



# CITY OF MILWAUKIE

January 4, 2021

Land Use File(s): ADU-2020-010

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on December 31, 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](mailto:espanol@milwaukieoregon.gov).*

<b>Applicant(s):</b>	Alli Stangel
<b>Location(s):</b>	11805 SE 28 <sup>th</sup> Ave
<b>Tax Lot(s):</b>	11E36CA03700
<b>Application Type(s):</b>	Accessory Dwelling Unit review
<b>Decision:</b>	Approved with Conditions
<b>Review Criteria:</b>	Milwaukie Municipal Code: <ul style="list-style-type: none"><li>• MMC 12 Streets, Sidewalks, and Public Places</li></ul> Milwaukie Zoning Ordinance: <ul style="list-style-type: none"><li>• MMC 19.301 - Low density residential zones (including R-7)</li><li>• MMC 19.700 - Public Facility Improvements</li><li>• MMC 19.910.1 - Accessory Dwelling Units</li><li>• MMC 19.1005 - Type II Review</li></ul>
<b>Neighborhood(s):</b>	Lake Road

**Appeal period closes: 5:00 p.m., January 15, 2021**

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 contacting contact Vera Kolias, Senior Planner, at 503-786-7653 or [koliasv@milwaukieoregon.gov](mailto:koliasv@milwaukieoregon.gov), if you wish to view this case file or visit the project webpage at <https://www.milwaukieoregon.gov/planning/adu-2020-010>

**This decision may be appealed by 5:00 p.m. on January 15, 2021, which is 15 days from the date of this decision.**<sup>1</sup> 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](mailto: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.

### **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



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Laura Weigel, AICP  
Planning Manager

### **Exhibits**

1. Findings in Support of Approval

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<sup>1</sup> As per MMC Section 19.1010, if the 15<sup>th</sup> 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.

cc: Alli Stangel, 11805 SE 28<sup>th</sup> Ave (via email)  
Jamie Stangel (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): Lake Road (via email)

Land Use File(s): ADU-2020-010

**EXHIBIT 1**  
**Findings in Support of Approval File**  
**#ADU-2020-010, 11805 SE 28th Ave 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, Alli Stangel, has applied for approval to convert the existing guesthouse at 11805 SE 28<sup>th</sup> Ave into an accessory dwelling unit (ADU). This site is in the Residential R-7 Zone. The land use application file number is ADU-2020-010.
2. The applicant is finalizing the permit review and construction inspection process for a 576-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 in the rear yard of the property, adjacent to the northern property line. The lot is rectilinear in shape and has an area of nearly 5,925 sq ft which is smaller than the minimum lot size requirement of 7,000 sq ft, but nearly exactly the same size as the surrounding properties on 28<sup>th</sup> Ave. The lot was created by re-establishing an underlying lot line in the Hoesly's*

*Lakeside Addition subdivision. The new home and guesthouse were built to comply with all R-7 development standards.*

*The applicant has proposed to convert a recently constructed 576-sq ft guesthouse into an ADU for long-term rental purposes. The proposed ADU is located in the backyard of the primary dwelling.*

<b>Table 19.301.4 Residential Zone R-7 Development Standards</b>			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	7,000 sq ft	5,925 sq ft	<i>Non-conforming, but established via underlying subdivision lot lines.</i>
2. Lot Coverage	30% max.	2,422 sq ft 40.8% lot coverage	<i>Additional lot coverage approved per land use file #VR-2019-005.</i>
3. Minimum Vegetation	30% min.	54%	<i>Complies with standard.</i>

*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 576-sq ft guesthouse into a detached ADU. Given the structure’s 576-sq ft sf footprint with 5-ft setbacks, 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
<b>Maximum Structure Footprint</b>	600 sq ft	800 sq ft or 75% of the primary structure	<i>576 sq ft</i>
<b>Maximum Structure Floor Area</b>	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	<i>576 sq ft</i>
<b>Maximum Structure Height</b>	15 ft, limited to 1 story	25 ft, limited to 2 stories	<i>12 ft; 1 story</i>

ADU	Type I	Type II	Proposed
<b>ADU Front Yard Setback</b>	10 ft behind front yard (10' behind front façade of the primary dwelling) unless located at least 40' from the front lot line		<i>Located in the back yard.</i>
<b>Required Side and Rear Yard Setback</b>	Base zone requirement	5 ft	<i>Side: 6 ft Rear: 5 ft</i>
<b>Design Standards</b>	(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
<b>Privacy Standards</b>	(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.		

ADU	Type I	Type II	Proposed
	(a) The wall is within 20 ft of a side or rear lot line.		<i>The structure is 5 ft from a residential property line.</i>
	(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 walls face an adjacent residential property.</i>

*The Planning Manager finds that the privacy standards apply to the proposal as the proposed ADU is located 5 ft from an adjacent property line. The structure is one-story and there is a 6-ft wooden fence on the side and rear property lines. There is no opportunity for residents in the ADU to see into neighboring properties. The privacy standard is met.*

*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 12 ft high, and is located in the back yard of the property. The side and rear property lines have a 6-ft wooden privacy fence, 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 one-story. There is a 6-ft wooden privacy fence on the side and rear property lines.*

*The Planning Manager finds that this criterion is met.*

*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.

*As part of the construction of the new single-family home on the property, a new sidewalk and driveway approach were constructed. All required frontage improvements have been constructed and meet the standards in MMC 12.08.020.*

*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 existing driveway approach meets the standards of 12.16.040.F and the ADA and Milwaukie Public Works Standards.*

*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 property has an existing driveway apron that meets the driveway apron width standards.*

*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 existing driveway approach conforms to the clear vision requirements.*

*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.*

*However, all existing frontage improvements meet city standards. No additional frontage improvements will be required to mitigate the impact of a new dwelling unit on the property.*

*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).

*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 meets the driveway apron width.*

*The standards are met.*

e. MMC19.708.1.B – Clear Vision

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

*The existing driveway approach meets 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 28<sup>th</sup> Ave fronting the property as a local street. The existing frontage meet current standards for the street.*

*The standards are met.*

g. MMC 19.708.2 Street Design Standards

MMC 19.708.2 establishes standards for street design and improvement.

*The existing frontage meets the standards for 28<sup>th</sup> Ave.*

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 constructed public sidewalk fronting the property conforms to ADA standards.*

*The standards are 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 December 16, 2020: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; and the Lake Road 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.