



## MULTNOMAH COUNTY OREGON

### LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

---

# NOTICE OF DECISION

---

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

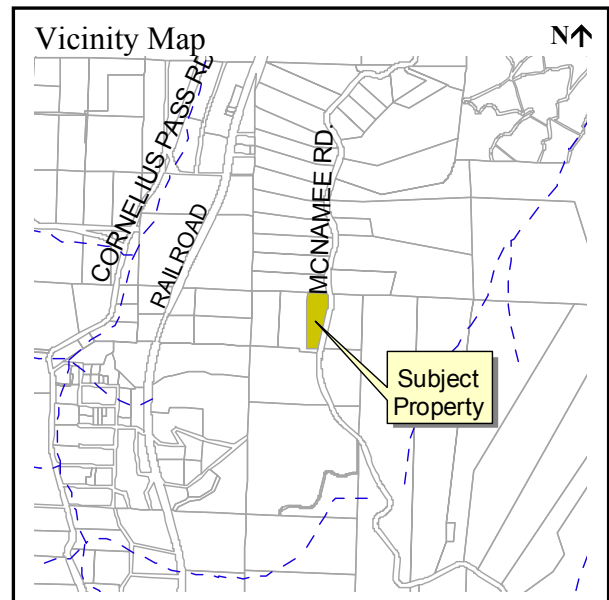
**Case File:** T2-03-038

**Permit:** Significant Environmental Concern for View and Habitat Permit

**Location:** 15411 NW McNamee Road  
TL 01400, Sec 30, T2N, R1W, W.M.  
Tax Account #R97130020

**Applicant:** Peter Livingston  
1211 SW 5<sup>th</sup> Avenue  
Suite 1600  
Portland OR 97204

**Owner:** Earl Wayne Tilton  
15411 NW McNamee Road  
Portland, OR 97231



---

**Summary:** Relocate an existing pole barn to meet setbacks on property within Rural Residential Zone District and Significant Environmental Concern for View and Habitat (SEC-v & SEC-h) Overlay Districts.

**Decision:** Approved with Conditions

Unless appealed, this decision is effective March 17, 2004 at 4:30 PM.

---

Issued by:

By: \_\_\_\_\_  
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, March 3, 2004

**Opportunity to Review the Record:** A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact George A. Plummer, Staff Planner at 503-988-3043.

**Opportunity to Appeal:** This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, March 17, 2004 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Chapter 37, MCC 33.4100 et al: Rural Residential (RR), and MCC 33.4500 et al: Significant Environmental Concern

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at [http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use).

### **Scope of Approval**

1. 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.
2. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

### **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. The property owner shall paint the subject building the colors as proposed (Dutch Boy "Conifer" for the body and "Yosemite Pine" for the trim) and shown in Exhibit 1.12, or colors that match these colors (MCC 33.4565 (C)(2)).
2. The property owner shall maintain all trees specifically shown on the site plans (Exhibit 1.11) that are not labeled to be removed and are north, east or south of the approved building location (MCC 33.4565 (C)(4)).

3. The property owner shall plant two trees at least four foot in height of the following species: fir, hemlock or cedar, in the location as shown on the site plan (Exhibit 1.7). The property shall maintain these trees in a living condition (MCC 33.4565 (C)(4)).
4. The property shall obtain a building permit and any other require permits for the pole barn structure **(MCC 37.0560)**.
5. To obtain County sign-off on the Building Permit the property owner will need to demonstrate that the front yard setback will be met (MCC 33.3155(C)). This can be done by one of the following methods:
  - Locating survey markers for the front property line and showing those markers on the site plan along the front property line and yard setback measurements; or
  - If measuring from the center line of the road, show 30 foot front yard setback from the front property line and then adding an additional 10 feet of setback to the required 30 feet to provide for error, show all measurements on the site plan; or
  - Obtain a survey delineating the front property line and showing the 30 foot front yard setback.
6. Any outdoor lighting fixtures attached to the barn or new free standing lighting fixtures shall be directed downward and hooded (MCC 33.4565 (C)(3)).

**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 AND CONCLUSIONS**

This decision is based on the findings and conclusions in the following section.

**Staff Report Formatting Note:** To address Multnomah County Code requirements staff provides findings as necessary, referenced in the following section. Headings for each category of finding are underlined. Multnomah County Code language is referenced using a **bold** font. The Applicant's narrative, when provided, follows in *italic font*. Planning staff analysis and findings follow the **Staff** label. Staff conclusions follow the findings and are labeled **Conclusion**. At the end of the report, Exhibits are described. The applicant's submittal is included and made part of this decision as Exhibit 1.

### **1. DESCRIPTION OF THE PROPOSAL:**

**Applicant:** *Applicant proposes to relocate an existing pole barn, which was mistakenly constructed within the 30' setback from McNamee Road. The barn is 24 'x 36' and presently has a concrete floor. After the barn is relocated, a new concrete floor will be poured, and the old concrete floor will be removed. The pole barn will be relocated just west of the existing location.*

*As shown on Exhibit A, the new location will not infringe on any setbacks and will not require a variance. However, because the property is located within the areas designated SEC-v and SECh, a SEC permit is required.*

**Staff:** The applicant is requesting SEC-h and SEC-v Permits to relocate and legalize a pole barn, built without SEC-v, SEC-h and building permits; located within required setbacks; and partially within the McNamee Road right-of-way.

### **2. SITE AND VICINITY CHARACTERISTICS**

**Staff:** The subject property is located along McNamee Road. It is oriented the width running north-south at about 656.5 feet wide and with a depth ranging from about 250 feet to 133 feet. The existing and proposed development is located in a cleared area on the property with some conifer and fruit trees along the road and around the structures (Exhibits 1.11 and 2.3 ). A small orchard is located in the cleared area to the south of the developed area. A strip along the back 80 feet of the property is forested as is the north third of the property. The property is located on the western edge of a top of a knoll on a relatively flat bench along a ridgeline. The majority of the property is a shallow sloped. The northern third of the property drops to the northwest at about a 40 percent slope. The top of the knoll, as shown on the 2002 County Aerial Photo with 10 foot topographic contour lines (Exhibit 2.4), measures about 420 feet from west to east and about 350 feet north to south at the widest points. The dwelling and the proposed location of the pole barn are on very western edge of the top of the knoll.

### **3. OWNERSHIP**

**MCC 37.0550:** Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser.

**Staff:** County Assessment records show the property owner as Earl Wayne Tilton. Mr. Tilton signed the application as the owner.

#### 4. TYPE II CASE PROCEDURES

**Staff:** The application was submitted July 8, 2003 and was deemed incomplete July 29, 2003. Further materials were submitted December 8, 2003 and December 22, 2003. The application was deemed complete as of December 22, 2003. Opportunity to Comment notice was mailed December 29, 2003. A correction Opportunity to Comment notice was mailed January 15, 2004 correcting error on the notice in which SEC-view Permit request was left of the original notice. These notices were mailed to all owners of properties within 750 feet of the subject property. For both of these notices property owners were provided a 14-days to provide comments on the application (MCC 37.0530). No comments were received

#### 5. CODE COMPLIANCE AND APPLICATIONS

**MCC 37.0560:** The County shall not approve any application for a permit or other approval, including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.

**Staff:** The subject building, the pole barn, was built without SEC Permits and Building Permit within the required front-yard setback (Exhibit 2.3). The application is for SEC permit related to moving the structure to meet the required front-yard setback. Staff knows of no other violations. A Building Permit for the dwelling was on April 11, 1988 and was finalized on December 5, 1988 (Exhibit 2.5).

This approval includes conditions of approval that will require the property owner obtain a building permit and any other require permits for the structure. This approval will correct the requirement for the SEC and facilitate obtaining a building permit and any other permit necessary for the pole barn. This decision will facilitate moving the structure back thus meeting the required yard setbacks. Given there are no other known violations, this approval and building permits will bring the property into compliance through moving the pole barn.

#### 6. ACCESSORY BUILDINGS CUSTOMARY IN THE RURAL RESIDENTIAL ZONE DISTRICT

##### 6.1 ALLOWED USES

**MCC 33.3210 (F)** Other structures or uses customarily accessory or incidental to any use permitted or approved in this district;

**Staff:** The subject building will be accessory to the single family dwelling on the subject property. Accessory buildings are an outright allowed use. Barns are customary in the area and the use of the structure for personal storage is incidental to the residential use.

##### 6.2 DIMENSIONAL REQUIREMENTS

##### 6.2.1 **MCC 33.3155(A)** Except as provided in MCC 33.3160, 33.3170, 33.3175 and 33.4300 through 33.4360, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently

**required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).**

**Staff:** The subject property does not meet the five acre minimum. See Section 8 of this decision.

**6.2.2 MCC 33.3155(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.**

**Staff:** The revised plot plan show that the building will be located 62 feet from the center of McNamee Road. Measurements using GIS indicated that the front property line (right-of-way line) is about 33 feet from the centerline (approximate measurements). That would place the new structure at 29 feet from the front property line. The applicant will need to demonstrate some form of certainty that the front yard setback will be met. This can be done by locating survey marker for the property line or if measuring from the centerline of the road building in some extra distance to provide for error or obtain a survey delineating the front property line.

**6.2.3 MCC 33.3155(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 Planning Commission shall determine the necessary right-of-way widths and additional requirements not otherwise established by Ordinance.**

**Staff:** McNamee Road right-of-way is 65 feet wide in this location. Alison Winters, County Transportation stated that was a sufficient width for its designation.

**7.4 MCC 33.3170(B) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirement of MCC 33.3185, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**Staff:** The subject property was created at less than the minimum of five acres as allowed under MCC 11.15.2222(C) with the parent property intersected with a street the subject property was deemed a lot of record (Exhibit 2.6). Findings under Section 8 of this decision, below, address Lot of Record findings.

**8 LOT OF RECORD**

**MCC 33.0005 Definitions: (L)(13) Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**

- (a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.
- (b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:
1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
  2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or
  3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in *recordable form* prior to October 19, 1978; or
  4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
  5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See *Date of Creation and Existence* for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

The subject property appears on the 1989 County Assessment Map of the area (Exhibit 2.7). The property was part of a nine acre tract extending across the road (R971300250) and was designated as Rural Residential (RR) Zone District when the County adopted new zoning maps on October 13, 1983 (Exhibit 2.8). The minimum parcel size for RR was five acres, however, under MCC 11.15.2222(C) with the parent property intersected with a street the subject property was deemed a lot of record (Exhibit 2.6 and 2.11).

The evidence indicates that property was divided under MCC 11.45.110 (Exhibit 2.9) as an exempt minor partition. This type of partition only required a deed to be filed to define the new property lines. The County Assessment Cartographic Unit, Parcel Record indicates that the property was created with a deed in 1987 filed with County Records in Book 2019, Page 2108 (Exhibit 2.10).

The subject property meets MCC 33.0005(L)(13)(b)(4) as an exempt minor partition and meets MCC 33.0005(L)(13)(a) complying with the zoning requirements at the time it was created as a lot of record.

## **9. SIGNIFICANT ENVIRONMENTAL CONCERN REVIEW**

### **9.1 Significant Environmental Concern for Wildlife Habitat Permit Required**

**MCC 33.4510 (A)** All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in MCC 33.4515, shall be subject to an SEC permit. **Applicable Approval Criteria (MCC 33.4525 A):** The approval criteria in MCC 33.4555 shall apply to those areas designated SEC on the Multnomah County zoning maps.

**Staff:** The subject property is within the Significant Environmental Concern for Wildlife Habitat (SEC-h) and Significant Environmental Concern for View (SEC-v) Overlay Zone Districts (Exhibit 2 (b)). The applicant is proposing to move a pole barn as an accessory structure. The use is

not included as an exception under MCC 33.4515, thus requires a review for an SEC-v and SEC-h Permits.

## **9.2. Application Materials**

**MCC 33.4520(A)** An application for an SEC permit shall include the following:

- (1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 33.4555 through 33.4575.
- (2) A map of the property showing:
  - (a) Boundaries, dimensions, and size of the subject parcel;
  - (b) Location and size of existing and proposed structures;
  - (c) Contour lines and topographic features such as ravines or ridges;
  - (d) Proposed fill, grading, site contouring or other landform changes;
  - (e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
  - (f) Location and width of existing and proposed roads, driveways, and service corridors.

**Applicant Addendum:** *The enclosed packet includes a corrected plot plan. It shows the proposed relocation to the south of my house, as it should. It also shows the required elements of the driveway, proposed driveway extension, house outbuildings, septic and drainfield, plus existing and proposed vegetation.*

**Staff:** The applicant submitted a narrative and an addendum to the narrative describing the proposed development and addressing the proposed applicable approval criteria, along with a map and other supporting documents (Exhibits labeled 1). The submitted documents provided the required items except for contours. Using 2002 County Aerial photo with a GIS 10-foot contour overlay indicate the property is relatively flat in the proposed building location (Exhibit 2.4). A site visit by staff confirmed this area is relatively flat.

## **9.3 Criteria for Approval of SEC-v Permit -Significant Scenic Views**

### **9.3.1 MCC 33.4565 (B)(1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;**

**Applicant:** *The pole barn being relocated is 24' x 36' x 14', with a 10' lean-to along one side. The total footprint is 864 square feet. The exterior is light tan. The pole barn has a blue metal roof, which is compatible with the metal roof of the house. There is a single, 150-watt, quartz halogen light located at the peak of the roof. A color photo of the existing building is attached as Exhibit C.*

**Applicant Addendum:** *The True height of the building is 18 feet at the roof peak, and 14 feet at the eaves. I have included a corrected plan elevation.*

**Staff:** The applicant submitted details addressing the required items.



**9.3.2 MCC 33.4565 (B)(2) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;**

**Applicant:** *The elevation drawing is attached as Exhibit E. The surrounding final grades are unchanged from the elevations shown on the site plan, attached as Exhibit A.*

**Staff:** The applicant submitted elevation drawings.

**9.3.3 MCC 33.4565 (B)(3) A list of identified viewing areas from which the proposed use would be visible; and,**

**Applicant's Addendum:** *After checking the topographic maps, I believe that it may be possible to see the peak of the building from small portions of Sauvie Island and Kelly Point Park. The trees on the north side of my property are mine and under my control and screen the majority of Sauvie Island. There are many trees between my property and Kelly Point Park, but they are not under my control, as the County states. Therefore we will make the building, especially the front (east) face, visually subordinate. These efforts are addressed below.*

**Staff:** The portion proposed building appears to be potentially visible from Kelly Point, and some of the roads on the eastern side of Sauvie Island.

**9.3.4 MCC 33.4565 (B)(4) A written description and drawings demonstrating how the proposed development will be visually subordinate as required by (C) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.**

**Applicant:** *Relocation of the building further from McNamee Rd. will of course make it more visually subordinate to the vegetation that exists in both the foreground and the background. Coniferous vegetation that will serve as screening includes four fir trees approximately 20 feet high, that are planted parallel to McNamee Rd, approximately 18 feet from the edge of the pavement. A second row of vegetation includes several arbor vitae, about 14 feet tall. These also are planted parallel to McNamee Rd, and are approximately 60 feet from the edge of the pavement.*

*A site plan showing the vegetative screening in relation to McNamee Rd. and the proposed building is attached as Exhibit B.*

**Staff:** The applicant has submitted the required information.

**9.3.5 MCC 33.4565 (C) Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be visually subordinate. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:**

**Applicant:** *Because the subject property is not visible from an identified viewing area, none of the following criteria apply. Nevertheless, they are addressed.*

**Staff:** The applicant has used the guidelines below to obtain visual subordination for the proposed building.

**9.3.6 MCC 33.4565 (C)(1) Siting on portions of the property where topography and existing vegetation will screen the development from the view of identified viewing areas.**

**Applicant:** *This criterion does not apply. In any event, the relocated pole barn will have less visual impact when viewed from McNamee Road than the pole barn in its present location, which is directly adjacent to McNamee Road.*

**Staff:** The proposed location is located at the far side of the crest of a ridgeline from the viewing areas. Immediately to the east of the proposed building location, in the direction of the viewing areas, the land is relatively flat for about 400 feet (Exhibit) . Since the proposed building is on the far side of this bench the topography screens the lower portions of the proposed building.

**9.3.7 MCC 33.4565 (C)(2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.**

**Applicant:** *The building is a satin-finish, tan earthtone color.*

**Applicant's Addendum:** *I propose to repaint the building a green that is similar in tone and hue to that of the forest behind the building. Enclosed are paint chips. I would use a flat or satin finish to minimize reflectivity.*

*The roof is the same blue metal roof that is on the house and the pump house. The aerial photographs sent to me by the county (PF-02-118) clearly show these roofs to all be the same blue. There are three translucent fiberglass panels in the roof to allow the transmission of filtered light to the interior.*

*The low roof angle, proposed building orientation and angle of elevation above the designated viewing areas make it unlikely that the roof will be visible under any circumstances.*

**Staff:** The applicant proposes to use a flat finish dark natural paint to limit reflectivity. The predominate color proposed is a Dutch Boy brand dark green labeled "Conifer" (Exhibit 1.12). The applicant proposes to paint the trim is a Dutch Boy brand lighter green called "Yosemite Pine" (Exhibit 1.12). Given the distance of more than three miles to the potential viewing areas and that much of the building will be screen with topography and vegetation the proposed colors meet this criterion.

**9.3.8 MCC 33.4565 (C)(3) No exterior lighting, or lighting that is directed downward and sited, hooded and shielded so that it is not highly visible from identified viewing areas. Shielding and hooding materials should be composed of nonreflective, opaque materials.**

**Applicant:** *There is a single, 150-watt, mercury vapor lamp at the roof peak. It is aimed downward, with a reflective shield.*

**Applicant's Addendum:** *This light will be removed. There will be no exterior lighting.*

**Staff:** The applicant is not proposing any outdoor lighting. A condition of approval requires any future lighting be directed downward and hooded.

**9.3.9 MCC 33.4565 (C)(4) Use of screening vegetation or earth berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.**

**Applicant:** *The relocated pole barn will be visible to other properties only from the McNamee Road side.*

**Applicant's Addendum:** *The property is surrounded on the south, west and north sides with a stand of 80-foot tall Douglas firs with mixed deciduous undergrowth and is open to McNamee road on the east. The enclosed photos demonstrate that it would be difficult to see the building from the south, west, or north. The trees on the north side block the view from most of Sauvie Island.*

*The east side of the property borders McNamee Road. As noted earlier, it would be theoretically possible to see the peak of the building from Kelly Point Park and a small portion of Sauvie Island if neighboring vegetation were removed.*

*Existing apple and flowering fruit trees bordering McNamee (not depicted on drawings) disrupt the view of the building from the road. There is an existing mature blue spruce between the house and the pole building. I propose to plant two evergreens (fir, hemlock or cedar) along the road directly in front of the building to act as additional screening to the east.*

*The enclosed photos show the relative height of the trees behind the building. These demonstrate that the height will not exceed the trees on the horizon when theoretically viewed from Kelly Point Park. This is a factor in visual subordination.*

**Staff:** The applicant states existing screening trees will be retained. The applicant proposes to plant two addition trees to provide additional screening on the east of the proposed building. Condition of approval will require screening trees be protected and maintained in living condition as well as planting the proposed two additional trees (fir, hemlock or cedar). The criterion is met.

**9.3.10 MCC 33.4565 (C)(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.**

**Applicant:** *The relocation of the pole barn is to a new site that is level with the existing site. The existing vegetative screening along McNamee Rd. will remain. No grading is proposed.*

**Staff:** The proposed building location uses topography, as explained finding 9.3.6 locating on the far side of a relatively flat bench from the viewing areas. The applicant proposes to keep the existing vegetation, several conifers (Exhibit 1.11), to be used for screening. This criterion is met.

**9.3.11 MCC 33.4565 (C)(6) Limiting structure height to remain below the surrounding forest canopy level.**

**Applicant:** *The surrounding forest canopy is approximately 100' high. The relocated pole barn will be less than 20 feet high.*

**Staff:** The proposed building height is well below the height of the forest canopy to the west of the proposed building. This criterion is met.

**9.3.12 MCC 33.4565 (C)(7) Siting and/or design so that the silhouette of buildings and other structures remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:**

**Applicant:** *The proposed structure will be below the skyline of bluffs or ridges as seen from McNamee Road. The structure will be invisible from all of the identified viewing areas.*

**Staff:** The proposed building height is well below the height of the trees to the west. Elevations along Skyline Road to the west are higher than this property. This criterion is met.

\* \* \*

**9.3.13 MCC 33.4565 (E) The approval authority may impose conditions of approval on an SEC-v permit in accordance with MCC 33.4550, in order to make the development visually subordinate. The extent and type of conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.**

**Staff:** Conditions of approval have been included to meet criteria. These conditions are necessary to ensure visual subordination.

**9.4 Criteria for Approval of SEC-h Permit -Wildlife Habitat**

**33.4570(A) In addition to the information required by MCC 33.4520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:**

**9.4.1 MCC 33.4570(A)(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;**

**For the purposes of this section, a *forested area* is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A *non-forested "cleared"* area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.**

**Applicant:** *The location of all existing forested areas is evident from the site plan, Exhibit A, and the aerial photographs of the subject property, Exhibit D. About half of the site is wooded. The relocated pole barn will sit in the cleared portion of the property. The new site is currently a lawn. Because the property is zoned Rural Residential, there is no forest management plan.*

**Staff:** The applicant has shown the forested area on a submitted site plan (Exhibit). The criterion is met.

**9.4.2 MCC 33.4570(A)(2) Location of existing and proposed structures;**

**Applicant:** *See Exhibit A.*

**Staff:** The applicant has shown existing and proposed structures on a submitted site plan (Exhibit). The criterion is met.

**9.4.3 MCC 33.4570(A)(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;**

**Applicant:** *See Exhibit A.*

**Staff:** The applicant has not shown driveways within 200 feet of the subject property. However, those driveways can be seen on the 2002 County Aerial Photo (Exhibit). The criterion is met.

**9.4.4 MCC 33.4570(A)(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.**

**Applicant:** *See Exhibit A.*

**Staff:** The applicant has shown existing fencing on a submitted site plan (Exhibit). No additional fencing is proposed. The criterion is met.

**9.4.5 MCC 33.4570(B)(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.**

**Applicant:** *This criterion is met. See Exhibit A.*

**Staff:** The proposed building location is in a cleared area. This criterion is met.

**9.4.6 MCC 33.4570(B)(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

**Applicant:** *This criterion is met. See Exhibit A.*

**Staff:** The development is within 200 of the road. This criterion is met.

**9.4.7 MCC 33.4570(B)(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.**

**Applicant:** *This criterion is met. See Exhibit A.*

**Staff:** The driveway is less than 500 of the road. This criterion is met.

**9.4.8 MCC 33.4570(B)(4) The access road/driveway shall be located within 100 feet of the property boundary if adjacent property has an access road or driveway within 200 feet of the property boundary.**

**Applicant:** *The access road/driveway location will be located within 100 feet of the property boundary.*

**Staff:** The driveway is pre-existing and serves the single family dwelling that is pre-existing. The proposed building is clustered with existing buildings. The driveway is not being reviewed in this case. The criterion is not applicable.

**9.4.9 MCC 33.4570(B)(5) The development shall be within 300 feet of the property boundary if adjacent property has structures and developed areas within 200 feet of the property boundary.**

**Applicant:** *The development will be within 300 feet of the property boundary.*

**Staff:** The single family dwelling is pre-existing. The proposed building is clustered with existing buildings. The development will be within 300 feet of the property boundary. This criterion is met.

**9.4.10 MCC 33.4570(B)(6) Fencing within a required setback from a public road shall meet the following criteria:**

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.**
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**
- (c) Cyclone, woven wire, and chain link fences are prohibited.**
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.**
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.**

**Applicant:** *These criteria do not apply. The proposal does not include additional fencing.*

**Staff:** No new fence is proposed. This criterion is met.

**MCC 33.4570(B)(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:**

**Applicant:** *The proposal does not include planting of any nuisance species.*

**Staff:** The applicant is not proposing to plant nuisance plants. No nuisance plants are known of on the property. This criterion is met.

## **10. CONCLUSION**

**Staff:** The development as proposed meets the criteria for a Significant Environmental Concern for View and Habitat Permit with conditions of approval. This application request is approved with conditions.

## **11 EXHIBITS**

### **11.1 Exhibits Submitted by the Applicant:**

- Exhibit 1.1: Application form submitted July 8, 2003 (1 page);
- Exhibit 1.2: Supporting documents submitted with the application including cover letter, narrative addressing criteria, two site plans, a photograph of the site, an aerial photo of the property showing slope hazard area, and elevation drawing of proposed building submitted July 8 2004 (14 pages);
- Exhibit 1.3: Letter from Earl Wayne Tilton, subject property owner authorizing Schwabe, Williamson & Wyatt PC to serve as the applicant, submitted July 7, 2003 (1 page);
- Exhibit 1.4: Fire District Review completed and signed by Tualatin Valley Fire & Rescue, Deputy Fire Marshall II, submitted July 7, 2003 (1 page);
- Exhibit 1.5: Certification of On-Site Sewage Disposal completed and signed by Michael Ebeling, City of Portland Sanitarian with attached map submitted July 7, 2003 (2 pages);
- Exhibit 1.6: Addendum to narrative submitted December 8, 2004 (2 pages);
- Exhibit 1.7: Revised site plans submitted December 8, 2003 (3 pages);
- Exhibit 1.8: Revised proposed building elevation drawing submitted December 8, 2003 (1 page);
- Exhibit 1.9: Photographs of the site submitted December 8, 2003 (4 pages);
- Exhibit 1.10: Letter from the Earl W. Tilton, property owner, outlining new submitted materials, submitted December 22, 2003 (1 page);
- Exhibit 1.11: Revised site plans submitted December 22, 2004 (3 pages);
- Exhibit 1.12: Paint chip samples submitted December 22, 2004 (1 page).

### **11.2 Exhibits Provided by the County**

- Exhibit 2.1: County Assessment Record for the subject property (1 page);
- Exhibit 2.2: Current County Zoning Map with subject property labeled (1 page);
- Exhibit 2.3: 2002 Aerial Photo showing subject property (1 page);
- Exhibit 2.4: 2002 Aerial Photo showing subject property and vicinity with topographic contours (1 page);
- Exhibit 2.5: 1988 Building Permit for a dwelling on the subject property (2 pages);
- Exhibit 2.6: Rural Residential District Zoning Code in effect for the property when it was created (6 pages);
- Exhibit 2.7: 1989 County Assessment Map (1 page);
- Exhibit 2.8: 1983 County Zoning Map (1 page);
- Exhibit 2.9: Land Division Code 11.45.110 for Minor Partition Exemption (1 page);
- Exhibit 2.10: Parcel Record for subject property from County Cartographic Unit (1 page);
- Exhibit 2.11: 1988 Assessment Map amendment showing subject property.