



CITY OF MILWAUKIE

December 4, 2018

Land Use File(s): VR-2018-011

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on December 4, 2018.

Applicant(s):	Randall Decker
Appellant (if applicable)	
Location(s):	12220 SE 19 th Ave.
Tax Lot(s):	11E35DD03500
Application Type(s):	Variance
Decision:	Approved
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC 19.301 Low Density Residential Zone• MMC 19.911 Variances
Neighborhood(s):	Island Station

Appeal period closes: 5:00 p.m., December 19, 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/VR-2018-011.

This decision may be appealed by 5:00 p.m. on December 19, 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 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.

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 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, Randall Decker, has applied for approval to a variance for the lot coverage standard at 12220 SE 19th Ave. This site is in the R-5 Zone. The land use application file number is VR-2018-011.
2. The applicant is proposing a variance to the lot coverage standard from 35% to 37% for a new single-family residence on the property.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.301 Low Density Residential Zones
 - MMC Subsection 19.911 Variances

The application has been processed and public notice provided in accordance with MMC Section 19.1005 Type II Review.

4. MMC Section 19.301 Low Density Residential Zones
 - a. MMC 19.301 establishes the development standards that are applicable to this site. Table 1 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

Table 1: Compliance with Relevant R-5 Standards.

<i>R-3 Zone</i>	<i>Standard</i>	<i>Existing</i>	<i>Proposed</i>
<i>Lot Coverage</i>	35%	< 35%	37% (<i>variance requested</i>)

The existing property has a structure that does not exceed the lot coverage standard. The proposal is to demolish the existing structure and build a new single-family residence with a lot coverage of 37%, 2% over the standard. A variance has been requested for the lot coverage.

The Planning Director finds that a variance to the lot coverage standard is required.

5. MMC 19.911 Variances
 - a. MMC 19.911.3.B establishes the allowed limited variations to numerical standards. The following type of variance request shall be evaluated through a Type II review:
 - (1) A variance up to 10% to lot coverage or minimum vegetation standards.

The R-5 zone has a lot coverage standard of 35%. A Type II variance would allow up to 45% of lot coverage. The applicant's proposal is for a lot coverage of 37%, which is within the margin for a Type II variance.

- b. MMC 19.911.4.A establishes the approval criteria for Type II variances. An application shall be approved when all of the following criteria have been met. The approval criteria are listed below:

- (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.

With the exception of the lot coverage standard, the proposal for a new single-family residence meets all the other single-family design and development standards. It meets all the required setbacks for the R-5 zone and therefore will not be located closer to the surrounding properties. There are no natural resource areas on the property.

The Planning Director finds that this criterion is met.

- (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.

The proposal is located on private property and will not interfere with any planned future improvements to public transportation facility or utility.

The Planning Director finds that this criterion is met.

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

The site contains an existing building that is proposed to be demolished and replaced with a new single-family residence. Any further changes made to the site will be to improve elements that need to be updated to meet existing code standards, such as the driveway or property frontage through the building permit process.

The Planning Director finds that this criterion is met.

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

The 2% increase in lot coverage does not prohibit the new single-family residence from meeting the other development standards for the R-5 zone. The front, rear, and side yard setbacks are proposed to meet the standards. The lot coverage variance will not impact the adjacent properties more than if another single-family residence were to be built on this property.

The Planning Director finds that this criterion is met.

The Planning Director finds that the criteria for a Type II Variance have been met.

6. The application was referred to the following departments and agencies on Nov. 7, 2018:
- Milwaukie Building Division

- Milwaukie Engineering Department
 - Clackamas County Fire District #1
 - Island Station Neighborhood District Association Chairperson and Land Use Committee
7. A public notice to all property owners and residents within 300 ft of the property was sent on Nov. 7th, 2018. Comments received from the public notice are summarized below:

Theresa Silver & Steve Gerken, 12114 SE 19th Ave: Wrote in support of the requested variance. They felt a new single-family residence will improve the area as it will replace the current run-down structure on the site. They did not believe the 2% increase in lot coverage will change the character of the neighborhood.

Director's Declaration of Impartiality

I certify that neither I nor any member of my immediate family has a material, personal, or financial relationship with the applicant. I further certify that no other relationship, bias, or ethical conflict exists which would have prevented me from evaluating the land use application solely on its merits and in accordance with the Milwaukie Municipal Code.

Decision

- Approved
 Approved with Conditions
 Denied



Dennis Egner, FAICP
Planning Director

cc: Randall Decker (12200 E. Barbary Coast Road, Tucson, AZ 85749)
Planning Commission (via email)
Alma Flores, Community Development Director (via email)
Kelly Brooks, Acting Engineering Director (via email)
Alex Roller, Engineering Technician II (via email)
Samantha Vandagriff, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Mike Boumann and Izak Hamilton, CFD#1 (via email)
NDA(s): Island Station (via email)
Interested Persons
Land Use File(s): VR-2018-011