposal and issued a Service Provider Letter (CWS File No. 23-003174) dated January 5, 2024, which describes on and off-site sensitive areas, encroachment into the vegetated corridor and mitigation requirements. The agency also provided comments stating that a stormwater connection permit is required. The decision has been conditioned to ensure the conditions of the service provider letter are met.

**Tualatin Valley Fire and Rescue** provided comments stating that the project does not impact fire department access or water supply and they have no comment.



**ADDITIONAL CITY OR AGENCY COMMENTS:**

**Storm Water Quality:**

The City has agreed to enforce Surface Water Management regulations established by CWS Design and Construction which require the construction of on-site water quality facilities. In addition, a maintenance plan must be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

Prior to commencing site improvements, the applicant must obtain a CWS Stormwater Connection Authorization prior to issuance of the City site works permit. Plans must be submitted to the City for review. The City will forward plans to CWS after preliminary review for CWS’s review and approval. Through a condition of approval, this standard is met.

**Grading and Erosion Control:**

City and CWS Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion.

Prior to commencing any site work, the applicant must submit an erosion control plan for review and approval. The plan must comply to the "CWS Erosion Prevention and Sediment Control Design and Planning Manual” (current edition). Through a condition of approval, this standard is met.

The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb one or more acre of land. The site disturbance is less than 1.0 in size, and thus this permit will not be required.


Prior to commencing any site work, the applicant must submit a final grading plan illustrating the existing and proposed contours. The plan must detail the provisions for surface drainage of the public right-of-way areas and the site and illustrate how each area will be graded to ensure that surface drainage is directed to the public or private storm/surface drainage management system approved by the Engineering Division. The design engineer must indicate, on the grading plan, which areas will have natural slopes between 10 percent and 20 percent, as well as areas that will have natural slopes in excess of 20 percent. This information will be necessary in determining if special grading inspections or permits will be necessary. Through a condition of approval, this standard is met.

**SECTION VIII. CONCLUSION**

Staff recommends that the Hearings Officer find that the proposed Sensitive Lands Review and Major Modification meets all applicable approval criteria, as outlined in this staff report. Therefore, staff recommends approval of this application, subject to conditions of approval.

**Attachments:**

- 1. Zoning Map
- 2. Preliminary Plans
- 3. City and Agency Comments
- 4. Public Comments



PREPARED BY: Jenny McGinnis  
Associate Planner

March 28, 2024

DATE



APPROVED BY: Tom McGuire  
Assistant Community Development Director

March 28, 2024

DATE

