



# CITY OF MILWAUKIE

## AGENDA

November 14, 2023

### PLANNING COMMISSION

[milwaukieoregon.gov](http://milwaukieoregon.gov)

**Hybrid Meeting Format:** The Planning Commission will hold this meeting both in person at City Hall and through Zoom video. The public is invited to watch the meeting in person at City Hall, online through the City of Milwaukie YouTube page ([https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB\\_m9cAw](https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB_m9cAw)), or on Comcast Channel 30 within city limits.

**Please note: City Hall has moved to 10501 SE Main St. Planning Commission meetings are held in Council Chambers located on the 3<sup>rd</sup> floor.**

If you wish to provide comments, the city encourages written comments via email at [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov). Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time. To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/planning/planning-commission-2>) and follow the Zoom webinar login instructions.

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

- 1.1 Native Lands Acknowledgment

#### 2.0 Planning Commission Minutes – Motion Needed

- 2.1 August 22, 2023
- 2.2 September 26, 2023

#### 3.0 Information Items

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

#### 5.0 Community Involvement Advisory Committee (CIAC)

#### 6.0 Hearing Items

- 6.1 CSU-2023-005 – Major Modification for Sunshine Early Learning Childcare Center

Summary: Type III Community Service Use; Major Modification

Staff: Assistant Planner Ryan Dyar

#### 7.0 Work Session Items

- 7.1 Title 17 Code Amendments

Summary: Title 17 Land Division proposed code amendments

Staff: Senior Planner Vera Kolias

#### 8.0 Planning Department/Planning Commission Other Business/Updates

#### 9.0 Forecast for Future Meetings

November 28, 2023 No items at this time

December 12, 2023 No items at this time.

## Milwaukie Planning Commission Statement

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

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at [www.milwaukieoregon.gov/meetings](http://www.milwaukieoregon.gov/meetings).
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue an agenda item to a future date or finish the item.

### Public Hearing Procedure

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

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY.** Comments or questions from interested persons and testimony from those in support or opposition of the application.
5. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
6. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
7. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience but may ask questions of anyone who has testified.
8. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
9. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, any person may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

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

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

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

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

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

Jacob Sherman, Chair  
Joshua Freeman, Vice Chair  
Aaron Carpenter  
Joseph Edge  
Amy Erdt  
Lauren Loosveldt  
Will Mulhern

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

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



# CITY OF MILWAUKIE

## PLANNING COMMISSION MINUTES

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

August 22, 2023

**Present:** Jacob Sherman, Chair  
Joshua Freeman, Vice Chair  
Aaron Carpenter  
Lauren Loosveldt  
Will Mulhern  
Amy Erdt

**Staff:** Justin Gericke, City Attorney  
Brett Kelter, Senior Planner  
Laura Weigel, Planning Manager

**Absent:** Joseph Edge

(00:11:30)

### 1.0 Call to Order — Procedural Matters\*

**Chair Sherman** called the meeting to order at 6:30 p.m., read the conduct of meeting format into the record, and Native Lands Acknowledgment.

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

(00:25:46)

### 2.0 Planning Commission Minutes

No information was presented for this portion of the meeting.

(00:25:50)

### 3.0 Information Items

**Planning Manager, Laura Weigel**, updated the commission and public on a few items; The Metro regional transportation plan is open for comment, the city has a new equity coordinator, and the first Transportation System Plan Advisory Committee meeting will be happening in October.

(00:27:34)

### 4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:28:30)

### 5.0 Community Involvement Advisory Committee (CIAC)

**City Manager, Ann Ober** let the Commission know that the city has a new Assistant City Manager who has an extensive community engagement background.

(00:29:45)

## 6.0 Hearing Items

(00:30:04)

### 6.1 CSU-2023-002 Balfour Park Development

**Senior Planner, Brett Kolver**, announced the applicable sections of the Milwaukie Municipal Code (MMC): MMC 19.301, MMC 19.504.7, MMC 19.600, MMC 19.700, MMC 19.904, MMC 14.08.090, MMC 19.1006. **Kolver** presented the staff report via a power point presentation. Both are included in the meeting packet.

The commission had no questions for staff.

The applicant team: **Adam Moore (City of Milwaukie Parks Development Coordinator)**, **Matt Hastie (MIG)**, and **Ben Johnson (Greenworks)** gave a presentation on the specifics of Balfour Park. **Vice Chair Freeman** asked if the applicants kept track of where people lived regarding public outreach for the park. **Moore** responded that the team engaged with the public in a few different ways with the goal of targeting local residents. **Vice Chair Freeman** asked about parking. **Moore** replied that the street will be redesigned by engineering staff in the future and that public was not interested in allocating parking spaces, but will listen to public as the project moves forward and adjust if needed. **Chair Sherman** asked what role the North Clackamas Parks & Recreation District (NCPRD) has played in this project. **Moore** replied that the City is building off of their 2015 plan, holding monthly meetings, and have been working closely with NCPRD on engagement.

Public testimony: The Chair of the Parks and Recreation Board, **Ali Feuerstein**, spoke in support of the Balfour Park plan.

**Chair Sherman** closed the public testimony.

#### Commission Discussion:

The commission thanked the applicant team and staff for their work.

**Commissioner Will Mulhern** motioned to approve CSU-2023-002.

**Commissioner Lauren Loosveldt** seconded the motion.

The motion passed with a 6-0 vote.

(01:10:07)

### 6.2 CSU-2023-003 Bowman-Brae Park Development

**Senior Planner, Brett Kolver**, announced the applicable sections of the Milwaukie Municipal Code (MMC): MMC 19.301, MMC 19.504.7, MMC 19.600, MMC 19.700, MMC 19.904, MMC 14.08.090, MMC 19.1006. **Kolver** presented the staff report via a power point presentation. Both are included in the meeting packet.

Staff received one public comment that was included in the meeting packet and four additional comments that were submitted later.

The applicant team: **Adam Moore (City of Milwaukie Parks Development Coordinator)**, **Matt Hastie (MIG)**, and **Ben Johnson (Greenworks)** gave a presentation on the specifics of Bowman-Brae Park. **Commissioner Aaron Carpenter** asked about flag lots and access. **Moore** replied that the City is working on acquiring additional land to provide more access to the park and that there is a drop-off area and turnaround space included in the design. **Chair Sherman** asked if the County would be responsible for any transportation improvements. **Moore** replied that he has not been a part of those conversations yet.

Public testimony: **Feuerstein** spoke in support of the Bowman-Brae Park plan. Resident **Paul Anderson** asked about the design changes to the parks and the meeting on October 8<sup>th</sup>. **Chair Sherman** directed Paul to reach out to **Adam Moore** for more information.

**Chair Sherman** closed the public testimony.

Commission Discussion:

**Vice Chair Freeman** thanked the residents who submitted written testimonies. Other commissioners thanked the applicant team and staff for their work. **Mulhern** asked about signage to mitigate parking concerns. **Chair Sherman** replied that the City engineers and Public Works departments would be working on the signage. **Vice Chair Freeman** motioned to approve CSU-2023-003 as presented and amended by staff. **Commissioner Carpenter** seconded the motion. The motion passed with a 6-0 vote.

(02:00:25)

**7.0 Planning Department/Planning Commission Other Business/Updates**

**Weigel** let the commission know that city council voted to retire the DLC, she also gave an update on the bicycle parking code amendments that are on hold awaiting final rulemaking from the state

(02:02:49)

**8.0 Forecast for Future Meetings**

September 12, 2023	Hearing Item(s):	No items at this time.
September 26, 2023	Hearing Item(s):	WG-2023-001 – 1600 SE Lava Dr.

Meeting adjourned at approximately 8:30 p.m.

Respectfully submitted,

Petra Johnson, Administrative Specialist II



# CITY OF MILWAUKIE

## PLANNING COMMISSION MINUTES

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

September 26, 2023

**Present:** Jacob Sherman, Chair  
Aaron Carpenter  
Will Mulhern  
Amy Erdt

**Staff:** Justin Gericke, City Attorney  
Vera Koliass, Senior Planner  
Laura Weigel, Planning Manager

**Absent:** Joshua Freeman, Vice Chair  
Joseph Edge  
Lauren Loosveldt

(00:14:46)

### 1.0 Call to Order — Procedural Matters\*

**Chair Sherman** called the meeting to order at 6:30 p.m., read the conduct of meeting format into the record, and Native Lands Acknowledgment.

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(00:17:02)

### 2.0 Planning Commission Minutes

(00:17:05)

**2.1** July 25, 2023 minutes were approved as presented

(00:17:30)

### 3.0 Information Items

**Planning Manager, Laura Weigel** let the commission know that all future planning commission meetings will be at the new City Hall.

(00:18:57)

### 4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:20:16)

### 5.0 Community Involvement Advisory Committee (CIAC)

No information was presented for this portion of the meeting.

(00:21:05)

## 6.0 Hearing Items

(00:21:08)

### 6.1 WG-2023-001 1600 SE Lava Dr.

**Senior Planner, Vera Kolas**, announced the applicable sections of the Milwaukie Municipal Code (MMC): Titles 12,13,19.302,19.401,19.504,19.505,19.600,19.700,19.905, 19.1006. **Kolas** presented the staff report via a power point presentation. Both are included in the meeting packet.

**Chair Sherman** asked about the difference between land use applications within the Willamette Greenway vs. not in the Willamette Greenway. **Kolas** explained that there are additional land use reviews needed for projects proposed in the Willamette Greenway. **Chair Sherman** asked about sidewalk details, **Kolas** confirmed those details. **Commissioner Aaron Carpenter** asked for an overview of the purpose of the Greenway. **Kolas** explained that it is an overlay zone that is part of goal 15 that affects properties adjacent to the Willamette River with the goal of protecting the river. The applicant, **Britany Randall**, with Brand Land Use submitted their power point presentation for the record. **Carpenter** asked what the exterior materials will be. The architect for the project, **Gene Bolante**, replied that the materials will be a mix of fiber cement, vinyl, wood, and paint. **Commissioner Will Mulhern** asked how they made the decision for allotted parking spaces. **Randall** explained it was a combination of what the site can support and what the market can support. **Chair Sherman** asked what the minimum parking requirements are for this site. **Kolas** said there are no off-street parking requirements. **Carpenter** asked about the storm water planter. **Randall** explained the GSI (green stormwater infrastructure) meets the city's requirements. **Bolante** explained how storm water planters work.

Public testimony: **Sharon Streeter**, a resident of the Waverly Greens Apartment Complex, spoke in opposition voicing concerns about cutting down the Big Leaf Maple. **Tony Forni**, Milwaukie resident, spoke in opposition citing the Cherry Blossom trees, questioning the Willamette Greenway requirements, building height requirements, parking, construction hours, and ADA accessibility. **Maria Nash**, Milwaukie resident, spoke in neutrality citing parking concerns. **Chair Sherman** asked about the ADA ramps. Engineering Tech III, **Jennifer Backhaus** explained how the ADA ramps will be installed. **Tiffany Cushman**, Milwaukie Resident, spoke in opposition regarding the building height, the placement of the trash receptacles, the placement of the storm water planters, delivery drivers, where work crews will park, existing trees, and potential native artifacts. **Commissioner Mulhern** asked about the fig trees' location. **Kolas** replied the trees are on the property to be developed. **Chair Sherman** asked what would happen if archeological resources were discovered. **Randall** explained they have inadvertent artifact discovery plans in place in case something is found. **Randall** responded to earlier testimony: the Big Leaf Maple cannot be preserved. The building will not have an elevator. Construction times are limited. There are state laws for drainage and

standards for solar arrays. The enclosed trash will have privacy screening. WDC will maintain the property.

**Chair Sherman** closed the public testimony.

Commission Discussion:

**Carpenter** thanked the public for showing up and staff for their hard work. **Chair Sherman** noted that the decision-making criteria for the Willamette greenway review and the burden of proof has been met. **Mulhern** agreed with **Chair Sherman**, and thanked everyone for coming out, **Mulhern** expressed hope for the applicant to hear the concerns of the residents. **Chair Sherman** discussed amending the conditions of approval to include an erosion control plan and an inadvertent discovery plan. **City Attorney Justin Gericke** discussed the amendment be based on state standards. **Kolias** suggested including the items as 'other requirements'. **Carpenter** motioned to approve WG-2023-001 with the amended conditions as proposed. **Mulhern** seconded the motion. The motion passed with a 4-0 vote.

(01:51:19)

**7.0 Planning Department/Planning Commission Other Business/Updates**

**Chair Sherman** reminded everyone about the Ledding Library Lecture series. **Weigel** let the public know about the grand opening of the new City Hall and the upcoming Transportation System Plan advisory committee meetings. **Kolias** gave an update on the upcoming Neighborhood Hubs workshops. **Carpenter** encouraged everyone to go to their local NDA meeting.

(01:51:32)

**8.0 Forecast for Future Meetings**

October 10, 2023,	Hearing Item(s):	MHS Parking Modifications
October 24, 2023,	Hearing Item(s):	No items at this time.

Meeting adjourned at approximately 8:30 p.m.

Respectfully submitted,

Petra Johnson, Administrative Specialist II





# CITY OF MILWAUKIE

**To:** Planning Commission

**Through:** Laura Weigel, Planning Manager

**From:** Ryan Dyar, Assistant Planner

**Date:** November 7, 2023, for November 14, 2023, Public Hearing

**Subject:** **File:** CSU-2023-005

**Applicant/Owner:** Bridge City Community Church on behalf of Jennifer Foglesong (Sunshine Early Learning Childcare Center)

**Address:** 2816 & 2835 SE Harrison St.

**Legal Description (Map & Tax Lot):** 11E36BA03000, 11E25CD02600

**NDA:** Historic Milwaukie

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## **ACTION REQUESTED**

Approve application CSU-2023-005 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would modify the existing community service use approval to operate a childcare center by increasing the number of students that the business is able to serve.

## **BACKGROUND INFORMATION**

### **A. Site and Vicinity**

The site is comprised of two properties, 2816 SE Harrison St and 2835 SE Harrison St. The church facility located at 2816 SE Harrison St is developed with a sanctuary building and a classroom/office building, which are connected by an enclosed breezeway. There is an off-street parking lot directly behind the structures to the south and a children's play area on the east side of the property. The second property, 2835 SE Harrison St, is developed with a single detached dwelling; the house is in the center of the lot and is surrounded by a parking lot that currently serves the church facility at 2816 SE Harrison St.

The 2816 SE Harrison St site has frontage on 28<sup>th</sup> Avenue, 29<sup>th</sup> Avenue, and Harrison Street; access is provided to the property via 28<sup>th</sup> Avenue and 29<sup>th</sup> Avenue. The second property, 2835 SE Harrison St, has frontage on Harrison Street and three different driveways provide access to Harrison Street.

As shown in Figure 1, the land uses and development adjacent to the site are mixed and include residential and commercial uses (condominiums, apartments, single detached

**Figure 1. Aerial Photo**



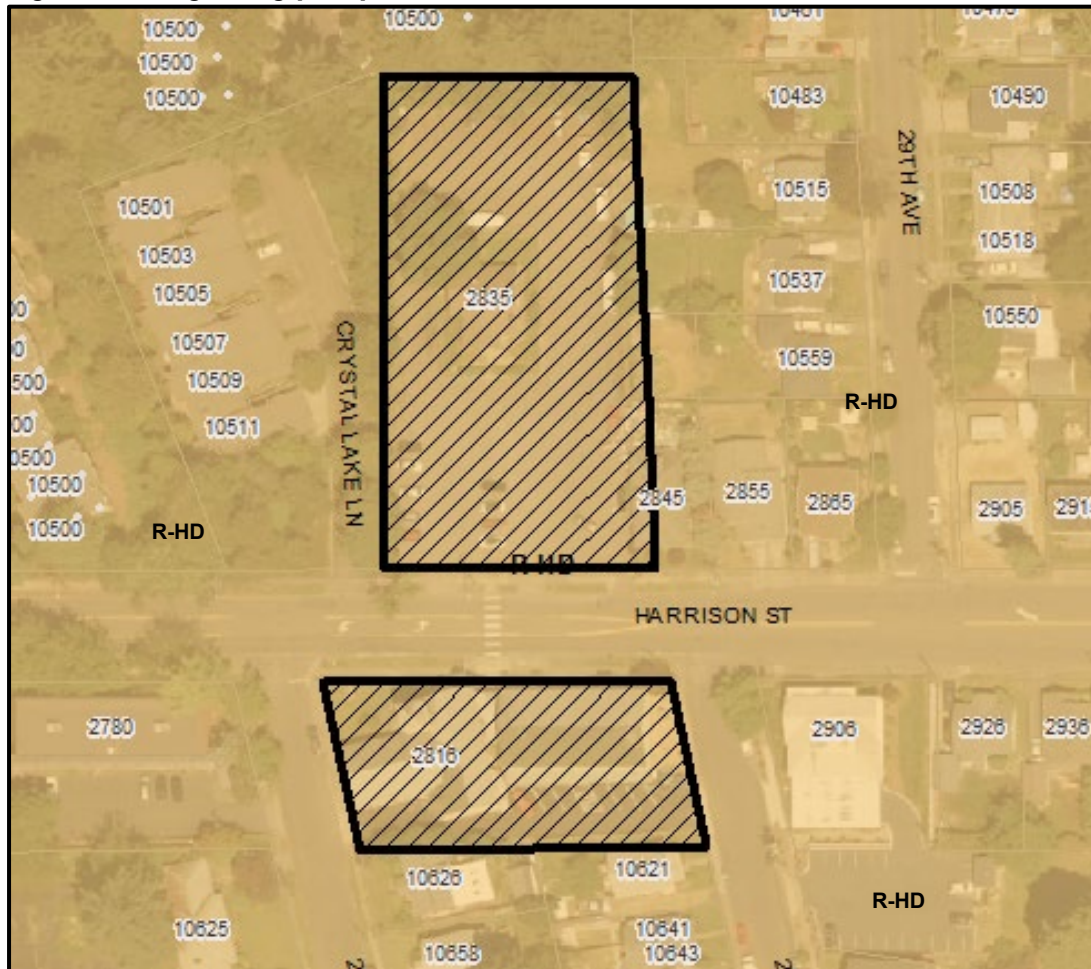
dwelling, a funeral home, and an office building). The surrounding properties range in size from average-sized single-unit residential lots to larger multifamily and commercial properties.

## **B. Zoning Designation**

The property is zoned High Density Residential (R-HD). The R-HD zone allows higher-density residential development that blends a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses. Childcare businesses are

allowed in the R-HD zone subject to community service use (CSU) approval. All surrounding properties are also zoned R-HD.

**Figure 2. Existing Zoning (R-HD)**



**C. Comprehensive Plan Designation**

The property is designated HD (High Density) in the City of Milwaukie Comprehensive Plan.

**D. Land Use History**

- **Original Development:** The church was constructed in approximately 1945 and has been used as a church since that time.
- **1991:** Land use file #CSO-91-03, community service overlay approval granted to operate a childcare center and bookstore at what was then the New Beginnings Church located at 2816 SE Harrison St.

- **2002:** Land use file #CSO-02-06, community service overlay approval was granted to operate an after-school youth program for high-school-aged students at what was then the Northridge Community Church.
- **2007:** Sugarplums Dayschool, LLC was approved to operate a childcare center at 2816 SE Harrison St within the parameters of the 1991 CSO approval. A letter from the Milwaukie Planning Division modifying the 1991 conditions of approval limited the number of students served to 45.
- **2009:** Land use file #CSU-08-04 was approved to install a non-illuminated freestanding monument sign at the northwest corner of 2816 SE Harrison St. At this point, the property had been purchased by Bridge City Community Church (current owner and applicant).
- **2016:** Land use file #CU-2016-004 was approved, which permitted Bridge City Community Church to convert three pastoral offices into professional offices at 2816 SE Harrison St, which the church rents out to local businesses.

## E. Proposal

The proposal seeks to modify a condition of approval that limits the student capacity of the childcare center. The childcare center was originally approved as a community service overlay at the church facility (2816 SE Harrison St) in 1991 (land use file #CSO-91-03). A 2007 modification to the 1991 approval permitted a maximum of 45 students; the applicant plans to increase the capacity to 144 students. To accommodate the additional students, the applicant is seeking to establish a children’s play area at 2835 SE Harrison St (this is required by the MMC and state regulations). The applicant also intends to resurface and restripe the parking lot at 2835 SE Harrison St and add a pedestrian walkway connecting the public sidewalk to the children’s play area. The applicant intends to buffer the pedestrian walkway with a landscaped area.

## F. Context

**Review Procedure:** The modification to the existing community service use is being processed as a Type III land use decision because as per MMC 19.904.5.C, any changes that increase the intensity of use or contravene a condition placed on the development by the Planning Commission or City Council must be reviewed as a major modification to the CSU. The Milwaukie Planning Manager has determined that the proposal to increase the student capacity both increases the intensity of use and contravenes a previous condition of approval.

**Additional Requirements:** Commissioners should be aware that the applicant is required to obtain approvals from additional regulatory authorities to operate a childcare center. Sunshine Early Learning Childcare Center must be licensed with the State of Oregon Department of Early Learning and Childcare. Staff added a condition of approval requiring that the applicant provide evidence of compliance with state requirements in the form of a certification or some similar documentation from the state. Additionally, the

applicant is required to obtain a permit from the Milwaukie Building Division which is working with Clackamas County Fire District #1 to ensure the site meets fire and life safety requirements.

**Limitations on Parking Improvement:** Commissioners should be aware that the Milwaukie Municipal Code places limitations on the improvements that can be required for off-street parking areas when properties are redeveloped. The limitations depend on the scale of the redevelopment and apply in this case to 2835 SE Harrison St, which currently does not conform to various off-street parking area requirements.

As per MMC 19.602.5, when properties redevelop and the redevelopment results in an increase of less than 100% of the existing structure's floor area or footprint, the off-street parking area must be brought closer into conformance with the standards of MMC 19.600; however, the cost of materials for any required improvements must not exceed 10% of the development permit value. In this case, the proposal does not include any increase in structure floor area or footprint, so improvements are limited to 10% of the permit value.

Given the scale of the proposed modification, the conditions to resurface, restripe, add parking blocks adjacent to the landscaped buffer, add two bicycle racks intended to accommodate four bicycles, and add four marked carpool/vanpool spaces should not exceed the 10% limit on improvements established in MMC 19.602.5.B. Since the exact permit value is currently unknown, a condition of approval is recommended to ensure that at the time of development, parking area improvements will be made to bring the property closer to conformance with the priorities in MMC 19.602.5 while also staying under the 10% limit imposed in that subsection.

**Public Facilities Improvements:** Commissioners should be aware that although the City Engineer has determined the proposal will cause an increase in vehicle trips, staff are not proposing any public facility improvements. This is because vehicle trips are calculated on a square footage basis, and the applicant is not proposing any structural changes to the church facility. Although there are nonconformities regarding the number of driveways at 2835 SE Harrison St and barriers that impede access along existing public sidewalks, the City Engineer has determined that requiring transportation facility improvements would not be proportional to the potential impacts of the increase in student capacity.

**Addressing Potential Impacts:** City staff have assessed the proposal for impacts to nearby properties and believe that the greatest potential for impacts is related to the increase in vehicle trips (due to increased student capacity) and noise increases related to the proposed children's play area at 2835 SE Harrison St.

As discussed above, the City Engineer has determined that the proposal does not warrant transportation facility improvements because the applicant is not requesting to increase the structural capacity of the church facility. Moreover, if public facility improvements were warranted, the focus would be on addressing nonconformities related to pedestrian infrastructure, not expanding the capacity of Harrison Street to serve additional automobiles.

Regarding increased noise resulting from the proposed children’s play area, staff believe that the existing condition of approval related to hours of operation, along with the city’s noise ordinance, and sight-obscuring fence standards required for play areas are adequate to limit noise impacts.

## **KEY QUESTIONS**

Staff has not identified any key questions for discussion but are available to answer any questions from the Commission.

## **CONCLUSIONS**

**Staff recommendation to the Planning Commission is as follows:**

1. Approve the proposed modification to the childcare center CSU. This will increase the student capacity from 45 to 144.
2. Adopt the attached Findings and Conditions of Approval.

## **CODE AUTHORITY AND DECISION-MAKING PROCESS**

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

- MMC Section 19.302 High Density Residential Zone
- MMC Subsection 19.502.1 General Provisions
- MMC Subsection 19.504.7 On-Site Walkways and Circulation
- MMC Chapter 19.600 Off-Street Parking and Loading
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.904 Community Service Uses
- MMC Section 19.1006 Type III Review

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

The Commission has four decision-making options as follows:

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

The final decision on this application, which includes any appeals to the City Council, must be made by January 31, 2024, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

## COMMENTS

Notice of the proposed changes was given to the following agencies and persons on October 5, 2023: City of Milwaukie Community Development, Engineering, Building, Public Works, Police, and Code Compliance departments; City Attorney; Clackamas Fire District #1 (CFD); Historic Milwaukie Neighborhood District Association (NDA) and Land Use Committee (LUC); Metro Development Review; Clackamas County Development Review. In addition, public notice was provided as required by MMC Subsection 19.1006.3 on October 25, 2023.

As of the posting of the staff report on November 7, 2023, the city has not received any comments regarding the proposal.

## ATTACHMENTS

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

	Public Copies	E-Packet
1. Findings in Support of Approval	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Conditions of Approval and Other Requirements	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Submittal Materials		
a. Application Form	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Narrative	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Land Use Plans	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. Previous Childcare Land Use Approvals (CSO-91-03, 2007 Planning Division Letter Amending CSO-91-03)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Public Copies = materials posted online to application website (<https://www.milwaukieoregon.gov/planning/csu-2023-005>)

E-Packet = meeting packet materials available one week before the meeting, posted online at <https://www.milwaukieoregon.gov/planning/planning-commission-96>

**ATTACHMENT 1**  
**Recommended Findings in Support of Approval**  
**File #CSU-2023-005**  
**Sunshine Early Learning Childcare Center Expansion**

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

1. The applicant, Bridge City Community Church, has applied on behalf of Jennifer Fogelson (owner and operator of Sunshine Early Learning Childcare Center) to modify the existing community service use (CSU) approval to operate a childcare center at the church facility at 2816 SE Harrison St and 2835 SE Harrison St. Both properties are zoned High Density Residential (R-HD). The land use application file number is CSU-2023-005.
2. The proposal seeks to modify a condition of approval that limits the student capacity of the childcare operation. The childcare center was originally approved as a community service overlay at 2816 SE Harrison St in 1991 (land use file #CSO-91-03). A 2007 modification to the 1991 approval permitted a maximum of 45 students; the applicant plans to increase the capacity to 144 students. Community service overlays are now referred to as community service uses. To accommodate the additional students, the applicant is seeking to establish a children's play area at 2835 SE Harrison St.

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

- MMC Section 19.302 High Density Residential Zone
- MMC Subsection 19.502.1 General Provisions
- MMC Subsection 19.504.7 On-Site Walkways and Circulation
- MMC Chapter 19.600 Off-Street Parking and Loading
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.904 Community Service Uses
- MMC Section 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held by the Planning Commission on November 14, 2023, as required by law.

3. MMC Section 19.302 High Density Residential Zone (R-HD)
  - a. MMC Subsection 19.302.2 Allowed Uses
 

MMC 19.302.2 establishes the uses allowed in the R-HD zone. The list includes various housing types, limited office uses, personal and business services, hotels, and community service uses.

*The applicant is applying to amend an existing community service use approval to operate a childcare business at 2816 and 2835 SE Harrison St. Both properties are zoned R-HD.*



*Community service uses are permitted in the R-HD zone, subject to the provisions of MMC Title 19 Zoning, especially those found in MMC 19.904 Community Service Uses. The property is used for additional activities—each permitted conditionally or by right in the R-HD zone.*

*Those activities include the church itself, which is a de facto community service use. Per CU-2016-004, the church is permitted to rent office space to three businesses that provide professional services. Offices are permitted by right in the R-HD zone; however, the property was previously zoned R-2 (a zone that no longer exists) and offices were conditional use in that zone. Lastly, the church owns a single detached dwelling located at 2835 SE Harrison St, which it rents to families in need of stable housing. Single detached dwellings are permitted by right in the R-HD zone.*

*The Planning Commission finds that the proposed use is permitted in the R-HD zone, subject to the provisions of MMC Title 19 Zoning, especially those found in MMC 19.904 Community Service Uses.*

b. MMC Subsection 19.302.4 and 19.302.5 Development Standards

MMC Table 19.302.4 establishes development standards for the R-HD zone and MMC 19.302.5 provides additional development standards. Based on the proposal, staff have determined that the minimum vegetation standard (15%) is the only applicable standard in MMC Table 19.302.4.

*The site of the proposed development, 2835 SE Harrison St, does not conform with the 15% landscaping requirement. Per MMC 19.804.2, which applies when altering nonconforming development, site alteration cannot increase or extend an existing nonconformity. The applicant has proposed adding a landscape buffer to separate a newly proposed walkway from the off-street parking area, as is required under MMC 19.504.7. This newly added landscape buffer would count towards the 15% minimum requirement, thereby bringing the site closer to conformity, which as per MMC 19.804.2 complies with the requirement for altering nonconforming development.*

*As proposed, the Planning Commission finds that the proposal moves the site closer to conformance with the landscape requirement in MMC 19.302.4.*

4. MMC Subsection 19.502.1.E General Provisions

MMC 19.502.1 establishes general standards for accessory structures. This includes a reduced side and rear yard setback standard of 5 ft for accessory structures unless otherwise specified in the MMC Subsection 19.502.1 or MMC Subsection 19.502.2.

*The applicant is proposing to add a new play area on the rear portion of 2835 SE Harrison St. The play area will include a tricycle path, a basketball hoop, four square and hopscotch areas, a playhouse, balance logs, and a small play structure. The site plan does not show the specific location*

*of the equipment; however, there should be sufficient space to accommodate the 5 ft required setbacks and a condition of approval will be added to ensure compliance.*

*The Planning Commission finds that, as conditioned, the setback standard for accessory structures is met.*

#### 5. MMC Subsection 19.504.7 On-Site Walkways and Circulation

MMC 19.504.7 establishes standards for on-site walkways, which are required for all development that is subject to MMC Chapter 19.700 (excluding single-detached and multi-unit residential development). A walkway must be provided into the site for every 300 ft of street frontage and must connect with sidewalks and bicycle facilities. On-site walkways must be reasonably direct, constructed with a hard surface material, permeable for stormwater, and at least 5 ft wide. Walkways must be separated from parking areas using curbing, landscaping, or distinctive paving materials and must be lighted to an average 0.5-footcandle level.

*As discussed in Finding #8, the City Engineer projects that the intensification of use will result in an increase in vehicle trips to the site; therefore, MMC Chapter 19.700 is applicable. The applicant is proposing to add a new onsite walkway along the western portion of 2835 SE Harrison St, connecting the public sidewalk to the proposed playground on the rear portion of the property. The walkway is proposed to be made of a hard-surfaced material that is permeable to stormwater, be at least 5 ft wide, be separated from vehicle parking and maneuvering areas by a landscaped buffer, and be lighted with solar-paneled pathway lighting. The applicant has not shown this lighting on the site plan or yet specified the walkway material; however, staff have confirmed with the applicant that it will be provided and will include a condition of approval to ensure compliance.*

*The Planning Commission finds that, as proposed and conditioned, the standard for on-site walkways is met.*

#### 6. MMC Chapter 19.600 Off-Street Parking and Loading

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

##### a. MMC Section 19.602 Applicability

MMC 19.602 establishes the applicability of the provisions of MMC 19.600, and MMC Subsection 19.602.3 establishes thresholds for full compliance with the standards of MMC 19.600. Development that results in an increase of less than 100% of the existing floor area and/or structure footprint must be brought closer into conformance with the standards of MMC 19.600. However, MMC Subsection 19.602.5 limits the cost of materials for any required improvements to 10% of the development permit value.

##### 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.

MMC Table 19.605.1 provides the minimum and maximum parking quantity requirements. For a single-unit dwelling, 1 off-street parking space is required per unit with no maximum. For religious institutions, a minimum of 1 space per 4 seats is required and a maximum of 1 space per every 2 seats is allowed. For childcare/daycare uses, a minimum of 2 spaces per 1,000 sq ft is required, and a maximum of 3.5 spaces per 1,000 sq ft is allowed. For general offices, a minimum of 2 spaces per 1,000 sq ft is required, and a maximum of 3.4 spaces per 1,000 sq ft is allowed. Based on these standards, the minimum and maximum quantities are addressed in Table 1 below.

Per Oregon Administrative Rules (OAR) 660-012-0012 and 660-12-0440, which were established through the Climate-Friendly and Equitable Communities (CFEC) rulemaking process, 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.

<b>Table 1 Off-Street Parking Requirements (Per MMC 19.605)</b>			
<b>Land Use</b>	<b>Size</b>	<b>Min # Parking Spaces</b>	<b>Max # Parking Spaces</b>
Religious Institution Use	100 seats	25.0	50.0
Office Use	720 sq. ft.	1.4	2.4
Single Detached Dwelling	1 unit	1.0	None
Childcare Use	10,280 sq. ft.	20.6	36.0
<b>Total</b>	-	48	88

*The subject property is located on Harrison Street, where TriMet's Line 33-McLoughlin/King runs every 15 minutes; this is considered a frequent transit route so as per the CFEC rules the minimum off-street vehicle parking requirements of MMC Section 19.605 cannot be enforced. However, compliance with other applicable sections of MMC 19.600, including the maximum number of parking spaces, is required.*

*Currently, 2816 SE Harrison St has 6 off-street parking spaces and 2835 SE Harrison St has 87 off-street parking spaces, for a total of 93 off-street parking spaces; however, it should be noted that parking lot striping at 2835 SE Harrison St is faded, and it is consequently difficult to identify each space.*

*The applicant has proposed to modify the existing parking lot at 2835 SE Harrison St. by removing asphalt to add a children's play area, resurfacing, restriping, and adding a walkway buffered by landscaping to connect the public sidewalk with the proposed children's play area. This will result in a reduction of 18 spaces at 2835 SE Harrison St, bringing the total number*

*of proposed spaces to 69. With the 6 spaces at 2816 SE Harrison St, the total number of proposed spaces is 75. This complies with the maximum permitted under MMC 19.605.*

*The Planning Commission finds that the applicable off-street parking quantity requirements in MMC 19.605 are met.*

c. MMC Section 19.606 Parking Area Design and Landscaping

MMC 19.606 establishes standards for parking area design and landscaping, to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and have efficient circulation.

MMC Subsection 19.606.1 establishes dimensional standards for required off-street parking spaces and drive aisles. For 90°-angle spaces, the minimum width is 9 ft, and the minimum depth is 18 ft, with 22 ft drive aisles; MMC Table 19.606.1 establishes dimensional requirements for various angles of spaces. MMC Subsection 19.606.2 provides standards for perimeter and interior landscaping areas, including minimum widths and planting requirements. MMC Subsection 19.606.3 establishes various design standards, including requirements related to paving and striping, wheel stops, pedestrian access, internal circulation, and lighting.

*As discussed in Finding #7c, the site currently contains two off-street parking areas. The first lot contains 6 off-street parking spaces and is located behind the church at 2816 SE Harrison St; the applicant is not proposing any modifications to this site. The second lot currently contains 87 off-street parking spaces and is located at 2835 SE Harrison St. This site is developed with a single detached dwelling; the parking area does not conform to the development standards in MMC Section 19.607 Off Street Parking for Residential Areas, or to the standards intended for commercial and institutional established in MMC Section 19.606. There is no perimeter or interior landscaping, the lot lacks wheel stops, and the paved area extends across the entire property frontage, making the paved area much wider than the approved driveway approaches. Additionally, there is no lighting, the striping has not been maintained, and there are no pedestrian walkways, leaving many parking spaces farther than 100 ft from a pedestrian facility.*

*As demonstrated on the parking plan, the applicant is proposing to reduce the number of parking spaces from 87 to 69 at 2835 SE Harrison St to accommodate a children's play area and a walkway connecting the play area to the public sidewalk. As proposed, these parking spaces will meet the 9 ft by 18 ft dimensional requirements and will include drive isles that are at least 22 ft wide. The applicant is also proposing to add a 10 ft landscape buffer between the walkway and vehicle parking and maneuvering area. A condition of approval has been added to require that wheel stops for the parking spaces adjacent to the landscaped buffer be provided to prevent encroachment into the buffer.*

*As proposed and conditioned, the Planning Commission finds that the proposal is moving the parking area closer to conformance with the standards in MMC 19.606.*

d. MMC 19.609 establishes standards for bicycle parking. Unless otherwise specified, the number of bicycle parking spaces is at least 10% of the minimum required vehicle

parking for the use. In no case shall the number of bicycle spaces provided be fewer than 2. MMC Subsection 19.609.3.A requires that each bicycle parking space have minimum dimensions of 2 ft by 6 ft, with 5 ft-wide aisles for maneuvering. MMC Subsection 19.609.4 establishes location standards for required bicycle parking.

*As discussed under Finding #7b, the land uses on the site require a minimum of 48 off-street automobile parking spaces. While the minimum automobile parking requirement is unenforceable per OAR 660-012-0440, MMC 19.609 is still enforceable, meaning 4 bicycle parking spaces are required. The applicant indicates that the property currently contains two bike racks.*

*The applicant's site plan did not indicate the location of the bike racks and staff were not able to locate the racks. Additionally, it is not clear that the bicycle parking spaces meet the dimensional or location standards established in MMC 19.609.3 and MMC 19.609.4. Consequently, a condition of approval has been added to ensure compliance with this requirement.*

*The Planning Commission finds that, as conditioned, MMC 19.609 is met.*

e. MMC Section 19.610 Carpool and Vanpool Parking

MMC 19.610 establishes carpool parking standards for new industrial, institutional, and commercial developments with 20 or more required parking spaces. The number of carpool/vanpool parking spaces is at least 10% of the minimum required vehicle parking for the use. Parking for carpools/vanpools must be located closer to the main entrances of the building than other employee or student parking, except ADA spaces. Carpool/vanpool spaces must be clearly designated with signs or pavement markings for use only by carpools/vanpools.

*As discussed under Finding #7b, the land uses on the site require a minimum of 48 off-street automobile parking spaces. While the minimum quantity requirement is unenforceable per OAR 660-012-0440, MMC 19.610 is still enforceable. Consequently, 4 carpool/vanpool parking spaces are required. There are currently no parking spaces marked for carpool/vanpool purposes and the applicant's parking plan does not indicate that any of the proposed spaces will be reserved for this purpose. A condition of approval has been added to require that four spaces be reserved for carpool/vanpool use consistent with the requirements in MMC 19.610.*

*Given the scale of the proposed modification, the resurfacing and restriping, parking blocks, bicycle parking, and four marked carpool/vanpool spaces should not exceed the 10% limit on improvements established in MMC 19.602.5.B. Since the exact permit value is currently unknown, a condition of approval will be established to ensure that at the time of development, parking area improvements will be made to bring the property closer to conformance with the priorities in MMC 19.602.5 while also staying under the 10% limit imposed in that subsection.*

*The Planning Commission finds that the applicable standards of MMC 19.600 are met.*

## 7. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including expansions, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

### a. MMC Section 19.702 Applicability

MMC 19.702 establishes the applicability of MMC 19.700, including a new dwelling unit, any increase in gross floor area, 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.

*The applicant is proposing to modify an existing approval to operate a childcare facility at 2816 and 2835 SE Harrison St. The proposal includes modifying a condition of approval that limits the number of students to 45. The applicant is requesting to increase that number to 144, which constitutes an intensification of use based on a projected increase in vehicle trips, as determined by the City Engineer.*

*The Planning Commission Finds that MMC 19.700 is applicable.*

### 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 pre-application conference, establishing the type of application required, and providing approval criteria.

*The applicant had a pre-application conference on May 25, 2023. As noted in Finding #7c, the proposal does not trigger a Transportation Impact Study (TIS), so the proposal's compliance with MMC 19.700 has been evaluated as part of the review of the major modification to the community service use, as per MMC Subsection 19.703.2.B.*

*The City Engineer has determined that no improvements are required for this development due to pre-existing improvements.*

### c. MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 establishes the process and requirements for evaluating development impacts on the surrounding transportation system, including determining when a formal TIS is necessary and what mitigation measures will be required.

*The City Engineer has determined that the intensification of use will not trigger a significant increase in trip generation and therefore does not require a TIS.*

### 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, the applicant proposes to modify an existing community service use approval to operate a childcare center at 2816 SE Harrison St and the adjacent 2835 SE Harrison St. As stated, the applicant is proposing to make changes to the off-street parking area at 2825 SE*

*Harrison St and increase the student capacity capped in previous land-use decisions from 45 to 144.*

*The frontage of both properties is improved with curbs and sidewalks. The presence of barriers (such as non-compliant driveways, mailboxes, and telephone poles) causes the existing sidewalk to be out of compliance. The City Engineer has determined that the proposed development does not warrant the construction of a new sidewalk on either frontage, as no new square footage is being added to the church facility. No additional frontage improvements are required as part of this development. No public utility upgrades are required as part of this development.*

*No public facility improvements are required, as the existing facilities are sufficient.*

e. MMC Section 19.707 Agency Notification and Coordinated Review

MMC 19.707 establishes provisions for coordinating land use application review with other agencies that may have some interest in a project that is in proximity to facilities they manage.

*The subject property is identified as an Arterial in Figure 8-1 of the city's Transportation System Plan. Consistent with MMC 19.707, the application was referred to Clackamas County Engineering Development Review and Metro on October 5<sup>th</sup>, 2023. TriMet's development review team was also notified, as the proposal is located along an existing transit route as identified on the current TriMet service map.*

f. 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.

(1) MMC Subsection 19.708.1 General Street Requirements and Standards

MMC 19.708.1 provides general standards for streets, including for access management, clear vision, street layout and connectivity, and intersection design and spacing.

*As discussed above, the City Engineer has determined that no public improvements are required as part of this development. Both properties are developed with sidewalk and curb. The proposal is consistent with the applicable standards of MMC 19.708.1.*

*The Planning Commission finds that the proposal will meet all applicable standards of MMC 19.708.*

*The Planning Commission finds that the proposal meets the applicable public facility improvement standards of MMC 19.700.*

8. MMC Section 19.904 Community Service Uses

MMC 19.904 provides standards and procedures for review of applications for community service uses (CSUs). These are uses that are not specifically allowed outright in most zoning districts but that address a public necessity or otherwise provide some public benefit. CSUs include schools and childcare services.

## a. MMC Subsection 19.904.2 Applicability

MMC 19.904.2 establishes applicability of the CSU regulations, including a requirement for review to establish or modify a CSU.

*The application is to modify an existing conditional use approval to operate a childcare center at 2816 SE Harrison St. The proposal is to increase the number of students served, which was capped by a previous land-use approval at 45. The proposal also seeks to modify the existing off-street parking area at 2835 SE Harrison St by restriping, repaving, and adding a new children's play area and walkway.*

*The Planning Commission finds that the standards of MMC 19.904 are applicable to the proposed development.*

## b. MMC Subsection 19.904.3 Review Process

MMC 19.904.3 establishes the review process for CSUs. Except for wireless communication facilities and minor modifications to existing CSUs, applications for CSUs are subject to Type III review (MMC 19.1006).

*The proposal includes increasing the intensity of use and would contravene the previous condition of approval that limited the total number of students served to 45; consequently, the proposal does not qualify as a minor modification as per MMC Subsection 19.904.5.C.*

*The Planning Commission finds that the proposed development is subject to the procedures for Type III review.*

## c. MMC Subsection 19.904.4 Approval Criteria

MMC 19.904.4 establishes the following approval criteria for CSUs:

- (1) The building setback, height limitation, off-street parking, and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed for a CSU, the standards of the underlying zone must be met.

*The applicant is proposing to modify the existing parking lot at 2835 SE Harrison St. As discussed elsewhere, the lot will be restriped, repaved, and a walkway and children's play area will be added. The playground equipment will comply with the setback requirement and height limitations for accessory structures in MMC 19.502.*

*The Planning Commission finds that the applicable development standards are met.*

- (2) Specific standards for the proposed uses as found in MMC 19.904.7-11 are met.

The proposed modifications are subject to the standards provided in MMC Subsection 19.904.7 for schools and daycare operations, including the requirement to provide off-street parking as per MMC Chapter 19.600.

*As per Finding #8d, the specific standards for schools, including childcare facilities, are met.*



*The Planning Commission finds that the applicable school-specific standards in MMC 19.904.7 are met.*

- (3) MMC Subsection 19.904.4.C requires the hours and levels of operation of the proposed use to be reasonably compatible with surrounding uses.

*As conditioned in CSO-91-03, the hours of operation are limited to between 6:00 AM and 7:00 PM. These hours are appropriate for a childcare center, as they allow for drop-offs and pick-ups outside of common business hours. The applicant is not proposing to modify the hours and there is no evidence that these hours are incompatible with the surrounding uses, which are listed below in Table 2. As discussed below, the existing hours of operation should help mitigate any noise impacts on surrounding residential uses while still permitting the center to function.*

<b>Table 2: Surrounding Uses</b>	
<b>2816 SE Harrison St:</b>	
North	Residential and Parking (Bridge City Community Church)
South	Residential (Single Detached Dwellings)
West	Commercial (Jesuit Volunteer Corps NW Offices)
East	Commercial (Stehn Funeral Home)
<b>2835 SE Harrison St:</b>	
North	Residential (Crystal Lake Apartments)
South	Institutional (Bridge City Community Church)
West	Residential (Condominiums)
East	Residential (Single Detached Dwellings)

- (4) MMC Subsection 19.904.4.D requires that the public benefits of the proposed use be greater than the negative impacts, if any, on the neighborhood.

*The applicant indicates that the childcare business will benefit the community by bringing in an additional early learning program to Milwaukie. The applicant indicates that Milwaukie has very few certified childcare centers and that this use is advantageous when compared to leaving the church site vacant. Possible adverse impacts arising from the increase in intensity include additional noise and traffic.*

*Regarding noise impacts, a condition of approval has been retained from previous decisions to limit the hours of operation from 6:00 a.m. to 7:00 p.m. This should limit the impact on adjacent properties. Additionally, the city has a noise ordinance, which could*

*be leveraged if the city receives complaints, and a sight-obscuring fence is required to shield the proposed play area from nearby residential uses.*

*Regarding traffic impacts, as discussed in Finding #7, the City Engineer has indicated that requiring transportation facility improvements would not be proportional to the proposal's impacts.*

*The Planning Commission finds that the benefits of the proposal outweigh the potential negative impacts. The proposal will increase the supply of childcare in the community and activate an underutilized property. While the proposal will likely increase noise on the site, the noise ordinance and conditions limiting hours of operation and shielding the play area from adjacent residential properties will mitigate noise impacts.*

- (5) MMC Subsection 19.904.4.E requires the location to be appropriate for the type of use proposed.

*The applicant indicates that the site is ideal for a childcare business, as it provides adequate parking, outdoor areas, and classroom space. Additionally, the site has been used as a childcare center historically and is accessible using multiple forms of transportation.*

*The Planning Commission finds that the location is appropriate for the proposed use.*

d. MMC Subsection 19.904.7 Specific Standards for Schools

MMC 19.904.7 establishes the following specific standards for schools, pre-schools, nursery schools, and daycare centers:

- (1) MMC Subsection 19.904.7.A applies only to public elementary and secondary schools.

*The Planning Commission finds that MMC Subsection 19.904.7.A is not applicable to the proposal.*

- (2) MMC Subsection 19.904.7.B requires that preschools, nursery schools, day-care centers, or kindergartens provide a fenced, outdoor play area of at least 75 sq ft for each child of total capacity, or a greater amount if so required by state law. In facilities where groups of children are scheduled at different times for outdoor play, the total play area may be reduced proportionally based on the number of children playing out-of-doors at one time. However, the total play area may not be reduced by more than half. These uses must comply with the State Children's Services Division requirements as well as the City provisions.

*The applicant indicates that the existing play area at 2816 SE Harrison St contains 1,250 sq ft and that the new play area proposed at 2835 SE Harrison St will add 4,320 sq ft, creating a combined total of 5,570 sq ft of fenced, outdoor play area. The applicant proposed to increase the total student capacity from 45 to 144. At 75 sq ft per pupil, the proposal requires a total of 10,800 sq ft. The applicant indicates that they plan to stagger use of the play area, which allows them to reduce by half the amount of play area required. Half of the requirement is 5,400 sq ft, which the proposal complies with.*

*The Planning Commission finds that the proposal meets the outdoor play area requirement.*

- (3) MMC 19.904.7.C requires that walkaways, both on and off the site, be provided as necessary for safe pedestrian access to schools subject to the requirements and standards of Chapter 19.700.

*Both 2816 SE Harrison and 2835 SE Harrison are developed with a curb and sidewalk and there is a marked crosswalk that connects the two properties. Additionally, 2816 SE Harrison is developed with walkways connecting property entrances with public sidewalks. As discussed in Finding #5, the applicant has proposed to add a new on-site walkway at 2835 SE Harrison St that will connect the existing public sidewalk to the proposed children's play area. A condition of approval has been added to ensure that the walkway will comply with the development standards specified in MMC 19.504.7.*

*As conditioned, the Planning Commission finds that the proposal includes sufficient walkways both on and off-site to ensure safe pedestrian access.*

- (4) MMC 19.904.7.D requires a sight-obscuring fence between 4 ft to 6 ft in height to separate play areas from adjacent residential uses.

*The applicant indicates that they intend to install a 4 ft fence with privacy slats; however, the site plan does not clearly indicate that the fence shields the play area from all adjacent residential uses. Therefore, a condition of approval has been included to ensure that the sight-obscuring fence is installed in a manner consistent with MMC 19.904.7.D.*

*The Planning Commission Finds that, as conditioned, the sight-obscuring fence standard is met.*

- (5) MMC 19.904.7.E requires the site to be adequately served by public facilities.

*As discussed in Finding 8, both properties are served by a public road and public utilities. Additionally, 2816 SE Harrison St extends across the entire block between 28<sup>th</sup> Avenue and 29<sup>th</sup> Avenue and therefore has three frontages along the public right-of-way. Each is developed with a curb and sidewalk. The frontage for 2835 SE Harrison St is also developed with a curb and sidewalk.*

*The Planning Commission finds that both properties are adequately served by public facilities.*

- (6) MMC 19.904.7.F requires that the site have safe loading, including ingress and egress.

*As conditioned in CSO-91-03, student pick-ups, and drop-offs are intended to occur using the off-street parking area behind the church at 2816 SE Harrison St. The condition restricts travel to one-way, east-to-west direction. This condition was reaffirmed in the Planning Division letter that approved Sugarplum Daycare, LLC to operate in 2007. Neither the applicant nor city staff proposes modifying this condition of approval.*

*The applicant also indicates that there will be longer-term parking in the lot at 2835 SE Harrison St, where there is a marked crosswalk. The applicant indicates that this crosswalk will be staffed with a crossing guard.*

*The Planning Commission finds that, as conditioned, the site provides a safe location for pick-ups and drop-offs.*

- (7) MMC 19.904.7.G requires that the site have off-street parking, including for buses, as per the requirements in Chapter 19.600.

*As discussed previously, new state administrative rules prohibit the city 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. The application has been reviewed for compliance under Finding #6, and conditions have been established to ensure compliance.*

*The Planning Commission finds that, as conditioned, the standard for off-street parking is met.*

- (8) MMC 19.904.7.H specifies setback requirements of 20 ft for the site, rear, and front yards.

*The applicant is not proposing any new primary structures on either property. As discussed under Finding #5, a condition of approval has been added to ensure that the play equipment meets the setback standard for accessory structures.*

*The Planning Commission finds that the 20 ft required setbacks in MMC 19.904.7.H are related to primary school structures and therefore the standard is not applicable to this proposal.*

- (9) MMC 19.904.7.I requires that bicycle facilities be provided to adequately serve the facility.

*As indicated under Finding #6d, 4 bicycle parking spaces are required as per MMC 19.609. The applicant mentions two bike racks in the application narrative; however, the applicant did not indicate the location of the racks, and staff were not able to locate the racks; therefore, a condition of approval has been added to ensure compliance with this requirement.*

*The Planning Commission finds that, as conditioned, adequate bicycle parking will be provided.*

- (10) MMC 19.904.7.J requires that 15% of the site be landscaped.

*As discussed elsewhere, the applicant proposes using two properties for the childcare business, 2816 SE Harrison and 2835 SE Harrison. Neither site currently conforms to the 15% landscaping standard; however, the proposal involves adding a landscaped area to buffer the proposed walkway from the vehicle parking area.*

*As discussed under Finding #4b, this landscape buffer will move the property closer to conformance with the landscape standard.*

*The Planning Commission finds that the proposal moves the site closer to conformance with the landscaping standard and that MMC 19.904.7.J is met.*

*The Planning Commission finds that the proposed development meets all applicable standards of MMC 19.904 to be approved as a major modification to a CSU. This standard is met.*

9. The application was referred to the following departments and agencies on October 5, 2023:
- Milwaukie Community Development Department
  - Milwaukie Engineering Department
  - Milwaukie Building Department
  - Milwaukie Public Works Department
  - Milwaukie Police Department
  - Milwaukie Code Compliance
  - City Attorney
  - Metro Development Review
  - Clackamas County Development Review
  - Historic Milwaukie Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
  - Clackamas Fire District #1 (CFD)
  - NW Natural

In addition, public notice was provided on October 25, 2023, as required by MMC Subsection 19.1006.3. As of November 7, 2023, the city has not received any comments regarding the proposal.

**Attachment 2**  
**Recommended Conditions of Approval**  
**File # CSU-2023-005, 2816 and 2835 SE Harrison St,**  
**Sunshine Early Learning Childcare Center Expansion**

**Conditions**

1. The childcare center is limited to serving a maximum of 144 students. Prior to operating at the adjusted capacity, Sunshine Early Learning Childcare Center (applicant) must complete the following:
  - a. The applicant must provide evidence from the State of Oregon Department of Early Learning and Care demonstrating that the center is authorized to operate a childcare center at the new capacity. This could take the form of a certification or a similar type of documentation from the state.
  - b. Prior to operating at the new capacity, the applicant must obtain a building permit from the Milwaukie Building Division ensuring the facility meets fire and life safety standards.
2. The childcare hours of operation are limited to Monday through Saturday from 6:00 a.m. to 7:00 p.m.
3. Traffic flow through the parking lot on the south side of the church building at 2816 SE Harrison St is restricted to a one-way, east-to-west, direction.
4. As per Finding 4, the play equipment in the proposed children's play area at 2835 SE Harrison St must be placed outside of the 5 ft required setback for accessory structures.
5. As per Finding 5, the proposed walkway connecting the public sidewalk to the children's play area at 2835 SE Harrison St must comply with all the onsite walkway standards listed in the MMC 19.504.7, including but not limited to being comprised of a material that is permeable to stormwater and lighted to an average 5/10-footcandle level.
6. As per Finding 6, the applicant is required to address the off-street parking area non-conformities, subject to the prioritization list and limitations in MMC 19.602.5. At the time development permits are submitted (erosion control and site development permits), staff will require a detailed, to-scale, parking plan that demonstrates compliance with these standards. At a minimum, those improvements should include those listed below under condition #6 a-c.
  - a. All off-street parking spaces adjacent to the landscaped area buffering the walkway from the parking stalls at 2835 SE Harrison St must include wheel stops to prevent encroachment into the landscape buffer.
  - b. The development must provide four bicycle parking spaces that comply with the standards for bicycle parking found in MMC 19.609.

- c. Four off-street parking spaces must be reserved as carpool/vanpool spaces. As per MMC 19.610, the spaces must be located closer to the main entrances of the building than other employee or student parking spaces, except ADA spaces. Carpool/vanpool spaces must be clearly designated with signs or pavement markings for use only by carpools/vanpools.
7. Fencing around the outdoor play area and along the southern property boundary at 2816 SE Harrison St must be maintained in good working order. In addition, as per Finding 8, a sight-obscuring fence between 4 to 6 ft in height must also be provided to shield the proposed children's play area at 2835 SE Harrison St from all adjacent residential uses.

## Attachment #3a



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

# Application for Land Use Action

Primary File #: CSU-2023-005

Review type\*:  I  II  III  IV  V

**CHECK ALL APPLICATION TYPES THAT APPLY:**

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

**RESPONSIBLE PARTIES:**

**APPLICANT** (owner or other eligible applicant—see reverse): **Bridge City Church**

Mailing address: **2816 & 2825 SE Harrison Street**

State/Zip: **OR/97222**

Phone(s): **503-810-5888**

Email: **Schelske@bridgecity.org**

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

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

Mailing address: **2816 SE Harrison Street**

State/Zip: **OR/97222**

Phone(s): **503-313-4702**

Email: **Jennifer@sunshineelcc.com**

**SITE INFORMATION:**

Address: **2816 SE Harrison Street**

Map & Tax Lot(s):

Comprehensive Plan Designation:

Zoning: **R-HD**

Size of property:

**PROPOSAL (describe briefly):**

**2816-Changing 100 level usage from youth program to childcare center and updating capacity. I**

**2825-Parking Lot paving, lining, and a new playground added to space for childcare center.**

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

Submitted by:

Date: **07/28/2023**

**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](http://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 (after discount, if any)	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Primary file	CSU-2023-005	\$ 2,000.00			Application materials received on 9/21/23.  Fee paid on 9/26/23.
Concurrent application files		\$			
		\$			
		\$			
		\$			
Deposit (NR/TFR only)				<input type="checkbox"/> Deposit Authorization Form received	
TOTAL AMOUNT RECEIVED: \$ 2,000.00			RECEIPT #: 26558		RCD BY: R. Dyar

**Associated application file #s** (appeals, modifications, previous approvals, etc.):

**Neighborhood District Association(s):** Historic Milwaukie NDA

**Notes:** Application for a major modification to a day/after-school care operation at 2816 SE Harrison St (Bridge City Community Church).

The applicant proposes to increase the number of students served, modify the hours of operation, and add a new play area at 2835 SE Harrison St, which currently serves as parking for the church and includes a single-detached dwelling which is currently rented to tenant. The church property serves multiple tenants beyond the daycare operation.

# Attachment #3b

To City of Milwaukie Building and Planning

From: Bridge City Church and Sunshine Early Learning Centers

Address: 2816 and 2835 SE Harrison Road, Milwaukie, OR 97222

## Land Use Proposal

The church property is currently being used in a number of ways. Bridge City Community Church, the property owner, meets in the building for worship on Sunday evenings, as well as other church life activities. Bridge City is a congregation of 35 people. Bridge City's philosophy about the building is that it should be used in such ways as serve the community rather than sitting empty. Presently these other uses include:

Omega Fire Ministries, a church congregation that meets in the building for worship on Sunday mornings, as well as other church activities. Omega Fire is a congregation of about 60 people.

Community group uses include: The Northwest Mineral Prospector's Club monthly meeting (30 people), periodic birthday parties, family events, weddings, and funerals.

Three upper-floor offices are shared with other low-traffic groups. An accountant, an IT professional, and three therapists share a single office space.

The church property includes a small rental house (2835 SE Harrison) which is rented to a family that the church is helping get back on their feet.

The church also makes the parking lot available periodically to other neighborhood uses, such as overflow parking for Stehn's Funeral home, and special event parking for the Waldorf School.

Sunshine Early Learning Center is proposing to add a playground, walking path, lined parking and use additional space downstairs for children ages 3 to 5 years old. They will use the 100 level for this purpose which is 4 classrooms totaling approximately 2400sqft (currently this space was used by an afterschool program but it now will be at preschool classrooms)

## Currently licensed

- 54 students on the 200 level. 26 that are under 2 ½ and 28 that are 3 and over. (not currently enrolled about 45 total at this time)
- 30 before and after school program on the 100-level left side fellowship hall.

Current Total Licensed would be 84 total students.

## Proposed

- 54 students on the 200 level, 26 that are under 2 ½ and 28 that are 3-5 years old.
- 30 before and after school program on the 100-level left side fellowship hall side

- 60 students 100 level classrooms under the 200 Early Learning Center as preschool promise program 4 classes of 15 children ages 3 years to 5 years old.

The total license would be 144 students.

General community service use approval criteria for a major modification to a conditional use in [MMC 19.904.4](#) (pasted below).

- The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met;*  
***The playground will be set back 150 from the front property line. And 25ft from the property line to the right and no other changes that effect set back are needed.***
- Specific standards for the proposed uses as found in Subsections 19.904.7-11 are met; **We are adding a playground to give children more outdoor play space.***
- The childcare center is Monday through Friday from 7:00am-5:30pm(existing) The Preschool promise program is Monday-Thursday 8:00am-3:00pm (new added Program)*
- This program will benefit the community by bringing in an additional early learning program which this community desperately needs over an empty building. The city of Milwaukie has very few certified childcare centers. Sunshine Early Learning Centers is the only Certified center in downtown Milwaukie at this time.*
- The location is a perfect location for this space, it has ample parking, outdoor space, and rooms that are large and meant for classrooms.*

- Specific community service use standards for school/day-care centers in [MMC 19.904.7](#). (pasted below). If you recall from the pre-application conference, you'll need to show your math on the outdoor play area requirement to demonstrate compliance.
  - Preschools, nursery schools, day-care centers, or kindergartens shall provide a fenced, outdoor play area of at least 75 sq ft for each child of total capacity, or a greater amount if so required by state law. In facilities where groups of children are scheduled at different times for outdoor play, the total play area may be reduced proportionally based on the number of children playing out-of-doors at one time. However, the total play area may not be reduced by more than half. These uses must comply with the State Children's Services Division requirements as well as the City provisions.*
    - We currently have current play ground that is 1250sq ft. We would be adding an additional playground that is 85ft by 20 ft which is 1750 sq ft giving us a total 2950. 40 students can play at one time between the 2 playgrounds that is 1/3 of the***

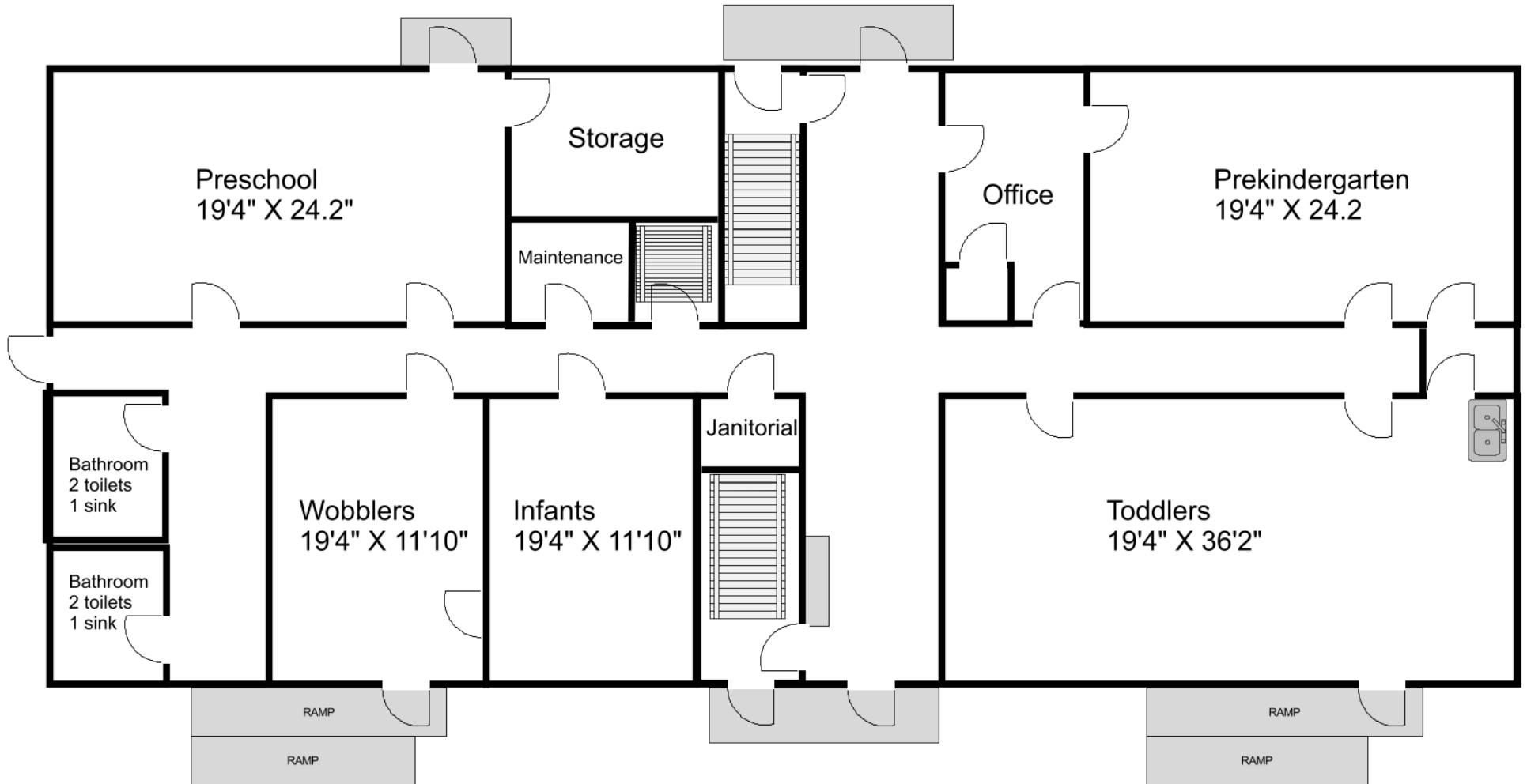
**license capacity at 1 time. According to childcare licensing regulations and Oregon Department of Early Learning and Care you must have at least ¼ of the total occupancy worth of outdoor space.**

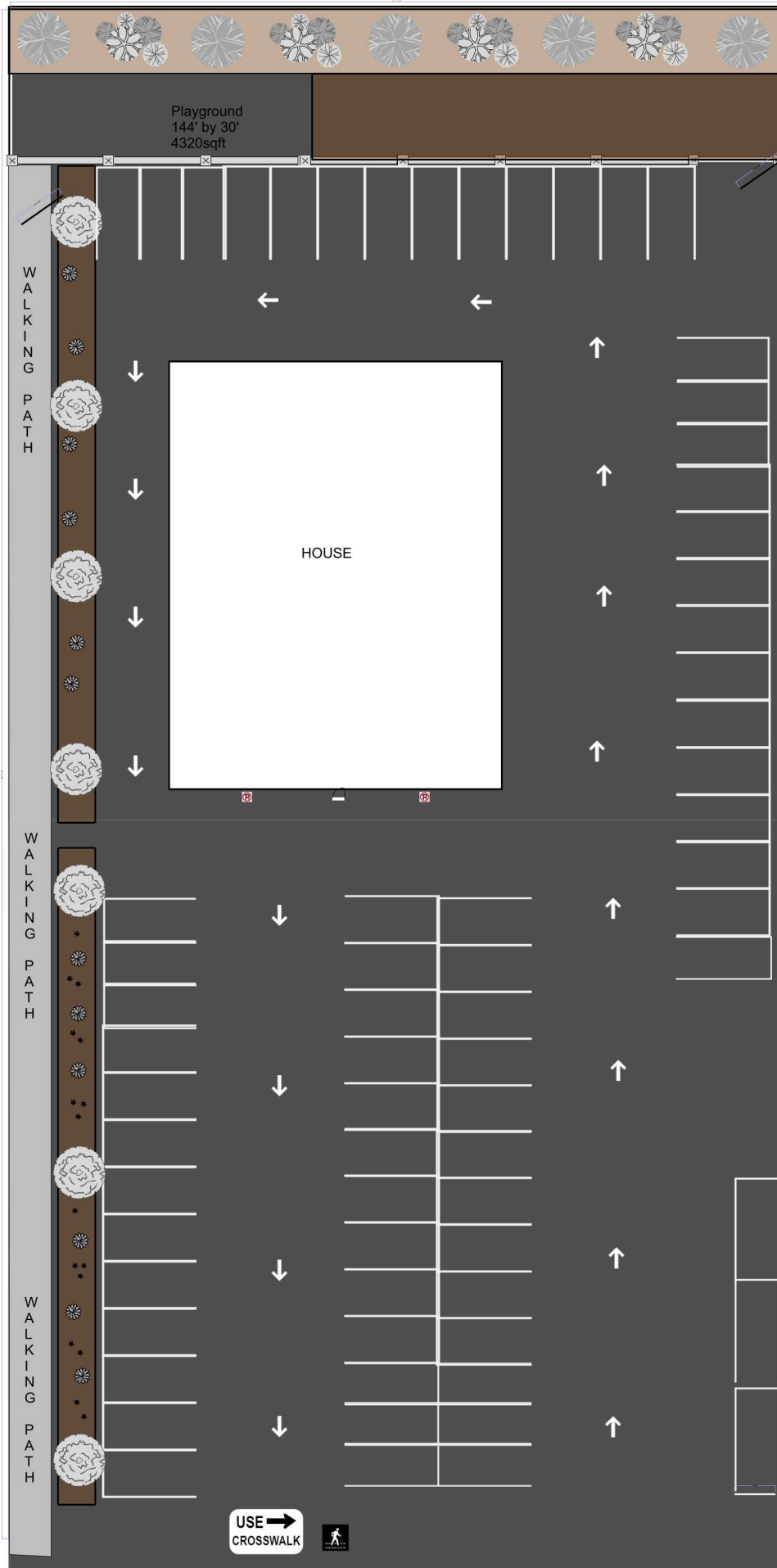
- b. *Walkways, both on and off the site, shall be provided as necessary for safe pedestrian access to schools subject to the requirements and standards of Chapter 19.700.*
  - c. ***We will install a walking stated by the design included that will have a barrier between the walking space and parking lot and will have a crossing guard when crossing the street at the designated walking path.***
  - d. *Where Subsection 19.904.7.B is applicable, a sight-obscuring fence of 4 to 6 ft in height shall be provided to separate the play area from adjacent residential uses. **We will be installing a 4 ft fence with privacy slats and 2 crash bar emergency exits.***
  - e. *Safe loading and ingress and egress will be provided on and to the site. **All classrooms have a save individual egress. As per the plans included.***
  - f. *Off-street parking (including buses) shall be provided as per Chapter 19.600.*
    - 1. ***Pick up and drop off will be located in the back parking lot drive with church and childcare designated drop off spots with the one way drive through. All mini buses, staff parking, and additional parent parking will be across the street at the current parking lot.***
  - g. *Bicycle facilities are required which adequately serve the facility.*
    - 1. ***We have 2 bike racks currently that will house more then the needed load.***
  - h. *15% of the total site is to be landscaped.*
    - 1. ***We have address this is the site plan.***
- On-Site Walkway and Circulation Standards in MMC 19.504.7. After talking more with Engineering, the City Engineer has determined that MMC 19.700 does apply, which in turn makes MMC 19.504.7 applicable.
    - a. *Requirement: All development subject to Chapter 19.700 (excluding single detached and multi-unit residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use must be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system, where sidewalks exist, or to the edge of the paved public street, where sidewalks do not exist. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.*
    - b. *Location: A walkway into the site shall be provided for every 300 ft of street frontage.*

- c. *Connections: Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys, and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional, or park use. The City may require connections to be constructed and extended to the property line at the time of development.*
- d. *Routing: Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.*
- e. *Design Standards: Walkways shall be constructed with a hard surface material, shall be permeable for stormwater, and shall be no less than 5 ft in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average 5/10-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.*

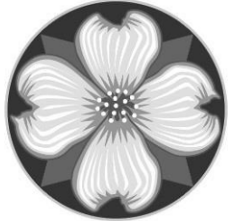
**In response to these statements above we have sidewalks, driveways, with correct curbing and requirements per our plan. We will have curbing around the barrier between walk path and parking lot. We will line all other parking, walkways and directional paths.**

# Attachment #3c





# Additional application materials.


**MILWAUKIE PLANNING**

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

# Submittal Requirements

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

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

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

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

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

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

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

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

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

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

A. All applicable development standards (listed below):

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

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

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

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

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

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

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

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6/22



**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](http://www.milwaukieoregon.gov/citymanager/what-neighborhood-district-association).
- By submitting the application, the applicant agrees that City of Milwaukie employees, and appointed or elected City Officials, have authority to enter the project site for the purpose of inspecting project site conditions and gathering information related specifically to the project site.

As the authorized applicant I, (print name) Jennifer Foglesong, 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.

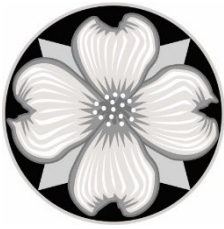
Applicant Signature: 

Date: 09/21/2023

**Official Use Only**

Date Received (date stamp below):

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



**CITY OF MILWAUKIE**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 503.786.7600  
 planning@milwaukieoregon.gov  
 building@milwaukieoregon.gov  
 engineering@milwaukieoregon.gov

# Preapplication Conference Report

Project ID: 23-005PA

This report is provided as a follow-up to the meeting that was held on 5/25/2023 at 10:00 AM

The Milwaukie Municipal Code is available here: [www.qcode.us/codes/milwaukie/](http://www.qcode.us/codes/milwaukie/)

## APPLICANT AND PROJECT INFORMATION

<b>Applicant:</b>	Jennifer Foglesong	<b>Applicant Role:</b> Business Owner
<b>Applicant Address:</b>	2816 SE Harrison St, Milwaukie, OR 97266	
<b>Company:</b>	Sunshine Early Learning Center	
<b>Project Name:</b>	Major Modification to Community Service Use	
<b>Project Address:</b>	2816 & 2825 SE Harrison St	<b>Zone:</b> R-HD
<b>Project Description:</b>	Major modification to community service use (daycare/afterschool care)	
<b>Current Use:</b>	2816 SE Harrison St: Various Community Service Uses, including afterschool and daycare. 2825 SE Harrison St: Single detached dwelling and off-street parking serving multiple community service uses located at 2816 SE Harrison St.	
<b>Applicants Present:</b>	Jennifer Foglesong	
<b>Staff Present:</b>	Ryan Dyar (Assistant Planner); Jennifer Backhaus (Engineering Tech III)	

## PLANNING COMMENTS

### Zoning Compliance (MMC Title 19)

<input checked="" type="checkbox"/>	<b>Use Standards (e.g., residential, commercial, accessory)</b>	The property is zoned High Density Residential (R-HD), which allows a variety of residential housing types, offices, hotels, and community services uses.
<input checked="" type="checkbox"/>	<b>Dimensional Standards</b>	Dimensional standards for the R-HD zone are provided in Milwaukie Municipal Code (MMC) Section 19.302 (specifically in MMC Subsection 19.302.4).  As staff understands the proposal, there will be minor cosmetic improvements—paint and new flooring—at the church building at 2816 SE Harrison St.  The following minimum setbacks apply to 2825 SE Harrison St, which is the location of the new playground.  Maximum Lot Coverage = 50%  Minimum Vegetation = 15%

		<p>Staff determined the above are the most pertinent development standards based on the proposal. Please see MMC Table 19.302.4 for a complete list of development standards.</p> <p>The applicant should also note the setback standards for daycare operations listed in MMC Subsection 19.904.7. The location of the proposed playground will likely be discussed during the public hearing with the Planning Commission.</p> <p>Minimum setback requirements:          Front yard: 20 ft          Rear yard: 20 ft          Side yard: 20 ft</p>
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**Land Use Review Process**

<input checked="" type="checkbox"/>	<p><b>Applications Needed, Fees, and Review Type</b></p>	<p>The proposal seeks to modify daycare and afterschool operations. The daycare was originally approved as a community service overlay at 2816 SE Harrison St in 1991 (land use file #CSO-91-03). The afterschool operation was approved as a community service overlay in 2002 (land use file #CSO-02-06). Community service overlays are now referred to as community service uses.</p> <p>The applicant is seeking to build a playground at 2825 SE Harrison St and to increase the number of students served which was limited under previous decisions. A 2007 minor modification to the daycare use permitted a maximum of 45 students; the applicant plans to greatly exceed this number. A 2002 approval for the afterschool operation limited the number of students to 25 and only granted approval for after-school care and weekend programming. The applicant is seeking to modify the approval to increase the total number of students served and offer before as well as after-school care services.</p> <p>MMC Section 19.904 establishes the process and standards for modifying an existing CSU. MMC Subsection 19.905.A states that the establishment of a new, or major modification to an existing CSU, is subject to a Type III review, with a public hearing and decision by the Planning Commission.</p> <p>MMC Subsection 19.904.5.C establishes criteria under which the Planning Manager may approve minor modifications to an existing CSU. It states that if the use contravenes any conditions specifically placed on the development by the Planning Commission or increases the intensity of use, it is ineligible for a minor modification and must go through the major modification process. Increasing the number of students served and expanding the operation to another property increases the intensity and contravenes conditions of approval placed on the use by the Milwaukie Planning Commission in CSU-91-03 and CSO-02-06. The proposal is consequently subject to a major modification process.</p> <ul style="list-style-type: none"> <li>• Major Modification to a Community Service Use (<b>Type III review</b>) = \$2,000</li> <li>• Variance (<b>Type III review</b>) = \$2,000 reduced to \$1,500 (25% per multiple applications discount). Variance application may not be required if the applicant can demonstrate sufficient play area space per MMC 19.904.7.B.</li> </ul>
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<input checked="" type="checkbox"/>	<p><b>Application Process</b></p>	<p>The applicant must submit a complete electronic copy of all application materials for the City's initial review. A determination of the application's completeness will be issued within 30 days. If the application is deemed incomplete, City staff will provide a list of items to be addressed upon resubmittal.</p> <p>For Type III applications, a public hearing with the Planning Commission will be scheduled once the application is deemed complete. At present, meetings are being conducted in a hybrid format, with the option of participating in person at City Hall or online via Zoom. Public notice of the hearing will be sent to property owners and current residents within 300 ft of the subject property no later than 20 days prior to the hearing date. At least 14 days before the hearing, a sign giving notice of the application must be posted on the subject property, to remain until the decision is issued. Staff will coordinate with the applicant to provide the necessary sign(s). Staff will prepare a report with analysis of the proposal and a</p>
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		<p>recommendation that will be made available one week before the hearing. Both staff and the applicant will have the opportunity to make presentations at the hearing, followed by public testimony and then deliberation by the Commission for a decision.</p> <p>Issuance of a decision starts a 15-day appeal period for the applicant and any party who establishes standing. If no appeal is received within the 15-day window, the decision becomes final. Any appeal of a Type III decision would be heard by the City Council.</p> <p>Development permits (if required) submitted during the appeal period may be reviewed but are not typically approved until the appeal period has ended.</p> <p>Note that the state requires land use decisions to be issued within 120 days of being deemed complete.</p> <p>The 2023 schedule for Planning Commission hearings, including dates by which an application must be deemed complete to be eligible for a particular hearing date, is attached for reference if needed.</p>
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**Overlay Zones (MMC 19.400)**

<input type="checkbox"/>	<b>Willamette Greenway</b>	
<input type="checkbox"/>	<b>Natural Resources</b>	
<input type="checkbox"/>	<b>Historic Preservation</b>	
<input type="checkbox"/>	<b>Flex Space Overlay</b>	

**Site Improvements/Site Context**

<input checked="" type="checkbox"/>	<b>Landscaping Requirements</b>	<p>In the R-HD zone:</p> <ul style="list-style-type: none"> <li>• Minimum vegetation requirement = 15% of lot area</li> </ul> <p>As discussed during the preapplication conference, the site of the proposed development does not conform with the 15% landscaping requirement. Per MMC 19.804.2, the site alteration cannot increase the nonconformity.</p> <p>The applicant discussed adding landscaping to buffer the parking lot walkway from the areas designated for vehicular maneuvering, as is required under MMC 19.504.8. Should the applicant decide to move forward with this plan, the newly added landscaped buffer would count towards the 15% minimum requirement.</p>
<input checked="" type="checkbox"/>	<b>Onsite Pedestrian Improvements (MMC 19.505.4)</b>	<p>As per MMC Subsection 19.504.8, walkways are required between parts of a site where the public is invited to walk. Walkways must be constructed with a hard-surface material, permeable to stormwater, and no less than 5 ft wide. Walkways are required to be reasonably direct, lighted to an average 5/10-footcandle level, and physically separated from the off-street parking area by landscaping, a raised curb, or distinctive paving materials. Where adjacent to parking areas where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided.</p> <p>The site currently is considered non-conforming with this standard. As part of the proposal, the applicant is proposing to add a walkway. The applicant should be aware that the Planning Commission may look to the standards in MMC Subsection 19.504.8 for guidance when considering appropriate conditions of approval.</p>
<input type="checkbox"/>	<b>Connectivity to surrounding properties</b>	
<input type="checkbox"/>	<b>Flag Lot Design Standards (MMC 19.504.7)</b>	

<input type="checkbox"/>	<b>Building Design Standards (MMC 19.505)</b>	
<input type="checkbox"/>	<b>Downtown Design Standards (MMC 19.508)</b>	
<b>Parking Standards (MMC 19.600)</b>		
<input checked="" type="checkbox"/>	<b>Off-Street Parking Requirements (MMC 19.600)</b>	<p>Per MMC Subsection 19.602.2, changes to existing off-street parking or loading areas that bring the area out of conformance with Chapter 19.600, or further out of conformance if already nonconforming, are prohibited. Staff will evaluate the existing property for conformance with the standards in MMC Chapter 19.600 through the application process and ensure no actions take the property further out of conformance.</p> <p>The applicant should refer to MMC Section 19.606 for parking area design and landscaping standards and should be aware that the Planning Commission may look to the standards in this subsection and MMC Section 19.600 generally for guidance when considering appropriate conditions of approval.</p> <p>As part of their application, the applicant should coordinate with the property owner to provide an up-to-date list of all users of the church facility and off-street parking area. This list should include how much square footage each church use occupies.</p>
<input type="checkbox"/>	<b>Multi-Family/Commercial Parking Requirements</b>	
<b>Approval Criteria (MMC 19.900)</b>		
<input checked="" type="checkbox"/>	<b>Community Service Use (CSU) (MMC 19.904)</b>	<p>MMC Subsection 19.904.4 establishes the approval criteria for a major modification to a CSU. Additionally, MMC Subsection 19.904.4.7 includes specific standards for schools and daycare centers. A discussion of how the proposal complies with the approval criteria and standards of approval for daycare operations should be addressed in the application narrative.</p> <p>As discussed in the preapplication conference, the applicant should note that MMC Subsection 19.904.7 requires that daycare centers provide a fenced, outdoor play area of at least 75 sq ft for each child of total capacity, or a greater amount if so, required by state law. In facilities where groups of children are scheduled at different times for outdoor play, the total play area may be reduced proportionally based on the number of children playing outdoors at one time. However, the total play area may not be reduced by more than half. These uses must comply with the State Children's Services Division requirements as well as the City provisions (see variance discussion below).</p> <p>Based on the preapplication conference discussion and the materials submitted ahead of the conference, it is unclear whether the proposal will comply with MMC Subsection 19.904.7.B., which requires a minimum of 75 sq. ft. of outdoor play area for each child of total capacity. This area may be reduced by up to half if the children will use the play area in an asynchronous manner. The applicant will be required to specify in their application narrative the various programs they're proposing to operate on-site, the number of children each program will serve, and the days and hours of operation of each program. To satisfy MMC 19.904.7.B and avoid the need for a variance, the applicant will need to include a schedule of how the playground space is programmed (i.e. which students and how many will be using the space at any given time).</p> <p>Asight-obscuring fence of 4 to 6 ft in height shall be provided to separate the play area from adjacent residential uses.</p> <p>The applicant should note that per MMC Subsection 19.904.5.B, in permitting a CSU or the modification of an existing one, the City may impose suitable conditions which assure compatibility of the use with other uses in the vicinity. As mentioned above, the applicant should be aware that staff and the Planning Commission will likely refer to the standards in</p>

		MMC Chapter 19.600 and MMC Subsection 19.504.8 for guidance on the proposed walkway and improvements to the off-street parking area.
<input type="checkbox"/>	<b>Conditional Use (MMC 19.905)</b>	
<input type="checkbox"/>	<b>Development Review (MMC 19.906)</b>	
<input checked="" type="checkbox"/>	<b>Variance (MMC 19.911)</b>	MMC Section 19.911 establishes processes and standards for approving relief requests from specific code provisions. Should the applicant not be able to meet any of the standards for a CSU, a variance application will be required and processed as a Type III review. The approval criteria for a Type III variance request can be found in MMC 19.911.3.C.
<b>Land Division (MMC Title 17)</b>		
<input type="checkbox"/>	<b>Design Standards</b>	
<input type="checkbox"/>	<b>Preliminary Plat Requirements</b>	
<input type="checkbox"/>	<b>Final Plat Requirements (See also Engineering Section of this Report)</b>	
<b>Sign Code Compliance (MMC Title 14)</b>		
<input checked="" type="checkbox"/>	<b>Sign Requirements</b>	Although no signage has been proposed at this point, note that MMC Section 14.16.020 provides the standards and limitations for signage proposed in the R-HD zone.
<b>Noise (MMC Title 16)</b>		
<input type="checkbox"/>	<b>Noise Mitigation (MMC 16.24)</b>	
<b>Neighborhood District Associations</b>		
<input checked="" type="checkbox"/>	<b>Historic Milwaukie</b>	Any City-recognized neighborhood district association whose boundaries include the subject property or are within 300 ft of the subject property will receive a referral and the opportunity to provide comment on the application.  Applicants are encouraged to meet with the NDA prior to application submittal: <a href="https://www.milwaukieoregon.gov/citymanager/historic-milwaukie-nda">https://www.milwaukieoregon.gov/citymanager/historic-milwaukie-nda</a>
	Choose an item.	
	Choose an item.	
<b>Other Permits/Registration</b>		
<input type="checkbox"/>	<b>Business Registration</b>	
<input type="checkbox"/>	<b>Home Occupation Compliance (MMC 19.507)</b>	
<b>Additional Planning Notes</b>		
<b>ENGINEERING &amp; PUBLIC WORKS COMMENTS</b>		

<b>Public Facility Improvements (MMC 19.700)</b>		
<input checked="" type="checkbox"/>	<b>Applicability (MMC 19.702)</b>	Engineering has determined that the proposed use does not meet the applicability thresholds established in MMC 19.702.
<input type="checkbox"/>	<b>Transportation Facilities Review (MMC 19.703)</b>	
<input type="checkbox"/>	<b>Transportation Impact Study (MMC 19.704)</b>	
<input type="checkbox"/>	<b>Agency Notification (MMC 19.707)</b>	
<input type="checkbox"/>	<b>Transportation Requirements (MMC 19.708)</b>	
<input type="checkbox"/>	<b>Utility Requirements (MMC 19.709)</b>	
<b>Flood Hazard Area (MMC 18)</b>		
<input checked="" type="checkbox"/>	<b>Development Permit (MMC 18.16.030)</b>	The subject property is not in a flood hazard zone.
<input type="checkbox"/>	<b>General Standards (MMC 18.04.150)</b>	
<input type="checkbox"/>	<b>Compensatory Storage (MMC 18.20.020)</b>	
<input type="checkbox"/>	<b>Floodways (MMC 18.20.010.B)</b>	
<b>Environmental Protection (MMC 16)</b>		
<input type="checkbox"/>	<b>Weak Foundation Soils (MMC 16.16)</b>	
<input checked="" type="checkbox"/>	<b>Erosion Control (MMC 16.28)</b>	<p>Erosion control and prevention is required as outlined in MMC 16.28</p> <p>Projects that disturb more than 500 square feet within the City of Milwaukie limits require an <a href="#">Erosion Control Permit</a> from the City's Building Department. Even projects that are less than 500 square feet may require a permit based on site conditions and proximity to natural resources such as wetlands and waterways. The applicant must submit an erosion control plan for their project that accurately depicts how sediment will be controlled during the duration of the project.</p> <p>Please review the City's <a href="#">Erosion Control Permit Program Handout</a> for city processes, requirements, and example erosion control plans. The applicant is encouraged to use the City's adopted <a href="#">Erosion Prevention and Sediment Control Planning &amp; Design Manual (2020)</a> for assistance in designing an erosion control plan.</p> <p>Development sites between 1 acre and 5 acres should apply for a 1200-CN permit as outlined on <a href="https://www.milwaukieoregon.gov/publicworks/1200cn">https://www.milwaukieoregon.gov/publicworks/1200cn</a>. Applicants will use the DEQ 1200-C permit application but submit it to the city for review and approval through the Milwaukie Erosion and Sediment Control Program. A 1200-C permit can be found on the DEQ website at <a href="https://www.oregon.gov/deq/wa/wapermits/Pages/Stormwater-Construction.aspx">https://www.oregon.gov/deq/wa/wapermits/Pages/Stormwater-Construction.aspx</a>. Applicants do not need to submit a permit to DEQ if under 5 acres in site size.</p>

		For more information, please visit <a href="https://www.milwaukieoregon.gov/publicworks/erosion-prevention-and-control">https://www.milwaukieoregon.gov/publicworks/erosion-prevention-and-control</a> or contact <a href="mailto:erosioncontrol@milwaukieoregon.gov">erosioncontrol@milwaukieoregon.gov</a> .
<input checked="" type="checkbox"/>	<b>Tree Code (MMC 16.32)</b>	All public trees over 2" in diameter at breast height (DBH) are regulated by the public tree code. Public trees are to be protected through development and included on the inventory and protection plan required by the private development tree code (MMC 16.32.042). Public tree removals require an approved permit for removal, which includes a notice period lasting 14 days but can extend to 28 days if public comment is received.  Public trees require a permit for planting (free) – visit <a href="https://www.milwaukieoregon.gov/trees">milwaukieoregon.gov/trees</a> to learn more.
<b>Public Services (MMC 13)</b>		
<input type="checkbox"/>	<b>Water System (MMC 13.04)</b>	
<input type="checkbox"/>	<b>Sewer System (MMC 13.12)</b>	
<input checked="" type="checkbox"/>	<b>Stormwater Management (MMC 13.14)</b>	Any new impervious area of more than 500 square feet would be required to be treated on-site; however, the proposal does not appear to include any new impervious area. When applicable, stormwater mitigation must meet the city's NPDES permit through the design of facilities according to the 2016 City of Portland Stormwater Management Manual.
<input type="checkbox"/>	<b>System Development Charge (MMC 13.28.040)</b>	
<input type="checkbox"/>	<b>Fee in Lieu of Construction (MMC 13.32)</b>	
<b>Public Places (MMC 12)</b>		
<input type="checkbox"/>	<b>Right of Way Permit (MMC 12.08.020)</b>	
<input type="checkbox"/>	<b>Access Requirements (MMC 12.16.040)</b>	
<input type="checkbox"/>	<b>Clear Vision (MMC 12.24)</b>	
<b>Additional Engineering &amp; Public Works Notes</b>		
<b>BUILDING COMMENTS</b>		



If building permits are required, all drawings must be submitted electronically through [www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)

New buildings or remodels shall meet all the provisions of the current applicable Oregon Building Codes. All State adopted building codes can be found online at: <https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx>.

All building permit applications are electronic and can be applied for online with a valid CCB license number or engineer/architect license at [www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov). Each permit type and sub-permit type are separate permits and are subject to the same time review times and will need to be applied for individually. Plans need to be uploaded to their specific permits in PDF format as a total plan set (not individual pages) if size allows.

Note: Plumbing and electrical plan reviews (when required) are done off site and are subject to that jurisdiction's timelines. The City does not have any control over those timelines, so please plan accordingly.

Site utilities require a separate plumbing permit and will require plumbing plan review. **NOTE:** The grading plan submitted to the Engineering Department does not cover this review.

If you have any building related questions, please email us at [building@milwaukieoregon.gov](mailto:building@milwaukieoregon.gov).

**If you are building the middle housing building, the building must meet the Oregon Structural Specialty Code (OSSC) and fire sprinklers will be required. Multiple structural permits may be required depending on construction.**

**If you are building the townhomes on individual lots, the buildings must meet the Oregon Residential Specialty Code (ORSC). Each unit will require their own permits.**

## OTHER FEES

<input type="checkbox"/>	<b>Construction Excise Tax</b> Affordable Housing CET – Applies to any project with a construction value of over 100,000.	<b>Calculation:</b> Valuation *12% (.12)
<input type="checkbox"/>	<b>Metro Excise Tax</b> Metro – Applies to any project with a construction value of over \$100,000.	<b>Calculation:</b> Valuation *.12% (.0012)
<input type="checkbox"/>	<b>School Excise Tax</b> School CET – Applies to any new square footage.	<b>Calculation:</b> Commercial = \$0.69 a square foot, Residential = \$1.39 a square foot (not including garages)

## FIRE DISTRICT COMMENTS

## COORDINATION WITH OTHER AGENCIES

**If required, applicant must communicate directly with outside agencies. These may include the following:**

- Metro
- Trimet
- North Clackamas School District
- North Clackamas Parks and Recreation District (NCPRD)
- Oregon Parks and Recreation
- ODOT/ODOT Rail
- Department of State Lands
- Oregon Marine Board

- Oregon Department of Fish and Wildlife (ODOT)
- State Historic Preservation Office
- Clackamas County Transportation and Development

**MISCELLANEOUS**

**State or County Approvals Needed**

<input type="checkbox"/>	<b>Boiler Approval (State)</b>	
<input type="checkbox"/>	<b>Elevator Approval (State)</b>	
<input type="checkbox"/>	<b>Health Department Approval (County)</b>	

**Arts Tax**

<input type="checkbox"/>	<b>Neighborhood Office Permit</b>	
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**Other Right-of-Way Permits**

<input type="checkbox"/>	<b>Major:</b>	
<input type="checkbox"/>	<b>Minor:</b>	
<input type="checkbox"/>	<b>Painted Intersection Program Permits:</b>	
	<input type="checkbox"/> <b>artMOB Application</b>	
	<input type="checkbox"/> <b>Traffic Control Plan (Engineering)</b>	
<input type="checkbox"/>	<b>Parklet:</b>	
	<input type="checkbox"/> <b>Parklet Application/ Planning Approval</b>	
	<input type="checkbox"/> <b>Engineering Approval</b>	
	<input type="checkbox"/> <b>Building Approval</b>	
<input type="checkbox"/>	<b>Sidewalk Café:</b>	
<input type="checkbox"/>	<b>Tree Removal Permit:</b>	

**Infrastructure/Utilities**

**Applicant must communicate directly with utility providers. These may include the following:**

- PGE
- NW Natural
- Clackamas River Water (CRW)
- Telecomm (Comcast, Century Link)
- Water Environmental Services (WES)
- Garbage Collection (Waste Management, Hoodview Disposal and Recycling)

**Economic Development/Incentives** **Enterprise Zone:** **Vertical Housing Tax Credit:** **New Market Tax Credits:** **Housing Resources:**

**PLEASE SEE NOTE AND CONTACT INFORMATION ON THE FOLLOWING PAGE**

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

Sincerely,

City of Milwaukie Development Review Team

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#### **BUILDING DEPARTMENT**

Patrick McLeod	Building Official	503-786-7611
Harmony Drake	Permit Technician	503-786-7623
Stephanie Marcinkiewicz	Inspector/Plans Examiner	503-786-7636

#### **ENGINEERING DEPARTMENT**

Steve Adams	City Engineer	503-786-7605
Jennifer Backhaus	Engineering Technician III	503-786-7608

#### **PLANNING DEPARTMENT**

Laura Weigel	Planning Manager	503-786-7654
Vera Koliass	Senior Planner	503-786-7653
Brett Kolver	Senior Planner	503-786-7657
Adam Heroux	Associate Planner	503-786-7658
Ryan Dyar	Assistant Planner	503-786-7661

#### **COMMUNITY DEVELOPMENT DEPARTMENT**

Joseph Briglio	Community Development Director	503-786-7616
Mandy Byrd	Development Programs Manager	503-786-7692
(vacant)	Housing & Econ. Dev. Prog. Mgr.	503-786-7627
Emilie Bushlen	Administrative Specialist II	503-786-7600
Petra Johnson	Administrative Specialist II	503-786-7600

#### **SUSTAINABILTY DEPARTMENT**

Natalie Rogers	Climate & Natural Resources Mgr.	503-786-7668
Courtney Wilson	Urban Forester	503-786-7655
Galen Hoshovsky	Environmental Services Coordinator	503-786-7660

#### **CLACKAMAS FIRE DISTRICT**

Shawn Olson	Lieutenant Deputy Fire Marshal	<a href="mailto:shawn.olson@ClackamasFire.com">shawn.olson@ClackamasFire.com</a>
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Attachment #4

**CITY OF MILWAUKIE**COMMUNITY DEVELOPMENT  
PUBLIC WORKS

6101 S.E. JOHNSON CREEK BLVD.

TELEPHONE: 652-4410

Date: July 16, 1991

File # CSO-91-03

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission at a public hearing held on July 9, 1991, with regard to an application by New Beginnings Christian Ministries for a Community Service Overlay Review (CSO-91-03).

At the public hearing, the Planning Commission formally approved a modified form of the subject application. Conditions of approval were also adopted and are attached to this notice.

Copies of the Staff Report and findings for approval of CSO-91-03 are available upon request.

Any action or ruling of the Planning Commission is subject to appeal to the City Council within 15 calendar days after the date of this notice. Information regarding forms, fees, and the appeal process can be obtained by contacting the City Community Development Department Staff at 652-4410. If no appeal is filed from this decision by July 31, 1991, at 5:00 p.m., this action shall be deemed final.

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 Maggie Collins, Community Development Director

JC/jpg

cc: Interested Persons  
 Planning Commission members  
 Tim Corbett, Public Works Director  
 File

91.00368

CSO 91-03 is approved subject to the following conditions:

- 1. That the Day Care Center apply for and receive certification from the State Children's Services Division prior to accepting any more than six children for day care services.
- 2. The day care hours of operation be limited to Monday through Saturday. The facility shall not open prior to 6:00 a.m. nor close later than 7:00 p.m.
- 3. The day care facility shall be limited to the maximum number of children allowed under Sec. 3.20,7(2) of the Zoning Ordinance.
- 4. The Christian Bookstore shall be operated during the hours of 9:00 a.m. and 5:00 p.m. The only sign permitted will be unlighted, flush to the door surface, and a maximum size of 1.5' x 2.5'.
- 5. The Christian Bookstore shall have no display advertisement, or sign, in commercial publications.
- 6. The outdoor play area shall be located on Tax Lot 3000.
- 7. The outdoor play area shall be totally enclosed with a 4 to 6 foot fence with child proof gates. The type and configuration shall be approved by Staff.
- 8. The Applicant shall submit a parking layout of the south side of the existing church facility for approval by the Community Development Department prior to the installation of the play area fence.
- 9. Parking on the south side of the church facility shall be restricted to the pick-up and drop-off of children for the day care center.
- 10. Traffic shall be restricted to a one-way, west to east, direction on the south side of the church facility.
- 11. A five (5) foot high, view-obscuring, fence shall be constructed along the south property line of the church facility, adjacent to the property located at 10621 SE 29th Street. The size and configuration to be approved by the Staff of the Community Development Department.
- 12. The Day Care Center shall meet all applicable City, Public Works, Fire and Structural Safety requirements prior to accepting more than six (6) children for day care services.
- 14. At the end of a six month and one year period the Community Development Staff shall prepare a report on this CSO for adequacy of parking, ingress and egress, noise generated by the children, and appropriateness of the hours of operation. The Staff shall notify surrounding property owners and residents of the review and request comments.

10-21-91  
 10-21-91  
 NO CONFORM AT DATE  
 9-25-91  
 9-25-91  
 9-25-91  
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 9-25-91  
 9-25-91

CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT

Date: July 9, 1991  
File No.: CSO-91-03

Application: Community Service Overlay  
Applicant: New Beginnings Christian Ministries  
Property Owner: Larry and Elizabeth Huch  
Location: 2816 and 2835 S.E. Harrison Street  
(Tax Lot 3000 of Tax Map T1S, R1E, 36BA and  
Tax Lot 2600 of Tax Map T1S, R1E, 25CD)

\*\*\*\*\*

CONTINUED HEARING FROM JUNE 11, 1991  
PLEASE REFER TO THE PREVIOUS STAFF REPORT  
FOR ADDITIONAL INFORMATION

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Background

The hearing from June 11 was continued for additional information and discussion of several issues.

1. The proposal received an additional notice of public hearing reflecting the inclusion of Tax Lot 2600 (north of Harrison Street). This mailing also included notification of all 150 residents of the Crystal Lake Apartments (Exhibits 7 and 8).
2. An exhibit has been prepared to show the relationship of the proposed outdoor play area to the surrounding residences (Exhibit 8).
3. An additional site plan has been submitted showing the location of the proposed outdoor play area and parking lot on the north side of Harrison Street (Exhibit 9).
4. The floor plan has been modified to include an additional 480 square feet of inside area (Exhibit 3).
5. The traffic volumes have been compiled and presented in graphic form for analysis (Exhibits 10 and 11).

CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT

Date: June 11, 1991  
File No: CSO-91-03

Application: Community Services Overlay  
Applicant: New Beginnings Christian Ministries  
Property Owner: Larry & Elizabeth Huch  
Location: 2816 SE Harrison Street  
Tax Lot 3000 of Tax Map T1S R1E 36BA

\*\*\*\*\*

Proposal

This Community Service Overlay (CSO) application is for a Day Care Center and Christian Bookstore. The application for the day care center requests a permit for "40+ children" 2 years of age and older. It includes a staff of 6 full time persons and intends to operate from 5:00 a.m. to 9:00 p.m.

The proposed bookstore is intended to operate from 9:00 a.m. to 5:00 p.m. and employ two persons. The store would market Christian books and gifts; no secular works would be sold.

Both facilities are to be located on the ground floor of the existing church facility (see Exhibit 3).

Site Description

The New Beginnings Christian Ministries is located on the south side of Harrison Street between 28th and 29th Avenues. The proposed facilities are located on the ground floor of a three-floor education wing of the Church complex. Parking for the proposed uses, as well as all existing Church-related uses, is on the north side of Harrison Street. There is sufficient room for loading and unloading only on the south side of the complex. No on-street parking is permitted on Harrison Street. However, 28th and 29th Avenues can be, and are used, to accommodate overflow parking for church functions. The lack of available parking is the primary reason the day care center is not recommended to be allowed to operate on Sundays.

The zoning for the entire area is R-2 (Residential); however, there are a number of legal non-conforming commercial uses east and west of this site along Harrison Street.



City of Milwaukee Community Development Department  
 Staff Report - New Beginnings Christian Ministries  
 CSO-91-03 June 11, 1991

Discussion - Day Care Center

Subsequent to the filing of the application a telephone discussion determined that the Applicant would like the permit to allow for a maximum of 50 children. However, the floor plans submitted indicate the total floor area to be reserved for day care use would be 1,240 square feet. The Zoning Ordinance and the State Children's Services Division (CSD) require 35 square feet per child. The available area would permit a maximum of 35 children.

The Zoning Ordinance and State CSD also have regulations requiring 75 square feet of outdoor space per child. Section 3.20.7(2) of the Zoning Ordinance states, "In facilities where groups of children are scheduled at different times for outdoor play, the total play area may be reduced proportionally based on the number of children playing out-of-doors at one time. However, the total play area may not be reduced by more than one-half". The application states that a 6,000 sq. ft. area would be fenced as play area. The site plan submitted as part of Exhibit 1 does not show the outdoor play area. Exhibit 3 remedies that.

A site inspection determined that a fenced area has been erected between the Church and 29th Street. This lawn area comprises a total of 756.5 sq. ft., which would permit a maximum of 10 children at one time. Based on the above provision of the Zoning Ordinance, the necessary requirements for a maximum center population of 20 children would be met.

The New Beginnings Ministries does own additional property on the north side of Harrison Street that, conceivably, could be used to expand the outdoor play area. However, Staff cannot support a design which would require toddlers to cross Harrison Street. Harrison Street is a major east-west artery for the City and there are no traffic controls between Hwy. 224 and Main Street. Even under the closest of supervision, crossing Harrison Street by children under 5 years of age would constitute an unacceptable hazard. Parking for the loading and unloading of children on the north side of Harrison also presents a significant risk. All discharge and pickup of children should be done on the south side of the facility between 28th and 29th Streets by using the Church's existing driveways.

The proposed hours of day care operation conflict with two sections of the Zoning Ordinance. The Zoning Ordinance defines a Day Care Center as "...facilities or similar units operating under any name for a period not exceeding 12 hours per day ..." Section 3.20.4.A.3 states that Community Service uses must have hours of operation reasonably compatible with surrounding uses. Due to the close proximity of the residences to this facility the Staff would not recommend that a variance to the allowable hours of operation be granted. Staff would recommend that hours be limited to a twelve hour period opening no earlier than 6:00 a.m. and closing no later than 9:00 p.m.

The State Children's Services Division will be required to certify the Day Care Center. CSD regulates personnel, physical setting (including sanitation and safety), health, food services, and child care programs. Since these items are not part of the CSO criteria, it is not appropriate to include them in this discussion.

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The Applicant did not request a day care sign as part of the proposal for the day care center. If a sign is going to be needed this is the time to set the parameters of the sign permit.

Discussion - Bookstore

The expressed purpose of the Community Service Overlay is to provide "... for the development of special uses, which because of their public convenience, necessity and unusual character, may be appropriate in one district but not another." A commercial bookstore, regardless of the type of books sold, would not necessarily fall within the intent of the Community Service Overlay. The CSO is primarily addressed to public and private institutions, public facilities and utilities.

There is somewhat of a fine line between a traditional commercial bookstore, advertised as such, and an auxiliary bookstore, which is open to the public, but is intended to principally serve the parishioners of a church. The Staff believes this distinction need not center on sales or profit but may well revolve around the use of advertising. In this case, the Church has applied for a City Business License, and bookstore advertising has already appeared in a community newspaper, and the Applicant has indicated that the bookstore would have two employees. If it is anticipated that two full time employees will be required to accommodate the customers generated by public advertising, Staff could not classify this type of operation as a community service.

On the other hand, if the bookstore is not publicly advertised, in direct competition with Christian bookstores located in commercial zones, Staff believes that the sale of non-secular books primarily to members of the Church congregation would be considered an accessory use to a permitted Community Service.

The Christian Bookstore is also proposed to be located on the ground level of the existing facility. Access to the store would be from an entrance fronting on Harrison Street. Parking would be provided on the north side of Harrison Street. Inasmuch as the principle parking for the Church is already located on the north side of Harrison, and due to the fact that the majority of the anticipated patrons of the store will be adult parishioners already on the premises, Staff does not believe that pedestrian traffic crossing Harrison Street as a result of the Bookstore would constitute a significant hazard.

Findings - Day Care Center

1. Public, private or parochial, elementary, secondary, pre-schools, nursery schools, kindergartens and day-care centers are required to have a Community Service Overlay (CSO) pursuant to Section 3.20.7 of the City Zoning Ordinance.
2. The CSO review follows the process for Minor Quasi-Judicial reviews of Section 10.11(C) of the City Zoning Ordinance.

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3. Criteria of CSO review are those of Section 3.20.4.A and Section 3.20.7

A. 3.20.4.A.1 - The requirements of the underlying zone are met.

The Day Care Center and Bookstore will be located in an existing church facility. Churches and Day Care Centers are allowed in all zones on approval of a CSO Review. A Christian Bookstore is considered auxiliary to the church when located within the existing building and is, likewise, permitted by a CSO review.

B. 3.20.4.A.2 - Specific standard for the uses found in subsections .7, .8, .9, .10 are met.

Only subsection .7 is applicable as it sets specific standards for Day Care Centers.

- (1) .7.1 - Not applicable
  - (2) .7.2 - Outdoor play area of at least 75 square feet for each child will be provided.
  - (3) .7.3 - Walkways, on and off-site are existing. Access has been provided at the south entrance to the Child Care Center.
  - (4) .7.4 - A sight-obscuring fence of four feet shall be provided to separate the play area from adjacent residential uses.
  - (5) .7.5 - Public facilities are currently existing at the site.
  - (6) .7.6 - Safe loading and ingress and egress will be provided on the south side of the church between 28th and 29th Streets.
  - (7) .7.7 - Off-street parking for the staff members will be provided in the parking lot on the north side of Harrison Street. The hours of operation will not conflict with the parking requirements of the Sunday worship services.
  - (8) .7.8 - Minimum setback requirements are met by the existing non-conforming structure. No external modifications to the building are proposed.
  - (9) .7.9 - Bicycle facilities are not deemed necessary.
  - (10) .7.10 - Fifteen percent of the total site is currently landscaped.
- C. 3.20.4.A.3 - The hours and levels of operation of the proposed use can be adjusted to be reasonably compatible with surrounding uses.

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Findings - Christian Bookstore

1. Criteria of CSO review are those of Section 3.20.4.A.
  - A.1 The requirements of the underlying zone are met because there will be no external changes to the structure and all setbacks will remain unchanged.
  - A.2 Specific standards for uses found in subsection 10 are met.
    - 10.1 All necessary street and utility structures and facilities are existing.
    - 10.2 Access requirements are met because the proposed use is on a collector street.
    - 10.3 The setback requirements are met because the proposed use is located inside an existing structure.
    - 10.4 The height requirements are met because the proposed use is located within an existing structure.
    - 10.5 Noise restrictions are met because there will be no noise generating equipment.
    - 10.6 Outdoor lighting restrictions will be met because there will be no outdoor lighting associated with the operation of a bookstore.
    - 10.7 The hours and levels of operations shall be adjusted to make the use compatible with adjacent uses by limiting hours of operation from 9 am to 5 pm.

Conclusion

The proposed Day Care Center and Bookstore, as modified by the staff recommendations, meet applicable CSO and other zoning standards. In particular, Staff finds that with limited, non-commercial promotion, the proposed Christian Bookstore may to be considered as an auxiliary use to the New Beginnings Church.

Recommendation

Approve CSO 91-03, based on the findings above and subject to the following conditions:

1. That the Day Care Center apply for and receive certification from the State Children's Services Division prior to accepting any children for day care services.

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2. That the Day Care Center meet all applicable City , Public Works, Fire, and Structural Safety requirements prior to accepting any children for day care services.
3. That day care hours of operation be limited to twelve (12) hours a day Monday through Saturday. The facility shall not open prior to 6:00 a.m. nor close later that 9:00 p.m.
4. That day care facility be limited to a maximum of twenty (20) children at any one time.
5. That Christian Bookstore be operated during the hours of 9:00 a.m. and 5:00 p.m. The only sign permitted shall be unlighted, flush to the door surface, and a maximum size of 1.5' x 2.5' to identify the store.
6. That Christian Bookstore have no display advertisement, or sign, in commercial publications.

7. *two crosswalk guards shall be present to physically stop all traffic prior to any child entering the crosswalk*

- Exhibits
1. Application
  2. Narrative
  3. Revised Site Plan
  4. Fire Marshall Comments
  5. Structural Safety Comments
  6. Memo from Office Engineer
  7. Notice/Map/Criteria

JC:jpg

91.00294

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### Additional Discussion

#### **Number of Children - Hours of Operation**

The questions concerning conflicts between the requested number of children and the maximum capacities of the indoor and outdoor facilities have been resolved through the submission of revised plans. Revised Exhibit 3 now shows a total classroom area of 1,720 square feet. At the Children's Services Division (CSD) requirement of 35 square feet per child, the proposed classrooms will accommodate 49 children.

The applicant has amended his request to operate the day-care center from 6:00 a.m. to 9:00 p.m. Monday through Saturday. These are reasonable hours which meet the needs of the working community. A variance to operate the center for 15 hours a day would not be necessary. The request would be consistent with the requirements of a "day-care home" where no individual child may be provided day-care services in excess of 12 hours per day. Care in excess of 12 hours would fall into a group care or foster care category which has not been considered as part of this review.

#### **Outdoor Play Area**

Exhibits 8 and 9 show the size and location of the outdoor play area. The playground is proposed to be 3,760 square feet. At the CSD requirement of 75 square feet per child, the proposed play area will accommodate a total of 50 children. The entire play area will be required to be surrounded with a 4-6 foot fence. The gates will have to have child protective latches. The fence to the north and east will abut residential zones and will have to be "view-obscuring."

Locating the play area in the northeast corner of this parcel will provide the greatest setback from adjacent homes. The closest residence to the east would be approximately 95 feet; the Crystal Lake Apartments are located approximately 50 feet to the northwest. The closest apartment building is oriented east and west with no windows on the south side of the 18-unit building. Sound has a propensity to rise rather than fall, and this is a three-story apartment with the bedrooms facing the east. It should also be noted that this apartment complex does not provide air-conditioning and there is a potential to disturb day sleepers, especially during the summer months. All apartment residents have been notified of this proposal, including the location of the outdoor play area. As of this writing we have not received any comments from them.

Staff has not taken a position on the individual amenities to be made available to the children. Staff is concerned with the fact that the entire surface of the play area is apparently to remain asphalt. Staff did have a discussion with the Fire Marshal in an effort to determine if the City's Fire Rescue squad has ever been called to any of the day-care centers in the City. No injuries have been reported to the City Fire Department to date. However, the Fire Marshal does not know of any centers with an asphalt play surface. Staff will recommend that the surface surrounding all climbing equipment be covered with wood shavings (not barkdust) or pea gravel to a minimum depth of 5 inches. Staff will also recommend that an acceptable berm system be incorporated to contain the shavings or gravel.

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### **Required Parking**

Exhibit 8 shows the existing 87-space parking layout. The playground area will displace eight (8) spaces. Six (6) spaces will be recovered by the addition of five (5) parallel spaces and one perpendicular space in the northwest corner of the lot. The reconfiguration will result in 85 spaces, for a net decrease of two (2) spaces. The required parking for the church has been calculated both on the basis of gross floor area and seating capacity, resulting in the requirement for 62 and 51 spaces respectively. Staff concludes, therefore, that the displacement of parking for an outdoor play area will not bring the church below the minimum parking required by City Ordinance.

The parking layout, on the other hand, is not acceptable. Staff is cognizant of the fact that parking in this area is at a premium and does not wish to exacerbate these conditions by bringing the entire parking lot up to code and perhaps decreasing the overall capacity of the lot. However, the circulation pattern of the proposed parking does not work well. A possible solution could be to restripe the parking spaces along the western boundary of the lot to facilitate southbound rather than northbound traffic flows. Staff is going to recommend that the lot be restriped in accordance with a revised parking layout to be submitted and approved by Community Development staff prior to the fencing of the outdoor play area.

### **Harrison Street Traffic**

The crossing of Harrison Street remains a matter of serious concern for Community Development staff. We have compiled the available traffic volume figures from January and February 1991. These data have been presented in graphic form and are included as Exhibits 10 and 11. Analysis of this information, taken over four midweek days, does not indicate that any time of day would be a particularly good time to recommend that children be allowed to cross Harrison Street. It does indicate that the peak traffic is between 3:00 and 5:00 p.m., and that this would be the least desirable time of day for crossing. This traffic information will be supplied to the applicant for the benefit of their scheduling.

It is recognized that the crossing will have to be approved by CSD staff as part of the State certification process; but, understand also that they may be limited in the scope of their authority. The applicant has offered to provide two (2) crossing guards to physically stop all traffic prior to allowing the children to be escorted across Harrison Street. Staff has been unable to develop a preferable alternative and will accept that proposal provided it becomes a condition of approval.

### **Pick-up/Drop-off**

At the June 11 meeting Commissioner Trotter suggest that the traffic be limited to one-way traffic south of the church with the direction of travel being from 29th to 28th Street. Staff concurs with the one-way traffic but would prefer it be limited to an easterly direction (28th to 29th St.). This would allow for a greater queuing capacity in this area and reduce the intrusion of headlights on the residents to the south.

Any congestion resulting from the picking up and dropping off of the children could be further ameliorated by restricting the parking on the south side of the church to passenger pick up only.

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The traffic generated by this process could also have a detrimental effect on the single-family home located at 10621 S.E. 29th Street, which is immediately south of the day-care center entrance. The potential adverse impacts could be mitigated by placing a 5 foot high, view-obscuring fence between the driveway and the adjoining property.

### Findings to Remain Unchanged

#### **Findings - Day-Care Center**

1. Public, private or parochial, elementary, secondary, preschools, nursery schools, kindergartens and day-care centers are required to have a Community Service Overlay (CSO) pursuant to Section 3.20.7 of the City Zoning Ordinance.
2. The CSO review follows the process for Minor Quasi-Judicial reviews of Section 10.11(C) of the City Zoning Ordinance.
3. Criteria of CSO review are those of Section 3.20.4.A and Section 3.20.7:
  - A. 3.20.4.A.1 - The requirements of the underlying zone are met.
 

The day-care center and bookstore will be located in an existing church facility. Churches and day-care centers are allowed in all zones on approval of a CSO review. A Christian bookstore is considered auxiliary to the church when located within the existing building and is, likewise, permitted by a CSO review.
  - B. 3.20.4.A.2 - Specific standard for the uses found in subsections .7, .8, .9, and .10 are met.
 

Only subsection .7 is applicable as it sets specific standards for day-care centers.

    - (1) .7.1 - Not applicable
    - (2) .7.2 - Outdoor play area of at least 75 square feet for each child will be provided.
    - (3) .7.3 - Walkways, on and off the site are existing. Access has been provided at the south entrance to the day-care center.
    - (4) .7.4 - A sight-obscuring fence of four feet shall be provided to separate the play area from adjacent residential uses.
    - (5) .7.5 - Public facilities are currently existing at the site.
    - (6) .7.6 - Safe loading and ingress and egress will be provided on the south side of the church between 28th and 29th Streets.



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- (7) .7.7 - Off-street parking for the staff members will be provided in the parking lot on the north side of Harrison Street. The hours of operation will not conflict with the parking requirements of the Sunday worship services.
  - (8) .7.8 - Minimum setback requirements are met by the existing nonconforming structure. No external modifications to the building are proposed.
  - (9) .7.9 - Bicycle facilities are not deemed necessary.
  - (10) .7.10 - Fifteen percent of the total site is currently landscaped.
- C. 3.20.4.A.3 - The hours and levels of operation of the proposed use can be adjusted to be reasonably compatible with surrounding uses.

#### **Findings - Christian Bookstore**

1. Criteria of CSO review are those of Section 3.20.4.A.:
  - A.1 The requirements of the underlying zone are met because there will be no external changes to the structure and all setbacks will remain unchanged.
  - A.2 Specific standards for uses found in subsection 10 are met.
    - 10.1 All necessary street and utility structures and facilities are existing.
    - 10.2 Access requirements are met because the proposed use is on a collector street.
    - 10.3 The setback requirements are met because the proposed use is located inside an existing structure.
    - 10.4 The height requirements are met because the proposed use is located within an existing structure.
    - 10.5 Noise restrictions are met because there will be no noise-generating equipment.
    - 10.6 Outdoor lighting restrictions will be met because there will be no outdoor lighting associated with the operation of a bookstore.
    - 10.7 The hours and levels of operations shall be adjusted to make the use compatible with adjacent uses by limiting hours of operation from 9:00 a.m. to 5:00 p.m.

#### **Conclusion**

The proposed day-care center and bookstore, as modified by staff recommendations, meet applicable Community Service Overlay and other zoning standards.

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Recommendation

Approve CSO-91-03, based on the findings above, subject to the following conditions:

1. That the day-care center apply for and receive certification from the State Children's Services Division prior to accepting any children for day-care services.
2. The day-care center hours of operation be limited to fifteen (15) hours a day Monday through Saturday. The facility shall not open prior to 6:00 a.m. nor close later than 9:00 p.m.
3. The day-care facility shall be limited to a maximum of forty-nine (49) children at any one time. No child shall be allowed to remain on the premises for longer than 12 consecutive hours.
4. The Christian bookstore shall be operated during the hours of 9:00 a.m. and 5:00 p.m.. The only sign permitted will be unlighted, flush to the door surface, and a maximum size of 1.5 feet by 2.5 feet.
5. The Christian bookstore shall have no display advertisement, or sign, in commercial publications.
6. Two crosswalk guards shall be present to physically stop all traffic prior to any child entering the crosswalk.
7. The outdoor play area shall be totally enclosed with a 4 to 6 foot fence with childproof gates. The north and easterly fence shall be of view-obscuring material.
8. The area surrounding all climbing equipment shall be surrounded with an acceptable berm to enclose a minimum of 5 inches of wood shavings (not barkdust) or pea gravel.
9. The applicant shall submit a parking layout for approval by the Community Development Department prior to the installation of the play area fence.
10. Parking on the south side of the church facility shall be restricted to day-care use.
11. Traffic shall be restricted to a one-way, west to east, direction on the south side of the church facility.
12. A five (5) foot high, view-obscuring, fence shall be constructed along the south property line of the church facility.
13. The day-care center shall meet all applicable City, Public Works, Fire and Structural Safety requirements prior to accepting any children for day-care services.

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**Exhibits**

1. Application
2. Narrative
3. Revised Floor Plan
4. Fire Marshal Comments
5. Structural Safety Comments
6. Memo from Office Engineer
7. Notice/Map/Criteria
8. Topographical Map
9. Play Area Location and Parking Layout
10. Traffic Count (1/8/91)
11. Traffic Count (2/19/91 through 2/21/91)

JC/mgh  
91.00352

August 14, 2007

Jennifer Nakanishi  
 Sugarplums Dayschool, LLC  
 2816 SE Harrison Street  
 Milwaukie, OR 97222

Re: Land Use Approval for Dayschool Operation

Dear Ms. Nakanishi:

You have adequately demonstrated that your proposed business, Sugarplums Dayschool, will operate within the parameters of the 1991 community service use approval that allowed the operation of a dayschool within an existing church at 2816 SE Harrison Street. The original land use approval file number is CSO-91-03.

Pursuant to this original approval, you are required to provide staff with a copy of your Child Care Division (CCD) certification and outdoor play area exception form. Additionally, you are required to notify staff when the latch for the outdoor play area gate has been modified per CCD's request and when signage has been installed for the four parking spaces.

The ongoing operation of Sugarplums Dayschool must continue to conform to the original land use approval, except as otherwise approved by staff or as required by CCD. A summary of all relevant conditions of approval is listed below.

- Hours of operation are limited to Monday through Saturday and from 6:00 a.m. to 7:00 p.m.
- Maximum number of children is limited to 49. However, given that Sugarplums Dayschool will have less space than the original dayschool within which to operate, CCD has limited enrollment to 45 children.
- Fencing around the outdoor play area and along the southern property boundary must be maintained in good working order.
- Parking signage for the four parking spaces identified in the lease with Bridge City Community Church must be maintained.
- Staff must park in the parking lot across the street as identified in the lease with Bridge City Community Church.
- Traffic flow through the parking lot on the south side of the church building is restricted to a one-way, west to east, direction. Please ensure that all dayschool clients abide by this traffic flow requirement.

Staff has approved the following modifications to the original land use approval.

- The age of children served by the dayschool has been expanded from 2 years of age and older to 6 weeks of age and older. Staff has determined that the addition of younger children would not substantially change the nature or operation of the business under the

original approval and would not be any more detrimental than the previous dayschool operation to surrounding properties.

- The number of full-time staff allowed has been expanded from 6 to 8. The maximum number of students has been capped by CCD at 45, which is four less than what was originally approved. The addition of two more staff members is offset by the reduced number of children and has been determined by staff to be within the bounds of the original approval.

Please be advised that staff must review any further modifications to the operation or size of Sugarplums Dayschool for compliance with the original land use approval.

Good luck with your new business venture!

Sincerely,

Susan P. Shanks  
Associate Planner

cc: Tom Larsen, Building Official



**To:** Planning Commission  
**Through:** Laura Weigel, Planning Manager  
**From:** Vera Koliass, Senior Planner  
**Date:** November 7, 2023, for November 14, 2023, Work Session  
**Subject:** Title 17 (Land Division) code amendments

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### **ACTION REQUESTED**

Staff requests feedback from the Planning Commission in advance of a future public hearing.

### **BACKGROUND INFORMATION**

Over the course of several years, Planning Department staff has been tracking issues with current zoning code language and has made recommendations for amended language. These items have been identified through a variety of means, including:

- Questions about specific code language that have been raised by the public on multiple occasions and that are not easily answered;
- Changes in state law requiring amendments to local codes;
- Implementation of the comprehensive plan; and
- Code interpretation applications.

Over the past several months, planning staff has created categories for code amendment packages to help organize the various amendments and to help with the overall department workplan:

- **Large efforts** which will each be its own project – examples include: Willamette Greenway Overlay re-write (MMC 19.401); Natural Resources code re-write (MMC 19.402); Historic Preservation Overlay Zone (MMC 19.403)
- **Substantive code amendments** – an example includes a review/overhaul of Title 17 – Land Division.
- **Housekeeping** – these are amendments that are clarifications or minor tweaks that are not intended to affect meaning or intent of existing regulations. Housekeeping amendments are a way of cleaning up the code.

The current package of proposed **substantive** code amendments involves a comprehensive review and overhaul of Title 17 – Land Division. The city has made small amendments to Title 17 but has not done a comprehensive review in many years. The proposed amendments affect nearly every section of Title 17, with the following objectives:

- Ensure that the code accurately reflects current state law;
- Include clear and objective standards;
- Remove redundant or confusing language;
- Clarify and simplify review processes to the benefit of both the applicant and staff; and
- Address recent legislation involving middle housing.

Because so much of the existing code language is affected, staff has elected to use a “repeal and replace” format for the amendments rather than the typical underline/strikeout method.

This overhaul includes amendments that fall into the following basic categories of amendments (please refer to Attachments 1 and 2 for existing and proposed language, with more significant changes **highlighted**):

#### 1. Formatting/redundant language

- **Revise and reorganize** this entire code section to eliminate needless “tables of contents”, section numbers for each term in various sections, and eliminate redundancies that can cause confusion when repeated in multiple sections. For example, the current code has a new subsection number for each term in the definitions; this is not necessary.
- **Reduce** the number of lists of specific items to be included on plans. These items are better identified on the required checklists rather than in the code because if anything is required to be added or revised, the checklist is more easily amended than the code. One particular exception to this is the requirements for middle housing land divisions because the required items are specifically identified in state law.
- **Reorganize** the language to provide a separate section just for middle housing and expedited land divisions (17.26). These types of land division have very specific requirements that are established in state law and are different from traditional land division proposals. Applicants and staff are better served by having this language stand on its own in a complete section rather than be inserted throughout the text for standard land division proposals.

#### 2. Review process and application requirements

- **Rewrite** the section for each type of land division to include a description of the application process (17.12). The current code includes a chart that can be confusing about which land use review type applies and allows for a reduction in review type as applicable. By clearly identifying the land use review process for each land

division type, staff proposes to remove any uncertainty or discretion in how the code applies.

- This rewrite includes removing Type III review for subdivisions and making it a Type II review. Regardless of the number of lots proposed, the standards for land division are clear and objective, making Type III review unnecessary.
  - **Revise** language to clearly identify filing deadlines and that permits will not be accepted or issued until a final plat is recorded.
  - **Revise** the language related to extensions of expiring approvals to align the process with the existing extensions process identified in 19.908.
3. New language
- **Add** a new section for tracts and easements (17.24), which specifies requirements and management responsibilities when included in a land division proposal. These terms are defined in the existing code, but ownership and maintenance are not specified. This new language provides both staff and applicants with clear language for how they are to be handled in the future, minimizing conflict when the development is complete and homeowners or tenants change.
  - **Add** a new section for remainder or left over land resulting from a partition (17.28.090). Staff has responded to several inquiries from the owners of larger properties where they would like to partition off the house and sell the remaining land to a developer. This new language includes requirements for such a partition which anticipates future development but restricts any permit review until minimum density is achieved. This helps to eliminate any future confusion about the ability to build only one large home on a large property.

## ATTACHMENTS

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

	PC Packet	Public Copies	Packet
1. Existing code	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Proposed code (underline)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

E-Packet = packet materials available online at <https://www.milwaukieoregon.gov/planning/planning-commission-96>.



**Underline/Strikeout Amendments**

**TITLE 17**

**LAND DIVISION**

**Chapters:**

**17.04 Administration and Enforcement**

**17.08 Definitions**

**17.12 Application Procedure and Approval Criteria**

**17.16 Application Requirements and Procedures**

**17.20 Preliminary Plat**

**17.24 Final Plat**

**17.28 Design Standards**

**17.32 Improvements**

**17.44 Exceptions and Variances**

**CHAPTER 17.04**

**ADMINISTRATION AND ENFORCEMENT**

**Sections:**

- 17.04.010 Title and Structure
- 17.04.020 Authority
- 17.04.030 Consistency with Municipal Code
- 17.04.040 Approval Required
- 17.04.050 Time Limit on Approval
- 17.04.060 Reduction of Land Below Minimum Standards
- 17.04.070 Correction of Improper Land Division or Boundary Change
- 17.04.080 Form of Applications
- 17.04.090 Fees
- 17.04.100 Amendments
- 17.04.110 Determinations of Legal Status
- 17.04.120 Recording
- 17.04.130 Monumentation and Survey
- 17.04.140 Violation—Penalties
- 17.04.150 Appeals

#### **17.04.010 TITLE AND STRUCTURE**

##### **A. Title**

The ordinance codified in this title shall be known and may be cited as the “Land Division Ordinance” of the City of Milwaukie.

##### **B. Structure**

This title is divided into chapters and sections. Chapter divisions are denoted by the 2-digit number following the title number. Section divisions are identified by the 3-digit number following the chapter division. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.020 AUTHORITY**

A. The Planning Director shall have the authority to apply, interpret, and enforce the provisions of this title. An appeal from a ruling by the Planning Director regarding a requirement of this title may be made to the Planning Commission under provisions of Chapter 19.1000.

B. The Engineering Director shall have the authority to accept, conditionally accept, or reject construction and engineering plans and specifications in accordance with professional judgment and accepted engineering or surveying practices. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.030 CONSISTENCY WITH MUNICIPAL CODE**

All land divisions and property boundary changes shall be consistent with Title 16 Environment, this title, Title 18 Flood Hazard Regulations, and Title 19 Zoning. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.040 APPROVAL REQUIRED**

All lot consolidations, land divisions, changes in property boundary lines, and creation of streets or rights-of-way shall be approved in accordance with these regulations prior to conveying or recording any instrument effecting a lot consolidation, land division, or property boundary change. A person desiring to partition, subdivide, replat, consolidate, or change property

boundaries shall submit application for approval as provided in this title and State law. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.050 TIME LIMIT ON APPROVAL**

##### **A. Expiration of Approval**

All decisions on boundary changes and land divisions shall expire 1 year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees.

##### **B. Extensions**

Approvals may be extended up to 6 months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed 6 months will be granted provided that:

1. No changes are made on the original plan as approved;
2. The applicant can show intent of recording the land division or boundary change within the 6-month extension period; and
3. There have been no changes in the ordinance provisions on which the approval was based.

(Ord. 1907 (Attach. 1), 2002)

#### **17.04.060 REDUCTION OF LAND BELOW MINIMUM STANDARDS**

No unit of land shall be split or reduced by any means in conflict with the requirements of this title or Title 19 of this code. The splitting of a lot or parcel to add to another shall not be allowed unless the remaining portion meets all zoning standards for the zone where the land is located, or it is simultaneously consolidated with a contiguous parcel, which will thereafter comply with zoning standards. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.070 CORRECTION OF IMPROPER LAND DIVISION OR BOUNDARY CHANGE**

Improper land divisions or boundary changes shall be corrected by submission of appropriate applications and by following the associated review procedures prescribed in this title. This

section shall not preclude enforcement against violations of this title. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.080 FORM OF APPLICATIONS**

All applications provided for in this title shall be made on forms prescribed by the Planning Director. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.090 FEES**

A fee as established by resolution of the City Council shall be paid to the City upon the filing of an application. Such fees shall not be refundable. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.100 AMENDMENTS**

Legislative amendments to this title shall be made in accordance with Chapter 19.1000 and Section 19.902. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

#### **17.04.110 DETERMINATIONS OF LEGAL STATUS**

Requests for determinations on the legal status of units of land shall be processed pursuant to Section 19.903 Code Interpretations and Director Determinations. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

#### **17.04.120 RECORDING**

- A. Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the County Surveyor within 6 months of City approval.
- B. Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with the City Code and required approvals.
- C. Lot consolidations for units of land legally created by metes and bounds descriptions may be recorded by deed subject to approval of the County Surveyor.
- D. Subdivision and partition plats, and replats, must be recorded by plat.
- E. A copy of the recording instruments shall be submitted to the Planning Director Manager no later than 15 days after filing with the County Surveyor. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.130 MONUMENTATION AND SURVEY**

- A. Monuments are required in accordance with ORS Chapter 92.

B. Monumentation surveys shall be filed with the County Surveyor in accordance with ORS Chapters 92 and 209. (Ord. 1907 (Attach. 1), 2002)

**17.04.140 VIOLATION—PENALTIES**

Violation of any provision of this title is a civil infraction. The civil penalty for violation of this title shall be \$200.00. The cost of completing or correcting any improvements required by this title and incurred by the City may be assessed to persons as part of the civil infraction judgment.

Each day a violation continues shall be considered a separate violation. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.150 APPEALS**

Appeals on actions authorized under this title shall be made in accordance with Chapter 19.1000. (Ord. 1907 (Attach. 1), 2002)

### **CHAPTER 17.08**

#### **DEFINITIONS**

Sections:

17.08.010 Generally

17.08.020 Applicant

17.08.030 Approval Authority

17.08.040 Bicycle Way

17.08.050 Block

17.08.060 Boundary Change

17.08.070 Buffer Strips

17.08.080 Building Line

17.08.090 City

17.08.100 Comprehensive Plan

17.08.110 Easement

17.08.120 Flag Lot

17.08.130 Land Division

17.08.140 Lot

- 17.08.150 Lot Consolidation
- 17.08.160 Monument
- 17.08.170 Owner
- 17.08.180 Parcel
- 17.08.190 Partition
- 17.08.200 Partitioning
- 17.08.210 Pedestrian Way
- 17.08.220 Person
- 17.08.230 Plat
- 17.08.240 Property Line Adjustment
- 17.08.250 Replat
- 17.08.260 Access Control Strip
- 17.08.270 Right-of-Way
- 17.08.280 Sidewalk
- 17.08.290 Street
- 17.08.300 Subdivide Land
- 17.08.310 Subdivision
- 17.08.320 Tract
- 17.08.330 (Repealed by Ord. 2003)
- 17.08.340 Unit of Land

**17.08.010 GENERALLY**

The words and phrases used in this title have the meanings provided in this chapter. (Ord. 1907 (Attach. 1), 2002)



**17.08.020 APPLICANT**

“Applicant” means the person who has filed application for land use action, or who has requested a Director’s determination, or other action requiring a response from the City. (Ord. 1907 (Attach. 1), 2002)

**17.08.030 APPROVAL AUTHORITY**

“Approval authority” means the individual or governmental body authorized by this code to take action on applications for actions specified in this title. (Ord. 1907 (Attach. 1), 2002)

**17.08.040 BICYCLE WAY**

“Bicycle way” means a right-of-way for bicyclists. (Ord. 1907 (Attach. 1), 2002)

**17.08.050 BLOCK**

“Block” means a group of lots, tracts, or parcels which have been subdivided and are entirely surrounded by highways or streets or in part by a well-defined and fixed boundary. (Ord. 1907 (Attach. 1), 2002)

**17.08.060 BOUNDARY CHANGE**

“Boundary change” means the relocation a property line established by dedication, deed, property line adjustment, lot consolidation, partition, subdivision, and/or replat. (Ord. 1907 (Attach. 1), 2002)

**17.08.070 BUFFER STRIPS**

“Buffer strip” means a strip of land of sufficient width to serve as a buffer between dissimilar use districts, existing in a natural or landscaped condition, and located along the edge of a subdivision. (Ord. 1907 (Attach. 1), 2002)

**17.08.080 BUILDING LINE**

“Building line” means a line on a plat or otherwise described indicating the limit beyond which buildings or structures may not be erected. (Ord. 1907 (Attach. 1), 2002)

**17.08.090 CITY**

“City” means the City of Milwaukie, Oregon. (Ord. 1907 (Attach. 1), 2002)

**17.08.100 COMPREHENSIVE PLAN**

“Comprehensive Plan” means the plan adopted by the City Council for the guidance of growth and improvement of the City, including modifications or refinements, which may be made from time to time. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.110 EASEMENT**

“Easement” means the right to use land in a limited way for a stated purpose. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.120 FLAG LOT**

“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway to the main part of the lot used for building, which is located behind another lot that has normal street frontage. There are 2 distinct parts to the flag lot: the development area, which comprises the actual building site, and the accessway, which provides access from the lot interior to the street. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.130 LAND DIVISION**

“Land division” means the division of land by partition, subdivision, or replat. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.140 LOT**

“Lot” means a single unit of land that is created by a subdivision of land. (Ord. 1907 (Attach. 1), 2002).

**17.08.150 LOT CONSOLIDATION**

“Lot consolidation” means the elimination of a common property line between 2 or more units of land to form 1 unit of land. (Ord. 1907 (Attach. 1), 2002)

**17.08.160 MONUMENT**

“Monument” means a fixed, permanent, and visible landmark indicating boundaries. (Ord. 1907 (Attach. 1), 2002)

**17.08.170 OWNER**

“Owner” means the owner of record of real property as shown on the latest tax rolls of Clackamas County, or by the deed records of said County, or a person who is purchasing a parcel of property under contract. (Ord. 1907 (Attach. 1), 2002)

**17.08.180 PARCEL**

“Parcel” means a single unit of land that is created by a partitioning of land. (Ord. 1907 (Attach. 1), 2002)

**17.08.190 PARTITION**

“Partition” means either the act of partitioning land or an area of land partitioned. (Ord. 1907 (Attach. 1), 2002)

**17.08.200 PARTITIONING**

“Partitioning” means to divide an area of land into 2 or 3 parcels within a calendar year but does not include the following:

- A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;
- B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with applicable zoning;
- C. The division of land resulting from the recording of a subdivision or condominium plat;
- D. A sale or grant by a person to a public agency or public body for state highway, county road, City street or other right-of-way purposes provided that such road or right-of-way complies with the comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for State highway, County road, City street

or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the State, a political subdivision or special district for highways, County roads, City streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property

line adjustment is approved, it shall be recorded in the deed records of the County where the property is located. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.210 PEDESTRIAN WAY**

“Pedestrian way” means a right-of-way for pedestrians that is improved or unimproved. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.220 PERSON**

“Person” means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.230 PLAT**

“Plat” means and includes a map and other writing containing all the descriptions, locations, dedications, specifications, provisions, and information concerning a partition or subdivision. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.240 PROPERTY LINE ADJUSTMENT**

“Property line adjustment” means the relocation of a common property line between 2 abutting units of land that does not result in the creation of a new unit of land. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.250 REPLAT**

“Replat” means the act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat including an increase or decrease in the number of lots. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.260 ACCESS CONTROL STRIP**

“Access control strip” means a strip of land reserved between the end or side of a street, or of land between a dedicated street of less than full width and an abutting parcel of land, held for access control, future street extension, or widening. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.270 RIGHT-OF-WAY**

“Right-of-way” means the area between boundary lines of a public way. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.280 SIDEWALK**

“Sidewalk” means a pedestrian walkway with permanent surfacing to City standards. (Ord. 1907 (Attach. 1), 2002)

#### **17.08.290 STREET**

“Street” means the width between the boundary lines of every way that provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. “Street” includes the terms “road,” “highway,” “lane,” “place,” “avenue,” “boulevard,” or other similar designations.

- A. “Access street” means a street intended only for access to abutting properties.
- B. “Alley” means a narrow street used for access to the back or side of properties otherwise abutting on another street.
- C. “Major arterial street” means a street that carries both local and through traffic to destinations outside the local community. The major arterial provides access to other communities as well as access through Milwaukie. Public transit to other communities generally use a major arterial.
- D. “Minor arterial street” means a street that carries local traffic between neighborhood areas or to regional facilities. The minor arterial provides access from neighborhood collector streets to community services and to alley and an abutting parcel of land, or a strip other neighborhoods within, or immediately adjacent to the City. Local public transit may use minor arterial streets.
- E. “Collector street” means a street that serves internal traffic within areas having a single land use pattern. The collector streets carry local traffic within a neighborhood area. They carry

traffic from the local streets to the minor and/or major arterial network or to schools, local shopping centers, or other local streets within the neighborhood.

F. "Cul-de-sac" means a short access street terminated by a vehicle turnaround.

G. "Dead-end street" means a street terminating at a property line, but which may be extended.

H. "Frontage street" means an access street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

I. "Local street" means a street that provides direct access to abutting property. (Ord. 1907 (Attach. 1), 2002)

### **17.08.300 SUBDIVIDE LAND**

"Subdivide land" means to divide an area or tract of land into 4 or more lots (Ord. 1907 (Attach. 1), 2002)

### **17.08.310 SUBDIVISION**

"Subdivision" means either an act of subdividing land or a tract of land subdivided as defined in this title. (Ord. 1907 (Attach. 1), 2002)

### **17.08.320 TRACT**

"Tract" means a unit of land other than a lot or parcel. (Ord. 1907 (Attach. 1), 2002)

### **17.08.330 (Repealed by Ord. 2003)**

### **17.08.340 UNIT OF LAND**

"Unit of land" means a legally created lot, parcel, or other unit of real property legally created by metes and bounds description or other legal means that is recorded on the County land records (Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.12**

### **APPLICATION PROCEDURE AND APPROVAL CRITERIA**

Sections:

17.12.010 Purpose

17.12.020 Application Procedure

17.12.030 Approval Criteria for Lot Consolidation, Property Line Adjustment, and Replat

17.12.040 Approval Criteria for Preliminary Plat

17.12.050 Approval Criteria for Final Plat

**17.12.010 PURPOSE**

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat. (Ord. 1907 (Attach. 1), 2002)

**17.12.020 APPLICATION PROCEDURE**

A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Type III procedures as indicated in this section.

B. Applications for property boundary changes shall be processed in accordance with Table 17.12.020 based on the type of change requested. The Planning Manager may modify the procedures identified in Table 17.12.020 as follows:

1. Type III review may be changed to Type II review, or a Type II review may be changed to a Type I review, upon finding the following:
  - a. The proposal is consistent with applicable standards and criteria;
  - b. The proposal is consistent with the basis and findings of the original approval; and
  - c. The proposal does not increase the number of lots.
2. Type III review may be required in the following situations:
  - a. When the Planning Commission approved the original land use action; and
  - b. The proposed change is inconsistent with the original approval.



<b>Table 17.12.020 Boundary Change Review Procedures</b>			
<b>Boundary Change Action</b>	<b>Type I</b>	<b>Type II</b>	<b>Type III</b>
<b>1. Lot Consolidation Other Than Replat</b>			
a. Legal lots created by deed.	X		
<b>2. Property Line Adjustment</b>			
a. Any adjustment that is consistent with the ORS and this title.	X		
b. Any adjustment that modifies a plat restriction.		X	
<b>3. Partition Replat</b>			
a. Any modification to a plat that was decided by the Planning Commission.			X
<b>Table 17.12.020 CONTINUED Boundary Change Review Procedures</b>			
<b>Boundary Change Action</b>	<b>Type I</b>	<b>Type II</b>	<b>Type III</b>
b. Parcel consolidation.	X		
c. Actions not described in 3(a) or (b).		X	
<b>4. Subdivision Replat</b>			
a. Any modification to a plat affecting 4 or more lots.			X
<b>5. Expedited and Middle Housing Land Division</b>			
a. Any land division as defined by ORS 197.360 Expedited Land Division and/or land division of a middle housing project per ORS 197.758.		X	

C. An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds 3.

D. Partitions

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1005 Type II Review. Should any associated application subject to Type III review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1006 Type III Review.

2. Full compliance with all requirements for subdivision may be required if the Planning Commission should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds 2 acres and within a year is being partitioned into more than 2 parcels, any one of which is less than 1 acre.

### E. Subdivisions

Applications for subdivision preliminary plat applications shall be processed in accordance with Section 19.1006 Type III Review, except that subdivision applications that meet the approval criteria for middle housing or expedited land divisions may be processed pursuant to Subsection 17.12.020.G and Subsection 17.12.020.H respectively.

### F. Final Plats

Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1004 Type I Review.

### G. Middle Housing Land Divisions

1. A middle housing land division is a partition or subdivision of a lot or parcel on which a middle housing project has been developed or approved for development under the provisions of this code and ORS 197.758. Middle housing land divisions are regulated by this Code and ORS Chapter 92. Following the land division, the units of land created in a middle housing land division will be collectively considered a single lot along with the parent lot for all but platting and property transfer purposes under city code and state rules and statutes, including:

- a. Lot standards such as size, setback, lot coverage, and lot width and depth;
- b. Definition of unit types (e.g. a detached quadplex development where each unit is on its own lot through a middle housing land division would still be considered a detached quadplex development rather than single detached units);
- c. Allowed number of dwelling units and accessory dwelling units; and
- d. Compliance with middle housing rules and statutes in ORS 197 and OAR 660-046.

2. Applications for any land division affecting middle housing as provided in ORS 197.758(2) must be processed as an expedited land division process as outlined in ORS 197.360 to 197.380. Pursuant to the expedited land division process, a middle housing land division will be processed according to Section 19.1005 Type II Review. Further division of the resulting lots or parcels in an approved middle housing land division is prohibited.

### H. Expedited Land Division

Expedited land divisions are defined by ORS 197.360(1) and are processed according to Section 19.1005, Type II Review. The expedited land division/middle housing land division review process provides for review by the Planning Manager of an application based on provisions specified in this land use code. The application process includes notice to nearby occupants and property owners to allow for public comments prior to the Planning Manager's decision. Eligibility and

approval criteria are detailed in Subsection 17.12.040.A.7 of this chapter. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 2168 § 2, 2019; Ord. 2025 § 3, 2011; Ord. 2001 § 2, 2009; amended during Supp. No. 2; Ord. 1907 (Attach. 1), 2002)

### **17.12.030 APPROVAL CRITERIA FOR LOT CONSOLIDATION, PROPERTY LINE ADJUSTMENT, AND REPLAT**

#### A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a lot consolidation, property line adjustment, and/or replat based on the following approval criteria. The applicant for a lot consolidation, property line adjustment, or replat shall demonstrate the following:

1. Compliance with this title and Title 19 of this code.
2. The boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.
3. Boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which the property is located. (Ord. 1907 (Attach. 1), 2002)

### **17.12.040 APPROVAL CRITERIA FOR PRELIMINARY PLAT**

#### A. Approval Criteria

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.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).
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.

- 
5. A detailed narrative description demonstrating how the proposal conforms to 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:
- a. The middle housing development complies with the Oregon Residential Specialty code and the applicable MMC middle housing regulations. To demonstrate compliance with this criterion, the applicant must submit approved building permits or concurrent building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and MMC middle housing regulations in Titles 12 and 19.
  - b. The middle housing development is in compliance with the land use regulations applicable to the parent lot allowed under ORS 197.758(5).
  - c. Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
  - d. Easements will be provided as necessary for each dwelling unit on the site 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.
  - e. Exactly one dwelling unit will be located on each resulting lot except for lots or tracts used as common areas, on which no dwelling units will be permitted.
  - f. Buildings or structures on a resulting lot will comply with applicable building codes provisions relating to new property lines.
  - g. Structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.
  - h. Where a resulting lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to Chapter 19.700.

- i. The proposed middle housing land division will not cause any existing improvements on the middle housing lots to be inconsistent with applicable standards in this land use code.
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;
  - b. The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;
  - 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;
  - 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:
    - (1) 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
    - (2) The Willamette River Greenway as regulated by Section 19.401.
  - e. The land division will result in development that either:
    - (1) 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
    - (2) Will be sold or rented to households with incomes below 120% of the median family income for Clackamas County.

#### B. Conditions of Approval

The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties.

- 1. The City will attach conditions of approval of a preliminary plat for a middle housing land division to:

- a. Require that a notation appear on the final plat indicating:
- (1) The middle housing lots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.
  - (2) The middle housing developed on the middle housing lots shown on the preliminary plat shall remain middle housing and shall not be considered to be any other housing type as a result of the middle housing land division.
  - (3) Accessory dwelling units are not permitted on new lots resulting from a middle housing land division.
  - (4) Ensure that improvements associated with review criteria in this section are provided.
- b. The preliminary plat approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within 3 years of the tentative approval. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1965 §§ 6, 7, 2006; Ord. 1907 (Attach. 1), 2002)

#### **17.12.050 APPROVAL CRITERIA FOR FINAL PLAT**

Following the Type I procedure, the Planning Director and the Engineering Director shall review the final plat and shall approve or deny the final plat based on findings of compliance with the following:

- A. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.
- B. The preliminary plat has not lapsed.
- C. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.
- D. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems.
- E. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.
- F. The plat complies with the Zoning Ordinance and other applicable ordinances and regulations.

- G. Submission of signed deeds when access control strips are shown on the plat.
- H. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or giving 2 or more objects for identifying its location. (Ord. 1907 (Attach. 1), 2002)

### **17.16.010 APPLICATION REQUIRED**

Application submissions for lot consolidation, property line adjustment, partition, subdivision, and replat shall be made in accordance with provisions of this chapter. (Ord. 1907 (Attach. 1), 2002)

### **17.16.020 DETERMINATION OF COMPLETENESS**

- A. Consistency with Submission Requirements

The Planning Director shall review applications for consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this chapter shall be deemed incomplete for the purpose of ORS 227.178 and Chapter 19.1000. The Planning Director shall provide to the applicant notice of whether an application is complete or incomplete in accordance with ORS 227.178 and Subsection 19.1003.3.

- B. Time Allowed to Complete Submission

If the Planning Director finds that the application submission is not complete, the applicant has 15 calendar days from the date of the Director's notice to provide the missing information. If the missing information is not provided within 15 days, the application shall be rejected. Rejection of an incomplete application does not constitute a land use action.

- C. Reactivation of rejected applications may only be made by new submission of a complete application and fee. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

### **17.16.030 WAIVER OF SUBMISSION REQUIREMENTS**

- A. Certain application submission requirements may be waived at the discretion of the Planning Director subject to meeting the following conditions:

1. The applicant shows good cause for the requested waiver;
  2. The waiver does not compromise a proper and complete review; and
  3. The information is not material to describing the proposal or demonstrating compliance with approval criteria.
- B. Application submission requirements that may not be waived include:
1. Signed and completed application form, submission requirements form, and plan checklist;
  2. Property owner's authorization for application to be made;
  3. Detailed narrative description that specifies how the proposal complies with applicable codes; and
  4. Required plans, maps, and drawings.
- C. Application fees may only be waived by action of the City Council. (Ord. 1907 (Attach. 1), 2002)

#### **17.16.040 LOT CONSOLIDATION AND PROPERTY LINE ADJUSTMENT**

The following shall accompany applications for lot consolidation and property line adjustments:

- A. Completed application forms signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application check list; and
- E. A plan drawn to scale showing the following details:
  1. Scale, north arrow, and date of map;
  2. Tax map and lot number identifying each property involved in the application;
  3. Adjacent rights-of-way, with width shown;
  4. Location, width, and purpose of any recorded easements and/or plat restrictions;



5. Proposed property lines and dimensions of the affected lots;
6. The area of each lot;
7. Location of existing structures to remain and proposed structures, if any, with setbacks shown to all existing and proposed lot lines; and
8. Deeds of the properties involved. (Ord. 2229 § 2, 2023; Ord. 1907 (Attach. 1), 2002)

**17.16.050 REPLAT**

The following shall accompany applications for a replat:

- A. Completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the City Council;
- C. A narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application checklist; and
- E. Additional information including full submission requirements for preliminary plat as may be required by the Planning Director upon review of the proposal. (Ord. 1907 (Attach. 1), 2002)

**17.16.060 PRELIMINARY PLAT FOR PARTITION AND SUBDIVISION**

The following shall accompany applications for partition:

- A. Completed application form signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Completed and signed "submission requirements" and "partition checklist" or "subdivision checklist" forms as appropriate;
- D. All information specified on the "submission requirements" and "partition checklist" or "subdivision checklist" forms as appropriate;
- E. Requirements and information specified in Chapter 17.20; and
- F. Any additional information as may be needed to demonstrate compliance with approval criteria. (Ord. 1907 (Attach. 1), 2002)

**17.16.070 FINAL PLAT FOR PARTITION AND SUBDIVISION**

The following shall accompany applications for partition:

- A. A completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the City Council;
- C. Completed and signed “submission requirements” and “final plat checklist” forms;
- D. All information specified on the “submission requirements” and “final plat checklist”;
- E. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;
- F. Requirements and information specified in Chapter 17.24; and
- G. Any additional information as may be needed to demonstrate compliance with approval criteria. (Ord. 1907 (Attach. 1), 2002)

**17.16.080 COTTAGE CLUSTER DEVELOPMENT**

An application for subdivision preliminary plat or replat to create a cottage cluster housing development shall include narrative and plans with sufficient detail to demonstrate compliance with the standards of Subsection 19.505.4. (Ord. 2051 § 2, 2012)

**CHAPTER 17.20****PRELIMINARY PLAT**

Sections:

17.20.010 Submission of Plans

17.20.020 Scale

17.20.030 General Information to be Shown on the Preliminary Plat

17.20.040 Building Lines Prohibited

17.20.050 Existing Conditions

17.20.060 Proposed Conditions

**17.20.010 SUBMISSION OF PLANS**

Applicants for partition, subdivision, expedited land division, middle housing land division, and replat shall prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

**17.20.020 SCALE**

The preliminary plat shall be drawn at a scale and on a sheet size that reliably and conveniently represents design details sufficient for the proper plan review and determination of compliance with this title. (Ord. 1907 (Attach. 1), 2002)

**17.20.030 GENERAL INFORMATION TO BE SHOWN ON THE PRELIMINARY PLAT**

- 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 ORS Chapter 92;

2. Date, north point, and scale of drawing;
3. Appropriate identification clearly stating the map is a preliminary plat;
4. Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided;
5. Names and addresses of the owner, subdivider, and engineer or surveyor;
6. Acreage;
7. Structures and yard setbacks;
8. The location, width, and purpose of easements;
9. The location, approximate dimensions, and area of all lots;
10. Lot and block numbers; and
11. Other information as maybe 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 feet of the subject property. (Ord. 1907 (Attach. 1), 2002)

#### **17.20.040 BUILDING LINES PROHIBITED**

Platted building lines are prohibited. The effect of building lines may be executed through recordation of instruments, which shall be referenced on the recorded plat. (Ord. 1907 (Attach. 1), 2002)

#### **17.20.050 EXISTING CONDITIONS**

The following shall be shown on the preliminary plat:

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 feet for slopes up to 10% and 5 feet 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 feet 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. (Ord. 1907 (Attach. 1), 2002)

#### **17.20.060 PROPOSED CONDITIONS**

- A. The plat shall include the following information:
1. Date, north point, scale, address, assessor reference number, and legal description;
  2. Name and address of the record owner or owners and of the person who prepared the site plan;
  3. 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;
  4. 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 rights-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;
  5. Location of existing structures, identifying those to remain in place and those to be removed;

6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;
7. Existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees as required in Chapter 16.32, topography, and other structures;
8. Elevation and location of flood hazard boundaries;
9. 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; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.
10. For middle housing land divisions, in addition to the items in Subsection 17.20.060.A, the following must be provided and shown on the preliminary plat:
  - a. Separate utility connections for each dwelling unit;
  - b. 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.
  - c. Copies of all required easements in a form approved by the City Attorney.
  - d. A description of the manner in which the proposed division complies with each of the provisions of Subsection 17.12.040.A.6 including copies of approved building permits, or concurrent building permits, and other evidence necessary to demonstrate:
    - (1) How buildings or structures on a resulting lot will comply with applicable building codes provisions related to new property lines; and
    - (2) Notwithstanding the creation of new lots, how structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.

- B. 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.
- C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title, Title 19, Chapter 16.32, and City design standards, including the Public Works Standards.
- D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title, Title 19, Chapter 16.32, and City design standards, including the Public Works Standards.
- E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards.
- F. Proposed deed restrictions, if any, in outline form.
- G. 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. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**CHAPTER 17.24****FINAL PLAT**

Sections:

17.24.010 Required Plat Information

17.24.020 Additional Required Information

17.24.030 Approval of Final Plat

17.24.040 Filing

17.24.050 Notice for Improvements

17.24.060 Bond

**17.24.010 REQUIRED PLAT INFORMATION**

In addition to that otherwise specified by law, the following information shall be shown on the final plat:

- A. The date, scale, north point, legend, plat boundary, and controlling topography such as creeks and highways;
- B. Legal description of the tract boundaries;
- C. Name of the owner(s), applicant(s), and surveyor.
- D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
  - 1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;
  - 2. Adjoining corners of adjoining subdivisions;
  - 3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this title.



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- E. The exact location and width of streets and easements intersecting the boundary of the tract.
- F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings approved in advance by the County Surveyor. All distances shall be shown to the nearest hundredth of a foot. No ditto marks may be used.
- G. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the width of each side of the centerline. For streets on curvature, curve data shall be based on the street centerline and, in addition to the centerline dimensions, the radius and central angle shall be indicated.
- H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.
- I. Lot numbers beginning with the number "1" and numbered consecutively.
- J. Land tracts to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale.
- K. References to any agreements including conditions of approval or special building restrictions that will be recorded with the plat.
- L. The following certificates, which may be combined where appropriate:
1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat;
  2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot;
  3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor.
- M. For middle housing land divisions, the following notations:
1. The middle housing lots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.

2. The middle housing developed on the middle housing lots shown on the final plat shall remain middle housing and shall not be considered to be any other housing type as a result of the middle housing land division. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

#### **17.24.020 ADDITIONAL REQUIRED INFORMATION**

The following shall accompany the final plat application:

A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.

B. Sheets and drawings signed by a professional civil engineer registered in Oregon showing the following:

1. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any;
2. The computation of all distances, angles, courses, and lot areas shown on the final map;
3. Ties to existing monuments, adjacent subdivisions, and street corners;
4. Profiles of finished grade at centerline of all streets and public ways and a plan profile for all utilities.

C. A copy of any deed restriction applicable to the subdivision.

D. A certificate by the Engineering Director certifying that the applicant has complied with one of the following alternatives:

1. All improvements have been installed in accordance with these regulations and with preliminary plat approval.
2. An agreement has been executed as provided in Chapter 17.32 of this title to assure completion of all required improvements. (Ord. 1907 (Attach. 1), 2002)

#### **17.24.030 APPROVAL OF FINAL PLAT**

Approval of the final plat shall be indicated by signature of the Planning Manager and Engineering Director. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

**17.24.040 FILING**

A. Within 6 months of City approval of the preliminary plat, the applicant shall submit the final plat for City signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.

B. A notice of middle housing land division shall be recorded for each middle housing lot with Clackamas County that states:

1. The middle housing lot may not be further divided.
2. No more than one unit of middle housing may be developed on each middle housing lot.
3. The dwelling developed on the middle housing lot is a unit of middle housing and is not a single attached or detached dwelling, or any other housing type.

C. For middle housing and expedited land divisions, the approval of a preliminary plat is void if and only if a final plat is not approved within 3 years of the preliminary plat approval. Within that time, any conditions of approval must be fulfilled and the final plat, as approved by the City, must be recorded by the applicant with Clackamas County. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

**17.24.050 NOTICE FOR IMPROVEMENTS**

Before approval is certified on the final plat, the applicant shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision or file with the Engineering Director a notice specifying the period within which required improvements and repairs will be completed. In either case, the applicant shall reimburse the City for the cost of inspection by the City at a rate established by the City Council. All required improvements shall be guaranteed and bonded as provided in Chapter 17.32 of this title. (Ord. 1907 (Attach. 1), 2002)

**17.24.060 BOND**

A. The applicant shall file with the notice one of the following to assure his or her full and faithful performance:

1. An agreement to make improvements in a form approved by the City Attorney;
2. A letter of credit;

3. Cash.

B. Such assurance of full and faithful performance shall be for a sum determined by the City Manager or designee as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspection.

C. If the applicant fails to carry out said improvements and the City has unreimbursed costs or expenses resulting from such failure, the City may call the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost incurred by the City, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost incurred by the City, the applicant shall be liable to the City for the difference. (Ord. 2229 § 2, 2023; Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.28**

### **DESIGN STANDARDS**

#### Sections:

17.28.010 Conformity of Subdivision

17.28.020 Public Facility Improvements

17.28.030 Easements

17.28.040 General Lot Design

17.28.050 Flag Lot Development and Future Access

17.28.060 Flag Lot Design Standards

17.28.070 Flag Lot Limitations

17.28.080 Public Open Spaces

#### **17.28.010 CONFORMITY OF SUBDIVISION**

Partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.020 PUBLIC FACILITY IMPROVEMENTS**

All land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities. (Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **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. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.040 GENERAL LOT DESIGN**

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.

#### **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.

#### **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.

#### **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.

D. Adjustments to Lot Shape Standard

Lot shape standards may be adjusted subject to Section 19.911 Variances.

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.

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. (Ord. 2161 § 2, 2018; Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **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. In this case, Planning Commission review shall be required and the flag lot(s) or back lots must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 2218 § 2 (Exh. B), 2022; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **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.

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. (Ord. 2218 § 2 (Exh. B), 2022; Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

#### **17.28.070 FLAG LOT AND BACK LOTS IN SUBDIVISIONS**

Flag lots and back lots are permitted in new subdivisions. (Ord. 2218 § 2 (Exh. B), 2022; Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

#### **17.28.080 PUBLIC OPEN SPACES**

A. Due consideration shall be given to the allocation of suitable areas for schools, parks, and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the Comprehensive Plan or master plan adopted by the City is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the Planning Commission, and where the Comprehensive Plan or adopted master plan of the City does not indicate proposed public use area, the Planning Commission may require the dedication or reservation of areas or sites of a character, extent, and location suitable for the development of parks and other public use.

D. If the applicant is required to reserve land area for park, playground, or other public use, such land shall be acquired by the appropriate public agency within 18 months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the applicant.

E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the parks and recreation master plan.

F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**CHAPTER 17.32****IMPROVEMENTS**

Sections:

17.32.010 Improvement Procedures

17.32.020 Utility Undergrounding

17.32.030 Guarantee

**17.32.010 IMPROVEMENT PROCEDURES**

In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option, shall conform to the requirements of this title and to improvement standards and specifications in the Public Works Standards and Chapter 19.700 Public Facility Improvements. The improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been checked for adequacy and approved by the City in writing. All such plans shall be prepared in accordance with requirements of the City.
- B. Work shall not begin until the City has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the City is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.
- D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers, and storm drains shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.
- E. A map showing all public improvements as built shall be filed with the City upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the City. (Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)



**17.32.020 UTILITY UNDERGROUNDING**

All utility lines, including, but not limited to, those required for electric, communication, lighting, cable television services, and related facilities shall be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high-capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant shall make all necessary arrangements with the serving utility to provide the underground services. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**17.32.030 GUARANTEE**

All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of 1 year following acceptance by the City. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the Engineering Director. Said cash or bond shall comply with the terms and conditions of Section 17.24.060. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**CHAPTER 17.44****EXCEPTIONS AND VARIANCES**

Sections:

17.44.010 Variance

**17.44.010 VARIANCE**

A variance of any provision of this title may only be granted in accordance with Section 19.911. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

**Clean Amendments****TITLE 17****LAND DIVISION****Chapters:****17.04 Administration and Enforcement****17.08 Definitions****17.12 Application Procedure****17.16 Application Requirements****17.18 Approval Criteria****17.20 Preliminary Plat****17.22 Final Plat****17.24 Tracts and Easements****17.26 Middle Housing and Expedited Land Divisions****17.28 Design Standards****17.32 Improvements****17.44 Exceptions and Variances**

**CHAPTER 17.04****ADMINISTRATION AND ENFORCEMENT****17.04.020 AUTHORITY**

A. The Planning Manager has the authority to apply, interpret, and enforce the provisions of this title. An appeal from a ruling by the Planning Manager regarding a requirement of this title may be made to the Planning Commission under provisions of Chapter 19.1000.

B. The City Engineer has the authority to accept, conditionally accept, or reject construction and engineering plans and specifications in accordance with professional judgment and accepted engineering or surveying practices. (Ord. 1907 (Attach. 1), 2002)

**17.04.030 CONSISTENCY WITH MUNICIPAL CODE**

All land divisions and property boundary changes must be consistent with Title 16 Environment, this title, Title 18 Flood Hazard Regulations, and Title 19 Zoning. (Ord. 1907 (Attach. 1), 2002)

**17.04.040 APPROVAL REQUIRED**

All lot consolidations, land divisions, changes in property boundary lines, and creation of streets or rights-of-way must be approved in accordance with these regulations prior to conveying or recording any instrument effecting a lot consolidation, land division, or property boundary change. A person desiring to partition, subdivide, replat, consolidate, or change property boundaries must submit application for approval as provided in this title and State law. (Ord. 1907 (Attach. 1), 2002)

**17.04.050 TIME LIMIT ON APPROVAL**

A. Expiration of Approval

Expiration of approvals are provided in Subsection 19.1001.7.E.

**B. Extensions**

Extension of approvals are provided in Subsection 19.908. An extension to an expiring land division approval must be approved when the provisions of Subsection 19.908 are met and provided that:

1. No changes are made on the original plan as approved;

2. The applicant can show intent of recording the land division or boundary change within the 12-month extension period; and

3. There have been no changes in the ordinance provisions on which the approval was based.

(Ord. 1907 (Attach. 1), 2002)

#### **17.04.060 REDUCTION OF LAND BELOW MINIMUM STANDARDS**

No unit of land shall be split or reduced by any means in conflict with the requirements of this title or Title 19 of this code. The splitting of a lot or parcel to add to another will not be allowed unless the remaining portion meets all zoning standards for the zone where the land is located, or it is simultaneously consolidated with a contiguous parcel, which will thereafter comply with zoning standards. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.070 CORRECTION OF IMPROPER LAND DIVISION OR BOUNDARY CHANGE**

Improper land divisions or boundary changes must be corrected by submission of appropriate applications and by following the associated review procedures prescribed in this title. This section does not preclude enforcement against violations of this title. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.080 FORM OF APPLICATIONS**

All applications provided for in this title must be made on forms prescribed by the Planning Manager. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.090 FEES**

A fee as established by resolution of the City Council must be paid to the City upon the filing of an application. Such fees will not be refundable. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.100 AMENDMENTS**

Legislative amendments to this title must be made in accordance with Chapter 19.1000 and Section 19.902. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

#### **17.04.110 DETERMINATIONS OF LEGAL STATUS**

Requests for determinations on the legal status of units of land must be processed pursuant to Section 19.903 Code Interpretations and Director Determinations. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

#### **17.04.120 RECORDING**

A. Recording instruments for boundary change, subdivision, partition, and replat must be submitted to the Clackamas County Surveyor.

B. Prior to recording a lot consolidation, property line adjustment, subdivision plat, partition plat, or replat, the applicant must submit the recording instruments to the Planning Manager for a determination of consistency with the City Code and required approvals.

C. Lot consolidations for units of land legally created by metes and bounds descriptions may be recorded by deed subject to approval of the County Surveyor.

D. Subdivision and partition plats and replats, must be recorded by plat.

E. The applicant must submit the copy of the recorded lot line adjustment, subdivision plat, partition plat, replat, or lot consolidation survey map to the City prior to the issuance of any development permits on the new or re-configured lots.

#### **17.04.130 MONUMENTATION AND SURVEY**

A. Monuments are required in accordance with ORS Chapter 92.

B. Monumentation surveys must be filed with the County Surveyor in accordance with ORS Chapters 92 and 209. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.140 VIOLATION—PENALTIES**

Violation of any provision of this title is a civil infraction. The civil penalty for violation of this title will be \$200.00. The cost of completing or correcting any improvements required by this title and incurred by the City may be assessed to persons as part of the civil infraction judgment. Each day a violation continues must be considered a separate violation. (Ord. 1907 (Attach. 1), 2002)

#### **17.04.150 APPEALS**

Appeals on actions authorized under this title must be made in accordance with Chapter 19.1000. (Ord. 1907 (Attach. 1), 2002)

### **CHAPTER 17.08**

#### **DEFINITIONS**

The words and phrases used in this title have the meanings provided in this chapter.



“Access control strip” means a strip of land reserved between the end or side of a street, or of land between a dedicated street of less than full width and an abutting parcel of land, held for access control, future street extension, or widening. (Ord. 1907 (Attach. 1), 2002)

“Applicant” means the person who has filed application for land use action or other action requiring a response from the City. (Ord. 1907 (Attach. 1), 2002)

“Approval authority” means the individual or governmental body authorized by this code to take action on applications for actions specified in this title. (Ord. 1907 (Attach. 1), 2002)

“Bicycle way” means a right-of-way for bicyclists. (Ord. 1907 (Attach. 1), 2002)

“Block” means a group of lots, tracts, or parcels which have been subdivided and are entirely surrounded by highways or streets or in part by a well-defined and fixed boundary. (Ord. 1907 (Attach. 1), 2002)

“Boundary change” means the relocation of a property line established by dedication, deed, property line adjustment, lot consolidation, partition, subdivision, and/or replat. (Ord. 1907 (Attach. 1), 2002)

“Buffer strip” means a strip of land of sufficient width to serve as a buffer between dissimilar use districts, existing in a natural or landscaped condition, and located along the edge of a subdivision. (Ord. 1907 (Attach. 1), 2002)

“Building line” means a line on a plat or otherwise described indicating the limit beyond which buildings or structures may not be erected. (Ord. 1907 (Attach. 1), 2002)

“City” means the City of Milwaukie, Oregon. (Ord. 1907 (Attach. 1), 2002)

“Comprehensive Plan” means the plan adopted by the City Council for the guidance of growth and improvement of the City, including modifications or refinements, which may be made from time to time. (Ord. 1907 (Attach. 1), 2002)

“Easement” means the right to use land in a limited way for a stated purpose. (Ord. 1907 (Attach. 1), 2002)

“Expedited land division” means a partition or subdivision of a lot or parcel on which the development of housing is allowed as defined by ORS 197.360(1).

“Land division” means the division of land by partition, subdivision, or replat. (Ord. 1907 (Attach. 1), 2002)

“Lot” means a legally defined unit of land other than a parcel or tract that is a result of a subdivision of land. For general purposes of this title, lot also means legal lots or lots of record under the lawful control, and in the lawful possession, of one distinct ownership. When one owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may define a lot boundary coterminous with one or more legal lots or lots of record within the distinct ownership. Figure 19.201-1 illustrates some of the lot types defined below.

“Back lot” means a lot that does not have frontage on a public street, typically accessed via an easement over another property.

“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or “pole” to the main part of the lot used for building, which is located behind another lot that has street frontage. There are two distinct parts to the flag lot: the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag.

“Legal lot” means a unit of land other than a parcel or tract created through a subdivision or partition approved by the City.

“Lot of record” means a unit of land for which a deed or other instrument dividing the land was filed with the Clackamas County Recorder, which was not created through a partition or subdivision approved by the City, and which was created prior to October 5, 1973.

“Lot consolidation” means the elimination of a common property line between two or more units of land to form one unit of land. (Ord. 1907 (Attach. 1), 2002)

“Middle housing land division” means a partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758(2) or (3).

“Monument” means a fixed, permanent, and visible landmark indicating boundaries. (Ord. 1907 (Attach. 1), 2002)

“Owner” means the owner of record of real property as shown on the latest tax rolls of Clackamas County, or by the deed records of said County, or a person who is purchasing a parcel of property under contract. (Ord. 1907 (Attach. 1), 2002)

“Parcel” means a single unit of land that is created by a partitioning of land. (Ord. 1907 (Attach. 1), 2002)

“Partition” means either the act of partitioning land or an area of land partitioned. (Ord. 1907 (Attach. 1), 2002)

“Partitioning” means to divide an area of land into two or three parcels within a calendar year but does not include the following:

- A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;
- B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with applicable zoning;
- C. The division of land resulting from the recording of a subdivision or condominium plat;
- D. A sale or grant by a person to a public agency or public body for state highway, county road, City street or other right-of-way purposes provided that such road or right-of-way complies with the comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for State highway, County road, City street or other right-of-way purposes must continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
- E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the State, a political subdivision or special district for highways, County roads, City streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property. The property line adjustment must be approved or disapproved by the applicable local government. If the property line adjustment is approved, it must be recorded in the deed records of the County where the property is located. (Ord. 1907 (Attach. 1), 2002)

“Pedestrian way” means a right-of-way for pedestrians that is improved or unimproved. (Ord. 1907 (Attach. 1), 2002)

“Person” means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof. (Ord. 1907 (Attach. 1), 2002)

“Plat” means and includes a map and other writing containing all the descriptions, locations, dedications, specifications, provisions, and information concerning a partition or subdivision. (Ord. 1907 (Attach. 1), 2002)

“Property line adjustment” means the relocation of a common property line between two abutting units of land that does not result in the creation of a new unit of land. (Ord. 1907 (Attach. 1), 2002)

“Replat” means the act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, including an increase or decrease in the number of lots. (Ord. 1907 (Attach. 1), 2002)



“Right-of-way” means the area between boundary lines of a public way. (Ord. 1907 (Attach. 1), 2002)

“Sidewalk” means a pedestrian walkway with permanent surfacing to City standards. (Ord. 1907 (Attach. 1), 2002)

“Street” means the width between the boundary lines of every way that provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. “Street” includes the terms “road,” “highway,” “lane,” “place,” “avenue,” “boulevard,” or other similar designations.

A. “Access street” means a street intended only for access to abutting properties.

B. “Alley” means a narrow street used for access to the back or side of properties otherwise abutting on another street.

C. “Major arterial street” means a street that carries both local and through traffic to destinations outside the local community. The major arterial provides access to other communities as well as access through Milwaukie. Public transit to other communities generally use a major arterial.

D. “Minor arterial street” means a street that carries local traffic between neighborhood areas or to regional facilities. The minor arterial provides access from neighborhood collector streets to community services and to alley and an abutting parcel of land, or a strip other neighborhoods within, or immediately adjacent to the City. Local public transit may use minor arterial streets.

E. “Collector street” means a street that serves internal traffic within areas having a single land use pattern. The collector streets carry local traffic within a neighborhood area. They carry traffic from the local streets to the minor and/or major arterial network or to schools, local shopping centers, or other local streets within the neighborhood.

F. “Cul-de-sac” means a short access street terminated by a vehicle turnaround.

G. “Dead-end street” means a street terminating at a property line, but which may be extended.

H. “Frontage street” means an access street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

I. “Local street” means a street that provides direct access to abutting property. (Ord. 1907 (Attach. 1), 2002)

“Subdivide land” means to divide an area or tract of land into four or more lots within a calendar year. (Ord. 1907 (Attach. 1), 2002)

“Subdivision” means either an act of subdividing land or a unit of land subdivided as defined in this title. (Ord. 1907 (Attach. 1), 2002)

“Tract” means a unit of land other than a lot or parcel. A tract is a piece of land created and designated as part of a land division that is not a lot, adjusted lot, lot remnant, lot of record, or a public right-of-way. Tracts are created and designed for a specific purpose. Land uses within a tract are restricted to those uses consistent with the stated purpose as described on the plat, or in the maintenance agreements, or through Conditions, Covenants and Restrictions (CC&Rs). Examples include stormwater management tracts, private street or alley tracts, tree preservation tracts, environmental resource tracts, and open space tracts. (Ord. 1907 (Attach. 1), 2002)

“Unit of land” means a legally created lot, parcel, or other unit of real property legally created by metes and bounds description or other legal means that is recorded on the County land records as defined in ORS 92.010. (Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.12**

### **APPLICATION PROCEDURE**

#### **17.12.010 PURPOSE**

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat. (Ord. 1907 (Attach. 1), 2002)

#### **17.12.020 APPLICATION PROCEDURE**

A. Applications for land division and property boundary changes will be processed in accordance with Chapter 19.1000 Type I and Type II procedures as indicated in this section.

B. An increase in the number of lots within the original boundaries of a partition plat must be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds 3.

C. A modification to a plat (i.e., a replat) that relocates or eliminates all or a portion of a common property line between abutting properties, including underlying lot lines, that does not create an additional lot or parcel will be processed as a property line adjustment or lot consolidation. This process requires a deed to be recorded that stipulates the lot to be a single lot for development and legal purposes.

D. A replat that results in the creation of a new parcel(s) or lot(s) will be processed as a partition or subdivision, depending on the number of resulting lots and according to the definitions provided in Chapter 17.04.

Title 17.12.020 Boundary Change Summary		
Boundary Change Action	Application Type/Land Use Action	Review Type
Consolidating legal lots created by deed.	Lot consolidation	I
Any boundary adjustment that is consistent with the ORS and this title but does not result in a change in the number of lots.  Any adjustment that modifies a plat restriction.	Property Line Adjustment	I
A land division, modification, or adjustment that results in up to 3 additional lots.	Partition	II
Any division, modification, or adjustment that results in 4 or more lots.	Subdivision	II
Any land division as defined by ORS 197.360 Expedited Land Division and/or land division of a middle housing project per ORS 197.758.	Expedited Land Division  Middle Housing Land Division	II

### **17.12.030 Lot Consolidation, Property Line Adjustment**

A. Approval process. A lot consolidation or property line adjustment application is processed through a Type I procedure, as provided in Section 19.1004 and the application requirements in Chapter 17.16.

B. Approval criteria. The approval authority may approve, approve with conditions, or deny a lot consolidation or property line adjustment based on the approval criteria in Section 17.18.010.

C. Recording requirements. Upon approval of the proposed lot consolidation or property line adjustment, the applicant must record the lot consolidation or property line adjustment with Clackamas County and submit a copy of the recorded instrument to the City, to be incorporated into the record.

D. Time limit. The applicant must submit the copy of the recorded lot consolidation or property line adjustment survey map to the City prior to the issuance of any development permits on the reconfigured lots.

**17.12.040 Partition**

A. Conformance with state statute. All land partition proposals must comply with all state regulations as provided in ORS Chapter 92, Subdivision and Partitions.

B. Prohibition on sale of lots. Sale of lots created through the land partitioning process is prohibited until the final partition plat is recorded.

C. Approval through two-step process. A partition application requires a two-step process: the preliminary plat and the final plat.

1. Preliminary plat. A preliminary plat application is processed through a Type II procedure, as provided in Section 19.1005 and the application requirements in Chapters 17.16 and 17.20.

2. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval pursuant to Chapter 17.20.

3. Full compliance with all requirements for subdivision may be required if the Planning Manager should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds 2 acres and within a year is being partitioned into more than two parcels, any one of which is less than 1 acre.

D. Approval criteria. The approval authority may approve, approve with conditions, or deny a partition based on the approval criteria in Sections 17.18.020 and 17.18.030.

**17.12.050 Subdivision**

A. Conformance with state statute. All subdivision proposals must comply with all state regulations as provided in ORS Chapter 92, Subdivision and Partitions.

B. Prohibition on sale of lots. Sale of lots created through the subdivision process is prohibited until the final plat is recorded.

C. Approval through two-step process. A subdivision application requires a two-step process: the preliminary plat and the final plat.

1. Preliminary plat. A preliminary plat application is processed through a Type II procedure, as provided in Section 19.1005. An application for a preliminary plat may be reviewed concurrently with an application for a planned development, as provided in Chapter 19.311, Planned Developments.

2. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval pursuant to Chapter 17.20.

D. Approval criteria. The approval authority may approve, approve with conditions, or deny a subdivision based on the approval criteria in Sections 17.18.020 and 17.18.030.

## **CHAPTER 17.16**

### **APPLICATION REQUIREMENTS AND PROCEDURES**

#### **17.16.010 APPLICATION REQUIRED**

Application submissions for lot consolidation, property line adjustment, partition, subdivision, and replat must be made in accordance with provisions of this chapter. (Ord. 1907 (Attach. 1), 2002)

#### **17.16.020 DETERMINATION OF COMPLETENESS**

##### Consistency with Submission Requirements

Applications must be reviewed for completeness and consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this chapter must be deemed incomplete for the purpose of ORS 227.178 and Chapter 19.1000. The City must provide to the applicant notice of whether an application is complete or incomplete in accordance with ORS 227.178 and Subsection 19.1003.3.

#### **17.16.030 WAIVER OF SUBMISSION REQUIREMENTS**

A. Certain application submission requirements may be waived at the discretion of the Planning Manager subject to meeting the following conditions:

1. The applicant shows good cause for the requested waiver;
2. The waiver does not compromise a proper and complete review; and

3. The information is not material to describing the proposal or demonstrating compliance with approval criteria.

B. Application submission requirements that may not be waived include:

1. Signed and completed application form, submission requirements form, and plan checklist;

2. Property owner's authorization for application to be made;

3. Detailed narrative description that specifies how the proposal complies with applicable codes; and

4. Required plans, maps, and drawings.

C. Application fees may only be waived by action of the City Council. (Ord. 1907 (Attach. 1), 2002)

#### **17.16.040 LOT CONSOLIDATION AND PROPERTY LINE ADJUSTMENT**

The following must accompany applications for lot consolidation and property line adjustments:

A. Completed application forms signed by all owners of property included in the proposal;

B. Application fee as adopted by the City Council;

C. Narrative report that describes how the proposal meets applicable approval criteria;

D. Additional information as may be required by the application check list; and

E. A surveyed and monumented plan prepared in accordance with ORS 92.060 (7) drawn to scale showing the following details:

1. Scale, north arrow, and date of map;

2. Tax map and lot number identifying each property involved in the application;

3. Adjacent rights-of-way, with width shown;

4. Location, width, and purpose of any recorded easements and/or plat restrictions;

5. Proposed property lines and dimensions of the affected lots;

6. The area of each lot;

- 7. Location of existing structures to remain and proposed structures, if any, with setbacks shown to all existing and proposed lot lines; and
- 8. Deeds of the properties involved.
- 9. Signature block for City signature and approval.



### **17.16.050 PRELIMINARY PLAT FOR PARTITION AND SUBDIVISION**

The following must accompany applications for partition:

- A. Completed application form signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Completed and signed submission requirements form and partition checklist or subdivision checklist forms as appropriate;
- D. All information specified on the submission requirements and partition checklist or subdivision checklist forms as appropriate;
- E. Requirements and information specified in Chapter 17.20; and
- F. Any additional information as may be needed to demonstrate compliance with applicable approval criteria. (Ord. 1907 (Attach. 1), 2002)

### **17.16.060 FINAL PLAT FOR PARTITION AND SUBDIVISION**

The following must accompany applications for partition:

- A. A completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the City Council;
- C. Completed and signed submission requirements and final plat checklist forms;
- D. All information specified on the submission requirements and final plat checklist;
- E. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;
- F. Requirements and information specified in Chapter 17.22; and

G. Any additional information as may be needed to demonstrate compliance with applicable approval criteria. (Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.18**

### **APPROVAL CRITERIA**

#### **17.18.010 APPROVAL CRITERIA FOR LOT CONSOLIDATION AND PROPERTY LINE ADJUSTMENT**

##### **A. Approval Criteria**

The approval authority may approve, approve with conditions, or deny a lot consolidation or property line adjustment based on the following approval criteria. The applicant for a lot consolidation or property line adjustment must demonstrate the following:

1. Compliance with this title and Title 19 of this code.
2. The boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.
3. Boundary changes must not reduce residential density below minimum density requirements of the zoning district in which the property is located. (Ord. 1907 (Attach. 1), 2002)

#### **17.18.020 APPROVAL CRITERIA FOR PRELIMINARY PLAT**

##### **A. Approval Criteria**

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.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).
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.



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

### **17.18.030 APPROVAL CRITERIA FOR FINAL PLAT**

Following the Type I procedure, the Planning Manager and the City Engineer must review the final plat and must approve or deny the final plat based on findings of compliance with the following:

A. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.

B. The preliminary plat has not lapsed.

C. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.

D. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems.

E. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.

F. The plat complies with the Zoning Ordinance and other applicable ordinances and regulations.

G. Submission of signed deeds when access control strips are shown on the plat.

H. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or giving 2 or more objects for identifying its location. (Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.20**

### **PRELIMINARY PLAT**

#### **17.20.010 SUBMISSION OF PLANS**

Applicants for partition and subdivision must prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal. (Ord. 1907 (Attach. 1), 2002)

**17.20.020 SCALE**

The preliminary plat must be drawn at a scale and on a sheet size that reliably and conveniently represents design details sufficient for the proper plan review and determination of compliance with this title. (Ord. 1907 (Attach. 1), 2002)

**17.20.030 GENERAL INFORMATION TO BE SHOWN ON THE PRELIMINARY PLAT**

A. Preliminary plats must be prepared by an Oregon registered professional land surveyor in compliance with ORS 92.060.

B. Preliminary plats must include all information as identified on the application forms and preliminary plat checklist prescribed by the Planning Manager.

C. Vicinity map must 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 must depict future street connections for land within 400 feet of the subject property. (Ord. 1907 (Attach. 1), 2002)

**17.20.040 BUILDING LINES PROHIBITED**

Platted building lines are prohibited. The effect of building lines may be executed through recordation of instruments, which must be referenced on the recorded plat. (Ord. 1907 (Attach. 1), 2002)

**17.20.050 EXISTING CONDITIONS**

The following must be shown on the preliminary plat:

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 trees, including type and caliper, per the requirements for a tree inventory identified in MMC 16.32.042.

G. Floodway and floodplain boundary.

H. Areas containing slopes of 25% or greater. (Ord. 1907 (Attach. 1), 2002)

### **17.20.060 PROPOSED CONDITIONS**

A. The plat must include the following information:

1. Date, north point, scale, address, assessor reference number, and legal description;

2. Name and address of the record owner or owners and of the person who prepared the site plan;

3. 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;

4. 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 rights-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;

5. Location of existing structures, identifying those to remain in place and those to be removed;

6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements; and tree preservation and planting information per the requirements in MMC 16.32.042.

7. Existing development and natural features for the site and adjacent properties, including those properties within 100 ft of the proposal, showing buildings, mature trees, topography, and other structures;

8. Elevation and location of flood hazard boundaries;

9. 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; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers must conform to the established pattern in the surrounding area.

10. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements must 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 must be submitted with the request for final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.22**

### **FINAL PLAT**

#### **17.22.010 REQUIRED PLAT INFORMATION**

In addition to that otherwise specified by law, the following information must be shown on the final plat:

A. The date, scale, north point, legend, plat boundary, and controlling topography such as creeks and highways;

B. Legal description of the tract boundaries;

C. Name of the owner(s), applicant(s), and surveyor.

D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;

2. Adjoining corners of adjoining subdivisions;

3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this title.

E. The exact location and width of streets and easements intersecting the boundary of the tract.

F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings must be shown to the nearest second with basis of bearings approved in advance by the County Surveyor. All distances must be shown to the nearest hundredth of a foot. No ditto marks may be used.

G. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the width of each side of the centerline. For streets on curvature, curve data must be based on the street centerline and, in addition to the centerline dimensions, the radius and central angle must be indicated.

H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it must be properly referenced in the owner's certificates of dedication.

I. Lot numbers beginning with the number "1" and numbered consecutively.

J. Land tracts to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale.

K. References to any agreements including conditions of approval or special building restrictions that will be recorded with the plat.

L. The following certificates, which may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat;

2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot;

3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor.

### **17.22.020 ADDITIONAL REQUIRED INFORMATION**

The following must accompany the final plat application:

A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.

B. Sheets and drawings signed by a professional civil engineer registered in Oregon showing the following:

1. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any;
  2. The computation of all distances, angles, courses, and lot areas shown on the final map;
  3. Ties to existing monuments, adjacent subdivisions, and street corners;
  4. Profiles of finished grade at centerline of all streets and public ways and a plan profile for all utilities.
- C. A copy of any deed restriction applicable to the subdivision.

#### **17.22.030 APPROVAL OF FINAL PLAT**

Approval of the final plat must be indicated by signature of the Planning Manager and City Engineer. (Ord. 1907 (Attach. 1), 2002)

#### **17.22.040 FILING**

A. ~~Within one year of City approval of the preliminary plat, the applicant must submit the final plat for City signatures unless an extension is approved pursuant to Subsection 19.908 and 17.04.050.~~ Within 60 days of the City review and approval of the final plat, the applicant must submit the final plat to the County for signatures of County officials as required by ORS Chapter 92, or the approval of the final plat will be null and void. This plat must be recorded with any deed restrictions required as a condition of approval.

B. Proof of recording. Upon final recording with the County, the applicant must submit to the City an electronic copy of the recorded final plat and a copy of recorded deed restrictions. The applicant must submit the copy of the recorded plat to the City prior to the issuance of any development permits on the newly created lots.

#### **17.22.050 NOTICE FOR IMPROVEMENTS**

Before approval is certified on the final plat, the applicant must either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision or file with the City Engineer a notice specifying the period within which required improvements and repairs will be completed. In either case, the applicant must reimburse the City for the cost of plan review and construction inspection by the City at a rate established by the City Council. All required improvements must be guaranteed and bonded as provided in Chapter 17.32 of this title. (Ord. 1907 (Attach. 1), 2002)

#### **17.22.060 BOND**

A. The applicant must file with the notice one of the following to assure their full and faithful performance:

1. An agreement to make improvements in a form approved by the City Attorney;
2. A letter of credit;
3. Cash.

B. Such assurance of full and faithful performance must be for a sum determined by the City Engineer as sufficient to cover the cost of the improvements and repairs.

C. If the applicant fails to carry out said improvements and the City has unreimbursed costs or expenses resulting from such failure, the City may call the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost incurred by the City, the City must release the remainder. If the amount of the bond or cash deposit is less than the cost incurred by the City, the applicant will be liable to the City for the difference. (Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.24**

### **REQUIREMENTS FOR TRACTS AND EASEMENTS**

A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:

1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;
2. The Homeowners' Association for the area served by the tract;
3. A public or private non-profit organization; or
4. The City or other jurisdiction.

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by the City in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat.

## **CHAPTER 17.26**

### **MIDDLE HOUSING AND EXPEDITED LAND DIVISIONS**

#### **17.26.010 Middle Housing Land Divisions**

A. A middle housing land division is a partition or subdivision of a lot or parcel on which a middle housing project has been developed or approved for development under the provisions of this code and ORS 197.758. Middle housing land divisions are regulated by this code and ORS Chapter 92. Townhouses, by definition, are already on their own lots, so a middle housing land division is not applicable to townhouse developments. Following the land division, the units of land created in a middle housing land division, the sublots, will be collectively considered a single lot for all but platting and property transfer purposes under City code and state rules and statutes, including:

- a. Lot standards such as size, setback, lot coverage, and lot width and depth;
- b. Definition of unit types (e.g. a detached quadplex development where each unit is on its own lot through a middle housing land division would still be considered a detached quadplex development rather than four lots with single detached units);
- c. Allowed number of dwelling units and accessory dwelling units; and
- d. Compliance with middle housing rules and statutes in ORS 197 and OAR 660-046.

B. Applications for any land division affecting middle housing as provided in ORS 197.758(2) must be processed as an expedited land division process as outlined in ORS 197.360 to 197.380. Pursuant to the expedited land division process, a middle housing land division will be processed according to Section 19.1005 Type II Review. Further division of the resulting lots or parcels (sublots) in an approved middle housing land division is prohibited.

C. Approval through two-step process. A middle housing land division requires a two-step process: a preliminary plat and a final plat.

1. Preliminary plat. A middle housing land division preliminary plat application is processed through an expedited Type II procedure, as provided in Section 19.1005.

2. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval.

D. Approval criteria—Preliminary plat. The approval authority may approve, approve with conditions, or deny a middle housing land division 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.

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



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

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.

5. A detailed narrative description demonstrating how the proposal conforms to 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:

a. The middle housing development complies with the Oregon Residential Specialty code and the applicable middle housing regulations in this code. To demonstrate compliance with this criterion, the applicant must submit approved building permits or concurrent building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and middle housing regulations in Titles 12 and 19.

b. The middle housing development is in compliance with the land use regulations applicable to the parent lot allowed under ORS 197.758(5).

c. Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.

d. Easements will be provided as necessary for each dwelling unit on the site 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.

e. Exactly one dwelling unit will be located on each subplot except for lots or tracts used as common areas, on which no dwelling units will be permitted.

f. Buildings or structures on a subplot will comply with applicable building codes provisions relating to new property lines.

g. Structures or buildings located on the sublots will comply with the Oregon Residential Specialty Code.

h. Where a resulting lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to Chapter 19.700.

i. The proposed middle housing land division will not cause any existing improvements on the sublots to be inconsistent with applicable standards in this land use code.

j. All remaining portions of the lot must be placed in one or more tracts under common ownership

#### E. Conditions of Approval

The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties.

1. The City will attach conditions of approval of a preliminary plat for a middle housing land division to:

a. Require that a notation appear on the final plat indicating:

(1) The sublots shown on the tentative plan were created pursuant to a middle housing land division and may not be further divided.

(2) The middle housing developed on the sublots shown on the preliminary plat must remain middle housing and will not be considered to be any other housing type as a result of the middle housing land division.

(3) Accessory dwelling units are not permitted on sublots resulting from a middle housing land division.

(4) Ensure that improvements associated with review criteria in this section are provided.

b. The preliminary plat approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1965 §§ 6, 7, 2006; Ord. 1907 (Attach. 1), 2002)

F. Approval criteria – Final plat. The Planning Manager and the City Engineer must review the final plat and must approve or deny the final plat based on findings of compliance with the following:

1. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.
2. The preliminary plat has not lapsed.
3. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.
4. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems.
5. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.
6. The plat complies with Title 19 and other applicable ordinances and regulations.
7. Submission of signed deeds when access control strips are shown on the plat.
8. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or giving 2 or more objects for identifying its location. (Ord. 1907 (Attach. 1), 2002)
9. The final plat includes the following:
  - a. A note prohibiting further division of the sublots;
  - b. Labels and descriptions for all tracts;
  - c. A reference to any deed restrictions imposed on the lot or sublots as a condition of approval of the original lot creation, subplot plat, or development approval; and

d. The middle housing developed on the sublots shown on the final plat must remain middle housing and will not be considered to be any other housing type as a result of the middle housing land division. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 1907 (Attach. 1), 2002)

10. The City's engineering department has provided written confirmation that a sewage disposal system will be available to the subplot line of each subplot depicted in the final subplot plat.

11. All public improvements have been installed and inspected and have been approved.

12. A copy of the recorded document establishing a homeowner's association to manage all commonly held areas located in tracts has been provided to the City. At a minimum this document must include the following:

a. A description of the common elements located in tracts.

b. An allocation to each unit included in the subplot plat of an undivided and equal interest in the common elements and the method used to establish the allocation.

c. An establishment of use rights for common elements, including responsibility for enforcement, and

d. A maintenance agreement for common elements, including an allocation or method of determining liability for a failure to maintain.

### **17.26.020 Expedited Land Division**

Approval through two-step process. An expedited land division requires a two-step process: a preliminary plat and a final plat.

A. Preliminary Plat. Expedited land divisions are defined by ORS 197.360(1) and are processed according to Section 19.1005, Type II Review. The expedited land division/middle housing land division review process provides for review by the Planning Manager of an application based on provisions specified in this land use code. The application process includes notice to nearby occupants and property owners to allow for public comments prior to the Planning Manager's decision. Eligibility and approval criteria are detailed in Subsection 17.12.040.A.7 of this chapter. (Ord. 2219 § 2 (Exh. B), 2022; Ord. 2168 § 2, 2019; Ord. 2025 § 3, 2011; Ord. 2001 § 2, 2009; amended during Supp. No. 2; Ord. 1907 (Attach. 1), 2002)

B. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval.

C. Approval criteria – Preliminary plat. The approval authority may approve, approve with conditions, or deny a preliminary plat for an expedited land division 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.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).
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.
5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.
6. The proposed partition only includes land zoned for residential uses;
7. The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;
8. 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;
9. 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:
  - a. 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
  - b. The Willamette River Greenway as regulated by Section 19.401.
10. The land division will result in development that either:
  - a. 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

b. Will be sold or rented to households with incomes below 120% of the median family income for Clackamas County.

D. Approval criteria – Final plat. The Planning Manager and the City Engineer must review the final plat and must approve or deny the final plat based on findings of compliance with the following:

1. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.
2. The preliminary plat has not lapsed.
3. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.
4. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems.
5. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.
6. The plat complies with the Zoning Ordinance and other applicable ordinances and regulations.
7. Submission of signed deeds when access control strips are shown on the plat.
8. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or giving two or more objects for identifying its location. (Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.28**

### **DESIGN STANDARDS**

#### **17.28.010 CONFORMITY OF SUBDIVISION**

TITLE 17 UPDATE 2023 CODE AMENDMENTS

DRAFT DATE 11/06/2023

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Partitions and subdivisions must conform with any development plans of the City and must take into consideration any preliminary plans made in anticipation thereof and must conform with the requirements of state laws and with the standards established by the City. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.020 PUBLIC FACILITY IMPROVEMENTS**

All land divisions and boundary changes that increase the number of lots must be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities. (Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.030 EASEMENTS**

#### A. Utility Lines

Easements for sewers, water mains, electric lines, or other public utilities must be dedicated wherever necessary. The easements must 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 must 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. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.040 GENERAL LOT DESIGN**

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.

#### A. Size and Shape

Lot size, width, shape, and orientation must be appropriate for the location and the type of use contemplated. Minimum lot standards must conform to Title 19. Lot shape standards may be adjusted subject to Section 19.911 Variances.

#### B. Rectilinear Lots Required

Lot shape must be rectilinear, except where not practicable due to location along a street radius, or existing lot shape.

C. Limits on Compound Lot Line Segments

Cumulative lateral changes in direction of a side or rear lot line exceeding 20% 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 must be measured from a straight line drawn between opposing lot corners.

D. 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.

E. Measurement of Required Frontage

Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage must be measured along the street upon which the lot takes access. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**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, by submitting an engineering analysis confirming no opportunity for a public street which must be reviewed and accepted by the city. This does not preclude the ability for the City to require public pedestrian/bicycle access in place of a public street. Consideration must 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 must not preclude the development of public 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. Dedication of the future public right-of-way is required as part of final plat approval. (Ord. 2218 § 2 (Exh. B), 2022; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

**17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS**A. Consistency with the Zoning Ordinance

Flag lot and back lot design must be consistent with Subsection 19.504.8.

B. More than Two Flag Lots or Back Lots Prohibited



The division of any unit of land must not result in the creation of more than two flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than two flag lots or back lots are prohibited. (Ord. 2218 § 2 (Exh. B), 2022; Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.070 FLAG LOTS AND BACK LOTS IN SUBDIVISIONS**

Flag lots and back lots are permitted in new subdivisions. (Ord. 2218 § 2 (Exh. B), 2022; Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.080 PUBLIC OPEN SPACES**

A. Due consideration must be given to the allocation of suitable areas for schools, parks, and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the Comprehensive Plan or master plan adopted by the City is located in whole or in part in a subdivision, the City may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the City, and where the Comprehensive Plan or adopted master plan of the City does not indicate proposed public use area, the City may require the dedication or reservation of areas or sites of a character, extent, and location suitable for the development of parks and other public use.

D. If the applicant is required to reserve land area for park, playground, or other public use, such land must be acquired by the appropriate public agency within 18 months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation must be released to the applicant.

E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the Comprehensive Plan.

F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.28.090 LAND DIVISION WITH LEFTOVER PARCEL OR LOT**

A. Applicability. This provision applies to residential land division proposals where there is an existing single detached or middle housing unit which will be on one parcel or lot and the remaining property will be "leftover."

B. Conditions. An application for a land division may have a maximum of two "leftover" parcels or lots, or portions of the property which are capable of further development and which are not included as part of a phased subdivision if the following conditions are met:

1. The parent parcel has an existing habitable dwelling unit(s) on it built on or before (date of adoption of this code).
2. The leftover parcel(s) or lot(s) must be capable of further development.
3. The land division will not preclude ultimate buildout of the parent parcel per an adopted or submitted and approved Concept Plan, as applicable.
4. When a land division places the primary residence on a parcel separate from an accessory structure or an accessory dwelling, the accessory structure or dwelling must be:
  - a. Removed upon transfer of ownership of either parcel or lot; or
  - b. An accessory dwelling must be converted to a conforming primary dwelling as part of the land division application.

C. Development of Leftover Parcels or Lots. Parcels or lots created under this provision may not be developed until lots are created pursuant to this title, where applicable. Lots must be consistent with the standards of the applicable provisions in Title 19, to ensure that minimum density is met.

D. Submittal Requirements. The following must be provided with submittal for the land division:

1. Payment-in-lieu of required future improvements along the existing street frontage(s) of the leftover parcel(s).
2. A deed restriction requiring removal of any applicable accessory structure or accessory dwelling unit upon transfer of ownership of either parcel.
3. A site plan must be provided showing the minimum density build-out of the leftover parcel(s). Site plans must include the following:
  - a. For single detached dwelling and middle housing developments:
    - i. A conceptual plot plan.
    - ii. Access and street layout, as applicable.
    - iii. Plan requirements of other applicable provisions of Title 17.
  - b. For all other uses, including but not limited to multi-unit, commercial, industrial, and mixed-use:
    - i. A conceptual plot plan.
    - ii. Future uses.
    - iii. Building footprints.
    - iv. Parking areas.
    - v. Access and street layout (as applicable).
    - vi. Plan requirements of other applicable provisions of Title 17.

## **CHAPTER 17.32**

### **IMPROVEMENTS**

#### **17.32.010 IMPROVEMENT PROCEDURES**

In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option, must conform to the requirements of this title and to improvement standards and specifications in the Public Works Standards and Chapter 19.700 Public Facility Improvements. The improvements must be installed in accordance with the following procedure:

A. Work must not begin until plans have been checked for adequacy and approved by the City in writing and a performance bond, as provided in Section 17.24.060, and certificate of insurance, as provided in the Public Works Standards, are provided to the City. All such plans, performance bond, and certificate of insurance, must be prepared in accordance with requirements of the City.

B. Work must not begin until the City has been notified in advance, and if work is discontinued for any reason, it must not be resumed until the City is notified.

C. Improvements must be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers, and storm drains must be constructed prior to the surfacing of streets. Stubs for service connections must be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced must be indicated.

E. A map showing all public improvements as built must be filed with the City upon completion of the improvements. All such maps must be prepared in accordance with requirements of the City. (Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.32.020 UTILITY UNDERGROUNDING**

All utility lines, including, but not limited to, those required for electric, communication, lighting, cable television services, and related facilities must be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high-capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant must make all necessary arrangements with the serving utility to provide the underground services. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### **17.32.030 GUARANTEE**

All improvements installed by the applicant must be guaranteed as to workmanship and material for a period of 4 2 years following acceptance by the City. Such guarantee must be secured by cash deposit or maintenance warranty bond in the amount of the value of the improvements as set by the City Engineer. Said cash or bond must comply with the terms and conditions of Section 17.24.060. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

## **CHAPTER 17.44**

### **EXCEPTIONS AND VARIANCES**

#### **17.44.010 VARIANCE**

A variance of any provision of this title may only be granted in accordance with Section 19.911. (Ord. 2025 § 3, 2011; Ord. 1907 (Attach. 1), 2002)

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## **TITLE 19**

### **ZONING**

#### **CHAPTER 900 LAND USE APPLICATIONS**

##### **19.908 EXTENSIONS TO EXPIRING APPROVALS**

###### **19.908.1 Purpose**

The purpose of this section is to provide for an appropriate and efficient review process for extending the time period during which land use approvals are valid and may be utilized.

###### **19.908.2 Applicability**

### A. Approvals Eligible for Extensions

An extension may be requested for any unexpired land use application that was required by Titles 14, 17, or 19 of the Milwaukie Municipal Code and that was approved through a Type I, II, or III review.

### B. Approvals Not Eligible for Extensions

An extension pursuant to this section may not be requested for an approved land use application that has expired or where other sections of the municipal code specifically prohibit or limit the length or number of extensions allowed.

## 19.908.3 Review Process

### A. General Provisions

1. An extension application must be submitted and approved prior to the expiration date of the approval. An extension application may not be submitted more than 6 months in advance of an expiration date.

2. An extension may be approved up to a maximum of 2 years from the effective date of the extension approval. Additional extensions may be requested. There is no limit to the number of extensions that may be requested or approved. In the case of applications approved under Title 17, an application may be approved up to a maximum of 12 months and only 1 extension request is allowed.

3. If the original application was approved through a Type III review, the Planning Director shall notify the Planning Commission of receipt of an extension application at the same time that public notice is mailed for the application.

4. If an extension application is denied, the applicant may seek approval for the proposed development by resubmitting all applicable land use applications. Such applications are subject to all procedures, approval criteria, and development standards in effect at the time of submission.

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## CHAPTER 1000 REVIEW PROCEDURES

### 19.1001 GENERAL PROVISIONS

#### 19.1001.7 Decisions

### E. Expiration of Approved Decisions

1. Type I, II, III, and IV land use approvals granted pursuant to this chapter for land use applications submitted on or after May 14, 2011, the effective date of Ordinance #2025, shall expire and become void unless the following criteria are satisfied:

a. For proposals requiring any kind of development permit, the development must complete both of the following steps:

(1) Obtain and pay for all necessary development permits and start construction within 2 years of land use approval.

(2) Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval.

b. For proposals not requiring development permits, the development must utilize its approvals within 4 years of land use approval.

c. For boundary adjustments and land divisions approved under Title 17 Land Division, evidence of recording of the required instruments must be provided to the city within 2 years of the original approval.