



DATE: December 9, 2015

TO: Mayor Boudreau and City Council

FROM: Rebecca Lowell, CEDD

SUBJECT: CLOSED RECORD PUBLIC HEARING – EXPANSION OF A NON-CONFORMING BUILDING – LAND USE NO. PL15-101

RECOMMENDED ACTION:

Staff recommends that Council make a motion to authorize the Mayor to sign the accompanying Resolution that will approve the subject expansion of a non-conforming building.

INTRODUCTION/BACKGROUND:

Proposed is the construction of a garage that is proposed to be 23 feet by 10.5 feet in size. The applicant wishes to construct this garage within 2 feet of his south property line. This south property line is a side yard that the Mount Vernon Code ordinarily would require a 5-foot setback from. However, the applicant's existing house is also 2 feet from this property line. As such, the proposed garage is considered a pre-existing non-conforming situation that an applicant can request to be extended further.

The site address is 1308 South 12th Street, it is comprised of a single parcel number assigned by the Skagit County Assessor's office of: P28314, it is generally located on the east side of South 12th Street between East Hazel Street and East Section Street.

MVMC Chapter 17.102 has a process by which the City Council (upon recommendation by the Hearing Examiner) can grant special permission to enlarge or expand an existing non-conforming structure and/or use so long as certain criteria are met.

The Hearing Examiner held an open record public hearing on November 4, 2015 and subsequently recommended approval of the subject permit. Staff has received no comments from nearby neighbors that were notified of the applicant's request; and no one showed up to testify at the Hearing Examiner's hearing.

RECOMMENDATION:

Council move to authorize the Mayor to sign the accompanying Resolution approving the Rich Expansion of a Non-Conforming building.

ATTACHED:

- Proposed Resolution for the subject permit that includes:
 - Staff Report
 - Site Plans
 - Hearing Examiner Approval

RESOLUTION NO.

A RESOLUTION PERTAINING TO THE EXPANSION OF A NON-CONFORMING BUILDING PURSUANT TO CHAPTER 17.102 OF THE MOUNT VERNON MUNICIPAL CODE.

WHEREAS, an application for the expansion of a non-conforming building pursuant to MVMC ch. 17.102 by the owner of real property described in Exhibit “1” and shown in Exhibit “2” was submitted to the City on September 29, 2015; and

WHEREAS, the applicant has requested approval for the construction of a garage within two feet of a side yard property line that would ordinarily require a five-foot setback. However, the applicant’s existing single-family residential home already has a two-foot side yard setback in the vicinity of where the applicant wishes to construct a new garage. As such, the applicant is able to apply for a permit through MVMC ch. 17.102 requesting that the City allow the side yard non-conforming setback to be expanded to include a new garage; and

WHEREAS, the required notice of the property owners within 300 feet of the subject site pursuant to MVMC ch. 14.05 was completed by staff with no comments received within the prescribed comment period; and

WHEREAS, the City’s Hearing Examiner held an open record public hearing on November 4, 2015 and subsequently recommended approval of the subject permit; and

WHEREAS, Exhibits 1, 2, 3 and 4 attached hereto are by this referenced made part of this Resolution as though fully set forth herein; and

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON AS FOLLOWS:

That said Expansion of a Non-Conforming building for Brian Rich has been presented for acceptance and approval and is hereby accepted subject to the conditions of approval found within the Hearing Examiner’s Recommendation that is accompanying this Resolution labeled as Exhibit 4 along with all other applicable provisions of the MVMC.

Dated this 9th day of December, 2015

Signed in Authentication this _____ day of _____ 2015

Jill Boudreau, Mayor

Attest:

Alicia D. Huschka, Finance Director

Approved as to form:

Kevin Rogerson, City Attorney

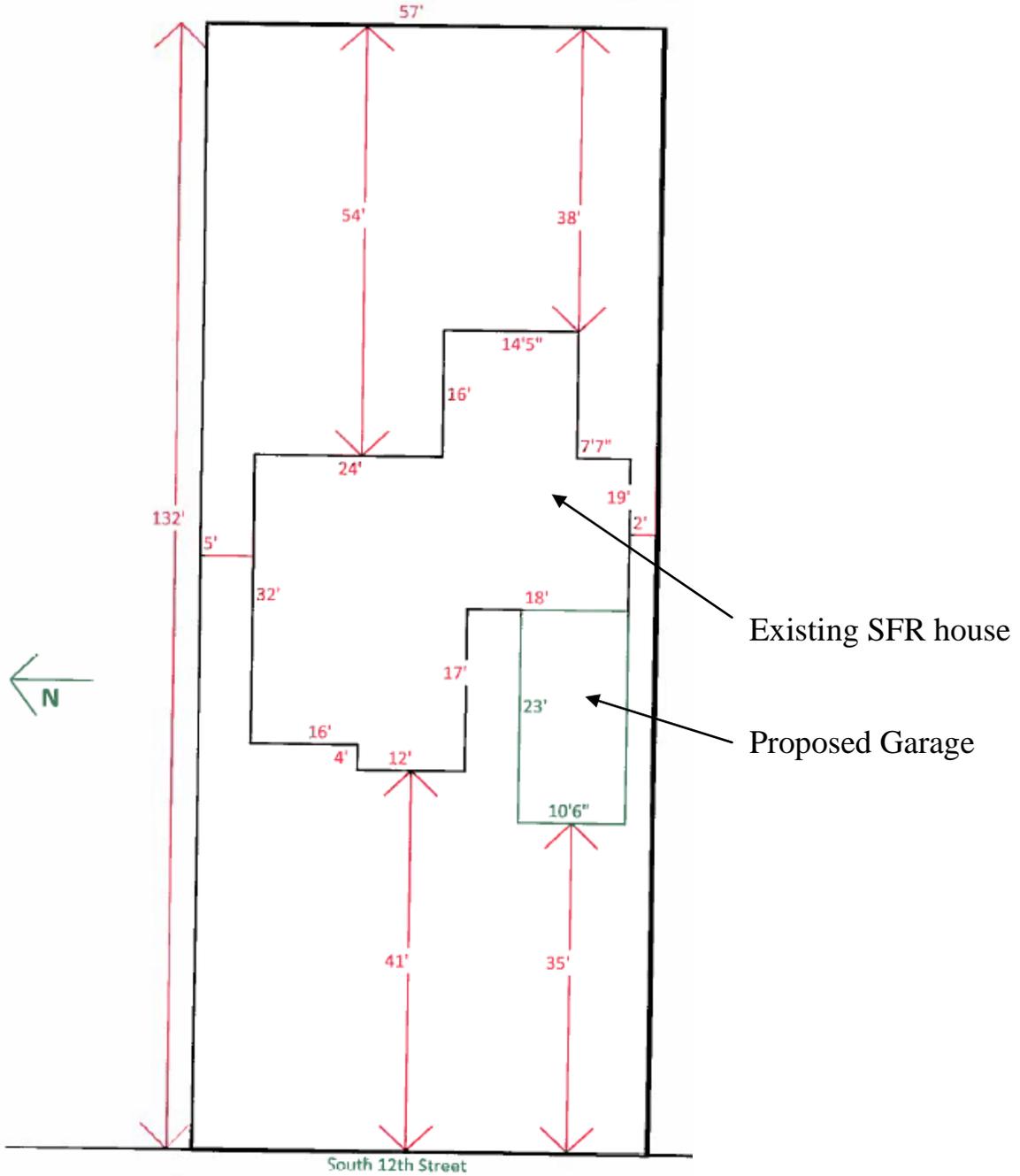
**EXHIBIT "1":
BRIAN RICH, PL15-101
LEGAL DESCRIPTION**

That portion of the NE ¼ of the NW ¼ of Section 29, Township 34, North, Range 04 East, W.M., described as follows:

Beginning at a point 450 feet South and 100 feet West of the Southeast corner of Black 22, "MAP OF MILLETT'S ADDITION TO MT. VERNON, SKAGIT COUNTY WA", as per plat recorded in Volume 2 of Plats, page 63, records of Skagit County, WA;
thence South 55 feet;
thence West 116 feet, more or less, to the East line of Twelfth Street, produced South, as established in the City of Mount Vernon,
thence North 55 feet,
thence East 116 feet, more or less, to the point of beginning.

Situate in the City of Mount Vernon, County of Skagit, State of Washington.

EXHIBIT "2"
SITE PLAN, BRIAN RICH, PL15-101
FOR ILLUSTRATIVE PURPOSES ONLY



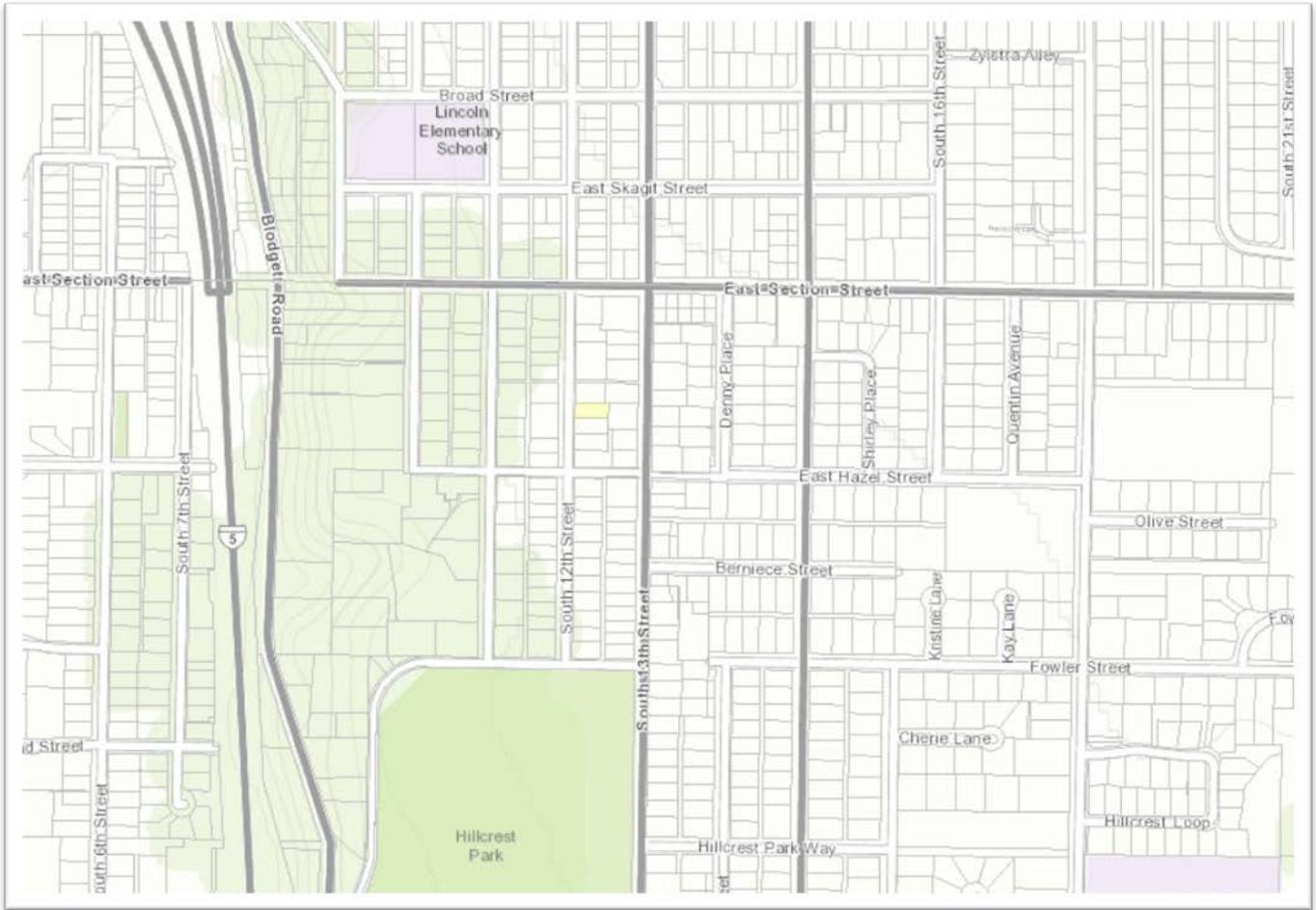
**EXHIBIT "3":
STAFF REPORT
BRIAN RICH, PL15-101**



**STAFF REPORT
EXPANSION OF A NON-CONFORMING BUILDING**

A. SUMMARY AND PURPOSE OF REQUEST

DATE:	October 30, 2015	PERMIT NUMBER:	File No. PL15-101
APPLICATION NAME:	Brian Rich Expansion of a Non-Conforming Building	APPLICANT:	Brian Rich, 1308 South 12 th Street, Mount Vernon, WA 98274, (360) 661-1123.
PROJECT DESCRIPTION:	<p>Proposed is the construction of a garage that is proposed to be 23 feet by 10.5 feet in size. The applicant wishes to construct this garage within 2 feet of his south property line. This south property line is a side yard that the Mount Vernon Code ordinarily would require a 5-foot setback from. However, the applicant's existing house is also 2 feet from this property line. As such, the proposed garage is considered a pre-existing non-conforming situation that an applicant can request to be extended further.</p> <p>MVMC Chapter 17.102 has a process by which the City Council (upon recommendation by the Hearing Examiner) can grant special permission to enlarge or expand an existing non-conforming structure and/or use so long as certain criteria are met.</p>		
PROJECT LOCATION:	<p>The site address is 1308 South 12th Street, it is comprised of a single parcel number assigned by the Skagit County Assessor's office of: P28314, it is generally located on the east side of South 12th Street between East Hazel Street and East Section Street, within a portion of Section 29, Township 34 North, Range 4East, W.M.</p>		
COMPREHENSIVE PLAN:	Single-Family High Density (SF-HI)	ZONING:	Single-Family Residential with a maximum density of 7.26 du/acre (R-1, 7.0)
FLOODPLAIN:	No	CRITICAL AREAS:	No
EXISTING USES:	<p>This 6,380± s.f. platted lot is developed with an approximate 1,356± s.f., one-story single-family residential home that was built in 1939. There is also a 64± s.f. multi-purpose shed located on the site. Please see the following maps and photos.</p>		





B. EXHIBIT LIST:

- Exhibit A:** Master Land Use Application
- Exhibit B:** Project Narrative and Mapping from the Applicant
- Exhibit C:** City notices and associated information

C. DEPARTMENT ANALYSIS:

- APPLICABLE MVMC:**
- Chapter 14.05 Administration of Development Regulations
 - Chapter 17.15 Single-Family Residential
 - Chapter 17.102 Nonconforming Buildings or Uses

- PROCEDURAL:**
- On **September 29, 2015** the applicant submitted permit materials to City staff.
 - On **October 15, 2015** staff deemed the materials submitted technically complete for processing.
 - On **October 15, 2015** a Notice of Application (NOA) for Approval to Expand a Non-Conforming Building was issued by staff.
 - On **October 16, 2015** a Notice of Public Hearing & Public Hearing was mailed to all properties within 300 feet of the project site.
 - On **October 19, 2015** the Notice of Application & Public Hearing was published in the Skagit Valley Herald.
 - On **October 17, 2015** the subject site was posted with a Land Use sign.

PERMIT TRIGGER: The applicant wishes to construct a garage as an extension of his existing single-family residential home. The existing home has a pre-existing non-conforming side-yard setback on its south property line. This side-yard setback is 2 feet instead of the code required 5 feet.

The applicant's proposed garage would continue this non-conforming setback along the south property line and would extend it an additional 23 feet.

MVMC 17.102.025 and 17.102.030 provides a process by which a permit can be issued to allow a non-conformity to be enlarged or expanded on a site through a process wherein the City's Hearing Examiner makes a recommendation to the City Council and the City Council makes a final decision to approve or deny such a request.

CODE CRITERIA TO BE MET WITH REQUEST:

The approval criteria that staff needs to address is contained in MVMC 17.102.070. This section of the code contains the following four (4) criteria. The staff response to each of these criteria follows each listed item.

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

The appearance and use of the area will be altered. However, the proposed garage is a structure that is ordinarily seen in single-family residential neighborhoods and will not appear to be out of character.

The existing home has a 2-foot side yard setback along the south property line of this site. Extending this non-conforming setback an additional 23 feet will have a negligible effect on the appearance and use of the affected area.

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

The traffic patterns in the area will not change in any significant way due to the construction of the proposed garage.

C. The adequacy of parking facilities afforded or to be afforded.

The existing parking facilities on this site are adequate; and the addition of the garage would enhance, rather than detract from the adequacy of parking facilities on the subject site.

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.

There should be no negative effects (including economic ones) to adjacent and nearby properties due to the construction of the proposed garage. The effect to both the applicant and nearby property owners should be positive ones as the applicant is investing in his property.

D. STAFF RECOMMENDATION:

Staff recommends **APPROVAL** for the expansion of the subject nonconforming building for, **File No. PL15-101**, subject to compliance with the standards of the Mount Vernon Municipal Code.

To approve the expansion of this nonconforming use the Hearing Examiner must find “that the proposed alteration, expansion or reconstruction will not have a material adverse effect upon the use and enjoyment of the properties within the area which conform to the existing zoning...” (MVMC 17.102.080).

Based on the analysis above, the staff conclusion is that the proposed garage will not have a material adverse effect upon the use and enjoyment of the properties within the area which conform to the existing zoning.

E. NOTES TO APPLICANT AND PARTIES OF RECORD:

The expansion of a nonconforming use sought by the applicant requires that the City's Hearing Examiner make a recommendation, at an open record public hearing that will be forwarded to the City Council, who will make a final decision at a closed record public hearing.

The written recommendation for this project will be issued by the Hearing Examiner within 10 days after the date the record closes. The Hearing Examiner shall reconsider his/her recommendation if a written request is properly filed by the applicant or a party of record within 10 days of the date of the initial recommendation. A party wishing to file a request for reconsideration of the Hearing Examiner's recommendation shall follow the process outlined within MVMC 14.05.110(H)(4).

A copy of this portion of the MVMC can be obtained by contacting the Community & Economic Development Department; or it can be downloaded on the City's web site at: <http://www.ci.mount-vernon.wa.us>.

1. Consistent with MVMC 14.05.140 this permit to enlarge a non-conforming structure shall expire two (2) years following approval from the City Council.



City of
**MOUNT
VERNON**

15-101

RECEIVED
CITY OF MOUNT VERNON

SEP 29 2015

C.E.D. DEPARTMENT
BY _____

MASTER LAND USE APPLICATION FORM

FILE NUMBER:

PL15-101

PROPERTY OWNER(S):	
<small>(if there is more than one legal owner, please attach an additional notarized Master Application for each owner)</small>	
NAME: BRIAN RICH	
ADDRESS: 1308 S 12TH STREET	
CITY/STATE:	ZIP:
MT. VERNON WA	98274
TELEPHONE NUMBER and EMAIL ADDRESS: 360 661 1123 BRIAN@CTELECTRIC.COM	
APPLICANT (if other than owner):	
NAME:	
COMPANY: <small>(if applicable)</small>	
ADDRESS:	
CITY/STATE:	ZIP:
TELEPHONE NUMBER and EMAIL ADDRESS:	
CONTACT (if this section is completed, correspondence will only be sent to this individual, if left blank, materials will only be sent to the property owner):	
NAME:	
ADDRESS:	
CITY/STATE:	ZIP:
TELEPHONE NUMBER and EMAIL ADDRESS:	

PROJECT INFORMATION
Project or development name:
Property/project address(es)/location:
<small>A copy of the site legal description from either: 1) a recent title report; or 2) a description written and/or reviewed by a P.L.S., must be attached.</small>
Skagit County Assessor's parcel number(s):
Existing land use(s):
Proposed land uses:
Existing Comprehensive Plan designation:
Proposed Comprehensive Plan designation (if applicable):
Existing Zoning designation:
Proposed Zoning designation (if applicable):
Site Area (sq. ft. or acreage):
Project value:
Is the site located in any type of environmentally sensitive area?

PROJECT CONTACTS

It is imperative that the members of the City Council, Planning Commission and that the Hearing Examiner know all of the people involved with your application so that they can act without any conflict of interest charges or violations of the appearance of fairness doctrine. Therefore, the following information **MUST** be complete and **MUST** be updated when new companies or individuals become involved with your project. **The following persons are associated with this project. Attach additional pages as necessary to ensure complete disclosure:**

Developers:	Address:	Phone and Email Address:
Architect:	Address:	Phone and Email Address:
Engineer:	Address:	Phone and Email Address:
Surveyor:	Address:	Phone and Email Address:
Title Company:	Address:	Phone and Email Address:
Lender/Loan Officer:	Address:	Phone and Email Address:
Attorney:	Address:	Phone and Email Address:
Contractors:	Address:	Phone and Email Address:
Real Estate Agents:	Address:	Phone and Email Address:
Investors:	Address:	Phone and Email Address:
Other parties providing similar, significant services:	Address:	Phone and Email Address:

ACKNOWLEDGEMENTS

The following statements **MUST** be read and initialed by the property owner. Land Use applications involve many steps and processes; and most applications are conditioned through the process. The following disclosure statements involve items that the Community & Economic Development Department wishes to bring to your attention at the beginning of a project. The following statements in no way contain all of the conditions that could be applied to your project, but rather, are conditions that could seem out of the ordinary to an applicant who does not regularly work with land use codes.

OWNER'S INITIALS:	LAND USE PERMITTING DISCLOSURE STATEMENTS:
	I understand that land use permits do not authorize earth disturbing activities, the removal of vegetation, or the construction of buildings. I understand that additional permits will be required after my land use permitting process is completed. I understand that no earth disturbing activities (including the removal vegetation) may take place until after my land use process is complete, and only after I have received additional permits such as Fill & Grade, Utility, or Right-of-Way permit(s). Additionally, I understand that structures can not be constructed until after my land use permitting processes are complete and I receive a Building Permit(s).
	I understand that if critical areas (wetlands, streams, steep slopes, et cetera) are found on or near my property I will be required to leave an undisturbed buffer area around the critical area. I also understand that depending upon the size and scope of my project that I may be required to enhance a critical area buffer.
	I understand that depending upon the size and scope of my project, I may be required to provide maintenance and/or performance bonds for items such as landscaping, public roads and/or public utilities that I construct or install.
	I understand that depending on the type of critical areas on or near my property I may be required to provide both monitoring and maintenance bonds for work within a critical area buffer. I also understand that if I choose to utilize the ecosystem alternative within the City's Critical Areas Ordinance I will be required to "buy down" the buffer and to enhance the buffer areas left on my property.
	I understand that I am solely responsible for providing complete and accurate information to the City. I understand that if my application is missing information or if inaccurate materials are submitted, my land use process will be delayed. I understand that depending on how inaccurate and how incomplete my application is or becomes, the Community & Economic Development Department could require an entirely new application to be submitted. I understand that when and if conditions change from that which my application originally represented, I am responsible for letting the planner assigned to my project know.
	I understand that I am applying for permits from the City of Mount Vernon only; and that additional permits from other Federal and State agencies will likely be required. I understand that the City of Mount Vernon can not advise me of permits that are required from other agencies, and that I must contact these agencies to make sure I comply with their requirements. These agencies include (but are in no way limited to): Corps of Engineers, Department of Natural Resources, Department of Ecology, and Northwest Clean Air Agency.
	I understand that I may be required to properly and timely post a pink land use sign on my property during my land use permitting process. I understand that I am responsible for making sure that this sign continues to be posted on my property until my land use process is completed; and I understand that I am responsible for removing and disposing of this sign once my land use process is completed.
	I understand that I will be responsible for paying consultants that the City may deem necessary to review certain aspects of my application. I understand that these consultant reviews could include traffic concurrency, critical area, landscaping, et cetera.

Fee Calculations

Please note that CEDD staff uses this area to calculate the application fees for all submittals.

Annexation	\$ _____
Binding Site Plan	\$ _____
Boundary Line Adjustment	\$ _____
Comprehensive Plan Amendment	\$ _____
Conditional Use Permit, Administrative	\$ _____
Conditional Use Permit	\$ _____
Critical Area Permit	\$ _____
Design Review	\$ _____
Environmental Review (SEPA)	\$ _____
Environmental Review with critical areas	\$ _____
Fill and Grade Permit	\$ _____
Landscape Modifications	\$ _____
Major Modification	\$ _____
Master Plan	\$ _____
Non-Conforming	\$ <u>300</u>
Other Permit Write in Below:	
	\$ _____

Plat, Preliminary	\$ _____
Planned Unit Development	\$ _____
Rezones	\$ _____
Shoreline Permits:	
Conditional Use	\$ _____
Substantial Development	\$ _____
Variance	\$ _____
Short Plat, Preliminary	\$ _____
Site Plan Approval	\$ _____
Special Use Permit	\$ _____
Special Use Permit for ADU	\$ _____
Temporary Use Permit	\$ _____
Transportation Concurrency	\$ _____
Variances, Administrative	\$ _____
Variances	\$ _____
Postage	\$ <u>47.04</u>
Land Use Signs:	\$ <u>10</u>

AFFIDAVIT OF OWNERSHIP

Only the property owner or an authorized representative may sign this form. If your title report lists a company, partnership or other owners you must submit evidence that you are authorized to sign on behalf of the entity or others that are listed. If you are an authorized representative you must provide a signed and notarized statement from the property owner(s) that you are authorized to sign on their behalf. Please attached additional signature sheets if there are more than one owner.

I, BRIAN R RICH, declare that I am (please check one) the owner of the property involved in this application, _____ the authorized representative to act for the property owner (proof of authorization must be attached), and that the statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my knowledge and belief.

Applicant Signature: *B. R. Rich*

On this, the 29 day of SEPT, 2015 before me personally appeared Brian R Rich known to me to be the same person whose name is subscribed to the within instrument and acknowledged that he/she voluntarily executed the same for the purpose therein contained.



IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Linda H Beacham
Notary Public in and for the State of Washington
Residing at Skagit County
My Appointment Expires 09-25-2018

15-101

RECEIVED
CITY OF MOUNT VERNON

SEP 28 2015

C.E.D. DEPARTMENT
BY _____

City of Mount Vernon,

I would like to add a garage to my house at 1308 S. 12th St.

I would like to continue the south wall of house for the garage, this wall is 2' from property line.

The reason for the placement is because this allows 7'6" of wall way to my back door that has 6' wide concrete steps and allows sunlight to still come in dining room window.

This placement also allows me to use existing driveway and curb cutout.

Even though this is a non-conforming use, it is very prevalent in this area of town, my neighbor's garage is built on the property line.

Your consideration is very appreciated.

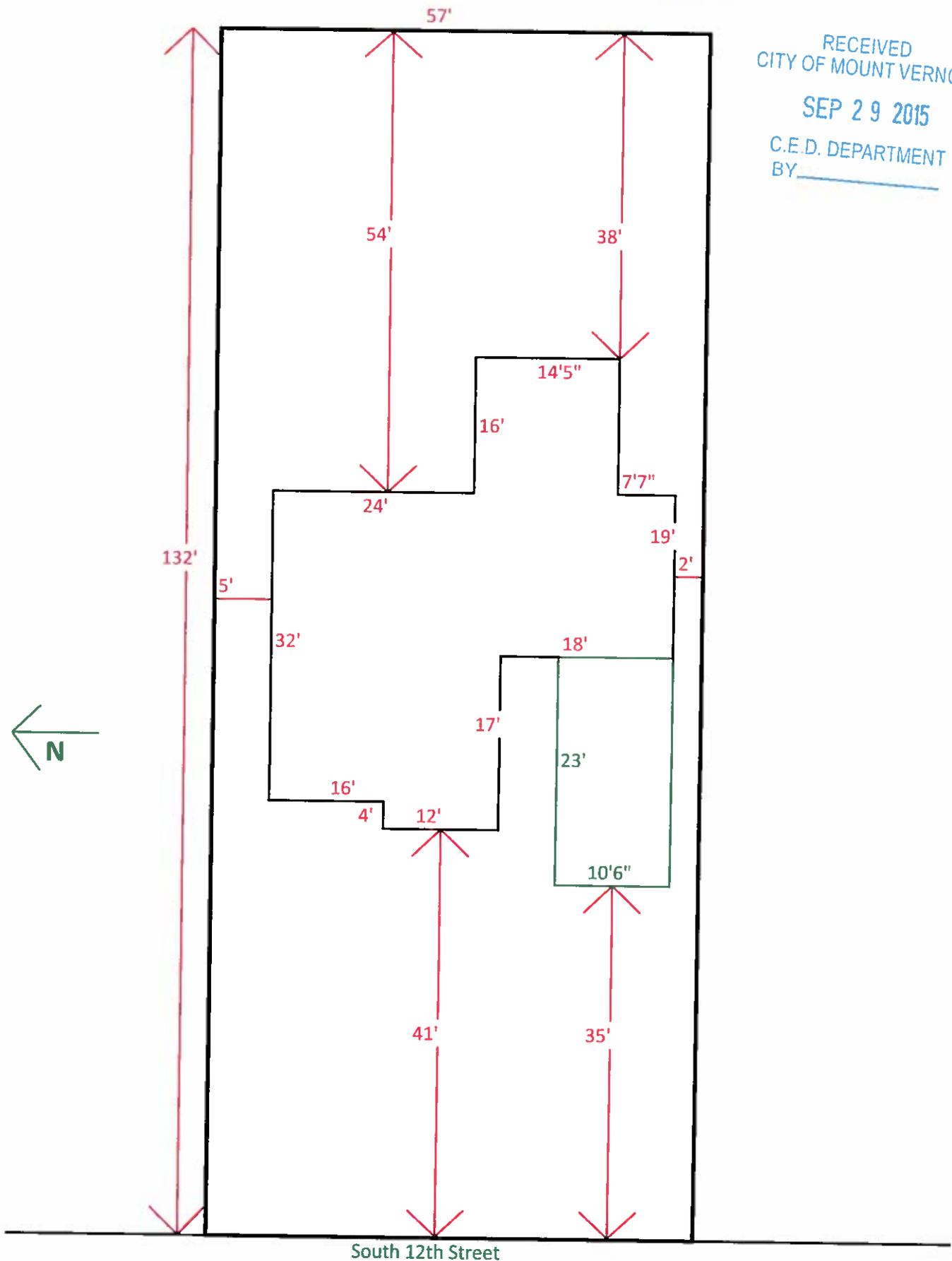


Brian Rich

9/28/15

15-101

RECEIVED
CITY OF MOUNT VERNON
SEP 29 2015
C.E.D. DEPARTMENT
BY _____



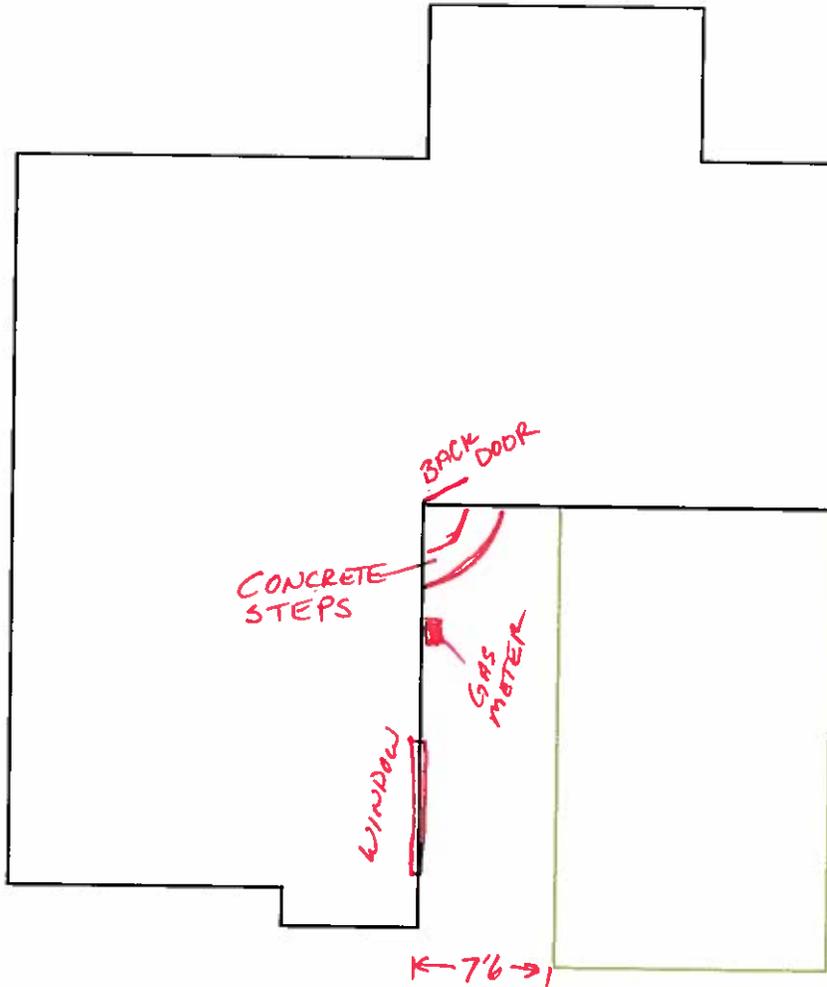
South 12th Street

15-101

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CITY OF MOUNT VERNON

SEP 29 2015

C.E.D. DEPARTMENT
BY _____



Brian Lowe
1308 S. 12th St.
Mt. Vernon, WA.

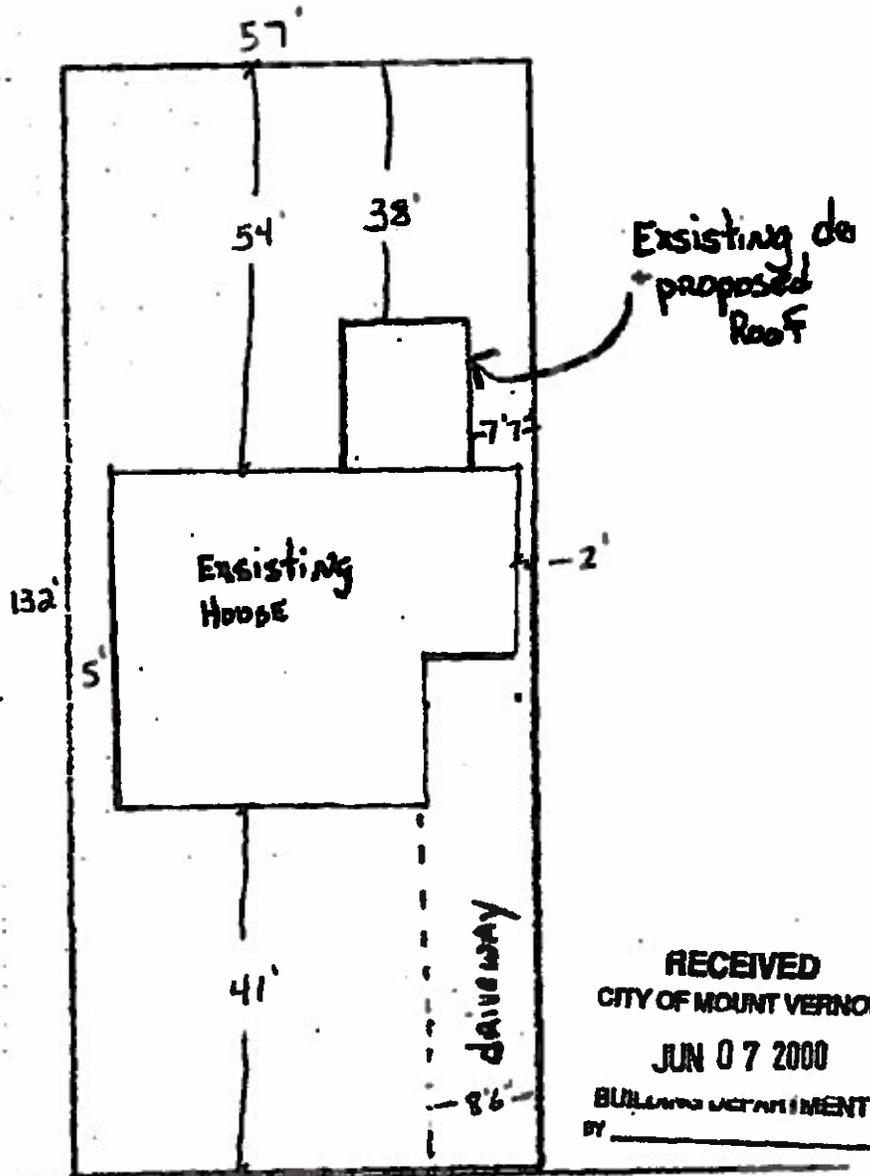
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CITY OF MOUNT VERNON

SEP 29 2015

C.E.D. DEPARTMENT
BY _____

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S. 12th STREET

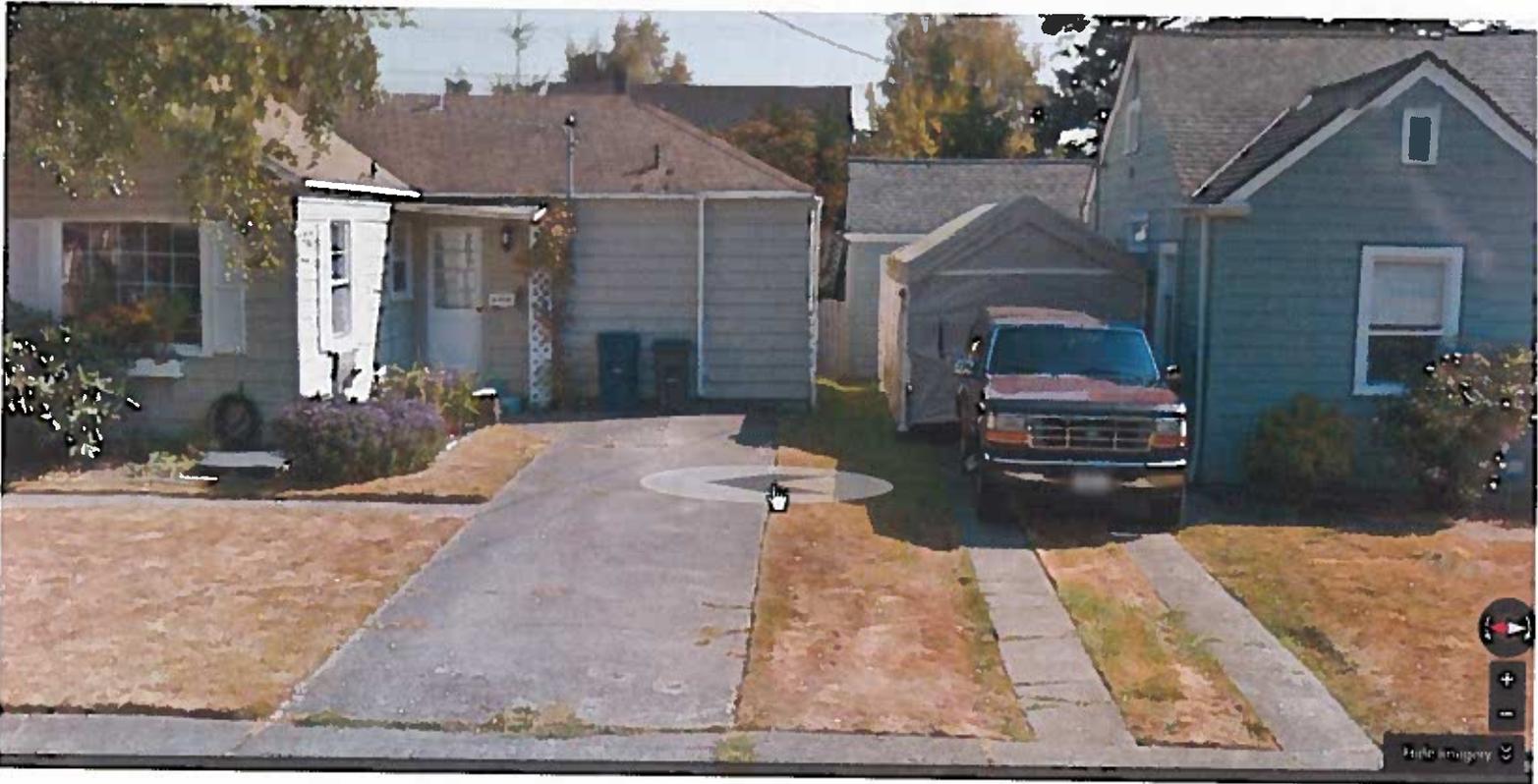
site

1" = 20'

RECEIVED
CITY OF MOUNT VERNON

SEP 29 2015

C.E.D. DEPARTMENT
BY _____



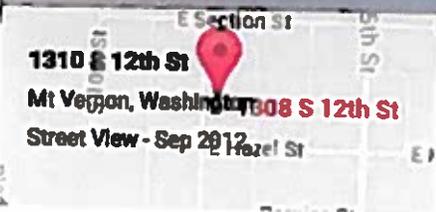
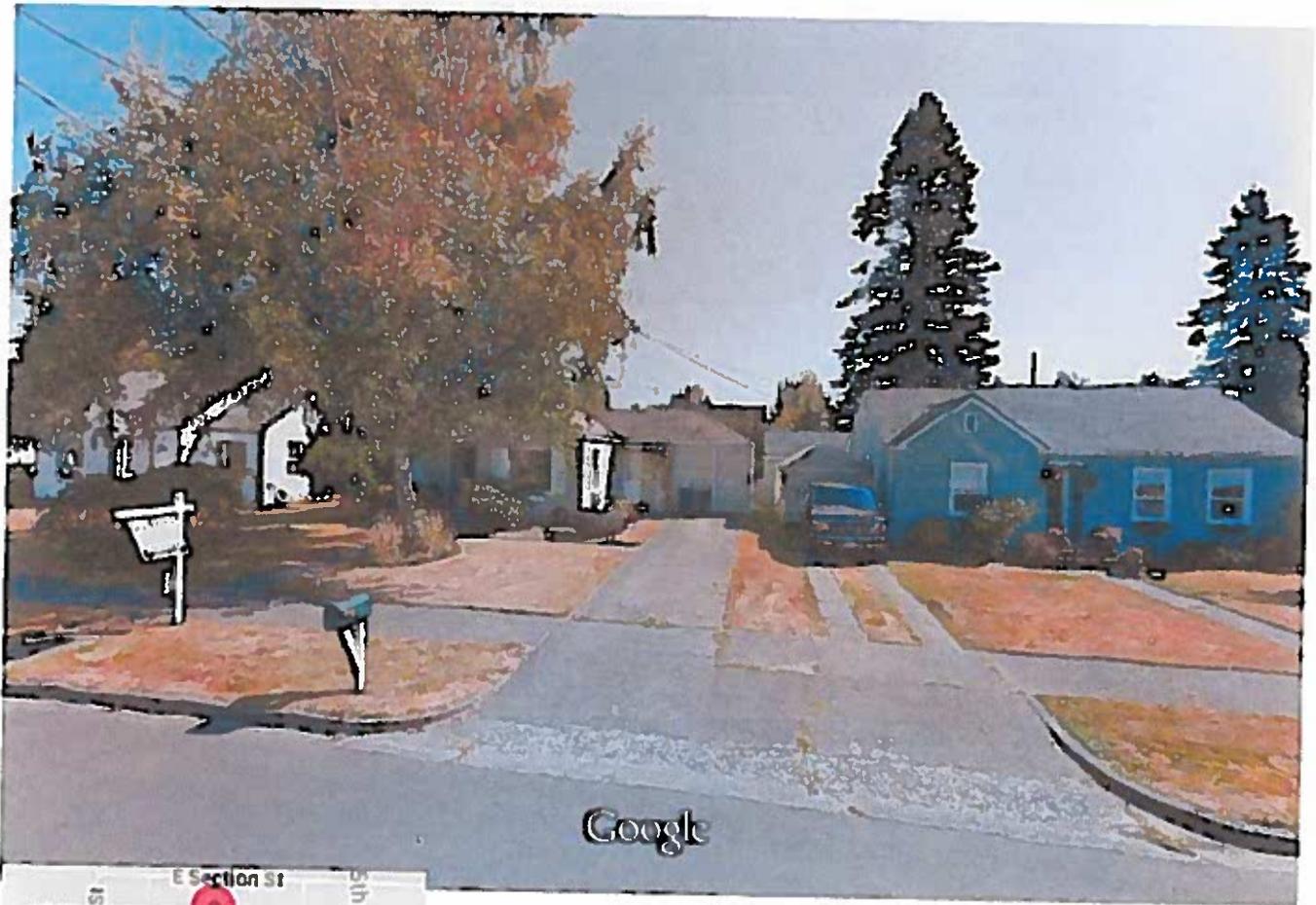


Image capture: Sep 2012 © 2015 Google

Elevation

1308 S. 12th



Print Photo

Skagit County Appraisal digital photo for parcel number P28314



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SEP 29 2015

C.E.D. DEPARTMENT
BY _____

Google Maps 1258 S 13th St



Image capture: Sep 2012 © 2015 Google

Mt Vernon, Washington

Street View - Sep 2012



example neighbor

SEP 29 2015

15-101

C.E.D. DEPARTMENT
BY _____

Google Maps 1417 S 12th St



Image capture: Sep 2012 © 2015 Google

Mt Vernon, Washington

Street View - Sep 2012



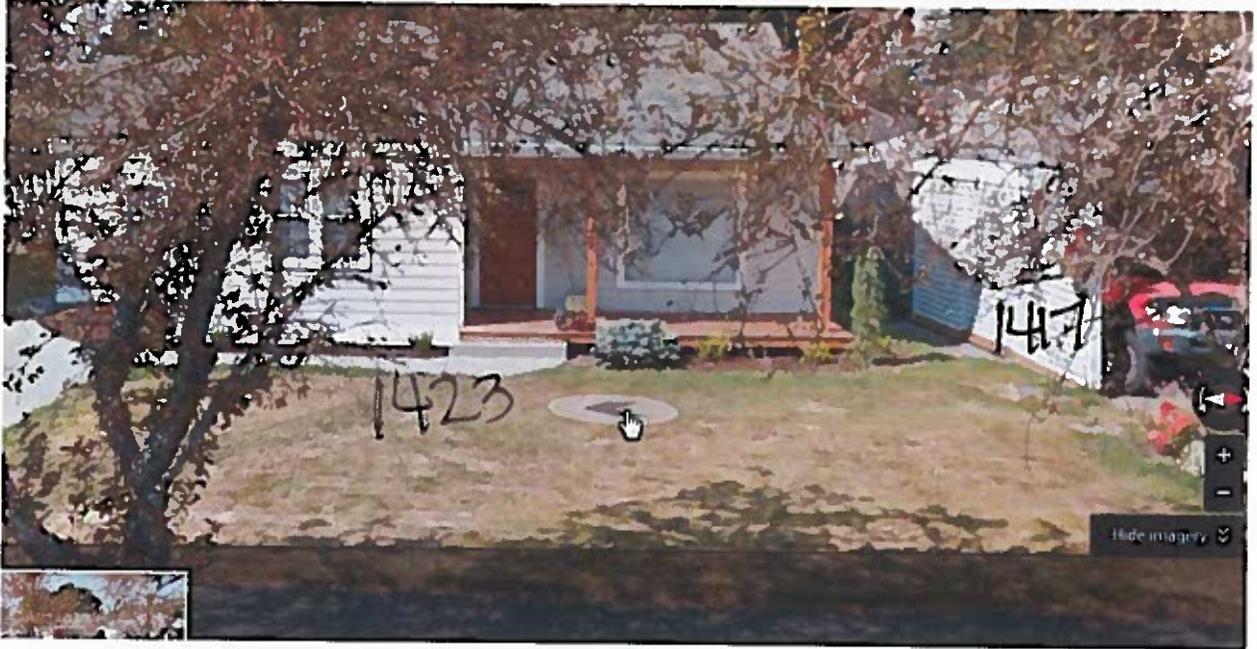
*example
neighbor*

S. 134th



RECEIVED
CITY OF MOUNT VERNON
SEP 29 2013
C.E.D. DEPARTMENT
BY _____

example neighbor



S. 12m

RECEIVED
CITY OF MOUNT VERNON
SEP 29 2015
C.E.D. DEPARTMENT
BY _____

example neighbor

RECEIVED
CITY OF MOUNT VERNON

SEP 29 2015

C.E.D. DEPARTMENT
BY _____

S. 12th



example neighbor

SEP 29 2015

Google Maps 1258 S 13th St

C.E.D. DEPARTMENT BY _____

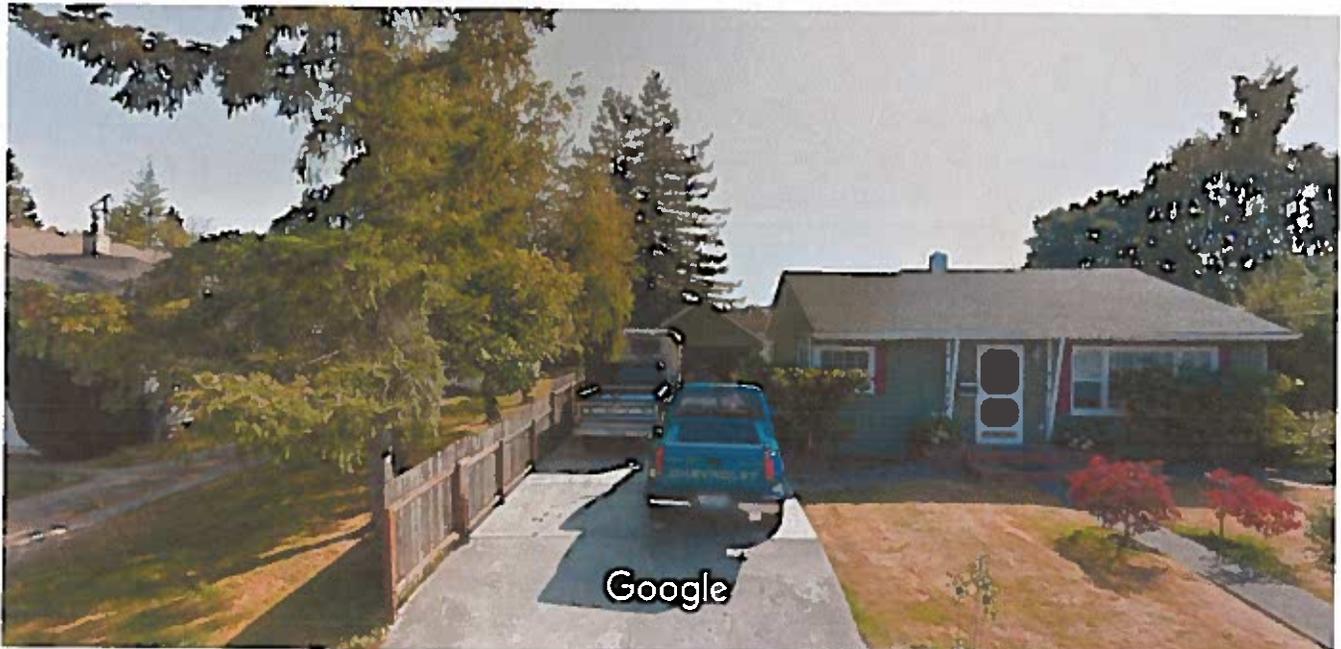


Image capture: Sep 2012 © 2015 Google

Mt Vernon, Washington

Street View - Sep 2012



example neighbor

15-101

RECEIVED
CITY OF MOUNT VERNON

SEP 29 2015

C.E.D. DEPARTMENT
BY _____

S. 12th



example neighbor



NOTICE OF APPLICATION & NOTICE OF PUBLIC HEARING

This Notice of Application is being posted and sent to those property owners who are located within 300 feet of the project site described within this notice. City code requires the applicant for this action to obtain a permit that will allow the construction of the new garage described herein. If you have concerns or questions about this project please respond to the staff person listed on the second page of this notice within the timeframe provided.

DATE: October 15, 2015

LAND USE NUMBER: File No. PL15-101

APPLICATION NAME: Brian Rich's Expansion of a Non-Conforming Building

PROJECT DESCRIPTION: Proposed is the construction of a garage that is proposed to be 23 feet by 10.5 feet in size. The applicant wishes to construct this garage within 2 feet of his south property line. This south property line is a side yard that the Mount Vernon Code ordinarily would require a 5-foot setback from. However, the applicant's existing house is also 2 feet from this property line. As such, the proposed garage is considered a pre-existing non-conforming situation that an applicant can request to be extended further.

MVMC Chapter 17.102 has a process by which the City Council (upon recommendation by the Hearing Examiner) can grant special permission to enlarge or expand an existing non-conforming structure and/or use so long as certain criteria are met.

APPLICANT: Brian Rich, 1308 South 12th Street, Mount Vernon, WA 98274, (360) 661-1123.

PROJECT LOCATION: The site address is 1308 South 12th Street, it is comprised of a single parcel number assigned by the Skagit County Assessor's office of: P28314, it is generally located on the east side of South 12th Street between East Hazel Street and East Section Street, within a portion of Section 29, Township 34 North, Range 4East, W.M.

STATE ENVIRONMENTAL POLICY ACT (SEPA) REVIEW: This project is categorically exempt from the threshold determination and Environmental Impact Statement Requirements of SEPA per WAC 197-11-800.

PERMIT APPLICATION DATE: September 29, 2015

NOTICE OF COMPLETE APPLICATION: October 15, 2015

PERMITS/REVIEW REQUESTED: Expansion of a Non-Conforming Building and Building Permit.

OTHER PERMITS THAT MAY BE REQUIRED: Fill & Grade Permit

APPLICATION MAY BE REVIEWED AT:

City of Mount Vernon
Community & Economic Development Department
910 Cleveland Avenue
Mount Vernon, Washington 98273

DECISION:

The City's Hearing Examiner will make a recommendation to the City Council who will issue a final decision on this application.

CONSISTENCY OVERVIEW

LAND USE:

The Comprehensive Plan designation of the site is Single-Family Residential High Density (SF-HI) and the site zoning is Single-Family Residential with a maximum density of 7.26 dwelling units per acre (R-1, 7.0).

ENVIRONMENTAL DOCUMENTS THAT EVALUATE THE PROPOSED PROJECT:

None Required, there are no indications of critical areas on or near the project site.

DEVELOPMENT REGULATIONS USED FOR PROJECT MITIGATION:

The project is subject to the City's Comprehensive Plan, Subdivision and Zoning Code, Critical Areas Ordinance, Drainage and Engineering Requirements, and other applicable local, state and federal regulations as appropriate.

PUBLIC HEARING:

An open record public hearing will be held before the Hearing Examiner on **WEDNESDAY, NOVEMBER 4, 2015 AT 10 A.M.** This hearing will be held at City Hall, 910 Cleveland Avenue.

CONTACT PERSON:

Rebecca Lowell, Senior Planner
Community & Economic Development Department
City of Mount Vernon
910 Cleveland Avenue, Mount Vernon WA 98273
Telephone - 360-336-6214; Facsimile - 360-336-6283

Comments on the Notice of Application must be submitted, in writing, no later than **4:30 P.M. ON NOVEMBER 2, 2015.** Comments should be as specific as possible. Any person may comment on the application, receive notice of and request a copy of the decision once it is made. Questions about this proposal, requests for additional notification by mail and/or appeal procedures should be directed to the contact person listed herein. Any person who submits written comments will automatically become a 'party of record' and will be notified of any decision made regarding this proposal.

The application and supporting documentation are available for review at the Community & Economic Development Department located at City Hall. Copies will be provided upon request at the cost of reproduction.

Issued: October 15, 2015
Published: October 19, 2015

SENT TO: CTED, DOT, DNR, MVSD, SVC, SKAT, SCPPC, PUD, AT&T, CNG, PSE AND VERIZON.



File

MEMORANDUM

TO: Bob Hyde, Steve Riggs, Rick Prosser, Gary Duranceau, and Ana Chesterfield
FROM: Rebecca Lowell, Senior Planner
DATE: October 15, 2015
SUBJECT: Brian Rich Expansion of a Non-Conforming Building, PL15-101

Attached for your review is the Notice of Application and materials for the above-referenced land use action.

If you have comments or concerns, please provide them by October 29, 2015 or let me know if you need additional time.

The entire file may be reviewed during office hours at the Community & Economic Development Department.

Please do not hesitate to contact me if you have any questions, or if you need any additional information.

Thank you!



AFFIDAVIT OF MAILING

I, **Linda Beacham**, hereby declare as follows:

1. I am an employee of the City of Mount Vernon, Mount Vernon, Washington, a United States citizen, over the age of eighteen years, and am competent to testify to the matters set forth herein.
2. On **October 16, 2015** I mailed via the United States mail to the following parties the **PL15-101 Expansion of Non-Conforming Building**
See attached lists

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Executed in Mount Vernon this **16th** day of **October, 2015.**


Linda Beacham

Paul Bennett
1327 S 12th Street
Mount Vernon, WA 98273

Christopher Hoke
Rachel Beatty
1304 S 13th Street
Mount Vernon, WA 98273

Matthew/Grisseld Oord
1325 Denny Pl
Mount Vernon, WA 98273

Jerad & Jennifer Gard
17506 Jungquist Rd
Mount Vernon, WA 98273

Janet Lucek
PMB 356 A
1500 E College Way
Mount Vernon, WA 98273

Gregg & Laura Murphy
91-1124 Waihoano St
Ewa Beach, HI 96706

Hope Johnson
1227 Denny Pl
Mount Vernon, WA 98274

Roger Ridgeway
Mary Vance
1218 S 13th St
Mount Vernon, WA 98274

Ignacio Santiago
1216 S 13th St
Mount Vernon, WA 98273

Greg & Joy Griffith
1207 S 13th St
Mount Vernon, WA 98274

Brannon Mucke
Kathryn Hirning
1213 S 12th St
Mount Vernon, WA 98274

Tim Manns
Brenda Cunningham
1220 S 11th St
Mount Vernon, WA 98274

Chris & Cheryl Bensen
1205 S 13th St
Mount Vernon, WA 98274

Hillcrest Duplex Court LLC
PO Box 251
La Conner, WA 98257

Eleven Vexler
Richard Brocksmith
1216 E Section St
Mount Vernon, WA 98274

Loi & Debra Caldwell
1413 S 12th St
Mount Vernon, WA 98273

Karl Smith
1320 S 13th St
Mount Vernon, WA 98273

DL Smailes
1402 S 13th St
Mount Vernon, WA 98274

William & Kelly King
1314 S 12th St
Mount Vernon, WA 98274

Warren & Suzanne Gilbert
1320 S 11th St
Mount Vernon, WA 98274

Phillip & Cynthia McConnell
6124 65th Ave SE
Snohomish, WA 98290

Meagan Pickett
1222 S 11th St
Mount Vernon, WA 98274

Kenneth & Anastasia Piper
13232 S 12th St
Mount Vernon, WA 98273

Robert & Karla Shepherd
21284 Sunrise Pl
Mount Vernon, WA 98273

Don & Barbara Small
1319 S 13th St
Mount Vernon, WA 98273

Christopher Danilson
Jenny Baker
1216 S 11th St
Mount Vernon, WA 98273

Fien Hulscher
PO Box 1657
Anacortes, WA 98221

Steven King
220 174th St SW
Bothell, WA 98012

Margaret Peck
Stacy Nebile
6322 NE 194th St
Kenmore, WA 98028

Lisa Agard
1311 S 13th St
Mount Vernon, WA 98274

Elinor Zonneveld
1217 S 13th St
Mount Vernon, WA 98273

Todd & Karen Mitchell
1202 S 12th St
Mount Vernon, WA 98274

Thomas & Shirley Rees
1324 S 12th St
Mount Vernon, WA 98274

David Riddle
1116 E Section St
Mount Vernon, WA 98274

Shirlene Harris
1309 Denny Pl
Mount Vernon, WA 98274

Bryce & Kirstin Schaffner
17416 Olympic Pl
Mount Vernon, WA 98274

Peter Swanson
1315 S 12th St
Mount Vernon, WA 98273

Keith & Wen Wagoner
410 Talcott St
Sedro Woolley, WA 98284

Jeremy Jones
Cherish Flint
2912 Madronna St
Bellingham, WA 98225

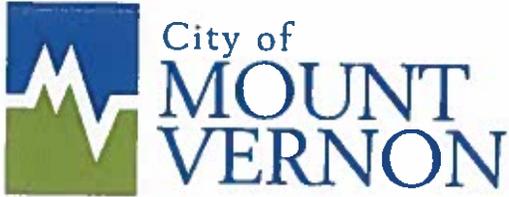
Arne Svendsen
17635 Dunbar Rd
Mount Vernon, WA 98273

Jon & Ruthie Manier
1327 S 13th St
Mount Vernon, WA 98273

Gary & Rhondi Molenaar
1303 S 13th St
Mount Vernon, WA 98273

Wendell Leander
1300 S 11th St
Mount Vernon, WA 98274

Roxanne Ocampo
Mario Correa
1309 S 12th St
Mount Vernon, WA 98274



AFFIDAVIT FOR LAND USE SIGN POSTING

Property located at: 1308 S 12TH ST, MV

Project Name/File No: RICH PL15-101 P#: _____

I, BRIAN RICH hereby certify that I have posted the subject property as described below.

Date Notice posted: 10/17/15

Attached hereto is a copy of the notice that was posted.

Applicant Signature: [Signature] Date: 10/20/15

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this, the 20th day of October, 2015 before me personally appeared Brian Rich known to me to be the same person whose name is subscribed to the within instrument and acknowledged that he/she voluntarily executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Linda H Beacham
Notary Public in and for the State of
Washington residing at Mount Vernon
My Appointment Expires 9-25-2018

Community & Economic Development Department
P.O. Box 809 / 910 Cleveland Ave. – Mount Vernon, WA 98273
(360) 336-6214 – www.mountvernonwa.gov

**EXHIBIT "4":
HEARING EXAMINER'S RECOMMENDATION
BRIAN RICH, PL15-101**

Property Owner: Brian Rich
Applicant: Brian Rich
Hearing Examiner #: MV 2015-2
Planning # Brian Rich Expansion of a Non-Conforming Building, PL15-101
Hearing Date: November 4, 2015
Decision Date: November 6, 2015
Decision Summary: Recommend Approval.

I. FINDINGS OF FACT

This matter came before the Hearing Examiner for public hearing and recommendation to the City Council on the application by the property owner for a land use permit to expand a non-conforming use.

In addition to the Mount Vernon Municipal Code, Comprehensive Plan, and records maintained by the Skagit County Auditor and Skagit County Assessor, those documents identified in the attached Exhibit List were considered by the Hearing Examiner.

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. Project Overview.

1. According to records maintained by the Skagit County Auditor, Brian R. Rich is the owner of a home identified by the Auditor as Parcel No. P28314, and commonly known as 1308 S. 12th Street, in Mount Vernon.
2. Mr. Rich proposes to construct a garage, which will be 23 feet in depth and 10.5 feet in width.
3. The garage is proposed to be constructed within 2 feet of the south property line of the property.
4. According to records maintained by the Skagit County Auditor, an existing single-family home was constructed on the property in 1939. Photographs submitted by the applicant show the home to be a single story, with a sloping roof.
5. The applicant proposes to construct a garage as an extension of the existing single family residence on the site.

6. The south exterior wall of the existing residence extends into the southerly side yard setback, and thus the existing residence does not conform with the minimum side yard setback as set forth in 17.15.070 (B) MVMC. The existing side yard setback on the southerly side is 2 feet. The minimum side yard setback in the R-1 zone is five feet.
7. The applicant's proposed garage would continue the non-conforming setback along the south property line. The depth of the garage is 23 feet.

B. Permitting Process

8. 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.
9. Section 14.05.070 MVMC provides that the hearing examiner is to conduct a 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.
10. Section 17.102.070 MVMC establishes those criteria that are to be considered in making a decision on a Conditional Use Permit application.

C. Public Notice

11. On October 15, 2015 a Notice of Application for Approval to Expand a Non-Conforming Building was issued by staff.
12. On October 16, 2015 a Notice of Public Hearing & Public Hearing was mailed to all properties within 300 feet of the project site. The notice invited written comments, and advised of the date and time of a public hearing on the proposal.
13. On October 19, 2015 the Notice of Application & Public Hearing was published in the City's newspaper of record, the Skagit Valley Herald.
14. On October 17, 2015 the subject site was posted with a Land Use sign.

D. Public Participation.

15. No comments were received by the City in response to the Notice of Application.
16. An open record hearing was held before the hearing examiner on November 4, 2015 at the time and location identified in the Notice of Application. No members of the public attended the hearing.

E. Zoning and Land Use.

17. The project site is zoned *Single-Family Residential, with a maximum density of 7.26 du/ac (R-1, 7.0). The Comprehensive Plan Designation is Single-Family High Density (SF-HI).
18. There are pre-existing residential structures surrounding the subject site; the zoning for the surrounding structures is also R-1, 7.0.
19. A number of homes in the immediate vicinity of the project site encroach into the side yard setback. The home immediately south of the project site has a garage that appears to encroach on the side yard setback similar to the encroachment of the house constructed on the subject property.

F. Traffic.

20. No additional vehicular traffic will result from the proposed project. Traffic patterns are unexpected to be altered by the project.

G. Critical Areas.

21. There are no known critical areas on the project site, or within the immediate vicinity.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following,

II. CONCLUSIONS OF LAW

To the extent that any conclusion of law is more properly characterized as a finding of fact, the Hearing Examiner adopts it as such:

A. Notification

1. 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).
2. 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.

B. Public Hearing

3. 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

those with an interest in the project, by those means set forth in in Section II(A), above. An open public hearing was conducted by the hearing examiner in this matter, at which time opportunity was provided for all comments to be heard by the hearing examiner, and which conformed with standard protocols to ensure that due process was provided to all participants.

C. Review

4. 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.

5. Effect of Expansion on Appearance of the Area. Construction of the project will result in further encroachment into the setback area. However, such encroachments are not unusual in the neighborhood in which the project is located. The neighboring home to the immediate south of the project has a garage that also encroaches to a similar extent, although the garage is constructed to the rear of the property. In this case, the proposed garage will be constructed at the front of the applicant's property.

The existing home has a two foot side yard setback. Extending the existing southerly wall and additional 23 feet (the depth of the garage) will have a negligible effect on the appearance of the area. Use of the built-area for a garage is consistent with the single-family nature of the neighborhood, and will have a negligible effect on the use of the affected area.

Construction of a garage, which will include minimal storage areas, will have a positive impact on the neighborhood to the extent that storage is available for items commonly used in typical households.

6. Effect on Traffic Patterns. Traffic patterns will not be impacted by the project.
7. Adequacy of Parking Facilities. Parking facilities will not be affected by the construction of a garage.
8. Effect on Adjacent and Nearby Property. The project should have a minimal effect on the aesthetics of the neighborhood. A positive financial impact will likely result from the applicant's investment in improvements.

9. 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.

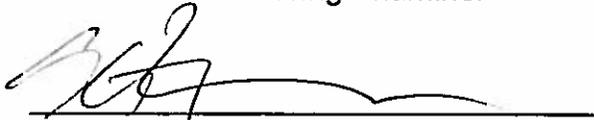
Based upon the foregoing Findings of Fact and Conclusions of Law, the hearing examiner makes the following Recommendation:

RECOMMENDATION

A Permit for the expansion of a non-conforming building, file No. PL15-101 be APPROVED subject to applicable construction requirements set forth in state law and/or the Mount Vernon Municipal Code.

RECOMMENDATION MADE this 6th day of November 2015.

Mount Vernon Hearing Examiner



Scott G. Thomas

EXHIBIT LIST

1. Exhibit 1: Staff Report.
2. Exhibit 2: Master Land Use Application Form
3. Exhibit 3: Affidavit of Ownership.
4. Exhibit 4: Applicant's Project Overview
5. Exhibit 5: Proposed Site Plan
6. Exhibit 6: Existing Site Plan (date stamped Sep. 29, 2015)
7. Exhibit 7: Existing Site Plan (date stamped Sep. 29, 2015 and June 7, 2000)
8. Exhibit 8: 2 photographs of exterior front (west) elevation of existing home
9. Exhibit 9: Mount Vernon Cityview map.
10. Exhibit 10: Various photographs of neighboring homes
11. Exhibit 11: Notice of Application and Notice of Public Hearing
12. Exhibit 12: Memorandum to Bob Hyde, et. al., RE: Expansion of Nonconforming Use
13. Exhibit 13: Affidavit of Mailing
14. Exhibit 14: Mailing list
15. Exhibit 15: Affidavit of Land Use Sign Posting



No one @ home

SIGN IN SHEET
November 4, 2015 – Brian Rich Expansion of a Non-Conforming Structure

	Name	Address	City/State/Zip	Phone	Email
1.					
2.					
3.					
4.					
5.					
6.					
7.					



AFFIDAVIT OF MAILING

I, **Linda Beacham**, hereby declare as follows:

1. I am an employee of the City of Mount Vernon, Mount Vernon, Washington, a United States citizen, over the age of eighteen years, and am competent to testify to the matters set forth herein.
2. On **November 10, 2015** I mailed via the United States mail, to the following parties the **PL15-010 HEX Decision & Memo Dated November 10, 2015**
Brian Rich, Applicant

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Executed in Mount Vernon this **10th** day of **November 10, 2015**.

Linda Beacham

Linda Beacham



TO: Mr. Brian Rich

FROM: Rebecca Lowell, Senior Planner

DATE: November 10, 2015

SUBJECT: Hearing Examiner Recommendation for File, PL 15-101

Attached is the Hearing Examiner's recommendation for **APPROVAL** for the above-referenced project.

Mount Vernon Municipal Code 14.05.110(H)(4) allows an applicant or party of record to ask the Hearing Examiner to reconsider his decision on the portion of the application where a recommendation was made.

A request for reconsideration must be made within ten days after the written Hearing Examiner decision has been rendered. With regard to this application this means that a request for reconsideration must be made on or before November 20, 2015. All requests for reconsideration must comply with the Mount Vernon Municipal Code (MVMC). A copy of the MVMC can be obtained from the Community & Economic Development Department; or it can be viewed on the City's web site at: <http://www.ci.mount-vernon.wa.us>.

This project is currently scheduled to have our City Council make their final decision on this project on **December 9, 2015** at 7 p.m. at the Police and Court Campus located at 1805 Continental Place in Mount Vernon, at a closed record hearing. If a request for reconsideration of the Hearing Examiner's recommendation is made to the Hearing Examiner; or if staff is not able to be placed on the Council's agenda, then the City Council's closed record hearing will be rescheduled.

The complete case file is available for review within the Community & Economic Development Department.

If you have any questions, or if you need additional information, do not hesitate to give me a call.