



CITY OF MILWAUKIE

August 20, 2019

Land Use File(s): VR-2019-004

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on August 13, 2019.

Applicant(s): David Mealey
Location(s): 5111 SE Lake Rd
Tax Lot(s): 2S2E06BA 00100
Application Type(s): Variance Request
Decision: Approved
Review Criteria: Milwaukie Municipal Code:

- Chapter 12.16 Access Management
- Section 19.301 Low Density Residential Zones (incl. R-10)
- Section 19.507 Home Occupation Standards
- Section 19.607 Off-Street Parking Standards for Residential Areas
- Chapter 19.700 Public Facility Improvements
- Section 19.911 Variances
- Section 19.1006 Type III Review

Neighborhood(s): Lake Road

Appeal period closes: 5:00 p.m., September 4, 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 kerverb@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on September 4, 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

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.

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.

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

1. No more than 3 non-resident employees or operators associated with any of the approved home occupations shall be present on the site at any given time.
2. Four (4) home occupations shall be allowed in association with the primary residence on the site: Milwaukie Wellness Center, Milwaukie Hardwoods, an occupational therapy practice, and a short-term rental. No more than these 4 businesses shall be registered as businesses with the City in association with the primary residence.
3. The driveway access to Lake Rd shall be removed in accordance with the applicable Clackamas County Roadway Standards.
4. In conjunction with Additional Requirement 1, noted below, replacement landscaping shall be provided at the intersection corner of Lake Rd and Lena Ave, including at least 2 street trees limbed up to maintain compliance with applicable intersection sight distance standards.

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 (MMC) and Public Works Standards that are required at various points in the development and permitting process.

1. As per the applicable Clackamas County Roadway Standards, the intersection of Lake Rd and Lena Ave is required to provide a minimum intersection sight distance based on the travel speed of the roadway.
2. As required by MMC Section 19.507.3, ensure that there is only 1 sign on the property related to any of the allowed home occupations. Any such sign shall not exceed 4 sq ft in area, shall not be illuminated, shall not exceed 3 ft in height, and shall not be located in the public right-of-way (ROW). If it is to remain in use, the existing freestanding sign shall be removed from the ROW and relocated onto the subject property.

3. As required by MMC Chapter 5.08, each of the allowed home occupations must be registered as a business with the City. In addition, the long-term rental unit must also be registered as a business.



Dennis Egner, FAICP
Planning Director

Exhibits

1. Findings in Support of Approval
- cc: David Mealey, applicant (5111 SE Lake Rd, Milwaukie, OR 97222)
Planning Commission (via email)
Leila Aman, Community Development Director (via email)
Justin Gericke, City Attorney (via email)
Steve Adams, 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)
Tim Salyers, Code Compliance Coordinator (via email)
Mike Boumann and Izak Hamilton, CFD#1 (via email)
NDA(s): Lake Road (via email)
Interested Persons
Land Use File(s): VR-2019-004
Address File: 5111 SE Lake Rd

EXHIBIT 1
Findings in Support of Approval
File #VR-2019-004, 5111 SE Lake 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, David Mealey, has applied for 3 variances from the City's home occupation standards for the subject property at 5111 SE Lake Rd:
 - To allow non-resident employees when there is more than one home occupation at the site (up to a maximum total of 4 non-resident employees);
 - To allow more than 2 home occupations at the site (up to a maximum of 4 businesses); and
 - To allow up to 2 non-resident operators to work under the umbrella of the wellness center.

The site is in the R-7 Zone. The land use application file number is VR-2019-004.

2. The subject property is approximately 32,200 sq ft (0.74 acres) in size, is zoned Residential R-10, and is developed with 4 structures on the site, including:
 - Single-family dwelling (approximately 2,830 sq ft) = primary residence with attached garage
 - Single-family dwelling (approximately 930 sq ft) = nonconforming secondary residential unit currently in use as long-term rental, in existence at time of annexation in 2009
 - Accessory structure (approximately 1,800 sq ft) = detached 6-car garage
 - Accessory structure (approximately 2,700 sq ft) = barn

Currently, the subject property hosts 2 distinct home-based businesses: (1) Milwaukie Wellness Center, a chiropractic and massage clinic established on the site in 2009; and (2) Milwaukie Hardwoods, a portable wood milling, transporting, and kiln-drying service established on the site in 2016-17. The applicant has proposed adding 2 more home-based businesses—an occupational therapy practice operated by the applicant's spouse and a short-term rental to be established within one of the existing structures on the site.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Chapter 12.16 Access Management
 - MMC Section 19.301 Low Density Residential Zones (including R-10)
 - MMC Section 19.507 Home Occupation Standards
 - MMC Section 19.607 Off-Street Parking Standards for Residential Areas
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.911 Variances
 - MMC Section 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on August 13, 2019, as required by law.

4. MMC Chapter 12.16 Access Management

MMC Section 12.16.040 establishes standards for access (driveway) requirements, including location, number, and size. In particular, MMC Subsection 12.16.040.C provides standards related to accessway location, requiring lots with frontage on 2 or more streets to provide access first from the street with the lowest classification and prohibits individual access to single-family residential lots from arterial and collector streets. The subsection also requires minimum distances between driveways and intersecting streets: 45 ft for local streets such as Lena Ave and 600 ft for arterial streets like Lake Rd. MMC Subsection 12.16.040.F requires driveway aprons for single-family residential uses to be between 9 ft and 20 ft wide.

Lake Rd is currently under the jurisdiction of Clackamas County and therefore subject to the County's roadway standards. The County's Department of Transportation and Development (DTD) has submitted comments in response to the application. Lena Ave (which was connected to Mintone Dr before the establishment of the Highway 224 interchange and is still shown on County Assessor maps as Mintone Dr) is not within the city limits but is not maintained by the County.

Access to the subject property is currently provided through 2 existing driveways, one each on Lake Rd (classified as an arterial street) and Lena Ave (a local street). Although no changes are proposed to either driveway, the existing Lake Rd driveway is less than 35 ft from the intersection with Lena Ave and would technically be prohibited by the current City code, which does not apply. The existing Lena Ave driveway is over 30 ft wide and less than 40 ft from the intersection with Lake Rd.

The County DTD's initial comments included notes on required modifications to both driveways and improvements to clear vision at the intersection of Lake Rd and Lena Ave. However, the applicant provided documentation from a 1968 court case related to the subject property that appears to legally vest the applicant's right to keep the Lake Rd driveway (at least at the time the highway interchange was constructed). In light of that documentation, the County DTD revised its comments and reduced its requirements to address only the applicable standards for intersection sight distance. That requirement has been added as a supplement to the recommended conditions of approval; it is not a condition of approval but rather a requirement triggered by the land use request and the applicability of public facility improvement standards as noted in Finding 8. As discussed in Finding 9, the need to mitigate impacts from the requested variances and improve safety has resulted in a condition to require closure of the Lake Rd driveway.

As conditioned, the Planning Commission finds that applicable standards of MMC 12.16 are met.

5. MMC Section 19.301 Low Density Residential Zones (including R-10)

MMC 19.301 establishes standards for the low density residential zones, including the R-10 zone. The subject property is zoned R-10.

a. MMC Subsection 19.301.2 Allowed Uses

MMC Table 19.301.2 establishes the uses allowed in the R-10 and other low density residential zones, including single-family detached dwellings and home occupations.

The subject property is developed with 2 single-family detached dwellings, both of which were in existence with the property was annexed into the city in 2009. The larger of the 2 houses is allowed outright and the smaller house is a legal nonconforming structure. The applicant also currently operates 2 home-based businesses: a chiropractic/massage clinic and a hardwood milling/drying operation. The home occupations are subject to the standards of MMC Section 19.507, which are discussed in Finding 6; the applicant has requested variances to the home occupation standards, which are discussed in Finding 9. The requested variances are approved with conditions to ensure that any resulting impacts are adequately mitigated.

As discussed in these findings and as conditioned, the uses are allowable in the R-10 zone.

b. MMC Subsections 19.301.4 and 19.301.5 Development Standards

MMC 19.301.4 and 301.5 establish development standards for the low-density residential zones, including the R-10 zone. Table 5 summarizes the R-10 standards applicable to the proposed development.

Table 5 R-10 Lot and Development Standards		
Standard	R-10 Requirement	Subject Property
Maximum lot coverage	30%	25%
Minimum vegetation	35%	25%
Front-yard minimum vegetation	40%	<10%
Off-street parking	1 space per dwelling unit	21 spaces

The subject property is nonconforming with the R-10 standards for minimum vegetation, both for the site overall and for the front yard. However, the proposed activity associated with the requested variances would not do anything to further reduce vegetation on the site.

The Planning Commission finds that approval of the requested variances would not cause the subject property to go farther out of conformance with the applicable R-10 development standards. This standard is met.

6. MMC Section 19.507 Home Occupation Standards

MMC 19.507 establishes standards for home-based businesses. The regulations are intended to support and encourage home occupations while protecting the residential character of the City’s residential neighborhoods. A home occupation is allowed as an accessory use to any residential uses permitted by right, subject to the restrictions outlined in this section. Home occupation businesses that are not clearly accessory and incidental to the residential use are prohibited.

MMC Subsection 19.507.1.E requires that a home occupation be owned and operated by an occupant of the building. MMC Subsection 19.507.2.E limits the number of home occupations to 1 per site, with a second home occupation allowed if there are no non-resident employees associated with either business. MMC Subsection 19.507.3 allows a single, small, non-illuminated sign (maximum size of 4 sq ft, maximum height of 3 ft) to be installed on any property with a home occupation.

The applicant currently operates 2 home-based businesses at the site. The Milwaukie Wellness Center is a chiropractic and massage clinic that has been in operation since 2009, with 1 non-resident employee. Milwaukie Hardwoods is a portable wood milling, transporting, and kiln-drying service established on the site in 2016-17, with no non-resident employees. The applicant was reportedly not aware of the restriction on non-resident employees when there is more than 1 home occupation until staff reviewed the business registration for Milwaukie Hardwoods. The applicant has requested a variance from the limitation on non-resident employees, proposing to have as many as a total of 4 for any of the home occupations allowed on the site.

The applicant has also requested a variance from the limit of 2 home occupations on the site, proposing to add up to 2 more home-based businesses—an occupational therapy practice operated by the applicant's spouse and a short-term rental to be established within one of the existing structures on the site. The applicant has requested a third variance to allow up to 2 non-resident operators to work at the site as part of the Milwaukie Wellness Center home occupation. All 3 variance requests are discussed in Finding 9.

The smaller house on the property is used as a long-term rental but is not considered a home occupation, although it also requires a City business registration.

At the time of application submittal, the property included 2 signs related to the Milwaukie Wellness Center—a freestanding sign in front of the main house within the public right-of-way (ROW) on Lake Rd and a banner sign on a fence at the rear of the property visible from Highway 224. The banner sign has since been removed; the requirement to relocate the freestanding sign from the public ROW onto the subject property has been noted.

As discussed in Finding 9, the requested variances have been approved with conditions. As conditioned, the Planning Commission finds that the proposed home occupations are allowable at the subject property.

7. MMC Section 19.607 Off-Street Parking Standards for Residential Areas

MMC Subsection 19.607.1 establishes standards for residential driveways and vehicle parking areas, including a limit on the percentage of front yard area used for parking (maximum of 50%), a limit on the number of parking spaces allowed in the front yard (maximum of 3), and a requirement that the on-site driveway align with the driveway approach.

The subject property is nonconforming with respect to several off-street parking standards. The subject property's front yard area, defined as the area in front of the front face of the main house, is approximately 4,950 sq ft. Within that area, approximately 3,350 sq ft is utilized for parking and maneuvering, almost 68% of the front yard. Similarly, the parking and maneuvering area within

the required front yard (i.e., the first 20 ft extending toward the main house from the front property line) has room for 15 parking spaces, well over the maximum allowed. In addition, the existing driveways onto Lake Rd and Lena Ave both expand in width within the allowed area. However, the requested variances do not involve physical changes to the site.

As proposed, the Planning Commission finds that the requested variances would not push any of the nonconforming aspects of the site further out of conformance with MMC 19.607. This standard is met.

8. MMC Section 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

MMC Section 19.702 establishes the applicability of the provisions of MMC 19.700, including changes or intensifications in use that result in a projected increase in trips. MMC Subsection 19.708.1 provides general standards for streets, including for access management, clear vision, street layout and connectivity, and intersection design and spacing.

The applicant has requested variances to the home occupation standards established in MMC Section 19.507, which would effectively intensify the accessory use of the site for home-based businesses and increase trips to and from the subject property. Therefore, the provisions of MMC 19.700 are technically applicable. However, since Clackamas County is the road authority for Lake Rd (as noted in Finding 4), the proposed activity is subject to the applicable roadway standards of the County.

The County's Department of Transportation and Development (DTD) has submitted comments that include a requirement to bring the intersection of Lake Rd and Lena Ave into compliance with the County's intersection clear vision standards. This is not a condition necessary for approval of the requested variances, but it is noted as a requirement that is applicable because of the proposed intensification of use.

As discussed in Finding 9, one condition necessary for approval of the requested variances is the closure of the existing Lake Rd driveway. Because the County is the road authority for Lake Rd, the applicant will need to go through the County's permitting process and meet applicable County roadway standards for the conditionally required driveway closure.

As conditioned, and as per the applicable County roadway requirements noted above, the Planning Commission finds that the proposed development satisfies the intent of the public facility improvement standards of MMC 19.700.

9. MMC Section 19.911 Variances

MMC Section 19.911 establishes the variance process for seeking relief from specific code sections that have the unintended effect of preventing reasonable development or imposing undue hardship.

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. Ineligible variances include requests that result in any of the following: change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word “prohibited.”

The applicant has requested 3 variances from the home occupation standards of MMC Section 19.507: (1) to allow non-resident employees when there is more than one home occupation at the site (up to a maximum total of 4 non-resident employees); (2) to allow more than 2 home occupations at the site (up to a maximum of 4 businesses); and (3) to allow up to 2 non-resident operators to work under the umbrella of one of the existing home occupations (the wellness center).

Home occupations are allowed as accessory uses to all residential uses that are permitted outright. None of the requested variances would allow any prohibitions established in MMC Subsection 19.507.2. The requested variances meet the eligibility requirements established in MMC 19.911.2.

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances.

Subsection 3-B establishes the Type II review process for limited variations to certain numerical standards. Subsection 3-C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

The requested variances are not identified in MMC 19.911.3.B as being eligible for Type II review. Therefore, the requested variances are subject to the Type III review process and the approval criteria established in MMC Subsection 19.911.4.B.

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests.

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

MMC Subsection 19.911.4.B.1 provides the following approval criteria for Type III variances where the applicant elects to utilize the 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 applicant’s submittal materials include an analysis of the impacts and benefits of the requested variances. The applicant asserts that the primary impacts would be increased

trips and increased parking on site. The applicant's supplemental submittal materials include a table with an estimate of average weekly trips generated by the various proposed uses on the site. The estimate is based on the anticipated level of activity and not on any formal trip-generation methodology, so staff believes the estimate is likely low for at least a few of the proposed activities and does not address peak-hour impacts. The estimate predicts more than 110 trips per week for the proposed home occupation activity, with the current level of wellness center activity accounting for nearly 50 of those trips. The applicant estimates that a minimum total of 12 parking spaces would be required for the combined home occupation uses; the site currently provides at least 21 off-street parking spaces dispersed around the property.

The applicant's analysis suggests that the benefits of the requested variances include maintaining the existing health care service for the neighborhood and surrounding area, providing additional business revenue to the City, and contributing to the City's efforts to establish neighborhood nodes for commercial activity. Stated alternatives include terminating the wellness center's current non-resident employee, limiting the site to just 1 home occupation, and applying to rezone the property for more commercial use. The applicant's analysis concludes that the benefits outweigh the potential impacts, asserting that the increase in trips would not be significant and that the large site provides an abundance of unobtrusive off-street parking.

The Planning Commission finds that the applicant's submittal provides an adequate analysis of the impacts and benefits of the requested variances compared to the baseline requirements. 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.
 - (b) The proposed variance has desirable public benefits.
 - (c) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

The variances related to non-resident employees and the number of home occupations are both reasonable and appropriate. In part, the rationale behind the code's restriction of non-resident employees when there is more than one home occupation is based on a recognition that employees effectively augment the business operator's capacity and therefore begin to tilt the character of the site away from residential toward commercial use. Since a natural regulator of a home-based business is the operator's time, as long as the operator is integrally involved in each home-based business, the number of businesses on a site is not as important as the nature of each business and its potential for impacts on surrounding properties.

The particulars of a site (such as size, location, surroundings, etc.) matter as well. The subject property is bounded on 2 sides by Highway 224 (on-ramp and travel lanes), with

the arterial Lake Rd to the south and only 1 neighboring house across the dead-end Lena Ave. The wellness center has functioned largely without complaint for 10 years, and impacts are expected to remain minimal even with the proposed increase in business activity on the site. In the case of the subject property, it is reasonable to allow the continued use of non-resident employees when adding multiple new businesses (portable wood milling operation, occupational therapy practice, and short-term rental) that generate relatively few new trips overall. Granting the requested variances related to non-resident employees and the number of home occupations would allow fuller use of a unique property while retaining the overall residential character of the site.

The variance requested to allow non-resident operators to work under the umbrella of the wellness center is also reasonable and appropriate. The applicant would remain actively involved in the wellness center, and it is difficult to distinguish the impacts of trips by non-resident employees from those generated by non-resident operators. The proposed limit on the number of non-resident employees or operators present on the site at any given time (discussed below in Finding 9-c-3) will limit trips to and from the site. This will keep the current scale of the wellness center activity from expanding beyond the bounds of a simple home-based business and into the realm of a more commercial medical office.

The Planning Commission finds that all 3 of the requested variances are reasonable and appropriate and that they meet one or more of the criteria provided in MMC Subsection 19.911.B.1.b. This criterion is met.

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

Taken together, the proposal to allow 4 non-resident employees, the 4 specific home occupations (wellness center, portable wood milling operation, occupational therapy practice, and short-term rental), and 2 non-resident operators would increase the number of vehicle trips to and from the site.

More trips mean more potential conflicts (with other vehicles, bicycles, and pedestrians) on the adjacent streets. Given that the subject property has 2 existing driveways, one each on Lake Rd (an arterial) and Lena Ave (a local street), that both driveways are within 35-40 ft of the intersection of Lake Rd and Lena Ave, and that MMC Subsection 12.16.040.C requires access to be provided first to the lower classification street and also prohibits individual access to arterial and collector streets, it is reasonable to require that the Lake Rd driveway be closed in light of the applicant's request to intensify the use of the site. Although the County's roadway standards are the ones in effect along this portion of Lake Rd, the principles expressed in the City's code are relevant in the context of mitigation for the requested variances, and the closure of the Lake Rd driveway would improve safety by eliminating a point of potential vehicle conflict that is currently very close to the intersection with Lena Ave. A condition has been established to this effect.

The number of non-resident employees or operators present on the site at the same time has a direct relationship to the number of trips generated to and from the site. The applicant has indicated that there are 4 rooms in the main house that are available for

home occupation use, including 1 room primarily used for the occupational therapy practice. The applicant could work with 3 employee assistants to see clients in the 3 other rooms at more or less the same time; alternately, up to 3 unassisted non-resident operators could work in any rooms not in use by the applicant. In its deliberations at the public hearing, the Planning Commission determined that it is reasonable to set a limit of any combination of 3 non-resident employees or operators that can be on the site at any given time, to limit trips to and from the site. A condition has been established to this effect, specifying that the only entities that should be registered as businesses associated with the primary residence are the 4 specific home occupations noted above. Non-resident employees or operators shall not be registered as individual businesses.

The County's requirement to require compliance with its applicable standards for intersection sight distance at the Lake Rd and Lena Ave intersection (discussed in Finding 8) will likely result in substantial alteration and/or removal of the existing shrub vegetation at the intersection corner. The resulting improvement in sight distance will also reveal more of the primary residence and front yard parking area to public view. Although the applicant is not proposing other physical changes to the site, the increased visibility of the nonconforming aspects of the front yard parking area addressed in Finding 7 diminishes the residential character of the site. The provision of replacement landscaping at the intersection corner, including at least 2 street trees limbed up to maintain compliance with intersection sight distance standards, would soften the appearance of the front yard parking area and further mitigate the visual impacts of the approved variances. A condition has been established to this effect.

The Planning Commission finds that, as conditioned, the impacts of the approved variances are sufficiently mitigated.

As conditioned, the Planning Commission finds that the requested variances all meet the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.

The Planning Commission finds that, as conditioned, the variances requested to allow (1) non-resident employees when there is more than 1 home occupation, (2) more than 2 home occupations, and (3) non-resident operators to work under the umbrella of the wellness center are allowable as per the applicable standards of MMC 19.911 and are therefore approved.

10. The application was referred to the following departments and agencies on May 30, 2019:
 - Milwaukie Building Department
 - Milwaukie Engineering Department
 - Milwaukie Public Works Department
 - Milwaukie Police Department
 - Milwaukie Code Compliance
 - City Attorney
 - Lake Road Neighborhood District Association (NDA) Chairperson & Land Use Committee

- Oak Grove Community Council
- Clackamas Fire District #1
- Oregon Department of Transportation (ODOT)
- Clackamas County Department of Transportation and Development (DTD)
- Metro
- TriMet
- NW Natural

Notice of the application was also sent to surrounding property owners and residents within 300 ft of the site on July 24, 2019, and a sign was posted on the property on July 24, 2019.

The following is a summary of the comments received:

- **Paul Hawkins, Land Use Chair, Lake Road NDA:** No anticipated adverse impacts from the proposed development.
- **Kate Wihtol, Associate Planner, Development Review, ODOT Region 1:** ODOT is interested in whether a traffic study will be required and if so, whether impacts to the on- and off-ramps to Highway 224 will be considered. If a traffic study is required, ODOT recommends including the on- and off-ramps in the scope; if not, ODOT has no other issues with the proposal.
- **Rebecca Small, Regional Planner, Metro:** Metro has no applicable statute for the proposal and defers to the City's judgment.
- **Jonny Gish, Engineering Tech 4, Clackamas County DTD:** (Initial comments) – Lake Rd is under County jurisdiction and is classified as a Minor Arterial. The Clackamas County Roadway Standards restrict private driveway access to arterial and collector roadways where access to a lesser classification street is available. The existing driveway onto Lake Rd must be removed and replaced with curb. Access to the subject property will be retained through the existing driveway onto Lena Ave, a local street. The Lena Ave driveway must be modified to maintain a minimum spacing of 25 ft from the intersection with Lake Rd. Existing landscaping and privately placed improvements that obscure clear vision at the intersection of Lake Rd and Lena Ave must be modified as necessary to provide the required sight distance.
- **Dalton Vodden, Associate Engineer, City of Milwaukie Engineering Department:** The City is not the road authority for either Lake Rd or Lena Ave; Clackamas County would determine the extent of any required transportation improvements.
- **Jonny Gish, Engineering Tech 4, Clackamas County DTD:** (Revised comments) – The applicant has provided document from a 1968 court ruling that appears to vest the right to preserve the Lake Rd driveway. Given this new information, the County retracts its earlier requirement that the Lake Rd driveway be closed.