



January 19, 2016

Land Use File(s): MLP-2015-002, VR-2015-006

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on January 12, 2016.

Applicant(s): Phillip Joseph, SE King Road LLC

Appellant (if applicable)

Location(s): North of 5445 SE King Rd

Tax Lot(s): 1S2E30DC02601

Application Type(s): Minor Land Partition, Variance

Decision: Approved, with Conditions

Review Criteria: Milwaukie Zoning Ordinance:

- MMC Section 19.301 Low Density Residential Zones
- MMC Subsection 19.504.8.B Flag Lot Design and Development Standards
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.911 Variances
- MMC Chapter 19.1200 Solar Access Protection

Milwaukie Land Division Ordinance:

- MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
- MMC Subsection 17.28 Design Standards
- MMC Subsection 17.32 Improvements

Neighborhood(s): Lewelling and Hector Campbell

Appeal period closes: 5:00 p.m., February 3, 2016

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III 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 Denny Egner, Planning Director, at 503-786-7654 or egnerd@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on February 3, 2016, which is 15 days from the date of this decision. Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council 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 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 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Findings in Support of Approval

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, John Marquardt, LandmarQ Consulting Group, on behalf of Phillip Joseph, SE King Rd, LLC, has applied for approval to partition the property at TLID 1S2E30DC02601 (Parcel 2 of Partition Plat 2004-1) and has requested a variance to the minimum lot width requirements. This site is in the R-7 Zone. The land use application file numbers are MLP-2015-002, VR-2015-006.
2. The applicant is proposing the partition the property into 3 lots: Parcel 1 is a flag lot with an existing substandard 20 ft frontage on King Rd; Parcels 2 and 3 are standard lots with frontage on the unimproved Mullan St right-of-way along the northern boundary of the site. The applicant is requesting relief from the R-7 Zone minimum lot width of 60 ft to allow a reduction of the width of Parcels 2 and 3 to 50 ft. The request for relief from the minimum lot width standards of the R-7 Zone is subject to Type III Variance review, which is being reviewed concurrently with the Type II Minor Land Partition application.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.301 Low Density Residential Zones
 - MMC Subsection 19.504.8.B Flag Lot Design and Development Standards
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.911 Variances
 - MMC Chapter 19.1200 Solar Access Protection
 - MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
 - MMC Subsection 17.28 Design Standards
 - MMC Subsection 17.32 Improvements
4. Per MMC 17.12.020.D.1, applications for a preliminary partition plat (the first phase of a minor land partition, or MLP) shall be processed in accordance with MMC Section 19.1005 Type II Review unless an associated application subject to Type III review is submitted in conjunction with the partition. The requested Variance is subject to Type III review, and the application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on January 12, 2016, as required by law.
5. MMC Section 19.301 Low Density Residential Zones

- a. MMC 19.301.2 establishes uses allowed in the R-7 zone. Development on the parcels will be subject to the uses allowed in this subsection.
- b. MMC 19.301.4 establishes development standards for newly created lots. The standards are met as shown in Table 1.

Table 1. Overview of Compliance with Development Standards

Residential Zone R-7 Development Standards			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	7,000 sq ft	Parcel 1: 10,170 sq ft Parcel 2: 7,500 sq ft Parcel 3: 7,500 sq ft	Complies with standard.
2. Minimum Lot Width	60 ft	Parcel 1: 100 ft Parcel 2: 50 ft Parcel 3: 50 ft	Requires variance. As approved by this action, complies with standard.
3. Minimum Lot Depth	80 ft	Parcel 1: 101.7 ft Parcel 2: 150 ft Parcel 3: 150 ft	Complies with standard.
4. Frontage	35 ft	Parcel 1: 20 feet along King Rd (existing) Parcels 2 and 3: 50 feet along Mullan St (proposed)	Parcel 1 is legally nonconforming. Parcels 2 and 3 comply with standard.
5. Density	5.0-6.2 units/net acre	3 parcels	The site is 0.65 net acres and minimum density is 3 dwelling units. Complies with standard.
6. Transportation Requirements	Yes, per MMC 19.700	Half-street improvements on Mullan St	As conditioned, complies with standard. See Finding 7.

The Planning Commission finds that, as conditioned, these standards are met.

6. MMC Chapter 19.500 Supplementary Development Regulations

MMC 19.504.8 establishes flag lot design and development standards. This section is met as described below.

- a. MMC 19.504.8.A states that flag lots in all zones are subject to the development standards of MMC 19.504.8.

Proposed Parcel 1 is an existing flag lot and was created in 2004.

- b. MMC 19.504.8.B contains development standards for flag lots.

- (1) MMC 19.504.8.B.1 states that the areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement.

The flag portion of proposed Parcel 1 is approximately 10,170 sq ft in area, which exceeds the minimum lot area of 7,000 sq ft.

This standard is met.

- (2) MMC 19.504.8.C prohibits variances of lot area, lot width, and lot depth standards.

There are no variances requested for the creation of Parcel 1.

- c. MMC 19.504.8.D establishes standards for flag lot frontage, accessway, and driveway design.

- (1) MMC 19.504.8.D.1 requires that flag lots shall have frontage and access on a public street and that the minimum width of the accessway and street frontage is 25 ft.

The existing Parcel 2 of Preliminary Plat 2004-1 was established as a flag lot in 2004 (File #MLP-02-10). The existing accessway is 20 f wide and is legally nonconforming.

This standard is met.

- (2) MMC 19.504.8.D.3 contains standards for driveway design and emergency vehicle access.

- (a) MMC 19.504.8.D.3.a requires that driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

As conditioned, this standard is met.

- (b) MMC 19.504.8.D.3.b requires that driveways serving single flag lots shall have a minimum paved width of 12 ft.

As conditioned, this standard is met.

- (c) MMC 19.504.8.D.3.c requires that driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

As conditioned, this standard is met.

- (d) MMC 19.504.8.D.3.d requires that a paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

Clackamas Fire District #1 (CFD) reviewed the proposed partition and provided the following comment: "Currently, Parcels 2 and 3 in the proposed partition have no access from the public right of way located off 54th Ave. Until such a time that this street improvement is completed the access from King Rd would need to be provided with an approved fire department turn around. This does not apply if there are no structures on the two properties."

A condition has been established to require that the final plat either include completed improvements to Mullan St from the western boundary of the site to the eastern boundary, or an access easement to Parcels 2 and 3 through Parcel 1, and an approved fire department turnaround on the site.

As conditioned, this standard is met.

- (e) MMC 19.504.8.D.3.f requires that the flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

The proposed driveway would be a consolidated access that would serve the parent lot (Parcel 1 of Partition Plat 2004-1) and Parcel 1 of the proposed preliminary plat (Parcel 2 of Partition Plat 2004-1).

As proposed, this standard is met.

- (f) MMC 19.504.8.D.3.g requires that design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal.

The proposed driveway may serve 3 lots and CFD #1 has reviewed the proposed partition. A condition has been established to require that the driveway, turnaround, and future development on proposed Parcels 1-3 shall comply with CFD requirements.

As conditioned, this standard is met.

- (g) MMC 19.504.8.D.3.h requires that parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

The proposed driveway is not suitably sized to allow the combined needs of parking and emergency access requirements. "No Parking" signage shall be installed and maintained within the access pole area.

As conditioned, this standard is met.

- (3) MMC 19.504.8.E contains standards for protection of adjoining properties for flag lot development.

Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

- (a) MMC 19.504.8.E.1 requires that planting and screening must be provided at the time of development.

Planting and screening required pursuant to this subsection will be required prior to final inspection and occupancy of structures on proposed Parcel 1.

As conditioned, this standard is met.

- (b) MMC 19.504.8.E.2 requires that impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as described in MMC 19.504.8.E.2.a – c.

Proposed Parcel 1 (formerly Parcel 2 of Partition Plat 2004-1) is part of the parent lot (Parcel 1 of Partition Plat 2004-1) from which the flag lot is created, and screening on lot lines adjoining this parcel is not required.

This standard is not applicable.

- (c) MMC 19.504.8.F requires that all trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 in caliper and evergreen trees shall be a minimum of 5 ft tall.

The applicant's materials indicate that at least 13 trees of 6 in in diameter are located on site, as well as 12 Arborvitae with no diameter indicated. The trees are primarily located along the western property line and within the pole portion of proposed Parcel 1. Two trees on proposed Parcel 1 will be removed for construction of a dwelling on the site. The applicant's submittal materials state that the 11 trees located within the pole portion of Parcel 1 will remain as long as it is feasible to do so and they can be protected while the driveway is being constructed, and that as many of the 12 Arborvitae along the western property line will be preserved as possible. The applicant's submittal materials state that any tree mitigation that is required will be done so in accordance with the provisions of this code section.

As conditioned, this standard is met.

- (d) MMC 19.504.8.G requires that a landscaping plan shall be submitted to the Planning Director prior to issuance of a building permit for new construction.

The applicant's submittal materials state that a landscaping plan will be submitted with the building permit application.

As conditioned, this standard is met.

The Planning Commission finds that, as conditioned, these standards are met.

7. MMC Chapter 19.700 Public Facility Improvements

- a. MMC Section 19.702 establishes the applicability of this chapter to new development.

MMC Chapter 19.700 applies to partitions, subdivisions, 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 existing parcel into three new lots. The partition triggers the requirements of MMC Chapter 19.700.

This chapter is applicable to the proposed development.

- b. MMC Section 19.704 requires submission of a transportation impact study documenting the development impacts on the surrounding transportation system.

The proposed development will not trigger a significant increase in trip generation and therefore does not require a transportation impact study.

This section is not applicable to the proposed development.

- c. MMC Section 19.705 requires that transportation impacts of the proposed development be mitigated.

The proposed development does not trigger mitigation of impacts beyond the required frontage improvements. The impacts are minimal and the surrounding transportation system will continue to operate at the level of service previous to the proposed development.

As conditioned, this standard is met.

- d. MMC Section 19.708 contains the City's requirements and standards for improvements to public streets.

- (1) MMC Subsection 19.708.1 requires all development shall comply with access management, clear vision, street design, connectivity, and intersection design and spacing standards.

The applicant shall construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to each new lot. The driveway approach apron shall be between 9 feet and 20 feet in width and least 7.5 feet from the side property line.

The applicant shall remove all signs, structures, or vegetation in excess of 3 feet in height from "vision clearance areas" at intersections of streets, driveways, and alleys.

As conditioned, this standard is met.

- (a) MMC Subsection 19.708.1.E.3 requires that streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties.

The applicant shall construct a two-third street improvement along the north side of the site in the Mullan St right-of-way to provide access for future development. The street improvements include, from the fronting property line: a 5 ft setback sidewalk; 5-ft planter strip; curb and gutter; and a 22 ft paved two-third street.

As conditioned, this standard is met.

- (i) MMC Section 19.708.1.E.3.a requires that temporary turnarounds shall be constructed for street stubs in excess of 150 ft in length.

A condition has been established to require the applicant to construct a turnaround on Parcel 1 if required to comply with Clackamas Fire District #1 Standards prior to final inspection for any development on this lot.

A condition has been established to require the applicant to construct a temporary turnaround at the east end of the SE Mullan St improvements in accordance with Clackamas Fire District #1 Standards prior to final inspection for any development on Parcels 2 and 3.

As conditioned, this standard is met.

- (2) MMC Subsection 19.708.2 establishes standards for street design and improvement.

The applicant shall construct half street improvements for property abutting King Rd. The street improvements include, from the fronting property line: construction of a curb-tight driveway approach between 9 and 20 ft wide; and a 16 ft wide paved half street. In this case, the street improvements existing along the north side of King Rd along the site's frontage; the applicant is only responsible for construction of a curb-tight driveway approach in accordance with City of Milwaukie Public Works Standard Drawing #502C.

As conditioned, these standards are met.

- (3) MMC Subsection 19.708.3 establishes sidewalks shall be provided on the public street frontage of all development.

The construction of sidewalks along the proposed development property abutting Mullan St is included in the street frontage requirements.

As conditioned, this standard is met.

- (4) MMC Section 19.708.4 establishes standards for bicycle facilities.

The portion of Mullan St fronting the proposed development is not classified as a bike route in the Milwaukie Transportation System Plan (TSP). The portion of King Rd fronting the proposed development is classified as a bike route in the Milwaukie TSP, however, bike facilities are already in place. As a result, bicycle facility improvements are not required for the proposed development.

These standards are not applicable.

- (5) MMC Section 19.708.5 establishes standards for pedestrian and bicycle paths.

The proposed development property is surrounded by developed or developing properties. The proposed development does not present an opportunity to provide a pedestrian or bicycle path and is not required to provide one.

These standards are not applicable.

- (6) MMC Section 19.708.6 establishes standards for transit facilities.

The portion of Mullan St fronting the proposed development is not classified as a transit route in the Milwaukie TSP. The portion of King Rd fronting the proposed development is classified as a transit route in the Milwaukie TSP, however, transit facilities are already in place. As a result, transit facility improvements are not required for the proposed development.

These standards are not applicable.

The Planning Commission finds that, as conditioned, these standards are met.

8. MMC Chapter 19.911 Variances

- a. MMC 19.911.3 establishes the appropriate review process for variance applications.

The applicant proposes to reduce the lot width of Parcels 2 and 3 from the minimum R-7 Zone requirement of 60 ft to 50 ft. This request would reduce the lot width by 16.6%, which exceeds the maximum 10% reduction to lot width standards permitted through Type II Variance review.

The Planning Commission finds that the request is subject to Type III Variance review.

- b. MMC 19.911.4 establishes criteria for approving a variance request.

The applicant has chosen to address the discretionary relief criteria of MMC 19.911.4.B.1.

(1) Discretionary relief criteria

- (a) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

The applicant has provided an alternatives analysis evaluating the impacts and benefits of the proposed 50 ft lot width as compared to the 60 ft lot width required by code. The minimum density for the existing parcel is 3 dwelling units. There are 2 potential approaches to dividing the site into 3 lots: create 2 lots with frontage on Mullan St; or create a flag lot and parent lot with frontage on Mullan St. In the former situation, a variance to the minimum lot widths is required because the existing lot is 100 ft wide, and each lot would be 50 ft wide. In the latter situation, in order to create a flag lot that meets the dimensional standards of the R-7 Zone, a variance to the parent lot area would be required. In addition, minimum front and rear setbacks for development on a flag lot are 30 ft, which introduces constraints to development on the flag lot.

In both cases, 2 new lots will front Mullan St. The impacts of the variance proposal are equal to that of the baseline code requirement. The benefits of the variance proposal include the creation of 2 conventional lots with 7,500 sq ft of developable area as opposed to 1 substandard parent lot and 1 flag lot with additional front and rear yard setback requirements.

This criterion is met.

- (b) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

- (i) The proposed variance avoids or minimizes impacts to surrounding properties.

The proposed variance avoids impacts to surrounding properties. Development on the newly created lots will be subject to the same setback and lot coverage requirements as lots that meet the minimum width requirements and development on the lots will have no greater impact on surrounding properties than development of a lot that fully meets the standards of the R-7 Zone. With a lot width of 50 ft, the resulting buildable area of Parcels 2 and 3 will be approximately 3,850 sq ft, which is large enough to construct a reasonably-sized house dwelling similar to those typically found in the R-7 Zone.

This criterion is met.

- (ii) The proposed variance has desirable public benefits.

This criterion is not applicable.

- (iii) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

This criterion is not applicable.

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

No impacts have been identified. No mitigation is required.

The Planning Commission finds that these criteria are met.

9. MMC Chapter 19.1200 Solar Access Protection

- a. MMC 19.1203 contains the standards for solar access protection for new development.

- (1) MMC 19.203.2 establishes applicability for this chapter.

The applicant proposes to create new lots in the R-7 Zone, a single-family zone. This chapter is applicable.

- (2) MMC 19.1203.3 establishes design standards for newly-created lots.

At least 80% of the lots in a development subject to these provisions shall comply with one or more of the options in this subsection; provided a development may, but is not required to, use the options in Subsections 19.1203.3.B or C below to comply with Section 19.1203.

- (a) Basic Requirement. A lot complies with Subsection 19.1203.3 if it:

- (i) Has a north-south dimension of 90 ft or more; and

Parcel 1 (the proposed flag lot) has a north-south dimension of 101.7 ft, and lots 2 and 3 have north-south dimensions of 150 ft. 100% of the proposed lots comply with this subsection.

- (ii) Has a front lot line that is oriented within 30 degrees of a true east-west axis

All 3 lots have front lot lines within 30 degrees of a true east-west access.

The Planning Commission finds that these standards are met.

10. MMC Section 17.12 Application Procedure and Approval Criteria

- a. MMC 17.12.040.A establishes criteria for approving a preliminary plat.

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

See Finding 5 for an analysis of the proposal against the standards of MMC 19.301 Low Density Residential Zones.

- (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 applicant has requested a variance to the minimum lot width of the R-7 Zone for Parcels 2 and 3. See Finding 8 for an analysis of this request.

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

The proposed partition is not a subdivision, and this section is not applicable.

- (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.

The applicant will construct a half street within the existing Mullan St right-of-way, which will tie in to proposed improvements to the west. No modifications are proposed.

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

The applicant has submitted this information in the materials submitted for the land use application.

The Planning Commission finds that, as conditioned, these criteria are met.

11. MMC Section 17.20 Preliminary Plat

- a. MMC 17.20 contains the information required for a preliminary plat application.

The materials submitted by the applicant satisfy the requirements of this chapter.

The Planning Commission finds that these requirements are met.

12. MMC Section 17.28 Design Standards

- a. MMC 17.28.010 requires that partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City.

As demonstrated by these findings, the partition conforms with all applicable City criteria and standards.

- b. MMC 17.28.020 requires that all land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities.

As described elsewhere in these findings, the proposed partition complies with Chapter 19.700. Utilities and work within the right-of-way will be reviewed by the Milwaukie Engineering Department for conformance with Public Works Standards.

- c. MMC 17.28.040 contains standards for lot design.

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

As approved by this action, the proposed parcels have adequate size and dimensions for development and uses allowed in the R7 zone, and conform to the standards of Title 19 as described in these findings.

- (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 proposed parcels are rectilinear in shape, with side lot lines at right angles and the rear lot lines parallel to the street.

- (3) MMC 17.28.040.C limits compound lot lines for side or rear lot lines.

There are no compound lot lines are proposed for side or rear lot lines of Parcels 2 and 3; Parcel 1 contains a change in direction to allow for transition between the accessway and the flag portion of the parcel.

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

The applicant has requested a variance to the minimum lot width standards of the R-7 Zone, which is being processed pursuant to MMC 19.911.

- (5) MMC 17.28.040.E states that double frontage and reversed frontage lots should be avoided except in certain situations.

None of the parcels in the proposed partition have frontage on more than one public right-of-way.

- (6) MMC 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.

All parcels in the proposed partition have only 1 street frontage. As established in Finding 5.b, these frontages meet the minimum required street frontage in the R-7 zone.

- d. MMC 17.28.080 contains criteria for public open spaces.

The Milwaukie Comprehensive Plan does not identify any planned park or open space for the site. As such, no dedication for public open space is required.

- e. MMC 17.28.070 prohibits flag lots in new subdivisions and subdivisions platted after August 20, 2002.

The site is within the Clackamas County Partition Plat 2004-1, filed in 2004. The proposed land division would create 3 lots and is not a subdivision.

The Planning Commission finds that these standards are met.

13. MMC Section 17.32 Improvements

- a. MMC 17.32 describes required public improvements.

The applicant proposes that all public improvements will meet the standards of this chapter.

The Planning Commission finds that these standards are met.

14. The application was referred to the following departments and agencies on December 4:

- Milwaukie Engineering Department
- Clackamas County Fire District #1
- Lewelling and Hector-Campbell Neighborhood District Association Chairpersons and Land Use Committees
- Clackamas County
- Metro

- TriMet

The comments received are summarized as follows: No comments received.

Conditions of Approval

1. The applicant shall submit a final plat application within 6 months of the preliminary plat approval in accordance with MMC Subsection 17.24.040. The applicant shall obtain approval of the final plat prior to the expiration of this preliminary plat approval.
2. The applicant's final plat application shall include the items listed on the City of Milwaukie Final Plat Checklist. The following specific items and changes are required as part of the application:
 - a. A written narrative describing all changes made to the final plat that are not related to these conditions of approval.
 - b. A final plat that substantially conforms to the plans received by the Planning Department on December 3, 2015, and approved by this action, except as modified by these conditions of approval.
 - c. The plat shall include spaces for signatures by the Milwaukie Planning Director and Milwaukie Engineering Director, and a note indicating that this partition is subject to the requirements of City of Milwaukie Land Use Applications MLP-2015-002 and VR-2015-006.
 - d. The plat shall include a fire turnaround easement on Parcel 1 in accordance with Clackamas Fire District #1 Standard.
 - e. The plat shall include appropriate easements or restrictions on Parcel 1 to maintain a 12-ft wide paved driveway with a 20-ft wide unobstructed driving surface and minimum 13 ft 6 in vertical clearance for fire apparatus access.
 - f. If construction of Mullan St is impracticable due to inaccessibility resulting from incomplete construction of Mullan St directly west of the proposed development, the plat shall include:
 - (1) Appropriate access easements across Parcel 1 for the benefit of Parcels 2 and 3, including responsibilities for maintenance of the easement areas.
 - (2) Appropriate utility easements across Parcel 1 for the benefit of Parcels 2 and 3.
 - (3) Fire access and turnaround in accordance with Clackamas Fire District #1 standards.
3. Prior to approval of the final plat, the following shall be resolved.
 - a. Submit a storm water management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. 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.
 - b. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department.
 - 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 100% of the cost of the required public improvements.
 - f. Provide an erosion control plan and obtain an erosion control permit.
 - g. Install all underground utilities, including stubs for utility service prior to surfacing any streets.
 - h. Construct a 5 ft setback sidewalk, 5 ft planter strip, curb and gutter, and a 22 ft paved 2/3 street along the north side of the site in the Mullan St right-of-way to the east property line. The 2/3 street improvements include extension of an existing 6 in diameter ductile iron water main, and all storm water system improvements necessary to accommodate the street improvements.
 - i. If construction of the improvements described in Condition H is impracticable due to inaccessibility resulting from incomplete construction of Mullan St directly west of the proposed development, the applicant shall pay a fee in lieu of construction (FILOC) for these improvements.
 - j. Construct a driveway approach on SE King Rd to provide access to Parcel 1 which meets all guidelines of the Americans with Disabilities Act (ADA) prior to final inspection. The driveway approach apron shall be between 9 and 20 feet in width, to be determined by City of Milwaukie Public Works Standard Drawing #502C.
 - k. Obtain and submit written verification shall from Clackamas Fire District #1 that adequate emergency services access is provided to each parcel.
 - l. Provide a final approved set of Mylar “As Constructed” drawings to the City of Milwaukie prior to final inspection.
 - m. 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 proposed development.
4. Prior to issuance of any permits for structures on Parcel 1, the following shall be resolved:
 - a. Submit a landscaping plan to the Planning Director. The plan shall include the information required by MMC 19.504.8.G, be drawn to scale, and shall accompany development permit applications. The plan shall also include tree mitigation as needed.
 5. Prior to final inspection for any structure on Parcel 1, the following shall be resolved:
 - a. Construct a private storm management system (e.g. drywell) on the proposed development property for runoff created by the proposed development. Connect all rain drains to the private storm management system.
 - b. Construct an approved turnaround on Parcel 1 construct a turnaround on Parcel 1 if required to comply with Clackamas Fire District #1 Standards.
 - c. The driveway on Parcel 1 shall be constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.
 - d. The driveway on Parcel 1 shall have a minimum paved width of 12 ft and shall be centered within the accessway.
 - e. Install and maintain “no parking” signage within the access pole area of Parcel 1.

- f. Provide planting and screening that meets the standards of MMC 19.504.8.E.1.
6. Prior to final inspection for any structures on Parcels 2 and 3, the following shall be resolved:
 - a. Construct a temporary turnaround at the east end of the Mullan St improvements in accordance with Clackamas Fire District #1 Standards.
 - b. Construct a private storm management system (e.g. drywell) on the proposed development property for runoff created by the proposed development. Connect all rain drains to the private storm management system.

Other requirements

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code and Public Works Standards that are required at various point in the development and permitting process.

1. The Time Limit on Approval established in MMC 17.04.050 applies to this proposed partition.
 - a. MMC 17.040.050.A: All decisions on boundary changes and land divisions shall expire 1 year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees.
Staff note: approval of a final plat must occur prior to the expiration of the preliminary plat approval on which the final plat is based.
 - b. MMC 17.04.050.B: Approvals may be extended up to 6 months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed 6 months will be granted if the criteria in MMC 17.04.050.B are satisfied.
2. The requirements on MMC 17.24 for preparation and recording the final plat are as follows:
 - a. MMC 17.24.040: Within 6 months of City approval the applicant shall submit the final plat for City signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.
 - b. MMC 17.04.120.B: Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with the City Code and required approvals.
 - c. MMC 17.04.120.A: Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the County Surveyor within 6 months of City approval.
3. Prior to commencement of any earth-disturbing activities, the applicant shall obtain an erosion control permit.
4. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(l).



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Chuck Eaton, Engineering Director (*via e-mail*)
Chrissy Dawson, Engineering Technician II (*via e-mail*)
Samantha Vandagriff, Building Official (*via e-mail*)
Bonnie Lanz, Permit Specialist (*via e-mail*)
Mike Boumann and Matt Amos, CFD#1
NDA(s): Lewelling and Hector Campbell (*via e-mail*)
Interested Persons
Land Use File(s): MLP-2015-002