



# CITY OF MILWAUKIE

December 18, 2023

Land Use File(s): R-2023-004, VR-2023-007

Permit(s): TBD

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on December 18, 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>	Jeff Sanchez
<b>Location(s):</b>	4378 SE Monroe St
<b>Tax Lot(s):</b>	1S2E31BB, lot 7802
<b>Application Type(s):</b>	Replat (boundary adjustment)
<b>Decision:</b>	Approved with Conditions
<b>Review Criteria:</b>	Milwaukie Land Division Ordinance: <ul style="list-style-type: none"><li>• 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 19.301 Moderate Density Residential Zone (R-MD)</li><li>• MMC Chapter 19.600 Off-Street Parking &amp; Loading</li><li>• MMC Chapter 19.700 Public Facility Improvements</li><li>• MMC Section 19.911 Variances</li><li>• MMC Section 19.1005 Type II Review</li></ul>
<b>Neighborhood(s):</b>	Hector Campbell

**Appeal period closes: 5:00 p.m., January 2, 2024**

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, City Hall, 10501 SE Main St. 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/r-2023-004](http://www.milwaukieoregon.gov/planning/r-2023-004).

**This decision may be appealed by 5:00 p.m. on January 2, 2024, 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).

As per MMC Subsection 17.040.050.A, all decisions on boundary changes and land divisions expire one year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees. As per MMC Subsection 17.04.050.B, approvals may be extended up to six months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed six months will be granted if the criteria in MMC 17.04.050.B are satisfied.

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

The Findings for this application are included as Exhibit 1.

### **Conditions of Approval**

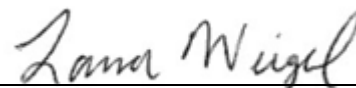
1. Provide a new 15-ft-wide easement for the existing public water line under Parcel 2 that will need to be relocated prior to the development of Parcel 2.

### **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
2. Proposed plat

cc: Jeff Sanchez, applicant (via email)  
Paul Roeger, CMT Surveying & Consulting, applicant's representative (via email)  
Planning Commission (via email)  
Joseph Briglio, Community Development Director (via email)  
Jennifer Garbely, 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): Hector Campbell (via email)  
Land Use File(s): R-2023-004  
Address File(s): 4378 SE Monroe St

**EXHIBIT 1**  
**Findings in Support of Approval**  
**Primary File #R-2023-004 (4378 SE Monroe St)**

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, Jeff Sanchez, has applied for approval to adjust the common boundary between the two underlying lots that comprise the property addressed as 4378 SE Monroe St. The application includes a request to vary the lot width standard for one of the parcels. The site is zoned Moderate Density Residential (R-MD). The proposed boundary adjustment is being processed as a replat, primary land use application file number R-2023-004 (with VR-2023-007).
2. The subject property is comprised of two underlying lots (Lots 1 and 2 in Block 68) from the Minthorn Addition subdivision, which was platted in 1890. In addition, the subject property includes the western half of the adjacent right-of-way from 44<sup>th</sup> Avenue to the east, which was vacated by the City in 2013 (Resolution No. 81-2013). The two underlying subdivision lots are each approximately 25 ft wide by 115 ft deep, and the subject property's portion of the vacated right-of-way is 30 ft wide by 115 ft deep. The subject property is approximately 9,240 sq ft in area (0.21 acres).

The subject property is developed with a detached single-unit house on the west side of the lot. The proposed boundary adjustment would retain the existing house on Parcel 1 (approximately 5,310 sq ft). The eastern part of the property would become Parcel 2 (approximately 3,930 sq ft) and would be developed with a duplex as per the allowances of the underlying R-MD zone. The common boundary between the two parcels would be compound, jogging to the west by approximately 5 ft at a point 22.5 ft from the front lot line. The applicant has proposed the compound line so Parcel 1 can use a Type II variance to drop just below the minimum lot width requirement of 50 ft (to 49.9 ft) while allowing Parcel 2 to meet the 30-ft-width requirement for smaller lots. An existing public water line running north-south through an easement over the eastern part of the subject property will be shifted to the west prior to development of the vacant Parcel 2.

3. The proposed boundary adjustment involves the reconfiguration of lots 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 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 Section 19.301 Moderate Density Residential Zone (R-MD)

- MMC Chapter 19.600 Off Street Parking & Loading
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.911 Variances
- MMC Section 19.1005 Type II Review

The application was submitted on November 21, 2023, and deemed complete on November 27, 2023. 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, the proposed boundary adjustment involves the reconfiguration of lots from a recorded subdivision plat and so is being processed as a partition replat. The subject property is comprised of Lots 1 and 2 from Block 68 of the Minthorn Addition subdivision platted in 1890, as well as the eastern half of the 60-ft public right-of-way of 44<sup>th</sup> Avenue that was vacated in 2013. The proposed adjustment would shift the boundary between the two lots (which currently runs under the existing house on the property) to the east.*

*As per MMC Table 17.12.020, a partition replat that does not modify a plat originally decided by the City's Planning Commission and is not a parcel consolidation is subject to Type II review. However, as per MMC Subsection 17.12.020.B.1, Type II review may be changed to Type I 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 original plat was not decided by the Planning Commission at a time before the City had an adopted subdivision ordinance, so there are available findings from the original approval. The subject property is comprised of two underlying lots and the proposed adjustment will not increase that number.*

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

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 4-11 address compliance with Titles 17 and 19. The proposed boundary adjustment meets all applicable standards.*

*This standard is met.*

- (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 result in two parcels that are each suitable for development or redevelopment. Parcel 1 will retain the existing house on the west side of the subject property; Parcel 2 will be vacant and available for development with a duplex as proposed by the applicant. Both parcels are adequately sized for redevelopment in conformance with the standards of the underlying R-MD zone without creating the need for a variance from any land division or zoning standard.*

*This standard is met.*

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

*For lots over 7,000 sq ft in area, the minimum density in the R-MD zone is 5.0 units per acre. For the overall 0.21-acre property, the minimum density is 1.05 units, which rounds down to 1 unit as per the standards for density measurement established in MMC Subsection 19.202.4.B. For each of the proposed parcels—Parcel 1 at 0.12 acres and Parcel 2 at 0.09 acres—the minimum density is 1 unit each.*

*This standard is met.*

*The Planning Manager finds that the proposed boundary adjustment meets the applicable criteria for a replat.*

c. MMC Section 17.12.040 Approval Criteria for Preliminary Plat

MMC 17.12.040 establishes the approval criteria for preliminary plat, which is the mechanism that will be used to record the proposed boundary adjustment.

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

*Findings 5-11 address compliance with Title 19. The proposed boundary adjustment meets all applicable standards.*

*This standard 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 boundary adjustment will result in two parcels that are each suitable for development or redevelopment. Parcel 1 will retain the existing house on the west side of*

*the subject property; Parcel 2 will be vacant and available for development with a duplex as proposed by the applicant. Both parcels are adequately sized for redevelopment in conformance with the standards of the underlying R-MD zone without creating the need for a variance from any land division or zoning standard.*

*This standard 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 boundary adjustment 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.*

*This standard 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 involved in the proposed boundary adjustment.*

*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.*

*This standard is met.*

- (6) Approval of a preliminary plat for a middle housing land division will be granted if the Planning Manager finds that the applicant has met all of the following criteria:

*The proposed boundary adjustment does not involve a middle housing land division.*

*This standard is not applicable.*

- (7) If an applicant elects to use the expedited land division procedure, the application must meet the following additional approval criteria:

- (a) The proposed partition only includes land zoned for residential uses;

*The proposed boundary adjustment includes land zoned R-MD for moderate density residential development. This standard is met.*

- (b) The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;

*The proposed boundary adjustment, which will reconfigure two underlying lots and vacated public right-of-way, will result in one parcel that includes an existing single-unit dwelling and another parcel that will be developed with a duplex. This standard is met.*

- (c) The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Public Works Standards, and Chapter 19.700;

*The proposed boundary adjustment will not result in any changes to street or other right-of-way connectivity standards. The subject property includes public right-of-way that was vacated by the City from 44<sup>th</sup> Avenue in 2013 because it was deemed unnecessary for connectivity. This standard is met.*

- (d) The land division will not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:

(i) Open spaces, mapped historic properties as identified on Map 3 on the comprehensive plan, and mapped natural resources as regulated by Section 19.402; or

(ii) The Willamette River Greenway as regulated by Section 19.401.

*The subject property does not include any mapped natural resources or the Willamette River Greenway. This standard is met.*

- (e) The land division will result in development that either:

(i) Creates enough lots or parcels to allow building residential units at 80% or more of the maximum net density permitted by the zoning designation of the site; or

(ii) Will be sold or rented to households with incomes below 120% of the median family income for Clackamas County.

*For lots over 7,000 sq ft in area, the maximum density in the R-MD zone is 6.2 units per acre. For the overall 0.21-acre property, the maximum density is 1.3 units, which rounds down to 1 unit as per the standards for density measurement established in MMC Subsection 19.202.4.B.*

*The proposed boundary adjustment, which will reconfigure two underlying lots and vacated public right-of-way, will result in one parcel that includes an existing single-unit dwelling and another parcel that will be developed with a duplex. The proposed total of three units is 300% percent of the maximum allowed density. Duplexes, triplexes, quadplexes, and cottage clusters are exempt from density maximums as per MMC Table 19.301.4. This standard is met.*

*The criteria for expedited land division are met.*



*The Planning Manager finds that the proposed boundary adjustment meets the applicable approval criteria for preliminary plat.*

*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 provided as part of the proposed boundary adjustment 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 15-ft-wide easement for the 6-in public water line that runs under the eastern third of the subject property. Prior to development of Parcel 2, the water line will be relocated to eliminate conflicts with the proposed new duplex. The applicant has proposed to establish a new easement over both parcels to accommodate the relocated water line, and a condition has been established to ensure that the new easement is provided in conjunction with the proposed boundary adjustment. No additional easements are necessary at this time.*

*As proposed and conditioned, 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.

*Finding 8 addresses the R-MD zone standards for lot size, dimension, and street frontage. Finding 11 addresses the lot width variance requested for Parcel 1. As proposed, and with the variance for lot width addressed in Finding 11, this standard is met.*

- (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.

*The parcels resulting from the proposed boundary adjustment will be rectilinear in shape. As proposed, the side lines of both parcels run at right angles to their frontage on Monroe Street and the rear lot lines run parallel to Monroe Street. This standard is met.*

- (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.

*To address the minimum lot width standard for each parcel, the applicant has proposed a compound lot line between the two parcels, with a single lateral change of just under 5 ft. The total distance between opposing lot corners along that compound line is approximately 115 ft. The proposed lateral change is approximately 4% of the total distance. This standard is met.*

- (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. This standard is not applicable.*

- (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.

*As proposed, both parcels will have a single frontage on Monroe Street. This standard is met.*

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

*The minimum required street frontage for each parcel is addressed in Finding 8 and is measured along Monroe Street, the street upon which each parcel will take access. The*

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

*As proposed and conditioned, 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 19.301 Moderate Density Residential Zone (R-MD)

MMC 19.301 establishes standards for the Moderate Density Residential (R-MD) zone. The application meets the applicable standards of this section as described below.

a. MMC Subsection 19.301.2 Allowed Uses

MMC 19.301.2 establishes the uses allowed in the R-MD zone, including single detached dwellings, middle housing types (duplexes, triplexes, quadplexes, townhouses, and cottage clusters), accessory dwelling units (ADUs), and residential homes as outright permitted uses.

*The subject property is currently developed with a single-unit dwelling, which will be retained on Parcel 1. As proposed, Parcel 2 will be developed with a duplex. Both uses are allowed outright in the R-MD zone. This standard is met.*

b. MMC Subsections 19.301.4 and 19.301.5 Development Standards

MMC 19.301.4 and 19.301.5 establish development standards for the R-MD zone. The applicable standards are addressed and met as described in Table 8-b below.

Table 8-b Applicable Development Standards for the R-MD zone				
Standard	R-MD Requirement		Parcel 1	Parcel 2
Lot Area	3,000 to 4,999 sq ft	5,000 to 6,999 sq ft	Approx. 5,310 sq ft	Approx. 3,930 sq ft
Lot Width	30 ft	50 ft	49.9 ft (Variance requested— See Finding 11.)	30 ft
Lot Depth	80 ft		115 ft	115 ft
Public Street Frontage	30 ft	35 ft	49.9 ft	30 ft
Front Yard	20 ft		22.5 ft	To Be Determined at time of development (TBD)
Side Yard (interior)	5 ft		8.9 ft & 9.4 ft	TBD
Rear Yard	20 ft		37.7 ft	TBD
Side Yard Height Plane	20 ft / 45°		Not applicable (existing single-story house)	TBD

Maximum lot coverage	35%	c.27%	TBD
Minimum vegetation	25%	>65%	TBD
Front Yard Minimum Vegetation	40%	c.80%	TBD
Density requirements  (Note: Maximum density does not apply to duplexes and other middle housing development.)	Min. density = 7.0 units/acre  Max. density = 8.7 units/acre	Min. & max. density = 1 dwelling unit  Existing single-unit dwelling = 1 unit	Min. & max. density = 1 dwelling unit  Proposed duplex is not subject to max. density

*As reflected in Table 8-b above, the proposed boundary adjustment meets every applicable standard except the lot width requirement for Parcel 1. The applicant has requested a variance from that standard; the variance request is addressed in Finding 11. As otherwise proposed, the applicable development standards of this subsection are met.*

*The Planning Manager finds that, with approval of the variance discussed in Finding 11, the proposed boundary adjustment meets all applicable development standards of MMC 19.301.*

9. MMC Chapter 19.600 Off Street Parking & 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. Per Oregon Administrative Rules (OAR) 660-012-0012 and 660-12-0440, which relate to Climate-Friendly and Equitable Communities (CFEC) rulemaking, the City is prohibited from mandating minimum off-street vehicular parking quantity requirements on sites within a half mile of a frequent transit corridor or within three quarters of a mile of a rail transit stop. However, all other provisions of MMC 19.600 may still apply.

As per MMC Subsection 19.602.3.B, existing off-street parking areas must be brought closer to conformance when new development or changes of use occur; conversely, new development cannot cause existing parking areas to fall out of compliance (or farther out of conformance).

*The subject property is within a half mile of TriMet frequent transit corridors on Harrison Street and King Road, so minimum off-street parking is not required.*

b. MMC Section 19.607 Off-Street Parking Standards for Residential Areas

MMC Subsection 19.607.1 establishes standards for residential driveways and vehicle parking areas, including a requirement that off-street parking spaces be a durable,

dust-free surface and at least 9 ft wide by 18 ft deep. No more than 50% of the front yard area can be used for parking, with no more than three parking spaces allowed in the front yard.

*The proposed boundary adjustment will effectively establish two developable lots where there currently appears to be only one, retaining the existing house on Parcel 1 and establishing Parcel 2 for new future development. Currently, there is one existing off-street parking space in the concrete driveway in front of Parcel 1 that is approximately 9 ft wide by 22.5 ft long. Well over half of the front yard for Parcel 1 is landscaped.*

*The Planning Manager finds that the applicable residential parking standards of this section are met.*

*As proposed, the Planning Manager finds that the applicable off-street parking standards of MMC 19.600 are met.*

#### 10. 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 adjust the boundary between the two underlying lots that comprise the subject property. The proposed boundary adjustment will not result in any increase in vehicle trips or gross floor area. Development or redevelopment of either parcel will trigger consideration of impacts to public facilities and a requirement for public improvements (or collection of a fee in lieu of construction, if requested). A condition has been established to ensure that the new 15-ft-wide easement proposed by the applicant will be formalized in advance of relocating the existing public water line that runs under proposed Parcel 2. The easement will be shared between both parcels, as proposed. The water line and hydrant will need to be relocated prior to the development of Parcel 2. There are no additional applicable requirements related to public facilities.*

*As conditioned, the Planning Manager finds that the applicable requirements of MMC 19.700 are met.*

#### 11. MMC Section 19.911 Variances

##### a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. Ineligible variances include requests that result in a change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the

elimination of restrictions on uses or development that contain the word “prohibited.”

*The applicant has requested a variance to the R-MD zone’s lot width standard for Parcel 1.*

*The requested variance meets the eligibility requirements.*

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. MMC Subsection 19.911.3.B establishes the Type II review process for limited variations to certain numerical standards, including a variance of up to 10% for lot width or depth standards. MMC Subsection 19.911.3.C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

*For lots in the R-MD zone that are between 5,000 and 6,999 sq ft, the minimum required lot width is 50 ft. As per the definitions established in MMC Section 19.201, “lot width” is the distance between side lot lines measured at the building line. For Parcel 1, which is approximately 5,310 sq ft in area, the applicant is proposing a lot width of 49.9 ft as measured at the front face of the existing house. The requested deviation is small (only 0.2%) but still requires a variance; in this case, the variance request qualifies for Type II review.*

c. MMC Subsection 19.911.4 Approval Criteria

MMC Subsection 19.911.4.A establishes approval criteria for Type II variance requests.

- (1) The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.

*The proposal to reduce the width of Parcel 1 by 0.1 ft will not have any effect on surrounding properties or public health, safety, or welfare, and there are no designated natural resources on or near the subject property. The proposed adjustment is so small as to not be noticeable. This standard is met.*

- (2) The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.

*Lot width is not an element that will impact any future public improvements. Parcel 1 will still be wide enough to allow ample room for reconstructing the existing driveway (if needed) to meet all applicable standards related to accessway spacing and location. This standard is met.*

- (3) Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.

*Parcel 1 is developed with a single-unit dwelling that is approximately 27 ft wide. With the proposed boundary adjustment, the existing house will be centered within the lot*

*width (approximately 9 ft from the side lot lines on each side), considering the proposed compound line segment that jogs 5 ft closer to the house just behind the front face of the building. The proposed adjustment is so small as to not be noticeable, and the existing house will enjoy a front yard width that feels like a full 50 ft. This standard is met.*

- (4) Impacts from the proposed variance will be mitigated to the extent practicable.

*There are no perceivable impacts from the proposed lot width variance, so no mitigation is necessary. This standard is met.*

- (5) The proposed variance would allow the development to preserve a priority tree or trees or provide more opportunity to plant new trees to achieve 40% canopy, as required by Chapter 16.32.

*The requested variance does not involve the removal of any existing vegetation (there is a line of arbor vitae along the western boundary of Parcel 1) and will not impact the opportunity to plant new trees on Parcel 1 in the future. This standard is met.*

*The Planning Manager finds that the requested variance meets the approval criteria for Type II variances.*

*As proposed, the Planning Manager finds that the requested variance is allowable as per the applicable standards of MMC 19.911.*

12. The application was referred to the following departments and agencies on November 27, 2023:

- Milwaukie Building Department
- Milwaukie Engineering Department
- Milwaukie Public Works Department
- City Attorney
- Hector Campbell Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
- Clackamas Fire District #1 (CFD#1)
- Clackamas County Department of Transportation & Development (DTD)
- Metro
- North Clackamas School District
- 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 November 27, 2023.

No comments have been received.

# Exhibit 2

## PRELIMINARY PARTITION PLAT NO.

A REPLAT OF LOTS 1 AND 2, BLOCK 68, "MINTHORN ADDITION TO THE CITY OF PORTLAND" (PLAT NO. 59), AND VACATED 44TH AVENUE, LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 EAST, OF THE WILLAMETTE MERIDIAN, CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

### LEGEND

- FOUND MONUMENT AS NOTED
- SET 5/8" X 30" IRON ROD WITH GREEN PLASTIC CAP INSCRIBED "CMT L5 86811" SET ON \_\_\_\_\_
- FD FOUND
- IR IRON ROD
- IP IRON PIPE
- IB IRON BAR
- W/ WITH
- YPC YELLOW PLASTIC CAP
- RPC RED PLASTIC CAP
- (R#) REFERENCE SURVEY OR PLAT
- (OU) ORIGIN UNKNOWN
- (H) HELD

### REFERENCE SURVEYS

- (R1) "MINTHORN ADDITION TO THE CITY OF PORTLAND" PLAT NO. 59
- (R2) SN2023-051
- (R3) SN 11864
- (R4) SN 2008-193
- (R5) SN 12767
- (R6) SN 3155
- (R7) "THERESE ESTATES" PLAT NO. 3862

### NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO REPLAT LOTS 1 AND 2, BLOCK 68, "MINTHORN ADDITION TO THE CITY OF PORTLAND", PLAT NO. 59 AND THE WEST HALF OF VACATED SE 44TH AVENUE (60.00' WIDE).

AS THE BASIS OF BEARINGS AND THE SOUTHERLY RIGHT-OF-WAY LINE OF SE MONROE STREET, ALSO BEING THE NORTH LINE OF THE SUBJECT PROPERTY, I HELD A BEARING OF NORTH 90°00'00" EAST, INFERRED FROM (R1), BETWEEN A 5/8" IRON ROD FOUND AT THE NORTHWEST CORNER OF SAID BLOCK 68 AND A 5/8" IRON ROD FOUND AT THE NORTHEAST CORNER OF LOT 21, BLOCK 67 OF SAID PLAT.

TO ESTABLISH THE SOUTH LINE OF THE SUBJECT PROPERTY I HELD A BRONZE DISK SET IN U.S.B.T. ENTRY 2002-116, A WITNESS CORNER FOR THE NORTHWEST CORNER OF THE JOHN D. GARRETT D.L.C. NO. 38, AND A 1/2" IRON PIPE FOUND AT THE SOUTHWEST CORNER OF BLOCK 66 OF SAID PLAT.

I THEN ESTABLISHED THE NORTHERLY CORNERS OF THE LOTS BETWEEN LOT 14 OF SAID BLOCK 68 AND LOT 23 OF SAID BLOCK 67 BY PRO-RATING THE DISTANCE BETWEEN THE EAST-WEST LOCATION OF A 3/4" IRON BAR FOUND NEAR THE NORTHWEST CORNER OF SAID LOT 14 AND A 5/8" IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID LOT 23, HOLDING THE RIGHT-OF-WAY OF SE 44TH AVENUE AT THE RECORD WIDTH OF 60.00 FEET, PER (R1). THE RESULTING WIDTHS OF SAID LOTS ARE 0.05 FEET SHORTER THAN THE RECORD WIDTHS PER (R1).

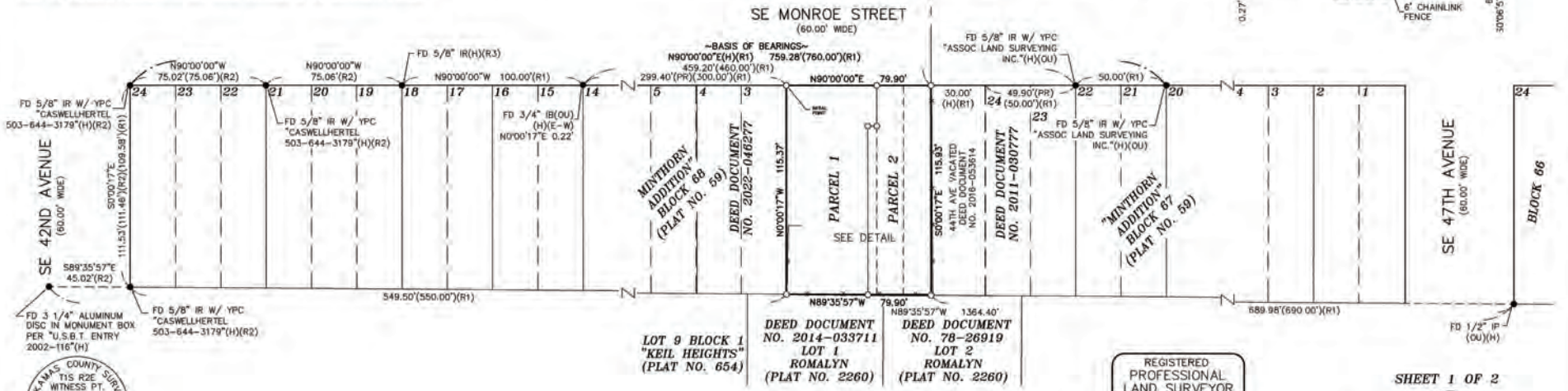
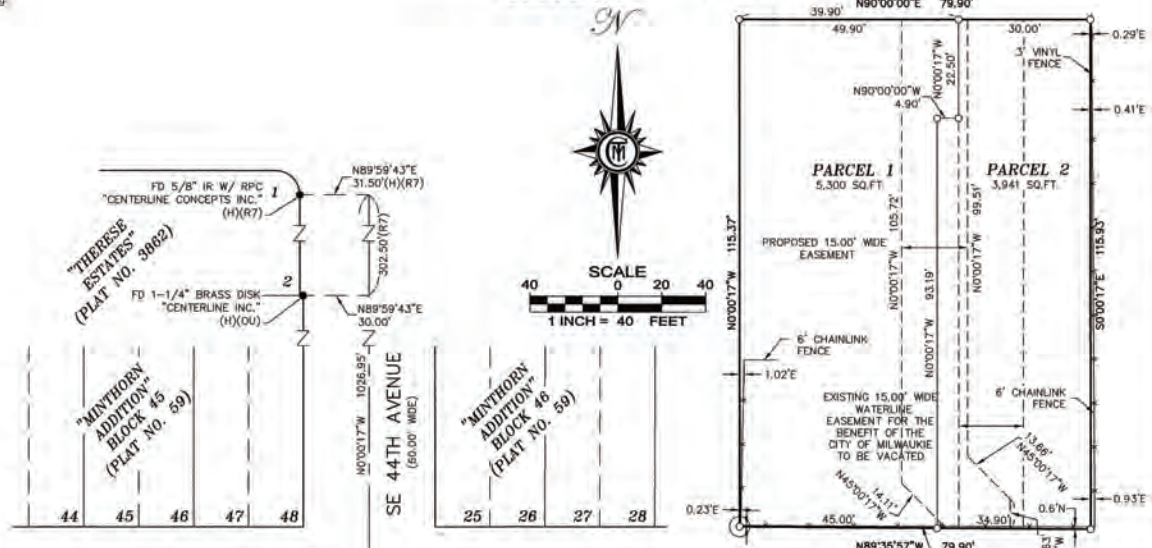
I THEN ESTABLISHED THE CENTERLINE OF SE 44TH AVENUE BY HOLDING A POINT ON THE ESTABLISHED SOUTHERLY RIGHT-OF-WAY LINE OF SE MONROE STREET AT THE PRO-RATED DISTANCES PREVIOUSLY ESTABLISHED FROM A 5/8" IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID LOT 23 AND THE RECORD HALF WIDTH OF 30.00 FEET, PER (R1), AND DREW A LINE NORTHERLY TO A POINT 31.50 FEET EASTERLY, PER (R7), OF A 5/8" IRON ROD FOUND AT THE SOUTHERLY END OF A CURVE AT THE NORTHEAST CORNER OF LOT 1 "THERESE ESTATES".

TO ESTABLISH THE EAST LINE OF THE SUBJECT PROPERTY I EXTENDED THE PREVIOUSLY ESTABLISHED CENTERLINE OF SE 44TH AVENUE SOUTHERLY TO THE ESTABLISHED SOUTH LINE.

TO ESTABLISH THE WEST LINE OF THE SUBJECT PROPERTY I HELD A LINE PARALLEL TO THE ESTABLISHED EAST LINE FROM THE PREVIOUSLY ESTABLISHED PRO-RATED LOCATION OF THE NORTHWEST CORNER.

DATE: OCTOBER 9, 2023  
 SURVEYED FOR: JEFF SANCHEZ  
 4378 SE MONROE  
 MILWAUKIE OR 97222

DETAIL SE MONROE STREET  
 SCALE = 1" = 20'



REGISTERED PROFESSIONAL LAND SURVEYOR

DAVID ROEGER  
 OREGON  
 SEPTEMBER 11, 2018  
 DAVID ROEGER  
 86811

SHEET 1 OF 2



CMT SURVEYING AND CONSULTING  
 20330 SE HIGHWAY 212  
 DAMASCUS, OR 97089  
 PHONE (503) 850-4672 FAX (503) 850-4590  
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EXPIRES DECEMBER 31, 2024