



**MILWAUKIE PLANNING**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 503-786-7630  
 planning@milwaukieoregon.gov

# Application for Land Use Action

Master File #: **VR-2022-001**

Review type\*:  I  II  III  IV  V

**CHECK ALL APPLICATION TYPES THAT APPLY:**

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Amendment to Maps and/or Ordinances:<br><input type="checkbox"/> Comprehensive Plan Text Amendment<br><input type="checkbox"/> Comprehensive Plan Map Amendment<br><input type="checkbox"/> Zoning Text Amendment<br><input type="checkbox"/> Zoning Map Amendment<br><input type="checkbox"/> Code Interpretation<br><input type="checkbox"/> Community Service Use<br><input type="checkbox"/> Conditional Use<br><input type="checkbox"/> Development Review<br><input type="checkbox"/> Director Determination<br><input type="checkbox"/> Downtown Design Review<br><input type="checkbox"/> Extension to Expiring Approval<br><input type="checkbox"/> Historic Resource:<br><input type="checkbox"/> Alteration<br><input type="checkbox"/> Demolition<br><input type="checkbox"/> Status Designation<br><input type="checkbox"/> Status Deletion | <input type="checkbox"/> Land Division:<br><input type="checkbox"/> Final Plat<br><input type="checkbox"/> Lot Consolidation<br><input type="checkbox"/> Parition<br><input type="checkbox"/> Property Line Adjustment<br><input type="checkbox"/> Replat<br><input type="checkbox"/> Subdivision<br><input type="checkbox"/> Miscellaneous:<br><input type="checkbox"/> Barbed Wire Fencing<br><input type="checkbox"/> Mixed Use Overlay Review<br><input type="checkbox"/> Modification to Existing Approval<br><input type="checkbox"/> Natural Resource Review**<br><input type="checkbox"/> Nonconforming Use Alteration<br><input type="checkbox"/> Parking:<br><input type="checkbox"/> Quantity Determination<br><input type="checkbox"/> Quantity Modification<br><input type="checkbox"/> Shared Parking<br><input type="checkbox"/> Structured Parking<br><input type="checkbox"/> Planned Development | <input type="checkbox"/> Residential Dwelling:<br><input type="checkbox"/> Accessory Dwelling Unit<br><input type="checkbox"/> Duplex<br><input type="checkbox"/> Manufactured Dwelling Park<br><input type="checkbox"/> Temporary Dwelling Unit<br><input type="checkbox"/> Sign Review<br><input type="checkbox"/> Transportation Facilities Review<br><input type="checkbox"/> Variance:<br><input type="checkbox"/> Use Exception<br><input type="checkbox"/> Variance<br><input type="checkbox"/> Willamette Greenway Review<br><input type="checkbox"/> Other: _____<br><input type="checkbox"/> <b>Use separate application forms for:</b><br>Annexation and/or Boundary Change <ul style="list-style-type: none"> <li>• Compensation for Reduction in Property Value (Measure 37) Daily Display Sign</li> <li>• Appeal</li> <li>• Appeal</li> </ul> |
|---|--|---|

**RESPONSIBLE PARTIES:**

**APPLICANT** (owner or other eligible applicant—see reverse): **Ann DiNucci and Mike Mendez**

Mailing address: **2807 SE Sherrett St, Milwaukie** State/Zip: **OR, 97222**

Phone(s): **503-953-3250/ 503-351-7235 (Mike)** Email: **ann.dinucci@cascadeenergy.com**

*Please note: The information submitted in this application may be subject to public records law.*

**APPLICANT'S REPRESENTATIVE** (if different than above): **Debbie Cleek, The Bookin Group**

Mailing address: **1020 SW Taylor Street, Suite 555, Portland** State/Zip: **OR, 97205**

Phone(s): **503-241-2423** Email: **cleek@bookingroup.com**

**SITE INFORMATION:**

Address: **2807 SE Sherrett St** Map & Tax Lot(s): **1S1E25BA 02600 and 1S1E24CD 05600**

Comprehensive Plan Designation: **Residential** Zoning: **R5** Size of property: **0.12 acres**

**PROPOSAL (describe briefly):**

**Type III Variance to reduce the street side and rear setbacks.**

**SIGNATURE:**

**ATTEST:** I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: Date: **1-4-2022**

**IMPORTANT INFORMATION ON REVERSE SIDE**

\*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.

**WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION** (excerpted from MMC Subsection 19.1001.6.A):

**Type I, II, III, and IV** applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

**Type V** applications may be initiated by any individual.

**PREAPPLICATION CONFERENCE:**

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

**REVIEW TYPES:**

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

**\*\*Note:** Natural Resource Review applications **may require a refundable deposit**. Deposits require completion of a Deposit Authorization Form, found at [www.milwaukieoregon.gov/building/deposit-authorization-form](http://www.milwaukieoregon.gov/building/deposit-authorization-form).

**THIS SECTION FOR OFFICE USE ONLY:**

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Master file	VR-2022-001	\$ 2000			<b>Materials submitted January 14, 2022; Payment received January 20, 2022</b>
Concurrent application files		\$			
		\$			
		\$			
Deposit (NR only)				<input type="checkbox"/> Deposit Authorization Form received	
<b>TOTAL AMOUNT RECEIVED: \$ 2000</b>			<b>RECEIPT #:</b>		<b>RCD BY:</b>
<b>Associated application file #s</b> (appeals, modifications, previous approvals, etc.):					
<b>Neighborhood District Association(s): Ardenwald-Johnson Creek</b>					
<b>Notes:</b>					



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# PREAPPLICATION CONFERENCE WAIVER

I/We, Ann DiNucci and Mike Mendez (print), as applicant(s)/property owner(s) of 2807 SE Sherrett Street (address of property), request to waive the requirement for a preapplication conference for the submission of a **Type II / III / IV / V** (circle one) land use application per MMC Subsection 19.1002.2 Applicability.

**Please provide an explanation for the waiver request:**

MMC Section 19.1002 Preapplication Conference is provided on the reverse

The project includes a small addition onto an existing house that will require two Variances. The applicants met with Brett Kolver with the City to discuss the project and the variance process and he indicated that a Pre-Application Conference is not really necessary for such a small project.

Signed: \_\_\_\_\_

*Ann DiNucci*  
 Applicant/Property Owner

Approved: \_\_\_\_\_

*Lana Wigel*  
 Planning Director

## I. SUMMARY OF PROPOSAL

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- Owner:** Ann DiNucci and Mike Mendez  
2807 SE Sherrett Street  
Milwaukie, OR 97222  
503-953-3250  
ann.dinucci@cascadeenergy.com
- Planner:** Debbie Cleek, The Bookin Group  
1020 SW Taylor Street, Suite 555  
Portland, OR 97205  
503-241-2423  
cleek@bookingroup.com
- Request:** A Type III Variance to decrease the street side yard and rear yard setbacks
- Location:** 2807 SE Sherrett Street
- Tax Lots:** 1S1E25BA 02600 and 1S1E24CD 05600
- Site Size:** 0.12 acres (5,160 sq. ft.)
- Zoning:** R5 (Low Density Residential)
- Summary:** The applicant is proposing to construct a 1,263 sq. ft. addition onto the west side of the existing house. The subject property is a corner lot with frontage on SE Sherrett Street and SE 28<sup>th</sup> Avenue. The proposed addition will be within 5 feet of the SE 28<sup>th</sup> Avenue property line and 5 feet from the rear yard setback, requiring Variances from the 20-foot minimum required street side and rear yard setbacks. Since the requested Variances represent more than a 25% variation from the required setback standards this request is reviewed under the Type III procedures.

## II. EXISTING CONDITIONS

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**Site Description.** The site is located on the corner of SE Sherrett Street and SE 28<sup>th</sup> Avenue, south of the Springwater Corridor Trail. Sherrett Street provides the main access to the site and is a 50-foot right-of-way that includes a paved vehicle surface but does not include curbs or sidewalks. To the west of the site is SE 28<sup>th</sup> Avenue, a 50-foot right-of-way that is currently constructed with approximately 13 feet of pavement that is primarily used as a connection for pedestrians and bicycles to access the Springwater Corridor. SE 28<sup>th</sup> Avenue is identified as a major bicycle and pedestrian connection in Milwaukie's Transportation System Plan. Aside from the paved surface the 28<sup>th</sup> Avenue right-of-way is otherwise unimproved and vegetated. The Springwater Corridor Trail is directly adjacent to the north of the site located in the center of a 100-foot right-of-way that is densely vegetated to screen the trail from the adjacent residences. The site slopes gently down toward the north and is planted with gardens and

ornamental landscaping. There are no streams or other groundwater present on the site, and it is not located in any mapped hazard or natural resource area.

The irregularly shaped lot consists of two tax lots, with the north lot (1S1E25BA 02600) located in the City of Portland and the south lot (1S1E24CD 05600) located in the City of Milwaukie. No development is proposed on the part of the lot located in City of Portland as part of this proposal. The combined 5,160 sq. ft. lot is a standard sized lot for the R5 zone, but due to its trapezoidal shape, much of the northwestern corner of the lot is not practical for building. The irregular lot shape also results in a reduced buildable area of the site located outside of the required setbacks.

The site is developed with an approximately 1,700 sq. ft. split-level house, with a single story on the north side and two stories in the rear (south) side. The house also includes a finished basement level. The house was originally constructed in 1915 and faces toward SE Sherrett Street. To the northwest of the house there is a detached garage. The garage is served by a gravel driveway from SE 28<sup>th</sup> Avenue.

The surrounding neighborhood is developed primarily with single-family residential homes on similarly sized lots. The surrounding zoning is primarily R5 (Low Density Residential), with some R7 (Low Density Residential) zoning to the east, across 32<sup>nd</sup> Avenue and some manufacturing zoning (M) to the west, across the railroad tracks. The properties north of the Springwater Corridor, located in the City of Portland are also developed with single-family residential homes and zoned R5 (single-dwelling residential). The north portion of the site located in the City of Portland is zoned R5 with the z (constrained sites) overlay and is located in the Johnson Creek Basin plan district.

**Proposed Project.** The proposed project consists of removing the detached garage and constructing a 2-story addition (and finished basement) on the west side of the house. The addition will match the existing design of the house and will be split-level, with only a single-story in the front and two stories at the rear. The addition will include a new workshop on the basement level with a rooftop deck that will be on-grade with the main floor of the house. If required, one new off-street parking space will be constructed on the east side of the house.

Due to the irregular shape of the lot, the location of the existing house, and the fact that there are rights-of-way on three of the four sides of the lot finding adequate area to construct the proposed addition was challenging. The addition is located on the west side of the house because there is more available site area on that side of the house. Additionally, a driving factor for the addition is to expand the existing kitchen which is located on the west side of the house. As a result of these constraints the proposed addition will not meet the minimum street side setback on SE 28<sup>th</sup> Avenue or the rear setback, and Variances to these standards are requested.

The 1,263 sq. ft. addition will meet the remaining development standards of the R5 zone as follows:

Standard	Requirements	Existing	Proposed
Front Setback	20 feet minimum	21' house/17' porch	21' (no change)
Side Setback	5 feet minimum	22'- 6" to east property line	22' – 6" (no change)
Street Side Setback	20 feet minimum	23' – 4" house; 4' (detached garage)	5' (variance requested)
Rear Setback	20 feet minimum	10' – 8" house/ garage over property line	5' (variance requested)
Building Height	2.5 stories or 35 feet	22' – 8"	22' – 8" (no change)
Side Yard Height Plane Limit	20 feet/45 degrees at setback	See plan set sheet 3 for diagram	See plan set sheet 3 for diagram
Lot Coverage	35% maximum	22.3%	30.8%
Vegetation Area	25% minimum	36.4%	32.9%

Section 19.605 requires that one off-street parking space parking space be provided for the house. This requirement is currently met with the detached garage, which is being removed as part of the addition. This parking space will be replaced on-site on the east side of the house, with a new hard-surfaced driveway providing a 9 foot by 18 foot parking space. Section 19.607.1 prohibits this parking space from being located in the front yard setback, so it is shown setback 20 feet back from the property line. It is the applicant’s understanding that the City of Milwaukie is considering a change to the Zoning Code (as part of the Middle Housing amendments) that would eliminate the requirement that this parking space be located outside of the required front setback. In anticipation of this change the applicant would like to leave open the possibility of moving the parking space closer to the street if the code does change. The site plan submitted with the application show the , one showing the required off-street parking space on the east side of the house meeting the current code, and one showing the parking space meeting the potential new code standards.

Residential additions over 1,500 sq. ft. in size trigger the threshold of Section 19.702.2, requiring public facility improvements. In this case the street frontage along Sherrett is under-improved since it is lacking curbs or sidewalks. However, the proposed addition is only anticipated to be 1,263 sq. ft. so the requirements of this section would not be triggered by this project.

**III. LEGAL FINDINGS**

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**Approval Criteria.** The approval criteria for a Type III variance are found in Section 19.911.4 of the Milwaukie code. A Type III variance shall be approved when all of the criteria in either subsection 19.911.4.B.1 or 2 have been met. For this proposal the applicant has chosen to meet the criteria of subsection 1 – Discretionary Relief Criteria as addressed below:

- a. *The applicant’s alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.*

**Response:** Granting the variances to the rear and side yard setbacks will allow a reasonable and nominal addition to be added on to the existing house, which would otherwise not be possible given the irregular shape of the lot and the burden of having large (20 foot) setbacks along three of the four

existing property lines. One benefit of granting these variances is that they will facilitate the removal of the existing detached garage, which is currently non-conforming due to its location in the rear yard setback and actually encroaches into the Springwater Corridor right-of-way by about a foot. Additionally, the existing garage, which provides the required off-street parking space for the house does not comply with Section 19.607.1, which prohibits parking to be located in the street side yard setback.

Because the addition is proposed on the north and west sides of the house it will have no impact on any neighboring residential lots, since public rights-of-way are adjacent to both of these property lines. On the north side the trail within the Springwater Corridor is setback from the property line approximately 25 feet and the area between the lot and the trail is vegetated to provide a screen for the trail. Additionally, the lot has a 6 foot tall wood fence around the perimeter that provides additional screening between the house and the trail. Along SE 28<sup>th</sup> Avenue the under-improved right-of-way includes only a paved strip used primarily for bikes and pedestrians, with the edge of the pavement setback approximately 20 feet from the new addition. The area between the pavement and the edge of the right-of-way includes vegetation that will help screen the addition. The removal of the existing gravel driveway on this side of the lot will also create the opportunity for even more vegetation on this side of the house. As such the proposed addition will be adequately setback and screened from users of the 28<sup>th</sup> Avenue path connection and will have no impact on adjacent neighbors.

As shown, this analysis of the impacts and benefits of the proposed variances shows that the requested variances will have no impact on the surrounding neighborhood or adjacent residential properties but will provide benefits by removing the encroaching garage and non-conforming off-street parking space from the site, and this criterion is met.

- b. *The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:*
- (1) *The proposed variance avoids or minimizes impacts to surrounding properties.*
  - (2) *The proposed variance has desirable public benefits.*
  - (3) *The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.*

**Response:** As described above, the proposed variances will have no significant impacts on the surrounding properties.

Approval of the variances will provide a public benefit in the respect that granting them will result in the removal of the driveway entrance to the property from SE 28<sup>th</sup> Avenue, relocating it to SE Sherrett Street. Because SE 28<sup>th</sup> Avenue is an important connection to the Springwater Corridor for bicycles and pedestrians minimizing vehicle traffic on this street eliminate the potential for conflicts. By removing this existing driveway, it will reduce the vehicle traffic on 28<sup>th</sup> this street (though the neighbor to the west will still have driveway access) resulting in a safer connection for bicycles and pedestrians.

The requested variances respond to the existing site constraints, which include the location of the existing house, the irregularity of the lot shape, the split zoning (Milwaukie and Portland) and the location of the rights-of-way surrounding the lot. The addition is designed to enlarge and modernize

the 1915 house without dramatically changing the appearance of it from SE Sherrett house. From this main frontage the house will not appear taller or out of proportion with other houses in the neighborhood. The addition will match the character of the existing house in style and design. The addition also will preserve the large tree located in front corner of the lot that helps provide additional privacy and screening for a lot that has the public traveling by on nearly all sides.

As shown, the approval of the variances will not result in any significant impacts to surrounding properties but will provide a public benefit by increasing the safety on SE 28<sup>th</sup> Avenue and will allow the construction of an addition that is sensitive to the character of the existing house and the mature trees surrounding it. This criterion is met.

*c. Impacts from the proposed variance will be mitigated to the extent practicable.*

**Response:** Approving both requested variances will allow the living space of the house to be located closer to both the Springwater Corridor and SE 28<sup>th</sup> Avenue. Neither of these rights-of-way represent a typical neighborhood street since they both include minimal-to-no vehicle traffic and mature landscaping that will help provide a buffer between the house and the public. Therefore, the only potential impact from the variances would be on the applicant themselves, who will have their house closer to the public realm on two sides, reducing some of their privacy. This potential loss of privacy will be mitigated through the architecture of the design, future landscaping on the site and maintaining the fence around the perimeter of the site. These solutions will help to mitigate any impacts from the variances and this criterion is met.

## **CONCLUSION**


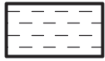


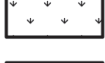

As shown in this report, the requested variances to the street side yard and rear setbacks have been found to meet the approval criteria of Section 19.911.4.B.1 of the Milwaukie Code. The proposed addition is designed to match the character of the house while addressing the challenges posed by the size, shape and location of the lot and will result in no significant impacts on the surrounding neighborhood. Therefore, these variances should be approved.

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(site plan updated March 10, 2022)

LEGEND:

-  EXISTING RESIDENCE
-  DETACHED GARAGE TO BE REMOVED
-  PROPOSED HOUSE ADDITION
-  PROPOSED BASEMENT W/ DECK OVER
-  EXISTING & PROPOSED VEGETATION
-  IMPERVIOUS AREAS

LOT COVERAGE:

EXISTING AREA:	
LOT AREA	4,900 SQ. FT.
EXISTING HOUSE	900 SQ. FT.
EXISTING GARAGE	254 SQ. FT.
TOTAL	1,154 SQ. FT.
LOT COVERAGE	23.5 %

PROPOSED AREAS:	
LOT AREA	4,900 SQ. FT.
STRUCTURE ONLY (FLAT WORK NOT INCLUDED)	1,589 SQ. FT.
LOT COVERAGE	32.4 %
(COVERAGE 35% MAX. ALLOWED) - MET	

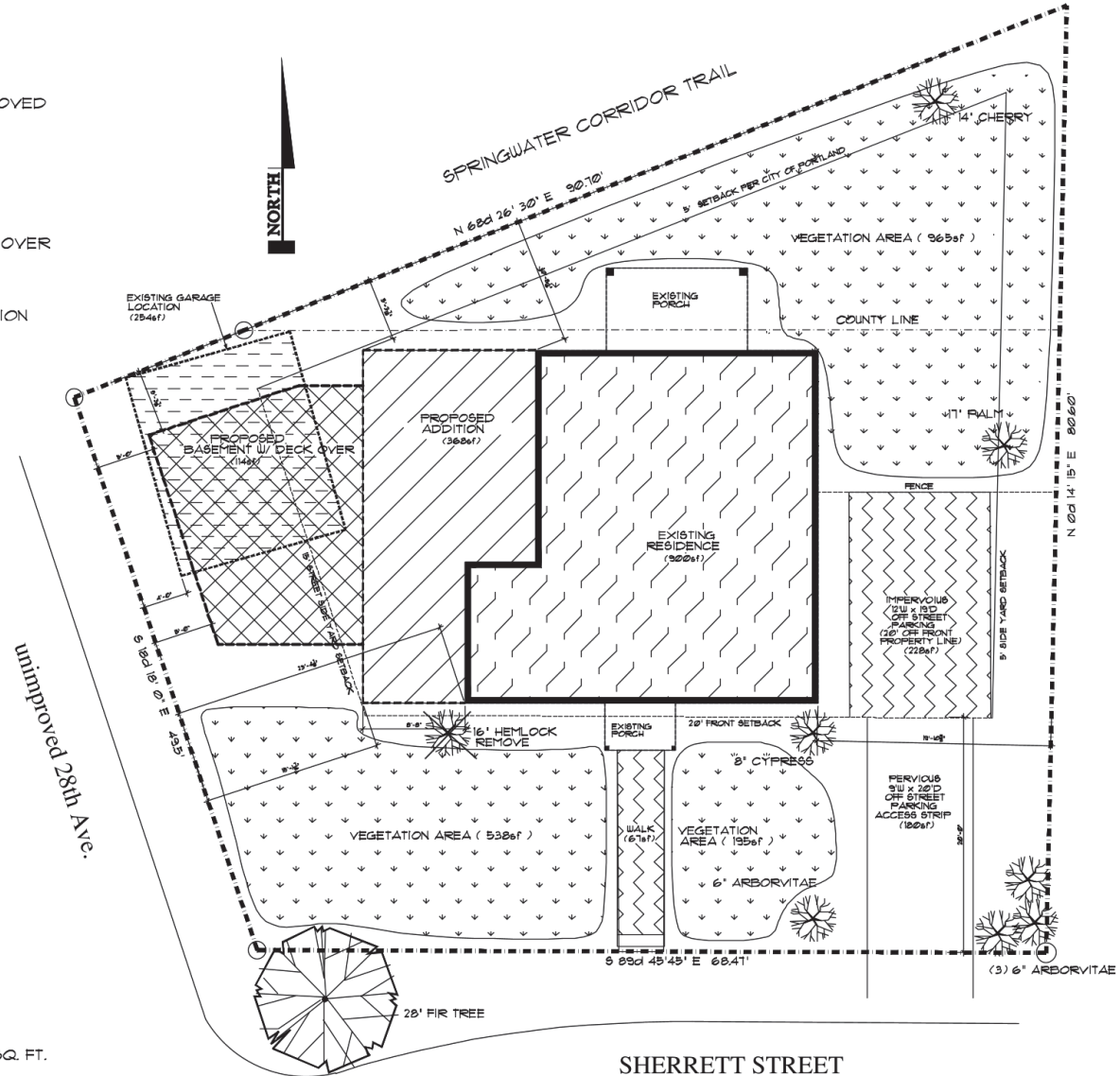
VEGETATION AREA:	
LOT AREA	4,900 SQ. FT.
VEGETATION AREA	1,698 SQ. FT.
LOT COVERAGE	34.6 %
(VEGETATION 25% MIN. REQUIRED) - MET	


FRONT YARD VEGETATION:	
FRONT YARD AREA	1,495 SQ. FT.
VEGETATION AREA	733 SQ. FT.
LOT COVERAGE	49.0 %
(VEGETATION 40% MIN. REQUIRED) - MET	

EXISTING AND PROPOSED FLAT WORK  
BOTH PERVIOUS AND IMPERVIOUS = 475 SQ. FT.

SITE PLAN

SCALE 1" = 10'-0"

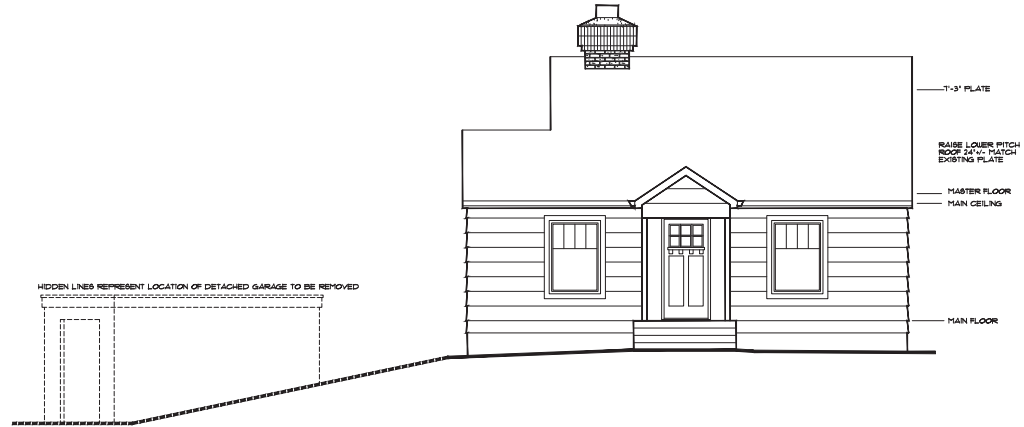


<p><b>JOB NO.:</b> 21072</p> <p><b>DATE:</b> 1-12-2022</p> <p><b>SITE-0</b></p>	<p><b>SITE INFORMATION:</b></p> <p>LOT AREA 5,160 SQ. FT.</p> <p><b>BUILDING SITE ADDRESS:</b></p> <p>2807 S.E. SHERRETT STREET CITY OF MILWAUKIE, OR. CLACKAMAS COUNTY</p>
<p><b>PROJECT:</b></p> <p><b>OWNER:</b></p> <p>MIKE MENDEZ 503-351-7235 ANN DINICCI 503-953-3250</p>	<p><small>WATTON DESIGN WORKS WILL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION, IT IS THE SOLE RESPONSIBILITY OF THE BUILDING / CONTRACTOR TO VERIFY ALL CONDITIONS INCLUDING ANY UNLAWFUL OR POTENTIAL FIELD VARIATIONS.</small></p>
<p><b>WATTON DESIGN WORKS, Inc.</b></p> <p>1880 Willamette Falls Drive West Linn, Or. 97108</p> 	



EXISTING LEFT / WEST ELEVATION

SCALE: 1/4" = 1'-0"



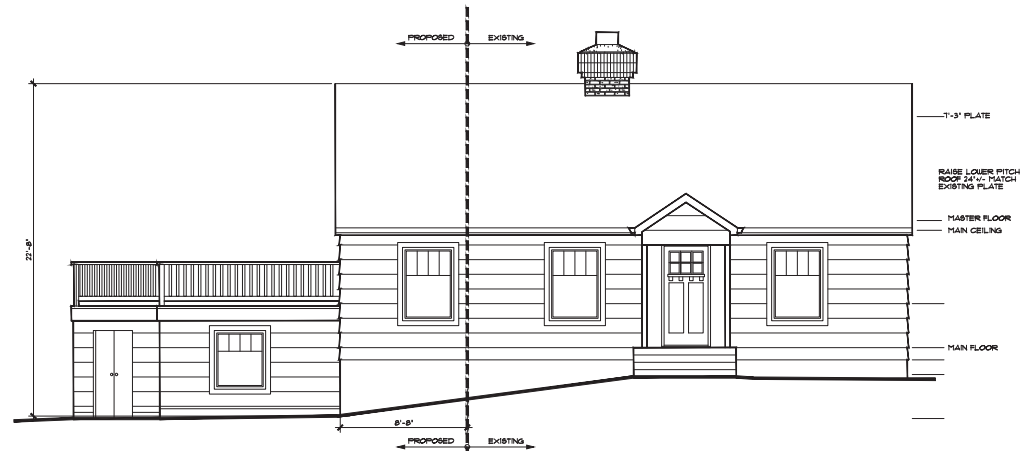
EXISTING FRONT / SOUTH / SHERRETT ELEVATION

SCALE: 1/4" = 1'-0"



PROPOSED LEFT / WEST ELEVATION

SCALE: 1/4" = 1'-0"



PROPOSED FRONT / SOUTH / SHERRETT ELEVATION

SCALE: 1/4" = 1'-0"

PROJECT: RESIDENTIAL BUILDING ADDITION

BUILDING SITE ADDRESS:  
2807 S.E. SHERRETT STREET  
CITY OF MILWAUKIE, OR.  
CLACKAMAS COUNTY

EXTERIOR ELEVATIONS

OWNER:  
MIKE MENDEZ, 503-351-7235  
ANN DINICCI, 503-953-3250

PROPOSED  
SQUARE FOOTAGE  
1 968 S.F.  
208 S.F.  
UPPER AREA  
LOWER AREA  
688 S.F.  
1 688 S.F.  
ROOF TOP DECK  
238 S.F.

DATE:  
Est. 10-12-2021  
Rev.

JOB No.  
21072

SHEET  
1



