



March 2, 2017

Land Use File(s): CU-2016-001, NR-2016-001,  
TFR-2016-001, VR-2016-003

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on February 28, 2017.

**Applicant:** Hans Thygeson  
**Location(s):** 5945 & 5965 SE Harmony Rd  
**Tax Lot(s):** 1S2E31D, tax lots 1800 and 1900  
**Application Type(s):** Conditional Use, Natural Resource Review,  
Transportation Facility Review, Variance Request  
**Decision:** Approved with Conditions  
**Review Criteria:** Milwaukie Zoning Ordinance:

- Section 19.310 Business Industrial Zone (B-I)
- Subsection 19.501.2 Yard Exceptions
- Subsection 19.504.6 Transition Area Measures
- Section 19.402 Natural Resources
- Chapter 19.600 Off-Street Parking and Loading
- Chapter 19.700 Public Facility Improvements
- Section 19.905 Conditional Uses
- Section 19.911 Variances
- Section 19.1006 Type III Review

**Neighborhood(s):** NA (Milwaukie Business Industrial)

**Appeal period closes: 5:00 p.m., March 17, 2017**

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 between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Brett Kelter, Associate Planner, at 503-786-7657 or [kelterb@milwaukieoregon.gov](mailto:kelterb@milwaukieoregon.gov), if you wish to view this case file.

**This decision may be appealed by 5:00 p.m. on March 17, 2017, which is 15 days from the date of this decision.**<sup>1</sup> 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

<sup>1</sup> As per MMC Section 19.1010, if the 15<sup>th</sup> 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.

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](mailto: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**

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, Hans Thygeson, has applied for approval to develop a mini-storage facility at 5945 and 5965 SE Harmony Rd. This site is in the Business Industrial (B-I) Zone. The land use application master file number is CU-2016-001, with accompanying file numbers NR-2016-001, TFR-2016-001, and VR-2016-003.

A similar proposal by the applicant received conditional use approval in August 2008 (master file #CU-07-02). Per the applicant's request in early 2009, the land use approval was extended by 1 year (until February 27, 2010) but expired after no further action was taken to develop the site.

2. The subject property is comprised of two tax lots. The smaller lot (5945 SE Harmony Rd) was previously developed with a single-family house that was demolished in 2014. The larger lot (5965 SE Harmony Rd) includes a vacant light-industrial building and also previously included a single-family house that was demolished in 2014. The proposed development will remove all pre-existing development and construct two buildings (approximately 25,600 sq ft and 13,600 sq ft in size) to establish 1,005 enclosed mini-storage units, a conditional use in the B-I zone. Off-street parking and loading spaces will be provided on the subject property.

Ingress to the site will be provided through a shared right-in-only driveway from Harmony Road. Egress from the site will be through the same shared driveway that allows right-only turns onto Harmony Road.

The subject property includes Minthorn Creek and three small delineated wetlands bisecting the site, which are designated Water Quality Resource (WQR) and Habitat Conservation Area (HCA). The two proposed buildings would be separated by the creek, and the proposed development includes construction of a bridge to provide access to the building on the northern portion of the site. Mitigation plantings will be located within the WQR on the southern creek bank, where there is currently less vegetative cover.

The proposal includes a variance request to reduce the required front yard setback for the building on the southern portion of the site (at the Harmony Road frontage) from 20 ft to 15 ft (a 25% reduction).

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.310 Business Industrial zone (B-I)
  - MMC Subsection 19.501.2 Yard Exceptions
  - MMC Subsection 19.504.6 Transition Area Measures
  - MMC Section 19.402 Natural Resources
  - MMC Chapter 19.600 Off-Street Parking and Loading
  - MMC Chapter 19.700 Public Facility Improvements

- MMC Section 19.905 Conditional Uses
  - MMC Section 19.911 Variances
  - MMC Section 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 opened on November 22, 2016, as required by law, and was continued to December 13, 2016, to January 10, 2017, to February 14, 2017, and again to February 28, 2017.
  5. MMC Section 19.310 Business Industrial zone (B-I)

MMC 19.310 establishes standards for the Business Industrial (B-I) zone, which is intended to provide a mix of clean, employee-intensive industrial and office uses. As established in MMC Subsection 19.310.5.B.2, mini-storage facilities that lease storage space to the general public are allowed in the B-I zone as a conditional use.

a. MMC Subsection 19.310.5 Conditional Uses

MMC Subsection 19.310.5.A allows for the establishment of conditional uses in the B-I zone, subject to the review process outlined in MMC Section 19.905 Conditional Uses. In addition to meeting the approval criteria provided in MMC 19.905, a conditional use in the B-I zone must also demonstrate compliance with the following criteria:

- (1) Will have minimal adverse impact on the appropriate development of uses permitted outright on abutting properties and the surrounding area, considering location, size, design, and operating characteristics of the use.

*To the west, the subject property is adjacent to existing development on several lots within the International Way Business Center (B-I zone), a combination of warehousing, light-industrial, and commercial office uses. Adjacent to the east is an existing multifamily residential development in the R-5 zone. To the north is right-of-way for the Union Pacific Railroad, Railroad Avenue, and single-family residential development (primarily zoned R-7) within the Linwood neighborhood. To the south is Harmony Road and an electrical substation, as well as additional warehousing or light-industrial development in unincorporated Clackamas County.*

*The proposed development consists of two buildings designed for commercial mini-storage use, with associated off-street parking, landscaping, and a bridge over Minthorn Creek to connect the northern and southern halves of the site. As discussed in Finding 6, a condition has been established to require the proposed development to establish and maintain a transition area between it and the residential areas to the north and east as required by MMC Subsection 19.504.6, to mirror the setback requirements of those adjacent areas and provide landscape screening to minimize impacts.*

*As proposed, the facility will provide 1,005 enclosed mini-storage units that will be accessible to clients 7 days a week between the hours of 6:00 a.m. and 9:00 p.m., with the accompanying sales office typically open Monday through Friday from 9:00 a.m. to 6:00 p.m. Access to the site will be provided through shared driveways on the adjacent properties to the west. According to the International Transportation Engineers (ITE) manual on trip generation, a mini-storage facility the size of the proposed development is estimated to generate approximately 250 total trips per day.*

*The hours of operation and the average number of daily trips to and from the site are consistent with the existing B-I zone uses on the adjacent properties to the west, which include Day Wireless Systems, Breakside Brewery, Gores Construction, Cook Security*

*Group, TPR Industrial, and Aramark Refreshments. The proposed new buildings and the associated parking areas are generally oriented away from the adjacent apartment complex to the east and will have little to no effect on that site. As discussed in Finding 5-b(2), the siting and design of the proposed buildings will ensure that the proposed development is compatible with existing development in the surrounding area.*

- (2) Is compatible with the character and scale of uses allowed within the district and on a site no larger than necessary for the use and operational requirements of the use.

*The proposed development includes two buildings of three stories each, with a maximum height of approximately 42 ft. These aspects are compliant with the height restriction standard for the B-I zone, which is three stories or 45 ft. The subject property is approximately 130,000 sq ft (2.98 acres), which allows adequate space to locate the two proposed buildings, associated off-street parking and loading areas, required landscaping, and a vegetated corridor along the creek and wetland areas in the middle of the site.*

- (3) Will provide vehicular and pedestrian access, circulation, parking, and loading areas which are compatible with uses on the same site or adjacent sites.

*As discussed in Finding 8, the proposed development includes off-street parking and loading areas sufficient to meet the standards of MMC Chapter 19.600.*

- (4) Is a needed service/product in the district, considering the mix of potential clientele and the need to maintain high-quality development in a highly visible area.

*The applicant's narrative indicates that, according to the market analysis prepared in conjunction with the 2007-08 submittal of this proposal, there is a demand for approximately 450,000 sq ft of storage in the area, considering both residential and business needs. The proposed development will provide nearly 100,000 sq ft of consumer-oriented storage. Located near Highway 224 near the intersections of International Way and Lake Road/Harmony Road, the subject property is in a well-traveled corridor.*

*As conditioned, the Planning Commission finds that the proposed development is compliant with the criteria established in MMC 19.310.5.A for conditional uses in the B-I zone.*

b. MMC Subsection 19.310.6 Standards

MMC 19.310.6 establishes the standards for development in the B-I zone. Table 1 illustrates how the proposed development meets the applicable standards of MMC 19.310.6.

<b>Table 1 Development Standards for Business Industrial (B-I) Zone</b>			
<b>Standard</b>	<b>Minimum Requirement</b>	<b>Proposed</b>	<b>Staff Comment</b>
1. Minimum Lot Size	None	Existing lot is approximately 129,700 sq ft	Complies with standard
2. Front Yard	20 ft (in addition to requirements of MMC 19.501.2.A—see Finding 5-b(1))	15 ft	Applicant has requested a variance to this standard (see Finding 11)
3. Side Yard	West side = 0 ft East side = 20 ft (as per MMC 19.504.6—see Finding 6)	12 ft (west side) 20 ft (east side)	Complies with standard
4. Rear Yard	10 ft (except as per MMC 19.501.2.A and MMC 19.504.6—see Findings 5-b(1) and 6, respectively)	10 ft	Complies with standard
5. Off-Street Parking & Loading	24 spaces (at ratio of 1 space per 45 storage units, plus 1 per employee of largest shift)	27 spaces	Complies with standard (see Finding 8 for discussion of additional off-street parking and loading requirements)
6. Site Access	1 curb cut per 100 ft of frontage (for conditional uses)	1 curb cut (shared access) (Access to Harmony Road shared with adjacent properties—existing accessway will be widened to 55 ft)	Complies with standard
7. Height Restriction	Max. 3 stories or 45 ft (whichever is less)	3 stories, 42 ft (both buildings)	Complies with standard
8. Landscaping	15% of site	20% (26,000 sq ft)	Complies with standard
9. Screening & Outside Storage	Allowed with screening	No outside storage proposed	Not Applicable
10. Building Siting & Design	Miscellaneous (see Finding 5-b(2))	Siting and design minimize impacts to natural resources, locate retail office near primary access, and provide adequate aesthetics.	Complies with standard (see Finding 5-b(2))
11. Nuisances	No off-site impacts (dust, odor, fumes, noise, etc.)	Use does not involve manufacturing and will not present nuisances.	Complies with standard

(1) MMC Subsection 19.501.2 Yard Exceptions

MMC Table 19.501.2.A establishes additional yard requirements for properties fronting on specific streets. The additional yards are measured from the center line of the right-

of-way to the closest point of any building, plus the yard requirements of the underlying zone.

*The subject property has frontage on Harmony Road to the south, which requires an additional yard setback of 40 ft measured from the center line, plus the 20-ft front yard setback requirement of the B-I zone. The Harmony Road right-of-way width varies from approximately 120 ft at the west end of the subject property's frontage to 75 ft at the east. At the eastern end, the right-of-way width is less than 80 ft for only about 15 ft; the 20-ft required side yard along the eastern property line will prevent any portion of the new building from being in a position where the required additional yard setback from Harmony Road would apply.*

*Additionally, the applicant has requested a Type II variance to reduce the B-I zone front yard setback requirement of 20 ft down to 15 ft. As discussed in Finding 11, the variance request supersedes the additional yard setback requirement of MMC 19.501.2.A for the Harmony Road frontage.*

*The subject property also has frontage on the Railroad Avenue right-of-way to the north, which requires an additional yard setback of 30 ft measured from the center line, plus the 20-ft rear yard setback requirement of the B-I zone. The Railroad Avenue right-of-way (including the Union Pacific Railroad trackway) is approximately 120 ft wide and allows the subject property to easily meet the additional 30-ft setback requirement of MMC Table 19.501.2.A.*

*As per the approved variance request for the front yard setback, the Planning Commission finds that the additional yard standards of MMC 19.501.2.A are met.*

(2) MMC Subsection 19.310.6.J Building Siting and Design

MMC 19.310.6.J establishes seven principles for building and siting design in the B-I zone:

- (a) Sites shall be developed to the maximum extent practicable, so that buildings have solar access and utilize other natural features in their design.

*The proposed development will maximize its use of the site area with new buildings and parking areas on the northern and southern portions of the property, leaving Minthorn Creek and the associated wetlands in the middle. Disturbance to the designated WQR and HCA will be limited to the area for the new bridge that will connect the two halves of the site as well as a few square feet along the edge of the northern parking area.*

*As proposed, both new buildings have flat roofs and are situated on the site in such a way that they will be available for solar equipment if so desired in the future. The sales office in particular, which will be located within the south end of the southern building, will benefit from solar access.*

- (b) Assure that building placement and orientation and landscaping allow ease of security surveillance.

*As proposed, the placement and orientation of the two buildings place the sales office near the primary site access, which is convenient for users and enhances surveillance and security of the site.*

- (c) Design buildings with shapes, colors, materials, textures, lines, and other architectural design features which enhance the character of the district and

complement the surrounding area and development, considering, but not limited to, the following techniques:

- (i) Use color, materials, and architectural design to visually reduce the scale and impact of large buildings.

*As proposed, the new buildings will be constructed with plain and split-faced concrete masonry unit (CMU) block with standing seam metal siding, all in earth-tone colors (tan and brown). The elevations that face the public rights-of-way to the north and south include window treatments that enhance the aesthetic appearance of each building. The east elevations of both buildings present large expanses of façade (approximately 7,200 sq ft for the southern building and approximately 6,000 sq ft for the northern building) to the existing multifamily residential development on the adjacent property to the east. However, the facades are articulated with a combination of windows, horizontal and vertical design elements, and finish treatments.*

- (ii) Use building materials and features that are durable and consistent with the proposed use of the building, level of exposure to public view, and exposure to natural elements.

*As proposed, the new buildings are similar in style and materials to other like buildings in the B-I zone. Where the new buildings are more visible to the adjacent public rights-of-way and the primary access point, the design includes a higher percentage of window area, which provides additional articulation for the facades and reduces the visual impact of blank walls*

- (d) To the extent possible, screen or mask roof-mounted mechanical equipment, except solar collection apparatus, from view.

*As proposed, no mechanical equipment will be located on any rooftops. This standard is not applicable.*

- (e) Orient major service activity areas (e.g., loading, delivery, and garbage collection, etc.) of the development away from major streets.

*Harmony Road to the south and Railroad Avenue to the north are the two major streets adjacent to the subject property. As proposed, the loading area for the southern building will be on the west side of the building, which does not face either of the adjacent streets. The loading area for the northern building will be on the south side of the building but sufficiently separated from Harmony Road by both distance and the southern building. The garbage collection area is proposed for the southeast corner of the northern parking area, well away from the Harmony Road frontage.*

- (f) Arrange use and buildings to maximize opportunities for shared circulation, access, parking, loading, pedestrian walkways and plazas, recreation areas, and transit-related facilities.

*The proposed development will share site access with the adjacent properties to the east. Ingress to the site will be through a right-in shared access from Harmony Road; egress from the site will be through a shared access to Harmony Road.*

- (g) Provisions for bus shelters, bike racks, street furniture, kiosks, drinking fountains, art sculptures, and/or other pedestrian and transit amenities as required by Chapter 19.700.

*As discussed in Finding 9, the proposed development will provide street improvements along the Harmony Road frontage of the subject property, including sidewalk, landscape strip, and other modifications related to the shared accessway at Harmony Road.*

*The proposed development meets the applicable principles for building siting and design in the B-I zone, as provided in MMC 19.310.6.J.*

*As conditioned and per the approved variance request discussed in Finding 11, the Planning Commission finds that the proposed development meets the applicable development standards of MMC 19.310.6 for the B-I zone.*

*As conditioned and per the approved variance request discussed in Finding 11, the Planning Commission finds that the proposed development meets all applicable standards of MMC 19.310 for the B-I zone.*

6. MMC Subsection 19.504.6 Transition Area Measures

MMC 19.504.6 establishes the following measures to minimize impacts from commercial, mixed-use, or industrial development where abutting or adjacent to properties zoned for lower-density use.

- (MMC Subsection 19.504.6.A) – All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable, except in the NMU (Neighborhood Mixed Use) Zone.
- (MMC Subsection 19.504.6.B) – All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to at least the 6-ft level to screen lower-density residential uses from direct view across the open space, subject to the provisions of Subsection 19.502.2.B for fencing.

*Across the Railroad Avenue right-of-way to the north, the subject property is adjacent to the Planned Development R-7PD zone, which is a low-density residential zone. The R-5 zone, a moderate density residential zone, is adjacent to the subject property along its eastern boundary. The proposed development, which is for commercial mini-storage, is subject to the requirements for transition area measures as per MMC 19.504.6.*

*As required by the land use decision for land use file numbers S-74-03 and PD-74-01, which established that R-7PD zone, the minimum required front yard of the adjacent R-7PD development is 10 ft. Therefore, the minimum rear yard requirement for the proposed development is also 10 ft. As proposed, the rear yard of the building closest to the rear property line will be set back at least 10 ft and will be maintained as landscaped open space. A condition has been established to require landscape plantings or fencing at least 6 ft in height along the rear property line, sufficient to screen the proposed development from adjacent residential uses across Railroad Avenue to the north.*

*The front yard requirement of the R-5 zone, to the east of the subject property, is 20 ft. As proposed, both new buildings would be set back 20 ft from the eastern property line. In addition, the applicant's site plans show newly planted trees along the length of the eastern boundary, though spaced at intervals that do not meet the screening requirements established in MMC 19.504.6.B. A condition has been established to ensure that the applicant's site and/or landscaping plans will be revised as necessary to show that this screening requirement is met.*



*As conditioned, the Planning Commission finds that the proposed development will meet the applicable transition area measures established in MMC 19.504.6.*

7. MMC Section 19.402 Natural Resources

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

a. MMC Subsection 19.402.3 Applicability

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

*The site is bisected by Minthorn Creek and includes three small delineated wetlands, all of which are protected water features. As per MMC Table 19.402.15, primary protected water features, along with their associated vegetated corridors, constitute a WQR on the site. The City's NR Administrative Map also shows an overlapping HCA designation on the site, extending beyond the WQR by a few square feet on the western side of the site.*

*As presented in the applicant's submittal materials, the proposed activity will disturb approximately 5,340 sq ft of WQR and/or HCA area. At that scale, the proposed activity is not listed as exempt according to the standards outlined in MMC 19.402.4.*

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

b. MMC Subsection 19.402.7 Activities Requiring Type II Review

MMC 19.402.7 establishes that certain activities within a designated WQR and/or HCA are subject to Type II review in accordance with MMC 19.1005. As per MMC 19.402.7.E, this includes boundary verifications that propose substantial corrections to the NR Administrative Map, including identifying the precise location of wetlands, as required by MMC 19.402.15.A.

*The subject property includes three small delineated wetlands. As provided in MMC Subsection 19.402.15.A, the Type II review process is required to confirm the specific location of wetlands. However, the proposed activity also requires applications for review for Natural Resource disturbance, Conditional Use review, Transportation Facility review, and a Variance request that are being processed concurrently with Type III review. As provided in MMC 19.1001.6.B.1, concurrent applications shall be processed according to the highest numbered review type, with a single decision to be issued that includes findings for all concurrent applications.*

*The Planning Commission finds that the boundary verification for wetlands shall be processed concurrently with Type III review.*

c. MMC Subsection 19.402.8 Activities Requiring Type III Review

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

*As discussed in Finding 10, the proposed development is allowed as a conditional use in the underlying Business Industrial (B-I) zone. The level of disturbance proposed within the*

*designated WQR and HCA areas on the subject property exceeds the levels allowed by Type I and II review, as provided in MMC 19.402.6 and 402.7, respectively. As such, the activity must be reviewed using Type III review and the discretionary process established in MMC 19.402.12.*

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

d. MMC Subsection 19.402.9 Construction Management Plans

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

*The applicant's submittal materials include two erosion control plans. One plan shows the locations of proposed erosion control measures, access to the work area for machinery and people, and inlet protection for the proposed on-site stormwater system; the other plan shows additional erosion control measures. Neither plan shows a staging area(s) for equipment and materials or measures to protect existing trees within the WQR and HCA that will remain. A condition has been established to ensure that the two plans will be merged and updated to serve as the construction management plan required by MMC 19.402.9.*

*As conditioned, the Planning Commission finds that the requirements of MMC 19.402.9 will be met.*

e. MMC Subsection 19.402.11 Development Standards

MMC 19.402.11 establishes development standards for projects that impact a designated natural resource.

- (1) MMC Subsection 19.402.11.A provides standards for protecting natural resource areas during development, including requirements to mark work areas, flag WQRs and HCAs that are to remain undeveloped, and conduct all work in accordance with an approved construction management plan.

*The proposed project is subject to all relevant standards in MMC 19.402.11.A. As addressed in Finding 7-d, a condition has been established to ensure that all project work is performed in accordance with an approved construction management plan.*

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

- (2) MMC Subsection 19.402.11.B establishes general standards for required mitigation, including requirements related to items such as plant species, size, spacing, and diversity, as well as location of mitigation area, removal of invasive vegetation, and plant survival.

*The applicant has provided a mitigation plan for the proposed disturbance to the WQR and HCA within the project area (Figure 6 in the applicant's revised natural resource report). The plan designates Mitigation Area A on the north side of the creek and Mitigation Area B on the south side. Mitigation Area B, which is categorized as being in "Poor" condition based on the low percentage of existing vegetation and canopy, is the focus of an extensive mitigation planting of native trees and shrubs.*

*The mitigation plan includes information about species, size, spacing, and survival within Mitigation Area B. As proposed, existing man-made debris and noxious materials will be inventoried and removed from both Mitigation Areas A and B. The plan indicates that nuisance species vegetation will be removed prior to planting, that mitigation plantings will be maintained for 2 years, and that all WQR and HCA areas that are*

*temporarily disturbed will be restored with native species seed and plantings. A condition has been established to clarify that all invasive or nuisance species vegetation (as identified on the Milwaukie Native Plant List), noxious materials, and man-made debris such as concrete rubble shall be removed from within the entire WQR and HCA on the site, on the north and south sides of the creek. Another condition has been established to ensure that lights will be located and/or shielded to avoid shining directly into the WQR and HCA.*

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

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

*As proposed, the proposed development will permanently disturb approximately 4,800 sq ft and temporarily disturb approximately 280 sq ft within the WQR. As discussed in Finding 7-e(2), the northern portion of the WQR on the site is categorized as Class A ("Good"), with the southern portion categorized as Class C ("Poor"). In addition, approximately 260 sq ft within the HCA-only areas on the site will be permanently disturbed.*

*Using the mitigation planting ratio provided in MMC Subsection 19.402.11.D.2.b as a guide, the applicant proposes to plant 5 trees and 25 shrubs per 500 sq ft of disturbance area. For the approximate total WQR and HCA disturbance of 5,340 sq ft (both permanent and temporary disturbance), the applicant proposes to plant 53 native trees and 267 native shrubs, all located in the southern portion of the WQR (Mitigation Area B). As proposed, the mitigation plantings will meet the minimum requirements established in MMC Subsection 19.402.11.B. Mitigation trees will be of at least ½-in caliper (measured at 6 ft above the ground level after planting) and shrubs will be of at least 1-gallon size and at least 12-in height.*

*ESA (Environmental Science Associates), the City's consultant for on-call natural resource services, has evaluated the proposed mitigation plan and concluded that, with a few adjustments, it adequately addresses the proposed WQR and HCA disturbance. ESA provided additional recommendations to limit erosion related to the new bridge embankments; improve the species diversity of the mitigation plantings; and clarify that invasive species plants, noxious material, and man-made debris such as concrete rubble shall be removed from the mitigation areas on both sides of the creek. Conditions have been established in response to ESA's recommendations to ensure that the proposed mitigation is sufficient for the impacts of the proposed disturbance to the WQR and HCA. In addition, a condition has been established to require that the mitigation planting plan be revised following final engineering design for the proposed development, to reflect and mitigate for the actual amount of permanent and temporary disturbance to the WQR and HCA, using the formula of 5 trees and 25 shrubs per 500 sq ft of disturbance.*

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

- (4) MMC Subsection 19.402.11.D establishes nondiscretionary standards for disturbance within HCAs. For nonresidential properties, a maximum net disturbance of 10% of the

HCA on the site is allowed by right, subject to the mitigation requirements established in MMC Subsection 19.402.11.D.2. Where a proposed development would disturb more HCA than allowed, Subsection 19.402.11.D.1.d specifies that the development is subject to the general discretionary review criteria outlined in MMC Subsection 19.402.12.C.1.

*The subject property includes approximately 260 sq ft of HCA that extends beyond the boundaries of the WQR, and the proposed development will disturb 100% of it. Therefore, the proposed HCA disturbance is subject to the general discretionary review criteria of MMC 19.402.12.C.1, which are addressed in Finding 7-e(3). As proposed, disturbance to the HCA and WQR will be mitigated in similar fashion, which ESA has concluded is sufficient when conditioned with additional recommendations as presented in Finding 7-e(3).*

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

*The Planning Commission finds that, as conditioned, the proposed development meets the applicable standards of MMC 19.402.11.*

f. MMC Subsection 19.402.12 General Discretionary Review

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

(1) Impact Evaluation and Analysis

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

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

*The applicant's submittal materials include a technical report prepared by Pacific Habitat Services, Inc., a private firm providing a range of environmental consulting services including natural resource assessment, wetland delineation, and environmental restoration. The technical report includes an impact evaluation and alternatives analysis consistent with the required components listed above.*

*The technical report includes an inventory of existing vegetation and discusses the ecological function of the existing WQR and HCA areas within the project area, noting that the function is limited by the sparse existing tree canopy on the south side of Minthorn Creek, where additional shading of the riparian area would be beneficial. The streambanks are generally well vegetated with a combination of trees, shrubs, and ground cover vegetation, which effectively buffers the creek from the existing development to the south. The existing vegetation provides some bank stabilization,*

*and there is little evidence of active bank erosion. However, the clay loam soil limits the ability of water to infiltrate into the soil, and the relatively steep slopes and lack of woody vegetation on the south side of the stream limit the streamflow moderation and water storage functions of the existing riparian habitat.*

*The proposed development involves construction of a bridge over Minthorn Creek to provide vehicle access to the northern portion of the property, where the second of two proposed mini-storage buildings will be located. As proposed, the bridge is of a modular nature, which involves excavation on each side of the creek to establish abutments onto which a prefabricated steel bridge will be fixed to span the creek. The creek will continue to flow freely under the bridge and will not be piped through a culvert. Height clearance under the proposed new bridge is approximately 7.5 ft at the ordinary high water mark, with an engineered fill slope and rip-rap providing support for each abutment. The length of the bridge span itself is projected as a range of 40 ft to 80 ft, pending the results of final engineering design. As proposed, the toe of the engineered fill slope would be located at the ordinary high water mark of the creek.*

*The technical report considers one alternative to the proposed bridge: accessing the northern portion of the site from the Railroad Avenue frontage. Since the existing railroad tracks between the northern property boundary and Railroad Avenue preclude practicable access from that direction, the report concludes that the Railroad Avenue access alternative is not feasible and that the proposed bridge is the only practicable way to develop the northern portion of the site.*

*The technical report includes an accounting of the proposed development's anticipated impacts to the WQR and HCA areas on the site, with an assessment of water quality impacts. The report concludes that, with the proposed erosion control measures, stormwater treatment facilities located outside the WQR and HCA, and mitigation plantings within the riparian corridor, the proposed development does not negatively impact water quality.*

*Finally, as discussed in Finding 7-e, the technical report includes a mitigation plan that calls for replanting temporarily disturbed areas and the south streambank with native species plants, with trees and shrubs to be planted in the ratios listed in MMC Subsection 19.402.11.D.2.b. The native species trees, shrubs, and groundcover will improve the quality of vegetated cover within the WQR and HCA. The mitigation plan includes an implementation schedule and plan for maintenance and monitoring to ensure successful planting survival.*

*As proposed, the Planning Commission finds that the applicant's impact evaluation and alternatives analysis is sufficient for purposes of reviewing the proposed activity against the approval criteria provided in MMC 19.402.12. This standard is met.*

(2) Approval Criteria

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

*Note: ESA reviewed the applicant's technical report and presented its assessment to the City in a summary memo, which informs this portion of the findings.*

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

*Just over a third of the site is located on the northern portion of the property, which is bisected by Minthorn Creek and three small wetlands. The applicant's submittal suggests that the development's success depends on using the northern portion of the site. The technical report considers one alternative to the proposed bridge, that of accessing the northern portion of the site from the Railroad Avenue frontage.*

*Although its northern boundary is adjacent to the Railroad Avenue right-of-way, the property's frontage is physically separated from the street by a Union Pacific Railroad line. The railroad tracks preclude practicable access to the site from Railroad Avenue, so the report concludes that the proposed bridge is the only practicable way to develop the northern portion of the site.*

*Through ESA's peer review and comments received from the North Clackamas Urban Watersheds Council (NCUWC), City staff has identified three additional alternatives:*

- Alternative A – Forego all development on the northern portion of the site and concentrate it on the southern portion, with a single building tall enough to accommodate the originally proposed overall floor area. This option would require a variance to the maximum height allowance of the B-I zone (45 ft or 3 stories) and some revision to the parking plan. Shared parking agreements with the adjacent properties to the west and/or a formal parking reduction might be necessary to address those concerns.*
- Alternative B – Use the existing bridge in the International Way Business Center, adjacent to the west, to access the northern portion of the subject property. This option would require coordination with and consent by the adjoining property owners. Access across the existing bridge is already part of the shared access easement for the businesses in the International Way Business Park.*
- Alternative C – Extend the length of the proposed bridge span as much as practicable (to 80 ft or beyond), so that the bridge abutments are located farther from each side of the creek and present fewer impacts to the WQR.*

*Constructing the same number of proposed storage units (1,005) in the form of a single building on the southern portion of the site would require a structure well over the proposed 3-story size. Assuming that a variance to the B-I zone height limitation of 45 ft were granted, a taller building would require additional structural engineering for support and would involve significantly higher costs for construction. In addition, it would present a greater impact in mass to the existing apartment complex to the east. Unless some off-street parking was provided within the new building itself, the applicant would depend on securing shared parking agreements with one or more of the buildings in the International Way Business Center to the west, assuming enough spaces are available beyond the current demand. Alternative A does not appear to be immediately practicable.*

*The existing bridge in the International Way Business Center was constructed when the site was developed in 2005-06. One of the conditions from the associated land use approval (file #TPR-04-06) required the provision of shared access for the subject property, though it is not clear whether the condition extended to use of the bridge for access to the northern portion of the subject property. The relevant property owners in the business center have provided a shared access easement along the western boundary of the subject property (to*

*Harmony Road), and that appears to have satisfied the condition. Absent a more specific condition, the City cannot compel the adjacent property owner(s) to provide additional access across their site(s) for the benefit of the applicant, which would be necessary for Alternative B.*

*The modular bridge format has its own limitations with respect to how long a bridge span can be before the abutments require additional support and increased disturbance for embankments. However, the proposed development involves a significant amount of grading on the site to establish topography suitable for development, and it is reasonable to expect that the applicant has some control over the elevations of the bridge abutments on either side of the creek. By providing a bridge longer than the minimum required to span the creek, the applicant has some opportunity to increase the distance of the supporting embankments from the ordinary high water mark, which will reduce impacts to water quality and habitat. The result will also provide greater clearance under the bridge, both in terms of height and width, which will improve conditions for terrestrial wildlife passage. Alternative C appears to be practicable to a degree, and a condition has been established to ensure that the applicant pursues the option of increasing the length of the bridge span to the greatest extent practicable.*

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

*As conditioned, the new bridge will minimize disturbance impacts to the WQR and HCA on the site to the greatest extent practicable. The new bridge will be 40 to 80 ft long and approximately 38 ft wide, with two travel lanes and located along the western edge of the subject property, as far away from the delineated wetlands as possible. Furthermore, the proposed method of bridge construction is one that involves minimal excavation and disturbance, with pre-cast concrete abutments being placed on either side before the roadway portion is lowered into place by crane. The overall result is a relatively narrow footprint of disturbance, with no supporting structures in the creek itself.*

*The retaining walls, which will be constructed on both sides of the creek to support the balance of fill proposed to level the topography of the development areas, are located outside the WQR and HCA except for a few small areas on the north side of the creek. As proposed, it is not clear that the northern building and its associated parking and maneuvering areas have been sized and positioned to minimize the impact of the northern retaining wall. A condition has been established to require the applicant to demonstrate that there is no practicable way to reduce or reposition the northern building and/or its associated parking and maneuvering areas sufficient to minimize further disturbance impacts (permanent and temporary) of the northern retaining wall on the WQR.*

*The three stormwater planters are located entirely outside the WQR and HCA, although the outfall pipe for each does extend into the WQR and has been accounted for as permanent disturbance in the applicant's mitigation plan. As proposed, the outfall for the northern stormwater planter would require removal of an existing deciduous tree. A condition has been established to require the relocation of the northern stormwater planter outfall sufficient to preserve the existing tree and thus minimize impacts to the WQR.*

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

*As discussed in Finding 7-e, mitigation for the proposed impacts to the WQR and HCA will take the form of native species plantings along the south streambank, with trees and shrubs provided in numbers consistent with the ratios listed in MMC Subsection 19.402.11.D.2.b (i.e., 5 trees and 25 shrubs for every 500 sq ft of disturbance within an HCA). In addition, the mitigation plan calls for groundcover plantings consisting of a mix of native grasses and herbaceous plants.*

*ESA has reviewed the mitigation plan and concurs that the applicant's approach is reasonable and adequate to account for the project's adverse impacts to the WQR and HCA. ESA has recommended adding or substituting two additional tree species to the planting list to increase diversity, as well as ensuring that existing concrete rubble embedded in the stream will be removed as part of the mitigation activities. Conditions have been established to incorporate ESA's recommendations, including a condition to clarify that all invasive or nuisance species vegetation (as identified on the Milwaukie Native Plants List), noxious materials, and man-made debris such as concrete rubble shall be removed from the entire WQR and HCA on the site, on the north and south sides of the creek. As conditioned, the mitigation is sufficient for the proposed disturbance to the WQR and HCA areas.*

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

(3) Limitations and Mitigation for Disturbance of HCAs

MMC Subsection 19.402.12.C establishes the discretionary review process for mitigation of more HCA disturbance than would be allowed by the nondiscretionary standards of MMC Subsection 19.402.11.D.1. In such cases, the applicant must submit an Impact Evaluation and Alternatives Analysis consistent with the standards established in MMC 19.402.12.A and subject to the approval criteria established in MMC 19.402.12.B.

*As discussed in Finding 7-f(1), the applicant's submittal materials include a technical report that provides an evaluation of impacts to the WQR as well as to those impacted HCA areas beyond the WQR, consistent with the standards established in MMC 19.402.12.A. As discussed in Finding 7-f(2), the proposed development, with the conditions noted therein, meets the approval criteria established in MMC 19.402.12.B.*

*As conditioned, the Planning Commission finds that the proposed development meets the discretionary standards for disturbance of HCAs as established in MMC 19.402.12.C.*

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

- g. MMC Subsection 19.402.15 Boundary Verification and Map Administration



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

The locations of WQRs are determined based on the provisions of MMC Table 19.402.15. For streams, the WQR includes the feature itself and a vegetated corridor that extends 50 ft from the ordinary high water mark or 2-year recurrence interval flood elevation. Where the slope exceeds 25% for less than 150 ft, the vegetated corridor is measured with a 50-ft width from the break in the 25% slope. For wetlands, a wetland delineation report prepared by a professional wetland specialist and approved by the Department of State Lands (DSL) is required.

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

*The technical report provided by the applicant includes a detailed topographic map showing the accurate boundaries of the WQR using the provisions of MMC Table 19.402.15, as well as a wetland delineation report approved by DSL. The applicant is not challenging the accuracy of the NR Administrative Map with respect to the HCA location on the site.*

*The Planning Commission finds that the City's NR Administrative Map shall be adjusted to reflect the detailed information provided by the applicant with respect to the WQR location and the location of the delineated wetlands on the site.*

*As conditioned, the Planning Commission finds that the proposed development, including disturbance and restoration of a portion of the designated natural resource area on the subject property, meets all applicable standards of MMC 19.402.*

8. 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. Specifically, MMC Subsection 19.602.3 addresses applicability for development of vacant sites as well as for improvements to existing off-street parking areas for development and changes in use.

*The proposed development will establish a new use on the subject property, completely reconfiguring the site with two new buildings and associated off-street parking areas. This represents an increase of more than 100% of the existing floor area and structure footprint, which triggers a requirement for compliance with MMC 19.600 as per MMC Subsection 19.602.3.A.*

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

b. MMC Section 19.605 Vehicle Parking Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking based on estimated parking demand. MMC Table 19.605.1 provides minimum and maximum requirements for a range of different uses. For mini-warehousing and self-service storage, a minimum of 1 space is required per 45 storage units, plus 1 space per employee of the largest shift. A maximum of 1 space per 20 storage units is allowed, plus 1 space per employee of the largest shift.

*The proposed development will establish a total of 1,005 mini-storage units, with a total of two employees anticipated for the largest shift. According to MMC Table 19.605.1, a minimum of 22 spaces are required for the units, plus 2 spaces for the employees, for a minimum total of 24 spaces. A maximum of 50 spaces are allowed for the units, plus 2 spaces for the employees, for a maximum total of 52 spaces.*

*The applicant's site plan shows a total of 27 off-street parking and loading spaces, including 2 ADA parking spaces with adjacent loading areas.*

*The Planning Commission finds that the off-street parking associated with the proposed development meets the minimum quantity standard established in MMC 19.605 and does not exceed the maximum. 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 19 ft, with a 22-ft-wide drive aisles for either one- or two-way maneuvering.

*The applicant has submitted a parking plan that utilizes 90°-angle spaces and two-way drive aisles. As proposed, the dimensions for new spaces and drive aisles meet the minimum standards.*

*This standard is met.*

(2) MMC Subsection 19.606.2 Landscaping

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

(a) MMC 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 40 lineal feet 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.

*As proposed, the perimeter landscaping areas abutting the public right-of-way along Harmony Road will be at least 8 ft wide. However, the proposed perimeter landscaping areas abutting the adjacent property to the west (5851 SE Harmony Rd) are less than 6 ft wide. One affected portion of the adjacent property is the access driveway to Harmony Road. Others include narrow strips adjacent to the new roadway leading to and across the proposed new bridge.*

*MMC Subsection 19.606.2.C.1 allows the Planning Director to reduce the required minimum width of perimeter landscaping areas where existing constraints make it infeasible. The Planning Director has evaluated this aspect of the project and finds that, given both the constraints of the location of the existing accessway to Harmony Road and the importance of locating the new bridge and roadway as close to the western property boundary as practicable to minimize impacts to the WQR, the proposed perimeter width reductions are allowable.*

*Tree and shrub vegetation is proposed for all perimeter landscaping areas. A condition has been established to ensure that a continuous visual screen is provided from 1 to 4 ft above the ground in that portion of the perimeter buffer for the northern parking area adjacent to the residential property to the east.*

*As conditioned, this standard is met.*

(b) MMC 19.606.2.D Interior Landscaping

At least 25 sq ft of interior landscaped area must be provided for each parking space. Planting areas must be at least 120 sq ft in area, 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 applicant's site plans show a single interior landscaped area, provided in the form of the vegetated corridors on both sides of Minthorn Creek in the middle of the site. The 27 spaces provided require a total area of 675 sq ft of interior landscaping; the Minthorn Creek landscaped area is more than 24,000 sq ft, with 53 proposed new trees. As proposed, the Minthorn Creek landscaped area provides sufficient interior landscaping for the northern parking area but not for the southern parking area. A condition has been established to ensure that an interior landscaping area is provided in the southern parking area.*

*As conditioned, this standard is met.*

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

Preservation of existing trees in the off-street parking area 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.

*On Figure 5 within the applicant's revised natural resources report, the locations are shown of existing trees to be removed from within the WQR and HCA, mostly where directly in the path of the proposed new bridge and roadway that will connect both halves of the site. As proposed, one tree would be removed from the area where a stormwater outfall pipe will be located on the northern side of Minthorn Creek; however, as discussed in Finding 7-f(2), a condition has been established to require the relocation of the outfall sufficient to preserve the tree in question.*

*Other existing trees outside the WQR and HCA are shown on Figure 5, though it is not clear which will remain and which will be removed. Most of the existing trees shown within the areas that will be developed with parking areas and accessways will have to be removed, though at least a few trees within the large interior*

*landscaping area along the creek seem savable. A condition has been established to require a revised landscaping plan showing which existing trees will remain and which will be removed, including a rationale for removal of any trees not clearly within the development footprint of such features as the new buildings, roadways, parking and maneuvering areas, retaining walls, etc.*

*As conditioned, this standard is 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.

*As proposed, the new off-street parking areas will be paved and striped in accordance with the standards of MMC 19.606.3.A. As addressed in Findings 8-c(3)(e) and 8-f, conditions have been established to ensure that signage and pavement markings sufficient to delineate internal circulation and carpool parking are provided.*

*This standard is met.*

(b) MMC 19.606.3.B Wheel Stops

Parking bumpers or wheel stops are required to prevent vehicles from encroaching onto public right-of-way, adjacent landscaped areas, or pedestrian walkways. Curbing may substitute for wheel stops if vehicles will not encroach into the minimum required width for landscape or pedestrian areas.

*From the site plans in the applicant's submittal materials, it is not clear that curbing or wheel stops are provided sufficient to prevent vehicles from encroaching into adjacent landscape areas and pedestrian walkways. In particular, the parking area adjacent to the southwest corner of the southern building is adjacent to both a pedestrian walkway and perimeter landscaping. A condition has been established to ensure that site plans are revised as necessary to show wheel stops in the stalls abutting perimeter landscaping areas and pedestrian walkways adjacent to the southern building.*

*As conditioned, this standard is met.*

(c) MMC 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.

*Due to the shared nature of access to the site and the configuration of existing development on the adjacent properties to the west, there is a single point of access to the proposed development. As discussed in Finding 9-f, the proposed shared access onto Harmony Road meets the County's safety and functionality standards and will not inhibit safe circulation on the street.*

*As proposed, the parking area drive aisles and the bridge roadway access between the two new buildings are at least 22 ft wide and meet the relevant dimensional requirements of MMC 19.606.1.*

*This standard is met.*

(d) MMC 19.606.3.D Pedestrian Access and Circulation

Pedestrian access shall be provided so that no off-street parking space is further 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 Subsection 19.504.9.E.

*As proposed, none of the new or modified parking spaces will be further than 100 ft from a building entrance or pedestrian walkway that leads to a building entrance. The applicant's submittal materials do not provide sufficient detail to determine whether the proposed on-site walkways are constructed with pervious materials for stormwater purposes. A condition has been established to ensure that all on-site walkways meet the applicable standards of MMC 19.504.9.E.*

*As conditioned, this standard is met.*

(e) MMC 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 Director has reviewed the proposed parking plan and determined that additional pavement markings and signage are required to ensure that on-site circulation will be safe and efficient. In particular, the point of entry to the subject property from the shared access on the driveway at Harmony Road is wide and located where site users may become confused. A condition has been established to ensure that the parking plan is revised to include sufficient details about pavement markings and signage that will ensure safe and efficient circulation.*

*As conditioned, this standard is met.*

(f) MMC 19.606.3.F Lighting

Lighting is required for parking areas with more than 10 spaces and must have a cutoff angle of 90 degrees 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's submittal materials include a preliminary lighting plan that shows illumination from the lighting proposed around each of the two new buildings. However, the plan is not sufficiently labeled to confirm the actual illumination levels. Furthermore, the plan does not show any lighting for the 5 to 7 spaces proposed at the perimeter of the parking area located near the southwestern corner of the southern building. A condition has been established to require revisions to the preliminary lighting plan sufficient to demonstrate that all on-site walkways and parking spaces will be adequately lit.*

*As conditioned, this standard is met.*

*As conditioned, the applicable additional design 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 or not loading spaces are required. In the case of the proposed mini-storage facility, the Planning Director has determined that no loading spaces are required.

*The Planning Commission finds that this standard is not applicable.*

e. MMC Section 19.609 Bicycle Parking

MMC 19.609 establishes standards for bicycle parking, which is required for all new commercial and industrial development. The required quantity of bicycle parking spaces is equivalent to 10% of the minimum vehicle parking required, with a minimum of 2 bicycle spaces. Bicycle parking spaces must be at least 2 ft by 6 ft, with a 5-ft-wide access aisle and securely anchored racks that allow the frame and one wheel of a bike to be locked to the rack using a U-shaped lock. Bicycle parking spaces must be illuminated to a level of at least 0.5 footcandles and located within 50 ft of the main building entrance.

*As addressed in Finding 8-b, a minimum of 24 vehicle parking spaces are required for the proposed development, resulting in a minimum requirement of 2 bicycle parking spaces. The applicant's site plan shows 3 bicycle parking spaces located near a main entrance on the west side of the southern building, where they will be illuminated by the exterior building lighting. However, additional details about the proposed bicycle parking are needed to ensure that it complies with the relevant standards of MMC 19.609. A condition has been established to ensure that the relevant 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 parking standards for vehicles used to carpool, which is required for all new commercial and industrial development. The required quantity of carpool parking spaces is equivalent to 10% of the minimum vehicle parking required, with a minimum of 2 bicycle spaces. Carpool parking spaces must be located closer to the main building entrances than other employee parking, except ADA spaces.

*As addressed in Finding 8-b, a minimum of 24 vehicle parking spaces are required for the proposed development, resulting in a minimum requirement of 2 carpool parking spaces. The applicant's site plan shows a total of 3 carpool parking spaces, with 1 located near the northern building and 2 located near the southern building. However, additional details about the proposed on-site designation of the proposed carpool parking are needed to ensure that it complies with the signage or pavement marking standards of MMC Subsection 19.610.4. A condition has been established to ensure that these standards are met.*

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

*The Planning Commission finds that, as conditioned, the proposed development meets the applicable off-street parking standards of MMC 19.600.*

9. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 establishes provisions to ensure that development 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 land divisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

*The applicant proposes to develop a mini-storage facility, comprised of two buildings and associated parking and loading areas, on the subject property. The proposed new construction triggers the requirements of MMC 19.700.*

b. MMC Section 19.703 Review Process

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

*The applicant had a preapplication conference with City staff prior to application submittal, on December 4, 2014. The proposed development triggers a Transportation Impact Study (as addressed in Finding 9-c). The proposal's compliance with MMC 19.700 has been evaluated through a concurrent Transportation Facilities Review application. Finding 9-f addresses the proposal's compliance with the approval criteria established in MMC Subsection 19.703.3, particularly the required transportation facility improvements.*

c. MMC Section 19.704 Transportation Impact Evaluation

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

*There is no active use on the subject property, so the proposed development will trigger a significant increase in trip generation and therefore requires a TIS. The applicant's 2007 submittal for a similar proposed development included a TIS that evaluated the projected impacts and prescribed mitigation measures. Clackamas County has maintenance authority and jurisdiction over Harmony Road, and the applicant coordinated with the County's Department of Transportation and Development ("the County") to determine whether any additions or updates to the 2007 TIS were needed. The County, as well as DKS, the City's traffic consultant, has concluded that the 2007 TIS remains valid, with only a few minor additions.*

*In the current submittal, the applicant included a sight-distance analysis for the access onto Harmony Road, based on a speed study conducted in 2016. The applicant also prepared an analysis of truck-turning movements for the Harmony Road access, to demonstrate that the existing access can be widened to safely allow right-in movements from Harmony Road. After reviewing the updated materials, both the County and DKS have concluded that the proposed modifications to the Harmony Road accessway will function adequately for both right-in and right-out turning movements. The existing divider median in Harmony Road prevents left turns onto or from Harmony Road. Aside from the frontage improvements required by the County (discussed in Finding 9-f), no other traffic-related adjustments are needed.*

*As proposed, the applicant's TIS is sufficient to meet the requirements of MMC 19.704.*

d. MMC Section 19.705 Rough Proportionality

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

*The proposed development will generate new trips that will impact the surrounding transportation system. Harmony Road is classified as a major arterial roadway and is under Clackamas County jurisdiction. Along the subject property's frontage, Harmony Road is part of both the County's Essential Pedestrian Network and the Planned Bikeway Network. A project to improve pedestrian and bicycle facilities along this section of Harmony Road is identified in the County's Capital Improvement Plan. The County's review of the proposed development has concluded that the anticipated impacts from the proposed development warrant improvements along the subject property's frontage on Harmony Road sufficient to meet the current County standards. Conditions have been established to ensure that these standards will be met.*

*As conditioned, the proposed development is consistent with MMC 19.705 and the required improvements are roughly proportional to the proposed development's impacts.*

e. MMC Section 19.707 Agency Notification and Coordinated Review

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

*The application was referred to the Oregon Department of Transportation (ODOT), Clackamas County, and Metro for comment. The section of Harmony Road fronting the subject property is under the jurisdiction of Clackamas County. The County has regulatory authority where transportation impacts and improvement standards are concerned, and the County's Department of Transportation and Development (DTD) provided comments that have been incorporated into these findings and the associated conditions of approval.*

f. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. However, the subject property's public street frontage is along Harmony Road, which is currently under the jurisdiction of Clackamas County. Where the City has more restrictive standards than the County for certain elements, it is the City's practice to defer to the County standards when the proposed development demonstrates that there is no practicable alternative and that the proposal presents the minimum exception necessary to provide a safe and functional design. Such situations are evaluated at the time of development permit review.

The following findings provided by the County DTD address the County's requirements for such elements as access management, clear vision, street design, and bicycle and pedestrian facilities; and provide the principal basis for related conditions of approval.

Note: If the City annexes the Harmony Road right-of-way along the subject property's frontage and takes jurisdiction of the road for maintenance prior to the proposed development acquiring the necessary development permits, the applicable City standards from MMC Chapter 19.700 (Public Facility Improvements), MMC Title 12 (Streets, Sidewalks, and Public Places), and the City Public Works Standards will take precedence over the following requirements set forth for County road access approval and frontage improvements.

(1) *The applicant has proposed the construction of a mini-storage business, as a conditional use, in a City of Milwaukie Business Industrial zone. The subject property*



*has frontage on Harmony Road, an urban street under the jurisdiction of Clackamas County. The applicant proposes modification of the existing right-out-only Harmony Road driveway approach so that it will permit both right-in and right-out turning maneuvers.*

- (2) *The subject property is located adjacent to the northerly side of Harmony Road, easterly from International Way. The subject property has been annexed into the City, requiring that the land use review be done through a City land use action. However, Harmony Road is under the jurisdiction of Clackamas County which results in Clackamas County providing requirements for Harmony Road frontage improvements and onsite operations which could impact Harmony Road safety and operations. Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths, and access standards for major arterial roads. Harmony Road is classified as a major arterial roadway adjacent to the subject property, in the Clackamas County Comprehensive Plan.*
- (3) *The applicant's submittal materials include site plans which were developed for a right-in/right-out shared private road approach intersection with Harmony Road. Subsequent to the receipt of the submitted materials, County Engineering staff was advised that the Harmony Road access would remain as a right-out only. An October 18, 2016, memorandum was provided by the County to City staff evaluating the proposal with retention of the existing right-out only access to Harmony Road.*
- (4) *On or about November 16, 2016, County Engineering staff was advised that there had been a misunderstanding regarding access and the applicant actually wanted to continue to propose a right-in/right-out driveway approach. Since that time, County Engineering staff has been working with City staff, the applicant, and the applicant's engineer to develop acceptable geometry for a right-in/right-out access. Based on the applicant's engineer's submittal dated January 25, 2017, acceptable geometry has been illustrated and essentially only additional details associated with the raised median and striping of Harmony Road remain to be resolved. A condition has been established to ensure that the necessary details will be provided.*
- (5) *The traffic impact study for the current mini-storage proposal is dated from 2007 and also evaluates operations based on the right-in/right-out access scenario. Traffic Engineering staff has evaluated the 2007 traffic impact study, applied appropriate adjustments where needed, and finds that a right-in/right-out shared private road approach will be able to comply with current operational standards. A speed study, observed by County Engineering staff, was also done in 2016, providing valid data for determining appropriate sight distance requirements for the access intersection with Harmony Road. This was needed, as the speed data from 2007 was too dated to be considered valid.*
- (6) *This portion of Harmony Road, adjacent to the subject property, is a section of the Essential Pedestrian Network. This information is illustrated on County Comprehensive Plan Map 5-3 (March 1, 2014). In addition, Harmony Road is also a part of the Planned Bikeway Network, shown on County Comprehensive Plan Map 5-2a (March 1, 2014). Therefore, Harmony Road will require bike lanes and unobstructed sidewalks.*

*Since Harmony Road is under Clackamas County jurisdiction, Clackamas County requires that the sidewalk width requirements and any landscape strip width requirements and street trees conform to County standards.*

- (7) *The Clackamas County Capital Improvement Plan identifies the section of Harmony Road from Highway 213 (82<sup>nd</sup> Avenue) to Highway 224 with project number 1022. Proposed improvements include construction of bicycle and pedestrian facilities. This project, if approved and constructed, will provide for these desired improvements along the subject property frontage.*
- (8) *Clackamas County's Roadway Standards indicate that three-lane major arterial roads with bike lanes shall have a minimum right-of-way width of 80 ft with 8-ft- wide sign, slope, public utility, and sidewalk easements on each side of the roadway. The applicant shall demonstrate that a minimum 40-ft-wide one-half right-of-way exists along the entire Harmony Road site frontage or dedicate additional right-of-way to provide it. In addition, the applicant shall grant an 8-ft-wide sign, slope, sidewalk, and public utility easement along the entire Harmony Road site frontage.*
- (9) *When the development to the west was approved, it was required to provide access easements to the subject property to provide for shared access opportunities when the subject property developed. Reciprocal easements regarding access are now required to be provided by the subject property owner so that the right-in from Harmony Road will be able to be used to access the properties currently only provided access via the International Way right-in only driveway approach. Development of the subject property will allow mini-storage related traffic to utilize the existing right-in only ingress from International Way and the existing right-out egress maneuver to Harmony Road.*
- (10) *The County recommends the City of Milwaukie Planning Department condition the applicant to enter into a road maintenance agreement with the owners of the development to the west for maintenance of shared onsite circulation facilities.*
- (11) *The applicant is subject to the provisions of Clackamas County Zoning and Development Ordinance (ZDO) Section 1007, pertaining to frontage improvements, and Section 1008 and Roadway Standards Chapter 4, pertaining to surface water management associated with Harmony Road. Additionally, the applicant is subject to other ZDO requirements, the Clackamas County Comprehensive Plan, and Clackamas County Roadway Standards regarding issues within the Harmony Road right-of-way and onsite issues (principally with the shared private road throat, signing, and pavement markings and legends) that would impact the County right-of-way and traffic operations on Harmony Road.*
- (12) *Minimum frontage improvements on the Harmony Road frontage include, but are not necessarily limited to, up to a half-street improvement, pavement widening if necessary, and storm drainage facilities. In addition, extension of the raised median (including relocation of a portion of the existing raised median), standard curb or curb and gutter when curb line slope is less than 1%, a modified driveway approach, a minimum 7-ft-wide unobstructed sidewalk behind a minimum 5-ft-wide landscape strip with street trees, and a pavement taper if necessary, are required.*
- (13) *All curbs shall typically be type "C", or curb and gutter if curb line slope is less than 1%, if they carry, direct, or channel surface water. Alternative curbs will be considered when it is determined by the County DTD that type "C" curbs or curb and gutter are not appropriate. Extruded curbs for carrying, directing, or channeling surface water shall not be allowed.*
- (14) *A 50-ft-wide roadway section, curb to curb on Harmony Road, is the usual minimum desirable width for this type of roadway and would be consistent with the Clackamas County Roadway Standards. Typically, 12-ft-wide travel lanes, a 14-ft-wide center two-*

*way left turn lane, and 6-ft bike lanes comprise a 50-ft-wide street cross section. However, in this case the required median and associated shy distances will increase the minimum pavement width to approximately 56 ft where the full three-lane section is required. The additional 6 ft of width is typically comprised of a minimum 2-ft-wide median curb and 2 ft of shy distance on each side of the median.*

*The existing westerly limits of the existing right-out only shared private road approach intersecting with Harmony Road shall be retained as currently constructed. The driveway approach shall be widened to the east as illustrated on the exhibit provided to County Engineering staff on or about January 25, 2017. The Sisul Engineering exhibit is labeled “EXHIBIT “A” TURNING MOVEMENT” and is dated January 25, 2017. The maximum throat width for the shared private road intersecting with Harmony Road shall be 55 ft and the minimum throat length shall be 50 ft per Roadway Standards Subsection 330.1-f, measured from the back of the sidewalk. Therefore, no drive aisles shall intersect with the shared private road within 50 ft of the back of the sidewalk.*

*Note from City staff: The City’s standards for a driveway approach into an industrial property allow a maximum width of 45 ft. A wider approach is acceptable when it can be demonstrated that the additional width is the minimum required to allow adequate turning movements for whatever the County determines the standard design vehicle to be for the Harmony Road accessway.*

- (15) *The proposed right-in/right-out shared private road approach intersecting with Harmony Road shall provide adequate intersection sight distances and adequate stopping sight distances for both passenger vehicles and trucks in accordance with Clackamas County Roadway Standards and American Association of State Highway and Transportation Officials (AASHTO) requirements. Since the modified approach will continue to allow exiting maneuvers that are right-out only maneuvers, intersection sight distance measurements requiring evaluation are for right turns of passenger vehicles, single unit trucks, and combination trucks exiting the site and entering onto Harmony Road. In addition, the stopping sight distance requiring evaluation is for westbound vehicles approaching the Harmony Road approach.*

*The 2016 speed study data indicates that an 85<sup>th</sup> percentile speed of 36 miles per hour was observed and recorded for westbound vehicles. Based on this speed, the intersection sight distance requirements for passenger vehicles, single unit trucks, and combination trucks is 345 ft, 450 ft, and 560 ft, respectively. In addition, 275 ft of stopping sight distance is required for westbound traffic approaching the Harmony Road access, based on an analysis prepared by Lancaster Engineering staff and confirmed by County Engineering staff. Based on field measurements made by Lancaster Engineering staff and preliminary drawings prepared by Sisul Engineering, the intersection sight distances are feasible to provide for the shared private road access intersection with Harmony Road.*

*Prior to approval of the use of the existing shared private road approach for the mini-storage business, the applicant shall provide plan and profile drawings, based on survey data, with sight lines, illustrating adequate intersection sight distances for passenger vehicles and trucks exiting the proposed Harmony Road access. In addition, the exhibit shall illustrate adequate stopping sight distances for passenger vehicles and trucks on Harmony Road approaching the shared private road access from the east.*

- (16) *The applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards Section 245 along the entire Harmony Road site frontage.*

- (17) *The submitted preliminary civil plan sheets, illustrating Harmony Road improvements, are again based on a widened shared private road approach intersection with Harmony Road allowing for both right-in and right-out turning maneuvers. Since the submittal of those plans, the geometry of the access has been modified and additional Harmony Road modifications will be required regarding the raised median and striping. The previously submitted civil plans will understandably require revisions.*

*For example, a portion of the raised median will be required to be relocated and will also require extension easterly. However, the existing striping along the site frontage shall generally remain as is with minor modifications as needed. The raised median extension shall generally be in accordance with the January 25, 2017, turning movement exhibit provided by Sisul Engineering. The existing shared private road approach intersecting with Harmony Road will be required to be widened.*

*Easterly from the easterly terminus of the extended raised median, along the entire site frontage easterly, Harmony Road shall provide for a minimum 12-ft-wide westbound travel lane and a 6-ft-wide westbound bike lane. Appropriate tapers, as needed, shall also be designed and constructed for curb lines and striping. Northerly from the westbound bike lane, type "C" curb, or curb and gutter when curb line slope is less than 1%, minimum 5-ft-wide landscape strip with street trees and a minimum 7-ft-wide unobstructed sidewalk shall be constructed easterly from the shared private road approach intersection with Harmony Road to the easterly property line. The new curb line shall minimize inflection points and shall be designed and constructed in a straight line or as close to a straight line as possible.*

*Obstructions within the limits of the sidewalk shall be relocated. The fire hydrant illustrated on the civil drawings near the easterly property line adjacent to*

*Harmony Road shall be relocated and the 7-ft-wide unobstructed sidewalk extended to the easterly property line.*

- (18) *Currently, the shared private road approach intersection with Harmony Road is provided with a "STOP" sign and a "RIGHT TURN ONLY" sign behind the sidewalk. Additional improvements, including a stop bar behind the sidewalk and an approximately 50-ft-long double yellow pavement stripe separating ingress and egress traffic are also required by the County. The driveway striping shall begin at the stop bar just behind the stop bar.*
- (19) *Plans submitted in anticipation of receiving a Development permit from Clackamas County, for road and frontage construction activities within the Harmony Road right-of-way, shall include additional detail, such as an illustration of the full width of Harmony Road, along the site frontage, and extending 200 ft beyond the limits of the property, both northeasterly and southwesterly.*

*Any existing driveway approaches within these limits shall also be illustrated. The right-of-way limits on each side of the road shall be illustrated. The additional detail shall also include a striping plan illustrating the existing and proposed striping on Harmony Road, also extending a minimum of 200 ft beyond the limits of the property.*

*All illustrated features shall be to scale and dimensioned. A legend for various line work shall also be provided. Storm drainage features shall be illustrated and stormwater runoff from the shared private road shall not be permitted to flow onto Harmony Road. Installation of a slotted drain would be one method to address this stormwater runoff from the shared private road. Ultimately, the applicant shall provide a set of construction plans to Clackamas County that are in conformance with Clackamas County Roadway Standards Section 140.*

(20) *Prior to the initiation of any construction activities within the Harmony Road right-of-way, the applicant shall submit plans and obtain a Development permit for improvements to Harmony Road or the frontage. The cost of the permit will be in accordance with the current fee schedule and based on an approved cost estimate for the road and frontage improvements. A performance surety shall also be required in an amount equal to 125% of the approved cost estimate.*

(21) *The use of public rights-of-way for construction vehicle staging is not authorized by the Roadway Standards and poses a potentially deleterious effect of the proposed use, because it contributes to congestion, reduces sight distance, and occupies shoulders intended for emergencies and other purposes. To protect the public from such effects, the applicant shall be required to submit a construction vehicle management plan for review and approval by the County DTD, Construction and Development Section, before the County issues a Development Permit. The plan shall show that the construction vehicles and materials will not be staged or queued up on improved public streets and shoulders under County jurisdiction without specific authority from the DTD for that purpose.*

*Conditions have been established in response to these County findings, to ensure that the proposed development will meet all applicable standards of MMC 19.708, the Clackamas County Roadway Standards, and any other applicable County requirements.*

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

10. MMC Section 19.905 Conditional Uses

MMC 19.905 establishes regulations for conditional uses, including standards for establishing new conditional uses.

a. MMC Subsection 19.905.2 Applicability

MMC 19.905 applies to the establishment of conditional uses as identified in the base zones of MMC Chapter 19.300.

*As noted in Finding 5-a and as established in MMC Subsection 19.310.5, conditional uses such as the proposed mini-storage facility may be approved pursuant to the provisions of Section 19.905. The provisions of MMC 19.905 are applicable to the proposed development.*

b. MMC Subsection 19.905.3 Review Process

MMC 19.905.3 establishes the process by which a new conditional use, or a major or minor modification of an existing conditional use, must be reviewed.

*The proposed development is an activity listed in MMC Subsection 19.310.5.B as an allowable conditional use within the B-I zone and represents a new use on the subject property.*

*MMC 19.905.3.A requires that proposed new conditional uses be evaluated through the Type III review process per MMC Section 19.1006.*

c. 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 subject property is approximately 130,000 sq ft in area and is located within the City's Business Industrial (B-I) zone, which allows mini-storage facilities as a conditional use. The site is near an interchange with Highway 224 and so is easily accessible to the surrounding area. Access would be shared with the commercial and light-industrial uses on the adjacent properties to the west, to reduce impacts to Harmony Road and the nearby intersection of Harmony Road, Lake Road, and International Way.*

*The site topography is relatively flat on the southern half, where the larger of two buildings is proposed. A smaller building will be located on the northern half of the site, across a new bridge over Minthorn Creek, which the proposed site plan acknowledges as a natural divider of the property. The site was previously developed with two single-family houses that have been demolished and a light-industrial building that will be removed.*

*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 existing commercial and light-industrial uses on the adjacent properties to the west generate traffic and business activity that is similar to the levels associated with the proposed development. The hours of operation of the proposed development (7 days a week, 6:00 a.m. to 9:00 p.m. for the storage facility; and Monday through Friday, 9:00 a.m. to 6:00 p.m. for the sales office) are similar to those of the other adjacent businesses. Except for the additional vehicle traffic sharing access to the site, the proposed development should have minimal impacts on the adjacent properties to the west.*

*The proposed new buildings will face Harmony Road. The east elevations of both buildings will have minimal visual impact on the existing apartment complex on the adjacent property to the east. Each includes a few windows that provide some minimal articulation without significantly impacting privacy for the adjacent apartment buildings. The finishing details for both buildings include some variety in siding materials/textures and/or color, which improve the visual aesthetic presented to the adjacent buildings. The buildings are set back 20 ft from the east property line, which makes them very close to mirroring the side yard height plane standard of the adjacent R-5 zone and reduces the massing impact on the adjacent apartment buildings.*

*The Planning Commission finds that this standard is met.*

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

*As discussed in Finding 7 and as conditioned, the impacts of the proposed development on the WQR and HCA will be sufficiently mitigated.*

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

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

*The proposed development, a commercial mini-storage facility, will not result in unmitigated nuisance impacts that are any greater than those associated with the uses allowed outright in the underlying B-I zone.*

*The Planning Commission finds that this standard is met.*

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

*As addressed in Findings 5 and 6, and as conditioned where necessary, the proposed development complies with the applicable development standards and requirements of the underlying B-I zone and the associated transition area measures, respectively. As addressed in Finding 7, and as conditioned where necessary, the proposed development complies with the applicable standards for development that impacts designated natural resource areas. As addressed elsewhere in Finding 10, the proposed development complies with the applicable development standards for conditional uses.*

*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, a commercial mini-storage facility, is listed as a conditional use in the underlying Business Industrial (B-I) zone, which allows a mix of clean, employee-intensive industrial and office uses. Within Chapter 4 (Land Use) of the City's Comprehensive Plan, the Economic Base and Industrial/Commercial Lands element includes two objectives related to the proposed development.*

*Within Objective #4 (Industrial Land Use), Policy #3 focuses on reserving lands designated as "Industrial" on Comprehensive Plan Map 8 (Land Use) for industrial, manufacturing, distribution, and supporting land uses. The subject property has an "Industrial" designation on Map 8, and the proposed development of a commercial mini-storage facility is a supporting land use. As one form of individualized warehousing, the proposed development provides space and opportunity for other land uses within the surrounding area to make more efficient use of their base properties.*

*Within Objective #5 (Industrial Impacts), Policy #1 focuses on ensuring that impacts from industrial development on adjacent residential areas will be minimized. As addressed elsewhere in Finding 10, the proposed development will be compatible with adjacent uses, presents no visual or physical burdens on the surrounding area, and will operate in a manner that is compatible with adjacent uses.*

*The Planning Commission finds that the proposed development is consistent with all relevant policies in the Comprehensive Plan.*

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

*Both the Clackamas County Department of Transportation and Development (which has authority over the adjacent Harmony Road right-of-way) and the City's Engineering Department have reviewed the proposal and confirmed that, as discussed in Finding 9 and as conditioned where necessary, the existing public transportation facilities and public utilities are adequate to serve the proposed development.*

*The Planning Commission finds that this standard is met.*

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

- d. 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 several conditions of approval are necessary to ensure that the proposed development is compatible with nearby uses. These include conditions requiring landscape screening along the rear property line and revised spacing of landscaping along the eastern boundary, to meet the transition area standards of MMC Subsection 19.504.6.B.*

e. MMC Subsection 19.905.6 Conditional Use Permit

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

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

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

11. MMC Section 19.911 Variances

MMC Section 19.911 establishes the variance process for seeking relief from specific code sections that have the unintended effect of preventing reasonable development or imposing undue hardship.

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B.

*The applicant has requested a variance to reduce the required front yard setback by 25%, to 15 ft from the 20-ft minimum standard for the B-I zone (MMC Subsection 19.310.6.B). The requested variance would allow the southern building to be up to 5 ft closer to Harmony Road at three points along that frontage.*

*The request would not eliminate the restriction on a prohibited activity, change a required review type, allow a use not allowed outright in the B-I zone, or otherwise produce any of the results listed in MMC Subsection 19.911.2.B. The request is eligible for a variance as per MMC 19.911.2.*

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. Specifically, MMC Subsection 19.911.3.B allows for limited variations to numerical standards, including a variance of up to 25% to a front yard standard. MMC Subsection 19.911.3.C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

*The applicant has requested a variance of 5 ft to the 20-ft front yard standard for the B-I zone. The request is for a variance of no more than 25% to a front yard standard and, as per MMC 19.911.3, qualifies for Type II review.*



c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests. Specifically, MMC Subsection 19.911.4.A provides approval criteria for Type II variances:

- (1) The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.

*The requested variance would allow the proposed southern building to be within 15 ft of the front property line along Harmony Road. The encroachment into the front yard setback is spread among three small points of the front building face, including an exterior stairwell, and totals approximately 115 sq ft. The alignment of the Harmony Road right-of-way runs at an angle along the subject property frontage, making it difficult to locate a rectilinear building on the rectilinear lot without orienting it at an angle on the site, which would significantly constrain the building footprint and on-site improvements. The requested variance allows the applicant to locate the proposed southern building farther from Minthorn Creek and the associated vegetated corridor. And it does not prevent the applicant from constructing the required public sidewalk and landscape strip along the Harmony Road frontage.*

*The Planning Commission finds that the proposed variance will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare. This criterion is met.*

- (2) The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.

*As addressed in Finding 9-f, the required frontage improvements along the Harmony Road frontage of the subject property include an 8-ft-wide easement on the property, to allow for location of a public sidewalk if necessary. By maintaining a 15-ft minimum front yard setback, the requested variance would maintain a buffer of at least 7 ft between any future public improvements and the three points in question of the southern building.*

*The Planning Commission finds that the requested variance does not interfere with any planned future public transportation facility or utility improvements. This criterion is met.*

- (3) Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.

*As proposed, the subject property will be completely redeveloped with new structures and site improvements. The requested variance does not relate to any existing building or site design that will remain.*

*The Planning Commission finds that this criterion is not applicable to the proposed development.*

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

*The requested variance would effectively bring three small portions of the proposed southern building closer to the required public improvements along the Harmony Road right-of-way. As per the applicant's landscaping plan, the street trees proposed for the landscape strip will screen the building from Harmony Road. Two of the three small points that will be closer than 20 ft from the front property line are not active-interface*

*portions of the building, and the third is an exterior stairwell that is not part of a main entrance.*

*The Planning Commission finds that the requested variance will not generate negative impacts that require mitigation. This criterion is met.*

*The Planning Commission finds that the approval criteria for a Type II variance request, as provided in MMC 19.911.4.A, are met.*

*The Planning Commission finds that the requested variance is allowable as per the standards of MMC 19.911.*

12. The application was referred to the following departments and agencies on October 4, 2016:

- Milwaukie Building Department
- Milwaukie Engineering Department
- Clackamas Fire District #1
- Clackamas County Transportation and Development
- ESA (City's on-call consultant for natural resource review)
- Metro
- Oregon Department of Transportation (ODOT)
- Linwood Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)

The comments received are summarized as follows:

- a. **Matt Amos, Fire Inspector, Clackamas Fire District #1:** No additional comments beyond those provided to the applicant through the preapplication conference process.
- b. **Robert Hixson, Civil Engineering Associate, Clackamas County Department of Transportation and Development:** Various comments related to the 2007 and 2016 traffic studies, access, and street improvements.
- c. **Seth Brumley, Planner, ODOT Region 1:** The proposal appears to be consistent with the previously approved zone change. No additional comments.
- d. **Rick Buen, Civil Engineer, Milwaukie Engineering Department:** Confirmation of Clackamas County's authority over public improvements along Harmony Road, with information related to requirements for public facility construction.
- e. **Sarah Hartung, Senior Biologist, ESA:** Peer review of applicant's Natural Resource Report is provided in a memo dated November 8, 2016, with additional comments received February 21, 2017.
- f. **Ed Williams, owner of Harmony Park Apartments (5979-5989 SE Harmony Rd):** The proposed development would complement the apartment complex and other surrounding uses. The subject property is underutilized, and the proposed development will be a low-impact use that will provide a much-needed service to the community.
- g. **Joseph Edge, Vice Chair of North Clackamas Urban Watersheds Council:** The proposed development could do more to avoid or minimize impacts to the WQR and HCA. One suggested change would be to limit all development to the south side of Minthorn Creek, with a variance to allow a taller single building in that location and a recorded covenant or conservation easement over the property on the north side of Minthorn Creek. An alternative would be to share access to the north side of Minthorn Creek over the existing bridge on the adjacent property to the west. If a new bridge is allowed, it should provide at least 10 ft of

vertical clearance for movement of deer and other wildlife. In general, development should not be allowed within the 100-year floodplain.

### **Conditions of Approval**

1. Final plans submitted for building permit review shall be in substantial conformance with plans approved by this action, which are the plans stamped received by the City on September 27, 2016; and modified by the plans related to sight-distance for the Harmony Road access, stamped received on October 7, 2016; the information related to the proposed new modular bridge, stamped received on October 13, 2016; the erosion control plan, stamped received on October 20, 2016; the revised Natural Resources report, stamped received on November 10, 2016; the revised plans related to turning movements, stamped received on January 26, 2017; the Harmony Road median and striping plan, stamped received on January 31, 2017; and the revised bridge embankment detail, stamped received on February 10, 2017; except as otherwise modified by these conditions of approval.

The final plans shall be comprised of a complete set of revised plans. The revised plans shall be consistent with one another, accurate with respect to the proposed development details, drawn to scale, and providing a legend that clearly identifies all detailed features.

The modifications required by these conditions of approval include the following revisions to all relevant plan sheets:

- a. As discussed in Finding 9-f, demonstrate that the existing access onto Harmony Road will be widened to allow for right-in and right-out turning movements, as shown on the Sisul Engineering exhibit labeled "EXHIBIT "A" TURNING MOVEMENT" and dated January 25, 2017 (stamped received by the City on January 26, 2017).
- b. As per Finding 6, provide landscape plantings or fencing at least 6 ft in height along the north- and east-side property lines, sufficient to screen the proposed development from adjacent residential uses.
- c. As per Finding 7-d, revise the Construction Management Plan (Preliminary Grading and Erosion Control Plan, Sheet C-4) with the following changes:
  - (1) Integrate the adjusted Erosion Control plan (Sheet B.2, stamped received October 20, 2016) with Sheet C-4 from the initial submittal, to show sediment fencing extending up the slopes on both sides of the creek and along the boundaries of the WQR at the top of the slope on both banks, and to show the limits of grading.
  - (2) Show tree protection measures for existing trees within the WQR and HCA on site, including a root protection zone extending from the trunk of each potentially affected tree to the outer edge of the tree's canopy.
  - (3) Clarify the location of all staging and access areas, and ensure that all temporary disturbance areas have been identified and accounted for in the revised mitigation plan.
- d. As per Finding 7-e, make the following modifications:
  - (1) Revise the preliminary lighting plan to demonstrate that lights are located and/or shielded as necessary to avoid light shining directly into the WQR and HCA.
  - (2) Following final engineering design for the proposed development, revise the mitigation planting plan as needed to reflect the actual amount of permanent and temporary disturbance to the Water Quality Resource (WQR) and Habitat Conservation Area (HCA) on the site. The applicant shall adjust the number of mitigation plantings

accordingly, using the formula of 5 trees and 25 shrubs per 500 sq ft of WQR or HCA disturbance.

- (3) Add Ponderosa pine (or valley pine) and Oregon white oak to the tree species list in the mitigation plant list for greater diversity. Verify that all mitigation plantings are native species as identified on the Milwaukie Native Plants List.
  - (4) Add the following specific measure to the bridge embankment cross section (Sheet B.1, stamped received February 10, 2017) to reduce the risk of scouring and erosion during large storm events:
    - (a) Provide information sufficient to demonstrate that the proposed gabion cages will not be impacted or undermined by 100-year flood flows.
- e. As per Finding 7-f, make the following modifications:
- (1) The new bridge shall be constructed consistent with the bridge embankment detail provided and stamped received on February 10, 2017, except that the bridge shall have a wide enough span to allow the bridge support structures and any associated riprap to be separated from the ordinary high water mark by at least 3 ft on both sides of the creek.
  - (2) Reduce or reposition the northern building and/or its associated parking and maneuvering areas to allow adjustments to the location of the northern retaining wall, sufficient to minimize further disturbance (permanent and temporary) of the WQR. Otherwise, demonstrate that there is no practicable way to do so. Any such modifications shall be accounted for in the revised mitigation plan as noted in Condition 1-d(1) and shall not cause the building or parking and maneuvering area to go out of conformance with the other applicable standards of Title 19, as per the findings of this land use decision.
  - (3) Relocate the outfall pipe for the northern stormwater planter, sufficient to preserve the existing deciduous tree marked for removal as shown on Figure 5 of the applicant's revised natural resource report.
- f. As per Finding 8-c(2), make the following revisions:
- (1) Where the perimeter buffer for the northern parking area is adjacent to the residential property to the east, provide a continuous visual screen (using fencing or vegetation) that is opaque year-round from 1 to 4 ft above the ground to adequately screen vehicle lights.
  - (2) Establish an interior landscaped area in the southern parking area to break up the row of parking spaces adjacent to the southern building. The new landscaped area shall meet the applicable dimensional and planting requirements of MMC Subsection 19.606.2.D.
  - (3) Provide a revised landscaping plan that clearly shows which existing trees will remain and which will be removed, including a rationale for removal of any trees not clearly within the development footprint of such features as the new buildings, roadways, parking and maneuvering areas, retaining walls, etc.
- g. As per Finding 8-c(3), make the following revisions:
- (1) Provide wheel stops in the stalls abutting perimeter landscaping areas and pedestrian walkways adjacent to the southernmost new building.

- (2) Provide sufficient detail to demonstrate that all on-site walkways are at least 5 ft wide, constructed of hard surface materials that are permeable for stormwater, and meet all other applicable design standards of MMC Subsection 19.504.9.E.
  - (3) Provide pavement marking and signage details for on-site circulation, including for the primary access point from the adjacent properties to the west. The revised plan sheets shall include directional pavement markings and clear signage to distinguish the accessway into the subject property from the shared accessway to Harmony Road.
  - (4) Demonstrate that all on-site walkways and parking spaces are lit to a minimum level of 0.5 footcandles.
- h. As per Finding 8-e, provide sufficient detail to demonstrate that the proposed bicycle parking meets the applicable standards of MMC Section 19.609. For example, the plan should indicate the type of rack to be used, how it will be anchored, and the dimensions of the bicycle parking spaces, in addition to confirming that the location is within 50 ft of a main building entrance.
  - i. As per Finding 8-f, provide pavement marking and/or signage details for each of the proposed carpool parking spaces.
  - j. Revise the preliminary stormwater report that was submitted with the initial application materials (stamped received by the City on September 27, 2016) sufficiently to meet the City's stormwater management requirements as outlined in "Additional Requirements" Item 7, below. As the final revised stormwater management plan may result in modifications to some features on the overall site plan, revise all relevant plan sheets accordingly.
2. At the time of submittal of any building permit application for the approved development, provide a narrative describing all actions taken to comply with these conditions of approval. In addition, describe any changes made after the issuance of this land use decision that are not related to these conditions of approval.
  3. As per Finding 9-f, the following items are project requirements from the Development Engineering Division of the Clackamas County Department of Transportation and Development (DTD). These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO), and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements, beyond those stated in the conditions of approval, may be required. The applicant may discuss the requirements of the project with County DTD staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. County staff shall determine if a modification is warranted.

Note: If the City annexes the Harmony Road right-of-way along the subject property's frontage and takes jurisdiction of the road for maintenance prior to the proposed development acquiring the necessary development permits, the applicable City standards from MMC Chapter 19.700 (Public Facility Improvements), MMC Title 12 (Streets, Sidewalks, and Public Places), and the City Public

Works Standards will take precedence over the following requirements set forth for County road access approval and frontage improvements.

- a. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with the Roadway Standards.
- b. The applicant shall obtain a Development Permit from the County DTD prior to the initiation of any construction activities associated with the project.
- c. The applicant shall verify by a professional survey that adequate right-of-way width exists along the entire site frontage, on the northerly side of Harmony Road to permit construction of the required roadway and frontage improvements or shall dedicate additional right-of-way as necessary to provide it. At a minimum, a 40-ft-wide one-half right-of-way width is required on the northerly side of Harmony Road. Contact Deana Mulder for the dedication of right-of-way form and specifics of exhibits to be included with submittals.
- d. The applicant shall grant an 8-ft-wide public easement for signs, slopes, sidewalks and public utilities along the entire Harmony Road site frontage on the northerly side of Harmony Road. Contact Deana Mulder for the grant of easement form and specifics of exhibits to be included with submittals.
- e. The applicant shall grant and record minimum 30-ft-wide reciprocal access easements to the properties to the west where similar easements were granted to the subject property when the development to the west was approved by the City of Milwaukie. In addition, the applicant shall grant an access easement to these same properties to the west for the use of the portion of the widened shared private road approach and driveway which will be located on the subject property. The applicant shall record the easement with Clackamas County and provide a copy of the recorded easement to the City of Milwaukie Planning Department before the County accepts the project and releases the performance surety.
- f. The westerly limits of the existing shared private road approach intersection with Harmony Road shall be retained as constructed. The existing driveway approach shall be widened easterly, providing a maximum throat width of 55 ft at the sidewalk, and in conformance with geometry illustrated on the Sisul Engineering exhibit labeled "EXHIBIT "A" TURNING MOVEMENT" and dated January 25, 2017 (stamped received by the City on January 26, 2017). A minimum 50-ft-long throat, measured from the back of the sidewalk, without intersecting drive aisles within the 50-ft length, per Roadway Standards Subsection 330.1-f, shall be provided and maintained.

Note: The City's standards for a driveway approach into an industrial property allow a maximum width of 45 ft. A wider approach is acceptable if it can be demonstrated that the additional width is the minimum required to allow adequate turning movements for whatever the County determines the standard design vehicle to be for the Harmony Road accessway.

- g. The applicant shall design and construct improvements along the entire site frontage of Harmony Road. These improvements shall consist of:
  - (1) Up to a half-street improvement. Structural section for Harmony Road improvements shall consist of 7.5 in of Level 3 Hot Mix Asphalt Concrete (HMAC), Performance Grade (PG) 70-22,  $\frac{3}{4}$ " dense or  $\frac{1}{2}$ " dense placed in lifts consisting of 2.5 in per lift, over 4 in of  $\frac{3}{4}$ "-0 aggregate leveling course, over 10 in of 1- $\frac{1}{2}$ "-0 aggregate base course, over geotextile fabric.
  - (2) Standard curb, or curb and gutter if curb line slope is less than 1%, and appropriate pavement widening to accommodate the necessary improvements of westbound bike lane (minimum 6 ft wide), westbound travel lane (minimum 12 ft wide), turn lanes,

raised median lengths, locations and widths (an extension easterly of the raised median as illustrated on the Sisul Engineering exhibit labeled "EXHIBIT "A" TURNING MOVEMENT" and dated January 25, 2017), and associated shy distances (minimum 2 ft). Lane widths, median lengths, widths and shy distances, and curb offset and curb alignment shall be proposed by the applicant and shall be reviewed and approved by Clackamas County Traffic Engineering staff prior to the issuance of a Development permit. Centerline of the right-of-way shall be established by a registered survey.

- (3) Drainage facilities in conformance with City of Milwaukie requirements, ZDO Section 1008, and Roadway Standards Chapter 4. Stormwater runoff flowing over the site driveway approach shall not flow onto Harmony Road and shall be intercepted by a slotted drain or an alternate method approved by County Engineering staff.
  - (4) A minimum 7-ft-wide unobstructed sidewalk behind a minimum 5-ft-wide landscape strip with appropriate street trees. The applicant shall relocate mailboxes, fire hydrants, utility poles, etc., when they are located within the limits of the sidewalk. Mailboxes shall be relocated or replaced in accordance with standards established by the local Post Office. Additional easements, as necessary, shall be granted to provide for any sidewalk eyebrows.
  - (5) Appropriate pavement and striping tapers, where required, in accordance with Roadway Standards Section 250.6.4 for transitions.
- h. The applicant shall propose a striping plan for Harmony Road along the subject property frontage and easterly and westerly from the property frontage to allow for appropriate striping and any necessary transitions. The applicant shall also propose, for review and approval by County Development Engineering and Traffic Engineering staff, the use of paint or thermoplastic for striping improvements.
  - i. The applicant shall provide a copy of the City of Milwaukie approved drainage study and Engineer's detention calculations to County DTD Engineering, Deana Mulder.
  - j. The applicant shall provide adequate intersection sight distances and stopping sight distances (including appropriate adjustments for grades) at the shared private road approach intersection with Harmony Road in accordance with the Roadway Standards and American Association of State Highway and Transportation Officials (AASHTO) requirements for passenger vehicles, single unit trucks, and combination trucks. In addition, no plantings at maturity, retaining walls, embankments, fences, or any other objects shall be allowed to obstruct vehicular sight distances. Minimum intersection sight distances for passenger vehicles, single unit trucks, and combination trucks, all making right turns, shall be 345 ft, 450 ft, and 560 ft, respectively, at the shared private road approach intersection with Harmony Road. Intersection sight distances shall be measured 14.5 ft back from the edge of the travel lane. In addition, minimum stopping sight distance for westbound vehicles shall be 275 ft.
  - k. The applicant shall comply with the Roadway Standards clear zone requirements in accordance with Roadway Standards Section 245 along the entire Harmony Road site frontage.
  - l. The applicant shall provide an Engineer's cost estimate to County Engineering, to be reviewed and approved, for the asphalt concrete, aggregates, curbs, sidewalks, striping improvements, and any other required public improvement associated with Harmony Road.

- m. The applicant shall provide Clackamas County a performance surety in an amount equal to 125% of the Clackamas County approved cost estimate for the Harmony Road improvements.
- n. The applicant shall install and maintain additional traffic control features at the shared private road approach intersection with Harmony Road and on the shared driveway approach. These features shall include a stop bar behind the sidewalk and a double yellow line, separating ingress and egress maneuvers, a minimum of 50 ft in length.
- o. All traffic control devices on private property, located where private driveways intersect County facilities, shall be installed and maintained by the applicant and shall meet standards set forth in the Manual on Uniform Traffic Control Devices and relevant Oregon supplements.
- p. Prior to the issuance of a building permit, the applicant shall submit to the Clackamas County Engineering Office:
  - (1) Written approval from the local Fire District for the planned access, circulation, and fire lanes. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
  - (2) Written approval from City of Milwaukie for surface water detention facilities and erosion control measures.
  - (3) A set of site and street frontage improvement construction plans, including a signing and striping plan, for review, in conformance with Roadway Standards Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit. The permit will be for driveway approach, driveway, road, curb, sidewalk, striping, and drainage improvements. The permit fee will be calculated in accordance with the current fee structure and will be based on the approved cost estimate for the Harmony Road driveway approach and driveway improvements within the Harmony Road right-of-way.

The submitted plans shall provide plan and profile data and sight lines, based on survey data, illustrating adequate intersection sight distances for passenger vehicles, single unit trucks, and combination trucks exiting the Harmony Road shared private road approach. In addition, the submitted plans shall provide plan and profile data and sight lines illustrating adequate stopping sight distance for passenger vehicles on Harmony Road approaching the Harmony Road shared private road from the east. The submitted plans shall also include a detailed striping plan and a legend for various line work. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
  - (4) A Fire Access and water supply plan for commercial buildings over 1000 sq ft in size or when required by Clackamas Fire District #1. The plan shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, fire department connection (FDC) location if applicable, building square footage and type of construction. The applicant shall provide fire flow tests per NFPA 291 and shall be no older than 12 months. Work to be completed by experienced and responsible persons and coordinated with the local water authority. (Applicable for developments with potable water supply provided by a water authority.)
- q. Following completion of site construction activities of buildings over 1000 sq ft or when required by Clackamas Fire District #1, the applicant shall provide as-built Fire Access and Water Supply PDF plans to the local Fire District and the City. The PDF plans shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, FDC location if



applicable, building square footage and type of construction. The plans shall include any supporting details of the access, circulation, water vaults, fire lines, valves, FDC, backflow devices, etc. For this proposal, the PDF as-built plan sheets shall be transmitted to [mike.boumann@clackamasfire.com](mailto:mike.boumann@clackamasfire.com) (Deputy Fire Marshal Mike Boumann) and appropriate City staff as determined by the City of Milwaukie.

- r. Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section. The plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD for that purpose.
4. Prior to final inspection of any building permit, the following shall be resolved:
    - a. Provide a narrative describing all actions taken to comply with these conditions of approval. In addition, describe any changes made after the issuance of this land use decision that are not related to these conditions of approval.
    - b. Submit a letter from the project landscape designer attesting that all required site plantings have been completed in conformance with the approved site plans and with City standards, including all mitigation plantings. This includes removal of all invasive or nuisance species vegetation (as identified on the Milwaukie Native Plant List), noxious materials, and man-made debris such as concrete rubble from within the entire WQR and HCA on the site, on the north and south sides of the creek, as per Finding 7-e.
    - c. Construct and receive County Engineering inspection for all required public improvements, as established in Finding 9-f.
    - d. Construct a private stormwater management system on the proposed development property for runoff created by the property. The private stormwater management system shall be constructed to the requirements of the approved stormwater management plan.
    - e. Remove all signs, structures, or vegetation in excess of 3 ft in height located in "clear vision areas" at intersections of streets, driveways, and alleys fronting the proposed development.

### **Other requirements**

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

1. Prior to commencement of any earth-disturbing activities, the applicant shall obtain an erosion control permit.
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 per MMC Subsection 8.08.070(I).
3. Conditional Use Permit  
As per MMC Subsection 19.905.6, the City will issue a conditional use permit upon approval of a new conditional use. 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.

4. The level of use approved by this action shall be permitted only after issuance of a certificate of occupancy. The site may be used in a manner substantially similar to what has been proposed and approved through this land use action, including the hours and levels of proposed activities and services.

5. Landscaping Maintenance

As per MMC Subsection 19.606.2.E.3, required parking area landscaping shall be maintained in good and healthy condition. As per MMC Subsection 19.402.11.B.9, a minimum of 80% of all required mitigation plantings for WQR or HCA disturbance shall remain alive on the second anniversary of the date the planting is completed.

6. Requirements from Clackamas Fire District #1 (CFD#1)

The following requirements are based on review of the applicant's original plan submittal and may not be all inclusive. Review of a full set of scaled revised plans will be required.

- a. Fire Departments Apparatus Access

- (1) Provide address numbering that is clearly visible from the street.
- (2) No part of a building may be more than 150 ft from an approved fire department access road.
- (3) Provide an approved turnaround for dead-end access roads exceeding 150 ft in length.
- (4) When building height exceeds 30 ft from lowest level of fire department access then aerial provisions will apply.
- (5) Fire Lane signage or curb striping per CFD#1. Parking restrictions for access roads less than 32 ft in width. Minimum 20-ft clear width for access roads and 26 ft adjacent to fire hydrants. Vertical height requirement is 13 ft 6 in.
- (6) Traffic bridge shall meet minimum apparatus access requirements.

- b. Water Supply

- (1) Fire Hydrants, Commercial Buildings: Where a portion of the building is more than 400 ft from a hydrant on a fire apparatus access road, as measured in an approved route around the exterior of the building, on-site fire hydrants and mains shall be provided.

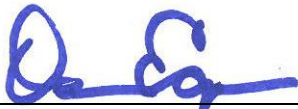
Note: This distance may be increased to 600 ft for buildings equipped throughout with an approved automatic sprinkler system.

- (2) All new buildings shall have a firefighting water supply that meets the fire flow requirements of Appendix B of the Oregon Fire Code.
- (3) Fire Department Connection (FDC) shall be within 100 ft of a public fire hydrant.
- (4) Fire hydrant locations shall meet the requirements of Appendix C of the Oregon Fire Code.

7. Other Engineering Requirements

Submit a 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. 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.

- a. The stormwater management plan shall demonstrate that the post-development runoff does not exceed the pre-development, including any existing stormwater management facilities serving the development site.
  - b. The stormwater management plan shall demonstrate compliance with water quality standards in accordance with the City of Portland Stormwater Management Manual.
  - c. Development/building permits will not be issued for construction until the stormwater management plan has been approved by the City of Milwaukie.
8. Expiration of Approval
- As per MMC 19.1001.7.E.1.a, proposals requiring any kind of development permit must complete both of the following steps:
- a. Obtain and pay for all necessary development permits and start construction within two (2) years of land use approval.
  - b. Pass final inspection and/or obtain a certificate of occupancy within four (4) years of land use approval.



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Dennis Egner, FAICP  
Planning Director

- cc: Hans Thygeson, applicant (2500 Willamette Falls Dr, Suite 207, West Linn, OR 97068)  
John Lewis, applicant's representative (*via e-mail*)  
Michael Robinson, Perkins Coie LLP, applicant's legal counsel (*via e-mail*)  
Planning Commission (*via e-mail*)  
Ann Ober, Interim Community Development Director (*via e-mail*)  
Chuck Eaton, Engineering Director (*via e-mail*)  
Alex Roller, Engineering Technician II (*via e-mail*)  
Samantha Vandagriff, Building Official (*via e-mail*)  
Bonnie Lanz, Permit Specialist (*via e-mail*)  
Mike Boumann and Matt Amos, CFD#1 (*via e-mail*)  
NDA(s): courtesy notification to Linwood (*via e-mail*)  
Interested Persons  
Land Use File(s): CU-2016-001 (master file)