

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

Appeal of Land Use Decision

File #AP-2019-002

APPEAL INFORMATION:

Appeal of File #: <u>DEV-2019-002</u>	Site Address: <u>11380 SE 21st AVE.</u>
Review Type of Decision: <input checked="" type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III	
Appeal Type: <input checked="" type="checkbox"/> Unrestricted De Novo	<input type="checkbox"/> On the Record De Novo
Map & Tax Lot(s): <u>11E36BC03700</u>	Zoning: <u>MIXED USE DMU</u>
Comprehensive Plan Designation: <u>Town Center</u>	Size of property: <u>0.19 AC</u>

RESPONSIBLE PARTIES:

APPELLANT: <u>CARLA and Robert PLETKA</u>	
Mailing address: <u>13545 SE BEECH ST. Milwaukie</u>	Zip: <u>97222</u>
Phone(s): <u>503-880-1590</u>	E-mail: <u>Carla@glorygal912.com</u>
APPELLANT'S REPRESENTATIVE (if different than above):	
Mailing address:	Zip:
Phone(s):	E-mail:

STANDING FOR APPEAL (check applicable box):

<input checked="" type="checkbox"/> Applicant or applicant's representative from Type I, II, or III decision
<input type="checkbox"/> Person or organization adversely affected or aggrieved by Type II decision
<input type="checkbox"/> Person or organization that participated or provided testimony or evidence on the record for Type III decision. List the date and briefly describe the form of participation, testimony, or evidence: _____

BASIS OF APPEAL (attach a detailed statement describing the basis of the appeal):

Identify which approval criterion or development standard is believed to have been overlooked or incorrectly interpreted or applied and/or which aspect of the proposal is believed to have been overlooked or incorrectly evaluated.

For appeal of a Type II decision, identify either an error as described above or the manner in which the person filing the appeal was adversely impacted or aggrieved by the decision.

SIGNATURE:

ATTEST: I have standing to appeal the land use decision identified on this application and have provided the necessary items and information for filing an appeal per Milwaukie Municipal Code (MMC) Subsection 19.1010.1. To the best of my knowledge, the information provided within this appeal package is complete and accurate.

Submitted by: Carla and Robert Pletka Date: 2-27-19

IMPORTANT INFORMATION ON REVERSE SIDE

Attach required statement describing basis of appeal.

APPEAL HEARINGS (excerpted from MMC Subsections 19.1001.5 and 19.1010.3):**Appeals of Type I and II decisions:**

Appeals of Type I and II decisions are heard by the Planning Commission. The appeal hearing is an unrestricted de novo hearing, which means that new evidence, testimony, and argument that were not introduced in the original decision can be introduced in the appeal. The standard of review for the Planning Commission is whether the initial decision has findings and/or conditions that are in error as a matter of fact or law. The Planning Commission's decision on the appeal is the City's final decision on the initial land use application per ORS 227.178. Further appeals of the application may be made to the Oregon Land Use Board of Appeals or other court.

Appeals of Type III decisions:

Appeals of Type III decisions are heard by the City Council. The appeal hearing is an on-the-record de novo hearing, which means that new evidence that was not introduced in the original decision cannot be introduced in the appeal. New testimony is allowed. New argument is also allowed that is based on evidence already in the record and on testimony that is new or already in the record. The standard of review for the City Council is a new evaluation of existing evidence, new and existing testimony, and new and existing arguments. The City Council's decision on the appeal is the City's final decision on the initial land use application per ORS 227.178. Further appeals of the application may be made to the Oregon Land Use Board of Appeals or other court.

DECISIONS NOT SUBJECT TO LOCAL APPEAL:

The initial hearing for Type IV and V decisions is held by the Planning Commission. The Planning Commission does not issue a decision on these types of review and, instead, issues a recommendation to the City Council. This recommendation is not a final decision and is not appealable.

The review authority for Type IV and V decisions is the City Council. Since there is no higher authority within the City, the City Council's decisions on these types of reviews are the City's final decision on the land use application. Appeals of these types of applications may be made to the Oregon Land Use Board of Appeals or other court.

Downtown Design Review applications are considered at a public meeting by the Design and Landmarks Committee. The Design and Landmarks Committee does not issue a decision on these types of review and, instead, issues a recommendation to the Planning Commission. This recommendation is not a final decision and is not appealable.

THIS SECTION FOR OFFICE USE ONLY:

	FILE NUMBER	FEE AMOUNT*	DATE STAMP
APPEAL FILE:	AP-2019-002	\$ 250. —	RECEIVED FEB 27 2019 CITY OF MILWAUKIE PLANNING DEPARTMENT
TOTAL AMOUNT RECEIVED:		\$	
RECEIPT #:			
RCD BY:			
Associated application file #s (appeals, modifications, previous approvals, etc.): DEV-2019-002			
Neighborhood District Association(s): Historic Milwaukie.			
Notes:			

2-27-19

RECEIVED

FEB 27 2019

To: City of Milwaukie Planning Director

Subject: Appeal of Decision of Development Review
Standard MMC 12.16 Access Management, Removal of driveway C
Property Address: 11380 SE 21st Ave., Map #11E36BC03700

CITY OF MILWAUKIE
PLANNING DEPARTMENT

To the Director,

Upon review of the findings in the Development Review #DEV-2019-002 we see that the Engineering Department has made an exception to remove access to driveway C from our property, see attachment 1.

We are requesting a re-consideration of the removal of driveway C on our newly purchased property for the following reasons:

This location is a very small lot with very little parking space. The space in question is approximately 30% of the total space available and could accommodate 2 cars.

1. This area has an existing gate and driveway that has been in existence for many years. To our knowledge there have been no accidents due to this access driveway. It is not a through way.
2. Removal would cause an extreme hardship for our business as it would remove the main access to our storage and kitchen area. This would force deliveries to be brought through the Tap room/bar patronage area. To further complicate and impact the parking situation we must also accommodate an ADA parking space at the front of the building. We'll be lucky to be able to even park 2 cars in the front parking area facing 21st Ave.
3. We need to keep the space for the flexibility to either place a food cart or an employee parking space and mainly for deliveries.

It is worth noting that the speed limit at the location starts at 28th and is 20 MPH. This is very slow. The 20 mph school speed limit feeds into this intersection with flashing yellow lights on Lake Road

It is also worth noting that our Tap Room/ Bar is approved for 60 people. Not all will be driving, of course, and since there is relatively no place to park it would not create a significant impact. The impact would most certainly be different if there was parking that could hold many cars and create many more trips onto 21st or Lake Rd. throughout the day.

The new apartment complex on Willard St. for the Housing Authority, directly across from the high school, will create much more traffic entering and exiting onto Lake Rd than our establishment will just by the nature of the limited access to parking available.

During previous meetings with the planning department we agreed to make our front parking space an "Enter Only" from Lake Rd. in order to help remedy the situation. This was allowing the driveway in question (C) an accessible space. There is already a sign posted for "Authorized Vehicles Only" next to the gate.

Should the City decide to close off our driveway the decision will render the portion of our property useless.

We would like to suggest that the speed limit be reduced to 15mph starting at 23rd and Lake Rd driving West along with a note underneath that states "congested area" or "multiple street access". This would be regardless of the approval of our appeal.

We would also be willing to post any signage needed to alleviate any concerns.

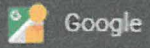
Thank you for your consideration.

We look forward to doing business in and with the City of Milwaukie.

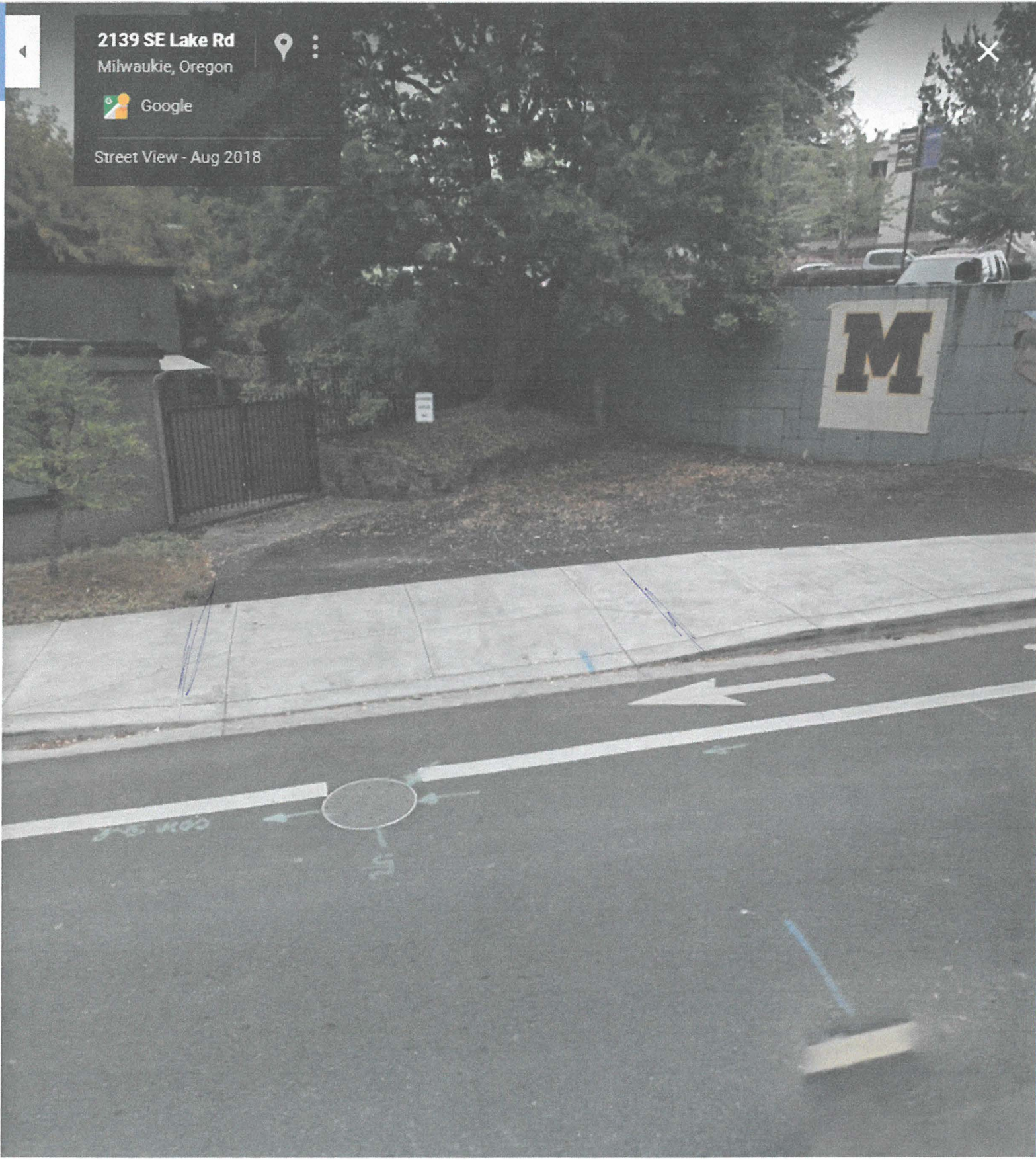
Sincerely,
Robert and Carla Pletka
13545 SE Beech St.
Milwaukie, OR
503-880-1590

Attachment 1

2139 SE Lake Rd
Milwaukie, Oregon



Street View - Aug 2018





CITY OF MILWAUKIE

February 12, 2019

Land Use File(s): DEV-2019-002

Permit(s): 601-19-000061

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on February 12, 2019.

Applicant(s): Robert and Carla Pletka
Location(s): 11380 SE 21st Ave
Tax Lot(s): 11E36BC03700
Application Type(s): Development Review: Change in
Decision: Use Approved with Conditions
Review Criteria: Milwaukie Zoning Ordinance:
• MMC 19.906.4

Appeal period closes: 5:00 p.m., February 27, 2019

Conditions of Approval

1. Prior to final inspection for any building on the proposed development, the following shall be resolved:
 - a. Conform to accessway requirements by removing easternmost Driveway C and sign Driveway B as enter only. Applicant will coordinate with City staff prior to installation of the sign.
 - b. Obtain a right-of-way permit for driveway construction modifications improvements listed in these recommended conditions of approval.
 - c. Install a stop sign on the site at Driveway A. Applicant will coordinate with City staff prior to installation of the sign.
 - d. 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 three feet 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.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Case File

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1004 Type I 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 Vera Kolias, Associate Planner, at 503-786-7653 or koliasv@milwaukieoregon.gov, if you wish to view this case file.

Appeal

This decision may be appealed by 5:00 p.m. on February 27, which is 15 days from the date of this decision.¹ 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.

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 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.

Director'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.

¹ As per MMC Section 19.1010, if the 15th 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.

Decision

- ☐ Approved
☒ Approved with Conditions
☐ Denied



Dennis Egner, FAICP
Planning Director

Exhibits

1. Findings in Support of Approval

cc: Robert and Carla Pletka, 13545 SE Beech St., Milwaukie, OR 97222
Alma Flores, Community Development Director (via email)
Kelly Brooks, Acting Engineering Director (via email)
Alex Roller, Engineering Technician II (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Land Use File(s): DEV-2019-002

EXHIBIT 1
Findings for Development Review for File #DEV-2019-002
11380 SE 21st Ave

The proposal meets the applicability criteria listed in Milwaukie Municipal Code (MMC) Subsection 19.906.2.A. The application has been processed in accordance with MMC Section 19.1004 Type I Review. This table contains the City's findings on the Development Review criteria in MMC 19.906.4 and the standards associated with each criterion. Standards that are not identified in the table are found to not be applicable to the proposal.

MMC SUBSECTION 19.906.4.A

The proposal complies with all applicable base zone standards in Chapter 19.300.

Applicable Standards	Findings
<p>11380 SE 21st Ave ("site") is located in the Downtown Mixed Use (DMU) Zone, and the following standards of MMC Section 19.304 are applicable.</p> <p>MMC Subsection 19.304.2 Allowed Uses</p> <p>Offices, retail trade, eating and drinking establishments, and a variety of commercial uses are permitted outright in DMU zone as listed in MMC 19.304.1.</p>	<p>The proposed development will have 2 separate businesses in the existing building: office and storage space for an internet retailer and a tap room. The existing building is 3,400 sq ft. Approximately 1,300 sq ft will be used for the office and retail use; approximately 1,600 sq ft will be used for the tap room. The remaining area will be used for shared restrooms and an office space for the building.</p> <p><i>This standard is met.</i></p>
<p>MMC Subsection 19.306.3 Development Standards</p> <p>The 0.19-acre property is developed with a 3,400-sq ft building and adjacent paved areas.</p>	<p>The proposed development will reuse the existing building and only interior modifications will be made.</p> <p><i>This standard is met.</i></p>

MMC SUBSECTION 19.906.4.B

The proposal complies with all applicable overlay zone and special area standards in Chapter 19.400.

Applicable Standards	Findings
The site does not have any applicable overlay zones.	The standard of MMC 19.906.4.B is not applicable.

MMC SUBSECTION 19.906.4.C

The proposal complies with all applicable supplementary development regulations in Chapter 19.500.

Applicable Standards	Findings
City staff has not identified any provisions in Chapter 19.500 that are applicable to the proposal.	No façade or site improvements are proposed.

MMC SUBSECTION 19.906.4.D

The proposal complies with all applicable off-street parking and loading standards and requirements in Chapter 19.600.

Applicable Standards	Findings
MMC 19.605.1 Off-street Parking Requirements Per MMC 19.304.5.G.3, all nonresidential uses are exempt from the off-street parking requirements. If off-street parking is proposed, parking maximums apply.	The proposal does not include additional off-street parking. <i>This standard is met.</i>

MMC SUBSECTION 19.906.4.E

The proposal complies with all applicable public facility standards and requirements, including any required street improvements, in Chapter 19.700.

Applicable Standards	Findings
<p>MMC 19.700 Public Facility Improvements</p> <p>MMC 19.700 applies to partitions, subdivisions, 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.</p>	<p>The applicant proposes to change the use of the existing manufacturing building to be partially manufacturing and partially tap room. The tap room will increase the trips generated by the site. The change of use triggers the requirements of MMC Chapter 19.700</p> <p>MMC 19.700 applies to the proposed development.</p> <p>Frontage improvements have already been constructed in front of development property. Applicant will be responsible for bringing site into conformance with Title 12 of the Milwaukie municipal code.</p> <p><i>This standard is met.</i></p>
<p>MMC 19.705 Rough Proportionality</p> <p>MMC 19.705 requires that transportation impacts of the proposed development be mitigated.</p>	<p>The proposed development does not trigger mitigation of impacts beyond the required frontage improvements related to accessways. The impacts are minimal and the surrounding transportation system will continue to operate at the level of service previous to the proposed development.</p> <p><i>As conditioned to make frontage improvements related to the accessways, this standard is met.</i></p>
<p>MMC 19.708 Transportation Facility Requirements</p>	<p>Access to the site must comply with access management standards contained in MMC 12.16</p>

MMC SUBSECTION 19.906.4.E

The proposal complies with all applicable public facility standards and requirements, including any required street improvements, in Chapter 19.700.

Applicable Standards	Findings
<p>MMC 19.708.1 requires all development shall comply with access management, clear vision, street design, connectivity, and intersection design and spacing standards.</p> <p>19.708.1.A – Access Management</p> <p>19.708.1.B – Clear Vision</p>	<p>and with clear vision requirements contained in MMC 12.24.</p> <p><i>As conditioned, to meet these requirements, this standard is met.</i></p>
<p>MMC 12.08 Street and Sidewalk Excavations, Construction, and Repair</p> <p>MMC 12.08.020 establishes the process for all construction that is completed in the right-of-way that is eventually dedicated to the City.</p>	<p><i>As conditioned, to obtain a right-of-way permit for the modifications to the accessways, this standard is met.</i></p>
<p>MMC 12.16 Access Management</p> <p>MMC 12.16.040 establishes standards for access (driveway) requirements.</p> <p>MMC 12.16.040.A requires that all properties be provided street access with the use of an accessway.</p> <p>MMC 12.16.040.B establishes standards for access spacing onto arterial and collector streets.</p> <ul style="list-style-type: none"> Per MMC 12.16.040.B.1, accessways must be located 600 ft from adjacent accessways. <p>MMC 12.16.040.C establishes standards for accessway location.</p> <ul style="list-style-type: none"> Per MMC 12.16.040.C.1, when a lot has frontage on two (2) or more streets, access shall be provided first from the street with the lowest 	<p>For the purposes of these findings the existing site driveways will be identified as A, B, and C with A being the westernmost, located at the intersection with Lake Rd, and C being the easternmost.</p> <p>MMC 12.16.040.A</p> <ul style="list-style-type: none"> The proposed development has access from the street and is consistent with MMC 12.16.040.A. <p>MMC 12.16.040.B</p> <ul style="list-style-type: none"> The site is located on SE Lake Road and SE 21st Avenue, both of which are classified as arterial streets. MMC 12.16.040.A requires that

MMC SUBSECTION 19.906.4.E

The proposal complies with all applicable public facility standards and requirements, including any required street improvements, in Chapter 19.700.

Applicable Standards	Findings
<p>classification. For example, access shall be provided from a local street before a collector or arterial street.</p> <ul style="list-style-type: none"> Per MMC 12.16.040.C.2, individual access to single-family residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the Engineering Director only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties. <p>MMC 12.16.040.D establishes standards for the number of accessway locations.</p> <ul style="list-style-type: none"> Per MMC 12.16.040.D.1, accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street. Per MMC 12.16.040.D.2, the number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multifamily areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements. Per MMC 12.16.040.D.4, The number of accessways for uses other than single-family residential is subject to the following provisions: 	<p>all properties be provided an accessway, which is in conflict with the spacing requirements of MMC 12.16.040.B.1. The development site cannot comply with driveway spacing requirements. Conditions of approval are included to bring the site closer to conformance to accessway requirements. For the following notes, the driveways will be labeled as A, B, and C with A being the westernmost, and C being the easternmost.</p> <ul style="list-style-type: none"> Driveway A functions as a shared driveway for the subject property and for the property to the north. This driveway cannot be removed without cutting off access to the adjoining property. As conditioned, Driveway B will be clearly signed as enter only, to provide access for delivery vehicles, and to allow them to maneuver on site in order to allow for all backing movements to occur on site. As conditioned, Driveway C, to the east, will be removed, in order to comply with the spacing requirements for accessways on an Arterial classification street. <p>MMC 12.16.040.C</p> <ul style="list-style-type: none"> The site is a corner lot, which is considered a double frontage property. The site has

MMC SUBSECTION 19.906.4.E

The proposal complies with all applicable public facility standards and requirements, including any required street improvements, in Chapter 19.700.

Applicable Standards	Findings
<p>a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B;</p> <p>b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced one hundred fifty (150) feet apart. The spacing is measured between the nearest edges of the driveway aprons.</p>	<p>frontage on SE Lake Road and SE 21st Avenue, both of which are classified as arterial streets. Access will be taken from both frontages with a condition to sign Driveway B as entry only.</p> <ul style="list-style-type: none"> By signing Driveway B as enter only, backing movements for the development property will be contained on site. As conditioned, the proposal complies with MMC 12.16.040.C.2. <p>MMC 12.16.040.D</p> <ul style="list-style-type: none"> As conditioned, the applicant will be required to sign Driveway B as entrance only to prevent delivery vehicles from backing into the right-of-way, or to back onto the property, both of which will ensure the safe circulation and preservation of the carrying capacity of the street. The site currently has a shared access with the property to the north, which is preferred. This commercial driveway (Driveway A) is located at the intersection and will require a stop sign for clarity to vehicles exiting the site. Driveway A cannot be removed, as 11358 21st would no longer have street access. <p><i>As conditioned, this standard is met.</i></p>

MMC SUBSECTION 19.906.4.E

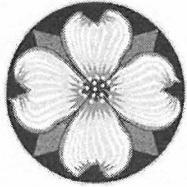
The proposal complies with all applicable public facility standards and requirements, including any required street improvements, in Chapter 19.700.

Applicable Standards	Findings
MMC 12.24 Clear Vision at Intersections MMC 12.24.030 establishes the clear vision requirements.	A condition has been established to require that clear vision be maintained at all driveways and accessways. <i>As conditioned, this standard is met.</i>

MMC SUBSECTION 19.906.4.F

The proposal complies with all applicable conditions of any land use approvals for the proposal issued prior to or concurrent with the development review application.

Applicable Standards	Findings
There are no prior or concurrent approvals.	<i>This standard is met.</i>



www.milwaukieoregon.gov

Transaction Receipt

601-19-000021-PLNG

Receipt Number: 16291

Receipt Date: 2/27/19

Milwaukie Planning Department

6101 SE Johnson Creek Blvd

Milwaukie, OR 97206

503-786-7630

Fax: 503-774-8236

planning@milwaukieoregon.gov

Worksite address: 11380 SE 21ST AVE, MILWAUKIE, OR 97222

Parcel: 11E36BC03700

Fees Paid

Transaction date	Units	Description	Account code	Fee amount	Paid amount
2/27/19	250.00	Amount Appeal to Planning Commission	110-000-4480	\$250.00	\$250.00
Fee Notes: AP-2019-002.					

Payment Method:	Check number: 9550	Payer: Carla J Pletka	Payment Amount:	\$250.00
Transaction Comment: 13545 SE Beech St				
Milwaukie OR 97222				
503-880-1590				

Cashier: Tempest Blanchard

Receipt Total: \$250.00