



May 26, 2021

Land Use File(s): VR-2021-006

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on May 25, 2021.

Traducciones de este documento e información sobre este proyecto están disponibles en español. Para solicitar información o preguntar en español, favor de email espanol@milwaukieoregon.gov.

Applicant(s):	Providence Supportive Housing
Location(s):	Vacant lots on the NW corner of Llewellyn St and 34th Ave
Tax Lot(s):	11E25DC05800, 5900, 6000
Application Type(s):	Variance
Decision:	Approved
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC 19.303 Commercial Mixed-Use Zones• MMC 19.504 Site Design Standards• MMC 19.911 Variances• MMC 19.1006 Type III
Neighborhood(s):	Ardenwald-Johnson Creek , Hector Campbell

Appeal period closes: 5:00 p.m., June 10, 2021

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review by appointment between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Mary Heberling, Assistant Planner, at 503-786-7658 or heberlingm@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on June 10, 2021, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Exhibits

1. Findings in Support of Approval

cc: Walter Zisette, Providence Supportive Housing (via email)
Applicant's representative: Li Alligood, OTAK (via email)
Planning Commission (via email)
Kelly Brooks, Interim Community Development Director (via email)
Steve Adams, City Engineer (via email)
Engineering Development Review (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Tim Salyers, Code Enforcement Coordinator (via email)
Mike Boumann and Alex McGladrey, CFD#1 (via email)
NDA(s): Ardenwald-Johnson Creek and Hector Campbell (via email)
Interested Persons (via email)
Land Use File(s): VR-2021-006

¹ As per MMC Section 19.1010, if the 15th day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

EXHIBIT 1
Recommended Findings in Support of Approval
File #VR-2021-006, Providence Supportive Housing

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

The applicant, Providence Supportive Housing, has applied for approval of a building height variance for a 5th floor, reduced transition measure setbacks, and a reduction in the building step back at the vacant lots on the northwest of the corner of Llewellyn St and 34th Ave (taxlots: 11E25DC05800, 5900, 6000). This site is in the General Mixed Use (GMU) Zone. The land use application file number is VR-2021-006.

1. Providence Supportive Housing is proposing a future mixed-use building on the General Mixed Use (GMU) zoned parcels listed above. The mixed-use building is proposed as clinic space on the first floor and affordable housing for seniors on the additional floors.

The proposal before Planning Commission is for a building height variance to grant a 4th and 5th floor to the mixed-use building. The applicant is also proposing a reduction to the required transition measures front setback on Llewellyn St from 15 ft to 2-20 ft and a reduction from the 15 ft rear yard setback to 11 ft. They are also proposing a variance to the building height step back. Portions of buildings along a street that are above 45 ft are required to step back at least 15 ft above the 45 ft height. The proposed building is 62 ft in height and does not step back along Llewellyn St.

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

- MMC 19.303 Commercial Mixed-Use Zones
- MMC 19.504 Site Design Standards
- MMC 19.911 Variances
- MMC 19.1006 Type III

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on May 11, 2021, as required by law.

3. MMC 19.303 Commercial Mixed-Use Zones

- a. MMC 19.303.2 Uses Allowed in Commercial Mixed-Use Zones

Mixed-use buildings are a permitted use in the GMU zone.

The applicant is proposing a 5-story mixed-use building with medical/clinic space on the first floor and residential/multifamily use on the following four floors.

The proposed use is a permitted use in the GMU. This standard is met.

b. MMC 19.303.3 Development Standards

A summary of development standards that apply to the proposed mixed-use development are listed below in Table 1:

Table 19.303.3 Commercial Mixed-Use Zones - Development Standards			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	1,500 sq ft	The existing site is 0.65 acres/28,300 sq. ft.	Complies with standard.
2. Minimum Street Frontage	25 ft	Llewellyn St – approx. 97 ft 34 th Ave – approx. 140 ft	Complies with standard.
3. Minimum floor area ratio	0.5:1	The proposed FAR is 2:1	Complies with standard.
4. Building height: Base Maximum	45 ft	62 ft	A Building Height Variance has been requested per 19.911.7. With approval of that variance, this standard is met.
5. Building height: Maximum with Height Bonus	57-69 ft		
6. Minimum & Maximum Street Setbacks (from Llewellyn St)	Minimum: Front: 0-15 ft Maximum: 10-20 ft	Front: 2-20 ft	The development is subject to the Transition Area Measures of 19.504.6. They are addressed in this table below.
7. Lot Coverage	85% max.	38%	Complies with standard.
8. Minimum Vegetation	15%	24%	Complies with standard.
9. Primary Entrances	Yes, per 19.303.4.E	Two primary entrances; one faces Llewellyn	Complies with standard.
10. Transition Measures per 19.504.6	Setbacks for property lines abutting R-3 parcels: Front: 15 ft Rear: 15 ft East side: 15 ft West side: 0 ft	Front: 2 ft to 20 ft Rear: 11 ft East side: 15 ft West side: 0 ft	A variance has been requested to reduce the front and rear setbacks to less than 15 ft.

With approval of the building height variance and the transition measure setback variances, Planning Commission finds that the standards are met.

c. MMC 19.303.4 Detailed Development Standards

(1) MMC 19.303.4.B.2 Building Height Standards

- (a) The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.

The applicant is proposing a 5-story building. Height bonuses are listed below.

- (b) Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.

The applicant is proposing a 0 ft step back for the 4th and 5th floor stories. A variance has been requested.

With approval of the variance, the Planning Commission finds that the building height standards are met.

(2) MMC 19.303.4.B.3 Height Bonuses

A building in the GMU Zone can utilize up to 2 of the development incentive bonuses in Subsection 19.303.4.B.3.a. and Section 19.510, for a total of 2 stories or 24 ft of additional height, whichever is less.

(a) Residential

New buildings that devote at least one story or 25% of the gross floor area to residential uses are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

The proposed building has 4 of the 5 buildings as residential and qualifies for an additional story or an additional 12 ft. This standard is met.

(b) Green Building

Project proposals that receive approvals and certification as identified in Section 19.510 are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

The building will also receive Earth Advantage Gold or higher certification, and the building qualifies for an additional bonus. This standard is met.

(c) Building Height Variance

Buildings that elect to use both height bonuses for a 5-story building are subject to Type III review per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

The applicant has requested a building height variance.

With approval of the building height variance, Planning Commission finds that the standards are met.

4. MMC 19.504 Site Design Standards

a. MMC 19.504.6 Transition Area Measures

Where commercial, mixed-use, or industrial development is proposed abutting or adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses.

- (1) All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable.
- (2) All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to at least the 6-ft level to screen lower-density residential uses from direct view across the open space, subject to the provisions of Subsection 19.502.2.B.

The site is zoned GMU and a permitted mixed-use development is proposed. The site abuts the R-3 zone to the north and east and is adjacent across a right-of-way from the R-3 zone to the south. As such, the front, east side, and rear setbacks of the proposed development are increased from 0 ft. to 15 ft., which is the required front and rear yard width of the abutting/adjacent R-3 zone.

The proposed front yard setback ranges from 2 ft. to 20 ft. A variance to this requirement is requested for the front yard setback along 44 ft. of the western portion of the building. The yard along the southern building setback will be maintained as open space. No fencing is proposed within the front yard as that contradicts the intent of the GMU standards to provide activity near the street.

The proposed rear yard setback ranges from 15 ft. to 11 ft. A variance to this requirement is requested for the rear yard setback along the western portion of the building. Though stories 2 to 5 of the building are set back 15 ft., the ground floor is set back 11 ft. at some points. Trees and shrubs are anticipated along the rear property line. Compliance with (2) above will be verified at the time of site development permit.

With approval of the requested variances, the Planning Commission finds that these standards can be met.

5. MMC 19.911 Variances

a. MMC 19.911.3 establishes the appropriate review process for variance applications.

The applicant proposes three variances: building height, building step back, and transition area measure setbacks. This MMC section requires a Type III Variance review for this kind of modification to the standards.

The Planning Commission finds that the request is subject to a Type III Variance review.

- b. MMC 19.911.4 establishes criteria for approving a variance request.

The applicant has chosen to address the discretionary relief criteria of MMC 19.911.4.B.1.

(1) Discretionary relief criteria

- (a) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

Front Yard Setback

Baseline street setback requirement of the GMU zone is 0 ft. and is intended to ensure that buildings engage with the right-of-way. However, because the site abuts the R-3 zone to the north, east, and south, the Transition Area Measures of Subsection 19.504.6 apply. Those measures increase the setbacks of the GMU zone to the residentially zoned property setback. The required front setback of the R-3 zone is 15 ft. Therefore, the required front yard setback of the subject site is also 15 ft.

The building meets the base zone setbacks of the GMU zone along the western 44 ft. of the façade. This portion of the building includes office and clinic uses on the ground floor, which are intended to engage with and activate Llewellyn St. In addition, the location of the office and clinic area near the street reduces the distance clients must walk from the proposed drop-off area on Llewellyn St.

The eastern portion of the building is set back by 20 ft., which is the maximum setback of the GMU zone. This setback provides a transition from the more commercial character of the GMU zone to the west to the more residential character of the existing neighborhood to the east.

Potential impacts of a reduced front yard setback are reduced open space on the site and potential shadowing of buildings to the south. However, as shown through a shade analysis, the building will not cast shade on existing structures. Also, a significant portion of the site will be retained in open space.

Rear Yard Setback

The base zone rear yard setback is 0 ft. However, as noted previously, the site abuts the R-3 zone to the north and the 15 ft minimum rear yard setback of the R-3 zone applies per 19.504.6.

The ground floor of the building is set back 11 ft along the western 44 ft of the mass. Floors 2 through 5 of the building, where dwelling units are located, are set back 15 ft. from the property line.

Potential impacts of a reduced side yard setback are reduced open space on the site and potential conflicts between the proposed uses and existing uses to the rear. However, the upper levels of the building meet the transition area setback requirements. In addition, the existing building to the north is separated from the

site by substantial mature vegetation and at least 50 ft. of distance. Also, as shown in Sheet C13, a significant portion of the site will be retained in open space.

Upper Level Step Back

Per Subsection 19.303.4.B.2.b, buildings in the GMU zone that exceed the base height of 45 ft. are required to step back at least 15 ft. above 45 ft. of height. The proposed building is 62 ft. in height and does not step back along the street frontage.

The intent of the building height standards of 19.303.4 is to “promote a compatible building scale and relationship of one structure to another.” The required step back requirement is intended to reduce the apparent mass of the building by shifting everything above the base height back so that it is less visible from the street. In that case, even a taller building would appear as a 45-ft. building.

The proposed building abuts a parking lot to the west and a future open space area and parking lot to the east. Therefore, the focus of the analysis is on the existing structures to the south.

This immediate area is developed with single-level homes, many of which have been converted to offices. The development to the south of the proposed building are single-level homes, offices, and parking lots. Potential impacts of the request as compared to the base zone requirements are that the building will appear taller than it otherwise would and could cast shadow on existing buildings to the south.

As shown on Sheet C12D, the proposed building will not cast shadow on existing buildings to the south. As shown on Sheets C23, C24, and C25, the façade is highly articulated to create the appearance of a step back along the southern façade and to reduce the visual massing of the structure.

The Planning Commission finds that this criterion is met.

- (b) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
 - (i) The proposed variance avoids or minimizes impacts to surrounding properties.
 - (ii) The proposed variance has desirable public benefits.
 - (iii) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

Front Yard Setback

Potential impacts of the reduced front yard setback are reduced open space on site, shadowing of the buildings to the south, and potential conflicts between the proposed office/clinic uses on the ground floor of the building and the existing uses in the R-3 zone. However, as described below, these potential impacts are mitigated through thoughtful site design and by the eclectic character of the surrounding neighborhood.

The R-3 zone is a residential zone that permits office and multifamily uses as Conditional Uses. Due to the presence of Providence Hospital next door, many medical office uses have been established nearby. Though the sites directly to the south of the site are zoned R-3, they are developed with a mix of uses: the parking lot for the JSE Lab Medical Offices, an office use fronting on SE Harrison St, is located across the street; two doors down, a home has been converted to a medical office.

As noted above, the uses to the south of the site are a mix of office, medical, and residential, which are functionally consistent with the proposed office/clinic uses in the southwest portion of the building. Also, the applicant is planning to maintain the eastern portion of the development site, which is located within the R-3 zone, largely as open space to ease the transition to the more residential character to the east. Finally, the setback reduction is requested at the southern building façade, which will not cast a shadow over the existing building across the street.

The building is set back 0 ft. at the western end, and transitions to a 20-ft. setback moving east. This finally transitions to a large open space to the east, which provides substantial buffering from existing homes to the east and southeast. The portion of the building that will be closest to the street is on the portion of the site that is nearest these existing office uses. As such, the impact of a 0 ft. setback on the western portion of the site will be minimal and would be permitted on another GMU-zoned site.

Rear Yard Setback

As noted previously, the site abuts the R-3 zone to the north and the 15-ft. minimum rear yard setback of the R-3 zone applies. The ground floor of the building is set back 11 ft. from the rear yard line, but upper levels of the building step back to meet the 15 ft. distance. The dwelling units in the building are in floors 2 to 5 and are not located on the ground floor.

Potential impacts of the reduced rear yard setback are potential visual or noise conflicts between the proposed multifamily residential uses proposed for the rear of the site and the existing uses in the R-3 zone. However, these potential impacts are mitigated by existing site conditions.

The existing building on the site to the north is set back at least 50 ft. from the rear property line and is separated from the development site by mature, thick vegetation which will protect the existing building from visual and noise impacts from the proposed development. In addition, the site to the north is a mapped Significant Landmark, and the building can be used for a number of office or commercial uses as an incentive for its preservation.

As noted above, the proposed building program minimizes the window openings on the portion of the building that comes closest to the northern property line. Unit windows are pulled back from the north property line and provide views to an internal courtyard in the rear of the building.

Public Benefits

The requested setback and step back variances, combined with the requested Building Height Variance, result in significant public benefits:

- *The reduced setbacks, step back, and increased height will allow Providence Supportive Housing to add 18 dwelling units to the proposed project. This increases the total number of dwelling units from 54 units to 72 units deeply affordable senior housing units. Increased units within this development will serve low-income seniors and provide access to medical care on site.*
- *The R-3 portion of the site will remain as usable landscaped open space and will provide surface parking to serve the site (approval of this parking area has been approved through a separate Conditional Use application). This open space eases the transition from the new building on the western portion of the site to the existing residential development to the east.*
- *The building is being designed to meet at least Earth Advantage Gold certification, which means the building will be designed and constructed with an eye toward energy use reduction, indoor air quality, durability, and comfort for occupants.*
- *The site will provide electrical vehicle charging infrastructure, and the building will be “solar ready,” for ease of future retrofitting with solar panels.*
- *Since the proposed development is intended to serve low-income seniors, it will not impact school capacity.*
- *The proposed development will construct new half street improvements with a sharrow for bicyclists, curb, and sidewalk along the site frontage on Llewellyn St and 34th Ave, increasing comfort for pedestrians and cyclists. This is if Llewellyn is determined to be a bicycle route through the Central Milwaukie Bikeway project.*

The Planning Commission finds that the criteria is met.

- (c) Impacts from the proposed variance will be mitigated to the extent practicable.

As described above, the potential impacts of the proposed variances are mitigated by existing vegetation, the building location, the proposed building programming, and the mix of office and residential uses south of the site.

The Planning Commission finds that the discretionary relief criteria are met.

- c. MMC 19.911.7 Building Height Variance in the General Mixed-Use Zone

- (1) Intent

To provide a discretionary option for variances to maximum building heights in the General Mixed-Use Zone to reward buildings of truly exceptional design

that respond to the specific context of their location and provide desired public benefits and/or amenities.

(2) Applicability

The Type III building height variance is an option for proposed buildings that exceed the base maximum building heights specified in Subsection 19.303.4.B.2.b and elect to use both of the available height bonuses of Subsection 19.303.4.B.2 for a total building height of 5 stories.

The proposed building height is 62 ft. and 5 stories. The proposed height exceeds the 57 ft. that is permitted by 19.303.4.B.2.b and proposes to use both of the height bonuses available per 19.303.4.B.3. The applicant requests a Building Height Variance to allow the use of both height bonuses, for a cumulative height of 5 stories and 50 ft.

This section is applicable.

(3) Approval Criteria

The approval authority may approve, approve with conditions, or deny the building height variance based on the following approval criteria:

- (i) The proposed project avoids or minimizes impacts to surrounding properties. Any impacts from the proposed project will be mitigated to the extent practicable. The applicant's alternatives analysis shall provide, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

The residential neighborhood starts south east of the site. The topography slopes up higher than the development site both to the east and north. The first few residential buildings east of 34th Ave and on either side of King Ave will be on level with the 4th or 5th story of this development if not higher due to the raised topography. The concerns around the lack of privacy from a taller building as such is mitigated. The development also sets itself away from the eastern neighborhood by keeping within the GMU zone and leaving the R-3 parcels as open space, which will be an amenity in the neighborhood and open to the public.

Along Llewellyn St, major portion of the building frontage is set back to the maximum setback of 20 ft. allowed by the GMU zone. Only 44 ft. of the proposed building towards the Providence parking lot is closer to the right of way along Llewellyn St.

To visually mitigate the taller height of the building, a tri-partite building articulation is employed to fit well with the residential neighborhood. The building has a very strong brick base that is enhanced with large storefront windows with substantial glazing and transparency. The upper 4 stories are articulated to bring the building scale to neighborhood scale. The 5th story steps back 4 ft. on the eastern wing along the Llewellyn St. The west wing of

the building has bay projections to reduce the building scale that reflects the adjacent neighborhood.

The Planning Commission finds that this criterion is met.

- (ii) The proposed project is creative and is exceptional in the quality of detailing, appearance, and materials or creates a positive unique relationship to other nearby structures, views, or open space.

The project design creates a positive unique relationship to its surroundings and provides a transition from the commercially- and institutionally developed area to the west of the site to the residentially developed area to the east. The building is brought close to the sidewalk in the northwest corner, where the transition begins. The building and site are progressively stepped back as it moves to the east – the “east wing” is set back 18 ft. behind the “west wing” and transitions to a landscaped open space in the southeast area of the site.

The conceptual building design is highly articulated to reduce the visual mass of the building while accommodating the target number of affordable dwelling units and the necessary area of clinic space for the PACE Center.

The proposed materials include a brick base with a glazed storefront system and high-quality cementitious panel board and metal panel accents, and natural wood soffits which have been selected for their visual appeal, durability, and low environmental impact.

The Planning Commission finds that this criterion is met.

- (iii) The proposal will result in a project that provides public benefits and/or amenities beyond those required by the base zone standards and that will increase vibrancy and/or help meet sustainability goals.

The proposed development provides generous open space adjacent that allows a gentle transition to the east; deeply affordable housing for extremely low-income seniors; services that complement the adjacent Providence Hospital, electrical vehicle (EV) charging infrastructure; photovoltaic (PV) panel readiness; and Earth Advantage certification. Earth Advantage measures include efficient mechanical, lighting and plumbing systems, water efficient landscaping, and interior materials that are low VOC.

Finally, the proposed development will provide “eyes on the street” and further activate Llewellyn St by bringing the interior close to the street (as desired by the GMU base zone standards) and through construction of frontage improvements including half street, curb, gutter, planter strip, and sidewalk along the entire project frontage.

The Planning Commission finds that this criterion is met.

- (iv) The proposed project ensures adequate transitions to adjacent neighborhoods.

As described earlier, the site is somewhat unique. It is split-zoned GMU and R-3, so essentially the transition between adjacent neighborhoods happens on site. The most urban component of the property is in the southwest portion of the site, adjacent to the Providence Hospital parking lot and the GMU zone. Though Providence Hospital has no known plans to expand, a 45-ft. structure would be permitted on that site by right and could be increased to 57 ft. or 4 stories through height bonuses.

The applicant has preserved the R-3 area of the site for open space and surface parking to provide an extended transition from the proposed building to the existing residential uses to the east. The applicant plans to retain a significant portion of the R-3 area as open space. This area will be landscaped and include stormwater ponds and will provide additional outdoor space for the residents of the building and clients of the clinic.

The Planning Commission finds that this criterion is met.

The Planning Commission finds that the approval criteria for a height variance are met.

6. The application was referred to the following departments and agencies on March 22, 2021:
- Milwaukie Building Division
 - Milwaukie Engineering Department
 - Clackamas County Fire District #1
 - Clackamas County Engineering Department
 - Metro: Land Use Notifications
 - Trimet: Transit Development Group
 - Ardenwald-Johnson Creek Neighborhood District Association Chairperson and Land Use Committee
 - Hector Campbell Neighborhood District Association Chairperson and Land Use Committee

Alex McGladrey, Clackamas Fire District: Clackamas Fire has comments for when the proposed building will submit for permits and what to include.