

NOTICE OF DECISION

Case File: T2-2019-11701

Permit: Significant Environmental Concern (SEC)

Applicant(s): Tim Hansen, HIS Builders LLC **Owner(s):** Richard and Karen Hawley

Location: 36442 SE Gordon Creek Rd, Corbett
Tax Lot 200, Section 10AD, Township 1S, Range 4E, W.M.
Tax Account #R994100200 Property ID #R341691

Zoning: Multiple Use Agriculture – 20 (MUA-20)

Overlays: Significant Environmental Concern (SEC) and Geologic Hazard (GH)

Proposal Summary: The applicant is requesting a permit to convert garage into living room and to add covered front porch to street side of house. The application includes a request for a Significant Environmental Concern (SEC) and a Lot of Record Verification.

Decision: Approved with Conditions

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is July 26, 2019, at 4:00 pm.

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, contact Katie Skakel, Senior Planner at 503-988-0213 or at katie.skakel@multco.us

Opportunity to Appeal: 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 office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued By: 
Katie Skakel, Senior Planner

For: Adam Barber, Interim
Planning Director

Date: Friday July 12, 2019

Vicinity Map

N↑



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

Applicable Approval Criteria: Multnomah County Code (MCC):

Lot of Record Verification: MCC 39.3080 Lot of Record - Multiple Use Agriculture (MUA-20), MCC 39.2000 Definitions, Lot of Record;

Multiple Use Agriculture – 20 (MUA-20): MCC 39.4310(A) Allowed Uses – Single Family Dwelling, MCC 39.4325 Dimensional Requirements and Development Standards, MCC 39.4340 Off Street Parking and Loading;

Dark Sky Lighting Standards – MCC 39.0570;

Significant Environmental Concern – (SEC): MCC 39.5510 Uses; SEC Permit Required, MCC 39.5520 Application for SEC Permit, MCC 39.5540 Criteria for Approval of SEC Permit; and

MCC 39.1100 through MCC 39.1245 *Procedures*, specifically MCC 39.1225 Interpretations and Requests for Lot of Record Verification and MCC 39.1515 Code Compliance and Applications

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or by visiting our website at multco.us/landuse/zoning-codes under the link *Chapter 39: Multnomah County 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.

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 MCC 39.1185(A) as applicable.

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.

3. Prior to Land Use Planning review and sign-off for a building permit, the property owners or their representative shall:
 - a) Record pages 1 through 3 and Exhibit A.3 (P-1) of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. 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 39.1175]

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 Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or at 503-988-3582 for an appointment to review your plans, obtain your access permit, and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail septic@portlandoregon.gov for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.
4. Contact Katie Skakel, Senior Planner, at 503-988-0213 or katie.skakel@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning will collect additional fees.

The above must be completed before the applicant can obtain building permits from 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 will be collected. In addition, an erosion control inspection fee 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*.

1.0 Project Description:

Staff: The applicant is requesting to convert garage into living room and to add covered front porch to street side of the house. The application includes a request for a Significant Environmental Concern (SEC) for the Oregon Scenic Waterways System for the Sandy River. The Sandy River from Bull Run to [Dabney State Recreation Area](#) is part of the State Scenic Waterway (~13 miles). This reach of the [Sandy River](#) is also part of the National Wild and Scenic Rivers System. The application includes a Lot of Record Verification for the property located at 36442 SE Gordon Creek Rd, Corbett also known as Tax Lot 200, 1 South, 4 East., Section 10AD.

2.0 Property Description & History:

Staff: The Lot of Record Verification is for tax lot 200, 1 South, 4 East, Section 10AD, which is located along SE Gordon Creek Rd. The property is located within the Multiple Use Agriculture – 20 (MUA-20) zoning district in the East of Sandy Rural Plan Area. The entire property is within the Significant Environmental Concern (SEC) overlay.

The Multnomah County Department of Assessment, Records, and Taxation (Exhibit B.1) indicate that James and Margaret Jillson previously owned the property. The current property owner, Richard and Karen Hawley eventually purchased the property in 1998. The property is 2.74 acres and currently contains a single-family dwelling and an exempt agriculture building that was approved on the property in 1994. The property consists of a clustering of trees near the single-family dwelling and along the southern property line (Sandy River side) and open pasture on the western and northern portions of the property.

The single-family dwelling was first taxed in 1992 as shown on records from Multnomah County Department of Assessment, Records, and Taxations. There is a Building Permit for the agriculture metal pole barn (BP-2015-4117) (Exhibit B.2) and a BP for the new single family dwelling dated (BP- 01-01-1900) (Exhibit B.3) associated with the property.

3.0 Administrative Procedures Criteria:

3.1 Code Compliance and Applications

MCC 37.0560: 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: There are no known code compliance issues associated with the property. *This criterion is satisfied.*

4.0 Multiple Use Agriculture – MUA-20:

4.1 MCC 39.4310 ALLOWED USES.

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

(A) Residential use consisting of a single family dwelling on a Lot of Record.

Staff: The existing property consists of a single family dwelling on a Lot of Record. The property is a Lot of Record as demonstrated in findings in Section 4.2 of this report. The applicant is requesting to convert existing garage into a family room and to add covered front porch onto the house which is on street side (facing away from the Sandy River – a designated scenic waterway).

MCC § 39.4325 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

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

(A) Except as provided in MCC 39.3080, 39.4330, 39.2875, and 39.4335 through 39.5350, the minimum lot size shall be 20 acres.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

Staff: The subject application does not include the creation of new lots or parcels; therefore, these criteria are not applicable. *These criteria are met.*

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

Staff: Based on review of existing Land Use and Building permits, the minimum yard dimensions have been met (Exhibit A.3). The proposed 69 sq. ft. porch addition is set back approximately 80 ft from the front yard property line; thus exceeding the 30' front yard setback. The garage conversion is strictly an interior modification. The single family dwelling and proposed addition meets the height requirement. *Criteria met.*

4.2 MCC 39.0005 Lot of Record - Generally

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 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:

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

Staff: The applicant submitted various documents to support the Lot of Record Verification (Exhibits A.4 through A.5). The most pertinent documents are listed in the table below. In 1969, a contract of sale (Book 701, Page 1259) created the subject parcel by dividing the 12.86 parent parcel into the 10.86-acre subject parcel and adjacent 3.24-acre parcel (Exhibit A.4). At the time of the contract of sale, the area was zoned Forest (F2), which required a 2 acre minimum lot and access to a public road to create new lots or parcels. The Subject property is adjacent to SE Gordon Creek Rd., a public street, and it is 2.74 acres. Therefore, the subject property was in full compliance with all zoning requirements in effect at the time of creation. *These criteria are met; therefore, the property is a Lot of Record.*

Exhibit	Instrument	Date Recorded	Map Image
A.3	Warranty Deed Book 1336 Page 382	5-18-49	None
A.4	Parcel Record Card for 1S4E10AD-200	N/A	

4.2 Lot of Record

MCC 39.3080 (A) In addition to the Lot of Record definition standards in MCC 39.0005, 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, MUA-20 zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change from EFU to MUA-20 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 39.4395, 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 39.4380, 39.4385, and 39.5300 through 39.5350, 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 above criteria noted in (A), (B), and (C) do not affect this determination.

The subject property is not a tax lot described solely for assessment and taxation purposes, nor was the subject property created through a foreclosure or by a court decree. *These criteria do not apply to the subject property.*

5.0 Significant Environmental Concern

5.01 MCC 39.5510 USES; SEC PERMIT REQUIRED

(A) All uses allowed in the base zone are allowed in the SEC when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this Subpart.

Staff: An SEC- permit is required as the entire site is located within the SEC overlay.
Criteria met.

MCC 39.5540 CRITERIA FOR APPROVAL OF SEC PERMIT.

The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas, cultural areas, and wild and scenic waterways that are designated SEC on Multnomah County sectional zoning maps. Any proposed activity or use requiring an SEC permit shall be subject to the following:

(A) 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 proposed development consists of adding a 69 sq. ft. porch and converting a garage to a family room. Because the property has the SEC overlay for implicating the Sandy River Wild and Scenic Corridor the porch addition the SEC review. The porch is located on the street side, which faces away from the Sandy River and is over an existing paved driveway. The

driveway is further screened by existing vegetation between the proposed development and the Sandy River. In review of the aerial photography and site plan (Exhibit A.3), there is maximum landscaping and vegetation between the proposed addition and Sandy River given the location of the existing dwelling, which is approximately 900 feet from the river. *This criterion is met.*

(B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

Staff: The property is zoned MUA-20 and has an existing Single family residence. Due to the limited scope of the proposal, there will be no impact on surrounding farm and forest use. The proposed porch addition is part of the existing dwelling on the property and will not create any impact on farm and forest land beyond the existing permitted dwelling use of the property. *This criterion is met.*

(C) 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 development is attached to and interior to the existing structure that was approved through Land Use Planning in 1991. As shown in Exhibit A.3, the location of the proposed porch addition and the interior remodel of a family room in the existing garage is such that the SEC consideration is protected and preserved. The proposal is in an area that is over existing driveway slab along the street side of the house which does not face the Sandy River. *This criterion is met.*

(D) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance.

Staff: Oregon Parks and Recreation Department has indicated approval of the subject request (Exhibit D.1) and has not indicated a concern about the proposal affecting the recreational needs or carry capacity for the SEC Wild and Scenic River. Since the proposal does not change the use and is not adding any bedrooms and is not affecting the carrying capacity of the land. *This criterion is met.*

(E) The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.

Staff: The proposed development is on private property and will meet standards of safety and necessary building codes. *This criterion is met.*

(F) Significant fish and wildlife habitats shall be protected.

Staff: The proposed development is a slight alteration to an existing residence and does not impact fish and wildlife as the property does not have an SEC-habitat overlay. The proposal is not impacting fish habitat as it is outside of a riparian area. *This criterion is met.*

(G) 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, and continuous riparian corridors.

Staff: The proposed development is not visible from the river and will therefore have no significant impact on the "Scenic Quality". The proposed addition is a 69 sq. ft. porch addition which is being built over an existing driveway slab and will therefore have no significant impact on erosion. The other part of the proposal is an interior remodel of the existing attached garage and does not affect erosion as it is strictly an interior remodel. *Criteria met.*

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

Staff: The proposed development has no known impact on an archeological area as the area that is being built on is in an area already disturbed with an existing driveway. *This criterion is met.*

(I) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions.

Staff: Based on review of our aerial mapping and overlays, the proposed development does not enter into areas of annual flooding, floodplains, water areas, and wetlands. *This criterion is met.*

(J) 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 development will have a minimal disturbance of soil as the proposal is being built over an existing driveway and, the remodel, is in an existing garage so there is very little ground disturbance. The applicant has indicated that they will use Best Management Practices in construction. *This criterion is met.*

(K) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.

Staff: The majority of the proposed development is within the existing envelope of the home, and shall therefore have minimal impact on air, water and ambient noise levels. The 69 sq. ft. porch addition and remodel will be built during reasonable daylight hours and with all necessary measures to reduce contact and impact on air, water and noise levels. *This criterion is met.*

(L) 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 proposed development is designed to match the aesthetics of the existing structure, and will be compatible with the character and visual quality of the area in its current state. Specifically, the scenic quality of the Sandy River will not be impacted as the proposed addition does not face the river. *This criterion is met.*

(M) 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 proposed development is over an existing driveway slab, and there should be no impact on any plant habitat or natural vegetation as the applicant is not impacting the existing landscape or forested area. *This criterion is met.*

(N) The applicable policies of the Comprehensive Plan shall be satisfied.

Staff: The proposed porch addition and interior remodel is consisted with the County's comprehensive plan in Chapter 5 as the property has an existing residential use and the applicant is applying for the appropriate SEC permit. *Criteria met.*

5.0 Conclusion:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the SEC to establish an addition in the MUA-20 zone and the applicant has carried the burden necessary for the determination that Tax Lot 200, Section 10AD, Township 1S, Range 4E, W.M. is a single Lot of Record.

6.0 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 T2-2019-11701 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	March 12, 2019
A.2	3	Narrative and 8 photos	March 12, 2019
A.3	10	Site plan and elevation drawings	March 12, 2019
A.4	2	Warranty Deeds	March 12, 2019
A.5	2	Parcel Record Card for Tax Lot 200	
A.6	1	Transportation Planning Review Form	March 4, 2019
A.7	4	Septic Review Certification	March 11, 2019
A.8	8	Corbett Fire Service Agency Form	Feb 22, 2019
		Staff Exhibits	
B.1	1	A&T Property Information	

B.2	1	BP-pole barn	
B.3	1	BP-NSFR	
'C'	#	Administration & Procedures	Date
C.1		Complete Letter (Day 1)	April 11, 2019
C.2		Opportunity to Comment	May 23, 2019
C.3		Administrative Decision	
'D'	#	Comments Received (if needed)	Date
D.1	1	Oregon Parks and Recreation Department	March 1, 2019

