



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

# Application for Land Use Action

Master File #: **EXT-2022-001**

Review type\*:  I  II  III  IV  V

**CHECK ALL APPLICATION TYPES THAT APPLY:**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Amendment to Maps and/or Ordinances:<br><input type="checkbox"/> Comprehensive Plan Text Amendment<br><input type="checkbox"/> Comprehensive Plan Map Amendment<br><input type="checkbox"/> Zoning Text Amendment<br><input type="checkbox"/> Zoning Map Amendment<br><input type="checkbox"/> Code Interpretation<br><input type="checkbox"/> Community Service Use<br><input type="checkbox"/> Conditional Use<br><input type="checkbox"/> Development Review<br><input type="checkbox"/> Director Determination<br><input type="checkbox"/> Downtown Design Review<br><input type="checkbox"/> Extension to Expiring Approval<br><input type="checkbox"/> Historic Resource:<br><input type="checkbox"/> Alteration<br><input type="checkbox"/> Demolition<br><input type="checkbox"/> Status Designation<br><input type="checkbox"/> Status Deletion | <input type="checkbox"/> Land Division:<br><input type="checkbox"/> Final Plat<br><input type="checkbox"/> Lot Consolidation<br><input type="checkbox"/> Partition<br><input type="checkbox"/> Property Line Adjustment<br><input type="checkbox"/> Replat<br><input type="checkbox"/> Subdivision<br><input type="checkbox"/> Miscellaneous:<br><input type="checkbox"/> Barbed Wire Fencing<br><input type="checkbox"/> Mixed Use Overlay Review<br><input type="checkbox"/> Modification to Existing Approval<br><input type="checkbox"/> Natural Resource Review**<br><input type="checkbox"/> Nonconforming Use Alteration<br><input type="checkbox"/> Parking:<br><input type="checkbox"/> Quantity Determination<br><input type="checkbox"/> Quantity Modification<br><input type="checkbox"/> Shared Parking<br><input type="checkbox"/> Structured Parking<br><input type="checkbox"/> Planned Development | <input type="checkbox"/> Residential Dwelling:<br><input type="checkbox"/> Accessory Dwelling Unit<br><input type="checkbox"/> Duplex<br><input type="checkbox"/> Manufactured Dwelling Park<br><input type="checkbox"/> Temporary Dwelling Unit<br><input type="checkbox"/> Sign Review<br><input type="checkbox"/> Transportation Facilities Review<br><input type="checkbox"/> Variance:<br><input type="checkbox"/> Variance<br><input type="checkbox"/> Willamette Greenway Review<br><input type="checkbox"/> Other: <u>LAND USE EXTENSION</u><br><input type="checkbox"/> Use separate application forms for:<br>Annexation and/or Boundary Change <ul style="list-style-type: none"> <li>• Compensation for Reduction in Property</li> <li>• Value (Measure 37)</li> <li>• Daily Display Sign</li> <li>• Appeal</li> <li>• Appeal</li> </ul> |
|---|---|--|

**RESPONSIBLE PARTIES:**

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

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

Phone(s): **503-586-4104** Email: **mlowen@livebsl.com**

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

**APPLICANT'S REPRESENTATIVE** (if different than above): **Mark Lowen**

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

Phone(s): **503-586-4104** Email: **mlowen@livebsl.com**

**SITE INFORMATION:**

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

Comprehensive Plan Designation: Zoning: **R-3 / R-10** Size of property: **14.07**

**PROPOSAL (describe briefly):**

Applicant requests 2 year land use extension for the requirement to start construction within 2 years and to the requirement to obtain final certificate of occupancy within 4 years.

**SIGNATURE:**

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

Submitted by:  Date:

**IMPORTANT INFORMATION ON REVERSE SIDE**

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



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

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

**Type V** applications may be initiated by any individual.

**PREAPPLICATION CONFERENCE:**

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

**REVIEW TYPES:**

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

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

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

**THIS SECTION FOR OFFICE USE ONLY:**

FILE TYPE	FILE NUMBER	AMOUNT (after discount, if any)	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Master file	EXT-2022-001	\$ 1,000			<b>Materials submitted 11/09/2022</b>  <b>Payment received 2/06/2023</b>
Concurrent application files		\$			
		\$			
		\$			
		\$			
Deposit (NR only)			<input type="checkbox"/> Deposit Authorization Form received		
TOTAL AMOUNT RECEIVED: \$ 1,000			RECEIPT #:	RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):					CU-2018-003
Neighborhood District Association(s): Lake Road					
Notes: CU-2018-003 was previously extended in February 2021 with EXT-2021-001.					

# **BONAVENTURE OF MILWAUKIE**

## **Milwaukie, Oregon**

A Land Use Application for:

**Extension of Land Use Approvals**

Applicant:

**MWSH Milwaukie LLC**

Submitted:

**November 9, 2022**

Prepared by:

**Bonaventure**

## I. Applicable Project Team

### **Applicant & Property Owner**

#### **MWSH Milwaukie LLC**

3425 Boone Road SE  
Salem, OR 97317

Contact: Mark Lowen  
503-586-4104

[mlowen@livebsl.com](mailto:mlowen@livebsl.com)

### **Traffic Engineering**

#### **Kittelson & Associates, Inc.**

610 SW Alder Street, Suite 700  
Portland, OR 97205

Contact: Kristine Connolly, PE  
503.535.7433

[kconnolly@kittelson.com](mailto:kconnolly@kittelson.com)

### **Natural Resources**

#### **Pacific Habitat Services**

9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97035

Contact : John van Staveren  
503.570.0800

[jvs@pacifichabitat.com](mailto:jvs@pacifichabitat.com)

## **II. Background**

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

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

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

The worldwide COVID-19 pandemic has impacted the seniors living in communities more than others as risks increase with age and underlying health conditions such as heart disease, diabetes, or lung disease that afflict senior residents. The fourth quarter 2020 saw record low occupancy for senior housing and two-thirds of operators report losing money. As a result, the applicant and delayed the Milwaukie project.

The applicant requested and received an extension that expires on March 15, 2023. EXT2021-001

At this point MSWH Milwaukie LLC is reviving this project and is moving forward to re-start construction February 2023. The current land use approvals expire March 15, 2023, and with the current supply chain and industry wide construction delays the developer is requesting an extension to assure that the current approvals do not expire prior to the recommencing of construction on this site.

## **III. Request**

The applicant requests that the City extend:

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

Note: The applicant intends to resume construction late 1<sup>st</sup> quarter or early 2<sup>nd</sup> quarter 2023.

## **IV. Compliance with City of Milwaukie Development Code**

### **19.900 Land Use Applications**

#### **19.908 Extensions to Expiring Approvals**

##### **19.908.2 Applicability**

###### *A. Approvals Eligible for Extensions*

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

**Response:** Land use approvals are good to March 15, 2023, at least two months after this application.

##### **19.908.3 Review Process**

###### *A. General Provisions*

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

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

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

###### *B. Review Types*

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

**Response:** This application has been submitted prior to the expiration date of the approval and not more than 6 months in advance of the expiration date of March 15, 2023.

##### **19.908.4 Approval Criteria**

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

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

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

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

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

## **19.1000 Review Procedures**

### **19.1001 General Provisions**

#### **19.1001.7 Decisions**

##### *E. Expiration of Approved Decisions*

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

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

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

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

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

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

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

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

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

**Response:** The application was submitted after May 14, 2011 and approvals expire March 15, 2023 if the applicant has not obtained and paid for all necessary development permits and start construction within

2 years of land use approval. Some development permits were obtained and paid for and construction did start, however, not all necessary permits were acquired. Applicant recognizes that land use approvals shall expire without the extensions requested in this application.

## **V. Conclusions**

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





9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

**PACIFIC HABITAT SERVICES, INC**

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

November 7, 2022

**Mark Lowen, Project Manager**  
**Bonaventure**  
3425 Boone Road SE  
Salem, OR 97317

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

Dear Mark:

It is my understanding that you are seeking an extension of the City of Milwaukie's land use decision of your proposed development located at 13333 SE Rusk Rd (2S2E06AD, lots 600, 700, 900, 901). The current approval expires on March 15 2023 and you are requesting a two-year extension.

For the City to grant the extension, all of the following criteria must be satisfied.

#### 19.908.4 Approval Criteria

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

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

**CU-2018-003 (master file) - Bonaventure Senior Living**

Pacific Habitat Services, Inc.

November 7, 2022

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To address these criteria, I visited the property on November 6, 2022, to review site conditions. I can report that the assessment of natural resources that we conducted on the property is still valid as site conditions have not changed. There have also been no changes to relevant regulations that govern the site's natural resources. As such, no new analysis is warranted.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "John van Staveren". The signature is written in a cursive style with a large initial "J" and "S".

John van Staveren

Senior Professional Wetland Scientist

November 9, 2022

Project #: 23248

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

**RE: Rusk Road Senior Housing**

Dear Ms. Weigel,

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

The approved senior housing use is a relatively low trip generator and the applicant is providing mitigation for its trip impacts. The approved 2018 TIA recommended the construction of a northbound right-turn lane on SE Rusk Road at OR-224. Per the TIA, all study intersections are projected to operate well within agency mobility targets in 2019 with this mitigation in place. ODOT’s mobility target at the OR 224/Rusk Road intersection is a volume-to-capacity (v/c) ratio of 0.99 or less. Under 2019 total traffic conditions (with site development) the AM peak v/c ratio at the intersection is projected at 0.88 and the PM peak v/c ratio is projected at 0.85. One could reasonably project that an additional 6 years of growth on the projected 2019 forecast volumes would add approximately 120 AM peak hour vehicles and 137 weekday PM peak hour vehicles to the intersection (an increase of 3.66%). This growth would translate to roughly two vehicles being added to the northbound right-turn movement during each peak hour and should not measurably change the right-turn lane queuing. Given the anticipated negligible impact of 6 additional years of growth, we fully expect that intersection operations will continue to satisfy ODOT mobility standards in 2025 and beyond. Additionally, subsequent TIAs prepared for other developments in the vicinity are required to include the trips for the approved senior housing development as in-process traffic. As such, the impacts of these trips continue to be accounted for as growth and development occur.

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

Sincerely,  
KITTELSON & ASSOCIATES, INC.



Kristine Connolly, P.E.  
Associate Engineer