

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

NOTICE OF DECISION

Case File: T2-2019-12342

Permit: Adjustment

Applicant(s): Cindy Coonrad

Owner(s): Cindy Coonrad & Antonio Morales

Location: 6605 SE 302nd Ave., Gresham

Tax Lot 201, Section 19AA, Township 1 South, Range 4 East, W.M.

Tax Account #R649692250

Property ID #R696250

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

Overlays: None

Proposal Summary: The applicant requests an adjustment to the minimum required front yard for a proposed addition to an existing single-family dwelling. Granting the adjustment would reduce the minimum required front yard for the proposed addition to 21 feet.

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 Friday, January 10, 2020 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 Chris Liu, Staff Planner at 503-988-2964 or at chris.liu@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:



Chris Liu, Planner

For:

Adam Barber,
Interim Planning Director

Date:

Friday, December 27, 2019

Instrument Number for Recording
Purposes: #2018-125365

Vicinity Map



Applicable Approval Criteria: Multnomah County Code (MCC):

General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – (MUA-20), MCC 39.6850 Dark Sky Lighting Standards

Multiple Use Agriculture – 20 Zone: MCC 39.4310 Allowed Uses (A) Single Family Dwelling on a Lot of Record, MCC 39.4325(C), (D), (G), (J) Dimensional Requirements and Development Standards

Adjustments: MCC 39.8205 - MCC 39.8210 Adjustments

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or by visiting our website at <http://multco.us/landuse/zoning-codes> under the link *Chapter 39: Zoning Code*

Conditions of Approval

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. 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. This land use permit expires as detailed in (a) and (b) below pursuant to MCC 39.1185(B) as applicable:
 - a) When construction has not commenced within **two (2) years of the date of the final decision**. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.
 - b) When the structure has not been completed within **four (4) 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.

Note: The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

Note: Once this decision is final, application for building permits may be made with the City of Gresham. 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.
3. Contact Staff Planner, Chris Liu at 503-988-2964 or chris.liu@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 Gresham. Three (3) 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*.

1.0 PROJECT DESCRIPTION:

Staff: The applicant requests an adjustment to the minimum required front yard for a proposed addition to an existing single-family dwelling. Granting the adjustment would reduce the minimum required front yard for the proposed addition to 21 feet.

2.0 PROPERTY DESCRIPTION:

Staff: The subject property is located in rural East Multnomah County on SE 302nd Ave. in the Multiple Use Agriculture -20 (MUA-20) zone. The subject property is Lot 1 of Partition Plat no. 2018-057. The existing single-family dwelling was constructed prior to zoning regulations in 1935 and is located 19 feet back from the front parcel line. The existing cover for the porch extends two feet further into the front yard and is 17 feet back from the front parcel line. A 2018 aerial photograph shows an existing 144+/- sq. ft. outbuilding in the southwest portion of the site.

3.0 GENERAL PROVISIONS:

3.1 MCC 39.1515 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 Zoning 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 Zoning 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: The subject property has an open compliance case no. UR-03-041 regarding a small non-permitted addition to the dwelling. The property owners have entered into a Voluntary Compliance Agreement (VCA) with the County Code Compliance office to sequence their permit reviews, which allows the processing of this Adjustment Application. Following the approval of this adjustment, the property owners will be able to permit the previous addition as part of the building permit for the proposed addition. *Criteria met.*

3.2 MCC 39.3005 Lot of Record – Generally

(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**

Staff: The subject property is Parcel 1 of Partition Plat no. 2018-057. The County approved the partition plat per land use case no. T2-2018-10691 in December of 2018. Through the approval of the partition plat, the County verified that the partition met all applicable zoning and land division laws. The subject property is in the same configuration as shown in partition plat no. 2018-057 (Exhibit B.3). *Parcel 1 of partition plat no. 2018-057 is a Lot of Record.*

3.3 MCC 39.3080 Lot of Record – (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 subject property is Parcel 1 of Partition Plat no. 2018-057. The County approved the partition plat per land use case no. T2-2018-10691 in December of 2018. Through the approval of the partition plat, the County verified that the partition met all applicable zoning and land division laws. The subject property is in the same configuration as shown in Partition Plat no. 2018-057. *Parcel 1 of Partition Plat no. 2018-057 is a Lot of Record.*

4.0 MULTIPLE USE AGRICULTURE – 20 ZONE:

4.1 MCC 39.4310 Allowed Uses

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

(A) Residential use consisting of a single family dwelling on a Lot of Record

Staff: The applicant proposes to construct an addition to the single-family dwelling on the subject property, which is a Lot of Record as noted in section 3.1 – 3.3 above.

4.2 MCC 39.4325 Dimensional Requirements and Development Standards

(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

Staff: This application is for an adjustment to the minimum required front yard for an addition to the existing single-family dwelling, which would reduce the minimum required front yard to 21 feet. The existing dwelling has a minimum side yard of 10 feet from both side property lines and a minimum 30 feet rear yard (Exhibit A.8). The proposed height for the garage is under 25 feet (Exhibit A.7). *Criteria met.*

- 4.3 (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 County Right-of-way office has indicated that additional right-of-way is required for SE 302nd Ave. in the future. Therefore, the minimum required front yard of 30 feet listed in MCC 39.4325(C) increases by 5 feet. The applicant requested an adjustment of 40% to reduce the minimum required front yard to 21 feet. *This criterion is met.*

- 4.4 (G) 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...**

Staff: The County Sanitarian determined that the existing on-site sewage disposal system meets all requirements (Exhibit A.3). *This criterion is met.*

- 4.5 (J) All exterior lighting shall comply with MCC 39.6850.**

MCC 39.6850 Dark Sky Lighting Standards:

(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.

(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 provided lighting details demonstrating that the proposed exterior lighting is fully shielded with opaque materials and directed downwards (Exhibit A.6 and A.7). The aforementioned lighting details demonstrate that the proposed exterior lighting will remain

within the boundaries of the subject property, a Lot of Record as described in section 3.1-3.3.
Criteria met.

5.0 ADJUSTMENT:

5.1 MCC 39.8205 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 applicants request a reduction to the Minimum Front Yard requirement of MCC 39.4325(C) and (D). This dimensional standard may be modified through the Adjustment review procedure.

5.2 MCC 39.8210 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 39.8205 upon finding that all the following standards in (A) through (F) are met:

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

Staff: The applicant requests a 14-foot reduction from the minimum required front yard for the proposed addition. As the minimum required front yard is 35 feet, the request is equal to the maximum allowed 40 percent modification. The existing house was constructed prior to zoning regulations and has a 19 feet wide front yard. The existing covered porch area extends two feet further and has a 17 feet wide front yard. There is an additional 5 feet from the edge of the right-of-way and the edge of pavement, so there adequate space, light, and air circulation remain after the addition. *This criterion is met.*

5.3 (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: Aerial photos do not show any structures on the neighboring property that are immediately adjacent to the proposed garage addition location near the north side property line. There is an existing hedge and paved driveway along the property line on the adjacent property. The existing site conditions ensure that the general purpose of the yard requirement is met following the adjustment, as space would remain allowing light and air circulation between the subject property and the neighboring property. Staff mailed an opportunity to comment regarding the proposal to all adjacent property owners within 750 ft. of the subject property. Neighboring property owners did not voice any concerns with the proposal. *This criterion is met.*

5.4 (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 base zone; and

(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

(E) If in the Rural Residential (RR), Rural Center (RC), Burlington Rural Center (BRC), Orient Residential (OR), Orient Commercial Industrial, Pleasant Hill Rural Center, or Springdale Rural Center base zone, the proposal will not significantly detract from the livability or appearance of the residential area.

Staff: The applicants request only a single adjustment to the minimum required front yard. The property is within the MUA-20 zone and therefore not within the zones listed in (D) and (E). *Criteria met.*

5.5 (F) The adjustment must be in support of a lawfully established use or in support of the lawful establishment of a use.

Staff: The proposed adjustment is for the proposed addition to the existing single-family dwelling. The dwelling was lawfully established in 1935 prior to the enactment of zoning regulations and is located 19 feet from the front parcel line. The existing porch cover extends an additional two feet further and is 17 feet from the front parcel line. *Criterion met.*

6.0 Conclusion:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Adjustment to reduce the required minimum front yard for the proposed addition to the existing single-family to 21 feet in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

7.0 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 T2-2019-12342 at the Land Use Planning office.

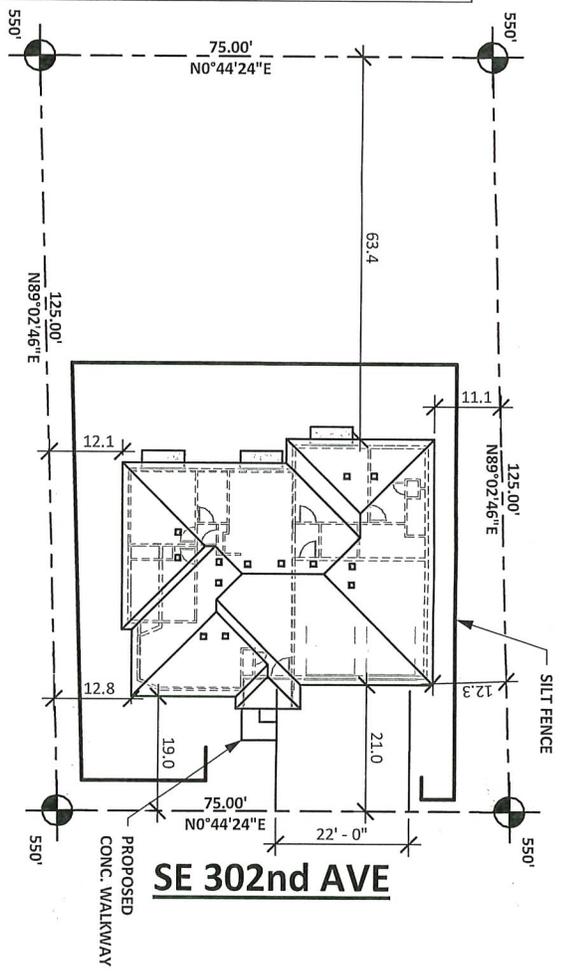
Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	08.14.2019
A.2	2	Narrative	08.14.2019

A.3	4	Septic Review Certification	08.14.2019
A.4	2	Fire Service Agency Review	08.14.2019
A.5	5	Storm Water Certificate	08.14.2019
A.6	14	Exterior Lighting Details	08.14.2019
A.7	1	Site Plan (To-Scale)	08.14.2019
A.8	5	Building Plans (To-Scale)	08.14.2019
A.9	1	Revised Site Plan (To-Scale)	12.19.20219
'B'	#	Staff Exhibits	Date
B.1	1	A&T Property Information	08.14.2019
B.2	2	Request for Waiver of Pre-filing Conference Requirement	08.14.2019
B.3	1	Partition Plat 2018-057	10.25.2019
B.4	4	Voluntary Compliance Agreement for case no. UR-03-041	12.12.2019
B.5	7	Transportation Planning Review	12.24.2019
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1)	08.20.2019
C.2	3	Opportunity to Comment	09.11.2019
C.3	1	Request for Extension of Decision Clock	11.06.2019
C.4	10	Administrative Decision	12.27.2019

1 SITE PLAN
0.SP 1" = 20'-0"



6605 SE 302ND AVE GRESHAM, OR 97080	
City-	GRESHAM
Property ID-	R342172
Tax Roll-	SECTION 19 1S 4E, TL 200 0.21 ACRES
Use-	RESIDENTIAL IMPROVED
Lot-	TL 200
County-	Multnomah
State ID-	154E19AA 200
New State ID-	154E19AA-00200
Alt Account Number-	R994190680
Map Number-	19154E 01
Land Type-	RESIDENTIAL LAND
Total Land Area-	0.21 acres (9,148 sq ft)
EXISTING BUILDING COVERAGE-	919 ft ²
PROPOSED BUILDING COVERAGE-	964 ft ²
TOTAL BUILDING COVERAGE-	1,883 ft ²
IMPERVIOUS	2,098 ft ²
TOTAL BUILDING (INCLUD. O.H.)-	63 ft ²
REAR CONC. PADS-	23 ft ²
FRONT CONC. WALKWAY-	422 ft ²
CONC. DRIVEWAY-	2,606 ft ²
TOTAL-	



Project number	11632
Date	5/24/19
Drawn by	CHT
Checked by	
Area	
Scale	1" = 20'-0"

6605 SE 302ND AVE.
SITE PLAN

BUILDERS DESIGN INC
COMMERCIAL · RESIDENTIAL · REMODELING
1125 NE WEIDLER ST. · PORTLAND, OR 97220
PHONE: (503) 252-3453 · FAX: (503) 252-3454
EMAIL: BUILDERSDESIGN@GMAIL.COM

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