



MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.multco.us/landuse>

NOTICE OF DECISION

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

Case File: T2-2013-2930

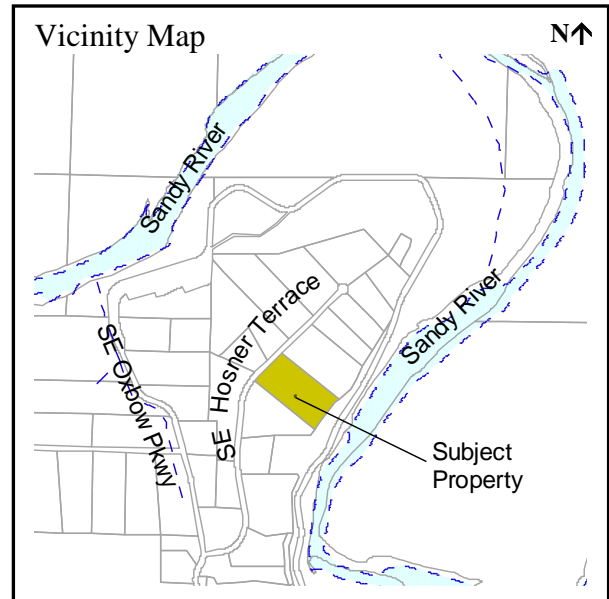
Permit: Significant Environmental Concern –
Scenic Waterways

Location: 3630 SE Hosner Terrace
Tax Lot 300, Section 10CB,
Township 1S, Range 4E, W.M.
#R994100370

**Applicants/
Owners:** Charles and Terry Ciecko

Base Zone: Rural Residential

Overlays: Significant Environmental Concern



Summary: Construct an approximately 75-square foot addition to an existing dwelling.

Decision: Approved with Conditions

Unless appealed, this decision is effective Wednesday, September 4, 2013, at 4:00 PM.

Issued by:

By: _____
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, August 21, 2013

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 Don Kienholz, Staff Planner at 503-988-3043, ext. 29270.

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 Wednesday, September 4, 2013 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 37.0560 Code Compliance, 36.0005 Lot of Record, 36.3155 Development Standards, 36.3170 Lot of Record, 36.4540 Application for SEC Permit, 36.4545 SEC-sw Approval Criteria.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) 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> or <http://web.multco.us/transportation-planning>.

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 pursuant to MCC 37.0690(B) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

Note To Applicant:

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, the applicant shall call the Staff Planner, Don Kienholz, at (503) 988-3043 ext. 29270 or don.d.kienholz@multco.us, 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 Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$61.00 will be collected. In addition, an erosion control inspection fee of \$82.00 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*.

1.00 Project Description:

Staff: The applicant is requesting an addition of approximately 75 square feet to an existing single family dwelling. The addition is proposed to the northwest of the house adjacent to the entry porch and front door. The addition will accommodate an enlarged master bathroom and a new dormer over the front porch.

2.00 Property Description:

Staff: The subject property is forested and located in the West of the Sandy River Rural Plan Area near Oxbow Park. The property fronts onto SE Hosner Road and overlooks the Sandy River to the Southeast. The immediate vicinity is made up of properties roughly five acres in size and zoned Rural Residential. The entire property is within the Significant Environmental Concern overlay for Scenic Waterways (SEC-sw), and Wildlife Habitat (SEC-h) with a small portion within the Slope Hazard overlay.

3.00 Code Compliance:

MCC 37.0560 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 Land Use Code and/or any permit approvals previously issued by the County.

Staff: The subject property is a Lot of Record as discussed in Finding #4.00 below. There is a long history of permits being issued for the property (Exhibit B.5). The permit history includes the dwelling, two additions, a garage, and a utility building. In addition, land use case SEC 0-7 was issued for a single story addition in 2000.

The subject property is in full compliance.

4.00 Lot of Record:

MCC 36.0005 Lot of Record

Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record 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 36.7785. 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**
- 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**
- 5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)**

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

- 1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.**
- 2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.**

*** * ***

MCC 36.3170 LOT OF RECORD.

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, RR zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982.**

(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 36.3185, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 36.3160, 36.3175, and 36.4300 through 36.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;**
- (2) An area of land created by the foreclosure of a security interest.**
- (3) An area of land created by court decree.**

Staff: The subject property was deemed a lot of record in land use case SEC 0-7. The property has not changed configuration since that land use decision.

The property is a Lot of Record.

5.00 Significant Environmental Concern Permit – Scenic Waterways:

A. MCC 36.4515 USES - SEC PERMIT REQUIRED.

(A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that development, including but not limited to, the location and design of any use, or change, replacement or alteration of a use, except as provided in MCC 36.4520, shall be subject to an SEC permit.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

(C) Activities proposed for lands designated as Scenic Waterways under the Oregon Scenic Waterways System shall be subject to an SEC-sw permit in addition to approval from the Oregon Parks and Recreation Department.

(D) Applications that are subject to an SEC permit shall be processed as Type II land use decisions as provided for in MCC Chapter 37, unless the proposed use is subject to another Type II, III, or IV decision, in which case the SEC application shall be considered in combination with the other action.

Staff: The proposal includes an exterior modification on a property in the SEC-sw overlay; therefore the addition requires an SEC-sw permit. The addition is under 400-square feet and therefore does not trigger the need for an SEC-h permit.

B. **MCC 36.4545 CRITERIA FOR APPROVAL OF SEC-SW PERMIT - SCENIC WATERWAY.**

The SEC-sw designation shall apply to those wild and scenic waterways that are designated SEC on Multnomah County sectional zoning maps. An application shall not be approved unless it contains the information in 36.4540(A) and (B). Any proposed activity or use requiring an SEC-sw permit shall be subject to the following:

1. **(A) Submittal of a letter from the Oregon Parks and Recreation Department which indicates that the proposed development has been reviewed and is, or can be, consistent with the provisions of the Oregon Scenic Waterways Management Plan.**

Staff: The applicant received a letter dated June 4, 2013 from the Oregon Parks and Recreation Department (Exhibit A.12) indicating the proposed addition would not be seen from the River. Therefore staff finds the letter indicates the development is consistent with the Oregon Scenic Waterways Management Plan.

Criterion met.

2. **(B) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.**

Staff: The addition is limited in where it can go as it must connect to the existing dwelling and be located adjacent to the master bathroom in order to expand it. The location of the addition is approximately 600-feet from the Sandy River and does not include any removal of trees or vegetation. The southeast sides of the house are oriented towards the Sandy River. The addition will be constructed on the north side of the house and will not be placed between the Sandy River and the existing structure.

Criterion met.

3. **(C) Agricultural land and forest land shall be preserved and maintained for farm and forest use.**

Staff: The property is zoned Rural Residential and is not in farm deferral. A portion of the property is in Forest deferral but the addition will be constructed in an existing cleared area that will not impact the forest use of the property.

Criterion met.

4. **(D) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.**

Staff: The proposed location of the addition has no practical alternatives due to the nature of additions. Additionally, the purpose of the addition is to expand the master bathroom, which is already lawfully established in its current location. The addition will be located in an already cleared area and will not be visible from the Sandy River. The location balances the functional considerations of the proposal as well as a negligible impact on the area of environmental Significance, the Sandy River.

Criterion met.

5. **(E) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion.**

Staff: There are no lakes, rivers, wetlands or streams on the subject property.

Criterion met.

6. **(F) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.**

Staff: There are no known archeological areas on the subject property.

Criterion met.

7. **(G) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.**

Staff: The proposed project has minimal erosion potential as the only excavation will be for footings; the site is on a flat bench portion of the property; and the development is against an existing foundation.

Criterion met.

8. **(H) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.**

Staff: The addition is roughly 75-square feet and on the northwest portion of the dwelling. The addition will mimic the exterior color and design of the existing dwelling – natural wood siding with brown stain as seen in the applicant’s photos (Exhibit A.9 and A.10). The roof will contain an extension of the existing metal roofing. Because it is an addition, on the northwest side of the home and over 600-feet from the closest portion of the river, staff has determined there will be no visual impact from the addition of less than 75-square feet of metal roofing. No exterior lighting is proposed. Based on the applicant’s materials, staff finds the addition will be compatible with the character and visual quality of the area of significant environmental concern.

9. **(I) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.**

Staff: The property has portions identified as being SEC-h for wildlife habitat but the area is not identified as having fragile or endangered plant species or vegetative features. Nonetheless, the proposed addition is located in an existing cleared area that would have no impact on site vegetation.

Criterion met.

6.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern – Scenic Waterway to construct a 75-square foot addition on an existing dwelling in the Rural Residential zone with an SEC-sw overlay.

7.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff 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 T2-2013-2890 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit
A.1	1	General Application Form
A.2	3	Applicant’s June 7, 2013 Narrative
A.3*	1	June 7, 2013 Site Plan
A.4*	1	June 7, 2013 Existing Dwelling Floor Plan
A.5*	1	June 7, 2013 Proposed New Addition Floor Plan
A.6*	1	June 7, 2013 Existing Elevation Plan of Project Site
A.7*	1	June 7, 2013 Proposed Elevation Plan of Addition
A.8	1	June 7, 2013 Cross Section/Foundation Plan of Addition
A.9*	1	June 7, 2013, Plan of Addition Drawn Onto Photo of Dwelling Looking South
A.10	1	June 7, 2013, Plan of Addition Drawn Onto Photo of Dwelling Looking East
A.11	1	Photo of Existing Dwelling and Area of Proposed Addition
A.12	1	Letter from Oregon Department of Parks and Recreation
A.13	1	Certification of On-Site Sewage Disposal Certification Form
A.14	2	Fire Service Agency Review Form
‘B’	#	Staff Exhibits
B.1	2	A&T Property Information
B.2	1	A&T Tax Map with Property Highlighted
B.3	1	July 3, 2013 Complete Letter
B.4	8	July 31, 2013 Opportunity to Comment and Address List
B.5	1	Building Permit History of Property