

# Land Use Application for Henley Place: A Multifamily Residential Community

---

**Date:** Updated June 2021

**Submitted to:** City of Milwaukie  
Planning Department  
6101 SE Johnson Creek Boulevard  
Milwaukie, OR 97206

**Applicant:** Pahlisch Commercial, Inc.  
15333 SW Sequoia Parkway, Suite 190  
Portland, OR 97224

**AKS Job Number:** 8145



**AKS**  
ENGINEERING & FORESTRY

12965 SW Herman Road, Suite 100  
Tualatin, OR 97062  
(503) 563-6151

---

## Table of Contents

<b>I.</b>	<b>Executive Summary.....</b>	<b>2</b>
<b>II.</b>	<b>Site Description/Setting .....</b>	<b>3</b>
<b>III.</b>	<b>Applicable Review Criteria .....</b>	<b>3</b>
	Milwaukie Municipal Code .....	4
	MMC CHAPTER 19.300 BASE ZONES.....	4
	MMC Section 19.304 DOWNTOWN ZONES .....	4
	19.304.2 Uses.....	4
	19.304.3 Use Limitations, Restrictions, and Provisions .....	4
	19.304.4 Development Standards .....	4
	19.304.5 Detailed Development Standards .....	6
	19.304.6 Public Area Requirements.....	11
	19.304.7 Additional Standards.....	11
	19.304.8 Variances.....	11
	MMC CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS.....	11
	MMC Section 19.402 NATURAL RESOURCES .....	11
	19.402.3 Applicability.....	11
	19.402.4 Exempt Activities.....	12
	19.402.8 Activities Requiring Type III Review .....	12
	19.402.9 Construction Management Plans.....	13
	19.402.11 Development Standards .....	14
	19.402.12 General Discretionary Review.....	19
	MMC Chapter 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS.....	19
	MMC Section 19.504 SITE DESIGN STANDARDS .....	19
	19.504.1 Clear Vision Areas .....	19
	19.504.2 Maintenance of Minimum Ordinance Requirements.....	20
	19.504.3 Dual Use of Required Open Space .....	20
	19.504.4 Buildings on the Same Lot.....	20
	19.504.5 Distance from Property Line .....	20
	19.504.6 Transition Area Measures.....	20
	19.504.7 Minimum Vegetation .....	21
	19.504.8 Flag Lot Design and Development Standards .....	21
	19.504.9 On-Site Walkways and Circulation.....	21
	MMC Section 19.505 BUILDING DESIGN STANDARDS .....	21
	19.505.3 Multifamily Housing.....	22
	19.505.6 Live/Work Units .....	23
	MMC Section 19.508 DOWNTOWN SITE AND BUILDING DESIGN STANDARDS .....	25
	19.508.1 Purpose .....	25
	19.508.2 Applicability.....	25
	19.508.4 Building Design Standards.....	25
	MILWAUKIE DOWNTOWN DESIGN GUIDELINES: WALL MATERIALS.....	28
	19.508.5 Variances.....	34
	MMC CHAPTER 19.600 OFF-STREET PARKING AND LOADING.....	34

---

---

MMC Section 19.602 APPLICABILITY.....	34
MMC Section 19.603 REVIEW PROCESS AND SUBMITTAL REQUIREMENTS.....	35
19.603.2 Submittal Requirements .....	35
MMC Section 19.604 GENERAL PARKING STANDARDS .....	35
19.604.1 Parking Provided with Development Activity .....	35
19.604.2 Parking Area Location .....	35
19.604.3 Use of Parking Areas .....	36
19.604.4 Storage Prohibited .....	36
MMC Section 19.605 VEHICLE PARKING QUANTITY REQUIREMENTS .....	36
19.605.1 Minimum and Maximum Requirements.....	36
19.605.3 Exemptions and By-Right Reductions to Quantity Requirements .....	37
MMC Section 19.606 PARKING AREA DESIGN AND LANDSCAPING .....	37
19.606.1 Parking Space and Aisle Dimensions.....	37
19.606.2 Landscaping.....	38
19.606.3 Additional Design Standards .....	40
MMC Section 19.608 LOADING.....	42
19.608.1 General Provisions .....	42
MMC Section 19.609 BICYCLE PARKING .....	42
19.609.1 Applicability.....	42
19.609.2 Quantity of Spaces .....	42
19.609.3 Space Standards and Racks.....	43
19.609.4 Location.....	43
MMC Section 19.611 PARKING STRUCTURES .....	44
19.611.1 Permitted Zones and Review Procedures .....	44
19.611.2 Compliance with Other Sections of Chapter 19.600.....	44
19.611.3 Standards and Design Criteria for Structured Parking.....	44
MMC CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS .....	45
MMC Section 19.702 APPLICABILITY.....	45
19.702.1 General.....	45
MMC Section 19.704 TRANSPORTATION IMPACT EVALUATION .....	45
MMC Section 19.708 TRANSPORTATION FACILITY REQUIREMENTS .....	45
19.708.1 General Street Requirements and Standards .....	46
MMC Section 19.709 PUBLIC UTILITY REQUIREMENTS .....	46
19.709.2 Public Utility Improvements .....	46
19.709.3 Design Standards.....	47
MMC CHAPTER 19.900 LAND USE APPLICATIONS .....	47
MMC Section 19.902 AMENDMENTS TO MAPS AND ORDINANCES.....	47
19.902.6 Zoning Map Amendments .....	47
(a). Statewide Planning Goal 10 Housing .....	49
(b). Statewide Planning Goal 12 Transportation.....	49
MMC Section 19.907 DOWNTOWN DESIGN REVIEW .....	50
19.907.1 Purpose .....	50
19.907.3 Review Process.....	51

---

---

19.907.5 Approval Criteria .....	51
19.907.6 Report and Recommendation by Design and Landmarks Committee.....	51
19.907.7 Variances.....	51
MMC Section 19.911 VARIANCES .....	52
19.911.2 Applicability.....	52
19.911.3 Review Process.....	53
19.911.4 Approval Criteria .....	54
<b>IV. Conclusion .....</b>	<b>57</b>

### **Tables**

Table 1: Outdoor Open Space .....	33
Table 2: Indoor Common Open Space .....	33

### **Exhibits**

- Exhibit A:** Land Use Application Forms
  - Exhibit B:** Preliminary Plans and Architectural Drawings
  - Exhibit C:** Preliminary Stormwater Report
  - Exhibit D:** Transportation Impact Study
  - Exhibit E:** Clackamas County Assessor's Map
  - Exhibit F:** Property Deeds
  - Exhibit G:** Natural Resource Management Plan
  - Exhibit H:** Mechanical Parking System Specifications
-

---

# Land Use Application for Henley Place: A Multifamily Residential Community

<b>Submitted to:</b>	City of Milwaukie Planning Department 6101 SE Johnson Creek Boulevard Milwaukie, OR 97206
<b>Applicant:</b>	Pahlisch Commercial, Inc. 15333 SW Sequoia Parkway, Suite 190 Portland, OR 97224
<b>Property Owners:</b>	(Tax Lot 401) William & Marilyn Oetkin 10306 SE Main Street Milwaukie, OR 97222  (Tax Lot 402) David Husted 13460 SE Beech Street Milwaukie, OR 97222
<b>Applicant's Consultant:</b>	AKS Engineering & Forestry, LLC 12965 SW Herman Road, Suite 100 Tualatin, OR 97062  Contact: Chris Goodell, AICP, LEED <sup>AP</sup> Email: chrisg@aks-eng.com Phone: (503) 563-6151
<b>Applicant's Architect:</b>	SERA Architects, Inc. 338 NW 5 <sup>th</sup> Avenue Portland, OR 97209  Contact Kurt Schultz AIA, NCARB, LEED <sup>AP</sup> Email: kurts@seradesign.com Phone: (503) 445-7312
<b>Site Location:</b>	10306 SE Main Street Milwaukie, OR 97222
<b>Clackamas County Assessor's Map:</b>	11E25CC; Tax Lots 401 and 402
<b>Site Size:</b>	±1.62 acres (Lot 401) and ±0.32 acres (Lot 402)
<b>Land Use Districts:</b>	Downtown Mixed Use (DMU); Single-Family Residential (R-5) zone



---

## I. Executive Summary

The Henley Place Residential Community by Pahlisch Commercial, Inc. is a new multifamily community planned at 10306 SE Main Street in the City of Milwaukie. This application for Henley Place provides needed multifamily housing and revitalization of the north Main Street area in downtown Milwaukie. Consistent with the property's Downtown Mixed Use (DMU) Zoning, the project involves improvement of the ±1.94-acre site with 178 market-rate dwelling units. The project features include:

- A mix of studios and loft-style apartment units, traditional one- and two-bedroom units, as well as ground-floor live/work area within a new, single six-story building
- Architecturally prominent front entryway and ground floor residential lobby
- Occupied rooftop areas with residential patios and outdoor terraces
- Upper story building transitions that step back from the existing neighborhood to the east
- Northwest-style architecture with a tripartite façade division of base, middle, and top with an overhanging cornice
- Exterior building materials that present permanence and quality with a brick base and fiber cement cladding of contrasting colors
- Earth tone color palette
- Structured parking garage, including a mechanical vehicle stacker
- Complementary site landscaping and open space

The necessary land use applications for this project include:

- A Zoning Map Amendment for a portion of the site (to unify the property zoning and implement Subarea 1 of the Town Center Master Plan and align with the Comprehensive Plan goals for projects in this area)
- Type III Downtown Design Review for the site plan and building design
- Type III Natural Resource Review due to the proximity of a Water Quality Resource overlay
- Transportation Facilities Review
- Variances due the site's irregular geometry and lack of substantial frontage on SE Main Street.

The variances seek to:

- exceed the maximum setback along SE Main Street
- waive SE Main Street frontage occupancy requirement
- allow off-street parking between SE Main Street and the building
- reduce the amount of open space within the setback along SE Main Street.

This application includes preliminary site plans and architectural materials, a transportation impact study, preliminary stormwater report, a natural resources technical report, and other information which, together with this written narrative, provide the necessary factual basis for the City of Milwaukie's approval of the application.

This application involves the development of land for housing. ORS 197.307(4) states that a local government may apply only clear and objective standards, conditions, and procedures regulating the

---

provision of housing, and that such standards, conditions, and procedures cannot have the effect, either in themselves or cumulatively, of discouraging housing through unreasonable cost or delay.

Oregon Courts and the Land Use Board of Appeals (LUBA) have generally held that an approval standard is not clear and objective if it imposes on an applicant “subjective, value-laden analyses that are designed to balance or mitigate impacts of the development” (Rogue Valley Association of Realtors v. City of Ashland, 35 Or LUBA 139, 158 [1998] aff’d, 158 Or App 1 [1999]). ORS 197.831 places the burden on local governments to demonstrate that the standards and conditions placed on housing applications can be imposed only in a clear and objective manner. While this application addresses all standards and conditions, the Applicant reserves the right to object to the enforcement of standards or conditions that are not clear and objective and does not waive its right to assert that the housing statutes apply to this application. [The exceptions in ORS 197.307(4)(a) and 197.307(5) do not apply to this application. ORS 197.307(7)(a) is controlled by ORS 197.307(4)].

ORS 197.195(1) describes how certain standards can be applied to a limited land use application. The applicable land use regulations for this multifamily application are found in the City of Milwaukie Development Code. Pursuant to ORS 197.195(1) Comprehensive Plan provisions (as well as goals, policies, etc. from within the adopted elements of the Comprehensive Plan) may not be used as a basis for a decision or an appeal of a decision unless they are specifically incorporated into the City of Milwaukie Development Code.

While this application addresses all applicable standards and criteria, the Applicant reserves the right to object to the enforcement of standards or conditions that are not clear and objective and does not waive its right to assert that the attempted enforcement of Comprehensive Plan provisions that are not specifically listed in the City of Milwaukie Municipal Code.

## **II. Site Description/Setting**

The subject property is ±1.94 acres and is comprised of two tax lots generally located at the northern end of Milwaukie’s downtown district, east of SE Main Street. Tax Lot 401 is ±1.62 acres and contains one building (the former Kellogg Bowl, which is permanently closed), with the majority of the property improved as paved parking. Tax Lot 402 is ±0.32 acres, a ±55-foot-wide by ±256-foot-long property. It serves as vehicular access from SE Main Street to the Kellogg Bowl building. It is also used by the adjacent Pietro’s Pizza and Veterinary Cancer & Surgery Specialists as a shared driveway with two rows of angled parking. The lot is encumbered by an easement for ingress, egress, parking, and maintenance for the benefit of Tax Lot 403 (veterinary clinic). The existing terminus of SE 23<sup>rd</sup> Avenue is adjacent to the property’s eastern property line and is shown on the preliminary plans to be used as a gated emergency-only access. The property is currently served by overhead utility lines via the SE 23<sup>rd</sup> Avenue right-of-way. Where located on-site, these utilities are planned to be placed underground as part of this project. City stormwater, sewer, and water lines are located in adjacent public right-of-way to the property and currently serving the existing use.

## **III. Applicable Review Criteria**

Sections of Milwaukie Municipal Code (MMC) not addressed in this narrative are not applicable to the review of the project.

---

## Milwaukie Municipal Code

### MMC CHAPTER 19.300 BASE ZONES

#### MMC Section 19.304 DOWNTOWN ZONES

##### 19.304.2 Uses

###### A. Permitted Uses

Uses allowed in the downtown zones are listed in Table 19.304.2 with a “P.” These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

**Response:** The project involves a multifamily residential use of land, which is indicated as a permitted use per Table 19.304.2. As described later in this written narrative, a zoning map amendment is necessary for the northeast portion of the property from R-5 to DMU zone to facilitate parking and secondary emergency access in this area.

###### E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards. Accessory uses include but are not limited to restrooms in City parks and refreshment stands at the library.

**Response:** Off-street surface parking is allowed as an accessory use for the primary multifamily residential use.

##### 19.304.3 Use Limitations, Restrictions, and Provisions

###### A. Use Limitations and Restrictions

The following provisions describe the limitations for uses listed in Table 19.304.2.

1. Residential uses are permitted throughout downtown Milwaukie, subject to the following limitations.
  - a. Along Main St south of Scott St, as shown in Figure 19.304-2, residential dwellings are only allowed on the second floor or above; they are not permitted on the ground floor.
  - b. Lobbies for upper-level dwellings are allowed on the ground floor only if a commercial use is located along a majority of the property’s street frontage. North of Scott St, residential dwellings and/or lobbies are permitted anywhere on the ground floor along Main St.
  - c. Live/work units and rowhouses are not permitted on Main St.

**Response:** These limitations do not apply to the project because the building does not have frontage on Main Street. Tax Lot 401 is separated from Main Street by Tax Lots 400, 402 and 403.

##### 19.304.4 Development Standards



Standard	Required	Proposed
<b>A. Lot Standards</b>		
1. Min. Lot Size (sq ft)	750	NA – the proposed project does not divide land. The existing properties are ±70,567 sf (TL 401) and ±13,950 (TL 402)
2. Min. street frontage (ft)	15	±55 feet of SE Main Street frontage on TL 402
<b>B. Development Standards</b>		
1. Floor Area Ratio a. Minimum b. Maximum	FAR standards do not apply to residential projects. Residential densities are controlled by minimum density requirement.	N/A
2. Building height (ft) a. Minimum b. Maximum	Min: 25 Base Max: 4 stories/55 ft (Fig. 19.304-4) Bonus: up to 2 stories/24 ft above base max. Overall Max: 79 (55 base + 24 bonus)	71'-6" 1). 12 ft. height bonus is achieved through residential use (19.304.5.B.3.a) 2). An additional story is achieved through Green Building/the Earth Advantage certification planned for this project. (19.304.5.B.3.c).
3. Flexible ground-floor space	None for stand-alone residential buildings	N/A
4. Street setback (ft)	Min: 0 Max: 10-20	A variance is necessary for this standard due to physical constraints of the property and access easement over the property that fronts on SE Main Street.
5. Frontage occupancy requirements	50-90%	A variance is required for this standard due to physical constraints of the property and access easement over the lot that fronts on SE Main Street.
6. Primary entrances	Yes	Primary entrance faces SE Main Street.
7. Off-street parking required	Min: 135 <i>(@ 1 space per unit x 178 units)</i> <i>25% DMU reduction (-45) spaces</i>  Max: 356 <i>(@ 2 spaces/unit)</i> <i>(Table 19.605.1)</i>	173 spaces provided.
8. Usable open space	50% of setback area	A variance is needed for this standard. A building cannot reasonably be provided along SE Main Street, however, a ±950-sq. ft. landscaped plaza is provided at the site access to SE Main Street.

9. Transition measures	Not applicable for residential developments	Although not required for a residential project, the applicant has provided the following transition measures: 7' stepback above 19' (the ground floor) within 50' of the property line to the R-5 zone to the east. Building height is 52' (4 stories) within 50' of R-5 zone (which is below 55' base max. height, per Fig. 19.304-4)
<b>C. Other Standards</b>		
1. Residential density (du/ac) a. Rowhouses and live/work units (1) Minimum: 10 du/ac (2) Maximum: none  b. Stand-alone multifamily (1) Minimum: 30 du/ac (2) Maximum: none	a. Live/work (1) Minimum 1 <i>(@10 du per 0.06 ac of live/work building footprint)</i> (2) Maximum None  b. Stand-Alone Multifamily: Min: 58 units <i>(@ 30 du per 1.94 ac)</i> Max: N/A for residential buildings in DMU zone. Max density regulated through height.	a. 2 live/work units b. 176 multi-family units (91 du/ac)
2. Signs		Signs are not included with this application. A separate application will be submitted for any future signs.

19.304.5 Detailed Development Standards

A. Floor Area Ratios

2. Standards

- a. The minimum floor area ratios in Subsection 19.304.4.B.1 apply to all nonresidential building development. Stand-alone residential densities are controlled by minimum density requirements.

[...]

**Response:** Floor area ratio standards only apply to nonresidential projects. Therefore, these criteria do not apply.

B. Building Height

2. Standards

- a. The minimum building height standards apply to new commercial, office, residential, and mixed-use buildings.
- b. Minimum building heights are specified in Table 19.304.4. The minimum building height of 25 ft shall be met along all street frontages for a depth of at least 25 ft from the front of the building.

- 
- c. Base maximum building heights are specified in Figure 19.304-4. Height bonuses are available for buildings that meet the standards of Subsection 19.304.5.B.3.

**Response:** Per Figure 19.304-4, the base maximum height for the subject site is four stories, or 55 feet. The Henley Place multifamily residential community is shown on the elevations to be six stories, or 72 feet. See Sheets C20 – C21 in the preliminary architectural plan set. The project is using two development incentives for an additional height of up to two stories, or 24 feet. Explanation of the height bonus requested is provided in the response below.

3. Height Bonuses

To incentivize the provision of additional public amenities or benefits beyond those required by the baseline standards, height bonuses are available for buildings that include desired public amenities or components; increase downtown vibrancy; and/or help meet sustainability goals.

A building can utilize up to 2 of the development incentive bonuses of this subsection, for a total of 2 stories or 24 ft of additional height, whichever is less, above the height maximum specified in Figure 19.304-4.

a. Residential

New buildings that devote at least one story or 25% of the gross floor area to residential uses are permitted 1 additional story or an additional 12 ft of building height, whichever is less. The residential height bonus cannot be used in combination with the lodging height bonus.

**Response:** The project is using the residential bonus for an additional 12 feet of height.

c. Green Building

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

**Response:** This building is also slated to be Earth Advantage Certified to achieve the second building height bonus permitted in this section.

C. Flexible Ground-Floor Space

[...]

3. Exemptions

Stand-alone residential buildings on Main St as specified in Figure 19.304-2 are exempt from this requirement.

**Response:** As a stand-alone residential building, this project is exempt from the flexible ground floor space requirement. Per MMC Table 19.304.2, live/work use are listed under “Residential” use category.

D. Street Setbacks/Build-To Lines

2. Standards

- a. No minimum street setbacks are required.

- 
- b. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-5.

**Response:** Per Figure 19.304-5, the subject site is not identified as having a build-to line requirement.

- (2) For other block faces, there is no build-to line requirement and the maximum setback shall be 10 ft. The front setback shall provide usable open space that meets the requirements of Subsection 19.304.5.H.

**Response:** Due to the existing site geometry/configuration, this application includes a variance from this standard. A detailed response is included in Section 19.911.

### 3. Exemption

The DMU Zone is exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Blvd.

**Response:** The project site does not intersect McLoughlin Boulevard. Therefore, the project is exempt from the clear vision requirements of Chapter 12.24.

### E. Frontage Occupancy

#### 2. Standards

Minimum frontage occupancy requirements are established for block faces identified on Figure 19.304-6. Frontage occupancy requirements are used in combination with the required build-to line of Subsection 19.304.5.D. The frontage occupancy requirements apply as follows:

- a. For block faces that front on Main St, 90% of the site frontage must be occupied by a building or buildings. If the development site has frontage on Main St and another street, the frontage occupancy requirement must be met on Main St only.

**Response:** The narrow width of the site and an existing easement prohibit 50 percent frontage occupancy. Therefore, the application includes a variance from this standard. Please refer to findings provided in section 19.911 for further information.

### F. Primary Entrances

#### 2. Standards

- a. All new buildings shall have at least one primary entrance facing an abutting street (i.e., within 45° of the street property line) or, if the building entrance must be turned more than 45° from the street (i.e., front door is on a side or rear elevation) due to the configuration of the site or similar constraints, a pedestrian walkway must connect the primary entrance to the sidewalk.

**Response:** As shown on the preliminary plans, the primary building entrance is oriented towards SE Main Street and a pedestrian walkway leads to the building entrance along the south side of Tax Lot 402.

### G. Off-Street Parking

---

2. Standards

- a. Off-street parking for residential uses is required at the ratios established in Table 19.605.1. All other applicable standards of Chapter 19.600 apply.

**Response:** The project meets off-street parking standards. Compliance with Table 19.605.1 is addressed later in this narrative.

- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main St right-of-way.

**Response:** The project does not include parking lots within 50 feet of SE Main Street. Along with the site access, the first 50 feet are improved as usable open space with attractive landscaping and a seating area.

- d. Off-street parking shall not be located between a building and the street-facing lot line.

**Response:** This application includes a variance from this standard due to unique physical characteristics of the property. A detailed response is provided in Section 19.911.

H. Open Space

2. Standards

- a. When a building is set back from the sidewalk, at least 50% of the setback area shall provide usable open space, such as a public plaza or pedestrian amenities, that meets the standards of this subsection. Building setbacks cannot exceed the maximum setbacks established by Subsection 19.304.5.D and the frontage occupancy requirements of Subsection 19.304.5.E.

**Response:** This application includes a request for a variance from this standard due to unique physical characteristics of the property. The bulk of the subject site's frontage on SE Main Street is occupied by a driveway that provides ingress/egress to the site and is shared with adjoining properties; therefore, this standard cannot be met. Please refer to the detailed response in Section 19.911.

- b. Usable open space shall be abutted on at least two sides by retail shops, restaurants, offices, services, or residences with windows and entrances fronting on the space.

**Response:** This criterion does not apply, as the project cannot provide a building along Tax Lot's 402 frontage on SE Main Street (as previously addressed).

- c. Usable open space must be accessible at grade adjacent to the sidewalk.

**Response:** The preliminary plans illustrate that open space (pedestrian plaza) at SE Main Street is accessible at grade adjacent to the pedestrian walkway.

- d. Open space may be hardscaped or landscaped, including plazas, courtyards, gardens, terraces, outdoor seating, and small parks.

**Response:** The plaza incorporates a combination of landscape, hardscape, and street furnishings.

I. Transition Measures

---

1. Intent

To minimize impacts of commercial or mixed-use development on lower-density residential uses.

2. Standards

For properties north of Harrison St and located within 50 ft of a lower-density residential zone (R-10, R-7, or R-5), the transition area measures in Subsection 19.504.6 apply.

**Response:** The subject property is located north of Harrison Street and located within 50 feet of the R-5 zoning district. Per the standards of Section 19.504.6, this application includes proper transition between the multifamily building and the neighboring properties (to the east) in the R-5 zoning designation. A zone change is included with this application for the northeast section of the property currently zoned R-5. Additional setbacks are not required for northeast section of the multifamily structure, but is required for the southeast section of the building. As shown on the preliminary plans, the building steps back 7 feet above the ground floor within 50 feet of the property line to the R-5 zone to the east. As shown on the architectural drawings, the building height within 50 feet of the property line to the R-5 zone (eastern property line) is 52 feet, lower than the base building height allowance of 55 feet.

In addition:

- a. Within 50 ft of the property line abutting lower-density residential zones, buildings shall provide a step back of at least 6 ft for any portion of the building above 35 ft.

**Response:** The site abuts R-5-zoned properties along its eastern property line. As shown on the preliminary plans, the building steps back 7 feet above 19 feet in height within 50 feet of the property line abutting the R-5 zone to the east.

- b. The height bonuses in Subsection 19.304.5.B.3 cannot be applied within 50 ft of a lower-density residential zone.

**Response:** As shown on the architectural drawings, the building height within 50 feet of the property line abutting the R-5 zone is 52 feet, lower than the base maximum building height of 55 feet.

J. Residential Density

2. Standards

- a. Minimum densities for rowhouses and live/work units shall be 10 units per acre.
- b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the DMU Zone shall be 30 units per acre. Maximum residential densities are controlled by height limits.

**Response:** At 30 du/ac minimum density for stand-alone multifamily housing, the 1.94-acre site has a minimum requirement of 58 units. The project includes 176 standard units, and two live/work units. The minimum required density for live/work portion of the project is one unit, based on 10 du/ac density applied to the ±2,500 square feet of building area

---

dedicated to live/work use. The plans show compliance with the height limit, which controls maximum residential density. As such, both criteria are met.

3. Exemption

There are no minimum density requirements when residential units are developed as part of a mixed-use building.

**Response:** This application does not involve a mixed-use building. This criterion does not apply.

19.304.6 Public Area Requirements

B. Applicability, Review Process, and Standards

Development in downtown zones is subject to the review process and standards of Chapter 19.700 as specified in the chapter's applicability provisions. Required public improvements along rights-of-way included in the PAR shall be consistent with the PAR as implemented in the Milwaukie Public Works Standards.

**Response:** Compliance with MMC Chapter 19.700 is addressed further in the narrative.

19.304.7 Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

A. Section 19.504 Site Design Standards

B. Section 19.505 Building Design Standards

C. Section 19.508 Downtown Site and Building Design Standards

**Response:** Responses to criteria in Sections 19.504, 19.505, and 19.508 are addressed below.

19.304.8 Variances

The Planning Director or Planning Commission may authorize variances to the development standards under Subsection 19.304.4 in accordance with procedures of Section 19.911.

**Response:** Variances are described later in the narrative, demonstrating compliance with MMC Section 19.911.

**MMC CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS**

**MMC Section 19.402 NATURAL RESOURCES**

19.402.3 Applicability

A. The regulations in Section 19.402 apply to all properties that contain, or are within 100 ft of a WQR and/or HCA (including any locally significant Goal 5 wetlands or habitat areas identified by the City of Milwaukie) as shown on the Milwaukie Natural Resource Administrative Map (hereafter "NR - Administrative Map").

**Response:** Per the City of Milwaukie's Natural Resources (NR) Administrative Map, there are two off-site Water Quality Resources (WQRs) partially overlaying the project site.

The City Administrative Map shows the WQR overlaying a small portion of northeast corner of the site. AKS biologist completed a field boundary verification and determined that WQR does not extend over the project boundary and is located outside the planned



---

limit of disturbance on SE 23<sup>rd</sup> Avenue. Please refer to Sheets P-03, P-07, P-10, and P-12 in the Preliminary Plans for the WQR boundary overlay.

The southern property line runs adjacent to an artificially created pond, which is located 5 feet below the site's grade and is separated by a concrete retaining wall and a chain link fence. The full width of the mapped 50-foot Vegetated Corridor (VC) is located on the Applicant's property. The site has been visited and mapped by a qualified wetland biologist. These areas were developed and paved ±60 years ago; no vegetation or any natural resources are present within the VC on-site.

- G. If more than 150 sq ft of area will be disturbed in conjunction with a proposed activity listed as exempt in Subsection 19.402.4.B, a construction management plan shall be submitted according to the provisions of Subsection 19.402.9. This requirement applies even when the proposed activity will not occur within a designated natural resource but is within at least 100 ft of the resource, in accordance with Table 19.402.3.

**Response:** A Preliminary Construction Management, Grading, Erosion, and Sediment Control Plan is included with this application. Please refer to Sheet P-07 in the preliminary plans.

#### 19.402.4 Exempt Activities

A. Outright Exemptions

The following activities in WQRs or HCAs are exempt from the provisions of Section 19.402:

10. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, trails, walkways, and parking improvements (including asphalt overlays); provided that 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.

**Response:** Planned improvements along 23rd Ave are exempt from NR review, as the existing asphalt is slated to be replaced with new pavement without increase in impervious area, reduction in landscaped areas or tree cover, or other changes that will result in increased direct stormwater discharges to the WQR.

#### 19.402.8 Activities Requiring Type III Review

Within either WQRs or HCAs, the following activities are subject to Type III review and approval by the Planning Commission under Section 19.1006, unless they are otherwise exempt or permitted as a Type I or II activity.

- A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:
1. Any activity allowed in the base zone that is not otherwise exempt or permitted as a Type I or II activity.
  2. Within HCAs, development that is not in compliance with the nondiscretionary standards provided in Subsection 19.402.11.D.
  3. New roads to provide access to protected water features, necessary ingress and egress across WQRs, or the widening of an existing road.



- 
4. Improvement of existing public utility facilities that cannot meet the applicable standards of Subsection 19.402.11.E.
  5. New stormwater facilities that cannot meet the applicable standards of Subsection 19.402.11.E.
  6. New public or private utility facility construction that cannot meet the applicable standards of Subsection 19.402.11.E.
  7. Walkways and bike paths that are not exempt per Subsection 19.402.4 or cannot meet the applicable standards of Subsection 19.402.11.E.
  8. Tree removal in excess of that permitted under Subsections 19.402.4 or 19.402.6.
  9. Landscaping and maintenance of existing landscaping that would increase impervious area by more than 150 sq ft.
  10. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by more than 150 sq ft within the WQR.
  11. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that would disturb more than 150 sq ft within the WQR.

**Response:** The project involves removal of existing paved parking within the mapped VC in the southern portion of the property and accommodates needed multi-family housing, common outdoor open space, and a 10-foot-wide native tree/shrub landscape area. Due to site constraints, reestablishment of parking area in VC at this location was determined to be not practical; therefore, these activities require a Type III Discretionary Review. As noted above, the 50-foot VC associated with the off-site pond is devoid of vegetation and consists entirely of paved parking established in the early 1960s for the former Kellogg Bowl Bowling Alley. Due to existing development within the WQR, the project itself will not have a detrimental impact to the ecological functions of the adjacent water feature but rather provides an overall net ecological benefit to the WQR over existing conditions.

#### 19.402.9 Construction Management Plans

- B. Construction management plans shall provide the following information:
  1. Description of work to be done.
  2. Scaled site plan showing a demarcation of WQRs and HCAs as areas for building foundations, utilities, stormwater facilities, etc.
  3. Location of site access and egress that construction equipment will use.
  4. Equipment and material staging and stockpile areas.
  5. Erosion and sediment control measures.
  6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. A root protection zone shall be established around each tree in the WQR or HCA that is adjacent to any approved work area. The root protection zone shall extend from the trunk to the outer edge of the tree's canopy, or as

---

close to the outer edge of the canopy as is practicable for the approved project. The perimeter of the root protection zone shall be flagged, fenced, or otherwise marked and shall remain undisturbed. Material storage and construction access is prohibited within the perimeter. The root protection zone shall be maintained until construction is complete.

**Response:** A Preliminary Construction Management, Grading, Erosion, and Sediment Control Plan is included with this application. It provides the required information stated above, as applicable.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development During development of any site containing a designated natural resource, the following standards shall apply:

1. Work areas shall be marked to reduce potential damage to the WQR and/or HCA.

**Response:** The area of the WQR is planned to be marked during construction to reduce the potential for damage to the WQR.

2. Trees in WQRs or HCAs shall not be used as anchors for stabilizing construction equipment.

**Response:** Trees or vegetation located within the WQR area or the Vegetative Corridor will not be used as anchors or for stabilizing construction equipment. These areas will be marked to prohibit entry.

3. Native soils disturbed during development shall be conserved on the property.

**Response:** As stated above, the site has been previously filled and paved, so native soils are not present within the WQR overlay. Per the Preliminary Construction Management, Grading, Erosion, and Sediment Control Plan, the project will not disturb additional areas.

4. An erosion and sediment control plan is required and shall be prepared in compliance with requirements set forth in the City's Public Works Standards.

**Response:** The preliminary plans include grading and erosion control measures. Prior to the start of construction activities, the Applicant will apply for a grading and erosion control permit consistent with the City's Public Works Standards.

5. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to any WQR adjacent to the project area.

**Response:** The Applicant is prepared to implement best management practices on-site to prevent the drainage of hazardous materials, erosion, pollution, or sedimentation within the adjacent WQR.

6. Stormwater flows that result from proposed development within and to natural drainage courses shall not exceed predevelopment flows.

---

**Response:** The application includes a preliminary composite utility plan and preliminary stormwater report that demonstrate that stormwater runoff associated with the project is directed to the public system and is attenuated in accordance with City standards.

7. Prior to construction, the WQR and/or HCA that is to remain undeveloped shall be flagged, fenced, or otherwise marked and shall remain undisturbed. Such markings shall be maintained until construction is complete.

**Response:** The resource will continue to be fenced during construction to ensure that construction activities are not undertaken within the protected areas, which are located off-site, on the adjacent property to the south.

8. The construction phase of the development shall be done in such a manner as to safeguard the resource portions of the site that have not been approved for development.

**Response:** The protected resource is located off-site (on the adjacent property to the south).

9. Where practicable, lights shall be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.

**Response:** Lighting is not planned which would shine directly into or at the pond.

10. All work on the property shall conform to a construction management plan prepared according to Subsection 19.402.9.

**Response:** The Applicant acknowledges the above standards and agrees to comply with them during construction. The Applicant has prepared a Preliminary Construction Management, Grading, Erosion, and Sediment Control Plan, which conforms to the requirements of 19.402.9. The Final Construction Management Plan will be provided to the City's Engineering Department prior to the commencement of construction activities.

**B. General Standards for Required Mitigation**

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards shall apply:

1. Disturbance
  - a. Designated natural resources that are affected by temporary disturbances shall be restored, and those affected by permanent disturbances shall be mitigated, in accordance with the standards provided in Subsection 19.402.11.C for WQRs and Subsection
  - b. Landscape plantings are not considered to be disturbances, except for those plantings that are part of a non-exempt stormwater facility; e.g., raingarden or bioswale.
2. Required Plants

Unless specified elsewhere in Section 19.402, all trees, shrubs, and ground cover planted as mitigation shall be native plants, as identified on the Milwaukie Native Plant List. Applicants are encouraged to choose particular native species that are

---

appropriately suited for the specific conditions of the planting site; e.g., shade, soil type, moisture, topography, etc.

**Response:** As illustrated on the preliminary plans, a 10-foot-wide landscape strip is planned to be provided along the project site’s southern boundary (adjacent to the off-site resource). This replaces the asphalt parking lot in the area. Appropriately suited Native Species, as identified on the Milwaukie Native Plant List, are slated to be planted in the landscape strip.

3. Plant Size

Required mitigation trees shall average at least a ½-in caliper—measured at 6 in above the ground level for field-grown trees or above the soil line for container-grown trees—unless they are oak or madrone, which may be 1-gallon size. Required mitigation shrubs shall be at least 1-gallon size and 12 in high.

**Response:** As illustrated on the preliminary plans, the guidelines required by this section are satisfied.

4. Plant Spacing

Trees shall be planted between 8 and 12 ft on center. Shrubs shall be planted between 4 and 5 ft on center or clustered in single-species groups of no more than 4 plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements.

**Response:** A Preliminary Landscape Plan is included in the preliminary plans as Sheet P-11. Due to the unique characteristics of the site, preparation of this plan necessitated the expertise of a natural resource specialist in concert with a landscape architect. This standard is met, as applicable.

5. Plant Diversity

Shrubs shall consist of at least 2 different species. If 10 trees or more are planted, then no more than 50% of the trees shall be of the same genus.

**Response:** As illustrated on the Preliminary Landscape Plan, a 10-foot landscape strip along the project site’s southern boundary includes native cascara trees and native dull Oregon grape and flowering red currant shrubs. The tree and shrub species selected are not expected to have a long-term effect on the integrity of the off-site retaining wall, yet will provide shade to the Primary Protected Water Feature.

6. Location of Mitigation Area

a. On-Site Mitigation

All mitigation vegetation shall be planted on the applicant’s site within the designated natural resource that is disturbed, or in an area contiguous to the resource area; however, if the vegetation is planted outside of the resource area, the applicant shall preserve the contiguous planting area by executing a deed restriction such as a restrictive covenant.

---

**Response:** As illustrated on the preliminary plans, the 10-foot landscape strip is to be located on-site and consist of a total of ±1,800 square feet, immediately adjacent to the off-site pond.

7. **Invasive Vegetation**

Invasive nonnative or noxious vegetation shall be removed within the mitigation area prior to planting, including, but not limited to, species identified as nuisance plants on the Milwaukie Native Plant List.

**Response:** There is no vegetation present on the site within the mapped WQR, as it is surfaced in asphalt.

8. **Ground Cover**

Bare or open soil areas remaining after the required tree and shrub plantings shall be planted or seeded to 100% surface coverage with grasses or other ground cover species identified as native on the Milwaukie Native Plant List. Revegetation shall occur during the next planting season following the site disturbance.

**Response:** As illustrated on the Preliminary Landscape Plan, tree and shrub plantings achieve 100% surface coverage, no groundcover is planned in the native plant strip.

9. **Tree and Shrub Survival**

A minimum of 80% of the trees and shrubs planted shall remain alive on the second anniversary of the date that the mitigation planting is completed.

a. **Required Practices**

To enhance survival of the mitigation plantings, the following practices are required:

- (1) Mulch new plantings to a minimum of 3-in depth and 18-in diameter to retain moisture and discourage weed growth.
- (2) Remove or control nonnative or noxious vegetation throughout the maintenance period.

**Response:** New plantings will be maintained throughout the maintenance period, as required by this section.

b. **Recommended Practices**

To enhance survival of tree replacement and vegetation plantings, the following practices are recommended:

- (1) Plant bare root trees between December 1 and April 15; plant potted plants between October 15 and April 30.
- (2) Use plant sleeves or fencing to protect trees and shrubs against wildlife browsing and the resulting damage to plants.
- (3) Water new plantings at a rate of 1 in per week between June 15 and October 15 for the first 2 years following planting.

**Response:** The Applicant notes the planting recommendations and intends to follow the City’s guidelines for recommended planting practices.

c. **Monitoring and Reporting**

Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind as needed to ensure the minimum 80% survival rate. The Planning Director may require a maintenance bond to cover the continued health and survival of all plantings. A maintenance bond shall not be required for land use applications related to owner-occupied single-family residential projects. An annual report on the survival rate of all plantings shall be submitted for 2 years.

**Response:** The Applicant notes the City’s monitoring and maintenance bond requirements and will comply with the City’s requirements throughout the maintenance period, as applicable.

10. **Light Impacts**

Where practicable, lights shall be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.

**Response:** Lighting that will shine directly into the proposed WQR area is not being provided as part of this project.

C. **Mitigation Requirements for Disturbance within WQRs**

1. The requirements for mitigation vary depending on the existing condition of the WQR on the project site at the time of application. The existing condition of the WQR shall be assessed in accordance with the categories established in Table 19.402.11.C.
2. When disturbance within a WQR is approved according to the standards of Section 19.402, the disturbance shall be mitigated according to the requirements outlined in Table 19.402.11.C and the standards established in Subsection 19.402.11.B.

Table 19.402.11.C Mitigation Requirements for WQRs	
Existing Condition of WQR	Requirements
Class C (“Poor”) Extent and character of existing vegetation provides poor conditions for water quality and wildlife habitat	
Combination of trees, shrubs, and ground cover are less than 80% present and/or less than 25% canopy coverage in vegetated corridor.	<ul style="list-style-type: none"> <li>• Restore and mitigate disturbed areas with native species from the Milwaukie Native Plant List, using a City-approved plan developed to represent the vegetative composition that would naturally occur on the site.</li> <li>• Plant and/or seed all bare areas to provide 100% surface coverage.</li> <li>• Inventory and remove debris and noxious materials.</li> </ul>

---

**Response:** The mapped onsite WQR consists entirely of paved parking lot and does not contain any vegetation. It is separated from the pond by an off-site retaining wall and is ±5 feet above water level. Due to this physical separation, there is no opportunity to restore the vegetated corridor buffer on the project site without off-site grading and removing the retaining wall from the adjacent property. The Applicant intends to provide a 10-foot on-site native plant landscaping strip adjacent to the pond, thus creating a 3D connection with the pond via tree canopies, which are intended to shade the pond, as well as provide a greater physical barrier from human activities on the project site than currently exists. The landscaping area will be planted with species selected from the Milwaukie Native Plant List. Expanding the landscaping beyond 10 feet would not provide any additional environmental benefit for WQR due to the significant difference in grade and the concrete wall in between. This design provides maximum possible benefit while still allowing the project to remain financially viable.

#### 19.402.12 General Discretionary Review

This subsection establishes a discretionary process by which the City shall analyze the impacts of development on WQRs and HCAs, including measures to prevent negative impacts and requirements for mitigation and enhancement. The Planning Director may consult with a professional with appropriate expertise to evaluate an application, or they may rely on appropriate staff expertise to properly evaluate the report's conclusions.

##### A. Impact Evaluation and Alternatives Analysis

An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria for general discretionary review and to evaluate development alternatives for a particular property. A report presenting this evaluation and analysis shall be prepared and signed by a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist. At the Planning Director's discretion, the requirement to provide such a report may be waived for small projects that trigger discretionary review but can be evaluated without professional assistance.

The alternatives shall be evaluated on the basis of their impact on WQRs and HCAs, the ecological functions provided by the resource on the property, and off-site impacts within the subwatershed (6th Field Hydrologic Unit Code) where the property is located.

**Response:** The Applicant has submitted a Natural Resource Management Plan prepared by a qualified natural resource professional. Please refer to that document for impact evaluation and alternatives analysis.

### MMC Chapter 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

#### MMC Section 19.504 SITE DESIGN STANDARDS

##### 19.504.1 Clear Vision Areas

A clear vision area shall be maintained on the corners of all property at the intersection of 2 streets or a street and a railroad according to the provisions of the clear vision ordinance in Chapter 12.24.



---

**Response:** The subject site is not located where two streets or a street and a railroad intersect; therefore, this standard is not applicable.

**19.504.2 Maintenance of Minimum Ordinance Requirements**

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use.

**Response:** This application does not require any conveyance for public use or dedication. This criterion does not apply.

**19.504.3 Dual Use of Required Open Space**

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in Subsection 19.605.4.

**Response:** This application does not include the use of required open space area (or other) for parking or similar use. The criterion is met.

**19.504.4 Buildings on the Same Lot**

- A. In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.
- B. In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.

**Response:** The subject property is split zoned Downtown Mixed Use (DMU) and Single-Family Residential (R-5). Included in this application are narrative responses for a zoning map amendment for the R-5 portion of the property to DMU. This will allow for more efficient use of the property and is consistent with adjacent zoning. The only structural improvement included with this application is for one multifamily housing building. The criteria are met.

**19.504.5 Distance from Property Line**

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 ft from the property line.

**Response:** The DMU zone does not require the structure to be set back a minimum distance. Due to the neighboring properties zoned R-5, the multifamily building will be set back 5 feet from the property line in the southeast corner and floors are terraced to be setback further, as shown on the preliminary plans (Exhibit B). The northeast corner of the building is shown to be set back 3 feet off the side (north) and rear (east) property lines. The criterion is met.

**19.504.6 Transition Area Measures**

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



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

**Response:** This application does not include commercial, mixed-use, or industrial land uses. Rather, it is a multi-family residential project. This criterion does not apply.

#### 19.504.7 Minimum Vegetation

No more than 20% of the required vegetation area shall be covered in mulch or bark dust. Mulch or bark dust under the canopy of trees or shrubs is excluded from this limit. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

**Response:** As shown on the Preliminary Landscape Plan (Exhibit B), less than 20 percent of the required vegetation area is covered in mulch or bark dust. The criterion is met.

#### 19.504.8 Flag Lot Design and Development Standards

##### A. Applicability

Flag lots in all zones are subject to the development standards of this subsection.

**Response:** The project site involves two properties. One is long and narrow (rectangle shape), fronts on SE Main Street, and is ±0.32 acres. The other is geometrically configured similar to a square, is located “behind” the rectangular shaped property and is ±1.62 acres. Viewed together, there is somewhat of a flag lot appearance; however, these properties were not created at as a flag lot and thus these standards do not apply.

#### 19.504.9 On-Site Walkways and Circulation

##### A. Requirement

All development subject to Chapter 19.700 (excluding single-family and multifamily residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site.

**Response:** Per Subsection 19.504.9.A., multifamily residential projects are excluded from On-Site Walkways and Circulation requirement of MMC 19.504.9. The project meets the applicable requirements for on-site walkways and circulation requirements of Code Section 19.304 Downtown Zones, subsection 19.304.5.F.2.(a) and Section 19.606.3 Pedestrian Access and Circulation for parking areas. Pedestrian walkways connect public sidewalks and parking areas to the building’s primary entrance as well as to the pedestrian building entrance on the east facade.

### MMC Section 19.505 BUILDING DESIGN STANDARDS

---

**Response:** Per MMC Subsection 19.907.2, stand-alone multifamily residential buildings have various options for downtown design review. The Applicant is opting for Type III review pursuant to the standards of MMC 19.508 Downtown Site and Buildings Design Standard, which requires substantial consistency with the purpose statement of the applicable design standards and the applicable Downtown Design Guidelines. MMC 19.508.4.A.3 requires multi-family residential buildings to comply with the objective standards of Subsection 19.505.3.D.6 Building Façade Design. Therefore, a response to that subsection is provided below.

19.505.3 Multifamily Housing

[...]

D. Design Guidelines and Standards

[...]

6. Building Façade Design

- 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.

**Response:** The exterior street facing facades have projecting balconies, a major recess at the center of the building, plus minor recesses of 2 feet.

- b. Windows and the glass portion(s) of doors with glazing shall occupy a minimum of 25% of the total street-facing façade.

**Response:** The west façade facing SE Main Street and east façade facing SE 23<sup>rd</sup> Avenue are subject to the minimum 25% glazing standard. As illustrated on the preliminary architectural plans, the project exceeds this standard. Please refer to sheets C25 and C26 for glazing area calculations.

- 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.

**Response:** The building has a distinct base, middle, and top. The base of the building is clad with brick, the middle section of the building is lap siding, and the top of the building has an attic story in a contrasting color with a projecting cornice.

- 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.

**Response:** The building has strong horizontal offsets at both the building base and upper levels with a recessed courtyard on levels 2 through 6. The building has a brick base with offsets of more than 12 inches every 40 feet. Please refer to plan sheets C16 and C33 in the preliminary architectural set. A partial cross section of the west façade with dimensioned offsets has been added to sheet C33 along the elevation view to clearly demonstrate the offsetting planes at the ground floor.

- 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.

**Response:** There are no blank walls facing public Main Street (please refer to Sheet C16 in the preliminary architectural drawings for the West Elevation). Only a small portion of the east facade is visible from SE 23<sup>rd</sup> Avenue, which is perpendicular to the building (please refer to Sheet C18 in the preliminary architectural plans for the East Elevation). SE 23<sup>rd</sup> Avenue leading to the project is to be used by emergency response vehicles and does not support pedestrian separated traffic. The ground floor of the east façade is occupied by structured parking, which is why it does not contain windows. Building Code requires ventilation of structured parking, therefore metal mesh grilles are provided throughout intervals along the ground floor to provide ventilation and daylight. Extensive landscaping is included along the east perimeter of site to provide screening along the ground floor. Wax Leaf Privet shrubs serve as an effective privacy hedge with its dense evergreen foliage. Trees on the east façade are projected to grow ±30 feet in height and ±10 feet in width at maturity. Above the ground floor, the east facing façade is well articulated, has varying heights and massing achieved with building stepbacks, balconies, and roof terraces.

- f. Garage doors shall be painted to match the color or color palette used on the rest of the buildings.

**Response:** Garage doors are painted to match the exterior building palette.

#### 19.505.6 Live/Work Units

##### A. Purpose

This section establishes regulations and standards for creating and operating live/work units as a primary use. The purposes of these provisions are as follows:

1. Allow for the creation of cost-efficient alternative work space that will provide an incentive for entrepreneurs, business owners, artists, artisans, and other individuals to work in Milwaukie and contribute to the city’s economy.
2. Foster and encourage the development of small businesses.
3. Enliven the vitality of commercial corridors by encouraging on-site residential uses.

- 
4. Ensure that the use and design of live/work units is compatible with the use and design of surrounding structures and development.

**B. Applicability**

These standards apply to live/work units, as defined in Section 19.201, wherever this use is allowed by the base zones in Chapter 19.300 or the overlay zones in Chapter 19.400.

1. Live/work units may be established through the conversion of existing buildings or through new construction.
2. The construction or creation of live/work units in the Downtown Mixed Use Zone is subject to the design standards and applicability of Subsection 19.508.
3. Development standards for live/work units are those of the base zone and Subsection 19.505.6.D.

**Response:** MMC Section 19.201 defines “live/work unit” as a dwelling unit where residential and nonresidential spaces are combined and where the dwelling unit is the principal residence of the business operator/proprietor. Per Table 19.304.2, Live/work units are a permitted use in DMU zone, listed under residential type of use. The narrative addresses compliance with standards of Subsection 19.505.6.D below.

**C. Use Standards**

1. Any nonresidential use allowed in the base zone within which a live/work unit is legally located may be conducted on the premises of that live/work unit.

**Response:** DMU base zone allows the following non-residential uses by right: day care, manufacturing and production, home occupation, short-term rentals. The following uses are allowed with a conditional use approval: traditional office, eating and drinking establishment, indoor recreation, retail sales, personal/business services, and repair-oriented.

2. At least one of the employees of the commercial portion of the live/work unit must reside in the unit.

**Response:** This provision can be met through leasing agreement.

3. If the live/work unit is multistory, the ground floor can be used for either commercial or residential purposes. When the ground floor is being used as part of the dwelling, the provisions of Subsection 19.508.4.E.5.e are not applicable.

**Response:** Live/work units are configured as single-story units on the ground floor of the building.

4. A live/work unit is allowed instead of, or in addition to, a home occupation as defined by Section 19.201.

**D. Development Standards**

In addition to the standards of the base zone, live/work units shall comply with all of the following standards.

1. The nonresidential portion of the unit shall occupy at least 25% of the gross floor area.
2. If the live/work unit is multistory, the nonresidential portion of the building shall be located on the ground floor and the residential

---

unit shall be located on the upper floors or to the rear of the nonresidential portion. Live/work units may be single-floor units, in which case a separation between the residential and nonresidential uses is not required.

3. Employees shall be limited to occupants of the residential portion of the building plus up to 5 persons not residing in the residential portion.

**Response:** The ground floor building floor plan (Sheet C10 in the preliminary drawings) demonstrates that these standards can be met, implemented by a leasing agreement.

#### MMC Section 19.508 DOWNTOWN SITE AND BUILDING DESIGN STANDARDS

This section contains building design standards to be used with Type I and II downtown design reviews, as established in Section 19.907, and to provide additional direction when the Downtown Design Guidelines are applied through a Type III downtown design review process.

**Response:** Type III downtown design review is needed because the project does not meet one standard from MMC Subsection 19.508.4 (D. Exterior Building Materials). Per MMC Section 19.907, the Applicant has demonstrated substantial consistency with the Downtown Design Guidelines in place of the exterior building materials standard of MMC Subsection 19.508.4.

##### 19.508.1 Purpose

The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards will support the development of a cohesive, attractive, and safe downtown area and encourage private investment. The design standards do not prescribe a particular building or architectural style. Compliance with the standards is reviewed as part of a Type I or II downtown design review.

##### 19.508.2 Applicability

The design standards in this section generally apply to the street-abutting façades of nonresidential, mixed-use, and residential-only multifamily buildings within the downtown zones. More detailed applicability language is provided at the beginning of each specific standard. Development is subject to the standards of this section as described below.

###### A. New Development

1. All new development is subject to the standards of this section.
2. New development that does not meet one or more standards of this section is subject to Type III downtown design review per Section 19.907 and review against the purpose statement and Downtown Design Guideline(s) related to that standard.

**Response:** This application includes responses to the Downtown Design Guidelines in place of the Exterior Wall Materials design standard of MMC Subsection 19.508.3.D.

##### 19.508.4 Building Design Standards

All buildings that meet the applicability provisions in Subsection 19.508.2 shall meet the following design standards. An architectural feature may be used to comply with more than one standard.

###### A. Building Façade Details

---

[...]

3. Residential Buildings

- a. Stand-alone multifamily residential buildings are subject to the objective standards of Subsection 19.505.3.D.6 Building Façade Design, with the exception of the private and public open space requirements of Subsections 19.505.3.D.1 and 2. The open space requirements of Subsection 19.508.5 apply to stand-alone multifamily residential buildings in downtown.

**Response:** Findings with the objective standards of Subsection 19.505.3.D.6 Building Façade Design are addressed earlier in the narrative, please refer to that subsection. Compliance with the open space requirements is addressed in the response to code subsection 19.508.3.G. Open Space.

[...]

- c. Live/work units are subject to the objective standards in Subsection 19.505.6 Live/Work Units.

**Response:** The Applicant has submitted an application for a Vertical Housing Tax Credit. If that effort is successful, a portion of the ground floor of the building is planned to be dedicated to live/work area. Responses demonstrating compliance with the objective standards in Subsection 19.505.6 have been provided.

[...]

C. Weather Protection

2. Weather Protection Required

All buildings shall provide weather protection for pedestrians as follows:

- a. Minimum Weather Protection Coverage
  - (1) All ground-floor building entries shall be protected from the weather by canopies or recessed behind the front building façade at least 3 ft.

**Response:** Ground floor public entries are protected by canopies, including the east façade facing SE 23<sup>rd</sup> Avenue. Please refer to Sheet C24 in the preliminary architectural drawings. The criteria are met.

- (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.

**Response:** The building has extensive weather protection canopies on the west facade, which fronts on SE Main Street and contains the main building entrance, and on the south façade, where the fitness room and lounge open up to the common outdoor patio. The canopies cover over 50 percent of the west and south façades. The north stairwell exit does not serve as a public building entry, therefore it is not covered. The walkway along the north façade will rarely be used by the public as it mainly serves for maintenance access to the water/fire room and electrical room, as well as for emergency egress from the stairwell.

---

The east façade abuts a pedestrian accessway only along the north side of driveway. A canopy is provided over the pedestrian entrance door from the surface parking area. Please refer to Sheet C24 in the preliminary architectural drawings for locations of canopies that meet this standard.

- (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.

**Response:** Please refer to Sheet C-24 in the preliminary architectural drawings for the size and extent of the canopies.

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.

**Response:** Visually compatible canopies for weather protection are provided at the ground floor building entries. Please refer to conceptual building elevations, Sheets C16 and C22 in the preliminary architectural drawings. The criterion is met.

D. Exterior Building Materials

1. Purpose

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

**Response:** This application involves Type III downtown design review because the proposed building does not meet the Primary Materials criteria of the Exterior Wall Standards. This response demonstrates substantial consistency with the purpose statement of this subsection.

Henley Place is built to evoke a sense of permanence and is compatible with downtown Milwaukee and the surrounding built and natural environment. The facades have a tripartite façade division of base, middle, and top with an overhanging cornice similar to established neighbors (compatibility). Brick is used at the ground floor of all building facades to establish the building base and extends up to the second floor in some areas to highlight building entrances (permanence). The middle portion of the building is clad in painted lap siding of fiber cement which is durable and permanent and is compatible with the Milwaukee Context of North Main Street (such as the adjacent apartment building “North Main”). Windows have substantial trim and are vertically proportioned. The top of the building is differentiated from the middle by a belt course at the level six floor line and a contrasting color. The top floor is clad in painted fiber cement wall panels, which are durable and permanent, with vertical windows and a projecting cornice capping the building. In addition, natural and subdued exterior colors are used.



---

2. Exterior Wall Standards

The following standards are applicable to the street-facing façades of all new buildings. For the purposes of this standard, street-facing façades are those abutting streets, courtyards, and/or public squares in all of the downtown. Table 19.508.4.D specifies the primary, secondary, and prohibited material types referenced in this standard.

- a. Buildings shall utilize primary materials for at least 65% of each applicable building façade.
- b. Secondary materials are permitted on no greater than 35% of each applicable building façade.
- c. Accent materials are permitted on no greater than 10% of each applicable building façade as trims or accents (e.g. flashing, projecting features, ornamentation, etc.).
- d. Buildings shall not use prohibited materials on any exterior wall, whether or not it is a street-facing façade.

**Response:** The project does not comply with the primary material standard; therefore, it will be reviewed through the Type III downtown design review process.

- a. Building utilizes ±55 percent of primary materials (brick and glass).
- b. Secondary materials (fiber cement siding) comprise ±45 percent of building façade.
- c. Accent materials constitute ±4.5 percent of façade.
- d. Prohibited materials are not included in the exterior building design.

The narrative demonstrates compliance with the Milwaukie Downtown Design Guidelines.

### MILWAUKIE DOWNTOWN DESIGN GUIDELINES: WALL MATERIALS

**Guideline:** Use materials that create a sense of permanence.

**Description:** Quality wall materials can provide a sense of permanence in a building, and bring life and warmth to downtown. Articulation of wall materials should be bold, with materials used in a way that shows their depth. It should be apparent that the materials have substance and mass, and are not artificial, thin “stage sets” applied only to the building surface.

**Recommended:**

- Boldly articulated window and storefront trim.
- Natural or subdued building colors.
- Limited use of bright accent trim colors.
- Varied yet compatible cladding materials.
- Belt courses and medallions.

**Not Recommended:**

- Bright or primary wall colors for the entire wall surface.
- Flagstone, simulated river rock or other similar veneer cladding.



---

• Painted brick.

**Response:** The Milwaukie Downtown Design Guidelines/Wall Materials description states: “Quality wall materials can provide a sense of permanence in a building, and bring life and warmth to downtown. Articulation of wall materials should be bold, with materials used in a way that shows their depth. It should be apparent that the materials have substance and mass, and are not artificial, thin “stage sets” applied only to the building surface”.

Henley Place is designed with quality wall materials that provide a sense of permanence warmth and is compatible with downtown Milwaukie and the surrounding built and natural environment. The materials are also used to create substance and mass and are detailed to provide depth.

The design includes:

- Boldly articulated window and storefront trim: Windows in levels 2-6 include bold fiber cement trim and jambs, head, and sills. Ground floor storefronts are recessed deeply into the walls to create depth at the ground floor;
- Natural or subdued building colors: The brick is a light limestone color to define the building base. The body of the building is painted to match natural cedar, and the attic story is painted grey to cap the building;
- Limited use of bright accent trim colors.: Bright accent colors are not used;
- Varied yet compatible cladding materials: Materials are varied (brick and fiber cement), but compatible in scale, color, and texture;
- Belt courses and medallions: Belt courses occur at level 2 above the building base and at the level 6 floor line to define the buildings attic story.

None of the guidelines “not recommended” material are used.

Based on the quality of the materials used and consistency with the guideline statements, the criteria are met.

**19.508.3. E. Windows and Doors**

**2. Main Street**

For block faces along Main St, 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.

**Response:** As shown on sheet C25 of the preliminary architectural plans, ±56% of ground-floor wall area along Main Street consists of windows or glazed doors.

**3. Other Streets**

For all other block faces, the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

- a. 40% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors.

---

**Response:** As shown on sheet C26 of the preliminary architectural plans, ±52% of the ground-floor wall area on the east façade consists of openings.

4. Upper Level

Along all block faces, the following standards are applicable on the upper-level building façades facing a street or public space.

- a. Upper building stories shall provide a minimum of 30% glazing. For the purposes of this standard, minimum glazing includes windows and any glazed portions of doors.
- b. The required upper-floor window/door percentage does not apply to floors where sloped roofs and dormer windows are used.
- c. A minimum of 60% of all upper-floor windows shall be vertically oriented. This vertical orientation applies to grouped window arrays as opposed to individual windows.

**Response:** The west and east facades of the building are street-facing and are therefore subject to the above requirement. As demonstrated in the calculations on sheets C25 and C26 of preliminary architectural plans, upper building stories on both west and east facades provide over 30% glazing, and 100% of all upper-floor windows are vertically oriented.

5. General Standards

- a. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 in into the façade and/or incorporating trim of a contrasting material or color.

**Response:** As shown on the preliminary architectural drawings, all windows have a contrasting trim.

- b. All buildings with nonresidential ground-floor windows must have a visible transmittance (VT) of 0.6 or higher.

**Response:** As shown on the preliminary architectural drawings, all ground floor nonresidential windows 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.

**Response:** Primary entrances will be unlocked during business hours.

- d. The bottom edge of windows along pedestrian ways shall be constructed no more than 30 in above the abutting walkway surface.

**Response:** As shown on the preliminary building elevations Sheets C16 - C19, there are no residential windows on the ground floor that are along pedestrian walkways. There are two two-bedroom units at the southeast corner of the building, but they are facing private patios, not along walkways. The rest of the ground floor windows are aluminum storefront windows.

- f. Signs are limited to a maximum coverage of 20% of the required window area.

---

**Response:** Signs are not included in this application.

6. Prohibited Window Elements

For all building windows facing streets, courtyards, and/or public squares in the downtown, the following window elements are prohibited:

- a. Reflective, tinted, or opaque glazing.
- b. Simulated divisions (internal or applied synthetic materials).
- c. Exposed, unpainted metal frame windows.

**Response:** The preliminary architectural materials (Exhibit B) illustrate compliance by not including these prohibited window elements.

F. Roofs and Rooftop Equipment

2. Roof Forms

- a. The roof form of a building shall follow one (or a combination) of the following forms:
  - (1) Flat roof with parapet or cornice.
  - (2) Hip roof.
  - (3) Gabled roof.
  - (4) Dormers.
  - (5) Shed roof.

**Response:** As shown on the preliminary architectural plans (Exhibit B), the roof type complies with these standards by providing a flat roof with a cornice.

- 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.

**Response:** The flat roof is planned to be treated with a 12-inch vertical projecting cornice at the roof edges with a 3-foot overhang. The criteria are met.

3. Rooftop Equipment and Screening

- a. The following rooftop equipment does not require screening:
  - (1) Solar panels, wind generators, and green roof features.
  - (2) Equipment under 2 ft high, if set back a minimum of 5 ft from the outer edge of the roof.
- b. Elevator mechanical equipment may extend above the height limit a maximum of 16 ft, provided that the mechanical shaft is incorporated into the architecture of the building.

**Response:** The project has two elevators with an elevator overrun that is less than 16 feet tall and is incorporated into the architecture.

- c. Satellite dishes, communications equipment, and all other roof-mounted mechanical equipment shall be limited to 10 ft high, shall be set back a minimum of 10 ft from the roof edge, and shall be screened from public view and from views from adjacent buildings by one of the following methods:
  - (1) A screen around the equipment that is made of a primary exterior finish material used on other portions of the building, wood fencing, or masonry.
  - (2) Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.
- d. Required screening shall not be included in the building's maximum height calculation.

**Response:** Other than as exempted above, rooftop equipment is planned to be screened, as applicable.

4. Rooftop Structures

Rooftop structures related to shared outdoor space—such as arbors, trellises, or porticos related to roof decks or gardens—shall not be included in the building's maximum height calculation, as long as they do not exceed 10 ft high.

**Response:** As shown on the preliminary plans, rooftop structures were not included in the building's maximum height calculation.

G. Open Space/Plazas

1. Intent

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

2. Mixed-Use and Residential Development

The following standards apply to mixed-use buildings with more than 4 residential units and residential-only multifamily developments.

a. Outdoor Space Required

50 sq ft of private or common open space is required for each dwelling unit. The open space may be allocated exclusively for private or common use, or it may be a combination of the two uses.

**Response:** Per code, 8,900 square feet of outdoor space is required (50 square feet x 178 units). This project exceeds the outdoor space requirement by providing ±9,423 square feet of outdoor open space via a combination of private balconies and a common roof top terrace. Additionally, a ±2,598-square foot terrace is provided outside the ground-floor lounge and fitness room, and a ±950-square foot publicly accessible landscaped plaza is provided at Main Street entrance to the project, for a total of almost 13,000 square feet of outdoor open space. Please refer to sheets C27-C31 for open space locations and area calculations.

**Table 1: Outdoor Open Space**

Type of Outdoor Space	Area (sq. ft.)
<b>MEETS MINIMUM CODE REQUIREMENT</b>	
Private unit terraces	±4,543
Private unit balconies	±1,440
Common roof-top terrace abutted on 2 sides with windows and doors	±3,440
<b>Subtotal:</b>	<b>±9,423</b>
<b>ADDITIONAL OUTDOOR OPEN SPACE</b>	
Common ground-floor terrace	±2,598
Public plaza at SE Main St and project entry	±950
<b>Total Outdoor Space</b>	<b>±12,971</b>

b. Common Open Space

- (1) Common open space may be provided in the form of decks, shared patios, roof gardens, recreation rooms, lobbies, or other gathering spaces created strictly for the tenants and not associated with storage or circulation. Landscape buffer areas may not be used as common open space unless active and passive uses are integrated into the space and its use will not adversely affect abutting properties.

**Response:** The project provides ±17,696 square feet of highly amenitized common usable open space for building residents. Table 2 provides the breakdown of indoor and outdoor common amenities.

**Table 2: Common Open Space**

Type of Common Open Space	Area (sq. ft.)
<b>Indoor Open Space</b>	
Fitness Center	±1,900
Club Room, Level 1	±625
Club Room, Level 2	±1,300
Lobby	±900
<i>Total Indoor Open Space</i>	<i>±4,725</i>
<b>Outdoor Open Space</b>	
<i>Total Outdoor Open Space – see Table 1</i>	<i>±12,971</i>
<b>Total Common Open Space</b>	<b>±17,696</b>

- (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.

**Response:** The project satisfies its minimum outdoor open space requirement by providing private balconies and a common roof top terrace, which add up to ±9,423 square feet. As shown on sheet C28 of the preliminary architectural plans, the second-floor common roof

---

terrace meets the code requirement as it is abutted on three sides by residential units and by the common amenity room with windows and entrances. The ground-floor terrace is abutted by windows and entrances from the interior common amenities on one side and is surrounded by landscaping on the other three sides. The ground floor outdoor terrace is not counted towards meeting the project's required open space and serves as an added bonus open space; therefore, it is not subject to the above code requirement.

c. **Private Open Space**

- (1) Private open space may be provided in the form of a porch, deck, balcony, patio, terrace, or other private outdoor area.

**Response:** Private open space is provided in the form of balconies, patios, and terraces.

- (2) The private open space provided shall be contiguous with the unit.

**Response:** Private open space is 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.

**Response:** Not applicable. Balconies are not to be used for entrances.

- (4) Balconies may project up to a maximum of 4 ft into the public right-of-way.

**Response:** Not applicable. The building does not abut public right-of-way.

d. **Credit for Open Space**

An open space credit of 50% may be granted when a development is directly adjacent to, or across a public right-of-way from, an improved public park.

**Response:** Not applicable. The Applicant is not requesting credit for open space.

**19.508.5 Variances**

Variances cannot be granted for the design standards of Section 19.508. Projects that cannot meet the design standards in this section must be reviewed through a Type III downtown design review and demonstrate compliance with the Milwaukie Downtown Design Guidelines, pursuant to Section 19.907.

**Response:** As described above, the project does not comply with one criterion in this section of the code (19.508.D.2, minimum 65 percent primary wall material); therefore, it will be reviewed through Type III downtown design review. The narrative demonstrates compliance with the applicable Milwaukie Downtown Design Guidelines.

**MMC CHAPTER 19.600 OFF-STREET PARKING AND LOADING**

**MMC Section 19.602 APPLICABILITY**

**Response:** The proposed consists of 178 apartment units, which includes two ground-floor live/work units, in a single six-story building. This application includes off-street parking within the structure, adjacent to the structure, and along the north side of Tax Lot 402, which is configured as a driveway and connects to SE Main Street.

---

## MMC Section 19.603 REVIEW PROCESS AND SUBMITTAL REQUIREMENTS

### 19.603.2 Submittal Requirements

Except for single-family dwellings, a development or change in use subject to Chapter 19.600 as per Section 19.602 shall submit a parking plan, drawn to scale. The parking plan shall show that all applicable standards are met, and shall include but not be limited to the items listed below, unless waived by the Planning Director.

- A. Delineation of individual spaces and wheel stops.
- B. Drive aisles necessary to serve spaces.
- C. Accessways, including driveways and driveway approaches, to streets, alleys, and properties to be served.
- D. Pedestrian pathways and circulation.
- E. Bicycle parking areas and rack specifications.
- F. Fencing.
- G. Abutting land uses.
- H. Grading, drainage, surfacing, and subgrading details.
- I. Location and design of lighting fixtures and levels of illumination.
- J. Delineation of existing and proposed structures.
- K. Parking and loading area signage.
- L. Landscaping, including the following information.
  - 1. The location and area of existing and proposed trees, vegetation, and plant materials, including details about the number, size, and species of such items.
  - 2. Notation of the trees, plants, and vegetation to be removed, and protection measures for existing trees and plants to be preserved.

**Response:** The application includes a parking plan that meets the submittal requirements. Surface parking is shown on Sheet P-10 of the preliminary drawings. Landscaping and lighting details are shown on Sheets P-11 and P-12. Structured parking is shown on Sheets C10, C24, and C31.

## MMC Section 19.604 GENERAL PARKING STANDARDS

### 19.604.1 Parking Provided with Development Activity

All required off-street parking areas shall be provided at the time the structure is built; at the time a structure or site is enlarged; or when there is change in use or an increase in density or intensity. All required off-street parking areas shall be provided in conformance with the standards of Chapter 19.600 prior to issuance of a certificate of occupancy, or final development permit approval, or as otherwise specified in any applicable land use decision.

**Response:** Parking will be provided at the time the project is built.

### 19.604.2 Parking Area Location

Accessory parking shall be located in one or more of the following areas:

- A. On the same site as the primary use for which the parking is accessory.
- B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.605.4.B.2. Accessory parking that



is located in this manner shall not be considered a parking facility for purposes of the base zones in Chapter 19.300.

C. Where shared parking is approved in conformance with Subsection 19.605.4.

**Response:** Parking is located on the same site as the apartments.

19.604.3 Use of Parking Areas

All required off-street parking areas shall continually be available for the parking of operable vehicles of intended users of the site. Required parking shall not be rented, leased, sold, or otherwise used for parking that is unrelated to the primary or accessory use of the site, except where a shared parking agreement per Subsection 19.605.4 has been recorded. Subsection 19.604.3 does not prohibit charging fees for parking when the parking serves the primary or accessory uses on site.

**Response:** A private easement (Doc # 90-020212) for ingress/egress and utilities is recorded on the property title for Tax Lot 402.

19.604.4 Storage Prohibited

No required off-street parking area shall be used for storage of equipment or materials, except as specifically authorized by Subsection 19.607.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking.

**Response:** Parking areas will not be allowed to be used for storage.

**MMC Section 19.605 VEHICLE PARKING QUANTITY REQUIREMENTS**

19.605.1 Minimum and Maximum Requirements

- A. Development shall provide at least the minimum and not more than the maximum number of parking spaces as listed in Table 19.605.1. Modifications to the standards in Table 19.605.1 may be made as per Section 19.605. Where multiple ratios are listed, the Planning Director shall determine which ratio to apply to the proposed development or use.
- D. Where the calculation of minimum parking spaces does not result in a whole number, the result shall be rounded down to the next whole number. Where the calculation of maximum parking spaces does not result in a whole number, the result shall be rounded to the nearest whole number.
- E. Parking spaces for disabled persons, and other improvements related to parking, loading, and maneuvering for disabled persons, shall conform to the Americans with Disabilities Act and shall be subject to review and approval by the Building Official. Spaces reserved for disabled persons are included in the minimum required and maximum allowed number of off-street parking spaces.

Table 19.605.1		
Standard	Required	Included
Min: 1 space per unit 25% DMU reduction allowed	Min: 134 <i>(@178 - 45 DMU reduction)</i>	173 spaces
Max: 2 spaces per unit	Max: 356	

**Response:** This application includes 178 residential units, including two live/work units. DMU zone parking ratio requirement is 1:1 regardless of the unit size. A 25 percent reduction, which





---

equals 45 parking spaces, is allowed in the DMU zone per Section 19.605.3.B.2.c. This project provides 173 stalls (31 exterior and 142 structured). Structured parking on the ground floor includes 64 mechanical parking stalls, 10 tandem stalls, and 68 conventional standard stalls.

The tandem stalls will be assigned to two-bedroom units.

A CityLift Puzzle mechanical parking system is planned to be provided within the parking structure. Specifications have been included with the application, please refer to Exhibit H. This state-of-the-art secure mechanical parking system includes three-level car lifts over an underground pit and shuffles the stalls both vertically and horizontally. Each car lift has the capacity to hold three cars vertically. The parking lift extends down into the ground to the depth equal to one vertical parking stall. Initially there is one parking stall below the ground level, one at the ground level, and one above it. As the ground level stall is occupied, it gets lifted up making space for the underground stall, while the upper-level stall is shuffled horizontally into the adjacent stacker, which also shuffles to make room for the stall. When the second car comes in and occupies the ground-level parking stall, it gets lifted to access the third and final stall. This parking system allows a car to leave independently, irrespective of the availability of the car owner of the other two cars parked. This proposed mechanical parking system is the same as at the Axletree Apartments.

### 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

#### B. Reductions to Minimum Parking Requirements

##### 2. Proximity to Public Transit

- c. Parking for all uses except single-family attached and detached dwellings may be reduced by 25% if the development is within 1,000-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a light rail transit stop, or if it is located in the Downtown Mixed Use Zone DMU.

**Response:** The project qualifies for a 25 percent parking reduction by being in DMU zone. The actual parking ratio proposed is 0.98 spaces per unit, which is a 2 percent reduction from minimum base required parking. The project requires as close to 1:1 parking ratio as possible in order to maintain economic viability. Market analysis has demonstrated that people are unwilling to rent apartments without at least one dedicated parking space.

### MMC Section 19.606 PARKING AREA DESIGN AND LANDSCAPING

#### 19.606.1 Parking Space and Aisle Dimensions

- A. The dimensions for required off-street parking spaces and abutting drive aisles, where required, shall be no less than in Table 19.606.1. The minimum dimensions listed in Table 19.606.1 are illustrated in Figure 19.606.1.

Table 19.606.1 Minimum Parking Space and Aisle Dimensions					
Angle (A)	Width (B)	Curb Length (C)	1-Way Aisle Width (D)	2-Way Aisle Width (D)	Depth (E)
90°	9'	9'	22'	22'	18'

**Response:** The Preliminary Dimensioned Site Plan (Sheet P-10 of the drawings) demonstrates that the proposed surface parking areas contain 9-foot by 18-foot standard parking stalls, and the spaces are accessed at a 90-degree angle. The aisle width exceeds the required standards. Structured parking design and dimensions are shown on plan Sheet C31. Parking stalls are 9 feet by 18 feet, and drive aisles are 24 feet wide.

#### 19.606.2 Landscaping

##### B. General Provisions

1. Parking area landscaping shall be required for the surface parking areas of all uses, except for cottage clusters, rowhouses, duplexes, and single-family detached dwellings. Landscaping shall be based on the standards in Subsections 19.606.2.C-E.
2. Landscaped areas required by Subsection 19.606.2 shall count toward the minimum amount of landscaped area required in other portions of Title 19.
3. Parking areas with 10 or fewer spaces in the Downtown Mixed Use Zone are exempt from the requirements of Subsection 19.606.2.
4. Required trees shall be species that, within 10 years of planting, will provide a minimum of 20-ft diameter shade canopy. Compliance with this standard is based on the expected growth of the selected trees.

**Response:** All exterior off-street parking areas comply with the landscaping standards. There are two surface parking areas provided on-site. One is located along the access driveway off SE Main Street (Tax Lot 402), on the west side of the site. The second area is on the east side of the building and is accessed by driving through the parking structure (as access to the site from SE 23<sup>rd</sup> Avenue is restricted to emergency vehicles). The surface lot on the west side provides 14 spaces, and the surface lot on the east side provides 17 spaces. Both parking areas are broken up with landscape islands. Green Vase Zelkova trees, Oregon Grape shrub, and Hameln Fountain Grass groundcover are included within the parking islands.

##### C. Perimeter Landscaping

The perimeter landscaping of parking areas shall meet the following standards which are illustrated in Figure 19.606.2.C.

##### 1. Dimensions

The minimum width of perimeter landscape areas are shown in Table 19.606.2.C.1. Where a curb provides the border for a perimeter landscape area, the dimension shall be measured from the inside of the curb(s). The Planning Director may reduce the required

minimum width of a perimeter landscaping area where existing development or site constraints make it infeasible to provide drive aisles, parking spaces, and the perimeter landscaping buffer width listed in Table 19.606.2.C.1.

Table 19.606.2.C.1 Minimum Perimeter Landscape Strip Dimensions		
Location	Downtown Zones	All Other Zones
Lot line abutting a right-of-way	4'	8'
Lot line abutting another property, except for abutting properties that share a parking area	0'	6'

2. Planting Requirements

Landscaping requirements for perimeter buffer areas shall include one tree planted per 30 lineal ft of landscaped buffer area. Where the calculation of the number of trees does not result in a whole number, the result shall be rounded up to the next whole number. Trees shall be planted at evenly spaced intervals along the perimeter buffer to the greatest extent practicable. The remainder of the buffer area shall be grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement.

3. Additional Planting Requirements Adjacent to Residential Uses

In addition to the planting requirements of Subsection 19.606.2.D.2, all parking areas adjacent to a residential use shall have a continuous visual screen in the landscape perimeter area that abuts the residential use. The area of required screening is illustrated in Figure 19.606.2.C.3. The screen must be opaque throughout the year from 1 to 4 ft above ground to adequately screen vehicle lights. These standards must be met at the time of planting. Examples of acceptable visual screens are a fence or wall, an earth berm with plantings, and other plantings of trees and shrubs.

**Response:** The north side of the parking area behind the building is located along SE 23<sup>rd</sup> Avenue. A 16-foot-wide landscape strip with Bowhall Maple trees spaced at ±27 feet and groundcover is planned to be used for perimeter landscaping in that area.

The south side of the same parking area abuts residential private property. A 7-foot-wide landscape strip with evenly spaced Bowhall Maple trees is included along the southern perimeter of the parking area. In addition, Wax Leaf Privet is provided along the perimeter of the parking area that abuts residential uses to serve as a visual screen. This evergreen hedge has very dense foliage and provides effective visual screening.

The parking area west of the building abuts Pietro’s Pizza. A minimum landscape strip is not required for that parking area, but the project includes a ±2-foot-wide landscaping strip with turf groundcover. The project exceeds the standard.

D. Interior Landscaping

The interior landscaping of parking areas shall meet the following standards which are illustrated in Figure 19.606.2.D.

---

1. General Requirements

Interior landscaping of parking areas shall be provided for sites where there are more than 10 parking spaces on the entire site. Landscaping that is contiguous to a perimeter landscaping area and exceeds the minimum width required by Subsection 19.606.2.C.1 will be counted as interior landscaping if it meets all other requirements of Subsection 19.606.2.D.

2. Required Amount of Interior Landscaped Area

At least 25 sq ft of interior landscaped area must be provided for each parking space. Planting areas must be at least 120 sq ft in area and dispersed throughout the parking area.

3. Location and Dimensions of Interior Landscaped Areas

- a. Interior landscaped area shall be either a divider median between opposing rows of parking, or a landscape island in the middle or at the end of a parking row.
- b. Interior landscaped areas must be a minimum of 6 ft in width. Where a curb provides the border for an interior landscape area, the dimension shall be measured from the inside of the curb(s).

4. Planting Requirements for Interior Landscaped Areas

- a. For divider medians, at least 1 shade or canopy tree must be planted for every 40 linear ft. Where the calculation of the number of trees does not result in a whole number, the result shall be rounded up to the next whole number. Trees shall be planted at evenly spaced intervals to the greatest extent practicable.
- b. For landscape islands, at least 1 tree shall be planted per island. If 2 interior islands are located contiguously, they may be combined and counted as 2 islands with 2 trees planted.
- c. The remainder of any divider median or landscape island shall be grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement.

**Response:** The project exceeds the minimum requirements for interior landscaping. The parking area in front of the building has 14 spaces, and ±740 square feet of interior landscaping is provided (minimum required landscape area is 350 square feet). The parking area behind the building has 17 spaces, and ±3,000 square feet of landscaped area is provided (425 square feet required). The Preliminary Landscape Plan (Sheet P-11) demonstrates compliance with the location, dimensions, and planting materials requirements of this code section.

19.606.3 Additional Design Standards

A. Paving and Striping

Paving and striping are required for all required maneuvering and standing areas. Off-street parking areas shall have a durable and dust-free hard surface, shall be maintained for all-weather use, and shall be striped to show delineation of parking spaces and directional markings for driveways and

---

accessways. Permeable paving surfaces may be used to reduce surface water runoff and protect water quality.

**B. Wheel Stops**

Parking bumpers or wheel stops, of a minimum 4-in height, shall be provided at parking spaces to prevent vehicles from encroaching on the street right-of-way, adjacent landscaped areas, or pedestrian walkways. Curbing may substitute for wheel stops if vehicles will not encroach into the minimum required width for landscape or pedestrian areas.

**Response:** The preliminary plans (Sheet P-10) demonstrate compliance with this code section.

**C. Site Access and Drive Aisles**

1. Accessways to parking areas shall be the minimum number necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Driveway approaches shall comply with the access spacing standards of Chapter 12.16.
2. Drive aisles shall meet the dimensional requirements in Subsection 19.606.1.
3. Parking drive aisles shall align with the approved driveway access and shall not be wider than the approved driveway access within 10 ft of the right-of-way boundary.
4. Along collector and arterial streets, no parking space shall be located such that its maneuvering area is in an ingress or egress aisle within 20 ft of the back of the sidewalk, or from the right-of-way boundary where no sidewalk exists.
5. Driveways and on-site circulation shall be designed so that vehicles enter the right-of-way in a forward motion.

**Response:** As demonstrated on the preliminary plans (Sheet P-10), the project design meets the site access and drive aisles requirements.

**D. Pedestrian Access and Circulation**

Subsection 19.504.9 establishes standards that are applicable to an entire property for on-site walkways and circulation. The purpose of Subsection 19.606.3.D is to provide safe and convenient pedestrian access routes specifically through off-street parking areas. Walkways required by Subsection 19.606.3.D are considered part of the on-site walkway and circulation system required by Subsection 19.504.9.

1. Pedestrian access shall be provided for off-street parking areas so that no parking space is further than 100 ft away, measured along vehicle drive aisles, from a building entrance, or a walkway that meets the standards of Subsection 19.606.3.D.2.
2. Walkways through off-street parking areas must be continuous, must lead to a building entrance, and meet the design standards of Subsection 19.504.9.E.

**Response:** The site plan is consistent with these requirements. The parking area in front of the building contains a pedestrian walkway from SE Main Street to the main building entrance. Parking spaces behind the building are located less than 100 feet away from a building entrance. The structured parking satisfies these requirements by providing striping for pedestrian walkways.

---

F. Lighting

Lighting is required for parking areas with more than 10 spaces. The Planning Director may require lighting for parking areas of less than 10 spaces if the parking area would not be safe due to the lack of lighting. Lighting shall be designed to enhance safe access for vehicles and pedestrians on the site, and shall meet the following standards:

1. Lighting luminaires shall have a cutoff angle of 90 degrees or greater to ensure that lighting is directed toward the parking surface.
2. Parking area lighting shall not cause a light trespass of more than 0.5 footcandles measured vertically at the boundaries of the site.
3. Pedestrian walkways and bicycle parking areas in off-street parking areas shall have a minimum illumination level of 0.5 footcandles, measured horizontally at the ground level.
4. Where practicable, lights shall be placed so they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.

**Response:** A lighting plan (Sheet P-12) demonstrates compliance with the lighting standards for surface parking areas. The structured parking garage complies with Section 19.603.F by providing a minimum of 0.5 footcandles inside the garage. The Oregon Building Code requires lighting in excess of this standard in the structured parking garage. The criteria are met.

**MMC Section 19.608 LOADING**

19.608.1 General Provisions

- A. The purpose of off-street loading areas is to contain loading activity of goods on-site and avoid conflicts with travel in the public right-of-way; provide for safe and efficient traffic circulation on the site; and minimize the impacts of loading areas to surrounding properties.
- B. Off-street loading areas may be required for commercial, industrial, public, and semipublic uses for the receipt or distribution of merchandise, goods, or materials by vehicles. Off-street loading is not required in the Downtown Mixed Use Zone.

**Response:** The above listed provisions state that off-street loading is not required in the DMU zone. That said, a ±10' x 35' loading area is provided inside the structured parking garage to accommodate the potential need for loading.

**MMC Section 19.609 BICYCLE PARKING**

19.609.1 Applicability

Bicycle parking shall be provided for all new commercial, industrial, community service use, and multifamily residential development. Bicycle parking shall be provided in the Downtown Mixed Use Zone and at transit centers.

19.609.2 Quantity of Spaces

- A. The quantity of required bicycle parking spaces shall be as described in this subsection. In no case shall less than 2 spaces be provided.

- 
1. Unless otherwise specified, the number of bicycle parking spaces shall be at least 10% of the minimum required vehicle parking for the use.
  2. The number of bicycle parking spaces at transit centers shall be provided at the ratio of at least 1 space per 100 daily boardings.
  3. Multifamily residential development with 4 or more units shall provide 1 space per unit.

**Response:** The project exceeds the minimum 1 space per unit requirement and provides 190 bicycle parking spaces. Bicycle parking areas are dispersed throughout the project to provide a range of options for the residents' convenience and accommodate a variety of preferences. Namely, 10 bike racks are provided in the ground-floor dedicated bike room accessed from the parking garage; a bike storage room is provided on each floor of the building, with 16 spaces per room (which equals 80 spaces); 90 residential units have a permanent wall-mounted rack for bike storage in the foyer, and 10 additional bicycle parking spaces are provided outside the front entrance for the visitors. Please refer to Sheet C32 in the preliminary architectural plans for calculations and the in-unit bike rack cut sheet.

It has been the applicant's experience on similar multifamily projects that many residents prefer to keep expensive bicycles inside their apartments or on the same floor as their unit as they are not comfortable storing them in a remote common storage room, therefore the Applicant is responding to the need for individual choices.

- B. Covered or enclosed bicycle parking. A minimum of 50% of the bicycle spaces shall be covered and/or enclosed (in lockers or a secure room) in any of the following situations:
  1. When 10% or more of vehicle parking is covered.
  2. If more than 10 bicycle parking spaces are required.
  3. Multifamily residential development with 4 or more units.

**Response:** Required bicycle parking spaces are covered inside the building. The criteria are met.

#### 19.609.3 Space Standards and Racks

- A. The dimension of each bicycle parking space shall be a minimum of 2 x 6 ft. A 5-ft-wide access aisle must be provided. If spaces are covered, 7 ft of overhead clearance must be provided. Bicycle racks must be securely anchored and designed to allow the frame and 1 wheel to be locked to a rack using a high security, U-shaped, shackle lock.
- B. Lighting shall conform to the standards of Subsection 19.606.3.F.

**Response:** Each residential unit provides sufficient space for storage of one bicycle. The criteria are met.

#### 19.609.4 Location

- A. Bicycle parking facilities shall meet the following requirements:
  1. Located within 50 ft of the main building entrance.
  2. Closer to the entrance than the nearest non-ADA designated vehicle parking space.



- 
3. Designed to provide direct access to a public right-of-way.
  4. Dispersed for multiple entrances.
  5. In a location that is visible to building occupants or from the main parking lot.
  6. Designed not to impede pedestrians along sidewalks or public rights-of-way.
  7. Separated from vehicle parking areas by curbing or other similar physical barriers.

**Response:** Ten bicycle parking spaces are proposed within 50 feet of the entry. The remaining bike parking is provided inside the units.

- B. The public right-of-way may be utilized for bicycle parking when parking cannot be reasonably accommodated on the site and the location is convenient to the building's front entrance. The bicycle parking area in the right-of-way must leave a clear, unobstructed width of sidewalk that meets the Engineering Department's Public Works Standards for sidewalk passage. See Figure 19.609 for illustration of space and locational standards. A right-of-way permit is required.

**Response:** This application does not involve any bicycle parking within the right-of-way.

#### MMC Section 19.611 PARKING STRUCTURES

##### 19.611.1 Permitted Zones and Review Procedures

- A. Parking structures, including underground parking, are allowed in all zoning districts except the R-10, R-7, R-5, and Open Space Zones. A parking structure can be permitted through approval of a Community Service Use application in all zones except the Open Space Zone. A parking structure to be used for commercial parking in the Downtown Mixed Use Zone must be permitted through approval of a conditional use application.
- B. Applications for parking structures with fewer than 20 spaces are subject to Type II review, per the procedures of Section 19.1005. Applications for parking structures with 20 spaces or more shall be reviewed by the Planning Commission at a public hearing per Section 19.1006 Type III Review. The Planning Commission may impose conditions on the proposed structure to make it compatible with surrounding properties.

##### 19.611.2 Compliance with Other Sections of Chapter 19.600

- A. Spaces in parking structures can be used to satisfy the minimum quantity requirements of Section 19.605. Spaces in parking structures are exempt from counting against maximum parking allowances if the spaces are utilized for types of parking listed in Subsection 19.605.3.A.
- B. The space and drive aisle dimensions required in Subsection 19.606.1 shall apply to structured parking unless the applicant requests that the dimensions be reduced. Dimensions may be reduced if the applicant can demonstrate that the reduced dimensions can safely accommodate parking and maneuvering for standard passenger vehicles.
- C. In addition to the standards in Subsection 19.611.3, parking structures shall comply with the development standards, design standards, and design guidelines for the base zone(s) in which the structure will be located.

##### 19.611.3 Standards and Design Criteria for Structured Parking

- 
- A. A minimum of 75% of the length of any façade of a parking structure that faces a street shall provide ground-floor windows or wall openings. Blank walls are prohibited.
  - B. The structure shall be compatible with related structures on the lot in terms of appearance, size, scale, and bulk.
  - C. The required yard setbacks between the property line and the structure shall be landscaped per the requirements of Subsection 19.606.2.D.3.
  - D. The structure shall provide safe pedestrian connections between parking structure and the public sidewalk or principal building.
  - E. The structure shall provide adequate lighting to ensure motorist and pedestrian safety within the structured parking facility and connecting pedestrian ways to the principal building.

**Response:** The western building façade is planned to be ±270 in length. Of that frontage, ± 94 feet is planned to include structured parking (at the building face). Seventy-five percent of the façade (within this 94 feet of frontage) has 75 percent openings, and the façade materials are brick between openings. The building does not “face” SE 23<sup>rd</sup> Avenue, rather it fronts on its existing terminus. Therefore, design criteria above do not apply to the east façade. The criteria are met.

## MMC CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

### MMC Section 19.702 APPLICABILITY

#### 19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

[...]

- D. New construction.

**Response:** The project involves new construction of 178 multifamily residential units, including two live/work units, which triggers the requirements of MMC 19.700.

### MMC Section 19.704 TRANSPORTATION IMPACT EVALUATION

The Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development’s impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts.

**Response:** The application includes a Transportation Impact Study (TIS) according to scoping developed by the City Engineer and ODOT. Off-site mitigation was not found to be required. Adjacent frontage improvements are planned to include curb extensions on SE Main Street. Per findings within the TIS, the project does not result in a vehicular impact on SE 23<sup>rd</sup> Avenue. Apartment residents have one vehicular access to SE Main Street. The access point off SE 23<sup>rd</sup> Avenue access is gated for emergency vehicles only. The project will extend SE 23<sup>rd</sup> Avenue to the site property line.

The project includes new sidewalks along the site frontage on SE Main Street and curb ramps that link with on-site sidewalks connecting to the apartment building.

### MMC Section 19.708 TRANSPORTATION FACILITY REQUIREMENTS

---

### 19.708.1 General Street Requirements and Standards

#### B. Clear Vision

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

**Response:** Per MMC section 19.304.5.D.3, the DMU zone is exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code.

#### C. Development in Downtown Zones

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the PAR per Subsection 19.304.6.

**Response:** The project is located in the DMU zone and complies with the requirements of the Milwaukie Public Works Standards, as demonstrated on the civil engineering drawings. Final design will be approved by the City Engineer prior to construction.

### MMC Section 19.709 PUBLIC UTILITY REQUIREMENTS

#### 19.709.2 Public Utility Improvements

Public utility improvements shall be required for proposed development that would have a detrimental effect on existing public utilities, cause capacity problems for existing public utilities, or fail to meet standards in the Public Works Standards. Development shall be required to complete or otherwise provide for the completion of the required improvements.

A. The Engineering Director shall determine which, if any, utility improvements are required. The Engineering Director's determination requiring utility improvements shall be based upon an analysis that shows the proposed development will result in one or more of the following situations:

1. Exceeds the design capacity of the utility.
2. Exceeds Public Works Standards or other generally accepted standards.
3. Creates a potential safety hazard.
4. Creates an ongoing maintenance problem.

**Response:** Public utilities are not included with this project. The Preliminary Composite Utility Plan (Sheet P-09) shows a new private connection to the existing public sanitary sewer main in SE Main Street with a new private sanitary sewer lateral extending through Tax Lot 402 to the building.

B. The Engineering Director may approve one of the following to ensure completion of required utility improvements.

1. Formation of a reimbursement district in accordance with Chapter 13.30 for off-site public facility improvements fronting other properties.

- 
2. Formation of a local improvement district in accordance with Chapter 3.08 for off-site public facility improvements fronting other properties.

**Response:** The application does not involve a formation of a reimbursement district or local improvement district.

#### 19.709.3 Design Standards

Public utility improvements shall be designed and improved in accordance with the requirements of this chapter, the Public Works Standards, and improvement standards and specifications identified by the City during the development review process. The applicant shall provide engineered utility plans to the Engineering Director for review and approval prior to construction to demonstrate compliance with all City standards and requirements.

**Response:** These standards do not apply as the project does not involve public utilities.

### MMC CHAPTER 19.900 LAND USE APPLICATIONS

#### MMC Section 19.902 AMENDMENTS TO MAPS AND ORDINANCES

##### 19.902.6 Zoning Map Amendments

###### A. Review Process

1. Changes to the Zoning Map described in Subsection 19.902.2.D shall be evaluated through either a Type III review, per Section 19.1006, or Type V review, per Section 19.1008. The City Attorney shall have the authority to determine the appropriate review process for each Zoning Map amendment. The City Attorney's review process determination is not a land use decision per ORS 197.015 and is not subject to appeal.

Generally, Zoning Map amendments that involve 5 or more properties or encompass more than 2 acres of land are legislative in nature and subject to Type V review. Zoning Map amendments that involve fewer properties and encompass a smaller area of land are quasi-judicial in nature and subject to Type III review.

**Response:** The zoning map amendment encompasses a portion of a single property of ±0.05 acres and is related to the provision of housing, which requires Type III review.

2. Changes that affect both the Zoning Map and text of Titles 14, 17, or 19, or other land use regulations within the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008. These changes are subject to the approval criteria of Subsections 19.902.5.B and 19.902.6.B.

**Response:** The amendment does not involve changes to the text of Milwaukie's Municipal Code, only a change to the zoning designation for a small portion of the project site from low-density residential (R-5) to Downtown Mixed Use (DMU).

###### B. Approval Criteria

Changes to the Zoning Map shall be evaluated against the following approval criteria. A quasi-judicial map amendment shall be approved if the following criteria are met:

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.

**Response:** The surrounding area is predominantly commercial to the west (DMU); Scott Park public park (OS), commercial and several apartment buildings (DMU) to the south; low-density residential (R-5) to the east; and OR-224 Highway is to the north. The actual area involved in rezoning from R-5 to MDU is an ±0.05-acre (±9,350-square-foot) corner of the site that is currently used as a parking lot for existing commercial use on-site and is planned to remain surface parking for the future use. Surface parking associated with a multifamily use is not a permitted use in the R-5 zone but is a permitted accessory use in the DMU zone. The purpose of the amendment is to allow for a more efficient use of the property (unified zoning designation allows for a unified site plan).

Changes to the development pattern for the area are not expected, as DMU zoning designation is consistent with and implements the underlying comprehensive plan land use designation (Town Center land use). Additionally, the project includes a “trip cap” on the rezone portion of the property to avoid the potential for any transportation impacts. Per TIS findings, this trip cap would limit any future use/redevelopment of the parking area to that which would generate an equivalent number of trips permitted under the existing R-5 zoning. The trip cap is allowable as mitigation to address Oregon’s Transportation Planning Rule (TPR) and ensures that impacts are associated with the rezone and/or potential future redevelopment.

The zoning map amendment is compatible with the surrounding area based on the factors listed above.

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

**Response:** The primary use of the project is multifamily residential, which is a permitted use in DMU zoning district, per MMC 19.304.2. The project provides 178 rental units, including two live/work units. The City of Milwaukie Comprehensive Plan, adopted August 18, 2020, includes the goals related to increasing the City’s housing supply. The demand for housing is supported by the findings of 2016 Milwaukie Housing Strategies Report and the 2018 Milwaukie Housing Affordability Strategy (MHAS).

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

**Response:** The small area involved in rezoning is contiguous to a larger area with the same zoning designation. This criterion 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.

**Response:** The application package includes a TIS, preliminary plans, and Preliminary Stormwater Report that demonstrate that public facilities are adequate to serve the project. Necessary improvements will be constructed to meet applicable City standards. The

---

subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the project.

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.**

**Response:** TIS concluded that traffic volumes associated with the zoning map amendment will not cause any of the intersections in the study area to fall below acceptable levels of service. Please refer to the TIS for additional information.

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

**Response:** Currently, R-5 zoning designation for the subject property is not consistent with the Land Use Map in Milwaukie's Comprehensive Plan, which designates the subject site as Town Center (TC) use. Per MMC 19.304.1, the DMU zone implements the TC land use designation in the Milwaukie Comprehensive Plan. Therefore, the amendment will make the zoning map consistent with the Land Use Map.

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

**Response:** The Metro Urban Growth Management Functional Plan includes a number of titles that address various aspects of the region's goals and policies for urban development.

(a) Title 1 Housing Capacity

The project will provide 178 needed housing units in a compact urban form.

(b) Title 7 Housing Choice

The project will provide needed multi-unit rental housing and will support Metro's policies for expanding housing choice with a needed housing type in Milwaukie.

The zoning amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

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

**Response:** Several of the Statewide Planning Goals are relevant to the amendment:

**(a). Statewide Planning Goal 10 Housing**

**Compliance with Goal 10:** The proposed project would provide 178 units of much-needed rental housing to the City, including two live/work units. Per the City's 2016 Housing Needs Assessment (HNA), over the next 20 years, 30 percent of all needed units are projected to be multifamily in structures of five-plus attached units.

**(b). Statewide Planning Goal 12 Transportation**

**Compliance with Goal 12:** A Transportation Impact Study prepared by Kittelson & Associates is submitted as part of the application package. It demonstrates compliance



---

with Goal 12 and applicable State, County, and City transportation related requirements. Please refer to the TIS for further information. The intended street and connectivity improvements encourage a safe, convenient, and economic transportation system. Therefore, the application is consistent with Goal 12.

**C. Conditions of Approval**

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. Conditions of approval may include actual construction of facilities or a performance contract, bond, or escrow account to assure installation of public facilities to specified standards.

**Response:** The Applicant understands that conditions of approval may be applied to the zoning map amendment included with this application. The criterion is met.

**D. Modification of Official Zoning Map**

For Zoning Map amendments not involving conditions of approval, the Zoning Map shall be modified when the adopting ordinance goes into effect. For Zoning Map amendments involving conditions of approval, the Zoning Map shall not be modified until all conditions of approval are satisfied.

**E. Revocation**

If conditions of approval are not met within 2 years of ordinance adoption, the Planning Commission shall hold a public hearing to consider the revocation of the approved zoning through a Type III review per Section 19.1006. The Planning Commission may also, upon determination that the applicant is making satisfactory progress towards completing conditions of approval, grant a one-time extension not to exceed a maximum of 2 years. (Ord. 2025 § 2, 2011)

**Response:** The Applicant understands the approval process. The criteria are met.

**MMC Section 19.907 DOWNTOWN DESIGN REVIEW**

**19.907.1 Purpose**

Downtown design review is intended to achieve the following purposes:

- A. Preserve and enhance the character of downtown Milwaukee.
- B. Ensure a degree of order, harmony, and quality in the downtown, providing buildings and projects that are attractive individually yet contribute to a downtown that is distinctive as a whole.
- C. Ensure that new development, and alterations or enlargement of existing development, are consistent with the downtown site and building design standards of Section 19.508 or Downtown Design Guidelines.
- D. Implement the vision of the Downtown and Riverfront Land Use Framework Plan.
- E. Provide a design review process that allows applicants to choose standards or more flexible discretionary guidelines.

[...]

**D. Type III**

The following projects are subject to Type III downtown design review:



- 
1. Any project, at the applicant's option.
  2. A project, addition, or expansion that is unable to meet one or more of the design standards of Section 19.508.
  3. A project that does not fit the applicability for Type I or II review.
  4. A stand-alone multifamily residential building, if applicants elect to process through Type III downtown design review rather than Type I or II Development Review because additional design flexibility is desired.

**Response:** This application involves a Type III design review application. The narrative demonstrates compliance with the applicable design standards of MMC Section 19.508, substantial consistency with the purpose statement of the Exterior Wall Materials standard which the project does not meet, and the Exterior Wall Materials standard in the Downtown Design Guidelines.

#### 19.907.3 Review Process

##### A. General Provisions

Downtown design review generally includes review of the proposed structure(s) and site improvements for compliance with applicable design standards. For expansions or modifications of existing development, the review is limited to the modified portions of the site or structure and any other site improvements that may be affected by the proposed modifications.

(...)

#### 19.907.5 Approval Criteria

(...)

##### C. Type III Downtown Design Review

An application for Type III downtown design review shall be approved when all of the following criteria have been met:

1. Compliance with Title 19.
2. Compliance with applicable design standards in Section 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).

**Response:** The narrative describes compliance with Type III downtown design review criteria and Downtown Design Guidelines.

#### 19.907.6 Report and Recommendation by Design and Landmarks Committee

The Design and Landmarks Committee shall hold a public meeting and prepare a downtown design review report for Type III applications pursuant to Section 19.1011. The Planning Commission shall consider the findings and recommendations contained in the downtown design review report during a public hearing on the proposal.

#### 19.907.7 Variances

- 
- A. Variances cannot be granted for the downtown design standards of Section 19.508. Applications unable to meet one or more standards must use the Type III discretionary downtown design review process.
  - B. For applications using the Type III downtown design review process, variances will only be allowed for the development standards and design standards that are not met. Variances to the design guidelines themselves will not be granted. (Ord. 2161 § 2, 2018; Ord. 2140 § 2, 2017; Ord. 2106 § 2 (Exh. F), 2015; Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)

**Response:** The Type III discretionary downtown design review criteria have been addressed for aspects of this application that are inconsistent with Section 19.508 (exterior wall materials).

#### MMC Section 19.911 VARIANCES

##### 19.911.2 Applicability

###### A. Eligible Variances

Except for situations described in Subsection 19.911.2.B, a variance may be requested to any standard or regulation in Titles 17 or 19 of the Milwaukie Municipal Code, or any other portion of the Milwaukie Municipal Code that constitutes a land use regulation per ORS 197.015.

###### B. Ineligible Variances

A variance may not be requested for the following purposes:

1. To eliminate restrictions on uses or development that contain the word “prohibited.”
2. To change a required review type.
3. To change or omit the steps of a procedure.
4. To change a definition.
5. To increase, or have the same effect as increasing, the maximum permitted density for a residential zone.
6. To justify or allow a Building Code violation.
7. To allow a use that is not allowed outright by the base zone. Requests of this nature may be allowed through the use exception provisions in Subsection 19.911.5, nonconforming use replacement provisions in Subsection 19.804.1.B.2, conditional use provisions in Section 19.905, or community service use provisions in Section 19.904.

**Response:** The application involves four variances to the standards in Title 19 of the MMC; therefore, the variances may be reviewed under this section. The following variances are included:

- 1) Maximum street setback along Main St. – Section 19.304.5.D.2(b)(2)
- 2) Frontage occupancy requirements – Section 19.304.5.E.2
- 3) Off-street parking between the building and the street-facing lot line – Section 19.304.5.G.2(d)
- 4) Open space requirement within 50 percent of setback along Main St. – Section 19.304.5.H.2.a

###### C. Exceptions

---

A variance application is not required where other sections of the municipal code specifically provide for exceptions, adjustments, or modifications to standards either “by right” or as part of a specific land use application review process.

**Response:** Where exceptions, adjustments, or modifications to standards are provided by other means in the municipal code, a variance is not sought through this chapter.

#### 19.911.3 Review Process

##### A. General Provisions

1. Variance applications shall be evaluated through either a Type II or III review, depending on the nature and scope of the variance request and the discretion involved in the decision-making process.
2. Variance applications may be combined with, and reviewed concurrently with, other land use applications.
3. One variance application may include up to three variance requests. Each variance request must be addressed separately in the application. If all of the variance requests are Type II, the application will be processed through a Type II review. If one or more of the variance requests is Type III, the application will be processed through a Type III review. Additional variance requests must be made on a separate variance application.

**Response:** Due to the scope of variance requests, this application will be evaluated as a Type III review. As discussed throughout this narrative, the application also involves concurrent review of Type III downtown design review and Type III natural resource review. Since the project requires approval of four variances and only three are allowed per one variance application, the Applicant has submitted a separate application for the additional variance.

##### B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.
2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.
3. A variance of up to 10% to lot coverage or minimum vegetation standards.
4. A variance of up to 10% to lot width or depth standards.
5. A variance of up to 10% to a lot frontage standard.
6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.
7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.

- 
8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.

C. Type III Variances

Type III variances allow for larger or more complex variations to standards that require additional discretion and warrant a public hearing consistent with the Type III review process. Any variance request that is not specifically listed as a Type II variance per Subsection 19.911.3.B shall be evaluated through a Type III review per Section 19.1006.

**Response:** Since the variances are not listed under Subsection 19.911.3.B, the Applicant has addressed the Type III variance approval criteria under Subsection 19.911.4.

19.911.4 Approval Criteria

B. Type III Variances

An application for a Type III variance shall be approved when all of the criteria in either Subsection 19.911.4.B.1 or 2 have been met. An applicant may choose which set of criteria to meet based upon the nature of the variance request, the nature of the development proposal, and the existing site conditions.

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.

**Response:** All four variance requests are related to the DMU zone requirements for SE Main Street frontage. The project cannot satisfy the four Downtown Zone standards listed above due to the site's irregular geometry and lack of substantial frontage on SE Main Street; therefore, the project meets the economic hardship criteria outlined below.

The property is comprised of two lots. The long and narrow Tax Lot 402 is perpendicular to SE Main Street and has an ±55-foot street frontage. The much wider and more substantial Tax Lot 401, where the six-story apartment building is proposed, is ±260 feet back from SE Main Street and does not abut right-of-way. This gives the site an appearance and function similar to a flag lot.

Tax Lot 402 has a recorded Easement for Ingress, Egress, Parking and Maintenance for the benefit of Tax Lot 403 over the entire property. Essentially, it is utilized for vehicular and pedestrian connection to access Tax Lot 401, and it has been historically shared by two adjacent properties from the north and south as a driveway and parking lot.

**1. Maximum street setback along SE Main Street – Section 19.304.5.D.2(b)(2)**

Per MMC Section 19.304.5.D.2(b)(2), maximum front setback is 10 feet. As described above, the site is only 55 feet wide for the first 260 feet, and that portion of the site is used as a driveway to access Tax Lot 401, with an ingress/egress easement recorded over it. Therefore, there is physically no room for a multifamily residential building 10 feet from E. While other properties in the area have more significant frontage on SE Main Street, the subject site does not. Where the property physically allows development of a

---

multifamily structure, the proposed building is set as close to the property line as possible, as shown on the site plan.

**2. Frontage occupancy requirements – Section 19.304.5.E.2**

Per MMC Section 19.304.5.E.2, Figure 19.304-6, minimum 50 percent of site frontage must be occupied by a building. As described above, the 55-foot-wide by 260-foot-long lot is used for accessing Tax Lot 401 and is encumbered by an ingress and egress easement. This fact prohibits construction of a building on Tax Lot 402. Additionally, a multifamily building of such dimensions and configuration is not physically attainable or economically feasible.

**3. Allow off-street parking between the building and the street-facing lot line – Section 19.304.5.G.2(d)**

Per MMC Section 19.304.5.G.2(d), off-street parking cannot be located between a building and the street-facing lot line. The long and narrow Tax Lot 402 occupies the space between the street and the building. The two-way 26-foot-wide access drive and a new 5-foot sidewalk leading to the building leave only 20 feet available. The only economically reasonable use for the remaining narrow strip of site is parking. Additionally, the multifamily residential project aims to achieve as close to 1:1 parking ratio as possible. DMU zoning allows a reduction in parking standards; however, market analysis has consistently demonstrated that apartments without assigned parking do not get leased and lose value. The project provides 172 spaces for 178 units. As a result, not every unit, and not every tenant of two- and three-bedroom units will be provided with parking. Out of 172 spaces, 158 are control-accessed inside the gated garage and back surface lot. Fourteen surface parking spaces in front of the leasing office are critical for the project's marketability and will serve both the residents and potential tenants who are visiting the leasing office and touring the apartments. For the reasons outlined above, off-street parking between the building and SE Main Street is the best use of land, given its physical constraints.

**4. Open space requirement within 50 percent of setback along SE Main Street – Section 19.304.5.H.2.a**

Per MMC Section 19.304.5.H.2.a, when a building is set back from the sidewalk, at least 50 percent of the setback area must be usable open space to provide amenities for downtown visitors and residents, promote livability, and help soften the effects of built and paved areas. For reasons outlined above, the building exceeds the maximum setback requirement and is located  $\pm 270$  feet away from the sidewalk on SE Main Street. Due to the existing access easement on Tax Lot 402,  $\pm 69\%$  of the lot area is constrained by the driveway, which serves as the single vehicular access to the project, the required pedestrian walkway, and the required fire system utility services. Due to these physical property conditions, the project is not able to provide 50% of its setback as open space as only 21% of the area is unconstrained.

---

As discussed in the justification for parking variance above, the project attempts to accommodate 1:1 parking ratio and 14 surface spaces are critically important for the apartments to stay competitive in the rental market. The site plan allocates ±53% of the buildable setback space to parking and ±47% to the publicly accessible ±950-square foot plaza and landscaping. As shown on the Preliminary Landscape Plan, the conceptual design for the public plaza features a seating area, attractive landscaping with a street tree, and decorative pavers. The public plaza creates a visual pause in the urban fabric and an informal space for pedestrians to relax.

The project already far exceeds the usable open space requirement and provides premier community amenities to its residents at two clubrooms, a fitness center, the ground level and rooftop terraces with landscaping and furnishings, and the lobby/lounge area. The project provides a total of ±16,750 square feet of usable open space, including ±10,760 square feet of common usable open space and nearly 6,000 square feet of private open space, as described in detail in Section 19.508.3.G above. The ±950-square foot plaza abutting Main Street sidewalk is visually and physically accessible and welcoming to the general public working, dining, shopping, or living in downtown Milwaukie.

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

**Response:** Placing the building as shown on the preliminary plans represents the minimum variance possible to allow for reasonable economical use of the property.

c. **Impacts from the proposed variance will be mitigated to the extent practicable.**

**Response:** The intent of the application is to create desired density, building massing, and activated pedestrian frontage in the Downtown Mixed-Use zoning district. While precluded from meeting the standards related to SE Main Street due lack of sufficient frontage and irregular physical characteristics of the site, the project still contributes to the overall goals of the Downtown Zoning District code. To the extent there is an impact, it is mitigated by the following factors:

- The 178-unit six-story building demonstrates a distinct urban character due to its high density, two live/work units, and memorable northwest architectural style. Although not directly abutting SE Main Street, the project architecture still focuses on human-scale façade details, such as abundant glass storefronts, brick accents at the ground floor level, and awnings over entrances. Private balconies and shared rooftop terraces facing SE Main Street encourage an interaction between public and private, interior and exterior realm, and create “eyes on the street.”
- The ground floor public lobby and residential amenity spaces are facing SE Main Street.
- The project provides high-quality public spaces, including in excess of 12,000 square feet of usable outdoor open space.

- 
- Reduced parking quantity contributes to an active community that is bike-, transit-, and pedestrian-friendly.
  - An ±950-square-foot pedestrian plaza is proposed between the public sidewalk on SE Main Street and the off-street parking area. The proposed plaza features attractive landscaping, lighting, enhanced paving, and a seating area.
  - The building is projected to achieve a Green Building/the Earth Advantage certification.

#### **IV. Conclusion**

The required findings have been made, and this written narrative and accompanying documentation demonstrate that the application is consistent with the applicable provisions of the Milwaukie Municipal Code. The evidence in the record is substantial and supports approval of the application. Therefore, the City can rely upon this information in its approval of the applications.



## **Exhibit A: Land Use Application Forms**

---

---

**Exhibit B:**  
**Preliminary Plans and Architectural Drawings**

---

---

## **Exhibit C: Preliminary Stormwater Report**

---

## **Exhibit D: Transportation Impact Study**

---

---

## **Exhibit E: Clackamas County Assessor's Map**

---

## Exhibit F: Property Deeds

---

---

## **Exhibit G: Natural Resource Management Plan**

---

---



# Exhibit H: Mechanical Parking System Specifications

---