



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday, October 27, 2015, 6:30 PM

**MILWAUKIE CITY HALL
10722 SE MAIN STREET**

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
 - 2.1 March 24, 2015
- 3.0 Information Items**
- 4.0 Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 Public Hearings** – Public hearings will follow the procedure listed on reverse
 - 5.1 Summary: King Rd Subdivision
Applicant/Owner: Carey Sheldon, Sheldon Development, Inc.
Address: 5419 SE King Rd
File: S-2015-001, VR-2015-003
Staff: Vera Koliass
- 6.0 Worksession Items**
 - 6.1 Summary: Short-term Rentals (continued from October 13, 2015)
Staff: Denny Egner
- 7.0 Planning Department Other Business/Updates**
- 8.0 Planning Commission Discussion Items** – This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 Forecast for Future Meetings:**
 - November 10, 2015
 - 1. Worksession: Ethics Training
 - 2. Worksession: Planning Commission Work Program
 - November 24, 2015
 - 1. Cancelled
 - December 1, 2015
 - 1. Joint Session with City Council

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 speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email planning@ci.milwaukie.or.us. Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at www.cityofmilwaukie.org
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **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 the agenda item to a future date or finish the agenda item.

Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

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.

The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.

Milwaukie Planning Commission:

Sine Bone, Chair
Shaun Lowcock, Vice Chair
Shane Abma
Shannah Anderson
Adam Argo
Scott Barbur
Greg Hemer

Planning Department Staff:

Denny Egner, Planning Director
Li Alligood, Senior Planner
Brett Kelter, Associate Planner
Vera Kolias, Associate Planner
Alicia Martin, Administrative Specialist II

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, March 24, 2015
6:30 PM**

COMMISSIONERS PRESENT

Sine Bone, Chair
Shannah Anderson
Scott Barbur
Greg Hemer

STAFF PRESENT

Denny Egner, Planning Director
Li Alligood, Senior Planner
Vera Kolias, Associate Planner
Peter Watts, City Attorney

COMMISSIONERS ABSENT

Shaun Lowcock, Vice Chair
Gabe Storm

1.0 Call to Order – Procedural Matters*

Chair Bone called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

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

2.0 Planning Commission Minutes

2.1 December 9, 2014

It was moved by Commissioner Hemer and seconded by Commissioner Anderson to approve the December 9, 2014 Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, noted that the public workshop for the Monroe Street Neighborhood Greenway Concept Plan project held the previous week was well-attended. The next Project Advisory Committee (PAC) meeting was scheduled for the following week or so.

The next Moving Forward Milwaukie PAC meeting was scheduled for April 1st to discuss the Neighborhood Main Streets component of the project, which was the third and final component.

Mr. Egner also noted the City Council would discuss the Moving Forward Milwaukie Downtown Plan and Code Amendments and the Medical Marijuana Dispensaries regulations at the next few meetings.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

5.1 Summary: Cambridge Ln ADU Variance
Applicant/Owner: Lyndon Murray

Address: 9908 SE Cambridge Ln
File: VR-2015-001, ADU-2015-001
Staff: Vera Kolas

Chair Bone called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

Vera Kolas, Associate Planner, presented the staff report via PowerPoint. The proposed ADU would be located near the existing garage and use the existing driveway and off-street parking. The code required the ADU to be located 10 ft behind the front yard, which would be the façade of the primary dwelling unit or at least 40 ft behind the front lot line; the maximum allowed footprint of an ADU was 800 sq ft. The request was for a variance to the 40 ft setback to allow for a 25 ft front yard setback, and a variance to the maximum footprint to allow for a 1,100 sq ft footprint.

Staff had not identified any negative impacts of the proposal and recommended approval for the proposal with the findings and conditions as presented.

Chair Bone called for the applicant's testimony.

Lindon Murray, applicant and property owner, explained his intent of the proposal and the reasoning for the location of the ADU with regard to the established trees on the property, the original orientation of the home to 17th Ave., etc.

Chair Bone called for public testimony.

James Skinner, 1621 SE McBrod St, lived adjacent to the subject property. The proposed ADU would not impact his property and was in support of the proposal.

Steve Ahmend, 10005 SE Cambridge Ln, inquired as to why the setback variance was necessary on such a large property.

- **Mr. Egner** noted that the intent of the setback requirements; however, those requirements were difficult to apply to this unique property with regard to the layout and position of the existing home on the property. The proposed location seemed to be appropriate on this property.

Chair Bone closed public testimony and opened the Planning Commission discussion.

The Commission agreed that the request was reasonable given the context of the property, the original orientation, and scale of the property.

It was moved by Commissioner Hemer and seconded by Commissioner Barbur to approve application VR-2015-001 and ADU-2015-001 for the Cambridge Ln ADU Variance with findings and conditions as presented. The motion passed unanimously.

5.2 Summary: Kellogg Bike/Pedestrian Bridge Connections
Applicant/Owner: City of Milwaukie, Stacy Bluhm
Address: Kellogg Lake Light Rail Bridge
File: DR-2015-001
Staff: Li Alligood

Chair Bone called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

Commissioner Hemer declared an ex parte conflict that he was a member of the Portland-to-Milwaukie Light Rail (PMLR) citizen advisory committee and had had discussions regarding the pedestrian bridge but noted that those discussions were not in regard to this specific application and design of the connections.

Li Alligood, Senior Planner, presented the staff report via PowerPoint. She oriented the Commission to the bridge noting that the pedestrian bridge platform had been built but the connections had not, which was the focus of this discussion. She reviewed the background of the light rail and pedestrian bridges, and described the project elements for the proposed connections which included galvanized steel railings, ashlar stone-like wall finishes, and round columns. She reviewed the Design and Landmarks Committee (DLC) recommendations as noted, and reviewed the decision-making options for the Commission and comments received.

Commissioner Hemer asked about lighting for the connections.

- **Ms. Alligood** responded that there was a lighting plan approved by the DLC for the bridge and so it was assumed that the same lighting would continue for the connections. However, at this time there was no funding for the lighting.

Chair Bone called for the applicant's testimony.

Brad Albert, Civil Engineering, for Stacy Bluhm, Light Rail Construction Manager, noted the background of the proposed design, budget and design alternatives and constraints, and added that the pedestrian bridge would be owned by the City of Milwaukie.

Staff and the applicant answered questions from the Commission regarding the Milwaukie Black color, galvanized steel, wall construction, and lighting.

Chair Bone called for public testimony.

David Aschenbrenner, 11505 SE Home Ave, was also a member of the PMLR citizen advisory committee and noted that this project needed to be completed. He was in support of the proposed design.

Chair Bone closed public testimony.

The Commission discussed the project elements, and agreed that lighting was essential and emphasized that it should be made a priority.

It was moved by Commissioner Barbur and seconded by Commissioner Hemer to approve application DR-2015-001 for the Kellogg Bike/Pedestrian Bridge Connections with the findings and conditions as presented. The motion passed unanimously.

6.0 Worksession Items

- 6.1 Summary: Moving Forward Milwaukie Central Milwaukie Plan and Code Amendments #2
 Staff: Vera Kolias and Denny Egner

Vera Kalias, Associate Planner, presented the staff report via PowerPoint. The focus of tonight's worksession was on the proposed code amendments. She reviewed the project goals, and noted the vision and implementation of the vision.

The proposed code amendments included a new General Mixed Use (GMU) zone, a Flex Space (FS) overlay zone, added permitted uses, and new/revised Development Standards, Design Standards, and land use review procedures. She reviewed the key proposals.

- Update the current zones to a single GMU zone over much of the area, with the Flex Space overlay applied to a portion of the Murphy site. Per public feedback, the R1 and R2 zones of Penzance and Myrtle Streets would remain, as would the C-CS zoning of the Milwaukie Marketplace.
- Development Standards with regard to minimum lot size, building height, street setbacks, residential edge treatments, frontage occupancy requirements, and primary entrances.
- Preliminary Circulation Plans would be a new development regulation to guide site development on large sites by establishing a conceptual plan for access, connectivity, and circulation.

Staff answered questions from the Commission. The group discussed circulation plans and staff explained that they were geared toward future development and were to work together with MMC Chapter 19.700 Public Facility Improvements.

Ms. Kalias reviewed the proposed Design Standards which were similar to those in the Downtown Design Standards with regard to corners, weather protection, exterior building materials, windows and doors, and roofs.

Current land use review procedures were for Type I Development Review throughout the area but for the Murphy and McFarland sites which required a Type III review, which proved to be restrictive to development. The proposed amendments to the review procedures would allow for Type I Development Review throughout the GMU, which currently exists for the C-G zone, with a provision to allow for a Type II variance for design standards.

Ms. Kalias asked the Commission for feedback and direction on key issues, including commercial parking lots, circulation plans, ground-floor windows/doors, applicability of proposed design and development standards, and land use review procedures.

The Commission agreed that commercial parking lots should be a Conditional Use rather than permitted outright as they were currently.

The Commission discussed the merit of Type II review for development in order to notify the neighborhood rather than allowing for only Type I review for all development other than those that required a Type II variance.

- **David Aschenbrenner, 11505 SE Home Ave**, agreed with Commissioners Hemer and Lowcock that Type I review was not sufficient. The Type II review notice gave generally-sufficient information of the proposal and approval criteria for neighbors to review and allowed for public comment.

The Commission agreed to further discuss the development review process and flex space at the next worksession.

7.0 Planning Department Other Business/Updates

8.0 Planning Commission Discussion Items

9.0 Forecast for Future Meetings:

- | | |
|----------------|-------------------------------------------------------------------------------------------------|
| April 14, 2015 | 1. Worksession: MFM Central Milwaukie Plan and Code Amendments <i>tentative</i> |
| April 28, 2015 | 1. Public Hearing: CPA-2015-001 MFM Central Milwaukie Plan and Code Amendments <i>tentative</i> |

Meeting adjourned at approximately 9:23 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

Sine Bone, Chair



To: Planning Commission
Through: Dennis Egner, Planning Director
From: Vera Kolias, Associate Planner
Date: October 20, 2015, for the October 27, Public Hearing
Subject: File: S-2015-001; VR-2015-003
Applicant: Sheldon Development, Inc.
Owner(s): Carey Sheldon
Address: 5419 SE King Rd.
Legal Description (Map & Taxlot): 12E30DC 02500
NDA: Lewelling

ACTION REQUESTED

Approve application S-2015-001 and VR-2015-003 and adopt the recommended Findings and Conditions of Approval found in Attachment 1. This action would allow for the development of a 5-lot subdivision and allow lots 2-5 to have lot sizes ranging from 6,430 sf to 6,442 sf, rather than the minimum 7,000 sf that is required.

BACKGROUND INFORMATION

A. Site and Vicinity

The subject property is a residential lot zoned Residential R-7 in the Lewelling neighborhood. An existing home and 2 detached garages occupy the subject property which is located on the corner of SE King Rd and SE 54th Ave. The property is partially wooded and is approximately 1 acre. The existing home is oriented towards SE King Rd with a setback of 53.4 ft. Access is taken from SE 54th Ave (See Figure 1). The surrounding properties are developed with single-family detached dwellings.

The proposal is to subdivide the property to add 4 additional lots which would front on SE 54th Ave and maintain the existing home which fronts on SE King Rd (see Figures 1-4).

B. Zoning Designation

Residential zone R-7

C. Comprehensive Plan Designation

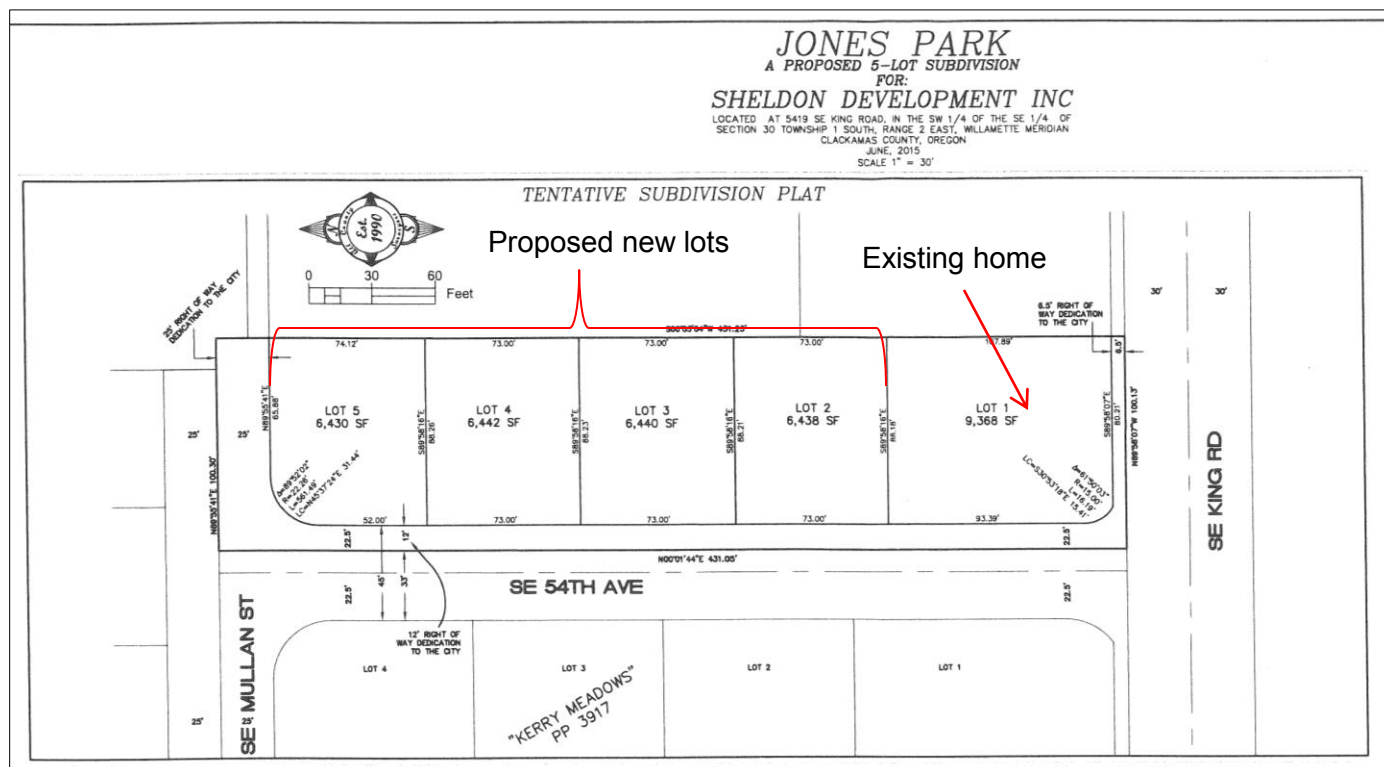
Low Density Residential LD

Figure 1. Existing conditions



Source: 2014 RLIS data

Figure 3. Proposal



Source: Applicant's materials

Figure 4. Existing home

Source: Google street view

D. Proposal

The applicant is seeking land use approvals for a 5-lot subdivision and a variance to the minimum lot size for Lots 2-5. See Attachment 2 for details.

The required minimum lot size for a single-family home in the R-7 zone is 7,000 sf. The proposal includes the following:

1. Subdivision approval for a 5-lot subdivision (see Attachment 2).
2. Variance to the minimum lot size for Lots 2-5 to allow lots of approximately 6,400 sf (see Attachment 2).

The proposal requires approval of the following applications:

1. Type III Subdivision Review: Per MMC 17.12.020.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 proposed lots exceeds 3; subdivisions shall be reviewed under Type III review.
2. Type III Variance Review: Per MMC 911.3.C, any variance request that is not specifically listed as a Type II variance per Subsection 19.911.3.B shall be evaluated through a Type III review.

KEY ISSUES

Summary

Staff has identified the following key issues 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.

- A. Does the proposed variance have any negative impacts?

Analysis

A. Does the proposed variance have any negative impacts?

Staff has not identified any negative impacts of the proposal. Although Lots 2-5 are proposed to have less than the required minimum area, all other development standards will apply, such as setbacks and lot coverage, and all of the lots will exceed the dimensional standards. The property can accommodate a 5-lot subdivision without any variances, but the proposed variance allows the existing home to remain, which maintains the existing character and streetscape of SE King Rd and reduces the impact of the proposed development. The proposal also allows existing mature vegetation to remain on the site, further reducing the impact of the proposed development. Further, the proposed design with the requested variances does not result in any additional density than if the existing home were demolished and 5 7,000-sf lots were created; the resulting Lot 1, at 9,368 sf, is not large enough to be further divided.

CONCLUSIONS

A. Staff recommendation to the Planning Commission is as follows:

1. Approve the subdivision review for the construction of the proposed 5-lot subdivision on SE King Rd and SE 54th Ave.
2. Approve the variance to allow Lots 2-5 to have a minimum lot size of approximately 6,400 sf.
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 Section 19.301 Low Density Residential Zones
- MMC 19.700, Public Facility Improvements
- MMC Section 19.911 Variances
- MMC Section 19.1006 Type III Review
- MMC 19.1200, Solar Access Protection
- MMC 17.12, Application Procedure and Approval Criteria - Land Division

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 to November 10, 2015.

The final decision on these applications, which includes any appeals to the City Council, must be made by December 24, 2015, 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 project was given to the following agencies and persons: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; and the Lewelling Neighborhood District Association Chairperson and Land Use Committee. Notice of the application was also sent to surrounding property owners within 300 ft of the site on October 7, 2015, and a sign was posted on the property on October 6, 2015. No comments were received. Staff will continue to collect comments and will provide any comments received with the Commission at the hearing.

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	E- Packet
1. Recommended Findings in Support of Approval and Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Applicant's Supporting Documentation received August 14, 2015				
a. Site Plan (dated 6/24/15)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Comments Received	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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.

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-136>.

**Recommended Findings of Approval
File #S-2015-001; VR-2015-003, Jones Park (5419 SE King Rd)**

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, Carey Sheldon, is proposing to subdivide one parcel to create 5 lots. The applicant is requesting relief from the minimum lot size to create new lots that range from 6,430 sf to 6,442 sf in order to keep the existing home at 5419 SE King Rd, which will have a lot size of 9,368 sf. This site is in the R-7 Zone. The land use application file numbers are S-2015-001 and VR-2015-003.
2. The proposal requires variances to the minimum lot size for a single family home in the R-7 zone of 7,000 sf.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
MMC 19.301, Low Density Residential Zones
MMC 19.700, Public Facility Improvements
MMC 19.911, Variances
MMC 19.1006, Type III Review
MMC 19.1200, Solar Access Protection
MMC 17.12, Application Procedure and Approval Criteria - Land Division
MMC 17.20, Preliminary Plat

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. Per MMC 19.1001.6, the two applications are being reviewed concurrently according to the highest numbered review type required. A public hearing was held on October 27, 2015, as required by law.

4. MMC 19.301 Low Density Residential Zones
 - a. MMC 19.301 establishes the development standards that are applicable to this site. The existing house is located 53.4 ft from SE King Rd. In order to maintain the existing home and meet minimum density requirements of 5 dwelling units per acre, a variance is requested from the minimum lot size for lots 2-5. Lots 2-5 are proposed to have a minimum lot size of approximately 6,400 sf rather than the 7,000 required. Lot 1 is proposed to have a lot size of 9,368 sf. This is approximately an 8% reduction in lot size. The proposed design with the requested variances does not result in any additional density than if the existing home were demolished and 5 7,000-sf lots were created.

The Planning Commission finds that, as conditioned, the proposal complies with the applicable standards of the R-7 zone.
5. MMC Chapter 19.911 Variances
 - a. MMC 19.911.3 establishes the review process for variance applications.

The applicant has requested a variance to the minimum lot size for Lots 2-5 to have a minimum lot size of approximately 6,400 sf rather than the required 7,000 sf. This request requires a Type III review.
 - b. MMC 19.911.4.B establishes criteria for approving Type III Variance applications.

An application for a Type III Variance shall be approved when all of the criteria in either 19.911.4.B.1 or 2 have been met. An applicant may choose which set of criteria

to meet based upon the nature of the variance request, the nature of the development proposal, and the existing site conditions.

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

- (1) *The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.*

The reduction of 600 sf per buildable lot is negligible in the context of the existing neighborhood and will not be apparent once developed. The alternative to the variance is to plat 5 lots with 7,000 sf which would result in the demolition of the existing home fronting on SE King Rd. The existing home was constructed in 1920, is in excellent condition and maintains the existing streetscape with its mature front yard landscaping. It also acts as a buffer to the new homes on SE 54th Ave by maintaining the existing character of the surrounding single-family homes.

The impacts and benefits of the proposal are the same as those that would occur with the baseline code requirements, and there are no negative impacts related to the variance proposal. The Planning Commission finds that this criterion is met.

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

- (a) *The proposed variance avoids or minimizes impacts to surrounding properties.*

The proposed variance allows the existing home and mature landscaping to remain, which reduces the impacts of the proposed subdivision. If the variance is not approved, the existing home would be demolished and existing landscaping would be removed and a new home would be constructed on the site.

The Planning Commission finds that this criterion is met.

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

“Public benefits” are typically understood to refer to benefits to be enjoyed by members of the general public as a result of a particular project, or preservation of a public resource. Aesthetic improvements of a specific and limited nature do not typically constitute a public benefit.

The Planning Commission finds that this criterion is not applicable.

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

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

The proposed variance would allow the existing home and landscaping to remain. This results in the same number of lots under a conventional subdivision, but creatively responds to the existing conditions and maintains the existing streetscape of SE King Rd.

The Planning Commission finds that this criterion is met.

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

As noted in Finding 6.b (1), the Commission finds there are no negative impacts and no mitigation is needed.

The Planning Commission finds that this criterion is met.

The Planning Commission finds that these criteria are met.

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

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

The applicant proposes to partition the existing parcel into 5 new lots. The partition triggers the requirements of MMC Chapter 19.700.

MMC 19.700 applies to the proposed development.

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

The proposed development will create approximately 40 additional trips per day (10 trips per 4 new dwelling units) and will therefore not trigger a significant increase in trip generation. The development does not require a transportation impact study.

MMC 19.704 does not apply to the proposed development.

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

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

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

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

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

The applicant shall construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to each new lot. The driveway approach apron shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property line.

MMC Section 19.708.1.E.3 requires that streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties. The applicant shall construct a two thirds street improvement along the north side of the site in the Mullan Street right-of-way to provide access for future development. The street improvement includes, from the

fronting property line, a 5-foot setback sidewalk, 5-foot planter strip, curb and gutter, and a 22-foot paved two-thirds street.

The existing right-of-way width of Mullan Street fronting the proposed development is 25 feet. The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of Mullan Street a local street. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a local street is between 20 feet and 68 feet depending on the required street improvements. The required right-of-way needed for the required street improvements is 50 feet. The applicant is responsible for 25 feet of right-of-way dedication along Mullan Street fronting the development property.

The applicant shall remove all signs, structures, or vegetation in excess of three feet in height from “vision clearance areas” at intersections of streets and driveways.

The proposed development, as conditioned, is consistent with MMC 19.708.1.

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

The applicant shall construct a half street improvement on the north side of SE King Road along the site’s frontage. SE King Road is an arterial street. The street improvement includes, from the fronting property line, construction of a 6-foot wide setback sidewalk, 6.5-foot wide planter strip, curb and gutter, and a 16-foot wide paved half-street. The 16-foot paved half-street is already installed along the development property; the applicant is only responsible for new curb and gutter which aligns a proper turning radius into SE 54th Avenue, the planter strip, and sidewalk.

The existing right-of-way width of SE King Road fronting the proposed development is 60 feet. The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of SE King Road an Arterial street. According to Table 19.708.2 Street Design Standards, the required right-of-way width for an arterial street is between 54 feet and 89 feet depending on the required street improvements. The required right-of-way needed for the required street improvements is 73 feet. The applicant is responsible for 6.5 feet of right-of-way dedication along SE King Road fronting the development property.

The applicant shall construct a half street improvement on the east side SE 54th Avenue along the site’s frontage. The street improvement includes, from the fronting property line, construction of a 5-foot wide setback sidewalk, 5-foot wide planter strip, curb and gutter, and a 14-foot wide paved half-street. 12 feet of the paved half-street is already installed along the development property; the applicant is only responsible for 2 feet of paved width, curb and gutter, the planter strip, and sidewalk.

The existing right-of-way width of SE 54th Avenue fronting the proposed development is 33 feet. The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of SE 54th Avenue a local street. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a local street is between 20 feet and 68 feet depending on the required street improvements. The required right-of-way needed for the required street improvements is 45 feet. The applicant is responsible for 12 feet of right-of-way dedication along SE 54th Avenue fronting the development property.

The proposed development, as conditioned, is consistent with MMC Section 19.708.2.

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

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

The proposed development, as conditioned, is consistent with MMC Section 19.708.3.

- g. MMC 19.708.4 establishes standards for bicycle facilities.

The portions of SE 54th Avenue and SE Mullan Street fronting the proposed development are not classified as a bike route in the Milwaukie Transportation System Plan. The portion of SE King Road fronting the proposed development is classified as a bike route in the Milwaukie Transportation System Plan, however, bike facilities are already in place. As a result, bicycle facility improvements are not required for the proposed development.

MMC 19.708.4 does not apply to the proposed development.

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

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

MMC 19.708.5 does not apply to the proposed development.

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

The portions of SE 54th Avenue and SE Mullan Street fronting the proposed development are not classified as a transit route in the Milwaukie Transportation System Plan. The portion of SE King Road fronting the proposed development is classified as a transit route in the Milwaukie Transportation System Plan, however, transit facilities are already in place. As a result, transit facility improvements are not required for the proposed development.

MMC 19.708.6 does not apply to the proposed development.

- j. MMC Section 19.709.2 establishes standards for public utility improvements

The proposed development will be utilizing preexisting public utilities present in the street frontage along SE 54th Ave. A new public water line and stormwater line is proposed in SE Mullan St.

The proposed development, as conditioned, is consistent with MMC Section 19.709.2.

- 8. MMC 19.1200 contains standards for solar access. These standards as described below.

- a. MMC 19.1203.2 states that the standards of Chapter 19.1200 apply to applications for a development to create lots in single-family zones, and are applicable to the proposed subdivision.
- b. MMC 19.1203.5.A states that the Director shall reduce the percentage of lots that must comply with Subsection 19.1203.3, to the minimum extent necessary, if he or she finds the applicant has shown it would cause an adverse impact on density, cost of amenities. Based on the existing street system and the size and orientation of the parent lot, only Lot 1 can meet the design requirements of this section. It is not possible for Lots 2-5 to meet these standards without reducing the total number of

lots below the minimum density required, which would render the project economically infeasible.

The proposal is determined to comply with this standard based on the adverse impacts of compliance.

9. MMC 17.12.040 contains approval criteria for a preliminary plat. These criteria are met as described below.
 - a. MMC 17.12.040.A.1 requires that the proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards. These findings demonstrate that the proposed subdivision and preliminary plat comply with the applicable ordinances, regulations, and design standards in the Milwaukie Municipal Code.
 - b. MMC 17.12.040.A.2 requires that the proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard. The buildable areas for the primary structures on the parcels are all adequate to accommodate the uses allowed in the R7 zone. The parcels do not have physical constraints that would necessitate the need for a variance in order to develop.
 - c. MMC 17.12.040.A.3 requires that the proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1). The proposed subdivision plat name of "Jones Park" is not duplicative in this jurisdiction and will satisfy the provisions of ORS 92.090(1).
 - d. MMC 17.12.040.A.4 requires that 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. This criterion is satisfied within the confines of what the City can obtain for street right-of-way per MMC Chapter 19.700 in that the streets and roads are preexisting and have preexisting partial width improvements already constructed.
 - e. MMC 17.12.040.A.5 requires a detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards. The applicant has submitted this information in the materials submitted for the land use application.
10. MMC 17.20 contains the information required for a preliminary plat application. The materials submitted by the applicant satisfy the requirements of this chapter.
11. MMC 17.28 contains design standards for land divisions and boundary changes. The proposed subdivision satisfies these as described below.
 - a. MMC 17.28.010 requires that partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City. As demonstrated by these findings, the subdivision conforms with all applicable city criteria and standards.
 - b. MMC 17.28.020 requires that all land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities. As described elsewhere in these findings, the proposed subdivision complies

with Chapter 19.700. Utilities and work within the right-of-way will be reviewed by the Milwaukie Engineering Department for conformance with Public Works Standards.

- c. MMC 17.28.040 contains standards for lot design.
 - (1) MMC 17.28.040.A requires that the lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19. A variance has been requested to allow Lots 2-5 to have a minimum lot size of approximately 6,400 sf rather than the minimum 7,000 sf. Even with the variance, the proposed parcels have adequate size and dimensions for development and uses allowed in the R7 zone, and conform to the standards of Title 19 as described in these findings.
 - (2) MMC 17.28.040.B requires that lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street. The proposed parcels are rectilinear in shape, with side lot lines at right angles and the rear lot lines parallel to the street.
 - (3) MMC 17.28.040.C limits compound lot lines for side or rear lot lines. There are no compound lot lines proposed for side or rear lot lines on any parcel.
 - (4) MMC 17.28.040.D allows lot shape standards to be varied pursuant to MMC 19.911. No variance is requested in this application for lot shape standards.
 - (5) MMC 17.28.040.E states that double frontage and reversed frontage lots should be avoided except in certain situations. None of the parcels in the proposed partition have frontage on more than 1 public right-of-way.
 - (6) MMC 17.28.040.F requires that pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access. This standard applies when a lot has frontage on more than 1 street. All parcels in the proposed partition have only 1 street frontage. As established in Finding 5.a, these frontages meet the minimum required street frontage in the R7 zone.
 - d. MMC 17.28.080 contains criteria for public open spaces. The Milwaukie Comprehensive Plan does not identify any planned park or open space for the site. As such, no dedication for public open space is required.
12. MMC 17.32 describes required public improvements. The applicant proposes that all public improvements will meet the standards of this chapter.
13. As described in Finding 4, public notice of these applications was posted on site and mailed to parties identified in the Milwaukie Municipal Code. The applications were referred for comment to the following: Milwaukie Engineering Department, Milwaukie Building Department, Clackamas Fire District #1, and the Linwood Neighborhood District Association. The responses received are summarized below. Agencies did not respond if a response is not listed below.
- Milwaukie Building Department – no comment
- Milwaukie Engineering Department – the Milwaukie Engineering Department responded with a memorandum regarding public improvements and stormwater. The memorandum has been incorporated as the findings for MMC Chapter 19.700 and in the “Conditions of Approval” and “Other Requirements” sections of this notice.

Clackamas Fire District #1 – responded with a memorandum summarizing standards for water supply. These requirements are incorporated into the findings and conditions of approval.

Conditions of Approval

1. The applicant shall submit a final plat application within 6 months of the preliminary plat approval in accordance with MMC Subsection 17.24.040. The applicant shall obtain approval of the final plat prior to the expiration of this preliminary plat approval.
2. The applicant's final plat application shall include the items listed on the City of Milwaukie Final Plat Checklist. The following specific items and changes are required as part of the application:
 - a. A written narrative describing all changes made to the final plat that are not related to these conditions of approval.
 - b. A final plat that substantially conforms to the plans received by the Planning Department on August 14, 2015 and approved by this action, except as modified by these conditions of approval.
 - c. The plat shall include spaces for signatures by the Milwaukie Planning Director and Milwaukie Engineering Director, and a note indicating that this partition is subject to the requirements of City of Milwaukie Land Use Applications S-2015-001 and VR-2015-003.
3. Prior to approval of the final plat, the following shall be resolved.
 - a. Submit a storm water management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. In the event the storm management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.
 - b. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department.
 - c. Obtain a right-of-way permit for construction of all required public improvements listed in these recommended conditions of approval.
 - d. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
 - e. Provide a payment and performance bond for 100 percent of the cost of the required public improvements.
 - f. Provide an erosion control plan and obtain an erosion control permit.
 - g. Dedicate 6.5 feet of right-of-way on SE King Road fronting the proposed development property.
 - h. Dedicate 12 feet of right-of-way on SE 54th Avenue fronting the proposed development property.
 - i. Dedicate 25 feet of right-of-way on SE Mullan Street fronting the proposed development property.
 - j. Install all underground utilities, including stubs for utility service prior to surfacing any streets. Relocate or provide a private utility easement for all utilities encroaching onto adjacent properties.

- k. Construct a 5-foot setback sidewalk, 5-foot planter strip, curb and gutter, and a 22-foot paved two-thirds street along the north side of the site in the Mullan Street right-of-way to the east property line. The two-thirds street improvements include extension of an existing 6-inch diameter ductile iron water main, and all storm water system improvements necessary to accommodate the street improvements.
 - l. Construct a 5-foot wide setback sidewalk, 5-foot wide planter strip, curb and gutter, and 2 feet of paved width along the east side of SE 54th Avenue fronting the proposed development. The half-street improvements include all storm water system improvements necessary to accommodate the street improvements.
 - m. Construct a 6-foot wide setback sidewalk, 6.5-foot wide planter strip, and curb and gutter which aligns a proper turning radius into SE 54th Avenue along the north side of SE King Road fronting the proposed development.
 - n. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to each new lot. The driveway approach aprons shall be between 9 feet and 20 feet in width and least 7.5 feet from the side property line.
 - o. Provide a final approved set of Mylar and electronic PDF -As Constructed” drawings to the City of Milwaukie prior to final inspection.
 - p. Remove all signs, structures, or vegetation in excess of three feet in height located in “vision clearance areas” at intersections of streets and driveways fronting the proposed development.
4. Prior to final inspection for any building on the proposed development, the following shall be resolved:
- a. Construct a private storm management system (e.g. drywell) on the proposed development property for runoff created by the proposed development. Connect all rain drains to the private storm management system.

Other requirements

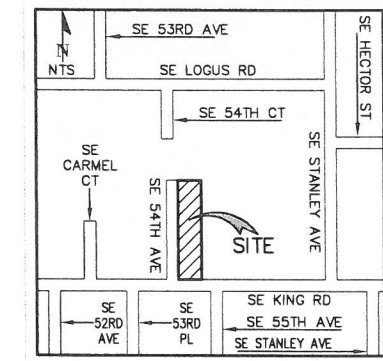
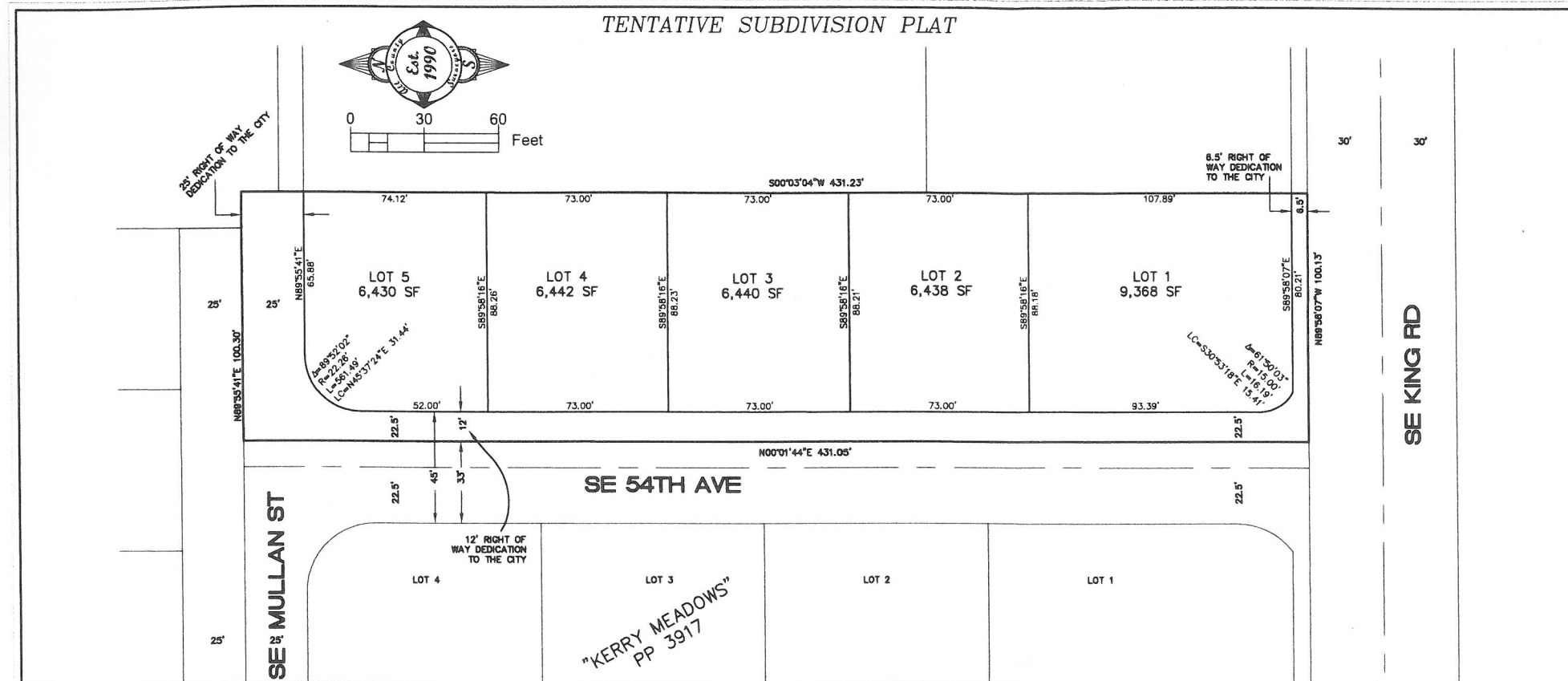
The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code and Public Works Standards that are required at various points in the development and permitting process. They are included for the applicant’s convenience and do not necessarily represent all standards or requirements that may be applicable.

- 1. The Time Limit on Approval established in MMC 17.04.050 applies to this proposed partition.
 - a. MMC 17.040.050.A: All decisions on boundary changes and land divisions shall expire 1 year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees. *Staff note - approval of a final plat must occur prior to the expiration of the preliminary plat approval on which the final plat is based.*
 - b. MMC 17.04.050.B: Approvals may be extended up to 6 months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed 6 months will be granted if the criteria in MMC 17.04.050.B are satisfied.

2. The requirements on MMC 17.24 for preparation and recording the final plat are as follows:
 - a. MMC 17.24.040: Within 6 months of City approval 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.
 - b. MMC 17.04.120.B: Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with the City Code and required approvals.
 - c. MMC 17.04.120.A: Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the County Surveyor within 6 months of City approval.

JONES PARK

A PROPOSED 5-LOT SUBDIVISION
FOR:
SHELDON DEVELOPMENT INC
LOCATED AT 5419 SE KING ROAD, IN THE SW 1/4 OF THE SE 1/4 OF
SECTION 30 TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN
CLACKAMAS COUNTY, OREGON
JUNE, 2015
SCALE 1" = 30'



VICINITY
NTS

LEGEND

—	PROPERTY BOUNDARY LINE	●	FD MONUMENT AS NOTED
---	NEIGHBORING PARCEL LINE	⊗	EX SANITARY SEWER MANHOLE
---	CENTERLINE OF ROADWAY	⊗	EX STORM SEWER MANHOLE
---	PROPOSED LOT LINE	⊗	EX STORM SEWER INLET
---	PROPOSED RIGHT OF WAY	⊗	EXISTING WATER METER
---	EX UG SANITARY SEWER LINE	⊗	EX WATER VALVE
---	EX UG STORM SEWER LINE	⊗	EX FIRE HYDRANT
---	EX UG WATER LINE	⊗	EX TRUNCATED DOMES
---	EX UG POWER LINE	⊗	EX UTILITY POLE
---	EX UG GAS LINE	⊗	EX GUY ANCHOR
---	EX FENCE LINE	⊗	EX CONIFEROUS TREE WITH SIZE AS NOTED
---	EX EDGE OF PAVEMENT	⊗	EX DECIDUOUS TREE WITH SIZE AS NOTED
---	EX EDGE OF GRAVEL		
---	EX CONTOUR 1' INTERVAL		
---	EX BUILDING		
---	EX CONCRETE		
---	EX ASPHALT		
---	EX GRAVEL		
---	PROPOSED ASPHALT		
---	PROPOSED SIDEWALK		
---	PROPOSED CURB		

ABBREVIATIONS

SS	SANITARY SEWER
SD	STORM SEWER
W	WATER
P	POWER
IE	INVERT ELEVATION
TRAN	TRANSFORMER
TRSP	TELECOM RISER
FD	FOUND
W/YPC	WITH YELLOW PLASTIC CAP
IR	IRON ROD
NO	NUMBER
MB	MAILBOX

NOTES

- 1) THIS IS NOT A BOUNDARY SURVEY. NO LIABILITY IS ASSUMED BY ALL COUNTY SURVEYORS AND PLANNERS FOR THE EXISTENCE OF ANY EASEMENTS, ENCUMBRANCES AND DISCREPANCIES IN BOUNDARY OR TITLE DEFECTS. THE BOUNDARY LINES, BEARINGS AND DISTANCES SHOWN HEREON ARE BASED SOLELY ON RECORD PLATS AND THE LOCATED MONUMENTATION SHOWN ON THIS SURVEY.
- 2) UNDERGROUND UTILITIES SHOWN ON THIS SURVEY ARE LIMITED TO THOSE ITEMS VISIBLE BY SURFACE INSPECTION AND LOCATES PAINTED ON THE GROUND AS OF THE DATE OF THIS SURVEY. SUBSURFACE STRUCTURES, IF ANY, ARE NOT SHOWN.
- 3) UNDERGROUND UTILITY LOCATIONS MUST BE POTHOLED AND VERIFIED PRIOR TO CONSTRUCTION.
- 4) THE ELEVATION DATUM IS BASED ON CITY OF MILWAUKIE BM NO. 41. "T" IN TENN OF FIRE HYDRANT NORTH SIDE OF KING ROAD AT HOUSE 5419 ELEVATION OF MARK IS 197.182'. A TBM ON A SANITARY SEWER MANHOLE IS SHOWN AS ELEVATION = 191.83'.
- 5) THE FIELD SURVEY WAS COMPLETED ON 5-12-15.

PLANNER/ENGINEER/SURVEYOR

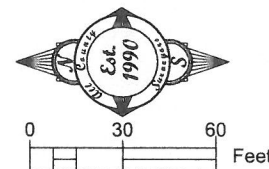
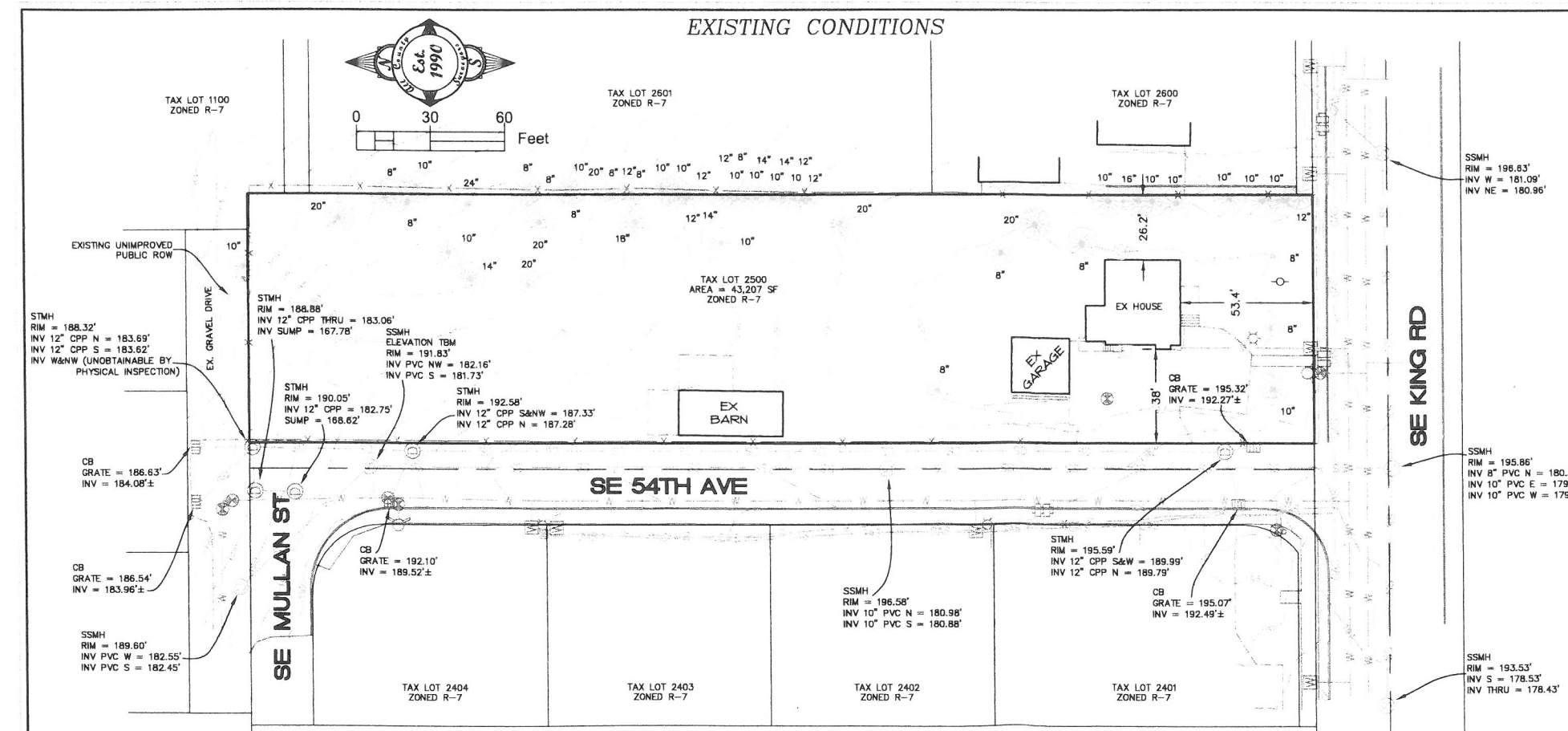
ALL COUNTY SURVEYORS & PLANNERS, INC.
CONTACT: RAY MOORE
ADDRESS: PO BOX 955
SANDY, OR 97055
PHONE: 503-688-3151
FAX: 503-688-4730
EMAIL: raym@allcountysurveyors.com

OWNER

SHELDON DEVELOPMENT INC.
ATTN: CAREY SHELDON
ADDRESS: 23785 SE HWY 212
DAMASCUS, OR 97089
PHONE: 503-805-8741

SHEET INDEX

- 1 TENTATIVE SUBDIVISION PLAT & EXISTING CONDITIONS
- 2 PROPOSED IMPROVEMENT PLAN



Clackamas County Fire District #1

Fire Prevention Office



E-mail Memorandum

To: Vera Kolias, Associate Planner, City of Milwaukie Planning Department

From: Matt Amos, Fire Inspector, Clackamas Fire District #1

Date: 10/20/2015

Re: 5419 SE King Rd. 5 lot subdivision S-2015-001; VR-2015-003

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:

COMMENTS:

1. The Fire District has no comments for this proposal.



To: Planning Commission
From: Dennis Egner, Planning Director
Date: October 6, 2015, for October 13, 2015, Work Session
Subject: File #ZA-2015-003 Short-Term Rentals
File Types: Zoning Ordinance Text Amendment
Applicant: Dennis Egner, Planning Director, City of Milwaukie
NDA: All with residentially zoned land

ACTION REQUESTED

No formal action requested. The Commission may choose to provide general direction for development of a draft code amendment in advance of a public hearing.

BACKGROUND INFORMATION

A. History of Prior Actions and Discussions

- **September 23, 2015:** Staff held a worksession with owners/operators of local short-term rental businesses and Neighborhood District Association (NDA) representatives. The meeting was attended by ten local owners/operators and two representatives from NDAs.
- **July 23, 2015:** The City Council held a study session to discuss the sharing economy and provide staff with direction regarding program development and regulation. The Council directed staff to move forward with a process to provide greater flexibility for short-term rentals.
- **February 17, 2015:** During the Community Development Update at the Council meeting on February 17, 2015, the Planning Director noted that staff was developing an interim approach to allow short-term rentals in single family zones provided that a room was only rented once per month. This approach was in response to concerns about code enforcement on a number of short-term rental operations following a complaint about an Airbnb rental in a single family neighborhood. (See Attachment 1 for the final February 23, 2015 version of the interim approach).
- **February 7, 2015:** The City Council held a goal setting forum at City Hall on February 7, 2015. Among the 228 comments received at the forum were several that addressed the sharing economy and opportunities for short-term rentals. Council members

expressed interest in the subject but did not prioritize it during further discussion of goals.

B. What are short-term rentals?

Short-Term Rentals are housing units and rooms that are rented out for periods less than 30 days in length. There are three types of short-term rentals:

- Hosted – where the primary occupants are present during the rental;
- Unhosted – where the primary occupants vacate the unit during the rental period; and
- Vacation rental – where there are no primary occupants.

Hosted and unhosted rentals are generally considered to be an accessory use to a primary residence. A vacation rental is a primary use and is more commercial in nature.

Short-term rental operators typically rely on services such as Airbnb and Vacation Rentals by Owner (VRBO) to rent rooms and houses.

Short-Term Rental operators may or may not offer services similar to a typical Bed and Breakfast. Most Bed and Breakfast operators live in the house with the rental rooms and offer breakfast with a night's lodging.

C. Zoning Ordinance – Relevant Definitions and Provisions

The Milwaukie Zoning Ordinance includes definitions for a number of relevant words and terms. Selected words and terms are listed below and the definitions are included as Attachment 2.

- Boarding, lodging, and rooming house;
- Home occupation;
- Hotel;
- Motel or tourist court;
- Accessory dwelling unit; and
- Dwelling unit.
- The Zoning Ordinance also includes a provision to allow a guest house (a unit without a kitchen) to occupy a lot as an accessory use provided is not occupied for more than four months within a calendar year (see Attachment 2).

D. Permitted Uses and Zoning

Under today's regulations, the zoning ordinance does not allow any form of short-term rental housing in the City's low density residential zones (R-5, R-7, and R-10). Neither Bed and Breakfasts nor Boarding, Lodging, and Rooming houses are permitted in the zones. Bed and Breakfasts and Boarding, Lodging, and Rooming Houses are both allowed through the conditional use process in the Medium and High Density Zones. In addition, approval through the conditional use process is required to allow a hotel or motel in the R-2, R-1, and R-1-B zones. The City's proposed and adopted mixed use zones (DMU, GMU, and NMU) would allow Bed and Breakfasts and Hotel/Motel uses as permitted uses (The DMU has been adopted and goes into effect on October 31, 2015; the GMU is in the process of being adopted by the City Council; hearings on NMU are just beginning at the Planning Commission). These zones would also allow Boarding, Lodging and Rooming Houses through the conditional process. Under current provisions in the GC zone, Bed and Breakfasts and Hotel/Motel uses are allowed by conditional use and Boarding, Lodging, and Rooming Houses are not allowed. None of the uses are currently allowed in the CL zone. See Attachment 3 for a comparative table.

E. Permit/Development Review - Decision Types

The City follows four types of review procedures to review and issue various permits. Each are described briefly below. Additional review procedures (not included) are used for decisions regarding zone changes, plan amendments, and code text amendments.

Permit/Development Review - Decision Types						
Review Type	Typical Use	Decision Maker/ Criteria	Public Hearing	Notice	Planning Fee	Appeal Body
Ministerial Review	Res. Building Permit Plan Check; Home Occupations ¹	Planning Staff – Verifies that standards are met	None	None	\$0–200 fees by other depts. ²	None
Type I – Ministerial Review	Commercial development review	Planning Director – Makes findings that standards are met	None	Notice of decision goes to the NDA and applicant	\$200 ⁴	Planning Commission
Type II – Administrative Review	Minor variances; Land divisions ³	Planning Director – Makes findings that criteria are met	Only if appealed	Yes – to NDAs and neighbors	\$1000 ^{3,4} plus \$200 for pre-ap	Planning Commission
Type III – Quasi-judicial Review	Conditional Use; Major variances	Planning Commission - Makes findings that criteria are met	Yes	Yes – to NDAs and neighbors	\$2000 ⁴ plus \$200 for pre-ap	City Council

¹ Home occupation review is not a permit but is conducted as a business registration completed by the finance department. Planning's role is limited to verifying that the use allowed in the zone.

² There is a \$25 to \$200 plan check fee (minor/major) for planning services – collected by the Building Dept. There is no planning related fee for a home occupation business registration.

³ Fees for land divisions are based on the number of lots. Minor land partitions are \$2000.

⁴ Depending on the application, there may also be fees related transportation impacts and systems development charges. These can be significant (\$3500+).

F. Standards and Criteria

Select standards and criteria that may be relevant for a discussion about short-term rentals include the following:

MMC 19.604 GENERAL PARKING STANDARDS**Minimum Parking Requirement**

- Single Family Dwelling – 1 off-street space per dwelling unit
- Accessory Dwelling Unit – 2 off-street spaces (one per dwelling)
- Motel, hotel, boarding house – 1 off-street space per unit
- Bed and Breakfast – 1 space per lodging unit and one for the permanent residence

MMC 19.507.1 HOME OCCUPATION STANDARDS

Home occupation uses are allowed by right; however, they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

- A. Be incidental and accessory to the residential use of the property.
- B. Maintain the residential character of the building and premises.
- C. Not have the outward appearance of a business.
- D. Not detract from the residential character of the neighborhood.
- E. Be owned and operated by an occupant of the dwelling.

MMC 19.905.4 CONDITIONAL USE APPROVAL CRITERIA

- A. Establishment of a new conditional use, or major modification of an existing conditional use, shall be approved if the following criteria are met:
 1. The characteristics of the lot are suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features.
 2. The operating and physical characteristics of the proposed use will be reasonably compatible with, and have minimal impact on, nearby uses.
 3. All identified impacts will be mitigated to the extent practicable.
 4. The proposed use will not have unmitigated nuisance impacts, such as from noise, odor, and/or vibrations, greater than usually generated by uses allowed outright at the proposed location.
 5. The proposed use will comply with all applicable development standards and requirements of the base zone, any overlay zones or special areas, and the standards in Section 19.905.
 6. The proposed use is consistent with applicable Comprehensive Plan policies related to the proposed use.
 7. Adequate public transportation facilities and public utilities will be available to serve the proposed use prior to occupancy pursuant to Chapter 19.700.

KEY ISSUES - DISCUSSION

There are a wide variety of options and issues related to regulation of short-term rental housing. Various options are described below.

Land Use/Approach

The City Council directed staff to develop a more flexible approach for short-term rental housing in Milwaukie. Staff is working under the assumption that it should be possible for property owners and occupants in single family districts to operate short-term rentals. The key issue is how we permit more flexibility while limiting impacts on neighbors.

One option is for the City to allow short-term rental of rooms as an accessory use to a residential dwelling with some limitations. This would mean that people could rent out rooms in

their houses as a by-right use. If someone wanted to exceed the limitations (rent out more rooms, hold events) they would need to get approval through a conditional use process. These options are listed below:

- Accessory Use – Short-term rentals could be permitted by-right as an accessory use subject to specific limitations (e.g. a limitation on the number of rooms rented or the days rented per year).
- Conditional Use – Short-term rentals that exceed the specified limitations could be required to go through a conditional use process. An alternative would be for all short-term rentals to be approved through the conditional use process. This is how Bed and Breakfast businesses are currently permitted in the City's medium and high density zones.

Use Limitations

- Hosted and Unhosted Rentals – Are there special limitations needed for unhosted rentals? Some communities require the owner or operator to occupy the property for a set number of nights per year (Portland requires the operator to be there 270 nights per year). Note: This is a difficult standard to enforce.
- Number of Rooms Available for Rent – Some communities limit the number of rooms that can be rented (Portland has a two-room limit for their by-right approval process). Unhosted rentals would need an exemption or a different type of limitation – maybe related to the number of cars.
- Number of Nights Per Year or Per Month – A limitation on the number of nights the units could be rented may be a way to limit neighborhood impacts. At a meeting on September 23, Milwaukie operators expressed opposition to this approach stating that it would potentially limit the positive economic impact guests have on the local economy – especially local restaurants.
- Event Limitations – Conflicts sometimes arise when short-term rental facilities like bed and breakfasts hold events such as weddings, reunions, or retreats. These can often result in more vehicle trips and more intense short-term activity on the site. It may be appropriate to place limits on the scale of any event held at a short term rental facility. Operators that wish to exceed the limit may be required to go through a conditional use procedure to manage neighborhood impacts.

Approval Process

There are a number of options to consider for how short-term rentals could be reviewed and approved – these range from an over the counter business registration for a home occupation to a full-blown conditional use application. Options are listed below.

- Home Occupation – Operators of short-term rental businesses would be required to register as a home occupation with the Finance Department. No notice is required for Home Occupations. Planning does a simple review to make sure code requirements are met – specifically that the proposed use is allowed as a home occupation.
- Type I - Ministerial Review – Type 1 is similar to the process for the Home Occupation but planning conducts a more formal review and makes findings that the use complies

with the code. Notice of a Type I decision is provided only to the applicant and the property owner.

- Type II – Administrative Review – Notice of a pending review is sent out to surrounding properties and the NDA. The Planning Director reviews the comments and makes a decision based on code criteria. Notice of the decision is sent to participants. A public hearing is held only if the decision is appealed.
- Conditional Use – Type III – The Planning Commission holds a public hearing on the request. Notice is sent to neighbors and NDAs. The conditional use process is intended to provide a review procedure where impacts to neighbors can be mitigated through conditions. Portland requires a conditional use review for short-term rentals where more than two rooms are being rented.

Fees/ Room Taxes

Fees and room taxes are something the City will want to consider. Today, the City of Milwaukie does not have a transient lodging tax, nor does it have any hotel/motel units or legal bed and breakfast units. There are some short-term rental businesses that operate in the City and go untaxed by the City. Some options for fees and taxes include:

- Land use application fees – Current planning fees range from \$200 for a Type I review to \$2000 for a Type III review. The Type II application fee is \$1000. Typically under a Type II or Type III process an applicant will also be required to participate in a preapplication conference. The fee for a preapplication conference is \$200.
- Annual Business Registration Fee – The City requires that businesses register with the City and pay a \$110 annual registration fee. The process is administered by the Finance Department.
- Transient Lodging Room Tax – The City does not currently have a transient room tax. It is expected that the City Council will enact such a tax if short-term rentals are allowed. Clackamas County has a transient room tax of 6% but the County exempts rooms rented in private homes where the room rental is incidental to the primary residential use of the structure. In Portland, there is a 6% City room tax and a 5.5% County room tax on short-term rentals. Portland and Multnomah County have an arrangement with Airbnb to collect the tax and remit the tax revenue on a monthly basis.

Inspections/Monitoring

- Monitoring – Some jurisdictions, including Portland, require that the operator of the short-term rental keep a log book of visitors and that these records be made available to the local government for inspection.
- Building inspections – Some jurisdictions, including Portland, require inspections of short-term rentals prior to licensing or permitting the use. The inspections are intended to verify that the sleeping room meets building code requirements including egress requirements. Given that the short-term rentals are considered an accessory use, Portland only requires that the sleeping room meet the requirements that were in place

at the time the sleeping room was created. Upgrades to current standards are not required. Portland requires inspections every six years.

- Smoke detectors – Inspections are also required in some jurisdictions to verify that smoke and carbon monoxide detectors are installed and operating.

Site Improvements/Charges

- Site Improvements - In Milwaukie, a change in use from residential to commercial use generally requires that public facilities be upgraded. Depending on the situation, this may include installation of curbs, sidewalks, parking, storm drainage and landscaping. Site improvements would not be required for small-scale short-term rentals because these would not be considered a change of use.
- Off-Street Parking – Some jurisdictions require off-street parking for short term rentals. It is typical to find one space required for the operator and one for each rental room – this is Milwaukie's requirement for Bed and Breakfasts. In Milwaukie, parking standards may create a significant limitation because required off-street parking cannot occur in the front yard, including a driveway in front of the house. .
- Screening – Screening is typically not required for small scale rentals. The assumption is that they will fit in and add character to the neighborhood.
- Systems Development Charges – Systems development charges are assessed for new development and changes in use where system impacts are increased. The transportation systems development charge is \$1,920 per vehicle trip calculated for the PM peak hour of travel. If Milwaukie takes the approach that small-scale short-term rental housing is an accessory use to a residence, the systems charges would not be imposed because no actual change in use is occurring – residential before and residential after.

KEY ISSUES

Staff has identified the following key issues for the Planning Commission's discussion.

- Should short-term rentals be allowed as an accessory use to a residential use when no more than two rooms are being rented?
- Should short-term rentals be required to obtain a conditional use permit when more than two rooms are being rented?
- Should we allow short-term rentals (up to two rooms) through the simple home occupation process or require a Type I review?
- Should hosted and unhosted rentals be allowed? Under what conditions?
- Should we place limits on the scale of events held at Short Term Rental facilities?
- Does the Commission have any suggestions regarding fees and taxes?
- Should we follow the Portland model where sleeping rooms only need to meet the standards in place at the time they were built?

- Is it appropriate to not consider it a "change in use" when a home is converted to a short-term rental? Does it make a difference as to the number of rooms rented?
- Are there site improvements that should be required for short-term rentals? Screening? Parking? Given the approach that the units are accessory to the primary residential use, should we assume that parking spaces in the front yard can be counted to meet the off-street parking requirements?

RECOMMENDATION

There is no formal staff recommendation. Staff is seeking direction from the Commission regarding development of a proposal to take to a public hearing in December.

ATTACHMENTS

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

	PC Packet	Public Copies	E-Packet
1. Interim Approach for Short-Term Rentals - February 23, 2015	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Definitions and Accessory Uses (MMC Excerpts)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Base Zones Comparisons (MMC Excerpts)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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.

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-135>.

Short-Term Rental Housing in Milwaukie

February 23, 2015

Issue

Over the past few months, the City has received a few complaints about property owners renting out their houses or accessory buildings through airbnb.com or other similar websites such as VRBO.com. In response to these complaints, the City sent notices to all property owners who had listings on airbnb and VRBO. In most of the cases, short-term rentals have been operating in residential neighborhoods in zones where the uses are either not permitted or are only permitted through a conditional use process before the Planning Commission. During the same recent time frame, three new City Council members have taken office and there is strong interest in providing more flexibility to accommodate short-term rental housing and other new "sharing economy" businesses. This memo proposes an interim, partial solution to the current conflict and suggests a process for resolving the issue later in 2015.

Permitted Locations

Title 19 Zoning of the Milwaukie Municipal Code sets forth requirements for permitted uses in the City and provides limited opportunities for short-term rental housing. The code lists the following uses that are considered to be different types of short-term rental housing:

- Boarding, lodging, and rooming house;
- Hotel or motel; and
- Bed and breakfast.

In low density residential zones (R-5, R-7, and R-10), hotel/motel and bed and breakfast uses are not permitted. Boarding, lodging, and rooming houses are permitted through a Type III conditional use review process.

In medium and high residential zones (R-3, R-2.5, R-2, R-1, and R-1-B), bed and breakfast uses and boarding, lodging and rooming house uses are permitted through the conditional use process. Hotel/motel uses are allowed by conditional use in the R-2, R-1, and R-1-B zones. Hotel/motel uses are not allowed in the R-3 and R-2.5 zones.

The more intense commercial zones generally allow some form of short-term rental housing, while the zones with a more neighborhood or retail focus do not. Hotel/motel uses are allowed outright in the R-O-C, Downtown Commercial, and Downtown Office zones (as proposed, they will be allowed throughout downtown in the new Downtown Mixed Use Zone). Hotel/motel uses are allowed by conditional use in the C-L, C-G, M, and M-TSA zones. They are not allowed in the C-N, C-CS, and the BI zones. Bed and breakfast uses are not allowed in commercial or industrial zones. It is possible that a bed and breakfast could be allowed in a zone where a hotel/motel is allowed if the facility is determined to be "similar" to a hotel/motel. The R-O-C zone is the only commercial/industrial zone to allow boarding, lodging, and rooming house uses and they are only permitted as conditional uses.

Interim Approach

Rather than completely shut down the current group of property owners who have been renting out their homes for short-term rental housing, staff has developed an interim approach that will allow limited rental of rooms and units. As outlined above, short-term rentals are generally not permitted in low density residential areas but that is where many of the existing properties that have recently been listed on airbnb are located. The interim solution is to allow rentals to occur as "long-term rental

housing". Long-term rentals are considered those that occur over a 30-day period or longer. In Milwaukie and in most other jurisdictions, local governments do not regulate long-term rentals where a property owner or lessee rents out a room on a month-to-month basis. The interim approach allows "short-term" rentals provided that they function in a manner that is similar to a month-to-month long-term rental, i.e., no room or unit may be rented more than once in a 30-day period.

This approach is intended to allow property owners to continue to rent out rooms or units on an interim basis until a more permanent solution can be developed.

Long Term Approach

The zoning code currently places strong limits on bed and breakfasts and other short-term rental housing facilities in Milwaukie. It is assumed that these restrictions were put in place based on a concern about impacts on single family neighborhoods. To develop a permanent approach, it is proposed that we engage neighborhood leaders and the operators of short-term rental housing facilities in a community conversation to identify the right regulatory approach and standards for these uses. The following timeline is proposed:

- June to August – Conduct three meetings with stakeholders to develop a proposal
- September to November – Conduct a worksession and hearing at the Planning Commission
- December – Adopt ordinance amendments at the Council.

Other Issues to Consider

There are a number of key issues that will need to be considered during the development of new code standards for short-term rental housing. These include:

- Process and financial considerations – Will the City require a business license for operators? Will there be a room tax? Will the City require inspections of the facilities?
- Size and definitions – How many rooms can be rented? If rooms have separate kitchens and entrances, should they be required to meet the same requirements Accessory Dwelling Units? How are short-term rentals similar to Milwaukie's a guest house regulations which limit occupancy to 4-months/year with no remuneration?
- Impacts and improvements – How are neighborhood impacts to be measured? What are the traffic and parking impacts? Are the operators required to pay SDCs for creation of new rooms or units? Should street improvements required
- Building code issues – Sometimes units have been created in violation of building codes. How does the City ensure that fire and life safety requirements are being met for rental units?

Excerpt from Milwaukie Municipal Code Sections 19.200 Definitions and Accessory Uses and 19.503 Accessory Uses

MMC 19.201 DEFINITIONS

“Boarding, lodging, or rooming house” means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided. Lodging capacity is subject to provisions of the Uniform Building Code.

“Home occupation” means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

“Hotel” means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

“Motel or tourist court” means 1 or more buildings designed or used as temporary living quarters for transients.

Residential Uses and Structures:

“Accessory dwelling unit” means a second dwelling on a lot with a single-family detached dwelling. The accessory dwelling unit is incidental to, and smaller than, the primary dwelling on the lot. The accessory dwelling unit may be in a portion of the primary structure on the lot or contained in its own structure apart from the primary structure. The accessory dwelling unit includes its own independent living facilities—including provision for sleeping, cooking, and sanitation—and is designed for residential occupancy by 1 or more people, independent of the primary dwelling unit.

“Dwelling unit” means a building, or portion of a building, that includes its own independent living facilities—including provision for sleeping, cooking, and sanitation—and is designed for residential occupancy by 1 or more people. Buildings with more than 1 set of cooking facilities are considered to contain multiple dwelling units, unless the additional cooking facility is clearly accessory and the property owner has recorded a covenant with the Clackamas County Records Division, stipulating that the additional cooking facility will not be used as part of a separate dwelling unit unless permitted under this title.

MMC 19.503 ACCESSORY USES

19.503.1 General Provisions - Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling, provided that the guesthouse is not occupied for more than 4 months in a calendar year. A detached accessory dwelling unit approved per Subsection 19.910.1 is not considered a guesthouse.

Table 19.301.2
Low Density Residential Uses Allowed

Use	R-10	R-7	R-5	Standards/Additional Provisions
Residential Uses				
Single-family detached dwelling	P	P	P	Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	Subsection 19.910.1 Accessory Dwelling Units
Accessory and Other Uses				
Home occupation	P	P	P	Section 19.507 Home Occupation Standards
Boarding, lodging, and rooming house	N	N	N	
Hotel or Motel	N	N	N	
Bed and Breakfast	N	N	N	

Table 19.302.2
Medium and High Density Residential Uses Allowed

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/Additional Provisions
Residential Uses CONTINUED						
Single-family dwelling unit	P	P	P	P	P	MMC 19.505.1
Accessory Dwelling Unit	P/II	P/II	P/II	P/II	P/II	MMC 19.901
Boarding, lodging, and rooming house	CU	CU	CU	CU	CU	
Commercial Uses						
Hotel or motel	N	N	CU	CU	CU	
Bed and breakfast	CU	CU	CU	CU	CU	
Accessory and Other Uses						
Home occupation	P	P	P	P	P	Section 19.507 Home Occupation Standards

Mixed Use and Commercial Zones – MMC 19.303 to 19.307

Use	DMU	GMU	NMU	GC	CL	Standards/Additional Provisions
Single-family dwelling unit	N	N	CU	N	CU	MMC 19.505.1
Accessory Dwelling Unit	N	N	CU	N	N	MMC 19.901
Boarding, lodging, and rooming house	CU	CU	CU	N	N	
Hotel or Motel	P	P	P	CU	N	
Bed and Breakfast	P	P	P	CU	N	
Home Occupation	P	N	P	N	N	MMC 19.507

P = Permitted.

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

II = Type II review required.

III = Type III review required.

Note: The DMU zone replaces the downtown commercial, downtown residential, downtown storefront, and downtown office zones. It goes into effect on October 31. The GMU zone is in the final stage of the public hearing process at the City Council and is expected to be adopted in October. The public hearings on the NMU zone open before the Planning Commission on October 13. The GMU zone will apply to the GC and ROC zones in the Central Milwaukie area. The NMU zone is intended to apply to the CL area on 32nd Ave and the GC area at 42nd and Harrison/King.