
REVISED NOTICE OF DECISION

Case File:	T2-2020-13055		
Permit:	Adjustment and Accessory Use Determination		
Applicant:	Jeremy Maynard	Owners:	Jeremy & Nicole Maynard
Location:	31924 SE Grace Street, Gresham Tax Lot 1800, Section 20AA, Township 1 South, Range 4 East, W.M. Alternate Account #R677801720 Property ID #R250442		
Base Zone:	Multiple Use Agriculture – 20 (MUA-20)		
Overlays:	Significant Environmental Concern - wildlife habitat (SEC-h); Significant Environmental Concern – water resources (SEC-wr)		
Proposal Summary:	The applicant requests an Adjustment to allow the building to be placed 6 ft. from the east side property line. Because the proposed building features exceed the allowed use provisions, an Accessory Use Determination is required to potentially authorize such features. The proposed development is outside of the SEC-wr and SEC-h overlays on the property.		

Determination: 1. **Adjustment:** Approved with Conditions.

2. **Accessory Use Determination:** Approved with Conditions: a two-story
accessory building containing a sink, toilet, and shower on the ground floor. The
second story shall have a maximum floor-to-ceiling height of 6' 7", shall only
serve as a storage loft, and shall not be finished. The maximum total combined
accessory building footprint shall be 2,500 square feet.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, June 22, 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** Digitally signed by Chris Liu
Date: 2020.06.04 14:56:35
+07'00'

By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Monday, June 8, 2020

Instrument Number for Recording
Purposes: #2015-073182

Vicinity Map

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Applicable Approval Criteria:

Multnomah County Code (MCC):

General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.3005 Lot of Record – Generally, MCC 39.3080 Lot of Record – (MUA-20), MCC 39.6850 Dark Sky Lighting Standards, MCC 39.4325 Dimensional Requirements and Development Standards (C), (D), (G), & (J)

Accessory Use Determination: MCC 39.4310 Allowed Uses – (F) Accessory Structures, MCC 39.4315 Review Uses – (H) Accessory Structures

Adjustment: MCC 39.8205 Scope, MCC 39.8210 Adjustment Approval Criteria

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

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. 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.

1. Permit Expiration – This land use permit shall **expire** as follows:

- a. Within two (2) years of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
 - i. For the purposes of 1.a, 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.
 - ii. For purposes of Condition 1.a, notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
- b. Within four (4) years of the date of commencement of construction when the structure has not been completed. [MCC 39.1185(B)]
 - i. For the purposes of 1.b, 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.

2. Prior to land use sign-off for building plan check, the property owners or their representative shall:

- a. Record pages 1 through 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. Record the Covenant to Prohibit Residential Use of Accessory Structure with the County Recorder. 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 39.8860]

3. At the time of land use sign-off for building plan check:

- a. All exterior lighting shall comply with the Dark Sky Lighting standards of MCC 39.6850. The property owner shall provide spec sheets for any proposed exterior lighting and such lighting shall be identified on the building plans at the time of submittal for plan check. [MCC 39.6850]
 - b. The building plans shall be revised to show a maximum floor-to-ceiling height of 6' 7" for the second story. The toilet, shower, and sink shall be located on the ground floor.
4. As an on-going condition:
- a. The Accessory Building 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. [MCC 39.4315(H)(1)]
 - b. The Accessory Building shall not contain a bathing tub. [MCC 39.4315(H)(2)]
 - c. The Accessory Building 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. [MCC 39.4315(H)(5)]
 - d. The second-story of the Accessory building shall have a maximum floor-to-ceiling height of 6' 7", shall only serve as a storage loft, and shall not be finished.

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 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.
3. Contact Chris Liu, Planner, 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. Please ensure that any items required under, "At the time of land use sign-off for building plan check..." are ready for land use planning review. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department.

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, Land Use Planning may collect additional fees, including an erosion control inspection fee, if applicable.

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 PROPOSAL:

Staff: The applicant requests an Adjustment and Accessory Use Determination for a proposed accessory building for the subject property. The requested Adjustment asks for the maximum reduction to the required 10 ft. minimum east side yard (setback), to allow placement of the proposed accessory building 6 ft. from the east side property line. The requested Accessory Use Determination asks for features that exceed the allowed use provisions in the Multiple Use Agriculture – 20 (MUA-20) zone. Requested features include a two-story building, a sink, toilet, shower, and 2700 sq. ft. of total ground coverage (200 sq. ft. of additional ground coverage beyond the maximum allowable combined footprint of 2500 sq. ft.).

The subject property is located in East Unincorporated Multnomah County and is outside of the Metro urban growth boundary. As noted above, the subject property is in the MUA-20 zone and portions of the property are located within the SEC-h and SEC-wr overlay. Adjacent properties primarily contain residential and/or agricultural uses. Per County Tax Records, the subject property contains an existing single-family dwelling. Due to the presence of Significant Environmental Concern (SEC) overlays for Wildlife Habitat (SEC-h) and Water Resources (SEC-wr) on the subject property, the applicant prepared the above proposal that they believe provides them the ability to maximize the desired usage of their proposed accessory building without encroaching into either of the SEC overlays.

2.0 GENERAL PROVISIONS:

2.1 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.

Staff: Between 2016 and 2018, aerial photos show a modification to vegetation within the SEC-wr overlay. The property owners stated that they were remediating invasive plant species through removal by hand and replanted the area with native grasses and evergreen trees. This activity is exempt from SEC permit requirements.

There are no active compliance cases associated with the subject property at this time. Staff is not aware of any compliance issues at this time. *Criteria met.*

2.2 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

Staff: The subject property is a subdivision lot, described as ‘Proctor, Block 6, Lot 6’ (Exhibit B.1). Proctor Subdivision was approved and completed in 1912 (Exhibit B.3). The subject property has not changed configuration since that time, except for required dedication for right-of-way for the public road known as SE Grace St. Therefore, the subject property is a Lot of Record in its current configuration. *Criteria met.*

2.3 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: As noted in section 2.2 above, the subject property is described as Lot 6, Block 6 of the Proctor Subdivision (Exhibit B.1). Proctor Subdivision was approved and completed in 1912 (Exhibit B.3). The subject property has not changed configuration since that time, except for required dedication for right-of-way for the public road known as SE Grace St. The subject property is a Lot of Record in its current configuration. *Criteria met.*

2.4 MCC 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.

(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: A condition of approval is included requiring all exterior lighting comply with the Dark Sky Lighting Standards of MCC 39.6850. *As conditioned, the above criteria are met.*

3.0 MUA-20 ZONE CRITERIA:

3.1 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

(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 applicant requests an Adjustment to the minimum required 10 ft. side yard (setback) requirement. If approved, the adjustment would allow the proposed accessory building to be setback a minimum of 6 ft. from the east side property line. The Adjustment approval criteria are addressed in section 5.0 below. The county right-of-way office completed a Transportation Planning Review (Exhibit A.12), which does not indicate insufficient right-of-way for SE Grace St. *Criteria met.*

3.2 (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.

(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: A septic certification completed by the County Sanitarian indicates adequate on-site sewage disposal for the proposed accessory building (Exhibit A.8).

A storm water drainage control certificate completed by Ray Moore, P.E., states that construction of an on-site storm water drainage control system is required (Exhibit A.11). The proposed system is a 10’ x 3’ basin with a minimum depth of 12”; however, the length and width may be adjusted provided the total base area is equal to 30 square feet. Overflow needs to be directed away from the proposed and existing structures. *Criteria met.*

3.3 (J) All exterior lighting shall comply with MCC 39.6850.

Staff: As noted in section 2.4, a condition of approval requires all exterior lighting comply with the Dark Sky Lighting Standards of MCC 39.6850. *As conditioned, the above criterion is met.*

4.0 ACCESSORY USE DETERMINATION CRITERIA:

4.1 MCC 39.4310 Allowed Uses (MUA-20)

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

(F) Accessory Structures subject to the following:

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

(a) Garages or carports;

(d) Workshops;

Staff: The proposal is for an accessory building to serve as a garage / workshop to support the existing residential use on the subject property (Exhibit A.14). *Criteria met.*

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

(3) The Accessory Structure may contain one sink.

Staff: Per the proposed building plans (Exhibit A.15 & A.16), the accessory building does not contain design features (i.e. kitchen counters, separate rooms, etc.) to utilize the building as a dwelling unit. One sink is proposed. *Criteria met.*

4.3 (4) The Accessory Structure shall not contain:

(a) More than one story;

(b) Cooking Facilities;

(c) A toilet;

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

(e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or

(f) A closet built into a wall.

Staff: Because the property owner requests a second story, toilet, and shower, the building exceeds the allowed use provisions and requires an Accessory Use Determination as noted in section 4.6 below. *Criteria not met.*

4.4 (5) Compliance with MCC 39.8860 is required.

Staff: A condition of approval is included stating the building shall not be used as a dwelling and requiring the property owner to record a covenant prohibiting residential use of the building. *As conditioned, the above criterion is met.*

- 4.5** (6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and the 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 proposed building is 2,700 square feet in footprint, which exceeds the allowed maximum footprint by 200 square feet. *Criterion not met.*

- 4.6** (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: The proposal does not meet MCC 39.4310(F)(4) and (F)(6) due to the proposed 2,700 square feet footprint, toilet, shower, and second story. As a result, the proposal shall be considered through the Review Use provisions discussed in section 4.7 – 4.10 below. *Criterion met.*

4.7 MCC 39.4315 Review Uses (MUA-20)

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter.

(H) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, 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: Per the proposed building plans (Exhibit A.15 & A.16), the accessory building does not contain design features (i.e. kitchen counters, separate rooms, etc.) to utilize the building as a dwelling unit. A condition of approval is included stating the building shall not be used as a dwelling and requiring the property owner to record a covenant prohibiting residential use of the building. *As conditioned, this criterion is met.*

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

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

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

(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: The proposed plans do not include a bathing tub or cooking facilities (Exhibit A.15 & A.16). A toilet, sink, and shower are proposed for the ground level of the building. A condition of approval is included requiring compliance with (2) – (5) above. *As conditioned, the above criteria are met.*

4.9 (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: The applicant provided the desired floor plan as well as alternative floor plans (Exhibit A.15 & A.16). Both proposals call for the inclusion of a “bathroom” containing a sink, toilet, and shower. As per the project narrative, the applicant is an avid automobile / recreational vehicle(s) collector / enthusiast (Exhibit A.14). The main purpose of the garage / workshop is to provide a large enough storage and maintenance area for these hobby items. A rendering of the types of vehicles that would be stored in the building are included as Exhibit A.15 & A.16. Due to the presence of hazardous materials associated with the maintenance of their hobby vehicles, a bathroom is requested to limit the possibility of traces of the materials being tracked into the single-family dwelling.

Staff concurs with the applicant that the sink, toilet, and shower will aid in reducing the possibility of hazardous materials [used for maintenance of the hobby vehicles] being tracked into the single-family dwelling. Further, that such features are the minimum features necessary to limit such exposure.

The applicant desires both a second-story and 200 square feet of additional combined building footprint beyond the Allowed Use provisions (Exhibit A.14). While justification for a second-story or the additional 200 square feet combined building footprint may be possible, allowing both requests would not be the minimum departure from the Allowed Use provisions as required by the zoning code. The desired garage / workshop use can be accommodated with the approval of the second-story storage loft alone. The second-story storage loft provides additional storage space for equipment and personal items. As illustrated on the floor plan proposals included as Exhibit A.15 & A.16, the second-story storage loft area is the minimum necessary to compensate for the storage area dedicated to the fifth-wheel and the associated hauling vehicle. Further, conditions of approval will ensure the second-story is limited to a maximum floor-to-ceiling height of 6’ 7”, shall only serve as a storage loft, and shall remain unfinished. These limitations ensure that the features are the minimum departure from the allowed use provisions.

Based on the above information, the requested second-story is approved. The request for 200 square feet of additional combined building footprint is denied. The maximum combined building footprint for the proposed accessory building shall be 2,500 square feet. A condition of approval is included requiring the second-story have a maximum floor-to-ceiling height of 6’ 7”, shall only serve as a storage loft, and shall remain unfinished.

4.10 (7) Compliance with MCC 39.8860 is required.

MCC 39.8860 Condition of Approval – Accessory Structures

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

Staff: A condition of approval is included in this decision requiring the property owner to record the accessory structure covenant described in MCC 39.8860. *As conditioned, the above criterion is met*

5.0 ADJUSTMENT CRITERIA:

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:

- (1) Reduction of resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) Overlays are prohibited. Additionally, reductions to the fire safety zones in the Commercial Forest Use base zones are not allowed under the Adjustment process; and**
- (2) Reduction of yards and setback requirements within the Geologic Hazards Overlay (GH) shall only be reviewed as a Variance; and**
- (3) Reduction of yards/setback/buffer/re-source protection setback requirements within the Large Fills, Mineral Extraction, and Radio and Television Transmission Towers Code Sections and any increase to the maximum building height shall only be reviewed as Variances; and**
- (4) Minor modification of yards and setbacks in the off-street parking and design review standards are allowed only through the “exception” provisions in each respective Code section.**

Staff: The applicant requests the maximum allowable reduction to the required 10 ft. minimum side yard (setback). If approved, the Adjustment would allow the proposed accessory building to be setback 6 ft. from the east side-property line (Exhibit A.14). The proposal does not include a requested reduction to a resource protection setback, reduction of yards and setbacks within the Geologic Hazards Overlay, and/or a modification of off-street parking and design review standards. The request does not include a Large Fill, Mineral Extraction, and/or a Radio and Television Transmission Tower. *Criteria met.*

5.2 MCC 39.8210 Adjustment Approval Criteria

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

(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: Per MCC 39.2000 Definitions, the purpose of the yard requirement between buildings and property lines is to provide space, light, air circulation, and safety from fire hazards. Along the east side property line of the subject property there is adequate space, light, and fire protection as no trees/vegetation are present. Due to the presence of Significant Environmental Concern (SEC) Overlays on the subject property, granting the adjustment allows the applicant to locate the entire building footprint outside of the SEC overlay. This ensures the resource protection areas remain undisturbed by the proposed development. Neighboring property owners received a notice of opportunity to comment on the proposed Adjustment. No neighbors responded to the notice with any concerns on potential negative impacts to space, light, air circulation, and/or safety from fire hazards. *Criteria met.*

5.3 (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: Only one adjustment to the required side yard setback is requested. The subject property is not within one of the zones listed in (D) and (E) above; the subject property is zoned MUA-20. *Criteria met.*

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

Staff: The accessory building will support the residential use occurring in the single-family dwelling approved by the County in 2014. *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 establish an accessory building in the MUA-20 zone. The approved Adjustment allows the proposed accessory building to be setback 6 feet from the east side-property line. The Accessory Use Determination for the proposed accessory building approved the following features: a two-story accessory building containing a sink, toilet, and shower on the ground floor. The second story shall have a maximum floor-to-ceiling height of 6' 7", shall only serve as a storage loft,

and may not be finished. There shall be a maximum total combined accessory building footprint of 2,500 square feet.

8.0 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 T2-2020-13055 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	03.06.2020
A.2	1	Applicant Letter	03.06.2020
A.3	1	SEC Overlay Map	03.06.2020
A.4	1	Architectural Site Plan ‘A001’	03.06.2020
A.5	2	Floor Plans ‘A110’ & ‘A111’	03.06.2020
A.6	1	Roof Plan and Building Sections ‘A120’	03.06.2020
A.7	1	Exterior Elevations ‘A200’	03.06.2020
A.8	4	Septic Review Certification	03.06.2020
A.9	7	Fire Service Agency Review	03.06.2020
A.10	1	Survey Map	03.06.2020
A.11	24	Storm Water Drainage Control Certificate and supporting documents	03.06.2020
A.12	36	Transportation Planning Review	03.06.2020
A.13*	1	Revised Site Plan	04.03.2020
A.14	2	Revised Project Narrative	04.03.2020
A.15	1	Revised Proposed Floor Plan	04.27.2020
A.16	1	Alternate Floor Plan proposals	04.27.2020
‘B’	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1S4E20AA -01800	03.06.2020
B.2	1	Department of Assessment, Records and Taxation (DART): Map with for	03.06.2020

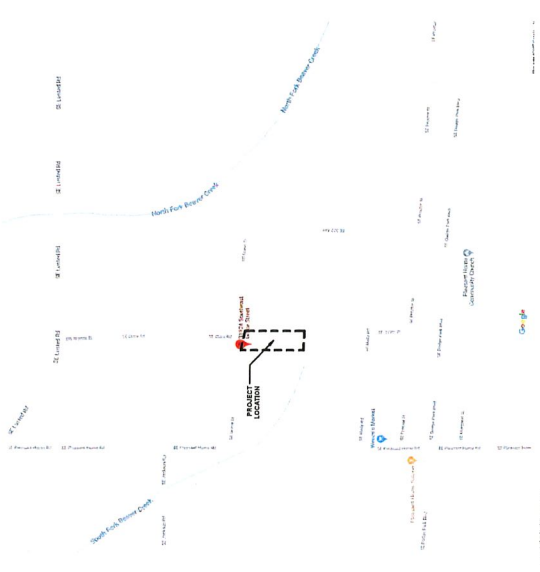
B.3	1	Copy of Proctor Subdivision	04.27.2020
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	03.31.2020
C.2	1	Applicant's acceptance of 180 day clock	04.02.2020
C.3	1	Complete letter (day 1)	04.14.2020
C.4	6	Opportunity to Comment	04.29.2020
C.5	15	Administrative Decision	05.29.2020
C.6	15	REVISED Administrative Decision	06.08.2020



SITE NOTES

1. ALL FOUNDATIONS SHALL BE A MINIMUM OF 4" THICK AIR ENTRAINED CONCRETE OVER 12" MINIMUM DIRT FILL.
2. FOUNDATIONS SHALL HAVE A MINIMUM 12" MINIMUM DIRT FILL FROM THE EXISTING GRADE TO THE BOTTOM OF THE FOUNDATION.
3. ALL EXISTING FOUNDATIONS SHALL BE REINFORCED WITH #4 REINFORCING BARS.
4. ALL EXISTING FOUNDATIONS SHALL BE REINFORCED WITH #4 REINFORCING BARS.
5. ALL EXISTING FOUNDATIONS SHALL BE REINFORCED WITH #4 REINFORCING BARS.

- PROPERTY LINE
- PROPOSED DRAINAGE LINE
- PROPOSED DRAINAGE LINE



SHEET INDEX

NO.	DESCRIPTION
A-111	2ND FLOOR PLAN
A-112	GENERAL INFORMATION
A-113	COVER
A-114	STRUCTURAL
A-115	STRUCTURAL AND CONSTRUCTION PLAN
A-116	STRUCTURAL DETAILS
A-117	STRUCTURAL DETAILS
A-118	STRUCTURAL DETAILS
A-119	STRUCTURAL DETAILS
A-120	STRUCTURAL DETAILS
A-121	STRUCTURAL DETAILS
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