

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: T2-2018-9992

Permit: Adjustment

Location: 2940 NW Mill Pond
Tax Lot 600, Section 26BC, Township 1 North, Range 1 West, W.M.
Tax Account #R961260690

Applicants: Dan Williams, Faster Permits

Owners: Farhad & Brandi Mehta

Base Zone: Rural Residential (RR)

Overlays: N/A

Summary: The applicant is requesting an Adjustment to the side yard to allow the eaves to extend into the setback area.

Decision: Approved with Conditions

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, May 21, 2018 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: Monday, May 7, 2018

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 email lisa.m.estrin@multco.us

Applicable Approval Criteria: Multnomah County Code (MCC): *General Provisions:* MCC 37.0560 Code Compliance and Applications, MCC 33.0005 Definitions, *Rural Residential:* MCC 33.3120(C) Allowed Uses – Residential use..., MCC 33.3155 Dimensional Requirements and Development Standards, MCC 33.3170 Lot of Record, MCC 33.3185 Access *Adjustment:* MCC 33.7606 Scope, MCC 33.7611 Adjustment Approval Criteria

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 at the link *Chapter 33: West Hills Rural Plan Area.*

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 shall expire as described in a. or b. below:**
 - a. **When construction has not commenced within two years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.**
 - b. **When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.**

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 sign-off for building plan check, the property owner or their representative shall modify the site plan to show the location of all exterior lighting to be installed and provide a detail(s) of the lighting fixtures to be installed. The light fixtures shall be in compliance with the County's Dark Sky Standards of MCC 33.0570. [MCC 33.3155(F)]
4. All exterior light fixtures shall remain in compliance with the County's Dark Sky Standards of MCC 33.0570. Any new light fixtures added after the construction of the dwelling shall also be in compliance with MCC 33.0570.



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SHEET NO.

5. After the foundation forms are set for the foundation walls of the dwelling, the property owner shall have an Oregon Licensed Survey verify that the foundation walls are located outside of the required minimum yard areas of MCC 33.3155(C). Documentation of the setback verification survey with Surveyor stamp shall be provided to Land Use Planning within 15 days of the surveyor completing the measurements on site.
 - a. Encroachment of the walls of the dwelling are not permitted via this decision and can result in the revocation of this approval

Transportation Planning Note:

1. **Prior to Transportation Planning sign-off for the building plan check**, the property owner shall dedicate 5-feet along the site's NW McDaniel Road frontage to Multnomah County for road purposes. In addition, the property owner shall sign deed restrictions committing the present and/or future property owners to participate in future right-of-way improvements if completed in the future. Contact Pat Hinds at (503) 988-3712 or patrick.j.hinds@multco.us to complete the easement dedication and deed restrictions. [Exhibit B.4 / MCRR 6.100A / MCRR 9.400]

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 complete the following steps:

1. Contact the City of Portland, Bureau of Development Services, Trade Permits at 503-823-6892 to complete the Sanitation Permit process for installation of the on-site sewage disposal system.
2. Contact Right-of-Way Permits at (503) 988-3582, or email row.permits@multco.us for an appointment to review of your plans for building plan check and to sign the building permit form. Failure to make an appointment can result in delay in entering building plan check or obtaining building permits.
3. Contact staff planner, Lisa Estrin, at (503) 988-0167, or email lisa.m.estrin@multco.us for an appointment for review of the conditions of approval and to sign the building permit plans.

Please note, the above three agencies must review and sign off the building permits before the applicant can obtain building permits at 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, Land Use Planning will collect additional fees.

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 is proposing to construct a new single family dwelling with attached garage on an existing vacant parcel. To construct the dwelling as proposed, the applicant is requesting two Adjustments to the minimum yard dimensions of the Rural Residential (RR) zone. The first adjustment is to the 10-ft interior side yard. The dwelling’s eave will project 12-inches into this required side yard. The second adjustment is to the 30-ft street side yard adjacent to Mill Pond Road. The dwelling’s eave will project 29-inches reducing the street side yard to approximately 27.58 feet at the encroachment point.

2.00 Property Description & History:

Staff: The subject property is 14,328 sq. ft. and is zoned Rural Residential (RR). The subject property is located within Metro’s Urban Growth Boundary. It was created in its current configuration through a property line adjustment where it was increased from 11,245 sq. ft. to its present size. The property line adjustment was approved by the Land Use Planning case, T2-2013-3242 on June 6, 2014. County Survey 64181 was recorded on August 28, 2014.

3.00 Rural Residential Approval Criteria:

3.01 MCC 33.3120 Allowed Uses

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

Staff: The applicant is proposing to construct a single family dwelling (Exhibit A.2) on a Lot of Record. The subject property was created through a property line adjustment in 2014. Please see the Lot of Record finding under Section 3.04 below for additional information.

3.02 MCC 33.3155 Dimensional Requirements and Development Standards

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

*** * ***

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

Staff: The subject property is a corner lot and has road frontage on the County right-of-way known as NW McDaniel Road and the City of Portland’s right-of-way known as NW Mill Pond Road. County Transportation has been working with the applicant to dedicate the necessary 5 feet of additional right-of-way needed for McDaniel Road, so the minimum yard requirement does not need to increase for an insufficient right-of-way. The City of

Portland's Bureau of Transportation has found the right-of-way adequate and has not requested additional dedication or indicated that any right-of-way is necessary (Exhibit A.16). The County's standard minimum yard dimensions do not need to be increase and apply to this application. The applicant has requested that the interior side yard adjacent to the east property line be reduced to 9 feet to allow the encroachment of the dwelling's eave. In addition, the applicant has requested that the street side yard to the west property line be reduced to 27.58 feet to allow the dwelling's eaves to also encroach. The County has made additional findings regarding the granting of the Adjustment in Section 4.00 below. The Adjustments were granted. *The minimum yard dimensions have been met.*

3.03 (F) All exterior lighting shall comply with MCC 33.0570.

Staff: A condition of approval has been included requiring the applicant to provide lighting details prior to land use sign off for building plan check. *Through a condition, this criterion has been met.*

3.04 § 33.3170 Lot of Record

(A) In addition to the Lot of Record definition standards in MCC 33.0005, 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, RR zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

* * *

Staff: A property line adjustment application, T2-2013-3242, was approved on June 6, 2014. On August 28, 2014, a property line adjustment survey was recorded. On October 27, 2014, the property owners recorded a new deed to finish the property line adjustment and to create the property known as tax lot 1N1W26BC – 00600 in its current configuration (Exhibit B.2 & B.3). Based upon above, tax lot 1N1W26BC – 00600 is a Lot of Record.

3.05 § 33.3185 Access

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 33.3170(B).

Staff: The subject property fronts on to two public street, NW McDaniel Road and NW Mill Pond Road. *Criterion met.*

4.00 Adjustment Approval Criteria

4.01 § 33.7606 Scope

(A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:

* * *

Staff: The applicant has requested a reduction to the Minimum Side Yard requirements of MCC 33.3155(C). If the adjustment is approved, it will reduce the street side yard adjacent to NW Mill Pond Road by 29 inches and the interior side yard by 12 inches (Exhibit A.3). The Rural Residential (RR) Yard requirements are a dimensional standard allowed to be altered through an Adjustment process.

4.02 § 33.7611 ADJUSTMENT APPROVAL CRITERIA

The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 33.7606 upon finding that all the following standards in (A) through (E) are met:

Staff: The proposed modifications will reduce the street side yard by 8 percent and the interior side yard by 3 percent.

4.03 (A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Staff: The applicant is proposing to allow small portions of roof eaves to encroach into the minimum side yards (Exhibit A.6). The body of the house will remain outside of the side yards. The small intrusion still allows for the open space component of the yard requirement. *Criterion met.*

4.04 (B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

Staff: The proposed two adjustments will reduce the required side yards by 8 and 3 percent respectively. Light, privacy and open space will still exist whether the eaves encroach or not in compliance with the code because the actual walls of the dwelling meet the required setbacks (Exhibit A.3 & A.6). *Criterion met.*

4.05 (C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and

Staff: Two adjustments are being considered (Exhibit A.2 & A.3). Total reduction of minimum side yards would be less than 10% if the two yards were considered as one. The dwelling living space remains outside of the required yards and allows for the purpose of those spaces. *Criterion met.*

- 4.06 (D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands; and**

Staff: The subject property is zoned Rural Residential. This criterion is not applicable.

- 4.07 (E) If in a Rural Residential (RR) or Burlington Rural Center (BRC) zone, the proposal will not significantly detract from the livability or appearance of the residential area.**

Staff: The proposed adjustments are for eave encroachments (Exhibit A.6). The windows, doors and living area will not encroach into the side yards allowing for adequate separation between the public street and adjacent properties. *Criterion met.*

5.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the approval to two adjustments to establish a new single family dwelling with attached garage in the Rural Residential 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 T2-2018-9992 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	2/1/2018
A.2	1	Project Description	2/1/2018
A.3	2	Adjustment Narrative	2/1/2018
A.4	1	Email Regarding Adding Certification of Water Service to Case File	2/1/2018
A.5	1	Certification of Water Service	2/1/2018
A.6	1	Site Plan (11”x17”)	2/1/2018
A.7	1	Front Elevation and Roof Plan (11”x17”)	2/1/2018
A.8	1	Elevation / General Notes – Sheet 2/9 (11”x17”)	2/1/2018
A.9	1	Elevations / Details – Sheet 3/9	2/1/2018
A.10	1	Main Floor Plan	2/1/2018
A.11	1	Upper Floor Plan	2/1/2018
A.12	6	Preliminary Title Report	2/1/2018

A.13	20	Storm Water Certificate (1 page) a. Storm Water Narrative Letter (1 page) b. Stormwater Site Plan (1 page) c. StormTech SC-310 Chamber brochure (2 pages) d. Routing Diagram and Calculations for 5942 Mill Pond Post Developed (9 pages) e. Infiltration Test Report for 2960 NW McDaniel Road Portland, OR Tax lot#1N1W26BC 600 (6 pages)	2/1/2018
A.14	4	Septic Review Certification (1 page) a. Sanitarian Signed Site Plan – Mehta, Brandi & Farhad (1 page) b. Upper Floor Plan documented by Sanitarian (1 page) c. Main Floor Plan documented by Sanitarian (1 page)	2/1/2018
A.15	8	Fire Service Agency Review dated December 6, 2017	2/1/2018
A.16	1	Public Works Alternative Review 17-221037	2/1/2018
A.17	1	Letter of Authorization	3/08/2018
A.18	20	Revised Stormwater Materials	3/8/2018
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	2/1/2018
B.2	3	Property Line Adjustment Deed 2014-107316	4/27/2018
B.3	3	Warranty Deed 2016-133017	4/27/2018
B.4	3	EP 2017-9771 Memo	3/2/2018
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	3/2/2018
C.2	1	Applicant's Acceptance of 180 Day Clock	3/8/2018
C.3	1	Complete Letter (Day 1)	3/13/2018
C.4	3	Opportunity to Comment	3/26/2018
C.5	8	Administrative Decision	5/2/2018