
NOTICE OF DECISION

Case File: T2-2019-11721

Permit: Type B Home Occupation and Accessory Use Determination

Applicant(s): William Giles

Owner(s): William Giles and Amanda Breese

Location: 18100 NW Sauvie Island Rd, Portland, OR
Tax Lot 01500, Section 17D, Township 2 North, Range 1 West, W.M.
Alternate Account #R583602220 Property ID #R221066

Zoning: Multiple Use Agriculture – 20 (MUA-20)

Overlays: None

Proposal Summary: Establishment of a Type B Home Occupation and Accessory Use Determination for a music room for combined personal use and recording studio located in the existing garage.

Decision: Approved with Conditions

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, June 5, 2019 at 4:00 pm.

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, contact Katie Skakel, Staff Planner at 503-988- 0213 or at katie.skakel@multco.us

Opportunity to Appeal: 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 office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

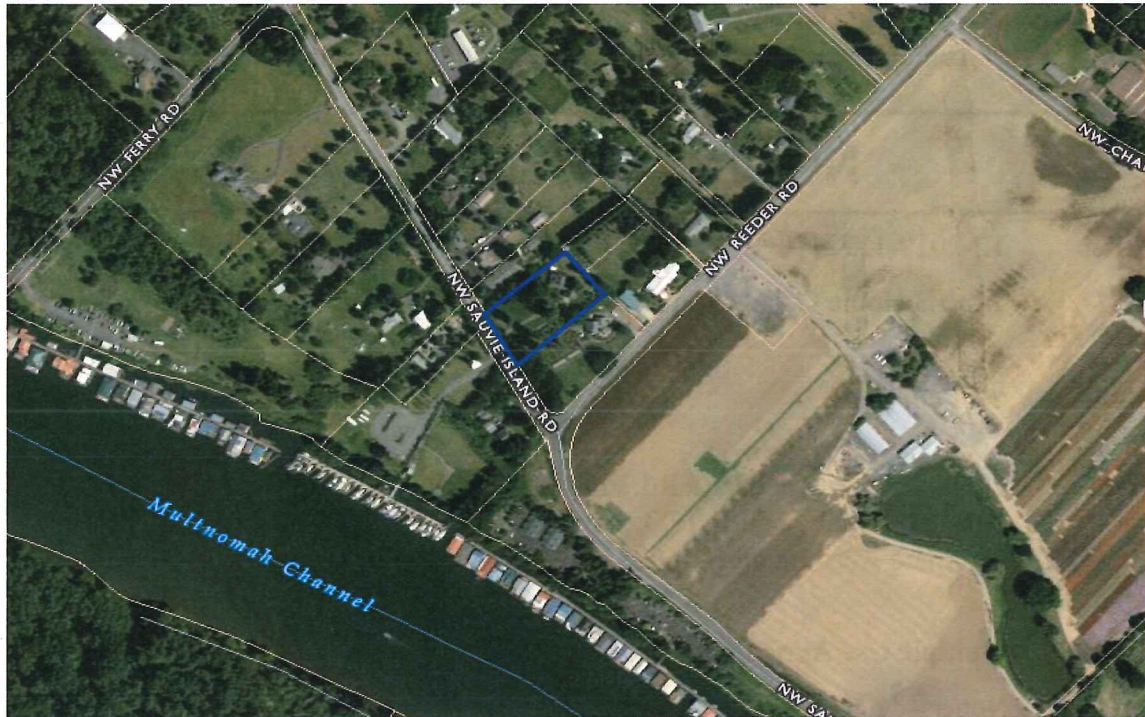
Issued By: 
Katie Skakel, Senior Planner

For: Adam Barber, Interim
Planning Director

Date: Wednesday, May 22, 2019

Vicinity Map

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Applicable Approval Criteria: Multnomah County Code (MCC):

MCC 39.1515 Code Compliance and Applications

MCC 39.3080 Lot of Record – MUA-20 and MCC 39.3005 LOR generally

Multiple Use Agriculture – 20: MCC 39.4310 (F) Allowed Uses - Accessory Structure, MCC 39.4315(H) Review Use – Customarily Accessory, MCC 39.4315(I) Review Use – Type B Home Occupation, MCC 39.4325 - Dimensional Requirements and Development Standards MCC 39.4325 (C), (G), (I), (H). (I) and (K); MCC 39.4340 Off-street parking and Loading, MCC 39.4345 Access and Off-Street Parking and Loading MCC 39.6500- 39.6525, MCC 39.6850 Dark Sky Lighting Standards

Type B Home Occupations, MCC 39.8850 Criteria for Approval

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or by visiting our website at multco.us/landuse/zoning-codes under the link Chapter 39 – Multnomah County Zoning Code and Multnomah County Road Rules.

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 for a Type B Home Occupation for a music studio which expires three (3) years from the date the decision is final pursuant to MCC 39.8850 (D) as applicable, if construction of improvements to septic, parking area and interior improvements to the garage have not commenced. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.8850 (D)(3), as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.
3. Notwithstanding the transfer of approval rights in MCC 39.8850, approval of a Type B home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type B home occupation is personal to the business operator and specific to the authorized premises. Approval of a Type B home occupation terminates automatically, immediately and without notification if the business owner ceases to reside full-time on the authorized premises. MCC 39.8850 (C).
4. Prior to Land Use Planning review and sign-off for a building permit, the property owners or their representative shall:
 - a) Record pages 1 through 4 and Exhibit A.4 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 39.1175]
 - b) Provide an updated site plan showing, showing markings, bumpers, curbs, and other permanent landscape barriers that will delineate parking lot spaces and movement areas. The parking plan shall be designed to meet the standards of [MCC 39.6590]
 - c) Obtain retroactive Land Use approval for the (8x6) tool shed and (10x10) storage building so with this application existing site plan reflects what is on site. [MCC 39.0560]
5. As an on-going condition, the music studio Type B Home Occupation shall:
 - a) Occur only within the garage room designated in Exhibit A.4 (the 676 square feet of the garage). At no time shall the garage be utilized as a residential use and at no time shall any portion of any accessory buildings on the property be utilized as a residential use [MCC 39.8850(A)]. Applicant shall sign and record the Covenant to Prohibit Residential Use of the Accessory Building attached as Exhibit B.7.
 - b) Have no more than two customers on the premises at any one time.[MCC 39.8850(A-3)]

- c) The home occupation shall not have or require a building code occupancy rating other than R-3 or U as determined by the building official. If City of Portland requires any other rating other than an R-3 or U, the Type B Home Occupation shall become void.

6. All exterior lighting shall comply with [MCC 39.6850].

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 by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or at 503-988-3582 for an appointment to review your plans, obtain your access permit, and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.

Note: Acquire an access permit for the site's access onto NW Sauvie Island Road. No access permits were found on file for the subject property. All access points to County right of way must be permitted [MCRR 18.250]. Applicant must submit access permit application with description of the driveway width and type (i.e. gravel or paved). Applicant must also submit an 11x17 site plan showing house, driveway, any accessory structures, and NW Sauvie Island Road. The site's single existing access qualifies as an Existing Nonconforming Access (or, ENCA) and thus the permit application fee will be waived [MCRR 4.700].

3. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail septic@portlandoregon.gov for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.
4. Contact Katie Skakel, Staff Planner, at 503-988-0213 or katie.skakel@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning will collect additional fees.

The above must be completed before the applicant can obtain building permits from the City of Portland. Five 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.

Comments Received:

County staff received four letters of support and one letter of opposition (Exhibit D.1-D.2)

- 1) From owners, Linda Wisner and Chet Orloff, at 18200 NW Sauvie Island Road located within 300 feet of William Giles property (18100 NW Sauvie Island Road), are supportive of the proposed Type B Home Occupation for Commercial Music Studio.
- 2) Letter of support from Rebecca M. Armstrong at 18112 NW Sauvie Island Road which states that Mr. Giles is an excellent neighbor and that she has no reservation in welcoming his home recording studio and states that his application should be approved.
- 3) A neighbor Hannah Treuhaft at 18131 NW Reeder Rd writes in support of the proposed home recording studio.
- 4) A neighbor, Joe Furia of 18105 NW Reeder Rd writes that he is supportive of the remodel of his garage into a music room and also for the Type B Home Occupation for recording business. He is satisfied that the proposed use will not have a noticeable impact on the neighborhood.
- 5) A letter of concern was raised from Mark Greenfield at 14745 NW Gillihan Road about having a toilet in the accessory structure and the concern that the accessory structure should not be used for residential purposes.

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*.

1.0 Project Description:

Staff: The applicant is requesting a Type B Home Occupation permit for authorization to use a portion of the garage for a recording studio that will host 1-2 persons at a given time. The music studio is proposed in the existing garage building which will include modifications that include adding a sound wall, toilet, and sink.

2.0 Property Description & History:

Staff: The proposed Type B Home Occupation will be located on a property at 18100 NW Sauvie Island Road. The property is zoned Multiple Use Agriculture-20 (MUA-20) and located in the Sauvie Island Multnomah Channel Rural Area. The single-family dwelling was established in 1967 and rebuilt in 1996 as demonstrated from Multnomah County Division of Assessment, Recording, and Taxation (DART) records and building permit records. Below are land use and building permits that are on record:

- Building Permit 12-10-96 (38’ x 45’ dwelling, 27’ x 27’ garage; demolition of existing house).
- Building Permit 5-17-07 (Deck approval)
- Property Line Adjustment recorded 11/5/96 based on Case #LE 11-96. (see attached Exhibit A.12)

3.0 Code Compliance and Applications Criteria:

§ 39.0560 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: There are no open code compliance issues associated with this property; therefore, the County has the authority to issue this land use decision. While there are no open code compliance cases, we do not find a land use permit for the tool shed (8' x 6') or storage building (10' x 10') located in the backyard of the property in the northeast corner so with this application we will retroactively address this Land Use Approval on these structure. *With conditions, criteria can be met.*

4.0 Accessory Use Determination – Multiple Use Agriculture – 20, MUA-20 Criteria

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

§ 39.4310 (F) Accessory Structure 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 unites, heat pumps and electrical boxes; and**
- (n) Similar structures.**

Staff: The property owners are requesting authorization for the conversion of the existing attached garage which is 27' x 27' square feet (729 sq ft) to be used in part as a music studio. The floor plan (Exhibit A.4) shows that a 15-ft by 36-ft (676 sq. ft.) area of the accessory structure will be used for the Type B home occupation (music studio). The subject property as it exists contains one single family dwelling with an attached garage and two outbuildings (the tool shed and a 10 x 10 sq. ft. storage unit). Based on tax records, the single family dwelling and attached garage is approximately 2,759 sq. ft. for both structures. The garage is 676 sq. ft and is connected to the house. Based on review of the submitted site plan and floor plan, staff finds that the existing garage meets the criteria of an accessory use structure.

(2) The Accessory Structures 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: The applicant has demonstrated that the building will be used for storing of light equipment, personal storage and for the proposed home occupation use. A condition of approval requires that a covenant be recorded indicating that the garage cannot be used or

occupied as a dwelling or any other form of permanent or temporary residential use. *With the condition, criteria can be met.*

(3) The Accessory Structure may contain one sink.

Staff: The existing accessory structure was originally approved as a garage structure. The submitted floor plan and narrative refer to one sink (and toilet) so that customers to the home occupation as well as the homeowner can “have privacy” verses clients coming into the main house to utilize the restroom. The proposed sink and toilet have been reviewed and approved by County Sanitation.

(4) The Accessory Structure shall not contain:

(a) More than one story;

Staff: The existing accessory structure (Exhibit B.4) was originally approved as a garage. Staff verified in a site visit dated February 21, 2019 that there is a loft area, as shown on the floor plan and the loft is utilized for personal storage only. The loft is accessed by a pull down ladder. The building qualifies as a one and one-half story building. Therefore the proposal does not qualify under the Allowed Use provisions and must be reviewed as a Review Use (see additional staff report findings below).

(b) Cooking Facilities;

Staff: There is no cooking facility.

(c) A toilet;

Staff: According to the submitted floor plan and narrative, the applicant has requested to install one toilet (and sink) in the existing garage accessory structure to be utilized for the proposed home occupation. Therefore the proposal does not qualify under the Allowed Use provisions and must be reviewed as a Review Use (see additional staff report findings below).

(b) Bathing facilities such as a shower or bathing tub;

Staff: There is no shower or bath tub.

(d) 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

Staff: Staff verified on through a site visit Feb 21, 2019, that there is no mattress or bed.

(e) A closet built into a wall.

Staff: Staff verified on through a site visit Feb 21, 2019 that there is no closet built into a wall.

(5) Compliance with MCC 39.8860 is required. 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 or permanent or temporary residential use.

Staff: A condition of approval requires that a covenant be recorded indicating that the building cannot be used or occupied as a dwelling. The applicant has indicated in the application narrative that the accessory use will not be used as a dwelling. As part of condition of approval, the covenant will be recorded and submitted to our office prior to issuance of any development permit. *With condition compliance can be met.*

(6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.

Staff: The combined footprints of accessory buildings on the Lot of Record is 2,300 sq ft which does not exceed 2,500 as shown on Exhibit A.2 Planning staff has addressed the Accessory Use Determination standards of MCC 39.4315(H 1- 7) in section 3.03 below.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use Provisions.

Staff: An accessory use determination has been submitted because the request includes a toilet and because the garage has more than one story which did not qualify under allowed use provisions MCC 39.4310 (F) 4a and 4c provisions.

MCC § 39.4315 Review Uses (H) 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 39.4310 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 unit.

Staff: Since the subject site already has a lawfully established accessory building, the garage, the proposed request is for a music studio in the garage. Although it will have a sink and toilet, it will not be designed or used as a residential use because it doesn't have a kitchen or shower. *Criteria met.*

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

Staff: The accessory structure does not contain a bathing tub. *Criteria met.*

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

Staff: The proposed toilet is on the ground floor. *Criteria met.*

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

Staff: No cooking facilities are proposed (more information is provided in a finding below).

- (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: No sleeping furniture is proposed.

- (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: See finding below.

- (7) Compliance with MCC 39.8860 is required.**

Staff: Applicant will record covenant that structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. *With condition, criteria met.*

Staff: The accessory structure has been reviewed under MCC 39.4310 (F) Allowed Uses and was found to exceed the accessory use standards under the allowed provisions. This is because the accessory building is 1 and ½ stories (there is a second floor loft) and the because the applicants have proposed to have a toilet on the first floor of the accessory structure. Staff must find that it meets the standards of MCC 39.4315(H 1- 7) Review Uses in order to allow more than one story and toilet. The applicant describes that the structure is proposed to be used as a music recording studio as well as for personal storage. The structure is not designed or used as a dwelling unit. The structure does not contain a bathtub or cooking facilities. According to the submitted floor plan, narrative, and site visit by Land Use Planning staff there is a proposed toilet and sink on the lower floor. Mr. Giles, the applicant has explained that the toilet is needed for the customers visiting the recording studio.

As required in approval MCC 39.4315 (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. The applicant must show that building features or combined building footprints exceeding the Allowed Uses provisions are the minimum possible departure from the Allowed Use standards to accommodate the use. The existing accessory structure contains one and a half stories and is below the 2,500 sq. ft. threshold. The existing accessory structures are 676 square foot for the garage - accessory structure and there are two smaller shed buildings which are within the normal square footage range for other similar combination buildings in the area. As a condition of approval, it will be required that the applicant not utilize the garage for an accessory dwelling unit. Based upon the above analysis, the property owners qualify to have the proposal accessory use, the existing garage (with added toilet) to be reviewed under the Type B Home Occupation provisions *Conditions of approval have been recommended to implement the accessory use determination.*

MCC § 39.4325 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

All development proposed in this district shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 39.3080, 39.4330, 39.2875, and 39.4335 through 39.5350, the minimum lot size shall be 20 acres.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

Staff: The subject application does not include the creation of new lots or parcels; therefore, these criteria are not applicable. *These criteria are met.*

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

Staff: Based on review of existing Land Use and Building permits, the minimum yard dimensions have been met. No additional encroachment to yard dimensions will be made. The application includes strictly interior modifications to garage to sound proof building. *Criteria met.*

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

(a) The Yard being modified is not contiguous to a road.

(b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and

(c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

Staff: There is no additional encroachment and the garage accessory structure meets yard and height requirements There are two unpermitted small accessory structures that meet setbacks but that need retroactive Land Use Approval.

(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

Staff: The subject application does not include the construction of new structures. *Criteria met.*

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

Staff: The applicants/property owners have submitted a Septic Review Certification indicating that the proposed use can be accommodated on the site (Exhibit A.7). Lilly Peterson, Multnomah County Septic Sanitarian indicated that the "The proposed garage conversion to recording studio with bathroom poses no concern to septic. Authorization Notice 18-189808-SE issued. Septic permit required for new tank." The property receives water from an existing well, as depicted on site plan. (Exhibit A.2) *With condition of approval, these criteria are met.*

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

Staff: The subject application includes a new septic system for a request for a bathroom (toilet and sink) for the existing garage. The work for the septic will be reviewed through a Minimal Impact Review. The application does not include the construction of new structures and the septic tank installation will be reviewed under MIP standards; therefore, no grading and erosion control measures are required and a grading and erosion control permit does not need to be obtained. *With condition of approval, this criterion is met.*

5.0 Type B Home Occupation

5.1 MCC § 39.8850 CRITERIA FOR APPROVAL.

(A) A Type B home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building on a parcel by a business operator is subordinate to the residential use of the premises and complies with the following:

(1) The on-site business functions of the home occupation shall take place entirely within a dwelling unit or enclosed accessory building on the premises, except for employee and customer parking and signage. No outdoor storage, business activities, or displays shall occur outside of an enclosed building.

Staff: The Type B home occupation will be located in the existing accessory structure which was initially approved as a garage. The applicant(s)/property owner(s) floor plan indicates that the clients will access the area through a single door that enters directly into the garage and that the existing

garage door will be removed. The garage doors will be replaced with a sound proof wall that has an exterior that will mimic the look of the single family dwelling and accessory building with shingles. Requests for music recording are coordinated through Mr. Giles via the phone or online, therefore, the home occupation will be indistinguishable from a single-family dwelling because there will be no displays occurring outside of an enclosed building. *This criterion is met.*

(2) Type B home occupation shall not exceed 25 percent of the total gross floor area of the dwelling, attached garage and accessory buildings, or 1,000 sq. ft., whichever is less.

Staff: As shown in the applicant's narrative and site plan indicate that the square footage of the dwelling, garage, and accessory buildings is 2,805 sq. ft. 25 percent of 2805 is 701 sq ft. The proposed music room is 676 sq ft which is less than 25%. The floor plans for the garage conversion indicate that 676 square feet of the garage will be used for the music studio (Exhibit A.4). The areas within the garage that will be used are a common area and a proposed new bathroom are .24% of the total square feet of the proposed structures on the site. The existing structures were previously reviewed in 1996 for the single-family dwelling and garage with a loft met the maximum structure height requirements and were lawfully established. In 2007 a deck was added to the garage which met the minimum yard dimensions. The project entails converting part of the garage space. The proposed square footage is less than 1,500 square feet and is less than 25 percent of the total gross floor area. *This criterion is met.*

(3) The home occupation shall not employ more than one non-resident employee. There shall be no more than two customers on the premises at any time.

Staff: The applicant(s)/property owner(s), specifically William Giles, will be the only employee for the business. Therefore, there will be one employee total. The applicant indicates that there will be no more than two customers on the premises at any time. *This criterion is met.*

(4) No more than a total of 20 vehicle trips per day by customers of the home occupation, delivery service providers serving the home occupation and employees may be authorized through the conditional use process. No deliveries or pick-ups associated with the home occupation and between the hours of 7 p.m. - 7 a.m. are permitted. Deliveries or pick-ups shall occur on the premises only. The road serving the tract may not be used for loading or unloading purposes. No more than two pick-ups or deliveries shall occur on any given day.

Staff: The applicant indicates a maximum of two clients utilizing two parking spots will be staying on the property at one time. Because the home occupation is a music studio, it can be assumed that there will be additional trips as the clients will be coming to the music studio to record and leaving when done with recording session. However, those trips should not exceed 20 vehicle trips per day. The applicant also states that there will be no deliveries or pick-ups associated with the home occupation. *This criterion is met.*

(5) In addition to the required residential parking, the premises has on-site parking pursuant to MCC 39.6500-39.6600 to accommodate the total number of employees and customers, proposed to be on the premises at any one time. No use, parking or storing on the premises of any vehicle in excess of a gross vehicle weight of 11,000 pounds.

Staff: The applicant is proposing a music studio as a home occupation. As shown on proposed site plan (Exhibit A.2), a single family dwelling and the proposed music studio will have two parking spots for the house and two for customers to the music studio. The applicant indicates that the garage will be

used for the music studio and proposes two parking spaces that are adjacent to the garage. As a stated in the application narrative, the applicant is not proposing to park or store any vehicle in excess of a gross vehicle weight of 11,000 pounds. *This criterion is met.*

(6) Notwithstanding MCC 39.6700–39.6820, only one, non-illuminated, identification sign not to exceed two square feet in area may be attached to a building used for the business.

Staff: The applicant is not proposing a sign to display or advertise the music studio. *This criterion is met.*

(7) The use shall not generate vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not. All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

Staff: The applicant states that the Type B Home Occupation will not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. The applicant states that the Type B Home Occupation will not generate any more noise than what occurs with normal occupancy of a single-family dwelling. The applicant has provided photographs of a metering device (Exhibit A.3) intended to show various levels of sound how the noise would be buffered in the studio with insulation. The combination of all uses on the premises associated with the home occupation will not generate noise above 50 dB(A) (decibels adjusted) as shown on the applicants metering device at the property lines between 7 a.m. and 6 p.m. daily.

The applicant has provided a soundproofing explanation with photos of metering device (Exhibit A.3) to help explain that the use will not provide noise or vibration outside of detectable property lines. The applicant recorded the levels of a band playing at full volume in his existing living room which is a typical/"unsound-proofed living room. In conducting the "test", the doors and windows were closed. The band was measured at 94 decibels inside the house and at decimal levels 59-52 around the house on all sides as the band was playing and measured. The results were lower than in the house as depicted in a totally un-soundproofed regular living room the sound is (nearly) at acceptable levels.

It is the applicants assertion that once the sound proofing is completed on the garage remodel no noise will get in or out of the building. The applicant has provided a diagram detailing the plan for the interior and exterior walls (Exhibit A.4). The use of the garage as a music studio is similar in use to full time occupancy of a single-family dwelling. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not. The only chemicals used as part of the music studio will relate to what is normally found in common cleaning supplies. To ensure compliance with this criterion, a condition is recommended to ensure that the client(s) utilizing the music studio are aware of these requirements. However, to ensure compliance with this criterion, a condition has been applied to ensure that the client(s) coming to the music studio are aware of these requirements. *As conditioned, this criterion is met.*

(8) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including automobiles, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, and chain saws.

Staff: No repair or assembly of any motor or motorized vehicles is proposed. *This criterion is met.*

(9) No building or structure is proposed to be constructed or modified in a manner that would not otherwise be allowed in the zoning district. Buildings or structures used as part of the home occupation shall not have or require a building code occupancy rating other than R-3 or U as determined by the building official.

Staff: The applicant is proposing to use the existing garage that is accessory to the approved existing single-family dwelling for this home occupation. A single-family dwelling has an occupancy rating of R-3. Using a garage as a music studio should not change the occupancy rating. LUP planning staff have contacted City of Portland Building Department about the proposed changes to the structure and the Type B Home Occupation request of a music studio. There was some back and forth correspondence with County LUP and the City of Portland because of the County's non Accessory Dwelling Unit Provisions (MCC 39.4310 (2) addressed above. However, in review of the proposal and in review of City of Portland allowance of a garage to residential accessory use such as a recording studio, office, art studio, etc. the City informed Mr. Giles that the proposed changes would be considered a residential use if work that occurred within the space met the guidelines outlined in Home Occupations. (see <https://www.portlandoregon.gov/bds/36684> for home occupant permits).

In order to assure conformance with this requirement, a condition of approval has been established requiring the owner to record a covenant that that the structure cannot be used as an accessory dwelling unit or residential space as this is not allowed in Multnomah County and that the home occupation requirements be met. The approved building permit shall be provided to LUP prior to operating the business. In addition, a condition will be required that garage which is used as part of the home occupation shall not have or require a building code occupancy rating other than R-3 or U as determined by the building official. *Through a recommended condition of approval, this criterion can be met.*

(10) In the EFU zone district, the home occupation will not unreasonably interfere with other uses permitted in the general district and the use will:

- (a) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;**
- (b) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel.**

Staff: The proposed home occupation is located in the Multiple Use Agriculture – 20 (MUA-20) zone district; therefore, these criteria do not apply. *These criteria are met.*

(B) Each approval issued by the approval authority shall be specific for the particular home occupation and reference the business operator, number of employees allowed, the hours of operation, frequency and type of deliveries, the type of business and any other specific information for the particular application.

Staff: The Type B Home Occupation, a music studio, that Mr. Giles has proposed meets the standards listed.

(C) Notwithstanding the transfer of approval rights in MCC 39.1230, approval of a Type B home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type B home occupation is personal to the business operator and specific to the authorized premises. Approval of a Type B home occupation terminates automatically,

immediately and without notification if the business owner ceases to reside full-time on the authorized premises.

Staff: The applicant is aware that the Type B home occupation is personal to the business operator and specific to the authorized premises. He is also aware that Approval of a Type B home occupation terminates automatically, immediately and without notification if the business owner ceases to reside full-time on the authorized premises. *With condition of approval, criteria met.*

(D) The Type B home occupation may continue for a period of three years from date of the final decision provided it is in compliance with the approved permit. At the end of the three year period, the right to operate the Type B home occupation from the property expires automatically unless the permit is renewed for an additional three year period pursuant to the following:

(1) The Type B home occupation has been conducted in full compliance with the permit for a preponderance of the time since the prior approval.

(2) Each renewal period shall be for a three year period from the last expiration date. The Type B home occupation may be renewed an unlimited number of times.

(3) To obtain a renewal of the Type B home occupation, the business operator shall use the forms provided by the Planning Director and shall submit the application prior to expiration of the permit. Provided the renewal application is submitted on or before the expiration date, the business operator may continue the Type B home occupation pending the County's final decision on the renewal request.

Staff: The applicant is aware of the renewal process and need to submit renewal application prior to expiration date of the Home Occupation Type B permit expiration. With a condition of approval, the expiration and renewal application is listed.

(4) A Type B home occupation renewal shall be processed pursuant to the Type II approval process in MCC 39.1105.

Staff: Applicant is aware of renewal process.

6.0 MCC § 39.3080 LOT OF RECORD — Generally

§ 39.3005 Lot of Record (A) An area of land is a "Lot of Record" if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or

2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or
 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or
 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
 5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)
- (c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.
1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.
 2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.
- (Ord. 1270, Amended, 03/14/2019)

6.1 § 39.3080 LOT OF RECORD – MULTIPLE USE AGRICULTURE-20 (MUA-20).

- (A) In addition to the standards in MCC 39.3005, for the purposes of the MUA-20 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 39.4345, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.
- (C) Except as otherwise provided by MCC 39.4330, 39.4335, and 39.5300 through 39.5350, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.
- (D) The following shall not be deemed to be a Lot of Record:
- (1) An area of land described as a tax lot solely for assessment and taxation purposes;
 - (2) An area of land created by the foreclosure of a security interest.
 - (3) An area of land created by court decree.

Staff: The property was originally part of Morgan's Island Acres, Lot 11 TL 1500. The applicant/property owners have provided a warranty deed for the subject property. The deed was recorded on August 13, 1957 in Book 1857, Page 70. A Property line Adjustment was recorded under #PLA 11-96 under 96-168858 that resolved a land division violation that occurred when the 5,817 square foot tax lot 12 of Lot 11, Morgan's Island Acres was created and changed ownership. (Exhibit

B.2). The current deed 2017-105211 (A.5) was recorded on 8-31-2017 and confirms lot configuration and ownership.

At that time of lot creation in 1957, Multnomah County had adopted zoning laws, which came into effect in on May 26, 1953. At the time that those properties were described they were zoned R-10. The warranty deed from 1957 was signed by the parties to the transaction and was recorded with the County Clerk. Therefore, the property met the zoning requirements at that time. Considering the facts above, the subject property, tax lot 1500, 2 North, 1 West, Section 17D is a Lot of Record. *This criteria are met.*

7.00 Off-Street Parking and Loading – OP Criteria

7.01 § 39.6505 GENERAL PROVISIONS

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section. For nonconforming uses, the objectives of this section shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

Staff: The Type B home occupation would result in an intensified use by adding a maximum of two customers per day. Therefore, the proposed uses must be reviewed pursuant to MCC 39.6510 et al.

7.02 § 39.6525 LOCATION OF PARKING AND LOADING SPACES

(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

(B) Exception – The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:

- (1) Parking use of the alternate site is permitted by this Ordinance;**
- (2) The alternate site is within 350 feet of the use;**
- (3) There is a safe and convenient route for pedestrians between the parking area and the use;**
- (4) Location of required parking other than on the site of the use will facilitate satisfaction of one or more purposes or standards or requirements of this Chapter; and,**
- (5) There is assurance in the form of a deed, lease, contract or other similar document that the required spaces will continue to be available for off-street parking use according to the required standards.**

(C) Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.

Staff: The site plan, submitted and approved as BP-12-20-96 shows the parking areas. The parking areas are located east of the dwelling and the garage accessory structure (Exhibit A.2). For customers that will use the music studio; the parking spaces are shown on submitted plan. *These criteria are met.*

7.03 § 39.6540 JOINT PARKING OR LOADING FACILITIES

(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

Staff: The applicant is proposing multiple uses for the subject property. The uses include a single family residence and part of the garage as a Type B Home Occupation for a commercial music studio. Based on the proposed uses, the minimum required is three parking spaces. The applicant is proposing two parking spaces adjacent to the garage and two to the southeast of the garage. *With condition that revised site plan be submitted that shows parking design in greater detail, this criteria can be met.*

7.04 § 39.6560 ACCESS

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 39.6560 et seq., the Land Division Chapter, there shall be provided an unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

(B) The Approval Authority may permit and authorize a deviation from the dimensional standard in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) through (4) are met:

(1) The authorized provider of structural fire service protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

Staff: Fire Department has reviewed and has no concerns. *Criteria met.*

(2) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards;

Staff: Transportation Division has reviewed and has no concerns other than requirement that applicant obtain driveway permit as there was none on file. *With note from Transportation Division; that retroactive driveway permit needs to be issued.*

(3) Application of the dimensional standard would present a practical difficulty or would subject the property owner to unnecessary hardship; and

Staff: Due to extremely low trip count (2 customers a day) and based on site visit to verify that there is adequate turnaround; staff finds that existing driveway adequately serves the proposed use and no impact on roadway.

(4) Authorization of the proposed deviation would not:

(a) be materially detrimental to the public welfare;

(b) be injurious to property in the vicinity or the zoning district in which the property is located; or

(c) Adversely affect the appropriate development of adjoining properties.

(C) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

Staff: The parking area does not abut directly on a public/private street. No changes are required as Sauvie Island Fire District (A.8) and Multnomah County Transportation Division (Exhibit B.6) have reviewed the proposal and find that the proposal is in compliance with adopted Fire District standards and County standards for access. No parking shall be allowed in the right of way known as NW Sauvie Island Road. *As conditioned, these criteria are met.*

7.05 § 39.6565 DIMENSIONAL STANDARDS

(A) Parking spaces shall meet the following requirements:

(1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.

(2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.

(3) For parallel parking, the length of the parking space shall be 23 feet.

(4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

(B) Aisle width shall be not less than:

(1) 25 feet for 90 degree parking,

(2) 20 feet for less than 90 degree parking, and

(3) 12 feet for parallel parking.

(4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

Staff: The site plan submitted and approved as part of the dwelling proposal (BP-12-10-96) shows the parking lot is located west of the accessory structure and single-family dwelling. The site plan shows four spaces that are less than 90-degree parking. The aisle widths for the four spaces that are less than 90-degree parking are approximately 20 feet (Exhibit A.2). However to ensure that the requirements of MCC 39.6565 are met, condition of approval will be included requiring that the parking spaces be delineated with markings, planting or other measures to ensure compliance with MCC 39.6565 (A) & (B). The findings can be found below.

7.06 § 39.6570 IMPROVEMENTS

(A) Surfacing

(1) Except as otherwise provided in this section, all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable.

(2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize, alternate surfacing systems that provide a durable dustless surface including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and the proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required parking spaces, also meets the following standards in subparagraphs (c) and (d):

(a) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

Staff: Fire Department has reviewed and has no concerns. *Criteria met.*

(b) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public rights-of-way shall be paved for a minimum distance of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

Staff: Transportation Division has reviewed and while alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; approaches to paved public rights-of-way is reviewed by County's right of way staff. Since transportation staff signed off on the Building Permit approved on 12/31/96 an existing non-conforming access (ENCA) can be issued. According to Transportation (Exhibit B.6), the applicant shall obtain driveway permit as there was none on file.

(c) Authorization of the proposed deviation would not:

- 1. be materially detrimental to the public welfare;**
- 2. be injurious to property in the vicinity or zoning district in which the property is located; or**
- 3. adversely affect the appropriate development of adjoining properties; and**

(d) Any impacts resulting from the proposed surfacing are mitigated to the extent practical. Mitigation may include, but is not limited to, such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200-feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include,

but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

(3) Notwithstanding paragraph (A)(1) of this section, parking fields for intermittent uses such as special events associated with farm stands and public parks, sporting events, and the like may be surfaced with gravel, grass or both and spaces may be unmarked if the parking of vehicles is supervised. Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust.

Staff: The parking area does not abut directly on a public/private street therefore; MCC 39.6570 requires that the accessway may be surfaced with gravel, due to extremely low trip count (2 customers a day) vehicles entering and exiting the subject property and based on site visit to the site to verify that there is adequate turnaround with no maneuvering in roadway; staff finds that existing driveway adequately serves the proposed use and that the gravel parking that exists is adequate. *As conditioned, these criteria are met.*

(B) Curbs and Bumper Rails

(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence except as provided in (3) below.

(3) Except for development within the BRC, CFU-1, CFU-2 and CFU-5 zones, the outer boundary of a parking or loading area with fewer than four required parking spaces may use a five foot wide landscape strip or yard planted with a near-continuous number of shrubs and/or trees. If the outer boundary of the parking area is within 50 feet of a dwelling on an adjacent parcel, the plant materials shall create a continuous screen of at least four feet in height except at vision clearance areas where it shall be maintained at three feet in height.

Staff: The site plan submitted and approved in previous BP 5696 dated 12-12-96 does not indicate that curbs or bumper rails were installed to delineate areas of parking and maneuvering of vehicles (Exhibit B.4). The length of the accessway has trees along the western portion. These barriers should prevent unchanneled motor vehicle access and egress off the accessway leading up to the accessory structure and single-family dwelling. However, to ensure that the requirements of MCC 39.6570 are met, a condition of approval will be included requiring that the parking areas be better delineated with either curbs, bumper rails or other permanent landscape barriers. *As conditioned, these criteria are met.*

(C) Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 39.6570 (C), and such marking shall be continually maintained. Except for development within the BRC zone, a graveled parking area with fewer than four required parking spaces is exempt from this requirement.

Staff: The site plan submitted (Exhibit A.2) and the approved as BP 5696 dated 12-12-96 does not indicate that the parking spaces will be marked. However, staff has seen rope staked down on gravel to delineate travel lanes and spacing. . Therefore, to indicate the parking location and vehicle-parking angle, the applicant shall install bumper rails, curbing, a fence, or some other physical indicator to clearly delineate the parking and maneuvering areas for vehicles. *As conditioned, this criterion is met.*

(D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

Staff: The area for the parking and maneuvering of vehicles is a gravel pervious surface. The site plan, submitted and approved as BP 5696 dated 12-12-96 indicates all surface water on the lot has been properly disposed of on site. These areas are porous and will provide for adequate drainage. *This criterion is met.*

7.07 § 39.6590 MINIMUM REQUIRED OFF-STREET PARKING SPACES

(A) Residential Uses

(1) Single Family Dwelling – Two spaces for each dwelling unit.

(C) Retail and Office Uses shall have at least the number of off-street parking spaces indicated:

(2) Service or Repair Shop – One space for each 600 sq ft of gross floor area.

Staff: The proposed Type B Home Occupation, which would be music recording studio, will utilize 676 square feet of a total of 2,805 square feet buildings on the subject property (Exhibit A.2). Therefore, the music studio will require one parking space. The narrative proposes that the single-family dwelling will have parking adjacent to the dwelling and home occupation. *This criterion is met.*

8.0 Dark Sky Requirements

§ 39.6850 DARK SKY LIGHTING STANDARDS.

(A) The purpose of the Dark Sky Lighting Standards in this Section is to protect and promote public health, safety and welfare by preserving the use of exterior lighting for security and the nighttime use and enjoyment of property while minimizing the obtrusive aspects of exterior lighting uses that degrade the nighttime visual environment and negatively impact wildlife and human health.

(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.

Staff: The applicant is not proposing enlargement of building by more than 400 sq ft coverage.

(1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal

plane located at the lowest point of the fixture's shielding. Shielding must be permanently attached.

(2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.

Staff: The applicant is aware of the dark sky criteria and has indicated that lighting will be shielded to meet criteria. *With condition of approval, criteria can be met.*

9.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Type B to establish a Home Occupation in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

10.0 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits
- 'D' Comments Received

Exhibits with # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2019-11721 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	10	Application Form and Narrative	3-15-19
A.2	2	Site Plan	3-15-19
A.3	9	Sound level meter explanation and photos	3-15-19
A.4	1	Garage Floor Plan for Type B Home Occupation	3-15-19
A.5	2	Bargain and Sale Deed recorded on Book 1857, Page 69-70 on Aug 13, 1957 and Warranty Deed dated 8-31-17 Instrument Number 2017105211.	3-15-19
A.6	1	Police and Sheriff Form	3-15-19
A.7	7	Septic Review Certification	3-15-19
A.8	2	Fire Service Agency Review	3-15-19
A.9	1	Interior remodel details	3-15-19
'B'	#	Staff Exhibits	Date
B.1	1	A&T Property Information	3-15-19
B.2	10	Decision of Planning Director LE 11-96 and recording of PLA	9-24-96
B.3	5	Email correspondence with City of Portland Bureau of Development Services	4-26-2018 10-25-18

B.4	1	Permit Number 5696 issued on December 12, 1996	12-12-96
B.5	2	Permit Number 2499 issued on May 17, 2007 for deck on side of garage	05-17-07
B.6	4	Transportation Planning Review and Transportation Findings	2-22-2019
B.7	4	Covenant to Prohibit Residential Use of Accessory Structure	
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1)	3-22-2019
C.2	1	Opportunity to Comment	4-8-2019
C.3		Administrative Decision	
'D'	#	Comments Received	Date
D.1	4	Letters of Support from 4 neighbors for Home Occupation	11-7-18 2-15-19 2-21-19 2-27-19
D.2	1	Letter of Opposition	4-2-19