



# CITY OF MILWAUKIE

February 28, 2019

Land Use File(s): CU-2018-003 (master file), CSU-2018-019, NR-2018-006, VR-2018-017, P-2018-003, TFR-2018-002, LC-2018-002, PLA-2018-001, and CSU-2018-020

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on February 28, 2019.

- Applicant(s):** Bonaventure Senior Living
- Location(s):** 13333 SE Rusk Rd
- Tax Lot(s):** 2S2E06AD, tax lots 600, 700, 900, and 901
- Application Type(s):** Conditional Use, Community Service Use (major & minor modifications), Natural Resource Review, Variance Request, Parking Determination, Transportation Facilities Review, Lot Consolidation, Property Line Adjustment
- Decision:** **Approved with Conditions**
- Review Criteria:** Milwaukie Municipal Code (MMC):
- MMC Chapter 19.1000 Review Procedures (incl. MMC 19.1006 Type III Review)
  - MMC Title 12 Streets, Sidewalks, and Public Places
  - MMC Chapter 13.14 Stormwater Management
  - MMC Section 14.08.090 Conditional & Community Service Use Signs
  - MMC Title 17 Land Division
  - MMC Title 18 Flood Hazard Regulations
  - MMC Section 19.301 Low Density Residential Zones (incl. R-10)
  - MMC Section 19.302 Medium & High Density Residential Zones (incl. R-3)
  - MMC Section 19.402 Natural Resources
  - MMC Chapter 19.500 Supplementary Development Regulations
  - MMC Chapter 19.600 Off-Street Parking and Loading
  - MMC Chapter 19.700 Public Facility Improvements
  - MMC Section 19.904 Community Service Uses
  - MMC Section 19.905 Conditional Uses
  - MMC Section 19.911 Variances
- Neighborhood(s):** Lake Road

**Appeal period closes: 5:00 p.m., March 15, 2019**

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review by appointment between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Brett Kelver, Associate Planner, at 503-786-7657 or [kelverb@milwaukieoregon.gov](mailto:kelverb@milwaukieoregon.gov), if you wish to view this case file.

**This decision may be appealed by 5:00 p.m. on March 15, 2019, which is 15 days from the date of this decision.** (Note: Please arrive by 4:45 p.m. for appeal payment processing.) Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).

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

### **Findings in Support of Approval**

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

1. The applicant, Bonaventure Senior Living, has applied for approval to create a 170-unit senior housing facility on property currently addressed at 13333 SE Rusk Rd. The site is split zoned Medium Density Residential R-3 on the western half and Low Density Residential R-10 on the eastern half. The land use application master file number is CU-2018-003, with accompanying file numbers CSU-2018-019, NR-2018-006, VR-2018-017, P-2018-003, TFR-2018-002, LC-2018-002, PLA-2018-001, and CSU-2018-020.
2. The subject property is comprised of 4 underlying lots totaling 17.55 acres, with the Turning Point Church located in the southeastern corner of the site and addressed as 13333 SE Rusk Rd (Tax ID 2S2E06AD, lots 600, 700, 900, and 901). As part of the proposed development, the 3 lots on the western side of the original property would be consolidated, and the property line between this new lot and the remaining church lot would be subsequently adjusted to accurately reflect the location of the church building and accompanying off-street parking areas. The resulting church site is approximately 3.7 acres, and the subject property being subdivided is approximately 13.8 acres.
3. The applicant has proposed to establish 170 units of senior housing in a multistory building ranging from 1 to 4 stories in height. The facility would provide 78 independent living suites (1- and 2-bedroom units with full kitchens), 60 assisted living suites (1- and 2-

bedroom units, with all meals provided in a communal dining room), and 32 memory care suites (rooms located in a secured section of the building, with a separate serving kitchen and shared dining room and common amenities). A looped driveway would circle the building for access and circulation, with 139 off-street parking spaces for staff, visitors, and the approximately 30% of independent living residents expected to keep a car on site. The remainder of the site, to the west and on the north side of Mount Scott Creek, would remain undeveloped to preserve the designated natural resource and floodplain areas on the property. The adjacent church would retain its shared access through the reconfigured senior housing development property.

Mount Scott Creek flows across the northern portion of the subject property, and a large wetland (approximately 0.7 acres) is located within the 100-year floodplain designated over most of the western half of the site. Water Quality Resource (WQR) and Habitat Conservation Area (HCA) designations exist around the creek and wetland, and portions of these natural resource areas would be disturbed by the proposed development. The applicant has proposed mitigation plantings within the WQR and HCA and has designed the development to avoid intrusion into the floodplain.

4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Chapter 19.1000 Review Procedures (incl. MMC 19.1006 Type III Review)
  - MMC Title 12 Streets, Sidewalks, and Public Places
  - MMC Chapter 13.14 Stormwater Management
  - MMC Section 14.08.090 Conditional and Community Service Use Signs
  - MMC Title 17 Land Division
  - MMC Title 18 Flood Hazard Regulations
  - MMC Section 19.301 Low Density Residential Zones (including R-10)
  - MMC Section 19.302 Medium and High Density Residential Zones (including R-3)
  - MMC Section 19.402 Natural Resources
  - MMC Chapter 19.500 Supplementary Development Regulations
  - MMC Chapter 19.600 Off-Street Parking and Loading
  - MMC Chapter 19.700 Public Facility Improvements
  - MMC Section 19.904 Community Service Uses
  - MMC Section 19.905 Conditional Uses
  - MMC Section 19.911 Variances

The applicant's submittal includes applications for Conditional Use, Community Service Use (including a minor modification to the existing church approval), Natural Resource Review, Variance Request, Parking Modification, Transportation Facilities Review, Lot Consolidation, and Property Line Adjustment. The Conditional Use, Community Service Use, Natural Resource Review, and Variance Request applications all require Type III

review; the other applications require either Type I or II review. However, as per MMC Subsection 19.1001.6.B, all applications are being processed with Type III review.

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A preapplication conference was held on September 6, 2018, as required by MMC Subsection 19.1002.2. Public notice was sent to property owners and current residents within 500 ft of the subject property on February 6, 2019. MMC Subsection 19.1006.3.D requires a 300-ft radius for public notice, but the applicant requested a broader notice radius to correspond with the notice sent for the applicant's voluntary neighborhood meeting prior to submittal. A public hearing was held on February 26, 2019, as required by law.

5. MMC Title 12 Streets, Sidewalks, and Public Places

a. MMC Chapter 12.16 Access Management

MMC Section 12.16.040 establishes standards for access (driveway) requirements, including access spacing, number and location of accessways, and limitations for access onto collector and arterial streets. For uses other than single-family residential development accessing local and neighborhood streets, new driveways must be spaced at least 100 ft from the nearest intersection.

*The subject property has frontage on both Rusk Rd, a collector street, and Kellogg Creek Dr, a local street. Both streets are currently under the jurisdiction of Clackamas County. The existing church is served by a driveway on each street. As a result of the proposed lot consolidation and property line adjustment, the church would have frontage only on Rusk Rd but would retain the existing Rusk Rd driveway; the new senior housing development would have its primary frontage on Kellogg Creek Dr, with a short length of frontage on Rusk Rd at the intersection with OR 224. The existing Kellogg Creek Dr driveway would be relocated to a point approximately 200 ft from the intersection with Rusk Rd to better serve the new senior housing development. No new access onto Rusk Rd from the senior housing development property is proposed.*

*As proposed, the existing Rusk Rd driveway would be modified to emphasize that it is for entry only. The church would share access to the senior housing development's driveway on Kellogg Creek Dr through an access easement. The County Department of Transportation and Development (DTD) reviewed the proposal and noted that, while its preference is for the existing Rusk Rd driveway to be closed, the proposed modifications to prevent exiting movements onto Rusk Rd are acceptable since the City has determined that a requirement to close the existing driveway is not warranted for the minor modification to the church's land use approval (see Finding 15-b). A condition has been established to ensure that an access easement has been granted to allow two-way vehicle access to the church property from Kellogg Creek Dr.*

*As conditioned, the development is consistent with the applicable standards of MMC 12.16.*

b. MMC Chapter 12.24 Clear Vision at Intersections

MMC 12.24 establishes standards for maintenance of clear vision at intersections to protect the safety and welfare of the public in their use of City streets.

*As proposed, all driveways, accessways, and intersections associated with the proposed development conform to the applicable standards of MMC 12.24.*

*The Planning Commission finds that, as proposed, the development meets all applicable requirements of MMC Title 12. This standard is met.*

6. MMC Chapter 13.14 Stormwater Management

MMC 13.14 establishes standards to ensure that stormwater facilities and conveyances are effectively maintained, operated, regulated, and controlled. As per the definitions provided in MMC Section 13.14.020, the City uses the City of Portland *Stormwater Management Manual* to determine compliance for the design and construction of on-site mitigation facilities including stormwater detention, retention, and water quality treatment facilities.

*The applicant's submittal materials include a preliminary drainage report that addresses the City's requirements for stormwater management and water quality treatment. The City accepts the preliminary drainage report's use of the BMP sizing tool developed by Clackamas County's Water Environment Services (WES) to calculate facility sizing. The final stormwater report will include Presumptive Approach Calculator (PAC) calculations for the City to officially approve the stormwater facility sizing and configuration. There is sufficient area on site outside the floodplain to construct facilities, including constructing additional roadside planters.*

*As required by MMC 13.14, the final stormwater design will conform to a design that satisfies Portland's Stormwater Management Manual as well as Milwaukie's requirements for City maintenance of systems treating stormwater from public streets.*

*The Planning Commission finds that, as proposed, the development meets all applicable requirements of MMC 13.14. This standard is met.*

7. MMC Section 14.08.090 Conditional and Community Service Use Signs

MMC 14.08.090 establishes standards for conditional and community service use signs. In general, such signs are limited to those allowed in the underlying zone, though those standards can be increased to the standards in MMC Table 14.08.090.C with Type III review. As per MMC Table 14.08.090.C, 1 monument or freestanding sign is allowed, with a maximum of 40 sq ft per display surface, a maximum length of 20 ft, and a maximum height of 12 ft. One wall sign is allowed per building face, with a maximum size of 10% of the building face up to 40 sq ft. No illumination is allowed. In reviewing an application for such signs, the Planning Commission will consider the proximity of the sign to residences, the functional classification of adjacent streets, and the scale of surrounding development.

*The applicant has proposed to install 4 non-illuminated signs as part of the development. One monument sign would be located near the intersection of Rusk Rd and OR 224, with a display area of 40 sq ft, a length of 8 ft, and a peak height of 12 ft. Two 40-sq-ft wall signs are proposed for 2*

*different building faces, one oriented toward OR 224 and Rusk Rd and the other toward Kellogg Creek Dr. Both respective building faces are well over 400 sq ft in area. A second monument sign would be located near the Kellogg Creek Dr driveway but is exempt from the need for conditional or community service use sign review because it meets the standards of MMC Subsection 14.12.010.A, which allows 1 non-illuminated sign that is less than 4 sq ft in area and no more than 3 ft in height if ground-mounted.*

*The Planning Commission finds that, as proposed, the signs requiring Type III review meet the applicable standards of MMC Table 14.08.090.C and would not result in any negative impact on nearby residences, adjacent streets, or surrounding development. This standard is met.*

8. MMC Title 17 Land Division

a. MMC Chapter 17.12 Application Procedure and Approval Criteria

(1) MMC Section 17.12.020 Application Procedure

MMC 17.12.020 requires that property line adjustments and lot consolidations be processed as described in Table 17.12.020. Property line adjustments that are consistent with the Oregon Revised Statutes (ORS) and Title 19 shall be processed through Type I review and any adjustment that modifies a plat restriction shall be processed through Type II review. Lot consolidations other than replats, involving legal lots created by deed, shall be processed through Type I review.

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

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

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

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

*As evidenced by these finding, the proposed lot consolidation and boundary adjustment meet all applicable standards of Titles 17 and 19.*

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

*The proposed lot consolidation and boundary adjustment would separate the area currently used by the church from the rest of the property, which is the location of the proposed development described in Finding 3. The reconfigured boundary for*

*the church site includes the church building and associated off-street parking area, which is adequate space for the existing church use. The larger undeveloped property is of adequate size for reasonable development without requiring a variance of any land division or zoning standard.*

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

*The subject property is not currently developed for residential use. The proposed lot consolidation and boundary adjustment would separate the area currently used by the church from the larger undeveloped portion of the property, but it would not affect the minimum residential density of the site and would not prevent the redevelopment of the church site for residential use in the future.*

*The Planning Commission finds that these criteria are met.*

*The Planning Commission finds that the proposed lot consolidation and boundary adjustment meet all applicable standards of MMC 17.12.*

- b. MMC Chapter 17.16 Application Requirements and Approval Criteria

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

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

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

- c. MMC Chapter 17.28 Design Standards

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

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

*As a result of the proposed lot consolidation and boundary adjustment, the resulting properties would both have adequate size and dimensions for development and uses allowed in the underlying R-10 and R-3 zones and conform to the standards of Title 19 as described in these findings.*

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

*As proposed, the reconfigured church property would be rectilinear in shape, except where the adjacent public right-of-way for Rusk Rd curves around its southeast corner. As proposed, the resulting vacant property would also be rectilinear, except where the adjacent right-of-way for OR 224 extends at an angle along its northern boundary and meets the Rusk Rd right-of-way.*

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

*In the current configuration of the subject property, Tax Lot 901 has several compound segments. The proposed lot consolidation would reconfigure the existing compound segment along the eastern boundary of Tax Lot 901, would not affect the small compound segment along its northern boundary, and would shift the location but not the length of the lateral shift along its western boundary. The proposed boundary adjustment would establish a new compound segment along the eastern boundary of the newly consolidated vacant lot where adjacent to the reconfigured church lot, but this is an inevitable result of the consolidated lot being larger than the church lot and adjacent to it on two sides.*

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

*No adjustments to lot shape standards are requested or required.*

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

*The existing subject property has public street or highway frontage on 3 sides (OR 224, Rusk Rd, and Kellogg Creek Dr). The proposed lot consolidation and boundary adjustment would result in the reconfigured church lot having frontage only on Rusk Rd and would not change the multiple-frontage status of the newly consolidated vacant lot.*

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

*The reconfigured church lot would continue to have access from Rusk Rd, where it has more than 780 ft of frontage. The newly consolidated vacant lot would take access from Kellogg Creek Dr, where it has more than 650 ft of frontage.*



*The Planning Commission finds that the proposed lot consolidation and boundary adjustment comply with all applicable design standards of MMC 17.28.*

*The Planning Commission finds that the proposed lot consolidation and boundary adjustment meet all applicable standards of MMC Title 17. This standard is met.*

9. MMC Title 18 Flood Hazard Regulations

MMC Title 18 provides standards intended to minimize public and private losses due to flood conditions in specific areas. The regulations established in MMC Title 18 do this in part by controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters; controlling filling, grading, dredging, and other development which may increase flood damage; and preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. As per MMC Section 18.04.100, a development permit is required prior to any construction or development within the flood management area.

*The subject property includes flood hazard and flood management areas as identified on the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA) and acknowledged by the City for the purposes of implementing this title. Current FEMA floodplain mapping provided by the applicant clearly shows proposed development in the floodplain; however, the applicant has asserted that the FIRM is inaccurate and has presented a revised floodplain boundary on the site that is based on the application of the FEMA floodplain modeling to the actual topographic data for the site. The applicant has proposed to submit a map revision and asserts that, after the map revision is accepted by FEMA, no development will occur in the floodplain.*

*The applicant has noted that the revision process requires a Community Acknowledgement Form, which must be completed by the community official responsible for floodplain management. The applicant must indicate that no fill will occur in the floodplain and that they will meet all the requirements of this title. Such a form has yet to be submitted for review, so conditions have been established to ensure that the applicable standards are met prior to development.*

*The Planning Commission finds that, as conditioned, the proposed development is consistent with the applicable standards of MMC Title 18. This standard is met.*

10. MMC Sections 19.301 Low Density Residential Zones (including R-10) and 19.302 Medium and High Density Residential Zones (including R-3)

The subject property is split-zoned Residential R-10 and Residential R-3. MMC 19.301 and 19.302 establish the allowable uses and development standards for the residential R-10 and R-3 zones, respectively.

a. Permitted Uses

As per MMC Tables 19.301.2 and 19.302.2, senior and retirement housing is allowed as a conditional use subject to the provisions of MMC Section 19.905, and community service uses (CSUs) are allowed subject to the provisions of MMC Section 19.904.

*The proposed development includes 3 distinct types of senior housing units: (1) independent living suites, (2) assisted living suites, (3) memory care suites. The independent and assisted living units fall under the definition provided in MMC Section 19.201 for “senior and retirement housing,” while the memory care units are best categorized as a “nursing or convalescent home,” which is identified as a type of institutional CSU in MMC Subsection 19.904.2.A. All 3 types of senior housing are permitted in the R-10 and R-3 zones with review as conditional and community service uses.*

b. Lot and Development Standards

Table 10-b provides the applicable standards for development in the R-10 and R-3 zones with respect to the reconfigured church lot and the new lot for senior housing development that result from the lot consolidation and boundary adjustment discussed in Finding 8. The entire reconfigured church lot would be zoned R-10, while the new lot for senior housing development would be split-zoned R-10 and R-3. Both lots far exceed the minimum standards in most categories, except where the need for a variance to the building height standard is noted for the senior housing development.

<b>Table 10-b Lot and Development Standards</b>				
<b>Standard</b>	<b>R-10 Requirement</b>	<b>R-3 Requirement</b>	<b>Church Lot (R-10)</b>	<b>Senior Housing Development Lot (R-10 &amp; R-3)</b>
<b>Minimum lot size</b>	10,000 sq ft	3,000 sq ft	>167,000 sq ft	>534,000 sq ft
<b>Minimum lot width</b>	70 ft	30 ft	>410 ft	>650 ft
<b>Minimum lot depth</b>	100 ft	80 ft	>370 ft	>740 ft
<b>Minimum street frontage</b>	35 ft	30 ft	>780 ft	>710 ft
<b>Front yard</b>	20 ft	15 ft	>75 ft	75 ft
<b>Side yard</b>	10 ft	5 ft	>130 ft	50 ft
<b>Street-side yard</b>	20 ft	15 ft	>100 ft	>300 ft
<b>Rear yard</b>	20 ft	15 ft	70 ft	>130 ft
<b>Maximum building height</b>	2.5 stories or 35 ft (whichever is less)	2.5 stories or 35 ft (whichever is less)	(pre-existing, no change)	4 stories (see Finding 17 for discussion of height variance)
<b>Maximum lot coverage</b>	30%	40%	<20%	<12%
<b>Minimum vegetation</b>	35%	35%	>15% (CSU requirement for churches is 15%)	>88%
<b>Front yard minimum vegetation</b>	40%	40%	c.30% (no changes proposed)	>70%
<b>Minimum density</b>	3.5 units/acre	11.6 units/acre	NA (church use)	(see Note below)
<b>Maximum density</b>	4.4 units/acre	14.5 units/acre	NA (church use)	(see Note below)

*Note on Density: The proposed senior housing development provides 3 distinct types of units (independent living, assisted living, and memory care), allowing residents to “age in place.” Although the independent and assisted living units have some characteristics of a senior apartment complex, overall the proposed development would operate more as an institutional facility. The Planning Commission finds that its review of the conditional use and CSU aspects of the proposed development, as discussed in Findings 15 and 16, respectively, including its consideration of the size, scale, and impacts of the proposed senior housing development on the surrounding neighborhood, is sufficient to address the density-related issues presented by the proposed development.*

11. MMC Section 19.402 Natural Resources

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

a. MMC Subsection 19.402.3 Applicability

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

*Mount Scott Creek flows across the northern portion of the subject property, and a large wetland (approximately 0.7 acres) is located within the 100-year floodplain designated over most of the western half of the site. The City’s NR Administrative Map shows WQR and HCA designations around the creek and wetland, and portions of these natural resource areas will be disturbed by the proposed development.*

*As presented in the applicant’s submittal materials, the proposed development will temporarily or permanently disturb approximately 69,550 sq ft of WQR and/or HCA area. At that scale, the proposed activity is not listed as exempt according to the standards outlined in MMC 19.402.4.*

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

b. MMC Subsection 19.402.7 Activities Requiring Type II Review

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

*The subject property includes a delineated wetland as well as mapped HCA for which the applicant has proposed to make a detailed verification of boundaries. As provided in MMC*

*Subsection 19.402.15.A, the Type II review process is required to confirm the specific location of wetlands and for detailed verification of mapped HCA. However, the proposed activity requires other applications that are being processed concurrently with Type III review. As provided in MMC Subsection 19.1001.6.B.1, concurrent applications are processed according to the highest numbered review type, with a single decision to be issued that includes findings for all concurrent applications.*

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

c. MMC Subsection 19.402.8 Activities Requiring Type III Review

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

*The level of disturbance proposed within the designated WQR and HCA areas on the subject property exceeds the levels allowed by Type I and II review, as provided in MMC 19.402.6 and 402.7, respectively. As such, the activity is subject to Type III review and the discretionary process established in MMC 19.402.12. As noted in Finding 11-b above, the Natural Resource review is associated with other applications being processed concurrently with Type III review.*

*The Planning Commission finds that the proposed activity is subject to Type III review and will be processed concurrently with other applications requiring Type III review.*

d. MMC Subsection 19.402.9 Construction Management Plans

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

*The applicant's Natural Resource Review report includes a construction management plan that provides the information required by MMC 19.402.9, including tree protection measures. The plan will be formally reviewed at the time of submittal for development permits.*

e. MMC Subsection 19.402.11 Development Standards

MMC 19.402.11 establishes development standards for projects that impact a designated natural resource, including requirements to protect natural resource areas during development and general standards for required mitigation (e.g., plant species, size, spacing, and diversity).

MMC Subsection 19.402.11.C establishes mitigation requirements for disturbance within WQRs. The requirements vary depending on the existing condition of the WQR, according to the categories established in MMC Table 19.402.11.C. For Class A "Good" WQR conditions, MMC Table 19.402.11.C requires that the applicant submit a

plan for mitigating water quality impacts related to the development; for Class C “Poor” WQR conditions, the table requires restoration and mitigation with native species using a City-approved plan.

*The proposed development will disturb approximately 23,440 sq ft within the WQR. The portion of the WQR closest to Mount Scott Creek is categorized as Class A (“Good”); other portions are categorized as Class C (“Poor”). In addition, the proposed development will disturb approximately 46,115 sq ft within the HCA-only areas on the site.*

*Using the mitigation planting ratio provided in MMC Subsection 19.402.11.D.2.b as a guide, the applicant proposes to plant 5 trees and 25 shrubs per 500 sq ft of disturbance area. For the total WQR and HCA disturbance of approximately 69,550 sq ft, the applicant proposes to plant 696 native trees and 3,478 native shrubs within a 118,000-sq-ft mitigation area. As proposed, the mitigation plantings will meet the minimum requirements established in MMC Subsection 19.402.11.B. Mitigation trees will be of at least ½-in caliper (measured at 6 ft above the ground level after planting) and shrubs will be of at least 1-gallon size and at least 12-in height.*

*ESA, the City’s consultant for on-call natural resource services, has evaluated the proposed mitigation plan and concluded that, with a few adjustments, it adequately addresses the proposed WQR and HCA disturbance. ESA provided a few additional recommendations to improve the mitigation plan, including providing more details on which nuisance species will be targeted for removal and how; identifying areas for oak plantings and how new plantings will accommodate existing oaks on site; providing a typical planting scheme for installing proposed trees and shrubs with respect to existing vegetation; ensuring that temporary impacts to WQR and HCA areas are accounted and mitigated for; and ensuring that adequate construction fencing and tree protection fencing are provided. Conditions have been established to ensure that these recommendations are implemented.*

*As conditioned, the Planning Commission finds that the applicable development standards of MMC 19.402.11 are met.*

f. MMC Subsection 19.402.12 General Discretionary Review

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

(1) Impact Evaluation and Analysis

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

- Identification of ecological functions
- Inventory of vegetation
- Assessment of water quality impacts
- Alternatives analysis

- Demonstration that no practicable alternative method or design exists that would have a lesser impact on the resource and that impacts are mitigated to the extent practicable
- Mitigation plan

*The applicant's submittal materials include a technical report prepared by Pacific Habitat Services, Inc., a private firm providing a range of environmental consulting services including natural resource assessment, wetland delineation, and environmental restoration. The technical report includes an impact evaluation and alternatives analysis consistent with the required components listed above, as well as an inventory of existing vegetation and discusses the ecological function of the existing WQR and HCA areas within the project area. The report also provides a mitigation plan for permanent and temporary impacts to the WQR and HCA.*

*The technical report considers 2 alternatives to the proposed senior housing development, involving different configurations of 2-story buildings that would not require a variance to the building height standard. Both alternatives would result in more than twice the amount of disturbance to the WQR and HCA to achieve the same housing capacity of the proposed development. The report concludes that the proposed development is the most practicable alternative that results in the same number of units and the least impact to designated natural resources on the site.*

*ESA has noted that one of the alternatives (Alternative B) would require enough wetland and floodplain impact that it would be challenging to permit by the relevant agencies and so does not appear to be a realistic alternative for purposes of this analysis. ESA has also noted what appear to be reasonable opportunities to further reduce impacts to the WQR and HCA by maximizing use of non-regulated areas in the northeast corner and the southwest portion of the subject property for adjusting the locations of stormwater facilities and off-street parking. Alternately, the applicant could simply eliminate some of the encroaching parking spaces and still meet the minimum requirement or could arrange a shared-parking agreement with the adjacent church. A condition has been established to require the applicant to revise the site plan to shift the location of stormwater facilities and some off-street parking out of the WQR and HCA, or to provide a more detailed justification of why such revisions are not feasible.*

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

## (2) Approval Criteria

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

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

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

*Mount Scott Creek cuts across the northern portion of the nearly 14-acre development site, resulting in significant areas of designated WQR and HCA. Site development that avoids any impacts to the WQR and HCA is challenging but not impossible, particularly if the development is focused on the eastern and northeastern portions of the site. The applicant has proposed a multistory building that reduces the development footprint and concentrates impacts in the eastern and northeastern portions of the site. However, a portion of the building and associated parking and stormwater facilities would intrude into the WQR and HCA and disturb approximately 1.6 acres of natural resource area. Considering the discussion of alternatives noted in Finding 11-f(1) above, it appears that some additional adjustments to the site plan could be made that would allow the proposed development to further avoid the WQR and HCA.*

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

*As noted in the above discussion of avoiding impacts, it appears that the proposed development could be adjusted to further reduce impacts to the WQR and HCA. A condition has been established to require revisions to the site plan if the applicant cannot demonstrate that there are no practicable alternatives with lesser impacts. It is also not clear whether the calculation of HCA and WQR impacts includes areas of temporary disturbance, though it appears that temporary disturbance areas are minimal. Another condition has been established to ensure that temporary disturbance is fully accounted for in the calculation of mitigation plantings.*

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

*As noted in Finding 11-e, the applicant's submittal includes a mitigation plan for the WQR and HCA disturbance that will accompany the proposed development. The applicant has proposed to plant 696 native trees and 3,478 native shrubs within a 118,000-sq-ft mitigation area, and to remove nuisance plants and noxious material and debris. Conditions have been established to confirm which nuisance species will be removed and how and to ensure that new plantings will*

*accommodate existing oaks on site, account and mitigate for temporary impacts to WQR and HCA areas, provide adequate construction fencing and tree protection fencing, utilize native seed mixes on steep slopes adjacent to WQR and HCA areas to limit non-native competition with mitigation plantings, utilize biodegradable erosion control materials, and install signage to reduce foot traffic in natural areas. As conditioned, the revised mitigation plan would ensure the long-term success of the overall mitigation effort.*

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

(3) Limitations and Mitigation for Disturbance of HCAs

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

*As discussed in Finding 11-f(1), the applicant's submittal materials include a technical report that provides an evaluation of impacts to the WQR as well as to those impacted HCA areas beyond the WQR, consistent with the standards established in MMC 19.402.12.A. As discussed in Finding 11-f(2), the proposed development, with the conditions noted therein, meets the approval criteria established in MMC 19.402.12.B.*

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

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

g. MMC Subsection 19.402.13 Land Divisions and Property Line Adjustments

MMC Subsection 19.402.13.E establishes the review processes for property line adjustments where any of the properties involved includes HCA. Where there would be more than a 30-point difference in the percentage of HCA coverage on each property, the smallest practicable point difference is allowable with Type II review, provided that the new boundary configuration will mitigate, to the extent practicable, the potential future impacts to the HCA from access and development.

*The proposed boundary adjustment would result in 100% of the HCA being on the senior housing development property and 0% of the HCA being on the church property. Given the configuration of the existing church development on the larger site with respect to the locations of Mount Scott Creek, the delineated wetland, and the mature oak woodland, the proposed distribution of HCA results in the smallest practicable point difference. The proposed boundary adjustment would allow sufficient opportunity for access and development on both properties without necessitating impacts to the HCA.*



*The Planning Commission finds that the proposed property line adjustment is consistent with the applicable standards of MMC 19.402.13 and is approvable as proposed, in conjunction with the Type III review applied to the overall proposed development.*

h. MMC Subsection 19.402.15 Boundary Verification and Map Administration

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

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

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

*The technical report provided by the applicant includes a detailed topographic map showing the accurate boundaries of the WQR using the provisions of MMC Table 19.402.15, as well as a wetland delineation report prepared in accordance with the standards of DSL and a formal letter of concurrence by DSL.*

*The applicant has also proposed a detailed verification of the mapped HCA on the subject property and has submitted all information required by MMC 19.402.15.A.2.b. Using the methodology outlined in that subsection, the applicant has demonstrated that the actual HCA boundary should be adjusted to more closely parallel the riparian area along the south side of Mount Scott Creek and to include the Oregon oak woodland in the southwestern portion of the site.*

*The Planning Commission finds that the City's NR map shall be adjusted to reflect the detailed information provided by the applicant with respect to the location of the delineated wetland on the site and the verified boundary of the mapped HCA. Furthermore, as a result of the approval of the proposed development, the Planning Commission finds that the NR Map shall be adjusted accordingly to remove those HCA locations that will be permanently disturbed by the proposed development.*

*The Planning Commission finds that, as conditioned, the proposed development's disturbance of WQR and HCA areas on the subject property meets all applicable standards of MMC 19.402.*

12. MMC Chapter 19.500 Supplementary Development Regulations

MMC 19.500 provides additional standards for a variety of development types and locations. The applicable portions of this section are addressed below.

a. MMC Subsection 19.504.1 Clear Vision Areas

MMC 19.504.1 refers to clear vision area requirements in MMC Chapter 12.24.

*As addressed in Finding 5-b, all driveways, accessways, and intersections associated with the proposed development conform to the applicable standards of MMC 12.24.*

*This standard is met.*

b. MMC Subsection 19.504.7 Minimum Vegetation

MMC 19.504.7 requires that no more than 20% of the required vegetation area may be covered with bark mulch.

*As proposed, more than half the subject property will be vegetated, including mitigation plantings consisting of native species trees, shrubs, and ground cover. Very few of the vegetated areas on the site will be covered with bark mulch.*

*This standard is met.*

c. MMC Subsection 19.504.9 On-Site Walkways and Circulation

MMC 19.504.9 establishes standards for on-site walkways, including requirements that on-site walkways be at least 5 ft wide, constructed of hard surface materials that are permeable for stormwater, and lighted to a minimum level of 0.5 footcandles.

*The proposed development includes pervious, lighted walkways around the new building, as well as 2 pedestrian connections to the public sidewalk on Kellogg Creek Dr. A condition has been established requiring more detailed photometric information to ensure that the minimum lighting is provided. As addressed in Finding 17, a variance has been requested for relief from the requirement for a pedestrian connection to the site's short frontage on Rusk Rd.*

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

d. MMC Subsection 19.505.3 Multifamily Housing

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

*The proposed senior housing development is not multifamily housing and is not subject to the standards of MMC 19.505.3. However, the Planning Commission has determined that it is appropriate to consider the proposed development's consistency with the multifamily design guidelines as part of its conditional use and CSU review of the facility, to evaluate its compatibility with and impacts on neighboring properties (see Findings 15 and 16).*

<b>Table 12-d Design Guidelines—Multifamily Housing</b>		
<b>Design Element</b>	<b>Guideline</b>	<b>Findings</b>
<b>1. Private Open Space</b>	<p>The development should provide private open space for each dwelling unit, with direct access from the dwelling unit and visually and/or physically separate from common areas.</p> <p>The development may provide common open space in lieu of private open space if the common open space is well designed, adequately sized, and functionally similar to private open space.</p>	<p>The proposed senior housing development is not designed as a typical multifamily project, as the needs of its residents are different. No private open space is provided.</p>
<b>2. Public Open Space</b>	<p>The development should provide sufficient open space for the purpose of outdoor recreation, scenic amenity, or shared outdoor space for people to gather.</p>	<p>The proposed senior housing development would provide a variety of common open spaces for residents, including an outdoor plaza and a secure outdoor courtyard for memory care residents. In addition, the western half of the site would be preserved as open space for natural resources, providing at least a public visual amenity. Common open space would also be available within walking distance at North Clackamas Park.</p>
<b>3. Pedestrian Circulation</b>	<p>Site design should promote safe, direct, and usable pedestrian facilities and connections throughout the development. Ground-floor units should provide a clear transition from the public realm to the private dwellings.</p>	<p>As designed, a connected system of walkways would provide safe and convenient access to and through the site. On-site parking would be distributed around the building to minimize walking distances to building entrances, with a connected walkway around the entire building.</p>
<b>4. Vehicle and Bicycle Parking</b>	<p>Vehicle parking should be integrated into the site in a manner that does not detract from the design of the building, the street frontage, or the site. Bicycle parking should be secure, sheltered, and conveniently located.</p>	<p>On-site vehicle parking is designed to provide safe and convenient parking for residents, visitors, and staff. Parking would be distributed around the building to minimize distances to building entrances, with staff directed to park in the furthest spaces to preserve the most convenient parking for visitors and residents.</p> <p>Bicycle parking would be provided at 2 locations on the site, one near the outdoor patio on the west side of the site and another under cover near the main visitors' entrance. A condition requiring additional bicycle parking for the independent living residents has been established, either located in a secure room(s) inside the building or at least covered and conveniently located.</p>

**Table 12-d  
 Design Guidelines—Multifamily Housing**

Design Element	Guideline	Findings
<p><b>5. Building Orientation and Entrances</b></p>	<p>Buildings should be located with the principal façade oriented to the street or a street-facing open space such as a courtyard. Building entrances should be well-defined and protect people from the elements.</p>	<p>The proposed building has multiple entrances, with 2 main entrances visible from Kellogg Creek Dr. The covered entrance to the memory care portion of the facility would be defined by pillars extending out from the building. Another covered entrance with a drop-off and pick-up area for residents and visitors would be located further back from the street but still prominent.</p>
<p><b>6. Building Façade Design</b></p>	<p>Changes in wall planes, layering, horizontal &amp; vertical datums, building materials, color, and/or fenestration should be incorporated to create simple and visually interesting buildings. Windows and doors should be designed to create depth and shadows and to emphasize wall thickness and give expression to residential buildings.</p> <p>Windows should be used to provide articulation to the façade and visibility into the street.</p> <p>Building facades should be compatible with adjacent building facades.</p> <p>Garage doors shall be integrated into the design of the larger façade in terms of color, scale, materials, and building style.</p>	<p>The design utilizes various articulation elements on all sides of the building to present a visually interesting façade: varied building materials and colors, a combination of vertical and horizontal siding, ample window area, balconies and pillars, building offsets, and varied rooflines.</p>
<p><b>7. Building Materials</b></p>	<p>Buildings should be constructed with architectural materials that provide a sense of permanence and high quality, incorporating a hierarchy of building materials that are durable.</p> <p>Street-facing facades should consist predominantly of a simple palette of long-lasting materials such as brick, stone, stucco, wood siding, and wood shingles.</p> <p>Split-faced block and gypsum reinforced fiber concrete (for trim elements) should only be used in limited quantities.</p> <p>Fencing should be durable, maintainable, and attractive.</p>	<p>A variety of materials and colors are proposed for the new building, using a hierarchy of materials to define the different portions and stories of the building. High-quality, durable materials are proposed.</p>

<b>Table 12-d                      Design Guidelines—Multifamily Housing</b>		
<b>Design Element</b>	<b>Guideline</b>	<b>Findings</b>
<b>8. Landscaping</b>	Landscaping should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water should be included. Hardscapes should be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management.	Landscaping is proposed throughout the development: in planting areas around the building itself, the memory care courtyard, perimeter buffers adjacent to parking areas, stormwater facilities around the site, and both sides of the driveway on Kellogg Creek Dr. The western half of the site is a natural resource area, with a large wetland and mature Oregon oak woodland, and Mount Scott Creek and its riparian corridor runs through the northern portion of the site. Much of the existing vegetation within the site's natural resource areas would remain, with additional native plantings as mitigation for the project's impacts to natural resources.
<b>9. Screening</b>	Mechanical equipment, garbage collection areas, and other site equipment and utilities should be screened so they are not visible from the street and public or private open spaces. Screening should be visually compatible with other architectural elements in the development.	As proposed, a generator would be located near the outdoor patio at the northwest corner of the building, far from Kellogg Creek Dr. A trash/recycling storage area would be located next to the generator and enclosed with materials similar in color to the main building. Heating, ventilation, and air conditioning (HVAC) equipment would be roof-mounted in such a way as to minimize visibility from surrounding properties.
<b>10. Recycling Areas</b>	Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste/recycling haulers. Recycling areas located outdoors should be appropriately screened or located so they are not prominent features viewed from the street.	Recycling would be located within the trash enclosure described above. A loading area near these enclosures would allow for safe and convenient collection without disrupting traffic on the perimeter loop road. Staff would collect recyclable materials from residents inside the main building and take them to the enclosed storage area outside.

<b>Table 12-d Design Guidelines—Multifamily Housing</b>		
<b>Design Element</b>	<b>Guideline</b>	<b>Findings</b>
<b>11. Sustainability</b>	Development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements should be incorporated to increase occupant health and maximize a building's positive impact on the environment. When appropriate to the context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.	As proposed, the main residential wing of the new building would be oriented along an east-west access that provides the opportunity for passive solar heat gain, daylighting, and natural ventilation for many of the residential units. The other portion of the building would be oriented horizontally and vertically to maximize sun exposure into the memory care courtyard and adjacent unit windows.  The proposed building would incorporate various sustainable design elements, including wood-framed construction using products sourced within 500 miles of the site. HVAC systems and lighting are anticipated to exceed base energy code standards and earn incentives for energy efficiency.
<b>12. Privacy Considerations</b>	Development should consider the privacy of, and sight lines to, adjacent residential properties, and should be oriented and/or screened to maximize the privacy of surrounding residences.	The large distances separating the proposed new building from adjacent properties and roadways, as well as trees planted along the Kellogg Creek Dr frontage, would provide adequate privacy for surrounding residences.
<b>13. Safety</b>	Development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design (CPTED): <ul style="list-style-type: none"> <li>• Natural Surveillance</li> <li>• Natural Access Control</li> <li>• Territorial Reinforcement</li> </ul>	The proposed perimeter loop drive surrounding the new facility would be lit to ensure adequate safety and surveillance. Ground-floor windows on all building faces would provide additional eyes on the grounds. Connected, illuminated pedestrian walkways would provide direct connections between parking areas and building entrances. Outdoor gathering spaces would be located close to the building for enhanced surveillance. All building entrances would be access-controlled, and access to the overall site would be limited to a single point from Kellogg Creek Dr, with visitor check-in required at the main entrance.

*The Planning Commission finds that, as conditioned, the proposed development is consistent with the design guidelines for multifamily housing as established in MMC 19.505.3. See Findings 15 and 16 for more discussion about the consideration of these guidelines as part of the associated CSU and conditional use review, respectively.*

*As conditioned, the Planning Commission finds that the applicable standards of MMC 19.500 are met.*

13. MMC Chapter 19.600 Off-Street Parking and Loading

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

a. MMC Section 19.602 Applicability

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

*The proposed development consists of 170 units of senior housing on a vacant site and is required to conform fully to the requirements of MMC 19.600.*

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

b. MMC Section 19.605 Vehicle Parking Quantity Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand. MMC Subsection 19.605.2 establishes a process for determining parking requirements when a use is not listed in MMC Table 19.605.1 or if the applicant seeks a modification from the minimum required or maximum allowed quantities as listed in the table. MMC Subsection 19.605.2 C.1. provides the approval criteria for granting a parking determination, including a demonstration that the proposed parking quantities are reasonable based on (1) existing parking demand for similar use in other locations; (2) quantity requirements from other jurisdictions; and (3) professional literature.

In addition, the subsection requires that requests for modifications to decrease the amount of minimum required parking shall demonstrate: (a) that the use of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1; (b) that the reduction of off-street parking will not adversely affect available on-street parking; and (c) that the requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site.

*The proposed senior housing development includes 78 independent living suites, 60 assisted living suites, and 32 memory care suites. The independent and assisted living units are considered by the City's zoning code to be senior and retirement housing, while the memory care units are a nursing and convalescent facility. Of the senior and retirement housing units, 70 are 800 sq ft or less in floor area and 68 are more than 800 sq ft.*

*As per MMC Table 19.605.1, the minimum number of required off-street parking spaces for senior and retirement housing is 1 space per unit for units 800 sq ft or less and 1.25 spaces per unit for units more than 800 sq ft. The maximum number of spaces allowed for senior and retirement housing is 2 spaces per unit, regardless of size. For nursing, convalescent, and*

*extended-care facilities, the minimum number of required spaces is 1 space per 4 beds; the maximum allowed is 1 space per 3 beds. According to MMC Table 19.605.1, the proposed development should provide a minimum of 163 spaces and would have a maximum of 287 spaces allowed.*

*The applicant has asserted that the requirements of MMC Table 19.605.1 are not appropriate for the type of facility represented by the proposed development and has provided a parking assessment prepared by Charbonneau Engineering for a nearly identical Bonaventure project in Vancouver, WA. Citing data on existing parking demand for similar uses in other locations, quantity requirements from other jurisdictions, and a description of factors specific to the proposed use, the applicant's submittal asserts that the proposed senior housing development would have significantly lower parking demand than typical residential uses. Generally, no more than 50% of independent living residents drive and maintain a vehicle on site, while none of the assisted living or memory care residents would have vehicles. Taking into account the demands for staff and visitor parking and drawing from comparisons with other similar facilities in the region, the applicant has asserted that a minimum ratio of 0.70 spaces per unit and a maximum ratio of 0.90 spaces per unit is appropriate for the proposed type of development. For the specific proposed senior housing development, the application of these ratios would result in a minimum parking requirement of 119 spaces and a maximum allowance of 153 spaces. As proposed, the senior housing facility would provide 139 spaces, which falls within that range. The applicant's analysis suggests that the proposed ratios represent a reasonable and adequate standard that would not adversely impact on-street parking.*

*The Planning Commission finds that the proposed parking modification (minimum ratio of 0.70 spaces per unit and maximum ratio of 0.90 spaces per unit) is adequate based on the applicant's assessment. Therefore, the applicant's calculation of a minimum of 119 spaces and a maximum of 153 spaces is adequate for the proposed development, with the proposal to provide 139 spaces falling within that range. This standard is met.*

c. MMC Section 19.606 Parking Area Design and Landscaping

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

(1) MMC Subsection 19.606.1 Parking Space and Aisle Dimension

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

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

(2) MMC Subsection 19.606.2 Landscaping

MMC 19.606.2 establishes standards for parking lot landscaping, including for perimeter and interior areas. The purpose of these landscaping standards is to



provide buffering between parking areas and adjacent properties, break up large expanses of paved area, help delineate between parking spaces and drive aisles, and provide environmental benefits such as stormwater management, carbon dioxide absorption, and a reduction of the urban heat island effect.

(a) MMC Subsection 19.606.2.C Perimeter Landscaping

In all but the downtown zones, perimeter landscaping areas must be at least 6 ft wide where abutting other properties and at least 8 ft wide where abutting the public right-of-way. At least 1 tree must be planted for every 40 lineal ft of landscaped buffer area, with the remainder of the buffer planted with grass, shrubs, ground cover, mulch, or other landscaped treatment. Parking areas adjacent to residential uses must provide a continuous visual screen from 1 to 4 ft above the ground to adequately screen vehicle lights.

*For the proposed off-street parking and maneuvering layout, perimeter landscaping is required between the perimeter loop road and Kellogg Creek Dr, between the eastern parking area adjacent to the church parking lot, and adjacent to the perimeter loop road near the northwest corner of the church property and adjacent to the ROW of Rusk Rd and OR 224. As proposed, the landscaping plan (Sheet L100) shows a deficiency of tree planting in the perimeter area in the northeast corner of the subject property. Otherwise, the landscaping plan provides adequate perimeter buffer dimensions and plantings as required. A condition has been established to require revision of the landscaping plan to provide the minimum spacing of trees in the perimeter buffer.*

*As conditioned, this standard is met.*

(b) MMC Subsection 19.606.2.D Interior Landscaping

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

*The proposed development includes 139 parking spaces, for which a minimum of 3,475 sq ft of interior landscaping is required. As proposed, the site plan provides approximately 5,345 sq ft of interior landscaping, well over the minimum required. All interior landscaped areas are at least 120 sq ft in size and are disbursed throughout the various parking areas on the site.*

*This standard is met.*

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

Preservation of existing trees in off-street parking areas is encouraged and may be credited toward the total number of trees required. Parking area

landscaping must be installed prior to final inspection, unless a performance bond is posted with the City. Required landscaping areas may serve as stormwater management facilities, and pedestrian walkways are allowed within landscape buffers if the buffer is at least 2 ft wider than required by MMC 19.606.2.C and 19.606.2.D.

*The plans submitted show that the proposed site work does not allow for the preservation of any existing trees any parking areas. Proper and complete installation of landscaping will be confirmed as part of the subsequent Development Review and final inspection. No pedestrian walkways are proposed within the parking lot landscaping.*

*This standard is met.*

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

(3) MMC Subsection 19.606.3 Additional Design Standards

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

(a) MMC Subsection 19.606.3.A Paving and Striping

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

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

*This standard is met.*

(b) MMC Subsection 19.606.3.B Wheel Stops

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

*The applicant's narrative indicates that wheel stops will be installed to prevent vehicles from encroaching into pedestrian walkways and perimeter landscaping areas. This requirement will be confirmed as part of the subsequent Development Review and final inspection.*

*This standard is met.*

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

Accessways to parking areas shall be the minimum number necessary to provide access without inhibiting safe circulation on the street. Drive aisles

shall meet the dimensional requirements of MMC 19.606.1, including a 22-ft minimum width for drive aisles serving 90°-angle stalls and a 16-ft minimum width for drive aisles not abutting a parking space. Along collector and arterial streets, no parking space shall be located such that its maneuvering area is in an ingress or egress aisle within 20 ft of the back of the sidewalk. Driveways and on-site circulation shall be designed so that vehicles enter the right-of-way in a forward motion.

*The proposed development will take access from a driveway on Kellogg Creek. The proposed drive aisles meet the minimum applicable dimensional requirements and are designed so that vehicles enter the ROW in a forward motion.*

*This standard is met.*

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

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

*As proposed, no off-street parking space is farther than 100 ft away from a building entrance or walkway that meets the standards of this subsection.*

*This standard is met.*

(e) MMC Subsection 19.606.3.E Internal Circulation

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

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

*This standard is met.*

(f) MMC Subsection 19.606.3.F Lighting

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

*The applicant's submittal does not include lighting details for the parking area, but it acknowledges that sufficient detail will be provided as part of the building permit*

*review process. A condition has been established to ensure that this standard is met.*

*As conditioned, this standard is met.*

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

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

d. MMC Section 19.608 Loading

MMC 19.608 establishes standards for off-street loading areas and empowers the Planning Director to determine whether loading spaces are required. For residential development with fewer than 50 dwelling units on a site that abuts a local street, no loading space is required; otherwise, 1 space is required. Loading spaces shall be at least 35 ft long and 10 ft wide, with a height clearance of 13 ft, and located where not a hindrance to drive aisles or walkways.

*The proposed senior housing development includes 170 units, so 1 loading space is required. As proposed, 1 loading space is provided as a pull-out along the perimeter loop road, west of the outdoor patio and gazebo area. The loading space is situated with no height obstructions and meets the minimum required length of 35 ft; a condition has been established to ensure that the loading space will provide the minimum width of 10 ft.*

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

e. MMC Section 19.609 Bicycle Parking

MMC 19.609 establishes standards for bicycle parking for new development of various uses. Unless otherwise specified, the number of bicycle spaces provided shall be at least 10% of the minimum required vehicle parking for the use. When at least 10 bicycle spaces are required, a minimum of 50% of the spaces shall be covered and/or enclosed. MMC Subsection 19.609.3.A provides that each bicycle parking space shall have minimum dimensions of 2 ft by 6 ft, with 5-ft-wide aisles for maneuvering. MMC Subsection 19.609.4 requires bike racks to be located within 50 ft of a main building entrance.

*As per the parking modification discussed in Finding 13-b, the proposed senior housing development requires a minimum of 119 vehicle spaces, which equals a minimum of 12 bicycle spaces required. A total of 14 bicycle spaces are proposed, with 7 spaces on the west side of the site near the outdoor patio area and 7 covered spaces closer to the main entrance to the building on the east side of the site. The submitted plans do not include details of the bike stall dimensions, so a condition has been established to require more detailed information sufficient to determine that the applicable standards are met.*

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

f. MMC Section 19.610 Carpool and Vanpool Parking

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

*The proposed development is a form of institution, so this standard is applicable. As per the parking modification discussed in Finding 13-b, the proposed senior housing development requires a minimum of 119 vehicle spaces, which equals a minimum of 12 carpool/vanpool spaces required. No carpool/vanpool spaces have been proposed, so a condition has been established to require revisions to the applicable plans to ensure that at least 12 carpool/vanpool spaces are provided in accordance with this section.*

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

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

#### 14. MMC Chapter 19.700 Public Facility Improvements

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

##### a. MMC Section 19.702 Applicability

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

*The applicant proposes to develop a senior housing facility on a vacant site. The proposed new construction triggers the requirements of MMC 19.700.*

##### b. MMC Section 19.703 Review Process

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

*The applicant had a preapplication conference with City staff on September 6, 2018, prior to application submittal. The proposed development triggers a Transportation Impact Study (as addressed in Finding 14-c). The proposal's compliance with MMC 19.700 has been evaluated through a concurrent Transportation Facilities Review application. Finding 14-f addresses the proposal's compliance with the approval criteria established in MMC Subsection 19.703.3, particularly the required transportation facility improvements.*

##### c. MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 establishes the process and requirements for evaluating development impacts on the surrounding transportation system, including determining when a

formal Transportation Impact Study (TIS) is necessary and what mitigation measures will be required.

*The proposed development will trigger a significant increase in trip generation above the existing church use on a portion of the site and therefore requires a TIS. City Engineering staff and the City's on-call traffic consultant (DKS) provided the applicant with a scope of work for the TIS. Kittleson & Associates, the applicant's traffic consultant, prepared the TIS that was included with the applicant's larger submittal for the proposed senior housing development.*

*The TIS concluded that the proposed development does not trigger mitigation of impacts beyond the proposed frontage improvements and bicycle facility, for which conditions of approval have been established. The TIS also concluded that the surrounding transportation system would continue to operate at the same level of service as before the proposed development. The TIS recommended extension of the northbound right-turn lane on Rusk Rd at the OR 224 intersection to provide greater capacity for vehicle queuing and alleviate existing congestion.*

*As submitted, the applicant's TIS, including required mitigation measures, is sufficient to meet the requirements of MMC 19.704.*

d. MMC Section 19.705 Rough Proportionality

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

*The TIS concluded that no mitigation measures are required beyond the proposed frontage improvements and bicycle facility. The TIS did recommend extension of the northbound right-turn lane on Rusk Rd at the OR 224 intersection to provide greater capacity for vehicle queuing and alleviate existing congestion. The City has requested that the applicant construct the recommended right-turn lane extension to reduce congestion; because the extension is not a requirement of the TIS, it is eligible for system development charges (SDC) credits. The cost of construction and engineering of the right turn lane will be offset by a reduction of the transportation SDCs on the associated building permit.*

*As proposed, mitigation for the transportation impacts of the proposed development is consistent with MMC 19.705.*

e. MMC Section 19.707 Agency Notification and Coordinated Review

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

*The application was referred to the Oregon Department of Transportation (ODOT), Clackamas County Department of Transportation and Development (DTD), TriMet, and Metro for comment. The sections of Kellogg Creek Dr and Rusk Rd fronting the subject property are under the jurisdiction of Clackamas County. The County has regulatory authority where transportation impacts and improvement standards are concerned, and the*

*County DTD provided comments that have been incorporated into these findings and the associated conditions of approval.*

f. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. However, the subject property's public street frontages are along Kellogg Creek Dr and Rusk Rd, which are currently under the jurisdiction of Clackamas County. The County DTD provided comments on the application, with recommended findings and conditions that address the County's requirements for such elements as access management, clear vision, street design, and bicycle and pedestrian facilities. Those comments have been incorporated into these findings as appropriate.

(1) MMC Subsection 19.708.1 General Street Requirements and Standards

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

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

(2) MMC Subsection 19.708.2 Street Design Standards

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

*The proposed cross section for Kellogg Creek Dr conforms to applicable requirements and are consistent with MMC 19.708.2. As required, street trees shall be planted at an average spacing of 40 ft.*

(3) MMC Subsection 19.708.3 Sidewalk Requirements and Standards

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

*The proposed development includes ADA ramps at all corners as required. To complete the required sidewalk connection along the subject property's Kellogg Creek Dr frontage and avoid impacts to the mature Oregon oak woodland in the southwest corner of the site, the applicant has proposed to install a mid-block crossing from new sidewalk on the north side of the street to the existing sidewalk on the south side. A condition has been established to ensure that the existing south-side sidewalk will conform to current ADA standards.*

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

(4) MMC Subsection 19.708.4 Bicycle Facility Requirements and Standards

MMC 19.708.4 provides standards for bicycle facilities, including a reference to the Public Works Standards.

Per Milwaukie's Transportation System Plan (TSP), a bike lane is required connecting the northeast corner of the property to the southwest corner of the property.

*The applicant has proposed to construct a 5-ft-wide bicycle path along the Rusk Rd frontage of the senior housing development and adjacent church, extending from the intersection with OR 224 to the intersection with Kellogg Creek Dr and transitioning to an on-street bike lane on Kellogg Creek Dr. As proposed, the bike path would be located within Clackamas County ROW for a portion of its extent nearest the OR 224 intersection but would transition to a public access easement on the church property for most of its length and would serve as a facility for two-way bicycle traffic along that section of Rusk Rd.*

*The County DTD has provided comments related to the proposed bike path, noting that, in order to comply with the applicable requirements of the Clackamas County Roadway Standards (which are consistent with the City's Public Works Standards for bicycle facilities), it shall be designed to accommodate two-way bike traffic, with a minimum width of 10 ft. The City of Milwaukie shall maintain the path and shall enter into an intergovernmental agreement (IGA) with the County. The path shall extend to a point west of the bulb-out and ramp down to the pavement of Kellogg Creek Dr. A design shall be provided for eastbound bikes on Kellogg Creek Dr to safely cross to the north side of the road and enter the bike path at or prior to the Kellogg Creek Dr intersection with Rusk Rd. The County's recommended conditions have been established to ensure that the bicycle facilities provided by the proposed development are consistent with the applicable County standards and the City's Public Works Standards.*

*As conditioned, the development is consistent with all applicable standards of MMC 19.708.4.*

(5) MMC Subsection 19.708.5 Pedestrian/Bicycle Path Requirements and Standards

MMC 19.708.5 provides standards for pedestrian and bicycle paths.

*As discussed in Finding 12-c, the proposed development includes 2 pedestrian connections between the proposed senior housing facility and Kellogg Creek Dr. The applicant has requested a variance for relief from the requirement to provide a pedestrian connection to Rusk Rd; this variance is discussed in Finding 17.*

*As proposed, and as per the variance approved in Finding 17, the development is consistent with all applicable standards of MMC 19.708.5.*



(6) MMC Subsection 19.708.6 Transit Requirements and Standards

MMC 19.708.6 provides standards for transit facilities.

*The portion of Kellogg Creek Dr fronting the proposed development is classified as a transit route in the Milwaukie TSP. However, transit facilities are already in place. As a result, transit facility improvements are not required for the proposed development.*

*As proposed, the development is consistent with all applicable standards of MMC 19.708.6.*

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

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

15. MMC Section 19.904 Community Service Uses

MMC 19.904 provides standards and procedures for review of applications for community service uses (CSUs). These are uses that are not specifically allowed outright in most zoning districts but that address a public necessity or otherwise provide some public benefit. CSUs include nursing and convalescent homes. MMC Subsection 19.904.3 provides that the establishment of a new CSU shall be evaluated through a Type III review per Section 19.1006.

*The memory care aspect of the proposed senior housing development is similar to a nursing or convalescent home and so is subject to Type III review as a CSU.*

a. MMC Subsection 19.904.4 Approval Criteria

MMC Subsection 19.904.4 provides the following approval criteria for establishment of a new CSU:

- (1) The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed for a CSU, the standards of the underlying zone must be met.

*As proposed, and as discussed in Finding 10, the applicable standards of the underlying R-10 and R-3 zones are met, except where those standards are superseded by the specific standards for nursing and convalescent homes as provided in MMC Subsection 19.904.8 and as discussed in Finding 15-a(2).*

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

- (2) Specific standards for the proposed uses as found in MMC Subsections 19.904.7-11 are met.

The standards of MMC Subsection 19.904.8 for nursing and convalescent homes are applicable to the memory care aspect of the proposed senior housing development and include the following requirements:

- (a) Public services must be adequate to serve the facility.

*Existing water (provided by Clackamas River Water), sewer (provided by Clackamas County Water Environment Services), and public street facilities (currently under the jurisdiction of Clackamas County) are available in the Kellogg Creek Dr ROW to serve the proposed development.*

- (b) Facilities will access on arterial or collector streets.

*As proposed, primary access to the senior housing development is from Kellogg Creek Dr, a local street. The applicant has requested a variance for relief from this requirement—see Finding 17 for a discussion in support of the variance.*

- (c) Setbacks must be the greater of 25 ft or the setback of an adjacent residential zone or of the underlying zone.

*The largest setbacks for the underlying and/or adjacent R-10 and R-3 zones are 20 ft and 15 ft, respectively. As proposed, the new building would be at least 25 ft from any property line.*

- (d) Maximum height shall not exceed 45 ft.

*The portion of the proposed senior housing development that contains the memory care units would be 1 story (less than 11 ft) in height.*

- (e) Buffering of noise and light from adjacent streets and between adjacent properties may be required.

*The City received a public comment requesting that no noise-generating equipment be allowed for the proposed development, due to existing noise pollution from existing roadways and industry in the area. To limit additional noise impacts, a condition has been established to require that any outdoor mechanical equipment be adequately sound-buffered to ensure that noise levels remain within the permissible levels established in MMC Section 8.08.090.*

- (f) Sites which could cause hazard to disoriented patients through proximity to heavily traveled streets, water hazards, or ravines or steep slopes shall not be approved unless the applicant can satisfy the commission that safety measures will be used to prevent injury to patients.

*As proposed, the memory care portion of the senior housing facility would be in a secure portion of the larger building, locked at all times, and with 24-hour surveillance and restricted access. An outdoor courtyard area specifically for*

*memory care patients would be entirely enclosed by the building and would not be accessible from outside the building.*

- (g) On parcels surrounded by existing dwellings, additional conditions may be necessary to:
  - (i) Mitigate the effects of traffic caused by shift changes, particularly regarding noise at night and safety of school children in transit; and/or
  - (ii) Maintain neighborhood scale, particularly regarding size of structure, width of driveway, signs, exterior lighting, and placement of parking facilities.

*The site is not surrounded by existing dwellings, though there are existing dwellings across Kellogg Creek Dr from the site as well as to the northwest of the site across Mount Scott Creek. The proposed new building would be located in the central part of the site, buffered on the south by new landscaping and street trees and on the northwest by the open space of the natural resource area.*

*As noted in Finding 14, traffic impacts would not be significant and are mitigated by the proposed street improvements, particularly by extending the northbound right-turn lane on Rusk Rd at OR 224. As discussed in Finding 15-a(2e), and as conditioned, noise from outdoor mechanical equipment would be minimized. Although the proposed building is larger in scale than other surrounding buildings, the taller portions of the structure are set farther back from the existing residences on Kellogg Creek Dr and buffered by the open space of the natural resource area.*

*The proposed signage for the facility is relatively minimal and directed as much at traffic on OR 224 as anywhere else. As required, trespass from exterior lighting into WQR and HCA areas as well as nearby residential properties will be minimal. The proposed parking facilities are spread around the perimeter of the site by design, to avoid large parking areas and to provide more direct connections between parking and building entrances.*

*Although the proposed senior housing development is not multifamily housing, the Planning Commission finds it appropriate to consider the proposed development's consistency with the multifamily design guidelines established in MMC Table 19.505.3.D in the context of whether the proposed design maintains neighborhood scale and compatibility. As discussed in Finding 12-d, the Planning Commission finds that the proposed design is consistent with the multifamily design guidelines and no additional conditions are required beyond the ones discussed therein.*

- (h) Conversion of existing dwellings may be allowed if state codes and rules can be met and the conditions of this subsection are satisfied.

*The proposed development is new construction and would not involve the conversion of existing dwellings. This standard is not applicable.*

- (i) Off-street parking must be provided as per Chapter 19.600.

*As discussed in Finding 13, off-street parking would be provided in accordance with the standards of MMC Chapter 19.600.*

- (j) 15% of the total site is to be landscaped.

*As proposed, and as evidenced on the proposed landscaping plans (Sheet L100 and others), over 70% of the site would be landscaped or preserved as natural open space.*

*As proposed, conditioned, and/or approved by the variances discussed in Finding 17, the Planning Commission finds that the proposed development meets the applicable standards of MMC 19.904.8.*

- (3) The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses.

*With full-time residents, the memory care portion of the proposed senior housing development would be staffed and in operation 24 hours a day, with visiting hours from 7:00 a.m. to 7:00 p.m. Memory care residents do not drive and would not leave the site unsupervised. Impacts to surrounding uses would be minimal.*

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

- (4) The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.

*The benefits of a facility that provides quality housing, supervision, and care for people suffering from Alzheimer's disease and other memory-related conditions are far greater than the minimal impacts, if any, on the neighborhood.*

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

- (5) The location is appropriate for the type of use proposed.

*The proposed location is appropriate for a memory care facility, with North Clackamas Park and the Milwaukie Center providing additional outdoor activity options and senior programs adjacent to the west. The adjacent church provides an additional convenient option for worship and fellowship. The site is accessible to OR 224 and connections to downtown Milwaukie, Portland, and the larger metro area. As part of a larger senior housing development that also offers independent and assisted living options, the memory care facility is critical to providing the possibility for seniors in the community and larger region to "age in place."*

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

*As proposed, conditioned, and/or approved by the variances discussed in Finding 17, the Planning Commission finds that the memory care aspect of the proposed development meets the approval criteria of MMC 19.904.4 for establishing a new CSU.*

- b. MMC Subsection 19.904.5.C Minor Modifications

MMC 19.904.5.C allows the approval of a minor modification to an existing approved CSU, provided that such modification meets certain criteria.

*The proposed lot consolidation and boundary adjustment would result in the existing church property being significantly reduced in size and configuration. In addition, improvements associated with the proposed development would result in changes to site access. These changes warrant review in the context of the church's existing CSU approval; the applicant has asserted that the changes constitute only a minor modification.*

MMC 19.904.5.C establishes the following criteria for approval of a minor modification:

- (1) Does not increase the intensity of any use

*The proposed modifications would not increase the size or capacity of the existing church building, and no changes to the church's operating parameters are proposed. The changes are related to a reconfiguration of the existing driveway on Rusk Rd to prohibit exiting movements, establishment of a shared access through the new adjacent senior housing development, and a re-apportioning of perimeter landscaping between the church and the senior housing development properties.*

- (2) Meets all requirements of the underlying zone relating to building size and location and off-street parking and the standards of Title 19

*The proposed modifications related to access are consistent with the requirements of MMC Chapter 19.700 that development provide safe access to a public street. The proposed improvements to prohibit exiting movements through the Rusk Rd driveway would reduce vehicle conflicts on a Collector street and improve safety.*

*The redrawing of boundary lines would not affect the number of existing off-street parking spaces but would technically remove a large amount of landscaping from the current church property and would effectively create perimeter landscaping areas on 2 sides of the church parking lot. The R-10 zone requires a minimum of 35% of the site to be landscaped; however, the CSU standards specifically established for churches and similar institutions in MMC Subsection 19.904.9 require only 15% landscaping. On the revised church property of approximately 162,000 sq ft, the requirement is for a minimum of 24,300 sq ft of landscaping; the site would continue to provide over 30,000 sq ft.*

*In addition, MMC Subsection 19.606.2.C requires perimeter landscaping areas at least 6 ft in width between parking areas and abutting properties. Where the reconfigured church boundary results in a property line between the church parking lot and the new adjacent senior housing development, the proposed modification would provide a 6-ft perimeter landscaping buffer as required, including trees planted at 1 tree per 40 lineal feet. Where the proposed bicycle path along the church's Rusk Rd frontage might result in the removal of some existing trees that currently keep the church parking lot in conformance with the perimeter planting standards of MMC 19.606.2.C, a condition has been established to require replacement as necessary.*

- (3) Does not result in deterioration or loss of any protected natural feature or open space, and does not negatively affect nearby properties

*The proposed modifications to the church property do not affect any protected natural feature or open space and would not negatively affect any nearby properties.*

- (4) Does not alter or contravene any conditions specifically placed on the development by the Planning Commission or City Council

*The church property was annexed into the city limits in 1981 (land use file #A-80-07).*

*In 1983, use of the site for pasture land and grazing for horses was approved as a conditional use (file #C-83-08); however, the conditional use application was subsequently withdrawn.*

*The site was approved as a CSU for church use by the Milwaukie Assembly of God in 1984 (file #CS-84-02). Conditions of approval included requirements to provide plans for landscaping, public facilities, and exterior lighting, as well as a traffic study and right-of-way dedication along Rusk Rd and Kellogg Creek Dr.*

*In 1987, the City Council approved a zone change for the western portion of the property, from R-10 to R-3, along with a conditional use approval for senior housing and an amendment to the Comprehensive Plan map (file #CPA-87-01, ZC-87-05, CU-87-05, with Ordinance #1639). The senior housing project (called Parkside Village) was never developed.*

*In 1992, the City approved a 5,500-sq-ft addition to the church building (file #CSO-92-03, NR-92-01). Conditions of approval included requirements to install the approved landscaping and to direct lighting away from the designated natural resource area.*

*In 1997, the Planning Commission denied a sign permit request to locate an electronic reader board sign on the property near the intersection of Highway 224 and Rusk Rd (file #SP-97-01).*

*The proposed modifications do not alter or contravene any conditions specifically placed on the development by the Planning Commission or City Council.*

- (5) Does not cause any public facility, including transportation, water, sewer and storm drainage, to fail to meet any applicable standards relating to adequacy of the public facility

*The proposed modifications to the church property include improvements to the existing driveway on Rusk Rd, which would prohibit exiting movements and reduce vehicle conflicts on Rusk Rd, a Collector street. For exiting movements, the church would share access through the adjacent senior housing development site to the driveway on Kellogg Creek Dr. Although the County DTD has recommended that the existing driveway be closed, the modifications to the church property related to the proposed senior housing development do not increase the intensity of the existing church use and are minor in nature, so the recommended driveway closure is not warranted.*

*A new bicycle path would be constructed in a public easement on the church property along its Rusk Rd frontage; as conditioned, the proposed path would be widened to provide for safe two-way travel. No other public facilities would be affected by the proposed modifications or would fail to meet any applicable standards related to adequacy.*

*As conditioned, the Planning Commission finds that the proposed minor modification to church's existing CSU approval meets the approval criteria of MMC 19.904.5.C.*

*As conditioned, the Planning Commission finds that the proposed senior housing development is approvable as a new CSU and that the proposed changes to the adjacent church use are approvable as a minor modification to the church's existing CSU approval.*

16. MMC Section 19.905 Conditional Uses

MMC 19.905 establishes a process for evaluating certain uses that may be appropriately located in some zoning districts, if appropriate for the specific site on which they are proposed. Although conditional uses may provide needed services or functions in the community, they are subject to conditional use review because they may adversely change the character of an area or adversely impact the environment, public facilities, or adjacent properties. The conditional use review process allows for the establishment of conditional uses when they have minimal impacts or when identified impacts can be mitigated through conditions of approval. The review process also allows for denial when concerns cannot be resolved or impacts cannot be mitigated.

Approval of a conditional use shall not constitute a zone change and shall be granted only for the specific use requested. Approval is subject to such modifications, conditions, and restrictions as may be deemed appropriate by the review authority.

MMC Subsection 19.905.2.A provides that the provisions of Section 19.905 apply to uses identified as a conditional use in the base zone in Chapter 19.300. MMC Subsection 19.905.3.A provides that the establishment of a new conditional use shall be evaluated through a Type III review per Section 19.1006.

*The proposed senior housing development includes independent living units and assisted living units, which fit the definition of "senior and retirement housing" established in MMC Section 19.201. Senior and retirement housing is listed as an allowed use with conditional use review in both the R-10 and R-3 zones. As such, the proposal to establish a new senior housing facility with a senior and retirement housing component is subject to Type III review as a conditional use.*

a. MMC Subsection 19.905.4 Approval Criteria

MMC Subsection 19.905.4.A establishes the following approval criteria for establishment of a new conditional use:

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

*The site for the proposed senior housing development is large (almost 14 acres) and generally flat within 2 different elevation levels. Mount Scott Creek runs across the*

*northern portion of the property and a large wetland and mature Oregon oak woodland occupy the western and southwestern portions of the site, respectively. WQR and HCA designations overlay these natural resource areas, and the 100-year floodplain extends through the low-lying riparian and wetland areas. As proposed, the new development would be located in the central and eastern part of the site and would largely avoid impacts to the WQR and HCA, as discussed in Finding 11.*

*The large lot size allows the new multistory building to be set back from the nearest existing residences across Kellogg Creek Dr to the south, especially where the height increases to 3 and 4 stories. The protected natural areas are an aesthetic and ecological amenity for residents, visitors, and neighbors and provide an open-space buffer for the neighborhood to the northwest across Mount Scott Creek. The site's proximity to the Rusk Rd intersection with OR 224 provides an important transportation connection to other parts of Milwaukie and the surrounding region, and its location next to North Clackamas Park and the Milwaukie Center make these community resources easily available to residents of the proposed development.*

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

*Nearby uses include existing houses and the Deerfield Village assisted living center across Kellogg Creek Dr to the south, North Clackamas Park and the Milwaukie Center adjacent to the west, a residential neighborhood across Mount Scott Creek to the northwest, and the Turning Point Church adjacent to the east. The proposed senior housing development would be in operation around the clock, with 3 shifts of employees staffing the facility and its full-time residents. Traffic at the site would generally be distributed throughout the day, with peaks at shift-change times and higher visitation periods in evenings and on weekends. The protected natural resource open space and new landscaping buffer the proposed new development from surrounding uses. The varied height, ample articulation, and quality materials provided by the building's design all contribute to an attractive building with minimized massing. The outdoor areas for residents are located so as to minimize noise, and a condition has been established to ensure that noise from outdoor mechanical equipment does not exceed the levels allowed by the City's nuisance code.*

*Although the proposed senior housing development is not multifamily housing, the Planning Commission finds it appropriate to consider the proposed development's consistency with the multifamily design guidelines established in MMC Table 19.505.3.D in the context of its operating and physical characteristics. As discussed in Finding 12-d, the Planning Commission finds that, as conditioned, the proposed design is consistent with the multifamily design guidelines.*

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

*As discussed in Finding 11, impacts to the designated natural resources on the site would be mitigated with a robust planting scheme of native-species trees and shrubs within a large planting area in the WQR and HCA. Outdoor mechanical equipment*



would be sound-buffered to minimize noise impacts. Improvements to the local street system, including an extended northbound right-turn lane on Rusk Rd at the OR 224 intersection, a bike path along the Rusk Rd frontage, adjustments to the existing church driveway on Rusk Rd, and bicycle and pedestrian facilities on Kellogg Creek Dr, would improve safety for multiple travel modes accessing the newly developed site.

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

*The proposed senior housing development would not generate noise, odors, or vibrations and greater than those resulting from other forms of residential development. A condition has been established to ensure that any noise resulting from outdoor mechanical equipment is limited to the levels allowed by the City's nuisance code.*

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

*As discussed throughout these findings, the proposed development complies with all applicable development standards and relevant requirements. The 3 elements for which the applicant has requested a variance (building height, walkway connections, and access from a collector street) are discussed and approved in Finding 17.*

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

*Chapter 3 (Environmental & Natural Resources): Natural Hazards Element, Objective 1 (Floodplain) – Policies in this section are intended to protect the natural waterway function of 100-year floodplains and the lives and property of those who live along them. With the applicant's proposed revision to more accurately show the actual floodplain boundary on FEMA's floodplain map for this site, the proposed development would not impact any portion of the 100-year floodplain. As required, the applicant will provide the necessary Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR) approved by FEMA prior to the issuance of building permits and final occupancy, respectively.*

*Chapter 3: Open Spaces, Scenic Areas, & Natural Resources Element, Objective 2 (Natural Resources) – Policies in this section are intended to preserve and maintain important natural habitats and vegetation, including wetlands, riparian areas, and woodlands. As discussed in Finding 11, the proposed development has been reviewed against the City's standards for natural resource protection to determine whether impacts to WQR and HCA resources on the site have been avoided, minimized, and sufficiently mitigated for. The applicant has provided technical information and analysis to justify the proposed impacts and corresponding mitigation, which the Planning Commission has reviewed with the assistance of ESA, the City's on-call natural resources consultant. The Planning Commission has determined that some adjustments*

*to the development plan are warranted to further reduce impacts, and conditions have been established accordingly.*

*Chapter 4 (Land Use): Residential Land Use & Housing Element, Objective 3 (Residential Land Use: Design) – Policies in this section include those that encourage the protection of natural resource areas, preservation of existing tree coverage, and protection of existing trees during construction. As discussed in Finding 11, the proposed development is designed and conditioned to minimize impacts to the WQR and HCA resources on the site. The site layout would avoid impacts in the 100-year floodplain and preserve the mature Oregon oak woodland in the southwest corner of the site.*

*Chapter 4 (Land Use): Residential Land Use & Housing Element, Objective 6 (Housing Assistance) – Policies in this section include those that encourage the provision of senior housing. The proposed development would provide a high-quality living environment for seniors, with a variety of unit types (independent, assisted, and memory care) that allow residents the option to “age in place” within the community.*

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

*Existing water (provided by Clackamas River Water), sewer (provided by Clackamas County Water Environment Services), and public street facilities (currently under the jurisdiction of Clackamas County) are available in the Kellogg Creek Dr ROW to serve the proposed senior housing development. As discussed in Finding 14, the proposed and required street improvements would ensure that the local transportation system is adequate to handle the new impacts of the proposed development.*

*As proposed and conditioned, and as per the variances discussed and approved in Finding 17, the Planning Commission finds that the proposed senior housing development meets the approval criteria for conditional uses as established in MMC 19.905.4.A. This standard is met.*

- b. MMC Subsection 19.905.9 Standards Governing Conditional Uses

As per MMC 19.905.9, a conditional use shall comply with the standards of the base zone, and any overlay zones or special areas, in which it is located, except as these standards have been modified by the Planning Commission when authorizing the conditional use and as otherwise modified by the standards in this subsection.

- (1) MMC Subsection 19.905.9.A Yards

Additional yard width requirements may be imposed as a condition of approval to address impacts related to building height, mass, and proximity to residential land uses.

*As proposed, the new building would be over 75 ft from the front property line, between 50 ft and 90 ft from the nearest church boundaries along the eastern compound-line boundary, over 300 ft from the western boundary, and at least 140 ft from the nearest*

*portion of the rear boundary. At each of those boundaries, the adjacent feature is open space, whether public street, natural resource area, or private parking lot.*

*The Planning Commission finds that no additional yard requirements are necessary to address impacts related to building height, mass, or proximity to residential land uses.*

(2) MMC Subsection 19.905.9.B Access to Property and Building Openings

The City may limit or prohibit vehicle access from a conditional use to a residential street, and it may limit or prohibit building openings within 50 ft of residential property in a residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.

*As proposed, the primary access to the senior housing development site would be through a driveway on Kellogg Creek Dr, a Local street. Due to the subject property's limited frontage on Rusk Rd and limitations related to street classification and proximity to the intersection with OR 224, access from a non-residential street is not feasible. No building openings are proposed within 50 ft of any residential property.*

*The Planning Commission finds that no additional conditions related to vehicle access or building openings are necessary to limit impacts to any adjacent property.*

(3) MMC Subsection 19.905.9.G Senior and Retirement Housing

The Planning Commission shall consider the following for consideration of proposed senior and retirement housing:

(a) Pedestrian access to transit.

*The area is currently not well served by transit, with the nearest TriMet bus stop one-half mile away and across OR 224. Despite the proposed development's provision of an improved pedestrian connection from Kellogg Creek Dr to the intersection of Rusk Rd and OR 224, the distance and highway crossing remain as significant inhibitors of transit use from the site.*

(b) Pedestrian access to convenience facilities such as grocery store, pharmacy, laundromat, park and open space, and senior activity center.

*The site is adjacent to North Clackamas Park and the Milwaukie Center (a hub of senior activities), and the proposed pedestrian connections to improved sidewalks on Kellogg Creek Dr would maintain safe access to both facilities. Unfortunately, there are no grocery stores, pharmacies, laundromats, or similar convenience facilities within reasonable walking distance of the proposed senior housing facility.*

(c) Pedestrian access to banking, churches, hospitals, and restaurants.

*With the exception of the adjacent Turning Point Church to the east, there are no other banks, churches, hospitals, or restaurants within reasonable walking distance of the proposed senior housing facility. The nearby Eastern Orthodox Church of the Annunciation to the south off Rusk Rd is set far back from the street down a*

*long driveway, and there is no sidewalk network in place that connects to Kellogg Creek Dr and the proposed development.*

(d) **Quality of project as a living environment for residents.**

*The proposed senior housing development would provide a range of services to enhance the quality of life of all residents, including a restaurant-style communal dining room, housekeeping, social programs, and medical care. Other amenities include open and covered patios, outdoor planting areas for resident use, horseshoe pits, perimeter loop road and sidewalk for on-site mobility, café, formal living room and parlor with public computers for resident use, hobby workshop, fitness center, piano lounge, beauty salon, theater for movies and special events, activity space for cooking/baking programs, and hospitality bar for meals and social functions. The independent living units are equipped with full kitchens and balconies, with on-site parking available for those who still drive their own vehicle. The memory care section of the building has its own serving kitchen, dining room, and enclosed outdoor area.*

*As discussed in Finding 13-3, the applicant has proposed to provide 14 bicycle parking spaces (a minimum of 12 are required) to serve visitors and staff. Although the proposed development is not a multifamily project and the multifamily design guidelines are not technically applicable, it is reasonable to assume that at least some of the independent living residents may have bicycles and need a place to store them. The Planning Commission finds that at least 10 more bike parking spaces be provided (to serve a minimum of approximately 13% of the 78 independent living units) and that they should be located in a secure room(s) inside the building. A condition has been established to appropriately improve the quality of the project as a living environment for residents.*

*Overall, the proposed development would provide a high-quality facility where residents could comfortably “age in place.”*

(e) **Minimizing impact on the surrounding area.**

*As discussed elsewhere in these findings, traffic impacts from the proposed development are expected to be minimal and would be mitigated by the proposed and required improvements, particularly the extended northbound right-turn lane on Rusk Rd at the OR 224 intersection. As required, exterior lighting would be designed to avoid trespass onto adjacent properties and into the WQR and HCA resources on the site. Preservation of the open space natural resource area, along with new landscaping at the driveway entrance on Kellogg Creek Dr and around the perimeter of the new building, would provide a buffer from surrounding properties. On-site parking areas are distributed around the site to minimize large hardscape surfaces. The building itself is designed with varying heights, articulation, and quality materials that would minimize building mass and present an attractive façade. Noise from outdoor mechanical equipment would be minimized to be below the levels allowed by the City’s nuisance code.*

*The Planning Commission finds that no additional conditions, beyond those addressed elsewhere in these findings, are necessary for senior and retirement housing aspect of the proposed senior housing development.*

*As proposed, and as conditioned elsewhere in these findings, the Planning Commission finds that the proposed senior housing development meets the applicable standards of MMC 19.905.9.*

*As conditioned, the Planning Commission finds that the senior and retirement housing aspect of the proposed senior housing development meets the applicable standards of MMC 19.905 and is approvable as a conditional use.*

#### 17. MMC Section 19.911 Variances

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

##### a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. Ineligible variances include requests that result in any of the following: change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word “prohibited.”

*The applicant has requested the following 3 variances:*

- (1) to exceed the maximum building height of the underlying R-10 and R-3 zones (2.5 stories or 35 ft) for the senior and retirement housing aspect of the proposed development;*
- (2) for relief from the requirement to provide a pedestrian walkway connection into the site for every 300 ft of frontage; and*
- (3) for relief from the requirement that nursing and convalescent homes have access from an arterial or collector street.*

*The requested variances meet the eligibility requirements established in MMC 19.911.2.*

##### b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. Subsection 3-B establishes the Type II review process for limited variations to certain numerical standards. Subsection 3-C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

*None of the requested variances are identified in MMC 19.911.3.B as being eligible for Type II review. Therefore, the requested variances are subject to the Type III review process and the approval criteria established in MMC Subsection 19.911.4.B.*

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests. Specifically, MMC Subsection 19.911.4.B.1 provides the following approval criteria for Type III variances where the applicant elects to utilize the Discretionary Relief Criteria:

- (1) 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.

*Building Height: To minimize the building footprint and reduce impacts to the WQR and HCA resources on the site, the applicant has proposed a multistory building with sections that would be 1 story, 3 stories, and 4 stories in height. The senior and retirement housing (independent and assisted living units) would occupy the 3- and 4-story portions of the building, with a maximum height of almost 48 ft. Without increasing the height, a building of similar capacity would have a larger footprint, which would likely impact a larger portion of the WQR and HCA on site. In addition, a larger footprint would increase the walking distances between services and amenities for residents, who are senior by nature and may have some mobility issues.*

*Walkway Connection: The proposed development would provide 2 pedestrian connections to the sidewalk on Kellogg Creek Dr, where the site has nearly 650 ft of street frontage. The site also has approximately 64 ft of frontage on Rusk Rd, but a walkway connection there is not practicable. Given the proposed site layout, the required connection would traverse approximately 300 ft of open space along the perimeter of the adjacent church parking lot to connect with another walkway on the senior housing development site. With limited opportunities for surveillance from the senior housing and church properties, such a connection would not feel secure for users and would complicate the applicant's effort to promote resident safety by concentrating access to the facility in a more centralized location.*

*Access Requirement: With the approval of the proposed lot consolidation and boundary adjustment to separate the church property from the senior housing development property, the latter would have very little frontage (approximately 64 ft) on Rusk Rd, which is designated as a Collector street. That frontage is adjacent to the intersection with OR 224, so a new vehicle access along the site's Rusk Rd frontage is not allowed. Use of the shared access from the church property's Rusk Rd driveway as a primary access for the development site would increase potential conflicts with church traffic and would be limited to entrance-only movements with a exiting driveway on Kellogg Creek Dr. The proposed access on Kellogg Creek Dr, a Local street, more than meets the minimum spacing requirement of 100 ft from the intersection with Rusk Rd and allows for safe access as a primary entry point to the proposed senior housing development site.*

*The Planning Commission finds that the applicant's submittal provides an adequate analysis of the impacts and benefits of the requested variances compared to the baseline requirements. This criterion is met.*

- (2) The proposed variance is determined to be both reasonable and appropriate, and it meets one or more of the following criteria:
  - (a) The proposed variance avoids or minimizes impacts to surrounding properties.
  - (b) The proposed variance has desirable public benefits.
  - (c) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

*Building Height:* *The proposed height increase reduces the building footprint, resulting in fewer impacts to the designated natural resource areas on the site. Within the proposed footprint, the increased height also maintains the proposed capacity of the facility, providing more housing units for seniors in the larger community. By incorporating varied building heights instead of a uniform 4-story design, the proposed building minimizes the effect of massing on surrounding properties.*

*Walkway Connection:* *Eliminating the required walkway connection results in no real impacts to surrounding properties and reduces the potential for trespassing onto the site by people that have no business there.*

*Access Requirement:* *Allowing access to the proposed senior housing development from a Local street (Kellogg Creek Dr) instead of a Collector (Rusk Rd) responds to the existing built environment by locating the primary access to the new facility where it can meet the City's spacing standards and avoid increased impacts to the adjacent church property. The increase in vehicle trips on Kellogg Creek Dr would not result in significant impacts to the surrounding street network, particularly in light of the proposed extension of the northbound right-turn lane on Rusk Rd at the OR 224 intersection, which would alleviate existing congestion.*

*The Planning Commission finds that the requested variances are reasonable and appropriate and that each meets one or more of the criteria provided in MMC Subsection 19.911.B.1.b.*

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

*Building Height:* *The increased building height would be mitigated by the location of the building in the central part of the site, set more than 50 ft back from the nearest property line and generally separated further by parking, walkways, and landscaping. The preserved open space of the natural resource area on the western half of the site provides a significant buffer from adjacent properties, and the building's articulation and quality materials present an aesthetically pleasing façade.*

*Walkway Connection:* *The lack of a pedestrian connection from Rusk Rd across the eastern open space area of the subject property would be mitigated by a new bicycle-*

*pedestrian path along Rusk Rd from OR 224 to Kellogg Creek Dr. That new facility would provide a more visible route to the site and would help maintain security at the senior housing facility.*

*Access Requirement: The proposed development includes street improvements on Kellogg Creek Dr that would improve the existing bicycle and pedestrian facilities there. In addition, the northbound right-turn lane on Rusk Rd at the OR 224 intersection would be extended to provide more space for queuing, which would alleviate existing congestion. The proposed driveway on Kellogg Creek Dr would be buffered by a stormwater swale and accompanying landscaping on each side, and the perimeter loop road serving the site would be more 40 ft from the street; both aspects would further reduce visual and noise impacts that might result from locating the driveway on a Local street.*

*The Planning Commission finds that the requested variances will not result in any impacts that require further mitigation.*

*As proposed, the Planning Commission finds that the requested variances meet the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.*

*The Planning Commission finds that the requested variances are allowable as per the applicable standards of MMC 19.911.*

18. The application was referred to the following departments and agencies on January 15, 2019:

- Milwaukie Building Department
- Milwaukie Engineering Department
- Milwaukie Public Works Department
- Milwaukie Police Department
- City Attorney
- Lake Road Neighborhood District Association (NDA), Chairperson and Land Use Committee (LUC)
- Oak Grove Community Council
- Clackamas Fire District #1 (CFD#1)
- Clackamas County Department of Transportation and Development (DTD)
- Metro
- TriMet
- ODOT
- North Clackamas Parks & Recreation District
- North Clackamas School District;

In addition, notice of the public hearing was mailed to owners and residents of properties within 500 ft of the subject property on February 6, 2019. The extended notification boundary is greater than the 300-ft notice required by MMC Subsection 19.1006.3.D but



matches the notice area for the public information meeting held by the applicant prior to submittal of the application.

The comments received are summarized as follows:

- **Marah Danielson, Development Review Planner, ODOT Region 1:** ODOT supports the Traffic Impact Analysis recommendation that, “The Applicant should collaborate with the City of Milwaukie to construct a northbound right turn lane on Rusk Rd at OR 224 in conjunction with the site development.” The installation of a northbound right-turn lane will improve operations at the intersection of Rusk Rd and OR 224 for this development as well as future growth in the area.
- **Sarah Hartung, Senior Biologist, ESA (City’s on-call Natural Resource consultant):** ESA has provided a memo serving as peer review of the applicant’s Natural Resource Review report.
- **Ed Hacmac, property owner at 13033 SE Rusk Rd:** Senior housing is needed, and the development will not affect the local school system one way or the other. The biggest impacts will be related to traffic, and the Rusk Rd intersections with Ruscliff Rd and Kellogg Creek Dr need to be reconfigured for safety. Suggestions include a roundabout at Rusk Rd and Kellogg Creek Dr and addition of a travel lane along the church’s frontage. The recommended northbound right-turn lane at the intersection of Rusk Rd and OR 224 will help, but Rusk Rd should be widened all the way from OR 224 to Kellogg Creek Dr. Locating improvements along the church’s frontage seems fairer and less disruptive than pushing them onto the east side of Rusk Rd.
- **George McKee, property owner/resident in the area:** He would like to ensure that the proposed development does not include new equipment (e.g., air conditioning, heating, etc.) that would contribute to noise pollution in the surrounding residential area. The highway and existing businesses in the area already generate noise that affects the quality of life for nearby residents.
- **Kenneth Kent, Senior Planner, Clackamas County Department of Transportation and Development, Engineering Division:** Both Kellogg Creek Dr and Rusk Rd are under the County’s jurisdiction, so County standards and requirements apply where frontage improvements are concerned. The applicant’s Traffic Impact Study (TIS) recommends a reduction of the driveway to single-lane width (12 ft) and channelization to facilitate right-in-only movements. The County would prefer that the existing church driveway at Rusk Rd be closed but will accept the proposed driveway modification. The TIS indicates a need for additional storage for the northbound right-turn lane on Rusk Rd at OR 224, so an extension of the existing right-turn lane is required for at least 100 ft. The proposed bike path must be at least 10 ft wide, must be designed to extend west of the bulb-out and ramp down to the pavement on Kellogg Creek Dr, and shall be maintained by the City through an intergovernmental agreement.

Along the Kellogg Creek Dr frontage, a minimum 7-ft right-of-way dedication is required, with the following half-street improvements: minimum 16-ft roadway, curb

or curb and gutter, 5-ft landscape strip with street trees, 5-ft sidewalk, and no bike lane striping. It is acceptable to limit sidewalk construction on the north side of Kellogg Creek Dr as needed to preserve the existing oak trees, with a mid-block crossing pedestrian crossing to the existing sidewalk on the south side of the street. The proposed mid-block crossing shall be designed as per County standards, and the existing south-side sidewalk shall be upgraded to current ADA standards (from the crossing point west to the existing crossing near the park entrance).

- **Izak Hamilton, Fire Inspector, CFD#1:** Standard comments related to fire access and water supply.
- **Dalton Vodden, Associate Engineer, City of Milwaukie Engineering Department:** Comments related to the proposal's compliance with MMC Title 12 Streets, Sidewalks, and Public Places; MMC Chapter 13.14 Stormwater Management; MMC Title 18 Flood Hazard Regulations; and MMC Chapter 19.700 Public Facility Improvements, with relevant recommended conditions of approval.
- **Neil Schulman, Executive Director, North Urban Watersheds Council (NCUWC):** In general, any development in or near the watershed negatively impacts the health of streams and listed fish and increases the risk of flooding. It is important to take this opportunity to reduce the total impervious area within the watershed below the critical 45% coverage level. NCUWC has discussed the proposed development with the applicant over the past several months, offering suggestions and alternative concepts to improve the project's compatibility with watershed health. NCUWC is supportive of certain aspects of the proposed development: the variance to increase building height, which reduces the building footprint and impacts to WQR and HCA resources; the proposed parking modification to reduce the amount of required parking; the proposed bicycle path along Rusk Rd; the avoidance of impacts to the mature Oregon oak wetland in the southwest corner of the site; and the use of pervious pavement in on-site walkways.

At the same time, NCUWC has the following concerns: additional alternatives should be considered to further reduce the development footprint (building and other impervious surfaces); WQR and HCA resources are vital for watershed health, and no amount of impact is supportable; impacts to the younger Oregon oaks planted within the past few years as part of a regional restoration effort should not be allowed; the applicant should work with the North Clackamas Parks & Recreation District, Clackamas Soil & Water Conservation District, or a nonprofit land trust or conservation organization to transfer ownership of the natural resource portion of the site or put other permanent protections in place; a native seed mix should be used on side slopes adjacent to the riparian corridor; biodegradable erosion control measures should be used during construction; and the applicant and City should work with flood management agencies to more fully evaluate flood risk for the site.

- **Kathryn Krygier, Planning & Development Manager, North Clackamas Parks and Recreation District (NCPRD):** NCPRD supports eliminating encroachment of the proposed development into the WQR and HCA to minimize future flooding impacts

of Mount Scott Creek. The natural resource areas on the subject property extend into the adjacent North Clackamas Park, where NCPRD has made efforts to improve natural resources and habitat. NCPRD requests that the proposed development not compromise these restoration efforts. In addition, NCPRD is interested in discussing with the developer a possible continuation of the existing soft-surface social trail adjacent to Mount Scott Creek, from the park through the subject property to terminate at the sidewalk at the Rusk Rd/OR 224 intersection.

- **Caroline and Louis Bruneau, property owners/residents at 12942 SE Rusk Rd:** Long-time residents of the area expressed concerns about the proposed development's impacts on adjacent flood-prone properties, on traffic in the area and at nearby intersections, and on North Clackamas Park and the Milwaukie Center.

### **Conditions of Approval**

1. As per Finding 11-e, make the following revisions to reduce impacts to designated natural resource areas and improve the proposed mitigation plan:
  - a. Working from the revised site plan received on February 25, 2019 (see Exhibit 1), further revise all related plan sheets to shift all off-street parking spaces on the north side of the northern access road and all stormwater facilities out of the Habitat Conservation Area (HCA) to reduce impacts to protected natural resources. Revise the mitigation plan accordingly, recalculating the areas of temporary and permanent disturbance and adjusting the number of mitigation plantings in accordance with the ratio of 5 trees and 25 shrubs per 500 sq ft of disturbance area.
  - b. Make the following revisions to the mitigation plan:
    - (1) Provide more details on which nuisance species will be targeted for removal and if any substantial earthwork would be needed to control reed canarygrass, for example.
    - (2) Identify areas for oak plantings and how new plantings will accommodate existing oaks on site.
    - (3) Provide a typical planting scheme for installing proposed trees and shrubs with respect to existing vegetation.
    - (4) Describe temporary impacts as well as methods to minimize and restore temporarily disturbed areas. Areas between the sediment fence and limits of grading are presumed to have temporary impacts unless otherwise noted. Recalculate the areas of temporary disturbance and adjust the number of mitigation plantings as described in Condition 1-a.
    - (5) Use a native seed mix(es) on steep slopes adjacent to WQR and HCA resources.
    - (6) Install signage along the western and northern edges of the senior housing development to reduce foot traffic in the WQR and HCA resource areas. Signage shall be spaced at 100-ft intervals beginning on the west side of the Kellogg

Creek Dr entrance and continuing clockwise around the western and northern perimeter of the development.

- c. Update the Construction Management Plan (Figure 10 in the applicant's Natural Resource Review report) to show construction fencing at the outer limits of all proposed work, including staging and stockpile areas. All erosion control materials shall be specified to be biodegradable.
  - d. Update Figures 9 and 10 in the applicant's Natural Resource Review report to more accurately show tree protection fencing, specifically for trees at the eastern edge of Wetland A.
2. As per Finding 14, the applicant shall provide the following public improvements:
- a. The applicant shall dedicate 14 ft to the public ROW along the entire site frontage of Kellogg Creek Dr as necessary to accommodate the required public improvements and shall verify by survey that there is a minimum 27-ft-wide one-half ROW width.
  - b. The applicant shall grant an 8-ft-wide public utility easement adjacent to the public ROW along the entire site frontage of Kellogg Creek Dr.
  - c. The bike path along the north and west side of Rusk Rd shall be located within public ROW or suitable public easement. The path shall be designed to accommodate two-way bike traffic. The minimum width of the path shall be 10 ft. The path shall extend to a point west of the bulb-out and ramp down to the pavement of Kellogg Creek Dr. A design shall be provided for eastbound bikes on Kellogg Creek Dr to safely cross to the north side of the road and enter the bike path at or prior to the Kellogg Creek Dr/Rusk Rd intersection.
  - d. The applicant shall design and construct improvements along the entire site frontage of Kellogg Creek Dr in accordance with the *Clackamas County Roadway Standards*, except as agreed upon by the County for consistency with City standards. These improvements shall consist of:
    - (1) A minimum 16-ft-wide one-half-street improvement for a local roadway. The applicant shall widen Kellogg Creek Dr so that the minimum total road width along the site frontage is 32 ft. The structural section for Kellogg Creek Dr improvements shall consist of 4 in of asphalt concrete, per *Clackamas County Roadway Standards* Standard Drawing C100.
    - (2) The proposed half-street improvement, modifying the shed section to a crown section, shall comply with Section 250.7.5 of the *Clackamas County Roadway Standards*, including, but not limited to, a maximum cross-slope grade break of 2%.
    - (3) The off-site taper shall be provided per Section 250.6.4 of the *Clackamas County Roadway Standards*. The full road width shall extend to the westerly project property line, with the pavement taper beginning at that point.
    - (4) Standard curb, or curb and gutter if curblin slope is less than 1%.

- (5) Adjacent to the curb, a 5-ft landscape strip, including street trees planted at an average spacing of 40 ft, shall be constructed along the entire site frontage.
  - (6) Except where modified by the City Engineering Director or City Engineer, a minimum 5-ft-wide unobstructed sidewalk shall be constructed along the Kellogg Creek Dr frontage, per *Clackamas County Roadway Standards* Standard Drawing S960. Where the sidewalk does not connect to sidewalk on adjacent property, the end of the sidewalk shall include a concrete ADA accessible ramp providing a transition from the new sidewalk to the edge of the pavement.
  - (7) The proposed mid-block pedestrian crossing shall include pavement markings that are continental style, per Section 280.2 of the *Clackamas County Roadway Standards*. Pedestrian crossing signs and advanced warning signs shall be installed. Curb ramps shall be constructed per applicable ODOT Standard Drawings (RD755, RD756, and RD757). The applicant shall upgrade if necessary and verify that the sidewalk on the south side of Kellogg Creek Dr meets ADA standards from the proposed crossing west to the point where the current crossing is located near the park entrance. The existing crossing shall be removed, including pavement markings and ADA ramps, which shall be removed and replaced with curb and sidewalk to match.
  - (8) Drainage facilities shall be provided in conformance with *Clackamas County Roadway Standards* Chapter 4. Stormwater detention facilities shall not be located within the public ROW.
  - (9) Construct a minimum 5-ft-wide bicycle lane along the subject property's street frontage on the north side of Kellogg Creek Dr.
- e. The Turning Point Church driveway on Rusk Rd shall be reduced to a single lane width of 12 ft and shall include channelization to facilitate the right-in-only maneuver. Signs shall be provided in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) indicating entrance only.
  - f. Extend the right-turn lane for northbound traffic at the Rusk Rd/Highway 224 intersection in accordance with the applicable ODOT standards to a minimum length of 100 ft.
3. Prior to issuance of development permits for the senior housing development, the following shall be resolved:
    - a. Provide a Conditional Letter of Map Revision (CLOMR) approved by FEMA, showing a revised 100-year floodplain boundary that is consistent with the proposed contour lines shown on the applicant's various plan sheets.
    - b. As per Findings 12-c and 13-c(3f), provide a photometric plan that demonstrates that on-site walkways and parking areas will be lit to a minimum level of 0.5 footcandles and that light trespass onto other properties does not exceed 0.5 footcandles measured vertically at the boundaries of the site.

- c. As per Finding 13-c(2), revise the landscaping plan (Sheet L100 and others as applicable) to show a minimum spacing of 1 tree per 40 lineal ft in all perimeter landscaping areas, particularly in the northeast corner of the subject property where the perimeter loop road is adjacent to the church property and the ROW of Rusk Rd and OR 224.
  - d. As per Finding 13-c(3b), demonstrate that wheel stops will be installed as required by MMC Subsection 19.606.3.B and that lighting will be installed as required by MMC Subsection 19.606.3.F.
  - e. As per Finding 13-d, revise the plans to ensure that the proposed loading space is at least 10 ft wide.
  - f. As per Finding 13-e, provide sufficient information to confirm that all proposed bicycle parking spaces will meet the applicable standards of MMC Section 19.609.
  - g. As per Finding 13-f, revise all applicable plans to show a minimum of 12 parking spaces dedicated to carpool/vanpool use in accordance with the standards of MMC Section 19.610.
  - h. As per Finding 16-b, in addition to the 14 bike parking spaces proposed for staff and visitors, revise the plans to provide at least 10 more bike parking spaces (to serve a minimum of approximately 13% of the 78 independent living units). The additional spaces should be located in a secure room(s) inside the building.
4. Prior to issuance of a certificate of occupancy for the senior housing development, the following shall be resolved:
- a. As per Finding 5-a, vehicle access easements shall be granted to the church property over those portions of the private accessways on the senior housing development property as needed to allow two-way vehicle access to the church property from Kellogg Creek Dr. The required easements shall be recorded with Clackamas County, and documentation of the recording shall be provided to the City Planning Department.
  - b. As per Finding 8, record the approved lot consolidation and property line adjustment with the Clackamas County Surveyor, and provide a copy of the recorded recording instrument to the City Planning Department.
  - c. As per Finding 15-a(2), demonstrate that all outdoor mechanical equipment will be sound-buffered as needed to ensure that noise levels remain within the permissible levels established in MMC Section 8.08.090.
  - d. As per Finding 15-b(2), replace all trees removed for construction of the bicycle path along the church's Rusk Rd frontage as needed to keep the adjacent church parking lot in conformance with the perimeter planting standards of MMC 19.606.2.C.

### **Other requirements**

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

1. At the time of submittal of the associated development permit application(s), the following shall be resolved:
  - a. The applicant shall submit an application for Development Review in accordance with the standards established in MMC Section 19.906.
  - b. Final plans submitted for development permit review shall be in substantial conformance with the plans approved by this action, which are the plans stamped received by the City on January 28, 2019; with a modified Sheet A3.1 (Exterior Elevations) and Sheet A0.5 (Signage Plan), stamped received on February 1, 2019; except as otherwise modified by these conditions of approval.
  - c. Provide a narrative describing all actions taken to comply with these conditions of approval. In addition, describe any changes made after the issuance of this land use decision that are not related to these conditions of approval.
  - d. As per Finding 11, demonstrate that, where practicable, lights adjacent to WQR and HCA areas are placed so that they do not shine directly into any WQR and/or HCA location.
  - e. Submit a final stormwater management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department. All utilities shall conform to the Milwaukie Public Works Standards.
  - f. Provide an erosion control plan and Construction Management Plan (as per Finding 11) and obtain an erosion control permit.
2. All frontage improvements in, or adjacent to Clackamas County right-of-way (ROW), shall be in compliance with the Clackamas County Roadway Standards. Prior to commencement of site work, the applicant shall obtain a Development Permit from the Clackamas County Engineering Division for design and construction of required improvements to Clackamas County ROW on Kellogg Creek Dr and Rusk Rd. To obtain the Permit, the applicant shall submit plans prepared and stamped by an Engineer registered in the State of Oregon, provide a Performance Guarantee, and pay an Inspection Fee. The Performance Guarantee is 125% of the approved Engineer's cost estimate for the required improvements. Prior to commencement of utility work within Clackamas County ROW on Kellogg Creek Dr or Rusk Rd, a Utility Placement Permit shall be obtained from the Clackamas County Engineering Division.

3. The City of Milwaukie shall maintain the approved bicycle path along the north and west side of Rusk Rd and shall enter into an intergovernmental agreement (IGA) with the County accordingly.
4. Prior to commencement of any earth-disturbing activities, the applicant shall obtain a City erosion control permit.
5. Obtain a City ROW permit for construction of all required public improvements listed in these recommended conditions of approval for the public ROW under City of Milwaukie jurisdiction.
  - a. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
  - b. Provide a payment and performance bond for 100% of the cost of the required public improvements.
  - c. Install all underground utilities, including stubs for utility service prior to surfacing any streets. Utilities shall be designed to minimize or eliminate infiltration of floodwaters into the system. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters. Relocate or provide a private utility easement for all utilities encroaching onto adjacent properties.
  - d. Clear vision areas shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection. Remove all signs, structures, or vegetation more than 3 ft in height located in “vision clearance areas” at intersections of streets, driveways, and alleys fronting the proposed development.
  - e. The final site plan shall be approved by the City Engineering Director or City Engineer prior to construction.
  - f. Provide a 12-month Maintenance Bond upon completion of the construction.
  - g. Provide a final approved set of Mylar and electronic PDF “As Constructed” drawings to the City of Milwaukie prior to final inspection.
6. Requirements from Clackamas Fire District #1 (CFD#1)

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:

- a. A Fire Access and Water Supply plan is required for subdivisions and commercial buildings over 1000 sq ft in size or when required by CFD#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.

Emergency responder radio coverage must be tested or provided due to the following:

(1) Any building 50,000 sq ft in size or larger.

b. Access:

- (1) Provide address numbering that is clearly visible from the street.
- (2) No part of the building may be more than 150 ft from an approved fire department access road.
- (3) The inside turning radius and outside turning radius for a 20-ft-wide road shall not be less than 28 ft and 48 ft, measured from the same center point.
- (4) Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 ft (26 ft adjacent to fire hydrants) and an unobstructed vertical clearance of not less than 13 ft 6 in.
- (5) Fire apparatus access roads must support a 75,000-lb fire apparatus.
- (6) Buildings exceeding 30 ft in height shall require extra width and proximity provisions for aerial apparatus.
- (7) Provide at least 2 approved means of fire apparatus access to developments with more than 30 detached dwellings, or more than 100 multifamily dwelling units. Installation of fire sprinkler systems in all structures may exempt this requirement.
- (8) Access streets between 26 ft and less than 32 ft in width must have parking restricted to one side of the street. Access streets less than 26 ft in width must have parking restricted on both sides of the street. No parking restrictions for access roads 32 ft wide or more

c. Water Supply

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

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

- (2) All new buildings shall have a firefighting water supply that meets the fire flow requirements of the Fire Code. Maximum spacing between hydrants on street frontage shall not exceed 500 ft. Additional private on-site fire hydrants may be required for larger buildings. Fire sprinklers may reduce the water supply

requirements. Please visit the website below for access to our fire flow worksheet and requirements:

<http://www.clackamasfire.com/fire-prevention/new-construction-resources/>

- (3) Prior to the start of combustible construction required fire hydrants shall be operational and accessible.
  - (4) The fire department connection (FDC) for any fire sprinkler system shall be placed as near as possible to the street, and within 100 ft of a fire hydrant.
7. Prior to issuance of a certificate of occupancy for the proposed development, the following shall be resolved:
  - a. Provide a narrative describing all actions taken to comply with these conditions of approval. In addition, describe any changes made after the issuance of this land use decision that are not related to these conditions of approval.
  - b. Provide public easements and/or deed restrictions as required by this approval, including for public access to the bike path on the north and west side of Rusk Rd. Record all required easements and/or deed restrictions with the Clackamas County Recorder's office and provide a copy of each to the City Planning Department.
  - c. Provide a Letter of Map Revision (LOMR) approved by FEMA, showing a revised 100-year floodplain boundary that is consistent with the proposed contour lines shown on the applicant's various plan sheets.
  - d. Submit a letter from the project landscape designer attesting that all required site plantings have been completed in conformance with the approved site plans and with City standards, including all mitigation plantings. This includes removal of all invasive or nuisance species vegetation (as identified on the Milwaukie Native Plant List), noxious materials, and man-made debris such as concrete rubble from within all WQR and HCA locations on the site, on the north and south sides of the creek, as per Finding 11.
  - e. Construct and receive Engineering Department inspection for all required public improvements.
8. Recording the Boundary Change

As per MMC Section 17.04.120, the recording instruments for the lot consolidation and property line change must be submitted to the County Surveyor within 6 months of City approval. Prior to recording, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with the code and this approval. Lot consolidations for units of land legally created by metes and bounds descriptions may be recorded by deed subject to approval of the County Surveyor.

9. Conditional Use Permit

As per MMC Subsection 19.905.6, the City will issue a conditional use permit upon the approval of this application to establish a conditional use. The conditional use permit shall include the following information:

- a. A description of the use that has been approved by the City.
- b. Restrictions and/or conditions of approval placed upon the use.
- c. Ongoing responsibilities required for the operation of the conditional use.
- d. Allowance for the transfer of rights and responsibilities upon change in ownership of either the use or the property containing the use.
- e. Procedures for review, revisions, and suspension of the conditional use permit.

The applicant must record the conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City prior to commencing operations allowed by the conditional use permit.

10. Limitations on Development Activity

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

11. Landscaping Maintenance

As per MMC Subsection 19.402.11.B.9, a minimum of 80% of all required mitigation plantings for WQR or HCA disturbance shall remain alive on the second anniversary of the date the planting is completed. An annual report on the survival rate of all plantings shall be submitted for 2 years.

12. Expiration of Approval

As per MMC Subsection 19.1001.7.E, the land use approval granted with this decision shall expire and become void unless the following criteria are satisfied. For proposals requiring any kind of development permit, the development must complete both of the following steps:

- a. Obtain and pay for all necessary development permits and start construction within 2 years of land use approval.
- b. Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval.



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Dennis Egner, FAICP  
Planning Director

**Exhibits**

1. Revised Site Plan (Sheet C300), stamped received February 25, 2019

cc: Dan Dobson, c/o Bonaventure Senior Living, applicant (via email)  
Serah Breakstone, c/o DOWL, applicant's representative (via email)  
Planning Commission (via email)  
Alma Flores, Community Development Director (via email)  
Kelly Brooks, Acting Engineering Director (via email)  
Dalton Vodden, Associate Engineer (via email)  
Alex Roller, Engineering Technician II (via email)  
Samantha Vandagriff, Building Official (via email)  
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)  
Harmony Drake, Permit Technician (via email)  
Mike Boumann and Izak Hamilton, CFD#1 (via email)  
NDA(s): Lake Road (via email)  
Interested Persons  
Land Use File(s): CU-2018-003 (master file)  
Address File

Exhibit 1

- LEGEND:**
- - - - - EXISTING MINOR CONTOUR
  - - - - - EXISTING MAJOR CONTOUR
  - - - - - EXISTING PROPERTY LINE
  - - - - - PROPOSED MINOR CONTOUR
  - - - - - PROPOSED MAJOR CONTOUR
  - - - - - PROPOSED RIGHT OF WAY
  - - - - - TOE OF SLOPE
  - x - x - SEDIMENT FENCE
  - - INLET PROTECTION
  - ▒ - GRAVEL CONSTRUCTION ENTRANCE
  - ▒ - 100 YEAR FLOODPLAIN ELEVATION AS SURVEYED
  - ▒ - HABITAT CONSERVATION AREA (HCA) AS PROVIDED BY PACIFIC HABITAT SERVICES (PHS)
  - - - - - POTENTIAL SITE PLAN REVISION PER CITY STAFF RECOMMENDATION
  - 18,683 SF (0.43 ACRES) - HCA IMPACT REDUCTION



**DOWL**  
 WWW.DOWL.COM  
 720 SW Washington Street, #750  
 Portland, Oregon 97205  
 971-280-8641

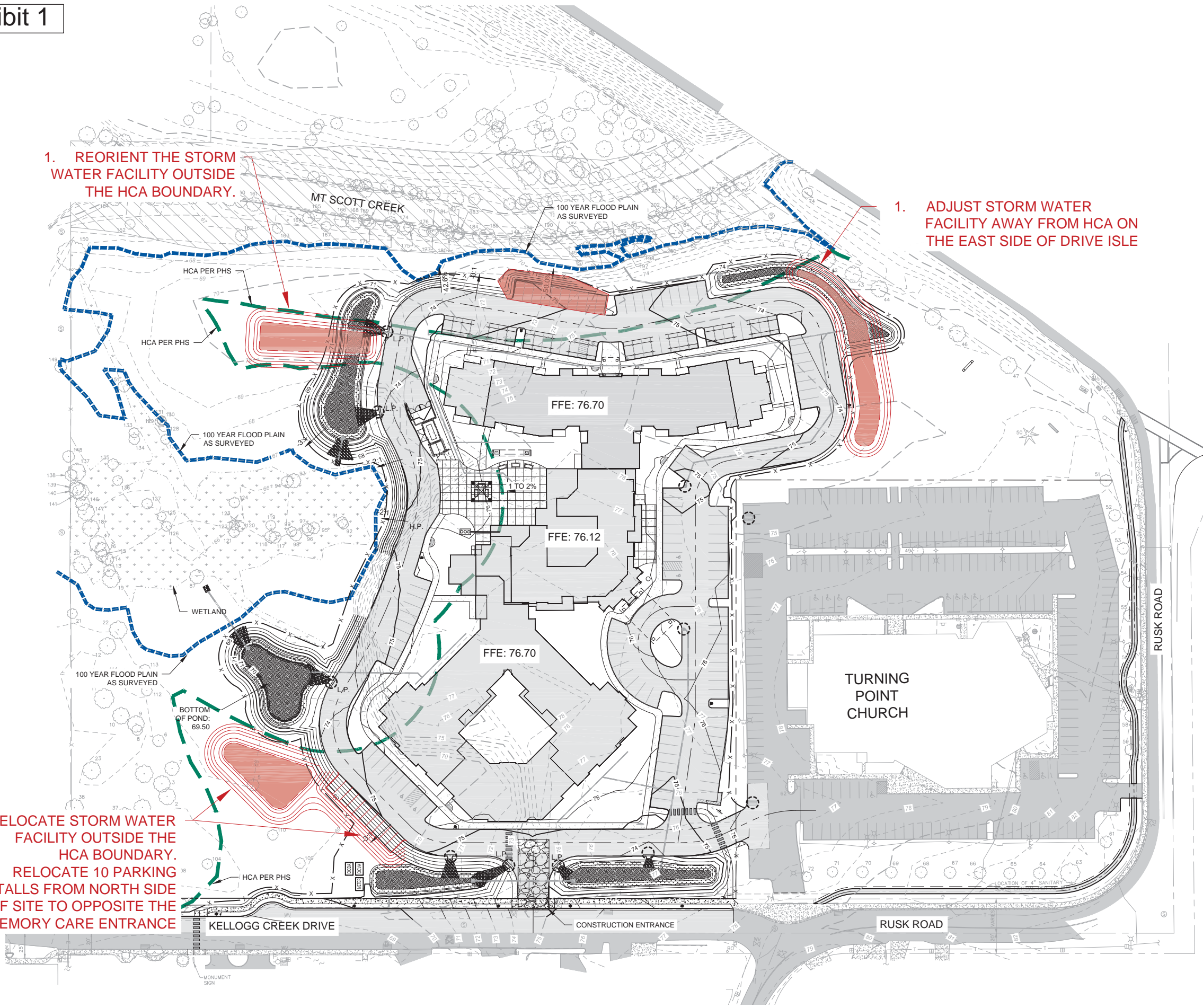
**BONAVENTURE SENIOR HOUSING**  
 GRADING PLAN  
 BONAVENTURE SENIOR HOUSING  
 MILWAUKIE, OREGON  
 13333 RUSK ROAD MILWAUKIE, OR 97222

PROJECT 14497-01  
 DATE 01/11/2019  
 © DOWL 2016  
 SHEET  
 C300

1. REORIENT THE STORM WATER FACILITY OUTSIDE THE HCA BOUNDARY.

1. ADJUST STORM WATER FACILITY AWAY FROM HCA ON THE EAST SIDE OF DRIVE ISLE

1. RELOCATE STORM WATER FACILITY OUTSIDE THE HCA BOUNDARY.  
 2. RELOCATE 10 PARKING STALLS FROM NORTH SIDE OF SITE TO OPPOSITE THE MEMORY CARE ENTRANCE



G:\22\14497-01\65CAD\Civil\2-DD\SC14-CS-CR-BONA.dwg PLOT DATE 2019-2-25 15:13 SAVED DATE 2019-02-25 14:34 USER: semmens