

**DECISION OF THE HEARINGS OFFICIAL  
FOR THE CITY OF EUGENE, OREGON**

**MASTER PLAN CONDITIONAL USE &  
WILLAMETTE GREENWAY PERMIT REQUEST**

**Application File Name (Number):**

U of O North Campus (CU 18-1; WG 18-2)

**Application Summary:**

Conditional Use and Willamette Greenway Permit request for approval of the University of Oregon North Campus Master Plan. Requested Master Plan identifies potential uses including new buildings, parking structures, recreational fields, pedestrian and bicycle pathways and crossings, vehicular circulation enhancements, and enhancements to and restoration of riparian areas along the Willamette River and Millrace.

**Property Owner/Applicant:**

University of Oregon

**Applicant's Representative:**

Colin McArthur, Cameron McCarthy Landscape Architecture and Planning

**Lead City Staff:**

Nicholas Gioello, Associate Planner

**Subject Property/Zoning/Location:**

Assessor's Map 17-03-32-24, Tax Lot 5300, 5400, and 5500

Assessor's Map 17-03-32-21, Tax Lot 300;

Assessor's Map 17-03-32-14, Tax Lots 100, 103, 105, 1400, 1600, 1800, 2000, 2200, 2300, 2400, 2500, 2600, and 2700.

Located at 1149, 1307, 1383 and 1387 Franklin Boulevard; 1600, 1650 and 1900 Millrace Drive; and 855 Riverfront Parkway. Combined properties total approximately 77.4 acres (3,371,544 square feet) of land.

The following findings and conclusions are based on testimony presented at the public hearing held on September 12, 2018 and all documents in the Eugene City planning file for the requested UO North Campus Conditional Use and Willamette Greenway Permit submitted on or before the close of the record on October 17, 2018.

**Conclusion:**

The applicant's request for a Conditional Use Permit and Willamette Greenway Permit for the North Campus Master Plan is approved. Implementation of the Master Plan, including all development of and improvements to the subject property, shall be in substantial compliance with the Master Site Plan (depicted on Sheets S01 through C03), and subject to the following conditions:

1. The final plans shall clearly identify the size, variety and critical root zones of the significant cluster of trees located on the north side of the railroad tracks and east of the existing bicycle underpass, as described in the applicant's narrative and in Policy B.3 of the Riverfront Park Study. A note on the final plans shall state that future development in this area must ensure preservation of that significant cluster of trees, including protection of their critical root zones.
2. The final plans shall depict the following limitations for the four areas north of the railroad tracks (identified on Sheets L01 and L02):
  - o Area 4 (west of the Millrace): maximum building coverage is limited to 15% and maximum building height is limited to 45 feet;
  - o Area 5: maximum building coverage is limited to 0.5% and maximum building height is limited to 15 feet;
  - o Area 6: maximum building coverage is limited to 16% and maximum building height is limited to 37 feet;
  - o Area 7: No buildings may be constructed within the Willamette River and Millrace protective area.
3. The final plans shall depict that the building heights in the area south of the railroad tracks shall be limited to 85 feet.
4. The final plans shall depict a 200-foot riparian setback area along the Willamette River as indicated in sheets L01 through L05.
5. All future development of the land subject to this North Campus Master Plan shall be subject to all applicable standards of the Eugene Land Development Code in effect at the time of each building permit application.

## **DISCUSSION AND FINDINGS:**

### **A. Background**

The applicant, University of Oregon (applicant or UO) submitted the subject Master Plan application on February 26, 2018, 2017. In response to the city's notice of incomplete application and request for additional information, the applicant submitted additional application materials on June 22, 2018. The city deemed the application complete on July 17, 2018. The applicant submitted supplemental written materials to clarify the project area on August 22, 2018.

Following public notice, a public hearing was held on September 12, 2018. The public hearing began with the hearing official's explanation of the hearing process and the statutory and local procedural requirements for the hearing.<sup>1</sup>

Following the introductory explanation, Associate Planner Nicholas Gioello and Senior Planner Jenessa Dragovich presented the planning staff's summary of the application. Following the staff

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<sup>1</sup>The hearing official's explanation included a statement that she has had no ex parte contacts regarding the application and has no personal or financial interest in the subject property.

presentation, the applicant's representatives, Colin McArthur, Mike Harwood and Emily Eng, testified on behalf of the applicant. Following the applicant's presentation, six individuals presented testimony in favor of the application and 21 individuals testified in opposition to it.<sup>2</sup> Following staff comments, the applicant presented rebuttal testimony.

At the close of the public testimony, the record was left open for a period of 21 days, until 5:00 pm on October 3, 2018, for additional testimony and evidence; until 5:00 pm on October 10, 2018 for evidence and testimony responding to the additional testimony and evidence submitted during the initial open record period; and until 5:00 pm October 17, 2018 for the applicant's rebuttal argument related to the new testimony and evidence.

During the first open record period, city staff submitted a memorandum proposing a revised condition of approval; and additional testimony and evidence was submitted by the applicant and 11 individuals. During the second open record period, the department received 41 emails, including response testimony from the applicant and many emails, primarily in opposition.<sup>3</sup> The applicant submitted its rebuttal testimony on October 17, 2018.

## **B. Site Characteristics**

The subject property includes 77.4 acres of land located south of the Willamette River and north of Franklin Blvd. The property is owned by the UO and includes approximately 25% of the UO's nearly 300-acre campus. The subject property is at the northern edge of the UO campus and is commonly referred to as the "North Campus."<sup>4</sup>

The Union Pacific Railroad runs generally east to west through the entire property. The area north of the railroad tracks and south of the Willamette River includes remnants of a riparian river edge, large open grassy areas, a pedestrian and bike path, two physical education and recreational fields and access to the Frohnmayer Bridge, which spans the Willamette River. The area south of the railroad tracks includes a mix of buildings, including the University's central power station and other buildings related to university operations, fine art studios, the Urban Farm, University research, buildings developed as part of the Riverfront Research Park, parking lots, and a bike path. The Millrace runs through the southern portion of this area, near Franklin Blvd.

The property is zoned S-RP Riverfront Park Special Area Zone with /WR Water Resources Conservation overlay. The entire site falls within the Willamette River Greenway boundary. Adjacent property to the northwest is known as the "Downtown Riverfront/EWEB property,"

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<sup>2</sup> The names of the individuals who presented oral testimony and who presented written testimony, before, during or after the public hearing are on file in the City's planning records for this application.

<sup>3</sup> Most of the opposition email testimony consisted of copies a form message urging support of one of three 'options' to the proposed Master Plan that had been presented at the public hearing and then repeated in a letter submitted by one opponent during the first open record period. Arguably the form emails were not responsive to new evidence and testimony submitted during the first open record period. However, because the content does not add to any issue related to compliance with any approval criteria and, therefore, the emails are not prejudicial to any other party that complied with the open record requirements, they are included in the record.

<sup>4</sup> A master plan for the same area was approved in 1988 as the UO Riverfront Research Park under a previous conditional use permit. That master plan was only partially implemented and the conditional use permit to complete development under that master plan expired in 2012.

and was recently acquired by the City. It is developed with an abandoned steam plant and warehouse. It is zoned for commercial and residential development.

### **C. Description of Request**

The applicant has submitted a Master Plan for the 77.4 acres that comprise the UO North Campus and S-RP Riverfront Park Special Area Zone. Under the city's code, development within the S-RP zone must be in accordance with an approved Master Plan, and that Master Plan must be approved through a conditional use process, with criteria specifically defined for the S-RP zone.

The proposed Master Plan commits the UO to specific conservation areas, types of development that may occur, and areas where development may potentially occur on the property. However, the requested Master Plan does not seek approval for any specific development. Rather, as required under the prescribed process, the Master Plan establishes an overarching conceptual plan for the area, including uses that the applicant anticipates seeking to develop over time. At the time each use is proposed, that proposed development would be subject to applicable development standards then in effect. Because of the conceptual nature of the Master Plan, the applicant has requested that the Master Plan be in effect for 30 years.

As noted above, the Union Pacific Railroad runs through the property and effectively divides the property into two areas. Of the 77.4 acres within the North Campus, approximately 42 acres are north of the railroad and border the Willamette River to the north; and approximately 35 acres are south of the railroad, bordering Franklin Blvd to the south. The requested Master Plan commits the area north of the railroad tracks primarily to conservation and open space, and concentrates most of the potential building development to the area south of the railroad tracks.

The application narrative explains that prior to the UO's ownership of the subject property, the area adjacent to the Willamette River was used for industrial purposes. This area contains up to 20-feet of fill, causing a steep river bank. As depicted on Exhibit A of the application (Plan Set, Sheets S01-C-03), the Master Plan includes enhancement of the Willamette River bank with restoration of the riparian area adjacent to the river, including filling and grading the bank for a more natural slope, and providing riparian restoration area and a 200-foot setback from the top of bank. The Plan also identifies two bike path options along the Willamette River; one would retain the existing pathway and the other would shift the path further from the riverbank to allow for a larger riparian area enhancement. Of the 42 acres between the railroad tracks and the Willamette River, the Master Plan commits 80% of the area for conservation and other open space, up to 15% for recreational fields, and the remaining 4% for buildings.

The proposed Master Plan concentrates most of the building development to the area south of the railroad tracks, and restricts vehicle circulation and parking primarily to that area. Building development identified in that area includes a parking structure near the Riverfront Parkway. That parking structure would provide parking for the adjacent Knight Campus, which is located outside the S-RP zone. In addition, the Plan identifies two additional pedestrian and bicycle bridge crossings over the Millrace and the railroad tracks to facilitate accessibility to and from the site.

### **D. Procedural Challenges**

### *1. Compliance with the Riverfront Research Park Commission Requirements*

During the public hearing, opponents alleged that the applicant and the city failed to comply with EC 2.220 et seq, which establishes the Riverfront Research Park Commission and its functions. Opponents argue that the City (and the applicant) were required to refer the application to the Riverfront Research Park Commission, which they assert should have conducted the public outreach efforts related to the Master Plan and should have substantively reviewed and made referral comments or recommendations regarding the application.

As the opponents correctly describe, the Riverfront Research Park Commission was established in 1985 “to make recommendations to the city and University of Oregon in connection with the development of the Riverfront Research Park property.” That Commission has not functioned and has no members since approximately 2000; however, provisions related to its creation and functions continue to be listed the city’s code.<sup>5</sup>

While a Riverfront Research Park Commission may still be identified in the city code, the applicable approval criteria for the requested Master Plan Conditional Use permit do not include any requirement related to reliance on that Commission for either the substance or the review process for the requested Master Plan. EC 9.7007 includes the requirements related to neighborhood/applicant meetings; and EC 93725 specifies the review procedures and criteria for master plan development within the S-RP zone. Neither of those applicable code provisions, or any other provisions related to the S-RP zone, require the city to involve that Commission for outreach or notice purposes, or to seek input or recommendations from that Commission regarding development within the S-RP zone. The city did not err in failing to involve that Commission in this review.

### *2. Notice Violation*

During the public hearing, several opponents alleged that the city had not provided proper notice of the proposed Master Plan. However, while arguing that more extensive notice should have been provided to ensure greater public awareness of the requested Master Plan, they provided no evidence that the required notice was not provided. A review of the notice provided by the city indicates that the city provided the required notice.

### *3. Scope of the Requested Master Plan*

Several opponents argued that because of the different physical characteristics of that portion of the North Campus north of the railroad tracks compared to that portion south of those railroad tracks, the applicant *should have* proposed two separate Master Plans and *should* be required to obtain two separate conditional use permits for the two different areas within the S-RP zone.

The city’s code identifies the land subject to the S-RP zone as a single area. EC 9.3705(1) specifies that “[t]he S-RP Riverfront Park Special Area Zone is intended for application to properties included within the boundaries of the Riverfront Park Study, an area generally located

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<sup>5</sup> The applicant submitted records that indicate the Commission requested that it be disbanded in 1998 and a 2010 memorandum from the City Attorney that indicates that the city and the university intended its dissolution. The applicant’s rebuttal testimony also asserts that City and the University disbanded the Commission by declining to appointment commissioners for the year 2000 term. However, while it may not have any function, that Commission is still identified in EC 2.2200 et seq.

between the Willamette River and Franklin Boulevard.” EC 9.3705(2) continues, “In accordance with the Riverfront Park Study, the S-RP Riverfront Park Special Area Zone is intended for application to property owned by the Oregon State System of Higher Education within the designated area; it may be applied to other properties within the area at the property owner’s request.”

EC 9.3725 requires that “*the* master plan for developments proposed within the S-RP zone shall be reviewed through the conditional use permit process.” (Emphasis added.) The applicant submitted a memorandum from the City Attorney opining that multiple master plans may not be consistent with the City’s S-RP zone rules. In fact, by its terms, EC 9.3725 requires one master plan for “developments” within this very specific zone. This is consistent with the purpose of the S-RP Riverfront Park Special Area zone, specified in EC 9.3700, to “provide for activities and uses that complement the research and educational functions” of the UO. That fundamental purpose is further articulated in six objectives, all of which lend themselves to the coordinated type of development that can be achieved through master planning. To the extent the S-RP zone contemplates and requires that the entire area within that zone be subject to a Master Plan, a single master plan is appropriate to achieve that objective.

Moreover, regardless of whether the applicant *could have* submitted either two separate master plans or a single master plan as two separate conditional use permits, it did not do so. The request for a single Master Plan under a single conditional use permit is specifically authorized under EC 9.3725; and the opponents’ desire to segregate the areas provides no legal basis to require two master plans or two conditional use permits.

## **E. Evaluation of Request**

### **Conditional Use Permit**

**9.3725 S-RP Riverfront Park Special Area Zone Review Procedures.** The master site plan for developments proposed within the S-RP zone shall be reviewed through the conditional use permit process provided in this land use code. For the purpose of this review, the following criteria shall be applied in lieu of the criteria provided in EC 9.8090 Conditional Use Permit Approval Criteria - General:

#### **(1) Criteria for all Development.**

- (a) The proposed development shall be consistent with the Metropolitan Area General Plan, Riverfront Park Study, and other applicable policy documents or functional plans.**

The application addresses how the proposed Master Plan complies with the Metro Plan and the Riverfront Park Plan. It does not identify any “other applicable policy documents or functional plans” with which it believes the proposed Master Plan must comply.

### **Metro Plan**

The application includes a description of how the requested Master Plan is consistent with 27 policies identified in the Metro Plan. However, as the city staff correctly explain, most of those

policies do not constitute mandatory approval criteria and in several cases are policies intended to instruct the city's regulatory actions and programs. The following three Metro Plan policies can be construed to constitute mandatory approval criteria for the requested Master Plan:

Willamette River Greenway, River Corridors, and Waterways Element

*D.5. New development that locates along river corridors and waterways shall be limited to uses that are compatible with the natural, scenic, and environmental qualities of those water features.*

As described in the application narrative, the requested Master Plan concentrates the development south of the railroad tracks and away from the river. It preserves 80% of the area between the Willamette River and the railroad tracks to open space. Specifically, the Master Plan designates 23 acres to conservation and an additional seven acres for expanded riparian restoration. The Plan specifically includes a 200-foot setback from the river bank. Accordingly, the 20% of the area between the river and the railroad tracks on which any development could potentially occur is located more than 200 feet from the river.

As described in the application narrative and depicted in the Master Plan, development between the 200-foot setback and the railroad tracks could include replacement the existing recreational fields and the addition of one additional field. Several opponents argued that the recreational fields are incompatible with “the natural, scenic, and environmental qualities” of the Willamette River and, therefore, are not permitted under this Metro Plan policy.

Several opponents argued that, consistent with Metro Plan Policy D.6, this entire area must be preserved as open space, either because any development would be incompatible with “the natural, scenic, and environmental qualities” of the river or because, as a unique city attribute, the area along the river should be preserved for conservation. However, recreational fields are a form of open space and, as noted above, all uses included in the requested Master Plan, including recreational fields, are permitted uses in the S-RP zone. Recreational fields, as with all uses identified as allowed within the S-RP zone, have previously been determined to be compatible with the river's natural, scenic and environmental qualities.<sup>6</sup>

Others argued that the fields are not ‘necessary’ in this location, and should be located elsewhere. However, the question of whether the fields are *needed* in this location is policy issue, and not a question of whether the use complies with the applicable criteria. Recreational fields are allowed in the S-RP zone. The S-RP zone was adopted to implement the Riverfront Park Study (the RP Study), a refinement plan of the Metro Plan. All uses allowed within the S-RP

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<sup>6</sup> See *Urquhart v. Lane Council of Governments*, (14 Or LUBA 335; 80 Or App 176 (1986) (“*Urquhart I*”) and *Urquhart v. Lane Council of Governments*, 16 OR LUBA 102 (1987) (“*Urquhart II*”), which upheld the city's RP Study and the S-RP zone rules that implement that study. In addition, the now-expired Riverfront Research Park CUP on the subject property called for 29.5 acres of the subject property to be dedicated to laboratories, offices and parking lots, including 13.7 acres for those uses located between the railroad tracks and the river. On appeal LUBA upheld the city's CUP as being in compliance with the Metro Plan. See *Stotter v. City of Eugene*, 18 OR LUBA 135 (1989). Thus, the question of whether compliance with this Metro Plan policy requires only conservation-oriented open space has already been resolved.

zone have been determined to be consistent with the RP Study and, accordingly, the Metro Plan.

Others argue that recreational fields are incompatible with Metro Plan Policy D.6 because they could be developed with artificial turf, which they argue would necessarily be incompatible with the river's environmental qualities and inconsistent with the purpose of the S-RP zone. Others argued that if the recreational fields are developed with lighting, that lighting would compromise the river's natural and scenic qualities.

As stated above, the applicant has not proposed to develop any recreational fields at this time, and has not identified the type of turf that may be proposed if and when the UO proposes to develop those fields. The requested Master Plan depicts that the applicant has identified the area between the 200-foot setback and the railroad tracks as the location for replacement and additional recreational fields. At such time as those fields are proposed for development, the applicant would be required to establish compliance with all applicable development standards. If lighting is proposed for the fields, the applicant would be required to comply with the city's outdoor lighting permit standards. Regardless of the materials used on the fields, the development would be required to comply with stormwater site development standards. However, as a use that is allowed in the S-RP zone, and that implements the SR Study refinement plan, the recreational fields identified in the Master Plan are compatible with Metro Plan Policy D.6.

#### Environmental Design Element

- E.2. Natural vegetation, natural water features, and drainage-ways shall be protected and retained to the maximum extent practical. Landscaping shall be utilized to enhance those natural features. This policy does not preclude increasing their conveyance capacity in an environmentally responsible manner.*
- E.4. Public and private facilities shall be designed and located in a manner that preserves and enhances desirable features of local and neighborhood areas and promotes their sense of identity.*
- E.5. Carefully develop sites that provide visual diversity to the urban area and optimize their visual and personal accessibility to residents.*

As noted above, the requested Master Plan includes a 200-foot setback from the river to any future development within the North Campus. This setback greatly exceeds the 100-foot setback required in the city's code. This setback ensures 23 acres of conservation along the river to protect and retain the river's natural vegetation. The Master Plan also provides an additional seven acres for expanded riparian restoration adjacent to the river through removal of up to 20-feet of existing fill and grading the bank to a more natural slope. It also includes a similar 200-foot setback around the Millrace outfall to protect that area as a significant water feature in the southern portion of the property.

As further described above, the Master Plan commits the area between the railroad tracks and Willamette River primarily to conservation and open space opportunities and concentrates most of the potential building development south of the railroad tracks. Two bike path options are

identified along the Willamette River that would either retain the existing pathway or shift it further away from the riverbank, which would allow for a larger riparian area enhancement. Two additional pedestrian and bicycle bridge crossings are identified over the Millrace and the railroad tracks to better facilitate recreational, pedestrian-friendly redevelopment and accessibility of the site.

The expanded riparian conservation areas along the riverbank, along with the concentration of development south of the railroad tracks, protects the natural vegetation along the river and enhances the area's visual diversity. The applicant's proposed Regulatory Plan (See Sheet L01), includes more stringent development regulations than are required by the Eugene Land Use Code to better facilitate open space and protection of view sheds. That Regulatory Plan also proposes maximum building coverage and height limits well below what is allowed in the S-RP zone for the area north of the railroad tracks, and limits the building heights south of the tracks to 85 feet where no height limit is otherwise imposed. These measures, along with the proposed 200-foot setback along the river, will significantly improve and preserve visual access both to and from the Willamette River.

Several opponents assert that the Master Plan's location of the recreational fields renders the Plan inconsistent with Environmental Design Element Policy E2, for many of the same reasons they argue the fields are incompatible under Policy D.2. However, as explained further above, the 200-foot setback between the river and any recreational fields will protect and retain the natural vegetation and natural water features "to the maximum extent practical." The replacement and addition of recreational fields, as depicted on in the Master Plan, will not require the removal or disruption of any existing natural vegetation or natural water features. Moreover, as a use specifically allowed in the S-RP zone, their location is both contemplated and permissible. As stated above, at such time as the fields are proposed for development, design features proposed at that time will be reviewed for compliance with applicable development standards.

For the reasons described above, and based on the elements of the requested Master Site Plan, the requested Master Plan satisfies the applicable Metro Plan policies.

### **Riverfront Park Study**

The Riverfront Park Study is an adopted Metro Refinement Plan, specifically applicable to the S-RP zone, and includes the following applicable elements:

#### *A. Land Use Element*

4. *The following uses shall be permitted in the SD district for the Riverfront Park area:*
  - a) *University programs and activities.*
  - b) *Uses related to the activities, research, and programs of the University of Oregon, including light industrial, research and development, and office.*
  - c) *A limited range of retail and non-retail uses permitted in the C-I, Neighborhood Commercial District (see Appendix B, Exhibit A).*
  - d) *Other retail and non-retail uses that complement University activities.*
  - e) *Multiple-family dwellings.*

As described in the applicant's narrative, uses identified in the requested Master Plan include research, academics, administrative, physical education and outdoor recreational uses. All identified uses are permitted in the S-RP zone and, accordingly, all uses are permitted under element of the Riverfront Park Study.

*B. Environmental Element*

2. *The existing Millrace which passes through a portion of the study area is an important environmental and historic city feature. Development occurring in the Riverfront Park shall maintain or improve visual and bicycle/pedestrian access to and along the Millrace, expanding its use for public recreation while at the same time recognizing its role as a storm runoff channel.*

The requested Master Plan includes a 40-foot conservation setback from the top of bank of the Millrace and identifies improvements for natural vegetation around the Millrace outfall. It also identifies 200-foot setbacks around the Millrace outfall to protect the area as a significant natural water feature. The Master Plan also includes enhancements to the pedestrian and bicycle pathways throughout the site, including two pedestrian/bicycle bridge crossings over the Millrace, which will improve public access to the Millrace area, in compliance with this policy.

3. *Development occurring in the Riverfront Park area shall be designed to preserve a significant cluster of black locust, English oak, and redleaf plum trees located just east of the current location of the bicycle path.*

The significant cluster of trees intended to be preserved under this policy is located adjacent to the Willamette River, almost entirely within the /WR conservation area. The application narrative states that the future development in that area will be designed to preserve this tree cluster. In addition, the proposal includes recommendations to restore and improve native vegetation, both along the riverbank and throughout the site. Preserving native trees is one method of ecological restoration, and is ensured by the protections established in the /WR overlay zone.

However, as the staff note, the site plans do not specifically depict where the existing trees are located or include the size and variety of the trees and their critical root zones. The lack of this detail makes it difficult to confirm that the structures identified for this area will not impact the trees. To preserve these trees, the staff recommend that the approval be conditioned upon specifying the location and protection of this cluster of trees. As proposed by staff, this condition is necessary to ensure compliance with this policy.

4. *Development in the Riverfront Park area shall, when possible, maintain and enhance the public's physical access to the river and the riparian strip along its banks.*

As noted above, the bank along the Willamette River on the subject property contains up to 20 feet of fill, installed by a previous industrial use owner, which creates a steep bank and restricts access to the river from the property. The requested Master Plan includes the removal of fill

material and re-grading of the slope, along with the removal of invasive vegetation. As depicted on Sheet L03, it also includes an option to realign the bike path to provide greater river access. By removing fill material, providing riparian restoration and defining more safe and clear means of access to the riverbank, the proposal will facilitate physical access to the riverbank, in compliance with this policy.

*D. Public Services and Amenities Element*

- 1. Transportation improvements shall be required in the first phases of development to ensure adequate vehicular access, including access for emergency vehicles.*

As depicted on the Master Site Plan, the entire site of the requested Master Plan is currently developed with transportation facilities, which were completed under the previous Riverfront Research Park Master Plan. These infrastructure improvements include public and private streets and sidewalks, pedestrian and bicycle pathways and a railroad underpass along Riverfront Parkway. The existing transportation system provides adequate vehicular and emergency service access throughout the site. The identified future transportation improvements are primarily for service vehicles and private transportation, along with expansion and additional pedestrian and bicycle pathways to enhance circulation throughout the site.

**(b) Based on technical analysis (particularly with respect to transportation facilities), planned public facilities shall be shown to accommodate the requirements of the proposed development.**

As noted above, public infrastructure within the North Campus area, including construction and reconstruction of intersections accessing the area, was largely completed under the previous Riverfront Research Park Master Plan. To address additional planned public facilities, particularly with respect to transportation, the application includes a preliminary trip generation analysis for the North Campus area, which anticipates the projected increase in UO students and the likely daily trips to the North Campus area that could be generated based on that increase. It also includes a description of the existing and proposed transportation facilities to serve the North Campus.

The staff report explains that the applicant's engineer coordinated with the City staff in determining the scope of the study. Based on staff's assessment, trip generation, reductions, distribution and assignment are all in accordance with industry and ITE best practice. The consultant has selected a planning horizon that corresponds with the City's current Transportation Systems Plan.

Based on this study, the application narrative includes a detailed discussion of existing and proposed facilities to serve all transportation users, including vehicular, transit, pedestrian and bicycle. The report includes an evaluation of mobility through the planning horizon and establishes that all intersections are expected to operate above the minimum mobility standard for the area. It also includes evaluation of site access, parking and circulation, and includes planned improvements to accommodate the proposed development of the North Campus area. The engineering conclusions and recommendations thoroughly address the proposed impacts.

One opponent to the Master Plan asserts that “without specific condition, the North Campus Plan may not be consistent with the City of Eugene’s Transportation System Plan.” This argument appears to suggest that without more detailed development plans, transportation impacts cannot be fully evaluated. However, as noted above, the requested Master Plan does not include any specific development under which consistency with the city’s TSP could be evaluated. Unless and until development is proposed, an allegation that future development ‘may not be consistent’ with that plan is premature.

The technical analysis provides adequate information to demonstrate that planned public facilities can accommodate the requirements of the proposed development. At such time as any structure is proposed, the applicant must submit an analysis of the parking demand for that structure in order to evaluate the use and parking demand in accordance with the university’s the Long-term Development Plan and the TSP.<sup>7</sup>

**(c) The proposed development shall protect visual access from main entry points from Franklin Boulevard to the river/riparian vegetation.**

The S-RP zone requires that at least 40% of that portion of the subject property identified for development shall be landscaped with living plant materials and requires that the building coverage and site elements be contained within 60% of the development site. This, in part, facilitates compliance with the above policy. As part of the requested Master Plan, the applicant’s Regulatory Plan includes more stringent development regulations than otherwise required by the Eugene Lane Use Code. That Regulatory Plan facilitates riparian restoration, open space improvements, and protection of view sheds (see Sheet L01). For the area north of the railroad tracks, the proposed Regulatory Plan includes maximum building coverage well below what is allowed in the S-RP zone. For the area south of the railroad tracks the Regulatory Plan ensures that development in accordance with the Master Plan will comply with the coverage standards of the S-RP zone.

The applicant’s Regulatory Plan also includes self-imposed building height restrictions. The S-RP zone limits the structures within 75 feet of the top of river bank to 45 feet in height, outside of this area there is no height limit in the zoning district. The Regulatory Plan calls for buildings to be set back a minimum of 200 feet from top of bank and building heights south of the tracks limited to 85 feet.

The proposed Regulatory Plan further restricts coverage and building heights in the four identified areas north of the railroad tracks, as depicted on Sheets L01 and L02. Area 4, west of the Millrace includes a maximum building coverage of 15% and a 45-foot height limit; area 5 includes a maximum building coverage of 0.5% and a 15-foot height limit, with recreational fields limited to 45% coverage; area 6 includes a maximum building coverage of 16% and 37-foot height limit; and area 7, which includes the river and Mill Race protective area, prohibits all

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<sup>7</sup> The staff report also notes that following development of any structures, the UO must demonstrate continued compliance through the UO’s annual Parking Code Compliance Report. Staff explain that each year the UO submits to the city a Parking Code Compliance Report that includes that annual analysis of student enrollment and automobile parking spaces on campus. The intent of the report is to measure continued compliance with the city’s land use code for required parking, based on the City’s acceptance of a 1997 study the UO used to justify a 50% reduction in required parking spaces.

buildings.

To ensure compliance with these plan components, the staff recommends they be made conditions of this approval. While these restrictions exceed those which the code would otherwise require to ensure compliance, implementation of the Regulatory Plan will ensure that all future development will protect visual access, in compliance with this policy and, therefore, the requested condition is warranted.

The attorney representing some of the opponents argued that a parking structure identified in the Master Plan in the southern portion of the site, near Riverfront Parkway, may block visual access to the riparian area along the river, in violation of this policy. The parking structure is conceptual at this point, and must be evaluated against then applicable development standards at such time as it is proposed. However, the applicant's Regulatory Plan includes height and coverage limitations beyond what is otherwise allowed under the code. Compliance with the Regulatory Plan will ensure visual access is protected, in compliance with this criterion.

- (2) **Criteria for Development Within Willamette Greenway Boundaries.**  
(a) **Compliance with the criteria in EC 9.3725(1) Criteria for all Development above.**

The above findings demonstrate that the requested Master Plan complies with the criteria of EC 9.3725(1).

- (b) The height and bulk of the proposed development shall be designed to consider the impacts on public open space, especially the buffer strips along the Willamette River and Millrace, and to adhere to the height limitations specified along the Willamette River. Building setbacks shall be varied to avoid the effect of a continuous wall along the minimum setback line and to adhere to the requirement for protection of designated features (i.e., Millrace and pedestrian linkage to the Autzen Stadium footbridge).**

The Willamette River adjacent to the North Campus site is identified as a Goal 5 Water Resource. The Willamette River is a Category A resource, with a required 100-foot setback. In addition, the Riverfront Park/Millrace is a Category A Wetland on the Goal 5 Inventory, with a required 50-foot setback. As discussed above, the requested Master Plan includes a 200-foot setback to buffer any future development from the Willamette River and the Millrace, well beyond the setbacks otherwise required. As also noted above, the applicant's proposed Regulatory Plan (Sheet L01) includes more stringent development regulations than are required by the Eugene Land Use Code to facilitate riparian restoration, open space improvements, and protection of view sheds. As ensured through a condition of this approval, that Regulatory Plan includes maximum building coverage well below that allowed in the S-RP zone for the area north of the railroad tracks, and limits building height in most of this area below the height limitation of the Eugene Land Use Code.

For areas south of the tracks, the S-RP zone has no height limitation. However, the Regulatory

Plan includes a maximum building height of 85 feet, which will provide building heights similar to campus buildings across Franklin Boulevard, and further limit impacts on open space. The staff request that this proposed building height restriction be made a condition of approval. That condition is warranted in order to ensure compliance with that Regulatory Plan component.

Particularly through the setbacks and height and development restrictions, as designed the Master Plan also ensures that future development will not create a continuous wall along the minimum setback line, and that designated features, including the Millrace and the pedestrian linkage to the Autzen Stadium footbridge, will be protected.

**(c) To the greatest possible degree, the intensification, change of use, or development will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river.**

As noted above, the /WR overlay zone requires a setback of 100-feet from the Willamette River. The requested Master Plan includes a 200-foot setback for riparian and riverbank enhancement along most of the length of the property. Because the 200-foot setback is determined from the top of bank, the setback equates to 250 to 300 feet as measured from the water's edge. This setback preserves the riparian area between the river and proposed development while maximizing riparian restoration opportunities to the greatest extent possible. To ensure that the landscaped area is preserved throughout the life of the Master Plan, this 200-foot setback is made a condition of this approval.

**(d) To the maximum extent practicable, the proposed development shall provide for protection and enhancement of the natural vegetative fringe along the Willamette River. This means protection and enhancement of trees and understory characteristic of native vegetation within the riparian strip along the Willamette River. It also means removal, and active management to prevent reintroduction of, disturbance vegetation such as Himalayan blackberries and English ivy. As used herein, the riparian strip means the area between the top of the river bank and the water's edge.**

The requested Master Plan includes riparian restoration of the natural vegetative fringe along the Willamette River. The applicant has submitted a Riparian Assessment and Management Report that indicates vegetated riparian areas within the development site were historically reduced to narrow strips along the river. In order to enhance the natural vegetative fringe, the application narrative represents that development under the Master Plan will incorporate "as many applicable restoration techniques as possible as funding becomes available." Techniques proposed include large-scale invasive plant removal, and removal of concrete riprap along the shoreline. The proposed 200-foot riparian buffer will help to preserve and enhance the riparian fringe.

Several opponents of the requested Master Plan support the applicant's compliance with this Master Plan proposal, and urge that these improvements should be completed before any further development occurs. One opponent asserts that "the only way to protect the public interest and to

ensure that the University will actually comply with the requirements of EC 9.3725(d) is to issue a permit only under the condition that this project be completed in phases” with the first phase must require “the enhancement of trees and understory characteristic native vegetation within the riparian strip along the Willamette River” and the construction of a “continuous two-way bicycle path through the development along the river.” This argument does not include any regulatory authority that would mandate such phasing of the Master Plan development; and in fact, the code does not appear to provide such authority.

As noted above, as with all other components of the Master Plan, the Plan itself does not propose any specific development. Moreover, except for the requirement that transportation infrastructure be in place, neither this criterion, nor any other applicable criterion, mandates any specific timing or phasing of this or any other development. This criterion specifies that the proposed protections and enhancements be provided “to the maximum extent possible.” The applicant’s acknowledgement that implementation of the entire Master Plan, and specifically that the activities addressed under this criterion will be completed to the extent and as funding becomes available, is consistent with both this criterion in particular, and with the requirement for establishment of a Master Plan.

- (e) To the greatest possible degree, necessary and adequate public access will be provided to and along the river by appropriate legal means. As used in this section, the words “greatest possible degree” are drawn from Statewide Planning Goal 15 (F.3.b.) and are intended to require a balancing of factors so that each of the identified Greenway criteria is protected to the greatest extent possible without precluding the requested use. Goal 15 (C.3.j.) provides that “lands committed to urban uses within the Greenway shall be permitted to continue as urban uses.”**

The requested Master Plan includes proposed improvement to and possible realignment of the existing bicycle path along the river. As discussed above, it also identifies riparian area restoration along the river and removal of fill that will facilitate safer access to the river. In addition, the Master Plan identifies three pedestrian viewpoints and one paddle craft launching point along the river’s edge. These Master Plan improvements will enhance the public’s physical access to the river while also improving public safety and the ecological quality of the site.

- (3) Interpretation. In the event any of the terms used in these S-RP zone provisions require interpretation, the planning and development director shall be responsible for such interpretation.**

To the extent this provision could be construed to be a mandatory approval criterion, no party has requested that the planning and development director interpret any terms within the S-RP zone provisions and, therefore, this decision is not dependent upon any specific interpretation of those provisions.

### **Conclusion: Conditional Use Permit Request**

Based on the above analysis and findings, the requested Master Plan satisfies each of the

applicable criteria set forth in EC 9.3725 for approval of a Master Plan conditional use permit.

As discussed above, the Master Plan does not propose any specific development. At the time development is proposed to implement the Master Plan, each development proposal must demonstrate compliance with all applicable development standards then in effect, including, but not limited to:

- EC 9.3715 S-RP Riverfront Park Special Area Zone Development Standards
- EC 9.4900-9.4980 /WR Water Resources Conservation Overlay Zone
- EC 9.6725 Outdoor Lighting Standards
- EC 9.6790 et seq - Stormwater Site Development Standards

In order to ensure that all future development in furtherance of this Master Plan complies with all applicable standards, this Master Plan is conditioned to ensure future development will demonstrate compliance with these and all other applicable standards.

### **Willamette Greenway Permit**

**EC 9.8815(1): To the greatest degree possible, the intensification, change of use, or development will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river.**

The language of EC 9.3725(2)(c), addressed above, mirrors this Willamette Greenway Permit criterion. For the reasons discussed in the findings of compliance with EC 9.3725(2)(c), the requested Master Plan satisfies this criterion.

**EC 9.8815(2): To the greatest possible degree, necessary and adequate public access will be provided along the river by appropriate legal means.**

The language of EC 9.3725(2)(e), addressed above, mirrors this Willamette Greenway Permit criterion. For the reasons discussed in the findings of compliance with EC 9.3725(2)(e), the requested Master Plan satisfies this criterion.

**EC 9.8815(3): The intensification, change of use, or development will conform with applicable Willamette Greenway policies as set forth in the Metro Plan.**

EC 9.3725(1)(a) requires that the requested Master Plan comply with applicable Metro Plan Willamette Greenway policies. For the reasons discussed in the finding of compliance with Willamette River Greenway Policy D.5, the requested Master Plan satisfies this criterion.

**EC 9.8815(4): In areas subject to the Willakenzie Area Plan, the intensification, change of use, or development will conform with that plan's use management considerations.**

The property is not subject to Willakenzie Area Plan and, therefore, this criterion is not applicable.

**EC 9.8815(5): In areas not covered by subsection (4) of this section, the intensification, change of use, or development shall conform with the following applicable standards:**

- (a) Establishment of adequate setback lines to keep structures separated from the Willamette River to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. Setback lines need not apply to water related or water dependent activities as defined in the Oregon Statewide Planning Goals and Guidelines (OAR 660-15-000 et seq.).**

The subject property does not have an established Willamette Greenway setback line. However, the Willamette River is identified on the *Adopted Protection Designations for the Eugene Goal 5 Wetland, Riparian, and Upland Wildlife Habitat Inventories Map* (November 14, 2005) as a Category A Stream, which requires a 100-foot setback. As discussed above, and as depicted on the Regulatory Plan (Sheet L01) and required as a condition of approval, the Master Plan includes a 200-foot setback. The 200-foot setback is adequate to keep structures separated from the river and to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway and in compliance with this criterion.

- (b) Protection of significant fish and wildlife habitats as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper. Sites subsequently determined to be significant by the Oregon Department of Fish and Wildlife shall also be protected.**

The staff note that there are three wildlife species identified on the Metro Plan Natural Assets and Constraints Working Paper Wildlife Inventory (Figure D2) in proximity to the subject property. and that none of the species identified are endangered or threatened.<sup>8</sup>

To assess the significant fish and wildlife habitats associated with the Willamette River the application includes a *Riparian Assessment and Management Report* which found several key sensitive aquatic species, and rare species historically documented within one mile of the site.<sup>9</sup> The report findings indicate that the site contains appropriate aquatic, upland, and riparian habitat to support all eight of the rare species identified. Significant on-site habitat for riverbank species is limited to the riparian corridor. (Sheets L02 and S01 of the Master Site Plan.) The applicant's proposed restoration, including large-scale invasive plant removal, and removal of concrete riprap along the shoreline, will improve the habitat and subsequent proliferation of historically-present land species. The Master Plan includes no work or development directly

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<sup>8</sup> The three identified species include the clouded salamander, the Oregon red salamander, and the western racer snake.

<sup>9</sup>The Sensitive Aquatic Species listed in the applicant's Riparian Assessment and Management Report include the Chinook salmon, steelhead, white sturgeon, western brook lamprey and pacific lamprey. The Rare Species include the western pond turtle, retros sedge, painted turtle, Townsend's big-eared bat, bald eagle, Bradshaw's lomatium, Oregon chub and bull trout.

within the Willamette River and, therefore, no significant impacts to fish in the area are anticipated.

**(c) Protection and enhancement of the natural vegetative fringe along the Willamette River to the maximum extent practicable.**

The proposed a 200-foot riparian setback for buildings and recreational fields will facilitate protection and enhancement of the natural vegetative fringe along the river. In addition, the proposed removal of invasive vegetation and reestablishment of native vegetation within the entire setback area will further protect and enhance the natural vegetative fringe.

**(d) Preservation of scenic qualities and viewpoints as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper.**

The *Metropolitan Natural Assets and Constraints Working Paper* does not identify any scenic qualities or viewpoints on the subject site and, therefore, therefore this criterion does not apply.

**(e) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable.**

The UO owns all parcels within the North Campus site. All public improvements will be constructed in accordance with standards specified in EC 9.6505 and EC 9.3715. S-RP Zone development standards are consistent with those in the land use code and also contribute to public safety and protection of public and private property.

**(f) Compatibility of aggregate extraction with the purposes of the Willamette River Greenway and when economically feasible, applicable sections of state law pertaining to Reclamation of Mining Lands (ORS Chapter 517) and Removal of Material; Filling (ORS Chapter 541) designed to minimize adverse effects to water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.**

The proposal does not involve aggregate extraction nor will it have any impact on existing aggregate resources and, therefore, this criterion does not apply.

**(g) Compatibility with recreational lands currently devoted to metropolitan recreational needs, used for parks or open space and owned and controlled by a general purpose government and regulation of such lands so that their use will not interfere with adjacent uses.**

**As used in this section, the words "the greatest possible degree" are drawn from Oregon Statewide Planning Goal 15 (F.3.b.) and are intended to require a balancing of factors so that each of the identified Willamette Greenway**

**criteria is met to the greatest extent possible without precluding the requested use.**

The proposal will not adversely affect any recreational lands currently devoted to metropolitan recreation needs or used for parks or open space, as applicable to this criterion.

**EC 9.8815(6): When site review approval is required, the proposed development will be consistent with the applicable site review criteria.**

The proposed Master Plan does not require site review.

**EC 9.8815(7): The proposal complies with all applicable standards explicitly addressed in the application. An approved adjustment to a standard pursuant to provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.**

As addressed above, the requested Master Plan complies with the applicable standards addressed in this application. The applicant has not requested an adjustment to any applicable standards.

#### **Conclusion: Willamette Greenway Permit Request**

Based on the above analysis and findings, the requested Master Plan satisfies each of the applicable criteria for approval of the requested Willamette Greenway Permit.

#### **Additional Issues Raised**

During the public hearing process, opponents of the requested Master Plan raised several additional issues, which are not related to any approval criteria under either EC 9.3725 or EC 9.8815. However, some issues either assert or imply the applicability of additional approval criteria, which are addressed as follows:

The attorney for one group of opponents argued that to the extent the parking structure identified for the southern portion of the site could or would serve uses outside the S-RP zone, that use ‘may’ not be allowed in the zone. The Master Plan explains that that parking structure will be designed in part to serve the University’s future Knight Campus for Accelerated Scientific Impact, which will be located outside of the S-RP zone. He suggested that uses in the S-RP zone are intended to be limited to serving other uses within that zone. He did not cite to any specific provision in the city’s land use code that would support that restriction; and in fact, a review of the code related to the S-RP zone does not include any such restriction. Parking is a use permitted in the zone; and there is no restriction in the code that would preclude that parking from being used for uses outside the zone.

He and other opponents also argue that the parking structure identified in the Master Plan violates, or may violate, EC 9.3715(1), which includes the development standards related parking in the S-RP zone. They make several arguments as to how the future parking may not comply with those parking development standards. The applicant responds by explaining how the future parking would (or could) comply. However, compliance with the parking development standards in EC 9.3715(1) is not the subject of this review. As with the entire requested Master

Plan, the identification of the parking structure in the Master Plan is subject to evaluation only for compliance under EC 9.3725 and EC 9.8815. At such time as the UO proposes to develop that parking structure, it must comply with the applicable provisions in EC 9.3715(1).<sup>10</sup>

Opponents to the Requested Master Plan also argued that the application does not satisfy EC 9.3730. That provision requires the property owner to submit an annual report to the planning and development director identifying uses on the site, “to ensure that the primary purpose of the S-RP zone is preserved.”<sup>11</sup> Opponents, however, do not establish how this provision could be construed to be an applicable approval criterion for the requested Master Plan. By its terms, this provision is an annual reporting document. While continued compliance with an approved Master Plan would certainly inform the future annual reporting requirement to ensure continued adherence to the purpose of the S-RP zone, there is nothing in the language or purpose of this provision that would suggest that it constitutes a criterion or criteria applicable to approval of the requested Master Plan.

Several opponents also argue that the application does not include sufficient information to evaluate the proposed development. They urge that detailed information regarding how UO proposes to develop the site is necessary to fully evaluate the proposed development. This argument underlies the apparent confusion and misunderstanding as to the purpose of the requested Master Plan. As discussed above, the Master Plan is a long-range planning document. While all of the uses identified in the Master Plan are permitted uses in the S-RP zone, the Master Plan itself does not propose any specific development. At such time as specific development is proposed, that development must be evaluated for compliance with applicable

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<sup>10</sup> In its defense of how the future parking structure does, or could, comply with EC 9.3715(1), the applicant requests that the hearings official “determine that the City’s and University’s campus-wide parking approach applies to the University’s Plan for the S-RP zone, in lieu of the 400-foot default in EC 9.3715.” That request is beyond the scope of this review of the requested Master Plan. Specifically, that determination is not necessary to determining whether the requested Master Plan satisfies each of the applicable approval criteria in EC 9.3725.

<sup>11</sup> **EC 9.3730 S-RP Riverfront Park Special Area Zone Required Reporting** states:

In order to ensure that the primary purpose of the S-RP zone is preserved, the owner or the developer of the property within the zone shall submit an annual report to the planning and development director that provides data demonstrating that:

- (1) Primary use(s) within a development site complement the research or educational activities of the Oregon State System of Higher Education.
- (2) Accessory and supporting uses do not occupy more than 25 percent of the gross floor area within a development area at any time.
- (3) Product manufacturing carried out in conjunction with a primary use does not exceed the 40 percent limitation of EC 9.3710(2)(b).
- (4) Interim uses do not occupy more than the specified percentage of the gross floor area within a development site at any one time.

In the event there is more than one owner or developer involved in development within the S-RP zone, the provisions concerning manufacturing, accessory and support uses, and interim uses apply to each development site. Each owner or developer shall submit the required annual report verifying compliance with the provisions of the S-RP zone. Failure to submit the annual report required under this section or failure to adhere to the specifications of the requirements of this section shall constitute a violation subject to the enforcement provisions of section 90.0000 through 9.0280 General Administration. Such failure shall also constitute grounds for withholding further development permits and/or certificates of occupancy within a development site until the violation has been remedied.

development standards. However, the Master Plan itself must be evaluated only against the applicable approval criteria in EC 9.3725 and EC 9.8815. As discussed above, the requested Master Plan including, in particular, the Regulatory Plan under which the UO proposes to obligate itself, satisfies each of those approval criteria.

Finally, several opponents argued that Master Plan should be denied because they believe the UO should have more fully engaged the university and broader community in evaluating how the North Campus should be used. Several opponents faulted the UO for the policy, business and economic choices reflected in the Master Plan. However, the city's evaluation of the requested Master Plan is necessarily based solely on the criteria set forth in the city's code. Provided they comply with the criteria set forth in EC 9.3725, the applicant's policy, business and economic choices are beyond the scope of this evaluation.

### **Expiration**

As explained above, EC 9.3725 requires that the S-RP Riverfront Park Special Area Zone Master Plan approval must be reviewed through the city's conditional use permit process. Under EC 9.7340(2) "*unless the hearing official designates otherwise,*" conditional use permits expire 18 months after the effective date of approval unless actual construction or alteration has begun under a required permit, or in the case of a permit not involving construction or alteration, actual commencement of the authorized activity has begun. Similarly, under EC 9.7340(4), Willamette Greenway permits expire 18 months after approval under the same situations "*unless the decision specifies otherwise.*"

The applicant has requested that the Master Plan be effective for 30 years and, therefore has requested the Hearings Official to impose a 30-year expiration date for both the CUP and the WG permit. In making that request, the applicant explains that the Master Plan is a long-range planning document, as required to fulfill the purposes of the S-RP zone. While all uses identified in the Master Plan are permitted uses in the S-RP zone, the Master Plan does not propose or request approval of any development. Rather, over the life of the Master Plan, and as funding and development needs are determined, development would be proposed to implement the Master Plan. The applicant further explains that the typical university capital project takes three to six years to secure funding and complete construction. Even in the unlikely event of multiple projects underway at once, full buildout for the number of projects and improvements possible in the Master Site Plan would take 30 years or longer.

Most of the Master Plan opponents object to the requested 30-year timeframe for the requested Master Plan. For reasons primarily related to their lack of trust in the applicant and/or their opposition to the recreational fields identified in the Master Plan, they argue that 30 years is too long a period to permit the UO to implement the Master Plan. While some advocate for different timelines, most argue that as a 'conditional use' it 'should' expire in 18 months (presumably if construction has not begun), in accordance with the conditional use default expiration timelines in 9.7340(2) and EC 9.7340(4). Some argue that the UO should be required to complete the Master Plan within 18 months.

EC 9.7325 requires the requested Master Plan to be 'reviewed through the conditional use permit process.' It does not, however, propose any conditional uses. Significantly, the Master Plan

purpose in EC 9.3700, and the permitted uses, the siting requirements and review procedures for the S-RP zone, all envision a long-range planning document to guide the future development of this specific zone. Also significantly, while opponents overwhelmingly oppose the duration of the Master Plan, they also overwhelmingly support some components of it. In particular, nearly all opponents testified that they supported the 200-foot setback along the Willamette River. Many also expressed support for other open space requirements, and other components of the Regulatory Plan that greatly exceed the restrictions otherwise required under the land use code. However, a “Master Plan” that requires these environmental protections for only 18 months would render those protections meaningless. The duration of the environmental protections included in the Master Plan is directly and necessarily dependent on the duration of the Master Plan.

The Master Plan proposes how uses allowed in the S-RP zone may be implemented over time, in accordance with the S-RP Master Plan criteria. It is a long-range planning tool. As noted above, as development is proposed, it must be evaluated against the development standards and other siting requirements then in effect, but within the constraints established by the Master Plan and, significantly, the Regulatory Plan that greatly constrains the UO’s use of the property beyond that would otherwise be permitted in the code. A 30-year duration will both ensure long-term compliance with the purpose of the S-RP zone and that additional protections remain in place for the entire North Campus area, and particularly that portion of the property along Willamette River.

The requested 30-year expiration for the requested Master Plan is approved.

## DECISION

Based on the analysis and findings in the staff report, which establish compliance with each of the applicable approval criteria, the hearings official **APPROVES** the Conditional Use and Willamette Greenway Permit request, subject to the conditions listed above.



Virginia Gustafson Lucker  
Hearings Official

Dated this 31st day October, 2018.

Mailed this \_\_\_\_ day of \_\_\_\_\_, 2018.

SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL RIGHTS