



CITY OF MILWAUKIE

June 25, 2018

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

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on June 25, 2018.

| | |
|----------------------------------|--|
| Applicant(s): | Charles Clark |
| Appellant (if applicable) | |
| Location(s): | 5158 SE Logus Rd |
| Tax Lot(s): | 12E30CD00202 |
| Application Type(s): | Extension to Expiring Approval |
| Decision: | Approved |
| Review Criteria: | Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• Section 19.908 Extensions to Expiring Approvals• Section 19.1005 Type II Review Milwaukie Land Division Ordinance: <ul style="list-style-type: none">• Section 17.04.050 Time Limit on Approval |
| Neighborhood(s): | Lewelling |

Appeal period closes: 5:00 p.m., July 10, 2018

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1005 Type II Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Mary Heberling, Assistant Planner, at 503-786-7658 or heberlingm@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/EXT-2018-001.

This decision may be appealed by 5:00 p.m. on July 10, 2018, which is 15 days from the date of this decision.¹ Any person who is adversely affected or aggrieved by this decision may appeal the decision by filing a written appeal. An appeal of this decision would be heard by the

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.

Milwaukie Planning Commission following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

Per MMC Subsection 17.04.050.B, expiring land division approvals may be extended one time for no more than 6 months.

Findings in Support of Approval

1. The applicant, Charles Clark, has applied to extend the expiring approval of land use master file # MLP-2017-001 for the property of 5158 SE Logus Rd and the vacant lot at Taxlot 12E30CD00200. The site is zoned Residential R-7 and R-5. The land use application file number for the extension request is EXT-2018-001.
2. Master file MLP-2017-001 was a preliminary plat application for a 2-lot partition of the vacant lot and a replat to extend the property line of 5158 SE Logus Rd south. MLP-2017-001 was approved on June 2, 2017, with the appeal period ending on June 17, 2017. On December 6, 2017, the applicant submitted an application for final plat (file #FP-2017-006). To date, the applicant is in the process to complete construction of the required public improvements and has not been granted final plat approval.

The approval of MLP-2017-001 expired on June 17, 2018. On May 29, 2018, which is before the expiration date, the applicant requested a 6-month extension (to December 17, 2018) to allow additional time for construction of the required public improvements and approval of the final plat.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - a. MMC Section 19.1005 Type II Review
 - b. MMC Section 17.04.050 Time Limit on Approval
 - c. MMC Section 19.908 Extensions to Expiring Approvals

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

4. The application has been processed in accordance with MMC Section 19.1005 Type II Review, with a decision by the Planning Director. As allowed by MMC Subsection 19.1002.2.B.1, the requirement of MMC Subsection 19.1005.1 for a preapplication conference was waived by the Planning Director. The application was deemed complete on June 1, 2018, and public notice was mailed to surrounding property owners within 300 ft of the site on June 7, 2018, as required by MMC Subsection 19.1005.3.B. Public notice of the application was posted on the subject property on June 11, 2018, as required by MMC Subsection 19.1005.3.C.
5. MMC Section 17.04.050 Time Limit on Approval

MMC 17.04.050 establishes standards for time limits on approvals for boundary changes and land divisions. Specifically, MMC Subsection 17.04.050.A establishes that land division decisions expire 1 year after approval. In addition, MMC Subsection 17.04.050.4.B establishes the following criteria for a one-time extension of approval for a period up to 6 months:

- a. No changes are made on the original plan as approved.

A modification was approved (MOD-2018-001) on June 1, 2018 to modify a condition of approval. No other changes have been made on the original plan as approved by master file MLP-2017-001.

- b. The applicant can show intent of recording the land division or boundary change within the 6-month extension period.

The applicant submitted the final plat application to the City on December 6, 2017. Redline comments from City staff were returned to the applicant on December 15, 2017. Engineered plans for the required public improvements have been reviewed and approved by the City. The Engineering staff have been working with Charles Clark to modify the original conditions of approval (MOD-2018-001) so that the public improvements can be completed in the next month or two.

- c. There have been no changes in the ordinance provisions on which the approval was based.

There have been no changes in the ordinance provisions on which the approval of MLP-2017-001 was based.

The Planning Director finds that the approval criteria of MMC 17.04.050.B are met and that the requested extension is allowable.

6. MMC Section 19.908 Extensions to Expiring Approvals

MMC 19.908 establishes a review process for extending the time period during which land use approvals are valid and may be utilized.

- a. MMC Subsection 19.908.2 Applicability

MMC 19.908.2 establishes that unexpired land use applications that were required by MMC Titles 14 (Signs), 17 (Land Division), or 19 (Zoning) and that required Type I, II, or III review are eligible for an extension. Applications that have already expired are not eligible for extension.

Master file MLP-2017-001 (including R-2017-003) is an unexpired land use application that was required by MMC Titles 17 and 19 and was approved through a Type II review.

The Planning Director finds that master file MLP-2017-001 is eligible for an extension.

- b. MMC Subsection 19.908.3 Review Process

MMC 19.908.3 establishes the procedures and review types that are applicable to extension requests. For applications originally approved through Type III review, MMC Subsection 19.908.3.A.3 requires that the Planning Director notify the Planning

Commission of the receipt of an extension application at the same time that public notice is mailed. In addition, MMC Subsection 19.908.3.B.2 requires Type II review for the extension application for an expiring application approved through a Type III review.

The expiring application (master file MLP-2017-001) was originally approved by the Planning Director through Type II review. Notice of the extension application (EXT-2018-001) was provided to the Planning Director when the application was referred to relevant departments and agencies on June 7, 2018.

The Planning Director finds that the extension application is subject to Type II review and that the applicable standards of MMC 19.908.3 are met.

c. MMC Subsection 19.908.4 Approval Criteria

MMC 19.908.4 establishes the following criteria for approving an extension to an expiring land use application:

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

There have not been any significant changes to the property or in the vicinity of the site since the original approval on June 2, 2017, nor have there been any changes to the relevant regulations.

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

There was an approved modification (MOD-2018-001) on June 1, 2018 to better complete the public improvements needed by the Engineering Department. The Planning Director approved of the modification.

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

The application for master file MLP-2017-001 did not include a transportation impact study or a natural resource report.

The Planning Director finds that the approval criteria of MMC 19.908.4 are met.

The Planning Director finds that the requested extension is allowable as per the applicable standards and requirements of MMC 19.908.

7. As described in Finding 4, public notice of the application was posted on site and mailed to property owners within 300 ft of the site as required. The application was referred for comment to the following entities: Milwaukie Planning Director, Milwaukie Engineering Department, Milwaukie Building Department, Clackamas Fire District #1, Clackamas County, Metro, TriMet, and the Lewelling Neighborhood District Associations.

One comment was received and summarized below.

David Moss, 5015 SE Mullan St. – Concerns about tree removal for redevelopment of the site and public improvements. He was also wondering if any trees will be planted to mitigate the ones being removed. Mr. Moss expressed concern was about potential negative impacts on the neighborhood that may result from Mullan St expanding from 51st Ave to SE 49th Ave.

Staff Response: The developer is being required to replant trees per the code standard in MMC 19.708.2.A.12. The Engineering Director has determined that the trees being replanted in the landscape strip will be only required replanting. Any other location in the right-of-way would not be suitable for replanting, as they would be located where the future street will be going.

The section of Mullan St from 51st Ave to 49th Ave is a right-of-way and identified in the City's current capital improvement plan as a street that the City would like to have connected. That being said, there is not currently any funding source for this work to be completed. The only trigger at this point for that construction would be either David Moss or his neighbor to the south redeveloping.

Conditions of Approval

None.

Other requirements

1. To avoid the necessity of reapplying for the partition originally approved by MLP-2017-001, the accompanying final plat (FP-2017-006) must be approved by the City no later than December 17, 2018. As per MMC Section 17.24.040, approval of the final plat shall be null and void if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.



Dennis Egner, FAICP
Planning Director

- cc: Charles Clark, applicant (PO Box 72208 Milwaukie OR 97267)
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)
NDA(s): Lewelling (via email)
Interested Persons
Land Use File(s): EXT-2018-001, FP-2017-006, MLP-2017-001 (with R-2017-003)