



# CITY OF MILWAUKIE

November 26, 2024

Land Use File(s): EXT-2024-001

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on November 26, 2024.

*Traducciones de este documento e información sobre este proyecto están disponibles en español. Para solicitar información o preguntar en español, favor de email [espanol@milwaukieoregon.gov](mailto:espanol@milwaukieoregon.gov).*

<b>Applicant(s):</b>	Rick Canfield (Alpha Stone Works)
<b>Location(s):</b>	2107, 2149, and 2171 SE Moores St
<b>Tax Lot(s):</b>	11E25BB0, lots 1800, 1900, 2000
<b>Application Type(s):</b>	Extension to Expiring Approval
<b>Decision:</b>	Approved
<b>Review Criteria:</b>	Milwaukie Municipal Code: <ul style="list-style-type: none"><li>• Milwaukie Municipal Code (MMC) Section 19.908 Extensions to Expiring Approvals</li><li>• MMC Section 19.1005 Type II Review</li></ul>
<b>Neighborhood(s):</b>	N/A (North Milwaukie Industrial Area)

**Appeal period closes: 5:00 p.m., December 11, 2024.**

### Conditions of Approval

None

### Other requirements

None

### Case File

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1005 Type II Review. The complete case file for this application is available for review from the Planning Department, 10501 SE Main St, Milwaukie, OR 97222. Please contact Ryan Dyar, Associate Planner,

at 503-786-7661 or [dyarr@milwaukieoregon.gov](mailto:dyarr@milwaukieoregon.gov), if you wish to view this case file or visit the project webpage at <http://www.milwaukieoregon.gov/planning/ext-2024-001>.

### **Appeal**

**This decision may be appealed by 5:00 p.m. on December 11, 2024, which is 15 days from the date of this decision.**<sup>1</sup> Any person who is adversely affected or aggrieved by this decision may appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie Planning Commission following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).

### **Expiration**

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

With this additional two-year extension, the original land use approval will now expire on December 29, 2026, four years after the original approval date of December 29, 2022. If the applicant obtains and pays for all necessary development permits and starts construction by December 29, 2026, they will have two additional years (until December 29, 2028) to complete the project and pass a final inspection and/or obtain a certificate of occupancy.

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

The Findings for this application are included as Exhibit 1.

### **Manager's Declaration of Impartiality**

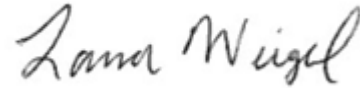
I certify that neither I nor any member of my immediate family has a material, personal, or financial relationship with the applicant. I further certify that no other relationship, bias, or ethical conflict exists which would have prevented me from evaluating the land use application solely on its merits and in accordance with the Milwaukie Municipal Code.

### **Decision**

- Approved
- Approved with Conditions
- Denied

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<sup>1</sup> As per MMC Section 19.1010, if the 15<sup>th</sup> day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.



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Laura Weigel, AICP  
Planning Manager

**Exhibits**

1. Findings in Support of Approval

cc: Rick Canfield, Alpha Stone Works, applicant (via email)  
Planning Commission (via email)  
Milwaukie City Attorney (via email)  
Milwaukie Police Chief (via email)  
Milwaukie Public Works Director (via email)  
Joseph Briglio, Assistant City Manager/Community Development Director (via email)  
Jennifer Garbely, City Engineer (via email)  
Engineering Development Review (via email)  
Patrick McLeod, Building Official (via email)  
Milwaukie Building Division (via email)  
Clackamas County Engineering Review  
ODOT Region 1 Development Review (via email)  
TriMet Development Group (via email)  
Shawn Olson, Fire Marshal, CFD#1 (via email)  
Land Use File(s): EXT-2024-001; DEV-2022-003  
Address File(s): 2149 SE Moores St

**EXHIBIT 1**  
**Findings in Support of Approval**  
**File #EXT-2024-001**  
**Alpha Stone Works Extension Request**

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, Rick Canfield of Alpha Stone Works, has applied to extend the land use approval for primary land use file #VR-2024-009, for the property located at 2107, 2149, and 2171 SE Moores St (Tax ID 11E25BB0, lots 1800, 1900, 2000). The site is in the North Milwaukie Innovation Area (NMIA) in the Tacoma Station Area Mixed Use Zone (MUTSA)
2. Primary file VR-2022-009 was an application for approval of a variance to three separate MMC provisions to accommodate a warehouse addition for a manufacturing use on a property that is comprised of three parcels (mentioned above). The purpose of the request is to allow for the construction of a 2,400 sq ft warehouse addition that does not comply with the setback standard in MMC 19.504.4 (this standard has since been removed from the MMC) and does not meet all the design standards listed in MMC Subsection 19.312.7. As new construction of over 1,000 sq ft within the North Milwaukie Innovation Area, the proposed development also required development review (file# DEV-2022-003). The notice of decision for the application was issued on December 14, 2022, and the appeal period ended on December 29, 2022.
3. On November 1, 2024, the applicant submitted a request to extend the validity of the original land use approval for two more years, to December 29, 2026.
4. The proposal is subject to the following provisions of the MMC:
  - MMC Section 19.908 Extensions to Expiring Approvals
  - MMC Section 19.1005 Type II Review

The application has been processed in accordance with MMC Section 19.1005 Type II Review, with a decision rendered by the Planning Manager. As allowed by MMC Subsection 19.1002.2.B.1, the requirement of MMC Subsection 19.1005.1 for a preapplication conference was waived by the Planning Manager. The application was deemed complete on November 7, 2024, and public notice was mailed to surrounding property owners the following day (November 8, 2024). Public notice of the application was posted on the subject property on November 13, 2024, as required by MMC Subsection 19.1005.3.C.

5. MMC Section 19.908 Extensions to Expiring Approvals  
MMC 19.908 establishes a review process for extending the time period during which land use approvals are valid and may be utilized.
  - a. MMC Subsection 19.908.2 Applicability

MMC 19.908.2 establishes that unexpired land use applications that were required by MMC Titles 14 (Signs), 17 (Land Division), or 19 (Zoning) and that required Type I, II, or III review are eligible for an extension. Applications that have already expired are not eligible for extension. There is no limit to the number of extensions that may be requested or approved.

*Primary file VR-2022-009 is an unexpired land use application that was required by MMC Title 19 and was approved through a Type III review.*

*The Planning Manager finds that VR-2022-009 is eligible for an extension.*

b. MMC Subsection 19.908.3 Review Process

MMC 19.908.3 establishes the procedures and review types that are applicable to extension requests. MMC Subsection 19.908.3.B.2 requires Type II review for the extension application for an expiring application approved through a Type III review.

*The expiring application (primary file VR-2022-009) was originally approved by the Planning Commission through Type III review.*

*The Planning Manager finds that the requested extension is subject to Type II review and that the applicable standards of MMC 19.908.3 are met.*

c. MMC Subsection 19.908.4 Approval Criteria

MMC 19.908.4 establishes the following criteria for approving an extension to an expiring land use application:

- (1) There have been no significant changes on the subject property, in the vicinity of the subject property, or to any relevant regulations since the original application was approved.

*There have not been any significant changes to the property itself or in the vicinity of the site since the original approval became effective on December 29, 2022.*

*As mentioned above, the code provision in 19.504.4 Distance from Property Line was removed through a code amendment process in 2023. The code stated that where a side or rear yard is not required, and a structure is not erected at the property line, it must be at least three feet from the property line. In other words, when the side or rear yard setback is zero, which is the case in the MUTSA zone, the code required the structure to be built either to the property line or at least three feet from the line. Consequently, if the subject application were to come in today, the applicant would not need a variance to this standard.*

*The Planning Manager finds that there have been no significant changes to the property, the vicinity, or relevant regulations that would alter the original decision.*

- (2) No modifications are proposed to the approved application or to the conditions of approval.

*No modifications to the approved land use or the conditions of approval have been proposed.*

- (3) If the previously approved application included a transportation impact study or a natural resource report, an updated report was provided with the extension application that shows no significant changes on the subject property or in the vicinity of the subject property. A letter from a recognized professional will also satisfy this criterion if it states that conditions have not changed since the original approval and that no new analysis is warranted.

*The application did not require a transportation impact study or natural resource report.*

*The Planning Manager finds that the approval criteria of MMC 19.908.4 are met.*

*As proposed, the Planning Manager finds that the requested extension is allowable as per the applicable standards and requirements of MMC 19.908.*

6. As described in Finding 4, public notice of the application was posted on site and mailed to property owners within 300 ft of the site. The application was referred for comment to the following entities: Milwaukie Community Development Department, Milwaukie Engineering Department, Milwaukie Building Department, Milwaukie Public Works Department, Milwaukie Police Department, City Attorney, Clackamas Fire District #1, Clackamas County Engineering Review, Metro, ODOT, TriMet. No comments were received.