

PRE-APPLICATION CONFERENCE NOTES

This is an Informational Meeting and is not a Public Hearing

Case File No.: PA-2020-13605

MEETING TIME AND PLACE

Thursday, August 27, 2020 at 10:30 am

COVID-19 NOTICE:

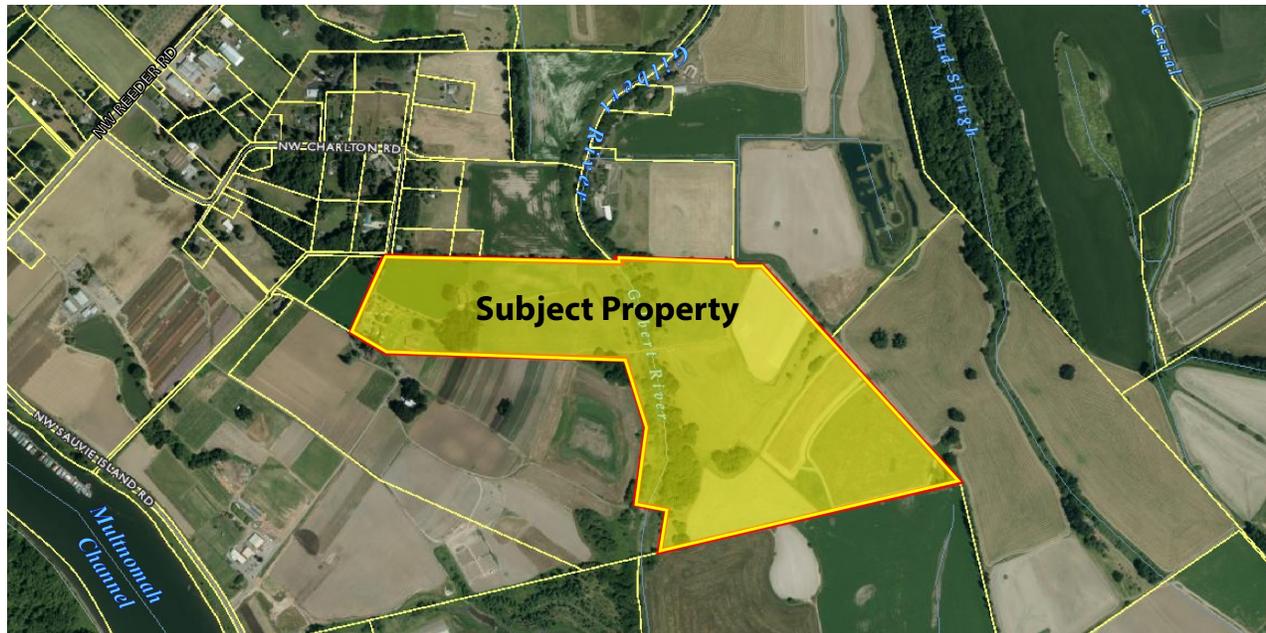
Due to the County's Emergency Response to COVID-19, the referenced pre-application meeting will be limited to remote participation. At this time, pre-application meetings are not available for in-person attendance.

Participation Options and Instructions: This pre-application conference will be open to the public by calling into the meeting at (US) +1 617-675-4444 / PIN: 110 284 732 8231#

- WHAT:** A Pre-Application Meeting is to be held on the date above to discuss the applicable Multnomah County Land Use Code and application for an Administrative Decision by the Planning Director, Category 3 Land Division, and Variance in the Exclusive Farm Use (EFU) zone.
- PROPOSAL:** Applicant requests an Administrative Decision by the Planning Director, Category 3 Land Division, and Variance to create two additional parcels in order to implement a Measure 49 Final Order that would allow the establishment of a single-family dwelling on each parcel.
- LOCATION:** 13801 NW Charlton Road, Portland
Tax Lot 900, Section 16, Township 2 North, Range 1 West, WM
Alt. Acct. #R971160060 Property ID #R324933
- BASE ZONE:** Exclusive Farm Use (EFU)
- APPLICANT:** Robert Wiley, Wiley Farm Enterprises LLC
- OVERLAYS:** Significant Environmental Concern for Wetlands (SEC-w)
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- CONTACT:** After the meeting, if you have any questions regarding the criteria, the process, or the next steps please contact Rithy Khut, Planner at Multnomah County's Land Use Planning Division at (503) 988-0176 or rithy.khut@multco.us.
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Vicinity Map



The following is for informational purposes only. No approvals or conclusions have been drawn about this project. Until such time as the necessary Land Use Applications are submitted and reviewed, no decisions will be or have been made regarding the project's compliance with the land use regulations of Multnomah County.

Outline of the Pre-Application Meeting's Purpose and Process

1. Meeting Purpose:

- The Pre-Application meeting is to provide information to an applicant for a land use action that will assist them in completing the application.
- The objectives of the meeting are to clarify the proposal, inform the applicant of the applicable procedures and approval criteria, and to identify all known issues.
- A Pre-Application meeting is a standard requirement for all applications that require a public hearing.

2. Meeting Structure:

- This is not a public hearing and no decisions will be made. The meeting is meant to be informal in nature.
- The Multnomah County planning staff will be responsible for conducting the meeting. Staff will begin the meeting by asking for introductions of those in attendance.
- The applicant will be responsible for explaining their proposal. This explanation is especially helpful to the public who have not seen the application materials, and is an opportunity to share relevant information with their neighbors.
- Planning staff will be responsible for reviewing the applicable procedures and approval criteria and to identify all known issues.

- Members of the public and other agency representatives will be provided the opportunity to ask questions about the proposal and will be asked to identify any relevant issues.
- After the Pre-Application meeting, and after the application has been deemed “complete” by responding to each approval criteria, you will receive a notice announcing the date, time, and place of the Public Hearing. Failure to participate at the Pre-Application meeting will not preclude your involvement at the first scheduled hearing on the completed application.

Notwithstanding any representations by County staff at a Pre-Application meeting, staff is not authorized to waive any requirements of Multnomah County Code (MCC). Any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the County of any standard or requirement. [MCC 39.1120(C)]

SUMMARY OF APPLICABLE PERMITS, CODES, POLICIES & FEES

These Multnomah County Code (MCC) sections (provided at meeting) can be found under the link titled *Chapter 39: Multnomah County Zoning Code* on our webpage at:

<https://multco.us/landuse/zoning-codes/>

General Zoning Requirements	Code Sections	Fees
General Provisions	MCC 39.1515 Code Compliance and Applications	N/A
Lot of Record Verification	MCC 39.3005 Lot of Record – Generally MCC 39.3070 Lot of Record – Exclusive Farm Use (EFU)	N/A
Exclusive Farm Use (EFU)	MCC 39.4245 Dimensional Requirements and Development Standards	NA
Land Use Applications	Code Sections	Fees
Administrative Decision by Planning Director – Measure 49 Implementation (Type II)	Measure 49 Claim #E129631 Conditions of Approval Oregon Administrative Rules (OAR) 660-041-0000 through 660-041-0530	\$2,163
Category 3 Land Division (Type II)	MCC 39.9045(E) and (G) Category 3 Land Divisions MCC 39.9400(B), (C), and (H) Criteria for Approval, Category 1 and Category 2 Tentative Plan and Future Street Plan MCC 39.9430 Criteria for Approval, Category 3 Tentative Plan MCC 39.9435 Contents Of Category 3 Tentative Plan MCC 39.9500 Application of General Standards and Requirements MCC 39.9505 Land Suitability MCC 39.9510 Lots and Parcels MCC 39.9520 Street Layout MCC 39.9525 Street Design MCC 39.9545 Required Improvements	\$2,016

	MCC 39.9555 Easements MCC 39.9570 Water System MCC 39.9575 Sewage Disposal MCC 39.9580 Surface Drainage and Storm Sewer Systems MCC 39.9585 Electrical and Other Wires	
Potential Land Use Applications	Code Sections	Fees
Creation of a Parcel not abutting a street (Type III)	MCC 39.4260 Access	\$ 3,204 (Deposit)
Variance (Type III)	MCC 39.8200(D) ...Variances Generally MCC 39.8205(B) Scope MCC 39.8215 Variance Approval Criteria	\$ 3,204 (Deposit)
	Notice Fee	\$210
	Notice Hearing Sign (will be required to be posted on the property frontage)	\$23 each

KEY ISSUES

1. The Pre-Application Conference request form states that proposal is for an Administrative Decision by the Planning Director, a Category 3 Land Division, and Variance to create two addition parcels in order to implement a Measure 49 Final Order that would allow the establishment of a single-family dwelling on each parcel.
2. In order for the County to be able to approve any land use application for development or building permits, the property must be in full compliance with all applicable codes [MCC 39.1515]. Full Compliance means the property is a Lot of Record, any structures on site were properly reviewed or permitted, and any conditions from previous land use decisions have been satisfied.
 - There are no currently an open compliance cases on the subject property.
3. As part of any Type 3 Review, County staff must make Lot of Record findings. A Lot of Record is a property that, when first placed in its current configuration, met all zoning and land division rules in place at that time. At the time of the Measure 49 Order, the subject property was found to be a Lot of Record.
 - Please provide a copy of the current deed for the property, as this information will be reviewed to compare the current property description with the Measure 49 Order.
4. The Division of Assessment, Recording, and Taxation (DART) indicates that there are three single-family dwellings (one stick-built dwelling with deck and attached garage and two manufactured homes) and two (2) farm buildings on the property. Aerial photo review and previous land use review indicates that there is also a pump house, milk shed, and equipment shed on the property. Aerial photos also indicate that there is a small structure between one of the manufactured homes and the barn that is furthest east.

The dwelling was first assessed in 1968, and the manufactured homes were first assessed 1992 and 2003. Building permit and zoning requirements were first in place over the properties in 1955; therefore, the single-family dwelling and manufactured homes would all **have** required building permits when each was constructed or placed on the property.

- These are the permits on file with for your property:

Land Use Case / Building Permit	Date of Permit / Decision	Description
Building Permit	12/18/1991	Replace Single-Family Residence with Mobile Home (Manufactured Home)
Building Permit	03/18/2002	Replace 1930's dwelling with new Manufactured Home
E129631	05/27/2009	Measure 49 Claim
Building Permit	09/15/2009	Agricultural Building Permit for addition to existing barn

Administrative Decision by the Planning Director:

5. Your proposal includes a Measure 49 approval. Your application will need to include an Administrative Decision by the Planning Director, which will determine whether your proposal meets the Measure 49 approval, such as parcel size, clustering, and other items listed in the Measure 49 “Authorization” (Condition of Approval).
 - Please thoroughly read your Measure 49 approval and make sure your proposal meets the authorization requirements.
 - Measure 49 approval discusses parcel size related to whether the property is high-value soil or not.
 - i. The soil is high-value thus the new parcels must not exceed two acres. While Multnomah County Code does not count the area contained within the access pole on a flag lot, Measure 49 does. The two-acre limitation for Measure 49 will apply to the entirety of the square footage in a proposed flag lot designed parcel.
6. In order to site a new dwelling, the chosen area of the new parcels must be able to accommodate a new dwelling on each parcel. That means each of the new parcels need to be accessible by emergency services (access, slope, etc.), satisfy state fire codes, have an adequate domestic water source, be able to be served by an on-site sewage disposal system, and can handle storm water on site so to not affect adjacent properties.

Category 3 Land Division:

7. For Category 3 Land Division the application submittal will need to include a “Tentative Plan” created by a Professional Surveyor or Professional Engineer showing the information listed under MCC 39.9435. The tentative plan shall include the proposed parcel lines, existing buildings and proposed future building site (show setbacks to property lines), driveway locations existing and proposed, existing, and proposed septic systems and repair areas locations, and existing and proposed stormwater system locations. Additionally, in the proposed development areas the tentative plan will need to include topography contours.
8. In addition to the approval criteria listed under MCC 39.9430, the proposed tentative plan must demonstrate compliance with MCC 39.9505 Land Suitability, MCC 39.9510 Lots and Parcels, MCC 39.9520 Street Layout, MCC 39.9525 Street Design, MCC 39.9545 Required Improvements, MCC 39.9555 Easements, MCC 39.9575 Sewage Disposal, MCC 39.9580

Surface Drainage and Storm Water Systems, MCC 39.9585 Electrical and Other Wires [MCC 39.9500]

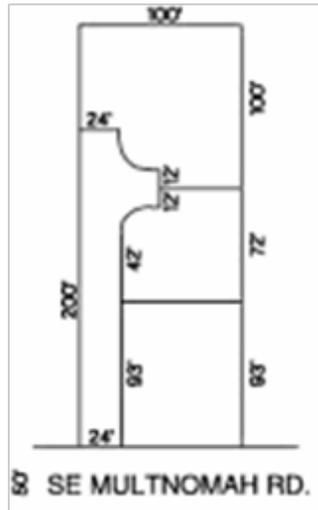
9. For MCC 39.9505, you will need to demonstrate that the land is suitable for development by providing contour information and soil types:

MCC 39.9505 Land Suitability: A land division shall not be approved on land found by the approval authority to be both unsuitable and incapable of being made suitable for the intended uses because of any of the following characteristics:

- (A) Slopes exceeding 20%;**
- (B) Severe soil erosion potential;**
- (C) Within the 100-year flood plain;**
- (D) A high seasonal water table within 0– 24 inches of the surface for three or more weeks of the year;**
- (E) A fragipan or other impervious layer less than 30 inches from the surface; or**
- (F) Subject to slumping, earth slides or movement.**
- (G) Pre-existing field drains or other subsurface drainage systems.**

10. For MCC 39.9520 Street Layout and MCC 39.9525 Street Design, the standards require that the three proposed parcels be served by either a public or private street. You are proposing that Parcel 2 will be landlocked and served by an easement. We recommend that you redesign the proposal to utilize a private street that is in conformance with MCC 39.9525(B). You may then redesign the parcels to each front onto the private street or utilize a flag lot design for Parcel 2.
11. MCC 39.4245(C) requires each proposed parcel to have a Front Lot Line Length of 50 feet. **MCC 39.2000 Definitions** defines the *Front Lot Line* as “**In the case of an interior lot, a line separating the lot from the street or accessway;...in the case of a flag lot, the lot line closest to and most nearly parallel with the street which serves the lot.**” An *Accessway* is a private road which is not a part of a lot or parcel and which provides access to more than one parcel. Each of parcels would need to meet the design standards contained within MCC 39.9510. The proposed tentative plan shows that Parcel 1 will have a front lot length of approximately 37.5 feet, Parcel 2 will not abut a road or accessway so will have a front lot line of zero, and Parcel 3 will have a front lot length of approximately 8 feet. At minimum, each lot shall abut a public road and have a front lot line length of 50 feet.
- As designed, you will be required to obtain a Variance to the front lot line length for each parcel proposed, which is discussed in the next section.

Planning Staff recommends that you elect to create a private accessway of up to 300 feet in length and 24 feet in width as shown below or in the Typical Accessway Standard design attached:



- If designed with a private accessway, a Variance for the 50-foot minimum front lot line length **WOULD NOT** be required for Parcel 2 or 3 as the private accessway would allow the parcels to meet the requirement. If the Typical Accessway Standard was used, Parcel 1 should also be able to meet the standard.
12. MCC 39.9510 Lots and Parcels requires that each parcel would be appropriately designed to allow for a proposed dwelling. The newly created parcels would need to contain enough space for an existing building/structure to meet the following dimensional standards:

- Minimum Yard Dimensions - Feet

Front	Side Street	Side	Rear
30	10	30	30

- Maximum Structure Height – 35 feet
13. Each proposed parcel shall meet the required improvement standards of MCC 39.9550 through MCC 39.9590 and MCC 39.9600, which require easements, water systems, sewage disposal, surface drainage, etc. If improvements are required, then the proposed parcels shall also meet MCC 39.9587 through MCC 39.9590 and MCC 39.9600.

- MCC 39.9575 requires that where sanitary sewer is not available to the site a Land Feasibility Study be required to confirm the ability to utilize the system prior to tentative plan approval. Additionally, where a private subsurface sewage disposal system is used, the parcel or lot shall contain adequate land area to accommodate both a primary and reserve septic system drainfield area, and for surface and storm drainage systems.
- MCC 39.9580 requires that on-site water disposal or retention facilities shall be adequate to insure that surface runoff rate or volume from the new parcels after development is no greater than that before development.

Creation of a Parcel not abutting a Street (Type 3 Application):

14. MCC 39.4260 Access requires, “All lots and parcels in this base zone shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles.”

Unless you decide to construct a local access road in a public right-of-way, you will need to obtain the approval for your alternative access whether it is for a private accessway or an easement. A hearings officer will have to determine what you are proposing meets MCC 39.4260 and MCC 39.9525 Street Design. This Access requirement and MCC 39.9525 is a public health/safety requirement and Land Use Planning will not recommend it be waived or found not applicable due to the Measure 49 language.

Variance: (Type 3 Application)

15. Based on your proposed plan, one or more of the proposed parcels does not meet the 50-foot front lot line length; therefore, a variance for each parcel that does not meet that requirement will need to be granted. As proposed, all three parcels fail that requirement as designed. It is feasible for you to redesign the land division and meet the minimum front lot line length to avoid these variances. With a variance application, you will need to demonstrate that there is a practical difficulty or unnecessary hardship to the property owner.

16. The applicable approval criteria are as follows:

§ 39.8215 VARIANCE APPROVAL CRITERIA.

The Approval Authority may permit and authorize a variance from the dimensional standards given in MCC 39.8205 upon finding that all the following standards in (A) through (G) are met:

(A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or base zone. The circumstance or condition may relate to:

(1) The size, shape, natural features and topography of the property, or

(2) The location or size of existing physical improvements on the site, or

(3) The nature of the use compared to surrounding uses, or

(4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or base zone, or

(5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.

(6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

(B) The circumstance or condition in (A) above that is found to satisfy the approval criteria is not of the applicant’s or present property owner’s making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.

(C) There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.

(D) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or base zone in

which the property is located, or adversely affects the appropriate development of adjoining properties.

(E) The Variance requested is the minimum necessary variation from the Code requirement which would alleviate the difficulty.

(F) Any impacts resulting from the variance 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.

(G) The variance must be in support of a lawfully established use or in support of the lawful establishment of a use.

17. The application will need a **written narrative** addressing the approval criteria and demonstrating how that criterion is met (i.e. explain ‘**how**’ or ‘**why**’ a criterion is satisfied). The narrative needs to address ‘**how**’ or ‘**why**’ a standard is satisfied or not applicable. Conclusory statements or repeating the standard back does not satisfy the standard. A good way to format your written narrative to ensure each specific approval criterion is addressed is as follows:

- **Examples:**

MCC 39.9505 LAND SUITABILITY

A land division shall not be approved on land found by the approval authority to be both unsuitable and incapable of being made suitable for the intended uses because of any of the following characteristics:

(A) Slopes exceeding 20%;

Response: The land division shall be approved on land because “**How**” or “**why**” ...

(B) Severe soil erosion potential;

Response: The land division shall be approved on land because “**How**” or “**why**” ...

MCC 39.9510 LOTS AND PARCELS

The design of lots and parcels shall comply with the following:

(A) The size, shape, width, orientation and access shall be appropriate:

(1) To the types of development and uses contemplated;

Response: The size, shape, width, orientation and access of the lot are appropriate to the types of development and uses contemplated because “**How**” or “**why**” ...

KEY ISSUES: ADDITIONAL REVIEW

18. Land Divisions need to be supported by appropriate service. As discussed above, you will need to submit the following service provider forms:

- Fire Service Agency Review – ensures that the state fire code on fire flow and access are satisfied. [MCC 29.004]

- Septic Review Certification Form – ensures the subject property can have a septic system and area for a back-up system should the primary fail. [MCC 39.9575]
- Water Service Certification – ensures that there is a water source for the property.
 - i. If there is no public water available and there is not a well on site, a well will need to be drilled, either prior to application or after an approval. If you choose to construct a well after a land division approval, the well drillers report is required to be noticed to surrounding property owners and is appealable. [MCC 39.9570]
- Transportation Planning Review – ensures that Multnomah County Road Rules on access and driveway spacing are satisfied.

APPLICATION SUBMITTAL

Multnomah County Land Use Planning Office will not accept an application that is lacking fundamental components. The planner on counter duty will briefly review materials submitted using the checklist below to determine if the fundamental components have been submitted. This cursory review is not a completeness review, which will be conducted within 30-days of application submittal.

<u>Application Checklist</u>		Required	Included
1.	Completed Application Form: signed by the all property owners and the applicant along with the required fee(s).	X	
2.	Narrative: Written narrative providing a clear and complete description of your proposal and specifically addressing each applicable code section. List the code reference you are responding to in your narrative and your response to that criterion. Applicable criteria you must address in your narrative are previously listed in these notes. Reference in your narrative any supporting documents you are attaching (including required site map) to demonstrate how your proposal meets a particular code criterion.	X	
3.	<p>Scaled Tentative Plan: The site plan shall be drawn to scale using either an engineer (e.g., 1:20, 1:40) scale or architect scale (e.g., 1/4" = 1', 1/8" = 1')</p> <ul style="list-style-type: none"> <input type="checkbox"/> Boundaries, dimensions, address and size of the subject parcel; <input type="checkbox"/> Date, north arrow, scale; <input type="checkbox"/> Location of watercourses or drainage features on or near the property. <input type="checkbox"/> Location, size, and label of all proposed and existing buildings, structures, distances to property lines (measured to nearest point of the building), and buildings to be removed; <input type="checkbox"/> Location of the existing well and septic system (tank, drainfield & replacement field) and storm water system (existing and/or proposed); <input type="checkbox"/> Contour lines and topographic features such as ravines or ridges; <input type="checkbox"/> Proposed fill, grading, site contouring or other landform changes; <input type="checkbox"/> Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas; <input type="checkbox"/> Location and width of existing and proposed driveways, and service corridors; <input type="checkbox"/> Location of abutting public right-of-way with distances from the right-of-way line to the centerline of the adjoining road; and <input type="checkbox"/> Location and width of existing, proposed, and/or altered access points/driveway cuts to the property. 	X	
4.	Lot of Record status: Submit copy of current deed for the property	X	
5.	Storm Water Design: completed and stamped by a Oregon Registered Professional Engineer with site plan stamped or signed by the Engineer	X	
6.	Septic Review Certification of Form and site plan signed by the Sanitarian (green form).	X	

7.	Fire Service Agency Review Form and site plan signed by the Fire Marshall	X	
8.	Certification of Water Service Form	X	
9.	Transportation Planning Review (TPR) Form: Please contact Multnomah County Right of Way at 503.988.3582 or at row.permits@multco.us	X	

APPLICATION COMPLETENESS

Once an application is submitted, it will be assigned to a planner. The planner has 30 days, by state law, to determine whether the application is complete. If an application is incomplete, the applicant has 180 days, by state law, to submit the requested additional information to make the application complete. If your application is found to be incomplete, we request that you submit the required additional information in one packet rather than trickling information in. This avoids confusion of whether or not you intend to submit other additional information.

ADDITIONAL ASSISTANCE

Please contact Planner Rithy Khut at (503) 988-0176 or rithy.khut@multco.us with any questions. Scheduling an appointment is necessary to see your case planner. In the event your case planner is unavailable, the planner on duty can also help answer questions at 503.988.3043. Hours for the planner on duty are Tuesday – Friday, 8:00 AM – 4:00 PM, except holidays. Please note a building permit plan check fee and erosion control inspection fee may be required at building plan signoff after the conclusion of the land use review process. These fees do not need to be paid at the time of land use application submittal.