



# CITY OF MILWAUKIE

## REVISED AGENDA

June 28, 2022

### PLANNING COMMISSION

milwaukieoregon.gov

**Hybrid Meeting Format:** the Planning Commission will hold this meeting both in person at City Hall and through Zoom video. The public is invited to watch the meeting in person at City Hall, online through the City of Milwaukie YouTube page ([https://www.youtube.com/channel/UCRFbfae3OnDWLQKSB\\_m9cAw](https://www.youtube.com/channel/UCRFbfae3OnDWLQKSB_m9cAw)), or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov). Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time.

To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-98>) and follow the Zoom webinar login instructions.

#### 1.0 Call to Order – Procedural Matters — 6:30 PM

1.1 Native Lands Acknowledgment

#### 2.0 Planning Commission Minutes – Motion Needed

2.1 March 22, 2022

2.2 April 26, 2022

#### 3.0 Information Items

**4.0 Audience Participation** — This is an opportunity for the public to comment on any item not on the agenda

#### 5.0 Community Involvement Advisory Committee (CIAC)

#### 6.0 Hearing Items

6.1 2300 SE Harrison St

Summary: Install a new non-illuminated sign at the main entrance of the Waldorf School.

Applicant: Chris Slovick, Ramsay Signs

Address: 2300 SE Harrison St

File: CSU-2022-004 (principal file); HR-2022-001

Staff: Senior Planner Vera Koliass

6.2 9285 SE 58<sup>th</sup> Dr

Summary: Construct a 2-story 1,848-sq ft manufacturing/light industrial building.

Applicant: Troy Lyver, Lyver Engineering and Design, LLC

Address: 9285 SE 58<sup>th</sup> Dr

File: VR-2021-012 (principal file); DEV-2021-006

Staff: Senior Planner Vera Koliass

#### 7.0 Work Session Items

7.1 Code Amendments: High Density Zones – definitions

Summary: Review and provide feedback on the staff proposal to update code language in the High Density residential zones

Staff: Senior Planner Vera Koliass; Associate Planner Adam Heroux

#### 8.0 Planning Department Other Business/Updates

**9.0 Planning Commission Committee Updates and Discussion Items** — This is an opportunity for comment or discussion for items not on the agenda.

#### 10.0 Forecast for Future Meetings

July 12, 2022 Canceled

## Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at [www.milwaukieoregon.gov/meetings](http://www.milwaukieoregon.gov/meetings).
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue an agenda item to a future date or finish the item.

### Public Hearing Procedure

Those who wish to testify should attend the Zoom meeting posted on the city website, state their name and city of residence for the record, and remain available until the Chairperson has asked if there are any questions from the Commissioners. Speakers are asked to submit their contact information to staff via email so they may establish standing.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY.** Comments or questions from interested persons and testimony from those in support or opposition of the application.
5. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
6. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
7. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience but may ask questions of anyone who has testified.
8. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
9. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, any person may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

### **Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice**

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov) or phone at 503-786-7502. To request Spanish language translation services email [espanol@milwaukieoregon.gov](mailto:espanol@milwaukieoregon.gov) at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

### **Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)**

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov) o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a [espanol@milwaukieoregon.gov](mailto:espanol@milwaukieoregon.gov) al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

#### **Milwaukie Planning Commission:**

Lauren Loosveldt, Chair  
Joseph Edge, Vice Chair  
Greg Hemer  
Robert Massey  
Amy Erdt  
Jacob Sherman

#### **Planning Department Staff:**

Laura Weigel, Planning Manager  
Vera Kolias, Senior Planner  
Brett Kelter, Senior Planner  
Adam Heroux, Associate Planner  
Ryan Dyar, Assistant Planner  
Will First, Administrative Specialist II



# CITY OF MILWAUKIE

## PLANNING COMMISSION MINUTES

City Hall Council Chambers  
10722 SE Main Street  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

March 22, 2022

**Present:** Joseph Edge, Vice Chair  
Amy Erdt  
Greg Hemer  
Adam Khosroabadi  
Robert Massey  
**Absent:** Lauren Loosveldt, Chair  
Jacob Sherman

**Staff:** Steve Adams, City Engineer  
Justin Gericke, City Attorney  
Brett Kelper, Senior Planner  
Laura Weigel, Planning Manager

(00:05:53)

### 1.0 Call to Order — Procedural Matters\*

**Vice Chair Edge** called the meeting to order at 6:30 p.m., read the conduct of meeting format into the record, and Native Lands Acknowledgment.

**Note:** The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

(00:06:17)

### 2.0 Meeting Minutes

(00:06:17)

#### 2.1 February 22, 2022 Meeting Minutes

The February 22, 2022 minutes were approved with a 5-0 vote.

(00:07:02)

### 3.0 Information Items

**Laura Weigel, Planning Manager**, noted that a special session of the City Council will be held on March 29 at 5 PM to discuss the Comprehensive Plan Implementation Code Amendments.

**Commissioner Hemer** asked what date the code amendments needed to be adopted to comply with the requirements of Oregon House Bill 2001 (HB 2001). **Weigel** responded that to comply with HB 2001 the City must adopt by the end of May for the ordinance to be in effect by the June 30, 2022 deadline.

(00:08:04)

### 4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:09:10)

## 5.0 Community Involvement Advisory Committee (CIAC)

**Commissioner Hemer** noted the state requirement that all public meetings offer a virtual component and indicated that all NDAs have access to a Zoom account provided by the City if needed.

(00:11:36)

## 6.0 Hearing Items

(00:11:37)

### 6.1 VR-2022-001, Setback Variance at 2807 SE Sherrett

**Brett Kelter, Senior Planner**, shared the staff report. The property consists of an existing single-family home and detached garage that sit on an irregularly shaped lot. The applicants are proposing an addition to the home and demolition of the existing detached garage. The proposed addition consists of two elements, a 368-square-foot addition to the main structure and a 114-square-foot daylight basement with deck, attached to the new addition to the main structure. The proposed 368-square-foot addition will meet setback requirements, but the proposed daylight basement will be 5 feet from the street-side and rear yard lot lines. The applicants are seeking a variance to reduce the 15-foot street-side and 20-foot rear setback to 5 feet. The approval criteria require that the proposal be reasonable and appropriate, provide public benefit, and mitigate impacts to the extent practicable. Staff recommended approval of the application, as the proposed addition reduces encroachment into the street-side setback and removes vehicle access from the bicycle and pedestrian connector to the Springwater Corridor Trail.

**Commissioner Khosroabadi** asked whether the proposed addition will be closer to the lot line than the current detached garage. **Kelter** responded no, the proposed addition will actually be one foot further from the street-side lot line than the current detached garage.

**Ariel Harris and Jeremy Toews, Milwaukie residents**, noted their support for the application and removal of vehicle access along the connector to the Springwater Corridor.

**Liz Epp, a Milwaukie resident**, noted their support for the application.

**Commissioners Khosroabadi, Erdt, and Massey** expressed their support for the application.

VR-2022-001, 2807 SE Sherrett St, was approved by a 5-0 vote.

(00:36:27)

## 6.2 R-2021-004, Subdivision Replat at 10586 & 10610 SE Home Ave

**Kelver** presented the staff report. The applicants are proposing a subdivision replat of two parcels to create eight lots. The three existing houses will each be situated on their own lots and five lots will be created for new development. The applicants are seeking a variance for lots 1 and 4, which front on Home Avenue (Home). Harrison Street (Harrison) will connect through to Home. Lots 1 and 4 are undersized and do not meet the 5,000-square-foot lot size or 50-foot lot width requirements and require variances. Approval criteria include a reasonable and appropriate proposal that avoids or minimizes impacts, has desirable public benefits, and mitigates impacts to the extent practicable. Staff recommends approval of the application, as the proposed lot configuration allows existing structures to remain, avoids the need for additional variances, and furthers the City's goal to increase street connectivity.

**Steve Adams, City Engineer**, discussed the extension of Harrison to Home. The extension furthers the City Council's goals and is in line with connectivity goals outlined in the City's Transportation System Plan (TSP). Further, the extension of Harrison is the most reasonable solution to satisfy fire access requirements. The original Mission Park subdivision plan was designed with the expectation that Harrison would eventually connect to Home. Staff recommends a low volume street concept for the extension signed at 20 miles per hour (MPH).

Staff recommended approval of the application package and adoption of the recommended findings and conditions of approval.

**Commissioner Massey** asked for clarification regarding speed bumps. **Adams** noted different types of speed bumps and their uses. Clackamas Fire District (CFD) allows the use of speed cushions, speed bumps with cuts for wheels eight feet apart, which allow fire vehicles access without needing to reduce speeds.

**Commissioner Hemer** asked whether Llewellyn Street (Llewellyn) was a hammerhead turnaround. **Adams** responded that it is not and that CFD does not require turnarounds for streets shorter than a certain length, although the exact length was not known off hand.

**Commissioner Hemer** asked whether the applicant will provide frontage improvements along Home. **Adams** responded that the east side of Home is not planned to be improved and therefore any frontage improvements would be isolated. The City is requiring ADA curbs and sidewalks along Harrison, which would direct traffic across Home to the improved west side of Home.

**Commissioner Hemer** asked if these improvements would be paid by the applicant or the City. **Adams** responded that the applicant will be encouraged to pay a fee in lieu of construction (FILOC) for the properties fronting Home and that those fees will be used to fund the improvements. **Commissioner Hemer** asked about potential usage of a gate or bollard to prevent vehicle traffic.

**Adams** responded that a through street will reduce the amount of vehicle traffic through the Mission Park subdivision, where a bollard or gate would increase traffic through the subdivision.

**Vice Chair Edge** asked about potentially signing the Harrison extension at 15 MPH as opposed to 20 MPH. **Adams** responded that 20 MPH is a state minimum for roads wider than 16 feet.

**The Applicant Team** shared their presentation. The requested variance is to allow the existing buildings to remain. The decision to extend Harrison to connect to Home is consistent with City plans and preferred by the City Engineer. Due to considerable testimony received in opposition to the application, the Applicant Team expressed interest in working with those who provided testimony to create a plan that is more acceptable to those in opposition.

**Kelsey Nealeigh, a Milwaukie resident**, recalled a conversation with the applicant where the applicant explained that four homes would be built on what is currently 10586 & 10610 SE Home Ave and that Harrison would not be connected to Home for through traffic. In the conversation, the applicant noted that there would be emergency vehicle access connecting Harrison to Home. After the sign posting for the public hearing, Nealeigh and her neighbors were surprised to see Harrison connecting through to Home. Nealeigh expressed that she did not have adequate time to prepare a response to the application but was opposed to connecting Harrison, citing safety concerns. **Commissioner Hemer** asked if she could support removable bollards as opposed to a through street; Nealeigh responded that she would. **The Applicant Team** responded that the initial plan did not include connecting Harrison through to Home, but that after the preapplication conference the applicant revised their plan to connect Harrison based on City staff's recommendation.

**Sandy Conley, a Milwaukie resident**, expressed concern about the public notice timeline. Conley noted that she did not receive notice until March 5, 2022. Conley asked whether the Home capital improvement project is proposing street parking or sidewalk improvements along Home. **Adams** responded that there will not be sidewalk improvements on the east side of Home but there will be improvements on the west side and that the final plans for the project are available on the City's website. **The Applicant Team** responded that they provided public notice in accordance with the Milwaukie Municipal Code (MMC).

**Chris McKillop, a Milwaukie resident**, expressed concerns, including the public notice timeline; he stated that findings were not available until March 17, 2022. McKillop expressed opposition to connecting Harrison through to Home. **The Applicant Team** responded that they provided public notice in accordance with the MMC.

**Ley Garnett, a Milwaukie resident**, asked why the variance applications were necessary and whether the Commission had the authority to require mitigation as a condition of approval. Garnett expressed concern for tree removal in the development process. Garnett showed aerial images of the tree canopy in the area and noted the large amount of canopy existing on the properties. **Kelver** responded that variances are permitted within the code, with clear approval criteria. **The Applicant Team** responded that they are retaining as many trees as possible, only removing trees necessary to provide street improvements.

**Axis Espinosa, a Milwaukie resident**, expressed concern connecting Harrison through to Home, citing safety concerns with a narrow connection. Espinosa requested the hearing be continued to allow further discussion and comment. **Adams** responded that the Mission Park developer had chosen an 18.5-foot road width, which is narrow enough to allow parking on only one side of the street; no parking will be allowed on the north side of Harrison.

**Cameron and Heather McKillop, Milwaukie residents**, expressed their opposition to connecting Harrison through to Home.

**Wayne Houck, a Milwaukie resident**, expressed opposition to approving the variance for the reduced yard setback on lot 3 along the proposed new Harrison frontage. Houck expressed concern about clear vision areas around the corner of 51<sup>st</sup> Avenue and King Road. **Kelver** responded that there is no variance required for the reduced setback on lot 3 due to the dedication of property for public use.

**Tamara Wissbaum, a Milwaukie resident**, expressed their desire to keep Harrison as a road with no outlet and concerns about the Home construction project affecting traffic in the Mission Park subdivision. **Adams** responded that the Home project will be completed before the through connection of Harrison is made and should not affect traffic in the Mission Park subdivision.

**Adams** responded to public testimony, noting that connectivity is a Council and TSP goal and that the City encourages connectivity wherever possible. Adams further noted that the section of the Mission Park subdivision north of Llewellyn will see a reduction in traffic if Harrison connects through to Home.

**The Applicant Team** responded to the public testimony in opposition to the Harrison through connection by proposing a one-way connection with a pedestrian emphasis. The proposed through connection would have a 20-foot width with a 14-foot westbound one-way asphalt vehicle travel lane and 6-foot two-way concrete pedestrian access from Harrison to Home. The proposed connection at one elevation will provide the required 20-foot width required for fire access. The applicant requested that the hearing be continued and that any further testimony be provided within seven days of the hearing date.

**Commissioner Hemer** asked Steve Adams, City Engineer, for his thoughts on the applicant proposal. **Adams** responded that the proposed roadway plan is acceptable.

**Commissioner Hemer** asked how long both the applicant and staff would need to provide revised plans and accept further comments. **Kelver** proposed leaving the record open, continuing the hearing to April 26, 2022, allowing the applicant team seven days to provide a revised proposal, then seven days for the public to comment on the revised proposal, and seven additional days for a final rebuttal from the applicant. **The Applicant Team** noted support for the continuance proposed by staff.

R-2021-004, subdivision replat at 10586 & 10610 SE Home Ave, was continued to a date certain of April 26, 2022, allowing additional written testimony through March 29, 2022, responses to that written testimony by April 5, and the applicant's final written rebuttal by April 12, by a vote of 5 - 0.

(02:50:53)

#### **7.0 Planning Department Other Business/Updates**

**Weigel** provided an update that the commission received approval from the Confederated Tribes of the Grand Ronde to use a Native Lands Acknowledgment at the beginning of each Planning Commission meeting. The acknowledgment will be read each meeting starting April 12, 2022.

**Weigel** shared that the annual joint meeting between the City Council and Planning Commission is scheduled for Tuesday April 19, 2022, at 4 pm.

(02:52:49)

#### **8.0 Planning Commission Committee Updates and Discussion Items**

No information was presented for this portion of the meeting.

(02:53:53)

#### **9.0 Forecast for Future Meetings:**

April 12, 2022	1. Public Hearing: Senate Bill 458 Code Amendments 2. Public Hearing: VR-2021-012, 9285 SE 58 <sup>th</sup> Dr
April 26, 2022	1. Public Hearing: R-2021-004, 8-lot Subdivision Replat at 10586 & 10610 SE Home Ave (continued)

Meeting adjourned at approximately 9:24 p.m.

Respectfully submitted,

Will First, Administrative Specialist II





# CITY OF MILWAUKIE

## PLANNING COMMISSION MINUTES

City Hall Council Chambers  
10722 SE Main Street  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

April 26, 2022

**Present:** Joseph Edge, Vice Chair  
Greg Hemer  
Adam Khosroabadi  
Robert Massey  
Jacob Sherman  
**Absent:** Lauren Loosveldt, Chair  
Amy Erdt

**Staff:** Jennifer Backhaus, Engineering  
Technician III  
Justin Gericke, City Attorney  
Brett Kelder, Senior Planner  
Laura Weigel, Planning Manager

(00:01:25)

### 1.0 Call to Order — Procedural Matters\*

**Vice-Chair Edge** called the meeting to order at 6:30 p.m., read the conduct of meeting format into the record, and Native Lands Acknowledgment.

**Note:** *The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.*

(00:03:42)

### 2.0 Meeting Minutes

(00:03:42)

#### 2.1 March 8, 2022 Meeting Minutes

The March 8, 2022 minutes were approved with a 5-0 vote.

(00:04:29)

### 3.0 Information Items

No information was presented for this portion of the meeting.

(00:04:38)

### 4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:05:12)

### 5.0 Community Involvement Advisory Committee (CIAC)

**Commissioner Hemer** noted that the Island Station Neighborhood District

Association (NDA) has been successfully utilizing a hybrid meeting format by using ~~a telephone on speaker phone~~ **a laptop and Zoom Video** to allow online attendees to dial-in and participate.

**Commissioner Hemer** suggested assigning a CIAC member to the NDA leadership meetings which occur quarterly. **Laura Weigel, Planning Manager**, noted potential conflicts if commissioners attended the meeting representing the Planning Commission but added that commissioners may attend representing the CIAC. **Commissioner Sherman** reiterated the importance of distinguishing involvement in the meetings as a CIAC member rather than as a planning commissioner. **Commissioner Hemer** stated he could not participate in the meetings due to a conflict of interest but suggested both Commissioner Massey and Khosroabadi as potential representatives. **Commissioner Khosroabadi** noted interest in representing the CIAC at the NDA leadership meetings. **Commissioner Massey** expressed interest in representing the CIAC as an alternate at the NDA leadership meetings. **Commissioner Sherman** asked what the expectations were regarding representing the CIAC during these meetings and reporting back to the committee. **Vice-Chair Edge** noted potential for a representative and alternate to attend each meeting and responded that Commissioners would only need to share what was discussed at each meeting informally with the committee. **Commissioner Hemer** suggested confirming with NDA leaders whether a CIAC representative would be beneficial to their meetings. **Weigel** noted that staff will discuss whether any official action is necessary to designate Commissioners Khosroabadi and Massey as representatives and follow up at the next Planning Commission meeting.

(00:20:37)

## 6.0 Hearing Items

(00:20:37)

### 6.1 R-2021-004, Subdivision Replat at 10586 & 10610 SE Home Ave

**Brett Kelter, Senior Planner**, shared the staff report for this continued hearing. The applicants are proposing to replat two existing lots to create eight new lots. The applicants are seeking a variance to reduce lot width and area for lots 1 and 4. The applicants propose an extension of Harrison Street (Harrison) through to Home Avenue (Home). In response to the public testimony received during the March 22 Planning Commission hearing, the applicants revised the roadway plan. The revised roadway plan includes a one-way westbound connection of Harrison through to Home, with a two-way bicycle/pedestrian connection on the south side of the roadway.

**Vice-Chair Edge** asked whether there was any review criteria for the proposed roadway. **Kelter** responded that review of the roadway plan is outside of the scope of the Commission's authority for this application.

**Commissioners Hemer, Sherman, and Edge** noted their support for the

application package.

R-2021-004, 10586 & 10610 SE Home Ave, was approved by a 5-0 vote.

(00:42:00)

## 7.0 Planning Department Other Business/Updates

**Weigel** noted that City Council plans to adopt the middle housing code package on May 3, it will be effective June 3, 2022. The tree code package was adopted and will be effective May 19, 2022. **Commissioner Hemer** asked when the associated forms and handouts for the tree code will be available. **Weigel** responded that staff is currently creating the forms and they will be available May 19, 2022.

**Weigel** thanked the commissioners who attended the joint meeting with City Council.

**Commissioner Sherman** asked if there were any updates to Transportation and Growth Management grant to fund the Transportation System Plan. **Weigel** responded that staff is meeting with ODOT to discuss the different consultant packages the City's received.

(00:45:31)

## 8.0 Planning Commission Committee Updates and Discussion Items

No information was presented for this portion of the meeting.

(00:47:49)

## 9.0 Forecast for Future Meetings:

May 10, 2022	Canceled
May 24, 2022	1. Public Hearing: VR-2021-012, 9285 SE 58 <sup>th</sup> Dr 2. Public Hearing: CSU-2022-003, 2301 SE Willard St

Meeting adjourned at approximately 7:30 p.m.

Respectfully submitted,

Will First, Administrative Specialist II



# CITY OF MILWAUKIE

**To:** Planning Commission  
**Through:** Laura Weigel, Planning Manager  
**From:** Vera Kalias, Senior Planner  
**Date:** June 21 2022, for June 28, 2022, Public Hearing  
**Subject:** **File:** CSU-2022-004; HR-2022-001  
**Applicant:** Chris Slovick, Ramsay Signs  
**Owner(s):** Portland Waldorf School  
**Address:** 2300 SE Harrison St  
**Legal Description (Map & Tax Lot):** 11E36BB01500  
**NDA:** Historic Milwaukie

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## **ACTION REQUESTED**

Approve applications CSU-2022-004 and HR-2022-001 and adopt the recommended Findings of Approval found in Attachment 1. This action would allow for the installation of a new wall sign above the school's main entrance.

## **BACKGROUND INFORMATION**

The Portland Waldorf School proposes to install a new wall sign above the main entrance to the school building off Harrison St. The sign would not be illuminated and would be approximately 35 sq ft. The proposal requires historic resource and community service use review.

### **A. Site and Vicinity**

The site is located at 2300 SE Harrison St. The site contains the school buildings, parking areas, sports fields, and other school amenities.

The site is on the edge of downtown and surrounding area consists of both commercial and higher density residential development.

**B. Zoning Designation**

The property is in the Residential-Business Office Zone R-1-B.

**C. Comprehensive Plan Designation**

High Density HD

**D. Land Use History**

The property is the former Milwaukie Junior High School originally built in 1937.



Figure 1. Site and vicinity

- **1977:** The Planning Commission approved an addition to the main school building (land use file #s C-77-18, DR-77-23).
- **2002:** The Planning Commission approved a proposal to establish the Portland Waldorf School on the site, as a private school serving children from kindergarten through 12th grade (file #CSO-01-04). Conditions of approval related primarily to off-street parking, pedestrian walkways, and pick-up and drop-off circulation.
- **2002:** The Planning Commission approved a proposal to reconfigure an existing parking lot, construct a new pedestrian pathway and bioswale, enhance a spring on the site, and construct two pergolas and some signage (file #s CSO-02-07, NR-02-03).
- **2013:** Approval to renovate a first-floor space into a new office and a reception area (land use file #CSU-2013-005).
- **2016:** Approval to build a 165-sq-ft freestanding, open-air roof structure (land use file #s CSU-2016-002, NR-2016-002).

## E. Proposal

The applicant is seeking land use approvals for the installation of a 35 sq-ft wall sign above the school's main entrance.

The project requires approval of the following applications:

1. CSU-2022-004: Community Service Use Sign (MMC 14.08.090)
2. HR-2022-001: Historic Resource review for the alteration of a significant historic resource (MMC 19.403.5)



Figure 2. Proposed sign

## KEY QUESTIONS

### Summary

Staff has identified the following key question for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

Is the proposed sign visually compatible with the original character of the building and surrounding development?

## Analysis

### A. Is the proposed sign visually compatible with the original character of the building and surrounding development?

The sign will be one-half inch aluminum lettering painted alabaster and will not be illuminated keeping it visually compatible with the original character of the building. The new sign installation will be limited to penetrations for fasteners only and the wall penetrations are proposed to be contained and limited to mortar lines to not destroy any historical materials or accents of the building.

In accordance with the standards outlined in Table 14.08.090.C, the sign being proposed does not exceed 10% of the building face and is less than the allowed 40 sq ft (34.67 sq ft). Portland Waldorf School is situated on a large 7.45-acre lot.

The proposed non-illuminated sign will not be facing any residences. The nearest residence is an apartment complex to the north of the school approximately 260 ft away across Harrison St.

The proposed non-illuminated sign will be facing the back side of Milwaukie City Hall approximately 585 ft away behind some trees and across 21st Ave.

The non-illuminated signage proposed is designed to identify Portland Waldorf School while maintaining the structural integrity and historical details of the building without being intrusive to any nearby residences or businesses.

## CONCLUSIONS

### Staff recommendation to the Planning Commission is as follows:

1. Approve the Community Service Use and Historic Resource reviews for the proposed wall sign at the Portland Waldorf School. This will result in the installation of a new wall sign above the main entrance to the school off Harrison St.
2. Adopt the attached Findings of Approval.

## CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC).

- MMC 19.403.5 Alteration and Development in the Historic Preservation Overlay Zone
- MMC 14.08.090 Conditional and Community Service Use Signs
- MMC 19.1006 Type III review

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Approve the application upon finding that all approval criteria have been met subject to the recommended Findings of Approval.
- B. Approve the application with modified Findings of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by September 6, 2022, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

**COMMENTS**

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Building and Engineering departments and the Historic Milwaukie Neighborhood District Association (NDA) as well as all properties within 300 ft of the site. No comments were received.

**ATTACHMENTS**

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Public Copies	Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Applicant's Narrative and Supporting Documentation received on May 4, 2022.				
a. Narrative	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Site Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Sign drawings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-98>.



**ATTACHMENT 1**  
**Recommended Findings in Support of Approval**  
**File #CSU-2022-004; HR-2022-001**  
**Wall Sign at Portland Waldorf School**

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

1. The applicant, Chris Slovick of Ramsay Signs, on behalf of the Portland Waldorf School, has applied for approval to install a new wall sign above the main school entrance at 2300 SE Harrison St. The subject property is zoned Residential-Business Office Zone R-1-B. The school is an approved community service use (CSU) and is a designated significant historic resource in the city's historic resource inventory. The land use application file numbers are CSU-2022-004 and HR-2022-001.
2. The applicant proposes to install a new non-illuminated wall sign above the school's main entrance. The new sign would be 34.67 sq ft in area.
3. Signage in residential zones is limited, though the sign code allows signs associated with conditional and community service uses subject to Type I or Type III review depending on the size. Alteration of an historic resource, including signage, is subject to review. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 14.08.090 Conditional and Community Service Use Signs
  - MMC Section 19.403 Historic Preservation Overlay Zone
  - MMC Section 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held by the Planning Commission on June 28, 2022, as required by law.

4. MMC Section 14.08.090 Conditional and Community Service Use Signs

MMC 14.08.090 establishes that signs for conditional uses and community service uses (CSUs) are limited in general to those allowed in the underlying zone but may be increased as per MMC Table 14.08.090.B (with Type I review) or MMC Table 14.08.090.C (with Type III review). With Type III review, a CSU wall sign may be approved with a maximum area of 40 sq ft per display surface.

In reviewing an application for a sign to meet the standards of MMC Table 14.08.090.C, the Planning Commission will consider the proximity of the sign to residences, the functional classification of adjacent streets, and the scale of surrounding development.

*The subject property is a private school that was established in 2002 on the site of a former public junior high school and is a CSU.*

*The proposed sign is a new non-illuminated wall sign above the school's main entrance measuring 34.67 sq ft.*

*The Planning Commission finds that the proposed signage is consistent with that allowed for conditional use and CSU signs through Type III review, as per MMC Subsection 14.08.090.C.*

5. MMC 19.403 Historic Preservation Overlay

MMC 19.403 provides standards and procedures for review of applications related to identified historic resources.

*The subject property is identified on the City historic and cultural resources inventory as a Significant resource; therefore the regulations in MMC 19.403 apply.*

a. MMC 19.403.5 Alteration and Development

- (1) MMC 19.403.5.A requires review for any exterior alteration of a landmark deemed "Significant" in the City historic inventory.

*The subject property is designated a "Significant" historic resource and the proposed improvements are for minor exterior alterations. The proposed improvements are subject to review under the provisions of MMC 19.403.*

- (2) MMC 19.403.5.B requires that an application for exterior alteration of a landmark be submitted to the Planning Manager, in such form and detail as prescribed by the Manager. Applications that do not meet the requirements for projects subject to administrative approval as per MMC 19.403.5.C shall follow the Type III review process outlined in MMC 19.1006.

*An application with sufficient detail has been submitted for Type III review. This standard is met.*

- (3) MMC 19.403.5.D provides for approval of alteration requests that do not qualify for administrative approval.

*The proposed improvement is a new wall sign above the main entrance. Because the sign does not meet the standards for administrative approval, the application has been combined under a Type III review, per MMC 19.1006.*

- (4) MMC 19.403.5.E establishes approval criteria for alterations to landmarks.

*The proposed improvements have been evaluated against the relevant approval criteria as follows:*

(a) Retention of Original Construction

Distinguishing original qualities defining a resource's character shall not be destroyed. Removal or alteration of historic materials or distinctive architectural features should be avoided when possible.

*The historic characteristic of the building will be retained and preserved. No removal of any historic materials or features will take place.*

*The proposed improvement will not alter any remaining historic features or qualities of the landmark. This criterion is met.*

(b) Building Height

*No changes to existing building height are proposed. This criterion is not applicable.*

(c) Horizontal Additions

*No additions are proposed. This criterion is not applicable.*

(d) Windows

*No changes to existing windows are proposed. This criterion is not applicable.*

(e) Restoration Possible

Except where building code precludes it, new additions or alteration to buildings shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original building could be restored.

*The sign will be installed by puncturing the existing brick wall; brick repair will be minimal if ever needed to be replaced and limiting the repairs to the mortar lines of the brick.*

*This criterion is met.*

(f) Signs and Lighting

Signs, lighting, and other appurtenances (such as walls, fences, awnings, and landscaping) shall be visually compatible with the original character of the building.

*The sign will be non-illuminated keeping it visually compatible with the original character of the building.*

*This criterion is met.*

(g) Time Period Consistency

Buildings shall be recognized as products of their own time. Alterations that have no historical basis or which seek to create an earlier appearance shall be avoided.

*The new sign installation, which will be aluminum letters painted alabaster, will be limited to penetrations for fasteners only. Wall penetrations will be contained and limited to mortar lines to not destroy any historical materials or accents of the building keeping the building recognizable for its own time period.*

*This criterion is met.*

(h) Visual Integrity/Style

Distinctive stylistic features, such as a line of columns, piers, spandrels, or other primary structural elements, or examples of skilled craftsmanship which characterize a building, shall be maintained or restored as far as is practicable.

*No alterations or changes will be made to the distinctive stylistic features of the building proposed improvements will not diminish any of the distinctive stylistic features that remain on the building.*

*This criterion is met.*

(i) Replacement or Additional Materials

Whenever possible, deteriorated architectural features shall be repaired rather than replaced. In the event replacement of an existing feature is necessary, or an addition is proposed, new materials should match those of the original building, to the extent possible, in composition, design, color texture, and other visual qualities.

*Sign installation penetrations will be contained and limited to the brick mortar lines. If or when the sign will need to be updated, cleaned, or repaired any damage to the mortar lines will be repaired to original building visual qualities.*

*This criterion is met.*

(j) Buffering

*No new use is proposed. This criterion is not applicable.*

*The proposed improvements meet the applicable standards of MMC 19.403.*

6. The application was referred to the following departments and agencies on May 11, 2022:
- Milwaukie Engineering Department
  - Milwaukie Building Department
  - Historic Milwaukie Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)

No comments were received.



**MILWAUKIE PLANNING**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 503-786-7630  
 planning@milwaukieoregon.gov

# Application for Land Use Action

CSU-2022-004;

Master File #: HR-2022-001Review type\*:  I  II  III  IV  V**CHECK ALL APPLICATION TYPES THAT APPLY:**

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Amendment to Maps and/or Ordinances: | <input type="checkbox"/> Land Division:                    | <input type="checkbox"/> Residential Dwelling:               |
| <input type="checkbox"/> Comprehensive Plan Text Amendment    | <input type="checkbox"/> Final Plat                        | <input type="checkbox"/> Accessory Dwelling Unit             |
| <input type="checkbox"/> Comprehensive Plan Map Amendment     | <input type="checkbox"/> Lot Consolidation                 | <input type="checkbox"/> Duplex                              |
| <input type="checkbox"/> Zoning Text Amendment                | <input type="checkbox"/> Partition                         | <input type="checkbox"/> Manufactured Dwelling Park          |
| <input type="checkbox"/> Zoning Map Amendment                 | <input type="checkbox"/> Property Line Adjustment          | <input type="checkbox"/> Temporary Dwelling Unit             |
| <input type="checkbox"/> Code Interpretation                  | <input type="checkbox"/> Replat                            | <input checked="" type="checkbox"/> Sign Review              |
| <input type="checkbox"/> Community Service Use                | <input type="checkbox"/> Subdivision                       | <input type="checkbox"/> Transportation Facilities Review    |
| <input type="checkbox"/> Conditional Use                      | <input type="checkbox"/> Miscellaneous:                    | <input type="checkbox"/> Variance:                           |
| <input type="checkbox"/> Development Review                   | <input type="checkbox"/> Barbed Wire Fencing               | <input type="checkbox"/> Use Exception                       |
| <input type="checkbox"/> Director Determination               | <input type="checkbox"/> Mixed Use Overlay Review          | <input type="checkbox"/> Variance                            |
| <input type="checkbox"/> Downtown Design Review               | <input type="checkbox"/> Modification to Existing Approval | <input type="checkbox"/> Willamette Greenway Review          |
| <input type="checkbox"/> Extension to Expiring Approval       | <input type="checkbox"/> Natural Resource Review**         | <input type="checkbox"/> Other: _____                        |
| <input checked="" type="checkbox"/> Historic Resource:        | <input type="checkbox"/> Nonconforming Use Alteration      | <input type="checkbox"/> Use separate application forms for: |
| <input checked="" type="checkbox"/> Alteration                | <input type="checkbox"/> Parking:                          | Annexation and/or Boundary Change                            |
| <input type="checkbox"/> Demolition                           | <input type="checkbox"/> Quantity Determination            | • Compensation for Reduction in Property                     |
| <input type="checkbox"/> Status Designation                   | <input type="checkbox"/> Quantity Modification             | • Value (Measure 37)   |
| <input type="checkbox"/> Status Deletion                      | <input type="checkbox"/> Shared Parking                    | Daily Display Sign   |
|   | <input type="checkbox"/> Structured Parking                | • Appeal   |
|   | <input type="checkbox"/> Planned Development               | • Appeal   |

**RESPONSIBLE PARTIES:****APPLICANT** (owner or other eligible applicant—see reverse): **Ramsay Signs - Chris Slovick**Mailing address: **9160 SE 74th Ave,** State/Zip: **97206**Phone(s): **971-334-3033** Email: **permits@ramsaysigns.com**

Please note: The information submitted in this application may be subject to public records law.

**APPLICANT'S REPRESENTATIVE** (if different than above): **Ramsay Signs - Chris Slovick**Mailing address: **9160 SE 74th Ave,** State/Zip: **97206**Phone(s): **971-334-3033** Email: **permits@ramsaysigns.com****SITE INFORMATION:**Address: **2300 SE Harrison Milwaukie, OR 97222** Map & Tax Lot(s): **11E36BB01500**Comprehensive Plan Designation: **MMC 19.40**; Zoning: **R-1-B** Size of property: **7.45 acres****PROPOSAL (describe briefly):**

Install (1) Non-Illuminated SIGN A "Portland Waldorf School"

**SIGNATURE:**

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

Submitted by: *Chris Slovick*Date: **4.26.22****IMPORTANT INFORMATION ON REVERSE SIDE**

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

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

**Type V** applications may be initiated by any individual.

**PREAPPLICATION CONFERENCE:**

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

**REVIEW TYPES:**

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

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

**\*\*Note:** Natural Resource Review applications **may require a refundable deposit**. Deposits require completion of a Deposit Authorization Form, found at [www.milwaukieoregon.gov/building/deposit-authorization-form](http://www.milwaukieoregon.gov/building/deposit-authorization-form).

**THIS SECTION FOR OFFICE USE ONLY:**

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Master file	CSU-2022-004	\$ 2,000			
Concurrent application files	HR-2022-001	\$ 1,500	25%	concurrent apps	
		\$			
	TOTAL	\$ 3,500			
Deposit (NR only)				<input type="checkbox"/> Deposit Authorization Form received	
TOTAL AMOUNT RECEIVED: \$			RECEIPT #:	RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):					
Neighborhood District Association(s): Historic Milwaukie					
Notes:					

**From:** [Keisha Ochoa](#)  
**To:** [Chris Slovick](#)  
**Subject:** FW: Portland Waldorf School - Permitting Review Comments.  
**Date:** Thursday, April 28, 2022 9:27:11 AM

---

See below email

Thank you.

Keisha Ochoa  
**Project Manager - Ramsay Signs, Inc.**  
Cell: 971.978.7844  
[Keisha@ramsaysigns.com](mailto:Keisha@ramsaysigns.com)

---

**From:** Aimee Panyard <[aimee.panyard@portlandwaldorf.org](mailto:aimee.panyard@portlandwaldorf.org)>  
**Sent:** Thursday, April 28, 2022 9:19 AM  
**To:** Keisha Ochoa <[keisha@ramsaysigns.com](mailto:keisha@ramsaysigns.com)>  
**Subject:** Re: Portland Waldorf School - Permitting Review Comments.

To Whom it May Concern,

I authorize Ramsay Signs to submit a historical review permit application on behalf of Portland Waldorf School.

thank you,  
Aimee Panyard

On Thu, Apr 28, 2022 at 9:11 AM Keisha Ochoa <[keisha@ramsaysigns.com](mailto:keisha@ramsaysigns.com)> wrote:

If you could just send it to me I will get it to our permit tech as he needs to submit everything all together.

Thank you.

Keisha Ochoa  
**Project Manager - Ramsay Signs, Inc.**  
Cell: 971.978.7844  
[Keisha@ramsaysigns.com](mailto:Keisha@ramsaysigns.com)

---

**From:** Aimee Panyard <[aimee.panyard@portlandwaldorf.org](mailto:aimee.panyard@portlandwaldorf.org)>  
**Sent:** Thursday, April 28, 2022 9:07 AM  
**To:** Keisha Ochoa <[keisha@ramsaysigns.com](mailto:keisha@ramsaysigns.com)>  
**Subject:** Re: Portland Waldorf School - Permitting Review Comments.



ESTABLISHED 1911  
9160 SE 74<sup>th</sup> Avenue, Portland, OR. 97206  
503-777-4555 | 503-777-0220 Fax

**To:** The City of Milwaukie  
**Attn:** Historical Review  
**RE:** Portland Waldorf School  
**Location:** 2300 SE Harrison  
**Date:** 4/26/2022

### **Historical Resource Review**

#### 1. Retention of Original Construction

Distinguishing original qualities defining a resource's character shall not be destroyed. Removal or alteration of historic materials or distinctive architectural features should be avoided when possible.

**Findings:** The historic characteristic of the building will be retained and preserved. No removal of any historic materials or features will take place.

#### 2. Building Height

Existing building heights should be maintained. Alteration of roof pitches shall be avoided. Raising or lowering a building's permanent elevation when constructing a foundation shall be avoided, except as required by building code or floodplain development permit.

**Findings:** No alterations or adjustments will be made to the building height or structural integrity of the building.

#### 3. Horizontal Additions

The scale and proportion of building additions, including the relationship of windows to walls, shall be visually compatible with the traditional architectural character of the historic building. Contemporary design for alterations and additions is acceptable if the design respects the building's original design and is compatible with the original scale, materials, and window and door-opening proportions of the building.

**Findings:** The new sign addition is designed to be compatible with the rest of the district and the historical aspects of the building.

#### 4. Windows

Window replacements shall match the visual qualities of original windows as closely as possible. Wood window frames are preferred in meeting this standard. However, if non-wood replacements exhibit similar visual qualities as their wooden counterparts, they may be acceptable. The original number of window panes shall be maintained or restored when replacements are required.



**Findings:** There will be no alterations to the windows or window frames.

#### 5. Restoration Possible

Except where building code precludes it, new additions or alteration to buildings shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original building could be restored.

**Findings:** The sign will be installed by puncturing the existing brick wall, brick repair will be minimal if ever needed to be replaced and limiting the repairs to the mortar lines of the brick.

#### 6. Signs and Lighting

Signs, lighting, and other appurtenances (such as walls, fences, awnings, and landscaping) shall be visually compatible with the original character of the building.

**Findings:** The sign will be non-illuminated keeping it visually compatible with the original character of the building.

#### 7. Time Period Consistency

Buildings shall be recognized as products of their own time. Alterations that have no historical basis or which seek to create an earlier appearance shall be avoided.

**Findings:** The new sign installation will be limited to penetrations for fasteners only. Wall penetrations to be contained and limited to mortar lines to not destroy any historical materials or accents of the building keeping the building recognizable for it's own time period.

#### 8. Visual Integrity/Style

Distinctive stylistic features, such as a line of columns, piers, spandrels, or other primary structural elements, or examples of skilled craftsmanship which characterize a building, shall be maintained or restored as far as is practicable.

**Findings:** No alterations or changes will be made to the distinctive stylistic features of the building.

#### 9. Replacement or Additional Materials

Whenever possible, deteriorated architectural features shall be repaired rather than replaced. In the event replacement of an existing feature is necessary, or an addition is proposed, new materials should match those of the original building, to the extent possible, in composition, design, color texture, and other visual qualities.

**Findings:** Sign installation penetrations will be contained and limited to the brick mortar lines. If/When the sign will need to be updated, cleaned, or repaired any damage to the mortar lines will be repaired to original building visual qualities.

#### 10. Buffering

An appropriate buffer or screen, as provided under Subsection 19.504.6, may be required when a new commercial or industrial improvement or use is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.

**Findings:** All requirements will be met in accordance with the Subsection 19.504.6.

In accordance with the standards outlined in Table 14.08.090.C, the sign being proposed does not exceed 10% of the building face and comes in under the allowed 40 SF coming in at 34.67 SF. Portland Waldorf School is situated on a 7.45 acre lot of surrounding development. All adjacent streets are through streets that go around the perimeter of this 7.45 acre lot.

The proposed non-illuminated sign will not be facing any residences. The nearest residence is an apartment complex to the north of the school approximately 260 ft away across SE Harrison Street.

The proposed non-illuminated sign will be facing the back side of Milwaukie City Hall approximately 585 ft away behind some trees and across SE 21<sup>st</sup> Avenue.

The non-illuminated signage proposed is designed to identify Portland Waldorf School while maintaining the structural integrity and historical details of the building without being intrusive to any nearby residences or businesses.



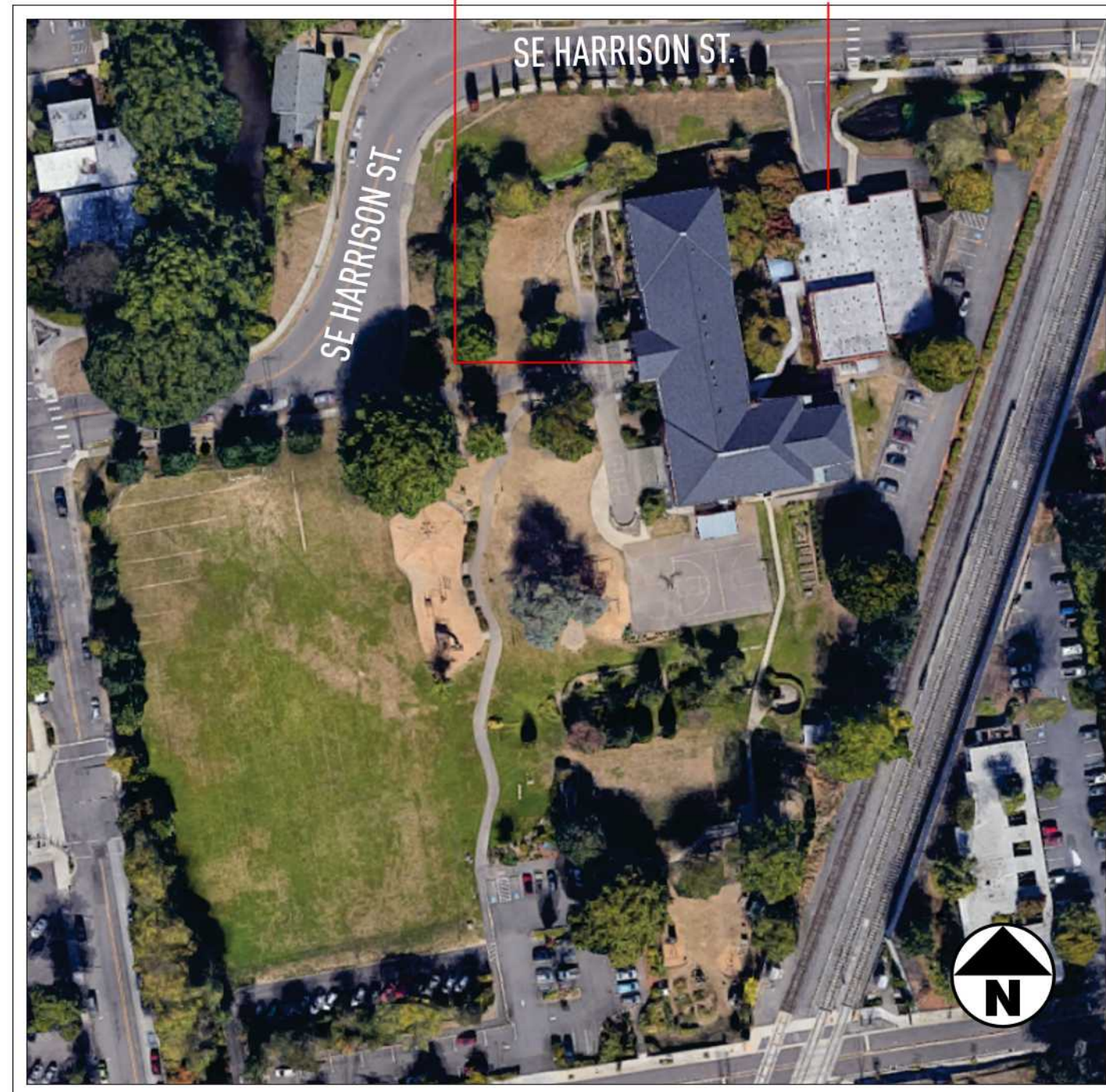
Darin Hauer - Ramsay Signs, Inc.  
National Branding | Business Development  
Direct 503-680-3023 | [darin@ramsaysigns.com](mailto:darin@ramsaysigns.com) | Cell 971-221-4325  
Keisha Ochoa – Project Manager 971-978-7844 cell | [keisha@ramsaysigns.com](mailto:keisha@ramsaysigns.com)  
9160 SE 74th Avenue Portland, Oregon 97206  
State Certified: **ESB/WBE #7393** National **WBENC #2005123636**  
This is Ramsay <https://www.youtube.com/watch?v=YcsgrZs7XSQ>

# PORTLAND WALDORF SCHOOL

2300 E. HARRISON ST.  
MILWAUKIE, OR 97222

PORTLAND WALDORF  
SCHOOL

A



SITE MAP  
NTS



## PORTLAND

9160 SE 74th Ave  
Portland OR 97206  
503-777-4555  
ramsaysigns.com

PORTLAND WALDORF  
SCHOOL

CLIENT:  
PORTLAND WALDORF SCHOOL  
2300 E. HARRISON ST.  
MILWAUKIE, OR 97222

**PRODUCTION  
READY**

ACCOUNT EXECUTIVE:  
KEISHA OCHOA

DESIGNER:  
BMB

DATE:  
03/15/2022



RAMSAY SIGNS IS  
A UL RECOGNIZED  
MANUFACTURER

© 2022 by Ramsay Signs, Inc.

These plans are the exclusive property of Ramsay Signs, Inc. the original work of its design team. They are submitted to your company for the sole purpose of your consideration of whether to purchase these plans or to purchase from Ramsay Signs, Inc. a sign manufactured according to these plans. Distribution or exhibition of these plans to anyone other than employees of your company, or use of these plans to construct a sign similar to the one embodied herein, is expressly forbidden. In the event that such exhibition occurs, Ramsay Signs Inc. expects to be reimbursed 15% of the total project value in compensation for time and effort entailed in creating these plans.

L73 Grounding and Bonding Statement for each permanently connected sign the following statement or equivalent "This sign is intended to be installed in the accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign" should be either directly marked on the sign or label attached to the sign, included in the installation instructions, or provided on a separate sheet or tag shipped with the sign. The location of the disconnect switch after installation shall comply with Article 600.6 (A) (1) of the National Electrical code.

APPROVAL:  
ACCOUNT EXECUTIVE

CLIENT

LANDLORD

DESIGN NUMBER:  
15-854\_R8-P

JOB ORDER NUMBER:  
X

PAGE # 1 OF 3

SE Harrison Street - Main Entrance

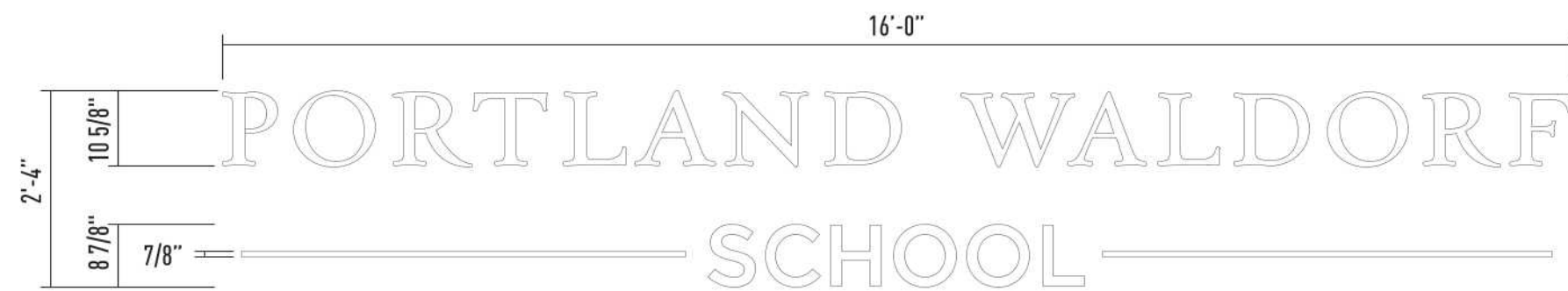


EXISTING - FRONT ENTRANCE (NORTH ELEVATION)



NEW SIGN - FRONT ENTRANCE (NORTH ELEVATION)

APPROX. SCALE: 3/32" = 1'-0"



**A** NEW NON ILLUMINATED FCO LETTERS  
QUANTITY: 1 MANUFACTURE & INSTALL

34.67 SQ. FT.  
SCALE: 1/2" = 1'-0"

**FABRICATION SPECIFICATIONS**

1	FCO	MATERIAL	1/2" ALUMINUM
		COLOR	PER COLOR KEY (P1)
		MOUNT	STUD MOUNT W/ 1/2" SPACERS

**GENERAL NOTES**

MANUFACTURE & INSTALL TWO (2) NEW SETS OF NON ILLUMINATED FCO LETTERS. STUD MOUNT OFF EXTERIOR WALL

**REVISIONS**

- 1) R1 - REMOVE VERIFIES & OPTION B COLOR 08/04/2016 (BS)
- 2) R2 - INCORPORATE SCHOOL LOGO 08/09/2016 (BS)
- 3) R3 - REMOVE LOGO. INCREASE LETTER SIZE - PAINT WHITE 12/22/2021 (BMB)
- 4)
- R7 -4/5/22 (TJH) -REDUCE BOTH DISPLAYS TO 16.00 SQ. FT. PER CODE
- R8 -4/6/22 (TJH) -REVISE TO 1 LARGE AND 1 SMALL DISPLAY

**COLOR KEY**

P1	PAINT	MATCH SW 7008 ALABASTER
----	-------	-------------------------

NOTE: THE COLORS DEPICTED ON THIS RENDERING REPRESENT COLOR INTENT ONLY AND MAY NOT MATCH ACTUAL COLORS ON FINISHED PRODUCT. PLEASE REFER TO COLOR CALL-OUTS AND SPECIFIED VENDOR SAMPLES FOR APPROVED COLOR SPECIFICATIONS.



**PORTLAND**

9160 SE 74th Ave  
Portland OR 97206  
503-777-4555  
ramsaysigns.com

**PORTLAND WALDORF SCHOOL**

CLIENT:  
PORTLAND WALDORF SCHOOL  
2300 E. HARRISON ST.  
MILWAUKIE, OR 97222

**PRODUCTION READY**

ACCOUNT EXECUTIVE:  
KEISHA OCHOA

DESIGNER:  
BMB

DATE:  
03/15/2022



© 2022 by Ramsay Signs, Inc.

These plans are the exclusive property of Ramsay Signs, Inc. the original work of its design team. They are submitted to your company for the sole purpose of your consideration of whether to purchase these plans or to purchase from Ramsay Signs, Inc. a sign manufactured according to these plans. Distribution or exhibition of these plans to anyone other than employees of your company, or use of these plans to construct a sign similar to the one embodied herein, is expressly forbidden. In the event that such exhibition occurs, Ramsay Signs Inc. expects to be reimbursed 15% of the total project value in compensation for time and effort entailed in creating these plans.

L73 Grounding and Bonding Statement for each permanently connected sign the following statement or equivalent "This sign is intended to be installed in the accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign" should be either directly marked on the sign or label attached to the sign, included in the installation instructions, or provided on a separate sheet or tag shipped with the sign. The location of the disconnect switch after installation shall comply with Article 600.6 (A) (1) of the National Electrical code.

APPROVAL:  
ACCOUNT EXECUTIVE

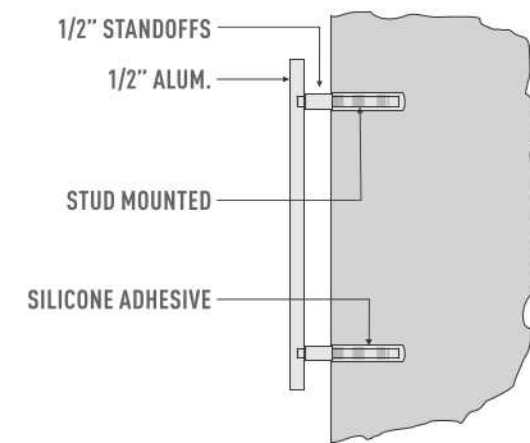
CLIENT

LANDLORD

DESIGN NUMBER:  
15-854\_R8-P

JOB ORDER NUMBER:  
X

PAGE # 2 OF 3



WALL SECTION INSTALLATION DETAIL  
NTS



# CITY OF MILWAUKIE

**To:** Planning Commission

**Through:** Laura Weigel, Planning Manager  
Steve Adams, City Engineer

**From:** Vera Kalias, Senior Planner  
Jennifer Backhaus, Engineering Technician III

**Date:** June 21, 2022, for June 28, 2022, Continued Public Hearing

**Subject:** **File:** VR-2021-012, DEV-2021-006, P-2021-003  
**Applicant:** Troy Lyver  
**Address:** 9285 SE 58<sup>th</sup> Dr  
**Legal Description (Map & Tax Lot):** 12E30AD01500  
**NDA:** Lewelling

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## **ACTION REQUESTED**

Approve applications VR-2021-012, DEV-2021-006 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow the construction of an 1,848-sq ft manufacturing building and associated improvements on the site.

## **BACKGROUND INFORMATION**

The property is a small vacant lot located at the corner of Johnson Creek Blvd and 58<sup>th</sup> Dr (see Figures 1 and 2). The applicant proposes to construct a 2-story manufacturing building measuring 1,848 sq ft. Variances are requested to reduce the front yard setback on Johnson Creek Blvd to 0 ft, to reduce the perimeter parking area landscaping to 3.5 ft., and to modify the accessway location.

The site is located at 9285 SE 58<sup>th</sup> Dr. The 0.08-acre (3,592 sq ft) site is vacant and was formerly used for storage of materials for the adjacent Smith Rock business. The surrounding area consists of small industrial/manufacturing uses and the Wichita Feed and Hardware store site across 58<sup>th</sup> Dr. Across Johnson Creek Blvd is the Springwater Corridor Trail. Although the R-7 zone is approximately 67 ft from the site, the closest residential property in the R-7 zone is approximately 127 ft away.

**May 24, 2022:** The Planning Commission hearing on [May 24](#) concluded with a continuation of the hearing to June 28 and an opportunity for additional written testimony specifically

addressing the testimony by Carol Phelps at the April 12 hearing related to the history of site and its use by Smith Rock (See Attachment 3.)

**April 12, 2022:** The Planning Commission hearing on [April 12](#) concluded with a continuation of the hearing to May 24 and an opportunity for additional written testimony, response to submitted testimony, and the applicant’s final written argument.



Figure 1. Site and vicinity

### Proposal

The proposed development includes a 2-story 1,848-sq ft manufacturing building, on-site landscaping (including a “living wall” or similar wall treatment) and parking, and street improvements on 58<sup>th</sup> Dr (see Figures 2 and 3). The applicant has not specified a tenant for the proposed building, but the site and user would have to comply with the permitted uses identified in MMC 19.309 as well as minimum parking requirements as identified in Table 19.605.1.



Figure 2. 3-D rendering of proposed building

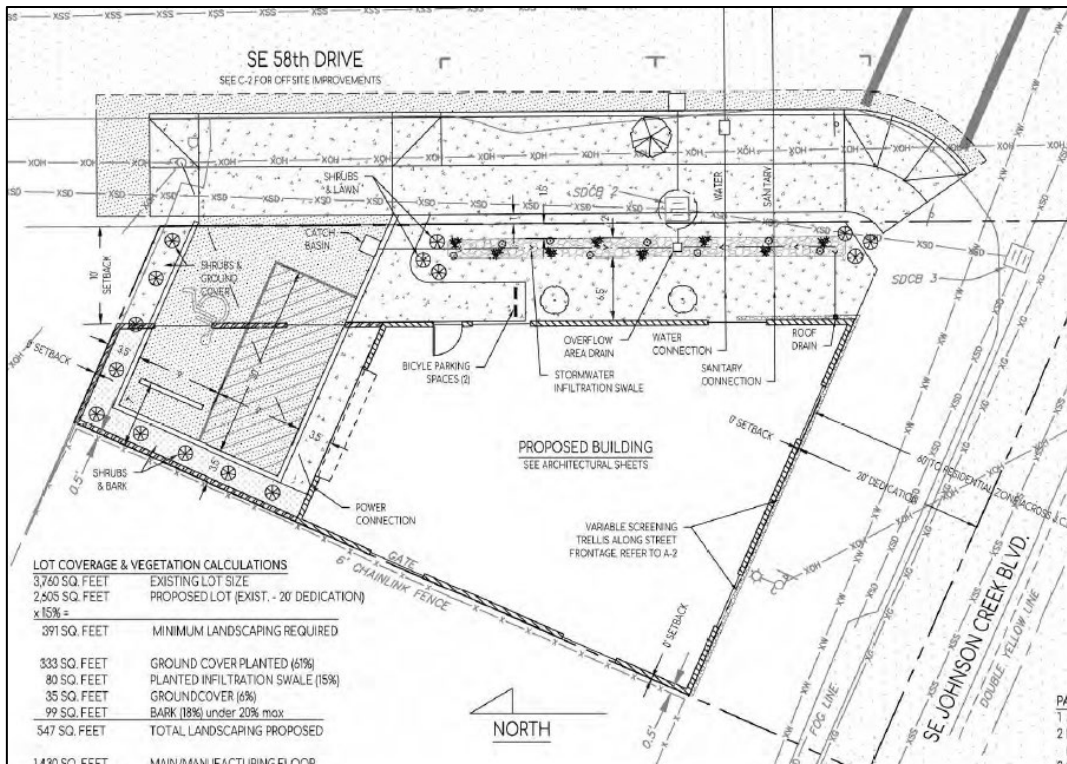


Figure 3. Proposed site plan.

Public improvements required for development on this vacant parcel are:

- 20-ft dedication on Johnson Creek Blvd for future street build out
- Full frontage improvements on 58<sup>th</sup> Dr (including parking, sidewalk, and planter strip)

The applicant is seeking land use approvals for the following:

1. A variance to reduce the minimum front yard setback to 0 ft on Johnson Creek Blvd. This request is subject to a Type III review.
2. A variance to reduce the width of parking area perimeter landscaping to 3.5 ft. This request is subject to a Type III review.
3. A variance to the accessway location requirements that would reduce the spacing between the driveway apron and the property line to 4 ft., and the distance from the intersection to 72 ft. This request is subject to a Type III review.
4. Parking modification to allow the required on-site parking space to be the accessible space and other parking to be located on-street. This request is subject to a Type II review.

The project requires approval of the following applications:

1. Type III Variances
2. Type II Development Review
3. Type II Parking Modification

## **KEY QUESTIONS**

### **Summary**

Staff has identified the following key question for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

Are the proposed variances and parking modification reasonable and appropriate?

### **Analysis**

#### **Are the proposed variances and parking modification reasonable and appropriate?**

As noted in the application summary, the applicant proposes to construct a manufacturing building on the vacant site, as well as site improvements, such as an on-site accessible parking spot, full frontage improvements on 58<sup>th</sup> Dr., and site landscaping.



## VariANCES

VariANCES are requested to allow a 0-ft setback on Johnson Creek Blvd, allow 3.5 ft of perimeter landscaping, allow a driveway apron spacing of 4 ft from the property line, and reduced spacing of the driveway distance from Johnson Creek Blvd.

The approval criteria for the variANCES are listed below and how the application meets the criteria.

- Provides an alternative analysis
  - 0-ft setback on Johnson Creek Blvd: the parcel is less than 4,000 sq ft and the required 20-ft dedication on Johnson Creek Blvd results in a lot size of 2,605 sq ft. Further, the shape of the lot is effectively a triangle, creating an additional development constraint. In addition to the required 10-ft setback on 58<sup>th</sup> Dr, parking, and landscaping, the developable area of the site is reduced by nearly 50%. The alternative to the variance would be to not develop the site, given the multitude of constraints, and the limited permitted uses in the Manufacturing zone. The applicant has submitted a narrative explaining that maintaining the 20-ft setback, in addition to all of the other requirements, would render the site undevelopable.
  - 4-ft spacing between driveway apron and property line, and 72-ft spacing from the intersection: As noted above, the small size of the site and its triangular shape limit the options for development on the site. Access from Johnson Creek Blvd is not permitted, so access from 58<sup>th</sup> Dr is the only option. To provide as much space between the driveway and the intersection with Johnson Creek Blvd, a reduction in the minimum spacing of 10 ft between the driveway apron and the property line is necessary. The applicant's narrative outlines the ramifications of requiring the 10 ft spacing, which would affect the internal circulation on the site and put the driveway even closer to the intersection. The applicant submitted an access study and an additional engineering analysis which confirmed that a spacing of 72 ft rather than the minimum required 100 ft will not result in impacts to safety or sight distance. The City Engineer has confirmed that there are no concerns about the safety of the proposed development relative to access spacing or sight distance.
  - 3.5-ft perimeter landscaping: As noted above, the small size of the site and its triangular shape limit the options for development on the site. Requiring the full 6 ft width of landscaping would further reduce an already very small building footprint on the site and render the site effectively undevelopable. The location of the lot and the proposed building would not be directly adjacent to the existing residence on the adjacent lot. The home is located approximately 25 ft from the property line at the closest point to the subject property.

- Avoids or minimizes impacts to surrounding properties

The proposed variances avoid creating adverse impacts for surrounding properties. The site is a corner lot and has only two adjacent properties, both of which are commercial/industrial zoned properties (although the parcel directly north includes a residence). The 0-ft setback on Johnson Creek Blvd includes the required 20-ft dedication for future improvements to the street. The proposed design includes a “living wall” or similar treatment on the building to help soften the building when it is adjacent to the future sidewalk. The proposed driveway would be located as far as possible from the intersection with Johnson Creek Blvd to maximize safety, while still separating it from the adjacent property. The 3.5-ft area between the site driveway and the adjacent property is proposed to be landscaped. The reduction in the width of the landscaped perimeter is a reduction, not an elimination, and would still include landscaping and plants. The proposal minimizes impacts while still providing the ability to develop the site, which is now vacant and underutilized. As noted above, the applicant submitted both an initial access study and a follow-up analysis responding to testimony regarding the safety of the proposed design, concluding that the proposed design would not be detrimental to safety or sight distance. The City Engineer does not have any concerns about the proposed development.

- Has desirable public benefits

The proposal will create a modest public benefit by taking a vacant, underutilized site and adding a productive use to the limited Manufacturing zone. Total relief from the landscaping requirement is not requested, as the site will include landscaping, a “living wall” or similar treatment on the building to improve its appearance, and the required frontage improvements include street trees, curb, and sidewalk on 58<sup>th</sup> Dr, none of which exist today.

- Responds to the existing built or natural environment in a creative and sensitive manner

The existing built and natural environment will be improved by the development, via the proposed “living wall” or similar treatment, constructing a new building and site improvements on a vacant, underutilized site, and constructing frontage improvements on 58<sup>th</sup> Dr. The proposed building would be two stories and 1,848 sq ft in size. The design balances the need for a reasonably sized building while responding to site design requirements such as landscaping.

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

As noted above, any impacts from the proposed variances will be mitigated via a “living wall” or similar building treatment, smaller (but not eliminated) perimeter landscaping, and a reasonable spacing between the driveway apron and the intersection that is still safe. The combination of requested variances allows productive use of a very small vacant and underutilized site, while still

adhering to the intent and purpose of the design and development standards in the Manufacturing zone.

The applicant and the circumstances of this case have demonstrated that the effect of strict compliance with the setback, perimeter landscaping, and driveway spacing standards would be a site that is effectively undevelopable. Given the proposed improvements to the site and to 58<sup>th</sup> Dr, staff believes granting the variances are reasonable and appropriate.

**Parking Modification**

The applicant also requests a parking modification to allow for the design which has one accessible parking space on the site and two newly constructed parking spaces on 58<sup>th</sup> Dr adjacent to the site.

MMC 19.605.D provides information on how to calculate minimum and maximum parking requirements: Where the calculation of minimum parking spaces does not result in a whole number, the result shall be rounded down to the next whole number. Where the calculation of maximum parking spaces does not result in a whole number, the result shall be rounded to the nearest whole number. The minimum off-street parking requirements for the proposed building are, when calculated per the code, one off-street space:

Use	Min/Max	Proposed sq ft	Total spaces required
Manufacturing	1 space/1,000 sq ft 2 spaces/1,000 sq ft	1,430 sq ft	1.43 = 1 space
Office	2 space/1,000 sq ft 3.4 spaces/1,000 sq ft	418 sq ft	0.84 = 0 spaces
<b>Total</b>			<b>1 space</b>

If rounded up then the site would require two off-street spaces, one of which would be required to be an ADA accessible space. Given the constraints on the site, the request to provide one accessible space on site and provide two on-street spaces as part of the required frontage improvements is reasonable. The proposal would meet the intent of the parking requirements for a manufacturing building with an associated office space for the business.

Approval of this modification effectively limits the permitted uses on the site to those that would comply with the off-street parking requirements. For example, although marijuana retailers are permitted in the Manufacturing zone, the site would have to provide 3 parking spaces for a retail use.

Because the site is separated from the R-7 zone by both Johnson Creek Blvd and the Springwater Corridor, staff believes that the small size of the building, design of the site,

and compliance with other aspects of the code (such as noise ordinance) are sufficient to address proximity of the development to residentially-zoned properties.

As noted in the Background section, the additional testimony provided for the June 28 hearing regarding the April 12 testimony from Carol Phelps is included as Attachment 3.

## CONCLUSIONS

### Staff recommendation to the Planning Commission is as follows:

1. Approve the variances. This will result in a building with a 0-ft setback on Johnson Creek Blvd, 3.5-ft parking area perimeter landscaped areas, and a driveway spacing of 3.5 – 4 ft to the adjacent property line and 72 ft from the intersection with Johnson Creek Blvd.
2. Approve the parking modification. This will result in a site with one accessible parking space on site and two on-street spaces as part of the required frontage improvements.
3. Adopt the attached Findings and Conditions of Approval.

## CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC).

- MMC 12.16 Access Management
- MMC 19.309 Manufacturing Zone (M)
- MMC 19.600 Off Street Parking and Loading
- MMC 19.700 Public Facility Improvements
- MMC 19.906 Development Review
- MMC 19.911 Variances

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Approve the application subject to the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

The original date for the final decision on these applications, which includes any appeals to the City Council, was April 6, 2022, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. However, the applicant has waived the time period in which the application must be decided to accommodate the extended review time resulting from the continuations to the public hearings.

## COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Engineering Department, Building Official, Lewelling Neighborhood District Association (NDA), Clackamas County Engineering Review, Metro, TriMet, and the Clackamas Fire District #1. A public notice was sent on January 5, 2022 to all property owners within 300 ft of the site. Comments received for the April 12 hearing were included with that packet. Additional written testimony submitted following the April 12 hearing can be found in the May 24 hearing packet. Additional written testimony submitted following the May 24 hearing can be found in Attachment 3.

## ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Public Copies	Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Testimony submitted for June 28 hearing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-98>.

**ATTACHMENT 1**  
**Recommended Findings in Support of Approval**  
**File #VR-2021-012; DEV-2021-006; P-2021-003, 58th Dr Manufacturing Building**

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

1. The applicant, Troy Lyver, on behalf of the property owners, has applied for approval to construct a manufacturing building and associated site improvements at 9285 SE 58<sup>th</sup> Dr. This site is in the Manufacturing M Zone. The land use application file numbers are VR-2021-012, DEV-2021-006, and P-2021-003.
2. The applicant proposes to construct a 2-story 1,848-sq ft building, site landscaping and parking, and frontage improvements. The proposed development requires variances to minimum front yard setbacks, width of parking area perimeter landscaping, and minimum spacing standards between a driveway apron and a property line and to the nearest intersection. The application proposes to have the required on-site parking space be the accessible space and provide other parking on-street.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC 12.16 Access Management
  - MMC 19.309 Manufacturing Zone (M)
  - MMC 19.600 Off Street Parking and Loading
  - MMC 19.700 Public Facility Improvements
  - MMC 19.906 Development Review
  - MMC 19.911 Variances

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. Public hearings were held on January 25, 2022, April 12, 2022, and May 24, 2022 as required by law.

4. MMC 19.309 Manufacturing
  - a. MMC 19.301 establishes the development standards that are applicable to this site. Table 1 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

*The proposal is a 2-story building for light manufacturing uses with office space.*

**Table 1: Overview of Compliance with Development Standards**

<b>Manufacturing Zone - M Development Standards</b>			
Standard	Required	Proposed	Staff Comment
1. Setbacks Front Side Rear Street side	Min. 20 ft None None 10 ft	0 ft 0 ft 0 ft 10 ft	A variance has been requested.
2. Building Height	45 ft (max.)	28 ft-10 in	Complies with standard.
3. Landscaping	15% min.	Approx. 20%	Complies with standard.

*Subject to approval of the requested variance, the Planning Commission finds that the proposal complies with the applicable standards of the M zone.*

5. MMC Chapter 19.600 Off-Street Parking and Loading

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

a. MMC Section 19.602 Applicability

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

*The proposed development is an 1,848-sq ft manufacturing building and is required to conform fully to the requirements of MMC 19.600.*

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

b. MMC Section 19.605 Vehicle Parking Quantity Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand.

*The proposed manufacturing building would be 1,848 sq ft.*

*As per MMC Table 19.605.1, the minimum/maximum number of required off-street parking spaces for a manufacturing use is 1/2 spaces per 1,000 sq ft of floor area; for an office use the number is 2/3.4 per 1,000 sq ft. According to MMC Table 19.605.1, the proposed development should provide a minimum of 1 space and would have a maximum of 4 spaces allowed. As proposed, the development would provide 1 accessible (ADA) space on-site and 2 on-street spaces.*

*Subject to approval of the requested parking modification, the Planning Commission finds that this standard is met.*

c. MMC Subsection 19.605.2 Quantity Modifications and Required Parking Determinations

- (1) MMC Subsection 19.605.2 A. allows for the modification of minimum and maximum parking ratio standards as calculated per Table 19.605.1.

*The applicant has requested a modification to the minimum required parking for the development and proposes to provide an on-site accessible parking space and 2 on-street spaces for the development. This allows the required accessible space to be located as close to the building entrance as possible and provides 2 on-street parking spaces as part of the required frontage improvements on 58<sup>th</sup> Dr.*

- (2) MMC Subsection 19.605.2 C.1. contains the approval criteria for granting a parking modification, including a demonstration that the proposed parking quantities are reasonable based on (1) existing parking demand for similar uses in other locations, (2) quantity requirements from other jurisdictions, and (3) professional literature. In addition to this criterion, a request for modifications to decrease the amount of minimum required parking must meet the following criteria:

- (a) The use of transit, parking demand management (TDM) programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.
- (b) The reduction of off-street parking will not adversely affect available on-street parking.
- (c) The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site.

*A small manufacturing building like the one proposed would have a very low parking demand. The total number of onsite employees will be small. The site would provide the required parking space, but it would be the required ADA accessible space. The site is close by a Trimet transit stop and the Springwater Corridor Trail, so alternative modes of travel are possible to the site. No formal on-street parking is currently available on 58<sup>th</sup> Dr.; the proposed development includes frontage improvements which would provide two on-street parking space.*

*The Planning Commission finds that the applicant has adequately addressed the criteria for a parking modification to allow for the required accessible space to be provided on-site, with non-accessible spaces provided on-street.*



d. MMC Section 19.606 Parking Area Design and Landscaping

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

(1) MMC Subsection 19.606.1 Parking Space and Aisle Dimension

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

*The parking areas shown on the Planned Development plan have been laid out conceptually based on the standards of Table 19.606.1 using a 9-ft wide and 18-ft long parking space. Full compliance with these standards will be shown at the time of development.*

(2) MMC Subsection 19.606.2 Landscaping

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

(a) MMC Subsection 19.606.2.C Perimeter Landscaping

In all but the downtown zones, perimeter landscaping areas must be at least 6 ft wide where abutting other properties and at least 8 ft wide where abutting the public right-of-way. At least 1 tree must be planted for every 30 lineal ft of landscaped buffer area, with the remainder of the buffer planted with grass, shrubs, ground cover, mulch, or other landscaped treatment. Parking areas adjacent to residential uses must provide a continuous visual screen from 1 to 4 ft above the ground to adequately screen vehicle lights.

*The perimeter parking lot landscaping adjacent to the property line has been designed at 3.5-ft wide.*

*Subject to the approval of the requested variance, this standard is met.*

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

(3) MMC Subsection 19.606.3 Additional Design Standards

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

(a) MMC Subsection 19.606.3.A Paving and Striping

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

*The plans submitted indicate that the parking area will be paved and striped.*

*This standard is met.*

(b) MMC Subsection 19.606.3.B Wheel Stops

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

*The plans submitted indicate that the parking area will meet this standard.*

*This standard is met.*

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

Accessways to parking areas shall be the minimum number necessary to provide access without inhibiting safe circulation on the street. Drive aisles shall meet the dimensional requirements of MMC 19.606.1, including a 22-ft minimum width for drive aisles serving 90°-angle stalls and a 16-ft minimum width for drive aisles not abutting a parking space. Along collector and arterial streets, no parking space shall be located such that its maneuvering area is in an ingress or egress aisle within 20 ft of the back of the sidewalk. Driveways and on-site circulation shall be designed so that vehicles enter the right-of-way in a forward motion.

*The plans submitted indicate that the parking area will meet this standard.*

*This standard is met.*

6. MMC 19.700 Public Facility Improvements

*See Public Facilities Improvement findings below in Finding 9.*

7. MMC Chapter 19.911 Variances

a. MMC 19.911.3 establishes the appropriate review process for variance applications.

*The applicant proposes to: reduce the front yard setback to 0 ft; reduce the perimeter landscaping to 3.5 ft; and reduce the minimum accessway spacing standards.*

*The Planning Commission finds that the request is subject to a Type III Variance review.*

b. MMC 19.911.4 establishes criteria for approving a variance request.

The applicant has chosen to address the discretionary relief criteria of MMC 19.911.4.B.1.

(1) Discretionary relief criteria

- (a) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.
- *0-ft setback on Johnson Creek Blvd: the parcel is less than 4,000 sq ft and the required 20-ft dedication on Johnson Creek Blvd results in a lot size of 2,605 sq ft. Further, the shape of the lot is effectively a triangle, creating an additional development constraint. In addition to the required 10-ft setback on 58th Dr, parking, and landscaping, the developable area of the site is reduced by nearly 50%. The alternative to the variance would be to not develop the site, given the multitude of constraints. The applicant has submitted a narrative explaining that maintaining the 20-ft setback, in addition to all of the other requirements, would render the site undevelopable.*
  - *Spacing between driveway and property line and to the intersection with Johnson Creek Blvd: As noted above, the small size of the site and its triangular shape limit the options for development on the site. Access from Johnson Creek Blvd is not permitted, so access from 58th Dr is the only option. In order to provide as much space between the driveway and the intersection with Johnson Creek Blvd, a reduction in the minimum spacing of 10 ft between the driveway apron and the property line is necessary. The applicant's narrative outlines the ramifications of requiring the 10 ft spacing, which would affect the internal circulation on the site and put the driveway even closer to the intersection. Per Finding 8.b, the submitted access study and additional engineering analysis confirm that a spacing of 72 ft rather than the minimum required 100 ft will not result in impacts to safety or sight distance.*
  - *3.5-ft perimeter landscaping: As noted above, the small size of the site and its triangular shape limit the options for development on the site. Requiring the full 6 ft width of landscaping would further reduce an already very small building footprint on the site and render the site effectively undevelopable.*

*This criterion is met.*

- (b) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
- (i) The proposed variance avoids or minimizes impacts to surrounding properties.

*The proposed variances avoid creating adverse impacts for surrounding properties. The site is a corner lot and has only two adjacent properties, both of which are commercial/industrial properties. The 0-ft setback on Johnson Creek Blvd includes*

*the required 20-ft dedication for future improvements to the street. The proposed design includes a “living wall” on the building to help soften the building when it is adjacent to the future sidewalk. The proposed driveway would be located as far as possible from the intersection with Johnson Creek Blvd to maximize safety, while still separating it from the adjacent property. The 3.5-ft space is proposed to be landscaped. The reduction in the width of the landscaped perimeter is a reduction, not an elimination, and would still include landscaping and plants. The proposal minimizes impacts while still providing the ability to develop the site, which is now vacant and underutilized. The spacing between the driveway and the intersection with Johnson Creek Blvd would still provide 72 ft of distance which will not impact surrounding properties. The City Engineer agrees that the proposed design will not result in any safety issues.*

*This criterion is met.*

(ii) The proposed variance has desirable public benefits.

*The proposal will create a modest public benefit by taking a vacant, underutilized site and adding a productive use to the limited Manufacturing zone. Total relief from the landscaping requirement is not requested, as the site will include landscaping, a “living wall” on the building to improve its appearance, and required improvements include street trees, curb, and sidewalk on 58<sup>th</sup> Dr, none of which exist today.*

*This criterion is met.*

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

*The existing built and natural environment will be improved by the development, via the proposed “living wall”, constructing a new building and site improvements on a vacant, underutilized site, and constructing frontage improvements on 58<sup>th</sup> Dr.*

*This criterion is met.*

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

*As noted above, any impacts from the proposed variances will be mitigated via a “living wall”, smaller (but not eliminated) perimeter landscaping, and a reasonable spacing between the driveway apron and the intersection that is still safe. The combination of requested variances allows productive use of a very small vacant and underutilized site, while still adhering to the intent and purpose of the design and development standards in the Manufacturing zone.*

*This criterion is met.*

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

8. MMC 12 Streets, Sidewalks, and Public Places

a. MMC 12.08 – Street & Sidewalk Excavations, Construction, and Repair

MMC 12.08.020 establishes construction standards for new sidewalks and alterations to existing sidewalks.

*The applicant must not engage in any work in the right-of-way without first obtaining City permit, including any activity resulting in alteration of the surface of the right-of-way or their access to the right-of-way.*

*As conditioned, the standards are met.*

b. MMC 12.16.040 – Access Requirements and Standards

MMC 12.16.040 establishes standards for access (driveway) requirements. As conditioned, the standards are met as summarized below.

(1) MMC 12.16.040.A – Access

MMC 12.16.040.A requires that all properties provide street access with the use of an accessway as set forth in the Public Works Standards.

*The proposed development shall construct a new accessway per the Public Works Standards.*

*As conditioned, standard is met.*

(2) MMC 12.16.040.C – Accessway Location

MMC 12.16.040.C requires that all driveway approaches in non-residential districts must be 10 ft from the side property line, and at least 100 feet away from the nearest intersection.

*The applicant has requested a variance to construct the new driveway 4 ft from the north side property line and approximately 72 ft from the intersection. Per the submitted Access Spacing Study, this location will not result in impacts to safety or sight distance.*

*Subject to approval of the Accessway Location variance, the standard is met.*

(3) MMC 12.16.040.E – Accessway Design

MMC 12.16.040.E requires that all driveway approaches meet Americans with Disabilities Act (ADA) standards and Milwaukie Public Work Standards.

*The applicant has proposed to construct a new driveway that will conform with the Americans with Disabilities Act (ADA) standards and the Milwaukie Public Works Standards.*

*As conditioned, the standard is met.*

(4) MMC 12.16.040.F – Accessway Size

MMC 12.16.040.F requires that industrial uses shall have a minimum driveway apron width of 15 ft and a maximum of 45 ft.

*The applicant has proposed a new driveway apron width of 20 ft which is in conformance with this standard.*

*As conditioned, this standard is met.*

c. MMC 12.24 – Clear Vision at Intersections

MMC 12.24 establishes standards to maintain clear vision areas at intersections in order to protect the safety and welfare of the public in their use of City streets. The clear vision area for all street and driveway or accessway intersections is the area within 20 ft radius from where the lot line and the edge of a driveway intersect. The provisions of this chapter relate to safety. They shall not be modified through variance and are not subject to appeal.

*The applicant must maintain or remove all trees, shrubs, hedges or other vegetation in excess of three feet in height, measured from the street center grade from the clear vision area. Trees exceeding this height may remain in this area; provided, all branches and foliage are removed to the height of eight feet above the grade.*

*This standard is met.*

*As conditioned, and subject to the approval of the Access Spacing variance, the Planning Commission finds the standards in MMC 12 are met.*

9. MMC 19.700 Public Facility Improvements

a. MMC 19.702 Applicability

MMC 19.702.E establishes the applicability of the provisions of MMC 19.700, including a new dwelling unit, any increase in gross floor area, land divisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

*The applicant is proposing to construct a 2-story manufacturing building measuring 1,848 sq ft. MMC 19.700 applies to the proposed development.*

b. MMC Section 19.705 Rough Proportionality

MMC 19.705 requires that transportation improvements be in proportion to impacts of a proposed development. Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, must be provided in rough proportion. Guidelines require consideration of a ½ mile radius, existing use within the area, applicable TSP goals, and the benefit of improvements to the development property.

*Based on proportionality guidelines found in MMC 19.705.2, the applicant is found responsible for constructing half street improvements along 58<sup>th</sup> Drive. This includes management of stormwater generated from new impervious surface, on-street parking, and a pedestrian ramp to provide connectivity traveling east along 58<sup>th</sup> Drive at the intersection of Johnson Creek Boulevard.*

*As conditioned, this standard is met.*

c. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. The City's street design standards are based on the street classification system described in the City's Transportation System Plan (TSP).

*As conditioned, the proposal meets the standards of MMC 19.708, as summarized below.*

(1) MMC 19.708.1.A – Access Management

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

*As mentioned in 8.b above, the applicant proposes to construct a new driveway in full compliance with the access management standards contained in Chapter 12.16 and the Public Works Standards.*

(2) MMC 19.708.1.B – Clear Vision

All development subject to 19.700 shall comply with Clear vision requirements in Chapter 12.24.

*As mentioned in 8.c, the proposed development is required to maintain and remove all obstructions within the clear vision area.*

(3) MMC 19.708.1.D – Development in Non-Downtown Zones

*Transportation improvements must be constructed in accordance with the Milwaukie Transportation System Plan and Transportation Design Manual street classification. The development fronts a portion of 58<sup>th</sup> Drive with local street classification.*

*As conditioned, the standards are met.*

d. MMC 19.708.2 Street Design Standards

MMC 19.708.2 establishes standards for street design and improvements.

*Development standards for 58<sup>th</sup> Drive require the construction of a 5 ft sidewalk, a 5 ft landscape strip, a 6 ft parking strip, and curb and gutter.*

*As conditioned, this standard is met.*

e. MMC 19.708.3 – Sidewalk Requirements and Standards

MMC 19.708.3.A.2 requires that sidewalks be provided on the public street frontage of all development in conformance to ADA standards.

*The applicant must construct and maintain ADA compliant 5 ft wide setback sidewalks.*

*As conditioned, this standard is met.*

*As conditioned, the Planning Commission finds the standards in MMC 19.700 are met.*

10. The application was referred to the following departments and agencies on December 10, 2021:

- Milwaukie Building Division
- Milwaukie Engineering Department
- Clackamas County Fire District #1
- Lewelling Neighborhood District Association Chairperson and Land Use Committee

Notice of the application was also sent to surrounding property owners and residents within 300 ft of the site on January 5, 2022, and a sign was posted on the property on January 7, 2022.

Comments were received from the following persons:

- **Milwaukie Engineering Department** – Engineering comments have been incorporated in the Findings under 19.700 and Chapter 12.
- **TriMet** – Comments related to the adjacent bus stop on Johnson Creek Blvd when improvements are made.

A public notice was sent on January 5, 2022 to all property owners within 300 ft of the site. The following comments were received:

- **E. Michael Connors** (representing Smith Rock)
- **Evan Geist and Kimberlee Morris, 9203 SE 58<sup>th</sup> Dr**
- **Jen Procter Andrews**
- **Tim and Jen Andrews**
- **Michelle Wyffels, TriMet**

Subsequent opportunities to provide written testimony during the public hearing process were provided. All written testimony is available on the application webpage:

<https://www.milwaukieoregon.gov/planning/vr-2021-012>.



**EXHIBIT 2**  
**Conditions of Approval**  
**File #VR-2021-012; 58<sup>th</sup> Dr Manufacturing Building**

**Conditions**

1. The site shall be used in a manner as proposed and approved through this land use action and as submitted in materials received by the City on June 15, 2021 and revised on December 8, 2021, and supplemental information received by the City on March 30, 2022.
2. Prior to start of any site work or earth removal, a fenced tree protection zone (TPZ) must be established on the subject property for the large blue spruce located on the adjacent property at 9208 SE 58<sup>th</sup> Dr. The TPZ is defined as the tree canopy drip line. The TPZ must be maintained with a 4 ft – 6 ft tall fence around the perimeter of the TPZ; signage is required on the fencing stating that no one, and no equipment, is allowed to enter or disturb the area. Fencing required to be installed prior to any earth-disturbing activity and must be maintained throughout the project. An inspection of the TPZ fencing is required prior to any earth-disturbing activity.
3. Site landscaping must be maintained in good and healthy condition.
4. Prior to the certificate of occupancy, the following shall be resolved:
  - a. All required landscaping must be installed.
  - b. Construct a 5-ft setback sidewalk, a 5-ft landscape strip (or water quality facility), a 6-ft parking strip, and curb and gutter fronting the proposed development property along SE 58<sup>th</sup> Drive. An issued Right-of-Way permit is required prior to the start of any work within the public right-of-way.
  - c. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA). An issued Right-of-Way permit is required prior to the start of any work within the public right-of-way.
  - d. Install stormwater detention and water quality treatment facilities. Stormwater plan review and approval by the Engineering Department required before issuance of building permit and prior to the start of construction.

**Additional Requirements**

1. Prior to issuance of building permits, the following shall be resolved:
  - a. Provide an erosion control plan and obtain an erosion control permit, if needed. Consult with the Engineering Department to determine if an erosion control permit is needed for the driveway and frontage improvements.

ATTACHMENT 3

**From:** [Mike Connors](#)  
**To:** [Vera Kolia;](#) [Milwaukie Planning](#)  
**Cc:** [jon@smithrockinc.com](mailto:jon@smithrockinc.com)  
**Subject:** Smith Rock 6/7/22 Comments for VR-2021-012 (9285 SE 58th Dr)  
**Date:** Tuesday, June 7, 2022 4:36:09 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[We sent you safe versions of your files.msg](#)  
[Planning Commission Ltr - 6-7-22 Submission.pdf](#)  
[Lew Smith - Letter.pdf](#)  
[Jon Phelps - Letter.pdf](#)

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Vera,

I'm submitting the attached letters on behalf of Smith Rock, Inc. per the Planning Commission's continuance at the May 24 hearing. Please let me know if you have any questions. Thanks, Mike

**E. Michael Connors**  
Partner



**Hathaway Larson LLP**  
1125 NW Couch St Ste 550  
Portland, OR 97209  
503-303-3111 (Direct)  
503-303-3101 (Main)  
503-781-0280 (Cell)  
503-205-8406 (Fax)  
Email: [mike@hathawaylarson.com](mailto:mike@hathawaylarson.com)  
Website: [www.hathawaylarson.com](http://www.hathawaylarson.com)

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***1125 NW Couch St Ste 550, Portland, OR 97209.***

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HATHAWAY LARSON

Koback · Connors · Heth

June 7, 2022

**VIA EMAIL ([koliasv@milwaukieoregon.gov](mailto:koliasv@milwaukieoregon.gov) & [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov))**

Planning Commission  
City of Milwaukie  
6101 S.E. Johnson Creek Blvd.  
Milwaukie, OR 97206

Re: Variance & Development Review Applications – 9285 SE 58<sup>th</sup> Dr.  
Application File Nos. VR-2021-012, DEV-2021-006 & P-2021-003  
My Client – Smith Rock, Inc.

Dear Commissioners:

As you know, this firm represents Smith Rock, Inc. (“Smith Rock”) who operates the business adjacent to the property subject to the above-referenced applications (the “Applications”) filed by Lyver Engineering and Design, LLC (the “Applicant”). At the May 24, 2022 hearing, the Planning Commission continued the hearing to allow the parties to submit additional testimony and evidence regarding the Applicant’s statements about the property owners (Carol and Keith Phelps) testimony at the April 12, 2022 hearing concerning an alleged conversation they had with Smith Rock about the proposed industrial project. The Applicant’s May 24 testimony, as well as the Applicant’s closing argument, suggest that Mrs. Phelps testified that the property owners spoke with Smith Rock about the proposed project and therefore Smith Rock’s claim that the Applicant has had no communications with Smith Rock or other neighbors about the project is false.

Smith Rock raised its procedural objection and requested an opportunity to respond to the Applicant’s testimony because the Applicant is twisting Mrs. Phelps testimony and misrepresenting the timing and purpose of their conversation with Smith Rock. Smith Rock is submitting this letter and the attached letters from Lew Smith, the former owner of Smith Rock, and Jon Phelps (no relationship to Carol and Keith Phelps), the current owner of Smith Rock, to correct the record and confirm that neither the Applicant nor the property owners have had any communication with Smith Rock or other neighbors about this project.

**E. Michael Connors**  
1331 NW Lovejoy Street, Suite 950  
Portland, OR 97209  
[mike@hathawaylarson.com](mailto:mike@hathawaylarson.com)  
(503) 303-3111 direct  
(503) 303-3101 main  
6.2 Page 24

**A. Carol Phelps April 12 testimony.**

At the April 12 hearing, Commissioner Khosroabadi referenced the public testimony about the Applicant's lack of communication with the neighbors concerning this project and asked the property owners to respond to that testimony. Carol Phelps responded as follows: "No, we have not had any communications, we are not familiar with this process and that's why I hired this team of people to do this for us, that is basically it."<sup>1</sup> Mrs. Phelps added that "we did talk to Lew Smith before we were deciding on a plan to building this" and allegedly asked him if he was interested in a build-to-suit development for Smith Rock. Mrs. Phelps testimony undermines the Applicant's claim for two reasons.

First, Mrs. Phelps confirmed that the property owners "have not had any communications" with the neighbors about the project and they were relying on the Applicant to have those communications. There is no dispute the Applicant failed to make any attempt to talk to the neighbors about the project, even after several neighbors raised concerns during this process.

Second, Mrs. Phelps testified that they spoke with Lew Smith "before we were deciding on a plan to building this," which means this conversation occurred before they had decided on any development plan. If the conversation occurred before they decided on a development plan, that conversation could not possibly have been about this proposed industrial project.

**B. Letters from the former and current owners of Smith Rock.**

Since Mrs. Phelps testimony did not elaborate on the timing and nature of their conversation with Lew Smith, we attached letters from Lew Smith and Jon Phelps to clarify several important facts about that conversation and the surrounding circumstances.

Lew Smith and Jon Phelps confirmed this conversation occurred between Keith Phelps and Lew Smith in December 2018, more than three and one-half years ago. The conversation occurred shortly after Lew Smith notified the Phelps that Smith Rock was terminating the lease to use their property for storage. Lew Smith and Jon Phelps confirmed this was a very short conversation and did not involve a discussion about a build-to-suit proposal or any other development plan. This additional testimony demonstrates that the property owners contacted Lew Smith to discuss his termination of the lease and they did not discuss the proposed project or any specific development of their property.

Lew Smith and Jon Phelps confirmed there have been no discussions between the property owners/Applicant and Smith Rock since that December 2018 conversation. Jon Phelps purchased Smith Rock from Lew Smith in December of 2020, more than a year and one-half ago, which neither the property owners nor the Applicant seem to know. Since the Applicant filed the subject

---

<sup>1</sup> Smith Rock's quotation of Carol Phelps testimony is based its review of the City's Youtube video of the April 12 hearing.

June 7, 2022  
Page 3

application well after December 2020, there is no question that neither the Applicant nor the property owners have had any communication with Smith Rock about this specific project.

**C. Conclusion.**

We appreciate the Planning Commission's willingness to allow us an opportunity to respond to the Applicant's May 24 testimony and apologize for the additional delays it created. However, we felt it was necessary to correct the record when it became apparent that the Applicant was twisting Mrs. Phelps testimony to suggest that Smith Rock misrepresented the Applicant's lack of communication with it and other neighbors about this project. We hope this clarification and additional information will ensure that the Planning Commission understands that Smith Rock's statement that neither the Applicant nor the property owners have had any communications with the neighbors about this proposed industrial project was truthful and accurate.

Very truly yours,

HATHAWAY LARSON LLP

/s/

E. Michael Connors

EMC/ep

Cc: Smith Rock, Inc.

Attachments

Jon Phelps  
Smith Rock, Inc.  
6001 SE Johnson Creek Blvd  
Portland, OR

June 5<sup>th</sup>, 2022

To The Milwaukie Planning Commission,

My name is Jon Phelps, I reside in Portland, Oregon. For clarity's sake - I have no relationship with Keith or Carol Phelps. I have worked at Smith Rock since May of 2005. Managed Smith Rock since July of 2012. And purchased Smith Rock from Lew Smith in December of 2020.

In December of 2018 there occurred a very brief phone conversation between Lew Smith and Keith Phelps. It came after Lew gave notice to terminate Smith Rock's rental of the plot owned by the Phelps' at 9285 SE 58<sup>th</sup> Drive. I was not a part of the phone conversation that Carol Phelps had described in her statement to the Planning Commission on April 12<sup>th</sup>. I was however in the room with Lew while said conversation occurred; and he and I had discussed it in depth afterward. As mentioned above, 'brief' would be the best characterization I can provide in description of the conversation in question. It couldn't have lasted longer than a minute or two.

Beyond that, I can attest to there being no further communication between the Phelps' and any representative of Smith Rock since that phone call, which occurred nearly three and a half years ago. Not with Lew who retained ownership of the business for the proceeding two years; nor myself in the nearly-year and a half since assuming ownership of the company. It wasn't until we had received notice in a mailer from the City of Milwaukie, that we were made aware of any formulated plans to develop the space.

Thank you for your consideration,



Jon Phelps  
President  
Smith Rock, Inc.

Lewis Smith  
8921 SE 58<sup>th</sup> Drive  
Milwaukie, OR 97206

June 2<sup>nd</sup>, 2022

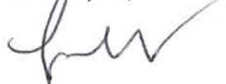
To the Milwaukie Planning Commission,

I am Lew Smith, I live in Milwaukie, OR. During your May 24<sup>th</sup> meeting, Robert Price raised the issue of Carol Phelps' recollection of a conversation I had with Keith Phelps. That phone call came at the heels of me giving notice and vacating his lot on the corner of 58<sup>th</sup> Drive and Johnson Creek Blvd. This would have occurred in December of 2018. As it was so long ago, my recollection is somewhat vague; though I know it was a short chat.

We rent space and store material behind Wichita Feed & Hardware, and frequently transport it over to Smith Rock's main lot. I recall Keith asking me if I had access to our lot from Wichita. I responded that we do. Presumably he was trying to keep me as a tenant and was trying to establish value in continuing to rent from him.

To Carol's statement, I honestly cannot recall being asked if I would be interested in working with them on developing the property. Once again, it was quite a while ago. I can tell you that they have not contacted me since.

Thank you,

A handwritten signature in black ink, appearing to read 'Lew Smith', written over a horizontal line.

Lewis Smith



**From:** [Jenai Fitzpatrick](#)  
**To:** [Vera Kolas](#); [Milwaukie Planning](#)  
**Cc:** [Troy Lyver](#); [Bob Price](#); [CAROL PHELPS](#)  
**Subject:** VR-2021-012 - 6/7 Owners Testimony  
**Date:** Tuesday, June 7, 2022 4:57:11 PM  
**Attachments:** [We sent you safe versions of your files.msg](#)  
[Owners Testimony VR-2021-012 DEV-2021-006.pdf](#)  
[2018.11.15 Letter of Vacate.pdf](#)  
[2022.04.18 Testimony from Owners.pdf](#)  
[2002.08.21 RentalAgreement.pdf](#)

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Vera,

Enclosed you will find a letter of testimony from Carol and Keith Phelps (applicants) dated April 18, 2022 which details communications between them and the Lew Smith (owner of the adjacent properties) regarding future plans for the site. The letter confirms Carol's verbal testimony on April 12th that Lew Smith (Smith Rock) rented the subject property from Phelps for over 15 years. During this time the future development of site was discussed along with the possibility of the Phelps developing the property for Mr. Smith. As such, Mr Smith has no claim that were unaware the site would be developed with an industrial use.

Enclosed are also copies of the rental agreement between Smith Rock and the Phelps dated August 21, 2002, and a letter of vacation between Smith Rock and the Phelps dated November 15, 2018.

We trust this resolves the owners testimony for the planning commission to approve our proposal at the June 28th hearing.

**Jenai Fitzpatrick**

[jenai@fdgpnw.com](mailto:jenai@fdgpnw.com)

**Fitz Design Group**

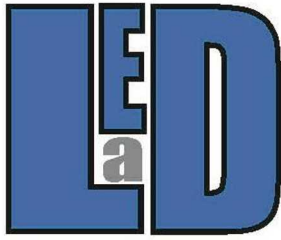
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# LYVER ENGINEERING AND DESIGN

7950 SE 106th, Portland, Oregon 97266

Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

June 7th, 2022

**Reference:** Phelps Industrial/ Light Manufacturing Bldg  
9289 SE 58th Drive, Milwaukie, OR 97206  
**LU application #VR-2021-012;DEV-2021-006**

**LEAD Project No:** 19-042

**Subject:** Owners Testimony

Enclosed you will find a letter of testimony from Carol and Keith Phelps (applicants) dated April 18, 2022 which details communications between them and the Lew Smith (owner of the adjacent properties) regarding future plans for the site. The letter confirms Carol's verbal testimony on April 12th that Lew Smith (Smith Rock) rented the subject property from Phelps for over 15 years. During this time the future development of the site was discussed along with the possibility of the Phelps developing the property for Mr. Smith. As such, Mr Smith has no claim that they were unaware the site would be developed with an industrial use.

Enclosed are also copies of the rental agreement between Smith Rock and the Phelps dated August 21, 2002, and a letter of vacation between Smith Rock and the Phelps dated November 15, 2018.

We trust this resolves the owners testimony for the planning commission to approve our proposal at the June 28th hearing.

Sincerely,

Troy D. Lyver, PE/SE.  
Lyver Engineering and Design, llc

April 18,2022

RE: Project om 58<sup>th</sup> Drive & Johnson Creek Blvd.

Property owners: Keith and Carol Phelps  
P.O. Box 68631  
Milwaukie, OR 97268

We purchased this property in 1997 from a city auction. Lew Smith was one of those individuals bidding against us for the property at that time.

On August 21,2002 , We signed a contract with Lew Smith to lease him the property for his rock business. He rented this from us for over 15 years up until December 31,2018.

Approximately around the end of 2018, Keith called Lew up and told him that we were thinking of developing the lot in the future. He asked Lew at the time, if we could develop it in a way that it would benefit him and his business. He said no, that he owned the house next door and could go around the other side of the house to get to the feed store across 58<sup>th</sup> where he had rocks stored too. Lew asked why we wanted to develop it, and Keith told him that we were getting older and wanted to do it for extra retirement income. Keith asked Lew to let us know if he changed his mind, and we would work with him to build a building for him to rent if he wanted to.

Lew did not contact us, so we started the planning process at the City of Milwaukie with our own plans. Unfortunately, a year later, Covid hit, and Keith was diagnosed with cancer. Thus the delay in our progress.

The family in the house next door are Lew Smith's tenants and have lived there for years next to his company Smith rock. His company is a commercial rock establishment which comes with all the noise that goes along with a commercial property. We are requesting to build a building on a lot zoned M which complies with all the codes as Rock Smith does.

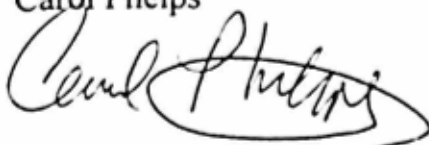
To date, we are still going through the process, and interested in developing this lot. Neither Lew or the neighbors in the house have contacted us.

Sincerely,

Keith Phelps



Carol Phelps



November 15, 2018

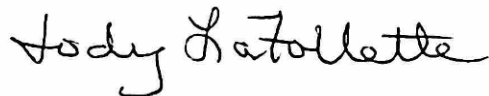
Carol Phelps  
PO Box 68631  
Oak Grove, OR 97268

Dear Carol,

In summary of your conversation today with Lew, Smith Rock Inc. will vacate your property 12/31/18. We will also inform PGE that we are no longer renting your property. We will send you the December final rent payment of \$600 on or before the 15<sup>th</sup> of December.

Thank you for all the years of use of this land.

Sincerely,



Jody LaFollette  
Smith Rock Inc.  
Bookkeeper

EE



THIS \* , Made and entered into on AUGUST 21, 2002, between KEITH AND CAROL PHELPS, hereinafter called the lessor, and LEWIS E. SMITH JR. / SMITH ROCKS, hereinafter called the lessee, WITNESSETH:

The lessor hereby rents unto the lessee, and the lessee rents from the lessor, subject to the terms and conditions hereinafter set forth, the following described personal property:

VACANT LOT - CORNER OF 58<sup>th</sup> DR. & JOHNSON CREEK BLVD  
LOT 5, BLOCK 1, MULLAN HEIGHTS  
LOT 1500 MAP # 12E30AD 01500

\* rental agreement \$100.- last month's rent deposit O.H 8/24/02  
TO HAVE AND TO HOLD the same unto the lessee ON A MONTH TO MONTH BASIS

for a rental for the use of the property in the sum of \$ 100.- per MONTH, payable in advance to the order of the lessor. The lessor hereby acknowledges payment by the lessee of the sum of \$ 300.00 covering the period from July 22nd, 2002, to AUGUST 21, 2002

Subsequent rental payments shall become due and payable on the 22nd day of each month hereafter. All rents not paid when due shall bear interest after maturity at the highest lawful rate until paid. Receipt and acceptance by the lessee of the property constitutes acknowledgment that the property has been found by lessee to be in good, safe condition.

During the term of this lease the lessee will take proper care of the rental property and will be responsible for and pay all charges for upkeep, and will make, at lessee's own expense, any and all repairs, and will supply and pay for any and all parts and accessories needed to maintain the rented property in proper condition and good order.

, and that lessee will not sublet the property or assign this lease unless lessor's written consent has been obtained.

The lessor and lessor's representatives, at all times, shall have free access to lessee's premises during business hours for the purpose of inspecting the personal property or watching its use and operation or of altering, repairing, improving or adding to it or determining the nature and extent of lessee's use thereof, and the lessee shall afford the lessor and lessor's representatives all reasonable facilities therefor. The lessor reserves the privilege of terminating this lease and removing the property from the possession of the lessee on twenty-four hours' written notice, if, upon inspection, lessor finds that it is in any manner being abused or neglected, or is being taxed beyond its capacity.

The lessee further agrees to defend, at lessee's own expense, any and all actions brought against either or both of the parties hereto for damages to persons or property caused by the leased property or by its operation, and agrees to hold lessor free and harmless of and from any and all claims and demands that may arise or be occasioned to any person or to any property by or through the use of the property during the term of this rent or any renewal hereof.

Time is of the essence of this contract. Should lessee fail to make any of the rental payments promptly in advance as specified, or should lessee for any reason be or become in default in the performance of this lease, or should lessee sell or dispose of or attempt to sell or dispose of any of the personal property, or should any thereof be attached or levied upon or removed or attempted to be removed from the premises, or should bankruptcy or receivership proceedings be brought by or against lessee, then in any such event lessor, at lessor's option, may terminate this lease forthwith.

Upon the termination in any manner whatsoever of this v, or of any renewal hereof, lessor shall be entitled to the immediate possession of the rental property, and lessee agrees forthwith to deliver the property to the lessor at lessor's address below, complete and in good order and condition, reasonable wear and tear alone excepted. Should the lessee fail to do so, the lessor may take the personal property into lessor's possession and for that purpose may enter the premises of the lessee and remove the personal property therefrom, in which event the lessee waives any trespass or right of action by reason of such removal. Lessee's liability for payments shall continue until the property is delivered to lessor, or possession thereof is recovered by lessor, in the condition aforesaid.

No waiver by the lessor of the nonperformance or violation of any condition of this \* , or of any default hereunder, shall be construed to be or operate as a waiver of any subsequent nonperformance, violation or default.

In the event of any suit or action to recover unpaid rentals or to recover possession of the personal property, or any thereof, or to recover damages from the lessee on account of lessee's breach of this agreement, the losing party agrees to pay such sums as the trial court may adjudge reasonable as the prevailing party's expenses and attorney fees to be allowed the prevailing party in such suit or action, and in the event any appeal is taken from any judgment or decree in such suit or action, the losing party agrees to pay such further sums as the appellate court shall adjudge reasonable as the prevailing party's expenses and attorney fees on such appeal.

No agreement between the parties hereto for the sale of the personal property to the lessee has been made or is to be implied.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first written above.

LESSOR & LESSOR ARE BOTH REQUIRED TO GIVE 30 DAY NOTICE TO TERMINATE

By Keith and Carol Phelps By Smith Rocks - Lewis E. Smith Jr.

MAILING: P.O. BOX 68031 By Smith Rocks - Lewis E. Smith Jr.

OAK GROVE, OR 97268 6001 SE Johnson Creek Blvd

2101 SE MOORE'S HILL DR Portland, OR 97206

CITY DATE ZIP PHONE CITY DATE ZIP PHONE

Publisher's note: This form not suitable for use as a "Consumer Lease," but may be used when leasing to a "natural person" if the lease period does not exceed four months. (For "Consumer Lease," see Form No. 127B)

PLUS LAST MONTHS RENT

**To:** Planning Commission

**Through:** Laura Weigel, Planning Manager

**From:** Adam Heroux, Associate Planner  
Vera Koliass, Senior Planner

**Date:** June 20, 2022 for June 28, 2022 Work Session

**Subject:** Re-defining Allowed Uses in High Density Residential Zones

### **ACTION REQUESTED**

Planning Commission is asked to review and provide feedback on the staff proposal to update code language in the High Density residential zones. This work session focuses on step one of a two-step process for consolidation of these zones.

### **ANALYSIS**

Consolidation of the High Density residential zones was originally envisioned as part of the Phase 1 Comprehensive Plan Implementation project. However, due to the complexity involved in the permitted uses and their respective review processes across the High Density zones, the effort was paused until now.

### **Proposed Review Process**

This initial work session will focus on discussing some definitions in the zone that need to be revised and/or consolidated. Future work sessions will focus on permitted uses in potentially consolidated High Density Residential zone designations.

- Step 1: Revise definitions and terminology for allowed residential uses
- Step 2: Review and potentially revise the review process for each use and consider adding additional permitted uses; potentially consolidate the city's existing five high density residential zones

Staff proposes working through Steps 1 & 2 with the Planning Commission then proceeding to Council to discuss the proposed code revisions.

### **Project Background**

Milwaukie's code includes outdated definitions for several residential use types, including several housing types typically occupied by seniors. Despite having similar land use impacts, the city is inconsistent in how it treats these housing types in high density residential zones. This inconsistency has impacted the development and land use review processes for some recent projects, in some cases requiring applicants to pursue both a Community Service Use (CSU) and Conditional Use (CU) process for the same site. Neighboring jurisdictions, including Tigard and Beaverton, have simplified their codes to better match the evolving terminology for these types of residential uses.

Staff propose a similar update to our code so that:

- 1) The code defines Use Categories by the external impacts of the use, such as foot and vehicle traffic, rather than biasing the land use review process with a focus on the internal aspects of the use.
- 2) The definitions in our code reflect those used by the State of Oregon in its licensing of Community Based Care Settings and used by the city to issue Certificates of Occupancy.

This staff report highlights some of the issues with existing terminology and proposes new definitions to alleviate these issues.

**Issues with Existing Definitions**

Staff have identified the following residential use types that would benefit from re-definition, removal, or renaming.

Residential Use Type	Current Definition
<b>Residential Home</b>	A dwelling unit operated as a single housekeeping unit for the purpose of providing a permanent residence – which includes food, shelter, personal services, and care – for the elderly, disabled, handicapped, or others requiring such a residence, as defined by the Federal Fair Housing Amendments Acts of 1988.
<b>Congregate Housing Facility</b>	A multi-dwelling-unit, permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single-family residential housing. These facilities may provide regular on-premises supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing Amendments Act of 1988. Congregate housing facilities are permitted outright in all residential zones that permit multifamily apartments, and they require conditional use approval in those residential zones that allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.
<b>Senior and Retirement Housing</b>	A multiunit dwelling where persons who are of retirement age reside. Activity levels, including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies, and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium.
<b>Nursing or Convalescent Home</b>	<i>This term is not defined anywhere in the Milwaukie Municipal Code. It is referenced, however, in the Community Service Use section with specific standards in 19.904.8</i>
<b>Boarding House</b>	A building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided, and which is not occupied as a single-dwelling unit. Lodging capacity is subject to provisions of the Uniform Building Code.

- 1) The State of Oregon does not use any of the first four terms in its licensing of Community Based Care Settings, and the City has typically listed the State’s updated use terminology when issuing Certificates of Occupancy.

2) Definitions of **Congregate Housing Facility** and **Residential Home** date back to federal legislation from 1978 and 1988. None of the neighboring jurisdictions researched by staff use the term **Residential Home** in their respective codes.

3) City code does not define **Nursing or Convalescent Home**, but the term is used and has specific standards in CSU section of the code (MMC 19.904.8).

4) Step 1 in this process is not intended to tackle the allowed uses in the different residential zones, however it is important to note that these similar residential use types are treated differently as shown in the excerpted Table 19.302.2 to the right.

Consolidating use definitions will require updates to this use table. Notably, **Congregate Housing Facilities** are treated like **Multi-unit** developments. Despite having similar land use impacts, **Senior and Retirement Housing** is subject to the CU process in all zones except R-1 and R-1-B. Unlike most of the

Use	R-3	R-2.5	R-2	R-1	R-1-B
Multi-unit	CU	CU	P	P	P
Residential home	P	P	P	P	P
Congregate housing facility	CU	CU	P	P	P
Senior and retirement housing	CU	CU	CU	P	P
Boarding house	CU	CU	CU	CU	CU
Community Service Use	CSU	CSU	CSU	CSU	CSU

other use types, **Nursing or Convalescent Homes** are not permitted outright in any residential zones. Future zone consolidation is intended to alleviate these inconsistencies. As noted above, this will occur in Step 2 of this review process.

### **Proposed Use Definitions**

The definitions for **Adult Foster/Care Homes**, **Nursing Facility**, **Assisted Living Facility**, and **Memory Care Community** are defined by the State of Oregon for the purpose of licensing different types of Community Based Care Settings. Staff recommend including these definitions in MMC 19.200 so that they are accurately reflected in the code.

To simplify land use review for these use types, staff recommend consolidating three of the proposed definitions beneath an umbrella use term **Residential Care Facility**.

Given the complexity of the topic, staff propose a second PC Worksession to discuss the **Boarding House** definition and how it might evolve based on current development practices. As with the other uses identified here, Worksession 3 will focus on how to treat these uses.

Staff propose replacing existing definitions with those outlined below.



Proposed Terms		Proposed Definition
Adult foster/care homes		A dwelling unit operated to provide a permanent residence and licensed care for up to five people who are elderly, disabled, handicapped, or otherwise require such a residence.
Residential care facility		A living facility for more than five (5) non-related persons, which provides specialized care, supervision, treatment or training, or a combination of these for residents. This use classification includes, but is not limited to Assisted Living Facilities, Nursing Facilities, and Memory Care Facilities.
Residential Care Facility Types	Assisted living facility	are licensed settings providing housing and care services to six or more people. A registered nurse is on staff or under contract. The nurse does not have to be there all the time. Caregivers do not need to be certified, but they are trained in providing care services.
	Nursing facility	gives licensed 24-hour supervised nursing care. Licensed nursing facilities' caregivers must be certified as nursing assistants; the State Board of Nursing must approve their training. Nurses and certified nurse aides provide personal, therapeutic, and nutritional care.
	Memory care community	is an environments where staff care for people with dementia who have needs that require a more secure setting. Each setting is licensed by the state as a residential care, assisted living or nursing facility. The state also requires memory care facilities to train staff to care for residents with dementia and provide specialized services.

To recap, the chart below shows how the current use type will be recategorized by the new definitions and use types:

Current Use Type	New Definition	New Use Type
Residential Home	Adult foster/care home	Adult foster care/home
Congregate Housing Facility	Assisted Living	Residential Care Facility
Senior and Retirement Housing	Assisted Living	Residential Care Facility
Nursing or Convalescent Home	Nursing Facility, Memory Care Community	Residential Care Facility

### Key Questions for Discussion

- 1) Does the Commission concur with the proposed definition changes?
- 2) Does the Commission concur with the consolidation of definitions and uses under the umbrella term "Residential Care Facility"?

## **NEXT STEPS**

These new uses will need to be reflected in the Allowed Uses table for the High Density residential zones. Consolidation of use definitions requires reconciling discrepancies in the land use review process for the original use types. Definition consolidation may create opportunities for consolidation of the city's high density residential zones. Staff propose the following schedule for PC and City Council action:

6/28/22 - PC Worksession #1 – Definition consolidation

7/26/22 - PC Worksession #2 –Boarding House Definition

8/23/22 - PC Worksession #3 – Allowed uses, review processes, and potential zone consolidation

TBD - CC Worksession #1 – Consider PC's proposed code revisions

## **ATTACHMENTS**

None.