



Applicable Approval Criteria:

For this application to be approved, the proposal will need to meet applicable approval criteria below:

Multnomah County Code (MCC): General Criteria: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3050 Commercial Forest Use (CFU-4);

Commercial Forest Use (CFU-4) Criteria: MCC 39.4070(T) Allowed Use, Accessory Structures, MCC 39.4075(L) Review Uses, Accessory Structures

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://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.

Permit Expiration –This permit will expire two years after the date of the final decision, unless the use or development is established according to all specifications and conditions of approval in this 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.

1. Prior to land use sign-off for building plan check, the property owners or their representative shall:
 - a. 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 39.4070(T), MCC 39.8860]
 - b. Label the floor plan in the building plan set as "Ground Floor" to indicate that the toilet, hand sink and mop sink are located on the ground floor. [MCC 39.4075(L)]
 - c. Contact Code Compliance at 503-988-5508 and request a site inspection to verify that the existing accessory structure is in compliance with land use permit, T2-2015-3956 (Exhibit B.3) and has established the fire safety zones around the building and exterior lighting on the building is in compliance with the County's Dark Sky Lighting Standards. In addition, the inspector needs to verify that there are no other accessory structures existing on the property except those shown on the site plan (Exhibit A.3). [MCC 39.1515]
2. As an on-going condition, the Accessory Building shall:
 - a. Not be designed or used whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarter or any other residential unit. [MCC 39.4070(L)(1)]
 - b. Not contain a bathing tub or shower. [MCC 39.4070(L)(2)]
 - c. Not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose. [MCC 39.4070(L)(5)]
 - d. Not be used for a business or home occupation without first obtaining land use approval for the use. [MCC 39.4065]

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 Marisol Cervantes, Planner, at 503-988-9452 or *Marisol.Cervantes@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. The City of Gresham's accepts applications for permits in digital form only. Please check their website at <https://greshamoregon.gov/Permit-Services> to learn how to access their system. At the time of Zoning Plan Check, 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: The applicant is proposing to add a toilet, sink and a mop sink to an existing 2,160 square foot shop building. The existing accessory building is used for hobby activities. The subject property is located in east unincorporated Multnomah County outside of the Metro urban growth boundary off SE Trout Creek Rd. The subject property has a 1995 stick built home and two other accessory buildings.

2.0 GENERAL PROVISIONS:

2.1 § 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: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the

applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.

The subject property does not have any active compliance cases with the Code Compliance office. Staff's review of 2020 and 2021 aerial photos have identified structures that are not documented on the site plan. In addition, the fire safety zones do not appear to have been established around the accessory building associated with this permit. A condition of approval has been included requiring a site inspection by Code Compliance prior to our sign off for permits at the City of Gresham.

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**
- 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**

MCC 39.3050 Lot of Record- Commercial Forest Use-4 (CFU-4)

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-4 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**

Staff: The County previously determined that the subject property is a Lot of Record in land use case PRE 11-90, April 1990 (Exhibit B.2). The most recent land use case T2-2015-3956 also determined the subject property is a Lot of Record. The applicant submitted the most

recent deed describing the subject property (Exhibit A.6). The subject property has not changed configuration since the first Lot of Record approval. Therefore, the subject property is a Lot of Record in its configuration. *Criteria met.*

3.0 COMMERCIAL FOREST USE (CFU-4) CRITERIA:

3.1 MCC 39.4070 Allowed Uses

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

(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;

Staff: The proposal is to occur in an existing accessory workshop permitted under case file T2-2015-3956 and building permit BP-2017-7503. The applicant provided a narrative (Exhibit A.10) explaining the current use of the accessory building. The accessory building is used for woodworking, metalworking and auto repair and maintenance. Additionally other uses include chainsaw sharpening, metal sculpture, finishing and surface preparation, general utility purposes and secure storage. As listed above, the applicant is using the existing structure for workshop purposes and storage. *Criteria met.*

(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 floor plan and narrative (Exhibit A.4 & A.10), the accessory building does not contain design features (i.e. kitchen counters, rooms, etc.) to be utilized as a dwelling unit. One hand sink, mop sink and toilet are proposed. The application does not comply with MCC 39.4070(T)(3) as proposed. The additional features will need to be authorized pursuant to MCC 39.4075(L).

(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 application materials indicate that there will be no cooking facilities, bathing facilities, sleeping facilities or closets built into the walls. The building is only one story based on the single floor plan submitted (Exhibit A.4). Due to the property owner requesting a toilet and a mop sink, the building proposal exceeds the allowed use provisions and requires an Accessory Use Determination as reviewed in subsection (7) below.

(5) Compliance with MCC 39.8860 is required.

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

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

Staff: The subject property combined footprint of all Accessory Buildings currently exceed 2,500 square feet. Land Use case file T2-2015-3956 approved 3,500 square feet of accessory structures on the property.

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

Staff: The proposal does not meet MCC 39.4070(T)(4) due to the applicant proposing a toilet and an additional mop sink. As a result, the proposal shall be considered through the Review Use provisions discussed in section 3.2 below.

3.2 MCC 39.4075 Review Uses (CFU-4)

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

(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.**

Staff: The applicant is proposing to install a toilet, sink and mop sink in an existing accessory building. The building was determined to be customarily accessory in land use case, T2-2015-3956. The installation of a toilet and a second sink is not allowed pursuant to MCC 39.4070(T). Based on the proposed floor plan and narrative (Exhibit A.4 & Exhibit A.10), the existing 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 existing building shall not be used as a dwelling and requires the property owner to record a covenant in compliance with MCC 39.8860 prohibiting residential use of the building. *As conditioned, this criterion is met.*

(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 site plan, floor plan and applicant narrative do not include a bathing tub, shower or cooking facilities. (Exhibit A.3, A.4 & Exhibit A.10). A toilet, hand sink and mop sink are proposed at slab on grade in conjunction with existing shop use. A condition of approval is included requiring compliance with subsection (2)-(5) above. *As conditioned, the above criteria are met.*

(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 a floor plan (Exhibit A.4) showing the location of the toilet, hand sink and mop sink as well as a narrative (Exhibit A.10) discussing the need for the toilet and mop sink. In the applicant's narrative, the existing workshop is used as a hobby shop for woodworking, metalworking and auto repair and maintenance. The proposal of a mop sink is to accommodate the above activities, as they normally require the need for warm water to clean, rinse off dirt, clean tools, filling buckets with warm water, rinsing rags, etc. The hand sink is for personal hygiene use separate from the mop sink to keep clean and disinfected while working inside the building. The above activities require a sustained presence in the building, the nearest bathroom is about 185 feet and the existing accessory structure is 145 feet from the house.

Due to the nearest bathroom being far and wanting to maintain sanitary procedures a toilet and hand sink are requested. An additional mop sink is requested to help the hobby activities listed above and help with cleaning the materials and dust build up from various projects. Additionally the mop sink helps minimize the time the property owner will need to walk to the main dwelling to clean materials. Additionally it will help with keeping areas clean and the hand sink will help with sanitary procedures while working inside the shop.

Conditions of approval have been included to ensure that the toilet, sink and mop sink is on the ground floor and that the building meet the above requirements.

(7) Compliance with MCC 39.8860 is required.

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.*

4.0 PUBLIC COMMENT

4.1 Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105 as Exhibited in C.4. Staff did not receive any public comments during the 14-day comment period.

5.0 CONCLUSION

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Accessory Use Determination to establish a toilet, sink and mop sink in the Commercial Forest Use (CFU-4) zone. This approval is subject to the conditions of approval established in this report.

6.0 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. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2021-14264 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application	01.25.2021
A.2	1	Applicant’s narrative	01.25.2021
A.3*	1	Scaled site plan	01.25.2021
A.4*	2	Floor plan and elevations	01.25.2021
A.5	1	Special Warranty Deed recorded in Book 2543, Page 2417 on May 18, 1992	01.25.2021
A.6	3	Warranty Deed recorded in 2006-134968 on July 21, 2006	01.25.2021
A.7	3	Septic Certification Form	01.25.2021
A.8	4	Fire Service Certification	01.25.2021
A.9	3	Certification of Water Service Form	01.25.2021

A.10	1	Applicant's Revised narrative	03.07.2021
'B'	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1S5E17D-00700 (Alt Acct# R995170510)	01.25.2021
B.2	24	Land Use Case PRE 11-90	08.03.2021
B.3	14	Land Use Case T2-2015-3956	08.03.2021
'C'	#	Administration & Procedures	Date
C.1	1	Incomplete letter	02.24.2021
C.2	1	Applicant's acceptance of 180 day clock	02.26.2021
C.3	1	Complete letter (day 1)	04.19.2021
C.4	6	Opportunity to Comment and mailing list	05.04.2021
C.5	10	Administrative decision and mailing list	08.17.2021