CITY OF MILWAUKIE

September 29, 2021

Land Use File(s): DR-2021-001 (master file), with WG-2021-001, NR-2021-002, VR-2021-002, P-2021-001, and TFR-2021-001

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on September 28, 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):	Coho Point, LLC
Location(s):	11103 SE Main St
Tax Lot(s):	1S1E35AD, lots 1100, 1200, 1300, 1301, 1302
Application Type(s):	Downtown Design Review, Willamette Greenway Review, Natural Resource Review, Variance Requests, Parking Quantity Modification, Transportation Facilities Review
Decision:	Approved with Conditions
Review Criteria:	Milwaukie Municipal Code (MMC): • Chapter 12.16 Access Management • Title 18 Flood Hazard Regulations • Section 19.304 Downtown Zones (including Downtown Mixed Use DMU) • Section 19.401 Willamette Greenway Zone • Section 19.402 Natural Resources • Section 19.508 Downtown Site and Building Design Standards • Section 19.510 Green Building Standards • Chapter 19.600 Off-Street Parking and Loading • Chapter 19.700 Public Facility Improvements • Section 19.905 Conditional Uses • Section 19.907 Downtown Design Review • Section 19.911 Variances (incl. 19.911.6 Building Height Variance in DMU zone) • Section 19.1006 Type III Review • Section 19.1011 Design Review Meetings
Neighborhood(s):	Historic Milwaukie, Island Station

Appeal period closes: 5:00 p.m., October 14, 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 Brett Kelver, Senior Planner, at 503-786-7657 or kelverb@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on October 14, 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.

Conditions of Approval

1. At the time of submittal of the associated development permit application(s), the following must be resolved:

    a. Final plans submitted for development permit review must be in substantial conformance with the plans and drawings approved by this action, which are the revised plans and drawings received by the City on August 25, 2021, except the updated natural resource report received on September 21, 2021, and except as otherwise modified by these conditions of approval.

    b. Provide a narrative describing all actions taken to comply with these conditions of approval. In addition, describe any changes made after the issuance of this land use decision that are not related to these conditions of approval.

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

c. As per Finding 4, revise the applicable plan sheets to show a restricted left-turn egress movement for the Washington Street driveway.

d. As per Finding 9-c, revise the applicable plan sheets to show some form of weather protection for the bike storage entry at the Washington/McLoughlin corner of the building.

e. As per Finding 9-e, provide documentation to confirm that all nonresidential ground-floor windows have a visible transmittance (VT) of 0.6 or higher.

f. As per Finding 10, provide confirmation of the necessary green building certification submittal.

g. As per Finding 11-e, provide sufficient detail to confirm that the dimensional requirements for bicycle parking are met (as established in MMC Subsection 19.609.3) for the proposed wall-mounted racks provided in the various bike-storage rooms throughout the new building.

h. As per Finding 11-g(2), provide a photometric plan that demonstrates lighting adequate to ensure motorist and pedestrian safety within the structured parking facility.

2. Prior to final inspection of the required building permit and issuance of a certificate of occupancy, the following must be resolved:

a. Provide a narrative describing all actions taken to comply with these conditions of approval. In addition, describe any changes made after the issuance of development permits that are not related to these conditions of approval.

b. As per Finding 10, submit documentation confirming that the necessary green building certification has been awarded.

c. Submit documentation from the project landscape designer attesting that all required site plantings and mitigation plantings have been completed in conformance with the approved site plans and with City standards.

d. Confirm that all required street improvements and Public Area Requirements (PAR) improvements have been installed and inspected.

e. In conjunction with the required City right-of-way (ROW) permit, provide an 8-ft-wide public access easement for the pedestrian walkway extending through the site between Main Street and McLoughlin Boulevard via the Adams Street right-of-way.

f. As per Finding 12-f-5, provide a minimum 15-ft-wide public access easement on the subject property for a future pedestrian/bicycle pathway along Kellogg Creek at the base of the proposed new retaining wall. If the location and alignment of the pathway have not been identified by the City in sufficient detail to enable the creation of an easement, then a valid and enforceable agreement with the City that binds the current and any future owner of the property to provide the easement when the City identifies the desired alignment will satisfy this condition.

3. As per Finding 11-b-2, the ongoing implementation of a Transportation Demand Management (TDM) program is required as part of the operation of the approved development. The applicant must provide additional detail to City staff sufficient to demonstrate how the various strategies included in the TDM program that was provided as part of the applicant's submittal materials will be implemented, including the establishment of performance benchmarks and a regular monitoring component. Responsibility for ongoing implementation of the TDM program is not limited to the applicant but will transfer to any future owner/operator of the approved development.

Other requirements

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code (MMC) and Public Works Standards that are required at various points in the development and permitting process.

1. An application for replat is required to consolidate the underlying lots on the subject property. The application for preliminary replat approval must be submitted in conjunction with the submittal of associated development permits. The final plat must be recorded with Clackamas County prior to issuance of a final certificate of occupancy.
2. An approved Conditional Letter of Map Revision (CLOMR) is required prior to the City's issuance of a floodplain development permit.
3. At the time of submittal of the associated development permit application(s), the following must be resolved:
    a. The applicant must submit an application for Development Review in accordance with the standards established in MMC Section 19.906.
    b. Submit a final stormwater management plan to the City of Milwaukie Engineering Department for review and approval. The plan must be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department. All utilities must conform to the Milwaukie Public Works Standards.
4. Prior to commencement of any earth-disturbing activities, the applicant must obtain a City erosion control permit.
5. Obtain a City ROW permit for construction of all required public improvements.
    a. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
    b. Provide a payment and performance bond for 100% of the cost of the required public improvements.
    c. Install all underground utilities, including stubs for utility service prior to surfacing any streets. Utilities must be designed to minimize or eliminate infiltration of floodwaters into the system. New and replacement sanitary sewage systems must be

designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters. Relocate or provide a private utility easement for all utilities encroaching onto adjacent properties.

d. Clear vision areas must be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection. Remove all signs, structures, or vegetation more than 3 ft in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the proposed development.

e. Demonstrate that all constructed or installed Public Area Requirements (PAR) are consistent with the applicable standards and specifications established in MMC Chapter 19.700 and the Public Works Standards.

f. The final site plan must be approved by the City Engineer prior to construction.

g. Provide a 12-month Maintenance Bond upon completion of the construction.

h. Provide a final approved set of electronic (PDF file) "As Constructed" drawings to the City of Milwaukie prior to final inspection.

6. Conditional Use Permit

As per MMC Subsection 19.905.6, the City will issue a conditional use permit upon the approval of this application to establish a conditional use. The conditional use permit will include the following information:

a. A description of the use that has been approved by the City.

b. Restrictions and/or conditions of approval placed upon the use.

c. Ongoing responsibilities required for the operation of the conditional use.

d. Allowance for the transfer of rights and responsibilities upon change in ownership of either the use or the property containing the use.

e. Procedures for review, revisions, and suspension of the conditional use permit.

The applicant must record the conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City prior to commencing operations allowed by the conditional use permit.

7. Landscaping Maintenance

As per MMC Subsection 19.402.11.B.9, a minimum of 80% of all required mitigation plantings for WQR or HCA disturbance must remain alive on the second anniversary of the date the planting is completed. An annual report on the survival rate of all plantings must be submitted for two years.

8. Expiration of Approval

As per MMC Subsection 19.1001.7.E, the land use approval granted with this decision will expire and become void unless the following criteria are satisfied. For proposals requiring

any kind of development permit, the development must complete both of the following steps:

a. Obtain and pay for all necessary development permits and start construction within two years of land use approval.

b. Pass final inspection and/or obtain a certificate of occupancy within four years of land use approval.

Decision

☐ Approved
☒ Approved with Conditions
☐ Denied

Laura Weigel

Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval

cc: Farid Bolouri, Coho Point LLC, applicant (via email)
Ryan Scanlan, Jones Architecture, applicant's representative (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)
Alex McGladrey and Valerie Liljefelt, Clackamas Fire District #1 (via email)
NDA(s): Historic Milwaukie, Island Station (via email)
Interested Persons
Land Use File(s): DR-2021-001
Address File(s): 11103 SE Main St

EXHIBIT 1
Findings in Support of Approval
Master File #DR-2021-001, Coho Point Development

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

1. The applicant, Coho Point, LLC, has applied for approval to construct a six-story mixed-use building on the five lots that comprise the Coho Point site at 11103 SE Main St. The site is in the Downtown Mixed Use (DMU) zone. The land use application master file number is DR-2021-001, with accompanying applications for Willamette Greenway review, natural resource review, variances, parking quantity modification, and transportation facilities review.

2. The subject property is approximately 0.94 acres (approximately 40,820 sq ft) and is comprised of five underlying tax lots. The northeastern-most tax lot is currently developed with a commercial building, but the rest of the site is vacant. The subject property is a full block, with Main Street to the east, Washington Street to the north, McLoughlin Boulevard to the east, and Adams Street to the south. Kellogg Creek forms the southwest border of the site. The undeveloped Adams Street right-of-way effectively functions as part of Dogwood Park to the south.

   The proposal is to construct a six-story mixed-use building in downtown Milwaukie, with approximately 7,000 sq ft of restaurant and commercial space on the ground floor and 195 multifamily units on the ground floor and above. The project includes disturbance to designated natural resource areas on the site and fill within the regulatory floodplain, with a variance requested to allow the required natural resource mitigation to be provided within the adjacent Adams Street right-of-way and Dogwood Park. A parking quantity modification is proposed to lower the required number of off-street parking spaces beyond the by-right reductions allowed in the underlying DMU zone. Additional variances are requested to the building height limitation (to allow one extra story) and the zero-setback-building requirement. The project requires review for consistency with the downtown design standards/guidelines as well as with the Willamette Greenway conditional use criteria.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
   - MMC Chapter 12.16 Access Management
   - MMC Title 18 Flood Hazard Regulations
   - MMC Section 19.304 Downtown Zones (including Downtown Mixed Use DMU)
   - MMC Section 19.401 Willamette Greenway Zone
   - MMC Section 19.402 Natural Resources
   - MMC Section 19.508 Downtown Site and Building Design Standards
   - MMC Section 19.510 Green Building Standards

- MMC Chapter 19.600 Off-Street Parking and Loading
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.905 Conditional Uses
- MMC Section 19.907 Downtown Design Review
- MMC Section 19.911 Variances (incl. 19.911.6 Building Height Variance in DMU zone)
- MMC Section 19.1006 Type III Review
- MMC Section 19.1011 Design Review Meetings

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held by the Planning Commission on September 28, 2021, as required by law.

4. MMC Chapter 12.16 Access Management

MMC Section 12.16.040 establishes standards for access (driveway) requirements, including access spacing, number and location of accessways, and limitations for access onto arterial and collector streets. New driveways accessing arterial streets must be spaced at least 600 ft from the nearest intersection; the minimum spacing requirement for collector streets is 300 ft. In non-residential districts, driveways must be at least 10 ft from the side property line. For multifamily residential uses with more than eight units, the driveway apron must have a minimum width of 24 ft and maximum width of 30 ft.

The subject property has frontage on three streets: Main Street and Washington Street are collector streets, and McLoughlin Boulevard is an arterial. The site also has frontage on Adams Street, but the right-of-way is not and will not be developed as a street. Main Street and Washington Street are under the jurisdiction of the City; the Oregon Department of Transportation (ODOT) has jurisdiction of this section of McLoughlin Boulevard. The proposed new building will be accessed by a single accessway onto Washington Street, located approximately 135 ft from the intersection with McLoughlin Boulevard and approximately 65 ft from the intersection with Main Street.

As proposed, the driveway approach on Washington Street will be approximately 24 ft wide. The current standard for distance from intersection is not met, and an access spacing modification is required. As discussed in Finding 12-c, the required Traffic Impact Study (TIS) determined that at the proposed access location there would be minimal impacts from queuing cars, provided the access had a restricted left-turn egress. A condition restricting left-turn egress has been established to support the requested access spacing modification.

As conditioned, the Planning Commission finds that the proposed development is consistent with the applicable standards of MMC 12.16.

5. MMC Title 18 Flood Hazard Regulations

MMC Title 18 provides standards intended to minimize public and private losses due to flood conditions in specific areas. The regulations established in MMC Title 18 do this in part by controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters; controlling filling, grading, dredging, and other development which may increase flood damage; and

preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. As per MMC Section 18.16.030, a floodplain development permit is required prior to any construction or development within the flood management area.

The subject property includes flood hazard and flood management areas as identified on the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA) and acknowledged by the City for the purposes of implementing MMC Title 18. Current FEMA mapping provided by the applicant shows that the elevation of the base flood (also known as the "100-year floodplain") on the subject property is 36.3 ft (NAVD 88). The City's adopted floodplain maps also identify a 1996 flood elevation of 38.0 ft, which establishes the regulatory design flood elevation for the subject property. More than half the area of the subject property is at or below the design flood elevation, and the proposed development will impact the flood management area.

MMC Chapter 18.20 establishes provisions for flood hazard reduction.

a. MMC Section 18.20.010 Alteration of Watercourses

MMC 18.20.010 requires that the flood-carrying capacity within the altered or relocated portions of watercourses must be maintained. This includes the floodway, which is the channel of a watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Encroachments within floodways, including fill and new construction, are prohibited unless they are part of an approved fish enhancement project or unless a certified professional civil engineer provides a hydrologic and hydraulic (H&H) analysis demonstrating that the encroachment will not increase flood levels during a base flood event. An approved Conditional Letter of Map Revision (CLOMR) must be provided prior to the approval of a floodplain development permit.

According to the submittal materials, the proposed development includes excavation from within the identified floodway boundary. The applicant has provided an H&H analysis prepared by a certified professional civil engineer. The H&H analysis confirms that the proposed floodway excavation will not increase flood levels during a base flood event. As required, an approved CLOMR will be provided prior to the City's approval of a floodplain development permit.

This standard is met.

b. MMC Section 18.20.020 Compensatory Storage (Balanced Cut and Fill)

MMC 18.20.020 establishes requirements for compensatory storage, also referred to as "balanced cut and fill." Where the placement of fill or structures will displace more than ten (10) cubic yards of flood storage area, the development must be done in such a way as to maintain or increase flood storage and conveyance capacity and not increase design flood elevations. All fill placed at or below the design flood elevation must be balanced by at least an equal volume of material ("cut") in a hydraulically equivalent location, not including areas that will be filled with water in two-year

rainstorm conditions or are designated for Habitat Conservation Area (HCA) mitigation.

Excavation to balance a fill must be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In those cases, the excavation may be located in the same drainage basin and as close as possible to the fill site subject to the following:

(1) The proposed excavation and fill will not increase flood impacts for surrounding properties as determined through H&H analysis;

(2) The proposed excavation is authorized under applicable municipal code provisions including MMC Section 19.402 Natural Resources; and

(3) Measures to ensure the continued protection and preservation of the excavated area for providing balanced cut and fill must be approved by the City.

The proposed development includes the placement of approximately 3,440 cubic yards of material within the regulatory floodplain and the removal of approximately 3,575 cubic yards, which provides more than the required balance. Due to site constraints and in agreement with the City, a majority of the cut will be off-site with some excavation occurring outside the boundary of the regulatory floodplain, provided within the immediately adjacent undeveloped Adams Street public right-of-way and Dogwood Park (an improved public park).

The applicant's H&H analysis confirms that the proposed cut and fill will not increase flood impacts for surrounding properties. The proposed grading of the slope of the cut area, beginning slightly above the ordinary high-water mark and going to the new gabion wall, will be approximately two percent. This will be closer to a more natural condition than the current floodplain and will provide more flood storage during frequent storm events.

The H&H analysis notes that the proposed cut and fill will not increase flood impacts to surrounding properties. As discussed in Finding 8, the cut and fill aspects of the proposed development are approvable in accordance with the applicable subsections of MMC Section 19.402. The cut areas include overlapping Water Quality Resource (WQR) and HCA designations, and some of the proposed natural resource mitigation is within areas of cut. Where the WQR and HCA overlap, the WQR is the more regulated resource and the one that requires mitigation in that location. The cut areas do not include areas where HCA-only mitigation is proposed.

The proposed gabion wall will ensure that the cut areas remain protected and preserved for purposes of providing compensatory storage over time. The WQR and HCA designations overlaying the cut areas will also serve to prevent unauthorized disturbance and preserve the intended balancing of cut and fill.

These standards are met.

The Planning Commission finds that the proposed development is consistent with the applicable standards of MMC Title 18.

6. MMC Section 19.304 Downtown Zones (including Downtown Mixed Use DMU)

   MMC 19.304 establishes standards for the downtown zones, including the Downtown Mixed Use (DMU) zone.

   a. MMC Subsection 19.304.2 Uses

      MMC 19.304.2 establishes the uses allowed in the DMU zone, including multifamily residential dwellings and commercial uses such as eating and drinking establishments and retail-oriented sales.

      The proposed development is a mixed-use building with approximately 7,000 sq ft of commercial space intended for retail and restaurant uses as well as 195 multifamily dwelling units. These uses are allowed outright in the DMU zone.

      This standard is met.

   b. MMC Subsection 19.304.3 Use Limitations, Restrictions, and Provisions

      MMC Subsection 19.304.3.A.1 establishes limitations for residential uses in downtown Milwaukie. Along Main Street south of Scott Street, residential dwellings are not permitted on the ground floor. Lobbies for upper-floor units are permitted on the ground floor only if a commercial use is located along a majority of the property's street frontage. Live/work units and rowhouses are not permitted on Main Street.

      The proposed development is a mixed-use building, with approximately 7,000 sq ft of commercial space and the lobby entrance for 195 multifamily units along the Main Street frontage. The subject property is south of Scott Street and has no dwelling units along the Main Street ground-floor frontage; the ground-floor units are located on the Washington Street, Adams Street, and McLoughlin Boulevard frontages. No live/work units or rowhouss are proposed.

      This standard is met.

   c. MMC Subsections 19.304.4 and 19.304.5 Development Standards and Detailed Development Standards

      MMC Table 19.304.4 lists the general categories of development standards for the DMU zone and MMC 19.304.5 provides additional detail for each category.

      (1) MMC Subsection 19.304.5.A Floor Area Ratios

         The Floor Area Ratio (FAR) is a tool for regulating the intensity of development. The minimum FAR is established in MMC Table 19.304.4.B.1 and Figure 19.304-3 and applies to nonresidential development, including mixed-use buildings. For mixed-use developments, residential floor space is included in the calculation of minimum FAR. An FAR bonus is available for structured parking in accordance with the provisions of MMC Subsection 19.611.4, at the ratio of 0.5 sq ft of floor area above the maximum per 1 sq ft of structured parking provided.

The proposed development is a mixed-use building on a site approximately 0.94 acres in size (40,820 sq ft). As per MMC Table 19.304.4.B.1 and Figure 19.304-3, the minimum FAR for the subject property is 1:1 (40,820 sq ft) and the maximum is 4:1 (163,280 sq ft) before any bonuses. As discussed in Finding 11-g, the proposed building includes approximately 30,800 sq ft of structured parking, which provides a floor area bonus of 15,400 sq ft and brings the maximum floor area allowed for the site to 178,680 sq ft (i.e., an FAR of 4.38:1).

As proposed, the six-story building presents approximately 172,080 sq ft of floor area, for an FAR of 4.22:1.

This standard is met.

(2) MMC Subsection 19.304.5.B Building Height

Base maximum building heights are specified in MMC Figure 19.304-4, with height bonuses available for buildings that meet the standards of MMC Subsection 19.304.5.B.3. In the majority of downtown, the base maximum building height is three stories or 45 ft. One additional story (or 12 ft of additional building height) is allowed for new buildings that devote at least one story or 25% of the gross floor area to a residential or lodging use. An additional story is allowed for new buildings that receive approvals and certification as identified in MMC Section 19.510. Additional building height beyond these bonuses requires a Type III variance per MMC Subsection 19.911.6.

The proposed building is six stories and 78 ft in height, as measured from the base point defined in MMC Subsection 19.202.2.B.1. As a building that provides at least one story of residential use, it is allowed one additional story above the three-story base standard. The applicant has also indicated that the building will qualify for LEED certification (Silver), which is listed in MMC Section 19.510 as an approved green building program (see Finding 10.) With these allowed height bonuses, the building is approvable up to a height of five stories or 69 ft. A condition has been established to ensure that evidence of the necessary green building certification is submitted. A variance has been requested to allow the sixth story and is discussed in Finding 15-d.

As proposed, as condition, and with the approval of the building height variance discussed in Finding 15-d, this standard is met.

(3) MMC Subsection 19.304.5.C Flexible Ground-Floor Space

For new buildings fronting Main Street, the ground-floor height must be at least 14 ft, as measured from the finished floor to the bottom of the structure above (as in a multistory building). The interior floor area adjacent to Main Street must be at least 20 ft deep, as measured from the inside building wall or windows facing Main Street.

The proposed building is a mixed-use building with frontage on Main Street. As proposed, the ground-floor height is 18 ft, and the interior floor area adjacent to Main Street (including that of the proposed retail spaces) is at least 30 ft deep.

This standard is met.

(4) MMC Subsection 19.304.5.D Street Setbacks/Build-To Lines

Required build-to lines are used in combination with the frontage occupancy requirements of MMC Subsection 19.304.5. to ensure that the ground floors of buildings engage the street. No minimum street setbacks are required. MMC Figure 19.304-5 identifies block faces where zero setbacks are required (first-floor build-to lines), where 75% of the first floor must be built with a zero setback and the remaining 25% may be set back from the front lot line a maximum of 20 ft. The front setback must provide usable open space that meets the requirements of MMC Subsection 19.304.5.H. For other block faces, there is no build-to line requirement and the maximum setback is 10 ft. The front setback must provide usable open space. The portions of the building used to meet the build-to line requirement must have a depth of at least 20 ft.

As identified on MMC Figure 19.304-5, the subject property has a 75% zero-setback requirement on its Main Street, Washington Street, and Adams Street frontages; the McLoughlin Boulevard frontage is subject to the maximum setback of 10 ft. The overall building concept brings the structure to the property lines, with a 19-ft-by-20-ft cutout at the Main/Adams corner that enhances the future restaurant use and opens onto the Adams Street plaza and Dogwood Park. This cutout, which constitutes a front setback, meets the requirements of MMC 19.304.5.H, as discussed below in Finding 6-c-8.

The McLoughlin Boulevard façade includes shallow angles that pull the building 6 to 7 ft from the edge of a proposed public walkway that effectively establishes the functional property line on that part of the site. However, the design's use of slight recesses along much of the Main/Washington/Adams façades, which articulate the storefront bays and emphasize material transitions, results in most of these façade lengths being set back 2 to 3 ft from the property line. A variance to the zero-setback standard has been requested and is discussed in Finding 15.

As proposed, and with the approval of the variance discussed in Finding 15, this standard is met.

(5) MMC Subsection 19.304.5.E Frontage Occupancy

To ensure that buildings are used to create a "street wall" that contributes to a walkable and pedestrian-friendly environment, minimum frontage occupancy requirements are established for block faces identified on MMC Figure 19.304-6 and are used in combination with the required build-to line of MMC Subsection 19.304.3.D. MMC Figure 19.304-6 identifies block faces where either 90%, 75%, or 50% of the site's street frontage must be occupied by a building or buildings. If the site has frontage on more than one street, the frontage occupancy requirement must be met on one street only.

The subject property has four frontages: Main Street, Washington Street, Adamas Street, and McLoughlin Boulevard. MMC Figure 19.304-6 indicates that the subject

property's Main Street frontage is subject to the 90% frontage occupancy standard, which only has to be met on the Main Street frontage. As proposed, 100% of the Main Street frontage is occupied by the building, as defined in conjunction with the build-to line and allowed setbacks discussed above in Finding 6-c-4. In fact, given that the proposal is essentially for whole-block development, all four of the frontages are 100% occupied by the building.

This standard is met.

(6) MMC Subsection 19.304.5.F Primary Entrances

All new buildings must have at least one primary entrance facing an abutting street or connected to the public sidewalk with a pedestrian walkway. If a development is on the corner of Main Street and another street, the primary entrance must be oriented toward Main Street. If the development is on the corner of McLoughlin Boulevard and another street, the primary entrance may be oriented toward either street.

The proposed mixed-use building is a whole-block development with frontage on four streets and multiple entries. The entrance to the residential portion of the proposed building is on Main Street. The various commercial storefronts also have their entrances on Main Street, including the corner storefronts at Main/Washington and Main/Adams.

This standard is met.

(7) MMC Subsection 19.304.5.G Off-Street Parking

Off-street parking for residential uses is required at the ratios established in MMC Table 19.605.1, and all other applicable standards of MMC Chapter 19.600 apply. All nonresidential uses are exempt from the off-street parking requirements.

The proposed building provides 195 multifamily residential units and approximately 7,000 sq ft for commercial use. No off-street parking is required for the proposed commercial use. The applicant has proposed a parking quantity modification to reduce the minimum number of required parking spaces. The proposed modification and the requirements of MMC 19.600 are addressed in Finding 11.

As proposed, and with the approval of the parking quantity modification discussed in Finding 11, this standard is met.

(8) MMC Subsection 19.304.5.H Open Space

When a building is set back from the sidewalk, at least 50% of the setback area must provide usable open space, such as a public plaza or pedestrian amenities, that is abutted on at least two sides by retail shops, restaurants, offices, services, or residences with windows and entrances fronting on the space. Usable open space must be accessible at grade adjacent to the sidewalk and may be

hardscaped or landscaped, including plazas, courtyards, gardens, terraces, outdoor seating, and small parks.

As discussed above in Finding 6-c-4, the proposed building includes a 19-ft-by-20-ft cutout at the Main/Adams corner and is set back by a few feet along most of its Main Street, Washington Street, and Adams Street frontages. As per the variance approved as discussed in Finding 15, the minor building setbacks serve as articulation and emphasize material transitions and do not constitute open space. The setback area of the Main/Adams cutout is a patio/plaza that is bounded on two sides by the proposed restaurant and is 100% available as open space, including for outdoor seating. It is at grade with the adjacent sidewalk and provides a connection between the building and the larger plaza in the Adams Street right-of-way.

As proposed, and in conjunction with the setback variance discussed in Finding 15, this standard is met.

(9) MMC Subsection 19.304.5.I Transition Measures

For properties north of Harrison Street and located within 50 ft of a lower-density residential zone (R-10, R-7, or R-5), transition area measures apply. Within 50 ft of the property line abutting lower-density residential zones, buildings must provide a step back of at least 6 ft for any portion of the building above 35 ft and the height bonuses established in MMC Subsection 19.304.5.B.3 cannot be applied.

The subject property is south of Harrison Street and is not adjacent to any residentially zoned properties.

This standard is not applicable.

(10) MMC Subsection 19.304.5.J Residential Density

There are no minimum density requirements when residential units are developed as part of a mixed-use building. Maximum density is effectively controlled by FAR requirements and building height limitations.

The proposed development is a six-story mixed-use building with 195 multifamily units and approximately 7,000 sq ft of commercial space. The FAR requirements and building height limitations are discussed above in Findings 6-c-1 and 6-c-2, respectively, in conjunction with a building height variance discussed in Finding 15-d.

As proposed, and with the approval of the building height variance discussed in Finding 15-d, this standard is met.

The proposed development meets the applicable development standards, including the detailed development standards, of MMC 19.304.4 and 19.304.5.

d. MMC Subsection 19.304.6 Public Area Requirements

The Public Area Requirements (PAR) implement the Downtown and Riverfront Land Use Framework Plan and are intended to ensure a safe, comfortable, contiguous

pedestrian-oriented environment as revitalization occurs in downtown. The PAR are defined as improvements within the public ROW and include such features as sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The PAR is implemented through MMC Chapter 19.700 and the Public Works Standards.

As discussed in Finding 12-f, the required street improvements include curb, sidewalks, asphalt paving in the street, bicycle racks, streetlights, and street trees. A condition has been established to ensure that all street improvements are consistent with the applicable standards of MMC 19.700 and the Public Works Standards.

As conditioned, this standard is met.

e. MMC Subsection 19.304.7 Additional Standards

Depending upon the type of use and development proposed, the standards for general site design (MMC Section 19.504), for general building design (MMC Section 19.505), and/or downtown site and building design (MMC Section 19.508) may apply.

As new development in the DMU, the design standards of MMC 19.508 are applicable to the proposed development. As discussed in Finding 9, the applicable standards of MMC 19.508 are met or are addressed with conditions of approval as needed.

As proposed, and as conditioned or discussed elsewhere in these findings, the Planning Commission finds that the applicable standards of the DMU zone are met.

7. MMC Section 19.401 Willamette Greenway Zone

MMC 19.401 establishes standards for the Willamette Greenway overlay designation.

The western half of the subject property is within the Willamette Greenway zone as shown on the City's zoning map.

a. MMC Subsection 19.401.5 Procedures

MMC 19.401.5 establishes procedures related to proposed uses and activities in the Willamette Greenway zone. Development in the Willamette Greenway zone requires conditional use review, subject to the standards of MMC Section 19.905 and in accordance with the approval criteria established in MMC Subsection 19.401.6.

The construction of a new structure constitutes "development" as defined in MMC Subsection 19.401.4 and is subject to the conditional use review standards of MMC 19.905 (discussed in Finding 13) and the approval criteria of MMC 19.401.6.

b. MMC Subsection 19.401.6 Criteria

MMC 19.401.6 establishes the criteria for approving conditional uses in the Willamette Greenway zone.

(1) Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan

The State Willamette River Greenway Plan defines "lands committed to urban use" in part as "those lands upon which the economic, developmental and locational factors have, when considered together, made the use of the property for other than urban purposes inappropriate."

The subject property is in the heart of Milwaukie's south downtown area and is zoned DMU for mixed-use development. The site has previously been developed for commercial use (including one retail building that has since been demolished), and a portion of the property is currently developed with a commercial building and off-street surface parking area. The land is committed to an urban use.

(2) Compatibility with the scenic, natural, historic, economic, and recreational character of the river

Although the subject property is not adjacent to the Willamette River it does abut Kellogg Creek, a tributary that empties into the Willamette approximately 300 ft west of the site. The proposed building design steps back in height as it approaches the creek and river, reducing the mass where it is closest to the natural resource area. Along the southwestern edge of the new building, a public access pedestrian path will connect Main Street to McLoughlin Boulevard (via the Adams Street right-of-way) and an entrance to Milwaukie Bay Park. As proposed, the development is compatible with all relevant aspects of the character of the river.

(3) Protection of views both toward and away from the river

Although the subject property is not adjacent to the Willamette River, it is visible from the river and is located between the river and the mixed-use Axletree building across Main Street to the east. Development of the site is allowed as discussed throughout these findings, so some impact on views toward the river from private property such as the Axletree site is inevitable. The Axletree building is five stories tall, and five stories are allowed outright (including bonuses) for the proposed building, so private views will be impacted simply by virtue of the development allowed by code.

There are public views of the river available along Washington Street and from the Adams Street right-of-way and Dogwood Park. The proposed development will not impact views along the Washington Street corridor, and the proposed public pathway along the southwestern side of the new building will preserve a view toward the river along the creek. Although the currently broad angle of sight will be somewhat reduced, the river will remain highly visible from the public plaza at Main Street and Adams Street as well as from Dogwood Park. The step-back design as the building approaches the creek and river will provide river views for more units within the new building than a design with uniform height.

Looking from the river toward downtown, the proposed building will obviously be visible and will eclipse the Axletree building, but the view of most of downtown Milwaukie will remain unchanged as seen from the water.

(4) Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable

The proposed development includes a public access pedestrian walkway from Main Street McLoughlin Boulevard (via the Adams Street right-of-way), in addition to a landscaped rooftop terrace on the façades adjacent to the creek and river. The steep slope between the building and the creek necessitates the use of a gabion retaining wall to shore up the site and limits the space available for more landscaping below the pedestrian walkway. But the proposed development includes plantings along the pedestrian walkway itself as well as enhancement (mitigation) plantings along the creek in the Adams Street right-of-way and Dogwood Park.

(5) Public access to and along the river, to the greatest possible degree, by appropriate legal means

The subject property is not adjacent to and does not provide direct access to the Willamette River. The proposed public walkway between Main Street and McLoughlin Boulevard (via the Adams Street right-of-way) will establish a valuable connection to one of the entrances to Milwaukie Bay Park and will provide better visual access to Kellogg Creek below.

(6) Emphasis on water-oriented and recreational uses

The subject property does not have direct access to the Willamette River, but the proposed public walkway between Main Street and McLoughlin Boulevard (via the Adams Street right-of-way) will improve access to the water-oriented and recreational amenities of Milwaukie Bay Park.

(7) Maintain or increase views between the Willamette River and downtown

As noted above in Finding 7-b-3, there are public views of the river available along Washington Street and from the Adams Street right-of-way and Dogwood Park. The proposed development will not impact views along the Washington Street corridor, and the proposed public pathway along the southwestern side of the new building will preserve a view toward the river along the creek. Although the currently broad angle of sight will be somewhat reduced, the river will remain highly visible from the public plaza at Main Street and Adams Street as well as from Dogwood Park. The step-back design as the building approaches the creek and river will provide river views for more units within the new building than a design with uniform height.

Looking from the river toward downtown, the view of most of downtown Milwaukie will remain unchanged as seen from the water.

(8) Protection of the natural environment according to regulations in Section 19.402

The subject property includes designated Water Quality Resource (WQR) and Habitat Conservation Area (HCA), and the proposed development will disturb involves significant WQR and HCA disturbance. The proposed development's compliance with the applicable requirements of MMC Section 19.402 are addressed in Finding 8.

(9) Advice and recommendations of the Design and Landmarks Committee (DLC), as appropriate

The subject property is within the Downtown Mixed Use (DMU) zone and requires downtown design review and review for a building height variance, as discussed elsewhere in these findings. As noted in Finding 16, the DLC held a design review meeting on September 7, 2021, and voted unanimously to recommend approval of the proposed design and the requested building height variance. The DLC provided a few minor recommendations related to the design, as noted in Finding 16.

(10) Conformance to applicable Comprehensive Plan policies

The Natural Resources and Environmental Quality element in the Milwaukie Comprehensive Plan is intended to protect, conserve, and enhance the quality, diversity, quantity, and resiliency of Milwaukie's natural resources and ecosystems. This element features goals and policies related to awareness and education; water quality and resources; flora and fauna habitat; healthy urban forest; sustainable design and development; and air, noise, and light quality. The Natural Resources and Environmental Quality element includes the following relevant adopted policies:

- Support efforts to restore Kellogg and Johnson Creeks and their tributaries and restore a free-flowing Kellogg Creek at the Kellogg Dam site
- Require a detailed analysis of how development will avoid impacts to natural resources
- Regulate floodplains to protect and restore associated natural resources and functions and increase flood storage capacity
- Improve stormwater detention and treatment standards through the use of best available science, technology, and management practices to meet water quality standards and achieve wildlife habitat protection
- Protect habitat areas for native and non-invasive naturalized plants and wildlife, considering impacts to habitat connectivity when reviewing development proposals
- Protect and enhance riparian vegetation
- Incorporate sustainable and low-impact building and site planning technologies, habitat-friendly development strategies, and green infrastructure into City codes and standards

The proposed development involves significant disturbance to the designated WQR and HCA natural resources on the site. As discussed in Finding 8, the proposal includes an assessment of impacts and a plan for mitigation. As discussed in Finding 5, the proposed development involves fill within the regulatory floodplain and demonstrates how flood storage capacity will be increased. The stormwater management aspect of the proposal includes a planter facility at the second-story level to treat roof runoff and pervious

surface materials for plaza and other hardscape areas. The mitigation plan involves planting hundreds of native-species trees and shrubs in four distinct areas within the riparian corridor, improving the stream bank and enhancing the connectivity of habitat along a significant length of the creek. The mitigation contributes to the larger and longer-term effort to improve conditions in advance of the future restoration of a free-flowing Kellogg Creek.

The Willamette Greenway element is intended to protect, conserve, enhance, and maintain the lands and water that comprise the City's portion of the Willamette River Greenway in a manner that recognizes the unique natural, scenic, historical, economic, and recreational qualities that exist along the river. This element features goals and policies related to the greenway boundary, greenway design plan, land use review process, natural resource protection, recreation, public access and view protection, and downtown. This element includes the following relevant adopted policies:

- Utilize the Willamette Greenway overlay zone in combination with underlying land use designations to manage uses and implement City objectives for the greenway
- Protect and conserving natural resources within the greenway, including increasing the tree canopy
- Support the removal of the Kellogg Dam and restoration of a free-flowing Kellogg Creek through revegetation of riparian areas with native species
- Connect City bicycle and pedestrian trail systems with the trail system through the greenway
- Evaluate proposals for new development for their effect on visual access to the river and Kellogg Creek from publicly owned land and the public right-of-way[1]
- Provide safe pedestrian connections between downtown Milwaukie and the river

The western half of the subject property is within the Willamette Greenway overlay zone, and the proposed new development requires the review against the applicable criteria of MMC 19.401.6 as part of the City's effort to implement its greenway objectives. As noted above, the proposal involves disturbance of designated natural resource areas and includes a mitigation planting plan that will revegetate the riparian corridor and increase the tree canopy as part of the larger effort to remove the Kellogg Dam and restore Kellogg Creek as a free-flowing stream. The excavation proposed within the regulatory floodplain to balance fill for the building footprint will not preclude the construction of a future bike path adjacent to the creek and under the McLoughlin

[1] However, Policy 4.6.4 clarifies that, "Enhancing riparian vegetation along Kellogg Creek to improve aquatic habitat conditions for native species will be a higher priority than maintaining or improving views of the creek."

Boulevard bridge after Kellogg Dam is removed. As discussed above in Finding 7-b-3, the proposed development will not have significant impacts on public views of the river and creek. Over time, the riparian area plantings will grow to obscure views of the creek, but the Comprehensive Plan policies favor the health of the natural area over the view. And the proposed public access pedestrian walkway through the site between Main Street and McLoughlin Boulevard (via the Adams Street right-of-way) will establish a new safe connection between downtown Milwaukie and the river.

The Housing element is intended to provide safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability. This element features goals and policies related to equity, affordability, sustainability, and livability. The Housing element includes the following relevant adopted policies:

- Allow and encourage the development of housing types that are affordable to low- or moderate-income households
- Incentivize, and where appropriate require, new housing development projects to include features that increase energy efficiency, improve building durability, use sustainably produced materials, manage stormwater naturally, and/or employ other environmentally sustainable practices
- Allow for a reduction in required off-street parking for new development within close proximity to light rail stations and frequent bus service corridors
- Implement land use and public investment decisions and standards that encourage creation of denser development in centers, neighborhood hubs, and along corridors
- Require that multi-unit housing units have access to an adequate amount of usable open space, either on site or adjacent to the site

The proposed mixed-use building will provide 195 multifamily units. As per the development agreement between the City and the applicant, a minimum of 10% of the units will be restricted to households earning no more than 80% of the area median income or less for a period of no less than 30 years. In order to qualify for one of the stories proposed above the base maximum height of three stories, the applicant has proposed to ensure that the building is LEED certified as a green building. The subject property is less than 500 ft from the downtown Milwaukie light rail station, and the proposed development is eligible for a 25% reduction in parking as allowed by MMC Subsection 19.605.3.B as discussed in Finding 11-b-3. The proposal is the result of an initiative by the City to facilitate the development of dense housing and commercial activity in the downtown core. As discussed in Finding 9-g, the proposed design provides more than the minimum required amount of usable open space with a combination of private patios, shared amenity rooms, and common rooftop terrace. Building residents also have access to the adjacent Dogwood Park.

The Urban Design and Land Use element is intended to promote the design of private development and public spaces and facilities to enhance community livability, environmental sustainability, social interaction, and multimodal connectivity. This element features goals and policies related to design, livability, and process. The Urban Design and Land Use element includes the following relevant adopted policies:

- Allow for a variety of dense urban uses in multistory buildings that can accommodate a mix of commercial, retail, office, and higher density residential uses
- Provide a high-quality pedestrian environment that supports safe, convenient access to the area's multiple transportation modes
- Encourage development that takes advantage of proximity to and views of the Willamette River and the Willamette Greenway
- Ensure that buildings are designed with storefront windows and doors, weather protection, and details that contribute to an active, pedestrian-oriented streetscape
- Support uses that contribute to the vibrancy of the downtown area, including special events and outdoor uses such as farmers markets and festivals
- Allow for vertical landscaping or green roofs to substitute for ground landscaping in situations where sites are constrained
- Use a two-track development review process to ensure that new nonresidential development projects are well designed, providing a clear and objective set of standards as well as an optional discretionary track that allows for greater design flexibility

The proposed development is a six-story mixed-use building with 195 multifamily units and approximately 7,000 sq ft of commercial (restaurant and retail) space, all of which will boost the effort to revitalize downtown Milwaukie. The site design includes a public access pedestrian walkway connecting Main Street to McLoughlin Boulevard (via the Adams Street right-of-way), which links the south downtown to Milwaukie Bay Park and the Trolley Trail. The stepped-back configuration of the upper floors provides views of the Willamette River and Kellogg Creek to multiple units within the new building. The primary retail-focused façade on Main Street presents storefront windows, canopies, and articulated design details that build on the urban, pedestrian-focused streetscape furthered by the recent construction of the Axletree building across the street. The building cutout at the Main/Adams corner, which houses the entrance to a future restaurant, connects the building to the public plaza adjacent to Dogwood Park and will feed into the various special events and farmers market activity occurring in the "festival street" aspect of that part of Main Street. Vertical-landscaped metal screens obscuring the parking structure façade along the Washington Street and McLoughlin Boulevard

frontages provide additional greenery where there is little room for conventional landscaping. The Type III discretionary track for downtown design review allows an opportunity to present a design that is consistent with the purpose and intent of the City's downtown design standards and guidelines, even if it does not exactly meet every single standard.

The Parks and Recreation element is intended to provide for the recreational needs of city residents and includes an adopted policy to ensure that bicycle trails, sidewalks, and walking trails provide convenient access to parks and natural areas.

The proposed development includes improved connections to two public parks. The public access pedestrian walkway proposed along the southwestern side of the building, linking Main Street to McLoughlin Boulevard through the site (via the Adams Street right-of-way) will bring pedestrians to a public sidewalk where they can safely cross McLoughlin Boulevard and access Milwaukie Bay Park and the Trolley Trail. At the Main/Adams corner of the new building, the proposed plaza in the Adams Street right-of-way opens directly into the northern portion of Dogwood Park.

The Economic Development element is intended to support a vibrant, inclusive, and environmentally sustainable local economy and includes an adopted policy to facilitate the development of housing that meets the needs of local employees across a wide range of price ranges and housing types.

The proposed development is the result of the City's effort to facilitate the development of new housing units and new commercial spaces in the downtown core. The proposed six-story mixed-use building will provide 195 multifamily residential units, at least 10% of which will be income-restricted to households at 80% or less of the area median income. The new commercial spaces (approximately 7,000 sq ft in total) offer new locations for business activity that will enliven a gateway location of the downtown.

(11) The request is consistent with applicable plans and programs of the Division of State Lands

The proposed activity is not inconsistent with any known plans or programs of the Department of State Lands (DSL). The proposed development does not include excavation or fill below the ordinary high-water mark or within waters of the State. No permits from DSL or the Army Corps of Engineers are required.

(12) A vegetation buffer plan meeting the conditions of MMC Subsections 19.401.8.A through C

The subject property is not directly adjacent to the Willamette River and does not include a vegetation buffer area as described in MMC 19.401.8.A.

The Planning Commission finds that the proposed activity meets all relevant approval criteria provided in MMC 19.401.6.

c. MMC Subsection 19.401.8 Vegetation Buffer Requirements

MMC 19.401.8 establishes requirements for a buffer strip of native vegetation along the river, between the river and a location 25 ft upland from the ordinary high-water line. The vegetation buffer is to be preserved, enhanced, or reestablished, except for development otherwise allowed by the zoning code.

The subject property is adjacent to Kellogg Creek but is not adjacent to the Willamette River.

The Planning Commission finds that this standard is not applicable.

The Planning Commission finds that the proposed development meets all applicable standards of the Willamette Greenway zone.

8. MMC Section 19.402 Natural Resources

MMC 19.402 establishes regulations for designated natural resource areas. The standards and requirements of MMC 19.402 are an acknowledgment that many of the riparian, wildlife, and wetland resources in the community have been adversely impacted by development over time. The regulations are intended to minimize additional negative impacts and to restore and improve natural resources where possible.

a. MMC Subsection 19.402.3 Applicability

MMC 19.402.3 establishes applicability of the Natural Resource (NR) regulations, including all properties containing Water Quality Resources (WQRs) and Habitat Conservation Areas (HCAs) as shown on the City's Natural Resource (NR) Administrative Map.

The subject property is adjacent to Kellogg Creek along its southwestern boundary. A dam just west of the site makes the creek more of a small lake at this location. The City's NR Administrative Map shows both WQR and HCA designations on the subject property.

As presented in the applicant's natural resource report, the proposed development includes approximately 27,310 sq ft (0.63 acres) of WQR disturbance (approximately 16,900 sq ft permanent and 10,400 temporary) and approximately 2,590 sq ft (0.06 acres) of HCA disturbance (2,310 sq ft permanent and 280 sq ft temporary), for a total disturbance of approximately 29,900 sq ft (0.69 acres). At that scale, the proposed activity is not listed as exempt according to the standards outlined in MMC 19.402.4.

The Planning Commission finds that the requirements of MMC 19.402 are applicable to the proposed activity.

b. MMC Subsection 19.402.8 Activities Requiring Type III Review

MMC 19.402.8 establishes that certain activities within a designated WQR and/or HCA are subject to Type III review in accordance with MMC 19.1006. As per MMC 19.402.8.A.1, this includes activities allowed in the base zone that are not otherwise exempt or permitted as a Type I or II activity.

The scale of disturbance proposed within the identified WQR area on the subject property exceeds the levels allowed by Type I and II review, as provided in MMC 19.402.6 and 402.7,

respectively. As such, the activity is subject to Type III review and the discretionary process established in MMC 19.402.12.

The Planning Commission finds that the proposed activity is subject to Type III review.

c. MMC Subsection 19.402.9 Construction Management Plans

MMC 19.402.9 establishes standards for construction management plans, which are required for projects that disturb more than 150 sq ft of designated natural resource area. Construction management plans must provide information related to site access, staging of materials and equipment, and measures for tree protection and erosion control.

The applicant's submittal materials include a construction management plan that provides the information required by MMC 19.402.9. The plan shows a different WQR boundary than is shown on the mitigation plan and other figures related to natural resources. A condition has been established to require that the construction management plan be revised to be consistent with other plan sheets in showing the WQR boundary.

As conditioned, the Planning Commission finds that the construction management plan provides sufficient information for natural resource protection.

d. MMC Subsection 19.402.11 Development Standards

MMC 19.402.11 establishes development standards for projects that impact a designated natural resource, including requirements to protect natural resource areas during development and general standards for required mitigation (e.g., plant species, size, spacing, and diversity). MMC Subsection 19.402.11.B.6 requires all mitigation vegetation to be planted on the applicant's site within the designated natural resource area being disturbed, or in a contiguous area. For any allowed WQR disturbance, off-site mitigation is not allowed; for HCA disturbance, off-site mitigation is allowed within an area contiguous to the HCA if documentation is provided showing the applicant has sufficient authority to conduct and maintain the vegetation.

MMC Subsection 19.402.11.C establishes mitigation requirements for disturbance within WQRs. The requirements vary depending on the existing condition of the WQR, according to the categories established in MMC Table 19.402.11.C. For Class A "Good" WQR conditions, the table requires that the applicant submit a plan for mitigating water quality impacts related to the development, including sediments, temperature, and nutrients; for Class B "Marginal" and Class C "Poor" WQR conditions, the table requires restoration and mitigation with native species using a City-approved plan.

Based on existing conditions, the applicant's natural resource report categorized the WQR in the northern portion of the project area (along the east bank of the creek adjacent to the subject property itself) was Class B ("Marginal"), while the WQR in the southern portion of the project area (on the east bank adjacent to the Adams Street ROW and Dogwood Park) was categorized as Class A ("Good"). As mitigation for WQR and HCA disturbance (both

permanent and temporary), the applicant has proposed plantings (native trees, shrubs, and ground cover) in four areas totaling approximately 23,740 sq ft along the east bank. Some of the mitigation area is located within a narrow strip along the base of the new retaining wall on the subject property, but most of the mitigation will occur beyond the subject property boundary within the adjacent Adams Street right-of-way and Dogwood Park. A variance for off-site mitigation has been requested and is discussed in Finding 15.

As proposed, the mitigation plantings will meet the minimum requirements for size, species, spacing, etc., as established in MMC Subsection 19.402.11.B. The applicant also proposes to remove non-native invasive plants and has provided a stormwater management plan that will meet City requirements for runoff rates and water quality.

ESA, the City's consultant for on-call natural resource services, evaluated the applicant's natural resources site assessment and concluded that the condition of the northern portion of the WQR was more accurately categorized as Class C ("Poor") because it contains less than 25% tree canopy. ESA also concluded that the proposed mitigation plantings are appropriate and adequate for the planting locations, including with regard to number, species, size, diversity, and spacing. According to ESA's review, the proposed mitigation will improve some of the functions and values of the WQR and will at least not diminish others.

As proposed, and as discussed in Finding 15 regarding the variance to allow off-site mitigation, the Planning Commission finds that the applicable development standards of MMC 19.402.11 are met.

e. MMC Subsection 19.402.12 General Discretionary Review

MMC 19.402.12 establishes the discretionary review process for activities that substantially disturb designated natural resource areas.

(1) MMC Subsection 19.402.12.A Impact Evaluation and Analysis

MMC 19.402.12.A requires an impact evaluation and alternatives analysis in order to determine compliance with the approval criteria for discretionary review and to evaluate alternatives to the proposed development. A technical report prepared by a qualified natural resource professional is required and should include the following components:

- Identification of ecological functions
- Inventory of vegetation
- Assessment of water quality impacts
- Alternatives analysis
- Demonstration that no practicable alternative method or design exists that would have a lesser impact on the resource and that impacts are mitigated to the extent practicable
- Mitigation plan

The applicant's submittal materials include a natural resource report prepared by Pacific Habitat Services (PHS). PHS is an environmental consulting firm based in the Portland metro area (Wilsonville) with many years of experience in providing environmental and

natural resource analyses. The natural resource report includes an assessment of ecological functions, inventory of vegetation, and impact evaluation consistent with the required components listed above. The report also provides a mitigation plan for permanent and temporary impacts to the WQR and HCA.

The natural resource report explains that there are no viable alternatives to the proposed development. It considers an alternative building footprint that avoids all WQR and HCA disturbance and notes that the reduction in building size would result in a project that is economically less viable than other comparable developments downtown. The applicant's narrative concludes that the proposed development is the most practicable alternative that results in the least impact to the natural resources on the site.

The Planning Commission finds that the applicant's materials are sufficient for purposes of reviewing the proposed activity against the approval criteria of MMC Subsection 19.402.12.B. This standard is met.

(2) MMC Subsection 19.402.12.B Approval Criteria

MMC 19.402.12.B provides the approval criteria for discretionary review as follows:

- Avoid - The proposed activity avoids the intrusion of development into the WQR and/or HCA to the extent practicable and has less detrimental impact to the natural resource areas than other practicable alternatives.

  The subject property is adjacent to Kellogg Creek along its southwestern boundary, which results in WQR and HCA designations extending at least 50 ft into the site from the top of bank. Given that the subject property is within the downtown core where dense development is expected and allowed, the loss of site area where development is restricted significantly impacts project viability. As discussed above in Finding 8-e-1, there is no real feasible alternative to impacting as much of the WQR and HCA on the site as is proposed.

- Minimize - If the applicant demonstrates that there is no practicable alternative to avoid disturbance of the natural resource, then the proposed activity shall minimize detrimental impacts to the extent practicable.

  As noted above, the proposed development represents the minimum level of impact to the WQR and HCA resources on the site. As discussed below, the proposed mitigation will minimize impacts by enhancing the riparian corridor in an area contiguous to the subject property.

- Mitigate - If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the natural resource, then the proposed activity shall mitigate for adverse impacts to the resource area. The applicant shall present a mitigation plan that demonstrates compensation for detrimental impacts to ecological functions, with mitigation occurring on the site of the disturbance to the extent practicable,

utilization of native plants, and a maintenance plan to ensure the success of plantings.

The applicant's submittal includes a mitigation plan for the proposed WQR and HCA disturbance. Native trees, shrubs, and ground cover will be planted within four distinct areas within the riparian corridor, improving the stream bank and enhancing the connectivity of habitat along a significant length of the creek. A total of approximately 29,900 sq ft of WQR and HCA area will be permanently or temporarily disturbed, with mitigation plantings installed in an area totaling approximately 23,740 sq ft.

ESA's review of the applicant's natural resource report concluded that the proposed mitigation plantings are appropriate and adequate for the planting locations, including with regard to number, species, size, diversity, and spacing. According to ESA's review, the proposed mitigation will maintain some of the ecological functions of the WQR and will improve others by increasing native plant coverage, tree and shrub numbers, and structural and species diversity.

As proposed, the Planning Commission finds that the proposed development meets the approval criteria for discretionary review as established in MMC 19.402.12.B.

The Planning Commission finds that the proposed development meets the applicable discretionary review standards of MMC 19.402.12.

f. MMC Subsection 19.402.15 Boundary Verification and Map Administration

MMC 19.402.15 establishes standards for verifying WQR and HCA boundaries and for administering the City's Natural Resource (NR) Administrative Map.

WQR locations are determined based on the provisions of MMC Table 19.402.15. For streams, the WQR includes the feature itself and a vegetated corridor that extends 50 ft from the ordinary high-water mark or two-year recurrence interval flood elevation. Where the slope exceeds 25% for less than 150 ft, the vegetated corridor is measured with a 50-ft width from the break in the 25% slope. For wetlands, a wetland delineation report prepared by a professional wetland specialist and approved by the Department of State Lands (DSL) is required.

For HCAs, the City's NR Administrative Map is assumed to be accurate with respect to location unless challenged by the applicant, using the procedures outlined in either MMC Subsection 19.402.15.A.1 or MMC Subsection 19.402.15.A.2.b.

The applicant's natural resource report prepared by Pacific Habitat Services includes a detailed topographic map showing the boundaries of the WQR using the provisions of MMC Table 19.402.15. In addition, the submittal materials include a field verification of the HCA on the site and sufficient information and analysis to satisfy the requirements of the detailed HCA boundary verification process outlined in MMC 19.402.15.A.2.b.

The Planning Commission finds that the City's NR Administrative Map will be adjusted to reflect the accurate location of the WQR on the site, based on the detailed information

provided by the applicant with respect to the ordinary high-water line and adjacent slopes along Kellogg Creek. The HCA boundary will be adjusted on the NR Administrative Map to reflect the applicant's detailed verification, accounting for areas of approved permanent HCA disturbance resulting from the proposed development.

The Planning Commission finds that, as conditioned, the proposed development, including disturbance of the designated natural resource areas on the subject property, meets all applicable standards of MMC 19.402.

9. MMC Section 19.508 Downtown Site and Building Design Standards

MMC 19.508 establishes design standards for downtown development, to encourage building design and construction with durable, high-quality materials. The design standards are applicable to all new development. MMC Subsection 19.508.4 establishes standards for seven different elements of design.

The proposed development is for a new mixed-use building. The findings for each of the applicable design elements are provided in Table 9, below.

Table 9
Building Design Standards

A. BUILDING FAÇADE DETAILS Purpose: *To provide cohesive and visually interesting building façades in the downtown, particularly along the ground floor.*	
Standard	**Findings**
The following standards apply to nonresidential and mixed-use buildings: ***Vertical Building Façade*** ***Nonresidential and mixed-use buildings two stories and above shall provide a defined base, middle, and top.*** ***a. Base*** ***The base extends from the sidewalk to the bottom of the second story or the belt course/string course that separates the ground floor from the middle of the building. The building base shall be defined by providing all of these elements:*** ***1) The street-facing ground floor shall be divided into distinct architectural bays that are no more than 30 ft on center. For the purpose of this standard, an architectural bay is defined as the zone between the outside edges of an engaged column, pilaster, post, or vertical wall area.***	The proposed development is a six-story mixed-use building with restaurant and commercial space on the ground floor and 195 multifamily units above. The building has four primary façades: the east façade faces Main Street, the south façade faces the Adams Street right-of-way, the southwest and west façades face McLoughlin Boulevard, and the north façade faces Washington Street. Due to changes in grade (generally dropping from east to west), the ground level of the east façade is higher than that of the west elevation by approximately one story. Step backs at various levels of the building utilize the grade changes to minimize the building mass. **Vertical Building Façade—Base:** 1) The applicant's submittal materials indicate that only the Main Street (east) ground-floor façade provides distinct architectural bays that are no more than 30 ft on center. However, it appears that all four ground-floor façades are in fact divided into architectural bays that meet this standard.

A. BUILDING FAÇADE DETAILS

Purpose: ***To provide cohesive and visually interesting building façades in the downtown, particularly along the ground floor.***

Standard	Findings
2) The building base shall be constructed of brick, stone, or concrete to create a "heavier" visual appearance.	2) The ground-floor corners of Main Street/Washington Street and Main Street/Adams Street are constructed of or clad in brick. Where the basement level is visible above ground (along the north, west, and south façades), its concrete construction is visible. The other short façade length of the ground floor (east façade, between the brick-clad columns) is clad in wood with aluminum storefront windows. This standard is not met. Address of purpose statement (for Building Façade Details) and applicable design guidelines: Approximately 85 ft of the nearly 205-ft east façade (Main Street) is clad in wood with aluminum storefront, sandwiched between the two brick corners. On the north (Adams Street) and south (Washington Street) façades, brick cladding is used at the Main Street corners and wood cladding extends to and around the west (McLoughlin Boulevard) elevation. That variety is in the spirit of the Architecture guideline for Wall Materials, which, while encouraging the use of materials that create a sense of permanence, also promotes the use of varied but compatible cladding materials. Because the façades on Main Street, Washington Street, and Adams Street include both commercial and residential uses, the use of brick to delineate one use (commercial) and wood another (residential entry to the building) creates interest and differentiates the two uses. The proposed design is consistent with the purpose of this design element and the applicable design guidelines.
3) Weather protection that complies with the standards of Subsection 19.508.4.C. ***4) Windows that comply with the standards of Subsection 19.508.4.E.***	3 & 4) As proposed, the base does not comply with the applicable design standards for Weather Protection or Windows and Doors standards. Consistency with the respective purpose statements and relevant design guidelines is addressed below for each of those design elements.

A. BUILDING FAÇADE DETAILS

Purpose: ***To provide cohesive and visually interesting building façades in the downtown, particularly along the ground floor.***

Standard	Findings
b. Middle ***The middle of a building extends from the top of the building base to the ceiling of the highest building story. The middle is distinguished from the top and base of the building by use of building elements. The middle of the building shall be defined by providing all of the following elements:*** ***1) Windows that comply with the standards of Subsection 19.508.4.E.*** ***2) One of the following elements:*** ***a. A change in exterior cladding, and detailing and material color between the ground floor and upper floors. Differences in color must be clearly visible.*** ***b. Street-facing balconies or decks at least 2 ft deep and 4 ft wide for at least 25% of the length of the building.***	**Vertical Building Façade—Middle:** 1) All four façades meet the applicable standards for Windows above the base of the building—see the relevant discussion in the Windows section below. 2) For most of the total façade area on all sides, there is a change in exterior cladding and material color between the ground floor (mostly wood cladding with aluminum storefront) and the upper floors (metal cladding). However, at the corners of Main /Washington and Main /Adams, the brick cladding extends from the ground floor to upper floors. This standard is not met. Address of purpose statement (for Building Façade Details) and applicable design guidelines: The corners at Main /Washington and Main /Adams are brick between the ground floor and four of five upper floors. However, the taller ground-floor height and the storefront window pattern, along with the material change at the top floor (from brick to metal cladding), do provide distinctions between base, middle, and top. The design ties into the brick material palette of other existing historic downtown buildings and presents subtle demarcations of the tripartite structure, in accordance with the Milwaukie Character guidelines for Considering Context and Promoting Architectural Compatibility. It is also consistent with the Architecture guideline for Wall Materials, which promotes the use of varied but compatible cladding materials. The proposed design is consistent with the purpose of this design element and the applicable design guidelines.

A. BUILDING FAÇADE DETAILS

Purpose: ***To provide cohesive and visually interesting building façades in the downtown, particularly along the ground floor.***

Standard	Findings
3) A change in wall plane of not less than 24 in deep and 24 in wide. Breaks may include, but are not limited to, an offset, recess, window reveal, pilaster, pediment, coursing, column, marquee, or similar architectural feature. ***4) Provide a step back of at least 6 ft for any street-facing portion of the building above the base maximum height as identified in Figure 19.304-4.***	3) Each of the four façades provides at least one change in wall plane that is at least 24 in deep. This standard is met. 4) Although the building does provide several step-back elements, it does not step back for all street-facing portions of the building above the base maximum height of five stories (three stories plus two bonus stories for residential uses and green building certification). This standard is not met. Address of purpose statement (for Building Façade Details) and applicable design guidelines: The applicant has requested a variance to add another one to two stories of building height to the base maximum height of five stories. Although the building steps back significantly along different lengths of the street-facing façades, it rises to the full proposed height along the east (Main Street) elevation to emphasize the primary corners at Main/Washington and Main/Adams. As the building generally steps down in height from east to west as it gets closer to Kellogg Creek and the Willamette River, it is consistent with the Milwaukie Character guidelines to Integrate the Environment and Consider View Opportunities. The Architectural guideline for Silhouette and Roofline, which pushes for the creation of interest and detail, is served by this staggered step-down height effect that begins with the full height along the Main Street façade. The proposed design is consistent with the purpose of this design element and the applicable design guidelines.
c. Top ***The top of the building extends from the ceiling of the uppermost floor to the highest vertical point on the roof of the building, and it is the roof form/element at the uppermost portion of the façade that visually terminates the façade. The top of the building shall provide roofs that comply with the standards of Subsection 19.508.4.F.***	**Vertical Building Façade—Top:** The roof does not comply with all of the applicable standards. Consistency with the purpose statement for Roofs and Rooftop Equipment and relevant design guidelines is addressed below for that design element.

A. BUILDING FAÇADE DETAILS

Purpose: ***To provide cohesive and visually interesting building façades in the downtown, particularly along the ground floor.***

Standard	Findings
Horizontal Building Façade ***a. Horizontal datum lines—such as belt lines, cornices, or upper-floor windows—shall line up with adjacent façades if applicable.*** ***b. Significant breaks shall be created along building façades at least every 150 linear ft by either setting the façade back at least 20 ft or breaking the building into separate structures. Breaks shall be at least 15 ft wide and shall be continuous along the full height of the building. The area or areas created by this break shall meet the standards of Subsection 19.304.5.H.***	**Horizontal Building Facade** a) The proposed development will occupy the entire block, so there are no adjacent façades with which to line up horizontal datum lines. This standard is not applicable. b) The west, north, and east façades are all longer than 150 ft but do not include significant breaks. This standard is not met. Address of purpose statement (for Building Façade Details) and applicable design guidelines: The west façade (McLoughlin Boulevard) utilizes angled wall lines that present an eroded façade with up to 6 ft of setback at the deepest. The north façade (Washington Street) is broken up by the main entry to the parking structure, as well as by the gradual exposure of the concrete foundation (with the grade dropping from east to west). The east façade (Main Street) includes the brick-clad corners and many small articulations that pull that face of the building one to two feet back from the property line. These details all further the intent of the Architectural guideline for Wall Structure to break up the longitudinal dimensions of the proposed building, provide a human scale to the space of the street, and create visual interest. The proposed design is consistent with the purpose of this design element and the applicable design guidelines.

B. CORNERS

Purpose: ***To create a strong architectural statement at street corners and establish visual landmarks and enhance visual variety.***

Standard	Findings
Nonresidential or mixed-use buildings at the corner of two public streets—or at the corner of a street and a public area, park, or plaza—shall incorporate two of the following features (for the purposes of this standard an alley is not considered a public street): ***a. The primary entry to the building located within 5 ft of the corner.*** ***b. A prominent architectural element, such as increased building height or massing, a cupola, a turret, or a pitched roof at the corner of the building or within 20 ft of the corner of the building.*** ***c. The corner of the building cut at a 45° angle or a similar dimension "rounded" corner.*** ***d. A combination of special paving materials; street furnishings; and, where appropriate, plantings, in addition to the front door.***	The proposed building has three corners on public streets—Main/Washington, Main/Adams, and Washington/McLoughlin. **Main/Washington** The brick-clad façade at the corner extends up five stories and provides a projecting cornice that extends around the corner, separating the brick cladding from the metal cladding of the sixth story. At the ground level, a canopy also wraps around the corner to provide visual interest from the sidewalk. However, the grade change on Washington Street makes it impractical to provide a main building entry within 5 ft of the corner, and no cut or rounded dimension is proposed. A stormwater planting strip is proposed in the public right-of-way near the corner, but it is not in addition to special paving materials or street furnishings. This standard is not met. Address of purpose statement (for Corners) and applicable design guidelines: The use of brick cladding between the ground floor and the fifth story visually emphasizes the corner of the building and presents a strong architectural statement. In relation to the new Axletree building across Main Street to the east, which also presents a modern, multi-story design with a prominent visual corner at Main/Washington, the proposed design is consistent with the Milwaukie Character guidelines for Considering Context, Promoting Architectural Compatibility, and Using Architectural Contrast Wisely. Together, the two buildings provide a strong corner presence, with distinct but compatible design details. The proposed design is consistent with the purpose of this design element and the applicable design guidelines.

B. CORNERS

Purpose: ***To create a strong architectural statement at street corners and establish visual landmarks and enhance visual variety.***

Standard	Findings
	Main/Adams As with the opposing corner at Main/Washington, the brick-clad façade at Main/Adams extends up five stories and provides a projecting cornice between the fifth and sixth stories, with canopies on both sides at the ground level. At the ground level, the corner is notched out at 90 degrees, providing a weather-protected space that serves to draw people into the building. Although not technically a 45-degree angle or rounded, the 90-degree notch serves a similar purpose to provide a visual connection between Main Street and the adjacent Dogwood Park. Special paving connects the corner to the adjacent landscaped pedestrian walkway leading from Adamas Street to McLoughlin Boulevard. This standard is met. **Washington/McLoughlin** The corner at Washington/McLoughlin is part of the residential majority of the building and has a different character than the two commercial corners. The corner is cut at a 45-degree angle to match the curve of the public right-of-way at the street, and a small entry to the main bike storage facility is located along the cut, though not within 5 ft of the true corner itself. A rooftop terrace at the corner provides additional visual interest. This standard is met.

C. WEATHER PROTECTION

Purpose: ***Create an all-season pedestrian environment.***

Standard	Findings
All buildings shall provide weather protection for pedestrians as follows: ***a. Minimum Weather Protection Coverage*** ***1) All ground-floor building entries shall be protected from the weather by canopies or recessed behind the front building façade at least 3 ft.*** ***2) Permanent awnings, canopies, recesses, or similar weather protection shall be provided along at least 50% of the ground-floor elevation(s) of a building where the building abuts a sidewalk, civic space, or pedestrian accessway.*** ***3) Weather protection used to meet the above standard shall extend at least 4 ft, and no more than 6 ft, over the pedestrian area, and a maximum of 4 ft into the public right-of-way. Balconies meeting these dimensional requirements can be counted toward this requirement.*** ***4) In addition, the above standards do not apply where a building has a ground-floor dwelling, as in a mixed-use development or live-work building, and the dwelling entrance has a covered entrance.***	**Minimum Weather Protection Coverage** 1) With two exceptions, all ground-floor building entries are weather protected with canopies. The entry to the residential lobby (on Main Street) is recessed approximately 5 ft behind the building façade. The entry to the bike storage area at the corner of Washington/McLoughlin does not have any weather protection. This standard is not met. In this case, there is no reasonable design rationale for not providing weather protection for the entry to the bike storage area, which will serve as a primary access for a significant number of residents. A condition has been established to ensure that some form of weather protection will be provided for the bike storage entry. As conditioned, this standard is met. 2) Along the Main Street and Adams Street façades, at least 50% of the ground-floor elevation abutting a sidewalk, civic space, or pedestrian walkway is covered with permanent weather protection. Along the sidewalk-abutting façades of Washington Street and McLoughlin Boulevard, well under 50% of the ground floor elevation has weather protection. This standard is not met. Address of purpose statement (for Weather Protection) and applicable design guidelines: The design's failure to meet the 50% protection standard is due in large part to the grade change that exposes the basement level of the building and elevates what is the ground floor at Main Street to a second-floor height at McLoughlin Boulevard. Unlike the commercial storefronts in the new building, those portions of the Washington Street and McLoughlin Boulevard façades adjacent to the basement level are not Places where Pedestrians are encouraged to Stop and View, as is encouraged by the Pedestrian Emphasis guideline of that same name. West of the Main/Washington corner of the building on Washington Street, the grade is not conducive to pedestrian lingering, and McLoughlin Boulevard and the Washington/McLoughlin intersection are too busy with vehicle traffic to provide a pedestrian-friendly

C. WEATHER PROTECTION

Purpose: ***Create an all-season pedestrian environment.***

Standard	Findings
	environment. Except for over the entry to the bike storage area (as noted above), weather protection is not a priority along these portions of the Washington Street and McLoughlin Boulevard façades. The proposed design is consistent with the purpose of this design element and the applicable design guidelines. 3) As proposed, all canopies extend between 4 ft and 6 ft from the building façade. No canopies project more than 4 ft into the public right-of-way. This standard is met. 4) Due to the change in grade, there are technically no ground-floor dwellings. The commercial storefronts and residential lobby, whose entries are either covered by canopies or recessed, are at grade along the Main Street façade, while residential units at that same level are well above the ground-floor level because the grade drops moving from east to west (Main Street to McLoughlin Boulevard). This standard is not applicable.
b. Weather Protection Design ***Weather protection shall comply with applicable building codes and shall be designed to be visually compatible with the architecture of a building. Where applicable, weather protection shall be designed to accommodate pedestrian signage (e.g., blade signs) while maintaining required vertical clearance.***	**Weather Protection Design** The proposed canopies are flat, rigid structures that would extend perpendicular from the building façade at a minimum height of 10 ft. As proposed, the canopies are visually compatible with the building architecture. No signage is proposed at this time, but the 10-ft canopy height allows sufficient vertical clearance for any future proposed signage. This standard is met.

D. EXTERIOR BUILDING MATERIALS

Purpose: ***To encourage the construction of attractive buildings with materials that evoke a sense of permanence and are compatible with downtown Milwaukie and the surrounding built and natural environment.***

Standard	Findings
The following standards are applicable to the street-facing façades of all new buildings. For the purposes of this standard, street-facing façades are those abutting streets, courtyards, and/or public squares in all of the downtown. Table 19.508.4.D specifies the primary, secondary, and prohibited material types referenced in this standard. ***a. Buildings shall utilize primary materials for at least 65% of each applicable building façade.*** ***b. Secondary materials are permitted on no greater than 35% of each applicable building façade.*** ***c. Accent materials are permitted on no greater than 10% of each applicable building façade as trims or accents (e.g. flashing, projecting features, ornamentation, etc.).*** ***d. Buildings shall not use prohibited materials on any exterior wall, whether or not it is a street-facing façade.***	According to the applicant's materials, the east façade (Main Street) is 73% primary materials (brick, wood), 23% secondary materials (metal panels), and 4% accent materials. The north façade (Washington Street) is 64% primary (two colors of brick, wood), 32% secondary (metal panels), and 4% accent materials. The south façade (Adams Street) is 66% primary (brick), 32% secondary (metal panels), and 7% accent materials. And the west façade (McLoughlin Boulevard) is 12% primary (wood), 88% secondary, and 1% accent materials. (Note: Accent materials for all façades consist of screening for Packaged Terminal Heat Pump (PTHP) units, ornamental metal screens over canopies, and the projecting cornice with flashing cap.) No prohibited materials are proposed. Address of purpose statement (for Exterior Building Materials) and applicable guidelines: The proposed materials that make up the bulk of the design (brick, wood, and metal panels) are compatible with other buildings downtown, particularly newer structures such as North Main Village and the Axletree apartments. The materials also complement the adjacent natural resources along Kellogg Creek/Lake. As a building that occupies an entire city block and has long façades on all sides, the design addresses the Milwaukie Character guidelines related to Considering Context, Promoting Architectural Compatibility and Using Architectural Contrast Wisely, which all relate to how a building fits into its surroundings, by providing a varied but compatible scheme of distinct "looks" along its multiple façades. Along at least three of its four sides, the building uses changes in color and materials to create an impression of two or three different attached buildings, but ones with a similar visual language. The Architecture design guideline pertaining to Wall Materials emphasizes the use of materials that create a sense of permanence, and the predominant materials (brick, wood, metal) do that. As proposed, the design is consistent with the purpose of this design element and the applicable design guidelines.

E. WINDOWS AND DOORS

Purpose: ***To enhance street safety and provide a comfortable pedestrian environment by adding interest to exterior façades, allowing for day lighting of interior space, and creating a visual connection between interior and exterior spaces.***

Standard	Findings
Main Street ***For block faces along Main Street, 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.***	At the ground-floor level, the east elevation (facing Main Street) is approximately 43% windows, glazed doors, and/or other openings such as the overhead coiling door to the trash enclosure (approximately 1,325 sq ft of openings over 3,080 sq ft of wall area). This standard is not met.
Other Streets ***For all other block faces, the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:*** ***a. 40% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors.*** ***b. Along McLoughlin Blvd the required coverage is 30%.***	The ground-floor level of the north elevation (Washington Street) is approximately 37% windows, glazed doors, and garage door opening (approximately 950 sq ft of openings over 2,750 sq ft of wall area). This standard is not met. The ground-floor level of the south elevation (Adams Street) is approximately 37% windows and glazed doors (approximately 530 sq ft of openings over 1,450 sq ft of wall area). This standard is not met. The ground-floor level of the west and southwest elevations (McLoughlin Boulevard) is approximately 39% windows and glazed doors (approximately 1,330 sq ft of openings over 3,400 sq ft of openings). This standard is met.

E. WINDOWS AND DOORS

Purpose: ***To enhance street safety and provide a comfortable pedestrian environment by adding interest to exterior façades, allowing for day lighting of interior space, and creating a visual connection between interior and exterior spaces.***

Standard	Findings
	Address of purpose statement (for Windows and Doors) and applicable guidelines: For the east elevation (Main Street), the design of the architectural bays separating the various storefronts, as well as the placement of some utility infrastructure (trash, electrical) along this façade, make it difficult to provide the prescribed 50% of openings. For the north elevation (Washington Street), the exposure of the basement parking garage (due to the grade change) and the need for some solid wall area in the residential units present challenges to meeting the standard. For the south elevation (Adams Street), the taller ground-floor height and the use of wider brick columns to help define the Main/Adams corner make it more challenging to meet the standard. Even if the prescribed glazing percentages are not exactly met, the design reflects the principles of the Architecture guideline for Corner Doors by presenting prominent entrances to the ground-floor retail and restaurant spaces at the corners of Main/Washington and Main/Adams. It also provides ample viewing opportunities into the ground-floor spaces (retail, restaurant, and apartment lobby), which invites engagement with those spaces as per the intent of the Retail and Commercial Doors aspect of the Architecture guidelines. As proposed, the design is consistent with the purpose of this design element and the applicable design guidelines.

E. WINDOWS AND DOORS

Purpose: ***To enhance street safety and provide a comfortable pedestrian environment by adding interest to exterior façades, allowing for day lighting of interior space, and creating a visual connection between interior and exterior spaces.***

Standard	Findings
Upper Level ***Along all block faces, the following standards are applicable on the upper-level building façades facing a street or public space.*** ***a. Upper building stories shall provide a minimum of 30% glazing. For the purposes of this standard, minimum glazing includes windows and any glazed portions of doors.*** ***b. The required upper-floor window/door percentage does not apply to floors where sloped roofs and dormer windows are used.*** ***c. A minimum of 60% of all upper-floor windows shall be vertically oriented. This vertical orientation applies to grouped window arrays as opposed to individual windows.***	The upper-floor level of the east elevation (Main Street) is approximately 31% glazing (approximately 3,860 sq ft of glazing for 12,365 sq ft of wall area). This standard is met. The upper-floor level of the north elevation (Washington Street) is approximately 31% glazing (approximately 3,080 sq ft of glazing for 9,930 sq ft of wall area). This standard is met. The upper-floor level of the south elevation (Adams Street) is approximately 30% glazing (approximately 1,725 sq ft of glazing for 5,745 sq ft of wall area). This standard is met. The upper-floor level of the west and southwest elevations (McLoughlin Boulevard) is approximately 31% glazing (approximately 3,655 sq ft of glazing for 11,800 sq ft of openings). This standard is met. On all four elevations, more than 60% of the upper-floor windows are vertically oriented. This standard is met.

E. WINDOWS AND DOORS

Purpose: ***To enhance street safety and provide a comfortable pedestrian environment by adding interest to exterior façades, allowing for day lighting of interior space, and creating a visual connection between interior and exterior spaces.***

Standard	Findings
General Standards ***a. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 in into the façade and/or incorporating trim of a contrasting material or color.*** ***b. All buildings with nonresidential ground-floor windows must have a visible transmittance (VT) of 0.6 or higher.*** ***c. Doors and/or primary entrances must be located on the street-facing block faces and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.*** ***d. The bottom edge of windows along pedestrian ways shall be constructed no more than 30 in above the abutting walkway surface.*** ***e. Ground-floor windows for nonresidential buildings shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including, but not limited to, curtains, shades, signs, or shelves.*** ***f. Signs are limited to a maximum coverage of 20% of the required window area.***	The windows set within brick will be recessed at least 4 in. The windows set within wood cladding are not recessed but are aluminum framed and so offer a contrasting material. The windows set within the metal cladding are also not recessed and are a mixture of aluminum framed and vinyl, so some of those windows present a somewhat contrasting material (vinyl) while others are metal framed in metal and so do not meet this standard. Address of purpose statement (for Windows and Doors) and applicable guidelines: Despite not providing a recess or material contrast, the configuration and pattern arrangement of the metal-on-metal windows (which are upper-level windows) do add interest to each façade and allow for significant daylighting of interior space. The effect of remaining simple in appearance causes the metal cladding to recede and allows the brick façades to stand out more. This approach is consistent with the intent of the Architecture guideline related to Wall Materials, which aims to create a sense of permanence—this is achieved through the metal-on-metal windows receding and allowing the more permanent-appearing brick façades to stand forward. As proposed, the design is consistent with the purpose of this design element and the applicable design guidelines. As proposed, the nonresidential windows will have a VT of 0.6 or higher. A condition has been established to require that VT documentation be provided at the development review stage of the project to confirm that this standard is met. Primary entrances to the retail and restaurant spaces are located on the Main Street and Washington Street façades. The bottom edge of windows along the pedestrian walkways in front of the commercial storefronts (along the Adams Street, Main Street, and Washington Street façades) are less than 30 in above the average grade.

E. WINDOWS AND DOORS

Purpose: ***To enhance street safety and provide a comfortable pedestrian environment by adding interest to exterior façades, allowing for day lighting of interior space, and creating a visual connection between interior and exterior spaces.***

Standard	Findings
	As proposed, the ground-floor windows in the nonresidential portions of the building will allow views into storefronts, working areas, and/or lobbies. Signage is not part of the proposed development and will be reviewed as applied for in the future. As proposed and as conditioned where necessary, the applicable standards are met. Where the standards are not met, the design is consistent with the purpose of this design element and the applicable design guidelines.
Prohibited Window Elements ***For all building windows facing streets, courtyards, and/or public squares in the downtown, the following window elements are prohibited:*** ***a. Reflective, tinted, or opaque glazing.*** ***b. Simulated divisions (internal or applied synthetic materials).*** ***c. Exposed, unpainted metal frame windows.***	No prohibited window elements are proposed. This standard is met.

F. ROOFS AND ROOFTOP EQUIPMENT

Purpose: ***To create a visually interesting condition at the top of the building that enhances the quality and character of the building.***

Standard	Findings
Roof Forms ***a. The roof form of a building shall follow one (or a combination) of the following forms:*** ***1) Flat roof with parapet or cornice.*** ***2) Hip roof.*** ***3) Gabled roof.*** ***4) Dormers.*** ***5) Shed roof.***	The building has multiple roof levels, and all roofs are flat and have either a parapet or a projecting cornice. This standard is met.
b. All flat roofs, or those with a pitch of less than 4/12, shall be architecturally treated or articulated with a parapet wall that projects vertically above the roofline at least 12 in and/or a cornice that projects from the building face at least 6 in. ***c. All hip or gabled roofs exposed to view from adjacent public or private streets and properties shall have a minimum 4/12 pitch.*** ***d. Sloped roofs shall have eaves, exclusive of rain gutters, that project from the building wall at least 12 in.***	Although the cornices project 3.5 ft, some of the proposed parapets are less than 12 in high. This standard is not met. Address of purpose statement (for Roofs and Rooftop Equipment) and applicable guidelines: Despite not meeting the prescribed standards, the parapets do create a visually interesting condition at the top of each façade of the building. The building massing steps down toward the adjacent natural resources (i.e., as it nears Kellogg Lake/Creek and the Willamette River). This creates a complex roofline that includes some parapets that are set at only 6 in above the roof to maintain the horizontal datum line of the adjacent window sills. The design is consistent with the Integrate the Environment and Consider View Opportunities aspects of the Milwaukie Character guideline, as the roof steps down in acknowledgement of the nearby river and lake/creek and maintains views for various levels of the building. Likewise, the varied roofline and parapet heights create an interesting profile that is consistent with the aim of the Silhouette and Roofline aspect of the Architecture guideline. As proposed, the design is consistent with the purpose of this design element and the applicable design guidelines. The standards for sloped roofs are not applicable to this flat-roof design.

F. ROOFS AND ROOFTOP EQUIPMENT

Purpose: ***To create a visually interesting condition at the top of the building that enhances the quality and character of the building.***

Standard	Findings
Rooftop Equipment and Screening ***a. The following rooftop equipment does not require screening:*** ***1) Solar panels, wind generators, and green roof features.*** ***2) Equipment under 2 ft high, if set back a minimum of 5 ft from the outer edge of the roof.*** ***b. Elevator mechanical equipment may extend above the height limit a maximum of 16 ft, provided that the mechanical shaft is incorporated into the architecture of the building.*** ***c. Satellite dishes, communications equipment, and all other roof-mounted mechanical equipment shall be limited to 10 ft high, shall be set back a minimum of 10 ft from the roof edge, and shall be screened from public view and from views from adjacent buildings by one of the following methods:*** ***1) A screen around the equipment that is made of a primary exterior finish material used on other portions of the building, wood fencing, or masonry.*** ***2) Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.*** ***d. Required screening shall not be included in the building's maximum height calculation.***	The proposed design includes rooftop solar panels, which do not require screening. This standard is met. The proposed elevator overrun extends only 10 ft above the top of the roof. This standard is met. All other roof-mounted mechanical equipment is no more than 10 ft high, is set back at least 10 ft from the roof edge, and is surrounded by rooftop solar panels. The solar panels provide adequate screening of the mechanical equipment. The applicable standards are met.
Rooftop Structures ***Rooftop structures related to shared outdoor space—such as arbors, trellises, or porticos related to roof decks or gardens—shall not be included in the building's maximum height calculation, as long as they do not exceed 10 ft high.***	The design includes a 10-ft-tall trellis over one of the roof decks. This standard is met.

G. OPEN SPACE

Purpose: ***To assure adequate public and private open space in the downtown.***

Standard	Findings
Mixed-Use and Residential Development ***The following standards apply to mixed-use buildings with more than 4 residential units and residential-only multifamily developments:*** ***a. Outdoor Space Required*** ***50 sq ft of private or common open space is required for each dwelling unit. The open space may be allocated exclusively for private or common use, or it may be a combination of the two uses.***	The proposed mixed-use building provides 195 units, requiring a minimum total of 9,750 sq ft of private or common open space. Since the site is adjacent to Dogwood Park, a 50% reduction in open space is allowed, resulting in a total of 4,875 sq ft of open space being required. The design provides a total of just over 8,650 sq ft of open space, comprised of unit patios/terraces, amenity rooms, and landscaped roof terrace (5th floor). This standard is met.
b. Common Open Space ***1) Common open space may be provided in the form of decks, shared patios, roof gardens, recreation rooms, lobbies, or other gathering spaces created strictly for the tenants and not associated with storage or circulation. Landscape buffer areas may not be used as common open space unless active and passive uses are integrated into the space and its use will not adversely affect abutting properties.*** ***2) With the exception of roof decks or gardens, outdoor common open space shall be abutted on at least two sides by residential units or by nonresidential uses with windows and entrances fronting on the space.***	Open space intended for common use by tenants includes a courtyard area on the 2nd floor and a landscaped rooftop terrace on the 5th floor. These standards are met.

G. OPEN SPACE

Purpose: ***To assure adequate public and private open space in the downtown.***

Standard	Findings
c. Private Open Space ***1) Private open space may be provided in the form of a porch, deck, balcony, patio, terrace, or other private outdoor area.*** ***2) The private open space provided shall be contiguous with the unit.*** ***3) Balconies used for entrances or exits shall not be considered as private open space except where such exits or entrances are for the sole use of the unit.*** ***4) Balconies may project up to a maximum of 4 ft into the public right-of-way.***	Private open spaces include unit patios or terraces that are contiguous with the relevant units. No balconies are used for common entrances or exits, and no balconies project more than 4 ft into the public right-of-way. The applicable standards are met.
d. Credit for Open Space ***An open space credit of 50% may be granted when a development is directly adjacent to, or across a public right-of-way from, an improved public park.***	As noted above, the subject property is adjacent to Dogwood Park (across the Adams Street right-of-way), which is a public park with modest improvements. The proposed development is entitled to an open space credit of 50%, which reduces the minimum required open space from 9,750 sq ft to 4,875 sq ft. This standard is met.

The Planning Commission finds that, as proposed and as conditioned where necessary, the design meets the applicable standards; or, where a particular standard is not met, the design is consistent with the purpose of that design element and the applicable design guidelines.

10. MMC Section 19.510 Green Building Standards

Green building is the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life cycle. For the purposes of height bonuses, a green building is defined as a building that will achieve certification or similar approval documentation at any level of one of the following programs: Living Building Challenge, LEED, Earth Advantage, Passive House, Enterprise Green Communities, or Energy Trust of Oregon's New Buildings program (confirming participation in the Path to Net Zero program offering).

Height bonus eligibility will be verified at the time of building permit submittal and is contingent upon a green building certification submittal. Height bonus awards may be revoked, and/or other permits or approvals may be withheld, if the project fails to achieve the required energy reduction and/or certification.

As discussed in Finding 6-c-2, the proposed development includes a request for height bonuses to add two stories of building height, one of which is based on the new building qualifying for a LEED certification. A condition has been established requiring confirmation of the necessary green building certification submittal and subsequent award at relevant parts of the development review process.

As conditioned, the Planning Commission finds that the applicable standards are met.

11. MMC Chapter 19.600 Off-Street Parking and Loading

MMC 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of these requirements includes providing adequate space for off-street parking, minimizing parking impacts to adjacent properties, and minimizing environmental impacts of parking areas.

a. MMC Section 19.602 Applicability

MMC 19.602 establishes the applicability of the provisions of MMC 19.600, and MMC Subsection 19.602.3 establishes thresholds for full compliance with the standards of MMC 19.600. Development of a vacant site is required to provide off-street parking and loading areas that conform fully to the requirements of MMC 19.600.

The proposed development is a six-story mixed-use building with 195 multifamily residential units and approximately 7,000 sq ft of commercial space.

The Planning Commission finds that the provisions of MMC 19.600 are applicable to the proposed development.

b. MMC Section 19.605 Vehicle Parking Quantity Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand.

(1) MMC Subsection 19.605.1 Minimum and Maximum Requirements

MMC Table 19.605.1 provides minimum and maximum quantity requirements for multifamily dwellings containing three or more dwelling units. For multifamily dwelling units located in the DMU zone, a minimum of one space per unit is required and a maximum of two spaces per unit is allowed. As per MMC Subsection 19.304.5.G.3, all nonresidential uses in the DMU are exempt from the off-street parking requirements.

The proposed development would establish 195 multifamily residential units. A minimum of 195 off-street spaces are required; a maximum of 390 spaces are allowed. A total of 81 parking spaces are proposed; exemptions and by-right reductions to the quantity requirements are discussed below in Finding 11-b-3.

(2) MMC Subsection 19.605.2 Quantity Modifications and Required Parking Determinations

MMC 19.605.2 establishes a process for modifying the minimum and maximum parking ratios listed in MMC Table 19.605.1.

(a) MMC Subsection 19.605.2.B Application

The application for a parking determination must include a description of the proposed uses of the site and identification of factors specific to the proposed use and/or site (e.g., proximity of transit, parking demand management programs, etc.) that affect parking demand. Additionally, the application must provide data and analysis to support the determination or modification request (i.e., parking demand information from professional literature, parking standards for similar uses in other jurisdictions, and parking quantity and use data from similar existing developments). The Planning Manager may waive any of the specific data analysis requirements if the information is not readily available or relevant, as long as sufficient documentation is provided to support the request.

The applicant has included a description of the site and addressed the factors specific to the site, including proximity to transit and a site-specific Transportation Demand Management (TDM) program. Given that the City has a downtown parking management strategy (adopted in September 2018), the Planning Manager has waived the requirement for new specific data analysis. The downtown parking management strategy itself is based on the collection and analysis of parking demand and usage data from Milwaukie to assess the actual-use dynamics and access characteristics of the on- and off-street parking systems in the downtown area. The strategy reflects the City's intention to actively manage parking with the expectation that continued growth will impact the existing parking supply downtown. The Planning Manager's waiver is also based on the TDM program included with the applicant's submittal materials, which outlines the principles designed to make the proposed parking arrangement work.

(b) MMC Subsection 19.605.2.C Approval Criteria

MMC Subsection 19.605.2.C.1 provides the baseline approval criteria for granting a parking modification, including a demonstration that the proposed parking quantities are reasonable based on the data and information that the Planning Manager has deemed relevant. In addition, MMC Subsection 19.605.2.C.2 requires that requests for modifications to decrease the amount of minimum required parking must demonstrate that (1) the use of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1; (2) that the reduction of off-street parking will not adversely affect available on-street parking; and (3) that the requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site.

As noted above, the Planning Manager has determined that it is reasonable to ground an assessment of the proposed parking modification in consideration of the City's adopted downtown parking management strategy and the applicant's proposed TDM program. The subject property's location downtown, in close proximity to the Milwaukie light rail station and bus routes, with access to a public sidewalk network and bikeways like the Trolley Trail and Springwater Trail corridor, provides a number of alternatives to vehicle use and will help reduce the need for vehicle parking.

The applicant's TDM program outlines several principles for reducing parking demand for the new building, including active marketing that promotes the new development as one that encourages car-free living, with incentive options for residents who do not have a vehicle. The TDM document presents a menu of incentives that residents who do not have a designated parking space could choose from: an annual TriMet pass, car-share/ride-share services, reduced rent, or membership in a bike-share or scooter program. The TDM document provides several strategies for parking-management actions that can be utilized to make the proposed parking arrangement function efficiently, including a vehicle registry, usage monitoring, signage and communication materials, and market-rate pricing for tenant parking.

The building managers will implement the TDM program principles and work to ensure that the parking structure is used only by authorized vehicles and respond effectively to complaints about resident vehicles parking off site. A condition has been established to ensure that the TDM program is implemented and monitored over the life of the proposed development and that responsibility for implementation of the TDM program transfers to subsequent owners/operators of the development. The success of the City's parking management strategy will depend in part on a combination of consistent enforcement actions and targeted adjustments to parking regulations in response to the evolving parking situation

downtown. Together, the TDM program and the City's downtown parking management strategy will ensure that the proposed reduction in parking for the new building will not adversely affect available on-street parking.

Based on the specific circumstances of the proposed use and the site and taken together with the implementation of the proposed TDM program and the City's downtown parking management strategy, the requested parking modification is effectively the smallest reduction needed for the proposed development to function as designed.

The Planning Commission finds that the proposed parking modification satisfies the applicable approval criteria.

As proposed, the Planning Commission finds that the minimum required off-street parking for the proposed use can be modified as proposed, to 81 spaces.

(3) MMC Subsection 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

MMC 19.605.3 establishes certain exemptions and reductions to the quantity requirements of MMC 19.605.1, including a 25% reduction for locations in the DMU zone and a 10% reduction for the provision of covered and secure bicycle parking in addition to what is required by MMC Section 19.609 (at a ratio of one reduced vehicle parking space for each six additional bicycle parking spaces). Applicants are allowed to utilize multiple reductions, provided the total reduction allowed in the DMU zone is no more than 30%.

For the proposed 195 multifamily residential units, the applicant has proposed a by-right reduction to the minimum required parking quantity, in addition to a parking quantity modification to further reduce the number of required spaces. With the 25% reduction allowed for being in the DMU zone, the project qualifies for a reduction of 49 spaces. With the bike storage rooms distributed throughout the new building (both in the parking garage and on every floor), the project provides 237 bicycle parking spaces where 195 are required, resulting in 42 extra spaces and qualifying the project for an additional reduction of seven vehicle spaces.

In total, the proposed development is entitled to a by-right reduction of 56 spaces, bringing the adjusted minimum requirement down to 139 spaces.

As proposed, and as per the by-right reductions allowed and the approval of the proposed parking quantity modification to further reduce the minimum number of required parking spaces, the Planning Commission finds that the proposed development meets the vehicle parking quantity requirements of MMC 19.605.

c. MMC Section 19.606 Parking Area Design and Landscaping

MMC 19.606 establishes standards for parking area design and landscaping, to ensure that off-street parking areas are safe, environmentally sound, and aesthetically pleasing, and that they have efficient circulation. These standards are intended

primarily for outdoor parking areas, though some of the standards are applicable to parking structures as well.

MMC Subsection 19.606.1 establishes dimensional standards for required off-street parking spaces and drive aisles. For 90°-angle spaces, the minimum width is 9 ft and minimum depth is 18 ft, with 22-ft drive aisles. MMC Subsection 19.606.3 establishes various design standards, including requirements related to paving and striping, wheel stops, pedestrian access, internal circulation, and lighting.

The proposed development includes 81 structured parking spaces configured as 90°-angle spaces. Approximately half of those spaces are 9 ft wide and 18 ft deep; the other half are reduced-width stalls that are either 8.5 ft wide (six stalls) or 8.75 ft wide (34 stalls). All stalls are 18 ft deep, and the drive aisles are at least 24 ft wide. As discussed below in Finding 11-g, the dimensions of structured parking spaces may be reduced if the applicant can demonstrate they can still safely accommodate parking and maneuvering. Paving, striping, and wheel stops are provided throughout the parking garage.

As proposed, and as discussed below in Finding 11-g, the Planning Commission finds that the applicable standards of MMC 19.606 are met.

d. MMC Section 19.608 Loading

MMC 19.608 establishes standards for off-street loading areas and empowers the Planning Manager to determine whether loading spaces are required. Off-street loading is not required in the DMU zone. Where loading spaces are required, spaces must be at least 35 ft long and 10 ft wide, with a height clearance of 13 ft, and located where not a hindrance to drive aisles or walkways.

The subject property is zoned DMU, so no off-street loading is required. This standard is not applicable.

e. MMC Section 19.609 Bicycle Parking

MMC 19.609 establishes standards for bicycle parking for new development, including for multifamily housing and commercial uses. Unless otherwise specified, the number of bicycle parking spaces is at least 10% of the minimum required vehicle parking for the use. For multifamily residential development with four or more units, MMC Subsection 19.609.2 requires a minimum of one bicycle parking space per unit, with at least 50% of the spaces covered and/or enclosed (in lockers or a secure room). MMC Subsection 19.609.3.A requires that each bicycle parking space have minimum dimensions of 2 ft by 6 ft, with 5-ft-wide aisles for maneuvering. MMC Subsection 19.609.4 requires bike racks to be located within 50 ft of a main building entrance.

For the proposed mixed-use building in the DMU zone, 195 bicycle spaces are required, one for each of the 195 multifamily residential units; no bicycle parking is required for the approximately 7,000 sq ft of commercial space, as no vehicle spaces are required for nonresidential uses in the DMU. At least 98 of the bike spaces must be covered or enclosed.

As proposed, a total of 237 bicycle parking spaces will be provided within the new building, distributed among bike storage rooms in the parking garage and on every floor. The bike parking will be provided through wall-mounted racks that are securely anchored to the wall and designed to allow the bike frame and one wheel to be locked. As proposed, the bike parking space dimensions are 1.5 ft wide by just over 4 ft deep/long, vertically staggered by 8 in from one rack to the next. A condition has been established to ensure that the proposed racks are installed in such a way that the minimum dimensional standards are met.

The Planning Commission finds that the proposed bicycle parking exceeds the minimum number of required spaces, is all within the building and covered/enclosed, and, as conditioned, that the other applicable standards are met.

f. MMC Section 19.610 Carpool and Vanpool Parking

MMC 19.610 establishes carpool parking standards for new industrial, institutional, and commercial development with 20 or more required parking spaces.

The proposed development is a mixed-use building in the DMU zone, with 195 multifamily residential units and approximately 7,000 sq ft of commercial space. In the DMU zone, no off-street parking is required for nonresidential uses. This standard is not applicable.

g. MMC Section 19.611 Parking Structures

MMC 19.611 establishes standards that regulate the design and location of structured parking, and to provide appropriate incentives for the provision of structured parking.

(1) MMC Subsection 19.611.2 Compliance with Other Sections of MMC Chapter 19.600

Structured parking is allowed to accommodate parking that is required for a specific use, or as a parking facility that is a use by itself. The space and drive aisle dimensions required in MMC 19.606.1 apply to structured parking unless the applicant requests that the dimensions be reduced and can demonstrate that the reduced dimensions can safely accommodate parking and maneuvering for standard passenger vehicles. In addition to the standards in MMC Subsection 19.611.3, parking structures must comply with the development standards, design standards, and design guidelines for the base zone(s) in which the structure will be located.

As proposed, all of the 81 proposed off-street parking spaces are located within the parking garage within the lowest level of the new building. As noted in Finding 11-c, approximately half of the parking stalls are less than 9 ft wide—34 stalls are 8.75 ft and six stalls are 8.5 ft wide. The applicant has requested an allowance of reduced dimensions for these 40 narrower parking stalls, noting that the City of Portland and City of Seattle require a minimum width of 8.5 ft.

As addressed elsewhere in these findings, the parking garage, as part of the overall proposed building, has been reviewed for compliance with other applicable development standards, design standards, and design guidelines.

The Planning Commission finds that the proposal to reduce minimum required parking stall dimensions is allowable and that the parking structure portion of the new building is consistent with all applicable standards and guidelines as addressed elsewhere in these findings.

(2) MMC Subsection 19.611.3 Standards and Design Criteria for Structured Parking

MMC 19.611.3 establishes standards and design criteria for structured parking, including a requirement that 75% of the length of any façade of a parking structure that faces a street must provide ground-floor windows or wall openings; blank walls are prohibited. The required yard setbacks between the property line and the structure must be landscaped per the requirements of MMC Subsection 19.606.2.D.3. The structure must provide safe pedestrian connections between the parking structure and the public sidewalk or principal building. The structure must provide adequate lighting to ensure motorist and pedestrian safety within the structured parking facility and connecting pedestrian ways to the principal building.

The parking garage is located within the lowest level (basement) of the new building and, due to grade changes, is at least partially visible on three sides (from Washington Street, McLoughlin Boulevard, and the Adams Street right-of-way). On each of these three sides, the parking structure has openings for at least 75% of each façade length, in between supporting columns. A vertically planted metal screen is proposed along each of the three above-grade sides of the parking garage.

There are no minimum building setbacks in the DMU zone. The primary entrance to the parking garage (the driveway at Washington Street) opens onto a public sidewalk. There is an entrance to the bike storage room from the sidewalk at the Washington/McLoughlin corner of the building. No lighting information was provided for the interior of the parking structure, so a condition has been established to ensure that there is adequate lighting for the structured spaces.

As conditioned, the Planning Commission finds that the applicable standards and criteria for parking structures are met.

(3) MMC Subsection 19.611.4 Incentives for Provision of Structured Parking

MMC 19.611.4 establishes incentives for structured parking, including an allowance of an additional 0.5 sq ft of floor area above the maximum allowed FAR for every 1 sq ft of structured parking provided. All other requirements of the development standards for the base zone must be met.

The parking garage is approximately 30,800 sq ft in area, which qualifies the proposed development for an additional 15,400 sq ft of floor area toward the FAR calculations, as discussed in Finding 6-c-1.

As conditioned, the Planning Commission finds that the applicable standards for parking structures are met.

As proposed, and as conditioned where necessary, the Planning Commission finds that the proposed development meets all applicable standards MMC 19.600 for off-street parking.

12. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

a. MMC Section 19.702 Applicability

MMC 19.702 establishes the applicability of the provisions of MMC 19.700, including new construction.

The applicant proposes to develop a mixed-use building with approximately 7,000 sq ft of commercial space and 195 multifamily residential units. The proposed new construction triggers the requirements of MMC 19.700.

b. MMC Section 19.703 Review Process

MMC 19.703 establishes the review process for development that is subject to MMC 19.700, including requiring a preapplication conference, establishing the type of application required, and providing approval criteria.

The applicant had a preapplication conference with City staff on December 17, 2020, prior to application submittal. The proposed development triggers a Transportation Impact Study (as addressed in Finding 12-c). The proposal's compliance with MMC 19.700 has been evaluated through a concurrent Transportation Facilities Review application. Finding 12-f addresses the proposal's compliance with the approval criteria established in MMC Subsection 19.703.3, particularly the required transportation facility improvements.

c. MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 establishes the process and requirements for evaluating development impacts on the surrounding transportation system, including determining when a formal Transportation Impact Study (TIS) is necessary and what mitigation measures will be required.

The proposed development will trigger a significant increase in trip generation above the existing use on the site (office building) and therefore requires a TIS. City Engineering staff and the City's on-call traffic consultant (DKS) provided the applicant with a scope of work for the TIS. Lancaster Mobley, the applicant's traffic consultant, prepared the TIS that was included with the applicant's larger submittal for the proposed mixed-use building.

The TIS concluded that the proposed development would not prevent the various nearby intersections studied from continuing to operate at an acceptable level of service through the 2022 AM and PM peak hours. The new single access point at a new driveway on Washington Street would not meet the 300-ft spacing requirement for collector streets, so an access spacing

modification would be required as discussed in Finding 4. Due to the proximity of the new Washington Street accessway to both McLoughlin Boulevard and Main Street, the TIS evaluated several possible turning-movement restrictions and found that none of the options would significantly impact nearby intersection operations. And the TIS analyzed queuing at the driveway and concluded that queues entering the parking structure during the AM and PM peak hours will rarely exceed one car and so should present only infrequent traffic delays.

DKS's assessment recommended that turning movements from the Washington Street driveway be limited to right-in, right-out, and left-in only turns. DKS also recommended that minimum AASHTO (American Association of State Highway and Transportation Officials) for sight distance be met at the accessway and that safety mirrors be installed so exiting drivers can see approaching pedestrian traffic around the garage threshold. A condition has been established to ensure that DKS's recommendations are incorporated into the decision.

As submitted, and with a condition established to ensure that sufficient mitigation measures are in place, the applicant's TIS is sufficient to meet the requirements of MMC 19.704.

d. MMC Section 19.705 Rough Proportionality

MMC 19.705 requires that transportation impacts of the proposed development be mitigated in proportion to its potential impacts.

The applicant's TIS concluded that the proposed development would result in an increase in AM peak hour trips (from 9 to 58), PM peak hour trips (from 9 to 86), and daily weekday trips (from 76 to 1,046). This significant increase in transportation impacts warrants the requirement to build frontage improvements on Main Street and Washington Street as discussed in Finding 12-f. The clear vision and safety improvements and turning-movement restrictions for the Washington Street driveway, noted in Finding 12-c, are requirements that allow the proposed development to function safely and avoid triggering the more extensive intersection improvements that might otherwise be required. The requirement to provide a public access easement for the future pedestrian/bicycle pathway along Kellogg Creek, noted in Finding 12-f-5, is in proportion to the addition of 195 residential units on the site, with limited on-site parking and a Transportation Demand Management program intended to reduce vehicle usage in favor of alternative modes.

Per the applicant's development agreement with the City as owner of the site, the on-site public-access pedestrian walkway to connect Main Street to McLoughlin Boulevard (via the Adams Street right-of-way) is part of the development proposal and is not an exaction subject to the rough proportionality standard.

As proposed and conditioned, mitigation for the transportation impacts of the proposed development is consistent with MMC 19.705.

e. MMC Section 19.707 Agency Notification and Coordinated Review

MMC 19.707 establishes provisions for coordinating land use application review with other agencies that may have some interest in a project that is in proximity to facilities they manage.

The application was referred to ODOT, Clackamas County Department of Transportation and Development (DTD), TriMet, and Metro for comment.

f. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities.

(1) MMC Subsection 19.708.1 General Street Requirements and Standards

MMC 19.708.1 provides general standards for streets, including for access management, clear vision, street layout and connectivity, and intersection design and spacing.

As proposed, the development is consistent with the applicable standards of MMC 19.708.1.

(2) MMC Subsection 19.708.2 Street Design Standards

MMC 19.708.2 provides design standards for streets, including dimensional requirements for the various street elements (e.g., travel lanes, bike lanes, on-street parking, landscape strips, and sidewalks).

The proposed development includes new concrete sidewalk along the Main Street and Washington Street frontages. New curb and asphalt paving has already been installed as part of the South Downtown Project and will not be required except where the existing driveway is to be removed. An 8-ft-wide public access pedestrian walkway will be constructed between McLoughlin Boulevard and Main Street along the Adams Street right-of-way. As per the Public Area Requirements (PAR), street trees will be planted a minimum of every 40 ft and in accordance with the Milwaukie Street Tree List. As proposed, streetlights will be installed at existing street light bases. Per the applicability standards of MMC Subsection 19.702.1, bike racks will be installed in the public right-of-way as required in conjunction with the occupation of the various commercial spaces by specific uses.

As proposed, the development is consistent with all applicable standards of MMC 19.708.2.

(3) MMC Subsection 19.708.3 Sidewalk Requirements and Standards

MMC 19.708.3 provides standards for public sidewalks, including the requirement for compliance with applicable standards of the Americans with Disabilities Act (ADA).

The proposed development includes the completion of one new Americans with Disabilities Act (ADA) ramp on the southwest corner of Main Street and Washington Street, and two new ramps on the corner of Washington Street and McLoughlin Boulevard. As proposed, all sidewalks and the public access pedestrian walkway will be constructed in compliance with the City of Milwaukie Public Works Standards and the

ADA requirements. Where it is not located within the public right-of-way, an easement for the pedestrian walkway is required.

As proposed, the development is consistent with all applicable standards of MMC 19.708.3.

(4) MMC Subsection 19.708.4 Bicycle Facility Requirements and Standards

MMC 19.708.4 provides standards for bicycle facilities, including a reference to the Public Works Standards.

No public bicycle facilities are proposed, and none are required at the time of development of the new building, which includes approximately 7,000 sq ft of commercial space. As noted above in Finding 12-f-2, the installation of bike racks in the public right-of-way in accordance with the PAR will be required as per MMC Subsection 19.702.1 in conjunction with the occupation of the various commercial spaces by specific uses.

As proposed, the development is consistent with all applicable standards of MMC 19.708.4.

(5) MMC Subsection 19.708.5 Pedestrian/Bicycle Path Requirements and Standards

MMC 19.708.5 provides standards for pedestrian and bicycle paths.

With an 8-ft width, the proposed public access pedestrian walkway between Main Street and McLoughlin Boulevard (via the Adams Street right-of-way) is designed as a sidewalk and not as a multiuse (pedestrian/bicycle) facility.

The Milwaukie Transportation System Plan (TSP) includes a project to establish an undercrossing of McLoughlin Boulevard along Kellogg Creek to make a pedestrian/bicycle connection between Milwaukie Bay Park and downtown Milwaukie. A design for the undercrossing and associated ped/bike path has not yet been developed, but an easement for the future path alignment is warranted by the scale of impact of the proposed development. A condition has been established to require a minimum 15-ft-wide public access easement on the subject property along Kellogg Creek at the base of the proposed new retaining wall.

As conditioned, this standard is met.

(6) MMC Subsection 19.708.6 Transit Requirements and Standards

MMC 19.708.6 provides standards for transit facilities.

None of the streets fronting the proposed development are classified as a transit route in the Milwaukie TSP.

These standards are not applicable.

As proposed, the development meets all applicable standards of MMC 19.708.

As conditioned, the Planning Commission finds that the proposed development meets the applicable public facility improvement standards of MMC 19.700.

13. MMC Section 19.905 Conditional Uses

MMC 19.905 establishes regulations for conditional uses, including standards for establishing uses identified as conditional uses in any overlay zones. As noted in Finding 7-a and as provided in MMC Subsection 19.401.5.A, activities within the Willamette Greenway zone that trigger Willamette Greenway review are subject to the provisions of Section 19.905 as conditional uses.

a. MMC Subsection 19.905.3 Review Process

MMC 19.905.3 establishes the process by which a new conditional use must be reviewed.

As noted in Finding 7-a, the proposed activity is development as defined for the Willamette Greenway zone and so requires review as a conditional use.

MMC 19.905.3.A requires that establishment of a new conditional use be evaluated through the Type III review process per MMC Section 19.1006.

b. MMC Subsection 19.905.4 Approval Criteria

MMC Subsection 19.905.4.A establishes the approval criteria for a new conditional use or a major modification to an existing conditional use.

(1) The characteristics of the lot are suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features.

The subject property is approximately 0.94 acres (40,820 sq ft) in size and is a full-block property located at a key location in the Downtown Mixed Use (DMU) zone, with proximity to a light rail station, bus service, and an extensive sidewalk system. The site has frontage on three developed streets (including Main Street) and an undeveloped public right-of-way adjacent to Dogwood Park. The subject property is adjacent to Kellogg Creek to the southwest, so a significant portion of the site is within the regulatory floodplain and includes designated natural resource areas. But the site is already developed with a commercial building and off-street parking area and previously included another commercial building that has been demolished. The proposed mitigation for floodplain development and natural resource disturbance will increase flood storage capacity and enhance the adjacent riparian corridor.

The Planning Commission finds that this standard is met.

(2) The operating and physical characteristics of the proposed use will be reasonably compatible with, and have minimal impact on, nearby uses.

The proposed development is a six-story mixed-use building with 195 multifamily residential units and approximately 7,000 sq ft of commercial space in the heart of downtown Milwaukie. The commercial storefronts, intended for retail and restaurant use, are all on Main Street and will contribute to the active and pedestrian-oriented streetscape that is the intention of the City's downtown development and design standards. The proposed development represents the type of dense, mixed-use activity

that is envisioned by the City's Comprehensive Plan, consistent with the development code, and compatible with nearby uses.

The Planning Commission finds that this standard is met.

(3) All identified impacts will be mitigated to the extent practicable.

The proposed development will have some impact on the floodplain, views of the Willamette River, natural resource areas, and traffic. These impacts and their mitigation are discussed in more detail in Findings 5, 7, 8, and 12, respectively. The proposal includes excavation sufficient to balance new fill in the regulatory floodplain and will increase flood storage capacity. Some impact to private views of the river is to be expected in a dense downtown core; views from the public right-of-way and Dogwood Park will not be significantly impacted. The riparian corridor along Kellogg Creek will be revegetated with native-species trees, shrubs, and ground cover that will maintain and improve the ecological functions of the natural resource area. A restriction on left-turn movements from the parking garage onto Washington Street will minimize impacts to vehicle circulation on Washington Street near the Washington/McLoughlin intersection.

The Planning Commission finds that this standard is met.

(4) The proposed use will not have unmitigated nuisance impacts, such as from noise, odor, and/or vibrations, greater than usually generated by uses allowed outright at the proposed location.

The proposed development is mixed-use building in downtown Milwaukie and will not generate any nuisance impacts greater than those usually generated for allowed uses in the DMU zone.

The Planning Commission finds that this standard is met.

(5) The proposed use will comply with all applicable development standards and requirements of the base zone, any overlay zones or special areas, and the standards in Section 19.905.

The subject property is in the DMU zone, with development standards provided in MMC Section 19.304 and discussed in Finding 6. A portion of the site is within the Willamette Greenway overlay zone, with standards provided in MMC Section 19.401 and discussed in Finding 7. The WQR and HCA natural resource areas that are designated on the site are regulated by MMC Section 19.402 and discussed in Finding 8. As new development in a downtown zone, the project is subject to downtown design review, including the standards of MMC Section 19.508 and the procedures of MMC Section 19.907 and MMC Section 19.1011; these are discussed in Findings 9, 14, and 16, respectively. The proposed development's compliance with the conditional use standards of MMC Section 19.905 are discussed in this finding, Finding 13.

As discussed throughout these findings, and as conditioned where necessary, the proposed development complies with all applicable development standards and

requirements of the base zone, any overlay zones, and the conditional use standards of MMC 19.905.

The Planning Commission finds that this standard is met.

(6) The proposed use is consistent with applicable Comprehensive Plan policies related to the proposed use.

The proposed development is consistent with applicable Comprehensive Plan policies, as discussed for the Willamette Greenway review presented in Finding 7-b-10.

The Planning Commission finds that this standard is met.

(7) Adequate public transportation facilities and public utilities will be available to serve the proposed use prior to occupancy pursuant to Chapter 19.700.

Public transportation facilities and public utilities are adequate and will be available to serve the proposed development as per the requirements of MMC Chapter 19.700, as discussed in Finding 12.

The Planning Commission finds that this standard is met.

The Planning Commission finds that the proposed development meets the approval criteria outlined in MMC 19.905.4.A for establishing a conditional use.

c. MMC Subsection 19.905.5 Conditions of Approval

MMC 19.905.5 establishes the types of conditions that may be imposed on a conditional use to ensure compatibility with nearby uses. Conditions may be related to a number of issues, including access, landscaping, lighting, and tree preservation.

The Planning Commission finds that no conditions related to the proposed development—a mixed-use building in the DMU zone—are necessary to ensure compatibility with nearby uses.

d. MMC Subsection 19.905.6 Conditional Use Permit

MMC 19.905.6 establishes standards for issuance of a conditional use permit, including upon approval of a major modification of an existing conditional use. The provisions include a requirement to record the conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City prior to commencing operations allowed by the conditional use permit.

An advisory note has been included with the conditions of approval to outline the conditional use permit process.

The Planning Commission finds that the proposed development is consistent with the relevant standards established in MMC 19.905 for conditional uses.

14. MMC Section 19.907 Downtown Design Review

MMC 19.907 establishes the applicability, procedure, and approval criteria for design review of development downtown.

a. MMC Subsection 19.907.2 Applicability

For new development that is not a stand-alone multifamily residential building, there are two options for review. For new development that meets the downtown design standards of MMC Section 19.508, Type II review is required. Type III review is required for new development that is unable to meet one or more of the downtown design standards of MMC 19.508.

As addressed in Finding 9, the design does not meet all of the downtown design standards of MMC 19.508. The proposed development is subject to Type III review.

b. MMC Subsection 19.907.5 Approval Criteria

MMC 19.907.5 establishes the approval criteria for Type I, II, and III downtown design review. For Type III review, projects must meet the following criteria:

(1) Compliance with MMC Title 19.

(2) Compliance with applicable design standards in MMC 19.508.

(3) Substantial consistency with the purpose statement of the applicable design standard and the applicable Downtown Design Guideline(s) being utilized in place of the applicable design standard(s).

For the proposed development, compliance with the applicable standards of MMC Title 19 is discussed throughout these findings. Finding 9 discusses the project's compliance with the applicable design standards of MMC 19.508, as well as consistency with the purpose statement of any design standards that are not met and any applicable downtown design guidelines.

As discussed throughout these findings, and particularly in Finding 9, and as conditioned where necessary, the proposed development satisfies the approval criteria for downtown design review.

c. MMC Subsection 19.907.6 Report and Recommendation by Design and Landmarks Committee

For Type III downtown design review applications, the City's Design and Landmarks Committee (DLC) will hold a public meeting and prepare a report in accordance with the provisions of MMC Section 19.1011. The Planning Commission will consider the findings and recommendations contained in the downtown design review report during a public hearing on the proposal.

The DLC held a public design review meeting on September 7, 2021, and voted unanimously to recommend approval of the proposed development. The DLC provided several recommendations for the Planning Commission's consideration; these recommendations are addressed in Finding 16.

As addressed throughout these findings (particularly in Findings 9 and 16), and as conditioned where necessary, the Planning Commission finds that the proposed development meets the approval criteria for Type III downtown design review.

15. MMC Section 19.911 Variances

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. Ineligible variances include requests that result in any of the following: change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word "prohibited."

The applicant has requested three variances: (1) to exceed the maximum allowed building setback, (2) to allow off-site mitigation for Water Quality Resource (WQR) disturbance, and (3) to exceed the maximum allowed building height.

The requested variances meet the eligibility requirements.

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. Subsection 3-B establishes the Type II review process for limited variations to certain numerical standards. Subsection 3-C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

None of the requested variances are eligible for Type II review; all are subject to the Type III review process.

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for most variance requests, including criteria for discretionary relief and economic hardship, according to the applicant's preference. The approval criteria for use exceptions, building height variances in the Downtown Mixed Use (DMU) zone, and building height variances in the General Mixed Use (GMU) zone are established in MMC Subsections 19.911.5, 19.911.6, and 19.911.7, respectively.

The requested building height variance is subject to the approval criteria provided in MMC 19.911.6 and is addressed in Finding 15-d. For the variance requests related to maximum building setback and off-site WQR mitigation, the applicant has elected to address the discretionary relief criteria.

MMC Subsection 19.911.4.B.1 provides the following approval criteria for Type III variances where the applicant elects to utilize the discretionary relief criteria:

(1) 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.

Maximum Building Setback: The requirement of MMC Subsection 19.304.5.D that buildings on certain downtown block faces be built to the front lot line (zero setback) for at least 75% of the frontage does not account for the prospect of a design providing shallow recesses for façade articulation. The proposed recesses are generally less than 2 ft deep and occur beneath the datum line set by the canopies, with the remaining ground-story wall area and the walls of upper floors set at the lot lines. The recesses articulate the storefront bays, wall material changes, and transitions between commercial uses and the residential lobby. They provide visual interest at the pedestrian level and serve as an engaging feature rather than an interruption. Without articulation, the long façades would seem monolithic and imposing along the ground floor.

The applicant's submittal materials include a more detailed description of the specific characteristics of the three frontages where the zero-setback requirement applies and explains how the requested variance benefits each. Along the Washington Street frontage, which includes a significant grade change that elevates the ground floor above the sidewalk level for part of the frontage, the requested setback provides space for a planted metal screen in front of the openings to the parking garage that would otherwise be visible below the residential portion of the ground floor. Along the limited Adams Street frontage, which includes commercial space at the Main/Adams corner and a short length of the residential part of the building, the residential section is set back approximately 6 ft to distinguish it from the commercial space and to provide space for an outdoor deck. The proposed public access pedestrian walkway along the Kellogg Creek alignment also pushes the building away from the property line near Adams Street. Along the Main Street frontage, the various recesses provide weather protection above commercial doors and the entrance to the residential lobby and help distinguish between the different uses.

Off-Site WQR Mitigation: The general standards related to mitigation for natural resource disturbance require on-site mitigation where WQR resources are concerned (MMC Subsection 19.402.11.B.6). One rationale for this restriction is to ensure that the contiguity of WQR areas is maintained and that the scale of WQR disturbance on a given site is not so grand as to preclude reasonable restoration of the resource. On most sites, there is no good opportunity to access adjacent WQR areas for mitigation purposes, whether due to existing development conditions or the interest or willingness of adjacent property owners to coordinate.

The subject property is currently owned by the City. Stemming from the goals and policies adopted in the City's Comprehensive Plan, the City identified the subject property as an opportunity site for facilitating the development of residential housing and commercial space for new businesses that would help revitalize downtown Milwaukie. While acknowledging the site's constraints related to the floodplain and natural resource areas, the City has set aggressive targets for the redevelopment of the

site. To achieve these goals, as much of the subject property as possible must be available for development, with mitigation for some impacts transferred beyond the property boundaries. In this case, the City is in a position to allow mitigation in the adjacent areas managed by the City, the Adams Street right-of-way and Dogwood Park.

The City has no plans to develop Adams Street as a regular street and instead has a vision for South Downtown that includes a public plaza where Adams Street ties in to the "festival street" aspect of Main Street. As the owner and steward of Dogwood Park, the City has an interest in revegetating and improving the riparian corridor along Kellogg Creek as part of a long-term effort to remove the Kellogg Dam and restore a free-flowing creek. The City's Transportation System Plan has identified a future project to establish a bike path that would run from Dogwood Park along the creek and underneath a reconstructed overpass for McLoughlin Boulevard.

The proposed off-site mitigation makes it economically feasible to redevelop the subject property and contributes positively to the City's other long-term efforts for improvement and revitalization in this part of downtown. A building footprint that avoided any disturbance of the WQR and Habitat Conservation Area (HCA) on the site would result in fewer units and would make the project economically infeasible. The proposed variance allows more of the subject property to be used for the new building, which increases the number of new housing units that can be provided. It also allows the construction of a public access pedestrian walkway between the building and Kellogg Creek, in an area that would otherwise be a mitigation planting area. The walkway provides a public benefit by connecting Main Street to McLoughlin Boulevard (and Milwaukie Bay Park) through the site via the Adams Street right-of-way. The variance effectively expands the project area to include the adjacent public right-of-way and park land, where the required WQR mitigation can still be provided in the immediate vicinity of the riparian area directly affected by the proposed development.

The Planning Commission finds that the applicant's submittal provides an adequate analysis of the impacts and benefits of the requested variances compared to the baseline requirements. This criterion is met.

(2) The proposed variance is determined to be both reasonable and appropriate, and it meets one or more of the following criteria:

- The proposed variance avoids or minimizes impacts to surrounding properties.
- The proposed variance has desirable public benefits.
- The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

Maximum Building Setback: As noted above in the discussion of impacts and benefits, the proposed variance is reasonable and appropriate given the intended design outcomes for the new building. There are no negative impacts to surrounding properties, as the articulation that the shallow recesses and small setback areas provide do not create voids

or otherwise reduce the sense of urban enclosure. The recesses and setbacks provide a public benefit, as they prevent the façades from feeling monolithic, provide articulation that generates interest at the pedestrian level, and help differentiate between commercial and residential uses along each façade. The proposed variance allows the building to utilize a traditional storefront bay language and façade-articulation techniques that add to the new, denser urban pattern being established downtown with other new construction like the Axletree building.

Off-Site WQR Mitigation: The proposed variance is reasonable and appropriate, given the City's development goals for the subject property and the opportunity to make the adjacent right-of-way and public park part of the project area. By definition, the mitigation of impacts beyond the subject property results in new impacts on other properties. In this case, however, the impacts are mitigation plantings that will enhance the riparian corridor and improve the ecological function of the WQR. As steward of Dogwood Park, the City should be looking for opportunities to revegetate and improve the riparian corridor; the variance allows that needed work to be required as part of the proposed development instead of as a separate City project. Allowing off-site mitigation enables the subject property, which is zoned for development, to maximize its development potential. The adjacent public right-of-way and public park present a unique opportunity for restoration and enhancement of a contiguous section of riparian corridor.

The Planning Commission finds that the requested variances are reasonable and appropriate and that each meets one or more of the criteria provided in MMC Subsection 19.911.B.1.b.

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

Maximum Building Setback: There are no negative impacts from this proposed variance. As noted and discussed above in this finding, the variance allows the building design to articulate the façades to establish a human scale at the pedestrian level, emphasize transitions in building materials, and differentiate between commercial and residential uses. There is no need for mitigation for this requested variance.

Off-Site WQR Mitigation: Between the on-site impacts and the off-site floodplain cut/fill balance discussed in Finding 5, the proposed development will temporarily or permanently disturb approximately 27,310 sq ft (0.63 acres) of WQR and 2,590 sq ft (0.06 acres) of HCA, for a total disturbance of approximately 29,900 sq ft (0.69 acres). As mitigation, the project includes revegetation of four distinct areas, partially on site but largely within the WQR portions of the adjacent Adams Street right-of-way and Dogwood Park totaling approximately 23,740 sq ft (0.55 acres). As discussed in Finding 8, this mitigation is appropriate and sufficient for the proposed WQR and HCA disturbance. No additional mitigation is necessary for the requested variance to allow the natural resource mitigation plantings to be located off site.

The Planning Commission finds that the requested variances will not result in any impacts that require mitigation beyond what is proposed.

The Planning Commission finds that the requested variances meet the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.

d. MMC Subsection 19.911.6 Building Height Variance in the DMU Zone

MMC 19.911.6 provides a discretionary option for variances to maximum building heights in the DMU 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. The Type III building height variance is an option for proposed buildings that exceed the maximum heights or stories allowed through the bonuses specified in MMC Figure 19.304-4, MMC Subsection 19.304.5.B.3, and MMC Section 19.510.

The building height variance is subject to Type III review and approval by the Design and Landmarks Committee and the Planning Commission, in accordance with MMC Chapter 19.907 and MMC Section 19.1011. The building height variance will be consolidated with downtown design review. Because the building height variance provides substantial flexibility and discretion, additional time will be required for public input and technical evaluation of the proposal. To use this option, the applicant must sign a waiver of the 120-day decision requirement.

The proposed building is utilizing allowable bonuses (for residential development and green building) to qualify for two additional stories above the base maximum height of three stories. In addition, the applicant has requested a variance to add one more story to the design. The additional story is subject to the review procedures and approval criteria established in MMC 19.911.6 for building height variances in the DMU zone.

MMC Subsection 19.911.6.D establishes the following approval criteria for building height variance requests:

(1) Substantial consistency with the Downtown Design Guidelines.

As discussed in the findings for MMC Section 19.508 (Finding 9), the proposed design is substantially consistent with the downtown design standards and, where applicable, with the downtown design guidelines.

(2) The proposed height variance will result in a project that is exceptional in the quality of detailing, appearance, and materials or creates a positive unique relationship to other nearby structures, views, or open space.

With the height bonuses allowed by MMC Subsection 19.304.5.B.3, the proposed development is allowed five stories. To pull some of the building massing back from the adjacent Kellogg Creek and the nearby Willamette River, and in response to the grade change from east to west toward these natural resource areas, the design essentially takes that portion of the fifth story closest to the lake/creek and river and pushes it back toward the Main Street and Washington Street sides of the building. This helps reduce the building mass near the water, preserves views to the water for several of the upper stories of the building, and reinforces the urban edge of the development for the Main/Washington façades.

In addition, the steps in the massing and the inclusion of occupied roof decks require deeper structural members in some portions of the building. To provide these positive design features, the building height must be raised to allow for a livable floor-to-floor height on the upper floors and an appropriate ceiling height in the fifth story amenity space.

(3) The proposed height variance preserves important views to the Willamette River, limits shadows on public open spaces, and ensures step downs and transitions to neighborhoods at the edge of the DMU zone.

The one identified view corridor to the Willamette River in the vicinity of the subject property is along Washington Street. The proposed design would not impact views to or from the river along Washington Street. Although there are no neighborhoods adjacent to the site, the proposed step-backs at various levels of the building "erode" the mass away from the natural resource areas to the south, southwest, and west. This will minimize shadowing from the taller portion of the building onto the adjacent natural resource areas and public plaza to the south.

(4) The proposed height variance will result in a project that provides public benefits and/or amenities beyond those required by the base zone standards and that will increase downtown vibrancy and/or help meet sustainability goals.

The proposed development will provide 195 units of needed housing in downtown Milwaukie, which is consistent with the goals and policies of the City's recently updated Comprehensive Plan. The project takes a small site with several challenging constraints (floodplain, natural resources) and creatively provides a combination of housing units and commercial spaces that will help revitalize the downtown in a key location next to a public park and plaza. The height variance allows the new building to include structured off-street parking on the lower level, preserving valuable floor area for additional dwelling units, on a site with no excess space for surface parking beyond the building footprint. The added height makes the project feasible and allows the building to maintain enough setback distance from the adjacent Kellogg Creek to provide a public access pedestrian walkway between Adams Street and McLoughlin Boulevard, enhancing the connection between the public plaza in south downtown and Milwaukie Bay Park at the Willamette River.

The Planning Commission finds that the proposed building height variance meets the approval criteria of MMC 19.911.6.D and is approvable as proposed.

The Planning Commission finds that all of the requested variances are allowable as per the applicable standards of MMC 19.911.

16. MMC Section 19.1011 Design Review Meetings

MMC 19.1011 establishes the procedures and requirements for the design review meetings that are required in conjunction with applications for downtown design review. These include designating the Design and Landmarks Committee (DLC) as the body that conducts design review meetings and setting rules of procedure, identifying requirements

for providing public notice, and outlining the components of the recommendation report that is to be provided to the Planning Commission.

The DLC held a public design review meeting to consider the proposed development on September 7, 2021. Public notice for that meeting was provided in advance as required by MMC Subsection 19.1011.2. This finding serves as the required report to Planning Commission.

The DLC reviewed the downtown design review portion of the proposed development against the approval criteria established for Type III design review in MMC Subsection 19.907.5.C. This includes review of the proposed development against the design standards of MMC Section 19.508, and where particular standards are not met the project is reviewed against the purpose statement(s) of those standards and any applicable downtown design guidelines. The facts that the DLC relied on for its determination are reflected in Finding 9. The DLC voted unanimously to approve the downtown design review portion of the development as proposed, with the conditions of approval noted in Finding 9. In addition, the DLC also recommended approval of the requested building height variance, as discussed in Finding 15-d. The DLC identified the following design review recommendations for consideration by the Planning Commission:

Weather Protection

- *Recommendation to require some form of weather protection for the bike storage entry at the Washington/McLoughlin corner of the building.*

Roofs & Rooftop Equipment

- *Suggestion to provide more detail about how rooftop mechanical equipment will be screened.*

Other

- *Suggestion to provide more detail about the plaza space at the Washington/McLoughlin corner of the building, such as plantings and any street furniture.*

17. The application was referred to the following departments and agencies on August 27, 2021:
    - Milwaukie Engineering Department
    - Milwaukie Building Department
    - Milwaukie Public Works Department (incl. Environmental Services)
    - Milwaukie Police Department
    - City Attorney
    - ESA (City's on-call Natural Resource consultant)
    - Historic Milwaukie Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
    - Island Station NDA Chairperson and LUC
    - Clackamas Fire District #1 (CFD)
    - Clackamas County Department of Transportation & Development
    - Metro
    - Oregon Department of Transportation (ODOT)
    - TriMet

- North Clackamas School District
- Oregon Department of Fish and Wildlife (ODFW)
- Department of State Lands (DSL)
- Oregon Parks and Recreation Department
- North Clackamas Parks and Recreation Department (NCPRD)
- Oregon State Marine Board
- NW Natural

The comments received are summarized as follows:

- **Sandra Jones, resident at Axletree Apartments, 11125 SE 21st Ave:** The new building will ruin the view of the river for at least half of the Axletree residents. Concerns related to potential impacts during the construction process: accessibility of the Axletree garage entrance (on Washington Street), safety and availability of the adjacent streets and sidewalks, and utility disruptions. Question about whether the building managers will keep the sidewalks and areas around the building clean in the context of the houseless population. There is not enough on-street parking for the visitors of downtown residents and the addition of 190-plus units will not help.
- **Alex McGladrey, Deputy Fire Marshal, CFD:** The property is in an area with public water supply, and there are no site conditions that would prevent the applicant from constructing the proper [fire] access. Fire department access and water supply are reviewed in accordance with the 2019 edition of the Oregon Fire Code.
- **Siri Bernard, neighborhood resident:** Request that the proposed development provide sufficient parking for the proposed 195 residential units, as existing on-street parking is inadequate.
- **Cindy Detchon, Assistant Superintendent of Operations, North Clackamas School District:** No comments.
- **Val Hubbard, LUC Chair for Historic Milwaukie NDA:** No challenge to the specific aspects of the proposed development. LUC member Gary Klein noted some specific concerns related to traffic impacts and the adequacy of vehicle exits from the new building. The NDA has to trust that the City Council, Planning Commission, and City staff have worked to encourage a well-designed proposal. Several open-ended questions related to long-term impacts of this and other downtown developments and how to ensure good performance and options for addressing negative impacts. Concern that there are insufficient tools and commitments in place for the City to meet its goals for equity, livability, and sustainability and that more time should be taken to evaluate proposals like this one.
- **Neil Schulman, Executive Director, North Clackamas Watersheds Council (NCWC):** Reminder that multiple agencies and organizations have been coordinating to remove Kellogg Dam and restore Kellogg Creek. NCWC in particular has been working with the City on the dam removal project for many years and generally supports restoration efforts like the one involved with the proposed development.

Concern that the proposed "hardening" of the stream bank with a retaining wall will make it more difficult to improve critical salmonid habitat. Suggestion that the City consult with the National Oceanic and Atmospheric Administration (NOAA) Fisheries and Oregon Department of Fish and Wildlife to evaluate potential impacts to fish passage in this narrow part of the stream channel. Request that City staff involved in this Coho Point redevelopment be active participants in the Kellogg Creek Channel Design process.

- **Gary Klein, LUC member for Historic Milwaukie NDA:** Follow-up on the staff response to his comments regarding traffic concerns that were included with the NDA comments noted above. Traffic studies should consider the impact of high-volume events (such as emergencies or other mass-exodus events) on intersections and not simply peak-hour trips. The nearby rail lines and the proposed elimination of left turns out of the new building onto Washington Street will generate impacts that warrant requiring at least one more exit from the building (suggestion is to exit onto Adams Street).
- **Heather Koch, Acting Planning and Development Manager, NCPRD:** Suggestion to develop a design alternative to the proposed retaining wall concept, to allow more complexity and roughness that would enhance the critical habitat area along the creek. Recommendation to avoid using Douglas fir and other species that are not as adaptable to the hydrology of the riparian and floodplain planting areas. NCPRD would like to coordinate with the City and the Coho Point developer to ensure that the connection between the Adams Street right-of-way and Dogwood Park is consistent with the adopted Dogwood Park Framework Plan.