

1600 SE 190th Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2017-7406
Permit: Willamette River Greenway and Accessory Use Determination
Location: 18900 NW Gillihan Road
Tax Lot 400, Section 14A, Township 2 North, Range 1 West, W.M.
Tax Account #R971140010
Applicants: Spencer Kroll, Green Gables Design and Restoration
Owners: John & Toni Stevens
Base Zone: Multiple Use Agriculture – 20 (MUA-20)
Overlays: Willamette River Greenway (WRG)

Summary: The applicant is proposing to construct a new single family dwelling and authorize three detached accessory structures in the Multiple Use Agriculture – 20 zone. A Willamette River Greenway and Accessory Use Determination is required to authorize the uses.

Decision: Approved with Conditions

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, October 11, 2017 at 4:00 pm.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

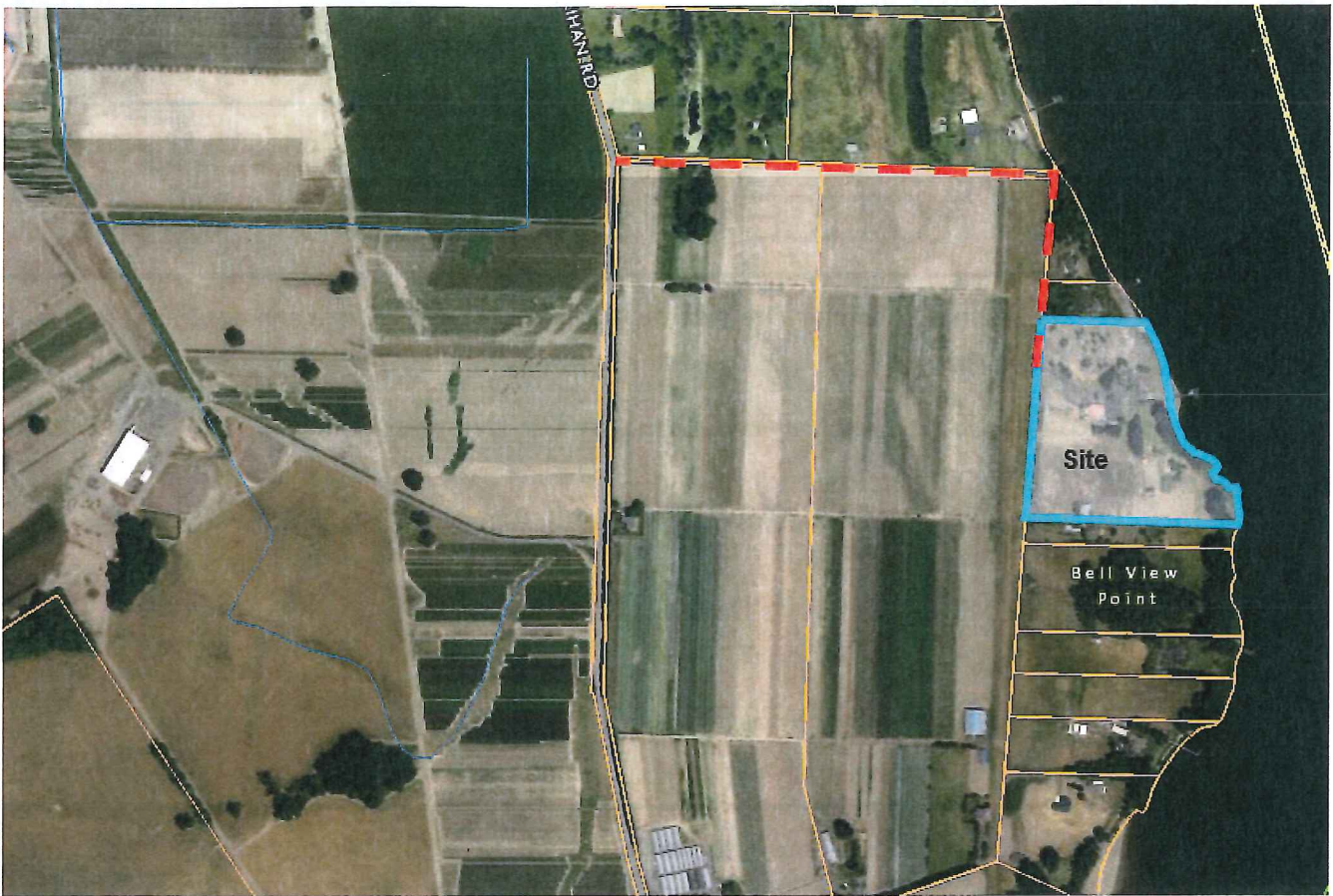
Issued by:



Lisa Estrin, Planner

For: Michael Cerbone, AICP
Planning Director

Date: Wednesday, September 27, 2017



NOTICE OF APPEAL HEARING

If an appeal of this decision is filed, a public hearing will be held on Thursday, October 19, 2017. The hearing will begin at 9:00 AM or soon thereafter.

The hearing will take place in Room 103 at the Land Use Planning office located at 1600 SE 190th Avenue, Portland, OR 97233. If no appeal is filed, a notice canceling this hearing will be posted on the outside of the Yeon Annex Building doors. You can also call the receptionist at 503-988-5050 option '0' to inquire on the status of the hearing after October 11, 2017.

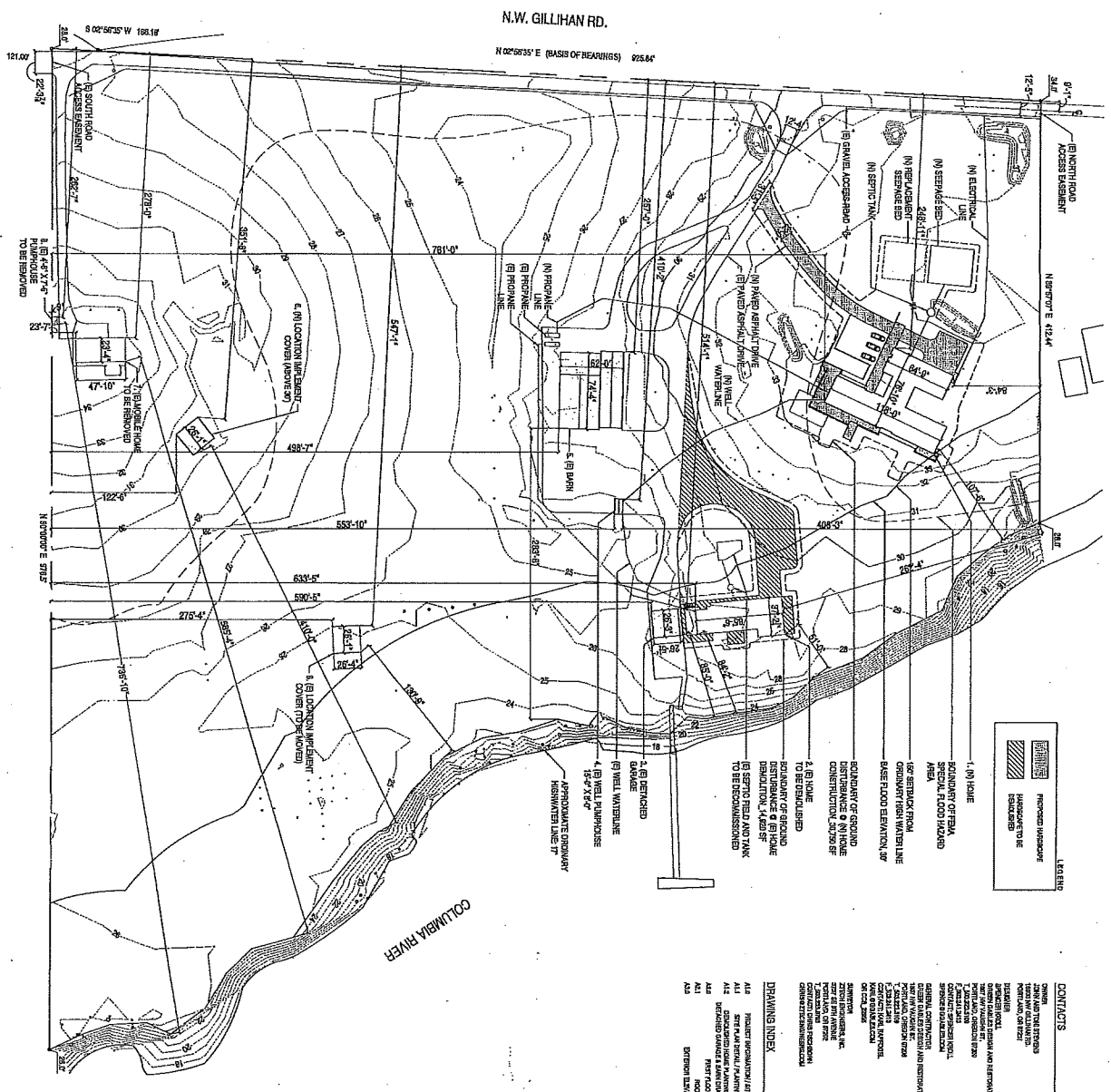
The Hearing shall be regarding the Planning Director's decision approving only 5,793 sq. ft. of accessory building for the subject property located at 18900 NW Gillihan Road, Sauvie Island in the Multiple Use Agriculture – 20 (MUA-20) zone. This staff report serves as the staff report available at the hearing pursuant to MCC 37.0620(D).

Any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals must be raised prior the close of the public record at the public hearing. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties an opportunity to respond to the issue.

A public hearing to consider any appeal will be conducted before one of the following County's Hearings Officers: Liz Fancher, Dan Olsen, or Joe Turner.



SITE PLAN
1" = 50'-0"



CONTACTS	
DATE: 10/10/2018	PROJECT: STEVENS RESIDENCE
DESIGNED BY: J. GREEN	PROJECT LOCATION: 10000 N. GILLIHAN RD., PORTLAND, OR 97228
DRAWN BY: J. GREEN	CLIENT: J. GREEN
CHECKED BY: J. GREEN	DATE: 10/10/2018
APPROVED BY: J. GREEN	SCALE: 1" = 50'-0"
DRAWING INDEX	
1. SITE PLAN	2. FLOOR PLAN
3. ELEVATIONS	4. SECTION
5. DETAIL	6. OTHER
7. EXHIBIT	8. APPENDIX
9. NOTES	10. LEGEND
11. INDEX	12. COVER
13. TITLE	14. BACK
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Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-0167 or lisa.m.estrin@multco.us.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 34.0565, MCC 34.2820(C), MCC 34.2825(J), MCC 34.2855, MCC 34.2870, MCC 34.5810, MCC 34.5825, MCC 34.5855 and MCC 37.0560.

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at multco.us/landuse/zoning-codes under the links *Chapter 34: Sauvie Island/Multnomah Channel Rural Plan Area* and *Chapter 37: Administration and Procedures*.

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **This land use permit expires two years from the date the decision is final pursuant to MCC 37.0690(A) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**
3. Prior to land use approval for building plan check for the new single family dwelling or implementation of ground disturbing activities associated with the approved buildings, the property owners or their representative shall:
 - a. Apply for and obtain a Grading and Erosion Control permit for all ground disturbing activities required by the approved development [MCC 29.336];
 - b. Apply for and obtain a Flood Development permit demonstrating compliance with the County's Flood Development ordinance listed in MCC 29.600 through MCC 29.611 for all approved buildings and structures including the new single family dwelling, and barn. In addition, demonstrate that the existing propane tanks demonstrated compliance with the Flood Development code at the time of installation or be included in the Flood Development permit to meet the Flood Development codes;
 - c. The property owners shall record a covenant with County Records that states that the owners understand and agree that the accessory structure can be occupied as a dwelling or for any other form of permanent or temporary residential use. [MCC 34.0565 Conditions of Approval – Accessory Structures]

- d. The property owners or their representatives shall include a Lighting Plan in the building plan sets that includes all light locations and light fixture details on the single family dwelling and accessory building that are in compliance with the County's Dark Sky Lighting Standards contained in MCC 34.0570.
 - e. The property owners or their representative shall include a fire sprinkler system plan that is designed to meet Section 903.1.3 (NFPA13D) of the Oregon Fire Code within the building permit plan sets for the single family dwelling. In addition, the plans shall show that a monitored fire alarm system must be installed. [Exhibit A.6]
 - f. The property owners or their representative shall demonstrate that the existing 5,793 sq. ft. accessory structure referred to in this decision as the Barn is in compliance with the 35-ft. height requirement listed in MCC 34.2855.
 - g. Demonstrate that the County Sanitarian has reviewed the construction plans for the on-site sewage disposal system and is ready to issue the on-site sewage disposal construction permit for the new dwelling (Exhibit A.3).
4. Within three months of occupancy of the new single family dwelling, the property owners shall demolish the detached garage, existing dwelling unit, implement cover and remove the hardscape proposed to be demolished. The property owners shall contact Code Compliance at 503.988.5508 and request an inspection to demonstrate compliance with this condition within 10 days of all the buildings being removed. [MCC 37.0560]
 5. Within three months of occupancy of the new single family dwelling, the property owners shall install all proposed riparian vegetation and remediation landscaping as shown on Exhibit A.23 and A.30 and discussed in Exhibit A.2.
 6. The property owners or their representative shall obtain building permits and final those permits for all approved accessory structures by January 1, 2019. [MCC 37.0560]
 7. By January 1, 2019, the property owners shall have demolished or removed the non-permitted second dwelling unit (expired health hardship/farm help dwelling) from the property and decommissioned the on-site sewage disposal system for the dwelling. Any and all necessary permits shall be obtained. [MCC 37.0560 and Voluntary Compliance Agreement UR 2014-3294]
 8. The property owners shall maintain the existing and required plantings as shown on Exhibit A.23 and A.30 in living condition and shall replace any dead or damaged trees or required vegetation if they do not survive. Any dead or dying vegetation shall be replaced in the next planting season with vegetation that is a minimum of a 3-gallon pot or 1.5 inch stem as appropriate to the planting.

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, Lisa Estrin, at (503) 988-0167 or lisa.m.estrin@multco.us, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland. Five (5) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee will be collected. In addition, an erosion control inspection fee may be required.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.00 Project Description:

Staff: The applicant has applied for a Willamette River Greenway permit for a new single family dwelling to replace an existing dwelling. The new home will be outside of the 150-ft setback from the ordinary low water line of the river and will be located outside of the FEMA designated 100-year floodplain. In addition, the applicant is requesting authorization to maintain an existing detached garage and implement shed constructed without permits, and authorize the conversion of an exempt farm structure to an accessory building. The existing home will be demolished, the basement filled in and significant areas of asphalt removed. The area will then be planted to restore the area.

2.00 Property Description, History & Code Compliance:

Staff: The subject property contains an existing dwelling originally constructed in 1963 and a mobile home originally placed in 1989 as a health hardship dwelling. The mobile home was converted to a farm-help dwelling. The property is no longer used for farming and the mobile home needs to be removed or converted to another permissible land use. The County has entered into an agreement (Exhibit B.2) with the Stevens to allow them to maintain the mobile home until such time as they occupy the new dwelling. Once they occupy the new dwelling, they will have until January 1, 2019 to convert or demolish the mobile home on the property.

In 1985, the prior property owners registered for a 30-ft by 40-ft exempt farm structure with the County. It was represented at the time that the exempt farm structure was located outside of the 100-year floodplain so no Flood Development permit was required. The barn is now 60-ft by 73-ft and it was determined that it is actually located within the FEMA designated 100-year floodplain. If the building is authorized as an accessory building as part of this application, a building permit and flood development permit will be required to be obtained in order to maintain the building. A condition of approval will be included to authorize this building via a Flood Development permit and building permits.

The property also contains a detached garage and implement cover that were constructed between 1994 and 1998. No permits were found authorizing these structures in the floodplain. The applicant is proposing to authorize the detached garage as an accessory building and obtain building permits and flood development permits for it. The implement cover will be moved to a portion of the property outside of the FEMA designated 100-year floodplain. Building permits will also be necessary for the structures if authorized. If they are not authorized, they will need to be removed from the property pursuant to MCC 37.0560.

In 1997, the County approved in WRG 8-97 and GEC 34-97, a riverbank stabilization project on the northeast river bank on the property. Planting and maintenance of willow plantings was required as part of this project.

In 2000, the County approved improvements adjacent to and in the barn outbuilding. These improvements included a propane tank installation and electrical room. The improvements were represented to also be outside of the FEMA 100-year floodplain and no flood development permit was required. This exempt farm structure (aka barn) was to be converted to an accessory building and obtain building permits. Recently, it was determined that these improvements are located in the 100 year floodplain. The applicant is proposing to remove the electrical room from the barn. This

equipment will be placed in or near the new dwelling. The existing propane tank will remain in its present location and will need to demonstrate compliance with the County's Flood Development code.

In 2010, the County approved in T1-10-001, a riprapped boat ramp leading down to the river in the riprapped area of the property.

Pursuant to MCC 37.0560, the subject application will correct most of the unauthorized work on the property. The County's VCA covers the removal of the mobile home after the construction of the new dwelling.

3.00 Multiple Use Agriculture -20 Criteria:

3.01 § 34.2820 ALLOWED USES

(C) Residential use consisting of a single family dwelling constructed on a Lot of Record.

Staff: The proposal is for a single family dwelling to replace the existing dwelling currently on the property (Exhibit A.2 & A.22). The new dwelling will have an attached three-car garage and the total square footage of the building will be 4,906 sq. ft. Based on the materials discussed in Section 3.15, the property is a Lot of Record. *Criterion met.*

3.02 (F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list:

- (a) Garages or carports;**
- (b) Pump houses;**
- (c) Garden sheds;**
- (d) Workshops;**
- (e) Storage sheds, including shipping containers used for storage only;**
- (f) Greenhouses;**
- (g) Woodsheds;**
- (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;**
- (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;**
- (j) Sport courts;**
- (k) Gazebos, pergolas, and detached decks;**
- (l) Fences, gates, or gate support structures; and**
- (m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and**
- (n) Similar structures.**

Staff: The applicant is proposing to convert an exempt farm structure (barn) to an accessory structure. The building will be used for storage, animals, recreational vehicle storage, farm implement bay, and workshop (Exhibit A.30). In addition to this building, the applicant requests approval of a detached car garage with a small storage room (Exhibit A.30). The final building to be authorized is an implement cover located towards the southern property line

(Exhibit A.22).

- 3.03 **(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.**
- (5) Compliance with MCC 34.0565 is required.**

§ 34.0565 CONDITION OF APPROVAL – ACCESSORY STRUCTURES

Prior to issuance of any development permit involving an Accessory Building, the property owner shall record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use.

Staff: The barn, implement cover and the detached garage/river pavilion building does not contain any improvements that would constitute a dwelling unit. A condition of approval has been included reminding future property owners that these buildings are not to be used for residential uses as required by MCC 34.0565.

- 3.04 **(3) The Accessory Structure may contain one sink.**

Staff: The floor plans for the barn and the detached garage do not show any sinks. *Criterion met.*

- 3.05 **(4) The Accessory Structure shall not contain:**

- (a) More than one story;**
- (b) Cooking Facilities;**
- (c) A toilet;**
- (d) Bathing facilities such as a shower or bathing tub;**
- (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or**
- (f) A closet built into a wall.**

Staff: The barn building is two-stories. The detached garage has a small storage area that could qualify as a closet (Exhibit A.30). These accessory buildings will need to be considered via MCC 34.2825(J).

- 3.06 **(6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet.**

- (7) An Accessory Structure exceeding any of the Allowed Use provisions above shall be considered through the Review Use provision.**

Staff: The property contains four accessory buildings. The ground floor of the barn is 66-ft by 74.33-ft (4,905.78 sq. ft.). The detached garage is 26.33-ft by 26.125-ft (687.87 sq. ft.). The implement cover is 26.08-ft by 26.33-ft (686.69 sq. ft.). The final building is a well pump

house. The pump house is 8-ft by 15-ft (120 sq. ft.). The total combined footprint for all accessory buildings is 6,398 sq. ft. The barn, detached garage and implement cover will need to be reviewed via MCC 34.2825(J).

3.07 § 34.2825 REVIEW USES

(J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 34.2820 Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

Staff: A condition of approval has been included to remind future property owners that these buildings are not to be used for residential purposes. *Through a condition, criterion met.*

3.08 (2) The Accessory Structure shall not contain a bathing tub.

Staff: No bathing tub is proposed in the barn, detached garage or implement cover. *Criterion met.*

3.09 (3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

Staff: No toilets or bathing facilities will be constructed or proposed for the three accessory buildings. *Criterion met.*

3.10 (4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

Staff: No toilets, bathing facilities or cooking facilities are proposed. *Criterion met.*

3.11 (5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

Staff: A condition of approval has been included reminding future property owners of this requirement. *Through a condition of approval, this criterion can be met.*

3.12 (6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

Staff: As discussed above, the property contains four accessory buildings. The total square footage for each proposed building is shown in the table below:

Building	Square footage
Barn	1 st Floor: 4,905.78 2 nd Floor: 887.5 Total 5793.28 sq. ft.
Detached Garage	687.87 sq. ft.
Implement Cover	686.69 sq. ft.
Total Accessory Building Sq. Footage Proposed: 7,167.84 sq. ft.	

The applicant has indicated that the equipment for the well will be placed in the garage of the new dwelling and the 120 sq. ft. pump house will be demolished. The barn, detached garage and implement cover are the ones proposed to be permitted by this application. The 5,793 barn is proposed for a myriad of uses including 3 horse stalls and an equine enclosure, storage, workshop, rv storage and farm implements. The area used for rv storage is 1,635.26 square feet and would equate to an eight car garage (10-ft wide by 20-ft long parking space). The farm implement bay proposed for the barn is an area that is 40-ft wide and 21.75-ft deep (870 sq. ft.). The equine use is approximately 587.5 sq. ft. Workshop is approximately 399 sq. ft. but has the stairs leading to the 2nd story intruding into the room. The remaining 2,301.52 sq. ft. of the barn is labeled as storage and is broken down into various rooms. *Criterion met.*

The detached 687 sq. ft. garage will be used for vehicle storage (Exhibit A.32). The building could hold two cars. The applicant has not provided evidence that the property owners require more than eleven enclosed parking spaces on the property. The new dwelling will have three enclosed parking spaces. The barn has at least eight enclosed parking spaces within the RV storage area. In addition, the barn could have some of the 2,301 sq. ft. of storage area converted to enclosed parking by modifying the exterior of the building. The Allowed Use provisions for accessory buildings in the MUA-20 zone is 2,500 sq. ft. The requested 7,167 sq. ft. of accessory building space has not been demonstrated to meet the “minimum possible departure” standard listed above. *This criterion not met for the detached garage.*

The implement cover is a three sided shed that is moveable. The applicant has proposed to move it outside of the 100-year flood plain near the southern property line. The applicant has not provided information as to what is the exact purpose of the shed. It is labeled as an implement cover on the site plan (Exhibit A.22). The barn has 870 sq. ft. of proposed farm implement bay. The subject property is not currently in farm deferral and as such it is not a “farm building” as it is not on a commercial farm. With the information provided, planning staff cannot find that the implement cover is the “minimum possible departure” from the standard listed above. *This criterion not met for the implement cover.*

A condition of approval has been included that the detached garage and implement cover be removed from the property. *Through a condition, this criterion will be met.*

3.13 § 34.2855 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Staff: The distance from the property lines to the various proposed buildings are shown in the table below:

Building	Front	North Side	South Side	Rear
New Dwelling	248.91 ft.	84.25 ft.	761 ft.	107.5 ft.
Barn	267 ft.	406.25 ft.	498.58 ft.	283.5 ft.
Detached Garage	514.08 ft.	347+ ft.	590.42 ft.	85 ft.
Implement Cover	351.66 ft.	>900 ft.	122.5 ft.	410 ft.

The proposed buildings will meet the minimum yard dimensions as shown on Exhibit A.22. The proposed dwelling, detached garage and implement cover are all single story (Exhibit A.26 – A.28, & A.12). The barn is two-story (Exhibit A.30). A condition of approval has been included for the applicant to demonstrate compliance with the 35 ft. height requirement for the barn building.

3.14 (G) All exterior lighting shall comply with MCC 34.0570.

Staff: Neither the floor plans or building elevations reference exterior lighting locations. A condition of approval has been included requiring a lighting plan be included in the building plan check so that compliance with the County's Dark Sky Lighting Standards can be verified.

3.15 § 34.2870 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;**
- (6) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 34.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: The subject property was placed in its current configuration in March 1982 (Exhibit A.9). At the time, the area was zoned F-2 (Agricultural District) which had a minimum lot size of 2 acres. The property was approximately 18.08 acres. Since that time, it appears that the Columbia River banks have been altered due to natural cause and reduced the parcel by 1.13 acres in size incrementally. *The unit of land is a Lot of Record.*

4.00 Willamette River Greenway Criteria

4.01 § 34.5810 USES - GREENWAY PERMIT REQUIRED

All uses permitted under the provisions of the underlying district are permitted on lands designated WRG; provided, however, that any development, change of use or intensification of use, except as provided in MCC 33.5820, shall be subject to a Greenway Permit issued under the provisions of MCC 34.5830.

Staff: The applicant has applied for a Willamette River Greenway permit.

4.02 § 34.5855 GREENWAY DESIGN PLAN

The elements of the Greenway Design Plan are:

(A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river.

(Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use.

Staff: The proposed dwelling will be a minimum of 150 feet from the Ordinary Low Water Line of the River. The applicant has proposed the planting of a significant vegetative buffer between the dwelling and the river. The proposed barn is at least 280 feet from the eastern edge of the property adjacent to the river. The additional plantings will help to enhance the aesthetic quality of the property from the river. The Implement Cover is at least 410 feet from the eastern edge of the property adjacent to the river. Existing natural and planted vegetation helps to screen the building from the river. *Criteria met for these buildings.*

The detached garage is approximately 107 feet from the Ordinary low waterline (Exhibit A.22). The applicant has stated (Exhibit A.32) that the detached garage will be used for the storage of vehicles. The storage of cars is not accessory to a farm use and is not a water dependent use. While the applicant has proposed plantings to the northeast of the building, it does not offset the requirement that the building be at least 150 feet from the ordinary low waterline. *Criteria not met.*

A condition of approval of approval has been included requiring that the detached garage be removed from the property. *Through a condition, the criterion will be met.*

4.03 (B) Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas.

Staff: The public is allowed access along the river between the ordinary high-water line and the ordinary low-water line. The subject parcel is private property and is located in a rural area. *Criterion met.*

4.04 (C) Developments shall be directed away from the river to the greatest possible degree, provided, however, that lands in other than rural and natural resource districts may continue in urban uses.

Staff: The new single family dwelling will be setback a minimum of 150 feet from ordinary high waterline (Exhibit A.22). The dwelling is set 249-ft+/- from the western property line do to the fact that the on-site sewage disposal system will be constructed behind the dwelling. The seepage bed disposal system takes significant land resources to implement. Placement of the system in front of the dwelling could impact the river in a flood event if floodwaters would enter it. The location of the dwelling is directed away from the river to the greatest possible degree. *The location of the dwelling meets this criterion.*

The proposed barn is set in the middle of the property to allow for access from all sides of the structure. The building is 283.5-ft+/- from the eastern property line. Movement of the structure would impact available lands for future agricultural purposes. *The location of the barn meets the criterion.*

The implement cover is approximately 410 feet from the eastern property line. While it can be moved further from the river, it is screened by significant vegetation along the banks of the river. *The location of the implement cover meets the criterion.*

The detached garage is located 107 feet from the ordinary high water line of the river. Its use as a car garage does not seem to be river dependent as vehicles can be parked outside for day use at the dock. The applicant has not made an argument that the building must be located in this location to provide the use. The proposed barn has available room for eight, 10-ft by 20-ft parking spaces and could be modified to provide additional parking areas in the building. This building has not been directed away from the river to the greatest possible degree. *The location of the detached garage does not meet this criterion.*

4.05 (D) Agricultural lands shall be preserved and maintained for farm use.

Staff: The subject site is 16.95 acres. After completion of the proposed improvements, significant areas will still exist that are available for farm use. At present, a 26,626 sq. ft. garden area exists on the site and will remain available for the growing of food. *Criterion met.*

4.06 (E) The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or will be restored within a brief period of time on those lands inside the Urban Growth Boundary.

Staff: No timber harvesting is proposed. Eight black cottonwood trees will be removed for the construction of the new home. To offset the loss of these trees, the applicant has proposed the planting of 12 new black cottonwoods, 11 Western red cedars, 12 Columbia Willows and 5 Red Alders to provide a visual buffer between the river and the new dwelling. *Criterion met.*

4.07 (F) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses.

Staff: The recreational needs of the home owners will be provided on the property on a concrete patio slab near the river. In addition, the large boat dock will remain to provide for recreational boating. No farm uses will be affected by these recreational improvements. *Criterion met.*

4.08 (G) Significant fish and wildlife habitats shall be protected.

Staff: The Willamette and Columbia Rivers are home to a number of endangered fish species. In addition, its banks provide habitat, food and a travel corridor for mammals and amphibians in the area. The south portion of the east property line is lined with willows and other riparian vegetation. The northern portion of the riverbank along the property has been armored as approved in WRG 8-97. In front of the armored area, it was to be planted with willow sticks to provide riparian vegetation. The proposed planting plan adds additional landscaping along the northern portion of the riverbank as shown on Exhibit A.23. Proper erosion control and restoration plantings where the existing house is being removed will protect fish and wildlife habitat along the River. *Criterion met.*

4.09 (H) Significant natural and scenic areas and viewpoints and vistas shall be preserved.

Staff: The proposed location of the new dwelling 150 plus feet from the riverbank and the removal of the old dwelling and restoration of vegetation along the riverbank will enhance the views from the river and preserve the natural areas along the banks.

4.10 (I) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.

Staff: The subject property is private property. The applicant has not proposed any specific security measures for stall to review. *Criterion met.*

- 4.11 (J) The natural vegetation along the river, lakes, wetlands and streams shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, screening of uses from the river, and continuous riparian corridors.**

Staff: The south portion of the east property line is lined with willows and other riparian vegetation. The northern portion of the riverbank along the property has been armored as approved in WRG 8-97. In front of the armored area, it was to be planted with willow sticks to provide riparian vegetation. The proposed planting plan adds additional landscaping along the northern portion of the riverbank as shown on Exhibit A.23. Proper erosion control and restoration plantings where the existing house is being removed will help to restore the continuous riparian corridor.

- 4.12 (K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC 34.6300 through 34.6535, when economically feasible and when conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.**

Staff: No mining has been proposed as part of this project. *Criterion met.*

- 4.13 (L) Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions.**

Staff: The proposed dwelling will be built outside of the FEMA designated 100-year floodplain. The existing dwelling and a large amount of hardscape located in the floodplain will be demolished and the area restored with vegetation (Exhibit A.22). The barn is located within the 100-year floodplain and will need to be modified to meet the County's flood development regulations. The implement cover will be placed outside of the floodplain. The detached garage is located in the 100-year floodplain. It could be moved to outside of the floodplain if it was relocated near the new dwelling. Its current placement does not preserve the flood plain in its natural state to the maximum possible extent. *The new dwelling, barn and implement cover meet the criteria to the extent possible. The detached garage does not meet the criteria.*

- 4.14 (M) Significant wetland areas shall be protected as provided in MCC 34.5865.**

Staff: The subject property does not contain any County designated "Significant Wetlands". *Criterion not applicable.*

- 4.15 (N) Areas of ecological, scientific, historical or archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.**

Staff: The riverbank is an area of ecological significance. The applicant is proposing to revegetate areas along the bank to enhance its characteristics and help protect the bank from erosion (Exhibit A.23). *Criterion met.*

- 4.16 (O) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway.**

Staff: A grading and erosion control and a flood development permit will be issued for all new

development as required by MCC 29.336 and MCC 29.603. These permits will reduce potential erosion from the project. *As conditioned, this criterion will be met.*

4.17 (P) The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.

Staff: The primary use of the property will be for a single family dwelling. The dwelling and its associated accessory buildings should not contribute significantly to dust or smoke in the area. The sewage created by the dwelling will be handled by its on-site sewage disposal system (Exhibit A.3). Significant areas of land will remain in its natural state or be farmed by the property owner. *Criterion met.*

4.18 (R) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC 34.7000 through 34.7070, to the extent that such design review is consistent with the elements of the Greenway Design Plan.

Staff: Pursuant to MCC 34.7015(A), a single family dwelling is exempt from Design Review.

4.19 (S) The applicable policies of the Comprehensive Plan are satisfied.

Staff: No comprehensive plan policies were identified. *Criterion not applicable.*

5.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Willamette River Greenway and Accessory Use Determination to establish a single family dwelling and two of three detached accessory building in the Multiple Use Agriculture – 20 zone. This approval is subject to the conditions of approval established in this report.

6.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2017-7406 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	3/31/2017
A.2	10	Narrative	3/31/2017
A.3	3	Septic Review Certification	3/31/2017
A.4	1	Sauvie Island Drainage Improvement Company Letter	3/31/2017
A.5	3	Certification of Water Service	3/31/2017
A.6	6	Fire Service Agency Review	3/31/2017
A.7	2	Transportation Planning Review	3/31/2017

A.8	8	Transportation Access Permit signed by Jessica Berry on March 8, 2017	3/31/2017
A.9	1	Warranty Deed	3/31/2017
A.10	4	Pre-filing Conference Summary Notes	3/31/2017
A.11	9	Property Profile Report	3/31/2017
A.12	2	Photos of Detached Garage	3/31/2017
A.13	1	Storm Water Certificate	3/31/2017
A.14	2	Storm Drain Plan & Details– Sheet C1 and D1	3/31/2017
A.15	1	Project Information Site Plan – Sheet A1.0	3/31/2017
A.16	1	Site Plan Detail – Sheet A1.1	3/31/2017
A.17	1	Additional Willamette River Greenway Drawings – Sheet A1.2	3/31/2017
A.18	1	Floor Plan – Sheet A2.0	3/31/2017
A.19	1	Roof Plan – Sheet A2.1	3/31/2017
A.20	1	Elevation Sheet A3.0	3/31/2017
A.21	2	Revised Storm Drain Plan & Details – Sheet C.1 & D.1	5/18/2017
A.22	1	Project Information Site Plan – Sheet A1.0	5/18/2017
A.23	1	Site Plan Detail – Sheet A1.1	5/18/2017
A.24	1	Floor Plan – Sheet 2.0	5/18/2017
A.25	1	Roof Plan – Sheet 2.1	5/18/2017
A.26	1	Elevation – Sheet 3.0	5/18/2017
A.27	1	Elevation – Sheet 3.1	5/18/2017
A.28	1	Elevation – Sheet 3.2	5/18/2017
A.29	1	Additional Narrative	5/18/2017
A.30	1	Barn and Detached Garage Floor Plan and Planting Detail for Demolished Home	5/18/2017
A.31	1	Survey	9/22/2017
A.32	12	Emails Discussing Proposed Project between Applicant Spencer Kroll and Lisa Estrin, Case Planner	9/26/2012
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 2N1W14A – 00400	3/10/2017
B.2	8	Voluntary Compliance Agreement	5/25/2017
B.3	17	T2-2013-3156 Hearings Officer's Decision	9/26/2017

'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	3/2/2017
C.2	3	2 nd Incomplete Letter	4/28/20017
C.2	1	Applicant's Acceptance of 180 Day Clock	5/18/2017
C.3	1	Complete Letter (Day 1)	6/14/2017
C.4	3	Opportunity to Comment	8/24/2017
C.5	16	Administrative Decision	9/27/2017