



November 15, 2013

Land Use File(s): DR-13-05, NCU-13-02

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on November 12, 2013.

Applicant(s): Alyssa Leeviraphan, Mahlum Architects
Appellant (if applicable)
Location(s): 10400 SE Main St
Tax Lot(s): 11E25CC00403
Application Type(s): Downtown Design Review, Nonconforming Use Review
Decision: Approved, with conditions
Review Criteria: Milwaukie Zoning Ordinance:

- Section 19.1006 Type III Review
- Chapter 19.800 Nonconforming Uses and Development
- Section 19.907 Downtown Design Review
- Subsection 19.304.4 Downtown Zones Development Standards
- Subsection 19.304.6 Downtown Zones Design Standards

Neighborhood(s): Historic Milwaukie

Appeal period closes: 5:00 p.m., November 30, 2013

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Steve Butler, Planning Director, at 503-786-7652 or butlers@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on November 30, 2013, which is 15 days from the date of this decision. Only persons who submitted comments or made an

appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council 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.

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 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Findings in Support of Approval

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, Alyssa Leeviraphan, Mahlum Architects, on behalf of Kim Freeman, 10400 SE Main LLC, has applied for approval to expand a conforming use and construct major exterior alterations at 10400 SE Main St. This site is in the DR Zone and has the Comprehensive Plan designation of TC. The land use application file numbers are DR-13-05 and NCU-13-02.
2. The applicant is seeking approval to construct three additions totaling approximately 1,330 square feet to the building:
 - 50 sq ft vestibule expansion
 - 80 sq ft work area
 - 1,200 sq ft linear accelerator and moderator/control room, which requires a modification to the design standards for roofs

The applicant has also proposed the installation of a fenced dog area.

3. The proposal is subject to the Downtown Milwaukie Design Guidelines and the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.1006 Type III Review
 - MMC Section 19.1011 Design Review Meetings
 - MMC Chapter 19.800 Nonconforming Uses and Development
 - MMC Section 19.907 Downtown Design Review
 - MMC Subsection 19.304.4 Downtown Zones Development Standards
 - MMC Subsection 19.304.6 Downtown Zones Design Standards
4. The application is further subject to the following at or before the time of development permit submittal:
 - Natural resource review, specifically submittal of a Construction Management Plan pursuant to MMC Section 19.402.9. The purpose of this review is to verify that measures will be established on the subject property to protect adjacent natural resource areas.

- Development Review pursuant to MMC Section 19.906. The purpose of Development Review is to ensure compliance with applicable standards and conditions of approval through an efficient review process that effectively coordinates the City's land use and development permit review functions.
5. The applicant has proposed additional site improvements including: removal of on-site parking spaces; installation of an outdoor seating area to the west of the building; and establishment of a meditation garden in the southeast corner of the site. The application does not include sufficient details for the review of these improvements at this time. Future site improvements may be subject to Natural Resource review, Development Review, and/or Downtown Design Review. The level and type of required review will be determined by the details of the proposals.
 6. The Design and Landmarks Committee (DLC) evaluated the Design Review application (DR-13-05) on October 23, 2013, pursuant to MMC 19.1011 Design Review Meetings. The DLC recommended that the Planning Commission adopt Finding 9 as the findings of approval for the Design Review application.
 7. 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 12, 2013, as required by law.
 8. MMC Chapter 19.800 Nonconforming Uses and Development
 - a. MMC 19.804.1.B establishes the approval criteria for the expansion of a nonconforming use. The Planning Commission may approve, approve with conditions, or deny a nonconforming use and development application based on the following criterion:
 - (1) The proposed move, alteration, or intensification would result in no more of a detriment to surrounding properties than the existing nonconforming use.

The existing nonconforming veterinary clinic use was approved by the Planning Commission in February 2013 (NCU-13-01). During that review, the Planning Commission found that the proposed use would generate substantially fewer vehicle trips per day than a financial institution of the same size; the hours of operation for the veterinary clinic use were similar to the former nonconforming use, a credit union; and that the use of exterior spaces would generate minimal noise and would not cause a further detriment to surrounding properties.

The applicant proposes to alter the previously approved nonconforming veterinary use by adding approximately 1,340 square feet to the existing building. The east and south additions have been incorporated to allow for better flow and movement of patients, clients, and staff. The northern expansion of the entrance vestibule provides a more prominent and visible entry, as well as a vestibule to provide transition from the building exterior to the interior. The footprint of the building is being extended to the south, as the existing drive-through will be the location of the linear accelerator addition. However, this is not a detriment to surrounding properties as the southern addition setback exceeds the baseline side yard setback requirements of 0 feet in the DR zone.

The proposed alterations will allow the clinic to service its clients and patients more efficiently, and will not increase vehicle trips to the site; change the hours of operation approved by NCU-13-01; or increase the intensity of the uses of the exterior spaces of the site.

The Planning Commission finds that this criterion is met.

9. MMC Section 19.907 Downtown Design Review

- b. MMC 19.907.7 establishes the approval criteria for design review applications and the process for modifications to the downtown design standards. The approval authority may approve, approve with conditions, or deny a design review application based on the following criteria:

- (1) Compliance with Title 19 Zoning Ordinance.

The applicable design standards pertain to roof design.

- (a) Subsection 19.304.6.4 contains design standards for roofs.

The proposed Phase II addition (the linear accelerator, control room, and modulator) has a flat roof. Per 19.304.6.4.a, flat roofs must include a cornice of 6 in deep and 12 in high. The proposed roof design does not include a cornice, and applicant has requested a modification to this standard.

See Finding 9.b below for a discussion of the requested modification to the downtown design standards.

The Planning Commission finds that, with the approval of the requested modification, this standard is met and that the approval criterion is therefore met.

- (2) Substantial consistency with the Downtown Design Guidelines

Refer to Table 1 below for detailed findings.

The Planning Commission finds that, as conditioned, the proposal is substantially consistent with the Downtown Design Guidelines and this approval criterion is met.

- (3) Submittal of a complete application and applicable fee as adopted by the City Council.

The applicant submitted an application on August 30, 2013, and it was deemed complete on September 27, 2013. The applicable design review application fee was paid August 30, 2013.

The Planning Commission finds that, as conditioned, these standards are met.

- c. MMC 19.907.10 establishes the process and criteria for modifications to the downtown design standards. MMC 19.310.C.4.a requires that all buildings with flat roofs include a cornice of at least 6 in deep and 12 in high. The proposed roof of the Phase II addition (the linear accelerator, modulator, and control room) is flat, and it does not include a cornice. Therefore, a modification to the design standards for roofs is required.

- (1) The approval authority may grant a modification to a design standard subject to the following criteria:

- (a) The modification is integral to the overall design concept of the building.

The existing building is a contemporary design with a flat roof. The requested modification would allow for the use of a flat roof on the proposed Phase II addition to the southeastern façade. This addition will be constructed of cast-in-place concrete walls in order to provide the

needed radiation shielding for the linear accelerator. This type of construction is not conducive to this type of detailing, nor would it integrate well with the overall design of the existing building, which does not include cornices.

- (b) The modification substantially meets the intent of the design standard either individually or in combination with other design elements of the project.

The intent of the design standard, in combination with the architectural design guideline regarding roofs, is to ensure that rooftop mounted mechanical equipment is screened from street-level view and that the building wall is finished with a visual “cap.” The proposed structure does not include any roof-mounted mechanical or other equipment, and it is not necessary to hide these components from view. Additionally, the addition sits approximately 185 ft from the Main St frontage, and only a small portion of the building will be visible from the public right-of-way. Finally, the existing building has multiple rooflines, which creates visual interest, and the proposed addition will be consistent with the existing roof design.

- (c) The project is substantially consistent with the relevant Downtown Design Guidelines.

The applicable Downtown Design Guideline is Architecture: Silhouette and Roofline. The design of the addition is substantially consistent with the applicable Downtown Design Guidelines as outlined in Table 1.

The Planning Commission finds that that these standards are met.

Table 1. Design Review Compliance

MILWAUKIE CHARACTER GUIDELINES	
Applicant Information	Recommended Findings
<i>a. Reinforce Milwaukie’s Sense of Place = Strengthen the qualities and characteristics that make Milwaukie a unique place.</i>	
Not addressed.	This proposal does not include new buildings. <i>This guideline is not applicable.</i>
<i>b. Integrate the Environment = Building design should build upon environmental assets.</i>	
The additions to the building will be sided/painted in the current building color.	As proposed, the design of the building respects the character of nearby Spring Park natural area by utilizing a subdued palette of colors. <i>The proposal meets this guideline.</i>
<i>c. Promote Linkages to Horticultural Heritage = Celebrate Milwaukie’s heritage of beautiful green spaces.</i>	
Minor landscape upgrades in Phase I are proposed. Tree species that promote linkages to Milwaukie’s	As proposed, the design of the site respects Milwaukie’s heritage of green spaces through the

horticultural heritage will be considered first.	addition of trees to the site. <i>The proposal meets this guideline.</i>
d. Establish or Strengthen Gateways = Projects should use arches, pylons, arbors, or other transitions to mark special or primary entries and/or borders between public and private spaces.	
Not addressed.	As proposed, a fence will be installed to create a fenced dog run area to the rear of the property. The applicant has not provided specifications for the fence. A condition has been established to ensure that specifications for the fencing, including height, materials, and finish, are submitted prior to installation. <i>As conditioned, the proposal meets this guideline.</i>
e. Consider View Opportunities = Building designs should maximize views of natural features or public spaces.	
Not addressed.	This proposal does not include new buildings. <i>This guideline is not applicable.</i>
f. Consider Context = A building should strengthen and enhance the characteristics of its setting, or at least maintain key unifying patterns.	
Not addressed.	This proposal does not include new buildings. <i>This guideline is not applicable.</i>
g. Promote Architectural Compatibility = Buildings should be “good neighbors.” They should be compatible with surrounding buildings by avoiding disruptive excesses. New buildings should not attempt to be the center of attention.	
Not addressed.	This proposal does not include new buildings. <i>This guideline is not applicable.</i>
h. Preserve Historic Buildings = Historic building renovation, restoration, or additions should respect the original structure.	
No response.	No historic buildings are proposed to be renovated, restored, or expanded as part of this application. <i>This guideline is not applicable.</i>
i. Use Architectural Contrast Wisely = Contrast is essential to creating an interesting urban environment. Used wisely, contrast can provide focus and drama, announce a socially significant use, help define an area, and clarify how the downtown is organized.	
No response.	The proposal does not include new buildings. <i>This guideline is not applicable.</i>

<i>j. Integrate Art = Public art should be used sparingly. It should not overwhelm outdoor spaces or render buildings mere backdrops. When used, public art should be integrated into the design of the building or public open space.</i>	
No response.	The proposal does not include public art. <i>This guideline is not applicable.</i>

PEDESTRIAN EMPHASIS GUIDELINES	
Applicant Information	Recommended Findings
<i>a. Reinforce and Enhance the Pedestrian System = Barriers to pedestrian movement and visual and other nuisances should be avoided or eliminated, so that the pedestrian is the priority in all development projects.</i>	
No response.	This proposal does not include pedestrian walkways or potential nuisances to pedestrians. <i>This guideline is not applicable.</i>
<i>b. Define the Pedestrian Environment = Provide human scale to the pedestrian environment, with variety and visual richness that enhance the public realm.</i>	
No response.	The existing vestibule doors and windows are tinted, reflective glass. A condition has been established to ensure that the vestibule addition will replace the existing tinted doors and windows with transparent doors and windows. The vestibule addition will bring the entrance closer to the street. <i>As conditioned, the proposal meets this guideline.</i>
<i>c. Protect the Pedestrian from the Elements = Protect pedestrians from wind, sun, and rain.</i>	
No response.	The proposal does not include new buildings. <i>This guideline is not applicable.</i>
<i>d. Provide Places for Stopping and Viewing = Provide safe, comfortable places where people can stop to sit and rest, meet and visit with each other, and otherwise enjoy the downtown surroundings.</i>	
No response.	The proposal does not include outdoor areas. <i>The proposal meets this guideline.</i>
<i>e. Create Successful Outdoor Spaces = Spaces should be designed for a variety of activities during all hours and seasons.</i>	
No response.	The proposal does not include outdoor spaces. <i>This guideline is not applicable.</i>

f. Integrate Barrier-Free Design = Accommodate handicap access in a manner that is integral to the building and public right-of-way.	
No response.	The proposal does not include ramps, lifts, or elevators. <i>This guideline is not applicable.</i>

ARCHITECTURE GUIDELINES	
Applicant Information	Recommended Findings
a. Corner Doors = Locate entry doors on corners of commercial and retail buildings wherever possible.	
No response.	The proposal does not include a new entrance. <i>This guideline is not applicable.</i>
b. Retail and Commercial Doors = Doors should create an open and inviting atmosphere.	
The proposed entry doors will be double doors comprised of more than 50% window area, and the proposed vestibule addition will make the front entry vestibule more prominent and visible from the street.	As proposed, the commercial doors will be transparent and will increase the visibility of the building entrance from Main St. A condition has been established to ensure that the replacement windows and doors meet the downtown design standards and substantially conform with this guideline. <i>As conditioned, the proposal meets this guideline.</i>
c. Residential Doors = Residential front doors should define a friendly transition between the public and the private realm.	
No response.	This building is not residential. <i>This guideline is not applicable.</i>
d. Wall Materials = Use materials that create a sense of permanence.	
The proposed southeast addition will be constructed of cast-in-place concrete, painted to match the existing siding.	As proposed, the linear accelerator addition is made of concrete and painted to match the existing siding. Concrete is a long-lasting material and provides a sense of permanence. <i>The proposal meets this guideline.</i>
e. Wall Structure = Use scale defining devices to break up the longitudinal dimensions of buildings, creating a comfortable sense of enclosure by establishing an uninterrupted street edge.	
No response.	As proposed, with the exception with the vestibule expansion, the additions to the building are small-scale

	and not visible from the street. <i>This guideline is not applicable.</i>
f. Retail Windows =Use windows that create an open and inviting atmosphere.	
No response.	No retail windows are proposed as part of this application. <i>This guideline is not applicable.</i>
g. Residential Bay Windows =Provide bays to add variety and visual interest to façade and interesting views and outdoor spaces from the interiors.	
No response.	No residential bay windows are proposed as part of this application. <i>This guideline is not applicable.</i>
h. Silhouette and Roofline = Create interest and detail in silhouette and roofline.	
Thick cast-in place concrete wall construction is not conducive to the type of detailing required by the design standards, nor would it integrate well with the overall design of the building. A cornice on the addition would be foreign to the existing building's architecture.	As proposed, the additions to the west and east will continue the existing roofline. The existing building has varied rooflines, and the addition to the southeast will reflect the flat roofline of the existing building, as well as add another roofline level at the rear of the building. <i>As proposed, this guideline is met.</i>
i. Rooftops = Integrate rooftop elements into building design.	
No response.	The proposal does not include rooftop elements. <i>This guideline is not applicable.</i>
j. Green Architecture = New construction or building renovation should include sustainable materials and design.	
No response.	The largest addition will be constructed of concrete, which is a durable, recyclable material. <i>As proposed, this guideline is met.</i>
k. Building Security = Buildings and site planning should consider and employ techniques that create a safe environment.	
No response.	As existing and proposed, the plant materials and landscaping design ensure that the site is easily observable. <i>As proposed, this guideline is met.</i>
l. Parking Structures = Parking structures should be designed so that they appear like most other buildings in the downtown.	
No Response.	No parking structures are proposed as part of this application. <i>This guideline is not applicable.</i>

LIGHTING GUIDELINES	
Applicant Information	Recommended Findings
a. Exterior Building Lighting = Architectural lighting should be an integral component of the façade composition.	
No response.	No exterior building lighting is proposed as part of this application. <i>This guideline is not applicable.</i>
b. Parking Lot Lighting = Ornamental street lights should be used to be compatible with downtown streetlight standards identified in the Public Area Requirements.	
No response.	No additional parking lot lighting is proposed as part of this application. <i>This guideline is not applicable.</i>
c. Landscape Lighting = Lighting should be used to highlight sidewalks, street trees, and other landscape features. Landscape lighting is especially appropriate as a way to provide pedestrian safety during holiday periods.	
No response.	No landscape lighting is proposed as part of this application. <i>This guideline is not applicable.</i>
d. Sign Lighting = Sign lighting should be designed as an integral component of the building and sign composition.	
No response.	No sign lighting is proposed as part of this application. <i>This guideline is not applicable.</i>

SIGN GUIDELINES	
Applicant Information	Recommended Findings
a. Wall Signs	
No response.	No wall signs are proposed as part of this application. <i>This guideline is not applicable.</i>
b. Hanging or Projecting Signs	
No response.	No hanging or projecting signs are proposed as part of this application. <i>This guideline is not applicable.</i>

c. Window Signs	
No Response.	No window signs are proposed as part of this application. <i>This guideline is not applicable.</i>
d. Awning Signs	
No response.	No awning signs are proposed as part of this application. <i>This guideline is not applicable.</i>
e. Information and Guide Signs	
No response.	No information or guide signs are proposed as part of this application. <i>This guideline is not applicable.</i>
f. Kiosks and Monument Signs	
No response.	No kiosk or monument signs are proposed as part of this application. <i>This guideline is not applicable.</i>
g. Temporary Signs	
No response.	No temporary signs are proposed as part of this application. <i>This guideline is not applicable.</i>

Conditions of Approval

1. The applicant shall submit a Type I Development Review application and Type I Construction Management Plan with final construction plans for additions to the building. These plans shall be in substantial conformance with the plans reviewed by the Design and Landmarks Committee (DLC) and Planning Commission (PC) and date stamped by the City on August 30, 2013. The plans shall be modified only as described in these conditions of approval or through a subsequent design review or formal modification process.
 - a. The development permit submission for the building shall include a detailed description of any proposed plan changes that are not part of these conditions of approval, or that the final decision-making authority did not specify in its decision; such plan change shall be subject to the City’s review and approval.
 - b. The development permit submission for the building shall include the following item to demonstrate conformance with the Milwaukie Downtown Design Guidelines, specifically those that address the pedestrian environment.

- (1) The existing entrance doors and windows are tinted and do not meet the development standards for windows. Replacement doors and windows must meet the standards of MMC Subsection 19.304.6.C.3.
2. The applicant shall submit a Type I Design Review application for the proposed on-site fencing.
 - a. The design review permit submission shall include a detailed description of the proposed fencing materials, including height and materials.
3. Additional site improvements may be subject to Development Review, Natural Resources Review, and/or Downtown Design Review. The level and type of review will depend on the details of the proposal(s).
4. Pursuant to Subsection 19.1001.7.E.2, the time period within which the applicant must obtain development permits for additions to the building is 2 years, and the time period within which the applicant must pass all final inspections is 4 years, from the date of the land use decision on this application.



Stephen C. Butler, FAICP
Interim Planning Director/Community Development Director

cc: Kim Freeman (6954 SE Yamhill St, Portland, OR 97215)
Alyssa Leevirphan, Mahlum Architects, 1231 NW Hoyt St, Ste 102, Portland, OR 97209)
Planning Commission (*via e-mail*)
Steve Butler, Interim Community Development Director (*via e-mail*)
Jason Rice, Engineering Manager (*via e-mail*)
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Tom Larsen, Building Official (*via e-mail*)
Bonnie Lanz, Permit Specialist (*via e-mail*)
Mike Boumann and Shawn Olson, CCFD#1
NDA(s): Historic Milwaukie (*via e-mail*)
Interested Persons
Land Use File(s): DR-13-05