



# CITY OF MILWAUKIE

September 4, 2020

Land Use File(s): EXT-2020-004

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on September 4, 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](mailto:espanol@milwaukieoregon.gov).*

<b>Applicant(s):</b>	[REDACTED]
<b>Location(s):</b>	49 <sup>th</sup> Ave and Mullan St
<b>Tax Lot(s):</b>	12E30CD 02500 & 05200
<b>Application Type(s):</b>	Extension to Expiring Approval
<b>Decision:</b>	Approved
<b>Review Criteria:</b>	Milwaukie Land Division Ordinance Section 17.04.050 Time Limit on Approval Milwaukie Zoning Ordinance: <ul style="list-style-type: none"><li>• Section 19.908 Extensions to Expiring Approvals</li><li>• Section 19.1005 Type II Review</li></ul>
<b>Neighborhood(s):</b>	Lewelling

**Appeal period closes: 5:00 p.m., September 21, 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 Vera Koliás, Senior Planner, at 503-786-7653 or [koliasv@milwaukieoregon.gov](mailto:koliasv@milwaukieoregon.gov), if you wish to view this case file or visit the project webpage at [www.milwaukieoregon.gov/planning/EXT-2020-002](http://www.milwaukieoregon.gov/planning/EXT-2020-002).

**This decision may be appealed by 5:00 p.m. on September 4, 2020, which is 15 days from the date of this decision.**<sup>1</sup> 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 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](mailto:planning@milwaukieoregon.gov).

Per MMC Subsection 17.04.050, all decisions on land divisions expire 1 year after the date of approval, with 1 extension of up to 6 months allowed. With this extension approval, the original land division approval will expire on March 9, 2021, 18 months after the original approval date of September 9, 2019.

### **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



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Leila Aman  
Community Development Director and  
Acting Planning Director

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<sup>1</sup> As per MMC Section 19.1010, if the 15<sup>th</sup> 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.

**Exhibits**

1. Findings in Support of Approval

cc: [REDACTED]

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)  
Mike Boumann and Matt Amos, CFD#1 (via email)  
NDA(s): Lewelling (via email)

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

**ATTACHMENT 1**  
**Findings in Support of Approval**  
**File #EXT-2020-002, Anthony Mullins**

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, Anthony Mullins, has applied to extend the expiring approval of land use master file #MLP-2019-001 for the vacant land located at 49<sup>th</sup> Ave and Mullan St (TL 12E30CD 02500 & 05200). The site is zoned Residential R-7. The land use application file number for the extension request is EXT-2020-002.
2. Master file MLP-2019-001 was a minor land partition application for a 2-lot partition on vacant land located at 49<sup>th</sup> Ave and Mullan St. The application was approved on August 23, 2019, and the appeal period ended on September 9, 2019. On November 1, 2019, the applicant submitted an application for final plat (file #FP-2019-001). The applicant has not completed the required public improvements and has not yet been granted final plat approval.

The approval of MLP-2019-001 will expire on September 9, 2020. On August 17, 2020, which is before the expiration date, the applicant requested a 6-month extension (to March 9, 2021) to allow additional time for construction of the required public improvements and approval of the final plat.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 17.04.050 Time Limit on Approval
  - 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 18, 2020, and public notice was mailed to surrounding property owners within 300 ft of the site on August 20, 2020, as required by MMC Subsection 19.1005.3.B. Public notice of the application was posted on the subject property on August 21, 2020, as required by MMC Subsection 19.1005.3.C.
5. MMC Section 17.04.050 Time Limit on Approval  
MMC 17.04.050 establishes standards for time limits on approvals for boundary changes and land divisions. Specifically, MMC Subsection 17.04.050.A establishes that land division decisions shall expire 1 year after approval. In addition, MMC Subsection 17.04.050.4.B

establishes the following criteria for a one-time extension of approval for a period up to 6 months:

- a. No changes are made on the original plan as approved.

*No changes have been made to the original plan as approved by master file MLP-2019-001.*

- b. The applicant can show intent of recording the land division or boundary change within the 6-month extension period.

*The applicant submitted an application for final plat on November 1, 2019. Redline comments from City staff were returned to the applicant on November 5, 2019. Engineered plans for the required public improvements were approved by the City and mylars were received on April 22, 2020. The applicant anticipates being able to construct the required improvements and record the final plat within the extension timeline.*

- c. There have been no changes in the ordinance provisions on which the approval was based.

*There have been no changes in the ordinance provisions on which the approval of MLP-2019-001 was based.*

*The Planning Director finds that the approval criteria of MMC 17.04.050.B are met and that the requested extension is allowable.*

#### 6. 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 MLP-2019-001 is an unexpired land use application that was required by MMC Titles 17 and 19 and was approved through a Type II review.*

*The Planning Director finds that master file MLP-2019-001 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 II review.

*The expiring application (master file MLP-2019-001) was originally approved by the Planning Director through Type II 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 August 23, 2019, nor have there been any 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 division 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 MLP-2019-001 did not include a transportation impact study or a natural resource report.*

*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.*

7. 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, Clackamas Fire District #1, and the Lewelling Neighborhood District Association.

No comments were received.