



CITY OF MILWAUKIE

June 10, 2024

Land Use File(s): MLP-2024-001, NR-2024-001

Permit(s): NA

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Manager on June 10, 2024.

Traducciones de este documento e información sobre este proyecto están disponibles en español. Para solicitar información o preguntar en español, favor de email espanol@milwaukieoregon.gov.

| | |
|-----------------------------|--|
| Applicant(s): | Roy Weedman |
| Location(s): | 13200 SE Where Else Ln |
| Tax ID: | 2S1E01AD, tax lots 100 & 800 |
| Application Type(s): | Minor Land Partition |
| Decision: | Approved with Conditions |
| Review Criteria: | Milwaukie Municipal Code (MMC): <ul style="list-style-type: none">• MMC Chapter 12.16 Access Management• MMC Title 17 Land Division, including:<ul style="list-style-type: none">○ MMC Chapter 17.12 Application Procedure & Approval Criteria○ MMC Chapter 17.16 Application Requirements & Procedures○ MMC Chapter 17.20 Preliminary Plat○ MMC Chapter 17.28 Design Standards○ MMC Chapter 17.32 Improvements• MMC Section 19.301 Moderate Density Residential (R-MD)• MMC Chapter 19.700 Public Facility Improvements• MMC Section 19.1005 Type II Review |
| Neighborhood(s) | Lake Road |

Appeal period closes: 5:00 p.m., June 25, 2024

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1005 Type II Review. The complete case file for this application is available for review by appointment between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, City Hall, 10501 SE Main St. Please contact Brett Kelter, Senior Planner, at 503-786-7657 or kelterb@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/mlp-2024-001.

This decision may be appealed by 5:00 p.m. on June 25, 2024, which is 15 days from the date of this decision.¹ (Note: Please arrive by 4:45 p.m. for appeal payment processing.) Any person who is adversely affected or aggrieved by this decision may appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie Planning Commission following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

Expiration

Per MMC Section 17.04.050, all decisions on boundary changes and land divisions expire one year after the date of approval. Approvals may be extended up to six months upon submission of a formal request to the original decision-making authority. One extension of up to six months is allowed if there are no changes to the original approved plan or to related ordinances and if the applicant can show intent of recording the land division or boundary change within the six-month extension period.

Per MMC Section 17.04.120, an application for final plat must be submitted to both the City Planning Department and the County Surveyor within six months of the date of this approval. Note that submittal of a final plat application within this six-month timeframe is necessary to preserve the one-year validity of the decision established in MMC 17.04.050. The six-month deadline for final plat submittal cannot be extended.

Conditions of Approval

1. Dedicate 40-ft of public right-of-way (ROW) along the north end of the subject property to establish the Elsewhere Lane frontage. Additional dedication may be required to create a proper radius at the corner of Elsewhere Lane and Where Else Lane.
2. Dedicate 9-ft of public ROW to establish a 25-ft half-street ROW along the Where Else Lane frontage. Additional dedication will be required to create a proper radius where Where Else Lane bends 90° to the east.
3. Establish 10-ft wide public utility easements (PUEs) along the Where Else Lane and Elsewhere Lane frontages. Show the required PUEs on the final plat to be recorded.
4. Establish a conservation restriction over the habitat conservation area (HCA) tract. The restriction must take the form of a restrictive covenant or similar tool that clearly prohibits future development on the HCA tract. The restriction must be recorded in conjunction with recording the final plat.

¹ As per MMC Section 19.1010, if the 15th day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

Other requirements

1. MMC Section 17.04.120 Recording

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

Findings in Support of Approval

The Findings for this application are included as Exhibit 1.

Manager's Declaration of Impartiality

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

Decision

- Approved
 Approved with Conditions
 Denied



Laura Weigel, AICP
Planning Manager

Exhibits

1. Findings in support of approval
2. Preliminary partition plat

cc: Roy Weedman, owner/applicant (via email)
Paul Roeger, CMT Surveying & Consulting, applicant's representative (via email)
Planning Commission (via email)
Joseph Briglio, Community Development Director (via email)
Jennifer Garbely, City Engineer (via email)
Engineering Development Review (via email)
Patrick McLeod, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Shawn Olson, Fire Marshal, Clackamas Fire District #1 (via email)
Interested Persons
NDA(s): Lake Road (via email)

Land Use File(s): MLP-2024-001, NR-2024-001
Address File(s): 13200 SE Where Else Ln

EXHIBIT 1
Findings in Support of Approval
Primary File #MLP-2024-001 (13200 SE Where Else Ln)

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, Roy Weedman, has applied for approval to partition existing property to create (1) one new parcel with an existing house, (2) a non-developable tract encompassing the designated natural resource area between the house and Kellogg Creek, and (3) one large parcel to the north of the house to be further divided and developed in the future. The subject property is addressed as 13200 SE Where Else Ln and is zoned Moderate Density Residential (R-MD). The primary land use application file number MLP-2024-001, with NR-2024-001.
2. The subject property is approximately 2.15 acres (93,594 sq ft) and is developed with a single detached dwelling and two accessory structures. The property is long and narrow, stretching over 900 linear feet from Kellogg Creek north to a private driveway and 40-ft-wide access easement labeled as Elsewhere Lane. The property ranges in width from approximately 110 ft along its southern portion to 90 ft along the northern length. The property is composed of two tax lots on the Assessor's map 2S1E01AD—tax lot 100 is the primary tax lot (approximately 94,140 sq ft) and tax lot 800 is a narrow strip adjacent to the southern portion of tax lot 100's east boundary (approximately 2,950 sq ft). The property is adjacent to the public right-of-way of Where Else Lane to the east along the northern portion of tax lot 100.

The subject property is adjacent to Kellogg Creek to the south, with Water Quality Resource (WQR) and Habitat Conservation Area (HCA) designations regulated by MMC Section 19.402 extending approximately 170 ft up the slope from the creek towards the house. The federally acknowledged 100-year floodplain (flood hazard area with a 1% annual chance of flooding) also extends a much shorter distance up the slope towards the house.

As proposed, Parcel 1 will include the existing house and will be approximately 27,350 sq ft in area. Parcel 2 to the north is vacant and will be developable at approximately 39,960 sq ft. The natural resource tract between the existing house and Kellogg Creek is approximately 17,720 sq ft in area and will be restricted from development.

3. The proposed land division constitutes a partition as per the definitions in Milwaukie Municipal Code (MMC) Chapter 17.08. The proposal is subject to the following provisions of the MMC:
 - MMC Chapter 12.16 Access Management
 - MMC Title 17 Land Division, including:
 - MMC Chapter 17.12 Application Procedure & Approval Criteria
 - MMC Chapter 17.16 Application Requirements and Procedures

- MMC Chapter 17.20 Preliminary Plat
- MMC Chapter 17.28 Design Standards
- MMC Chapter 17.32 Improvements
- MMC Section 19.301 Moderate Density Residential zone (R-MD)
- MMC Section 19.402 Natural Resources
- MMC Chapter 19.600 Off-Street Parking and Loading
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.1005 Type II Review

As required by MMC Subsection 19.1002.2.B, a preapplication conference was held on August 25, 2022. The application was submitted on April 2, 2024, and deemed complete on May 2, 2024. (*Note: Amendments to MMC Title 17 were adopted by City Council on April 16, 2024, and became effective 30 days later, on May 16. But the application was submitted prior to the adoption and effective date of the amendments and so is subject to the version of MMC Title 17 that was in place at the time of submittal, as presented in these findings.*) The application has been processed and public notice provided in accordance with MMC Section 19.1005 Type II Review as required by law, with a decision by the Planning Manager.

4. MMC Chapter 12.16 Access Management

MMC 12.16 regulates access from private property onto public streets, with specific requirements and standards provided in MMC Section 12.16.040, including for access spacing, location, number, design, and size. For example, MMC Subsection 12.16.040.B.4 requires that the nearest edge of the driveway apron must be at least 5 ft from the side property line in residential districts, and MMC Subsection 12.16.040.E requires that accessways for single detached residential uses have a minimum driveway apron width of 12 ft and a maximum width of 20 ft. The City Engineer has the authority to restrict the location of accessways.

The subject property abuts Where Else Lane along its eastern boundary. As discussed in Finding 9-e, the northern 40 ft of the subject property will be dedicated to establish public right-of-way for Elsewhere Lane. Parcel 1, which is currently developed with a single detached dwelling, takes access onto Where Else Lane. The existing driveway approach for Parcel 1 is approximately 38 ft wide and is located approximately 12 ft from the proposed new boundary for Parcel 2; no changes to the existing driveway are proposed, and the applicant is not required to bring the driveway approach into compliance in conjunction with the proposed partition. Parcel 2 is not developed and does not provide any formal access to a public street; proposals for access to Parcel 2 will be evaluated in conjunction with future development.

The Planning Manager finds that the applicable standards of MMC 12.16 are met.

5. MMC Title 17 Land Division

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

a. MMC Chapter 17.12 Application Procedure and Approval Criteria

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

The subject property is a 2.15-acre lot. The proposed land division will create two new parcels and a natural resources tract. This action constitutes a partition and is subject to Type II review as per the guidance of MMC Table 17.12.020.

MMC Section 17.12.040 establishes the approval criteria for preliminary plat. The proposed partition meets these criteria as described below.

- (1) The proposed preliminary plat complies with Title 19 and other applicable ordinances, regulations, and design standards.

As demonstrated by the applicant's submittal materials and evidenced by these findings, the proposed replat complies with all applicable standards of MMC Titles 17 and 19. As proposed, this criterion is met.

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

The proposed partition will establish two parcels—one that will accommodate the existing house and another that will be redeveloped in the future. In addition, a separate unbuildable tract encompassing the designated natural resources on the site will be established with a conservation restriction precluding further development. The proposed partition does not create the need for any variances. As proposed, this criterion is met.

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

The proposed partition will be assigned a filing number by the Clackamas County Surveyor and does not require a plat name. As required for the final plat submittal, the plat will meet all applicable provisions of the ORS. As proposed, this criterion is met.

- (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.

No new streets or roads are included in the proposed partition. This standard is not applicable.

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

The applicant's submittal materials include a narrative that addresses all applicable code sections and design standards.

- (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:

The proposed partition does not involve a middle housing land division.

This standard is not applicable.

- (7) If an applicant elects to use the expedited land division procedure, the application must meet the following additional approval criteria:

- (a) The proposed partition only includes land zoned for residential uses;

The proposed partition includes land zoned R-MD for moderate density residential development. This standard is met.

- (b) The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;

The proposed partition will result in one parcel that includes an existing single detached dwelling and another parcel that will be developed for residential use in the future. A natural resource tract will also be created, with a restriction prohibiting development. This standard is met.

- (c) The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Public Works Standards, and Chapter 19.700;

As discussed in Finding 9-e, the proposed partition includes a requirement for dedication to widen the existing public right-of-way along the property's Where Else Lane frontage to meet current standards. Dedication is also required to establish public right-of-way along the northern property boundary for a future connection of Elsewhere Lane with Somewhere Drive to the west. This standard is met.

- (d) The land division will not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:

- (i) Open spaces, mapped historic properties as identified on Map 3 on the comprehensive plan, and mapped natural resources as regulated by Section 19.402; or

- (ii) The Willamette River Greenway as regulated by Section 19.401.

The proposed partition will establish a non-developable tract that encompasses 100% of the mapped water quality resource (WQR) and habitat conservation area (HCA) on the subject property. This standard is met.

- (e) The land division will result in development that either:
 - (i) Creates enough lots or parcels to allow building residential units at 80% or more of the maximum net density permitted by the zoning designation of the site; or
 - (ii) Will be sold or rented to households with incomes below 120% of the median family income for Clackamas County.

For lots over 7,000 sq ft in area, the maximum density in the R-MD zone is 6.2 units per acre (with a note that most middle housing development is exempt from density maximums). The subject property is 2.15 acres, but the area that includes mapped natural resources will be placed in a non-developable tract (approximately 17,720 sq ft, or 0.41 acres). There is also approximately 8,500 sq ft (0.19 acres) of naturally occurring slopes over 25%. That leaves 1.55 acres of developable land, with a maximum density of nine (9) units as per the rounding standards for density measurement established in MMC Subsection 19.202.4.B.

The proposed partition will result in one parcel that includes an existing single detached dwelling and a vacant parcel that will be developed for residential use in the future. As per the allowances of the underlying R-MD zone, both parcels could be (re)developed with a total of up to four units each without further requiring land division. A total of eight (8) units represents 89% of the maximum net density for the site, and Parcel 2 is large enough to be further divided and developed with even more units. This standard is met.

The criteria for expedited land division are met.

As proposed, the Planning Manager finds that the preliminary plat meets the applicable criteria.

b. MMC Chapter 17.16 Application Requirements and Procedures

MMC Section 17.16.060 establishes the application requirements for preliminary plat, including completed application forms and checklists, applicable fees, and the information specified in MMC Chapter 17.20 Preliminary Plat.

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

As proposed, the Planning Manager finds that the application meets the applicable requirements for preliminary plat submittal.

c. MMC Chapter 17.20 Preliminary Plat

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

The applicant's preliminary plat submittal is to scale and includes a map of existing conditions, contour lines, utilities, and other general information.

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

d. MMC Chapter 17.28 Design Standards

MMC 17.28, particularly MMC Section 17.28.040, establishes standards for lot design for land divisions and boundary changes. These standards do not apply to units of land that are created for purposes other than land development, including parks and natural areas.

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

As discussed in Finding 6, the proposed new parcels both meet the minimum area and dimensional requirements for the underlying R-MD zone. As proposed, this standard is met.

- (2) MMC Subsection 17.28.040.B requires that lot shape must 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, must run at right angles to the street upon which the lots face. As far as practicable, the rear lot line must run parallel to the street.

The proposed Parcel 1 is rectilinear in shape, except where it is adjacent to the public right-of-way (ROW) of Where Else Lane at its northeastern corner. The required ROW dedications discussed in Finding 9-e include a dedication to accommodate the curving 90° bend in the street. Parcel 2 is rectilinear.

Due to Parcel 1's location with respect to the curving 90° bend in Where Else Lane, the sidelines of Parcel 1 run at right angles to Where Else Lane where the street runs east-west. The rear lot line of Parcel 1 is parallel to the east-west portion of Where Else Lane. With the dedication to establish Elsewhere Lane as public ROW (as discussed in Finding 9-e), Parcel 2 will be a corner lot, with its primary frontage on Where Else Lane where the street runs north-south. Parcel 2's sidelines run at right angles to Where Else Lane and its rear lot line runs parallel to the street. As proposed, this standard is met.

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

The proposed partition does not result in any compound line segments. The northeast corner of Parcel 1 is irregular (non-rectilinear) but only due to the ROW dedication necessary to accommodate the bend in Where Else Lane. This standard is met.

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

No variance to the lot shape standards is requested in this application. This standard is not applicable.

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

Neither of the proposed parcels is a double frontage or reversed frontage lot. This standard is met.

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

The underlying R-MD zone requires lots over 7,000 sq ft to provide a minimum of 35 ft of street frontage. Parcel 1 presents almost 85 ft of frontage at the curving 90° bend of Where Else Lane, while Parcel 2 presents almost 500 ft of frontage on the street. This standard is met.

As proposed, the Planning Manager finds that the new parcels presented in the applicant's preliminary plat meet the applicable design standards established in MMC 17.28.

e. MMC Chapter 17.32 Improvements

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

As discussed in Findings 4 and 9, there is an existing accessway from Parcel 1 onto Where Else Lane—no changes are proposed and adjustments to the existing driveway are not required. As per the provisions of MMC Chapter 19.700, discussed in Finding 9, the only requirements stemming from the proposed partition related to public facilities involve ROW dedication and the provision of public utility easements. Physical public facility improvements will be required in conjunction with the review of proposed development on Parcel 2 and/or the redevelopment of Parcel 1. As proposed, the Planning Manager finds that the applicable standards of MMC 17.32 are met.

The Planning Manager finds that the proposed partition meets all applicable standards of MMC Title 17.

6. MMC Section 19.301 Moderate Density Residential Zone (R-MD)

MMC 19.301 establishes standards for the Moderate Density Residential (R-MD) zone. The application meets the applicable standards of this section as described below.

a. MMC Subsection 19.301.2 Allowed Uses

MMC 19.301.2 establishes the uses allowed in the R-MD zone, including single detached dwellings, middle housing types (duplexes, triplexes, quadplexes,

townhouses, and cottage clusters), accessory dwelling units (ADUs), and residential homes as outright permitted uses.

The subject property is currently developed with a single-unit dwelling that will be retained on Parcel 1. Parcel 2 will be reserved for future development in compliance with the applicable standards of the R-MD zone. An undevelopable natural resources tract will be established as discussed in Finding 7.

b. MMC Subsections 19.301.4 and 19.301.5 Development Standards

MMC 19.301.4 and 19.301.5 establish development standards for the R-MD zone. For the two proposed parcels, the applicable standards are addressed and met as described in Table 6-b below; the development standards are not applicable to the proposed natural resources tract.

| Table 6-b Applicable Development Standards for the R-MD zone | | | |
|---|--|---|---|
| Standard | R-MD Requirement | Parcel 1 | Parcel 2 |
| Lot Area | 7,000 sq ft & up | 27,351 sq ft | 39,964 sq ft |
| Minimum Lot Width | 60 ft | 114 ft | 497 ft |
| Lot Depth | 80 ft | 229 ft | 89 ft |
| Public Street Frontage (for standard lot) | 35 ft | 84.5 ft | 497 ft (Where Else Ln) 89 ft (Elsewhere Ln) |
| Front Yard | 20 ft | 20 ft (with proposed ROW dedication) | To Be Determined at time of development (TBD) |
| Side Yard (interior) | 5 ft & 10 ft | 17 ft (north side) 23 ft (south side) | TBD |
| Rear Yard | 20 ft | 127 ft | TBD |
| Side Yard Height Plane | 20 ft / 45° | Not applicable (existing single-story house) | TBD |
| Maximum lot coverage | 30% | 11.5% | TBD |
| Minimum vegetation | 30% | 79% | TBD |
| Front Yard Minimum Vegetation | 40% | 78% | TBD |
| Density requirements | Min. density = 5.0 units/acre Max. density = | Min. & max. density = 3 dwelling units | Min. & max. density = 5 dwelling units |

| | | | |
|--|----------------|---|---|
| (Note: Maximum density does not apply to duplexes and other middle housing development.) | 6.2 units/acre | Existing single-unit dwelling is under min. density, but site has capacity for adding up to 3 more units (or more, with cottage cluster development) without further land division. | Density requirements to be revisited with future development. |
|--|----------------|---|---|

As reflected in Table 6-b above, the proposed partition meets all applicable development standards of this subsection.

The Planning Manager finds that the proposed partition meets all applicable development standards of MMC 19.301.

7. MMC Section 19.402 Natural Resources

MMC 19.402 establishes regulations for designated natural resource areas. The standards and requirements of MMC 19.402 are an acknowledgment that many of the riparian, wildlife, and wetland resources in the community have been adversely impacted by development over time. The regulations are intended to minimize additional negative impacts and to restore and improve natural resources where possible.

a. MMC Subsection 19.402.3 Applicability

MMC 19.402.3 establishes applicability of the Natural Resource (NR) regulations, including all properties containing Water Quality Resources (WQRs) and Habitat Conservation Areas (HCAs) as shown on the City’s Natural Resource (NR) Administrative Map.

The subject property is adjacent to Kellogg Creek along its southern boundary. The City’s NR Administrative Map shows both WQR and HCA designations on the subject property. As per MMC Table 19.402.3.K, property line adjustments, partitions, and subdivisions involving properties that include WQR and/or HCA resources are subject to the provisions of MMC Section 19.402, specifically the provisions of MMC Subsection 19.402.13.

The Planning Manager finds that the proposed partition is subject to the provisions of MMC 19.402, including the requirements of MMC 19.402.13.

b. MMC Subsection 19.402.13 Land Division and Property Line Adjustments

MMC 19.402.13 establishes standards and requirements for property line adjustments and all forms of land division defined in MMC Chapter 17.08 for properties that include WQR and/or HCA resources.

(1) MMC Subsection 19.402.13.G Low-Impact Partitions

MMC 19.402.13.G establishes a Type II review process for “low-impact partitions” that can demonstrate compliance with specific standards. For properties that contain WQRs, 100% of the WQR must be placed in a separate unbuildable tract, protected by a conservation restriction. For properties that contain HCAs on 85% or less of the total lot area, the applicant must either (1)

ensure that there is no more than a 30-point difference in the percentage of HCA coverage on each of the parcels or (2) place at least 90% of the original property's HCA in a separate unbuildable tract that is protected by a conservation restriction.

The subject property includes approximately 17,720 sq ft of WQR and HCA resources. The proposed partition will place 100% of the WQR and HCA on the site in a separate tract with a conservation restriction; the remainder of the property will be split into two developable parcels with no WQR or HCA resources.

The Planning Manager finds that the proposed partition qualifies as a low-impact partition, subject to Type II review.

(2) MMC Subsection 19.402.13.J Resource Area as a Separate Tract

MMC 19.402.13.J establishes standards for placing WQR and/or HCA resources in a separate unbuildable tract when required. The separate tract must not be part of any lot or parcel used for construction of any structures. Prior to final plat approval, ownership of the separate tract must be identified to distinguish it from lots or parcels intended for development, with ownership in common or by a homeowners association being strongly discouraged. Options include the tract remaining a privately held natural area with a restrictive covenant or conservation easement.

The proposed natural resources tract will remain under private ownership and will not be developed. A condition has been established to ensure that a conservation restriction is recorded with the final plat sufficient to prohibit future development that would disturb the mapped WQR and HCA resources.

As conditioned, the Planning Manager finds that this standard is met.

As proposed and conditioned, the Planning Manager finds that the applicable standards of MMC 19.402.13 are met.

The Planning Manager finds that, as conditioned, the proposed partition meets all applicable standards of MMC 19.402.

8. MMC Chapter 19.600 Off Street Parking & Loading

MMC 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of these requirements includes providing adequate space for off-street parking, minimizing parking impacts to adjacent properties, and minimizing environmental impacts of parking areas.

a. MMC Section 19.602 Applicability

MMC 19.602 establishes the applicability of the provisions of MMC 19.600. Per Oregon Administrative Rules (OAR) 660-012-0012 and 660-12-0440, which relate to Climate-Friendly and Equitable Communities (CFEC) rulemaking, the City is prohibited from mandating minimum off-street vehicular parking quantity

requirements on sites within a half mile of a frequent transit corridor or within three quarters of a mile of a rail transit stop. However, all other provisions of MMC 19.600 may still apply.

As per MMC Subsection 19.602.3.B, existing off-street parking areas must be brought closer to conformance when new development or changes of use occur; conversely, new development cannot cause existing parking areas to fall out of compliance (or farther out of conformance).

The subject property is within a half mile of a TriMet frequent transit corridor on Lake Road.

The Planning Manager finds that minimum off-street parking is not required but that other provisions of MMC 19.600 may still apply.

b. MMC Section 19.605 Vehicle Parking Quantity Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand. As per the CFEC-related limitations noted above, the City is prohibited from mandating minimum off-street vehicular parking quantity requirements because of the subject property's proximity to frequent transit provided by TriMet. Maximum off-street vehicular parking limitations still apply, although there is no maximum parking quantity restriction for single detached dwellings (as per MMC Table 19.605.1).

The subject property includes an existing house, with a driveway that provides several off-street parking spaces. The proposal to establish Parcel 1 to include the existing house and driveway does not change the situation with respect to maximum parking. Parking quantity limitations for Parcel 2 will be evaluated at the time of future development on that parcel.

The Planning Manager finds that the proposed partition is compliant with the applicable standards of MMC 19.605.

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

MMC Subsection 19.607.1 establishes standards for residential driveways and vehicle parking areas, including a requirement that off-street parking spaces be a durable, dust-free surface and at least 9 ft wide by 18 ft deep. No more than 50% of the front yard area can be used for parking, with no more than three parking spaces allowed in the required front yard.

The proposed partition will establish two developable lots where there is currently only one, retaining the existing house on Parcel 1 and establishing Parcel 2 for future development. Currently, only approximately 30% of the front yard for Parcel 1 is developed as parking or maneuvering area but includes four or five parking spaces. With the required ROW dedication along the Where Else Lane frontage (discussed in Finding 9), the parking and maneuvering area in the front yard on Parcel 1 will be reduced to no more than 25% and with no more than three parking spaces in the required front yard.

The Planning Manager finds that the proposed partition is consistent with the applicable residential parking standards of this section.

As proposed, the Planning Manager finds that the proposed partition meets the applicable off-street parking standards of MMC 19.600.

9. MMC Chapter 19.700 Public Facility Improvements

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

a. MMC Section 19.702 Applicability

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

The applicant proposes to partition the subject property to create two developable parcels and a development-restricted natural resources tract. The proposed partition is subject to the requirements of MMC 19.700.

b. MMC Section 19.703 Review Process

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

A preapplication conference for this proposal was held with City staff on August 25, 2022. As noted in Finding 9-c, a transportation impact study (TIS) is not required; therefore, an application for transportation facilities review is not necessary.

This standard is met.

c. MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 establishes that the City Engineer will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the City Engineer cannot properly evaluate a proposed development's impacts without a more detailed study, a TIS will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts.

The City Engineer has determined that a TIS is not required, as no specific development is proposed and the partition will establish two parcels on a local street that are developable in accordance with the applicable standards of the underlying R-MD zone.

This standard is met.

d. MMC Section 19.705 Rough Proportionality

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

As discussed in Finding 9-e, the required transportation facility improvements for the proposed partition are limited to the dedication of public right-of-way (ROW) along the Where

Else Lane frontage as well as to establishing public street frontage on Elsewhere Lane. Parcel 1 is already developed with a single detached dwelling, and Parcel 2 has a broad potential for development (and perhaps for further land division) in the future. The impacts of the proposed partition are minimal at this time, and it is not appropriate to speculate on the impacts of future development. The required ROW dedications are roughly proportional as mitigation at this juncture; requiring the construction of physical frontage improvements or collection of a fee in lieu of construction (FILOC) is not roughly proportional to the impacts of the proposed partition.

This standard is met.

e. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. MMC Subsection 19.708.1 requires compliance with MMC Chapter 12.16 and establishes general requirements and standards for streets, including access management, clear vision, street design, connectivity, and intersection design and spacing standards. MMC Table 19.708.2 provides more specific street design standards for various street classifications, including for arterial and neighborhood routes. All streets, sidewalks, necessary public improvements, and other public transportation facilities located in the public ROW and abutting the development site must be adequate at the time of development or must be made adequate in a timely manner. The City's street design standards are based on the street classification system described in the City's Transportation System Plan (TSP).

The subject property is a long, narrow lot with its primary frontage on Where Else Lane, a local street. Along its northern boundary, a private driveway labeled as Elsewhere Lane provides access by means of a 40-ft-wide access easement from Where Else Lane to the two adjacent properties to the west. The driveway portion of Elsewhere Lane aligns with dedicated public ROW extending east from Somewhere Drive, a local street parallel to Where Else Lane to the west. Dedication of the northern 40 ft of the subject property is necessary to lay the groundwork for establishing Elsewhere Lane as an eventual connection between Where Else Lane and Somewhere Drive. A condition has been established accordingly.

Where Else Lane extends along the northern 500 ft of the subject property frontage before bending 90° to the east. The current ROW width of the north-south portion of Where Else Lane is 32 ft. A 9-ft ROW dedication is necessary to establish a 25-ft half-street ROW along the subject property frontage. Additional ROW dedication is needed at the corner adjacent to Parcel 1, to allow for the necessary street widening and turning radius. A condition has been established accordingly.

Parcel 1 is already developed with a single detached dwelling, and Parcel 2 has a significantly broad enough potential for development in the future (including the potential for further land division) that it is not appropriate to speculate on impacts at this time. The construction of physical frontage improvements or collection of a fee in lieu of construction (FILOC) is not

warranted at this juncture; a requirement for improvements or FILOC can be more accurately evaluated and justified at the time of future development or land division.

As conditioned, this standard is met.

f. MMC Section 19.709 Public Utility Requirements

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

The proposed development does not present significant new impacts to existing public utilities, which are adequate to serve the proposed use. To ensure there is sufficient room to accommodate future utility needs, a condition has been established to require a 10-ft public utility easement (PUE) along the subject property's frontages on Where Else Lane and the newly dedicated Elsewhere Lane.

As conditioned, this standard is met.

As conditioned, the Planning Manager finds that the applicable standards of MMC 19.700 are met.

10. The application was referred to the following departments and agencies on May 3, 2024:

- Milwaukie Community Development Department
- Milwaukie Building Department
- Milwaukie Engineering Department
- Milwaukie Public Works Department
- Milwaukie Police Department
- Milwaukie City Attorney
- Clackamas Fire District #1 (CFD#1)
- Lake Road Neighborhood District Association (NDA) and Land Use Committee (LUC)
- Oregon Department of Fish & Wildlife (ODFW)—North Willamette Watershed District
- Oregon Department of State Lands (DSL)—Wetlands and Waterways
- North Clackamas Watersheds Council (NCWC)
- NW Natural

In addition, notice of the public hearing was mailed to owners and residents of properties within 300 ft of the subject property on May 3, 2024.

The comments received are summarized as follows:

- **Jerome and Merylyn St. James, owners/residents at 4025 SE Aldercrest Rd:** Concerned about development impacts to the riparian area, including the potential removal of trees (they live on the south side of the creek opposite the subject property).

Staff Response: Staff responded to the commenters to clarify that the riparian area will be placed in a separate natural resource tract with restrictions to prevent further development.

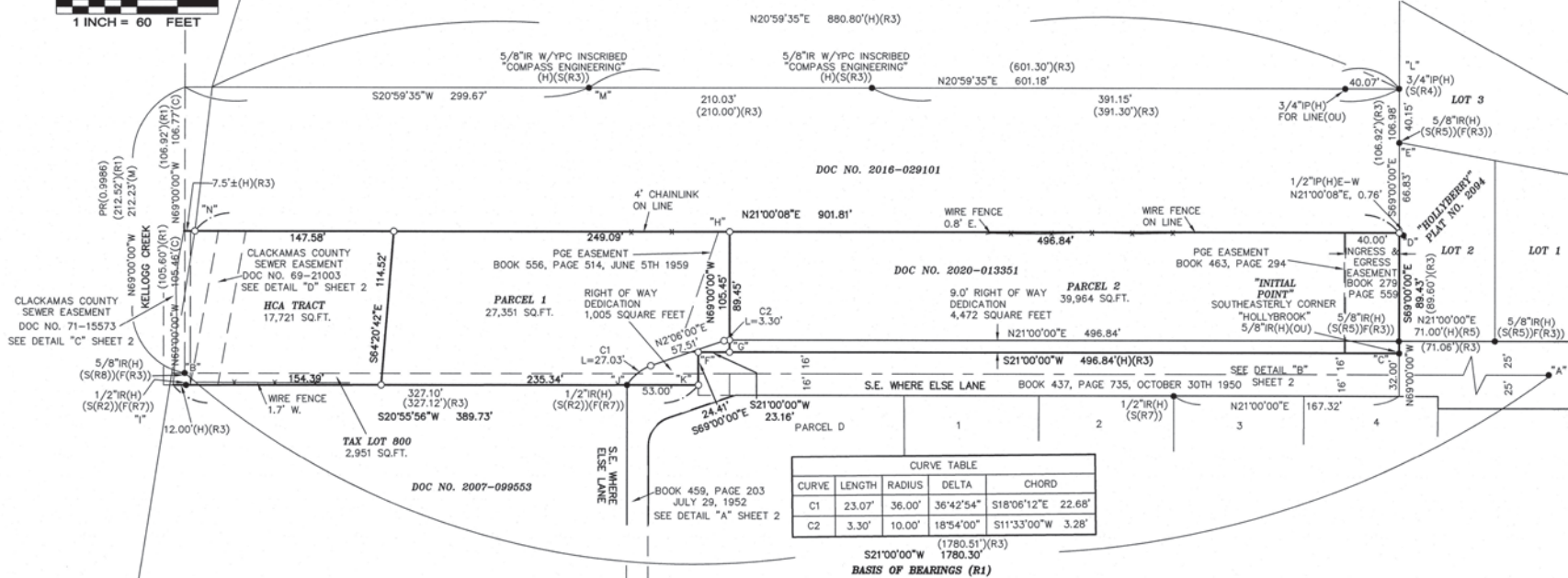
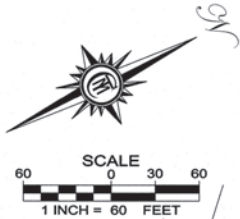
- **Denise and Dick Craytor, owners/residents at 13154 SE Where Else Ln:** Concerned about adequate access for fire and emergency vehicles and garbage trucks. There is no turnaround area at the current dead end of Where Else Lane, and the paved street itself is currently too narrow to accommodate both on-street parking and adequate travel lanes.

Staff Response: Staff informed the commenters that the proposed partition does not involve any development and does not warrant the requirement of street improvements at this time. Future development, especially on Parcel 2, will require physical street improvements in the public right-of-way (ROW) of both Where Else Lane and Elsewhere Lane. Those improvements will include some form of turnaround that is adequate for fire and emergency vehicles and will widen the paved street. Depending on the final design width of Where Else Lane, the Engineering Department will determine whether any limitations to on-street parking are necessary to maintain adequate vehicle travel lanes.

PRELIMINARY PARTITION PLAT NO.

A REPLAT OF A PORTION OF LOTS 14 & 15, OF THE PLAT OF "ATKINSON"
 LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 1,
 TOWNSHIP 2 SOUTH, RANGE 1 EAST, OF THE WILLAMETTE MERIDIAN,
 CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

DATE: FEBRUARY 19, 2024
 SURVEYED FOR: ROY & CHRIS WEEDMAN
 13200 SE WHERE ELSE LANE
 MILWAUKIE, OR 97222



NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO ESTABLISH, MONUMENT, AND PARTITION THE BOUNDARY OF THOSE TRACTS OF LAND AS DESCRIBED BY DEEDS RECORDED IN DOCUMENT NO. 2020-013351, AND DOCUMENT NO. 2024-000780, CLACKAMAS COUNTY DEED RECORDS, BEING A PORTION OF LOTS 14 AND 15 "ATKINSON", CLACKAMAS COUNTY PLAT RECORDS.

AS THE BASIS OF BEARINGS AND THE EAST LINE OF SAID LOT 15 I HELD THE RECORD BEARING OF SOUTH 21°00'00" WEST, BETWEEN A 5/8" IRON ROD HELD AT THE CENTERLINE-CENTERLINE INTERSECTION OF SE WHERE ELSE LANE AND SE WEEDMAN STREET AT "A" AND A 5/8" IRON ROD HELD NEAR THE SOUTHEAST CORNER OF SAID LOT 15 AT "B" PER (R1,R2) AS SHOWN.

TO ESTABLISH THE MOST NORTHERLY LINE OF THE SUBJECT PROPERTY "C"- "D", I HELD A LINE BETWEEN A 5/8" IRON ROD HELD AT THE MOST NORTHERLY NORTHEAST CORNER OF THE SUBJECT PROPERTY AT "C" AND A 5/8" IRON ROD HELD AT THE SOUTHWEST CORNER OF LOT 2 "HOLLYBERRY", CLACKAMAS COUNTY PLAT RECORDS AT "E" AS SHOWN.

TO ESTABLISH BOUNDARY LINE "C"- "G", I HELD RECORD BEARING (S21°00'00"W) AND DISTANCE (496.84') PER (R3) BETWEEN THE MONUMENT HELD AT "C" AND THE CORNER ESTABLISHED AT "G" AS SHOWN.

TO ESTABLISH BOUNDARY LINE "G"- "H", I HELD A LINE PARALLEL TO THE ESTABLISHED MOST NORTHERLY LINE "C"- "D" FROM A POINT 496.84 FEET SOUTHERLY, PER (R3), ALONG THE ESTABLISHED NORTHERLY EAST LINE "C"- "G" FROM THE ESTABLISHED MOST NORTHEASTERLY CORNER AT "C" AND EXTENDED THE LINE EASTERLY TO INTERSECT THE WEST LINE OF THE EASEMENT DESCRIBED IN BOOK 437, PAGE 735, CLACKAMAS COUNTY DEED RECORDS AS SHOWN.

TO ESTABLISH BOUNDARY LINE "F"- "G" I HELD A LINE ALONG THE LINE OF THE EASEMENT DESCRIBED IN SAID BOOK 437, PAGE 735 AND TO THE SOUTHWEST CORNER THEREOF AS SHOWN.

TO ESTABLISH THE SOUTHERLY EAST LINES OF THE SUBJECT PROPERTY I HELD A 1/2" IRON PIPE FOUND NEAR THE SOUTHEAST CORNER AT "I" AND A 1/2" IRON PIPE FOUND AT THE NORTHWEST CORNER OF THE PROPERTY DESCRIBED IN DEED DOCUMENT NO. 2007-099553, CLACKAMAS COUNTY DEED RECORDS AT "J" AND EXTENDED THE LINE NORTHERLY THE RECORD DISTANCE OF 53.00 FEET, PER (R2), FROM THE 1/2" IRON PIPE AT "J" TO ESTABLISH THE CORNER AT "K" AS SHOWN.

BOUNDARY LINE "F"- "K", WAS THEN ESTABLISHED BETWEEN THE CORNER ESTABLISHED AT "F" AND THE CORNER ESTABLISHED AT "K" AS SHOWN. SAID LINE BEING ALONG THE SOUTH LINE OF THE EASEMENT DESCRIBED IN SAID BOOK 437, PAGE 735 AS SHOWN.

TO ESTABLISH THE WEST LINE OF LOT 16 "ATKINSON", I HELD THE 3/4" IRON PIPE FOUND AT THE NORTHWEST CORNER OF THE PROPERTY DESCRIBED IN DEED DOCUMENT NO.2016-029101, CLACKAMAS COUNTY DEED RECORDS AT "L" AND A 5/8" IRON ROD SET IN (R3), HELD ON THE WEST LINE OF SAID LOT 16 AT "M" PER (R3) AS SHOWN.

TO ESTABLISH THE SOUTH LINE OF LOTS 15 AND 16 I HELD A PROPORTION RATIO OF 0.9986 OF THE PLAT DISTANCES PER (R1) ALONG A LINE DRAWN PARALLEL TO THE ESTABLISHED NORTH LINE FROM A 5/8" IRON ROD HELD NEAR THE SOUTHEAST CORNER OF SAID LOT 15 AT "B", AS SHOWN.

TO ESTABLISH THE SOUTH LINE OF THE SUBJECT PROPERTY, I HELD THE RECORD DISTANCE OF 12.00 FEET PER (R3) WESTERLY ALONG THE ESTABLISHED EAST LINE FROM THE MONUMENT HELD AT "I" AND HELD THE RECORD DISTANCE OF 7.5 FEET± PER (R3) EASTERLY FROM THE ESTABLISHED SOUTHWEST CORNER OF SAID LOT 15 TO ESTABLISH THE CORNER AT "N" AS SHOWN.

TO ESTABLISH THE WEST LINE OF SAID LOT 15, ALSO BEING THE WEST LINE OF THE SUBJECT PROPERTY I HELD THE EAST-WEST POSITION OF A 1/2" IRON PIPE FOUND NEAR THE NORTHWEST CORNER OF THE SUBJECT PROPERTY AT "O" AND TO THE CORNER ESTABLISHED AT "N" PER (R3) AS SHOWN.

LEGEND

- FOUND MONUMENTS AS NOTED
- 5/8" X 30" IRON ROD WITH YPC INSCRIBED "CMT" SET ON: /-/-/-
- IR = IRON ROD
- IP = IRON PIPE
- W/YPC = WITH YELLOW PLASTIC CAP
- SN = SURVEY NUMBER, CLACKAMAS COUNTY RECORDS
- (F/S) = DOCUMENTS REFERENCED
- IR (F=FOUND BY) (SET=SET BY) ()=REF.
- IP = RECORD REFERENCE
- (R1) = REFERENCE SURVEY NUMBER OR PLAT NAME
- (H) = HELD
- (C) = CALCULATED
- (OU) = ORIGIN UNKNOWN
- PR = PROPORTION RATIO
- E-W = EAST-WEST
- SN = SURVEY NUMBER, CLACKAMAS COUNTY RECORDS
- "A" = MONUMENT AND CORNER REFERENCE
- DOC NO. = DOCUMENT NUMBER, CLACKAMAS COUNTY DEED RECORDS
- SF = SQUARE FEET

REFERENCE SURVEYS

- (R1) PLAT OF "ATKINSON"
- (R2) SN 885
- (R3) SN 2012-134
- (R4) SN 1593
- (R5) PLAT OF "HOLLYBERRY"
- (R6) SN 13227
- (R7) SN 1955-011
- (R8) SN 12145

DEEDS

- DOC NO. 2020-013351, DOC NO. 2016-029101,
- DOC NO. 2007-099553,
- BOOK 437, PAGE 735, OCTOBER 30TH 1950

REGISTERED PROFESSIONAL LAND SURVEYOR

Donald Scott Sorenson

OREGON
 JULY 11, 2017
 DONALD SCOTT SORENSON
 60310

RENEWAL DATE JUNE 30, 2026

SHEET 1 OF 3



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