

POST-HEARING MEMORANDUM

To: Record in Hearing of T3-2021-14961
From: County Staff
Date: January 14, 2022
RE: Post Staff Report Modifications Proposed by the Applicant at January 14, 2022 Hearing

Prior to the January 14, 2022 Hearing, the Applicant requested the Hearing's Officer ("HO") consider a modification to the proposed Administrative Decision by the Planning Director, Category 1 Land Division, Creation of parcels that do not abut a street, and two Variances. The original request was for the removal or relocation of one of the two single-family dwellings located on what will become Parcel 1. The Applicant now desires to convert one of the single-family dwellings into an accessory building. There are multiple Multnomah County Code ("MCC" or "Code") and procedural considerations for the HO to account for in their analysis.

CONSIDERATIONS

- 1. Public Notice: County Staff sent the required Hearing notice to the Public containing a site plan with a notation that the "Modular home to be decommissioned or relocated during partition." Interested parties chose not to participate in the Hearing based on the notice provided. Should there be a change to the proposal, interested parties and owners of record ("interested parties") are entitled to notice of such a change.**

The Staff Report contained analysis for Staff's recommendation of approval for the specific proposal, including the Variance. Should the HO wish to consider the proposed conversion of one of the single-family dwellings into an accessory building, the Code criteria noted below must be evaluated. Additional time must be provided to allow for notification of a proposed change to interested parties. Should the interested parties wish to respond, the record would need to be held open to allow such response time.

[MCC 39.1150(C)]



2. **Exclusive Farm Use Criteria: MCC 39.4220(O) allows for the establishment of Accessory Structures. The HO must evaluate MCC 39.4220(O), which requires that the accessory structure be customarily accessory or incidental to any use. Additionally, MCC 39.4220(O) also requires that the design or use of the structure shall not be temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use. To accomplish this, the Code requires that certain components within the structure be removed to ensure that the structure is not a “dwelling unit.”**

Staff requests that the HO consider if the conversion of the single-family dwelling into an accessory building would indeed meet those Code requirements.

If the HO allows the proposed modification, the following conditions would need to be revised. The following text is used within the proposed changes: Double Underline = Proposed new language.

~~Strikethrough~~ = Language proposed for removal. * * * Indicates a gap in the condition, typically within the same condition. Used to reduce report length.

- Condition no. 4 of the Staff Report [page 5] must be revised to ensure compliance with the relevant Code requirements.

4. Prior to submittal of the plat, the property owners or their representative shall:

* * *

c. Submit and obtain Land Use Planning sign off for Zoning Approval to:

i. ~~Demolish~~ Convert the modular home as indicated and shown in Exhibit A.15 into an accessory building by providing building plans showing the floor plan of the single-family dwelling has been converted into an accessory building. For the purposes of this condition, the plans for existing single-family dwelling will show that the accessory building does not contain: (a) More than one story; (b) Cooking Facilities; (c) A toilet or toilets; (d) Bathing facilities such as a shower or bathing tub; or (f) A closet or closets built into a wall. One sink may be shown. [MCC 39.4220(O)(2) through (4), E129631.IV.1, E129631.IV.6, E129631.IV.7, and E129631.IV.9]

- Condition no. 6 of the Staff Report [page 6] must be revised to ensure compliance with the relevant Code requirements.

6. At the time of Land Use Planning sign off for the plat, the property owners or their representative shall:

* * *

d. Contact Multnomah County Land Use Planning Division - Code Compliance Program and/or Rithy Khut, Land Use Planner to schedule a site inspection. At the

time of scheduling, photos or other evidence shall be provided to the County confirming the following:

i. The modular home as indicated and shown in Exhibit A.15 has been ~~demolished and removed~~ converted into an accessory building from Parcel #1. To convert the single-family dwelling into an accessory building the following items are required to be removed from the building: Cooking facilities, a toilet or toilets, bathing facilities such as a shower or bathing tub, a closet or closets built into a wall. One sink may be allowed to remain. [MCC 39.4220(O)(2) through (4), E129631.IV.1, E129631.IV.6, E129631.IV.7, and E129631.IV.9]

* * *

e. Record a covenant with Division of Assessment, Recording, and Taxation (“County Records”) that states that the owner understands and agrees that accessory structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. [MCC 39.4220(O)(5) and MCC 39.8860]

Additionally, if the HO allows the proposed modification the following conditions would need to be added.

- Condition no. 7 must be created to ensure compliance with the relevant Code requirements.

7. As an on-going condition, the property owner shall:

- Ensure that modular home as indicated and shown in Exhibit A.15 shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use. [MCC 39.4220(O)(2)]
- Ensure that within the modular home as indicated and shown in Exhibit A.15, a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose is disassembled for storage. [MCC 39.4310(F)(4)]

CONCLUSION

While considering the proposed request, Staff asks that the HO carefully consider the Exclusive Farm Use approval criteria and the requirement for interested parties to be provided notice of proposals in their area. Per Oregon State Planning Goal 1, public involvement is a required part of land use planning and any changes to the proposal merits notice to interested parties. The modification may seem minimal; however, when viewed holistically, such a change could be considered a significant modification requiring a new staff report and hearing to render a decision.