



CITY OF MILWAUKIE

AGENDA

October 8, 2024

PLANNING COMMISSION

milwaukieoregon.gov

Hybrid Meeting Format: The Planning Commission will hold this meeting both in person at City Hall and through Zoom video. The public is invited to watch the meeting in person at City Hall, online through the City of Milwaukie YouTube page (https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB_m9cAw), or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at planning@milwaukieoregon.gov. Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time. To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-129>) and follow the Zoom webinar login instructions.

1.0 Call to Order – Procedural Matters — 6:30 PM

1.1 Native Lands Acknowledgment

2.0 Planning Commission Minutes – Motion Needed

2.1 August 13, 2024

3.0 Information Items

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

5.0 Community Involvement Advisory Committee (CIAC)

Hearing Items

6.1 CU-2024-001 (Vacation Rental at 11932 SE 35th Avenue)

Summary: The applicant is applying for a conditional use permit to use a single-detached dwelling as a vacation rental. Operating a vacation rental requires a conditional use permit in the Moderate Density Residential zone. The property is currently used as the owner's primary residence.

Staff: Associate Planner Ryan Dyar

7.0 Work Session Items

None scheduled.

8.0 Planning Department Other Business/Updates

9.0 Forecast for Future Meetings

October 22, 2024

1. Hearing Item: none.

2. Work Session Items :

A. Annual Joint Meeting with Neighborhood District Associations

B. Planning Commission Orientation

November 12, 2024

1. Hearing Item: none.

2. Work Session Item: none.

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 register to provide spoken comment at this meeting or for background information on agenda items please send an email to planning@milwaukieoregon.gov.
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.
3. **FORECAST FOR FUTURE MEETINGS.** 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 an agenda item to a future date or finish the item.

Public Hearing Procedure

Those who wish to testify should attend the Zoom meeting posted on the city website, state their name and city of residence for the record, and remain available until the Chairperson has asked if there are any questions from the Commissioners. Speakers are asked to submit their contact information to staff via email so they may establish standing.

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.** Comments or questions from interested persons and testimony from those in support or opposition of the application.
5. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
6. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
7. **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.
8. **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.
9. **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.

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad

Milwaukie Planning Commission:

Jacob Sherman, Chair
Aaron Carpenter
Joseph Edge
Ernestina Fuenmayor
Leesa Gratreak
Will Mulhern

Planning Department Staff:

Laura Weigel, Planning Manager
Brett Kelter, Senior Planner
Vera Kolias, Senior Planner
Ryan Dyar, Associate Planner
Adam Heroux, Associate Planner
Petra Johnson, Administrative Specialist II

DRAFT



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

City Hall Council Chambers
10501 SE Main Street
www.milwaukieoregon.gov

August 13, 2024

Present: Jacob Sherman, Chair
Joshua Freeman, Vice Chair
Aaron Carpenter
Leesa Graetrek
Tina Fuenmayor

Staff: Vera Koliass, Senior Planner
Laura Weigel, Planning Manager

Absent: Joseph Edge
Will Mulhern

(00:09:16)

1.0 Call to Order — Procedural Matters*

Chair Sherman called the meeting to order at 6:30 p.m. and read the Native Lands Acknowledgment.

Note: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

(00:10:08)

2.0 Planning Commission Minutes

The June 25, 2024, and July 9, 2024, minutes were approved as presented.

(00:10:49)

3.0 Information Items

Planning Manager Weigel reported on TriMet's plans to reinstate bus line 71 and noted a new cottage cluster development had opened. **Chair Sherman** noted the recent city manager candidates open house.

(00:12:34)

4.0 Audience Participation

No audience member wished to address the Commission.

(00:13:05)

5.0 Community Involvement Advisory Committee (CIAC)

No Commissioner provided any information for this portion of the meeting.

6.0 Hearing Items

(00:13:49)

6.1 DR-2024-001(1847 Food Park), Continued.

Chair Sherman reported that the applicant had asked the Commission to reopen the hearing to take additional public comment.

No Commission member objected to reopening the hearing.

Vice Chair Freeman motioned to reopen the record for additional verbal and written testimony from any party for application DR-2024-001 and VR-2024-002 and further continue the hearing to September 10, 2024. Commissioner Carpenter seconded the motion. The motion was passed with a 5:0 vote.

The group remarked on public hearing noticing requirements for the continued hearing.

7.0 Work Session Items

(00:18:47)

7.1 Preview of Annual Joint Meeting with the Neighborhood District Associations (NDAs)

Planning Manager Weigel provided an overview of the Commission and NDA joint meetings and presented the draft agenda for the 2024 joint meeting, which included enhancements to public notices and communication for land use applications.

The Commission agreed with the agenda and remarked on how the Commission can support and engage with the NDAs through the land use process. **Planning Manager Weigel** and **Chair Sherman** commented on planning tools the Commission could share with the NDAs and noted joint meeting logistics.

(00:32:26)

8.0 Planning Department/Planning Commission Other Business/Updates

There were no staff or Commission updates.

(00:32:40)

9.0 Forecast for Future Meetings

August 27, 2024 Canceled.

September 10, 2024 1. Hearing Item: DR-2024-001 (1847 Food Park), continued.
2. Work Session: Natural Resources Code Amendments.

Commissioner Carpenter moved to adjourn, and **Vice Chair Freeman** seconded the motion. Motion was passed 5:0.

Meeting adjourned at approximately 6:54 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder



CITY OF MILWAUKIE

To: Planning Commission

Through: Laura Weigel, Planning Manager

From: Ryan Dyar, Associate Planner

Date: September 19, 2024, for October 8, 2024, Public Hearing

Subject: **File:** CU-2024-001
Applicant/Owner: Kristina Fedorovskiy
Address: 11932 SE 35th Ave
Legal Description (Map & Tax Lot): 1S1E36DB09500
NDA: Lake Road

ACTION REQUESTED

Approve application CU-2024-001 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for the single-detached dwelling on the site to be used as a Vacation Rental.

BACKGROUND INFORMATION

A. Site and Vicinity

The site is located at 11932 SE 35th Ave. The site contains a single detached home on a 7,160-sq ft lot. The property is surrounded by single detached homes except for the adjacent lot to the north, which is vacant and is planned to be developed with a duplex. A fence marks the boundary between the subject and adjacent properties.

Figure 1. Aerial View (subject property outlined in yellow).



B. Zoning Designation

The subject property is within the Moderate Density Residential Zone (R-MD) (see Figure 2). The surrounding area is also zoned R-MD.

Figure 2. Existing Zoning (R-MD).



C. Comprehensive Plan Designation

Moderate Density (MD)

D. Land Use History

- **R-2023-003; FP-2023-007:** A Type II replat application to divide the property to create a 4,138-sq ft developable property for a duplex.
- **VR-2024-003; AP-2024-001:** A Type III variance application to reduce a side-yard setback, allowing for a 13-ft addition to the existing attached garage with a 0.5-ft side yard setback. Appealed to City Council which denied the appeal and approved the variance application with modified findings and conditions of approval.

E. Proposal

The applicant is seeking land use approval for a Conditional Use to allow the single-detached dwelling to be used as a Vacation Rental.

The project requires the approval of the following applications: Conditional Use – CU-2024-001.

ANALYSIS

A short-term rental is a housing unit, an accessory dwelling unit (ADU), or a room within a housing unit that is rented out for lodging for a period of fewer than 30 days in length. It is an accessory use to a primary residence and allowed as a home occupation where the residence must be occupied by the owner or operator for a minimum of 270 days per year.

A vacation rental is a housing unit that is rented out to a single party for a period of fewer than 30 days in length where there are no primary occupants or where the residents who occupy the unit do so for fewer than 270 days per year. A vacation rental's primary use is more commercial in nature than a short-term rental. Because vacation rentals function differently in a neighborhood, they are permitted as a conditional use in residential zones.

MMC 19.905 establishes criteria for approval for a new conditional use. The three criteria that relate the most to a vacation rental in a moderate-density residential zone are:

1. The operating and physical characteristics of the proposed use will be reasonably compatible with, and have minimal impact on, nearby uses;
2. All identified impacts will be mitigated to the extent practicable; and
3. The proposed use will not have unmitigated nuisance impacts, such as from noise, odor, and/or vibrations, greater than usually generated by uses allowed outright at the proposed location.

The applicant indicates that the house will maintain the appearance of a single-detached dwelling and lists examples of tactics they will employ to ensure the operating characteristics are compatible with surrounding residential properties. Examples include quiet hours (10 pm to 7 am), limitations on the number of guests (maximum of 6), and a no-smoking policy. The applicants have indicated that they will remain living in Clackamas County and be available to address any issues or concerns associated with the vacation rental.

MMC Subsection 19.905.9.G includes specific standards governing vacation rentals, including the requirement that fire and building codes are satisfied for the rental unit, that a business registration is obtained, and that notice is sent to neighbors within 300 ft of the subject parcel. That notice must include the property owner's contact information, contact information for the vacation rental operator, and the City of Milwaukie Police non-emergency telephone number. Compliance with the requirements established by MMC 19.905.9.G is an ongoing obligation for the applicants.

Staff believes that the applicant has provided sufficient information to demonstrate the proposal complies with the approval criteria to establish a new conditional use. The recommended

Conditions of Approval will ensure compliance with these approval criteria and the standards governing vacation rentals.

CONCLUSIONS

Staff recommendation to the Planning Commission is as follows:

1. Approve the Conditional Use for 11932 SE 35th Ave. This will result in the ability to use the home as a Vacation Rental.
2. Adopt the attached Findings in Attachment 1 and the Conditions of Approval in Attachment 2.

CODE AUTHORITY AND DECISION-MAKING PROCESS

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

- MMC Section 19.301 Moderate-Density Residential (R-MD)
- MMC Section 19.905 Conditional Use
- MMC Section 19.1006 Type III Review

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 four decision-making options as follows:

- A. Approve the application subject to the recommended Findings with no 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 this application, which includes any appeals to the City Council, must be made by December 27, 2024, per the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the period in which the application must be decided.

COMMENTS

- A. Notice of the proposed changes was referred to the following agencies and persons on August 29, 2024: Milwaukie Building Division; Milwaukie Public Works; Milwaukie City Manager; Milwaukie City Attorney; Milwaukie Neighborhood District Association Program Manager; Milwaukie Engineering Division; the Lake Road Neighborhood

District Association (Chair and Land Use Committee Members); Clackamas Fire District #1 (CFD #1).

- **Paul Hawkins (Land Use Chair, Lake Road NDA):** Commented that he hoped the venture would be a win for everybody.
- B. A public notice was also mailed to all residents and property owners within 300 feet of the site on August 30, 2024. The responses are summarized as follows:
- **Mary Weisensee (Neighbor within 300 ft buffer):** Expressed concern and opposition to allowing the vacation rental, stating that it would negatively alter the character and well-being of the community.

ATTACHMENTS

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

	Public Copies	E-Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Submittal Materials		
a. Application Forms	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Narrative	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Plan sheets and graphics	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. Public Notice Comments	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Public Copies = materials posted online to application website (<https://www.milwaukieoregon.gov/planning/cu-2024-001>).

E-Packet = meeting packet materials available one week before the meeting, posted online at

<https://www.milwaukieoregon.gov/bc-pc/planning-commission-129>.

EXHIBIT 1
Findings in Support of Approval
File #CU-2024-001, 11932 SE 35th Ave, Vacation Rental

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

1. The applicant, Kristina Fedorovskiy, has applied for approval of a Conditional Use for a Vacation Rental at 11932 SE 35th Ave. This site is in the R-MD Zone. The land use application file number is CU-2024-001.
2. The applicant is proposing to use the single-detached dwelling on the property as a Vacation Rental.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Subsection 19.301 Moderate Density Residential Zone (R-MD)
 - MMC Subsection 19.905 Conditional Uses
 - MMC Subsection 19.1006 Type III Review
4. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on October 8, 2024, as required by law.
5. MMC 19.301 Moderate Density Residential Zone
 - a. MMC 19.301.2 establishes allowed uses for the Moderate Density Residential Zone. Vacation rentals are allowed in the R-MD zone per approval through the Conditional Use process.

The applicant will not reside at the property at least 270 days per calendar year and is proposing to use the single detached dwelling on the site as a vacation rental. The applicant has applied for Conditional Use approval.

The Planning Commission finds that the use is permitted in the R-MD zone, subject to Conditional Use approval.
6. MMC 19.905 Conditional Uses

MMC 19.905 establishes a process for evaluating certain uses that may be appropriately located in some zoning districts, if appropriate for the specific site on which they are proposed. Although conditional uses may provide needed services or functions in the community, they are subject to conditional use review because they may adversely change the character of an area or adversely impact the environment, public facilities, or adjacent properties. The conditional use review process allows for the establishment of conditional uses when they have minimal impacts or when identified impacts can be mitigated through conditions of approval. The review process also allows for denial when concerns cannot be resolved, or impacts cannot be mitigated.

Approval of a conditional use does not constitute a zone change and is granted only for the specific use requested. Approval is subject to such modifications, conditions, and restrictions as may be deemed appropriate by the review authority.

MMC Subsection 19.905.2.A provides that the provisions of Section 19.905 apply to uses identified as a conditional use in the base zone in Chapter 19.300. MMC Subsection 19.905.3.A provides that the establishment of a new conditional use must be evaluated through a Type III review per Section 19.1006.

- a. MMC 19.905.4.A establishes approval criteria for approving a new conditional use.

The applicant is proposing to establish a new conditional use with a vacation rental for the home. It meets the approval criteria as follows:

- 1) The characteristics of the lot are suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features.

The existing home is located on a 7,160 sq ft lot. The lot is fenced on all sides and there is sufficient driveway space for two vehicles. There is also ample on-street parking and is accessible via public transit.

The vacation rental will not change the residential character of the lot or building.

The Planning Commission finds that this criterion is met.

- 2) The operating and physical characteristics of the proposed use will be reasonably compatible with and have minimal impact on, nearby uses.

Regarding physical characteristics, the applicant is not proposing any physical alterations through this conditional use application. On August 22, 2024, the applicant was granted a variance through appeal (AP-2024-001; VR-2024-003) to add an addition to the front of the home. The variance allows the owner to extend a non-conforming (0.5 ft) side yard setback. No building permits have been submitted to date and the conditional use application materials indicate the owner may forgo the house expansion and instead use the property as a vacation rental. Nevertheless, there is no evidence that indicates an increase in floor area would render the use incompatible with nearby uses or generate a greater impact on nearby properties. The owner's intent to utilize the variance, therefore, does not have bearing on the conditional use proposal.

As for operating characteristics, the dwelling will still be used for residential activities; moreover, the rental agreement includes measures to ensure compatibility with nearby uses, including age limitation (at least one guest must be 25 years of age or older), a limit on the total number of guests (no more than 6 guests are permitted), a non-smoking policy, and quiet hours.

The Planning Commission finds that this criterion is met.

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

No specific impacts have been identified. As mentioned above, the operating characteristics and residential character of the home will remain unchanged. Moreover, the rental agreement includes measures to ensure compatibility with nearby uses, including a limit on the total number of guests, and quiet hours.

As discussed below, the applicant will be required to notify properties within 300 ft of the subject parcel of the vacation rental. The notification will include the contact information for the property owners, any property managers, and the City of Milwaukie Police non-emergency line.

The Planning Commission finds that this criterion is met.

- 4) The proposed use will not have unmitigated nuisance impacts, such as from noise, odor, and/or vibrations, greater than usually generated by uses allowed outright at the proposed location.

The residential character of the site will stay the same and will continue to have no greater unmitigated nuisance impacts than what is currently allowed outright. The visitors to the Vacation Rental would be using the unit as a residential property; consequently, impacts should be similar in nature to what is permitted by right. As stated above, the applicant also has quiet hours, and no smoking policies in the rental agreement.

The Planning Commission finds that this criterion is met.

- 5) The proposed use will comply with all applicable development standards and requirements of the base zone, any overlay zones or special areas, and the standards in Section 19.905.

As discussed above, the owner is not proposing any physical modifications through this application; any future development would be required to meet the standards of the base zone, as modified through AP-2024-001/VR-2024-001. There are no overlay zones or special areas, and the standards in Section 19.905 are met as specified in these findings.

The Planning Commission finds that this criterion is met.

- 6) The proposed use is consistent with applicable Comprehensive Plan policies related to the proposed use.

The following goal under the housing section of the Comprehensive Plan is found to apply to the proposal. Goal 7.2 [Housing] Affordability and Policy 7.2.9 in the Comprehensive Plan speak directly to vacation rentals.

- Goal 7.2 [Housing] Affordability

Provide opportunities to develop housing that is affordable at a range of income levels.

- Policy 7.2.9: Monitor and regulate vacation rentals to reduce their impact on the availability and long-term affordability of housing.

Section 7 of the Comprehensive Plan, Housing Goals and Policies, speaks to monitoring and regulating vacation rentals to reduce their impact on the availability and long-term affordability of housing. By requiring vacation rentals to obtain a conditional-use permit in the Moderate Density Residential Zone, the City can monitor the prevalence of vacation rentals, and if appropriate, adopt additional regulations to further the goal of housing affordability.

The Planning Commission finds that through the acquisition of a conditional-use permit, the proposed use is consistent with the Comprehensive Plan and the criterion is met.

- 7) Adequate public transportation facilities and public utilities will be available to serve the proposed use prior to occupancy pursuant to Chapter 19.700.

There are adequate public transportation facilities and public utilities for the site. Renters for the proposed use will generally have a personal/rented vehicle that they can park on the property. The applicants have an off-street parking space that can accommodate one vehicle and on-street parking is also available.

The Planning Commission finds that this criterion is met.

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

b. MMC Subsection 19.905.9 Standards Governing Conditional Uses

As per MMC 19.905.9, a conditional use must comply with the standards of the base zone, and any overlay zones or special areas, in which it is located, except as these standards have been modified by the Planning Commission when authorizing the conditional use and as otherwise modified by the standards in this subsection.

MMC Subsection 19.905.9.G establishes the following specific requirements for vacation rentals:

- 1) Prior to initial occupancy, the Building Official must verify that building code and fire code standards are satisfied.
- 2) With annual filing of MMC Title 5 Business Tax, the operator must send a notice to neighbors within 300 ft that includes the following information:
 - a. Property owner contact information;
 - b. Vacation rental operator and/or property manager contact information; and

c. City of Milwaukie Police nonemergency telephone number.

Compliance with the requirements established by MMC 19.905.9.G is an ongoing obligation for the applicants.

As proposed, the Planning Commission finds that the proposed vacation rental meets the applicable standards of MMC 19.905.9.

The Planning Commission finds that the proposed vacation rental meets the applicable standards of MMC 19.905 and is approvable as a conditional use.

7. The application was referred to the following departments and agencies on August 29, 2024:

- Milwaukie Community Development Director
- Milwaukie Building Division
- Milwaukie Engineering Division
- Clackamas County Fire District #1
- Lake Road Neighborhood District Association Chairperson and Land Use Committee
- Milwaukie Public Works Director
- Milwaukie City Manager
- City of Milwaukie Neighborhood District Association Program Manager
- City of Milwaukie City Attorney

Staff received one response to the referral, which is summarized as follows:

- **Paul Hawkins (Land Use Chair, Lake Road NDA):** Commented that he hoped the venture would be a win for everybody.

On August 30, 2024, a public notice was mailed to all residents and property owners within 300 ft of the site.

Staff received one comment. The response is summarized as follows:

- **Mary Weisensee (Neighbor within 300 ft buffer):** Expressed concern and opposition to allowing the vacation rental, stating that it would negatively alter the character and well-being of the community.

EXHIBIT 2
Conditions of Approval
File # CU-2024-001, 11932 SE 35th Ave, Vacation Rental

Conditions

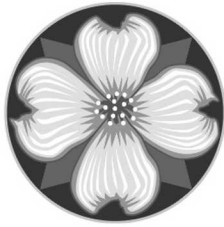
1. As per MMC Subsection 19.905.9.G, the following requirements must be met:
 - a. Prior to initial occupancy, the Building Official must verify that building code and fire code standards are satisfied.
 - b. With annual filing of MMC Title 5 Business Tax, the operator must send a notice to neighbors within 300 ft that includes the following information:
 - (1) Property owner contact information;
 - (2) Vacation rental operator and/or property manager contact information; and
 - (3) City of Milwaukie Police non-emergency telephone number.

2. Conditional Use Permit

As per MMC Subsection 19.905.6, the City will issue a conditional use permit upon the approval of this application to establish a conditional use. The conditional use permit will include the following information:

- a. A description of the use that has been approved by the City.
- b. Restrictions and/or conditions of approval placed upon the use.
- c. Ongoing responsibilities required for the operation of the conditional use.
- d. Allowance for the transfer of rights and responsibilities upon change in ownership of either the use or the property containing the use.
- e. Procedures for review, revisions, and suspension of the conditional use permit.

The applicant must record the conditional use permit with the Clackamas County Recorder's Office and provide a copy to the City prior to commencing operations allowed by the conditional use permit.



MILWAUKIE PLANNING
 10501 SE Main St.
 Milwaukie OR 97222
 503-786-7630
 planning@milwaukieoregon.gov

Application for Land Use Action

Primary File #: **CU-2024-001**

Review type*: I II III IV V

CHECK ALL APPLICATION TYPES THAT APPLY:

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

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): Kristina Fedorovskiy

Mailing address: 11932 SE 35th Ave Portland OR 97222 State/Zip: 97222

Phone(s): 503-739-1032 Email: kristina.ifed@gmail.com

Please note: The information submitted in this application may be subject to public records law.

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: State/Zip:

Phone(s): Email:

SITE INFORMATION:


Address: 11932 SE 35th Ave Portland OR 97222 Map & Tax Lot(s): 11E36DB09500

Comprehensive Plan Designation: MD Zoning: RMD Size of property: 7,160 sqft Milwaukie Maps: 6,990 sqft

PROPOSAL (describe briefly):

Proposal to use the property at 11932 SE 35th Ave Portland OR 97222 as a short term vacation rental

SIGNATURE: I attest that I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code 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:  Date: 8/12/2024

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.
 ** Natural Resource and Transportation Review applications **may require a refundable deposit.**

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.

DEPOSITS:

Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form

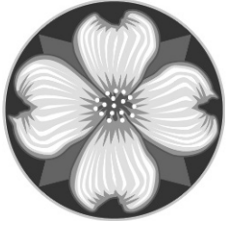
REVIEW TYPES:

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

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Primary file	CU-2024-001	\$ 2,000.00			Materials received on 8/12/24.
Concurrent application files		\$			
		\$			Payment received on 8/17/24.
		\$			
		\$			
Deposit (NR/TFR only)				<input type="checkbox"/> Deposit Authorization Form received	
TOTAL AMOUNT RECEIVED: \$			RECEIPT #:	RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):					
Neighborhood District Association(s): Lake Road NDA					
Notes: Applicant is applying to operate a vacation rental.					



MILWAUKIE PLANNING
10501 SE Main St.
Milwaukie OR 97222
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 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).

C. Compliance with the Tree Code (MMC 16.32): www.milwaukieoregon.gov/trees

These standards can be found in the MMC, here: 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.

G:\Planning\Internal\Administrative - General Info\Applications & Handouts\Submittal Rqmts_Form_revised.docx—Rev.

APPLICATION PREPARATION REQUIREMENTS:


- Electronic copies of all application materials are required at the time of submittal.

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.
- 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.

As the authorized applicant I, (print name) _____, 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: 8/14/24 _____

Official Use Only

Date Received (date stamp below):

Land use application form
submitted 8/12/2024.

Submittal requirements form
submitted 8/14/2024.

Received by: Ryan Dyar, Associate Planner

Staff Note: Detailed Application Statement

Type III Conditional Use Request
11932 SE 35th Ave. Milwaukie OR 97222

Type III conditional use to operate as a vacation rental at 11932 SE 35th Ave. Milwaukie OR 97222.

The single family detached home has 3 bedrooms and 2 bathrooms and is an 1805 sqft house. The lot is 7,160 sq ft and completely fenced. Driveway and garage accomodates 3 vehicles. The location provides public transportation and has been remodeled and fully fenced making it suitable for the proposed use. It is located in the moderate density residential zone R-MD. The owners will remain local and manage all bookings and communication and property maintenance.

The operating and physical characteristics of the proposed use will be reasonably compatible with, and have minimal impact on, nearby uses. The house will remain residential in nature and retain its current residential appearance, not affecting the use of nearby properties. No more than allowed number of 6 persons will be staying at a time. The primary use remains a residential use for the renters of the house, as it is continued to be used as a dwelling for eating and sleeping keeping the residential designation with no commercial meetings or events or parties allowed.

All identified impacts will be mitigated to the extent practicable. No trees or natural resources are affected by the conditional use. The property is fully fenced eliminating any impact to adjacent properties. The applicant will continue to maintain the landscaping and trees belonging to the property.

The proposed use will not have unmitigated nuisance impacts, such as from noise, odor, and/or vibrations, greater than usually generated by uses allowed outright at the proposed location. The home will remain residential in nature. The entire home has a strict non smoking policy and quiet hours between 10 pm and 7 am. These rules will be presented on the booking page, sent to the renter upon booking, made visible inside the house, and be enforced by the applicant.

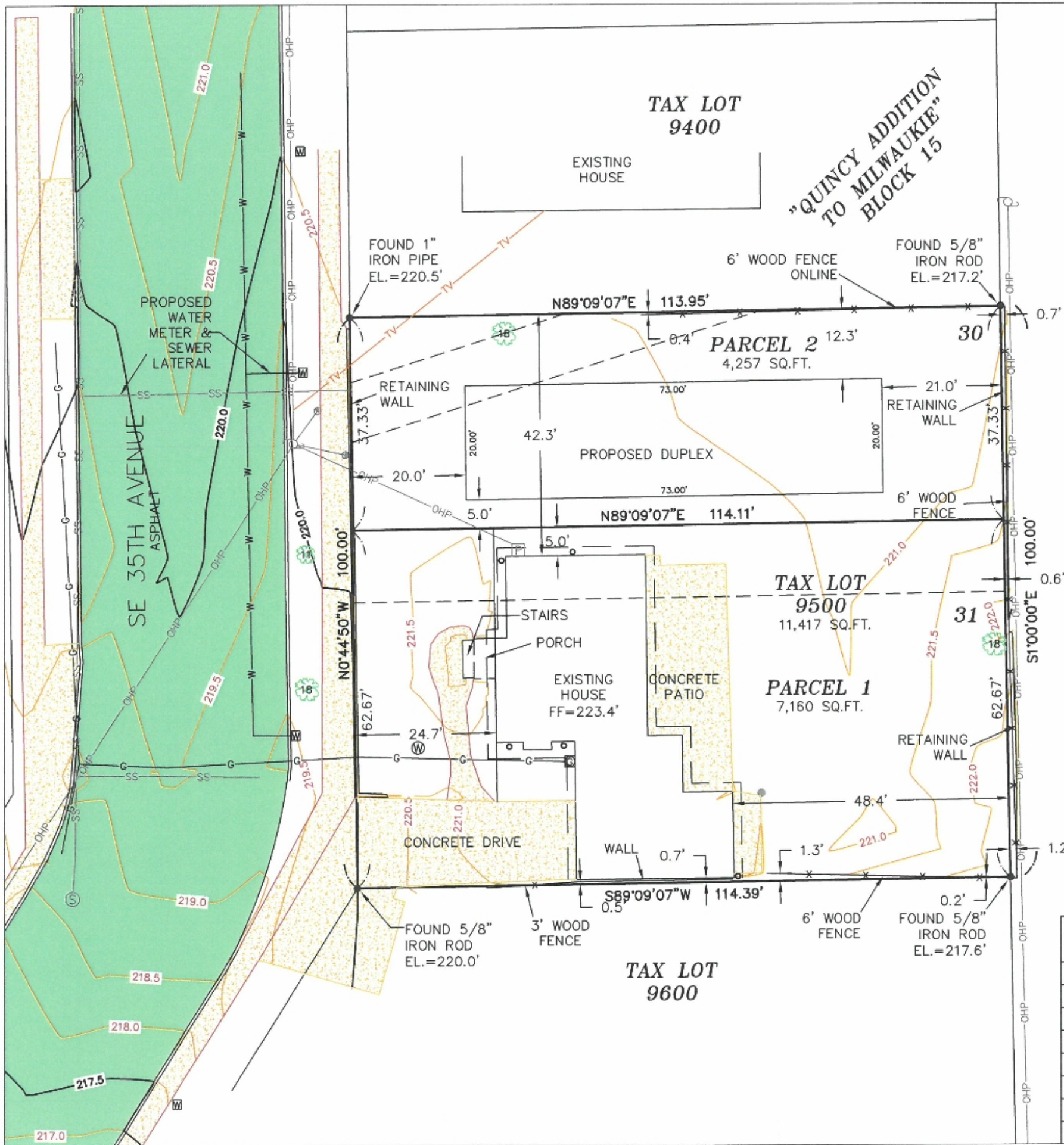
The proposed use will comply with all applicable development standards and requirements of the base zone, any overlay or special areas and the standards in section 19.905. All building and fire code standards are met on the property. Smoke detectors, carbon monoxide detectors are as required. No exterior alterations will be made to the house. The property is not in an overlay zone or special area.

The proposed use is consistent with applicable Comprehensive Plan policies related to the proposed use.

Adequate public transportation facilities and public utilities will be available to serve the proposed use prior to occupancy pursuant to Chapter 19.700. Transportation maps and public transit access are available in the area and the details information will be provided to the renters.

Staff Note: Addition to narrative provided by applicant on August 21, 2024 regarding the status of a development project that was approved through a separate land-use application (VR-2024-003). This information was provided by the applicant to establish additional context regarding site development.

We decided not to extend the garage at this time. We are moving, and would like to rent out our current house. We will be managing the rental as we will still be in Clackamas county. In case our new plans don't work out, we are keeping the option of the approved variance open.



LEGEND

- EXISTING DECIDUOUS TREE W/ TRUNK DIAMETER (INCHES)(CL=CLUSTER)
- EXISTING ELECTRIC METER
- EXISTING POWER POLE
- EXISTING GUY ANCHOR
- EXISTING OVERHEAD POWER LINES
- EXISTING WATER METER
- EXISTING DRY WELL
- EXISTING UNDERGROUND WATER
- EXISTING GAS METER
- EXISTING UNDERGROUND GAS LINE
- EXISTING SANITARY MANHOLE
- EXISTING CLEANOUT
- EXISTING SANITARY SEWER LINE
- EXISTING FENCE
- EXISTING CABLE TV LINE
- EXISTING DOWN SPOUTS
- FOUND MONUMENTS
- EXISTING CONCRETE
- EXISTING ASPHALT



SCALE 1" = 20'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

David Roeger


OREGON
SEPTEMBER 11, 2018
DAVID ROEGER
86811

EXPIRES DECEMBER 31, 2024

NOTES

1. THE PURPOSE OF THIS MAP WAS TO SHOW THE EXISTING CONDITIONS FOR 11932 SE 35TH AVENUE.
2. THE BASIS OF BEARINGS WAS PER THE PLAT OF "QUINCY ADDITION TO MILWAUKIE" CLACKAMAS COUNTY RECORDS.
3. LOCAL DATUM WAS ESTABLISHED PER MANHOLE RIM ELEVATION ON CITY OF MILWAUKIE SEWER ASBUILTS.
4. THIS MAP WAS PREPARED FOR THE EXCLUSIVE USE OF KRISTINA FEDOROVSKIY.
5. THIS MAP WAS PREPARED BY PLAT RECORDS, CALCULATED DATA, AND FIELD MEASUREMENTS, A RECORDED PARTITION PLAT WILL BE FILED AT A DATE TO BE DETERMINED.
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 OF UNDERGROUND LOCATION. PLEASE NOTIFY THE UTILITY NOTIFICATION CENTER BEFORE ANY DIGGING 1-800-332-2344.

EXISTING CONDITIONS & PROPOSED REPLAT	11932 SE 35TH AVENUE
SE 1/4 SEC 36, T1S, R1E, W.M.	
CITY OF MILWAUKIE	
CLACKAMAS COUNTY, OREGON	
APRIL 19, 2023	
DRAWN: JMR CHECKED: DMR	
SCALE 1"=20' ACCOUNT #500-1349	
Y:\500-1349\DWG\5001349BASE	



CMT SURVEYING AND CONSULTING
20330 SE HIGHWAY 212
DAMASCUS, OR 97089
PHONE (503) 850-4672 FAX (503) 850-4590

Exhibit 4

From: [Paul Hawkins](#)
To: [Ryan Dyar](#)
Subject: Re: CU-2024-001 Notice of Type III Land Use Proposal and Referral
Date: Monday, September 2, 2024 1:04:18 PM

This Message originated outside your organization.

Ryan,

I hope this venture is a win - win for everybody. If for some reason the homeowner decides to no longer pursue the vacation rental program, is there a timeline to construct the addition under the recently granted variance?

Thank you,
Paul Hawkins,
Lake Road Neighborhood Land Use

On Thu, Aug 29, 2024 at 4:40 PM Ryan Dyar <DyarR@milwaukieoregon.gov> wrote:

Hello,

Please visit the link below for the Notice of Type III Land Use Proposal and Application Referral for land use application CU-2024-001 for 11932 SE 35th Ave.

If you have any questions, please feel free to contact Ryan Dyar at 503-786-7661 or dyarr@milwaukieoregon.gov.

<https://www.milwaukieoregon.gov/planning/cu-2024-001>

Best,

Ryan

Ryan Dyar, AICP

Associate Planner

he • him • his

503.786.7661

City of Milwaukie

10501 SE Main St • Milwaukie, OR 97222

Disclaimer

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This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd.**

From: [Mary Weisensee](#)
To: [Ryan Dyar](#)
Subject: Written Comment in opposition: CU-2024-001
Date: Thursday, September 5, 2024 4:27:10 PM

This Message originated outside your organization.

Hello Ryan,

I am a resident within the Lake Road neighborhood and I would like to submit my opposition to the proposed vacation rental on 35th street:

Dear City Planning Commission,

I am writing to express my concern and opposition to allowing a dwelling in our residential neighborhood to be converted into a vacation rental. There are several factors that make such a change detrimental to the character and well-being of our community.

Unfortunately, we already have a few rental properties on our street, and they fit the stereotype of unkept yards, unusual behavior, and a lack of community or neighborly interaction. This negatively impacts the entire street and contributes to a decline in the sense of pride and care that long-term residents typically have for their homes and surroundings.

Vacation rentals typically cater to short-term visitors, often staying only a few days for events like weddings or vacations. As a result, there is less incentive for these temporary renters to maintain the same level of care or respect for the neighborhood that long-term residents do. Noise, late-night gatherings, and irregular schedules could become commonplace, negatively impacting the peace and quiet we currently enjoy.

Short-term renters are less likely to upkeep the yard or house as they don't have a vested interest in the property. This, combined with the potential for increased traffic and parking issues, would put an unnecessary strain on our neighborhood.

If Milwaukie wants to grow and become an ideal place where families can thrive and feel safe, allowing vacation rentals would be a step in the wrong direction. The unpredictable nature of short-term rentals makes it impossible to know what kind of impact each new group of visitors will have, and it would contribute to a decline in neighborhood quality with increased noise, traffic, and unruly behavior.

For the sake of preserving the character and safety of our community, I urge the Planning Commission to reconsider supporting vacation rentals in residential areas like ours. The long-term consequences could significantly undermine the sense of community that we've worked hard to build.

Thank you for your consideration.

Mary Weisensee
12006 SE 36th Ave
Milwaukie, OR 97222