



June 14, 2017

Land Use File(s): WG-2017-002, VR-2017-005

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on June 13, 2017.

Applicant(s): Bradley Smith
Location(s): 2024 & 2026 SE Eagle St and 11923 SE 21st Ave
Tax Lot(s): 1S1E35DA, lots 1100, 1200, and 1300
Application Type(s): Willamette Greenway Review, Variance Request
Decision: Approved
Review Criteria: Milwaukie Zoning Ordinance:

- Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review
- MMC Section 19.301 Low Density Residential Zones (including R-5)
- MMC Section 19.401 Willamette Greenway Zone WG
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.905 Conditional Uses
- MMC Section 19.911 Variances

Neighborhood(s): Island Station

Appeal period closes: 5:00 p.m., June 29, 2017

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Brett Kelter, Associate Planner, at 503-786-7657 or kelterb@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on June 29, 2017, which is 15 days from the date of this decision.¹ Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is

¹ As per MMC Section 19.1010, if the 15th day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

Findings in Support of Approval

1. The applicant, Bradley Smith, has applied for approval to develop three vacant lots at the corner of Eagle Street and 21st Avenue. The subject properties are zoned Residential R-5 and are within the Willamette Greenway overlay zone. The proposed development triggers review against the applicable standards of the Willamette Greenway section of the zoning code. In addition, the applicant has requested variances to the front yard setbacks for two of the lots and to the street-side yard setback for the corner lot. The land use application file numbers are WG-2017-002 and VR-2017-005.
2. The subject properties were originally platted as Lots 1, 3, and 5 from Block 11 of the Robertson subdivision from 1884. The lots were configured to front on 21st Avenue, but a recent replat changed the long axis to reorient two of the lots to front on Eagle Street (land use file R-2016-002, approved in December 2016; with final plat file FP-2017-001, signed April 2017). The lots each have an area of 5,000 sq ft and are 50 ft wide by 100 ft deep. The properties are addressed as 2024 SE Eagle St, 2026 SE Eagle St (corner lot), and 11923 SE 21st Ave.
3. The applicant is proposing to construct a single-family detached dwelling on each of the three lots. The public right-of-way on Eagle Street is undeveloped between 20th and 21st Avenues and is undeveloped on 21st Avenue between Eagle and Bluebird Streets. The proposal includes public right-of-way improvements to provide access to the subject properties along Eagle Street from 20th Avenue. A Portland & Western railroad line intersects the public right-of-way at an angle across 21st Avenue and makes it impossible to legally access the site from Bluebird Street on 21st Avenue without an easement agreement.
4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.1006 Type III Review
 - MMC Section 19.301 Low Density Residential Zones (including R-5)
 - MMC Section 19.401 Willamette Greenway Zone WG
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.905 Conditional Uses
 - MMC Section 19.911 Variances

A designated Habitat Conservation Area (HCA) is identified on the City's Natural Resource Administrative Map within the 21st Avenue right-of-way, though not on any of the subject properties. Natural resources within the public right-of-way are not regulated by MMC Section 19.402, but the proposed development area is within 100 ft of the HCA and so triggers the need for a construction management plan as per MMC Subsection 19.402.9. The construction management plan will be reviewed in conjunction with the building permits for the new single-family houses and is not addressed in these findings.

5. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. Public notice was sent to property owners and current residents within 300 ft of the subject property. As required by law, a public hearing with the Planning Commission was held on June 13, 2017.

6. MMC Section 19.301 Low Density Residential Zones

MMC Subsection 19.301.2 establishes that single-family detached dwellings are an outright permitted use in the R-5 zone. MMC Sections 19.301.4 and 19.301.5 establish the development standards for the residential R-5 zone. Table 6-a, below, demonstrates how each of the three subject properties meet the applicable R-5 standards.

Table 6-a Development Standards for the R-5 zone				
Standard	R-5 Requirement	2024 SE Eagle St	2026 SE Eagle St	11923 SE 21 st Ave
1. Front Yard	20 ft	10 ft ¹	10 ft ¹	20 ft
2. Side Yard	5 ft	5 ft / 15 ft	10 ft	5 ft
3. Street-Side Yard	15 ft	NA	5 ft ²	NA
4. Rear Yard	20 ft	>45 ft	>45 ft	>40 ft
5. Maximum Building Height	2.5 stories or 35 ft (whichever is less)	2 stories	2 stories	2 stories
6. Side yard height plane limit	45 degree slope at 20 ft height	(to be confirmed with building permit)	(to be confirmed with building permit)	(to be confirmed with building permit)
7. Maximum lot coverage	35%	(to be confirmed with building permit)	(to be confirmed with building permit)	(to be confirmed with building permit)
8. Minimum vegetation	25%	(to be confirmed with building permit)	(to be confirmed with building permit)	(to be confirmed with building permit)
9. Front yard minimum vegetation	40%	(to be confirmed with building permit)	(to be confirmed with building permit)	(to be confirmed with building permit)
10. Off-street parking requirements	1 space per dwelling unit, not in the required front or street-side yard	≥2 spaces	≥2 spaces	≥2 spaces

¹ See Finding 10 for a discussion of the variance request to reduce the front yard setback from 20 ft to 10 ft.

² See Finding 10 for a discussion of the variance request to reduce the street-side yard setback from 15 ft to 5 ft.

The Planning Commission finds that, with the requested variances approved as discussed in Finding 10, the proposed development is consistent with the applicable standards of MMC 19.301.

7. MMC Section 19.401 Willamette Greenway Zone

MMC 19.401 establishes standards for the Willamette Greenway overlay designation. The subject properties are within the Willamette Greenway zone as shown on the City's zoning map.

a. MMC Subsection 19.401.5 Procedures

MMC 19.401.5 establishes procedures related to proposed uses and activities in the Willamette Greenway zone. Development in the Willamette Greenway zone requires conditional use review, subject to the standards of MMC Section 19.905 and in accordance with the approval criteria established in MMC Subsection 19.401.6.

The construction of new primary structures constitutes “development” as defined in MMC Subsection 19.401.4 and is subject to the conditional use review standards of MMC 19.905 and the approval criteria of MMC 19.401.6.

b. MMC Subsection 19.401.6 Criteria

MMC 19.401.6 establishes the criteria for approving conditional uses in the Willamette Greenway zone.

- (1) Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan

The State Willamette River Greenway Plan defines “lands committed to urban use” in part as “those lands upon which the economic, developmental and locational factors have, when considered together, made the use of the property for other than urban purposes inappropriate.”

The subject properties are lots that were platted in 1884 and shown with a residential zoning designation on the City’s zoning map since at least 1968. The land is committed to an urban use.

- (2) Compatibility with the scenic, natural, historic, economic, and recreational character of the river

The site is not adjacent to the Willamette River and is more than two blocks from the river, with other residential properties and the Kellogg wastewater treatment plant in between. The proposed development presents no significant impacts to the character of the river and is compatible with all relevant aspects of it.

- (3) Protection of views both toward and away from the river

The site is not adjacent to the Willamette River, and there are no other residential properties to the east to consider with respect to view protection. The proposed development will be configured to maximize river views where possible.

- (4) Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable

The proposed development, particularly the proposed street improvements on Eagle Street, will be configured to preserve existing trees and other vegetation to the extent practicable.

- (5) Public access to and along the river, to the greatest possible degree, by appropriate legal means

The subject properties are private residential properties that are not adjacent to the Willamette River. The proposed development will not affect public access to the river.

- (6) Emphasis on water-oriented and recreational uses

The subject properties are private residential properties with no direct access to the Willamette River.

- (7) Maintain or increase views between the Willamette River and downtown

The subject properties are separated from the nearest portion of downtown by a railroad berm and McLoughlin Boulevard (Highway 99E). The site is across the Eagle Street right-of-way from the Kellogg wastewater treatment plant property, which is zoned for both Open Space and Downtown Mixed Use. A significant landscaping buffer on the treatment plant site screens the subject properties, and the proposed development will have no effect on views between the river and downtown-zoned areas.

- (8) Protection of the natural environment according to regulations in Section 19.402

As noted in Finding 4, above, the subject properties do not include any designated natural resource areas, although a Habitat Conservation Area (HCA) is identified on the City's Natural Resource Administrative Map in the public right-of-way on 21st Avenue. Natural resources within the public right-of-way are not regulated by MMC Section 19.402, but a construction management plan in accordance with MMC Subsection 19.402.9 will be reviewed at the time of development to ensure the protection of any HCA left undisturbed by the required street frontage improvements.

- (9) Advice and recommendations of the Design and Landmarks Committee, as appropriate

The subject properties are not within a downtown zone and the proposed activity does not require review by the Design and Landmarks Committee.

- (10) Conformance to applicable Comprehensive Plan policies

The Willamette Greenway Element in the Milwaukie Comprehensive Plan includes policies related to land use, public access and view protection, and maintenance of private property. These policies include the requirement of a conditional use permit for new development and intensification of existing uses, evaluation of development impacts to visual corridors, and limitations on authorizing the unrestricted public use of private land.

The Natural Hazards Element includes policies that prohibit development in known areas of natural disasters and hazards without appropriate safeguards. The Open Spaces, Scenic Areas, and Natural Resources Element includes policies to conserve open space and protect and enhance natural and scenic resources.

The proposed development is being reviewed through the Willamette Greenway conditional use process as provided in MMC Subsection 19.401.5. The project will not impact visual corridors. The proposed development is on private property and does not involve any changes to public access to the river over private land. The project area is outside the 100-year floodplain. A construction management plan will be reviewed at the time of development to ensure that the nearby HCA is adequately protected.

- (11) The request is consistent with applicable plans and programs of the Division of State Lands

The proposed activity is not inconsistent with any known plans or programs of the Department of State Lands (DSL).

- (12) A vegetation buffer plan meeting the conditions of Subsections 19.401.8.A through C

The subject properties are not immediately adjacent to the Willamette River and do not include a vegetation buffer area as described in MMC Subsection 19.401.8.A.

The Planning Commission finds that the proposed activity meets all relevant approval criteria provided in MMC 19.401.6.

The Planning Commission finds that the proposed activity meets all applicable standards of the Willamette Greenway zone.

8. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 establishes provisions to ensure that development provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts. MMC 19.700 applies to land divisions, new construction, modifications or expansions of existing structures, and changes or intensifications in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site. MMC Section 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities.

The applicant proposes to construct single-family detached dwellings on each of the three subject properties, which are currently undeveloped. The proposed development triggers the requirements of MMC 19.700 and will be reviewed for compliance with the applicable provisions of this chapter at the time development permits are submitted.

The Planning Commission finds that the proposed development meets the applicable public facility improvement standards of MMC 19.700.

9. MMC Section 19.905 Conditional Uses

MMC 19.905 establishes regulations for conditional uses, including standards for establishing uses identified as conditional uses in any overlay zones. As noted in Finding 7-a and as provided in MMC Subsection 19.401.5.A, activities within the Willamette Greenway zone that trigger Willamette Greenway review are subject to the provisions of Section 19.905 as conditional uses.

a. MMC Subsection 19.905.3 Review Process

MMC 19.905.3 establishes the process by which a new conditional use must be reviewed.

As noted in Finding 7-a, the proposed activity is development as defined for the Willamette Greenway zone and so requires review as a conditional use.

MMC 19.905.3.A requires that establishment of a new conditional use be evaluated through the Type III review process per MMC Section 19.1006.

b. MMC Subsection 19.905.4 Approval Criteria

MMC 19.905.4.A establishes the approval criteria for a new conditional use or a major modification to an existing conditional use.

- (1) The characteristics of the lot are suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features.

The subject properties are residential lots, each 5,000 sq ft in area and with no topographic challenges for development. The properties are undeveloped but are adjacent to public rights-of-way in Eagle Street and 21st Avenue that can be improved to provide the necessary public facilities.

The Planning Commission finds that this standard is met.

- (2) The operating and physical characteristics of the proposed use will be reasonably compatible with, and have minimal impact on, nearby uses.

The subject properties are adjacent to other single-family residential properties on the west and south and to the Kellogg wastewater treatment plant on the north. The proposed development involves constructing a new single-family house on each of the three lots and will have minimal impact on nearby uses.

The Planning Commission finds that this standard is met.

- (3) All identified impacts will be mitigated to the extent practicable.

The proposed development presents no significant impacts.

The Planning Commission finds that this standard is met.

- (4) The proposed use will not have unmitigated nuisance impacts, such as from noise, odor, and/or vibrations, greater than usually generated by uses allowed outright at the proposed location.

The proposed development is single-family housing in a residential zone and will not generate any unmitigated nuisance impacts.

The Planning Commission finds that this standard is met.

- (5) The proposed use will comply with all applicable development standards and requirements of the base zone, any overlay zones or special areas, and the standards in Section 19.905.

The subject property is in the Residential R-5 zone, with development standards provided in MMC Section 19.301. The applicable development standards include those for yard setbacks, building height, side-yard height plane, lot coverage, and minimum vegetation. As addressed in Finding 10, the applicant has requested variances from the front yard setbacks for two of the lots and from the street-side yard standard for the corner lot. All of the lots provide adequate dimension and area to meet the applicable standards of MMC 19.301, compliance with which will be assessed through the development review process at the time of construction.

As addressed in Finding 7, the proposed activity will comply with the relevant standards of the Willamette Greenway overlay zone. As addressed elsewhere in Finding 9, the proposed activity is compliant with the other standards of MMC 19.905.

The Planning Commission finds that this standard is met.

- (6) The proposed use is consistent with applicable Comprehensive Plan policies related to the proposed use.

As addressed in Finding 7-b(10), the proposed development is consistent with all relevant polices in the Comprehensive Plan.

The Planning Commission finds that this standard is met.

- (7) Adequate public transportation facilities and public utilities will be available to serve the proposed use prior to occupancy pursuant to Chapter 19.700.

As addressed in Finding 8, the proposed development triggers the requirements of MMC 19.700 and will be reviewed for compliance with the applicable provisions of this chapter at the time development permits are submitted.

The Planning Commission finds that this standard is met.

As conditioned, the Planning Commission finds that the proposed development meets the approval criteria outlined in MMC 19.905.4.A for establishing a conditional use.

c. MMC Subsection 19.905.5 Conditions of Approval

MMC 19.905.5 establishes the types of conditions that may be imposed on a conditional use to ensure compatibility with nearby uses. Conditions may be related to a number of issues, including access, landscaping, lighting, and preservation of existing trees.

The Planning Commission finds that the proposed development sufficiently mitigates any negative impacts and that no additional conditions are necessary to ensure compatibility with nearby uses.

d. MMC Subsection 19.905.6 Conditional Use Permit

MMC 19.905.6 establishes standards for issuance of a conditional use permit, including upon approval of a major modification of an existing conditional use. The provisions include a requirement to record the conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City prior to commencing operations allowed by the conditional use permit.

An advisory note has been included with the conditions of approval to outline the conditional use permit process.

The Planning Commission finds that, as conditioned, the proposed development is consistent with the relevant standards established in MMC 19.905 for conditional uses.

10. MMC Section 19.911 Variances

MMC Section 19.911 establishes the variance process for seeking relief from specific code sections that have the unintended effect of preventing reasonable development or imposing undue hardship.

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B.

The applicant has requested two variances: (1) to reduce the required 20-ft front yard setback to 10 ft for both 2024 and 2026 SE Eagle St, and (2) to reduce the required 15-ft street-side yard setback to 5 ft for 2026 SE Eagle St.

The request would not eliminate the restriction on a prohibited activity, change a required review type, allow a use not allowed outright in the R-5 zone, or otherwise produce any of the results listed in MMC Subsection 19.911.2.B. The requests are each eligible for a variance as per MMC 19.911.2.

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. MMC Subsection 19.911.3.C establishes the Type III review process for larger or more complex variations to standards than those allowed through the Type II review process as per MMC Subsection 19.911.3.B, as variations that require additional discretion and warrant a public hearing.

The applicant has requested variances of more than 25% to front and street-side yard setbacks. These requests are not eligible for Type II review as provided in MMC 19.911.3.B and so are subject to Type III review as per MMC 19.911.3.C.

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests. Specifically, MMC Subsection 19.911.4.B.1 provides approval criteria for Type III variances where the applicant elects to utilize the Discretionary Relief Criteria:

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

Front Yard Setbacks: The lack of street connectivity to Bluebird Street from 21st Avenue (due to the angled crossing of the railroad line) effectively puts the subject properties at the end of a closed street system, accessible via Eagle Street from 20th Avenue. This situation satisfies the requirements of a low-volume street, and the applicant can request approval to construct less than the regular cross-section for a local street. The City's Engineering Department has indicated that an acceptable cross-section for these street frontages is no more than 20 ft wide and does not include sidewalks.

To preserve existing trees in the Eagle Street right-of-way, the southern edge of the new street on Eagle Street will be located 10 ft from the northern property lines of 2024 and 2026 SE Eagle St. This 10-ft buffer compensates for the 10-ft setback reduction requested by the applicant. By keeping the new houses closer to the front property line, the reduced setbacks would provide better sightlines to both the river and the park area west of the Kellogg wastewater treatment plant.

Street-Side Yard Setback: Along the 21st Avenue frontage of 2026 SE Eagle Street, the required street improvement will be a 16-ft cross-section with no sidewalk. To avoid the large power pole on 21st Avenue adjacent to the eastern property line of 2026 SE Eagle St, the western edge of the new street will be located 10 ft from the eastern boundary of 2026 SE Eagle St. This 10-ft buffer compensates for the 10-ft setback reduction requested by the applicant. By keeping the new house closer to the street-side property line, the reduced setback would allow more room on the opposite interior side for the utility easement that will serve 11923 SE 21st Ave.

The Planning Commission finds that the applicant's analysis is sufficient to address the impacts and benefits of both of the proposed variances. This criterion is met.

- (2) The proposed variance is determined to be both reasonable and appropriate, and it meets one or more of the following criteria:
- (a) The proposed variance avoids or minimizes impacts to surrounding properties.
 - (b) The proposed variance has desirable public benefits.
 - (c) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

Front Yard Setbacks: The subject properties are located at the northern edge of the Island Station neighborhood and are adjacent to only two other residential properties, to the south and west. To the north and east, across the currently undeveloped rights-of-way of Eagle Street and 21st Avenue, are the Kellogg wastewater treatment plant and Pacific and Western railroad right-of-way, respectively. There are few if any impacts from the proposed variance and almost no adjacent residential properties that would be impacted.

The existing house at 11900 SE 20th Ave is extremely close to the Eagle Street right-of-way, well under the required 15-ft street-side yard setback of the R-5 zone, and significantly affects the line of sight to the river for both subject properties that front on Eagle Street. Reducing the front yard setbacks as requested would bring the two new houses closer to the street-side plane of the adjacent existing house and would allow a better line of sight toward the river.

Street-Side Yard Setback: As noted above, there are only two neighboring residential properties to the subject property, so the requested variance will have very little impact. By shifting the proposed house closer to the 21st Avenue right-of-way, the requested variance increases the interior yard setback on the opposite side and provides more space for the proposed utility easement that will serve the adjacent property at 11923 SE 21st Avenue.

The Planning Commission finds that the requested variances are reasonable and appropriate and that they both meet one or more of the criteria provided in MMC Subsection 19.911.B.1.b.

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

Front Yard Setbacks: There are few if any impacts from the proposed variance. The proposed location of the new street in the Eagle Street right-of-way will provide an additional 10 ft of separation between the street and the subject properties.

Street-Side Yard Setback: As noted above, there are few if any impacts from the proposed variance, and the proposed location of the new street in the 21st Avenue right-of-way will provide an additional 10 ft of separation between the street and the subject property.

The Planning Commission finds that both variance requests will be mitigated to the extent practicable.

The Planning Commission finds that the proposed development meets the approval criteria for a Type III variance request, as provided in MMC 19.911.4.B.

As proposed, the Planning Commission finds that both of the requested variances are allowable as per the applicable standards of MMC 19.911.

11. The application was referred to the following departments and agencies on May 17, 2017:

- Milwaukie Building Department
- Milwaukie Engineering Department
- Clackamas Fire District #1
- Island Station Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
- Oregon Parks and Recreation Department
- Oregon Department of State Lands (DSL)
- Oregon Department of Fish and Wildlife
- Oregon State Marine Board
- Oregon Department of Transportation (ODOT)

The comments received are summarized as follows, including comments received in response to the public notice posted on the site and mailed to property owners and residents within 500 ft of the site:

- a. **Matt Amos, Fire Inspector, Clackamas Fire District #1 (CFD#1):** No comments on the proposed development.
- b. **Pam Denham, Land Use Chair, Island Station NDA:** No comments on or objections to the proposed development.
- c. **Alex Roller, Engineering Tech II, City of Milwaukie Engineering Department:** Comments related to the applicable requirements of MMC Title 12 Streets, Sidewalks, and Public Places; and MMC Chapter 19.700 Public Facility Improvements. Compliance with applicable standards will be evaluated in conjunction with development permit review.

Conditions of Approval

1. At the time of submittal of the associated development permit application(s), the following shall be resolved:
 - a. Final plans submitted for development permit review shall be in substantial conformance with plans approved by this action, which are the plans stamped received by the City on April 12, 2017.
 - b. As needed, provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.

Other requirements

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

1. Conditional Use Permit

As per MMC Subsection 19.905.6, the City will issue a conditional use permit upon approval of an application to allow major modification of an existing conditional use (including Willamette Greenway conditional uses). The applicant must record the

conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City prior to commencing operations allowed by the conditional use permit.

2. Construction Management Plan

The project area is within 100 ft of a designated Habitat Conservation Area (HCA). Although the proposed development will not disturb any portion of the HCA, the proximity of the project area to the HCA triggers the need for a construction management plan as per MMC Subsection 19.402.3.J. A construction management plan consistent with the requirements of MMC Section 19.402.9 shall be submitted for review with the building permit application for the new structure.

3. Prior to final inspection of any building permit, the following shall be required:

- a. Submit a stormwater management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. Private properties may only connect to public storm system if percolation tests show that infiltration cannot be obtained on site. In the event the storm management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.
- b. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department.
- c. Obtain a right-of-way permit for construction of all required public improvements listed in these recommended conditions of approval.
- d. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
- e. Provide a payment and performance bond for 100% of the cost of the required public improvements.
- f. Provide an erosion control plan and obtain an erosion control permit.
- g. Install all underground utilities, including stubs for utility service prior to surfacing any streets.
- h. Construct a private storm management system (e.g., drywell) on the proposed development properties for runoff created by the proposed development. Connect all rain drains to the private storm management system.
- i. Construct 20-ft-wide asphalt, and valley curbs on development site frontages.
- j. Extend 16-ft-wide asphalt roadway from the Eagle Street / 20th Avenue intersection to the development lots. A 16-ft-wide roadway will continue south along the east frontage of Tax Lot 1300.
- k. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to each new lot. The driveway approach aprons shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property line.
- l. Clear vision areas shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection.
- m. Provide a final approved set of Mylar and electronic PDF "As Constructed" drawings to the City of Milwaukie prior to final inspection.

4. Limitations on Development Activity

Development activity on the site shall be limited to 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday, as per MMC Subsection 8.08.070.1.

5. Expiration of Approval

As per MMC Subsection 19.1001.7.E.1.a, proposals requiring any kind of development permit must complete both of the following steps:

- a. Obtain and pay for all necessary development permits and start construction within two (2) years of land use approval.
- b. Pass final inspection and/or obtain a certificate of occupancy within four (4) years of land use approval.

Exhibits

None



Dennis Egner, FAICP
Planning Director

cc: Bradley Smith, property owner (13621 SE Fair Oaks Dr, Milwaukie, OR 97222)
Planning Commission (*via e-mail*)
Alma Flores, Community Development Director (*via e-mail*)
Chuck Eaton, Engineering Director (*via e-mail*)
Alex Roller, Engineering Technician II (*via e-mail*)
Samantha Vandagriff, Building Official (*via e-mail*)
Bonnie Lanz, Permit Specialist (*via e-mail*)
Mike Boumann and Matt Amos, CFD#1
NDA(s): Island Station (*via e-mail*)
Land Use File(s): WG-2017-002, VR-2017-005