



MILWAUKIE PLANNING
 6101 SE Johnson Creek Blvd
 Milwaukie OR 97206
 503-786-7630
 planning@milwaukieoregon.gov

Application for Land Use Action

Master File #: EXT-2021-001

Review type*: I II III IV V

CHECK ALL APPLICATION TYPES THAT APPLY:

- | | | |
|--|--|---|
| <input type="checkbox"/> Amendment to Maps and/or Ordinances: | <input type="checkbox"/> Land Division: | <input type="checkbox"/> Residential Dwelling: |
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Final Plat | <input type="checkbox"/> Accessory Dwelling Unit |
| <input type="checkbox"/> Comprehensive Plan Map Amendment | <input type="checkbox"/> Lot Consolidation | <input type="checkbox"/> Duplex |
| <input type="checkbox"/> Zoning Text Amendment | <input type="checkbox"/> Partition | <input type="checkbox"/> Manufactured Dwelling Park |
| <input type="checkbox"/> Zoning Map Amendment | <input type="checkbox"/> Property Line Adjustment | <input type="checkbox"/> Temporary Dwelling Unit |
| <input type="checkbox"/> Code Interpretation | <input type="checkbox"/> Replat | <input type="checkbox"/> Sign Review |
| <input type="checkbox"/> Community Service Use | <input type="checkbox"/> Subdivision | <input type="checkbox"/> Transportation Facilities Review |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Miscellaneous: | <input type="checkbox"/> Variance: |
| <input type="checkbox"/> Development Review | <input type="checkbox"/> Barbed Wire Fencing | <input type="checkbox"/> Use Exception |
| <input type="checkbox"/> Director Determination | <input type="checkbox"/> Mixed Use Overlay Review | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Downtown Design Review | <input type="checkbox"/> Modification to Existing Approval | <input type="checkbox"/> Willamette Greenway Review |
| <input checked="" type="checkbox"/> Extension to Expiring Approval | <input type="checkbox"/> Natural Resource Review** | <input type="checkbox"/> Other: <u>Land Use Extension</u> |
| <input type="checkbox"/> Historic Resource: | <input type="checkbox"/> Nonconforming Use Alteration | <input type="checkbox"/> Use separate application forms for:
Annexation and/or Boundary Change |
| <input type="checkbox"/> Alteration | <input type="checkbox"/> Parking: | • Compensation for Reduction in Property Value (Measure 37) |
| <input type="checkbox"/> Demolition | <input type="checkbox"/> Quantity Determination | • Daily Display Sign |
| <input type="checkbox"/> Status Designation | <input type="checkbox"/> Quantity Modification | • Appeal |
| <input type="checkbox"/> Status Deletion | <input type="checkbox"/> Shared Parking | • Appeal |
| | <input type="checkbox"/> Structured Parking | |
| | <input type="checkbox"/> Planned Development | |

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): MWSH Milwaukie LLC

Mailing address: 3425 Boone Rd SE, Salem State/Zip: OR/97317

Phone(s): 503.373.3154 Email: ddobson@livebsl.com

Please note: The information submitted in this application may be subject to public records law.

APPLICANT'S REPRESENTATIVE (if different than above): Daniel Dobson

Mailing address: 3425 Boone Rd SE, Salem State/Zip: OR/97317

Phone(s): 503.373.3154 Email: ddobson@livebsl.com

SITE INFORMATION:

Address: 5801 SE Kellogg Creek Dr Map & Tax Lot(s): 22E06AD00901

Comprehensive Plan Designation: _____ Zoning: _____ Size of property: 14.07

PROPOSAL (describe briefly):

Applicant requests two year land use extension for both the requirement to start construction within two years and to the requirement to obtain final certificate of occupancy within four years.

SIGNATURE:

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: _____ Date: 2021.01.18

IMPORTANT INFORMATION ON REVERSE SIDE

*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.

WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

REVIEW TYPES:

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

****Note:** Natural Resource Review applications **may require a refundable deposit**. Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form.

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Master file	EXT-2021-001	\$ 1,000			
Concurrent application files		\$			
		\$			
		\$			
		\$			
Deposit (NR only)				<input type="checkbox"/> Deposit Authorization Form received	
TOTAL AMOUNT RECEIVED: \$			RECEIPT #:	RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.): CU-2018-003					
Neighborhood District Association(s): Lake Road					
Notes: Extension of expiring approval for master file #CU-2018-003 (expires March 15, 2021)					



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Submittal Requirements

For all Land Use Applications
(except Annexations and Development Review)

All land use applications must be accompanied by a signed copy of this form (see reverse for signature block) and the information listed below. The information submitted must be sufficiently detailed and specific to the proposal to allow for adequate review. Failure to submit this information may result in the application being deemed incomplete per the Milwaukie Municipal Code (MMC) and Oregon Revised Statutes.

Contact Milwaukie Planning staff at 503-786-7630 or planning@milwaukieoregon.gov for assistance with Milwaukie's land use application requirements.

1. **All required land use application forms and fees**, including any deposits.

Applications without the required application forms and fees will not be accepted.

2. **Proof of ownership or eligibility to initiate application** per MMC Subsection 19.1001.6.A.

Where written authorization is required, applications without written authorization will not be accepted.

3. **Detailed and comprehensive description** of all existing and proposed uses and structures, including a summary of all information contained in any site plans.

Depending upon the development being proposed, the description may need to include both a written and graphic component such as elevation drawings, 3-D models, photo simulations, etc. Where subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary onsite "story pole" installations, and photographic representations thereof, may be required at the time of application submittal or prior to the public hearing.

4. **Detailed statement** that demonstrates how the proposal meets the following:

A. All applicable development standards (listed below):

1. **Base zone standards** in Chapter 19.300.
2. **Overlay zone standards** in Chapter 19.400.
3. **Supplementary development regulations** in Chapter 19.500.
4. **Off-street parking and loading standards and requirements** in Chapter 19.600.
5. **Public facility standards and requirements**, including any required street improvements, in Chapter 19.700.

B. All applicable application-specific approval criteria (check with staff).

These standards can be found in the MMC, here: www.qcode.us/codes/milwaukie/

5. **Site plan(s), preliminary plat, or final plat** as appropriate.

See Site Plan, Preliminary Plat, and Final Plat Requirements for guidance.

6. **Copy of valid preapplication conference report**, when a conference was required.

APPLICATION PREPARATION REQUIREMENTS:

- Five hard copies of all application materials are required at the time of submittal. Staff will determine how many additional hard copies are required, if any, once the application has been reviewed for completeness. Provide an electronic version, if available.
- All hard copy application materials larger than 8½ x 11 in. must be folded and be able to fit into a 10- x 13-in. or 12- x 16-in. mailing envelope.
- All hard copy application materials must be collated, including large format plans or graphics.

ADDITIONAL INFORMATION:

- Neighborhood District Associations (NDAs) and their associated Land Use Committees (LUCs) are important parts of Milwaukie's land use process. The City will provide a review copy of your application to the LUC for the subject property. They may contact you or you may wish to contact them. Applicants are strongly encouraged to present their proposal to all applicable NDAs prior to the submittal of a land use application and, where presented, to submit minutes from all such meetings. NDA information: www.milwaukieoregon.gov/citymanager/what-neighborhood-district-association.
- By submitting the application, the applicant agrees that City of Milwaukie employees, and appointed or elected City Officials, have authority to enter the project site for the purpose of inspecting project site conditions and gathering information related specifically to the project site.
- Submittal of a full or partial electronic copy of all application materials is strongly encouraged.

As the authorized applicant I, (print name) Kelley D. Hamilton, attest that all required application materials have been submitted in accordance with City of Milwaukie requirements. I understand that any omission of required items or lack of sufficient detail may constitute grounds for a determination that the application is incomplete per MMC Subsection 19.1003.3 and Oregon Revised Statutes 227.178. I understand that review of the application may be delayed if it is deemed incomplete.

Furthermore, I understand that, if the application triggers the City's sign-posting requirements, I will be required to post signs on the site for a specified period of time. I also understand that I will be required to provide the City with an affidavit of posting prior to issuance of any decision on this application.

Applicant Signature: 

Date: 2021.01.18

Official Use Only

Date Received (date stamp below):

January 19, 2021

Received by: B K

BONAVENTURE OF MILWAUKIE

Milwaukie, Oregon

A Land Use Application for:

Extension of Land Use Approvals

Applicant:

MWSH Milwaukie LLC

Submitted:

January 2021

Prepared by:

Bonaventure

I. Applicable Project Team

Applicant & Property Owner

MWSH Milwaukie LLC
3425 Boone Road SE
Salem, OR 97317
Contact: Daniel Dobson
503.373.3154
ddobson@liveBSL.com

Traffic Engineering

Kittelson & Associates, Inc.
610 SW Alder Street, Suite 700
Portland, OR 97205
Contact: Kristine Connolly, PE
503.535.7433
kconnolly@kittelson.com

Natural Resources

Pacific Habitat Services
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97035
Contact : John van Staveren
503.570.0800
jvs@pacifichabitat.com

II. Background

Bonaventure identified a need for additional senior housing in the City of Milwaukie, entered into contract with Turning Point Church to purchase land along Highway 224, and submitted land use applications to the city with the intent of building a community consisting of 78 Independent Living Suites, 60 Assisted Living Suites, and 32 Memory Care Suites.

Per the Notice of Decision, on February 28, 2019, the Milwaukie Planning Commission approved with conditions the Conditional Use, Community Service Use, Natural Resource Review, Variance Request, Parking Determination, Transportation Facilities Review, Lot Consolidation, and Property Line Adjustment requested by Bonaventure Senior Living. The appeal period closed at 5:00 p.m. on March 15, 2019.

Following the decision by the planning commission, MWSH Milwaukie LLC purchased the land from Turning Point Church and submitted building permits to the City. Site Development permits were issued, and work began.

Then COVID-19 happened.

The worldwide pandemic has impacted the seniors living in communities more than others as risks increase with age and underlying health conditions such as heart disease, diabetes, or lung disease that afflict senior residents. The fourth quarter 2020 saw record low occupancy for senior housing and two-thirds of operators report losing money. As a result, banks have restricted lending on senior housing projects and the applicant has been forced to halt and delay the Milwaukie project.

III. Request

The applicant requests that the City extend by two years:

1. The requirement to obtain and pay for all necessary development permits and start construction within 2 years of land use approval, and
2. The requirement to pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval.

The applicant intends to resume construction once the impacts of COVID-19 have been mitigated and banks resume normal lending to senior housing projects.

IV. Compliance with City of Milwaukie Development Code

19.900 Land Use Applications

19.908 Extensions to Expiring Approvals

19.908.2 Applicability

A. Approvals Eligible for Extensions

An extension may be requested for any unexpired land use application that was required by Titles 14, 17, or 19 of the Milwaukie Municipal Code and that was approved through a Type I, II, or III review.

Response: Land use approvals are good to March 15, 2021, at least two months after this application.

19.908.3 Review Process

A. General Provisions

1. An extension application must be submitted and approved prior to the expiration date of the approval. An extension application may not be submitted more than 6 months in advance of an expiration date.

2. An extension may be approved up to a maximum of 2 years from the effective date of the extension approval. Additional extensions may be requested. There is no limit to the number of extensions that may be requested or approved.

3. If the original application was approved through a Type III review, the Planning Director shall notify the Planning Commission of receipt of an extension application at the same time that public notice is mailed for the application.

B. Review Types

2. If the original application was approved through a Type II or Type III review, the extension application shall be evaluated through a Type II review per Section 19.1005 in order to provide public notice and opportunity for public comment.

Response: This application has been submitted prior to the expiration date of the approval and not more than 6 months in advance of the expiration date of March 15, 2021.

19.908.4 Approval Criteria

An extension shall be approved when all of the following criteria have been met:

A. There have been no significant changes on the subject property, in the vicinity of the subject property, or to any relevant regulations since the original application was approved.

B. No modifications are proposed to the approved application or to the conditions of approval.

C. *If the previously approved application included a transportation impact study or a natural resource report, an updated report was provided with the extension application that shows no significant changes on the subject property or in the vicinity of the subject property. A letter from a recognized professional will also satisfy this criterion if it states that conditions have not changed since the original approval and that no new analysis is warranted. (Ord. 2036 § 3, 2011; Ord. 2025 § 2, 2011)*

Response: There have been no significant changes on the subject property, nor in the vicinity of the subject property, nor to any relevant regulations since the original application was approved. No modifications are proposed to the approved application or to the conditions of approval. Letters from the recognized professionals for traffic and natural resources are provided along with this application stating that conditions have not changed since the original approval and no new analysis is warranted.

19.1000 Review Procedures

19.1001 General Provisions

19.1001.7 Decisions

E. Expiration of Approved Decisions

1. *Type I, II, III, and IV land use approvals granted pursuant to this chapter for land use applications submitted on or after May 14, 2011, the effective date of Ordinance #2025, shall expire and become void unless the following criteria are satisfied:*

a. *For proposals requiring any kind of development permit, the development must complete both of the following steps:*

(1) *Obtain and pay for all necessary development permits and start construction within 2 years of land use approval.*

(2) *Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval.*

b. *For proposals not requiring development permits, the development must utilize its approvals within 4 years of land use approval.*

2. *Land use approvals shall expire as outlined above unless one of the following occurs:*

a. *An extension is granted pursuant to Section 19.908.*

b. *The review authority specifies a different expiration date in the land use decision to accommodate large, complex, or phased development projects.*

c. *The expiration period for an approval is specified in another section of the municipal code.*

Response: The application was submitted after May 14, 2011 and approvals expire March 15, 2021 if the applicant has not obtained and paid for all necessary development permits and start construction within 2 years of land use approval. Some development permits were obtained and paid for and construction

did start, however, not all necessary permits were acquired. Applicant recognizes that land use approvals shall expire without the extensions requested in this application.

V. Conclusions

As established in this discussion and responses provided in this narrative, the request for extension is consistent with City standards and criteria. The applicant therefore requests that the Planning Director approve the request for 2-year land use extensions.

January 12, 2021

Project #: 23248

Laura Weigel, Planning Manager
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

RE: Rusk Road Senior Housing

Dear Ms. Weigel,

Bonaventure seeks to extend the land use application approval for the subject property located at 13333 SE Rusk Road. Per Section 19.908.4.C of the Milwaukie Municipal Code, *“If the previously approved application included a transportation impact study or a natural resource report, an updated report was provided with the extension application that shows no significant changes on the subject property or in the vicinity of the subject property. A letter from a recognized professional will also satisfy this criterion if it states that conditions have not changed since the original approval and that no new analysis is warranted.”* The current site plan is consistent with the access locations and unit count analyzed in the approved 2018 Traffic Impact Analysis (TIA).

Per the approved 2018 TIA, all study intersections are projected to operate well within agency mobility targets in 2019. The TIA recommended the construction of a northbound right-turn lane on SE Rusk Road at OR-224. ODOT’s mobility target at the OR 224/Rusk Road intersection is a volume-to-capacity (v/c) ratio of 0.99 or less. Under 2019 total traffic conditions (with site development) the AM peak v/c ratio at the intersection is projected at 0.88 and the PM peak v/c ratio is projected at 0.85. It is possible that traffic volumes could be higher in the extension year of 2023 due to an additional 4 years of background growth. Given the on-going COVID-19 pandemic and the resultant reduction in vehicle travel, there is no clear path forward for additional capacity modeling. Nonetheless, at a qualitative level, one could reasonably project that an additional 4 years of growth on the projected (pre-pandemic) 2019 forecast volumes would add approximately 80 AM peak hour vehicles and 91 weekday PM peak hour vehicles to the intersection (an increase of 2.44%). This growth would translate to roughly one vehicle being added to the northbound right-turn movement during each peak hour and should not measurably change the right-turn lane queuing. Given the anticipated negligible impact of 4 additional years of growth, we fully expect that intersection operations will continue to satisfy ODOT mobility standards in 2023 and beyond.

We trust this letter provides you with the required transportation documentation to support Code Criterion 19.908.4.C. Conditions have not changed since approval and no new analysis is needed. Please contact us with any questions or concerns.

Sincerely,
KITTELSON & ASSOCIATES, INC.



Kristine Connolly, P.E.
Senior Engineer



9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070

PACIFIC HABITAT SERVICES, INC

(800) 871-9333 • (503) 570-0800 • Fax (503) 570-0855

January 15, 2021

**Daniel Dobson, Director of Business and Real Estate Development
Bonaventure**

3425 Boone Road SE
Salem, OR 97317

RE: CU-2018-003 (master file) - Bonaventure Senior Living
PHS Project No. 6577

Dear Dan:

It is my understanding that you are seeking an extension of the City of Milwaukie's land use decision of your proposed development located at 13333 SE Rusk Rd (2S2E06AD, lots 600, 700, 900, 901). In order for the City to grant the extension, all of the following criteria must be satisfied.

19.908.4 Approval Criteria

An extension shall be approved when all of the following criteria have been met:

- A. There have been no significant changes on the subject property, in the vicinity of the subject property, or to any relevant regulations since the original application was approved.
- B. No modifications are proposed to the approved application or to the conditions of approval.
- C. If the previously approved application included a transportation impact study or a natural resource report, an updated report was provided with the extension application that shows no significant changes on the subject property or in the vicinity of the subject property. A letter from a recognized professional will also satisfy this criterion if it states that conditions have not changed since the original approval and that no new analysis is warranted. (Ord. 2036 § 3, 2011; Ord. 2025 § 2, 2011)

To address these criteria, I visited the property on January 15, 2021 to review site conditions. I can report that the assessment of natural resources that we conducted on the property is still valid as site conditions have not changed. There have also been no changes to relevant regulations that govern the site's natural resources. As such, no new analysis is warranted.

Please let me know if you have any questions.

Sincerely,

John van Staveren
Senior Professional Wetland Scientist