



CITY OF MILWAUKIE

March 23, 2021

Land Use File(s): EXT-2021-002

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on March 23, 2021.

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.

Applicant(s):	Matthew Gillis, Gillis Properties, LLC
Location(s):	12205-12225 SE 19 th Ave
Tax Lot(s):	11E35DD 03200 & 03300
Application Type(s):	Extension to Expiring Approval
Decision:	Approved
Review Criteria:	Milwaukie Land Division Ordinance Section 17.04.050 Time Limit on Approval Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• Section 19.908 Extensions to Expiring Approvals• Section 19.1005 Type II Review
Neighborhood(s):	Island Station

Appeal period closes: 5:00 p.m., April 7, 2021

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 Koliass, Senior Planner, at 503-786-7653 or koliassv@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/EXT-2021-002.

This decision may be appealed by 5:00 p.m. on April 7, 2021, 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 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 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 October 10, 2021, 18 months after the original approval date of April 10, 2020.

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



Laura Weigel, AICP
Planning Manager

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.

Exhibits

1. Findings in Support of Approval

cc: Matthew Gillis, applicant (via email)
Planning Commission (via email)
City Council (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 Alex McGadrey, CFD#1 (via email)
NDA(s): Island Station (via email)

Land Use File(s): EXT-2021-002

ATTACHMENT 1
Findings in Support of Approval
File #EXT-2021-002, Matthew Gillis

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, Matthew Gillis, Gillis Properties LLC, has applied to extend the expiring approval of land use master file #FP-2020-007 for the property known as Elk Rock Estates (12205-12225 SE 19th Ave: TL 11E35DD03200 & 03300). The site is zoned Residential R-5. The land use application file number for the extension request is EXT-2021-002.
2. Master file #NR-2018-005 and the subsequent appeal land use file #AP-2019-003 was the approval of a 5-lot natural resources subdivision on the property located at 12205-12225 SE 19th Ave. The final order on the appeal application, approving the natural resources subdivision, was approved on April 10, 2020. On October 5, 2020, the applicant submitted an application for a final plat (file #FP-2020-007). Because the applicant has not completed the required public improvements the final plat has not yet been granted approval.

The approval of AP-2019-003 will expire on April 10, 2021. On March 1, 2021, which is before the expiration date, the applicant requested a 6-month extension (to October 10, 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 Manager. 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 March 4, 2021, and public notice was mailed to surrounding property owners within 300 ft of the site on March 5, 2021, as required by MMC Subsection 19.1005.3.B. Public notice of the application was posted on the subject property on March 10, 2021, 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 AP-2019-003.

- 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 October 5, 2020. Redline comments on the plans and Engineering review for the required public improvements are still in process. 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 AP-2019-003 was based.

The Planning Manager 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 19.908.2 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.

The original land use application was a Type III review of NR-2018-005. Following the denial of this application, the applicant appealed the denial (master file AP-2019-003), which was approved by the City Council. Land use file AP-2019-003 is the land use approval establishing this land division. AP-2019-003 is an unexpired land use application that was required by MMC Titles 17 and 19 and is the subject of this extension.

The Planning Manager finds that master file AP-2019-003 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 AP-2019-003) was originally approved by the City Council through the appeals process following a Type III review by the Planning Commission

The Planning Manager 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 April 10, 2020 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 original application and approval were for a Natural Resources cluster development. The applicant submitted an environmental assessment provided by a Natural Resources Scientist with Harper Houf Peterson Righellis Inc. dated February 19, 2021. The purpose of the assessment was to determine if any significant change had occurred to the property since the original resource assessment was conducted on November 17, 2018 as part of the original land use application. The assessment concludes that no significant changes to the environmental conditions were observed. The project site conditions remain the same.

The application for master file NR-2018-005 did not include a transportation impact study.

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

As proposed, the Planning Manager 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 Island Station Neighborhood District Association.

No comments were received.

