



CITY OF MILWAUKIE

May 23, 2018

Land Use File(s): VR-2018-002, ADU-2018-001

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on May 22, 2018.

Applicant(s):	Dennis Osterlund
Appellant (if applicable)	McCulloch Construction
Location(s):	10565 SE 23rd Ave.
Tax Lot(s):	11E25CC01001
Application Type(s):	Variance and Accessory Dwelling Unit (ADU)
Decision:	Approved with Conditions
Review Criteria:	<u>Milwaukie Zoning Ordinance:</u> <ul style="list-style-type: none">• MMC Section 19.302 Medium and High Density Residential Zones• MMC Section 19.402 Natural Resources• MMC Chapter 19.600 Off-Street Parking and Loading• MMC Chapter 19.700 Public Facility Improvements• MMC Subsection 19.910.1 Accessory Dwelling Units• MMC Section 19.911 Variance• MMC Section 19.1006 Type III Review• MMC Title 12 Streets, Sidewalks, and Public Places
Neighborhood(s):	Historic Milwaukie

Appeal period closes: 5:00 p.m., June 7, 2018

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 Mary Heberling, Assistant Planner, at 503-786-7658 or heberlingm@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on June 7, 2018, 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 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.

Expiration

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Exhibits

1. Findings in Support of Approval
2. Conditions of Approval



Dennis Egner, FAICP
Planning Director

cc: Dennis Osterlund (3048 SE Crystal Springs)
McCulloch Construction (1729 NE Siskiyou St. Portland, OR 97212)
Planning Commission (via email)
Alma Flores, Community Development Director (via email)
Chuck Eaton, Engineering Director (via email)
Alex Roller, Engineering Technician II (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Mike Boumann and Matt Amos, CFD#1 (via email)
NDA(s): Historic Milwaukie (via email)
Interested Persons
Land Use File(s): ADU-2018-001, VR-2018-002

EXHIBIT 1
Findings in Support of Approval
File #VR-2018-002; ADU-2018-001, 10565 SE 23rd Ave ADU/Variance

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

1. The applicant, McCulloch Construction for Dennis Osterlund, has applied for relief from the minimum front yard setback for accessory structures and from the maximum size of a structure with an accessory dwelling unit (ADU) to construct a 1,100 sq ft three-door, two-story garage with a 747 sq ft accessory dwelling unit on the second floor. It is proposed to be 20 ft from the front property line at 10565 SE 23rd Ave. This site is in the R-1-B Zone. The land use application file numbers are VR-2018-002 and ADU-2018-001.
2. The proposal requires variances to the required 40 ft front yard setback for an ADU in the R-1-B zone and the maximum footprint of 800 sf for a structure with an ADU.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.302 Medium and High Density Residential Zones
 - MMC Section 19.402 Natural Resources
 - MMC Chapter 19.600 Off-Street Parking and Loading
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.910.1 Accessory Dwelling Units
 - MMC Section 19.911 Variances
 - MMC Section 19.1006 Type III Review
 - MMC Title 12 Streets, Sidewalks, and Public Places
4. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. Per MMC 19.1001.6, the two applications are being reviewed concurrently according to the highest numbered review type required. A public hearing was held on May 22, 2018, as required by law.
5. MMC 19.302 Medium and High Density Residential Zones
 - a. MMC 19.302 establishes the development standards that are applicable to this site. Table 1 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

The existing house is on the “contributing” properties historic resources property list. It is centered in the lot and is located a little more than 40 ft from 23rd Ave. There is an existing detached storage structure to the northwest of the existing home and is over 80 ft from the front property line.

The applicant has proposed a 1,100 sq ft three-door, two-story garage with a 747 sq ft ADU on the 2nd floor located 20 ft from the front property line and 7 ft from the north property line.

Table 1. Compliance with relevant R-1-B standards

R-1-B Zone	Standards	Existing	Proposed
Lot Coverage	40% max.	Approx. 8.1%	Approx. 11.9%
Front Yard Setback	15 ft	40+ ft (house) 80+ ft (existing storage structure)	No change (See ADU yard requirements in section 12)
Side Yard Height Plane	a. Height above ground at minimum required side yard depth b. Slope of plane	a. 20 ft b. 45 degrees	Side yard height plane is met

The Planning Commission finds that the proposal complies with the applicable standards of the R-1-B zone.

6. MMC 19.402 Natural Resources

- a. MCC 19.402.3.B establishes the applicability of the 19.402 Natural Resources chapter for a development. For properties that do not contain, but are within 100 ft or, a WQR and/or HCA, a construction management plan is required per MMC 19.402.9.

The property does contain both a WQR and HCA, however, the applicant has proposed the garage/ADU structure outside a WQR and HCA. It will be within 100 ft of a WQR and HCA and the applicant will be required to provide a construction management plan per the standards in MMC 19.402.9.

As conditioned, the Planning Commission finds that the proposal complies with the applicable standards in MMC 19.402.

7. MMC 19.600 Off-Street Parking and Loading

- a. MMC 19.605.1 lists the minimum and maximum required off-street parking spaces. For a property containing an ADU and primary dwelling, 2 off-street parking spaces are required.

The applicant proposes to have at least 2, and no more than 3, parking spaces of the size 9 ft by 18 ft within the garage portion of the structure. The surface will be durable and dust-free.

The Planning Commission finds that the off-street parking requirements are met.

8. MMC 19.700 Public Facility Improvements

The Planning Commission finds that the following complies with applicable criteria of MMC 19.700.

- 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 a new dwelling unit, projected increase in vehicle trips, or any increase in gross floor area on the site. This development application is for construction of an additional dwelling unit on the development property. This triggers all requirements of MMC Chapter 19.700.

MMC 19.700 applies to the proposed development.

b. MMC Section 19.703 Approval Criteria

i. 19.703.1 Preapplication Conference

Requirement for a preapplication conference was satisfied on November 9th,

2017.19.703.2 Application Submittal

Development will not require a Transportation Facilities Review so MMC 19.703.2 will not apply.

ii. 19.703.3 Approval Criteria

Applicant will provide transportation improvements and mitigation in rough proportion to the potential impacts of the development.

As conditioned, the Planning Commission finds that the proposed development is consistent with MMC 19.703.3.

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

All trips for this proposed development affect SE 23rd Avenue, a local street, and SE Harrison Street, an arterial street. The new trips generated from the development are not significant enough to require mitigation. Impacts of new trips on SE 23rd Avenue will be addressed under MMC 19.708 below.

The Engineering Director determined that a transportation impact study was not required as the existence of impacts on the transportation system was evident.

MMC 19.704 does not apply to the proposed development.

d. MMC Section 19.705 requires that transportation impacts of the proposed development be mitigated.

The proposed development does not trigger mitigation of impacts beyond the required frontage improvements.

The Planning Commission finds that the proposed development is consistent with MMC 19.705.

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

i. 19.708.1.A – Access Management

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

ii. 19.708.1.B – Clear Vision

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

iii. 19.708.1.D – Development in Non-Downtown Zones

The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of SE 23rd Avenue a local street. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a local street is between 20 feet and 68 feet depending on the required street improvements. The required right-of-way needed for the

required street improvements is 50 feet. The applicant is not required for any dedication on the SE 23rd Avenue frontage.

The proposed development is consistent with MMC 19.708.1.D.

As conditioned, the Planning Commission finds that these criteria are met.

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

Frontage improvements have already been constructed. Applicant will be responsible for modifying any portion of sidewalk, include sidewalk located in a driveway approach, to bring it up to ADA compliance.

Sidewalk improvement requirements will be addressed under MMC 19.708.3.

The Planning Commission finds that the proposed development is consistent with MMC 19.708.2

- g. MMC Section 19.708.3 requires sidewalks to 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. 19.708.3.A.2 requires that public sidewalks shall conform to ADA standards. Applicant plans currently show the sidewalk as 3-feet wide, which is not ADA compliant. A site visit measured the sidewalk at 4-feet wide, which is ADA compliant. Applicant will be responsible for replacing any sidewalk panels that are above the required 2% cross slope. Non-compliant sidewalk will be identified at the time of building permit.

As conditioned, the Planning Commission finds that the proposed development will conform to MMC 19.708.3.

- h. MMC Section 19.708.4 establishes standards for bicycle facilities.

The portion of SE 23rd Avenue fronting the proposed development is not classified as a bike route in the Milwaukie Transportation System Plan (TSP). Applicant is not responsible for bike lane construction.

The Planning Commission finds the proposed development is consistent with MMC 19.708.4.

- i. MMC Section 19.708.5 establishes standards for pedestrian and bicycle paths.

The proposed development property is surrounded by single family residences. The proposed development does not present an opportunity to provide a pedestrian or bicycle path within the development and is not required to provide one.

MMC 19.708.5 does not apply to the proposed development.

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

Transit facility improvements are not required for the proposed development.

MMC 19.708.6 does not apply to the proposed development.

- 9. MMC Chapter 12.08 – Street & Sidewalk Excavations, Construction, and Repair

- a. This will apply to all construction that is completed in the right-of-way. All construction will follow MMC 12.08.020.

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

- 10. MMC Chapter 12.16 – Access Management

The Planning Commission finds that the following complies with applicable criteria of MMC Chapter 12.16.

- a. MMC Chapter 12.16.040 establishes standards for access (driveway) requirements.
12.16.040A: requires that all properties be provided street access with the use of an accessway.

The proposed development is consistent with MMC 12.16.040A.

- b. 12.16.040.C: Accessway Locations

2: Limiting driveway access from arterials and collectors.

Development is not proposing a new accessway onto an arterial or collector.

Proposed development is consistent with MMC 12.16.040.C.2

3: Distance from property line is a minimum of 7.5-feet.

4: Distance from Intersection

MMC 12.16.040.C.4.A requires driveways be located a minimum 45-feet from intersections. Pre-app conference notes addressed the requirement for relocation of the driveway approach that is located nearest to SE Harrison Street. Future City construction project will modify the 23rd/Harrison intersection design, increasing the current driveway's distance from the new curb, bringing the current driveway into conformance. Applicant is not responsible for relocating the southern driveway.

The proposed development is consistent with 12.16.040.C.

- c. 12.16.040D: Number of Accessway Locations

1: Safe access

Applicant is proposing an additional driveway. Additional driveways may be constructed if they follow MMC 12.16.040.D.3 below.

2: Shared Access

Development is not required to share an access with adjacent properties on a local street.

3: Single-family residential

Second driveway that is proposed does conform to the 50-foot spacing requirement for one additional driveway for a single-family lot.

The proposed development will be consistent with MMC 12.16.040.D.4

- d. 12.16.040E & 12.16.040F: Accessway Design - ADA standards & Width

As conditioned, the proposed second driveway will conform to 12.16.040.E & 12.16.040.F.

11. MMC Chapter 12.24 – Clear Vision at Intersections

A new driveway that is constructed will conform to clear vision requirements MMC 12.24.

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

12. MMC 19.910.1 Accessory Dwelling Units

- a. MMC 19.910.1 establishes the design and development standards that are applicable to ADUs. Table 2 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

The applicant has proposed a 1,100 sq ft garage/ADU located 20 ft from the front property line.

Table 2. Compliance with relevant ADU standards

ADU	Type I	Type II	Proposed
Maximum Structure Footprint	600 sq ft	800 sq ft	1,100 sq ft ¹
Maximum Structure Height	15 ft, limited to 1 story	25 ft, limited to 2 stories	24.6 ft, 2 stories
ADU Front Yard Setback	10 ft behind front yard (10' behind front façade of the primary dwelling) unless located at least 40' from the front lot line		20 ft ²
Required Side and Rear Yard Setback	Base zone requirement	5 ft	7 ft (side) 130+ ft (rear)
Design Standards	(1) A detached accessory structure shall include at least 2 of the design details listed below. An architectural feature may be used to comply with more than 1 standard.		
	(a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.		n/a
	(b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.		n/a
	(c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.		Eaves will project 12 in
	(d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.		n/a
	(e) Window trim around all windows at least 3 in wide and 5/8 in deep.		Windows meet trim standard
Privacy Standards	(1) A detached accessory dwelling unit permitted through a Type II review may be required to include privacy elements to meet the Type II review approval criteria.		

¹ The applicant has requested a variance to the maximum structure footprint standards for an ADU structure.

² The applicant has requested a variance to the minimum front yard setback for an ADU in the R-1-B zone.

ADU	Type I	Type II	Proposed
	Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.		
	(a) The wall is within 20 ft of a side or rear lot line.		7 ft
	(b) The wall is at an angle of 45 degrees or less to the lot line.		yes
	(c) The wall faces an adjacent residential property.		yes
	(2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.		
	(a) All windows on a wall shall be placed in the upper third of the distance between a floor and ceiling.		n/a
	(b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening shall be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs shall be no less than 5 ft above grade at time of planting, and they shall reach 6 ft high within 1 year. Existing features on the site can be used to comply with this standard.		Applicant has stated they will comply with the visual screening standard. A condition has been provided to submit a landscape plan.

Upon approval of the variance requests, the Planning Commission finds that the proposal complies with the applicable standards for a detached ADU in the R-1-B zone.

- b. MMC 19.910.1.D establishes the criteria for approving a Type II accessory dwelling unit.

An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.

- (1) *The standards in Subsection 19.910.1.D.1 are met.*

- a. *An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.*

ADUs are permitted in the R-1-B zone.

The Planning Commission finds that this criterion is met.

- b. The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.*

The primary use of the subject property is a single-family dwelling.

The Planning Commission finds that this criterion is met.

- c. One accessory dwelling unit per lot is allowed.*

This is the only ADU proposed on the subject property.

The Planning Commission finds that this criterion is met.

- d. The development standards of Subsection 19.910.1.E are met.*

Table 2 identifies all of the design and development standards in Subsection 19.910.E and how the proposed ADU complies with them. Structures are allowed to exceed any of the maximums associated with a Type II review with approval of a variance per Section 19.911. A variance application has been submitted.

The Planning Commission finds that, as conditioned, this criterion is met.

- (2) *The accessory dwelling unit is not incompatible with the existing development on the site, and on adjacent lots, in terms of architectural style, materials, and colors.*

The proposed ADU is designed in a manner that mirrors to the features of the main house. The design is not incompatible with homes on adjacent lots.

The Planning Commission finds that this criterion is met.

- (3) *The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.*

The garage/ADU structure has been proposed to be placed to avoid taking out existing shrubbery and a tree, as well as to avoid placing it right next to the neighboring house to the north. Due to this placement, the applicant cannot meet the 40 ft setback standard and is requesting a variance for a 20 ft setback to better fit the site and nearby residential property.

The Planning Commission finds that this criterion is met.

- (4) *There will be an appropriate level of screening for nearby yards and dwellings, provided by the design of the accessory dwelling unit and existing and proposed vegetation and other screening.*

The lot is currently landscaped and vegetated. However, the northern lot line next to the northern residential property does not have vegetated screening. As seen in Table 2, the proposed structure needs to provide privacy screening due to the side yard setback and it being adjacent to a residential property. The applicant has proposed privacy screening with evergreen shrubs. The screening will be opaque and at least 6 ft high within 1 year.

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

13. MMC Chapter 19.911 Variances

- a. MMC 19.911.3 establishes the review process for variance applications.

The applicant has requested a variance to the required front yard setback for an ADU located 20 ft from the front property line rather than the required 40 ft. The applicant has also requested a variance to allow a 1,100 sq ft ADU rather than the maximum footprint of 800 sf. These two requested variances are subject to a Type III Variance review.

The Planning Commission finds that the application is subject to Type III Variance review for the proposed construction of an ADU with a footprint of 1,100 sq ft located 20 ft from the front property line.

- 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 proposal for an additional 300 sq ft over the maximum 800 sq ft footprint of the structure and 20 ft front yard setback was analyzed against the baseline code requirements for the R-1-B zone and ADU standards. The analysis found the proposal offered better benefits than the baseline standards because:

1. Saves existing vegetation/trees:

The 20 ft setback is being proposed to avoid removal of a tree and shrubbery on the site. The 40 ft setback would require the applicant to take out a large, mature tree and shrubbery, including a large rhododendron. They felt this was not a good option for the property.

2. Limits impacts on the existing home on the northern property and surrounding neighborhood

- a. The 20 ft setback will place the garage/ADU structure at a more favorable position in relation to the house on the property directly north. The required 40 ft setback would place the proposed structure right next to the existing house on the northern property. The applicant felt a 20 ft setback would limit impacts to the northern property as it would stagger it farther southeast of the existing home to the north.
- b. The zone and size of the property could potentially accommodate multi-family housing units to meet the City's minimum density requirements. That use would be permitted outright as long as development and design standards were satisfied. The applicant's proposal for a garage/ADU structure limits impacts to the northern property and surrounding

neighborhood as it is only creating 1 more dwelling unit versus multiple units.

3. Structure fits the property size

The current property is 0.67 acres and has room to fit a larger structure than the baseline requirement for an 800 sq ft footprint. The proposed structure would not overwhelm the existing 4,267 sq ft, 2-story home on the property.

4. Design of the structure adds elements for orientation to street

The proposed design of the garage/ADU structure is intended to not only match the existing historic home on the property, but has added a porch to the ADU entrance that faces the street. The porch adds an aesthetic that matches the design of the current home and also meets some of the design standards for single family homes. Due to the larger scale of the structure, adding an entrance to the ADU with a porch enhances elements that one might see on a single-family dwelling and the City's design standards. In particular, the porch creates articulation and "eyes on the street." The larger scaled structure could potentially compare to a single-family dwelling and the porch element limits any negative impacts to the surrounding community by creating an aesthetically pleasing main entrance facing the street.

The applicant has provided an analysis of the proposed garage/ADU structure and how it will better limit negative impacts rather than the baseline code standards.

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.*

As noted in 9.b.(1), the proposed garage/ADU design avoids or minimizes impacts to the surrounding properties by the 20 ft front yard setback to avoid it being directly next to the existing home on the northern property. They are also minimized by adding some standards from the single-family dwelling design standards by adding a porch to the main entrance of the ADU. This limits impacts the surrounding neighbors that will see the entrance as it adds aesthetic appeal to the design of the structure facing the street.

To better the proposed porch for the ADU entrance, the application is being conditioned to provide a walkway from the driveway of the proposed garage or from the street to the main entrance door.

The applicant has also proposed a privacy screen to limit impact on the northern property with evergreen shrubs that will be at least 6 ft high and opaque, which is one option for a detached ADU.

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 aesthetic improvements of the ADU entrance with a porch could be characterized as providing a desirable public benefit.

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 proposed design of the garage/ADU structure is in keeping with the architecture of both the existing home and natural environment of the site by proposing to move the structure forward to avoid cutting down trees.

The Planning Commission finds that this criterion is met.

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

As noted in 9.b.(1) and 9.b.(2), the applicant is proposing to minimize any impacts from the proposed variance to the extent practicable. In addition, conditions will ensure mitigation occur.

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

As conditioned, the Planning Commission finds that these criteria are met.

14. As per MMC 19.906.2.C, the proposed development is exempt from the requirement to submit a development review application and the other requirements of MMC 19.906 Development Review. However, the proposal must still comply with all applicable development standards and will be reviewed during the building permit review process.
15. As per MMC 19.1001.7.E, this variance request shall expire and become void unless the proposed development completes the following steps:
 - A. Obtain and pay for all necessary development permits and start construction within 2 years of land use approval (by May 22, 2020).
 - B. Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval (by May 22, 2022).
16. The application was referred to the following departments and agencies on March 13, 2018: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; and the Historic Milwaukie Neighborhood District Association. Notice of the application was also sent to surrounding property owners within 300 ft of the site on April 4, 2018, and a sign was posted on the property on May 7, 2018. The following is a summary of the comments received by the City.
 - **Alex Roller, City of Milwaukie Engineering Technician II**, Comments were captured in Attachment 1 for Recommended Findings of Approval and Conditions of Approval in Attachment 2.

A public notice was mailed to all residents and property owners within 300 ft of the site. The comments received are summarized below:

- **Richard Samuels Revocable Trust (10505 SE 23rd Ave.):** Richard Samuels Trust is the neighbor directly north of the property. They noted that they support the proposed building and a front-yard setback of 15 ft to better place the building next to their southern property line. They also appreciate how the proposed design will enhance the historic character of the buildings presently on the property.

EXHIBIT 2
Conditions of Approval
File #VR-2018-002; ADU-2018-001, 10565 SE 23rd Ave

1. At the time of submission of any building permit application, the following shall be resolved:
 - a. Final plans submitted for building permit review shall be in substantial conformance with plans approved by this action, which are the plans stamped “received” by the City on May 22, 2020.
 - b. Provide a construction management plan per the standards in MMC 19.402.9.
 - c. Provide a landscape plan showing the vegetated privacy screening that is to be placed along the portion of the property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall.
 - d. 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. Prior to final inspection of any building permit, the following shall be resolved:
 - a. Newly planted shrubs for privacy screening shall be no less than 5 ft above grade at time of planting, and they shall reach 6 ft high within 1 year. The screening shall be in place along the portion of the property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall.
 - b. Provide a walkway from the proposed driveway to the main entrance of the ADU or a walkway from the street to the main entrance of the ADU.

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 point in the development and permitting process.

1. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(l).
2. Per MMC 19.910.F, either the primary or accessory dwelling unit shall be occupied by the owner of the property. At the time an accessory dwelling unit is established, the owner shall record a deed restriction on the property with the Clackamas County Recording Division that 1 of the dwellings on the lot shall be occupied by the property owner. A copy of the recorded deed restriction shall be provided to the Milwaukie Planning Department.
3. Prior to certificate of occupancy the following shall be resolved:
 - a. Construct new driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) and Milwaukie’s Public Works Standards. The driveway approach apron shall be between 9 feet and 20 feet in width and least 7.5 feet from the side property line.
 - b. Reconstruct any portion of sidewalk that is not ADA compliant, including sidewalk that is crossing driveway approaches.
 - c. Connect all roof drains to private drywell or other approved structure.

- d. Clear vision areas shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection. Remove all signs, structures, or vegetation in excess of three feet in height located, except approved street trees, in “vision clearance areas” at intersections of streets, driveways, and alleys fronting the proposed development.
- e. Provide an erosion control plan and obtain an erosion control permit.
- f. Obtain a right-of-way permit for construction of all required public improvements listed in these recommended Conditions of Approval.