



CITY OF MILWAUKIE

December 14, 2022

Land Use File(s): VR-2022-009; DEV-2022-003

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on December 13th, 2022.

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):	Alpha Stone Works (Rick Canfield)
Location(s):	2107, 2149, 2171 SE Moores St
Tax Lot(s):	1S1E25BB01800, 1S1E25BB01900, 1S1E25BB02000
Application Type(s):	Variance Request; Development Review
Decision:	Approved with Conditions
Review Criteria:	Milwaukie Municipal Code: <ul style="list-style-type: none">• MMC Section 19.312 North Milwaukie Innovation Area, Tacoma Station Area Mixed-Use (MUTSA) Zone• MMC Section 19.504 Site Design Standards• MMC 19.600 Off-Street Parking and Loading• MMC Chapter 19.700 Public Facility Improvements• MMC 19.906 Development Review• MMC Section 19.911 Variances• MMC Section 19.1006 Type III Review
Neighborhood(s):	Not Applicable (North Milwaukie Industrial Area)

Appeal period closes: 5:00 p.m., December 29, 2022

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III 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 Ryan Dyar, Assistant Planner, at 503-786-7661 or dyarr@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on December 29th, 2022, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council 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. As per Finding 6, the applicant is required to address the off-street parking area non-conformities, subject to the prioritization list and limitations in MMC 19.602.5. At the time development permits are submitted, staff will require a detailed, to-scale parking plan that demonstrates compliance with these standards. At a minimum, those improvements should include those listed below under condition #1 a-e.
 - a. Stripe and pave 15 off-street parking spaces on the property per the requirements in MMC 19.605 and MMC 19.606.
 - b. Establish new perimeter landscaping according to the requirements in MMC 19.606 where new parking is proposed on 2107 SE Moores St.
 - c. Plant trees in the perimeter landscaping area in the new perimeter landscaping at a minimum of one tree per 30 lineal ft. As required by Milwaukie Municipal Code (MMC) Subsection 19.606.2.B, trees must be species that will provide a minimum 20-ft-diameter shade canopy within 10 years of planting (based on expected growth).
 - d. As per Finding 6-e, establish a minimum of four bicycle parking spaces on the site that address the applicable standards of MMC Section 19.609.

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.

- e. Provide visual screening per the requirements in MMC 19.606.2 between the newly proposed parking at 2107 SE Moore St and the residential use on the abutting property to the west, 2101/2103 SE Moores St.
2. As per Finding 7-b, the applicant is required to pay a Fee In Lieu Of Construction (FILOC) rather than construct frontage improvements. The fee is calculated at \$89 per linear foot.

Additional Requirements

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code and Public Works Standards that are required at various points in the development and permitting process.

1. Before building permit issuance, the following must be resolved:
 - a. Submit a stormwater management plan to the City of Milwaukie Engineering Department for review and approval. The plan must be prepared per Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. Private properties may only connect to public storm systems if percolation tests show that infiltration cannot be obtained on-site. If the storm management system contains underground injection control devices, the applicant is required to submit proof of acceptance of the storm system design from the Department of Environmental Quality.

Decision

- Approved
 Approved with Conditions
 Denied



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval
- cc: Rick Canfield, Alpha Stone Works, applicant (via email)
Planning Commission (via email)
Joseph Briglio, Community Development Director (via email)
Steve Adams, City Engineer (via email)

Engineering Development Review (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Clackamas County Engineering Development Review (via email)
Oregon Department of Transportation (via email)
Metro Land Use Development Review (via email)
Tim Salyers, Code Enforcement Coordinator (via email)
Clackamas County Fire District #1 (via email)
Land Use File(s): VR-2022-009; DEV-2022-003
Address File: 2107 SE Moores St; 2149 SE Moores St; 2171 SE Moores St

ATTACHMENT 1
Recommended Findings in Support of Approval
Primary File #VR-2022-009, Design Standards Variance for Alpha Stone Works

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

1. The applicant, Rick Canfield on behalf of Alpha Stone Works, has applied for approval of a variance to three separate MMC provisions to accommodate a warehouse addition for a manufacturing use on a property that is comprised of three parcels, 2107, 2149, 2171 SE Moores St. The purpose of the request is to allow for the construction of a 2,400 sq ft warehouse addition that does not comply with the setback standard in MMC 19.504.4 and does not meet all the design standards listed in Milwaukie Municipal Code (MMC) Subsection 19.312.7. As new construction of over 1,000 sq ft within the North Milwaukie Innovation Area, the proposed development also requires development review. The primary land use file number for the variance request is VR-2022-009, with development review file number DEV-2022-003.
2. The site is in the North Milwaukie Innovation Area (NMIA), between Moores St and the Springwater Corridor Trail. It is comprised of three parcels, Lots 17, 18, and 19 of the Selwood Gardens subdivision, platted in 1911. The property is developed with multiple structures, including a single-detached dwelling, a large carport, a storefront/warehouse for Alpha Stone Works, and a beauty salon (KC Beauty Salon). The site is in the Tacoma Station Mixed-Use Area (MUTSA) zone, as are the properties to the north and east. Properties to the south are zoned North Milwaukie Employment (NME). Properties farther to the west and northwest are in the City of Portland.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.312 North Milwaukie Innovation Area, Tacoma Station Area Mixed-Use (MUTSA) Zone
 - MMC Subsection 19.504 Site Design Standards
 - MMC Chapter 19.600 Off-Street Parking and Loading
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.906 Development Review
 - MMC Section 19.911 Variances
 - MMC Section 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing, which is required by law, was originally scheduled with the Planning Commission for November 8th, 2022, but was rescheduled and held on December 13th, 2022.

4. MMC Section 19.312 North Milwaukie Innovation Area, Tacoma Station Area Mixed-Use (MUTSA) Zone
 - a. MMC 19.312 establishes standards for the North Milwaukie Innovation Area, including the Tacoma Station Area Mixed Use (MUTSA) Zone. Per MMC Table 19.312.2, construction contractors and related businesses—categorized under the larger industrial, manufacturing, and production group—are allowed as an outright permitted use in the MUTSA zone. Development standards are provided in MMC Subsections 19.312.5 and 19.312.6. The applicable standards are addressed as described in Table 1 below.

Table 1 Applicable MUTSA Development Standards			
Standard	MUTSA Requirement	Existing Property	Proposed New Warehouse
Floor Area Ratio	0.5:1 (min) 3:1 (max)	0.34:1 All Lots 0.26:1 (2107 SE Moores) 0.57:1 (2149 SE Moores) 0.22:1 (2171 SE Moores)	0.39:1 All Lots 0.38:1 (2107 SE Moores) 0.57:1 (2149 SE Moores) 0.22:1 (2171 SE Moores)
Building Height	25 ft (min) 45 ft (max) ¹	26 ft (Existing Warehouse)	26 ft (Warehouse Addition)
Front Yard	0 ft (min) 10 ft (max)	185 ft (2107 SE Moores) 26 ft (2149 SE Moores)	No change
Side Yard	0 ft	50 ft (Warehouse built over PL of 2149 SE Moores. Warehouse 50 ft to west PL of 2107 SE Moores) 6 ft (Warehouse to east PL of 2149 SE Moores St)	5 ft to the west property line (Warehouse Addition)
Rear Yard	0 ft	17 ft (Warehouse to rear property line of 2107 SE Moores)	Approximately 2 ft (Warehouse addition to the rear property line of 2107 SE Moores)
Maximum lot coverage	85%	34% (14,941 sq ft Total) 26% (2107 SE Moores) 57% (2149 SE Moores) 22% (2171 SE Moores)	39% (14,951 sq ft + 2,400 sq ft) 38% (2107 SE Moores) 57% (2149 SE Moores) 22% (2171 SE Moores)
Minimum landscaping	15%	6% Total 12% (2107 SE Moores) 1% (2149 SE Moores) 3% (2171 SE Moores)	7% Total 13% (2107 SE Moores) 1% (2149 SE Moores) 3% (2171 SE Moores)
Off-street parking	1 space per 1,000 sq ft (min for manufacturing)	4 striped spaces Two (2107 SE Moores St)	Adding 11 new spaces

	1 space per dwelling unit (min for a single-unit dwelling) 4 spaces per 1,000 sq ft (min for salon) 10,878 sq ft manufacturing; one single-unit dwelling; 1,143 sq ft salon = 15 Total	Two (2149 SE Moores St) Zero (2171 SE Moores St)	(2 additional spaces Required by new development; 9 additional spaces required to address non-conformity per MMC 19.602 and MMC 19.605; total = 15 proposed spaces)
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Per MMC 19.804.2, alterations to nonconforming development are permitted so long as they do not intensify or extend the nonconformity. While the proposal does not meet the standards for floor area ratio or minimum landscaping, the Planning Commission finds that the proposal is moving the property closer to conformance with these two standards and therefore complies with the standard for altering a nonconforming development.

b. MMC Subsection 19.312.6 Detailed Development Standards

MMC Subsection 19.312.6 includes detailed development standards that describe additional allowances, restrictions, and exemptions related to other development standards in the section.

1) MMC Subsection 19.312.6.A Height Bonuses

A height bonus is available to projects in the NMIA to exceed the 45 ft height maximum if the project pursues and receives a green building certification as identified in MMC Section 19.510.

The applicant is proposing a 26 ft tall building to be consistent with the height of the existing structure. They have not requested a height bonus.

The Planning Commission finds that the standard is inapplicable.

2) MMC Subsections 19.312.6.B Screening of Outdoor Uses

All outdoor use and storage areas are required to be screened by a 6-ft-high sight obscuring fence or wall or using vegetation. Outdoor use and storage area abutting a public street must be setback a minimum of 25 ft from the property line.

The applicant has stated in their application that the addition will enable Alpha Stone Works to move equipment currently stored outdoors inside, which will comply with the screening standard. A condition will be included requiring that any remaining outdoor storage areas must be screened according to the standard when development occurs.

As conditioned, the Planning Commission finds that the standard is met.

3) MMC Subsection 19.312.6.C Loading and Unloading Areas

This subsection requires that in the NMIA, no loading or unloading facilities shall be located adjacent to lands designated for residential use unless no feasible alternatives exist.

The property to the west (2101 SE Moores St) is zoned MUTSA but is developed with a residential use; the residence is located towards the south of the parcel, closer to SE Moores St, approximately 175 ft from the proposed addition; the residence is buffered from the manufacturing use by an existing house on 2107 SE Moores St. The applicant is proposing to utilize the existing loading area and the interior of the addition to load and unload materials using an existing overhead crane. There is no feasible alternative location to site the loading area. Moreover, the addition should enable Alpha Stone Works to move most of its loading activities inside, thereby minimizing impacts to the adjacent residential use.

4) MMC Subsection 19.312.6.D.2 External Effects in the MUTSA

To ensure compatibility between uses in the zone, standards related to noise, vibration, and illumination, are regulated for new manufacturing equipment and facilities.

The applicant is not planning to alter the nature of their manufacturing processes, just to expand their production capacity. The applicant is made aware that the impact standards in this subsection apply to any new equipment added through this development.

The Planning Commission finds that this standard can be met, and that any violation can be addressed through the City of Milwaukie Code Compliance Division.

5) MMC Subsection 19.312.6.E Additional Standards

When new residential uses are proposed next to existing manufacturing, industrial, and production uses, appropriate screening must be provided to ensure compatibility between uses.

The applicant is an existing production company and is not proposing new residential development.

The Planning Commission finds that the standard is inapplicable.

6) MMC Subsection 19.312.6 F Signage for Non-manufacturing Uses

In addition to the signage permitted in Title 14 of the MMC, one pedestrian-oriented sign is permitted per non-manufacturing related business along a building's street-facing façade.

While a non-manufacturing business does exist on the property (KC Salon), the proposed development is related to the manufacturing use and no new signage is being proposed.

The Planning Commission finds that the standard is inapplicable.

7) MMC Subsection 19.312.6.G Landscaping

A minimum of 15% landscaping of the site is required. The following types of landscaping are permitted: trees, shrubs, ground cover plants, non-plant ground covers, and outdoor hardscape features. All plantings must be maintained, and planting must comply with the standards described in this subsection. A green wall can substitute for landscaping requirements.

As indicated in Table 1 under Finding #4a, the property (and each underlying lot) is considered non-conforming with the landscaping standard. The largest section of landscaping exists on 2107 SE Moores St around the single-unit dwelling and is comprised of grass and shrubs. There are also landscaped areas in front of the entrances to Alpha Stone Works and KC Beauty; however, these are primarily comprised of mulch and therefore do not comply with the standards under this subsection. Finally, there is a landscaped buffer between the non-conforming parking area behind KC Beauty and the property to the east. The applicant has proposed improving the appearance of this area by adding low-light tolerant, non-invasive plantings along this landscaped buffer. The applicant has also proposed adding an additional landscaped buffer between the new parking area proposed on 2107 SE Moore St and the property to the west. This landscaped area will include vegetation to create a visual screen between the parking area and the abutting property to the west and will include at least two trees per MMC 19.606.2.C.

As discussed in Findings #4.a, per MMC 19.804.2, alterations to nonconforming development are permitted so long as they do not intensify or extend the nonconformity. While the proposal does not meet the standards for landscaping in the subsection, the Planning Commission finds that the proposal is moving the property closer to conformance with the requirements and therefore meets the standard for altering a nonconforming development.

c. MMC Subsection 19.312.7 Development Standards for All Uses in the MUTSA and on NME Key Streets

The development standards in this section apply to all uses in the MTUSA zone and are intended to encourage buildings designed and constructed with durable, high-quality materials. These standards generally apply to street-facing facades of new construction.

1) MMC Subsection 19.312.7.A.1 Ground-Floor and Street-facing Windows and Doors

MMC 19.312.7.A.1 observes that long expanses of blank walls negatively impact the streetscape and pedestrian environment. To mitigate this, the Subsection requires that for nonresidential new construction, 30% of the ground-floor street wall area consists of openings (i.e., windows or glazed doors). Alternatively, the standard can be reduced to 20% if the building also contains a green wall or art mural for the remaining area equal to 30%.

The applicant has elected to pursue a variance to this standard due to the location of the proposed addition near the rear of the property and to maintain an appearance consistent with the existing warehouse building. See Finding #8 for variance discussion.

With the approval of the variance, the Planning Commission finds that the standard can be met.

2) MMC Subsection 19.312.7.A.2 Building Orientation

MMC 19.312.7.A.2. requires that all buildings have at least one primary building entrance, customer entrance, tenant entrance, lobby entrance, or breezeway/courtyard entrance facing the adjoining street.

The proposed addition is adding floor area to an existing warehouse building. All the warehouse buildings are connected internally to each other and to what was once a single-detached dwelling which now serves as the storefront office space for Alpha Stone Works. The storefront office space contains the primary entrance to the building.

The Planning Commission finds that the standard is met.

3) MMC Subsection 19.312.7.A.3 Weather Protection

MMC 19.312.7.A.3 requires that all building entrances include an awning, canopy, recess, or some other shelter to shield users from the elements.

As described in finding #4.c.2 above, the primary entrance for Alpha Stone Works is located in what was once a single-unit dwelling that has been converted into a storefront. This entrance includes a covered porch. The warehouse includes other entrances that do not include any cover; however, no new entrances are proposed through this addition. Therefore, the development is not becoming more non-conforming

The Planning Commission finds that the standard is met.

4) MMC Subsection 19.312.7.A.4 Design Standards for Walls

MMC 19.312.7.A.4 prohibits exterior wall-mounted mechanical equipment. The subsection also requires that walls of buildings facing streets, courtyards, and public squares be composed of high-quality materials. The Subsection includes a table of primary, secondary, and accent materials that walls can be composed of and requires that at least 60% of the wall be made of primary materials. The subsection also requires that no more than 40% of the wall may be comprised of secondary materials, and no more than 10% of the wall may be comprised of accent materials.

The applicant is not proposing any exterior wall-mounted mechanical equipment and has elected to pursue a variance to the material requirements due to the location of the proposed addition near the rear of the property and to maintain an

appearance consistent with the existing warehouse building. See finding #8 for variance discussion.

The Planning Commission finds that the standard can be met through the approval of the variance.

5. MMC Section 19.504 Site Design Standards

MMC 19.504 contains supplemental development regulations related to site design for properties in all zones in the city.

a. MMC 19.504.4 Distance from Property Line

MMC 19.504.4 requires that where a side or rear yard is not required, and a structure is not erected at the property line, it must be at least three feet from the property line. In other words, when the side or rear yard setback is zero, which is the case in the MUTSA zone, the structure must either be built to the property line or at least three feet from the line.

The warehouse addition is proposed to be 5 ft from the western boundary (the side-yard property line) of 2107 SE Moores St and 2 ft from the boundary of the northern property line of 2107 SE Moores St (the rear property line).

The Planning Commission finds that, with the approval of the variance, the supplemental development standard in 19.504 can be met.

6. MMC Chapter 19.600 Off-Street Parking and Loading

MMC 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of these requirements includes providing adequate space for off-street parking, minimizing parking impacts to adjacent properties, and minimizing the environmental impacts of parking areas.

a. MMC Section 19.602 Applicability

MMC 19.602 establishes the applicability of the provisions of MMC 19.600, and MMC Subsection 19.602.3 establishes thresholds for full compliance with the standards of MMC 19.600. Development that results in an increase of less than 100% of the existing floor area and/or structure footprint must be brought closer into conformance with the standards of MMC 19.600. However, MMC Subsection 19.602.5 limits the cost of materials for any required improvements to 10% of the development permit value.

The existing development on the subject property includes a manufacturing structure that's roughly 8,478 sq ft, a single-unit dwelling, and a salon that's approximately 1,143 sq ft. The proposed development involves adding 2,400 sq ft of manufacturing space. The proposed development will increase the floor area and footprint by less than 100%.

The Planning Commission finds that the provisions of MMC 19.600 are applicable to the proposed development and that the site must be brought closer to conformance with the standards therein, within the 10% limit established in MMC 19.602.5.

b. MMC Section 19.605 Vehicle Parking Quantity Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand.

MMC Subsection 19.605.1 Minimum and Maximum Requirements

MMC Table 19.605.1 provides the minimum and maximum parking quantity requirements. For a single-unit dwelling, 1 off-street parking space is required per unit with no maximum. For manufacturing uses, a minimum of 1 space per 1,000 sq ft is required, with a maximum of 2 spaces per 1,000 sq ft allowed. For personal service uses, such as a beauty salon, a minimum of 4 spaces per 1,000 sq ft is required, with a maximum of 5.4 spaces per 1,000 sq ft allowed.

The existing site includes a manufacturing warehouse that is approximately 8,478 sq ft, a single-unit dwelling, and a beauty salon that's approximately 1,262 sq ft. Therefore, 13 off-street parking spaces are currently required; however, only 4 striped spaces are currently provided. With 2,400 sq ft of additional manufacturing space, 2 additional parking spaces are required, totaling 15 off-street parking spaces. The site currently provides only 4 striped off-street parking spaces. The applicant has proposed to add 11 additional parking spaces to the property, bringing the total number of spaces to 15.

As proposed, the Planning Commission finds that the proposed development brings the site into conformance with the required parking quantity standard.

c. MMC Section 19.606 Parking Area Design and Landscaping

MMC 19.606 establishes standards for parking area design and landscaping, to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and have efficient circulation.

MMC Subsection 19.606.1 establishes dimensional standards for required off-street parking spaces and drive aisles. For 90°-angle spaces, the minimum width is 9 ft and the minimum depth is 18 ft, with 22 ft drive aisles; MMC Table 19.606.1 establishes dimensional requirements for various angles of spaces. MMC Subsection 19.606.2 provides standards for perimeter and interior landscaping areas, including minimum widths and planting requirements. MMC Subsection 19.606.3 establishes various design standards, including requirements related to paving and striping, wheel stops, pedestrian access, internal circulation, and lighting.

The site currently provides four striped spaces, two are in front of the Alpha Stone Works storefront/office (2149 SE Moores St), and two are in front of KC Beauty (2171 SE Moores St). There is additional paved but unstriped parking located behind KC Beauty on the 2171 SE Moore St parcel and unpermitted parking on the south side of SE Moores St. The applicant has agreed to stop parking on the south side of SE Moores and to provide a total of 11 new paved and striped spaces. As demonstrated on the parking plan provided by the applicant, 7 of those spaces will be provided behind KC Beauty, and 4 of those spaces will be in an area that is currently unpaved, unstriped, and not currently used for parking. As proposed, these parking stalls will meet the 9 ft by 18 ft dimensional requirements and will include drive isles that are at least 22 ft wide.

The applicant has proposed to refresh the existing perimeter landscaping at 2171 SE Moores St by adding low-light tolerant, non-invasive plantings and to provide perimeter landscaping where new parking is being provided at 2107 SE Moores St. The applicant has agreed to plant a minimum of two trees in the new perimeter landscaped buffer on 2107 SE Moore St to comply with MMC Subsection 19.606.2.C.2. The applicant has also agreed to provide visual screening per MMC Subsection 19.606.2.C.3.

Given the scale of the proposed warehouse improvement, the perimeter landscaping improvements, new perimeter landscaping, and required tree plantings, together with the other parking area improvements mentioned above should not exceed the 10% limit on improvements established in MMC 19.602.5.B. Since the exact permit value is currently unknown, a condition of approval will be established to ensure that at the time of development, parking area improvements will be made to bring the property closer to conformance with the priorities in MMC 19.602.5 while also staying under the 10% limit imposed in that subsection.

As conditioned, the Planning Commission finds that the applicable standards of MMC 19.606 are met.

d. MMC Section 19.608 Loading

MMC 19.608 establishes standards for off-street loading areas and empowers the Planning Manager to determine whether loading spaces are required. Where loading spaces are required, spaces must be at least 35 ft long and 10 ft wide, with a height clearance of 13 ft, and located where not a hindrance to drive aisles or walkways.

The subject property is currently utilized for fabricating countertops; materials are unloaded with a crane inside the warehouse from a flatbed truck. There is also sufficient space outside of the warehouse on 2107 SE Moore St that meets the dimensional requirements of MMC 19.608. The facilities appear to be sufficient for the current use and the Planning Manager has determined that no additional spaces are required.

The Planning Commission finds that this standard is met.

e. MMC Section 19.609 Bicycle Parking

MMC 19.609 establishes standards for bicycle parking. Unless otherwise specified, the number of bicycle parking spaces is at least 10% of the minimum required vehicle parking for the use. In no case shall the number of bicycle spaces provided be fewer than 2. MMC Subsection 19.609.3.A requires that each bicycle parking space have minimum dimensions of 2 ft by 6 ft, with 5-ft-wide aisles for maneuvering. MMC Subsection 19.609.4 requires bike racks to be located within 50 ft of a main building entrance.

As noted in Finding 6-b, a minimum of 15 vehicle parking spaces are required, which results in a minimum of 1.5 required bicycle spaces. Currently, there are two bicycle parking spaces on site in front of KC Beauty Salon at 2171 SE Moores St. The applicant has proposed adding 2 spaces within 50 ft of the Alpha Stone Works storefront entrance at 2149 SE Moores St and adding 2 spaces at 2107 SE Moores St towards the middle of the property for employees. The

site plan provided by the applicant does not include sufficient detail to demonstrate compliance with the space, rack, and location standards (i.e., dimensional requirements, and separation from vehicle parking); however, the applicant has indicated verbally that they will comply with these standards and a condition of approval has been established to ensure that parking improvements—including for bicycles—are made in accordance with MMC 19.600 during development. Given the scale of the proposed warehouse addition, the required bicycle parking improvements will not exceed the 10% limit on improvements established in MMC 19.602.5.B.

As conditioned, the Planning Commission finds that the applicable standards of MMC 19.609 are met.

f. MMC Section 19.610 Carpool and Vanpool Parking

MMC 19.610 establishes carpool parking standards for new industrial, institutional, and commercial development with 20 or more required parking spaces. The number of carpool/vanpool parking spaces is at least 10% of the minimum required vehicle parking for the use. Parking for carpools/vanpools must be located closer to the main entrances of the building than other employee or student parking, except ADA spaces. Carpool/vanpool spaces must be clearly designated with signs or pavement markings for use only by carpools/vanpools.

As noted in Finding 6-b, a minimum of 15 vehicle parking spaces are required, which does not meet the threshold of 20 required spaces in MMC 19.610. Therefore, no carpool/vanpool spaces are required.

The Planning Commission finds that the applicable standards of MMC 19.610 are met.

As proposed and conditioned, the Planning Commission finds that the applicable standards of MMC 19.600 are met.

7. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including expansions, 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 add a 2,400 sq ft addition to an existing warehouse, which triggers the requirements of MMC 19.700.

b. MMC Section 19.703 Review Process & Fee In Lieu of Construction (FILOC)

MMC 19.703 establishes the review process for development that is subject to MMC 19.700, including requiring a preapplication conference, establishing the type of application required, and providing approval criteria.

MMC 1.703.4.D also establishes that the applicant may pay a fee in lieu of constructing the require transportation facility improvements The City Engineer will approve or deny such requests using the criteria for making FILOC determinations found in MMC 13.32.

The applicant had a preapplication conference with City staff on May 19, 2022, prior to application submittal. The proposal's compliance with MMC 19.700 has been evaluated with these findings, so a separate Transportation Facilities Review application is not required.

The City Engineer is establishing a condition that the applicant pay FILOC for the entire frontage of the property. The fee is established at \$89 per linear foot of frontage.

As conditioned, this standard is met.

c. MMC Section 19.704 Transportation Impact Evaluation

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.

The proposed development will not generate a significant number of new trips and the City Engineer has determined that a TIS is not required.

This standard is met.

d. 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.

The subject property takes access off SE Moores St. The proposed development will not generate a significant number of new trips but does still result in transportation impacts and the need for updated transportation facilities on SE Moores St.

The applicant is recommended to apply to pay a fee in lieu of constructing frontage improvements as noted in Finding 7-b.

As conditioned, this standard is met.

e. MMC Section 19.707 Agency Notification and Coordinated Review

MMC 19.707 establishes provisions for coordinating land use application review with other agencies that may have some interest in a project that is in proximity to facilities they manage.

The application was referred to the Oregon Department of Transportation (ODOT), Metro, Clackamas County Engineering, and TriMet for review and comment.

This standard is met.

f. 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. All development subject to MMC 19.700 must comply with the access management standards of MMC Chapter 12.16 and the clear vision standards of MMC Chapter 12.24.

The subject property has frontage on Moores Street, which the City's TSP and Transportation Design Manual classify as a Local Street. According to the MMC Table 193708.2 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.

As noted in Finding 7-d, the applicant may pay a Fee In Lieu of Construction rather than construct any frontage improvements.

As conditioned, this standard is met.

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

8. MMC Section 19.906 Development Review

The purpose of MMC 19.906 is to ensure compliance with the standards and provisions of the City's land use regulations through an efficient review process that effectively coordinates the City's land use and development permit review functions. As per MMC Subsection 19.906.2.B, new construction of over 1,000 sq ft in the North Milwaukie Innovation Area is subject to Type II development review. MMC Section 19.906.4 establishes approval criteria for development review, which is essentially compliance with applicable standards of MMC Chapters 19.300, 19.400, 19.500, 19.600, and 19.700 as well as with any applicable conditions of approval from prior land use approvals. MMC Subsection 19.1001.6.B.1 requires that when multiple applications are being processed concurrently, the applications shall be processed according to the highest numbered review type required for any part of the application.

The proposed development involves constructing a 2,400 sq ft warehouse addition for manufacturing use and so is subject to Type II review. As discussed below, the requested variances are each subject to Type III review. Consequently, the application for development review is being processed as a Type III review. These findings address the proposal's compliance with the applicable standards of MMC Chapters 19.300-19.700.

As proposed and conditioned and as addressed throughout these findings, the Planning Commission finds that the applicable standards of MMC 19.906 are met.

9. MMC Section 19.911 Variances

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. Ineligible variances include requests that result in a change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word “prohibited.”

The applicant has requested a variance from three MMC provisions. Two are design standards for new construction in the MUTSA Zone: MMC Subsection 19.312.7.A.1 (Ground-Floor and Street-facing Windows and Doors) and MMC 19.312.7.A.4. (Design Standards for Walls). The third is a variance from the standard in MMC 19.504.4 Distance from Property Line.

These three requests are not listed as ineligible per MMC 19.911.2.B. The requested variance meets the eligibility requirements.

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. MMC 19.911.3.A enables applicants to request up to three variances through a single application. MMC Subsection 19.911.3.B establishes the Type II review process for limited variations to certain numerical standards. MMC Subsection 19.911.3.C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

The applicant has proposed to add a 2,400 sq ft manufacturing warehouse addition without meeting all the design standards for new construction in the MUTSA zone listed in MMC 19.312.7. Specifically, the applicant is seeking discretionary relief from the requirements for ground-floor and street-facing windows and doors in MMC 19.312.7.A.1, and material requirements for exterior walls in MMC 19.312.7.A.4. The applicant is also seeking discretionary relief from the standard in MMC 19.504.4, which requires buildings where there is no required rear or side yard setback (which is the case for the MUTSA zone) to be erected either on the property line or set back at least three feet from the property line. The three variance requests are all subject to the Type III review process.

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests. For Type III variances, MMC Subsection 19.911.4.B.1 provides approval criteria related to discretionary relief and MMC Subsection 19.911.4.B.2 provides approval criteria related to economic hardship.

The applicant has elected to address the discretionary relief criteria for the requested variance.

- (1) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

As stated, the applicant is requesting a variance from three separate standards in the MMC, the standard in MMC Subsection 19.312.7.A.1, the related standard in MMC 19.312.7.A.4, and the more separate standard in MMC 19.504.4.

MMC 19.312.7.A.1 observes that long expanses of blank walls negatively impact the streetscape and pedestrian environment and requires that at least 30% of the ground-floor wall area consist of windows and doors to mitigate this effect. Alternatively, the applicant can choose to meet this requirement by including a minimum of 20% of the ground-floor area consisting of windows and doors, with the remaining percentage (to equal 30%) consisting of either a living wall or an art mural.

MMC Subsection 19.312.7.A.4 requires that the exterior walls of buildings that face a street, courtyard, or public square, be comprised of high-quality materials to provide an aesthetically pleasing mixed-use district. The subsection provides the following requirements for street-facing facades: a minimum of 60% of the façade must be comprised of primary materials—brick, stone, masonry, stucco, glass, concrete, or wood. Up to 40% of the façade can be of secondary materials—finished metal panels, concrete blocks with integral color (ground, polished, or split-face finish), fiber-reinforced cement siding, and ceramic tile. Lastly, accent materials may comprise no more than 10% of the façade as trims or accents; accent materials include concrete blocks integral color (glazed finish), standing seam and corrugated metal, glass block, vegetated wall panels, or vegetated trellises.

MMC Subsection 19.504.4 requires that where a side or rear yard is not required (as is the case in the MUTSA zone), and a structure is not to be erected on the property line, it shall be set back at least 3 feet from the property line. As far as city staff can discern, the intent of this standard is to ensure that six feet of separation is provided for fire safety purposes between buildings established on abutting properties.

The application narrative demonstrates an understating and appreciation for the purpose of each standard and discusses why they are inappropriate in this instance. The narrative states that the requirements to utilize high-quality materials and provide ample openings along the streetscape are desirable, but the benefits would be unrealized because of where the addition is proposed on the site (approximately 200 ft from the street). Moreover, the application discusses that applying the standards would result in an incongruous appearance between the existing structure and the addition. Approving the variance to the design standards would enable the addition at a lower cost and provide a structure that is better suited to the needs of the existing company; the addition would blend well with the existing structure, and the extruded metal could be repurposed in the future for a different building.

Regarding the setback standard, the applicant states correctly that there are other methods to ensure fire safety in the building code. The narrative also points out that the

relevant lot line that might be within 3 feet of the warehouse addition is shared with the Springwater Corridor Trail, which is unlikely to be developed.

The Planning Commission finds that the analysis of the impacts and benefits of the three requested variances compared to the baseline requirements is acceptable. This criterion is met.

- (2) The proposed variance is determined to be both reasonable and appropriate, and it meets one or more of the following criteria:
- The proposed variance avoids or minimizes impacts to surrounding properties.
 - The proposed variance has desirable public benefits.
 - The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.
 - The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by Chapter 16.32.

As discussed above, the intent of the standards in MMC 19.312.7 is to provide a high-quality pedestrian environment at the street level and to require new buildings to be constructed of high-quality materials to promote an aesthetically pleasing mixed-use district. However, As the applicant points out, the location of the addition is setback approximately 200 feet from the street, and therefore allowing the structure to be built without meeting the design standards in MMC 19.312.7 would not noticeably impact the pedestrian environment. Moreover, the existing manufacturing facility is composed of corrugated metal; requiring the addition to be comprised of higher quality materials would result in an incongruous appearance between the existing structure and the addition. The proposed variance, therefore, is reasonable and appropriate, as it responds to the existing built environment in a considerate manner. Additionally, approving the variance would enable the development to occur at a lower cost for a local business. As the applicant points out, the addition allows the business to expand production and consequently hire more people quickly, a desirable public benefit.

Regarding the setback standard in MMC 19.504.4, the intent, as far as city staff can discern, is to ensure adequate fire separation is provided between structures. The intent of this standard can be met through the building permitting process and therefore granting the variance is reasonable and appropriate. Moreover, as mentioned, the subject lot line is the rear property line, which abuts the Springwater Corridor trail. Considering these facts, granting the variance poses no impact on adjacent properties and responds to the existing built environment in a thoughtful manner. It also allows more development to occur while not overcommitting the site to its current use; while the redevelopment of the property is not guaranteed, the applicant notes their involvement in the NMIA planning process and has indicated that they eventually

would like to see the property redevelop to include a residential use to leveraging the property's proximity to the MAX Orange Line.

The Planning Commission finds that the three requested variances are reasonable and appropriate and that they meet one or more of the criteria provided in MMC Subsection 19.911.B.1.b.

- (3) Impacts from the proposed variance will be mitigated to the extent practicable.

No impacts from approving the variance to MMC 19.312.7.A.1 and MMC 19.312.7.A.4 have been identified. The intent of MMC 19.312.7.A.1 Ground-Floor and Street-facing Windows and Doors is to create a pleasant and inviting streetscape; however, as noted above, the placement of the warehouse addition on the property is roughly 200 feet from the front property line; consequently, the addition will not meaningfully impact the streetscape along SE Moores St. Additionally, the subject properties are located on a portion of SE Moore St. that dead ends at 99-E, McLoughlin Blvd. and is unlikely to see much foot traffic. The intent of MMC 19.312.7.A.4 Designs Standards for Walls is to require new construction to utilize high-quality materials to create an attractive environment; however, applying the standard in this instance would create an incongruous appearance with the existing extruded metal structure.

No impacts from approving the variance to MMC 19.504.4 have been identified. The intent of MMC 19.504.4 is to require that buildings be set back at least three feet from a property line if not built on the property line. The point of this standard is to encourage adequate spacing between buildings to allow development to occur without establishing a firewall. As noted above, there are building methods that mitigate fire risk; these safety requirements exist in the building code. Additionally, the rear property line abuts the Springwater Corridor trail, which is unlikely to develop.

The Planning Commission finds that approving the three requested variances would result in no impacts and therefore mitigation is not required.

As proposed, and after considering the intent of each standard for which the applicant is requesting relief, the Planning Commission finds that the requested variances meet the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.

The Planning Commission finds that the requested variances are allowable as per the applicable standards of MMC 19.911.

10. The application was referred to the following departments and agencies on October 6, 2022:

- Milwaukie Community Development Department
- Milwaukie Engineering Department
- Milwaukie Building Department
- Milwaukie Public Works Department
- City Attorney

- Clackamas Fire District #1 (CFD #1)
- Oregon Department of Transportation Development Review (ODOT)

The following entities were mistakenly excluded from the October 6th, 2022, referral. The application was referred to them on October 21st, 2022, as is required under MMC 19.707:

- TriMet
- Oregon Metro
- Clackamas County Engineering

In addition, public notice was provided as required by MMC Subsection 19.1006.3 on October 19, 2022.

Responses to the referral were received from Clackamas County Engineering and from Clackamas County Fire District #1. There was no response to the public notice mailing.

Clackamas County Engineering commented that the property and SE Moores St are both under the City of Milwaukie's jurisdiction and therefore no further comments would be provided.

Clackamas County Fire District #1 provided comments regarding the availability of a public water supply and listed what the applicant will need to show on their plans when they submit for building permits.