



Regular Session

RS

Milwaukie City Council

COUNCIL REGULAR SESSION

AGENDA

City Hall Council Chambers, 10501 SE Main Street
 & Zoom Video Conference (www.milwaukieoregon.gov)

APRIL 16, 2024

Council will hold this meeting in-person and through video conference. The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom login** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-370>.

To participate in this meeting by phone dial 1-253-215-8782 and enter Webinar ID 865 6947 8638 and Passcode: 111508. To raise hand by phone dial *9.

Written comments may be delivered to City Hall or emailed to ocr@milwaukieoregon.gov. Council will take verbal comments.

Note: agenda item times are estimates and are subject to change.

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- 1. **CALL TO ORDER** (6:00 p.m.)
 - A. **Pledge of Allegiance**
 - B. **Native Lands Acknowledgment**

- 2. **ANNOUNCEMENTS** (6:01 p.m.) **2**

- 3. **PROCLAMATIONS AND AWARDS**
 - A. **Earth Day – Proclamation** (6:05 p.m.) **5**
 Staff: Riley Gill, Environmental Services Coordinator

- 4. **SPECIAL REPORTS**
 - A. **None Scheduled.**

- 5. **COMMUNITY COMMENTS** (6:10 p.m.) **6**
 To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed to the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to ocr@milwaukieoregon.gov), or in person to city staff.**

- 6. **CONSENT AGENDA** (6:15 p.m.)
 - A. **Approval of Council Meeting Minutes of:** **10**
 - 1. **March 10, 2024, Council dinner,**
 - 2. **March 12, 2024, special session,**
 - 3. **March 12, 2024, study session,**
 - 4. **March 19, 2024, work session, and**
 - 5. **March 19, 2024, regular session.**
 - B. **Appointments to Board and Committee Youth Positions – Resolution** **20**
 - C. **Authorization of a Contract for Seismic Upgrades at the Public Safety Building (PSB) – Resolution** **23**

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| 6. CONSENT AGENDA (continued) | |
| D. Approval of an Intergovernmental Agreement (IGA) with Metro for the Neighborhood Parks Projects – Resolution | 26 |
| E. Approval of a Low-Income Housing Tax Exemption Program with the North Clackamas School District (NCSD) – Resolution | 30 |
| F. Oregon Liquor and Cannabis Commission (OLCC) Application for Bob’s Red Mill, 5000 SE International Way – Limited On-Premises Sales. | 38 |
| 7. BUSINESS ITEMS | |
| A. Clackamas 800 (C800) Digital Radio – Update (6:20 p.m.) | 40 |
| Staff: Ryan Burdick, Police Chief, and Mark Buchholz, C800 Radio Group | |
| 8. PUBLIC HEARINGS | |
| A. Willard Street Right-of-Way Vacation – Ordinance (6:35 p.m.) | 51 |
| Staff: Jeff Tolentino, Assistant City Engineer | |
| B. Title 17 (Land Division) Code Amendments – Ordinance (6:50 p.m.) | 69 |
| Staff: Vera Koliias, Senior Planner | |
| 9. COUNCIL REPORTS (7:50 p.m.) | |
| 10. ADJOURNMENT (8:00 p.m.) | |

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

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

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

Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.



COUNCIL REGULAR SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

2401st Meeting

MINUTES

APRIL 16, 2024

Council Present: Councilors Adam Khosroabadi and Rebecca Stavenjord, and Council President Robert Massey

Council Absent: Councilor Shane Abma and Mayor Lisa Batey

Staff Present: Justin Gericke, City Attorney
Riley Gill, Environmental Services Coordinator
Vera Kolas, Senior Planner

Emma Sagor, Acting City Manager
Scott Stauffer, City Recorder
Jeff Tolentino, Assistant City Engineer

Council President Massey called the meeting to order at 6:00 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Council President Massey announced that Mayor Batey and Councilor Abma had been excused from the meeting, and noted upcoming activities, including the city's Transportation System Plan (TSP) update process, Earth Day events, a prescription drug drop-off and shredding event, and the return of the Milwaukie Farmers Market.

Massey read a haiku highlighting the Dogwood tree.

3. PROCLAMATIONS AND AWARDS

A. Earth Day – Proclamation

Gill commented on the city's climate action work and Earth Day activities. **Council President Massey** proclaimed April 20, 2024, to be Earth Day in Milwaukie.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Council President Massey reviewed the comment procedures. **Sagor** reported there was no follow-up from the April 2 comments. No audience member wished to speak to Council and **Stauffer** reported there was one written comment in the packet.

6. CONSENT AGENDA

It was moved by **Councilor Stavenjord** and seconded by **Councilor Khosroabadi** to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. March 10, 2024, Council dinner,
2. March 12, 2024, special session,
3. March 12, 2024, study session,

- 4. March 19, 2024, work session, and
- 5. March 19, 2024, regular session.
- ~~B. A resolution of the City Council of the City of Milwaukie, Oregon, making youth board and committee member appointments.~~ (removed from the agenda)
- C. Resolution 14-2024: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, authorizing an increase in the project authorization for construction services for the Public Safety Building (PSB) seismic retrofit project.
- D. Resolution 15-2024: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing an intergovernmental agreement for Metro’s local share program for the neighborhood park construction.
- E. Resolution 16-2024: A resolution of the City Council of the City of Milwaukie, Oregon, granting an exemption from property taxes under Oregon Revised Statute (ORS) 307.540 to 307.548 for any qualifying nonprofit low-income housing project within city limits.
- F. An Oregon Liquor and Cannabis Commission (OLCC) application for Bob’s Red Mill, 5000 SE International Way – Limited On-Premises Sales.

Motion passed with the following vote: Councilors Khosroabadi, Massey, and Stavenjord voting “aye.” [3:0]

7. BUSINESS ITEMS

A. Clackamas 800 (C800) Digital Radio – Update (moved to the April 16, 2024, work session agenda)

8. PUBLIC HEARING

A. Willard Street Right-of-Way (ROW) Vacation – Ordinance

Call to Order: Council President Massey called the public hearing on the proposed street vacations, to order at 6:14 p.m.

Purpose: Council President Massey announced that the purpose of the hearing was to hear the staff report and take public comment on the proposed ROW vacation.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: Tolentino explained that the requested street vacation had been agreed to by the city as a part of the 2017 Milwaukie High School (MHS) reconstruction.

Correspondence: No correspondence on the hearing topic had been received.

Audience Testimony: No audience member wished to address Council.

Council Questions to Staff: Council had no further questions for staff.

Close Public Comment: It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to close the public testimony part of the Willard Street ROW vacation hearing. Motion passed with the following vote: Councilors Khosroabadi, Massey, and Stavenjord voting “aye.” [3:0]

Council President Massey closed the public comment part of the hearing at 6:18 p.m.

Council Decision: It was moved by Councilor Khosroabadi and seconded by Councilor Stavenjord to approve the first and second reading by title only and adoption of the ordinance vacating the public street right-of-way within a segment of Willard Street. Motion passed with the following vote: Councilors Khosroabadi, Massey, and Stavenjord voting “aye.” [3:0]

Ordinance 2241:**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, VACATING THE PUBLIC STREET RIGHT-OF-WAY WITHIN A SEGMENT OF WILLARD STREET.****B. Title 17 (Land Division) Code Amendments – Ordinance**

Call to Order: **Council President Massey** called the public hearing on the proposed street vacations, to order at 6:20 p.m.

Purpose: **Council President Massey** announced that the purpose of the hearing was to hear the staff report and take public comment on the proposed code amendments.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Kolias** provided an overview of the proposed code changes that were meant to bring Milwaukie Municipal Code (MMC) Title 17 into compliance with state law and organize the section for clarity with updated and added language. The Planning Commission had recommended that Council adopt the code changes.

Kolias noted a minor text change to the proposed ordinance text and that the reference to a previous version of Title 17 should be removed.

Correspondence: No correspondence on the hearing topic had been received.

Audience Testimony: No audience member wished to address Council.

Council Questions to Staff: Council had no further questions.

Close Public Comment: **It was moved by Councilor Khosroabadi and seconded by Councilor Stavenjord to close the public testimony part of the Title 17 Land Division code amendments hearing. Motion passed with the following vote: Councilors Khosroabadi, Massey, and Stavenjord voting “aye.” [3:0]**

Council President Massey closed the public comment part of the hearing at 6:32 p.m.

Council Decision: **It was moved by Councilor Khosroabadi and seconded by Councilor Stavenjord to approve the first and second reading by title only and adoption of the ordinance amending Municipal Code Title 17 Land Division, and Title 19 Zoning, to making changes of select sections for the purposes of clarification and improved effectiveness (File #ZA-2023-006). Motion passed with the following vote: Councilors Khosroabadi, Massey, and Stavenjord voting “aye.” [3:0]**

Resolution 2242:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE TITLE 17 LAND DIVISION, AND TITLE 19 ZONING, TO MAKE CHANGES TO SELECT SECTIONS FOR THE PURPOSE OF CLARIFICATION AND IMPROVED EFFECTIVENESS (FILE #ZA-2023-006).

9. COUNCIL REPORTS

Councilor Khosroabadi reported on recent Community Action Board (CAB) work.

Councilor Stavenjord discussed the proposed Council letter on the disposition of scattered housing sites in Milwaukie and noted that Council would receive an update on the Hillside Park redevelopment project and the scattered sites at a meeting in May.

Councilor Stavenjord thanked staff for working to recruit new board and committee youth members and looked forward to working with the new committee members.

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10. ADJOURNMENT

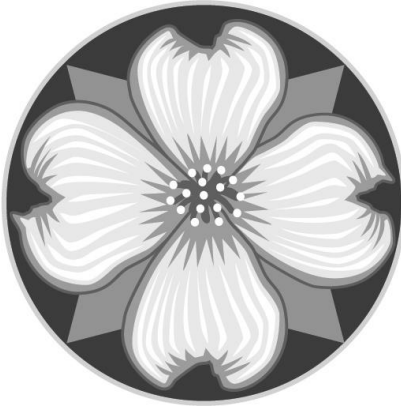
It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to adjourn the Regular Session. Motion passed with the following vote: Councilors Khosroabadi, Massey, and Stavenjord voting “aye.” [3:0]

Council President Massey adjourned the meeting at 6:37 p.m.

Respectfully submitted,



Scott Stauffer, City Recorder



RS Agenda Item

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Announcements



Mayor's Announcements – April 16, 2024

- **Transportation System Plan: 2023-25 Update – Submit Feedback Online**
 - Provide feedback about the city's ongoing plan for improving how community members get around.
 - Visit **Engage Milwaukie** to participate – engage.milwaukieoregon.gov

- **Volunteer! Earth Day 2024 – Sat., Apr. 20 (9 AM – 12:30 PM)**
 - City is hosting a volunteer event at Willow Place Natural Area (4699 Pennywood Dr.)
 - Volunteers will focus on removing invasive plants and planting native plants.
 - Register to volunteer at www.milwaukieoregon.gov/sustainability/earthday.

- **Prescription Drug Drop-Off and Document Shredding Day – Sat., Apr. 27 (10 AM – 2 PM)**
 - Volunteers will collect unused or expired prescription drugs.
 - Bring your sensitive documents for shredding. Remove staples and any other metal objects.
 - Public Safety Building (3200 SE Harrison St.) - Enter from Railroad Ave. and exit onto Harrison St.

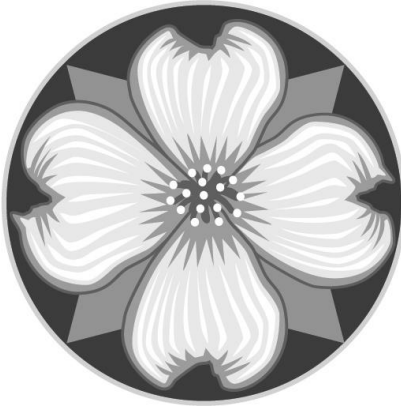
- **Milwaukie Farmers Market – Every Sunday May through October (9:30 AM- 2 PM)**
 - First market of the 2024 season is Sun., May 5
 - Parking lot at Main St. and Harrison St. downtown (10723 SE Main St.)
 - Learn more at www.milwaukiefarmersmarket.com.

- **LEARN MORE AT WWW.MILWAUKIEOREGON.GOV OR CALL 503-786-7555**

*Dogwood trees always
know which way the wind blows and
sway accordingly.*

- Emily Lowry

Share your Milwaukie Haiku!
Email yours to bateyl@milwaukieoregon.gov



RS Agenda Item

3

Proclamations & Awards

PROCLAMATION

WHEREAS the People of this City, “The Dogwood City of the West”, are proud to reside amid the natural beauty of the Pacific Northwest and the State of Oregon, and all the trees, plants, waterways, and wildlife encompassed in this region that give character and life to the landscape; and

WHEREAS the first Earth Day was proclaimed on April 22, 1970, and its annual observance has encouraged the conservation, protection and appreciation of our planet’s ecosystems and natural resources through environmental volunteerism and climate action; and

WHEREAS the Milwaukie Community has embraced carbon and sustainability goals in the face of climate change, the most pressing threat for our planet; and

WHEREAS The City of Milwaukie has adopted a Climate Action Plan, Urban Forest Management Plan, and Comprehensive Plan that includes strategies and policies that will enable our city to conserve natural resources, promote a healthy urban forest, encourage sustainable behaviors, and improve community environmental resiliency; and

WHEREAS The City of Milwaukie declared a climate emergency on January 21, 2020, and called for the acceleration of the climate goals established in the Climate Action Plan to address the urgency of the climate crisis and call on community members to take part in climate action in their own homes, businesses, and communities; and

WHEREAS education, partnerships, and community actions for restoring and protecting our ecosystems, climate, and planet are promoted and honored by all Milwaukie residents, as is the shared desire for a resilient community, environmental justice, and access to nature for all community members; and

WHEREAS the City of Milwaukie proudly recognizes all who protect and preserve the environment and climate through participation in Earth Day activities by taking a proactive role in the protection of our community’s precious natural resources.

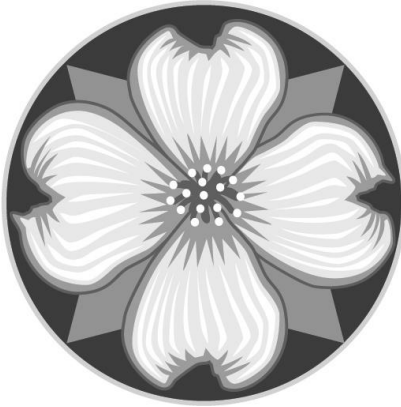
NOW, THEREFORE, I, Lisa Batey, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim April 20, 2024, to be **EARTH DAY** in the *Dogwood City of the West*.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 16th day of April 2024.

Robert Massey, Council President

ATTEST:

Scott Stauffer, City Recorder



RS Agenda Item

5

Community Comments

From: [Adria Decker](#)
To: [OCR](#)
Cc: [Daniel Dismuke](#)
Subject: Portland and Western RR Train Idling in Island Station
Date: Thursday, April 4, 2024 8:35:51 AM

This Message originated outside your organization.

Good morning council,

I am writing to give an update on what has been an intermittent years-long problem in the Island Station neighborhood, which is that Portland and Western Railroad uses the stretch of track in our neighborhood as a de facto train yard while they wait for clearance to enter Brooklynn Yards. I live at the corner of 19th and Sparrow, and the track runs directly behind my backyard. Portland and Western buys old, outdated diesel engines from other railroads and uses them exclusively on this line.

Trains have continued to run all winter without much problem -- they would often stop, but for no longer than an hour. As the weather has improved, however, idling has increased. In the past 3 days, the train has stopped next to Spring Park and idled over an hour at least 4 times, culminating yesterday when the train stopped at around 3pm and idled all night long. 17 hours later, at 8am, the engines cut off, the engineer exited the engine, got into a waiting car and left (the train is still there). Yesterday afternoon, the fumes were so bad that when I took my dogs out for a short break, my eyes began burning and I got a headache.

We have had many discussions with PWRR over the years in hopes of finding a solution, but it seems like every agreement they make evaporates within months. I am worried that my household, which includes young children and elderly grandparents, will not be able to enjoy the summer due to having trains spewing exhaust in our backyard. The park playground is similarly filled with fumes.

Thank you for your time and attention.

Sincerely,

Adria Decker
12224 SE 19th Avenue
503-449-2630

From: [angie](#)
To: [City Council](#)
Subject: Fwd: summer Market
Date: Friday, April 5, 2024 4:22:11 PM

Hello Milwaukie City council,
I am forwarding you this email that I sent to Lisa. I see that she is out of town and I would love to address this sooner than later. Thank you for your time!

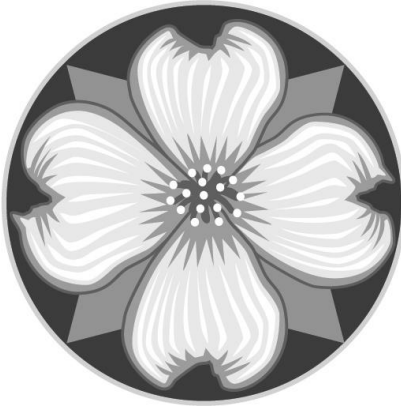
Angie Swim
That One Vintage Shop

----- Forwarded message -----

From: angie <angie@thatonevintageshop.com>
Subject: summer Market
Date: Fri, Apr 05, 2024, 03:21 PM
To: bateyl@milwaukieoregon.gov <bateyl@milwaukieoregon.gov>
Hello Lisa,

Angie Swim from That One Vintage Shop here I am emailing you because I am interested in starting a vintage market in downtown Milwaukie. More specifically on the waterfront right on 99E. I am wondering if you could direct me to whom I may be able to talk to about making this happen. I'm not sure who owns the different parking lots on that side of the highway, if they belong to the parks department or other private parties. I would like to have the markets on every month starting in June, ending in August. I believe this will attract much attention to Milwaukie, and help fellow businesses here in downtown. Thank you for your time, I look forward to hearing from you.

Angie Swim
503.490.9873



RS Agenda Item

6

Consent Agenda

COUNCIL DINNER

Councilor Stavenjord's Residence
4467 SE Mason Hill Drive (www.milwaukieoregon.gov)

MINUTES

MARCH 10, 2024

Council Present: Councilors Shane Abma, Adam Khosroabadi, Rebecca Stavenjord, and Council President Robert Massey, and Mayor Lisa Batey

Staff Present: Justin Gericke, City Attorney
Ann Ober, City Manager

Emma Sagor, Assistant City Manager
Scott Stauffer, City Recorder

Mayor Batey called the meeting to order at 5:00 p.m.

Council and staff participated in a social dinner. No city business was discussed, and no action was taken.

Mayor Batey adjourned the meeting at 8:00 p.m.

Respectfully submitted,

Emma Sagor, Assistant City Manager

COUNCIL SPECIAL SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

MARCH 12, 2024

Council Present: Councilors Shane Abma, Adam Khosroabadi, Rebecca Stavenjord, and
Council President Robert Massey, and Mayor Lisa Batey

Staff Present: Brent Husher, Library Director
Brandi Leos, Human Resource Director
Nicole Madigan, Deputy City Recorder
Ann Ober, City Manager

Emma Sagor, Assistant City Manager
Gabriela Santoyo Gutierrez, Equity, and
Inclusion Coordinator
Scott Stauffer, City Recorder

Mayor Batey called the meeting to order at 5:18 p.m.

1. Call to Order

A. Pledge of Allegiance

B. Native Lands Acknowledgement

2. Pro Tem Appointment – Resolution

Mayor Batey noted that Ober was leaving the city to take on a position with Washington County, Oregon. **Ober** shared a few words regarding the last few years as city manager and explained steps to be taken to hire a new city manager and appoint a pro tem.

Mayor Batey noted a minor date change in the resolution text. **Councilors Stavenjord** and **Abma** shared gratitude for Ober's service. **Ober** and **Batey** noted that Ober would be present at the next work and regular session meetings.

It was moved by Councilor Stavenjord and seconded by Councilor Abma to approve the resolution declaring the office of city manager vacant, appointing Emma Sagor manager pro tem, and directing the recruitment of a new city manager. Motion passed with the following vote: Councilors Khosroabadi, Abma, Stavenjord, and Council President Massey, and Mayor Batey voting "aye," [5:0]

Resolution 11-2024:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE OFFICE OF CITY MANAGER VACANT, APPOINTING EMMA SAGOR MANAGER PRO TEM, AND DIRECTING THE RECRUITMENT OF A NEW CITY MANAGER.

2. Adjourn

It was moved by Council President Massey and seconded by Councilor Khosroabadi to adjourn the Special Session. Motion passed with the following vote: Councilors Abma, Khosroabadi, Stavenjord, and Massey, and Mayor Batey voting "aye." [5:0]

Mayor Batey adjourned the meeting at 5:27 p.m.

Respectfully submitted,

Nicole Madigan, Deputy City Recorder

COUNCIL STUDY SESSION

City Hall Community Room, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

MARCH 12, 2024

Council Present: Councilors Adam Khosroabadi, Shane Abma, Rebecca Stavenjord, and Council President Robert Massey, and Mayor Lisa Batey

Staff Present: Brent Husher, Library Director
Brandi Leos, Human Resource Director
Nicole Madigan, Deputy City Recorder
Emma Sagor, Assistant City Manager

Ann Ober, City Manager
Gabriela Santoyo Gutierrez, Equity and
Inclusion Coordinator
Scott Stauffer, City Recorder

Mayor Batey called the meeting to order at 5:28 p.m.

1. Council Goal Update: Equity – Report

Sagor and **Santoyo Gutierrez** provided an update on Council’s equity goal which included reviewing the timeline of events since the goal was adopted and the three-year equity plan. They noted what the Equity Steering Committee (ESC) would focus on for the upcoming year. **Sagor** noted next steps and asked Council if there was anything they would like to receive updates on or an area that of work they would like prioritized.

The group discussed metrics for measuring the success of the equity plan. **Councilor Stavenjord** asked how staff would like Council to help with the process and **Santoyo Gutierrez** suggested it would help to have Council speak to equity at community events and in conversations with other governments.

The group discussed equity improvements in hiring practices and how the city provided translation services. **Councilor Abma**, **Sagor**, and **Ober** commented on lowering barriers for community members in applying for grants. **Abma** noted the importance of using plain inclusive language and changing the city’s code for things like substituting “resident” for “citizen.”

Mayor Batey and **Santoyo Gutierrez** discussed the ESC’s recruitment status and the city’s employee resource group programs. **Batey** confirmed the city’s judge used Language Line Solutions during court when in person translation services were unavailable. **Batey** asked about the ESC’s role in hiring, retention, and recruitment and **Santoyo Gutierrez** explained how ESC members participated on interview panels and in a community job fair. **Sagor** added that ESC members were also interested in providing mentorship to staff and **Santoyo Gutierrez** noted that staff affinity groups and the ESC participated in a combined lunch meetup.

Ober praised Santoyo Gutierrez’s work.

Mayor Batey asked about exit interviews and **Leos** explained that all departing employees are offered an in person exit interview, but since the city is a small organization, it can be difficult to share data without exposing the individual who provided feedback. **Leos** noted that staff turnover rates are being tracked.

2. Council Reports

Councilor Khosroabadi reported on a recent Clackamas County Community Action Board (CAB) meeting where recruitment and providing a stipend to board participants was discussed.

Councilor Massey shared takeaways from a recent Park and Recreation Board (PARB) and reported that PARB was interested in sending a letter to the North Clackamas Park and Recreation District (NCPRD) Board regarding Milwaukie Bay Park. **Massey** noted that PARB had discussed whether they should be meeting less frequently but agreed to maintain their current schedule. As the Council liaison to the Audit Committee, **Massey** reported that the city's audit was late but complete. **Sagor** and **Ober** explained the audit process and how the city's most recent audit had differed from previous audits and noted that the audit would be submitted to the state March 13 along with the Redevelopment Commission's audit. The group discussed aspects of the recent audit.

Councilor Stavenjord reported on a recent Clackamas County Coordinating Committee (C4) meeting where the Committee had received an update from Housing Authority of Clackamas County (HACC) that focused on the relocation program. **Mayor Batey** noted a complaint had been received from a resident who was being relocated. **Stavenjord** expressed interest in having an updated presentation about the status of public housing. The group discussed the relocation program and how the city could help. **Stavenjord** also reported that during a recent Historic Milwaukie Neighborhood District Association (NDA) meeting members of the St. John's Episcopal Church shared plans for a pilot program that would provide shelter during severe weather for about 20 individuals. **Stavenjord** shared an update on the administration of voter-approved Measure 110 funds, noting that there would be about \$20 million available statewide.

Mayor Batey shared that there was a NCPRD District Advisory Committee (DAC) meeting on March 13 and asked Council to review the district budget and send any questions along for Batey to relay. **Batey** shared that Clackamas County Commissioner Paul Savas had reached out to discuss parks, but Batey had declined. **Councilor Massey** shared that Savas had approached Massey and believed that Council should remain united in its response on parks. **Batey** noted when the NCPRD Board would next meet observing that the meeting would likely be inundated with Wichita Center supporters.

Councilor Stavenjord added that the Clackamas County Sheriff's Office 23-hour stabilization center to be in Milwaukie had received additional funding from the state legislature. **Mayor Batey** and **Ober** commented on the amount of funds that would be received. **Batey** noted that the city was still waiting to see if the purchase of the childcare center along Highway 224 would be funded by the state.

3. Adjourn

Mayor Batey adjourned the meeting at 7:00 p.m.

Respectfully submitted,

Nicole Madigan, Deputy City Recorder

COUNCIL WORK SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

MARCH 19, 2024

Council Present: Councilors Shane Abma, Adam Khosroabadi, Rebecca Stavenjord, and Council President Robert Massey, and Mayor Lisa Batey

Staff Present: Justin Gericke, City Attorney
Peter Passarelli, Public Works Director
Michael Osborne, Finance Director
Emma Sagor, Assistant City Manager
Scott Stauffer, City Recorder

Mayor Batey called the meeting to order at 4:03 p.m.

1. Per- and Polyfluoroalkyl Substances (PFAS) – Update

Passarelli explained what PFAS are and how they have been used by different industries, how they are monitored and regulated by federal and state governments and noted coming changes in advisory levels of PFAS. **Passarelli** reported the location and levels of detected PFAS in Milwaukie in recent years.

Councilor Abma and **Passarelli** remarked on sources of PFAS in Milwaukie, how PFAS monitors work in relation to groundwater monitors.

Passarelli noted the next steps staff would take to continue to monitor PFAS levels and work with state agencies to study how to treat PFAS. The group commented on existing PFAS treatment methods, what it meant for human health to be exposed to PFAS, and why the federal and state regulation changes were initially advisory only. **Passarelli** explained how the state monitors PFAS levels in riverways.

Councilor Abma and **Passarelli** remarked on the susceptibility of Milwaukie's water source to PFAS compared to other cities in the area and whether there was a homebased system residents could install to address PFAS.

Sagor thanked Passarelli for proactively monitoring PFAS on behalf of Milwaukie.

2. Houseless Services – Update (removed from the agenda)

3. Credit Card Fees – Discussion

Sagor explained that a growing cost to the city were bank and software fees related to customers making payments with credit and debit cards. **Osborne** and **Sagor** noted ways the city could encourage customers to stop paying with cards, including an educational campaign encouraging customers to not pay by card, lowering the limit for payments that could be made with a card, and charging a convenience fee to customers.

The group discussed how the city could mitigate the rising cost of fees, noting that other cities were experiencing the same problem and how bank and software fees were structured, and remarking on whether multiple cities could work together to encourage banks and software providers to lower fees.

The group discussed limiting the fee amount that could be paid by credit card for building and development fees while continuing to take smaller monthly utility payments, and the feasibility of setting a scalable percentage fee so a convenience charge was appropriate

to the amount being paid. Council expressed interest in seeing additional data that broke down what types of fees were being paid by card.

Councilor Stavenjord and **Osborne** remarked on whether the city could approach card fees like low-income assistance programs do.

Sagor and **Osborne** summarized that staff would provide additional information to Council as part of the upcoming consolidated fee schedule update, including options related to library fine payments. The group remarked on how the library's payment system charged patrons and whether it allowed for a running fine amount to accrue over time.

Councilor Abma asked if alternative payment methods could be offered to avoid the fees. Sagor noted staff would investigate alternate payment methods.

The group noted the timeline for possible changes to the collection of card fees and the adoption of an updated consolidated fee schedule and biennial budget.

4. Adjourn

Mayor Batey adjourned the meeting at 5:25 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL REGULAR SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

MARCH 19, 2024

Council Present: Councilors Shane Abma, Adam Khosroabadi, Rebecca Stavenjord, and Council President Robert Massey, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Community Development Director
Jennifer Garbely, City Engineer
Justin Gericke, City Attorney
Vera Kolias, Senior Planner
Michael Osborne, Finance Director
Emma Sagor, Assistant City Manager
Scott Stauffer, City Recorder

Mayor Batey called the meeting to order at 6:02 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Batey announced upcoming activities, events and programs at the library, a Transportation System Plan (TSP) workshop, and city Earth Day activities.

Councilor Khosroabadi wished the community a happy Nowruz, Iranian new year.

Mayor Batey noted the city would accept board and committee applications until April 1 and read a Milwaukie haiku written by Linda Apperson.

3. PROCLAMATIONS AND AWARDS

A. Women's History Month – Proclamation

Mayor Batey, and **Donna Baten** and **Jay Jones** with the North Clackamas Chamber of Commerce remarked on the life and career of former Milwaukie City Councilor and Mayor Wilda Parks. **Parks** commented on her life experiences and importance of recognizing Women's History Month. **Batey** proclaimed March to be Women's History Month.

4. SPECIAL REPORTS

A. Fiscal Year (FY) 2023 Audit Report

Osborne provided an overview of the annual audit process including the creation of the Annual Comprehensive Financial Report (ACFR) and People's Annual Financial Report (PAFR) and reported that the city had received a "clean and unmodified opinion" from the audit firm despite several issues that had been identified. New financial and accounting standards and process timelines that had been implemented in the last year were noted as responses to the identified issues.

Council thanked staff for working through the issues. The group noted the goal of publishing the audit report by December 31 each year and that there were no financial penalties for missing the deadline.

Council President Massey and **Osborne** remarked on how an auditing firm audits their own work, noting the possibility of hiring a second firm to audit the city's auditing firm.

Councilor Khosroabadi asked about reserve policy funds and **Osborne** agreed to provide the requested information after the meeting.

Mayor Batey and **Osborne** noted how the ACFR and PAFR were both available in paper form and online.

Sagor thanked Osborne for leading the finance department through many changes.

5. COMMUNITY COMMENTS

Mayor Batey reviewed the public comment procedures. **Sagor** reported staff's work to respond to previous comments regarding the 29th Avenue Greenway and a request from Milwaukie resident David Chitsazan for Council to read a proclamation addressing the Israeli-Palestinian conflict. **Stauffer** reported that Chitsazan had submitted another written request for a Council proclamation regarding the Israeli-Palestinian conflict. No audience member wished to speak to Council.

6. CONSENT AGENDA

It was moved by **Councilor Khosroabadi** and seconded by **Council President Massey** to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. February 13, 2024, study session,
2. February 13, 2024, special session,
3. February 20, 2024, work session, and
4. February 20, 2024, regular session.

B. An Oregon Liquor and Cannabis Commission (OLCC) Application for Gramma's Corner Kitchen, 10880 SE McLoughlin Blvd – Full On-Premises Sales.

Motion passed with the following vote: **Councilors Abma, Khosroabadi, Massey, and Stavenjord** and **Mayor Batey** voting "aye." [5:0]

7. BUSINESS ITEMS

A. None Scheduled.

8. PUBLIC HEARING

A. Hillside Redevelopment Project Street Vacation – Ordinance

Call to Order: **Mayor Batey** called the public hearing on the proposed street vacations, to order at 6:57 p.m.

Purpose: **Mayor Batey** announced that the purpose of the hearing was to receive the staff report and take public comment on the proposed street vacations.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Kolias** explained that Council was asked to vacate public street right-of-way (ROW) that lay within the Housing Authority of Clackamas County (HACC) Hillside Park redevelopment project area. An overview of the project was provided, and the ROW vacation hearing process was reviewed. **Kolias** reported that the staff recommendation was for Council to vacate the ROWs.

Councilor Khosroabadi asked if the project had changed since it was proposed and **Kolias** noted what had changed including slight layout changes and likely commercial uses. The group noted that space would be designated for resident resources and green spaces and that all the residential units would be affordable housing.

Councilor Stavenjord and **Kolias** commented on HACC's plan to relocate residents during the construction project. **Mayor Batey** noted that HACC staff would attend an upcoming Council meeting to provide a project update.

Councilor Stavenjord expressed concern that existing Hillside residents would be able to find a home in the rebuilt development and how individuals on the waiting list for Hillside would be invited to live there. **Briglio** suggested that HACC staff answer relocation questions at the May 7 regular session.

Mayor Batey and **Kolias** noted that residents of the Hillside Manor tower and laundry services would remain on the Hillside site throughout the redevelopment project.

Correspondence: No correspondence on the hearing topic had been received.

Audience Testimony: No audience member wished to address Council.

Close Public Comment: **It was moved by Councilor Khosroabadi and seconded by Council President Massey to close the public testimony part of the Hillside Redevelopment Project Street Vacation hearing. Motion passed with the following vote: Councilors Abma, Khosroabadi, Massey, Stavenjord, and Mayor Batey voting "aye." [5:0]**

Mayor Batey closed the public comment part of the hearing at 7:14 p.m.

Council Decision: **It was moved by Councilor Khosroabadi and seconded by Councilor Stavenjord for the first and second readings by title only and adoption of the ordinance vacating the public street rights-of-way within the Hillside Park development designated as portions of SE A Street, SE B Street, SE C Street, SE D Street, and SE D Place. Motion passed with the following vote: Councilors Abma, Khosroabadi, Massey, Stavenjord, and Mayor Batey voting "aye." [5:0]**

Sagor read the ordinance two times by title only.

Stauffer polled the Council with Councilors Abma, Khosroabadi, Massey, Stavenjord, and Mayor Batey voting "aye." [5:0]

Ordinance 2240:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, VACATING THE PUBLIC STREET RIGHTS-OF-WAY WITHIN THE HILLSIDE PARK DEVELOPMENT DESIGNATED AS PORTIONS OF SE A STREET, SE B STREET, SE C STREET, SE D STREET, AND SE D PLACE.

9. COUNCIL REPORTS

Mayor Batey reported that Council had been asked to send a letter to the Oregon Department of Transportation (ODOT) regarding the speed limit on Highway 224. **Garbely** reported that ODOT had denied the city's previous requests to reduce the speed limits on Hwy 224 and supported Council sending a letter to ODOT.

The group remarked on how Council and staff could review a draft letter that Council could consider at the April 2 regular session. **Garbely** and **Mayor Batey** remarked on the limited scope of work that ODOT was planning to do on Hwy 224.

Councilor Khosroabadi commented on Clackamas County Water Environment Service's (WES') recent contest to name a new drilling bore.

Mayor Batey discussed ongoing North Clackamas Parks and Recreation District (NCPRD) issues related to the allocation of funds for the district's Concord Property and Milwaukie Bay Park projects. **Councilor Khosroabadi** and **Batey** remarked on whether system development charge (SDC) funds from Milwaukie were being used for Concord. **Council President Massey** believed the NCPRD director had stated that the district planned to use SDCs from across the district for the Concord project.

Mayor Batey reported on NCPRD's system plan update process and encouraged Milwaukie residents to participate in the update process. **Sagor** and **Councilor Abma** agreed it was a good opportunity for residents to participate in the NCPRD process.

10. ADJOURNMENT

Mayor Batey announced that after the meeting Council would convene as the Milwaukie Redevelopment Commission (MRC).

It was moved by Council President Massey and seconded by Councilor Stavenjord to adjourn the Regular Session. Motion passed with the following vote: Councilors Abma, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

Mayor Batey adjourned the meeting at 7:42 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Acting City Manager

Date Written: April 4, 2023

Reviewed: Scott Stauffer, City Recorder

From: Nicole Madigan, Deputy City Recorder

Subject: **Youth Appointments to City Boards and Committees**

ACTION REQUESTED

As outlined in the Milwaukee Municipal Code (MMC), Council is asked to consider approving a resolution making appointments to city boards and committees (BCs).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[November 5, 2019](#): Council adopted Resolution 69-2019 initiating a BC youth member program.

[November 17, 2020](#): Seven youth applicants were appointed to BCs after.

On [May 3, 2022](#), and [March 21, 2023](#), Council directed staff to continue youth recruitment efforts.

In the fall of 2023 and winter of 2024, several BC youth applications were received, and a panel of Council members, BC staff liaisons, and BC chairs interviewed the nominated applicants.

ANALYSIS

Authority to fill city BC vacancies is granted to the Mayor and Council by Section 26 of the City Charter. To fill vacant positions, members of Council, and appropriate staff liaisons and BC chairs, conduct interviews from applications received by the city. The interview panel makes appointment recommendations to Council, which considers and typically approves recommendations through the regular session consent agenda. Appointed individuals serve for a term length determined by the MMC. BC appointments are made when a term has expired or when a position has been vacated. BC terms expire on June 30, but appointments are also made as needed to fill vacancies.

In 2019, the city initiated a youth BC member pilot program that resulted in Council appointing seven youth members to select BCs in November 2020. About half of the youth members appointed remained active until resigning due to attending college. Youth recruitment after the COVID-19 pandemic proved to be difficult and slow going.

In May 2022 and March 2023, Council directed staff to focus recruitment on three specific BCs - the Arts Committee, Library Board, and the Parks and Recreation Board (PARB). Staff recruitment efforts included attending school functions and contacting faculty, engaging the Ledding Library Teen Advisory Board (TAB), and using social media. During the January work session, Council directed staff to proceed with interviews before the annual recruitment process.

As of March 2024, a total of six applications from five youth applicants had been received. Interviews were held on March 28 and interview panels consisted of Mayor Batey, Councilor

Khosroabadi, the chair from each of the three BC's, and staff liaisons from the Ledding Library Board and PARB. The panels have nominated all applicants to vacant positions.

BUDGET, CLIMATE, & WORKLOAD IMPACTS

There are no fiscal, climate, or workload impacts associated with the recommended actions.

EQUITY IMPACT

Staff strive to make participation with the city's BC's as accessible as possible by holding hybrid meetings and offering BC applications translated into other languages. The addition of youth members on the city's BCs will help to build relations with our younger community members and provide a space for youth to have a voice in local government.

COORDINATION, CONCURRENCE, OR DISSENT

The office of the city recorder worked with BC staff liaisons, BC chairs, and members of Council to interview and nominate the following individuals.

STAFF RECOMMENDATION

Staff recommends making the following appointments:

Arts Committee: two-year terms, limit of three consecutive terms.

| Position | Name | Term Start Date | Term End Date |
|-----------------|------------------|------------------------|----------------------|
| Y1 | Harper Paramchuk | 4/16/2024 | 6/30/2026 |
| Y2 | Adair Rhodeside | 4/16/2024 | 6/30/2026 |

Library Board: two-year terms, limit of three consecutive terms.

| Position | Name | Term Start Date | Term End Date |
|-----------------|------------------|------------------------|----------------------|
| Y1 | Beatrice Perkins | 4/16/2024 | 6/30/2026 |

Park and Recreation Board (PARB): two-year terms, limit of three consecutive terms.

| Position | Name | Term Start Date | Term End Date |
|-----------------|----------------|------------------------|----------------------|
| Y1 | Avree Hayes | 4/16/2024 | 6/30/2026 |
| Y2 | Stella Stastny | 4/16/2024 | 6/30/2026 |

ALTERNATIVES

Council could decline to make the recommended appointments, which would result in vacancies on the noted boards and committees.

ATTACHMENTS

1. Resolution

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, MAKING YOUTH BOARD AND COMMITTEE MEMBER APPOINTMENTS.**

WHEREAS Milwaukie Charter Section 26 authorizes the Mayor, with the consent of the City Council, to make appointments to boards and committees (BCs), and

WHEREAS in November 2019, the City Council initiated a youth BCs member pilot program and in May 2022 and March 2023 Council directed that the program be extended, and

WHEREAS the city conducted a recruitment and interview process that resulted in interview panels consisting of Council members, staff liaisons, and BC members nominating the individuals named below to fill BC positions, and

WHEREAS the panels recommend the following individuals be appointed.

Arts Committee:

| Position | Name | Term Start Date | Term End Date |
|----------|------------------|-----------------|---------------|
| Y1 | Harper Paramchuk | 4/16/2024 | 6/30/2026 |
| Y2 | Adair Rhodeside | 4/16/2024 | 6/30/2026 |

Library Board:

| Position | Name | Term Start Date | Term End Date |
|----------|------------------|-----------------|---------------|
| Y1 | Beatrice Perkins | 4/16/2024 | 6/30/2026 |

Park and Recreation Board (PARB):

| Position | Name | Term Start Date | Term End Date |
|----------|----------------|-----------------|---------------|
| Y1 | Avree Hayes | 4/16/2024 | 6/30/2026 |
| Y2 | Stella Stastny | 4/16/2024 | 6/30/2026 |

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the individuals named in this resolution are appointed to the identified boards or committees of the City of Milwaukie for the term dates noted.

Introduced and adopted by the City Council on **April 16, 2024.**

This resolution is effective immediately.

Robert Massey, Council President

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Assistant City Manager

Date Written: Mar. 29, 2024

Reviewed: Mandy Byrd, Development Project Manager, and
Kelli Tucker, Accounting & Contracts Specialist

From: Peter Passarelli, Public Works Director

Subject: **Public Safety Building Seismic Retrofit Project Increase Authorization**

ACTION REQUESTED

Council is asked to authorize an increase of the project authorization amount for the public improvement contract with 2KG Contractors for seismic retrofits on the Public Safety Building (PSB).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[September 6, 2022](#): Council authorized the city manager to sign a grant agreement with the State of Oregon Seismic Rehabilitation Grant Program (SRGP) in the amount of \$1,233,817 for seismic upgrades to PSB.

[December 6, 2022](#): Council authorized the city manager to sign an engineering services contract with Peterson Structural Engineers (PSE) to provide professional design services for the PSB seismic retrofit project.

[February 6, 2024](#): Council authorized the city manager to approve a public improvement contract with 2KG Contractors in the amount of \$720,000 for seismic retrofit upgrades of PSB.

ANALYSIS

In February, Council approved a public improvement contract with 2KG for \$720,000, which was the exact dollar amount of the contract award and did not include any contingency funds to cover unforeseen costs (i.e., scope and cost change orders). The grant with SRGP provides funds for construction costs up to \$868,060, and thus a contingency for related costs with this project.

Staff asks Council to increase the total project authorization amount with 2KG Contractors up to \$868,060, allowing delegated staff to approve scope changes, as needed, to complete the project. The goal is to use all available grant funds on eligible project expenses.

BUDGET IMPACT

The additional project cost, or contingency, is funded by the SRGP grant and is already identified in Facilities' budget and Capital Improvement Plan for the 2023-2024 biennium budget.

WORKLOAD IMPACT

City staff will supplement inspection needs of the project as necessary. City staff will be responsible for temporarily moving furnishings and other materials during the project.

CLIMATE IMPACT

None.

EQUITY IMPACT

Seismic upgrades to the public safety building will create a safer work environment for first responders and public safety staff, and promote continuous operations during seismic events in order to perform the functions and duties required for assisting the city's most vulnerable populations.

In terms of procurement, construction contracts were awarded by low-bid and therefore exempt from equity-related procurement requirements under the city's public contracting rules.

COORDINATION, CONCURRENCE, OR DISSENT

Not applicable.

STAFF RECOMMENDATION

Staff recommends that Council increase the project authorization amount with 2KG Contractors to not exceed \$868,060 to allow for any unforeseen changes necessary to complete the project, and to authorize delegated staff to administer the project in accordance with the project specifications up to the increased amount.

ALTERNATIVES

Council could direct staff to deny any proposed/recommended contingency spending or change orders and maintain the contract amount of \$720,000, leaving \$148,060 in SRGP grant funds on the table.

ATTACHMENTS

1. Resolution

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING AN INCREASE IN THE PROJECT AUTHORIZATION FOR CONSTRUCTION SERVICES FOR THE PUBLIC SAFETY BUILDING SEISMIC RETROFIT PROJECT.**

WHEREAS the city's 26,000 square foot Public Safety Building (PSB) is a critical component of the city's public safety and emergency response infrastructure, and

WHEREAS the PSB was constructed prior to updated seismic building codes, and

WHEREAS the city conducted a seismic evaluation of the building and based on the results of that evaluation, was awarded grant funding from the State of Oregon Seismic Rehabilitation Grant Program (SRGP) for seismic retrofit upgrades, and

WHEREAS public works staff solicited and received formal competitive bids in compliance with Public Contracting Rule 40.000, and

WHEREAS 2KG Contractors, Inc. was the lowest responsive bidder, and

WHEREAS Council adopted [Resolution 6-2024](#) authorizing the city manager to approve a public improvement contract for \$720,000 with 2KG Contractors, Inc. for seismic retrofits at PSB, and

WHEREAS the available construction funding under the SRGP grant was not included as contingency in the initial contract authorization for 2KG Contractors, Inc; and

WHEREAS the contract amount authorized by Resolution 6-2024 needs to be increased to reflect the additional funding.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, that the project authorization amount for seismic retrofits with 2KG Contractors, Inc. be increased by \$148,060 and that the city manager, public works director, or their designee is authorized to administer the project in accordance with the project specifications and SRGP grant agreement in the amount not to exceed \$868,060.

Introduced and adopted by the City Council on **April 16, 2024**.

This resolution is effective immediately.

Robert Massey, Council President

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Acting City Manager

Date Written: Apr. 3, 2024

Reviewed: Peter Passarelli, Public Works Director, and
Jherica Zink, Administrative Specialist II

From: Adam Moore, Parks Development Coordinator

Subject: **Metro Local Share grant acceptance for Neighborhood Park Construction**

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign an intergovernmental agreement (IGA) with Metro for \$317,000 from the Metro parks and nature bond's local share program.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**Park Development Project**

[September 14, 2021](#): The park development project was presented by staff and discussed by Council during a study session.

[January 4, 2022](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[June 7](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[September 20](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[November 1](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[December 6](#): Council approved the concept plans for Scott Park, Bowman-Brae Park, and Balfour Park by resolution.

[July 11, 2023](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[August 8](#): Balfour Park & Bowman-Brae Park public hearings.

[October 3](#): An update on the status of the park development project was presented by staff and discussed by Council during a regular session.

ANALYSIS

Grant support from the Local Share program provided by Metro's 2019 parks and nature bond for \$317,000 will be used on the construction of the parks. Additional funds for the partial construction of Scott, Bowman-Brae and Balfour parks include \$350,000 from the Metro Nature in Neighborhoods (NIN) – Neighborhood Livability grant program, \$2.25 million from the

American Recovery Program Act (ARPA) and \$60,000 from the city's Capital Improvement Plan (CIP) funds already received. A grant specifically for Scott Park for \$300,000 was also received from Oregon State Parks. The city has also recently been awarded \$22,603 in funds from the Milwaukie Park Foundation and Ardenwald-Johnson Creek Neighborhood District Association (NDA) for Balfour Park construction. City staff are negotiating the use of \$25,000 in SAFE street funds. If less than \$317,000 is necessary for the construction of these three parks, the remaining funds could be rolled over to another park project in Milwaukie. The Local Share program is a re-imbusement program.

Designs for Scott, Balfour, and Bowman-Brae parks have reached 100% and the final round of community engagement was held between October 3 and 17. The project is currently under construction with completion expected by the end of October 2024. Playground equipment was ordered through a purchase agreement through the King County Directors Association (KCDA) purchasing co-op. A consulting team led by GreenWorks, Inc are acting as technical construction managers overseen by city staff in the public works department.

CLIMATE IMPACTS

The park development project will help the city address climate change adaptation and mitigation goals at the neighborhood level. This project will add park amenities, vegetation, stormwater facilities, and permeable sidewalks to existing city parkland. These new park amenities have the potential to limit automotive trips as residents living in the three Milwaukie neighborhoods will have developed parks within a walkable distance of their homes. Additional trees and plants will help meet the city's 40% tree cover goals, while small rain gardens will help with storm water detention. Any development project will have a carbon footprint, though this project will strive to keep its carbon footprint small using natural, recycled, and/or locally sourced products wherever possible.

BUDGET IMPACTS

Staff will work on a budget amendment to account for any revenue and expenses in the fiscal year the grants are received. This grant is a reimbursable grant, and this project is primarily paid for with federal American Recovery Plan Act (ARPA) funds received through the state, which makes up most of the match. A donation from the Ardenwald-Johnson Creek NDA through the Milwaukie Parks Foundation is supporting Balfour Park construction. City staff are negotiating the award of a donation from the Ledding Library Foundation for Scott Park and city funds from the Safe Access for Everyone (SAFE) program streets project to connect neighborhoods together through Scott and Balfour Parks.

EQUITY IMPACT

This project conducted extensive community engagement guided by a public involvement plan created by members Milwaukie's Equity Steering Committee (ESC) and Parks and Recreation Board (PARB) Multiple pathways were provided for community members to participate in the planning and design process of these three parks including six focus groups that convened Black, Indigenous, and other people of color (BIPOC) community, people with disabilities, people who primarily speak Spanish, children from the local Boys and Girls Club, people working with FACT Oregon, and local groups from neighborhood associations, the Ledding Library Board, the Equity Steering Committee, and the Parks and Recreation Board. Of the 1,073 surveys received over the course of this project, 14% have come from people who identify as BIPOC, 38% have been new the Milwaukie planning process, and 62% have been Milwaukie

residents. Thanks to their input, all three parks and play areas were designed to be inclusive by selecting play features and large pathways that are accessible for people who use mobility devices, by creating spaces for families to come together, and by considering how park policies impact historically marginalized communities.

Additionally, community materials such as event flyers, design plans, and other neighborhood communications were consistently translated in Spanish and English throughout almost all phases of the project in order to meaningfully maintain park engagement and communications. For this process, we utilized the city's language contracts with Effectiff LLC, and our subcontract with [IZO PR & Marketing](#).

The Local Share program requires a review by Metro staff to ensure that the tenets of the program have been followed in planning, designing, and constructing projects using the funds. The program requires specific requirements for meeting racial equity during all phases of the project. More information can be found at: <https://www.oregonmetro.gov/tools-partners/grants-and-resources/local-share>

WORKLOAD IMPACTS

Public works staff will be leading the effort to develop these three parks while coordinating with other city departments and outside agencies as required. Under the direction of the public works director, the parks development coordinator will collaborate with North Clackamas Parks and Recreation District (NCPRD) staff where appropriate, and staff in the city manager's office and the planning and engineering departments. In addition to Council, other public boards, and commissions, such as the city's Equity Steering Committee (ESC), Park and Recreation Board (PARB), and Planning Commission will all be engaged, particularly as park master plans are created and refined. Staff will manage workloads and currently have the capacity to manage the work detailed in this report.

COORDINATION, CONCURRENCE, OR DISSENT

Development of new public recreation space will require close collaboration between departments within the city, related outside agencies, and the public.

STAFF RECOMMENDATION

Adopt the resolution authorizing staff to sign the Metro Local Share Intergovernmental Agreement.

ALTERNATIVES

1. Do not approve the IGA and direct staff to value engineer Scott, Balfour, and Bowman-Brae Park to require less than \$317,000 from the Local-Share program.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT FOR METRO'S LOCAL SHARE PROGRAM FOR NEIGHBORHOOD PARK CONSTRUCTION.

WHEREAS Metro has recommended \$317,000 in funding from the 2019 parks and nature bond Local Share Program for Scott, Balfour, and Bowman-Brae Parks, and

WHEREAS the city desires to participate in this program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements, and enhancements, and

WHEREAS the City Council has prioritized the development of Milwaukie's undeveloped parks, and

WHEREAS the city has conducted an extensive public involvement process with the community to develop 2022 park concept plans and 2023 park designs, and

WHEREAS the conceptual plans provide a clear vision for future improvements and amenities to the park site, and

WHEREAS the City of Milwaukie will ensure, through its park provider or itself, adequate funding for on-going operations and maintenance of these park and recreation facilities should the grant funds be awarded.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee are authorized to execute an intergovernmental agreement with Metro's Local Share Program for \$317,000 in funding for park construction.

Introduced and adopted by the City Council on **April 16, 2024**

This resolution is effective immediately.

ATTEST:

Robert Massey, Council President

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Acting City Manager

Reviewed: Michael Osborne, Finance Director

From: Joseph Briglio, Community Development Director

Subject: **Non-Profit Low Income Housing Tax Exemption Program**

Date Written: April 4, 2024

ACTION REQUESTED

Council is asked to adopt a resolution approving the city-wide application of the nonprofit low-income housing property tax exemption for qualifying properties allowed for by [Oregon Revised Statute \(ORS\) 307.540-548](#).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[April 19, 2016](#): Council declared a housing emergency in response to a combination of low vacancy rates and rapidly increasing rents and home sale prices. This emergency has been extended numerous times.

[December 12, 2017](#): Council discussed the low-income housing property tax exemption in relationship to Northwest Housing Alternatives (NHA) Walsh Commons project in a study session.

[January 11, 2018](#); [January 25, 2018](#); and [February 8, 2018](#): The North Clackamas School District (NCSD) Board held study sessions to discuss the non-profit low-income housing tax exemption in relation to the Northwest Housing property tax exemption request. meeting. Following the February 8 discussion, the NCSD Board adopted Resolution R17/18-66 (Attachment 1) approving NHA's property tax exemption at the same meeting.

[February 20, 2018](#); [February 5, 2019](#); [March 3, 2020](#); [March 2, 2021](#); [March 1, 2022](#); [March 7, 2023](#): Council passed resolutions to grant NHA an exemption from property taxes under [ORS 307.540-548](#) for Walsh Commons.

[June 2023](#): Council adopted the city's Housing Production Strategy (HPS).

[February 8, 2024](#): The Council and the NCSD Board held a joint session to consider a proposal to allow non-profit developers of affordable housing to make use this tax incentive program city-wide rather than project by project and parcel by parcel. Both entities were supportive of the idea and directed staff to move forward in taking next steps.

ANALYSIS**Background**

Milwaukie declared a housing emergency in 2017 and adopted a five-year action plan with strategies to develop new affordable units, prevent displacement, keep units affordable, and connect our residents to existing affordable housing.

One element of this action plan is centered around providing incentives to encourage the development of affordable housing. Existing examples of incentive-based solutions Milwaukie has used include:

- A [1% Construction Excise Tax \(CET\)](#) on new construction permits with a value of more than \$100,000 to support affordable housing, which is used to fund incentives for affordable housing development.
- A [Vertical Housing Development Zone \(VHDZ\)](#), which provided qualified development projects a 10-year property tax exemption on the value of new construction or rehabilitation for 20 percent per eligible residential floor(s) above a commercial ground floor with total exemption limited to no more than 80 percent. An additional exemption was available for projects with affordable housing (land exemption of 20 percent per eligible floor up to 80 percent). The VHDZ had a sunset of July 1, 2022, and was not renewed.
- Nonprofit low-income housing tax exemption program (authorized by [ORS 307.540-548](#)) for development of WALSH Commons by NHA in 2019.

This last tool allows properties that are owned or leased by a nonprofit organization and are limited to households earning no more than 60% of the area median family income (MFI) to be exempt from property taxes. Through the exemption, the nonprofit is able to maintain income-restricted rents more easily for households. To approve an exemption through this tool, the state requires 51% of the local taxing authority to authorize forgoing that revenue. In the case of the Northwest Housing Alternatives development in 2019, the city and school district—who combined account for approximately 60% of local property taxes—comprised the majority needed to authorize the exemption.

Milwaukie has been interested in exploring ways to more readily use the nonprofit low-income housing tax exemption program, instead of on a case-by-case basis. In other communities, taxing entities have approved one-time resolutions that allow any eligible property to apply without needing to seek approval from taxing districts each time. These cities then report to their Council annually about new developments that still comply with the program requirements and are receiving the exemption. Examples from our local area include:

- [City of Tigard](#)
- [City of Portland](#)
- [City of Salem](#)
- [City of Tualatin](#)
- [City of Bend](#)

Outreach and Coordination

The city manager's office, community development department, and finance department have jointly led efforts to analyze potential impacts of this proposal and conduct outreach with other taxing authorities. The city invited all local tax authorities to attend drop-in sessions on December 15 and December 18, 2023, to review this impact analysis, hear about the city's proposals, and ask any questions. Representatives from NCSD, Clackamas Fire District #1 (CFD1), Metro, and Clackamas Community College (CCC) all attended. No one raised any significant concerns or asked for a follow-up meeting.

City and School District Consensus

Combined, the city and NCSD are currently responsible for more than 60% of the local tax rate in Milwaukie; based on the requirements in state statute for use of the non-profit low-income affordable housing tax abatement program, applications would be approved if both agencies authorize it. At the February 8 Council and NCSD Board joint session meeting, staff received direction to pursue and coordinate resolutions that would authorize use of the program on all eligible and qualifying properties, eliminating the need to negotiate an agreement on a case-by-case basis and making it easier and more attractive for nonprofit developers to build this kind of housing in Milwaukie.

Since the joint session, the NCSD Board has moved forward toward the adoption of a resolution (see Attachment 2 for a draft of the school board resolution; once adopted staff will provide a copy of the adopted resolution to Council under separate cover) authorizing the program to be applied throughout the City of Milwaukie. Staff recommends that Council adopt a similar resolution to memorialize our shared agreement and allow for this program to be used city-wide for a period of 10 years. If the council adopts the resolution, staff will provide a report of approved developments to all local taxing authorities annually, prior to submitting information to the County assessor's office.

BUDGET IMPACT

The following table shows the estimated property tax loss per \$1,000,000 in assessed value of new development that qualifies under the program. The city doesn't anticipate a large number of qualifying properties in the near term (i.e., within five years); however, local bond measures and state housing funds will support more opportunities for non-profit housing than in previous decades.

| Taxing Authority | Taxed Rate for Tax Code 012-002 | Property Tax Revenue loss per \$1,000,000 Assessed Value |
|--|---------------------------------|--|
| North Clackamas Schools | 4.6615 | \$4,662* |
| City of Milwaukie | 4.0300 | \$4,030 |
| Clackamas County | 2.3582 | \$2,358 |
| County Fire District #1 | 2.3091 | \$2,309 |
| North Clackamas School Bond | 2.1961 | \$0 |
| North Clackamas Schools Local Option Levy | 1.6300 | \$1,630 |
| Clackamas Community College | 0.5428 | \$543* |
| County Fire District #1 Local Option Levy | 0.5200 | \$520 |
| NCPRD | 0.5116 | \$512 |
| County Library | 0.3874 | \$387 |
| Metro Bond | 0.3820 | \$0 |
| County Public Safety Local Option Levy | 0.3680 | \$368 |
| Clackamas ESD | 0.3593 | \$359 |
| City of Milwaukie Bond | 0.3302 | \$0 |
| Milwaukie Urban Renewal | 0.3063 | \$306 |
| Clackamas Community College Bond | 0.2484 | \$0 |
| County Urban Renewal | 0.2152 | \$215 |
| Metro Local Option Levy | 0.0960 | \$96 |

| | | |
|--|--------|------|
| Metro | 0.0940 | \$94 |
| County Emergency Radio Bond | 0.0885 | \$0 |
| Fire District #1 Bond | 0.0817 | \$0 |
| Port of Portland | 0.0685 | \$69 |
| County Extension and 4H District | 0.0488 | \$49 |
| Soil Conservation District | 0.0488 | \$49 |
| Vector Control District Local Option Levy | 0.0250 | \$25 |
| Vector Control District | 0.0064 | \$6 |

**Educational institutions that receive formula funding from the state would not experience this full revenue loss*

As demonstrated in the tables above, the city would anticipate forgoing approximately \$4,300 (between general property tax and urban renewal) per each \$1,000,000 in assessed value of new qualifying development. In the case of WALSH Commons, the only development currently approved in Milwaukie under this program, the city’s property tax loss in 2023 was approximately \$10,582 in general tax revenue and \$804 in urban renewal revenue.

WORKLOAD IMPACT

If the city and NCSD provide ongoing approval to utilize this program, staff will work to prepare an annual report in the spring to both agencies (and all local taxing authorities) disclosing how many properties qualify and estimating potential impact. Although staff foresees this reducing some administrative burden as individual agreements will no longer need to be negotiated on a case-by-case basis, it will still likely require staff time for consistent monitoring and tracking as additional properties apply and utilize this incentive.

EQUITY IMPACT

This program would only be utilized by non-profit developers who are creating housing units that are income restricted. There is a housing crisis in general, but an even larger crisis for housing that is affordable to individuals and families who are considered to be low-income. This program supports the development of a broader spectrum of housing options and better meets the needs of our entire community.

CLIMATE IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

The city reached out to all other local taxing authorities to attend drop-in sessions on December 15 and December 18, 2023, to review this impact analysis, hear about the city’s proposals, and ask any questions. Representatives from NCSD, CFD1, Metro, and CCC all attended. No one raised any significant concerns or asked for a follow-up meeting. The city and NCSD Board held a joint session on February 8 and directed staff to move forward with the program. Since then, the NCSD Board has shown good faith efforts by adopting its own resolution agreeing to the program.

STAFF RECOMMENDATION

Staff recommends that Council adopt the resolution authorizing the Non-Profit Low Income Housing Tax abatement to be allowed for all eligible properties throughout the city.

ALTERNATIVES

Council could not approve the resolution and continue to have staff bring applications forward to each agency on a case-by-case basis (the current process).

ATTACHMENTS

1. Council Resolution
2. Draft NCSD Resolution

COUNCIL **RESOLUTION No.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, GRANTING AN EXEMPTION FROM PROPERTY TAXES UNDER OREGON REVISED STATUTE (ORS) 307.540 TO 307.548 FOR ANY QUALIFYING NONPROFIT LOW-INCOME HOUSING PROJECT WITHIN CITY LIMITS.**

WHEREAS in response to rapidly rising residential rents and a lack of affordable housing options for low-income families, the City Council declared a housing emergency in Milwaukie on April 19, 2016, and continues to explore opportunities to provide affordable housing across a range of different income spectrums, and

WHEREAS ORS 307.540 to 307.548 authorizes property tax exemptions for affordable housing owned by nonprofit corporations and occupied by low-income persons, and the city wishes to adopt the policy set forth in those sections, and

WHEREAS the City Council has requested that the North Clackamas School District (NCSD) agree to the policy of exemption under ORS 307.540 to 307.548 and thereby allow the exemption of property taxes levied by the school district for qualifying properties within the city limits; and

WHEREAS the city and NCSD property tax levies jointly comprise more than 51 % of the total combined rate of taxation for all properties in Milwaukie, and

WHEREAS on April 11, 2024, the NCSD Board of Directors adopted a resolution approving a property tax exemption program for qualifying properties in Milwaukie.

Now, Therefore, be it Resolved as follows:

Section 1: The City of Milwaukie adopts the provisions of ORS 307.540 to 307.548 city-wide.

Section 2: The finance director is directed to provide an annual report of eligible projects that were approved in the prior 12-month period for the school district and other taxing districts' records.

Section 3: This resolution is to remain in effect until June 30, 2024, unless otherwise extended by amendment or new resolution.

Section 4: This resolution is effective upon adoption.

Introduced and adopted by the City Council on **April 16, 2024.**

Robert Massey, Council President

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

NORTH CLACKAMAS SCHOOL DISTRICT NO. 12

RESOLUTION _____

A RESOLUTION OF THE BOARD OF DIRECTORS OF NORTH CLACKAMAS SCHOOL DISTRICT NO. 12, CLACKAMAS COUNTY, OREGON, AGREEING TO THE POLICY OF EXEMPTION OF CERTAIN NONPROFIT LOW-INCOME-HOUSING PROJECTS UNDER ORS 307.540 TO 307.548 AT THE REQUEST OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE.

WHEREAS, affordable housing provides permanent, stable housing options for low-income families; and

WHEREAS, affordable housing provides school-age children experiencing homelessness with transitional housing, through eviction prevention and rapid re-housing services; and

WHEREAS, stable housing reduces student mobility, improves school effectiveness, addresses attendance challenges, and inhibits malnutrition; and

WHEREAS, the City Council of the City of Milwaukie, Oregon, has adopted the provisions of ORS 307.540 to 307.548, which authorize the City to approve an exemption from city property taxation for certain low-income housing owned and operated by a nonprofit corporation under ORS 501(c)(3) or 501(c)(4); and

WHEREAS, ORS 307.543 authorizes the City of Milwaukie to request other taxing districts to approve the policy of exemption under ORS 307.540 to 307.548 and thereby extend the exemption to the tax levies of all taxing districts if the rate of taxation of the taxing district plus the rate of taxation of the City equal 51 percent or more of the total combined rate of taxation on the property granted exemption; and

WHEREAS, the City Council of City of Milwaukie has requested that the Board of Directors (the “Board”) of North Clackamas School District No. 12 (the “District”) to agree to the policy of exemption under ORS 307.540 to 307.548 and thereby extend the exemption to the property taxes levied by the District; and

WHEREAS, for the reasons stated above, the Board finds that encouraging and supporting the development of affordable housing in the District will further the District’s educational mission and improve student outcomes; and

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board agrees to and approves the policy of exemption under ORS 307.540 to 307.548, as adopted and administered by the City of Milwaukie.
2. The term of this approval shall commence upon approval of this resolution by the Board and shall continue until June 30, 2034, which date may be extended by resolution of the Board at the Board’s pleasure. The Board reserves the right to repeal this resolution of approval

prior to June 30, 2034, and upon 30 days' written notice to the City of Milwaukie, if, in the Board's sole discretion, the law or circumstances have changed and the policy of exemption under ORS 307.540 to 307.548 is no longer in the best interests of the District, or if the City fails to comply with sections 3 or 4 of this resolution.

3. If the City of Milwaukie adopts additional provisions relating to the exemption under ORS 307.453(3) following the effective date of this resolution, the City must seek reauthorization of the resolution from the Board.

4. Approval of this resolution is contingent on the City of Milwaukie providing an annual written report no later than May 1 of each year of eligible developments approved in the prior 12-month period.

5. All projects approved for a tax exemption by the City of Milwaukie during the term of this resolution shall continue to be exempt as provided in ORS 307.543(2) after expiration of this resolution, unless or until the exemption is terminated as provided in ORS 307.548.

DATED this ____ day of _____, 2024.

School Board Chair

District Superintendent / Clerk



MILWAUKIE POLICE DEPARTMENT

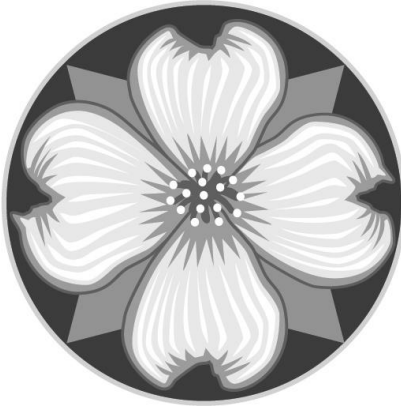
Memorandum

To: Mayor Batey and Milwaukie City Council
From: Luke Strait, Police Chief *LS*
Through: Ann Ober, City Manager
Date: March 26, 2024
Re: OLCC Application – Bob’s Red Mill – 5000 SE International Way, Milwaukie

Action requested:

It is respectfully requested the council approve the OLCC application for Bob’s Red Mill located at 5000 SE International Way, Milwaukie OR 97222.

We have conducted a background check and find no reason to deny the request for the liquor license.



RS Agenda Item

7

Business Items

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Acting City Manager

Reviewed: Michael Osborne, Finance Director

From: Captain Ryan Burdick

Subject: **C800 Radio System Upgrade – Budget Shortfall Update**

Date Written: March 22, 2024

ACTION REQUESTED

No Council action is requested at this time. Former City Manager Ann Ober asked the police department to update Council on the project costs related to the C800 emergency radio communications project.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Please refer to the attached January 2023 memorandum related to C800 cost overruns.

BACKGROUND

The Clackamas County Board of Commissioners on behalf of Clackamas 800 Radio Group (C800) referred a capital construction bond measure to replace the county wide emergency radio communications system to the voters in the May of 2016 election. The measure passed with a 71% approval.

- In April 2022, John Hartsock, the project manager, announced by email that the C800 project, which was nearing completion, was several million dollars over budget.
- In January 2023, the attached memorandum and an update was provided to Council on the C800 project and its continued financial challenges.

Milwaukie is one of the 19 designated participating agencies, all of which share financial responsibility for the project. The Milwaukie Police Department (MPD) is classified as a “partner agency” and public works is classified as a “user agency.”

Project Manager Hartsock left his position as project manager and was replaced by Mark Buchholz. After the manager change, an audit of the program was completed by an outside audit firm to examine the finances of the program. Following the audit, Milwaukie was asked to supplement the existing fees with an estimated additional \$74,145 in July 2024 to account for the budget shortfall. In addition, Clackamas County helped alleviate some of the cost overrun issues with \$2 million dollars of federal American Recovery Plan Act (ARPA) funds to address the budget deficit.

On July 1, 2023, a total payment of \$112,363 was made by Milwaukie to the C800 group. This payment was comprised of two parts: 1) a per radio charge of \$52,562 for the approximately 82 radios Milwaukie uses between police and public works, and 2) a \$59,801 budget overrun cost sharing payment, which was reduced from the \$74,145 estimated in early 2023.

ANALYSIS

The C800 project is near completion but budgetary issues persist. Discussions on how to return the project to proper financial condition or eliminate any budgeted deficits are ongoing. User fees or continued cost increases are expected in the years ahead. This is to ensure yearly revenues keep pace with expenses and the project returns to solvency. The user fees will likely be increased across all 19 participating agencies within Clackamas County. User fees likely will be expensed related to the number of radios each participating agency has in use. This fee increase will likely continue until revenues sufficiently exceed expenses on a year-to-year basis.

BUDGET IMPACT

Estimated costs for C800 for Milwaukie are projected to increase. Budgeted costs for Milwaukie for the biennium budget are \$167,000, (or \$83,500 for both fiscal year 2025 and 2026). This is still subject to change. There is a chance surplus equipment from the C800 project could be sold to Columbia County and these funds would result in a cost reduction to Milwaukie's overall payment. The timeline for this possible sale is unknown. Also, there is the exposure of potential expenses for items or events not included in this budget that could raise the cost to the city. For example, if there is another wildfire season and towers are taken offline, those unforeseen costs could impact the city.

CLIMATE, EQUITY, & WORKLOAD IMPACT

Not applicable.

COORDINATION, CONCURRENCE, OR DISSENT

This equipment is essential infrastructure to the city and there is no alternative to this at the moment. It is hoped that the project returns to a sustainable financial path going forward, and Milwaukie should continue to support this project despite cost overruns.

STAFF RECOMMENDATION

Staff recommends that Council continue to authorize financial support for the C800 project.

ALTERNATIVES

None proposed.

ATTACHMENTS

1. January 2023 C800 Budget Shortfall Memorandum
2. C800 Invoice from City of Milwaukie dated 7/1/2023



MEMORANDUM

To: Mayor and City Council
From: City Administration
Date Written: Jan. 25, 2023
Subject: **C800 Radio System Upgrade – Budget Shortfall**

BACKGROUND

The Clackamas County Board of Commissioners on behalf of Clackamas 800 Radio Group (C800) referred a Capital Construction Bond Measure to replace the countywide emergency radio communications system to the voters in the May 2016 election. The measure received a 71% approval.

PROJECT SUMMARY: To create an efficient, dependable public safety radio communications system that works in all parts of Clackamas County.

When the public calls 9-1-1 for help, Clackamas County’s emergency communications dispatchers utilize the C800 radio system to dispatch all fire/rescue, law enforcement, and ambulance providers countywide. Although the current system built in 2000 has worked for decades, manufacturers no longer make key parts and the communications towers are not designed to withstand the earthquakes predicted for Oregon.

The project includes:

- Converting the emergency radio system to current digital technology;
- Expand coverage to county areas that currently have none by adding 6 communication sites;
- Improve in-building coverage, so radios can function within hospitals, schools, and other large structures by adding 7 communication sites;
- Improve reliability during major disasters in part by improving 13 existing communication sites;
- Replace approximately 1000 analog radios countywide; and

The Partnership:

Clackamas 800 Radio Group partnered with Washington County Consolidated Communications Agency (WCCCA) for the development of the existing system 20 years ago, and now the new system. This has been a very successful partnership producing economies of scale, operating efficiencies, and an excellent level of service for both counties public safety providers, residents, and businesses.

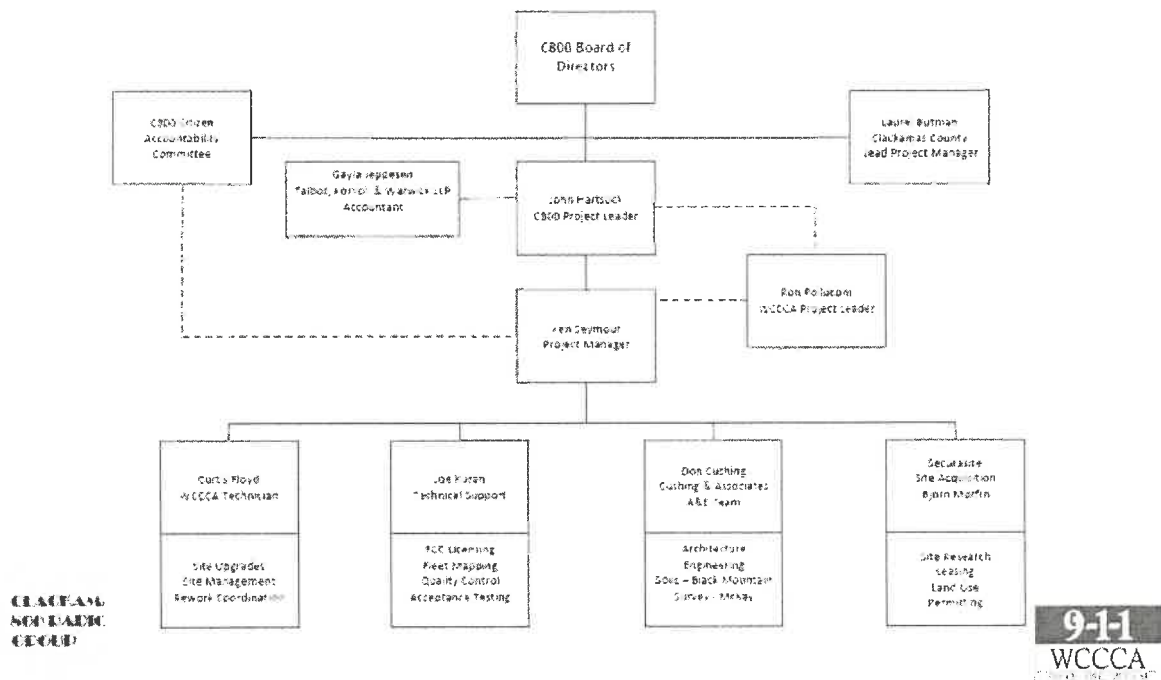
- Why was the system being replaced?

The existing analog radio system was implemented in the 90's and was at end of life. It was simply dying. It provides critical emergency communication to police, fire and medical throughout all of Clackamas County. This was also to make the necessary transition to a digital system. Much of Oregon, Washington and Idaho had already made these critical improvements.

- This project involved over 2,500 portable and mobile radios and ten existing radio sites, with 14 new sites to improve coverage.
- Bond 3-476 passed with 71% voter support in May 2016
- August 2016, four firms applied to be project manager of this Radio Replacement Project
- A citizen accountability committee was established
- C800 Board of Directors established
- November 2016 – IGA between County and C800 group
- Procurement process discussed January 2017

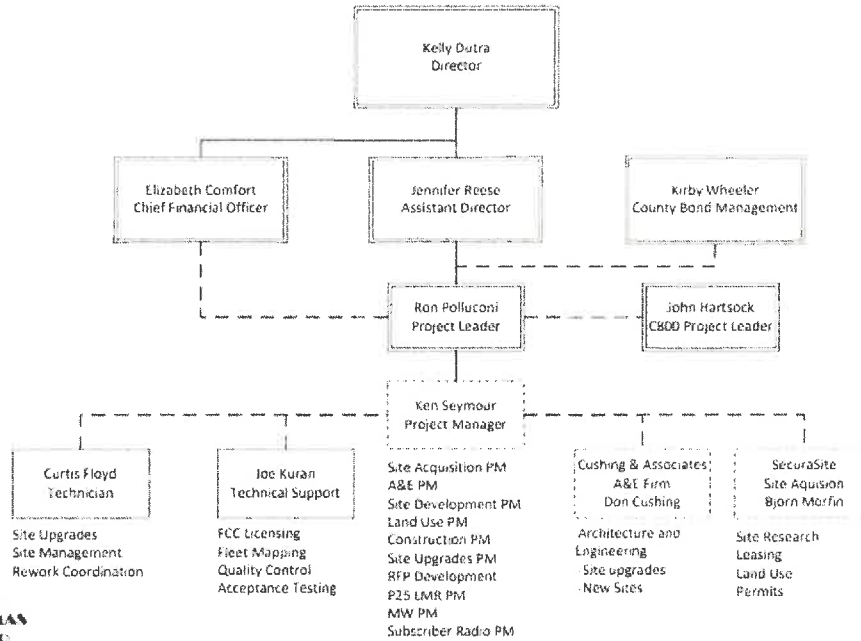
Below you'll find a few graphics which may help outline the scope and scale of the C800 project.

C800 ECSU Project Team



WCCCA ECSU Project Team

ECSU Project
Organization
Effective 12_15_2016



CLAUDEMAN
NOE/ALB
CCUD



C800 Radio System Upgrade Budget (1)

| | | | |
|-----------------|----------------------------------|---------------|--------------|
| Project | C800 Radio System Upgrade | | |
| Date Original | 10/1/2015 | Date Updated: | Dec 30, 2016 |
| Project Manager | Ken Seymour | | |

| Item | Budget | Original Encumbrance | Additional Encumbrance / Change Order | Estimate to Complete | Percent Complete | Estimated Total | (Over) Under Budget | Expended |
|--|-------------------|----------------------|---------------------------------------|----------------------|------------------|-------------------|---------------------|-------------------|
| Soft Cost | | | | | | | | |
| Site Acquisition Consulting - Guest | 80,000 | 30,000 | 40,000 | 0 | 95.81% | 70,000 | 10,000 | 67,589.61 |
| Site Acquisition Consulting - Permits Securable | 270,000 | 269,500 | 4 | 1,500 | 41.45% | 270,000 | 0 | 111,969.60 |
| Site Planning - Cushing | 450,000 | 317,171 | 1 | 132,829 | 56.44% | 317,171 | 2,829 | 224,249.28 |
| Geotechnical - Environmental Consulting - Buck Min | 200,000 | 84,100 | 1 | 115,900 | 42.05% | 139,100 | 16,900 | 44,800.00 |
| Survey - McKay | 75,000 | 50,150 | 1 | 24,850 | 45.44% | 70,150 | 4,850 | 23,400.00 |
| USFS Land Use Fees | 10,000 | 10,000 | 0 | 0 | 0.00% | 10,000 | 0 | 0.00 |
| Land Use Fees | 25,000 | 252 | 1 | 24,748 | 1.33% | 25,200 | 4,752 | 250.00 |
| Plan Check - Permits Dept | 80,000 | 80,000 | 0 | 0 | 0.00% | 80,000 | 0 | 2,059.50 |
| Printing | 2,500 | 2,500 | 0 | 0 | 0.00% | 2,500 | 0 | 0.00 |
| Bid Advertising | 3,500 | 3,500 | 0 | 0 | 0.00% | 3,500 | 0 | 0.00 |
| Materials Testing & Inspection | 40,000 | 40,000 | 0 | 0 | 0.00% | 40,000 | 0 | 1,129.75 |
| Project Management | 300,000 | 279,000 | 1 | 21,000 | 6.00% | 299,000 | 1,000 | 0.00 |
| Legal Fees | 30,000 | 13,000 | 1 | 17,000 | 21.00% | 30,000 | 0 | 2,279.00 |
| Licensing | 20,000 | 20,000 | 0 | 0 | 0.00% | 20,000 | 0 | 0.00 |
| Miscellaneous | 15,000 | 700 | 1 | 14,300 | 24.14% | 9,700 | 5,300 | 2,400.00 |
| Sub-Total Soft Cost | 1,506,000 | 1,046,906 | 40,000 | 404,500 | 34.42% | 1,491,406 | 14,594 | 513,368 |
| Construction Cost | | | | | | | | |
| Site Construction | 9,200,000 | 322,239 | 0 | 8,877,761 | 2.55% | 9,200,000 | 0 | 224,670.00 |
| Generator | 5,600,000 | 5,600,000 | 0 | 0 | 0.00% | 5,600,000 | 0 | 0.00 |
| 48 DC | 1,000,000 | 1,000,000 | 0 | 0 | 0.00% | 1,000,000 | 0 | 0.00 |
| Lake George Antenna | 11,500 | 11,500 | 0 | 0 | 0.00% | 11,500 | 0 | 17,511.75 |
| Existing Sites | 700,000 | 6,400 | 1 | 693,600 | 6.73% | 700,000 | 0 | 1,400.00 |
| Sub-Total Construction Cost | 16,183,000 | 344,239 | 0 | 15,838,261 | 1.60% | 16,182,500 | 500 | 258,887.57 |

WCCCA Radio System Upgrade Budget

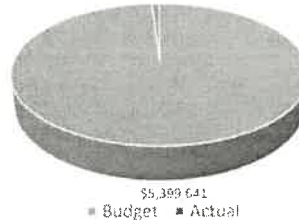
- Services & Contracts category is the only one to date with appreciable Capital Outlay

ECSU Total Budget \$62.6M



- Services & Contracts
- Construction
- Equipment Expenses
- Eq Spares & Contingency

Services & Contracts - Spending to Date

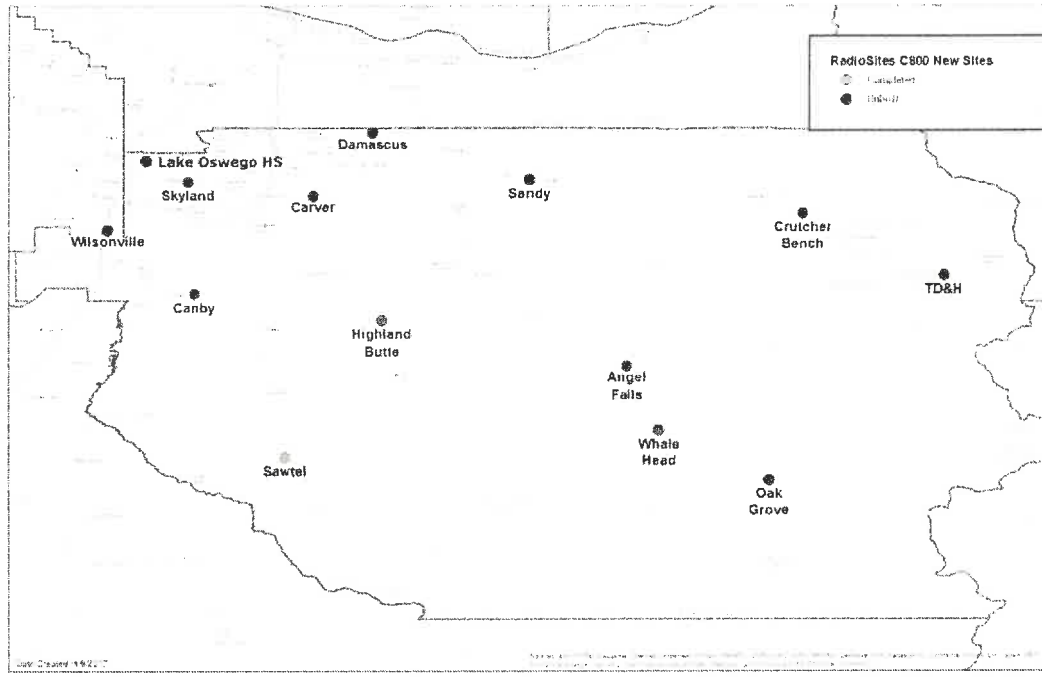


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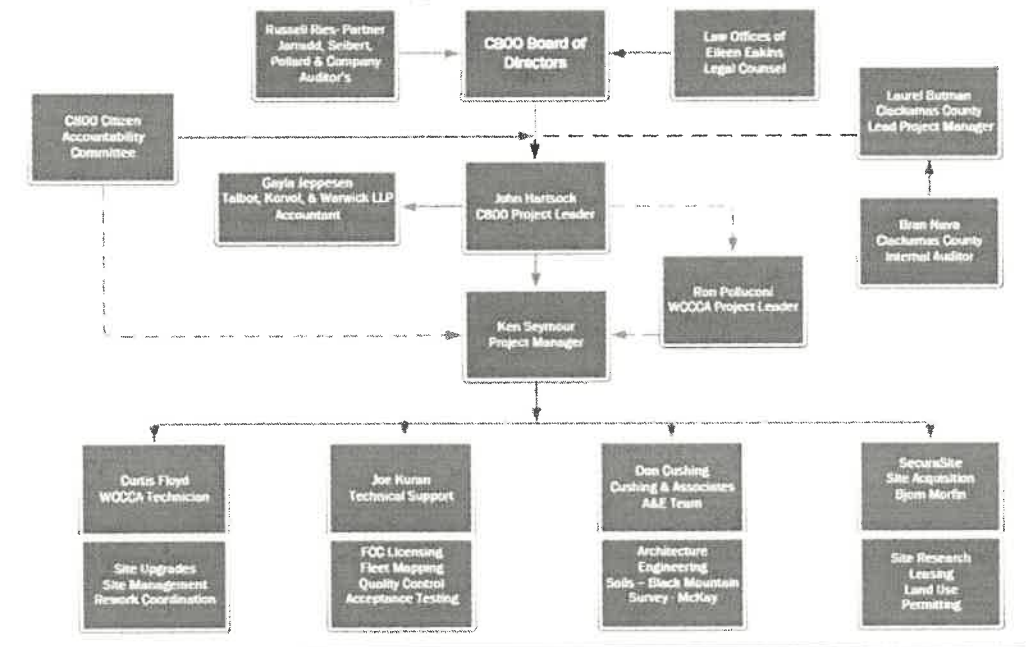


Appendix B

C800 New Site Locations



C800 ECSU Project Team




- In April 2022, John Hartsock, the project manager, announced by email the C800 project, which was nearing completion, was several million dollars over budget.
- City of Milwaukie is one of 19 participating agencies, all of which share the financial liability.
- The police department is classified as a “partner agency” and public works is classified as a “user agency”.
- I immediately notified the city manager and finance director of the budget shortfall at that time and have provided sporadic updates since.
- The project manager was removed from his position, and a replacement was hired.
- An audit was conducted, and research was conducted into what steps could be taken to mitigate the budget shortfall.
- Michael Osborn has been updated and now Toby LaFrance have been briefed and updated.
- After several successful mitigation efforts, the final total for Milwaukie is \$74,145.00
- We were informed if agencies could pay half by spring 23 and half July 1 2023, we could settle this with no loan and no interest.
- The city has a tentative plan in place to pay our debt by July 1, 2023.

Clackamas 800 Radio Group
 5900 NE Pinefarm Court
 Hillsboro, OR 97124

Invoice - FY24 Radio System

| | |
|----------|-----------|
| Date | Invoice # |
| 7/1/2023 | 24-114 |

| |
|---|
| Bill To |
| City of Milwaukie Police 3200 SE Harrison St Milwaukie, OR 97222  8/8/23 <i>Luke Strait</i> 8/8/23 |

110-312-6000

The C800 Radio System operations cost for FY 23/24 are now due.
 Thank you very much.

| | |
|-------|-----------|
| Terms | Due Date |
| | 7/12/2023 |

| Item | Qty | Rate | Description | Amount |
|----------------------|-----|-----------|---------------------------------------|-----------|
| Partner Voice Radios | 82 | 641.00 | Partner Voice Radios | 52,562.00 |
| Partner Fees | | 59,801.00 | Budget overrun cost sharing liability | 59,801.00 |

If you have any questions regarding billing, please contact Mark Buchholz at 503-466-3783 or 503-690-4911.

| | |
|-------------------------|--------------|
| Total | \$112,363.00 |
| Payments/Credits | \$0.00 |
| Balance Due | \$112,363.00 |

VENDOR: 103860 CLACKAMAS 800 RADIO GROUP

403253

08/11/2023

| DATE | INVOICE # | DESCRIPTION | STUB COMMENTS | AMOUNT |
|----------|-----------|---------------------------|---------------|------------|
| 7/1/2023 | 24-114 | CLACKAMAS 800 RADIO GROUP | | 112,363.00 |

112,363.00

403253

| CHECK DATE |
|------------|
| 08/11/2023 |

| PAY THIS AMOUNT |
|-----------------|
| \$112,363.00 |

PAY ---One Hundred Twelve Thousand Three Hundred Sixty Three Dollars and 00/100 Cents---

TO THE ORDER OF
 CLACKAMAS 800 RADIO GROUP
 C/O WCCCA
 5900 NE PINEFARM CT
 HILLSBORO, OR 97124

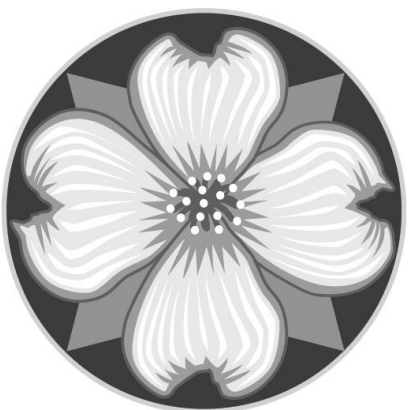


403253

08/11/2023

| DATE | INVOICE # | DESCRIPTION | STUB COMMENTS | AMOUNT |
|----------|-----------|---------------------------|---------------|------------|
| 7/1/2023 | 24-114 | CLACKAMAS 800 RADIO GROUP | | 112,363.00 |

112,363.00



RS Agenda Item

8

Public Hearings

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Acting City Manager

Reviewed: Joseph Briglio, Community Development Director

From: Jeff Tolentino, Assistant City Engineer

Subject: **Willard Street Right-of-Way Vacation**

Date Written: Mar. 25, 2024

ACTION REQUESTED

Council is asked to hold a hearing to vacate a section of the Willard Street right-of-way (ROW) at Milwaukie High School (MHS). This action is being taken to finalize the land use and engineering requirements associated with the rebuilding of MHS.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[March 13, 2018](#): The Planning Commission approved the North Clackamas School District's (NCSD) land use application to demolish and rebuild the MHS main school building (file No. CSU-2017-007). A condition of that approval required the vacation of the portion of right-of-way Willard Street to provide for a 50-ft ROW.

ANALYSIS

Staff worked with NCSD to develop a public pipeline utility easement to provide for maintenance and protection of the existing water main and allow for future connectivity to the site in place of the previously dedicated ROW. Staff will have the easement signed and recorded once the Council has approved the ROW vacation. The purpose for this hearing is to formally vacate the section of the Willard Street ROW as discussed in CSU-2017-007.

BUDGET IMPACT

A slight reduction in street maintenance costs as this segment of SE Willard Street will no longer be maintained by the city.

CLIMATE & WORKLOAD IMPACT

None.

EQUITY IMPACT

The vacated ROW will return to MHS and future access will be controlled by MHS.

COORDINATION, CONCURRENCE, OR DISSENT

This ROW vacation was coordinated with the planning department, city attorney, community development director, and public works director; all concur that this segment of ROW is no longer needed by the city and is best to be maintained by NCSD.

STAFF RECOMMENDATION

Staff recommends that the Council formally vacate the segment of the SE Willard Street ROW as requested.

ALTERNATIVES

No alternatives are recommended for Council to consider pursuing.

ATTACHMENTS

1. Ordinance and Legal Description
2. Public Pipeline Utility Easement
3. Certification of No Outstanding Liens or Taxes Due
4. Affidavit of Publication of Notice

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, VACATING THE PUBLIC STREET RIGHT-OF-WAY WITHIN A SEGMENT OF WILLARD STREET.

WHEREAS the North Clackamas School District (NCSD) submitted land use application CSU-2017-007 seeking approval to reconstruct the main building of Milwaukie High School, and

WHEREAS the Planning Commission approved CSU-2017-007 subject to condition of approval 5.e., which required NCSD to “[p]rovide for right-of-way vacation of that portion of 23rd Ave/Willard to provide for a 50-ft right-of-way”, and

WHEREAS a public utility easement shall be executed that provides for the continued protection, maintenance, and replacement of the existing public water main line located within the segment of Willard Street right-of-way to be vacated, and

WHEREAS the city is authorized under Oregon Revised Statute (ORS) 271.130 to initiate vacation proceedings on its own motion and to hold a hearing upon proper notice to accomplish the same, and

WHEREAS with the public utility easement in place, the city initiated vacation proceedings for the segment of Willard Street right-of-way described and depicted in Exhibits A and B, and

WHEREAS proper notice was given, and a hearing was held on April 16, 2024.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. That portion of the SE Willard Street right-of-way described and depicted in Exhibits A and B is vacated.

Section 2. The city engineer is authorized to take any action necessary to effectuate the vacation so ordered.

Read the first time on _____ and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Robert Massey, Council President

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

EXHIBIT A

Right-of-Way Vacation Description

A portion of right-of-way located in the Northwest One-Quarter of Section 36, Township 1 South, Range 1 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the southeasterly corner of Lot 8, Block 4 of the plat "Young's Addition", Plat No. 460, Clackamas County Plat Records, also being on the northerly right-of-way line of SE Willard Street (25.00 feet from centerline); thence along said northerly right-of-way line, South 82°00'09" West 48.58 feet to the Point of Beginning; thence leaving said northerly right-of-way line on a non-tangent curve to the left (Radial Bearing of South 23°56'24" East) with a Radius of 104.00 feet, a Delta of 44°15'08", a Length of 80.32 feet, and a Chord of South 43°56'02" West 78.34 feet; thence South 21°48'28" West 48.91 feet; thence North 68°11'32" West 6.26 feet to the westerly right-of-way line of SE 23rd Avenue (35.00 feet from centerline); thence along said westerly right-of-way line, North 07°59'51" West 87.63 feet to said northerly right-of-way line of SE Willard Street; thence along said northerly right-of-way line, North 82°00'09" East 91.42 feet to the Point of Beginning.

The above described tract of land contains 3,261 square feet, more or less.

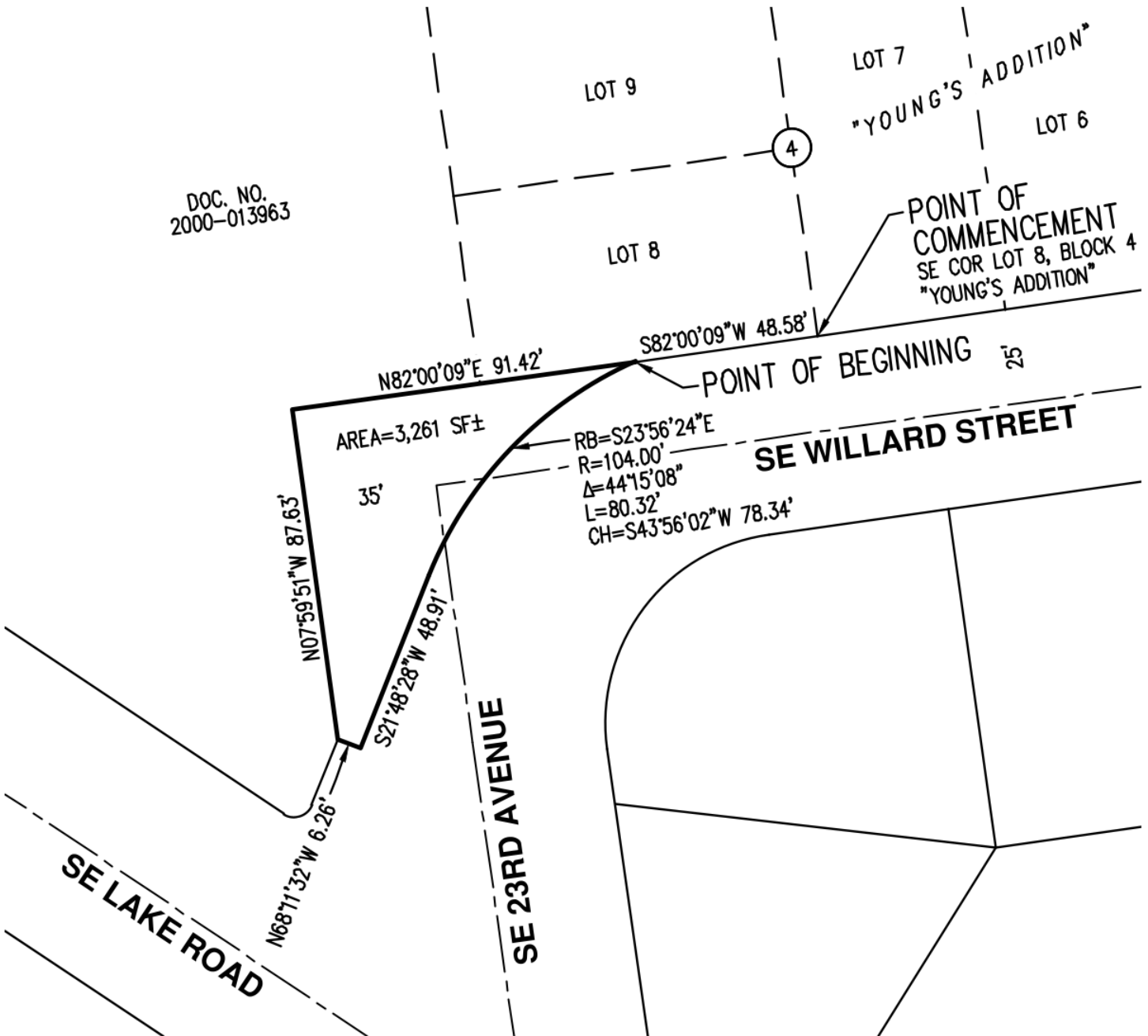
Bearings for this description are based on State Plane Grid bearing, Oregon State Plane, North Zone 3601, NAD83(2011) Epoch: 2010.0000. Distances shown are International Foot ground values.

6/9/2021

**REGISTERED
PROFESSIONAL
LAND SURVEYOR****OREGON
JANUARY 9, 2007
NICK WHITE
70652LS****RENEWS: 6/30/22**

EXHIBIT B

A PORTION OF RIGHT-OF-WAY LOCATED IN THE NORTHWEST 1/4 OF SECTION 36,
TOWNSHIP 1 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



DOC. NO.
2000-013963

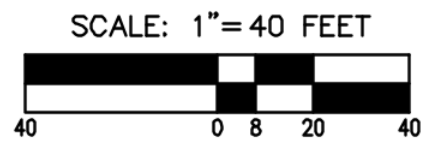
AREA=3,261 SF±

RB=S23°56'24"E
R=104.00'
Δ=44°15'08"
L=80.32'
CH=S43°56'02"W 78.34'

6/9/2021
**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

Nick White
**OREGON
JANUARY 9, 2007
NICK WHITE
70652LS
RENEWS: 6/30/22**

PREPARED FOR
NORTH CLACKAMAS SCHOOL DISTRICT
4444 SE LAKE ROAD
MILWAUKIE, OR 97222



| | | |
|---|--|--|
| RIGHT-OF-WAY VACATION MAP | | EXHIBIT B |
| AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 503.563.6151 WWW.AKS-ENG.COM | | DRWN: WCB CHKD: NSW AKS JOB: 5859 |



Imagery ©2023 Google, Imagery ©2023 Maxar Technologies, Metro, Portland Oregon, State of Oregon, U.S. Geological Survey, Map data ©2023 100 ft

AFTER RECORDING RETURN TO:

CITY OF MILWAUKIE
ATTENTION CITY MANAGER
10501 SE MAIN STREET
MILWAUKIE OR 97222

PUBLIC PIPELINE UTILITY EASEMENT

This PUBLIC PIPELINE UTILITY EASEMENT (“**Easement**”) is entered into by and between NORTH CLACKAMAS SCHOOL DISTRICT NO. 12 (“**Grantor**”) and THE CITY OF MILWAUKIE, an Oregon municipal corporation (“**Grantee**”), on this 6th day of ~~August~~, 2023 (the “**Effective Date**”). *December 17th*

RECITALS

A. Grantor is the owner of record of certain real property located in Clackamas County at 2301 SE Willard St., Milwaukie, Oregon, 97222 (“Grantor’s Property”).

B. Grantee desires a perpetual, non-exclusive public pipeline utility easement under, and across a portion of Grantor’s Property in the location legally described on Exhibit A and more particularly depicted on Exhibit B. attached hereto.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Grant of Easement. Grantor does hereby grant, bargain, sell, and convey to Grantee, its successors and assigns a perpetual, non-exclusive pipeline utility easement under, across, in and through a portion of Grantor’s Property in the location legally described on Exhibit A and more particularly depicted on Exhibit B (collectively, the “Easement Area”).

2. Acceptance of Easement. Notwithstanding anything in this Agreement to the contrary, Grantee accepts the Easement Area “AS IS” with all faults, subject to all existing easements, rights of way, covenants, conditions, restrictions, and reservations of record (“**Prior Recorded Encumbrances**”). Grantor makes no representations or warranties, express or implied, regarding the title, quality, character, value or any other attribute of the Easement Area. Grantee accepts all risk arising out of its use of the Easement Area, and Grantor shall have no liability to Grantee or others for any condition existing thereon.

3. Purpose of Easement. The easement granted herein will be used solely for purposes of maintaining, repairing, and reconstructing the existing underground utility pipeline (the “**Pipeline**”) located in the Easement Area. The easement granted herein may be used for such purposes only by Grantee, its successors and assigns.

4. Restrictions on Use of Easement Area. Subject to the rights of the beneficiaries under the Prior Recorded Encumbrances, Grantor shall not cause or allow the construction or maintenance of any building or other structure in or upon the Easement Area (including any overhanging structures with footings located on property owned by Grantor outside the Easement Area) without the prior written consent of Grantee, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Grantor shall have full use and enjoyment of the Easement Area which is not inconsistent with Grantee’s permitted use herein, including but not limited to, the right to construct and maintain parking areas, walkways, private utilities (crossing the easement area as close to a 90° angle as possible), curbing, directional signage, landscaping (other than trees), and similar improvements within the Easement Area without need for Grantee’s consent.

5. Construction. Grantee will obtain all necessary permits required to maintain, repair or reconstruct the Pipeline in the Easement Area. All costs of construction and compliance with laws and regulations, permits and requirements of any governmental agency for Grantee relative to costs associated with installation of the Pipeline will be paid by Grantee, and Grantee will indemnify, defend, and hold harmless Grantor from any such costs or expenses.

6. Maintenance. Grantee shall maintain the Pipeline in a good and workmanlike manner and in compliance with all applicable statutes, ordinances, rules, and regulations of all governing public authorities, clear of debris and obstructions in order to maintain the Pipeline in its intended condition for its intended use to function as designed (the “Maintenance Obligations”).

7. Additional Grantee Obligations. Grantee shall not interfere in any way with Grantor’s use of the Easement Area, except to the extent reasonably required for Grantee’s use and activities permitted under this Agreement. Grantee agrees that if Grantee or its invitees disturb the Easement Area or if any damage occurs on the Easement Area as a result of Grantee or its invitees’ use or activities under this Agreement, Grantee shall promptly repair and restore the Easement Area, at Grantee’s sole cost and expense, to substantially the same and at least as good a condition as existed immediately prior to Grantee’s use or activities. Except in the event of an emergency, Grantee shall provide Grantor with written notice of Grantee’s intention to enter upon or commence work on the Easement Area at least seventy-two (72) hours prior to such entrance or commencement of work. Failure to provide this notice shall constitute a breach of this Agreement by Grantee.

8. Indemnification: Limitations. Grantee, its successors and/or assigns, shall defend, indemnify and hold harmless Grantor, its successors and/or assigns from any loss, claim, damage or liability of any nature, including injury to any person or property, and including, but not limited to, reasonable attorney fees, arising in any manner out of the Grantee and its invitees’ use, access or activities under this Agreement, and Grantor shall have no liability to Grantee or others for any condition existing thereon. Grantee’s obligation to indemnify Grantor shall extend to “**Hazardous Materials**” such that Grantee shall indemnify Grantor and Grantor’s officers, agents, employees,

directors, managers, and contractors (“**Grantor Parties**”) for, hold Grantor and all Grantor Parties harmless from, and defend (with counsel reasonably acceptable to Grantor) Grantor Parties against, any and all claims, judgments, causes of action, damages, penalties, fines, taxes, costs, liabilities, losses and expenses arising at any time during or after the Effective Date of this Agreement as a result (directly or indirectly) of (i) the presence of Hazardous Materials on, under, or migrating from Grantor’s Property or other property caused (directly or indirectly) by the activities or omissions of Grantee or any of Grantee’s officers, agents, employees, directors, managers, or contractors while using the Easement Area, and/or (ii) the failure to comply with any “**Environmental Laws.**” For purposes of this Agreement, “**Hazardous Materials**” shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials, now or in the future, is either: (i) potentially injurious to health or the environment; (ii) regulated or monitored by any governmental authority or Environmental Law; (iii) defined as a hazardous material, hazardous substance, or pollutant (or similar term) in any federal, state or local law or regulation, including without limitation, any Environmental Law; or (iv) a basis for potential liability to any governmental authority or third party. The term “**Environmental Law**” shall mean any federal, state, or local statute, regulation, or ordinance relating to the protection of health or the environment, including laws and amendments enacted after the date of this Agreement. In no event shall Grantor be liable for any claims, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, costs and expenses resulting from Grantee or its invitees’ use of the easement granted herein whether or not it is insured, unless such loss is caused by the willful misconduct or intentional wrongdoing of Grantor.

9. Easements to Run with the Land. The easement, rights and obligations contained in this Agreement shall bind and inure to the benefit of each of the Grantor and Grantee and each of their respective heirs, representatives, lessees, successors, assigns, mortgagees and beneficiaries under any deed of trust; provided however, this Easement may not be assigned by Grantee without the prior written consent of Grantor.

10. Attorney Fees and Costs. In the event a suit or action is instituted to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover their reasonable attorney fees and other costs and expenses actually incurred in connection therewith, including without limitation attorney fees incurred on any appeal, in addition to all other sums provided by law.

11. Modification. The terms of this Agreement may be modified or terminated only upon the consent of Grantor and Grantee as evidenced by their execution of a written instrument that is recorded in the deed records of Clackamas County, Oregon.

12. Entire Agreement. This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the parties. No representations, warranties, or promises pertaining to this Agreement or any property affected by this Agreement have been made by, or shall be binding on, the parties, except as expressly stated in this Agreement.

13. Severability. The invalidity or unenforceability of any provision of this Agreement with respect to a particular party or set of circumstances shall not in any way affect the validity or

enforce enforceability of any other provision hereof, or the same provision when applied to another party or a different set of circumstances.

14. Non-Waiver. Failure by Grantor or Grantee to enforce any of the rights, obligations, covenants or restrictions contained in this Agreement shall in no event be deemed a waiver of the right to enforce the same at any future time.

IN WITNESS THEREOF, Grantor and Grantee have executed this Agreement as of the date first written above.

GRANTOR:

GRANTEE:

North Clackamas School District No. 12
an Oregon municipal corporation

THE CITY OF MILWAUKIE,

By: _____

By: [Signature]

Name: _____

Name: Ann Ober

Title: _____

Title: City Manager

STATE OF OREGON)
) ss.
County of _____)

Personally appeared this _____ day of _____, 2023, the above named _____, who acknowledged to me he/she executed the foregoing Public Pipeline Utility Easement in his/her capacity as _____ of North Clackamas School District No. 12, freely and voluntarily on behalf of that entity.

Notary Public for Oregon
My Commission Expires: _____

Notary Public for Oregon
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of Clackamas)

Personally appeared this 6th day of December 11 ~~August~~, 2023, the above named Ann Ober, who acknowledged to me he/she executed the foregoing Public Pipeline Utility Easement in his/her capacity as city Manager of THE CITY OF MILWAUKIE, an Oregon municipal corporation, freely and voluntarily on behalf of that municipal corporation.

[Signature]

Notary Public for Oregon
My Commission Expires: 1.12.2024



EXHIBIT A

Waterline Easement Description

A tract of land located in the Northwest One-Quarter of Section 36, Township 1 South, Range 1 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the southeasterly corner of Lot 8, Block 4 of the plat "Young's Addition", Plat No. 460, Clackamas County Plat Records, also being on the northerly right-of-way line of SE Willard Street (25.00 feet from centerline); thence along said northerly right-of-way line and the westerly extension thereof, South 82°00'09" West 77.91 feet to the Point of Beginning; thence leaving said westerly extension, South 07°58'37" East 13.61 feet to said northerly right-of-way line of SE Willard Street (27.00 feet from centerline); thence along said northerly right-of-way line on a non-tangent curve to the left (Radial Bearing of South 41°49'36" East) with a Radius of 104.00 feet, a Delta of 10°40'39", a Length of 19.38 feet, and a Chord of South 42°50'05" West 19.35 feet; thence leaving said northerly right-of-way line, North 07°58'37" West 25.83 feet to said westerly extension; thence along said westerly extension, North 82°00'09" East 15.00 feet to the Point of Beginning.

The above described tract of land contains 290 square feet, more or less.

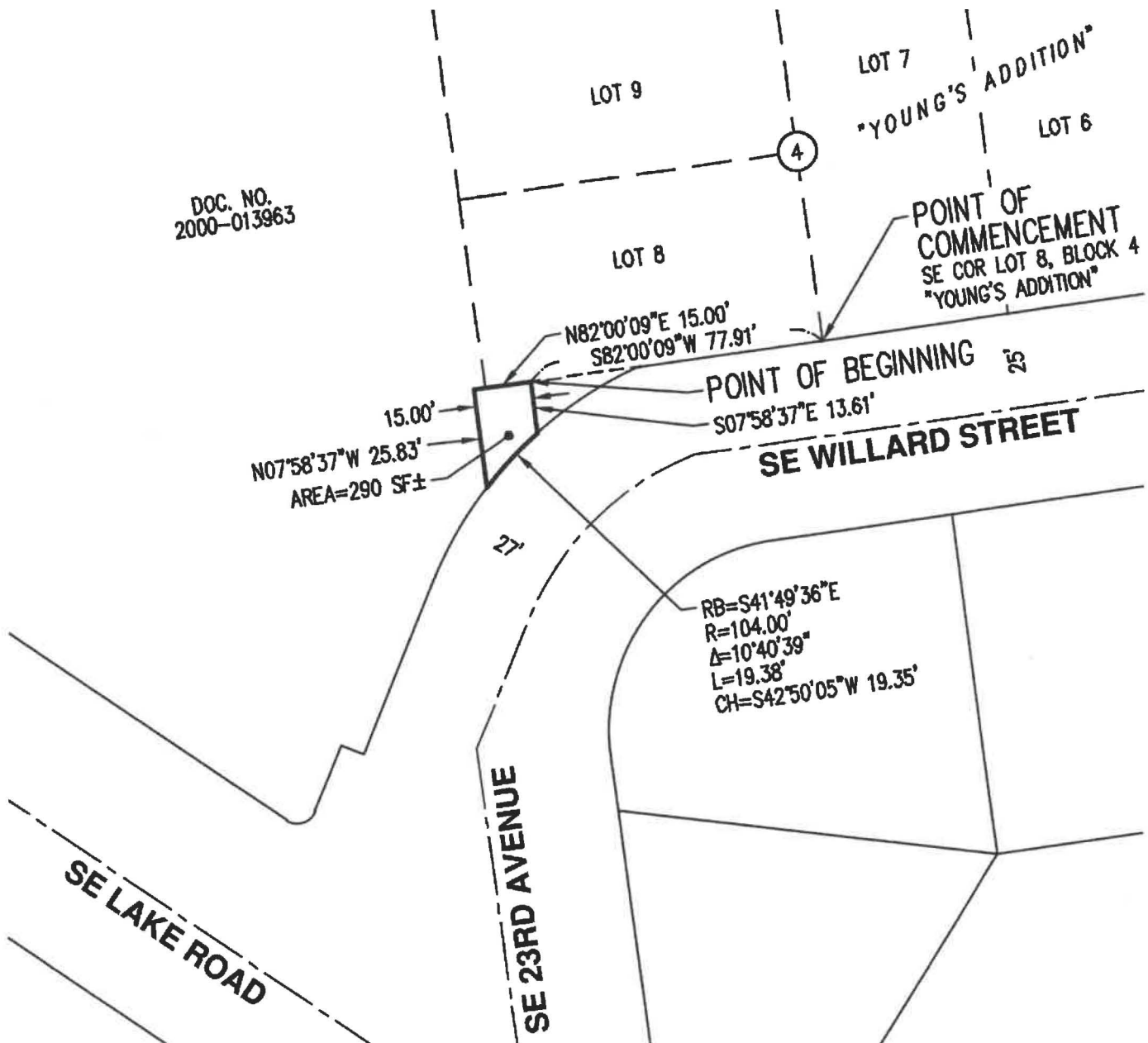
Bearings for this description are based on State Plane Grid bearing, Oregon State Plane, North Zone 3601, NAD83(2011) Epoch: 2010.0000. Distances shown are International Foot ground values.

7/16/2021



EXHIBIT B

A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 36,
TOWNSHIP 1 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



7/16/2021

REGISTERED
PROFESSIONAL
LAND SURVEYOR

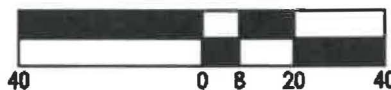
Nick White

OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/22

PREPARED FOR
NORTH CLACKAMAS SCHOOL DISTRICT
4444 SE LAKE ROAD
MILWAUKIE, OR 97222

SCALE: 1" = 40 FEET



WATERLINE EASEMENT MAP

EXHIBIT
B

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
503.563.6151 WWW.AKS-ENG.COM



DRWN: WCB
CHKD: NSW
AKS JOB:
5859

April 1, 2024

City Manager
City of Milwaukie
10501 SE Main Street
Milwaukie, OR 97222

To Whom it May Concern,

This letter is regarding the proposal to vacate the public right-of-way (ROW) owned by the City of Milwaukie on Willard Street on the Milwaukie High School (MHS) property. As confirmed by the City of Milwaukie's finance department and code enforcement coordinator and the Clackamas County Assessor's Office, this letter certifies that there are no city liens outstanding against the property being vacated and there are no taxes due as the property being vacated is publicly owned and therefore exempt from taxation pursuant to Oregon Revised Statute (ORS) 307.090.

For questions regarding this letter, please contact the Office of the City Recorder (OCR) by phone at 503-786-7502 or email at ocr@milwaukieoregon.gov.



Scott Stauffer
City Recorder

Pamplin Media Group

-Ad Proof-

This is the proof of your ad, scheduled to run on the dates indicated below. Please proofread carefully, and if changes are needed, please contact Kristine Humphries prior to deadline at (971) 204-7785 or khumphries@pamplinmedia.com.

| | |
|---|--|
| <p>Date: 03/26/24 Account #: 148094 File #: Company Name: MILWAUKIE, CITY OF Contact: EMILIE BUSHLEN Address: 6101 SE JOHNSON CREEK BLVD MILWAUKIE Telephone: (503) 786-7669 Fax:</p> | <p>Ad ID: 321169 Start: 03/29/24 Stop: 03/29/24 Total Cost: \$40.00 Columns Wide: 1 Ad Class: 1268 Phone # (971) 204-7785 Email: khumphries@pamplinmedia.com Amount Due: \$40.00</p> |
|---|--|

Run Dates

Business Tribune 03/29/24

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City Council of the City of Milwaukie, Oregon, at the city hall council chambers, 10501 SE Main Street, Milwaukie, Oregon 97222, on the 16th day of April, 2024, at the hour of 6:00 p.m. The Council will hear and consider all written and oral objection or remonstrances to the vacation of a portion of public right-of-way (ROW) of SE Willard Street at Milwaukie High School (MHS) in the City of Milwaukie. Written statements may be submitted at the hearing or filed with the City Recorder of the City of Milwaukie, Oregon at city hall prior to the hearing.

This public ROW vacation process was initiated by the city's own motion pursuant to Oregon Revised Statute (ORS) 271.130.

PUBLISHED BY ORDER OF THE CITY OF MILWAUKIE, OREGON

Scott Stauffer

City Recorder

Published March 29, 2024

BT321169

Pamplin Media Group

-Ad Proof-

This is the proof of your ad, scheduled to run on the dates indicated below. Please proofread carefully, and if changes are needed, please contact Kristine Humphries prior to deadline at (971) 204-7785 or khumphries@pamplinmedia.com.

| | |
|--|---|
| <p>Date: 04/02/24 Account #: 148094 File #: Company Name: MILWAUKIE, CITY OF Contact: EMILIE BUSHLEN Address: 6101 SE JOHNSON CREEK BLVD MILWAUKIE Telephone: (503) 786-7669 Fax:</p> | <p>Ad ID: 321752 Start: 04/05/24 Stop: 04/05/24 Total Cost: \$40.00 Columns Wide: 1 Ad Class: 1284 Phone # (971) 204-7785 Email: khumphries@pamplinmedia.com Amount Due: \$40.00</p> |
|--|---|

Run Dates

Business Tribune 04/05/24

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City Council of the City of Milwaukie, Oregon, at the city hall council chambers, 10501 SE Main Street, Milwaukie, Oregon 97222, on the 16th day of April, 2024, at the hour of 6:00 p.m. The Council will hear and consider all written and oral objection or remonstrances to the vacation of a portion of public right-of-way (ROW) of SE Willard Street at Milwaukie High School (MHS) in the City of Milwaukie. Written statements may be submitted at the hearing or filed with the City Recorder of the City of Milwaukie, Oregon at city hall prior to the hearing.

This public ROW vacation process was initiated by the city's own motion pursuant to Oregon Revised Statute (ORS) 271.130.

PUBLISHED BY ORDER OF THE CITY OF MILWAUKIE, OREGON

Scott Stauffer

City Recorder

Published April 5, 2024.

BT321752

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, Acting City Manager

Reviewed: Laura Weigel, Planning Manager

From: Vera Kolias, Senior Planner

Subject: **Title 17 (Land Division) Proposed Code Amendments**

Date Written: April 10, 2024

ACTION REQUESTED

Council is asked to open the public hearing for land use file #ZA-2023-006, discuss the proposed amendments to the Milwaukie Municipal Code (MMC) Title 19 (Zoning) and Title 17 (Land Division), take public testimony, provide direction to staff regarding any desired revisions to the proposed amendments, and vote to approve file #ZA-2023-006 and adopt the proposed ordinance and recommended Findings in Support of Approval found in Attachment 1.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[February 20, 2024](#): Council held a work session to discuss the proposed amendments.

[April 9, 2024](#): The Planning Commission held a public hearing and voted to recommend approval of the proposed code amendments.

ANALYSIS

Over the course of several years, planning department staff have tracked issues with current zoning code language and have 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 have created categories for code amendment packages to help organize the various amendments and to help with the overall department workplan:

- **Large efforts** will each be its own project – examples include: Willamette Greenway Overlay re-write (Milwaukie Municipal Code (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 periodically 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 have 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):

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 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 propose 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.

Note: At the Planning Commission’s April 9 public hearing, it was noted that language from the existing code was inadvertently kept in the revised code that should have been removed. This language is found in 17.12.040.C.3 and relates to partitions and subdivisions. Because the review process for a subdivision is proposed to be Type II, the same as for a partition, this language is not needed.

BUDGET IMPACT

The Title 17 amendments project has been accounted for in the planning department budget.

CLIMATE IMPACT

The proposed amendments are clarifications and corrections to land division code language.

EQUITY IMPACT

The proposed amendments are clarifications and corrections to land division code language and simplification of language which will streamline and improve the land division review process. The amendments aim to reduce confusion and make the code section more accessible.

WORKLOAD IMPACT

The Title 17 amendments project is included in the planning department work plan. Clarification and streamlining of code language will improve planning processes for both staff and the public.

COORDINATION, CONCURRENCE, OR DISSENT

This effort has been led primarily by staff from the planning and community development departments.

STAFF RECOMMENDATION

Staff recommends adopting the proposed amendments.

ALTERNATIVES

None.

ATTACHMENTS

1. Ordinance
 - a. Recommended Findings in Support of Approval
 - b. Draft code amendment language (underline/strikeout)
 - c. Draft code amendment language (clean)

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE TITLE 17 LAND DIVISION, AND TITLE 19 ZONING, TO MAKE CHANGES TO SELECT SECTIONS FOR THE PURPOSE OF CLARIFICATION AND IMPROVED EFFECTIVENESS (FILE #ZA-2023-006).

WHEREAS the proposed amendments to Milwaukie Municipal Code (MMC) Titles 17 and 19 to make changes and clarifications that will more effectively communicate and implement existing policy, and

WHEREAS legal and public notices have been provided as required by law, and opportunities for public review and input has been provided, and

WHEREAS on April 9, 2024, the Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments, and

WHEREAS the City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The MMC is amended as described in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

Section 3. Effective Date. The amendments shall become effective 30 days from the date of adoption.

Read the first time on _____ and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Robert Massey, Council President

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

Exhibit A

Recommended Findings in Support of Approval File #ZA-2023-006, Title 17 (Land Division) Code Amendments

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

1. The applicant, the City of Milwaukie, proposes to amend regulations that are contained in Title 17 Land Division and Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2023-006.
2. The purpose of the proposed code amendments is to: 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.
3. The proposed amendments are clarifications and streamline processes that are not intended to significantly affect the meaning or intent of existing regulations; they are not intended to be a change in policy. The amendments are located in several titles of the municipal code:
 - Municipal Code –
 - MMC 17 – Land Division – entire Title
 - Zoning Ordinance –
 - MMC 19.901 – Land Use Applications
 - MMC 19.908 – Extensions to Expiring Approvals
 - MMC 19.1001 – Expiration of Approved Decisions
4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.902 Amendments to Maps and Ordinances
 - MMC 19.1000 Review Procedures
5. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on April 9, 2024 and April 16, 2024 as required by law.
6. MMC 19.902 Amendments to Maps and Ordinances
 - a. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.
 - (1) MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on April 9, 2024. A public hearing before City Council was held on April 16, 2024. Public notice was provided in accordance with MMC Subsection 19.1008.3.

(2) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.

(a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments have been coordinated with and are consistent with other provisions of the Milwaukie Municipal Code. The amendments are clarifying in nature and are not intended to affect policy.

(b) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

Only the goals, objectives, and policies of Comprehensive Plan that are listed below are found to be relevant to the proposed text amendment.

(i) Goal 7.1 for Housing (Equity) states:

Enable and encourage housing options that meet the needs of all residents, with a specific focus on uplifting historically disenfranchised communities and eliminating disparities for populations with special needs or lower incomes. To continue to encourage an adequate and diverse range of housing types and the optimum utilization of housing resources to meet the housing needs of all segments of the population.

Policy 7.1.2 states:

Establish development standards that regulate size, shape, and form and are not exclusively focused on regulating density.

Goal 8.3 for Urban Design and Land Use states:

Provide a clear and straightforward design review process for development in Milwaukie along with incentives to achieve desired outcomes.

The intent of the proposed amendments is to clarify and streamline processes for middle housing land divisions to ensure that the code is clear and objective in the review process. Further, by revising the review process for subdivisions from Type III to Type II review, discretionary review and a lengthy review process are minimized for residential development.

(c) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies.

- (d) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD did not identify any inconsistencies with relevant State statutes or administrative rules.

The proposed amendments are found to be consistent with the Transportation Planning Rule for the following reason. The proposed text amendment does not impact the transportation system given that the amendments are clarifying in nature and do not create the opportunity for any more vehicle trips than are currently allowed by other similar uses in each respective zone.

- (e) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

Relevant federal regulations are those that address land use, the environment, or development in the context of local government planning. Typically, regulations such as those set forth under the following acts may be relevant to a local government land use process: the Americans with Disabilities Act, the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Fair Housing Act, the National Environmental Policy Act, the Religious Land Use and Institutionalized Persons Act, and the Resource Conservation and Recovery Act. None of these acts include regulations that impact the subject proposal or that cannot be met through normal permitting procedures. Therefore, the proposal is found to be consistent with federal regulations that are relevant to local government planning.

7. MMC 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.

- a. MMC 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments were initiated by the Planning Manager on February 1, 2024.

- b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V review have been met as follows:

- (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

Opportunity for public comment and review has been provided. The Planning Commission had a work session about the proposed amendments on November 14, 2023. The City Council had a work session on the proposed amendments on February 20, 2024.

The current version of the draft amendments with a code commentary has been posted on the City's website since February 20, 2024.

- (2) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing.

A notice of the Planning Commission's April 9, 2024, hearing was posted as required on February 21, 2024. A notice of the City Council's April 16, 2024 public hearing was posted as required on March 14, 2024.

- (3) Subsection 19.1008.3.A.3 requires notice be sent to individual property owners if the proposal affects a discrete geographic area or specific properties in the City.

The Planning Manager has determined that the proposal affects a large geographic area. Notice to individual property owners and individual properties was not required.

- (4) Subsection 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to DLCD on February 20, 2024.

- (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on February 20, 2024.

- (6) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners.

The proposed amendments generally do not further restrict the use of property. In general, the proposed amendments provide clarification.

- (7) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application.

The Planning Commission held a duly advertised public hearing on April 9, 2024 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on April 16, 2024 and approved the amendments.

Underline/Strikeout 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

17.04.010 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.

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.

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.

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.

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

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.

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.

17.04.080 FORM OF APPLICATIONS

All applications provided for in this title must be made on forms prescribed by the Planning Manager.

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.

17.04.100 AMENDMENTS

Legislative amendments to this title must be made in accordance with Chapter 19.1000 and Section 19.902.

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.

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, partition plat, or subdivision plat, 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 consolidation, property line adjustment, partition plat, or subdivision plat 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.

17.04.140 VIOLATION—PENALTIES

Violation of any provision of this title is a civil infraction. The civil penalty for violation of this title is identified in the city fee schedule. 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.

17.04.150 APPEALS

Appeals on actions authorized under this title must be made in accordance with Chapter 19.1000.

(Ord. 2025 § 3, 2011; 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.

“Applicant” means the person who has filed application for land use action, land division, boundary adjustment or other action requiring a response from the City.

“Approval authority” means the individual or governmental body authorized by this code to take action on applications for actions specified in this title.

“Bicycle way” means a right-of-way for bicyclists.

“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.

“Boundary change” means the relocation of a property line established by dedication, deed, property line adjustment, lot consolidation, partition, subdivision, and/or replat.

“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.

“Building line” means a line on a plat or otherwise described indicating the limit beyond which buildings or structures may not be erected.

“City” means the City of Milwaukie, Oregon.

“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.

“Easement” means the right to use land in a limited way for a stated purpose.

“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.

“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.

“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.

“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.

“Parcel” means a single unit of land that is created by a partitioning of land.

“Partition” means either the act of partitioning land or an area of land partitioned.

“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.

“Pedestrian way” means a right-of-way for pedestrians that is improved or unimproved.

“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.

“Plat” means and includes a map and other writing containing all the descriptions, locations, dedications, specifications, provisions, and information concerning a partition or subdivision.

“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.

“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.

“Right-of-way” means the area between boundary lines of a public way.

“Sidewalk” means a pedestrian walkway with permanent surfacing to City standards.

“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.

“Subdivide land” means to divide an area or tract of land into four or more lots within a calendar year.

“Subdivision” means either an act of subdividing land or a unit of land subdivided as defined in this title.

“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.

“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, and subdivision.,.

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.

-

| Table 17.12.020 Boundary Change Summary | | |
|--|---|---------------------------|
| <u>Boundary Change Action</u> | <u>Application Type/Land Use Action</u> | <u>Review Type</u> |
| <u>Consolidating legal lots created by deed.</u> | <u>Lot consolidation</u> | I |
| <u>Any boundary adjustment that is consistent with the ORS and this title but does not result in a change in the number of lots.</u> | <u>Property Line Adjustment</u> | I |
| <u>Any boundary adjustment that is affected by a plat restriction.</u> | <u>Property Line Adjustment</u> | II |
| <u>A land division, modification, or adjustment that results in up to 3 lots.</u> | <u>Partition</u> | II |
| <u>Any division, modification, or adjustment that results in 4 or more lots.</u> | <u>Subdivision</u> | II |
| <u>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.</u> | <u>Expedited Land Division</u> <u>Middle Housing Land Division</u> | 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 or file the signed 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. References to required recorded deeds must be included on the record of survey.

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. Sale of lots created through the partition process is prohibited until the final plat is recorded.

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.

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

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.

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.

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.

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.

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.

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.

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.

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.

17.22.040 FILING

A. Once the City has reviewed and approved the final plat, the applicant must submit the final plat to the County for signatures of County officials as required by ORS Chapter 92.. The final plat must be recorded with any deed restrictions required as a condition of approval prior to the issuance of any development permits.

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.

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, or similar entity, 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.

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

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 or subparcels, will be collectively considered a single lot or parcel for all but platting and property transfer purposes under City code and state rules and statutes, including:

1. Lot standards such as size, setback, lot coverage, and lot width and depth;
2. 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);
3. Allowed number of dwelling units and accessory dwelling units; and
4. 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.

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.
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 or similar entity 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.

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. 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)

CHAPTER 17.28

DESIGN STANDARDS

17.28.010 CONFORMITY OF SUBDIVISION

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.

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.

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.

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. (

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 that there is no opportunity for a public street, which must be reviewed and accepted by the City. This does not preclude the City from requiring 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.

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.

17.28.070 FLAG LOTS AND BACK LOTS IN SUBDIVISIONS

Flag lots and back lots are permitted in new subdivisions.

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.

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 dwelling unit(s) that will be on its own parcel or lot and the remaining property will be “leftover” in that it will require further land division to meet the minimum density standard for the underlying zone.

B. Conditions. An application for a land division may have a maximum of two leftover parcels or lots that are not included as part of a phased subdivision if the following conditions are met:

1. The original parcel or lot 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 proposed land division will not preclude ultimate buildout of the original parcel or lot per an adopted or submitted and approved Concept Plan, as applicable.
4. When a land division places a primary dwelling unit on a parcel or lot 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. Leftover parcels or lots created under this provision may not be developed until they are further divided into additional parcels or lots pursuant to this title, where applicable. Parcels or lots created from leftover parcels or lots must be consistent with the standards of the applicable provisions in Title 19, to ensure that the applicable minimum density standard 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) or lot(s).
2. A deed restriction requiring removal of any applicable accessory structure or accessory dwelling unit upon transfer of ownership of either parcel or lot.
3. A concept plan that includes the following:
 - a. For single detached dwelling and middle housing development:
 - i. A plot plan showing a future platting of the leftover parcel(s) or lot(s) that meets minimum density.
 - ii. Access and street layout, as applicable.
 - iii. Plan sheet showing 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 development:
 - i. A plot plan showing a future platting of the leftover parcel(s) or lot(s) that meets minimum density.
 - 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.

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

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.

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.

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. 2025 § 3, 2011; 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)

TITLE 19

ZONING

CHAPTER 900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Uses or development that are regulated by Titles 14, 17, and 19 of the Milwaukie Municipal Code shall submit and obtain approval for all required land use applications prior to establishment or construction. Table 19.901 below contains a complete list of the City’s land use applications and the location of the provisions that govern their submittal, review, and approval. It also identifies the review type(s) associated with each application type. The review type determines who is given notice about land use and development proposals, when the City has to make a decision on a land use application, and who makes the final decision. Descriptions of the different review types and the procedures associated with them are located in Chapter 19.1000. Decision makers for each review type are listed in Table 19.1001.5.

| Table 19.901 | | |
|------------------------------|--------------------------------|-----------------------|
| Land Use Applications | | |
| Application Type | Municipal Code Location | Review Types |
| Land Divisions: | Title 17 | |
| Final Plat | Title 17 | I |
| Lot Consolidation | Title 17 | I |
| Partition | Title 17 | II |
| Property Line Adjustment | Title 17 | I, II |
| Replat | Title 17 | I, II, III |

| | | |
|------------------------------|----------|-------------------|
| Subdivision | Title 17 | III II |
| Middle Housing Land Division | Title 17 | II |

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.

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.

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

17.04.010 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.

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.

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.

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.

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

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.

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.

17.04.080 FORM OF APPLICATIONS

All applications provided for in this title must be made on forms prescribed by the Planning Manager.

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.

17.04.100 AMENDMENTS

Legislative amendments to this title must be made in accordance with Chapter 19.1000 and Section 19.902.

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.

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, partition plat, or subdivision plat, 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 consolidation, property line adjustment, partition plat, or subdivision plat 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.

17.04.140 VIOLATION—PENALTIES

Violation of any provision of this title is a civil infraction. The civil penalty for violation of this title is identified in the city fee schedule. 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.

17.04.150 APPEALS

Appeals on actions authorized under this title must be made in accordance with Chapter 19.1000.

(Ord. 2025 § 3, 2011; 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.

“Applicant” means the person who has filed application for land use action, land division, boundary adjustment or other action requiring a response from the City.

“Approval authority” means the individual or governmental body authorized by this code to take action on applications for actions specified in this title.

“Bicycle way” means a right-of-way for bicyclists.

“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.

“Boundary change” means the relocation of a property line established by dedication, deed, property line adjustment, lot consolidation, partition, subdivision, and/or replat.

“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.

“Building line” means a line on a plat or otherwise described indicating the limit beyond which buildings or structures may not be erected.

“City” means the City of Milwaukie, Oregon.

“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.

“Easement” means the right to use land in a limited way for a stated purpose.

“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.

“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.

“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.

“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.

“Parcel” means a single unit of land that is created by a partitioning of land.

“Partition” means either the act of partitioning land or an area of land partitioned.

“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.

“Pedestrian way” means a right-of-way for pedestrians that is improved or unimproved.

“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.

“Plat” means and includes a map and other writing containing all the descriptions, locations, dedications, specifications, provisions, and information concerning a partition or subdivision.

“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.

“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.

“Right-of-way” means the area between boundary lines of a public way.

“Sidewalk” means a pedestrian walkway with permanent surfacing to City standards.

“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.

“Subdivide land” means to divide an area or tract of land into four or more lots within a calendar year.

“Subdivision” means either an act of subdividing land or a unit of land subdivided as defined in this title.

“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.

“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, and subdivision,.

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.

| Table 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. | Property Line Adjustment | I |
| Any boundary adjustment that is affected by a plat restriction. | Property Line Adjustment | II |
| A land division, modification, or adjustment that results in up to 3 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 or file the signed 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. References to required recorded deeds must be included on the record of survey.

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. Sale of lots created through the partition process is prohibited until the final plat is recorded.

~~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.

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

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.

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.

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.

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.

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.

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.

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.

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.

17.22.040 FILING

- A. Once the City has reviewed and approved the final plat, the applicant must submit the final plat to the County for signatures of County officials as required by ORS Chapter 92.. The final plat must be recorded with any deed restrictions required as a condition of approval prior to the issuance of any development permits.
- 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.

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, or similar entity, 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.

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

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 or subparcels, will be collectively considered a single lot or parcel for all but platting and property transfer purposes under City code and state rules and statutes, including:

1. Lot standards such as size, setback, lot coverage, and lot width and depth;
2. 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);
3. Allowed number of dwelling units and accessory dwelling units; and
4. 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.

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.
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 or similar entity 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.

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. 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)

CHAPTER 17.28

DESIGN STANDARDS

17.28.010 CONFORMITY OF SUBDIVISION

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.

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.

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.

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. (

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 that there is no opportunity for a public street, which must be reviewed and accepted by the City. This does not preclude the City from requiring 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.

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.

17.28.070 FLAG LOTS AND BACK LOTS IN SUBDIVISIONS

Flag lots and back lots are permitted in new subdivisions.

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.

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 dwelling unit(s) that will be on its own parcel or lot and the remaining property will be “leftover” in that it will require further land division to meet the minimum density standard for the underlying zone.

B. Conditions. An application for a land division may have a maximum of two leftover parcels or lots that are not included as part of a phased subdivision if the following conditions are met:

1. The original parcel or lot 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 proposed land division will not preclude ultimate buildout of the original parcel or lot per an adopted or submitted and approved Concept Plan, as applicable.
4. When a land division places a primary dwelling unit on a parcel or lot 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. Leftover parcels or lots created under this provision may not be developed until they are further divided into additional parcels or lots pursuant to this title, where applicable. Parcels or lots created from leftover parcels or lots must be consistent with the standards of the applicable provisions in Title 19, to ensure that the applicable minimum density standard 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) or lot(s).
2. A deed restriction requiring removal of any applicable accessory structure or accessory dwelling unit upon transfer of ownership of either parcel or lot.
3. A concept plan that includes the following:
 - a. For single detached dwelling and middle housing development;
 - i. A plot plan showing a future platting of the leftover parcel(s) or lot(s) that meets minimum density.
 - ii. Access and street layout, as applicable.
 - iii. Plan sheet showing 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 development:
 - i. A plot plan showing a future platting of the leftover parcel(s) or lot(s) that meets minimum density.
 - 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.

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

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.

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.

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. 2025 § 3, 2011; 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)

TITLE 19

ZONING

CHAPTER 900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Uses or development that are regulated by Titles 14, 17, and 19 of the Milwaukie Municipal Code shall submit and obtain approval for all required land use applications prior to establishment or construction. Table 19.901 below contains a complete list of the City’s land use applications and the location of the provisions that govern their submittal, review, and approval. It also identifies the review type(s) associated with each application type. The review type determines who is given notice about land use and development proposals, when the City has to make a decision on a land use application, and who makes the final decision. Descriptions of the different review types and the procedures associated with them are located in Chapter 19.1000. Decision makers for each review type are listed in Table 19.1001.5.

| Table 19.901 | | |
|------------------------------|--------------------------------|-----------------------|
| Land Use Applications | | |
| Application Type | Municipal Code Location | Review Types |
| Land Divisions: | Title 17 | |
| Final Plat | Title 17 | I |
| Lot Consolidation | Title 17 | I |
| Partition | Title 17 | II |
| Property Line Adjustment | Title 17 | I, II |
| Replat | Title 17 | I, II, III |

| | | |
|------------------------------|----------|--------|
| Subdivision | Title 17 | III-II |
| Middle Housing Land Division | Title 17 | II |

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.

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.

**RS 8. B. 4/16/24
Presentation**

Title 17 (Land Division) Code Amendments

Presentation to the
Milwaukie City Council
Vera Koliass, Senior Planner
April 16, 2024



- Objectives:
 - Compliance with state law; middle housing
 - Clear and objective standards
 - Simplify review processes
 - Remove redundant or confusing language
 - Reorganize for clarity



- Planning Commission: 1 worksession
- City Council: 1 worksession
- Code Commentary posted with 30-day notice
- Public hearings
 - PC: April 9 – recommend approval
 - CC: tonight



Formatting/redundant language

- Eliminate needless TOC
- Reorganize to provide separate section for Middle Housing Land Division
- Reduce the number of lists in code – rely on checklists



Review Process and Application Requirements

- Rewrite the section for each land division type
 - Remove Type III review for subdivisions
 - Partitions and subdivisions = Type II review
- Revise language to identify filing deadlines
- Revise language related to extensions
 - Tied to Title 19 – consistency with other types of LU apps



New Language

- Add language related to tracts and easements
 - Includes management responsibilities
 - Includes HOA or similar entity
- Add language related to “remainder” or “left over” land
 - Includes requirements for future development
 - Eliminates future confusion about minimum density



PROPOSED AMENDMENTS



Potential partition
with left over land



Remove 17.24.040.3.c
- Holdover from existing code



STAFF RECOMMENDATION

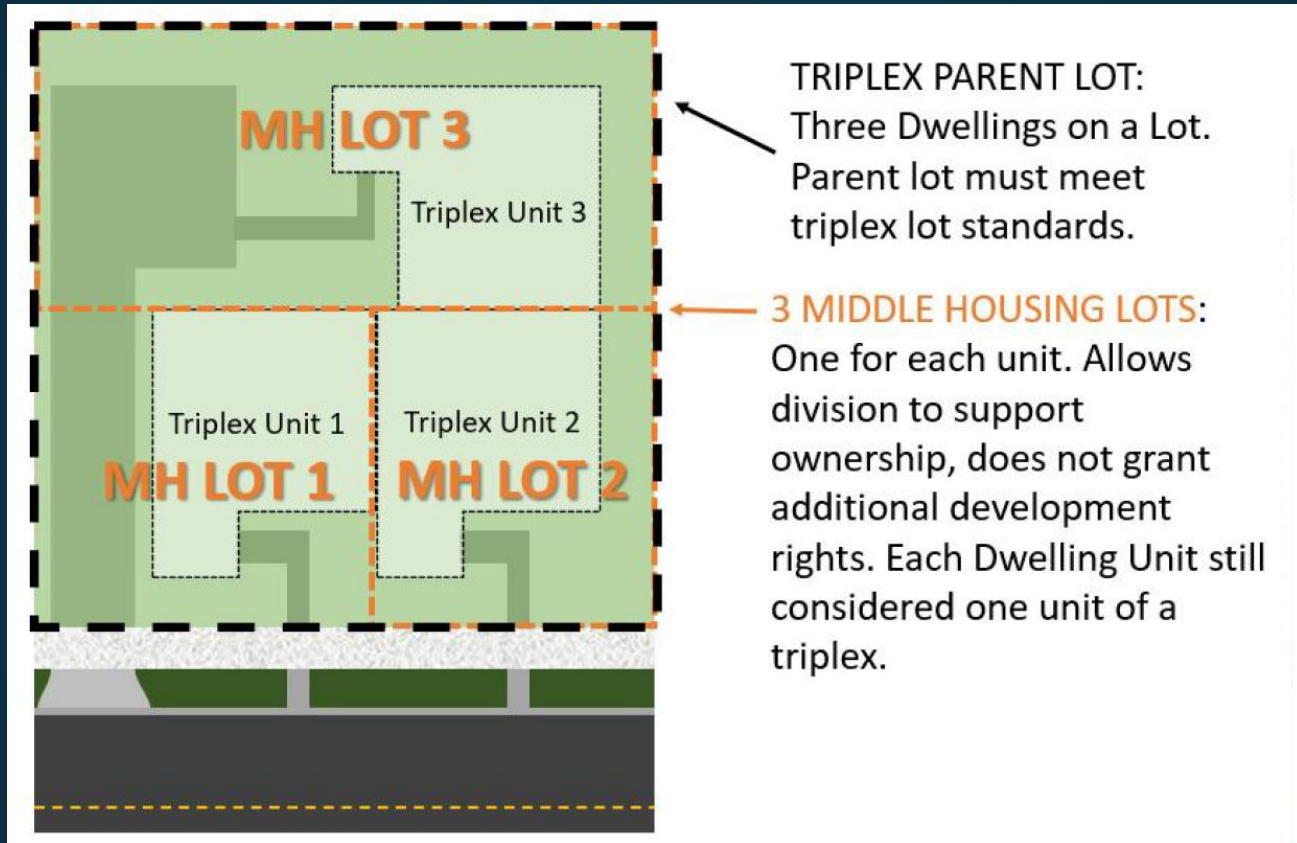
Recommend approval of the amendments to City Council.



IF NEEDED



IDENTIFIED ISSUE: DEVELOPMENT AFTER AN MHL

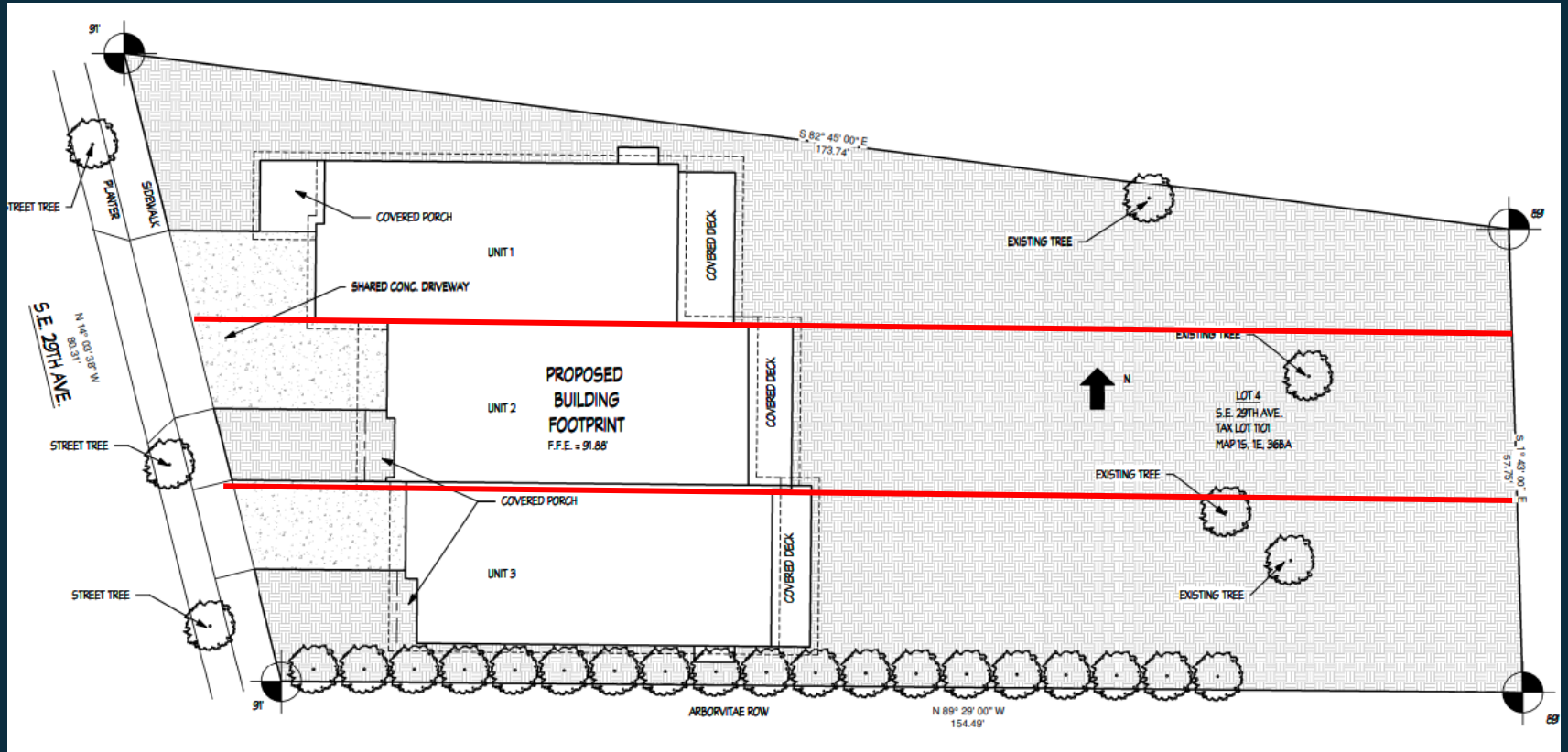


TRIPLEX PARENT LOT:
Three Dwellings on a Lot.
Parent lot must meet
triplex lot standards.

3 MIDDLE HOUSING LOTS:
One for each unit. Allows
division to support
ownership, does not grant
additional development
rights. Each Dwelling Unit still
considered one unit of a
triplex.



IDENTIFIED ISSUE: DEVELOPMENT AFTER AN MHL



IDENTIFIED ISSUE: DEVELOPMENT AFTER AN MHL

