



CITY OF MILWAUKIE

October 12, 2020

Land Use File(s): ADU-2020-007

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on October 12, 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):	Joshua Convey
Location(s):	6002 SE Morris St
Tax Lot(s):	12E30AD 03500
Application Type(s):	Accessory Dwelling Unit review
Decision:	Approved with Conditions
Review Criteria:	Milwaukie Municipal Code: <ul style="list-style-type: none">• MMC 12 Streets, Sidewalks, and Public Places Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC 19.301 - Low density residential zones (including R-7)• MMC 19.700 - Public Facility Improvements• MMC 19.910.1 - Accessory Dwelling Units• MMC 19.1005 - Type II Review
Neighborhood(s):	Lewelling

Appeal period closes: 5:00 p.m., October 27, 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 Vera Kolias, Senior Planner, at

503-786-7653 or koliasv@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at <https://www.milwaukieoregon.gov/planning/adu-2020-007>

This decision may be appealed by 5:00 p.m. on October 27, 2020, which is 15 days from the date of this decision.¹ 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.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Conditions of Approval

1. Prior to the certificate of occupancy, the following shall be resolved:
 - a. Unless an ADU waiver is obtained from the city, the following is required according to the MMC 19.708.2 Street Design Standards and 19.708.3 Sidewalk Requirements and Standards:
 - (1) New accessway (driveway) in compliance with MMC 12.16
 - (2) A permanent turnaround to meet Milwaukie Public Works Standards
 - (a) 24' radius paved cul-de-sac
 - (b) Curb and gutter
 - (c) 5' sidewalk along south side of the cul-de-sac

Coordinate with the Engineering Department for determination on the transportation facility improvements.

- b. Provide dedication for sufficient right-of-way to construct final street design. Coordinate with the Engineering Department for determination on the transportation facility improvements.
- c. 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

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.

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.

Other requirements

A right-of-way permit is required for construction of all required public improvements listed in these Conditions of Approval.

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

cc: Joshua Convey, 6002 SE Morris St (via email)
Planning Commission (via email)
Leila Aman, 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 Matt Amos, CFD#1 (via email)
NDA(s): Lewelling (via email)

Land Use File(s): ADU-2020-007

EXHIBIT 1
Recommended Findings in Support of Approval
File #ADU-2020-007, 6002 SE Morris 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, Joshua Convey, has applied for approval to convert the existing guesthouse at 6002 SE Morris St into an accessory dwelling unit (ADU). This site is in the Residential R-7 Zone. The land use application file number is ADU-2020-007.
2. The applicant is finalizing the permit review and construction inspection process for a 682-sq ft detached guesthouse on the subject property. The proposal is to add a kitchen and convert the guesthouse into an ADU to be used as a long-term rental unit.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.301 - Low density residential zones (including R-7)
 - MMC 19.700 - Public Facility Improvements
 - MMC 19.910.1 - Accessory Dwelling Units
 - MMC 19.1005 - Type II Review
4. The application has been processed and public notice provided in accordance with MMC Section 19.1005 Type II Review.
5. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 12 Streets, Sidewalks, and Public Places
 - MMC 19.301 Low Density Residential Zones
 - MMC 19.607 Off-street Parking for Residential Areas
 - MMC 19.700 Public Facility Improvements
 - MMC 19.910.1.E.3 Standards for Attached Accessory Dwelling Units
 - MMC 19.1005 Type II review
6. MMC 19.301 Low Density Residential Zones

MMC 19.301 establishes the development standards that are applicable to this site. Table 1 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

The existing house is located nearly adjacent to the northern property line and is set back approximately 40 feet from the end of Morris St. Boss Ln. The lot is rectilinear in shape and has an area of nearly 38,000 sq ft which is much larger than the minimum lot size requirement of 7,000 sq

ft and much larger than the area of surrounding properties, which range in size from 4,500 sq ft to over 26,000 sq ft.

The applicant has proposed to convert a recently constructed 682-sq ft guesthouse into an ADU for long-term rental purposes. The proposed ADU is located just south of the existing house, and 40 ft from the front property line.

Table 19.301.4 Residential Zone R-7 Development Standards			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	7,000 sq ft	37,535 sq ft	Complies with standard.
2. Lot Coverage	30% max.	35,026 sq ft 7% lot coverage	Complies with standard.
3. Minimum Vegetation	35% min.	93%	Complies with standard.

The Planning Manager finds that the proposal complies with the applicable standards of the R-7 zone.

7. MMC 19.910 Accessory Dwelling Units

- a. MMC 19.910.1 establishes the design and development standards that are applicable to ADUs. Table 2 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

The applicant has proposed to convert a 682-sq ft guesthouse into a detached ADU. Given the structure’s 682 sq ft footprint it is subject to the Type II standards in MMC 19.910.1.

Table 2. Compliance with relevant ADU standards

ADU	Type I	Type II	Proposed
Maximum Structure Footprint	600 sq ft	800 sq ft or 75% of the primary structure	682 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	682 sq ft
Maximum Structure Height	15 ft, limited to 1 story	25 ft, limited to 2 stories	17.83 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 ~ 40 ft from front lot line

ADU	Type I	Type II	Proposed
Required Side and Rear Yard Setback	Base zone requirement	5 ft	Side: 55 ft Rear: 65 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.	Yes, a covered porch has been constructed	
	(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.	Yes, roof eaves meet minimum of 12 inches	
	(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, the lap siding meets this standard	
	(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.	No walls are within 20 ft an adjacent residential property line.	

ADU	Type I	Type II	Proposed
	(b) The wall is at an angle of 45 degrees or less to the lot line.		<i>The wall is parallel to the front property line.</i>
	(c) The wall faces an adjacent residential property.		<i>The wall faces an adjacent residential property.</i>

The Planning Manager finds that the privacy standards do not apply to the proposal as the proposed ADU is located more than 20 ft from an adjacent property line.

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 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 standards in Subsection 19.910.1.D.1 are met.
 - (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.

The Planning Manager finds that 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.

The Planning Manager finds that this criterion is met.

- (c) One accessory dwelling unit per lot is allowed.

This is the only ADU proposed on the subject property.

The Planning Manager finds that this criterion is met.

- (d) The development standards of Subsection 19.910.1.E are met.

Table 2 identifies all the development standards in Subsection 19.910.E and the proposed ADU complies with them.

The Planning Manager finds that 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, currently a guesthouse, has been constructed in a manner that mirrors the features of single-family residences in the area, with window trims, roof eaves, and a porch. 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 to be a tall single-story and 17 ft high, and is located 40 ft from the nearest residential property line, which will provide privacy for adjacent properties.

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 structure is located 40 ft from the nearest property line.

The Planning Manager finds that this criterion is not applicable.

The Planning Manager finds that the standards of MMC 19.910.1 are met.

8. MMC 12 Streets, Sidewalks, and Public Places

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

MMC 12.08.020 establishes constructions standards for new sidewalks and alterations to existing sidewalks.

Per the findings in MMC 12.16.040, below, the applicant shall construct a new driveway approach. Any changes to the sidewalk for the new driveway approach will meet the standards in MMC 12.08.020. Standards include the need for a permit to do that work and requirements needed for the permit.

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.

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.

The changes to the driveway approach to meet the standards of 12.16.040.F will meet the ADA and Milwaukie Public Works Standards.

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.

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 new driveway approach shall conform to the clear vision requirements.

As conditioned, the standard is met.

9. 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 impacts of the proposed development be mitigated in proportion to its potential impacts. Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, shall be provided in rough proportionality to the transportation impacts of the proposed development.

The proposed development does trigger mitigation of impacts due to the intensification of the use and the increased demand for transportation facilities. The City of Milwaukie identifies the impacts to public infrastructure of ADUs to be 65% of that of single-unit 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

afternoon peak trips. The trips from the proposal of an ADU, in addition to the primary single-family residence, will trigger mitigation to the transportation facilities.

Per MMC 12.16, to mitigate the impacts, the driveway apron will need to be brought up to width standards and any parts of the affected sidewalks may need to be brought up to meet ADA standards. Additionally, frontage improvements will be required to mitigate the impact of a new dwelling unit on the property.

As conditioned, the standards are 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.

d. MMC 19.708.1.A – Access Management

All development shall comply with the access management standards contained in Chapter 12.16. Per 12.16.040.E.1, driveway approaches shall meet all applicable standards of the Americans with Disabilities Act and Milwaukie Public Works Standards.

Per MMC 12.16, the driveway apron requires improvements to meet the driveway apron width.

As conditioned, the standards are met.

e. MMC19.708.1.B – Clear Vision

Developments shall comply with the clear vision requirements in Chapter 12.24.

As conditioned, the proposal shall meet the clear vision requirements.

f. MMC 19.708.1.D – Development in Non-Downtown Zones

The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of SE Boss Lane a local street. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a local street is between 20 feet and 68 feet depending on the required street improvements.

The transportation system plan classifies the portion of Morris Street fronting the property as a local street. The proposed development is at the end of the street. The existing frontage does not meet current standards for a permanent turnaround.

Based on proportionality guidelines found in MMC 19.705.2, the applicant is found responsible for dedicating sufficient right-of-way and for constructing the portion of the cul-de-sac adjacent to the property.

As conditioned, the standards are met.

g. MMC 19.708.2 Street Design Standards

MMC 19.708.2 establishes standards for street design and improvement.

The transportation system plan classifies the portion of Morris Street fronting the property as a local street. The proposed development is at the end of the street. The existing frontage does not meet current standards for a permanent turnaround. Adequate transportation design must include:

- (1) *New accessway in compliance with MMC 12.16*
- (2) *A permanent turnaround to meet Milwaukie Public Works Standards*
 - (a) *24' radius paved cul-de-sac*
 - (b) *Curb and gutter*
 - (c) *5' sidewalk along south side of the cul-de-sac*
- (3) *In place of the items 1 and 2 above:*
 - (a) *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 issuance of development permits*
- (4) *Provide dedication for sufficient right-of-way to construct final street design.*

As conditioned, this standard is met.

h. MMC 19.708.3 – Sidewalk Requirements and Standards

MMC 19.708.3.A.2 requires that public sidewalks shall conform to ADA standards.

The construction of sidewalks along the proposed development property abutting all public ROW is included in the street frontage requirements per MMC 19.708.2. All constructed public sidewalks shall conform to ADA standards.

As conditioned, the standards are met.

The applicant has applied for the city's ADU Waiver Program. If all program requirements are met and the waiver is approved, this standard is not required to be met.

10. Public notice of this application was posted on site and mailed to parties as identified in the Milwaukie Municipal Code. The application was referred to the following departments and agencies on September 24, 2020: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; and the Lewelling Neighborhood District Association Chairperson and Land Use Committee. The responses received are summarized below. Agencies did not respond if a response is not listed below.
 - Milwaukie Building Department – no comment
 - Milwaukie Engineering Department – Engineering comments have been incorporated in the findings under 19.700 and Chapter 12.