

NOTICE OF DECISION

Case File: T2-2020-12860

Permit: Significant Environmental Concern and Accessory Use Determination

Applicant: Kevin Godwin **Owners:** John Tran & Sara Rozeboom

Location: 22441 NW 220th Ave.,
Tax Lot 2100, Section 26C, Township 2 North, Range 2 West, W.M.
Tax Account #R972260450 Property ID #R325984

Base Zone: Commercial Forest Use – 2 (CFU-2)

Overlays: Significant Environmental Concern – wildlife habitat (SEC-h), Geologic Hazards (GH)

Proposal Summary: Applicant requests a SEC-h permit to construct a new accessory building and addition to an existing single-family dwelling within the SEC-h overlay. Due to the inclusion of a second story in the proposed accessory building, an Accessory Use Determination is required. This proposal includes retroactive approval of a storage shed. The project qualifies for an exemption to the GH permit requirements.

Decision: Approved with Conditions

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Tuesday, July 14, 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: 2020.06.26 16:05:52
-07'00'

By: Chris Liu, Planner

For: Carol Johnson, AICP
Planning Director

Date: Tuesday, June 30, 2020

Instrument Number for Recording
Purposes: #2018-118261



Applicable Approval Criteria:

Multnomah County Code (MCC):

General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.3005 Lot of Record – Generally, MCC 39.3030 Lot of Record – (CFU-2), MCC 39.6850 Dark Sky Lighting Standard

Commercial Forest Use – 2 Zone: MCC 39.4105 Building Height Requirements, MCC 39.4110 Forest Practices Setbacks and Fire Safety Zones, MCC 39.4115 Development Standards for Dwellings and Structures – (C)

Accessory Use Determination: MCC 39.4070 Allowed Uses – (T) Accessory Structures, MCC 39.4075 Review Uses – (L) Accessory Structures

Significant Environmental Concern: MCC 39.5520 Application Requirements, MCC 39.5860 Criteria for Approval of SEC-h Permit

Geologic Hazards: MCC 39.5075 Permits Required, MCC 39.5080 Exemptions

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 four (4) years of the date of the final decision for residential development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary when construction has not commenced.
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - 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.
 - i. For the purposes of Condition 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 a Covenant with the County Recorder that states that the owner understands and agrees that the accessory structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. [MCC 39.8860].

3. At the time of land use sign-off for building plan check, the property owner or their representative shall:

- a. Demonstrate the addition to the existing dwelling and the new accessory building have a fire retardant roof and have a spark arrester on any chimney. [MCC 39.4115(C)]
- b. Demonstrate that all proposed exterior lighting complies with the Dark Sky Lighting Standards of MCC 39.6850(C).

4. The accessory building is restricted as follows per MCC 39.4075(L):

- 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.

- b. The accessory building shall not contain a bathing tub, bathing facilities, any toilet, and/or cooking facilities. 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.
5. As an on-going condition:
- a. The property owner and all future property owners shall establish and maintain a primary fire safety zone extending a minimum of 30 feet in all directions around a the dwelling, accessory building, and shed. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height. [MCC 39.4110(D)]
 - b. The required primary fire safety zones shall be established within the subject tract. [MCC 39.4110(D)]
 - c. The required primary fire safety zones may not restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules. [MCC 39.4110(D)]
 - d. The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property. [MCC 39.5860(B)(7)]

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 to review your plans, obtain your access permit, and satisfy any other requirements. You may schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/> or leave a message at 503-988-3582. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
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 Portland. Five (5) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, Land Use Planning 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 & PROPERTY DESCRIPTION:

Staff: Applicant requests a SEC-h permit to construct a new accessory building and addition to an existing single-family dwelling within the SEC-h overlay. Due to the inclusion of a second story in the proposed accessory building, an Accessory Use Determination is required. The project qualifies for an exemption to the GH permit requirements.

The subject property is located in rural unincorporated west Multnomah County near the border with Washington County. The subject property is outside of the Metro urban growth boundary and located within the Commercial Forest Use – 2 zone. Extensive tree cover on the subject property aligns with the forested nature of the surrounding area.

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.

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

Staff: The subject property contains a shed utilized to store firewood. Staff was unable to find a previous land use review for this shed. Through the current land use review, retroactive approval for the shed will bring the structure into compliance. The subject property does not have any associated active compliance cases; staff is not aware of any other compliance issues at this time.

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:

Staff: Land use case #T2-2019-12423 found that the subject property is a Lot of Record in its current configuration. The subject property remains in the same configuration noted in the aforementioned previous case; hence, the subject property remains a Lot of Record. *Criteria met.*

2.3 MCC 39.3030 Lot of Record – (CFU-2)

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-2 district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

Staff: Land use case #T2-2019-12423 found that the subject property is a Lot of Record in its current configuration. The subject property remains in the same configuration noted in the aforementioned previous case; hence, the subject property remains a Lot of Record. *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 in this decision requiring the applicant to demonstrate compliance with the Dark Sky Lighting Standards prior to building plan review. *As conditioned, the above criteria are met.*

3.0 COMMERCIAL FOREST USE – 2 ZONE:

3.1 MCC 39.4105 Building Height Requirements

(A) Maximum structure height – 35 feet.

(B) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.

Staff: Per the submitted preliminary building plans (Exhibit A.22), the proposed building height for the addition and accessory building are under 35 feet. *Criteria met.*

3.2 MCC 39.4110 Forest Practices Setbacks and Fire Safety Zones

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Alteration and Maintenance of dwelling	May maintain current nonconforming setback(s) if less than 30 ft. to property line	30	30	Property owner is encouraged to establish Primary to extent possible
Accessory Structures within	N/A	30	30	Primary required

100 ft. of the dwelling				
-------------------------	--	--	--	--

(A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.

(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 39.4155 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

(C) The minimum forest practices setback requirement shall be increased where the setback 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 setback requirements in consultation with the Road Official.

Staff: A primary fire safety zone will be required for the proposed accessory building. The primary fire safety zone for the alteration to the existing dwelling will be encouraged to the extent possible. No reduction to the forest practices setbacks or exception to the secondary fire safety zone is requested through this application. The county Road Official has not indicated the need for additional setback requirements (Exhibit A.23). *Criteria met.*

3.3 (D) Fire Safety Zones on the Subject Tract.

(1) Primary Fire Safety Zone.

(a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

(b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended farther down the slope from a dwelling or structure as follows:

(c) The building site must have a slope less than 40 percent.

Staff: Establishing and maintaining the required primary fire safety zone is a condition of approval included in this decision. Per the materials submitted by the applicant the slopes are less than 10%; hence, the primary fire safety zone does not need to be extended further down slope. *Criteria (b) and (c) are met. Criterion (a) is met through a condition of approval.*

3.4 (2) Secondary Fire Safety Zone. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger

trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 39.4155.

(3) No requirement in (1) or (2) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

(4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.

(5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).

Staff: A secondary fire safety zone is not required for the requested development. A condition of approval requiring compliance with (3), (4), and (5) above is included in this decision. *As conditioned, the above criteria are met.*

3.5 MCC 39.4115 Development Standards for Dwellings and Structures

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.003 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

Staff: The existing dwelling is not a mobile home. Therefore (1) and (2) above are not applicable. A condition of approval requiring the owner demonstrate compliance with (3) and (4) above prior to building plan review is included in this decision. *As conditioned, criteria (3) and (4) are met.*

4.0 ACCESSORY USE DETERMINATION:

4.1 MCC 39.4070 Allowed Uses

(T) 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, is located within 100 feet of the dwelling and is a structure identified in the following list:

(a) Garages or carports;

(d) Workshops;

(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.

Staff: The approximately 128 square feet shed is used for the storage of firewood. Per the applicant's narrative, the proposed accessory building is intended as a garage/workshop/storage room to support the existing single-family dwelling on the subject property. Based on the preliminary plans, the structure does not appear to be designed to be used as a dwelling. However, a condition of approval is included in this decision to ensure the structure is not used as a dwelling in the future. *As conditioned, the above criteria are met.*

4.2 (3) The Accessory Structure may contain one sink.

(4) The Accessory Structure shall not contain:

(a) More than one story;

(b) Cooking Facilities;

(c) A toilet;

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

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

(f) A closet built into a wall.

Staff: The shed does not contain any of the features noted above. *Criteria met.*

The proposed garage/workshop/storage room contains a sink on the ground floor. The proposed preliminary plans do not include cooking facilities, a toilet, bathing facilities, any item designed to aid in sleep as a primary purpose, or a closet (Exhibit A.22). Because the applicant proposes a second story, an Accessory use determination is required. *Criteria not met.*

4.3 (5) Compliance with MCC 39.8860 is required.

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

Staff: The shed and proposed garage/workshop/storage room have a total combined footprint of approximately 1,765 square feet. A condition of approval requiring compliance with MCC 39.8860 is included in this decision. *As conditioned, the above criteria are met.*

4.4 (7) An Accessory Building exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.

(8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be 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 shed meets the Allowed Use Provisions. Neither building is in conjunction with a farm use as defined in ORS 215.203. Because the garage/shop has a proposed second story, this building is considered through the Review Use provisions in section 4.5 – 4.7 below.
Criteria met.

4.5 MCC 39.4075 Review Uses

(L) Structures or uses customarily accessory or incidental to any use permitted or approved in the CFU, which do not meet the “accessory structures” standard in MCC 39.4070 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.

(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: Per the preliminary building plans submitted as Exhibit A.22, the proposed accessory building does not contain design features to utilize the building as a dwelling unit. The applicant does not propose a bathing tub or other bathing facilities, nor a toilet. The plans call for one sink on the ground floor. Conditions of approval are included in this decision to ensure compliance with the above criteria. *As conditioned, the above criteria are met.*

4.6 (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 requests a second story for the proposed accessory building. The second story will be utilized as a storage room. Due to topography and dimensional restrictions from

the lot configuration, there does not appear to be other feasible locations to site additional accessory buildings on the subject property. As a result, the selected site that previously housed a carport is the lone location to build an accessory building to meet the needs of the property owners. The total allowable combined footprint of all accessory buildings on a property is 2,500 square feet.

As noted above, the total combined footprint of all accessory buildings on the property would be approximately 1,765 square feet following the construction of the proposed accessory building. Without the topography and dimensional restrictions due to the lot configuration, the property owner would have been able to construct an additional building with an approximate footprint of 735 square feet. This proposal essentially aims to make-up that additional footprint in the form of a second story for the proposed accessory building. The applicant proposes an “A-Frame” roof design to match the existing house, minimize the visible mass of the second story, and reduce ceiling height to ensure the space cannot qualify as habitable space.

Based on the above, the applicant has demonstrated that the proposal is the minimum possible departure from the allowed use standards to accommodate the use. Criteria met.

4.7 (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 requiring compliance with MCC 39.8860 is included in this decision. *As conditioned, the above criterion is met.*

5.0 SIGNIFICANT ENVIRONMENTAL CONCERN:

5.1 MCC 39.5520 Application for SEC Permit

An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 39.5540 through 39.5860.

(A) An application for an SEC permit shall include the following:

Staff: The applicant provide the required information (Exhibit A.1 – A.23). *Criterion met.*

5.2 MCC 39.5860 Criteria for Approval of SEC-H Permit

(A) In addition to the information required by MCC 39.5520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed

development, with the following information, when such information can be gathered without trespass:

Staff: The applicant provided the required information noted above (Exhibit A.1 – A.23).
Criterion met.

5.3 (B) Development standards:

(1) Where a parcel contains any nonforested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Staff: The area where the proposed garage/workshop will be built was the previous site of a carport. The area for the proposed addition to the existing single-family dwelling is also a nonforested area. Finally, the area where the shed was constructed is a nonforested area containing the driveway. No additional areas need to be cleared as part of this proposal.
Criterion met.

5.4 (2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

Staff: Per aerial photos, the proposed development is greater than 200 feet from NW 220th Ave, a public road providing access to the site. *Criterion not met.*

5.5 (3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

Staff: The existing driveway is approximately 350 feet in length (Exhibit A.19). *Criterion met.*

5.6 (4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:
(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

(c) Diagram showing the standards in (a) and (b) above.

(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

Staff: The existing driveway is within 100 feet of the side property line of the adjacent property on the same (west) side of NW 220th Ave. This same adjacent property sharing the common

side property line does not have structures within 200 ft. of the common side property line.
Criteria met.

5.4 (6) Fencing within a required setback from a public road shall meet the following criteria:

Staff: The proposal does not include any fencing. Therefore, the above criterion is not applicable.

5.5 (7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

Staff: A condition of approval requiring compliance with this requirement is included as condition of approval in this decision. *As conditioned, the above criterion is met.*

5.6 (C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

(1) The applicant cannot meet the development standards of subsection (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

(2) The applicant can meet the development standards of subsection (B), but demonstrates that the alternative conservation measures exceed the standards of subsection (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in subsection (B)

Staff: The applicant is unable to meet the development standards of subsection (B) due to physical characteristics (topography and dimensional restrictions due to the lot configuration) unique to the property. Hence, the applicant has addressed the wildlife conservation plan criteria below to demonstrate the minimum departure from the standards required in order to allow the use. *Criteria met.*

5.7 (3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5), the wildlife conservation plan must demonstrate the following:

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.

(e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.

Staff: All proposed development will take place in areas that are nonforested. No additional clearing is necessary to accommodate the development. No fencing is proposed and no existing cleared areas are used for agricultural purposes. As no new cleared areas are necessary to accommodate the proposed development, no revegetation is proposed. No stream riparian areas will be disturbed as part of the proposal. *Criteria met.*

- 5.8 (4) For a property meeting subsection (C)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:**

Staff: The applicant chose to address the criteria in (C)(3) above. Therefore, these criteria are not applicable.

- 5.9 (5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) of this section, the wildlife conservation plan must demonstrate the following:**

Staff: The applicant demonstrated satisfaction with the criteria of subsection (C)(3) as noted in section 5.7 above. *Criterion met.*

- 5.10 (6) For Protected Aggregate and Mineral (PAM) resources within a PAM Overlay, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.**

Staff: The subject property is not within the PAM Overlay. Therefore, this criterion is not applicable.

- 5.11 (D) Optional Development Impact Area (DIA). For the purpose of clustering home sites together with related development within the SEC-h overlay, an applicant may choose to designate an area around the home site for future related development and site clearing. For the purposes of establishing the appropriate mitigation for development within the DIA, existing vegetation within the DIA is presumed to be ultimately removed or cleared**

in the course of any future development within the DIA. Establishment of a DIA is subject to all of the applicable provisions in this section and the following:

Staff: The applicant will not be establishing an Optional Development Impact Area. Therefore, this criteria is not applicable.

6.0 GEOLOGIC HAZARDS:

6.1 MCC 39.5075 Permits Required

Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur:

(1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or

(2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH).

Staff: The proposal qualifies for an exemption under MCC 39.5080 as noted in section 6.2 below. *Criteria met.*

6.2 MCC 39.5080 Exemptions

Ground disturbing activity occurring in association with the following uses is exempt from GH permit requirements:

(A)An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished depth greater than four feet.

Staff: As per the proposed Grading and Erosion Control plan (Exhibit A.21), the excavation activities are limited to the installation of footings for a building and the depth will not exceed four feet. The buildings will obtain building permits after the land use review and building plan review processes are completed. *Criterion met.*

7.0 CONCLUSION:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern – Wildlife Habitat Permit and Accessory Use Determination to establish a shed and two-story garage/storage room in the CFU-2 zone. This approval is subject to the conditions of approval established in this report.

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 T2-2020-12860 at the Land Use Planning office.

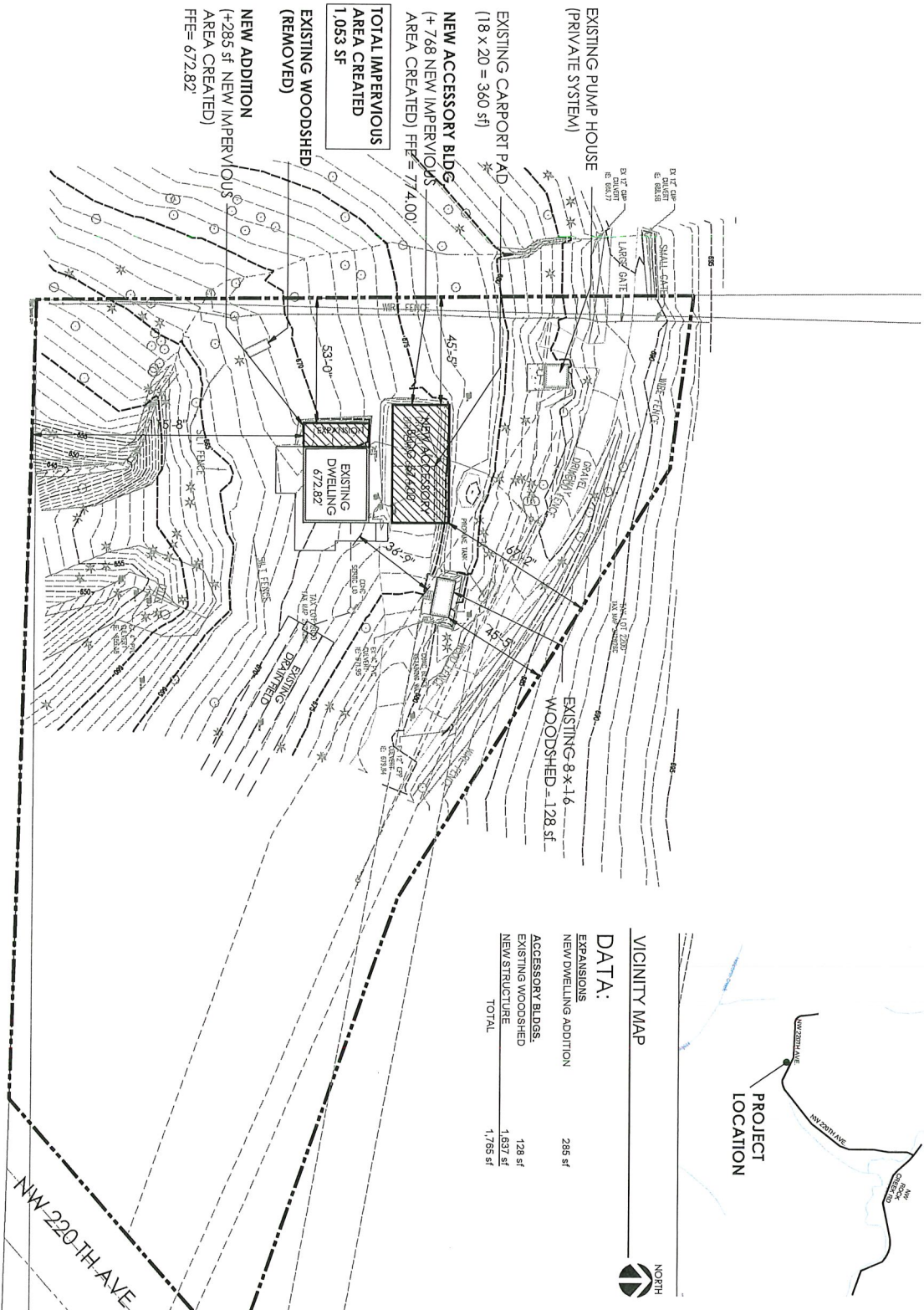
Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	2	General Application Form	01.07.2020
A.2	2	Applicant Narrative Cover Page and Table of Contents	01.07.2020
A.3	6	Applicant Narrative	01.07.2020
A.4	13	Copy of PF-2019-11652 notes and materials	01.07.2020
A.5	9	Septic Review Certification	01.07.2020
A.6	7	Storm Water Certificate	01.07.2020
A.7	8	Grading and Erosion Control Worksheet	01.07.2020
A.8	8	Copy of decision for Land Use Case #T2-2019-12423	01.07.2020
A.9	3	Transportation Planning Review	01.07.2020
A.10	7	Fire Service Agency Review	01.07.2020
A.11	7	Photos of Existing House	01.07.2020
A.12	7	SEC-H Worksheet	01.07.2020
A.13	18	Copy of Major Repair Septic Installation Permit	01.07.2020
A.14	7	Site Plans	01.07.2020
A.15	11	Revised Applicant Narrative	05.27.2020
A.16	7	Revised SEC Worksheet	05.27.2020
A.17	8	Revised Grading and Erosion Control Worksheet	05.27.2020
A.18	1	Revised Fire Safety Zone Plan	05.27.2020
A.19*	1	Revised Site Plan	05.27.2020
A.20	1	Revised Existing Conditions Plan	05.27.2020
A.21	1	Revised Erosion Control Plan	05.27.2020
A.22	3	Revised Preliminary Building Plans	05.27.2020
A.23	-	Revised Transportation Planning Review	06.30.2020

'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 2N2W26C -02100	01.07.2020
B.2	1	Department of Assessment, Records and Taxation (DART): Map for 2N2W26C -02100	01.07.2020
B.3	5	Copy of Permit #756065 and Plan Sets	05.27.2020
'C'	#	Administration & Procedures	Date
C.1	4	Incomplete letter	02.06.2020
C.2	1	Complete letter (day 1)	05.28.2020
C.3	5	Opportunity to Comment	06.12.2020
C.4	18	Administrative Decision	06.30.2020



SITE PLAN

LEGAL DESCRIPTION:
R325984 2N2W26C LOT 2100 Property ID # 325984 22441 NW 220TH AVE



VICINITY MAP	
DATA:	
EXPANSIONS	
NEW DWELLING ADDITION	295 sf
ACCESSORY BLDGS.	
EXISTING WOODSHED	128 sf
NEW STRUCTURE	1,637 sf
TOTAL	1,765 sf

LAND USE APPLICATION
Tran - Roseboom Residence
 22441 NW 220th Ave Portland Or, Multnomah County

Project No.
18-109

Drawn By
KG

Revisions
01-01-2020
LU APPLICATION
05-15-2020
CITY INCOMPLETE
REVISIONS #1