



May 22, 2020

Land Use File(s): R-2020-002

Permit(s): NA

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on May 22, 2020.

Applicant(s):	Bryce Rosenbaum
Location(s):	3242 SE Roswell St
Tax Lot(s):	1S1E25AC 01100
Application Type(s):	Partition Replat: Partition to create a new lot
Decision:	Approved
Review Criteria:	Milwaukie Land Division Ordinance (Milwaukie Municipal Code (MMC) Title 17) <ul style="list-style-type: none">• MMC Chapter 17.12 Application Procedure & Approval Criteria• MMC Chapter 17.16 Application Requirements & Procedures• MMC Chapter 17.20 Preliminary Plat• MMC Chapter 17.28 Design Standards• MMC Chapter 17.32 Improvements Milwaukie Zoning Ordinance (MMC Title 19) <ul style="list-style-type: none">• MMC Section 19.301 Low Density Residential Zones (incl. R-7)• MMC Chapter 19.600 Off-Street Parking and Loading• MMC Chapter 19.700 Public Facility Improvements• MMC Section 19.1005 Type II Review• MMC Chapter 19.1200 Solar Access Protection

Appeal period closes: 5:00 p.m., June 8, 2020

Conditions of Approval

1. Prior to City approval of the associated final plat, the following must be resolved:
 - a. If the existing covered patio on Parcel 1 will remain, relocate the patio-cover supports to be at least 20 ft from the rear property line and verify that the overhang does not

encroach more than 3 ft into the rear yard setback for Parcel 1, as provided in MMC Subsection 19.501.2.B.

- b. Provide a 5-ft dedication to the Floss Street right-of-way (ROW) in front of Parcel 2.
- c. Construct all required public improvements along the Floss Street frontage of Parcel 2 in accordance with the applicable sections of the Milwaukie Public Works standards. Alternately, request and pay a fee in lieu of construction (FILOC) for the required improvements, in accordance with the applicable provisions of MMC Chapter 13.32.
- d. Construct a driveway approach on Parcel 2 that is 12 to 20 ft wide and 7.5 ft from a side property line. The driveway approach apron must be designed in accordance with MMC Chapter 12.16.

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 point in the development and permitting process.

1. Final Plat

As per MMC Section 17.04.120, replats must be recorded by plat. As per MMC Section 17.24.040, an application for final plat must be submitted to the City within 6 months of this approval.

2. In conjunction with the required final plat submittal, the following must be resolved as applicable (depending on whether a request for FILOC is granted):

- a. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department.
- a. Obtain a right-of-way permit for construction of the required public improvements.
- b. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
- c. Provide a payment and performance bond for 100% of the cost of the required public improvements.
- d. Provide a final approved set of Mylar "As Constructed" drawings to the City of Milwaukie prior to final inspection.
- e. As per MMC Section 12.24.030, remove all signs, structures, or vegetation in excess of 3 ft in height located in "clear vision areas" at intersections of streets, driveways, and alleys fronting the proposed development. Trees exceeding this height may be located in this area, provided that all branches and foliage are removed to the height of 8 ft above grade. Open wire fencing that does not obscure sight more than 10% is allowed in accordance with the standards of MMC Subsection 19.502.2.B. Prior to the removal of any vegetation, the applicant must confirm with the Engineering Department the

location of clear vision areas and if the vegetation removal is required to comply with clear vision standards.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Case File

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1004 Type I Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Brett Kolver, Associate Planner, at 503-786-7657 or kolverb@milwaukieoregon.gov, if you wish to view this case file.

Appeal

This decision may be appealed by 5:00 p.m. (please arrive by 4:45 p.m. for payment processing) on June 8, 2020, which is 15 days from the date of this decision.¹ An appeal of this decision would be heard by the Milwaukie Planning Commission 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.

Expiration

Per MMC Subsection 17.04.050.A, this decision on the proposed land division shall expire 1 year after the date of approval. An extension of up to 6 months may be granted upon submission of a formal request to the original decision-making authority (the Planning Director, in this case), subject to the provisions of MMC Subsection 17.04.050.B, which include the following:

- a. No changes are made on the original plan as approved;
- b. The applicant can show intent of recording the boundary change within the 6-month extension period; and
- c. There have been no changes in the ordinance provisions on which the approval was based.

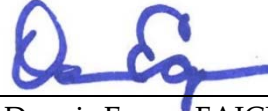
Director's Declaration of Impartiality

I certify that neither I nor any member of my immediate family has a material, personal, or financial relationship with the applicant. I further certify that no other relationship, bias, or ethical conflict exists which would have prevented me from evaluating the land use application solely on its merits and in accordance with the Milwaukie Municipal Code.

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.

Decision

- Approved
 Approved with Conditions
 Denied



Dennis Egner, FAICP
Planning Director

Exhibits

1. Findings in Support of Approval
2. Preliminary Plat

cc: Bryce Rosenbaum, applicant (3242 SE Roswell St, Milwaukie, OR 97222) (via email)
Leila Aman, Community Development Director (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)
Sebrina Mortensen, Planning Intern (via email)
Land Use File: R-2020-002
Address File: 3242 SE Roswell St

EXHIBIT 1
Findings in Support of Approval
File #R-2020-002, Rosenbaum Replat

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, Bryce Rosenbaum, has applied for approval to divide the subject property located at 3242 SE Roswell St in order to create two parcels. The subject property is in the Residential R-7 Zone. The land use application file number is R-2020-002.
2. The subject property was originally established as Lot 3 of Block 1 in the Floss Acres subdivision, platted in 1923. The applicant proposes to divide the existing 16,163-sq-ft property, which has frontage on both Roswell Street and Floss Street, in order to create two parcels. Parcel 1 would front on Roswell Street, and Parcel 2 would front on Floss Street. The applicant proposes to retain the existing house on Parcel 1 (3242 SE Roswell St), which would have an area of approximately 8,400 sq ft. The applicant also proposes to eventually construct a new house on the currently vacant Parcel 2, which would have an area of approximately 7,130 sq ft.
3. The proposed land division involves the reconfiguration of a platted lot from a recorded subdivision and therefore constitutes a replat as per the definitions in Milwaukie Municipal Code (MMC) Chapter 17.08. The proposal is subject to the following provisions of the MMC:
 - MMC Title 17 Land Division, including:
 - MMC Chapter 17.12 Application Procedure and Approval Criteria
 - MMC Chapter 17.16 Application Requirements and Procedures
 - MMC Chapter 17.20 Preliminary Plat
 - MMC Chapter 17.28 Design Standards
 - MMC Chapter 17.32 Improvements
 - MMC Section 19.301 Low Density Residential Zones (including R-7)
 - MMC Chapter 19.600 Off-Street Parking and Loading
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.1005 Type II Review
 - MMC Chapter 19.1200 Solar Access Protection

The applicant is the property owner and has the authority to initiate the application as per MMC Subsection 19.1001.6.A. The application was initially submitted on April 10, 2020, and deemed complete on April 22, 2020. The application has been processed in accordance with MMC Section 19.1005 Type II Review, with a decision by the Planning Director.

4. MMC Title 17 Land Division

MMC Title 17 establishes the standards and procedures for land division and property boundary changes.

a. MMC Chapter 17.12 Application Procedure and Approval Criteria

(1) MMC Section 17.12.020 Application Procedure

MMC Table 17.12.020 outlines the applicable review procedures for various types of land divisions and property boundary changes, including replats. As per MMC Table 17.12.020, a partition replat (i.e., a replat resulting in three or fewer lots) that does not modify a plat originally decided by the City's Planning Commission and is not a parcel consolidation is subject to Type II review. As per MMC Subsection 17.12.020.B.1, Type II review may be changed to Type I review upon finding that the proposal is consistent with applicable standards and criteria, that it is consistent with the basis and findings of the original approval, and that it does not increase the number of lots.

The subject property was originally established as Lot 3 of Block 1 in the Floss Acres subdivision. The proposed reconfiguration of the underlying subdivision lot would create a new developable lot, which is a partition replat as per the definitions of MMC Chapter 17.08 and the guidance of MMC Table 17.12.020.

The original subdivision, Floss Acres, was platted and recorded in 1923 by Clackamas County, well before the City's first subdivision ordinance was adopted in 1967. The proposed replat is not a parcel consolidation and is consistent with all applicable standards and criteria, but it would increase the number of lots underlying the subject property from one to two.

The Planning Director finds that the proposed replat is not a candidate for reduction to Type I review due to the increase in number of lots and so is subject to Type II review.

(2) MMC Section 17.12.030 Approval Criteria for Lot Consolidation, Property Line Adjustment, and Replat

MMC 17.12.030 establishes three approval criteria for boundary changes

(a) The boundary change is compliant with Title 17 and Title 19.

As discussed in these findings, the proposed replat complies with all applicable standards of Titles 17 and 19.

(b) The boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.

As discussed in Findings 5 and 6, the proposed replat would not result in the creation of any new nonconformities on the property at 3242 SE Roswell St (Parcel 1). The newly created vacant lot fronting on Floss Street (Parcel 2) would meet the applicable lot design standards of the R-7 zone without the need for any variances.

- (c) Boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which the property is located.

The subject property is zoned for low-density residential development and has a low-density residential designation in the City's Comprehensive Plan. The proposed replat would not reduce the residential density below the minimum density requirements of the low-density residential R-7 zone.

The Planning Director finds that the proposed replat meets the approval criteria established in MMC 17.12.030.

The Planning Director finds that the proposed boundary adjustment meets all applicable standards of MMC 17.12. This standard is met.

- b. MMC Chapter 17.16 Application Requirements and Procedures

MMC 17.16 establishes the submittal requirements for boundary changes and land division. For replats, MMC Section 17.16.050 requires a completed application form, application fee, narrative report addressing approval criteria, and any of the information normally required for preliminary plats as deemed necessary by the Planning Director.

The applicant's submittal materials include the necessary forms, checklists, and fees, as well as a narrative that addresses all applicable approval criteria, and a graphic that portrays the proposed land division.

The Planning Director has determined that no additional information is required and that the application for the proposed replat meets all applicable standards of MMC 17.16. This standard is met.

- c. MMC Chapter 17.20 Preliminary Plat

MMC 17.20 establishes the information required for a preliminary plat, including general information to be shown on the plat and existing and proposed conditions.

The applicant's preliminary plat submittal is to scale and includes existing conditions, existing improvements on Parcel 1, a general building envelope for Parcel 2, and the new configuration of and dimensions for both proposed parcels.

As proposed, the Planning Director finds that the preliminary plat includes the relevant and necessary information as outlined in MMC 17.20.

- d. MMC Chapter 17.28 Design Standards

- (1) MMC Section 17.28.040 General Lot Design

MMC 17.28.040 establishes general design standards for lots, including standards for size, shape, compound lot line segments, and frontage.

(a) MMC Subsection 17.28.040.A Size and Shape

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.

As addressed in Findings 5 and 6, the proposed replat would result in parcels that both have adequate size and dimensions for development and uses allowed in the underlying R-7 zone and that conform to the standards of Title 19.

(b) MMC 17.28.040.B Rectilinear Lots Required

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.

As proposed, both parcels would be rectilinear in shape, with sidelines running at right angles to the street upon which each lot faces and rear lot lines running parallel to the street.

(c) MMC 17.28.040.C Limits on Compound Lot Line Segments

MMC 17.28.040.C discourages cumulative lateral changes in direction of a side or rear lot line exceeding 10% of the distance between opposing lot corners along a given lot line. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

As proposed, both parcels would be standard rectilinear shapes. The proposed lot configuration does not include any compound segments or changes in direction of a side or rear lot line.

(d) MMC 17.28.040.D Adjustments to Lot Shape Standard

MMC 17.28.040.D provides that lot shape standards may be adjusted subject to Section 19.911 Variances.

No adjustment to lot shape standards has been proposed.

(e) MMC 17.28.040.E Limits on Double and Reversed Frontage Lots

MMC 17.28.040.E limits double and reversed frontage lots except where essential to provide separations of residential development from railroads, traffic arteries, or adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

The proposed replat would eliminate an existing double frontage lot by dividing it and would not result in any new double or reversed frontage lots.

(f) MMC 17.28.040.F Measurement of Required Frontage

MMC 17.28.040.F requires that required frontage be measured along the street upon which the lot takes access.

As proposed, Parcel 1 would continue to have frontage on and take access from Roswell Street; Parcel 2 would have frontage on and take access from Floss Street. Both parcels would have 83.75 ft of frontage on their respective streets, well in excess of the 35-ft minimum requirement.

The Planning Director finds that the proposed replat complies with all applicable design standards of MMC 17.28.040.

As proposed, the Planning Director finds that the new parcels presented in the applicant's preliminary plat meet the applicable design standards established in MMC 17.28.

e. MMC Chapter 17.32 Improvements

MMC 17.32 establishes procedures for public improvements, including a requirement that all work shall conform to the standards and specifications of the Public Works Standards and MMC Chapter 19.700.

As discussed in Finding 8, public facility improvements and dedication to the public right-of-way are required along the entire Floss Street frontage of Parcel 2. As allowed by MMC Chapter 13.32, the applicant has requested to pay a fee in lieu of construction (FILOC). The Engineering Department has evaluated the applicant's request and confirmed that the required improvements are eligible for FILOC.

As proposed, the Planning Director finds that the applicable standards of MMC 17.32 are met.

As proposed, the Planning Director finds that the proposed replat meets all applicable standards of MMC Title 17.

5. MMC Section 19.301 Low Density Residential Zones (including R-7)

MMC 19.301 contains standards for Low Density Residential zones, including the R-7 zone. The application meets the applicable standards of this section as described below.

a. MMC Subsection 19.301.2 Allowed Uses

MMC 19.301.2 establishes the uses allowed in the R-7 zone, including single-family detached dwellings, duplexes, and accessory dwelling units (ADUs) as outright permitted uses.

As proposed, the existing house on Parcel 1 would remain. Parcel 2 would be large enough and dimensioned to allow development of a single-family house, which is an allowed use in the R-7 zone. Future development on Parcel 2 will be reviewed for compliance with the applicable standards of the R-7 zone and other relevant sections of the municipal code at that time.

As proposed, this standard is met.

b. MMC Subsections 19.301.4 and 19.301.5 Development Standards

MMC 19.301.4 and 19.301.5 establish development standards for the R-7 zone. With respect to both parcels resulting from the proposed replat, the applicable standards are addressed and met as described in Table 5-b (Zoning Compliance) below.

Table 5-b Lot and Development Standards			
Standard	R-7 Requirement	Parcel 1 (with existing house at 3242 SE Roswell St)	Parcel 2 (undeveloped, with frontage on Floss St)
Minimum lot size	7,000 sq ft	Approx. 8,400 sq ft	Approx. 7,130 sq ft
Minimum lot width	60 ft	83.75 ft	83.75 ft
Minimum lot depth	80 ft	100 ft	83 ft (After 5-ft ROW dedication)
Minimum street frontage	35 ft	83.75ft	83.75 ft
Front yard	20 ft (as per MMC 19.501.2, the required setback for Roswell St is 25 ft = 20 ft for the R-7 zone, plus an additional 5 ft to provide the 25-ft setback from centerline of Roswell St ROW, which is 40 ft wide)	19.3 ft (measured to front porch supports = existing nonconforming situation, with no changes proposed)	TBD
Side yard(s)	5 ft / 10 ft	4.9 ft / 21.4 ft (existing nonconforming situation on 4.9-ft side, with no changes proposed)	TBD
Rear yard	20 ft	20 ft (setback to existing covered patio is 18.5 ft = condition established to require relocation of patio supports to meet the standard)	TBD
Maximum building height	2.5 stories or 35 ft (whichever is less)	1 story (c.15 ft)	TBD
Side yard height plane limit	20-ft height at minimum side yard depth, with 45° slope	NA (building height c.15 ft)	TBD
Maximum lot coverage	30% (As per MMC 19.301.5.B.2, single-story houses (less than 20 ft tall) are allowed an additional 10% of lot coverage, or up to 40% in the R-7 zone.)	c.30%	TBD
Minimum vegetation	30%	c. 60%	TBD
Front yard minimum vegetation	40%	>66%	TBD
Minimum density	5.0 units/acre	1 unit	1 unit
Maximum density	6.2 units/acre	1 unit	1 unit
Off-street parking	1 space per unit	At least 2 spaces	TBD

As conditioned to address the rear-yard setback issue for Parcel 1, the Planning Director finds that the proposed replat meets all applicable development standards of MMC 19.301 for both parcels.

6. MMC Chapter 19.600 Off-Street Parking and Loading

MMC 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. As per MMC Subsection 19.602.3.B, new development cannot cause existing parking areas to fall out of compliance (or farther out of conformance).

In the case of the proposed replat, the applicant has demonstrated that the proposed boundary change does not make Parcel 1 nonconforming with the applicable standards of MMC 19.600. Parcel 2's compliance with the applicable off-street parking standards will be evaluated at the time of development permit submittal.

a. MMC Section 19.605 Vehicle Parking Quantity Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand. The section establishes processes for determination of parking requirements, exemptions and reductions to the required ratios, and provisions for shared parking. For single-family dwellings, MMC Table 19.605.1 establishes a minimum quantity requirement of 1 space per dwelling unit.

The subject property is developed with an existing single-family house and attached garage, which will remain on the proposed Parcel 1. The existing garage is not located within the required front yard setback and provides the minimum required parking space for the residential dwelling on Parcel 1. There is ample room on Parcel 2 for a new dwelling that also provides at least the minimum required parking, which will be evaluated at the time of development permit submittal.

As proposed, the Planning Director finds that this standard is met.

b. 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 limits on the percentage of front yard area used for parking (maximum of 50%) and on the number of parking spaces allowed in the required front yard (maximum of 3). In addition, the subsection does not allow parking spaces in the required front yard to be counted toward the minimum required parking.

As noted above in Table 5-b, the nearest point of the existing house on Parcel 1 is approximately 19 ft from the front lot line, which establishes a front yard area of approximately 1,650 sq ft. Within that front yard area, the proposed Parcel 1 presents approximately 450 sq ft of paved parking and maneuvering area, which is only 27% of the front yard. The dimensions of the front yard parking area provide no more than two parking spaces that meet the minimum 9 ft by 18 ft dimensions.

As noted above, Parcel 2's compliance with the applicable off-street parking standards will be evaluated at the time of development permit submittal.

As proposed, the Planning Director finds that the applicable standards are met.

The Planning Director finds that the proposed replat meets all applicable off-street parking standards of MMC 19.600.

7. MMC 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.

a. MMC Section 19.702 Applicability

MMC 19.702 establishes the applicability of the provisions of MMC 19.700, including partitions, subdivisions, replats, new construction, modification of existing structures, and changes or intensifications in use.

The applicant proposes to replat the subject property to create a new developable lot. The proposed replat triggers the requirements of MMC 19.700.

b. MMC Section 19.703 Review Process

MMC 19.703 establishes the review process for development that is subject to MMC 19.700, including requiring a preapplication conference, establishing the type of application required, and providing approval criteria.

The applicant had a preapplication meeting with City staff on November 19, 2019, prior to application submittal. As allowed by MMC Subsection 19.1002.2.B, the Planning Director waived the requirement for a formal preapplication conference, due to the relative simplicity of the proposal. As noted in Finding 7-c, the proposed replat does not trigger a Transportation Impact Study (TIS), so the proposal's compliance with MMC 19.700 has been evaluated as part of the replat review, as provided in MMC Subsection 19.703.2.B.

c. MMC Section 19.704 Transportation Impact Evaluation

MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 establishes the process and requirements for evaluating development impacts on the surrounding transportation system, including determining when a formal TIS is necessary and what mitigation measures will be required.

The City Engineer has determined that the proposed replat (which involves the creation of a new developable lot) would not trigger a significant increase in trip generation and therefore does not require a TIS.

d. MMC Section 19.705 Rough Proportionality

MMC 19.705 requires that transportation impacts of the proposed development be mitigated in proportion to its potential impacts.

The proposed replat would create one new developable lot (Parcel 2) of sufficient size to support a single-family detached dwelling. Development on Parcel 2 would have new impacts on the public street system, and the new developable parcel's frontage on Floss Street is not

improved to current City standards. As discussed in Finding 7-f, a condition has been established to require frontage improvements as well as a 5-ft dedication to the public right-of-way (ROW) on Floss Street.

A rough analysis of proportionality shows that the required ROW dedication and street improvements are proportional to the anticipated impacts of one new lot sized for single-family residential development. The estimated average cost of constructing the required improvements is within the range of average cost for similar-scale single-family development. The surrounding transportation system would continue to operate at the level of service as before the proposed action. The required ROW dedication and public street improvements are roughly proportional to the potential impacts of the proposed replat and no further mitigation is warranted.

e. MMC Section 19.707 Agency Notification and Coordinated Review

MMC 19.707 establishes provisions for coordinating land use application review with other agencies that may have some interest in a project that is in proximity to facilities they manage.

Due to the subject property's location within 200 ft of 32nd Avenue, which is a designated collector roadway, the proposed replat application was referred to Metro and Clackamas County for review and comment. The application was also referred to TriMet due to the subject property's location within 200 ft of an existing transit route.

f. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets.

(1) MMC Subsection 19.708.1 General Street Requirements and Standards

MMC 19.708.1 provides general standards for streets, including for access management, clear vision, street layout and connectivity, and intersection design and spacing. Specifically, MMC Subsection 19.708.1.A requires that driveways conform to the access management standards of MMC Chapter 12.16, including an apron between 9 ft and 20 ft wide and at least 7.5 ft from the side property line.

No changes are proposed to the frontage of Parcel 1 (on Roswell Street), which currently includes two separate driveway approaches, the western one of which does not serve a developed driveway. However, a new driveway approach is required for Parcel 2. A condition has been established to ensure that the driveway approach apron for Parcel 2 complies with the applicable standards of MMC 12.16.

As conditioned, the proposed replat is consistent with the applicable standards of MMC 19.708.1.

(2) MMC Subsection 19.708.2 Street Design Standards

MMC 19.708.2 provides design standards for streets, including dimensional requirements for the various street elements (e.g., travel lanes, bike lanes, on-street parking, landscape strips, and sidewalks).

In the City's Transportation System Plan, Roswell Street is classified as a neighborhood route and Floss Street is classified as a local street. MMC Table 19.708.2 provides street design standards for various street classifications, including ranges for the dimensions of the full ROW width as well as for individual street elements.

The City Engineer has determined that the current application does not require any additional ROW dedications or improvements for Parcel 1's frontage on Roswell Street.

The City Engineer has determined that the half-street cross section of Floss Street along Parcel 2's frontage requires improvements that include a setback sidewalk, landscape strip, and curb and gutter. A 5-ft ROW dedication is also required along Parcel 2's entire frontage on Floss Street. The applicant has elected to apply to pay a fee in lieu of construction (FILOC) in place of constructing improvements along Parcel 2's Floss Street frontage. Conditions have been established to ensure that the required ROW dedication is provided and that the required improvements are constructed (or that a FILOC is paid) prior to the City's approval of the final plat.

As conditioned, the proposed replat is consistent with the applicable standards of MMC 19.708.2.

As conditioned, the Planning Director finds that the proposed replat will meet all applicable standards of MMC 19.708.

The Planning Director finds that, as conditioned, the proposed replat meets the applicable public facility improvement standards of MMC 19.700.

8. MMC Chapter 19.1200 Solar Access Protection

A primary purpose of MMC 19.1200 is to orient new lots and parcels to allow utilization of solar energy. In particular, MMC Section 19.1203 establishes solar access provisions for new development.

- a. MMC Subsection 19.1203.2 establishes the applicability of MMC Subsection 19.1203.3 as extending to applications to create lots in single-family zones. Exceptions are allowable to the extent the Planning Director finds that the applicant has shown one or more of the conditions listed in MMC Subsections 19.1203.4 and 19.1203.5 exist and that exemptions or adjustments are warranted.

The proposed replat would create new parcels in the R-7 zone, which allows single-family residences. The provisions of MMC 19.1200 are applicable to the proposed replat. As discussed in Finding 8-b, Parcel 1 would meet the design standards; as discussed in Finding 8-d, the percentage of lots that must comply with the design standards has been adjusted down to 50% due to adverse impacts on amenities.

- b. MMC Subsection 19.1203.3 establishes solar design standards, including basic requirements for north-south dimension (minimum 90 ft) and front-lot-line orientation with respect to a true east-west axis (within 30°). There are two other options for compliance, for either establishing a protected solar building line or demonstrating a particular level of performance with respect to protection from shading.

As proposed, Parcel 1 has a north-south dimension of 100 ft and a front lot line oriented nearly parallel to a true east-west axis. This parcel would comply with the solar design standards.

The front lot line of Parcel 2 is also oriented nearly parallel to a true east-west axis but has a north-south dimension of only 82.5 ft (following the required 5-ft ROW dedication). As discussed in Finding 8-d, the percentage of lots that must comply with the solar design standards has been adjusted down to 50% due to adverse impacts on amenities.

- c. MMC Subsection 19.1203.4 establishes exemptions from the standards of MMC 19.1203.3, including where an off-site structure and/or vegetation produces a shadow pattern that would affect allowable development on the site. This includes shade from off-site vegetation that is assumed to remain after development, such as from a tree situated in a required setback.

No exemptions to the solar design standards have been requested. This standard is not applicable.

- d. MMC Subsection 19.1203.5 establishes provisions for adjustments to the percentage of lots that must comply with the solar design standards of MMC 19.1203.3, including cases in which the application of the solar design standards would result in adverse impacts on density, cost, or amenities. In particular, MMC Subsection 19.1203.5.A.2 provides for consideration of situations where application of the solar design standards of MMC Subsection 19.1203.3.A could result in the loss or impairment of significant development amenities that would otherwise benefit the lot(s).

As proposed, the north-south dimensions of Parcels 1 and 2 are 100 ft and 82.5 ft, respectively. Parcel 1 is developed with an existing house, the bulk of which is located approximately 40 ft from the proposed boundary with Parcel 2. As proposed, the rear yard of Parcel 1 is large enough to comfortably accommodate a detached accessory dwelling unit (ADU).¹ However, if the common boundary was shifted 8 ft to the north to allow Parcel 2 to meet the 90-ft north-south dimensional standard, the area available for development of a detached ADU on Parcel 1 would be significantly reduced, providing a space only 7 ft wide in which to place a small ADU structure (i.e., one with a footprint of 600 sq ft or less).

¹ If the ADU footprint was 600 sq ft or less, the structure would have to be located at least 20 ft from the rear property line (the rear yard setback for the underlying R-7 zone, as required per MMC Table 19.910.1.E.4.b) and at least 5 ft from the existing house (as per MMC Subsection 19.502.2.A.1.b(3)), leaving 15 ft to place the ADU. If the ADU footprint was 601 to 800 sq ft, the structure would require a 5-ft setback from the rear property line, leaving 30 ft to position the ADU (after separating it 5 ft from the existing house).

If the dimensional standard for solar design was applied to both lots and the owner of Parcel 1 wanted to construct a detached ADU without need for a variance, the code would effectively encourage them to construct a large ADU (between 601 and 800 sq ft) in order to apply the lesser rear-yard setback (5 ft) and have adequate space for the new structure. Ironically, the larger ADU would consume more of the rear yard and allow less space for separation from the house and provision of landscaping.

The application of the solar design standard would result in a loss or impairment of a significant amenity for Parcel 1. In light of this impact to amenities and given that only one of the two parcels meets the solar design standards of MMC 19.1203.3 as proposed, the Planning Director finds that the percentage of lots that must comply with the solar design standards of MMC 19.1203.3 may be reduced to 50%.

As proposed, the Planning Director finds that the applicable provisions of the solar access standards established in MMC 19.1200 are met.

9. The application was referred to the following departments and agencies on April 22, 2020:
- Milwaukie Building Department
 - Milwaukie Engineering Department
 - Milwaukie Public Works Department
 - Milwaukie Police Department
 - City Attorney
 - Ardenwald Neighborhood District Association (NDA), Chairperson and Land Use Committee (LUC)
 - Clackamas Fire District #1 (CFD#1)
 - North Clackamas School District
 - NW Natural
 - Metro
 - Clackamas County
 - TriMet

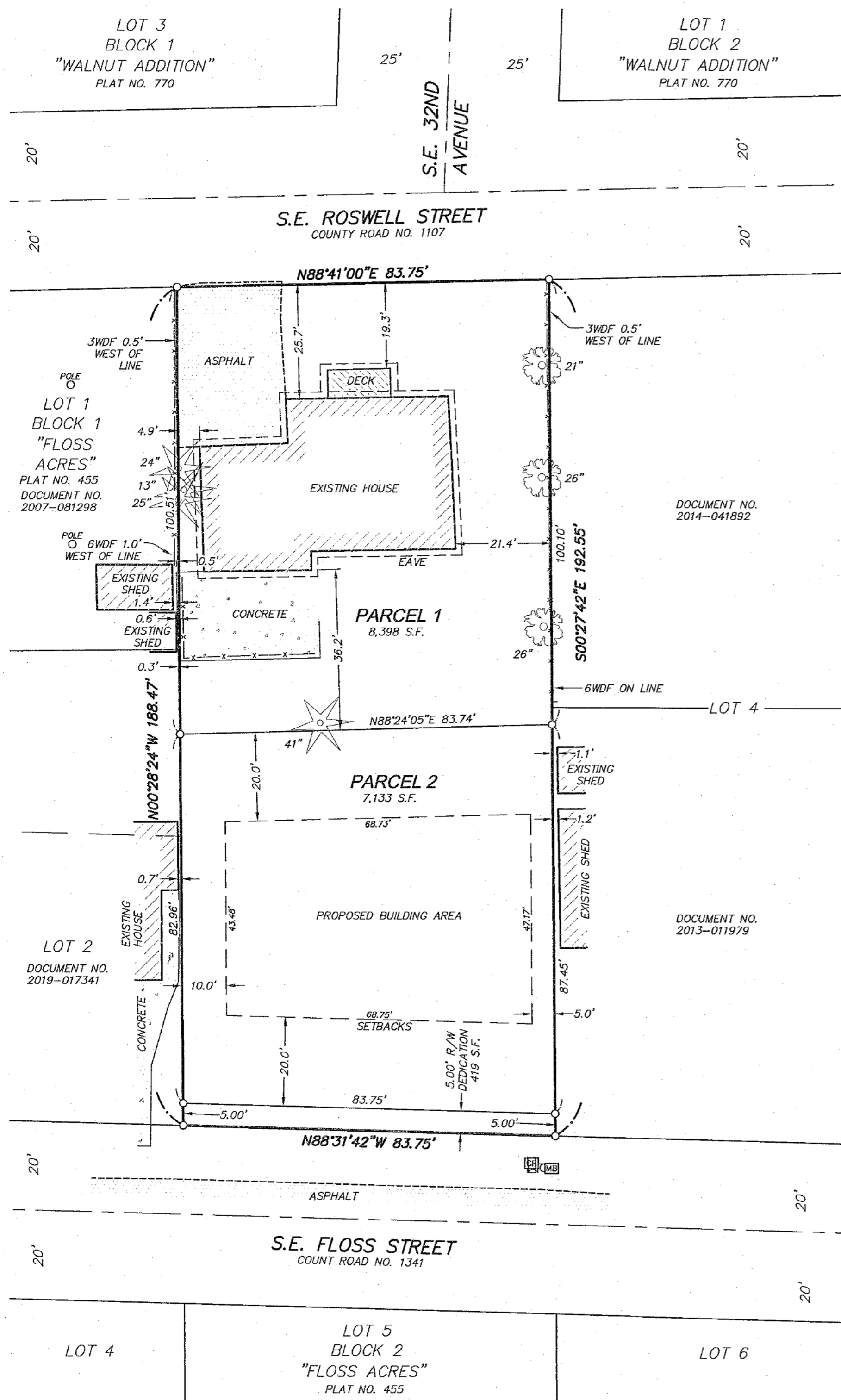
In addition, notice of the public hearing was mailed to owners and residents of properties within 300 ft of the subject property on April 22, 2020.

No comments were received.

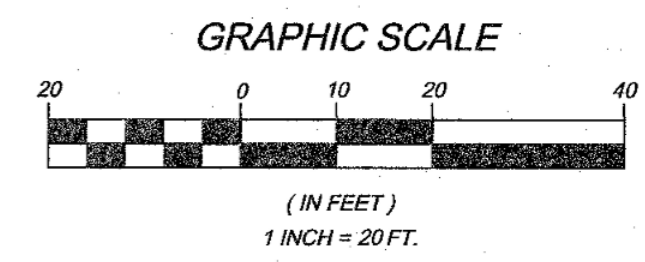
Exhibit 2

PRELIMINARY PARTITION PLAT SUPPLEMENTAL MAP

A REPLAT OF LOT 3, BLOCK 1,
"FLOSS ACRES", PLAT NO. 455, LOCATED IN THE
N.E. 1/4 SECTION 25, T.1S., R.1E., W.M.
CLACKAMAS COUNTY, OREGON
APRIL, 10, 2020 SCALE 1"=20'
PLANNING FILE NO.
SHEET 1 OF 1



- LEGEND:**
- 12" DECIDUOUS TREE
 - 24" EVERGREEN TREE
 - WV WATER VALVE
 - MB MAILBOX
 - CR CABLE TV RISER
 - UTILITY POLE
 - SET 5/8" x 30" IRON ROD W/ RED PLASTIC CAP MARKED "CENTERLINE CONCEPTS" ON 2020
- R/W = RIGHT OF WAY
S.F. = SQUARE FEET
3WDF = 3' WOOD FENCE
6WDF = 6' WOOD FENCE
DOCUMENT NO. = DEED DOCUMENT NUMBER, CLACKAMAS COUNTY DEED RECORDS



SIGNED ON: 10 APR 20

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 13, 2004
TOBY G. BOLDEN
60377LS

RENEWS: DECEMBER 31, 2021

CENTERLINE CONCEPTS
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