



**MULTNOMAH COUNTY**  
**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/landuse>

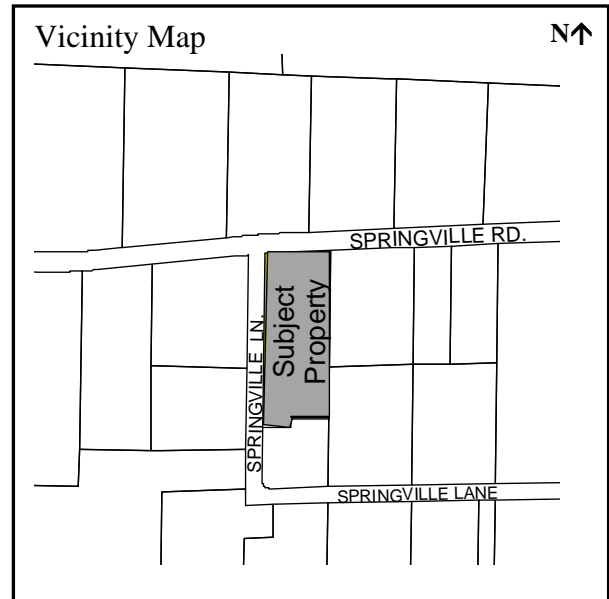
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## NOTICE OF DECISION

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

**Case File:** T2-2010-784  
**Permit:** Significant Environmental Concern Permit  
**Location:** 13560 NW Springville Road  
Township 1 North, Range 1 West, WM  
Section 16C, Tax Lots: 1100  
Alternate Accounts # R961160450  
**Applicant:** Edward Passadore  
**Owner:** Winifred L. Miller &  
Edward V. Passadore



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**Summary:** This request is for an after the fact approval for several small, recently built, accessory buildings and to build an addition to the dwelling. Additionally it includes combining, reconfiguration of the two northern driveways accessing Springville Lane into one access driveway as approved through Case T3-10-002. The property is located within the Multiple Use Agriculture -20 (MUA-20) Zone and within the Significant Environmental Concern for Wildlife Habitat (SEC-h) Overlay Zone.

**Decision:**

Unless appealed, this decision is effective October 27, 2010, at 4:30 PM.

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Issued by:

George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, October 13, 2010

**Opportunity to Review the Record:** A copy of the Planning Director Decision, 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 Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact George Plummer, Staff Planner at 503-988-3043, ext. 29152.

**Opportunity to Appeal:** This decision 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 decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is October 27, 2010 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 33.2800-33.2885: MUA-20 and MCC 33.4500-4550 and .4570: SEC-h.

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>.

### **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. **This land use permit expires two years from the date the decision 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 or 37.0700, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

### **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.

1. The prior to building permit zoning review property owners shall submit a copy of a covenant for the subject property filed with County Records as included as Exhibit B.5 that states that the dwelling on the property is a single family dwelling and confirming that the property owners understand a duplex is not permitted by the zone district. [MCC 33.2820(C)]
2. The property owners shall obtain a building permit for any unpermitted accessory building that requires a building permit. Prior to the zoning review sign-off for the building permit for the dwelling

addition the property owners shall submit a completed Certification of On-Site Sewage Disposal with a Sanitarian signed site plan specifically addressing the review and needs of that addition. [MCC Chapter 29 and Comp Plan Policy 37]

3. The following nuisance plants listed in the following table shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property [MCC 33.4570(B)(7)]:

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
<i>Convolvulus seppium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace
<i>Elodea densa</i>	South American Water-weed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail

Scientific Name	Common Name
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium roberianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese Laurel

Scientific Name	Common Name
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>various genera</i>	Bamboo sp.

**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, the applicant shall call the Staff Planner, George A. Plummer, at (503) 988-3043 ext. 29152, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to 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, a fee of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 may be required.

**Notice to Mortgagee, Lien Holder, Vendor, or Seller:**

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

## **Findings of Fact**

**FINDINGS:** Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### **1. PROJECT DESCRIPTION**

This request is for an after the fact approval for several small, recently built, accessory buildings and to build an addition to the dwelling. Additionally it includes combining, reconfiguration of the two northern driveways accessing Springville Lane into one access driveway as approved through Case T3-10-002. The property is located within the Multiple Use Agriculture -20 (MUA-20) Zone and within the Significant Environmental Concern for Wildlife Habitat (SEC-h) Overlay Zone.

### **2. PROPERTY DESCRIPTION & HISTORY**

**Staff:** The subject property is a corner parcel with the front property line abutting Springville Road and the west side property line abutting Springville Lane (Exhibit B.2). The property is relatively flat and is heavily forested with a mature grove of Douglas fir trees with a partially cleared area in the north 75 feet of the property adjacent to the existing single family dwelling. The property has several small, accessory type buildings clustered around the single family dwelling and a larger two story shop building towards the back of the property (Exhibit A.2). A recent case T3-10-002 approved a Type B Home Occupation Conditional Use for a home real estate office for the residents of the property. That case also approved a Road Rules Variance which allowed the continuance of three existing access driveways for the property, one accessing Springville Road and two accessing Springville Lane. This case also required the removal a third existing driveway accessing Springville Lane, the most northern access driveway on that road. The combining, reconfiguration of the two northern driveways Springville Lane accesses into one access driveway will accomplish that requirement.

A Property Line Adjustment, Case T2-07-103 was previously approved for the property. That adjustment has been completed. The adjustment not only transferred land from the adjacent property to the south but also transferred a shop building now located in the back of the subject property. The dwelling is located about 70 feet from the front property line. The home occupation office is located in the dwelling, in what use to be the attached garage. There are several accessory buildings on the property including a shop with a storage area and with an upstairs exercise and art studio, a garage near the dwelling (former a carport), small detached recreational building with a hot tub and deck, sauna, a small storage building near the garage, a greenhouse, a small chicken coop and an open air, covered garbage, recycling and heat-pump enclosure.

The subject property is located in a small pocket of MUA-20 zoned properties surrounded by resource zoned properties (mostly Exclusive Farm Use Zone and some Commercial Forest Use -2 Zone) which tend to be larger parcels (Exhibit B.3). The MUA-20 properties are generally each developed with a single family dwelling with a few vacant properties and range in size from about two acres to about five acres (Exhibit B.2 and B.4). The property is located in a corner area of the County, with Washington County line about 2000 feet to the west along Springville Road and about a 1000 feet to the south of the property. The County line is also the Urban Growth Boundary (UGB). Across the county line on the Washington County side within the UGB is some densely urban style small lot residential developments.

### **3. BASE ZONE CRITERIA**

#### **3.1. MUA-20 Dwelling Addition**

##### **MCC 33.2820 Allowed Uses**

##### **(C) Residential use consisting of a single family dwelling constructed on a Lot of Record.**

**Staff:** The subject property has an existing single family dwelling that was established in 1956 prior to zoning requirements. The proposal includes an addition onto the dwelling that will attach an existing accessory building (Recreation Building) as shown on the site plans included as Exhibits A.2 and A.3. Given the configuration of the proposed addition along with the existing dwelling and the home occupation office, this dwelling potentially could be confused as a duplex in the future. To assure that mistake is not made and that it is not converted to a duplex use, a condition of approval will require filing a covenant that states that the dwelling on the property is a single family dwelling and zoning does not allow a duplex. Comprehensive Plan, Policy 37 requires a review for sewage disposal for the addition. The applicant submitted a Certificate of On-Site Sewage Disposal that addressed the locations of the accessory buildings, however Erin Mick, City of Portland, Sanitarian stated on a phone conversation with staff, on October 4, 2010, that a more extensive review would be needed for the addition. Ms. Mick stated the proposal may include the installation of a sewage pretreatment unit as well as additional septic system lines. She stated they may need to remove a few additional trees but would not require additional cleared areas. This further review will be required as a condition. Subsection 3.4 of the decision will address Lot of Record findings. A condition will require a building permit and an additional on-site sewage disposal review. *An addition can be allowed for the dwelling though a building permit and sewage disposal review.*

#### **3.2. MUA-20 Accessory Uses**

##### **MCC 33.2820 Allowed Uses**

##### **(F): Accessory Structures:**

##### **(1) Structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district:**

- (a) Garages or carports;**
- (b) Pump houses;**
- (c) Garden sheds;**
- (d) Workshops;**
- (e) Storage sheds;**
- (f) Greenhouses;**
- (g) Woodsheds;**
- (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;**
- (i) Swimming pools, pool houses, hot tubs, saunas, and changing rooms;**
- (j) Sport courts;**
- (k) Gazebos, pergolas, and detached decks;**
- (l) Fences, gates, or gate support structures; and**
- (m) Similar structures.**

##### **(2) If the accessory structure is a building, then to be an “allowed use” the foot print of the building in combination with the foot-print of all other accessory buildings on the property shall not exceed 2500 square feet.**

##### **MCC 33.2825: Review Uses**

### **MCC 33.2825 Review Uses**

**(J) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 33.2820 Allowed Uses.**

**Staff:** According to the applicant the current total of cumulative footprint for accessory building exceeds the 2500 square foot limitation. However, the applicant is also proposing an addition onto the dwelling that will attach one of the accessory structures (labeled REC building) to the dwelling. This will reduce the cumulative square foot area to below 2500. The building to be attached was previously approved. The proposal includes a storage building for personal storage near the garage and near the dwelling. While the property has a large storage building/shop/exercise building that building is a substantial distance (more than 350 feet) from the dwelling. This building provides an easy access location to stored items to the elderly property owner. Thus staff finds that building customary accessory given the location of the existing storage building and its easy access. The other proposed accessory buildings include a sauna, an open air covered recycling and garage container storage area, a small personal use chicken coop, and a greenhouse (Exhibit A.2). Existing legally established accessory buildings include the recreation building and the large two story storage/shop/exercise/art building. Each of the proposed uses are buildings listed on the allowed uses list and are customarily accessory and incidental to the dwelling. *The proposed buildings are allowed as customarily accessory and incidental to the dwelling.*

### **3.3. Dimensional Requirements**

#### **MCC 33.2855 (C) Minimum Yard Dimensions**

**Front and rear yards: 30 feet, street side yard: 30 feet and side yard: 10 feet  
Maximum Structure Height – 35 feet**

**Findings:** The proposed accessory buildings and addition meet the minimum yard dimension and the buildings meet the maximum structure height requirements. *These standards are met.*

### **3.4. Lot of Record**

**MCC 33.2870 (A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance ...**

**(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 33.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**MCC 33.0005: Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Re-cord is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**

**Staff:** County Land Use Planning determined the subject property was a Lot of Record in Case T2-07-103, Property Line Adjustment Permit. Staff adopts those findings as part of this decision. *The subject property is a Lot of Record.*

#### **4. SIGNIFICANT ENVIRONMENTAL CONCERN FOR WILDLIFE HABITAT PERMIT**

##### **4.1. Development standards:**

- 4.1.1. MCC 33.4570 (B) (1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet mini-mum clearance standards for fire safety.**

**Staff:** The proposed buildings are located in the existing development area on the property, except for the small chicken coop which doesn't need a cleared area. *This criterion is met.*

- 4.1.2. MCC 33.4570 (B) (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:** The entire property is within 200 feet of a public road (Exhibit B.4). This standard is met.

- 4.1.3. MCC 33.4570 (B) (3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.**

**Staff:** The access driveways serving the property are less than 500 feet in length. *This standard is met.*

- 4.1.4 MCC 33.4570 (B) (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.**

**For illustrative purposes only.**

- (d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County "Design and Construction Manual," adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).**

- 1. The modification shall be the minimum necessary to allow safe access onto the public road.**
- 2. The County Road Official shall provide written findings supporting the modification.**

**Staff:** There is no adjacent property along Springdale Lane that has a driveway on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line, nor is there a driveway on the opposite side of the road. For the Springville Road access driveway for the subject property is located within 100 feet of the side property line. *This standard is met.*

**4.1.5. MCC 33.4570 (B) (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:** All development on the property is within 300 feet of the side property line. *This standard is met.*

**4.1.6. MCC 33.4570 (B) (6) Fencing within a required setback from a public road shall meet the following criteria:**

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.**
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**
- (c) Cyclone, woven wire, and chain link fences are prohibited.**
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited. (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.**

**Staff:** The applicant is not proposing any fencing as part of this project. *This standard is met.*

**4.1.7. MCC 33.4570 (B) (7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:**

**Staff:** The list of the nuisance plants referred to in this standard has been included in the conditions. *This standard is met.*

**4.2. Wildlife Conservation Plan.**

**MCC 33.4570 (C) An applicant shall propose a wildlife conservation plan if one of two situations exist.**

- (1) The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property. The applicant must show that the wild-life conservation plan results in the mini-mum departure from the standards required in order to allow the use; or**
- (2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).**



**Staff:** The proposal meets the standards in Section (B). *Wildlife Conservation Plan is not required.*

## **5. Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the SEC-h Permit to establish the uses shown on the site plans included as Exhibits A.2 and A.3. located in the MUA-20 Zone and the SEC-h Overlay Zone. This approval is subject to the conditions of approval established in this report.

## **7. Exhibits**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	10	Application and Narrative	7/30/10
A.2	1	Site plan without proposed dwelling addition	7/30/10
A.3	1	Site plan of proposed dwelling addition	9/27/10
A.4	14	Stormwater Certificate	7/30/10
A.5	4	Certificate of On-Site Sewage Disposal	6/17/10
‘B’	#	Staff Exhibits	
B.1	2	A&T Property Information	
B.2	1	A&T Tax Map with Property Highlighted	
B.3	1	Zoning map	
B.4	1	2008 Aerial Photo subject property outlined	
B.5	1	Covenant for single family dwelling	