



CITY OF MILWAUKIE

January 11, 2024

Land Use File(s): NCU-2023-001

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on January 9, 2024.

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):	Johnson Creek Mini-Storage, LLC
Location(s):	5803 SE Johnson Creek Blvd
Tax Lot(s):	1S2E30AA, lots 7990 and 7900
Application Type(s):	Alteration of Nonconforming Use
Decision:	Approved
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• Milwaukie Municipal Code (MMC) Section 19.309 Manufacturing zone (M)• MMC Chapter 19.600 Off-Street Parking & Loading• MMC Chapter 19.700 Public Facility Improvements• MMC Section 19.804 Alteration of Nonconforming Uses and Development• MMC Section 19.1006 Type III Review
Neighborhood(s):	Lewelling

Appeal period closes: 5:00 p.m., January 26, 2024

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, City Hall, 10501 SE Main St. Please contact Brett Kolver, Senior Planner, at 503-786-7657 or kolverb@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/ncu-2023-001.

This decision may be appealed by 5:00 p.m. on January 26, 2024, 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 development utilizes its approvals 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

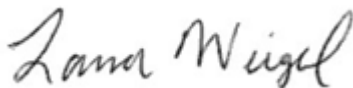
None.

Other requirements

None.

Decision

- Approved
 Approved with Conditions
 Denied



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval

cc: Patrick Shaw, Johnson Creek Mini-Storage, LLC, applicant (via email)
Todd Iselin, Iselin Architects, PC, applicant's representative (via email)
Planning Commission (via email)
Joseph Briglio, Community Development Director (via email)

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.

Jennifer Garbely, City Engineer (via email)
Engineering Development Review (via email)
Patrick McLeod, Building Official (via email)
Shawn Olson, Fire Marshal, CFD#1 (via email)
NDA(s): Lewelling (via email)
Land Use File(s): NCU-2023-001
Address File(s): 5803 SE Johnson Creek Blvd

EXHIBIT 1
Findings in Support of Approval
File #NCU-2023-001
Johnson Creek Mini-Storage Improvements

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, Johnson Creek Mini Storage, LLC, represented by Todd Iselin of Iselin Architects, PC, has applied to make improvements at the existing mini-storage facility, which is recognized as a legal nonconforming use on the site. The subject property is located at 5803 SE Johnson Creek Blvd and is zoned Manufacturing (M). The land use application file number is NCU-2023-001.
2. The subject property is comprised of two tax lots (1S2E30AA, lots 7990 and 7900) and is developed with three structures that provide a total of 45 mini-storage units. According to information from the Clackamas County Assessor's office, the existing mini-storage facility was developed in 1988, while the subject property was in unincorporated Clackamas County. The site was annexed into the Milwaukie city limits in 1992 (land use file AN-92-01), so the mini-storage facility came into the City's jurisdiction as an existing nonconforming use.

Two long, narrow buildings extend south-north on tax lot 7990, with frontage on Johnson Creek Boulevard; Building A is approximately 4,550 sq ft in area and provides 19 storage units, while Building B is 3,800 sq ft with 21 storage units. Building C is a smaller building (approximately 1,700 sq ft, with five storage units) on tax lot 7900, which is land locked. An office for the mini-storage facility is provided within an existing residential structure that has been converted to office use on the adjacent property to the east (8935 SE Stanley Pl).

3. The applicant is proposing to convert two of the existing mini-storage units in the southernmost portion of Building A into a manager's office (with restroom) and three smaller storage units. The proposal would move the facility's office function onto the subject property from the adjacent building at 8935 SE Stanley Pl and includes minor upgrades to the existing off-street parking area (including new landscaping). The proposal would not expand the footprint of the existing building where the work is proposed. However, the proposed development involves physical alteration to an existing nonconforming use and so as per MMC Subsection 19.804.1 requires Type III review and approval by the Planning Commission.
4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.309 Manufacturing zone (M)
 - MMC Chapter 19.600 Off-Street Parking and Loading
 - MMC Chapter 19.700 Public Facility Improvements

- MMC Section 19.804 Alteration of Nonconforming Uses and Development
- 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 was held by the Planning Commission on January 9, 2024, as required by law.

5. MMC Section 19.309 Manufacturing zone (M)

MMC 19.309 establishes standards for the Manufacturing (M) zone, which is intended to promote clean, employee-intensive industries that may also include related accessory uses, such as commercial and office uses, which serve the industrial area.

a. MMC Subsection 19.309.2 Permitted Uses

As per MMC Subsection 19.309.2, general manufacturing, production, the collection and assembly of durable goods, warehousing of goods, transshipment of goods from other sources, and assembly of goods from products that have been processed elsewhere are outright permitted uses in the M zone. In addition, commercial and office uses that are accessory to an industrial use are allowed, such as a gymnasium, health club, secretarial services, sandwich deli, small restaurant, and retail/wholesale commercial use and showroom. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the project involves an industrial use.

The following uses are allowed outright and do not need to be part of a project involving an industrial use: construction contractors and related businesses, repair and service businesses, and trade schools. Prohibited uses include storage, utilization, or manufacturing of explosive or other hazardous materials, and new residential uses, religious institutions, or public schools.

“Mini-storage facility” is not listed as a permitted or conditionally allowed use in the M zone, though neither is it listed as a specifically prohibited use. As discussed in Finding 2, the existing use was established while the subject property was under the jurisdiction of Clackamas County and is considered a nonconforming use. Nonconforming uses and development are subject to the provisions of MMC Chapter 19.800, including MMC Section 19.804 for alterations to nonconforming uses and development. See Finding 8 for a discussion of the proposed alteration of the existing nonconforming use.

b. MMC Subsection 19.309.6 Development Standards

MMC 19.309.6 establishes development standards for all uses allowed in the M zone. The applicable standards are addressed as described in Table 5-b below.

Table 5-b Applicable M-zone Development Standards			
Standard	M zone Requirement	Existing Facility	Modified Facility (as proposed)
Setbacks (minimum)	Front: 20 ft Interior Side: None ¹ Rear: None ¹	(Building A) Front = 19 ft Side = 0 ft Rear = c.60 ft	(Building A) Front = 19 ft (no change) Side = 0 ft (no change) Rear = c.60 ft (no change)
Building Height (maximum)	45 ft	c. 11 ft	c. 11 ft (no change)
Landscaping (minimum)	15% ²	(tax lots 7990 & 7900) c.20%	(tax lots 7990 & 7900) 21.5%
Site Access	1 curb cut (45-ft max) per 150 ft of street frontage	1 curb cut (32 ft wide)	1 curb cut (no change)

¹ Except when abutting a residential district, in which case the setback must match the abutting property.

² A variety of trees, shrubbery, and ground cover is encouraged, with street trees required along street frontages and within parking lots to help delineate entrances and provide shade and permeable areas for stormwater runoff.

No change to the footprint of any building is proposed, as the proposed improvements to establish an office space will be internal to Building A. Existing setbacks and building height will remain the same. Additional landscaping will be added adjacent to the off-street parking area between Buildings A and B and Johnson Creek Boulevard, increasing the site's compliance with the landscaping standard.

As proposed, the Planning Commission finds that the applicable development standards of MMC 19.309.6 are met.

The Planning Commission finds that the applicable M-zone standards of MMC 19.309 are 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 environmental impacts of parking areas.

a. MMC Section 19.602 Applicability

MMC 19.602 establishes the applicability of the provisions of MMC 19.600. Per Oregon Administrative Rules (OAR) 660-012-0012 and 660-12-0440, which relate to Climate-Friendly and Equitable Communities (CFEC) rulemaking, the City is prohibited from mandating minimum off-street vehicular parking quantity requirements on sites within a half mile of a frequent transit corridor or within three quarters of a mile of a rail transit stop. However, all other provisions of MMC 19.600 may still apply.

Where the existing parking situation is nonconforming, it must be brought closer to conformance when there is a change of use or development that results in an increase of less than 100% of the existing floor area and/or structure footprint. Improvements to existing off-street parking and loading areas are limited to no more than 10% of the development permit value of the associated project.

The subject property is located within a half mile of a TriMet bus line on Harney Street to the north/northwest. As per the CFEC rules the minimum off-street vehicle parking requirements of MMC Section 19.605 cannot be enforced; however, the site is subject to compliance with other applicable sections of MMC 19.600 when parking improvements are required or provided voluntarily.

Because the proposed development is not a change of use and does not increase the floor area or structural footprint, no off-street parking improvements are required. Parking at the existing facility is limited outside of the entryway gate, with only one unmarked space on the south side of Building A. The applicant has voluntarily proposed a few minor parking improvements—see the subsections below for an address of the applicable standards.

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. As per the CFEC-related limitations noted above, the City is prohibited from mandating minimum off-street vehicular parking quantity requirements because of the subject property's proximity to frequent transit provided by TriMet. However, maximum off-street vehicular parking limitations still apply. Additionally, off-street vehicular parking minimums are used to determine the required quantity of off-street bicycle parking per MMC Section 19.609 and for that reason are addressed below.

As per MMC Table 19.605.1, mini-warehouse and self-storage uses would require a minimum of one space per 45 storage units, plus one space per employee of the largest shift. The maximum off-street parking allowance for mini-storage facilities is one space per 20 storage units, plus one space per employee of the largest shift.

The existing facility currently provides 45 storage units; the proposal is to convert two of the units into office space and three smaller units, resulting in a net total of 46 units on the site. The applicant reports that at most there is only one employee on the site at any given time. Thus, as per the standards for quantity and rounding established in MMC Subsection 19.605.1, a minimum total of two parking spaces would be required without considering the CFEC rules, with a maximum of three spaces allowed.

The Planning Manager finds that the proposed development is compliant with the applicable standards of MMC 19.605.

c. MMC Section 19.606 Parking Area Design and Landscaping

MMC 19.606 establishes standards for parking area design and landscaping, to ensure that, when off-street parking areas are provided, they are safe,

environmentally sound, and aesthetically pleasing, and that they have efficient circulation.

(1) MMC Subsection 19.606.1 Parking Space and Aisle Dimensions

MMC 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 minimum depth is 18 ft, with 22-ft drive aisles.

As proposed, the applicant will formalize two existing 90°-angle spaces parking spaces—one standard space on the south side of Building A and an Americans with Disabilities Act (ADA) space on the south side of Building B (including the required adjacent loading zone). Both spaces meet the 9-ft by 18-ft minimum dimensional standards for 90°-angle spaces and will be served by a drive aisle that exceeds the 22-ft minimum width.

This standard is met.

(2) MMC Subsection 19.606.2 Landscaping

MMC 19.606.2 provides standards for perimeter and interior landscaping areas, including minimum widths and planting requirements. Perimeter landscaping areas in non-downtown zones must be at least 8 ft wide where adjacent to the public right-of-way and at least 6 ft wide where abutting other properties. One tree must be planted every 30 lineal ft, of a species that will provide a minimum 20-ft-diameter shade canopy within 10 years of planting.

Interior landscaping is only required where there are more than 10 parking spaces on the site.

The storage facility is served by an approximately 25-ft-wide drive aisle that accesses Johnson Creek Boulevard in the middle of the frontage, leaving room for an 18-ft-deep parking space on the west side and a 19.5-ft-wide space on the east side. The subject property is approximately 68 ft wide, which does not leave room for perimeter landscape buffering where the parking areas are adjacent to the properties to the east and west.

The applicant has proposed to formalize perimeter landscaping buffers on either side of the accessway at the front property line, ranging in depth from approximately 4.5 ft to 12 ft on the west side and from approximately 5 ft to 16 ft on the east side. The applicant has proposed to plant one tree in the western front perimeter area (of an adequate species to meet the canopy requirement); an existing freestanding pole sign in the eastern front perimeter area precludes the planting of a tree in that location.

Only two parking spaces are proposed, so the interior landscaping requirements are not applicable.

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

(3) MMC Subsection 19.606.3 Additional Design Standards

MMC 19.606.3 establishes various other parking area design standards, including requirements related to paving and striping, wheel stops, site access and drive aisles, pedestrian access, internal circulation, and lighting. Parking bumpers or wheel stops (minimum 4-in height) must be provided to prevent vehicles from encroaching into adjacent landscaped areas. Along collector and arterial streets, off-street parking spaces must be located so that their maneuvering areas in the drive aisle are at least 20 ft from the back of sidewalk or right-of-way boundary (where there is no sidewalk). Pedestrian walkways must be provided where any parking space is more than 100 ft from a building entrance. Lighting is required for parking areas with more than 10 spaces.

As proposed, the two existing parking spaces on the site will be repaved and striped, with a loading area adjacent to the ADA space and wheel stops provided for each space. The two existing spaces are both located with their associated maneuvering areas within 20 ft of the right-of-way, but they are an existing nonconforming situation that will not be made worse by the proposed development. No space is more than 25 ft from the gate providing secure access to the proposed new office entrance and the secured portion of the site. Existing exterior lights on both Buildings A and B will remain and provide some lighting for both parking spaces.

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

As proposed, 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. For nonresidential buildings with less than 20,000 sq ft of total floor area, no loading spaces are required.

The total floor area of the existing facility, which will not be changed by the proposed development, is approximately 10,000 sq ft. No loading spaces are required.

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 (CFEC limitations aside). In no case will fewer than two bicycle spaces be provided.

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 securely anchored and designed to allow the frame and one wheel to be locked to the rack with a U-shaped lock. Bicycle parking must be located within 50 ft of a main building entrance, closer to the entrance than the nearest non-ADA-designated vehicle parking space, designed to provide access to a public right-of-way, in a location that is visible from the main parking lot, designed

not to impede pedestrians along sidewalks, and separated from vehicle parking areas by curbing or other similar physical barriers.

As noted above in Finding 6-b, a minimum of two vehicle parking spaces would be required if not for the CFEC limitations, which translates to no bicycle parking spaces using the 10% calculation. However, the requirement for no fewer than two bicycle spaces takes precedence. Currently, there are no bicycle parking spaces on site. As proposed, a rack designed to accommodate at least two bicycles is located in the 5-ft-wide space between the south side of Building A and the vehicle parking space to the south. The rack's location provides the minimum 2-ft by 6-ft space dimensions, though without room for an adjacent aisle designated for maneuvering. The rack is within approximately 20 ft of the gate that provides secure access to the proposed new office entrance and the rest of the storage facility, a location that is closer than the non-ADA space. The rack is separated from the adjacent standard parking space by a bollard.

As proposed, the standards of MMC 19.609 are met.

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.

MMC Section 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 modify an existing structure (Building A) but will not increase the gross floor area or generate any increase in vehicle trips. The proposed development does not trigger the requirements of MMC 19.700.

MMC 19.700 is not applicable to the proposed development.

8. MMC Section 19.804 Alteration of Nonconforming Uses and Development

MMC Chapter 19.800 establishes requirements for the continuation, alteration, and rebuilding of nonconforming uses and development. Nonconforming uses and development are uses and development that do not conform to the City's current land use and development regulations, either because they were established prior to the regulations' enactment or because they conformed when they were established but the applicable regulations have since changed.

Most nonconforming uses and development may be maintained, but may not be altered, without land use review. Nonconforming uses and development may be rebuilt if destroyed in some instances. In general, however, nonconforming uses and development shall be brought into conformance with applicable land use and development regulations when redevelopment occurs.

MMC 19.804 establishes provisions related to the alteration of nonconforming uses and development, with MMC Subsection 19.804.1 specifically applicable to nonconforming uses.

a. MMC Subsection 19.804.1.A Provisions

A nonconforming use may not be moved, in whole or in part, to any portion of the site other than that occupied by the nonconforming use without land use review. No additional development or physical alterations associated with the nonconforming use may occur without land use review; but additional development or physical alterations not associated with the nonconforming use and that conform to Title 19 are allowed. No intensification of the nonconforming use may occur without land use review; however, alterations that decrease the intensity of the nonconforming use are allowed.

As noted above in Finding 5-a, the existing mini-storage facility is a legal nonconforming use. The applicant is proposing to make physical alterations to Building A that will convert two of the storage units into a manager's office space (including a restroom) and three smaller storage units. The proposed development is a physical alteration and will not decrease the intensity of the nonconforming use, so land use review is required.

b. MMC Subsection 19.804.1.B Land Use Review Required

A nonconforming use may not be moved, altered, or intensified unless such move, alteration, or intensification is approved by the Planning Commission through a Type III review per MMC Section 19.1006. The applicant must demonstrate that the proposed move, alteration, or intensification would result in no more of a detriment to surrounding properties than the existing nonconforming use.

The applicant asserts that the proposed alteration will result in no more of a detriment to surrounding properties than the existing nonconforming use. The surrounding properties were all originally developed for residential use. However, the adjacent property to the west is now used as contractor's base of operations; the adjacent property to the east is used as an office for a construction company and has been used for the manager's office for the mini-storage facility. The adjacent property to the north is still in residential use, but the topography results in the house being situated above the subject property and more than 300 ft from the project area on the site where the proposed improvements will be made.

The proposed alteration will not intensify the existing nonconforming mini-storage use and will consolidate all related business activity on the subject property, where there is currently some office-related activity on the adjacent property to the east.

The proposed alteration has been reviewed by the Planning Commission and found to result in no more of a detriment to surrounding properties than the existing nonconforming use.

This standard is met.

The Planning Commission finds that the proposed development meets the applicable standards of MMC 19.804 for alteration of a nonconforming use.

9. The application was referred to the following departments and agencies on November 17, 2023:

- Milwaukie Community Development Department
- Milwaukie Engineering Department
- Milwaukie Building Department
- Milwaukie Public Works Department
- City Attorney
- Lewelling Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
- Clackamas Fire District #1 (CFD)
- Clackamas County Department of Transportation & Development (DTD)
- Metro
- TriMet
- NW Natural

In addition, public notice was provided on December 20, 2023, as required by MMC Subsection 19.1006.3. The responses received are summarized as follows:

- **Glen Hamburg, Associate Regional Planner, Metro:** No comments. The subject property is not designated as Regionally Significant Industrial Area (RSIA), Industrial, or Employment land on Metro's Title 4 map.
- **Shawn Olson, Fire Marshal, CFD:** No comments.
- **Maitri Dirmeyer, LUC Chair, Lewelling NDA:** No comments or concerns.