



# CITY OF MILWAUKIE

## AGENDA

October 22, 2019

### PLANNING COMMISSION

City Hall Council Chambers  
10722 SE Main Street  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

**1.0 Call to Order - Procedural Matters** — 6:30 PM

**2.0 Information Items**

**3.0 Audience Participation** — This is an opportunity for the public to comment on any item not on the agenda

**4.0 Public Hearings** — Public hearings will follow the procedure listed on the reverse side

4.1 Summary: Railroad Avenue Subdivision  
(Will be continued to a future date; no packet materials)

Applicant: I&E Construction, Inc.

Address: Taxlot: 12E31DD03000

File: S-2018-001

Staff: Mary Heberling, Assistant Planner

4.2 Summary: Driveway Variance at 8949 SE 32<sup>nd</sup> Ave

Applicant: Alex Belza

Address: 8949 SE 32<sup>nd</sup> Ave

File: VR-2019-009

Staff: Vera Koliass, Associate Planner

4.3 Summary: Two-Lot Partition Replat

Applicant: Lucica Muresan

Address: 5084 SE King Rd

File: R-2019-004

Staff: Brett Kelter, Associate Planner

**5.0 Planning Department Other Business/Updates**

**6.0 Planning Commission Committee Updates and Discussion Items** — This is an opportunity for comment or discussion for items not on the agenda.

**7.0 Forecast for Future Meetings**

November 12, 2019 1. Hearing Item: ZA-2019-002, Interim ADU Code Amendments to Comply with House Bill 2001

2. Hearing Item: CU-2019-002, 3701SE International Way

3. Worksession Item: Review Draft Comprehensive Plan

November 26, 2019 No agenda items are currently scheduled for this meeting.

December 10, 2019 No agenda items are currently scheduled for this meeting.

### Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

- 1. PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov). Thank you.
- 2. PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at [www.milwaukieoregon.gov/meetings](http://www.milwaukieoregon.gov/meetings).
- 3. FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
- 4. TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

#### Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

- 1. STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
- 2. CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
- 3. APPLICANT'S PRESENTATION.**
- 4. PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
- 5. NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
- 6. PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
- 7. QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
- 8. REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
- 9. CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
- 10. COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
- 11. MEETING CONTINUANCE.** Prior to the close of the first public hearing, any person may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

*The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.*

#### **Milwaukie Planning Commission:**

Kim Travis, Chair  
John Henry Burns, Vice Chair  
Adam Argo  
Joseph Edge  
Greg Hemer  
Lauren Loosveldt  
Robert Massey

#### **Planning Department Staff:**

Denny Egner, Planning Director  
David Levitan, Senior Planner  
Brett Kolver, Associate Planner  
Vera Koliass, Associate Planner  
Mary Heberling, Assistant Planner  
Dan Harris, Administrative Specialist II  
Alicia Martin, Administrative Specialist II



# CITY OF MILWAUKIE

**To:** Planning Commission

**Through:** Dennis Egner, Planning Director

**From:** Vera Kalias, Associate Planner  
Jennifer Backhaus, Engineering Tech II

**Date:** October 15, 2019, for October 22, 2019, Public Hearing

**Subject:** **File:** VR-2019-009  
**Applicant/Owner:** Alex Belza  
**Address:** 8949 SE 32<sup>nd</sup> Ave  
**Legal Description (Map & Tax Lot):** 11E25BA20700  
**NDA:** Ardenwald

---

## **ACTION REQUESTED**

Approve land use application VR-2019-009 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2, respectively. This action would allow a variance from the 7.5-ft minimum distance for a residential driveway apron to the side property line as established in Milwaukie Municipal Code (MMC) Subsection 12.16.040.C.3. The applicant recently built a new home and accessory dwelling unit that includes two driveways that access the street via a single pre-existing curb-cut on SE 32<sup>nd</sup> Ave. The pre-existing driveway opening (apron) is located 4.5 ft from the side property line to the north (See Figure 2). The applicant has requested a variance to allow the apron to remain as is. This would result in a driveway alignment requiring vehicles to “jump” a portion of the curb. Alternatively, staff is recommending approval of a variance to the City’s 7.5-ft separation requirement with a condition that requires the approach wing to be reconstructed to align with the new driveway and be shifted approximately three feet to north which would place it 1.5 ft from the side property line. A second variance is required to allow the property to access 32<sup>nd</sup> Ave (a collector street) without an on-site turnaround. A third variance is recommended by staff to allow the overall width of the driveway apron at the street to be 2.3 feet wider than the maximum 20-foot width allowed by City code.

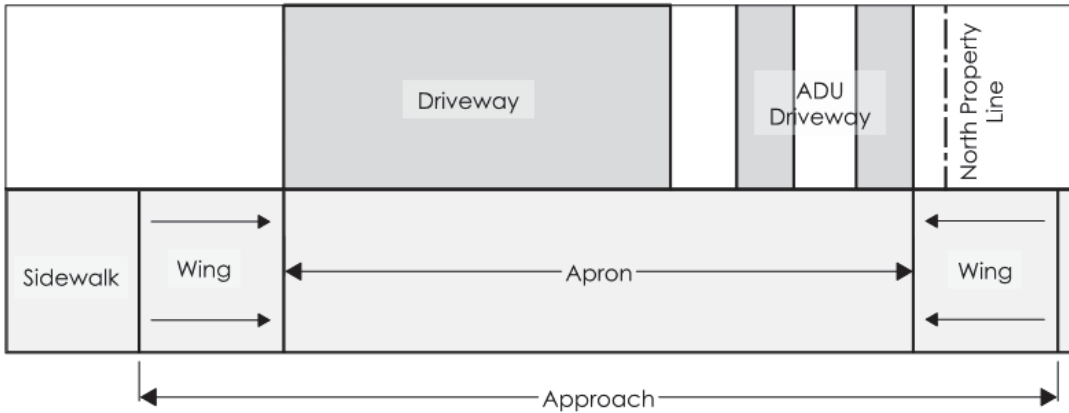


Figure 1. Illustration of Driveway Components

### BACKGROUND INFORMATION

Alex Belza, the applicant and current owner of the residential property at 8949 SE 32<sup>nd</sup> Ave, recently completed construction of a new single-family home with an accessory dwelling unit (ADU) in the lower level. Two off-street parking spaces are required for a property with a single-family home and an ADU. As constructed, the second driveway includes a driveway apron that is 4.5 ft from the side property line (See Figures 2-3). MMC 12.16.040.C.3 requires a 7.5-ft separation between the apron and the property line (see Figure 1).

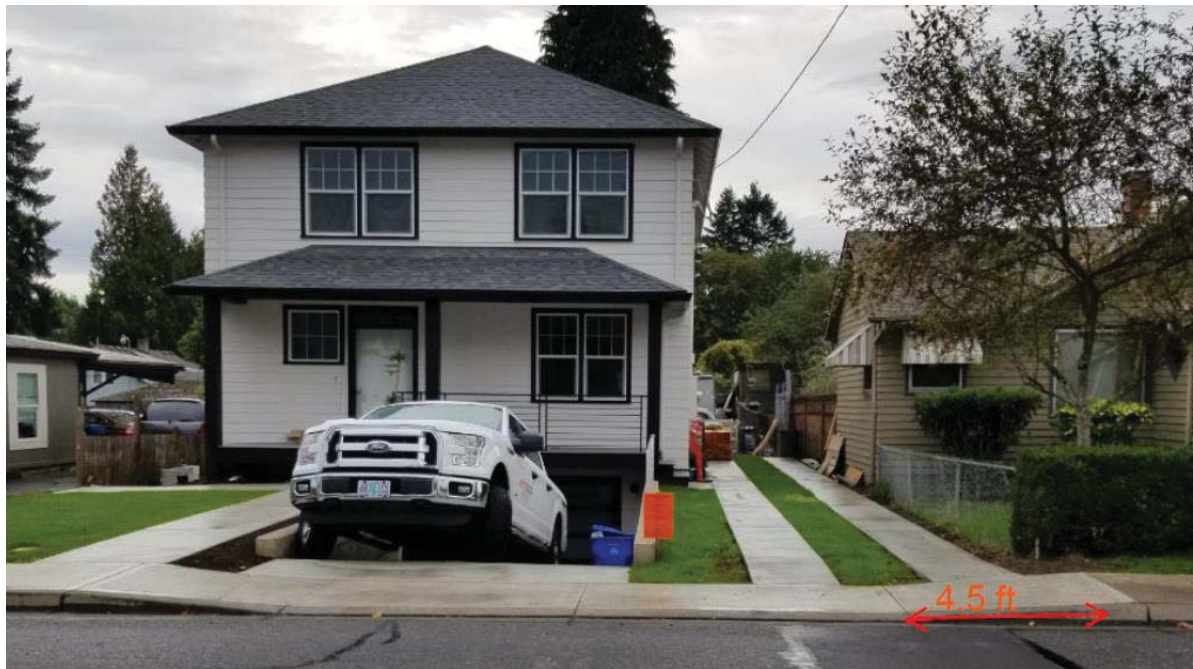


Figure 2. 8949 SE 32<sup>nd</sup> Ave

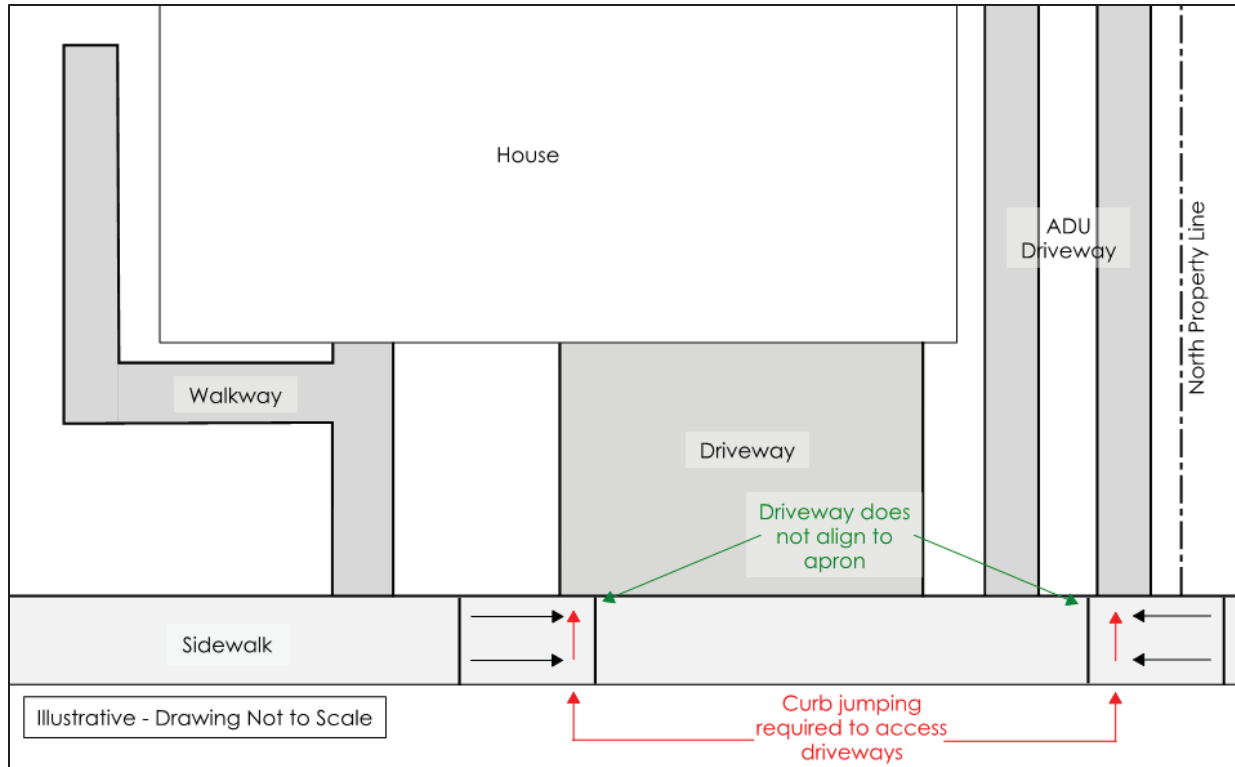


Figure 3. Illustration of Existing Driveway Condition

The issue with the distance from the property line was discovered by Engineering staff during an inspection and the applicant was notified of the need for a variance. Currently neither of the two new driveways (with a combined width of 22.3 ft) align properly with the driveway apron. Staff is proposing a condition of approval to have the northern driveway approach wing reconstructed so that the apron aligns with the northern side of the driveway. To meet the code, a portion of the southern section of the new driveway would also need to be modified. One option is to remove and narrow a portion of the driveway to align properly with the existing driveway apron. However, staff believes a better option would be to have the southern driveway approach wing reconstructed to allow the apron to align with the southern side of the driveway; this would create the need for another variance to allow for this new 22.3-ft wide driveway apron at the street. This staff recommended option would require the Planning Commission to approve a width variance allowing the driveway to remain as is, avoiding any additional work to the southern portion.

**A. Site and Vicinity**

The subject property is located at 8949 SE 32<sup>nd</sup> Ave (see Figure 2). The site is approximately 6,947 sq ft (0.15 acres) and was vacant until the single-family dwelling and ADU were constructed. The surrounding area consists of detached single-family homes.



Figure 4. Site.

**B. Zoning Designation**

Residential R-7

**C. Comprehensive Plan Designation**

Low Density Residential (LD)

**D. Land Use History**

City records indicate no previous land use actions for this site.

**E. Proposal**

The applicant is requesting variances to allow the driveway apron to remain as currently constructed.

The Planning Commission must consider the following variances associated with application VR-2019-009:

1. Driveway Apron (northern edge) - MMC Subsection 12.16.040.C.3 requires that the nearest edge of the driveway apron shall be at least 7.5 ft from the side property line in residential districts. The applicant has proposed that the existing apron remain unchanged at a distance of approximately 4.5 ft from the side property line. This request requires a Type III variance. As proposed by staff, approval of the variance should include a condition to align the apron with the driveway and reconstruct the driveway approach wing so that the apron is 1.5 ft from the side property line.
2. Access to a Collector Street - MMC 19.607.1.E.2 requires that properties that take access from streets other than local streets must provide a turnaround so that



vehicles can enter the right-of-way in a forward motion. The property does not provide a turnaround. This requirement was inadvertently not identified during the building permit review process.

3. Apron Width at the Street – As constructed, the two driveways on the site have a combined width of 22.3 ft at the point where they abut the street right-of-way (apron). City code requires aprons to be no wider than 20-ft within a distance of 5-ft from the right-of way. The code also allows a gradual widening of the driveway that may start 2-ft behind the front right-of-way line. Staff has proposed this third variance to allow a 22.3-ft wide apron at the front property line. This will allow the constructed driveway to remain as is but as recommended by staff, it would require the driveway approach wing to be reconstructed so that the apron aligns properly with the driveway.

The alternative to reconstruction of the southern approach wing is to remove and narrow a portion of the driveway to align with the apron.

## KEY ISSUES

### Summary

The key issue for the Planning Commission's deliberation is whether the variances will have negative impacts on the community. Aspects of the proposal not discussed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

### Analysis

#### Would approval of the variances result in any negative impacts?

Each of the three variances are addressed below.

1. Driveway Apron (northern edge) – The purpose of the standard requiring a minimum of 7.5 ft from the driveway apron to the side property line is to prevent two neighboring properties from having adjacent driveways. Adjacent driveways can cause clear vision concerns for vehicles and pedestrians. Another related consideration is the running slope, meaning the slope of the sidewalk for pedestrians using the sidewalk. Closely spaced or adjacent driveway approaches result in frequent changes in the slope of the sidewalk, which can decrease usability of the sidewalk particularly for people with disabilities.

The driveway serving the adjacent property to the north is located on its north side, so under the current configuration there is no issue related to clear vision or the running slope. There is approximately 40 ft between the two driveways, so the intent of the standard is met. If the property to the north were to redevelop and need to place the driveway near the southern property line, this could be a problem with sidewalk slopes.

The applicant's recently constructed driveway uses a pre-existing driveway apron located approximately 4.5 ft away from the property line. To comply with MMC 19.607.1.E, staff is recommending that the north wing of the driveway approach be reconstructed so that the apron is 1.5 ft from the property line. This will allow the driveway to align properly with the apron.

Staff has not identified any impacts from the reduction in the minimum spacing between the driveway apron and the side property line. The recommended conditions of approval address the misalignment of the constructed apron and the edge of the driveways, which result in compliance with MMC 19.607.1.E. Alignment of the edge of driveway to the apron is intended to minimize vehicles from having to drive over the curb to access the driveway.

2. Access to a Collector Street – A second variance is needed to address the requirement for a turnaround on a property located on a street designated as a collector (MMC 19.607.1.E.2). 32<sup>nd</sup> Ave is a collector street. Collector streets are characterized as having moderate traffic volume and they connect neighborhood streets to arterials. In this case, 32<sup>nd</sup> Ave connects the local and neighborhood streets in the vicinity to Harrison St and Johnson Creek Blvd, which are both arterial streets. The purpose of a turnaround is to eliminate backing movements into the right-of-way. However, the subject property is in a school zone on 32<sup>nd</sup> Ave, with a posted speed limit on of 25 mph (20 mph during specific school zone hours), which is the same speed as permitted on a neighborhood or local street, such as Olsen St or Roswell St. Local and neighborhood streets do not have this requirement. Staff has not identified any significant impacts that would result from the variance to the requirement for a turnaround. The driveway and its lack of a turnaround is consistent with virtually every other residential property on 32<sup>nd</sup> Ave. In addition, the slow posted speed limit in the area reduces any risk or problem with cars backing into 32<sup>nd</sup> Ave. The subject property is in a location on 32<sup>nd</sup> Ave that functions in a way that is similar to nearby local neighborhood streets.
3. Apron Width at the Street – MMC 12.16.040.F.2 requires that driveways be no wider than 20-ft in width where they abut the right-of-way (apron). MMC 19.607.1.E allows driveways to be wider than the apron on private property away from the right-of-way but sets forth requirements for how the driveways must be narrowed to comply with the maximum width at the property line. These standards are intended to provide adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians. The two driveways on the subject property do not meet these code requirements. The combined width of the driveways is 22.3-ft at the property line which is 2.3-ft wider than what is allowed by the code.

Staff has identified two options to address this issue:

Option A - Approve a variance to the 20-ft width requirement to allow the wider driveway width but require the south wing of the driveway approach to be



reconstructed to the south so that the apron properly aligns with the driveway (See Figures 5 and 6).

Option B – Require the driveway to be modified to meet code requirements. This would mean that a small portion of the driveway pavement would need to be removed so that the driveway is no wider than the apron, resulting in alignment. Specifically, the code requires that the driveway be no wider than the apron within 2-ft of the right-of-way. Beyond the 2-ft distance, the driveway can be gradually widened at a 1:1 ratio (45 degrees) to the full driveway width. No variance is required with this option. See Figures 7 and 8.

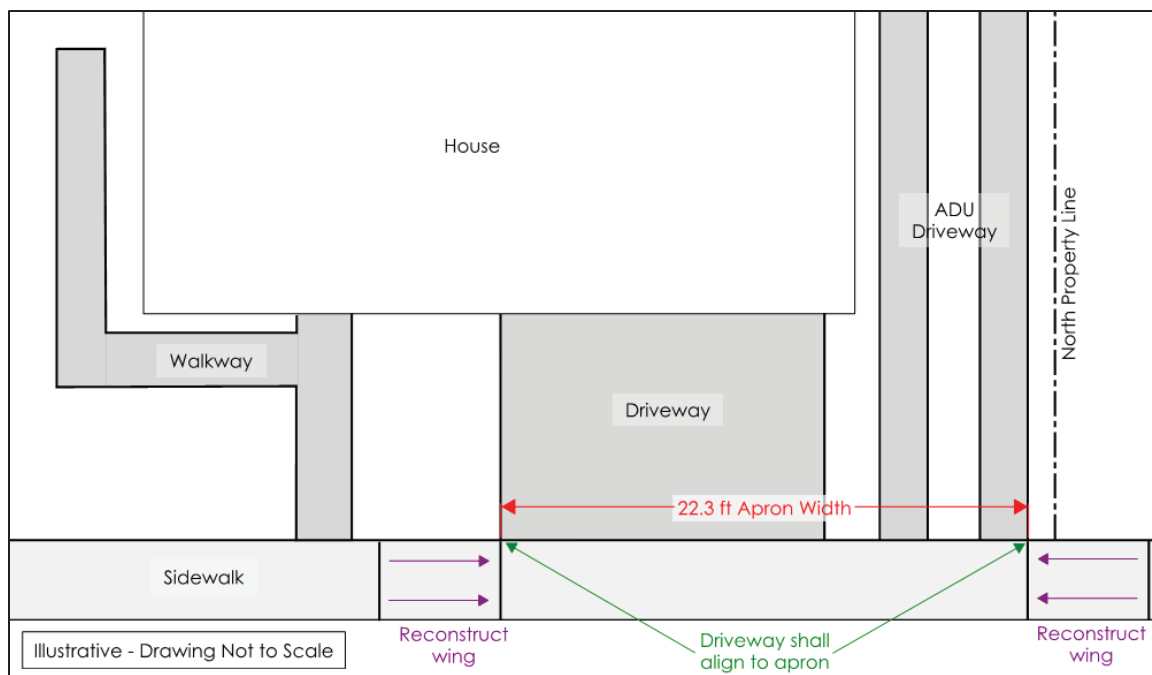


Figure 5. Illustration of Conditions of Approval - Option A



Figure 6. Street-view illustration of recommended conditions of approval with variance for increased driveway width – Option A.

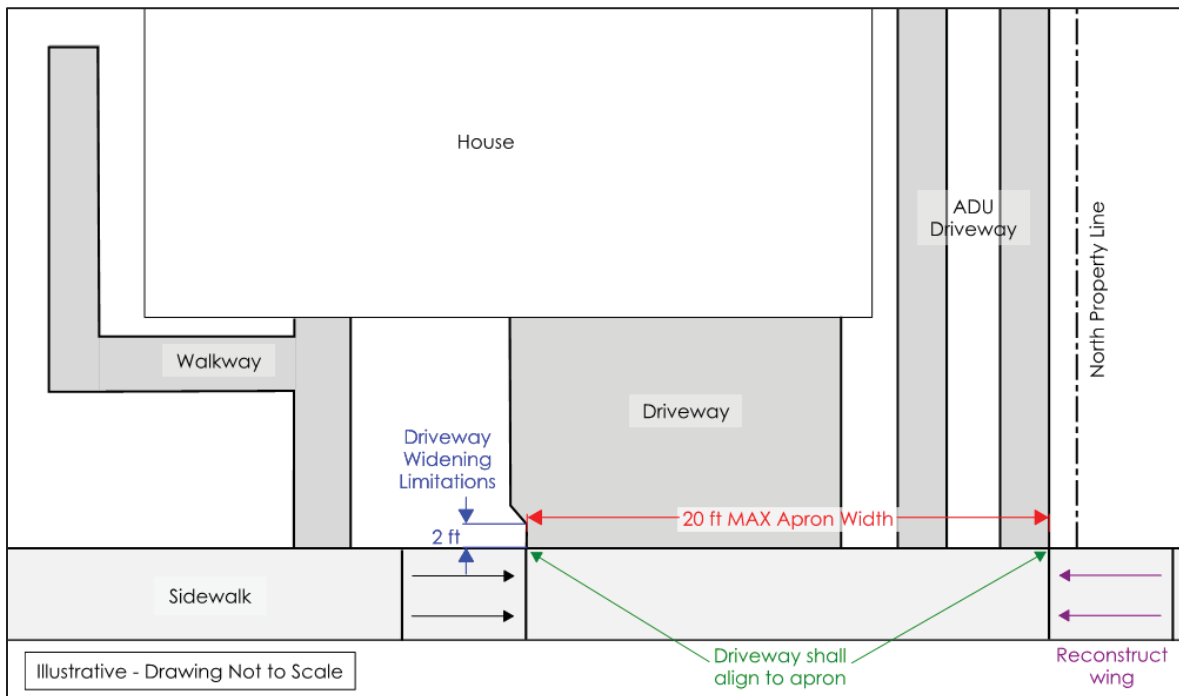


Figure 7. Illustration of Conditions of Approval - Option B



Figure 8. Illustration of driveway area required for removal to comply with MMC 19.607.1.E – Option B

Regarding variance #3, staff believes Option A is the best approach given that it will provide a driveway that is aligned properly with the apron and will not result in vehicles being able to “jump” the curb or drive over an unpaved notch that was removed from the existing driveway. The minimal additional width accommodates access to both the garage and to the ADU parking area. Approval of Option A would include a condition requiring reconstruction of the southern wing to align the apron and the edge of the wider driveway. This would result in compliance with MMC 19.607.1.E.

## CONCLUSIONS

### A. Staff recommendation to the Planning Commission is as follows:

1. Approve the variance to allow 1.5-ft apron spacing from the north side property line.
2. Approve the variance to allow vehicles to back onto 32<sup>nd</sup> Ave without an on-site turnaround.
3. Approve the variance to allow an apron width of 22.3 ft.
4. Approve conditions that require the driveway approach wings to be reconstructed to align properly with each driveway.
5. Adopt the attached Findings and Conditions of Approval.

**B. Staff recommends the following key conditions of approval (see Attachment 2 for the full list of Conditions of Approval):**

1. Reconstruct the north wing of the driveway approach to align with the driveway as outlined in MMC 19.607.1.E.
2. Reconstruct the south wing of the driveway approach to align with the driveway as outlined in MMC 19.607.1.E.

**CODE AUTHORITY AND DECISION-MAKING PROCESS**

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

- MMC Chapter 12.16 Access Management
- MMC Section 19.301 Low Density Residential Zones
- MMC Section 19.600 Off Street Parking and Loading
- MMC Subsection 19.910.1 Accessory Dwelling Units
- MMC Section 19.911 Variances
- MMC Section 19.1006 Type III

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Approve the application subject to the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by January 16, 2020, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

**COMMENTS**

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Building, Engineering, and Public Works Departments (including Streets, Stormwater, and Environmental Services Divisions); Ardenwald Neighborhood District

Association (NDA) Chairperson & Land Use Committee; Clackamas Fire District #1; and properties within 300 ft of the site.

No comments were received for this application.

## ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Public Copies	Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Narrative and Supporting Documentation (stamped received September 13, 2019)				
a. Narrative	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Site Plan	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. As-built Photos	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.

Supplemental Materials = materials provided to Planning Commission less than 7 days prior to the hearing.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-38>.

THIS PAGE LEFT INTENTIONALLY BLANK



**Recommended Findings in Support of Approval  
File #VR-2019-09, Alex Belza – 8949 SE 32<sup>nd</sup> Ave**

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, Alex Belza, has applied for a variance to approve a driveway apron approximately 4.5 ft from the side property line at the subject property, 8949 SE 32<sup>nd</sup> Ave. The site is in the R-7 Zone. The land use application file number is VR-2019-09.
2. The subject property is approximately 6,947 sq ft (0.15 acres) in size and was vacant until the recently constructed detached single-family dwelling with a lower level accessory dwelling unit (ADU). The applicant recently completed construction of the new house and installed a driveway to the house and a second driveway to provide the required off-street parking space for the ADU utilizing an existing driveway approach. The resultant development is a driveway apron approximately 4.5 ft from the side property line, less than the minimum 7.5 ft required by Milwaukie Municipal Code (MMC) Subsection 12.16.040.C.3. The proposal to vary from this access management standard requires a variance, as established in MMC Section 12.16.050. A second variance is required to allow the property to access 32<sup>nd</sup> Ave (a collector street) without an on-site turnaround. A third variance is recommended by staff to allow the overall width of the driveway apron at the street to be 2.3 feet wider than the maximum 20-foot width allowed by City code.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.1006 Type III Review
  - MMC Chapter 12.16 Access Management
  - MMC Section 19.301 Low Density Residential Zones (including R-7)
  - MMC Section 19.600 Off Street Parking Standards and Loading
  - MMC Section 19.910 Accessory Dwelling Units
  - MMC Section 19.911 Variances

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 October 22, 2019, as required by law.

4. MMC Chapter 12.16 Access Management
  - a. MMC Section 12.16.040 Access Requirements and Standards

MMC 12.16.040 establishes standards for access (driveway) requirements, including location, number, and size.

    - (1) MMC Subsection 12.16.040.C Accessway Location

MMC 12.16.040.C.3 requires that the nearest edge of the driveway apron shall be at least 7.5 ft from the side property line in residential districts.

*As proposed, the nearest edge of the driveway apron is approximately 4.5 ft from the nearest side property line. As conditioned with alterations, the driveway apron will be approximately 1.5 ft from the nearest side property line.*

**(2) MMC Subsection 12.16.040.F Accessway Size**

MMC 12.16.040.F.2 requires that single-family detached residential uses shall have a minimum driveway apron width of 9 ft and a maximum width of 20 ft.

*As conditioned the driveway apron will comply with the maximum width standard of 20 ft.*

*As proposed, and with approval of the variance discussed in Finding 7, the applicable standards of MMC 12.16.040 are met.*

**OR**

**(2) MMC Subsection 12.16.040.F Accessway Size**

MMC 12.16.040.F.2 requires that single-family detached residential uses shall have a minimum driveway apron width of 9 ft and a maximum width of 20 ft.

*A variance is required to allow the constructed driveway apron with a width of 22.3 ft to remain as constructed. As addressed in Finding 7, staff believes this to be a reasonable variance given the likelihood of vehicles driving over the area of driveway that would need to be removed in order to comply. The minimal additional width accommodates access to both garage and to the ADU parking area. Approval of this variance includes a condition requiring reconstruction of both wings to align the approach with the edge of the wider apron.*

*As conditioned, and with approval of the variances discussed in Finding 7, the applicable standards of MMC 12.16.040 are met.*

**b. MMC 12.16.050 Variance**

MMC 12.16.050 provides that relief from any access management requirement or standard of MMC 12.16.040 may be granted through a variance process, which requires submission and approval of a variance land use application pursuant to criteria and procedures of MMC Section 19.911.

*The applicant has requested relief from the minimum distance between a driveway apron and the side property line standard of 7.5 ft, established in MMC 12.16.040.C.3. As required, the applicant has applied for a variance subject to the approval criteria of MMC 19.911, addressed in Finding 7.*

*As conditioned, and with approval of the variances discussed in Finding 7, the Planning Commission finds that the applicable standards of MMC 12.16 are met.*

**5. MMC Section 19.301 Low Density Residential Zones (including R-7)**

MMC 19.301 establishes standards for the low-density residential zones, including the R-7 zone. The subject property is zoned R-7.

MMC Subsections 19.301.4 and 19.301.5 provide applicable development standards for the R-7 zone, summarized in Table 5:

Table 5 R-7 Lot and Development Standards		
Standard	R-7 Requirement	Subject Property
Maximum lot coverage	30%	<20%
Minimum vegetation	30%	>68%
Front yard minimum vegetation	40%	>60%

*The Planning Commission finds that approval of the requested variances would not cause the subject property to fail to comply with the applicable R-7 development standards. This standard is met.*

6. MMC Section 19.600 Off-Street Parking and Loading

- a. MMC Subsection 19.605.1 establishes the minimum and maximum number of off-street parking spaces for various uses, including single-family dwellings and ADUs (a property containing a primary dwelling and an ADU must have two off-street spaces).

*As proposed, the property includes two off-street parking spaces as required: one in the attached garage and one to north in the side yard of the house. Both parking spaces are accessed via the same driveway approach, which is less than the required minimum distance from the side property line. With approval of the variance as discussed in Finding 7, the driveway apron would meet the minimum distance standard.*

*As proposed, and with approval of the variance discussed in Finding 7, the Planning Commission finds that the applicable standards of MMC 19.605 are met.*

- b. MMC Subsection 19.607.1.E establishes the standards for residential driveways and parking areas, including the requirement that properties that take access from streets designated as collectors must provide a turnaround on site that allows vehicles to enter the right-of-way in a forward motion.

*This property was vacant until the single-family dwelling and ADU were constructed. The property does not provide a turnaround, and the requirement was inadvertently not identified during the building permit review process. A variance from this requirement is required. The subject property is in a school zone on 32nd Ave, with a posted speed limit on of 25 mph, which is the same speed as permitted on a neighborhood or local street. Staff has not identified any significant that would result from the variance to the requirement of a turnaround. The driveway and its lack of a turnaround is consistent with virtually every other residential property on 32nd Ave. In addition, the slow posted speed limit in the area reduces any risk or problem with cars backing into 32nd Ave. The subject property is in a location on 32nd Ave that functions in a way that is similar to nearby local neighborhood streets.*

*As proposed, and with approval of the variances discussed in Finding 7, the Planning Commission finds that the applicable standards of MMC 19.607.1.E are met.*

*As conditioned, and with approval of the variances discussed in Finding 7, the Planning Commission finds that the applicable standards of MMC 19.600 are met.*

7. MMC Section 19.911 Variances

MMC Section 19.911 establishes the variance process for seeking relief from specific code sections that have the unintended effect of preventing reasonable development or imposing undue hardship.

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. In addition, MMC Section 12.16.050 allows requests for relief from the City's access management requirements to be processed according to the procedures and criteria of MMC 19.911. Ineligible variances include requests that result in any of the following: change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word "prohibited."

*The applicant has requested a variance from two of the access management standards of MMC 12.16.040 and from the driveway standard in MMC 19.607.1.E.2.*

*The requested variances meet the eligibility requirements established in MMC 19.911.2.*

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. Subsection 3-B establishes the Type II review process for limited variations to certain numerical standards. Subsection 3-C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

*The requested variances are not identified in MMC 19.911.3.B as being eligible for Type II review. Therefore, the requested variances are subject to the Type III review process and the approval criteria established in MMC Subsection 19.911.4.B.*

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests.

*The applicant has elected to address the criteria of 19.911.4.B.1 Discretionary Relief Criteria.*

MMC Subsection 19.911.4.B.1 provides the following approval criteria for Type III variances where the applicant elects to utilize the Discretionary Relief Criteria:

- (1) The applicant’s alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

*The applicant’s submittal materials describe the conditions that led to the development of the second required driveway and that the property uses an existing driveway approach. The applicant also noted that although the driveway apron does not meet the minimum distance standard, the driveway for the adjacent property to the north is located at the north end. There is approximately 40 ft between the two driveway aprons, so the intent of the standard is met.*

*Upon review, staff discovered that a second variance was required. MMC 19.607.1.E.2 requires that properties that take access from streets other than local streets must provide a turnaround so that vehicles can enter the right-of-way in a forward motion. The property does not provide a turnaround, and the requirement was inadvertently not identified during the building permit review process. The alternative to a variance would be to move the new house. As identified in Finding 6b, the lack of a turnaround is consistent with other properties in the area.*

*As discussed in Finding 4, an additional variance to the maximum width of a driveway would allow the 22.3-ft-wide driveway apron as constructed to remain. The alternative would be to remove a section of the driveway concrete, creating a notch within the driving area.*

*There are no identified negative impacts related to the requested variances.*

*The Planning Commission finds that the applicant’s submittal provides an adequate analysis of the impacts and benefits of the requested variances compared to the baseline requirements. This criterion is met.*

- (2) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
  - (a) The proposed variance avoids or minimizes impacts to surrounding properties.
  - (b) The proposed variance has desirable public benefits.
  - (c) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

*The distance of the driveway apron less than 7.5 ft would not result in any identified impacts to surrounding properties, particularly because the spacing of the apron from those of the adjacent properties is more than 40 ft. In this case this means that there is no increase in potential conflict between pedestrians and vehicles using the driveway apron closer to the side property line.*

*As identified in Finding 4a, the maximum width of a driveway apron serving a single-family home is 20 ft. The constructed driveway apron is 22.3 ft; allowing it to remain as is would not result in any identified impacts to surrounding properties.*

*As identified in Finding 6b, the subject property is in a school zone on 32nd Ave, with a posted speed limit on of 25 mph, which is the same as on a neighborhood or local street. Staff has not identified any significant impacts to the variance to the requirement of a turnaround because its lack of a turnaround is consistent with virtually every other residential property on 32nd Ave as well as the slow posted speed limit in the area.*

*The Planning Commission finds that the requested variances are reasonable and appropriate and that they meet one or more of the criteria provided in MMC Subsection 19.911.B.1.b. This criterion is met.*

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

*Currently, there are no identified impacts resulting from the requested variances.*

*As proposed, the Planning Commission finds that the requested variances meet the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.*

*As conditioned, the Planning Commission finds that the requested variances are allowable as per the applicable standards of MMC 19.911 and are therefore approved.*

8. The application was referred to the following departments and agencies on September 18, 2019:

- Milwaukie Building Department
- Milwaukie Engineering Department
- Milwaukie Public Works Department (including Streets, Stormwater, and Environmental Services Divisions)
- Ardenwald Neighborhood District Association (NDA) Chairperson & Land Use Committee
- Clackamas Fire District #1

Notice of the application was also sent to surrounding property owners and residents within 300 ft of the site on October 2, 2019, and a sign was posted on the property on October 3, 2019.

No comments were received for this application.



**Recommended Conditions of Approval**  
**File #VR-2019-09, Alex Belza – 8949 SE 32<sup>nd</sup> Ave**

**Conditions**

Prior to full certificate of occupancy the following shall be resolved:

1. Reconstruct the north wing of the driveway approach to align with the driveway per MMC 19.607.1.E.
2. Remove concrete from south side of driveway to align with driveway approach and meet Driveway Widening Limitations shown in Figure 19.607.1.E.2. *This condition will not be required if the second variance to allow the 22.3 ft wide driveway is approved.*
3. If the second variance for a 22.3 ft driveway is approved, the south wing of the driveway approach shall be reconstructed to align with the edge of the widened driveway per MMC 19.607.1.E.

THIS PAGE LEFT INTENTIONALLY BLANK



**MILWAUKIE PLANNING**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 503-786-7630  
 planning@milwaukieoregon.gov

# Application for Land Use Action

Master File #: VR-2019-009

Review type\*:  I  II  III  IV  V

**CHECK ALL APPLICATION TYPES THAT APPLY:**

<input type="checkbox"/> Amendment to Maps and/or Ordinances:	<input type="checkbox"/> Land Division:	<input type="checkbox"/> Planned Development
<input type="checkbox"/> Comprehensive Plan Text Amendment	<input type="checkbox"/> Final Plat	<input type="checkbox"/> Residential Dwelling:
<input type="checkbox"/> Comprehensive Plan Map Amendment	<input type="checkbox"/> Lot Consolidation	<input type="checkbox"/> Accessory Dwelling Unit
<input type="checkbox"/> Zoning Text Amendment	<input type="checkbox"/> Partition	<input type="checkbox"/> Duplex
<input type="checkbox"/> Zoning Map Amendment	<input type="checkbox"/> Property Line Adjustment	<input type="checkbox"/> Manufactured Dwelling Park
<input type="checkbox"/> Code Interpretation	<input type="checkbox"/> Replat	<input type="checkbox"/> Temporary Dwelling Unit
<input type="checkbox"/> Community Service Use	<input type="checkbox"/> Subdivision	<input type="checkbox"/> Sign Review
<input type="checkbox"/> Conditional Use	<input type="checkbox"/> Miscellaneous:	<input type="checkbox"/> Transportation Facilities Review
<input type="checkbox"/> Development Review	<input type="checkbox"/> Barbed Wire Fencing	<input checked="" type="checkbox"/> Variance:
<input type="checkbox"/> Director Determination	<input type="checkbox"/> Bee Colony	<input type="checkbox"/> Use Exception
<input type="checkbox"/> Downtown Design Review	<input type="checkbox"/> Mixed Use Overlay Review	<input checked="" type="checkbox"/> Variance
<input type="checkbox"/> Extension to Expiring Approval	<input type="checkbox"/> Modification to Existing Approval	<input type="checkbox"/> Willamette Greenway Review
<input type="checkbox"/> Historic Resource:	<input type="checkbox"/> Natural Resource Review**	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Alteration	<input type="checkbox"/> Nonconforming Use Alteration	<b>Use separate application forms for:</b>
<input type="checkbox"/> Demolition	<input type="checkbox"/> Parking:	• Annexation and/or Boundary Change
<input type="checkbox"/> Status Designation	<input type="checkbox"/> Quantity Determination	• Compensation for Reduction in Property Value (Measure 37)
<input type="checkbox"/> Status Deletion	<input type="checkbox"/> Quantity Modification	• Daily Display Sign
	<input type="checkbox"/> Shared Parking	• Appeal
	<input type="checkbox"/> Structured Parking	

**RESPONSIBLE PARTIES:**

**APPLICANT** (owner or other eligible applicant—see reverse): Alex Belza

Mailing address: 8949 SE 32nd Ave State/Zip: OR 97222

Phone(s): 503-442-8257 Email: wcelba@gmail.com

**APPLICANT'S REPRESENTATIVE** (if different than above):

Mailing address: Same as above State/Zip: \_\_\_\_\_

Phone(s): \_\_\_\_\_ Email: \_\_\_\_\_

**SITE INFORMATION:**

Address: 8949 SE 32nd Ave Map & Tax Lot(s): 11E 25 BA 20700

Comprehensive Plan Designation: LD Zoning: R7 Size of property: 6,947 SF

**PROPOSAL (describe briefly):** Approve side of the house driveway.

This is a secondary driveway. New built home in a well established neighborhood.

**SIGNATURE:**

**ATTEST:** I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: Alex Belza Date: 8.30.19

**IMPORTANT INFORMATION ON REVERSE SIDE**

\*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.



**WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION** (excerpted from MMC Subsection 19.1001.6.A):

**Type I, II, III, and IV** applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

**Type V** applications may be initiated by any individual.

**PREAPPLICATION CONFERENCE:**

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

**REVIEW TYPES:**

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

**\*\*Note:** Natural Resource Review applications **may require a refundable deposit**. Deposits require completion of a Deposit Authorization Form, found at [www.milwaukieoregon.gov/building/deposit-authorization-form](http://www.milwaukieoregon.gov/building/deposit-authorization-form).

**THIS SECTION FOR OFFICE USE ONLY:**

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Master file	VR-2019-009	\$ 1,000			RECEIVED  SEP 13 2019  CITY OF MILWAUKIE PLANNING DEPARTMENT
Concurrent application files		\$			
		\$			
		\$			
		\$			
Deposit (NR only)				<input type="checkbox"/> Deposit Authorization Form received	
TOTAL AMOUNT RECEIVED: \$ 1000			RECEIPT #: 17515	RCD BY: <i>M. Mark</i>	
Associated application file #s (appeals, modifications, previous approvals, etc.): —					
Neighborhood District Association(s): <i>Adenweld</i>					
Notes:  <i>Approved 50% discount</i>					



www.milwaukieoregon.gov

# Transaction Receipt

Milwaukie Planning Department

601-19-000088-PLNG

6101 SE Johnson Creek Blvd  
Milwaukie, OR 97206

Receipt Number: 17515

503-786-7630

Receipt Date: 9/13/19

planning@milwaukieoregon.gov

Fax: 503-774-8236

Worksite address: 8949 SE 32ND AVE, MILWAUKIE, OR 97222

Parcel: 11E25BA20700

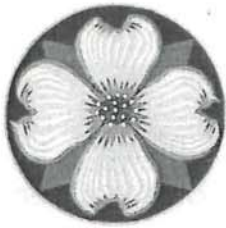
Transaction date	Units	Description	Fees Paid	Account code	Fee amount	Paid amount
9/13/19	1,000.00	Amount Type III Quasi-Judicial Review		110-000-4480	\$1,000.00	\$1,000.00
Fee Notes: VR-2019-009 CM-approved 50% discount.						

Payment Method: Check number: 123 Payer: Alex Belza Payment Amount: \$1,000.00

Transaction Comment: Pd by Alex Belza  
Same as site address

Cashier: Alicia Martin Receipt Total: \$1,000.00





**MILWAUKIE PLANNING**  
6101 SE Johnson Creek Blvd  
Milwaukie OR 97206  
503-786-7630  
planning@milwaukieoregon.gov

# Submittal Requirements

**For all Land Use Applications  
(except Annexations and Development Review)**

All land use applications must be accompanied by a signed copy of this form (see reverse for signature block) and the information listed below. The information submitted must be sufficiently detailed and specific to the proposal to allow for adequate review. Failure to submit this information may result in the application being deemed incomplete per the Milwaukie Municipal Code (MMC) and Oregon Revised Statutes.

Contact Milwaukie Planning staff at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov) for assistance with Milwaukie's land use application requirements.

① **All required land use application forms and fees**, including any deposits.

*Applications without the required application forms and fees will not be accepted.*

② **Proof of ownership or eligibility to initiate application** per MMC Subsection 19.1001.6.A.

*Where written authorization is required, applications without written authorization will not be accepted.*

③ **Detailed and comprehensive description** of all existing and proposed uses and structures, including a summary of all information contained in any site plans.

*Depending upon the development being proposed, the description may need to include both a written and graphic component such as elevation drawings, 3-D models, photo simulations, etc. Where subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary onsite "story pole" installations, and photographic representations thereof, may be required at the time of application submittal or prior to the public hearing.*

4. **Detailed statement** that demonstrates how the proposal meets the following:

A. All applicable development standards (listed below):

1. **Base zone standards** in Chapter 19.300.
2. **Overlay zone standards** in Chapter 19.400.
3. **Supplementary development regulations** in Chapter 19.500.
4. **Off-street parking and loading standards and requirements** in Chapter 19.600.
5. **Public facility standards and requirements**, including any required street improvements, in Chapter 19.700.

B. All applicable application-specific approval criteria (check with staff).

*These standards can be found in the MMC, here: [www.qcode.us/codes/milwaukie/](http://www.qcode.us/codes/milwaukie/)*

⑤ **Site plan(s), preliminary plat, or final plat** as appropriate.

*See Site Plan, Preliminary Plat, and Final Plat Requirements for guidance.*

6. **Copy of valid preapplication conference report**, when a conference was required.



**APPLICATION PREPARATION REQUIREMENTS:**

- Five hard copies of all application materials are required at the time of submittal. Staff will determine how many additional hard copies are required, if any, once the application has been reviewed for completeness. Provide an electronic version, if available.
- All hard copy application materials larger than 8½ x 11 in. must be folded and be able to fit into a 10- x 13-in. or 12- x 16-in. mailing envelope.
- All hard copy application materials must be collated, including large format plans or graphics.

**ADDITIONAL INFORMATION:**

- Neighborhood District Associations (NDAs) and their associated Land Use Committees (LUCs) are important parts of Milwaukie's land use process. The City will provide a review copy of your application to the LUC for the subject property. They may contact you or you may wish to contact them. Applicants are strongly encouraged to present their proposal to all applicable NDAs prior to the submittal of a land use application and, where presented, to submit minutes from all such meetings. NDA information: [www.milwaukieoregon.gov/citymanager/what-neighborhood-district-association](http://www.milwaukieoregon.gov/citymanager/what-neighborhood-district-association).
- By submitting the application, the applicant agrees that City of Milwaukie employees, and appointed or elected City Officials, have authority to enter the project site for the purpose of inspecting project site conditions and gathering information related specifically to the project site.
- Submittal of a full or partial electronic copy of all application materials is strongly encouraged.

As the authorized applicant I, (print name) Alex Belza, attest that all required application materials have been submitted in accordance with City of Milwaukie requirements. I understand that any omission of required items or lack of sufficient detail may constitute grounds for a determination that the application is incomplete per MMC Subsection 19.1003.3 and Oregon Revised Statutes 227.178. I understand that review of the application may be delayed if it is deemed incomplete.

Furthermore, I understand that, if the application triggers the City's sign-posting requirements, I will be required to post signs on the site for a specified period of time. I also understand that I will be required to provide the City with an affidavit of posting prior to issuance of any decision on this application.

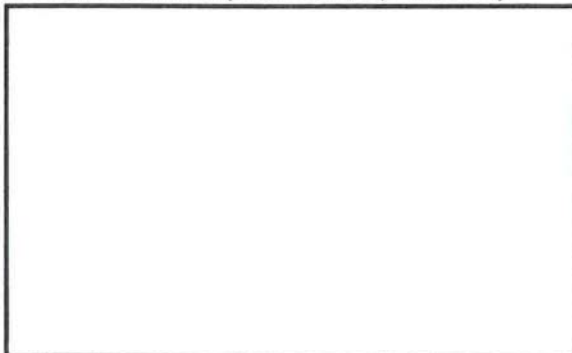
Applicant Signature: 

Date: 8-30-12

---

**Official Use Only**

Date Received (date stamp below):



Received by: \_\_\_\_\_



**MILWAUKIE PLANNING**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 503.786.7600  
 planning@milwaukieoregon.gov

# PREAPPLICATION CONFERENCE WAIVER

I/We, Alex Belza (print), as applicant(s)/property owner(s) of 8949 SE 32nd Ave (address of property), request to waive the requirement for a preapplication conference for the submission of a **Type II**  **IV** / **V** (circle one) land use application per MMC Subsection 19.1002.2 Applicability.

**Please provide an explanation for the waiver request:**

MMC Section 19.1002 Preapplication Conference is provided on the reverse

Please waive the requirement for preapplication conference as we have an absolutely general understanding of development standards, procedures and requirements. As we are working with a new construction home in a well established neighborhood, we made sure to match surrounding neighbors yet follow all current codes and regulations to the best of our ability. The current driveway is on the side of the house, it is a secondary driveway and the immediate neighbor has his driveway on the other side. With this new built home, we have kept the general look of the neighborhood yet added a new focal point, encouraging residents to build and take advantage of city's resources. Thank you for your time.

Signed: *Alex Belza* Alex Belza  
 Applicant/Property Owner

Approved: \_\_\_\_\_  
 Planning Director



## **19.1002 PREAPPLICATION CONFERENCE**

### **19.1002.1 Purpose**

The purpose of the preapplication conference is to acquaint the applicant or applicant's representative with the requirements of the municipal code in preparation for submission of a land use application, including relevant approval criteria, development standards, and procedures. The preapplication conference is not an exhaustive review of all potential issues or requirements. Furthermore, the information provided by the City is not binding, and it does not preclude the City from raising new issues or identifying additional requirements during the land use review process.

### **19.1002.2 Applicability**

- A. For Type I applications, a preapplication conference is optional.
- B. For Type II, III, IV, and V applications, and expedited annexations per Section 19.1104, a preapplication conference is required, with the following exceptions:
  - 1. The Planning Director may waive the preapplication conference requirement for proposals that are not complex or, for some other reason, would not benefit from a formal conference.
  - 2. A preapplication conference is not required for City-initiated Type IV or V applications.

### **19.1002.3 Preapplication Conference Procedures**

The Planning Director shall adopt administrative rules for how the City processes preapplication conferences. The rules shall ensure that preapplication conferences are held in a timely fashion and provide a thorough explanation of all required City permits, fees, and approvals for any given development proposal. They shall include standards for scheduling, conducting, and communicating the outcomes of preapplication conferences.

### **19.1002.4 Preapplication Conference Expiration**

- A. A preapplication conference is valid for 2 years. If a land use application or development permit has not been submitted within 2 years of the conference date, the applicant is required to schedule a new preapplication conference prior to submittal. This requirement may be waived per Subsection 19.1002.2.B.1.
- B. An applicant may request additional preapplication conferences at any time. There is no limit to the number of preapplication conferences that may be requested.
- C. If a development proposal is significantly modified after a preapplication conference occurs, the Planning Director may require a new preapplication conference. The City may refuse to accept a land use application or development permit for a significantly altered development proposal until a new preapplication conference is held.

THIS PAGE LEFT INTENTIONALLY BLANK



## Land Use Action Letter.

8949 80 32nd Ave is a brand new built home in a well established neighborhood. This home also has an additional dwelling unit. The primary driveway is in front of the house, in front of the garage. The city's planners requested we must do a secondary driveway, it must be on the side of the house. As we took these notices into consideration and worked with what the property allows for a reasonable side driveway. We have poured 2 concrete pads if someone must use it to park. This was the most appropriate option as this avoids or minimizes the impact to surrounding properties. This variance also responds to the existing built and the natural environment in a creative and sensitive manner. Please take notice that the surrounding neighbors have the driveway on the right side if you face the house from the street. It was sensible that we go with the flow of the established neighborhood and present ours in the same manner. I urge your planning department to review this application in a



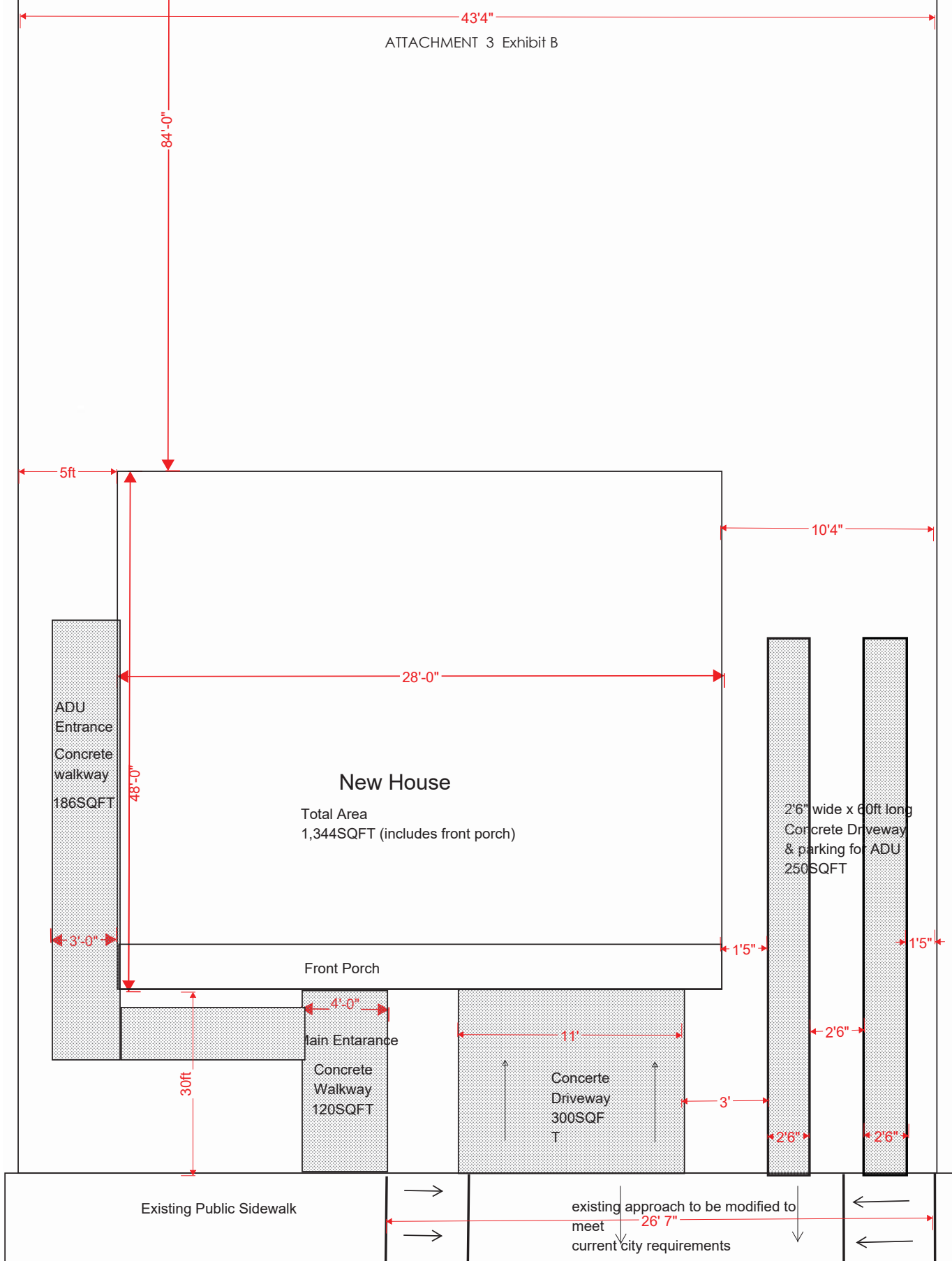
sensible manner, considering the neighbourhood  
and all that a new built home has to offer.

Thank You for your time and we urgently  
await your response.

Owner: Alex Betza



8.30.19



SE 32nd AVE.

**Site Plan**

8949 SE 32nd Milwaukie, OR 97222  
 473 BONNIE VIEW ACRES PT LT 2 BLK 2

Total Lot Coverage 7,052 sqft.  
 New House coverage 1,344 sqft.  
 Walkway & driveway coverage 806 sqft.  
 Impervious Area 2,150sqft.  
 Landscaped area 4,893sqft.

North  
 ➔

THIS PAGE LEFT INTENTIONALLY BLANK













# CITY OF MILWAUKIE

**To:** Planning Commission

**Through:** Dennis Egner, Planning Director

**From:** Brett Kelter, Associate Planner

**Date:** October 15, 2019, for October 22, 2019, Public Hearing

**Subject:** **File(s):** R-2019-004 (master file, with VR-2019-010)  
**Applicant(s)/Owner(s):** Lucica Muresan  
**Subject Property:** 5084 SE King Rd  
**Legal Description (Map & Tax Lot):** 1S2E30CD 06800  
**NDA(s):** Hector Campbell (w/ proximity to Lewelling & Linwood)

---

## **ACTION REQUESTED**

Approve a replat and the variances necessary to approve a 2-lot configuration that does not meet the base zone standards for lot depth and lot area for one of the parcels or the rear yard setback for the other. The recommended Findings and Conditions of Approval are included as Attachments 1 and 2, respectively.

## **BACKGROUND INFORMATION**

The applicant for land use master file #R-2019-004, Lucica Muresan, proposes to replat her property at 5084 SE King Rd to retain the existing house on one lot and create a new lot for future development of a single-family house.

The subject property is zoned Residential R-5 and is 11,150 sq ft in area. The minimum lot size required in the R-5 zone is 5,000 sq ft, so the property has more than enough area to split into 2 lots. However, the location of the existing house on the subject property places some constraints on any proposed land division that require variances (additional file #VR-2019-010).

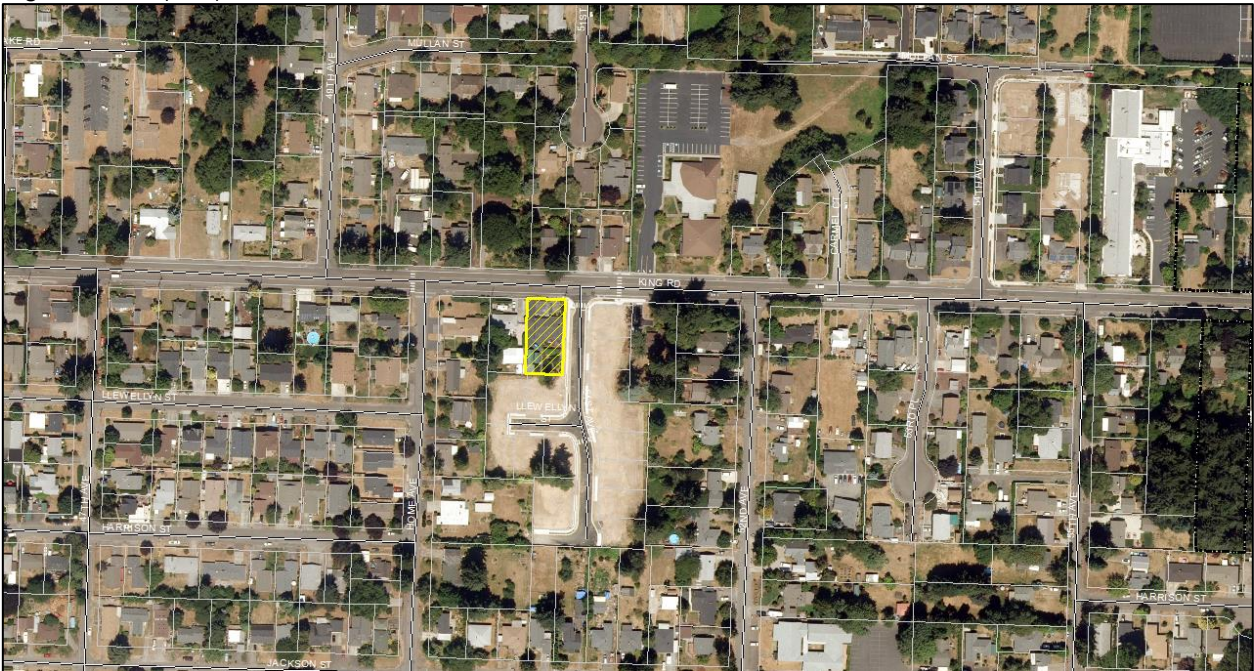
Specifically, the applicant has requested variances to (1) reduce the minimum lot depth of Parcel 2 from 80 ft to just under 75 ft; (2) reduce the lot area of Parcel 2 to approximately 4,300 sq ft; and (3) reduce the minimum rear yard of Parcel 1 from 20 ft to 10 ft to accommodate the existing house and patio cover.

Note: The proposal was initially classified by staff as a minor land partition (original file number MLP-2019-002), but upon further examination staff recognized that the action was in fact a replat of existing underlying subdivision lots.

## A. Site and Vicinity

The subject property (5804 SE King Rd) is approximately 0.26 acres (11,150 sq ft) in area and is zoned Residential R-5. The lot is currently developed with a single-family house, 2 detached carports, and a small storage shed. The house is the primary residence of the applicant/owner and is also in use as a residential home in which the owners provide care

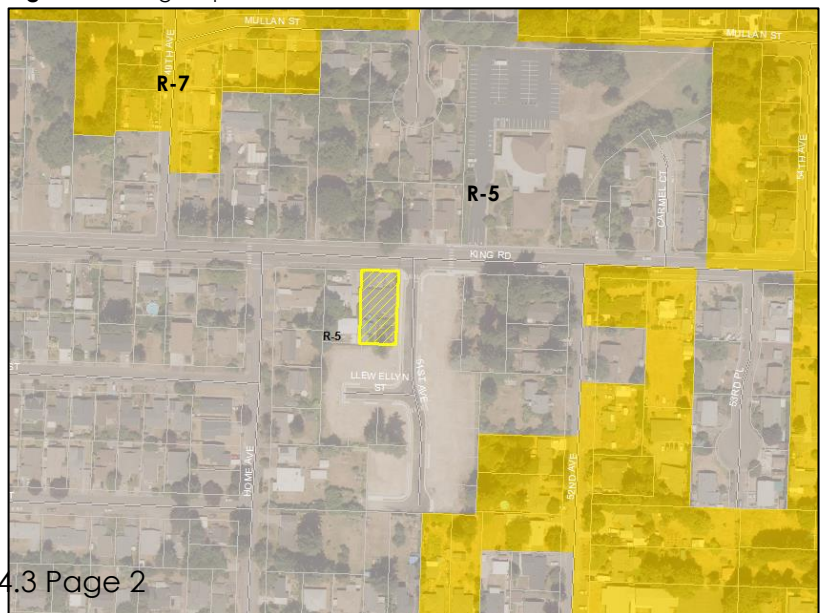
Figure 1. Vicinity map



for elderly and/or disabled residents. The property has frontage on King Rd, where the existing house takes access from 2 separate driveways approximately 30 ft apart and only 25 ft from the intersection with 51<sup>st</sup> Ave to the east. The subject property also has frontage on 51<sup>st</sup> Ave, a new street that was constructed in 2018 as part of the 14-lot Mission Park subdivision immediately adjacent to the east and south.

The surrounding area is developed primarily for residential use, mostly with single-family houses (see Figure 1). The Hope City Christian Church (formerly Milwaukie Christian) is very nearby, just across King Rd and to the east. The immediate vicinity is mostly zoned R-5, with areas of R-7 zoning as one moves farther from the site (see Figure 2).

Figure 2. Zoning map



## B. Zoning Designation

Residential R-5

## C. Comprehensive Plan Designation

Low-Density Residential (LDR)



### D. Land Use History

- **February 1981 (File #E-81-01):** A request for a zoning exception to convert the house into a professional medical office was denied by the Planning Commission.

The use of the existing single-family house as a residential home is permitted outright in the R-5 zone.

### E. Proposal

The applicant has proposed to replat the 11,150-sq-ft subject property to create 2 separate developable parcels (see Figure 3). Parcel 1 would be approximately 6,850 sq ft in area; Parcel 2 would be approximately 4,300 sq ft. An existing house would remain on Parcel 1; 2 existing carports and an existing storage shed would be removed from Parcel 2, which would be developed with a single-family house. Variances have been requested to (1) reduce the minimum lot depth of Parcel 2 from 80 ft to just under 75 ft; (2) reduce the lot area of Parcel 2 below the required minimum 5,000 sq ft, to approximately 4,300 sq ft; and (3) reduce the minimum rear yard of Parcel 1 from 20 ft to 10 ft. See Attachment 3 for the applicant's submittal materials.

The project requires approval of the following application(s):

1. Replat (R-2019-004)
2. Variance Request (VR-2019-010)

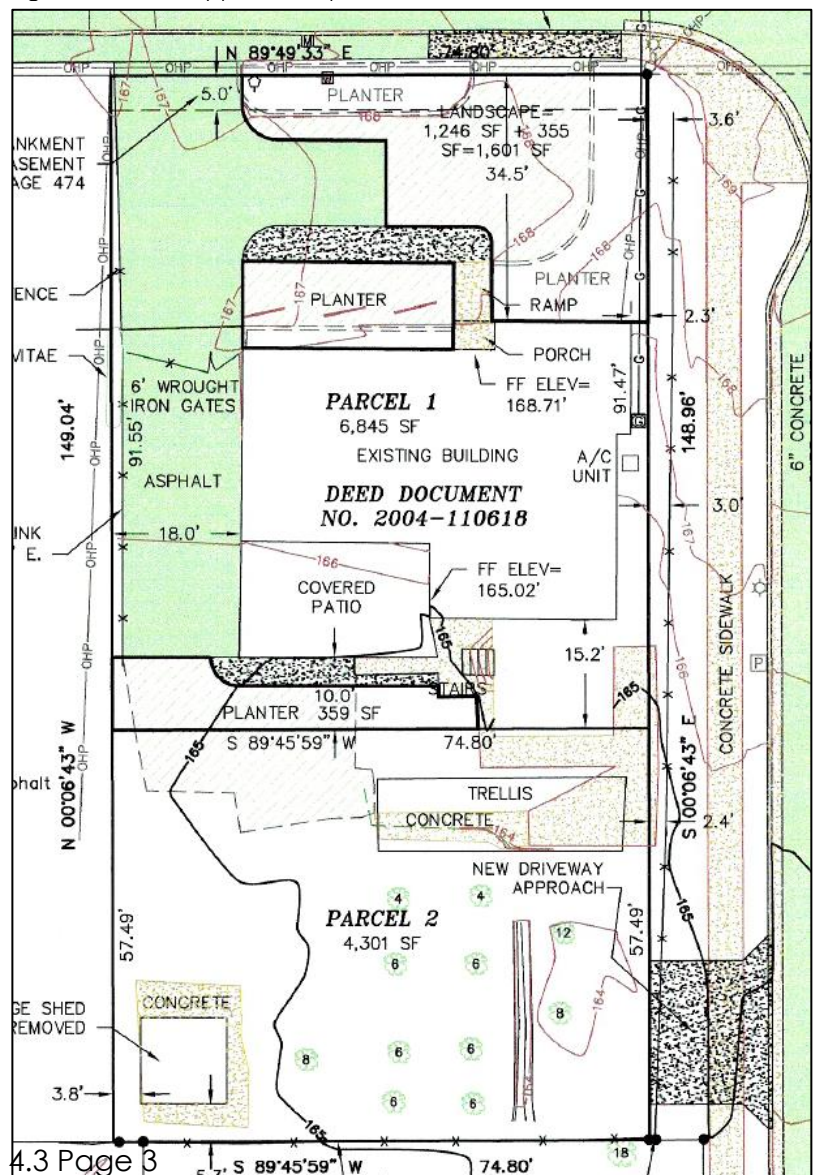
### KEY ISSUES

#### Summary

Staff has identified the following key issues for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

- A. Will creating an undersized lot in the R-5 zone result in negative impacts?
- B. Can impacts from the proposed rear yard setback variance be adequately mitigated?

Figure 3. Preliminary plat & site plan



## Analysis

### A. Will creating an undersized lot in the R-5 zone result in negative impacts?

At 11,150 sq ft, the subject property is large enough to split into 2 lots that meet the 5,000-sq-ft minimum lot size standard for the R-5 zone. However, the location of the existing house on the lot and the fact that the house is in good condition and is worth retaining makes it reasonable to consider variances.

The proposed 4,300-sq-ft Parcel 2 would be only 14% smaller than the minimum 5,000-sq-ft standard and, even factoring in the required R-5 maximum lot coverage standard of 35%, would still provide a building footprint of at least 1,500 sq ft. A new house could easily be constructed to fit within that footprint and meet the R-5 setbacks of 20 ft for front and rear yards and 5 ft interior side yards. The lot coverage standard is a proportional one, so the smaller 4,300-sq-ft lot will not support as large a house footprint as a bigger lot and will thus be forced to maintain a scale of development that will be slightly smaller than what can be built on surrounding lots. Likewise, a 5-ft side yard on a 4,300-sq-ft lot presents the same buffer and privacy as a 5-ft side yard on a 5,000-sq-ft lot, so as long as standards like yard setbacks and the side-yard height plane limit are met and not varied for Parcel 2, the smaller lot size should not present any negative impacts to neighboring properties.

To ensure that future development on the undersized lot maintains the proportion and scale of surrounding development, staff has recommended a condition that would prohibit development on Parcel 2 from receiving variances to any of the R-5 development standards. The future owner(s) and developer(s) of Parcel 2 will be on notice that they have to work within the dimensional constraints of the lot, understanding that the property has “used up” its share of the flexibility afforded by the variance process just to come into being. Neighbors will have the assurance that Parcel 2 will be granted no additional allowances that are not available by right to any other R-5 property.

### B. Can impacts from the proposed rear yard setback variance be adequately mitigated?

The proposal to draw the common boundary between Parcels 1 and 2 at a point only 10 ft behind the existing patio cover attached to the house on Parcel 1 would certainly reduce the buffer between the two properties and impact the sense of privacy for both. However, the existing house on Parcel 1 is a single-story structure, so it does not present the same mass as would a taller building located only 10 ft away and does not present second-story windows that look down onto the side and rear yard of Parcel 2. A proposal to add a second story to the house on Parcel 1 that did not meet the rear yard setback would require its own variance request, with a public hearing before the Planning Commission.

In this case, staff believes that a condition to require a sight-obscuring buffer between the two properties is sufficient to offset the privacy lost to proximity. A 6-ft screen of landscaping or fencing seems adequate to mitigate the impact of the reduced rear yard setback. Staff has also suggested condition language that clarifies that the approved variance would only apply to the existing house features in their current locations. That is,

the covered patio could remain at 10 ft and the rest of the rear of the house would remain at 15 ft, with no nonconforming portions of the house being allowed to extend to the 10-ft setback of the patio cover. This limitation would give future owners or residents of Parcel 2 the assurance that no portion of the existing house on Parcel 1 would be closer to the common property line than it is now without a new public hearing for a variance.

It is worth noting that, if Parcel 1 was redeveloped and a new house was oriented to face 51<sup>st</sup> Ave, what is currently a rear yard setback for Parcel 1 would become a side yard setback that could be reduced to as little as 5 ft. It is less likely there would be a covered patio feature along the side of a house, but it is a possibility. With that in mind, a 10-ft setback is not an unreasonable request.

## CONCLUSIONS

### A. Staff recommendation to the Planning Commission is as follows:

1. Approve the lot depth variance for Parcel 2, down to just under 75 ft from the 80-ft requirement for the R-5 zone. This falls within the 10% allowance available to Type II variance requests.
2. Approve the lot area variance for Parcel 2, down to approximately 4,300 sq ft from the 5,000-sq-ft requirement for the R-5 zone. Conditions have been established to mitigate impacts.
3. Approve the rear yard setback variance for Parcel 1, down to 10 ft from the 20-ft requirement for the R-5 zone. Conditions have been established to mitigate impacts.
4. With approval of the requested variances, approve the proposed replat to establish 2 developable lots.
5. Adopt the attached Findings and Conditions of Approval.

### B. Staff recommends the following key conditions of approval (see Attachment 2 for the full list of Conditions of Approval):

- Prohibit additional variances from the R-5 development standards for future development on Parcel 2.
- Limit the allowed 10-ft rear yard setback for Parcel 1 to the location of the existing covered patio. No other portion of the existing house that is out of conformance with the 20-ft required rear yard standard may be extended beyond its current location without review and approval of a new variance request.
- Provide a sight-obscuring screen (landscaping or fencing) with a minimum height of 6 ft along the length of the rear lot line of Parcel 1.

## CODE AUTHORITY AND DECISION-MAKING PROCESS

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

- MMC Chapter 12.16 Access Management



- MMC Title 17 Land Division, including:
  - MMC Chapter 17.12 Application Procedure & Approval Criteria
  - MMC Chapter 17.16 Application Requirements and Procedures
  - MMC Chapter 17.20 Preliminary Plat
  - MMC Chapter 17.28 Design Standards
  - MMC Chapter 17.32 Improvements
- MMC Section 19.301 Low Density Residential Zones (including R-5)
- MMC Chapter 19.600 Off-Street Parking and Loading
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.911 Variances
- MMC Section 19.1006 Type III Review
- MMC Chapter 19.1200 Solar Access Protection

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Approve the application subject to the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

Based on the date the application was deemed complete, the final decision on this application, which includes any appeals to the City Council, must be made by January 4, 2020, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

## COMMENTS

Notice of the amended proposal was given to the following agencies and persons: City of Milwaukie Building, Engineering, Public Works, and Police Departments; Milwaukie City Attorney; Hector Campbell Neighborhood District Association (NDA) Chairperson & Land Use Committee LUC; Lewelling NDA Chairperson & LUC; Linwood NDA Chairperson & LUC; Clackamas Fire District #1; Clackamas County Department of Transportation & Development (DTD); Metro; TriMet; NW Natural; and properties within 300 ft of the site.

Planning and Engineering staff coordinated to develop the recommended findings and conditions regarding MMC Chapter 12.16 Access Management and MMC Chapter 19.700 Public Facility Improvements. The following is a summary of the comments received by the City—see Attachment 4 for further details.

- **Jeremy Lorence, East Metro Resource Engineer, NW Natural:** The proposed partition does not present conflicts with any NW Natural facilities.
- **David Hedges, Vice Chair, Hector Campbell NDA:** The NDA does not support the granting of the requested variances, due to the belief that they will have detrimental effects on surrounding properties. In particular, the proposal to reduce the lot area of Parcel 2 below the minimum 5,000-sq-ft standard is substantial and is not in keeping with the lot sizes of nearby properties. Also, the proposed 50% reduction in the rear yard setback of Parcel 1 does not appear to provide sufficient room to allow future occupants of both parcels to enjoy their respective outside spaces.

*Staff Response: Staff recognizes the potential for impacts posed by the requested variances and believes they can be mitigated with conditions of approval. A restriction that prevents new development on Parcel 2 from seeking a variance from any R-5 development standards (including yard setbacks, lot coverage, building height, etc.) would ensure that a new house on Parcel 2 would be proportional to the reduced dimensions approved with this application. And a requirement to provide a minimum 6-ft-high sight-obscuring screen along the rear lot line of Parcel 1 would protect the privacy of both parcels.*

- **Jonny Gish, Engineering Tech 4, Clackamas County DTD:** Clackamas County has no frontage along the subject property boundaries so there are no comments from the DTD.

## ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Public Copies	Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Narrative and Supporting Documentation (stamped received August 22, 2019 unless otherwise noted)				
a. Narrative	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Preapplication conference notes from May 9, 2019	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Plan Sheet: Existing Conditions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d. Plan Sheet: Preliminary Plat & Proposed Parcel Improvements	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Additional Responses (received Sept 10, 2019)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. Comments Received	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Early PC Mailing = electronic materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-38>.

THIS PAGE LEFT INTENTIONALLY BLANK



**Recommended Findings in Support of Approval  
Master File #R-2019-004**

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

1. The applicant, Lucica Muresan, has applied for approval to replat the property at 5084 SE King Rd (“the subject property”) to establish 2 developable parcels, with variance requests to adjust several lot and development standards. The subject property is identified as Tax Lot ID 1S2E30CD006800 on the Clackamas County Tax Assessor map and is in the Residential R-5 Zone. The land use master file number is R-2019-004, with VR-2019-010.
2. The proposal is to replat the 11,150-sq-ft subject property to create 2 separate developable parcels. Parcel 1 would be approximately 6,850 sq ft in area; Parcel 2 would be approximately 4,300 sq ft. An existing house would remain on Parcel 1; 2 existing carport structures and an existing storage shed would be removed from Parcel 2, which would be developed with a single-family house. Variances have been requested to (1) reduce the minimum lot depth of Parcel 2 from 80 ft to just under 75 ft; (2) reduce the lot area of Parcel 2 below the required minimum 5,000 sq ft, to approximately 4,300 sq ft; and (3) reduce the minimum rear yard of Parcel 1 from 20 ft to 10 ft.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Chapter 12.16 Access Management
  - MMC Title 17 Land Division, including:
    - MMC Chapter 17.12 Application Procedure & Approval Criteria
    - MMC Chapter 17.16 Application Requirements and Procedures
    - MMC Chapter 17.20 Preliminary Plat
    - MMC Chapter 17.28 Design Standards
    - MMC Chapter 17.32 Improvements
  - MMC Section 19.301 Low Density Residential Zones (including R-5)
  - MMC Chapter 19.600 Off-Street Parking and Loading
  - MMC Chapter 19.700 Public Facility Improvements
  - MMC Section 19.911 Variances
  - MMC Section 19.1006 Type III Review
  - MMC Chapter 19.1200 Solar Access Protection

The applicant’s submittal includes applications for Replat and Variance Requests. The Variance Request application requires Type III review, as discussed in Finding 9-b; the Replat application requires II review. As per MMC Subsection 19.1001.6.B, both applications are being processed with Type III review.

The applicant is the property owner and has authority to initiate the application per MMC Subsection 19.1001.6.A. The application was initially submitted on August 22, 2019, and deemed complete on September 6, 2019. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. Public notice of the amended application was mailed to property owners and residents of lots within 300 ft of the subject property on October 2, 2019. A revised notice was mailed on October 4, 2019, to reflect the change in master file number (from minor land partition file #MLP-2019-002 to replat file #R-2019-004). A public hearing with the Planning Commission was held on October 22, 2019, as required by law.

4. MMC Chapter 12.16 Access Management

MMC 12.16 regulates access from private property onto public streets, with specific requirements and standards provided in MMC Section 12.16.040.

MMC Subsection 12.16.040.B governs the spacing of accessways (driveways), requiring a minimum of 600 ft for spacing between accessways on arterial streets like King Rd. MMC Subsection 12.16.040.C regulates accessway location, including a prohibition of individual single-family accessways on arterial streets. MMC Subsection 12.16.040.D establishes standards for the number of accessways, minimizing the number of accessways on arterial streets and limiting single-family residential uses to 1 accessway each. MMC Subsection 12.16.040.E.3 requires that accessways be designed to contain all backing movements on the site.

*The subject property currently has 2 driveways on King Rd within the area proposed as Parcel 1, including a driveway within approximately 25 ft of the intersection with 51<sup>st</sup> Ave to the east. The applicant has proposed to close the easternmost driveway, which would bring Parcel 1 closer to conformance with both the 600-ft spacing standard for the 51<sup>st</sup> Ave intersection and the limitations on single-family access to arterial streets. A condition has been established to ensure that the closure is conducted in accordance with the applicable Public Works Standards and clear vision requirements.*

*In conjunction with the proposed driveway closure, the associated reconfiguration of the front yard area on Parcel 1 would retain adequate space for vehicles to turn around on site and avoid backing onto King Rd. Parcel 2 has frontage only on 51<sup>st</sup> Ave, a local street, and can accommodate a standard single driveway for the proposed new house.*

*As conditioned, the Planning Commission finds that the proposed replat meets the applicable access management standards of MMC 12.16.*

5. MMC Title 17 Land Division

MMC Title 17 establishes the standards and procedures for land division and property boundary changes.

a. MMC Chapter 17.12 Application Procedure and Approval Criteria

MMC 17.12 specifies the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat.

*The subject property is composed of existing underlying lots and portions of lots from the Minthorn Addition to the City of Portland subdivision, which was platted in 1890. Specifically, the subject property is composed of Lots 15, 16, and 17 (each lot 25 ft by 100 ft), as well as the northern halves of Lots 32, 33, and 34 (each portion 25 ft by 50 ft). The proposed reconfiguration would consolidate the underlying Minthorn subdivision lots into 2 new lots, which is a partition replat as per the definitions of MMC Chapter 17.08 and the guidance of MMC Table 17.12.020. The proposed reconfiguration was initially considered a minor land partition by Planning staff and was assigned the file number MLP-2019-002, but it is being reviewed as a partition replat (file number R-2019-004).*

MMC Section 17.12.030 establishes the approval criteria for lot consolidation, property line adjustment, and replat. The proposed replat meets these criteria as described below.

(1) Compliance with MMC Titles 17 and 19.

*As demonstrated by the applicant's submittal materials and evidenced by these findings, including the variance requests addressed in Finding 9 and associated conditions of approval, the proposed replat complies with all applicable standards of MMC Titles 17 and 19. As proposed and conditioned, this criterion is met.*

(2) The boundary change will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

*The proposed replat will provide sufficient area on both parcels to accommodate future development in accordance with the standards of the underlying R-5 zone. The applicant has requested variances to address lot design standards for Parcel 2 and for the setback to the existing structure on Parcel 1, as discussed in Finding 9. However, conditions have been established to prohibit additional variances for future development on Parcel 2 or to allow the extension of nonconformities related to the rear yard on Parcel 1. As proposed and conditioned, this criterion is met.*

(3) Boundary changes shall not reduce residential density below the minimum density requirements of the underlying zone.

*The subject property is approximately 0.26 acres (11,150 sq ft) and is zoned R-5, requiring a minimum density of 7.0 units/acre and allowing up to 8.7 units/acre. As per the measurement methodology established in MMC Subsection 19.202.2.4, the minimum and maximum densities for the site both round out to 2 units. The proposed replat would create two lots, one approximately 0.16 acres (6,845 sq ft) and the other approximately 0.1 acres (4,300 sq ft), each with a minimum and maximum density of 1 unit and therefore resulting in no change to the overall residential density of the subject property. As proposed, this criterion is met.*

*As proposed and conditioned, the Planning Commission finds that the preliminary plat meets the applicable criteria.*



b. MMC Chapter 17.16 Application Requirements and Procedures

MMC Section 17.16.050 establishes the application requirements for replat, including completed application forms and checklists, applicable fees, a narrative describing how the proposal meets approval criteria, and the applicable information specified for preliminary plat on the City's Preliminary Plat Checklist and in MMC Chapter 17.20 Preliminary Plat.

*The applicant's submittal materials include the necessary forms, checklists, and fees, as well as a narrative, preliminary plat document, and other information sufficient to demonstrate compliance with the applicable standards and criteria.*

*As proposed, the Planning Commission finds that the application meets the applicable requirements for replat submittal.*

c. MMC Chapter 17.20 Preliminary Plat

MMC 17.20 establishes the information required for a preliminary plat, including general information to be shown on the plat and existing and proposed conditions.

*The applicant's preliminary plat submittal is to scale and includes a vicinity map, existing conditions, contour lines, proposed improvements on Parcel 1, and a proposed driveway location for future development on Parcel 2.*

*As proposed, the Planning Commission finds that the proposed preliminary plat includes the relevant and necessary information as outlined in MMC 17.20.*

d. MMC Chapter 17.28 Design Standards

MMC 17.28, particularly MMC Section 17.28.040, establishes standards for lot design for land divisions and boundary changes.

- (1) MMC Subsection 17.28.040.A requires that the lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated, as well as that minimum lot standards shall conform to Title 19.

*As discussed in Finding 6, the proposed parcels meet the minimum area and dimensional requirements for the underlying R-5 zone, except for Parcel 2's lot depth and lot area. The applicant has requested variances to the lot depth and lot area standards for Parcel 2, with the approval criteria discussed in Finding 9-c-(1). As proposed, and with the variances approved as discussed in Finding 9, this standard is met.*

- (2) MMC Subsection 17.28.040.B requires that lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

*The proposed parcels are both rectilinear in shape and have frontage on public streets (King Rd and 51<sup>st</sup> Ave for Parcel 1, 51<sup>st</sup> Ave for Parcel 2). The side lot lines of both parcels*

*run at right angles to the streets they face (King Rd for Parcel 1 and 51<sup>st</sup> Ave for Parcel 2) and the rear lot lines are parallel those streets. As proposed, this standard is met.*

- (3) MMC Subsection 17.28.040.C limits compound lot lines for side or rear lot lines. Cumulative lateral changes in direction exceeding 10% of the distance between opposing lot corners along a given lot line may only be permitted through the variance provisions of MMC Subsection 19.911.

*The proposed replat does not include any compound lot lines. This standard is met.*

- (4) MMC Subsection 17.28.040.D allows lot shape standards to be varied pursuant to MMC 19.911.

*No variance to the lot shape standards is requested in this application.*

- (5) MMC Subsection 17.28.040.E limits double frontage and reversed frontage lots, stating that they should be avoided except in certain situations.

*Neither of the proposed parcels is a double frontage or reversed frontage lot.*

- (6) MMC Subsection 17.28.040.F requires that, pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access. This standard applies when a lot has frontage on more than one street.

*As proposed, Parcel 1 would continue to take access from King Rd, where it has 75 ft of frontage. Parcel 2 would take access from 51<sup>st</sup> Ave, where it has 57.5 ft of frontage. Both parcels provide the 35-ft minimum frontage required in the R-5 zone. As proposed, this standard is met.*

*As proposed, and with the variances approved as discussed in Finding 9, the Planning Commission finds that the new parcels presented in the applicant's preliminary plat meet the applicable design standards established in MMC 17.28.*

e. MMC Chapter 17.32 Improvements

MMC 17.32 establishes procedures for public improvements, including a requirement that work shall not begin until plans have been approved by the City.

*As discussed in Finding 8, neither dedication to the public right-of-way nor physical improvements are required along the frontage of either parcel.*

*As proposed, the Planning Commission finds that the applicable standards of MMC 17.32 are met.*

*As proposed, the Planning Commission finds that the proposed replat meets all applicable standards of MMC Title 17.*

6. MMC Section 19.301 Low Density Residential Zones (including R-5)

MMC 19.301 contains standards for Low Density Residential zones, including the R-5 zone. The application meets the applicable standards of this section as described below.

a. MMC Subsection 19.301.2 Allowed Uses

MMC 19.301.2 establishes the uses allowed in the R-5 zone, including single-family detached dwellings, duplexes, and accessory dwelling units (ADUs) as outright permitted uses.

*As proposed, the existing house on Parcel 1 would remain. Parcel 2 would be large enough and dimensioned to allow development of a single-family house, which is an allowed use in the R-5 zone. Future development on Parcel 2 will be reviewed for compliance with the applicable standards of the R-5 zone and other relevant sections of the municipal code at that time.*

*By definition, accessory uses are allowed only when there is a primary use on the site, so the existing carport structures and storage shed on Parcel 2 cannot remain without a conforming use being established on the site. The applicant has proposed to remove the existing accessory structures on Parcel 2, and a condition has been established to clarify the timing of that required action.*

*As conditioned, this standard is met.*

b. MMC Subsections 19.301.4 and 19.301.5 Development Standards

MMC 19.301.4 and 19.301.5 establish development standards for the R-5 zone. The applicable standards are addressed and met as described in Table 6-b (Zoning Compliance) below.

<b>Table 6-b Applicable R-5 Development Standards</b>			
<b>Standard</b>	<b>R-5 Requirement</b>	<b>Parcel 1</b>	<b>Parcel 2</b>
Lot Area	5,000 sq ft	6,845 sq ft	4,301 sq ft (see Finding 9 for discussion of requested variance)
Lot Width	50 ft	75 ft	57.5 ft
Lot Depth	80 ft	91.5 ft	75 ft (see Finding 9 for discussion of requested variance)
Public Street Frontage	35 ft	75 ft + 91.5 ft (corner lot)	57.5 ft
Front Yard	20 ft (as per MMC 19.501.2, the required setback for King Rd is 30 ft = 20 ft for R-5 zone, plus an additional 10 ft to provide the 40-ft setback from centerline of King Rd ROW, which is 60 ft wide)	34.5 ft	To Be Determined at time of development (TBD)
Side Yard	5 ft (interior yards)	18 ft (interior)	TBD

	15 ft (street-side yards)	2.3 ft (street-side = existing nonconforming, no change proposed)	
Rear Yard	20 ft	10 ft (see Finding 9 for discussion of requested variance)	TBD
Maximum Building Height	2.5 stories or 35 ft (whichever is less)	1 story, <20 ft	TBD
Maximum lot coverage	35%	32%	TBD
Minimum vegetation	25%	>28%	TBD
Front Yard Minimum Vegetation	40%	c.57% (with closure of second driveway and proposed landscaping improvements)	TBD
Density requirements	Total lot area is 0.26 acres  Min. density = 2 units (@7.0 units/acre)  Max. density = 2 units (@8.7 units/acre)	1 dwelling unit (existing single-family house)	1 dwelling unit (sized for single-family house)

*As proposed, the applicable development standards of these subsections are met.*

*As proposed, and with approval of the variances discussed in Finding 9, the Planning Commission finds that the applicable R-5 zone standards of MMC 19.301 are met.*

7. MMC Chapter 19.600 Off-Street Parking and Loading

MMC 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of these requirements includes providing adequate space for off-street parking, minimizing parking impacts to adjacent properties, and minimizing environmental impacts of parking areas. As per MMC Subsection 19.602.3.B, existing off-street parking areas must be brought closer to conformance when new development or changes of use occur; conversely, new development cannot cause existing parking areas to fall out of compliance (or farther out of conformance). The applicant must demonstrate that the proposed partition does not make Parcel 1 nonconforming with the applicable standards of MMC 19.600; Parcel 2’s compliance with the applicable off-street parking standards will be evaluated at such time as development is proposed on that lot.

a. MMC Section 19.605 Vehicle Parking Quantity Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand. The section establishes processes for determination of parking requirements, exemptions and reductions to the required ratios, and provisions for shared parking.



For residential homes and similar assisted living facilities (i.e., dwelling units operated as single housekeeping units that provide permanent residence for the elderly, disabled, and others requiring personal services and care), MMC Table 19.605.1 establishes a minimum quantity requirement of 1 space per dwelling unit plus 1 space per employee on the largest shift. The maximum quantity allowed for residential homes is the minimum amount plus 1 space per bedroom.

*The existing 7-bedroom house on Parcel 1 is occupied by the applicant as a primary residence but is also operated as a residential home (providing care to elderly and/or disabled residents) with 1 non-resident employee. As per MMC Table 19.605.1, a minimum of 2 off-street parking spaces are required, with a maximum of 9 spaces allowed.*

*With its paved front yard parking and turnaround area, long driveway along the west side of the existing house, and 2 carport structures and associated maneuvering area behind the house, the subject property is configured in such a way as to provide enough dimensional room to fit 12-13 spaces that meet the minimum required parking-stall measurements of 9 ft wide by 18 ft deep. In its current state, the subject property is well over the maximum number of parking spaces allowed for an assisted living facility of its size and operational scale.*

*However, the proposed partition would result in the removal of the 2 carport structures and elimination of the parking and maneuvering area behind the existing house. The applicant also proposes to remove a significant amount of parking area in front of the house, leaving space for approximately 4 parking spaces. As proposed, Parcel 1 would meet the standard for minimum number of off-street spaces and would no longer exceed the maximum allowed for the current use and structure. Parcel 2 will be evaluated for compliance with the relevant off-street parking standards when that site is developed.*

*The Planning Commission finds that the proposed partition would bring Parcel 1 into compliance with current quantity standards for off-street parking and that Parcel 2's compliance will be evaluated at the time of development. This standard is met.*

b. MMC Section 19.607 Off-Street Parking Standards for Residential Areas

MMC Subsection 19.607.1 establishes standards for residential driveways and vehicle parking areas, including limits on the percentage of front yard area used for parking (maximum of 50%) and on the number of parking spaces allowed in the front yard (maximum of 3). In addition, the subsection does not allow parking spaces in the required front yard to be counted toward the minimum required parking.

*As noted above in Table 6-b, the nearest point of the existing house on Parcel 1 is 34.5 ft from the front lot line, establishing a front yard area of approximately 2,585 sq ft. Within that front yard area, the site currently presents approximately 2,020 sq ft of paved parking and maneuvering area, which is 78% of the front yard. The dimensions of this parking area are sufficient to count at least 7 spaces that meet the minimum 9 ft by 18 ft dimension.*

*However, the applicant has proposed to close one of the 2 existing driveways onto King Rd and replace a significant portion of the existing front-yard pavement with new landscaping area, resulting in a total of approximately 1,480 sq ft of front-yard landscaping and leaving*

*only approximately 860 sq ft of parking area (33%). As proposed, the reconfigured front yard area would have room for 3 parking spaces at most, but Parcel 1 would retain the existing parking area on the west side of the house, which is sufficiently dimensioned to provide the minimum required 2 spaces. The changes proposed in conjunction with the proposed replat would bring the front yard parking area of Parcel 1 into conformance with the applicable standards of MMC 19.607.*

*As proposed, the Planning Commission finds that the proposed development meets all applicable standards of MMC 19.600.*

8. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 establishes provisions to ensure that development provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

a. MMC Section 19.702 Applicability

MMC 19.702 establishes the applicability of the provisions of MMC 19.700, including land divisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

*The applicant proposes to replat the subject property to create 2 distinct parcels. The proposed replat triggers the requirements of MMC 19.700.*

*MMC 19.700 applies to the proposed development.*

b. MMC Section 19.703 Review Process

MMC 19.703 establishes the review process for development that is subject to MMC 19.700, including requiring a preapplication conference, establishing the type of application required, and establishing approval criteria.

*The applicant had a preapplication conference with City staff on May 9, 2019, prior to application submittal. The proposed action does not trigger a Transportation Impact Study (TIS) (as addressed in Finding 8-c), but it does require a replat application. The proposal's compliance with MMC 19.700 is being reviewed as part of the replat application and a separate Transportation Facilities Review (TFR) application is not necessary. As addressed in Findings 8-d and 8-e, no mitigation is required for the potential impacts of the proposed replat, beyond compliance with MMC Title 12.*

c. MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 requires submission of a TIS documenting the development impacts on the surrounding transportation system.

*The City Engineer has determined that a TIS is not required, as the impacts of the proposed replat on the transportation system are minimal and evident.*

d. MMC Section 19.705 Rough Proportionality

MMC 19.705 requires that transportation impacts of the proposed development be mitigated in proportion to its potential impacts.

*The proposed replat would create 2 developable parcels. Parcel 1 would retain the existing house, which is also used as a residential home (providing care to elderly and/or disabled residents); Parcel 2 would be developed with a new single-family house. As proposed, and particularly with the proposed closure of one of the existing driveways on King Rd, Parcel 1 would produce no new impacts, so no mitigation is needed. Development on Parcel 2 would result in new impacts, but the site's street frontage on 51<sup>st</sup> Ave is already up to current City standards, as discussed in Finding 8-e. Since no improvements are required to mitigate the potential impacts of the proposed replat, no rough analysis of proportionality is necessary.*

*As proposed, no mitigation for transportation impacts is required. This standard is met.*

e. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. MMC Subsection 19.708.1 requires compliance with MMC Chapter 12.16 and establishes general requirements and standards for streets, including access management, clear vision, street design, connectivity, and intersection design and spacing standards. MMC Table 19.708.2 provides more specific street design standards for various street classifications, including for arterial and local streets. The City's street design standards are based on the street classification system described in the City's Transportation System Plan (TSP).

All streets, sidewalks, necessary public improvements, and other public transportation facilities located in the public right-of-way (ROW) and abutting the development site shall be adequate at the time of development or shall be made adequate in a timely manner. In addition, all signs, structures, or vegetation over 3 ft in height shall be removed from "vision clearance areas" at intersections of streets, driveways, and alleys.

*The Milwaukie TSP and Transportation Design Manual (TDM) classifies King Rd as an arterial street; 51<sup>st</sup> Ave is a local street. As established in MMC Table 19.708.2, the required ROW width for an arterial street is between 54 ft and 89 ft depending on the required street improvements; the required ROW width for a local street is between 20 ft and 68 ft.*

*The existing ROW on King Rd in front of the subject property is 60 ft wide, with a center turn lane, vehicle travel lanes, bike lanes, and curb-tight sidewalks. The frontage is substandard, but as noted in Finding 8-d, the creation of Parcel 1 would result in no new impacts to King Rd, which is the street where it takes access.*

*The existing ROW on 51<sup>st</sup> Ave is 54.5 ft wide where the subject property has frontage. As a result of the adjacent platting of the Mission Park subdivision (2018), 51<sup>st</sup> Ave is already improved to current standards, with vehicle travel lanes, landscape strips, and setback sidewalks. Although the creation of a developable Parcel 2 would result in new impacts, no*

*further improvements are necessary because the public facilities in 51<sup>st</sup> Ave (where the new lot would take its access) meet current standards, as noted in Finding 8-d.*

*The proposed replat is subject to the applicable standards of MMC 12.16, with which Parcel 1 does not currently comply, as discussed in Finding 4. The applicant has proposed several access-related improvements to bring Parcel 1 closer into compliance with MMC 12.16, and a condition has been established to ensure that the applicable standards are met.*

*As conditioned, the proposed replat meets all applicable standards of MMC 19.708.*

f. MMC Section 19.709 Public Utility Requirements

MMC 19.709 establishes the City's requirements and standards to ensure the adequacy of public utilities to serve development.

*The existing public utilities in King Rd and 51<sup>st</sup> Ave, including streets, sewer, and water service, are all adequate to serve the existing and proposed development on the subject property. A moratorium is in place for disturbance to the paved surface of 51<sup>st</sup> Ave, which was constructed within the last 2 years, so the applicant will be subject to the applicable fees and standards for any disturbance to and replacement of the new road surface.*

*The proposed replat meets the applicable standards of MMC 19.709.*

*As proposed, the Planning Commission finds that the proposed replat meets the applicable public facility improvement standards of MMC 19.700.*

9. MMC Section 19.911 Variances

MMC Section 19.911 establishes the variance process for seeking relief from specific code sections that have the unintended effect of preventing reasonable development or imposing undue hardship.

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. Ineligible variances include requests that result in any of the following: change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word "prohibited."

*The applicant has requested 3 variances: (1) to reduce the minimum lot depth of Parcel 2 from 80 ft to just under 75 ft; (2) to reduce the lot area of Parcel 2 below the required minimum 5,000 sq ft to approximately 4,300 sq ft; and (3) to reduce the minimum rear yard of Parcel 1 from 20 ft to 10 ft.*

*The requested variances meet the eligibility requirements established in MMC 19.911.2.*



b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. Subsection 3-B establishes the Type II review process for limited variations to certain numerical standards. Subsection 3-C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

*The variance requested to the R-5 lot depth standard falls within the 10% allowance for Type II review. However, the lot area and rear yard setback variances are not identified in MMC 19.911.3.B as being eligible for Type II review and so are subject to the Type III review process. The lot depth variance is subject to the Type II approval criteria established in MMC Subsection 19.911.4.A; the other 2 variances must show compliance with the Type III approval criteria established in MMC Subsection 19.911.4.B.*

c. MMC Subsection 19.911.4 Approval Criteria

(1) MMC 19.911.4.A establishes approval criteria for Type II variance requests.

- (a) 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.

*The minimum required lot depth for the R-5 zone is 80 ft; the proposed depth of Parcel 2 is just under 75 ft, or approximately 5 ft below the standard. The requested adjustment represents a difference of approximately 6% from the minimum, which is not significant and would not be detrimental to surrounding properties or public health, safety, or welfare. There are no designated natural resource areas on the subject property.*

*This criterion is met.*

- (b) 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 City has identified a Capital Improvement Project to construct sidewalks on King Rd, though the project is not scheduled within the next 2 years. The requested minor adjustment to the lot depth of Parcel 2, which has its street frontage on 51<sup>st</sup> Ave, would not interfere with this or other planned improvements.*

*This criterion is met.*

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

*The proposed variance to reduce the depth of Parcel 2 by 5 ft would not have a negative impact on any existing buildings. The existing accessory structures on Parcel 2 are proposed to be removed prior to redevelopment of the lot with a new*

*single-family house, so Parcel 2 will effectively present a blank slate for new construction of a primary structure. There is a large accessory structure in the rear yard of the adjacent property to the west at 5052 SE King Rd, abutting the rear lot line of Parcel 2. But the 20-ft rear yard setback required in the R-5 zone will provide an adequate buffer from a new primary structure on Parcel 2.*

*This criterion is met.*

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

*As discussed above, the proposed 5-ft reduction in lot depth is not significant and would not result in any negative impacts that require mitigation.*

*This criterion is met.*

*As proposed, the Planning Commission finds that the variance requested to the R-5 lot depth standard meets the approval criteria established in MMC 19.911.4.A for Type II variances. The variance to the lot depth standard is approved for Parcel 2.*

- (2) MMC 19.911.4.B establishes approval criteria for Type III variance requests, including discretionary relief criteria and economic hardship criteria. The applicant may choose which set of criteria to meet based upon the nature of the request, the development proposal, and the existing site conditions.

*For the Type III variances, the applicant has elected to address the economic hardship criteria, which are provided in MMC Subsection 19.911.4.B(2). The variances for Parcel 1's rear yard and Parcel 2's lot area are interconnected and part of an effort to balance impacts in a way that preserves the economic investment in the existing house, so they are addressed together below.*

- (a) Due to unusual site characteristics and/or other physical conditions on or near the site, the variance is necessary to allow reasonable economic use of the property comparable with other properties in the same area and zoning district.

*At 11,150 sq ft, the overall subject property is large enough to create 2 lots sized at more than 5,000 sq ft each. However, the existing house on Parcel 1 is sized and situated in such a way that a second parcel could not meet the 5,000-sq-ft minimum lot size standard and required R-5 setbacks without demolishing a portion of the house. The proposal to create a 4,300-sq-ft parcel would result in a lot large enough to allow up to a 1,500-sq-ft house footprint (meeting the R-5 lot coverage standard) with some flexibility for placement that would also meet the R-5 standards for yard setbacks.*

*The minimum required density for the subject property is 2 units. The existing house could be improved to establish a duplex, either with an addition or by converting existing space into a second dwelling unit. This action would involve an expense comparable to (if not more than) building a detached single-family*

*house on its own lot and would have more impacts on the existing residential home currently in operation on Parcel 1.*

*As proposed, the rear of the existing house on Parcel 1 would be approximately 15 ft from the proposed boundary with Parcel 2, and an existing patio cover attached to the Parcel 1 house would be only 10 ft from the rear lot line. Requiring the existing structure on Parcel 1 to meet the required rear yard setback would further reduce the area of Parcel 2. Requiring the demolition of the existing covered patio would incur costs and diminish a notable amenity of the existing house without achieving the required rear yard setback. Instead, it is reasonable to grant the requested variances and allow a new lot to be created to achieve the required minimum density with a new detached single-family dwelling rather than requiring a duplex development as the only option for meeting minimum density on the site.*

*The Planning Commission finds that the requested variances are necessary to allow reasonable economic use of the subject property. This criterion is met.*

- (b) The proposed variance is the minimum variance necessary to allow for reasonable economic use of the property.

*Any effort to push Parcel 2 closer to meeting the 5,000-sq-ft lot size standard would move its common boundary with Parcel 1 to the north and would further reduce Parcel 1's rear yard. Moving the common boundary to the south to bring the rear yard closer to meeting the 20-ft minimum standard would reduce Parcel 2's lot area below the proposed 4,300-sq-ft size and would further reduce any flexibility for a new building footprint. Although Parcel 1 well exceeds the 5,000-sq-ft minimum area requirement, each 1 ft of adjustment to the common boundary (and Parcel 1's rear yard measurement) yields only 75 sq ft of change in the lot area for each parcel.*

*The proposed reduction in lot size would not reduce the minimum density of Parcel 2 below the R-5 standard and would leave sufficient area to develop the property with a single-family house that could meet all relevant development standards. The proposal to create Parcel 2 with 4,300 sq ft of area and provide a 10-ft rear yard setback on Parcel 1 establishes a balance that allows reasonable economic use of the property by creating a second buildable lot from a property large enough to divide in the R-5 zone.*

*The Planning Commission finds that the requested variances are the minimum necessary to allow for reasonable economic use of the property. This criterion is met.*

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

*Allowing a 14% reduction in Parcel 2's lot area would reduce the flexibility for future development on the site to establish a detached single-family dwelling,*

*though such development would be feasible. Impacts to surrounding properties would be mitigated by the R-5 development standards. The limitation on lot coverage is proportional to lot area, so a smaller lot has less area that can be covered with a structure. Yard requirements and the limitation on building height are fixed numbers and so result in essentially the same aesthetic effect regardless of lot size. As long as no additional variances to the R-5 development standards are allowed for Parcel 2, approval of the requested variance for lot area would not have any negative impacts on surrounding properties. A condition has been established to provide this assurance.*

*Allowing the rear yard setback on Parcel 1 to be reduced to 10 ft to account for the location of the existing covered patio would result in significantly less separation between the existing structure and the side yard and future footprint of a structure on Parcel 2. This would reduce the sense of privacy for both lots, even with the installation of a 6-ft-tall fence. A requirement to install sight-obscuring screening at least 6 ft in height would address this impact to privacy, and a condition has been established as mitigation.*

*In addition, to avoid additional impacts from potential future improvements to the existing house on Parcel 1, another condition has been established that limits the approved 10-ft rear yard setback to the area of the existing covered patio and prohibits any other portion of the existing house that does not conform to the 20-ft rear yard standard from being extended beyond its current location.*

*The Planning Commission finds that the conditions established are sufficient to mitigate any impacts resulting from approval of the requested variances.*

*As proposed, the Planning Commission finds that the requested variances for Parcel 1's rear yard and Parcel 2's lot area meet the approval criteria established in MMC 19.911.4.B(2) for Type III variances based on economic hardship.*

*As proposed, the Planning Commission finds that the requested variances meet the applicable approval criteria for Type II and Type III variances as established in MMC 19.911.4.*

*The Planning Commission finds that the requested variances are allowable as per the applicable standards of MMC 19.911 and are therefore approved.*

#### 10. MMC Chapter 19.1200 Solar Access Protection

A primary purpose of MMC 19.1200 is to orient new lots and parcels to allow utilization of solar energy. In particular, MMC Section 19.1203 establishes solar access provisions for new development.

- a. MMC Subsection 19.1203.2 establishes the applicability of MMC Subsection 19.1203.3 as extending to applications to create lots in single-family zones. Exceptions are allowable to the extent the Planning Director finds that the applicant has shown one or more of the conditions listed in MMC Subsections 19.1203.4 and 19.1203.5 exist and that exemptions or adjustments are warranted.



*The proposed replat will create new parcels in the R-5 zone, which allows single-family residences. As discussed in Findings 10-b and 10-d, the solar design standards of MMC 19.1203.3 are applicable to Parcel 1, while the Planning Director has granted an adjustment for Parcel 2.*

- b. MMC Subsection 19.1203.3 establishes solar design standards, including basic requirements for north-south dimension (minimum 90 ft) and front-lot-line orientation with respect to a true east-west axis (within 30°). There are two other options for compliance, for either establishing a protected solar building line or demonstrating a particular level of performance with respect to protection from shading.

*As proposed, Parcel 1 has a north-south dimension of 91.5 ft and a front lot line oriented within 30° of a true east-west axis. Parcel 2 has a north-south dimension of only 57.5 ft and a front lot line oriented nearly 90° from a true east-west axis. As discussed in Finding 10-d, the Planning Director has found that an adjustment is warranted that would exempt Parcel 2 from this standard.*

*As proposed and as discussed in these findings, the solar design standards are met for Parcel 1 and are not applicable to Parcel 2.*

- c. MMC Subsection 19.1203.4 establishes exemptions from the standards of MMC 19.1203.3, including where an off-site structure and/or vegetation produces a shadow pattern that would affect allowable development on the site.

*No exemptions from the solar design standards have been requested. This standard is not applicable.*

- d. MMC Subsection 19.1203.5 establishes provisions for adjustments to the percentage of lots that must comply with the solar design standards of MMC 19.1203.3, including cases in which the application of the solar design standards would reduce the density or increase the on-site development costs.

*The subject property is 75 ft wide and 149 ft deep, with its front lot line at King Rd oriented within 30° of a true east-west axis and a north-south dimension of more than 90 ft. It is large enough to be divided but not wide enough to be split into 2 lots that each have a 90-ft north-south dimension. The existing configuration of the subject property makes it impossible to create a second parcel (Parcel 2) that can meet the solar design standards of MMC 19.1203.3, in turn preventing the subject property from achieving the minimum required density through land division. The Planning Director has reduced the percentage of lots that must comply with the solar design standards to 50%, effectively excepting Parcel 2 from the solar design standards.*

*The Planning Commission finds that Parcel 1 meets the solar design standards of MMC 19.1203.3 and that an adjustment to except Parcel 2 from the design standards is warranted. As proposed, the applicable provisions of the solar access standards established in MMC 19.1200 are met.*

11. As described in Finding 3, public notice of the application was posted on site and mailed as required by the Type III review process established in MMC 19.1006. The application

was referred for comment to the following departments and agencies on September 9, 2019:

- Milwaukie Engineering Department
- Milwaukie Building Department
- Milwaukie Public Works Department
- Milwaukie Police Department
- Milwaukie City Attorney
- Hector Campbell Neighborhood District Association (NDA) Chairperson & Land Use Committee (LUC)
- Lewelling NDA Chairperson & LUC
- Linwood NDA Chairperson & LUC
- Clackamas Fire District #1 (CFD #1)
- Clackamas County Department of Transportation & Development (DTD)
- Metro
- TriMet
- NW Natural

In addition, public notice of the application with an invitation to comment was sent on October 2, 2019, and again on October 4, 2019, to property owners and residents within 300 ft of the subject property.

The comments received are summarized as follows:

- **Jeremy Lorence, East Metro Resource Engineer, NW Natural:** The proposed partition does not present conflicts with any NW Natural facilities.
- **David Hedges, Vice Chair, Hector Campbell NDA:** The NDA does not support the granting of the requested variances, due to the belief that they will have detrimental effects on surrounding properties. In particular, the proposal to reduce the lot area of Parcel 2 below the minimum 5,000-sq-ft standard is substantial and is not in keeping with the lot sizes of nearby properties. Also, the proposed 50% reduction in the rear yard setback of Parcel 1 does not appear to provide sufficient room to allow future occupants of both parcels to enjoy their respective outside spaces.
- **Jonny Gish, Engineering Tech 4, Clackamas County DTD:** Clackamas County has no frontage along the subject property boundaries so there are no comments from the DTD.

THIS PAGE LEFT INTENTIONALLY BLANK

**Recommended Conditions of Approval  
Master File #R-2019-004**

**Conditions**

1. For development on Parcel 2, additional variances from the R-5 development standards are prohibited.
2. The 10-ft rear yard setback allowance approved for Parcel 1 shall apply only to the location of the existing covered patio. No other portion of the existing house that is out of conformance with the 20-ft required rear yard standard may be extended beyond its current location without review and approval of a new variance request.
3. Prior to City approval of the associated final plat, the following shall be resolved:
  - a. Provide a sight-obscuring screen (landscaping or fencing) with a minimum height of 6 ft along the length of the rear lot line of Parcel 1.
  - b. As proposed, close the existing easternmost driveway from Parcel 1 onto King Rd. The closure shall be consistent with the applicable Public Works Standards, including curb reconstruction.
  - c. Remove the existing accessory structures from Parcel 2; or establish a deed restriction for Parcel 2 to ensure that the existing accessory structures on Parcel 2 shall be removed within 24 months of final plat approval unless one of the following conditions is satisfied:
    - (1) A building permit for a primary dwelling to be sited on Parcel 2 is applied for and obtained within the 24-month period, with construction commencing within 3 months of permit receipt and final inspection for the primary dwelling being concluded within 12 months of permit receipt.
    - (2) Parcel 2 is maintained in mutual ownership with an adjacent lot containing a primary structure and shall remain in mutual ownership with that adjacent lot, unless a primary dwelling is constructed per Condition 3-c-(1) above.
  - d. Remove all signs, structures, or vegetation in excess of 3 ft in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the subject property. Confirm the location of clear vision areas with the Engineering Department prior to removing any vegetation.

**Additional Requirements**

1. MMC Section 17.04.120 Recording

As per MMC Section 17.04.120, replats must be recorded by plat. An application for final plat shall be submitted to both the City Planning Department and the County Surveyor within 6 months of the date of this approval. Once approved by the County Surveyor, a copy of the recorded final plat shall be submitted to the City Planning Department.



2. In conjunction with the required final plat submittal, the following shall be resolved:
  - a. Submit a stormwater management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2—Stormwater Design Standards of the City of Milwaukie Public Works Standards. If the stormwater management system contains underground injection control devices, submit proof of acceptance of the stormwater system design from the Department of Environmental Quality.
  - b. Submit full-engineered plans for construction of all public improvements, reviewed and approved by the City of Milwaukie Engineering Department.
  - c. Obtain a right-of-way permit for construction of all public improvements.
  - d. Pay an inspection fee equal to 5.5% of the cost of all public improvements.
  - e. Provide a payment and performance bond for 100% of the cost of all public improvements.
3. Prior to commencement of any earth-disturbing activities, the applicant shall obtain an erosion control permit.
4. Development activity on the site shall be limited to 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(I).

**I. GENERAL INFORMATION**

**Applicant:** Lucia Muresan  
5084 SE King Road  
Milwaukie, OR 97222  
971-258-9613

**Applicant's Representative:** Paul H. Roeger  
CMT Surveying & Consulting  
20330 SE Hwy. 212  
Damascus, Oregon 97089  
503-850-4672  
503-860-2545 Cell

**Civil Engineer:** To be determined

**Surveyor:** David Roeger, PLS  
CMT Surveying & Consulting  
20330 SE Hwy. 212  
Damascus, OR 97089  
503-850-4672

**Property Owners:** Lucida Muresan and Octavian Muresan  
5084 SE King Road  
Milwaukie, OR 97222

**Tax Lot Information:** Tax Map 2S-1E-11DA, Tax Lot 3200

**Location:** 5084 SE King Road

**Current Zoning:** R-5, Low Density Residential – 5,000 sq. ft.

**Site Area:** 11,146 square feet

**Water District:** City of Milwaukie

**Sanitary Sewer:** City of Milwaukie

**Surface Water Mgmt.:** City of Milwaukie

**Fire District:** Clackamas County Fire District #1

**Power:** Portland General Electric

**Telephone:** Century Link

**Cable:** Comcast

Gas:

Northwest Natural

## II. REQUEST – APPROVALS SOUGHT

The Applicant, Lucica Muresan, is requesting Land Use approval for a **Replat** of this existing property into two parcels. The subject site is approximately 11,146 square feet (0.26 Acres) in size and is located at 5084 SE King Road (Tax map 1S-2E-30CD, tax lot 6800). The parcel currently has one single-family house, a storage shed, and two temporary metal carports, which will be removed upon approval of this request. The existing house will remain on one parcel with direct frontage on SE King Road, and will be 6,845 square feet. No additional right-of-way dedication is required, however, there is an additional front yard setback for SE King Road of 10.00-feet, for a total of 30.00-feet for the front yard setback. The existing front yard setback is 34.5-feet. The new Southern parcel will be 4,301 square feet. The existing house will continue to use the existing Western paved private driveway access onto SE King Road. The Eastern access to SE King Road will be closed, per City requirements. The new Southern parcel will take access to SE 51<sup>st</sup> Avenue and will construct a new driveway approach for that access.

Due to the location of the existing house and the desired size of the new parcel, a number of Variances are needed. Therefore, we are also requesting a rear yard setback Variance for the existing house to the new parcel lot line. With the request of a 10-foot rear lot setback for the existing house, this still only leaves the new parcel area of 4,301 square feet. Therefore, another Variance is required for lot area of the new parcel to be below the required 5,000 square feet of the R-5 zone. Also, because the existing Lot width East/West, 74.80-feet, which will end up being the new parcel lot depth, is less than the minimum required lot depth in the R-5 zone of 80-feet, we are requesting a lot depth Variance.

## III. SITE DESCRIPTION AND SURROUNDING AREA

### Location and Parcel Description:

The site is generally located on the Southwest corner of SE King Road and SE 51<sup>st</sup> Avenue. The property is described as Tax Lot 6800 of Tax map 1S-2E-30CD.

The site is bordered to the North by a SE King Road, on the West, South, and East by other R-5, Urban Low-Density Residential properties. The site is virtually flat with a slight slope down from North to South at approximately 2 to 3-percent. The property currently has a single-family residence approximately in the front center, with temporary covered parking on the back half of the property. The house is setback 34.5-feet from the front property line, 18-feet from the West property line, 67.5-feet from the South property line, and 2.3-feet from the East property line (existing non-conforming), which is also the West right-of-way line of SE 51<sup>st</sup> Avenue.

The site is zoned R-5 (Low Density Residential – 5,000 sq. ft.) on the City of Milwaukie Zoning Map. The site is surrounded by platted and developed single-family residential



land with some potential for additional development on properties to the West. The property to the East and South has recently been platted into a R-5 subdivision.

SE King Road is designated as an Arterial Street with a current right-of-way width of 60-feet, and an additional front yard requirement of 40-feet from centerline of SE King Road plus the required 20-feet of the R-5 zone.

Site access:

Access to the property is directly from SE King Road, currently with two driveway approaches and a paved driveway front yard loop. The detached carports are at the back of the property with a driveway along the West side of the existing house. Access for the new lot will be directly to SE 51<sup>st</sup> Avenue on the East side of the property. The Eastern driveway approach onto SE King Road for the driveway loop will be closed and a majority of the pavement for that loop will be removed to increase the landscape area of the front yard.

**IV. PROPOSAL SUMMARY**

The applicant wants to retain the existing house on the front parcel, Parcel 1, and create a new parcel, Parcel 2, behind the existing house that will access to SE 51<sup>st</sup> Avenue. Then a new home will be built on Parcel 2.

Transportation:

A Transportation Impact Analysis is not required for this partition. Only one additional dwelling will be added to the site.

Street:

SE King Road is an existing 48-foot asphalt paved street with a curb and curb tight sidewalk within a 60-foot right-of-way along this property frontage. Storm drainage in SE King Road is collected in catchbasins and piped to drywells.

SE 51<sup>st</sup> Avenue is an existing 24-foot asphalt paved street with curb and setback sidewalk within a 54.25-foot right-of-way along this property frontage. The back of the sidewalk is 7.25-feet from the right-of-way line.

Street improvements and additional right-of-way dedication will not be required along the frontage of either SE King Road or SE 51<sup>st</sup> Avenue. The Eastern driveway approach for the existing house off of SE King Road will be removed and replaced with full height curb and sidewalk. A new driveway approach will be installed for Parcel 2 off of SE 51<sup>st</sup> Avenue as required by the City.

Storm Drainage:



Storm drainage facilities for both of the homes will be drywells or infiltration systems installed for each house on each parcel per City of Milwaukie standards.

Water:

The property is served domestic water by the City of Milwaukie. There is an 8-inch water main on the South side of SE King Road and an 8-inch water main on the East side of SE 51<sup>st</sup> Avenue. The existing house is served by a standard 3/4-inch meter on the East side of the main driveway off of SE King Road. This service will continue to serve the existing house. A new service will be installed in SE 51<sup>st</sup> Avenue right-of-way for Parcel 2. The nearest existing fire hydrant is located at the Southeast corner of SE King Road and SE 51<sup>st</sup> Avenue.

Sanitary Sewer:

The existing house is connected to a 4-inch lateral from the 8-inch main in SE King Road. This lateral extends from the Northwest corner of the property at SE King Road along the West side of the existing house to the back of the house. Sanitary sewer is available from an 8-inch main on the West side of SE 51<sup>st</sup> Avenue for the new Parcel 2.

Other Utilities

Power is provided to the existing house overhead from the overhead main line on the pole at the Southwest corner SE King Road and SE 51<sup>st</sup> Avenue to the Northeast corner of the existing house. Telephone and Cable are also provided to the property from SE King Road to the Northeast corner of the house. All new power, telephone and cable will be installed underground, per City of Milwaukie requirements.

There is existing gas main on the South side of SE King Road with a service into the Northeast corner of the existing house. There is also a gas main on the East side of SE 51<sup>st</sup> Avenue. If gas service is needed for Parcel 2, it will come directly from this gas main on the East side of SE 51<sup>st</sup> Avenue.

## V. LAND DIVISION – Title 17

### 17.12 Application Procedure and Approval Criteria

**Response:** Since this property consists of three full lots of an old Subdivision and three half lots of the same old Subdivision this is considered a Replat of those lots. This proposal is to partition this existing parcel under one owner into two R-5, single-family residential parcels. And because we need some Variances, this becomes a Type III review. Our intent is to comply with the Land Division Criteria and the Title 19 Zoning Criteria for R-5, single-family residential properties. This includes some Supplementary Development Regulations with regard to Lot Size Exceptions and Variances for Lot Depth and Rear Yard Setback.

After approval of the requested Variances, this proposed Preliminary Plat will comply with Title 19 of the City Code and other applicable ordinances, regulations, and design standards.

The proposed Partition/Replat will allow reasonable development and will not bring the property out of conformance with the Density standard of the R-5 zone. Since the existing house parcel, Parcel 1, will be 6,845 square feet and the new parcel, Parcel 2, will be 4,301 square feet, which is an average of 5,573 square feet, well in excess of the 5,000 square feet required by the R-5 zone.

No additional streets or roads will be created by this Partition/Replat.

This detailed narrative description demonstrates how the proposal conforms to all applicable code sections and design standards.

### 17.16 Application Requirements and Procedures

**Response:** The completed application form signed by owners of the property is included in this proposal. The application fee has been paid with this application. A narrative report that describes how the proposal meets approval criteria is included. The information specified on the “submission requirements” and “partition checklist” is included.

### 17.20 Preliminary Plat

**Response:** The Preliminary Plat for this proposed Partition is included with this application, along with the other supplemental material required. The preliminary plat has been prepared by an Oregon registered land surveyor and includes all of the required general information, including the existing conditions and the proposed conditions.



## VI. ZONING – Title 19

### 19.301 Low Density Residential Zones

**Response:** Since this property is zoned Low Density Residential, R-5, responses to those sections that do not relate to R-5 will be eliminated.

A new lot, Parcel 2, is being proposed for construction of a new single-family detached dwelling, which is a permitted use in the R-5 zone.

The minimum lot size in the R-5 zone is 5,000 square feet, however, we are only getting 4,301 square feet for the new parcel, Parcel 2, due to the location of the existing house and covered patio. Therefore, we are applying for a Variance to that standard under Subsection 19.111. The existing house lot, Parcel 1, will be 6,845 square feet, which meets the standard.

The minimum lot width in the R-5 zone is 50-feet. The width of Parcel 1 is 74.8-feet. The width of Parcel 2 is 57.49-feet. The standard is met.

The minimum lot depth in the R-5 zone is 80-feet. We can only get 74.8-feet wide on Parcel 2 due to the existing lot configuration. We are also applying for a Variance to that standard under Subsection 19.111. The depth of Parcel 1 is over 91-feet.

The minimum street frontage requirement for a standard lot in the R-5 zone is 35-feet. Parcel 1 will be 74.8-feet on SE King Road, and Parcel 2 will be 57.49-feet on SE 51<sup>st</sup> Avenue. The standard is met.

The front yard setback requirement in the R-5 zone is 20-feet. However, the existing house fronts on SE King Road, which has a 40-foot setback from centerline of SE King Road plus the 20-foot front yard, for a total of 60-feet from centerline. In this case the existing right-of-way line is 30-feet from centerline, so the required front yard setback is 30-feet from the right-of-way line of SE King Road. The existing house is setback 34.5-feet from the right-of-way line. The standard is met. Parcel 2 will meet the 20-foot front yard setback at the time of Building permit.

The side yard setback requirement in the R-5 zone is 5-feet. The existing house has an 18-foot setback from the West property line. The standard is met. Parcel 2 will meet the side yard setback standards at the time of Building permit.

The street side yard setback requirement on a corner lot in the R-5 zone is 15-feet. However, the existing house is only 2.3-feet from the East property line/SE 51<sup>st</sup> Avenue right-of-way line. This is an existing non-conforming condition. Nothing can be done to change it.

The rear yard setback requirement in the R-5 zone is 20-feet. However, due to the location of the existing house and covered patio, we are requesting a 10-foot setback in order to have a decent sized new parcel to build a new house. Therefore, we are applying for a Variance to the standard under Subsection 19.111.

## VI. ZONING – Title 19

The maximum building height for primary structures is 2.5 stories or 35-feet. The existing house is a single story with a basement. The standard is met. The house built on Parcel 2 will meet the building height standard at the time of Building permit.

The maximum lot coverage in the R-5 zone is 35 percent, except portions of the structure that are less than 20-feet and no taller than one story are allowed to exceed the 35 percent coverage by 10 percent, in this case up to 45 percent. The existing house and covered patio on Parcel 1 is 2,219 square feet, which is a lot coverage 32.4 percent after, removal of the deck in the back yard. Parcel 2 will meet the maximum lot coverage at the time of Building permit.

The minimum vegetation requirement in the R-5 zone is 25 percent. Parcel 1 will have a minimum of 25 percent vegetation after removal of the existing loop driveway in the front yard, some paving behind the house, and the deck in back of the house. This will also increase the landscape area in the front yard to over 50 percent. Parcel 2 will meet the minimum vegetation requirement at the time of Building Permit.

The maximum density requirement of the R-5 zone is 8.7 dwelling units per acre. This proposal will result in two dwelling units on 0.256 Acres, or 7.8 dwelling units per acre. The standard is met.

The minimum vegetation standard for the front yard is 40 percent. By removing the loop driveway for the existing house and replacing it with landscaping and a turnaround, the front yard vegetation will be over 50 percent.

Existing accessory structures on the property will be removed

Only one dwelling structure will be on each of the resulting parcels.

### 19.600 Off-street Parking and Loading

The off-street parking requirements for the existing house on Parcel 1 is two spaces, since it is a Residential home which requires one space per unit plus one space per employee. The required off-street parking requirement for Parcel 2 will be one space, since one unit will be constructed on it.

The existing residential home will retain adequate parking along the West side of the existing house well beyond the required 30-foot front yard. There is a 16-foot wide strip between the house and the fence line. A turnaround will also be installed in front yard area to allow vehicles to enter SE King Road in a forward motion.

The Parcel 2 will provide a minimum of one off-street parking space at the time of Building permit.



## **VI. ZONING – Title 19**

### **19.700 Public Facility Improvements**

SE King Road is classified as an Arterial Street with curb and sidewalk within an existing 60-foot right-of-way. The existing Eastern driveway approach will be eliminated by removing the approach and replacing it with full height curb and sidewalk. This will leave only one driveway entrance for the existing house on Parcel 1. A Traffic Impact Study is not required for this proposed Partition.

SE 51<sup>st</sup> Avenue is a new local residential street with existing curb and setback sidewalk. A new driveway approach will be constructed for Parcel 2 which will take access to SE 51<sup>st</sup> Avenue.

There is an existing City of Milwaukie 8-inch water main in SE 51<sup>st</sup> Avenue which will provide service for Parcel 2. A new water meter assembly will be installed within the existing right-of-way of SE 51<sup>st</sup> Avenue. The existing house is connected to the City main in SE King Road. A fire hydrant is located on the Southeast corner of SE King Road and SE 51<sup>st</sup> Avenue.

There is an existing City of Milwaukie 8-inch sewer main in SE 51<sup>st</sup> Avenue which will provide service for Parcel 2. A new 4-inch lateral will be constructed from this main to the new home on this new parcel.

There are existing stormwater systems in both SE King Road and SE 51<sup>st</sup> Avenue to handle the existing street stormwater. A drywell will be constructed on each of these two parcels to handle rain water from the roofs. An infiltration test was done for the new Mission Park subdivision which showed an infiltration rate of 7-inches per hour. Therefore, an infiltration test for this property is NOT required.

The existing house is served by gas from SE King Road to the East side of the house. Gas is available on the East side of SE 51<sup>st</sup> Avenue from a 2-inch gas main should Parcel 2 need gas.

Power, telephone and cable currently serve the existing house overhead from pole in SE King Road near the Northeast corner of the property. Underground power, telephone, and cable are available underground in SE 51<sup>st</sup> Avenue to serve Parcel 2.

### **19.911 Variances**

We are applying for three Variances, as follows:

Rear yard setback – We are applying for a rear yard setback Variance for the existing house in order to get a decent sized new parcel to build on. The existing house sets back from SE King Road 34.5-feet, which is in excess of the 30-foot requirement of the front yard setback along SE King Road. Also, there is a very nice large covered patio attached to the back of the house which is used by the residential home residents, the maximum preferred setback for the rear yard is 10-feet. This will allow some room for a small

## VI. ZONING – Title 19

backyard for some landscaping and useable area, as well a provide some space between the existing covered patio and any new house built on Parcel 2. The existing deck at the back of the house will be removed.

Lot size – We are applying for a lot size Variance for Parcel 2 due to the location of the existing house and covered patio. In order to provide for a decent sized new building lot, we propose a 4,301 square foot lot. This is a 14 percent reduction from the required lot area of 5,000 square feet. With a 35 percent maximum lot coverage, this provides for a 1,505 square foot building footprint. With the required 20-foot front and rear yards and the 5-foot side yards we would have 1,653 square feet, so this leaves some flexibility in the placement of the house. Reducing the size of the new parcel any more would not allow for as nice of a new home to be built on Parcel 2.

Lot depth – We are applying for a lot depth Variance for Parcel 2 due to the existing lot configuration. The existing lot is only 74.8-feet wide for the existing house, however, that translates to a 74.8-foot deep Parcel 2, since it fronts on SE 51<sup>st</sup> Avenue. There is no way to increase the lot depth due to current ownership of property, and with the required 20-foot front and rear yard setbacks that will still be met, there is no impact to adjoining properties.

The cumulative effect of these multiple variances will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.

THIS PAGE LEFT INTENTIONALLY BLANK



# CITY OF MILWAUKIE

June 6, 2019

Lucica Muresan  
5084 SE King Rd  
Milwaukie OR 97222

**Re: Preapplication Report**

Dear Lucica:

Enclosed is the Preapplication Report Summary from your meeting with the City on May 9, 2019, concerning your proposal for action on property located at 5084 SE King Rd.

A preapplication conference is required prior to submittal of certain types of land use applications in the City of Milwaukie. Where a preapplication conference is required, please be advised of the following:

- Preapplication conferences are valid for a period of 2 years from the date of the conference. If a land use application or development permit has not been submitted within 2 years of the conference date, the Planning Director may require a new preapplication conference.
- If a development proposal is significantly modified after a preapplication conference occurs, the Planning Director may require a new preapplication conference.

If you have any questions concerning the content of this report, please contact the appropriate City staff.

Sincerely,

Alicia Martin  
Administrative Specialist II

Enclosure

cc: Richard Georgescu  
file



**PRE-APPLICATION CONFERENCE REPORT**

---

**This report is provided as a follow-up to a meeting that was held on 5/9/2019 at 10am**

**Applicant Name:** Lucica Muresan

**Company:**

**Applicant 'Role':** Owner

**Address Line 1:** 5084 SE King Rd

**Address Line 2:**

**City, State Zip:** Milwaukie OR 97222

**Project Name:** King Rd partition

**Description:** partition to create a 4350 sq ft lot, variances for lot area, setbacks, etc.

**ProjectAddress:** 5084 SE King Rd

**Zone:** Residential R-5

**Occupancy Group:**

**ConstructionType:**

**Use:** Low Density (LD)

**Occupant Load:**

**AppsPresent:** Richard S Georgescu P.E. Lucica Ang Octavian Muresan

**Staff Attendance:** Brett Kelper, Dalton Vodden, Tay Stone

**BUILDING ISSUES**

**ADA:**

**Structural:** All structures shall meet minimum code requirements.

**Mechanical:**

**Plumbing:**

**Plumb Site Utilities:**

**Electrical:**

**Notes:** Any construction to take place on the new lots will need to meet the minimum code standards. All buildings to remain need to be a minimum of 3 feet off the new property line, or be of fire rated construction.

**Please note all drawings must be individually rolled. If the drawings are small enough to fold they must be individually folded.**

### **FIRE MARSHAL ISSUES**

**Fire Sprinklers:**

**Fire Alarms:**

**Fire Hydrants:**

**Turn Arounds:**

**Addressing:**

**Fire Protection:**

**Fire Access:**

**Hazardous Mat.:**

**Fire Marshal Notes:** See attached.

### **PUBLIC WORKS ISSUES**

**Water:** A City of Milwaukie 8-inch water main on SE 51st Ave will provide service to the proposed development. The development will require a new water service and meter assembly. The water System Development Charge (SDC) is based on the size of water meter serving the property. The corresponding water SDC will be assessed with installation of a water meter. The water SDC will be assessed and collected at the time the building permits are issued. Fire hydrant spacing along 51st Ave is adequate to provide coverage for the site.

**Sewer:** A City of Milwaukie 8-inch SDR 35 main on Harrison St will provide service to the proposed development. The new home will require a new sewer lateral sized to accommodate the proposed development. The wastewater SDC is comprised of two components under the current fee schedule. The first component is the City's SDC charge of \$1,186 per 16 plumbing fixture units in accordance with the Uniform Plumbing Code and the second component is the County's SDC for treatment of \$6,540 per equivalent dwelling unit that the City collects and forwards to the County. Both SDC charges are per connection unit. The wastewater SDC will be assessed and collected according to the most up to date fee schedule at the time building permits are issued.

**Storm:** All projects developing or redeveloping more than 500 sq ft of impervious surface must mitigate stormwater impacts. Residential developments are to follow the design criteria of the City of Portland Simplified Approach and submit a simplified approach form. More information is available in the 2016 Stormwater Management Manual.

The storm SDC is based on the amount of new impervious surface constructed on site. A single-family residence is assessed as one storm unit. The storm SDC is currently \$930 per unit. The storm SDC will be assessed and collected at the time the building permits are issued.

**Street:** The existing lot is at the corner of King Rd and 51st Ave. The proposed partition will create two smaller lots, one on the corner of King Rd and 51st Ave and the other fronting 51st Ave.

**Dated Completed:** 6/6/2019

**City of Milwaukie DRT PA Report**

**Page 2 of 9**

51st Ave is classified as a Local Street and is also a newly paved street and is under a five-year moratorium that began in June 2018. The moratorium surcharge is \$250 per square foot within the first year, \$200 in the second, \$150 in the third, \$100 in the fourth, and \$50 in the fifth.

King Rd is classified as an Arterial Street adjacent to the development.

The Transportation SDC is based on the increase in trips generated by the new use per the Trip Generation Handbook from the Institute of Transportation Engineers (ITE). The SDC for transportation is \$2,114 per trip generated in the pm peak hour of traffic per ITE use data.

**Frontage:**

Chapter 19.700 of the Milwaukie Municipal Code (MMC) applies to partitions, subdivisions, new construction and modification and or expansions of existing structures or uses that produce a projected increase in vehicle trips.

Transportation Facility Requirements, MMC 19.708, states that all rights-of-way, streets, sidewalks, necessary public improvements, and other public transportation facilities located in the public right-of-way and abutting the development site shall be adequate at the time of development or shall be made adequate in a timely manner.

51st Ave is a recently developed street and does not require additional improvements beyond curb cuts and a driveway approach for access to the property. The applicant must bring into conformance any damaged sidewalk panels prior to final plat.

King Rd is currently accessed by the development with two driveways less than 35 ft apart with the eastern driveway within a few feet of the intersection of King Rd and 51st Ave. Adequate intersection and driveway spacing can be met through closing the eastern driveway. The eastern driveway apron must be demolished and replaced with sidewalk panels prior to final plat.

**Right of Way:**

The existing right-of-way on 51st Ave and King Rd fronting the proposed development is of adequate width.

**Driveways:**

Code Section 12.16.040.A states that access to private property shall be permitted with the use of driveway curb cuts and driveways shall meet all applicable guidelines of the Americans with Disabilities Act (ADA). Driveway approaches shall be improved to meet the requirements of Milwaukie's Public Works Standards, Section 5.0085, at the time of development. Per MMC 12.16.040, Driveway will be between 9 and 20 ft wide and located a minimum 7.5-ft from the side property line. Each new lot proposed in the application is allowed only one driveway per MMC spacing requirements and must be brought into conformance prior to final plat.

**Erosion Control:**

Per Code Section 16.28.020(C), an erosion control permit is required prior to placement of fill, site clearing, or land disturbances, including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which results in the disturbance or exposure of soils exceeding 500 sq ft. The proposed development exceeds the threshold therefore, an erosion control permit is required.

Code Section 16.28.020(E) states that an erosion control permit is required prior to issuance of building permits or approval of construction plans. Also, Section 16.28.020(B) states that an erosion control plan that meets the requirements of Section 16.28.030 is required prior to any approval of an erosion control permit.

**Traffic Impact Study:**

MMC 19.704 states the Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development's impacts without a more detailed study, a

transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. It is the responsibility of the applicant to provide enough detailed information for the Engineering Director to make a TIS determination. The Engineering Director has determined that sufficient existing transportation data is available for the City to determine the transportation system impacts of the development and a project specific TIS is not required for this development at this time. Changes to the application may alter this determination.

**PW Notes:**

The applicant has requested as-builts for the sewer and road construction of 51st Ave and driveway standard drawings. Those are available and will be included as an attachment to this report.

**APPLICABILITY OF PRE-APPLICATION REVIEW**

The comments provided are preliminary and intended to address the original application materials submitted unless otherwise specifically called out in the notes. The information contained within these notes may change over time due to changes or additional information presented for the development.

This preapplication review is for the following:

A lot partition with the purpose to construct a single-family residence.

**SYSTEM DEVELOPMENT CHARGES (SDCS)**

There was insufficient information to estimate SDCs with the pre-application submitted. All SDCs are calculated, assessed, and collected at the time of building permit is issued. Any changes in the proposed use may result in a change in the SDCs that are assessed. If the applicant needs an estimate of SDCs then staff can provide the specific information to be submitted by the applicant required to calculate SDCs for a given proposal.

In addition to the SDCs mentioned earlier, there is a Parks & Recreation SDC that is triggered when application for a building permit on a new dwelling is received. Currently, the parks and recreation SDC for a single-family residence is \$3,985.00. A typical estimate in financial year 2019 of the total SDC specific charges for a new single-family home is \$17,050. SDCs will be assessed and collected at the time the building permits are issued.

**REQUIREMENTS PRIOR TO FINAL PLAT**

- Full-engineered design is required along lot frontage. Engineered plans for public improvements (street, sidewalk, and utility) are to be prepared by a Professional Engineer licensed in the State of Oregon.

- The applicant shall pay an inspection fee of 5.5% of the cost of public improvements prior to start of construction.

- The applicant shall provide a payment and performance bond for 100% of the cost of the public improvements prior to the start of construction.

Construction of the required improvements.

- The applicant shall provide a final approved set of Mylar "As Constructed" drawings to the City of Milwaukie prior to the final inspection.

- The applicant shall provide a maintenance bond for 100% of the cost of the public improvements prior to the final inspection and approval of the final plat.

**FEE CHANGE NOTICE**

- All fees mentioned are subject to change in accordance with the City of Milwaukie Master Fee Schedule.



## PLANNING ISSUES

**Setbacks:** Yard requirements for the Residential R-5 zone are established in Milwaukie Municipal Code (MMC) Subsection 19.301.4. Minimum front and rear yards are 20 ft, side yards must be at least 5 ft (for interior lots), and street-side yards must be at least 15 ft (for corner lots).

As per MMC Table 19.501.2.A, a 40-ft yard setback from the centerline of the King Rd right-of-way (ROW) is applied in addition to the regular 20-ft front yard setback. The King Rd ROW is approximately 60 ft wide along the subject property frontage, so 30 ft of the required 40 ft is provided within the ROW. Thus, the functional front yard requirement on the property is 30 ft (20 ft for the R-5 zone plus 10 ft for the remaining special setback). Given that no physical changes are proposed to the existing house, the primary impact of the additional setback is to the location of required off-street parking spaces, which is already a nonconforming aspect of the property (see Parking notes).

**Landscape:** In the R-5 zone, a minimum of 25% of the site must be landscaped, with at least 40% of the front yard area vegetated (measured from the front property line to the front face of the house). Vegetated areas may be planted in trees, grass, shrubs, or bark dust for planting beds, with no more than 20% of the landscaped area finished in bark dust (as per MMC Subsection 19.504.7). A maximum of 35% of the site may be covered by structures, including decks or patios over 18 in above grade.

**Parking:** As per the off-street parking standards of MMC Chapter 19.600, properties that are developed with single-family dwellings must provide at least 1 off-street parking space per dwelling unit. A residential home requires one additional parking space per employee on the largest shift. Based on the applicant's description of one caregiver employee, it appears that a total of 2 spaces are required. As provided in MMC Subsection 19.607.1, required residential off-street parking spaces must be at least 9 ft wide and 18 ft deep. The required spaces cannot be located within a required front or street-side yard and must have a durable and dust-free hard surface.

Uncovered parking spaces and maneuvering areas cannot exceed 50% of the front yard area and 30% of the required street-side yard area. No more than 3 residential parking spaces are allowed within the required front yard. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approach within 5 ft of the right-of-way boundary. Alternately, a gradual widening of the onsite driveway is allowed to the 10-ft point at a ratio of 1:1 (driveway width to distance onto property), starting 2 ft behind the front property line. See the figures provided in MMC 19.607 for more information.

Where the existing parking situation is nonconforming with applicable standards, the proposed development should not increase the nonconformity without requesting a variance and preferably should bring the situation closer to compliance.

Currently, the site provides required off-street parking in the west side yard, though there appear to be more than 3 spaces in the required 30-ft front yard (see Setbacks note), which makes this aspect of the site nonconforming. The proposed partition may require removal of some of the side-yard parking in order for the parent lot to meet the minimum vegetation standard, or a variance may be required for either the minimum vegetation standard or to allow the required parking to be provided in the front yard.

**Transportation Review:** The proposed partition will trigger the requirements of MMC Chapter 19.700 Public Facility Improvements. Please see the Public Works (Engineering) notes for more information about the requirements of MMC 19.700 and any associated right-of-way dedication and/or street improvements.

**Application Procedures:** The land use applications required depend on the applicant's final proposal but likely include the following:

- \* Minor Land Partition (Preliminary Plat) (normally Type II review, but elevated to Type III by variances)
- \* Variance (Type III review) = for lot area and lot depth of the new lot; for rear yard setback and possibly either minimum vegetation or required parking in the front yard on the parent lot
- \* Final Plat (Type I review) = following the preliminary plat approval

Following approval of the preliminary plat, a Type I application for Final Plat will be required in conjunction with the recording process with the County Surveyor.

Current application fees relevant to the proposal:

- \* Minor Land Partition = \$2,000
- \* Type III review = \$2,000 (Variance = up to 3 variance requests allowed per application)
- \* Type I review = \$200 (Final Plat)

For concurrent applications, the most expensive application is charged full price and the fees for all other applications are discounted 25%.

Approval criteria for a partition are established in MMC Subsection 17.12.030 and include (1) compliance with the relevant sections of Title 17 (Land Division) and Title 19 (Zoning), (2) allowing reasonable development and not creating the need for a future variance of any land division or zoning standard, and (3) not reducing residential density below minimum density requirements of the applicable zoning district.

The application submittal should include the standard Land Use Application Form, Submittal Requirements Checklist, and Preliminary Plat Checklist.

The applicant should submit 5 complete copies of all application materials for the City's initial review. A determination of the application's completeness will be issued within 30 days. If deemed incomplete, additional information will be requested. If deemed complete, additional copies of the application will be required for referral to other departments, the Hector Campbell Neighborhood District Association (NDA), Lewelling and Linwood NDAs, and other relevant parties and agencies. City staff will inform the applicant of the total number of copies needed.

Once the application is deemed complete, a public hearing with the Planning Commission will be scheduled. Public notice will be sent to property owners and current residents within 300 ft of the subject property no later than 20 days prior to the hearing date. At least 14 days before the hearing, a sign giving notice of the application must be posted on the subject property, to remain until the decision is issued. Staff will prepare a report with analysis of the proposal and a recommendation for decision that will be made available one week before the hearing. Both staff and the applicant will have the opportunity to make presentations at the hearing, followed by public testimony and then deliberation by the Commission.

Issuance of a decision starts a 15-day appeal period for the applicant and any party who establishes standing. Development permits submitted during the appeal period may be reviewed but are not typically approved until the appeal period has ended.

Prior to submitting the application, the applicant is encouraged (but not required) to present the project at a regular meeting of the Hector Campbell NDA, which occurs at 6:30 p.m. on the second Monday of most months (Public Safety Building, 3200 SE Harrison St). The site is within the boundary of the Hector Campbell NDA, but it is close enough to the boundaries of the Lewelling and Linwood NDAs

that the application will be referred to them as well. If the applicant chooses to present the project to those NDAs as well, note that the Lewelling NDA meets at 6:30pm on the second Wednesday of most months (Chapel Theater, 4107 SE Harrison St); the Linwood NDA meets at 7:00pm on the second Thursday of most months (Linwood Elementary School, 11909 SE Linwood Ave).

**Natural Resource Review:** The site does not include any designated natural resources.

**Lot Geography:** The subject property is a rectilinear lot, 75 ft wide by approximately 150 ft deep. The property has frontage on King Rd and the newly created 51st Ave. The existing house faces King Rd and with the proposed partition would remain a corner lot; the new proposed lot would have frontage only on 51st Ave.

**Planning Notes:** General Note = These notes represent staff's best evaluation of the applicant's proposal(s) in advance of any official submittal of a land use application. They do not represent approval or denial of the proposed action, only an assessment of the issues and likely requirements.

The proposed partition cannot cause existing features to become nonconforming with respect to any code standard without requesting a variance. As proposed, the partition would reduce the existing house's rear yard setback below the minimum (by 50%, to 10 ft), so a Type III variance is required. Variances are also required for the lot area and lot depth of the proposed new lot. By itself, a 5-ft variance from the required 80-ft required lot depth could be processed as a Type II variance, but since several other variances will require Type III review, the lot depth variance will also require Type III review. The applicant's narrative should address the appropriate criteria established in MMC Subsection 19.911.4.B for each specific variance request depending on its type (Type II or Type III).

The application should address how the proposed partition would affect the parent lot's conformance with the standards for maximum lot coverage and minimum vegetation. Currently, the entire lot appears to conform with both of those standards, but the partition would reduce the area of the parent lot and separate it from most of the existing vegetation on the site. For single-story structures no more than 20 ft tall, the lot coverage allowance in the R-5 zone increases up to a maximum of 45% (as per MMC Subsection 19.301.5.B.2). To meet the minimum vegetation standard of 25%, it appears that a significant area on the reconfigured parent lot will need to be recovered as landscaping, unless an additional variance is requested.

The applicant must also balance the provision of both additional landscaping and the required 2 off-street parking spaces somewhere beyond the 30-ft front yard setback. The proposal already appears to require 3 variances, which can be processed under a single variance application; for 4 to 6 variances, a second variance application will be required.

The front yard of the parent lot already appears to be out of compliance with respect to the requirement for 40% minimum vegetation and the 50% limit on parking and maneuvering areas. Although the partition is not required to bring the front yard situation into compliance and no variance is required, changes related to the proposal should at least not push the situation farther out of conformance. Required changes related to the existing driveways on King Rd (see the Public Works notes) may offer an opportunity to improve the front yard with respect to both the vegetation and parking standards.

Note that staff will likely recommend approval of a variance for reduced lot area on the newly created lot, but with a recommended condition that would prohibit any setback variances on the new lot (even Type II variances). The intent of such a condition would be to preserve buffering space between new structures on the lot and adjacent properties.

Design standards for single-family dwellings are provided in MMC Subsection 19.505.1 and include requirements on any street-facing façade for articulation, minimum window area, and a main entrance.

Additional standards require a minimum number of basic design features. The provisions of MMC Subsection 19.505.2 limit the width and setback location of an attached garage or carport on the street-facing façade.

Note that any street improvements required for the preliminary plat (such as a driveway approach for the new lot fronting 51st Ave) will have to be constructed before the City will sign off on the final plat. Approval of the final plat is an important part of making the new lot an officially separate property, one that can be sold and/or built upon.

#### **ADDITIONAL NOTES AND ISSUES**

**County Health Notes:**

**Other Notes:**



**This is only preliminary preapplication conference information based on the applicant's proposal and does not cover all possible development scenarios. Other requirements may be added after an applicant submits land use applications or building permits. City policies and code requirements are subject to change. If you have any questions, please contact the City staff that attended the conference (listed on Page 1). Contact numbers for these staff are City staff listed at the end of the report.**

Sincerely,

City of Milwaukie Development Review Team

---

**BUILDING DEPARTMENT**

**Samantha Vandagriff - Building Official - 503-786-7611**

**Stephanie Marcinkiewicz**

**- Inspector/Plans Examiner - 503-786-7613**

**ENGINEERING DEPARTMENT**

**Kelly Brooks - Acting Engineering Director - 503-786-7573**

**Alex Roller - Engineering Tech II - 503-786-7695**

**COMMUNITY DEVELOPMENT DEPARTMENT**

**Alma Flores - Comm. Dev. Director - 503-786-7652**

**Leila Aman - Development Manager - 503-786-7616**

**Alicia Martin - Admin Specialist - 503-786-7600**

**PLANNING DEPARTMENT**

**Dennis Egner - Planning Director - 503-786-7654**

**David Levitan - Senior Planner - 503-786-7627**

**Brett Kelter - Associate Planner - 503-786-7657**

**Vera Kolas - Associate Planner - 503-786-7653**

**Mary Heberling - Assistant Planner - 503-786-7658**

**CLACKAMAS FIRE DISTRICT**

**Mike Boumann - Lieutenant Deputy Fire Marshal - 503-742-2673**

**Matt Amos - Fire Inspector - 503-742-2661**

# Clackamas County Fire District #1

## Fire Prevention Office



### E-mail Memorandum

**To:** City of Milwaukie Planning Department  
**From:** Izak Hamilton, Fire Inspector, Clackamas Fire District #1  
**Date:** 5/09/2019  
**Re:** 19-006PA, 5084 SE King Rd, Milwaukie, OR

---

This review is based upon the current version of the Oregon Fire Code (OFC), as adopted by the Oregon State Fire Marshal's Office. The scope of review is typically limited to fire apparatus access and water supply, although the applicant must comply with all applicable OFC requirements. When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the fire code official. The following items should be addressed by the applicant:

**A Fire Access and Water Supply plan is required for subdivisions and commercial buildings over 1000 square feet in size or when required by Clackamas Fire District #1. The plan shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, FDC location (if applicable), building square footage, and type of construction. The applicant shall provide fire flow tests per NFPA 291, and shall be no older than 12 months. Work to be completed by experienced and responsible persons and coordinated with the local water authority.**

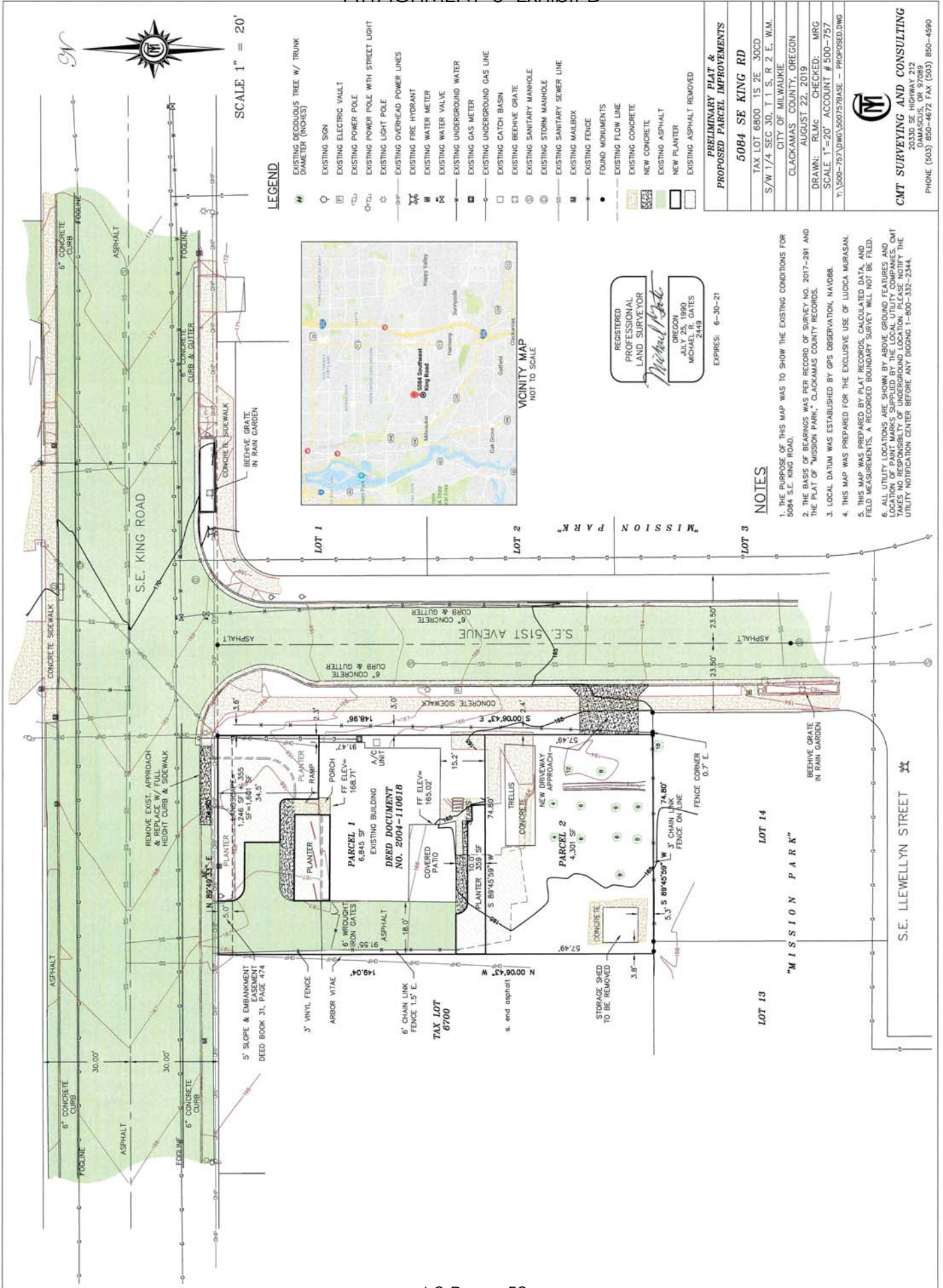
1. Clackamas Fire has no comments regarding the above mentioned partition. Thank you!

THIS PAGE LEFT INTENTIONALLY BLANK





THIS PAGE LEFT INTENTIONALLY BLANK



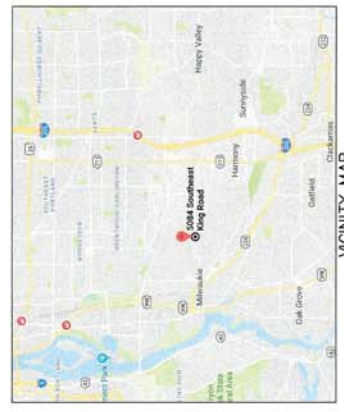
<b>PRELIMINARY PLAT &amp; PROPOSED PARCEL IMPROVEMENTS</b>	
<b>5084 SE KING RD</b>	
TAX LOT 6800	1S 2E 30CD
S/W 1/4 SEC 30, T.1 S. R. 2 E., W.M.	CITY OF MILWAUKIE
CLACKAMAS COUNTY, OREGON	
AUGUST 22, 2019	
DRAWN: RL/MC	CHECKED: MRG
SCALE 1"=20' ACCOUNT # 500-757	
Y:\500-757\UM\500757BASE - PROPOSED.DWG	



**CMT SURVEYING AND CONSULTING**  
 20330 SE HIGHWAY 212  
 CLACKAMAS, OREGON 97015  
 PHONE (503) 850-4672 FAX (503) 850-4590

- NOTES**
1. THE PURPOSE OF THIS MAP WAS TO SHOW THE EXISTING CONDITIONS FOR 5084 S.E. KING ROAD.
  2. THE BASIS OF BEARINGS WAS PER RECORD OF SURVEY NO. 2017-291 AND THE PLAT OF "MISSION PARK", CLACKAMAS COUNTY RECORDS.
  3. LOCAL DATUM WAS ESTABLISHED BY GPS OBSERVATION, NAVD83.
  4. THIS MAP WAS PREPARED FOR THE EXCLUSIVE USE OF LUCIA MURASANI.
  5. THIS MAP WAS PREPARED BY PLAT RECORDS, CALCULATED DATA, AND FIELD MEASUREMENTS. A RECORDED BOUNDARY SURVEY WILL NOT BE FILED.
  6. ALL UTILITY LOCATIONS ARE SHOWN BY ABOVE GROUND FEATURES AND LOCATION OF PAINT MARKS SUPPLIED BY THE LOCAL UTILITY COMPANIES. CMT TAKES NO RESPONSIBILITY FOR UNDERGROUND LOCATION. PLEASE NOTIFY THE UTILITY NOTIFICATION CENTER BEFORE ANY DIGGING 1-800-355-2544.

REGISTERED PROFESSIONAL LAND SURVEYOR  
*Michael R. Gates*  
 OREGON  
 JULY 25, 1990  
 MICHAEL R. GATES  
 2449  
 EXPRESS: 6-30-21



THIS PAGE LEFT INTENTIONALLY BLANK

## VI. ZONING – Title 19

### 19.911 Variances

We are applying for three Variances, as follows:

**Rear yard setback** – We are applying for a rear yard setback Variance for the existing house in order to get a decent sized new parcel to build on. The existing house sets back from SE King Road 34.5-feet, which is in excess of the 30-foot requirement of the front yard setback along SE King Road. Also, there is a very nice large covered patio attached to the back of the house which is used by the residential home residents, the maximum preferred setback for the rear yard is 10-feet. This will allow some room for a small backyard for some landscaping and useable area, as well provide some space between the existing covered patio and any new house built on Parcel 2. The existing deck at the back of the house will be removed.

Due to the unusual site characteristics and physical conditions with the location of the existing house, this reduced rear yard setback variance is necessary to allow reasonable economic use of the property comparable with other properties in the same area and zoning district, i.e., being able to divide an 11,000 square foot property in the R-5 zone into two parcels. This proposed variance is the minimum variance necessary to allow for reasonable economic use of the property. Increasing the rear yard setback reduces the size of the new parcel and thus also reduces the size of the house that can be built on it. Impacts of this proposed variance will be mitigated to the extent practicable by installing a hedge on the property line, or any other way the City feels may be necessary.

**Lot size** – We are applying for a lot size Variance for Parcel 2 due to the location of the existing house and covered patio. In order to provide for a decent sized new building lot, we propose a 4,301 square foot lot. This is a 14 percent reduction from the required lot area of 5,000 square feet. With a 35 percent maximum lot coverage, this provides for a 1,505 square foot building footprint. With the required 20-foot front and rear yards and the 5-foot side yards we would have 1,653 square feet, so this leaves some flexibility in the placement of the house. Reducing the size of the new parcel any more would not allow for as nice of a new home to be built on Parcel 2.

Requiring the standard 20-foot setback for the existing house on Parcel 1 would reduce the lot area of Parcel 2 to 3,551 square feet. With a 35 percent maximum lot coverage, this provides for a 1,243 square foot building footprint, considerably smaller than the 1,505 square foot building footprint allowed with the Variance. With the required setbacks, we would have 1312 square feet, which still allows for some flexibility in the placement of the house, but not as much as the requested Variance size. Impacts of this proposed variance will be mitigated to the extent practicable by installing a hedge on the property line, or any other way the City feels may be necessary.

**Lot depth** – We are applying for a lot depth Variance for Parcel 2 due to the existing lot configuration. The existing lot is only 74.8-feet wide for the existing house, however, that translates to a 74.8-foot deep Parcel 2, since it fronts on SE 51<sup>st</sup> Avenue. There is no way to increase the lot depth due to current ownership of property, and with the required



## **VI. ZONING – Title 19**

20-foot front and rear yard setbacks that will still be met, there is no impact to adjoining properties.

The cumulative effect of these multiple variances will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare, since standard setbacks will be met on the rear (West) line of Parcel 2 and the side adjacent to Lot 14 of MISSION PARK subdivision to the South.

**Brett Kolver**

---

**From:** Daniel Harris  
**Sent:** Wednesday, September 11, 2019 8:11 AM  
**To:** Lorence, Jeremy  
**Cc:** Wright, Jodi; Brett Kolver  
**Subject:** RE: MLP-2019-002 Land Use Application Referral

Good Morning,

Thank you for your message.

I will pass this on to the project manager, Brett Kolver (Cc'd)

With respect,

**DAN HARRIS**

Administrative Specialist II, Community Development  
he/him/his  
City of Milwaukie

---

**From:** Lorence, Jeremy <Jeremy.Lorence@nwnatural.com>  
**Sent:** Wednesday, September 11, 2019 7:14 AM  
**To:** Daniel Harris <HarrisD@milwaukieoregon.gov>  
**Cc:** Wright, Jodi <Jodi.Wright@nwnatural.com>  
**Subject:** FW: MLP-2019-002 Land Use Application Referral

Good morning Dan,

I have reviewed the proposed improvements 5084 SE King Rd and there does not appear to be conflicts with any NW Natural facilities.

Thanks,

**Jeremy Lorence**

NW Natural – East Metro Resource Engineer  
Office: 503.226.4211 x6772  
Cell: 503.781.4467  
[Jeremy.Lorence@nwnatural.com](mailto:Jeremy.Lorence@nwnatural.com)

## Brett Kolver

---

**From:** hammy.org/dave <dave@hammy.org>  
**Sent:** Friday, September 20, 2019 1:08 PM  
**To:** Brett Kolver  
**Subject:** MLP-2019-002

This is the official response from Hector Campbell Neighborhood Association.

Hector Campbell NDA is opposed to the granting of Variances requested under MCC Section 19.911.

Lot Area.

The requested Variance to a lot area of 4301 square feet is a reduction to the minimum R5 lot size of 14%. That is a substantial reduction not in keeping with the surrounding neighborhood properties. Minimum R5 lot size should be maintained.

Rear Yard Set Back.

Requested Variance is to reduce this set back by 50%. That is a substantial reduction not in keeping with the surrounding neighborhood properties. Especially as the current residents of the existing property use this area of the property. It does allow "some space" between the covered patio and new house, but is it sufficient to not impact upon the occupiers of the new house from enjoying their outside space, or vice versa?

It is the view of Hector Campbell NDA that the effect of these multiple variances will be detrimental to established surrounding properties, and will impinge on the expectations of the owners of these properties that new and existing developments will maintain the current standards required under MCC Section 19.911.

We have no comments to make, at this time, concerning the other applicable code sections

David Hedges  
Vice Chair Hector Campbell NDA

## Brett Kolver

---

**From:** Gish, Jonathan <JGish@clackamas.us>  
**Sent:** Wednesday, October 02, 2019 7:15 AM  
**To:** Brett Kolver  
**Cc:** Sally Curran; Hickson, Dawn - DTD; Kent, Ken  
**Subject:** RE: MLP-2019-002 Land Use Application Referral

Clackamas County has no frontage, Engineering has no comments

### Jonny Gish | Engineering Tech 4

Clackamas County Department of Transportation and Development  
150 Beaver Creek Rd  
Oregon City, OR 97045  
Office Hours: M-TH 6am-4:30pm  
Direct: 503-742-4707 | [Jgish@clackamas.us](mailto:Jgish@clackamas.us)

---

**From:** Brett Kolver [mailto:KolverB@milwaukieoregon.gov]  
**Sent:** Friday, September 27, 2019 5:08 PM  
**To:** Steve Adams <AdamsS@milwaukieoregon.gov>; Dalton Vodden <VoddenD@milwaukieoregon.gov>; Peter Passarelli <PassarelliP@milwaukieoregon.gov>; Boumann <mike.boumann@clackamasfire.com>; Fire Dist Estacada Izak Hamilton <Izak.hamilton@clackamasfire.com>; landusenotifications@oregonmetro.gov; developmentreview@trimet.org; jodi.wright@nwnatural.com; sarah@thegardensmith.com; dlasch@comcast.net; mcbocek@yahoo.com; leygarnett@comcast.net; katiemoscillorealty@gmail.com; 'Howie Oakes' <howie@crazycat.org>; drampa82@gmail.com; linwoodzp@gmail.com; cole7429@comcast.net; Hickson, Dawn - DTD <DHickson@clackamas.us>; Mulder, Deana - DTD <Deanam@co.clackamas.or.us>; Gish, Jonathan <JGish@clackamas.us>; Kent, Ken <KenKen@clackamas.us>; Curran, Sally <SCurran@co.clackamas.or.us>  
**Cc:** hammy.org/dave <dave@hammy.org>  
**Subject:** RE: MLP-2019-002 Land Use Application Referral

Hello,

I'm writing to call for any comments on the proposed 2-lot partition of the property at 5084 SE King Rd (master file #MLP-2019-002). The original deadline for comments was Sept 23, but I will take any additional comments while I continue to draft the staff report and findings/conditions in advance of the Oct 22 public hearing scheduled with the Planning Commission. (NW Natural and the Hector Campbell NDA have already provided comments on this application—thank you!)

Application materials are available at the link below, including an additional narrative response provided by the applicant on Sept 10.

Please let me know if you have any questions.

Thank you,

**BRETT KELVER**  
Associate Planner