CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

April 12, 2022

Present:	Lauren Loosveldt, Chair Joseph Edge, Vice Chair Amy Erdt Greg Hemer Adam Khosroabadi Robert Massey Jacob Sherman	**Staff:**	Jennifer Backhaus, Engineering Technician III Joseph Briglio, CD Director Justin Gericke, City Attorney Vera Kolias, Senior Planner
Absent:			

(00:11:02)
1.0 Call to Order — Procedural Matters*

Chair Loosveldt called the meeting to order at 6:30 p.m., read the conduct of meeting format into the record, and Native Lands Acknowledgment.

***Note**: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at http://www.milwaukieoregon.gov/meetings.*

(00:12:06)
2.0 Information Items

Vera Kolias, Senior Planner, noted that City Council will vote to adopt the Comprehensive Plan Code amendment package at the April 19, 2022 Regular Session.

(00:08:04)
3.0 Audience Participation

No information was presented for this portion of the meeting.

(00:09:10)
4.0 Community Involvement Advisory Committee (CIAC)

Kolias shared that there were eight attendees at the Land Use 101 training held March 31, 2022, the presentation will be posted on the City website and YouTube page. Staff is developing an in-depth land use training to accompany the Land Use 101 training.

Chair Loosveldt noted support for increasing interaction between the CIAC and

the NDAs. Loosveldt requested that staff explore ways that the CIAC members can become more involved with the neighborhood associations.

Commissioner Massey expressed support for further involvement between CIAC members and NDAs and noted preference for meeting the neighborhood associations at their own meetings rather than during Planning Commission meetings.

Commissioner Hemer noted that he regularly attends NDA meetings and encouraged other CIAC members to attend their NDA's meetings.
Commissioner Sherman requested that commissioners and staff be conscious of each of the commissioner's available time.

(00:19:56)
5.0 Hearing Items

(00:19:57)
5.1 9285 SE 58th Dr

Kolias shared the staff report, the applicants are proposing to develop the 0.08-acre lot at 9285 SE 58th Dr with a 1,848 square foot 2-story manufacturing building. The proposal includes full street improvements along 58th Drive, one on-site ADA accessible parking space, and a screened wall facing Johnson Creek Blvd. The proposal requires a parking modification and variances to reduce the setback along Johnson Creek Blvd, reduce perimeter landscaping, and to reduce the spacing between the accessway and the property line and to Johnson Creek Blvd. The proposed setback along Johnson Creek is 0 feet although the applicants are required to dedicate 20 feet along Johnson Creek Blvd for future frontage improvements. Staff has not identified any negative impacts, believes the application to be both reasonable and appropriate, and recommends approval of the application.

Commissioner Massey asked whether staff recommended that the applicant meet with the applicable neighborhood district association (NDA). **Kolias** responded no, staff did not recommend meeting with an NDA.

Commissioner Sherman asked for historical information regarding the creation of this undersized, irregular, lot. **Kolias** responded that the lot was platted in the Mullan Heights subdivision in 1923.

Commissioner Sherman asked for clarification regarding the frontage improvements along 58th Dr. **Jennifer Backhaus, Engineering Technician III,** responded that installation of a curb, sidewalk, and vegetation strip are included in the frontage improvements.

Commissioner Sherman asked what uses are permitted on the site. **Kolias** responded that warehousing, shipping, manufacturing, and production uses are

permitted and commercial, retail, and offices are permitted as accessory uses.

Commissioner Sherman asked for clarification regarding clear vision at the Johnson Creek intersection and whether the proposed 0-foot setback would obstruct vision. **Kolias** responded that an access study was conducted by the applicant and that the 0-foot setback is from the new property line, 20 feet away from Johnson Creek Blvd. **Backhaus** added that there is ample clear vision at the intersection due to the 20-foot dedication.

Kolias noted that additional testimony was received from Michael Connors, representing Smith Rock Inc. and from the Applicant Team responding to the clear vision and access questions raised by Michael Connors in an earlier letter submitted for the January 25 Planning Commission hearing.

The Applicant Team shared their presentation which showed the proposed site plans and building design. There is 6 inches of separation between the building and Right of Way (ROW) to account for the screened wall feature. The Applicant Team plans on adding a trellis to the wall with vegetation, but other screening options are being considered. Other options include decorative fencing, a wire trellis, or hanging vegetation.

Commissioner Sherman asked if the proposed wall screening will encroach in the ROW considering there is a 0-foot setback. **The Applicant Team** responded that the screened wall will be building-mounted and will not encroach into the ROW due to the 6-inch buffer between the building and ROW.

Commissioner Khosroabadi asked what the other wall screening alternatives are. **The Applicant Team** responded that a trellis is preferred by the applicant team but alternative options available include additional windows, metal screening, or different wall materials or colors.

Commissioner Khosroabadi asked whether there was communication between the applicant team and adjacent property owners. **The Applicant Team** responded that they have not communicated with any adjacent property owners.

Anthony Allen, a Milwaukie resident, expressed concern about the screened wall encroaching into the ROW and opposition to reduced perimeter landscaping.

Mike Connors, representing Smith Rock Inc, expressed opposition to the proposal and their belief that the applicants did not adequately address each approval criterion. Connors noted that developing a site does not sufficiently satisfy the public benefit approval criteria as the applicants argue. Connors stated that the property can be developed without the need for variances. Connors requested a continuance of the hearing to allow for time to review the traffic study and emails with Clackamas County regarding the Johnson Creek Blvd improvements

provided by the applicant on April 12, 2022.

Lew Smith, a Milwaukie resident, expressed opposition to the proposal and concern about potential impacts of development to the residential property north of the subject property specifically regarding solar access.

Chair Loosveldt asked for clarification regarding required perimeter landscaping and wall screening. **Kolias** responded that MMC 19.600 requires a minimum of 6 feet of perimeter landscaping around parking areas, the applicants are requesting a reduction to 3.5 feet. Kolias noted the screening options are being used to mitigate any adverse impacts of the variance to reduce the setback to 0 feet along Johnson Creek Blvd.

Commissioner Sherman asked whether the minimum perimeter landscaping requirement could be met if the proposed second story was not included in the building design. **Kolias** responded it is unclear whether it is possible to meet the requirement by removing the proposed second story.

Kolias discussed continuation options, to allow satisfactory time for additional testimony, staff proposes continuing the hearing to May 24, 2022 and allowing additional testimony, response to the additional testimony, and a final written response from the applicant.

The Planning Commission continued hearing VR-2021-012 to May 24, 2022 allowing one week for additional testimony (a deadline of April 19, 2022) an additional week for response to the April 19th testimony (April 26, 2022) and a final week to allow for the final written response from the applicant (May 3, 2022) by a 7-0 vote.

(00:36:27)

5.2 SB 458 Code Amendments

Kolias shared the staff report, the code amendment package ensures compliance with Oregon Senate Bill 458 (SB 458). SB 458 is a follow up to Oregon House Bill 2001 (HB 2001). SB 458 requires expedited land divisions for middle housing enabling units to be sold or owned individually on fee simple lots. SB 458 applies to all middle housing types but does not apply to accessory dwelling units (ADUs). SB 458 land divisions must result in one dwelling per lot with separate utilities for each dwelling, the bill does allow common areas to be located on separate lots or shared tracts. Additionally, all dwelling units must meet the requirements of the Oregon Residential Specialty Code. The bill requires an expedited review of qualifying land divisions which the City will meet through a Type II review with a compressed 63-day time frame.

Kolias continued, the City proposes to require street frontage improvements where applicable, preliminary and final plat approval, and building permits to ensure consistency with the City's current land review process. The City cannot

require street frontage for new lots or parking for each child lot although parking may be required in a shared space or easement. SB 458 prohibits the City from requiring child lots to comply with minimum lot size. Additionally, the City may not require additional review criteria or conditions of approval that are not expressly permitted through SB 458.

Kolias noted that additional language was added to the code package after the February 22, 2022 Planning Commission Work Session that specifies that parent lots will be used to ensure conformity with lot standards, definition of unit types, allowed number of dwelling units, and compliance with middle housing rules and statutes. This additional language ensures that lot standards are met, and lots will not be further divided.

Anthony Allen, a Milwaukie resident, asked whether the restrictions of the tree code apply to middle housing developments. **Kolias** responded yes, middle housing developments must comply with tree code restrictions.

Vice-Chair Edge and Commissioner Massey noted their support for the application.

ZA-2022-001, SB 458 Code Amendments, was recommended to City Council for approval by a 7-0 vote.

(02:50:53)

6.0 Planning Department Other Business/Updates

No information was presented for this portion of the meeting.

(02:52:49)

7.0 Planning Commission Committee Updates and Discussion Items

No information was presented for this portion of the meeting.

(02:53:53)

8.0 Forecast for Future Meetings:

April 26, 2022	1. Public Hearing: R-2021-004, 8-lot Subdivision Replat at 10586 & 10610 SE Home Ave

Meeting adjourned at approximately 9:24 p.m.

Respectfully submitted,

Will First, Administrative Specialist II

CITY OF MILWAUKIE

AGENDA

April 12, 2022

PLANNING COMMISSION

milwaukieoregon.gov

Hybrid Meeting Format: the Planning Commission will hold this meeting both in person at City Hall and through Zoom video. The public is invited to watch the meeting in person at City Hall, online through the City of Milwaukie YouTube page (https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB_m9cAw), or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at planning@milwaukieoregon.gov. Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time.
To speak during the meeting, visit the meeting webpage (https://www.milwaukieoregon.gov/bc-pc/planning-commission-93) and follow the Zoom webinar login instructions.

1.0 Call to Order – Procedural Matters — 6:30 PM

1.1 Native Lands Acknowledgment

2.0 Information Items

3.0 Audience Participation — This is an opportunity for the public to comment on any item not on the agenda

4.0 Community Involvement Advisory Committee (CIAC)

5.0 Hearing Items

5.1 9285 SE 58th Dr

Summary:	Construct a 2-story 1,848-sq ft manufacturing/light industrial building.
Applicant:	Troy Lyver, Lyver Engineering and Design, LLC
Address:	9285 SE 58th Dr
File:	VR-2021-012 (principal file)
Staff:	Senior Planner Vera Kolias

5.2 SB 458 Code Amendments

Summary:	Code amendments to allow expedited land division of middle housing units to comply with Oregon Senate Bill 458.
File:	ZA-2022-001
Staff:	Senior Planner Vera Kolias

6.0 Planning Department Other Business/Updates

7.0 Planning Commission Committee Updates and Discussion Items — This is an opportunity for comment or discussion for items not on the agenda.

8.0 Forecast for Future Meetings

April 19, 2022	Joint Meeting with City Council, 4:00 PM	
April 26, 2022	Hearing Item:	R-2021-004, 10586 & 10610 SE Home Ave

Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to planning@milwaukieoregon.gov.
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at www.milwaukieoregon.gov/meetings.
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue an agenda item to a future date or finish the item.

Public Hearing Procedure

Those who wish to testify should attend the Zoom meeting posted on the city website, state their name and city of residence for the record, and remain available until the Chairperson has asked if there are any questions from the Commissioners. Speakers are asked to submit their contact information to staff via email so they may establish standing.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

Milwaukie Planning Commission:
Lauren Loosveldt, Chair
Joseph Edge, Vice Chair
Greg Hemer
Robert Massey
Amy Erdt
Adam Khosroabadi
Jacob Sherman

Planning Department Staff:
Laura Weigel, Planning Manager
Vera Kolias, Senior Planner
Brett Kelver, Senior Planner
Adam Heroux, Associate Planner
Ryan Dyar, Assistant Planner
Will First, Administrative Specialist II

CITY OF MILWAUKIE

To: Planning Commission

Through: Laura Weigel, Planning Manager
Steve Adams, City Engineer

From: Vera Kolias, Senior Planner
Jennifer Backhaus, Engineering Technician III

Date: April 5, 2022, for April 12, 2022, Public Hearing

Subject: **File:** VR-2021-012, DEV-2021-006, P-2021-003

Applicant: Troy Lyver

Address: 9285 SE 58th Dr

Legal Description (Map & Tax Lot): 12E30AD01500

NDA: Lewelling

ACTION REQUESTED

Approve applications VR-2021-012, DEV-2021-006 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow the construction of an 1,848-sq ft manufacturing building and associated improvements on the site.

BACKGROUND INFORMATION

The property is a small vacant lot located at the corner of Johnson Creek Blvd and 58th Dr (see Figures 1 and 2). The applicant proposes to construct a 2-story manufacturing building measuring 1,848 sq ft. Variances are requested to reduce the front yard setback on Johnson Creek Blvd to 0 ft, to reduce the perimeter parking area landscaping to 3.5 ft., and to modify the accessway location.

Figure 1. Site and vicinity

Figure 2. Street view of subject property

A. Site and Vicinity

The site is located at 9285 SE 58th Dr. The 0.08-acre (3,592 sq ft) site is vacant and was formerly used for storage of materials for the adjacent Smith Rock business. The surrounding area consists of small industrial/manufacturing uses and the Wichita Feed and Hardware store site across 58th Dr. Across Johnson Creek Blvd is the Springwater Corridor Trail. Although the R-7 zone is approximately 67 ft from the site, the closest residential property in the R-7 zone is approximately 127 ft away.

B. Zoning Designation

M Manufacturing Zone

C. Comprehensive Plan Designation

I - Industrial

D. Land Use History

City records do not indicate any previous land use activity on this site.

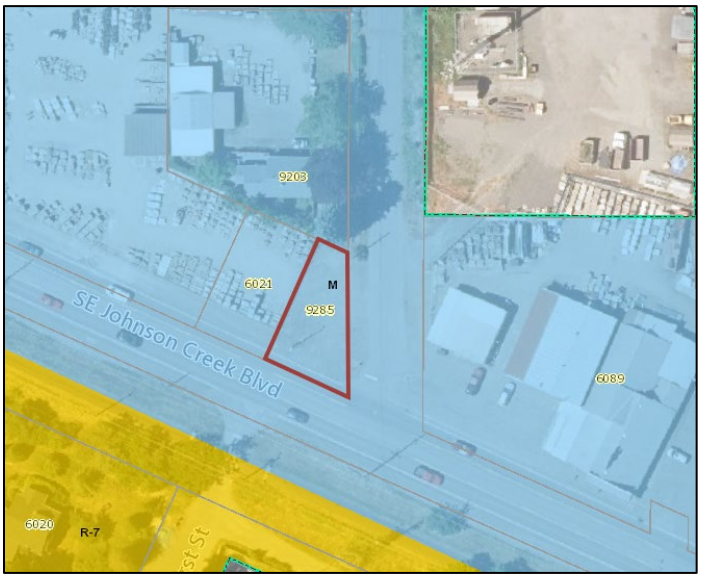

Figure 3. Zoning

E. Proposal

The proposed development includes a 2-story 1,848-sq ft manufacturing building, on-site landscaping (including a "living wall") and parking, and street improvements on 58th Dr (See Figures 4 and 5). The applicant has not specified a tenant for the proposed building, but the site and user would have to comply with the permitted uses identified in MMC 19.309.

Figure 4. 3-D rendering of proposed building

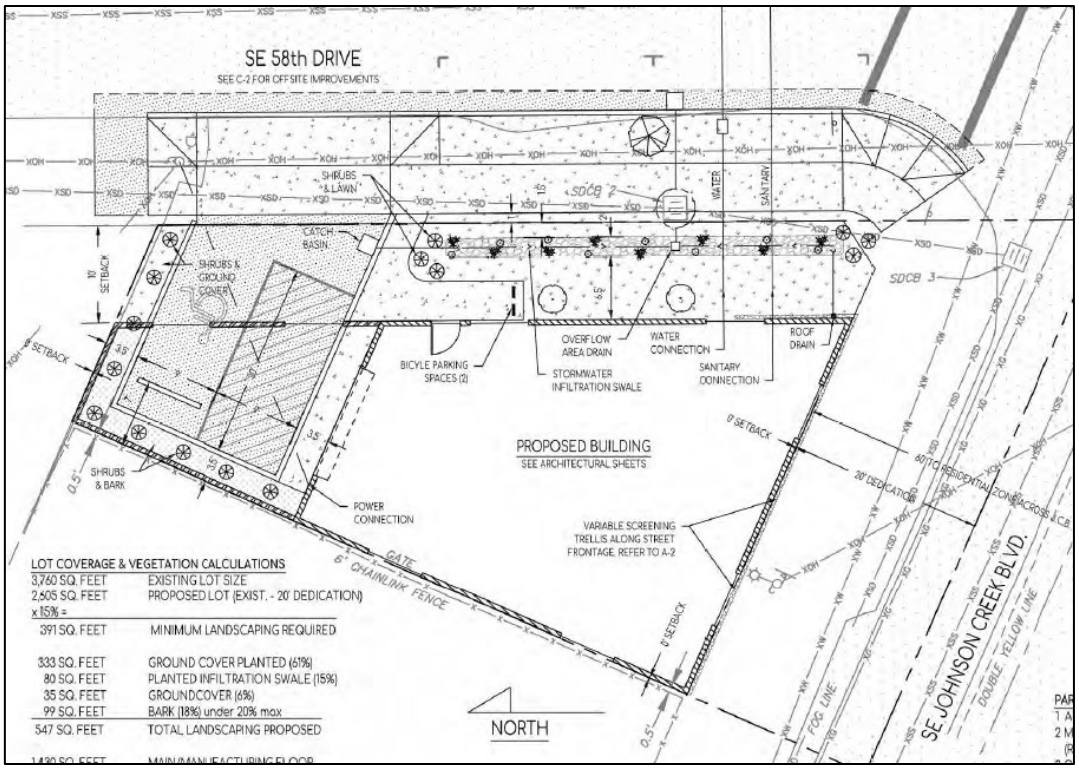

Figure 5. Proposed site plan.

Public improvements required for development on this vacant parcel are:

- 20-ft dedication on Johnson Creek Blvd for future street build out
- Full frontage improvements on 58th Dr (including parking, sidewalk, and planter strip)

The applicant is seeking land use approvals for the following:

1. A variance to reduce the minimum front yard setback to 0 ft on Johnson Creek Blvd. This request is subject to a Type III review.
2. A variance to reduce the width of parking area perimeter landscaping to 3.5 ft. This request is subject to a Type III review.
3. A variance to the accessway location requirements that would reduce the spacing between the driveway apron and the property line to 4 ft., and the distance from the intersection to 72 ft. This request is subject to a Type III review.
4. Parking modification to allow the required on-site parking space to be the accessible space and other parking to be located on-street. This request is subject to a Type II review.

The project requires approval of the following applications:

1. Type III Variances
2. Type II Development Review
3. Type II Parking Modification

KEY ISSUES

Summary

Staff has identified the following key issue for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

Are the proposed variances and parking modification reasonable and appropriate?

Analysis

Are the proposed variances and parking modification reasonable and appropriate?

As noted in the application summary, the applicant proposes to construct a manufacturing building on the vacant site, as well as site improvements, such as on-site accessible parking spot and landscaping.

Variances are requested to allow a 0-ft setback on Johnson Creek Blvd, allow 3.5 ft of perimeter landscaping, allow a driveway apron spacing of 4 ft from the property line, and reduced spacing of the driveway distance from Johnson Creek Blvd.

The approval criteria for the variances are listed below and how the application meets the criteria.

- Provides an alternative analysis
    - 0-ft setback on Johnson Creek Blvd: the parcel is less than 4,000 sq ft and the required 20-ft dedication on Johnson Creek Blvd results in a lot size of 2,605 sq ft. Further, the shape of the lot is effectively a triangle, creating an additional development constraint. In addition to the required 10-ft setback on 58th Dr, parking, and landscaping, the developable area of the site is reduced by nearly 50%. The alternative to the variance would be to not develop the site, given the multitude of constraints, and the limited permitted uses in the Manufacturing zone. The applicant has submitted a narrative explaining that maintaining the 20-ft setback, in addition to all of the other requirements, would render the site undevelopable.
    - 4-ft spacing between driveway apron and property line, and 72-ft spacing from the intersection: As noted above, the small size of the site and its triangular shape limit the options for development on the site. Access from Johnson Creek Blvd is not permitted, so access from 58th Dr is the only option. To provide as much space between the driveway and the intersection with Johnson Creek Blvd, a reduction in the minimum spacing of 10 ft between the driveway apron and the property line is necessary. The applicant's narrative outlines the ramifications of requiring the 10 ft spacing, which would affect the internal circulation on the site and put the driveway even closer to the intersection. The applicant submitted an access study which confirmed that a spacing of 72 ft rather than the minimum required 100 ft will not result in impacts to safety or sight distance.
    - 3.5-ft perimeter landscaping: As noted above, the small size of the site and its triangular shape limit the options for development on the site. Requiring the full 6 ft width of landscaping would further reduce an already very small building footprint on the site and render the site effectively undevelopable. The location of the lot and the proposed building would not be directly adjacent to the existing residence on the adjacent lot. The home is located approximately 25 ft from the property line at the closest point to the subject property.
- Avoids or minimizes impacts to surrounding properties

  The proposed variances avoid creating adverse impacts for surrounding properties. The site is a corner lot and has only two adjacent properties, both of which are commercial/industrial zoned properties. However, the parcel directly north is a residence. The 0-ft setback on Johnson Creek Blvd includes the required 20-ft dedication for future improvements to the street. The proposed design includes a "living wall" or similar treatment on the building to help

soften the building when it is adjacent to the future sidewalk. The proposed driveway would be located as far as possible from the intersection with Johnson Creek Blvd to maximize safety, while still separating it from the adjacent property. The 3.5-ft area between the site driveway and the adjacent property is proposed to be landscaped. The reduction in the width of the landscaped perimeter is a reduction, not an elimination, and would still include landscaping and plants. The proposal minimizes impacts while still providing the ability to develop the site, which is now vacant and underutilized.

- Has desirable public benefits

  The proposal will create a modest public benefit by taking a vacant, underutilized site and adding a productive use to the limited Manufacturing zone. Total relief from the landscaping requirement is not requested, as the site will include landscaping, a "living wall" or similar treatment on the building to improve its appearance, and required improvements include street trees, curb, and sidewalk on 58th Dr, none of which exist today.

- Responds to the existing built or natural environment in a creative and sensitive manner

  The existing built and natural environment will be improved by the development, via the proposed "living wall" or similar treatment, constructing a new building and site improvements on a vacant, underutilized site, and constructing frontage improvements on 58th Dr.

- Impacts from the proposed variance will be mitigated to the extent practicable

  As noted above, any impacts from the proposed variances will be mitigated via a "living wall" or similar building treatment, smaller (but not eliminated) perimeter landscaping, and a reasonable spacing between the driveway apron and the intersection that is still safe. The combination of requested variances allows productive use of a very small vacant and underutilized site, while still adhering to the intent and purpose of the design and development standards in the Manufacturing zone.

The applicant and the circumstances of this case have demonstrated that the effect of strict compliance with the setback, perimeter landscaping, and driveway spacing standards would be a site that is effectively undevelopable. Given the proposed improvements to the site and to 58th Dr, staff believes granting the variances are reasonable and appropriate.

The applicant also requests a parking modification to allow for the design which has one accessible parking space on the site and two newly constructed parking spaces on 58th Dr adjacent to the site.

MMC 19.605.D provides information on how to calculate minimum and maximum parking requirements: Where the calculation of minimum parking spaces does not result in a whole number, the result shall be rounded down to the next whole number. Where the calculation of maximum parking spaces does not result in a whole number, the result shall

be rounded to the nearest whole number. The minimum off-street parking requirements for the proposed building are, when calculated per the code, one off-street space:

Use	Min/Max	Proposed sq ft	Total spaces required
Manufacturing	1 space/1,000 sq ft 2 spaces/1,000 sq ft	1,430 sq ft	1.43 = 1 space
Office	2 space/1,000 sq ft 3.4 spaces/1,000 sq ft	418 sq ft	0.84 = 0 spaces
		Total	**1 space**

If rounded up then the site would require two off-street spaces, one of which would be required to be an ADA accessible space. Given the constraints on the site, the request to provide one accessible space on site and provide two on-street spaces as part of the required frontage improvements is reasonable.

Because the site is separated from the R-7 zone by both Johnson Creek Blvd and the Springwater Corridor, staff believes that the small size of the building, design of the site, and compliance with other aspects of the code (such as noise ordinance) are sufficient to address proximity of the development to residentially-zoned properties.

CONCLUSIONS

Staff recommendation to the Planning Commission is as follows:

1. Approve the variances. This will result in a building with a 0-ft setback on Johnson Creek Blvd, 3.5-ft parking area perimeter landscaped areas, and a driveway spacing of 3.5 – 4 ft to the adjacent property line and 72 ft from the intersection with Johnson Creek Blvd.
2. Approve the parking modification. This will result in a site with one accessible parking space on site and two on-street spaces as part of the required frontage improvements.
3. Adopt the attached Findings and Conditions of Approval.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC).

- MMC 12.16 Access Management
- MMC 19.309 Manufacturing Zone (M)
- MMC 19.600 Off Street Parking and Loading
- MMC 19.700 Public Facility Improvements

- MMC 19.906 Development Review
- MMC 19.911 Variances

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

A. Approve the application subject to the recommended Findings and Conditions of Approval.

B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.

C. Deny the application upon finding that it does not meet approval criteria.

D. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by April 6, 2022, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Engineering Department, Building Official, Lewelling Neighborhood District Association (NDA), Clackamas County Engineering Review, Metro, TriMet, and the Clackamas Fire District #1. The following is a summary of the comments received by the City.

- **Milwaukie Engineering Department** – Engineering comments have been incorporated in the Findings under 19.700 and Chapter 12.
- **TriMet** – Comments related to the adjacent bus stop on Johnson Creek Blvd when improvements are made.

A public notice was sent on January 5, 2022 to all property owners within 300 ft of the site. The following comments were received:

- **E. Michael Connors** (representing Smith Rock): numerous comments related to approvability of requested variances and applicability of MMC 19.500.

  Staff response: Staff notes that a key factor in necessitating the requested variance to the front yard setback on Johnson Creek Blvd is the required 20-ft dedication. Because the dedication represents over 1,400 sq ft of area, the resultant lot is constrained for development. The proposed building would be built well back from the street, addressing sight distance issues when accessing the street from 58th Dr. Per the submitted access study and review by the City Engineer, there would be no impacts to sight distance from the proposal. The 20-ft dedication places the front of the proposed

building approximately in line with the fence for the Smith Rock property. There will be no obstruction in viewing oncoming westbound traffic.

The minimum front yard setback in the M zone is 20 ft, which is the same as required in the R-7 zone located across Johnson Creek Blvd from the subject property. The response to the requested variance applies both to the base zone standard in the M zone as well as the requirements for a transition area stipulated in MMC 19.504.6.

MMC 19.505.8 requires all new commercial, office, mixed-use, and institutional development within 500 ft of an existing or planned transit route. It requires that new buildings either have their primary entrance facing the transit street or facing a public right of way which leads to the transit street. Johnson Creek Blvd is a transit street, but the proposed building is an industrial building with an accessory office space, so this code section does not apply. However, staff notes that the proposed building entrance, while not oriented to Johnson Creek Blvd, is located facing 58th Dr, which leads directly to Johnson Creek Blvd as allowed by the code.

- **Evan Geist and Kimberlee Morris, 9203 SE 58th Dr**: Concerns about effects of the development on vegetation on their property, the effects of the building on future installation of solar panels, and concerns about the requested variances, including 3.5 ft landscaped area for the proposed parking area, and the front yard variance.
- **Jen Procter Andrews:** Concern and opposition to the requested variances and proposed development.
- **Tim and Jen Andrews:** Concern and opposition to the requested variances and proposed development, particularly related to traffic and safety issues.
- **Michelle Wyffels, TriMet:** If there are plans for a sidewalk or frontage improvements on Johnson Creek Blvd, TriMet would like to provide input about incorporating a safe and ADA accessible bus stop into the project.

  Staff response: The city is requiring frontage improvements on 58th Dr and a dedication on Johnson Creek Blvd, not improvements. Those would be coordinated in a future project by Clackamas County.

ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Public Copies	Packet
1. Recommended Findings in Support of Approval	☐	☒	☒	☒
2. Recommended Conditions of Approval	☐	☒	☒	☒
3. Applicant's Narrative and Supporting Documentation submitted on June 15, 2021 and revised on December 8, 2021.				
a. Narrative	☒	☒	☒	☒

	Early PC Mailing	PC Packet	Public Copies	Packet
b. Site Plans	☒	☒	☒	☒
c. Building Plans	☒	☒	☒	☒
d. Access Study	☒	☒	☒	☒
4. Applicant's supplementary information received on March 30, 2022	☐	☒	☒	☒
5. Comments received	☐	☒	☒	☒

Key:
Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.
PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.
Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.
Packet = packet materials available online at https://www.milwaukieoregon.gov/bc-pc/planning-commission-88.

ATTACHMENT 1
Recommended Findings in Support of Approval
File #VR-2021-012; DEV-2021-006; P-2021-003, 58th Dr Manufacturing Building

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, Troy Lyver, on behalf of the property owners, has applied for approval to construct a manufacturing building and associated site improvements at 9285 SE 58th Dr. This site is in the Manufacturing M Zone. The land use application file numbers are VR-2021-012, DEV-2021-006, and P-2021-003.

2. The applicant proposes to construct a 2-story 1,848-sq ft building, site landscaping and parking, and frontage improvements. The proposed development requires variances to minimum front yard setbacks, width of parking area perimeter landscaping, and minimum spacing standards between a driveway apron and a property line and to the nearest intersection. The application proposes to have the required on-site parking space be the accessible space and provide other parking on-street.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
    - MMC 12.16 Access Management
    - MMC 19.309 Manufacturing Zone (M)
    - MMC 19.600 Off Street Parking and Loading
    - MMC 19.700 Public Facility Improvements
    - MMC 19.906 Development Review
    - MMC 19.911 Variances

    The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on January 25, 2022 as required by law.

4. MMC 19.309 Manufacturing

    a. MMC 19.301 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 proposal is a 2-story building for light manufacturing uses with office space.

Table 1: Overview of Compliance with Development Standards

Manufacturing Zone - M Development Standards			
Standard	Required	Proposed	Staff Comment
1. Setbacks Front Side Rear Street side	Min. 20 ft None None 10 ft	 0 ft 0 ft 0 ft 10 ft	A variance has been requested.
2. Building Height	45 ft (max.)	28 ft-10 in	Complies with standard.
3. Landscaping	15% min.	Approx. 20%	Complies with standard.

Subject to approval of the requested variance, the Planning Commission finds that the proposal complies with the applicable standards of the M zone.

5. MMC Chapter 19.600 Off-Street Parking and Loading

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

a. MMC Section 19.602 Applicability

MMC 19.602 establishes the applicability of the provisions of MMC 19.600, and MMC Subsection 19.602.3 establishes thresholds for full compliance with the standards of MMC 19.600. Development of a vacant site is required to provide off-street parking and loading areas that conform fully to the requirements of MMC 19.600.

The proposed development is an 1,848-sq ft manufacturing building and is required to conform fully to the requirements of MMC 19.600.

The Planning Commission finds that the provisions of MMC 19.600 are applicable to the proposed development.

b. MMC Section 19.605 Vehicle Parking Quantity Requirements

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

The proposed manufacturing building would be 1,848 sq ft.

As per MMC Table 19.605.1, the minimum/maximum number of required off-street parking spaces for a manufacturing use is 1/2 spaces per 1,000 sq ft of floor area; for an office use the number is 2/3.4 per 1,000 sq ft. According to MMC Table 19.605.1, the proposed development should provide a minimum of 1 space and would have a maximum of 4 spaces allowed. As proposed, the development would provide 1 accessible (ADA) space on-site and 2 on-street spaces.

Subject to approval of the requested parking modification, the Planning Commission finds that this standard is met.

c. MMC Subsection 19.605.2 Quantity Modifications and Required Parking Determinations

(1) MMC Subsection 19.605.2 A. allows for the modification of minimum and maximum parking ratio standards as calculated per Table 19.605.1.

The applicant has requested a modification to the minimum required parking for the development and proposes to provide an on-site accessible parking space and 2 on-street spaces for the development. This allows the required accessible space to be located as close to the building entrance as possible and provides 2 on-street parking spaces as part of the required frontage improvements on 58th Dr.

(2) MMC Subsection 19.605.2 C.1. contains the approval criteria for granting a parking modification, including a demonstration that the proposed parking quantities are reasonable based on (1) existing parking demand for similar uses in other locations, (2) quantity requirements from other jurisdictions, and (3) professional literature. In addition to this criterion, a request for modifications to decrease the amount of minimum required parking must meet the following criteria:

(a) The use of transit, parking demand management (TDM) programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.

(b) The reduction of off-street parking will not adversely affect available on-street parking.

(c) The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site.

A small manufacturing building like the one proposed would have a very low parking demand. The total number of onsite employees will be small. The site would provide the required parking space, but it would be the required ADA accessible space. The site is close by a Trimet transit stop and the Springwater Corridor Trail, so alternative modes of travel are possible to the site. No formal on-street parking is currently available on 58th Dr.; the proposed development includes frontage improvements which would provide two on-street parking space.

The Planning Commission finds that the applicant has adequately addressed the criteria for a parking modification to allow for the required accessible space to be provided on-site, with non-accessible spaces provided on-street.

d. MMC Section 19.606 Parking Area Design and Landscaping

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

(1) MMC Subsection 19.606.1 Parking Space and Aisle Dimension

MMC 19.606.1 establishes dimensional standards for required off-street parking spaces and drive aisles. For 90°-angle spaces, the minimum width is 9 ft and minimum depth is 18 ft, with a 9-ft minimum curb length and 22-ft drive aisles. Parallel spaces require with 22-ft lengths and a width of 8.5 ft.

The parking areas shown on the Planned Development plan have been laid out conceptually based on the standards of Table 19.606.1 using a 9-ft wide and 18-ft long parking space. Full compliance with these standards will be shown at the time of development.

(2) MMC Subsection 19.606.2 Landscaping

MMC 19.606.2 establishes standards for parking lot landscaping, including for perimeter and interior areas. The purpose of these landscaping standards is to provide buffering between parking areas and adjacent properties, break up large expanses of paved area, help delineate between parking spaces and drive aisles, and provide environmental benefits such as stormwater management, carbon dioxide absorption, and a reduction of the urban heat island effect.

(a) MMC Subsection 19.606.2.C Perimeter Landscaping

In all but the downtown zones, perimeter landscaping areas must be at least 6 ft wide where abutting other properties and at least 8 ft wide where abutting the public right-of-way. At least 1 tree must be planted for every 30 lineal ft of landscaped buffer area, with the remainder of the buffer planted with grass, shrubs, ground cover, mulch, or other landscaped treatment. Parking areas adjacent to residential uses must provide a continuous visual screen from 1 to 4 ft above the ground to adequately screen vehicle lights.

The perimeter parking lot landscaping adjacent to the property line has been designed at 3.5-ft wide.

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

As conditioned, the Planning Commission finds that the applicable standards of MMC 19.606.2 are met.

(3) MMC Subsection 19.606.3 Additional Design Standards

MMC 19.606.3 establishes various design standards, including requirements related to paving and striping, wheel stops, pedestrian access, internal circulation, and lighting.

(a) MMC Subsection 19.606.3.A Paving and Striping

Paving and striping are required for all required maneuvering and standing areas, with a durable and dust-free hard surface and striping to delineate spaces and directional markings for driveways and accessways.

The plans submitted indicate that the parking area will be paved and striped.

This standard is met.

(b) MMC Subsection 19.606.3.B Wheel Stops

Parking bumpers or wheel stops are required to prevent vehicles from encroaching onto public rights-of-way, adjacent landscaped areas, or pedestrian walkways. Curbing may substitute for wheel stops if vehicles will not encroach into the minimum required width for landscape or pedestrian areas.

The plans submitted indicate that the parking area will meet this standard.

This standard is met.

(c) MMC Subsection 19.606.3.C Site Access and Drive Aisles

Accessways to parking areas shall be the minimum number necessary to provide access without inhibiting safe circulation on the street. Drive aisles shall meet the dimensional requirements of MMC 19.606.1, including a 22-ft minimum width for drive aisles serving 90°-angle stalls and a 16-ft minimum width for drive aisles not abutting a parking space. Along collector and arterial streets, no parking space shall be located such that its maneuvering area is in an ingress or egress aisle within 20 ft of the back of the sidewalk. Driveways and on-site circulation shall be designed so that vehicles enter the right-of-way in a forward motion.

The plans submitted indicate that the parking area will meet this standard.

This standard is met.

6. MMC 19.700 Public Facility Improvements

See Public Facilities Improvement findings below in Finding 9.

7. MMC Chapter 19.911 Variances

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

The applicant proposes to: reduce the front yard setback to 0 ft; reduce the perimeter landscaping to 3.5 ft; and reduce the minimum accessway spacing standards.

The Planning Commission finds that the request is subject to a Type III Variance review.

b. MMC 19.911.4 establishes criteria for approving a variance request.

The applicant has chosen to address the discretionary relief criteria of MMC 19.911.4.B.1.

(1) Discretionary relief criteria

(a) 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.

- *0-ft setback on Johnson Creek Blvd: the parcel is less than 4,000 sq ft and the required 20-ft dedication on Johnson Creek Blvd results in a lot size of 2,605 sq ft. Further, the shape of the lot is effectively a triangle, creating an additional development constraint. In addition to the required 10-ft setback on 58th Dr, parking, and landscaping, the developable area of the site is reduced by nearly 50%. The alternative to the variance would be to not develop the site, given the multitude of constraints. The applicant has submitted a narrative explaining that maintaining the 20-ft setback, in addition to all of the other requirements, would render the site undevelopable.*

- *Spacing between driveway and property line and to the intersection with Johnson Creek Blvd: As noted above, the small size of the site and its triangular shape limit the options for development on the site. Access from Johnson Creek Blvd is not permitted, so access from 58th Dr is the only option. In order to provide as much space between the driveway and the intersection with Johnson Creek Blvd, a reduction in the minimum spacing of 10 ft between the driveway apron and the property line is necessary. The applicant's narrative outlines the ramifications of requiring the 10 ft spacing, which would affect the internal circulation on the site and put the driveway even closer to the intersection. Per Finding 8.b, the submitted access study confirms that a spacing of 72 ft rather than the minimum required 100 ft will not result in impacts to safety or sight distance.*

- *3.5-ft perimeter landscaping: As noted above, the small size of the site and its triangular shape limit the options for development on the site. Requiring the full 6 ft width of landscaping would further reduce an already very small building footprint on the site and render the site effectively undevelopable.*

This criterion is met.

(b) 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:

(i) The proposed variance avoids or minimizes impacts to surrounding properties.

The proposed variances avoid creating adverse impacts for surrounding properties. The site is a corner lot and has only two adjacent properties, both of which are commercial/industrial properties. The 0-ft setback on Johnson Creek Blvd includes

the required 20-ft dedication for future improvements to the street. The proposed design includes a "living wall" on the building to help soften the building when it is adjacent to the future sidewalk. The proposed driveway would be located as far as possible from the intersection with Johnson Creek Blvd to maximize safety, while still separating it from the adjacent property. The 3.5-ft space is proposed to be landscaped. The reduction in the width of the landscaped perimeter is a reduction, not an elimination, and would still include landscaping and plants. The proposal minimizes impacts while still providing the ability to develop the site, which is now vacant and underutilized. The spacing between the driveway and the intersection with Johnson Creek Blvd would still provide 72 ft of distance which will not impact surrounding properties.

This criterion is met.

(ii) The proposed variance has desirable public benefits.

The proposal will create a modest public benefit by taking a vacant, underutilized site and adding a productive use to the limited Manufacturing zone. Total relief from the landscaping requirement is not requested, as the site will include landscaping, a "living wall" on the building to improve its appearance, and required improvements include street trees, curb, and sidewalk on 58th Dr, none of which exist today.

This criterion is met.

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

The existing built and natural environment will be improved by the development, via the proposed "living wall", constructing a new building and site improvements on a vacant, underutilized site, and constructing frontage improvements on 58th Dr.

This criterion is met.

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

As noted above, any impacts from the proposed variances will be mitigated via a "living wall", smaller (but not eliminated) perimeter landscaping, and a reasonable spacing between the driveway apron and the intersection that is still safe. The combination of requested variances allows productive use of a very small vacant and underutilized site, while still adhering to the intent and purpose of the design and development standards in the Manufacturing zone.

This criterion is met.

The Planning Commission finds that these criteria are met.

8. MMC 12 Streets, Sidewalks, and Public Places

a. MMC 12.08 – Street & Sidewalk Excavations, Construction, and Repair

MMC 12.08.020 establishes constructions standards for new sidewalks and alterations to existing sidewalks.

The applicant must not engage in any work in the right-of-way without first obtaining City permit, including any activity resulting in alteration of the surface of the right-of-way or their access to the right-of-way.

As conditioned, the standards are met.

b. MMC 12.16.040 – Access Requirements and Standards

MMC 12.16.040 establishes standards for access (driveway) requirements. As conditioned, the standards are met as summarized below.

(1) MMC 12.16.040.A – Access

MMC 12.16.040.A requires that all properties provide street access with the use of an accessway as set forth in the Public Works Standards.

The proposed development shall construct a new accessway per the Public Works Standards.

As conditioned, standard is met.

(2) MMC 12.16.040.C – Accessway Location

MMC 12.16.040.C requires that all driveway approaches in non-residential districts must be 10 ft from the side property line, and at least 100 feet away from the nearest intersection.

The applicant has requested a variance to construct the new driveway 4 ft from the north side property line and approximately 72 ft from the intersection. Per the submitted Access Spacing Study, this location will not result in impacts to safety or sight distance.

Subject to approval of the Accessway Location variance, the standard is met.

(3) MMC 12.16.040.E – Accessway Design

MMC 12.16.040.E requires that all driveway approaches meet Americans with Disabilities Act (ADA) standards and Milwaukie Public Work Standards.

The applicant has proposed to construct a new driveway that will conform with the Americans with Disabilities Act (ADA) standards and the Milwaukie Public Works Standards.

As conditioned, the standard is met.

(4) MMC 12.16.040.F – Accessway Size

MMC 12.16.040.F requires that industrial uses shall have a minimum driveway apron width of 15 ft and a maximum of 45 ft.

The applicant has proposed a new driveway apron width of 20 ft which is in conformance with this standard.

As conditioned, this standard is met.

c. MMC 12.24 – Clear Vision at Intersections

MMC 12.24 establishes standards to maintain clear vision areas at intersections in order to protect the safety and welfare of the public in their use of City streets. The clear vision area for all street and driveway or accessway intersections is the area within 20 ft radius from where the lot line and the edge of a driveway intersect. The provisions of this chapter relate to safety. They shall not be modified through variance and are not subject to appeal.

The applicant must maintain or remove all trees, shrubs, hedges or other vegetation in excess of three feet in height, measured from the street center grade from the clear vision area. Trees exceeding this height may remain in this area; provided, all branches and foliage are removed to the height of eight feet above the grade.

This standard is met.

As conditioned, and subject to the approval of the Access Spacing variance, the Planning Commission finds the standards in MMC 12 are met.

9. MMC 19.700 Public Facility Improvements

a. MMC 19.702 Applicability

MMC 19.702.E establishes the applicability of the provisions of MMC 19.700, including a new dwelling unit, any increase in gross floor area, land divisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

The applicant is proposing to construct a 2-story manufacturing building measuring 1,848 sq ft. MMC 19.700 applies to the proposed development.

b. MMC Section 19.705 Rough Proportionality

MMC 19.705 requires that transportation improvements be in proportion to impacts of a proposed development. Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, must be provided in rough proportion. Guidelines require consideration of a ½ mile radius, existing use within the area, applicable TSP goals, and the benefit of improvements to the development property.

Based on proportionality guidelines found in MMC 19.705.2, the applicant is found responsible for constructing half street improvements along 58th Drive. This includes management of stormwater generated from new impervious surface, on-street parking, and a pedestrian ramp to provide connectivity traveling east along 58th Drive at the intersection of Johnson Creek Boulevard.

As conditioned, this standard is met.

c. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. The City's street design standards are based on the street classification system described in the City's Transportation System Plan (TSP).

As conditioned, the proposal meets the standards of MMC 19.708, as summarized below.

(1) MMC 19.708.1.A – Access Management

All development subject to 19.700 shall comply with the access management standards contained in Chapter 12.16.

As mentioned in 8.b above, the applicant proposes to construct a new driveway in full compliance with the access management standards contained in Chapter 12.16 and the Public Works Standards.

(2) MMC 19.708.1.B – Clear Vision

All development subject to 19.700 shall comply with Clear vision requirements in Chapter 12.24.

As mentioned in 8.c, the proposed development is required to maintain and remove all obstructions within the clear vision area.

(3) MMC 19.708.1.D – Development in Non-Downtown Zones

Transportation improvements must be constructed in accordance with the Milwaukie Transportation System Plan and Transportation Design Manual street classification. The development fronts a portion of 58th Drive with local street classification.

As conditioned, the standards are met.

d. MMC 19.708.2 Street Design Standards

MMC 19.708.2 establishes standards for street design and improvements.

Development standards for 58th Drive require the construction of a 5 ft sidewalk, a 5 ft landscape strip, a 6 ft parking strip, and curb and gutter.

As conditioned, this standard is met.

e. MMC 19.708.3 – Sidewalk Requirements and Standards

MMC 19.708.3.A.2 requires that sidewalks be provided on the public street frontage of all development in conformance to ADA standards.

The applicant must construct and maintain ADA compliant 5 ft wide setback sidewalks.

As conditioned, this standard is met.

As conditioned, the Planning Commission finds the standards in MMC 19.700 are met.

10. The application was referred to the following departments and agencies on December 10, 2021:
    - Milwaukie Building Division
    - Milwaukie Engineering Department
    - Clackamas County Fire District #1
    - Lewelling Neighborhood District Association Chairperson and Land Use Committee

    Notice of the application was also sent to surrounding property owners and residents within 300 ft of the site on January 5, 2022, and a sign was posted on the property on January 7, 2022.

    Comments were received from the following persons:

- **Milwaukie Engineering Department** – Engineering comments have been incorporated in the Findings under 19.700 and Chapter 12.
- **TriMet** – Comments related to the adjacent bus stop on Johnson Creek Blvd when improvements are made.

A public notice was sent on January 5, 2022 to all property owners within 300 ft of the site. The following comments were received:

- **E. Michael Connors** (representing Smith Rock)
- **Evan Geist and Kimberlee Morris, 9203 SE 58th Dr**
- **Jen Procter Andrews**
- **Tim and Jen Andrews**
- **Michelle Wyffels, TriMet**

EXHIBIT 2
Conditions of Approval
File #VR-2021-012; 58th Dr Manufacturing Building

Conditions

1. The site shall be used in a manner as proposed and approved through this land use action and as submitted in materials received by the City on June 15, 2021 and revised on December 8, 2021, and supplemental information received by the City on March 30, 2022.
2. Prior to start of any site work or earth removal, a fenced tree protection zone (TPZ) must be established on the subject property for the large blue spruce located on the adjacent property at 9208 SE 58th Dr. The TPZ is defined as the tree canopy drip line. The TPZ must be maintained with a 4 ft – 6 ft tall fence around the perimeter of the TPZ; signage is required on the fencing stating that no one, and no equipment, is allowed to enter or disturb the area. Fencing required to be installed prior to any earth-disturbing activity and must be maintained throughout the project. An inspection of the TPZ fencing is required prior to any earth-disturbing activity.
3. Site landscaping must be maintained in good and healthy condition.
4. Prior to the certificate of occupancy, the following shall be resolved:
    a. All required landscaping must be installed.
    b. Construct a 5-ft setback sidewalk, a 5-ft landscape strip (or water quality facility), a 6-ft parking strip, and curb and gutter fronting the proposed development property along SE 58th Drive. An issued Right-of-Way permit is required prior to the start of any work within the public right-of-way.
    c. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA). An issued Right-of-Way permit is required prior to the start of any work within the public right-of-way.
    d. Install stormwater detention and water quality treatment facilities. Stormwater plan review and approval by the Engineering Department required before issuance of building permit and prior to the start of construction.

Additional Requirements

1. Prior to issuance of building permits, the following shall be resolved:
    a. Provide an erosion control plan and obtain an erosion control permit, if needed. Consult with the Engineering Department to determine if an erosion control permit is needed for the driveway and frontage improvements.

Fees paid on 6/22/21 = application date.

MILWAUKIE PLANNING
6101 SE Johnson Creek Blvd
Milwaukie OR 97206
503-786-7630
planning@milwaukieoregon.gov

Application for Land Use Action

Master File #: VR-2021-012; DEV-2021-006

Review type*: ☐ I ☒ II ☒ III ☐ IV ☐ V

CHECK ALL APPLICATION TYPES THAT APPLY:

- ☐ Amendment to Maps and/or Ordinances:
  - ☐ Comprehensive Plan Text Amendment
  - ☐ Comprehensive Plan Map Amendment
  - ☐ Zoning Text Amendment
  - ☐ Zoning Map Amendment
- ☐ Code Interpretation
- ☐ Community Service Use
- ☐ Conditional Use
- ☒ Development Review
- ☐ Director Determination
- ☐ Downtown Design Review
- ☐ Extension to Expiring Approval
- ☐ Historic Resource:
  - ☐ Alteration
  - ☐ Demolition
  - ☐ Status Designation
  - ☐ Status Deletion
- ☐ Land Division:
  - ☐ Final Plat
  - ☐ Lot Consolidation
  - ☐ Partition
  - ☐ Property Line Adjustment
  - ☐ Replat
  - ☐ Subdivision
- ☐ Miscellaneous:
  - ☐ Barbed Wire Fencing
- ☐ Mixed Use Overlay Review
- ☐ Modification to Existing Approval
- ☐ Natural Resource Review**
- ☐ Nonconforming Use Alteration
- ☐ Parking:
- ☐ Quantity Determination
  - ☐ Quantity Modification
  - ☐ Shared Parking
  - ☐ Structured Parking
  - ☐ Planned Development
- ☐ Residential Dwelling:
- ☐ Accessory Dwelling Unit
  - ☐ Duplex
  - ☐ Manufactured Dwelling Park
  - ☐ Temporary Dwelling Unit
  - ☐ Sign Review
- ☐ Transportation Facilities Review
- ☒ Variance:
- ☐ Use Exception
  - ☐ Variance
  - ☐ Willamette Greenway Review
- ☐ Other: _____
- ☐ **Use separate application forms for:**

Annexation and/or Boundary Change
- Compensation for Reduction in Property Value (Measure 37)
- Daily Display Sign
- Appeal
- Appeal

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): Lyver Engineering and Design, LLC

Mailing address: 7950 SE 106th Ave, Portland State/Zip: OR 97266

Phone(s): 503-705-5283 Email: troyl@lyver-ead.com

Please note: The information submitted in this application may be subject to public records law.

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: State/Zip:

Phone(s): Email:

SITE INFORMATION:

Address: NoSiteAddress Map & Tax Lot(s): 12E30AD01500

Comprehensive Plan Designation: I Zoning: M Site of property: 0.08Ac

PROPOSAL (describe briefly):

Construction of a 1,848 sf manufacturaing/light industrial bldg with onsite parking/loading, landscaping with stormwater facility, and offsite frontage improvements of SE 58th Drive.

SIGNATURE:

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: Carol Phelps / Keith Phelps Date: 06/08/2021

Carol Phelps & Keith Phelps - owners

IMPORTANT INFORMATION ON REVERSE SIDE

For multiple applications, the highest numbered land use type. See MMC Subsection 19.1001.6.B.1.

WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

REVIEW TYPES:

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

****Note:** Natural Resource Review applications **may require a refundable deposit.** Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form.

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	AMOUNT (after discount, if any)	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Master file	VR-2021-012	$ 2,000			
Concurrent application files	DEV-2021-006	$ 750	25%		
		$			
		$			
	TOTAL	$ $2,750			
Deposit (NR only)				☐ Deposit Authorization Form received	
TOTAL AMOUNT RECEIVED: $			RECEIPT #:		RCD BY:
Associated application file #s (appeals, modifications, previous approvals, etc.):					
Neighborhood District Association(s): N/A					
Notes:					

MILWAUKIE PLANNING
6101 SE Johnson Creek Blvd
Milwaukie OR 97206
503-786-7630
planning@milwaukieoregon.gov

Submittal Requirements

For all Land Use Applications
(except Annexations and Development Review)

All land use applications must be accompanied by a signed copy of this form (see reverse for signature block) and the information listed below. The information submitted must be sufficiently detailed and specific to the proposal to allow for adequate review. Failure to submit this information may result in the application being deemed incomplete per the Milwaukie Municipal Code (MMC) and Oregon Revised Statutes.

Contact Milwaukie Planning staff at 503-786-7630 or planning@milwaukieoregon.gov for assistance with Milwaukie's land use application requirements.

1. **All required land use application forms and fees**, including any deposits.

   Applications without the required application forms and fees will not be accepted.

2. **Proof of ownership or eligibility to initiate application** per MMC Subsection 19.1001.6.A.

   Where written authorization is required, applications without written authorization will not be accepted.

3. **Detailed and comprehensive description** of all existing and proposed uses and structures, including a summary of all information contained in any site plans.

   Depending upon the development being proposed, the description may need to include both a written and graphic component such as elevation drawings, 3-D models, photo simulations, etc. Where subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary onsite "story pole" installations, and photographic representations thereof, may be required at the time of application submittal or prior to the public hearing.

4. **Detailed statement** that demonstrates how the proposal meets the following:

   A. All applicable development standards (listed below):

      1. **Base zone standards** in Chapter 19.300.
      2. **Overlay zone standards** in Chapter 19.400.
      3. **Supplementary development regulations** in Chapter 19.500.
      4. **Off-street parking and loading standards and requirements** in Chapter 19.600.
      5. **Public facility standards and requirements**, including any required street improvements, in Chapter 19.700.

   B. All applicable application-specific approval criteria (check with staff).

   These standards can be found in the MMC, here: www.qcode.us/codes/milwaukie/

5. **Site plan(s), preliminary plat, or final plat** as appropriate.

   See Site Plan, Preliminary Plat, and Final Plat Requirements for guidance.

6. **Copy of valid preapplication conference report**, when a conference was required.

APPLICATION PREPARATION REQUIREMENTS:

- Five hard copies of all application materials are required at the time of submittal. Staff will determine how many additional hard copies are required, if any, once the application has been reviewed for completeness. Provide an electronic version, if available.
- All hard copy application materials larger than 8½ x 11 in. must be folded and be able to fit into a 10- x 13-in. or 12- x 16-in. mailing envelope.
- All hard copy application materials must be collated, including large format plans or graphics.

ADDITIONAL INFORMATION:

- Neighborhood District Associations (NDAs) and their associated Land Use Committees (LUCs) are important parts of Milwaukie's land use process. The City will provide a review copy of your application to the LUC for the subject property. They may contact you or you may wish to contact them. Applicants are strongly encouraged to present their proposal to all applicable NDAs prior to the submittal of a land use application and, where presented, to submit minutes from all such meetings. NDA information: www.milwaukieoregon.gov/citymanager/what-neighborhood-district-association.
- By submitting the application, the applicant agrees that City of Milwaukie employees, and appointed or elected City Officials, have authority to enter the project site for the purpose of inspecting project site conditions and gathering information related specifically to the project site.
- Submittal of a full or partial electronic copy of all application materials is strongly encouraged.

As the authorized applicant I, (print name) Keith Phelps and Carol Phelps, attest that all required application materials have been submitted in accordance with City of Milwaukie requirements. I understand that any omission of required items or lack of sufficient detail may constitute grounds for a determination that the application is incomplete per MMC Subsection 19.1003.3 and Oregon Revised Statutes 227.178. I understand that review of the application may be delayed if it is deemed incomplete.

Furthermore, I understand that, if the application triggers the City's sign-posting requirements, I will be required to post signs on the site for a specified period of time. I also understand that I will be required to provide the City with an affidavit of posting prior to issuance of any decision on this application.

Applicant Signature: Carol Phelps dotloop verified 06/12/21 12:27 PM EDT KRRP-AQF6-KLLE-9GP6 Keith Phelps dotloop verified 06/12/21 12:27 PM EDT

Date: 06/12/2021

Official Use Only

Date Received (date stamp below):

Received by: _____

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November 30, 2021

Reference: Phelps Industrial/ Light Manufacturing Bldg
9285 SE 58th Drive
#VR-2021-012;DEV-2021-006

LEAD Project No: 19-042

Subject: Comprehensive Project Description

The site at the NW corner of the intersection of SE 58th Drive and Johnson Creek Blvd is currently a vacant gravel lot with no structures, recent address request provided site address of 9285 SE 58th Dr, Milwaukie, OR 97206. The attached proposal for the Phelps Industrial/ Light Manufacturing Bldg Land Use Application is for a 1,848 square feet (sf) manufacturing building as specified by Pacific Building Systems in attached "3c - Building Specifications.pdf" and further in attached "3b - Proposed Building Plans.pdf". The proposed 1,848 sf of floor area is broken up with the main floor of 1,430 sf manufacturing (77%) and the upper floor of 418 sf office space (23%). The second floor office space shall partially cover onsite parking and have direct access to the exterior through either the nearby main entrance or immediate 12'x12' roll up door.

Onsite improvements include previously mentioned onsite parking with direct sidewalk access to both roll up and main entrance. Low vegetation with bark covering is proposed along the parking area with more traditional landscaping of grass, ground cover, shrubbery and small trees in front of the building facade along SE 58th Drive. Onsite stormwater from pavement and roof drainage will be directed to the onsite planted infiltration swale with overflow to the 12" public storm drain system.

Public improvements include the 2' widening of existing pavement and construction of the typical curb & gutter, planting strip and separated sidewalk that meets the city's local street section design. A 20' driveway drop provides access to the onsite parking at the northern end of the property. A curb return and pedestrian crossing is proposed for pedestrian access eastward across SE 58th Drive. While a 20' dedication is provided for SE Johnson Creek Blvd (JCB), no public frontage improvements are required or proposed. Said dedication along JCB significantly reduces the building footprint allowable thus a zero foot setback is requested along that frontage.

These requests require three Type III Variance for Zero Setback, Access Management, and Perimeter Landscaping. The appropriate narratives, maps and additional attachments are itemized on the Land Use Application packet transmittal.

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November 30, 2021

Reference: Phelps Industrial/ Light Manufacturing Bldg
9285 SE 58th Drive
#VR-2021-012;DEV-2021-006

LEAD Project No: 19-042

Subject: LandUse Detailed Statement for Type II Development Review & 2 Type III Variances

MMC19.906.2 Applicable Development Review Type
The proposal is for new construction over 1000 square feet in the Manufacturing Zone which falls within 120 ft of areas zoned for residential uses and requires a Type II Review.

MMC19.906.4 Type II Development Review Approval Criteria
The section below outlines how this proposal meets the various approval criteria for a Type II Development Review Application.

19.906.4.A ➡ The applicable standards of MMC19.309 Manufacturing Zone M are as follows;

19.309.2.A= This proposal is an allowable combination of 23% office space and 77% manufacturing, exceeding the minimum manufacturing base usage of 25%.

19.309.6 Development standards

A= Minimum Setbacks.

Response ➡ While front setback std is 20' the proposed site improvements include a building line with Zero lotline setback due to the required right of way dedication of 20'. This triggers a Type III variance and is discussed under section MMC19.911.4.B below. Corner side yard setbacks of 10' are supplied between the building and SE 58th Drive. No rear or side setbacks are required or provided. Refer to sheet C-1 in "5b - Proposed Site Plans.pdf".

B= Maximum Height

Response ➠ This proposal stays within the maximum height of 45’ with a northern roof height of 28’-10”, sloping to a southern roof height of 23’-0”. Refer to sheet A-2 of “3b - Proposed Building Plans.pdf” for elevations.

C= Parking and Loading will be discussed below with MMC19.600

D= Landscaping

Response ➠ This proposal meets the 15% minimum landscaping requirement. Plan set sheet C-1 in “5b - Proposed Site Plans.pdf” shows lot coverage and vegetation calculations of 547 sf landscaping proposed. Of that, 333 sf will be planted with ground cover, 99 sf will be covered in bark, and 80sf of planted stormwater swale. The bark chip area is only 18% of total landscaping proposed, staying well under the required 20% maximum. The street frontage includes one proposed street tree meeting the requirement of 1 per 40 LF of planter. Plan set sheet C-1 illustrates planting location and types. The specific variety of trees, shrubbery, and various ground cover will be specified in development plans.

E= Site Access

Response ➠ This site has limited frontage when reconciled with intersection clearance requirements. Please refer to “4b - Access Study.pdf” for detailed information regarding the proposed site access of a single 20ft wide curb cut for driveway on SE 58th Drive as seen on sheet C-2 of “5b - Proposed Site Plans.pdf”.
With this site limitation a variance is requested with the Type III Variance Approval Criteria for Access Management itemized near the end of this detailed statement under MMC19.911.4.B.

F= Transition Area

Response ➠ Industrial development adjacent to and within 120 ft of areas zoned for residential uses is subject to Type I or II review per Section 19.906 Development Review. The following characteristics will be considered:

1. *Noise*

   Response ➠ Any prospective business that will occupy the subject site will be an allowed use in the Manufacturing Zone (M) under the provisions of MMC 19.309.2 (A). Any manufacturing use will not generate a level of sound that

would be intrusive to neighboring uses, whether industrial, commercial or residential. Outside of the residential dwelling 70' across Johnson Creek Blvd, the nearest dwelling (9203 SE 58th Drive) is located to the north of the subject site at a distance of approximately 18 feet. It does appear that this residential structure has industrial/office commercial uses within the adjoining landscape rock yard. However, with the "operations end" of the building located adjacent to Johnson Creek Blvd., this will allow the "administrative end" of the building to act as a buffer between the adjacent structure and the "operations area" of the building. Site generated noise is controlled by established levels through the State of Oregon.

2. *Lighting*
   Response ➠ There will be some outside "perimeter" lighting around the site. This lighting will be for both convenience and security. Outdoor lighting will be shielded and directed, as necessary, to protect the structure to the north and south. Lighting will also be positioned to avoid direct light and glare onto Johnson Creek Blvd. and SE 58th Drive. Indoor lighting will not have any impact on adjacent properties.
3. *Hours of Operation*
   Response ➠ Any manufacturing business that may occupy the subject site and function fully within the confines of the subject site, and within certain operating business hours. Normal operating hours might be from 7 AM to 7 PM, Monday through Friday. There may be limited weekend hours depending on need for this weekend manufacturing activity, level of business, and demand for any products produced on the subject site.
4. *Delivery and Shipping*
   Response ➠ All deliveries and shipping will take place at the northerly end of the building, gaining access via the ADA loading stall and roll up door under the 2nd floor offices. All deliveries vehicles will park along frontage off-site and handcart material to the front or roll-up door. All truck traffic will utilize SE 58th Avenue for direct access to the subject site. It is likely that most, if not all, deliveries and pickups from this business location will be made by

town delivery trucks and vans. Delivery and shipping will take place during operating business hours.

5. *Height of Structure*
   Response ➠ The proposed building to be built on the subject site will be 23 feet in height on the southerly end directly adjacent to Johnson Creek Blvd. On the northerly end of the building the height will increase to approximately 28 feet 10 inches. This added height will serve to provide enough space for the offices to be placed on the 2nd floor. According to 19.306.6.B., maximum height for all uses in the M zone is 45 feet. Because all height dimensions of the proposed building will be less than the 45 foot maximum allowed height, the proposed building will satisfy current standards.
6. *Distance to Residential Zone Boundary*
   Response ➠ Based on the observations from Vera Kolias, Senior Planner, in her letter dated July 20, 2021, the distance to the nearest R-7 zoned property to the south across Johnson Creek Blvd. is approximately 70 feet. This 70 feet separating the proposed building and manufacturing use from the R-7 zoned area is buffered by a solid wall on the south side of the proposed building constructed with PBR Panel metal roofing and siding. The southern wall may have wide windows located on the upper portion of the wall, but there will be no visibility of the residential area from these windows. With the dedication of additional right-of-way width along the south side frontage with Johnson Creek Blvd., the traffic on Johnson Creek Blvd., and the enclosed nature of the building and the use therein, there will be some mitigation factors from the distance between the subject site and the R-7 zone boundary south of Johnson Creek Blvd. In addition some form of hanging trellis mounted to the south wall will add the building screening from road and residential property. As such, there will be some mitigation for potential impacts from the use of the site for manufacturing purposes.

G= Public Facility Improvements will be discussed below under MMC19.700

H= Additional Standards are not applicable to the site.

19.906.4.B ➠ The standards of MMC19.400 Overlay Zones not applicable to this site. This criteria has been met.

19.906.4.C ➠ The standards of MMC19.500 Supplementary Development Regulations not applicable to this site. This criteria has been met.

19.906.4.D ➠ The applicable standards of MMC19.600 Off Street Parking and Loading Requirements are as follows;

19.604.2.A = This proposal initially included two on-site spaces provided at the north end under the second floor office structure overhang. The federally required ADA stall was initially planned off-site along the frontage of SE 58th Drive. For aesthetics and safety reasons the applicant now seeks a Type II Modification to allow the option of ADA stall and ADA loading stall to take up the two stall on-site area under the office, thus moving the required single on-site/nonADA parking to be curbside at frontage. Please refer to the modification request discussed in detail below under MMC 19.605.2 Quantity Modifications and Required Parking Determinations.

19.605.1 = Minimum and Maximum Requirements.

Per table 19.605.1.G.I, there is a minimum of one and maximum of two spaces per 1000sf of Manufacturing floor area. This proposal includes a modification as discussed in 19.604.2.A. Refer to the modification request in 19.605.2.

MMC 19.605.2 Quantity Modifications and Required Parking Determinations

19.605.2.A.2 = Applicability

This modification request is based on a desired number of stalls outside the min/max listed in Table 19.605.1.

19.605.2.C.1 Approval Criteria = All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.

Response ➠ The minimum required number of on-site parking spaces for the proposed development of the subject site is 1 (one) with a max of 2 (two). No loading space was required, and none is provided. The new on-site NON ADA parking space stall count is 0(zero). This is reasonable because there are 2 additional parking spaces available off-site along the western curb face of 58th Drive. Technically the site as proposed has 1 on-site parking stall, it is

just ADA rather than for general use. This proposal is based on several factors:

- Safer for handicapped users than parking curbside on SE 58th Avenue near JCB.
- Plenty of space to facilitate accessibility
- Under cover

Since the question of the number of parking spaces required is not truly the issue, this criterion should not apply as it deals with quantities of parking spaces rather than location of parking spaces, in this case, the single handicapped parking space may act as the sole ons-ite stall.

It would appear that the required one (1) handicapped space is consistent with requirements in other jurisdictions. This is not the issue at hand. The issue is if the handicapped space may be allowed to count towards the minimum and where it should be located. The single onsite handicapped space will "replace" the proposed onsite spaces (one parking space, one loading space adjacent to the roll up door). The non-ADA parking space will be one of two located curbside along the west side of SE 58th Drive, which is directly adjacent to the subject site and easily and conveniently usable for non-ADA users who may be visiting the site. In the end, the size and shape of the subject site creates issues with overall site development, including parking. Based on the location of the handicapped parking space onsite as opposed to offsite, this is the most practical and reasonable solution to the issue.

19.605.2.C.2 Approval Criteria = In addition to the criteria in 19.605.2.C.1, requests for modifications to decrease the amount of minimum parking required shall meet the following criteria:

a. The use of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1;

Response ➠ The proposed site development plan proposes to reduce onsite parking to be only the handicapped space, in place of the originally proposed regular parking space. Due to site size and shape, and the overall development plan for the site, several issues are created (setbacks, landscaping, onsite parking) that result in perhaps the best alternative for the site being as

proposed with the handicapped space onsite and non-ADA parking at curbside along the westerly side of SE 58th Avenue.

It is highly unlikely that use of transit or parking demand management for such a small site (and small firm which will occupy the site) would have any significant impact on the parking for the site. Total number of onsite employees will be small, resulting in potentially reduced use of vehicles overall for the site. While TriMet Line 34 travels along Johnson Creek Blvd., the location of regular route stops along the line and the frequency of service combine to reduce the attractiveness and usability of transit for onsite employees. As such, it is doubtful that expected vehicle use relative to the subject site will not be reduced as a result of any use of transit.

19.605.2.C.3 = In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to increase the amount of allowed parking shall meet the following criteria: (a… b… c…..)

Response ➠ This criterion does not apply because the applicant is proposing only a reduction in the amount of required parking, NOT an increase in the amount of required parking.

19.606 = Parking Area Design and Landscaping

Parking space exceeds the requirements of 9ft wide by 20ft long.

19.606.2.C = Parking Perimeter Landscaping

Due to site constraints, this proposal requests a variance for the reduction in the required minimum width of perimeter landscaping area from 6ft to 3ft. The Type III Variance Approval Criteria for Parking Perimeter Landscaping is itemized near the end of this detailed statement under MMC19.911.4.B. This northern planter area shall be covered in bark and planted with shrubs. Please refer to the attached “4b - Access Study.pdf” which limits site distance if a tree were planted in the aforementioned landscaping buffer area. No tree is proposed here, please refer to sheet C-1 of “5b - Proposed Site Plans.pdf”.

19.606.3 = Design Standards

A = Paving and Striping

On-site parking area shall be paved with an appropriate section of asphalt on crushed base rock and edged with 16” curb with 6” exposure where appropriate. A single parking stripe will divide the two parking spaces.

*B = Wheel Stop*s

Wheel stops included on this site, refer to sheet C-1.

C = Site Access

Access to the parking area shall be directly from SE 58th Drive, no Drive aisles proposed.

D = Pedestrian Access and Circulation

Pedestrian access from the parking area shall be directly across it's two stall width or via public sidewalk to the main entry.

E = Internal Circulation not applicable to this site

F = Lighting

While lighting is not required for this site under ten spaces, it is covered by building overhang and will supply appropriate lighting shielded to meet code.

19.608 = Loading

19.608.2.B.1 = Non Residential and Mixed Use Buildings

With a 1848 sf total floor space, we are under the 20,000 sf threshold and require no loading spaces.

19.609 = Bicycle Parking

This proposal includes two bicycle parking stalls / bicycle rack located near the front door, the dimensions of which are 4ft by 6ft on a concrete pad, as required. Refer to the plan set sheet C-1 for details.

19.906.4.E ➟ The applicable standards of MMC19.700 Public Facility Improvements are as follows;

19.702.1.D = Requires frontage improvements along SE 58th Drive

19.708 = Transportation Facilities

19.708.1.A & B = Access Management & Clear Vision are discussed in the attached “4.b - Access Study.pdf”.

19.708.1.D = Development in Non-Downtown Zones

1 & 2 = SE 58th Drive shall include a local half street improvement in accordance with MMC19.700 and Public Works standards. The proposed development impacts will not require construction of frontage improvements along Johnson Creek Boulevard. Refer to sheet C-2 of “5b - Proposed Site Plans.pdf”.

3 = 20ft dedication is required for street right-of-way along Johnson Creek Boulevard, while no dedication is required along 58th Drive.

9 = The existing street sign shall be removed/replaced per Public Work Standards.

10 = No street lights are proposed.

19.708.1.E = Street Layout and Connectivity does not apply to this site due to lack of blocks within this proposal.

19.708.1.F = Intersection Design and Spacing

This project contains no new intersections. For information on existing intersections please refer to the attached “4.b - Access Study.pdf”

19.708.2 Street Design Standards

This proposal applies the final 58th Drive street standard by sawcutting and widening the existing asphalt 2’ in order to provide a 6’ width parking strip with curb and gutter. These improvements align with the future design location of Johnson Creek Boulevard 12’ travel lanes, 12’ center lane, 5’ landscape strip, and 6’ setback sidewalks.

19.709 Public Utility Requirements

19.709.2.A.3 = The existing location of storm drain catch basin #2 (as found in attachment “5a - Existing Conditions Map.pdf”) is in conflict with the proposed sidewalk location due to safety hazards. A public catch basin is proposed for its replacement along the new curb line as shown on sheet C-2 of “5b - Proposed Site Plans.pdf”. The connection point of this new inlet to the existing 12” storm main under said sidewalk has depth constraints. While a flat top manhole is currently proposed, future engineering plans will seek to resolve this with the public works department.

19.906.4.F ➠ The applicant is aware of no prior land use approvals. Concurrently three Type III Variances are requested with this Type II Development Review as mentioned above and detailed below.

<u>MMC19.911.4.B Type III Variance Approval Criteria (Zero Setback)</u>

This section outlines how this proposed project meets the various approval criteria for a Variance from the stated standard of 20 feet (19.309.6.A) to the proposed zero (0) setback along the front property line. The selected criteria for this Variance to front setback requirements is the “Discretionary Relief Criteria” as contained in 19.911.4.B.1. These criteria are addressed as follows:

a. *The applicant’s alternative analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to baseline code requirements;*

   Response ➠ The parcel is a very small lot for the potential use identified through the Manufacturing, and results in the need for regulatory relief from the strict implementation of the required

standard of 20 feet of setback. It is likely that this parcel is a “left over” parcel from other land use actions and development of adjacent and surrounding properties. In addition, the triangular shape of the parcel creates potential difficulties with development of the parcel. The combination of the triangular shape and the development requirements that structures, parking areas, internal access routes, are more rectangular geometric shapes, and the two basic shapes do not fit well together. This results in trying to put a “square shape in a triangular hole”.

The subject site is only 3,760 gross square feet in land area, of which there are several required deductions. For example, there is a required right-of-way dedication of 20 feet along the frontage of Johnson Creek Blvd., thus reducing the area of the parcel to 2,605 square feet. This required right-of-way dedication is, in itself, a 30% deduction in the gross size of the parcel. Because this right-of-way dedication is required, there is no alternative for the site than to develop as a 2,605 square foot parcel. In this case, the effective developable size of the parcel is adversely impacted by the required right-of-way dedication, without consideration of potential impacts on adjacent or nearby properties.

In order to “make this parcel work”, other regulatory requirements must also be varied. The required 10-foot setback along the frontage of SE 58th Drive reduces the effective developable area of the parcel to 1,848 square feet, or approximately 49% of the original gross parcel size. Other site restraints include requirements for parking, landscaping, sidewalk, and a stormwater facility, thus reducing the main floor print area to 1,430 sf. This is already an extremely small site for manufacturing usage, and enforcing a setback along Johnson Creek would further reduce the building footprint to 1,091 sf, creating an unreasonable economic use of the property in comparison to other manufacturing zone usage. In the end, the NET DEVELOPABLE area of the subject parcel is now 29% of the original which represents a final developable footprint for the project. In the end, regardless of any impacts on adjacent or nearby properties, the regulatory requirements for dedication, setbacks, and the like may render this site very difficult, if not nearly impossible to develop in an economically practical sense.

As such, a Variance to allow a zero setback along the Johnson Creek Blvd. frontage where the required 20 feet dedication will make a significant difference in the potential developability of the parcel for the proposed building to house a manufacturing function that is allowable in the Manufacturing zone. With the proposed variance to the front setback along Johnson Creek Blvd., the subject parcel can be developed with a useful and practical manner.

b. *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:*

(1) *The proposed variance avoids or minimizes impacts to surrounding properties;*

Response ➠ Because the property is located on a corner, the impacts on adjacent and surrounding properties will be somewhat limited. With a side yard setback on the westerly side of the site required at zero (0) or more, there will be no adverse impacts on the specific adjacent property there. It should be noted that the adjacent property to the west is an aggregate resource supply yard that is also an allowed use in the Manufacturing zone. Further, the proposed setback variance along the frontage of Johnson Creek Blvd. faces only the public right-of-way on the north side. Distance to the nearest property and land use on the south side is enough that there will be no adverse impacts resulting from the proposed zero setback development on the subject site. In addition, there will be no driveways, doorways, or access points to the proposed building from the Johnson Creek Blvd. side, thus having very little impact on adjacent or surrounding properties to the south. The proposed variance will have no adverse impacts on adjacent or surrounding properties to the south, east or west.

(2) *The proposed variance has desirable public benefits;*

Response ➠ There will be several desirable public benefits resulting from the proposed variance along Johnson Creek Blvd. First and foremost, the site will be developed and put to good use in accordance with the current zoning of the site. As mentioned previously, the site is likely a “left over” parcel from previous land use actions and development of adjacent and surrounding properties. This development of a properly zoned parcel may

reduce pressure on other properties for rezoning or manufacturing use in a location that may not be as desirable as the subject property.

Development and use of the subject site will result in tax payments to the public that currently do not exist, or are at reduced levels due to the vacant nature of the property at the present time. Development of the site will strengthen the "manufacturing" character of the Johnson Creek Blvd. corridor, and will compliment other established uses in the corridor.

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

Response ➠ Because the proposed variance will result in a new building and a new use on the site, the proposed manufacturing use of the site will contribute to the overall upgrading of the Johnson Creek Blvd. corridor. And with other setbacks of the proposed building, and the required landscaping around the site, and some screening type of hanging trellis mounted to the south wall the specific appearance of the site will be significantly improved over the current vacant status of the site. Thus, the aesthetic appearance of the site will contribute to the betterment of the entire Johnson Creek Blvd. corridor.

c. Impacts from the proposed variance will be mitigated to the extent practical.

Response ➠ The front setback will be reduced from 20 feet to zero (0) feet along the Johnson Creek Blvd. corridor for the entire frontage of the proposed building. Being 60 feet from the residential zone across (south) Johnson Creek Blvd., there will be no adverse impacts that require mitigation because the north side of the proposed building will not have entrances, driveways, or other site features that would spawn any mitigation, including along the adjacent Springwater Trail on the south side of Johnson Creek Blvd.

With the proposed building only being two stories in height, there will be no adverse impacts that require mitigation. The treatment of the south side of the building as it abuts Johnson Creek Blvd. will result in a face that reflects the tasteful nature through which the building has been designed and built. Use of landscaping

throughout the entire site, as small as it is, will assist in making the site look a bit less “industrial”. Therefore, measures to mitigate any impacts of the variance to reduce the setback to zero (0) feet will be minimal to the point of not needing any mitigation measures.

MMC19.911.4.B Type III Variance Approval Criteria (Access Management)
This section outlines how this proposed project meets the various approval criteria for a Variance for the stated standard for access to the subject site along SE 58th Drive. The selected criteria for this Variance to Access Management requirements is the “Discretionary Relief Criteria” as contained in 19.911.4.B.1. These criteria are addressed as follows:

a. *The applicant’s alternative analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to baseline code requirements;*

Response ➠ Because of the small size of the parcel and its triangular shape, options for a variety of development factors may be limited. One of these factors is site access. With frontage on two public rights-of-way, access would seem fairly simple. However, no direct access to Johnson Creek Blvd. is possible, leaving access to SE 58th Drive as the only alternative.

The site measures only 75 feet, 9 inches from the southerly boundary to the tip of the site at the intersection of Johnson Creek Blvd. and SE 58th Avenue. This minimal dimension is actually the longest dimension of any of the sides of the parcel. As such, it makes the most practical sense to place the proposed driveway on this side of the parcel. However, the location of the proposed driveway may not meet the required distance from the intersection of Johnson Creek Blvd. and SE 58th Avenue. Further, in accordance with MMC 12.16.040.C.3 it is required that the “nearest edge of the driveway apron shall be 7.5 feet from the side property line in residential districts, and 10-ft in all other districts.” The site is in the Manufacturing zone, which would require a 10-ft “setback” of the driveway apron from the southerly property line. Based on the current site plan, the applicant proposes a “setback” of 3.5 feet in order to allow the needed driveway and internal access management.

The best thing about the location of the proposed driveway is that it is as distant as possible from the intersection of Johnson Creek Blvd. and SE 58th Avenue. Pushing the driveway as far south on the subject site as possible provides the best opportunity for practical, rational, and efficient access to the site. In actual fact, there is no alternative location for the driveway on this site. While the southerly edge of the driveway apron will be only 3.5 feet off the southerly property line, that 3.5 feet will be landscaped as illustrated on Sheet C-1 of "5b - Proposed Site Plans.pdf". This 3.5 foot setback and the proposed landscaping of the setback area will provide the best buffering of the existing land use directly adjacent to the south along SE 58th Avenue.

Therefore, a variance is needed to locate the proposed driveway in the location identified on the preliminary plans. An approved variance to allow the driveway in the proposed location will set the development plan for the site, and allow a viable use of the subject site to occur.

b. *The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the both following criteria:*

(1) *The proposed variance avoids or minimizes impacts to surrounding properties;*

Response ➠ The only property that would be impacted by the approved driveway location would be the property directly adjacent to the south. Any impacts would be mitigated by the 3.5 foot setback and the landscaping of the setback area. The amount of traffic coming and going to/from the site would be a combination of "town delivery" trucks and personal vehicles. No large semi-trucks will be visiting the site. Further, traffic volumes will be relatively limited because this is a smaller capacity operation that fits the profile of land uses allowed, and desired, in the Manufacturing district. In addition, based on the design of the proposed building, all manufacturing activity taking place there will be as distant as possible from the property directly adjacent to the south on SE 58th Avenue. Therefore, the proposed location of the driveway access to the site on SE 58th Avenue has attempted to minimize any impacts on the adjacent property to the south.

(2) *The proposed variance has desirable public benefits;*

Response ➠ The proposed location of the driveway access to the subject site has been placed in the only likely, reasonable, practical, and efficient location possible. While the distance from the edge of the driveway apron to the sight-of-way for Johnson Creek Blvd. may be less than the city's standard, this location is really the only location possible. Public benefits accrue from the location of the driveway as proposed because, (a) an undeveloped piece of property in the Manufacturing zone will be finally developed, leading to increased taxes paid, increased employment, increased industrial base for the city, increased business in the City of Milwaukie, and fulfillment of a dream of the applicants. This combination of public benefits will far outweigh any adverse impacts resulting from approval of the variance.

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

Response ➠ Planning, site engineering and building design definitely had to be creative in order to make the proposed development of the subject site actually work. The trapezoidal shape of the parcel results in several "odd" corners, dimensions, and spaces to work with. A building has been designed that will provide for the needs of the manufacturing operation on the site and, at the same time, account for the peculiarities of the site. Because not every parcel is a perfect square or rectangle that makes site planning and design relatively easy, this site definitely requires creativity and sensitivity to the local environment. The proposed building, and its proposed use, will fit into the local fabric where such existing uses as City of Milwaukie, Wichita Feed & Hardware, and Smith Rock, Inc. can be found nearby. The proposed location of the driveway access to the site will even benefit the Springwater Trail Corridor by not having direct vehicular access onto Johnson Creek Blvd., thus reducing the potential for conflicts with pedestrians and bicyclists.

c. *Impacts from the proposed variance will be mitigated to the extent practical.*

Response ➠ The location of the driveway access has been placed as far to the north as possible, in order to provide as much distance between the centerline and/or northerly driveway apron and the intersection of Johnson Creek Blvd. and SE 58th Avenue. Sight distance at the point of the driveway will be as much as can

be created in both directions, thus providing some mitigation for the impact of having the driveway access as proposed. With landscaping along the frontage of SE 58th Avenue, and reduced landscaping at the northerly property line, the location of the driveway will appear to be more rational and efficient than for any other location on the site.

MMC 19.911.4.B Type III Variance Approval Criteria (Perimeter Landscaping)

This section outlines how this proposed project meets the various approval criteria for a Variance for the stated standard for perimeter landscaping at various points around the subject site. The selected criteria for this Variance to Perimeter Landscaping requirements contained in MMC 19.606.2.C. is the "Discretionary Relief Criteria" as contained in 19.911.4.B.1. These criteria are addressed as follows:

a. *The applicant's alternative analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to baseline code requirements;*

   Response ➠ As discussed previously, the smaller size of the site, and the "irregular" trapezoidal shape of the site, combine to make things challenging for the applicants. Simply stated, without some relief from the stated standards for site size, setbacks, and landscape buffers the site cannot be developed as proposed. The character of the site, likely being a remnant parcel from previous regulatory land use actions and development, results in the need for regulatory relief. As noted in the third (3rd) paragraph on page 1, the effective developable size of the site shrinks to approximately 20% of the original site, resulting in a very restrictive site.

   To be clear, the applicants are not requesting total relief from the landscaping requirements but, rather, relief through the application of lesser landscape standards at various locations throughout the site. With the proposed zero setback along the Johnson Creek Blvd. frontage, landscaping there will be reduced to some form of a hanging trellis as additional screening along the street frontage (see Sheet A-2 of "3b - Proposed Building Plans.pdf"). Landscaping is also proposed to be reduced along the northerly side of the site, adjacent to the driveway/parking area. Other perimeter landscaping along the westerly side of the site, where the building is planned for a zero lot line development, there is no

landscaping proposed adjacent to the “warehouse” portion of the building. As illustrated on Sheet C-1, there will be landscaping comprised of “shrubs and bark” adjacent to the parking and office portion of the building. Landscaping along the frontage of the site at SE 58th Drive meets code requirements. These proposed reductions in landscaping requirements will assist in making the site developable as proposed, and the site becoming a positive addition to the local landscape.

b. *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:*

(1) The proposed variance avoids or minimizes impacts to surrounding properties;

Response ➠ The proposed reduction in landscaping requirements will serve to have the site landscaped, but to lesser standards in order to make use of a very limited site. Perhaps one of the most potentially impacted properties is the site directly adjacent to the north, adjacent to the parking and office portion of the proposed building. There is a 3.5 foot proposed landscape strip that will provide a measure of visual protection for the property to the north. This area of common frontage is only 11 feet in length, thus reducing the amount of exposure. In addition the dwelling on the property north of the subject site is closer to Smith Rock, Inc. than to the proposed development on the subject site. As such, potential impacts to the property to the north are minimized.

(2) The proposed variance has desirable public benefits;

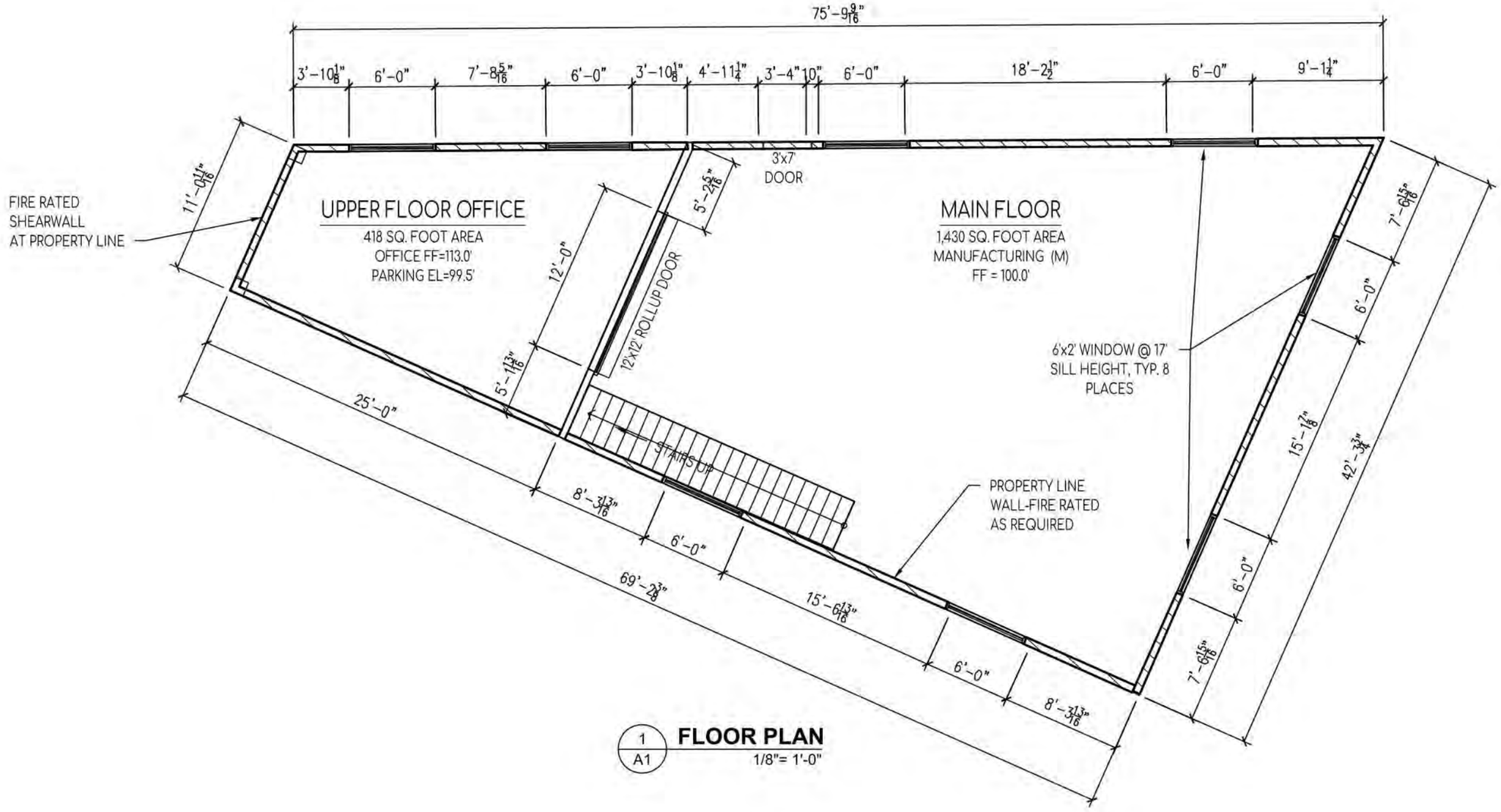
Response ➠ The proposed variance to allow for lesser perimeter landscape standards will allow the site to be developed for a useful, practical, and reasonable use of the land. The combination of the several variances for setbacks, access management, and landscaping will result in a development plan that is reasonable, practical, and sensible. There are major public benefits to the development of this here-to-fore vacant site, including increased tax payments to the public jurisdictions and agencies, upgrading of the local small manufacturing environment along Johnson Creek Blvd., and use of a properly zoned site which should avoid some pressure on other sites throughout the city that may need to be rezoned to accommodate the proposed use, as well as increased local employment.

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

Response ➠ The design of the proposed building for the subject site has been done in a practical, tasteful, and reasonable manner such that the design meets the needs of the applicants, and the location of the building on this very limited site. Generally, speaking, the new building, with modified setbacks, access management, and modified perimeter landscaping will fit the site very well, and will blend into the local manufacturing environment. The development of the subject site, with its modified perimeter landscaping, will still "fit" into the local environment and will not appear to be out of place. Once Johnson Creek Blvd. is widened and rebuilt, and once SE 58th Avenue is fully improved, the development of the subject site will become an integral part of the Johnson Creek Blvd. Corridor.

c. *Impacts from the proposed variance will be mitigated to the extent practical.*

Response ➠ The proposed reduction in landscaping, especially along the westerly and southerly borders of the site, will continue to identify the site as a new manufacturing use of the land. The full landscaping of the frontage on SE 58th Avenue will provide the impression that the entire site is tastefully landscaped throughout. In addition, the use of a hanging trellis on the side of the building at the Johnson Creek Blvd. frontage is a unique and novel way to provide a visual element to an otherwise blank two story wall of a metal industrial building. Wherever possible, landscaping touches have been used to make the overall character of the building and the site in keeping with the intent of the code standards.



1 / A1 **FLOOR PLAN**
1/8"= 1'-0"

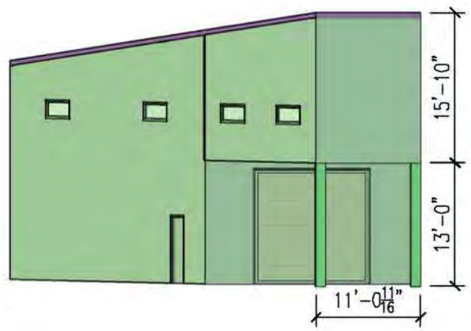
LYVER ENGINEERING AND DESIGN
7950 SE 106th, Portland, Oregon 97266
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

PROJECT: PHELPS MANUFACTURING	SHEET TITLE: FLOOR PLAN		SHEET:
LOCATION: 58th DR & JC BLVD. MILWAUKIE, OREGON	DATE: 06/14/2021	REVISIONS: Nov. 2021 - PARKING	A-1
CLIENT: CAROL PHELPS	SCALE: 1/8" = 1'-0"		
LEAD PROJECT #19-042			

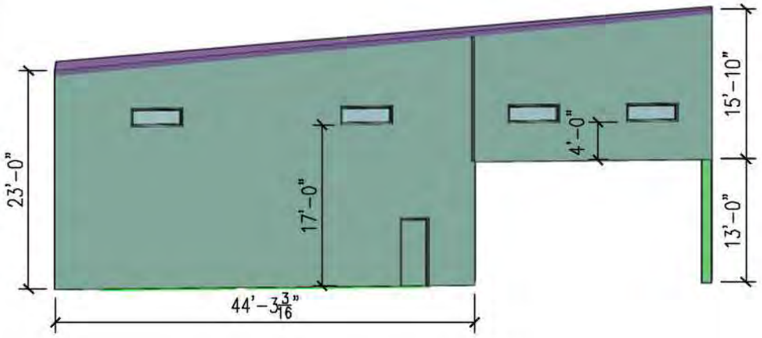
ZONE SCREENING:
HANGING TRELLIS MOUNTED TO BLDG. ALONG JCB IN PATTERN TBD AT PERMITTING.

BUILDING EXTERIOR:
PBR 26 GAUGE ROOFING AND SIDING, COLORS TBD AT PERMITTING.

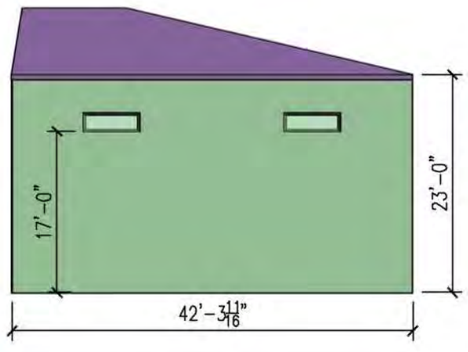
5 / A2 **3-D RENDERINGS**
NOT TO SCALE



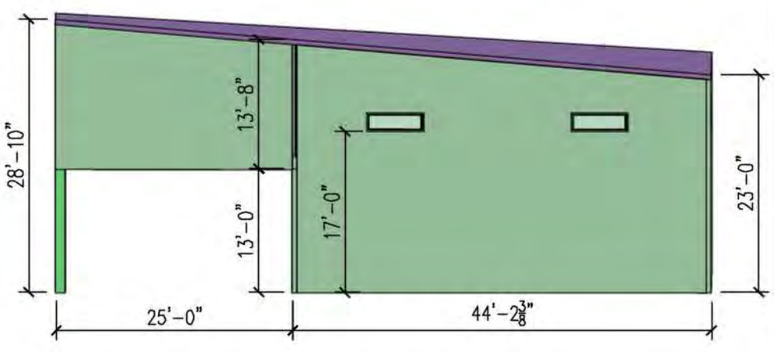
4 / A2 **NORTH ELEVATION**
1/16"= 1'-0"



3 / A2 **EAST ELEVATION**
1/16"= 1'-0"



2 / A2 **SOUTH ELEVATION**
1/16"= 1'-0"



1 / A2 **WEST ELEVATION**
1/16"= 1'-0"

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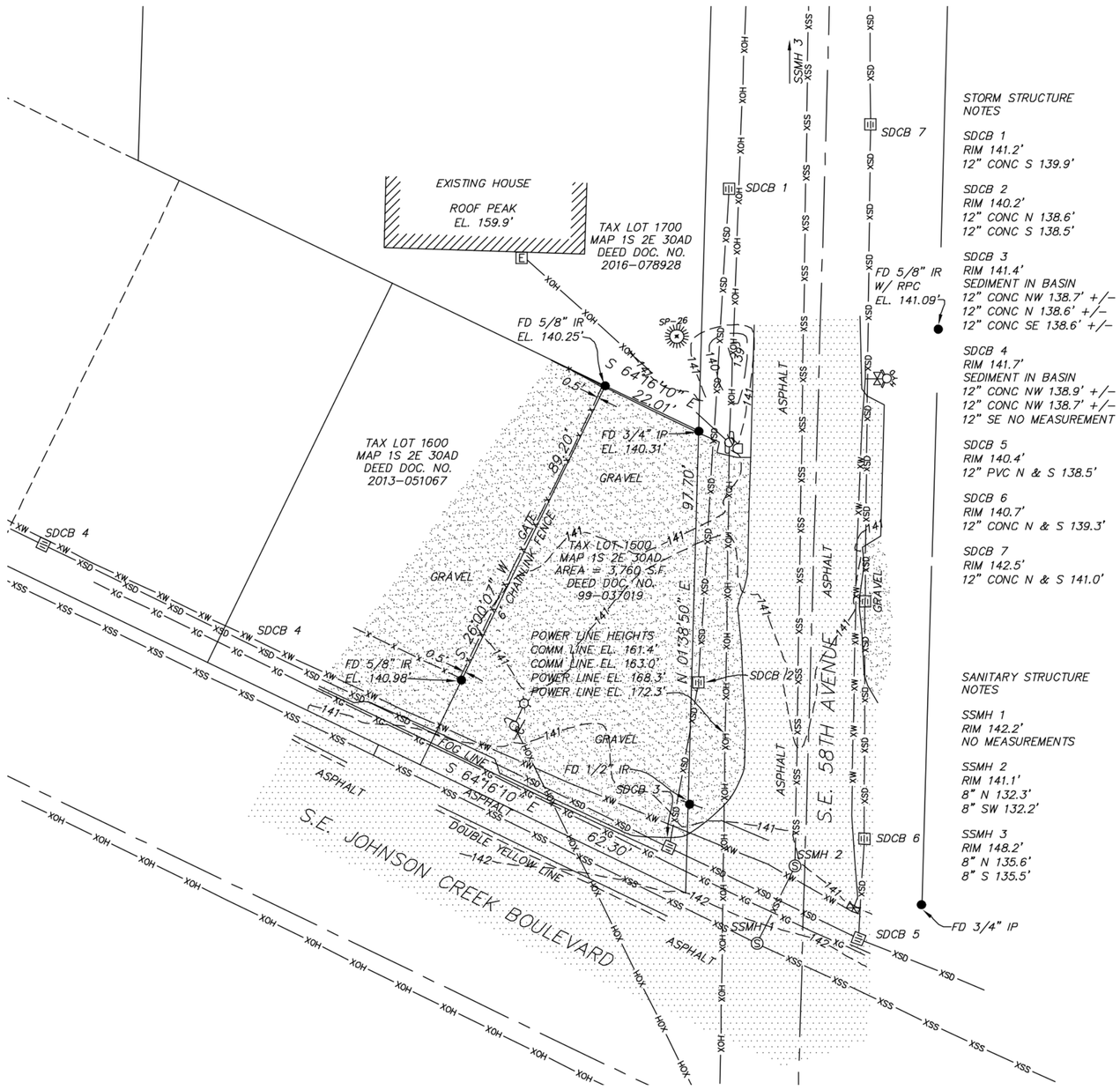
7950 SE 106th, Portland, Oregon 97266
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

PROJECT: PHELPS MANUFACTURING	SHEET TITLE: ELEVATIONS	SHEET:
LOCATION: 58th DR & JC BLVD. MILWAUKIE, OREGON	DATE: 06/14/2021	REVISIONS: Nov. 2021 - PARKING
CLIENT: CAROL PHELPS	SCALE: 1/16" = 1'-0"	A-2
LEAD PROJECT #19-042		

EXISTING CONDITIONS MAP

TAX LOT 1500, MAP 1S, 2E, 30AD
LOCATED IN THE N.E. 1/4 SECTION 30, T.1S., R.2E., W.M.,
CLACKAMAS COUNTY, OREGON
FEBRUARY 11, 2019 SCALE 1"=20'



STORM STRUCTURE NOTES

SDCB 1
RIM 141.2'
12" CONC S 139.9'

SDCB 2
RIM 140.2'
12" CONC N 138.6'
12" CONC S 138.5'

SDCB 3
RIM 141.4'
SEDIMENT IN BASIN
12" CONC NW 138.7' +/-
12" CONC N 138.6' +/-
12" CONC SE 138.6' +/-

SDCB 4
RIM 141.7'
SEDIMENT IN BASIN
12" CONC NW 138.9' +/-
12" CONC NW 138.7' +/-
12" SE NO MEASUREMENT

SDCB 5
RIM 140.4'
12" PVC N & S 138.5'

SDCB 6
RIM 140.7'
12" CONC N & S 139.3'

SDCB 7
RIM 142.5'
12" CONC N & S 141.0'

SANITARY STRUCTURE NOTES

SSMH 1
RIM 142.2'
NO MEASUREMENTS

SSMH 2
RIM 141.1'
8" N 132.3'
8" SW 132.2'

SSMH 3
RIM 148.2'
8" N 135.6'
8" S 135.5'

SURVEY NOTES:

THE DATUM FOR THIS SURVEY IS BASED UPON A STATIC GPS OBSERVATION OF LOCAL CONTROL POINTS, PROCESSED THROUGH OPUS. DATUM IS NAVD 88.

A TRIMBLE S6-SERIES ROBOTIC INSTRUMENT WAS USED TO COMPLETE A CLOSED LOOP FIELD TRAVERSE.

THE BASIS OF BEARINGS FOR THIS SURVEY IS PER MONUMENTS FOUND AND HELD PER RECORD OF SURVEY RECORDED UNDER PRIVATE SURVEY NUMBER 2007-421, RECORDS OF CLACKAMAS COUNTY.

THE PURPOSE OF THIS SURVEY IS TO RESOLVE AND DETERMINE THE PERIMETER BOUNDARY OF THE SUBJECT PROPERTY, TO SHOW ALL PERTINENT BOUNDARY ISSUES AND ENCROACHMENTS. NO PROPERTY CORNERS WERE SET IN THIS SURVEY.

NO WARRANTIES ARE MADE AS TO MATTERS OF UNWRITTEN TITLE, SUCH AS ADVERSE POSSESSION, ESTOPPEL, ACQUIESCENCE, ETC.

NO TITLE REPORT WAS SUPPLIED OR USED IN THE PREPARATION OF THIS MAP.

THE UNDERGROUND UTILITIES AS SHOWN ON THIS MAP HAVE BEEN LOCATED FROM FIELD SURVEY OF ABOVE GROUND STRUCTURES AND AS MARKED BY OTHERS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SURVEYOR.

LEGEND:

Some Symbols shown may not be used on map

- DECIDUOUS TREE
- EVERGREEN TREE
- STORM SEWER MANHOLE
- CATCH BASIN
- SANITARY SEWER CLEANOUT
- SANITARY SEWER MANHOLE
- WATER VALVE
- WATER METER
- FIRE HYDRANT
- GAS VALVE
- GAS METER
- BOLLARD
- SIGN
- MAILBOX
- COMMUNICATIONS PEDESTAL
- COMMUNICATIONS MANHOLE
- COMMUNICATIONS BOX
- STORM OUTFALL
- FOUND MONUMENT
- DOWN SPOUT TO STORM SYSTEM
- FD = FOUND
- FI = FIR TREE
- PI = PINE TREE
- CE = CEDAR TREE
- IR = IRON ROD
- RPC = RED PLASTIC CAP
- DE = DECIDUOUS TREE
- UTILITY AND LIGHT POLE
- UTILITY POLE
- LIGHT POLE
- GUY WIRE
- ELECTRIC BOX
- ELECTRIC METER
- ELECTRICAL POWER PEDESTAL
- ELECTRIC RISER
- HEAT PUMP
- XOH — OVERHEAD LINE
- XG — GAS LINE
- XE — ELECTRICAL LINE
- XCOM — COMMUNICATIONS LINE
- XSS — SANITARY SEWER LINE
- XSD — STORM DRAIN LINE
- XW — WATER LINE
- x — x — FENCELINE
- UTILITY RISER
- DOWN SPOUT TO SPLASH GUARD/GROUND

N

GRAPHIC SCALE
20 0 10 20 40
(IN FEET)
1 INCH = 20 FT.

SIGNED ON: _____

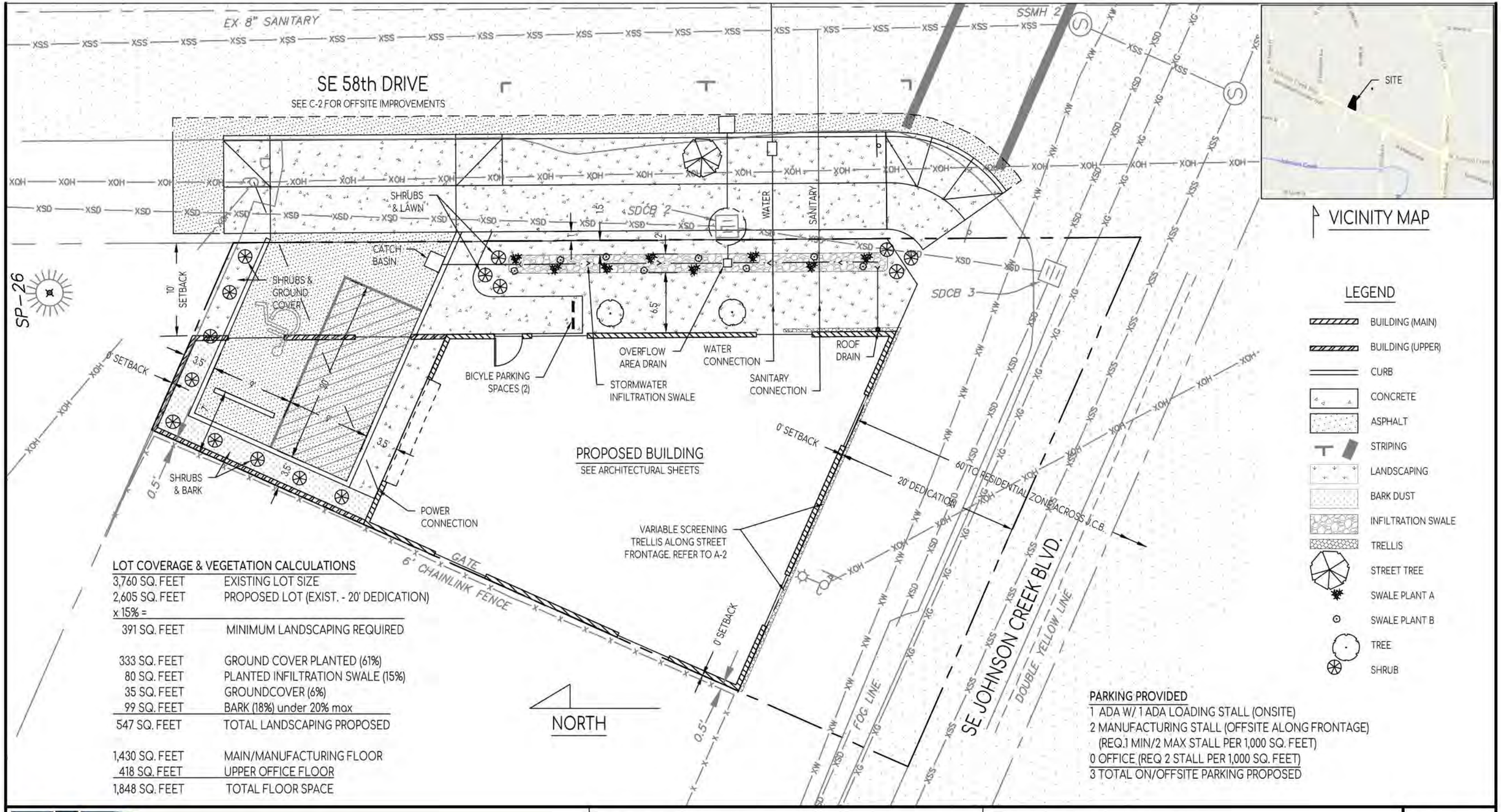
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 13, 2004
TOBY G. BOLDEN
60377LS

RENEWS: DECEMBER 31, 2019

CENTERLINE CONCEPTS
LAND SURVEYING, INC.
19376 MOLALLA AVE., SUITE 120
OREGON CITY, OREGON 97045
PHONE 503.650.0188 FAX 503.650.0189

Plotted: P: \-OPhelps\6 - Originals\LED\ECM_recover.dwg



LOT COVERAGE & VEGETATION CALCULATIONS

3,760 SQ. FEET	EXISTING LOT SIZE
2,605 SQ. FEET	PROPOSED LOT (EXIST. - 20' DEDICATION)
x 15% =	
391 SQ. FEET	MINIMUM LANDSCAPING REQUIRED
333 SQ. FEET	GROUND COVER PLANTED (61%)
80 SQ. FEET	PLANTED INFILTRATION SWALE (15%)
35 SQ. FEET	GROUNDCOVER (6%)
99 SQ. FEET	BARK (18%) under 20% max
547 SQ. FEET	TOTAL LANDSCAPING PROPOSED
1,430 SQ. FEET	MAIN/MANUFACTURING FLOOR
418 SQ. FEET	UPPER OFFICE FLOOR
1,848 SQ. FEET	TOTAL FLOOR SPACE

PARKING PROVIDED

1 ADA W/ 1 ADA LOADING STALL (ONSITE)
2 MANUFACTURING STALL (OFFSITE ALONG FRONTAGE)
(REQ.1 MIN/2 MAX STALL PER 1,000 SQ. FEET)
0 OFFICE (REQ 2 STALL PER 1,000 SQ. FEET)
3 TOTAL ON/OFFSITE PARKING PROPOSED

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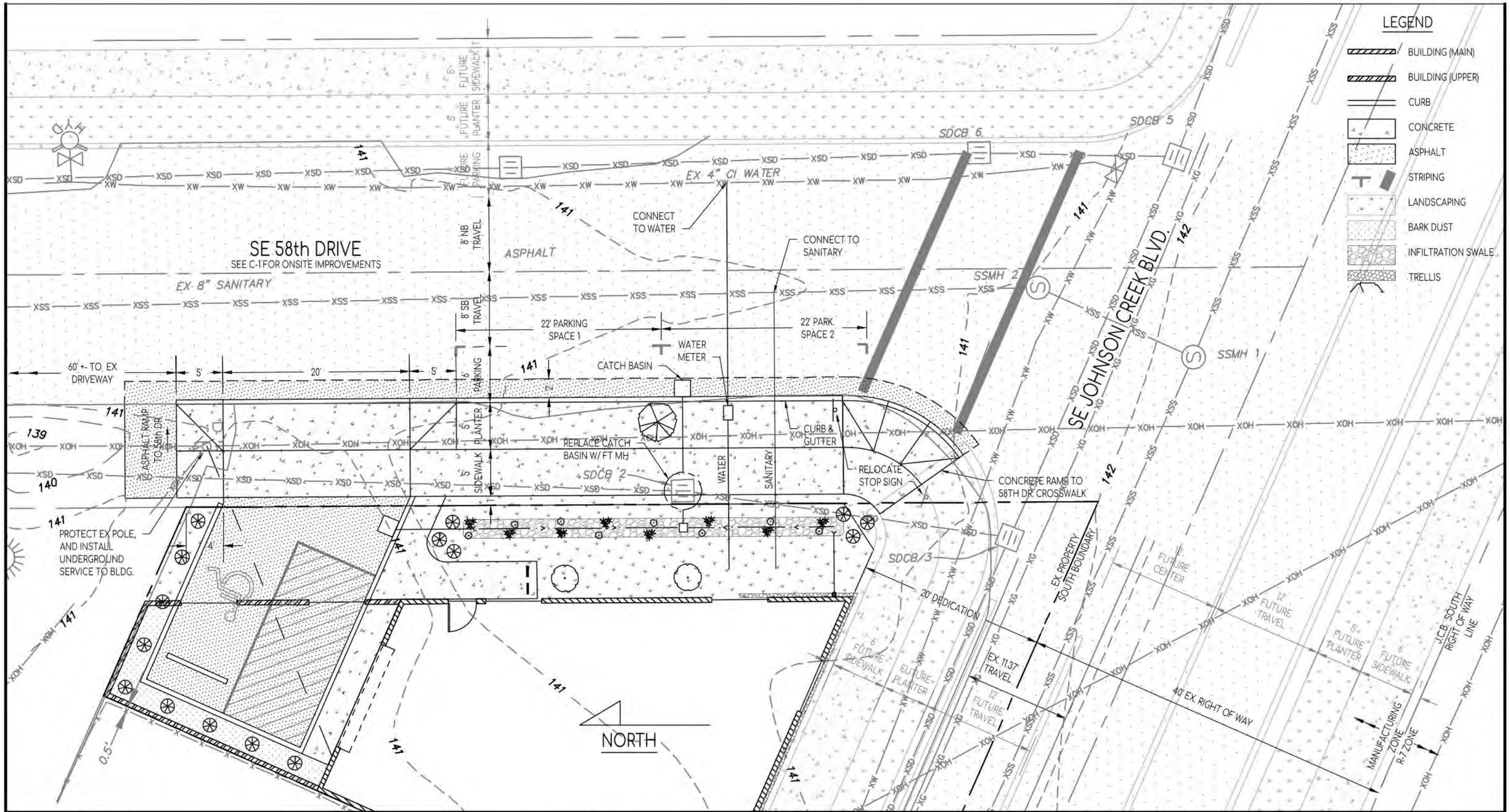
7950 SE 106th, Portland, Oregon 97266
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

PROJECT: PHELPS MANUFACTURING	SHEET TITLE: PROPOSED SITE PLAN	SHEET:
LOCATION: 58th DR & JC BLVD. MILWAUKIE, OREGON	DATE: 06/14/2021	REVISIONS: Nov. 2021 - PARKING
CLIENT: CAROL PHELPS	SCALE: 1" = 10'	C-1
LEAD PROJECT #19-042		



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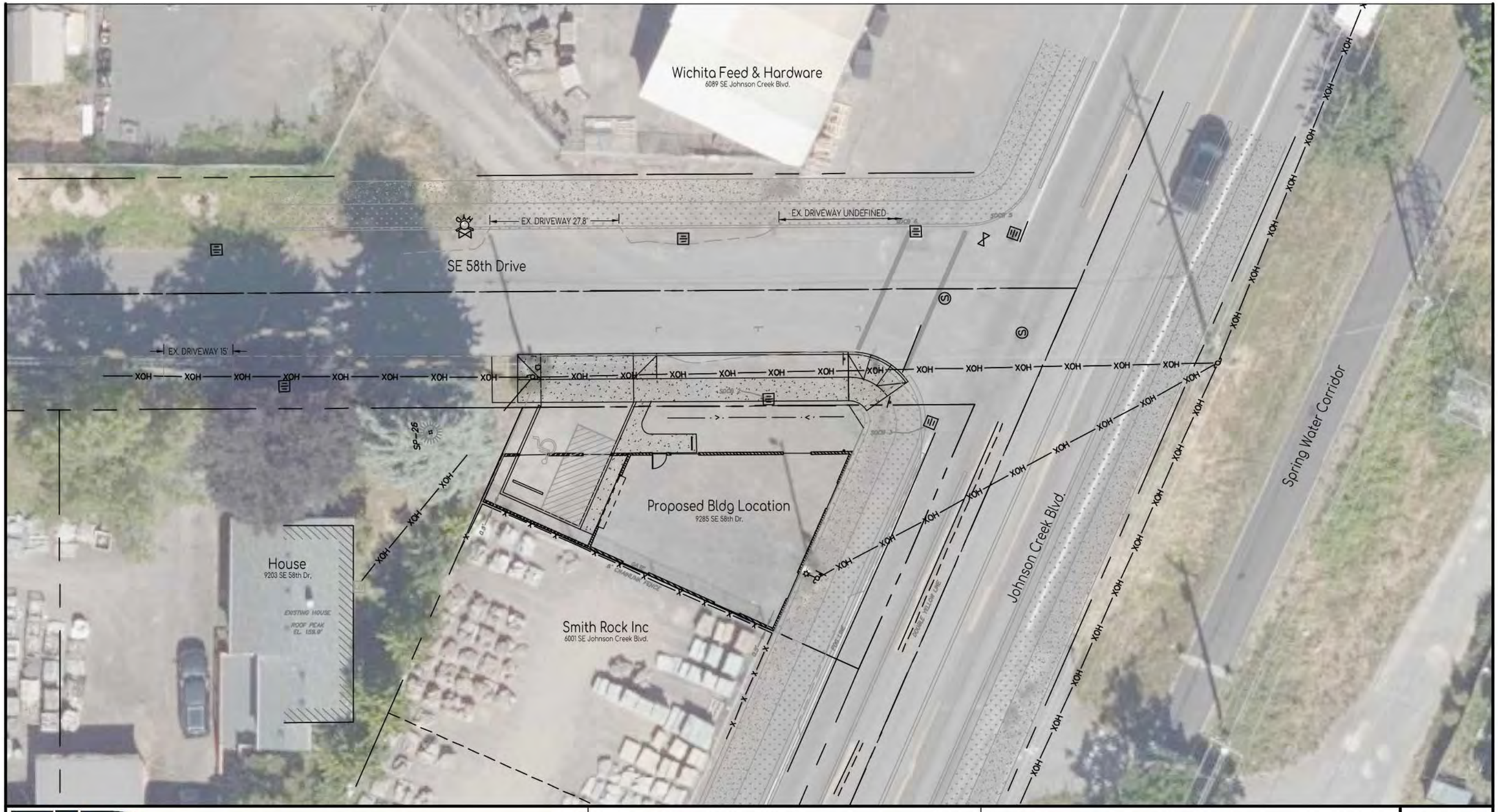
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

PROJECT: PHELPS MANUFACTURING	SHEET TITLE: PROPOSED PUBLIC ROAD IMPROVEMENTS	SHEET:
LOCATION: 58th DR & JC BLVD. MILWAUKIE, OREGON	DATE: 06/14/2021	REVISIONS: Nov. 2021 - PARKING
CLIENT: CAROL PHELPS	SCALE: 1" = 10'	C-2
LEAD PROJECT #19-042		



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7950 SE 106th, Portland, Oregon 97266
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

PROJECT: PHELPS MANUFACTURING	SHEET TITLE: LOCATION PLAN		SHEET:
LOCATION: 58th DR & JC BLVD. MILWAUKIE, OREGON	DATE: 06/14/2021	REVISIONS: Nov. 2021 - PARKING	C-3
CLIENT: CAROL PHELPS	SCALE: 1" = 20'		
LEAD PROJECT #19-042			

ARD ENGINEERING
21370 SW Langer Farms Pkwy
Suite 142, Sherwood, OR 97140

REGISTERED PROFESSIONAL ENGINEER
54983PE
OREGON
JULY 10, 2002
MICHAEL T. ARD
EXPIRES: 12/31/2021

Technical Memorandum

To: Carol and Keith Phelps

From: Michael Ard, PE

Date: June 14, 2021

Re: SE Johnson Creek Boulevard at SE 58th Drive Industrial Site – Access Analysis

---

This transportation analysis memorandum is written to provide information related to a proposed 1,848 square foot light industrial/manufacturing building on the west side of SE 58th Drive immediately north of SE Johnson Creek Boulevard in the City of Milwaukie, Oregon.

The site is tax lot 1S2E30AD1500 with an area of approximately 0.08 acres. Given the small footprint of the subject property, there is no access point available which will meet the city's requirement for a minimum of 100 feet of access spacing from an intersection for an industrial driveway on a local street. Accordingly, a medication of the access spacing standard will be required for the site. This analysis is intended to serve as an access study supporting the requested modification pursuant to the requirements of MMC Section 12.16.040.B.2.

TRIP GENERATION

In order to assess the potential traffic impacts of the proposed development, a trip generation estimate was prepared using data from the Institute of Transportation Engineer's *Trip Generation Manual, 10th Edition*. The trip data used was for land use code 140, *Manufacturing*. The trip estimate was calculated for a manufacturing facility with a gross floor area of 1,848 square feet. Based on the trip generation estimate, the proposed subdivision would generate 1 new trip during the morning peak hour, 1 new trip during the evening peak hour, and 8 new daily trips.

A summary of the trip generation calculations is provided in Table 1 below. Detailed trip generation calculations are also included in the attached technical appendix.

Table 1 - Trip Generation Calculation Summary

SE Johnson Creek Boulevard at SE 58th Drive Industrial Development									
	Morning Peak Hour			Evening Peak Hour			Daily Trips		
	In	Out	Total	In	Out	Total	In	Out	Total
1,848 sf Manufacturing	1	0	1	0	1	1	4	4	8

SITE ACCESS SPACING

The project site has frontage on both Johnson Creek Boulevard and 58th Drive. MMC Section 12.16.040.C.1 requires that access shall be provided first from the street with the lower classification. In this instance, SE Johnson Creek Boulevard is classified by Clackamas County as a Minor Arterial, while SE 58th Drive is classified by the City of Milwaukie as a Local Street. Based on these classifications, access is required to be taken from SE 58th Drive.

Placing the proposed access at the extreme north end of the project site per the proposed development plan results in access spacing of approximately 72 feet between the near side curb line on SE Johnson Creek Boulevard and the near side of the proposed site access. Since this measurement is less than the 100-foot minimum spacing required under city code, a detailed examination of the impacts of the proposed access spacing was undertaken.

Where intersection spacing is less than the desired standards, it is appropriate to conduct analysis to determine both the potential safety and operational impacts of reduced access spacing. Intersection safety is primarily associated with the available sight lines at the driveway, which can be limited by the proximity to the public intersection. Accordingly, the first analysis conducted was to determine whether adequate sight lines for safe access can be attained under the proposed development plan. Following the safety analysis an operational analysis is appropriate to determine the potential impacts of reduced access spacing on all travel modes, and to identify and mitigation measures that may be appropriate to ensure safe and efficient operation.

INTERSECTION SIGHT DISTANCE

To determine whether this proposed site access can operate safely, an intersection sight distance analysis was conducted. Based on the posted speed limit of 25 mph on SE 58th Drive, a minimum of 280 feet of intersection sight distance is required in each direction for the proposed site access driveway.

In accordance with the methodology described in *A Policy on Geometric Design of Highways and Streets*, published by the American Association of State Highway and Transportation Officials, intersection sight distance is measured from a driver's eye position 14.5 feet behind the edge of the travelled way at an elevation 3.5 feet above the ground to an oncoming driver's eye height of 3.5 feet above the oncoming travel lanes in each direction.

Under existing conditions, intersection sight distance to the north on SE 58th Drive is limited to approximately 75 feet by existing vegetation on the west side of the roadway north of the subject property. However, with clearing of vegetation surrounding the wood pole at the north side of the subject property

and cutting of the low limbs of the noble fir on the adjacent property to the north, sight lines in excess of 280 feet to the north can be attained. Accordingly, it is feasible to provide adequate intersection sight distance to the north for safety and operations.

Intersection sight distance to the south will be limited by the proximity to SE Johnson Creek Boulevard as well as the locations of the buildings on both sides of the roadway. Based on the proposed site plan in conjunction with the location of the existing buildings on the north side of SE Johnson Creek Boulevard east of SE 58th Drive, it is projected that there will be 260 feet of intersection sight distance for vehicles approaching eastbound on SE Johnson Creek Boulevard and 125 feet of intersection sight distance for vehicles approaching eastbound on SE Johnson Creek Boulevard.

Intersection sight distance is an operational standard based on the desire to minimize the need for through vehicles traveling on the major street to slow or stop to avoid a collision. This minimum standard should be attained where it is reasonably possible to do so. However, where full intersection sight distances cannot be provided reduced sight distances can be accepted provided that the intersection can operate safely, and that the projected operational impacts to through traffic are deemed acceptable. The minimum standard for safe operation of an access is determined based on stopping sight distance rather than intersection sight distance. This is made explicit in *A Policy on Geometric Design for Highway and Streets*, published by the American Association of State Highway and Transportation Officials (the AASHTO "Green Book"), which states:

> *Sight distance is also provided at intersections to allow the drivers of stopped vehicles a sufficient view of the intersecting highway to decide when to enter the intersecting highway or to cross it.* ***If the available sight distance for an entering or crossing vehicle is at least equal to the appropriate stopping sight distance for the major road, then drivers have sufficient sight distance to anticipate and avoid collisions.*** *However, in some cases, a major-road vehicle may need to stop or slow to accommodate the maneuver by a minor-road vehicle.* ***To enhance traffic operations, intersection sight distances that exceed stopping sight distances are desirable along the major road."*** *[emphasis is mine]*

To evaluate stopping sight distances for the proposed site access on SE 58th Drive, it is necessary to determine appropriate design speeds for vehicles approaching from both directions on SE Johnson Creek Boulevard. Vehicles turning from SE Johnson Creek Boulevard onto SE 58th Drive must slow to make the corner in either direction. Since SE 58th Drive forms a skewed intersection with SE Johnson Creek Boulevard, the turning speeds are slightly elevated for vehicles approaching from the east and slightly decreased for vehicles approaching from the west, as compared to a standard 90-degree intersection. Based on the intersection geometry, it is anticipated that vehicles will make eastbound left turns from SE Johnson Creek Boulevard onto SE 58th Drive at speeds of up to 19 mph. For westbound vehicles turning from SE

Johnson Creek Boulevard onto SE 58th Drive it is projected that vehicles will turn at speeds of up to 25 mph. These respective design speeds require minimum stopping sight distances of 100 feet and 155 feet, respectively. Since the actual sight distances available in these respective directions are in excess of the required minimums for safety, the proposed access can operate safely.

Based on the intersection sight distance analysis, adequate sight lines can be attained for safe operation of the proposed site access provided that the existing vegetation on the north side of the driveway is removed or trimmed to provide a minimum of 280 feet of intersection sight distance to the north from the proposed access. Although full intersection sight distances cannot be provided to the south for vehicles approaching from SE Johnson Creek Boulevard, the available sight lines are projected to be adequate for safety. A more detailed analysis of the potential operational impacts of the reduced sight distances is provided in the operational analysis section of this report below.

SITE ACCESS OPERATION

The proposed site access will be located approximately 50 feet north of the near side of the crosswalk on the north side of SE Johnson Creek Boulevard crossing SE 58th Drive. The driveway will also be spaced approximately 65 feet from an existing driveway serving the existing home within the Smith Rock commercial site immediately north of the subject property. An existing driveway serving the storage yard on the east side of SE 58th Drive north of the Wichita Feed and Hardware store is located immediately north of the proposed site access. Additionally, the parking area serving the front of the Wichita Feed and Hardware store connects continuously to the east side of SE 58th Drive. No other driveways are located within 100 feet of the subject property. With clearing of vegetation on the north side of the proposed site access as previously described, all driveway approaches within the influence area of the proposed access will be visible to drivers exiting the site. Accordingly, the available sight lines will be adequate to allow drivers exiting from all driveways to see and avoid conflicts originating at other driveways in the site vicinity.

The 50-foot spacing between the proposed site access and the near (north) side of the crosswalk crossing SE 58th Drive allows sufficient stacking space for approximately 2 vehicles. Based on observations of traffic volumes at the intersection of SE Johnson Creek Boulevard and SE 58th Drive, no queues were observed to accumulate on SE 58th Drive southbound. Accordingly, it is anticipated that southbound queues will not significantly obstruct safe and efficient access in or out of the subject property.

Since sight distances to the south will be less than the desired minimum intersection sight distances, it is anticipated that when vehicles exit the site access by turning to the north while vehicles are turning from SE Johnson Creek Boulevard, the through vehicles traveling along SE 58th Drive may need to slow to

avoid collisions at the access. Based on the available sight distances, it is anticipated that the maximum operational delays induced to through traffic on SE 58th Drive will be 3.4 seconds for vehicles making eastbound left turns onto SE 58th Drive and 0.6 seconds for vehicles making westbound right turns onto SE 58th Drive. Given the low trip generation of the site (4 vehicles entering and 4 vehicles exiting per day on average), the fact that less than 25 percent of exiting trips would be expected to turn left onto SE 58th Drive resulting in a potential conflict, and the low volume of through traffic on SE 58th Drive, it is anticipated that the average induced delays resulting from the proposed access spacing will be well below 1 second per day. Since SE 58th Drive is classified as a local street on which delays to through traffic are considered normal and acceptable, the operational impact of the proposed access spacing is negligible. Accordingly, no mitigations are recommended to offset the operational impacts of the proposed site access spacing.

Based on a review of the proposed site plan, the proposed access spacing is projected to have no impacts on pedestrians or people riding bicycles. Similarly, the proposed access spacing is projected to have no impact on transit users.

Since the proposed development is industrial in nature, it is expected that some vehicles exiting the site may consist of trucks. The eye height of people driving trucks is significantly higher than the eye height of people driving passenger vehicles. Since safe operation of the proposed access depends on adequate clearing of vegetation for drivers exiting the driveway to see vehicles approaching from the north, the sight lines provided by vegetation clearing should be sufficient for both passenger vehicles and trucks. Accordingly, vegetation clearing should be provided which is sufficient to ensure clear sight lines between 3.5 feet above the driveway elevation and 7.6 feet above the driveway elevation.

CONCLUSIONS

Based on the analysis, the proposed site access on SE 58th Drive will result in no significant operational or safety impacts if vegetation is cleared from the north side of the driveway to provide a minimum of 280 feet of continuous intersection sight distance to the north as measured from a minimum passenger vehicle driver's eye height of 3.5 feet above the driveway elevation to a maximum truck eye height of 7.6 feet above the driveway elevation. No other operational or safety mitigations are recommended in conjunction with the proposed development.

If you have any questions regarding this analysis, please feel free to contact me at (503)537-8511 or by email at mike.ard@gmail.com.

QUOTE / CONTRACT | TOTAL PAGES: 7 | Date: 6/24/19

PACIFIC BUILDING SYSTEMS
2100 N Pacific Hwy.
Woodburn, OR 97071
www.pbsbuildings.com
Toll Free 800-727-7844
Phone 503-981-9581
Fax 503-981-9584

Job Number:
Quote Number: **10645 R1**
Quote Request: **NC02214**
Salesperson: **Neil Chambers**

CUSTOMER INFORMATION:						PROJECT INFORMATION:					
Customer:						Project Name: **New Building**					
Contact:	**Keith and Carol Phelps**					Project For:					
Address:	**PO Box 68631**					Address:	**58th and Johnson Creek Blvd**				
City:	**Oak Grove**	State:	**OR**	Zip:	**97268**	City:	**Portland**	State:	**OR**	Zip:	**97206**
Phone:	**971-212-4159**	Fax:				County:	**Multnomah**	Building Use:		**Commercial**	
Cell:		Email:	**phelpsent@aol.com**			Desired Delivery Date (subject to factory approval):					

BASIC BUILDING:

Building Type: ☐ Symmetrical ☑ Single Slope ☐ Lean-to ☐ Other

Width:	**45'-0"**	Length: **42'-0"**	Low Sidewall Eave Height:	**23'-0"**	High Sidewall Eave Height: **26'-9"**
Roof Pitch:	**1 :12**				Minimum Rafter Clearance:
Sidewall Bay Spacing:	**21'-4", 20'-8"**		Left Endwall Bay Spacing:	**(2) @ 24'-8 1/4" (Skewed)**	
Special Girt Spacing:			Right Endwall Bay Spacing:	**(2) @ 22'-6"**	

DESIGN CODES: **Note: It is the builder/contractor responsibility to verify building codes and loadings with the local building department.**

Governing Code	Building Code:	**OSSC14 (Oregon Structural Specialty Code 2014)**						Risk Category:	**II Standard Occupancy**		
Roof Load	Collateral Load:	**1 psf**	Live Load:	**20 psf**	☐ Reducible			Dead Load:	**2.5 psf**		
Wind Load	Wind Speed:	**120 mph**	Exposure:	**C**				Enclosure:	**Closed**		
Snow Load	Ground Snow:	**9 psf**	Roof Snow:	**20 psf**				Thermal Factor:	**Heated**		
Seismic Data	Seismic Design Category:	**D**	S_S:	**0.972**	S_1:	**0.413**	S_{MS}:	**1.080**	S_{M1}:	**0.655**	

FRAMING DATA:

Frame Type: **RF - Standard Rigid Frame** Interior Column Spacing:
☐ Straight Exterior Columns ☐ Unsupported Exterior Columns ☐ Special, See Notes

Structural Finish: **Standard Enamel Color** ☐ Blue ☐ Green ☐ Grey ☐ Red ☐ Other

Left Endwall Frame:	**Post and Beam**	High Sidewall Bracing:	**Portal Frame**	Low Sidewall Bracing:	**X-Bracing**
Right Endwall Frame:	**Post and Beam**	Left Endwall Bracing:	**X-Bracing**	Right Endwall Bracing:	**X-Bracing**
Eave Condition:	**Gutters and Downspouts**	High Sidewall Girts:	**Bi-Pass**	Low Sidewall Girts:	**Bi-Pass**
Base Condition:	**Base Angle**	Left Endwall Girts:	**Bi-Pass**	Right Endwall Girts:	**Bi-Pass**

SHEETING:

Roof Panels:	**PBR**	Gauge:	**26**	Finish:	**Painted**	Screw Length:	**Long 1.5"**
Wall Panels:	**PBR**	Gauge:	**26**	Finish:	**Painted**	Screw Length:	**Long 1.5"**

INSULATION:

Roof Insulation:	**6" VRR (R-19)**	Use Thermal Block:	☐ Yes	☑ No	Insulation by PBS:	☑ Yes	☐ No
Wall Insulation:	**4" VRR (R-13)**	Use Thermal Tape:	☐ Yes	☑ No	Insulation by PBS:	☑ Yes	☐ No

ROOF & WALL FRAMED OPENINGS:

Qty:	Width:	Height:	Type:	Location:	Sill Height:
1	**12'-0"**	**12'-0"**	**Overhead Door**	**High Sidewall**	
2	**6'-0"**	**2'-0"**	**Window**	**Low Sidewall**	**19'-0"**
2	**6'-0"**	**2'-0"**	**Window**	**Left Endwall**	**19'-0"**
2	**6'-0"**	**2'-0"**	**Window**	**Right Endwall**	**19'-0"**

ROOF EXTENSIONS:						
Extension:	None		Location:		Soffit ☐	None
Width:		Start Bay:	End Bay:		Gauge:	Finish:
Extension:	None		Location:		Soffit ☐	None
Width:		Start Bay:	End Bay:		Gauge:	Finish:

CANOPIES:						
Location:	None	Roof Panels:		Height:	Soffit ☐	None
Width:		Start Bay:	End Bay:	Slope:	Gauge:	Finish:
Location:	None	Roof Panels:		Height:	Soffit ☐	None
Width:		Start Bay:	End Bay:	Slope:	Gauge:	Finish:

PARTITION WALLS:					
Orientation:	None	Bay Spacing:		Panels:	
Length:		Offset Left:	Insulation:	Gauge:	Finish:
Orientation:	None	Bay Spacing:		Panels:	
Length:		Offset Left:	Insulation:	Gauge:	Finish:

LINER PANELS:						
Location:	None		Notes:		Panels:	
Start Bay:		End Bay:	Height:	☐ Liner Trim	Gauge:	Finish:
Location:	None		Notes:		Panels:	
Start Bay:		End Bay:	Height:	☐ Liner Trim	Gauge:	Finish:

ACCESSORIES:			
Qty: 1	3070 Walk Door	Notes:	Insulated walk-in door with lever-lockset
Qty:		Notes:	
Qty:		Notes:	
Qty:		Notes:	

NOTES:

1. Standard X-bracing.
2. Post and beam end frames.
3. 26 gauge painted PBR roofing and siding.
4. The left endwall is skewed with the front left corner set in 20'-3 13/16".
5. 25'-0" x 21'-8 3/16" lean-to attached to the high sidewall. (See FORM 2: ADDITIONAL STRUCTURES - BUILDING B)

ALTERNATES:	Price	Initials
Alt 1		
Alt 2		
Alt 3		

CONTRACT AMOUNT:

Price: **$53,600.00** Building Package F.O.B. Job Site *Weight:* **35,447 lbs.**

Terms: **20% down payment at time of order, balance due upon delivery.**

Sales tax, anchor bolts, and concrete design are not included. Bid is good for 7 days. Contract price is good for 21 days.

PACIFIC BUILDING SYSTEMS

Manufactured by:
Truss "T" Structures, Inc.
2100 N Pacific Highway
Woodburn, OR 97071

By: _____
Authorized Signature Title 6/26/19

Buyer's Signature: _____
Buyer's Name: _____
Billing Address: _____
Accounts Payable Email: _____
Reseller Permit #: _____
Date: _____ PO #: _____

FORM 2: ADDITIONAL STRUCTURES | BUILDING B | Date: 6/24/19

BASIC BUILDING:

Building Type: ☐ Symmetrical ☐ Single Slope ☑ Lean-to ☐ Other

Width: **25'-0"** Length: **21'-8 3/16"** Low Sidewall Eave Height: **26'-9"** High Sidewall Eave Height: **28'-10"**

Roof Pitch: **-1 :12** Minimum Rafter Clearance:

Sidewall Bay Spacing: **21'-8"** Left Endwall Bay Spacing: **27'-5 3/16" (Skewed)**

Special Girt Spacing: Right Endwall Bay Spacing: **25'-0"**

FRAMING DATA:

Frame Type: **LT - Lean-To** Interior Column Spacing:

☐ Straight Exterior Columns ☐ Unsupported Exterior Columns ☐ Special, See Notes

Common Wall Condition:	**Girts and Sheeting**	Bracing Condition in Common Wall:	**Portal Frame**		
Left Endwall Frame:	**Half-Loaded Lean-To**	High Sidewall Bracing:	**Portal Frame**	Low Sidewall Bracing:	**Common Wall**
Right Endwall Frame:	**Half-Loaded Lean-To**	Left Endwall Bracing:	**None**	Right Endwall Bracing:	**None**
Eave Condition:	**Gutters and Downspouts**	High Sidewall Girts:	**Bi-Pass**	Low Sidewall Girts:	**Bi-Pass**
Base Condition:	**None**	Left Endwall Girts:	**Bi-Pass**	Right Endwall Girts:	**Common Wall**

SHEETING:

Roof Panels:	**PBR**	Gauge:	**26**	Finish:	**Painted**	Screw Length:	**Per Design**
Wall Panels:	**PBR**	Gauge:	**26**	Finish:	**Painted**	Screw Length:	**Per Design**

INSULATION:

Roof Insulation:	**6" VRR (R-19)**	Use Thermal Block:	☐ Yes	☑ No	Insulation by PBS:	☑ Yes	☐ No
Wall Insulation:	**4" VRR (R-13)**	Use Thermal Tape:	☐ Yes	☑ No	Insulation by PBS:	☑ Yes	☐ No

ROOF & WALL FRAMED OPENINGS:

Qty:	Width:	Height:	Type:	Location:	Sill Height:
2	**6'-0"**	**2'-0"**	**Window**	**Left Endwall**	**19'-0"**

ROOF EXTENSIONS:

Extension:	**None**	Location:		Soffit ☐	**None**
Width:	Start Bay:	End Bay:		Gauge:	Finish:
Extension:	**None**	Location:		Soffit ☐	**None**
Width:	Start Bay:	End Bay:		Gauge:	Finish:

CANOPIES:

Location: **None**	Roof Panels:		Height:	Soffit ☐	**None**
Width:	Start Bay:	End Bay:	Slope:	Gauge:	Finish:
Location: **None**	Roof Panels:		Height:	Soffit ☐	**None**
Width:	Start Bay:	End Bay:	Slope:	Gauge:	Finish:

PARTITION WALLS:

Orientation:	**None**	Bay Spacing:		Panels:	
Length:	Offset Left:	Insulation:		Gauge:	Finish:
Orientation:	**None**	Bay Spacing:		Panels:	
Length:	Offset Left:	Insulation:		Gauge:	Finish:

LINER PANELS:

Location:	**None**	Notes:		Panels:	
Start Bay:	End Bay:	Height:	☐ Liner Trim	Gauge:	Finish:
Location:	**None**	Notes:		Panels:	
Start Bay:	End Bay:	Height:	☐ Liner Trim	Gauge:	Finish:

NOTES:

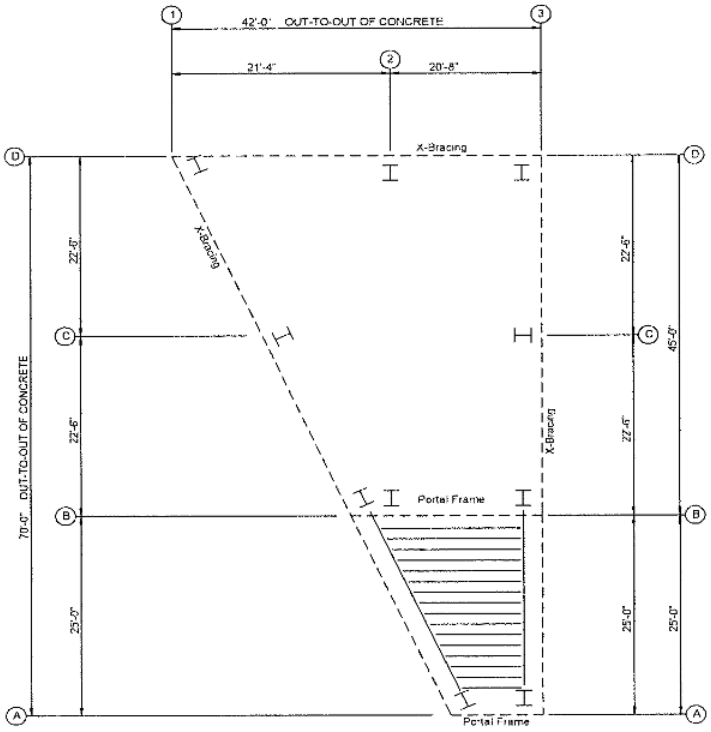
1. **Portal braced at the high sidewall, standard X-bracing elsewhere.**
2. **Half-loaded lean-to end frames.**
3. **26 gauge painted PBR roofing and siding.**
4. **Full width x full length light storage mezzanine. (See FORM 5: MEZZANINE DATA)**
5. **Open below 13'-6" at all walls.**
6. **Low sidewall connected to main building.**

FORM 5: MEZZANINE DATA

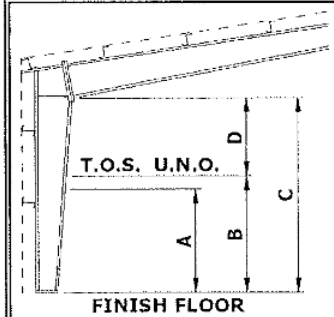
Date: 6/24/19

PACIFIC BUILDING SYSTEMS
2100 N Pacific Hwy.
Woodburn, OR 97071
www.pbsbuildings.com
Toll Free 800-727-7844
Phone 503-981-9581
Fax 503-981-9584

CUSTOMER INFORMATION:					PROJECT INFORMATION:				
Customer:					Project Name: **New Building**				
Contact:	**Keith and Carol Phelps**				Project For:				
Address:	**PO Box 68631**				Address:	**58th and Johnson Creek Blvd**			
City:	**Oak Grove**	State: **OR**	Zip:	**97268**	City:	**Portland**	State: **OR**	Zip:	**97206**
Phone:	**971-212-4159**	Fax:			County:	**Multnomah**	Building Use:		**Commercial**
Cell:		Email:	**phelpsent@aol.com**		Desired Delivery Date (subject to factory approval):				



MEZZANINE PLAN



Critical Dimensions:

A	13'-6"
B	15'-0"
C	25'-0"
D	(C - B)

Correct usage and loads imposed on mezzanine are the responsibilities of the purchaser to relate to PBS. PBS will design the mezzanine based on the given live and dead loads. Dead loads separated into two categories: structural and non-structural. Structural dead loads are to include mezzanine beams, floor joists, decking, concrete cover, all other structural components associated with the floor design. Non-structural dead loads include partition loads, ceiling loads, carpets, or any temporary loads to the floor above and ceiling below as well as permanent mechanical service equipment. Live loads are based on the usage of the floor system, and typically specified by the purchaser.

Design Loads:	Live: **100 psf**	Dead: **15 psf**		Beams:	☑ By PBS ☐ By Others
Joists:	☑ By PBS	☐ By Others		Columns:	☑ By PBS ☐ By Others
Type:	☑ C or Z	☐ Bar Joist		Base Plate Bearing:	☑ At Finish Floor ☐ Below Finish Floor
	☐ Wide Flange	☐ Other:		**MATERIAL BY OTHERS**	
Spacing:	☑ By PBS	☐ By Others:		Stairs	Railing
Connections:	☑ Bolted	☐ Field Welded		Framed Openings: (Locate Above)	*Dimension on drawing above
Floor Deck:	☐ By PBS	☑ By Others		Size	Size
Floor Type:	**Plywood**	Floor Thickness: **1 1/8"**		A ____ x ____	C ____ x ____
				B ____ x ____	D ____ x ____
Edge Angle:	☐ By PBS	☑ By Others	Size:	**NOTE:** Indicate bays where X-Bracing is allowed.	

1. DEFINITIONS:

Those terms and conditions and the Quote/Contract, along with all attachments, prepared by Seller for Purchaser are together referred to as the as the "Agreement." As used in Agreement, "Seller" shall mean Truss "T" Structures Inc. dba Pacific Building Systems an Oregon corporation, and "Purchaser" shall mean the person or entity identified as customer in the Quote/Contract

2. PRODUCT:

This Agreement covers only the Seller's standard metal building system components and related accessories identified in the Quote for Purchaser and does not include any construction or installation services. The terms and specifications set forth on Seller's Contract/Quote shall control, notwithstanding any specifications or instructions provided by Purchaser. Any deviation from the Seller's standard specifications will be specified in the Notes section of the Contract/Quote. Seller reserves the right to substitute materials as it sees fit without notice to purchaser to meet Seller's standards specifications.

3. COMMON INDUSTRY PRACTICES:

"The Common Industry Practices" in the current edition of the Metal Building Manufacturer's Association ("MBMA") Building Systems Manual are incorporated into this Agreement by reference. The "Common Industry Practices" apply to this transaction unless the terms thereof conflict with the express terms of this Agreement in which event the terms of this Agreement shall govern

4. TERMS OF PAYMENT:

4.1 If the total amount of this Agreement is less than $250,000.00 then 20% is due at the time Seller accepts this Agreement, the remaining balance to be paid Cash on Delivery ("C.O.D.") or tender accepted by Seller prior to any unloading of materials and/or components

4.2 If the total amount of this Agreement is greater than $250,000.00 then 20% is due at time Seller accepts Agreement 40% prior to any fabrication process and/or purchasing of materials and the remaining balance to be paid Cash on Delivery ("C.O.D.") or tender accepted by Seller prior to any unloading of materials and/or components.

4.3 If this Agreement contains hangar door(s), in addition to the payment terms stated above, Purchaser shall pay 50% of the total cost of the door at time that Seller accepts this Agreement and 50% at time of fabrication of the hangar door by the manufacturer

4.4 Payments which are not paid when due shall accrue late fees of one and one-half per cent (1.5 %) per month on the unpaid balance until paid. Purchaser will pay all Seller's costs of collecting or securing any amount due hereunder, including lien expenses, reasonable attorney's fees and litigation expenses. No retainage by Purchaser is permitted. If Purchaser fails to make the payments required by this Agreement, Seller may suspend performance to include, without limitation, design, fabrication or delivery of Products until payment is made, including any and all added costs related to unpaid payment. Purchaser shall pay Seller's costs of engineering, work orders, purchase of out-sourced materials or services, processing, detailing, and production of all approval, permit, erection, or similar drawings and work completed.

5. TAXES:

Unless otherwise specified, taxes are not included in the sales price and will be paid by Purchaser. Applicable taxes will be charged unless appropriate documentation (resale certificate) is submitted to Seller authorizing exemption from payment of taxes prior to acceptance of this Agreement.

6. DELIVERY:

Delivery shall be within a reasonable time as scheduled by Seller after acceptance of this Agreement and prior to fabrication of the products, at the location identified in the Quote/Contract. Seller may adjust the delivery schedule due to any delays in return of approval drawings, order clarification, product or design changes, credit hold, Purchaser or End Customer design or fabrication holds or any other delay caused by Purchaser or End Customer ("Purchaser Delays"). If at any given time the Seller experiences delays out of Seller's control, the price provided in this Agreement may be increased by Seller until date of shipment by any additional costs incurred by Seller, including increased material costs. Such price increases shall be implemented by change order issued by Seller. Purchaser agrees to make available a safe location for unloading. If in the opinion of the Seller's driver or carrier service the delivery of materials and/or components is deemed as unsafe or impractical to reach the site to off-load, delivery shall be that place where off-loading may reasonably proceed. Each load shall be unloaded by the Purchaser at the time and date of scheduled delivery. If this does not occur, the Purchaser agrees to pay additional fees of $50 per hour per load, with a maximum of $400 per load. Purchaser also agrees to off load and reload material destined for other sites at no cost to Seller.

7. INSPECTION PERIOD:

Purchaser shall have fifteen (15) business days to inspect the product after delivery by Seller's driver or Carrier Service. If Purchaser does not deliver to Seller notice objecting to any defects or non-conformity of the product in accordance to this Agreement within the fifteen-day inspection period, then Purchaser will be deemed to have accepted delivery of the product and limit Purchaser to the remedies provided for under this Agreement.

WARNING: This material is subject to severe water damage if moisture is allowed to get between the parts; therefore, it MUST BE STORED UNDER COVER and one end elevated to allow for drainage until erected. If moisture is allowed to get between the parts "RUST" or "PAINT LIFT OFF" may occur. Seller shall have no responsibility or liability for damage resulting from improperly stored product and Purchaser assumes full responsibility for the condition of the Product following delivery.

8. SHORTAGES & BACK CHARGES:

Seller shall not be responsible for loss or damage to Products after delivery. Seller will not pay any claims or accept any back-charges from the Purchaser related to correction of errors and repairs unless the following procedure is followed: (1) Purchaser prior to any correction or repair, must provide Seller with a written notice describing the problem; (2) Purchaser must provide Seller with sufficient information to allow Seller to evaluate the problem; determine the estimated amount of man-hours needed and Products required; and determine the direct cost to the Purchaser to correct the problem; and (3) If Seller determines that correction is necessary, Seller will authorize the corrective process by issuing the Purchaser a written authorization. After receiving the authorization, the Purchaser can make the corrections. The hourly labor rate for work to be approved by Seller prior to any commencement of work, only Seller approved labor rate will be charged. COST OF EQUIPMENT (RENTAL EXPENSE, VALUE OR DEPRECIATION), TOOLS, SUPERVISION, OVERHEAD AND PROFIT, DELAY CHARGES OR CONSEQUENTIAL, LIQUIDATED OR INCIDENTAL DAMAGES ARE EXCLUDED. SELLER WILL NOT BE LIABLE FOR ANY CLAIMS OR BACK CHARGES PERFORMED WITHOUT SELLER'S PRIOR AUTHORIZATION. FREIGHT DAMAGE MUST BE NOTED ON SHIPPING DOCUMENTS AND NOTICE MUST BE GIVEN TO SELLER PRIOR TO THE CARRIER LEAVING THE DELIVERY SITE. SHORTAGES MUST BE REPORTED WITHIN FIFTEEN (15) BUSINESS DAYS FOLLOWING SHIPMENT. ALL OTHER CLAIMS MUST BE SUBMITTED WITHIN THREE (3) MONTHS OF DELIVERY. Any legal action or proceeding by Purchaser for breach of this Agreement must be commenced within one (1) year from date of delivery or the date. Any claims which have not been asserted by written notice within the designated periods of time are waived.

9. PURCHASER DELAYS:

If, at Purchaser's request, Seller agrees to delay delivery of Products after commencement of fabrication, then Purchaser shall make full payment at time of Seller invoice. Risk of loss shall be assumed by Purchaser upon notice that the Products are fabricated. Upon written request from Seller, Purchaser shall provide reasonable evidence of property insurance on the Products and designate Seller as loss payee. Seller may charge Purchaser a reasonable storage charge per day until actual shipment. Storage charges are due prior to delivery of the Product.

10. LIMITED WARRANTY:

Seller warrants its products against defects in material and defects in fabrication of the products from that specified in the Quote/Contract for a period of one (1) year from date of delivery to Purchaser. Damage or failures due to faulty or improper handling, storage, or erection by Purchaser or others are not covered by this Warranty, including without limitation defects in paint and rust. This Warranty is further limited by the following: (1) The Products must be erected promptly after shipment to Purchaser; (2) Damages from outside sources, misuse and abuse, lack of proper maintenance (including removal of excessive loads such as snow and ice), unauthorized modification or alteration to the Products, addition of unspecified collateral loads, damages caused by negligence of others, or natural storms imposing loads beyond specified design loads, and normal wear and tear are excluded from this Warranty. This Warranty does not cover goods, materials, inventory, accessories, parts or attachments or other property which are not manufactured by Seller. This Warranty is non-assignable and non-transferable. THE WARRANTY SET FORTH ABOVE IS SUBJECT TO THE LIMITATIONS SPECIFIED, AND THIS AGREEMENT EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

11. EXCLUSIVE REMEDIES:

Purchaser's exclusive remedy is that Seller will, at its option, either repair or replace defective or non-conforming component(s). If for any reason, Seller is unable to reasonably remedy the breach of warranty by repair or replacement of defective component(s), as determined by Seller in its sole discretion, then Purchaser's sole and exclusive remedy is for a refund of the cost of the defective or nonconforming components.

12. CONSEQUENTIAL, INCIDENTAL AND LIQUIDATED DAMAGES:

SELLER SHALL NOT BE LIABLE TO PURCHASER, OR ANY OTHER PARTY, FOR INCIDENTAL, LIQUIDATED, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY TYPE, including, but not limited to, loss of profits, loss of rents, loss or expense arising from any building or plant closing, construction or completion delays, labor or overhead expense, increased operating expense, increased insurance or maintenance expense, business interruption, damage or loss to inventory or any other property, or any other type of consequential, incidental, or special loss or damage whatsoever, whether claims for such damages or losses shall be based upon contract warranty, tort, negligence, strict liability, or any other cause of action.

13. FORCE MAJEURE:

Seller shall have no liability for delay, failure to fabricate or deliver the Products caused directly or indirectly by fire, strike, act of God, war, insurrection, terrorism and any disruption of supply, transportation or essential services, acts of government, floods, storms, damage or delay of procuring essential materials or materials specially ordered by Purchaser which must be purchased by Seller, excessive backlog, or other acts or circumstances beyond the reasonable control of Seller. Seller shall give Purchaser reasonable notice of an occurrence of a Force Majeure event; and Seller's time for performance shall be deemed extended for a sufficient time to reasonably complete performance under the circumstances.

14. PURCHASE SPECIFICATIONS:

It is Purchaser's responsibility to determine the intended use and end use of the building in which the products will be incorporated, and to determine and specify all loading for the building, including, but not limited to, live load, wind load, snow load, collateral, mechanical or auxiliary loads, seismic data, importance and exposure factors, and all requirements for compliance with applicable building codes, statutory and regulatory requirements pertaining to the products and completed structure. this responsibility will not be performed by Seller. If project plans or any form of project documentation has been submitted to Seller for use of building estimation and/or conformity to Purchaser's project it is the Purchaser's responsibility to ensure the project documentation and this Agreement coincides and will fulfill the Purchaser's and/or End User's desired end product, it is not the Seller's responsibility to ensure products and components that are not considered Seller's standard metal building system components be included based off any and all Purchaser provided documentation and/or information. Purchaser acknowledges that Seller is not a Design Professional, Engineer of Record or architectural firm. Purchaser is responsible to ensure Seller has most recent and updated structural and architectural drawings to work from.

15. ERECTION:

Purchaser acknowledges that the Products must be erected in accordance with Seller's erection drawings, details, manuals and any applicable erection specifications. Seller has no responsibility for erection, supervision of erection, or inspection of erection of the Products. Field connections, structural connections, bracing to structural systems provided by others are not the responsibility of Seller. Purchaser shall indemnify, defend and hold Seller harmless from all claims, actions, damages, losses or expenses, including without limitation reasonable attorney's fees and litigation expenses, arising from personal injuries or property damage resulting from (1) noncompliance with Seller's erection plans and specifications; (2) negligent or faulty erection of the products by Purchaser or its subcontractors; (3) inadequate structural systems, connections, or bracing provided by any other firm other than Seller; or (4) any breach of any of Purchaser's obligations under this Agreement.

16. ACCEPTANCE, APPROVAL, CHANGE ORDERS AND CANCELLATION:

This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Electronic signature, facsimile or email transmission of any signed original document, and retransmission or email of any signed facsimile or email transmission, shall be the same as delivery of an original. This Agreement will be considered approved only after Seller has supplied to the Purchaser approval drawings based off this Agreement, at that time it will be the Purchaser's responsibility to fulfill any insufficient data, approve color choices, date, sign, and return approval drawings to Seller before this Agreement can and will be considered approved. Seller will not perform or proceed forward in any process, design, engineering or detailing without Purchaser approval. If any changes and/or modifications are made to this Agreement, Seller will provide to Purchaser a written notice of change (Change Order) to the Agreement. PBS reserves the right to pass on material cost increases (from PBS suppliers) occurring after date of signed contract. You will be notified of any cost that will be incurred prior to fabrication of your project. The Seller may stop and or hold the process of this Agreement until the Seller has received from Purchaser approved changes (Signed Change Order). Purchaser may cancel this Agreement by giving written notice to Seller. In the event of such cancellation the Purchaser agrees to pay Seller the actual costs and damages incurred by Seller, which include, but are not limited to, lost profits, incidental damages in preparation to perform this Agreement and Seller's expenses of order processing, engineering, detailing, purchase of material and fabrication.

17. BENEFIT:

Purchaser may not assign, transfer or delegate this Agreement or any interest or obligation herein. This Agreement shall bind and benefit only Seller and Purchaser; shall not benefit any other persons or entities ("Third Parties"); and shall not be deemed to create any rights in favor of any End Customer or Third Parties, whether or not referred to in this Agreement.

18. ENTIRE AGREEMENT:

This Agreement sets forth the entire agreement of the parties. There are no representations, terms, warranties or undertakings except as stated in this Agreement.

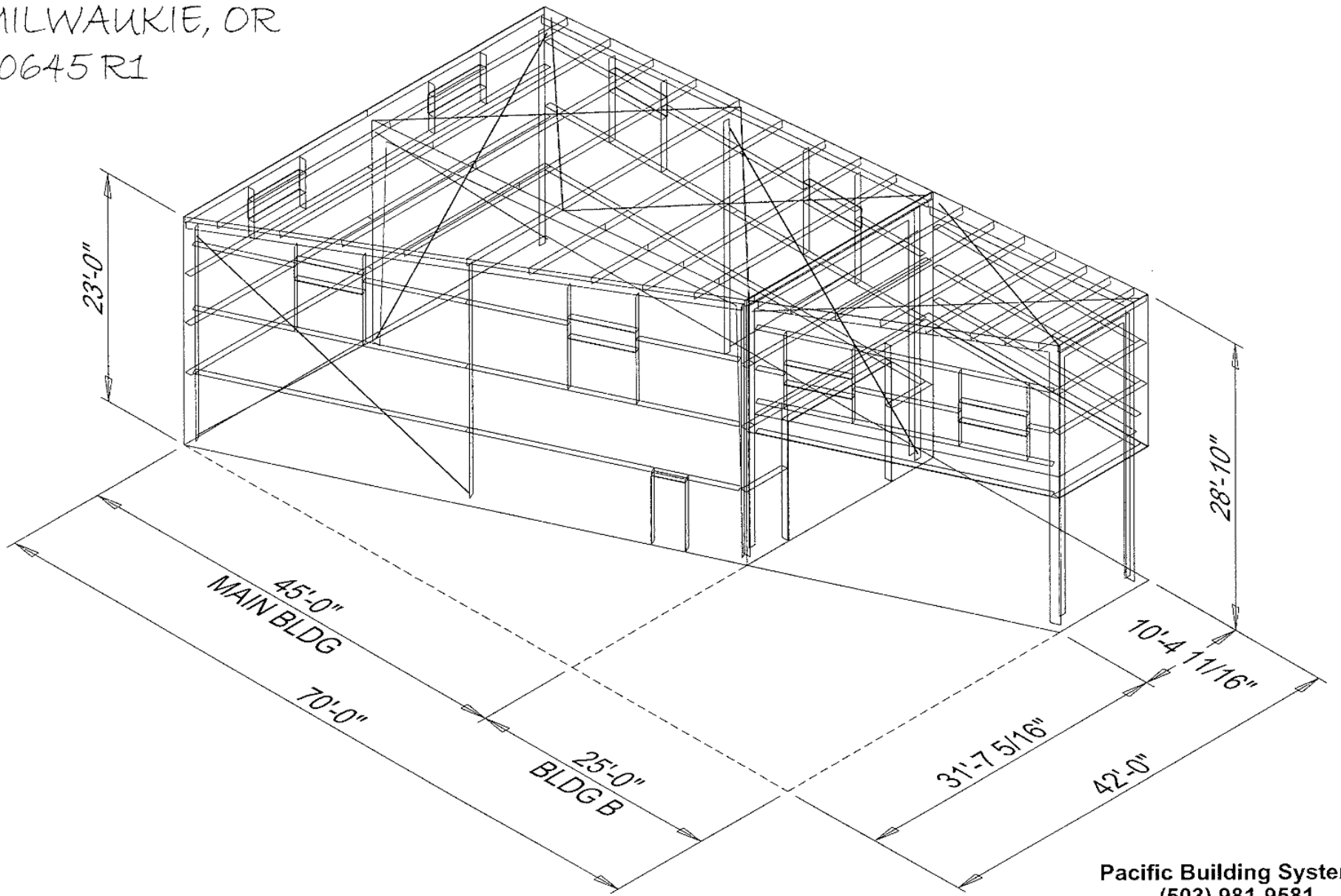
19. SEVERABILITY:

If any provision of this Agreement is found to be invalid or unenforceable under applicable law, such provision shall be severable and the remaining provisions of this Agreement shall remain in full force and effect. The headings of the paragraphs of this Agreement are for convenience of reference and shall not limit or otherwise affect any provisions of this Agreement.

20. APPLICABLE LAW & JURISDICTION:

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of laws. The sole and exclusive jurisdiction and venue for any legal action arising from this Agreement (excluding enforcement of liens against End Customers) shall be the state courts in Marion County, Oregon. Purchaser consents to such jurisdiction and venue and waives and covenants not to assert any defense thereto.

KEITH AND CAROL PHELPS
NEW BUILDING
MILWAUKIE, OR
10645 R1



Pacific Building Systems
(503) 981-9581
2100 N. Pacific Hwy.
Woodburn, OR 97071

CITY OF **MILWAUKIE**

July 18, 2019

Carol & Keith Phelps
PO Box 68631
Oak Grove OR 97268

Re: Preapplication Report

Dear Carol & Keith:

Enclosed is the Preapplication Report Summary from your meeting with the City on June 13, 2019, concerning your proposal for action on property located at the corner of SE 58th Ave and SE Johnson Creek Blvd.

A preapplication conference is required prior to submittal of certain types of land use applications in the City of Milwaukie. Where a preapplication conference is required, please be advised of the following:

- Preapplication conferences are valid for a period of 2 years from the date of the conference. If a land use application or development permit has not been submitted within 2 years of the conference date, the Planning Director may require a new preapplication conference.
- If a development proposal is significantly modified after a preapplication conference occurs, the Planning Director may require a new preapplication conference.

If you have any questions concerning the content of this report, please contact the appropriate City staff.

Sincerely,

Alicia Martin

Alicia Martin
Administrative Specialist II

Enclosure

cc: Troy Lyver
file

CITY OF MILWAUKIE
PreApp Project ID #: 19-010PA

PRE-APPLICATION CONFERENCE REPORT

This report is provided as a follow-up to a meeting that was held on 6/13/2019 at 10:00am

Applicant Name:	**Keith and Carol Phelps**
Company:	
Applicant 'Role':	Owner
Address Line 1:	PO Box 68631
Address Line 2:	
City, State Zip:	Oak Grove OR 97268
Project Name:	**New Industrial/Light Manufacturing Building**
Description:	**New Industrial/Light Manufacturing Building**
ProjectAddress:	**Johnson Creek Blvd & 58th Ave**
Zone:	Manufacturing (M)
Occupancy Group:	
ConstructionType:	
Use:	Industrial (I)
Occupant Load:	
AppsPresent:	Troy Lyver, Carol Phelps
Staff Attendance:	Vera Kolias, Steve Adams, Samantha Vandagriff, Tay Stone, Dalton Vodden

BUILDING ISSUES

ADA:	ADA parking shall be provided. If parking is to be provided on street as purposed, the sidewalk can be used as the adjacent unloading zone for the ADA parking.
Structural:	Structure shall meet all the requirements of the Oregon Structural Specialty Code (OSSC). Second story interior stair shall have an exit or exit pathway directly to the exterior.
Mechanical:	
Plumbing:	
Plumb Site Utilities:	
Electrical:	
Notes:	

Please note all drawings must be individually rolled. If the drawings are small enough to fold they must be individually folded.

FIRE MARSHAL ISSUES

Fire Sprinklers:

Fire Alarms:

Fire Hydrants:

Turn Arounds:

Addressing:

Fire Protection:

Fire Access:

Hazardous Mat.:

Fire Marshal Notes: See attached notes.

PUBLIC WORKS ISSUES

Water: The development is located within the service district of Clackamas River Water (CRW). New connections are managed through CRW's New Services Coordinator, Betty Johnson, at (503) 723-2571 or bjohnson@crwater.com.

Sewer: A City of Milwaukie 8-inch PVC wastewater main on SE 58th Dr is available to provide service to the proposed development. Currently, the wastewater System Development Charge (SDC) is comprised of two components. The first component is the City's SDC charge per plumbing fixture units in accordance with the Uniform Plumbing Code and the second component is the City of Portland's SDC for treatment per equivalent dwelling unit that the City collects and forwards to Portland. The wastewater SDC will be assessed and collected at the time the building permits are issued.

Storm: Submission of a storm water management plan by a qualified professional engineer is required as part of the proposed development. The plan shall conform to Section 2 - Stormwater Design Standards of the City of Milwaukie Pubic Works Standards.
The storm water management plan shall demonstrate that the post-development runoff does not exceed the pre-development, including any existing storm water management facilities serving the development property. Also, the plan shall demonstrate compliance with water quality standards. The City of Milwaukie has adopted the City of Portland 2016 Stormwater Management Manual for design of water quality facilities.
All new impervious surfaces, including replacement of impervious surface with new impervious surfaces, are subject to the water quality standards. See City of Milwaukie Public Works Standards for design and construction standards and detailed drawings. A 12" concrete storm line is available on SE 58th Dr if infiltration is not feasible.

The storm SDC is based on the amount of new impervious surface constructed at the site. The storm SDC will be assessed and collected at the time the building permits are issued.

Street:

The proposed development fronts the north side of SE Johnson Creek Blvd and the west side of SE 58th Drive. The portion of SE Johnson Creek Blvd fronting the proposed development has a right-of-way width of 40 feet, a paved width of 38 feet and unimproved shoulders on both sides of the road. The portion of SE 58th Dr fronting the proposed development has a right-of-way width of 50 feet, paved width of 24 ft with an unimproved shoulder.

The Transportation SDC will be based on the increase in trips generated by the new use per the Trip Generation Handbook from the Institute of Transportation Engineers. The SDC for transportation is per PM peak trip generated. Credits will be given for any existing use of structures.

Frontage:

Chapter 19.700 of the Milwaukie Municipal Code (MMC) applies to partitions, subdivisions, new construction and modification and or expansions of existing structures or uses that produce a projected increase in vehicle trips.

Transportation Facility Requirements, Code Section 19.708, states that all rights-of-way, streets, sidewalks, necessary public improvements, and other public transportation facilities located in the public right-of-way and abutting the development site shall be adequate at the time of development or shall be made adequate in a timely manner.

Final Street Design of SE 58th Dr
- 8 foot travel lanes
- 6 foot parking strips with curb & gutter
- 5-foot landscape strips
- 5-foot setback sidewalks

Final Street Design of SE Johnson Creek Blvd
- 12-foot travel lanes
- 12-foot center lane
- 5-foot landscape strips
- 6-foot setback sidewalks

The applicant will be responsible for constructing half street improvements along the fronting portion of SE 58th Dr to mitigate impacts. This will include management of stormwater generated from new impervious surface and a pedestrian ramp to provide connectivity traveling east across SE 58th Dr at the intersection of SE Johnson Creek Blvd. A portion of the planned landscape strip may be converted to an accessible route to allow for the establishment of an accessible parking spot along SE 58th Dr. The proposed development's impacts will not require construction of frontage improvements along SE Johnson Creek Dr.

Right of Way:

The existing 50-foot right-of-way on SE 58th Dr fronting the proposed development is of adequate width to accommodate the planned cross-section. The right-of-way width of SE Johnson Creek Blvd will require a dedication of twenty feet by the applicant.

Driveways:

New accessways are subject to all access management requirements found in MMC Chapter 12.16. The minimum spacing from an intersection for an industrial driveway on a local street is set by MMC section 12.16.040.C.4.b at 100 feet. Modification of spacing will be necessary for this site. Access spacing can be modified through an access study prepared and certified by a registered professional traffic engineer in the State of Oregon. The method for access modification is described in MMC section 12.16.040.B.2. The access study shall include the following:

a. Review of site access spacing and design;
b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site (100 feet for this development);

c. Review of all modes of transportation to the site;
d. Mitigation measures where access spacing standards are not met that include, but are not limited to, assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the Engineering Director.

MMC section 12.16.040.A states that access to private property shall be permitted with the use of driveway curb cuts and driveways shall meet all applicable guidelines of the Americans with Disabilities Act (ADA). Driveway approaches shall be improved to meet the requirements of Milwaukie's Public Works Standards, Section 5.0085, at the time of development. The width of industrial driveway aprons are governed by 12.16.040.F.7 to be between 15 feet and 45 feet.

Relief from any access management requirement or standard of Section 12.16.040 may be granted through a variance process, which requires submission and approval of a Variance land use application.

Erosion Control: MMC section 16.28.020.C states an erosion control permit is required prior to placement of fill, site clearing, or land disturbances, including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which results in the disturbance or exposure of soils exceeding five hundred square feet. The proposed development exceeds the threshold therefore, an erosion control permit is required.

Code Section 16.28.02.E states that an erosion control permit is required prior to issuance of building permits or approval of construction plans. Also, MMC section 16.28.020.B states that an erosion control plan that meets the requirements listed in MMC section 16.28.030 prior to any approval of an erosion control permit.

Traffic Impact Study: MMC 19.704 states the Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. It is the responsibility of the applicant to provide enough detailed information for the Engineering Director to make a TIS determination. The Engineering Director has determined that sufficient existing transportation data is available for the City to determine the transportation system impacts of the development. A project specific TIS is not required for this development at this time. Changes to the application may alter this determination.

PW Notes: APPLICABILITY OF PRE-APPLICATION REVIEW
The comments provided are preliminary and intended to address the original application materials submitted unless otherwise specifically called out in the notes. The information contained within these notes may change over time due to changes or additional information presented for the development. This pre-application review is for the following:
The construction of an industrial building near the intersection of SE 58th Dr and SE Johnson Creek Blvd.

SYSTEM DEVELOPMENT CHARGES (SDC'S)
There was insufficient information to estimate SDC's with the pre-application submitted. All SDC's are calculated, assessed, and collected at the time of building permit is issued.
In addition to the SDC's mentioned earlier, there is a Parks & Recreation System Development Charge (SDC) that is triggered with an intensification of use. Currently, the parks and recreation SDC is based on the number of employees according to the Metro Employment Density Study. The parks and recreation SDC will be assessed and collected at the time the building permits are issued.

OVERHEAD UTILITIES

All utility lines, including, but not limited to, those required for electric, communication, lighting, cable television services, and related facilities shall be placed underground.

REQUIREMENTS PRIOR TO CERTIFICATE OF OCCUPANCY
Engineered plans for public improvements (street, sidewalk, and utility) are to be submitted and approved prior to start of construction. Full-engineered design is required along the frontage of the proposed development. Plans shall be prepared by a Professional Engineer licensed in the State of Oregon.

- The applicant shall pay an inspection fee of 5.5% of the cost of public improvements prior to start of construction.

- The applicant shall provide a payment and performance bond for 100% of the cost of the public improvements prior to the start of construction.

- The applicant shall provide a final approved set of Mylar "As Constructed" drawings to the City of Milwaukie prior to the final inspection.

- The applicant shall provide a maintenance bond for 100% of the cost of the public improvements prior to the final inspection

ADDITIONAL REQUIREMENTS
- All fees mentioned are subject to change in accordance with the City of Milwaukie Master Fee Schedule.

PLANNING ISSUES

Setbacks: For new development in the Manufacturing (M) zone, front yard setbacks are 20 ft; street side yard setback is 10 ft. No setback is required for a side or rear yard unless the property abuts a residential district, in which case the setbacks would have to match those of the adjacent residential zone.

Landscape: In the M zone, a minimum of 15% of the site must be landscaped. Vegetated areas can be planted in trees, grass, shrubs, or bark dust for planting beds, with no more than 20% of the landscaped area finished in bark dust (as per Milwaukie Municipal Code (MMC) Subsection 19.504.7).

Parking: MMC Chapter 19.600 establishes the off-street parking standards for development. As per MMC Section 19.605 and Table 19.605.1, general office uses require a minimum of 2 off-street parking spaces per 1,000 sq ft of floor area; warehouse uses less than 150,000 sq ft require 0.3 spaces per 1,000 sq ft of floor area; manufacturing uses require 1 space per 1,000 sq ft of floor area. Based on the proposed building of 1,430 sq ft of manufacturing and 418 sq ft of associated office space, 1 off-street parking space is required.

Parking lot design standards are provided in MMC Section 19.606, including requirements for parking stall dimension and perimeter and interior landscaping.

Loading areas must meet the standards of MMC Section 19.608 and shall not obstruct travel within the right-of-way or provide a hindrance to private streets or adjacent properties.

Contact the City's Building Department for information on ADA parking requirements for the proposed new building.

Transportation Review: New construction triggers the requirements of MMC Chapter 19.700 Public Facility Improvements. Please see the Public Works notes for information about the requirements of MMC 19.700.

Application Procedures: The proposal requires 2 land use applications:
1. Type III Variance
2. Type II Development Review

Variance
The proposal shows the new building with a 0-ft front yard setback off Johnson Creek Blvd, due to the required 20-ft right-of-way dedication. A Type III variance is required to allow the project as proposed. MMC 19.911.4.B identifies the approval criteria for a Type III variance. Staff recommends that the applicant consider choosing a building design that includes windows or other design features on the street facing façade, as well as trellis structures for plant material to soften the building wall at the property line. An attractive street-facing façade would respond to the Type III variance approval criteria.

Development Review
In the M zone, new construction of a building over 1,000 sq ft and within 120 ft of a residential zone requires a Type II Development Review. MMC 19.906.4 identifies the approval criteria for this review.

During the pre-application conference, staff discussed off-street parking as it relates to required frontage improvements on 58th Ave, including on-street parking. This would allow the area originally identified for parallel off-street parking (with mountable curb that is not approvable) to be used for additional landscaping. A revised site plan could provide flexibility when designing the area near the loading door, and possibly providing an off-street parking space.

The current application fees are as follows: $2,000 for Type III review, $1,000 for Type II review, and $200 for Type I review. For multiple applications submitted concurrently, the most expensive application is charged full price and additional applications are discounted by 25%.

For the City's initial review, the applicant should submit 5 complete copies of the application, including all required forms and checklists. A determination of the application's completeness will be issued within 30 days. If deemed incomplete, additional information will be requested. If deemed complete, additional copies of the application may be required for referral to other departments, the Lewelling Neighborhood District Association (NDA), and other relevant parties and agencies. City staff will inform the applicant of the total number of copies needed.

For Type III review, once the application is deemed complete, a public hearing with the Planning Commission will be scheduled. Staff will determine the earliest available date that allows time for preparation of a staff report (including a recommendation regarding approval) as well as provision of the required public notice to property owners and residents within 300 ft of the subject property, at least 20 days prior to the public hearing. A sign giving notice of the application must be posted on the subject property at least 14 days prior to the hearing.

Issuance of a decision starts a 15-day appeal period for the applicant and any party who establishes standing. Permits submitted during the appeal period may be reviewed but are not typically approved until the appeal period has ended.

Prior to submitting the application, particularly if it will trigger a public hearing, the applicant is encouraged to present the project at a regular meeting of the Lewelling NDA, which occurs at 6:30 p.m. on the second Wednesday of every month at the Chapel Theatre (4107 SE Harrison St). Contact information: https://www.milwaukieoregon.gov/citymanager/lewelling-nda.

Natural Resource Review: The subject property does not include any mapped resource areas.

Lot Geography: The subject property is a triangular-shaped corner lot with frontage on both 58th Ave and Johnson Creek Blvd.

Planning Notes:

ADDITIONAL NOTES AND ISSUES

County Health Notes:

Other Notes:

This is only preliminary preapplication conference information based on the applicant's proposal and does not cover all possible development scenarios. Other requirements may be added after an applicant submits land use applications or building permits. City policies and code requirements are subject to change. If you have any questions, please contact the City staff that attended the conference (listed on Page 1). Contact numbers for these staff are City staff listed at the end of the report.

Sincerely,

City of Milwaukie Development Review Team

BUILDING DEPARTMENT

Samantha Vandagriff - Building Official - 503-786-7611

Stephanie Marcinkiewicz - Inspector/Plans Examiner - 503-786-7613

ENGINEERING DEPARTMENT

Steve Adams - City Engineer - 503-786-7573 Alex Roller - Engineering Tech II - 503-786-7695

COMMUNITY DEVELOPMENT DEPARTMENT

Leila Aman - Comm. Dev. Director - 503-786-7616

Alicia Martin - Admin Specialist - 503-786-7600

PLANNING DEPARTMENT

Dennis Egner - Planning Director - 503-786-7654

David Levitan - Senior Planner - 503-786-7627

Brett Kelver - Associate Planner - 503-786-7657

Vera Kolias - Associate Planner - 503-786-7653

Mary Heberling - Assistant Planner - 503-786-7658

CLACKAMAS FIRE DISTRICT

Mike Boumann - Lieutenant Deputy Fire Marshal - 503-742-2673

Matt Amos - Fire Inspector - 503-742-2661

Clackamas County Fire District #1
Fire Prevention Office

E-mail Memorandum

To: City of Milwaukie Planning Department

From: Izak Hamilton, Fire Inspector, Clackamas Fire District #1

Date: 7/17/2019

Re: 19-010PA, SE 58th Ave., SE Johnson Creek Blvd.

This review is based upon the current version of the Oregon Fire Code (OFC), as adopted by the Oregon State Fire Marshal's Office. The scope of review is typically limited to fire apparatus access and water supply, although the applicant must comply with all applicable OFC requirements. When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the fire code official. The following items should be addressed by the applicant:

> **A Fire Access and Water Supply plan is required for subdivisions and commercial buildings over 1000 square feet in size or when required by Clackamas Fire District #1. The plan shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, FDC location (if applicable), building square footage, and type of construction. The applicant shall provide fire flow tests per NFPA 291, and shall be no older than 12 months. Work to be completed by experienced and responsible persons and coordinated with the local water authority.**

Access:

1. Provide address numbering that is clearly visible from the street.
2. No part of the building may be more than 150 from an approved fire department access road.

Water Supply

1. Fire Hydrants Commercial Buildings: Where a portion of the building is more than 400 feet from a hydrant on a fire apparatus access road, as measured in an approved route around the exterior of the building, on-site fire hydrants and mains shall be provided.

2930 S.E. Oak Grove Blvd. • Milwaukie, OR 97267 • 503-742-2660

Note: This distance may be increased to 600 feet for buildings equipped throughout with an approved automatic sprinkler system.

2. All new buildings shall have a firefighting water supply that meets the fire flow requirements of the Fire Code. Maximum spacing between hydrants on street frontage shall not exceed 500 feet. Additional private on-site fire hydrants may be required for larger buildings. Fire sprinklers may reduce the water supply requirements.
3. Buildings constructed in areas without a reliable firefighting water supply may require the installation of a fire sprinkler system in order to comply with the Fire Code. Larger structures may also require development of an accessible water supply such as a pond, tank or reservoir, with a minimum capacity as approved by the Fire District.
4. Prior to the start of combustible construction required fire hydrants shall be operational and accessible.
5. The fire department connection (FDC) for any fire sprinkler system shall be placed as near as possible to the street, and within 100 feet of a fire hydrant.
6. Hazardous materials storage and use shall conform to the Fire Code and nationally recognized standards.
7. Storage of commodities in excess of 12 feet in height shall comply with the high pile storage provisions of the Fire Code.
8. Hazardous processes regulated by the Fire Code shall be approved by the Fire District.

Notes:

1. Comments may not be all inclusive based on information provided.
2. Please visit our website for access to our Fire flow Worksheet, and Fire Code Application Guide.

   http://www.clackamasfire.com/fire-prevention/new-construction-resources/

LYVER ENGINEERING AND DESIGN
7950 SE 106th, Portland, Oregon 97266
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

March 30th, 2022

City of Milwaukie
Community Development
6101 SE Johnson Creek Blvd
Milwaukie, OR 97206

Reference: Phelps Industrial/ Light Manufacturing Bldg
9285 SE 58th Drive
VR-2021-012, DEV-2021-006 & P-2021-003

LEAD Project No: 19-042

Transmittal of Land Use Hearing Continuation Documents

The listed items below are herein attached for the hearing continuation on April 12th,2022.

7a - Response to Opponents.pdf
7b - Johnson Creek Blvd. Future Improvement Analysis.pdf
7c - Screened Wall Sample Imagery.pdf

We trust this information meets your satisfaction; however, if you require additional information, please feel free to contact our office.

Sincerely,

Troy D. Lyver, PE/SE.
Lyver Engineering and Design, llc

LYVER ENGINEERING AND DESIGN
7950 SE 106th, Portland, Oregon 97266
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

March 30th, 2022

Reference: Phelps Industrial/ Light Manufacturing Bldg
9289 SE 58th Drive, Milwaukie, OR 97206
LU application #VR-2021-012;DEV-2021-006

LEAD Project No: 19-042

Subject: Addressing of Points of Objection raised by Opponents

1. From Tim and Jen Andrews via email:

The opponents suggest that the public's ability to cross John Creek Blvd. to access the Springwater Corridor will have *"an undesirable effect on the public".* Unfortunately, the applicants in this case have no control over crossing options along Johnson Creek Blvd. In addition, there is currently a project going in Clackamas County that addresses many of the issues along Johnson Creek Blvd., including crossings. We have coordinated with the project team at Clackamas County regarding this project and how it fits into the Johnson Creek Corridor Project. Perhaps the commenters would be well served to contact Clackamas County regarding their concerns about crossing Johnson Creek Blvd. The claim that *"allowing this zero setback Type III variance will make it nearly impossible and completely unsafe"* is completely false, totally unfounded, and fully unsupported by evidence.

The opponents claim that SE 58th Drive is a "residential street". This is completely false, as the City of Milwaukie has designated SE 58th Drive as a "Local Street". According to the city's definition of a Local Street, this is not a "residential street" but is a street which can be used by several different types of traffic. The following is taken from the city's Adopted Transportation System Plan:

> *Local Street: Low-volume, low speed streets that emphasize access to adjacent land uses over mobility. Most local streets in a city are adjacent to residential uses and serve residential transportation needs; however, local streets can also serve industrial areas.*

The issues referenced by the opponents regarding different posted speed limits and the speeds of passing cars are issues that must be addressed with the City of Milwaukie. Because the proposed development of the subject site has yet to happen, all of the issues raised do not relate to the subject at hand. All adverse impacts theoretically attributed to the proposed development are purely speculative and have no substance nor are they specific enough to identify potential impacts.

2. From Jen Proctor Andrews via email:

The opponent puts forth unfounded and unsupported claims of adverse impacts to crossings of Johnson Creek Blvd. that really should be directed at the City of Milwaukie, not at the applicant for development of a parcel of property. It appears that this opponent has not contacted Clackamas County, who, by the way, has jurisdiction over Johnson Creek Blvd., not the City of Milwaukie. The current project by Clackamas County for "*Johnson Creek Blvd. Improvements*" should address and, hopefully, solve any number of issues of interest to local residents and other local users.

This opponent's concern for the local natural areas is commendable. But studies have been done to determine most of the natural resource areas throughout the City, and this site is not included in any of those designated natural resource areas. Further, the opponent claims that reducing landscaping on the site will adversely impact local natural resources, but the opponent fails to be specific enough about this claim to make the claim valid. Since the site is not within a designated natural resources area of the city, there are no identified adverse impacts, either through the city's studies of local natural resource areas or other sources of review.

The opponent incorrectly claims that the applicant needs a "variance" for the parking modification. They are two different things. The applicant has applied for a "parking modification" to relocate the onsite parking spaces, especially the required handicapped space. The applicant is not necessarily reducing the amount of parking on the site, just simply rearranging it in order that the handicapped space is closer to the building entrance.

As the opponent and her partner claimed in their separate email regarding streets, SE 58th Drive is not a "residential street". It is a "Local Street". See definition of "Local Street" on page 1 of this response. A Local Street can be used, just as readily as it is used for residential purposes, for industrial purposes. This is clearly stated in the definition.

The opponent has set herself up as a "design review expert" by her claim,

> "*This is a building we're talking about, which could easily look much like the small, vacant dilapidated building on the corner of 55th and Johnson Creek Blvd. in a few short years."*

This is the opponent's opinion that has nothing to do with the proposed development of the subject site. Virtually all of this opponent's claims in the email are speculative and completely unfounded, with no basis for the objection because it fails to address a specific criterion of approval.

3. From Evan Geist and Kimberlee Morris via email:

The two opponents make several of the same claims made by other opponents, most of which are without merit because they do not address a specific criterion for approval, and provide very little substantive evidence of adverse impacts.

The opponents make the following claims:

- In the "effects on vegetation", the opponents claim that the blue spruce in their yard may be damaged and requests the city to "*provide data regarding the size of the root protection zone".* A root protection zone is typically in line with the tree's canopy. The size of the tree itself is 26 inches DBH per survey completed by Centerline Concepts on 2/11/19. The canopy of said tree appears thus the root protection zone appears to have a 15 feet radial reach per aerial imagery and site confirmation. Using this scaled aerial photography, it has been determined that the root protection zone DOES NOT encroach on the applicant's property, resulting in the need to trim back the overhanging tree limbs;
- The opponents claim that the "patch" of ground for a food garden, which, according to the opponents ". . . *would be rendered unsuitable for gardening due to sunlight being blocked by the proposed development."* The opponents have demonstrated or illustrated absolutely nothing in the way of evidence that shows the area of the future garden would be "rendered unsuitable for gardening". Furthermore, the garden area in question would not be rendered "unsuitable for gardening" because there is a wide variety of crops that can be grown in shadier conditions. However, it is unlikely that the proposed structure, at 29 feet in height, would block all the sunlight that the opponents envision. And because the opponents failed to provide an septicity in terms of the exact location of the future garden as well as any graphic or pictorial evidence, their objection lacks merit;
- The opponents claim that future solar panels may be adversely impacted by the height of the proposed structure and the blocking of sunlight to the solar panels. Once again, the opponents fail to provide any evidence at all regarding solar panels on their site. Because solar panels are usually mounted on the roof of a structure, the distance between the roof of their dwelling and the location of the proposed structure on the applicant's site does not appear to block sunlight for the solar panels. Since the opponents suggest they have been investigating solar panels for their dwelling, it seems reasonable that they have talked with a solar panel provider. As such, let the opponents engage the solar panel contractor to do a sun angle study for their solar panels. The applicant suspects that the large blue spruce on the opponents' property would do more harm in blocking sunlight for solar panels on the roof of the dwelling than the proposed structure on the subject site;

- Comments made by the opponents regarding "location of the driveway access" do not understand that the city is requiring the applicant to place the driveway "as far north as possible" through city policy. Any objections to the placement of the proposed driveway must be taken up with the City of Milwaukie outside the framework of this application;
- The opponents argue that the variance for the setback along the frontage with Johnson Creek Blvd. "could lead to yet another public safety hazard". However, the context of the argument revolves around hazardous traffic on Johnson Creek Blvd., including Smith Rock which, according to the opponents, "*. . . is frequently host to large delivery trucks entering and exiting its property.*" The subject site, as well as Smith Rock and the existing dwelling on the Smith Rock property, are all designated for Industrial development according to the City's Comprehensive Plan, and is zoned M (Manufacturing) which, under the zoning code, implements the Comprehensive Plan. Therefore, the proposed development, on a site that is zoned M, is perfectly in keeping with the city's long term vision. It should be noted that the existing dwelling on the Smith Rock site is currently being used as a residence and is not a part of the Smith Rock operation. Therefore, the existing dwelling is a non-conforming use and may not be eligible for future expansion, possibly including solar panels.

4. From Michael Conners of Hathaway Larson LLP, via written letter dated 1/25/22:

Mr. Conners provides a lengthy letter with many issues cited in it. This is simply a tactic of "throwing everything against the wall and seeing what sticks". A number of items were addressed by staff as being correctly and adequately addressed.

- In paragraph 2 on page 1 under "**A. Variance Requests**", Mr. Conners refers to the choice of using the Discretionary Relief criteria or the Economic Hardship criteria because the applicant "*presumably cannot demonstrate an economic hardship that requires these variances to develop the property in an economically feasible manner.*" Mr. Conners' argument is hollow because the applicant chose the proper method of addressing the variances, as supported by city staff. Beyond that, his observation that "*these variances are not necessary to develop the property in an economically feasible manner.*" Is a meaningless statement because the applicant followed the proper path to addressing and approving the variances.
- Mr. Conners states that "*the two-story building will be right up against the property line with no buffer and will loom over these residents and cast a shadow on the property*." However, because the applicant addressed the variance criteria properly and accurately, the approval of a zero lot line setback to the rear of the subject site, being "right up against the property line" is not an issue. Further, Conners suggests that the two-story building will "loom over these residents and cast a shadow on the property." The two-story building will be 30 feet or less in height which meets the requirements for the zone, and is, therefore, not an issue. The two-story building will hardly "loom" over the residents, given that the dwelling on the adjacent property is itself set back from the property line. With regard to "casting a shadow", it is not illegal or against

city Code that a shadow is cast on the adjacent property. Therefore, these arguments are invalid;

- In paragraph 2 on page 3 under "**B. Chapter 19.500**", the attorney argues that 19.504.6 requires that yards that abut a lower density zone shall be at least as wide as the required front yard width of the adjacent lower density zone. However, and city staff agrees with the applicant that, while the zone to the south across Johnson Creek Blvd. (not adjacent to the site on the north side) is zoned R-7. The R-7 zone has a front yard setback requirement of 20 feet which is the same as the M zone in which the subject site is located. The addressing to the 0-foot setback would apply to this front setback as well as others.

- Under "**C. Transition Area Standards**", Mr. Conners states "*The Applicant has not and cannot demonstrate compliance with the Transition Area standards set forth in 19.309.6.F because the applicant did not identify the manufacturer who will be operating in the building or provide specific information about the nature of that operation*." There is no requirement that any applicant identify the specific user of a site under consideration for this type of application. The user will be an industrial user who will comply with the various requirements of the M zone. It is not required under the city Code that the specific user be identified for each and every user of a site. While the nearest R-7 zone is approximately 67 feet distant, and the nearest dwelling in the R-7 zone is approximately 127 feet away. Because the subject site is separated from the nearest R-7 zoned area by both Johnson Creek Blvd. and the Springwater Corridor trail, and because of the small size of the site and the proposed building, plus compliance with all other aspects of the Code and approval of the requested variances, the intent of the Transition Area Standards have been satisfied;

- **E. Johnson Creek Blvd. Road Improvement Project** Mr. Conners suggests that "*it appears the proposed development will likely conflict with this project.*" Apparently, Mr. Conners himself has failed to check with Clackamas County regarding the impacts of this project the Johnson Creek Blvd. Road Improvement Project. The local project will actually benefit the Johnson Creek Blvd. Road Improvement Project by the applicants coordination and planned connection to future frontage improvements on Johnson Creek Blvd. which eliminates the removal and rebuild of curb return and its pedestrian ramps. Further, Mr. Conners' statement :. . . . .will likely conflict with this project." Is a complete assumption without substantiation since Mr. Conners apparently never discussed the issues with the County's Project Manager, as the applicant has done.

- While there are other trivial issues raised in Mr. Conners' letter, none rise to the level of concern for non-compliance with the city Code. Therefore, all of Mr. Conners' concerns and issues raised in his letter of January 25, 2022 have been sufficiently and adequately addressed, or are of such insignificance and of a trivial nature that they should be either be addressed or ignored altogether.

EX 8" SANITARY

SE 58th DRIVE

SEE C-2 FOR OFFSITE IMPROVEMENTS

TREE PROTECTION FENCING

SHRUBS & LAWN

SDCB 2

SDCB 3

SANITARY

WATER

CATCH BASIN

SHRUBS & GROUND COVER

10' SETBACK

SP-26

5.27

15'

BICYLE PARKING SPACES (2)

OVERFLOW AREA DRAIN

STORMWATER INFILTRATION SWALE

SANITARY CONNECTION

ROOF DRAIN

WATER CONNECTION

SSMH 2

PROPOSED BUILDING

SEE ARCHITECTURAL SHEETS

0' SETBACK

20' DEDICATION

70' TO RESIDENTIAL ZONE ACROSS I.C.B.

SE JOHNSON CREEK BLVD.

DOUBLE YELLOW LINE

FOG LINE

SHRUBS & BARK

0.5'

POWER CONNECTION

VARIABLE SCREENING TRELLIS ALONG STREET FRONTAGE. REFER TO A-2

GATE

6' CHAINLINK FENCE

0' SETBACK

0.5'

NORTH

VICINITY MAP

LEGEND

- BUILDING (MAIN)
- BUILDING (UPPER)
- CURB
- CONCRETE
- ASPHALT
- STRIPING
- LANDSCAPING
- BARK DUST
- INFILTRATION SWALE
- TRELLIS
- STREET TREE
- SWALE PLANT A
- SWALE PLANT B
- TREE
- SHRUB

JOHNSON CREEK BLVD. FUTURE IMPROVEMENT ANALYSIS

THESE PLANS WERE CREATED 2/15/22 AFTER SPEAKING WITH JCB IMPROVEMENT MGR AT CLACKAMAS COUNTY. THEY ILLUSTRATE A POTENTIAL CONNECTION BETWEEN 58th IMPROVEMENTS AND JCB IMPROVEMENTS WHICH ARE YET TO BE FINALIZED. THE FINAL DESIGN WILL BE DECIDED AT THE PUBLIC IMPROVEMENT PERMIT PHASE OF BUILDING PERMITS.

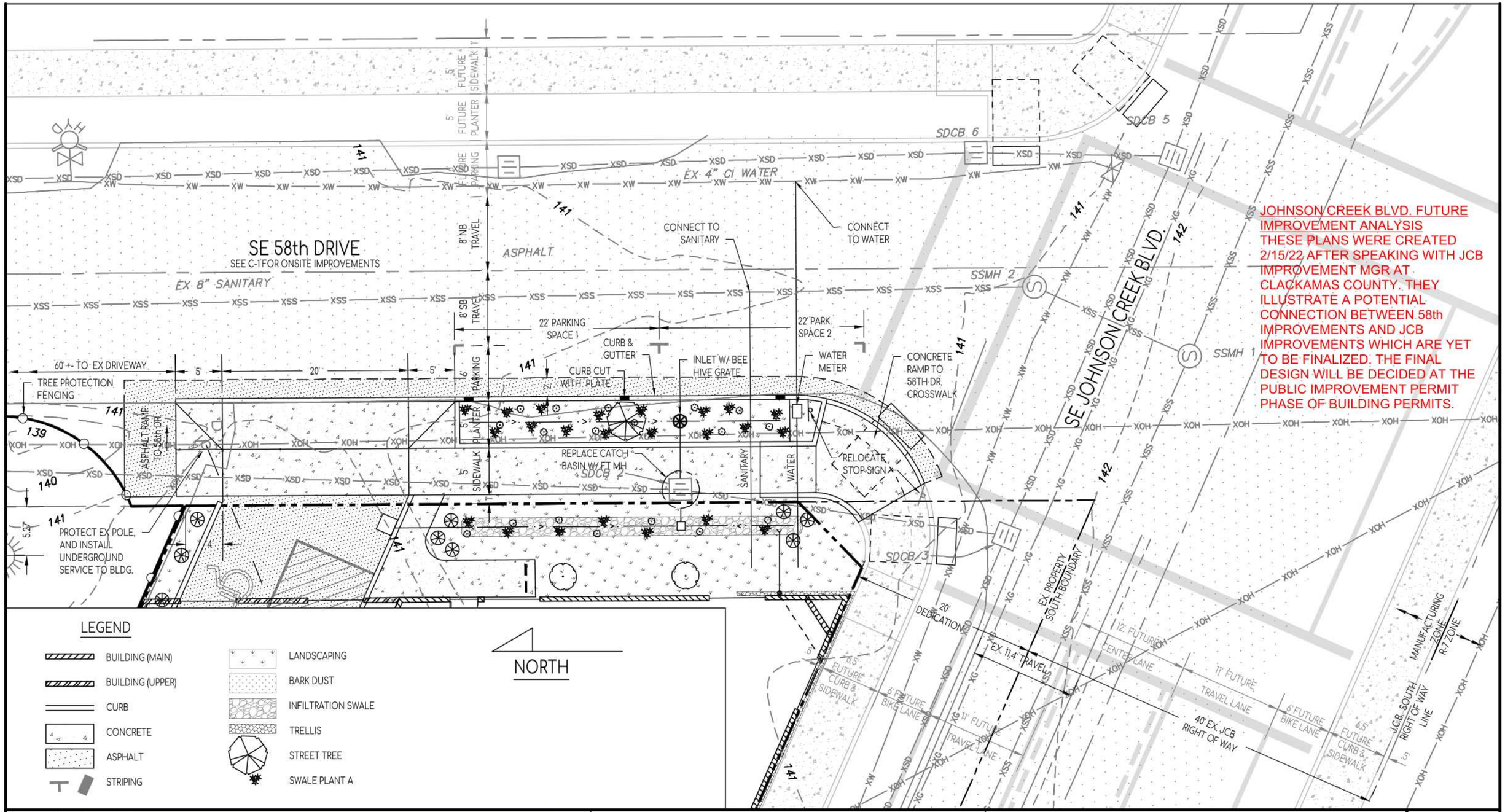
ONSITE PARKING PROVIDED
1 ADA W/ 1 ADA LOADING STALL
OFFSITE PARKING @ CURB
1 MANUFACTURING STALL (REQ.1 MIN/2 MAX STALL PER 1,000 SQ. FEET)
1 OFFICE (REQ 2 STALL PER 1,000 SQ. FEET)
3 TOTAL ON/OFFSITE PARKING PROPOSED

LOT COVERAGE & VEGETATION CALCULATIONS

3,760 SQ. FEET	EXISTING LOT SIZE
2,605 SQ. FEET	PROPOSED LOT (EXIST. - 20' DEDICATION)
x 15% =	
391 SQ. FEET	MINIMUM LANDSCAPING REQUIRED
318 SQ. FEET	GROUND COVER PLANTED (61%)
72 SQ. FEET	PLANTED INFILTRATION SWALE (14%)
35 SQ. FEET	GROUNDCOVER (7%)
99 SQ. FEET	BARK (19%) under 20% max
524 SQ. FEET	TOTAL LANDSCAPING PROPOSED
1,430 SQ. FEET	MAIN/MANUFACTURING FLOOR
418 SQ. FEET	UPPER OFFICE FLOOR
1,848 SQ. FEET	TOTAL FLOOR SPACE

LYVER ENGINEERING AND DESIGN
7950 SE 106th, Portland, Oregon 97266
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

PROJECT: PHELPS MANUFACTURING	SHEET TITLE: PROPOSED SITE PLAN	SHEET:
LOCATION: 9289 SE 58th DR. MILWAUKIE, OR 97206	DATE: 02/15/2022	REVISIONS: Nov. 2021 - PARKING; Feb. 2022 - JCB LAYOUT
CLIENT: CAROL PHELPS	SCALE: 1" = 10'	C-1
LEAD PROJECT #19-042		



JOHNSON CREEK BLVD. FUTURE IMPROVEMENT ANALYSIS
THESE PLANS WERE CREATED 2/15/22 AFTER SPEAKING WITH JCB IMPROVEMENT MGR AT CLACKAMAS COUNTY. THEY ILLUSTRATE A POTENTIAL CONNECTION BETWEEN 58th IMPROVEMENTS AND JCB IMPROVEMENTS WHICH ARE YET TO BE FINALIZED. THE FINAL DESIGN WILL BE DECIDED AT THE PUBLIC IMPROVEMENT PERMIT PHASE OF BUILDING PERMITS.

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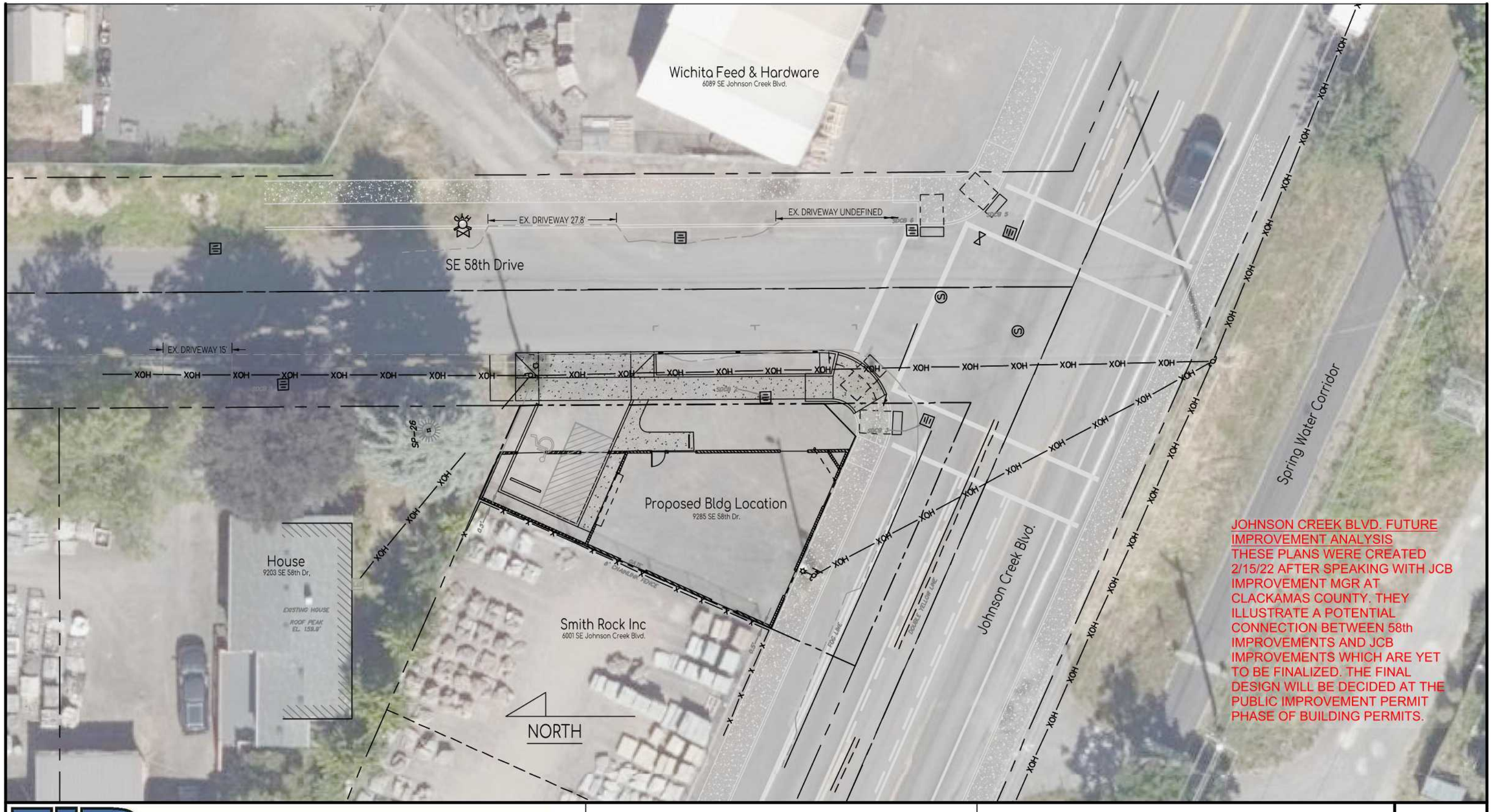
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

PROJECT: PHELPS MANUFACTURING	SHEET TITLE: PROPOSED PUBLIC ROAD IMPROVEMENTS	SHEET: C-2
LOCATION: 9289 SE 58th DR. MILWAUKIE, OR 97206	DATE: 02/15/2022	REVISIONS: Nov. 2021 - PARKING; Feb. 2022 - JCB LAYOUT
CLIENT: CAROL PHELPS	SCALE: 1" = 10'	
LEAD PROJECT #19-042		



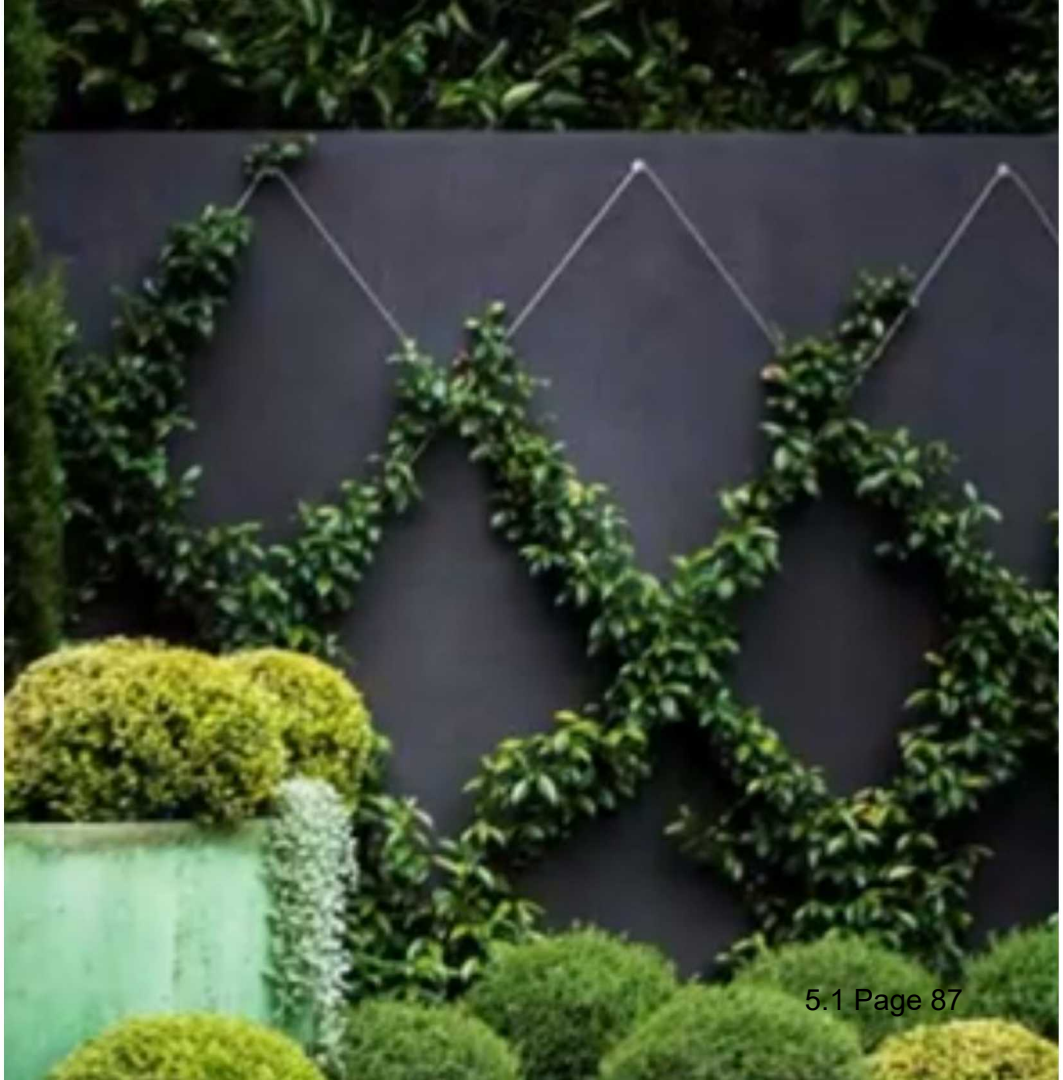
LYVER ENGINEERING AND DESIGN
7950 SE 106th, Portland, Oregon 97266
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

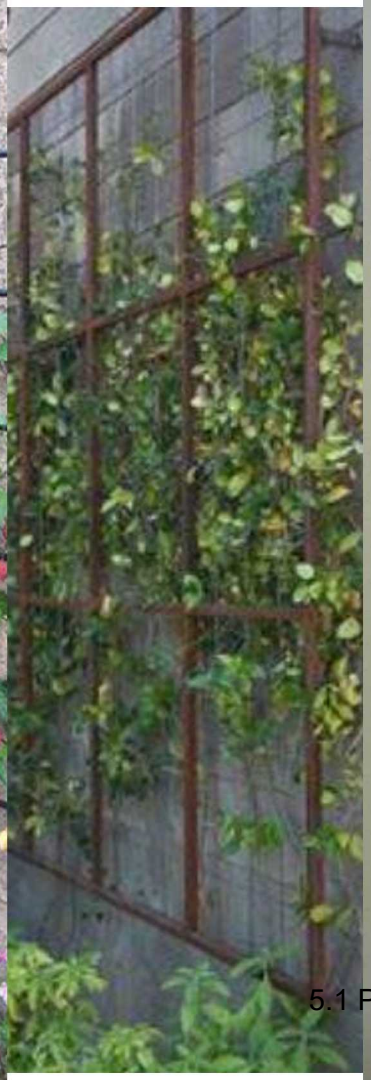
PROJECT: PHELPS MANUFACTURING	SHEET TITLE: LOCATION PLAN		SHEET:
LOCATION: 9289 SE 58th DR. MILWAUKIE, OR 97206	DATE: 02/15/2022	REVISIONS: Nov. 2021 - PARKING Feb. 2022 - JCB LAYOUT	C-3
CLIENT: CAROL PHELPS	SCALE: 1" = 20'		
LEAD PROJECT #19-042			

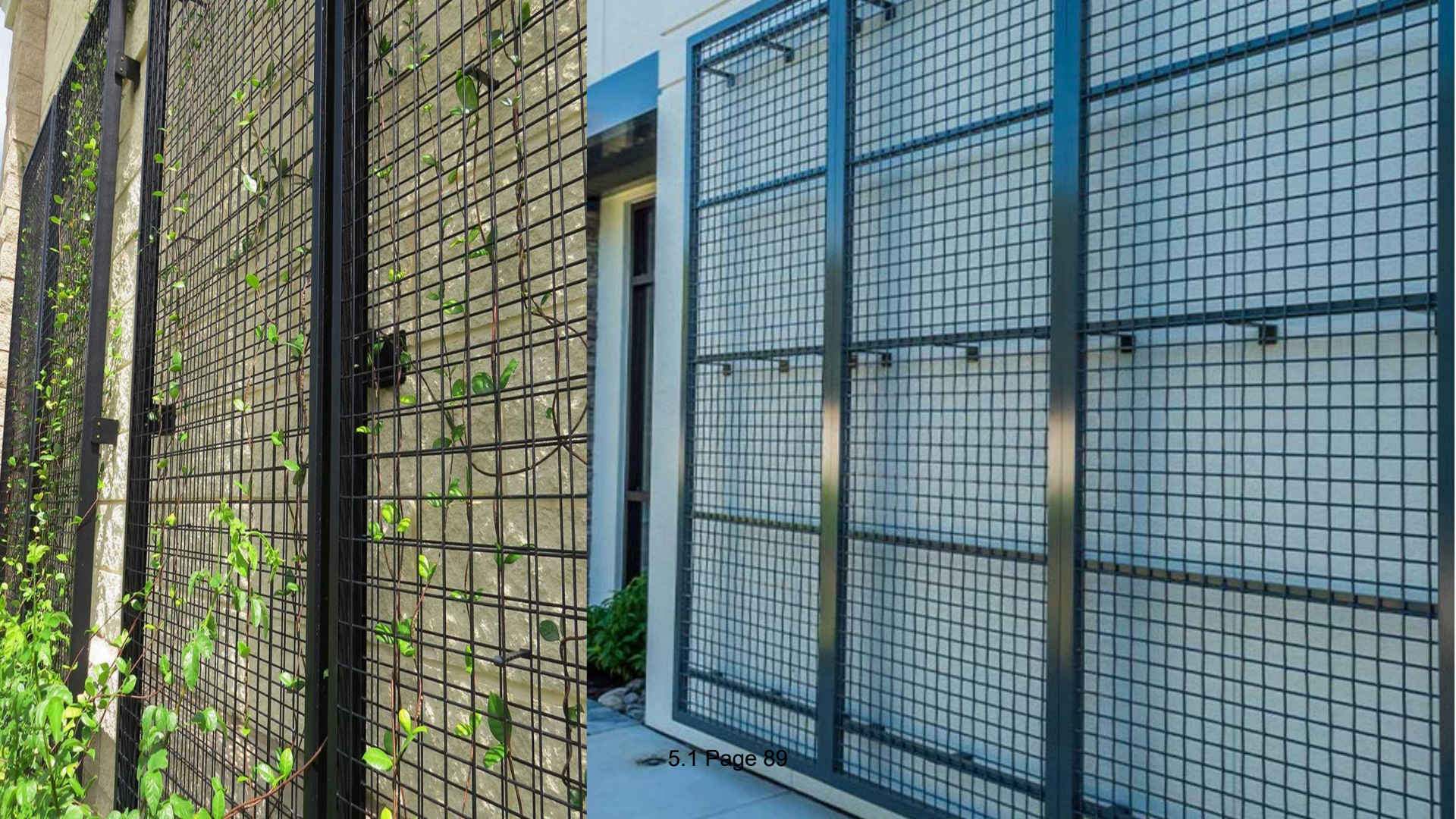
Screened Wall Options

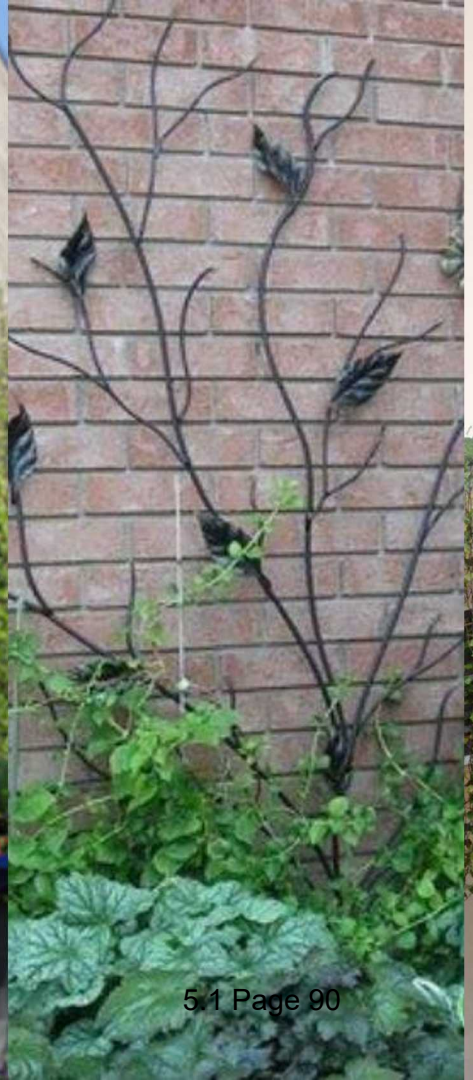
Phelps Industrial/ Light Manufacturing Bldg
9285 SE 58th Drive

While the initial intention is to provide a living wall the actual design options will be finalized in building permit process. Unknowns of trellis material and connection options, plant longevity options, and placement of irrigation require deeper investigation.







From: Wyffels, Michelle
To: Vera Kolias
Subject: RE: VR-2021-012 Notice of Type III Land Use Proposal and Referral
Date: Thursday, December 30, 2021 10:30:50

This Message originated outside your organization.

Vera-
TriMet has a westbound bus stop (Stop ID 13787) at this intersection. If there are plans for a sidewalk or other frontage improvements along Johnson Creek Blvd, I would like to chat about incorporating a safe and ADA accessible bus stop into the project.

Sincerely,

Michelle Wyffels
Planner
TriMet

From: Will First <firstw@milwaukieoregon.gov>
Sent: Friday, December 10, 2021 1:00 PM
To: Laura Weigel <WeigelL@milwaukieoregon.gov>; Steve Adams <AdamsS@milwaukieoregon.gov>; Jennifer Backhaus <BackhausJ@milwaukieoregon.gov>; Peter Passarelli <PassarelliP@milwaukieoregon.gov>; Justin Gericke <GerickeJ@milwaukieoregon.gov>; engineering@clackamasfire.com; Jason Wachs <WachsJ@milwaukieoregon.gov>; Development Review <Development_Review@TriMet.org>; landusenotifications@oregonmetro.gov; lewellingndachair@gmail.com; lisamlashbrook@gmail.com; howie@crazycat.org; drampa82@gmail.com; thomas.landvatter@gmail.com
Cc: Vera Kolias <KoliasV@milwaukieoregon.gov>
Subject: VR-2021-012 Notice of Type III Land Use Proposal and Referral

Hello,

Please access the link below to find the Notice of Type III Land Use Proposal and Application Referral for land use application VR-2021-012 for 9285 SE 58th Dr. If you have any questions, please feel free to contact Senior Planner Vera Kolias at 503-786-7653 or koliasv@milwaukieoregon.gov.

https://www.milwaukieoregon.gov/planning/vr-2021-012

Thank You.

Will First
Administrative Specialist II

Evan Geist <evanegeist@gmail.com>

January 24, 2022

Re: File Number VR-2021-012; DEV-2021-006

To whom it may concern,

We are writing in regard to the proposed development located at 9285 SE 58th Drive. We are residents of the lot immediately adjacent at 9203 SE 58th Drive, and we have great concerns with the development as proposed, and would like to submit comments to be considered during the public hearing to be held on Tuesday, January 25, 2022, at 6:30 p.m. We are the parents of two young children; a daughter age 5 years and a son age 3 years, and this proposed development will have a negative impact on our family. Our concerns are as follows:

1) Effects on Vegetation

The property will abut a large blue spruce tree in our yard. This tree provides a buffer to the dust and noise of the busy Johnson Creek Boulevard. It also has intrinsic value to the local environment: it provides refuge for migrating and urban wildlife, as well as carbon sequestration, among other benefits.

We ask that the city investigate and provide data regarding the size of the root protection zone and likely impact the construction will have to the health of the root zone. We ask that measures be put into place to ensure the root structure is left intact and unaffected by construction. Not only is this tree providing value to our city, but threat of its damage has a potential risk to our lives if left unhealthy by potentially falling onto our home. We are very concerned by the proposal to cut any part of this tree back.

Furthermore, along the proposed 11ft border proposed (between the blue spruce and our fence) is patch of our yard we have been working over the last year to enrich the soil of and is in the beginning phase of a food garden. The area would be rendered unsuitable for gardening due to sunlight being blocked by the proposed development.

2) Plans for Solar Panels

We have been in discussion with our property owner to improve our house with the addition of solar panels. We believe this to be an important step in moving our city to a more sustainable energy model. These plans would undoubtedly be affected by the proposed development, and we ask that the city take this into consideration when assessing the environmental impact of the development.

3) Setback Requirements

Our primary objection to the setback variances concerns the north side of the property, wherein a landscaped buffer has been reduced to 3.5 feet. We feel this small of setback is outrageous and fear it would render the outdoor living space unusable as well as greatly reduce the quality of living inside our residence.

This close of a parking lot and structure would allow for direct visibility and light pollution into our yard and personal space. This small of a buffer between our properties will not mitigate noise pollution which is sure to be an issue from 7am to 7pm and during weekends as the applicant states. It is not clear the nature of the business, what hours they will be entering and exiting and what machinery will be operating at what times. We are at a heightened level of anxiety thinking over what types of impact this project will have in such close proximity to our home. For example, will it need to be cooled by air conditioners that might heat the surrounding areas during the hot summers. What gases might this industry omit next to our yard? We feel the setback requirements must remain to allow ample room for air quality between buildings.

In an attempt to mitigate the noise pollution and visibility from the office windows and parking lot into our living space, we kindly request a requirement that thick vegetation be landscaped by the developer with double rowed shrubs no less that 6ft in height. We ask for careful consideration of the landscaping to ensure proper growth and health of the said landscaping in such a heavily shaded boundary, also that the vegetation be in coexistence with the ecology of the spruce tree on the property.

As noted by the applicant: “location of the driveway access has been placed as far north as possible”, having this new 20’ driveway on the corner of our residential street is of great concern to us. Maneuvering around the proposed angle of this building will cause motorists impaired visibility of any pedestrians or cyclists on se 58th. Reduced setbacks and the already existing driveway traffic in and out of our driveway will compound the safety concerns on this corner. There are a number of residents that use SE 58th Drive to access bus lines and the Springwater Corridor. The neighborhood already scores low on walkability, this development will make the area even less pedestrian-friendly.

The developer is also seeking a variance to bypass the 20-foot setback requirement along Johnson Creek Boulevard. Smith Rock Inc., the business adjacent to the proposed development, is frequently host to large delivery trucks entering and exiting its property. This could lead to yet another public safety hazard, as visibility will be obstructed for passing cars on the street. While we understand that developments to the property are constrained by its small size, the owner has requested three variances to avoid complying with existing setback requirements. We contend that these requirements are in place for a reason, and ask that the city conduct a thorough investigation into the necessity of the three variance requests being made by the property owner.

In addition to the preceding issues, construction of this building, as well as parking and loading associated with it, will cause noise pollution and related impacts in an already busy area. A two-story building looming directly against our property line with no buffer will block valuable sunlight to our yard and living room, invariably changing the dynamics of our living environment. We are doing our best to teach our children a sustainable lifestyle, imparting the importance of practices such as gardening and composting, and we feel this development will be a hindrance to those values.

9203 se 58th drive is a very special home with rich history, it’s been thoughtfully renovated and kept by the current property owner. We chose this house to settle into and provide a real home where our family could thrive. We chose this house knowing full well and accepting the limited amount of noise

and proximity to Smith Rock. The natural landscaping products surrounding our house currently are visually pleasing, well-spaced, and well kept. Smith Rock enhances the surrounding area and this neighborhood, our house's proximity to the rock yard is irrelevant to the current applicant. A new building this close will undoubtedly affect not just our family but any family that lives here in the future. For this and many other reasons, it is imperative that all original setback requirements remain in place.

We humbly ask that the City of Milwaukie conduct a thorough investigation into this development and ensure that it is undertaken in the most responsible way possible. Thank you for your time and consideration into this matter which is of great importance to us.

Sincerely,

Evan Geist and Kimberlee Morris

Jen Procter Andrews
<coquillejenprocter@gmail.com>

Jan 2022
RE: VR-2021-012

Milwaukie Planning Commission,

The small size of the proposed building and possible business revenue that might be generated by the proposed development on SE 58th Drive does not make sense for the amount of variances requested. Public benefits simply do not accrue with fulfillment of the dream of the applicants. Public benefits accrue when all stakeholders are considered, safety of the city's citizens, and livability of it's neighborhoods are given ample consideration. We, and most of our neighbors own our homes and plan to live here the rest of our lives. This is a building we're talking about, which could easily look much like the small, vacant dilapidated building on the corner of 55th and Johnson Creek Blvd. in a few short years.

1. Type III Variance: Setback

A lot of us here in the neighborhood of the proposed development use the intersection at 58th Dr. and Johnson Creek Blvd. to reach the Springwater Corridor, since it's the only slightly safe access for about ½ mile.

Crossing at 55th and Johnson Creek is deathly scary, the way traffic comes fast off the hill heading east, and there is no marker for any pedestrian or bicycle traffic, despite being ~10 feet from the Springwater Corridor. I have literally been honked at (more than once) trying to cross there on foot with my young child! As a mom and avid pedestrian and bicyclist (commuting with my child) the crossing at 58th Drive is the only one I feel safe using, and that is really stretching it. With the proposed setback variance, crossing here will be basically impossible. It's my understanding that Milwaukie was making an effort to be a bicycle friendly city and this just isn't cutting it. This variance doesn't make any sense.

2. Type III Variance: Landscaping

This specific manufacturing zone is located just one or two blocks to the south, north and east of extended designated "Natural Resource Areas". Just a few years ago a resident adjacent to the proposed building on the Northern side ripped out all of the invasive weeds and planted natives to help aid slope retention. A few years ago, Milwaukie planted native trees on the East side of 58th Dr. across from the site. Both of these areas have no sidewalks or other protection from the increased parking and traffic on the narrow street. If the residents and the city can take care to improve living conditions for everyone, businesses looking to benefit from Milwaukie's business friendly tax codes can do their part as well.

Precision Castparts just down the street does nothing to take care of Johnson Creek or the native plants in the surrounding Designated Natural Area struggling to survive amidst the onslaught of garbage, invasive blackberries and ivy. (fig. 1) The proposed hanging trellis will not do well in this type of southern exposure and will take an inordinate amount of water to maintain unless fed by a recycled rainwater system. These codes are here for a reason, to protect the right for all of us to enjoy the neighborhood in which we live. I don't see any provisions in the request for variance that make sense in this case, as the site is not simply "rendered undevelopable" if the suggested plans are not held to the

codes for which it is zoned. There are many types of businesses that could safely function here within the current zoning requirements without variances.

Struggling native plantings on JCB, 2022

3. Type II Variance: Parking Modification

The streets here vary in width (some are waay under standard dimensions) and the developer is asking for variance on the amount of parking necessary. If granted the variances, families trying to enjoy their neighborhood safely will be even more at risk. Sight around the building to traffic on Johnson Creek Blvd. will be severely limited in an already dangerous area. Cars parking on 58th, a very steep and narrow hill, with no sidewalks or bike lanes, will heighten the danger of impact with traffic coming from north and south. We are in one of the neighborhoods where people sadly talk about how the city won't do anything about our traffic problem until there are more injuries here. We're hoping this isn't the case. This variance is simply not safe for anyone.

4. Type II Variance: Accessway location Variance

A commercial driveway on a residential street, right next to a residence on 58th Drive, without ample distance for sightlines, is asking for accidents. Commercial deliveries being made on a residential street with no parking do not accrue public benefits for anyone but the developer. The scenario I imagine, in an already busy intersection, is multiple delivery trucks parking along the side of 58th street in front of homes, when bicyclists and residents are trying to commute safely. This variance

The developer is trying to convince us that without his building, the site is undevelopable. But is this the end goal for every inch of "developable" space to be built, when overlooking other possibilities and the original reasons these codes were instituted? Are our standards this low that a building this size needs this many variances? Are food carts considered developments? What about a coffee cart, or retail space to complement the scooter shop and the feed store? This area has potential that can fit within the city's standards of doing business here.

Thank you for your time and consideration,
Jen Procter Andrews

HATHAWAY LARSON
Koback · Connors · Heth

January 25, 2022

VIA EMAIL (c/o Vera Kolias, Planner)

Planning Commission
City of Milwaukie
6101 S.E. Johnson Creek Blvd.
Milwaukie, OR 97206

Re: Variance & Development Review Applications – 9285 SE 58th Dr.
Application File Nos. VR-2021-012, DEV-2021-006 & P-2021-003
My Client – Smith Rock, Inc.

Dear Commissioners:

This firm represents Smith Rock, Inc. ("Smith Rock"), who operates a business located at 6001 SE Johnson Creek Boulevard. Smith Rock is adjacent to the property subject to the above-referenced applications (the "Applications") filed by Lyver Engineering and Design, LLC (the "Applicant"). Smith Rock is concerned about the proposed development for the reasons set forth in this letter and requests that the Planning Commission deny the Applications unless and until the Applicant adequately resolves the issues set forth in this letter.

A. Variance Requests.

We do not believe the Applicant has adequately justified the proposed variances in this case. Although we recognize that the property is small and has constraints, that does not mean the Applicant is entitled to multiple variances simply so it can develop the project it wants. The property owners knew the property was small and challenging when they acquired it, and willingly undertook the risk of being able to develop it consistent with the City code requirements.

The Applicant is not claiming that these variances are necessary to allow reasonable economic use of the property. Milwaukie Municipal Code ("MMC") 19.911.4 allows an applicant to justify the variances under either the Discretionary Relief Criteria (MMC 19.911.4.B.1) or the Economic Hardship Criteria (MMC 19.911.4.B.2). The Applicant elected to pursue the variances under the Discretionary Relief Criteria because presumably it cannot demonstrate an economic hardship that requires these variances to develop the property in an economically feasible manner. Therefore,

E. Michael Connors
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Portland, OR 97209
mike@hathawaylarson.com
(503) 303-3111 direct
(503) 303-3101 main

these variances are not *necessary* to develop the property in an economically feasible manner. Rather, the Applicant is requesting these variances because it would *prefer* to develop the property as proposed.

The Applicant is requesting the maximum number of variances (a total of three are allowed per MMC 19.911.3.A.3) and the variances are significant. The Applicant is requesting a variance that would allow a 20-foot reduction in the front yard setback along Johnson Creek Blvd. and result in no setback whatsoever. The Applicant is requesting a variance that would reduce the perimeter landscaping by almost 50%. The Applicant is also requesting a significant reduction in the access drive spacing from the Johnson Creek Blvd./SE 58th Dr. intersection that has safety implications.

The Applicant relies heavily on the purported benefit of developing a vacant site and producing jobs, taxes, etc., but that claim is dubious. The Applicant is not seeking these variances under the Economic Hardship Criteria and, therefore, it cannot rely on a claim that the property cannot be developed without these variances. Additionally, any development of vacant property would qualify under this rationale. If that was all that is required to justify a variance, every developer would be entitled to a variance.

Contrary to the Applicant's claim, there will be adverse impacts to adjacent and surrounding properties that the Applicant has not accounted for. The lack of any front yard setback along Johnson Creek Blvd. will make it difficult and unsafe for vehicles (mostly trucks) existing the Smith Rock property onto Johnson Creek Blvd. due to the visual obstruction of a two-story building right on the street. The Smith Rock access driveway is approximately 120 feet west of the subject property and, therefore, will have limited visibility due to the obstruction created by the two-story building. The Applicant's traffic engineer indicated that a minimum of 280 feet sight distance is required for SE 58th Dr. based on a posted speed of 25 MPH to allow vehicles to safely enter and exit the property. Johnson Creek Blvd. has a posted speed limit of 35 MPH, so the sight distance requirements are even greater. The Smith Rock access driveway is well under these sight distance requirements and will create unsafe conditions for vehicles exiting and entering its property. At a minimum, the Applicant must evaluate this sight distance issue and provide assurances that its project will not create safety issues for Smith Rock.

The variances will significantly impact the adjacent property and house to the north, which is owned by the previous owner of Smith Rock (Lew Smith/Indianfeather LLC) who is still affiliated with Smith Rock. The immediately adjacent house is used as a residence and occupied by a family of four with two small children. The two-story building will be right up against the property line with no buffer and will loom over these residents and cast a shadow on the property. The parking and loading will occur on this side of the property as well, which will increase the noise and related impacts.

B. MMC Chapter 19.500.

The Applications incorrectly state that Milwaukie Municipal Code ("MMC") Chapter 19.500 is not applicable to this proposal. MMC 19.504.1 (Clear Vision Areas), 19.504.5 (Distance from Property Line), 19.504.6 (Transition Area Measures), 19.504.9 (On-Site Walkways and Circulation) and 19.505.8 (Building Orientation to Transit) are clearly applicable to the proposed development. *See also* MMC 19.309.6.H. We are particularly concerned about two of these provisions – MMC 19.504.6 and 19.505.8.

MMC 19.504.6 provides: "All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable * * *." The proposed development is adjacent across a right-of-way from a lower-density zone and, therefore, the setback requirement is dependent on the front yard width of the adjacent lower-density zone. Therefore, Applicant has not identified or addressed the actual setback requirements for the front yard and cannot justify the variance without this information.

MMC 19.505.8 provides: "New buildings shall have their primary orientation toward a transit street or, if not adjacent to a transit street, a public right-of-way which leads to a transit street. The primary building entrance shall be visible from the street and shall be directly accessible from a sidewalk connected to the public right-of-way." Johnson Creek Blvd. is a transit street, but it appears that the building orientation and entrances are toward SE 58th Drive. Since the Applicant already requested the maximum number of variances, it cannot address this non-compliance issue with a variance.

The Applicant must address these relevant provisions in MMC Chapter 19.500 and demonstrate compliance before the Planning Commission can render a decision on the Applications.

C. Transition Area Standards.

The Applicant has not and cannot demonstrate compliance with the Transition Area standards set forth in MMC 19.309.6.F because the Applicant did not identify the manufacturer who will be operating in the building or provide specific information about the nature of that operation. The Applicant's claim that "[a]ny manufacturer will not generate a level of sound that will be intrusive to neighboring users" is wholly speculative since the Applicant does not identify or appear to know who the manufacturer will be. As the Applicant acknowledges, there is a residence only 18 feet from the property which will clearly be impacted by the noise generated at this site. The Applicant's claim that "[n]ormal operating hours *might be* 7 Am to 7 PM" and "[t]here *may be* limited weekend hours" is insufficient to address this criterion and indicates that the Applicant is not willing to commit to specific hours of operation. Nor can the Applicant rely on the assumption that deliveries will mostly likely be made by "town delivery trucks and vans" and will take place during operating business hours because the Applicant does not identify or appear to know who

the manufacturer will be. Absent more specific and reliable information about the actual operator that will operate at this site, the Applicant cannot satisfy this criterion.

D. Parking Requirements.

The Applicant has not and cannot justify the parking modification because it did not identify the manufacturer who will be operating in the building or provide specific information about the nature of that operation. Pursuant to the Quantity Modifications and Required Parking Determinations, the Applicant is required to provide information about "the size and types of the uses on site, and information about site users (employees, customers, etc.)" so the parking demands can be determined. MMC 19.605.2.B.1. The Applicant has not identified what business will be operating on the property and did not provide information regarding the number of employees, deliveries, customers, etc. Simply saying that it will be a "small firm" and small number of employees is too vague and insufficient.

Additionally, the Applicant appears to have provided the wrong parking information to address MCC Table 19.605.1. The Applicant claims the parking requirements are 1 space per 1,000 sq ft of floor area based on the grounds it is a manufacturing use. However, the project also includes an office use which requires 2 spaces per 1,000 sq ft of floor area. MCC Table 19.605.1.F.1.

E. Johnson Creek Blvd. Road Improvement Project.

Smith Rock is concerned that the Applicant has not accounted for the Johnson Creek Blvd. road improvement project and the proposed development may conflict with this County project based on the proposed zero front yard setback for the building. Clackamas County is planning a major infrastructure improvement project along Johnson Creek Blvd. in the Milwaukie area between Bell Ave. and 55th Ave. The Johnson Creek Blvd. project will widen Johnson Creek Blvd. to three lanes, add bike lanes on both sides, and add a sidewalk on the north side. The ADA ramps will be retrofitted or replaced if needed and some traffic signals may need to be modified. We attached a reference to this County road improvement project available on their website.

The Applicant makes no reference to this County road improvement project in the Applications and it appears the proposed development will likely conflict with this project. The Applicant is seeking a variance to allow for a zero front yard setback along Johnson Creek Blvd. so the building will be right up against the right-of-way. Although the Applicant is providing a 20-foot dedication along Johnson Creek Blvd., this does not appear to be sufficient room to accommodate the additional travel lane, bike lanes and sidewalk proposed on the north side of the road adjacent to the proposed development. The Johnson Creek Blvd. project will also need additional space and buffers to construct the improvements, which will be complicated by having the building adjacent to the right-of-way. At a minimum, the Applicant must address the Johnson Creek Blvd. project and explain how the proposed development will not conflict with this project.

Conclusion

For the reasons explained in this comment letter, Smith Rock has legitimate concerns about the proposed development and its compliance with the applicable approval criteria. Smith Rock requests that the Planning Commission deny the Applications unless and until the Applicant adequately resolves the issues set forth in this letter. We appreciate your time and consideration of this matter.

Very truly yours,

HATHAWAY LARSON LLP

E. Michael Connors

EMC/ep

Enclosures

Cc: Smith Rock, Inc.

Johnson Creek Boulevard (Bell Ave to 55th Ave) Improvements

Projects funded through the new Community Road Fund will increase safety, relieve congestion and maintain local roads.

Project description

Johnson Creek Blvd is a main road with heavy volumes of vehicle traffic without a center turn-lane, bike lanes, or sidewalks between Bell Ave and 55th Ave in the Milwaukie area. The project will widen Johnson Creek Blvd to three lanes from Bell Ave to 55th Ave, add bike lanes on both sides, and a sidewalk on the north side. The ADA ramps will be checked for compliance, and retrofitted or replaced if needed. The traffic signals will be modified for pedestrian push button reach, height and level landings.

The project will also repave Johnson Creek Blvd between 82nd Ave and 55th Ave, and Bell Ave between Johnson Creek Blvd and Alberta Ave.

Status

Project will begin design phase in summer 2022.

Updated: Jan. 12, 2021

Why

To improve safety and provide a smoother traveling experience for all travelers, to be compliant with ADA standards and to preserve the roadway structure.

Schedule

The county will begin the design phase in summer 2022. Construction will likely begin spring 2025, during the daytime hours.

Traffic impact

No impacts to traffic at this time. Shoulder and lane closures and detours may be needed during construction in 2025.

Current activities

- No current project activities.

Funding

- Project estimate $13,755,563.
- Funding is provided from Community Road Funds, County Road Funds, and HB2017 state gas tax funding.

Johnson Creek Blvd (82nd Ave to 55th Ave) Updates

Get news from Clackamas County in your inbox.

* **Email**

By submitting this form, you are consenting to receive marketing emails from: Clackamas County, 2051 Kaen Rd, Oregon City, OR, 97045, US, http://www.clackamas.us/. You can revoke your consent to receive emails at any time by using the SafeUnsubscribe® link, found at the bottom of every email. **Emails are serviced by Constant Contact.**

Sign Up!

Joel Howie

Project Manager

503-742-4658

JHowie@clackamas.us

Tim and Jen Andrews
<weareteamslow@gmail.com>

To the City of Milwaukie Planning Commission,

I'm writing in regards to Agenda item 6.1, the proposed property at 9285 SE 58th Dr. In particular, I have concerns regarding the Type III variance for zero setback.

This proposed variance will have an undesirable effect on the public. We, our family of three, are Milwaukie City residents who reside on SE Westfork, and we walk, bike, and drive the area every day. The Springwater corridor is a frequent destination. However, crossing SE Johnson Creek Blvd to access the corridor is already a daunting challenge.

Accessing the Springwater Corridor from our neighborhood has two options. SE 55th and SE 58th Dr. The crossing at SE 55th is dangerous. When one is driving east on SE Johnson Creek Blvd, approaching the intersection of SE 55th and Johnson Creek Blvd, there is a hill, which blocks the vision of drivers to the upcoming intersection of SE 55th. Because of this driver 'blind spot,' and no signage warning drivers of this intersection, it is not a safe place to cross SE Johnson Creek Blvd in order to access the Springwater Corridor.

Accessing the Corridor at SE 58 Dr. is also a challenge, but it is the safest place for hundreds of pedestrians and cyclists who are attempting to cross Johnson Creek Blvd in order to reach the Springwater Corridor for commuting and recreation. But safest doesn't make it safe. SE Alderhurst Dr, the small street that connects to the Springwater Corridor on the south side of Johnson Creek Blvd, is located *80 feet to the east* of where SE 58th Dr connects with Johnson Creek Blvd. Currently, pedestrians, bus stop departees, cyclists, etc, wanting to access the corridor, use the gravel lot to travel the 80 feet to be directly across from SE Alderhurst Dr.

However, nearly no one stops to allow for crossing, and if one lane of traffic does happen to finally stop, you don't dare cross until the other lane comes to a full stop - which is even less likely. Eventually, you make a mad dash. Though there is also a bus stop at this exact location, it has no shelter, and no protection. There are literally no marked crosswalks *anywhere* from our neighborhood to access the Springwater Corridor. SE 58th Dr is the only *barely sometimes kind of* safe place to cross. Allowing this zero setback Type III variance will make it nearly impossible and completely unsafe.

Though the zoning is manufacturing here, the proposed variances that go along with this application are *in a neighborhood, on a residential street***.** This neighborhood is full of children, including our own three year old. We have nearly been hit more than once by drivers going *way too fast* on this confusing street, as SE 58th Dr has two different posted speed limits, depending on direction of travel. We were deeply affected by the recent tragedy, just on the other side of Johnson Creek Blvd, in a neighborhood exactly like ours. Approving this variance will have undesirable and dangerous effects for not only those of us who live here, but the frequent cyclists and pedestrians that come through the neighborhood to access the Springwater Corridor. Please do not approve this type 3 zero setback variance.

CITY OF MILWAUKIE

To: Planning Commission

Through: Laura Weigel, Planning Manager

From: Vera Kolias, Senior Planner

Date: April 5, 2022 for April 12, 2022, Public Hearing

Subject: File ZA-2022-001 – Proposed Code Amendments: Senate Bill 458

ACTION REQUESTED

Open the public hearing for land use file #ZA-2022-001. Discuss the proposed amendments to the Milwaukie Municipal Code (MMC) Title 19 (Zoning) and Title 17 (Land Division), take public testimony, provide direction to staff regarding any desired revisions to the proposed amendments, and recommend City Council approval of file #ZA-2022-001 and adoption of the proposed ordinance and recommended Findings in Support of Approval found in Attachment 1.

BACKGROUND AND ANALYSIS

Senate Bill 458 was adopted by the Oregon Legislature in 2021. The bill is a follow-up to House Bill 2001 (HB 2001) and allows lot divisions for middle housing that enable them to be sold or owned individually.

For any city or county subject to the requirements of HB 2001, SB 458 requires those jurisdictions to allow middle housing lot divisions for any HB 2001 middle housing type (duplexes, triplexes, quadplexes, townhouses, and cottage clusters) built in accordance with ORS 197.758.

The legislation requires cities to allow land divisions for any HB 2001 middle housing type (duplexes, triplexes, fourplexes, townhomes, and cottage clusters) built in accordance with the cities' middle housing code provisions adopted under ORS 197.758. Accessory dwelling units will not be eligible for land division. The result of such "middle housing land division" will be exactly one dwelling on each resulting lot. However, the bill specifies that "The type of middle housing developed on the original parcel is not altered by a middle housing land division." For example, a subdivided cottage cluster will not become single detached dwellings—it will remain defined as a cottage cluster for the purpose of applying the development code.

Senate Bill 458 only applies to middle housing land divisions permitted on or after June 30, 2022.

The bill sets forth a series of parameters on how a city must process middle housing lot division applications. The city must apply an "expedited land division" process defined in ORS 197.360 through 197.380, and the applicant must submit a tentative plan for the division including the following:

- A proposal for development of middle housing in compliance with the Oregon residential specialty code and applicable middle housing land use regulations,
- Separate utilities for each dwelling unit,
- Easements necessary for utilities, pedestrian access, common use areas or shared building elements, dedicated driveways/parking, and dedicated common area,
- One dwelling unit per each resulting lot or parcel (except common areas), and
- Demonstration that the buildings will meet the Oregon residential specialty code.

Additionally, cities retain the ability to require or condition certain things, including further division limitations, street frontage improvements, and right-of-way dedication if the original parcel did not make such dedications. However, cities may not subject applications to approval criteria outside of what is provided in the bill, including that a lot or parcel require driveways, vehicle access, parking, or min/max street frontage, or requirements inconsistent with House Bill 2001.

What this means is that SB 458 expressly allows back lots for middle housing land divisions, but cities are able to require that easements are provided for things like maintenance and repair, access, shared common or parking areas, etc.

The bill allows jurisdictions to require or condition the following:

- Prohibition of further division of the resulting lots or parcels
- Require notation in the final plat indicating approval was provided under SB 458 (later on, this will be the resultant ORS reference)
- Require street frontage improvements where a lot or parcel abuts a street (consistent with House Bill 2001)
- Require right-of-way dedication if the original parcel did not previously provide a dedication

What cities <u>cannot</u> require as part of a middle housing land division:

- **Street Frontage**. Typically, newly created lots are required to have frontage on a public or private street. SB 458 specifies that cities cannot require street frontage for lots created through a middle housing land division (e.g., lots at the rear of the site could only have access to the street via access easement).
- **Parking or Driveway Access to Each Lot.** Cities cannot require that each resulting lot have its own parking space or driveway access. For example, a triplex could have a shared parking area with three spaces; the City cannot preclude the triplex lot from being divided such that two of the resulting lots only have access to the parking area via access easement.

- **Minimum Lot Size or Dimensions.** Cities cannot specify minimum area or dimensions for lots resulting from a middle housing land division.
- **Other Review Criteria.** The City cannot apply any review criteria other than those items specified in SB 458—these include the City's standards for middle housing development, separate utilities, easements, one dwelling on each lot, and building code compliance.
- **Conditions of Approval.** The City also cannot apply conditions of approval to a middle housing land division other than to ensure consistency with the review criteria, to prohibit further division of resulting lots, and to require that a notation appear on the final plat indicating that the approval was given under the ORS for middle housing land division.

Expedited Land Divisions

Expedited land divisions are defined by ORS 197.360(1). The key aspect of the language is that the homes developed "will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built."

The proposed amendments in Attachment 1 are proposed to satisfy both SB 458 and the expedited land division statute.

Proposed Amendments

Staff has reviewed the bill's language as well as code prepared in other communities to develop the proposed amendments. The key aspect of the proposed amendments is that middle housing land divisions (partitions and subdivisions) will go through a Type II process with an expedited time frame:

Process	Existing Type II	Proposed Expedited Type II (SB 458)
Completeness Review	30 days	21 days
Comment Period	14 days	14 days
Deadline for Decision	120 days	63 days

The proposed code language revises sections of Title 17 to incorporate both the Middle Housing land division process and Expedited Land Divisions, including:

- Specific application submittal requirements, including information to be included on the preliminary and final plats
- Approval criteria
- Conditions of approval

The proposed amendments have been reviewed by staff at the Department Land Conservation and Development for compliance with the regulations.

CONCLUSIONS

Staff recommendation to the Planning Commission

Staff asks that the Planning Commission:

1. Recommend that the City Council approve the proposed amendments to MMC Title 19 (Zoning) and Title 17 (Land Division) presented in Attachments 1-b and 1-c.
2. Recommend that the City Council adopt the proposed ordinance and attached Findings in Support of Approval presented in Attachments 1 and 1-a, respectively.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):

- MMC Section 19.902 Amendments to Maps and Ordinances
- MMC Section 19.1008 Type V Review

This application is subject to Type V review, which requires the Planning Commission to hold an initial evidentiary hearing to and then forward a recommendation to the City Council for a final decision. Type V applications are legislative in nature and involve the creation, revision, or large-scale implementation of public policy.

The Commission has 4 decision-making options as follows:

A. Recommend that Council approve the proposed amendments as per to the recommended Findings in Support of Approval.

B. Recommend that Council approve the proposed amendments with revisions, including modifications to the recommended Findings in Support of Approval. Such modifications need to be read into the record.

C. Recommend that Council deny the proposed amendments.

D. Continue the hearing.

There is no deadline for a final decision on Type V applications, as they are legislative in nature.

COMMENTS

Notice of the proposed amendments was posted as required by MMC Section 19.1008.

Notice was also provided to the following agencies and departments: City of Milwaukie Building, Engineering, and Public Works Departments; Milwaukie City Attorney; Metro; and Department of Land and Conservation Development. Notice was also posted at City Hall, the Johnson Creek Facility, and the Ledding Library.

ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	PC Packet	Public Copies	EPacket
1. Ordinance	☒	☒	☒
a. Recommended Findings in Support of Approval	☒	☒	☒
b. Draft code amendment language (underline/strikeout)	☒	☒	☒
c. Draft code amendment language (clean)	☒	☒	☒

Key:
PC Packet = paper materials provided to Planning Commission 7 days prior to the meeting.
Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.
E-Packet = packet materials available online at https://www.milwaukieoregon.gov/bc-pc/planning-commission-93.

CITY OF MILWAUKIE

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE (MMC) TITLE 19 ZONING ORDINANCE AND TITLE 17 LAND DIVISION FOR THE PURPOSE OF ADDRESSING MIDDLE HOUSING LAND DIVISION PER OREGON SENATE BILL 458 (FILE #ZA-2022-001).

WHEREAS, it is the intent of the City of Milwaukie to: support and promote housing opportunities and housing choice throughout the city and increase the supply of middle and attainable housing and providing equitable access to housing for all; and

WHEREAS, the proposed code amendments implement several of the goals and policies of the city' comprehensive plan related to housing andcomply with Oregon Senate Bill 458; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, on April 12, 2022, the Milwaukie Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

WHEREAS, the Milwaukie City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The Milwaukie Municipal Code (MMC) is amended as described in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

Section 3. Effective Date. The amendments shall become effective 30 days from the date of adoption.

Read the first time on_____, and moved to second reading by_____vote of the City Council.

Read the second time and adopted by the City Council on_____.
Signed by the Mayor on_____.

_____
Mark F. Gamba, Mayor

ATTEST:

Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:

Justin D. Gericke, City Attorney

Recommended Findings in Support of Approval
File #ZA-2022-001
Middle Housing and Land Division Code Amendments

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, the City of Milwaukie, proposes to make code amendments to Titles 17 and 19 related to middle housing land divisions pursuant to the requirements of Oregon Senate Bill 458 (SB 458). The land use application file number is ZA-2022-001.

2. The proposed amendments relate to Senate Bill 458 which was adopted by the Oregon Legislature in 2021. The bill is a follow-up to House Bill 2001 (HB 2001) and allows lot divisions for middle housing that enable them to be sold or owned individually. For any city or county subject to the requirements of HB 2001, SB 458 requires those jurisdictions to allow middle housing lot divisions for any HB 2001 middle housing type (duplexes, triplexes, quadplexes, townhouses, and cottage clusters) built in accordance with ORS 197.758.

3. Amendments are proposed in several titles of the municipal code, as follows:

    - Municipal Code - Title 19 Zoning Ordinance
        - Chapter 19.1000 REVIEW PROCEDURES
            - Section 19.1003 Application Submittal and Completeness Review
            - Section 19.1005 Type II Review
        - Municipal Code - Title 17 Land Division
            - Chapter 17.12 APPLICATION PROCEDURE AND APPROVAL CRITERIA
                - Section 17.12.020 Application Procedure
                - Section 17.12.040 Approval Criteria for Preliminary Plat
            - Chapter 17.20 PRELIMINARY PLAT
                - Section 17.20.010 Submission of Plans
                - Section 17.20.060 Proposed Conditions
            - Chapter 17.24 FINAL PLAT
                - Section 17.24.010 Required Plat Information
                - Section 17.24.030 Approval of Final Plat
                - Section 17.24.040 Filing

4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):

    - MMC Section 19.902 Amendments to Maps and Ordinances
    - MMC Chapter 19.1000 Review Procedures

5. Sections of the MMC not addressed in these findings are found to be not applicable to the decision on this land use application.

6. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on April 5, 2022, and May 17, 2022 as required by law.

7. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.

   a. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Manager, or any individual.

      The amendments were initiated by the Planning Manager on January 13, 2022.

   b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:

      (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

      Opportunity for public comment and review has been provided. The draft amendments have been posted on the City's web site since March 10, 2022. Planning staff notified all NDA chairs Land Use Committee members about the proposed code amendments via email on March 22, 2022. The Planning Commission held a worksession on February 22, 2022 to discuss the proposed amendments.

      (2) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing.

      A notice of the Planning Commission's April 12, 2022, hearing was posted as required on March 10, 2022. A notice of the City Council's May 17, 2022, hearing was posted as required on April 14, 2022.

      (3) Subsection 19.1008.3.A.3 requires notice be sent to individual property owners if the proposal affects a discrete geographic area or specific properties in the City.

      The proposed amendments will apply to all residential properties in the city that have middle housing developments and request an expedited land division as described in Senate Bill 458. The Planning Manager has determined that the proposal affects a large geographic area.

      (4) Subsection 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) 35 days prior to the first evidentiary hearing.

      Notice of the proposed amendments was sent to DLCD on March 7, 2022.

      (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 45 days prior to the first evidentiary hearing.

      Notice of the proposed amendments was sent to Metro on March 7, 2022.

(6) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners.

The proposed amendments will apply to all residential properties in the city that have middle housing developments and request an expedited land division as described in Senate Bill 458. The Planning Manager has determined that the proposal affects a large geographic area.

(7) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application.

The Planning Commission held a duly advertised public hearing on April 12, 2022 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on May 17, 2022 and approved the amendments.

8. MMC 19.902 Amendments to Maps and Ordinances
MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.

a. MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on April 12, 2022 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on May 17, 2022 and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

(1) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.

(a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments involve specific language allowing expedited land divisions for middle housing developments. The amendments coordinate and are consistent with other provisions of the Milwaukie Municipal Code.

(b) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

The goals and policies of the Comprehensive Plan support the amendments to allow middle housing ownership opportunities in all residential zones in the city:

(c) Section 3 – Natural Resources and Environmental Quality:

Protect, conserve, and enhance the quality, diversity, quantity and resiliency of Milwaukie's natural resources and ecosystems, and maintain the quality of its air, land, and water. Utilize a combination of development regulations, incentives, education and outreach programs, and partnerships with other public agencies and community stakeholders.

(a) Policy 3.4.3:

Provide flexibility in the division of land, the siting and design of buildings, and design standards in an effort to preserve the ecological function of designated natural resources and environmentally sensitive areas and retain native vegetation and trees.

(d) Section 6 – Climate Change and Energy Goals and Policies:

Promote energy efficiency and mitigate the anticipated impacts of climate change in Milwaukie through the use of efficient land use patterns, multimodal transportation options, wise infrastructure investments, and increased community outreach and education as outlined in the City's Climate Action Plan.

(a) Policy 6.16:

Encourage the creation of compact, walkable neighborhoods and neighborhood hubs throughout the City that provide a mix of uses and help reduce transportation emissions and energy usage.

(e) Section 7 – Housing:

Provide safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability within dwellings and neighborhoods that are entirely equitable, delightfully livable, and completely sustainable.

(a) Goal 7.1 – Equity:

Enable and encourage housing options that meet the needs of all residents, with a specific focus on uplifting historically disenfranchised communities and eliminating disparities for populations with special needs or lower incomes.

(i) Policy 7.1.1:

Provide the opportunity for a wider range of rental and ownership housing choices in Milwaukie, including additional middle housing types in low and medium density zones.

(ii) Policy 7.1.2:

Establish development standards that regulate size, shape, and form and are not exclusively focused on regulating density.

(iii) Policy 7.1.3:

Promote zoning and code requirements that remove or prevent potential barriers to home ownership and rental opportunities for people of all ages and abilities, including historically marginalized or vulnerable populations such as people of color, aging populations, and people with low incomes.

(b) Goal 7.2 – Affordability:

Provide opportunities to develop housing that is affordable at a range of income levels.

(i) Policy 7.2.2:

Allow and encourage the development of housing types that are affordable to low or moderate-income households, including middle housing types in low and medium density zones as well as larger apartment and condominium developments in high-density and mixed-use zones.

(ii) Policy 7.2.4:

Provide a simplified permitting process for the development of accessory dwelling units (ADUs) or conversion of single-unit homes into duplexes or other middle housing types.

(c) Goal 7.3 – Sustainability:

Promote environmentally and socially sustainable practices associated with housing development and construction.

(i) Policy 7.3.1:

Provide flexibility of footprint and placement of new housing to be consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy, and protect wetland, floodplains, and other natural resource or hazard areas.

(f) Section 8 – Urban Design and Land Use Goals and Policies:

Promote the design of private development and public spaces and facilities to enhance community livability, environmental sustainability, social interaction, and multimodal connectivity and support the unique function of Milwaukie neighborhoods as the centers of daily life.

(a) Goal 8.3 – Process:

Provide a clear and straight forward design review process for development in Milwaukie along with incentives to achieve desired outcomes.

(i) Policy 8.3.2:

Ensure that a clear and objective process is available for all housing types that meet design standards, provide adequate open space, and fit into the community, while offering an alternative discretionary path for projects that cannot meet these standards.

The proposed amendments implement SB 458 related to expedited land division for middle housing developments. The requirements of the legislation are intended to reduce barriers to homeownership for middle housing and eliminate specific requirements and reduce the land use review timeframe to streamline the process.

(g) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Grown Management Functional Plan or relevant regional policies. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

(h) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD did not identify any inconsistencies with relevant State statutes or administrative rules.

Oregon Statewide Planning Goal 10: Housing

Goal 10 refers to the provision of housing to meet the needs of Oregon citizens. The proposed amendments relate to expedited land divisions for middle housing developments per HB 2001.

(i) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

The City Council finds that the Federal Fair Housing Amendments Act of 1988 is relevant to the proposed amendments. The proposed amendments provide a clear and objective review process for middle housing land divisions in the residential zones.

Underline/Strikeout Amendments

Title 19 Zoning Ordinance

CHAPTER 19.1000 REVIEW PROCEDURES

19.1003 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

19.1003.3 Application Completeness Review

All applications are subject to the provisions of Subsections 19.1003.3.A-D below. Type I, II, III, and IV applications are also subject to the provisions of Subsections 19.1003.3.E-G below.

A. The City shall review the application submittal within 30 days of receipt of the application and advise the applicant in writing as to whether the application is complete or incomplete. The City shall review the application submittal for an Expedited Land Division or Middle Housing Land Division within 21 days of receipt of the application and advise the applicant in writing as to whether the application is complete or incomplete.

19.1005 TYPE II REVIEW

Type II applications involve uses or development governed by subjective approval criteria and/or development standards that may require the exercise of limited discretion. Type II review provides for administrative review of an application by the Planning Manager ~~Director~~ and includes notice to nearby property owners to allow for public comment prior to the decision. The process does not include a public hearing.

19.1005.5 Type II Decision

A. The decision shall be issued with sufficient time to allow the appeal authority for a Type II application to issue a final decision within 120 days from the date that the application was deemed complete. The final decision for an affordable housing application, as defined in, and subject to all of the provisions of ORS 197.311, shall be issued within 100 days from when the application was deemed complete. Pursuant to MMC 17.12.020.G, the final decision for a middle housing or expedited land division as defined in, and subject to the applicable provisions of ORS 92.010 to 92.192 and further referenced in ORS 197.360 and ORS 197.380, must be issued within 63 days from when the application was deemed complete, or extended by the city not to exceed 120 days.

19.1005.6 Appeal of a Type II Decision

A Type II decision may be appealed by filing a written appeal within 15 days from the date that the notice of decision was mailed. The appeal authority for a Type II decision is the Planning Commission. Appeal requirements and procedures are outlined in Section 19.1010.

Appeals of a Type II decision for a middle housing or expedited land division are processed subject to the applicable provisions found in ORS 197.360 – ORS 197.375.

Title 17 Land Division

CHAPTER 17.12 APPLICATION PROCEDURE AND APPROVAL CRITERIA

17.12.010 PURPOSE

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat. (Ord. 1907 (Attach. 1), 2002)

17.12.020 APPLICATION PROCEDURE

A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Type III procedures as indicated in this section.

B. Applications for property boundary changes shall be processed in accordance with Table 17.12.020 based on the type of change requested. The Planning Manager ~~Director~~ may modify the procedures identified in Table 17.12.020 as follows:

1. Type III review may be changed to Type II review, or a Type II review may be changed to a Type I review, upon finding the following:
    a. The proposal is consistent with applicable standards and criteria;
    b. The proposal is consistent with the basis and findings of the original approval; and
    c. The proposal does not increase the number of lots.
2. Type III review may be required in the following situations:
    a. When the Planning Commission approved the original land use action; and
    b. The proposed change is inconsistent with the original approval.

Table 17.12.020 Boundary Change Review Procedures

Boundary Change Action	Type I	Type II	Type III
1. Lot Consolidation Other Than Replat			
a. Legal lots created by deed.	X		
2. Property Line Adjustment			
a. Any adjustment that is consistent with the ORS and this title.	X		
b. Any adjustment that modifies a plat restriction.		X	
3. Partition Replat			

a. Any modification to a plat that was decided by the Planning Commission.			X
b. Parcel consolidation.	X		
c. Actions not described in 3(a) or (b).		X	
4. Subdivision Replat			
a. Any modification to a plat affecting 4 or more lots.			X
5. Expedited and Middle Housing Land Division	-	-	-
a. Any land division as defined by ORS 197.360 Expedited Land Division and/or land division of a middle housing project per ORS 197.758.	-	X	

C. An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds 3.

D. Partitions

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1005 Type II Review. Should any associated application subject to Type III review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1006 Type III Review.

2. Full compliance with all requirements for subdivision may be required if the Planning Commission should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds 2 acres and within a year is being partitioned into more than 2 parcels, any one of which is less than 1 acre.

E. Subdivisions

Applications for subdivision preliminary plat applications shall be processed in accordance with Section 19.1006 Type III Review, except that subdivision applications that meet the approval criteria for middle housing or expedited land divisions may be processed pursuant to MMC 17.12.020.G and MMC 17.12.020.H respectively.

F. Final Plats

Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1004 Type I Review. (Ord. 2168 § 2, 2019; Ord. 2025 § 3, 2011; Ord. 2001 § 2, 2009; amended during Supp. No. 2; Ord. 1907 (Attach. 1), 2002)

G. Middle Housing Land Divisions

A middle housing land division is a partition or subdivision of a lot or parcel on which a middle housing project has been developed or approved for development under the provisions of this Code and ORS 197.758. Middle housing land divisions are regulated by this Code and ORS Chapter 92.

Applications for any land division affecting middle housing as provided in ORS 197.758 (2) must be processed as an expedited land division process as outlined in ORS 197.360 to 197.380. Pursuant to the expedited land division process, a middle housing land division will be processed according to Section 19.1005 Type II Review. Further division of the resulting lots or parcels in an approved middle housing land division is prohibited.

H. Expedited Land Division

Expedited land divisions are defined by ORS 197.360(1) and are processed according to Section 19.1005 Type II Review. The Expedited Land Division/Middle Housing Land Division review process provides for review by the planning manager of an application based on provisions specified in this land use code. The application process includes notice to nearby occupants and property owners to allow for public comments prior to the planning manager's decision. Eligibility and approval criteria are detailed in Subsection 17.12.040.A.7.

17.12.040 APPROVAL CRITERIA FOR PRELIMINARY PLAT

A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.

2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

6. Approval of a preliminary plat for a middle housing land division will be granted if the Planning Manager finds that the applicant has met all of the following criteria:
    a. The middle housing development complies with the Oregon residential specialty code and the applicable MMC middle housing regulations. To demonstrate compliance with this criterion, the applicant must submit approved building permits or concurrent building permits demonstrating

that existing or proposed structures comply with the Oregon Residential Specialty Code and MMC middle housing regulations in Titles 12 and 19.

b. Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
c. Easements will be provided as necessary for each dwelling unit on the site for:
    i. Locating, accessing, replacing, and servicing all utilities;
    ii. Pedestrian access from each dwelling unit to a private or public road;
    iii. Any common use areas or shared building elements;
    iv. Any dedicated driveways or parking; and
    v. Any dedicated common area.
d. Exactly one dwelling unit will be located on each resulting lot except for lots or tracts used as common areas, on which no dwelling units will be permitted.
e. Buildings or structures on a resulting lot will comply with applicable building codes provisions relating to new property lines.
f. Structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.
g. Where a resulting lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to MMC 19.700.
h. The proposed middle housing land division will not cause any existing improvements on the middle housing lots to be inconsistent with applicable standards in this land use code.

7. If an applicant elects to use the expedited land division procedure, the application must meet the following additional approval criteria:
    a. The proposed partition only includes land zoned for residential uses;
    b. The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;
    c. The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Public Works Standards, and MMC;
    d. The land division will not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:
        i. Open spaces, mapped historic properties as identified on Map 3 on the comprehensive plan, and mapped natural resources as regulated by MMC 19.402; or
        ii. The Willamette River Greenway as regulated by MMC 19.401.
    e. The land division will result in development that either:

i. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or

ii. Will be sold or rented to households with incomes below 120 percent of the median family income for Clackamas County.

B. Conditions of Approval

The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. (Ord. 1965 §§ 6, 7, 2006; Ord. 1907 (Attach. 1), 2002)

1. The City will attach conditions of approval of a preliminary plat for a middle housing land division to:
   a. Require that a notation appear on the final plat indicating:
      i. The middle housing lots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.
      ii. The middle housing developed on the middle housing lots shown on the preliminary plat shall remain middle housing and shall not be considered to be any other housing type as a result of the middle housing land division.
      iii. Accessory dwelling units are not permitted on new lots resulting from a middle housing land division.
      iv. Ensure that improvements associated with review criteria in MMC 17.12.040 are provided.
   b. The preliminary plat approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval.

CHAPTER 17.20 PRELIMINARY PLAT

17.20.010 SUBMISSION OF PLANS

Applicants for partition, subdivision, expedited land division, middle housing land division, and replat shall prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal. (Ord. 1907 (Attach. 1), 2002)

17.20.060 PROPOSED CONDITIONS

A. ~~12 copies of a preliminary plat shall be submitted to the Planning Director~~. The plat shall include the following information:

1. Date, north point, scale, address, assessor reference number, and legal description;

2. Name and address of the record owner or owners and of the person who prepared the site plan;

3. Approximate acreage and square feet under a single ownership, or if more than 1 ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;

4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and rights-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;

5. Location of existing structures, identifying those to remain in place and those to be removed;

6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;

7. Existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees, topography, and other structures;

8. Elevation and location of flood hazard boundaries;

9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

10. For middle housing land divisions, in addition to the items in MMC 17.20.060.A, the following must be provided and shown on the preliminary plat:

a. separate utility connections for each dwelling unit;

b. proposed easements necessary for each dwelling unit on the plan for:

1. Locating, accessing, replacing and servicing all utilities;

2. Pedestrian access from each dwelling unit to a private or public road;

3. Any common use areas or shared building elements;

4. Any dedicated driveways or parking; and

5. Any dedicated common area.

c. Copies of all required easements in a form approved by the City Attorney.

d. A description of the manner in which the proposed division complies with each of the provisions of 17.12.040.A.6 including copies of approved building permits, or concurrent building permits, and other evidence necessary to demonstrate:

1. How buildings or structures on a resulting lot will comply with applicable building codes provisions related to new property lines; and
2. Notwithstanding the creation of new lots, how structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.

B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.

C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title, Title 19, and City design standards, including the Public Works Standards.

D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title, Title 19, and City design standards, including the Public Works Standards.

E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards.

F. Proposed deed restrictions, if any, in outline form.

G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, State law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details shall be submitted with the request for final plat approval.

CHAPTER 17.24 FINAL PLAT

17.24.010 REQUIRED PLAT INFORMATION

In addition to that otherwise specified by law, the following information shall be shown on the final plat:

A. The date, scale, north point, legend, plat boundary, and controlling topography such as creeks and highways;

B. Legal description of the tract boundaries;

C. Name of the owner(s), applicant(s), and surveyor.

D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;

2. Adjoining corners of adjoining subdivisions;

3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this title.

E. The exact location and width of streets and easements intersecting the boundary of the tract.

F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings approved in advance by the County Surveyor. All distances shall be shown to the nearest hundredth of a foot. No ditto marks may be used.

G. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the width of each side of the centerline. For streets on curvature, curve data shall be based on the street centerline and, in addition to the centerline dimensions, the radius and central angle shall be indicated.

H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

I. Lot numbers beginning with the number "1" and numbered consecutively.

J. Land tracts to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale.

K. References to any agreements including conditions of approval or special building restrictions that will be recorded with the plat.

L. The following certificates, which may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat;

2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot;

3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor.

M. For middle housing land divisions, the following notations:

1. The middle housing lots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.

2. The middle housing developed on the middle housing lots shown on the final plat shall remain middle housing and shall not be considered to be any other housing type as a result of the middle housing land division.

(Ord. 1907 (Attach. 1), 2002)

17.24.030 APPROVAL OF FINAL PLAT

Approval of the final plat shall be indicated by signature of the Planning Manager ~~Director~~ and Engineering Director. (Ord. 1907 (Attach. 1), 2002)

17.24.040 FILING

Within 6 months of City approval of the preliminary plat, the applicant shall submit the final plat for City signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.

A notice of middle housing land division shall be recorded for each middle housing lot with Clackamas County that states:

(1) The middle housing lot may not be further divided.

(2) No more than one unit of middle housing may be developed on each middle housing lot.

(3) The dwelling developed on the middle housing lot is a unit of middle housing and is not a single attached or detached dwelling, or any other housing type.

For middle housing and expedited land divisions, the approval of a preliminary plat is void if and only if a final plat is not approved within three years of the preliminary plat approval. Within that time, any conditions of approval must be fulfilled and the final plat, as approved by the city, must be recorded by the applicant with Clackamas County.

Clean Amendments

Title 19 Zoning Ordinance

CHAPTER 19.1000 REVIEW PROCEDURES

19.1003 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

19.1003.3 Application Completeness Review

All applications are subject to the provisions of Subsections 19.1003.3.A-D below. Type I, II, III, and IV applications are also subject to the provisions of Subsections 19.1003.3.E-G below.

A. The City shall review the application submittal within 30 days of receipt of the application and advise the applicant in writing as to whether the application is complete or incomplete. The City shall review the application submittal for an Expedited Land Division or Middle Housing Land Division within 21 days of receipt of the application and advise the applicant in writing as to whether the application is complete or incomplete.

19.1005 TYPE II REVIEW

Type II applications involve uses or development governed by subjective approval criteria and/or development standards that may require the exercise of limited discretion. Type II review provides for administrative review of an application by the Planning Manager and includes notice to nearby property owners to allow for public comment prior to the decision. The process does not include a public hearing.

19.1005.5 Type II Decision

A. The decision shall be issued with sufficient time to allow the appeal authority for a Type II application to issue a final decision within 120 days from the date that the application was deemed complete. The final decision for an affordable housing application, as defined in, and subject to all of the provisions of ORS 197.311, shall be issued within 100 days from when the application was deemed complete. Pursuant to MMC 17.12.020.G, the final decision for a middle housing or expedited land division as defined in, and subject to the applicable provisions of ORS 92.010 to 92.192 and further referenced in ORS 197.360 and ORS 197.380, must be issued within 63 days from when the application was deemed complete, or extended by the city not to exceed 120 days.

19.1005.6 Appeal of a Type II Decision

A Type II decision may be appealed by filing a written appeal within 15 days from the date that the notice of decision was mailed. The appeal authority for a Type II decision is the Planning Commission. Appeal requirements and procedures are outlined in Section 19.1010.

Appeals of a Type II decision for a middle housing or expedited land division are processed subject to the applicable provisions found in ORS 197.360 – ORS 197.375.

Title 17 Land Division

CHAPTER 17.12 APPLICATION PROCEDURE AND APPROVAL CRITERIA

17.12.010 PURPOSE

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat. (Ord. 1907 (Attach. 1), 2002)

17.12.020 APPLICATION PROCEDURE

A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Type III procedures as indicated in this section.

B. Applications for property boundary changes shall be processed in accordance with Table 17.12.020 based on the type of change requested. The Planning Manager may modify the procedures identified in Table 17.12.020 as follows:

1. Type III review may be changed to Type II review, or a Type II review may be changed to a Type I review, upon finding the following:
    a. The proposal is consistent with applicable standards and criteria;
    b. The proposal is consistent with the basis and findings of the original approval; and
    c. The proposal does not increase the number of lots.
2. Type III review may be required in the following situations:
    a. When the Planning Commission approved the original land use action; and
    b. The proposed change is inconsistent with the original approval.

Table 17.12.020 Boundary Change Review Procedures

Boundary Change Action	Type I	Type II	Type III
1. Lot Consolidation Other Than Replat			
a. Legal lots created by deed.	X		
2. Property Line Adjustment			
a. Any adjustment that is consistent with the ORS and this title.	X		
b. Any adjustment that modifies a plat restriction.		X	
3. Partition Replat			

a. Any modification to a plat that was decided by the Planning Commission.			X
b. Parcel consolidation.	X		
c. Actions not described in 3(a) or (b).		X	
4. Subdivision Replat			
a. Any modification to a plat affecting 4 or more lots.			X
5. Expedited and Middle Housing Land Division			
a. Any land division as defined by ORS 197.360 Expedited Land Division and/or land division of a middle housing project per ORS 197.758.		X	

C. An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds 3.

D. Partitions

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1005 Type II Review. Should any associated application subject to Type III review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1006 Type III Review.

2. Full compliance with all requirements for subdivision may be required if the Planning Commission should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds 2 acres and within a year is being partitioned into more than 2 parcels, any one of which is less than 1 acre.

E. Subdivisions

Applications for subdivision preliminary plat applications shall be processed in accordance with Section 19.1006 Type III Review, except that subdivision applications that meet the approval criteria for middle housing or expedited land divisions may be processed pursuant to MMC 17.12.020.G and MMC 17.12.020.H respectively.

F. Final Plats

Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1004 Type I Review. (Ord. 2168 § 2, 2019; Ord. 2025 § 3, 2011; Ord. 2001 § 2, 2009; amended during Supp. No. 2; Ord. 1907 (Attach. 1), 2002)

G. Middle Housing Land Divisions

A middle housing land division is a partition or subdivision of a lot or parcel on which a middle housing project has been developed or approved for development under the provisions of this Code and ORS 197.758. Middle housing land divisions are regulated by this Code and ORS Chapter 92.

Applications for any land division affecting middle housing as provided in ORS 197.758 (2) must be processed as an expedited land division process as outlined in ORS 197.360 to 197.380. Pursuant to the expedited land division process, a middle housing land division will be processed according to Section 19.1005 Type II Review. Further division of the resulting lots or parcels in an approved middle housing land division is prohibited.

H. Expedited Land Division

Expedited land divisions are defined by ORS 197.360(1) and are processed according to Section 19.1005 Type II Review. The Expedited Land Division/Middle Housing Land Division review process provides for review by the planning manager of an application based on provisions specified in this land use code. The application process includes notice to nearby occupants and property owners to allow for public comments prior to the planning manager's decision. Eligibility and approval criteria are detailed in Subsection 17.12.040.A.7.

17.12.040 APPROVAL CRITERIA FOR PRELIMINARY PLAT

A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.

2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

6. Approval of a preliminary plat for a middle housing land division will be granted if the Planning Manager finds that the applicant has met all of the following criteria:
    a. The middle housing development complies with the Oregon residential specialty code and the applicable MMC middle housing regulations. To demonstrate compliance with this criterion, the applicant must submit approved building permits or concurrent building permits demonstrating

that existing or proposed structures comply with the Oregon Residential Specialty Code and MMC middle housing regulations in Titles 12 and 19.

b. Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
c. Easements will be provided as necessary for each dwelling unit on the site for:
    i. Locating, accessing, replacing, and servicing all utilities;
    ii. Pedestrian access from each dwelling unit to a private or public road;
    iii. Any common use areas or shared building elements;
    iv. Any dedicated driveways or parking; and
    v. Any dedicated common area.
d. Exactly one dwelling unit will be located on each resulting lot except for lots or tracts used as common areas, on which no dwelling units will be permitted.
e. Buildings or structures on a resulting lot will comply with applicable building codes provisions relating to new property lines.
f. Structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.
g. Where a resulting lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to MMC 19.700.
h. The proposed middle housing land division will not cause any existing improvements on the middle housing lots to be inconsistent with applicable standards in this land use code.

7. If an applicant elects to use the expedited land division procedure, the application must meet the following additional approval criteria:
    a. The proposed partition only includes land zoned for residential uses;
    b. The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;
    c. The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Public Works Standards, and MMC;
    d. The land division will not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:
        i. Open spaces, mapped historic properties as identified on Map 3 on the comprehensive plan, and mapped natural resources as regulated by MMC 19.402; or
        ii. The Willamette River Greenway as regulated by MMC 19.401.
    e. The land division will result in development that either:

i. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or
ii. Will be sold or rented to households with incomes below 120 percent of the median family income for Clackamas County.

B. Conditions of Approval

The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. (Ord. 1965 §§ 6, 7, 2006; Ord. 1907 (Attach. 1), 2002)

1. The City will attach conditions of approval of a preliminary plat for a middle housing land division to:
    a. Require that a notation appear on the final plat indicating:
        i. The middle housing lots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.
        ii. The middle housing developed on the middle housing lots shown on the preliminary plat shall remain middle housing and shall not be considered to be any other housing type as a result of the middle housing land division.
        iii. Accessory dwelling units are not permitted on new lots resulting from a middle housing land division.
        iv. Ensure that improvements associated with review criteria in MMC 17.12.040 are provided.
    b. The preliminary plat approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval.

CHAPTER 17.20 PRELIMINARY PLAT

17.20.010 SUBMISSION OF PLANS

Applicants for partition, subdivision, expedited land division, middle housing land division, and replat shall prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal. (Ord. 1907 (Attach. 1), 2002)

17.20.060 PROPOSED CONDITIONS

A. The plat shall include the following information:

1. Date, north point, scale, address, assessor reference number, and legal description;

2. Name and address of the record owner or owners and of the person who prepared the site plan;

3. Approximate acreage and square feet under a single ownership, or if more than 1 ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;

4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and rights-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;

5. Location of existing structures, identifying those to remain in place and those to be removed;

6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;

7. Existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees, topography, and other structures;

8. Elevation and location of flood hazard boundaries;

9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

10. For middle housing land divisions, in addition to the items in MMC 17.20.060.A, the following must be provided and shown on the preliminary plat:

a. separate utility connections for each dwelling unit;

b. proposed easements necessary for each dwelling unit on the plan for:

1. Locating, accessing, replacing and servicing all utilities;
2. Pedestrian access from each dwelling unit to a private or public road;
3. Any common use areas or shared building elements;
4. Any dedicated driveways or parking; and
5. Any dedicated common area.

c. Copies of all required easements in a form approved by the City Attorney.

d. A description of the manner in which the proposed division complies with each of the provisions of 17.12.040.A.6 including copies of approved building permits, or concurrent building permits, and other evidence necessary to demonstrate:

1. How buildings or structures on a resulting lot will comply with applicable building codes provisions related to new property lines; and
2. Notwithstanding the creation of new lots, how structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.

B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.

C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title, Title 19, and City design standards, including the Public Works Standards.

D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title, Title 19, and City design standards, including the Public Works Standards.

E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards.

F. Proposed deed restrictions, if any, in outline form.

G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, State law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details shall be submitted with the request for final plat approval.

CHAPTER 17.24 FINAL PLAT

17.24.010 REQUIRED PLAT INFORMATION

In addition to that otherwise specified by law, the following information shall be shown on the final plat:

A. The date, scale, north point, legend, plat boundary, and controlling topography such as creeks and highways;

B. Legal description of the tract boundaries;

C. Name of the owner(s), applicant(s), and surveyor.

D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;

2. Adjoining corners of adjoining subdivisions;

3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this title.

E. The exact location and width of streets and easements intersecting the boundary of the tract.

F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings approved in advance by the County Surveyor. All distances shall be shown to the nearest hundredth of a foot. No ditto marks may be used.

G. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the width of each side of the centerline. For streets on curvature, curve data shall be based on the street centerline and, in addition to the centerline dimensions, the radius and central angle shall be indicated.

H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

I. Lot numbers beginning with the number "1" and numbered consecutively.

J. Land tracts to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale.

K. References to any agreements including conditions of approval or special building restrictions that will be recorded with the plat.

L. The following certificates, which may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat;

2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot;

3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor.

M. For middle housing land divisions, the following notations:

1. The middle housing lots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.

2. The middle housing developed on the middle housing lots shown on the final plat shall remain middle housing and shall not be considered to be any other housing type as a result of the middle housing land division.

(Ord. 1907 (Attach. 1), 2002)

17.24.030 APPROVAL OF FINAL PLAT

Approval of the final plat shall be indicated by signature of the Planning Manager and Engineering Director. (Ord. 1907 (Attach. 1), 2002)

17.24.040 FILING

Within 6 months of City approval of the preliminary plat, the applicant shall submit the final plat for City signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.

A notice of middle housing land division shall be recorded for each middle housing lot with Clackamas County that states:

(1) The middle housing lot may not be further divided.

(2) No more than one unit of middle housing may be developed on each middle housing lot.

(3) The dwelling developed on the middle housing lot is a unit of middle housing and is not a single attached or detached dwelling, or any other housing type.

For middle housing and expedited land divisions, the approval of a preliminary plat is void if and only if a final plat is not approved within three years of the preliminary plat approval. Within that time, any conditions of approval must be fulfilled and the final plat, as approved by the city, must be recorded by the applicant with Clackamas County.