



September 15, 2017

Land Use File(s): CU-2017-001

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on Sept. 12, 2017.

**Applicant(s):** Karleanne Rogers & Kevin Berigan  
**Location(s):** 1524 SE Eton Ln.  
**Tax Lot(s):** 11E26DC01602  
**Application Type(s):** Conditional Use  
**Decision:** Approved with Conditions  
**Review Criteria:** Milwaukie Zoning Ordinance:

- MMC Subsection 19.1006 Type III Review
- MMC Section 19.301 Low Density Residential Zones
- MMC Subsection 19.905 Conditional Uses

**Neighborhood(s):** Historic Milwaukie

**Appeal period closes: 5:00 p.m., Sept. 30, 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 Mary Heberling, Assistant Planner, at 503-786-7658 or [heberlingm@milwaukieoregon.gov](mailto:heberlingm@milwaukieoregon.gov), if you wish to view this case file.

**This decision may be appealed by 5:00 p.m. on Sept. 30, 2017, which is 15 days from the date of this decision.** Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the development utilizes its approvals within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

**Findings in Support of Approval**

1. Attachment 1

**Conditions of Approval**

1. Provide notification to property owners within a 250 ft radius from the site. The notification will include the contact information for the property owners, property managers, Neighborhood District Association (NDA) chair, City of Milwaukie Police non-emergency line, and the applicant's "House Rules" for the vacation rental. The notification will be re-sent every time the "House Rules" change.



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Dennis Egner, FAICP  
Planning Director

- cc: Karleanne Rogers and Kevin Berigan (5025 Thacher Rd. Ojai, CA 93023)  
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)*  
Mike Boumann and Matt Amos, CFD#1  
NDA(s): Historic Milwaukie *(via e-mail)*  
Interested Persons  
Land Use File(s): CU-2017-001

**ATTACHMENT 1**  
**Findings in Support of Approval**  
**File # CU-2017-001, Eton Ln Vacation Rental**

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicants, Karleanne Rogers and Kevin Berigan, have applied for approval to use the existing home at 1524 SE Eton Ln as a vacation rental. This site is in the R-10 Zone. The land use application file number is CU-2017-001.

The applicant is proposing to use the existing home on the property as a vacation rental through the conditional use process. The applicants live in a different state for over 10 months out of the year due to their jobs. This vacation rental will help them offset mortgage

The property has been used as a vacation rental since 2011. The applicant was unaware that it needed to be approved through the conditional use process. Upon learning that their vacation rental required a conditional use approval, they have applied for approval to bring the use into compliance with the code.

2. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):

- MMC Subsection 19.1006 Type III Review
- MMC Section 19.301 Low Density Residential Zones
- MMC Subsection 19.905 Conditional Uses

3. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on September 12, 2017, as required by law.

4. MMC 19.301 Low Density Residential Zones

- a. MMC 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. Bed and breakfast or Vacation rental commercial uses are Conditional Uses (CU) in the R-10 zone.

*The proposed use on the site is a Vacation Rental. It will be evaluated through the conditional use process.*

5. MMC 19.905 Conditional Uses

- a. 19.905.4 Approval Criteria

This subsection establishes criteria for approval of a new conditional use. The approval criteria is addressed below:

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

*The existing house is 3,400 sq ft in size with 3+ bedrooms and 2 ½ bathrooms. It is located on a 0.55 acre property that is fenced and screened from the surrounding neighbors to limit any negative impacts. The rear of the property faces a vacant forested property. All of the neighboring lots are large lots over 12,000 sq ft with large vegetated lots, similar to the applicant's property. All of the surrounding homes are placed 45 -180 ft from the applicant's home. All properties are heavily vegetated with a majority of each property completely covered by the tree canopy.*

*The location of the surrounding homes and large lot sizes that are heavily vegetated with a privacy fence make the lot characteristics suitable for a vacation rental.*

*The Planning Commission finds that this criterion 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 proposed use as a vacation rental will not change any physical characteristic of the existing house or property. It will be used for residential purposes by people who rent out the property. The applicant believes there will be minimal impact on the nearby uses since they will usually have only 4-6 rentals per year. The site has a circle driveway that can accommodate 2+ vehicles and prevents the need for any renters to park on the street. The property also has a large backyard with an outdoor pool for any recreational activities.*

*The Planning Commission finds that this criterion is met.*

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

*The applicants have developed "house rules" to mitigate any impacts to the existing house, property, and surrounding neighbors. Those rules include requiring renters to respect a 10pm quiet time and noting failure to do so may lead to immediate eviction. They also request that outside activity and noise be extremely limited after 9pm and will not allow parties or any sort of large gathering or event.*

*The Planning Commission finds that this criterion 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 use will have restrictions on the renters to ensure there are not any unmitigated nuisance impacts. As stated above, the applicants will not allow parties or any sort of large gathering or event and noise impacts will be mitigated through "house rules" proposed by the applicants.*

*The Planning Commission finds that this criterion 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.

*There are no proposed changes to the existing house or lot. As it currently exists, the property meets the development standards for a single-family home in the R-10 zone. There are no overlay zones or special areas and the standards are met in Section 19.905 as demonstrated in the findings.*

*The Planning Commission finds that this criterion is met.*

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

*There are no specific Comprehensive Plan policies or objectives that provide clear guidance regarding whether a newly recognized vacation rental should be permitted in a given zone. Rather, the policies and objectives speak generally about maintaining the residential character of existing neighborhoods and opportunities for employment and home occupations. The applicant is proposing no changes to the existing single family residence and it will still exist in that manner and continue its*

*residential character and is consistent with the surrounding homes and properties. The vacation rental also allows the opportunity for the applicants to have a stream of income while they are away from the property.*

*For these reasons the proposal is consistent with the following goals, objectives, and policies:*

*Residential Land Use and Housing Element:*

- *Objective #4 – Neighborhood Conservation*
- *Objective #4 – Policy #5*

*Economic Base and Industrial/Commercial Land Use Element:*

- *Objective #2 – Employment Opportunity*
- *Objective #2 – Policy #4*

*Neighborhood Element:*

- *The Neighborhood Element Goal Statement*
- *Objective #1 – Neighborhood Character*
- *Objective #1 – Policy #2*

*The Planning Commission finds that this criterion 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.

*There are adequate public transportation facilities and public utilities for the site. Renters for the proposed use will generally have a personal/rented vehicle that they can park on the property. The applicants have a large circle driveway that can accommodate 2+ vehicles and prevents the need for any renters to park on the street.*

*The Planning Commission finds that this criterion is met.*

*Planning Commission finds that the approval criteria for a condition use are met with this proposal.*

6. The application was referred to the following departments and agencies on August 3, 2017:

- Milwaukie Building Division
- Milwaukie Engineering Department
- Clackamas County Fire District #1
- Historic Milwaukie Neighborhood District Association Chairperson and Land Use Committee

The comments received are summarized as follows:

- **Tom Madden, Vice President and Committee Chair:** “I’m writing to confirm that the Historic Milwaukie Neighborhood Association’s Development Committee has reviewed this Application and will support the proposal contingent up confirmation that the neighbors indeed support the proposal.”
- **Alex Roller, Engineering Department, City of Milwaukie:** No comments or any conditions of approval from the Engineering Department.