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## DECISION OF HEARINGS OFFICER

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Community Service Conditional Use, Design Review, and  
Significant Environmental Concern for Wildlife Habitat (SEC-h).

**Case File:** T3-2019-11405

**Hearing Date,  
Time, & Place:**

The hearing was opened at 9:30 a.m. on **Friday, July 12, 2019**, in Room 103, the Board Room at the Multnomah Building located at 501 SE Hawthorne Boulevard, Portland, Oregon, 97214, and was closed at 1:30 p.m. The record was closed upon completion of the hearing March 10, 2019.

**Permits:** Community Service Conditional Use, Design Review, and Significant Environmental Concern for Wildlife Habitat (SEC-h).

**Location:** 13722 NW Springville Road  
Tax Lot 1800, Township 1 North, Range 1 West, Section 16C, W.M.  
Tax Account #R961160420 Property ID #R324323

**Applicant(s):** Ahmed Omer

**Property  
Owner(s):** Masjid Ibrahim

**Base Zone:** Multiple Use Agriculture – 20 (MUA-20)

**Overlays:** Significant Environmental Concern for Wildlife Habitat (SEC-h)

**Site Size:** 2.20 acres

**Summary:** The applicant is requesting to establish a religious center in the Multiple Use Agriculture – 20 (MUA-20) zoning district

**Testified at  
the Hearing:** Kevin Cook, Senior County Planner  
Wendie Kellington, applicant's attorney  
Arshad Ashafaq, Mosque board of directors  
Stuart Straus, applicant's architect

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**Applicable Approval Criteria:**

<b>Multnomah County Code (MCC)</b>	
Code Compliance	MCC 39.1515: Code Compliance and Applications
Definitions	MCC 39.2000: Definitions
Lot of Record	MCC 39.3005: Lot of Record – Generally MCC 39.3080: Lot of Record – MUA-20
Base Zones	MCC 39.4300 – 39.4345: MUA-20
Overlays	MCC 39.5500 – 39.5545: Significant Environmental Concern Districts (SEC) MCC 39.5860: Significant Environmental Concern for Wildlife Habitat (SEC-h)
Common Development Standards	MCC 39.6000: Applicability and Scope MCC 39.6200 – 39.6235: Ground Disturbing Activity and Stormwater MCC 39.6500 – 39.6600: Parking, Loading, Circulation and Access MCC 39.6700 – 39.6820: Signs MCC 39.6850: Dark Sky Lighting Standards
Conditional Uses and Community Service Uses	MCC 39.7000 – 39.7035: Conditional Uses MCC 39.7500 – 39.7525: Community Service Uses
Specific Use Standards	MCC Specific Use Standards MCC 39.8000 – 39.8050: Design Review
<b>Multnomah County Road Rules (MCRR)</b>	
MCRR 4.000: Access to County Roads	
MCRR 5.000: Transportation Impact	
MCRR 11.000: Local Access Roads	
MCRR 26.000: Stormwater and Drainage	

**DECISION:** The request for approval of a religious center in the Multiple Use Agriculture – 20 (MUA-20) zoning district is **Approved** subject to the conditions of approval included in this Final Order.

**Conditions of Approval:**

1. Scope of Approval: Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
  
2. Permit Expiration –
  - a. This land use permit shall expire as follows:
    - i. When construction has not commenced within two (2) years of the date of the final decision, or; [MCC 39.1185(B)(1)]
    - ii. When the structure has not been completed within four (4) years of the date of commencement of construction, or; [MCC 39.1185(B)(2)]
  - b. For purposes of Condition 2.a.i, notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway. [MCC 39.1185(B)(1)]
  - c. For purposes of Condition 2.a.ii, completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval. [MCC 39.1185(B)(2)]

**Note:** The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

3. Prior to Land Use Planning review and sign-off for a building permit, the applicant(s), owner(s), or their representative(s) shall record the Hearing’s Officer Decision page 1 through the conditions of approval with the County Recorder. The Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant’s expense. [MCC 39.1175]
  
4. Prior to Land Use Planning review and sign-off for a building permit, the applicant(s), owner(s), or their representative(s) shall obtain an Erosion and Sediment Control (ESC) permit from the County. Proof of issuance of the ESC permit must be submitted when the applicant brings the building plans in for sign-off. [MCC 39.6210]

5. Prior to completion of the structure, as defined in Condition 2.c above, all existing structures on the property shall be removed. If any existing structure is not removed, that structure must be lawfully established prior to completion of the structure approved in this application.
6. The property owner shall maintain off-street parking facilities and spaces without charge or other consideration for the parking of vehicles of customers, occupants, and employees. The parking and loading area shall not be used for other purposes other than vehicle maneuvering. No parking space shall be used for storage or accumulation of equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations. The property owner shall pay for "No Parking" signs if the transportation planning division finds that parking is occurring off site. [MCC 39.6510 & 39.6520]
7. The property owner shall install the proposed curbing, which shall be at least four inches in height around the outer boundary of the permanent parking and maneuvering areas. [MCC 39.6570(B)]
8. No parking of trucks equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space (pickup trucks exempt). [MCC 39.6520(B)]
9. Required parking areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 29.014, or, if not improved and placed in a condition for use by that time, a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director. [MCC 39.6530(A)] Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited. Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney. [MCC 39.6530(B)]
10. Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by Zoning Code shall be unlawful unless the additional spaces are provided. [MCC 39.6535(A)] In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use. [MCC 39.6535(B)]
11. Traffic directions shall be plainly marked on the pavement. [MCC 39.6560(A)] , except as exempted by MCC 39.6570(A)(3). All areas used for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 39.6515, and such marking shall be continually maintained. [MCC 39.6570] Compact car parking spaces must be clearly marked for that use. [MCC 39.6565]
12. Except as exempted by MCC 39.6570(A)(3), all areas used for parking and maneuvering of vehicles including the 52 gravel parking spaces, shall be a durable, dustless surface capable of supporting not less than 12,500 pounds point load (wheel load) and 75,000 pounds live load (gross vehicle weight). The gravel shall be washed and free of fine particles. Paved areas shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of

Portland cement capable of carrying a wheel load of 4,000 pounds or higher if required by Tualatin Valley Fire and Rescue. [MCC 39.6570(A)]

13. The proposed overflow event parking area shall be provided as proposed in Exhibit I5, including the boxwood hedgerow along the western edge of the overflow event parking area. The hedgerow shall be continuously maintained in order to prevent vehicles from straying onto the septic system drainfield area. The grass surface shall be kept short and watered to minimize fire risk and reduce dust. Spaces may remain unmarked if the parking of vehicles is supervised during use.
14. In the event vehicle parking on the site exceeds the available capacity, the applicant shall deploy flaggers at the intersection of NW Springville Road and NW Springville Lane to inform attendees that parking is unavailable and deny them entry to the site.
15. As proposed by the applicant, attendance shall be limited to a maximum 300 persons at any individual event on the site.
16. Required landscaping shall be continuously maintained as shown on plan sheet A2 (Exhibit A.4). [MCC 39.8045] Provision shall be made for watering planting areas where such care is required to maintain the plants in a living condition. The property owner shall maintain tree height and branches to avoid conflicts with overhead utility lines. [MCC 39.8045(C)(4) and (6)] The applicant shall provide a statement from a landscape architect specifying that all landscaping along the east property line where power lines are present can be maintained so as to not interfere with the powerlines.
17. Areas within the landscape strips that would otherwise contain bare soil shall include vegetative ground cover. [MCC 39.8045(C)(3)]
18. No nuisance plants as listed in MCC 39.5580 shall be planted on the subject property and the property must be kept free of the listed nuisance plants. [MCC 39.5860(B)(7)]
19. Remove fences marked for removal on plan sheet G.2 (Exhibit A.4). No new fencing adjacent to rights of way is authorized by this permit. [MCC 39.5860]
20. The applicant shall submit final design review plans. The plan shall reflect this approval and all approval conditions. [MCC 39.8030]. The applicant shall revise the proposed sign plan to meet maximum allowed sign area and vision clearance standards. The proposed “No Right Turn” sign must be relocated so that it will be on the subject property, unless otherwise approved by the Multnomah County Transportation Division. The “No Right Turn” sign may be located within the vision clearance area if the support structure for the sign will have a combined total width is 12 inches or less and the combined total depth is 12 inches or less. [MCC 39.6745]
21. The property owner shall install the stormwater system designed by Edmund Tawiah P.E. as shown in the Stormwater report (Exhibit A.8) and on the submitted plans 1 through A5 (Exhibit A.4) including the proposed cisterns, or as otherwise certified by an Oregon Registered engineer certifying the design will meet or exceed the expected 10-year, 24-hour storm runoff. This system shall collect and dispose of stormwater from new impervious surfaces and shall

properly control the rate of flow for a 10-year/24-hour storm event with the runoff no greater than that which existed prior to development. [MCC 39.6235]

22. Access Permit: The applicant will need to obtain an Access Permit for the new access point onto NW Springville Lane prior to Certificate of Occupancy. The permit will need to demonstrate how the existing access point will be decommissioned prior to Certificate of Occupancy. [MCRR 4.100]
23. Provide a 20-foot paved approach onto NW Springville Lane. This paved approach will be measured from the edge of pavement of NW Springville Lane. It must not create any drainage problems along the County Road. This paved approach will help to protect the County Road from debris from the new driveway, and will improve the safety of this access. A \$1,000 refundable deposit is required for this work. Please contact Right of Way Permits at row.permits@multco.us or (503) 988-3582 regarding this requirement. [MCRR 6.100(B)]
24. Furnish deed restrictions consistent with Exhibit A.10 committing the property owner to participate in future right of way improvements. A non-remonstrance agreement, or deed restriction, will require that the property participate in standard Rural Collector facility improvements along the site's NW Springville Road frontage that are not completed as a part of the site's required interim improvements. Contact Pat Hinds at (503) 988-3712 or patrick.j.hinds@multco.us to complete the deed restrictions. [MCRR 9.400]
25. Prior to issuance of a Certificate of Occupancy obtain a construction permit, pay fees, and construct improvements to NW Springville Lane to Local Access Road standards (DCM Table 2.2.5, Local Minimum Standard) from the intersection of NW Springville Road/NW Springville Lane through the entire NW Springville Lane frontage of the subject property. Street improvements to be constructed include:
  - I. Construct paved travel lanes and gravel; shoulders
  - II. Construct storm drainage facilities as required.[MCRR 6.000 and 11.000]
26. Sight Distance shall be maintained at the intersections of NW Springville Lane and NW Springville Road and NW Springville Lane and the driveway access, including maintenance of vegetation on the subject property site to ensure vegetation doesn't affect sight distance at these locations. [MCRR 4.500]
27. Prior to completion of the paved approach on to NW Springville Lane, apply for an address reassignment from the Multnomah County Land Use office in order to change the assigned address to reflect the change of access location off of NW Springville Lane. [MCC 39.9905 – 39.9985]

### **DEQ NPDES 1200-CN PERMIT**

This project disturbs approximately two acres and is eligible for automatic coverage under the NPDES Stormwater Discharge General Permit No.1200-CN issued by the (DEQ) Oregon Department of

Environmental Quality. You are required to review the attached “GENERAL PERMIT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE PERMIT” provisions in Exhibit B.3.

**Dated** this 10th day of September 2019

A handwritten signature in black ink, appearing to read 'Joe Turner', with a long horizontal flourish extending to the right.

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

This Decision is final when mailed. Appeals may be filed with the Oregon Land Use Board of Appeals within the time frames allowed by State law.

## **Findings of Fact**

**FINDINGS:** Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusory statement in *italic*. Staff findings have been accepted as findings by the Hearings Officer except where noted otherwise. Additional findings written by the Hearings Officer are preceded by the words “**Hearings Officer:**”

### **1.0 Project Description:**

**Staff:** The applicant is requesting to establish a religious center (masjid) with permanent parking for 67 vehicles and related infrastructure in the Multiple Use Agriculture – 20 (MUA-20) zoning district. As described in more detail in the applicant’s narrative (pages 2-5, Exhibit A.4), proposed activities include daily and weekly prayer services, special religious services, ‘Young Life’ services for children, special services and lectures, and monthly community events. The applicant is requesting the following permits: Community Service Conditional Use, Design Review, Significant Environmental Concern for Wildlife Habitat (SEC-h), and County right of way and access permits

### **2.0 Property Description & History:**

**Staff:** The Community Service Conditional Use is proposed on a property located at the intersection of NW Springville Road and NW Springville Lane within the Multiple Use Agriculture – 20 (MUA-20) zoning district in the West Hills Rural Area (the “subject property”). The entire property is also within the Significant Environmental Concern for Wildlife Habitat (SEC-h) overlay.

The Multnomah County Department of Assessment, Records, and Taxation (“DART”) records indicate that Akm S. Chowdhury and Ahmed A. Omer (the applicant) owned the property before conveying it to the current property owner, Masjid Ibrahim (Exhibit B.1). The current property owner, Masjid Ibrahim is a non-profit organization established for the purpose of providing religious and educational services to the Muslim community in Bethany and neighboring areas.

Based on aerial photo review and information from DART (Exhibits B.2 and B.6), the property is 2.20 acres and contains multiple buildings. In reviewing the aerial photos from 2019 (Exhibit B.6), the subject property contains a single-family dwelling and a cluster of detached buildings and trees on the northwestern portion of the property with open pasture on the eastern and southern portions of the property. There are no building permits on file with the County associated with the property. The single-family dwelling was first assessed in 1951 as shown on records from DART. (Exhibit B.1). Building permit and zoning requirements were first in place for the subject property in 1955, meaning the dwelling pre-dates permitting requirements. All existing buildings are proposed to be removed in order to accommodate the proposed development. Below are the land use and building permits that are on record for the subject property:

- August 17, 2018 – T2-2018-10244 – Lot of Record Verification

The most recent land use case, T2-2018-10244, verified the Lot of Record status for the subject property. The land use case found that the subject property was a Lot of Record.

### 3.0 Code Compliance and Applications Criteria:

#### 3.1 § 39.1515 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or
- (2) It is necessary to protect public safety; or
- (3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

**Staff:** There are no known violations noted on the subject property. Staff has not determined when the outbuildings on the property were placed or whether permits would have been required for their placement. However, the applicant is proposing to remove all existing buildings on the site in order to accommodate the proposed development. Because the structures will be removed it is not necessary to determine whether they were lawfully established. However, staff has recommended a condition of approval to ensure that the structures are removed, or, if not removed, that they be lawfully established to ensure compliance with the Code. *As conditioned, this standard is met.*

### 4.0 Multiple Use Agriculture – 20 (MUA-20) Criteria:

#### 4.1 § 39.4320 CONDITIONAL USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) Community Service Uses listed in MCC 39.7520 pursuant to the provisions of MCC 39.7500 through MCC 39.7810;

**Applicant:** “The proposal is a Community Service Use as defined in MCC 39.7520(A)(1) because it is a ‘nonresidential place of worship’ and the religious activities that will occur at the proposed Mosque are those listed in MCC 39.7520(A)(1)(a)-(e).”

**Staff:** The applicant applied for a listed Conditional/Community Service Use in the MUA-20 zone; specifically, the applicant is proposing a nonresidential place of worship as provided in MCC 39.7520(A)(1). The criteria in MCC 39.7520 are addressed in Section 5.4 below.

**4.2. § 39.4325 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.**

All development proposed in this base zone shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 39.3080, 39.4330, 39.4335 and 39.5300 through 39.5350, the minimum lot size for new parcels or lots shall be 20 acres.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

(a) The Yard being modified is not contiguous to a road.

(b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and

(c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(G) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

**(H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:**

- (1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or**
- (2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.**

**(I) Required parking, and yard areas shall be provided on the same Lot of Record as the development being served.**

**(J) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC 39.6200 through 39.6235.**

**(K) All exterior lighting shall comply with MCC 39.6850.**

**Applicant:** “The proposed yards comply because the structure - the proposed Mosque - maintains a 64'-10 ½" minimum street front yard along NW Springville Road; an 86'-5 ½" minimum street side yard along NW Springville Lane, an 86'-2 ¾" minimum west side yard and a 133'-2 ¾" minimum south rear yard. (Exhibit 11).

The front (NW Springville Road) lot line length is 251.44', which is more than the required 50 feet. (Exhibit 4).

The proposed height of the structure is 31 feet above lowest adjacent grade for the primary building roof, less than the 35' authorized by the County's code. The prayer hall dome and minarets are required Masjid architecture and are an important part of the religious symbolism of the Masjid - functioning much like a steeple or cross functions in the Christian faith. They are "similar structures" to "windmills, antennae [and] chimneys". Accordingly, they are authorized to exceed the 35' height limit. These religiously significant features extend no more than 10 feet above the primary roof and are located a minimum of 64'-10 ½" from all property lines, complying with the 30 foot setback requirement for such features.

(Exhibits 16 & 17).”

**Staff:** The subject property is 2.2 acres and does not have to meet the minimum lot size in Subsection (A) because it is not a new parcel or lot being created through this application. The applicant's site plan (Plan Sheet A1 – Exhibit A.4) indicates that all required building setbacks will be met. Building height is indicated on Plan Sheets A6 and A7 (Exhibit A.4). The majority of the building is proposed to be approximately 30 feet above grade, which is less than the 35 foot maximum height for buildings in the MUA-20 zone. Two proposed minarets and a prayer hall dome will exceed the 35 foot height, which is allowed for chimneys, antennae, and similar structures, provided those structures will be at least 30 feet from all property lines. Comments received from the neighbors to the west (Exhibit D.2) raise concern with the height of the dome and the minarets indicating that the height may exceed the height of proposed landscaping trees. Staff finds that the proposed minarets and prayer dome are similar structures to chimneys and antennae because they are relatively narrow structures compared to the main structure that extend a few feet beyond the roof itself and are necessary to the function of the building itself (required masjid architecture). The prayer dome and minarets will extend up to ten feet beyond the main roof structure and will be located over 30 from all property lines.

On site sanitation is proposed on the southern portion of the lot and has been preliminarily reviewed and approved by the City of Portland sanitation office (Exhibit A.11). Water will be provided by an on-site private well (Exhibit A.13). Required parking and yard areas (addressed in detail in Section 8 of this Final Order) will be provided on the lot. As discussed in detail in Section 6.2, the proposed on-site stormwater system is designed to accommodate the 10-year, 24 hour storm. The application does not include a new, replaced, or expanded dwelling, so (H) above does not apply. As discussed in Section 6.1, Condition 4 requires the applicant to obtain an Erosion and Sediment Control (ESC) permit because the area of ground disturbance will exceed 10,000 square feet. Exterior lighting complies with MCC 39.6850 as found in Section 11 of this Final Order.

**Hearings Officer:** Comments received from neighbors (Exhibits D.2 and oral testimony) raise concerns that the soil does not percolate well and that runoff volumes will exceed the storage capacity of the proposed cistern, resulting in flooding of adjacent properties. This development will not increase the volume of stormwater falling on the site. Impervious surfaces created by this development will increase the rate of runoff. However, the applicant will collect and detain stormwater from impervious areas and infiltrate it into the ground or release it at controlled rates, replicating existing conditions. The applicant will retain some roof runoff in on-site cisterns for irrigation use. The applicant will discharge excess stormwater to an infiltration trench and drywell. The applicant will treat runoff from the asphalt surfaced parking lot prior to discharge to the infiltration trench and drywell. Runoff from gravel surfaced parking spaces and the grass surfaced overflow parking area will infiltrate into the ground. Runoff volumes in excess of the ten-year design storm will overflow into the ditches abutting the site, which will direct runoff away from abutting properties. The applicant's stormwater report, prepared by a professional engineer and based on on-site soil testing (Exhibits A.8 and I.8), demonstrates that it is feasible to accommodate stormwater runoff from this site consistent with Code requirements. That is sufficient to comply with MCC § 39.4325(G)(2).

The applicant is not required to provide detailed engineering designs at this stage of review. The purpose of the preliminary storm water and erosion control plans is to determine whether that it is feasible to comply with applicable criteria. The preliminary plans are conceptual, and analysis of all technical details is not required. See *Meyer v. City of Portland*, 67 Or App 274, n 6, 678 P2d 741, rev den 297 Or 82 (1984). ([C]onditions of approval may include conditions that specific technical solutions to identified development problems be submitted and reviewed and approved by the government's technical staff."'). To require complete, detailed storm water and erosion control plans prior to approval of the plat would require re-working the entire plan any time amendments or modifications of the plat are required. This would be highly inefficient and is not necessary to protect the public interest. *The applicable standards of MCC 39.4325 are met or will otherwise be met through a condition of approval.*

#### **4.3 § 39.4335 LOT SIZES FOR CONDITIONAL USES.**

**The minimum lot size for a Conditional Use permitted pursuant to MCC 39.4320, except subsection (C)(1) thereof, shall be based upon:**

- (A) The site size needs of the proposed use;**
- (B) The nature of the proposed use in relation to its impact on nearby properties;**
- (C) Consideration of the purposes of this base zone; and**

**(D) A finding that the lot or parcel is at least two acres in area and in the West of Sandy River Rural Plan Area, if a lot or parcel is created to support a conditional use, a finding that the remainder parcel is not less than five acres.**

**Applicant:** "This standard focuses on lot size. The subject property is at least 2 acres in size, consisting of 2.2 acres. The site is adequate for the proposed use because the proposed use meets all required standards. These include that the size of the lot is appropriate for the proposed Mosque because it and its associated features comply with all yard and other setback requirements; the proposal is able to include significantly more than the minimum landscaped area (the minimum is 14,375 square feet and the proposal includes 52,526 square feet); and the proposal meets its parking needs on the lot consistent with all county requirements. The nature of the proposed Mosque is a religious center that serves the religious needs of people who live almost entirely within 3 miles of the site. The proposed use is by its nature quiet and serene, a place of religious worship and contemplation. Therefore, it does not require a larger lot size in order to mitigate for its impacts, including noise, in its proposed location because it is a quiet type of use. Moreover, religious land uses have long been situated in areas proximate to residences because they serve the religious needs of people, which are needs of their personal life, closely tied to their homes.

Allowing this proposed religious land use on the subject property is consistent with the purposes of the MUA zone. Among other things, the purpose of the district is to provide opportunities for appropriate conditional uses that are "compatible" with "the character of the area and the applicable county policies." "Compatibility"<sup>1</sup> is addressed elsewhere in these findings, but it is easily met by this religious land use that serves the religious needs of the faithful in the area. The Masjid serves the religious needs of people of the Muslim faith whose homes are in the immediate area (almost all live within 3 miles). Religious land uses are not allowed outright anywhere in the county - they are always conditional uses. The size of the proposed Masjid is as large as a residence could be, and as many in the county are, and a large home is a use that is allowed outright in the MUA zone. Its architecture is similar to the home that is immediately next door. The Masjid will be generously screened and appropriately set back from other properties, minimizing the view of the Masjid from adjacent properties.

County policies are "Value and promoted inclusion, diversity and equity in and throughout our communities." (Plan 1-3). In the context of land use, this policy means providing opportunities for minority and inadequately served religious faiths to exist. Further, with respect to the West Hills, where the proposed Mosque is situated, the plan provides:

"True rural community: The West Hills are an outstanding example of a supportive rural community. Residents are all each other's neighbors, regardless of distance. While interests are diverse, they enjoy each other's company and help one another in times of need." (Plan 1-32).

The proposed Mosque is the only Mosque in the area, in fact there are no other Mosques within unincorporated Multnomah County, and none nearby in any city, that can serve the needs of the community of people of the Muslim faith who live nearby. This Mosque is greatly needed and is proposed at a site well suited to serve the need of those Muslims who live primarily within approximately 3 miles of the site.

There is nothing about the proposed site that would suggest that the lot size is inadequate for the proposal. The site is of an appropriate size for the proposed Mosque use.

1 As discussed below, ORS 215.441 does not authorize the county to apply "compatibility" standards to religious land uses."

**Hearings Officer:** The proposed Community Service use is listed as Conditional Use in 39.4320(A). As demonstrated on the applicant's site and development plans (Exhibit A.4), the proposed Masjid and related parking, infrastructure, and landscaping will be accommodated on the subject property and the 2.2 acre site appropriately accommodates the proposed use as shown on the applicant's site plans (Exhibit A.4) and as demonstrated by compliance with the all other standards of this review including parking and stormwater. The applicant will install landscaping around the perimeter of the site to buffer and screen the use from adjacent properties.

The purpose of the MUA-20 zone is stated in MCC 39.4300. Specifically, "...to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density residential development and appropriate Conditional Uses, when these uses are shown to be compatible with the agricultural uses, natural resource base, the character of the area and the applicable County policies." As discussed below, state law, ORS 215.441, limits the extent to which the County can regulate the proposed religious center. However, the proposed masjid is similar in scale to allowed residential development within the MUA-20 zone. The dwelling and attached garage immediately west of the site is over 5,900 square feet of ground coverage – Exhibit B.7. The proposed masjid is equal to or smaller than the largest house that could be constructed on the site as a permitted use – Exhibit A.21. As discussed in more detail in Section 5.3 below, the masjid will have a similar impact with respect to the purpose of the MUA-20 zone with the notable exception of more daily trips generated by the use.

The subject property is 2.2 acres and no land division is proposed, therefore subsection (D) is met.

*The subject property meets the requirements of MCC 39.4335.*

#### **4.4 § 39.4340 OFF-STREET PARKING AND LOADING.**

**Off-Street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.**

**Staff:** Parking and Loading standards of MCC 39.6500 are addressed in Section 8 below.

#### **4.5 § 39.4345 ACCESS.**

**All lots and parcels in this base zone shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 39.3080(B).**

**Applicant:** "The subject property abuts NW Springville Road on the north and NW Springville

Lane on the east. The property's existing driveway is located on NW Springville Rd. Both NW Springville Rd and NW Springville Ln. are capable of providing safe and convenient access to the site, as established by the project engineer and the TIS for the project (Exhibit 20). The County has requested that the Mosque close the existing NW Springville Rd access and instead provide access from the lesser service level road (NW Springville Lane). The Mosque will comply with the County's request. NW Springville Ln. is currently an unimproved gravel road. The owners will improve NW Springville Ln. from the terminus with NW Springville Rd. to the southern edge of the proposed new driveway as required, to provide safe and convenient access as shown on drawings prepared by the project civil engineer. See Exhibit 7 (CS). Right turn movements from the new access onto NW Springville Ln. will be restricted to only those persons who live or otherwise have a need to be on property along NW Springville Ln. Signage at the NW Springville Ln. driveway will be included that states "NO RIGHT TURN". (Exhibits 3 - 11 ).”

**Staff:** The standard applies to the creation of new parcels and does not apply to a pre-existing lot and parcel that constitutes a Lot of Record. The property is a lot of record described in MCC 39.3080(B) (formerly MCC 33.2870) as determined through Lot of Record Verification – county case number T2-2018-10244, *so the standard does not apply to the current proposal.* Applicable access standards are addressed in the transportation findings in Section 10 of this Final Order.

## **5.0 Community Service Uses (CS) Criteria:**

### **5.1 § 39.7505 GENERAL PROVISIONS.**

**(A) Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority.**

**(B) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC 39.8000 through 39.8050.**

**(C) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.**

**Staff:** The application for a Community Service approval is for a religious center which will include the activities described in the applicant’s narrative (Exhibit A.4). Conditions and limitations are listed beginning on page 4 of this Final Order. Design Review findings are found in Section 7 of this Final Order. There is no zone change approval sought by the applicant and none is granted through this Community Service permit. *These general provisions are met.*

### **5.2 § 39.7510 CONDITIONS AND RESTRICTIONS.**

**The approval authority may attach conditions and restrictions to any community service use approved. Conditions and restrictions may include a definite time limit, a specific limitation of use, landscaping requirements, parking, loading, circulation, access, performance standards, performance bonds, and any other reasonable conditions, restrictions or safeguards that would uphold the purpose and intent of this Chapter and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use allowed.**

**Staff:** Conditions and restrictions are listed beginning on page 4 of this Final Order.

### 5.3 § 39.7515 APPROVAL CRITERIA.

**In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for transmission towers, which shall meet the approval criteria of MCC 39.7550 through 39.7575, wireless communications facilities, subject to the provisions of MCC 39.7705, and except for regional sanitary landfills which shall comply with MCC 39.7600 through 39.7625.**

**Hearings Officer:** The applicant has provided a lengthy response concerning the criteria in MCC 39.7515 (Exhibit A.2 pages 43-46 and related Exhibits A.25 through A.29, H.19, I.3, and J.19). Central to the applicant's response is whether the standard can be applied to the proposed masjid because it is a religious land use.

The hearings officer finds that state law prohibits the County from applying the compatibility requirements of this standard to the proposed religious center. ORS 215.441 provides, in relevant part:

**Use of real property for religious activity; county regulation of real property used for religious activity.**

- (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:
  - (a) Worship services.
  - (b) Religion classes.
  - (c) Weddings.
  - (d) Funerals.
  - (e) Meal programs.
  - (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.
  - (g) Providing housing or space for housing in a building that is detached from the place of worship...
- (2) A county may:
  - (a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or
  - (b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

The hearings officer finds, based on the plain language of the Code, that ORS 215.441(1) authorizes the County to allow or prohibit places of worship in any zone. If the County chooses to allow places of worship, the County must allow the uses listed in ORS 215.441(1)(a)-(g) as a

matter or right. ORS 215.441(2) authorizes the County to regulate such uses to a limited extent, regulating the physical characteristics of the uses (2)(a) and prohibiting or restricting such uses if public facilities are inadequate to serve the use (2)(a).

Absent section (2), if the County allowed places of worship in a particular zone the County would have no authority to regulate such uses. Section (1) provides that the County “shall allow” such uses. As the applicant notes in Exhibit I.3, the County has the authority to limit or prohibit uses where public facilities are inadequate to serve a proposed use. Therefore, unless Section (2)(b) is necessary to modify Section (1), Section (2)(b) is redundant and meaningless. The statute must be construed to give effect to all provisions. ORS 42.230. In addition, there is a presumption that the legislature did not intend to enact a meaningless statute. *FPPO v. Washington County*, 142 Or App 252, 259, 920 P.2d 1141, *rev den.*, 324 Or. 394, 927 P.2d 600 (1996). This interpretation is consistent with the legislative history of this statute, cited in footnote 6 of Exhibit A.2 and Exhibits A.25-A.28.

Opponents’ interpretation, that Section (2) is optional is non-sensical. The County clearly has the authority to regulate the design of most developments. The County may limit such review to physical characteristics of the use or expand the review to require compatibility with the character of the area or similar standards. In addition, the County has the authority to prohibit uses where public facilities are inadequate. Therefore, opponents’ interpretation renders Section (2) superfluous.

The fact that the County has not amended the Code consistent with this statute is irrelevant. The statute is directly applicable to this application. *Forster v. Polk Co.*, 115 Or App 475, 478 (1992).

The hearings officer provides the following alternative findings in the event the above interpretation is overturned and LUBA or the Courts find that this application for a religious worship facility is subject MCC 39.7515.

**(A) Is consistent with the character of the area;**

The applicant’s findings (pages 46 through 64 of the applicant’s narrative, Exhibits A.20 through A.23) include an analysis for the purpose of comparing the proposed development to residential developments in the surrounding rural area. The rural area surrounding the subject property consists of rural residences and small farms. The comparison provided by the applicant includes dwelling sizes and surrounding developed or cleared areas such as driveways and parking areas. Other lots are similarly sized with structures with a similar developed footprints. The comparison also shows similarity between the proposed masjid and the large dwelling neighboring the subject property to the west, which is over 5,900 square feet with the attached garage (Exhibit B.7). As discussed in the applicant’s narrative, the site could be developed with a single-family residence that is larger than the proposed masjid structure. The parking area is similar to the extensive driveways, parking areas, and patios developed on other residential properties in the area.

In addition, as the applicant noted, religious buildings are often located in residential areas and are not *per se* incompatible. As noted in the legislative history for ORS 215.441, “[i]n Oregon, most churches are located in residential areas... religious institutions by their nature are compatible with every other type of land use and thus will not detract from the quality of life in

any neighborhood.” P. 4 of Exhibit 25. The fact that there are no existing religious buildings in the area does not make the proposed use incompatible. Such an interpretation would limit religious facilities to neighborhoods where they already exist and prohibit them in neighborhoods where they do not. Any religious facility will generate more traffic, noise, and activity, etc. than a single-family residence. But that is true for the majority of conditional uses allowed in the MUA-20 zone. To limit the definition of “compatible” to uses that have no more impact than a single-family residence would preclude the majority of conditional uses listed in MCC 39.4370.

In addition, the plain language of the Code does not limit the “area” to the surrounding rural zoned properties. The site is not located in an isolated rural area. As shown in Exhibit A.22, the site is in close proximity to the UGB, which contains a variety of more intensive uses, including two schools directly south of the site and another school to the northwest. Therefore, the hearings officer finds that proposed masjid is consistent with the character of the surrounding area.

The hearings officer adopts the following additional findings regarding the specific impacts noted by the opponents:

#### Noise

The proposed masjid will not generate significant noise. With the exception of vehicle parking, all activities will take place inside a fully enclosed building. The use does not include any playgrounds, courtyards, or other outdoor gathering places. The use will generate some noise from vehicles maneuvering on the site, opening and closing of car doors, and people walking between their vehicles and the building. But such noise impacts do not make the use incompatible.

#### Traffic

The masjid will generate additional traffic on area roads. However, as discussed in Section 11.0 below, that traffic will not exceed the capacity of area streets or create a hazard. The applicant’s traffic analysis was based on a worst case scenario that assumed one person per vehicle. Even if the masjid generated double the amount of traffic assumed in the applicant’s analysis, the affected intersections would continue to operate at Level Of Service (“LOS”) B or better (Exhibit J.6).

Opponents argued that the applicant’s traffic data is obsolete and cannot be relied upon (Exhibit I.11). However, County transportation staff do not share that concern, noting that the analysis included a two-percent annual growth rate (Exhibit J.8). As the applicant noted, ODOT allows traffic data up to three years old. The hearings officer finds that the traffic data is reliable, based on the impartial testimony of County transportation staff.

#### Parking

The hearings officer finds, based on the applicant’s parking analysis, that the proposed use can accommodate vehicle parking demand on the site (Exhibits I.4). The Code requires a minimum 35 parking spaces to serve the proposed use. (*See* Section 8.23). The applicant proposed to provide 67 permanent parking spaces and 17 grass surface “overflow” spaces allowed by MCC § 39.6570(A)(3) for special events that may generate additional parking demand. (Exhibit I.5). Frontage improvements on the site’s NW Springville Lane frontage may create the opportunity for up to four on-street parking spaces (p. 4 of Exhibit H.15).

Opponents argued that parking demand will greatly exceed supply on this site, based on observations of parking and traffic at Masjid Bilal and Masjid As-Saber (Exhibits I.11 and I.13). However, the hearings officer finds that the applicant's parking analysis to be more persuasive.

The applicant's analysis is based on observations of parking demand at the existing Masjid Ibrahim. As the applicant notes (Exhibit J.7), Masjid Ibrahim is not directly comparable to Masjid Bilal and Masjid As-Saber and those differences affect their parking demand. These masjids serve different communities. Masjid Ibrahim is not a regional masjid that draws attendees from throughout the region, nor is it located near large corporate offices with large numbers of Muslim employees. Masjid Ibrahim primarily serves residents of the surrounding neighborhood.

In addition, there is no evidence that the capacity of these masjids is comparable. Opponents submitted evidence comparing the floor area of the three masjids. However, there is no evidence regarding how much of the floor area of the other masjids is devoted to worship services. Much of the floor area of the proposed masjid is not used for worship. A large portion of the basement is unoccupied space being taken up with water storage, well pump and filtration and distribution pumps. A large portion of the second floor is taken up by minarets/water storage (Footnote 4 of Exhibit J.19).

Friday prayers at the existing masjid attract 80 attendees on average. Larger events attracting 250 people generated demand for 58 parking spaces; larger events attract families, which results in higher vehicle occupancy rates. (Exhibits I. 4 and I.6). The applicant proposed to limit attendance at the proposed masjid to a maximum 300 persons in order to ensure parking demand does not exceed the available supply. A condition of approval is warranted to that effect.

The applicant proposed to utilize valet parking or a shuttle bus service to accommodate excess parking demand. However, the applicant failed to provide any details about how such services would function – where the valet drivers would park the vehicles and how they would return to the site, where drivers would park to meet the shuttle bus, etc. Therefore, the hearings officer cannot rely on those options to support a finding that the use will not generate excessive parking demand.

The hearings officer finds that the use will not increase the potential for illegal parking on the narrow streets in the area. Reasonably prudent drivers will obey parking restrictions on area streets. Unfortunately, not all drivers are prudent. However, there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers. The applicant has no authority to order the tow of vehicles parked within the public right-of-way. The applicant may report such violations to the County Sheriff, who can cite or tow such vehicles.

As discussed below regarding MCC § 39.7515(F), in the unlikely event that parking demand exceeds supply, the applicant can be required to utilize flaggers to inform attendees that the site is at capacity and turn them away before they turn onto NW Springville Road. As conditioned, parking on the site will not create conflicts with the character of the area.

### Light

The hearings officer finds that lighting on the site will not conflict with the character of the area. All lights on the site will be aimed and shielded downwards to maintain all light within the boundaries of the site and primarily within the parking area, in compliance with the Dark Sky standards of MCC § 39.6850(C) (Plan Sheet A.3 of Exhibit A.4). Dense landscaping around the boundaries of the site and a three-foot high berm on the east boundary south of the driveway will screen headlights of vehicles parking and maneuvering on the site. (Plan Sheet A.2 of Exhibit A.4). The applicant also proposed two lighted signs - along the site's NW Springville Road and NW Springville Lane frontages (Plan Sheets A.2 and A.8 of Exhibit A.4). Lighting for the sign will be fully recessed, providing down-washed illumination of the sign face, with no offsite glare (plan sheet A8 of Exhibit A.4. Illuminated signs are commonly provided for churches and schools, which are frequently located in residential areas.

### Groundwater

The proposed masjid will utilize a groundwater well for potable water and irrigation. Water use will be limited to 5,000 or 15,000 gallons per day ("gpd"), depending on how the state classifies the use (Exhibit A.2). At 5,000 gpd, the proposed masjid will have no greater impact than a well for a single-family residence. At 15,000 gpd allowed groundwater use will be equivalent to three single-family residences. However, actual water usage is expected to be much lower; 75 to 200 gpd for potable water and irrigation limited to ½ acre as allowed by ORS 537.545. The applicant proposed to landscape the site with native plants to reduce the need for irrigation. In addition, the applicant proposed to harvest and store rainwater from the building roof for irrigation use. Given the limited water needs of the site and the limits on groundwater withdrawal imposed by state law, the hearings officer finds that groundwater use on the site will not alter the character of the area.

### Stormwater Runoff

As discussed in Sections 4.2 and 6.2 of this Final Order, the proposed development will not increase the rate of stormwater runoff nor cause or exacerbate flooding on adjacent properties. The applicant will collect and infiltrate much of the stormwater runoff from impervious areas of the site. Excess runoff will be detained and discharged to the ditches along the site frontage at controlled rates, replicating existing conditions.

### Dust

Activities on the site will not generate significant dust. Soils on the site will be covered with impervious surfaces (parking areas, walkways, and buildings) or landscaped. As discussed in Exhibit I.9, the gravel surfaced parking spaces will not generate significant dust. Gravel will only be used in some parking spaces, where vehicles are sitting or slowly driving in or out of the space. All parking drive aisles and vehicle maneuvering areas will be paved. The proposed "overflow" parking area will be covered in grass. Vehicle parking and maneuvering in this area may damage the grass, but it will revive with proper maintenance. Parking on grass is expressly allowed by MCC § 39.6570(A)(3). The overflow parking will only be used for special events occurring on an infrequent basis, which will allow the grass to recover. MCC § 39.6570(A)(3) requires that, "Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust." As noted in Exhibit I.9, the applicant can employ a water truck to sprinkle unpaved parking areas if necessary to control dust during the dry weather months of June to September. Conditions of approval are warranted to this effect.

### Wildlife

As discussed in Exhibits A.5 and I.7, the site provides little habitat value; there is little or no cover, water, or food. Any development on this site, including a single-family residence, will further reduce the site's habitat value, limiting the ability for wildlife to rest, graze, or travel through the site. However, the proposed development will not cause significantly greater impacts than uses permitted on the site. In addition, wildlife in the area appear to be acclimated to the noise, traffic, lighting, and activity associated with human occupation. The neighbors' photos show deer in residential yards near buildings and patios as well as near roads (Exhibit H.22). Elk are grazing in the field adjacent to high density residential development in the UGB (pages 5 & 6 of Exhibit H.23).

#### Soil Contamination

Opponents expressed concerns the soil on the site may be contaminated and water from stormwater infiltration or a septic drainfield may spread the contaminants (Exhibit H.1). However, such potential impacts will occur whether the site is developed with the proposed masjid or a single-family residence. In addition, there is no evidence of such contamination on the site.

#### Urban or Commercial Use

The proposed use is not an urban or commercial use. The proposed masjid is a community service use that is allowed as a conditional use in the rural area. MCC § 39.7520.

#### Rural Reserve

The proposed use is consistent with the Rural Reserve designation for this area. The designation does not change the current zoning or otherwise restrict the allowed uses of land subject to this designation. The Rural Reserve designation merely limits future regulatory changes.

#### Conclusion:

The hearings officer concurs with the applicant's findings that the proposed masjid is generally consistent with the character of the area in terms of both scale and neighborhood setting. *The standard is met.*

#### **(B) Will not adversely affect natural resources;**

**Applicant:** "The proposal will not adversely affect natural resources because the proposed development is located within 200 feet of the existing public rights of way, there are no natural resources on the subject property that are affected by the proposal, and no impacts are indicated in the environmental report prepared by the project's environmental consultant which are incorporated into this application. See Exhibit 19."

**Staff:** As demonstrated in Section 9 of this Final Order (Significant Environmental Concern permit), the proposed development meets the criteria for development within the Significant Environmental Concern for Wildlife Habitat overlay and therefore will not adversely affect natural resources. The proposed building and parking areas will preclude wildlife from using much of the site. However, development of a single-family residence or other permitted use on this site will have similar impacts. In addition, the site provides minimal habitat value, as it is lacking in food, water, and cover. *This standard is met.*

#### **(C) The use will not:**

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor**
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

**Applicant:** “The proposal will not adversely impact accepted farm or forest practices on surrounding lands devoted to farm or forest use. There are no nearby properties in forest use. Properties "devoted to" farm or forest use are zoned EFU or Forest. Properties in the MUA zone cannot be considered "devoted to" farm or forest uses since properties in that zone are subject to a Goal exception in which the property was deemed to have been either committed or developed to an extent that Goal 3 (Agriculture) or Goal 4 (Forest) did not apply. The nearest properties devoted to farm or forest uses are:

- the Malinowsky Farm which is located at 13450 NW Springville Lane approximately .3 miles away from the subject property and which is zoned EFU;
- a property to the west approximately .12 miles away at 14120 NW Springville Rd that appears to be in grass or hay production is also zoned EFU;
- a property across NW Springville Rd. to the north at 13829 NW Springville Rd. about 405 ft away is zoned MUA, but that property also appears to have some grass or hay production. As noted, it would not be appropriate to characterize that property as "devoted" to farm use. Nevertheless, as a precaution it is included in the analysis nevertheless.

All of these properties are separated from the subject property not only by distance, but also by topography and tree stands. The Malinowski Farm is also separated from the subject property by NW Springville Lane and the property to the north zoned MUA is separated from the subject property by NW Springville Rd. The Mosque has no adverse impact on any of these farm uses - it will not create dust or noise that will extend outside of the property boundaries and will not adversely affect the capacity or safety of either NW Springville Rd. or NW Springville Lane.”

**Staff:** Staff concurs with the applicant. The subject property is located within the MUA-20 zone and is adjacent to other MUA-20 zoned properties that have single-family dwellings as the dominant land use. Larger EFU and CFU properties are located away (450 feet or more) from the subject property to the extent where no significant change or change in the cost of agriculture or forestry is anticipated as a result of the proposed use. *This standard is met.*

**(C) Will not require public services other than those existing or programmed for the area;**

**Applicant:** “The proposal will not require water or sewer public services. Water will be provided via domestic well; septic service will be provided by the new septic system. Electrical, garbage disposal and sheriff services all currently exist in the area from established service providers. This project will not create demand on public schools or parks. See Exhibits 23, 24a, 24b, 25 and 26.”

**Staff:** This standard is generally applied to the need for any new public infrastructure generated by the proposal. The proposal does not require additional public services or infrastructure other than the proposed road improvements on NW Springville Lane, which the applicant will provide. Water, sanitation, and stormwater will be accommodated on site. Service providers

have indicated (Exhibits A.11 through A.15) that the subject property is already serviced by their respective agencies. *The standard is met.*

**(E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;**

**Applicant:** “The proposal is located outside a big game winter habitat area as determined by the report prepared by the project's environmental consultant.”

**Staff:** The subject property is located outside a big game winter habitat area (Exhibit B.4). *The standard is met.*

**(F) Will not create hazardous conditions;**

**Applicant:** “The proposal does not create hazardous conditions because there are no hazardous materials or processes associated with the Mosque, and the report prepared by the project's traffic consultant shows that traffic coming to and leaving from the site does not significantly increase the potential for congestion or mishaps. Exhibit 20.”

**Staff:** The standard seeks to avoid the creation of hazardous conditions, which typically means conditions that threaten injury or property damage. There are no known hazardous conditions associated with the site or the proposal. Traffic and access are adequately addressed as found in Section 10 of this Final Order insofar as potential conflicts with pedestrians and motor vehicles are minimalized.

**Hearings Officer:** Opponents argued that the proposed parking supply is inadequate to accommodate actual demand. Therefore, vehicle traffic will back up onto NW Springville Lane and NW Springville Road, creating a hazard. (Exhibits H.21, I.11, and J.10). However, as discussed in Sections 5.3 and 8.23 of this Final Order, the hearings officer finds that adequate parking will be provided to serve the site. In addition, the applicant proposed to utilize traffic flaggers at the site entrance to prohibit right turns onto NW Springville Lane, limiting traffic on the underimproved section of this road. In the unlikely event the parking lot is full, the same flaggers can inform drivers of that fact and turn them away before they enter the parking lot or even turn onto NW Springville Lane. A condition of approval is warranted to that effect.

Adequate sight distance is available at the intersection of NW Springville Road and NW Springville Lane and traffic movements at this intersection will not create a hazard (Exhibit J.6). As Mr. Clemow notes, these two roads intersect at a 90-degree angle and there are no horizontal or vertical curves within 650 feet of the intersection. Therefore, the available sight distance exceeds the minimum standard for a road with a 55 mph speed limit. The posted speed limit on NW Springville Road is 40 mph. A condition of approval requires the applicant maintain vegetation within the sight distance triangles to maintain adequate sight distance. Mr. Clemow analyzed traffic flow at this intersection using a conservative saturation flow rate. That analysis demonstrates that the intersection will function adequately (Exhibits A.6 and J.6). Although opponents questioned Mr. Clemow’s analysis (Exhibit (I.11)), they failed to provide any evidence to the contrary.

Opponents argued that this development will create a hazard on NW Springville Road due to the volume and speed of traffic. However, based on the applicant's traffic analysis, traffic from this development will not exceed the capacity of this street. All affected intersections will continue to operate well above the County's minimum LOS standard. Reasonably prudent drivers will observe the posted speed limit and further reduce their speed to accommodate changing road conditions. Unfortunately, not all drivers are prudent. However, there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers.

*This standard is met.*

**(G) Will satisfy the applicable policies of the Comprehensive Plan;**

**Applicant:** "All policies in the Comprehensive Plan that could otherwise be applicable to the proposed Mosque are implemented through the MUA zone and the SEC-H overlay. The proposal complies with the requirements of the MUA zoned and the SEC-H overlay. Therefore the proposal complies with the county's Comprehensive Plan."

**Hearings Officer:** Applicable Comprehensive Plan policies of the MUA-20 zone and Significant Environmental Concern are applied through existing code standards relating to those polices. MUA-20 zone standards are addressed in Section 4 and SEC standards are addressed in Section 9 of this Final Order – as noted in the findings addressing MUA-20 and SEC. The applicant is not required to locate the masjid in the Rural Center zone; places of worship are allowed in the MUA-20 zone. Neither the Code nor the comprehensive plan require that this use be sized to serve the rural area. However, the majority of attendees reside within two to three miles of the site. Opponents argued that the proposed use is inconsistent with the Comprehensive Plan (Exhibit H.14), but they failed to identify specific provisions with which the proposed use conflicts. *The applicable policies of the Comprehensive Plan are met.*

**(H) Will satisfy such other applicable approval criteria as are stated in this Section.**

**Staff:** Other applicable requirements are addressed below.

**5.4 § 39.7520 USES.**

**(A) Except as otherwise limited in the EFU, all CFU and OR base zones, the following Community Service Uses and those of a similar nature, may be permitted in any base zone when approved at a public hearing by the approval authority.**

**Allowed Community Service Uses in the EFU, CFU and OR base zones are limited to those uses listed in each respective base zone.**

**(1) Church, or other nonresidential place of worship, including the following activities customarily associated with the practices of the religious activity:**

- (a) Worship services;**
- (b) Religion classes;**
- (c) Weddings;**
- (d) Funerals;**
- (e) Meal programs;**
- (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education; and**

**(g) Providing housing or space for housing in a building that is detached from the place of worship, provided:**

**(i) The subject property is located in a base zone that lists single-family dwelling as an Allowed Use, or where a single-family dwelling is permitted through a non-discretionary land use review process.**

**(ii) The subject property is located inside the urban growth boundary.**

**(iii) At least 50 percent of the residential units provided under this subsection (g) are affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County.**

**(iv) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone, including the density standards for dwellings in the applicable zone.**

**(v) Housing and space for housing provided under subsection (g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection (g)(iii) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County for a period of 60 years from the date of the certificate of occupancy.**

**Applicant:** “The proposal is a non-residential place of worship that includes worship services, classes, weddings, funerals, meal programs and similar activities.”

**Staff:** The proposed use is a non-residential place of worship that includes prayer services, classes, weddings, funerals, and meal programs. These uses are a listed Community Service Use in MCC 39.7520(A)(1).

## **6.0 Common Development Standards:**

### **6.1 § 39.6210 PERMITS REQUIRED.**

**(A) All Ground disturbing activities, which are not determined to be exempt through the provisions of MCC 39.6215, shall be authorized either through a Minimal Impact Project (MIP) Permit or a Grading and Erosion Control (GEC) Permit as outlined in the table below.**

<b>The proposal qualifies for Minimal Impact Project review only if <i>all</i> of the following are met:</b>	<b>A Grading and Erosion Control Permit is required if <i>any</i> of the following triggers are met:</b>
<b>Less than or equal to 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; and</b>	<b>More than 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; or</b>

<b>Areas disturbed are not within 200' by horizontal measurement from the top of the bank of a water body or from the boundary of National Wetlands Inventory mapped wetlands associated with a water body, whichever distance is greater; and</b>	<b>Areas disturbed are within 200' by horizontal measurement from the top of the bank of a water body or from the boundary of National Wetlands Inventory mapped wetlands associated with a water body, whichever distance is greater; or</b>
<b>Slopes before development are less than or equal to 10 percent (10 Horizontal: 1 Vertical); and</b>	<b>Slopes before development are greater than 10 percent (10 Horizontal: 1 Vertical); or</b>
<b>Unsupported finished slopes will be less than or equal to 33 percent (3 Horizontal: 1 Vertical) grade and are less than or equal to five feet in height; and</b>	<b>Unsupported finished slopes exceed a 33 percent (3 Horizontal: 1 Vertical) grade and greater than five feet in height; or</b>
<b>No Hydrologic scour attributed to development occurs resulting in visible erosion, turbidity, or sediment deposition within a water body.</b>	<b>Hydrologic scour attributed to development occurs resulting in visible erosion, turbidity, or sediment deposition within a water body.</b>

**Staff:** As shown on the applicant's plan sheet A.2 (Exhibit A.4), the area of ground disturbance will exceed 10,000 square feet. Therefore, an Erosion and Sediment Control (ESC) permit is required. Slopes are less than 10 percent. Condition 4 requires the applicant to get an ESC permit. *As conditioned, the standard is met.*

**6.2 § 39.6235 STORMWATER AND RUN-OFF STANDARDS.**

**Persons creating new impervious surfaces exceeding 500 square feet shall install a stormwater drainage system. Replacement of existing impervious surfaces does not provide a credit to the 500 square foot threshold except that re-roofing projects on lawfully existing structures that will not require any structural permits do not require stormwater review. The system shall be designed to ensure that the rate of runoff for the 10-year 24-hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse.**

**Staff:** The applicant is creating new impervious surfaces exceeding 500 square feet (Exhibit A.4) requiring compliance with this standard. The applicant has provided a completed Multnomah County Stormwater Certificate (Exhibit A.7) signed and stamped by Oregon Registered Engineer, Edmund Tawiah P.E. The certificate indicates that construction of an on-site stormwater drainage control system is required. A stormwater report also prepared by Edmund Tawiah P.E. is included with the Stormwater Certificate and includes the calculations of the expected stormwater runoff. The 10-year, 24-hour storm volume from the roof on the site is calculated at 1,954 cubic feet. Roof water is proposed to be directed into on-site rainwater cisterns. The parking area 10-year, 24-hour storm runoff is calculated 2,299 cubic feet, which will be directed into a proposed infiltration swale located on the northeast corner of the property. The cisterns and the swale are proposed to accommodate the 10-year, 24-hour storm from the roof and the impervious parking areas respectively so that the rate of runoff is no greater than that which existed prior to the development. Condition 21 requires the cisterns and swales to be provided as proposed (Exhibit A.4) or as otherwise certified by an Oregon

Registered engineer certifying the design will meet or exceed the expected 10-year, 24-hour storm runoff. *As conditioned, the standard is met.*

## **7.0 Design Review Criteria:**

### **7.1 § 39.8010 DESIGN REVIEW PLAN APPROVAL REQUIRED.**

**No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to this section, nor shall such a use be commenced, enlarged, altered or changed until a final design review plan is approved by the Planning Director, under this Code.**

**Staff:** The proposal includes a building, grading, signs and parking. The following Design Review standards are addressed in the findings below.

### **7.2 § 39.8020 APPLICATION OF REGULATIONS.**

**(A) Except those exempted by MCC 39.8015, the provisions of MCC 39.8000 through 39.8050 shall apply to all conditional and community service uses, and to specified uses, in any base zone.**

**Staff:** The application is for a Community Service Use that is not exempted by MCC 39.8015 and it is therefore subject to the provisions of MCC 39.8000 through MCC 39.8050.

### **§ 39.8030 FINAL DESIGN REVIEW PLAN.**

**Prior to land use approval for building permit review or commencement of physical development where no additional permits are necessary, the applicant shall revise the plans to show compliance with the land use approvals granted, all conditions of approval and required modifications. Final design review plan shall contain the following, drawn to scale:**

- (A) Site Development and Landscape Plans drawn to scale, indicating the locations and specifications of the items described in MCC 39.8025, as appropriate;**
- (B) Architectural drawings, indicating floor plans, sections, and elevations; and**
- (C) Approved minor exceptions from yard, parking, and sign requirements.**

**Staff:** This standard allows that the final Design Review plan may differ from the current submitted plan if changes are required by the approval authority. One such required change is the revise the proposed sign placement in order to meet the vision clearance standard. The applicant is required to submit a final site plan (Condition 20) reflecting the approval and conditions of approval. *As conditioned, the standard is met.*

### **§ 39.8040 DESIGN REVIEW CRITERIA.**

**(A) Approval of a final design review plan shall be based on the following criteria:**

**(I) Relation of Design Review Plan Elements to Environment.**

- (a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.**

**(b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.**

**(c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter related, and shall provide spatial variety and order.**

**Applicant:** “As explained above, this standard may not be applied to the proposed Mosque under ORS 215.441. The following is offered in the alternative only and without waiving this position.

Design options are limited for the proposed Mosque because the Muslim faith requires the Mosque to be oriented toward Mecca to facilitate proper prayer. With this in mind, the proposed design is in harmony with the site because the building orientation aligns with existing slopes, in its orientation to the direction of Mecca. The building and surrounding parking occupies the portion of the site that has been previously developed, the more natural perimeter areas will be further enhanced with landscaping. The proposed design promotes energy conservation by rain water harvesting from a collection system on the roof, management of storm water on site including infiltration in graveled portions of the parking area, and exclusive use of LED lamps for site and interior lighting with motion detection and other controls to minimize use. The proposed design protects the building from climatic conditions by providing coverings at building entries; its activities are typically low sound volume and do not produce significant odors or fumes. The proposed design is based on religious and cultural functional relationships and sequences inherent in the rituals, and is therefore effective, efficient and attractive. As with most religious buildings, the scale, order and spatial variety is appropriate for the vision of how the human relates to the world around him and is intended to provide an uplifting quality.”

**Hearings Officer:** As noted above, this standard may not be applied under ORS 215.441. However, the applicant has demonstrated compliance with the criteria in this standard. The proposed development will relate harmoniously to the natural environment because it will be relatively low impact due to water conservation and low energy lighting. The masjid will provide shelter to occupants during periods of adverse weather. The development is on a similar scale to larger single-family dwellings in the West Hills. *The standard is met.*

**7.3 (2) Safety and Privacy - The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.**

**Applicant:** “The proposed design provides a safe environment in several ways: the traffic pattern on site is one-way, minimizing the potential for parking lot collisions; pedestrian circulation on site is clearly marked with limited crossings of the vehicle aisles; multiple entries are provided with good visibility of the surrounding parking and providing plaza transitions from public to private areas; site lighting on motion detection improves safety and security.”

**Hearings Officer:** The applicant's site plan (Exhibit A.4) shows a parking and circulation plan that will include one-way circulation and clearly marked pedestrian crossing areas in order to minimize vehicle and pedestrian conflicts. Motion detection lighting is appropriately placed in order to provide for safe pedestrian access from the surrounding parking area to the masjid entrances. As discussed in Section 5.3 of this Final Order regarding MCC § 39.7515(F), this development will not result in traffic backups on public streets. *The standard is met.*

**7.4 (3) Special Needs of Handicapped - Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and braille signs.**

**Applicant:** "The proposed design provides complete compliance with all ADA code requirements, including location of accessible parking in close proximity to building entries; accessible routes from those parking spaces with appropriate wheelchair ramps, tactile warning plates, and 5-percent maximum slopes in direction of travel and 2-percent cross slopes; accessible entries with ½" maximum vertical offsets at door thresholds; and toilet rooms with all required clearances and maneuvering areas."

**Staff:** The applicant's plan sheet A1 (Exhibit A.4) indicates four accessible parking spaces will be provided. The applicant's statement above illustrates the proposed use of wheelchair ramps, tactile warning plates and considerations regarding interior maneuvering. *The standard is met.*

**7.5 (4) Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.**

**Applicant:** "The proposed design avoids or minimizes impact to those portions of the site with viable existing trees and shrubs, removes designated invasive species. All existing trees and shrubs to be maintained will be protected by fencing during construction."

**Staff:** The applicant's site plan sheet A2 (Exhibit A.4) indicates those existing trees that will be maintained on site (four dead trees will be removed). The applicant states that the trees will be protected during construction. As noted on the applicant's plan sheet 6 (Exhibit A.4), the proposed grading retains the general slope of the property from south to north and appears to be the minimum necessary to accommodate the development. *The standard is met.*

**7.6 (5) Pedestrian and Vehicular Circulation and Parking - The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.**

**Applicant:** “The proposed design provides a single point of access to the site as requested by county staff with a one-way vehicle circulation pattern; pedestrian circulation is limited to movement between parked cars or drop-off locations and one of the three entries provided, which minimizes the distance of pedestrian travel required. The parking areas are proposed to be well screened by landscaping from the surrounding neighborhood.”

**Staff:** As demonstrated in the applicant’s submitted plans (Exhibit A.4), the development will have one access point and one-way vehicle circulation through the parking and maneuvering areas. Pedestrian crossings and building entries will be well marked and appropriately lit. The parking and circulation layout is harmonious with the proposed masjid development is on a similar scale to larger single-family dwellings in the West Hills. *The standard is met.*

**7.7 (6) Drainage - Surface drainage and stormwater systems shall be designed so as not to adversely affect neighboring properties or streets. Systems that insure that surface runoff volume after development is no greater than before development shall be provided on the lot.**

**Applicant:** “All storm water is proposed to be accommodated on site as shown on the civil engineer drawings; portions of the parking area storm water will be infiltrated in graveled parking spaces; roof storm water is proposed to be harvested for irrigation or other purposes to avoid water waste and help to manage on-site stormwater; no flow off site is contemplated or proposed. (Exhibits 8 & 21a, 21b).”

**Staff:** Storm water is proposed to be managed on site in stormwater infiltration swale on the northeast corner of the property. Storm water will meet this standard as further addressed in Section 6 of this Final Order. *The standard is met.*

**7.8 (7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.**

**Applicant:** “The entire perimeter of the site provides screening with landscaping to minimize the impact of any adverse features or conditions on the site; buffering is provided by the 64'-10½" foot minimum yards/setbacks for the building. Specific features, such as electrical transformers and trash facility are surrounded by higher degrees of landscape screening. (Exhibit 12).”

**Hearings Officer:** The site will include an appropriate degree of vegetative screening designed to minimize adverse impacts on the site and neighboring properties as demonstrated on the applicant’s landscaping plan sheet A2 (Exhibit A.4). Additionally, the applicant indicates on plan sheet A1 (Exhibit A.4) that the trash collection area will be fully enclosed by a six-foot high sight-obscuring fence and gates. Water, sanitation, and storm water lines will be subsurface as indicated on the applicant’s utility plan sheet 3 (Exhibit A.4). Any overhead lines, such as power will be appropriately screened by landscape trees as shown in Exhibit A.4. The proposed dome and minarets may extend

past and be visible above existing trees on and near the site. However, the impacts of these structures is minimized to the extent feasible. The dome and minarets have a relatively narrow cross section, minimizing their visual impact by design. These features will appear as relatively narrow objects against a background of sky for most viewers. Although visible, the dome and minarets are passive objects in a large viewing shed. *The standard is met.*

**7.9 (8) Utilities - All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.**

**Applicant:** “As noted above, all above ground utilities will be screened.”

**Staff:** As demonstrated on the applicant’s landscaping plan sheet A2 (Exhibit A.4) any overhead lines, such as power will be appropriately sited to minimize impacts on neighboring properties and screened by landscape trees. *The standard is met.*

**7.10 (9) Signs and Graphics - The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.**

**Applicant:** “The Mosque will have one free standing sign along the NW Springville Rd. frontage and one sign at NW Springville Ln. frontage for identification purposes that will meet all county code requirements. The signs will be indirectly illuminated downward as authorized by MCC 39.6575(C). Additional signage for directional (i.e. reflecting no right turn onto NW Springville Lane unless necessary to get to destination and one internal directional sign) and at various locations in the parking area (i.e. signs for handicapped parking), and building entry signs will be provided as needed and will meet all required standards. All signage will reflect the design character of the building. (Exhibit 18).

All signage will reflect the design character of the building. (Exhibit 18).”

**Staff:** There are two signs advertising the masjid site as well as internal directional signs to orient drivers and pedestrians. The proposed signage as shown on plan sheet A8 (Exhibit A.4) will complement the design character of the masjid development, because it provides an attractive foreground element along with attractive vegetative landscape features that complement the proposed masjid. The proposed signs are conditioned to be compliant with the sign face area standards and the vision clearance standards (Condition 20). The signs will be compatible with surrounding properties insofar as all properties must comply with the same sign placement and sign face areas standards. *As conditioned, the standard is met.*

**7.11 § 39.8045 REQUIRED MINIMUM STANDARDS.**

**(C) Required Landscape Areas**

**The following landscape requirements are established for developments subject to design review plan approval:**

**(1) A minimum of 15-percent of the development area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.**

**Applicant:** “The total site area is approximately 95,832 square feet; the building footprint is 8715 square feet, the paved areas (vehicle and pedestrian, including gravel parking spaces) total 34,541 square feet, and the landscaped area, including the areas at the south edge of the site ("open area" and "drainfield") is 52,576 square feet, which is 54.9-percent of the site area; excluding the open and drainfield area of 18,555 square feet, the remaining 34,021 square foot landscape area is 35.5-percent of the site. Proposed landscaping exceeds requirements.”

**Staff:** Staff concurs with the applicant’s calculations above, which are further demonstrated on the applicant’s site plans (Exhibit A.4). The applicant’s site plan sheet A.2 (Exhibit A.4) also demonstrates compliance with the standard. The proposed 35.5-percent landscaping exceeds the minimum 15-percent standard. *The standard is met.*

**7.12 (2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.**

**Applicant:** “This standard is met as demonstrated on the landscape plan and as confirmed by the information above.”

**Staff:** The entire site is subject to the final design review plan and all areas that are not part of a building or parking and circulation will be landscaped. Condition 16 requires the landscaping to be maintained as shown in plan sheet A2 (Exhibit A.4). *This standard is met.*

**7.13 (3) The following landscape requirements shall apply to parking and loading areas:**

- (a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.**
- (b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.**
- (c) A landscaped strip separating a parking or loading area from a street shall contain:**
  - 1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;**
  - 2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and**
  - 3. Vegetative ground cover.**
- (d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.**
- (e) A parking landscape area shall have a width of not less than 5 feet.**

**Applicant:** “At 25 square feet per parking space, the 67 parking spaces provided will require 1675 square feet total of landscaping related directly to the parking area. A total of 2500 square feet is provided in the island near the east entry, at the north and west sides of the building, and in locations where the parking configuration turns corners or includes other similar features. All planting areas are shown on the landscape plan to provide trees at a maximum spacing of 50 feet average, shrubs at a maximum spacing of 5 feet average and vegetative ground cover. The area for landscaping is not affected by the size of parking spaces, only the number of spaces.”

**Hearings Officer:** The parking area provides more than ten spaces, therefore the applicant is required to provide 25 square feet of landscaping per space or 1,675 square feet total for the 67 permanent spaces provided. The applicant states that the landscaped island will include 2,500 square feet of landscaping, therefore (a) above is met.

As shown on the applicant’s plans (Plan Sheet A.1 of Exhibit A.4 and Exhibit I.5) all parking and loading areas will be setback a minimum of ten feet from all property lines, and as shown on the applicant’s plan sheet A.2 (Exhibit A.4) a landscaped strip of ten feet wide or more will be provided between the parking areas and the two adjacent roads to the north and east, therefore (b) above is met.

Proposed street trees (sheet A2 – Exhibit A.4) are no more than 30 feet apart, therefore (3)(c)1 above is met.

A continuous line of low shrubs (not to reach a height greater than 3’0”) will be placed within the landscape strip (sheet A2 – Exhibit A.4). Therefore (3)(c) above is met.

Condition 17 requires areas within the landscape strips adjacent to streets that would otherwise contain bare soil to include vegetative ground cover. As conditioned the above is met.

Landscaping in the parking area is proposed to be uniformly distributed throughout the parking area (sheet A2 – Exhibit A.4). Therefore (d) above is met.

The parking landscaping is at least 5 feet in width and shown on plan sheet A2 (Exhibit A.4). Therefore (e) above is met.

*These standards are met.*

**7.14 (4) Provision shall be made for watering planting areas where such care is required.**

**Applicant:** “As explained above, irrigation for plants will be provided from two sources. First, the domestic well will be available to water up to ½ acre of plantings. The balance of the plantings that require water will be watered via an irrigation system using stored rainwater collected in a rooftop rainwater harvesting system. Water stored from this system will be used for supplemental irrigation and a drip irrigation system is intended. As is explained earlier in this narrative, if the timing of the final occupancy for the Mosque when landscaping is installed does not coincide with the rooftop rainwater harvesting system collecting enough water to establish the plantings, water

will be trucked in and pumped into the storage facilities so that the drip system will work as intended and such that the ½ acre limitation from the domestic well is observed.”

**Staff:** As indicated by the applicant above (Exhibit A.4, page 71), provision for watering landscaped areas will be provided through rainwater collection and domestic well supply. Condition 16 requires that landscaped areas be watered as needed in order to ensure survival of trees and plants on the property. *As conditioned this standard is met.*

**7.15 (5) Required landscaping shall be continuously maintained.**

**Applicant:** “Landscaping maintenance will be performed as required so that landscaping is continuously maintained.”

**Staff:** Condition 16 requires landscaping to be continuously maintained. *As conditioned this standard is met.*

**7.16 (6) Maximum height of tree species shall be considered when planting under overhead utility lines.**

**Applicant:** “The landscape plan shows trees with appropriate maximum height along the street right of way. (Exhibit 12).”

**Hearings Officer:** Trees along the east property line where power lines are present (plan sheet G.2, Exhibit A.4) show primarily Irish yew and Italian cypress (plan sheet A2, Exhibit A.4), which are species that can be easily trimmed to an appropriate height. However, the applicant revised the landscape plan to provide native species for the majority of the landscaping, including substituting Hogan cedar trees for the proposed Italian cypress and Oregon yew for the proposed Irish yew (Exhibit H.2). There is no evidence regarding the height or impact of trimming on these species. Therefore, the applicant should be required to provide a statement from a landscape architect indicating that all landscaping along the east property line where power lines are present can be maintained so as to not interfere with the powerlines. A condition of approval is warranted to that effect. In addition to requiring continuing maintenance, Condition 16 requires the applicant to maintain tree height and branches to avoid conflicts with overhead utility lines. *As conditioned this standard is met.*

**7.17 (7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.**

**Staff:** (7) above is a definition rather than a standard. Landscaped areas are shown on the applicant’s plan sheet A2. Exhibit A.4.

**8.0 Parking, Loading, Circulation and Access Criteria:**

**8.1 § 39.6505 GENERAL PROVISIONS.**

**In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking, loading and traffic circulation and access (whether pedestrian, vehicular or otherwise) shall be provided according to the requirements of this Section Subpart. For nonconforming uses, the objectives of this Subpart shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.**

**Staff:** The application is for a religious center, which is a more intensive use than the current residential use of the property. Therefore the application must comply with the following parking, loading, circulation and access criteria.

**§ 39.6510 CONTINUING OBLIGATION.**

**The provision for and maintenance of off-street parking and loading facilities without charge to users shall be a continuing obligation of the property owner. No building or any other required permit for a structure or use under this or any other applicable rule, ordinance or regulation shall be issued until satisfactory evidence in the form of a site development plan, plans of existing parking and loading improvements, a deed, lease, contract or similar document is presented demonstrating that the property is and will remain available for the designated use as a parking or loading facility.**

**§ 39.6515 PLAN REQUIRED.**

**A plot plan showing the dimensions, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit.**

**Applicant:** “Separate plans are submitted as exhibits to this application to show all required information. (Exhibits 4, 5, 11 and 12).”

**Staff:** The applicant has provided the required plans supporting compliance with these standards – specifically plan sheet A.1 (Exhibit A.4).

**8.2 § 39.6520 USE OF SPACE.**

- (A) Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.**
- (B) No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.**
- (C) A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space.**
- (D) Except for residential and local commercial base zones, loading areas shall not be used for any purpose other than loading or unloading.**

**(E) In any base zone, it shall be unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations.**

**Applicant:** “Parking is intended only for the use of the Masjid community; vehicles making deliveries for the building are intended to be of a type and size that can easily utilize the standard parking stalls, or be parked for short periods adjacent to any of the building entries where additional space is provided to accommodate deliveries. No parking space will be used for conducting business, nor will any fee for parking be established. In this regard, the Mosque is not a commercial center or a business. It is a place of spiritual renewal and religious worship.”

**Staff:** As stated above, the parking spaces will serve the proposed masjid community. A loading area is shown on plan sheet A.1 (Exhibit A.4) however, no formal loading spaces are required as noted in findings under Section 8.24 of this Final Order. The proposed parking stalls also double as loading and unloading for the purposes of the use – to serve people in the community as opposed to another use such as commercial or industrial uses which may require consideration of loading bays. Condition 6 requires the loading area to be used for loading and unloading only. Condition 6 also prohibits the storage or accumulation of equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations. Condition 6 also require no charge for the use of spaces and Condition 8 prohibits using spaces to conduct commercial activities. *As proposed or otherwise conditioned, these standards are met.*

### **8.3 § 39.6525 LOCATION OF PARKING AND LOADING SPACES.**

**(A) Parking spaces required by this Subpart shall be provided on the lot of the use served by such spaces.**

**(B) Exception - The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:**

- (1) Parking use of the alternate site is permitted by this Chapter;**
- (2) The alternate site is within 350 feet of the use;**
- (3) There is a safe and convenient route for pedestrians between the parking area and the use;**
- (4) Location of required parking other than on the site of the use will facilitate satisfaction of one or more purposes or standards or requirements of this Chapter; and,**
- (5) There is assurance in the form of a deed, lease, contract or other similar document that the required spaces will continue to be available for off-street parking use according to the required standards.**

**(C) Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.**

**Applicant:** “No specific loading spaces are provided because they are not needed for the proposed Mosque. Vehicles making deliveries are accommodated in locations adjacent to entries and because they are small sized vehicles, can if necessary use

parking stalls. Parking is intended only for the use of the Masjid community. No storage will occur in the parking areas or in locations adjacent to entries.”

**Staff:** Parking spaces are all proposed on the subject lot. No marked loading spaces are required as noted in Section 8.24 of this Final Order. *The standard is met.*

#### 8.4 § 39.6530 IMPROVEMENTS REQUIRED.

**(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 29.014, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.**

**(B) Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited.**

**Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.**

**Applicant:** “All improvements will be completed prior to occupancy or completion will be guaranteed by appropriate assurances.”

**Staff:** Condition 9 requires the parking and loading areas to be completed prior to the issuance of a Certificate of Occupancy unless a Performance Bond is approved by the Planning Director and County Attorney. *This standard is met through a condition of approval.*

#### 8.5 § 39.6535 CHANGE OF USE.

**(A) Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Subpart shall be unlawful unless the additional spaces are provided.**

**(B) In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.**

**Applicant:** “The proposed Mosque is a change from the existing residence and outbuildings on the subject property. Required parking to accommodate the Mosque will be provided, as required.”

**Staff:** The proposed religious center is a change in use from the current residential use of the property, which requires an increase in the number of parking spaces as found in Section 8.23 below. The applicant has demonstrated the application meets the parking requirements for the new use as found in Section 8.23 below. Condition 10 prohibits additional alteration without additional review by the approval authority. Therefore, *this standard is met.*

#### 8.6 § 39.6540 JOINT PARKING OR LOADING FACILITIES.

**(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.**

**(B) Owners of two or more adjoining uses, structures, or parcels of land may utilize jointly the same parking or loading area, when approved by the Planning Director, upon a finding by the Director that the hours of operation do not overlap and provided satisfactory legal evidence is presented to the Director in the form of a deed, lease, contract or similar document, securing full access to such parking or loading areas for all the parties jointly using them.**

**Applicant:** “The Additional uses are not proposed for this property, rather the property will be solely devoted to use as a Mosque. As a result, there is no need for shared parking or loading with other uses.”

**Staff:** There are no other uses proposed. *This standard is not applicable to the proposal.*

#### **8.7 § 39.6545 EXISTING SPACES.**

**Off-street parking or loading spaces existing prior to July 26, 1979 may be included in calculating the number of spaces necessary to meet these requirements in the event of subsequent enlargement of the structure or change of use to which such spaces are accessory. Such spaces shall meet the design and improvement standards of this Section Subpart.**

**Applicant:** “The area where parking currently exists for the residence will become parking for the Mosque, as shown on the site plan. (Exhibits 2, 4 and 11).”

**Staff:** Parking on the site currently consists of unmarked parking areas serving the existing residence. However, there are no existing parking spaces that will be subject to the design and improvement standards of this subpart because they will be removed as part of the development and associated parking area; therefore, *this standard is not applicable to the proposal.*

#### **8.8 § 39.6550 STANDARDS OF MEASUREMENT.**

**(A) Square feet means square feet of floor or land area devoted to the functioning of the particular use and excluding space devoted to off-street parking and loading.**

**(B) When a unit or measurement determining the number of required off-street parking or off-street loading spaces results in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and any fraction over one-half shall require one off-street parking or off-street loading space.**

**Applicant:** “Design of the proposed parking is consistent with the required standards as is established on Exhibit 11.”

**Staff:** The calculation for the minimum required number of parking spaces is addressed in Section 8.23 below. The calculation used to determine the minimum requirement gives a dividend of 35.2875 parking spaces. Using the rounding formula given in (B) above, the minimum required number of parking spaces is 35.

#### **8.9 § 39.6555 DESIGN STANDARDS: SCOPE.**

**(A) The design standards of this Subpart shall apply to all parking, loading, and maneuvering areas except those serving a single-family dwelling on an individual lot in a rural base zone and except those serving a single-family or a two-family dwelling in an urban base zone. Any non-residential use approved on a parcel containing a single-family dwelling shall meet the design standards of MCC 39.6560 through 39.6580.**

**(B) All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.**

**Applicant:** “Design of parking is based on standards prescribed as shown on drawings. No turning, maneuvering or parking of vehicles on site will require any vehicle to back into the public right of way. (Exhibit 11). No designated loading areas are required for this use.”

**Staff:** The design standards of MCC 39.6560 through 39.6580 are applicable to the proposed non-residential use of the property – a religious center. As demonstrated on the applicant’s plan sheet A1 (Exhibit A.4), all parking and loading will be accommodated on the subject property. The applicant’s parking plan further demonstrates a functional, clearly marked circulation pattern that will prevent vehicles from backing into the public right-of-way. *The standard is met.*

#### **8.10 § 39.6560 ACCESS.**

**(A) Where a parking or loading area does not abut directly on a public street or private street approved under Part 9 of this Chapter, there shall be provided an unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.**

**(B) The Approval Authority may permit and authorize a deviation from the dimensional standard in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) through (4) are met:**

- (1) The authorized provider of structural fire service protection services verifies that the proposed deviation complies with such provider’s fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;**
- (2) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards;**
- (3) Application of the dimensional standard would present a practical difficulty or would subject the property owner to unnecessary hardship; and**
- (4) Authorization of the proposed deviation would not:**
  - (a) be materially detrimental to the public welfare;**
  - (b) be injurious to property in the vicinity or in the base zone in which the property is located; or**
  - (c) adversely affect the appropriate development of adjoining properties.**

**(C) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this Subpart. Required spaces may be located in a private street when authorized in the approval of such private street.**

**Applicant:** “The proposed access design shows a twenty foot wide driveway. (Exhibit 11).”

**Staff:** The proposed parking area does not directly abut a right of way. The applicant’s plan sheet A1 (Exhibit A.4) shows a 20 foot wide, two way access driveway featuring plainly marked directional arrows providing access from NW Springville Lane, which is a County right-of-way. Therefore, (A) *above is met*.

No deviation from the standard in subsection (A) is sought, so (B) *above does not apply*. No parking or loading spaces are proposed in public or private street; therefore (C) *above does not apply*.

## 8.11 § 39.6565 DIMENSIONAL STANDARDS.

### (A) Parking spaces shall meet the following requirements:

- (1) At least 70-percent of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.
- (2) Up to 30-percent of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.
- (3) For parallel parking, the length of the parking space shall be 23 feet.
- (4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

**Applicant:** “The Mosque proposes 67 parking spaces. The proposed parking for the Mosque meets the above standards. The proposed design shows 42 "full size" parking spaces; 21 "compact" parking spaces, four parking spaces designated as "accessible," which are 20 feet in length to comply with ADA requirements. Therefore, 70-percent of the proposed parking spaces are full sized as required and 30-percent of the proposed parking spaces are "compact," within the maximum percentage of compact spaces that is allowed. (Exhibit 11).”

**Staff:** The applicant is proposing a total of 67 permanent parking spaces and 17 overflow spaces. As found in Section 8.23 below, the required number of spaces is 35. As shown on the applicant’s plan sheet A1 (Exhibit A.4), 42 of the proposed parking spaces will meet the dimensional standards in (A)(1) or 120-percent of the required off-street parking spaces; therefore, *the standard in (A)(1) is met*.

Because at least 35 spaces (the minimum required number of spaces) meet the dimensional standards in (A)(1), there is no need to consider the number of compact spaces provided for in (A)(2) although it should be noted that the compact spaces provided meet the dimensional standards of (A)(2) as shown on the applicant’s plan sheet A1 (Exhibit A.4). *Therefore, (A)(2) above is met*.

No parallel spaces are proposed; therefore, (A)(3) *does not apply to the proposal*. As demonstrated on the applicant’s plan sheet A1 (Exhibit A.4), all space dimensions are exclusive of access drives, aisles, ramps or columns; therefore, (A)(4) *is met*.

### 8.12 (B) Aisle width shall be not less than:

- (1) 25 feet for 90 degree parking,
- (2) 20 feet for less than 90 degree parking, and
- (3) 12 feet for parallel parking.
- (4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

**Applicant:** “The proposed design shows 25 feet for 90 degree parking and 20 feet for less than 90 degree parking. (Exhibit 11).”

**Hearings Officer:** The applicant’s plans (Plan Sheet A1 of Exhibit A.4 and Exhibit I.5) show 25 foot aisle widths adjacent to 90 degree parking spaces and 20 foot aisle widths adjacent to parking spaces that intersect the parking aisle at an acute angle. No parallel parking is proposed. *The standard is met.*

**8.13 (C) Loading spaces shall meet the following requirements:**

- (1)

Base zone	Minimum Width	Minimum Depth
All	12 Feet	25 Feet

- (2) Minimum vertical clearance shall be 13 feet.

**Applicant:** “No loading spaces are required for this religious land use and so no loading areas having these dimensions are shown or required for the proposed Mosque; space is provided adjacent to one or more building entrances that meet or exceed these dimensions and do not interfere with marked parking spaces for the infrequent and occasional loading/unloading of items. Deliveries are few and deliveries (obviously not associated with the construction of the Mosque) will be made by vehicles that can easily be accommodated in standard parking stalls.”

**Staff:** As indicated in findings in Section 8.24 below, no loading spaces are required. *This standard is not applicable.*

**8.14 § 39.6570 IMPROVEMENTS.**

**(A) Surfacing**

- (1) Except as otherwise provided in this section, all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider.
- (2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize, alternate surfacing systems that provide a durable dustless surface, including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and the proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required parking spaces, also meets the following standards in subparagraphs (c) and (d):

(a) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

(b) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public right-of-way shall be paved for a minimum of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

(c) Authorization of the proposed deviation would not:

1. be materially detrimental to the public welfare;
2. be injurious to property in the vicinity or in the base zone in which the property is located; or
3. adversely affect the appropriate development of adjoining properties; and

(d) Any impacts resulting from the proposed resurfacing are mitigated to the extent practical. Mitigation may include, but is not limited to, such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200 feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed.

Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

(3) Notwithstanding paragraph (A)(1) of this section, parking fields for intermittent uses such as special events associated with public parks, sporting events, and the like may be surfaced with gravel, grass or both and spaces may be unmarked if the parking of vehicles is supervised. Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust.

**Applicant:** "The proposed design shows all travel aisles and driveways to be asphalt paving complying with the standard; 12 parking spaces at the east side of the site and 3 spaces at the west side are also asphalt paving complying with the standard; the remaining parking spaces - 17 at the south, 19 at the west and 16 at the north sides of the site - are shown as compacted gravel to provide pervious drainage. The compacted, durable and dustless gravel will be compliant with fire apparatus access requirements and County road requirements.

Its purpose is to provide parking areas that drain. The combination of gravel and asphalt parking areas ensures that parking will not cause dust and will be a non-detrimental and an adequate means of providing for the parking needs of the Mosque that will not be detrimental to the public welfare or to surrounding property. (Exhibit 11)."

**Hearings Officer:** The applicant is proposing to use gravel for 52 of the 67 permanent parking spaces (plan sheet A1, Exhibit A.4). All other permanent parking spaces,

maneuvering areas, travel lanes, and the access drive are proposed to be paved. The proposed overflow parking area (Exhibit I.5) will only be used for intermittent special events. Therefore, it is exempt from the surfacing requirements pursuant to (A)(3). All paved areas are required to meet the paving standards of (A)(1) as required in Condition 12.

The proposed gravel parking spaces are required to meet (A)(2) (a) and (b) because the gravel is a deviation from (A)(1). The gravel spaces must also meet (A)(2) (c) and (d) because the gravel is for a parking area of four or more required parking spaces. Findings for (A)(2) (a) through (d) follow:

- (a) This provision requires the Fire District to verify that the proposed deviation (for the gravel parking spaces) complies with the District's fire apparatus access standards. The applicant has provided a Fire District review form completed by Drew DeBois, Deputy Fire Marshall at the Tualatin Valley Fire and Rescue district. The completed form indicates that fire apparatus access roads, circulation drive aisles and fire lanes shall, "...be of an all-weather surface that is easily distinguishable from the surrounding area and is capable of supporting not less than 12,500 pounds point load (wheel load) and 75,000 pounds live load (gross vehicle weight). Documentation from a registered engineer that the final construction is in accordance with approved plans or the requirements of the Fire Code may be requested. (OFC 503.2.3)" It is unclear from the submitted form whether parking spaces also need to meet the above requirement. Condition 12 requires all paved and graveled surfaces, including parking spaces to meet the above requirement or as otherwise required by the Fire District. *As conditioned, the standard is met.*
- (b) The County Engineer finds there are no concerns with the use of Gravel for the parking spaces. (Exhibit B.8). *This standard is met.*
- (c) This standard requires that the deviation (from the paving standard) will not:
  - 1. *be materially detrimental to the public welfare;*
  - 2. *be injurious to property in the vicinity or in the base zone in which the property is located; or*
  - 3. *adversely affect the appropriate development of adjoining properties;*

Because the proposed gravel is only for parking spaces and not for driveways and circulations areas, the cars will spend a minimal amount of time actually 'driving' on the gravel surface and to the extent driving on the gravel occurs, it is anticipated that vehicles will enter and exit the spaces at low speed, therefore generating minimal amounts of noise and dust. *The standard is met.*

- (d) This standard requires any impacts resulting from the proposed resurfacing to be mitigated to the extent practical. The standard provides that mitigation may include, but is not limited to, such considerations as provision for pervious drainage capability, drainage runoff control and

dust control. The applicant indicates that the “purpose of the gravel parking spaces is to provide parking areas that drain” and further indicates that the “combination of gravel and asphalt parking areas ensures that parking will not cause dust” Because the proposed gravel parking spaces will provide drainage and because the parking spaces are for parking (as opposed to driveways or circulation areas) dust production from the gravel areas will be minimal. A dust control plan is not required because the driveway and vehicle maneuvering areas will be paved with asphalt. *This standard is met.*

The applicant proposed to provide an additional 17 overflow parking spaces in the southeast corner of the site for use during intermittent special events (Exhibit I.5) as allowed by MCC § 39.6570(A)(3). The overflow area would remain mowed lawn area, with a movable barrier to keep vehicles out when not in use. A hedgerow is proposed along the western edge of the overflow area to prevent vehicles from parking in the drainfield area. The Multnomah County septic sanitarian has reviewed and approved the proposed parking overflow (Exhibit J.9). The applicant anticipates that the overflow parking area would be infrequently used, if at all.

The hearings officer finds that the proposed overflow parking area is consistent with MCC § 39.6570(A)(3). Although the proposed masjid is not a public park nor a sporting event venue, the Code is not limited to such secular events. The overflow parking area will be limited to intermittent special events occurring at the proposed masjid. These spaces may be unmarked if the parking of vehicles is supervised. The grass surface must be maintained so that grass is kept short and watered to minimize fire risk and reduce dust. *As conditioned, the standard is met.*

#### **8.15 (B) Curbs and Bumper Rails**

**(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.**

**(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence except as provided in (3) below.**

**(3) Except for development within the RC, BRC, SRC, PH-RC, OR, OCI and all CFU zones, the outer boundary of a parking or loading area with fewer than four required parking spaces may use a five foot wide landscape strip or yard planted with a near-continuous number of shrubs and/or trees. If the outer boundary of the parking area is within 50 feet of a dwelling on an adjacent parcel, the plant materials shall create a continuous screen of at least four feet in height except at vision clearance areas where it shall be maintained at three feet in height.**

**Applicant:** “The proposed design shows concrete or railroad tie curbs or wheel stops to separate vehicle areas from adjacent on-site and off-site pedestrian and landscape areas. (Exhibit 11).”

**Staff:** As shown on the applicant's plan sheet A2 (Exhibit A.4) all areas used for parking, loading, and maneuvering of vehicles will be physically separated from public streets or adjoining property by required landscaped strips or yards.

The parking plan sheet A2 (Exhibit A.4) indicates bumper rails around the outer boundary of the permanent parking areas will be railroad ties. Plan sheet 8 (Exhibit A.4) shows all bumper rails and curbs will be five inches in height.

Subsection (3) above does not apply because the proposal does not involve a parking or loading area with fewer than four required parking spaces. *The standard is met.*

- 8.16 (C) Marking - All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 39.6515, and such marking shall be continually maintained. Except for development within the RC, BRC, SRC, PH-RC, OR, or OCI zones, a graveled parking area with fewer than four required parking spaces is exempt from this requirement.**

**Applicant:** "Required marking is noted as painted, which will be continually maintained. (Exhibit 11)."

**Hearings Officer:** The permanent parking area is for more than four required parking spaces, so the standard applies. The applicant's parking plan sheet A1 (Exhibit A.4) notes that all parking spaces will be marked and as stated above will be continually maintained. Condition 11 requires the marking and continuous maintenance of the proposed parking and maneuvering areas as shown on plan sheet A1. The overflow parking area is exempt from marking if the parking of vehicles is supervised. *As conditioned, the standard is met.*

- 8.17 (D) Drainage - All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.**

**Applicant:** "Grading and drainage drawings and the storm water report prepared by the civil engineer show the grading and drainage proposed, and provisions for disposal of all surface water on site. (Exhibit 9)."

**Staff:** As described in detail in Section 6.2 above, the applicant has provided a completed Multnomah County Stormwater Certificate (Exhibit A.7) certifying the proposed stormwater plan and that surface water will be disposed of on site. Condition 21 requires to the implementation of the proposed stormwater plan. *As conditioned, the standard is met.*

- 8.18 (E) Covered Walkways - Covered walkway structures for the shelter of pedestrians only, and consisting solely of roof surfaces and necessary supporting columns, posts and beams, may be provided. Such structures shall meet the setback, height and other requirements of the base zone which apply.**

**Staff:** No covered walkways are proposed. *The standard does not apply to the proposal.*

- 8.19 § 39.6575 SIGNS.**

**Signs, pursuant to the provisions of this subpart shall also meet MCC 39.6780.**

**Applicant:** “All signs for parking and circulation will meet MCC 39.6780 as required. The signs will identify handicapped parking spaces, and signify the internal direction of travel.”

**Staff:** Proposed signs will meet MCC 39.6780 by way of a condition of approval as found in Section 10 of this Final Order. *As conditioned the standard is met.*

**8.20 § 39.6580 DESIGN STANDARDS: SETBACKS.**

**(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street perpendicularly.**

**Applicant:** “The site plan drawing shows that no parking/loading, vehicle maneuvering or access drive will be situated in the required 30 foot wide yards abutting NW Springville Road or NW Springville Lane, except for the access drive shown on NW Springville Lane. (Exhibit 11).”

**Staff:** As shown on the applicant’s plan sheet A1 (Exhibit A.4), no parking or maneuvering areas will be located within the 30 foot street side setbacks along street frontages other than the access drive connecting the parking area to the street. *This standard is met.*

**8.21 (B) In the RC, BRC, SRC, PH-RC, OR and OCI base zones, off-street parking for new, replacement or expansion of existing commercial or industrial developments on a parcel less than 1 acre shall provide a minimum of 10 foot landscaped front yard or street side setback. All other minimum yard dimensions for parking shall be as required in this Subpart.**

**(C) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.**

**Applicant:** “The proposal shows no walkways in the required yards. Only one access driveway is proposed at the request of the County. (Exhibit 11).”

**Staff:** No walkways or pavement is proposed within the required yard setbacks. Only one access drive is proposed (plan sheet A1, Exhibit A.4). The driveway will not exceed the width of the curb cut. *The standard is met.*

**8.22 § 39.6585 LANDSCAPE AND SCREENING REQUIREMENTS.**

**(A) The landscaped areas requirements of MCC 39.8045 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 39.6555 (A).**

**Applicant:** “All parking, loading and maneuvering areas within the scope of the design standards of MCC 39.6555(A) are proposed to be improved consistently with the landscaping requirements of MCC 39.8045(C)(3) to (7). Please see MCC 39.8045 below for specific requirements and findings. (Exhibit 11).”

**Staff:** As noted in Section 8.9 above, the proposed parking and maneuvering areas are within the scope of the design standards implicated by way of MCC 39.6555(A); therefore, the landscaped areas requirements of MCC 39.8045 (C) (3) to (7) apply. As found in Sections 8.13 through 8.17 above, the standards of MCC 39.8045 (C) (3) to (7) are met or will otherwise be met through conditions of approval.

## 8.23 § 39.6590 MINIMUM REQUIRED OFF-STREET PARKING SPACES.

**(B) The following Public and Semi-Public Buildings and Uses shall have at least the number of off-street parking spaces indicated:**

**(2) Church - One space for each 80 square feet of floor area in the main auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.**

**(3) Church Accessory Use - In addition to spaces required for the church, one space for each ten persons residing in such building.**

**Applicant:** “The main auditorium for the Mosque is comprised of two areas: the first floor men's prayer hall is 1792 square feet and the second floor women's/children's prayer hall is 1031 square feet for a total of 2800 square feet. At one parking space per 80 square feet, the required parking is 35 spaces. The proposal shows a total of 67 parking spaces, which exceeds the requirement, but which is necessary to accommodate a Mosque. The County's base requirement is based upon the seating style of Christian Churches. People of the Muslim faith pray in close proximity to one another on prayer rugs and so Mosque prayer halls accommodate more people. Correspondingly, Mosques require more parking than the County ratio that deals with and focuses upon the needs of traditional Christian Churches. The Mosque also requires the proposed 67 parking spaces to accommodate its estimated 300 person congregation on holidays and special events when the entire congregation prays and celebrates together. The proposed parking will accommodate the religious needs of the congregation and will also avoid spill over parking, which is essential. (Exhibit 11). In this regard, there is no on street parking available, so the Mosque must be capable of accommodating all of its parking needs on site. The proposed parking plan does so.”

**Staff:** As shown on the applicant's plan sheets A4 and A5 (Exhibit A.4), the men's prayer hall is proposed to be 1,792 square feet and the women's/children's prayer hall is proposed to be 1,031 square feet; those areas combined constitute the “main auditorium” for purposes of this standard. The combined square footage of the prayer halls is 2,823 square feet. Using the formula of 80 square feet of floor area = 1 parking space ( $2,823 \div 80 = 35.2875$ ) and using the rounding formula given in 39.6550(B) the minimum required number of parking spaces is 35. For reasons described above by the applicant, the proposed number of parking spaces is 67 permanent spaces and 17 overflow space, which exceeds the minimum 35 spaces required; *therefore, the standard is met.*

**8.24 § 39.6595 MINIMUM REQUIRED OFF-STREET LOADING SPACES.**

**(A) Commercial, Office or Bank, or Commercial Amusement uses shall have at least the number of loading spaces indicated in the following table:**

<b>Square feet of Floor or Land Area</b>	<b>Minimum Loading Spaces Required</b>
Under 5,000	0
* * *	* * *

\* \* \*

**(G) Unspecified Uses. Any use not specifically listed above shall have the loading space requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.**

**Applicant:** “The religious center use is a listed community service use. It is not characterized by a need for frequent or high capacity deliveries. Typically, the Mosque receives deliveries of food transported by small vans or private autos driven by the community members that can be accommodated in standard parking spaces. There are loading/unloading areas near the various main entries to the building where vehicles can park briefly for typical food deliveries and then will park in a marked vehicle space.

**Staff:** For the purposes of determining compliance with this standard, the use deemed most nearly equivalent to the proposed religious center are those generally described in MCC 39.6595(A) ‘Commercial, Office or Bank or Commercial Amusement Uses, because unlike a store, no formal loading space or loading bay is required for the use. As determined in Section 8.23 above, the floor area used to calculate parking spaces is 2,823 square feet (combined area of prayer halls); that same floor area should be used to calculate the required loading spaces. Using the table in given in MCC 39.6595(A) there is no requirement to provide a marked loading area for uses under 5,000 square feet. Therefore, *the applicant is not required to provide a marked loading space.*

**9.0 Significant Environmental Concern for Wildlife Habitat (SEC-h) Criteria:**

**9.1 § 39.5510 USES; SEC PERMIT REQUIRED.**

**(A) All uses allowed in the base zone are allowed in the SEC when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this Subpart.**

**(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.**

**9.2 § 39.5850- SEC-H CLEAR AND OBJECTIVE STANDARDS.**

**(A) At the time of submittal, the applicant shall provide the application materials listed in MCC 39.5520(A) and 39.5860(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in MCC 39.5860(B)(1)**

through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 39.5860 may be submitted.

(B) The proposed development shall meet the applicable storm water and grading and erosion control requirements of MCC 39.6200 through 39.6235. Ground disturbance within 100 feet of a watercourse as defined by MCC 39.2000 shall be limited to the period between May 1st and September 15th. Revegetation and soil stabilization must be accomplished no later than October 15th.

(C) The nuisance plants listed in MCC 39.5580 Table 1 shall not be used as landscape plantings within the SEC-h Overlay Zone.

**Table 1  
Nuisance Plant List:**

<b>Common Name</b>	<b><i>Scientific Name</i></b>	<b>Common Name</b>	<b><i>Scientific Name</i></b>
Lesser celandine	<i>Chelidonium majus</i>	Fall Dandelion	<i>Loentodon autumnalis</i>
Canada Thistle	<i>Cirsium arvense</i>	Purple Loosestrife	<i>Lythrum salicaria</i>
Common Thistle	<i>Cirsium vulgare</i>	Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
Western Clematis	<i>Clematis ligusticifolia</i>	Reed Canary grass	<i>Phalaris arundinacea</i>
Traveler' s Joy	<i>Clematis vitalba</i>	Annual Bluegrass	<i>Poa annua</i>
Poison hemlock	<i>Conium maculatum</i>	Swamp Smartweed	<i>Polygonum coccineum</i>
Field Morning-glory	<i>Convolvulus arvensis</i>	Climbing Binaweed	<i>Polygonum convolvulus</i>
Night-blooming Morning-glory	<i>Convolvulus nyctagineus</i>	Giant Knotweed	<i>Polygonum sachalinense</i>
Lady' s nightcap	<i>Convolvulus sepium</i>	English, Portugese Laurel	<i>Prunus laurocerasus</i>
Pampas grass	<i>Cortaderia selloana</i>	Poison Oak	<i>Rhus diversiloba</i>
Hawthorn, except native species	<i>Crataegus sp. except C. douglasii</i>	Himalayan Blackberry	<i>Rubusdiscolor</i>
Scotch broom	<i>Cytisus scoparius</i>	Evergreen Blackberry	<i>Rubus laciniatus</i>
Queen Ann' s Lace	<i>Daucus carota</i>	Tansy Ragwort	<i>Senecio jacobaea</i>

Common Name	Scientific Name	Common Name	Scientific Name
South American Waterweed	<i>Elodea densa</i>	Blue Bindweed	<i>Solanum dulcamara</i>
Common Horsetail	<i>Equisetum arvense</i>	Garden Nightshade	<i>Solanum nigrum</i>
Giant Horsetail	<i>Equisetum telemateia</i>	Hairy Nightshade	<i>Solanum sarrachoides</i>
Crane' s Bill	<i>Erodium cicutarium</i>	Common Dandelion	<i>Taraxacum oficinale</i>
Robert Geranium	<i>Geranium roberianum</i>	Common Bladderwort	<i>Ultricularia vuigaris</i>
English Ivy	<i>Hedera helix</i>	Stinging Nettle	<i>Urtica dioica</i>
St. John' s Wort	<i>Hypericum perforatum</i>	Periwinkle (large leaf)	<i>Vinca major</i>
English Holly	<i>Ilex aquafolium</i>	Periwinkle (small leaf)	<i>Vinca minor</i>
Golden Chain Tree	<i>Laburnum watereri</i>	Spiny Cocklebur	<i>Xanthium spinosum</i>
Duckweed, Water Lentil	<i>Lemna minor</i>	Bamboo sp.	<i>various genera</i>

**(D) For development that fails to meet all of the standards listed in this section, a separate land use application pursuant to MCC 39.5860 may be submitted.**

**Staff:** As noted in the findings below (Section 9.3 through 9.10), the application meets the clear and objective standards of this section; *therefore, a separate land use application addressing MCC 39.58.60 is not required.*

**9.3 § 39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT.**

**(A) In addition to the information required by MCC 39.5520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:**

- (1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas; For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is**

**defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.**

**(2) Location of existing and proposed structures;**

**(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;**

**(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.**

**Applicant:** “An area map as described above can be found in Exhibit 29 and Exhibit 11. Boundaries of existing structures and widths of roadways and driveways are determined from Google Earth aerial photographs and are approximate.”

**Staff:** The applicant has provided the required area map (plan sheet G2 – Exhibit A.4) proposed landscaping (plan sheet A2 – Exhibit A.4) and an SEC-h Type-1 worksheet (Exhibit A.4). Plan sheet G2 (Exhibit A.4) shows an existing fence along NW Springville Road that will be removed – Condition 19 requires the removal of this fence. *The standard is met.*

#### **9.4 (B) Development standards:**

**(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.**

**Applicant:** “The entire-subject-property-consists of non-forested "cleared" area. The existing site conditions include an asphalt driveway in the northwest corner of the site leading to a house and several outbuildings. A few large trees are associated with the existing house, but none of the site meets the definition of "forested" and the entire site is considered to be non-forested "cleared." All development will take place within nonforested "cleared" areas. Minimum requirements for fire safety will be met.”

**Staff:** While a few trees exist on the property they are not clustered and the site is a non-forested cleared area because the trees on site do not meet the definition of forested area in (A)(1) above. *The standard is met.*

#### **9.5 (2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

**Applicant:** “The proposed development is 200 feet from NW Springville Rd. and 200 feet from NW Springville Lane, both public roads capable of providing reasonable practical access. There is a portion of a "reserve drain field" within the 200' area, but no development will occur within this area and it is expressly forbidden to be developed. It may support nominal passive recreation, like a small play structure for children. This criterion is met. (Exhibit 11 ).”

**Staff:** As shown on the submitted plans (Exhibit A.4) development will occur within 200 feet of the public road capable of providing practical access to the developed portion of the site. *The standard is met.*

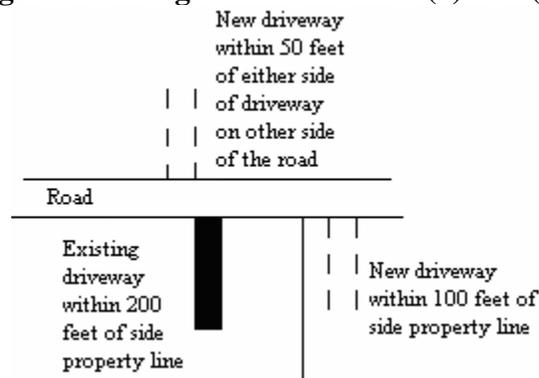
9.6 (3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

**Applicant:** “This criterion is met. (Exhibit 11).”

**Staff:** As shown on the applicant’s plan sheet A.1 (Exhibit A.4), the driveway connecting the public right of way of NW Springville Lane and the parking and circulation area will be approximately 45 feet long. *The standard is met.*

9.7 (4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

- (a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or
- (b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.
- (c) Diagram showing the standards in (a) and (b) above.



For illustrative purposes only.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County “Design and Construction Manual,” adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

1. The modification shall be the minimum necessary to allow safe access onto the public road.
2. The County Road Official shall provide written findings supporting the modification.

**Applicant:** “The existing driveway on NW Springville Rd is not subject to this standard because it already exists. This standard applies only to new driveways. The new driveway on NW Springville Lane will meet spacing standards.”

**Staff:** As shown on plan sheet A1 (Exhibit A.4) the proposed driveway onto NW Springville Lane will meet (b) above because it will be located directly across from and within 50 feet of the existing residential driveway located on the east side of NW Springville Lane. *The standard is met.*

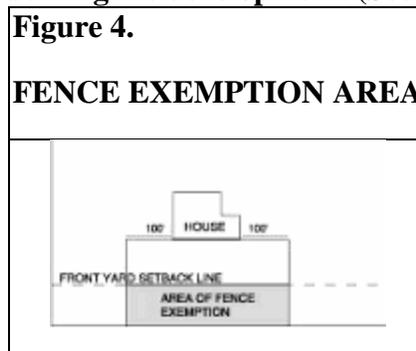
**9.8 (5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.**

**Applicant:** “This criterion is met.”

**Staff:** The development will be located within 300 feet of the side property lines to the west and south. *The standard is met.*

**9.9 (6) Fencing within a required setback from a public road shall meet the following criteria:**

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.
- (c) Cyclone, woven wire, and chain link fences are prohibited.
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development. (See Figure 4 below.)



- (f) Fencing standards do not apply where needed for security of utility facilities.

**Applicant:** “No new fencing will be established.”

**Staff:** No new fencing is proposed and existing fencing along the right of way will be removed. The existing fence located on the western property line is proposed to remain, but is not within a setback area of a public road. *The standard is met.*

- 9.10 (7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.**

**Applicant:** “Nuisance plants, including Himalayan blackberry, will be removed and kept cleared from all cleared areas. Species planted for mitigation and/or landscaping shall not include any nuisance species and shall consist of native species appropriate to the site.”

**Hearings Officer:** As required by this section none of the plants in Table 1 can be used for landscaping. Condition 18 requires that none of the listed plants can be located on the parcel and as an ongoing condition the property owners must remove any of the listed plants in Table 1. Comments received from the Forest Park Neighborhood Association (Exhibit D.1) recommend the use of more native tree species. This standard only prohibits the use of the listed nuisance species, but does not require the use of certain native species. However, the applicant proposed to replace most, if not all, of the proposed tree species with native species (Exhibit H.2). The applicant may include those species on the final design review plan. *As conditioned, the standard is met.*

## **10.0 Sign Standards:**

### **10.1 § 39.6740 BASE ZONE SIGN REGULATIONS.**

**Signs are allowed in unincorporated Multnomah County depending on the base zone in which a property is situated as described in MCC 39.6745 through 39.6765. Signs are allowed on properties that are zoned PD or have CS designations to the extent that signs are allowed in the base zone, except as provided in this Subpart.**

#### **§ 39.6745 SIGNS GENERALLY.**

**For all uses and sites in all zones except the LM, C-3 and MR-4 zones, the following types, numbers, sizes and features of signs are allowed. All allowed signs must also be in conformance with the sign development regulations of MCC 39.6780 through MCC 39.6820.**

**(A) The following standards apply to Free Standing Signs:**

- (1) Allowable Area - Free standing signs are allowed .25 square feet of sign face area per linear foot of site frontage, up to a maximum of 40 square feet.**
- (2) Number - One free standing sign is allowed per site frontage.**
- (3) Height - The maximum height of a free standing sign is 16 feet.**
- (4) Extension into the Right-Of-Way - Free standing signs may not extend into the right-of-way.**

**(B) The following standards apply to Signs Attached to Buildings:**

- (1) Total Allowable Area - The total allowable area for all permanent signs attached to the building is determined as follows: Eighteen square feet maximum sign face area is allowed, or .25 square feet of sign face area per linear foot of the occupant's primary building frontage, whichever is more.**

- (2) Individual Sign Face Area - The maximum size of an individual sign within the total allowable area limit is 50 square feet.**
- (3) Types of Signs - Fascia, marquee, awning and painted wall signs are allowed. Projecting roof top and flush pitched roof signs are not allowed.**
- (4) Number of Signs - There is no limit on the number of signs if within the total allowable area limit.**
- (5) Extension into the Right-Of-Way - Signs attached to buildings may not extend into the right-of-way.**
- (C) Sign Features. Permanent signs may have the following features:**
  - (1) Signs may be indirectly illuminated downward onto the sign face.**
  - (2) Electronic message centers are not allowed.**
  - (3) Flashing signs are not allowed.**
  - (4) Rotating signs are not allowed.**
  - (5) Moving parts are not allowed.**
- (D) Additional Signs Allowed. In addition to the sign amounts allowed based on the site and building frontages, the following signs are allowed in all base zones for all usages:**
  - (1) Directional signs pursuant to MCC 39.6805.**
  - (2) Temporary lawn, banner and rigid signs.**
  - (3) Subdivisions may have a free standing sign at each entrance, up to a total of four, each of which may be up to ten feet in height and 50 square feet in area.**

**Applicant:** “There are two site frontages. A monument style sign is proposed at each frontage (NW Springville Lane and NW Springville Rd.), with a 40 square foot maximum sign face and a maximum height of five feet, integrated into the landscape design within the site property lines. (Exhibits 11 & 18).”

**Staff:** As shown on plan sheet A8 (Exhibit A.4) free standing monument signs are proposed along both road frontages. The proposed sign along NW Springville Road would be 40 feet long by 5 feet tall or 200 square feet. The proposed sign along NW Springville Lane would be 20 feet long by 5 feet tall or 100 square feet. Both signs exceed the 40 square foot maximum sign face according to the definition of sign face area in MCC 39.6820 (GG). Condition 20 requires the proposed signs to be modified to meet the 40 square foot maximum requirement. *As conditioned, these standards are met.*

**10.2 § 39.6780 SIGN PLACEMENT.**

- (A) Placement. All signs and sign structures shall be erected and attached totally within the site except when allowed to extend into the right-of-way.**
- (B) Frontages. Signs allowed based on the length of one site frontage may not be placed on another site frontage. Signs allowed based on a primary building frontage may be placed on a secondary building frontage.**
- (C) Vision Clearance Areas.**
  - (1) No sign may be located within a vision clearance area as defined in subsection (C) (2) below. No support structure(s) for a sign may be located in a vision clearance area unless the combined total width is 12 inches or less and the combined total depth is 12 inches or less.**
  - (2) Location of vision clearance Areas - Vision clearance areas are triangular shaped areas located at the intersection of any combination of rights-of-way, private roads, alleys or driveways. The sides of the triangle extend 45 feet from the intersection of the vehicle**

travel area (See MCC 39.6820 Figure 2). The height of the vision clearance area is from three feet above grade to ten feet above grade.

**(D) Vehicle Area Clearances.** When a sign extends over a private area where vehicles travel or are parked, the bottom of the sign structure shall be at least 14 feet above the ground. Vehicle areas include driveways, alleys, parking lots, and loading and maneuvering areas.

**(E) Pedestrian Area Clearances.** When a sign extends over private sidewalks, walkways or other spaces accessible to pedestrians, the bottom of the sign structure shall be at least 8-1/2 feet above the ground.

**(F) Required Yards and Setbacks.** Signs may be erected in required yards and setbacks.

**(G) Parking Areas.**

**(1) Unless otherwise provided by law, accessory signs shall be permitted on parking areas in accordance with the provisions specified in each base zone, and signs designating entrances, exits or conditions of use may be maintained on a parking or loading area.**

**(2) Any such sign shall not exceed four square feet in area, one side. There shall not be more than one such sign for each entrance or exit to a parking or loading area.**

**Applicant:** “The proposed freestanding signs identifying the Mosque will be located more than 45 feet from the intersection of NW Springville Road and NW Springville Lane, and from the Intersection of NW Springville Lane and the entry driveway onto the site. (Exhibit 11). The "No right turn" sign from the driveway to NW Springville Lane will be outside the vision clearance area.”

**Staff:** The two proposed signs are shown on the applicant’s plan sheets A.2 and A.8. (Exhibit A.4) and will be located entirely on the subject property. The monument sign proposed on the south side of the entry drive is within the vision clearance area, because it is within the defined vision triangle of 45 feet in each direction. The proposed “No Right Turn” sign must be relocated so that it will be on the subject property unless otherwise approved by the Multnomah County Transportation Division. The no right turn sign may be located within the vision clearance area if the support structure for the sign will have a combined total width of 12 inches or less and the combined total depth is 12 inches or less. Condition 20 requires a revised sign plan showing the monument sign outside of the vision clearance area and the “No Right Turn” sign is located on site. Comments received by the neighbors to the west (Exhibit D.2) indicate concern about proposed lighting on the proposed monument sign along NW Springville Road. As shown on plan sheet A8 (Exhibit A.4) the proposed lighting will be fully recessed providing down-washed illumination of the sign face, as allowed by the dark-sky lighting standards of MCC 39.6850(C)(1) because the light source will be fully shielded and will not be visible above the horizontal. *As conditioned, the standard is met.*

## **11.0 Transportation Standards:**

**FINDINGS:** Written findings are contained herein. The Multnomah County Road Rules are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in italic.

### **MCRR 4.000 Access to County Roads**

**MCRR 4.100 Application for New or Reconfigured Access: Applicants for a new, altered or reconfigured access onto a road under County Jurisdiction are required to submit a site plan. Applicants may be required to provide all or some of the following:**

- A. Traffic Study-completed by a registered traffic engineer;**
- B. Access Analysis-completed by a registered traffic engineer;**
- C. Sight Distance Certification from a registered traffic engineer; and**
- D. Other site-specific information requested by the County Engineer including a survey.**

**Staff:** The applicant is proposing to construct a new driveway on the site's east property line coming off of NW Springville Lane. NW Springville Lane is a Local Access Road that connects to NW Springville Road (classified as a Rural Collector facility). The existing driveway off of NW Springville Road will be decommissioned. All required information has been submitted.

*Criterion is met.*

**MCRR 4.200 Number of Accesses Allowed: Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property is the standard for approval pursuant to the Multnomah County Code. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system. If more than one access is desired, a land use application must be submitted in compliance with applicable Multnomah County Codes.**

**Staff:** The subject site will be served by one driveway.

*Criterion is met.*

**MCRR 4.300 Location: All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.**

**Staff:** The County minimum access spacing standard for a Local Access Road is 50 feet (DCM Table 1.2.5). For a Local Access Road facility, the County standard for minimum driveway access spacing from adjacent driveways, driveway centerline to driveway centerline, is 50 feet. The minimum spacing distance is applied both to driveways on the same side of the street as well as driveways opposite to the site (DCM Figure 1.2.1). Access driveways on opposite sides of the street should be located directly opposite to each other, or no less than 50 feet from adjacent accesses for a Local Access Road. [MCRR 4.300]

The County minimum access setback from an intersecting street for a Local Access Road is 50 feet (DCM Table 1.2.5). The intersection setback distance is defined as the distance between the intersection end of curb radius and the top of the driveway ramp (DCM Figure 1.2.1). Without this spacing, turning movements for the intersection and the driveway can conflict, resulting in reduced safety and efficiency on the roadway.

*Criterion is met.*

**MCRR 4.400 Width: Driveway, Private road and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.**

**Staff:** For a commercial use, a new or reconfigured driveway must be a minimum 20 feet wide and maximum 35 feet wide (MCDCM, Table 1.2.4, Private Access Driveway Width Standards). The new driveway will be 20 feet wide.

*Criterion is met.*

**MCRR 4.500 Sight Distance: All new or altered access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.**

**Staff:** Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County Design and Construction Manual or AASHTO's A Policy on Geometric Design of Highway and Streets. The applicant has submitted for the review of the County Transportation Division a traffic analysis which provides an assessment of sight distance at the intersection in question consistent with AASHTO standards.

*Criterion is met.*

#### **MCRR 5.000 Transportation Impact**

**MCRR 5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:**

- A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or**
- B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.**

**MCRR 5.200 The County Engineer will use the information obtained pursuant to sub-section 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000. The County Engineer determination of pro-rata share of improvements will expire twelve months from the date of the County Engineer's determination or after the associated land use permit is granted or closed. If expired, a review process and new determination will be required.**

**MCRR 5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour shall be found to have a Transportation Impact. A minimum increase of 10 new trips per day is required to find a Transportation Impact.**

**Hearings Officer:** The Multnomah County Road Rules define a Transportation Impact as the effect of any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day, or by more than ten trips in the peak hour [MCRR 3.000]. A minimum increase of ten new trips per day is required to find a transportation impact.

The applicant's November 28, 2018, Transportation Impact Analysis notes that the current site generates ten trips per day as a single-family residence. The proposed site will generate 160 trips during the peak hour. The trips will exit the driveway and travel north to the intersection of NW Springville Road/NW Springville Lane with trip distribution being 75-percent travelling west and 25-percent travelling east per the submitted traffic study. Staff notes that NW Springville Lane is a loop road. There are no anticipated impacts to the loop road due to the anticipated trip distribution per the submitted traffic study. The applicant will deploy flaggers at the site driveway to prevent drivers leaving the site from turning south onto NW Springville Lane. With this, no improvements are required for the portion of NW Springville Lane that will not be impacted (southbound traffic exiting driveway to travel the NW Springville Lane that is not being required to be improved). Any changes to trip distribution and impacts to the NW Springville Lane loop will need to be mitigated if operations result in such impact due to change in distribution of traffic from the project site/use.

This project will result in a transportation impact. Conditions of approval have been included to mitigate the impacts.

*As conditioned, this criterion is met.*

## **MCRR 6.000 Improvement Requirements**

**MCRR 6.100 Site Development:** All subject parties with respect to any property proposed for development, including but not limited to the owner of the site and the applicant (if different than the owner), will be responsible for improvements to the right-of-way for any said development of the property which is found to cause a Transportation Impact, those improvements shall include:

- A. Dedication of Right of Way Requirement:** The subject parties are responsible for a pro-rata share, as determined by the County Engineer, of right-of-way and easement dedications necessary to bring the affected, existing, created or planned public streets and other facilities within and abutting the development to the current County standard. The dedication of the required easements and right-of-way may be conditions of approval of Design Review or any other development permit related to the proposal.

**Staff:** No right of way dedications are required as a result of this proposal. The County standard right of way for a Rural Collector facility is 60 feet, 30 feet from the road centerline to adjacent property lines, (DCM Table 2.2.5 Rural Cross Section). Currently, 30 feet of right of way exist between the site's property line and the centerline of NW Springville Road. The total existing right of way width on NW Springville Road is 60 feet.

The County standard right of way for a Local Access Road is 50 feet, 25 feet from the road centerline to adjacent property lines, (DCM Table 2.2.5 Rural Cross Section). Currently, 25 feet of right of way exist between the site's property line and the centerline of NW Springville Lane. The total existing right of way width on NW Springville Lane is 50 feet.

*Criterion is met.*

- B. Frontage Improvement Requirements:** Frontage Improvement Requirements: In addition to easement and right-of-way dedication requirements, a prorata share may include half-street improvements along all of the site's County Road frontage(s). Right of Way

**improvements shall satisfy the standards of the County Design and Construction Manual based upon the functional classification of the road(s). The commitment to improve the affected streets or other facilities to the required standards shall be conditions of approval of Design Review or any other development permit related to the proposal. Half-street improvements can include all of the following:**

- a. Street widening/improvement**
- b. Utility cut restoration**
- c. Curb and sidewalk**
- d. Driveway relocation/replacement/removal**
- e. Traffic controls**
- f. Drainage facilities**
- g. Lighting facilities**
- h. Bicycle facilities**
- i. Signal conduit facilities**
- j. Street trees**
- k. Other appropriate facility or right of way requirements as required by applicable statutes, codes and regulations.**

**Hearings Officer:** To mitigate impacts, the following requirements have been identified. Provide 20-foot paved approach onto NW Springville Lane. This paved approach will be measured from the edge of pavement of NW Springville Lane. It must not create any drainage problems along the County Road. This paved approach will help to protect the County Road from debris from the new driveway, and will improve the safety of this access.

Furnish deed restrictions consistent with Exhibit H.10 committing the property owner to participate in future right of way improvements. A non-remonstrance agreement, or deed restriction, will require that the property participate in standard Rural Collector facility improvements along the site's NW Springville Road frontage that are not completed as a part of the site's required interim improvements. The hearings officer acknowledges that the applicant is not waiving its right to a proportionality determination to determine its lawful contribution to the same per the requirements of *Dolan v. City of Tigard, 512 US 374 (1987)* and *Hill v. City of Portland, 293 Or App 283 (2018)* if the County chooses to improve NW Springville Road to Rural Collector facility standards.

Improve NW Springville Lane to Local Access Road standards (DCM Table 2.2.5). Pave NW Springville Lane to Local Access Road standards detailed in DCM Table 2.2.5 Rural Cross Sections (attached) taking into consideration any special road and/or access requirements of the local fire district.

*As conditioned, criterion is met.*

- C. Required Submissions by Subject Parties. Subject parties shall submit to the County Engineer the following: engineered plans, traffic studies, traffic analysis, reports, surveys or similar documents as requested or required by the County Engineer under this Subsection 6.100 or as may additionally be required under Section 18.**

**Staff:** The applicant has submitted a November 28, 2018, Transportation Impact Analysis.

*As conditioned, criterion is met.*

## **11.000 Local Access Roads**

### **11.100 Improvement Requirements:**

**A. For any proposed development where access is to be through a Local Access Road and the development is found to have a Transportation Impact, the owner, applicant or other party responsible for the development (the “Developer”) shall be required to improve or cause to be improved the Local Access Road to standards as further provided in this Section.**

**B. Right of way and or easement dedications shall be required where the existing right of way is of a substandard width or condition.**

**C. The County Engineer may impose requirements for right of way improvements as necessary to address factors including but not limited to: traffic safety, traffic conditions, bicycle access, pedestrian access and vegetation.**

**D. Developer shall make required improvements at the County Engineer’s request if the transportation impact warrants additional road improvements. Such additional improvements shall not extend beyond the nearest intersection with the publicly maintained road.**

**Improvements will be constructed in a manner consistent with the standards provided in the Design and Construction Manual.**

**E. All costs relating to Local Access Road improvements shall be borne by the Developer including all administrative and other costs incurred by the County including but not limited to the oversight, review, inspection, etc, with respect to design, installation, and construction of any improvements on any Local Access Road under County jurisdiction. County shall not begin any work under this Section unless and until an adequate deposit as determined by the County Engineer has been received by the County to cover these costs.**

**F. Notwithstanding any required improvements or other installations done in the public right of way of a Local Access Road under this Section 11 of these Rules, the County does not maintain such Local Access Road.**

**Hearings Officer:** To mitigate impacts, the applicant will improve the section of NW Springville Lane abutting the site between the proposed driveway and NW Springville Road to Local Access Road standards (DCM Table 2.2.5). Pave this section of NW Springville Lane to Local Access Road standards detailed in DCM Table 2.2.5 Rural Cross Sections (attached) taking into consideration any special road and/or access requirements of the local fire district.

*As conditioned, this criterion is met.*

## **26.000 Stormwater and Drainage**

**26.100 Onsite management of Stormwater is a priority for County.**

**26.150 Applicants for a development or redevelopment that impacts impervious surface will be required to provide a Stormwater certificate and/or analysis showing method of and ability to retain Stormwater on site. Stormwater solutions must be consistent with Multnomah County Design and Construction Manual standards.**

**26.200 Any development or redevelopment of a site which proposes Discharge of Stormwater onto County right of way is subject to Stormwater Discharge permit requirements outlined below, and must comply with drainage requirements identified in the Multnomah County Design and Construction Manual.**

**26.300 Stormwater Discharge permit requirements: The County Engineer may allow drainage of Stormwater to County right of way when the following standards are met:**

- A. Applicant demonstrates that they are not able to meet the Discharge hierarchy of the Portland Stormwater Manual.**
- B. An Analysis conducted by a registered engineer shows that soil infiltration is not feasible.**
- C. A Drainage analysis is conducted by a registered engineer that ensures the storm sewer pipe/system can handle conveyance of a 25-year storm event or another storm event as identified by the County Engineer based on site/area/facility conditions.**
- D. Standards under Section 16.200 of these rules are addressed.**

**Staff:** The project is proposing to manage stormwater on-site and has submitted stormwater reports.

*Criterion is met.*

## **11.00 Dark Sky Lighting Standards:**

### **39.6850 DARK SKY LIGHTING STANDARDS.**

**(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.**

- (1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached.**
- (2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.**

**Applicant:** “The lighting associated with the proposed Mosque is fully shielded as required and deflected downwards so as not to shine into adjoining dwellings and so as not to create a hazard to the travelling public. All lighting will be contained within the boundaries of the Lot of Record as required. The site lighting plan shows locations and illumination distribution of site lighting fixtures including light fixtures mounted on the building walls meeting this standard. See Photometric Plan at Exhibit 13. Dense landscaping around the perimeter of the site will minimize the potential for headlights to disturb neighbors at night. See Exhibit 12.”

**Staff:** As demonstrated on the applicant’s lighting plan sheet A3 (Exhibit A.4) the proposed lighting will be shielded. The plan also includes lighting contours demonstrating the light will remain on site. *These standards are met.*

## **12.0 Alternative Sites**

Opponents submitted information about several alternative locations for the proposed masjid (Exhibit I.14). The applicant is not required to consider alternative locations for the proposed use. The only issue is whether the proposed masjid on this site complies with the applicable approval criteria. Whether alternative sites are available that are subjectively “better” is not relevant to the applicable approval criteria. In addition, the proposed alternative sites do not meet the applicant’s needs – they are located further away from the existing congregation and development on any of the proposed sites would have greater environmental and habitat impacts than the proposed development on the subject property (Exhibits J.4 and J.7).

### 13.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Community Service Permit to establish a religious center (masjid) in the MUA-20 zone. This approval is subject to the conditions of approval established in this Final Order.

### 14.0 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits
- 'D' Comments Received
- 'H' Hearing Exhibits
- 'I' Post-Hearing Exhibits received during the first open record period
- 'J' Post-Hearing Exhibits received during the second open record period and the applicant's final argument.

All exhibits are available for review in Case File T3-2019-11405 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	01/11/2019
A.2	75	Masjid Ibrahim Religious Center Narrative	01/11/2019
A.3	18	Site Plan (24" x 36") <ul style="list-style-type: none"> <li>- G1: Project Directories and General Information</li> <li>- G2: Survey – Existing Conditions &amp; Demolition</li> <li>- C1: Civil Cover Sheet</li> <li>- C2: Civil Site Existing Conditions &amp; Removals Plan</li> <li>- C3: Civil Site &amp; Composite Utility Plan</li> <li>- C4: Civil Right of Way Plan &amp; Profile – NW Springville Road</li> <li>- C5: Civil Right of Way Plan &amp; Profile – NW Springville Lane</li> <li>- C6: Civil Storm Water Plan &amp; Details</li> <li>- C7: Civil Grading &amp; Erosion Control Plan</li> <li>- C8: Civil Construction Details</li> <li>- A1: Architectural Dimensioned Site Plan</li> <li>- A2: Architectural Landscape Plan &amp; Planting Schedule</li> <li>- A3: Architectural Site Lighting Plan &amp; Fixture Descriptions</li> <li>- A4: Architectural Building Plans – Basement &amp; First Floor</li> <li>- A5: Architectural Building Plans – Second Floor &amp; Roof</li> <li>- A6: Architectural Building Elevations – East &amp; North</li> <li>- A7: Architectural Building Elevations – West &amp; South</li> <li>- A8: Architectural Details</li> </ul>	01/11/2019

A.4	18	<p>Site Plan (Reduced to 11" x 17")</p> <ul style="list-style-type: none"> <li>- G1: Project Directories and General Information</li> <li>- G2: Survey – Existing Conditions &amp; Demolition</li> <li>- C1: Civil Cover Sheet</li> <li>- C2: Civil Site Existing Conditions &amp; Removals Plan</li> <li>- C3: Civil Site &amp; Composite Utility Plan</li> <li>- C4: Civil Right of Way Plan &amp; Profile – NW Springville Road</li> <li>- C5: Civil Right of Way Plan &amp; Profile – NW Springville Lane</li> <li>- C6: Civil Storm Water Plan &amp; Details</li> <li>- C7: Civil Grading &amp; Erosion Control Plan</li> <li>- C8: Civil Construction Details</li> <li>- A1: Architectural Dimensioned Site Plan</li> <li>- A2: Architectural Landscape Plan &amp; Planting Schedule</li> <li>- A3: Architectural Site Lighting Plan &amp; Fixture Descriptions</li> <li>- A4: Architectural Building Plans – Basement &amp; First Floor</li> <li>- A5: Architectural Building Plans – Second Floor &amp; Roof</li> <li>- A6: Architectural Building Elevations – East &amp; North</li> <li>- A7: Architectural Building Elevations – West &amp; South</li> <li>- A8: Architectural Details</li> </ul>	01/11/2019
A.5	10	Wildlife Habitat Assessment	01/11/2019
A.6	39	Transportation Impact Analysis	01/11/2019
A.7	1	Storm Water Certificate	01/11/2019
A.8	14	Storm Water Report	01/11/2019
A.9	8	Notice of Decision for land use case #T2-2018-10244	01/11/2019
A.10	2	Pre-Filing/Application Meeting Wavier	01/11/2019
A.11	7	City of Portland Bureau of Development Services Site Evaluation #17-222346-SE / Report #SER 29-17	01/11/2019
A.12	1	Certification of Water Service	01/11/2019
A.13	3	State of Oregon Water Supply Well Report – Located at 1N1W16C -02200, 1N1W16C -01200, and 1N1W16D -00100	01/11/2019
A.14	8	Fire Service Agency Review	01/11/2019
A.15	1	Police / Sheriff Services Review	01/11/2019
A.16	2	Zoning Map: SEC Overlay Map	01/11/2019
A.17	2	Adjacent Area Aerial Photograph	01/11/2019
A.18	5	Site Photographs	01/11/2019
A.19	17	Pre-Application Conference Notes	01/11/2019

A.20	1	List of All Neighborhood/County Meetings	01/11/2019
A.21	6	Example of Large Home for sale or recently sold	01/11/2019
A.22	1	Neighborhood Map showing community/faith centers and other community gathering spaces (parks, schools, civic, etc.)	01/11/2019
A.23	1	Photograph of house next door (13800 NW Springville Rd.)	01/11/2019
A.24	1	Closure of Zoning Violation (ZV) case ZV-2015-4012 Letter from Multnomah County Land Use Planning Division Code Compliance Office	01/11/2019
A.25	83	SB 470 (2001) Legislative History: Audio transcript from Natural Resources, Agriculture, Salmon, and Water Senate Committee and exhibits	01/11/2019
A.26	91	SB 470 (2001) Legislative History: Senator Hassen Memo and Exhibits, Written Public Testimony, and Committee Tape Logs	01/11/2019
A.27	65	SB 470 (2001) Legislative History: Senate Committee Tape Logs, SB 470 Enrolled, ORS 215	01/11/2019
A.28	1	SB 470 (2001) Legislative History: Committee Audio (CD)	01/11/2019
A.29	6	Religious Land Use and Institutionalized Persons Act (RLUIPA) - 2000	01/11/2019
<b>'B'</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for	06/26/2019
B.2	1	Department of Assessment, Records and Taxation (DART): Map	06/26/2019
B.3	9	General Permit National Pollutant Discharge Elimination System Stormwater Discharge Permit	06/26/2019
B.4	2	Email Correspondence with SGS Architects Re: proposed gravel and signs	06/25/2019
B.5	4	Email Correspondence with SGS Architects and Kellington Law Group Re: proposed gravel and signs	06/26/2019
B.6	1	2017 Aerial Photograph	06/26/2019
B.7	1	Dwelling size info for property to the west (13800 NW Springville Road)	06/27/2019
B.8	4	Staff correspondence with County Engineer regarding use of gravel parking spaces.	06/27/2019

'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	02/08/2019
C.2	2	Incomplete letter 2	02/12/2019
C.3	1	Complete letter (day 1)	02/28/2019
C.4	11	Notice of Public Hearing & mailing list	06/20/2019
'D'	#	Comments Received	Date
D.1	2	Forest Park Neighborhood Association	06/27/2019
D.2	3	Comments from Ajay and Shila Bhatt – Neighbors to the west residing at 13800 NW Springville Road	07/02/2019
'H'	#	Hearing Exhibits	Date
H.1	2	Letter dated 7.2.19 from Kevin Senn et al. in opposition	7/03/2019
H.2	1	Applicant's proposed landscape native alternatives dated 7.5.19	7/08/2019
H.3	1	Letter dated 7.5.19 from William & Lea Ann Hoppe in opposition	7/07/2019
H.4	3	Email from Skip Tarr dated 7.6.19 with attached letter dated 7.2.19 from Herb Plep re: concerns	07/07/2019
H.5	2	Email from Susan Anderberg in opposition dated 7.9.19	07/09/2019
H.6	2	Email from Skip Tarr dated 7.9.19 with attached letter dated 7.8.19 from Ronald & Stephanie Dennis in opposition	07/09/2019
H.7	3	Email from Skip Tarr dated 7.9.19 with attached letter dated 7.8.19 from Robert Zahler in opposition	07/09/2019
H.8	1	Email from Joyce Mehl dated 7.9.19 w/concerns	07/09/2019
H.9	3	Email from Mollie Nelson dated 7.10.19 in opposition	07/10/2019
H.10	3	Deed restriction sample submitted by staff	
H.11	4	Email from Skip Tarr dated 7.11.19 with attached letter dated 7.6.19 from Joel & Kristi Morrison in opposition	07/10/2019
H.12	3	Email from Skip Tarr dated 7.11.19 with attached undated letter from Ruth Tarr in opposition	07/11/2019
H.13	2	Undated letter from Skip Tarr in opposition	07/11/2019
H.14	11	Letter dated 7.11.19 to Greg Hathaway from Andrew Tull, 3J Consulting	07/12/2019

H.15	8	Memo dated 7.11.19 to Greg Hathaway from Brian Dunn & Diego Arguea, Kittelson & Assoc	07/12/2019
H.16	2	Letter dated 7.10.19 from Elaine Ledbetter, Christ United Methodist Church in support	07/12/2019
H.17	1	Letter dated 7.10.19 from Trang Medlin, Property Mgr. for Bethany Village in support	07/12/2019
H.18	2	Letter dated 7.12.19 from Ted Nelson in opposition	07/12/2019
H.19	38	Hard copy of PowerPoint presentation by Wendie Kellington	07/12/2019
H.20	6	Hearing sign in sheets	07/12/2019
H.21	9	Hard copy of PowerPoint presentation by Diego Arguea, Kittelson & Assoc	07/12/2019
H.22	14	Hard copy of PowerPoint presentation by Andrew Tull, 3J Consulting	07/12/2019
H.23	14	Hard copy of PowerPoint presentation by Skip Tarr	07/12/2019
Post-Hearing Exhibits			
‘I’	#	New Evidence	Date
I	#		
I.1	1	Email dated 7.18.19 from Carol Chesarek re: parking	07/26/2019
I.2	1	Email dated 7.19.19 from Joyce Mehl	07/26/2019
I.3	17	Letter dated 7.26.19 from Wendie Kellington	07/26/2019
I.4	13	Letter dated 7.26.19 from Clemow associates LLC re: supplemental transportation materials	07/26/2019
I.5	3	Supplemental site plan schematic w/parking overflow from Stewart Gordon Straus Architect PC	07/26/2019
I.6	6	Masjid Ibrahim letter dated 7.26.19	07/26/2019
I.7	1	Martin Schott, Shott & Associates Ecologists & Wetlands Specialists rebuttal dated 7.22.19	07/26/2019
I.8	2	MICC Stormwater Analysis dated 7.23.19	07/26/2019
I.9	1	MICC Dust Control & Stabilization	07/26/2019
I.10	2	Submittal from Gregory Hathaway dated 7.26.19	07/26/2019
I.11	31	Memo dated 7.26.19 from Brian Dunn & Diego Arguea, Kittelson & Associates re: Trip Generation and Parking Analysis	07/26/2019
I.12	1	Undated letter from Skip Tarr in rebuttal to hearing testimony	07/26/2019

I.13	2	Undated letter from Skip Tarr re: Parking & Traffic Observation	07/26/2019
I.14	11	Undated letter from Ruth Tarr w/attachments	07/26/2019
I.15	1	Letter dated 7.25.19 from Ted Nelson re: traffic observations	07/26/2019
I.16	1	Letter dated 7.23.19 from Kim Lindstrand re: traffic	07/26/2019
<b>'J'</b>	<b>#</b>	<b>Response to New Evidence &amp; Final Argument</b>	<b>Date</b>
J.1	2	Email dated 8.2.19 from Wendie Kellington w/attachments	08/02/2019
J.2	2	Kellington Law Group letter dated 8.2.19	08/02/2019
J.3	1	Trang Medlin, Central Bethany Development letter dated 7.31.19	08/02/2019
J.4	2	Schott & Associates, Ecologists & Wetlands Specialists letter dated 7.29.19	08/02/2019
J.5	1	Tarr Property Comparison spreadsheet	08/02/2019
J.6	5	Christopher Clemow, Clemow associates LLC, letter dated 8.2.19 re: supplemental transportation materials	08/02/2019
J.7	3	Masjid Ibrahim letter dated 8.2.19	08/02/2019
J.8	2	Memorandum from staff dated 8.2.19 re: additional proposed parking management & related traffic issues	08/02/2019
J.9	6	Attachment to staff memo of correspondence emails between County Sanitarian and applicants re: proposed overflow parking area	08/02/2019
J.10	1	Email from Hathaway Larson dated 8.2.19 @ 4pm w/attachments	08/02/2019
J.11	33	Written Closing Argument from Greg Hathaway, Hathaway Larson, dated 8.2.19	08/02/2019
J.12	31	Memorandum dated 8.2.19 from Brian Dunn & Diego Arguea, Kittelson & Assoc re: traffic engineering	08/02/2019
J.13		Exhibit excluded from record per Hearings Officer 8.6.19	08/02/2019
J.14		Exhibit excluded from record per Hearings Officer 8.6.19	08/02/2019
J.15	1	Email dated 8.5.19 from Wendie Kellington objecting to Opponents' late filed evidence w/attachment	08/06/2019
J.16	1	Letter dated 8.5.19 from Wendie Kellington with Motion to Strike late filed opponents' evidence	08/06/2019
J.17	3	Email dated 8.5.19 from Greg Hathaway in response to Ms. Kellington's motion w/attachment	08/06/2019

J.18	2	Letter dated 8.5.19 from Greg Hathaway requesting Hearings Officer accept corrected written closing statement	08/06/2019
J.19	19	Email dated 8.8.19 from Wendie Kellington w/attached Final Argument	08/08/2019
	3	Hearings Officer's Motion Order in response to Ms. Kellingtons' Motion to Strike	08/06/2019