



CITY OF MILWAUKIE

November 4, 2020

Land Use File(s): ADU-2020-004

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on November 4, 2020.

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.

Applicant(s):	Wolf Industries
Location(s):	2908 SE Olsen St.
Tax Lot(s):	11E25CA00100
Application Type(s):	Accessory Dwelling Unit
Decision:	Approved with Conditions
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC 19.301 Low Density Residential• MMC 19.700 Public Facilities Improvements• MMC 19.910.1 Accessory Dwelling Units (ADUs)• MMC 12 Streets, Sidewalks, and Public Places• MMC 19.1005 Type II Review
Neighborhood(s):	Ardenwald-Johnson Creek

Appeal period closes: 5:00 p.m., November 19, 2020

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 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 Mary Heberling, Assistant Planner, at 503-786-7658 or heberlingm@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/ADU-2020-004.

This decision may be appealed by 5:00 p.m. on November 19, 2020, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) 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.

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.

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



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval
2. Conditions of Approval
3. Engineering Department Memo

cc: Applicant: Kirsten Lyons, Wolf Industries (via email)
Planning Commission (via email)
Leila Aman, Community Development Director (via email)
Steve Adams, City Engineer (via email)

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.

Engineering Development Review (via email)
Christina Fadenrecht, Housing and Economic Development Assistant (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Mike Boumann and Matt Amos, CFD#1 (via email)
NDA(s): Ardenwald-Johnson Creek (via email)
Land Use File(s): ADU-2020-004

EXHIBIT 1
Recommended Findings in Support of Approval
File #ADU-2020-004, Olsen St 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, Wolf Industries, has applied for approval to build a new, detached Accessory Dwelling Unit (ADU) at 2908 SE Olsen St. This site is in the R-7 Zone. The land use application file number is ADU-2020-004.
2. The applicant has submitted an application to construct a new, detached 616 sq ft ADU on an 11,160 sq ft lot with an existing single-family residence. It is proposed behind the existing residence in the southeast area of the lot.
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 12 Streets, Sidewalks, and Public Places
 - MMC 19.1005 Type II Review

The application has been processed and public notice provided in accordance with MMC Section 19.1005 Type II Review.

4. MMC 19.301 Low Density Residential
 - a. MMC 19.301 establishes the development standards that are applicable to this site. Table 19.301.4 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 22 feet from Olsen St. The lot is rectilinear in nature. There is an existing 411 sq ft detached garage on the east side of the lot approximately 60 ft from Olsen St. The lot size is 11,160 sq ft, which is on the larger side of the surrounding properties. Lots surrounding this property range from 6,100 sq ft to 17,300 sq ft. The property directly east of this subject property is over 17,000 sq ft and the lot directly south, behind the subject property is 6,120 sq ft.

The applicant has proposed to construct a new, detached ADU. The new structure will be single-story and have a footprint of 616 sq ft. It is proposed behind the existing detached garage in the back of the property and will be 91 ft from the front property line.

Table 19.301.4 Residential Zone R-7 Development Standards			
Standard	Required	Proposed	Staff Comment
1. Lot Coverage	30% max.	2,272 sq ft 20% lot coverage	Complies with standard.
2. Minimum Vegetation	35% min.	2,994 sq ft of impervious area 74% vegetation	Complies with standard.
3. Front Yard Setback	20 ft	91 ft	Complies with standard
4. Side Yard Height Plane	a. Height above ground at minimum required side yard depth b. Slope of plane	a. 13 ft b. 45 degrees	Side yard height plane is met

The Planning Manager 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 8.

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 new, detached, 616 sq ft ADU located in southeast corner of the property. Given the structure's proposed 616 sq ft footprint and 5-foot side yard setbacks, it is subject to the Type II standards in MMC 19.910.1.

Table: MMC 19.910.1.E.4.b 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	616 sq ft
Maximum Structure 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	616 sq ft

Table: MMC 19.910.1.E.4.b Development and Design Standards for Detached Accessory Dwelling Units			
ADU	Type I	Type II	Proposed
Maximum Structure Height	15 ft, limited to 1 story	25 ft, limited to 2 stories	13 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 ~ 91 ft from front lot line
Required Side and Rear Yard Setback	Base zone requirement	5 ft	Side: 5 ft Rear: 20 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.	n/a	
	(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. 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	

Table: MMC 19.910.1.E.4.b Development and Design Standards for Detached Accessory Dwelling Units			
ADU	Type I	Type II	Proposed
	(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 + tall vegetation screening surrounds the proposed ADU

The Planning Manager 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.

- (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 19.910.1.E.4.b identifies all of the development standards in Subsection 19.910.1.E and 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 proposed ADU will be constructed in a manner that mirrors the features of single-family residences in the area, with window trims and horizontal siding, which are both design standards for single-family residences. The design is not incompatible with homes on adjacent lots.

The Planning Manager 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 13 ft high, which will provide privacy for adjacent properties. Windows will not be facing into nearby single-family residences.

The Planning Manager 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 existing, 6 ft, opaque, vegetated screening that surrounds the area of the proposed ADU and extends along the entire side and rear yard property lines.

The Planning Manager finds that this criterion is met.

The Planning Manager finds that the standards of MMC 19.910.1 for Accessory Dwelling Units are met.

7. MMC 12 Streets, Sidewalks, and Public Place

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

MMC 12.08.020 establishes construction 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 a City permit, including any activity resulting in alteration of the surface of 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.

Changes to the driveway approach to meet the standards of 12.16.040.F will meet the ADA and Milwaukie Public Works Standards or obtain a waiver for right-of-way improvements.

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 shall construct a new driveway approach to meet the driveway apron width standards or obtain a waiver.

As conditioned, 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 foot 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.

8. 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 construct a new ADU, which is an additional dwelling unit to 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.

The proposed development does trigger mitigation of impacts due to the intensification of the use and the increased demand for transportation facilities. See accompanying engineering memo for notes on proportionality.

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 7.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 7.c, the proposed development is required to remove all obstructions within the clear vision area.

(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 Olsen St with local street classification.

The required right-of-way width for the adjacent portion of SE Olsen St ROW is 50 ft. No 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 Olsen St require additional street surface improvements and construction of 5-ft sidewalk, 5-ft landscape strip, curb and gutter, and street surface improvements. Limiting improvements to the adjacent stretch of right-of-way along Olsen St will maximize benefits to the property and was not found to be disproportionate to impacts.

The applicant must construct 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 5ft sidewalks or obtain a waiver.

As conditioned, this standard is met.

9. The application was referred to the following departments and agencies on September 10, 2020:

- Milwaukie Building Division
- Milwaukie Engineering Department
- Clackamas County Fire District #1
- Ardenwald-Johnson Creek 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 and a memo has been provided with further details.

Clackamas County Fire District #1 – no comments

Recommended Conditions of Approval
File #ADU-2020-004, Olsen St ADU

Conditions

1. Prior to the certificate of occupancy, the following shall be resolved:
 - a. Construct a 5-foot wide set-back sidewalk and 5-landscape strip fronting the proposed development property on SE Olsen St.
 - b. Widen existing asphalt from centerline of right-of-way to accommodate a 14-foot road surface and repair existing asphalt to centerline.
 - c. Construct a new driveway approach to meet the driveway apron width standards of a minimum width of 9 ft by 20 ft.
 - d. 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
 - 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.



MEMORANDUM

TO: Community Development Department
THROUGH: Steve Adams, City Engineer
FROM: Dalton U. Vodden, Associate Engineer
RE: Engineering Requirements for ADU
ADU-2020-004 2908 SE Olsen
DATE: 10/22/2020

New detached ADU

Milwaukie Municipal Code 19.700

The applicant is proposing modification of an existing structure resulting in the generation of new dwelling unit. This triggers general applicability as defined in MMC 19.702.1. No exemptions under 19.702.4 were found to apply.

Under this chapter, the applicant is responsible for transportation facility improvements in rough proportion to the intensification of use. The engineering department has made the following determinations:

Impacts

The City of Milwaukie identifies the impacts to public infrastructure of ADUs to be 65% that of single-family detached residences. Using numbers from the ITE trip generation manual and this factor, new ADUs are expected to result in an average new trip generation rate of 6.12 daily trips or 0.65 new pm peak trips.

Street Design

The transportation system plan classifies the portion of Olsen fronting the property as a local street with a design right-of-way width of 50ft. The half street final design cross section is to contain:

- 14-foot paved half-street
- Curb and gutter
- 5-foot landscape strip
- 5-foot setback sidewalk

The portion of 29th Av fronting the property is classified as a local street with a design right-of-way width of 50 feet and a half street cross section containing:

- 14-foot paved half-street
- Curb and gutter
- 5-foot landscape strip
- 5-foot setback sidewalk

Proportional Improvements

Based on proportionality guidelines found in MMC 19.705.2, the applicant is found responsible for constructing remaining half-street improvements along Olsen St and repairing existing surface to street centerline. Constructing additional improvements on 29th Ave was not found proportionate.

Fee in Lieu of Construction (FILOC)

Construction of improvements are required at the time of development. However, the applicant may request to pay a fee in lieu of constructing the improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC determinations found in Chapter 13.32 Fee in Lieu of Construction.

Relief from the above transportation facility improvements may be granted through a variance process, which requires submittal and approval of a Variance land use application. Variance criteria and procedures are located in MMC 19.911.

General requirements and standards for improvements related to this development must comply with access management standards found in 12.16, clear vision standards contained in chapter 12.24, and dedication required to accommodate public improvements. In order to accommodate the Stanley Ave design, a 10-foot dedication along Stanley Ave is required.

Summary of Requirements

1. Construct a 5-foot wide set-back sidewalk and 5-landscape strip fronting the proposed development property on SE Olsen St.
2. Widen existing asphalt from centerline of right-of-way to accommodate a 14-foot road surface and repair existing asphalt to centerline.
3. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA).
 - a. In place of the items 1, 2, and 3 above, a fee-in-lieu of construction may be applied for, payment must be made prior to issue of development permits or
 - b. Apply and receive an ADU waiver prior to the issue of development permits