

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION
in the matter of the
Expansion of a Non-Conforming Structure/Accessor Dwelling Unit

RE: PL17-040

HEARING DATE: May 17, 2017

DATE OF DECISION: MAY 30, 2017

APPLICATION DATE: MARCH 30, 2017

DECISION SUMMARY: Approval with Conditions

PROPERTY OWNER: Shannon Good

PROJECT PROPONENT: Shannon Good

DESCRIPTION OF PROPOSAL: Accessory Dwelling Unit with Special Permission.

Site Address 403 S. 11th Street

Parcel Nos. P52765

I. INTRODUCTION

This matter came on for hearing before the Mount Vernon hearing examiner on May 17, 2017, on the application of Shannon Good.

Testimony. In addition to the presentation by City staff at the public hearing, Shannon Good provided testimony on behalf of herself. At hearing, no members of the public provided oral testimony. The applicant's address is the same as the site address.

Exhibits. All exhibits submitted were admitted without objection. The Mount Vernon municipal code, comprehensive plan, zoning map, and the exhibits identified in the attached Exhibit List were considered by the hearing examiner, and are incorporated herein.

The hearing examiner takes notice of public records recorded by the Skagit County Auditor.

II. FINDINGS OF FACT

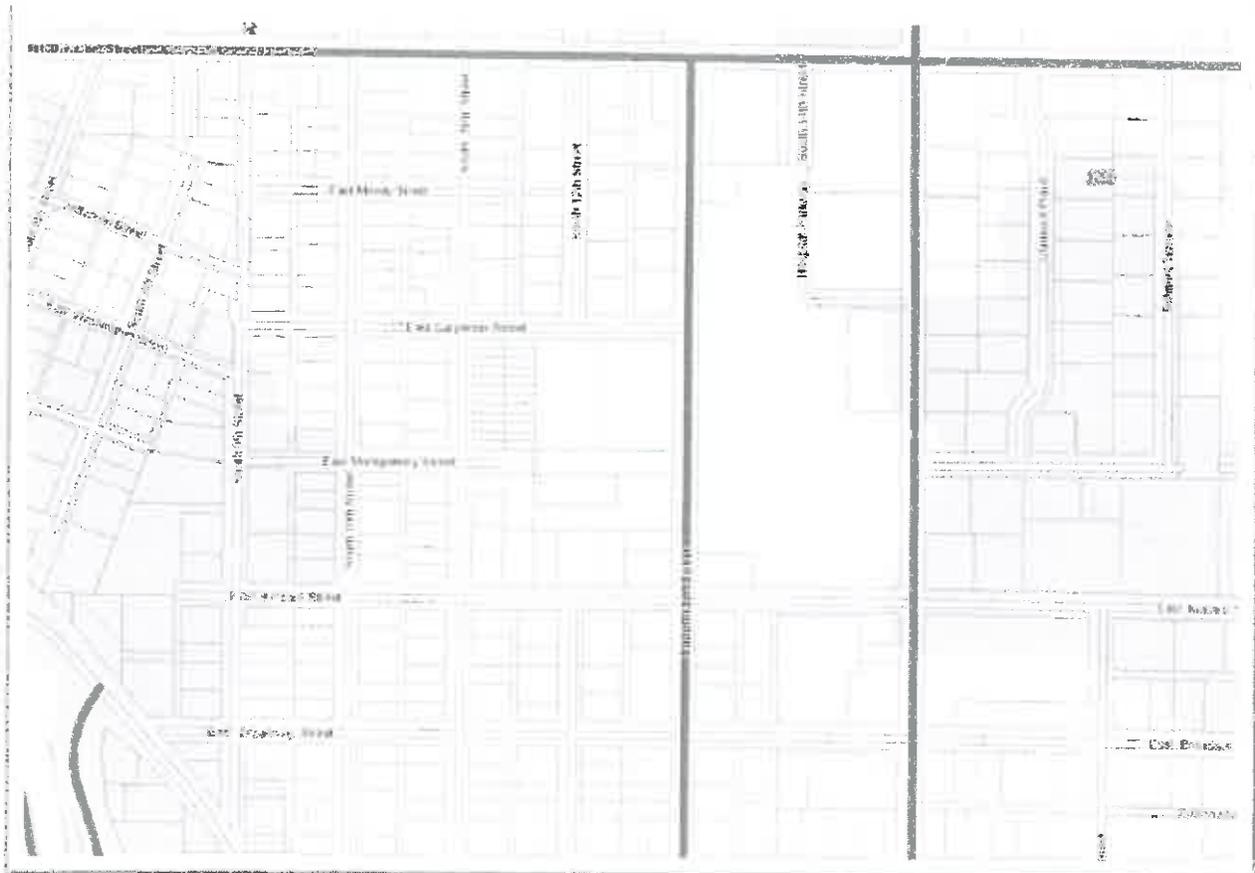
The hearing examiner makes the following Findings of Fact based upon consideration of the exhibits admitted herein, and evidence presented at the public hearing. To the extent that any finding of fact is more properly characterized as a conclusion of law, or vice versa, the hearing examiner adopts it as such:

A. Property and General Project Description.

1. Description of Proposal. The applicant proposes to demolish an existing non-conforming accessory dwelling unit and rebuild a new accessory dwelling unit in its place. The new structure will be sited in essentially the same location, but gains an additional 54 square feet of floor area, resulting in a building that is 519 square feet total.

The existing accessory structure does not comply with the building setbacks (a 20-foot setback along East Montgomery Street is required and the existing structure has a 10-foot setback). In addition, the municipal code does not allow two separate dwelling units on a lot of record without one of the units being an accessory dwelling unit (ADU).

2. Project Location and Site Access. The proposal property has an address of 1012 E Montgomery St. The main residence is addressed as 403 S. 11th St. The following map is reproduced from the staff report to the hearing examiner:



3. Property owner. The current property owner is the applicant, Shannon Good.

4. Property Description. The parcel is legally described as the eastern addition to Mt Vernon, lot 16, except the south 20 feet thereof, and all of lots 17 and 18, block 11.
5. Existing Site Use. According to the Skagit County Assessor this 6,970± s.f. lot is developed with an approximate 846 s.f. residence built in 1952; an approximate 404 s.f. detached garage also built in 1952, an approximate 84 s.f. multi-purpose shed built in 1924; and an approximate 464 s.f. residential structure (the existing ADU) built in 1944. The development of the residential structures predates Mount Vernon's zoning codes. The following photo depicts the main residential building, taken from 11th Street (Skagit County Assessor photo):



6. Topography. The parcel is generally flat.
7. Critical Areas. The property has no critical areas that have been identified.

B. Notice

8. Application. On March 30, 2017, the applicant submitted an application for expansion of a non-conforming ADU. On April 20, 2017 the application was deemed to be technically complete.
9. Notice of Application. On April 21, 2017, the City issued a Notice of Application for Approval to Expand a Non-Conforming Use.
10. Notice of Public Hearing. On April 24, 2017, the City issued a Notice of Public Hearing, and mailed the Notice to all properties within 300 feet of the site. The Notice of Hearing was published in the Skagit Valley Herald on April 12, 2017.

11. Notice Published. The Notice of Application and Notice of Public Hearing was published in the Skagit Valley Herald on April 24, 2017.
12. Land Use Sign. On April 24, 2017, the site was posted with a Land Use sign.
13. No comments were received by the City in response to the Notice of Application.
14. Traffic. No additional vehicular traffic will result from the proposed project. Traffic patterns are unexpected to be altered by the project.

C. Development Regulations/Land Use Controls

15. Zoning. The property is currently zoned Single-Family Residential with a maximum density of 7.26 du/acre (R-1, 7.0).
16. Neighborhood Characteristics. Surrounding properties to the north, south, east and west are zoned residential.
17. Comprehensive Plan designation. The Comprehensive Plan designation for the property is Single-Family High Density (SF-HI).

Based upon the foregoing Findings of Fact, the hearing examiner makes the following,

III. CONCLUSIONS OF LAW

A. AUTHORITY

1. Chapter 14.05 of the Mount Vernon Municipal Code (MVMC) contains permit specific procedural requirements for, in part, the City's Zoning code, Title 17. The expansion of a non-conforming use is characterized by Section 14.05.060 MVMC as a Type IV permit.
2. Section 14.05.070 MVMC provides that the hearing examiner is to conduct a pre-decision open public hearing, and thereafter make a recommendation to the city council on whether a permit should be granted by the city. The Mount Vernon City Council makes the final decision to approve or deny such a permit.
3. The hearing examiner concludes that the examiner has authority and jurisdiction to hear this matter, and make recommendation to the City Council.

B. Notification

4. The content of public notices is established in MVMC § 14.05.150 (A)(2). The notice of application & public hearing notice distributed by the City comply with the content requirements of MVMC § 14.05.150 (A)(2).
5. Notice distribution requirements are established in MVMC § 14.05.150 (A)(3), which provides that notice is to be provided (1) by publication in the newspaper of record; (2) by posting a land use notice board in a conspicuous location on

each public street frontage bordering the subject property and visible by members of the public; and (3) by mail. The hearing examiner concludes that appropriate notice was provided. The City properly distributed notices as set forth in the municipal code.

6. Pursuant to Section 14.05.070 MVMC, a public hearing is required. The notice of the public hearing was provided by the City in a manner calculated to reach

C. Non-conforming Building Expansion Review

1. Review Criteria. Section 17.102.070 MVMC provides the following criteria to be examined with regard to the expansion of a non-conforming building:

A. The effect of such enlargement, expansion or reconstruction on the appearance and use of the area that might be affected;

B. The effect of the granting of such permit on traffic patterns in the area;

C. The adequacy of parking facilities provided or to be provided;

D. The effect on adjacent and nearby property or the economic effect of the proposed expansion, alteration or reconstruction on both the applicant and the owners of property in the vicinity.

2. Effect of Expansion on Appearance of the Area. The appearance of the area will be slightly altered because the existing ADU will be demolished and replaced with a new structure that has a footprint that is 54 s.f. larger. The proposed structure is substantially similar to the existing structure and will not appear to be out of character

MVMC Chapter 17.15 allows accessory buildings as an outright permitted use; however, the definition of 'accessory building' makes clear that accessory buildings cannot exceed the height of the main building on the same lot (see MVMC 17.06.010 A Definitions). As such, staff did not recommend approval of the Applicant's request to increase the height of the reconstructed accessory unit such that the resulting structure is taller in height than the primary residence. The applicant revised its proposal to eliminate a second floor loft/storage space, and the proposed structure will not now exceed the height of the primary residential structure.

3. Effect on Traffic Patterns. Traffic patterns will not be impacted by the project.
4. Adequacy of Parking Facilities. Parking facilities will not be affected by the project. The concrete driveway located near the southeast corner of the site can accommodate two vehicles and there is room along the north side of the site to accommodate two parallel parked vehicles.

5. Effect on Adjacent and Nearby Property. The project will have a minimal effect on the aesthetics of the neighborhood. A positive financial impact will likely result from the applicant's investment in improvements.
6. In accordance with Section 17.102.080 MVMC, the hearing examiner concludes that the proposed expansion of a non-conforming building will not have a material adverse effect upon the use and enjoyment of the properties within the area which conform to the existing zoning.

D. Accessory Dwelling Unit Review

1. **The proposal is compatible with the intent of the Comprehensive.** The accessory dwelling unit is located within an area of similarly-sized residential lots that are designated Single-Family High Density on the Comprehensive Plan; and, ADUs are recognized as allowed uses with the Comprehensive Plan. The Housing Element of the Comprehensive Plan contains the following Policy:

Policy HO-2.1.4 Encourage the construction of attached and detached accessory dwelling units in single-family districts subject to specific development, design and owner occupancy provisions

2. **The proposal shall be compatible with the surrounding neighborhood.** The proposed ADU has existed on the subject site for decades. The surrounding residential neighborhood is primarily developed with single-family residential homes on similarly-sized lots. The ADU performance standards are designed to maintain the single-family appearance of the neighborhood aiding in its compatibility.
3. **The surrounding neighborhood would not be negatively impacted by the size, arrangement, or architectural design of the proposed use.** Because the existing accessory structure has been in place for decades, reconstructing this structure will not negatively impact the surrounding neighborhood. The entrance to the ADU is proposed to be off of the existing alley that abuts the west side of the subject site. The entrance can be located anywhere except along the east side of the reconstruction structure.
4. **Traffic patterns are not severely impacted.** Traffic patterns will not change in any appreciable way with the proposed reconstruction of the accessory unit on the subject site.
5. **Public facilities are available to serve the proposed development.** The accessory structure is currently served by public utilities/facilities.
6. **The proposal has no materially detrimental effects on neighboring properties due to excessive noise, lighting or other interference with the peaceful use and possession of said neighboring properties.** The proposal is for a residential use in a residential neighborhood, and there is no indication that excessive noise, lighting or other interference with the peaceful use and possession of neighboring properties would occur.

7. **The proposal has been designed to minimize adverse effects on neighboring properties.** 'Special Use for Accessory Dwelling Unit' code conditions ensure that ADU proposals will be compatible with the single-family appearance of the neighborhoods that they are situated in and will not negatively impact or affect the surrounding neighborhood. The applicant is/will be complying with this code; and as such, will be minimizing adverse effects on neighboring properties

Based upon the foregoing Findings of Fact and Conclusions of Law, the hearing examiner makes the following Recommendation:

RECOMMENDATION

A Permit for the expansion of a non-conforming building, file No. PL17-040 be APPROVED subject to applicable construction requirements set forth in state law and/or the Mount Vernon Municipal Code, and subject to the following conditions of approval:

1. The new accessory dwelling unit building structure shall be limited to 13-feet 9-inches in height.
2. The two (2) parallel parking spots off of East Montgomery Street shall be paved with a durable, dust free surface and must comply with standards from the City's Engineering Department.
3. The applicant shall not use the Art Studio and Office as a primary residence as is indicated on the site plans submitted.
4. The applicant shall comply with all of the siting requirements found in MVMC 17.81.110 including signing and recording a covenant with regard to the ADU.



Scott G. Thomas, Hearing Examiner

5-30-17

Date

NOTICE:

The Hearing Examiner's recommendation may be appealed by a person or entity with standing to the City Council. Such appeals shall be in writing and must contain the information outlined in MVMC 14.05.160(C)(3). Any such appeal must be filed by a party of record aggrieved by the recommendation and shall submit the appeal to the Development Services Department, within 14 days from the date of this decision. The appeal must contain the information outlined in MVMC 14.05.160(C). A copy of these portions of the MVMC can be obtained by contacting the Development Services Department; or it can be downloaded on the City's web site at: <http://www.ci.mount-vernion.wa.us>. Any party filing an appeal is responsible for determining applicable requirements, and is urged to act promptly.

EXHIBIT LIST

- Exhibit A:** Master Land Use Application
- Exhibit B:** Project Narrative and Mapping from the Applicant
- Exhibit C:** City notices and associated information
- Exhibit D:** Skagit County Assessor's Site Information
- Exhibit E:**
- Exhibit F:** Plans