

**BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON**

Regarding an application by Raluca Vlad for approval of a 42-bed residential care facility with 24-hour care for elderly tenants on a 1.13-acre parcel located at 5212 SE Thiessen Road in unincorporated Clackamas County, Oregon) **FINAL ORDER**
) **Case Nos.**
) **Z0160-25 and Z0161-25**
) **(Mapleview Manor II)**

A. SUMMARY

1. The applicant, Raluca Vlad, requests design review and conditional use approval to construct and operate a 42-bed residential care facility (nursing home) to provide 24-hour care for elderly tenants. The care facility will include a memory care endorsement. The development will include associated on-site landscaping, lighting, and parking on a 1.13-acre parcel located at 5212 SE Thiessen Road; also known as tax lot 00300 Section 07AC, Township 2 South, Range 2 East, of the Willamette Meridian, Clackamas County (the “site”). The applicant also requests approval of a design modification to vary from the requirement that 50% of the street frontage of the site shall have buildings located at the minimum front setback line.

a. The site and all surrounding properties are zoned R-10 (Urban Low Density Residential, 10,000 square foot minimum lot size). The site does not contain mapped wetlands or streams regulated by the Clackamas County Zoning and Development Ordinance (ZDO). The property is relatively flat, sloping gently downhill to the southwest and does not include any slopes greater than 20%. The site is currently developed with a single-family residence and detached garage, which the applicant proposed to remove in order to construct the proposed facility.

b. The applicant proposed to construct a 16,650 square foot two-story¹ building, a 12-space parking lot, and associated uses in the front (northwestern) portion of the site. The building will be setback more than 70 feet from the rear (southeast) boundary. The applicant will retain the existing trees and much of the existing landscaping in the rear of the site.

c. The applicant will collect and treat as necessary stormwater runoff from all new impervious areas of the site and convey it to an underground detention facility in the parking lot. The applicant will release treated stormwater into the existing storm sewer system in SE Thiessen Road at less than predevelopment rates.

2. Clackamas County Hearings Officer Joe Turner (the “hearings officer”) held an online public hearing about the application. County staff recommended that the hearings officer approve the application, subject to conditions. See the Staff Report and

¹ The applicant will build the structure into the slope, so the building will appear as a single-story structure when viewed from SE Thiessen Road.

Recommendation to the Hearings Officer dated July 17, 2025, (the “Staff Report”). The applicant accepted the findings and conditions of approval as recommended by County staff, as modified at the hearing, without exceptions. Five persons testified in opposition to the proposed facility. Two persons testified in writing (Exhibits 13 and 15). Contested issues include:

- a. Whether the County provided adequate notice of the public hearing;
- b. Whether the proposed use is permitted in the R-10 zone;
- c. Whether the proposed development will increase the risk of flooding, erosion, and landslides in the area;
- d. Whether traffic generated by the proposed use will exceed the capacity of area streets or create a hazard;
- e. Whether the proposed use will alter the character of the area, particularly with regard to privacy, lighting, noise, property values, and wildlife, in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses permitted in the underlying zone (ZDO 1203.01.D);
- f. Whether the applicant is required to demonstrate a need for the proposed use; and
- g. Whether the site would be better used for needed housing or other uses.

3. Based on the findings provided or incorporated herein, the hearings officer finds that the applicant sustained the burden of proof that the proposed use does or can comply with the relevant approval standards of the Clackamas County Zoning and Development Ordinance (the “ZDO”), provided the applicant complies with conditions of approval recommended by County staff or warranted by the facts and law to ensure the proposed use does comply in fact with those standards. Therefore the hearings officer approves the application subject to the conditions at the end of this final order based on the findings and conclusions incorporated herein.

B. HEARING AND RECORD HIGHLIGHTS

1. The hearings officer received testimony at the public hearing about this application on July 24, 2025. All exhibits and records of testimony are filed at Clackamas County Department of Transportation and Development. At the beginning of the hearing, the hearings officer made the declaration required by ORS 197.763. The hearings officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The following is a summary by the hearings officer of selected testimony at the public hearing.

2. County planner Melissa Lord summarized the Staff Report and her PowerPoint presentation (Exhibit 16).

a. The applicant is requesting approval of a 42-bed residential care facility in a two-story structure. The proposed facility will provide 24-hour care for elderly tenants.

b. The applicant also requests approval of a design modification to vary from the requirement that 50% of the street frontage of the site shall have buildings located at the minimum front setback line or a maximum 20-foot front setback if pedestrian amenities are provided. The R-10 zone requires a minimum 15-foot front setback. As proposed, a portion of the building will be located within 18 feet of the front boundary. However, the majority of the building will be setback between 24 and 28 feet from the front boundary. The additional setback is necessary to accommodate the slope of the site and allow construction of an emergency exit ramp rather than stairs. The applicant will provide pedestrian amenities consisting of two benches located between the sidewalk and the front entrance of the building.

c. The proposed building design and materials are consistent with existing residential development in the surrounding area.

d. State law prohibits the County from requiring vehicle parking on the site. However, the applicant proposed to provide 12 on-site parking spaces, three more than the nine spaces required by the Code.

e. She requested the hearings officer add a condition of approval requiring the applicant modify the outdoor lighting plan to limit light levels to a maximum 0.5 footcandles at the side and rear boundaries of the site.

f. She requested the hearings officer modify finding (X) on page 17 of the Staff Report to state that the Code requires a minimum five-foot side yard setback and the applicant is proposed a ten-foot setback.

g. She requested the hearings officer amend finding 9 on page 19 of the Staff Report to note that the existing full width right-of-way on SE Thiessen Road is 40 feet wide. The applicant will dedicate roughly 15 feet of additional right-of-way to provide for a 35-foot half-width right-of-way along the site frontage.

3. Planner Danelle Isenhart and civil engineer Bryan Dickerson appeared on behalf of the applicant.

a. Ms. Isenhart accepted the findings and conditions in the Staff Report, as modified at the hearing, without exceptions. She agreed that the applicant will modify the lighting plan to limit lighting to a maximum 0.5 footcandles at the side and rear boundaries of the site.

i. She noted that the applicant will retain the existing mature trees on the rear (southeast) boundary of the site and install a six-foot high cedar fence on the rear and side boundaries, which will screen views of the site from abutting properties.

ii. The proposed development will reduce the volume of stormwater flowing downhill onto properties to the southeast. The applicant will collect runoff from the proposed parking lot, building roof, and other impervious areas and discharge it to the storm sewer in SE Thiessen Road at less than predevelopment rates.

b. Mr. Dickerson testified that the proposed building and parking lot will be located as close as possible to the front (northwest) boundary of the site. Grading on the site will be limited to the footprint of the building and parking lot, leaving the rear third of the site undeveloped. Drainage from the new impervious areas, roughly 2/3rds of the site, will be directed into the storm sewer in SE Thiessen Road, reducing the volume of runoff flowing downhill to the southeast.

4. Shirley Ferdinand and her mother Shirley Pianalto testified in opposition to the proposed development.

a. Ms. Ferdinand testified that her mother owns the property abutting the rear (southeast) boundary of the site where they both reside. She argued that the proposed use is a business that should not be allowed in a residential zone. The use will generate noise and impact the privacy of their residence. There are already several existing nursing home facilities on SE Thiessen Road. This development will add additional traffic onto SE Thiessen Road, which is difficult to access under existing conditions.

b. Ms. Pianalto expressed concern that lights from the site will shine into her residence. She experiences flooding issues on her property under existing conditions. Removal of existing trees on the site, which is located uphill from her property, will increase the volume of stormwater runoff and make her flooding problems worse. The use will impact the value of her property.

5. Susan Schmick summarized her written testimony (Exhibit 15).

a. She argued that the proposed development is incompatible with the R-10 zoning of the site and surrounding neighborhood. It is a commercial facility that should not be allowed in a residential neighborhood.

b. She argued that there are several errors in the application. The site is not located in an urbanized area.

c. The site is located near the top of a steep slope. Properties downhill from the site flood under existing conditions. Removal of trees on the site will increase the volume of runoff, increasing the amount of flooding on adjacent properties in

violation of state law the prohibits any increase in the volume of stormwater runoff flowing onto neighboring properties. Construction on the site will create a risk of erosion and sediment flowing onto downhill properties.

d. The County failed to provide adequate notice of the proposed development, as notice was only mailed to the owners of properties located within 300 feet of the site. However, residents beyond this radius will be impacted by increased runoff, erosion, landslide risk, traffic, and reduced property values.

6. Sam Knee argued that there is no need for the proposed facility as there are approximately 30 existing adult care homes within a two-mile radius of the site, some of which have vacancies. There is insufficient demand for another facility on this site and this facility may be mostly vacant.

7. Joanna Knee questioned the need for this facility, as 70% of older Americans intend to remain in their homes rather than moving to a care facility. She argued that this site should be developed with affordable housing rather than a care facility. The proposed use will generate additional traffic on SE Thiessen Road, with doctors, staff, and visitors driving to and from the site throughout the day. Speeding is a problem on streets in the area under existing conditions and traffic from this facility will contribute to that problem, creating a hazard for pedestrians and school buses. The use will impact the value of surrounding properties. Her mother in law, who lives up the street from the site did not get notice of the application.

8. The hearing ended at 10:28 a.m. At the conclusion of the hearing the hearings officer held the record open for one week, until 4:00 p.m. on July 31, 2025, solely for the applicant to submit a final written argument. No one requested the hearings officer hold the record open for any other purpose. Nate and Wendy Noble submitted written testimony at 10:47 a.m. on July 24, 2025 (Exhibit 17). Wendi Coryell, with CCSD #5-Street Lighting submitted a memo on July 30, 2025 (Exhibit 18). Both of these exhibits were submitted after the conclusion of the hearing and after the record was closed to public comment. Therefore, they must be excluded from the record in this case.

C. DISCUSSION

The hearings officer adopts the following findings as his own.

1. Notice

The hearings officer finds that the County provided adequate notice of the hearing. The County mailed notice of this application and public hearing to the applicant, the neighborhood association, property owners within 300 feet of the site, and other agencies on June 10, 2025, as required by ZDO 1307.11(A) (Exhibit 5). The County is not required to provide notice to the owners or properties located outside of the 300-foot radius notice area and the hearings officer cannot require notice in excess of Code requirements.

The hearings officer finds that the public had an adequate opportunity to review and respond to the proposed development, consistent with the limitations of the Code. The neighborhood was well represented at the hearing. Residents of the neighborhood testified clearly and succinctly regarding issues of concern to them.

2. **ZDO Section 202, Definitions**

Section 202 provides definitions for certain terms found within the Zoning and Development Ordinance (ZDO).

“NURSING HOME” is defined as:

“A nursing, convalescent, or rest home facility licensed by the State under ORS chapters 441 and 442, or an assisting living facility licensed under ORS 443, which provides, for a period exceeding 24 hours, the continuous services of licensed nursing personnel to care for chronically ill or infirm patients, exclusive of those patients related to the owner or facility administrator by blood or marriage. Such nursing, convalescent, or rest home must provide nursing services to those patients who, in the judgment of a physician, registered nurse, or facility administrator, require remedial, restorative, supportive, or preventive nursing measures.”

“PEDESTRIAN AMENITIES” is defined as:

Outdoor improvements directly visible and accessible to pedestrians that promote and facilitate pedestrian use, including plazas, pocket parks, courtyards, awnings or other weather protection, kiosks, gazebos, water features, drinking fountains, sculpture, outside seating areas, planters, trellises, and street furniture

3. **ZDO Section 315, Urban Low Density Residential (R-10) District**

Subsection 315.03 Uses Permitted; Table 315-1

Finding: The applicant describes the proposed use as a residential care facility and memory care facility in their submitted application materials; for clarification, the applicant confirmed that the use meets the definition of “nursing home” in the County’s Zoning and Development Ordinance (Exhibit 2a at 1). The subject property is located in the R-10 zoning district and “nursing home” is listed an allowed conditional use in the R-10 district. The applicant is not requesting a variance to allow this use.

The low-density residential zones allow a variety of non-residential and commercial uses, including nursing homes, child care facilities, wedding and event facilities, etc. (See ZDO Table 315-1). That is a policy choice by the Board of Commissioners, which the hearings

officer has no authority to reconsider. Assertions that the proposed use is a “commercial facility which does not belong in a single-family residential neighborhood” or that the R-10 zone is limited to single-family residential are incorrect; the use is allowed as a conditional use in the R-10 zone.

Approval of this application will not create a precedent for future applicants. This type of facility is allowed as a conditional use in the R-10 zone. Other land owners are entitled to request approval of similar facilities on their properties. Such future applications would be subject to the applicable zoning and approval criteria in effect when an application is submitted. Such applications must be approved if the applicants demonstrate that the proposed facilities meet the applicable approval criteria. Approval or denial of this application would not make it any more or less likely that such applications will be submitted or approved. Each property and applicant is unique and must be reviewed on its own merits. In any case, the potential precedential effect of this development is not relevant to the applicable approval criteria.

The applicant submitted a conditional use permit for review. This standard is met.

Subsection 315.04 Dimensional and Building Standards

Finding: Pursuant to Subsection 315.04 and Table 315-2, the applicant’s proposal complies with the dimensional standards of the R-10 district.

	Standard	Proposed	Compliant
Maximum Lot Coverage	50%	33.9%	Yes
Maximum Building Height	35 feet	23.5 feet	Yes
Minimum Front Setback	15 feet, except 20 feet to garage and carport motor vehicle entries	18 feet; 8 feet to cedar pergola*	Yes, with conditions
Minimum Rear Setback	20 feet	40 feet	Yes
Minimum Side Setback	5 feet	10 feet	Yes

The proposed plans submitted to the County on July 16, 2025, (Exhibit 14) include a cedar pergola and benches located in front of the main entrance on SE Thiessen Road. The pergola is sited eight feet and the benches are nine feet from the front property line; however, the minimum front setback is 15 feet. A condition of approval is warranted that specifically excludes the pergola from the approved land use permit since it does not meet the minimum front setback. For reasons discussed in further detail below, the benches are an important pedestrian amenity and should be included in the final design. Given the

amount of space available in front of the building, it is feasible to modify the design to ensure the benches are provided and that they comply with the minimum 15-foot front setback.

The dimensional and building standards are met as conditioned.

4. **ZDO Section 1001, General Provisions**

Section 1001.03 and Table 1001-1 establish the applicability of Section 1000 for Institutional uses. Applicable sections are reviewed below.

5. **ZDO Section 1002, Protection of Natural Features**

Section 1002 addresses the protection of various natural features including hillsides, the excessive removal of trees prior to development, the protection of trees and wooded areas through development, river and stream corridors, the winter ranges of deer and elk populations, certain open spaces near Mount Hood, significant natural areas, and significant landforms and vegetation.

Finding: The site is currently developed with a single-family detached dwelling and a residential accessory structure; the existing dwelling and accessory structure will be demolished. The site is generally flat, but slopes down to the rear of the lot. The property is located outside of the deer and elk winter range, as identified on Comprehensive Plan Map III-2. The subject property is within both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary and so the river and stream corridor standards are not applicable. There has been no known excessive tree removal on site.

ZDO 1002.03.A provides that:

Existing wooded areas, significant clumps or groves of trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible. This land use application will approve the removal of many trees on site, but the trees along the rear property line will be retained. The preservation of these natural features shall be balanced with the needs of the development, but shall not preclude development of the subject property, or require a reduction in the number of lots or dwelling units that would otherwise be permitted.”

The hearings officer finds that the proposed development complies with this standard. The applicant must remove all of the trees in the northwest portion of the site in order to accommodate the proposed development. The applicant will preserve the row of existing trees on the southwest boundary of the site. It is not feasible to preserve additional trees on the site, given the location of the existing trees, the requirement that the building be

located as close as possible to the front boundary, the design of the proposed building, and required grading.

The standards of Section 1002, as applicable, are met.

6. **ZDO Section 1003 and 1004, Hazards to Safety and Historic Preservation**

Section 1003 addresses various hazards to safety including flood, soils, fire, and mass movement areas. Section 1004 addresses standards related to historic preservation.

Finding: Neighbors expressed concern that this development will increase the risk of landslides. However, there is no evidence in the record to support those concerns. The property is not within a mass movement hazard area and does not include soil hazards, as identified on the State Department of Geology and Mineral Industries Bulletin 99 maps. The slopes on the site do not exceed 20% and the development is proposed on the flatter portion of the site abutting SE Thiessen Road. The relatively steeper slopes on the southwest portion of the site will remain undisturbed. As noted in the applicant's May 5, 2025, Geotechnical Analysis, the "[n]ative soils underlying the site are characterized by moderate to high shear strength and a moderate to high resistance to slope instability on gently sloping topography." (Exhibit 2 at 147).

Neighbors expressed concerns that the proposed development will increase the amount of stormwater flowing downhill from the site and onto adjacent properties, exacerbating existing flooding issues. However, as discussed below, the proposed development will not increase, and is likely to reduce, the amount of stormwater runoff from the site. The site slopes downhill to the southwest and stormwater falling on the site follows that slope, flowing onto adjacent properties under existing conditions. The applicant is not required to remedy that existing condition. Removal of trees on the site may reduce the volume of stormwater that infiltrates on the site, increasing the volume of runoff to some extent. However, the applicant collect stormwater runoff from all new impervious areas, which equates to roughly 2/3rds of the site area, detain it on the site, and release it into the existing storm sewer system in SE Thiessen Road, diverting runoff that currently flows downhill onto adjacent properties to the southeast into the public storm sewer system.

The property is not within the flood hazard area and was not identified as an area of significant fire hazard on the repealed State wildfire maps (reference Senate Bill 83). The property is served by Clackamas Fire District #1. The existing dwelling is not a designated historic or cultural resource. Therefore, the standards in these sections are not applicable to this development.

6. **ZDO Section 1005, Site and Building Design**

Section 1005 addresses the development of sites and design of buildings so as to efficiently utilize land, create lively, safe, and walkable centers, support the use of non-auto modes of transportation, reduce impacts of development on natural features, utilize opportunities arising from a site's configuration, design illumination so dark

skies are maintained when possible and accommodate the needs of users of developments. It applies to institutional, commercial, and industrial development; multifamily dwellings; and developments of more than one, two- or three-family dwelling.

Subsection 1005.02 – General Site Design Standards establishes standards for the sites of commercial, industrial, and multifamily developments and addresses standards for the placement and orientation of buildings, on-site pedestrian circulation, the placement and orientation of building entrances, and other use- and zone-specific standards.

Finding: Only one building proposed on site, so clustering buildings is not feasible. The adjacent properties are developed with single-family dwellings, therefore vehicular and/or pedestrian connections to the adjoining lots would not be appropriate for this development.

The building will not be oriented within 20 degrees of true south due to the layout of the site and because the lot sits diagonally from a true north-south axis. The applicant states that “the longest building elevations are generally parallel with the street property line to have the building up near the street and to provide parking and stormwater for the site. Therefore, it is not feasible to have the longest building elevations oriented within 20 degrees of true south.” The hearings officer concurs. In addition, reorienting the building to within 20 degrees of true south would further reduce compliance with the street frontage requirement of ZDO 1005.02(E).

An eight-foot wide concrete walkway, framed by benches on either side, will connect the primary building entrance to the proposed sidewalk on SE Thiessen Road. A five-foot wide unobstructed walkway will connect the accessible building entrance to the parking lot; the parking spaces adjacent to the walkway include wheelstops. The lighting plan demonstrates that the walkways will be illuminated by the proposed lighting.

As discussed above, ZDO Section 1005.02(E) requires a minimum of 50 percent of the street frontage of the development site is required to have buildings located at the 15-foot front setback line, except that the front setback can be increased to 20 feet when pedestrian amenities are provided. The applicant requested a design modification to this standard pursuant to Subsection 1005.06. Following the Design Review Committee (DRC) meeting the applicant modified the initial building design in response to staff and DRC members’ review. Based on the revised, plan, the proposed building will be located as close as 18 feet from the front property line, while the majority of the building will be located between 24 and 28 feet from the front property line. The applicant proposes to include a bench on either side of the eight-foot wide walkway as a pedestrian amenity, and two dogwood trees which frame the main entrance facing SE Thiessen Road.

ZDO Section 1005.01, provides that the purposes of the site design criteria include creating attractive, safe, walkable neighborhoods that complement the community, to efficiently use the site, and to accommodate the needs of the users. The hearings officer finds that the proposed setback accommodates the natural grade (slope) of the site, which

allows the applicant to develop the site in a way that minimizes the need to over-engineer the property by accommodating slopes that are steeper than desirable to build on. In addition, it accommodates the needs of users, allowing the applicant to construct an emergency exit with a ramp which can accommodate residents who use wheelchairs, scooters, walkers, and similar mobility devices, rather than stairs.

A condition of approval is warranted to ensure that the pergola is not included in the approval since it cannot meet the minimum 15-foot setback in front of the porch. As such, commenting on the design merits of the pergola is not necessary for this discussion. A condition of approval is warranted to ensure that the benches are included in the final design.

Based on the above findings, and incorporating the findings of the DRC, the hearings officer finds that the proposed design modification should be granted since the applicant has thoughtfully sited the building in a location that makes the most efficient use the site's natural features to accommodate the needs of the users and adequately meets the intent of the site design "purpose" of ZDO Section 1005.01.

Subsections F through L are not applicable to this development.

Subsection 1005.03 – Building Design provides standards for building facades, entrances roof design, exterior building materials, the screening of mechanical equipment, and other use- and zone-specific standards.

Finding: The proposed building design includes architectural relief and visual interest through the use of building materials, window placement and treatment, and changes in plane.

Two primary building entrances are proposed; one facing the parking lot and the other facing SE Thiessen Road. Each entrance is sheltered by an awning or overhang of at least four feet. The entrances are defined with horizontal siding and masonry, which differs from the rest of the building. Subsection 1005.03(B) requires public entrances be clearly defined and highly visible. Following the Design Review Committee meeting, the applicant updated the building façade that faces SE Thiessen Road to include a door that faces the street, and a large, nine-foot deep covered entry way. In addition to the building materials and details, the new design clearly defines the primary entrance and connects the entry to the (proposed) public sidewalk.

The front building façade facing SE Thiessen Road has a minimum 60% transparency of the first floor linear frontage. The building has a pitched roof and eaves will overhang by at least 24 inches. The proposed building materials include a mix of horizontal siding and masonry at the two primary entrances, and a mix of board and batten and shake siding on the rest of the building.

The building is located to maximize the potential for surveillance of the parking area and walkways. The application materials demonstrate that lighting will be installed to increase the safety of the site.

Subsection 1005.04 – Outdoor Lighting provides standards to ensure that onsite lighting is compatible with the site and surrounding uses while preventing light trespass and pollution.

Finding: The applicant submitted a photometric plan that includes footcandle information and light fixture details. The proposed light fixtures do not shine light skyward. The applicant proposed to install pole-mounted site lighting at a height of 26 feet, however the maximum height allowed is 25 feet. A condition of approval is warranted to ensure that the light is installed no higher than 25 feet. Entrance lighting may not exceed a height of 12 feet, however the proposal includes a mounting height of 13 feet. A condition of approval is warranted to ensure that the light is mounted no higher than 12 feet. As conditioned, these standards can be met.

Subsection 1005.05 – Additional Requirements requires projects to employ one additional design element per 20,000 square feet of site area.

Finding: Section 1005.05 requires applicants to employ one “Additional Requirement” for every 20,000 square feet of site area. The site area is 1.13 acres, or 49,058 square feet and so three design elements are required. The applicant proposes four design elements, and three are accepted by the County:

(B): Provide skylights or clerestory windows to provide natural lighting. This “Additional Requirement” is met.

(G): Provide additional landscaping area at least 10 percent above the requirement for the site pursuant to Table 1009-1, Minimum Landscaped Area. A minimum of 12,265 square feet of landscaping is required, and so an additional 1,226.5 square feet of landscaping must be proposed to meet this item. The “landscape area summary” provided on Sheet L1 of the submitted application materials is somewhat misleading in that the table counts the drought tolerant species and the native landscape area twice. Staff sought clarification from the applicant and confirmed that the proposal includes 12,743 square feet of landscaping (see Exhibit 7). The 12,743 square feet of landscaping, exceeds the minimum amount required by Section 1009, but is 748.5 square feet shy of using this item “G” to comply with Subsection 1005.05. This “Additional Requirement” is not met.

(J) Apply other techniques for onsite storm water treatment identified by the surface water management regulatory authority. Water Environment Services (WES) is the surface water management regulatory authority and they provided initial feedback to the applicant regarding this proposal during the pre-application conference. The applicant designed the project to incorporate the onsite stormwater treatment requirements in accordance with WES’ standards. WES reviewed the land use application and provided recommended conditions of approval; provided the applicant obtain the necessary permits for WES, this “Additional Requirement” is met.

(X): Locate buildings at the minimum side setback line or within ten feet of the side lot line whichever is greater. The proposed building will be located at the minimum ten-foot side setback line. This design element is met.

Subsection 1005.06 Modifications. Modification of any standard identified in Subsections 1005.02 and 1005.03 may be approved as part of design review if the proposed modification will result in a development that achieves the purposes stated in Subsection 1005.01 as well or better than the requirement listed.

Finding: The applicant has requested modifications to subsection 1005.02(E), which requires a minimum of 50% of the street frontage of the site shall have buildings located as the minimum front setback line. As detailed above, this design modification meets this standard and is granted.

8. **ZDO Section 1006, Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control**

Section 1006 addresses the provision of appropriate infrastructure for utilities, water supply, and sewage disposal, as well as the management of surface water and site erosion.

Subsection 1006.01 General Standards. Except where otherwise prohibited by the utility district or company, utility service lines shall be installed underground.

Finding: The proposal demonstrates compliance with this subsection; all utility lines will be underground. There is an eight-foot wide public utility easement along SE Thiessen Road. This standard is met.

Subsection 1006.02 Street Lights. Street lights are required for all development inside the Portland Metropolitan Urban Growth Boundary.

Finding: Street lights are required to be installed with this development. A condition of approval is warranted to ensure the installation of street lights in compliance with the requirements of the Clackamas County Service District No. 5.

Subsection 1006.03 Water Supply. Development which has a need for, or will be provided with, public or community water service shall install water service facilities and grant necessary easements pursuant to the requirements of the district or company serving the development. Approval of a development that requires public or community water service shall be granted only if the applicant provides a preliminary statement of feasibility from the water system service provider.

Finding: Oak Lodge Water Services is the water provider in this area. The applicant provided a signed preliminary statement of feasibility confirming that water service, including fire flows, is available at levels appropriate for the development and adequate water system capacity is available in source, supply, treatment, transmission, storage, and

distribution, or such levels and capacity can be made available through improvements completed by the developer or the system owner. This criterion is met.

Subsection 1006.04 Sanitary Sewer Service. All development that has a need for sanitary sewers shall install the facilities pursuant to the requirements of the district or company serving the development. Approval of a development that requires sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the sanitary sewage treatment service provider and the collection system service provider.

Finding: Clackamas Water Environment Services is the sewer provider in this area. The applicant provided a signed preliminary statement of feasibility was confirming that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner. This criterion is met.

Subsection 1006.06 Surface Water Management. Positive drainage and adequate conveyance of surface water shall be provided from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point. Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.

Finding: Clackamas Water Environment Services is the surface water management authority in this area. The applicant provided a signed preliminary statement of feasibility confirming that adequate surface water management, treatment, and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner with conditions. This criterion is met.

Opponents argued that the proposed development will exceed the capacity of water, sewage, and utility systems . (Exhibit 13). However, these unsupported concerns are not sufficient to overcome the expert testimony of the service provider agencies who reviewed the application. Contrary to opponents’ assertions, the applicant did submit a preliminary feasibility statement from WES dated March 6, 2025 (Exhibit 2 at 7).

The applicant will be required to obtain County and/or agency approval of an erosion control plan and install erosion control measures consistent with the approved plan prior to undertaking any land disturbing activities on the site.

1. **ZDO Section 1007, Roads and Connectivity**

Subsection 1007.01 – General Provisions

Subsection 1007.02 – Public and Private Roadways

Subsection 1007.04 – Pedestrian and Bicycle Facilities

- A-C: General Standards, Design and Requirements
- D-G: Location and Construction of Sidewalks and Pedestrian Paths
- H: Sidewalk and Pedestrian Path Width
- I-N: Accessways, Bikeways, Trails, Bike/Pedestrian Circulation

Finding: The applicant proposed to provide a single driveway access from the development site onto SE Thiessen Road, a minor arterial road.

SE Thiessen Road is not identified as:

- a. Regional or Community Boulevards on Comprehensive Plan Map 5-5, *Metro Regional Street Design Classifications*; or
- b. A scenic road identified on Comprehensive Plan Map 5-1, *Scenic Roads*; or
- c. A center, corridor, or station community, as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*.

An urban arterial roadway requires 70 feet of public right-of-way width, per Roadway Standards Drawing C110. Per ZDO Section 1007.02(E), developments are required to dedicate right-of-way as necessary to achieve the full half width right-of-way required for the street classification. The existing full-width right-of-way appears to be 40 feet. The applicant will be required to dedicate approximately 15 feet of right-of-way as necessary to provide for a 35-foot half-width right-of-way width on the entire site frontage of SE Thiessen Road.

The standard street improvements on the SE Thiessen Road frontage, consistent with the Comprehensive Plan and ZDO Section 1007, include, but are not necessarily limited to, up to a half-street improvement, curb, five-foot wide landscape strip, five-foot wide sidewalk, and storm drainage facilities. A minimum 20-foot wide half street improvement will be required along the entire site frontage of SE Thiessen Road, constructed to arterial roadway standards, per Standard Drawing C100.

This portion of SE Thiessen Road is a “Planned bikeway” on Comprehensive Plan Maps 5-2a, *Planned Bikeway Network, Urban*, 5-2b. Per subsection 1007.04(K), bikeways shall be required. Shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be included in the reconstruction or new construction of any street if a bikeway is indicated in Chapters 5 and 10 of the Comprehensive Plan and on Comprehensive Plan Map 5-2a. A bike lane will be required as part of the 20-foot wide half street improvement. In this case, there will be a 12-foot wide travel lane and an 8-foot wide bike lane. However, other than the fog line, bike lane symbols may not specifically be required based on the length of the frontage, as the County typically does not stripe a short bike lane. As conditioned the standards of this subsection are met.

Subsection 1007.06 - Street Trees

Finding: The applicant proposes to plant Trident Maple (*Acer buergeranum*) trees, which are on the Clackamas County’s approved street tree list for planter strips of 3.6 feet to 6 feet in width. As proposed, this standard is met.

Subsection 1007.07 – Transportation Facilities Concurrency

Finding: Clackamas County’s Development Engineering Division was sent the proposal to review. Per ZDO Subsection 1007.07, adequate roadway capacity is required to handle the additional traffic generated by the development. Engineering staff determined that SE Thiessen Road currently operates at acceptable volume to capacity (v/c) ratios, less than the maximums required by the Code, which are 0.90 and 0.99 respectively during the mid-day one hour peak and first and second hours of the PM peaks.

Roadway Standards Section 295.2 requires a traffic impact study when a development will generate 20 or more vehicle trips in any peak hour. The proposed 42 bed residential care facility is estimated to generate eight vehicle trips during the AM peak hour, 12 vehicle trips during the PM peak hour, and a total of 115 vehicle trips per day. Engineering staff concluded that vehicle trips generated by the proposed development will not exceed the 20 peak hour trip threshold that would result in a significant impact, warranting additional analysis. Based on vehicle trip generation, the threshold requiring additional analysis, and with road improvements to the site and driveway approach meeting standards, the safety of the transportation system is adequate to serve the proposed use.

This development will increase the volume of traffic on streets in the area. That increased traffic will be perceptible to area residents. However, as discussed above, County engineering staff determined that it will not exceed the capacity of those streets nor create a hazard. There is no substantial evidence to the contrary. Neighbor’s unsupported concerns about increased traffic are not substantial evidence sufficient to overcome the expert testimony of the traffic engineers for the County and the applicant.

Opponents testified about speeding traffic on area roads under existing conditions. regulations. However, speeding is an existing problem, which the applicant cannot be required to remedy. Reasonably prudent drivers will observe the posted speed limit and other applicable traffic regulations. Unfortunately, not all drivers are prudent. But, there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers. If necessary, the County can address issues of speeding by providing increased enforcement of traffic laws on streets in the area.

10. ZDO Section 1009, Landscaping

The Section 1009 seeks to ensure that provides appropriately selected, designed, installed, and maintained landscape materials and that landscaped areas are used for appropriate purposes.

Finding: For conditional uses in the R-10 zoning district, a minimum 25% of the site is required to be landscaped. The subject property is 49,058 square feet, Therefore a minimum of 12,265 square feet of landscaping is required. The development plan results in 47% of the site remaining undeveloped; the applicant proposes to plant 12,743 square feet of landscaping.

Turf lawn may comprise a maximum of 10% of the minimum landscaped area required, which equates to a maximum of 1,226.5 square feet. The applicant proposes 1,639 square feet of turf area, but only 1,226.5 square feet of the turf can “count” towards the

minimum landscaping requirement. The proposal meets the minimum amount of landscaping required.

The landscaping plan submitted demonstrates that a variety of plants will be provided, and at least 75% will be drought-tolerant or native. A concrete retaining wall abuts the parking spaces and is in front of a five-foot side landscaping strip between the parking lot and the adjacent property. One tree is proposed every 30 feet along the perimeter parking spaces to comply with the minimum requirements. Subsection 1009.03(B)(2) requires the wall to be at least three feet tall if shrubs are not provided. As designed, the retaining wall is at least three feet in height. A six-foot cedar fence is proposed on the rear and side boundaries of the site and a trash enclosure is proposed to screen the garbage and recycling receptacles. These standards are met.

11. **ZDO Section 1010, Signs**

The provisions of section 1010 are intended to maintain a safe and pleasing environment for the people of Clackamas County by regulating the size, height, number, location, type, structure, design, lighting, and maintenance of signs. Subsection 1010.08 provides standards for institutional signs in urban low density residential districts.

Finding: No signs are proposed. This section is not applicable.

12. **ZDO Section 1015, Parking and Loading**

Section 1015 is designed to ensure that developments in Clackamas County provide sufficient and properly designed parking for motor vehicles and bicycles as well as appropriate off-street loading areas.

Finding: The Climate Friendly and Equitable Communities (CFEC) rules are in effect pursuant to OAR 660, Division 12. Per OAR 660-012-0400 through OAR 660-012-0450, the County cannot require a minimum number of off-street vehicular parking spaces for any development that is within the Urban Growth Boundary and served by an urban water and sanitary service. This property is eligible to follow the CFEC rules; therefore, no minimum parking is required.

The applicant is choosing to construct 12 vehicular parking spaces to serve the development, and will include parking lot landscaping. Each space is at least 8.5 feet in width and 16 feet in length. The drive aisle is at least 24 feet wide which will allow for adequate vehicle maneuvering and circulation. Wheel stops will be provided at the two ADA parking spaces that abut a walkway; the other parking spaces abut a retaining wall.

ZDO Table 1015-3 requires a minimum of one bicycle parking space for every eight beds in a nursing home; this facility will include 42 beds and so a minimum of six bicycle parking spaces are required. Four bicycle parking spaces are proposed with a rack next to the entry facing SE Thiessen Road and two bicycle parking spaces are proposed with a rack near a doorway, just north of the main entry facing the parking lot. Both entrances

are public entrances to the building. Both racks are within 50 feet of an entrance. The lighting plan demonstrates that the bicycle parking areas will be illuminated. The racks are accessible from the on-site walkway.

The criteria of this section are met.

13. **ZDO Section 1021, Solid Waste and Recyclable Material Collection**

Section 1021 applies to multifamily dwellings, and institutional, commercial, and industrial developments. It provides standards for the design, placement, and accessibility of trash enclosures.

Finding: The applicant proposes to construct an approximately 16-foot by 14-foot CMU trash and recycling enclosure at the end of the drive aisle with a hammerhead turnaround. The enclosure will be six feet tall and will have a minimum four-inch concrete pad, two to four inch high bumper curb, gates which swing freely with restrainers in the open and closed positions, and “No Parking” painted on the pavement in front of the enclosure.

When containers face each other, a minimum four-foot separation is required (subsection 1021.05(A)(3)). The updated design submitted by the applicant on July 16, 2025 (Exhibit 14) demonstrates that the enclosure meets the four-foot spacing requirement.

14. **ZDO Section 1102, Design Review**

Subsection 1102.01 Applicability

Finding: Clackamas County’s Zoning and Development Ordinance determines development types for which design review is required. ZDO Subsection 1102.01(A) states that design review is required for the development of institutional uses in the R-10 zone; therefore design review is required for the project. This development is subject to design review.

Subsection 1102.02 Submittal Requirements

Finding: Clackamas County’s Zoning and Development Ordinance determines the submittal requirements necessary for design review. The applicant submitted a set of information consistent with the submittal requirements of the Zoning and Development ordinance which county staff deemed complete on May 28, 2025. The standard is met.

Subsection 1102.03 Approval Criteria

Finding: Clackamas County’s Zoning and Development Ordinance (ZDO) determines that projects which require design review are subject to the standards of the underlying zoning district as well as to Section 1000 “Development Standards.” The analysis of the proposal, per those sections of the Clackamas County ZDO, are provided in earlier sections of this decision. This standard is met.

Subsection 1102.04 Design Review Committee

Finding: The Design Review Committee (DRC) reviewed this proposal at a Zoom meeting on July 8, 2025. The applicant's team, three of the five DRC members, and the staff planner Melissa Lord attended the meeting. Staff requested that the DRC members comment specifically on three primary items.

The first item staff requested feedback on was related to subsection 1005.02(E), building placement. As discussed earlier in this final order, this subsection requires a minimum of 50 percent of the street frontage of the development site to have buildings located at the 15-foot front setback line except that the front setback can be increased to 20 feet when pedestrian amenities are provided. A design modification, pursuant to Subsection 1005.06, was requested. The initially submitted plans did not include pedestrian amenities in front of the building on SE Thiessen Road, and lacked justification from the applicant as to why the building was not located closer to the street. At the meeting, the applicant identified numerous reasons why the building placement proposed was the most suitable for the site; this is explained in the updated application materials submitted July 16, 2025 (Exhibit 14) and addressed in the findings above. The members of the DRC concluded the meeting without making a recommendation for the application (neither in favor nor in opposition). Understandably, the DRC members agreed that they could not make a recommendation on whether they support the design modification of subsection 1005.02(E) pertaining to the building setback without seeing what the updated design proposal looked like. Since the meeting, the applicant submitted updated plans in response to the DRC discussion. These plans were reviewed by planning staff and the hearings officer, as discussed earlier in this final order.

The second item of discussion was the positioning of the front door. The initial design had the entrance that connects to SE Thiessen Road not facing or visible from the street. Subsection 1005.03(B) requires that all public entries be "clearly defined" and "highly visible". The DRC members agreed that the entrance, as initially proposed, did not meet that standards and should face the street. The applicant agreed to revise the proposal and ensure that the front door faces SE Thiessen Road and subsequently submitted updated floor plans and building elevations (Exhibit 12 and 14, respectively) demonstrate compliance with this section.

The third item of discussion was the brightness of the parking lot lighting. The initial lighting plan proposed six pole-mounted lights on the perimeter of the parking lot along the shared property line with 5318 SE Thiessen Road which resulted in an average light level of about five footcandles along the property line. The DRC members agreed that this was too bright for the use and the residential neighborhood. Instead, the DRC members recommended that light levels on the property line should not exceed 0.5 footcandles. The applicant has since updated the proposed lighting plan (Exhibit 14) to change the parking lot lighting to bollard-style lights that will be mounted lower to the ground, reduced the number of lights to three, and minimized the number of footcandles on the property line. A condition of approval is warranted limiting light levels to a maximum 0.5 footcandles at the side and rear property lines of the site.

15. ZDO Section 1203, Conditional Uses

1203.02: Submittal Requirements

This application includes a completed land use application form, site plan, application fee, and completed supplemental application addressing the criteria in ZDO Section 1203. The application also includes a description of the proposed use and vicinity map. All the submittal requirements under Subsection 1203.02 are included in the application. The application was submitted on April 28, 2025, and additional materials were submitted were on May 28, 2025. The application was deemed complete on May 28, 2025. Additional application materials have been submitted since the determination of completeness.

1203.03(A): The use is listed as a conditional use in the zoning district in which the subject property is located.

Finding: The subject property is located in the Urban Low Density Residential R-10 district. ZDO Section 315, Table 315-1, of the ZDO controls land uses in the underlying R-10 zoning district. “Nursing Home” is listed as a conditional use in Table 315-1. The proposed use is a conditional use in the underlying zoning district. This criterion is met.

1203.03(B): The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.

Finding: The subject property is served by the existing transportation system and is conveniently located near the amenities available on SE McLoughlin Boulevard. There are no mapped environmental features or hazards on the subject property. Although vehicle parking is not required, the site is large enough to support the nursing home building, its associated parking needs, and required landscaping, as well as providing a substantial setback from the rear property line. The site has a gentle slope, approximately 10%, that allows the building to be a single-story on the front and two-story on the rear; both single- and two-story buildings are typical of the area. This criterion is met.

1203.03(C): The proposed use is consistent with Subsection 1007.07, and safety of the transportation system is adequate to serve the proposed use.

Finding: Clackamas County Development Engineering staff reviewed the proposal for compliance with 1007.07 and determined that the transportation system is adequate to support the proposed use. Neighbors’ unsupported concerns that traffic from this development will exceed the capacity of area streets or create a hazard is not sufficient to overcome the expert testimony of County engineering staff. This criterion is met.

1203.03(D): The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.

Finding: The site is in the Urban Low Density Residential (R-10) zoning district and is surrounded by other properties in R-10 district. Permitted uses in the R-10 district are included in ZDO Section 315. This criterion does not require the proposed use to not have any impacts, rather the impacts must not substantially limit, impair or preclude the use of surrounding properties for the allowed primary uses.

Lands in the surrounding area are predominantly developed with single-family detached dwellings. There is one other institutional use in this area of SE Thiessen Road, a church at 5101 SE Thiessen Road. Prior to the establishment of the Climate Friendly and Equitable Communities (CFEC) rules pursuant to OAR 660, Division 12, the Clackamas County ZDO Section 1015, Table 1015-1 regulated the minimum number of parking spaces required for nursing homes, requiring 0.2 parking spaces per bed, which translates to 9 (8.4, rounded up) spaces. The applicant has elected to provide 12 vehicle parking spaces on site to accommodate the needs for this development, which exceeds what would have been the minimum number of spaces required by the County prior to the CFEC rules.

The applicant's original lighting plan proposed six pole-mounted lights on the perimeter of the parking lot along the shared property line (shared with 5318 SE Thiessen Road), which resulted in an average of five footcandles of light sustained at the property line. The Design Review Committee (DRC) members reviewed the lighting plan and concluded that five footcandles is far too bright for a residential neighborhood; instead, they concurred that 0.5 footcandles should be the maximum brightness along the property line. Following the DRC meeting, the applicant updated their lighting plan (entered into the record as Exhibit 14). The parking lot lighting along the shared property line will now consist of three bollard-style lights that are no taller than 3.3 feet. The proposed bollard-style lights are suitable for the neighborhood and the use for a number of reasons. First, the photometric plan provided demonstrates that the footcandles along the shared property line are closer to 0.5 which was the number recommended by the DRC. Second, the 3.3-foot tall bollard-style light will sit lower than a typical 25-foot standard pole light. There are three bollard lights; one will be installed at ground-level and the other two will sit on top of the retaining wall. The light installed on the ground will only be 3.3 feet tall and so the six-foot tall cedar fence that borders the shared property line which will limit light spilling onto the neighboring residential lot. The other two will sit on top of a retaining wall that ranges from approximately three feet to five feet in height, resulting in a light mounted less than ten feet in height. The bollard-style light fixture selected appears to be available in two types of emission: 360 degrees or 180 degrees. A condition of approval is warranted requiring use of the 180 degree emission lights, to ensure that no light will be projected onto the adjoining lot. The lights will provide adequate illumination to the parking lot to ensure it is safe for users, while simultaneously ensure the protection of the night sky for the adjoining neighbors.

The existing trees along the rear property line will remain intact, and the lighting plan does not propose any significant illumination along the back property line. Moreover, two-story buildings are typical of the area. The proposed building is setback more than 70 and the parking lot is setback 41 feet from the rear boundary of the site which will limit

the amount of light reaching adjacent properties. Trees retained on the rear boundary will further screen and buffer lighting impacts on adjacent properties to the rear. Proposed retaining walls and fencing will buffer properties abutting the side lot lines. Based on this the hearings officer finds that lighting on the site will not have substantial impacts to abutting properties, in such a way that would impair, preclude or limit the use of surrounding properties.

Activities on the site will primarily occur inside the fully enclosed building, which will reduce the noise impacts of the use. Proposed setbacks, landscaping, and other improvements will further reduce the impact of noise from the site. Any nursing home facility will generate a higher percentage of emergency responses. However, the hearings officer cannot find that noise and other impacts from such responses will *per se* substantially limits, impairs or precludes the use of surrounding properties. Nursing homes are allowed as a conditional use in the R-10 zone and there is no evidence that this facility will generate substantially greater noise or other impacts than other nursing home facilities.

The hearings officer finds that this facility will have no greater privacy impacts than privacy than a residential development. This 1.13-acre site could be developed with four single-family detached homes and potentially greater number of attached or other “middle-housing” type homes located in much closer proximity to abutting properties. Two story and taller homes are allowed in the R-10 zone, similar to the two-story structure proposed in this application. Therefore, residential development on this site would likely result in two-story homes and yards in closer proximity to adjacent properties.

Neighbors expressed concerns that facility staff taking outdoor smoke breaks may impact the privacy of adjacent properties. However, such use is not substantially different than that generated by single-family residences, the occupants of which may smoke and are likely to use their outdoor yards for a variety of purposes. The building proposed on the site will be setback more than 70 feet from the rear boundary of the site and 56 feet from the northeast boundary. The building will be located within ten feet of the southwest boundary, but no direct building access is proposed to this area, so outdoor use of this area is likely to be limited. The parking lot will be separated from properties to the northeast by a ten-foot landscape buffer and a six-foot cedar fence is proposed on the northeast, southeast, and southwest boundaries of the site, which will screen views of the site from abutting properties. Existing mature trees on the rear boundary of the site will further buffer views of the site.

Concerns were raised with the amount of land that will be replaced with pavement. However, any development on this site is likely to have a similar impact. The R-10 allows up to 50% of a parcel to be covered with structures or pavement. (ZDO Table 315-2)

Alleged property value impacts of the facility are not relevant to the applicable approval criteria. The Land Use Board of Appeals (“LUBA”) held that “[p]otential loss of property value does not affect the use of surrounding properties for residential and other primary

uses within the meaning of ZDO 1203.01(D). . .” *Tylka v. Clackamas County*, 34 Or LUBA 14 (1998).

Clearing and development on this site will eliminate habitat for wildlife. But the Code does not prohibit such an effect. To the contrary, it is an inevitable consequence of concentrating new development in the urban area. There are no wetlands or habitat areas on the site and none of the animals observed on this site are listed as endangered or threatened. They are commonly observed in the area. Their presence is less likely after the site is developed, but that is to be expected.

1203.03(E): The proposed use is consistent with the applicable goals and policies of the Comprehensive Plan.

Finding: The hearings officer has reviewed this proposal relative to the Comprehensive Plan and finds the goals and policies from Chapter 5, Transportation, and Chapter 6, Housing are met. The development will provide a housing option within a residential area for elderly and for those where a typical single-family dwelling is not suitable. The proposal will construct the necessary improvements to the road and sidewalk that will implement Chapter 5 goals. This criterion is met.

1203.03(F): The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, and Section 1000 Development Standards.

Finding: Compliance with these criteria are addressed in the findings above and the proposed development will comply the all applicable requirements of the R-10 zoning district and the Section 1000 Development Standards. This criterion is met.

Other Issues:

The fact that there are other care facilities in the area, some of which have vacancies, is not relevant. The applicant is not required to demonstrate a need for the proposed use or that the business will be viable in the long term. Presumably the applicant considered those issues prior to expending the considerable time and effort preparing and presenting this application. However such concerns are not relevant to the applicable approval criteria for this application.

The hearings officer cannot consider neighbors assertions that the site should be developed with affordable housing or other uses, as such concerns are unrelated to the applicable approval criteria. The site is private property and the applicant is entitled to develop it with any use allowed in the R-10 zone.

D. CONCLUSION

Based on the findings and discussion provided or incorporated herein, the hearings officer concludes that Case No. Z0160-25 and Z0161-25 (Mapleview Manor II)

should be approved, because the application does or can comply with applicable standards of the Clackamas County ZDO, provided it is subject to conditions that ensure timely compliance in fact with the ZDO and relevant Comprehensive Plan Policies.

E. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves Z0160-25 and Z0161-25 (Mapleview Manor II) subject to the following conditions:

Conditions of Approval:

The following conditions are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parentheses. At all times, the use shall be sited and conducted in compliance with these conditions of approval. Noncompliance may result in code enforcement action or revocation of this permit.

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on April 28, 2025 and additional documents submitted on May 28, July 11, and July 16 2025. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with these documents and the limitation of any approval resulting from the decision described herein.
2. The height of pole-mounted fixtures shall not exceed 25 feet. [1005.04(A)]
3. Wall-mounted entrance lighting may not exceed a height of 12 feet. [1005.04(A)]
4. Two benches shall be located in front of the porch, facing SE Thiessen Road. The benches shall face/be parallel to the street and shall be located a minimum of 15 feet from the front property line. [1005.02(E)]
5. The cedar pergola located in front of the main building entrance facing SE Thiessen Road is not approved with this land use permit, as it violates the minimum 15-foot front setback. [315.04]
6. The bollard-style light fixture selected shall only emit light at 180 degrees, not 360 degrees. [1203.03]
7. On-site light levels shall not exceed 0.5 footcandles at the side or rear property lines of the site.
8. **Prior to issuance of Certificate of Occupancy** the applicant/property owner shall complete the following:
 - a. Street lighting shall be installed pursuant to the requirements of Clackamas County Service District No. 5 and the electric company serving the development. [1006.02]

- b. All landscaping shall be installed in accordance with the approval landscaping plan. [1009]
 - c. The developer shall either submit a signed maintenance contract for the one-year period or provide a performance surety pursuant to Section 1311, Completion of Improvements, Sureties, and Maintenance, covering the landscape maintenance costs for the one-year period [1009.10(F)]
9. The irrigation system shall be automatic, except that hose bibs and manually operated methods of irrigation may be permitted in small landscaped areas close to buildings. Automatic irrigation systems are subject to the standards of Subsection 1009.10(M).
10. All necessary permits shall be obtained by the Water, Sewer, and Stormwater providers.
11. All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with Clackamas County Roadway Standards.
12. **Prior to Issuance of a Building Permit:** The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.
13. The applicant shall dedicate approximately 15 feet of additional right-of-way along the entire site frontage of SE Thiessen Road site frontage and verify by a professional survey that a 35-foot wide, half-width right-of-way width exists.
14. The applicant shall grant an 8-foot wide public utility easement adjacent to the right-of-way along the entire site frontage of SE Thiessen Road.
15. **Prior to Certificate of Occupancy:** The applicant shall construct improvements along the entire site frontage of SE Thiessen Road to arterial road standards, per Clackamas County Roadway Standards, Standard Drawing C140. The improvements shall consist of:
- a. Up to a minimum 20-foot wide, half street improvement, as measured from the right-of-way centerline to face of curb. The structural section shall comply with Standard Drawing C100 for an arterial roadway. The structural section for SE Thiessen Road improvements shall be in accordance with Standard Drawing C100 for an arterial roadway. An overlay, grind and inlay or full depth reconstruction shall be based on Roadway Standards Section 225.5.h.
 - b. Standard 6-inch curb, or curb and gutter if curblin slope is less than one percent.
 - c. A minimum 5-foot wide landscape strip with street trees shall be provided along the site frontage. Street trees shall be planted at 25-40 spacing, based on tree species.
 - d. A 5-foot wide unobstructed sidewalk, per Standard Drawing S960.

- e. A minimum 28-foot wide driveway approach, per Standards Drawing D650.
- f. The driveway onto SE Thiessen Road shall provide minimum intersection sight distance of 335 feet to the left and right, based on a posted speed of 30 MPH. Sight distance shall be measured from a point 14.5 feet back from the fog line, at a height of 3.5 feet to the center on the oncoming travel lane, per Roadway Standards Section 240.
- g. Curb ramps shall be constructed at each end of the sidewalk, per applicable ODOT Standard Drawings RD900 Series.
- h. Appropriate off-site pavement tapers shall be provided, in accordance with Roadway Standards Section 250.6.4.
- i. Storm drainage facilities in conformance with Water Environment Services standards, and Clackamas County Roadway Standards Chapter 4.
- j. The applicant shall submit electronic as-built plans showing all improvements and construction changes, added and deleted items and location of utilities. The Engineer of record shall stamp and sign as-built plans.

16. Prior to Certificate of Occupancy: The applicant shall design and construct on-site parking and maneuvering areas as follows:

- a. Adequate on site circulation shall be provided for the parking and maneuvering of all vehicles anticipated to use the site. All parking and maneuvering areas shall be paved and constructed per Standard Drawing R100.
- b. The applicant shall show the paths traced by the extremities of anticipated large vehicles (delivery trucks, fire apparatus, garbage and recycling trucks). The site shall provide adequate maneuvering for large vehicles, including fire and garbage trucks to turnaround on-site. The minimum turning radii shall be provided, per Standard Drawing C350.
- c. Parking spaces shall meet minimum dimensional requirements of ZDO Section 1015, and Roadway Standards Drawing P100 or P200 as applicable. The plans shall list the number of parking spaces required and the number of parking spaces provided.
- d. All curbs shall typically be type "C", or curb and gutter if curb line slope is less than one percent, if they carry, direct or channel surface water. Alternative curbs will be considered when it is determined by the Clackamas County Department of Transportation and Development that type "C" curbs or curb and gutter are not appropriate. Extruded curbs for carrying, directing or channeling surface water, or used as a vehicle wheel stop, shall not be allowed.
- e. A minimum 20-foot long driveway throat shall be provided from the back of sidewalk to the nearest parking space or drive aisle.

- f. A building permit shall be obtained for the retaining walls supporting the southeast end of the parking lot. A engineered structural design shall be provided and shall be consistent with the project geotechnical report recommendations.
- g. All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the Manual on Uniform Traffic Control Devices and relevant Oregon supplements.

17. Prior to Certificate of Occupancy:

- a. The applicant shall provide a Certificate of Compliance signed by the Engineer of Record stating all materials and improvements have been installed per approved plans and manufacture's specifications.
- b. Substantial Completion shall be met, per Roadway Standards Section 190.2. For any other unfinished improvements required by conditions of approval, a performance surety shall be provided per Roadway Standards Section 190.3, based on an Engineer's cost estimate. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs.

18. Prior to the Issuance of a Development Permit: The applicant shall submit to Clackamas County Engineering:

- a. Written approval from the Clackamas Fire District #1 for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
- b. Written approval from Water Environment Services for surface water management facilities, surface water detention facilities, and erosion control measures.
- c. Written approval from Oak Lodge Water Services for adequate water supply source to serve the development. The approval shall be in the form of utility plans stamped and signed by the Water District representative.
- d. A set of detailed street and site improvement construction plans for review, in conformance with Clackamas County Roadway Standards Section 140, to Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
 - i. The permit will be for street, driveway, curb, sidewalk, drainage, parking and maneuvering area, and other site improvements.
 - ii. The permit fee is based on the engineer's cost estimate for the project and the current fee structure for development at the time of the Development Permit application.

- iii. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements. Plans shall include right of way lines, edge of pavement, curbs and existing structures verified by professional survey.

19. Primary Inspector:

- a. The applicant shall enter into a Developer/Engineer Agreement for primary inspection services per Section 180 of the Roadway Standards. This form will be provided to the applicant and shall be signed and returned to County Plans Reviewer.
- b. Prior to certificate of occupancy, the applicant shall provide a Certificate of Compliance signed by the Engineer of Record stating all materials and improvements have been installed per approved plans and manufacture's specifications.

DATED this 5th day of August 2025.



Joe Turner, Esq., AICP
Clackamas County Land Use Hearings Officer

APPEAL RIGHTS

ZDO 1307.14(D)(6) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein).