



September 14, 2017

Land Use File(s): DR-2017-001; VR-2017-007

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on September 12, 2017.

Applicant(s): Kurt Schultz, SERA Architects

Appellant (if applicable)

Location(s): 2036 SE Washington St.

Tax Lot(s): 11E36 0100

Application Type(s): Downtown Design Review, Variance

Decision: Approved with Conditions

Review Criteria: Milwaukie Zoning Ordinance:

- MMC 12.16 Access Management
- MMC 19.304 Downtown Zones
- MMC 19.508 Downtown Site and Building Design Standards
- MMC 19.600 Off-Street Parking and Loading
- MMC 19.700 Public Facility Requirements
- MMC 19.907 Downtown Design Review
- MMC 19.911 Variances
- MMC 19.1006 Type III Review

Neighborhood(s): Historic Milwaukie

Appeal period closes: 5:00 p.m., Friday, September 29, 2017

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 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 Vera Koliass, Associate Planner, at 503-786-7653 or koliassv@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on Friday, September 29, 2017, which is 15 days from the date of this decision. Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a

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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

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, Kurt Schultz, SERA Architects, on behalf of Guardian Development LLC, has applied for approval to construct a 5-story mixed-use building on the property located at 2036 SE Washington St. The site is in the Downtown Mixed Use Zone and the proposal requires Downtown Design Review. The land use application file number is DR-2017-001.
2. The proposal is for a new 5-story mixed-use building located at 2036 SE Washington Street. The building will have 7,190 sq ft of retail and commercial space on the first floor and 110 multifamily dwelling units on the top 4 floors. Access to the proposed parking area will be from Washington Street. Variances are requested from the 6-ft step back requirement and from the minimum access spacing standards. The Applicant has elected to have the project reviewed through the Type III Downtown Design Review process.
3. The proposal is subject to the Milwaukie Downtown Design Guidelines and the following MMC provisions:
 - MMC 12.16 Access Management
 - MMC 19.304 Downtown Zones
 - MMC 19.508 Downtown Site and Building Design Standards
 - MMC 19.600 Off-Street Parking and Loading
 - MMC 19.700 Public Facility Requirements
 - MMC 19.907 Downtown Design Review
 - MMC 19.911 Variances
 - MMC 19.1006 Type III Review
4. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review and MMC Section 19.1011 Design Review Meetings. A public design review meeting was held on August 7, 2017, and a public hearing was held on August 22, 2017 and September 12, 2017, as required by law.
5. MMC 12.16 Access Management
 - MMC Chapter 12.16.040 establishes standards for access (driveway) requirements
 - MMC 12.16.040.C regulates accessway locations. MMC 12.16.040.C.6 regulates the distance of an accessway from an intersection for multifamily development.

Driveway access for development on a collector street (Washington Street) is required to be at least 300 ft from the nearest street intersection. The proposed development includes an accessway that is located midpoint of the proposed building, which is less than 150 ft from the intersections with 21st Avenue and Main Street. A variance application has been submitted to address this standard.

With variance approval, the proposed development is consistent with MMC 12.16.040.C.4.c.

6. MMC 19.304 Downtown Zones

MMC 19.304.2 identifies allowed uses in the Downtown Mixed Use Zone DMU.

Multifamily residential uses and a wide variety of commercial uses are permitted in the DMU Zone.

The proposed development is a mixed-use building with retail and commercial uses on the ground floor and residential apartment dwelling units on the upper floors.

The proposed development is consistent with MMC 19.304.2.

MMC 19.304.4 and 19.304.5 establish the development standards that are applicable to this site.

Table 1. Compliance with relevant DMU standards

DMU	Standards	Proposed
FAR	1:1 min/4.5:1 max with bonus for structured parking	4:1
Building height	35-65 ft max (height bonus available); 6-ft step back on floors above base maximum	<i>57 ft utilizing 2 height bonuses (residential and green building); variance requested to 6-ft step back standard</i>
Flexible ground-floor space	14-ft ground floor ceiling height; Main Street interior floor area minimum 20 ft deep	<i>14-ft ceiling height; 35-55 ft</i>
Street setback/build to lines	0 ft	<i>0 ft</i>
Frontage Occupancy	75% (Washington Street); 90% (Main Street)	100%
Primary entrances	If at the corner of Main Street and another street, must be oriented to Main Street.	<i>Retail/commercial entrance faces Main Street.</i>
Off-street parking	Nonresidential uses are exempt from the off-street parking requirements. 1 space/dwelling unit; reductions per MMC 19.605 apply	<i>With reductions for proximity to transit and additional bicycle parking, per MMC 19.605, 77 spaces required; 78 provided</i>

Subject to the approval of the requested variance, this criterion is met.

7. MMC 19.508 Downtown Site and Building Design Standards

MMC 19.508.4 establishes the building design standards for development in the DMU Zone.

19.508.4.A.2.a Vertical Building Façade

Nonresidential and mixed-use buildings 2 stories and above shall provide a defined base, middle, and top.

The proposed development complies with this standard with a tripartite façade division with a brick base, fiber cement clad middle, and cedar siding at the top.

(1) Base

The base extends from the sidewalk to the bottom of the second story or the belt course/string course that separates the ground floor from the middle of the building. The building base shall be defined by providing all of these elements:

- (a) The street-facing ground floor shall be divided into distinct architectural bays that are no more than 30 ft on center.
- (b) The building base shall be constructed of brick, stone, or concrete to create a “heavier” visual appearance.
- (c) Weather protection that complies with the standards of Subsection 19.508.4.C.
- (d) Windows that comply with the standards of Subsection 19.508.4.E.

The proposed development complies with this standard by proposing a brick base with structural canopies. Refer below to compliance with window standards.

(2) Middle

The middle of a building extends from the top of the building base to the ceiling of the highest building story. The middle is distinguished from the top and base of the building by use of building elements. The middle of the building shall be defined by providing all of the following elements:

- (a) Windows that comply with the standards of Subsection 19.508.4.E.
- (b) One of the following elements:
 - (i) A change in exterior cladding, and detailing and material color between the ground floor and upper floors. Differences in color must be clearly visible.
 - (ii) Either street-facing balconies or decks at least 2 ft deep and 4 ft wide, or a 6-ft minimum building step-back on the third floor or higher, for at least 25% of the length of the building.
- (c) A change in wall plane of not less than 24 in. deep and 24 in. wide. Breaks may include but are not limited to an offset, recess, window reveal, pilaster, pediment, coursing, column, marquee, or similar architectural feature.

The proposed development complies with this standard by proposing cedar siding combined with fiber cement and cantilevered shadowbox to distinguish the middle. Balconies are also proposed.

(3) Top

The top of the building extends from the ceiling of the uppermost floor to the highest vertical point on the roof of the building, and it is the roof form/element at the uppermost portion of the façade that visually terminates the façade. The top of the building shall provide roofs that comply with the standards of Subsection 19.508.4.F.

The proposed development complies with this standard by proposing a 48” cornice that distinguishes it from the middle of the building and establishes a visual termination of the building.

19.508.4.A.2.b. Horizontal Building Façade

- (1) Horizontal datum lines—such as belt lines, cornices, or upper- floor windows—shall line up with adjacent façades if applicable. Complies.
- (2) Significant breaks shall be created along building façades at least every 150 linear ft by either setting the façade back at least 20 ft or breaking the building into separate structures. Breaks shall be at least 15 ft wide and shall be continuous along the full height of the building. The area or areas created by this break shall meet the standards of Subsection 19.304.5.H.

This standard is not met on the Washington Street facade. This requirement is mitigated by the use of multiple bay windows and architectural features to give variety to the north building facade, as well as public art on the ground floor. The applicant has elected to have the project reviewed against the Downtown Design Guidelines as detailed in Finding 10.

The proposed development complies with this standard as the Washington Street façade complies with Downtown Design Guidelines (see Finding 10).

19.508.4.B.2 Corners

Nonresidential or mixed-use buildings at the corner of two public streets— or at the corner of a street and a public area, park, or plaza—shall incorporate two of the following features (for the purposes of this standard an alley is not considered a public street):

- a. The primary entry to the building located within 5 ft of the corner.

The proposed development complies with this standard. The primary entry to the building is located at the corner of Main Street. and Washington Street.

- b. A prominent architectural element, such as increased building height or massing, a cupola, a turret, or a pitched roof at the corner of the building or within 20 ft of the corner of the building.

The proposed development complies with this standard. A cantilevered shadow box element is included in the façade at the corner of Washington Street and Main Street.

- c. The corner of the building cut at a 45° angle or a similar dimension “rounded” corner.
- d. A combination of special paving materials; street furnishings; and, where appropriate, plantings, in addition to the front door.

19.508.C.2 Weather Protection

All buildings shall provide weather protection for pedestrians as follows:

- a. Minimum Weather Protection Coverage

- (1) All ground-floor building entries shall be protected from the weather by canopies or recessed behind the front building façade at least 3 ft.

- (2) Permanent awnings, canopies, recesses, or similar weather protection shall be provided along at least 50% of the ground-floor elevation(s) of a building where the building abuts a sidewalk, civic space, or pedestrian accessway.
 - (3) Weather protection used to meet the above standard shall extend at least 4 ft, and no more than 6 ft, over the pedestrian area, and a maximum of 4 ft into the public right-of-way. Balconies meeting these dimensional requirements can be counted toward this requirement.
 - (4) In addition, the above standards do not apply where a building has a ground-floor dwelling, as in a mixed-use development or live-work building, and the dwelling entrance has a covered entrance.
- b. Weather Protection Design

Weather protection shall comply with applicable building codes and shall be designed to be visually compatible with the architecture of a building. Where applicable, weather protection shall be designed to accommodate pedestrian signage (e.g., blade signs) while maintaining required vertical clearance.

The proposed development complies with this standard. All street frontages have steel canopies meeting these standards.

19.508.D.2 Exterior Building Materials

The following standards are applicable to the street-facing façades of all new buildings. For the purposes of this standard, street-facing façades are those abutting streets, courtyards, and/or public squares in all of the downtown. Table 19.508.4.D specifies the primary, secondary, and prohibited material types referenced in this standard.

- a. Buildings shall utilize primary materials for at least 65% of each applicable building façade.
- b. Secondary materials are permitted on no greater than 35% of each applicable building façade.
- c. Accent materials are permitted on no greater than 10% of each applicable building façade as trims or accents (e.g. flashing, projecting features, ornamentation, etc.).
- d. Buildings shall not use prohibited materials on any exterior wall, whether or not it is a street-facing façade.

The proposed development complies with this standard. The project utilizes brick masonry and cedar wood siding as a primary building material and fiber reinforced cement siding as a secondary building material.

19.508.4.E Windows and Doors

19.508.4.E.2 Main Street

For block faces along Main Street, 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.

The proposed development complies with this standard. Along Main Street, 71% of the ground-floor street area consists of openings.

19.508.4.E.3 Other Streets

For all other block faces, the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

- a. 40% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors.

The proposed development complies with this standard. Along Washington Street, 45% of the ground-floor street area consists of openings. Along 21st Avenue, 62% of the ground-floor street area consists of openings.

19.508.4.E.4 Upper Level

Along all block faces, the following standards are applicable on the upper-level building façades facing a street or public space.

- a. Upper building stories shall provide a minimum of 30% glazing. For the purposes of this standard, minimum glazing includes windows and any glazed portions of doors.

The glazing amount for the upper floors are as follows:

Uppers floors West: 35% glazing

Uppers floors East: 32% glazing

Uppers floors North: 38% glazing

- b. The required upper-floor window/door percentage does not apply to floors where sloped roofs and dormer windows are used.
- c. A minimum of 60% of all upper-floor windows shall be vertically oriented. This vertical orientation applies to grouped window arrays as opposed to individual windows.

Approximately 50% of the upper-floor windows are vertically oriented. The applicant has proposed oversized windows with an abundance of glass rather than installing windows with vertical mullions which would block the view. The applicant responds to this standard by addressing the applicable Downtown Design Guidelines (see Finding 10).

19.508.4.E.5. General Standards

- a. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 in into the façade and/or incorporating trim of a contrasting material or color.
- b. All buildings with nonresidential ground-floor windows must have a visible transmittance (VT) of 0.6 or higher.
- c. Doors and/or primary entrances must be located on the street-facing block faces and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
- d. The bottom edge of windows along pedestrian ways shall be constructed no more than 30 in above the abutting walkway surface.

- e. Ground-floor windows for nonresidential buildings shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including, but not limited to, curtains, shades, signs, or shelves.
- f. Signs are limited to a maximum coverage of 20% of the required window area.

The proposed development complies with this standard. The applicant acknowledges these standards and will ensure compliance with window glass material and first-floor tenants for signage and window coverings. The bottom edge of windows are designed to be located at sidewalk level.

19.508.6. Prohibited Window Elements

For all building windows facing streets, courtyards, and/or public squares in the downtown, the following window elements are prohibited:

- a. Reflective, tinted, or opaque glazing.
- b. Simulated divisions (internal or applied synthetic materials).
- c. Exposed, unpainted metal frame windows.

The applicant has stated that the proposed development will comply with this standard.

19.508.4.F Roofs and Rooftop Equipment

19.508.4.F.2 Roof Forms

- a. The roof form of a building shall follow one (or a combination) of the following forms:
 - (1) Flat roof with parapet or cornice.
 - (2) Hip roof.
 - (3) Gabled roof.
 - (4) Dormers.
 - (5) Shed roof.
- b. All flat roofs, or those with a pitch of less than 4/12, shall be architecturally treated or articulated with a parapet wall that projects vertically above the roofline at least 12 in and/or a cornice that projects from the building face at least 6 in.

The proposed development has a flat roof and complies with this standard. The cornice projects from the building face approximately 48”.

19.508.4.F.3. Rooftop Equipment and Screening

- a. The following rooftop equipment does not require screening:
 - (1) Solar panels, wind generators, and green roof features.
 - (2) Equipment under 2 ft high, if set back a minimum of 5 ft from the outer edge of the roof.
- b. Elevator mechanical equipment may extend above the height limit a maximum of 16 ft, provided that the mechanical shaft is incorporated into the architecture of the building.

- c. Satellite dishes, communications equipment, and all other roof-mounted mechanical equipment shall be limited to 10 ft high, shall be set back a minimum of 10 ft from the roof edge, and shall be screened from public view and from views from adjacent buildings by one of the following methods:
 - (1) A screen around the equipment that is made of a primary exterior finish material used on other portions of the building, wood fencing, or masonry.
 - (2) Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.
- d. Required screening shall not be included in the building's maximum height calculation.
As proposed the development will meet these standards.

19.508.4.G. Open Space/Plazas

19.508.2 Mixed-Use and Residential Development

The following standards apply to mixed-use buildings with more than 4 residential units and residential-only multifamily developments.

a. Outdoor Space Required

50 sq ft of private or common open space is required for each dwelling unit. The open space may be allocated exclusively for private or common use, or it may be a combination of the two uses.

b. Common Open Space

- (1) Common open space may be provided in the form of decks, shared patios, roof gardens, recreation rooms, lobbies, or other gathering spaces created strictly for the tenants and not associated with storage or circulation. Landscape buffer areas may not be used as common open space unless active and passive uses are integrated into the space and its use will not adversely affect abutting properties.
- (2) With the exception of roof decks or gardens, outdoor common open space shall be abutted on at least two sides by residential units or by nonresidential uses with windows and entrances fronting on the space.

c. Private Open Space

- (1) Private open space may be provided in the form of a porch, deck, balcony, patio, terrace, or other private outdoor area.
- (2) The private open space provided shall be contiguous with the unit.
- (3) Balconies used for entrances or exits shall not be considered as private open space except where such exits or entrances are for the sole use of the unit.
- (4) Balconies may project up to a maximum of 4 ft into the public right-of-way.

d. Credit for Open Space

An open space credit of 50% may be granted when a development is directly adjacent to, or across a public right-of-way from, an improved public park.

The proposed development complies with this standard. With 110 dwelling units, 5,500 sq ft of open space is required. Common open space is provided in the form of the building

lobby, fitness room, 2nd floor amenity room, and outdoor roof deck. Private open space is provided on the second-floor private terraces. The proposed development includes 8,571 sq ft of open space.

MMC 19.907 Downtown Design Review – Discretionary Review

Per MMC 19.907.3.C, applicants may elect to have a project reviewed through a Type III discretionary review. In such cases, applicants can address downtown design review requirements through a combination of satisfying certain design standards and, in instances where they elect not to utilize design standards, satisfying the purpose statement of the applicable standard or standards and the applicable design guidelines instead. In such a case, the public hearing and decision will focus on whether or not the project satisfies the requirements of the applicable design guidelines only. Through Type III review, applicants can address downtown design review requirements through a combination of satisfying certain design standards and, in instances where they elect not to utilize design standards, satisfying the purpose statement of the applicable standard or standards and the applicable design guidelines instead. The application materials indicate that the proposed design meets the design standards detailed in MMC 19.508, except for 19.508.4.A.2.b(2), and 19.508.4.E.4(c). Specifically, the proposed design does not meet the following standards:

- The proposed design does not include significant breaks in facades at least every 150 ft;
- Approximately 50% of the upper floor windows are vertically oriented, rather than the minimum 60% as required.

The purpose of the Building Façade Details standard is to provide cohesive and visually interesting buildings, particularly on the ground floor. The purpose of the Windows and Doors standards are to enhance street safety and provide a comfortable pedestrian environment by adding interest to exterior façades, allowing for day lighting of interior space, and creating a visual connection between interior and exterior spaces.

The Applicable Downtown Design Guidelines to review in connection with these 3 areas of non-compliance are:

- Milwaukie Character Guidelines
- Pedestrian Emphasis Guidelines
- Architectural Guidelines
- Lighting Guidelines

Finding 10 details consistency with the applicable Downtown Design Guidelines as they relate to the above-mentioned design standards.

8. MMC 19.600 Off-Street Parking and Loading
MMC 19.605.1 Off-Street Parking Requirements

MMC 19.605.1 establishes minimum and maximum off-street parking requirements. The minimum number of off-street parking spaces required for multi-family dwellings in the DMU is 1 space per dwelling unit; the maximum is 2 spaces per dwelling unit.

MMC 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

MMC 19.605.3.B establishes standards for reductions to minimum parking requirements. The total reduction to required parking allowed in the DMU is 30%. Parking for all uses may be reduced by 25% if the development is within 1,000-ft walking distance of a light rail transit stop. The amount of required parking for all non-single-family residential uses may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609.

The proposed development is a mixed-use development with 110 multi-family dwelling units, for a base minimum requirement of 110 parking spaces and 27 bicycle parking spaces (50% of which must be covered or secured). The proposed development is within 1,000 ft of the downtown Orange Line light rail station and includes 94 covered and secured bicycle parking spaces. The proposal is entitled to a 30% reduction in the minimum required parking for a total reduction of 33 spaces. The minimum required number of spaces, with reductions, is 77 spaces. 78 parking spaces in mechanical spaces are provided.

This criterion is met.

9. MMC 19.700 Public Facility Requirements

MMC 19.700 contains regulations for Public Facility Improvements. The proposal complies with these regulations as described in this finding.

- A. MMC Chapter 19.700 applies to partitions, subdivisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

The applicant proposes to construct a new 5-story mixed-use building. The proposal triggers the requirements of MMC Chapter 19.700.

MMC 19.700 applies to the proposed development.

- B. MMC 19.703 contains the requirements for the review process for all proposed developments subject to Chapter 19.700.
- (1) MMC 19.703.1 requires a pre-application conference for proposals that require a land use application. The requirement was satisfied on January 26, 2017.
 - (2) MMC 19.703.3.B requires that development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per MMC 19.705. The applicant will provide transportation improvements and mitigation in rough proportion to the

potential impacts of the development. As conditioned, the proposal is consistent with MMC 19.703.3

- C. MMC 19.704 requires submission of a transportation impact study documenting the development impacts on the surrounding transportation system.

The applicant submitted a transportation impact study, which was reviewed and approved by the City and its consulting engineer.

The proposed development is consistent with MMC 19.704.

- D. MMC 19.705 requires that transportation impacts of the proposed development be mitigated in rough proportion of the impacts.

The proposed development does not trigger mitigation of impacts beyond the required frontage improvements. The impacts are minimal and the surrounding transportation system will continue to operate at the level of service prior to the proposed development.

The proposed development, as conditioned, is consistent with MMC 19.705.

- E. MMC 19.708.1 requires that all development shall comply with access management, clear vision, street design, connectivity, and intersection design and spacing standards.

19.708.1.A – Access Management

Access requirements shall comply with access management standards contained in Chapter 12.16.

19.708.1.B – Clear Vision

Clear vision requirements shall comply with clear vision requirements contained in Chapter 12.24.

19.708.1.C – Development in Downtown Zones

Per Public Works standard drawing 718B – Washington Street Cross Section, applicant is responsible for construction of a 12-foot wide sidewalk, curb and gutter, street lighting and half street asphalt reconstruction. Improvements will also include undergrounding of all overhead utilities.

Per Public Works standard drawing 711C – Main Street Cross Section, applicant is responsible for construction of a 16-foot wide sidewalk, curb and gutter, and half

street asphalt reconstruction. Improvements will also include undergrounding of all overhead utilities.

The driveway approach on 21st Avenue shall be removed and replaced with standard curb & gutter and sidewalk.

The existing right-of-way width of Washington Street, 21st Avenue and Main Street fronting the proposed development are adequate width and applicant is not responsible for any right-of-way dedication.

As conditioned, the development shall conform to MMC 19.708.1.C.

- F. MMC Section 19.708.2 establishes standards for street design and improvement.

Street design standards have been addressed above under MMC 19.708.1.D.

- G. MMC 19.708.3 requires that sidewalks shall be provided on the public street frontage of all development.

The construction of sidewalks along the proposed development property abutting all public rights-of-way is included in the street frontage requirements.

The proposed development, as conditioned, will conform to MMC 19.708.3.A.2 through Condition of Approval.

- H. MMC 19.708.4 establishes standards for bicycle facilities.

The portion of Washington Street fronting the proposed development is not classified as a bike route in the Milwaukie Transportation System Plan. Construction of bicycle facility improvements on the Washington Street frontage are not required for the proposed development.

The Main Street frontage is identified as a shared bike facility, and construction of a bike lane will not be required.

The proposed development as proposed is consistent with MMC 19.708.4

- I. MMC 19.708.5 establishes standards for pedestrian and bicycle paths.

The proposed development does not present an opportunity to provide a pedestrian or bicycle path, and is not required to provide them.

MMC 19.708.5 does not apply to the proposed development.

- J. MMC Section 19.708.6 establishes standards for transit facilities.

Transit facilities have already been constructed with previous improvements.

Therefore, MMC 19.708.6 does not apply to the proposed development.

- 10. MMC 19.907 Downtown Design Review

MMC 19.907.7 establishes the approval criteria for design review applications and the process for modifications to the downtown design standards. The approval authority may

approve, approve with conditions, or deny a design review application based on the following criteria:

- a. Compliance with Title 19 Zoning Ordinance
As detailed in Findings 3-9, the proposed development complies with Title 19. As conditioned, and subject to variance approval, this criterion is met.
- b. Compliance with applicable design standards in Section 19.508.
As detailed in Finding 7, the proposed development complies with Section 19.508, except for 19.508.4.A.2.b(2), and 19.508.4.E.4(c) which are reviewed against the applicable Downtown Design Guidelines.
- c. Substantial consistency with the purpose statement of the applicable design standard and the applicable Downtown Design Guideline(s) being utilized in place of the applicable design standard(s).

Refer to Table 1 below for detailed findings for Downtown Design Guidelines as related to Building Façade Details specified in 19.508.4.A.2.b(2): horizontal building façade and 19.508.4.E.4(c): windows and doors.

The purpose of the Building Façade Details standard is to provide cohesive and visually interesting buildings, particularly on the ground floor.

The proposed development addresses this purpose statement by using a vertical band of 4 projecting windows and color and material changes to give variety to the façade and break up the wall. In addition, the proposal includes public art, in the form of a mural, on the wall area on either side of the parking garage entrance door. The retail/commercial ground floor is designed in brick with large roll-up doors for retail uses and large glass windows and double doors to activate the storefront area.

The purpose of the Windows and Doors standards are to enhance street safety and provide a comfortable pedestrian environment by adding interest to exterior façades, allowing for day lighting of interior space, and creating a visual connection between interior and exterior spaces.

The proposed development address this purpose statement by designing the retail/commercial ground floor with large roll-up doors for retail uses and large glass windows and double doors to activate the storefront area. Although the garage entrance area is not glazed, the proposed development includes a mural on the wall

area on both sides of the parking garage entrance door to add visual interest and integrate art into the building's design.

Applicable Downtown Design Guidelines, of which specific sections are analyzed, are:

- *Milwaukie Character Guidelines*
- *Pedestrian Emphasis Guidelines*
- *Architectural Guidelines*
- *Lighting Guidelines*

Table 1. Downtown Design Guidelines

MILWAUKIE CHARACTER GUIDELINES	
Guideline	Recommended Findings
Reinforce Milwaukie's Sense of Place	<p><i>The proposed development is a 5-story mixed-use building with active retail storefront on all frontages. The building has been designed to orient views toward the Willamette River and is asymmetrical to reduce the bulk of the building to ensure compatibility with surrounding buildings. The Washington Street frontage will include a ground floor mural to reflect the City's heritage and character. The proposed use of natural stained cedar siding reflects the City's horticultural history.</i></p> <p><i>The proposed development, as conditioned, meets this guideline.</i></p>
Integrate the Environment	<p><i>The building is designed to orient views toward the Willamette River and includes a second-floor podium terrace with patios and stormwater gardens overlooking the river. The building is designed to achieve Green Globes certification and all off-street parking is interior to the building.</i></p> <p><i>The proposed development meets this guideline.</i></p>
Promote Linkages to Horticultural Heritage	<p><i>The Washington Street frontage will include a ground floor mural to reflect the City's heritage and character. The proposed use of natural stained cedar siding reflects the City's horticultural history as well as the use of dogwoods and flowering ornamental trees as street trees at the sidewalk and on the second-floor terrace.</i></p> <p><i>The proposed development meets this guideline.</i></p>

<p>Establish or Strengthen Gateways</p>	<p><i>This site occupies a key location in downtown, being very visible from the northbound lanes of McLoughlin Blvd as well as its proximity to the Orange Line light rail station for people exiting the train in downtown. Its design, with distinct corner entrances at both corners of Washington Street and 21st Avenue and Main Street as well as cantilevered shadowbox façade treatments and cornice roofline provide downtown with a solid architectural anchor at the south end.</i></p> <p><i>The proposed development meets this guideline.</i></p>
<p>Consider View Opportunities</p>	<p><i>The building is designed to orient views toward the Willamette River and includes a second-floor podium terrace with patios and stormwater gardens overlooking the river.</i></p> <p><i>The proposed development meets this guideline.</i></p>
<p>Consider Context</p>	<p><i>The proposed building will be the tallest building in south downtown. However, it is designed with a brick base to establish a pedestrian context and a cornice roofline to be compatible with other surrounding buildings. Although a new, modern building, the materials selected (brick, cement panels, and cedar siding) are not inconsistent with other development in the area.</i></p> <p><i>The proposed development meets this guideline.</i></p>
<p>Promote Architectural Compatibility</p>	<p><i>The proposed building design includes natural stained cedar siding which, in addition to the ground floor brick, is compatible with surrounding buildings, including the buildings directly north and west which are brick and wood frame buildings. The fiber cement middle is compatible with surrounding masonry buildings.</i></p> <p><i>The proposed development meets this guideline.</i></p>
<p>Preserve Historic Buildings</p>	<p><i>This guideline does not apply to the proposed development as the site is not identified as an Historic Resource.</i></p>
<p>Use Architectural Contrast Wisely</p>	<p><i>In addition to the materials selection of brick, fiber cement, and cedar siding, the cantilevered shadowbox effect and bay windows reduce the bulk of the building and provide contrast.</i></p> <p><i>The proposed development meets this guideline.</i></p>
<p>Integrate Art</p>	<p><i>The proposed development includes a ground floor mural on the Washington Street façade and on the south-facing façade visible from Adams Street Connector which will integrate art into the building's design.</i></p> <p><i>The proposed development, as conditioned, meets this guideline.</i></p>

PEDESTRIAN EMPHASIS GUIDELINES	
Guideline	Recommended Findings
<p>Reinforce and Enhance the Pedestrian System</p> <p>Barriers to pedestrian movement and visual and other nuisances should be avoided or eliminated, so that the pedestrian is the priority in all development projects.</p>	<p><i>The proposed development is proposing new sidewalks that meet the Public Area Requirements on the Main Street and Washington Street frontages. All trash rooms are located inside the building and all utilities will be located inside the building or in sidewalk vaults.</i></p>
<p>Define the Pedestrian Environment</p> <p>Provide human scale to the pedestrian environment, with variety and visual richness that enhance the public realm.</p>	<p><i>The proposed design addresses pedestrians, and creates a human-scale environment, in a number of ways:</i></p> <ul style="list-style-type: none"> • <i>Includes active retail storefronts on all 3 frontages with glass overhead doors for shops</i> • <i>Significant entrances at both corners with Washington Street</i> • <i>New sidewalks are proposed on the Main Street and Washington Street frontages</i> • <i>Fixed canopies over all entrances are proposed to protect pedestrians from the elements</i> • <i>A ground floor mural is proposed on the Washington Street facade</i> • <i>The building is proposed with a zero lot line, establishing a street wall to reflect an urban character</i> <p><i>The proposed development, as conditioned, meets this guideline.</i></p>
<p>Protect the Pedestrian from the Elements</p>	<p><i>Fixed canopies are proposed to protect from elements. The proposed development meets this guideline.</i></p>
<p>Provide Places for Stopping and Viewing</p>	<p><i>The proposed development provides places for stopping and view by including the following:</i></p> <ul style="list-style-type: none"> • <i>Active retail storefronts on all 3 frontages with glass overhead doors for shops</i> • <i>Significant entrances at both corners with Washington Street</i> • <i>Fixed canopies over all entrances are proposed to protect pedestrians from the elements</i> • <i>A ground floor mural is proposed on the Washington Street facade</i> <p><i>The proposed development, as conditioned, meets this guideline.</i></p>
<p>Create Successful Outdoor Spaces</p>	<p><i>This guideline does not apply to the Building Façade Details standard.</i></p>

Integrate Barrier-free Design	<i>This guideline does not apply to the Building Façade Details standard.</i>
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ARCHITECTURE GUIDELINES	
Guideline	Recommended Findings
Corner Doors	<p><i>The proposed design includes prominent retail/commercial entrances at both corners on the site with Washington Street.</i></p> <p><i>The proposed development, as conditioned, meets this guideline.</i></p>
Retail and Commercial Doors	<p><i>Storefronts are proposed to have full glass door, including double doors with transom lights and side lights and glass overhead garage doors to retail shops to connect the building to the street and, thereby, to pedestrians.</i></p> <p><i>The proposed development meets this guideline.</i></p>
Residential Doors	<i>This guideline does not apply to the proposed development.</i>
Wall Materials	<p><i>The proposed development promotes permanence through a design intended to convey a contemporary northwest style of architecture with a brick base, fiber cement clad middle, and cedar siding at the top and on the bay windows.</i></p> <p><i>The proposed development meets this guideline.</i></p>
Wall Structure	<p><i>The proposed development provides scale defining devices through:</i></p> <ul style="list-style-type: none"> • <i>The facades have a tripartite façade division of base, middle, and top with an overhanging cornice like established neighbors (compatibility)</i> • <i>Brick base establishes the pedestrian scale like established neighbors</i> • <i>The 5th floor is differentiated to reduce its overall perceived height to be compatible with the Milwaukie downtown scale</i> • <i>Vertical stacking of windows, piers, and bay windows</i> <p><i>The proposed development meets this guideline.</i></p>
Retail Windows	<p><i>The proposed design creates successful retail windows through:</i></p> <ul style="list-style-type: none"> • <i>Large glass storefront windows at all retail locations</i> • <i>All doors are double doors</i> • <i>All doors have transom lights and side lights</i> • <i>All retail locations have canopies</i>

	<i>The proposed development meets this guideline.</i>
Residential Bay Windows	<i>Residential projecting windows extend from levels 2-5 and occur on every building elevation and all projecting windows are clad in cedar siding.</i> <i>The proposed development meets this guideline.</i>
Silhouette and Roofline	<i>Project Galaxy creates interest and detail in Silhouette and Roofline through:</i> <ul style="list-style-type: none"> • <i>Residential projecting windows that extend from levels 2-5 occur on every building elevation</i> • <i>Continuous cornice overhang at the roof line</i> • <i>The 5th floor is differentiated to reduce its overall perceived height to be compatible with the Milwaukie downtown scale</i> <i>The proposed development meets this guideline.</i>
Rooftops	<i>The proposed design includes a continuous deep cornice overhang at the roof line which expresses the top of the building wall. The proposed cornice is of sufficient depth (48") to be proportional to the height of the wall.</i> <i>The proposed development meets this guideline.</i>
Green Architecture	<i>The building is proposed to be constructed to achieve Green Globes certification as follows: maximize natural light, high performance envelope, recycled and low VOC materials, stormwater gardens on Level 2, and energy efficient lighting, HVAC, and appliances.</i> <i>The proposed development meets this guideline.</i>
Building Security	<i>This guideline does not apply to the Building Façade Details standard.</i>
Parking Structures	<i>This guideline does not apply to the Building Façade Details standard.</i>

LIGHTING GUIDELINES	
Guideline	Recommended Findings
Exterior Building Lighting	<i>The proposed design includes exterior building lighting integral to the façade, particularly on the ground floor.</i> <i>The proposed development meets this guideline.</i>
Parking Lot Lighting	<i>This guideline does not apply to the Building Façade Details standard.</i>
Landscape Lighting	<i>This guideline does not apply to the Building Façade Details standard.</i>
Sign Lighting	<i>No signs are proposed as part of this application. This guideline is not applicable to this project.</i>

SIGN GUIDELINES	
Guideline	Recommended Findings
(7 guidelines related to Signs)	<i>No signs are proposed as part of this application. The Sign guidelines are not applicable to this project.</i>

The Planning Commission finds that the proposal, as conditioned, is substantially consistent with the applicable Downtown Design Guidelines and that this approval criterion has been met.

The Planning Commission finds that that with the listed conditions the approval criteria for Downtown Design Review are met.

11. MMC 19.911 Variances

A. MMC 19.911.3 establishes the review process for variance applications.

The applicant has requested the following variances:

- A variance to the requirement in MMC 19.304.5.B.2.d for a 6-foot step back for a street-facing portion of the building. This type of variance is not specified in the list of Type II variances.
- A Variance from the access spacing standards in MMC 12.16.040.C.4.c., which is not specified in the list of Type II variances

The Planning Commission finds that the Variance application for the 2 variances is subject to Type III Variance review.

B. MMC 19.911.4.B establishes criteria for approving Type III Variance applications.

An application for a Type III Variance shall be approved when all of the criteria in either 19.911.4.B.1 or 2 have been met. An applicant may choose which set of criteria to meet based upon the nature of the variance request, the nature of the development proposal, and the existing site conditions.

The applicant has chosen to address the criteria of 19.911.4.B.1 Discretionary Relief Criteria.

- (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.

The applicant's narrative addresses this code section as follows:

- *Street Spacing: The Washington Street frontage is 210 ft in length. The development is required to have a single curb cut on Washington Street to access the parking garage as vehicular access is prohibited on Main Street and 21st Avenue. The curb cut to access the garage is located mid-block to stay as far away from either corner as possible. Washington Street is a collector road.*

The code requires 300-ft spacing for accessways on collector roads and the spacing proposed is less than 150 ft.

- *Step Back: To address the variance to the 6-ft step back requirement, the applicant states that the building exterior is designed to promote permanence and quality. The facades have a tripartite façade division of base, middle, and top with an overhanging cornice. The 5th floor is differentiated to reduce its overall perceived height to be compatible with the Milwaukie downtown scale. Level 5 has a continuous cornice at the roof line and is materially differentiated from the body of the building by being clad in cedar siding. A metal trim band also defines this level at the 5th floor line. In addition, the applicant proposes a cement panel cantilevered shadowbox on the Washington Street façade to reduce the perceived height and bulk of the building and to provide relief and give the illusion of a step back at the upper floors.*

According to the applicant, if the 4th and 5th floors were set back 6 ft on 3 sides, the project would lose approximately 5,000 sq ft of residential leasable area and at least 16 residential units.

There would also be a significant increase in structural and exterior skin costs to set back the top floor (transfer beams must be added, plumbing runs would not stack in the units, HVAC ducts would not stack, and the roofs at the setback areas would require significant waterproofing as part of the wood frame construction).

The loss of the residential leasable area coupled with the cost of construction would severely impact the feasibility of the project. The proposed design of the building addresses the purpose of this standard, resulting in a building that has a reduced perceived bulk, particularly as it is an asymmetrical design and L-shaped.

The Planning Commission finds that this criterion is met.

- (2) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
 - (a) The proposed variance avoids or minimizes impacts to surrounding properties.

No impacts to surrounding properties by either variance have been identified.

The proposed curb cut to the garage has been located at mid-block to stay as far away from either corner as possible. The applicant submitted a traffic study to the City of Milwaukie that shows minimal impact to the street system from the parking garage.

For the step-back requirement, the 5th floor is differentiated to reduce its overall perceived height to be compatible with the Milwaukie downtown scale, and is treated similar to the setback architecturally to create the desired architectural scale desired by the zoning code

As conditioned, the Planning Commission finds that this criterion is met.

- (b) The proposed variance has desirable public benefits.

“Public benefits” are typically understood to refer to benefits to be enjoyed by members of the general public as a result of a particular project, or preservation of a public resource.

The variances allow for the project to move forward and for more housing units to be built in the downtown, which addresses a need identified in the Housing Needs Analysis.

As conditioned, the Planning Commission finds that this criterion is met.

- (c) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

This criterion encourages flexibility in site planning and development when the existing built or natural environment provide challenges to standard development or site planning.

The Planning Commission finds that this criterion is not applicable.

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

As noted in Finding 11.B (1), the Commission finds there are no negative impacts. As conditioned, the proposed variances to minimum access spacing and required 6-ft step back requirement are reasonable and design solutions have been proposed to provide an alternative to reduce structural bulk.

The Planning Commission finds that this criterion is met.

The Planning Commission finds that the Variance criteria are satisfied.

12. Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Community Development, Building, and Engineering Departments; Clackamas Fire District #1; Historic Milwaukie Neighborhood District Association (NDA); Clackamas County; Metro; Oregon Department of Transportation; North Clackamas School District; and the Design and Landmarks Committee. The comments received are summarized as follows:

- **Ray Bryan, Chair, Historic Milwaukie NDA:** The NDA asked about:
 - the impact of this project on the adjacent property at 11138 SE Main St;
 - the blank wall on the south-facing façade and if vegetation or design elements could be added to address it;
 - any outdoor public amenities and if pedestrian access would be compromised on the sidewalk;
 - the potential for improving the signalized intersections in the immediate vicinity;
 - proposed signage,
 - the name of the development, and if the existing neon Bernard’s sign will be incorporated.
- **Seth Brumley, ODOT Region 1 Planner on behalf of ODOT Rail:** Comments included the following:
 - Any proposed vegetation along the 21st Avenue frontage shall provide acceptable sight lines for pedestrian safety

- Changes to signal timing at 21st Avenue and Washington Street and 21st Avenue and Adams Street will require authorization
 - Changes to roadway or sidewalk widths, crosswalk modifications, or bike lane modifications will require authorization through a Crossing Order
 - Ultimate tenant occupancy and build out conditions may necessitate additional traffic studies
 - Degradation to the existing traffic control system due to construction shall be immediately remedied per the Crossing Orders for the impacted locations.
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- **Matt Amos, Clackamas Fire District #1:** comments regarding a required access and water supply test to be submitted during the development permit process.
 - **Doug Naef, owner of 2025-2045 SE Washington St:** supports approval of the application as submitted.
 - **Neil Hankerson, Exec VP, Dark Horse Comics:** strongly supports approval of the application, including the variances.
 - **William Place, Owner, 11049 SE 21st Ave:** supports the project; comments about a Living Wall
 - **Megan Gibb, Metro:** support the project – project has received a \$500,000 Metro TOD grant.
 - **Kelli Keehner, K.Marie, DMBA:** opposes approval of the variance for appropriately scaled development
 - **Patrick Jones, 12 500 Window Coverings:** opposes approval of the variance for appropriately scaled development
 - **Nathaniel Taylor, 2836 SE Washington St:** opposed to the 5th story and to the variance request and believes that the additional shadowbox on the Washington Street façade will block light for the buildings on the north side of Washington Street.
 - **Scott Churchill, 2708 SE Monroe St:** opposes approval of the variance for appropriately scaled development and believes the additional shadowbox will increase the bulk and mass of the building.
 - **Mike Miller, 4206 SE Somewhere Dr:** opposes approval of the variance for appropriately scaled development and believes the additional shadowbox will increase the bulk and mass of the building.
 - **Troy Reichlein, owner of property at 11050 SE 21st Ave:** Mr. Reichlein commented that he has a CPA office across the street from the property and he supports the project.
 - **Kristi Reichlein, 11050 SE 21st Ave:** Ms. Reichlein commented that as owner of Duffy's Irish Pub, she is excited about the project.
 - **John Balzer and Barbara Eiswerth, Washington St:** Mr. Balzer and Ms. Eiswerth stated that they oppose the development with the variances.
 - **Jim Bernard, former owner of subject property:** Supports the project, including with the proposed revisions to the Washington Street façade.

Conditions of Approval

1. The applicant shall submit a Type I Development Review application with final construction plans for construction of the building.
 - a. Final plans submitted for development permit review shall be in substantial conformance with plans approved by this action, which are the plans stamped received by the City on July 7, 2017 and revised through August 25, 2017 (also referenced as Attachment 3 in both the August 15, 2017 and September 5, 2017 staff reports to the Planning Commission), except as otherwise modified by these conditions.
 - b. Provide a narrative describing all actions taken to comply with these conditions of approval.
 - c. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.

2. Expiration of Approval

As per MMC 19.1001.7.E.1.a, proposals requiring any kind of development permit must complete both of the following steps:

- a. Obtain and pay for all necessary development permits and start construction within two (2) years of land use approval.
- b. Pass final inspection and/or obtain a certificate of occupancy within four (4) years of land use approval.

As per MMC 19.1001.7.E.2.b, land use approvals shall expire unless both steps noted above have been completed or unless the review authority specifies a different expiration date in the land use decision to accommodate large, complex, or phased development projects.

3. Prior to final inspection, the following shall be resolved:

- a. Subject to MMC 20.04, murals, or other art installation, are required to be installed on the southern-facing wall on Adams Street as well as the Washington Street façade on either side of the garage entrance door, as illustrated in the submitted plans. It is recommended that the Applicant consult with ArtMob in developing the artwork.
- b. Submit a storm water management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. Private properties may only connect to public storm system if percolation tests show that infiltration cannot be obtained on site. In the event the storm management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.
- c. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department.
- d. Obtain a right-of-way permit for construction of all required public improvements listed in these recommended conditions of approval.
- e. Pay an inspection fee equal to 5.5% of the cost of the public improvements.

- f. Provide a payment and performance bond for 100 percent of the cost of the required public improvements.
- g. Provide an erosion control plan and obtain an erosion control permit.
- h. Install all underground utilities, including stubs for utility service prior to surfacing any streets.
- i. Construct 12-foot sidewalks, curb and gutter, street lighting and utility undergrounding on Washington Street frontage. Construct 16-foot sidewalks, curb and gutter, street lighting and utility underground on Main Street frontage. Remove driveway approach on 21st Avenue frontage and replace with curb & gutter and sidewalk.
- j. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to each new lot. The driveway approach aprons shall be between 24 feet and 36 feet in width.
- k. Clear vision areas shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection.
- l. Provide a final approved set of Mylar and electronic PDF “As Constructed” drawings to the City of Milwaukie prior to final inspection.
- m. Remove all signs, structures, or vegetation in excess of three feet in height located in “vision clearance areas” at intersections of streets, driveways, and alleys fronting the proposed development.
- n. Submit an access and water supply test as required by the Clackamas Fire District #1 for full review and approval.



Dennis Egner, FAICP
Planning Director

cc: Kurt Schultz, SERA Architects (338 NW 5th Ave., Portland, OR 97209)
Tom Brenneke, Guardian Real Estate (Park Avenue West, 760 SW 9th Ave, Suite 2200,
Portland, OR 97205)
Planning Commission (*via e-mail*)
Alma Flores, Community Development Director (*via e-mail*)
Chuck Eaton, Engineering Director (*via e-mail*)
Alex Roller, Engineering Technician II (*via e-mail*)
Samantha Vandagriff, Building Official (*via e-mail*)
Mike Boumann and Matt Amos, CFD#1
NDA(s): Historic Milwaukie (*via e-mail*)
Interested Persons
Land Use File(s): DR-2017-001; VR-2017-007