



CITY OF MILWAUKIE

September 9, 2020

Land Use File(s): EXT-2020-001

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on September 9, 2020.

Traducciones de este documento e información sobre este proyecto están disponibles en español. Para solicitar información o preguntar en español, favor de email espanol@milwaukieoregon.gov.

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| Applicant(s): | Ed Williams (for HPA 2, LLC) |
| Location(s): | 6511 SE Harmony Rd |
| Tax Lot(s): | 1S2E31D 02200 |
| Application Type(s): | Extension to Expiring Approval |
| Decision: | Approved |
| Review Criteria: | Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• Section 19.908 Extensions to Expiring Approvals• Section 19.1005 Type II Review |
| Neighborhood(s): | Linwood |

Appeal period closes: 5:00 p.m., September 24, 2020

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1005 Type II 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 Kolver, Associate Planner, at 503-786-7657 or kolverb@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/ext-2020-001.

This decision may be appealed by 5:00 p.m. on September 24, 2020, which is 15 days from the date of this decision.¹ Any person who is adversely affected or aggrieved by this decision may appeal the decision by filing a written appeal. An appeal of this decision would be heard by the

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.

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.

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within two years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within four years of land use approval. With this extension approval, the original land use approval will expire on October 11, 2021, three years after the original approval date of October 11, 2018. If the applicant obtains and pays for all necessary development permits and started construction by October 11, 2021, they will have two additional years (until October 11, 2023) to pass a final inspection and/or obtain a certificate of occupancy.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Conditions of Approval

None

Other requirements

None

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.

Decision

- Approved
- Approved with Conditions
- Denied



Leila Aman
Community Development Director and
Acting Planning Director

Exhibits

1. Findings in Support of Approval

cc: Ed Williams, applicant (HPA 2, LLC) (via email)
Steve Kay, applicant's representative (Cascadia Planning & Dev. Services) (via email)
Planning Commission (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 Enforcement Coordinator (via email) (variances only)
Mike Boumann and Matt Amos, CFD#1 (via email)
NDA(s): Linwood (via email)
Land Use File(s): EXT-2020-001; DEV-2020-002; VR-2018-005 (master file)

ATTACHMENT 1
Findings in Support of Approval
File #EXT-2020-001 (Harmony Park Townhomes, Phase II)

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, Ed Williams on behalf of HPA 2, LLC, has applied to extend the expiring approval of land use master file #VR-2018-005 for the property located at 6115 SE Harmony Rd (Tax Lot 1S2E31D 02200). The site is zoned Residential R-2. The land use application file number for the extension request is EXT-2020-001.
2. Master file VR-2018-005 was an application for approval to construct a 15-unit apartment building on the subject property. The proposal included three variance requests related to specific development standards, temporary and permanent disturbance of the designated natural resource area on the site (with accompanying mitigation), and a demonstration of consistency with the City's multifamily design guidelines. The application was approved on September 25, 2018, and the appeal period ended on October 11, 2018.

On March 3, 2020, the applicant submitted an application for development review in conjunction with the building and development permits associated with the project (file #DEV-2020-002). Delays due to the COVID-19 pandemic, City staff review time, and lending restrictions have made it difficult for the applicant to obtain the necessary permits and begin construction.

The approval of VR-2018-005 will expire on October 11, 2020. On July 20, 2020, which is before the expiration date, the applicant requested a one-year extension (to October 11, 2021) to allow additional time to obtain permits and start construction.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.908 Extensions to Expiring Approvals
 - MMC Section 19.1005 Type II Review

Sections of the MMC not addressed in these findings are found to be inapplicable to the decision on this application.

4. The application has been processed in accordance with MMC Section 19.1005 Type II Review, with a decision rendered by the Planning Director. As allowed by MMC Subsection 19.1002.2.B.1, the requirement of MMC Subsection 19.1005.1 for a preapplication conference was waived by the Planning Director. The application was deemed complete on August 17, 2020, and public notice was mailed to surrounding property owners within 300 ft of the site on August 18, 2020, as required by MMC Subsection 19.1005.3.B. Public notice of the application was posted on the subject property on August 19, 2020, as required by MMC Subsection 19.1005.3.C.

5. MMC Section 19.908 Extensions to Expiring Approvals

MMC 19.908 establishes a review process for extending the time period during which land use approvals are valid and may be utilized.

a. MMC Subsection 19.908.2 Applicability

MMC 19.808.2 establishes that unexpired land use applications that were required by MMC Titles 14 (Signs), 17 (Land Division), or 19 (Zoning) and that required Type I, II, or III review are eligible for an extension. Applications that have already expired are not eligible for extension.

Master file VR-2018-005 is an unexpired land use application that was required by MMC Title 19 and was approved through a Type III review.

The Planning Director finds that master file VR-2018-005 is eligible for an extension.

b. MMC Subsection 19.908.3 Review Process

MMC 19.908.3 establishes the procedures and review types that are applicable to extension requests. MMC Subsection 19.908.3.B.2 requires Type II review for the extension application for an expiring application approved through a Type III review.

The expiring application (master file VR-2018-005) was originally approved by the Planning Commission through Type III review.

The Planning Director finds that the requested extension is subject to Type II review and that the applicable standards of MMC 19.908.3 are met.

c. MMC Subsection 19.908.4 Approval Criteria

MMC 19.908.4 establishes the following criteria for approving an extension to an expiring land use application:

- (1) There have been no significant changes on the subject property, in the vicinity of the subject property, or to any relevant regulations since the original application was approved.

There have not been any significant changes to the property or in the vicinity of the site since the original approval on October 11, 2018, nor have there been any significant changes to the relevant regulations.

- (2) No modifications are proposed to the approved application or to the conditions of approval.

No modifications to the approved land use or the conditions of approval have been proposed.

- (3) If the previously approved application included a transportation impact study or a natural resource report, an updated report was provided with the extension application that shows no significant changes on the subject property or in the vicinity of the subject property.

The application for master file VR-2018-005 did not include a transportation impact study but did include a natural resource report. The conditions of approval of VR-2018-005 included a requirement to revise the boundary of the Water Quality Resource (WQR) on the site and to update the mitigation plan to reflect revisions to the calculation of permanent disturbance area. An exhibit showing an update to WQR impacts by the proposed development and a revised mitigation plan were submitted with the extension request and confirm that no significant changes on the subject property or its vicinity have occurred.

The Planning Director finds that the approval criteria of MMC 19.908.4 are met.

As proposed, the Planning Director finds that the requested extension is allowable as per the applicable standards and requirements of MMC 19.908.

6. As described in Finding 4, public notice of the application was posted on site and mailed to property owners within 300 ft of the site as required. The application was referred for comment to the following entities: Milwaukie Engineering Department, Milwaukie Building Department, Milwaukie Public Works Department, City Attorney, Clackamas County Engineering Review, Metro, ODOT, Trimet, NW Natural, Waste Management, North Clackamas School District, and the Linwood Neighborhood District Association.
No comments were received.