



CITY OF MILWAUKIE

November 9, 2020

Land Use File(s): ADU-2020-009

Permit(s): 601-20-001298-MD

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on November 9, 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 (Kirsten Lyons)
Location(s):	4523 SE Garrett Cir
Tax Lot(s):	1S2E31BB10500
Application Type(s):	Accessory Dwelling Unit: Detached ADU
Decision:	Approved with Conditions
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• Milwaukie Municipal Code (MMC) Section 19.301 Low Density Residential Zones (incl. R-7)• MMC Chapter 19.700 Public Facility Improvements• MMC Subsection 19.910.1 Accessory Dwelling Units• MMC Section 19.1005 Type II Review
Neighborhood(s):	Hector Campbell

Appeal period closes: 5:00 p.m., November 24, 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 Brett Kolver, Associate Planner, at 503-786-7657 or kolverb@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/ADU-2020-009.

This decision may be appealed by 5:00 p.m. on November 24, 2020, which is 15 days from the date of this decision.¹ Any person who is adversely affected or aggrieved by this decision may

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.

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. If the applicant is not successful in receiving a waiver of the requirements through the City's ADU Waiver Program, the public street improvements outlined in Finding 6-c will be required.

Other requirements

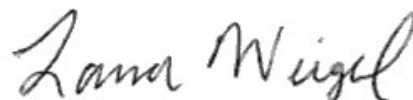
None

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: Kirsten Lyons (Wolf Industries), applicant (via email)
Jesse Nellis and Sandra Ultreras, property owners (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)
Christina Fadenrecht, Housing & Economic Development Assistant (via email)
Tim Salyers, Code Enforcement Coordinator (via email)
Mike Boumann and Matt Amos, CFD#1 (via email)
NDA(s): Hector Campbell (via email)
Interested Persons
Land Use File(s): ADU-2020-009
Address File: 4523 SE Garrett Cir
Permit File: 601-20-001298-MD

EXHIBIT 1
Findings in Support of Approval
File #ADU-2020-009, Wolf Industries ADU (4523 SE Garrett Cir)

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. On behalf of the property owners, the applicant, Wolf Industries (represented by Kirsten Lyons), has applied for approval to establish a detached accessory dwelling unit (ADU) at 4523 SE Garrett Cir. This site is in the Residential R-7 Zone. The land use application file number is ADU-2020-009.
2. The applicant has proposed to establish a new 616-sq-ft detached accessory structure as an ADU on the subject property. The new structure would be located in the northwest corner of the rear yard, near two other smaller accessory structures along the rear property line. As proposed, the ADU structure would be a modular unit constructed off site and placed on a concrete foundation over 30 ft from the nearest point of the existing house and 5 ft from the side and rear property lines.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.301 Low Density Residential Zones (incl. R-7)
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Subsection 19.910.1 Accessory Dwelling Units
 - MMC Section 19.1005 Type II Review
4. The application has been processed in accordance with MMC Section 19.1005 Type II Review, with a decision rendered by the Planning Manager. As allowed by MMC Subsection 19.1002.2.B.1, the requirement of MMC Subsection 19.1005.1 for a preapplication conference was waived by the Planning Manager. The application was deemed complete on October 20, 2020, and the public notice required by MMC Subsection 19.1005.3.B was mailed to surrounding property owners within 300 ft of the site the following day (on October 21, 2020). Public notice of the application was posted on the subject property on October 20, 2020, as required by MMC Subsection 19.1005.3.C.
5. MMC Section 19.301 Low Density Residential Zones (incl. R-7)

MMC 19.301 establishes standards for Low Density Residential zones, including the R-7 zone. The application meets the applicable standards of this section as described below.

 - a. MMC Subsection 19.301.2 Allowed Uses

MMC 19.301.2 establishes the uses allowed in the R-7 zone, including single-family detached dwellings, duplexes, and ADUs as outright permitted uses.

The primary use of the subject property is an existing single-family detached dwelling; the proposed development is an ADU. Both uses are allowed outright in the R-7 zone.

This standard is met.

b. MMC Subsections 19.301.4 and 19.301.5 Development Standards

MMC 19.301.4 and 19.301.5 establish development standards for the R-7 zone, including requirements for maximum lot coverage and minimum vegetation. The maximum allowed lot coverage is 30% of lot area, with an additional 5 percentage points granted for the establishment of detached ADUs (total of 35% lot coverage). A minimum of 30% of lot area must be vegetated.

The proposed development involves the erection of a new accessory structure in the rear yard of the subject property. Finding 7 addresses the development standards for detached ADUs that correspond with or supersede most of the applicable R-7 development standards. The only applicable standards that are not addressed elsewhere in these findings are those for lot coverage and minimum vegetation.

According to information from the County Assessor's office, the subject property is approximately 8,400 sq ft in area and is currently developed with a single-family house and two detached accessory structures (sheds). The total current lot coverage is approximately 1,950 sq ft, or 23% lot coverage. With the proposed 616-sq-ft detached ADU structure, the lot coverage percentage would rise to approximately 30.5%, well under the 35% figure allowed for R-7 lots with a detached ADU.

Including the existing house (with attached garage), two sheds, driveway, front walkway, and rear patio, there is approximately 2,400 sq ft of non-vegetated area on the site, leaving approximately 72% of the lot area for vegetation. Subtracting the proposed ADU structure (616 sq ft), the non-vegetated figure would rise to approximately 3,000 sq ft, leaving approximately 63% of the lot area for vegetation and well exceeding the 30% minimum vegetation standard.

This standard is met

The Planning Manager finds that the proposed development meets all applicable development standards of MMC 19.301.

6. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

a. MMC Section 19.702 Applicability

MMC 19.702 establishes the applicability 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.

The applicant is proposing to establish a new detached ADU, increasing the intensity of use on the subject 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, must be provided in rough proportionality to the transportation impacts of the proposed development.

The City's Engineering Department has identified the impacts of ADUs to public infrastructure to be 65% of single-family detached residences. Using this factor and numbers from the Institute of Transportation Engineers (ITE) trip generation manual, 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. The proposed development triggers mitigation of impacts due to the intensification of the use and the increased demand for and impact on public transportation facilities.

To mitigate the impacts, frontage improvements are required as detailed in Finding 6-c. The subject property has approximately 50 ft of frontage on Garrett Circle. Based on the proportionality guidelines provided in MMC Subsection 19.705.2, it is proportionate to require improvements along the subject property's Garrett Circle frontage.

The applicant has applied to participate in the City's ADU waiver program, which would waive the requirement for public street improvements. A condition has been established to acknowledge that, if the applicants' proposal does not meet the requirements of the waiver program, the frontage improvements discussed in Finding 6-c will be required.

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).

The subject property has frontage on Garrett Circle, which the City's TSP and Transportation Design Manual classify as a local street. According to MMC Table 19.708.2 Street Design Standards, the required right-of-way width for a local street is between 20 ft and 68 ft, depending on the required street improvements.

For the Garrett Circle frontage, the required half-street design consists of a 14-ft paved half street, curb and gutter, 5-ft landscape strip, and 5-ft setback sidewalk. The right-of-way needed for the required street design is 50 ft, which is the width of the existing right-of-way. No additional right-of-way dedication is necessary to achieve the required half-street design.

As noted above in Finding 6-b, improvements along the Garrett Circle frontage are proportionate and therefore required for the proposed development.

As noted above, the applicant has applied to participate in the City's ADU waiver program, which would waive the requirement for public street improvements. A condition has been

established to acknowledge that, if the applicant's proposal does not meet the requirements of the waiver program, the frontage improvements discussed in this finding will be required.

As conditioned, this standard is met.

As conditioned, the Planning Manager finds that the applicable standards of MMC 19.700 are met.

7. MMC Subsection 19.910.1 Accessory Dwelling Units

MMC 19.910.1 establishes standards for Accessory Dwelling Units (ADUs), including approval criteria and development standards, both for attached and detached units.

a. MMC Subsection 19.910.1.D Approval Standards and Criteria

MMC 19.910.1.D establishes the approval criteria for ADUs, with the following criteria for an ADU reviewed through Type II review:

(1) The standards in MMC Subsection 19.910.1.D.1 (for Type I ADUs) are met:

- (a) An ADU is an allowed use in the base zone, and any applicable overlay zones or special areas, where the ADU would be located.

The subject property is zoned Residential R-7, which allows ADUs subject to Type I or Type II review. There are no special overlays on the subject property. This standard is met.

- (b) The primary use of property for the proposed ADU is a single-family detached dwelling.

The primary use of the subject property is an existing single-family detached house. This standard is met.

- (c) One ADU per single-family home or per lot is allowed.

The subject property is currently in use only by the existing primary structure (house with attached garage); an ADU does not currently exist on the site. The proposed ADU would be the one allowed for the subject property. This standard is met.

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

Finding 7-b demonstrates compliance with the applicable ADU standards.

- (e) The proposal complies with all other applicable standards of this title

As discussed in Finding 5, the proposed development is consistent with all applicable standards of the R-7 zone that are not addressed elsewhere in these findings. As discussed in Finding 6, a condition has been established to require frontage improvements consistent with the standards of MMC Chapter 19.700, if the applicant's proposal does not comply with the requirements of the City's ADU waiver program. As conditioned, this standard is met.

As conditioned, this standard 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.

As proposed, the new ADU structure would be finished with the same style and color of horizontal lap siding as the primary structure (main house). The proposed roof style is also generally similar to that of the main house, as are the new windows. The proposed ADU is generally compatible in style with existing development on the site and on adjacent lots.

This standard 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 proposed ADU structure is a single-story building (approximately 13 ft in height) located in the northwest corner of the subject property, near the boundaries with adjacent residential properties to the west (4501 SE Garrett Cir) and north (4508 SE Monroe St). The nearest existing structure on an adjacent lot is a detached accessory structure in the rear yard of the adjacent lot to the north at 4508 SE Monroe St, within a couple feet of the common boundary; there are no nearby existing structures on the adjacent lot to the west at 4501 SE Garrett Cir.

An existing 5-ft wooden fence extends along the west side lot line of the subject property, including alongside the location of the proposed ADU structure. An existing 6-ft chain link fence with privacy slats extends along the north side lot line of the subject property, including alongside the location of the proposed ADU structure. No comments in opposition or raising privacy concerns have been received. It is reasonable to conclude that additional privacy measures are not necessary and that there will be minimal (if any) impact to the adjacent properties.

This standard 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 narrow western elevation of the proposed ADU structure includes one small window and an accessory door; the longer northern elevation includes only two windows. The main entrance of the ADU structure is on the southern elevation, facing the existing house on the subject property. As noted above in Finding 7-a-(3), the existing fencing (5-ft wooden fence along the western boundary and 6-ft chain link fence with privacy slats) provides adequate screening for the adjacent properties to the west and north. No additional screening is necessary.

This standard is met.

As conditioned, the applicable approval criteria for a Type II ADU, as established in MMC 19.910.1.D, are met.

b. MMC Subsection 19.910.1.E Standards

MMC 19.910.1.E establishes standards for ADUs, including an allowance for conversion of an existing structure, addition to an existing structure, or construction of a new structure. In the event of a conflict between the standards of MMC 19.910.1.E and other portions of the zoning code, the more restrictive provisions apply, except where specifically noted.

MMC Subsection 19.910.1.E.4 establishes the following standards for detached ADUs:

(1) MMC Subsection 19.910.1.E.4.a Maximum Allowed Floor Area

MMC 19.910.1.E.4.a sets the limit on floor area for detached ADUs at 800 sq ft or 75% of the floor area of the primary structure, whichever is less.

The primary structure is approximately 1,400 sq ft in floor area (after subtracting approximately 200 sq ft for the attached garage). The proposed ADU is 616 sq ft, or approximately 44% of the size of the primary structure.

This standard is met.

(2) MMC Subsection 19.910.1.E.4.b Footprint, Height, and Required Yards

MMC Table 19.910.1.E.4.b establishes two categories of detached ADU (Type I and Type II), with different limitations on footprint, height, and required yards for each as outlined in Table 7-b-(2) below.

Table 7-b-(2)			
Footprint, Height, and Required Yards for Detached ADUs			
Standard	Type I ADU	Type II ADU	Proposed
Maximum Structure Footprint	600 sq ft	800 sq ft	616 sq ft
Maximum Structure Height	15 ft (limited to 1 story)	25 ft (limited to 2 stories)	Approx. 13 ft (1 story)
Required Side & Rear Yard	Base zone standard (R-7 zone = 5 ft/10 ft side, 20 ft rear)	5 ft	5 ft each
Required Front Yard	10 ft behind front yard, unless located at least 40 ft from front lot line		>80 ft from front lot line
Required Street Side Yard	Base zone requirement		Not applicable

The proposed ADU meets the applicable standards for a Type II detached ADU.

(3) MMC Subsection 19.910.1.E.4.c Design Standards

MMC 19.910.1.E.4.c establishes design standards for detached ADUs, including a requirement that an ADU with a floor-to-ceiling height of 9 ft or more is required to have a roof with a minimum 4/12 pitch. In addition, detached ADUs must include at least two design details from the following list: covered porch

(at least 5 ft deep and 5 ft wide), recessed entry area at least 2 ft deep and 5 ft wide, roof eaves with a minimum projection of 12 in, horizontal lap siding between 3 to 7 in wide, and/or window trim around all windows (at least 3 in wide and 5/8 in deep).

As proposed, the ADU structure has a 4/12 roof pitch and includes horizontal lap siding and window trim that meets the minimum standard (at least 3 in wide and 5/8 in deep).

This standard is met.

(4) MMC Subsection 19.910.1.E.4.d Privacy Standards

MMC 19.910.1.E.4.d establishes privacy standards for detached ADUs. These standards are required for ADUs processed with Type I review; for ADUs processed with Type II review, the inclusion of privacy elements may be required to meet the approval criteria established in MMC Subsection 19.910.1.D.2.

Privacy standards are required on or along walls of a detached ADU (or portions thereof) where the wall is (1) within 20 ft of a side or rear lot line, (2) at an angle of 45 degrees or less to the lot line, and (3) the wall faces an adjacent residential property. To meet the privacy standard, either all windows on an applicable wall must be located in the upper third of the distance between floor and ceiling, or visual screening must be in place along that portion of the property line next to an applicable wall as well as an additional 10 lineal ft beyond the corner of the wall. Screening must be opaque; at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs must be no less than 5 ft above grade in height at the time of planting and must reach a 6-ft height within one year.

The proposed ADU structure is a single-story building (approximately 13 ft in height) located in the northwest corner of the subject property, near the boundaries with adjacent residential properties to the west (4501 SE Garrett Cir) and north (4508 SE Monroe St). The nearest existing structure on an adjacent lot is a detached accessory structure in the rear yard of the adjacent lot to the north at 4508 SE Monroe St, within a couple feet of the common boundary; there are no nearby existing structures on the adjacent lot to the west at 4501 SE Garrett Cir.

An existing 5-ft wooden fence extends along the west side lot line of the subject property, including alongside the location of the proposed ADU structure. An existing 6-ft chain link fence with privacy slats extends along the north side lot line of the subject property, including alongside the location of the proposed ADU structure. No comments in opposition or raising privacy concerns have been received. It is reasonable to conclude that additional privacy measures are not necessary and that there will be minimal (if any) impact to the adjacent properties.

This standard is met.

(5) MMC Subsection 19.910.1.E.4.e Conversion of Existing Structure

MMC 19.910.1.E.4.e establishes standards for the conversion of an existing structure into an ADU. For an existing structure that was established on or after December 1, 2012 (the date that the current ADU rules were established), the structure must meet all applicable standards for a new detached ADU; for an existing structure that was legally established prior to that date, the design standards of this subsection are not applicable.

The proposed ADU structure would be new and does not involve the conversion of an existing structure.

This standard is not applicable.

As proposed, the applicable design standards of this subsection are met.

The Planning Manager finds that, as conditioned, the proposed detached ADU meets all applicable standards of MMC 19.910.1.

8. As described in Finding 4, public notice of the application was posted on site and mailed to property owners within 300 ft of the site as required. The application was referred for comment to the following entities: Milwaukie Engineering Department, Milwaukie Building Department, Milwaukie Public Works Department, Milwaukie Community Development Department, NW Natural, North Clackamas School District, and the Hector Campbell Neighborhood District Association (NDA).

The following responses were received:

- **Dave Hedges, Land Use Committee Chair, Hector Campbell NDA:** No comments from the NDA, and no comments have been received from NDA neighbors.
- **Kirk Iverson, property owner at 4602 SE Monroe St:** No opposition to the specific ADU proposal, but several concerns in general about ADUs and the City's current ADU policy and practice:
 - Nothing in the current code ensures that an ADU used as a rental will be made "affordable."
 - An influx of ADUs in Milwaukie will have an impact on infrastructure for water, wastewater, and stormwater, as well as on parking and traffic in the neighborhood.
 - As the number of ADUs in Milwaukie increases, the City should monitor their impact on the community.