



CITY OF MILWAUKIE

June 26, 2019

Land Use File(s): VR-2019-003

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on June 25, 2019.

Applicant(s):	Dean Masukawa, LRS Architects
Location(s):	Property located at 37 th Ave and Monroe St
Tax Lot(s):	11E36AB03003 and 11E36AA19203
Application Type(s):	Variance
Decision:	Approved
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC 19.303 Commercial Mixed-Use Zones• MMC 19.911.7 Building Height Variance in the General Mixed Use Zone• MMC 19.1006 Type III Review• MMC 19.1011 Design Review Meetings
Neighborhood(s):	Hector Campbell Historic Milwaukie Ardenwald-Johnson Creek

Appeal period closes: 5:00 p.m., July 11, 2019

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 by appointment 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 Koliass, Associate Planner, at 503-786-7653 or koliassv@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on July 11, 2019, which is 15 days from the date of this decision. (Note: Please arrive by 4:45 p.m. for appeal payment processing.) 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

The Findings for this application are included as Exhibit 1.

Conditions of Approval

None.



Dennis Egner, FAICP
Planning Director

Exhibits

1. Findings in Support of Approval

cc: Dean Masukawa, LRS Architects (720 NW Davis St, Suite 300, Portland, OR 97209)
Dana M LaBrie, Tye Management Company LLC (5501 Pacific Hwy E., Ste #2, Tacoma, WA 98424)
Planning Commission (via email)
Leila Aman, Interim Community Development Director (via email)
Steve Adams, City Engineer (via email)
Engineering Development Review (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Mike Boumann and Izak Hamilton, CFD#1 (via email)
NDA(s): Ardenwald-Johnson Creek (via email)
Hector Campbell (via email)
Historic Milwaukie (via email)

Interested Persons

Land Use File(s): VR-2019-003

ATTACHMENT 1
Recommended Findings in Support of Approval
File #VR-2019-003, Monroe Apartments Height Variance

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, Dean Masukawa, has applied for approval for a height variance at Monroe St and 37th Ave, TL 11E36AB03003 and 11E36AA19203. This site is in the General Mixed Use Zone (GMU). The land use application file number is VR-2019-003.
2. The applicant is seeking land use approval for a height variance to allow a five-story building (Building 1) as part of a 234-unit multi-family development.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.303 Commercial Mixed-Use Zones
 - MMC 19.911.7 Building Height Variance in the General Mixed Use Zone
 - MMC 19.1006 Type III Review
 - MMC 19.1011 Design Review Meetings

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review and MMC Section 19.1011 Design Review Meetings. A public meeting with the Design and Landmarks Committee was held on May 6, 2019. Public hearings with the Planning Commission were held on May 28, 2019 and June 25, 2019 as required by law.

4. MMC 19.300 Base Zones
 - a. MMC Chapter 19.303 Commercial Mixed Use Zones
 - (1) MMC 303.4 Detailed Development Standards

MMC 303.4.B.3 establishes the detailed development standards for building height and height bonuses.

Table 19.303.3			
Commercial Mixed Use Zones Development Standards			
Standard	Required	Proposed	Comment
1. Building Height (ft)			
a. Base maximum	45	69	With the variance, the project is eligible for the height bonus.
b. Maximum with height bonus	57-69		

The proposed building will be 5 stories and 64.5 ft in height. The base maximum building height in the GMU zone is 45 ft. A building in the GMU Zone can utilize up to 2 of the development incentive bonuses in Subsection 19.303.4.B.3.a. and 3.b, for a total of 2 stories or 24 ft of additional height, whichever is less. Buildings that elect to use both height bonuses for a 5-story building are subject to Type III review per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone. The proposed building will be residential and will be built using an approved green building system.

Subject to approval of the submitted height variance, the Planning Commission finds that this standard is met.

5. MMC 911 Variances

a. MMC 911.7 Building Height Variance in the General Mixed Use Zone

MMC 19.911.7.D establishes the approval criteria for a discretionary variance to maximum building heights in the General Mixed Use Zone.

- (1) The proposed project avoids or minimizes impacts to surrounding properties. Any impacts from the proposed project will be mitigated to the extent practicable. The applicant's alternatives analysis shall provide, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

The site is surrounded on two of its three sides by single-family and multi-family residential homes (across Monroe Street and SE 37th). The third side contains railroad tracks and the Milwaukie Marketplace shopping center. The GMU zone allows a building permitted outright to be 4 stories and 57 ft high. The requested variance would allow Building 1 to be built at 5 stories and 64.5 ft. Potential impacts are visual impacts to the surrounding residential development as a result of the 5-story design.

The applicant has addressed the potential visual impacts in the following ways:

- (a) *Building 1 is sited toward the interior of the site approximately 150 ft from Monroe St where a multi-family development is currently located north of the site and 180 ft from 37th Ave where the single-family homes are located east of the site. This horizontal distance makes Building 1 appear less prominent than it would if sited closer to the street. Additionally, the site slopes downward between the streets and the Building 1 location. Building 1 is sited on the lower elevation area to further reduce its visual impact to the surrounding neighborhoods.*
- (b) *Landscaping and other smaller buildings closer to the street separate the surrounding neighborhood from the 5-story building. Existing one- and two-story homes are buffered from Building 1 by a proposed row of trees. The proposal sites the proposed 3-story apartments and a row of new street trees between Building 1 and the existing neighbors.*

These design elements will help to minimize the potential visual impacts of Building 1. As shown in the application materials, very little of the additional height is visible above the landscaping or 3-story buildings. These mitigation measures lessen the project's impact to the extent practicable.

As identified in the application materials, the project objective is to construct approximately 234 new housing units on the property. A reduction in housing units for the project was considered, but that option did not meet the project financial objectives or the city's objectives to provide more housing. The key benefit of the 5th story is that the project can meet the objective with a smaller footprint, allowing the additional area to be used for amenities and landscaping. The additional area for landscaping provided the design flexibility to plant more trees to address the city's goal of a 40% tree canopy coverage. Eliminating the 5th story would have resulted in relocating those housing units to other buildings and areas of the site. The only practicable option would be to relocate these units by expanding building footprints, ultimately decreasing landscaping and amenity areas on the property. By including an additional story on Building 1, there is space for a dog walk area, playground, the clubhouse and several outdoor areas.

The Planning Commission finds that this criterion is met.

- (2) The proposed project is creative and is exceptional in the quality of detailing, appearance, and materials or creates a positive unique relationship to other nearby structures, views, or open space.

The project site has been vacant for decades. The proposed development improves a vacant brownfield site that has been described as an eyesore in the neighborhood. The development provides housing density within the City and creates a walkable transition area between the existing residential and commercial uses. The development would provide sidewalks, walkways, street trees, and a public multi-use pathway.

As described by the applicant, the development implements a "modern barn" design theme with Building 1 as its focal point. The massing of Building 1 is broken down into two parts connected by a lower pitch roof. These two masses are further broken down by the use of inset decks and changes in material. Warm toned fiber cement siding accentuates the recessed decks, while the base of the building maintains a lighter cement siding material. Pitched roofs maintain the residential character, and relate to the surrounding neighborhood. All of the materials will be permanent in nature (composite shingle roofing, cementitious siding, and metal railings).

The design of the project and Building 1 creates a positive relationship to the surrounding residential and commercial areas and the adjacent public pedestrian pathway. The development steps down toward the existing residential development and includes landscaping and tree canopy to blend into the neighborhood. The existing public park area at the corner of 37th Ave and Monroe St is proposed to be improved, and the project includes new sidewalks and paths that provide access to that area. Finally, the development activates the commercial area along the rail corridor by installing a public path and providing connectivity to this area over what is currently a

contaminated brownfield. The 5th story on Building 1 allows the development to better respond to these existing features by providing additional area for landscaping and connectivity.

The DLC reviewed the project and recommended that the Planning Commission discuss a potential requirement that the applicant break up the 3 large gable ends to further reduce the massing and visual impacts of those 5-story elevations on surrounding properties. For example, each large gable end could be re-designed with 2 gable ends. The applicant revised the design of the building to address this comment.

The Planning Commission finds that this criterion is met.

- (3) The proposal will result in a project that provides public benefits and/or amenities beyond those required by the base zone standards and that will increase vibrancy and/or help meet sustainability goals.

The key public benefits that the project provides to the community are a public pedestrian pathway, minor repairs and improvements to the adjacent public park, 40% tree canopy on the site, all of the buildings in the development will be built to green building standards, and connectivity between the existing residential neighborhood and commercial services. Currently, the site is vacant and a portion is a brownfield that separates a neighborhood from the nearby commercial uses. The project will provide a public pedestrian path along the rail corridor that further contributes to connectivity of the area.

The Planning Commission finds that this criterion is met.

- (4) The proposed project ensures adequate transitions to adjacent neighborhoods

The surrounding neighborhood immediately adjacent to the site contains a mix of one- and two-story structures. Across the railroad tracks there is the Milwaukie Marketplace commercial shopping center. The site is a transition point from the commercial use to the lower-density residential neighborhood.

Building 1 is sited toward the interior of the site, approximately 150 ft from Monroe Street and 180 ft from SE 37th where the single-family homes are located. This horizontal distance makes Building 1 appear less prominent than it would if sited adjacent to the street. Additionally, the site slopes downward between the street and the Building 1 location. Taking advantage of this natural grade change reduces the visual impact of Building 1's 5th story. Landscaping that includes existing large trees and rows of additional street trees and new 3-story apartment buildings located closer to the street also help to reduce any visual impacts from Building 1.

The Planning Commission finds that this criterion is met.

The Planning Commission finds that the criteria are met.

6. As per MMC 19.1001.7.E, this variance request shall expire and become void unless the proposed development completes the following steps:

Obtain and pay for all necessary development permits and start development of the site within 2 years of land use approval (by July 11, 2021).

Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval (by July 11, 2023).

7. The application was referred to the following departments and agencies on March 29, 2019:

- Milwaukie Building Division
- Milwaukie Engineering Department
- Community Development Department
- Design and Landmarks Committee
- Oregon Department of Transportation Region 1
- Oregon Department of Environmental Quality
- Milwaukie Public Works Department
- Clackamas County Fire District #1
- Ardenwald, Historic Milwaukie, and Hector Campbell Neighborhood District Association Chairperson and Land Use Committee

The comments received are summarized as follows:

- **Design and Landmarks Committee:** The DLC voted to recommend approval of the variance and recommended that the Planning Commission discuss the design of the building related to the 3 large gable ends and that the applicant consider breaking up the massing of these gable ends.
- **David Aschenbrenner, Chair, Hector Campbell NDA:** The NDA voted at their meeting on April 8 to support the variance application. The NDA noted the need for a traffic study to assess and address the future impacts on the surrounding street system.
- **Marah Danielson, ODOT Development Review Planner:** The applicant shall submit a traffic impact analysis to assess the impacts of the proposed use on the State highway system. The analysis must be conducted by a Professional Engineer registered in Oregon and include four OR 224 intersections at Harrison St, Monroe St, Oak St, and 37th Ave.
- **Madeline E. Roebke, Senior General Attorney, Union Pacific Railroad Company:** Ms. Roebke identified issues and concerns related to development adjacent to an active rail line, including: noise and vibration impacts on the residents, increased pedestrian and vehicular traffic near and around the crossings, construction near the track, and trespassing on railroad property.

- **Jill Bowers, 4688 SE Ada Lane:** concerns about traffic related to the main entrance location across from Washington St.
- **Patti Dryden, 4026 SE Washington St:** many concerns related to traffic impacts of the proposed development to Washington St.
- **Chris Ortolano, 11088 SE 40th Ave:** many concerns related to traffic impacts, the location of the proposed access driveway, and the proposal's ability to meet the approval criteria.
- **Ray Bryan, Historic Milwaukie NDA Land Use Committee member:** The committee did not have issues with the height variance, but expressed a variety of concerns about the project, including safety around the railroad line, parking demand, traffic impacts, the location of the proposed access driveway, and impacts to surrounding intersections.
- **Shasta Williams, Milwaukie resident:** many concerns about traffic impacts and the proximity of the railroad crossing.
- **Julie Wisner, 3325 SE Wister St:** many concerns about traffic impacts and requests for traffic calming measures.
- **Greg Baartz-Bowman and Matt Menely, Bike Milwaukie:** concerns about the traffic impacts on the Monroe Street Neighborhood Greenway and the location of the proposed access driveway. Comments included support for the variance with the condition that the access driveway be relocated to Monroe St.
- **Nicole Perry, Milwaukie resident:** concerns related to traffic impacts and the location of the proposed access driveway.
- **Lucinda Vranizan, Milwaukie resident:** concerns related to traffic impacts on the Monroe Street Neighborhood Greenway and the location of the proposed access driveway.
- **Vera Koliass, Associate Planner:** In response to a series of questions submitted by the Ardenwald NDA, staff sent an email response to all the affected NDAs.