



# CITY OF MILWAUKIE

November 5, 2021

Land Use File(s): R-2021-003

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on November 5, 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](mailto:espanol@milwaukieoregon.gov).*

<b>Applicant(s):</b>	Oregon Department of Transportation (ODOT)
<b>Location(s):</b>	9002 SE McLoughlin Blvd
<b>Tax Lot(s):</b>	1S1E25BC 00200 and 00300
<b>Application Type(s):</b>	Replat (boundary adjustment)
<b>Decision:</b>	Approved
<b>Review Criteria:</b>	Milwaukie Land Division Ordinance: <ul style="list-style-type: none"><li>• Milwaukie Municipal Code (MMC) Chapter 17.12 Application Procedure &amp; Approval Criteria</li><li>• MMC Chapter 17.16 Application Requirements &amp; Procedures</li><li>• MMC Chapter 17.20 Preliminary Plat</li><li>• MMC Chapter 17.28 Design Standards</li></ul> Milwaukie Zoning Ordinance: <ul style="list-style-type: none"><li>• MMC Section 19.312 North Milwaukie Innovation Area (incl. MUTSA)</li><li>• MMC Chapter 19.700 Public Facility Improvements</li><li>• MMC Section 19.1005 Type II Review</li></ul>
<b>Neighborhood(s):</b>	Not applicable (North Milwaukie Industrial Area)

**Appeal period closes: 5:00 p.m., November 22, 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 Brett Kever,

Senior Planner, at 503-786-7657 or [kelperb@milwaukieoregon.gov](mailto:kelperb@milwaukieoregon.gov), if you wish to view this case file or visit the project webpage at [www.milwaukieoregon.gov/planning/r-2021-003](http://www.milwaukieoregon.gov/planning/r-2021-003).

**This decision may be appealed by 5:00 p.m. on November 22, 2021, which is 15 days from the date of this decision.**<sup>1</sup> (Note: Please arrive by 4:45 p.m. for appeal payment processing.) 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 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**

None

### **Other requirements**

1. MMC Section 17.04.120 Recording
  - a. As per MMC Subsection 17.04.120.A, the recording instruments for boundary changes must be submitted to the County Surveyor within 6 months of City approval.
  - b. As per MMC Subsection 17.04.120.B, prior to recording a replat the applicant must submit the recording instruments to the Planning Manager for a determination of consistency with the City Code and required approvals.
  - c. As per MMC Subsection 17.04.120.D, replats must be recorded by plat.
  - d. As per MMC Subsection 17.04.120.E, a copy of the recording instruments must be submitted to the Planning Manager no later than 15 days after filing with the County Surveyor.

### **Manager'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.

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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.

**Decision**

- Approved  
 Approved with Conditions  
 Denied



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Laura Weigel, AICP  
Planning Manager

**Exhibits**

1. Findings in Support of Approval

cc: Cory Hamilton, 2B District Manager, ODOT, applicant (via email)  
Mark Dane, Mark Dane Planning Inc., applicant's representative (via email)  
Planning Commission (via email)  
Joseph Briglio, 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)  
Valere Liljefelt, CFD#1 (via email)  
Land Use File(s): R-2021-003

**EXHIBIT 1**  
**Findings in Support of Approval**  
**File #R-2021-003 (9002 SE McLoughlin Blvd)**

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, Cory Hamilton on behalf of the Oregon Department of Transportation (ODOT), has applied for approval to adjust the common boundary between two lots under common ownership that are addressed as 9002 SE McLoughlin Blvd. The site is in the Tacoma Station Area Mixed Use zone (MUTSA). The boundary adjustment is being processed as a replat, with land use application file number R-2021-003.
2. The subject property is comprised of two large lots totaling approximately 239,500 sq ft in area (5.5 acres). Tax lot 300 (approximately 153,370 sq ft or 3.5 acres) is developed with an historic building that previously served as headquarters for ODOT Region 1 and includes several detached maintenance sheds. As a result of a public road improvement project from the early 1990s, Main Street curves north-south through the eastern third of Tax lot 300 and separates the eastern edge and southeast corner of the property, including one of the maintenance sheds, from the rest of the lot. Tax lot 200 (approximately 86,150 sq ft or 2.0 acres) is developed with a long maintenance shed, wash bay facility, and fueling station for ODOT vehicles and equipment.

The proposal is to adjust the shared property line to make Main Street the common boundary between the two lots. No new lots would be created, and no other development is proposed.

3. The proposed boundary adjustment involves the reconfiguration of a lot from a recorded subdivision plat. Therefore, the proposed adjustment 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 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 Section 19.312 North Milwaukie Innovation Area (including MUTSA)
  - MMC Chapter 19.700 Public Facility Improvements
  - MMC Section 19.1005 Type II Review

The application was submitted on September 23, 2021, and deemed complete on October 13, 2021. The application has been processed and public notice provided in accordance with MMC Section 19.1005 Type II Review as required by law, with a decision by the Planning Manager.

#### 4. MMC Chapter 17.12 Application Procedure & Approval Criteria

MMC 17.12 specifies the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat.

##### a. 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 replat.

*As noted in Finding 3, because the proposed boundary adjustment involves the reconfiguration of a lot from a recorded subdivision plat, it is being processed as a partition replat. Tax lot 200 is Lot 2 from the Milwaukie Industrial Park subdivision platted in 1956, plus half of the 60-ft public right-of-way of 25<sup>th</sup> Avenue that was vacated in 2000. The proposed adjustment would add the portion of Tax lot 300 that is currently on the east side of Main Street to Parcel 2 (Tax lot 200).*

*As per MMC Table 17.12.020, a partition replat that modifies a plat originally decided by the City's Planning Commission is subject to Type III review. However, as per MMC Subsection 17.12.020.B.1, Type III review may be changed to Type II review upon finding that the proposal is consistent with applicable standards and criteria, that the proposal is consistent with the basis and findings of the original approval, and that the proposal does not increase the number of lots.*

*As discussed in these findings, the proposed boundary adjustment is consistent with all applicable standards and criteria. The City did not have an adopted subdivision ordinance in 1956 and there is no available record of a review of the plat against any applicable standards and criteria. The proposed boundary adjustment will not increase the number of lots.*

*The Planning Manager finds that Type III review may be changed to Type II review for the proposed boundary change.*

##### b. 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.

- (1) The boundary change is compliant with Title 17 Land Division Ordinance and Title 19 Zoning Ordinance.

*Findings 4-9 address compliance with Titles 17 and 19. The proposed boundary adjustment meets all applicable standards.*

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

*The proposed boundary adjustment will establish two parcels that are each suitable for redevelopment. Parcel 1 will retain the existing historic building and maintenance sheds west of Main Street; Parcel 2 will retain the long maintenance shed, wash bay facility,*

*and fueling station and will incorporate the other maintenance shed east of Main Street. As proposed, both parcels are adequately sized for redevelopment in conformance with the standards of the underlying MUTSA zone without creating the need for a variance of any land division or zoning standard.*

- (3) The boundary change will not reduce the residential density below the minimum density requirements of the zoning district.

*Although multifamily, mixed-use residential, and live/work units are all allowed residential uses in the MUTSA zone, there is no minimum density requirement. This standard is not applicable.*

*The Planning Manager finds that these criteria are met.*

*The Planning Manager finds that the proposed boundary adjustment meets all applicable standards of MMC 17.12.*

5. MMC Chapter 17.16 Application Procedure & Approval Criteria

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 Manager.

*The applicant's submittal materials include the necessary forms and fee, a narrative that describes the project and addresses the various applicable standards, deed documents, and a preliminary plat map that portrays the proposed adjustment.*

*The Planning Manager finds that no additional information is required and that the proposed boundary adjustment meets all applicable standards of MMC 17.16.*

6. 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 and proposed new boundaries.*

*The Planning Manager finds that the proposed preliminary plat includes the relevant and necessary information as outlined in MMC 17.20.*

7. MMC Chapter 17.28 Design Standards

a. MMC Section 17.28.030 Easements

MMC 17.28.030 requires that easements for sewers, water mains, electric lines, or other public facilities be dedicated whenever necessary.

*There is an existing 5-ft-wide easement for sewer and power lines along the northern boundary of Parcel 1. A public sewer line runs along the eastern boundary of Parcel 2 within the former public right-of-way of 25<sup>th</sup> Avenue that was vacated in 2000. As part of that vacation, utility easements were reserved over the entire vacated right-of-way (Document No.*

2016-052713, which recorded the adopting Ordinance No. 1867). No additional easements are necessary at this time.

*As proposed, this standard is met.*

b. MMC Section 17.28.040 General Lot Design

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

- (1) 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 discussed in Finding 8, the MUTSA zone has no minimum standards for lot size, dimension, or street frontage. This standard is not applicable.*

- (2) 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 a result of the proposed adjustment, both parcels will retain their largely rectilinear shapes. The alignment of Main Street curves through the southern part of the project area, and the newly adjusted lot lines will follow the street alignment with the parcels separated by the public right-of-way.*

- (3) MMC 17.28.040.C prohibits 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.

*No changes in lot line direction are proposed.*

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

*No adjustments to lot shape standards are requested or required.*

- (5) 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.

*Both parcels currently have multiple street frontages. While the proposed boundary change will add a Main Street frontage to Parcel 2, it will eliminate the bisection of the current Parcel 1 by Main Street and will provide a more logical lot configuration.*

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

*There is no minimum street frontage requirement in the MUTSA zone. Each parcel has frontage on multiple streets but takes its primary access from Stubb Street to the north.*

*The proposed boundary adjustment meets all applicable standards for general lot design as provided in MMC 17.28.040. This standard is met.*

*The Planning Manager finds that the proposed boundary adjustment complies with all applicable standards for lot design as established in MMC 17.28.*

- 8. MMC Section 19.312 North Milwaukie Innovation Area (including the MUTSA zone)

MMC 19.312 establishes standards for the North Milwaukie Innovation Area, including the Tacoma Station Area Mixed Use (MUTSA) zone. The application meets the applicable standards of this section as described below.

- a. MMC Subsection 19.312.2 Allowed Uses

MMC 19.301.2 establishes the uses allowed in the MUTSA zone, including bases for construction-related contractors as well as warehousing and distribution.

*The subject property is used by ODOT as a maintenance yard, with a wash bay facility and fueling station for ODOT vehicles and equipment. The use is allowable in the MUTSA as a type of contractor base of operation. No change in use is proposed.*

*This standard is met.*

- b. MMC Subsection 19.312.5 Development Standards

MMC 19.312.5 establishes development standards for the MUTSA zone. The applicable standards are addressed and met as described in Table 8-b below.

<b>Table 8-b Applicable Development Standards for the MUTSA zone</b>			
<b>Standard</b>	<b>MUTSA Requirement</b>	<b>Parcel 1</b>	<b>Parcel 2</b>
Front Yard Setback	0 ft (minimum) 10 ft (maximum)	No change (c. 42 ft from McLoughlin Blvd)	No change (c. 26 ft from Stubb St)
Side Yard Setback	0 ft	29 ft N side / 25 ft S side	15 ft W side / 43 ft E side
Rear Yard Setback	0 ft	21 ft (W side)	19 ft (S side)
Maximum lot coverage	85%	12%	15.5%
Minimum landscaping	15%	>24%	c.3% (was nearly 0%)

*In most cases, the proposed adjustment meets the applicable standard; where it does not, there is either no change from the existing situation (such as for the front yard setbacks on both parcels) or the adjustment brings the site closer to meeting the standard (such as for minimum*



*landscaping on Parcel 2). As proposed, the applicable development standards of this subsection are met.*

*The Planning Manager finds that the proposed boundary adjustment meets all applicable development standards of MMC 19.312. This standard is met.*

9. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 establishes provisions to ensure that development 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 land divisions, replats, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

*The applicant proposes to replat the subject property to adjust a common boundary between two existing tax lots. No increase in vehicle trips or gross floor area is associated with the proposed adjustment and there are no impacts to public facilities. Although MMC 19.700 is technically applicable to the proposed adjustment, there are no additional applicable requirements related to public facilities.*

*The Planning Manager finds that the applicable requirements of MMC 19.700 are met.*

10. The application was referred to the following departments and agencies on October 15, 2021:

- Milwaukie Building Department
- Milwaukie Engineering Department
- Milwaukie Public Works Department
- Clackamas Fire District #1 (CFD#1)
- Clackamas County Department of Transportation & Development (DTD)
- Metro
- Oregon Department of Transportation (ODOT)
- TriMet
- NW Natural

In addition, notice of the public hearing was mailed to owners and residents of properties within 300 ft of the subject property on October 15, 2021.

The comments received are summarized as follows:

- **Valere Liljefelt, Lt. Deputy Fire Marshal, CFD#1:** No comments. The proposed boundary adjustment will not affect fire access or water supply.