



CITY OF MILWAUKIE

June 3, 2022

Land Use File(s): MLP-2022-001

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on June 3, 2022.

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):** Nile Hagen
- Location(s):** 4215 SE King Rd
- Tax Lot(s):** 1S2E30CC05301
- Application Type(s):** Minor Land Partition
- Decision:** Approved with Conditions
- Review Criteria:** Milwaukie Municipal Code (MMC):
- MMC Title 12 Streets, Sidewalks, & Public Places
 - MMC Title 17 Land Division, including:
 - 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
 - MMC Section 19.302 Medium & High Density Residential Zones (incl. R-3)
 - MMC Chapter 19.600 Off-Street Parking & Loading
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.1005 Type II Review
- Neighborhood(s):** Lewelling, Hector Campbell

Appeal period closes: 5:00 p.m., June 20, 2022

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 Kelver, Senior Planner, at 503-786-7657 or kelverb@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/mlp-2022-001.

This decision may be appealed by 5:00 p.m. on June 20, 2022, which is 15 days from the date of this decision.¹ (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.

Per MMC Section 17.04.050, all decisions on boundary changes and land divisions expire 1 year after the date of approval. Approvals may be extended up to 6 months upon submission of a formal request to the original decision-making authority. One extension of up to 6 months is allowed if there are no changes to the original approved plan or to related ordinances and if the applicant can show intent of recording the land division or boundary change within the 6-month extension period.

Per MMC Section 17.04.120, an application for final plat must be submitted to both the City Planning Department and the County Surveyor within 6 months of the date of this approval. Submittal of a final plat application within this 6-month timeframe is necessary to preserve the 1-year validity of the decision established in MMC 17.04.050.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Conditions of Approval

1. Prior to City approval of the associated final plat, provide a 10-ft Public Utility Easement (PUE) along the frontages of both parcels (as per Finding 8-f).
2. As per Finding 8-e, prior to the land use approval and/or issuance of development permits for Parcel 2, provide a signed and formalized development agreement between the developer and the City of Milwaukie outlining the required frontage improvements along both parcels, and the costs and responsibilities associated with such improvements.
3. As per Finding 7, prior to final inspection and/or issuance of a certificate of occupancy for future development of Parcel 2, reconfigure the off-street parking area on Parcel 1 to meet the following applicable standards of MMC Chapter 19.600:
 - a. Parking quantity (minimum and maximum).
 - b. Parking space and drive aisle dimensions.

¹ As per MMC Section 19.1010, if the 15th day falls on a weekend or legal holiday, the end of the appeal period will be extended to the end of the next business day.

- c. Dimensions of perimeter and interior landscaping buffers.
- d. Visual screening between newly designated parking spaces where adjacent to residential uses (including Parcel 2), as per the standards of MMC Subsection 19.606.2.C.3.

In addition, as discussed in Finding 7, existing nonconforming aspects of the off-street parking area must be improved and brought closer to conformance with the applicable standards of MMC 19.600. Potential improvements could include (but are not limited to) adding trees in the perimeter and interior landscaping areas, providing visual screening along the drive aisle, installing wheel stops, or adding bicycle parking. As per MMC Subsection 19.602.5.B, the material costs of any such required improvements are limited to 10% of the permit value associated with the parking lot reconfiguration. The parking lot reconfiguration will be processed with a Type I Development Review application, through which the details of specific limited off-street parking improvements will be determined.

Other requirements

1. MMC Section 17.04.120 Recording

As per MMC Section 17.04.120, replats must be recorded by plat. An application for final plat must be submitted to both the City Planning Department and the County Surveyor within 6 months of the date of this approval. Once approved by the County Surveyor, a copy of the recorded final plat must be submitted to the City Planning Department.

2. Prior to commencing work on any required public improvements, the following must be resolved:
- a. Submit full-engineered plans for construction of all required public improvements, to be reviewed and approved by the City of Milwaukie Engineering Department.
 - b. Submit a storm water management plan to the City of Milwaukie Engineering Department for review and approval. The plan must be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. Private properties may only connect to public storm systems if percolation tests show that infiltration cannot be obtained on site. In the event the storm management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.
 - c. Obtain a right-of-way permit for construction of all required public improvements listed in these conditions of approval.
 - d. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
 - e. Provide a payment and performance bond for 130% of the cost of the required public improvements.
 - f. Provide an erosion control plan and obtain an erosion control permit prior to any earth-moving activities.

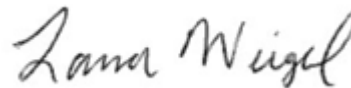
- g. Install all underground utilities, including stubs for utility service, prior to surfacing any streets.
 - h. Remove all signs, structures, or vegetation in excess of 3 ft in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the subject property. Confirm the location of clear vision areas with the Engineering Department prior to removing any vegetation.
3. Development activity on the site is limited to 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday, per MMC Subsection 8.08.070.I.

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.

Decision

- Approved
- Approved with Conditions
- Denied



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in Support of Approval
- cc: Nile Hagen, applicant (via email)
Ryan O'Brien, applicant's representative (via email)
James Callahan, property owner (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)
Shawn Olson, CFD#1 (via email)
NDA(s): Lewelling, Hector Campbell (via email)
Land Use File(s): MLP-2022-001

EXHIBIT 1
Findings in Support of Approval
File #MLP-2022-001 (4215 SE King Rd)

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, Nile Hagen, has applied for approval to partition the property addressed as 4215 SE King Rd to establish two parcels. The site is zoned Residential R-3. The land use application file number MLP-2022-001.
2. The subject property is a single tax lot approximately 72,730 sq ft in area (1.67 acres). The property is developed with a small office building currently used as a law office. The site has almost 150 ft of frontage on King Road and approximately 475 ft of frontage on 43rd Avenue. The proposed partition would create two parcels: one that contains the existing law office and accompanying off-street parking lot (approximately 31,700 sq ft) on the southern third of the property; and a vacant parcel on the northern two thirds of the property that would be developable.
3. The proposed land division constitutes a partition 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 12 Streets, Sidewalks, and Public Places
 - MMC Title 17 Land Division, including:
 - MMC Chapter 17.12 Application Procedure & 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 19.302 Medium and High Density Residential Zones (incl. R-3)
 - MMC Chapter 19.600 Off-Street Parking and Loading
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.1005 Type II Review

The application was submitted on March 10, 2022, and deemed complete on April 7, 2022. 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 Title 12 Streets, Sidewalks, and Public Places
 - a. MMC Chapter 12.08 Street and Sidewalk Excavations, Construction, and Repair
MMC 12.08 applies to all construction that is completed in the right-of-way (ROW) that is eventually dedicated to the City.

A condition has been established to require a signed and formalized development agreement with the City to construct all required ROW improvements along both parcels prior to the development of Parcel 2.

An issued ROW permit is required prior to construction of the required ROW improvements in accordance with MMC Section 12.08.020.

As conditioned, the applicant's public improvement process will follow the requirements of MMC Section 12.08.020.

As conditioned, this standard is met.

b. MMC Chapter 12.16 Access Management

MMC 12.16 regulates access from private property onto public streets, with specific requirements and standards provided in MMC Section 12.16.040.

- (1) MMC Subsection 12.16.040.A requires that all properties be provided street access with the use of an accessway.

Parcel 1 has an existing accessway on 43rd Avenue; Parcel 2 has adequate frontage on 43rd Avenue to allow construction of an approvable access in conjunction with future development.

Future development of Parcel 2 will require a development agreement with the City of Milwaukie, as conditioned. This agreement will include required frontage improvements, including the new accessway. As conditioned, the agreement will be formalized prior to the land use approval and/or issuance of development permits for Parcel 2.

As conditioned, this standard is met.

- (2) MMC Subsection 12.16.040.C regulates accessway location, including the required minimum distance from the side property line of 7.5 ft (for residential districts). In addition, accessways on collector streets must be at least 300 ft from the nearest intersection (or beyond the end of the traffic queue during peak hour conditions, whichever is greater). Modifications may be proposed in accordance with the provisions of MMC Subsection 12.16.040.B.2, including the submittal of an access study.

The existing driveway on Parcel 1 is over 40 ft from the proposed side property line where adjacent to Parcel 2 and so meets the 7.5-ft spacing requirement. The driveway is less than 130 ft from the intersection with King Road, which presents an existing nonconforming situation. No intensification of use of the driveway is proposed, so a modification request is not necessary.

Future development on Parcel 2 will require provision of a new accessway along the parcel's frontage on 43rd Avenue. The new accessway will be evaluated for compliance with the applicable standards at the time of development, as part of the required development agreement as conditioned.

As conditioned, the applicable standards of MMC 12.16.040.C are met.

- (3) MMC Subsection 12.16.040.D establishes standards for the number of accessways, minimizing the number of accessways on arterial streets and limiting single-unit residential uses to 1 accessway each.

Both proposed parcels have frontage on 43rd Avenue, a collector street, and each take or will take access from 43rd Avenue with a single driveway. Parcel 2 will require a new single accessway at the time of development.

This standard is met.

As conditioned, the applicable standards of MMC 12.16 are met.

The Planning Manager finds that, as conditioned, the proposed partition meets the applicable standards of MMC Title 12.

5. 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

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

The subject property is a single parcel approximately 72,730 sq ft in area (1.67 acres). The proposed land division would establish two distinct parcels. This action constitutes a partition as per the definitions of MMC Chapter 17.08 and the guidance of MMC Table 17.12.020.

MMC Section 17.12.040 establishes the approval criteria for preliminary plat. The proposed partition meets these criteria as described below.

- (1) The proposed preliminary plat complies with Title 19 and other applicable ordinances, regulations, and design standards.

As demonstrated by the applicant's submittal materials and evidenced by these findings, the proposed replat complies with all applicable standards of MMC Titles 17 and 19. As proposed, this criterion is met.

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

The proposed partition will provide sufficient area on both proposed parcels to accommodate future development or redevelopment in accordance with the standards of the underlying R-3 zone, without the need for a variance. As proposed, this criterion is met.

- (3) The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of Oregon Revised Statutes (ORS) 92.090(1).

The proposed partition will be assigned a filing number by the Clackamas County Surveyor and does not require a plat name. As required for the final plat submittal, the plat will meet all applicable provisions of the ORS. As proposed, this criterion is met.

- (4) The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

No new streets or roads are included in the proposed partition. This standard is not applicable.

- (5) A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

The applicant's submittal materials include a narrative that addresses all applicable code sections and design standards.

As proposed, the Planning Manager finds that the preliminary plat meets the applicable criteria.

b. MMC Chapter 17.16 Application Requirements and Procedures

MMC Section 17.16.060 establishes the application requirements for preliminary plat, including completed application forms and checklists, applicable fees, and the information specified in MMC Chapter 17.20 Preliminary Plat.

The applicant's submittal materials include the necessary forms, checklists, and fees, as well as a narrative, preliminary plat document, and other information sufficient to demonstrate compliance with the applicable standards and criteria.

As proposed, the Planning Manager finds that the application meets the applicable requirements for replat submittal.

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 a map of existing conditions, contour lines, utilities, and other general information.

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

d. MMC Chapter 17.28 Design Standards

MMC 17.28, particularly MMC Section 17.28.040, establishes standards for lot design for land divisions and boundary changes.

- (1) MMC Subsection 17.28.040.A requires that the lot size, width, shape, and orientation must be appropriate for the location and the type of use contemplated, as well as that minimum lot standards must conform to Title 19.

As discussed in Finding 6, the proposed parcels meet the minimum area and dimensional requirements for the underlying R-3 zone. As proposed, this standard is met.

- (2) MMC Subsection 17.28.040.B requires that lot shape must 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, must run at right angles to the street upon which the lots face. As far as practicable, the rear lot line must run parallel to the street.

The proposed parcels are both rectilinear in shape and have frontage on public streets (King Road and 43rd Avenue for Parcel 1 and 43rd Avenue for Parcel 2. The side lines of both parcels run at right angles to the streets they face, and the rear lot lines are parallel to those streets. As proposed, this standard is met.

- (3) MMC Subsection 17.28.040.C limits compound lot lines for side or rear lot lines. Cumulative lateral changes in direction exceeding 10% of the distance between opposing lot corners along a given lot line may only be permitted through the variance provisions of MMC Subsection 19.911.

The proposed partition does not include any compound lot lines. This standard is met.

- (4) MMC Subsection 17.28.040.D allows lot shape standards to be varied pursuant to MMC 19.911.

No variance to the lot shape standards is requested in this application.

- (5) MMC Subsection 17.28.040.E limits double frontage and reversed frontage lots, stating that they should be avoided except in certain situations.

Neither of the proposed parcel is a double frontage or reversed frontage lot.

- (6) MMC Subsection 17.28.040.F requires that, pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access. This standard applies when a lot has frontage on more than one street.

As proposed, both parcels will take access from 43rd Avenue and have well over the minimum required 35 ft of public street frontage. As proposed, this standard is met.

As proposed, the Planning Manager finds that the 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 work will not begin until plans have been approved by the City.

As discussed in Finding 8, physical improvements are required to establish the two parcels, with a condition established requiring a development agreement to clarify the costs and responsibilities for public improvements. This development agreement is required to be formalized prior to the land use approval and/or issuance of development permits for Parcel 2.

As required, construction of public improvements will not begin until plans have been reviewed and approved by the City and permits have been issued.

As conditioned, the Planning Manager finds that the applicable standards of MMC 17.32 are met.

The Planning Manager finds that, as conditioned, the proposed partition meets all applicable standards of MMC Title 17.

6. MMC Section 19.302 Medium and High Density Residential Zones (including R-3)

MMC 19.302 contains standards for Medium and High Density Residential zones, including R-3. The application meets the applicable standards of this section as described below.

a. MMC Subsection 19.302.2 Allowed Uses

MMC 19.302.2 establishes the uses allowed in the R-3 zone, including single-family detached dwellings, duplexes, accessory dwelling units, rowhouses, and cottage cluster housing as permitted outright. Multifamily, congregate housing facilities, senior and retirement housing, and office uses are allowed as conditional uses.

The existing office building on Parcel 1 is a de facto conditional use, with an expansion to the building approved through conditional use review in 1992 (land use file #CU-92-03). The applicant has indicated that Parcel 2 will be developed in the future with multifamily housing through the applicable review process.

As proposed, this standard is met.

b. MMC Subsections 19.302.4 and 19.302.5 Development Standards

MMC 19.302.4 and 19.302.5 establish development standards for the R-3 zone. The applicable standards are addressed and met as described in Table 6-b (Applicable Development Standards for the R-3 Zone) below.

Table 6-b Applicable Development Standards for the R-3 Zone			
Standard	R-3 Requirement *	Parcel 1	Parcel 2
Minimum lot size	5,000 sq ft	31,700 sq ft (0.73 acres)	44,670 sq ft (1.03 acres)
Minimum lot width	50 ft	195 ft	276 ft
Minimum lot depth	80 ft	161 ft	161 ft
Minimum street frontage	35 ft	356 ft	276 ft
Front yard	15 ft	53 ft **	To be determined (TBD)
Side yard	5 ft	52 ft	TBD

Street-Side Yard	15 ft	52 ft **	TBD
Rear yard	15 ft	c.14 ft (existing, no change)	TBD
Maximum building height	2.5 stories or 35 ft	2 stories (existing, no change)	TBD
Maximum lot coverage	40%	11.6%	TBD
Minimum landscaping	35%	>53%	TBD
Density (units per acre)	11.6 (min) 14.5 (max)	Not applicable for office use	12 units (min) 15 units (max)

* MMC Table 19.302.4 includes distinct size standards for rowhouse lots (3,000-sq-ft minimum), duplex lots (6,000-sq-ft minimum), and all other lots (5,000-sq-ft minimum). The proposed partition is for standard lots, as the subject property is developed with a commercial office building on Parcel 1 and has multifamily development proposed for Parcel 2.

** MMC Table 19.501.2.A establishes additional yard requirements along certain major streets, measured from the centerline of the right-of-way (ROW) to the closest point of any building. On King Road, the additional yard requirement is 40 ft and the ROW width from centerline at this location is 30 ft, resulting in a net additional setback of 10 ft. On 43rd Avenue, the additional requirement is 30 ft and the ROW width from centerline at this location is approximately 30 ft, resulting in no net additional setback.

The proposed partition meets the applicable standards of this subsection for both parcels.

The Planning Manager finds that the proposed partition meets all applicable development standards of MMC 19.302.

7. 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. The purpose of these requirements includes providing adequate space for off-street parking, minimizing parking impacts to adjacent properties, and minimizing environmental impacts of parking areas.

a. MMC Section 19.602 Applicability

MMC 19.602 establishes the applicability of the provisions of MMC 19.600. MMC Subsection 19.602.2 requires that property owners ensure conformance with the standards of MMC 19.600 related to ongoing maintenance, operations, and use of off-street parking and loading areas. Changes to existing off-street parking or loading areas that bring the area out of conformance with the MMC 19.600, or further out of conformance if already nonconforming, are prohibited. As per MMC Subsection 19.602.5, improvements to nonconforming off-street parking areas are limited to no more than 10% of the development permit value for the associated improvements.

The subject property is developed with a small office building and accompanying off-street parking area. The proposed partition will place the existing building on Parcel 1; most of the existing parking area will remain on Parcel 1, though it will be reconfigured and slightly reduced in size. As discussed below in Findings 7-b and 7-c, reestablished parking elements will meet the applicable standards (e.g., quantity and dimensions of parking stalls, drive aisles, and landscaping areas), maintaining conformance where other parking standards are currently met without bringing existing nonconformities further out of conformance. The

10% limit on improvements will be applied to areas where existing nonconformities are brought closer to conformance.

Parking for Parcel 2 will be evaluated at the time of future new development.

The Planning Manager finds that the provisions of MMC 19.600 are applicable to the proposed partition.

b. 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. MMC Subsection 19.605.1 provides minimum and maximum requirements based on use, with guidance for rounding when the calculations of minimum or maximum spaces does not result in a whole number. For minimum parking calculations that do not result in a whole number, the result is rounded down to the nearest whole number; for maximum parking calculations that do not result in a whole number, the result is simply rounded up or down to the nearest whole number.

MMC Table 19.605.1 provides minimum and maximum quantity requirements for general office uses: a minimum of 2 spaces per 1,000 sq ft of floor area and a maximum of 3.4 spaces per 1,000 sq ft of floor area.

The existing office building that will remain on Parcel 1 is approximately 3,700 sq ft in area and requires a minimum of seven off-street parking spaces, with a maximum allowance of 13 spaces. The existing off-street parking area associated with the office building is striped with 19 spaces and is nonconforming with respect to the maximum number allowed. The proposed new boundary between Parcels 1 and 2 will result in a reduction in the size of the Parcel 1 parking area, as the applicant has proposed to reconfigure and restripe it for 14 spaces. A condition has been established to require adjustments to the parking area on Parcel 1 so that it meets the minimum and maximum parking quantity requirements for the existing use.

Parking quantity requirements for Parcel 2 will be evaluated at the time of future development.

As conditioned, the Planning Manager finds that the parking area on Parcel 1 meets the parking quantity requirements of MMC 19.605. This standard is met.

c. MMC Section 19.606 Parking Area Design and Landscaping

MMC 19.606 establishes standards for parking area design and landscaping, to ensure that off-street parking areas are safe, environmentally sound, and aesthetically pleasing, and that they have efficient circulation.

(1) MMC Subsection 19.606.1 Parking Space and Aisle Dimension

MMC 19.606.1 establishes dimensional standards for required off-street parking spaces and drive aisles. For 90°-angle spaces, the minimum width is 9 ft and minimum depth is 18 ft, with a 9-ft minimum curb length and 22-ft drive aisles.

The existing parking area associated with the office building provides a total of 19 striped spaces. The stalls are all approximately 9 ft wide and 17 ft deep, with adjacent landscaped areas that allow at least 2 ft of vehicle overhang. An interior landscaped island extends into the existing drive aisle and prevents it from being continuously 22 ft wide throughout the parking area.

The proposed boundary between Parcels 1 and 2 requires the reconfiguration of the parking area to remain on Parcel 1. The applicant has proposed to reestablish parking stalls that are 9 ft wide and 17 ft deep, retaining 2-ft overhangs into the adjacent landscaped areas, with a continuous 22-ft-wide drive aisle throughout. A condition has been established to require that all parking stalls meet the minimum required width and depth standards and to ensure that the adjusted drive aisle meets the minimum 22-ft width.

As conditioned, the applicable standards are met.

(2) MMC Subsection 19.606.2 Landscaping

MMC 19.606.2 establishes standards for parking lot landscaping, including for perimeter and interior areas. The purpose of these landscaping standards is to provide buffering between parking areas and adjacent properties, break up large expanses of paved area, help delineate between parking spaces and drive aisles, and provide environmental benefits such as stormwater management, carbon dioxide absorption, and a reduction of the urban heat island effect.

In non-downtown zones, perimeter buffer areas abutting a right-of-way (ROW) must be at least 8 ft wide (measured from the inside of curbs); a 6-ft-wide landscaping buffer is required where abutting other properties. Within perimeter buffer areas, at least one tree must be planted every 30 lineal feet. All parking areas adjacent to a residential use must have a continuous visual screen in the abutting landscape perimeter area (opaque year-round from 1 ft to 4 ft above the ground).

At least 25 sq ft of interior landscaped area must be provided for each parking space, either a divider median between opposing rows of parking or a landscape island in the middle or at the end of a parking row. Interior landscaped areas must be a minimum of 6 ft wide (measured from the inside of curbs). For landscape islands, at least one tree must be planted per island; for divider medians, at least one tree must be planted every 40 lineal feet.

The existing parking area exceeds the minimum requirements for perimeter buffer width, both where adjacent to the 43rd Avenue ROW, Parcel 2, and other properties. Several trees are scattered along the perimeter of the existing parking area but are not distributed at 30-ft intervals. As proposed, the reconfigured perimeter buffers are at least 6.5 ft wide where adjacent to Parcel 2 and the adjacent multifamily residential property to the west; the buffer is at least 12 ft wide between the 43rd Avenue ROW and the nearest proposed parking stall. Four of the proposed reconfigured spaces and most of the

drive aisle are adjacent to Parcel 2. The proposed parking plan does not indicate any visual screening between those spaces and Parcel 2, nor does it address the one-tree-per-30-lineal-feet standard.

The existing parking area provides at least 645 sq ft of interior landscaping in the form of two landscape islands. As proposed, the reconfigured parking area would provide at least 375 sq ft of interior landscaping, more than what is required for the seven to 13 required/allowed spaces. The proposed parking plan does not indicate whether trees will be planted in the interior landscaped areas.

A condition has been established to ensure that the reconfigured parking area meets the applicable landscaping standards where appropriate, including visual screening for any newly designated spaces adjacent to residential uses. The condition includes a provision for bringing existing nonconforming aspects of the parking area closer to conformance, within the limits established by MMC Subsection 19.606.2.5.B.

As conditioned, the applicable standards are met.

(3) MMC Subsection 19.606.3 Additional Design Standards

MMC 19.606.3 establishes various additional design standards for off-street parking areas. Paving and striping are required for all required maneuvering and standing areas. Parking bumpers or wheel stops are required to prevent vehicles from encroaching onto the public ROW, adjacent landscaped areas, or pedestrian walkways. Curbing may substitute for wheel stops if vehicles will not encroach into the minimum required width for landscape or pedestrian areas. Along collector and arterial streets, no parking space may be located such that its maneuvering area is in an ingress or egress aisle within 20 ft of the back of the sidewalk or ROW boundary.

Driveways and on-site circulation must be designed so that vehicles enter the ROW in a forward motion. Pedestrian access must be provided so that no off-street parking space is farther than 100 ft away from a building entrance or a walkway that is continuous, leads to a building entrance, and meets the design standards of MMC Subsection 19.504.9.E. Lighting must not cause a light trespass of more than 0.5 footcandles measured vertically at the boundaries of the site and must provide a minimum illumination of 0.5 footcandles for pedestrian walkways in off-street parking areas.

The existing parking area is paved and striped but does not include wheel stops or lighting. As proposed, the reconfigured parking area will be paved and striped but does not include wheel stops or lighting. No parking space is located with its maneuvering area within 20 ft of the 43rd Avenue ROW (a collector) nor farther than 100 ft from a building entrance.

A condition has been established to ensure that the reconfigured parking area meets the applicable standards of MMC 19.606.3, within the limits established by MMC Subsection 19.606.2.5.B.

As conditioned, the applicable standards are met.

As conditioned, the Planning Manager finds that the applicable design and landscaping standards of MMC 19.606 are met.

The Planning Manager finds that, as conditioned, the proposed partition meets the applicable standards of MMC 19.600.

8. 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.

a. MMC Section 19.702 Applicability

MMC 19.702 establishes the applicability of the provisions of MMC 19.700, including land divisions, 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 partition the subject property to create two distinct parcels. The proposed partition triggers the requirements of MMC 19.700.

MMC 19.700 applies to the proposed development.

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 establishing approval criteria.

A preapplication conference with City staff was conducted for the subject property on November 20, 2019. As stated in Finding 8-c, a Transportation Impact Study (TIS) is not required; therefore, a Transportation Facilities Review application is not necessary.

This standard is met.

c. MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 establishes that the City Engineer will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the City Engineer cannot properly evaluate a proposed development's impacts without a more detailed study, a TIS will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts.

The City Engineer has determined that a TIS is not required, as the impacts of the proposed partition on the transportation system are minimal. No change is proposed to the existing land use of Parcel 1, and the need for a TIS for Parcel 2 will be evaluated at the time of future proposed development.

This standard is met.

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.

Finding 8-e addresses the required development agreement with the City to complete frontage improvements for both parcels.

Finding 8-f addresses the utility improvements that were included in the pre-development agreement with the City for Parcel 2.

A condition has been established requiring a development agreement to clarify the costs and responsibilities for public improvements. The agreement is required to be formalized prior to the land use approval and/or issuance of development permits for Parcel 2.

The proposed development does not trigger mitigation of impacts beyond those outlined in the required development agreement.

As conditioned, this standard is met.

e. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. MMC Subsection 19.708.1 requires compliance with MMC Chapter 12.16 and establishes general requirements and standards for streets, including access management, clear vision, street design, connectivity, and intersection design and spacing standards. MMC Table 19.708.2 provides more specific street design standards for various street classifications, including for arterial and local streets. The City's Street design standards are based on the street classification system described in the City's Transportation System Plan (TSP).

All streets, sidewalks, necessary public improvements, and other public transportation facilities located in the public right-of-way (ROW) and abutting the development site shall be adequate at the time of development or shall be made adequate in a timely manner. In addition, all signs, structures, or vegetation over 3 ft in height shall be removed from "vision clearance areas" at intersections of streets, driveways, and alleys.

The Milwaukie TSP and Transportation Design Manual (TDM) classifies King Road as an arterial and 43rd Avenue as a collector. As established in MMC Table 19.708.2, the required ROW width for an arterial street is between 54 ft and 89 ft; the required ROW width for a collector is between 40 ft and 74 ft.

A future public improvement project is planned for King Road, and no improvements on the King Road frontage are required as part of this partition and/or the future development of Parcel 2.

Due to the City's public improvement project currently underway on 43rd Avenue, the City has drafted a development agreement to clarify the costs and responsibilities for the public

improvements required by the proposed partition. A condition has been established to ensure that the development agreement will be finalized, signed, and recorded prior to the land use approval and/or issuance of development permits for Parcel 2.

As proposed, the proposed partition meets all applicable standards of MMC 19.708.

f. MMC Section 19.709 Public Utility Requirements

MMC 19.709 establishes the City's requirements and standards to ensure the adequacy of public utilities to serve development.

The applicant signed a pre-development agreement with the City to address the construction of water and wastewater mains to Parcel 2. A condition has been established to ensure that a development agreement to construct street improvements along the subject property frontage is finalized and signed prior to the land use approval and/or issuance of development permits for Parcel 2.

Additionally, a condition has been established to require a 10-ft Public Utility Easement (PUE) along the frontages of both parcels.

As conditioned, the proposed partition meets the applicable standards of MMC 19.709.

As conditioned, the Planning Manager finds that the proposed partition meets the applicable public facility improvement standards of MMC 19.700.

9. The application was referred to the following departments and agencies on April 7, 2022:

- Milwaukie Building Department
- Milwaukie Engineering Department
- Milwaukie Public Works Department (incl. Environmental Services Coordinator)
- Milwaukie Community Development Department
- Milwaukie Police Department
- Milwaukie City Attorney
- Clackamas Fire District #1 (CFD#1)
- Clackamas County Department of Transportation & Development (DTD)
- Metro
- TriMet
- NW Natural
- North Clackamas School District

In addition, notice of the public hearing was mailed to owners and residents of properties within 300 ft of the subject property on April 7, 2022.

The comments received are summarized as follows:

- **Alex McGladrey, Deputy Fire Marshal, CFD#1:** No comments.