



CITY OF MILWAUKIE

February 13, 2019

Land Use File(s): CU-2018-004

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on February 12, 2019.

Applicant(s):	Valencia Borda, LLC
Appellant (if applicable)	
Location(s):	3316 SE Washington St
Tax Lot(s):	11E36AC05800
Application Type(s):	Conditional Use - Vacation Rental
Decision:	Approved with Conditions
Review Criteria:	Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC 19.301 Low Density Residential Zones• MMC 19.905 Conditional Uses• MMC 19.1006 Type III Review
Neighborhood(s):	Lake Road

Appeal period closes: 5:00 p.m., February 28, 2019

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 by appointment 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 Vera Koliass, Associate Planner, at 503-786-7653 or koliassv@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on February 28, 2019, which is 15 days from the date of this decision. (Note: Please arrive by 4:45 p.m. for appeal payment processing.) 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.

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

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

1. The applicant, Valencia Borda LLC, represented by Pilar Pennell, has applied for approval of a Conditional Use for a Vacation Rental at 3316 SE Washington St This site is in the R-5 Zone. The land use application file number is CU-2018-004.
2. The applicant is proposing to use the single-family on the property 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 February 12, 2019, 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-5 zone per approval through the Conditional Use process.

The applicant does not reside at the property and is proposing to use the single-family home on the site as a vacation rental. 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 the home. 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 home is 1,064 sq ft in size and located on a 5,470-sq ft lot. The lot is fenced on two sides and the home includes an attached garage and sufficient driveway space for an additional car.

The physical characteristic of the property will not change. No improvements are proposed to the lot or the home other than possibly installing perimeter fencing. 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 physical characteristic of the property will not change. No improvements are proposed to the home. The applicant intends to use the home as either a vacation rental or a long-term rental unit.

The operating characteristics and residential character of the home remains the same. The private off-street parking area accommodates 2-3 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 applicant has strict “No Smoking” either inside or outside and quiet hours policies. As stated above, the private off-street parking area accommodates 2-3 parked cars. This will limit any potential negative impacts to parking on the public street.

During the public hearings for CU-2017-001 and CU-2018-001, 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 smoking and quiet hours policies. The applicant will be required to provide the same notifications for a 300-ft radius.

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 strict quiet hours and no smoking inside or outside policies.

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 home is an existing single-family home in the R-5 zone on a 5,470-sq ft lot. 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. The applicant is proposing no changes to the existing home 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.

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.*

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 2-3 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 December 21, 2018:
- Milwaukie Building Division
 - Milwaukie Engineering Department
 - Clackamas County Fire District #1
 - Lake Rd 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. No comments were received.

Conditions of Approval

1. Applicant shall provide notification to property owners within a 300 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 policy regarding quiet hours, non-smoking, etc.



Dennis Egner, FAICP
Planning Director

- cc: Pilar Pennell (1674 SE Marion St., Portland, OR 97202)
Planning Commission (via email)
Alma Flores, Community Development Director (via email)
Kelly Brooks, Acting City Engineer (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): Lake Road (via email)

Land Use File(s): CU-2018-004