

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

Application for Land Use Action

Primary File #: MLP-2022-002

Review type*: I II III IV V

CHECK ALL APPLICATION TYPES THAT APPLY:

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

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): David Barber

Mailing address: 5705 SE Flora Drive Milwaukie OR State/Zip: 97222

Phone(s): 503-889-6281 Email: spanky52583@yahoo.com

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

APPLICANT'S REPRESENTATIVE (if different than above): Debbie Cleek - The Bookin Group

Mailing address: 1020 SW Taylor Street, Suite 555 Portland, OR State/Zip: 97205

Phone(s): 503-789-3211 Email: cleek@bookingroup.com

SITE INFORMATION:

Address: 5703-5705 SE Flora Drive Map & Tax Lot(s): 12E30DB 00700

Comprehensive Plan Designation: Residential Zoning: R-MD Size of property: 17,313 sq. ft.

PROPOSAL (describe briefly):

Divide the property into two parcels. Both parcels are already developed with a single family detached house.

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: *Debbie Cleek*

Date: 9/23/22

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	MLP-2022-002	\$ 2,000			
Concurrent application files		\$			
		\$			
		\$			
		\$			
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): LEWELLING					



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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.

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APPLICATION PREPARATION REQUIREMENTS:

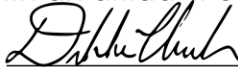
- Electronic copies of all application materials are required at the time of submittal.

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) Debbie Cleek, 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: 09/27/22

Official Use Only

Date Received (date stamp below):

Received by: _____



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Preliminary Plat Checklist and Procedures

All applications for partitions and subdivisions require submission of preliminary development plans and supporting information in accordance with the Milwaukie Land Division Ordinance. In special cases, certain items listed below may not be required and can be waived by staff. All items below must be submitted except when authorized by staff signature at the end of the form. Errors, omissions, or poor quality may result in the application being rejected or declared incomplete pursuant to the Milwaukie Zoning Ordinance and/or Land Division Ordinance. The Zoning and Land Division Ordinances can be found here: www.qcode.us/codes/milwaukie/.

One hard copy and an electronic version of all submittal materials are required.

Application Checklist

1. Detailed description of how the proposal complies with Land Division Ordinance Section 17.12 Application Procedure and Approval Criteria.
2. Detailed description of how the proposal complies with Land Division Ordinance Section 17.16 Application Requirements and Procedures.
3. Detailed description of how the proposal and application complies with Land Division Ordinance Section 17.20 Preliminary Plat including the following minimum requirements:
 - a. Preliminary plats shall be prepared by an Oregon registered land surveyor.
 - b. The following general information shall be submitted with the preliminary plat:
 - 1) Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the County Surveyor in accordance with Oregon Revised Statutes Chapter 92.
 - 2) Appropriate identification clearly stating the map is a preliminary plat.
 - 3) Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided.
 - 4) Names and addresses of the owner, subdivider, and engineer or surveyor.
 - 5) Information specified in Section 17.20.060.A.10 related to middle housing land divisions (if applicable).
 - 6) Other information as may be specified on application forms and checklists prescribed by the Planning Director.
 - c. Vicinity map shall be drawn at an appropriate scale, showing all existing subdivisions, streets, and unsubdivided land between the proposed subdivision and the nearest existing arterial or collector streets; and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map shall depict future street connections for land within 400 ft of the subject property.
4. Existing conditions plan including the following):

- a. Location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, city boundary lines, and monuments.
 - b. Contour lines related to an established benchmark or other datum approved by the Engineering Director, with intervals at a minimum of 2 ft for slopes up to 10% and 5 ft for slopes over 10%.
 - c. Location within the area to be divided, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts.
 - d. Zoning and existing uses within the tract and 200 ft on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed.
 - e. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract including wetlands and watercourses as shown on City-adopted natural resource and Title 3 maps.
 - f. Natural features such as rock outcroppings, drainages whether seasonal or perennial, wooded areas, and isolated trees, including type and caliper.
 - g. Floodway and floodplain boundary.
 - h. Areas containing slopes of 25% or greater
5. The preliminary plat plan shall include the following information:
- a. Date, north point, scale, address, assessor reference number, and legal description.
 - b. Name and address of the record owner or owners and of the person who prepared the site plan.
 - c. Approximate acreage and square feet under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the partition.
 - d. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and right-of-ways; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities.
 - e. Location of existing structures, identifying those to remain in place and those to be removed.
 - f. Dimensioned lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements.
 - g. Existing development and natural features for the site and adjacent properties, including those properties within one 100 ft of the proposal, showing buildings, mature trees, topography, and other structures.
 - h. Elevation and location of flood hazard boundaries.
 - i. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City;

- indication as to whether roads will continue beyond the plat; and existing and proposed grade profiles.
- j. Lot and block numbers.
 - k. For middle housing land divisions:
 - i. separate utility connections for each dwelling unit;
 - ii. proposed easements necessary for each dwelling unit on the plan for:
 - 1) Locating, accessing, replacing and servicing all utilities;
 - 2) Pedestrian access from each dwelling unit to a private or public road;
 - 3) Any common use areas or shared building elements;
 - 4) Any dedicated driveways or parking; and
 - 5) Any dedicated common area.
6. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.
 7. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title and Title 19.
 8. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title and Title 19.
 9. A drainage summary report and plan that demonstrates estimated pre- and post-development flows, stormwater collection and management measures, and proposed discharges.
 10. Proposed deed restrictions, if any, in outline form.
 11. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, State law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details shall be submitted with the request for final plat approval.
 12. Location plan drawn to an appropriate scale (on paper no larger than 8½ by 11 inches) showing nearest cross streets, drives opposite the site, and location of buildings and parking areas on adjoining lots.

Application Procedures

1. A preapplication conference with City staff is highly recommended.
2. Appointments may be made for review of preliminary plat requirements through the Planning Department in advance of formal submission.
3. The Planning Department coordinates with appropriate City departments, the Fire District, and other involved agencies as needed.
4. Applications will be screened for completeness at the time of submission. Incomplete applications will not be accepted.

PROJECT SUMMARY

<u>Location:</u>	5703 – 5705 SE Flora Drive
<u>State ID:</u>	12E30DB 00700
<u>Site Size:</u>	17,313 sq. ft. (0.39 acres)
<u>Zoning:</u>	R-MD (Residential Moderate Density)
<u>Request:</u>	A two-parcel Partition, to divide two existing single-family houses onto separate lots.
<u>Owner:</u>	David Barber 5705 SE Flora Drive Milwaukie, OR 97222 spanky52583@yahoo.com
<u>Land Use Planner:</u>	Debbie Cleek, Senior Planner The Bookin Group 1020 SW Taylor Street, Suite 555 Portland, OR 97205 cleek@bookingroup.com

PROPOSED PLAN

Project Summary. The site is developed with two existing single-family houses built in the 1940's. The proposed partition would divide the site to allow each of the houses to be sited on their own lot. The site has frontage on both SE Stanley Avenue on the east and SE 56th Avenue on the west. On the south edge of the property an unpaved private drive (SE Flora Drive) provide access to both the houses as well as two additional houses south of the property via an access easement. No new or additional development is proposed on either of the two new parcels as part of this partition request.

Utilities. Utilities for the parcels will be provided as follows:

1. Water service to the site is provided by the public water main in Stanley Avenue. Each house has an existing water meter located off of Flora Drive. A public utility easement is proposed across Parcel 2 for the water line that serves Parcel 1.
2. Sanitary sewer for both parcels is provided by the public sewer line in SE 56th Avenue via a sewer lateral that extends across the north edge of the site. A private sanitary sewer easement will be provided across Parcel 1 to serve Parcel 2.
3. Stormwater disposal for each of the houses is handled on each individual parcel.

DEVELOPMENT STANDARDS

Base Zone Standards. The following table shows how both the proposed parcels will be able to comply with the applicable development standard of the R-MD zone found in Table 19.301.4.

Standard	R-MD Zoning Standard	Proposed Parcel 1	Proposed Parcel 2	Notes
Minimum Lot Size	7,000 sq. ft. and up	8,121 sq. ft.	9,192 sq. ft.	For Single Detached Dwellings. Parcel 2 (the flag lot) is 7,211 sq. ft. without including the pole.
Minimum Lot Width	60 ft.	91 ft.	79 ft.	
Minimum Lot Depth	80 ft.	89 ft.	91 ft.	
Minimum Street Frontage	35 ft./25 ft	91 ft.	20 ft. existing pole	35 ft. for a standard lot/25 ft. for a flag lot
Minimum Front Yard Setback	20 ft./30 ft.	25 ft.	22 ft.	30 ft setback is for flag lots. Access for Parcel 2 is from SE Stanley so east lot line considered the front lot line. Development is existing non-conforming, since current lot configuration is a flag lot
Minimum Rear Yard Setback	20 ft./30 ft.	20 ft.	22 ft.	
Minimum Street Side Yard Setback	20 ft.	n/a	n/a	
Minimum Side Yard Setback	5/10 ft.	16 ft. (north) 50 ft. (south)	20 ft. (north) 50 ft. (south)	One side may be 5 ft. and the other must be 10 ft. For flag lots 10 feet is required.
Maximum Lot Coverage	30%	13%	13%	
Minimum Vegetation	30%	>30%	> 30%	Majority of both parcels are landscaped.
Front Yard Minimum Vegetation	40%	78%	78%	
Minimum Density (units/acre)	5.0	5.4	6.1	Density for Parcel 2 excludes the pole portion of the lot.
Maximum Density (units/acre)	6.2	5.4	6.1	

Overlay Zone Standards. The property is not located in any overlay zones, so there are no standards that apply to this proposal.

Supplementary Development Regulations. Generally, the Supplementary Development Regulations of Chapters 19.500, 19.600 and 19.700 apply when new development is proposed on a site, so the vast majority of these standards do not apply to this proposal since both houses already exist and there is no new development proposed with this land division. The standards that do apply are addressed as follows:

19.502.E Accessory Structures. *Regardless of the base zone requirements in Chapter 19.300, the required side and rear yards for an accessory structure are reduced to 5 ft. E. The rear or side yard requirement for residential accessory structures per Subsection 19.502.2.A or 19.910.1.E.4 may specify a different yard requirement.*

Response: There are three small sheds located on the two lots. On Parcel 1, there is an 8' by 8' shed (64 sq. ft.) that is 10 feet tall. According to Table 19.502.2.A.1.a, this structure is considered a Type A structure and is required to be setback 5 feet from all property lines. The shed is setback 10 feet from

the rear property line, and between 40 and 50 feet from the side property lines. On Parcel 2 there is a 10' by 12' shed (120 sq. ft.) that is 10 feet tall and an 8' by 8' shed (64 sq. ft.) that is 10 feet tall. Both of these structures are also considered Type A structures and require 3 foot setbacks from all property lines. These sheds will be just over 3 feet from the rear property line, 12 feet from the north side lot line and over 50 feet from the south property line. As shown, the setback standards are met for all the accessory structures on the site.

19.504.7 Flag Lot and Back Lot Design and Development Standards.

B.1. Lot Area Calculations. *The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward meeting the minimum lot area requirement.*

Response: The size of proposed Parcel 2 – the flag lot – is 7,211 sq. ft. not including the pole, which meets the 7,000 sq. ft. minimum lot size standard for single-family detached houses.

B.2. Yard Setbacks for Flag Lots

a. *Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a flag lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.*

b. *Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.*

Response: The definition of “front lot line” indicated that for flag lots the front lot line is considered the lot line closest to the street that provides access to the lot. In this case the existing lot has a flag pole out to Stanley Avenue and the new lot will continue to be configured with this same flag pole. The existing flag lot only has a front setback of 22 feet, and the new lot configuration will continue to have this non-conforming setback. Additionally, the rear setback of this lot will also be 22 feet, but this existing separation between the two existing houses on the site is also existing non-conforming and will not move further out of conformance with this land division. The side setbacks for this lot will be 20 feet to the north and 50 feet to the south, so these setbacks will comply with this standard.

B.4. Frontage, Accessway, and Driveway Design

a. *Flag lots shall have frontage or access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.*

Response: The existing flag pole to Parcel 2 is 20 feet wide. It is not anticipated that this flag pole will be used for access to the lot, since vehicle access to Stanley Avenue is prohibited and the flag portion is fenced off, prohibiting vehicles from entering this area. Access to the lot will be provided via an access easement over Parcel 2. The configuration of the lot is existing non-conforming and will not move further out of conformance as a result of this land division.

D. Screening of Adjoining Properties. *Flag lots and back lots must be screened in accordance with this subsection.*

- 1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping must be installed within 6 months thereafter or the bond will be foreclosed. The property owner must maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.*
- 2. Driveways on flag lots and back lots must be screened to the greatest extent practicable. Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that*

is not part of the parent lot from which the flag lot, or back lot, was created is required as described below.

Response: Parcel 2 currently contains fencing along the south, east and north property lines and a portion of the west property line, which screens the parcel from adjacent properties. Additional fencing can be added to the west property line to better meet this standard, however the portion of the lot covered by the access easement from 56th Avenue cannot be fenced or planted to allow access to the lot.

19.505.1 Single Detached Dwellings and Middle Housing Residential Development. *The design standards for one to four (1 - 4) unit dwellings (including single detached dwellings, duplexes, triplexes, and quadplexes), cottage clusters, and townhouses require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.*

Response: Both houses on the site are existing and have been on the site since the 1940's and no new or additional development is proposed with this land division. As such, any elements of the houses that do not comply with the Building Design Standards are existing non-conforming and will not move further out of conformance with these standards as a result of this land division.

19.505.2 Garages and Carports. *These standards are intended to prevent garages from obscuring or dominating the street-facing façade of a dwelling and provide for a pleasant pedestrian environment in residential areas.*

Response: Neither of the houses include a garage or carport, so these standards do not apply.

19.605 Vehicle Parking Quantity Requirements.

19.605.1 Minimum and Maximum Requirements.

A. *Development shall provide at least the minimum and not more than the maximum number of parking spaces as listed in Table 19.605.1.*

Response: According to Table 19.605.1, single-family detached dwellings require a minimum of 1 space per primary dwelling unit and no maximum limit. Both of the parcels have an existing gravel parking space located between SE Flora Drive and the house that is at least 9 feet wide and 19 feet long and meets the requirements for a parking space and this standard is met.

19.606.3 Additional Design Standards

A. **Paving and Striping.** *Paving and striping are required for all required maneuvering and standing areas. Off-street parking areas shall have a durable and dust-free hard surface, shall be maintained for all-weather use, and shall be striped to show delineation of parking spaces and directional markings for driveways and accessways. Permeable paving surfaces may be used to reduce surface water runoff and protect water quality.*

Response: The existing parking areas and access for both lots are currently gravel, however this is an existing, non-conforming situation, that will not move further out of conformance as a result of this land division.

19.700 Public Facility Standards and Requirements.

Response: The Standards of Chapter 19.700 relate to providing adequate access to public streets and utilities. As described earlier in this report, both of the proposed parcels are already served SE 56th Avenue, a public street and SE Flora Drive, a private drive. Additionally, both parcels are already served by public water and sewer. Where the existing utility lines will cross over the adjacent parcel, easements are proposed to assure the continuing access to these utility lines. Although frontage

improvements would be triggered per Section 19.702.1.a because both sites are already developed Public Works has indicated that no frontage improvements are required at this time.

19.803 Continuation of Nonconforming Uses and Development. *A nonconforming use or development may continue indefinitely pursuant to the provisions in Subsection 19.802.2 unless it is discontinued as described in this section, altered as described in Section 19.804, destroyed as described in Section 19.805, or amortized as described in Section 19.806.*

19.804.2 Nonconforming Development

The following provisions apply to the alteration of nonconforming development:

- A. *Alterations or expansions that increase or extend the nonconformity are not allowed unless a variance is approved pursuant to Section 19.911.*
- B. *Alterations or expansions that conform to Title 19 are allowed. For example, development that does not conform to height, yard requirements, or lot coverage may be altered provided that the alteration does not exceed the height, yard requirements, or lot coverage requirements of Title 19.*

Response: As described above, there are several elements of the existing development that is considered non-conforming development. In all these cases the division of the property will not move these elements further out of conformance with the standards of Title 19, so these elements may continue to exist.

LAND DIVISION DESIGN STANDARDS

The majority of the requirements of Title 17 are addressed directly on the survey documents submitted with this application. In addition, both proposed parcels will comply with the General Lot Design standards of Section 17.28.040, and the Flag Lot Design Standards of 17.28.50 and .60 as follows:

17.28.030 Easements

- A. **Utility Lines.** *Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be provided in accordance with applicable design standards in the Public Works Standards.*
- B. **Watercourses.** *If a subdivision is traversed by a watercourse such as a drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of construction and maintenance. Streets, parkways, bicycle ways, or pedestrian ways parallel to major watercourses may be required.*

Response: An easement is proposed across the north 10 feet of Parcel 1 in the location of the existing sanitary sewer line that serves the house on Parcel 2. An easement is also proposed across the south 22 feet of Parcel 2 in the location of the existing water line that serves the house on Parcel 1. These easements have been designed in accordance with the Public Works Standards and will be dedicated on the Final Plan. This standard is met.

17.28.040 General Lot Design

- A. **Size and Shape.** *Lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19.*

Response: As shown in the Development Standards above, both the proposed parcels will conform to the minimum lot standards of Title 19. The size, width and orientation of the proposed parcels are appropriate for the development that already exists on them, and at this time no further development is contemplated. This standard is met.

B. Rectilinear Lots Required. 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.

Response: Both the proposed parcels are rectilinear in shape, with lot lines running at right angles to the adjacent public streets. This standard is met.

C. Limits on Compound Lot Line Segments. Changes in direction alongside and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line 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. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

Response: The proposal does not include any compound lot lines. This standard is met.

D. Adjustments to Lot Shape Standard. Lot shape standards may be adjusted subject to Section 19.911 Variances.

Response: No adjustments to the lot shape standards are anticipated with this plat, so this standard does not apply.

E. Limits on Double and Reversed Frontage Lots. Double frontage and reversed frontage lots should be avoided, except where essential to provide separations of residential development from railroads, traffic arteries, or adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

Response: There are no double frontage or reverse frontage lots proposed with this plat therefore this standard is met.

F. Measurement of Required Frontage. 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.

Response: Parcel 1 takes access from SE 56th Avenue and meets the frontage requirement of 35 feet along this frontage. Parcel 2 will also take access from SE 56th Avenue, via an access easement, and therefore does not include any frontage on SE 56th Avenue. The existing flag pole on Stanley Avenue is 20 feet wide which is non-conforming with the 25 foot minimum requirement, but will not move further out of conformance with this proposal.

17.28.050 Flag Lot and Back Lot Development and Future Access. Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots. The creation of flag lots or back lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure.

Response: The existing lot is configured as flag lot with the flagpole accessing SE Stanley Avenue, however, this vehicle access is not being used by the lot and there is a fence across the driveway prohibiting access. Future Parcel 2 will continue to be configured as a flag lot, but will take access off SE 56th Avenue, via an access easement across Parcel 1. Parcel 2 will not meet this standard, since access to SE 56th Avenue is a possibility, however the flag lot configuration is an existing non-

conforming situation that will not move further out of conformance with this standard with this land division. The existence of the flag lot will not preclude the development of street access to any of the parcels that surround the site, so this portion of this standard is met.

17.28.060 Flag Lot and Back Lot Design Standards.

A. Consistency with the Zoning Ordinance. *Flag lot and back lot design shall be consistent with Subsection 19.504.8.*

Response: The standards of 19.504.8 relate to On-Site Walkways and Circulation. These standard exempt single family detached development, which is what is developed on both parcels. After the land division the development will remain as single family detached development. Therefore, these standards do not apply to this project.

B. More than 2 Flag Lots or Back Lots Prohibited. *The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited.*

Response: Only one flag lot is proposed with this land division so this standard is met.

APPROVAL CRITERIA

APPROVAL CRITERIA FOR PRELIMINARY PLAT

The approval criteria for Preliminary Plats are found in Section 17.12.040. The approval authority may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:

1. *The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards, including Chapter 16.32 Tree Code.*

Response: The applicable design standards of Title 19 and the standards of Title 17 have been addressed above. The Tree Preservation and Planting standards of Section 16.32.042 are addressed below:

B. Clear and Objective Tree Preservation Standards

Trees are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Not more than 25% of on-site existing tree canopy may be removed below the overall 40% site canopy coverage standard unless mitigation is provided according to Subsection 16.32.042.D.

Trees listed on the City of Milwaukie Rare or Threatened Tree List must be prioritized for preservation and will incur an additional fee if removed as listed on the Master Fee Schedule. When the trunk of a tree crosses a property line at ground level it is considered an on-site tree for the purposes of these tree preservation standards.

Healthy trees with DBH of 12 inches or greater may receive additional canopy credits for existing tree crown area to be factored into preservation calculations as defined in the Master Fee Schedule.

Response: There is one existing tree on the site – a 6” spruce tree located on proposed Parcel 1. This tree will remain on the site as part of this land division, resulting in 100% of the on-site existing tree canopy preserved. This standard is met.

C. Clear and Objective Tree Planting Standards

40% canopy coverage is the standard site canopy coverage for residential developed lots. In addition to the preservation of on-site trees, at least 40% tree canopy is required for a development site from existing trees or new tree plantings unless mitigation is provided according to Subsection 16.32.042.D.

Response: Neither of the parcels currently conform to the 40% tree canopy requirement. However, no changes are proposed to the property that would cause it to move further out of conformance with this standard. As described above the only tree on the site will not be removed so the site will remain at the same amount of tree canopy.

F. Tree Protection Standards

Trees to be retained must be protected from development impacts according to the standards in this subsection to be eligible for tree preservation and tree canopy credit.

Response: The tree that will remain on Parcel 1 will not be impacted by any development on the lot, because both the parcels are fully developed so no new development is proposed as part of this land division. Therefore, protection for the existing tree is not necessary in this situation.

2. *The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.*

Response: Both the proposed parcels are already developed, showing that they are capable of reasonable development under the R-MD zoning standards. No Variances are required as part of this land division. This criterion is met.

3. *The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).*

Response: The proposal is not a subdivision, so it does not require a name, so this criterion does not apply.

4. *The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.*

Response: There are no new streets proposed with this land division. Both parcels will take access off of SE 56th Avenue, an existing public street, with no changes to the layout of location, width or direction of this street. This criterion is met.

5. *A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.*

Response: This narrative describes how the proposal conforms to all applicable code sections and design standards, so this criterion is met.

6. *Approval of a preliminary plat for a middle housing land division will be granted if the Planning Manager finds that the applicant has met all of the following criteria...*

Response: The proposed plat is not for middle housing, so this criterion does not apply.

7. *If an applicant elects to use the expedited land division procedure, the application must meet the following additional approval criteria...*

Response: The applicant is not using the expedited land division procedure, so this criterion does not apply.

CONCLUSION

As shown in this report, the proposed two parcel Partition meets all of the approval criteria of Title 19 and the Approval Criteria of Title 17. The land division will allow the two developed parcels to be separated from each other and owned separately and will not result in any new development on the site.

APPENDIX

Preliminary Plat
Land Use Application
Pre-Application Conference Waiver Request
Title Report
Existing Access Easement



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

PREAPPLICATION CONFERENCE WAIVER

I/We, David Barber (print), as applicant(s)/property owner(s) of 5705-5703 SE Flora dr Milwaukie, OR 97222 (address of property), request to waive the requirement for a preapplication conference for the submission of a **Type II / III / 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

I would like to wave the preapplication conference. I have had many conversations with Vera Koliass (Senior Planner) about what my plans are of sub-dividing my property, they even discussed the property at there meeting. The property has already been developed. I just want to separate them two to there own individual property's at 5703-5705 fence line with access from 56th AVE and removing access from Stanley. I have also communicated with Steve Adams (City Engineer) on what I want to do. I hired Compass Land Surveyor in Milwaukie OR to get this project rolling. They are scheduled to start with the surveying on the 27th of this month.

Thanks,
 David Barber

Signed: *David Barber*
 Applicant/Property Owner

Approved: *Lana Weigel*
 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

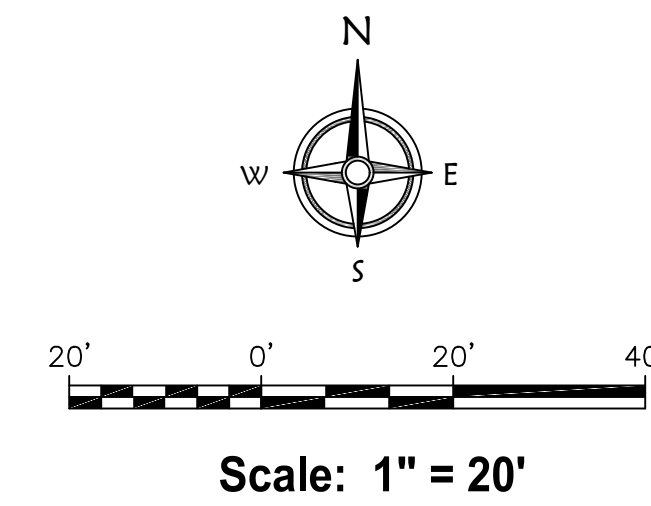
- A. For Type I applications, a preapplication conference is optional.
- B. For Type II, III, IV, and V applications, and expedited annexations per Section 19.1104, a preapplication conference is required, with the following exceptions:
 - 1. The Planning Director may waive the preapplication conference 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.



LEGEND

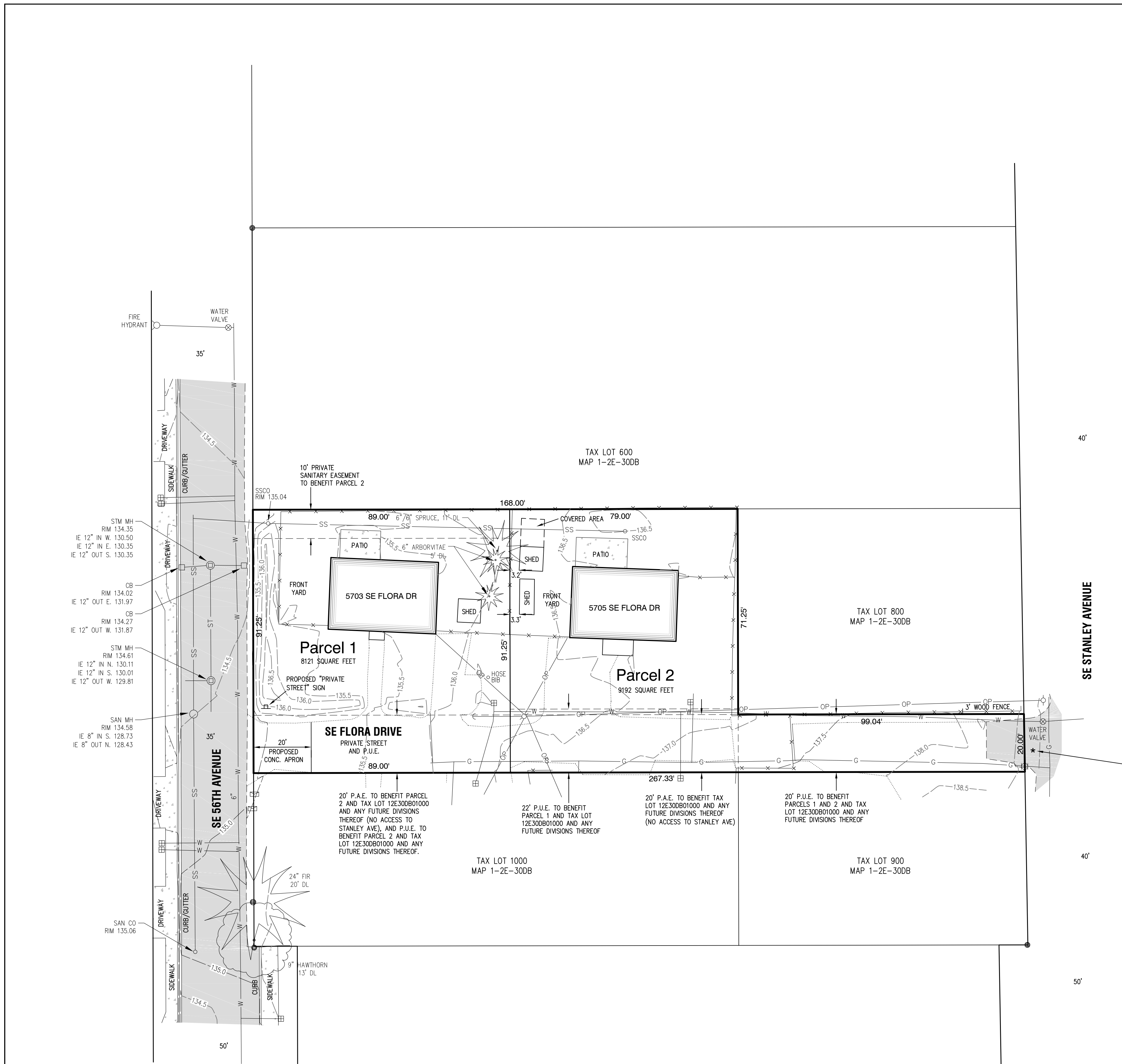
-----	EDGE OF GRAVEL	DL	DRIFLINE
-----	EDGE OF PAVEMENT	●	FOUND MONUMENT
-----	FENCE, 6" WOOD UNLESS NOTED	☒	MAILBOX
-----	GAS	○	UTILITY POLE
-----	OP	⊞	WATER METER
-----	SS	⊗	WATER VALVE
-----	ST	P.A.E.	PRIVATE ACCESS EASEMENT
-----	W	P.U.E.	PUBLIC UTILITY EASEMENT
▨	ASPHALT		
▩	CONCRETE		
▤	GRAVEL		

NOTES

- UTILITY INFORMATION SHOWN ON THIS MAP IS BASED UPON OBSERVED FEATURES AS WELL AS TONE MARKS PROVIDED BY UTILITY LOCATORS AS A RESULT OF OUR REQUESTS FOR MARKINGS TO THE OUNC. NO WARRANTIES ARE MADE REGARDING THE ACCURACY OR COMPLETENESS OF THE UTILITY INFORMATION SHOWN. ADDITIONAL UTILITIES MAY EXIST. INTERESTED PARTIES ARE HEREBY ADVISED THAT UTILITY LOCATIONS SHOULD BE VERIFIED PRIOR TO DESIGN OR CONSTRUCTION OF ANY CRITICAL ITEMS.
- VERTICAL DATUM: NAVD '88 UTILIZING GPS POSITIONING TIED TO THE ORGN WITH REAL TIME CORRECTORS REFERENCED TO DATUM NAD '83 (2011) EPOCH 2010.00.
- PROPERTY LINES ARE BASED ON FOUND MONUMENTS AND RECORDED SURVEYS WITH CLACKAMAS COUNTY SURVEYOR'S OFFICE.
- CONTOUR INTERVAL IS ONE-HALF FOOT.
- PUBLIC UTILITIES NOTIFIED BY OREGON UTILITY NOTIFICATION CENTER TICKET NUMBER 22184840:

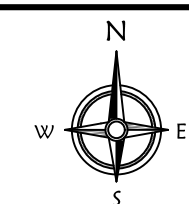
CITY OF MILWAUKIE	503-786-7600
CLACKAMAS COUNTY D.O.T.	503-722-6301
COMCAST CABLE	800-778-9140
CLACKAMAS RIVER WATER DIST	503-722-9220
NW NATURAL	503-220-2415
PORTLAND GENERAL ELECTRIC	503-255-4634
CENTURYLINK	800-778-9140

* VEHICULAR ACCESS TO STANLEY AVE SHALL BE RESTRICTED AND CONTROLLED BY THE CITY OF MILWAUKIE WHERE PARCEL 2 ABUTS ITS WESTERN RIGHT OF WAY LINE AS SHOWN HEREON. THIS ACCESS CONTROL SHALL RELINQUISH WHEN A PUBLIC ROAD WITHIN THE SUBJECT PROPERTY ADJOINS THE PLATTED ROAD, OR IF WAIVED BY THE CITY OF MILWAUKIE, ITS SUCCESSORS AND ASSIGNS, OR OTHER APPROPRIATE JURISDICTION.



EXISTING CONDITIONS SITE MAP FOR A PROPOSED TWO-PARCEL PARTITION PLAT

DATE	NO.	REVISION	DRAWN	MMM	CHECK	JMC
			SCALE	1" = 20'	DATE	JULY, 2022
			PLAN	8605 Topo.dwg		



COMPASS Land Surveyors
 4107 SE International Way, Suite 705
 Milwaukie, Oregon 97222 503-653-9093

DAVID BARBER
 5705 SE FLORA DRIVE
 MILWAUKIE, OREGON 97222

TAX LOT 700, IN THE NW 1/4 SE 1/4 SECTION 30, T.1S., R.2E., W.M. CITY OF MILWAUKIE CLACKAMAS COUNTY, OREGON