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**CITY OF MILWAUKIE
APPLICATION FOR
LAND USE REVIEW**

**HARMONY PARK
TOWNHOMES PH II**

Location: 6115 SE Harmony Road
Tax Lot 2200 of
Tax Map 1S2E31D in
Clackamas County, Oregon

Prepared by: Steve Kay, AICP

Prepared for: HPA 2, LLC
10117 SE Sunnyside Road, #545
Clackamas, OR 97015

May 29, 2018

APPLICANT'S STATEMENT

PROJECT NAME: Harmony Park Townhomes PH II

REQUEST: Approval of a Type II Development Review Application with a Concurrent Type III Variance to the Side Yard Height Plane, Front Yard Setback, and Parking Lot Landscaping Standards, and a Type III Review for Proposed Activities within a Water Quality Resource (WQR) Area

ASSESSOR'S DESCRIPTION: Tax Lot 2200 of Tax Map 1S2E31D
Clackamas County, Oregon

APPLICANT'S REPRESENTATIVE: Steve Kay, AICP
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APPLICANT/PROPERTY OWNER: HPA 2, LLC
10117 SE Sunnyside Road, #545
Clackamas, OR 97015

PROPERTY SIZE: 1.33 acres +/-

LOCATION: 6115 SE Harmony Road
Milwaukie, OR 97222

I. APPLICABLE REGULATIONS

A. MILWAUKIE COMPREHENSIVE PLAN

B. MILWAUKIE MUNICIPAL CODE

TITLE 19: ZONING

Chapter 19.300: Base Zones

Section 19.302: Medium and High Density Residential Zones

Chapter 19.400: Overlay Zones and Special Areas

Section 19.402: Natural Resources NR

Chapter 19.500: Supplementary Development Regulations

Section 19.504: Site Design Standards

Section 19.505: Building Design Standards

Chapter 19.600: Off-Street Parking and Loading

Section 19.604: General Parking Standards

Section 19.605: Vehicle Parking Quantity Requirements

Section 19.606: Parking Area Design and Landscaping

Section 19.607: Off-Street Parking Standards for Residential Areas

Section 19.608: Loading

Section 19.609: Bicycle Parking

Section 19.610: Carpool and Vanpool Parking

Chapter 19.700: Public Facility Improvements

Section 19.702: Applicability

Section 19.703: Review Process

Section 19.704: Transportation Impact Evaluation

Section 19.708: Transportation Facility Requirements

Section 19.709: Public Utility Requirements

Chapter 19.900: Land Use Applications

Section 19.906: Development Review

Section 19.911: Variances

Chapter 19.1000: Review Procedures

Section 19.1002: Pre-Application Conference

Section 19.1006: Type III Review

Chapter 19.1200: Solar Access Protection

Section 19.1203: Solar Access for New Development

II. BACKGROUND:

The applicant and property owner, HPA 2 LLC, is requesting land use approval of a Type II Development Review application with a concurrent Type III Variance to the side yard height plane limit, front yard setback, and parking lot perimeter landscaping standards. In addition, a Type III Review is also requested for proposed activities within a water quality resource (WQR) area. The subject site is located at 6115 SE Harmony Road and was annexed into the city limits of Milwaukie in 2017. The 1.33 +/- acre site is zoned R-2 (Medium Density Residential) and is identified by the Clackamas County Assessor as Tax Lot 2200 of Tax Map 1S2E31D. The applicant is also the property owner of the Harmony Park Apartments, located directly west of the subject site at 5989 SE Harmony Road. The submitted application is to permit the development of the Harmony Park Townhomes PH II project, which consists of a 15-unit apartment building and associated site improvements.

The attached Existing Conditions Plan demonstrates that the subject site is currently vacant and slopes down from the north and south property lines towards the middle of the property (see Exhibit 4). This central lowland area of the parcel contains Minthorn Creek and an associated wetland on the north side of the waterway. The applicant has submitted a Water Quality Resource Site Assessment/Mitigation Plan which evaluates on-site natural resources, delineates the WQR, and identifies mitigation measures for proposed WQR impacts (see Exhibit 8). Also attached is the applicant's Wetland/Waters Delineation Report and Department of State Lands Wetland Delineation Concurrence Letter, demonstrating acceptance of the report findings (see Exhibits 6 and 7).

As illustrated by the attached Preliminary Site Plan, transportation facilities have been designed to meet the needs of the proposed use (see Exhibit 4). The site fronts SE Harmony Road, which is designated as an Arterial Street and is under Clackamas County jurisdiction. Due to a minimum 300-ft. driveway spacing standard for this roadway, the applicant is proposing to use the existing driveway and access easement at 5989 SE Harmony Road when providing access to the Harmony Park Townhomes PH II project. In addition, to provide needed access for waste management services, the applicant is proposing to consolidate waste and recycling storage for the new development with the existing apartments at 5989 SE Harmony Road. Fire apparatus access for the proposed development is proposed with a direct on-site gated driveway connection to SE Harmony Road. To meet Arterial Street improvement standards for the proposed development, the attached Preliminary Development Plans indicate that additional right-of-way will be dedicated and the applicant will install a 5-ft. landscape strip, street trees, and a 6-ft. sidewalk along the site's SE Harmony Road frontage (see Exhibit 4).

The applicant's Preliminary Development Plans demonstrate that existing public utilities in the vicinity of the site are adequately sized to accommodate the proposed development. Public water will serve the new apartment building by extending a lateral from the existing main line within SE Harmony Road. Sanitary Sewer will be provided by connecting the new apartment building to an existing on-site manhole located on the south site of Minthorn Creek. The attached plans and Preliminary Stormwater Report indicate that stormwater will be managed by collecting runoff from new impervious surfaces, detaining and treating drainage on-site, and then releasing the stormwater at the pre-development rate to Minthorn Creek.

This Applicant's Statement addresses applicable provisions of the Milwaukie Municipal Code. Copies of the signed Application Form, Property Deed, City Pre-Application Conference Report, and other required exhibits have been attached to this narrative. The exhibits and narrative demonstrate that the submitted land use application meets the criteria for approval.

III. FINDINGS

A. MILWAUKIE COMPREHENSIVE PLAN

COMMENT:

Except where required by the Milwaukie Municipal Code, this application is not required to address the City's goals and policies related to the development of land, since the Milwaukie Comprehensive Plan is implemented by the Code.

B. MILWAUKIE MUNICIPAL CODE

TITLE 19: ZONING

Chapter 19.300: Base Zones

Section 19.302: Medium and High Density Residential Zones

19.302.2: Allowed Uses in Medium and High Density Residential Zones

Uses allowed, either outright or conditionally, in the medium and high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

COMMENT:

The applicant is requesting approval of a Development Review application to permit the development of a 15-unit multi-family structure in the R-2 (Medium Density Residential) zone. Per Table 19.302.2, the proposed use is permitted in the zone.

19.302.4 : Development Standards

In the medium and high density residential zones, the development standards in Table 19.302.4 apply. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Section 19.302.5.

COMMENT:

The submitted Preliminary Site Plan identifies proposed setbacks for the proposed use. Due to steep topography near the creek and constraints associated with the WQR, the applicant is requesting a Type III Variance to permit a 12-ft. front yard setback when 15-ft. is required. Due to these challenges with the site, the applicant is also requesting a Type III Variance to permit a 35-ft. side yard height plane for the rear side of the apartment building. The attached Preliminary Site Plan and Building Elevations demonstrate that the proposed development meets all other setback standards, lot dimension and area standards, and height and lot coverage standards (see Exhibit 4). As required, the applicant has addressed the proposed variances under Section 19.911.

19.302.5: Additional Development Standards

A. heights

In the medium and high density zones, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

- 1. The side yard for development other than a rowhouse shall be at least 5 ft.**
- 2. There is no required side yard for rowhouses that share 2 common walls. The required side yard for an exterior rowhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior rowhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.**

COMMENT:

The subject site is located within the medium density R-2 zone. The applicant is requesting Development Review to permit the construction of a 15-unit apartment building on the property. The attached Preliminary Site Plan indicates that the applicant is proposing a 5-ft. minimum setback for the proposed development, meeting the standards of this section (see Exhibit 4).

B. Lot Coverage

The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

COMMENT:

Table 19.302.4 indicates that the maximum lot coverage standard in the R-2 zone is 45%. The attached Preliminary Site Plan indicates that the proposed lot coverage for the development is only 10% of the site (see Exhibit 4). Reductions and increases to lot coverage standards under this section do not apply to the proposed apartment building.

C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

COMMENT:

The attached Preliminary Site Plan indicates that the minimum vegetation area for the site is 8,645 square feet (see Exhibit 4). The proposed common open space on the south side of the creek contains 7,651 sq. ft., which is more than half of the needed vegetation area. An additional 10,864 sq. ft. of vegetated area is provided on the north side of Minthorn Creek. As demonstrated by the site plan, the proposed outdoor recreation area will contain a 5-ft. wide decomposed granite path, 6-ft. benches, and an 8-ft. picnic table. Therefore, the minimum vegetation standard will be met.

D. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

COMMENT:

The subject site's 12-ft. front yard contains 1,974 square feet. The landscaped portion of the front yard contains 1,060 sq. ft., which is 54% of the total front yard area. Therefore, this standard has been met.

E. Height Exceptions

1 additional story may be permitted in excess of the required maximum standard. For each additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

COMMENT:

Per Table 19.302.4, a 3-story building is permitted under R-2 zone standards. To reduce the building footprint and limit impacts to the WQR, the applicant is requesting the approval of a 4-story apartment building. The attached Preliminary Site Plan indicates that a minimum of 8,645 sq. ft. of vegetated area is required for the subject site, however the applicant is proposing to provide 41,231 sq. ft. of vegetated area with the proposed development (see Exhibit 4). Since the proposed development provides an additional 57% of vegetated area beyond the minimum required, the 4-story apartment building permitted under this section.

F. Residential Densities

- 1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of a single-family detached dwelling or an accessory dwelling is exempt from the minimum and maximum density requirements.**

COMMENT:

The applicant is not proposing a land division, single-family detached dwellings, or single-family attached dwellings with this application. Therefore, these standards do not apply.

- 2. Multifamily development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.**

COMMENT:

Per Table 19.302.5.F.2, the minimum site size for a multi-family development containing 15 dwelling units is 40,000 sq. ft. $((5,000 \text{ sq. ft.} \times 1) + (2,500 \text{ sq. ft.} \times 14) = 40,000)$. Since the net site area contains 57,634 sq. ft., the minimum site size requirements of Table 19.302.5.F.2 have been met.

G. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

COMMENT:

The applicant is not proposing the development of an accessory structure, therefore these standards do not apply.

H. Building Limitations

- 2. Multifamily buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.**

COMMENT:

The attached Building Floor Plans demonstrate that the proposed multi-family building has an overall length of 100.8 feet. Therefore, this standard has been met.

I. Transition Measures

The following transition measures apply to multifamily development that abuts an R-10-, R-7-, or R-5-zoned property.

- 1. In the portion of the site within 25 ft of the lower density residential zone, the building height limits are equal to those of the adjacent residential zone.**
- 2. Where the boundary of the lower density zone lies within, or on the edge of, a right-of-way; the building height limit, for the portion of the site within 15 ft of the lot line bordering the right-of-way, is equal to the height limit of the lower density residential zone.**

COMMENT:

The attached Aerial Photograph/Land Use Plan indicates that the subject site and the adjacent parcel to the west are located within the city limits and are zoned R-2. To the east of the site is a MR-1 zoned parcel that is located within Clackamas County. To the south of the site across SE Harmony Road is a GI zoned parcel that is also located within Clackamas County. Directly north of the site is the Southern Pacific Railroad right-of-way, which is located in the city limits and is zoned R-5. Since the proposed structure is located approximately 178-ft. from the northern property line, the above standards have been met.

J. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

COMMENT:

As required, the applicant has addressed off-street parking and loading standards under Chapter 19.600.

K. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

COMMENT:

As required, the applicant has addressed public facility improvement standards under Chapter 19.700.

L. Additional Standards

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

- 1. Subsection 19.504.4 Buildings on the Same Lot**
- 2. Subsection 19.504.8 Flag Lot Design and Development Standards**
- 3. Subsection 19.504.9 On-Site Walkways and Circulation**
- 4. Subsection 19.504.10 Setbacks Adjacent to Transit**
- 5. Subsection 19.505.1 Single-Family Dwellings and Duplexes**
- 6. Subsection 19.505.2 Garages and Carports**
- 7. Subsection 19.505.3 Multifamily Housing**
- 8. Subsection 19.505.4 Cottage Cluster Housing**
- 9. Subsection 19.505.8 Building Orientation to Transit**
- 10. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards**

COMMENT:

As required, the applicant has addressed applicable site design standards under Section 19.504 and applicable building design standards under Section 19.505.

Chapter 19.400: Overlay Zones and Special Areas

Section 19.402: Natural Resources NR

19.402.3: Applicability

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

COMMENT:

According to the Milwaukie Natural Resource Administrative Map, the subject site contains a portion of Minthorn Creek and an associated WQR. Therefore, the regulations of this chapter apply to the proposed development.

- F. In the context of designated natural resources, “disturbance” is a condition or result of an act that “disturbs” as defined in Section 19.201. Disturbance can be either temporary or permanent as noted below.
 - 1. Temporary disturbances are those that occur during an allowed or approved development or activity but will not persist beyond completion of the project. Temporary disturbances include, but are not limited to, accessways for construction equipment; material staging and stockpile areas; and excavation areas for building foundations, utilities, stormwater facilities, etc.

COMMENT:

To document on-site natural resources, the applicant's biologist has prepared the attached Water Quality Resource Site Assessment (see Exhibit 8). The limits of the delineated WQR are illustrated on the attached Preliminary Site Plan (see Exhibit 4). The attached Preliminary Grading Plan illustrates that construction activities will create a temporary disturbance when excavation occurs for the proposed building foundation and parking lot retaining wall. Temporary disturbance will also be required when connecting sanitary sewer service to an existing manhole within the WQR, and when storm lines are installed to the proposed outfall to Minthorn Creek. The total temporary disturbance area for the proposed development is 3,556 square feet.

- 2. Permanent disturbances are those that remain in place after an allowed or approved development or activity is completed. Permanent disturbances include, but are not limited to, buildings, driveways, walkways, and other permanent structures.**

COMMENT:

As demonstrated by the attached Existing Conditions Plan, the site is significantly constrained by the location of Minthorn Creek, the associated WQR, and steeper topography adjacent to the waterway. To develop the required minimum number of dwelling units while addressing these site challenges, the applicant is proposing to permanently impact 2,847 sq. ft. of the WQR on the south side of the creek. As required, the proposed permanent disturbance has been addressed through the Type III review process under Section 19.402.8.

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

COMMENT:

Since the proposed disturbance area is larger than 150 sq. ft., the applicant has submitted a Construction Management Plan with this application (see Exhibit 4).

19.402.4: Exempt Activities

A. Outright Exemptions

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

- 17. Establishment and maintenance of trails in**

accordance with the following standards:

- a. Trails shall be confined to a single ownership or within a public trail easement.
- b. Trails shall be no wider than 30 in. Where trails include stairs, stair width shall not exceed 50 in and trail grade shall not exceed 20%, except for the portion of the trail containing stairs.
- c. Trails shall be unpaved and constructed with nonhazardous, pervious materials.
- d. Trails shall be located at least 15 ft. from the top of bank of all water bodies.
- e. Plants adjacent to trails may be trimmed, but trimming clearances shall not exceed a height of 8 ft. and a width of 6 ft.
- f. Native trees of larger than 6-in diameter, and native shrubs or conifers larger than 5 ft. tall, shall not be removed.

COMMENT:

The attached Preliminary Site Plan indicates that the applicant is proposing to establish a 30-in. wide trail which is located a minimum of 15-ft. from Minthorn Creek (see Exhibit 4). As required, the trail will be under single ownership and its construction will not cause the removal of native vegetation listed above. The attached plan indicates that the trail will be constructed with a decomposed granite surface, which is a non-hazardous and pervious material.

19.402.8: Activities Requiring Type III Review

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

- A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:
 1. Any activity allowed in the base zone that is not otherwise exempt or permitted as a Type I or II activity.

COMMENT:

Due to the size of the permanent disturbance area within the WQR, the proposed development is classified as an Activity Requiring Type III Review. As required, the applicant has addressed the general discretionary review criteria under Subsection 19.402.12 and the Planning Commission will issue a decision regarding this request.

19.402.9: Construction Management Plans

- A. Construction management plans are not subject to Type I review per Section 19.1004 but shall be reviewed in similar fashion to an erosion control permit (MMC Chapter 16.28).**
- B. Construction management plans shall provide the following information:**
 - 1. Description of work to be done.**
 - 2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.**
 - 3. Location of site access and egress that construction equipment will use.**
 - 4. Equipment and material staging and stockpile areas.**
 - 5. Erosion and sediment control measures.**
 - 6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. A root protection zone shall be established around each tree in the WQR or HCA that is adjacent to any approved work area. The root protection zone shall extend from the trunk to the outer edge of the tree's canopy, or as close to the outer edge of the canopy as is practicable for the approved project. The perimeter of the root protection zone shall be flagged, fenced, or otherwise marked and shall remain undisturbed. Material storage and construction access is prohibited within the perimeter. The root protection zone shall be maintained until construction is complete.**

COMMENT:

As demonstrated by the attached Preliminary Construction Management Plan, the submitted plan provides all of the information listed above (see Exhibit 4).

19.402.11: Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards shall apply:

- 1. Work areas shall be marked to reduce potential damage to the WQR and/or HCA.**
- 2. Trees in WQRs or HCAs shall not be used as anchors for stabilizing construction equipment.**
- 3. Native soils disturbed during development shall be conserved on the property.**
- 4. An erosion and sediment control plan is required and shall be prepared in compliance with requirements set forth in the City's Public Works Standards.**
- 5. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to any WQR adjacent to the project area.**
- 6. Stormwater flows that result from proposed development within and to natural drainage courses shall not exceed predevelopment flows.**
- 7. Prior to construction, the WQR and/or HCA that is to remain undeveloped shall be flagged, fenced, or otherwise marked and shall remain undisturbed. Such markings shall be maintained until construction is complete.**
- 8. The construction phase of the development shall be done in such a manner as to safeguard the resource portions of the site that have not been approved for development.**

9. Where practicable, lights shall be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.
10. All work on the property shall conform to a construction management plan prepared according to Subsection 19.402.9.

COMMENT:

As required, the applicant will follow all of the required development standards listed above during the development of the site. The City will verify that these standards are met during building permit review for the project.

B. General Standards for Required Mitigation

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

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

COMMENT:

The attached Water Quality Resource Site Assessment/Mitigation Plan, indicates that temporary disturbances will be restored, and permanent disturbances will be mitigated, in accordance with the above standards (see Exhibit 8).

2. Required Plants

Unless specified elsewhere in Section 19.402, all trees, shrubs, and ground cover planted as mitigation shall be native plants, as identified

on the Milwaukie Native Plant List. Applicants are encouraged to choose particular native species that are appropriately suited for the specific conditions of the planting site; e.g., shade, soil type, moisture, topography, etc.

3. Plant Size

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

4. Plant Spacing

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

5. Plant Diversity

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

COMMENT:

The attached Water Quality Resource Site Assessment/Mitigation Plan specifies plantings which meets the above standards (see Exhibit 8).

6. Location of Mitigation Area

a. On-Site Mitigation

All mitigation vegetation shall be planted on the applicant's site within the designated natural resource that is disturbed, or in an area contiguous to the resource area; however, if the vegetation is planted outside of the resource area, the applicant shall preserve the

contiguous planting area by executing a deed restriction such as a restrictive covenant.

COMMENT:

As required, all mitigation vegetation will be planted on the subject site and will be located within the designated natural resource area.

7. Invasive Vegetation

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

8. Ground Cover

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

COMMENT:

The attached Water Quality Resource Site Assessment/Mitigation Plan indicates that invasive and noxious vegetation will be removed within the mitigation area (see Exhibit 8). In addition, all remaining bare soil areas will be seeded with native ground cover plant species.

9. Tree and Shrub Survival

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

a. Required Practices

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

- (1) Mulch new plantings to a minimum of 3-in depth and 18-in diameter to retain moisture and discourage**

weed growth.

- (2) Remove or control nonnative or noxious vegetation throughout the maintenance period.**

COMMENT:

As required, the applicant will provide mulch and remove non-native and noxious vegetation to enhance survival of the mitigation plantings.

c. Monitoring and Reporting

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

COMMENT:

As required, the applicant will provide the City with an annual report regarding the survival rate of all plantings for 2 years. During this monitoring period, the applicant will replace dead planting to ensure a minimum 80% survival rate.

10. Light Impacts

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

COMMENT:

As required, lights from the proposed development will not shine directly into the WQR. The City will verify that this standard has been met during building permit review for the project.

C. Mitigation Requirements for Disturbance within WQRs

- 1. The requirements for mitigation vary**

depending on the existing condition of the WQR on the project site at the time of application. The existing condition of the WQR shall be assessed in accordance with the categories established in Table 19.402.11.C.

2. When disturbance within a WQR is approved according to the standards of Section 19.402, the disturbance shall be mitigated according to the requirements outlined in Table 19.402.11.C and the standards established in Subsection 19.402.11.B.

COMMENT:

The attached Water Quality Resource Site Assessment/Mitigation Plan evaluates the condition of VECO A (Vegetated Corridor A) on the south side of Minthorn Creek next to the project site, and VECO B (Vegetated Corridor B) on the north side of Minthorn Creek (see Exhibit 8). Using the categories listed under Table 19.402.11.C, the report determined that portions of VECO A are currently in poor (Class C) and marginal (Class B) condition. The resources within VECO B were determined to be in good (Class A) condition. As required, the report indicates that the applicant will mitigate proposed disturbance to VECO A according to the Class B and C standards listed under Table 19.402.11.C.

E. Standards for Special Uses

Unless they are exempt per Subsection 19.402.4, or do not meet the nondiscretionary standards for HCAs provided in 19.402.11.D, the special uses listed in Subsection 19.402.7.A are subject to Type II review if they comply with the applicable standards in Subsection 19.402.11.E. Otherwise, the special uses listed in Subsection 19.402.7.A are subject to Type III review and the general discretionary review criteria provided in Subsection 19.402.12.

1. General Standards for Special Uses

Except for stormwater management plans, all nonexempt special uses listed in Subsections 19.402.11.E.2 through 5 that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D shall comply with the specific applicable standards in Subsection 19.402.11.E, as well as with the following general standards:

- a. **In addition to a construction management plan prepared according to the standards of Subsection 19.402.9; a mitigation plan shall be submitted per Subsection 19.402.11.D.2 or 19.402.12.C.2 for HCAs, as applicable, or per Subsection 19.402.11.C for WQRs. WQRs and HCAs shall be restored and maintained in accordance with the approved mitigation plan.**

COMMENT:

Since the proposed disturbance to the WQR on the south side of Minthorn Creek exceeds the thresholds for Type II Review, the proposed development is considered a Special Use and is subject to the standards of this section. As required, the applicant has submitted a Preliminary Grading/Erosion and Soil Control/Construction Management Plan in accordance with the standards of Section 19.402.9 (see Exhibit 4). In addition, the applicant has submitted a Water Quality Site Assessment/Mitigation Plan in accordance with Table 19.402.11C (see Exhibit 8).

- b. **Existing vegetation outside of approved work areas shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to WQRs and HCAs. Trees in WQRs or HCAs shall not be used as anchors for stabilizing construction equipment.**

COMMENT:

The submitted Preliminary Construction Management Plan indicates the area outside of the approved work area will be protected from disturbance during construction activities (see Exhibit 4). The plan demonstrates that the designated work areas reduce damage to the WQR resources.

- c. **Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated and the vegetation shall be established as soon as practicable. Interim erosion control measures, such as mulching, shall be used to avoid erosion on bare areas.**

COMMENT:

The applicant's Preliminary Construction Management Plan identifies erosion control measures which comply with the standards listed above (see Exhibit 4).

2. Public or Private Utility Facilities

In addition to the requirements of Subsection 19.402.11.E.1, the following disturbance area limitations apply to all new public and private utility facilities, as well as to facility upgrades that are not exempted by Subsection 19.402.4 or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D.

- a. The disturbance area for the upgrade of existing utility facilities shall be no greater than 15 ft wide.
- b. The disturbance area for new underground utility facilities shall be no greater than 25 ft wide and disturb no more than 200 linear feet of WQR within any 1,000-linear-foot stretch of WQR. Such a disturbance area shall be restored with the exception of necessary access points to the utility facility.
- c. Disturbance areas shall be revegetated.
- d. No fill or excavation is allowed within the ordinary high water mark of a stream, unless a permit is obtained from the Corps through the Standard Local Operating Procedures for Endangered Species (SLOPES) process.

COMMENT:

Temporary disturbance of the WQR will be required when connecting sanitary sewer service for the proposed development to the existing manhole within VECO A, and when storm service lines for the development are installed to the storm outfall to Minthorn Creek. The attached Preliminary Construction Management Plan demonstrates that the proposed disturbance areas for the new utility facilities will be no greater than 25-ft. wide and no work will occur within the ordinary high water mark of Minthorn Creek (see Exhibit 4). The attached Water Quality Site Assessment/Mitigation Plan indicates that the temporary disturbance areas will be revegetated in accordance with the standards of Table 19.402.11C.

3. New Stormwater Facilities

In addition to the requirements of Subsection 19.402.11.E.1, new stormwater facilities that are not exempted by Subsection 19.402.4, or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D, shall not encroach more than 25 ft into the outer boundary of the WQR adjacent to a primary protected water feature.

COMMENT:

The attached Preliminary Development Plans indicates that a storm outfall facility will discharge treated and detained stormwater to Minthorn Creek. As required, the proposed facility is located less than 25-ft. from the southern WQR boundary.

5. Stormwater Management Plans

Stormwater management plans that authorize disturbance within the WQR or HCA may be approved if in compliance with all of the following standards:

- a. Stormwater facilities will be designed to provide an environmentally beneficial hydrological impact on protected water features.**
- b. Protected water features will be protected from erosion by implementing a stream protection strategy and quantity control strategies.**

COMMENT:

As demonstrated by the attached Preliminary Stormwater Report, the proposed storm outfall facility will discharge stormwater at the pre-development rate into Minthorn Creek (see Exhibit 5). As such, the facility will ensure that existing hydrological function of the creek will be maintained. As demonstrated by the attached Preliminary Development Plans, collected stormwater will be treated and detained prior to being released into a storm outfall structure that will dissipate drainage velocity and mitigate potential erosion on the site (see Exhibit 4).

- c. **Watershed health will be improved through the use of vegetated facilities to meet pollution reduction, flow control, and infiltration goals. These facilities will be maintained in a manner that ensures a continued benefit to watershed health.**
- d. **Proposed stormwater management facilities will correct or improve conditions caused by past management and/or disturbance events, if any are present.**
- e. **Where there is no reasonable expectation of returning to natural conditions, beneficial habitat, vegetation, and stream function and hydrology will be restored to the fullest extent practicable within developed areas.**

COMMENT:

The submitted Water Quality Resource Site Assessment/Mitigation Plan indicates that the applicant will install mitigation plantings on the south side of Minthorn Creek following the proposed construction activities (see Exhibit 8). The attached report illustrates that the mitigation plantings will remove invasive species and improves the existing health of the watershed by enhancing habitat, vegetation, stream function, and hydrology within the WQR.

19.402.12: General Discretionary Review

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

to properly evaluate the report's conclusions.

A. Impact Evaluation and Alternatives Analysis

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

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

1. Identification of the ecological functions of riparian habitat found on the property, as described in Subsection 19.402.1.C.2.

COMMENT:

The attached Water Quality Resource Site Assessment provides a description of the ecological functions of the WQR in accordance with Subsection 19.402.1.C.2 (see Exhibit 8). These ecological functions include the provision of shade and microclimate along Minthorn Creek, providing stream moderation, water storage, water infiltration, bank stabilization, and large wood recruitment and retention for the waterway.

2. An inventory of vegetation, sufficient to categorize the existing condition of the WQR per Table 19.402.11.C, including the percentage of ground and canopy coverage materials within the WQR.

COMMENT:

The applicant's Water Quality Resource Site Assessment includes an inventory of vegetation within the WQR area (see Exhibit 8). The inventory is referred to as VECO A on the south side of the creek, and VECO B on the north side of the waterway. The report determined that the condition of VECO A resources are categorized as Class C (poor) and Class B (marginal), while VECO B resources are classified as Class A (good). Canopy coverage for VECO A was determined at 25% to 50%, while VECO B contains more than 50% canopy coverage.

- 3. An assessment of the water quality impacts related to the development, including sediments, temperature and nutrients, sediment control, and temperature control, or any other condition with the potential to cause the protected water feature to be listed on DEQ's 303(d) list.**

COMMENT:

The attached Preliminary Development Plans indicate that the applicant is not proposing to impact Minthorn Creek or the wetland on the north side of the creek. The attached Preliminary Construction Management Plan demonstrates that erosion control measures will be utilized during construction to prevent sediment from entering the water features. The applicant's Preliminary Stormwater Report indicates that drainage from the development will be treated and detained prior to being discharged through a storm outfall to the creek. The plans demonstrate that limited tree removal will maintain existing temperature control within the WQR. These measures will ensure that storm drainage to the creek will not diminish water quality and storm flows will not exceed the pre-development rate.

- 4. An alternatives analysis, providing an explanation of the rationale behind choosing the alternative selected, listing measures that will be taken to avoid and/or minimize adverse impacts to designated natural resources, and demonstrating that:**
 - a. No practicable alternatives to the requested development exist that will not disturb the WQR or HCA.**

COMMENT:

The applicant evaluated four alternatives when determining how development of the site can best avoid and/or minimize impacts to the WQR. As demonstrated by the attached Existing Conditions Plan, the total WQR area contains 33,652 sq. ft. and includes the delineated area within the ordinary high water mark of Minthorn Creek, a wetland on the north side of the stream, and 50-ft. wide vegetated corridors on both sides of the waterway. As indicated by the Preliminary Site Plan, the net site area contains 57,634 square feet. Therefore, the WQR encompasses 58% of the subject property. The remaining site area not encumbered by the WQR contains a total of 23,982 sq. ft., with 7,451 sq. ft. located on the north side of the creek, and 16,531 sq. ft. located on the south side of the waterway.

Alternative A minimizes the access driveway length for the proposed apartments, by providing direct access from SE Harmony Road, and locating the parking lot in the southeast corner of the site. With this configuration, the apartment building would be located in a wider area outside of the WQR in the southwest corner of the site. While this option could reduce the amount of disturbance to the WQR, it is not practicable since SE Harmony Road is classified as an Arterial Street. As such, a direct driveway to the site would not meet the minimum 300-ft. access spacing standard between private drives.

Alternate B also locates the proposed apartment building in a wider area outside of the WQR in the southwest corner of the site. To provide access, the parking lot would be served from an access driveway extending across the front of the site, from the existing Harmony Park Townhomes parking lot to the west of the site, to a proposed parking lot in the southeast corner of the site. This option could reduce the amount of disturbance to the WQR and would meet the Arterial Street access spacing standard. However, this option it is not practicable since the access drive would consume nearly all of the front yard setback area, preventing the applicant from meeting the minimum 40% vegetation within the front yard standard.

Alternative C provides access to the site from SE Railroad Road, located to the north of the subject site. The option would require crossing the Southern Pacific Railroad right-of-way and constructing a bridge across Minthorn Creek to construct the apartments on the south side of the waterway. While this option eliminates access from SE Harmony Road, the design alternative is not practicable since ODOT Rail would not permit a new at-grade rail crossing at this location. This option would also create impacts to the wetland and VECO B on the north side of Minthorn Creek, which are Class A resources and are in better condition than the WQR on the south side of the waterway.

Alternative D provides access through the existing parking lot to the west of the site. With this alternative, a Type III variance would be requested to locate the apartment building within 12-ft. of the front property line in the southeast corner of the site. The amount of impervious area within the front yard setback area is minimized by locating the proposed parking lot in the southeast corner of the site. This option has been selected by the applicant since it is the only practicable option when developing the site. The alternative avoids impacts to Class A resources on the site, while minimizing impacts to Class C resources.

- b. Development in the WQR and/or HCA has been limited to the area necessary to allow for the proposed use.**

COMMENT:

As discussed above, the applicant has evaluated 4 alternatives and determined that Alternate D is the only practicable option when developing the site. The proposed site plan provides efficient driveway access to a parking lot in the southwest corner of the site to limit impervious surfaces. The parking lot has been sized to accommodate the 18 required spaces and replace the 2 lost spaces from the existing parking lot to the west of the site when access is provided. The proposed 21 standard parking spaces provide 1 additional space to account for the inability to provide on-street parking on SE Harmony Road. The number of proposed parking spaces is significantly less than the maximum of 30 spaces as permitted under City standards.

As demonstrated by the attached Preliminary Development Plans, the proposed apartment building is compact and contains a mix of unit types for multi-family residents. The attached Preliminary Site Plan indicates that the applicant is proposing to develop 15 apartment units, which is minimum required density for the site (see Exhibit 4). To minimize the building footprint, the applicant is requesting the approval of additional story under Section 19.302.5.E.

- c. **If disturbed, the WQR can be restored to an equal or better condition in accordance with Table 19.402.11.C; and the HCA can be restored consistent with the mitigation requirements of Subsection 19.402.11.D.2.**

COMMENT:

The attached Water Quality Resource Site Assessment indicates that VECO A of the WQR, on the south side of Minthorn Creek, is in poor and marginal condition (see Exhibit 8). The attached Preliminary Grading Plan demonstrates that the proposed development will temporarily disturb 3,556 sq. ft. of VECO A. The applicant's Preliminary Site Plan also indicates that the proposed improvements will permanently disturb 2,734 sq. ft. of the WQR (see Exhibit 4). The applicant's report includes a mitigation plan for the proposed disturbance to ensure that the WQR is restored to an equal or better condition in accordance with the above standards.

- d. **Road crossings will be minimized as much as possible.**

COMMENT:

The proposed development does not involve a road crossing within the WQR, therefore this standard has been met.

- 5. **Evidence that the applicant has done the following, for applications proposing routine repair and maintenance, alteration, and/or total replacement of existing structures located within the WQR:**

COMMENT:

The applicant is not proposing routine repair and maintenance, alteration, and/or total replacement of existing structures in the WQR. Therefore, this standard does not apply.

- 6. **A mitigation plan for the designated natural resource that contains the following information:**
 - a. **A description of adverse impacts that will be caused as a result of development.**

COMMENT:

As discussed above, the applicant will permanently impact 2,734 sq. ft. of the 10,230 sq. ft. WQR area on the south side of Minthorn Creek. In addition, the proposed development will temporarily impact 3,556 sq. ft. of this area. The attached Water Quality Resource Site Assessment/Mitigation Plan indicates that this WQR, identified as VECO A, is in poor to marginal condition. The submitted report indicates that the proposed temporary disturbance will be restored to equal or better condition than existing resources, and permanent disturbances will be mitigated in accordance with Table 19.402.11.C (see Exhibit 8).

- b. An explanation of measures that will be taken to avoid, minimize, and/or mitigate adverse impacts to the designated natural resource; in accordance with, but not limited to, Table 19.402.11.C for WQRs and Subsection 19.402.11.D.2 for HCAs.**

COMMENT:

The applicant has provided an alternatives analysis to describe how measures have been taken to avoid impacts to the designated natural resource. The attached Water Quality Resource Site Assessment/Mitigation Plan details measures to mitigate proposed impacts to the WQR on the south side of Minthorn Creek (see Exhibit 8). The submitted Construction Management Plan illustrates how proposed impacts can be minimized during development of the site (see Exhibit 4).

- c. Sufficient description to demonstrate how the following standards will be achieved:**
 - (1) Where existing vegetation has been removed, the site shall be revegetated as soon as practicable.**

COMMENT:

The attached Water Quality Resource Site Assessment/Mitigation Plan specifies how the impacted WQR can be revegetated as soon as practicable (see Exhibit 8).

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

COMMENT:

The applicant is not proposing to install exterior lights which shine directly into the WQR. As required, the City will verify that this standard is met during building permit review.

- (3) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous; particularly along natural drainage courses, except where mitigation is approved; so as to provide a transition between the proposed development and the designated natural resource and to provide opportunity for food, water, and cover for animals located within the WQR.**

COMMENT:

The attached Water Quality Resource Site Assessment demonstrates that standing trees and shrubs are located directly adjacent to Minthorn Creek and will not be impacted by the proposed WQR disturbance (see Exhibit 8). As required, the proposed temporary disturbance area will be restored in accordance with Table 19.402.11.C.

- d. A map showing where the specific mitigation activities will occur. Off-site mitigation related to WQRs shall not be used to meet the mitigation requirements of Section 19.402.**

COMMENT:

The attached Water Quality Resource Site Assessment/Mitigation Plan identifies the proposed WQR mitigation area (see Exhibit 8). As required, the mitigation will occur on-site.

- e. An implementation schedule; including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting; as well as a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the allowable windows for in-water work as designated by ODFW.**

COMMENT:

With approval of this application, the applicant can begin the project in early fall of 2018 and can complete construction activities within the WQR by March 2019. The attached Construction Management Plan details how erosion control measure will be undertaken during the development to protect the WQR (see Exhibit 4). Mitigation activities within the WQR can be completed during the spring of 2019. The attached Water Quality Resource Site Assessment/Mitigation Plan includes a monitoring and reporting plan for the project (see Exhibit 8). As demonstrated by the attached Preliminary Grading Plan, the applicant is not proposing in-stream work with this development.

B. Approval Criteria

- 1. Unless specified elsewhere in Section 19.402, applications subject to the discretionary review process shall demonstrate how the proposed activity complies with the following criteria:**

- a. Avoid**

The proposed activity avoids the intrusion of development into the WQR and/or HCA to the extent practicable. The proposed activity shall have less detrimental impact to the designated natural resource than other practicable alternatives, including significantly different practicable alternatives that propose less development within the resource area.

COMMENT:

The applicant has presented four alternatives under Section 19.402.12.A.4.a. The evaluation determined that Alternative D is the only practicable alternative when developing the site. The proposed activity avoids intrusion of development into the WQR to the extent possible by reducing the front yard setback, minimizing the proposed building footprint, and increasing the height of the building by one-story. The applicant is also proposing to develop the minimum number of units permitted for the site. Therefore, the proposed development avoids intrusion into the WQR to the extent practicable.

- b. Minimize**

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity within the resource area shall minimize detrimental impacts to the extent practicable.

(1) The proposed activity shall

minimize detrimental impacts to ecological functions and loss of habitat, consistent with uses allowed by right under the base zone, to the extent practicable.

COMMENT:

As indicated by the attached Water Quality Resource Site Assessment, natural resources within the impact area are classified as poor to marginal condition (see Exhibit 8). The report demonstrates that the quality and ecological function of the resources will not be significantly impacted by proposed activities in the southern portion of VECO A. By reducing the front yard setback, minimizing the proposed building footprint, and increasing the height of the building by one-story, the proposed activity minimizes detrimental impacts to existing ecological functions and habitat. The submitted Preliminary Site Plan indicates that the applicant is only proposing to develop 15 dwelling units on the site, which is the minimum required density in the R-2 district (see Exhibit 4). Based on these factors, the proposed activity minimizes impacts to the WQR to the extent practicable.

(2) To the extent practicable within the designated natural resource, the proposed activity shall be designed, located, and constructed to:

(a) Minimize grading, removal of native vegetation, and disturbance and removal of native soils; by using the approaches described in Subsection 19.402.11.A, reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post, or piling foundation).

(b) Minimize adverse hydrological impacts on water resources.

(c) Minimize impacts on wildlife corridors and fish passage.

(d) Allow for use of other techniques to further minimize the impacts of development in the resource area; such as using native plants throughout the site (not just in the resource

area), locating other required landscaping adjacent to the resource area, reducing light spill-off into the resource area from development, preserving and maintaining existing trees and tree canopy coverage, and/or planting trees where appropriate to maximize future tree canopy coverage.

COMMENT:

The attached Water Quality Resource Site Assessment/Mitigation Plan illustrates that the proposed impact area within VECO A contains mostly non-native vegetation (see Exhibit 8). The report specifies that existing vegetation within the impact area will be removed and replaced with native species to improve the quality of the habitat and provide additional tree canopy for the area. To minimize grading within the WQR, the Preliminary Grading Plan indicates that a retaining wall is proposed along the north boundary of the parking lot (see Exhibit 4). Also, by adding an additional story to the apartment structures, the building footprint can be reduced. In addition, the attached Preliminary Site Plan indicates that the applicant is proposing a reduction to the front yard setback to further reduce impacts to the resource area. These measures limit development activities to the southern portion of VECO A so that hydrological impacts to the water resource and wildlife corridor along Minthorn Creek are minimized.

c. Mitigate

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity shall mitigate for adverse impacts to the resource area. All proposed mitigation plans shall meet the following standards:

- (1) The mitigation plan shall demonstrate that it compensates for detrimental impacts to the ecological functions of resource areas, after taking into consideration the applicant's efforts to minimize such detrimental impacts.**
- (2) Mitigation shall occur on the site of the disturbance, to the extent practicable. Off-site mitigation for disturbance of WQRs shall not be**

approved. Off-site mitigation for disturbance of HCAs shall be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and if the applicant has documented that they can carry out and ensure the success of the off-site mitigation as outlined in Subsection 19.402.11.B.5.

In addition, if the off-site mitigation area is not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, the applicant shall demonstrate that it is not practicable to complete the mitigation within the same subwatershed and that, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.

COMMENT:

As discussed above, the applicant has taken measures to minimize impacts to VECO A. The attached Water Quality Resource Site Assessment/Mitigation Plan demonstrates that the proposed mitigation measures will compensate for the impacts to the ecological function of the resource and all mitigation will occur on-site (see Exhibit 8).

- (3) All revegetation plantings shall use native plants listed on the Milwaukie Native Plant List.
- (4) All in-stream work in fish-bearing streams shall be done in accordance with the allowable windows for in-water work as designated by ODFW.
- (5) A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting. Compliance with the plan shall be a condition of development approval.

COMMENT:

The attached Mitigation Plan demonstrates that the proposed revegetation plantings are City-approved native plants (see Exhibit 8). As required, the submitted report provides sufficient detail to ensure the success of the planting. The attached Preliminary Grading Plan indicates that no in-stream work is proposed (see Exhibit 4).

19.402.14: Adjustments and Variances

To encourage applicants to avoid or minimize impacts to WQRs and/or HCAs, several types of adjustments and variances are available for use on any property that includes a WQR or HCA. These include adjustments to specific base zone and lot design standards, discretionary variances, and allowances for residential cluster development.

A. Adjustments

The adjustments provided in Subsection 19.402.14.A shall not be used to avoid the requirement to submit a construction management plan, if deemed applicable per Subsection 19.402.3. The following adjustments are allowed by right as part of any Type I, II, or III application:

1. Adjustments to Base Zone Standards

a. Yard Setback (General)

Yard setback standards may be adjusted by up to 10%. This allowance applies only to the yard requirements established in base zones and does not apply to additional yard requirements for conditional uses or community service uses, yard exceptions established in Subsection 19.501.2, or transition area measures established in Subsection 19.504.6.

COMMENT:

Per Section 19.501.2, additional front yard setbacks are required certain major streets. Since the site is adjacent to SE Harmony Road, an additional 40-ft. front yard setback is required from centerline. The attached Existing Conditions Plan indicates that SE Harmony Road is 60-ft. wide (30-ft. from centerline), therefore the required front yard is 10-ft. plus the standard 15-ft. setback for a total of 25 feet. To minimize impacts to the WQR, the applicant is proposing to reduce the front yard setback to 12 feet. Since the proposed adjustment exceeds a 10% reduction to the standard, the applicant is requesting a Type III Variance from the required front yard setback with this application.

B. Variances

1. **Requests to vary any standards beyond the adjustments allowed in Subsections 19.402.14.A or B shall be subject to the review process and approval criteria for variances established in Section 19.911.**
2. **In granting any variance request related to Section 19.402, the Planning Commission may impose such conditions as are deemed necessary to minimize adverse impacts that may result from granting the variance. Examples of such conditions include, but are not limited to, maintaining a minimum width of the vegetated corridor alongside a primary protected water feature and limiting the amount of WQR for which the adjacent vegetated corridor width can be reduced.**

COMMENT:

As mentioned above, the applicant is proposing to reduce the front yard setback from 25 feet to 12 feet. The proposed adjustment is a 48% reduction to the setback standard, therefore the applicant is requesting a Type III Variance to the front yard setback standard under Section 19.911. As required, the Planning Commission will review and issue a decision for the variance request.

Chapter 19.500: Supplementary Development Regulations

Section 19.504: Site Design Standards

19.504.1: Clear Vision Areas

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

COMMENT:

The attached Preliminary Site Plan illustrates that access to the subject property is from an existing parking lot serving the Harmony Park Apartments, directly to the west of the site (see Exhibit 4). As required, the existing driveway access at the intersection and SE Harmony Road is currently maintained in accordance with Chapter 12.24.

19.504.3: Dual Use of Required Open Space

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

COMMENT:

The submitted Preliminary Site Plan demonstrates that the required lot area, yard, vegetated area, and required off-street parking spaces for the proposed use are provided on the subject site (see Exhibit 4).

19.504.7: Minimum Vegetation

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

COMMENT:

As required, no more than 20% of the required vegetation area will be covered in mulch or bark dust. The City can ensure compliance with this standard through a condition of approval, and also when detailed plans are submitted for building permit review.

19.504.9: On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single-family and multifamily residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are

not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

COMMENT:

The applicant's Preliminary Site Plan identifies the location of 5-ft. wide concrete walkways which connect the proposed parking lot to the apartment building and the adjacent public sidewalk (see Exhibit 4).

B. Location

A walkway into the site shall be provided for every 300 ft. of street frontage.

COMMENT:

The submitted Existing Conditions Plan indicates that the subject site's frontage on SE Harmony Road is approximately 164 feet (see Exhibit 4). Since the applicant is proposing 2 walkway connections to SE Harmony Road, the above standard has been met.

C. Connections

Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys, and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional, or park use. The City may require connections to be constructed and extended to the property line at the time of development.

COMMENT:

The attached Preliminary Site Plan demonstrates that the proposed walkways connect to the adjacent sidewalk along SE Harmony Road (see Exhibit 4). In addition, the walkways connect to the front and rear entrances of the proposed apartment building. There are no off-site pedestrian or bicycle facilities on adjacent properties, therefore the applicant is not proposing to extend walkways to those parcels.

D. Routing

Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

COMMENT:

The submitted Preliminary Site Plan illustrates that the proposed walkways provide direct connections between the proposed apartment building, associated parking lot, and adjacent sidewalk along SW Harmony Road (see Exhibit 4).

E. Design Standards

Walkways shall be constructed with a hard surface material, shall be permeable for stormwater, and shall be no less than 5 ft. in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average 5/10-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.

COMMENT:

For maintenance purposes, the applicant is proposing to install concrete walkways between the proposed apartment building and parking lot. The submitted Preliminary Site Plan indicates that the proposed walkways will be separated from the parking area by a 6" curb (see Exhibit 4).

19.504.11: Preliminary Circulation Plan

A preliminary circulation plan is intended to guide site development by establishing a plan for multimodal access, connectivity, and circulation. A preliminary circulation plan is a conceptual plan, in that it does not establish a precise alignment for street, pedestrian, or bicycle facilities.

A. Applicability

A preliminary circulation plan is required for nonresidential development on sites 3 acres and larger that are subject to development review per Section 19.906 and where any of the following is true:

COMMENT:

The applicant is proposing a residential use for the 1.33 acre site. Therefore, a preliminary circulation plan is not required.

Section 19.505: Building Design Standards

19.505.3: Multifamily Housing

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multifamily and congregate housing developments with 3 or more dwelling units on a single lot. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3. Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multifamily or congregate housing development is subject to the design elements in this subsection.
2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq. ft. Elements that are applicable only to additions do not apply to the site's existing development.
 - a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.
 - b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.
 - c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.
 - d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.
 - e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.
 - f. Subsection 19.505.3.D.8 Landscaping, for the entire site.
 - g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.
 - h. Subsection 19.505.3.D.11 Sustainability,

only for new buildings.

- i. **Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.**
- j. **Subsection 19.505.3.D.13 Safety, only for additions or new buildings.**

COMMENT:

The proposed multi-family use contains more than 3 units. As required, this narrative addresses applicable design elements listed above.

D. Design Guidelines and Standards

Applicable guidelines and standards for multifamily and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

1. Private Open Space

COMMENT:

The attached Apartment Building Plans and Elevations indicate that all of the 1-bedroom and 2-bedroom dwelling units are provided private open space with a minimum dimension of 5-ft. and a minimum area of approximately 85 square feet (see Exhibit 4). As required, the proposed private space areas are directly accessible from the interior of the dwelling units and they are separate from common open space areas with railings. Since the studio unit is not provided private open space and ground floor units contain less than 96 sq. ft. of private open space, the applicant is requesting discretionary review of this design element. The attached Preliminary Site Plan illustrates that a common open space area with a pedestrian path, benches, and a picnic table has been provided in lieu of the required private space areas (see Exhibit 4). The plan illustrates that the common space amenities have been well designed, adequately sized, and functionally similar to private open space.

2. Public Open Space

COMMENT:

The public open space design standard for the 1.33 acre site requires the provision of a 5,793 sq. ft. common open space area. The attached Preliminary Site Plan indicates that the proposed common open space area on the south side of Minthorn Creek contains 7,383 sq. ft., maintains a 20-ft. width, and contains a variety of user amenities. Therefore, this design element meets the City's design standard.

3. Pedestrian Circulation

COMMENT:

The submitted Preliminary Site Plan illustrates that the proposed pedestrian circulation system provides direct connections between the apartment building, associated parking lot, and the adjacent sidewalk along SE Harmony Road (see Exhibit 4). A clear transition from the public realm to the ground floor units is provided by locating unit entrances within the building lobby, providing a railing around private open space areas, and locating landscape areas between walkways and the ground floor units. To reduce maintenance a cost, the applicant is proposing to construct the walkways with a concrete surface verses a permeable surface. The submitted Preliminary Site Plan indicates that the proposed walkways will be separated from the parking lot by a 6" curb for safety, and wheel stops will be installed to maintain a 5-ft. width for pedestrians (see Exhibit 4). The plan indicates that two walkway connections to the adjacent public sidewalk are proposed for the 164-ft. frontage along SE Harmony Road. Since the proposed walkways will be constructed with a concrete surface, the applicant is requesting discretionary review of this design element.

4. Vehicle and Bicycle Parking

COMMENT:

The attached Preliminary Site Plan demonstrates that the proposed parking lot is not located between the apartment building and SE Harmony Road, and the width of the parking lot is less than 50% of the road frontage (see Exhibit 4). The plan indicates that the proposed garage is located towards the rear of the structure. Therefore, the proposed vehicle parking has been integrated into the site so that it does not detract from the design of the building, or from the appearance of the site's street frontage. As such, the proposed vehicle parking meets the City's design standard.

According to the City of Portland's 2017 commute mode share study, only 6% of residents currently bike to work. To accommodate those apartment residents that own a bicycle, the attached Apartment Building Plans indicates that each tenant will have adequate space within their unit for one bicycle parking space (see Exhibit 4). The identified space on the plans is a logical location for prospective bicycle owners to store a bike since it is near the front door, and it is an out of the way location when traveling through the apartment unit. It is the applicant's experience that tenants prefer to safeguard their bicycle within their apartment in order to maximize security. For the majority of tenants who do not own a bicycle, the space identified on the Apartment Building Plans may be used for another purpose. The plans also indicate that additional short-term bicycle parking is provided with proposed bicycle racks in the basement and first floor lobby areas of the structure, where visitors can securely store and protect their bicycles from precipitation (see Exhibit 4). Therefore, the proposed bicycle parking meets the City's design standard.

5. Building Orientation & Entrances

COMMENT:

The attached Building Floor Plans and Elevations demonstrate that the primary entrance for the structure faces SE Harmony Road. The Preliminary Site Plan indicates that the primary entry also projects towards the right-of-way. In addition, the plan illustrates that the building is located within 20-ft. of the front lot line, and the building width exceeds 50% of the site's street frontage (see Exhibit 4). Therefore, this design element meets the City's design standard.

6. Building Façade Design

COMMENT:

The attached Building Elevations demonstrate that the proposed apartment façade design is compatible with existing apartment buildings in the Harmony Park Townhomes development, directly west of the site. The elevations indicate that the proposed structure incorporates a variety of trim elements and provides changes in materials to highlight the building's entrance, each floor of the structure, and provide overall visually interest. The elevations illustrate that the windows and doors will be inset within trim to provide depth, shadows, and expression to the building. As demonstrated by the front elevation, the placement of windows along the front elevation help to articulate the façade and allows resident visibility into the street.

The applicant's Building Elevations illustrate that most of the City's building façade design standards are met. While windows occupy less than 25% of the total street-facing façade, there are no blank windowless walls in excess of 750 square feet. The front elevation incorporates porches into the wall plane for all dwellings except for the studio unit. The elevations demonstrate that 1-ft. minimum projections are provided at 40-ft. or less along the primary façade. As required, the garage door will match the color palette for the rest of the building. Since the windows occupy less than 25% of the street façade, and the studio unit's wall plane is not divided in the elevation, the applicant is requesting discretionary review of this design element.

7. Building Materials

COMMENT:

When the applicant remodeled the older apartments directly west of the site and constructed the Harmony Park Apartments approximately 5 years ago, high quality material were used. This high quality project has shown that the buildings are still in excellent condition and have been able to stand up to northwest weather conditions. The adjacent apartment project and the attached plans provide evidence that the proposed apartment building will also be constructed with high quality materials like Hardi Board and stone veneer to provide a sense of permanence (see Exhibit 4).

The elevations demonstrate that the prohibited materials listed under the design standards of this section are not collectively used on any of the building facades. The attached Preliminary Site Plan indicates that 6-ft. high chain link fencing is proposed to be installed along the top of the retaining wall at the north end of the parking lot (see Exhibit 4). This type of fencing is proposed to provide fall protection adjacent to the retaining wall, while allowing unobscured surveillance of the common open space area. The proposed chain link fencing is adjacent to existing chain link fencing with sight obscuring slats directly to the west of the site. The Preliminary Site Plan also indicates that the applicant is proposing to install a 42" metal fence between the drive aisle and the sidewalk along SE Harmony Road. Both of the proposed fence types will be easily maintained, constructed of durable materials, and will be an attractive black color. Since chain link fencing is proposed on the site, the applicant is requesting discretionary review of this design element.

8. Landscaping

COMMENT:

The attached Interior Parking/WQR Planting Areas Plan demonstrates that mitigation plantings within the common open space area of VECO A1 will provide 35% canopy coverage within 5 years, and plantings in VECO A2 will provide 50% canopy coverage within 5 years (see Exhibit 4). The attached WQR Impacts/Tree Removal Plan identifies site areas and existing trees that are impacted by site grading, building and parking lot construction, and the installation of the public sidewalk improvements. Due to the constrained development area on the south side of Minthorn Creek, the applicant has preserved the existing trees to the extent possible. The submitted plan demonstrate that with the required interior and perimeter landscaping for the parking lot, and proposed plantings in the common area, the proposed hardscape areas will be adequately shaded.

The submitted Preliminary Site Plan and Water Quality Resource Site Assessment demonstrate that the development will preserve significantly more than 1 existing tree per 2,000 sq. ft. of site area on the north side of Minthorn Creek (see Exhibits 4 and 8). The attached Aerial Photograph/Land Use Plan indicates that the subject site and the adjacent parcel to the west are zoned R-2. To the east of the site is a MR-1 zoned parcel that is located within Clackamas County. To the south of the site across SE Harmony Road is a GI zoned parcel that is also located within Clackamas County. Directly north of the site is the Southern Pacific Railroad right-of-way, which is zoned R-5. The existing vegetation on the north side of Minthorn Creek provides a sight-obscuring screen along the rear property line. As such, this design element meets this City's design standard.

9. Screening

COMMENT:

The applicant is proposing to screen all required mechanical and communication equipment from the street, private open space areas, and common open space areas. As required, all building-mounted utilities will be located at least 5-ft. from the front entrance of the building. The attached Preliminary Site Plan indicates that the applicant is proposing to share an existing screened waste and recycling storage area with the adjacent Harmony Park Apartments development. Therefore, this design element meets the City's design standard.

10. Recycling Areas

COMMENT:

The attached Preliminary Site Plan indicates that an existing waste and recycling storage area is located within the adjacent Harmony Park Townhomes parking lot, directly west of the site (see Exhibit 4). The existing facility is currently accessed by residents through the parking lot and drive aisles, and the storage area is located approximately 190-ft. from the furthest apartment unit. To meet waste and recycling service provider access requirements, the applicant is proposing to share use of the existing recycling area with the proposed Harmony Park Townhomes PH II development. The submitted plans demonstrate that the proposed shared facility will be located approximately 270-ft. from the primary entrance of the new apartment building, with similar access provided through the parking lot and drive aisles, or residents may alternatively choose to use the public sidewalk along SE Harmony Road. The existing storage area includes weatherproof recycling containers which meet franchise collection service requirements and the design standards of this section. As such, this element meets the City's design standard.

11. Sustainability

COMMENT:

The attached Apartment Building Floor Plans and Elevations demonstrate that the proposed roof design does not preclude the use of solar panels (see Exhibit 3). When taking into account the site's considerable constraints, the building has been oriented to provide as much solar exposure as practicable. As required, the proposed windows will be operable by residents and will be provided with sun shades. Therefore, this design element meets the City's design standard.

12. Privacy Considerations

COMMENT:

The attached Preliminary Site Plan and Aerial Photograph/Land Use Plan demonstrate that there are no residential structures within 30-ft. of the proposed apartment building (see Exhibit 4). In addition, the Apartment Building Elevations demonstrate that the proposed balconies and interior access doors are oriented towards SE Harmony Road and the common area along Minthorn Creek. Therefore, only when looking towards the side of the balcony areas, can residents look towards the rear yards or living spaces of adjacent residential properties. Since a portion of the upper story balconies face the backyards of adjacent properties, the applicant is requesting discretionary review of this design element.

13. Safety

COMMENT:

The applicant's Apartment Building Floor Plans and Elevations demonstrate that the proposed development is consistent with the principals of Crime Prevention Through Environmental Design. The plans indicate that residents will be able to view the public sidewalk, parking lot, and the common open space area from various windows in the apartment units. The Preliminary Site Plan illustrates that access points to and from the apartment building are clearly defined by the proposed walkways, and the location of fencing and pathways will guide how people access the common open space area. By limiting the number of access points and clearly defining the common open space area, social control of shared spaces will be ensured. In addition, the building elevations illustrate that safety and surveillance will be enhanced by attached building lighting that illuminates the structure's entrances and walkway areas.

The attached Apartment Building Floor Plans indicate that at least 70% of the street frontage and common open space area will be viewed from 100% of the proposed units, all of which have living room windows that face the public spaces. As required, the proposed development will be illuminated in accordance with the standards of this section. Compliance with this standard can be verified by the City with a condition of approval and when detailed plans are submitted for building permit review. Therefore, this design element meets the City's design standard.

Chapter 19.600: Off-Street Parking and Loading

Section 19.604: General Parking Standards

19.604.1: Parking Provided with Development Activity

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

COMMENT:

As required, the proposed off-street parking area will be constructed at the same time as the apartment building. This narrative illustrates how the parking area conforms to the standards of Chapter 19.600.

19.604.2: Parking Area Location

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

- A. On the same site as the primary use for which the parking is accessory.**

COMMENT:

The attached Preliminary Site Plan indicates that all required off-street parking for the development will be provided on the subject site (see Exhibit 4).

19.604.3: Use of Parking Areas

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

COMMENT:

As required, the proposed parking stalls will not be rented, leased, or sold and will be continually available to the tenants of the proposed apartment building.

19.604.4: Storage Prohibited

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

COMMENT:

The applicant is not proposing to store equipment or materials within the uncovered parking lot area. The proposed attached garage is not required to meet off-street parking requirements. The applicant plans to use the garage when storing equipment and materials for on-site landscaping and building maintenance projects.

Section 19.605: Vehicle Parking Quantity Requirements

The purpose of Section 19.605 is to ensure that development provides adequate, but not excessive, vehicle parking based on their estimated parking demand. Subsection 19.605.1 establishes parking ratios for common land uses, and Subsection 19.605.3 allows certain exemptions and reductions to these ratios based on location or on-site amenities. Modifications to the established parking ratios and determinations of parking requirements for unique land uses are allowed with discretionary review per Subsection 19.605.2.

Nonresidential development in the Downtown Mixed Use (DMU) and Open Space (OS) Zones is exempt from the requirements of Section 19.605.

COMMENT:

Required vehicle parking for the proposed multi-family use is listed under Table 19.605.1. The applicant is not requesting an exemption, reduction, or modification from these standards.

19.605.1: Minimum and Maximum Requirements

- A. Development shall provide at least the minimum and not more than the maximum number of parking spaces as listed in Table 19.605.1. Modifications to the standards in Table 19.605.1 may be made as per Section 19.605. Where multiple ratios are listed, the Planning Director shall determine which ratio to apply to the proposed development or use.**

COMMENT:

The applicant is proposing to develop a 15-unit apartment building with 11 two-bedroom units, 2 two-bedroom units, 3 one-bedroom units, and 1 studio unit. The studio and one-bedroom units are less than 800 sq. ft., while the two-bedroom units exceed 800 square feet. Per Table 19.605.1, the minimum number of parking spaces for the development is 18 spaces ((11 units x 1.25 spaces/unit) + (4 units x 1 space/unit) = 17.75, or 18 spaces). The maximum number of parking spaces for the development is 30 spaces ((11 units x 2 spaces/unit) + (4 units x 2 spaces/unit) = 30 spaces). The attached Preliminary Site Plan indicates that the applicant is proposing to develop 21 standard parking stalls, meeting the minimum and maximum parking requirements.

- E. Parking spaces for disabled persons, and other improvements related to parking, loading, and maneuvering for disabled persons, shall conform to the Americans with Disabilities Act and shall be subject to review and approval by the Building Official. Spaces reserved for disabled persons are included in the minimum required and maximum allowed number of off-street parking spaces.**

COMMENT:

The applicant's Preliminary Site Plan indicates that 1 van accessible parking stall is provided for the development in addition to the 21 standard parking stalls (see Exhibit 4). As demonstrated by the attached plans, the proposed van accessible parking stall meets ADA standards.

Section 19.606: Parking Area Design and Landscaping

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for cottage clusters, rowhouses, duplexes, single-family detached dwellings, and residential homes.

COMMENT:

The applicant is proposing to develop a 15-unit apartment building on the subject site, therefore the standards of this section apply.

19.606.1: Parking Space and Aisle Dimensions

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

disabled persons shall be according to federal and State requirements.

- C. Parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter the street in a forward manner.
- D. Drive aisles shall be required in parking areas greater than 5 spaces. Drive aisles shall meet the minimum width standards of Subsection 19.606.1. Where a drive aisle or portion thereof does not abut a parking space(s), the minimum allowed width for a one-way drive aisle shall be 8 ft and the minimum allowed width for a two-way drive aisle shall be 16 ft.

COMMENT:

The attached Preliminary Civil Site Plan indicate that the proposed parking lot contains 9-ft. x 18-ft. standard parking stalls and the spaces are accessed at a 90 degree angle from a 22-ft. wide drive aisle (see Exhibit 4). The parking lot also contains 1 ADA parking stall which meets federal and State requirements. As required, the parking spaces and drive aisle allows vehicles to enter the street in a forward manner.

19.606.2: Landscaping

B. General Provisions

- 1. Parking area landscaping shall be required for the surface parking areas of all uses, except for cottage clusters, rowhouses, duplexes, and single-family detached dwellings. Landscaping shall be based on the standards in Subsections 19.606.2.C-E.
- 2. Landscaped areas required by Subsection 19.606.2 shall count toward the minimum amount of landscaped area required in other portions of Title 19.
- 3. Parking areas with 10 or fewer spaces in the Downtown Mixed Use Zone are exempt from the requirements of Subsection 19.606.2.

COMMENT:

Since the applicant is proposing to develop a multi-family residential use on the subject site, the landscape standards of this section apply.

C. Perimeter Landscaping

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

1. Dimensions

The minimum width of perimeter landscape areas are shown in Table 19.606.2.C.1. Where a curb provides the border for a perimeter landscape area, the dimension shall be measured from the inside of the curb(s). The Planning Director may reduce the required minimum width of a perimeter landscaping area where existing development or site constraints make it infeasible to provide drive aisles, parking spaces, and the perimeter landscaping buffer width listed in Table 19.606.2.C.1.

COMMENT:

Per Table 19.606.2.C.1, a perimeter landscape width of 8-ft. should be provided between the proposed parking area and the front lot line, and 6-ft. should be provided between the parking area and adjacent west property lines. As stated above, the review body may reduce the required width where site constraints make it unfeasible to provide the perimeter landscape buffer in Table 19.606.2.C.1. As discussed under the alternatives analysis of Section 19.402.12.A.4.a, site constraints include limited access from an Arterial Street, need to meet minimum density requirements, and requirement to protect natural resources on the property. Therefore, while the landscape standard is met for most of the parking lot perimeter, the landscaping standard is not met adjacent to the retaining wall in the northwest corner of the parking lot, or adjacent to the drive aisle in the southern portion of the site. As required, the variance to the landscape perimeter standards is addressed under Section 19.911.

2. Planting Requirements

Landscaping requirements for perimeter buffer areas shall include 1 tree planted per 40 lineal ft. of landscaped buffer area. Where the calculation of the number of trees does not result in a whole number, the result shall be rounded up to the next whole number. Trees shall be planted at evenly spaced intervals along the perimeter buffer to the greatest extent practicable. The remainder of the buffer area shall be grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement.

COMMENT:

As required, the landscaping perimeter will be planted in accordance with the above standards. The City can verify that these standards have been met through a condition of approval and when detailed plans are submitted for building permit review.

3. Additional Planting Requirements Adjacent to Residential Uses

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

COMMENT:

As indicated by the attached Preliminary Site Plan, an existing 6-ft. high chain link fence with sight-obscuring slats is located around each private open space area in the adjacent Harmony Park Townhomes development (see Exhibit 4). Therefore, this adjacent residential use is currently screened from the proposed parking area.

D. Interior Landscaping

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

1. General Requirements

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

2. Required Amount of Interior Landscaped Area

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

COMMENT:

The attached Preliminary Site Plan indicates that the applicant is proposing to provide 21 standard parking stalls, 1 ADA stall, and 1 loading area stall within the parking lot (see Exhibit 4). Per the above standards, the 23 total parking stalls require 575 sq. ft. of interior landscaping (23 stalls x 25 sq. ft./stall = 575 sq. ft.). The attached Interior Parking/WQR Planting Areas Plan demonstrates that the proposed interior planting areas total 636 sq. ft., meeting the above standards.

3. Location and Dimensions of Interior Landscaped Areas

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

COMMENT:

As permitted under 19.606.2.D.1., the proposed interior landscaping may be provided contiguous to required perimeter landscaping area when it exceeds the minimum width required by Subsection 19.606.2.C.1. As mentioned above, the applicant is proposing to provide 636 sq. ft. of interior landscaping area, meeting this standard.

4. Planting Requirements for Interior Landscaped Areas

- a. **For divider medians, at least 1 shade or canopy tree must be planted for every 40 linear ft. Where the calculation of the number of trees does not result in a whole number, the result shall be rounded up to the next whole number. Trees shall be planted at evenly spaced intervals to the greatest extent practicable.**
- b. **For landscape islands, at least 1 tree shall**

be planted per island. If 2 interior islands are located contiguously, they may be combined and counted as 2 islands with 2 trees planted.

- c. The remainder of any divider median or landscape island shall be grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement.

COMMENT:

As required, interior landscaping area will be planted in accordance with the above standards. The City can verify that these standards have been met through a condition of approval and when detailed plans are submitted for building permit review.

5. Additional Landscaping for Large Parking Areas

Parking areas with more than 100 spaces on a site shall not have more than 15 spaces in a row without providing an interior landscaped island. See Figure 19.606.2.D.5.

COMMENT:

The applicant is proposing to develop a parking lot with 23 total stalls, therefore these standards do not apply.

E. Other Parking Area Landscaping Provisions

- 1. Preservation of existing trees is encouraged in the off-street parking area and may be credited toward the total number of trees required, based on staff's review.
- 2. Installation of parking area landscaping shall be required before a certificate of occupancy is issued, unless a performance bond is posted with the City. Then landscaping shall be installed within 6 months thereafter or else the bond will be foreclosed and plant materials installed by the City.
- 3. Parking area landscaping shall be maintained in good and healthy condition.

COMMENT:

Due to required grading activities, existing trees cannot be incorporated into the development's parking area landscaping. As required, the parking lot landscaping will be installed before a certificate of occupancy for the apartment building is issued and the landscaping will be maintained in accordance with City standards.

4. **Required parking landscaping areas may serve as stormwater management facilities for the site. The Engineering Director has the authority to review and approve the design of such areas for conformance with the Public Works Standards. This allowance does not exempt the off-street parking landscape area from meeting the design or planting standards of Subsection 19.606.2.**

COMMENT:

As indicated by the attached Preliminary Utility Plan, the applicant is not proposing to use required landscaped areas for stormwater management facilities (see Exhibit 4).

5. **Pedestrian walkways are allowed within perimeter and interior landscape buffer if the landscape buffer is at least 2 ft. wider than required in Subsections 19.606.2.C.1 and 19.606.2.D.3.b.**

COMMENT:

The attached Preliminary Site Plan demonstrates that no walkways will be provided within the proposed perimeter landscaping areas. The Interior Parking/WQR Planting Areas Plan indicates that while walkways on the east side of the parking lot are located adjacent to the proposed interior landscaping areas, the landscape buffer exceeds the minimum width by at least 2 feet (see Exhibit 4).

19.606.3: Additional Design Standards

A. Paving and Striping

Paving and striping are required for all required maneuvering and standing areas. Off-street parking areas shall have a durable and dust-free hard surface, shall be maintained for all-weather use, and shall be striped to show delineation of parking spaces and directional markings for driveways and accessways. Permeable paving surfaces may be used to reduce surface water runoff and protect water quality.

COMMENT:

The proposed off-street parking lot will be constructed with an asphalt surface. As required, the parking lot will be striped to delineate parking spaces and directional markings.

B. Wheel Stops

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

COMMENT:

The submitted Preliminary Site Plan indicates that all parking stalls will be provided with wheel stops meeting the standards of this section (see Exhibit 4). Therefore, parked vehicles will be prevented from encroaching into the adjacent pedestrian walkways and landscaped areas.

C. Site Access and Drive Aisles

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

COMMENT:

As illustrated by the attached Preliminary Site Plan, the proposed transportation facilities have been designed to address the needs of the proposed apartment building (see Exhibit 4). As demonstrated by the attached Preliminary Site Plan, the site fronts SE Harmony Road, which is designated as an Arterial Street and is under Clackamas County jurisdiction. Due to this roadway's 600-ft. access spacing standard, the applicant is proposing to use an existing driveway and access easement at 5989 SE Harmony Road when providing access to the subject site. The proposed accessway between the two properties is 20-ft. wide, and the proposed aisle within the parking lot is 22-ft. wide. The submitted Preliminary Site Plan demonstrates that on-site circulation allows vehicles to enter SE Harmony Road in a forward motion. Due to the location of the access easement and existing development at 5989 SE Harmony Road, the drive aisle must be located less than 20-ft. from the sidewalk along SE Harmony Road. As such, given access constraints for the site, the proposed drive aisles and parking area meet the above standards to the extent practicable.

D. Pedestrian Access and Circulation

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

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

COMMENT:

The attached Preliminary Site Plan indicates that all proposed off-street parking spaces are located less than 100-ft. from the building entrances (see Exhibit 4). The plan also demonstrates that the proposed walkways provide continuous pedestrian connections from the parking lot to the building entrances.

E. Internal Circulation

1. General 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 modifying drive aisle dimensions.

2. Connections to Adjacent Parking Areas

Where feasible, parking areas shall be designed to connect with parking areas on adjacent sites to eliminate the use of the street for cross movements.

COMMENT:

The submitted Preliminary Site Plan demonstrates that the proposed pedestrian, bicycle, and vehicular facilities provide safe and efficient on-site circulation (see Exhibit 4). The plan also indicates that access is provided between the subject site and the adjacent Harmony Park Townhomes to eliminate the use of SE Harmony Road for cross movements.

3. Drive-Through Uses and Queuing Areas

The following standards apply to uses with drive-through services and uses such as gas stations and quick vehicle service facilities where vehicles queue rather than park on the site. The Planning Director has the authority to determine when the standards apply to a proposed use.

COMMENT:

The proposed use does not include a drive-through service, therefore these standards do not apply.

F. Lighting

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

- 1. Lighting luminaires shall have a cutoff angle of 90 degrees or greater to ensure that lighting is directed toward the parking surface.**

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

COMMENT:

As demonstrated by the attached Apartment Building Elevations, lighting will be provided for the proposed parking lot to adequately illuminate the parking spaces and pedestrian walkways leading to the building entrances. As required, the lighting will have a minimum cutoff angle of 90 degrees to ensure that light is directed downward and away from adjacent properties and the WQR. The City can verify that the lighting standard will be met through a condition of approval and when detail plans are submitted for building permit review.

Section 19.607: Off-Street Parking Standards for Residential Areas

19.607.1: Residential Driveways and Vehicle Parking Areas

Subsection 19.607.1 is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.607.1 apply to passenger vehicles and off-street parking areas for rowhouses, cottage clusters, duplexes, single-family detached dwellings, and residential homes in all zones, unless specifically stated otherwise.

COMMENT:

Since the applicant is proposing to develop a 15-unit apartment building on the subject site, these off-street parking standards do not apply.

19.607.2: Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking

Subsection 19.607.2 is intended to preserve residential neighborhood character by minimizing the impacts created by the parking and storing of commercial vehicles, pleasure crafts, and recreational vehicles. The standards of Subsection 19.607.2 apply to off-street parking areas for

cottage clusters, rowhouses, duplexes, single-family detached dwellings, and residential homes in all zones.

COMMENT:

The applicant is not proposing to park or store commercial vehicles, pleasure craft, or recreational vehicles on the subject site. Therefore, these standards do not apply.

Section 19.608: Loading

19.608.1: General Provisions

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

COMMENT:

The applicant is proposing to develop a multi-family residential use on the site, therefore off-street loading standards do not apply under this section.

19.608.2: Number of Loading Spaces

The Planning Director shall determine whether to require off-street loading for commercial, industrial, public, and semipublic uses. The ratios listed below should be the minimum required unless the Planning Director finds that a different number of loading spaces are needed upon reviewing the loading needs of a proposed use.

A. Residential Buildings

Buildings where all of the floor area is in residential use should meet the following standards:

- 1. Fewer than 50 dwelling units on a site that abuts a local street: no loading spaces required.**
- 2. All other buildings: 1 loading space.**

COMMENT:

Since the subject site abuts SE Harmony Road, an Arterial Street, 1 loading space is required. The attached Preliminary Site Plan indicates that one loading space will be developed with the proposed parking lot (see Exhibit 4).

19.608.3: Loading Space Standards

- A. Loading spaces shall be at least 35 ft. long and 10 ft. wide, and shall have a height clearance of at least 13 ft.**
- B. Loading areas shall be provided on the site and be separate from parking spaces.**
- C. Off-street loading areas shall have a durable and dust-free hard surface. Permeable paving surfaces may be used to reduce surface water runoff and protect water quality.**
- D. Lighting of loading areas shall conform to the standards of Subsection 19.606.3.F.**
- E. Off-street loading areas for materials and merchandise shall be located outside of the minimum front and side yard requirements for structures.**
- F. Off-street loading areas shall be located where not a hindrance to drive aisles, walkways, public or private streets, or adjacent properties.**

COMMENT:

The attached Preliminary Site Plan indicates that the proposed loading space is 10-ft. x 35-ft. with necessary clearance, and the space located adjacent to the proposed garage (see Exhibit 4). The plan also indicates that the loading space will be provided with an asphalt surface and is located outside of required yard areas. The submitted Apartment Building Elevations indicate that adequate lighting will be provided for the loading area. As required, the proposed loading area is not located where it will be a hindrance to drive aisles, walkways, streets, or adjacent properties.

Section 19.609: Bicycle Parking

19.609.1: Applicability

Bicycle parking shall be provided for all new commercial, industrial, community service use, and multifamily residential development. Temporary and seasonal uses (e.g., fireworks and Christmas tree stands) and storage

units are exempt from Section 19.609. Bicycle parking shall be provided in the Downtown Mixed Use Zone and at transit centers.

COMMENT:

The applicant is proposing a multi-family residential use for the subject property, therefore bicycle parking standards apply to the development.

19.609.2: Quantity of Spaces

- A. The quantity of required bicycle parking spaces shall be as described in this subsection. In no case shall less than 2 spaces be provided.**
 - 1. Unless otherwise specified, the number of bicycle parking spaces shall be at least 10% of the minimum required vehicle parking for the use.**
 - 2. The number of bicycle parking spaces at transit centers shall be provided at the ratio of at least 1 space per 100 daily boardings.**
 - 3. Multifamily residential development with 4 or more units shall provide 1 space per unit.**

COMMENT:

The applicant is proposing to construct a 15-unit apartment building on the subject site, therefore a minimum of 15 bicycle parking spaces are required for the development. The attached Apartment Building Floor Plans indicate that one bicycle parking space is provided in each apartment unit. Additional short-term bicycle parking is provided with proposed bicycle racks in the basement and first floor lobby areas of the structure, where visitors can securely store and protect their bicycles from precipitation (see Exhibit 4). As required, the 15 proposed bicycle parking spaces exceeds the amount required by Section 19.609.2(A)(1).

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

COMMENT:

The attached Apartment Building Floor Plans indicate that 100% of the required bicycle parking spaces will be covered within individual units in the apartment building (see Exhibit 4).

19.609.3: Space Standards and Racks

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

COMMENT:

The Apartment Building Floor Plans include a detail which demonstrates that the required bicycle parking space dimensions and access aisle dimension will be met. As required, the proposed bicycle racks in the basement and first floor lobbies will be anchored. In addition, lighting will conform to the above standards.

19.609.4: Location

- A. Bicycle parking facilities shall meet the following requirements:**
 - 1. Located within 50 ft. of the main building entrance.**
 - 2. Closer to the entrance than the nearest non-ADA designated vehicle parking space.**
 - 3. Designed to provide direct access to a public right-of-way.**
 - 4. Dispersed for multiple entrances.**
 - 5. In a location that is visible to building occupants or from the main parking lot.**
 - 6. Designed not to impede pedestrians along sidewalks or public rights-of-way.**
 - 7. Separated from vehicle parking areas by curbing or other similar physical barriers.**

COMMENT:

The attached Apartment Building Floor Plans indicate that each tenant will have a designated area in their unit for one bicycle parking space. Additional short-term bicycle parking is provided with proposed bicycle racks in the basement and first floor lobby areas of the structure, where visitors can securely store and protect their bicycles from precipitation (see Exhibit 4). As such, available bicycle parking spaces are dispersed at multiple entrances, closer than the designated ADA vehicle parking space, in a location that is visible to building occupants, and are separated from the proposed vehicle parking area. The submitted plans demonstrate that both building entrances provide access to a public right-of-way, and the proposed bicycle parking areas are located where they will not impede pedestrian travel along a sidewalk or public right-of-way.

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

COMMENT:

The applicant is not proposing to locate bicycle parking in a public right-of-way, therefore these standards do not apply.

Section 19.610: Carpool and Vanpool Parking

19.610.1: Applicability

New industrial, institutional, and commercial development with 20 or more required parking spaces shall provide carpool/vanpool parking.

COMMENT:

The applicant is proposing to develop a multi-family use on the subject site, therefore these standards do not apply.

Section 19.611: Parking Structures

The purpose of Section 19.611 is to regulate the design and location of structured parking, and to provide appropriate incentives for the provision of structured parking. Structured parking is allowed to accommodate parking that is required for a specific use, or as a parking facility that is a use by itself.

COMMENT:

The applicant is not proposing to develop a parking structure on the subject site, therefore these standards do not apply.

Chapter 19.700: Public Facility Improvements

Section 19.702: Applicability

19.702.1: General

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

- D. New construction.**

COMMENT:

The applicant is proposing new construction on the subject site, therefore public facility improvement standards apply to the development.

Section 19.703: Review Process

19.703.1: Preapplication Conference

For all proposed development that requires a land use application and is subject to Chapter 19.700 per Section 19.702, the applicant shall schedule a preapplication conference with the City prior to submittal of the land use application. The Engineering Director may waive this requirement for proposals that are not complex.

COMMENT:

As required, the applicant held a Pre-Application Conference with City staff to discuss the proposed development on November 2, 2017. A copy of the City Pre-Application Conference Report has been attached to this application (see Exhibit 3).

19.703.2: Application Submittal

For all proposed development that is subject to Chapter 19.700 per Section 19.702, one of the following types of applications is required.

- A. Development Permit Application**

If the proposed development does not require a land use application, compliance with Chapter 19.700 will

be reviewed as part of the development permit application submittal.

COMMENT:

As discussed above, the proposed 15-unit apartment building requires the approval of a Development Review land use application.

B. Transportation Facilities Review (TFR) Land Use Application

COMMENT:

The attached City Pre-Application Conference Report indicates that a TIS is not required for this land use application. Therefore, a TFR land use application is not required with this review process.

19.703.3: Approval Criteria

For all proposed development that is subject to Chapter 19.700 per Section 19.702, the required development permit and/or land use application shall demonstrate compliance with the following approval criteria at the time of submittal.

A. Procedures, Requirements, and Standards

Development and related public facility improvements shall comply with procedures, requirements, and standards of Chapter 19.700 and the Public Works Standards.

COMMENT:

As required, this narrative and the attached exhibits address how the proposed development complies with Public Works Standards and Chapter 19.700 requirements.

B. Transportation Facility Improvements

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Chapter 13.32 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall only be required to provide transportation improvements that are identified by a Transportation Impact Study as

necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

COMMENT:

City and County staff have reviewed the applicant's proposal, determined rough proportionality for transportation improvements based on potential impacts, and defined the required improvements in the City Pre-Application Conference Report (see Exhibit 3).

C. Safety and Functionality Standards

The City will not issue any development permits unless the proposed development complies with the City's basic safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submittal of a development permit application, an applicant shall demonstrate that the development property has or will have all of the following:

1. Adequate street drainage, as determined by the Engineering Director.
2. Safe access and clear vision at intersections, as determined by the Engineering Director.
3. Adequate public utilities, as determined by the Engineering Director.
4. Access onto a public street with the minimum paved widths as stated in Subsection 19.703.3.C.5 below.

COMMENT:

The attached Preliminary Development Plans illustrate required transportation improvements and how adequate street drainage is provided. The submitted Preliminary Civil Site Plan demonstrates that safe access and clear vision will be provided with the proposed development. The plan also illustrates that access to the proposed development will be provided from a public street that currently meets the minimum paved width standard.

5. Adequate frontage improvements as follows:
 - a. For local streets, a minimum paved width of 16 ft. along the site's frontage.
 - b. For nonlocal streets, a minimum paved width of 20 ft. along the site's frontage.

- c. For all streets, a minimum horizontal right-of-way clearance of 20 ft. along the site's frontage.

COMMENT:

The attached Existing Conditions Plan demonstrates that the existing pavement width of SE Harmony Road exceeds 16-ft. along the site's frontage (see Exhibit 4). The applicant's Preliminary Grading Plan indicates that the existing trees along the site's frontage will be removed to accommodate the required sidewalk improvements. Therefore, a minimum right-of-way clearance of 20-ft. will be provided along the site's frontage.

- 6. Compliance with Level of Service D for all intersections impacted by the development, except those on Oregon Highway 99E that shall be subject to the following:
 - a. Level of Service F for the first hour of the morning or evening 2-hour peak period.
 - b. Level of Service E for the second hour of the morning or evening 2-hour peak period.

COMMENT:

The attached City Pre-Application Conference Report indicates that the proposed development will not significantly impact transportation facilities in the vicinity of the subject site. Therefore, Level of Service standards are not required to be evaluated by the applicant.

Section 19.704: Transportation Impact Evaluation

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

COMMENT:

The attached City Pre-Application Conference Report indicates that a TIS is not required for this land use application (see Exhibit 3).

Section 19.708: Transportation Facility Requirements

19.708.1: General Street Requirements and Standards

A. Access Management

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

COMMENT:

As mentioned above, SE Harmony Road is classified as an Arterial Street. Per the TSP, the minimum access spacing for arterial streets is 600 feet. To meet this spacing standard, the applicant is proposing to use the existing driveway and access easement at 5989 SE Harmony Road when providing access to the subject site.

B. Clear Vision

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

COMMENT:

As required, the existing driveway intersection with SE Harmony Road on the adjacent property to the west currently meets clear vision standards of this section.

D. Development in Non-Downtown Zones

Development in a non-downtown zone that has frontage on a street section shown in the PAR is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR for that street frontage. The following general provisions apply only to street frontages that are not shown in the PAR and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

1. Streets shall be designed and improved in accordance with the standards of this chapter and the Public Works Standards. ODOT facilities shall be designed consistent with State and federal standards. County facilities shall be designed consistent with County standards.

2. **Streets shall be designed according to their functional classification per Figure 8-3b of the TSP.**

COMMENT:

The subject site fronts SE Harmony Road, which is classified as an Arterial Street and is under Clackamas County jurisdiction. The attached Preliminary Civil Site Plan indicates that the proposed street frontage improvements are consistent with the City Pre-Application Conference Report (see Exhibit 4). This report includes County standards for the required street frontage improvements (see Exhibit 3).

3. **Street right-of-way shall be dedicated to the public for street purposes in accordance with Subsection 19.708.2. Right-of-way shall be dedicated at the corners of street intersections to accommodate the required turning radii and transportation facilities in accordance with Section 19.708 and the Public Works Standards. Additional dedication may be required at intersections for improvements identified by the TSP or a required transportation impact study.**
4. **The City shall not approve any development permits for a proposed development unless it has frontage or approved access to a public street.**

COMMENT:

To provide a minimum of 0.50-ft. between the back of sidewalk and the front property line, the applicant is proposing to dedicate additional right-of-way along the site's SE Harmony Road frontage (see Exhibit 4). As mentioned above, the applicant is proposing site access through the existing parking lot to the west of the subject property.

5. **Off-site street improvements shall only be required to ensure adequate access to the proposed development and to mitigate for off-site impacts of the proposed development.**

COMMENT:

The attached Preliminary Site Plan indicates that the access drive improvements extend off-site to the west of the subject property (see Exhibit 4). The attached City Pre-Application Conference Report does not identify required off-site street improvements for the proposed development (see Exhibit 3).

6. **The following provisions apply to all new public streets and extensions to existing public streets.**

COMMENT:

The applicant is not proposing to establish a new street or extend an existing street, therefore these standards do not apply.

7. **Traffic calming may be required for existing or new streets. Traffic calming devices shall be designed in accordance with the Public Works Standards or with the approval of the Engineering Director.**

COMMENT:

Due to minimal traffic impacts associated with the proposed use, no traffic calming requirements are identified in the attached City Pre-Application Conference Report (see Exhibit 3).

8. **Railroad Crossings**

Where anticipated development impacts trigger a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval.

COMMENT:

As stated above, no off-site transportation improvements are required in the attached City Pre-Application Conference Report (see Exhibit 3).

9. **Street Signs**

The City shall install all street signs, relative to traffic control and street names, as specified by the Engineering Director. The applicant shall reimburse the City for the cost of all such signs installed by the City.

COMMENT:

As required, the applicant will reimburse the City for all installed street signs associated with the proposed development.

10. **Streetlights**

The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with the Public Works Standards or with the approval of the Engineering Director.

COMMENT:

The attached Existing Conditions Plan indicates that there are no existing or proposed streetlights along the site's frontage on SE Harmony Road (see Exhibit 4).

E. Street Layout and Connectivity

COMMENT:

The applicant is not proposing to subdivide the subject property or create a new street with this application. Therefore, these standards do not apply.

F. Intersection Design and Spacing

COMMENT:

There are no connecting street intersections associated with the proposed development. Therefore, these standards do not apply.

19.708.2: Street Design Standards

Table 19.708.2 contains the street design elements and dimensional standards for street cross sections by functional classification. Dimensions are shown as ranges to allow for flexibility in developing the most appropriate cross section for a given street or portion of street based on existing conditions and the surrounding development pattern. The additional street design standards in Subsection 19.708.2.A augment the dimensional standards contained in Table 19.708.2. The Engineering Director will rely on Table 19.708.2 and Subsection 19.708.2.A to determine the full-width cross section for a specific street segment based on functional classification. The full-width cross section is the sum total of the widest dimension of all individual street elements. If the Engineering Director determines that a full-width cross section is appropriate and feasible, a full-width cross section will be required. If the Engineering Director determines that a full-width cross section is not appropriate or feasible, the Engineering Director will modify the full-width cross section requirement using the guidelines provided in Subsection 19.708.2.B. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.

COMMENT:

As mentioned above, SE Harmony Road is under Clackamas County jurisdiction. The attached Pre-Application Conference Report includes County comments regarding required street frontage improvements along SE Harmony Road (see Exhibit 3). The attached Preliminary Civil Site Plan demonstrates that the applicant is proposing to install street frontage improvements consistent with these standards (see Exhibit 4).

A. Additional Street Design Standards

These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

- 1. Minimum 10-ft travel lane width shall be provided on local streets with no on-street parking.**
- 2. Where travel lanes are next to a curb line, an additional 1 ft. of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft. of travel lane width shall be provided.**
- 3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft. of travel lane width shall be provided.**
- 4. Bike lane widths may be reduced to a minimum of 4 ft. where unusual circumstances exist, as determined by the Engineering Director, and where such a reduction would not result in a safety hazard.**

COMMENT:

The site fronts SE Harmony Street, which is classified as an Arterial Street and is under Clackamas County jurisdiction. The existing pavement width of SE Harmony Road adjacent to the subject site is approximately 35 feet, providing two 11.5-ft. travel lanes and 6-ft. bicycle lanes. As indicated by the attached City Pre-Application Conference Report, the existing street design meets County standards (see Exhibit 3).

- 5. Where a curb is required by the Engineering Director, it shall be designed in accordance with the Public Works Standards.**
- 6. Center turn lanes are not required for truck and bus routes on street classifications other than arterial roads.**

COMMENT:

As indicated by the attached Existing Conditions Plan, SE Harmony Road is currently improved with curbs on both sides of the roadway (see Exhibit 4). The attached City Pre-Application Conference Report indicates that a center turn lane is not warranted for the proposed use (see Exhibit 3).

7. **On-street parking in industrial zones shall have a minimum width of 8 ft.**
8. **On-street parking in commercial zones shall have a minimum width of 7 ft.**
9. **On-street parking in residential zones shall have a minimum width of 6 ft.**

COMMENT:

SE Harmony Road is currently signed for no parking on both sides of the street along the site's frontage. Therefore, these standards do not apply.

10. **Sidewalk widths may be reduced to a minimum of 4 ft. for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.**
11. **Landscape strip widths shall be measured from back of curb to front of sidewalk.**
12. **Where landscape strips are required, street trees shall be provided a minimum of every 40 ft. in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.**

COMMENT:

The attached Preliminary Civil Site Plan indicates that the existing 4.5-ft. curbtight sidewalk will be removed. The existing sidewalk will be replaced with a 6-ft. sidewalk, which will be separated from the curb by a 5-ft. landscape strip (see Exhibit 4). As required, street trees are proposed to be installed along the site's frontage.

13. **Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.**

COMMENT:

The attached Preliminary Utility Plan indicates that water quality treatment will occur on-site, therefore this standard does not apply (see Exhibit 4).

14. **A minimum of 6 in. shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.**

COMMENT:

As indicated on the attached Preliminary Site Plan, the applicant is proposing to dedicate additional right-of-way along SE Harmony Road to provide a minimum of 6-in. between the sidewalk and right-of-way (see Exhibit 4).

B. Street Design Determination Guidelines

The Engineering Director shall make the final determination regarding right-of-way and street element widths using the ranges provided in Table 19.708.2 and the additional street design standards in Subsection 19.708.2.A. The Engineering Director shall also determine whether any individual street element may be eliminated on one or both sides of the street in accordance with Figure 10-1 of the TSP. When making a street design determination that varies from the full-width cross section, the Engineering Director shall consider the following:

1. **Options and/or needs for environmentally beneficial and/or green street designs.**
2. **Multimodal street improvements identified in the TSP.**
3. **Street design alternative preferences identified in Chapter 10 of the TSP, specifically regarding sidewalk and landscape strip improvements.**
4. **Existing development pattern and proximity of existing structures to the right-of-way.**
5. **Existing right-of-way dimensions and topography.**

COMMENT:

The proposed street frontage improvements to SE Harmony Road are based on comments received from City and County staff in the attached City Pre-Application Conference Report (see Exhibit 3). As required, all of the factors listed above were considered by staff when determining the required improvements.

19.708.3: Sidewalk Requirements and Standards

B. Sidewalk Requirements

1. Requirements

Sidewalks shall be provided on the public street frontage of all development per the requirements of this chapter. Sidewalks shall generally be constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within a public easement with the approval of the Engineering Director.

2. Design Standards

Sidewalks shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards.

3. Maintenance

Abutting property owners shall be responsible for maintaining sidewalks and landscape strips in accordance with Chapter 12.04.

COMMENT:

In conformance with the attached City Pre-Application Conference Report, the applicant is proposing to install a 6-ft. wide sidewalk along the site's SE Harmony Road frontage (see Exhibit 3). As required, the proposed sidewalk will be located within the right-of-way, and on-going maintenance will be provided by the property owner.

19.708.4: Bicycle Facility Requirements and Standards

B. Bicycle Facility Requirements

1. Requirements

Bicycle facilities shall be provided in accordance with this chapter, Chapter 19.600, the TSP, and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Requirements include, but are not limited to, parking, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion.

2. Timing of Construction

To assure continuity and safety, required bicycle facilities shall generally be constructed at the time of development. If not practical to sign, stripe, or construct bicycle facilities at the time of development due to the absence of adjacent facilities, the development shall provide the paved street width necessary to accommodate the required bicycle facilities.

3. Design Standards

Bicycle facilities shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Bicycle parking shall be designed and improved in accordance with Chapter 19.600 and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

COMMENT:

Existing SE Harmony Road improvements include 35-ft. of pavement, with two 11.5-ft. travel lanes and 6-ft. bicycle lanes. As indicated by the attached City Pre-Application Conference Report, the existing street design meets County standards (see Exhibit 3). Per the attached Building Plans, bicycle parking is provided in the apartment units, and within the basement and first floor lobby areas of the building. As required, the existing and proposed bicycle facilities meet City design standards.

19.708.5: Pedestrian/Bicycle Path Requirements and Standards

COMMENT:

There are no pedestrian or bicycle paths in the vicinity of the subject site, therefore these standards do not apply.

Section 19.709: Public Utility Requirements

19.709.2: Public Utility Improvements

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

- A. The Engineering Director shall determine which, if any, utility improvements are required. The Engineering Director's determination requiring utility

improvements shall be based upon an analysis that shows the proposed development will result in one or more of the following situations:

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

COMMENT:

To provide service to the apartment building, the attached Preliminary Utilities Plan indicates that the existing on-site public sanitary sewer line will be extended to the apartment building from a manhole on the south site of Minthorn Creek (see Exhibit 4). As demonstrated by the attached City Pre-Application Conference Report, the City Engineering Director has determined that the existing sanitary sewer main line has the capacity to serve the proposed development (see Exhibit 3).

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

1. Formation of a reimbursement district in accordance with Chapter 13.30 for off-site public facility improvements fronting other properties.
2. Formation of a local improvement district in accordance with Chapter 3.08 for off-site public facility improvements fronting other properties.

COMMENT:

The applicant is not requesting approval of a reimbursement district or local improvement district for the public sanitary sewer line extension. Therefore, these standards do not apply.

19.709.3: Design Standards

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

requirements.

COMMENT:

As required, the proposed sanitary sewer line extension will be designed to City standards. Prior to building permit approval, detailed engineered plans will be provided to the City.

Chapter 19.900: Land Use Applications

Section 19.906: Development Review

19.906.2: Applicability

B. Type II Review

The following development proposals must submit a development review application and are subject to the requirements of this section. Type II development review does not apply to development proposals in the downtown zones as these zones have a separate design review process.

1. New development, or expansions or modifications to existing development, for which the applicant elects, where a choice is available, to have the proposal reviewed against discretionary criteria or standards.

COMMENT:

As discussed under 19.505.3(D), the applicant is requesting discretionary review of several design elements that apply to multi-family developments. Although the submitted Development Review application may be processed as a Type II Review, this application is being evaluated concurrently with several other requests which will undergo a Type III Review. Since a Type III Review is requested, the Planning Commission will render a decision for all of the concurrent land use applications.

19.906.4: Approval Criteria

The criteria in this subsection are the approval criteria for Type I and Type II development review applications. The criteria are based on a review of development standards throughout Title 19 Zoning. Not all of the standards within the chapters listed below are applicable to a proposal, and the City will identify the applicable standards through the development review process. Though the criteria are the same for Type I and Type II development review, the standards evaluated in a Type I review will be clear and objective or require limited professional judgment, while the Type II review will involve discretionary standards

and/or criteria.

An application for Type I or Type II development review shall be approved when all of the following criteria have been met:

- A. The proposal complies with all applicable base zone standards in Chapter 19.300.**

COMMENT:

The subject site is located in the R-2 zoning district. Due to steep topography near the creek and site constraints associated with the WQR, the applicant is requesting a Type III Variance to permit a 12-ft. front yard setback when 25-ft. is required. Also due to a number of site challenges, the applicant is requesting a Type III Variance to permit a 35-ft. side yard height plane for the rear portion of the apartment building. The attached Preliminary Site Plan and Building Elevations demonstrate that the proposed development meets all other base zone standards in Chapter 19.300 (see Exhibit 4). As required, the applicant has addressed the requested variances under Section 19.911.

- B. The proposal complies with all applicable overlay zone and special area standards in Chapter 19.400.**

COMMENT:

As demonstrated by the attached Existing Conditions Plan, the site is significantly constrained by limited access, the location of Minthorn Creek and the associated WQR, and steeper topography near the waterway (see Exhibit 4). Due to these site challenges, the applicant is proposing to encroach into 2,847 sq. ft. of the 10,230 sq. ft. WQR on the south side of the creek. As required, the proposed impacts will be evaluated through the Type III Review process provided under Section 19.402.12.A.4.a.

- C. The proposal complies with all applicable supplementary development regulations in Chapter 19.500.**

COMMENT:

As mentioned under Section 19.505.3(D), the applicant is requesting discretionary review of several design elements that apply to multi-family developments. This narrative demonstrates that all other applicable development regulations in Chapter 19.500 have been met.

- D. The proposal complies with all applicable off-street parking and loading standards and requirements in Chapter 19.600.**

COMMENT:

Based on environmental and access site constraints, the proposed off-street parking area meets the requirements of Chapter 19.600 to the extent practicable. Due to location of the access easement and existing development at 5989 SE Harmony Road, less than 8-ft. of perimeter landscaping is provided between the drive aisle and the front lot line of both properties. In addition, with the requirement to install a retaining wall at the north end of the parking lot, less than 6-ft. of perimeter landscaping is provided in the northwest corner of the parking area. As required, the applicant has requested a variance to these landscaping standards under Section 19.911.

- E. The proposal complies with all applicable public facility standards and requirements, including any required street improvements, in Chapter 19.700.**

COMMENT:

As required, the applicant has demonstrated how this proposal complies with all public facility standards and requirements under Chapter 19.700.

- F. The proposal complies with all applicable conditions of any land use approvals for the proposal issued prior to or concurrent with the development review application.**

COMMENT:

There are no prior land use approvals which apply to the proposed development.

Section 19.911: Variances

19.911.2: Applicability

A. Eligible Variances

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

COMMENT:

The applicant is requesting approval of a Type III Variance to the side yard height plane standard, parking lot perimeter landscaping requirements, and front yard setback standard. Since these Municipal Code standards are defined under Title 17, the requested variances may be reviewed under this section.

19.911.3: Review Process

A. General Provisions

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

COMMENT:

Due to the scope of the variance requests, this Variance application will be evaluated as a Type III Review. As discussed throughout this narrative, the applicant is also requesting concurrent review of a Type II Development Review for the proposed apartment building, and Type III Review for proposed activities within a WQR area. As permitted, the applicant is requesting approval of three variance requests with one Variance application. These requests will allow a variance from the side yard height plane standard, parking lot perimeter landscaping requirements, and front yard setback standard.

C. Type III Variances

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

COMMENT:

Since the proposed variances are not listed under Subsection 19.911.3.B, the applicant has addressed the Type III Variance approval criteria under Subsection 19.911.4.

19.911.4: Approval Criteria

B. Type III Variances

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

1. Discretionary Relief Criteria

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

COMMENT:

The applicant is requesting approval of a Type III Variance to the side yard height plane standard, parking lot perimeter landscaping requirements, and front yard building setback standard. As previously mentioned, the subject site contains a number of constraints including the presence of a large natural resource area, steep topography near the creek, and Arterial Street access restrictions along SE Harmony Road. Due to the compounding nature of these constraints, they create unique hardships when developing the subject property. As discussed below, the variance proposals provide an overall positive benefit when compared to the baseline code requirements.

When analyzing the impacts and benefits of the proposed variances, it is important to first understand how natural resources on the site significantly limit how it can be developed. The attached Preliminary Site Plan indicates the WQR area contains a total of 33,652 sq. ft. and includes the area within the ordinary high water mark of Minthorn Creek, a wetland on the north side of the stream, and 50-ft. wide vegetated corridors on both sides of the waterway. Based on a net site area of 57,634 sq. ft., the WQR encompasses approximately 58% of the subject property. The unencumbered net site area contains 23,982 sq. ft., with 7,451 sq. ft. located on the north side of the creek, and 16,531 sq. ft. located on the south side of the waterway. As concluded by the applicant's alternative analysis under Section 19.402.12.A.4.a, the northern portion of the site is inaccessible. Therefore, the only portion of the site that can be developed is on the south side of the creek.

When reviewing the benefits and impacts of the proposed variances, it is also important to note that access to the site is severely constrained. Since the Arterial Street access spacing standard is 600-ft., the proposed development is not permitted to have direct site access from SE Harmony Road. As a result, the applicant is required to share access with the Harmony Park Townhomes and use the existing access easement to the west of the site. Due to the location of the existing development on the adjacent property, the 20-ft. access easement is located adjacent to the right-of-way.

As indicated by the attached Preliminary Site Plan, the applicant is requesting approval of a Type III Variance to locate the apartment building 12-ft. from the front lot line when 25-ft. is the standard. The benefits of the proposed front setback variance are reduced encroachment into the WQR and an avoidance of steep topography near the creek. The impact of the proposed front setback variance is that the eastern half of the apartment building is located closer to the SE Harmony Road right-of-way (however, the building is still 25-ft. from the curbline of the roadway). If the standard 25-ft. front yard setback were applied to the development, the apartment building would permanently impact another 680 sq. ft. of the WQR, and the structure would be located where grades near Minthorn Creek approach 25% slopes. In addition, the width of the vegetated corridor would be reduced to only 15-ft. adjacent to the apartment structure. Therefore, when balancing relative impacts and benefits of the proposed variance verses applying the typical front setback standard, the proposal provides more benefits and fewer impacts as compared to the baseline code requirement.

The applicant's request also includes approval of a Type III Variance to permit a 35-ft. side yard height plane, when 25-ft. is the standard. The benefits of the proposed variance are the ability to construct a daylight basement in the rear of the apartment building, to reduce the building footprint and minimize impacts to WQR while meeting site's minimum density standard. The impact of the proposed side yard height plane variance is that it increases the height plane of the apartment building along a portion of the east property line. If the standard side yard height plane were applied to the development, at least one apartment unit would be eliminated with the current building footprint. To meet the site's minimum density standard, the increased building footprint would be required, and the permanently impact area within the WQR would be increased. With a larger apartment building footprint, the width of the vegetated corridor would be reduced to approximately 15-ft. and steeper slopes along Minthorn Creek would be impacted. Therefore, when balancing relative impacts and benefits of the proposed variance verses applying the typical front setback standard, the proposal provides more benefits and fewer impacts as compared to the baseline code requirement.

Finally, the applicant is requesting approval of a Type III Variance to reduce the parking lot perimeter landscaping requirement from 6-ft. to 3.54-ft. where a proposed retaining wall is adjacent to the west property line, and to reduce the landscaping requirement from 8-ft. to 1.50-ft. along the drive aisle extending from 5989 SE Harmony Road to the parking lot on the subject site. The benefits of the proposed west property line variance along the east property line are that the width of the apartment building can be minimized, and the building depth does not need to be increased. In addition, the west property line variance allows the installation of a retaining wall at the north end of the parking lot, thereby reducing the amount of the grading required in the WQR. The benefit of the south property line variance is the ability to use the existing access easement along the southern boundary of 5989 and 61165 SE Harmony Road. The impact of the proposed variance is a reduction in the width of the planting areas adjacent to the west and south property lines. If the standard perimeter landscaping standards were applied to the development, the existing easement could not be used to access the site, and site grading and an enlarged building footprint would create more impacts to the WQR area. Therefore, when balancing relative impacts and benefits of the proposed variance verses applying the typical front setback standard, the proposal provides more benefits and fewer impacts as compared to the baseline code requirement.

b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

(1) The proposed variance avoids or

minimizes impacts to surrounding properties.

COMMENT:

As indicated by the attached Preliminary Site Plan, the proposed variance to reduce the front yard setback to 12-ft. will locate the eastern half of apartment building approximately 25-ft. from the curblineline of SE Harmony Road, however the variance will not create impact to surrounding properties (see Exhibit 4). The attached Apartment Building Elevations illustrates that the proposed side yard height plane variance does increase the height plane along the east property line. However, the height plane meets the standard at the front of the building, and the proposed height gradually increases along the property line and does not extend to 35-ft. until it reaches the rear of the building (see Exhibit 4). The applicant's Preliminary Site Plan illustrates that the proposed parking lot perimeter landscape variance only affects properties within the Harmony Park Townhomes complex (see Exhibit 4). Both 5989 and 6115 SE Harmony Road are under the same ownership and the location of the existing access easement requires a reduction in perimeter landscaping along the Harmony Road right-of-way. The plan also demonstrates that the existing sign-obscuring fence between 5989 and 6115 SE Harmony Road minimizes impacts from the proposed reduction in perimeter landscaping along the west property line.

(2) The proposed variance has desirable public benefits.

COMMENT:

As discussed above, the proposed variances will reduce impacts to the delineated WQR area along the south side of Minthorn Creek. The attached Water Quality Resource Site Assessment discusses ecological functions of the WQR, which as a natural resource, provides public benefits to the local watershed and larger regional environment. These functional values include protecting water features from development, providing shade and moderating microclimate, moderating streamflow and providing water storage, providing water filtration and infiltration, providing bank stabilization and sediment control, ensuring large wood recruitment, and nurturing organic material resources.

(3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

COMMENT:

Under R-2 zone standards, a 3-story building with 15-23 apartment units may be developed on the 1.33 acre site. As indicated by the attached Preliminary Site Plan, the proposed building contains 15 apartment units, which is the minimum required density for the subject property (see Exhibit 4). To minimize impacts to the WQR, the applicant is proposing to reduce the building footprint by adding a 4th story under the provisions of Section 19.302.5. Using the site's natural topography, the additional story sensitively responds the WQR in both a creative and sensitive manner. To further reduce impacts to the WQR, the applicant is also requesting a variance to locate the building 12-ft. from the front property line. By siting and designing the apartment building as proposed, impacts to the WQR area are limited to 2,734 sq. ft., or 26% of the 10,230 sq. ft. WQR on the south side of the creek. Therefore, the requested variance to the side yard height plane and front yard building setback standards will help to protect natural resources on the site.

Due to site constraints which include access restrictions on SE Harmony Road, steep topography near the creek, and the desire to protect the WQR on the subject property, the parking lot must be located in the southwest corner of the site. The attached Preliminary Site Plan demonstrates that the location of existing development and access easement on the adjacent parcel creates the need to request a variance to the 8-ft. parking lot landscaping requirement between the parking area and front property line (see Exhibit 4). The attached Preliminary Grading Plan illustrates that while the proposed retaining wall will limit grading impacts within the WQR, it creates the need to request a variance to the 6-ft. landscaping requirement in the northwest corner of the parking lot. Although the applicant is adding a 4th story to reduce the building footprint, the narrow site does not provide adequate width to meet the 6-ft. landscaping requirement with the retaining wall. The Preliminary Site Plan demonstrates that perimeter landscaping requirements are met for the remainder of the parking lot area. By creatively siting and designing the parking lot as proposed, the Arterial Street access spacing standard will be met and grading impacts within the WQR will be minimized. Therefore, the requested variance to the parking lot perimeter landscaping standard responds to both the existing built and natural environment in a sensitive manner.

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

COMMENT:

To mitigate the proposed variance to the side yard height plane, the applicant will only add a 4th story to the rear of the apartment building. The attached Apartment Building Plans and Elevations indicate that the side yard height plane standard of 25-ft. will still be met at the front of the building. The proposed 35-ft. height plane applies to rear portion of the building, which is located approximately 10-ft. from the eastern property line, and approximately 35-ft. from the closest dwelling to the east of the site. Therefore, impacts from this proposed variance are mitigated to the extent practicable.

The proposed variance to the front yard setback has been mitigated by limiting the yard reduction to 3 feet. As demonstrated by the attached Preliminary Site Plan, the proposed front yard reduction will not impact any neighboring properties, and all other building setbacks standards have been met (see Exhibit 4). Due to the angle of the front lot line, the 13-ft. setback reduction is only needed for the eastern half of the apartment building. As such, impacts from this proposed variance are mitigated to the extent practicable.

The Preliminary Site Plan indicates that the proposed variance to the parking lot landscaping standards will be mitigated several ways (see Exhibit 4). The plan shows that the drive aisle's encroachment into the 8-ft. landscaping area will be mitigated by separating the parking area from the public sidewalk with a 6-in. curb and a 42-in. high metal fence. In addition, the retaining wall encroachment into the 6-ft. landscaping area will be mitigated by an existing 6-ft. high chain link fence with sight-obscuring slats on the adjacent Harmony Park Apartments property. With these mitigation measures, impacts from this proposed variance are mitigated to the extent practicable.

Chapter 19.1000: Review Procedures

Section 19.1002: Pre-Application Conference

19.1002.2: Applicability

- B. For Type II, III, IV, and V applications, and expedited annexations per Section 19.1104, a preapplication conference is required, with the following exceptions:**

COMMENT:

The applicant is requesting land use approval of a Type II Development Review application with a concurrent Type III Variance to the side yard height plane standard, parking lot landscaping requirements, and front yard setback standard. In addition, a Type III Review is requested for proposed activities within the site's water quality resource (WQR) area. As required, City staff reviewed applicable development standards with the applicant. A copy of the City Pre-Application Conference Report has been attached to this application (see Exhibit 3).

19.1002.4: Preapplication Conference Expiration

- A. A preapplication conference is valid for 2 years. If a land use application or development permit has not been submitted within 2 years of the conference date, the applicant is required to schedule a new preapplication conference prior to submittal. This requirement may be waived per Subsection 19.1002.2.B.1.**

COMMENT:

As required, the applicant attended a pre-application conference with City staff on November 2, 2017. Therefore, the applicant's pre-application conference is valid until November 1, 2019.

- C. If a development proposal is significantly modified after a preapplication conference occurs, the Planning Director may require a new preapplication conference. The City may refuse to accept a land use application or development permit for a significantly altered development**

proposal until a new preapplication conference is held. (Ord. 2025 § 2, 2011)

COMMENT:

The attached City Pre-Application Conference Report demonstrates that the current development proposal is substantially similar to the concept plan reviewed at the November 2, 2017 meeting with the City (see Exhibit 3).

Chapter 19.1200: Solar Access Protection

19.1203: Solar Access for New Development

19.1203.3: Design Standard

At least 80% of the lots in a development subject to these provisions shall comply with one or more of the options in this subsection; provided a development may, but is not required to, use the options in Subsections 19.1203.3.B or C below to comply with Section 19.1203.

A. Basic Requirement

A lot complies with Subsection 19.1203.3 if it:

- 1. Has a north-south dimension of 90 ft. or more; and**
- 2. Has a front lot line that is oriented within 30 degrees of a true east-west axis (see Figure 19.1203.3).**

COMMENT:

As illustrated by the attached Existing Conditions Plan, the subject site has a north-south dimension of 90-ft. or more and a front lot line within 30 degrees of a true east-west axis. As such, the lot complies with the Basic Requirement for solar access.

IV. SUMMARY AND CONCLUSIONS

Based on the above findings, the applicant has demonstrated compliance with applicable sections of the Milwaukie Municipal Code. Therefore, the applicant requests that the submitted concurrent applications be approved.

VI. EXHIBITS

- 1. Application Form**
- 2. Property Deed, Legal Description, and Easements**
- 3. City Pre-Application Conference Report**
- 4. Preliminary Development Plans**
 - P-1: Cover Sheet**
 - P-2: Existing Conditions Plan**
 - P-3: Aerial Photograph/Land Use Plan**
 - P-4: Preliminary Site Plan**
 - P-5: WQR Impacts/Tree Removal Plan**
 - P-6: Interior Parking Lot/WQR Planting Areas Plan**
 - C-1: Preliminary Civil Site Plan**
 - C-2: Preliminary Utility Plan**
 - C-3: Preliminary Grading/Erosion and Soil Control/
Construction Management Plan**
 - A-1: Apartment Building Elevations**
 - A-2: Apartment Building Floor Plans**
- 5. Preliminary Stormwater Report**
- 6. Wetland/Waters Delineation Report**
- 7. Department of State Lands Wetland Delineation Concurrence Letter**
- 8. Water Quality Resource Site Assessment/Mitigation Plan**

APPLICATION FORM



PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@milwaukieoregon.gov

Application for Land Use Action

Master File #: _____

Review type*: I II III IV V

CHOOSE APPLICATION TYPE(S):

Development Review

Variance: Variance

Natural Resource Review

...

...

Use separate application forms for:

- Annexation and/or Boundary Change
- Compensation for Reduction in Property Value (Measure 37)
- Daily Display Sign
- Appeal

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): HPA 2, LLC

Mailing address: 10117 SE Sunnyside Road, #545, Clackamas, OR Zip: 97015

Phone(s): 702-234-9961 E-mail: edwlv01@gmail.com

APPLICANT'S REPRESENTATIVE (if different than above): Cascadia Planning + Development Services

Mailing address: PO Box 1920, Silverton, OR Zip: 97381

Phone(s): 503-804-1089 E-mail:

SITE INFORMATION:

Address: 6115 SE Harmony Road Map & Tax Lot(s): 1S2E31D / 2200

Comprehensive Plan Designation: MED. D Zoning: R-2 Size of property: 1.33 Acres

PROPOSAL (describe briefly):

Requesting approval of a Development Review Application with a Concurrent Type III Variance to the Side Yard Height Plane, Front Yard Setback, Parking Lot Perimeter Landscaping, and a Type III Review for Proposed Activities within a Water Quality Resource (WQR) Area.

SIGNATURE:

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

Submitted by: *Annerie Alicavage, Member*

Date: 4/5/18

IMPORTANT INFORMATION ON REVERSE SIDE

RESET

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

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

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

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

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

REVIEW TYPES:

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

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

THIS SECTION FOR OFFICE USE ONLY:

| FILE TYPE | FILE NUMBER | FEE AMOUNT* | PERCENT DISCOUNT | DISCOUNT TYPE | DEPOSIT AMOUNT | DATE STAMP |
|--|-------------|-------------|-------------------|---------------|----------------|------------|
| Master file | | \$ | | | \$ | |
| Concurrent application files | | \$ | | | \$ | |
| | | \$ | | | \$ | |
| | | \$ | | | \$ | |
| | | \$ | | | \$ | |
| SUBTOTALS | | \$ | | | \$ | |
| TOTAL AMOUNT RECEIVED: \$ | | | RECEIPT #: | | RCD BY: | |
| Associated application file #s (appeals, modifications, previous approvals, etc.): | | | | | | |
| Neighborhood District Association(s): | | | | | | |
| Notes: | | | | | | |

*After discount (if any)



PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@milwaukieoregon.gov

For all Land Use Applications
(except Annexations and Development Review)

Submittal Requirements

All land use applications must be accompanied by a signed copy of this form (see reverse for signature block) and the information listed below. The information submitted must be sufficiently detailed and specific to the proposal to allow for adequate review. Failure to submit this information may result in the application being deemed incomplete per the Milwaukie Municipal Code (MMC) and Oregon Revised Statutes.

Contact Milwaukie Planning staff at 503-786-7630 or planning@milwaukieoregon.gov for assistance with Milwaukie's land use application requirements.

1. **All required land use application forms and fees**, including any deposits.
Applications without the required application forms and fees will not be accepted.
2. **Proof of ownership or eligibility to initiate application** per MMC Subsection 19.1001.6.A.
Where written authorization is required, applications without written authorization will not be accepted.
3. **Detailed and comprehensive description** of all existing and proposed uses and structures, including a summary of all information contained in any site plans.
Depending upon the development being proposed, the description may need to include both a written and graphic component such as elevation drawings, 3-D models, photo simulations, etc. Where subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary on-site "story pole" installations, and photographic representations thereof, may be required at the time of application submittal or prior to the public hearing.
4. **Detailed statement** that demonstrates how the proposal meets the following:
 - A. All applicable development standards (listed below):
 1. **Base zone standards** in Chapter 19.300.
 2. **Overlay zone standards** in Chapter 19.400.
 3. **Supplementary development regulations** in Chapter 19.500.
 4. **Off-street parking and loading standards and requirements** in Chapter 19.600.
 5. **Public facility standards and requirements**, including any required street improvements, in Chapter 19.700.
 - B. All applicable application-specific approval criteria (check with staff).
These standards can be found in the MMC, here: www.qcode.us/codes/milwaukie/
5. **Site plan(s), preliminary plat, or final plat** as appropriate.
See Site Plan, Preliminary Plat, and Final Plat Requirements for guidance.
6. **Copy of valid preapplication conference report**, when a conference was required.

APPLICATION PREPARATION REQUIREMENTS:

- Five hard copies of all application materials are required at the time of submittal (unless submitted electronically). Staff will determine how many additional hard copies are required, if any, once the application has been reviewed for completeness.
- All hard copy application materials larger than 8½ x 11 in. must be folded and be able to fit into a 10- x 13-in. or 12- x 16-in. mailing envelope.
- All hard copy application materials must be collated, including large format plans or graphics.

ADDITIONAL INFORMATION:

- Neighborhood District Associations (NDAs) and their associated Land Use Committees (LUCs) are important parts of Milwaukie's land use process. The City will provide a review copy of your application to the LUC for the subject property. They may contact you or you may wish to contact them. Applicants are strongly encouraged to present their proposal to all applicable NDAs prior to the submittal of a land use application and, where presented, to submit minutes from all such meetings. NDA information: www.milwaukieoregon.gov/citymanager/what-neighborhood-district-association.
- Submittal of a full or partial electronic copy of all application materials is strongly encouraged.

As the authorized applicant I, (print name) Annenie Williams, Member, attest that all required application materials have been submitted in accordance with City of Milwaukie requirements. I understand that any omission of required items or lack of sufficient detail may constitute grounds for a determination that the application is incomplete per MMC Subsection 19.1003.3 and Oregon Revised Statutes 227.178. I understand that review of the application may be delayed if it is deemed incomplete.

Furthermore, I understand that, if the application triggers the City's sign-posting requirements, I will be required to post signs on the site for a specified period of time. I also understand that I will be required to provide the City with an affidavit of posting prior to issuance of any decision on this application.

Applicant Signature: Annenie Williams, Member

Date: 4/5/18

Official Use Only

Date Received (date stamp below):



PLANNING DEPARTMENT
 6101 SE Johason Creek Blvd
 Milwaukie OR 97206

PHONE: 503-786-7630
 FAX: 503-774-8236
 E-MAIL: planning@milwaukieoregon.gov

Development Review Application Worksheet

This worksheet is intended to assist you in determining if a development review application is needed. If a Type I development review is required, this form can be used to complete the application. Not all information requested on this form may be needed for your project. Please discuss your project with Planning Department staff prior to completing this form.

Step 1: Review Type

| Exempt from Development Review | Type I Development Review Excludes single-family structures/ accessory structures | Type II Development Review |
|--|--|---|
| <input type="checkbox"/> Single-family detached or attached structures (new or addition). <input type="checkbox"/> Single-family residential accessory structures. <input type="checkbox"/> Modifications to interior of existing buildings with no change of use. | <input type="checkbox"/> New development. <input type="checkbox"/> Expansions or modifications to structures. <input type="checkbox"/> Change in primary use (with or without development or expansion). <input type="checkbox"/> Parking area expansion/ modification of 5 or more spaces. | <input type="checkbox"/> New construction in BI Zone >1,000 sq ft. <input type="checkbox"/> New construction in M Zone >1,000 sq ft AND within 120 ft of residential zone. <input checked="" type="checkbox"/> New development reviewed against discretionary criteria/standards. <input type="checkbox"/> Large-scale projects/approval criteria not appropriate for Type I review. |
| <i>Development review not required. Project can proceed to obtaining building permit.</i> | <i>Development review application required. Application can be made by completing a land use application form, along with this form, and submitting development permits for review.</i> | <i>Preapplication conference is required prior to submitting a development review permit. Please discuss the preapplication conference with Planning Department staff.</i> |

Step 2: Information for Type I Development Review Application

If your project has already received land use approval, please indicate the file number: _____

Description of overall project

Site Address: 6115 SE Harmony Road

Approval of a Development Review Application with a Concurrent Type III Variance to the Side Yard Height Plane, Front Yard Setback, Parking Lot Perimeter Landscaping, and a Type III Review for Proposed Activities within a Water Quality Resource (WQR) Area.

Description of use(s): List characteristics of uses that are or will be present on-site. Relevant information will vary depending on zoning. Commonly required information includes good/services provided, items manufactured or stored, and number of employees. *M Zone uses: refer to Milwaukie Municipal Code (MMC). 19.309.1. BI Zone uses: refer to MMC 19.310.2-4.*

The 1.33 acre site is currently vacant and is zoned R-2 (Medium Density Residential). The submitted application is to permit the development of the Harmony Park Townhomes PH II project, which consists of a 15-unit apartment building and associated site improvements.

Floor areas: Floor areas are needed for evaluating parking ratios and the M Zone use standards in MMC 19.309.1.

| Use | Existing Sq Ft | Proposed Sq Ft | Total Sq Ft |
|-------------------------------|----------------|----------------|-------------|
| Two 1-Bedroom Basement Units | | 639 | 1,278 |
| One Studio Unit | | 354 | 354 |
| One 1-Bedroom Main Floor Unit | | 686 | 686 |
| Eleven 2-Bedroom Units | | 1,130 | 12,430 |

Other information: Use this space to provide other information that Planning Staff needs for review of the project. Examples: uses that base parking on something other than sq ft, zoning overlays, other existing uses on multitenant sites.

N/A

As the authorized applicant I, HPA 2, LLC, attest that all required application materials have been submitted in accordance with City of Milwaukie requirements. I understand that any omission of required items or lack of sufficient detail may constitute grounds for a determination that the application is incomplete per MMC 19.1003.3 and Oregon Revised Statutes 227.178. I understand that review of the application may be delayed if it is deemed incomplete.

Applicant Signature: Aimee Williams, member

Date: 4/5/18

Official Use Only Date Received (date stamp below):

Received by: _____

RESET

PROPERTY DEED

RECORDING REQUESTED BY:
Fidelity National Title
Company of Oregon

12817 SE 93rd Avenue
Clackamas, OR 97015

Clackamas County Official Records **2016-029184**
Sherry Hall, County Clerk 05/06/2016 09:03:41 AM
D-D Cnt=1 Stn=2 LESLIE \$58.00
\$10.00 \$16.00 \$10.00 \$22.00

GRANTOR'S NAME:
Ken Leavens Properties, Inc.

GRANTEE'S NAME:
HPA 2 LLC

AFTER RECORDING RETURN TO:
HPA 2 LLC
16479 SE Oak Meadow Court
Damascus, OR 97089

SEND TAX STATEMENTS TO:
SAME AS ABOVE

00097184 and 12E31D/02200
6115 Se Harmony Rd., Milwaukie, OR 97222

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Ken Leavens Properties, Incorporated, an Oregon corporation, Grantor, conveys and warrants to HPA 2 LLC, an Oregon limited liability company, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Clackamas, State of Oregon:

Being a part of the Donation Land Claim of Joseph P. Eagon and wife, in Township 2 South, Range 2 East, of the Willamette Meridian, and a part of the Donation Land Claim of J. D. Garrett and wife, in Townships 1 and 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, bounded and described as:

Beginning at an iron bolt driven in the Northerly boundary of that certain tract of land conveyed to J.E. Minard Black by Deed recorded in Book 107, Page 518, Deed Records, which bolt is on the Southwesterly side line of the right of way of the O. & C. R. R., South 65° 16' 30" East 399.6 feet distant from most Northerly corner of said Black tract, being also 108.84 feet North and 494.83 feet West of a basalt stone set at the intersection of the North boundary of Section 5, Township 2 South, Range 2 East, of the Willamette Meridian, with the East boundary of the J. D. Garrett Donation Land Claim; thence South 65° 16' 30" East tracing the Southwesterly line of said right of way 107.78 feet to an iron pipe and the true place of beginning of the tract of land to be described; thence continuing South 65° 16' 30" East tracing the Southwesterly line of said right of way 225 feet; thence in a Southerly direction 285 feet, more or less, to a point in the center of Foster County Road, said point being South 9° 32' East 31.32 feet and North 63° 44' East 160 feet from an iron pipe driven on the Northerly side of said Foster County Road; thence South 63° 44' West 160 feet to a point from which an iron pipe driven on the Northerly side of said road bears North 9° 32' West 31.32 feet; thence North 9° 32' West 451.90 feet to the said true point of beginning.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS TWO HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$275,000.00). (See ORS 93.030).

Subject to:

Rights of the public to any portion of the Land lying within roads and highways.

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: The City of Milwaukie, Oregon
Purpose: Sewer
Recording Date: February 26, 1974
Recording No: 74-4605
Recording Date: August 6, 1974
Recording No: 74-21906
Affects: The Northeasterly 15 feet

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: The City of Milwaukie, Oregon
Purpose: Sewer
Recording Date: January 10, 1975
Recording No: 75-725
Recording Date: May 3, 1977
Recording No: 77-16475
Affects: The North 185 feet of the East 10 feet

Fidelity National Title of Oregon 45141519356-07

STATUTORY WARRANTY DEED

(continued)

Easement Deed by Court Order in Settlement of Landowner Action

Recording Date: September 24, 2013
Recording No.: 2013-067267

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated May 4th 2016, if a corporate grantor, it has caused its name to be signed by order of its board of directors.

Ken Leavens Properties, Incorporated, an Oregon corporation

BY: [Signature]
Mark Boring, Treasurer

STATE OF OREGON, County of Clackamas ss.
On 5.4.16 before me personally appeared Mark Boring as Treasurer, whose identity was established to my satisfaction, and who said that the foregoing instrument was executed on behalf of Ken Leavens Properties Inc.
for the purposes stated therein; that the seal, if any, affixed to the instrument is the corporate seal of the corporation; and that he/she/they signed the instrument with proper authority and as the voluntary act of the corporation.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.
[Notary Seal: Carrie Redifer, Notary Public Oregon, Commission No. 922770, My Commission Expires December 03, 2017]
Carrie Redifer
Notary Public for Oregon 12.3.17
My commission expires

FORM No. 786 - ACKNOWLEDGMENT, CORPORATION (ORS 194.505 (2)). EA © 1992-2003 STEVENS-NESS LAW PUBLISHING CO., PORTLAND, OR www.stevensness.com

After recording return to:
16479 SE Oak Meadow Court
Damascus, OR 97089
Harmony Park Apts LLC
No change in tax statements

Clackamas County Official Records **2017-038243**
Sherry Hall, County Clerk 06/07/2017 03:34:00 PM
D-E Cnt=1 Stn=0 KARLYN
\$30.00 \$16.00 \$10.00 \$22.00 \$78.00

GRANT OF EASEMENT

45141710857-07
Fidelity National Title of Oregon

Harmony Park Apartments, LLC, an Oregon limited liability company, Grantor, does hereby grant, assign and set over to, HPA 2, LLC, an Oregon limited liability company, Grantee, an easement through, under, over and along the property described as "The Easement Tract" below. This easement shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, successors, and assigns.

The Grantee agrees to save and hold harmless the Grantor from any and all claims of third parties arising from the Grantee use of the rights herein granted.

The true consideration for this conveyance is non-monetary.

The Easement Tract:

Please see attached Exhibit "A" and depiction

The Benefited Property:

That property as described in document recorded May 6th, 2016 as fee number 2016-029184, Clackamas County, Oregon. Please see attached Exhibit "B", 2016-0291284, for legal description.

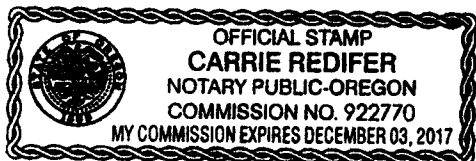
The Burdened Property:

That property as described in document recorded March 4, 2008 as fee number 2008-015141 and rerecorded July 25, 2012 as fee number 2012-046726, Clackamas County, Oregon. Please see attached Exhibit "C", 2012-046726, for legal description.

Annemie Williams
By: Annemie Williams, Member

STATE OF OREGON)
) ss
COUNTY OF CLACKAMAS)

This instrument was acknowledged before me on June 6, 2017, by Annemie Williams as Member of Harmony Park Apartments, LLC.



Carrie Redifer
Notary Public State of Oregon
My Commission Expires: 12.3.17

EXHIBIT "A"

Summit Land Surveyors, LLC
12950 SW Pacific Hwy, Suite 255
Tigard, OR 97223
Phone & Fax 503.928.5589
www.summitlandsurveyors.com



June 2, 2017

Access Easement

5989 SE Harmony Road

A portion of that tract of land described in Document No. 2008-015141 being situated in the northeast ¼ of Section 6, Township 2 South, Range 2 East of the Willamette Meridian, in Clackamas County, Oregon, being more particularly described as follows:

Beginning at a point on north right of way line of SE Harmony Road, said point being on the south boundary of said tract of land described in Document No. 2008-015141, and bearing N66°27'55"E, 3.00 feet from a 5/8" Iron Rod which bears S66°27'55"W, 106.00 feet from an Iron Pipe in a tree root at the southeast corner of said Document No. 2008-015141;

thence 66.02 feet along the arc of a 36.00 foot radius curve to the right through a central angle of 105°04'28", the chord of which bears N30°42'22"E, 57.15 feet;

thence N83°14'35"E, 41.21 feet;

thence N66°27'55"E, 23.60 feet to a point on the east boundary of said tract of land described in Document No. 2008-015141;

thence along said east boundary, S06°52'00"E, 20.88 feet;

thence leaving said east boundary, S66°27'55"W, 20.56 feet;

thence S83°14'35"W, 35.30 feet to a point of curvature;

thence 25.27 feet along the arc of a 15.00 foot radius curve to the left through a central angle of 96°31'02", the chord of which bears S34°59'04"W, 22.38 feet to a point on the south boundary of said tract of land described in Document No. 2008-015141;

thence along said south boundary, S66°27'55"W, 30.00 feet to the Point of Beginning.

Containing 2,416 Sq.Ft.

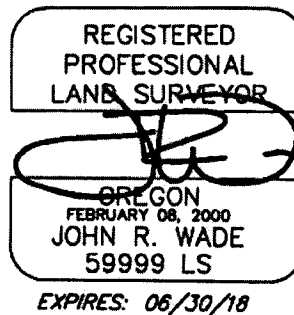
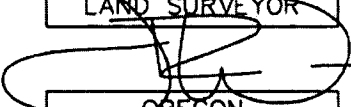


Exhibit "A" DEPICTION

REGISTERED
PROFESSIONAL
LAND SURVEYOR



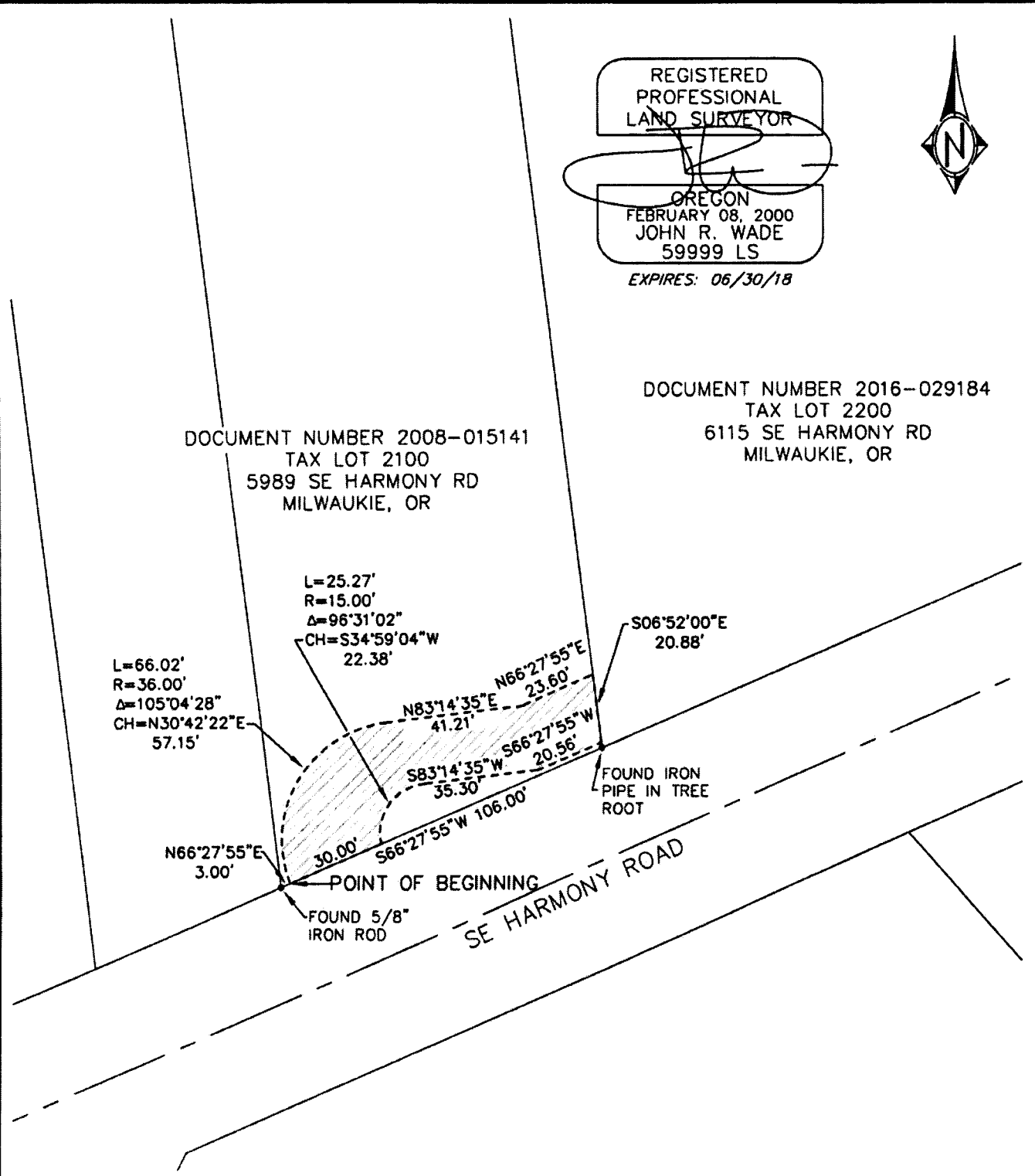
OREGON
FEBRUARY 08, 2000
JOHN R. WADE
59999 LS

EXPIRES: 06/30/18



DOCUMENT NUMBER 2008-015141
TAX LOT 2100
5989 SE HARMONY RD
MILWAUKIE, OR

DOCUMENT NUMBER 2016-029184
TAX LOT 2200
6115 SE HARMONY RD
MILWAUKIE, OR



SUMMIT
LAND SURVEYORS
12950 SW PACIFIC HIGHWAY, SUITE 255
TIGARD, OR 97223
PHONE & FAX: 503.928.5589

ACCESS EASEMENT
SITUATED IN THE NORTHEAST 1/4 OF SECTION 8,
TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN,
CLACKAMAS COUNTY, STATE OF OREGON

| | | | |
|---------------------------|--------------------------|-------------------------|-------------------------------------|
| JOB NO: 998-187 | DATE: 06/02/17 | SCALE: 1"=40' | PREPARED FOR: ED WILLIAMS |
|---------------------------|--------------------------|-------------------------|-------------------------------------|

EXHIBIT "B"

RECORDING REQUESTED BY:
Fidelity National Title
Company of Oregon

12817 SE 93rd Avenue
Clackamas, OR 97015

GRANTOR'S NAME:
Ken Leavens Properties, Inc.

GRANTEE'S NAME:
HPA 2 LLC

AFTER RECORDING RETURN TO:
HPA 2 LLC
16479 SE Oak Meadow Court
Damascus, OR 97089

SEND TAX STATEMENTS TO:
SAME AS ABOVE

00097184 and 12E31D/02200
6115 Se Harmony Rd., Milwaukie, OR 97222

| | |
|--|--|
| Clackamas County Official Records Sherry Hall, County Clerk | 2016-029184 05/06/2016 09:03:41 AM |
| D-D \$10.00 \$16.00 \$10.00 \$22.00 | Cnt=1 Stn=2 LESLIE \$58.00 |

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Ken Leavens Properties, Incorporated, an Oregon corporation, Grantor, conveys and warrants to HPA 2 LLC, an Oregon limited liability company, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Clackamas, State of Oregon:

Being a part of the Donation Land Claim of Joseph P. Eagon and wife, in Township 2 South, Range 2 East, of the Willamette Meridian, and a part of the Donation Land Claim of J. D. Garrett and wife, in Townships 1 and 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, bounded and described as:

Beginning at an iron bolt driven in the Northerly boundary of that certain tract of land conveyed to J.E. Minard Black by Deed recorded in Book 107, Page 518, Deed Records, which bolt is on the Southwesterly side line of the right of way of the O. & C. R. R., South 65° 16' 30" East 399.6 feet distant from most Northerly corner of said Black tract, being also 108.84 feet North and 494.83 feet West of a basalt stone set at the intersection of the North boundary of Section 5, Township 2 South, Range 2 East, of the Willamette Meridian, with the East boundary of the J. D. Garrett Donation Land Claim; thence South 65° 16' 30" East tracing the Southwesterly line of said right of way 107.78 feet to an iron pipe and the true place of beginning of the tract of land to be described; thence continuing South 65° 16' 30" East tracing the Southwesterly line of said right of way 225 feet; thence in a Southerly direction 285 feet, more or less, to a point in the center of Foster County Road, said point being South 9° 32' East 31.32 feet and North 63° 44' East 160 feet from an iron pipe driven on the Northerly side of said Foster County Road; thence South 63° 44' West 160 feet to a point from which an iron pipe driven on the Northerly side of said road bears North 9° 32' West 31.32 feet; thence North 9° 32' West 451.90 feet to the said true point of beginning.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS TWO HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$275,000.00). (See ORS 93.030).

Subject to:

Rights of the public to any portion of the Land lying within roads and highways.

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

| | |
|-----------------|-------------------------------|
| Granted to: | The City of Milwaukie, Oregon |
| Purpose: | Sewer |
| Recording Date: | February 26, 1974 |
| Recording No: | 74-4805 |
| Recording Date: | August ;6, 1974 |
| Recording No. | 74-21906 |
| Affects: | The Northeasterly 15 feet |

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

| | |
|-----------------|--|
| Granted to: | The City of Milwaukie, Oregon |
| Purpose: | Sewer |
| Recording Date: | January 10, 1975 |
| Recording No: | 75-725 |
| Recording Date: | May 3, 1977 |
| Recording No. | 77-16475 |
| Affects: | The North 185 feet of the East 10 feet |

Fidelity National Title of Oregon 45141519356-07

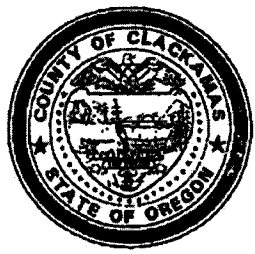
2/ce

Clackamas County Official Records 2012-046726
Sherry Hall, County Clerk

01600509201200467260020039 \$58.00

07/26/2012 03:23:38 PM

D-D Cnt=1 Stn=25 LESLIE
\$10.00 \$5.00 \$10.00 \$16.00 \$17.00



**CLACKAMAS
COUNTY
RECORDING
DEPARTMENT
CERTIFICATE
PAGE**

**This page must be included
if document is re-recorded.
Do Not remove from original document.**

2/2

Clackamas County Official Records
Sherry Hall, County Clerk

2008-015141



\$36.00

03/04/2008 08:02:43 AM

D-D Cnt=1 Stn=9 DIANNAW
\$10.00 \$16.00 \$10.00

After recording return to and until
requested otherwise send all tax
statements to:
Harmony Park Apartments, LLC
16479 SE Oak Meadows Court
Damascus, OR 97089

472512497512

STATUTORY BARGAIN AND SALE DEED
This document is being re-recorded to correct the legal at the request of Chicago
title, previously recorded at Fee No. 2008-015141.

JAMES E. WILLIAMS and ANNEMIE WILLIAMS, husband and wife, Grantors,
convey to HARMONY PARK APARTMENTS, LLC, an Oregon limited liability company,
Grantee, the following described real property:

A part of the John D. Garrett Donation Land Claim in Township ¹2 South,
Range ²2 East of the Willamette Meridian, in the County of Clackamas and
State of Oregon, described as follows:

BEGINNING at an iron bolt driven in the Northerly boundary of that
certain tract of land conveyed to J.E. Minard Black by deed recorded in
Book 107, Page 518, Deed Records, which point is on the Southwesterly side
line of the right of way of the Oregon and California Railroad, South
65°16'30" East 399.6 feet distant from the most Northerly corner of said
tract, said beginning point being 108.84 feet North and 494.83 feet West of a
basalt stone set at the intersection of the North boundary of Section 5,
Township 2 South, Range 2 East of the Willamette Meridian with the East
boundary of the J. D. Garrett Donation Land Claim, running thence South
65°16'30" East 107.78 feet tracing the Southwesterly side line of the Oregon
and California Railroad right of way to an iron pipe; thence South 9°32' East
451.90 feet to a point in the center of the Foster Road which point an iron
pipe driven on the Northerly side line thereof bears North 9°32' West 31.32
feet distant; thence tracing the center of said road, South 63°44' West 167.07
feet to an iron bolt; thence North 9°32' West 609.00 feet to a pipe driven on
the Southwesterly side line of the right of way of the Oregon and California
Railroad; thence tracing the Southwesterly side line of said right of way
South 65°16'30" East 85.8 feet to a point of beginning.

EXCEPTING THEREFROM that portion in roads.

The true and actual consideration for this conveyance is other property or value which
was either part or the whole consideration.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON
TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF
ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE
PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE
LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS

2

Chicago Title

**CITY OF MILWAUKIE
PRE-APPLICATION CONFERENCE REPORT**



November 17, 2017

Ed Williams
Old Time Investments, Inc.
10117 SE Sunnyside Rd, #F545
Clackamas OR 97015

Re: Preapplication Report

Dear Ed:

Enclosed is the Preapplication Report Summary from your meeting with the City on November 2, 2017, concerning your proposal for action on property located at 6115 SE Harmony Rd.

A preapplication conference is required prior to submittal of certain types of land use applications in the City of Milwaukie. Where a preapplication conference is required, please be advised of the following:

- Preapplication conferences are valid for a period of 2 years from the date of the conference. If a land use application or development permit has not been submitted within 2 years of the conference date, the Planning Director may require a new preapplication conference.
- If a development proposal is significantly modified after a preapplication conference occurs, the Planning Director may require a new preapplication conference.

If you have any questions concerning the content of this report, please contact the appropriate City staff.

Sincerely,

Alicia Martin
Administrative Specialist II

Enclosure

cc: Cascadia Planning
Sisul Engineering
File

PRE-APPLICATION CONFERENCE REPORT

This report is provided as a follow-up to a meeting that was held on 11/2/2017 at 10:00AM

Applicant Name: Ed Williams

Company: Old Time Investments, Inc.

Applicant 'Role': Owner

Address Line 1: 16479 SE Oak Meadow Court

Address Line 2:

City, State Zip: Damascus OR 97089

Project Name: Harmony Rd Apartments

Description: Design Review for 14 unit multi-family apartments

ProjectAddress: 6115 SE Harmony Rd

Zone: R-2 with Natural Resource (NR) Overlay.

Occupancy Group:

ConstructionType:

Use: The proposed apartment building is an allowed use within the R-2 zone.

Occupant Load:

AppsPresent: Ed Williams, Steve Kay, Tom Sisul

Staff Attendance: David Levitan, Alex Roller, Jen Davidson, Matt Amos

BUILDING ISSUES

ADA: The building will need to meet all ADA standards. Parking spaces shall be provided at the rate of 1 ADA parking space for each 25 parking spaces provided, one of which will be a van accessible space.

Structural:

Mechanical:

Plumbing:

Plumb Site Utilities:

Electrical:

Notes:

Please note all drawings must be individually rolled. If the drawings are small enough to fold they must be individually folded.

FIRE MARSHAL ISSUES

- Fire Sprinklers:** A fully complaint NFPA 13 or 13r system will be required.
- Fire Alarms:** Alarms shall be provided as per Chapter 9 of the Oregon Structural Specialty Code (OSSC).
- Fire Hydrants:**
- Turn Arounds:**
- Addressing:**
- Fire Protection:**
- Fire Access:**
- Hazardous Mat.:**
- Fire Marshal Notes:** See attached.

PUBLIC WORKS ISSUES

- Water:** A 12-inch diameter City of Milwaukie water main provides service to the development property. Per code section 19.702.1, all of chapter 19.700 applies to the new construction. Per Code section 19.709, the engineering director shall review all proposed development subject to chapter 19.700 to evaluate the adequacy of existing public utilities to service the proposed development and determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City’s public utility requirements and standards. It has been determined that the existing water main is can adequately provide service to this site.
- Development requires installation of a new water service and meter to be in accordance with City Standards. The Water System Development Charge (SDC) is based on the size of water meter serving the property. The corresponding water SDC will be assessed with installation of a water meter. The building that was on this site was demolished more than 10 years from the time of application, so no water SDC credit will be available. The water SDC’s can be found in Milwaukie’s fee schedule section 12. The water SDC will be assessed and collected at the time the building permits are issued.
- Sewer:** An 8-inch diameter City of Milwaukie sewer main located in a 10-foot easement on the east side of the property provides service to the development property. Per code section 19.702.1, all of chapter 19.700 applies to the new construction. Per Code section 19.709, the engineering director shall review all proposed development subject to chapter 19.700 to evaluate the adequacy of existing public utilities to service the proposed development and determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City’s public utility requirements and standards. It has been determined that the existing sewer main is can adequately provide service to this site.
- There is a wastewater main on the east side of the property that is in a 10’ wide easement. The City is requiring that this main be extended towards Harmony Road to provide city maintenance crews access.

An alternative to the mainline extension is providing access to the downstream manhole that is located at the northeast corner of the development property. This access would be through an 8-foot wide cleared path through taxlot 2000 to the west to allow city crews access for regular maintenance. This pathway will need to be maintained regularly or at the request of our crews. A maintenance agreement will be established that is approved by both the City and the property owner. In this situation, the existing sewer main will not have to be extended, and can remain as is. A gate will be required for city crews to access the existing manhole next to the building.

Currently, the wastewater System Development Charge (SDC) is comprised of two components. The first component is the City's SDC charge of \$1,100 per wastewater unit, and the second component is the County's SDC for treatment of \$5,036 per apartment that the City collects and forwards to the County. Milwaukie's wastewater unit is equal to 16 fixture units derived from Table 7-3 of the Oregon Plumbing Specialty Code. The wastewater SDC will be assessed and collected at the time the building permits are issued.

Storm:

There is no Milwaukie storm system to connect to in Harmony Road. Site may outflow to Minthorn creek with approval of a storm water management plan submitted by a qualified professional engineer. The plan shall conform to Section 2 - Stormwater Design Standards of the City of Milwaukie Public Works Standards.

The storm water management plan shall demonstrate that the post-development runoff does not exceed the pre-development, including any existing storm water management facilities serving the development property. Also, the plan shall demonstrate compliance with water quality standards. The City of Milwaukie has adopted the City of Portland 2016 Stormwater Management Manual for design of water quality facilities.

All new impervious surfaces, including replacement of impervious surface with new impervious surfaces, are subject to the water quality standards. See City of Milwaukie Public Works Standards for design and construction standards and detailed drawings.

The storm SDC is based on the amount of new impervious surface constructed at the site. One storm SDC unit is the equivalent of 2,706 square feet of impervious surface. The storm SDC is currently \$845 per unit. This calculation includes parking and building roof. The storm SDC will be assessed and collected at the time the building permits are issued.

Street:

The proposed development fronts the north side of SE Harmony Road, an arterial street. This frontage has a right-of-way width of 60 feet, has a paved width of approximately 36 feet with curb on both sides and sidewalk improvements on the north side.

Frontage:

Per MMC 19.708.2 Milwaukie's minimum frontage improvements for an arterial is as follows:

- 6-foot setback sidewalk
- 3-foot landscape strip
- Curb and gutter
- 5-foot bike lane
- 11-foot travel lane

Improvements will be completed through Clackamas County's review process attached below. City Must approve county required improvements prior to construction for compliance with minimum City standards. If the county's requirements are less than our Milwaukie's minimums, then Milwaukie's standards will be followed.

Right of Way:

The minimum right-of-way components will fit in the existing right-of-way. Final dedication requirements will be determined by Clackamas County.

Driveways:

Applicant has proposed to gain access to SE Harmony Road through an access easement with the

property to the west. Clackamas County will determine whether the existing driveway may remain to serve as fire access.

Erosion Control: Per Code Section 16.28.020(C), an erosion control permit is required prior to placement of fill, site clearing, or land disturbances, including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which results in the disturbance or exposure of soils exceeding five hundred square feet.

Code Section 16.28.020(E) states that an erosion control permit is required prior to issuance of building permits or approval of construction plans. Also, Section 16.28.020(B) states that an erosion control plan that meets the requirements of Section 16.28.030 is required prior to any approval of an erosion control permit. A grading permit will be required for this site if more than 50 cubic yards of soil is being moved.

Traffic Impact Study: Code Section 19.704.1(A) states that the City will determine whether a transportation impact study (TIS) is required. In the event the proposed development will significantly increase the intensity of use, a transportation impact study will be required. The City of Milwaukie Engineering Director will make this determination based on proposed preliminary subdivision design and the number of lots created.

The Engineering Director has determined that a TIS is not required for this development due to the existing classification of Harmony as an Arterial and no new access to Harmony being proposed.

PW Notes:

TRANSPORTATION SDC

The Transportation SDC will be based on the increase in trips generated by the new use per the Trip Generation Handbook from the Institute of Transportation Engineers. The SDC for transportation is \$1,921 per trip generated.

The building that was on this site was demolished more than 10 years from the time of application, so no transportation SDC credit will be available. This proposal will be classified as Apartment according to the ITE Trip Generation Manual 9th Edition. Trip generation is .62 trips per dwelling unit one hour between 4 and 6 pm.

PARKS & RECREATION SDC

The parks & recreation System Development Charge (SDC) is triggered when application for a building permit on a new dwelling is received. Currently, the parks and recreation SDC for each Multi-family unit (excluding 1 bedroom) is \$3,608.00. The 1 bedroom rate is 50% of the multi-family rate, 1,804.00. The parks and recreation SDC will be assessed and collected at the time the building permits are issued.

PLANNING ISSUES

Setbacks: Setback standards can be found in MMC Table 19.302.4. The setbacks for the R-2 zone are as follows: Front = 15 feet, Rear = 15 feet, Side = 5 feet. Front and rear setbacks can be reduced up to 25% through a Type II variance, while side yard setbacks can be reduced up to 40% through a Type II variance. Larger variations would require a Type III variance.

The width of the vegetated corridor surrounding Minthorn Creek (measured from top of bank) and the delineated wetland (measured from delineated edge) is 50 feet.

Landscape: The minimum required vegetation for the site is 15% of the total lot area. At least half of the minimum required vegetation must be suitable for outdoor recreation by residents. As least 40% of the front yard shall be vegetated, as illustrated in Figure 19.302.5.D.

To allow for the proposed 4th story, a minimum of 25% of the site must be retained in vegetation (the 15% minimum for the base 3 story limit and an additional 10% for the proposed fourth story). Given the size and vegetated nature of the northern half of the site, this will not be an issue.

Parking:

Parking standards are included in MMC 19.600. For apartments under 800 sf, a minimum of 1 space is required per unit. For apartments over 800 sf, a minimum of 1.25 spaces are required per unit. Based on your current proposal, you will require 17 units, at least one of which must be ADA accessible for vans.

Parking lot landscaping requirements are included in MMC 19.606.2, including dimension and planting requirements. Both interior (25 square feet per space) and perimeter landscaping (6' wide along western property line) is required for the site. Wheel stops or curbs are required, and must prevent vehicles from encroaching into required pedestrian and landscape areas. Lighting is required for parking areas with more than 10 spaces, as detailed in MMC 19.606.3.

There are no compact parking space standards in Milwaukie. Any reduction in parking space size would require a Type III variance.

Transportation Review: See comments under Engineering Department review.

Application Procedures: Development Review and Multifamily Design Guidelines and Standards: A Development Review application is required to illustrate your conformance with MMC 19.906 and the Multifamily Housing standards/guidelines (MMC 19.505.3). You may choose to go through the Type I Design Standard (Objective Process) or Type II Design Guideline (Discretionary Process) for development review, as detailed in Table 19.505.3.D. A project must utilize one process or the other (if it can't meet one design standard, it must use the design guidelines).

The table covers the differences in the standards and guidelines for things such as open space (public and private), pedestrian circulation, parking, building orientation, façade design, materials, landscaping, screening, recycling areas, privacy, and safety. Regarding your question about the new building's ability to use the existing waste and recycling areas at 5989 SE Harmony Rd, this is something that can be discussed. The design standard calls for recycling areas to be located at least as close as the trash facility, while the design guideline notes that the recycling areas must provide convenient access to residents. I have requested input from Waste Management staff.

Natural Resources Review

Type II Boundary Water Quality Resource (WQR) Boundary Verification: The WQR requires a Type II boundary verification (MMC 19.402.15.A.2) for the protected water features (creek and wetland).

Type III WQR Discretionary Review: Disturbance of the WQR is subject to Type III general discretionary review (MMC 19.402.12), which requires an Impact Evaluation and Alternatives Analysis and must meet the Approval Criteria to avoid, minimize, and/or mitigate impacts to the WQR.

Fees for land use applications are as follows:

- Type I: \$200
- Type II: \$1,000
- Type III: \$2,000

There is a 25% discount for concurrent applications (not applied to the most expensive application)

Natural Resource Review: Habitat Conservation Area (HCA)

The NR Administrative Map shows no Habitat Conservation Area (HCA) on the map, as Metro's Title 3/13 inventories showed the site to be covered by Class 3 upland habitat, which is not considered HCA. Since the NR Administrative Map is assumed to be correct, there is no need to evaluate HCA disturbance.

Water quality Resource (WQR)

Your plans indicate the presence of Minthorn Creek as well as a 5,410 sf wetland (Wetland A) to the north of the creek. Based on Metro data and the elevations, there appear to be some steep slopes exceeding 25% for a portion of the area near the creek, but these slopes are less than 150' in length. Assuming this is correct, the vegetated corridor for both the creek (measured from top of bank) and wetland (measured from delineated edge) would be 50' in width.

The WQR requires a Type II boundary verification (MMC 19.402.15.A.2) for the protected water features (creek and wetland).

Disturbance of the WQR is subject to Type III general discretionary review (MMC 19.402.12), which requires an Impact Evaluation and Alternatives Analysis and must meet the Approval Criteria to avoid, minimize, and/or mitigate.

In response to your question, MMC 19.402.15.A.2 requires that the wetland report be approved by DSL, even though it is on the north side of the property. City code requires review and concurrence from DSL so that the NR Administrative Map can be updated properly.

The natural resources report, wetland delineation, and mitigation plan for the WQR disturbance will require review by the City's third-party consultant (ESA), which requires a \$3,000 deposit, per the FY 2018 Fee Schedule .

Moving the building to the south (towards Harmony Rd) would reduce (minimize) the WQR disturbance. This should be considered as part of the natural resources alternatives analysis.

Yard setbacks may be adjusted up to 10% without a variance, and a proposed variance that seeks to limit disturbance within the WQR would likely be looked upon favorably, depending on the scope of the variance request.

Lot Geography:

The site consists of two parcels that are a combined 1.33 acres and in the shape of a trapezoid. The western side is longer than, but generally parallel to, the eastern side. The northern half of the property is covered by Minthorn Creek and a recently delineated wetland, leaving the southern portion developable.

Access to the site is proposed to come from the southwest corner of the site, via an access easement through the property to the west (5989 Harmony).

Planning Notes:

The minimum density for the site is 11.6 units/acre, or 15 units, per Table 19.302.4. Density calculations are included in MMC 19.202.4. Minimum density deducts floodways, ROW deductions, and publicly or commonly owned open space.

Permitted sign types and sign standards can be found in Table 14.16.010.

The maximum building height is 4 stories or 55 feet: a base 3 stories/45 feet, plus another story/10 feet for maintaining at least 25% of the site as vegetation. Building height measurements are covered in MMC 19.202.2.B.

The side yard height plane limit - the maximum height allowed above ground at the required side yard (5 feet) - is 25 feet. From the required setback, the height plane can rise at a 45 degree angle, and the building must fit within that area. Exceptions to the side yard height plane limit are listed in MMC 19.501.3, with limited exceptions available for roof overhangs or eaves, gable ends of a roof, and dormers.

For the City's initial review, the applicant should submit 5 complete copies of the application, including all required forms and checklists. A determination of the application's completeness will be issued within 30 days. If deemed incomplete, additional information will be requested. If deemed complete, additional copies of the application may be required for referral to other departments, Neighborhood District Association (NDA), and other relevant parties and agencies. City staff will inform the applicant of the total number of copies needed.

For Type III review, once the application is deemed complete, a public hearing with the Planning Commission will be scheduled. Staff will determine the earliest available date that allows time for preparation of a staff report (including a recommendation regarding approval) as well as provision of the required public notice to property owners and residents within 300 ft of the subject property, at least 20 days prior to the public hearing. A sign giving notice of the application must be posted on the subject property at least 14 days prior to the hearing.

Type III applications are quasi-judicial in nature and are decided by the Planning Commission at a public hearing. The Planning Commission hears land use applications on the second and fourth Tuesdays of every month, and completed applications need to be submitted to the Planning Department no later than 45 days prior to the target Planning Commission hearing. In general, staff recommends that applications be submitted one to two weeks before the 45-day deadline in order to ensure that there is time to make the applications complete if they are initially deemed incomplete. Once the Planning Commission renders a decision, there is a fifteen calendar-day appeal period. Permits submitted during the appeal period may be reviewed but are not typically approved until the appeal period has ended.

The preapplication conference is valid for purposes of submitting future land use applications as described in MMC 19.1002.4. A preapplication conference is valid for 2 years.

The full zoning code is available online at:

ADDITIONAL NOTES AND ISSUES

County Health Notes:

Other Notes:

This is only preliminary preapplication conference information based on the applicant's proposal and does not cover all possible development scenarios. Other requirements may be added after an applicant submits land use applications or building permits. City policies and code requirements are subject to change. If you have any questions, please contact the City staff that attended the conference (listed on Page 1). Contact numbers for these staff are City staff listed at the end of the report.

Sincerely,

City of Milwaukie Development Review Team

BUILDING DEPARTMENT

Samantha Vandagriff - Building Official - 503-786-7611

Stephanie Marcinkiewicz

- Inspector/Plans Examiner - 503-786-7613

ENGINEERING DEPARTMENT

Chuck Eaton - Engineering Director - 503-786-7605

Alex Roller - Engineering Tech II - 503-786-7695

COMMUNITY DEVELOPMENT DEPARTMENT

Alma Flores - Comm. Dev. Director - 503-786-7652

Leila Aman - Development Manager - 503-786-7616

Alicia Martin - Admin Specialist - 503-786-7600

PLANNING DEPARTMENT

Dennis Egner - Planning Director - 503-786-7654

David Levitan - Senior Planner - 503-786-7627

Brett Kelter - Associate Planner - 503-786-7657

Vera Kolas - Associate Planner - 503-786-7653

Mary Heberling - Assistant Planner - 503-786-7658

CLACKAMAS FIRE DISTRICT

Mike Boumann - Lieutenant Deputy Fire Marshal - 503-742-2673

Matt Amos - Fire Inspector - 503-742-2661

Clackamas County Fire District #1

Fire Prevention Office



E-mail Memorandum

To: City of Milwaukie Planning Department
From: Matt Amos, Fire Inspector, Clackamas Fire District #1
Date: 11/17/2017
Re: 6115 SE Harmony Rd. 17-019PA

This review is based upon the current version of the Oregon Fire Code (OFC), as adopted by the Oregon State Fire Marshal's Office. The scope of review is typically limited to fire apparatus access and water supply, although the applicant must comply with all applicable OFC requirements. When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the fire code official. The following items should be addressed by the applicant:

COMMENTS:

A Fire Access and Water Supply plan is required for subdivisions and commercial buildings over 1000 square feet 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, 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.

Access:

- 1) Provide address numbering that is clearly visible from the street.
- 2) No part of a building may be more than 150 feet from an approved fire department access road.
- 3) The inside turning radius and outside turning radius for a 20' wide road shall not be less than 28 feet and 48 feet respectively, measured from the same center point.
- 4) Provide an approved turnaround for dead end access roads exceeding 150 feet in length.
- 5) Buildings exceeding 30 feet in height shall require extra width and proximity provisions for aerial apparatus.

- 6) Access streets between 26 feet and less than 32 feet in width must have parking restricted to one side of the street. Access streets less than 26 feet in width must have parking restricted on both sides of the street. No parking restrictions for access roads 32 feet wide or more.

Water Supply

- 1) Fire Hydrants, Commercial Buildings: Where a portion of the building is more than 400 feet 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 feet 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 the Fire Code. Maximum spacing between hydrants on street frontage shall not exceed 500 feet. Additional private on-site fire hydrants may be required for larger buildings. Fire sprinklers may reduce the water supply requirements.
- 3) The fire department connection (FDC) for any fire sprinkler system shall be placed as near as possible to the street, and within 100 feet of a fire hydrant.

Note:

Comments may not be all inclusive based on information provided.

PRE-APPLICATION INFORMATION FROM DEVELOPMENT ENGINEERING

All information is considered informal, based on current Zoning and Development Ordinance requirements, current Roadway Standards requirements, and current Comprehensive Plan requirements. The information presented here is subject to change as revisions are made to the aforementioned documents and in the formal Design Review Process. Prior to the submittal of a Design Review application, the applicant is encouraged to contact staff to insure that these preapplication comments reflect the current standards.

FILE NO. 17-019 PA (City of Milwaukie)

PROJECT: Harmony Park Apartments (14-unit addition)

LEGAL: T1S., R 2E., Section 31D, Tax Lot 2200

DATE: November 2, 2017

Engineering staff: Robert Hixson 503-742-4708
roberth@clackamas.us

Deana Mulder 503-742-4710
deanam@clackamas.us

- 1) A large amount of information is provided in these written comments. The applicant is encouraged to meet with Engineering staff after the information provided here has been read and considered. A follow up meeting would likely help clarify issues and may result in cost savings to the applicant. It is staff's desire to minimize applicant effort and expense and would welcome the opportunity to meet another time to answer questions and provide guidance in the preparation of the applicant's land use application.
- 2) The development of a project has several phases requiring Engineering staff review. The first phase is this preapplication meeting where preliminary information is provided allowing applicants to better understand the Engineering requirements and applicant's expenses associated with a proposed project.

Prior to a submittal for Design Review, Engineering staff is available to assist the applicant in the development of the plans to help insure that the application is complete and note concerns that may affect the application.

The next phase is Engineering staff's review of a project. This is typically performed after a formal Design Review application is submitted by an applicant and Planning staff provides notice to Engineering staff of the proposed project. At this phase, Engineering staff provides written comments to Planning staff and often recommends conditions of approval for incorporation into a land use decision.

Following a land use approval of a proposal by Planning staff or a Hearings Officer, typically with conditions, Engineering staff offers an opportunity to applicants to meet with Engineering staff to review conditions of approval during the appeal period. This allows applicants a clearer understanding of the conditions of approval, how those conditions financially impact the applicant's proposal and also allows the applicant to better understand the appropriate level of detail for the engineering that will be necessary in the next phase of a project. Furthermore, the sequencing of requirements to obtain building permits, record plats or obtain a certificate of occupancy may be discussed. Contact Deana Mulder, 503-742-4710, to discuss the aforementioned issues.

Engineering is then involved in the next phase of the project. In this phase, applicants typically submit detailed engineered construction plans for review and approval. Once the plans are approved, a permit for construction activities may be issued. The detailed construction plans typically include all required street and frontage improvements, access improvements, parking improvements, and site circulation improvements for vehicles, bicycles and pedestrians. These plans are typically provided for all commercial, industrial, multifamily and conditional use applications.

During construction, an Engineering inspector will visit the site to monitor the work to help insure that the construction is in accordance with the conditions of approval. When the applicant believes all necessary work has been completed, the applicant would request a final inspection and Engineering staff would then review the file and inspect the site to determine if all conditions of approval had been met or if additional work was still needed to achieve compliance with all of the Engineering related conditions of approval.

- 3) Based on the currently available preliminary information, this proposal may not require the submittal of a traffic study.
- 4) For the Design Review application, the applicant shall provide revised, more detailed street, site, grading and drainage plans in conformance with the requirements for preliminary development plans. This shall include, but is not limited to right-of-way lines verified by a professional survey, edges of pavements, curbs, and outlines of existing structures on adjacent lots. All illustrated features shall be dimensioned.
- 5) Applicant shall obtain a Development Permit from the County Engineering Section prior to the issuance of a Building Permit. The applicant shall pay a Development Permit fee in accordance with the current fee structure. Minimum permit fee is \$1,274.00. Issuance of a Development Permit is dependent upon the formal approval, by Engineering staff, of a set of plans in compliance with Roadway Standards section 140. These plans shall also illustrate road or street frontage features, including any existing and proposed pavement striping for a distance of 200 feet beyond the limits of the property lines, and the plans shall be signed and stamped by a Professional Engineer registered in the State of Oregon.
- 6) Applicant shall dedicate right-of-way as necessary to provide for a right-of-way width on Harmony Road which provides a minimum of six inches behind the back of the new separated sidewalk.
- 7) Applicant shall grant an eight-foot wide easement for signs, slopes, and public utilities along the entire Harmony Road frontage.
- 8) Applicant shall design and construct improvements along the entire site frontage of Harmony Road. These improvements shall consist of up to a half-street improvement, standard curb or curb and gutter (existing curb line offset to be maintained), and a six-foot wide unobstructed sidewalk behind a minimum five-foot wide landscape strip with street trees. Onsite transitions shall be designed and constructed to connect the existing offsite curb tight sidewalks to the new separated sidewalk. The existing driveway drop along the site frontage shall be removed and replaced with matching curb and landscape strip. If mailboxes, fire hydrants, utility poles, etc, are located within the limits of the sidewalk, the obstruction shall be relocated or removed.
- 9) Applicant shall provide and maintain adequate intersection sight distances and stopping sight distances at the driveway approach intersection with Harmony Road in accordance with Roadway Standards section 240. Adequate intersection sight distance for drivers turning left into the site shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. **Plans submitted in anticipation of issuance of a Development Permit shall include a plan and profile sight distance exhibit, based on survey data, illustrating sight lines for intersection sight distances and stopping sight distances.** Minimum intersection sight distances shall be 500 feet both easterly and westerly along Harmony Road measured 14.5 feet back from the edge of the travel lane at the driveway intersection with Harmony Road. Minimum stopping sight distances shall be in accordance with Roadway Standards section 240 requirements with appropriate grade corrections in accordance with AASHTO requirements.

Intersection sight distance is measured from an observation driver's eye height of 3.5 feet (7.6 feet for trucks) above the driveway surface to an object height of 3.5 feet, located in the center of the oncoming travel lane, and typically made from an observation point located 14.5 feet back from the edge of the travel lane for drivers preparing to exit the site and enter onto a road. The top of the 3.5-foot tall object shall be visible for the entire required intersection sight distance from the observation point out to the minimum required intersection sight distance.

Sight distance measurements for stopping sight distance are made from an observation driver's eye height of 3.5 feet (7.6 feet for trucks) above the travel lane surface to an object height of 2 feet, located in the middle of the same lane as the driver. The top of the 2 foot tall object shall be visible for the entire required stopping sight distance from the observation point out to the minimum required stopping sight distance.

Intersection sight distance for left turning drivers exiting the road and entering the site is measured from an observation driver's eye height of 3.5 feet (7.6 feet for trucks) above the pavement surface to an object height of 3.5 feet, located in the middle of the oncoming travel lane. The top of the 3.5 foot tall object shall be visible for the entire required intersection sight distance from the observation point out to the minimum required intersection sight distance.

Sight distance requirements are based on the *Clackamas County Roadway Standards* and the American Association of State Highway and Transportation Officials (AASHTO) 2011 publication, "A Policy on Geometric Design of Highways and Streets."

- 10) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards subsection 245.
- 11) Following Design Review approval, but prior to final acceptance of the project and release of performance surety, applicant shall submit, at time of initial paving, paper as-built plans for all improvements within the Harmony Road right-of-way showing all construction changes, added and deleted items, location of utilities, etc. A professional engineer, registered in the state of Oregon, shall stamp and sign as-built plans. Any plans for signals, signing and striping require both a paper copy (maximum size 11" x 17") and a .dwg version of the as-builts for our Traffic Engineering section.
- 12) Following Design Review approval, plans shall be designed and stamped by a Professional Engineer registered in the State of Oregon.
- 13) Prior to certificate of occupancy, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs. A performance bond for an amount determined from the cost estimate is typically required to insure the construction of required improvements.
- 14) Plans shall note that "Separate Utility Placement Permits" are required from Clackamas County Engineering when utility connections within the right-of-way of Harmony Road are proposed.
- 15) Prior to Building Permit approval, the right-of-way dedication (if needed) and the sign, slope, and public utility easement shall be provided to Clackamas County DTD, Engineering, for review and recording.
- 16) Prior to commencement of any work, including grading, and prior to issuance of Building and Street Construction permits, the contractor shall:
 - a) Provide a traffic control plan for review and approval from Clackamas County's Engineering Office.
 - b) Provide a certificate of liability insurance, naming the County as additionally insured.
 - c) Obtain separate "Utility Placement Permits" for utility installations within the County right-of-way. The applicant shall obtain these permits from the Engineering office prior to the issuance of a Building Permit or the Development Permit.
- 17) Plans should list the utilities serving this site and their phone numbers.
- 18) Prior to certificate of occupancy, applicant shall provide a performance guarantee in the form of a performance bond for the Development Permit in the amount of 125% of the approved Engineer's cost estimate for the incomplete improvements within the Harmony Road right-of-way.

19) The use of public rights-of-way for construction vehicle and materials 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 and staging 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 without specific authority from DTD for that purpose.