



PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

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Application for Land Use Action

Master File #: VR-2016-009

Review type*: I II III IV V

CHOOSE APPLICATION TYPE(S):

Variance: Variance

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NOV 03 2016

CITY OF MILWAUKIE
PLANNING DEPARTMENT

Use separate application forms for:

- Annexation and/or Boundary Change
- Compensation for Reduction in Property Value (Measure 37)
- Daily Display Sign
- Appeal

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): Charles Clark

Mailing address: PO Box 22208, Milwaukie, OR Zip: 97269

Phone(s): 503-789-0067 E-mail:

APPLICANT'S REPRESENTATIVE (if different than above): Lance Forney (W.B. Wells & Associates)

Mailing address: 6130 NE 78th Court, Suite C-11 Zip:

Phone(s): 503-284-5896 E-mail: lancef@wbwells.com

SITE INFORMATION:

Address: S.E. Mullan Street Map & Tax Lot(s): 1S 2E SE1/4 Section 30, TL5299

Comprehensive Plan Designation: LD Zoning: R-7 Size of property: 18,325.00 Sq Ft

PROPOSAL (describe briefly):

2 parcel partition under separate permit. Applicant is proposing a variance to the front and rear yard setbacks to Parcel 2.

SIGNATURE:

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: Date: November 6, 2015

IMPORTANT INFORMATION ON REVERSE SIDE

RESET

*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.

WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

REVIEW TYPES:

This application will be processed per the assigned review type, as described in the following sections of the Milwaukee Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	FEE AMOUNT*	PERCENT DISCOUNT	DISCOUNT TYPE	DEPOSIT AMOUNT	DATE STAMP
Master file		\$			\$	
Concurrent application files		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
SUBTOTALS		\$			\$	
TOTAL AMOUNT RECEIVED: \$			RECEIPT #:		RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):						
Neighborhood District Association(s):						
Notes:						

*After discount (if any)

Variance Application

For

S.E. Mullan St. Partition

Variance to Section 19.504.8-B.2.a.
In conjunction with a proposed 3 Parcel Partition

S.E. Mullan Street

Presented to the City of Milwaukie Community Development
Department

Applicant:
Pacific Designs N.W.
Charles Clark
PO Box 22208
Milwaukie, OR 97269

Representative:



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CITY OF MILWAUKIE
PLANNING DEPARTMENT

October 27, 2016

S.E. Mullan Street PARTITION VARIANCE APPLICATION

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Submission Requirements
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I. PROJECT DATA

APPLICATION: Variance to Section 19.504.8-B.2.a

ZONING: R-7 Zone

ACREAGE: 0.42 Acres

LOCATION: S.E Mullan Street

REPRESENTATIVE: W.B. Wells & Associates, Inc.
Attn: Brad Schleining, P.E., P.L.S.
4230 N.E. Fremont Street
Portland, OR 97213
brads@wbwells.com
503-284-5896

APPLICANT/OWNER: Pacific Designs N.W.
Attn: Charles Clark
PO Box 22208
Milwaukie, OR 97222

LEGAL: Tax Lot 5299, Map 12E30DC01500

NEIGHBORHOOD: Lewelling



II. INTRODUCTION

The applicant requests preliminary approval for a 2-Parcel single-family partition at S.E Mullan St. The site is approximately 0.42 acres in size and is zoned R-7 within the City of Milwaukie. The site is described as Tax Lot 5299, Tax Map 1 2 E 30 DC. The subject site fronts on SE Mullan Street to the south. This application will demonstrate that the proposed 2-Parcel partition complies with the applicable policies and regulations of the City of Milwaukie Land Division Ordinance.

III. PROJECT DESCRIPTION

The applicant is proposing a 2-Parcel single-family partition. SE Mullan St. will supply public services to Parcel 1 and 2. Parcel 1 and 2 have an existing shared access to SE Mullan St. to the south. Parcel 2 is requesting a variance to the flag lot front and rear yard setbacks.

VI. CITY OF MILWAUKIE LAND DIVISION ORDINANCE

17.12.020 APPLICATION PROCEDURE

A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Type III procedures as indicated in this section.

RESPONSE:

This partition application will be processed in accordance with this chapter, as a Type II application.

D. Partitions

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1005 Type II Review. Should any associated application subject to Type III review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1006 Type III Review.

RESPONSE:

This partition will be processed as a Type II Review in accordance with Section 19.1005.

2. Full compliance with all requirements for subdivision may be required if the Planning Commission should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds 2 acres and within a year is being partitioned into more than 2 parcels, any one of which is less than 1 acre.

F. Final Plats

Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1004 Type I Review.

RESPONSE:

The final plat for this partition will be processed as a Type I Review in accordance with Section 19.1004.

CHAPTER 17.16 APPLICATION REQUIREMENTS AND PROCEDURES

17.16.030 WAIVER OF SUBMISSION REQUIREMENTS

RESPONSE:

No submission requirements are proposed to be waived at this time.

17.16.060 PRELIMINARY PLAT FOR PARTITION AND SUBDIVISION

The following shall accompany applications for partition:

- A. Completed application form signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Completed and signed "submission requirements" and "partition checklist" or "subdivision checklist" forms as appropriate;
- D. All information specified on the "submission requirements" and "partition checklist" or "subdivision checklist" forms as appropriate;
- E. Requirements and information specified in Chapter 17.20; and
- F. Any additional information as may be needed to demonstrate compliance with approval criteria. (Ord. 1907 (Attach. 1), 2002)

RESPONSE:

A completed application form signed by the owner, an application fee, a completed and signed checklists, and all of the required information as specified in 17.20.

17.16.070 FINAL PLAT FOR PARTITION AND SUBDIVISION

The following shall accompany applications for partition:

- A. A completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the City Council;
- C. Completed and signed "submission requirements" and "final plat checklist" forms;
- D. All information specified on the "submission requirements" and "final plat checklist";
- E. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;
- F. Requirements and information specified in Chapter 17.24; and
- G. Any additional information as may be needed to demonstrate compliance with approval criteria. (Ord. 1907 (Attach. 1), 2002)

RESPONSE:

The final plat will comply with the requirements of this section after preliminary approval.

CHAPTER 17.20 PRELIMINARY PLAT

17.20.010 SUBMISSION OF PLANS

Applicants for partition, subdivision, and replat shall prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal. (Ord. 1907 (Attach. 1), 2002)

17.20.020 SCALE

The preliminary plat shall be drawn at a scale and on a sheet size that reliably and conveniently represents design details sufficient for the proper plan review and determination of compliance with this title. (Ord. 1907 (Attach. 1), 2002)

17.20.030 GENERAL INFORMATION TO BE SHOWN ON THE PRELIMINARY PLAT

A. Preliminary plats shall be prepared by an Oregon registered land surveyor.

B. The following general information shall be submitted with the preliminary plat:

1. Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the County Surveyor in accordance with ORS Chapter 92;
2. Date, north point, and scale of drawing;
3. Appropriate identification clearly stating the map is a preliminary plat;
4. Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided;
5. Names and addresses of the owner, subdivider, and engineer or surveyor;
6. Acreage;
7. Structures and yard setbacks;
8. The location, width, and purpose of easements;
9. The location, approximate dimensions, and area of all lots;
10. Lot and block numbers; and
11. Other information as maybe specified on application forms and checklists prescribed by the Planning Director.

C. Vicinity map shall be drawn at an appropriate scale, showing all existing subdivisions, streets, and unsubdivided land between the proposed subdivision and the nearest existing arterial or collector streets, and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map shall depict future street connections for land within 400 feet of the subject property. (Ord. 1907 (Attach. 1), 2002)

17.20.040 BUILDING LINES PROHIBITED

Platted building lines are prohibited. The effect of building lines may be executed through recordation of instruments, which shall be referenced on the recorded plat.

17.20.050 EXISTING CONDITIONS

The following shall be shown on the preliminary plat:

- A. Location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, City boundary lines, and monuments.
- B. Contour lines related to an established benchmark or other datum approved by the Engineering Director, with intervals at a minimum of 2 feet for slopes up to 10% and 5 feet for slopes over 10%.
- C. Location within the area to be divided, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts.
- D. Zoning and existing uses within the tract and 200 feet on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed.
- E. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract including wetlands and watercourses as shown on City-adopted natural resource and Title 3 maps.
- F. Natural features such as rock outcroppings, drainages whether seasonal or perennial, wooded areas, and isolated trees, including type and caliper.
- G. Floodway and floodplain boundary.
- H. Areas containing slopes of 25% or greater. (Ord. 1907 (Attach. 1), 2002)

17.20.060 PROPOSED CONDITIONS

- A. 12 copies of a preliminary plat shall be submitted to the Planning Director. The plat shall include the following information:
 - 1. Date, north point, scale, address, assessor reference number, and legal description;
 - 2. Name and address of the record owner or owners and of the person who prepared the site plan;
 - 3. Approximate acreage and square feet under a single ownership, or if more than 1 ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;
 - 4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and rights-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;
 - 5. Location of existing structures, identifying those to remain in place and those to be removed;
 - 6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;

7. Existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees, topography, and other structures;
8. Elevation and location of flood hazard boundaries;
9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.

C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title, Title 19, and City design standards, including the Public Works Standards.

D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title, Title 19, and City design standards, including the Public Works Standards.

E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards.

F. Proposed deed restrictions, if any, in outline form.

G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, State law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details shall be submitted with the request for final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

RESPONSE:

The Preliminary Development Plans and drawings meet the purpose and intent of Section 17.20.

17.28.020 PUBLIC FACILITY IMPROVEMENTS

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. (Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

RESPONSE: All public improvements are currently constructed.

17.28.030 EASEMENTS

A. Utility Lines

Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be provided in accordance with applicable design standards in the Public Works Standards.

B. Watercourses

If a subdivision is traversed by a watercourse such as a drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of construction and maintenance. Streets, parkways, bicycle ways, or pedestrian ways parallel to major watercourses may be required. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

RESPONSE:

No Improvements are proposed along SE Mullan St. All public improvements are currently constructed. There are no watercourses on the development site.

17.28.040 GENERAL LOT DESIGN

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.

A. Size and Shape

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.

B. Rectilinear Lots Required

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.

C. Limits on Compound Lot Line Segments

Changes in direction along side and rear lot lines shall be avoided. 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 is prohibited. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

D. Adjustments to Lot Shape Standard

Lot shape standards may be adjusted subject to Section 19.911 Variances.

E. Limits on Double and Reversed Frontage Lots

Double frontage and reversed frontage lots should be avoided, 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.

F. Measurement of Required Frontage

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.

RESPONSE:

The proposed lots meet the purpose and intent of this criterion as shown on the preliminary development plans.

17.28.050 FLAG LOT DEVELOPMENT AND FUTURE ACCESS

Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots. The creation of flag lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval.

17.28.060 FLAG LOT DESIGN STANDARDS

- A. Consistency with the Zoning Ordinance

Flag lot design shall be consistent with Subsection 19.504.8.

- B. More than 2 Flag Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots are prohibited.

RESPONSE:

The proposed lots meet the purpose and intent of this criterion as shown on the preliminary development plans.

CHAPTER 17.32 IMPROVEMENTS

17.32.010 IMPROVEMENT PROCEDURES

In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option, shall conform to the requirements of this title and to improvement standards and specifications in the Public Works Standards and Chapter 19.700 Public Facility Improvements. The improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been checked for adequacy and approved by the City in writing. All such plans shall be prepared in accordance with requirements of the City.
- B. Work shall not begin until the City has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the City is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.
- D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers, and storm drains shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.
- E. A map showing all public improvements as built shall be filed with the City upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the City. (Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.32.020 UTILITY UNDERGROUNDING

All utility lines, including, but not limited to, those required for electric, communication, lighting, cable television services, and related facilities shall be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high-capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant shall make all necessary arrangements with the serving utility to provide the underground services. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.32.030 GUARANTEE

All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of 1 year following acceptance by the City. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the Engineering Director. Said cash or bond shall comply with the terms and conditions of Section 17.24.060. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

RESPONSE: *The developer will comply with this code section as applicable.*

19.301 LOW DENSITY RESIDENTIAL ZONES

The low density residential zones are Residential Zone R-10, Residential Zone R-7, and Residential Zone R-5. These zones implement the Low Density and Moderate Density residential land use designations in the Milwaukie Comprehensive Plan.

19.301.1 Purpose

The low density residential zones are intended to create, maintain, and promote neighborhoods with larger lot sizes where the land use is primarily single-family dwellings. They allow for some non-household living uses but maintain the overall character of a single-family neighborhood.

19.301.2 Allowed Uses in Low Density Residential Zones

Uses allowed, either outright or conditionally, in the low density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.301.2 Low Density Residential Uses Allowed				
Use	R-10	R-7	R-5	Standards/Additional Provisions
Residential Uses				
Single-family detached dwelling	P	P	P	Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
Duplex	P/II	P/II	P	Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes Subsection 19.910.2 Duplexes
Residential home	P	P	P	Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	Subsection 19.910.1 Accessory Dwelling Units
Manufactured dwelling park	N	III	III	Subsection 19.910.3 Manufactured Dwelling Parks.
Senior and retirement housing	CU	CU	CU	Subsection 19.905.9.G Senior and Retirement Housing
Accessory and Other Uses				
Accessory use	P	P	P	Section 19.503 Accessory Uses

Agricultural or horticultural use	P	P	P	Subsection 19.301.3 Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	Section 19.904 Community Service Uses
Home occupation	P	P	P	Section 19.507 Home Occupation Standards

P = Permitted.

N = Not permitted.

RESPONSE:

Each existing home will have a single family residence.

19.301.4 Development Standards

In the low density residential zones, the development standards in Table 19.301.4 apply. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column. Additional standards are provided in Subsection 19.301.5.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

Table 19.301.4				
Low Density Residential Development Standards				
Standard	R-10	R-7	R-5	Standards/ Additional Provisions
A. Lot Standards				
1. Minimum lot size (sq ft)				Subsection 19.501.1 Lot Size Exceptions
a. Single-family detached	10,000 14,000	7,000 14,000	5,000 10,000	
b. Duplex				
2. Minimum lot width (ft)	70	60	50	
3. Minimum lot depth (ft)	100		80	
4. Minimum street frontage requirements (ft)				
a. Standard lot			35	
b. Flag lot			25	
c. Double flag lot			35	

B. Development Standards				
1. Minimum yard requirements for primary structures (ft)				Subsection 19.301.5.A Side Yards
a. Front yard	20	20	20	Subsection 19.501.2 Yard Exceptions
b. Side yard	10	5/10	5	
c. Street side yard	20	20	15	Subsection 19.504.8 Flag Lot Design and Development Standards
d. Rear yard	20	20	20	
Table 19.301.4 CONTINUED				
Low Density Residential Development Standards				
Standard	R-10	R-7	R-5	Standards/ Additional Provisions
B. Development Standards CONTINUED				
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less			Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit				Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)	20			
b. Slope of plane (degrees)	45			
4. Maximum lot coverage (percent of total lot area)	30%	35%		Section 19.201 "Lot coverage" definition Subsection 19.301.5.B Lot Coverage

5. Minimum vegetation (percent of total lot area)	35%	30%	25%	Subsection 19.301.5.C Front Yard Minimum Vegetation Subsection 19.504.7 Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre)				Subsection 19.301.5.D Residential Densities Subsection 19.501.4 Density Exceptions
a. Minimum	3.5	5.0	7.0	
b. Maximum	4.4	6.2	8.7	

RESPONSE:

The homes that will be constructed on the proposed lots can and will meet all of the dimensional requirements of the R7 zone. All elements of the R7 zoning requirements are met and meet the purpose and intent of this criterion as shown on the preliminary development plans. A variance is being requested to the flag lot (Parcel 2). The applicant is proposing a variance to the front and rear yard setbacks.

The Site is 18,325 square feet (0.42 Acres) in size. The applicant is proposing 2 parcels. Parcel 1 is 7,020 square feet and parcel 2 is 11,305 square feet. This meets requirements for minimum lot size for single family homes. Both lots meet minimum yard requirements for primary structures. The applicant is proposing a total of 2 homes. The project meets the density requirements.

19.301.5 Additional Development Standards

A. Side Yards

In the R-7 Zone, 1 side yard shall be at least 5 ft and 1 side yard shall be at least 10 ft, except on a corner lot the street side yard shall be 20 ft.

RESPONSE:

The homes that will be constructed on proposed lots will meet all of the setback requirements of the R7 zone.

B. Lot Coverage

The lot coverage standards in Subsection 19.301.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are combined for properties that are described by more than one of the situations below.

- 1. Decreased Lot Coverage for Large Lots

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single-family detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

- 2. Increased Lot Coverage for Single-Family Detached Dwellings

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling, or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft and no taller than 1 story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

Figure 19.301.5.B.2

Increased Lot Coverage for Single-Family Detached Dwellings

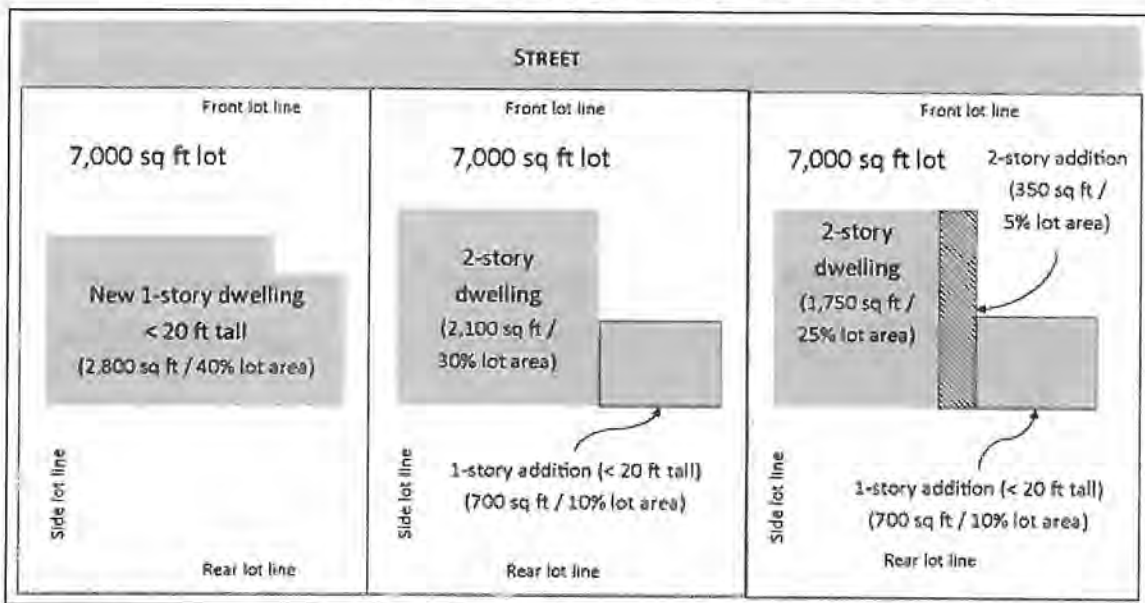


Figure 19.301.5.B.2 illustrates increased lot coverage for lots in Residential Zone R-7 based on 7,000-sq-ft lot area.

- 3. Increased Lot Coverage for Duplexes

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 20 percentage points for a duplex.

- 4. Increased Lot Coverage for Detached Accessory Dwelling Units

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

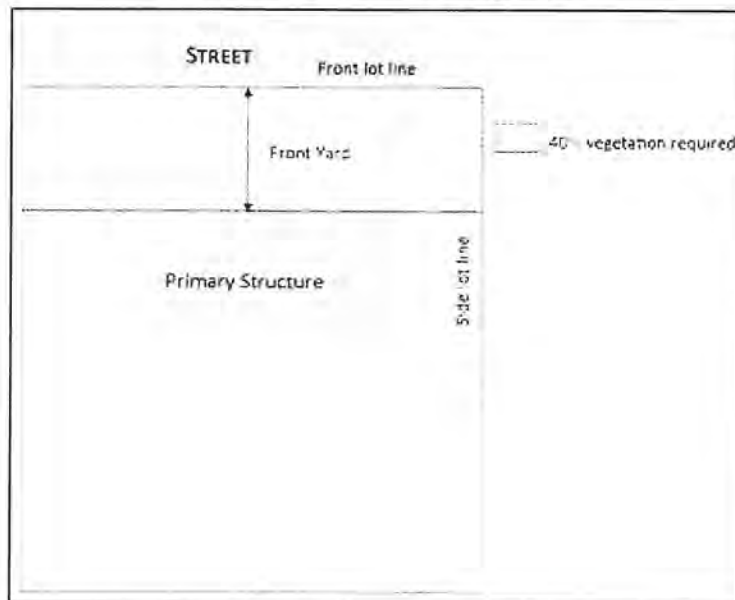
RESPONSE:

The new homes that will be constructed on the proposed lots will meet all of the requirements of the R7 zone.

C. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

Figure 19.301.5.C
Front Yard Minimum Vegetation



RESPONSE:

The homes to be constructed on the proposed lots will meet all of the requirements of the R7 zone.

D. Residential Densities

The minimum and maximum development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

RESPONSE:

The proposed land division cannot meet the required lot frontages. This results in a flag lot development. The project meets density requirements. No density requirements are requested to change.

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

RESPONSE: *N/A*

F. Number of Dwelling Structures

In the low density residential zones, 1 primary building designed for dwelling purposes shall be permitted per lot. See Subsection 19.504.4.

RESPONSE:

The homes to be constructed on the proposed lots will meet all of the requirements of the R7 zone. The proposed lots will meet the number of dwelling structure standard in subsection 19.504.4

G. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

RESPONSE:

The homes to be constructed on the proposed lots will meet all of the requirements of the R7 zone.

The proposed lots will meet the parking requirements of the R7 zone.

H. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

RESPONSE:

The development currently meets all public facility improvements.

I. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are

referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

- 1. Subsection 19.504.4 Buildings on the Same Lot
- 2. Subsection 19.504.8 Flag Lot Design and Development Standards
- 3. Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
- 4. Subsection 19.505.2 Garage and Carport Standards
- 5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

(Ord. 2051 § 2, 2012)

RESPONSE:

The proposal can meet all of the applicable additional standard requirements of the R7 zone.

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

RESPONSE: N/A

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.504.8 Flag Lot Design and Development Standards

A. Applicability

Flag lots in all zones are subject to the development standards of this subsection.

B. Development Standards

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement.

2. Yard Setbacks for Flag Lots

a. Front and rear yard: The minimum front and rear yard requirement for flag lots is 30 ft.

b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

RESPONSE:

The applicant is proposing a variance to the front and rear yard setbacks. See Variance application.

C. Variances Prohibited

Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

RESPONSE: N/A

D. Frontage, Accessway, and Driveway Design

1. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.
2. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.
3. Driveway Design and Emergency Vehicle Access
 - a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.
 - b. Driveways serving single flag lots shall have a minimum paved width of 12 ft.
 - c. 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.
 - d. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.
 - e. Driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft.
 - f. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.
 - g. Design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal.
 - h. 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.

RESPONSE:

The access way requirements have been met.

E. Protection of Adjoining Properties

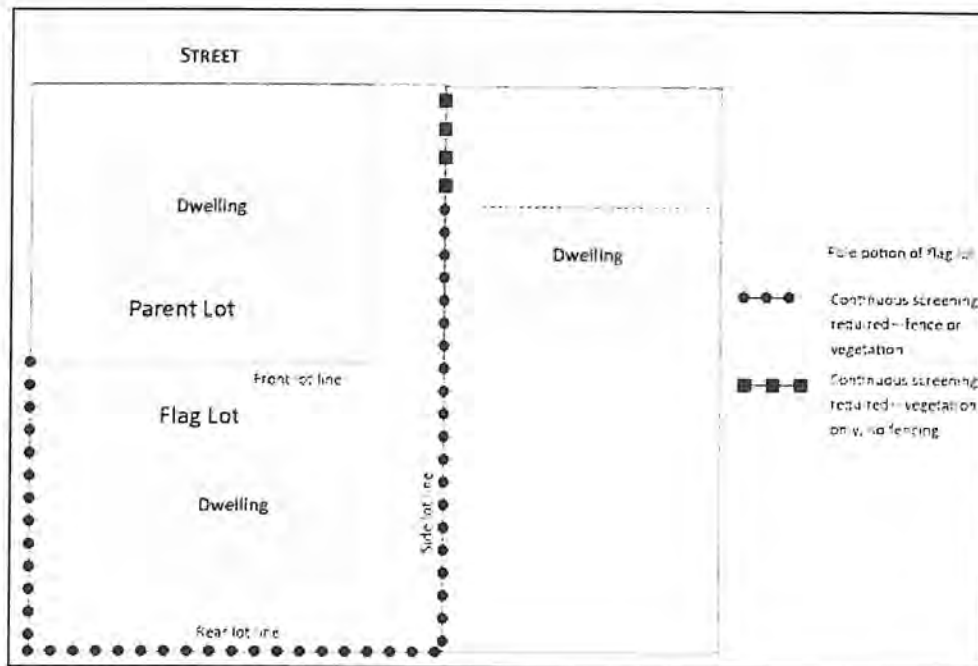
Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. 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 below. See Figure 19.504.8.E.

- a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.
- b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.
- c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

Figure 19.504.8.E Flag Lot Screening



RESPONSE:

The proposal can / will meet all of the screening requirements. The owner will prepare a plan for the City's review.

F. Tree Mitigation

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.

RESPONSE:

N/A

G.Landscaping Plan Required

A landscaping plan shall be submitted to the Planning Director prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

RESPONSE:

N/A

CHAPTER 19.600 OFF-STREET PARKING AND LOADING STANDARDS

The proposed partition meets or can meet the purpose and intent of the criterion as set out in Section 19.600 as shown on the preliminary development plans.

CHAPTER 19.700 PUBLIC FACILITY STANDARDS

The proposed partition meets or can meet the purpose and intent of the criterion as set out on Section 19.700 as shown on the preliminary development plans. Public street and other improvements are shown.

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
- B. Subdivisions.
- C. Replats that increase the number of lots.
- D. New construction.
- E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.
 - 1. A new dwelling unit.
 - 2. Any increase in gross floor area.
 - 3. Any projected increase in vehicle trips, as determined by the Engineering Director.

RESPONSE:

This proposal is for a 3-parcel partition and will comply the all requirements of the R7 zone.

19.702.2 Single-Family Residential Expansions

Chapter 19.700 applies to single-family residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single-family residential expansions.

- A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 applies.
- B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 200 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.
- C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 200 sq ft, none of Chapter 19.700 applies.
- D. Single-family residential expansions shall provide adequate public utilities as determined by the Engineering Director pursuant to Section 19.709.
- E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

RESPONSE: N/A

19.702.3 Downtown Zones

A. Purpose

The purpose of the specific exemptions for some types of development in downtown Milwaukie is to encourage new uses in, and revitalization of, existing structures in downtown and to recognize that the transportation infrastructure in downtown is more complete than in other areas of the city.

RESPONSE: N/A

19.702.4 Exemptions

Chapter 19.700 does not apply to the following types of development in all zones:

- A. Modifications to existing single-family residential structures that do not result in an increase in gross floor area.
- B. Construction or expansion of nonhabitable residential detached accessory structures. Garage and carport construction or expansions are only partially exempt. See Subsection 19.702.2.E above.
- C. Replats that do not increase the number of lots.
- D. Property line adjustments.
- E. Redevelopment of a structure following partial or total accidental destruction when all of the following criteria are met:
 - 1. The redeveloped structure has a gross floor area no larger than the structure that was destroyed.
 - 2. The use of the structure remains the same as the use that existed before the structure was destroyed.
 - 3. A building permit is submitted and approved by the City within 2 years of the date of accidental destruction.

If redevelopment of a structure following accidental destruction does not meet all three of these criteria, the redeveloped structure shall be subject to Subsections 19.702.1 and 2 as applicable. Redevelopment of a structure following nonaccidental destruction shall constitute new construction and is not exempt from Chapter 19.700.

F. Operation, maintenance, and repair of existing public facilities.

G. Public capital improvement projects. (Ord. 2059 § 2, 2013; Ord. 2025 § 2, 2011)

RESPONSE: N/A

19.703 REVIEW PROCESS

19.703.1 Preapplication Conference

For all proposed development that requires a land use application and is subject to Chapter 19.700 per Section 19.702, the applicant shall schedule a preapplication conference with the

City prior to submittal of the land use application. The Engineering Director may waive this requirement for proposals that are not complex.

RESPONSE:

A pre-application conference was held on September 22, 2016.

19.703.2 Application Submittal

For all proposed development that is subject to Chapter 19.700 per Section 19.702, one of the following types of applications is required.

A. Development Permit Application

If the proposed development does not require a land use application, compliance with Chapter 19.700 will be reviewed as part of the development permit application submittal.

B. Transportation Facilities Review (TFR) Land Use Application

If the proposed development triggers a transportation impact study (TIS) per Section 19.704, a TFR land use application shall be required. Compliance with Chapter 19.700 will be reviewed as part of the TFR application submittal and will be subject to a Type II review process as set forth in Section 19.1005. The TFR application shall be consolidated with, and processed concurrently with, any other required land use applications.

If the proposed development does not trigger a TIS per Section 19.704, but does require the submittal of other land use applications, compliance with Chapter 19.700 will be reviewed during the review of the other land use applications.

RESPONSE:

A Development application has been submitted, this is required to be a Non-TFR Land Use Application. We do not see that option on the City's Application for Land Use Action.

19.703.3 Approval Criteria

For all proposed development that is subject to Chapter 19.700 per Section 19.702, the required development permit and/or land use application shall demonstrate compliance with the following approval criteria at the time of submittal.

A. Procedures, Requirements, and Standards

Development and related public facility improvements shall comply with procedures, requirements, and standards of Chapter 19.700 and the Public Works Standards.

B. Transportation Facility Improvements

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Section 19.706 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall only be required to provide transportation improvements that are identified by a Transportation

Impact Study as necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

C. Safety and Functionality Standards

The City will not issue any development permits unless the proposed development complies with the City's basic safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submittal of a development permit application, an applicant shall demonstrate that the development property has or will have all of the following:

1. Adequate street drainage, as determined by the Engineering Director.
2. Safe access and clear vision at intersections, as determined by the Engineering Director.
3. Adequate public utilities, as determined by the Engineering Director.
4. Access onto a public street with the minimum paved widths as stated in Subsection 19.703.3.C.5 below.
5. Adequate frontage improvements as follows:
 - a. For local streets, a minimum paved width of 16 ft along the site's frontage.
 - b. For nonlocal streets, a minimum paved width of 20 ft along the site's frontage.
 - c. For all streets, a minimum horizontal right-of-way clearance of 20 ft along the site's frontage.
6. Compliance with Level of Service D for all intersections impacted by the development, except those on Oregon Highway 99E that shall be subject to the following:
 - a. Level of Service F for the first hour of the morning or evening 2-hour peak period.
 - b. Level of Service E for the second hour of the morning or evening 2-hour peak period.

RESPONSE: N/A

19.703.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.703.4. In making these determinations, the Engineering Director will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation

For development that is subject to Chapter 19.700 per Subsection 19.702.1, the Engineering Director will determine whether the proposed development has impacts to the

transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the Engineering Director will also determine whether a transportation impact study (TIS) is required. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there are impacts to the transportation system if the proposed single-family residential expansion/conversion is greater than 200 sq ft.

B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

C. Proportional Improvements

When transportation facility improvements are required pursuant to this chapter, the Engineering Director will conduct a proportionality analysis pursuant to Section 19.705 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.705.2.

D. Fee in Lieu of Construction (FILOC)

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC determinations found in Subsection 19.706.1.

19.703.5 Remedies

A. Variances

Relief from any transportation facility improvement requirement in Section 19.708 may be granted through a variance process, which requires submittal and approval of a Variance land use application. Variance criteria and procedures are located in Section 19.911.

B. Appeals

Appeal of a land use decision is subject to the provisions of Chapter 19.1009. Appeal of a rough proportionality determination (Subsection 19.702.2 and Section 19.705) or street design standard determination (Subsection 19.708.2) not associated with a land use decision is subject to the provisions of Section 19.1006 Type III Review. (Ord. 2059 § 2, 2013; Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)

RESPONSE: N/A

19.704 TRANSPORTATION IMPACT EVALUATION

The Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. The TIS determination process and requirements are detailed below.

RESPONSE:

Per the Pre application Report a Traffic Impact Study is not applicable to this type of development.

19.706 FEE IN LIEU OF CONSTRUCTION

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The fee in lieu of construction (FILOC) program ensures that opportunities to improve public transportation facilities are maximized and that the goals and requirements of this chapter are met. This section provides criteria for making FILOC determinations and administering the FILOC program.

RESPONSE: In Lieu of fee is not being requested - N/A

19.708 TRANSPORTATION FACILITY REQUIREMENTS

This section contains the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. For ease of reading, the more common term "street" is used more frequently than the more technical terms "public right-of-way" or "right-of-way." As used in this section, however, all three terms have the same meaning.

The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character.

The City's street design standards are based on the street classification system described in the TSP. Figure 8-3a of the TSP identifies the functional street classification for every street in the City and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

19.708.1 General Street Requirements and Standards

A. Access Management

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the PAR per Subsection 19.304.5.

D. Development in Non-Downtown Zones

Development in a non-downtown zone that has frontage on a street section shown in the PAR is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR for that street frontage. The following general provisions apply only to street frontages that are not shown in the PAR and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

1. Streets shall be designed and improved in accordance with the standards of this chapter and the Public Works Standards. ODOT facilities shall be designed consistent with State and federal standards. County facilities shall be designed consistent with County standards.
2. Streets shall be designed according to their functional classification per Figure 8-3b of the TSP.
3. Street right-of-way shall be dedicated to the public for street purposes in accordance with Subsection 19.708.2. Right-of-way shall be dedicated at the corners of street intersections to accommodate the required turning radii and transportation facilities in accordance with Section 19.708 and the Public Works Standards. Additional dedication may be required at intersections for improvements identified by the TSP or a required transportation impact study.
4. The City shall not approve any development permits for a proposed development unless it has frontage or approved access to a public street.
5. Off-site street improvements shall only be required to ensure adequate access to the proposed development and to mitigate for off-site impacts of the proposed development.
6. The following provisions apply to all new public streets and extensions to existing public streets.
 - a. All new streets shall be dedicated and improved in accordance with this chapter.
 - b. Dedication and construction of a half-street is generally not acceptable. However, a half-street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be

possible for the property adjoining the half-street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half-street shall be the minimum width necessary to accommodate 2 travel lanes pursuant to Subsection 19.708.2.

7. Traffic calming may be required for existing or new streets. Traffic calming devices shall be designed in accordance with the Public Works Standards or with the approval of the Engineering Director.

8. Railroad Crossings

Where anticipated development impacts trigger a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval.

9. Street Signs

The City shall install all street signs, relative to traffic control and street names, as specified by the Engineering Director. The applicant shall reimburse the City for the cost of all such signs installed by the City.

10. Streetlights

The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with the Public Works Standards or with the approval of the Engineering Director.

E. Street Layout and Connectivity

1. The length, width, and shape of blocks shall take lot size standards, access and circulation needs, traffic safety, and topographic limitations into consideration.

2. The street network shall be generally rectilinear but may vary due to topography or other natural conditions.

3. 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.

a. Temporary turnarounds shall be constructed for street stubs in excess of 150 ft in length. Drainage facilities shall be constructed to properly manage stormwater runoff from temporary turnarounds.

b. Street stubs to adjoining properties shall not be considered turnarounds, unless required and designed as turnarounds, since they are intended to continue as through streets when adjoining properties develop.

c. Reserve strips may be required in order to ensure the eventual continuation or completion of a street.

4. Permanent turnarounds shall only be provided when no opportunity exists for creating a through street connection. The lack of present ownership or control over abutting property shall not be grounds for construction of a turnaround. For proposed land division sites that are 3 acres or larger, a street ending in a turnaround shall have a maximum length of 200 ft, as measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround. For proposed land division sites that are less than 3 acres, a street ending in a turnaround shall have a maximum length of 400 ft, measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround. Turnarounds shall be designed in accordance

with the requirements of the Public Works Standards. The requirements of this subsection may be adjusted by the Engineering Director to avoid alignments that encourage nonlocal through traffic.

5. Closed-end street systems may serve no more than 20 dwellings.

F. Intersection Design and Spacing

1. Connecting street intersections shall be located to provide for traffic flow, safety, and turning movements, as conditions warrant.

2. Street and intersection alignments for local streets shall facilitate local circulation but avoid alignments that encourage nonlocal through traffic.

3. Streets should generally be aligned to intersect at right angles (90 degrees). Angles of less than 75 degrees will not be permitted unless the Engineering Director has approved a special intersection design.

4. New streets shall intersect at existing street intersections so that centerlines are not offset. Where existing streets adjacent to a proposed development do not align properly, conditions shall be imposed on the development to provide for proper alignment.

5. Minimum and maximum block perimeter standards are provided in Table 19.708.1.

6. Minimum and maximum intersection spacing standards are provided in Table 19.708.1.

Table 19.708.1 Street/Intersection Spacing			
Street Classification	Minimum Distance Between Street Intersections	Maximum Distance Between Street Intersections	Maximum Block Perimeter
Arterial	530'	1,000'	2600'
Collector	300'	600'	1800'
Neighborhood Route	150'	530'	1650'
Local	100'	530'	1650'

RESPONSE: N/A

19.708.2 Street Design Standards

Table 19.708.2 contains the street design elements and dimensional standards for street cross sections by functional classification. Dimensions are shown as ranges to allow for flexibility in developing the most appropriate cross section for a given street or portion of street based on existing conditions and the surrounding development pattern. The additional street design

standards in Subsection 19.708.2.A augment the dimensional standards contained in Table 19.708.2. The Engineering Director will rely on Table 19.708.2 and Subsection 19.708.2.A to determine the full-width cross section for a specific street segment based on functional classification. The full-width cross section is the sum total of the widest dimension of all individual street elements. If the Engineering Director determines that a full-width cross section is appropriate and feasible, a full-width cross section will be required. If the Engineering Director determines that a full-width cross section is not appropriate or feasible, the Engineering Director will modify the full-width cross section requirement using the guidelines provided in Subsection 19.708.2.B. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.

**Table 19.708.2
Street Design Standards (Dimensions are Shown in Feet)**

Street Classification	Full-Width Right of Way Dimension	Individual Street Elements					
		Travel Lane (Center Lane)	Bike Lane	On-Street Parking	Landscape Strips	Sidewalk Curb Tight	Sidewalk Setback
Arterial	54'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	6'
Collector	40'–74'	10'–11'	5'–6'	6'–8'	3'–5'	8'	6'
Neighborhood	20'–68'	10'	5'	6'–8'	3'–5'	6'	5'
Local	20'–68'	8' or 10'	5'	6'–8'	3'–5'	6'	5'
Truck Route	34'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	Per street classification
Transit Route	30'–89'	10'–12' (12'–13')	5'–6'	6'–8'	3'–5'	Per street classification	Per street classification

A. Additional Street Design Standards

These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum 10-ft travel lane width shall be provided on local streets with no on-street parking.

2. Where travel lanes are next to a curb line, an additional 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.
3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.
4. Bike lane widths may be reduced to a minimum of 4 ft where unusual circumstances exist, as determined by the Engineering Director, and where such a reduction would not result in a safety hazard.
5. Where a curb is required by the Engineering Director, it shall be designed in accordance with the Public Works Standards.
6. Center turn lanes are not required for truck and bus routes on street classifications other than arterial roads.
7. On-street parking in industrial zones shall have a minimum width of 8 ft.
8. On-street parking in commercial zones shall have a minimum width of 7 ft.
9. On-street parking in residential zones shall have a minimum width of 6 ft.
10. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.
11. Landscape strip widths shall be measured from back of curb to front of sidewalk.
12. Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukee Street Tree List and Street Tree Planting Guidelines.
13. Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.
14. A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

B. Street Design Determination Guidelines

The Engineering Director shall make the final determination regarding right-of-way and street element widths using the ranges provided in Table 19.708.2 and the additional street design standards in Subsection 19.708.2.A. The Engineering Director shall also determine whether any individual street element may be eliminated on one or both sides of the street in accordance with Figure 10-1 of the TSP. When making a street design determination that varies from the full-width cross section, the Engineering Director shall consider the following:

1. Options and/or needs for environmentally beneficial and/or green street designs.
2. Multimodal street improvements identified in the TSP.
3. Street design alternative preferences identified in Chapter 10 of the TSP, specifically regarding sidewalk and landscape strip improvements.

4. Existing development pattern and proximity of existing structures to the right-of-way.
5. Existing right-of-way dimensions and topography.

RESPONSE: N/A

19.708.3 Sidewalk Requirements and Standards

A. General Provisions

1. Goals, objectives, and policies relating to walking are included in Chapter 5 of the TSP and provide the context for needed pedestrian improvements. Figure 5-1 of the TSP illustrates the Pedestrian Master Plan and Table 5-3 contains the Pedestrian Action Plan.
2. Americans with Disabilities Act (ADA) requirements for public sidewalks shall apply where there is a conflict with City standards.

B. Sidewalk Requirements

1. Requirements

Sidewalks shall be provided on the public street frontage of all development per the requirements of this chapter. Sidewalks shall generally be constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within a public easement with the approval of the Engineering Director.

2. Design Standards

Sidewalks shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards.

3. Maintenance

Abutting property owners shall be responsible for maintaining sidewalks and landscape strips in accordance with Chapter 12.04.

RESPONSE: N/A

19.708.4 Bicycle Facility Requirements and Standards

A. General Provisions

1. Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.
2. Goals, objectives, and policies relating to bicycling are included in Chapter 6 of the TSP and provide the context for needed bicycle improvements. Figure 6-2 of the TSP illustrates the Bicycle Master Plan, and Table 6-3 contains the Bicycle Action Plan.

B. Bicycle Facility Requirements

1. Requirements

Bicycle facilities shall be provided in accordance with this chapter, Chapter 19.600, the TSP, and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Requirements include, but are not limited to, parking, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion.

2. Timing of Construction

To assure continuity and safety, required bicycle facilities shall generally be constructed at the time of development. If not practical to sign, stripe, or construct bicycle facilities at the time of development due to the absence of adjacent facilities, the development shall provide the paved street width necessary to accommodate the required bicycle facilities.

3. Design Standards

Bicycle facilities shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Bicycle parking shall be designed and improved in accordance with Chapter 19.600 and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

RESPONSE: N/A, SE Mullan Street is not listed in the TSP as a bike boulevard.

19.708.5 Pedestrian/Bicycle Path Requirements and Standards

A. General Provisions

Pedestrian/bicycle paths are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers, and commercial districts to adjacent and nearby residential areas, transit stops, and neighborhood activity centers.

Pedestrian/bicycle paths may be in addition to, or in lieu of, a public street. Paths that are in addition to a public street shall generally run parallel to that street. These types of paths are not subject to the provisions of this subsection and shall be designed in accordance with the Public Works Standards or as specified by the Engineering Director. Paths that are in lieu of a public street shall be considered in areas only where no other public street connection options are feasible. These types of paths are subject to the provisions of this subsection.

B. Pedestrian/Bicycle Path Requirements

In addition to sidewalks on public streets, other available pedestrian routes, as used in this subsection, include walkways within shopping centers, planned developments, community service use developments, and commercial and industrial districts. Routes may cross parking lots on adjoining properties if the route is paved, unobstructed, and open to the public for pedestrian use.

Pedestrian/bicycle paths shall be required in the following situations.

1. In residential and mixed use districts, a pedestrian/bicycle path shall be required at least every 300 ft when a street connection is not feasible.

2. In residential and industrial districts where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 400 ft and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.
3. In commercial districts and community service use developments where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 200 ft and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.
4. In all districts where addition of a path would provide a midblock connection between blocks that exceed 800 ft or would link the end of a turnaround with a nearby street or activity center.

C. Design Standards

Pedestrian/bicycle paths shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Paths shall be located to provide a reasonably direct connection between likely pedestrian and bicyclist destinations. A path shall have a minimum right-of-way width of 15 ft and a minimum improved surface of 10 ft. If a path also provides secondary fire access or a public utility corridor, it shall have a minimum right-of-way width of 20 ft and a minimum improved surface of 15 ft. Additional standards relating to entry points, maximum length, visibility, and path lighting are provided in the Public Works Standards.

D. Ownership and Maintenance

To ensure ongoing access to and maintenance of pedestrian/bicycle paths, the Engineering Director will require one or more of the following:

1. Dedication of the path to the public and acceptance of the path by the City as public right-of-way prior to final development approval.
2. Creation of a public access easement over the path prior to final development approval.
3. Incorporation of the path into recorded easements or tract(s) of common ownership that specifically requires existing property owners and future property owners who are subject to such easements or own such tracts to provide for the ownership, liability, and maintenance of the path into perpetuity. This shall occur prior to final development approval.

RESPONSE: N/A, This proposal does not trigger this requirement.

19.708.6 Transit Requirements and Standards

A. General Provisions

1. Transit facilities include bus stops, shelters, and related facilities. Required transit facility improvements may include the dedication of land or the provision of a public easement.

2. Goals, objectives, and policies relating to transit are included in Chapter 7 of the TSP. Figure 7-3 of the TSP illustrates the Transit Master Plan, and Table 7-2 contains the Transit Action Plan.

B. Transit Facility Requirements

1. Requirements

Factors that determine the level of transit facility requirements include, but are not limited to, street classification, existing and planned level of transit service on adjacent streets, block length, proximity of major pedestrian destinations, existing and projected ridership, and transit needs of the development. Required improvements may include provision of an easement or dedication of land for transit facilities, benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lighting. The required improvements shall reflect a reasonable and proportionate share of the potential impacts of the proposed development pursuant to Section 19.705.

2. Location of Facilities

Transit facilities shall be located at controlled street intersections, wherever possible. Where a bus stop has already been established within 500 ft of a proposed development, a new bus stop shall only be provided if recommended by TriMet and required by the Engineering Director. Otherwise, the development shall upgrade the existing stop. Upgrades may include, but are not limited to, the installation of benches, shelters, and landscaping.

3. Design Standards

Transit facilities shall be designed and improved in accordance with current TriMet standards, the requirements of this chapter, and the Public Works Standards.

4. TriMet Notice and Coordination

The City shall provide notice of all proposed developments to TriMet pursuant to Section 19.707. TriMet may recommend the construction of transit-related facilities at the time of development to support transit use. The City shall make the final determination regarding transit-related facility requirements.

(Ord. 2059 § 2, 2013; Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)

RESPONSE: N/A

19.709 PUBLIC UTILITY REQUIREMENTS

19.709.1 Review Process

The Engineering Director shall review all proposed development subject to Chapter 19.700 per Section 19.702 in order to: (1) evaluate the adequacy of existing public utilities to serve the proposed development, and (2) determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City's public utility requirements and standards.

A. Permit Review

The Engineering Director shall make every effort to review all development permit applications for compliance with the City's public utility requirements and standards within 10 working days of application submittal. Upon completion of this review, the Engineering Director shall either approve the application, request additional information, or impose conditions on the application to ensure compliance with this chapter.

B. Review Standards

Review standards for public utilities shall be those standards currently in effect, or as modified, and identified in such public documents as Milwaukie's Comprehensive Plan, Wastewater Master Plan, Water Master Plan, Stormwater Master Plan, Transportation System Plan, and Public Works Standards.

19.709.2 Public Utility Improvements

Public utility improvements shall be required for proposed development that would have a detrimental effect on existing public utilities, cause capacity problems for existing public utilities, or fail to meet standards in the Public Works Standards. Development shall be required to complete or otherwise provide for the completion of the required improvements.

A. The Engineering Director shall determine which, if any, utility improvements are required. The Engineering Director's determination requiring utility improvements shall be based upon an analysis that shows the proposed development will result in one or more of the following situations:

1. Exceeds the design capacity of the utility.
2. Exceeds Public Works Standards or other generally accepted standards.
3. Creates a potential safety hazard.
4. Creates an ongoing maintenance problem.

B. The Engineering Director may approve one of the following to ensure completion of required utility improvements.

1. Formation of a reimbursement district in accordance with Chapter 13.30 for off-site public facility improvements fronting other properties.
2. Formation of a local improvement district in accordance with Chapter 3.08 for off-site public facility improvements fronting other properties.

19.709.3 Design Standards

Public utility improvements shall be designed and improved in accordance with the requirements of this chapter, the Public Works Standards, and improvement standards and specifications identified by the City during the development review process. The applicant shall provide engineered utility plans to the Engineering Director for review and approval prior to construction to demonstrate compliance with all City standards and requirements.

RESPONSE: N/A

19.709.4 Oversizing

The Engineering Director may require utility oversizing in anticipation of additional system demand. If oversizing is required, the Engineering Director may authorize a reimbursement district or a system development charge (SDC) credit in accordance with Chapter 13.28.

19.709.5 Monitoring

The Engineering Director shall monitor the progress of all public utility improvements by the applicant to ensure project completion and compliance with all City permitting requirements and standards. Utility improvements are subject to the requirements of Chapter 12.08. Follow-up action, such as facility inspection, bond release, and enforcement, shall be considered a part of the monitoring process. (Ord. 2025 § 2, 2011)

RESPONSE: N/A. No public utilities are proposed.

19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

19.1203.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in single-family zones, except to the extent the Director finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

19.1203.3 Design Standard

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:

1. Has a north-south dimension of 90 ft or more; and
2. Has a front lot line that is oriented within 30 degrees of a true east-west axis (see Figure 19.1203.3).

RESPONSE:

All lots in the proposed partition meet or exceed the basic requirement of a 90-foot north-south dimension. All of the front lot lines of the lots are within 2 degrees of true east-west. All of the lots meet the requirements of this section.

19.911 VARIANCES

19.911.1 Purpose

Variations provide relief from specific code provisions that have the unintended effect of preventing reasonable development or imposing undue hardship. Variations are intended to provide some flexibility while ensuring that the intent of each development standard is met. Variations may be granted for the purpose of fostering reinvestment in existing buildings, allowing for creative infill development solutions, avoiding environmental impacts, and/or precluding an economic taking of property. Variations shall not be granted that would be detrimental to public health, safety, or welfare.

19.911.2 Applicability

A. Eligible Variations

Except for situations described in Subsection 19.911.2.B, a variance may be requested to any standard or regulation in Titles 17 or 19 of the Milwaukie Municipal Code, or any other portion of the Milwaukie Municipal Code that constitutes a land use regulation per ORS 197.015.

B. Ineligible Variations

A variance may not be requested for the following purposes:

1. To eliminate restrictions on uses or development that contain the word "prohibited."
2. To change a required review type.
3. To change or omit the steps of a procedure.
4. To change a definition.
5. To increase, or have the same effect as increasing, the maximum permitted density for a residential zone.
6. To justify or allow a Building Code violation.
7. To allow a use that is not allowed outright by the base zone. Requests of this nature may be allowed through the use exception provisions in Subsection 19.911.5, nonconforming use replacement provisions in Subsection 19.804.1.B.2, conditional use provisions in Section 19.905, or community service use provisions in Section 19.904.

C. Exceptions

A variance application is not required where other sections of the municipal code specifically provide for exceptions, adjustments, or modifications to standards either "by right" or as part of a specific land use application review process.

19.911.3 Review Process

A. General Provisions

1. Variance applications shall be evaluated through either a Type II or III review, depending on the nature and scope of the variance request and the discretion involved in the decision-making process.

RESPONSE: The applicant is proposing a Variance. See below responses

2. Variance applications may be combined with, and reviewed concurrently with, other land use applications.

RESPONSE: The applicant is submitting this application concurrent with a Type II, 2-parcel partition.

3. One variance application may include up to three variance requests. Each variance request must be addressed separately in the application. If all of the variance requests are Type II, the application will be processed through a Type II review. If one or more of the variance requests is Type III, the application will be processed through a Type III review. Additional variance requests must be made on a separate variance application.

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.

RESPONSE:

The applicant is proposing a Type II variance of 25% to the Front and Rear yard setbacks for the proposed Flag lot on Parcel 2. The variance requested is to City of Milwaukie Code Section 19.504.8-B.2.a., listed below. The applicant is proposing 22.5' front and rear yard setbacks.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.504.8 Flag Lot Design and Development Standards

B. Development Standards

2. Yard Setbacks for Flag Lots

a. Front and rear yard: The minimum front and rear yard requirement for flag lots is 30 ft.

19.911.4 Approval Criteria

A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

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.

RESPONSE:

The proposed variance will not be detrimental. The variance is required to maintain a proper building envelope that is similar in scale to the homes in the vicinity. It will enhance the surrounding properties. The natural resource areas will remain unaffected by the request. The applicant will still be required to enhance the natural resources by installing landscaping per the flag lot standards in Chapter 19.500. The public health will

remain unchanged. There will still be ample access required by the City code that will be unchanged as a result of this variance. Life Fire Safety will remain unchanged.

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.

RESPONSE:

Public transportation facilities and utilities have already been constructed. This setback variance does not affect any of these facilities.

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

RESPONSE:

Future building footprints in the vicinity have larger building footprints than this flag lot development would allow for. These existing larger homes and larger footprints fit the model development for R7 zoning. These larger lots hold a higher value and require the construction of larger single family homes. The approval of the variance will help maintain and enhance the integrity of the existing neighborhood by allowing the development to build similar sized homes. The approval of this variance will also result in larger setbacks than standard R7 non-flag lots. R7 zoning for non-flag lots requires 20' front and rear setbacks, one 10' side yard, and one 5' side yard. The approval of this variance will yield a 22.5' front and rear setback, one 10' side yard setback and one 5' side yard setback.

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

RESPONSE: *The proposed variance will be mitigated to the maximum extent practicable through enhanced landscaping and buffering. The applicant takes great pride in this development and surrounding developments for they are in his neighborhood. The applicant has shown through all of his neighboring developments that the selection of plant types and the amount of plants that are planted mitigate the effects of development by creating a natural buffer from home to home. The applicant also builds beautiful quality homes which further add to the aesthetics of the existing neighborhood.*

The approval of this variance request is beneficial to the City of Milwaukie to maintain a quality of development which the applicant has provided in the past and will continue to provide in the future.