



November 10, 2016

Land Use File(s): EXT-2016-002

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on November 10, 2016.

**Applicant(s):** K Fabrycki Development, LLC

**Appellant** (if applicable)

**Location(s):** 5419 SE King Rd

**Tax Lot(s):** 12E30DC02500

**Application Type(s):** Extension

**Decision:** Approved

**Review Criteria:** Milwaukie Zoning Ordinance:

- MMC 19.908, Extensions to Expiring Approvals
- MMC 17.04.050, Time Limit on Approval
- MMC 19.1005, Type II Review

**Neighborhood(s):** Lewelling

**Appeal period closes: 5:00 p.m., November 25, 2016**

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 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 Koliass, Associate Planner, at 503-786-7653 or [koliassv@milwaukieoregon.gov](mailto:koliassv@milwaukieoregon.gov), if you wish to view this case file or visit the project webpage at <http://www.milwaukieoregon.gov/planning/EXT-2016-002>.

**This decision may be appealed by 5:00 p.m. on November 25, 2016, which is 15 days from the date of this decision.**<sup>1</sup> Any person who is adversely affected or aggrieved by this decision may appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie Planning Commission following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).

<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.

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, Kevin Fabrycki, for K Fabrycki Development LLC, has applied for approval to extend the existing approval of S-2015-001 and VR-2015-003 at 5419 SE King Rd. This site is in the Residential Zone R-7. The land use application file number is EXT-2016-002.
2. Land use file S-2015-001 and VR-2015-003 was approved on October 27, 2015. S-2019-001 and VR-2015-003 approved the subdivision of the property at 5419 SE King Rd Rd (TLID 12E30DC02500) into 5 lots. S-2015-001 and VR-2005-003 expires on November 16, 2016. The applicant has requested an extension to May 16, 2017, to allow additional time for completion of final construction and final review of the final plat by the City.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.1005 Type II Review
  - MMC Chapter 17.04.050 Time Limit on Approval
  - MMC Section 19.908 Extensions to Existing Approvals
4. The application has been processed in accordance with MMC Section 19.1005 Type II Review.
5. MMC 17.04 Administration and Enforcement
  - a. MMC 17.04.050.4.B establishes the criteria for approving extensions of boundary change and land division applications. MLP-13-03 is a land division application, and is subject to these criteria.
    - (1) 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 provided that:
      - (a) No changes are made on the original plan as approved;  
*No changes have been made on the original plan as approved.*
      - (b) The applicant can show intent of recording the land division or boundary change within the 6-month extension period; and  
*The applicant initially submitted the plat to the City and to Clackamas County for review on February 29, 2016. Redline comments were submitted in June 15, 2016. The revised final plat was then submitted to the City and to Clackamas County on June 20, 2016.*
      - (c) There have been no changes in the ordinance provisions on which the approval was based.  
*There have been no changes in the ordinance provisions on which the approval was based.*

The criteria of MMC 17.04.050.B are met.

The criteria of MMC 17.04 are met.

6. MMC Section 19.908 Extensions to Existing Approvals

- a. MMC 19.908.2.A describes the types of approvals eligible for extension.

S-2015-001 and VR-2015-003 are unexpired land use applications that were required by Title 17 of the Milwaukie Municipal Code and were approved through a Type III review.

- b. MMC 19.908.4 establishes the criteria for approving an extension to an expiring land use application.

- (1) There have been no significant changes on the subject property, in the vicinity of the subject property, or to any relevant regulations since the original application was approved.

*There have not been any significant changes to the property or in the vicinity of the site since the original approval on October 27, 2015, nor have there been any changes to the relevant regulations.*

*This criterion is met.*

- (2) No modifications are proposed to the approved application or to the conditions of approval.

*No modifications are proposed to the approved application or to the conditions of approval.*

*This criterion is met.*

- (3) If the previously approved application included a transportation impact study or a natural resource report, an updated report was provided with the extension application that shows no significant changes on the subject property or in the vicinity of the subject property.

*S-2015-001 and VR-2015-003 did not include a transportation impact study or a natural resource report.*

*This criterion is not applicable.*

The criteria of MMC 19.908.4 are met.

The criteria of MMC 19.908 are met.

7. As described in Finding 4, public notice of these applications was posted on site and mailed to parties as identified in the Milwaukie Municipal Code. The application was referred for comment to the following: Milwaukie Engineering Department, Milwaukie Building Department, Clackamas Fire District #1, and the Lewelling Neighborhood District Association. The responses received are summarized below. Agencies did not respond if a response is not listed below.

Clackamas Fire District #1 – no comment

**Dennis and Linda Bissonnette, 10343 SE 54<sup>th</sup> Ave:** Comments included questions about the installation of speed bumps on SE 54<sup>th</sup> Ave to address traffic impacts from both this development and development on SE Mullen St that will use SE 54<sup>th</sup> Ave to access SE King Rd. Comments also included the installation of 1 large locking mailbox for all of the properties rather than separate mailboxes.

**Staff response:** The traffic impact from the new subdivision does not require any traffic calming device on SE 54<sup>th</sup> Ave. If speed bumps are desired on SE 54<sup>th</sup> Ave, then a formal application for a traffic control device request must be submitted. The link for the application form is:

<http://www.milwaukieoregon.gov/sites/default/files/fileattachments/trafficcontroldevicerequest/printable.pdf> .

However, such a request would have to wait until the proposed development is built since, currently, the traffic condition does not warrant any traffic control device based on the existing traffic volume.

Regarding “lockbox” mailboxes (referred to as CBU’s), please contact the AMS Coordinator at the Oak Grove Post Office for detailed information at (503) 654-1643. Please note the following:

- The purchase, installation, and future maintenance of a CBU is the responsibility of the resident(s).
- Switching to a CBU is permanent, in that individual mailboxes would not be permitted in the future.

### **Conditions of Approval**

None

### **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 points in the development and permitting process. They are included for the applicant’s convenience and do not necessarily represent all standards or requirements that may be applicable.

1. The requirements on MMC 17.24 for preparation and recording the final plat are as follows:
  - a. MMC 17.24.040: The applicant shall submit the final plat for City signatures by May 16, 2017, as extended by this decision. 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.



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Dennis Egner, FAICP  
Planning Director

cc: Kevin Fabrycki for K Fabrycki Development LLC (19923 Derby St, West Linn, OR 97068)  
Ray Moore, PE, PLS (All County Surveyors & Planners, Inc., PO Box 955, Sandy, OR 97055)  
Planning Commission (*via e-mail*)

Alma Flores, Community Development Director (*via e-mail*)  
Chuck Eaton, Engineering Director (*via e-mail*)  
Jennifer Backhaus, Engineering Tech I (*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 (*via e-mail*)  
Interested Persons  
Land Use File(s): EXT-2016-002