

STAFF REPORT

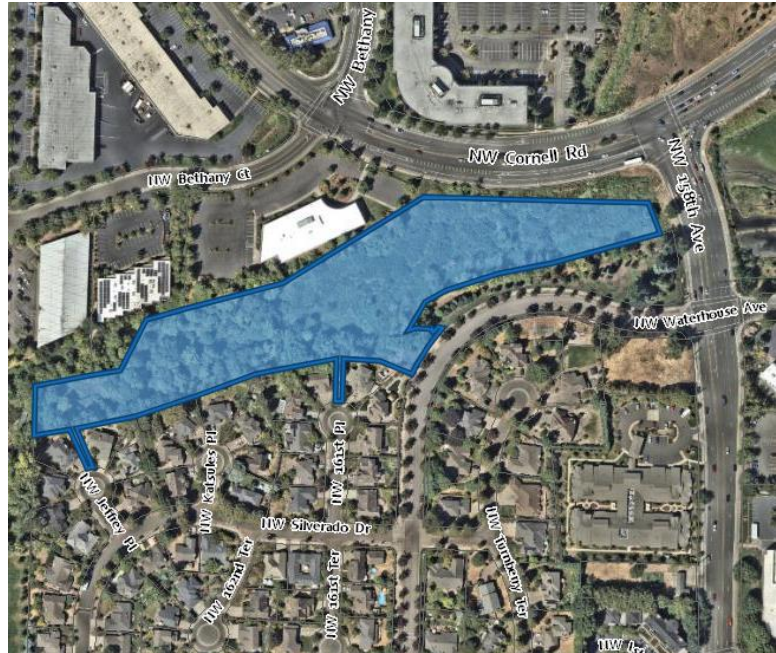
Report date: June 18, 2024

Application: LU32023-00902
Willow Creek Boardwalk

Application Numbers: DR32023-00898/ TP22023-00901 / VAR32024-00323

Proposal: The applicant, Tualatin Hills Park & Recreation District, proposes to reconstruct an existing boardwalk through a natural area pathway between Waterhouse Trail and NW Waterhouse Avenue, which includes minor realignment of the boardwalk to ensure compliance

with the Americans with Disabilities Act Accessibility Guidelines (AADAAG). The applicant requests Design Review Three approval to address Design Guidelines related to lighting of on-site walkways associated with the boardwalk. The applicant also requests Variance approval for a deviation from the lighting standards for on-site walkways identified in Section 60.55.25.10.B.7 of the Development Code. Finally, the applicant requests Tree Plan Two approval to remove 31 trees within a Significant Natural Resource Area.



Proposal location: The site is located at generally south of NW Cornell Road, West of NW 158th Avenue and NW Waterhouse Avenue and north of NW Silverado Avenue.

Applicant: Tualatin Hills Park and Recreation District

Recommendation: APPROVE DR32023-00898/ TP22023-00901 / VAR32024-00323

Contact information:

City Staff Representatives: Brett Cannon, Associate Planner
503-350-4038 / bcannon@BeavertonOregon.gov

Applicant: Tualatin Hills Parks & Recreation District

Applicant's Representative: Glen Southerland
AKS Engineering
12965 SW Herman Road, Suite 100

Tualatin OR 97062

Property Owners:

Tualatin Hills Parks & Recreation District
15655 SW Millikan Way
Beaverton, OR 97003

Existing Conditions

Zoning: Residential Mixed B (RMB)

Site Conditions: The primary area of development is a natural area along the Willow Creek Wetlands. The existing boardwalk is located within Significant Grove G19, as identified in the City of Beaverton Tree Inventory and has been identified as the location of Class 1 and II Riparian Wildlife Habitat.

Improvement Area Size: 0.55 Acres

Parcel Site Size: 5.87 Acres

Location: The site is located at generally south of NW Cornell Road, West of NW 158th Avenue and NW Waterhouse Avenue and north of NW Silverado Avenue

Neighborhood Association Committee: Five Oaks / Triple Creek

Table 1: Surrounding Uses

Direction	Zoning	Uses
North	Office Industrial and Community Service	Commercial
South	Residential Mixed B (RMB)	Residential
East:	Office Industrial	Commercial and Office
West:	Residential Mixed C (RMC)	Park

Application Information

Table 2: Application Summaries

Application	Application type	Proposal summary	Approval criteria location
DR32023-00898	Design Review Three	Boardwalk Replacement without lighting.	Development Code Sections 40.03.1 and 40.20.15.3
TP22023-00901	Tree Plan Two	Removal of 31 Trees within a Significant Grove.	Development Code Section 40.90.15.2
VAR32024-00901	Variance	Deviation from the required lighting requirements of Section 60.55.25.10.B.7	Development Code Section 40.95.15.1

Table 3: Key Application Dates

Application	Submittal Date	Deemed Complete	120-Day	365-Day*
DR32023-00898	December 13, 2023	May 2, 2024	August 30, 2024	May 2, 2025
TP22023-00901	December 13, 2023	May 2, 2024	August 30, 2024	May 2, 2025
VAR32024-00323	April 18, 2024	May 2, 2024	August 30, 2024	May 2, 2025

* Pursuant to Section 50.25.9 of the Development Code this is the latest date, with a continuance, by which a final written decision on the proposal can be made.

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Exhibits:

Exhibit 1. Materials Submitted by Staff

- Exhibit 1.1 Zoning and Vicinity Map (page 5 of this report)
- Exhibit 1.2 Aerial Map (page 6 of this report)

Exhibit 2. Public Comment

No Public Comment received.

Exhibit 3. Materials Submitted by the Applicant

- Exhibit 3.01 Application Forms
- Exhibit 3.02 Pre-Application Conference Summary
- Exhibit 3.03 Preliminary Plan Set
- Exhibit 3.04 Neighborhood Meeting Materials
- Exhibit 3.05 Service Provider Letters
- Exhibit 3.06 Wetland Delineation Report
- Exhibit 3.07 Applicant's Narrative
- Exhibit 3.08 Arborist Report
- Exhibit 3.09 Preliminary Stormwater Report
- Exhibit 3.10 Wetland Land Use Notice

Attachment A: Facilities Review Committee Technical Review and Recommendation

Application: LU32023-00902 Willow Creek Boardwalk

Recommendation: APPROVE DR32023-00898 / TP22023-00901 / VAR32024-00323, subject to the recommended conditions of approval.

Section 40.03 Facilities Review Committee:

The Facilities Review Committee has conducted a technical review of the application, in accordance with the criteria contained in Section 40.03 of the Development Code. The Committee's findings and recommended conditions of approval are provided to the decision-making authority. As they will appear in the Staff Report, the Facilities Review Conditions may be re-numbered and placed in a different order. The decision-making authority will determine whether the application as presented meets the Facilities Review approval criteria for the subject application and may choose to adopt, not adopt, or modify the Committee's findings.

The Facilities Review Committee Criteria for Approval will be reviewed for all criteria that are applicable to the submitted application(s) as identified below:

- All twelve (12) criteria are applicable to the Design Review Three (DR32023-00898) application as submitted.
- Facilities Review Committee criteria do not apply to the submitted Tree Plan Two (TP2023-00901) and Variance (VAR32024-00323) applications.

Section 40.03.1.A

Approval Criterion: *All critical facilities and services related to the proposed development have, or can be improved to have, adequate capacity to serve the proposed development at the time of its completion.*

FINDING:

Chapter 90 of the Development Code defines "critical facilities" to be services that include potable and non-potable public water; public sanitary sewer; stormwater drainage, treatment, and retention; transportation; and fire protection.

Potable Water: The subject site is in the City of Beaverton water service area. The subject proposal to replace an existing boardwalk does not require potable water facilities. There are no potable water facilities within the project site area.

Non-Potable Water: There isn't a non-potable water network in the development area. Therefore, the proposal is exempt from connecting to a non-potable water network.

Sanitary Sewer: The subject proposal does not include or necessitate sanitary sewer service to the site for the boardwalk replacement. An 8-inch concrete sanitary sewer line extends from NW Jeffrey Place to a 21-inch sanitary sewer line north of the site. No changes to these facilities are proposed with the boardwalk replacement.

Stormwater Drainage, Treatment, and Retention: There are three existing stormwater lines in the vicinity of the boardwalk. The project will not be adding impervious surface to the project area. Therefore, the existing stormwater drainage, treatment and retention facilities will continue to sufficiently manage stormwater for the site.

Transportation: The applicant proposes to replace an existing boardwalk. The raised boardwalk is located between the Waterhouse Trail Linear Park to the west and NW Waterhouse Avenue to the east. The proposed boardwalk enhancements will replace warping and lifting of boards to the nearly 40 year old structure and bring it into compliance with the Americans with Disabilities Act Accessibility Guidelines (AADAAG). The Willow Creek Boardwalk is also identified as a trail City's Neighborhood Bikeway network per the Active Transportation Plan (Figure 4 Bicycle Functional Classification Map). Access to the boardwalk will continue to be provided via the four existing access points, the entrance located along NW Waterhouse Avenue, an access point via NW 161st Place, an access point via NW Jeffrey Plance and an entrance via the Waterhouse Linear Park Trail system to the west.

Fire Protection: Fire protection will continue to be provided by Tualatin Valley Fire and Rescue (TVF&R). A TVF&R Service Provider Permit was not required for this proposal since no new buildings are proposed and the existing site has adequate emergency access. The Committee finds that existing fire protection service is adequate to serve the proposed development.

For these reasons, the Committee finds that critical facilities and services related to the proposed development are available with adequate capacity to serve the development.

Conclusion: Therefore, the Committee finds that the proposal meets the approval criterion.

Section 40.03.1.B

Approval Criterion: *Essential facilities and services related to the proposed development are available, or can be made available, with adequate capacity to serve the development prior to its occupancy. In lieu of providing essential facilities and services, a specific plan may be approved if it adequately demonstrates that essential facilities, services, or both, will be provided to serve the proposed development within five (5) years of occupancy.*

FINDING:

Chapter 90 of the Development Code defines “essential facilities” to be services that include schools, transit improvements, police protection, and on-site pedestrian and bicycle facilities in the public right-of-way.

Schools: The proposed development is within the boundaries of the Beaverton School District. No new dwelling units are proposed as part of the development. Therefore, the Committee finds that the proposal will not affect the existing school capacity.

Transit Improvements: The subject site is located less than a quarter of a mile from the #67 bus route. The #67 bus route provides service via Bethany Boulevard to the Merlo Road/158th Avenue light rail transit (MAX) stop. The Committee finds that the site’s proximity to a bus route that, provides service to a light rail station provides adequate transit facilities to the site, and no transit improvements are required to serve the proposed use.

Police Protection: The City of Beaverton Police Department currently provides police services to the site and will continue to provide these services to the Willow Creek Greenway boardwalk and surrounding areas. As of the date of this report, Beaverton Police have not provided comments or recommendations to the Committee. Any comments from Beaverton Police will be forwarded directly to the applicant, and the Committee finds that adequate police protection service will continue to be provided to the subject site.

Pedestrian and Bicycle Facilities: The proposed boardwalk replacement will continue to connect to the existing pedestrian and bicycle networks via the four existing access points, the entrance located along NW Waterhouse Avenue, an access point via NW 161st Place, an access point via NW Jeffrey Place, and an entrance via the Waterhouse Linear Park Trail system to the west.

For these reasons, the Committee finds that essential facilities and services related to the proposed development are available with adequate capacity to serve the development.

Conclusion: Therefore, the Committee finds that the proposal meets the approval criterion.

Section 40.03.1.C

Approval Criterion: *The proposed development is consistent with all applicable provisions of Chapter 20 (Land Uses), or Sections 20.25 and 70.15 if located within the Downtown Design District, unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application; provided, however, if the approval of the proposed development is contingent upon one or more additional applications, and the same is not approved, then the proposed development must comply with all applicable provisions of Chapter 20 (Land Uses) or Sections 20.25 and 70.15 if located within the Downtown Design District.*

FINDING:

The subject site is in the Residential Mixed B (RMB) zoning district. The Committee refers to the Chapter 20 Use and Site Development Requirements table at the end of this report, which evaluates the project as it relates to the applicable code requirements of Section 20.05.15 Residential Site Development Standards and 20.05.20 Residential Land Uses. As demonstrated in the table, this proposal complies with all applicable standards in Chapter 20 Residential Land Use Districts.

Conclusion: Therefore, the Committee finds that the proposal meets the approval criterion.

Section 40.03.1.D

Approval Criterion: *The proposed development is consistent with all applicable provisions of Chapter 60 (Special Requirements) and all improvements, dedications, or both, as required by the applicable provisions of Chapter 60 (Special Requirements), are provided or can be provided in rough proportion to the identified impact(s) of the proposed development.*

FINDING:

The Committee cites the Code Conformance Analysis chart at the end of this report, which evaluates the proposal as it relates the applicable Code requirements of Chapter 60 (Special Requirements). Staff will provide findings for the Design Review Three and Variance within the applicable sections of the staff report.

Section 60.55.25 Street and Bicycle and Pedestrian Connection Requirements: The applicant proposes to replace an existing boardwalk. The raised boardwalk is located between the Waterhouse Trail Linear Park to the west and NW Waterhouse Avenue to the east. The applicant's plans show that the development will remain accessible by foot and by bicycle from existing locations, via NW 161st Place, an access point via NW Jeffrey Plance, and an entrance via the Waterhouse Linear Park Trail system to the west.

Section 60.60 Trees and Vegetation Requirements: The applicant's plans show 31 Significant Grove Trees to be removed to accommodate the installation of boardwalk, including 13 Oregon Ash trees that are susceptible to the ongoing Emerald Ash Borer threat. The project is subject to a Tree Plan Two application, as it qualifies under Section 40.90.15.2.A.3: "Commercial, Residential, or Industrial zoning district: Removal of up to and including 75% of the total DBH of non-exempt surveyed tree(s) found on the project site within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services." The Facilities Review doesn't apply to Tree Plan Two application; however, applicant has provided plans which depict tree protection fencing will be installed during construction for any nearby tree not identified for removal.

Conclusion: Therefore, the Committee finds that, by meeting the conditions of approval, the proposal meets the approval criterion.

Section 40.03.1.E

Approval Criterion: *Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas, as applicable: drainage facilities, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas, and other facilities not subject to maintenance by the City or other public agency.*

FINDING:

The applicant, Tualatin Hills Park and Recreation District, is a public agency and will retain ownership of the site. THPRD will maintain the boardwalk and the facilities within the existing public park that support the continued use of the area including the pedestrian pathways and natural areas. Therefore, maintenance and replacement of private common facilities and areas does not apply to this project.

Conclusion: Therefore, the Committee finds that this criterion is not applicable to the proposal.

Section 40.03.1.F

Approval Criterion: *There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the development.*

FINDING:

There are no existing on-site vehicular circulation areas, and none are any proposed to serve the replaced boardwalk. The applicant's plans show that the development will remain accessible by foot and by bicycle from existing locations, via NW 161st Place, an access point via NW Jeffrey Plance, and an entrance via the Waterhouse Linear Park Trail system to the west. The Committee finds that the existing on-site pedestrian circulation network that will serve the development is safe and efficient.

Conclusion: Therefore, the Committee finds that the proposal meets the approval criterion.

Section 40.03.1.G

Approval Criterion: *The development's on-site vehicular and pedestrian circulation systems connect to the surrounding circulation systems in a safe, efficient, and direct manner.*

FINDING:

There are no existing on-site vehicular circulation areas, nor are any proposed to serve the existing boardwalk. No new pedestrian pathways are proposed to connect to the

surrounding circulation system. Therefore, the Committee finds that this approval criterion does not apply to the proposed development, and existing conditions provide safe, efficient, and direct connections.

Conclusion: Therefore, the Committee finds that the approval criterion is not applicable.

Section 40.03.1.H

Approval Criterion: *Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate fire protection, including, but not limited to, fire flow.*

FINDING:

Fire protection will continue to be provided by TVF&R, and a TVF&R Service Provider Permit was not required for the proposed development. Existing conditions on and surrounding the site provide adequate facilities for fire protection.

Conclusion: Therefore, the Committee finds that the proposal meets the approval criterion.

Section 40.03.1.I

Approval Criterion: *Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate protection from crime and accident, as well as protection from hazardous conditions due to inadequate, substandard, or ill-designed development.*

FINDING:

The applicant states that the design of the existing and proposed boardwalk, does not hinder protection from hazardous conditions, crime, and accidents. Crime Prevention Through Environmental Design (CPTED) is a standard for park safety and security addressed within the THPRD Parks Functional Plan (PFP) (April 2019) section on the subject (4.1.5.n).

Staff concurs and adds that Beaverton Police will continue to provide law enforcement services to the site. As of the date of this report, Beaverton Police have not raised any concerns about crime or accident at the development site. Any comments from Beaverton Police will be forwarded directly to the applicant, and the Committee finds the development is designed to provide adequate protection from crime, hazards, and accident.

Conclusion: Therefore, the Committee finds that the proposal meets the approval criterion.

Section 40.03.1.J

Approval Criterion: *Grading and contouring of the development site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.*

FINDING:

The applicant states that the project is limited to replacing an existing boardwalk and removing trees in the immediate area. Based on the submitted grading plan, no changes to the existing contours are occurring and the placement of a sediment fence will mitigate any adverse effects on the stormwater system and neighboring properties.

Conclusion: Therefore, the Committee finds that the proposal meets the approval criterion.

Section 40.03.1.K

Approval Criterion: *Access and facilities for physically handicapped people are incorporated into the development site and building design, with particular attention to providing continuous, uninterrupted access routes.*

FINDING:

The applicant states that access for people with disabilities has been a consideration for the replacement of the Willow Creek Boardwalk. The previous design had undulations and narrow sections which created challenges for people with disabilities. Additionally, due to the age of the boardwalk uplifting to some of the boards was beginning to occur. The new boardwalk and alignment will create a boardwalk in compliance with the Americans with Disabilities Act Accessibility Guidelines (AADAAG) and also be constructed of materials that reduces maintenance requirements.

Conclusion: Therefore, the Committee finds that the proposal meets the approval criterion.

Section 40.03.1.L

Approval Criterion: *The application includes all required submittal materials as specified in Section 50.25.1 of the Development Code.*

FINDING:

The applicant submitted applications for the Design Review Three and Tree Plan Two, on December 13, 2023, and the Variance on April 11, 2024. On April 11, 2024, the applicant submitted all necessary information and documentation for a complete application in accordance with Section 50.25.1.

Conclusion: Therefore, the Committee finds that the proposal meets the approval criterion.

Code Conformance Analysis
Chapter 20 Use and Site Development Requirements
Residential Mixed B (RMB) Zoning District

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 20.05.20			
Recreation- Public Parks, Parkways, Playgrounds, and Related Facilities	Conditional Use	The site was conveyed to THPRD in 1985 and annexed into the city in 1985, after the plat (Waterhouse) received approval from Washington County in 1984. The use was permitted prior to requiring a Conditional Use from the city and is therefore, a conforming use pursuant to Section 30.35 Non-Conforming Uses.	YES
Development Code Section 20.05.15			
Minimum Lot Width	Width: 20 feet	Width: Approx. 106 feet at narrowest point.	YES
Yard Setbacks	Front: 10 feet Side: 0, 3 or 5 feet Rear: 15 feet	Front: 10 feet Side: 0 feet (existing) 0 feet (proposed) Rear: 0 feet (existing) 0 feet (proposed) Per the definition of yard in Chapter 90 of the BDC, structures less than 30 inches above ground level and other customary yard accessories are permitted in required yards. The proposed boardwalk is less than 30 inches above grade except for the required ADA handrails. Staff finds that the boardwalk and associated handrails is an allowed accessory structure/use permitted in any yard consistent with the definition of yard.	YES

Chapter 60 Special Requirements

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 60.05			
Design Review Principles, Standards, and Guidelines	Requirements for new development and redevelopment.	The applicant, Tualatin Hills Park & Recreation District, requests Design Review Three approval to address Design Guidelines related to lighting of on-site walkways to accommodate replacement of a raised boardwalk pathway.	See DR Findings
Development Code Section 60.07			
Drive-Up Window Facilities	Requirements for drive-up, drive-through, and drive-in facilities.	No drive-up window facilities are proposed.	N/A
Development Code Section 60.10			
Floodplain Regulations	Requirements for properties located in floodplain, floodway, or floodway fringe.	The site is located within a floodplain. Pursuant to 60.10.15 Development in a Floodway is prohibited except for those uses/structures identified in Section 60.10.15.1.A-H. The proposal is to replace a boardwalk that is part of the THPRD trail system. Section 60.10.15.1.E states, Trails or Bike Paths are exempt from the prohibited uses outlined in Section 60.10.15.1.	YES
Development Code Section 60.11			
Food Cart Pod Regulations	Requirements for food carts and food cart pods.	The applicant is not proposing a food cart or food cart pod.	N/A
Development Code Section 60.12			
Habitat Friendly and Low Impact Development Practices	Optional program offering various credits available for use of specific Habitat Friendly or Low Impact Development	No Habitat Friendly or Low Impact Development credits are requested.	N/A

techniques.

Development Code Section 60.15

Land Division Standards	On-site contouring within 25 feet of a property line within or abutting any residentially zoned property, and within 25 feet of a Significant Tree or Grove.	The applicant isn't proposing a land division.	N/A
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Development Code Section 60.20

Mobile and Manufactured Home Regulations	Requirements for the placement of mobile and manufactured homes.	No mobile or manufactured homes are proposed.	N/A
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Development Code Section 60.25

Off-Street Loading Requirements	Minimum: None	No loading space is proposed.	N/A
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Development Code Section 60.30

Off-Street Motor Vehicle Parking	Use not listed in Table 60.30.10.5.A	No on-site parking is proposed.	N/A
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Development Code Section 60.30

Required Bicycle Parking	Use not listed in Table 60.30.10.5.B	No bicycle parking spaces are proposed.	N/A
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Development Code Section 60.33

Park and Recreation Facilities and Service Provision	Requirements for annexing property to THPRD.	The site is already within THPRD's boundaries.	N/A
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Development Code Section 60.35

Planned Unit Development	Development and design principles for Planned Unit Developments.	No Planned Unit Development is proposed.	N/A
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Development Code Section 60.40

Sign Regulations	Requirements for signs.	All signs, if proposed, will be reviewed under a separate sign permit and are not reviewed with this proposal.	N/A
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Development Code Section 60.50

Fences	Height restrictions for fences and walls.	No new fences or walls are proposed.	N/A
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Development Code Section 60.55

Transportation Facilities	Requirements pertaining to the construction or reconstruction of transportation facilities	Refer to the Facilities Review Committee findings herein.	YES
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Development Code Section 60.60

Trees and Vegetation	Regulations pertaining to tree removal and preservation.	The applicant, Tualatin Hills Park & Recreation District, requests Tree Plan Two approval to address standards related to removal of trees within a Significant Natural Resource Area to accommodate replacement of a raised boardwalk pathway.	See TP Findings
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Development Code Section 60.65

Utility Undergrounding	Requirements for placing overhead utilities underground.	No new utilities are proposed, and no existing utilities are affected by the project.	N/A
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Development Code Section 60.67

Significant Natural Resources	Regulations pertaining to the Local Wetland Inventory Significant Riparian Corridors.	The subject site is located within a Clean Water Services Riparian area and is within an area defined on the Local Wetland Inventory map. Staff recommends a standard condition of approval that the applicant obtain approvals for work within the development area prior to issuance of a Site Development permit. Additionally, staff has notified the Department of State Lands in conformance with section	YES
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Development Code Section 60.70

Wireless Communication Facilities	Regulations pertaining to wireless facilities.	No wireless communication facilities are proposed.	N/A
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Attachment B: DR32023-00898 Design Review Three

ANALYSIS AND FINDINGS FOR DESIGN REVIEW THREE APPROVAL

Recommendation: Based on the facts and findings presented below, staff recommends **APPROVAL** of DR32023-00898.

Section 40.03.1 Facilities Review Committee Approval Criteria:

The applicant for development must establish that the application complies with all relevant standards in conformance with Section 50.25.1.B and all the following criteria have been met, as applicable.

FINDING:

Staff has reviewed the applicable Facilities Review criteria in Attachment A to this report. Staff cites the findings presented in Attachment A in response to the Facilities Review approval criteria. As identified in Attachment A, above, by meeting the conditions of approval, the proposal meets Criteria A-L, and therefore meets the criterion for approval.

Conclusion: Therefore, the Committee finds that by meeting the conditions of approval, the proposal meets the criteria.

Section 40.20.05 Purpose

The purpose of Design Review is to promote Beaverton's commitment to the community's appearance, quality pedestrian environment, and aesthetic quality. It is intended that monotonous, drab, unsightly, dreary, and inharmonious development will be discouraged. Design Review is also intended to conserve the City's natural amenities and visual character by ensuring that proposals are properly related to their sites and to their surroundings by encouraging compatible and complementary development.

The purpose of Design Review as summarized in this Section is carried out by the approval criteria listed herein.

Planning Commission Standards for Approval

Section 40.20.15.3.C of the Development Code provides standards to govern the decisions of the Commission as they evaluate and render decisions on Design Review applications. The Commission will determine whether the application as presented meets the Design Review Three approval criteria. The Commission may choose to adopt, not adopt, or modify staff's findings. In

this portion of the report, staff evaluates the application in accordance with the approval criteria for Design Review Three applications.

In order to approve a Design Review Three application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

Section 40.20.15.3.C.1

Approval Criterion: *The proposal satisfies the threshold requirements for a Design Review Three application.*

FINDING:

The applicant proposes a new replacement of an existing boardwalk in a natural area, which meets the threshold for a Type 2 Design Review:

10. New construction of non-habitable buildings or construction of a permanent structure, not considered a building in commercial, industrial, multiple use zones, or for approved Conditional Uses in residential zones, which has a footprint greater than 1,000 square feet and up to 10,000 square feet in size and is a use permitted within the underlying zoning district

The proposal, however, does not meet lighting design standards, which thereby meets the following Design Review Three threshold:

9. A project meeting the Design Review Two thresholds which does not meet an applicable design standard.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.20.15.3.C.2

Approval Criterion: *All City application fees related to the application under consideration by the decision-making authority have been submitted.*

FINDING:

The City of Beaverton received the appropriate fee for a Design Review Three application.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.20.15.3.C.3

Approval Criterion: *For proposals meeting Design Review Three application thresholds numbers 1 through 7, the proposal is consistent with all applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines).*

FINDING:

The proposal meets Design Review Three application threshold number 9.

Conclusion: Therefore, staff finds that the approval criterion is not applicable.

Section 40.20.15.3.C.4

Approval Criterion: *For additions to or modifications of existing development, the proposal is consistent with all applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines) or can demonstrate that the additions or modifications are moving towards compliance with specific Design Guidelines if any of the following exist:*

- a. *A physical obstacle such as topography or natural feature exists and prevents the full implementation of the applicable guidelines; or*
- b. *The location of existing structural improvements prevents the full implementation of the applicable guideline; or*
- c. *The location of the existing structure is more than 300 feet from a public street.*

FINDING:

The proposal is for replacement of a raised boardwalk pathway between Waterhouse Trail and NW Waterhouse Avenue. The proposal includes minor realignment of the boardwalk to ensure compliance with the Americans with Disabilities Act Accessibility Guidelines (AADAAG). Staff cites the Design Guidelines Analysis at the end of this Design Review section, which evaluates the project as it relates to the applicable Design Guidelines found in Section 60.05.50 of the Development Code.

Conclusion: Therefore, staff finds that the approval criterion is met.

Section 40.20.15.3.C.5

Approval Criterion: *The proposal complies with the grading standards outlined in Section 60.15.10 or approved with an Adjustment or Variance*

FINDING:

The applicant's proposal complies with the grading standards of 60.05.10. Staff cites the analysis in 40.03.1.D as relevant to this criterion. The submitted Variance addresses lighting and is not related to grading.

Conclusion: Therefore, staff finds that the approval criterion is met.

Section 40.20.15.3.C.6

Approval Criterion: For DRBCP proposals which involve the phasing of required floor area, the proposed project shall demonstrate how future development of the site, to the minimum development standards established in the Development Code or greater, can be realistically achieved at ultimate build out of the DRBCP.

FINDING:

The applicant does not propose a Design Review Build-out Concept Plan (DRBCP).

Conclusion: Therefore, staff finds that the approval criterion is not applicable.

Section 40.20.15.3.C.7

Approval Criterion: For proposals meeting Design Review Three application Threshold numbers 8 or 9, where the applicant has decided to address a combination of standards and guidelines, the proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) except for the Design Standard(s) where the proposal is instead subject to the applicable corresponding Design Guideline(s).

FINDING:

The applicant has elected to respond to a combination of Design Standards and Design Guidelines. Staff cites the Design Standards table as well as the Design Guidelines Analysis at the end of this Design Review section, which evaluates the project as it relates to the applicable Design Review Standards and Guidelines found in Section 60.05.05 through 60.05.50 of the Development Code.

Conclusion: Therefore, staff finds the proposal will meet the criterion for approval by meeting the conditions of approval.

Section 40.20.15.3.C.8

Approval Criterion: For proposals meeting Design Review Three application Threshold numbers 8 or 9, where the applicant has decided to address Design Guidelines only, the proposal is consistent with the applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines).

FINDING:

The proposal meets Design Review Three Application Threshold number 9 but the applicant has not decided to address Design Guidelines only.

Conclusion: Therefore, staff finds that the approval criterion is not applicable.

Section 40.20.15.3.C.9

Approval Criterion: *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

FINDING:

The applicant has submitted this Design Review Three application with associated Tree Plan Two and Variance applications. Concurrent review of the applications satisfies this criterion. No other applications are required of the applicant at this stage of City review.

Conclusion: Therefore, staff finds the proposal meets the criterion for approval.

Conclusion and Recommendation

Based on the facts and findings presented above, staff recommends **APPROVAL** of **DR32023-00898**.

Design Standards Analysis

Section 60.05.15 Building Design and Orientation

The proposal includes minor realignment of a boardwalk to ensure compliance with the Americans with Disabilities Act Accessibility Guidelines (AADAAG) and the removal of 31 trees within a Significant Natural Resource Area. No new buildings are proposed; therefore, Section 60.05.15 Building Design and Orientation is not applicable.

Section 60.05.20 Circulation and Parking Design Standards

The proposal includes minor realignment of a boardwalk to ensure compliance with the Americans with Disabilities Act Accessibility Guidelines (AADAAG) and the removal of 31 trees within a Significant Natural Resource Area. No new parking or circulation areas are proposed; therefore, Section 60.05.20 Circulation and Parking Design is not applicable.

Section 60.05.25 Landscape, Open Space, and Natural Areas Design Standards

DESIGN STANDARD	PROJECT PROPOSAL	MEETS STANDARD?
60.05.25.5 Minimum landscape requirements for non-residential developments		
<p><i>A. A minimum portion of the total gross lot area shall be landscaped:</i></p> <p>1. Conditional Uses in residential Districts, and all uses in Commercial and Industrial districts, fifteen (15) percent</p>	<p>The proposal is the replacement of a raised boardwalk pathway between Waterhouse Trail and NW Waterhouse Avenue, which includes the removal of 31 trees. As part of the mitigation for this removal 800 planting are proposed within the vegetated corridor identified in the Clean Water Services Service Provider Letter and the Arborist Report. The remainder of the project site is approximately 0.55 acres and is covered with flora typical of a riparian habitat. Staff find minimum landscaping of the site is satisfied.</p>	YES
60.05.25.12 Natural Areas		
<p>12. Development on sites with City-adopted natural resource features such as streams, wetlands, significant trees and significant tree groves, shall preserve and maintain the resource without encroachment into any</p>	<p>The proposal is the replacement of a raised boardwalk pathway between Waterhouse Trail and NW Waterhouse Avenue, which</p>	YES

<p>required resource buffer standard unless otherwise authorized by other City or CWS requirements.</p>	<p>includes the removal of 31 trees. The boardwalk is located within a Clean Water Services (CWS) Vegetated Corridor that acts as a buffer to the stream, as identified by in CWS Service Provider Letter. Therefore, while the project does encroach into an identified buffer area of a wetland, CWS has provided an SPL which requires significant mitigation measures to ensure the vegetated corridor is adequately maintained during and after development.</p>	
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Design Guideline Analysis

In the following analysis, staff has only identified the Design Guidelines that are relevant to the subject development proposal. Non-relevant Guidelines have been omitted.

60.05.50. Lighting Design Guidelines

Unless otherwise noted, all guidelines apply in all zoning districts.

Design Guideline 60.05.50.4: On-Site lighting should comply with the City's Technical Lighting Standards. (Standards 60.05.30.1 and 2.) Where the proposal does not comply with Technical Lighting standards, the applicant should describe the unique circumstance attributed to the use or site where compliance with the standard is either infeasible or unnecessary.

FINDING:

The applicant states that lighting is excluded from the proposal because lighting levels at the standards found in the City's Technical Lighting table could disrupt flora and fauna of the riparian area, disturb residential neighbors who've become accustomed to the lack of lighting associated with the existing boardwalk and may invite use of the path/park during off-hours.

The boardwalk is located within a floodplain and due to seasonal flooding and beaver activity, there is an increased risk of unexpected flooding of the structure. If the applicant were to provide lighting to the standards of the code, it would require additional design considerations to ensure the safety of the surrounding natural area and users of the facility. The additional design considerations would likely make the project more prone to flooding due to infrastructure requirements which would mean more time spent by THPRD maintaining the boardwalk. More maintenance could frequently cause this portion of the trail/boardwalk system to be closed, negatively impacting users of the system.

For these reasons, staff finds that the boardwalk/trail system can remain without lighting and still provide for safe use of the system during its stated operating hours which is from dawn to dusk.

Conclusion: Therefore, staff finds that the proposal meets the Design Guideline.

Attachment C: TP22023-00901 Tree Plan Two

ANALYSIS AND FINDINGS FOR TREE PLAN TWO APPROVAL

Recommendation: Based on the facts and findings presented below, staff recommends **APPROVAL** of TP22023-00901.

Section 40.90.05 Purpose

Healthy trees and urban forests provide a variety of natural resource and community benefits for the City of Beaverton. Primary among those benefits is the aesthetic contribution to the increasingly urban landscape. Tree resource protection focuses on the aesthetic benefits of the resource. The purpose of a Tree Plan application is to provide a mechanism to regulate pruning, removal, replacement, and mitigation for removal of Protected Trees (Significant Individual Trees, Historic Trees, trees within Significant Groves and Significant Natural Resource Areas (SNRAs)), and Community Trees thus helping to preserve and enhance the sustainability of the City's urban forest. This Section is carried out by the approval criteria listed herein and implements the SNRA, Significant Grove, Significant Individual Tress, and Historic Tree designations as noted or mapped in Comprehensive Plan Volume III.

Planning Commission Standards for Approval

Section 40.90.15.2.C of the Development Code provides standards to govern the decisions of the Commission as they evaluate and render decisions on Tree Plan applications. The Commission will determine whether the application as presented meets the Tree Plan Two approval criteria. The Commission may choose to adopt, not adopt, or modify staff's findings. In this portion of the report, staff evaluates the application in accordance with the approval criteria for Tree Plan Two applications.

In order to approve a Tree Plan Two application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

Section 40.90.15.2.C.1

Approval Criterion: *The proposal satisfies the threshold requirements for a Tree Plan Two application.*

FINDING:

The applicant states that the proposal includes the removal of 63.1% of the DBH of significant tree grove trees on the property within the RMB Zone, a residential zoning designation.

The applicable threshold is identified below:

3. Commercial, Residential, or Industrial zoning district: Removal of up to and including 75% of the total DBH of non-exempt surveyed tree(s) found on the project site within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.2

Approval Criterion: *All City application fees related to the application under consideration by the decision-making authority have been submitted.*

FINDING:

The City of Beaverton received the appropriate fee for a Tree Plan Two application.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.3

Approval Criterion: *If applicable, removal of any tree is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.*

FINDING:

The applicant states thirteen (13) of the trees proposed for removal are non-exempt Oregon Ash. These trees are being proposed for removal to mitigate the threat of the Emerald Ash Borer. The Emerald Ash Borer is an invasive species (Beetle) that is endemic to Asia. It was first identified in the City of Forest Grove in the summer of 2022. In response the State of Oregon Department of Agriculture in cooperation with multiple counties throughout the Willamette Valley, including Washington County have implemented extraordinary measures to limit the spread of this invasive species.

State and county officials recommend removal of Ash trees during development to assist with the quarantine efforts implemented by the Oregon Department of Agriculture. The City Arborist has reviewed the proposal and agrees with the applicant that the removal of Ash trees is necessary to observe good forestry practices.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.4

Approval Criterion: *If applicable, removal of any tree is necessary to accommodate physical development where no reasonable alternative exists.*

FINDING:

The applicant states the removal of 18 non-exempt surveyed trees is required for the realignment of the boardwalk. The existing design doesn't meet the most current standards of Americans with Disabilities Act Accessibility Guidelines (AADAAG) and also has multiple acute angles. The proposed design and realignment consider both the impact to the natural area, while also meeting all local and federal regulations for design related to accessibility.

Staff finds that the applicant is proposing a design which minimizes tree removal to most reasonable extent possible.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.5

Approval Criterion: *If applicable, removal of any tree is necessary because it has become a nuisance by virtue of damage to property or improvements, either public or private, on the subject site or adjacent sites.*

FINDING:

The applicant states that the criterion is not applicable because the proposed removal is necessary to accommodate the proposed development and good forestry practices not because any of the trees are damaging property or improvements.

Conclusion: Therefore, staff finds that the approval criterion is not applicable.

Section 40.90.15.2.C.6

Approval Criterion: *If applicable, removal is necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs, where no reasonable alternative exists without significantly increasing public costs or reducing safety.*

FINDING:

The applicant states the criterion is not applicable because the proposed removal is not for installation of public utilities, streets, etc. but rather to accommodate physical development and good forestry practices.

Conclusion: Therefore, staff finds that the approval criterion is not applicable.

Section 40.90.15.2.C.7

Approval Criterion: *If applicable, removal of any tree is necessary to enhance the health of the tree, grove, SNRA, or adjacent trees, or to eliminate conflicts with structures or vehicles.*

FINDING:

The applicant states thirteen (13) of the trees proposed for removal are non-exempt Oregon Ash. These trees are proposed for removal to mitigate the threat of the Emerald Ash Borer. By removing the identified Oregon Ash, staff find that the overall health of the tree grove and those of adjacent trees will be enhanced by reducing the risk of the continued spread of the invasive Emerald Ash Borer.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.8

Approval Criterion: *If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in a reversal of the original determination that the SNRA or Significant Grove is significant based on criteria used in making the original significance determination.*

FINDING:

The applicant states that the proposed removal of significant tree grove trees will not result in a reversal of the original determination that grove G19 is significant based on criteria used in making the original significance determination. The grove was identified to have a species composition of Douglas Firs and Oaks, along with other mixed deciduous trees. According to Exhibit 3.08 (Arborist Report) none of the trees proposed for removal are either Douglas Firs or Oaks. The trees proposed for removal primarily include Oregon Ash, Willow, Flowering Cherry, and Sweetgum. The retention of Douglas Firs and Oaks in the grove in conjunction with the significant mitigation plantings occurring ensure that the original determination of the site as a Significant Grove will remain after this proposal is completed.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.9

Approval Criterion: *If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.*

FINDING:

The applicant states the trees proposed for removal are situated along the southern property line of the Significant Grove. The Arborist report (Exhibit 3.08) states that involvement of a certified arborist throughout the development process will ensure that any safety concerns related to windthrow will be identified and significantly mitigated for prior to a safety hazard occurring. A significant number of mature trees are being maintained in the surrounding site area, significantly minimizing any impact of windthrow on trees being planted for mitigation purposes.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.10

Approval Criterion: *The proposal is consistent with all applicable provisions of Section 60.60 (Trees and Vegetation) and Section 60.67 (Significant Natural Resources).*

FINDING:

Staff cites the Code Conformance Analysis chart at the end of this Attachment, which evaluates the project as it relates to applicable code requirements of Sections 60.60 and 60.67. As demonstrated on the chart, the proposal complies with all applicable regulations.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.11

Approval Criterion: *Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effects on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.*

FINDING:

The applicant states the site has been graded to minimize impact to trees that are being protected. Staff concurs, citing findings in Attachment A in response to the Facilities Review Committee Approval Criterion 40.03.1.J.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.12

Approval Criterion: *The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.*

FINDING:

The applicant submitted applications for the Design Review Three and Tree Plan Two, on December 13, 2023, and the Variance application on April 11, 2024. On April 11, 2024, the applicant submitted all necessary information and documentation for a complete application in accordance with Section 50.25.1.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.13

Approval Criterion: *Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence.*

FINDING:

The applicant has submitted this Tree Plan Two application with associated Design Review Three application and Variance application. Staff recommends a condition of approval that approval of the Tree Plan Two application is dependent upon approval of the Design Review Three application and Variance Application.

Conclusion: Therefore, by meeting the conditions of approval, staff finds that the proposal meets the approval criterion.

Conclusion and Recommendation

Based on the facts and findings presented below, staff recommends **APPROVAL** of **TP22023-00901**.

Code Conformance Analysis

Section 60.60 Trees and Vegetation

CODE STANDARD	PROJECT PROPOSAL	MEETS STANDARD?
60.60.15.1 Pruning Standards		
<p>A. It shall be unlawful for any person to remove or prune to remove a tree’s canopy or disturb the root zone of any Protected Tree, except in accordance with the provisions of this Code.</p> <p>B. All pruning of Protected Trees shall be done in accordance with the standards set forth in this section and the City’s adopted Tree Planting and Maintenance Policy, also known as Resolution 3391.</p>	<p>The applicant states all pruning will be carried out by an accredited tree removal service company and under the supervision of a Certified Arborist, as described in the Arborist Report (Exhibit 3.08). All pruning will be done in accordance with the provisions outlined in ANSI A300.</p>	YES

CODE STANDARD	PROJECT PROPOSAL	MEETS STANDARD?
60.60.15.2 Removal and Preservation Standards		
<p>C. For SNRAs and Significant Groves, the following additional standards shall apply:</p> <ol style="list-style-type: none"> 1. The minimum DBH of non-exempt surveyed trees that must be preserved on a site in Residential zoning districts is 25%. 2. DBH to be retained shall be preserved in cohesive areas, termed Preservation Areas, when development is proposed in SNRAs or Significant Groves. 3. Native understory vegetation and trees shall be preserved in Preservation Areas. 4. Preservation Areas, conditioned for protection through the Development Review process, shall be preserved in clusters that are natural in appearance rather than in linear strips. Preservation Areas should connect with adjoining portions of the Significant Grove or SNRA on other sites. 5. Preservation Areas, conditioned for protection through the Design Review process, shall be set aside in conservation easements and recorded with a deed 	<p>The applicant states that 86 trees were surveyed and inventoried in the project area. The applicant proposed to remove 31 non-exempt surveyed trees, 18 to facilitate the modified alignment of the boardwalk and 13 Emerald Ash to mitigate the regional threat of the Emerald Ash Borer. Therefore, the resulting DBH proposed for retention is 36.9% of the existing DBH. Staff also notes that the surveyed trees only include the “immediate vicinity” or about 0.55 acres. The site as defined by the development code would be approximately 5.87 acres. It’s unrealistic to ask the applicant to survey the entire site for all trees over 10 inches in DBH. If the entire site were to be included, the retention</p>	YES

<p>restriction with Washington County, unless otherwise approved by the City. The deed restriction shall prohibit future development and specify the conditions for maintenance if the property is not dedicated to a public agency.</p> <p>7. Within the development review process, where a person is presented with a particular decision whether to retain a native or non-native tree, the native species shall be retained provided all other considerations between the two categories of trees remain equal. Non-native tree species may also be retained for aesthetic, unique condition, size, and wildlife habitat purposes.</p> <p>8. Hazardous and dead trees within Significant Groves and SNRAs should be fallen only for safety and left at the resource site to serve as habitat for wildlife unless the tree has been diagnosed with a disease and must be removed from the area to protect the remaining trees.</p>	<p>percentage would be significantly higher.</p> <p>No preservation areas are conditioned with the project as the entire site is already within a protected SNRA and Grove.</p>	
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CODE STANDARD	PROJECT PROPOSAL	MEETS STANDARD?
60.60.20 Tree Protection Standards during Development		
<p>1. Trees classified as Protected Trees under this Code shall be protected during development in compliance with the following:</p> <p>A. A construction fence must be placed around a tree or grove beyond the edge of the root zone. The fence shall be placed before physical development starts and remain in place until physical development is complete. The fence shall meet the following:</p> <p>1. The fence shall be a 4-foot tall orange plastic or snow fence, secured to 6-foot tall metal posts, driven 2 feet into the ground. Heavy 12 gauge wire shall be strung between each post and attached to the top and midpoint of each post. Colored tree flagging indicating that this area is a tree protection zone is to be placed every 5 linear feet on the fence to alert construction crews of the sensitive nature of the area.</p>	<p>Staff cites the Arborist Report (Exhibit 3.08) which states that all tree protection will be conducted pursuant to Section 60.60.20. If any changes to the tree protection plan are to occur due to circumstances of the site during development the project Arborist will be consulted.</p>	YES

2. Other City approved protection measures that provide equal or greater protection may be permitted, and may be required as a condition of approval.		
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CODE STANDARD	PROJECT PROPOSAL	MEETS STANDARD?
60.60.25 Mitigation Requirements		
1. The following standards shall apply to mitigation for the removal of Significant Individual Trees or trees within Significant Groves or SNRAs.	Staff cites the Arborist Report (Exhibit 3.08) and Applicant’s Narrative (Exhibit 3.07), which state all trees planted for mitigation purposes will take place in conformance with accepted arboricultural practices. All mitigation trees will be planted within the established SNRA and Tree Grove.	YES
2. Mitigation for the removal of trees from Significant Groves or SNRAs shall be required as follows: C. If the total DBH of trees to removed is greater than 50% of the total DBH of surveyed trees on site, then mitigation is required for the amount of DBH to be removed that exceeds 50% of the total DBH of surveyed trees on site.	The applicant states that the total DBH of Non-Exempt trees to be removed is 1,126. The mitigation requirements call for 25% of the Surveyed DBH to be mitigated for when the DBH removal is above 50% of the total DBH of the site. The proposal is to remove 63.1% of the total DBH of the development area. Therefore, the applicant meets the threshold for mitigation. The total amount of DBH to be mitigated for is 147 inches. The applicant proposes to mitigate on-site, which is done at a 2:1 ratio (50%). Therefore, the total DBH of required mitigation is 73.5 DBH. The applicant is proposing approximately 800 tree/shrub plantings, 252 of which are three species of Willow (Pacific, Coastal and Sitka) trees to be planted at a 1 inch caliper minimum totaling 252 DBH of mitigation. Additional trees proposed for planting include Red Alder, Big Leaf Maple and White Alder. Therefore, staff find the applicant has sufficiently mitigated for the proposed tree removal in the SNRA. A complete list of the plantings is found in Exhibit 3.05 Service Provider Letters.	YES

Section 60.67 Significant Natural Resources

CODE STANDARD	PROJECT PROPOSAL	MEETS STANDARD?
60.67.05 Local Wetland Inventory		
<p>1. <i>Development activities and uses permitted on a proposed development site identified as the possible location of a significant natural resource, including significant wetlands, shall be subject to relevant procedures and requirements specified in Chapter 50 of this ordinance.</i></p> <p>2. <i>Upon City's determination that a site contains wetland as identified on the Local Wetland Inventory map, notice of the proposed development shall be provided to the Division of State Lands (DSL) in a manner and form prescribed by DSL pursuant to ORS requirements.</i></p>	<p>The City of Beaverton's Comprehensive Plan Volume III indicates that the subject site contains Riparian Wildlife Habitat Class I and II and Significant Tree Grove G-19. Notice of the proposed development was provided to the Division of State Lands on December 18, 2023. The applicant has also submitted a Service Provider Letter from CWS, approved on February 23 2024, which shows the proposed encroachments into the vegetated corridor and conditions of approval associated with those encroachments.</p>	YES
60.67.10 Significant Riparian Corridors		
<p>1. <i>Development activities and uses permitted on a proposed development site identified as the possible location of a significant natural resource, including significant riparian corridors, shall be subject to relevant procedures and requirements specified in Chapter 50 of this ordinance.</i></p>	<p>The City of Beaverton's Comprehensive Plan Volume III indicates that the subject site contains Riparian Wildlife Habitat Class I and II and Significant Tree Grove G-19. Notice of the proposed development was provided to the Division of State Lands on December 18, 2023. The applicant has also submitted a Service Provider Letter from CWS (Exhibit 3.05), approved on February 23 2024, which shows the proposed encroachments into the vegetated corridor and conditions of approval associated with those encroachments.</p>	YES

Attachment D: VAR32024-00323 Variance

ANALYSIS AND FINDINGS FOR VARIANCE APPROVAL

Recommendation: Based on the facts and findings presented below, staff recommends **APPROVAL** of VAR32024-00323.

Section 40.95.05 Purpose

The purpose of a Variance application is to provide for the consideration of varying from the applicable provisions of the Development Code where it can be shown that, owing to special and unusual circumstances, the literal interpretation of these provisions would cause an undue or unnecessary hardship without a corresponding public benefit. This Section is carried out by the approval criteria listed herein.

Planning Commission Standards for Approval

Section 40.95.15.1.C of the Development Code provides standards to govern the decisions of the Commission as they evaluate and render decisions on Variance applications. The Commission will determine whether the application as presented meets the Variance approval criteria. The Commission may choose to adopt, not adopt, or modify staff's findings. In this portion of the report, staff evaluates the application in accordance with the approval criteria for Variance applications.

In order to approve a Variance application, the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

Section 40.95.15.1.C.1

Approval Criterion: *The proposal satisfies the threshold requirements for a Variance application.*

FINDING:

The applicant's proposal doesn't include lighting for the proposed boardwalk. Section 60.55.25.10.B.7 states, "On-site walkways shall be lighted to 0.5 foot-candle level at initial luminance. Lighting shall have cut-off fixtures so that illumination does not exceed 0.5 foot-candle more than five (5) feet beyond the property line."

The applicable threshold is identified below:

1. Excluding Section 60.55.30., any change from the numerical requirements contained in Section 60.55. (Transportation Facilities).

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.95.15.1.C.2

Approval Criterion: *All City application fees related to the application under consideration by the decision-making authority have been submitted.*

FINDING:

The City of Beaverton received the appropriate fee for a Variance application.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.95.15.1.C.3

Approval Criterion: *Special conditions exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings, or structures in the same zoning district.*

FINDING:

The project involves maintenance and relocation of an existing boardwalk. The entirety of the boardwalk being replaced is located within the floodplain of the Willow Creek riparian area. The boardwalk was constructed at the time the Willow Creek Greenway and Waterhouse subdivision were developed between 1982 and 1984 in a riparian area and floodplain. As part of the Willow Creek Greenway and a trail system under the management of THPRD, the boardwalk is only open for users from dawn to dusk. It's THPRD's policy to eliminate artificial light sources in natural areas to decrease the impact on flora and fauna in the area. Additionally, the boardwalk is located adjacent to multiple residential homes which have grown accustomed to the boardwalk and natural area not having any lighting encroaching onto their properties. Staff concur that the existing conditions of the site are peculiar to the area and future conditions and use of the boardwalk will not elicit the use of artificial light sources.

The site is located within the Residential Mixed B (RMB) zoning district, a residential designation primarily intended for single-detached dwellings and middle housing development. In the RMB zone, the same regulatory restriction for walkways being lit to 0.5 foot candles isn't imposed upon single-detached dwellings or middle housing. The special conditions related to development of this site wouldn't apply to a significant majority of other structures in the RMB zone because many of those structures are single detached dwellings which wouldn't be permitted to be constructed in a floodplain or riparian area. Therefore, staff concur with the applicant that the location of the boardwalk in sensitive natural areas create special conditions that other structures and buildings in the same zoning district aren't subject to.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.95.15.1.C.4

Approval Criterion: *Strict interpretation of the provisions of this ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district under the terms of the Development Code.*

FINDING:

The intention of the Technical Lighting Standards is to provide walkways that are safe to navigate when natural light is insufficient. The applicant states the use of the boardwalk and surrounding Willow Creek Greenway is restricted to the hours of dawn to dusk, like many of the parks and trails THPRD manages within the City of Beaverton. This means that users are prohibited from accessing the boardwalk at times when artificial lighting would be most beneficial. Therefore, strict interpretation of the lighting standards would invite users to access the facility when it's intended to be closed to the public. Users accessing the boardwalk past dusk would cause safety concerns for anyone trespassing on the site, impact the livability of the surrounding residences, and negatively impact the flora and fauna of the riparian area. Additionally, lighting boardwalks through natural areas would severely impact THPRD's ability to provide continued maintenance of not just this trail system but all trail systems within the City of Beaverton because of increased infrastructure requirements.

The site is located within the Residential Mixed B (RMB) zoning district, a residential designation primarily intended for single-detached dwellings and middle housing development. In the RMB zone, the same regulatory restriction for walkways being lit to 0.5 foot candles isn't imposed upon single-detached dwellings or middle housing. As the applicant can't address the same standards in 60.55.25.10 as other properties in the same zoning district, staff concur that strict interpretation of the subject provision would deprive the applicant of rights enjoyed by the other properties within the zoning district.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.95.15.1.C.5

Approval Criterion: *The special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute financial hardship or inconvenience.*

FINDING:

The special conditions are not the result of any actions taken by the applicant. The boardwalk has existed in its current state without any lighting since it was constructed between 1982 and 1984. The applicant states that the difficulties with providing lighting extend beyond financial implications but involve user safety concerns, concerns for neighboring residential property livability and the well-being of the flora and fauna which inhabit the Willow Creek Greenway.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.95.15.1.C.6

Approval Criterion: *If more than one (1) variance is being requested, the cumulative effect of the variances result in a project which is still consistent with the overall purpose of the applicable zone.*

FINDING:

Only one variance is requested with this application.

Conclusion: Therefore, staff finds that the approval criterion is not applicable.

Section 40.95.15.1.C.7

Approval Criterion: *Any variance granted shall be the minimum variance that will make possible a reasonable use of land, building, and structures.*

FINDING:

The applicant states that the proposal without lighting is the minimum required because any amount of lighting would still require the installation of the lighting in the floodplain, create a nuisance to the neighbors who've become accustomed to the unlit natural area, and negatively impact the flora and fauna of the Willow Creek Greenway riparian area.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.95.15.1.C.8

Approval Criterion: *For a proposal for a variance from sign regulations, no variance shall be granted unless it can be shown that there are special circumstances involving size, shape, topography, location or surroundings attached to the property referred to in the application, which do not apply generally to other properties in the same zoning district, and that the granting of the variance will not result in material damage or prejudice to other property in the vicinity and not be detrimental to the public safety and welfare. Variances shall not be granted merely for the convenience of the applicant or for the convenience of regional or national businesses which wish to use a standard sign.*

FINDING:

The applicant is requesting the Variance to deviate from the technical lighting standards found in Table 60.05-1 of the development code. A sign variance is not requested.

Conclusion: Therefore, staff finds that the approval criterion is not applicable.

Section 40.95.15.1.C.9

Approval Criterion: *The proposal is consistent with all applicable provisions of CHAPTER 20 (Land Uses) or Section 70.15 (Downtown Zoning and Streets) if the site is located within the Downtown Design District, unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.*

FINDING:

The applicant's proposal complies with all provisions of Chapter 20 (Land Uses). Staff cite responses in Attachment Facilities Review 40.03.1.C and the subsequent chart as relevant to this criterion. As demonstrated in the chart, the proposal complies with all applicable regulations.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.95.15.1.C.10

Approval Criterion: *The proposal is consistent with all applicable provisions of CHAPTER 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of CHAPTER 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.*

FINDING:

The applicant's proposal complies with all provisions of Chapter 60 (Special Regulations), with exception of Section 60.55.25.10.B.7. which is subject to the proposed Variance application. Staff cite responses in Attachment A, Facilities Review Section 40.03.1.D, the subsequent chart for 40.03.1.D, and the findings for this Variance application as relevant to this criterion. As demonstrated in the chart in Attachment A and the findings for the Variance application, the proposal complies with all applicable regulations.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.11

Approval Criterion: *The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.*

FINDING:

The applicant submitted applications for the Design Review Three and Tree Plan Two, on December 13, 2023, and the Variance application on April 11, 2024. On April 11, 2024, the applicant submitted all necessary information and documentation for a complete application in accordance with Section 50.25.1.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Section 40.90.15.2.C.12

Approval Criterion: *Applications and documents related to the request requiring further City approval shall be submitted to the City in the proper sequence.*

FINDING:

The applicant has submitted this Variance application with associated Design Review Three application and Tree Plan Two application. Staff recommends a condition of approval that approval of the Variance application is dependent upon approval of the Design Review Three application and Tree Plan Two application.

Conclusion: Therefore, staff finds that the proposal meets the approval criterion.

Conclusion and Recommendation

Based on the facts and findings presented, staff recommends **APPROVAL** of **VAR32024-00323**.

Attachment E: Conditions of Approval

Application: LU32023-00902 Willow Creek Boardwalk

Recommendation: APPROVE DR32023-00898 / VAR32024-00323 / TP22023-00901, subject to the recommended conditions of approval.

Design Review Three (DR32023-00898)

A. General Conditions, the applicant shall:

1. Ensure that the Tree Plan Two (TP22023-00901) and Variance (VAR32024-00323) applications have been approved and are consistent with the submitted plans. (Planning / BC)
2. Ensure all site improvements, including landscaping, are completed in accordance with plans and detail drawings marked "Exhibit 3.03 and Exhibit 3.05", except as modified by the decision-making authority in conditions of approval. (On file at City Hall). (Planning / BC)

B. Prior to issuance of the site development permit, the applicant shall:

3. Submit the required plans, application form, fee, and other items needed for a complete site development permit application per the applicable review checklist. (Site Development Div. / SAS)
4. Retain a professional engineer to design and monitor the construction for any work governed by Beaverton Municipal Code 9.05.020, current standards in place per the City Engineering Design Manual and Standard Drawings, Beaverton Development Code (Ordinance 2050, 4010 +rev.), the current standards in place per the Clean Water Services District, Design and Construction Standards, and the City Standard Agreement to Construct and Retain Design Professionals in Oregon. (Site Development Div. / SAS)
5. Submit a completed and executed City Standard Agreement to Construct Improvements and Retain Design Professional(s) Registered in Oregon. After the site development permit is issued, the City Engineer and the Planning Director must approve all revisions utilizing the process set out in the Beaverton Development Code, and the City Engineering Design Manual; however, any required land use action shall be final prior to City staff approval of the engineering plan revision and work commencing as revised. (Site Development Div. / SAS)
6. Have a completed and executed City Standard Agreement to Construct Improvements and Retain Design Professional(s) Registered in Oregon. After the site development permit is issued, the City Engineer and the Planning Director must approve all

revisions utilizing the process set out in the Beaverton Development Code, and the City Engineering Design Manual; however, any required land use action shall be final prior to City staff approval of the engineering plan revision and work commencing as revised. (Site Development Div. / SAS)

7. Submit a copy of issued permits or other approvals as needed from the State of Oregon Division of State Lands and the United States Army Corps of Engineers for work within or affecting a jurisdictional wetland. (Site Development Div. / SAS)
8. Provide an erosion control plan showing best management practices needed per Clean Water Services Standard Drawing #945. Make provisions for installation of all mandated erosion control measures prior to site disturbance of 500 square feet or more. These shall be maintained and replaced as necessary during the duration of the project to prevent sediment laden run-off from leaving the site. (Site Development Div. / SAS)
9. Provide construction plans and a drainage report demonstrating compliance with City surface water management requirements per City 2019 Engineering Design Manual, Resolution 4542, Section 530; and with CWS Resolution and Order 2019-22 for quantity control for conveyance capacity, hydromodification and quality treatment. Fee-in-lieu can be requested if development meets criteria set forth in City EDM Sections 190, table 530.1, and 530.1.A.4 and CWS Design & Construction Standards Section 4.03.7.a and 4.04.2.a. (Site Development Div. / SAS)
10. The site plans shall clearly show the 100-year flood limits on each plan that contains elevation information. The flood conveyance and storage of the project area at each 1-foot contour must be preserved or enhanced with cut/fill balance and a zero-rise certification by a registered professional engineer. (Site Development Div. / SAS)
11. Any changes to approved grading must meet provisions of Beaverton Code 9.05.110 and 9.05.115, no grading can occur within 10 feet of a property line or half the height of the vertical embankment created, whichever is greater. This applies to all exterior property boundaries of the proposed project. (Site Development Div. / SAS)

C. Prior to final inspection, the applicant shall:

12. Have the landscaping completely installed or provide for erosion control measures around any disturbed or exposed areas per Clean Water Services standards. (Site Development Div. / SAS)
13. Have substantially completed the site development improvements as determined by the City Engineer. (Site Development Div. / SAS)
14. Install or replace, to City specifications, all sidewalks which are missing, damaged, deteriorated, or removed by construction. (Site Development Div. / SAS)

D. Prior to release of performance security, the applicant shall:

15. Have completed the site development improvements and verify that the location and width of proposed rights of way and easements are adequate for the completed infrastructure, per adopted City standards. The project shall meet all outstanding conditions of approval as determined by the City. Additionally, the applicant and professional(s) of record shall have met all obligations under the City Standard Agreement to Construct Improvements and Retain Design Professional Registered in Oregon, as determined by the City Engineer. (Site Development Div. / SAS)
16. Submit any required easements, executed and ready for recording, to the City. City will require approval of legal description and form prior to execution. The applicant's engineer or surveyor shall verify all pre-existing and proposed easements are of sufficient width to meet City standards. (Site Development Div. / SAS)
17. Provide an additional performance security for 100 percent of the cost of plants, planting materials, and any maintenance labor (including irrigation) necessary to achieve establishment of the vegetation as shown on the approved plan within the vegetated corridor and the wetland mitigation areas, as determined by the City Engineer. If the plants are not well established (as determined by the City) within a period of two years from the date of substantial completion, a plan shall be submitted by the engineer of record and landscape architect (or wetland biologist) that documents any needed remediation. The remediation plan shall be completely implemented and deemed satisfactory by the City prior to release of the security. (Site Development Div. / SAS)
18. A 2-year Maintenance Security will be required at 25 percent of the cost to construct City-owned and maintained public improvements and grading. The security approval by the City consists of a review by the City Attorney for form and the City Engineer for amount. It will run concurrently with the performance security for plant establishment and it is released 2 years after project acceptance, or will be extended for a period determined by the City Engineer following the correction of any identified defects. (Site Development Div. / SAS)

Tree Plan Two (TP22023-00901)

A. General Conditions, the applicant shall:

19. Ensure that the Design Review Three (DR32023-00898) and Variance (VAR32024-00323) applications have been approved and are consistent with the submitted plans. (Planning / BC)

Variance (VAR32024-00323)

A. General Conditions, the applicant shall:

20. Ensure that the Design Review Three (DR32023-00898) and Tree Plan Two (TP32023-00901) applications have been approved and are consistent with the submitted plans. (Planning / BC)