



## MULTNOMAH COUNTY OREGON

### LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

# NOTICE OF DETERMINATION

This notice concerns a Planning Director determination on the land use case(s) cited and described below.

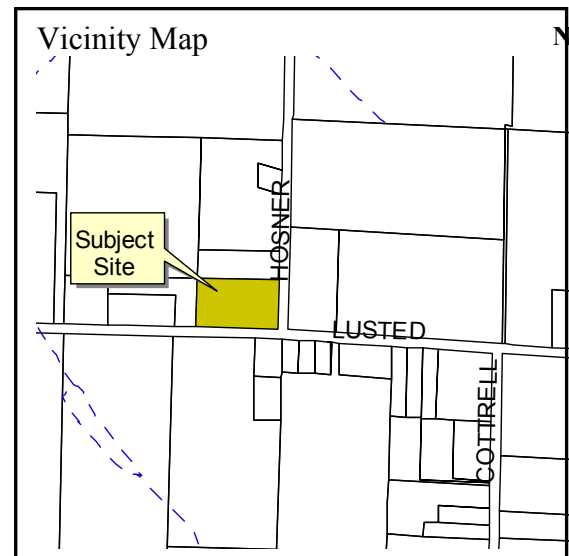
**Case File:** T2-04-027

**Permit:** Determination of Accessory Use

**Location:** 6425 SE Hosner Road  
TL 700, Sec 16DD, T 1S, R 4E, W.M.  
Tax Account #R99416-0330

**Applicant:** John MacDonald

**Owner:** John Mac Donald  
6425 SE Hosner Road  
Gresham, OR 97080



**Summary:** The property owner proposes to construct an addition to a permitted 1,693 square foot accessory structure to bring the building to a total of 3,279 square feet. The structure is proposed to be accessory to the existing single family dwelling on the lot.

**Determination:** The use and structure proposed is customarily accessory and incidental to the primary use of the property, which is a single-family residence. As such, it is by definition an accessory use, a use that is allowed in the Exclusive Farm Use (EFU) zone district per MCC 36.2620(P).

Unless appealed, this determination is effective Tuesday, June 1, 2004, at 4:30 PM.

Issued by:

By: \_\_\_\_\_  
Lisa Estrin, Planner

For: Karen Schilling - Planning Director

Date: Monday, May 17, 2004

**Opportunity to Review the Record:** A copy of the Planning Director determination, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Director's determination contains the findings and conclusions upon which the determination is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-3043.

**Opportunity to Appeal:** This determination may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. 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 offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This determination cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

**This determination is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Tuesday, June 1, 2004, at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): 36.0005 Definitions - (A)(1) Accessory Building, (L)(13) Lot of Record, 36.2620(P) EFU - Allowed Uses, 36.2660 Dimensional Requirements, 36.2675 Lot of Record, 36.2690 Access, Chapter 37 Administration and Procedures.

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at [http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use).

### **Scope of Approval**

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the determination is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

### **Other Considerations**

1. Once this determination becomes final, applications for building permits may be made with the City of Gresham. When ready to have building permits signed off, call the Staff Planner, Lisa Estrin, at (503)-988-3043, for an appointment for review and approval of the conditions and to sign the building permit plans. Multnomah County must review and sign off building permit applications before they are submitted to the City of Gresham. Three (3) sets each of the site plan and building plan are needed for building permit sign-off.
2. The proposed structure shall be in compliance with the narrative statements, site plan, floor plan and elevations.
3. This structure shall be used for personal use only. No home occupation, storage of equipment or materials used in a business may be stored within the building without approval of a conditional use permit.

#### **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**

### **Exhibits**

All materials submitted by the owner, prepared by county staff, or provided by public agencies or members of the general public relating to this request are hereby adopted as exhibits hereto and may be found as part of the permanent record for this application. Exhibits referenced herein are available for review at the Land Use Planning Division. A brief description of each is listed below:

#	Description
1	Site Plan
2	Narrative Statements addressing the proposed uses and large structures in the area
3	Exterior Architectural Elevations, Floor Plan and Construction Details
4	A&T Property Information
5	Certification of On-Site Sewage Disposal
6	General Application Form
7	Area Map of Comparison Properties
8	Chart of Accessory Buildings to Primary Use in Area

1. The subject property is approximately 3.47 acres in size. It is rectangular in shape and is located at the northwest intersection of Lusted Road and Hosner Road.
2. Existing on-site development includes an approximate 1,302 sq. ft. dwelling, 624 sq. ft. attached garage, an existing 1,100 sq. ft. accessory building. The existing dwelling was constructed on the site in the year 1953 and predates zoning in the area. The owner will be demolishing the existing accessory building and replacing it in the same location with a new structure totaling 3,279.6 sq. ft in size.
3. County zoning maps indicate that the property is zoned Exclusive Farm Use. The Exclusive Farm Use zone allows *Structures such as garages, carports, studios, pergolas, private workshops, barns, loafing sheds, storage buildings, greenhouses or similar structures, whether attached or detached, when in accordance with the yard requirements of this district* [MCC 36.2620]. While the proposed 3,279 sq. ft. building is larger than the proposed dwelling, the accessory building will house a number of different uses that are accessory to the existing single family dwelling. The uses include the storage and parking of farm equipment, horse stables for 4 horses, storage and seasoning of firewood, parking of horse trailer and truck, miscellaneous storage of horse tack and storage of wood working tools for the enjoyment of the homeowners on the site.
4. The following are the yard requirements for the Exclusive Farm Use zoning district:

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
30	10	30	30

The front yard is adjacent to Hosner Street. The proposed building is setback 150 feet from Hosner Road. The south property line is adjacent to Lusted Road. The building is setback 93 feet from the south property line. The north property line is a minimum of 400 feet away from the building and the west property lines is over 150 feet from the building. All of the required setbacks have been met.

5. Determining whether or not the use is a similar structure to the above independent structures/uses is an exercise of judgment and discretion. Considering this, a determination by the County that the subject proposal is, or is not, a similar structure is a *land use decision* and *permit* (ref: ORS 197.015(10)(a)) and ORS 215.402(4)) that must be based on standards and criteria set forth in County land use regulations, and which is subject to notice and an opportunity for hearing, consistent with ORS 215.416. Review timelines enumerated under ORS 215.427 are also applicable. As evidenced with the case record and this determination, the County has handled this request in accordance with these statutory requirements.
6. On April 14, 2004 an Opportunity to Comment notice was mailed to all property owners within 750 feet of the property. No oral or written comments have been submitted regarding the proposed structure.
7. Certain accessory structures and uses are so common and usual in the County that their approval is treated as a "de-facto" ministerial action, exempt from the statutory definition of a land use decision per ORS 197.015(10)(b) and is not a "permit" as the term is defined under ORS 215.402(4). Such structures or uses include, garages, carports, pump houses, sheds, workshops, farm structures, greenhouses, pools, gazebos and pergolas if they do not exceed the floor area or height of the structure to which they are to be accessory, unless otherwise provided for by the Zoning Ordinance. The proposed structure exceeds the floor area of the residence to which it is accessory; therefore, this determination has been prepared.

## **Conclusion**

Considering the findings and other information provided herein, this 3,279.6 square foot structure is an accessory use to the existing residence, a use permitted in the Exclusive Farm Use zone district pursuant to MCC 36.2620(P) of the Multnomah County Zoning Ordinance.