



February 27, 2014

Land Use File(s): CSU-13-14

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on March 25, 2014.

**Applicant(s):** Northwest Housing Alternatives  
**Location(s):** 5197 SE King Rd  
**Tax Lot(s):** 12E30CD06500  
**Application Type(s):** Community Service Use  
**Decision:** Approved, with conditions  
**Review Criteria:** Milwaukie Zoning Ordinance:

- MMC 19.904, Approval Criteria

**Neighborhood(s):** Lewelling

**Appeal period closes: 5:00 p.m., March 14, 2014**

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Ryan Marquardt, Senior Planner, at 503-786-7658 or [marquardtr@milwaukieoregon.gov](mailto:marquardtr@milwaukieoregon.gov), if you wish to view this case file.

**This decision may be appealed by 5:00 p.m. on March 14, 2014, which is 15 days from the date of this decision.** Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the development utilizes its approvals within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

### **Findings in Support of Approval**

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

1. The applicant, Milwaukie Christian Church, has applied for approval to implement a project named “A Road Home” as a pilot project on their property at 5197 SE King Rd (12E30CD06500). This site is in the Residential Zone R-5. The land use application file number is CSU-13-14. The application is being processed as a Major Modification to a Community Service Use (CSU). The applicant’s representative is Northwest Housing Alternatives. The application was submitted on November 27, 2013, and deemed complete on January 7, 2014.
2. The proposal is to operate “A Road Home” as a pilot project (“project”) on the applicant’s property. The pilot project would allow one vehicle belonging to a household experiencing homelessness to be parked in the parking lot of Milwaukie Christian Church (site) and serve as a place for the household to sleep for a period of up to 30 days. A portable toilet would be available to the household on the site. It is expected that the vehicle would be present on the site only during evenings, and the household would be expected to be off-site during normal daytime working hours. The total duration of the pilot project would not exceed 3 months, allowing for participation by up to 3 households. The vehicle would be parked in the northeastern portion of the parking lot at the site, and this location would be monitored by a security camera. Participants in the project sign an agreement with “A Road Home” with several conditions, such as no guests at the site, no drugs, weapons or alcohol permitted, and prohibitions on noise and disruptive behavior.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Subsection 19.904.4, Approval Criteria
4. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review.
  - a. MMC 19.1006.1 states that a preapplication conference is required for Type III applications. The applicant’s representative had a preapplication conference with the City on September 12, 2013.
  - b. MMC 19.1006.3 establishes standards for referral and notification of a Type III application.
    - (1) MMC 19.1006.3.C requires referral of the application to Neighborhood District Associations containing or within 300 ft of the site, and to other agencies and city departments. The application was referred on January 9, 2014.
    - (2) MMC 19.1006.3.D requires mailed notice of the application 20 days prior to the first public hearing on the application to properties within 300 ft of the site, the applicant and property owner, and Neighborhood Associations that received the application referral. A notice that conforms to the requirements of MMC 19.1006.3.D.2 was sent on February 12, 2014.
    - (3) MMC 19.1006.3.E requires a notice sign to be posted on the site at least 14 days prior to the first public hearing. Notice signs conforming to the requirements for notice signs were posted on February 11, 2014.
    - (4) The Planning Commission held a public hearing on February 25, 2014, as required per the procedures for Type III applications.
5. MMC Section 19.904 contains review criteria and standards for Community Service Uses. The project is considered a separate use from the Milwaukie Christian Church, and is being approved as establishment of a new Community Service Use (CSU) and not a modification of the existing Conditional Use granted for the site as a religious institution in File #C-1975-006.

- a. MMC 19.904.2.A lists uses that are may be permitted as a CSU. The proposed use is considered a “Temporary or transitional facility”, defined in MMC 19.201 as “a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is 60 days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers, and detention and detoxification facilities.” This use is a valid Community Service Use permitted under MMC 19.904.2.A.8.
- b. MMC 19.904.4 contains approval criteria for a CSU.

- (1) MMC 19.904.4.A requires that the building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met.

The underlying zone for the site is Residential zone R5. The only proposed structure would be the portable toilet. This would be in excess of 75 ft from any lot line and exceeds required yard depths for accessory structures. The height would be less than the maximum height allowed in the R5 zone of 35 ft. Lot coverage on the site is allowed to be up to 305% of lot area, and existing lot coverage is less than 21,000 sq ft which is less than 15% of lot area (142,005 sq ft) and the portable toilet would add a negligible amount of lot coverage. Existing vegetation for the site is in excess of 70,000 sq ft, which is over 49% of the lot area and exceeds the minimum vegetation requirement of 25% for the R5 zone. The portable toilet would not bring any aspect of the site out of conformance with the development standards in the R5 zone.

The project would not bring the site’s off-street parking area out of conformance. The religious institution contains 290 seats, and has a minimum parking requirement of 1 space per 4 seats, per MMC 19.605.1.B.2, which requires at least per 72.5 seats. The site has 78 spaces and use of one parking space for the project would not bring the site out of conformance with off-street parking regulations.

- (2) MMC 19.904.4.B requires that specific standards for the proposed uses as found in Subsections 19.904.7-11 are met. The specific standards would be those in MMC 19.904.9, which contains general standards for CSUs not described in the other sections in MMC 19.904.7-11. The proposed use complies with all standards in MMC 19.904.9 or does not affect compliance with these standards.
- (3) MMC 19.904.4.C requires that the hours and levels of operation of the proposed use are reasonably compatible with surrounding uses. The proposed use is residential in nature and is compatible with the residential uses surrounding the site.
- (4) MMC 19.904.4.D requires that the public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood. The public benefit of the project is that it serves the homeless population in Milwaukie and provides a safe place for the homeless to shelter in their vehicle. The project also brings services to this population in the form of assistance in seeking housing and employment. The potential negative impacts of the project are minimal and related to safety and security concerns for nearby and aesthetic impacts from the vehicle and portable toilet. The Planning Commission finds that

the public benefits of serving the homeless population outweigh the negative impacts described because of the limit of the time and number of participating homeless persons in the project and the project's monitoring and controls by the Milwaukie Christian Church.

- (5) MMC 19.904.4.E requires that the location is appropriate for the type of use proposed. The use is residential in nature and the location is a residential residentially zoned area. The project will occur in a parking area that is not located in close proximity to any adjoining residence.
  - c. MMC 19.904.5 contains procedures for reviewing a CSU.
    - (1) MMC 19.904.5.A requires the Planning Commission hold a public hearing. The Planning Commission held a hearing on February 25, 2014 for the establishment of the CSU and found that the approval criteria of MMC 19.904.4 are met.
    - (2) MMC 19.904.5.B allows the Planning Commission to impose suitable conditions which assure compatibility of the use with other uses in the vicinity. In order to assure compatibility with surrounding use, the Planning Commission imposed the following conditions as part of this approval.
      - (a) The project guest guidelines in the applicant's materials shall be signed by persons who participate in the project. The Milwaukie Christian Church shall monitor and enforce the guidelines.
      - (b) The project shall operate as described by the applicant's materials.
      - (c) The project is limited in duration of not more than 3 months. During this time, only 1 vehicle shall be allowed in the project at a time. The operation of the project begins on May 1, 2014 or the first day of the month following the month in which this land use decision becomes final whichever date comes first. This land use approval shall expire at the end of this 3-month time period. Continuation of this project is subject to a subsequent CSU approval.
      - (d) The Milwaukie Christian Church shall monitor the area of the site used for the project with a security camera recording continuous footage. The recording footage will be maintained for a period of 30 days and shall be shared with the Milwaukie Police Department upon request.
  - d. MMC 19.904.6 establishes the materials required for a CSU application. The materials submitted by the applicant contain the information required by this subsection.
6. MMC 19.607.2.B.2, which prohibits living in a vehicle on a residential property, applies only when the use of the site is a cottage cluster, rowhouse, duplex, single-family detached dwelling, or residential home. None of these uses is present on the site, and this prohibition is not applicable to the site.
  7. The application was referred to the following departments and agencies on January 9, 2014:
    - Milwaukie Building Division
    - Milwaukie Engineering Department
    - Milwaukie Police Chief

- Clackamas County Fire District #1
- Lewelling, Linwood, and Hector Campbell Neighborhood District Association Chairpersons and Land Use Committees
- Clackamas County
- Metro
- Trimet

The comments received are summarized as follows. Agencies not listed below did not respond.

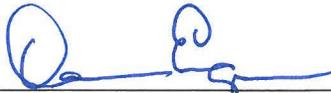
- Milwaukie Building Division – the project needs to meet Americans with Disabilities Act (ADA) requirements by having an ADA compliant portable toilet and a hard surface approach from the parking lot to the portable toilet that doesn't exceed a 2% cross slope and a 1/12 slope in the direction of travel.
- Milwaukie Engineering Department – commented that MMC 19.700 is not applicable; no other conditions of approval suggested.
- Milwaukie Police Chief – requested video surveillance of the project site, preferred that the project be limited to 1 vehicle at a time; commented that Milwaukie Police can enforce on criminal trespass issues, but day-to-day monitoring should be done by the project administrators, suggested that the Milwaukie Police have a liaison between the department and the project.

### **Conditions of Approval**

1. Pursuant to MMC 19.904.5.B, the Planning Commission imposes the following conditions on the project.
  - a. The project guest guidelines in the applicant's materials shall be signed by persons who participate in the project. The Milwaukie Christian Church shall monitor and enforce the guidelines.
  - b. The project shall operate as described by the applicant's materials.
  - c. The project is limited in duration of not more than 3 months. During this time, only 1 vehicle shall be allowed in the project at a time. The operation of the project begins on May 1, 2014 or the first day of the month following the month in which this land use decision becomes final whichever date comes first. This land use approval shall expire at the end of this 3-month time period. Continuation of this project is subject to a subsequent CSU approval.
  - d. The Milwaukie Christian Church shall monitor the area of the site used for the project with a security camera recording continuous footage. The recording footage will be maintained for a period of 30 days and shall be shared with the Milwaukie Police Department upon request.

### **Other requirements**

1. To meet Americans with Disabilities Act (ADA) requirements, the project shall have an ADA compliant portable toilet and a hard surface approach from the parking lot to the portable toilet that doesn't exceed a 2% cross slope and a 1/12 slope in the direction of travel.



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Dennis Egner, AICP  
Planning Director

cc: Angela Trimble, Northwest Housing Alternatives, 2316 SE Willard St, Milwaukie, OR 97222  
Pastor Russ Isom, Milwaukie Christian Church, 5197 SE King Rd, Milwaukie, OR 97222  
Planning Commission (*via e-mail*)  
Steve Butler, Community Development Director (*via e-mail*)  
Jason Rice, Engineering Director (*via e-mail*)  
Brad Albert, Civil Engineer (*via e-mail*)  
John Stelzenmueller, Building Official (*via e-mail*)  
Bonnie Lanz, Permit Specialist (*via e-mail*)  
Mike Boumann and Shawn Olson, CCFD#1  
NDA(s): Lewelling, Hector Campbell, Linwood (*via e-mail*)  
Interested Persons  
Land Use File(s): CSU-13-14