



CITY OF MILWAUKIE

May 9, 2018

Land Use File(s): CU-2018-001

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on May 8, 2018.

Applicant(s): Casey and Samantha Clark
Location(s): 4219 SE Covell St.
Tax Lot(s): 12E30BC05300
Application Type(s): Conditional Use
Decision: Approved with Conditions
Review Criteria: Milwaukie Zoning Ordinance:

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

Neighborhood(s): Lewelling

Appeal period closes: 5:00 p.m., May 24, 2018

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, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on May 24, 2018, 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.

Expiration

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.

Exhibits

1. Findings in Support of Approval
2. Conditions of Approval



Dennis Egner, FAICP
Planning Director

cc: Casey and Samantha Clark (7001 NW Seaview Ave 160-812, Seattle, WA 98117)
Planning Commission (via email)
Alma Flores, Community Development Director (via email)
Chuck Eaton, Engineering Director (via email)
Alex Roller, Engineering Technician II (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Mike Boumann and Matt Amos, CFD#1 (via email)
NDA(s): Lewelling (via email)
Interested Persons
Land Use File(s): CU-2018-001

EXHIBIT 1
Findings in Support of Approval
File #CU-2018-001, Covell St 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, Casey and Samantha Clark, have applied for approval to a Conditional Use for a Vacation Rental at 4219 SE Covell St. This site is in the R-7 Zone. The land use application file number is CU-2018-001.
2. The applicants are proposing to use one of the duplex units on the site to be used as a Vacation Rental.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Subsection 19.301 Low Density Residential
 - MMC Subsection 19.905 Conditional Uses
 - MMC Subsection 19.1006 Type III Review
4. 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 May 8, 2018, as required by law.
5. MMC 19.301 Low Density Residential
 - a. MMC 19.301.2 establishes allowed uses for the low density residential zones. Vacation rentals are allowed in the R-7 zone per approval through the Conditional Use process.

The applicant is proposing a vacation rental for one of the duplex units on the site. The applicant has applied for Conditional Use approval.

The Planning Commission finds that this standard is met.
6. MMC 19.905 Conditional Uses
 - a. MMC 19.905.4.A establishes approval criteria for approving a new conditional use. The applicant is proposing to establish a new conditional use with a vacation rental for one of the duplex units. It meets the approval criteria as follows:
 - (1) The characteristics of the lot are suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features.

The existing duplex is 1,720 sq ft in size and located on a .31-acre lot. The lot is fenced and screened with vegetation from the surrounding neighbors to limit any negative impacts. The two lots on either side of the applicant's lot are similar size. Both houses on those two neighbor lots are located closer to the street than the duplex unit. The duplex

unit is not directly next to either neighboring homes. It is also about 48 ft from the rear property line limiting impacts to the properties to the north of the site.

The physical characteristic of the property will not change. No improvements are proposed to the lot or the duplex. The current duplex is used as a rental property and one of the units will continue to be a rental residential unit. The Vacation Rental use will not change the residential character of the lot or building.

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 current duplex has a fixed-term lease tenant and the other is a furnished month-to-month rental property. The physical characteristic of the property will not change. No improvements are proposed to the duplex building. The applicants intend to keep the units the same, but use one as a vacation rental versus a rental property.

The operating residential character of the duplex remains the same, but one of the units will have visitors versus monthly tenants. The private off-street parking area accommodates 3 parked cars limiting any potential negative impacts to parking on the public street.

The Planning Commission finds that this criterion is met.

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

The proposed use will have restrictions on the renters to mitigate any impacts to the existing unit, property, and surrounding neighbors. The applicants have a strict “No Events and No Parties” policy. As stated above, the private off-street parking area accommodates 3 parked cars. This will limit any potential negative impacts to parking on the public street.

During the public hearing for CU-2017-001 last year, the Planning Commission included a condition to require the applicant for the vacation rental 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 “No Events and No Parties” policy. The applicants will be required to provide the same notifications.

As conditioned, 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 residential character of the site will stay the same and will continue to have no greater unmitigated nuisance impacts than what is currently allowed outright. The visitors to the Vacation Rental would be using the unit as a residential property and

maintain what any impacts may be for a typical residential unit already. As stated above, the applicants also have a strict “No Events and No Parties” policy.

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 duplex is an existing, legal, non-conforming property as it was built before the current R-7 standards existed for duplexes. 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 duplex 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: To maximize the opportunities to preserve, enhance and reinforce the identity and pride of existing well-defined neighborhoods in order to encourage the long-term maintenance of the City’s housing stock.*
- *Objective #4 – Policy #5: Within Low Density areas, new projects will maintain a single-family building bulk, scale and height when abutting existing single-family areas, or when abutting a street where existing single-family houses face the project.*

Economic Base and Industrial/Commercial Land Use Element:

- *Objective #2 – Employment Opportunity: To continue to support a wide range of employment opportunities for Milwaukie citizens.*
- *Objective #2 – Policy #4: The City will support home occupations (income-producing activities in the home) as long as these activities do not detract from the residential character of the area.*

Neighborhood Element:

- *The Neighborhood Element Goal Statement*
- *Objective #1 – Neighborhood Character: To maintain the residential character of designated neighborhood areas.*
- *Objective #1 – Policy #2: Improve standards for home occupations to ensure adequate parking and other compatibility measures are provided.*

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 an off-street parking area that can accommodate 3 vehicles and prevents the need for any renters to park on the public street.

The Planning Commission finds that this criterion is met.

As conditioned, the Planning Commission finds that the approval criteria for a conditional use are met with this proposal.

7. The application was referred to the following departments and agencies on March 30, 2018:

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

There were no comments from any of the departments and agencies.

A public notice was mailed to all residents and property owners within 300 ft of the site. The comments received are summarized below:

Shahr Ameripour (4221 SE Covell St.): Shahr is a neighbor directly east of the property. They noted that they are fine with the Vacation Rental proposal.

EXHIBIT 2
Conditions of Approval
File # CU-2018-001, 4219 SE Covell St Vacation Rental

Condition

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, vacation rental operator, Neighborhood District Association (NDA) chair, City of Milwaukie Police non-emergency line, and the applicant's "No Events and No Parties" policy.