



CITY OF MILWAUKIE

July 25, 2023

Land Use File(s): R-2023-003

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on July 25, 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.

| | |
|-----------------------------|--|
| Applicant(s): | Kristina Fedorovskiy |
| Location(s): | 11932 SE 35 th Ave |
| Tax ID: | 11E36DB09500 |
| Application Type(s): | Replat (partition) |
| Decision: | Approved |
| Review Criteria: | Milwaukie Municipal Code (MMC): <ul style="list-style-type: none">• MMC Title 17, including:<ul style="list-style-type: none">○ 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 19.301 Moderate Density Residential zone (R-MD)• MMC Chapter 19.700 Public Facility Improvements• MMC Section 19.1005 Type II Review |
| Neighborhood(s) | Hector Campbell |

Appeal period closes: 5:00 p.m., August 9, 2023

Conditions of Approval

None

Other requirements

1. MMC Section 17.04.120 Recording

As per MMC Section 17.04.120, replats must be recorded by plat. As per MMC Section 17.24.040, an application for final plat must be submitted to the City within 6 months of this approval.

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Case File

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1004 Type I Review. The complete case file for this application is available for review 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 Kolias, Senior Planner, at 503-786-7653 or koliasv@milwaukieoregon.gov, if you wish to view this case file.

Appeal

This decision may be appealed by 5:00 p.m. on **August 9, 2023**, which is 15 days from the date of this decision.¹ 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.

Expiration

Per MMC Section 17.04.050, all decisions on boundary changes and land divisions expire one year after the date of approval. Approvals may be extended up to six months upon submission of a formal request to the original decision-making authority. One extension of up to six 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 six-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 six months of the date of this approval. Note that submittal of a final plat application within this six-month timeframe is necessary to preserve the one-year validity of the decision established in MMC 17.04.050. The six-month deadline for final plat submittal cannot be extended.

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.

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: Kristina Fedorovskiy, applicant (via email)
Paul Roeger, 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)
Patrick McLeod, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Shawn Olson, Clackamas Fire District #1 (via email)
Interested Persons
Land Use File(s): R-2023-003
Address File(s): 11932 SE 35th Ave

EXHIBIT 1
Findings in Support of Approval
File #R-2023-003; Replat for 11932 SE 35th Ave

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, Kristina Fedorovskiy, and her representative, Paul Roeger, applied for approval to divide the subdivision lot at 11932 SE 35th Ave, (the “subject property”) through a replat. The subject property is identified in the Clackamas County Tax Assessor map as 1S2E36DB9500 and is zoned Moderate Density Residential (R-MD).
2. The subject property is comprised of Lots 30 and 31, Block 15, of the Quincy Addition to Milwaukie Subdivision (subdivision platted in 1906). The site is developed with a single detached dwelling. The applicant is proposing to divide the lot to create a second developable lot for a proposed duplex. Under the proposal, the replatted Lot 1 will be 7,160 sq ft and Lot 2 will be 4,257 sq ft.
3. The proposed partition involves the reconfiguration of a platted lot from a recorded subdivision and therefore 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 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 19.301 Moderate Density Residential Zone (R-MD)
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.1005 Type II Review

The applicant is the property owner and has the authority to initiate the application per MMC Subsection 19.1001.6.A. The application was submitted on June 21, 2023; it was deemed complete on June 29, 2023. The application has been processed in accordance with MMC Section 19.1005 Type II Review, with a decision by the Planning Manager.

4. 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

(1) 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 replats. As

per MMC Table 17.12.020, a partition replat (i.e., any modification to a plat) is subject to a Type II review.

The subject property is comprised of Lots 30-31, Block 15, of the Quincy Addition to the Milwaukie (subdivision platted in 1906). The proposal would partition and reconfigure the two lots, which is a partition replat as per the definitions of MMC Chapter 17.08 and the guidance of MMC Table 17.12.020.

The original plat was recorded in 1906 by Clackamas County; this was before the City's first subdivision ordinance was adopted in 1967. The proposed replat is consistent with all applicable standards and criteria, does not increase the number of lots, and would not alter a decision made by the Milwaukie Planning Commission because the plat predates the Commission.

The Planning Manager finds that Type II review is applicable to the proposed replat.

(2) MMC Section 17.12.030 Approval Criteria for Lot Consolidation, Property Line Adjustment, and Replat

MMC 17.12.030 establishes three approval criteria for a replat.

(a) The boundary change is compliant with Title 17 and Title 19.

As discussed in these findings, the proposed replat complies with all applicable standards of Titles 17 and 19.

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

As discussed in Finding 5, the proposed replat results in an additional developable lot that would not require variances for development.

This standard is met.

(c) Boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which the property is located.

The subject property is zoned for moderate density residential development and is comprised of two historic subdivision lots. Each of the underlying lots is approximately 5,720 sq ft. For each underlying lot, the minimum density is 0.91 units, which is rounded up to one unit per the density measurement standards of MMC Subsection 19.202.4.

As proposed, the reconfigured lot with the existing home would be 7,160 sq ft and the new lot would be 4,257 sq ft. The minimum density for each of these lots is one unit; therefore, the boundary change will not reduce the residential density below minimum density requirements.

The Planning Manager finds that the proposed replat meets the approval criteria established in MMC 17.12.030.

The Planning Manager finds that the proposed replat meets all applicable standards of MMC 17.12.

b. MMC Chapter 17.16 Application Requirements and Procedures

MMC Section 17.16.050 establishes the application requirements for replat, including completed application forms and checklists, applicable fees, a narrative describing how the proposal meets approval criteria, and the applicable information specified for preliminary plat on the City's Preliminary Plat Checklist and 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 details about the vicinity, existing conditions, existing improvements on the property, and the new configuration for each of the five lots.

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

d. MMC Chapter 17.28 Design Standards

(1) MMC Section 17.28.040 General Lot Design

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

(a) MMC Subsection 17.28.040.A Size and Shape

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 addressed in Finding 5, the proposed replat would result in two lots, each of which have adequate size and dimensions for development and uses allowed in the underlying R-MD zone and conform to the standards of Title 19.

(b) MMC 17.28.040.B Rectilinear Lots Required

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 proposed, Lots 1 and 2 would be rectilinear in shape, with sidelines running at right angles to the street and front and rear lot lines running parallel to the street.

MMC 17.28.040.C Limits on Compound Lot Line Segments

MMC 17.28.040.C discourages 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.

As proposed, Lots 1 and 2 are rectilinear in shape and do not contain lateral changes in the side or rear lot lines.

(c) MMC 17.28.040.D Adjustments to Lot Shape Standard

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

No adjustment to lot shape standards has been requested or proposed.

(d) MMC 17.28.040.E Limits on Double and Reversed Frontage Lots

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.

The proposed replat would not result in any double or reversed frontage lots.

(e) MMC 17.28.040.F Measurement of Required Frontage

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

As proposed, Lots 1 and 2 would take access from 35th Ave, and each would have between 37 and 62 ft of frontage along that street. The minimum required frontage is 30 ft and 50 ft respectively for the proposed lot sizes.

The Planning Manager finds that the proposed replat complies with all applicable design standards of MMC 17.28.040.

e. MMC Chapter 17.32 Improvements

MMC 17.32 establishes procedures for public improvements, including a requirement that all work conforms to the standards and specifications of the Public Works Standards and MMC Chapter 19.700.

The frontage along 35th Ave currently contains a sidewalk. Finding 6 discusses the requirements for public improvements related to this proposed development.

The Planning Manager finds that the applicable standards of MMC 17.32 are met.

As conditioned, the Planning Manager finds that the proposed replat meets all applicable standards of MMC Title 17.

5. MMC Section 19.301 Moderate Density Residential Zone (R-MD)

a. MMC Subsection 19.301.2 Allowed Uses

MMC 19.301.2 establishes the uses allowed in the R-MD zone. Various types of residential uses are permitted by right, including single-unit dwellings, duplexes, triplexes, quadplexes, townhouses, and cottage cluster developments.

As proposed and as discussed in these findings, the reconfigured lots are consistent with the standards for lots in the R-MD zone. Lot 1 will contain the existing single detached home; Lot 2 is proposed to be development with a duplex (middle housing). Both are outright permitted uses in the R-MD zone.

The Planning Manager finds that this standard is met.

b. MMC Subsection 19.301.4 and 19.301.5 Development Standards

MMC Table 19.301.4 establishes development standards for the R-MD zone. Table 1 provides the applicable standards for development in the R-MD zone with respect to the five lots resulting from the proposed replat.

| Table 1 Lot and Development Standards | | | |
|--|--|------------------------------------|--------------|
| Standard | R-MD Requirement | Lot 1 | Lot 2 |
| Min/max lot size | 3,000-4,999 sq ft (middle housing only) 5,000+ sq ft | 7,160 sq ft | 4,257 sq ft |
| Minimum lot width | Lots 3,000-4,999 sq ft = 30 ft Lots 7,000+ sq ft = 60 ft | 62.67 ft | 37.33 ft |
| Minimum lot depth | 80 ft | 114.11 ft | 114.11 ft |
| Minimum street frontage | Lots 3,000-4,999 sq ft = 30 ft Lots 7,000+ sq ft = 35 ft | 62.67 ft | 37.33 ft |
| Side yard(s) | Lots 3,000-4,999 sq ft = 5 ft Lots 7,000+ sq ft = 5/10 ft | 5 ft/1.3 ft (existing development) | 12.3 ft/5 ft |

| | | | |
|-----------------------------|---|-----|--|
| Maximum Lot Coverage | Lots 3,000-4,999 sq ft = 35% Lots 7,000+ sq ft = 30% | 28% | 35% (to be met at the time of development) |
|-----------------------------|---|-----|--|

The development will be reviewed for compliance with the remaining development standards in MMC Table 19.301.4 and MMC Subsection 19.301.5 through the development permit process.

The Planning Manager finds that the proposed replat meets all applicable development standards of MMC 19.301.

6. MMC 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including redevelopment, 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 partitions, subdivisions, replats, new construction, modification of existing structures, and changes or intensifications in use.

The applicant proposes to replat the subject property to reconfigure two developable lots. The proposed replat triggers the requirements of MMC 19.700.

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 pre-application conference, establishing the type of application required, and providing approval criteria.

The applicant had a pre-application conference on May 11, 2023. As noted in Finding 6-c, the proposed replat does not trigger a Transportation Impact Study (TIS), so the proposal's compliance with MMC 19.700 has been evaluated as part of the replat review, as per MMC Subsection 19.703.2.B.

c. MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 establishes the process and requirements for evaluating development impacts on the surrounding transportation system, including determining when a formal TIS is necessary and what mitigation measures will be required.

The City Engineer has determined that the proposed replat would not trigger a significant increase in trip generation and therefore does not require a TIS.

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.

The proposed replat would reconfigure two developable lots. As stated, the applicant is proposing to maintain the existing home and construct a duplex on the new lot. There are existing frontage improvements on the 35th Ave frontage. The City Engineer has determined that no frontage improvements are required for the proposed development.

e. MMC Section 19.707 Agency Notification and Coordinated Review

MMC 19.707 establishes provisions for coordinating land use application review with other agencies that may have some interest in a project that is in proximity to facilities they manage.

The subject property is on a local street. No additional agency referral was required.

f. 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.

(1) MMC Subsection 19.708.1 General Street Requirements and Standards

MMC 19.708.1 provides general standards for streets, including for access management, clear vision, street layout and connectivity, and intersection design and spacing.

As discussed above, the City Engineer has determined that no additional frontage improvements are required.

At the time of development for Lot 2, a new accessway in accordance with MMC 12.16 shall be constructed, and new water and sewer connections will be required in accordance with the Milwaukie Public Works Standards.

The Planning Manager finds that the proposed replat will meet all applicable standards of MMC 19.708.

The Planning Manager finds that, as conditioned, the proposed replat meets the applicable public facility improvement standards of MMC 19.700.

7. The application was referred to the following departments and agencies on June 30, 2023:

- Milwaukie Building Department
- Milwaukie Community Development Director
- Milwaukie Engineering Department
- Milwaukie Public Works Department
- Milwaukie Planning Manager
- Milwaukie NDA Program Manager
- Lake Road Neighborhood District Association (NDA), Chairperson and Land Use Committee (LUC)
- NW Natural
- Clackamas Fire District #1 (CFD#1)

In addition, a notice of the proposal was mailed to owners and residents of properties within 300 ft of the subject property on June 30, 2023.

Comments in opposition to the application (specifically the proposed construction of a duplex on the proposed new lot) were received from the following persons:

- Nanci Chantler, 11910 SE 35th Ave
- Mary Kay Doane, 11973 SE 35th Ave
- Paul Kuck, 11907 SE 36th Ave
- Roberta Wells, 11931 SE 35th Ave
- Randy Nelson, 11929 SE 36th Ave