



CITY OF MILWAUKIE

May 16, 2019

Land Use File(s): CU-2019-001

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on May 14, 2019.

Applicant:	Lauren Eisenberg (Radiant Yoga)
Location:	4000 SE International Way, Suite F202
Tax Lot:	1S1E36DA00100
Application Type:	Conditional Use
Decision:	Approved
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC Section 19.310 Business Industrial Zone (B-I)• MMC Section 19.905 Conditional Uses• MMC Section 19.1006 Type III Review
Neighborhood(s):	(none)

Appeal period closes: 5:00 p.m., May 31, 2019

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 by appointment 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 Brett Kelver, Associate Planner, at 503-786-7657 or kelverb@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on May 31, 2019, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) 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.

¹ As per MMC Section 19.1010, if the 15th day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

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

The Findings for this application are included as Exhibit 1.

Conditions of Approval

None

Other requirements

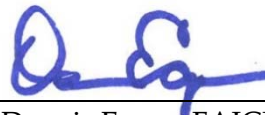
The following items are not conditions of approval necessary to meet applicable land use review criteria but relate to other development standards and permitting requirements.

1. Conditional Use Permit

As per MMC Subsection 19.905.6, the City will issue a conditional use permit upon the approval of this application to establish a conditional use. The conditional use permit will include the following information:

- a. A description of the use that has been approved by the City.
- b. Restrictions and/or conditions of approval placed upon the use.
- c. Ongoing responsibilities required for the operation of the conditional use.
- d. Allowance for the transfer of rights and responsibilities upon change in ownership of either the use or the property containing the use.
- e. Procedures for review, revisions, and suspension of the conditional use permit.

The applicant must record the conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City.



Dennis Egner, FAICP
Planning Director

Exhibits

1. Findings in Support of Approval

- cc: Lauren Eisenberg, Applicant (4000 SE International Way, Suite F202, Milwaukie, OR 97222)
Michael Eisenberg, Applicant's representative (via email)
Planning Commission (via email)
Alma Flores, Community Development Director (via email)
Kelly Brooks, Acting City Engineer (via email)

Engineering Development Review (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Mike Boumann and Izak Hamilton, CFD#1 (via email)
Interested Persons
Land Use File(s): CU-2019-001
Address File: 4000 SE International Way

EXHIBIT 1
Findings in Support of Approval
File #CU-2019-001
Conditional Use for Radiant Yoga

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

1. The applicant, Lauren Eisenberg, has applied for conditional use approval to allow a yoga studio (Radiant Yoga) as indoor recreation in the Business Industrial (B-I) zone. The project area is a suite (F202) within the building addressed as 4000 SE International Way, which is on Tax Lot 1S1E36DA00100 and zoned B-I. The land use application file number is CU-2019-001.

2. As summarized by the applicant, the primary business of Radiant Yoga is to develop and implement therapeutic programs to teach yoga. The Radiant Yoga operation includes the following elements:

- Private yoga therapy (1-2 individuals at a time)
- Off-site retreats
- Weekend workshops
- Specific trainings on yoga anatomy, philosophy, and methodology
- Online yoga programs
- Blogging
- Video tutorials
- Teaching yoga at other businesses
- General office work
- Yoga classes

The applicant is seeking land use approval to officially allow the yoga classes as part of the overall operation of Radiant Yoga. Yoga classes are considered a form of indoor recreation, which is allowed in the underlying B-I zone as a conditional use.

The applicant estimates that the classes and trainings are less than 20% of the daily operation. The other aspects of the business can be understood as activities that would be allowed outright in the B-I zone as part of a business or professional office.

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

- MMC Section 19.310 Business Industrial Zone (B-I)
- MMC Section 19.905 Conditional Uses
- MMC Section 19.1006 Type III Review

The applicant's submittal is an application for Conditional Use. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. The requirement for a preapplication conference was waived by the Planning Director, as allowed by MMC Subsection 19.1002.2.

Public notice was sent to property owners and current residents within 300 ft of the subject property on April 29, 2019. A public hearing was held on May 14, 2019, as required by law.

4. MMC Section 19.310 Business Industrial Zone (B-I)

MMC 19.310 establishes the allowable uses and development standards for the B-I zone.

a. MMC Subsection 19.310.2 Uses Permitted Outright

MMC 19.310.2 establishes the uses allowed outright in the B-I zone, including research or testing laboratories; manufacturing, processing, fabrication, or assembly; printing or publishing operations; trade schools primarily serving the local business community; business and professional offices; warehousing and distribution; contractors and related businesses; and other similar uses.

As presented in the applicant's submittal materials, Radiant Yoga operates a professional office at the subject property. Most of the activities describing the operation, such as private therapy sessions, weekend workshops, specific trainings, online programming and blogging, production of video tutorials, and general office work can be understood as normal activities for a business or professional office.

The Planning Commission finds that much of the Radiant Yoga operation is an outright permitted use in the underlying B-I zone.

b. MMC Subsection 19.310.5 Conditional Uses

MMC 19.310.5 establishes uses that are allowed with conditional use approval pursuant to MMC Section 19.905, including public and private community buildings, indoor and outdoor recreation facilities (such as health and exercise spas), and other similar uses developed to serve primarily the recreational needs of clients and employees of the district; mini-warehousing and mini-storage; limited uses that exceed 25% of the building's square footage as allowed by MMC Subsection 19.310.4; and marijuana producers and processors. This section also establishes approval criteria for conditional uses in the B-I zone, which are addressed with the conditional use findings in Finding 5.

As described in the applicant's submittal materials and on the Radiant Yoga website (www.radianttyogashala.com), a regular schedule of yoga classes is available to the public with pre-registration. While not necessarily "recreational" in nature for all participants (e.g., the classes may be part of a meditational practice, therapy, or instruction and training for some participants), these classes constitute a form of indoor recreation.

The Planning Commission finds that the yoga classes proposed as part of the Radiant Yoga operation are subject to conditional use review for approval in the B-I zone.

As proposed, and as addressed elsewhere in these findings, the Planning Commission finds that the applicable standards of MMC 19.310 are met.

5. MMC Section 19.905 Conditional Uses

MMC 19.905 establishes a process for evaluating certain uses that may be appropriately located in some zoning districts, if appropriate for the specific site on which they are proposed. MMC Subsection 19.905.2.A provides that the provisions of Section 19.905 apply to uses identified as a conditional use in the base zone in Chapter 19.300, such as those identified for the B-I zone in MMC Subsection 19.310.5. MMC Subsection 19.905.3.A provides that the establishment of a new conditional use shall be evaluated through a Type III review per Section 19.1006.

The proposal to include yoga classes in the operation of Radiant Yoga at the subject property constitutes a request to provide an indoor recreational use in the B-I zone, which is identified as a conditional use in MMC 19.310.5 and subject to Type III review.

a. MMC Subsection 19.905.4 Approval Criteria

MMC Subsection 19.905.4.A establishes the following approval criteria for establishment of a new conditional use:

- (1) The characteristics of the lot are suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features.

The subject property is part of a larger 6.1-acre site developed with 6 multi-tenant office buildings and a large, shared, off-street parking area. Within the applicant's building (Building F) there are 8 tenant suites, including the applicant's second-floor project area (Suite F202), which is approximately 1,150 sq ft in area. The project area provides ample space for the Radiant Yoga operation, including the proposed yoga classes, and there is plenty of off-street parking available in the shared lot near the building.

- (2) The operating and physical characteristics of the proposed use will be reasonably compatible with, and have minimal impact on, nearby uses.

The subject property is located within the B-I zone along International Way and is surrounded by other similar business-industrial-type uses (e.g., light manufacturing, business and professional offices, etc.). As presented in the applicant's submittal materials, Radiant Yoga operates primarily during typical day-shift hours during the week, though with some activities offered in the evenings and on weekends. That schedule fits with that of other businesses in the area, while also providing opportunities for people who work during the day to access the services offered. Class sizes are relatively small (average of 5 people plus instructor) and would generate few conflicts over traffic or parking.

- (3) All identified impacts will be mitigated to the extent practicable.

No significant impacts are anticipated from the allowance of the proposed indoor recreation component (i.e., yoga classes) to the Radiant Yoga operation.

- (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.

The proposal to allow yoga classes as part of the Radiant Yoga operation would not result in any nuisance impacts.

- (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.

The proposed conditional use would not physically change the subject property and would operate within the constraints of the existing development.

The quantity requirements for off-street parking established in MMC Table 19.605.1 include a requirement of 2 spaces per 1,000 sq ft general office uses and 3 spaces per 1,000 sq ft for indoor recreation. The project area is just over 1,100 sq ft in area, requiring 2-3 spaces. According to the applicant's materials, 28 parking spaces are located within 100 ft of the building and 57 total spaces are available within 250 ft. On the larger 6.1-acre office park site, 6 buildings with 60-65 tenant spaces share approximately 300 parking spaces. There is enough parking on the subject property to support the proposed conditional use.

MMC Subsection 19.310.5.A establishes the following approval criteria for conditional uses in the B-I zone:

- (a) Will have minimal adverse impact on the appropriate development of uses permitted outright on abutting properties and the surrounding area considering location, size, design, and operating characteristics of the use.

The proposal to allow yoga classes as part of the Radiant Yoga operation would not adversely impact the future development of other permitted uses elsewhere on the subject property or abutting properties. The classes would occur easily within the applicant's allotted floor area and there is adequate parking for permitted uses in the surrounding parking lot.

- (b) Is compatible with the character and scale of uses allowed within the district and on a site no larger than necessary for the use and operational requirements of the use.

The proposed yoga classes would occur within the parameters of the overall Radiant Yoga operation in Suite F202, intermixed with the trainings, workshops, and other office activities associated with the business. The scale of operation is similar to and compatible with that of other uses allowed in the B-I zone.

- (c) Will provide vehicular and pedestrian access, circulation, parking, and loading areas which are compatible with uses on the same site or adjacent sites.

Participants in the proposed yoga classes would use the existing, shared off-street parking lot provided for the larger office park. Participants would access the project area in the same way that other Radiant Yoga clients do, using the existing parking spaces and pedestrian walkways that serve the larger development. The proposed conditional use would not present any new or different impacts to the site.

- (d) Is a needed service/product in the district, considering the mix of potential clientele and the need to maintain high-quality development in a highly visible area.

The proposed yoga classes would be a welcome addition to the health and wellness services available in the B-I zone. The sample class schedule indicates that many classes would be offered during the 12noon to 1pm lunch hour as well as after 5pm, making them available to employees of other businesses within the district. The applicant's materials also indicate a commitment to doing outreach to other businesses in the community to make yoga classes available as an amenity at other workplaces.

- (6) The proposed use is consistent with applicable Comprehensive Plan policies related to the proposed use.

Chapter 4 (Land Use): Economic Base & Industrial/Commercial Land Use Element, Objective 2 (Employment Opportunity) – Policies in this section include those that encourage the retention of existing businesses and recruitment of new businesses that provide long-term employment opportunities, as well as those that encourage new professional and service-oriented employment opportunities to meet the needs of city residents.

Allowing the proposed yoga classes as part of the Radiant Yoga operation would allow the business to more fully actualize its programmatic philosophy and provide a wider range of services that would allow it to succeed in the community over the long term. The trainings and workshops that the business offers include opportunities for a variety of independent instructors to practice their craft as well as for new instructors to become certified and begin a professional career. The proposed yoga classes are an integral part of the holistic operation of Radiant Yoga.

- (7) Adequate public transportation facilities and public utilities will be available to serve the proposed use prior to occupancy pursuant to Chapter 19.700.

The proposed conditional use would not increase trips to the office park as a whole, which is assumed to have a mix of uses that may vary over time according to specific tenancies. International Way, the adjacent public street, is adequate to serve the proposed conditional use, as are all other existing public facilities in the area.

The Planning Commission finds that the proposed indoor recreation aspect of the Radiant Yoga business operation meets the approval criteria for conditional uses as established in MMC 19.905.4.A. This standard is met.

As proposed, the Planning Commission finds that the senior and retirement housing aspect of the proposed senior housing development meets the applicable standards of MMC 19.905 and is approvable as a conditional use.

6. The application was referred to the following departments and agencies on March 26, 2019:

- Milwaukie Building Department
- Milwaukie Engineering Department
- City Attorney
- Clackamas Fire District #1 (CFD#1)
- Clackamas County Department of Transportation and Development (DTD)
- Metro
- TriMet
- NW Natural

In addition, notice of the public hearing was mailed to owners and residents of properties within 300 ft of the subject property on April 29, 2019.

The comments received are summarized as follows:

- **Alex Roller, Engineering Tech II, City of Milwaukie Engineering Department:** Comments related to the applicability of MMC Chapter 19.700 Public Facility Improvements to the proposed change in use. The proposed use corresponds with other uses classified as Business Park for purposes of evaluating traffic generation and would not result in an increase in trips. Therefore, MMC 19.700 is not applicable.