



CITY OF MILWAUKIE

AGENDA

November 10, 2020

PLANNING COMMISSION

milwaukieoregon.gov

Zoom Video Meeting: due to the governor's "Stay Home, Stay Healthy" order, the Planning Commission will hold this meeting through Zoom video. The public is invited to watch the meeting online through the City of Milwaukie YouTube page (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. 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-62>) and follow the Zoom webinar login instructions.

1.0 Call to Order - Procedural Matters — 6:30 PM

2.0 Information Items

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

4.0 Public Hearings — Public hearings will follow the procedure listed on the reverse side

- 4.1 Summary: Variance and Accessory Dwelling Unit (ADU) Request
- Applicant: Scott Avila
- Address: 8809 SE 43rd Ave
- File: VR-2020-004, ADU-2020-005
- Staff: Assistant Planner Mary Heberling

5.0 Work Session Items

- 5.1 Summary: ZA-2020-001: Proposed Code Amendments - Emergency Temporary Housing
- Staff: Senior Planner Vera Kalias

6.0 Planning Department Other Business/Updates

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

8.0 Forecast for Future Meetings

- November 24, 2020 Work Session Items: Comprehensive Plan Implementation Project Update – code audit – tentative; PC Annual Work Plan and By-Laws Update
- December 8, 2020 Hearing Items: PD-2020-001 continued public hearing; ZA-2020-001: Emergency Temporary Housing Code Amendments
Work Session Items: Central Milwaukie Bikeways Concept Plan; Title 18 Flood Hazard regulation amendments
- January 12, 2021 No items are currently scheduled for this meeting.

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.
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.
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 the agenda item to a future date or finish the agenda item.

Public Hearing Procedure

Those who wish to testify should attend the Zoom meeting posted on the city website, state their name and address for the record, and remain available until the Chairperson has asked if there are any questions from the Commissioners.

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 IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **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.
10. **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.
11. **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 or phone at 503-786-7502. To request Spanish language translation services email 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 o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a 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:

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

Planning Department Staff:

Laura Weigel, Planning Manager
Vera Kolias, Senior Planner
Brett Kolver, Associate Planner
Mary Heberling, Assistant Planner
Janine Gates, Assistant Planner
Tempest Blanchard, Administrative Specialist II



CITY OF MILWAUKIE

To: Planning Commission
Through: Laura Weigel, Planning Manager
From: Mary Heberling, Assistant Planner
Date: November 3, 2020, for November 10, 2020, Public Hearing
Subject: **File:** VR-2020-004, ADU-2020-005
Applicant: Scott Avila
Address: 8809 SE 43rd Ave.
Legal Description (Map & Tax Lot): 12E30BB04200
NDA: Lewelling

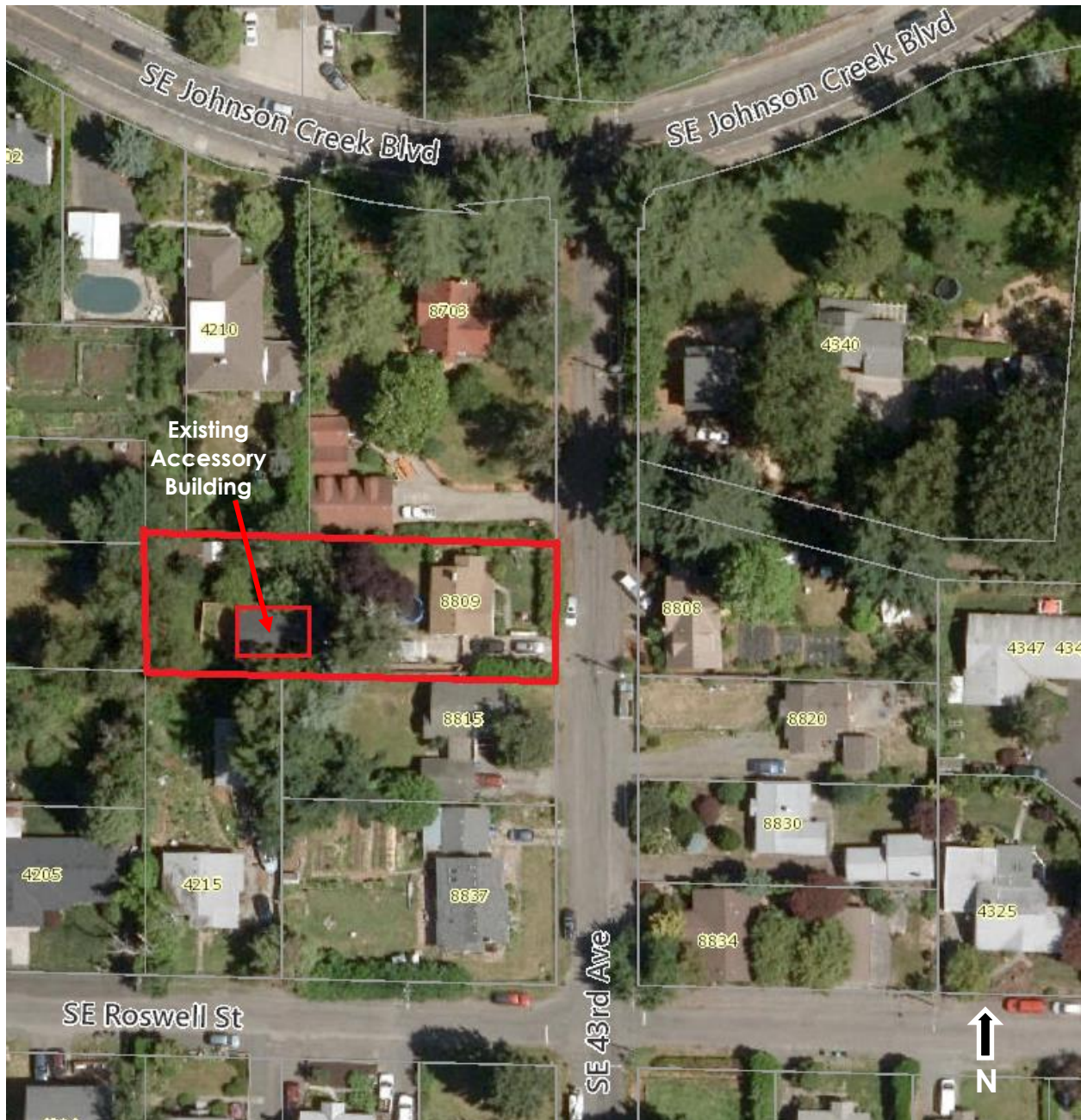
ACTION REQUESTED

Approve application VR-2020-004, ADU-2020-005 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow the conversion of 200 sq ft of an existing accessory building into an accessory dwelling unit (ADU). The accessory building has a footprint of 840 sq ft where a maximum of 800 sq ft is permitted.

BACKGROUND INFORMATION

The property is located on the west side of SE 43rd Avenue and south of Johnson Creek Blvd (see Figure 1). The applicant proposes converting 200 sq ft of an existing 840 sq ft accessory building, which currently serves as a shop/garage and office, into an accessory dwelling unit (ADU). A variance is requested because the existing accessory building has a footprint of 840 sq ft where the maximum building footprint allowed for a structure with an ADU is 800 sq ft.

Figure 1: Property and Existing Development



A. Site and Vicinity

The site is located at 8809 SE 43rd Ave. The 0.31-acre (13,329 sq ft) site contains a single-family residence. The driveway and the one-story accessory building proposed for partial conversion into an accessory dwelling unit are on the south side of the property and behind the residence. The surrounding area consists of single-family homes on all sides with a mix in lot sizes ranging from 7,000 sq ft to over 20,000 sq ft. This site is on the larger end in the area.

B. Zoning Designation

R-7 Residential Zone

C. Comprehensive Plan Designation

LD- Low Density

D. Land Use History

City records indicate the following relevant permit activity:

- Building permit from 2010 for the existing accessory structure as permitted in MMC 19.502.
- December 2018: Notice of Violation for a short-term rental without a business license and needed land use approval for an ADU.

E. Proposal

The applicant is seeking land use approvals for the following:

1. A variance to allow the creation of an accessory dwelling unit with a building footprint of 840 sq ft where a maximum footprint of 800 sq ft is permitted. This request is subject to a Type III review.
2. An accessory dwelling by converting 200 sq ft an existing 840 sq ft garage/shop and office. The dimensions and building footprint of the existing building are proposed to be maintained.

The project requires approval of the following applications:

1. Type III Variance
2. Type II Accessory Dwelling Unit

KEY ISSUES

Summary

Staff has identified the following key issues 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.

- A. Is the proposed variance reasonable and appropriate?
- B. Does the proposed ADU meet relevant requirements?

Analysis

A. Is the proposed variance reasonable and appropriate?

As noted in the application summary, the applicant proposes to convert 200 sq ft of an existing detached accessory building, which is currently used as a garage/shop and office into a detached ADU. The existing building has an 840-sq ft footprint and the MMC allows a maximum of 800 sq ft.

The approval criteria for the variance is listed below and how the application meets the criteria.

- Provides an alternative analysis

The existing detached accessory building to have 200 sq ft converted to a detached ADU has an 840 sq ft footprint. The applicant has shown that reducing the size of the existing building to meet the 800 sq ft standard would be difficult and costly. A variance would enable the creation of a new ADU at a reasonable cost. Because of the low profile of the existing building, which has been on the property for many years, its conversion to an ADU is expected to be compatible with surrounding development. This criterion is met.

- Avoids or minimizes impacts to surrounding properties

The proposed variance avoids creating adverse impacts for surrounding properties. The proposed ADU meets the building height, setback, and lot coverage requirements of the R-7 Zone. The change in use of the existing building to convert 200 sq ft into an ADU will have no appreciable change in the character of activity on the property. This criterion is met.

- Has desirable public benefits

The proposal will create a modest public benefit by providing additional housing opportunity and by meeting the current density requirements of the R-7 Zone. This criterion is met.

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

The existing built and natural environment will not be affected by this proposal because the building, driveway, and parking will not be changed and all landscaped areas will be unaffected. This criterion is met.

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

As noted herein, the building and site improvements are already in place. In addition, the use of the building will be minor in terms of activities on the property and traffic. The applicant has proposed to use it as a short-term rental, which is allowed in the R-7 zone. This criterion is met.

The applicant and the circumstances of this case have demonstrated that the effort and cost of reducing the size of the existing building would not have a corresponding benefit for the neighborhood. Therefore, staff believes granting a variance to exceed the maximum building footprint by 5% is reasonable and appropriate.

B. Does the proposed ADU meet relevant requirements?

Other than the building footprint standard, the proposed exceeds all other applicable standards pertaining to building height and setback, lot coverage, minimum vegetation, and the specific criteria for ADUs in MMC 19.910.1.

CONCLUSIONS

A. Staff recommendation to the Planning Commission is as follows:

1. Approve the variance. This will result in an accessory dwelling unit that exceeds the maximum building footprint standard by 40 sq ft.
2. Approve the accessory dwelling unit. This results in the continued use of the existing accessory building by maintaining its current dimensions.
3. Adopt the attached Findings and Conditions of Approval.

B. Staff recommends the following key conditions of approval (see Attachment 2 for the full list of Conditions of Approval):

- No expansion of the building footprint beyond 840 sq ft.
- Additional right-of-way dedication of 5-ft along 43rd Avenue to accommodate final street design.

CODE AUTHORITY AND DECISION-MAKING PROCESS

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

- MMC 19.301 Low Density Residential
- MMC 19.700 Public Facilities Improvements
- MMC 19.910.1 Accessory Dwelling Units (ADUs)
- MMC 19.911 Variances
- MMC 12 Streets, Sidewalks, and Public Places
- 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 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 final decision on these applications, which includes any appeals to the City Council, must be made by January 26, 2021, 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 Community Development Director, Engineering Department, Building Official, Lewelling Neighborhood District Association (NDA), and the Clackamas Fire District #1. The following is a summary of the comments received by the City.

- **Milwaukie Engineering Department** – Engineering comments have been incorporated in the findings under 19.700 and Chapter 12.

A public notice was sent on October 21, 2020 to all property owners within 300 ft of the site. A summary of comments are provided below. See Attachment 4 for further details.

- Jon Stoll, 3425 SE Barba St. – supports the variance for this site.
- Russ Stoll, 8710 SE 42nd Ave. – supports the variance for this site.
- Beau Brousseau, 4210 SE Johnson Creek Blvd. – supports the variance for this site.

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. Applicant's Narrative and Supporting Documentation dated September 14, 2020. | | | | |
| a. Narrative | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Site Plan | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Comments Received | <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/planning/VR-2020-004>.

ATTACHMENT 1
Recommended Findings in Support of Approval
File #VR-2020-004, ADU-2020-005, 43rd Ave ADU

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, Scott Avila, has applied for approval to establish an Accessory Dwelling Unit (ADU) at 8809 SE 43rd Ave. This site is in the R-7 Zone. The land use application file numbers are VR-2020-004, ADU-2020-005.
2. The applicant proposes conversion of 200 sq ft of an existing accessory building into an accessory dwelling unit (ADU). The accessory building has a footprint of 840 sq ft where a maximum of 800 sq ft is permitted.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.301 Low Density Residential
 - MMC 19.700 Public Facilities Improvements
 - MMC 19.910.1 Accessory Dwelling Units (ADUs)
 - MMC 19.911 Variances
 - MMC 12 Streets, Sidewalks, and Public Places
 - MMC 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 on November 10, 2020, as required by law.

4. MMC 19.301 Low Density Residential
 - 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 existing house is centered on the lot, and is set back approximately 30 feet from 43rd Ave. The lot is rectilinear in nature. The existing accessory building on the site is an 840 sq ft detached garage/shop and office on the south side of the lot approximately 92 ft from 43rd Ave. The lot size is 13,329 sq ft, which is on the larger side of the surrounding properties. Lots surrounding this property range from 7,200 sq ft to 20,000 sq ft. The property directly north of this subject property is over 19,000 sq ft and the lot directly south, behind the subject property is 7,997 sq ft.

The applicant has proposed to convert 200 sq ft of the existing 840 sq ft accessory building into an ADU. The existing structure is single-story. It is proposed behind the existing single-family residence in the back of the property and will be 92 ft from the front property line.

ATTACHMENT 1

Table 1: Overview of Compliance with Development Standards

| Residential Zone R-7 Development Standards | | | |
|--|---|--|-------------------------------|
| Standard | Required | Proposed | Staff Comment |
| 1. Lot Coverage | 30% max. | 1,710 sq ft 12.8% lot coverage | Complies with standard. |
| 2. Minimum Vegetation | 35% min. | 2,887 sq ft of impervious area 78% vegetation | Complies with standard. |
| 3. Front Yard Setback | 20 ft | 92 ft | Complies with standard |
| 4. Side Yard Height Plane | a. Height above ground at minimum required side yard depth b. Slope of plane | a. 15 ft b. 45 degrees | Side yard height plane is met |

The Planning Commission finds that the proposal complies with the applicable standards of the R-7 zone.

5. MMC 19.700 Public Facility Improvements

See Public Facilities Improvement findings below in Finding 9.

6. MMC 19.910.1 Accessory Dwelling Units

a. MMC 19.910.1 Accessory Dwelling Units

MMC 19.910.1 establishes the design and development standards that are applicable to ADUs. Table MMC 19.910.1.E.4.b summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

The applicant has proposed a 200 sq ft ADU within an existing 840 sq ft accessory building located in southwest corner of the property. Given the structure’s proposed 15 ft height and 5-foot side yard setback, it is subject to the Type II standards in MMC 19.910.1.

ATTACHMENT 1

Table 2: Detached ADU Development and Design Standards

| Development and Design Standards for Detached Accessory Dwelling Units | | | |
|---|---|---|--|
| ADU | Type I | Type II | Proposed |
| Maximum Structure Footprint | 600 sq ft | 800 sq ft or 75% of the primary structure | 840 sq ft <i>The applicant has requested a variance</i> |
| Maximum ADU Floor Area | 800 sq ft or 75% of the floor area of the primary structure | 800 sq ft or 75% of the floor area of the primary structure | 200 sq ft |
| Maximum Structure Height | 15 ft, limited to 1 story | 25 ft, limited to 2 stories | 15 ft, 1 story |
| ADU Front Yard Setback | 10 ft behind front yard (10' behind front façade of the primary dwelling) unless located at least 40' from the front lot line | | >10 ft behind front yard and ~ 92 ft from front lot line |
| Required Side and Rear Yard Setback | Base zone requirement | 5 ft | Side: 5 ft Rear: 68 ft |
| Design Standards | (1) A detached accessory structure shall include at least 2 of the design details listed below. An architectural feature may be used to comply with more than 1 standard. | | |
| | (a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide. | n/a | |
| | (b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide. | n/a | |
| | (c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls. | Yes, roof eaves meet standard | |
| | (d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl. | Yes, lap siding is horizontal | |
| | (e) Window trim around all windows at least 3 in wide and 5/8 in deep. | Yes, trim meets minimum of 3 in wide and 5/8 in deep | |
| Privacy Standards | (1) A detached accessory dwelling unit permitted through a Type II review may be required to include privacy elements to meet the Type II review approval criteria. | | |

ATTACHMENT 1

| Development and Design Standards for Detached Accessory Dwelling Units | | | |
|---|---|---------|--|
| ADU | Type I | Type II | Proposed |
| | Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions. | | |
| | (a) The wall is within 20 ft of a side or rear lot line. | | Walls are 5 ft from side lot line |
| | (b) The wall is at an angle of 45 degrees or less to the lot line. | | The wall is parallel to the rear property lines |
| | (c) The wall faces an adjacent residential property. | | The wall is adjacent to residential |
| | <i>All the conditions apply and the ADU must meet the privacy standards listed below.</i> | | |
| | (2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met. | | |
| | (a) All windows on a wall shall be placed in the upper third of the distance between a floor and ceiling. | | n/a |
| | (b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening shall be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs shall be no less than 5 ft above grade at time of planting, and they shall reach 6 ft high within 1 year. Existing features on the site can be used to comply with this standard. | | An existing 6 ft fence and vegetation screening surrounds the proposed ADU |

Upon approval of the variance request, the Planning Commission finds that the proposal complies with the applicable standards for a detached ADU in the R-7 zone.

b. MMC 19.910.1.D.2 Approval Standards and Criteria for a Type II ADU

MMC 19.910.1.D.2 establishes the criteria for approving a Type II accessory dwelling unit.

An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.

(1) The criteria in Subsection 19.910.1.D.1 are met as followed.

ATTACHMENT 1

- (a) An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.

ADUs are permitted in the R-7 zone. This criterion is met.

- (b) The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.

The primary use of the subject property is a single-family dwelling. This criterion is met.

- (c) One accessory dwelling unit per lot is allowed.

This is the only ADU proposed on the subject property. This criterion is met.

- (d) The development standards of Subsection 19.910.1.E are met.

Table 2 identifies all of the development standards in Subsection 19.910.E and upon approval of the variance request the proposed ADU complies with them. This criterion is met.

- (2) The accessory dwelling unit is not incompatible with the existing development on the site, and on adjacent lots, in terms of architectural style, materials, and colors.

The existing accessory structure has been constructed in a manner that mirrors the features of single-family residences in the area, with window trims, horizontal siding, and lap siding; which are all design standards for single-family residences. The design is not incompatible with homes on adjacent lots.

The Planning Commission finds that this criterion is met.

- (3) The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.

The ADU is proposed as a single-story structure and 15 ft high, which will provide privacy for adjacent properties. Windows will not be facing into nearby single-family residences.

The Planning Commission finds that this criterion is met.

- (4) There will be an appropriate level of screening for nearby yards and dwellings, provided by the design of the accessory dwelling unit and existing and proposed vegetation and other screening.

The lot is currently landscaped and vegetated. There is an existing, 6 ft fence and opaque, vegetated screening that surrounds the area of the proposed ADU and extends along the entire side and rear yard property lines.

The Planning Commission finds that this criterion is met.

ATTACHMENT 1

Upon approval of the variance request, the Planning Commission finds that the standards of MMC 19.910.1 for Accessory Dwelling Units are met.

7. MMC Chapter 19.911 Variances

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

The applicant proposes to increase the maximum allowable building footprint for an ADU of 800 sq ft to 840 sq ft. This MMC section requires a Type III Variance review for this kind of modification to the 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.

The existing detached accessory building to have 200 sq ft converted to a detached ADU has an 840 sq ft footprint. The applicant has shown that reducing the size of the existing building to meet the 800 sq ft standard would be difficult and costly. A variance would enable the creation of a new ADU at a reasonable cost. Because of the low profile of the existing building, which has been on the property for many years, its conversion to an ADU is expected to be compatible with surrounding development. 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 variance avoids creating adverse impacts for surrounding properties. The proposed ADU meets the building height, setback, and lot coverage requirements of the R-7 Zone. The change in use of the existing building to convert 200 sq ft into an ADU will have no appreciable change in the character of activity on the property. This criterion is met.

- (ii) The proposed variance has desirable public benefits.

The proposal will create a modest public benefit by providing additional housing opportunity and by meeting the current density requirements of the R-7 Zone. This criterion is met.

ATTACHMENT 1

- (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 not be affected by this proposal because the building, driveway, and parking will not be changed and all landscaped areas will be unaffected. This criterion is met.

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

As noted herein, the building and site improvements are already in place. In addition, the use of the building will be minor in terms of activities on the property and traffic. The applicant has proposed to use it as a short-term rental, which is allowed in the R-7 zone. This criterion is met.

The Planning Commission finds that these criteria are met.

8. MMC 12 Streets, Sidewalks, and Public Place

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

MMC 12.08.020 establishes constructions 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. The applicant has applied for the city's ADU Waiver Program, if all program requirements are met, no work in the right-of-way is expected.

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 is consistent with the standards and provides street access with an existing driveway.

The standards are met.

- (2) 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 proposed development has an existing nonconforming driveway approach design. The applicant has applied for the city's ADU Waiver Program, if all program requirements are met, no improvement is necessary.

ATTACHMENT 1

As conditioned, the standards are met.

(3) MMC 12.16.040.F – Accessway Size

MMC 12.16.040.F requires that single-family and detached residential uses shall have a minimum driveway apron width of 9 ft by 20 ft.

The applicant has an existing driveway apron width in conformance with this standard.

The 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 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.

As conditioned, this standard is met.

As conditioned, 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 convert 200 sq ft of an existing accessory building into an ADU, increasing the number of dwelling units on the property. 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.

ATTACHMENT 1

Based on proportionality guidelines found in MMC 19.705.2, the applicant is found responsible for constructing remaining half-street improvements along SE 43rd Ave and a grind and overlay of existing pavement. The applicant must mitigate development impacts through constructing public transportation facilities or obtain a waiver.

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 is required to construct improvements within the right-of-way or obtain a waiver.

(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 remove all obstructions within the clear vision area. This includes vegetation within the clear vision area along the north, east and south property lines adjacent to driveways and property corners.

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

Transportation improvements must be constructed and street dedication provided in accordance with the Milwaukie Transportation System Plan and Transportation Design Manual street classification. The development fronts a portion of SE 43rd Ave with local street classification.

The required right-of-way width for the adjacent portion of SE 43rd Ave ROW is 50 ft. A 5ft dedication is required from the proposed development.

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 SE 43rd Ave require additional street surface improvements and construction of 5-ft sidewalk, 5-ft landscape strip, curb and gutter, and street surface improvements. The applicant has 66 ft of frontage along adjacent right-of-way (43rd Ave).

ATTACHMENT 1

Limiting improvements to the adjacent stretch of right-of-way will maximize benefits to the property and was not found to be disproportionate to impacts.

The applicant must construct 66 lineal ft of transportation facility improvements or obtain a waiver.

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 sidewalks or obtain a waiver.

As conditioned, this standard is met.

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

10. The final decision on these applications, which includes any appeals to the City Council, must be made by January 26, 2021, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance.

11. The application was referred to the following departments and agencies on October 1, 2020:

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

Milwaukie Building Department – no comments

Milwaukie Engineering Department – Engineering comments have been incorporated in the findings under 19.700 and Chapter 12.

Clackamas County Fire District #1 – no comments

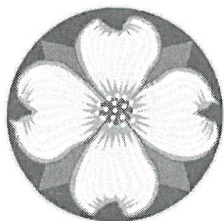
ATTACHMENT 2
Recommended Conditions of Approval
File #VR-2020-004, ADU-2020-005, 43rd Ave ADU

Conditions

1. The site shall be used in a manner as proposed and approved through this land use action and as submitted in materials date stamped by the City on September 14, 2020. This includes:
 - a. The conversion of 200 sq ft of the existing detached accessory building into an accessory dwelling unit.
 - b. Not expanding the building footprint of the accessory dwelling unit to be larger than 840 sq ft.
2. Prior to the certificate of occupancy, the following shall be resolved:
 - a. Construct a 5-foot wide setback sidewalk fronting the proposed development property along SE 43rd Avenue.
 - b. Widen and improve existing asphalt from centerline of right-of-way to accommodate an 8-foot travel lane and a 7-foot parking lane.
 - c. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA).
 - (1) In place of the items a, b, and c above, a fee-in-lieu of construction may be applied for, payment must be made prior to issue of development permits or
 - (2) Apply and receive an ADU waiver prior to the issue of development permits
 - d. Additional right-of-way dedication of 5-ft along 43rd Avenue to accommodate final street design.
 - e. Clear vision areas shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection. All signs, structures, or vegetation in excess of 3 – 8 ft in height located in “vision clearance areas” at intersections of streets, driveways, and alleys fronting the proposed development must be removed. Prior to the removal of any vegetation, applicant shall confirm with the Engineering Department the location of clear vision areas and if the vegetation removal is required to comply with clear vision standards.

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 improvements.



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

Application for Land Use Action

Master File #: _____

Review type*: I II III IV V

CHECK ALL APPLICATION TYPES THAT APPLY:

- | | | |
|---|---|--|
| <input type="checkbox"/> Amendment to Maps and/or Ordinances: <input type="checkbox"/> Comprehensive Plan Text Amendment <input type="checkbox"/> Comprehensive Plan Map Amendment <input type="checkbox"/> Zoning Text Amendment <input type="checkbox"/> Zoning Map Amendment <input type="checkbox"/> Code Interpretation <input type="checkbox"/> Community Service Use <input type="checkbox"/> Conditional Use <input type="checkbox"/> Development Review <input type="checkbox"/> Director Determination <input type="checkbox"/> Downtown Design Review <input type="checkbox"/> Extension to Expiring Approval <input type="checkbox"/> Historic Resource: <input type="checkbox"/> Alteration <input type="checkbox"/> Demolition <input type="checkbox"/> Status Designation <input type="checkbox"/> Status Deletion | <input type="checkbox"/> Land Division: <input type="checkbox"/> Final Plat <input type="checkbox"/> Lot Consolidation <input type="checkbox"/> Partition <input type="checkbox"/> Property Line Adjustment <input type="checkbox"/> Replat <input type="checkbox"/> Subdivision <input type="checkbox"/> Miscellaneous: <input type="checkbox"/> Barbed Wire Fencing <input type="checkbox"/> Mixed Use Overlay Review <input type="checkbox"/> Modification to Existing Approval <input type="checkbox"/> Natural Resource Review** <input type="checkbox"/> Nonconforming Use Alteration <input type="checkbox"/> Parking: <input type="checkbox"/> Quantity Determination <input type="checkbox"/> Quantity Modification <input type="checkbox"/> Shared Parking <input type="checkbox"/> Structured Parking <input type="checkbox"/> Planned Development | <input type="checkbox"/> Residential Dwelling: <input checked="" type="checkbox"/> Accessory Dwelling Unit <input type="checkbox"/> Duplex <input type="checkbox"/> Manufactured Dwelling Park <input type="checkbox"/> Temporary Dwelling Unit <input type="checkbox"/> Sign Review <input type="checkbox"/> Transportation Facilities Review <input type="checkbox"/> Variance: <input checked="" type="checkbox"/> Use Exception <input checked="" type="checkbox"/> Variance <input type="checkbox"/> Willamette Greenway Review <input type="checkbox"/> Other: _____ <input type="checkbox"/> Use separate application forms for: Annexation and/or Boundary Change <ul style="list-style-type: none"> • Compensation for Reduction in Property • Value (Measure 37) • Daily Display Sign • Appeal |
|---|---|--|

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): SCOTT AVILA

Mailing address: 8809 SE 43RD AVE MILWAUKIE State/Zip: OR 97222

Phone(s): 503.970.6169 Email: AVILATSCOTT@GMAIL.COM

Please do not include my contact information on public notices or on the City website:

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: _____ State/Zip: _____

Phone(s): _____ Email: _____

SITE INFORMATION:

Address: 8809 SE 43RD AVE Map & Tax Lot(s): _____

Comprehensive Plan Designation: SEE ATTACH Zoning: RES. Size of property: 66.67' x 200'

PROPOSAL (describe briefly):

TO BE USED AS ADU / RENTAL

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: T. SCOTT AVILA Date: 9-8-20

IMPORTANT INFORMATION ON REVERSE SIDE

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

ATTACHMENT 3 Exhibit A

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

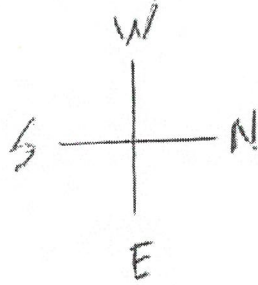
****Note:** Natural Resource Review applications **may require a refundable deposit**. Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form.

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 | | \$ | | | |
| Concurrent application files | | \$ | | | |
| | | \$ | | | |
| | | \$ | | | |
| | | \$ | | | |
| 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): | | | | | |
| Notes: | | | | | |

8809 SE 43RD AVE

97222



- LOT - 13,334 ϕ
- HOUSE - 870 ϕ ^{1200 ϕ}
- EXISTING GAR. 230 ϕ (DEMO)
- NEW GARAGE 840 ϕ ⁹⁶⁰
- EXISTING CONCRETE 807 ϕ
- NEW CONCRETE TOTAL 1167 ϕ
- TOTAL NON LANDSCP. 1907 ϕ
- TOTAL NEW NON LAND. 2877 ϕ

PROP.

LOT COV - 11.47 %

LANDSCP. AREA - 80 %

REVIEWED FOR CODE COMPLIANCE

Tom Jansen

5-10-10

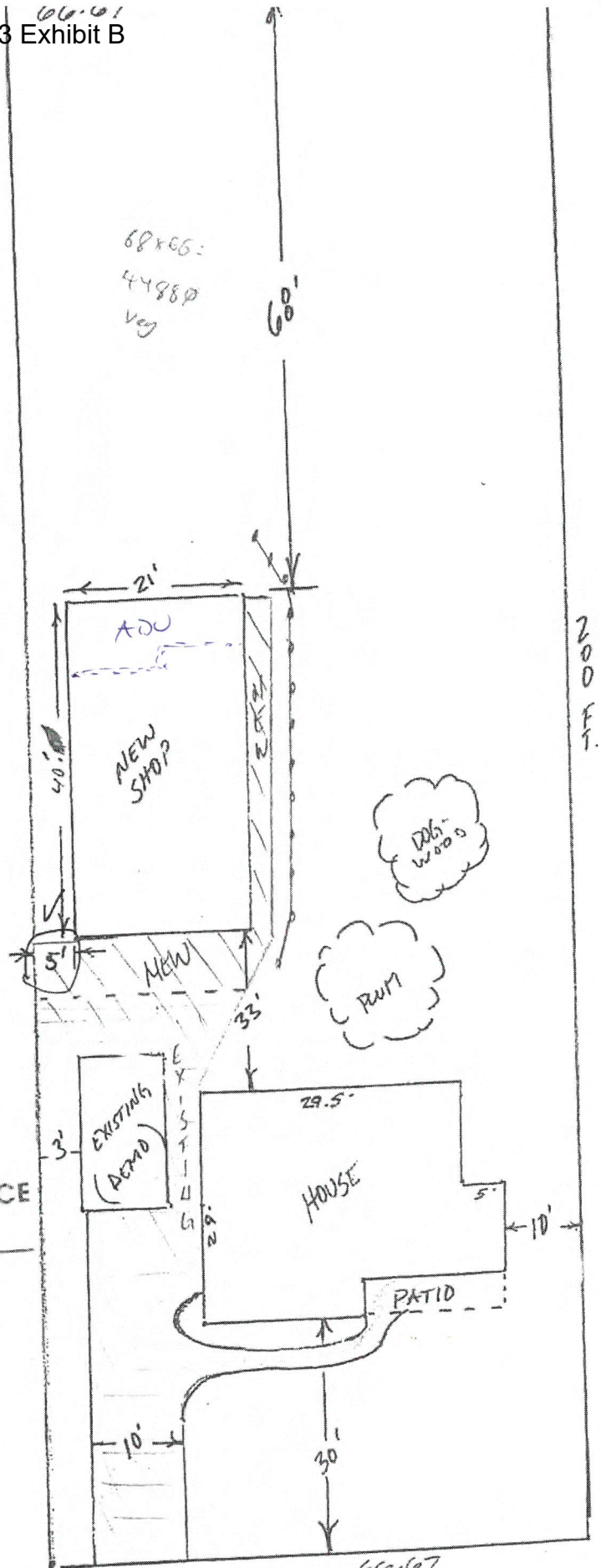
= E.C. FENCING

APPROVED
CITY OF MILWAUKIE

BY *Ryan Marguard* DATE 5/7/10
COMMUNITY DEVELOPMENT DEPARTMENT

conditions include

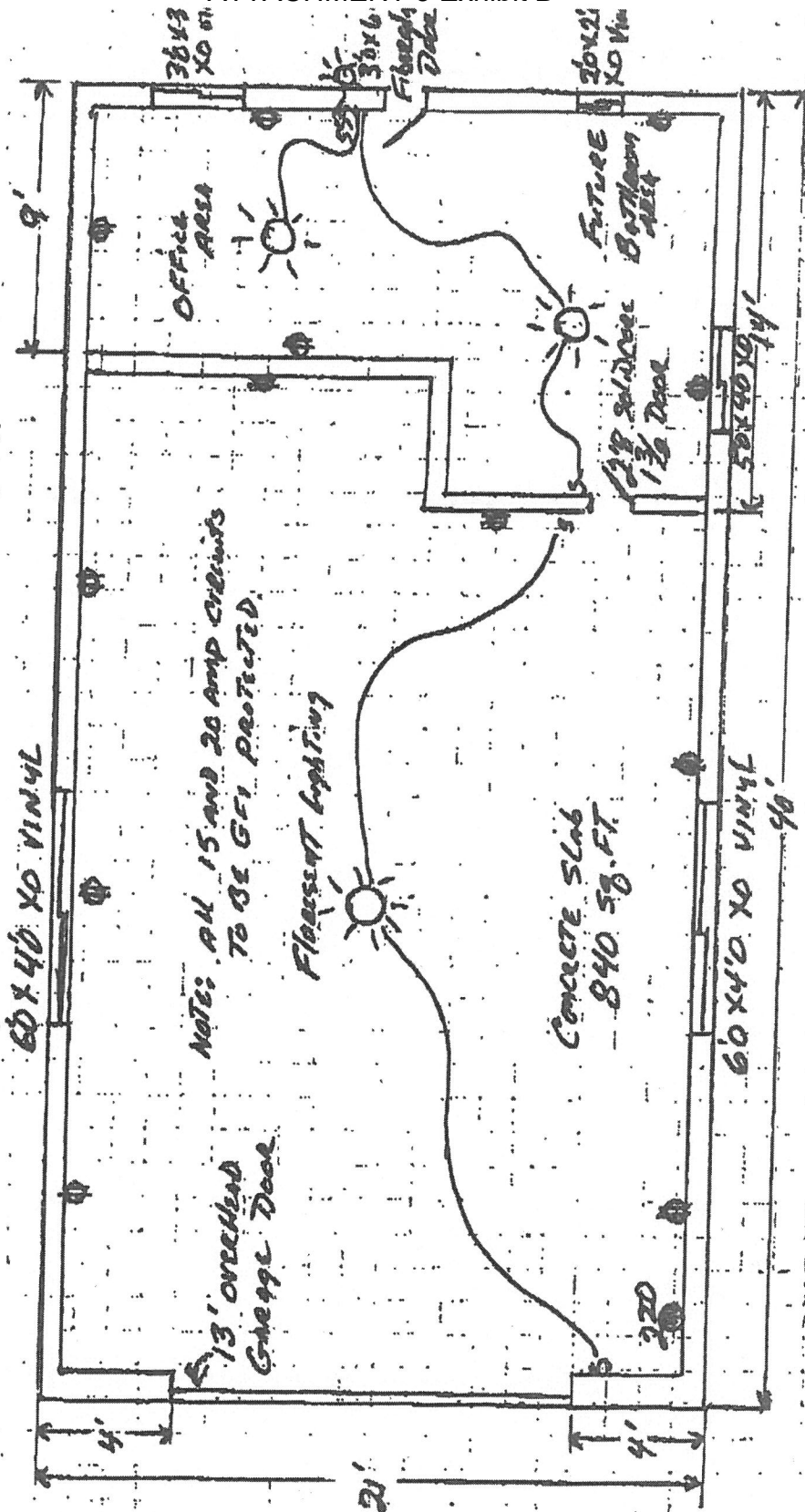
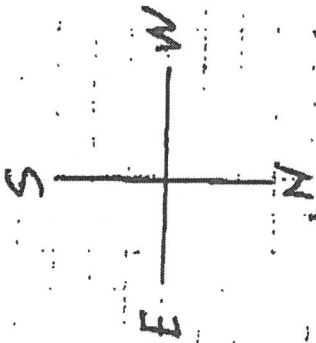
See Sheet 6 for Erosion Control Requirements
can check 7 for Erosion Control Requirements 100138



FILE COPY

①

HENDRICKS CONST. SERVICES
LIC # 615845 CA.



FLOOR PLAN, WINDOWS, DOORS, ELEC DETAILS
NOT TO SCALE.

5

ATTACHMENT 4

From: [Russ Stoll](#)
To: [Mary Heberling](#)
Cc: [Jon Stoll](#); [Stephen Lashbrook](#); [Matt Rinker](#); [Greg Hemer](#)
Subject: 8809 SE 43rd Ave. Planning Commission meeting
Date: Friday, October 23, 2020 6:56:51 PM

This Message originated outside your organization.

Just got your notice of a public hearing. This is a letter I want entered into the record.

I live at 8710 SE 42nd and also own the property at 8726 SE 42nd, which has a 20' lot border with Scott Avila. BTW, everyone on this block considers this part of the Ardenwald neighborhood and our AJC NDA Chair is often Jeff Davis at 8703 43rd. I think at one point we asked to be formally placed into Ardenwald, but nobody at the city cared a whit.

Anyway, I support Scott Avila's application for an ADU 100%. Maybe 110%.

Russ Stoll
773 350 7724

--

This email has been checked for viruses by AVG.
<https://www.avg.com>

ATTACHMENT 4

From: [Beau Brousseau](#)
To: [Mary Heberling](#)
Cc: [Lisa](#)
Subject: File Number VR-2020-004, ADU-2020-005
Date: Friday, October 30, 2020 9:43:30 AM

This Message originated outside your organization.

Hello Mary,

You are listed as the staff contact for the notice of public hearing regarding the subject title. We here at 4210 SE Johnson Creek Blvd share a back fence with the applicant. We have gotten to know the Avilas over the 8 years living here and they are wonderful neighbors and people. We support the proposed development.

Beau Brousseau
503-896-6546

ATTACHMENT 4

From: [Jon Stoll](#)
To: [Mary Heberling](#)
Subject: ADU Variance - 8809 SE 43rd Ave
Date: Saturday, October 24, 2020 7:00:23 PM

This Message originated outside your organization.

Thank you for the opportunity to comment.

Just curious where the maximum of 800 sq ft footprint threshold came from.

Does the code factor in at all the size of the lot? 800 sq ft is a large footprint on some lots, but not on others.

I am in support of this variance.

Keep up the great work.

Jon



CITY OF MILWAUKIE

To: Planning Commission
Through: Laura Weigel, Planning Manager
From: Vera Kalias, Senior Planner
Date: November 3, 2020, for November 10, 2020, Worksession
Subject: Proposed Code Amendments for Emergency Temporary Housing

ACTION REQUESTED

Review and provide feedback on a package of proposed code amendments developed by staff that will clarify code language related to temporary housing for emergency situations. These amendments are scheduled for a public hearing before the Planning Commission (and recommendation to City Council) on December 8, 2020. The City Council public hearing is tentatively scheduled for January 19, 2021. This is a briefing of proposed changes to Milwaukie Municipal Code (MMC) 11.05 Temporary Uses, Permits and Regulations relating to permitting for emergency housing.

BACKGROUND INFORMATION

Staff have recently responded to emergency temporary housing requests due to displacement caused by the recent wildfires. Staff utilized the temporary permit process to respond to this emergency successfully. However, the current code language does not explicitly define temporary emergency housing as an allowable use. Staff are proposing a few strategic code fixes to provide language that defines temporary housing as an allowed use for a temporary use permit. Staff believe this will both clarify and simplify the process for both applicants and staff administering the permits allowing staff to respond quickly in the event of an emergency.

While this action is an important first step, community development staff has been researching multiple ways that the city could provide other opportunities for temporary emergency housing and to help address the needs of those living with houselessness. Further, changes in the building code this year have made it easier for local jurisdictions to regulate temporary housing such as Conestoga huts, tiny homes and tents. Staff will be engaging with City Council about these potential options, discussing the public engagement strategy for outreach and then developing a work plan for this larger effort. Staff anticipates starting a public conversation around this work sometime in the third or fourth quarter of 2021.

History of Prior Actions and Discussions

- **September 5, 2017:** The [Milwaukie Community Vision and Action Plan](#) was adopted by City Council with [Resolution 83-2017](#). This document includes four focuses: People, Place, Planet and Prosperity. Within Place, the second goal statement is “Milwaukie invests in housing options that provide affordability, high quality development and good design, promoting quality living environments. It maintains the small neighborhood feel through creative use of space with housing options that embrace community inclusion and promote stability. “Additionally, one of the five superactions in the Vision is to “Create complete neighborhoods that offer a range of housing types and amenities and enhance local identify and character.”
- **July 17, 2018:** The [Milwaukie Housing Affordability Strategy: 2018-2023 \(MHAS\)](#) was adopted by City Council with [Resolution 62-2018](#). This strategy contains three primary goals with action items for short-term, mid-term and long-term implementation. Goal 1.14 seeks to “adopt new or modify existing land use policies to meet developer and community needs.” Goal 1.14.1 calls for staff to “Be prepared to move forward with code/zoning changes that the housing element of the comprehensive plan will recommend in 2019.”
- **August 18, 2020:** The [Comprehensive Plan policy document](#) was adopted by City Council with [Ordinance 2196](#). Under the Housing goal on affordability, Policy 7.2.8 calls for implementing “development code provisions to permit shelters and transitional housing for people without housing.”

ANALYSIS

Staff has identified the following code sections in order to address housing-related emergencies:

- MMC 11.05 Temporary Uses, Permits and Regulations

1. MMC 11.05 – Temporary Uses, Permits, and Regulations

The purpose of MMC 11.05 is to provide a process to approve uses which are temporary or seasonal in nature, such as construction trailers or seasonal sales events. However, the language does not provide enough flexibility or criteria to allow emergency temporary housing.

Staff proposes to add language that clearly states emergency temporary housing is an allowed temporary use. These changes provide needed clarification and will increase certainty and understanding of the process to create or establish a temporary housing facility including allowing vehicle parking for housing for a short period of time. Staff proposes the following requirements for these types of temporary use permits:

Emergency temporary housing, with the following requirements:

1. City Council has declared an applicable emergency.

2. Sites can be located on property owned or leased by public entities, non-profits, businesses, or religious organizations.
3. Sites must have sanitary facilities and garbage disposal services available to temporary residents.
4. Sites must provide a storage area for temporary residents to store any personal items so that they are not visible from any public street.
5. Sites used for outdoor housing are limited to 6 vehicles, which includes cars, camper trailers, tents, or other approved vehicle.
6. Sites providing temporary indoor shelter must adhere to applicable Building Codes.

The proposed amendments include additional language specific to time limits to ensure that permits for temporary emergency housing are specific to short-term duration. The proposed language is that these uses are limited to no more than two 3-month permits within a 12-month period.

These proposed requirements provide sufficient parameters to regulate emergency temporary housing proposals to ensure all standards are met and that the process is clear and efficient.

ATTACHMENTS

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

| | PC Packet | Packet |
|---|-------------------------------------|-------------------------------------|
| 1. Ordinance | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Draft code amendment language (underline/strikeout) | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

Key:

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

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

E-Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-62>.



COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE (MMC) CHAPTER 11.05.010 TEMPORARY USES, PERMITS, AND REGULATIONS FOR THE PURPOSE OF CLARIFICATION OF, AND ALLOWING EMERGENCY PERMITS FOR, EMERGENCY TEMPORARY HOUSING (FILE #ZA-2020-001).

WHEREAS, the proposed amendments to MMC Title 11 creates a section that allows for review of temporary permits for emergency temporary housing with specific requirements; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, on December 8, the Milwaukie Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

WHEREAS, the Milwaukie City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of face in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The Milwaukie Municipal Code (MMC) is amended as described in Exhibit B (Title 11 underline/strikeout version), and Exhibit C (Title 11 clean version).

Section 3. Effective Date. The amendments shall become effective immediately.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

ATTACHMENT 1

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

Underline/Strikeout Amendments

Title 11 Miscellaneous Permits

11.05 TEMPORARY USES, PERMITS, AND REGULATIONS

11.05.010 USES

Approval may be granted for structures or uses which are temporary or seasonal in nature, such as:

A. Seasonal sales uses on private property and on land owned by the City of Milwaukie. These activities include, but are not limited to, the sale of produce, rental of recreational equipment, provision of recreational lessons, or sale of products at a park owned by the City of Milwaukie.

B. Temporary real estate offices;

C. Construction parking;

D. Construction trailers;

E. Construction offices;

F. Emergency temporary housing, with the following requirements:

a) City Council has declared an applicable emergency.

b) Sites can be located on property owned or leased by public entities, non-profits, businesses, or religious organizations.

c) Sites must have sanitary facilities and garbage disposal services available to temporary residents.

d) Sites must provide a storage area for temporary residents to store any personal items so that they are not visible from any public street.

e) Sites used for outdoor housing are limited to 6 vehicles, which includes cars, camper trailers, or other approved vehicle.

f) Sites providing temporary indoor shelter must adhere to applicable Building Codes.

G. F-Other temporary uses similar to those listed above as determined by the City Manager

11.05.030 PERMIT APPROVAL

A. Findings of Fact

A temporary use permit (TUP) may be authorized by the City Manager or designee provided that the applicant submits a narrative and detailed site plan that demonstrates that the proposed use:

1. Generally does not have negative impacts and is not inconsistent with the standards and limitations of the zoning district in which it is located;
2. Meets all applicable City and County health and sanitation requirements;
3. Meets all applicable Uniform Building Code requirements; and

Proposed Code Amendment

4. On-site real-estate offices, construction offices, and construction trailers shall not be approved until land use approval and building permits, if applicable, have been issued.

B. Time Limits

The temporary use or structure shall be removed upon expiration of the temporary use permit, unless renewed by the City Manager or designee.

1. Temporary construction offices, construction trailers, and real estate offices shall not be issued for a period exceeding one year. The applicant may request a renewal for additional time to allow completion of the project provided that the applicant provides a narrative describing the need for additional time and an anticipated date of project completion.

2. Emergency temporary housing uses are limited to no more than two (2) three-month permits in a twelve-month period.

23. Other temporary uses, that are not temporary events per MMC 11.04, shall be issued a permit for up to one year to accommodate the duration of the proposed temporary use.

Renewals may be provided as follows:

a. A renewal permit may be obtained for a period of one year after providing a narrative describing how the use will remain temporary and how the use is not and will not become permanent.

b. A temporary use permit shall not be renewed for more than three (3) consecutive years; however, a renewal may be obtained annually for uses that do not exceed a four-month period of time per year.

