



CITY OF MILWAUKIE

September 27, 2023

Land Use File(s): WG-2023-001; LC-2023-001; DEV-2023-004

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on September 26, 2023.

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

Applicant(s):	WDC Properties
Location(s):	1600 SE Lava Dr
Tax Lot(s):	11E35AB00502; 00100
Application Type(s):	Willamette Greenway Conditional Use; Lot Consolidation; Development Review
Decision:	Approved with Conditions
Review Criteria:	<p>Milwaukie Municipal Code:</p> <ul style="list-style-type: none">• MMC 12: Streets, Sidewalks, and Public Places• MMC 13: Public Services <p>Milwaukie Zoning Ordinance:</p> <ul style="list-style-type: none">• MMC 19.302: High Density Residential Zone (R-HD)• MMC 19.401: Willamette Greenway• MMC 19.504: Site Design• MMC 19.505: Multi-unit Housing• MMC 19.600: Parking• MMC 19.700: Public Facility Improvements• MMC 19.905: Conditional Uses• MMC 19.1006 Type III Review
Neighborhood(s):	Historic Milwaukie

Appeal period closes: 5:00 p.m., October 12, 2023

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review by appointment between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Vera Koliass, Senior Planner, at 503-786-7653 or koliassv@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at <https://www.milwaukieoregon.gov/planning/wg-2023-001>.

This decision may be appealed by 5:00 p.m. on October 12, 2023, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

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

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Conditions of Approval

1. Conditional Use Permit

As per MMC Subsection 19.905.6, the City will issue a conditional use permit upon approval of an application to establish a conditional use (including Willamette Greenway conditional uses). The applicant must record the conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City prior to commencing operations allowed by the conditional use permit.

2. The final permit application and plans for construction improvements to the building must address the following:

- a. Final plans submitted for development permit review must be in substantial conformance with plans approved by this action, which are the plans stamped received by the City on August 11, 2023 except as otherwise modified by these conditions.

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

- b. Provide a narrative describing all actions taken to comply with these conditions of approval.
 - c. Per Finding 10, include electrical plan details that confirm compliance with MMC Subsection 19.605.5 – EV charging requirements.
 - d. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.
 - e. Final plans submitted for construction permit review must include floor plans showing the location of the interior bike racks and construction details to confirm that the racks are sufficient for tenant use.
 - f. Final plans submitted for construction permit review must include a photometric plan showing compliance with lighting standards.
3. Prior to issuance of development permits, the following must be resolved:
- a. Prior to commencement of any earth-disturbing activities, the applicant must obtain an erosion control permit from the City.
 - b. Prior to commencement of any work in the public right-of-way, the applicant must obtain a Right-of-Way permit from the City.
4. Prior to final occupancy, the following must be resolved, unless otherwise noted:
- a. Installation of parking area landscaping is required before a certificate of occupancy will be issued, unless a performance bond is posted with the City. The landscaping must be installed within 6 months thereafter or else the bond will be foreclosed and plant materials installed by the City.
 - b. Verification from a certified arborist that the proposed tree removal, preservation, and new plantings as approved have been completed as required.
 - c. Public Improvements as shown on the plans received by the City on August 11, 2023, except as otherwise modified by these conditions:
 - (1) Two new ADA ramps on the southwest corner of Lava Drive and Riverway Lane. These ramps are to be constructed in accordance with all federal guidelines and the City of Milwaukie Public Works Standards.
 - (2) One transitional ramp at the end of sidewalk on Lava Drive.
 - d. Dedication/Easement Requirements as shown on the plans received by the City on August 11, 2023, except as otherwise modified by these conditions.
 - (1) As noted in finding 7-c-1, a 10-ft wide PUE is required on both frontages.
 - e. As noted in Finding 5-c, driveway approaches must conform to the clear vision requirements noted in MMC 12.24.

- f. As per Finding 7, record the approved lot consolidation with the Clackamas County Surveyor, and provide a copy of the recorded recording instrument to the City Planning Department.
5. Expiration of Approval
 - a. Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has:
 - (1) Obtained and paid for all necessary development permits and started construction within 2 years of land use approval; and
 - (2) Passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Other requirements

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

1. The level of use approved by this action shall be permitted only after issuance of a certificate of occupancy.
2. Limitations on Development Activity.

Development activity on the site shall be limited to 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday, as provided in MMC Subsection 8.08.070(I).

3. Landscaping Maintenance.

As provided in MMC Subsection 19.606.2.E.3, required parking area landscaping must be maintained in good and healthy condition.

4. Applicant must submit an access and water supply plan as required by the Clackamas Fire District #1 for full review and approval.
5. Prior to, or concurrent with, building permit submittal, the following must be resolved:
 - a. Submit full-engineered plans for construction of all required public improvements, which must be reviewed and approved by the City of Milwaukie Engineering Department.
 - b. Obtain a right-of-way permit for construction of all required public improvements listed in these recommended conditions of approval.
 - c. Provide the city with an engineering cost estimate for all public improvements.
 - d. At the time of plan submittal, pay a plan review fee of 1.5% of the public improvements estimate.

- e. Submit a final stormwater management plan to the City of Milwaukie Engineering Department for review and approval.

The plan shall be prepared in accordance with Section 2 - Stormwater Design Standards of the City of Milwaukie Public Works Standards and the City of Portland Stormwater Management Manual. In the event the stormwater management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.

The stormwater management plan shall demonstrate that the post-development runoff does not exceed pre-development runoff, inclusive of any existing stormwater management facilities serving the development site.

6. Prior to Right-of-Way permit issuance, the following must be resolved:
 - a. A final engineer's cost estimate or final contractor's bid cost for all public improvements must be submitted and approved by Engineering.
 - b. An inspection fee equal to 5.5% of the approved engineer's estimate (less the previous 1.5% paid for plan review) is required.
 - c. Provide a payment and performance bond in the amount of 130 percent of the approved engineer's estimate or contractor's bid cost of the required public improvements.
7. Prior to final inspection and acceptance, the following must be resolved:
 - a. Provide a final approved set of electronic PDF red-lined "As Constructed" drawings to the City of Milwaukie.
 - b. Install all underground utilities, including stubs for utility service, prior to surfacing any streets.
 - c. Clear vision areas shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection.
 - d. Provide a 2-year maintenance bond in the amount of 10% of the approved engineer's estimate or contractor's bid cost of the required public improvements.
8. Applicant must comply with all applicable state laws related to archaeological artifacts found on site during construction.



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval

cc: Frank Stock, WDC properties (via email)
Britany Randall, BRAND Land Use (via email)
Gene Bolante, Studio 3 Architecture (via email)
Sarah Harris, Studio 3 Architecture (via email)
Planning Commission (via email)
Joseph Briglio, Community Development Director (via email)
Jennifer Garbely, City Engineer (via email)
Jennifer Backhaus, Engineering Tech III (via email)
Patrick McLeod, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Shawn Olson, CFD#1 (via email)
NDA(s): Historic Milwaukie (via email)
Interested Persons
Primary Land Use File(s): WG-2023-001

Exhibit 1
Findings in Support of Approval
Primary File #WG-2023-001, Lava Drive Multi-unit Development

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

1. The applicant, Britany Randall of BRAND Land Use, representing Mark Madden, WDC Properties (owner), has applied for approval for a 13-unit multi-unit housing development on the site located at 1600 SE Lava Dr. The property is in the High Density Residential Zone (R-HD). The primary land use application file number is WG-2023-001.
2. The applicant seeks approval for the residential building and site improvements, including on-site parking for 11 vehicles, lot consolidation of the two tax lots, and Willamette Greenway Review for the development.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 12: Streets, Sidewalks, and Public Places
 - MMC 13: Public Services
 - MMC 19.302: High Density Residential Zone (R-HD)
 - MMC 19.401: Willamette Greenway
 - MMC 19.504: Site Design
 - MMC 19.505: Multi-unit Housing
 - MMC 19.600: Parking
 - MMC 19.700: Public Facility Improvements
 - MMC 19.905: Conditional Uses
 - MMC 19.1006 Type III Review
4. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on September 26, 2023 as required by law.
5. MMC Title 12 Streets, Sidewalks, and Public Places
 - a. MMC Chapter 12.08 – Street & Sidewalk Excavations, Construction, and Repair
This will apply to all construction that is completed in the right of way including, but not limited to, all public utilities, accessways, and all pedestrian/bicycle facilities including those located within public sidewalk easements. The public improvement process will follow MMC 12.08.020.

A right-of-way permit is required for all frontage improvements, utility connections, accessway construction, sidewalk construction, and intersection realignment work.

As conditioned, this standard is met.

b. MMC Chapter 12.16.040 – Access Requirements and Standards

MMC 12.16.040 establishes standards for access (driveway) requirements.

(1) MMC 12.16.040.A – Access

MMC 12.16.040.A requires that all properties be provided street access with the use of an accessway.

For multi-unit residential properties of 5 or more units, accessways must be at least 100 ft from the nearest intersecting street face of curb. Accessway widths for multi-unit residential properties must be between 20 and 30-ft wide.

The proposed development includes a new 24-ft wide driveway approach over 100 ft from the nearest intersection.

As proposed, this standard is met.

c. MMC Chapter 12.24 – Clear Vision at Intersections

MMC 12.24 establishes standards to maintain clear vision areas at intersections to protect the safety and welfare of the public in their use of city streets.

The proposed driveway approaches must conform to the clear vision requirements.

As conditioned, this standard is met.

6. MMC Title 13 Public Services

a. MMC Chapter 13.32 Fee In Lieu Of Construction

MMC 13.32 allows the applicant to pay a fee rather than construction certain frontage improvements. The fee is calculated at a rate to be deemed proportional to the frontage improvements required.

Frontage improvements on Riverway Lane were deemed not feasible due to the inability to achieve proper design standards and to protect the health of the existing trees in the right-of-way.

The applicant is encouraged to pay FILOC rather than construct frontage improvements on Riverway Lane.

This standard is met.

7. MMC Title 17 Land Division

a. MMC Chapter 17.12 Application Procedure and Approval Criteria

(1) MMC Section 17.12.020 Application Procedure

MMC 17.12.020 requires that property line adjustments and lot consolidations be processed as described in Table 17.12.020. Property line adjustments that are consistent with the Oregon Revised Statutes (ORS) and Title 19 shall be processed through Type I review and any adjustment that modifies a plat

restriction shall be processed through Type II review. Lot consolidations other than replats, involving legal lots created by deed, shall be processed through Type I review.

The Planning Commission finds that the proposed lot consolidation is not a replat and involves legal lots established by deed and that the proposed boundary adjustment does not modify any known plat restriction. Therefore, the proposed lot consolidation and boundary adjustment could be processed with Type I review. As noted in Finding 4, the entire application submittal has been processed concurrently with Type III review.

(2) MMC Section 17.12.030 Approval Criteria for Lot Consolidation, Property Line Adjustment, and Replat

MMC 17.12.030 specifies the approval criteria for lot consolidations and property line adjustments.

(a) MMC Subsection 17.12.030.A.1 requires compliance with Title 17 Land Division Ordinance and Title 19 Zoning Ordinance.

As evidenced by these finding, the proposed lot consolidation meets all applicable standards of Titles 17 and 19.

(b) MMC Subsection 17.12.030.A.2 requires that the proposed change allow for reasonable development of the affected lots and not create the need for a variance of any land division or zoning standard.

The proposed lot consolidation would create a single tax lot for the proposed development. The resultant property is of adequate size for reasonable development without requiring a variance of any land division or zoning standard.

(c) MMC Subsection 17.12.030.A.3 requires that the proposed change not reduce the residential density below the minimum density requirements of the zoning district.

The subject property is not currently developed for residential use. The proposed lot consolidation would create a single vacant lot for the proposed residential development.

The Planning Commission finds that these criteria are met.

The Planning Commission finds that the proposed lot consolidation meets all applicable standards of MMC 17.12.

b. MMC Chapter 17.16 Application Requirements and Approval Criteria

MMC 17.16 establishes the submittal requirements for boundary changes and land division. For property line adjustments and lot consolidations, MMC Section 17.16.040 requires a completed application form, application fee, narrative report addressing approval criteria, scaled plan showing sufficient details of the subject properties, and deeds of the properties involved.

The applicant's submittal materials include the necessary forms and fees, a narrative that addresses all applicable approval criteria, the deed for the subject property, and a site plan that shows the proposed consolidation.

The Planning Commission finds that no additional information is required and that the proposed lot consolidation and boundary adjustment meet all applicable standards of MMC 17.16.

c. MMC Chapter 17.28 Design Standards

MMC 17.28 establishes design standards for land division and easements. In particular, MMC Section 17.28.040 establishes general design standards for lots, including standards for size, shape, compound lot line segments, and frontage.

- (1) MMC 17.28.030.A establishes that easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary.

A condition has been established that requires the formalization of a 10-ft wide Public Utility Easement along both frontages.

As conditioned, this standard is met.

- (2) MMC 17.28.040.A requires that the lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19.

As a result of the proposed lot consolidation, the resulting property would have adequate size and dimensions for development and uses allowed in the underlying R-HD zone and conform to the standards of Title 19 as described in these findings.

- (3) MMC 17.28.040.B requires that lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

As proposed, the lot consolidation results in a single rectilinear-shaped property at the corner of Lava Drive and Riverway Lane.

- (4) MMC 17.28.040.C discourages cumulative lateral changes in direction of a side or rear lot line exceeding 10% of the distance between opposing lot corners along a given lot line. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

The proposed lot consolidation would not result in any property lines with lateral changes in direction.

- (5) MMC 17.28.040.D provides that lot shape standards may be adjusted subject to Section 19.911 Variances.

No adjustments to lot shape standards are requested or required.

- (6) MMC 17.28.040.E limits double and reversed frontage lots except where essential to provide separations of residential development from railroads, traffic arteries, or adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

The existing subject property has public street frontage on two sides (Lava Drive and Riverway Lane). The proposed lot consolidation would not change the multiple frontage status.

- (7) MMC 17.28.040.F requires that required frontage be measured along the street upon which the lot takes access.

The newly consolidated vacant lot would continue to have access from Lava Drive where it has more than 220 ft of frontage.

The Planning Commission finds that the proposed lot consolidation complies with all applicable design standards of MMC 17.28.

The Planning Commission finds that the proposed lot consolidation meets all applicable standards of MMC Title 17. As conditioned, this standard is met.

8. MMC 19.302 High Density Residential Zone (R-HD)

- a. As stated in MMC 19.302.1, the high density residential zone is intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

The proposed development is a multi-unit residential building with 13 dwelling units. This is an outright permitted use under MMC 19.302.2.

- b. Table 19.302.4 establishes standards for development in the R-HD zone.

Table 19.302.4 Residential Zone R-HD Development Standards			
Standard	Required	Proposed	Staff Comment
Minimum lot size	7,000 sq ft	17,990 sq ft	Complies with standard.
Building Height	45 ft max.	32.66 ft	Complies with standard.
Setbacks			Complies with standard.
Front yard	20 ft	20'-1"	
Rear yard	15 ft	15 ft	
Street side yard	15 ft	20 ft	
Site yard	5 ft	5 ft	
Maximum lot coverage	50%	28%	Complies with standard.
Minimum site vegetation	15%	30%	Complies with standard.

Vegetation area suitable for outdoor recreation	50% of required vegetation = 1,350 sq ft	1,897 sq ft of lawn, including benches	Complies with standard.
Minimum front yard vegetation	40%	43%	Complies with standard.
Density requirements	Min. 25 units/ac = 10 units Max. 32 units/ac = 13 units	13 units	Complies with standard.

The Planning Commission finds that the applicable development standards are met.

9. MMC 19.400 Overlay Zones and Special Areas

a. MMC 19.401 Willamette Greenway Overlay Zone

MMC 19.401 establishes criteria for reviewing and approving development in the Willamette Greenway.

(1) MMC Subsection 19.401.5 Procedures

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

The construction of a new residential building and site improvements constitutes “development” as defined in MMC Subsection 19.401.4 and is subject to the conditional use review standards of MMC 19.905 and the approval criteria of MMC 19.401.6.

(2) MMC Subsection 19.401.6 Criteria

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

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

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

An urban use is described in the Willamette River Greenway Plan as a use that is part of the built environment, as opposed to uses along a river that are natural, rural, or agricultural in nature. The project area is zoned R-HD and is part of a larger developed area that includes multi-unit and single detached housing and an office building. The area is committed to urban use.

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

The development site is more than 400 feet from the riverbank at its closest point. Additionally, carports, mature vegetation, multi-story apartment buildings, single detached dwellings, and accessory structures exist between the development site and the river. The proposed building does not include a peaked roof, emulating a more historic nature. The rear of the proposed building is planned to be terraced and the site is planned to be heavily landscaped further softening the structure of the new building and enhancing the natural environment above and beyond what exists on the site today. This criterion is met.

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

The subject property is located northeast of the riverbank and more than 400 feet away. Within the immediate area of the development site, large stands of mature evergreen trees line the north side of Lava Drive. Additionally, the natural topography of property north and east of the subject property slopes upward steeply with approximately 25 feet of elevation changes leaving the subject property to sit well below adjacent sites having minimal impacts on views toward the river. Proposed landscaping on site will soften the building, enhancing the natural environment and protect views uphill, away from the river. The scale of the building is such that it will be dwarfed by the existing developments and mature vegetation within the immediate area. The terracing of the building also reduces mass, further protecting views both toward and away from the river. This criterion is met.

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

The subject property is more than 400 feet from the riverbank. A landscape plan providing more landscaping than the MMC requires is included with the submittal materials. The locations of trees and shrubs on site provides buffering and screening from the new development to developments immediately south and east of the site. The off-street parking area is proposed between the building and the river. The enhanced pedestrian connections both internally and along the public right-of-way will enhance the activity between the site and the river as there is no public sidewalk along the street frontage today. This criterion is met.

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

The subject property is more than 400 ft from the river and does not have any direct access. However, the development includes a new public sidewalk along the

site frontage, improving pedestrian access in the neighborhood. This criterion is met.

- (f) Emphasis on water-oriented and recreational uses

The subject property is more than 400 feet from the river. This criterion does not apply.

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

The subject property is not between downtown and the river. This criterion does not apply.

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

The subject property does not contain any mapped natural resource areas. This criterion does not apply.

- (i) Advice and recommendations of the Design and Landmarks Committee, as appropriate

Per MMC 19.907.8, the proposed development does not require Type III downtown design review and does not trigger review by the Design and Landmarks Committee.

- (j) Conformance to applicable Comprehensive Plan policies

The Willamette Greenway Element in the Milwaukie Comprehensive Plan includes policies related to land use, public access and view protection, and maintenance of private property. These policies include the requirement of a conditional use permit for new development and intensification of existing uses, evaluation of development impacts to visual corridors, and limitations on authorizing the unrestricted public use of private land.

The Natural Hazards Element includes policies that prohibit development in known areas of natural disasters and hazards without appropriate safeguards. The Open Spaces, Scenic Areas, and Natural Resources Element includes policies to conserve open space and protect and enhance natural and scenic resources.

The proposed development is being reviewed through the Willamette Greenway conditional use process as provided in MMC Subsection 19.401.5. The proposed development is for a 13-unit multi-dwelling residential building. The use of the site is consistent with the Housing and Residential Needs Assessment and supports the goals and policies of the city's Comprehensive Plan. The site is more than 400 feet from the top of bank and the compatibility review area of the river is 125 feet inland from the ordinary low water line. The site is designated as appropriate for urban use. The Willamette River Greenway Plan defines urban use as a use part of the built environment rather than uses along a river

which are natural, rural, or agricultural in nature. The subject property falls within the High Density Residential zone. The Milwaukie Municipal Code asserts the purpose of the R-HD zone is to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses. The subject property was previously developed with a single detached dwelling. The development directly supports the City of Milwaukie's Comprehensive Plan goals and policies related to housing, specifically livability. The site will be redeveloped with denser housing which is balanced by the enhanced landscape and pedestrian amenities. Pedestrian connections will help to improve the connectivity of the area between the river and development to the east. The site does not currently have public sidewalks. This project will include a new sidewalk along the property's entire frontage of Lava Drive. This criterion is met.

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

The proposed activity is not inconsistent with any known plans or programs of the Department of State Lands (DSL). The proposed project does not involve work below the ordinary high water (OHW) level of the Willamette River or within adjacent wetlands subject to Oregon Department of State Lands (DSL) permitting requirements under the Oregon Removal-Fill Law or state-owned aquatic lands leasing/registration programs.

- (l) A vegetation buffer plan meeting the conditions of Subsections 19.401.8.A through C

The subject property does not contain any mapped natural resource areas and is not adjacent to the river. In accordance with 19.401.8.A, the vegetation buffer is defined as the land area between the river and a location 25 feet upland from the ordinary high water line. The edge of the development site to approximately the top of bank of the river is more than 400-feet. The proposed development will have no impact on the vegetative buffer as defined. This criterion does not apply.

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

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

10. MMC Chapter 19.500 Supplementary Development Regulations
a. MMC Subsection 19.505.3 Multi-Unit Housing

MMC 19.505.3 establishes design standards for multi-unit housing, to facilitate the development of attractive housing that encourages multimodal transportation and good site and building design. The requirements of this subsection are intended to achieve the principles of livability, compatibility, safety and functionality, and sustainability. The design elements, established in MMC Subsection 19.505.3.D, are applicable to all new multi-unit housing developments with 3 or more units.

- (1) MMC Subsection 19.505.3.B states that all new multi-unit and congregate housing developments with 3 or more dwelling units on a single lot are subject to the design elements in Table 19.505.3.D.

The proposed development will have 13 dwelling units on a single lot and is considered multi-unit. The proposed development meets the applicability standards of MMC 19.505.3.B.

- (2) MMC Subsection 19.505.3.D contain standards for Multi-unit Design Guidelines.

The proposed multi-unit development is following the Design Guidelines for the Discretionary Process. The application meets the standards of this section as described in Table 19.505.3.D below.

Table 19.505.3.D		
Design Guidelines—Multi-unit Housing		
Design Element	Guideline	Findings
1. Private Open Space	<p>The development should provide private open space for each dwelling unit, with direct access from the dwelling unit and visually and/or physically separate from common areas.</p> <p>The development may provide common open space in lieu of private open space if the common open space is well designed, adequately sized, and functionally similar to private open space.</p>	<p><i>The ground floor units are proposed to have access directly to private open space which will be at grade. A portion of the ground floor open space will be a paved patio area, suitable for small outdoor furniture. The ground floor private open space will extend beyond the patios and is defined by the retaining wall along the south side of the building and proposed plantings. The second and third floor units will have access to private balconies. The balconies are screened for privacy by the proposed placement of new trees on site. The applicant is proposing both private and public open spaces on site.</i></p> <p><i>This criterion is met.</i></p>

Table 19.505.3.D Design Guidelines—Multi-unit Housing		
Design Element	Guideline	Findings
2. Public Open Space	The development should provide sufficient open space for the purpose of outdoor recreation, scenic amenity, or shared outdoor space for people to gather.	<p><i>The site design includes several pockets of outdoor public open space. Along the east side of the building, the applicant proposes to provide a picnic table and lawn area which would be usable for outdoor gathering or a small recreation space.</i></p> <p><i>This criterion is met.</i></p>
3. Pedestrian Circulation	Site design should promote safe, direct, and usable pedestrian facilities and connections throughout the development. Ground-floor units should provide a clear transition from the public realm to the private dwellings.	<p><i>As designed, a connected system of walkways would provide safe and convenient access through the site. The development includes frontage improvements to Lava Drive including a new public sidewalk along the development site. The new sidewalk will connect to onsite pedestrian paths and help to better connect individuals headed to the river from the east. To provide a clear transition from the public space to the private ground floor dwellings, the building articulates in a manner which creates "private" corridors, defining the entrances to dwelling units.</i></p> <p><i>This criterion is met.</i></p>

Table 19.505.3.D Design Guidelines—Multi-unit Housing		
Design Element	Guideline	Findings
4. Vehicle and Bicycle Parking	Vehicle parking should be integrated into the site in a manner that does not detract from the design of the building, the street frontage, or the site. Bicycle parking should be secure, sheltered, and conveniently located.	<p><i>Vehicle parking is provided on the west side of the site. Providing the parking in this location was intentional as it abuts a vehicle use/parking area for the development abutting to the west which enhances the compatibility of the development with surrounding uses. The proposed parking area has just one driveway for ingress in egress. By providing only one driveway to the street, the impact on the pedestrian spaces is less, reducing the likelihood of conflicts between pedestrians, bicycles, and vehicles. The landscaping is proposed in a manner that will buffer and soften the vehicle parking area, as shown on the landscaping plan. The applicant is proposing to provide private bicycle parking for each dwelling unit within the unit itself. Each unit will be equipped with a wall mounted bicycle rack. The racks being provided in this manner ensure bicycle security and eliminate the requirement of residents leaving their bicycles elsewhere on the premises.</i></p> <p><i>As conditioned, this criterion is met.</i></p>
5. Building Orientation and Entrances	Buildings should be located with the principal façade oriented to the street or a street-facing open space such as a courtyard. Building entrances should be well-defined and protect people from the elements.	<p><i>As shown on the site plan, the building facade is oriented toward Lava Drive and spans approximately two-thirds of the frontage. The pedestrian walkways connect the unit entrances from the building out to the street. The proposal includes a courtyard-like design with the presence of landscaping and a pedestrian network. The building entrances are defined through articulation, materials, landscaping, and pedestrian paths. The entrances are recessed providing shelter from the elements.</i></p> <p><i>This criterion is met.</i></p>

Table 19.505.3.D Design Guidelines—Multi-unit Housing		
Design Element	Guideline	Findings
6. Building Façade Design	<p>Changes in wall planes, layering, horizontal & vertical datums, building materials, color, and/or fenestration should be incorporated to create simple and visually interesting buildings</p> <p>Windows and doors should be designed to create depth and shadows and to emphasize wall thickness and give expression to residential buildings.</p> <p>Windows should be used to provide articulation to the façade and visibility into the street.</p> <p>Building facades should be compatible with adjacent building facades.</p> <p>Garage doors shall be integrated into the design of the larger façade in terms of color, scale, materials, and building style.</p>	<p><i>As described by the applicant, the building façade and design took into consideration the historic neighborhood and immediately surrounding resources and developments. The flat roof is complimentary of buildings in the vicinity and aids in retaining the views from the east and north toward the river. The front elevation of the building, facing Lava Drive, is articulated with windows, doors, recessed areas, trim, and change in materials. The combination of these design elements enhances the pedestrian scale of the building. The landscaping plans show plant placement that further accentuates the building and define entrances. The building is terraced along the south side matching the scale of adjacent development and setting the third story further from the single detached dwellings to the south.</i></p> <p><i>This criterion is met.</i></p>
7. Building Materials	<p>Buildings should be constructed with architectural materials that provide a sense of permanence and high quality, incorporating a hierarchy of building materials that are durable.</p> <p>Street-facing facades should consist predominantly of a simple palette of long-lasting materials such as brick, stone, stucco, wood siding, and wood shingles.</p> <p>Split-faced block and gypsum reinforced fiber concrete (for trim elements) should only be used in limited quantities.</p> <p>Fencing should be durable, maintainable, and attractive.</p>	<p><i>The building is proposed to be clad with a combination of contemporary, long-lasting fiber cement panels at the ground level, and horizontal lap wood siding on the upper stories. The larger panels at the ground floor will create a sense of a sturdy, human-scale base, separated from the higher floors with a wide horizontal trim band.</i></p> <p><i>This criterion is met.</i></p>

Table 19.505.3.D
Design Guidelines—Multi-unit Housing

Design Element	Guideline	Findings
<p>8. Landscaping</p>	<p>Landscaping should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water should be included. Hardscapes should be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management.</p>	<p><i>As noted elsewhere in these Findings, approximately 30% of the site is proposed to be landscaped and a preliminary landscaping plan was submitted. Additionally, the applicant has retained an arborist to evaluate the proposed tree canopy which will demonstrate compliance with all requirements. The landscaping plan demonstrates the proposed development is providing more landscape than the MMC requires.</i></p> <p><i>The locations of trees and shrubs on site is very intentional and done in a manner to provide buffering and screening from the new development to developments immediately south and east of the site. The off-street parking area is proposed between the building and the river; however, the development site is more than 400-feet from the riverbank. The enhanced pedestrian connections both internally and along the public right-of-way will enhance the activity between the site and the river as there is no public sidewalk along the street frontage today. Though the three existing trees on site are not proposed for preservation due to on site, frontage, and utility improvements, the applicant is proposing a landscape design with a mix of evergreen and conifer trees. The landscape design provides shade during the summer months and sunlight during winter months to bolster energy conservation. The mature canopy of proposed trees will help improve air quality and reduce the urban heat island effect. The site includes usable recreational space, encouraging residents to utilize the outdoor common spaces.</i></p> <p><i>This criterion is met.</i></p>

Table 19.505.3.D Design Guidelines—Multi-unit Housing		
Design Element	Guideline	Findings
9. Screening	Mechanical equipment, garbage collection areas, and other site equipment and utilities should be screened so they are not visible from the street and public or private open spaces. Screening should be visually compatible with other architectural elements in the development.	<i>The placement of equipment and enclosure areas was considered in relation to the street and public right-of-way. The recycling and trash enclosure area will be screened utilizing materials and colors similar to the building. The landscape proposed will provide additional screening and buffering of vehicle use areas and equipment.</i> <i>This criterion is met.</i>
10. Recycling Areas	Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste/recycling haulers. Recycling areas located outdoors should be appropriately screened or located so they are not prominent features viewed from the street.	<i>The recycling area will be sized appropriately to encourage residents to follow best practices and reduce garbage headed to the landfill. The recycling and trash enclosure area will be screened utilizing materials and colors similar to the building. The landscape proposed will provide additional screening and buffering to the enclosure area. The location of the enclosure is within a relatively close proximity to the dwelling units providing convenient access to residents. A complete pedestrian path will connect from the building to the recycling area which will be free from obstructions and elevated from vehicle use areas.</i> <i>This criterion is met.</i>

Table 19.505.3.D Design Guidelines—Multi-unit Housing		
Design Element	Guideline	Findings
11. Sustainability	<p>Development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements should be incorporated to increase occupant health and maximize a building's positive impact on the environment.</p> <p>When appropriate to the context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.</p>	<p><i>As stated in the application narrative, the applicant believes incorporating sustainable design and building practices is crucial for creating resilient communities. Though the three existing trees on site are not proposed for preservation due to on site, frontage, and utility improvements, the applicant is proposing a landscape design with a mix of evergreen and conifer trees. The landscape design provides shade during the summer months and sunlight during winter months to bolster energy conservation. The mature canopy of proposed trees will help improve air quality and reduce the urban heat island effect. The site includes usable recreational space, encouraging residents to utilize the outdoor common spaces. The applicant is committed to utilizing environmentally conscious construction practices focused on minimizing the carbon footprint and waste generation during construction. The recycling area will be sized appropriately to encourage residents to follow best practices and reduce garbage headed to the landfill. The design includes a robust pedestrian network and bicycle parking, encouraging alternate modes of transportation. The building is oriented in a manner that provides a long span facing south allowing for optimal solar placement should solar be utilized in the future on the building.</i></p> <p><i>This criterion is met.</i></p>

Table 19.505.3.D Design Guidelines—Multi-unit Housing		
Design Element	Guideline	Findings
12. Privacy Considerations	Development should consider the privacy of, and sight lines to, adjacent residential properties, and should be oriented and/or screened to maximize the privacy of surrounding residences.	<i>Topography, building orientation, and window placement provide screening to properties adjacent to the north, west, and east of this site. The applicant elected to be more mindful and considerate to existing single detached residential development abutting to the south. To maximize privacy from the development site to the south, the applicant placed windows in a manner which are offset from the windows of the abutting home. Trees have been placed in front of windows providing further screening and the building is terraced in a manner that offsets the third story from the southern property line.</i> This criterion is met.
13. Safety	Development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design (CPTED): <ul style="list-style-type: none"> • Natural Surveillance • Natural Access Control • Territorial Reinforcement 	<i>Site safety and security within the proposed design of the site has been considered. The common open space has been designed to encourage residents to gather, have social interactions, and create a sense of ownership. The common areas will be well maintained. Well maintained and activated spaces promote surveillance and prevent crime. The site will be well lit along pedestrian paths and parking areas enhancing safety of these spaces and discouraging vehicle related crimes. The site will be maintained in good order through regular maintenance preventing the appearance of neglect or disrepair which could attract nefarious activity. Visual surveillance is possible to all common areas from the building on all sides. The implementation of these items enhances site safety and security and the overall quality of living for residents.</i> This criterion is met.

The Planning Commission finds that the discretionary multi-unit design guidelines have been met.

11. MMC Chapter 19.600 Off-Street Parking and Loading

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

a. MMC Section 19.602 Applicability

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

Per Oregon Administrative Rules (OAR) 660-012-0012 and 660-12-0440, which relate to Climate-Friendly and Equitable Communities (CFEC) rulemaking, the City is prohibited from mandating minimum off-street vehicular parking quantity requirements because of the subject property's proximity to a TriMet bus stop. However, all other provisions of MMC 19.600 may still apply.

The applicant is proposing to develop the subject property, which is currently vacant, as a 13-unit multi-unit residential development and a parking area. Although the CFEC-related limitations noted above prevent the implementation of minimum off-street vehicular parking quantity requirements, the Planning Commission finds that the proposal constitutes the development of a vacant site and that compliance with the other applicable sections of MMC 19.600 is required.

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

b. MMC Section 19.605 Vehicle Parking Quantity Requirements

(1) MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand. As per the CFEC-related limitations noted above, the City is prohibited from mandating minimum off-street vehicular parking quantity requirements because of the subject property's proximity to frequent transit provided by TriMet. However, maximum off-street vehicular parking limitations still apply. Additionally, off-street vehicular parking minimums are used to determine the required quantity of off-street bicycle parking per MMC Section 19.609 and for that reason are addressed below.

The proposed multi-unit development includes 13 dwelling units. As per MMC Table 19.605.1, the maximum number of spaces is 2 spaces per unit. As proposed, the development would provide 11 surface parking spaces.

The Planning Commission finds that this standard is met.

(2) MMC Subsection 19.605.5 establishes standards related to electric vehicle (EV) charging requirements.

(a) MMC Subsection 19.605.5.B Multi-Unit and Mixed-Use Residential Parking

For buildings with 5 or more dwelling units where off-street parking spaces are provided, choose one of the following:

1. All (100%) of the parking spaces provided must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger; or
2. At least 40% of parking spaces provided must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 10% of parking spaces provided must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 40% minimum requirement.

At the time of building permit submittal, the applicant will provide an electrical plan demonstrating compliance with one of the options identified above.

As conditioned, the Planning Commission finds that this standard is met.

c. MMC Section 19.606 Parking Area Design and Landscaping

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

(1) MMC Subsection 19.606.1 Parking Space and Aisle Dimension

MMC 19.606.1 establishes dimensional standards for required off-street parking spaces and drive aisles. For 90°-angle spaces, the minimum width is 9 ft and minimum depth is 18 ft, with a 9-ft minimum curb length and 22-ft drive aisles. Parallel spaces require with 22-ft lengths and a width of 8.5 ft.

The applicant has submitted a parking plan that satisfies these dimensional standards.

(2) MMC Subsection 19.606.2 Landscaping

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

(a) MMC Subsection 19.606.2.C Perimeter Landscaping

In all but the downtown zones, perimeter landscaping areas must be at least 6 ft wide where abutting other properties and at least 8 ft wide where abutting the public right-of-way. At least 1 tree must be planted for every 30 lineal ft of landscaped buffer area, with the remainder of the buffer planted with grass, shrubs, ground cover, mulch, or other landscaped treatment. Parking areas adjacent to residential uses must provide a continuous visual screen from 1 to 4 ft above the ground to adequately screen vehicle lights.

The proposed parking area abuts the parking area for the adjacent development to the west. To provide parking spaces and meet minimum development standards for the proposed building, the applicant proposes a perimeter landscaped area of 5.5 ft rather than the required 6 ft. The perimeter is proposed to be fully landscaped with both shrubs and trees as required. The remaining perimeter areas meet the minimum width of 6 ft.

MMC 19.606.2.C.1 allows the Planning Manager to reduce the required width of a perimeter landscaping area. The Planning Commission finds that it is reasonable to reduce the western perimeter area by six inches. This standard is met.

(b) MMC Subsection 19.606.2.D Interior Landscaping

At least 25 sq ft of interior landscaped area are required for each parking space. Planting areas must be at least 120 sq ft in area, at least 6 ft in width, and dispersed throughout the parking area. For landscape islands, at least 1 tree shall be planted per island, with the remainder of the buffer planted with grass, shrubs, ground cover, mulch, or other landscaped treatment.

The proposed development includes 11 surface parking spaces, for which a minimum of 275 sq ft of interior landscaping is required. As proposed, the site plan provides approximately 314 sq ft of interior landscaping. These areas are the planted areas adjacent to the proposed public sidewalk, surrounding the trash enclosure, and the stormwater planting area.

This standard is met.

(c) MMC Subsection 19.606.2.E Other Parking and Landscaping Provisions

Preservation of existing trees in off-street parking areas is encouraged and may be credited toward the total number of trees required. Parking area landscaping must be installed prior to final inspection, unless a performance bond is posted with the City. Required landscaping areas may serve as stormwater management facilities, and pedestrian walkways are allowed within landscape buffers if the buffer is at least 2 ft wider than required by MMC 19.606.2.C and 19.606.2.D.

The proposed landscaping plan plans submitted include the required shade trees for the parking area.

This standard is met.

As conditioned, the Planning Commission finds that the applicable standards of MMC 19.606.2 are met.

(3) MMC Subsection 19.606.3 Additional Design Standards

MMC 19.606.3 establishes various design standards, including requirements related to paving and striping, wheel stops, pedestrian access, internal circulation, and lighting.

(a) MMC Subsection 19.606.3.A Paving and Striping

Paving and striping are required for all required maneuvering and standing areas, with a durable and dust-free hard surface and striping to delineate spaces and directional markings for driveways and accessways.

The plans submitted indicate that all parking areas will be paved and striped as required.

This standard is met.

(b) MMC Subsection 19.606.3.B Wheel Stops

Parking bumpers or wheel stops are required to prevent vehicles from encroaching onto public rights-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.

The applicant's narrative indicates that extended curbs will be utilized to protect pedestrian and landscaped areas from vehicle overhang.

This standard is met.

(c) MMC Subsection 19.606.3.C Site Access and Drive Aisles

Accessways to parking areas shall be the minimum number necessary to provide access without inhibiting safe circulation on the street. Drive aisles shall meet the dimensional requirements of MMC 19.606.1, including a 22-ft minimum width for drive aisles serving 90°-angle stalls and a 16-ft minimum width for drive aisles not abutting a parking space. 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. Driveways and on-site circulation shall be designed so that vehicles enter the right-of-way in a forward motion.

The development proposes one point of vehicle access onto the site. This preserves on street parking and reduced the opportunities for vehicular and pedestrian conflicts along the sidewalk, promoting alternate modes of transportation. The proposed driveway location was placed in consideration with the provisions of MMC Subsection 12.16. The drive aisle meets the minimum width standard for two-way traffic through the parking area. In no case will any vehicle be forced to back out into a street. There is enough room behind all parking stalls which would allow vehicles to enter and exit the street in a forward motion.

This standard is met.

(d) MMC Subsection 19.606.3.D Pedestrian Access and Circulation

Pedestrian access shall be provided so that no off-street parking space is farther than 100 ft away, measured along vehicle drive aisles, from a building entrance or a walkway that is continuous, leads to a building entrance, and meets the design standards of MMC Subsection 19.504.9.E.

As proposed, the off-street parking area is relatively small. As demonstrated, there is a wide drive aisle proposed to be double loaded with vehicle parking on each side. In no case will any parking stall exceed the distance requirement to the onsite pedestrian walkways. The walkways are continuous, free of any obstructions, no less than 5 feet in width, and will lead pedestrians to the building entrances, common open spaces, and public sidewalk.

This standard is met.

(e) MMC Subsection 19.606.3.E Internal Circulation

The Planning Director has the authority to review the pedestrian, bicycle, and vehicular circulation of the site and impose conditions to ensure safe and efficient on-site circulation. Such conditions may include, but are not limited to, on-site signage, pavement markings, addition or modification of curbs, and modification of drive aisle dimensions.

The Planning Commission has reviewed the proposed circulation plan and concluded that it provides safe and efficient on-site circulation.

This standard is met.

(f) MMC Subsection 19.606.3.F Lighting

Lighting is required for parking areas with more than 10 spaces and must have a cutoff angle of 90° or greater to ensure that lighting is directed toward the parking surface. Lighting shall not cause a light trespass of more than 0.5 footcandles measured vertically at the boundaries of the site and shall provide a minimum illumination of 0.5 footcandles for pedestrian walkways in off-street parking areas.

The applicant will submit a lighting plan at the time of permit review. A condition requiring a photometric plan showing compliance to be submitted during permit review has been included.

As conditioned, this standard is met.

As conditioned, the Planning Commission finds that the applicable standards of MMC 19.606.3 are met.

As conditioned, the Planning Commission finds that the applicable design and landscaping standards of MMC 19.606 are met.

d. MMC Section 19.608 Loading

MMC 19.608 establishes standards for off-street loading areas and empowers the Planning Director to determine whether loading spaces are required. 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. For residential development with fewer than 50 dwelling units on a site that abuts a local street, no loading space is required; otherwise, 1 space is required.

The proposed multi-unit development includes 13 units in 1 building.

The Planning Commission finds that this standard is not applicable and that no loading spaces are required.

e. MMC Section 19.609 Bicycle Parking

MMC 19.609 establishes standards for bicycle parking for new development of various uses. Multi-unit residential development with 4 or more units shall provide 1 space per unit. When at least 10 bicycle spaces are required, a minimum of 50% of the spaces shall be covered and/or enclosed. MMC Subsection 19.609.3.A provides that each bicycle parking space shall have minimum dimensions of 2 ft by 6 ft, with 5-ft-wide aisles for maneuvering. MMC Subsection 19.609.4 requires bike racks to be located within 50 ft of a main building entrance.

The proposed multi-unit development has 13 units, which equals a minimum of 13 bicycle spaces required, all of which must be covered and/or enclosed. The application materials indicate that wall-mounted bicycle racks will be provided within each dwelling unit. The submitted plans do not include details of the bike rack dimensions, so a condition has been established to require more detailed information sufficient to determine that the applicable standards are met.

As conditioned, the Planning Commission finds that this standard is met.

f. MMC Section 19.610 Carpool and Vanpool Parking

MMC 19.610 establishes carpool parking standards for new industrial, institutional, and commercial development. The number of carpool/vanpool parking spaces shall be at least 10% of the minimum amount of required parking spaces. Carpool/vanpool spaces shall be located closer to the main entrances of the building than other employee or student parking, except ADA spaces and shall be clearly designated with signs or pavement markings for use only by carpools/vanpools.

The proposed development is a multi-unit development.

This standard does not apply.

As conditioned, the Planning Commission finds that the proposed development meets all applicable standards of MMC 19.600.

12. MMC Chapter 19.700 Public Facility Improvements

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

a. MMC Section 19.702 Applicability

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

The applicant proposes to develop a multi-unit residential community on a lot with an existing single-unit residential building. The proposed new construction and intensification of use triggers the requirements of MMC 19.700.

b. MMC Section 19.703 Review Process

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

The applicant had a preapplication conference with City staff on March 3, 2023, prior to application submittal.

The proposed development does not trigger a Transportation Impact Study or a Transportation Facilities Review.

This condition is met.

c. MMC Section 19.705 Rough Proportionality

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

The City Engineer concluded that the increase in trips caused by this development required the intersection of Riverway Lane, Lava Drive, and Waverly Court to be realigned. This realignment is outlined in finding 12-d.

No further mitigation measures are required beyond the proposed frontage improvements and intersection realignment.

As proposed, this development is consistent with MMC 19.705.

d. MMC Section 19.708 Transportation Facility Requirements

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

(1) MMC Subsection 19.708.1 General Street Requirements and Standards

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

Streets should generally be aligned to intersect at right angles. The City Engineer determined that the intersection of Riverway Lane, Lava Drive, and Waverly Court required realignment. The stop bar and stop sign for eastbound traffic on Lava Drive shall be relocated to better align with Waverly Ct.

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

(2) MMC Subsection 19.708.2 Street Design Standards

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

A 5-ft wide Right-of-Way dedication and a 5-ft wide sidewalk easement will be required along the entire frontage of Lava Drive.

Frontage improvements along Lava Drive include (but are not limited to): 3-5-ft wide landscape strips, a 5-ft wide sidewalk (within an easement), and new curb and gutter. Street trees are required to be planted at a minimum of every 40 ft.

As noted in finding 6-a, payment of FILOC is recommended for the entire Riverway Lane frontage.

These improvements must be constructed in accordance with the Public Works Standards and the Milwaukie Street Tree List and Planting Guidelines.

As proposed, this standard is met.

(3) MMC Subsection 19.708.3 Sidewalk Requirements and Standards

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

The proposed development includes new sidewalk along the entire Lava Drive frontage.

A condition has been established to require two new ADA ramps at the southwest corner of Lava Drive and Riverway Lane to allow pedestrian access to continue north on Waverly Court and east on Lava Drive. A transition ramp is required at end of sidewalk on Lava Drive to the west.

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

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

13. MMC Section 19.905 Conditional Uses

MMC 19.905 establishes regulations for conditional uses, including standards for establishing uses identified as conditional uses in any overlay zones. As noted in Finding 8-a and as provided in MMC Subsection 19.401.5.A, activities within the Willamette Greenway zone that trigger Willamette Greenway review are subject to the provisions of Section 19.905 as conditional uses.

a. MMC Subsection 19.905.3 Review Process

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

As noted in Finding 8-a, the proposed activity is development as defined for the Willamette Greenway zone and so requires review as a conditional use.

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

b. MMC Subsection 19.905.4 Approval Criteria

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

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

The existing property is a vacant residentially-zoned site in the R-HD zone. The site's location and size are suitable to accommodate the development on a multi-unit residential development.

The Planning Commission finds that this standard is met.

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

The proposed improvements are designed to be compatible with existing development in the neighborhood, including a new public sidewalk, a tiered building design, and robust landscaping. The proposed improvements incorporate design elements intended to minimize impacts on adjacent residential development, particularly to the south.

The Planning Commission finds that this standard is met.

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

The applicant has proposed a design that minimizes and mitigates impacts. Proposed mitigation measures include: robust landscape planting and strategic placement, opaque screening, usable open space, and frontage improvements offering better pedestrian connections to the river. Additional mitigation measures can be seen thorough the design of the building. The third floor is offset from the second floor along the south side, providing a larger setback buffer to residential uses abutting to

the south. A flat roof is proposed to maintain river views for properties uphill to the north. All identified impacts have been mitigated to the greater extent practicable.

The Planning Commission finds that this standard is met.

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

With the exception of when the site is under construction, the proposed residential development use will not have any nuisance impacts. During construction, best practices will be utilized to minimize impacts to adjacent properties including reasonable working hours and maintaining a tidy construction site. Upon completion of construction and occupancy of the building, there will not be unreasonable nuisances.

The Planning Commission finds that this standard is met.

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

As demonstrated by these Findings, the proposed project will comply with all applicable requirements of the base R-HD zone and the Willamette Greenway overlay zone.

The Planning Commission finds that this standard is met.

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

The proposed development is a multi-unit residential development in the R-HD zone, which is in the High Density land use designation in the Comprehensive Plan. Multi-unit residential development is entirely consistent with this land use designation.

The development site is more than 400 ft from the Willamette River and does not currently provide any significant views or public access to the river. However, the proposed development includes a public sidewalk, which will enhance public access to the river via public right-of-way connections. Views to the river are not impacted, as the proposed building is designed with a flat roof and tiered floors so it will not impede views from neighboring developments.

GOAL 4.6 - PUBLIC ACCESS AND VIEW PROTECTION

Provide, improve, and maintain public access and visual access to the lands and water that make up the Willamette River Greenway.

POLICY 4.6.1 Inventory existing and encourage new public access and views within the greenway and to the Willamette River, through dedications, easements, acquisitions or other means.

POLICY 4.6.2 Undertake efforts to make existing points of public access more accessible and usable through maintenance and signing.

The Planning Commission finds that this standard is met.

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

The project site is not presently served by public transportation on Lava Drive, but robust transit connections are available downtown within a reasonable walking/biking distance. The proposed project site has access to public utilities necessary for the proposed project amenities including water, sewer, and electricity.

The Planning Commission finds that this standard is met.

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

- c. MMC Subsection 19.905.5 Conditions of Approval

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

The Planning Commission finds that with conditions, the proposed development adequately mitigates impacts to adjacent uses.

- d. MMC Subsection 19.905.6 Conditional Use Permit

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

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

14. The application was referred to the following departments and agencies on August 16, 2023:

- Milwaukie Building Division
- Milwaukie Engineering Department
- Milwaukie Public Works Department
- Clackamas County Fire District #1
- Historic Milwaukie and Island Station Neighborhood District Association
Chairperson and Land Use Committee
- Oregon Marine Board
- Oregon Department of Fish and Wildlife

- Division of State Lands – Wetlands and Waterways
- Oregon Parks and Recreation Department
- North Clackamas Parks and Recreation District
- Milwaukie Parks and Recreation Board
- ODOT Region 1
- TriMet
- Clackamas County Engineering Review

Notice of the public hearing was mailed to owners and residents of properties within 300 ft of the subject property on September 6, 2023.