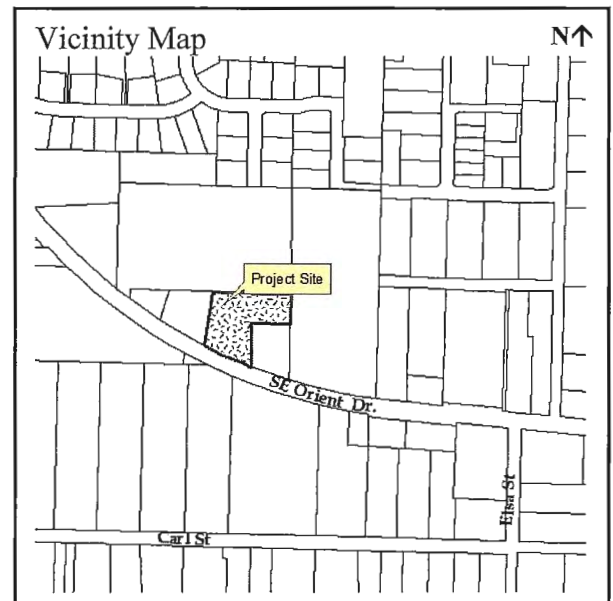


## NOTICE OF DECISION

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

**Case File:** T2-2014-3457  
**Permit:** Adjustment  
**Location:** 27515 SE Orient Drive  
Tax Lot 6400, Section 24AB  
Township 1 South, Range 3 East, W.M.  
Tax Account #R993240530  
**Applicant:** Harris Katz  
**Owners:** Harris Katz  
**Base Zone:** Orient Rural Center Residential (OR)  
**Overlays:** n/a




**Summary:** Applicant is requesting to reduce the 30-foot rear yard setback to 28.5 feet for the existing accessory building in the northwest portion of the property.

**Decision:** Approved with Conditions

Unless appealed, this decision is effective Thursday, August 28, 2014, at 4:00 PM.

Issued by:

By:   
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Thursday, August 14, 2014

**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 Lisa Estrin, Staff Planner at 503-988-3043, ext. 22597.

**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 Thursday, August 28, 2014 at 4:00 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 36.3420 Allowed Uses – (F) Accessory Use, MCC 36.3455 Dimensional Standards and Development Requirements, MCC 36.3470 Lot of Record, MCC 36.7606 Scope, MCC 36.7611 Adjustment Approval Criteria.

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 [multco.us/land-use-planning](http://multco.us/land-use-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.

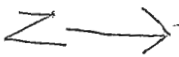
### **Conditions of Approval**

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. Within 30 days of this decision becoming final, the property owner shall contact the code compliance office to set up an appointment for a site inspection to verify that the exterior lighting on the accessory building are of the “cut-off” or fully shielded type light fixtures that do not emit light above the horizontal plane. [MCC 36.3455(G)]
2. The Yard between the accessory building and the rear property line shall be maintained in its current open space condition. No buildings, additions, or structures over 30 inches in height may encroach within this area. The 32.17 feet rear yard setback on the northeastern end of the building shall be maintained as shown on the site plan labeled as Exhibit A.4. [MCC 36.7611(A)]

PLAN

04/24/14



1" = 30'

27515 SE Orient Dr

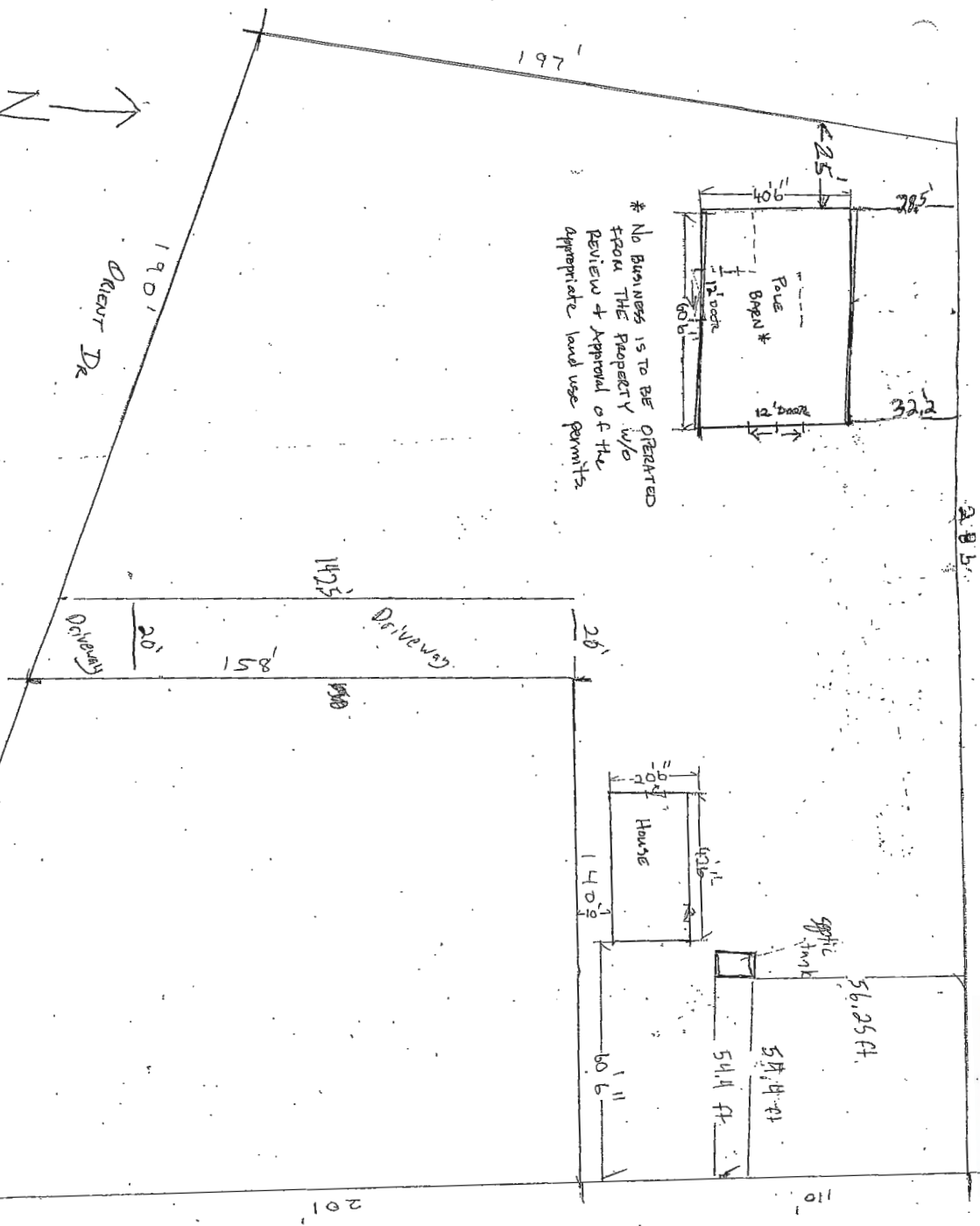


Exhibit  
A.4

3. The property owner shall record pages 1-3 and the site plan at the County Recorder's office. [MCC 37.0670]
4. Within two years of this decision becoming final, the property owner shall have the lights inspected to comply with Condition No. 1 and record pages 1 – 3 and the site plan. If the property owner fails to comply with Condition No. 1 and 3 within this time period, this Adjustment decision shall expire. [MCC 37.0690(A)]

**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 approval of an adjustment to reduce the rear yard to 28.5 feet instead of the required 30 feet open space requirement for the accessory structure in the northwestern portion of the property.

### **2.00 Property Description & History:**

**Staff:** In 2006, the prior property owner applied for and received approval to legalize an existing accessory building on the subject 1.75 acre property. The property owner obtained a building permit and the building received its final inspection from the Gresham Building Department for compliance with the building code. As part of the building permit review, the prior property owner indicated on the site plan that the accessory building was 30 feet from the rear property line. Unfortunately, the northwestern corner of the building was actually only 28.5 feet from the rear property line. The subject application is a request to authorize the reduced yard requirement.

### **3.00 Orient Rural Center Residential Criteria:**

#### **3.01 § 36.3455 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.**

**All development proposed in this district shall comply with the applicable provisions of this section.**

##### **(B) Minimum Yard Dimensions - Feet**

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

**Maximum Structure Height - 35 feet**

**Minimum Front Lot Line Length - 50 feet.**

**Staff:** The subject property is adjacent to Orient Drive and has a front lot line length of 190+/- feet. The accessory building is less than 35 feet in height. The accessory building is approximately 140 feet from the front property line, 10+ feet from the western side property line, over 150 feet from the eastern side property line and 28.5 to 32.2 feet from the rear property line (See Exhibit A.4). The northwestern corner of the building is within the rear yard setback and must be moved or an adjustment granted to reduce the rear yard requirements for the building. Please see Sections 4.01 through 4.06 for the Adjustment findings. *Criterion met through the granting of the Adjustment.*

#### **3.02 (G) New and replacement exterior lighting fixtures shall be of the "cut off" or fully shielded type so that no light is emitted above the horizontal.**

**Staff:** A condition of approval has been included requiring that the code compliance section inspect the site to verify that the lighting on the building meet the above criteria. This criterion was in effect when the building was authorized in 2006 and the existing lighting should have met this requirement. *As conditioned, this criterion will be met.*

### **3.03 § 36.3470 LOT OF RECORD.**

**(A) In addition to the definition standards for a Lot of Record, 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 and R zones 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, RC zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change to RC for some properties, Ord. 395;**
- (6) 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 36.3485, 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 36.3460, 36.3475, and 36.3400 through 36.3460, 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 the minimum lot or yard requirements or result in a lot of 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.**
- (4) A Mortgage Lot.**

**Staff:** The property known as 1S3E24AB-06400 was created in 1964. The property was zoned Suburban Residential (SR) at the time. The minimum lot size for the SR zone in this area was 40,000 square feet and required a 50-foot minimum front lot line length. The subject property is 1.17 acres (50,965 sq. ft) has a front lot line of 190+/- feet. Tax Lot 1S#e24AB-06400 is a Lot of Record.

### **4.00 Adjustment Criteria**

#### **4.01 § 36.7606 SCOPE**

**(A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:**

- (1) Reduction of resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts are prohibited. Additionally, reductions to the fire safety zones in the Commercial Forest Use zones are not allowed under the**

### **Adjustment process; and**

**Staff:** The proposed adjustment application is to reduce a rear yard in the Orient Rural Center Residential zone. This standard may be modified via this process as indicated above. *Criterion met.*

#### **4.02 § 36.7611 ADJUSTMENT APPROVAL CRITERIA**

**The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 36.7606 upon finding that all the following standards in (A) through (E) are met:**

##### **(A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**

**Staff:** In the Orient Rural Center Residential (OR) zone, the minimum rear yard requirement is 30 feet. The applicant is requesting a reduction to 28.5 feet. Through the Adjustment process the rear yard setback standard of MCC 36.3455(B) can be reduced up to 40%. The applicant has requested a 5% reduction of the 30-foot rear yard for the northwest corner of the accessory building.

The purpose of the “Yard” requirement is “*The purpose of yards between buildings and property lines is to provide space, light, air circulation, and safety from fire hazards.*” The existing accessory building was not constructed parallel to the rear property line. The northwestern corner of the building is 28.5 feet and the northeastern corner of the building is actually located 32.17 feet from the rear property line. This angled placement has transferred the light and space from the northwestern to the northeastern yard behind the building. Provided the northeast corner of the building is not expanded to 30 feet, the open space will be provided in an alternative fashion on the site. A condition of approval has been included restricting the reduction of the rear yard on the northeastern side of the building to maintain the open space on the site. *As conditioned, criterion met.*

##### **4.03 (B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and**

**Staff:** By maintaining the open space between the accessory building as discussed above in (A) and as required by Condition No. 2 no impacts should be created to adjoining properties and adequate light and privacy shall be available. *Criterion met.*

##### **4.04 (C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and**

**Staff:** The applicant has requested only one adjustment to deviate the rear yard for the existing accessory building on the site. *Criterion met.*

##### **4.05 (D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands; and**

**Staff:** The property is zoned OR. *Criterion not applicable.*

##### **4.06 (E) If in a Rural Residential (RR) or Rural Center (RC) zone, the proposal will not significantly detract from the livability or appearance of the residential**

area.

**Staff:** The property is in the Orient Rural Center Residential zone. The proposed yard reduction is only 1.5 feet and the angled building placement off-sets this reduction by increasing the rear yard on the northeastern corner of the building by 2.17 feet. Adequate open space will remain on the property in the side and front yards. *Criterion met.*

## 5.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Adjustment to reduce the rear yard in the Orient Rural Center Residential zone. This approval is subject to the conditions of approval established in this report.

## 6.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

‘D’ Comments Received

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 T2-2014-3457 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	4.25.2014
A.2	1	Narrative	4.25.2014
A.3	2	Aerial Photographs of Building and Trees to the North	4.25.2014
A.4	1	Site Plan	4.25.2014
A.5	2	Special Warranty Deed – Statutory Form recorded on 7.15.2011 in Book 2011-079285	4.25.2014
‘B’	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1S3E24AB - 06400	4.25.2014
B.2	1	A&T Property Information for 1S3E24AB - 06300	7.22.2014
B.3	9	Parcel Record Cards for 1S3E24AB – 06400 & 06300	7.31.2014
‘C’	#	Administration & Procedures	Date
C.1	n/a	Application Complete	5.25.2013
C.2	2	Opportunity to Comment	7.23.2014
C.3	7	Administrative Decision	8.12.2014
‘D’	#	Comments Received	Date
D.1	1	Mullen Letter regarding Proposed Adjustment	7.28.2014