



CITY OF MILWAUKIE

July 29, 2021

Land Use File(s): DR-2021-003, ZA-2021-001,
VR-2021-004, TFR-2021-002,
NR-2021-003, VR-2021-010

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on July 27, 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):** Pahlisch Commercial, Inc.
- Location(s):** 10306 SE Main St
- Tax Lot(s):** 1S1E25CC, lots 401 & 402
- Application Type(s):** Downtown Design Review, Zoning Map Amendment, Variance Requests, Natural Resource Review, Transportation Facilities Review
- Decision:** Approved with Conditions
- Review Criteria:** Milwaukie Municipal Code (MMC):
- Chapter 12.16 Access Management
 - Section 19.301 Low Density Residential Zones (including R-5)
 - Section 19.304 Downtown Zones (including Downtown Mixed Use DMU)
 - Section 19.402 Natural Resources
 - Subsection 19.505.3 Building Design Standards for Multifamily Housing
 - 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 19.902 Amendments to Maps and Ordinances
 - Section 19.907 Downtown Design Review
 - Section 19.911 Variances
 - Section 19.1006 Type III Review
 - Section 19.1011 Design Review Meetings
- Neighborhood(s):** Historic Milwaukie

Appeal period closes: 5:00 p.m., August 13, 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, Associate Planner, at 503-786-7657 or kelperb@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on August 13, 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 two years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within four 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 June 28, 2021, 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.
 - c. As per Finding 7, increase the number of trees and shrubs within the mitigation planting area to meet the plant-spacing requirements of MMC Subsection 19.402.11.B, and provide at least one additional species of native tree in sufficient quantity so that no more than 50% of the trees are of the same genus.

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

- d. As per Finding 9, provide documentation to confirm that (1) the garage doors are painted to match the color palette of the building exterior, (2) all nonresidential ground-floor windows have a visible transmittance (VT) of 0.6 or higher, and (3) all non-exempt rooftop equipment will be screened and set back from the roof edge.
 - e. As per Finding 10, provide confirmation of the necessary green building certification submittal.
 - f. As per Finding 11-c(3), provide a revised photometric plan that confirms a light trespass of no more than 0.5 footcandles measured vertically at the boundaries of the site where adjacent to parking and maneuvering areas. As per Finding 11-g(2), the revised photometric plan should also demonstrate adequate lighting to ensure motorist and pedestrian safety within the structured parking facility.
 - 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 exterior racks and those in the various storage rooms. This includes showing the location of the 90 in-unit spaces.
 - h. As per Finding 12-c, record a development restriction, covenant, or similar restrictive mechanism deemed appropriate by the City Attorney to formalize the “trip cap” on the portion of the subject property being rezoned from residential R-5 to Downtown Mixed Use (DMU). The trip cap was proposed by the applicant and discussed in the applicant’s Traffic Impact Study and is described in Finding 12-c as being equivalent to 18 daily, one weekday AM peak hour, and two weekday PM peak hour trips. The restriction or covenant will remain in place until the formerly R-5 portion of the subject property is redeveloped in the future and the trip cap can be re-evaluated relative to Oregon’s Transportation Planning Rule requirements.
2. Prior to final inspection of the required building permit and issuance of a certificate of occupancy, the following must be resolved:
 - a. Provide confirmation of the award of the necessary green building certification.
 - b. Submit documentation from the project landscape designer attesting that all required site plantings have been completed in conformance with the approved site plans and with City standards.

Other requirements

1. 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.

2. Prior to commencement of any earth-disturbing activities, the applicant must obtain a City erosion control permit.
3. Obtain a City right-of-way (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. The final site plan must be approved by the City Engineer prior to construction.
 - f. Provide a 12-month Maintenance Bond upon completion of the construction.
 - g. Provide a final approved set of Mylar and electronic PDF “As Constructed” drawings to the City of Milwaukie prior to final inspection.
4. Requirements from Clackamas Fire District #1 (CFD)

A land use plan review was conducted for the listed property. It has been determined that this property is in an area with public water supply. Fire apparatus access roads cannot route continuously around the exterior walls of the building due to site constraints. CFD accepted the application for alternative or modification of the 2019 Oregon Fire Code (OFC) (pending Milwaukie Building Department approval) where the applicant proposed the following:

- a. The building will be equipped with an approved NFPA 13 automatic sprinkler system throughout.
- b. There are no combustible concealed attic spaces.
- c. All stairway enclosures have a fire-resistance rating of not less than 2-hour.
- d. The roof slope is essentially flat with a slope of 3/8” per foot (less than 33% slope).

- e. Approved access is provided to the roof from all the stairways. The North and South stairways extend to the roof within a 2-hour enclosure and a compliant roof hatch.
- f. Each stairwell is equipped with a standpipe; both standpipes terminate at the roof.

Fire department access and water supply are reviewed in accordance with the 2019 edition of the OFC.

When submitting plans for fire department access and water supply approval please include the following information:

- Fire apparatus access
- Fire lanes
- Fire hydrants
- Fire lines
- Available fire flow
- FDC location (if applicable)
- Building square footage
- Construction type
- Fire flow test per NFPA 291 no older than 12 months

Note: This review is to determine if the project can be designed and constructed to meet the requirements of the OFC, and should not be considered approval of the design as submitted.

5. As discussed in Finding 11-c(2), note that perimeter parking landscaping adjacent to a residential use must have a continuous visual screen in the abutting landscape perimeter area (opaque year-round from one ft to four ft above the ground). These standards must be met at the time of planting.

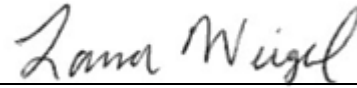
6. Landscaping Maintenance

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.

7. 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.



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval

cc: Pahlisch Commercial, Inc., applicant (c/o Zachary Pyle) (via email)
Chris Goodell, AKS Engineering & Forestry, applicant's representative (via email)
Kurt Schultz, SERA Design, project architect (via email)
Planning Commission (via email)
Design and Landmarks Committee (via email)
Kelly Brooks, Interim Community Development Director (via email)
Alison Wicks, Development Project Manager (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)
Mike Boumann and Alex McGladrey, CFD#1 (via email)
NDA(s): Historic Milwaukie (via email)
Interested Persons (via email)
Land Use File(s): DR-2021-003 (master file)
Address File(s): 10306 SE Main St

EXHIBIT 1
Findings in Support of Approval
Master File #DR-2021-003, Kellogg Bowl Redevelopment

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, Pahlisch Commercial, Inc., has applied for approval to construct a six-story multifamily residential building on the two lots that comprise the Kellogg Bowl site at 10306 SE Main St. The site is in the Downtown Mixed Use (DMU) zone. The land use application master file number is DR-2021-003, with applications for downtown design review, zoning map amendment, natural resource review, transportation facilities review, and variances to development standards.
2. The subject property is 1.94 acres in area and is comprised of two tax lots: a 55-ft-wide “flag-pole” access lot (approximately 13,900 sq ft) that extends just over 250 ft east from Main Street to a larger lot (approx. 70,575 sq ft) where the new building will be located. The larger lot is rectilinear but irregularly shaped and has public street frontage where 23rd Avenue dead-ends along the subject property’s northeast corner. Protected water features to the north and south of the larger lot generate vegetated corridor areas that extend onto small portions of the site.

The proposed development involves demolishing the existing bowling alley on the site and replacing it with a six-story, 178-unit multifamily building, including two live/work units on the ground floor. A total of 173 off-street parking spaces are proposed, with 142 structured spaces on the ground floor of the building and 31 exterior spaces in the accessway and behind the building. Almost 18,000 sq ft of private and common open spaces in the form of rooftop terraces, indoor club rooms, a fitness room, lobby, private balconies, and outdoor plaza areas will be provided. The new building will encroach into a portion of the vegetated corridor associated with the off-site pond adjacent to the south of the site, in what is currently developed as an off-street parking lot serving the pre-existing bowling alley. The Residential R-5 zone designation of the northeast corner of the site will be rezoned to match the DMU designation of the rest of the subject property.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Chapter 12.16 Access Management
 - MMC Section 19.301 Low Density Residential Zones (including R-5)
 - MMC Section 19.304 Downtown Zones (including Downtown Mixed Use DMU)
 - MMC Section 19.402 Natural Resources
 - MMC Subsection 19.505.3 Building Design Standards for Multifamily Housing
 - 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 19.902 Amendments to Maps and Ordinances
- MMC Section 19.907 Downtown Design Review
- MMC Section 19.911 Variances
- 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 July 27, 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 collector and arterial streets. New driveways accessing collector streets must be spaced at least 300 ft from the nearest intersection and at least 10 ft from the side property line. New multifamily driveways onto local streets must be at least 100 ft from the nearest intersection. 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 Main Street, a collector street, and 23rd Avenue, a local street. Both streets are currently under the jurisdiction of the City. The site is accessed by the primary existing accessway connecting the larger lot to Main Street, as well as through two existing driveways serving the adjacent Pietro's Pizza site to the north of the accessway (and west of the larger lot). Currently, access to the site from 23rd Avenue is restricted by an undeveloped strip of the right-of-way (ROW) at the easternmost edge of the subject property.

As proposed, the existing driveway approach at Main Street, which is approximately 53 ft wide, will be reduced in width to approximately 26 ft. No new driveways are proposed on Main Street. The ROW on 23rd Avenue will be improved to provide emergency access to the new building, with a new driveway accessing the small off-street parking lot and providing a turnaround for emergency vehicles. The new driveway approach is approximately 48 ft wide at the widest point of the throat, which the City Engineer has determined is allowable and sufficient for the intended turnaround function. The new driveway will be gated and accessible for emergency use only.

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

5. MMC Section 19.301 Low Density Residential Zones (including R-5)

MMC 19.301 establishes standards for Low Density Residential zones, including the R-5 zone. MMC Subsection 19.301.2 establishes the uses allowed in the R-5 zone, including single-family detached dwellings, duplexes, accessory dwelling units (ADUs), and residential homes as outright permitted uses.

Multifamily dwellings such as the one proposed with this application are not an allowed use in the R-5 zone. However, the portion of the site that is zoned R-5 is currently developed with a parking

lot (park of the pre-existing Kellogg Bowl bowling alley use) and will be redeveloped as parking for the new multifamily residential building, so there is no proposed change in the existing nonconforming use. As discussed in Finding 13, the applicant has proposed to rezone the R-5 portion of the site to DMU to be consistent with the majority zoning for the subject property. With the approval of the proposed zoning map amendment, questions related to the R-5 zone become moot.

As proposed, and with approval of the zoning map amendment discussed in Finding 13, the Planning Commission finds that the proposed development does not result in any change of use of the R-5 portion of the site and that the approved zone change makes MMC 19.301 inapplicable to the proposed development.

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.

The proposed development is a multifamily residential building with 178 dwelling units.

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; north of Scott Street, residential dwellings and/or lobbies for upper-floor units are permitted anywhere on the ground floor along Main Street. Live/work units and rowhouses are not permitted on Main Street.

The proposed development is a multifamily residential building with 178 units, including two ground-floor dwelling units and two ground-floor live/work units. The subject property is north of Scott Street, and although it has a Main Street address, the proposed building is not adjacent to Main Street. Therefore, the limitations established in MMC 19.304.3.A.1 are not applicable to the proposed development.

This standard is not applicable.

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 established in MMC Table 19.304.4.B.1 apply only to

nonresidential development. For stand-alone residential buildings, density is controlled by the minimum density requirements discussed in Finding 6-c-10.

The proposed development is a stand-alone residential building.

This standard is not applicable.

(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 northernmost part of downtown, the base maximum building height is four stories or 55 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 approximately 72 ft in height. As a residential building, it is allowed one additional story above the four-story base standard. The applicant has also indicated that the building will qualify for an Earth Advantage certification, 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 six stories or 79 ft.

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. Stand-alone residential buildings on Main Street as specified in MMC Figure 19.304-2 are exempt from the flexible ground-floor space requirements.

The proposed building is a stand-alone residential building located along the portion of Main Street which is shown on MMC Figure 19.304-2 to be exempt from the flexible ground-floor space requirements. Furthermore, due to the configuration of the subject property, the proposed building does not front on or directly abut Main Street.

This standard is not applicable.

(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.

The subject property is not identified on MMC Figure 19.304-5 as having the 75% zero setback requirement, so it is subject only to the maximum setback of 10 ft. Due to the configuration of the subject property, with the 55-ft-wide accessway leading to the primary buildable area of the site, the proposed building is set back over 250 ft from the site's frontage on Main Street. The applicant has requested a variance from the street setback standard, which is discussed and approved in Finding 15.

As approved by 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.

MMC Figure 19.304-6 indicates that the subject property is subject to the 50% frontage occupancy standard. Due to the configuration of the subject property, the proposed building is set back over 250 ft from the site's frontage on Main Street. The applicant has requested a variance from the frontage occupancy standard, which is discussed and approved in Finding 15.

As approved by the variance discussed in Finding 15, 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.

The proposed main entrance to the proposed building is oriented toward Main Street and connected to the Main Street sidewalk by a pedestrian walkway.

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. Off-street surface parking lots (including curb cuts) must not be located within 50 ft of the Main Street ROW. Off-street parking must not be located between a building and the street-facing lot line.

The proposed building will establish 178 multifamily residential units. The off-street parking requirements of MMC 19.600 are addressed in Finding 11. Off-street surface parking is proposed where the site is adjacent to 23rd Avenue (though accessed only through the building via Main Street) and within the accessway connecting the site to Main Street. A total of 14 parking spaces are proposed within the accessway, with the first space set back 50 ft from the Main Street ROW. Due to the configuration of the subject property and the proposed building setback, this front parking area is between the building and the front lot line. The applicant has requested a variance from this off-street parking standard, which is discussed and approved in Finding 15.

As discussed in this finding and in Finding 11 for off-street parking, and as approved by the variance discussed in Finding 15, 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 these findings, the proposed building is set back over 250 ft from the site's frontage on Main Street, separated from the street by an accessway and off-street parking. The proposed site development includes a pedestrian plaza of approximately 950 sq ft located at the accessway entrance, between the Main Street ROW and the first off-street parking space. A majority of the approximately 14,000-sq-ft setback area is occupied by the accessway (for vehicles and pedestrians) and off-street parking spaces, so the plaza represents only approximately 7% of the overall setback area. Due to its location far from any other buildings, the plaza is not abutted on two sides by any of the uses noted in the standard above, though it is accessible at grade by an adjacent pedestrian walkway and will incorporate a combination of landscape, hardscape, and street furnishings. The applicant has requested a variance from the unmet aspects of this open space standard, which is discussed and approved in Finding 15.

As discussed in this finding and as approved by the 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 north of Harrison Street and is adjacent to residential properties zoned R-5 along its eastern boundary. A small portion of the northeast corner of the site is zoned R-5 but, as discussed in Finding 13, a zone change to DMU has been requested and approved. Where the proposed building is within 50 ft of the eastern property line, the building steps back 7 ft above the first floor (19 ft, including rooftop terrace at second-floor level) and then steps back at least 25 ft more above the fourth floor. No height bonuses are requested within 50 ft of the eastern property line adjacent to the R-5 zone.

This standard is met.

(10) MMC Subsection 19.304.5.J Residential Density

The minimum density for stand-alone multifamily dwellings in the DMU zone is 30 units per acre. There are no minimum density requirements when residential units are developed as part of a mixed-use building. Maximum density is controlled by height limits.

The subject property is approximately 1.94 acres and so has a minimum density of 58 units. The proposed development will provide 178 units and meets the applicable height standards for the DMU zone, as discussed above.

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 are minimal and are consistent with the applicable standards of MMC 19.700 and the Public Works Standards.

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.

One set of standards from MMC Subsection 19.505.3 and the design standards of MMC 19.508 are applicable to the proposed development. As discussed in Findings 8 and 9 and elsewhere in these findings, the applicable standards of MMC 19.505.3 and 19.508 are met or are addressed with the necessary variances or conditions of approval as needed.

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

7. 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.

There are no protected water features on the subject property, but two water features on adjacent properties to the northeast and south include vegetated corridors that establish WQR overlays on the subject property. To the northeast, an intermittent stream flows across the highway ROW that includes Highway 224. The vegetated corridor generated by this water feature extends onto a City-owned open space strip between the highway and the subject property, across a portion of the 23rd Avenue ROW, and very minimally onto the northeastern-most portion of the subject property. To the south, Spring Creek forms a surface pond that abuts the southern property line of the larger lot that constitutes the subject property. The vegetated corridor associated with the pond extends approximately 50 ft onto the subject property.

The proposed development will impact both of the designated WQR areas on the subject property, so the Planning Commission finds that the provisions of MMC 19.402 are applicable to the project.

b. MMC Subsection 19.402.4 Exempt Activities

MMC Subsection 19.402.A establishes a list of activities that are exempt from NR review. This includes routine repair and maintenance, alteration, and/or total replacement of existing parking improvements (including asphalt overlays) as long as there is no new disturbance of the WQR or HCA, no increase in impervious area, no

reduction in landscaped areas or tree cover, and no other change that could result in increased direct stormwater discharges to the WQR (MMC Subsection 19.402.4.A.10).

In both cases, the WQR areas on the subject property are already developed with off-street parking facilities. At the northeast corner, the replacement of the existing parking area with a renovated parking area qualifies as an exempt activity for purposes of NR review, as per MMC Subsection 19.402.4.A.10. However, the proposal to construct a new building that encroaches into a portion of the WQR near the off-site pond does not constitute a simple replacement of existing improvements—it presents a new form of encroachment into the vegetated corridor area adjacent to the pond. Even though the WQR that will be disturbed is already developed, the proposed activity includes the permanent disturbance of approximately 9,200 sq ft of the WQR (vegetated corridor) is not exempt from NR review.

The Planning Commission finds that the proposed development is not exempt from NR review and the applicable standards of MMC 19.402.

c. 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.

MMC Subsections 19.402.6 and 19.402.7 establish activities that require Type I or Type II NR review, respectively. The scale of disturbance proposed within the identified WQR area on the subject property (approximately 9,200 sq ft) far exceeds the levels of WQR disturbance allowed by Type I and II review.

The Planning Commission finds that the proposed development is subject to Type III review and the discretionary process established in MMC 19.402.12.

d. 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 with grading and erosion control information, including the information required by MMC 19.402.9.

The Planning Commission finds that the submitted construction management plan provides sufficient information for natural resource protection. This standard is met.

e. 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. MMC Subsection 19.402.11.B establishes general standards for

required mitigation (e.g., plant species, size, spacing, and diversity). For example, mitigation plantings must be native plants and must be a minimum size at time of planting (1/2-in caliper at six feet above grade for most trees, one gallon and 12-in height for shrubs). Trees must be spaced at eight to 12 ft on center, shrubs between four and five ft on center or clustered in single-species groups of no more than four plants. Shrubs must be of at least two different species; if 10 or more trees are planted, then no more than 50% of the trees can be of the same genus. A minimum of 80% of the trees and shrubs planted must remain alive on the second anniversary of the planting date.

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; for Class B "Marginal" and Class C "Poor" WQR conditions, the table requires restoration and mitigation with native species using a City-approved plan.

As proposed, the development will permanently impact the entire WQR area on the southern portion of the subject property near the off-site pond, approximately 9,200 sq ft. Based on existing conditions, the portion of the southern WQR is categorized as Class C ("Poor"). For Poor WQR areas, the code requires restoration and mitigation with native species using a City-approved plan. The applicant has proposed to plant an area of approximately 1,800 sq ft in a strip along the pond edge with native trees and shrubs.

As proposed, the mitigation plantings consist of 10 cascara trees (Rhamnus purshiana) and approximately 90 native shrubs, a combination of red flowering currant (Ribes sanguineum) and dull Oregon grape (Mahonia nervosa). As proposed, the trees do not meet the spacing or species-diversity standards, so a condition has been established to require the necessary revisions to the planting plan. The proposed shrub plantings meet the minimum required standards for species and spacing.

As conditioned, the Planning Commission finds that the applicable development standards of MMC 19.402.11 are met.

f. 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 management plan (technical report) prepared by Stacey Reed, a certified Professional Wetland Scientist with AKS Engineering and Forestry, LLC. The technical report includes a presentation of existing conditions, assessment of the extent and condition of the on-site vegetated corridor, assessment of ecological functions and water quality impacts, alternatives analysis, and mitigation plan. As submitted, the report is consistent with the required components listed above.

The report narrative discusses three alternatives to the proposed development configuration: (1) reducing the size of the proposed new building and associated outdoor amenities to avoid disturbance of the WQR; (2) expanding the building footprint to the southern property line, increasing the number of units but also increasing the encroachment into the WQR; and (3) reducing the new building footprint to avoid WQR encroachment but maintaining the existing surface parking lot within the WQR. The report concludes that Alternative 2 would have an even greater impact on the WQR and that Alternatives 1 and 3 would reduce the number of dwelling units and amenities so significantly as to make the project unviable. The report presents the proposed development scenario as the most practicable alternative that results in the least impact to the natural resources on the site.

ESA, the City's consultant for on-call natural resource services, evaluated the applicant's technical report and provided a memo with its peer review. ESA's memo confirmed that the observed site conditions were generally consistent with what was noted in the applicant's narrative and the technical report. ESA agreed with the report's determination of the relevant WQR boundaries and the classification of the on-site WQR condition as "Poor." The ESA memo noted that the technical report did not quantify the impact to the WQR in terms of square footage of the area to be converted from parking lot to building and did not specifically address each of the seven riparian functions and values listed in MMC Subsection 19.402.1.C.2 as contributing to water quality and fish and wildlife habitat.

ESA noted that the report's analysis of alternatives would benefit by more clearly defining the purpose and need of the project (as a basis for evaluating alternatives) and presenting a basis for economic viability in the context of being a key constraint to reducing encroachment into the WQR. The ESA memo also concluded that the impacts of the various alternatives were described at a high level and could benefit from additional detail.

With respect to proposed mitigation for impacts to the WQR, ESA notes that the technical report states that the project will not have any adverse impacts on the WQR and so does not require compensatory mitigation. However, ESA notes that the location of the existing Kellogg Bowl building (between 145 ft and 175 ft from the edge of the off-site pond) provides open space and room for birds and small wildlife to move between the pond and nearby trees and vegetated areas. The proposed new six-story building would be within 17 ft and 40 ft of the pond, significantly reducing the physical space currently available for birds and small mammals and other wildlife to move within the WQR on the site north of the pond.

The technical report refers to the proposed landscaping and includes a section on mitigation, though it does not present the proposed plantings as mitigation for impacts. As noted in the ESA memo, however, the proposed development will in fact impact the WQR. Because the technical report does not quantify the area of WQR that is being disturbed by the encroachment of the new building, ESA notes that it is difficult to determine how sufficiently the proposed landscape plan meets the requirement of MMC Subsection 19.402.11.C to mitigate disturbed areas. The ESA memo suggests that one way to quantify new WQR disturbance would be to calculate the square footage of new building encroachment into the vegetated corridor, and that one logical approach to mitigating would be to plant an area equal to that encroachment with native plants.

Regarding the proposed landscaping plan, the ESA memo indicates that the proposed planting location, along the southern property line adjacent to the off-site pond, as well as the proposed species, are appropriate. However, ESA notes that the proposed tree spacing does not meet the minimum requirements of eight to 12 ft on center nor the requirement to provide more than one species of tree when 10 or more trees are planted.

The ESA memo concludes that the proposed landscaping plan will improve some of the ecological functions and values that will be impacted by the encroachment of the new building into the vegetated corridor that constitutes the WQR on site. The location and nature of the off-site pond (which is approximately five ft below the grade of the subject property and separated by a concrete retaining wall) make it difficult for the proposed landscaping to moderate streamflow or to improve water storage, bank stabilization, or large woody recruitment and retention. But the replacement of existing asphalt with native plantings along the northern perimeter of the pond will serve to better separate the protected water feature from development; will improve microclimate and shade functions as well as water filtration, infiltration, and natural purification; and will provide a source of organic material within the WQR, including food sources and structure for birds, insects, and small mammals.

The Planning Commission acknowledges the points raised by ESA and finds that the applicant's materials provide a sufficient amount of information for evaluating alternatives and reviewing the proposed activity against the approval criteria of Subsection 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 technical report provided by the applicant acknowledges that there are alternatives that involve less encroachment or no encroachment into the WQR but explains that those alternatives would result in fewer housing units and accompanying amenities and would therefore not be economically viable. Given that the existing WQR is already developed as an asphalt parking lot, the proposal to construct a new building that encroaches into a portion of the WQR and to remove a strip of existing asphalt and provide a vegetated buffer of native plants in its place will have far less negative impact than leaving the existing parking lot in place and avoiding natural resource review altogether.

- 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.

Reducing the building footprint would significantly reduce the number of dwelling units provided, and eliminating the proposed plaza area adjacent to the pond would remove an important open space component of the proposed development. These changes (particularly the loss of units) could make the project infeasible.

The applicant could have proposed to construct an even larger building that encroached all the way to the southern property, where it would have been directly adjacent to the off-site pond. That would have completely filled the three-dimensional vegetated corridor, leaving no space for wildlife to move from the pond to the subject property and beyond. The proposed development represents a minimally impactful building that remains financially viable.

- 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.

As discussed above, ESA's review of the applicant's technical report noted that the report did not quantify the WQR disturbance or assert that the proposed plantings were adequate mitigation. (The technical report in fact asserted that the proposed development presented no new impact to the WQR since it has already been

developed as a parking lot.) The total area of WQR on the subject property near the pond is approximately 9,200 sq ft; the portion of the proposed building that encroaches into the WQR is approximately 3,250 sq ft; the area of proposed landscaping along the edge of the off-site pond is approximately 1,970 sq ft.

ESA has suggested that a 1:1 ratio of disturbance area to mitigation planting area is a logical approach to adequately mitigate for the disturbance. As proposed, a 10-ft strip along the approximately 197-ft length of the southern property boundary adjacent to the off-site pond would be landscaped. Given that the off-site pond is disconnected from the subject property by a retaining wall and grade separation, the planting area as proposed would provide an adequate “functional lift” for the existing vegetated corridor. The number of trees and shrubs need to be increased to meet the required spacing standards, and at least one additional species of native tree needs to be provided so that no more than 50% of the trees are of the same genus. A condition has been established to require these planting adjustments to make the required mitigation sufficient for the proposed new disturbance of the WQR.

As conditioned, 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, as conditioned, the proposed development meets the applicable discretionary review standards of MMC 19.402.12.

g. MMC Subsection 19.402.15 Boundary Verification and Map Administration

MMC 19.402.15 establishes standards for verifying the boundaries of WQRs and HCAs and for administering the City's NR Administrative Map.

The locations of WQRs 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 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 technical report and other submittal materials document the existence and location of two off-site protected water features: an intermittent stream to the northeast of the subject property and a pond formed by Spring Creek to the south. The City's NR Administrative Map clearly shows the location of the pond but appears to be less accurate with respect to the location of the intermittent stream. The existing conditions map included in the applicant's submittal materials includes topographic information and shows the

surveyed location of the ordinary high-water mark associated with the stream. This information can be used to improve the accuracy of the City's NR Administrative Map.

The Planning Commission finds that the City's NR Administrative Map should be adjusted to reflect the detailed information provided by the applicant with respect to the location of the off-site intermittent stream to the northeast of the subject property.

The Planning Commission finds that, as conditioned, the proposed development meets the applicable standards of MMC 19.402.

8. MMC Subsection 19.505.3 Building Design Standards for Multifamily Housing

MMC 19.505.3 establishes design standards and guidelines for multifamily residential buildings. In the DMU zone, stand-alone multifamily residential buildings have the option of addressing either the design standards or guidelines specifically for multifamily housing (as established in MMC Subsection 19.505.3.D) or addressing the design standards for downtown development in general (as established in MMC Subsection 19.508.4). As noted in Finding 9, in cases where a stand-alone multifamily residential building opts to address the downtown design standards of MMC 19.508.4, the only multifamily design standards from MMC 19.505.3.D that apply are those for building façade design (MMC Table 19.505.3.D.6).

The proposed development, which is for a stand-alone multifamily residential building, has opted to address the downtown design standards of MMC 19.508.4. The applicable standards for building façade design (MMC Table 19.505.3.D.6) are addressed as part of the overall discussion of downtown design in Finding 9.

The Planning Commission finds that, as addressed in Finding 9, the applicable standards for multifamily design are met.

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 multifamily residential 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 <u>Purpose:</u> To provide cohesive and visually interesting building façades in the downtown, particularly along the ground floor.	
Standard	Findings
To address this design element, stand-alone multifamily residential buildings are subject to the objective standards of MMC Subsection 19.505.3.D.6 (Building Façade Design).	<i>The proposed development is a residential-only building with 178 multifamily units, including two live/work units. The live/work units are considered primarily residential and do not make the development a mixed-use project.</i>
a. Street-facing building façades shall be divided into wall planes. The wall plane on the exterior of each dwelling unit shall be articulated by doing one or more of the following: 1) Incorporating elements such as porches or decks into the wall plane. 2) Recessing the building a minimum of 2 ft deep x 6 ft long. 3) Extending an architectural bay at least 2 ft from the primary street-facing façade.	<i>The street-facing façades (west and east elevations, facing Main Street and 23rd Avenue, respectively) have projecting balconies, a major recess in the center of the building (10 to 50 ft deep by 140 ft wide), and other minor recesses of around 2 ft.</i> <i>This standard is met.</i>
b. Windows and the glass portion(s) of doors with glazing shall occupy a minimum of 25% of the total street-facing façade.	<i>The west elevation (façade facing Main Street) is approximately 17,240 sq ft in area and presents approximately 6,230 sq ft of glazing (36%).</i> <i>The east elevation (façade facing 23rd Avenue) is also approximately 17,240 sq ft in area and presents approximately 4,540 sq ft of glazing (26%).</i> <i>This standard is met.</i>

A. BUILDING FAÇADE DETAILS Purpose: To provide cohesive and visually interesting building façades in the downtown, particularly along the ground floor.	
Standard	Findings
<p>c. Buildings shall have a distinct base and top. The base of the building (ground-floor level) shall be considered from grade to 12 ft above grade. The base shall be visually distinguished from the top of the building by any of the following physical transitions: a change in brick pattern, a change in surface or siding materials, a change in color, or a change in the size or orientation of window types.</p>	<p><i>The building presents a distinct base, middle, and top. The base is clad with brick (or fiber-cement panels where the parking garage extends on the east elevation), the middle section uses fiber-cement lap siding, and the top incorporates fiber-cement panels of a contrasting color with a cornice overhang.</i></p> <p><i>This standard is met.</i></p>
<p>d. To avoid long, monotonous, uninterrupted walls, buildings shall incorporate exterior wall off-sets, projections and/or recesses. At least 1 ft of horizontal variation shall be used at intervals of 40 ft or less along the building's primary façade on the ground-floor level.</p>	<p><i>The building includes a recessed courtyard area on level 2 that extends the offset up through level 6. Along the building's primary façade (west elevation, facing Main Street), the base provides numerous offsets of 1 ft or more every 40 lineal ft.</i></p> <p><i>This standard is met.</i></p>
<p>e. Blank, windowless walls in excess of 750 sq ft are prohibited when facing a public street, unless required by the Building Code. In instances where a blank wall exceeds 750 sq ft, it shall be articulated or intensive landscaping shall be provided.</p>	<p><i>Both of the building's street-facing elevations (west, facing Main Street; and east, facing 23rd Avenue) provide ample windows and openings into the parking garage area, avoiding the presentation of a blank façade.</i></p> <p><i>This standard is met.</i></p>
<p>f. Garage doors shall be painted to match the color or color palette used on the rest of the building.</p>	<p><i>As proposed, garage doors will be painted to match the color palette of the building exterior, likely a charcoal-grey accent color. A condition has been established to ensure that this standard is met at the time of development review.</i></p> <p><i>As conditioned, this standard is met.</i></p>

B. CORNERS

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

Standard	Findings
<p>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):</p> <ul style="list-style-type: none"> 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. 	<p><i>The proposed structure is a stand-alone residential building and not a nonresidential or mixed-use building.</i></p> <p><i>This standard is not applicable.</i></p>

C. WEATHER PROTECTION

Purpose: Create an all-season pedestrian environment.

Standard	Findings
<p>All buildings shall provide weather protection for pedestrians as follows:</p> <p>a. Minimum Weather Protection Coverage</p> <ol style="list-style-type: none"> 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. 	<p><i>The building design provides canopies over the various public entries on the ground floor. Doors accessing service areas for infrastructure (fire, water, or electrical rooms) or emergency egress are not considered building entries, such as along the north elevation of the building. All proposed canopies extend 6 ft from the building over adjacent pedestrian areas and are not adjacent to any public right-of-way.</i></p> <p><i>There are two live/work units along the west elevation and two regular dwelling units at the southeast corner. As proposed, the live/work entries have canopy coverage (77 ft); one of the two regular dwelling units has 14 ft of canopy on the south elevation, but no coverage is shown for the other unit.</i></p> <p><i>The various public entries are clustered at the southwest corner of the building, where there are entrances to the lobby, lounge, and fitness room. Measuring from the lobby entrance near the vehicle garage door on the west elevation around to the eastern edge of the fitness room, there is approximately 180 ft of building frontage and 72 ft of canopy (40%).</i></p> <p><i>Address of purpose statement and applicable guidelines: As proposed, the southwest corner of the building does not provide the minimum required percentage of weather protection (50%), and one of the two ground-floor regular dwelling units does not have a covered entry. However, the design does provide a significant percentage of coverage (40%) where needed above the primary entries. The adjacent plaza on the south side of the building is intended to be an uncovered and open-air area with a landscaped fringe as a buffer from the nearby pond. The site layout encourages residents and visitors to move away from the building (and thus away from any canopies) as they utilize the open space of the plaza. The fact that the entire plaza is not covered does not mean that it cannot serve as an all-season environment.</i></p>

C. WEATHER PROTECTION

Purpose: Create an all-season pedestrian environment.

Standard	Findings
	<p><i>The Milwaukie Character guideline for Integrating the Environment encourages buildings to capitalize on environmental assets, providing graceful transitions to natural and constructed elements that engage water edges. The proposed canopies provide some protection from the elements without establishing such a large covered area that residents and visitors are discouraged from leaving the building edge to engage with the plaza and the landscaped fringe near the water. The Pedestrian Emphasis guidelines for Protecting the Pedestrian from the Elements, Providing Places for Stopping and Viewing, and for Creating Successful Outdoor Spaces all support the idea of balancing protection from the elements with creating an inviting plaza area that draws people away from the building (and the associated canopies).</i></p> <p><i>As discussed in Finding 7 for Natural Resource review (MMC Section 19.402), the building proposes to encroach into part of the space where a vegetated corridor is identified, so there is a push to limit the structural footprint and building mass along the south side of the site. The extension of additional canopy coverage into the vegetated corridor is not necessary to make the plaza an engaging space, and limiting coverage to the proposed 40% instead of going all the way to the 50% standard preserves some of the desired open space without removing all weather protection for pedestrians.</i></p> <p><i>As noted above, the applicable standards are met; where specific standards are not met, the proposed design is consistent with the purpose of this design element and any applicable design guidelines.</i></p>
<p>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.</p>	<p><i>The proposed canopies are flat, rigid structures that would extend perpendicular from the building façade at a height of approximately 12 ft. As proposed, the canopies are visually compatible with the building architecture. No signage is proposed at this time, but the 12-ft canopy height allows sufficient clearance for any future proposed signage.</i></p> <p><i>This standard is met.</i></p>

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
<p>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.</p> <ul style="list-style-type: none"> 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. 	<p><i>The west and east elevations are street-facing façades. As proposed, neither façade meets the materials standard. Both façades are approximately 55% primary materials (brick and glass), 45% secondary materials (fiber cement siding), and 4.5% accent materials. No prohibited materials are proposed.</i></p> <p><i><u>Address of purpose statement and applicable guidelines:</u> The design is intended to evoke a sense of permanence with the use of brick to establish the base and highlight building entrances and durable fiber-cement throughout the middle (lap siding) and top (panels). The window trim is substantial and, together with the overhanging cornice, lends an air of solidity to the design. The tripartite nature of the building (base, middle, top) and the vertical proportion of the windows are compatible with other newer downtown buildings such as North Main Village and the Axletree apartments.</i></p> <p><i>This is all compatible with the Architecture design guideline pertaining to Wall Materials, which also emphasizes the use of materials that create a sense of permanence. The proposed color palette is subdued in color, with boldly articulated window trim. Cladding materials (brick, fiber-cement) are varied yet compatible. Belt courses occur at level 2 above the building base and again at the level 6 floor line to define the top floor. Overall, the design provides a sense of substance and mass, without the appearance of veneer.</i></p> <p><i>As proposed, the design is consistent with the purpose of this design element and any applicable design guidelines.</i></p>

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
<p>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.</p>	<p><i>The west elevation faces Main Street, with a ground-floor street wall area of approximately 3,240 sq ft. The design provides approximately 1,810 sq ft of windows, glazed doors, and/or other openings such as the main garage door, for a total percentage of nearly 56%.</i></p> <p><i>This standard is met.</i></p>
<p>Other Streets For all other block faces, the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:</p> <ol style="list-style-type: none"> 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%. 	<p><i>The east elevation faces 23rd Avenue, also with a ground-floor street wall area of approximately 3,240 sq ft. The design provides approximately 1,690 sq ft of windows, glazed doors, and/or other openings such as the large open-metal grille "windows" into the parking garage, for a total percentage of nearly 52%.</i></p> <p><i>This standard is met.</i></p>

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
<p>Upper Level</p> <p>Along all block faces, the following standards are applicable on the upper-level building façades facing a street or public space.</p> <ol style="list-style-type: none"> 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. The required upper-floor window/door percentage does not apply to floors where sloped roofs and dormer windows are used. 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. 	<p><i>The upper level wall areas of both of the street-facing façades (west and east elevations) are approximately 14,000 sq ft. The west elevation (facing Main Street) provides a total of just over 4,700 sq ft of glazing (nearly 34%); the east elevation (facing 23rd Avenue) provides just over 4,380 sq ft of glazing (31%).</i></p> <p><i>On the west elevation, less than 60% of the upper-floor windows are vertically oriented. <u>Address of purpose statement and applicable guidelines:</u> Many of the windows that do not technically count as being vertically oriented (i.e., where the vertical dimension is greater than the horizontal dimension) are almost square in shape and are fairly large relative to the ceiling height of each upper story. As a result, the windows provide significant daylighting of the interior spaces. The mullions on many of the windows also emphasize their vertical dimension and add sufficient interest to the façade. There are no design guidelines that relate directly to residential windows.</i></p> <p><i>On the east elevation, all of the upper-floor windows are vertically oriented.</i></p> <p><i>As noted above, the applicable standards are met; where a specific standard is not met, the proposed design is consistent with the purpose of this design element and any applicable design guidelines.</i></p>

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
<p>General Standards</p> <ul style="list-style-type: none"> 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. 	<p><i>As proposed, all windows have contrasting trim.</i></p> <p><i>Although the proposed development is a stand-alone residential building, there are some ground-floor windows into nonresidential spaces (e.g., lobby, lounge, fitness room). As proposed, those windows 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.</i></p> <p><i>The street-facing façades include primary entrances. Since no stand-alone commercial uses are proposed, the requirement for unlocking doors during certain hours is not applicable.</i></p> <p><i>The bottom edge of windows along the pedestrian walkways in front of the west and south elevations are essentially at grade.</i></p> <p><i>The proposed development is a stand-alone residential building, so the requirements for maintaining views into storefronts are not applicable.</i></p> <p><i>Signage is not part of the proposed development and will be reviewed as necessary in the future.</i></p> <p><i>As conditioned, the applicable standards are met.</i></p>
<p>Prohibited Window Elements</p> <p>For all building windows facing streets, courtyards, and/or public squares in the downtown, the following window elements are prohibited:</p> <ul style="list-style-type: none"> a. Reflective, tinted, or opaque glazing. b. Simulated divisions (internal or applied synthetic materials). c. Exposed, unpainted metal frame windows. 	<p><i>No prohibited window elements are proposed.</i></p> <p><i>This standard is met.</i></p>

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
<p>Roof Forms</p> <p>a. The roof form of a building shall follow one (or a combination) of the following forms:</p> <ol style="list-style-type: none"> 1) Flat roof with parapet or cornice. 2) Hip roof. 3) Gabled roof. 4) Dormers. 5) Shed roof. 	<p><i>The proposed roof is flat with an overhanging cornice.</i></p> <p><i>This standard is met.</i></p>
<p>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.</p> <p>c. All hip or gabled roofs exposed to view from adjacent public or private streets and properties shall have a minimum 4/12 pitch.</p> <p>d. Sloped roofs shall have eaves, exclusive of rain gutters, that project from the building wall at least 12 in.</p>	<p><i>The proposed flat roof includes a 12-in projecting cornice that overhangs the roof edges by 3 ft.</i></p> <p><i>The applicable standard is met.</i></p>

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
<p>Rooftop Equipment and Screening</p> <p>a. The following rooftop equipment does not require screening:</p> <ol style="list-style-type: none"> 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. <p>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.</p> <p>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:</p> <ol style="list-style-type: none"> 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. <p>d. Required screening shall not be included in the building's maximum height calculation.</p>	<p><i>The proposed design includes an elevator overrun that is less than 16 ft in height. As proposed, all other rooftop equipment will be screened and set back from the roof edge as required. A condition has been established to ensure that this standard is met.</i></p> <p><i>As conditioned, the applicable standards are met.</i></p>
<p>Rooftop Structures</p> <p>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.</p>	<p><i>No structures related to shared outdoor space are proposed on the roof. Rooftop terraces are proposed on level 5 of the six-story building.</i></p> <p><i>This standard is not applicable.</i></p>

G. OPEN SPACE

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

Standard	Findings
<p>Mixed-Use and Residential Development</p> <p>The following standards apply to mixed-use buildings with more than 4 residential units and residential-only multifamily developments:</p> <p>a. Outdoor Space Required</p> <p>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.</p>	<p><i>The proposed residential-only multifamily building provides 178 units, requiring a minimum total of 8,900 sq ft of private or common open space. The design provides a total of almost 13,000 sq ft of outdoor open space, including approximately 9,425 sq ft in private balconies and rooftop terraces, a nearly 2,600-sq-ft ground-level terrace outside the lounge and fitness room, and an approximately 950-sq-ft publicly accessible landscaped plaza at the accessway entrance from Main Street.</i></p> <p><i>This standard is met.</i></p>
<p>b. Common Open Space</p> <p>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.</p> <p>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.</p>	<p><i>Open space intended for common use by tenants includes a rooftop terrace on level 2 (approximately 3,440 sq ft, abutted on three sides by residential units), a lobby area (approximately 900 sq ft), lounge/club rooms on levels 1 and 2 (approximately 625 sq ft and 1,300 sq ft, respectively), and a 1,900-sq-ft fitness center on level 1.</i></p> <p><i>This standard is met.</i></p>

G. OPEN SPACE

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

Standard	Findings
<p>c. Private Open Space</p> <ol style="list-style-type: none"> 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. 	<p><i>Private open spaces include rooftop terraces (approximately 4,540 sq ft) and unit balconies (approximately 1,440 sq ft in total). These private open spaces are contiguous with the relevant units.</i></p> <p><i>No balconies are used for common entrances or exits, and no balconies project into the public right-of-way.</i></p> <p><i>The applicable standards are met.</i></p>
<p>d. Credit for Open Space</p> <p>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.</p>	<p><i>The applicant has not requested any reduction in the requirement for open space, and there is no adjacent improved public park. Scott Park is nearby but is not directly adjacent to the subject property.</i></p> <p><i>This standard is not applicable.</i></p>

As discussed in these findings, and as conditioned, the Planning Commission finds that the proposed design meets the applicable design standards of MMC 19.508.

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 requests for height bonuses to add two stories of building height, one of which is based on the new building qualifying for an Earth Advantage 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 includes construction of a new multifamily residential building with 178 units and associated off-street parking, which is required to conform fully to the requirements of MMC 19.600.

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 3 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.

The proposed development would establish 178 multifamily dwelling units. A minimum of 178 off-street spaces are required; a maximum of 356 spaces are allowed. A total of 173 parking spaces are proposed; exemptions and by-right reductions to the quantity requirements are discussed below in Finding 11-b(2).

(2) 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%.

The applicant has proposed only a small by-right reduction to parking quantity, providing a total of 173 spaces for 178 multifamily dwelling units. With the 25% reduction allowed for being in the DMU zone and reduction of two additional spaces for the 12 extra bicycle spaces, the proposed development could provide 131 spaces and meet the adjusted minimum requirement.

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.

(1) MMC Subsection 19.606.1 Parking Space and Aisle Dimension

MMC 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 a 9-ft minimum curb length and 22-ft drive aisles.

The proposed development includes 31 surface parking spaces (14 in front of the new building and 17 at the rear) and 142 spaces within a parking structure on the ground floor of the building. As proposed, all of the surface parking spaces outside the building are 90°-angle stalls that measure 9 ft by 18 ft, with a minimum 22-ft-wide drive aisle. The structured parking spaces vary somewhat in dimension, with many measuring 8.5 ft wide and less than 18 ft deep. The 64 stalls within the parking stacker also deviate

somewhat from the minimum required dimensions, due to the nature and function of the stacker. As addressed in Finding 11-g(1), the applicant has requested and justified reduced dimensions.

As proposed, and as addressed in Finding 11-g(1), the applicable standards are met.

(2) MMC Subsection 19.606.2 Landscaping

MMC 19.606.2 establishes standards for parking lot landscaping, including for perimeter and interior areas. The purpose of these landscaping standards is to provide buffering between parking areas and adjacent properties, break up large expanses of paved area, help delineate between parking spaces and drive aisles, and provide environmental benefits such as stormwater management, carbon dioxide absorption, and a reduction of the urban heat island effect.

In the DMU zone, perimeter buffer areas abutting a ROW must be at least four ft wide (measured from the inside of curbs); no buffer is required abutting another property. Within perimeter buffer areas, at least one tree must be planted every 30 lineal feet. All parking areas adjacent to a residential use must have a continuous visual screen in the abutting landscape perimeter area (opaque year-round from one ft to four ft above the ground).

At least 25 sq ft of interior landscaped area must be provided for each parking space, either a divider median between opposing rows of parking or a landscape island in the middle or at the end of a parking row. Interior landscaped areas must be a minimum of 6 ft wide (measured from the inside of curbs). For landscape islands, at least one tree must be planted per island; for divider medians, at least one tree must be planted every 40 lineal feet.

The landscaping requirements apply to outdoor parking lots, and the proposed development includes one in front of and one behind the new building. In front of the building (to the west), 14 off-street spaces are proposed, with a 50-ft-wide buffer between the Main Street ROW and the nearest parking space; no perimeter buffer is required between the parking area and the adjacent Pietro's Pizza property to the north, though a 2-ft-wide planting strip is provided and will be planted with groundcover (the strip is too narrow for tree planting). The buffer from Main Street is designed as a public plaza and includes a 10-ft-wide planting area adjacent to the nearest parking space. A total of 350 sq ft of interior landscaping is required, and four landscaped islands totaling over 500 sq ft of area are proposed, with one tree planted in each.

Behind the building (to the east), 17 off-street spaces are proposed. Where adjacent to the 23rd Avenue ROW, an 8-ft-wide perimeter buffer is proposed, with trees spaced approximately 27 ft apart. Although no perimeter buffer is required where adjacent to residential properties, a landscaped strip is provided—at least 7 ft in width along the eastern perimeter of the parking lot and approximately 10 ft in width along the southern boundary. Trees are proposed approximately 30 ft apart on average and a vegetative screen of plantings is proposed along the perimeter. A total of 425 sq ft of interior

landscaping is required, and five landscaped islands totaling more than 650 sq ft are provided, with one tree planted in each.

The applicable standards are met.

(3) MMC Subsection 19.606.3 Additional Design Standards

MMC 19.606.3 establishes various additional design standards for off-street parking areas. Paving and striping are required for all required maneuvering and standing areas. Parking bumpers or wheel stops are required to prevent vehicles from encroaching onto public rights-of-way, adjacent landscaped areas, or pedestrian walkways. Driveways and on-site circulation must be designed so that vehicles enter the ROW in a forward motion. Pedestrian access must be provided so that no off-street parking space is farther than 100 ft away from a building entrance or a walkway that is continuous, leads to a building entrance, and meets the design standards of MMC Subsection 19.504.9.E. Lighting must not cause a light trespass of more than 0.5 footcandles measured vertically at the boundaries of the site and must provide a minimum illumination of 0.5 footcandles for pedestrian walkways in off-street parking areas.

As proposed, all surface parking areas (exterior and structured) will be paved and striped, with wheel stops to limit intrusion into landscaped areas; the spaces within the parking stacker have their own form of delineation. The overall site design and configuration of the accessway onto Main Street ensure that vehicles will enter the ROW in a forward motion. As designed, each of the 31 exterior spaces are within 100 ft of a pedestrian walkway or building entrance; all of the structured spaces are within the building itself. The requirements of MMC 19.504.9 do not apply to multifamily developments (e.g., the requirement for pervious walkways). The applicant's photometric plan shows that the pedestrian walkway serving the front parking area will be illuminated to at least the minimum standard of 0.5 footcandles. The photometric plan suggests that light trespass onto adjacent properties will be below the minimum standard of 0.5 footcandles, but it is not clear for all applicable perimeters of the site; a condition has been established to ensure that this standard is met.

As conditioned, the applicable standards are met.

As proposed and conditioned, the Planning Commission finds that the applicable design and landscaping 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 of various uses, including multifamily housing. For multifamily development with 4 or more units, MMC Subsection 19.609.2 requires a minimum of 1 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 provides that each bicycle parking space shall 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 178-unit multifamily residential development, a minimum of 178 bicycle parking spaces are required, at least 89 of which must be covered or enclosed. As proposed, 190 bicycle spaces will be provide—10 in a dedicated bike room on the ground floor, 10 outside the front entrance, 16 in a bike storage room on each of the five upper floors (total of 80 spaces), and 90 in individual units (in the form of a permanent wall-mounted rack).

The applicant's submittal materials include some detail about the proposed in-unit racks and shows the location of the exterior racks and of the storage rooms within the building. The group of racks outside the front of the building are within 50 ft of the garage entrance and lobby door, and the ground-floor bike storage room is accessible from the front of the building; the other bike spaces are all within the building itself. The submittal materials do not include sufficient detail to confirm that the dimensional requirements are met (including for the in-unit location of the 90 spaces in individual units), so a condition has been established to ensure that the applicable standards are met.

As proposed and conditioned, the Planning Commission finds that the 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.

The proposed development is for multifamily housing. 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, the 141 off-street spaces provided within the ground-floor parking structure are intended to meet the minimum parking requirement for the new building. As noted in Finding 11-c-1, many of the structured parking stalls are only 8.5 ft wide, particularly where adjacent to concrete columns protruding between stalls. The dimensions of the parking-stacker stalls are generally smaller than the 9 ft by 18 ft requirement of MMC 19.606.1. The applicant has requested an allowance of reduced dimensions where necessary, noting that the City of Portland sets minimum stall dimensions at 8.5 ft by 16 ft. The applicant has also noted that reduced dimensions are appropriate for the parking stacker, as its particular function eliminates the need for doors to open on both sides of the stall. The parking stacker is designed to accommodate a range of vehicle sizes (small, medium, and large) and will adequately serve even most sport utility vehicles.

As addressed particularly in Findings 6 and 9, the parking structure, 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 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 majority of the ground floor of the proposed building provides structured parking for the new multifamily units. On the west elevation (facing Main Street), approximately 94 ft of the overall façade length includes structured parking, with approximately 55 ft of doors and wall openings (59%). On the east elevation (facing 23rd Avenue), approximately 210 ft of the overall façade length includes structured parking, with approximately 120 ft of doors and wall openings (57%). Neither elevation meets the standard, so a variance is addressed (and approved) in Finding 15.

No building setbacks are required. Regardless, landscaped buffers are provided around all sides of the building where adjacent to the ground-floor parking structure. A five-ft-wide sidewalk extends from the parking structure entrance to Main Street and includes lighting. 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 applicant has not proposed any additional floor area above what is allowed by the limitations of building height—for residential-only buildings, FAR does not apply. This standard is not applicable.

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

As proposed and conditioned, 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 multifamily apartment building with a ground-floor live/work and structured parking. 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 August 27, 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 bowling alley use on the site 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. Kittleson & Associates, the applicant's traffic consultant, prepared the TIS that was included with the applicant's larger submittal for the proposed development.

The TIS identified clear vision concerns on Main Street, so curb extensions are required as proposed in the revised preliminary plans submitted on June 28, 2021. The TIS concluded that the proposed development does not trigger mitigation of impacts beyond the proposed frontage improvements. The TIS also concluded that the surrounding transportation system would continue to operate at the same level of service as before the proposed development.

The TIS recommended establishing a "trip cap" on the 0.2-acre portion of the site that is currently zoned R-5 but is being rezoned to Downtown Mixed Use (DMU) as part of the proposed development. The trip cap would be equivalent to 18 daily, one weekday AM peak hour, and two weekday PM peak hour trips and is needed to assure that any future development traffic on this site complies with Oregon's Transportation Planning Rule (TPR). The TIS recommended that the need for the trip cap should be re-evaluated relative to TPR requirements if this portion of the site should be redeveloped in the future. A condition has been established to ensure that the proposed trip cap remains linked to the subject property until it is re-evaluated and deemed to no longer be necessary.

As submitted and conditioned, the applicant's TIS, including required mitigation measures and a condition related to the proposed trip cap, 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 TIS concluded that no additional mitigation measures are required beyond the proposed frontage improvements on Main Street and 23rd Avenue.

As proposed, 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 subject property fronts Main Street, which is classified as a collector street and is part of a transit route. The application was referred to the Oregon Department of Transportation (ODOT), Clackamas County Department of Transportation and Development (DTD), TriMet, and Metro for comment.

This standard is met.

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).

No improvements to Main Street are proposed, only a reconstructed driveway access. The proposed cross section for 23rd Avenue is a 22-ft-wide local residential street. As proposed, the development will have gated emergency-only access to 23rd Avenue, and the street will be established as a turn-around route with new curb and no on-street parking. The proposed cross sections conform to applicable requirements and are consistent with MMC 19.708.2.

As proposed, this standard is met.

(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 two new ADA ramps with curb extensions on Main Street and an updated pedestrian crossing of the accessway connecting to the existing sidewalk. The future design for 23rd Avenue does not include pedestrian facilities and no pedestrian facilities are required. The proposed improvements include pedestrian access

to the site from 23rd Avenue and will otherwise match the existing frontage improvements on 23rd Avenue to the east, which includes curb on both sides of the street.

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

(4) MMC Subsection 19.708.6 Transit Requirements and Standards

MMC 19.708.6 provides standards for transit facilities.

The portion of Main Street fronting the proposed development is classified as a transit route in the Milwaukie Transportation System Plan (TSP). However, transit facilities are already in place. As a result, transit facility improvements are not required for the proposed development.

As proposed, the development is consistent with all applicable standards of MMC 19.708.6.

As proposed, the development will meet all applicable standards of MMC 19.708 and any other applicable City requirements.

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

13. MMC Section 19.902 Amendments to Maps and Ordinances

MMC 19.902 establishes the general process for amending the City's Comprehensive Plan and land use regulations within the Milwaukie Municipal Code. Specifically, MMC Subsection 19.902.6 establishes the process for amending the Zoning Map.

a. MMC Subsection 19.902.6.A Review Process

MMC 19.902.6.A establishes the review process for Zoning Map amendments. Generally, changes that involve fewer than five properties or that encompass less than two acres of land are quasi-judicial in nature and subject to Type III review.

The proposed amendment, which would change the zoning of the northeastern portion of the site from Residential R-5 to Downtown Mixed Use (DMU), involves one property that encompass approximately 84,475 sq ft or 1.94 acres. The Planning Commission finds that the change is quasi-judicial in nature and therefore subject to Type III review.

b. MMC Subsection 19.902.6.B Approval Criteria

MMC 19.902.6.B establishes the following approval criteria for changes to the Zoning Map.

(1) The proposed amendment is compatible with the surrounding area based on the following factors:

- (a) Site location and character of the area.
- (b) Predominant land use pattern and density of the area.
- (c) Expected changes in the development pattern for the area.

The majority of the subject property is zoned DMU. It is located at the north end of downtown Milwaukie, adjacent to other DMU-zoned properties—the Pietro’s Pizza and Oddfellow’s sites to the north and a veterinary clinic to the south. Across Main Street to the west are other small commercial buildings. The northeast corner of the site is zoned residential R-5 and is adjacent to several other residential (R-5) properties to the east.

As established in MMC Subsection 19.304.1.A, the DMU zone allows for a wide range of uses—including retail, office, commercial, and residential—that will bring people to the downtown to live, work, shop, dine, and recreate. The City anticipates continued redevelopment of this part of the downtown area, with more of the existing single- or low-story commercial-type buildings being replaced over time with new buildings more suitable for more intensive mixed use.

The proposed map amendment would reconcile the nonconforming use of the R-5 portion of the site (off-street parking for the former bowling alley) with the zoning of the rest of the subject property (DMU). Interestingly, the land use designation of the whole subject property (including the portion currently zoned R-5) is Town Center (TC), so the proposed map amendment will also bring the zoning into alignment with the assigned land use designation.

The Planning Commission finds that the proposed amendment is compatible with the surrounding area. This standard is met.

- (2) The need is demonstrated for uses allowed by the proposed amendment.

The DMU zone allows a wide variety of uses, including multifamily residential housing like the proposed development. The City’s Housing Needs Analysis, prepared in 2016 and looking ahead through 2036, notes that multifamily housing of five units or more comprise approximately 30% of the needed stock for both ownership and rental housing. That is second only to single-family detached housing (46%) in terms of projected need. Although the map amendment is not critical for the proposed multifamily residential development because the area being rezoned is already used for off-street parking and would continue being used in that way, the change would remove the split-zone aspect of the site, resolve the existing nonconforming status of the parking use on the portion currently zoned R-5, and remove one more obstacle for the potential redevelopment of that portion of the site for a use allowed in the DMU zone.

The Planning Commission finds that the need is demonstrated for uses allowed by the proposed amendment. This standard is met.

- (3) The availability is shown of suitable alternative areas with the same or similar zoning designation.

The area adjacent to the eastern boundary of the subject property includes some properties zoned R-5 (moderate density) and others zoned R-1-B (residential-business office). The adjacent area is currently developed primarily with detached single-family houses, one multifamily building (14 units), and a couple of small offices. The adjacent R-5 area extends further east by two blocks, and there are several other large areas of R-5

zoning throughout the city (including in the Island Station, Lake Road, Ardenwald, Hector Campbell, and Lewelling neighborhoods).

The Planning Commission finds that there is sufficient availability of alternative areas with the R-5 zoning designation. This standard is met.

- (4) The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.

The City's Engineering Department has confirmed that the water and sewer services in the adjacent streets are adequate to serve any redevelopment needs for the subject property. The site's existing street frontages on Main Street and 23rd Avenue will be brought up to City standards by the proposed development. Any future redevelopment of the portion of the subject property being rezoned (adjacent to 23rd Avenue), beyond the proposed off-street parking use, will trigger the requirement to reevaluate the 23rd Avenue frontage and require any further improvements necessary to support a new use.

The Planning Commission finds that the subject property and adjacent properties presently have adequate public facilities, utilities, and services to support uses allowed by the proposed amendment. This standard is met.

- (5) The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.

Main Street is classified as a collector street; 23rd Avenue is a local street. As discussed in Finding 12-c with respect to the proposed trip cap for future redevelopment, the proposed zone change from R-5 to DMU will not significantly increase the potential peak-hour trips for that portion of the site without requiring a new TIS and an assessment of whether additional transportation facility improvements are required. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system.

The Planning Commission finds that the proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. This standard is met.

- (6) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.

The Land Use Map within the City's Comprehensive Plan (Comp Plan) shows a Town Center designation for the subject property, including the portion that is currently zoned R-5. The proposed amendment will make the zoning of the overall site consistent with the property's designation on the Land Use Map.

The Comp Plan includes the following goals and policies that are applicable to the proposed development:

Section 8 Urban Design and Land Use

Goal 8.1 (Design)—Use a design framework that considers location and development typology to guide urban design standards and procedures that are customized by zoning district.

Policy 8.1.1(a) is a policy for Downtown Milwaukie that calls for allowing a variety of dense urban uses in multi-story buildings that can accommodate a mix of commercial, retail, office, and higher density residential uses. The proposed map amendment will revise the current moderate density residential zone designation (R-5) of the northeastern portion of the site to be consistent with the majority zoning of the subject property (DMU). This change would reconcile the inconsistency of the current split zoning of the site with both the Town Center designation on the Land Use Map and the proposed multifamily residential development, which is allowed outright in the DMU zone but not even as a conditional use in the R-5 zone. The subject property is committed to the type of dense urban use allowed in the DMU zone and that should be reflected by applying the DMU zone across the entire site.

The Planning Commission finds that the proposed amendment is consistent with the applicable goals and policies of the Comprehensive Plan, including the Land Use Map. This standard is met.

- (7) The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

Within the Metro Urban Growth Management Functional Plan, Title 1 (Housing Capacity) and Title 6 (Centers, Corridors, Station Communities, and Main Streets) provide guidance related to the proposed amendment. Title 1 calls for a compact urban form to meet regional housing needs. Title 6 recognizes centers, corridors, station communities, and Main Streets as the principal centers of urban life in the region and calls for actions and investments by cities and counties to enhance this role.

The proposed change of a small portion of the subject property from R-5 to DMU zoning will eliminate the existing and future nonconformity of the off-street parking use of the area being rezoned. By making the site's zoning uniformly DMU, the proposed amendment will facilitate any future efforts to further develop or redevelop the subject property for the uses allowed in the DMU without the need for variances.

The Planning Commission finds that the proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies. This standard is met.

- (8) The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

Several of the Statewide Planning Goals are applicable to the proposed amendment. Goal 1 (Citizen Involvement) focuses on developing a citizen

involvement program that ensures the opportunity for all citizens to be involved in all phases of the planning process. Goal 2 (Land Use Planning) deals with establishing a land use planning process and policy framework as a basis for all decisions and actions related to use of land, assuring that all such decisions and actions have an adequate factual base. Goal 14 (Urbanization) is intended to ensure efficient use of land and provide for livable communities.

In addition, the Metro Housing Rule, as established in Oregon Administrative Rule (OAR) 660 Division 7, aims to ensure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the metropolitan Portland urban growth boundary, to provide greater certainty in the development process and so to reduce housing costs.

The proposed zone change has been processed with Type III (quasi-judicial) review. Notice of the public hearing was provided to property owners and current residents of properties within 300 ft of the subject properties. The Planning Commission held a public hearing on July 27, 2021, with an opportunity for testimony and comment by anyone with interest in or concern about the proposed amendment. These findings demonstrate that the proposed amendment complies with the applicable criteria for approval established in the City's municipal code.

The proposed amendment will resolve the current inconsistency between the subject property's Town Center land use designation in the Comp Plan and the moderate density residential zoning (R-5) of a small portion of the site. This will eliminate the existing nonconforming situation, as the area being rezoned was mostly recently used for off-street parking for a longstanding commercial recreation use (bowling alley) and will continue to be used for off-street parking for a new multifamily residential building. Any future redevelopment of the subject property will be able to be conducted without the current split-zoning designations on the site (DMU and R-5). The proposed amendment also will ensure that the subject property can be used in its entirety for the efficient and intensely urban purposes for which the majority of its area is already zoned (DMU).

In OAR 660-007-0035, the Metro Housing Rule sets a base minimum density of eight units per acre for new residential construction in Milwaukie. The existing R-5 zone has a minimum density of 7.0 units per acre; the proposed DMU zone has a minimum density of 30 units per acre for stand-alone multifamily dwellings. The proposed amendment exceeds the minimum density required by Metro.

The Planning Commission finds that the proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule. This standard is met.

The Planning Commission finds that the proposed amendment meets all applicable approval criteria for zoning map changes as established in MMC 19.902.6.B. This standard is met.

c. MMC Subsection 19.902.6.C Conditions of Approval

As per MMC 19.902.6.C, conditions of approval may be applied to Zoning Map amendments for purposes of fulfilling identified need for public facilities and/or meeting applicable regional, State, or federal regulations.

As discussed in Finding 12-c, a condition has been established to require the documentation of a trip cap on the portion of the subject property being rezoned from R-5 to DMU. The Planning Commission finds that no conditions of approval are necessary for fulfilling identified public facility needs and/or meeting applicable regional, State, or federal regulations.

d. MMC Subsection 19.902.6.D Modification of Official Zoning Map

For Zoning Map amendments not involving conditions of approval, the Zoning Map will be modified when the adopting ordinance goes into effect. For zoning map amendments involving conditions of approval, the Zoning Map will not be modified until all conditions of approval have been met.

As noted above in Finding 13-c, the proposed amendment includes one condition of approval related to the proposed trip cap. Once the condition has been met, an adopting ordinance will be brought before the City Council as required by MMC Subsection 19.1006.5.D, and the Zoning Map will be modified accordingly when the ordinance goes into effect.

As conditioned, the Planning Commission finds that the applicable requirements for an amendment to the City's Zoning Map are met.

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 stand-alone multifamily residential buildings, there are a number of options for review. For stand-alone multifamily buildings that meet the objective design standards in MMC Table 19.505.3.D, Type I review is required. Type II review is required if the building satisfies the multifamily design guidelines in MMC Table 19.505.3.D, or if an applicant prefers to meet the downtown design standards of MMC Section 19.508. Type III review is required for projects that do not fit the applicability of Type I or II review, that are unable to meet one or more of the downtown design standards of MMC 19.508, or where the applicant elects to forgo Type I or II review because additional design flexibility is desired.

As addressed in Findings 8 and 9, the applicant has elected not to address the multifamily design standards or guidelines, and 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 July 8, 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 the following four variances to the downtown development standards, and staff has noted the need for a fifth variance to a requirement for parking structures: (1) to exceed the maximum allowed building setback, (2) to provide less than the minimum frontage occupancy, (3) to allow off-street parking between the building and the street-facing lot line, (4) to provide less than the required open space in the front setback, and (5) to provide less than the minimum percentage of ground-floor windows or wall openings required for parking structures.

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. MMC Subsection 19.911.3.B establishes the Type II review process for limited variations to certain numerical standards. MMC Subsection 19.911.3.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 variance requests. For Type III variances, MMC Subsection 19.911.4.B.1 provides approval criteria related to discretionary relief and MMC Subsection 19.911.4.B.2 provides approval criteria related to economic hardship.

The applicant has elected to address the economic hardship criteria for the four variances related to downtown development standards; staff has determined that it is most appropriate to address the discretionary relief criteria for the variance related to the parking structure standard.

(1) MMC Subsection 19.911.4.B.1 Discretionary Relief Criteria

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

Parking Structures (Ground-floor Windows and Wall Openings): As noted in Finding 11-g-2, neither of the street-facing façades (west and east elevations) meet the minimum standard of providing ground-floor windows or wall openings for at least 75% of the length of any street-facing façade. The west elevation (facing Main Street) has approximately 59% wall openings for the length of the façade; the east elevation has approximately 57% wall openings for the length of the façade.

Although short of the 75% standard, both elevations provide significant percentages of wall opening and do not present blank walls. Since the structured parking is only one part of the overall building, is only on the ground floor, and is not directly adjacent to each façade from within the building (e.g., the live/work units are part of the façade but have structured parking behind them within the building), it is relevant to note that the parking portion of the façade needs to complement and be consistent with the overall design of the building. As proposed, the percentages of façade on both elevations are consistent with and proportional to the percentages of windows and wall openings on other portions of each façade. For the west elevation, the proposed configuration and design of windows and wall openings makes it difficult to tell that there is structured parking within the building. For the east elevation, which is technically street-facing but only onto what is intended to serve as emergency access from 23rd Avenue, there is little impact to not providing additional wall openings.

The Planning Commission finds that the analysis of the impacts and benefits of the requested variance compared to the baseline requirements is adequate. This criterion is met.

- (b) 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.

Parking Structures (Ground-Floor Windows and Wall Openings): As proposed, the west and east elevations of the building provide significant percentages of windows and wall openings on the ground floor. Reconfiguring those façades by inserting more openings would require the relocation of some of the interior support columns and represents a substantial change in the engineering of the structure itself. The requested deviation from the 75% standard is reasonable and appropriate and does not result in any impacts to surrounding properties. As proposed, the west and east elevations present ground floors with articulation and variety while remaining a complementary part of each overall façade. Neither elevation presents a blank wall at the ground-floor level.

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

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

Parking Structures (Ground-Floor Windows and Wall Openings): As noted above in Finding 15-c(1-b), there are no negative impacts from the proposed variance to this particular standard for parking structures. The west and east elevations of the building provide significant percentages of windows and wall openings on the ground floor. As proposed, the ground floor of each elevation complements the upper stories and is part of a coherent façade.

The Planning Commission finds that the requested variance will not result in any impacts that require mitigation. This criterion is met.

As proposed, the Planning Commission finds that the requested variance meets the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.

- (2) MMC Subsection 19.911.4.B.2 Economic Hardship Criteria

- (a) Due to unusual site characteristics and/or other physical conditions on or near the site, the variance is necessary to allow reasonable economic use of the property comparable with other properties in the same area and zoning district.

The need for all four of the variances requested to development standards of the DMU zone is a result of the configuration of the subject property (i.e., its flag-lot shape) and its limited frontage on Main Street. The developable part of the property (where the new building will be located) is connected to Main Street by an accessway lot that is approximately 55 ft wide and approximately 260 ft long. The accessway portion of the site provides shared access to the Pietro's Pizza site adjacent to the north and the veterinary clinic property to the south, so there are considerable limits on how much and what kind of development can happen within the accessway. Unlike most other properties along Main Street, the subject property does not have the same physical opportunity for development that meets the standards for which variances have been requested.

Maximum Building Setback: As identified on MMC Figure 19.304-5, the subject property is subject to a maximum setback of 10 ft from Main Street. In addition to the constraints provided by the shared access agreement with adjacent properties, the fact that the accessway is only 55 ft along its Main Street frontage and does not expand until approximately 260 ft from the front property line, a new building essentially must be set back over 260 ft.

Frontage Occupancy: Aside from the constraints provided by the shared access agreement with adjacent properties, in order to meet the 50% frontage occupancy standard for the 55-ft-wide frontage, a new building would have to be at least 27.5 ft wide but would also have to consider preserving some frontage width for access. With the bulk of the developable portion of the site approximately 260 ft away from

the Main Street frontage, such a building would be long and narrow and thus significantly constrained in terms of what uses it could accommodate practically. Or the building could extend across most or all of the frontage and incorporate access into its design by allowing vehicles and pedestrians to pass through it to reach the rest of the site. Either way, the frontage occupancy standard presents a challenge for the subject property given its shape.

Off-Street Parking: As discussed above for the requested variances regarding setbacks and frontage occupancy, the “pole” portion of the subject property is very limited with respect to what can be built there. It is naturally configured for access, and its 55-ft width provides enough room for an accessway and parking but not enough space for a building. Land downtown is a valuable commodity, and off-street parking is required in conjunction with residential development. Denying the use of at least some portion of the accessway for parking would force the applicant to either reduce the number of dwelling units in the main building in order to provide more structured parking or simply reduce the number of parking spaces and therefore reduce the amenities offered by the proposed development.

Open Space: With over 14,000 sq ft of area in the accessway portion of the subject property, the requirement to use 50% of that area as open space represents a significant imposition and a limitation on the applicant's options for programming the site. The need to provide access for vehicles and pedestrians within the “pole” portion of the property requires at least 50% of the area. The scale of the requirement as it applies to this particular site is noteworthy and very unique compared to the circumstances of most other properties downtown.

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.

- (b) The proposed variance is the minimum variance necessary to allow for reasonable economic use of the property.

Maximum Building Setback: The applicant has proposed to locate the new building within approximately 10 ft of the rear of the “pole” portion of the property, allowing space for required stormwater facilities and emergency vehicle turnarounds. The variance is the minimum necessary to make the primary developable portion of the site usable for the purpose of constructing a building.

Frontage Occupancy: Reducing the frontage occupancy requirement to zero is the minimum variance necessary to allow for reasonable development of the larger and less constrained portion of the property.

Off-Street Parking: Given the fact that there are minimum off-street parking requirements in the DMU zone, it is essential to allow at least some portion of the accessway to be used for parking. Although the proposed development is eligible for some reductions in the minimum number of parking spaces required, the

applicant's own market analysis indicates that providing as close to a 1:1 ratio of spaces to unit is advisable. As proposed, the development provides 173 spaces for 178 units; the 14 spaces proposed in the accessway to Main Street are essential for the project to approach a 1:1 ratio. In addition, the parking spaces in the accessway are the only ones that will be available to non-residents, as the parking structure and rear parking lot are secured and limited in access.

Open Space: In conjunction with the argument above for retaining as many off-street parking spaces as possible, the amount of open space provided in the front setback area (approximately 7%) is as much as can be provided without reducing the number of parking spaces or constricting the access for vehicles and pedestrians.

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.

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

Maximum Building Setback: One result of setting the new building so far back from Main Street is to make it more difficult to create an engaging pedestrian environment along Main Street, one that pulls people into the site. The provision of a pedestrian walkway that links the public sidewalk on Main Street to the building entrance, as well as an approximately 950-sq-ft pedestrian plaza between Main Street and the first on-site parking space, both serve to connect the building to the street and give pedestrians a reason to stop at the site entrance.

Frontage Occupancy: Allowing the narrow site frontage to remain open and free of a building results in leaving more space available for the proposed pedestrian walkway that connects the public sidewalk to the new building entrance. Similarly, the open frontage provides room for a pedestrian plaza that will serve as a point of interest and a mechanism for pulling people into the site from Main Street.

Off-Street Parking: Allowing off-street parking between the front property line and the building will provide more opportunities for visiting vehicles to park off the street.

Open Space: The open space and off-street parking standards are intertwined in this case, as the allowance of parking in the setback reduces the area available for open space. By allowing a reduction in open space, the variance allows the provision of more parking, which provides a benefit to building residents, visitors, and other nearby properties.

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

As proposed, the Planning Commission finds that the requested variances meet the approval criteria established in MMC 19.911.4.B.2 for Type III variances making the case for economic hardship.

As proposed, the Planning Commission finds that all of the requested variances meet the applicable approval criteria for Type III variances as established in MMC Subsection 19.911.4.

The Planning Commission finds that 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 July 8, 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 identified the following recommendations for consideration by the Planning Commission:

Weather Protection

- *Recommendation to review the first-floor unit at the southeast corner of the building, which currently does not have a canopy.*
- *Recommendation to revisit the main entry area, which is very close to the main parking garage entrance. The DLC understands that certain site constraints have limited options for locating the garage entrance, but the main pedestrian entrance feels like an afterthought. Consider extending the proposed pedestrian entry canopy over the parking garage entry so visual interest is drawn more to the canopy and less to the parking garage door.*

Exterior Building Materials

- *The DLC was supportive of the proposed percentages of materials that deviated from the applicable standards.*

- *Recommendation to provide additional information about the fiber cement lap siding and panels. It was suggested that a partial enlarged elevation be provided that highlights the transition points between materials, calls out where the shift occurs between horizontal lap siding and panels, and shows the intent for reveal locations within the panel portions of the siding.*
- *Recommendation to provide at least a conceptual idea of what the metal grilles at the parking level will look like, including any proposed patterns.*
- *Recommendation to add a note to the elevations calling out where the Packaged Terminal Heat Pump (PTHP) units are located—it is not clear in the elevations provided.*

Windows and Doors

- *The DLC approved the window and door percentages as proposed. It was agreed that, while many of the windows have an overall square shape, the utilization of vertical mullions—as well as the vertical emphasis of the façade itself—creates an acceptable sense of verticality within the window system.*

Other

- *Recommendation to provide information about exterior lighting. This element affects overall building aesthetics and also potentially affects the neighbors.*
- *Recommendation to provide more in-depth info about how the area near the pond is being addressed.*
- *Recommendation to provide further information about any Heating, Ventilation, and Air Conditioning (HVAC) equipment that will be placed on the roof. While a majority of the units have their own self-contained systems, the shared amenity spaces in the building will have rooftop equipment. The applicant team mentioned a probable placement of these rooftop units near the proposed elevator overrun. If screening will be needed for any of this equipment, it would be helpful to see what the applicant team has in mind for design.*
- *Recommendation to document the existing Kellogg Bowl building to the greatest extent possible (drawings, photos, historical info, etc.) and make this information available to the public for future research purposes. The applicant indicated that the interior has already been largely dismantled, but many building components were salvaged. Perhaps some of these components could be repurposed within the new building (i.e., find a way to pay homage to the historically significant building that the new one will replace).*
- *Recommendation to consider the question of providing future pedestrian connections through the site, particularly on the north side of the building where people are likely to cut through between 23rd Avenue and the Pietro's Pizza site.*
- *Recommendation that the applicant work with adjacent neighbors to the east to arrange screening that is amenable to all.*

17. The application was referred to the following departments and agencies on June 15, 2021:

- Milwaukie Community Development Department
- Milwaukie Engineering Department

- Milwaukie Building Department
- Milwaukie Public Works Department
- Milwaukie Police Department
- City Attorney
- Historic Milwaukie Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
- Clackamas Fire District #1 (CFD #1)
- ESA (City's on-call Natural Resource consultant)
- Clackamas County Department of Transportation & Development
- Metro
- ODOT
- TriMet
- North Clackamas School District
- NW Natural

The comments received are summarized as follows:

- **Alex McGladrey, Lieutenant – Deputy Fire Marshal, CFD #1:** The subject property is in an area with public water supply. Fire apparatus access roads cannot route continuously around the exterior walls of the building due to site constraints. CFD #1 accepted the application for alternative or modification of the 2019 Oregon Fire Code (pending Milwaukie Building Department approval) where the applicant proposed the following:
 - The building will be equipped with an approved NFPA 13 automatic sprinkler system throughout.
 - There are no combustibles concealed in attic spaces.
 - All stairway enclosures have a fire-resistance rating of not less than 2-hour.
 - The roof slope is essentially flat with a slope of 3/8 inch per foot (less than 33% slope).
 - Approved access is provided to the roof from all the stairways. The north and south stairways extend to the roof within a 2-hour enclosure and a compliant roof hatch.
 - Each stairwell is equipped with a standpipe; both standpipes terminate at the roof.
- **Jeremy Lorence, East Metro Engineer, NW Natural:** No comments.
- **Cindy Detchon, Assistant Superintendent of Operations, North Clackamas School District:** No comments.
- **Jennifer Backhaus, Engineering Technician III, City of Milwaukie Engineering Department:** The Engineering Department has provided comments that have been incorporated into the findings for MMC Chapter 12.16 and MMC Chapter 19.700.

- **John Vlastelicia, Senior Environmental Scientist, ESA (City's on-call natural resources consultant):** Peer review of the applicant's Water Quality Resource Site Assessment was provided in a memo dated July 16, 2021, and was incorporated into the findings for MMC Section 19.402.
- **Kate Hawkins, Associate Transportation Planner, ODOT:** Confirmation of the assessment provided by the applicant's Traffic Impact Study. No other comments.
- **Richard Recker, Chair, Historic Milwaukie NDA:** No specific comments on the proposed development; general suggestion to revisit the overall process of community engagement in development review.
- **Daniel Eisenbeis, resident of Historic Milwaukie neighborhood:** Bicycle parking should be dispersed to other building entrances, including those near 23rd Avenue. Unrestricted public access should be required through the site between 23rd Avenue and Main Street. Sidewalks should be required on the portion of 23rd Avenue adjacent to the site, and off-site pedestrian improvements should be required as well.
- **Craig Gustafson:** Opposition to the proposed development, citing disturbance of two sensitive ecological areas, alleged bad reputation of the applicant, potential damage to the neighborhood, and the need for a break from construction in the area.
- **Michel Ancel:** Opposition to the proposed development.
- **Nick Nyman:** Opposition to the proposed development, citing concerns about parking and questioning the applicant's reputation.
- **Sara Chin:** Opposition to the proposed development, questioning the site location and citing potential neighborhood impacts, parking concerns, and potential ecological damage.
- **Francisco Perez:** Opposition to the proposed development, citing concerns about the project location, construction impacts, increased traffic congestion, and parking problems.
- **Kari Gueldner:** Opposition to the proposed development, citing frustration with ongoing construction downtown and noting concerns about parking and traffic impacts.
- **Peter Stevens:** Opposition to the proposed development, citing concerns about impacts to neighborhood.
- **Janella Abbas:** Opposition to the proposed development, citing concern for public health related to the COVID-19 pandemic.