



# CITY OF MILWAUKIE

September 10, 2021

Land Use File(s): DEV-2021-005

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on September 10, 2021.

*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>	Sam Duguay, Jackola Engineering and Architecture
<b>Location(s):</b>	9850 SE Main St
<b>Tax Lot(s):</b>	11E25CB01100
<b>Application Type(s):</b>	Development Review:
<b>Decision:</b>	Approved with Conditions
<b>Review Criteria:</b>	Milwaukie Zoning Ordinance: <ul style="list-style-type: none"><li>• Section 19.312 North Milwaukie Innovation Area</li><li>• Section 19.504 Site Design Standards</li><li>• Section 19.605 Vehicle Parking Quantity Requirements</li><li>• Section 19.608 Loading</li><li>• Section 19.609 Bicycle Parking</li><li>• Section 19.610 Carpool and Vanpool Parking</li><li>• Chapter 19.700 Public Facility Improvements.</li></ul>

**Appeal period closes: 5:00 p.m., September 27, 2021**

### Conditions of Approval

1. The Conditions of Approval for this application are included as Exhibit 2.

### Other requirements

Limitations on Development Activity

Development activity on the site shall be limited to 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday, as per MMC Subsection 8.08.070.I.

### **Findings in Support of Approval**

The Findings for this application are included as Exhibit 1.

### **Case File**

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1004 Type II Review. The complete case file for this application is available for review 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 Janine Gates, Assistant Planner, at 503-786-7627 or [gatesj@milwaukieoregon.gov](mailto:gatesj@milwaukieoregon.gov), if you wish to view this case file.

### **Appeal**

This decision may be appealed by 5:00 p.m. (please arrive by 4:45 for payment processing) on September 27, 2021, which is 15 days from the date of this decision.<sup>1</sup> 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).

### **Expiration**

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.

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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.

**Decision**

- Approved  
 Approved with Conditions  
 Denied



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Laura Weigel  
Planning Manager

**Exhibits**

1. Findings in Support of Approval
  2. Conditions of Approval
  3. Public Comments Received
- cc: Sam Duguay, Jackola Engineering and Architecture (via email)  
Todd Firestenberg, Harder Mechanical (via email)  
Laura Weigel, Planning Manager (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)

Land Use File(s): DEV-2021-005

**EXHIBIT 1**  
**Findings for Development Review for File #DEV-2021-005**  
**Harder Mechanical**

The proposal meets the applicability criteria listed in Milwaukie Municipal Code (MMC) Subsection 19.906.2.A. The application has been processed in accordance with MMC Section 19.1004 Type II Review. This table contains the City's findings on the Development Review criteria in MMC 19.906.4 and the standards associated with each criterion. Standards that are not identified in the table are found to not be applicable to the proposal.

<b>MMC SUBSECTION 19.906.4.A</b>	
<b>The proposal complies with all applicable base zone standards in Chapter 19.300.</b>	
<b>Applicable Standards</b>	<b>Findings</b>
<p>The subject property at 9850 SE Main St ("site") is located in the North Milwaukie Employment Zone (NME) Zone, and the following standards of MMC Section 19.303 are applicable.</p> <p><b>MMC Subsection 19.312.2 Uses</b></p> <p>Manufacturing and Production are permitted in the NME Zone as well as wholesale trade, warehousing, and distribution.</p>	<p>The proposal is for a 40,000 sf metal building to include three offices, a shop for preparing materials for jobs, employee break and locker rooms.</p> <p>This standard is met.</p>
<p><b>MMC Subsection 19.312.5 Development Standards</b></p> <p>MMC Table 19.312.5, the relevant development standards are:</p> <ul style="list-style-type: none"> <li>• FAR (min and max): 0.5:1 (min) 3:1 (max)</li> <li>• Building height (min/max): 25 (min) and 45-90 ft max (height bonus available – 19.312.6.A)</li> <li>• Minimum vegetation: 15%</li> <li>• Off-street parking: 1 space per 1,000 sq ft of floor area (min); 2 spaces per 1,000 sq ft of floor area (max); Min = 116/Max = 232</li> </ul>	<p>The proposed development meets the development standards as follows:</p> <ul style="list-style-type: none"> <li>• FAR (min): 0.35. This is below the minimum standard and the development is not bringing it further out of compliance.</li> <li>• Building height: 26 ft.</li> <li>• Min. vegetation: 16%</li> <li>• Off-street parking: 138 with 4 new ADA and 8 carpool parking spots.</li> </ul>

**MMC SUBSECTION 19.906.4.A**  
**The proposal complies with all applicable base zone standards in Chapter 19.300.**

Applicable Standards	Findings
	This standard is met.
<p><b>MMC Subsection 19.312.6 Detailed Development Standards</b>                      As per the detailed development standards, the relevant standards are:</p> <ul style="list-style-type: none"> <li>• MMC 19.312.6.B Screening of Outdoors, all outdoor storage areas shall be screened from adjacent properties by a 6-ft-high sight-obscuring fence or wall or by the use of vegetation. Vegetation used to screen outdoor storage areas shall be of such species, number, and spacing to provide the required screening within 1 year after planting. All screened or walled outdoor use and storage areas which abut a public street shall be set back a minimum of 25 ft from the property line(s). Within that setback area, trees and evergreen shrubs shall be planted. The plants shall be of such a variety and arranged to allow only minimum gaps between foliage of mature trees and plants within 4 years of planting.</li> <li>• MMC 19.312.6.D External Effects, Potential nuisances such as noise, odor, electrical disturbances, and other public health nuisances are subject to MMC Title 8 Health and Safety.</li> </ul>	<p>The proposed development meets the development standards as follows:</p> <ul style="list-style-type: none"> <li>• Screening of Outdoors: Landscaping plants will be chosen to allow screening from the sidewalk and Hannah Harvester to block clear sight to the storage areas to the northeast of the proposed building.</li> <li>• External Effects: the proposed structure is designed to allow fabrication of mechanical equipment indoors. Beyond parking lot lighting, all operations will be performed in the building. No noise, odors, electrical, or heat nuisances are anticipated following construction and operation of this facility.</li> </ul> <p>This standard is met.</p>

**MMC SUBSECTION 19.906.4.B**  
**The proposal complies with all applicable overlay zone and special area standards in Chapter 19.400.**

Applicable Standards	Findings
The site does not have any applicable overlay zones.	

**MMC SUBSECTION 19.906.4.C**  
**The proposal complies with all applicable supplementary development regulations in Chapter 19.500.**

Applicable Standards	Findings
<p><b>MMC Subsection 19.504 Site Design Standards</b></p> <ul style="list-style-type: none"><li>• MMC 19.504.5, distance from property line: where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 ft from the property line</li><li>• MMC 19.504.9, all development subject to Chapter 19.700 (excluding single-family and multifamily residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.</li></ul>	<ul style="list-style-type: none"><li>• There is no side yard requirement and the building is to be built on the side property line. The building will be approximately 8' from the property line to allow for construction of a sidewalk and retaining wall between the public sidewalk and private sidewalk.</li><li>• Walkways are provided to the existing building. Pedestrian circulation is provided along Hannah Harvester and Main Street. There will be a walkway connecting the parking lot to the public sidewalk and to the main entrance door of all buildings.</li></ul> <p>This standard is met.</p>

**MMC SUBSECTION 19.906.4.D**

**The proposal complies with all applicable off-street parking and loading standards and requirements in Chapter 19.600.**

Applicable Standards	Findings
<p><b>MMC 19.605.1 Minimum and Maximum Requirements</b></p> <p>MMC Table 19.605.1, the relevant Minimum To Maximum Off-Street Parking Requirements standards are:</p> <p>Warehouse/storage: The minimum requirement is .5 space per 1,000 sq ft of floor area and maximum is 1 space per 1,000 sq ft of floor area.</p> <p>Manufacturing: The minimum requirement is 1 space per 1,000 sq ft of floor area and maximum is 2 spaces per 1,000 sq ft of floor area.</p>	<p>The proposed building is 40,000 sf and includes 14,000 sf of warehouse and storage and 26,000 sf of manufacturing.</p> <p>The minimum required number of off-street parking spaces for warehouse is 7 spaces and the maximum is 14 spaces.</p> <p>The minimum required number of off-street parking spaces for manufacturing is 26 spaces and the maximum is 52 spaces.</p> <p>The site will have 88 new parking spaces for a total of 138 parking spaces and 4 new ADA stalls. Parking stalls are separated by landscape islands. Parking areas will be paved per geotechnical recommendations and will be striped to delineate the parking spaces. One driveway is provided for entrance and exit from the parking lot. Parking areas will be lit with light poles to meet the City of Milwaukie's requirements.</p> <p>This standard is met.</p>
<p><b>MMC 19.608.B Nonresidential and Mixed-Use Buildings</b></p> <p>MMC 19.608.B.2, the number of Loading Spaces, buildings with more than more than 50,000 sq ft of total floor area are required to have a minimum of two loading spaces</p>	<p>The applicant is proposing six loading docks for the new building. Two are planned to be recessed while the other four are planned to be at grade. All loading docks will be on the north side of the building which is hidden from the public right-of-way by the building.</p>

**MMC SUBSECTION 19.906.4.D**

**The proposal complies with all applicable off-street parking and loading standards and requirements in Chapter 19.600.**

Applicable Standards	Findings
	<p>Per MMC 19.608.B.3 Loading Space Standards, loading spaces shall be at least 35 ft long and 10 ft wide, and shall have a height clearance of at least 13 ft. Loading areas shall be provided on the site and be separate from parking spaces. Off-street loading areas shall have a durable and dust-free hard surface. Permeable paving surfaces may be used to reduce surface water runoff and protect water quality. Lighting of loading areas shall conform to the standards of Subsection 19.606.3.F. When submitting the building permits, include MMC 19.608.B.3: Loading Space Standards on your site plan.</p> <p>As conditioned, this standard is met.</p>
<p><b>MMC 19.609 Bicycle Parking</b>                      MMC 19.609.2, the number of bicycle parking spaces shall be at least 10% of the minimum required vehicle parking for the use.</p>	<p>The minimum parking spaces for the entire site is 77. The proposed use requires a minimum of 8 bicycle parking spaces. The applicant proposed to install 8 bike parking spaces. If there are none near the existing building on the site, the numbers will be evenly distributed between the existing and the proposed buildings.</p> <p>This standard is met.</p>
<p><b>MMC 19.610 Carpool and Vanpool Parking</b>                      MMC 19.610.2, the number of carpool/vanpool parking spaces shall be at least 10% of the minimum amount of required parking spaces.</p>	<p>The minimum carpool/vanpool parking spaces equals 8 stalls. The applicant will allocate 8 stalls as carpool and vanpool parking. They will be clearly</p>



**MMC SUBSECTION 19.906.4.D**

**The proposal complies with all applicable off-street parking and loading standards and requirements in Chapter 19.600.**

Applicable Standards	Findings
	<p>marked and placed at the southwest corner of the parking area east of the proposed building. Those parking spaces are the closest to the newly constructed building.</p> <p>This standard is met.</p>

**MMC SUBSECTION 19.906.4.E**

**The proposal complies with all applicable public facility standards and requirements, including any required street improvements, in Chapter 19.700.**

Applicable Standards	Findings
<p><b>MMC Section 19.702 Applicability</b></p> <p>MMC 19.702 establishes the applicability of the provisions of MMC 19.700, including new construction.</p>	<p>The proposed development consists of a modification and expansion of an existing structure resulting in the increase in gross floor area.</p> <p>The standards of MMC 19.700 apply.</p>
<p><b>MMC Section 19.703 Review Process</b></p> <p>MMC 19.703 outlines the review process for compliance with the procedures, requirements, and standards of MMC 19.700 and the Public Works Standards. This includes a preapplication conference and a submittal of a Transportation Facilities Review application if a Transportation Impact Study (TIS) is required.</p>	<p>As part of the processing and review for this proposed development a preapplication conference was held and the Engineering Department determined that a TIS was required.</p> <p>The project's compliance with MMC 19.700 was evaluated as part of the overall review for this proposal.</p> <p>This standard is met.</p>

<b>MMC SUBSECTION 19.906.4.E</b> <b>The proposal complies with all applicable public facility standards and requirements, including any required street improvements, in Chapter 19.700.</b>	
Applicable Standards	Findings
<p><b>MMC Section 19.704 Transportation Impact Evaluation</b>                      MMC 19.704 establishes the process and requirements for evaluating development impacts on the surrounding transportation system, including determining when a formal Transportation Impact Study (TIS) is necessary and what mitigation measures will be required.</p>	<p>A TIS was provided for the land use review and concluded that the proposed development would not have impacts on the existing vehicular traffic in the area.                       This standard is met.</p>
<p><b>MMC Section 19.705 Rough Proportionality</b>                      MMC 19.705 requires that transportation impacts of the proposed development be mitigated in proportion to its potential impacts.</p>	<p>The proposed development does not trigger mitigation impacts beyond the required frontage improvements. The surrounding transportation system will continue to operate at the level of service prior to the proposed development.                       This standard is met.</p>
<p><b>MMC Section 19.708 Transportation Facility Requirements</b>                      MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities.</p>	<p>New sidewalk and a 3-ft landscape strip are required to be constructed along the frontage of the proposed development.                       As conditioned, this standard is met.</p>
<p><b>MMC 19.709 Public Utility Requirements</b>                      MMC 19.709 establishes standards to ensure that public utilities (whether existing, expanded, or new) are adequate to serve proposed development.</p>	<p>As proposed, with the conditions of approval, the public utilities will adequately serve the proposed development.                       As conditioned, this standard is met.</p>

**Exhibit 2**  
**Conditions of Approval**  
**File #DEV-2021-005, Harder Mechanical**

**Conditions**

At the time of submission of any building permit application, the following shall be resolved:

1. Per MMC 19.608.B.3 Loading Space Standards, loading spaces shall be at least 35 ft long and 10 ft wide, and shall have a height clearance of at least 13 ft. Loading areas shall be provided on the site and be separate from parking spaces. Off-street loading areas shall have a durable and dust-free hard surface. Permeable paving surfaces may be used to reduce surface water runoff and protect water quality. Lighting of loading areas shall conform to the standards of Subsection 19.606.3.F. When submitting the building permits, include MMC 19.608.B.3: Loading Space Standards on your site plan.
2. Final plans submitted must be in substantial conformance with plans approved by this action, which are the plans stamped received by the City on August 26, 2021, except as otherwise modified by these conditions.
3. Provide a narrative describing all actions taken to comply with these conditions of approval.
4. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.

**Additional Requirements**

5. Prior to commencement of any earth-disturbing activities, the applicant shall obtain an erosion control permit.
6. Prior to final inspection of any building permit, the following shall be resolved:
  - a. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department.
  - b. Obtain a right-of-way permit for construction of the required public improvements.
  - c. Construct a 5-ft sidewalk, 3-ft landscape strip, curb, gutter, and parking along SE Hanna Harvester Dr between the western entrance driveway and the eastern edge of the property.
  - d. All new impervious surface runoff will be treated. Retention and detention facilities must comply with the 2016 City of Portland Stormwater Management Manual.
  - e. Applicant must construct the project in compliance with all Public Works Standards.
7. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(I).

**Exhibit 3**  
**Public Comments Received**  
**File #DEV-2021-005, Harder Mechanical**

The public notice of the application was posted on site and mailed to property owners within 300 ft of the site.. The application was referred for comment to the following entities: Community Development Director, Milwaukie Engineering Department, Milwaukie Building Department, Milwaukie Public Works Department, Milwaukie Police Department, City Attorney, Clackamas Fire District #1, Clackamas County Engineering Review, Metro, ODOT, Trimet, and NW Natural.

Public comments received:

Steve Dorn and Mark Hettervig, 2020 SE Hanna Harvester Dr commented: "Our biggest concern is the parking and traffic congestion. As of now they do not have enough parking to accommodate the employees they already have."

Staff responded: Due to the scope of the project, the applicant is required to provide street frontage improvements. The Engineering Department is requiring the applicant to construct a 5-ft sidewalk, 3-ft landscape strip, curb, gutter, and parking along SE Hanna Harvester Dr between the western entrance driveway and the eastern edge of the property. The applicant will construct 88 new parking stalls, which will bring the site to 138 parking spaces. The site will have more than the minimum required parking stalls per our code standards in Milwaukie Municipal Code 19.605.1 Minimum and Maximum Requirements.

Date: September 9, 2021

To: Janine Gates, Assistant Planner, City of Milwaukie

RE: 9850 SE Main Street, DEV-2021-005

A land use plan review was conducted for the listed property. It has been determined that this property is in an area with public water supply, and there are no site conditions that would prevent the applicant from constructing the proper access. Fire department access and water supply are reviewed in accordance with the 2019 edition of the Oregon Fire Code (OFC).

When submitting plans for fire department access and water supply approval please include the following information:

- Fire apparatus access
- Fire lanes
- Fire hydrants
- Fire lines
- Available fire flow
- FDC location (if applicable)
- Building square footage
- Construction type
- Fire flow test per NFPA 291 no older than 12 months

Access and water supply plans can be submitted to Clackamas Fire District #1 via e-mail to [alex.mcgladrey@clackamasfire.com](mailto:alex.mcgladrey@clackamasfire.com) (503)742-2662..

For design assistance we provide additional information including the Fire Code Application Guide, please visit our new construction website at <http://www.clackamasfire.com/fire-prevention/new-construction-resources/>

**Note: This review is to determine if the project can be designed and constructed to meet the requirements of the Oregon Fire Code, and should not be considered approval of the design as submitted.**

Alex McGladrey

Clackamas Fire District #1

Deputy Fire Marshal