



# CITY OF MILWAUKIE

August 10, 2023

Land Use File(s): EXT-2023-002

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on August 10, 2023.

*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>	Coho Point, LLC (Farid Boulari)
<b>Location(s):</b>	11103 SE Main St
<b>Tax Lot(s):</b>	1S1E35AD, lots 1100, 1200, 1300, 1301, 1302, as well as lot 1400 (Dogwood Park) for mitigation
<b>Application Type(s):</b>	Extension to Expiring Approval
<b>Decision:</b>	Approved
<b>Review Criteria:</b>	Milwaukie Zoning Ordinance: <ul style="list-style-type: none"><li>• Milwaukie Municipal Code (MMC) Section 19.908 Extensions to Expiring Approvals</li><li>• MMC Section 19.1005 Type II Review</li></ul>
<b>Neighborhood(s):</b>	Lake Road

**Appeal period closes: 5:00 p.m., August 25, 2023**

### Conditions of Approval

None

### Other requirements

None

### Case File

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 from the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Brett Kelter, Senior Planner, at 503-786-7657 or [kelterb@milwaukieoregon.gov](mailto:kelterb@milwaukieoregon.gov), if you wish to view this case file or visit the project webpage at [www.milwaukieoregon.gov/planning/ext-2022-002](http://www.milwaukieoregon.gov/planning/ext-2022-002).

### **Appeal**

**This decision may be appealed by 5:00 p.m. on August 25, 2023, 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).

### **Expiration**

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 additional two-year extension, the original land use approval will now expire on October 14, 2025, four years after the original approval date of October 14, 2021. If the applicant obtains and pays for all necessary development permits and starts construction by October 14, 2025, they will have two additional years (until October 14, 2027) to complete the project and pass a final inspection and/or obtain a certificate of occupancy.

### **Findings in Support of Approval**

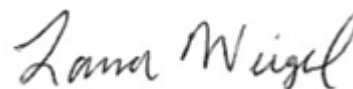
The Findings for this application are included as Exhibit 1.

### **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



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Laura Weigel, AICP  
Planning Manager

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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: Farid Bolouri, Coho Point LLC, applicant (via email)  
Ryan Scanlan, Jones Architecture, applicant's representative (via email)  
Planning Commission (via email)  
Joseph Briglio, Community Development Director (via email)  
Mandy Byrd, Development Project Manager (via email)  
Steve Adams, City Engineer (via email)  
Engineering Development Review (via email)  
Patrick McLeod, Building Official (via email)  
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)  
Harmony Drake, Permit Technician (via email)  
Shawn Olson, Fire Marshal, CFD#1 (via email)  
NDA(s): Historic Milwaukie (via email)  
Land Use File(s): EXT-2023-002; DR-2021-001 (primary file)  
Address File(s): 11103 SE Main St

**EXHIBIT 1**  
**Findings in Support of Approval**  
**File #EXT-2023-002**  
**Coho Point Development**

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, Coho Point, LLC, has applied for approval to extend the land use approval for primary land use file #DR-2021-001, for the property located at 11103 SE Main St (Tax ID 1S1E35AD, lots 1100, 1200, 1300, 1301, and 1302, with lot 1400 (Dogwood Park) for mitigation). The site is in the Downtown Mixed Use (DMU) zone.
2. Primary file DR-2021-001 was an application for approval to construct a six-story mixed-use building in downtown Milwaukie, with approximately 7,000 sq ft of restaurant and commercial space on the ground floor and 195 multifamily units on the ground floor and above. The proposal included disturbance to designated natural resource areas on the site and fill within the regulatory floodplain, with a variance to allow the required natural resource mitigation to be provided within the adjacent Adams Street right-of-way and Dogwood Park. A parking quantity modification was proposed to lower the required number of off-street parking spaces beyond the by-right reductions allowed in the underlying DMU zone. Additional variances were requested to the building height limitation (to allow one extra story) and the zero-setback-building requirement. The project also required review for consistency with the downtown design standards/guidelines as well as with the Willamette Greenway conditional use criteria.

The notice of decision for the application was issued on September 29, 2021, and the appeal period ended on October 14, 2021.

3. In February 2023, the applicant received approval from the City Council (as property owner of the site) to extend the existing disposition and development agreement to March 2024, allowing more time for due diligence. On June 16, 2023, the applicant submitted a request to extend the validity of the original land use approval for two more years, to October 14, 2025.
4. 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

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 Manager. The application was deemed complete on June 21, 2023, and public notice was mailed to surrounding property

owners the following day (June 22). Public notice of the application was posted on the subject property on June 27, 2023, 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 19.908.2 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. There is no limit to the number of extensions that may be requested or approved.

*Primary file DR-2021-001 is an unexpired land use application that was required by MMC Title 19 and was approved through a Type III review.*

*The Planning Manager finds that DR-2021-001 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 III review.

*The expiring application (primary file DR-2021-001) was originally approved by the Planning Commission through Type III review.*

*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 itself or in the vicinity of the site since the original approval became effective on October 14, 2021.*

*The code related to the downtown design review process was recently amended, with changes effective in April 2023. The changes were largely organizational in nature and were intended to improve the design review process, in part by clarifying the guidelines applicable to various design elements. If the project were to be reviewed again under the current standards, the need for a variance to the street-setback/build-to line standard would be eliminated, though there would still be a need for a variance to the building*

*height standard and the project would likely still need discretionary review to demonstrate compliance with all applicable design elements.*

*The Planning Manager finds that there have been no significant changes to the property, the vicinity, or 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. A letter from a recognized professional will also satisfy this criterion if it states that conditions have not changed since the original approval and that no new analysis is warranted.

*The application for primary file DR-2021-001 included both a transportation impact study and a natural resource report. The applicant has provided letters from the preparers of both reports stating that no significant changes on the subject property or its vicinity have occurred and confirming that no new analysis of either transportation impacts or natural resources is warranted.*

*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.*

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. The application was referred for comment to the following entities: Milwaukie Community Development Department, Milwaukie Engineering Department, Milwaukie Building Department, Milwaukie Public Works Department, Milwaukie Police Department, City Attorney, Clackamas Fire District #1, Historic Milwaukie Neighborhood District Association, Milwaukie Design and Landmarks Committee, Clackamas County Engineering Review, Metro, ODOT, TriMet, NW Natural, Oregon Department of Fish and Wildlife, Oregon Department of State Lands, Oregon Parks and Recreation Department, North Clackamas School District, North Clackamas Parks and Recreation District, and Oregon State Marine Board.

No comments were received.