

NOTICE OF DECISION



www.multco.us/landuse ▪ Email: land.use.planning@multco.us ▪ Phone: (503) 988-3043

Application for an Accessory Use Determination and Significant Environmental Concern Reviews (SEC-h, SEC-sw)

Case File: T2-2024-0003

Applicant: Steve Gibson

Proposal: Request for retroactive approval of two accessory buildings

Location: 36620 SE Lusted Road, Boring

Property ID # R154378

Map, Tax lot: 1S4E23C -01800

Alt. Acct. # R238000310

Base Zone: Rural Residential (RR)

Overlays: Significant Environmental Concern – Wildlife Habitat (SEC-h), Significant Environmental Concern – Scenic Waterway (SEC-sw), Geologic Hazard (GH)

Decision: Approved with Conditions

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, April 16, 2025 at 4:00 pm.

Opportunity to Review the Record: The complete case file and all evidence associated with this application is available for review by contacting LUP-comments@multco.us. Paper copies of all documents are available at the rate of \$0.46/page.

Opportunity to Appeal: The appeal form is available at www.multco.us/landuse/application-materials-and-forms. Email the completed appeal form to LUP-submittals@multco.us. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted

Issued by:

A handwritten signature in black ink, appearing to read "Izza Liu".

Izza Liu, Planner

For: Megan Gibb,
Planning Director

Date: April 2, 2025



Applicable Approval Criteria:

Multnomah County Code (MCC): General Provisions: MCC 39.1250 Code Compliance and Applications, MCC 39.2000 Definitions

Lot of Record: MCC 39.3005 Lot of Record – Generally, MCC 39.3090 Lot of Record – Rural Residential (RR)

Rural Residential Zone: MCC 39.4360 Allowed Uses, (F) Accessory Structures..., MCC 39.4375 Dimensional Standards and Development Requirements

Accessory Structures – Condition of Approval: MCC 39.8860 Condition of Approval – Accessory Buildings

Significant Environmental Concern – Wildlife Habitat: MCC 39.5510 Uses; SEC Permit Required, MCC 39.5520 Application for SEC Permit, MCC 39.5860 Criteria for Approval of SEC-sw Permit – Scenic Waterway

Significant Environmental Concern – Scenic Waterways: MCC 39.5510 Uses; SEC Permit Required, MCC 39.5520 Application for SEC Permit, MCC 39.5600 Criteria for Approval of SEC-sw Permit – Scenic Waterway

Copies of the referenced Multnomah County Code sections are available by visiting <https://www.multco.us/landuse/zoning-codes> under the link **Chapter 39: Multnomah County Zoning Code** or by contacting our office at (503) 988-3043.

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. **Permit Expiration** – This land use permit shall expire as follows:

- a. Within two (2) years of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - ii. For purposes of 1.a.i, notification of commencement of construction shall be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to the date of commencement. Notification shall be sent via email to LUP-submittals@multco.us with the case no. T2-2024-0003 referenced in the subject line.
- b. Within four (4) years of the date of commencement of construction when the structure has not been completed. [MCC 39.1185(B)]
 - i. For the purposes of 1.b, completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.
 - ii. For purposes of 1.b.i, the property owner shall provide building permit status in support of completion of exterior surfaces of the structure and demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to LUP-submittals@multco.us with the case no. T2-2024-0003 referenced in the subject line. [MCC 39.1185]

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.

2. 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. [MCC 39.1170(B)]
3. **When submitting Building Plans for Zoning Review**, the property owner(s) or their representatives shall:
 - a. Provide a copy of a signed and recorded covenant indicating that the accessory buildings approved by this permit will 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 39.4070(T)(2), MCC 39.4075(L)(1), MCC 39.8860].
4. **As an on-going condition:**
 - a. The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

Note: Land Use Planning must sign off on the building plans before you can go to the Building Department. When ready to submit Building Plans for Zoning Review, complete the following steps:

5. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, “Prior to submitting Building Plans for Zoning Review...” Be ready to demonstrate compliance with the conditions.
6. You will need to provide a copy of your Transportation Planning Review (TPR) sign-off with your building plans. If you have not yet received sign-off, visit the following webpage for instructions on

how to request a review of your plans: <https://www.multco.us/planreview>. Failure to obtain TPR sign-off of your plans will result in delaying your zoning review.

7. Visit <https://www.multco.us/landuse/submitting-building-plan> for instructions regarding the submission of your building plans for zoning review and review of conditions of approval. Please ensure that any items required under, “When submitting Building Plans for Zoning Review...” are ready for review. Land Use Planning collects additional fees at the time of zoning review.

Once you have obtained an approved zoning review, application for building permits may be made with the City of Gresham.

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 requests the retroactive approval of a 2,400-square-foot (40’ x 60’) detached shop and an 855-square-foot (45’ x 19’) detached garage. The shop is located outside of the environmental overlay zones on the subject property.

2.0 Property Description & History:

Staff: The subject property is in unincorporated east Multnomah County in the area known as the West of Sandy River Rural Plan Area. The subject property is zoned Rural Residential and is located outside of Metro’s Urban Growth Boundary (UGB). According to the Assessment and Taxation records, the subject property is developed with a single-family dwelling and two accessory buildings.

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 39.1105 (Exhibit C.4). Staff did receive public comments during the 14-day comment period.

3.1 Patsy Casey, neighbor, provided an email comment on November 17, 2024 (Exhibit D.1)

Staff: No substantial concerns were raised by the neighbor.

4.0 Code Compliance and Applications Criteria:

4.1 MCC 39.1250 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 or zoning review approval of development or any other approvals authorized by this code for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

* * *

Staff: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

A finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance.

According to the Assessment and Taxation records, the subject property contains a single-family dwelling approved under permit no. 771816 and two accessory buildings. There were no permit records for the existing accessory buildings but the applicant is seeking retroactive approval through this application. As a Condition of Approval, the applicant will be required to submit a request for Zoning Plan Review to finalize the approval of the two accessory buildings. *As conditioned, these criteria are met.*

5.0 Lot of Record Criteria:

5.1 MCC 39.3005 Lot of Record – Generally

(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or 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.

* * *

5.2 MCC 39.3090 Lot of Record – Rural Residential (RR)

(A) In addition to the standards in MCC 39.3005, for the purposes of the RR district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

* * *

(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:

* * *

Staff: Pursuant to land use case no. T2-2022-15931, the subject property was lawfully established in its current size and configuration. As the configuration of the subject property as not changed, the property remains a Lot of Record. *These criteria are met.*

6.0 Rural Residential (RR) Criteria:

6.1 MCC 39.4360 Allowed Uses

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

* * *

(F) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone and is a structure identified in the following list:

* * *

Staff: The subject property is developed with a single-family dwelling and two buildings accessory to the residential use. The applicant is requesting retroactive approval of a 2,400-square-foot (40' x 60') detached shop and an 855-square-foot (45' x 19') detached garage (Exhibits A.12 & A.13). *This criterion is met.*

(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(3) The Accessory Structure may contain one sink.

(4) The Accessory Structure shall not contain:

(a) More than one story;

(b) Cooking Facilities;

(c) A toilet;

(d) Bathing facilities such as a shower or bathing tub;

(e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or

(f) A closet built into a wall.

Staff: The garage and shop were not constructed with a second story, and these buildings do not contain cooking facilities, a bathroom, closets or bedrooms (Exhibit A.12 & Exhibit A.13). *These criteria are met.*

(5) Compliance with MCC 39.8860 is required.

Staff: A Condition of Approval is included to ensure the property owner records a covenant for the accessory buildings. *As conditioned, this criterion is met.*

(6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.

Staff: The applicant requests the retroactive approval of a 2,400-square-foot (40' x 60') detached shop and an 855-square-foot (45' x 19') detached garage (Exhibits A.12 & A.13). The total square footage exceeds 2,500 square feet, therefore, the Review Use standards are addressed in Section 6.2 below.

(8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, 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

Staff: The applicant is proposing to use the existing accessory buildings as a garage and shop for personal use (Exhibits A.2, A.12 & A.13) . *This criterion is not applicable.*

6.2 MCC 39.4365 Review Uses

(I) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the “accessory structures” standard in MCC 39.4360 Allowed Uses, but which meet the following provisions:

Staff: The applicant is seeking retroactive approval of two accessory buildings that were not previously reviewed by the County. The accessory buildings are all identified in MCC 39.4360(F)(1) as customarily accessory and incidental to the permitted single-family dwelling use on the property; therefore, the applicant must demonstrate that the buildings meet the provisions below.

- (1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential unit.**
- (2) The Accessory Structure shall not contain a bathing tub.**
- (3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.**
- (4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.**
- (5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.**

Staff: As previously discussed in Section 6.1, the applicant provided floor plans of the existing accessory buildings (Exhibit A.12 & A.13). The floor plans show that the accessory buildings meet the requirements of subsection (I)(1), do not contain the features of (I)(2), (3), and (5). The accessory buildings do not contain a toilet or bath facilities therefore subsection (I)(4) is not applicable. *These criteria are met.*

- (6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.**

Staff: The total square footage of the accessory buildings exceed MCC 39.4360(F)(6). The total square footage is 3,255 (Exhibits A.12 & A.13). The 855-square-foot garage was constructed with two garage doors for two vehicles. The 2,400-square-foot shop will be used as an RV parking area and personal shop. The RV parking area is approximately 648 square feet and the shop area is approximately 1,008 square feet in size. Staff finds that the request for an additional 755 square feet of floor area is reasonable to accommodate for the storage of two vehicles, an RV and to use the remaining space as a workshop. *This criterion is met.*

- (7) Compliance with MCC 39.8860 is required.**

Staff: A Condition of Approval has been included requiring the covenant’s recordation. *As conditioned, this criterion is met.*

6.3 MCC 39.4375 Dimensional Requirements and Development Standards

* * *

(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.

* * *

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the**

necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

Staff: The right-of-way adjacent to the subject property is SE Lusted Road, a rural local road. A local rural road requires a ROW width of 50 feet. Lusted Road is 60 feet in width, so no additional right-of-way width is needed and the yard does not need to be increased.

As shown on the site plan, the existing shop exceeds the minimum setback requirements (Exhibit A.10). The garage is located 10 feet from the northern property boundary and exceeds the minimum setback requirements from all other property boundaries (Exhibit A.10).

As shown on the elevation drawings, the garage and the shop are less than the 35 feet in height (Exhibits A.12 & A.13). *These criteria are met.*

* * *

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the lot.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

Staff: The applicant has provided a Septic Review Certification and Stormwater Drainage Control Certificate (Exhibits A.8 & A.9).

* * *

(H) All exterior lighting shall comply with MCC 39.6850.

Staff: The applicant provided exterior photographs of the two accessory buildings (Exhibit A.14). Both buildings have exterior lighting that is shielded and pointing downward and complies with the standards of MCC 39.6850. *This criterion is met.*

7.0 Significant Environmental Concern Overlays Criteria:

7.1 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; provided however, that the location and design of any use, or change or alteration of a use, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this Subpart.

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

Staff: The applicant is requesting retroactive approval of an 855-square-foot detached garage. The proposed development is an Allowed Use associated with the residential use under MCC 39.4360(A) and (F), if the proposal meets certain requirements of Multnomah County Code. Significant Environmental Concern for Streams (SEC-sw) and Significant Environmental Concern for Wildlife Habitat (SEC-h) permits are required as the proposal is not exempt from obtaining permits. Conditions of Approval will require the property owner to demonstrate compliance with all the applicable approval criteria as discussed below. Lastly, according to the plans, no excavation or removal of materials of archaeological, historical, prehistorical, or anthropological has occurred or are proposed. *Criterion met.*

7.2 MCC 39.5600 – Criteria for Approval of SEC-sw Permit – Scenic Waterway

Except as otherwise provided in this Subpart, all development within the SEC-sw shall be subject to the following:

(A) The application for the SEC-sw permit shall include a letter from the Oregon Parks and Recreation Department indicating 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 provided a letter from the Oregon Department of State Lands confirming that the project will not impact a State Scenic Waterway as the subject property is located outside of the quarter-mile State Scenic Waterway setback. In addition, no mapped wetlands or hydric soils were identified on-site (Exhibit A.7).

(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 applicant is not proposing to remove or clear vegetation as part of this proposal. In addition, the Sandy River is located more than a quarter-mile to the north of the subject property. *This criterion is met.*

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

(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 subject property is zoned Rural Residential and is adjacent to properties within the same zone. The applicant is requesting retroactive approval of a detached garage which is considered accessory to the residential use. *These criteria are met.*

(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: The subject property does not contain any bodies of water or mapped wetlands.

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

Staff: Archaeological areas were not identified on the subject property.

(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: *As conditioned, this criterion is met.*

(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 subject property is not located within the Significant Environmental Concern overlay associated with scenic views. The applicant provided photographs of the existing detached garage (Exhibit A.14). The existing garage was constructed with blue siding, white trim, and an asphalt roof. The construction materials, exterior colors, and lighting is compatible with the character of residential development outside of the scenic view overlay zone. *This criterion is met.*

(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 applicant provided a letter from the Oregon Department of State Lands which confirmed that the subject property is located outside of the State Scenic Waterway setback. Fragile or endangered plant habitats were not identified on the subject property.

7.3 MCC 39.5860 Criteria for Approval of SEC-h Permit – Wildlife Habitat

* * *

(B) Development standards:

(1) Where a parcel contains any non-forested “cleared” areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Staff: The detached garage is located in the non-forested cleared area of the property (Exhibit A.10). *Criterion met.*

(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

Staff: As measured on the applicant’s site plan, the development is more than 200 feet from SE Lusted Road (Exhibit A.10). *Criterion not met.*

(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

Staff: As measured on the applicant’s site plan, the driveway is less than 500 feet in length (Exhibit A.10). *Criterion met.*

(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

* * *

Staff: The applicant is not proposing a new driveway approach as part of this proposal. *This criterion is not applicable.*

(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

Staff: The width of the subject property is less than 300 feet in length. *Criterion met.*

(6) Fencing within a required setback from a public road shall meet the following criteria:

* * *

Staff: The applicant is not proposing any fencing as part of this application. *This criterion is not applicable.*

(7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

Staff: *As conditioned, this criterion is met.*

(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

(1) The applicant cannot meet the development standards of subsection (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

Staff: As discussed in Section 7.3 above, the applicant has not met the development standards of subsection (B); therefore, a Wildlife Conservation Plan is required. The detached garage is located more than 200 feet from the public road. The eastern portion of the subject property is located within the Significant Environmental Concern – Scenic Waterways (SEC-sw) overlay zone. To minimize development within the SEC-sw, staff recognizes that the accessory buildings would need to be located more than 200 feet from the road. In addition, the detached garage utilizes the existing driveway for the dwelling which minimizes ground disturbance. The detached garage was constructed within the non-forested area of the property and the applicant is not proposing the removal of any additional vegetation. Therefore, the applicant is proposing a wildlife conservation plan that results in the minimum departure from the standard. *Criterion met.*

* * *

(3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5), the wildlife conservation plan must demonstrate the following:

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.

(e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.

Staff: The applicant is not proposing to clear forested areas or remove any vegetation as part of this proposal. In addition, no fencing is proposed. *These criteria are met.*

8.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Accessory Use Determination and Significant Environmental Concern reviews (SEC-sw, SEC-h) for the retroactive approval of two accessory buildings in the Rural Residential zone. This approval is subject to the conditions of approval established in this report.

9.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits with an ‘*’ have been reduced in size and included with the mailed decision. All exhibits are available for digital review by sending a request to LUP-comments@multco.us.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	Application	03.01.2024
A.2	3	Narrative	03.01.2024
A.3	16	Deeds	03.01.2024
A.4	2	Elevation Drawings	03.01.2024
A.5	6	Driveway Permit	03.01.2024
A.6	1	Fire Agency Correspondence	03.01.2024
A.7	2	OPRD Correspondence	03.01.2024
A.8	8	Septic Review Certification	03.01.2024
A.9	1	Stormwater Drainage Control Certificate	03.01.2024
A.10	1	Site Plan	03.01.2024
A.11	1	Dwelling Floor Plan	03.01.2024
‘B’	#	Staff Exhibits	Date
B.1	2	Assessment and Taxation Property Information for 1S4E23C -01800 (Alt Acct# R238000310)	03.01.2024
B.2	1	Current Tax Map for 1S4E23C -01800	03.01.2024
‘C’	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	03.29.2024
C.2	1	Applicant Incomplete Response	04.15.2024
C.3	1	Complete Letter	08.20.2024
C.4	4	Opportunity to Comment	11.05.2024
C.5	14	Decision	04.02.2025
‘D’	#	Public Comments	Date

D.1	1	P. Casey Comments	11.17.2024
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Land Use Planning Division

1600 SE 190th Ave.
Portland OR 97233
Phone: 503-988-3043
land.use.planning@multco.us
<https://multco.us/landuse/>

Dear Property Owner:

The attached Covenant must be recorded and filed with the County's Record and Assessment Department (DART). As a condition of approval of the Accessory Structure, Multnomah County requires the execution and recording of this Covenant to ensure that the Accessory Structure 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.

Instructions for Completion of Covenant

1. Applicant(s) must complete each detail of the form.
2. If creating your own covenant, provide a draft copy to the Multnomah County Land Use Planning Division (LUP) for review and approval before signing and recording.
3. On the next page, under the section "Grantor(s) is/are the sole owner(s) of the real property located at _____ and legally described as" should be described as either:
 - a. "see **Exhibit A**", or;
 - i. Exhibit A should be a metes and bounds description, subdivision description, or Partition Plat Number which should be attached to the Covenant for the County Recorder
 - b. The legal description for your property, which can be found on your deed. The description usually begins, "The following described tract of land in..." or is the subdivision description or Partition Plat Number
4. The form must be signed before a notary public by the deed owners and contract purchasers.
5. The signed and notarized covenant must be recorded by the applicant in the County Deed Records, 501 SE Hawthorne Blvd., Portland. The County Recorder's phone number is 503-988-3034.
6. Once you have recorded with DART, please return to County Planning Department prior to issuance of any Building Permit for the structure. Thank you for your attention to this matter. If you have any questions, please call the Planning Department at (503)-988-3043.

***Note:** This cover page does not need to be recorded



Land Use Planning Division
1600 SE 190th Ave, Portland OR 97233

AFTER RECORDING RETURN TO:

**COVENANT TO PROHIBIT RESIDENTIAL USE
OF ACCESSORY STRUCTURE**

This COVENANT TO PROHIBIT RESIDENTIAL USE OF ACCESSORY STRUCTURE (“Covenant”) is granted on _____, 20___, by _____, owner(s) of the Property (“Grantor(s)”).

RECITALS

A. Grantor(s)is/are the sole owner(s) of the real property located at _____ and legally described as:

_____ (“Property”).

B. The Property is located within the planning and zoning jurisdiction of Multnomah County, Oregon (“County”), and County has authorized the establishment of an accessory structure on the Property (“Accessory Structure”).

C. Within County’s planning and zoning jurisdiction, the use of an accessory structure, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use is prohibited.

D. As a condition of approval of the Accessory Structure, County required the execution and recording of this Covenant to ensure that the Accessory Structure 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.

AGREEMENT

1. Establishment of Accessory Structure. If established on the Property, the Accessory Structure shall be established in accordance with all standards, conditions, and all other requirements set forth in a permit duly authorized by County and in accordance with all applicable laws, rules, and all other applicable regulations.
2. Use of Accessory Structure. The Accessory Structure shall be used only for the purpose approved in a permit duly authorized by County and only in accordance with all applicable laws, rules, and all other applicable regulations. The Accessory Structure 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; such use is strictly prohibited.
3. Beneficiary. This Covenant is intended to benefit County by ensuring the lawful establishment and use of the Accessory Structure as a means of complying with all of County's requirements, including all other applicable laws, rules, and all other applicable regulations, and, thereby, obtaining County's approval of the Accessory Structure.
4. Enforcement. Upon failure to perform under this Covenant, County may terminate use, occupancy, and/or authorization of the Accessory Structure and may seek all necessary injunctive relief, including seeking to prevent future use and/or occupancy of the Accessory Structure and/or removal of the Accessory Structure from the Property.
5. Runs with the Land. This Covenant shall run with the Property and shall be binding on all future owners, successor and assigns of the Property and all other persons and parties claiming through Grantor(s).
6. Authority. Grantor(s) warrant(s) that it/they is/are the legal owner(s) of the Property ("Owner" and "Co-Owner(s)," respectively), and that there is/are no other legal owner(s), and that Grantor(s) has/have the right to execute this Covenant.
7. Recordation; Proof Prior to Building Permits. Grantor(s) shall cause this Covenant to be recorded in the Deed Records of Multnomah County, Oregon, and, more specifically, shall cause this Covenant to be recorded with the deed records of the Property. Grantor(s) acknowledge(s) that proof of the recording described in this paragraph must be made to County's Planning Director prior to the issuance of any building permits for the Accessory Structure.
8. Recitals. The "Recitals" set forth at the beginning of this Covenant are, by this reference, incorporated herein as part of the terms of agreement of this Covenant.

