



MULTNOMAH COUNTY OREGON

LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190TH Avenue Portland, OR 97233

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

http://www.co.multnomah.or.us/dbcs/LUT/land_use

NOTICE OF DECISION

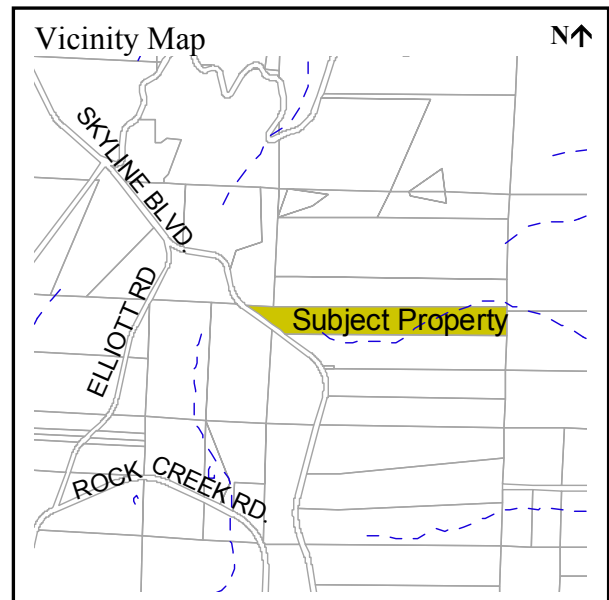
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-04-015

Permit: Director's Determination for Replacement Dwelling in the Commercial Forest Use – 2 Zone District and Significant Environmental Concern for View and Habitat Permit

Location: 17050 NW Skyline Blvd.
TL 00800, Sec 24B, T2N, R2W, W.M.
Tax Account #R972240290

Applicant/ Mat Zaffino
Owner: 1825 SE Mountain View Drive
Portland OR 97215



Summary: To replace existing dwelling with new dwelling and an attached garage located within the CFU-2 Zone and within SEC-v and SEC-h Overlay Zone Districts.

Decision: Approved with Conditions

Unless appealed, this decision is effective October 8, 2004 at 4:30 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Friday, September 24, 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 Friday, October 8, 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.

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. **Within 30 days of this decision becoming final and prior to building permit sign-off, the applicant shall record the Notice of Decision including the Conditions of Approval (pages 1-3) of this decision) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with Multnomah County Land Use Planning. Recording shall be at the applicant's expense. Failure to record the Notice of Decision within the above 30 day time period shall void the decision (MCC 37.0670).**

2. The property owner shall paint the dwelling a dark greenish color as represented on the color paint chip labeled “Olympic Pine” (Exhibit 1.20), or a color that matches this color. The beams shall be stained the color represented on the brownish wood stain color chip labeled “Chestnut SW3524” (Exhibit 1.12), (MCC 33.4565 (C)(2)). The roofing shall match the sample of the dark brown with light brown and black specks asphaltic roofing single submitted by the applicant (Exhibit 1.12). Cultured stone siding as represented in the brochure from Owens Corning marked as Split Face – Great Lakes (Exhibit 1.13) can be used as shown on the proposed plans and for retaining walls. The windows shall have outward reflectivity rating of 13 percent or less. The window frames shall be a dark brown or black to meet the dark earth or natural tone requirement (MCC 33.4565 (C)(2)). The lighting fixtures shall be the amended proposed outdoor light fixture as represented in Exhibit 1.19 and as shown for proposed outdoor light fixtures potentially visible from viewing area on Exhibit 1.19 (MCC 33.4565 (C)(3)). The shielding and hooding materials for the outdoor lighting fixtures shall be composed of nonreflective, opaque materials (MCC 33.4565 (C)(3)). The property shall maintain the dwelling as conditioned above.
3. The property owner shall maintain all trees shown on the site plan (Exhibit 1.9) that are not labeled to be removed (MCC 33.4565 (C)(4)). The property owner shall maintain a 100 foot wide band of the trees to east from the easement, below the dwelling, to meet the visual subordination requirements of MCC 33.4565 (C)(4)). The existing trees to the east of the dwelling can be thinned and trimmed to meet fire break standards as outlined and defined under MCC 33.2305(A)(5)(c). The trees required in this condition shall be maintained in living condition and allowed to reach mature heights to establish a mature canopy. If these trees fail to survive they shall be replaced during the next planting season with native conifers species a minimum of six foot in height.
4. The property owner shall plant two 10 foot conifer trees west of the dwelling as shown in Exhibit 1.19 (MCC 33.4565 (C)(7)).
5. The existing fencing behind the existing dwelling shall be removed and any fencing installed in the future shall meet the standards required under MCC 33.4570(B)(6).

Note: Once this decision is final, application for building permits may be made with the City of Portland, Building Bureau. When ready for building permit signed off, the applicant shall call the Staff Planner, George Plummer, at (503) 988-3043, for an appointment for zoning review plan check and to sign the building permit form. Please note, Multnomah County must review and sign off the building permit form and plans before the applicant submits building plans to the City of Portland. Six (6) sets the plans and site plan of the building area are needed for building permits signed off.

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 submittals are included and made part of this decision under the category Exhibit 1...

1. DESCRIPTION OF THE PROPOSAL:

Applicant: *The applicant is proposing to replace an existing dwelling on the subject property with a new home. The property is zoned Commercial Forest Use-2 (CFU-2) and contains numerous overlay zones addressing views, wildlife habitat, streams and steep slopes. The location of the proposed new home is in the extreme west corner of the site, well away from the overlays protecting streams and hillside development; therefore those overlays are not impacted, thus addressed in this application.*

The new house will be located just east of the existing mobile home (to be removed), but west of an existing paved access easement serving a parcel to the north. The two-story home (with an eagles nest 3rd story viewing area) will have a daylight basement, detached garage, and a courtyard separating the detached garage from the main house. The finished floor elevation of the main floor of the house will be approximately 87 feet, requiring excavation into the hillside and construction of retaining walls on the uphill side of the home. These grading efforts will help keep the home at a lower profile against the backdrop of the hillside, minimizing view impacts from Sauvie's Island.

A new driveway is proposed to access the home. The driveway is 12 feet wide and constructed at a maximum grade of 18%. The design of the driveway was discussed and agreed to by Drew DeBois of Tualatin Valley Fire and Rescue. The access point on NW Skyline Road is maintained, giving the applicant the most site distance possible on NW Skyline Road.

The subject property has a domestic water well producing approximately 8 gallons per minute. This well will be maintained and used for the primary water source for the home. A separate approximate 400-gallon fire supply tank is proposed in the daylight basement of the structure. This tank will provide fire water supply to sprinklers inside the proposed home. A fire suppression sprinkler design specialist will size the tank.

The house has an existing septic tank and drain field system for effluent disposal (See Appendix A). According to septic records, there is 380 lineal feet of drain field line serving the existing home. The new home to be developed on the site is much larger and may require additional drain field line to adequately dispose of effluent. A septic specialist has been retained by the applicant to prepare the septic application. The full septic analysis will be submitted under separate cover.

Storm water runoff from additional impervious surface area is collected and released to a storm water treatment swale that wraps around the backside of the garage. An additional swale is proposed to capture and treat driveway runoff prior to releasing runoff down slope toward the

head of a ravine. The proposed storm outfall will be reinforced with rock to prevent erosion. The storm system will be designed to meet City of Portland Bureau of Environmental Service Standards.

Staff: The applicant is requesting CFU-2 replacement dwelling with a garage attached with a covered walkway located within 200 feet of the existing dwelling; SEC-habitat and SEC-view Permits.

2. SITE AND VICINITY CHARACTERISTICS

Staff: The subject property is located along Skyline Boulevard to the east of the road. The property adjacent to the road is generally about 10 to 15 feet higher than the road. The property drops off to the east with slopes of about 20 percent in the proposed dwelling location increasing further to the east. The proposed location of the dwelling is generally cleared of trees. There are several trees on the property to the west of the proposed dwelling and garage which the applicant is proposing to keep (Exhibit 1.9). There are no mature trees near the proposed building site down slope to the east. There is a dense growth of young trees predominately deciduous trees with a few conifers mixed in. The applicant plans show about 12 trees down slope which are six inches diameter. All but one of these trees are located significantly down slope, about 30 to 50 feet below the lowest elevation of the dwelling.

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 Matthew Zaffino. Mr. Zaffino signed the application as the owner.

4. TYPE II CASE PROCEDURES

Staff: The application was submitted February 27, 2004 and was deemed incomplete in a letter dated March 26, 2004. Addition items were submitted April 15, 2004. The application continued to be incomplete and was deemed so in a letter dated May 5, 2004. Additional items were submitted on May 21, 2004. The application continued to be incomplete and was deemed so in a letter dated June 19, 2004. Additional materials were submitted June 25, 2004 and July 1, 2004. The application was deemed complete as of July 1, 2004 in a letter dated July 7, 2004. A signed application form was submitted by the applicant/owner on August 5, 2004. The applicant submitted addition addendum amendments with submittals on August 12, 2004, August 30, 2004, September 7, 2004 and September 13, 2004. A list of the applicant's submittals used in this decision can be found under Section 10.1 of this decision and are included as exhibits to this decision.

Opportunity to Comment notice was mailed July 9, 2004. The notice was mailed to all owners of properties within 750 feet of the subject property. The property owners were given 14-days to provide comments on the application (MCC 37.0530). No comments were received.

5. PREVIOUS CASE

Staff: A Planning Director's Determination, Case T2-02-053 effective January 13, 2003 issued the following decision:

"The dwelling was lawfully established and is a conforming use in the Commercial Forest Use – 2 (CFU-2) Zone District. The dwelling can be replaced as a lawfully established habitable dwelling under the CFU Code."

This application is for the Significant Environment Concern for View and Habitat Permit for the replacement dwelling.

6. COMMERCIAL FOREST USE -2 ZONE DISTRICT LOT OF RECORD

MCC 33.2275(A) In addition to the *Lot of Record* definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

- (1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or
- (2) A group of *contiguous* parcels or lots:
 - (a) Which were held under the *same ownership* on February 20, 1990; and
 - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.
 1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.
 2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.
 3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:
 4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or
- (3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.
- (4) Exceptions to the standards of (A)(2) above:
 - (a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.
 - (b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

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.)**

Staff: The parcel was created with Plat Partition Plat 90-41. The creation was allowed through the Code provision allowing a parcel smaller than the minimum parcel size if a road intersected the property. See the findings under Section III of Case T2-02-053 for a more detailed findings relating to the creation of the subject property. When the parcel was created it met the applicable zoning laws and land division laws. It was reconfigured to its current configuration by Property Line Adjustment PLA 9-92. Since the subject property was created through Partition Plat 90-41, approved by County Planning on July 16, 1990, it was created after the February 20, 1990 date, thus this parcel was not in the same ownership as any adjacent property on February 20, 1990 because it did not exist on that date.

7. REPLACEMENT DWELLING IN THE COMMERCIAL FOREST USE – 2

7.1 MCC 33.2220(E) Replacement of an existing lawfully established habitable dwelling on the same lot, subject to the following:

- (1) The replacement dwelling will be located within 200 feet of the existing dwelling; and**
- (2) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and**
- (3) The replacement dwelling shall satisfy the dimensional standards of MCC 33.2260 and the development standards of MCC 33.2305.**

MCC 33.0005 Definitions

(H)(1) Habitable dwelling – An existing dwelling that:

- (a) Has intact exterior walls and roof structure;**
- (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;**

- (c) Has interior wiring for interior lights; and
- (d) Has a heating system.

Applicant: The subject parcel contains a legally established habitable manufactured dwelling, thus the applicant can replace this home subject to the approval criteria stated above. The proposed home is within 200 feet of the exiting manufactured home currently on the site. The furthest point of the proposed footprint of the new home is approximately 70 feet from the footprint of the manufactured home. The manufactured home will be removed prior to commencement of construction. The replacement dwelling will satisfy the dimensional standards of MCC 33.2280 and the development standards of MCC 33.2305 as addressed below.

Staff: The applicant is proposing a replacement dwelling located within 200 feet of the existing dwelling. Case T2-02-053 confirmed the existing dwelling as a an existing lawfully established habitable dwelling which met the requirements of this Code section for a replacement dwelling in the CFU-2 Zone district. Staff adopts those findings and defers to that decision approval for this Code section (Exhibit 2.5). While the MCC 33.2220(E)(3) states replacement dwelling shall satisfy dimensional standards of MCC 33.2260 and the development standards of MCC 33.2305, MCC 33.2260 (F) exempts a replacement dwelling from meeting these standards. However MCC 33.2260 (F) also states that in no case shall the dimensional standards be less than those originally established. The proposed location for the dwelling including garage is not closer the any property line.

7.2. MCC 33.2220(U) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.

Staff: The garage is attached to the dwelling with a covered walkway thus as an attached garage will be reviewed as a component dwelling structure.

7.3. MCC 33.2260 Dimensional Requirements

7.3.1 MCC 33.2260(C) Minimum Forest Practices Setback Dimensions from tract boundary – in feet:

Road Frontage	Other Front	Side	Rear
60 from centerline of road from which access is gained	130	130	130

Maximum Structure Height - 35 feet

* * *

Forest practices setback dimensions shall not be applied to the extent they would have the effect of prohibiting a use permitted outright. Exceptions to forest practices setback dimensions shall be pursuant to MCC 33.2310, as applicable, but in no case shall they be reduced below the minimum primary fire safety zone required by MCC 33.2305 (A) (5) (c) 2.

MCC 33.0005 Definitions
(B)(5) Building Height –

- (a) The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:
1. The elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade.
 2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in Item (1) above is more than 10 feet above the lowest grade.
- (b) The height of a stepped or terraced building is the maximum height of any segment of the building, or as amended by the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations.

* * *

(G)(1) Grade (Adjacent Ground Elevation) –

The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or, when the property line is more than five feet from the building, between the building and a line five feet from the building, or as amended by the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations.

Applicant: *The applicant is replacing a legally created dwelling on the subject parcel. The shape of the existing parcel and the desired placement of the home on the parcel do not meet with the minimum forest practices setbacks listed above. The maximum structure height will be met and the front lot line length has also been met.*

The applicant has also met the primary fire safety zone setbacks as indicated below. Brush and vegetation will be cleared and thinned per the fire safety zone standards with the primary and secondary setbacks.

Applicant's April 12th Addendum: *The maximum height of the building is 35 feet. The original submittal showed a structure that was approximately 4 feet to tall, given the sloping nature of the lot. The applicant has revised the proposed site plan by adding a rockery retaining wall on the downhill side of the proposed structure and raised the ground elevation 4 feet. The addition of the wall and the fill behind it, which was discussed with you in a meeting held on April 6", altered the height calculation and the structure is now 35 feet or under in height.*

Staff: The applicant is proposing to replace the dwelling within 200 feet of the existing dwelling (Exhibits 1.3, 1.8 and 1.9). MCC 33.2260 (F) exempts a replacement dwelling from meeting the forest practices setback dimension standards case shall they be less than those originally established. The existing dwelling is located 33.6 feet from the front property line. The proposed attached garage at its closest point from the front property line is shown on the plan map as 34 feet and the dwelling at it closest point is shown at about 42 feet. The existing dwelling is 46 feet from the northern sideyard property line. The proposed dwelling is about 60 feet from this line with the garage being more than 75 feet from the line.

The applicant states that the building height has been meet for the dwelling through the revised site plan adding a rockery retaining wall on the downhill side of the proposed structure (Exhibit 1.9). The applicant states that the addition of the wall raised the adjacent ground elevation 4 feet.

The elevational plan drawings do not show a rock retaining wall however the site plan does show it.

To measure the height of the dwelling, staff used the top of the wall elevation, 74 feet finished grade, shown on the site plan map view (Exhibit 1.9) assuming the backfill is at that elevation. We measured the height beginning at a point on the map where the natural grade is 73 feet measuring thus we subtracted one foot from the total for the finished grade. We used an elevation 10 feet higher than the lowest grade as provided for under MCC 33.0005(5)(a)(2), due to the fact that the highest adjoining ground surface adjacent to the proposed dwelling is more than 10 feet above the lowest grade. With a measurement from the 10 feet height above finished grade to the average of the gable, according to the definition of building height, the proposed dwelling is 34 feet tall (Exhibit 1.15).

- 7.3.2. MCC 33.2260(D) The minimum forest practices setback 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 yard requirements not otherwise established by ordinance.**

***Applicant:** The proposed home abuts NW Skyline Road and has sufficient right-of-way to serve the area with emergency vehicle access.*

Staff: In the memorandum dated April 7, 2004 from Alison Winter, Multnomah County, Transportation Planning Specialist states “No right-of-way dedications are required (Exhibit 2.4).

- 7.3.3. MCC 33.2260 (F) Yards for the alteration, replacement or restoration of dwellings under MCC 33.2220 (D) and (E) and 33.2225 (B) need not satisfy the development standards of MCC 33.2305 if originally legally established to a lesser standard than that required by MCC 33.2305, but in no case shall they be less than those originally established.**

***Applicant:** The Existing Conditions Plan (Sheet 1) illustrates the setbacks from the existing manufactured home on the site. The home is 33.6 feet from Skyline Boulevards right-of-way line at the closest point to the structure and 46.9 feet to the north property line. The applicant's newly proposed home is no closer than these distances to the Skyline Road property line and the north property line of the parcel.*

Staff: The proposed dwelling with the attached garage as shown on the plan map (Exhibit 1.9) meets the setbacks established for the existing dwelling.

8. SIGNIFICANT ENVIRONMENTAL CONCERN REVIEW

8.1 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.

Applicant: *The applicant's site is covered by the Scenic View overlay for protection of views from public roads on Sauvie's Island.*

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 2.2). The applicant is proposing a replacement dwelling with an attached garage. The proposed use requires a review for an SEC-View and Habitat Permit.

8.2. 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.**

Staff: The applicant has submitted all the materials required except that the plans do not show the species of trees existing and to be removed. Plans show the location, height and diameter of a grove of trees to the west of the proposed dwelling (Exhibit 1.9). These trees are labeled "evergreens." The plans show a few trees down-slope to the east of the proposed dwelling. These trees are not labeled as to species or height. The applicant submitted appropriate plans to make the required findings.

8.3 Criteria for Approval of SEC-v Permit -Significant Scenic Views

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

Applicant: *The applicant's architect has provided elevations of the proposed replacement dwelling. Height, shape, and exterior building materials are shown on these plans. Proposed color of the building is a natural, earth-tone color. Outdoor lighting will be directed downward, limiting the amount of light that could be seen from protected scenic view points.*

Staff: The applicant has submitted details on the height and shape shown on the elevation drawings for all side of the proposed structures (Exhibit 1.15). The applicant has submitted the following building materials items:

- The applicant has submitted a paint chip card showing a dark greenish color labeled Olympic Pine (Exhibit 1.20),
- A brownish wood stain color chip for the beams labeled "Chestnut SW3524" (Exhibit 1.12),
- A sample of the dark brown with light brown and black specks asphaltic roofing single (Exhibit 1.12),

- A cultured stone brochure from Owens Corning showing cultured stone veneer siding marked as Split Face – Great Lakes (Exhibit 1.13) proposed for columns on the dwelling and wall faces. The proposed stone siding is a mix of dark grays and brown to light grays and browns.
- A “Glass Performance Data and Selection” brochure from Milgard Windows glass manufacturer for Cardinal windows, with a highlighted selection showing a outward reflectivity rating of 10 percent (Exhibit 1.11),
- Amended proposed outdoor light fixtures and plans (Exhibit 1.19).

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

Applicant: *The applicant's architect has provided elevations of the proposed replacement dwelling. Height, shape, and exterior building materials are shown on these plans. Proposed color of the building is a natural, earth-tone color. Outdoor lighting will be directed downward, limiting the amount of light that could be seen from protected scenic view points.*

Applicant’s April 12th Addendum: *The final grade of the basement and main finished floor are indicated on the on the revised plans. The architect will also be submitting revised plans listing the final grade on the elevation sheets.*

Staff: The applicant submitted elevation drawings for each side of the dwelling and garage.

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

Applicant: *The applicant's architect has provided elevations of the proposed replacement dwelling. Height, shape, and exterior building materials are shown on these plans. Proposed color of the building is a natural, earth-tone color. Outdoor lighting will be directed downward, limiting the amount of light that could be seen from protected scenic view points.*

Applicant’s April 12th Addendum: *The viewing areas from which the proposed use might be visible are public roads on Sauvie's Island and Kelley Point Park. The applicant has prepared additional materials identifying these areas. The map and cross section of these areas s attached in Appendix B.*

Staff: The proposed dwelling would be visible from Kelly Point, and some of the roads on the southern end of Sauvie Island.

8.3.4 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: *The applicant's architect has provided elevations of the proposed replacement dwelling. Height, shape, and exterior building materials are shown on these plans. Proposed color of the building is a natural, earth-tone color. Outdoor lighting will be directed downward, limiting the amount of light that could be seen from protected scenic view points.*

Applicant's April 12th Addendum: *The applicant has modified the proposed grading plan and added additional retaining walls to preserve mature trees located between the proposed structure and the ridgeline along NW Skyline Drive. The location and height of these trees has been surveyed and labeled on the updated site plan. Two cross sections have been prepared to illustrate the view of the proposed structure. The westerly section, as shown on Sheet 3 of 3, shows the view of the structure, (trees behind it) as viewed from the direction of the viewing points identified in item #5 above. Sheet 3 also shows a southerly section as viewed by neighboring properties.*

The modifications to the grading plan result in preservation of trees behind the proposed structure that will far exceed its height and help break-up of the silhouette of the roofline against the ridge. The trees behind the house are primarily evergreen trees so they will continue to assist in visually down playing the structure from the viewing areas all year long.

The applicant would also like to note that the sheer distance of the proposed residence from the protected view areas will make the proposed structure appear to be a mere pinpoint on the horizon. The photo below is a photo taken from Kelley Point Park and is very close to viewing with the naked eye.

The second photo below is a 200% zoom in on the location of the proposed structure, far closer than that of the naked eye. It should also be noted that the ridgeline is only visible from the river in Kelley Point Park. Vegetation within the park obscures views of the ridgeline until one is on the beach or out in the open water.

Given the retention of trees behind the structure and the sheer distance between the proposed structure and the viewing areas along the river, it is clear that the proposed structure will not dominate the view of the hillside. The color of the roof and siding will also be dark earth-tone colors that will not stand out against the hillside as the white colored structures in the photograph. Given these precautions, the proposed structure will be "visually subordinate" to the ridgeline and vegetation on the hill.

Staff: The applicant has addressed the visual subordination of the dwelling in the written narrative.

8.3.5 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:

Staff: The applicant's submittal includes a proposed three story dwelling with small fourth story "eagles nest." The dwelling is close to the maximum height allowed through the building height definition in the CFU District. While the CFU Zone District allows the proposed height for this dwelling, the height of the proposed structure impacts its ability to blend into the environment when viewed from below. The proposed development presents the broadest side of the proposed dwelling to the viewing area to the east. The applicant has proposed to paint the proposed dwelling a dark green color and low reflectivity materials will allow the proposed dwelling to blend into the hillside and the trees behind like a shadow when seen at the distance of three or more miles to the viewing area. The applicant proposal meets this standard.

8.3.6 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: *The structure was limited in its potential "siting" by topography. Very steep topography (20 to 40 percent grade) is located east of this access easement. West of the access easement, grades are not as steep, allowing for reasonable site grading and access. Even with the less steep grade, the applicant has proposed to "dig-in" to the hillside with a daylight basement to effectively limit the height of the building.*

There are few mature trees east of the proposed replacement structure in the primary and secondary firebreak. The applicant is proposing to grow trees in compliance with the firebreak standards that will someday provide more vegetative buffer when the trees are mature. Trees immediately behind the proposed replacement dwelling are 40-60 feet high and will provide a vegetated backdrop to the house. This vegetated backdrop will further visually subordinate the proposed replacement dwelling as compared to the surrounding ridgeline and vegetation.

Applicant's April 12th Addendum: *The applicant has proposed to develop the replacement structure on the westernmost portion of the tax lot for two primary reasons. First, this area was already previously impacted through previous site development associated with the existing manufactured home. The garage, courtyard, grading and retaining walls are located in the area previously disturbed. The footprint of the house is located just west and downhill of the previously disturbed area. Concentrating development in this previously disturbed area is encouraged by the code and has less impact on wildlife habitat located downhill and to the east of the proposed structure.*

The second reason for locating the structure as proposed are the steep slopes associated with area further east. The topography is much steeper to the east than the area to the west. The area to the west ranges from flat (where the current manufactured home is located) to 20 % grade. There is a small steep section (plus 30% slope) of topography above the access that cuts through the site, but disturbance in this area is limited as the architect plans to use the grade to create a daylight basement design.

Developing the area further to the east and below the access road would create more impact to the site due to the continual steep (plus 30%) grade. This steep grade, paired with the fire buffer standards, would require extensive hillside disturbance and vegetation removal in an area that is currently densely vegetated. This required vegetation removal would work against screening goals and potentially open the hillside to erosion problems.

Staff: The applicant proposes to place the dwelling in the western portion of the property. We concur that this is the best site for the development to prevent impacts to wildlife, forest production and to protect the development from wildfires. The proposed dwelling plan uses the topography by building into the hillside. The applicant states that trees on the west side of the structure, behind the structure from viewing areas, will provide a vegetated backdrop and "will further visually subordinate the proposed replacement dwelling as compared to the surrounding ridgeline and vegetation." The upper portions of the trees behind the structure would be seen from viewing areas. The applicant submitted elevation drawings that show a representation of the existing trees in relation to the proposed dwelling from the side, looking south and looking west.

The site plan map shows some trees 70 to 140 feet east of the proposed dwelling at elevations 25 to 45 feet below the lowest grade of the proposed dwelling. The plan map does not label the trees

species nor their diameter or height. The applicant stated these trees meet the six-inch diameter or larger status. A site visit has demonstrated that the existing trees down slope are generally deciduous with a couple young conifers mixed in a rather dense growth as shown in Exhibits 2.6 and 2.7.

There are substantially more trees than shown on the plans to the down slope to east of the proposed dwelling. These trees are less than six inches in diameter, thus are not required to shown on the plans. It is not possible to determine exactly to what extent these trees would provide screening for the proposed structures without knowing their height and elevation location. However, it appears that these trees will provide some screening for the lowest floor of the proposed dwelling. These trees will provide additional screening as they mature.

The applicant plans to build into the hillside and avoiding the removal of all but a few mature trees demonstrates that the plans meet this standard.

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

Applicant: *Non-reflective windows will be used in the proposed replacement dwelling. The house will be an earth-tone color.*

Applicant's April 12th Addendum: *The applicant's architect and builder will submit information on finish materials, colors, outdoor lighting and windows under separate cover.*

Staff: The applicant has submitted specifications for the proposed windows from Milgard Windows showing a reflectivity rating of 10 percent (Exhibit 1.11). Windows with a rating of 13 percent or lower are considered as low reflectivity. The applicant is proposing asphalt singles which are a dark brown earth tone color and having low reflectivity (Exhibit 1.12). A cultured stone face is proposed for a column like affect covering portions of the wall facing the viewing areas. The applicant submitted a cultured stone brochure from Owens Corning showing cultured stone veneer siding marked as Split Face – Great Lakes (Exhibit 1.13). The proposed stone siding is a mix of dark grays and brown to light grays and browns with rough split faced appearance providing a low reflective surface. While there are some lighter colored stone faces in the mix the overall dark earth tone colors and the roughness of the stone meets this standard. The siding for the dwelling and garage is predominately wood. The applicant has submitted a proposed dark greenish colored paint chip labeled Olympic Pine (Exhibit 1.20) amending an earlier proposed color. The proposed color is a dark natural color which at a distance should blend into to hillside appearing like a shadow from the viewing area distance. The applicant has submitted a brownish wood stain color chip for the beams labeled “Chestnut SW3524” (Exhibit 1.12). This color meets the dark earth or natural tone color standard. Additionally the applicant has submitted a plastic sample of the window trim which is a light grayish tan, however he stated in a meeting held with staff on August 25, 2004 that the window frames would be a dark brown or black which would meet the dark earth or natural tone requirement. Conditions of approval can required the proposed building materials and colors to be use for the proposed dwelling to meet this standard.

8.3.8 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: *All exterior lighting will be directed downward and hooded or shielded in a manner that it will not be highly visible from Sauvie's Island. All shielding materials will be non-reflective.*

Applicant's April 12th Addendum: *The applicant's architect and builder will submit information on finish materials, colors, outdoor lighting and windows under separate cover.*

Applicant's September 7th Addendum: *This criterion requires: "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."*

Exhibit 1 is a site plan showing the location of the exterior lighting for the dwelling facing the viewing areas. Exhibit 1 shows the two types of outdoor lighting. The first type is an outdoor sconce. The bulb will be entirely enclosed. There are three (3) outdoor sconces.

The second type is a recessed can incandescent lamp. There are eight (8) recessed can lights. The profile of the incandescent can lamp is shown in Exhibit 2. The trim on the can will be a black baffle.

This evidence demonstrates that the lighting will not be highly visible.

Staff: The proposed outdoor lighting as represented by applicant's representative, Michael Robinson, in a letter dated September 3, 2004 (Exhibit 1.19) amended the proposal. The amended proposal will provide lighting directed downward and shielded so as not to be highly visible from identified viewing areas. The applicant does not address the standard that requires shielding and hooding materials being composed of nonreflective, opaque materials; however that can be included in the conditions of approval along with the requirement that the submitted plans are followed. This standard can be met through conditions of approval that require the proposed lighting plan be implemented.

8.3.9 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: *Screening berms are not possible given the steep slopes on this site.*

Applicant April 12th: *The applicant has revised the site plan by adding an additional retaining wall that will allow almost all the existing mature trees behind the structure to be preserved. Preserving these trees, which range in height from 40 to 70 feet tall, will help screen the structure from Skyline Boulevard and help break-up and/or camouflage the silhouette of the house against the ridgeline as viewed from Sauvie Island and Kelley Point Park.*

Planting large trees downhill and in front of the structure to assist in immediate screening of the proposed structure is not practicable. Trees planted immediately adjacent to the access drive

would need to be 50 plus feet tall in order to provide any screening to the structure. The costs of planting 50 foot plus tall trees would be prohibitive and is probably not feasible.

Selected vegetation located downhill will overtime become 50 feet tall and taller and will eventually provide additional screening. However, fire break clearing must be performed every couple years, so a dense vegetative screen directly in front of the house will never be possible due to the spacing requirements between larger trees. However, the applicant contends that the proposed grading and excavation changes, preservation of mature trees behind the structure, and the use of earthtone colors and appropriate windows and lighting will meet the overall goal of “visual subordination”.

Staff: The applicant is proposing that several trees to the west of the dwelling will be kept. These trees prevent the dwelling from breaking the skyline. The applicant has proposed planting two trees up slope. The plans do not indicate which trees down slope of the dwelling will be retained and which will be removed.

There are substantially more trees than shown on the plans to the down slope to east of the proposed dwelling. These trees are less than six inches in diameter, thus are not required to shown on the plans. It is not possible to determine exactly to what extent these trees would provide screening for the proposed structures without knowing their height and elevation location. However, it appears that these trees will provide some screening for the lowest floor of the proposed dwelling. These trees will provide additional screening as they mature.

While staff understands the importance of establishing firebreaks for the proposed dwelling, it is important to keep a canopy of trees to the east of the dwelling to provide for screening as much as feasible given the topography. Maintaining a band of trees 100 feet wide, east of the easement, below the dwelling, that meets the firebreak standards (MCC 33.2305(A)(5)(c)) will provide screening for the proposed dwelling that will assist in providing for visual subordination. Conditions of approval can require trees needed to screen the dwelling not be removed and be maintained in living condition to met this standard for the proposed development.

8.3.10 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 applicant's architect has taken great effort to site and design the house into the hillside to avoid view impacts. The daylight basement approach reduces the effective height of the house when compared to the backdrop of the ridgeline and existing vegetation.*

As indicated easier, the applicant has focused the proposed disturbance generally to the area that has been previously disturbed by development. This area is generally less steep, can be more easily accessed and is near existing connections to the onsite well and septic services than a location elsewhere on the site. General topography to the east of the subject site is much steeper and development of this area is further limited by small drainages.

The applicant has made grading and retaining wall changes to the previously submitted site plan that allows preservation of mature trees and less haul off of material, thus impact to the site. The drainage system designed was specifically discussed with the Multnomah County engineer. The

proposed system (See attached engineers Memo in Appendix C) is designed to meet or exceed county standards. Please check with Multnomah County Engineer for verification.

Applicant's September 7th Addendum: *The purpose of this criterion is to regulate grading in the context of whether a dwelling is visually subordinate from the viewing areas. This criterion is prefaced by Section (C) which provides: "Guidelines which may be used to attain visual subordination and which shall be considered in making the determination of visual subordination include . . ." Whether the grading meets this criterion is based on its affect on visual subordination. This criterion is not approval for grading in and of itself but regulates grading only in the context of how grading affects the view from the viewing areas.*

The area to be graded behind the dwelling will contain rockery walls with landscaping. The cuts and fills will be minimized by the use of the terraced rockery retaining walls and landscaping. The rockery walls will consist of native stone. The disturbed areas will be landscaped with vegetative cover as shown in Exhibit 3. The combination of the rockery wall and landscaping will minimize the visible grading.

The argument and evidence satisfies the approval criteria. The dwelling as proposed and with reasonable conditions of approval is visually subordinate from the viewing areas.

Staff: We concur that the grading is related to the visual subordination. Most of the grading will be obscured by the dwelling once it is built. The applicant is proposing a combination of the rockery wall and landscaping to minimize the grading not obscured by the dwelling. The proposed grading is designed to minimize visible grading. This standard is met by the proposed development.

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

Applicant: *The structure height meets the 35 foot standard of the district. Trees immediately behind and to the side of the house range from 40-60 feet high.*

Staff: Given the slope of the property the grove of trees to the west of the proposed dwelling provides a canopy level. The proposed dwelling would be below the height of these trees. This criterion is designed to keep the dwelling from appearing taller than the tree line as seen from the viewing area. The proposed dwelling will be below the tree line as shown in on the applicant's submitted plans (Exhibit 1.10). This standard is met by the proposed development.

8.3.12 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 elevation of the ridgeline behind (to the west) of the proposed placement house is approximately 120 feet (per the assumed elevation on the applicants plan). The main floor finished floor elevation of the house is at approximately 87 feet. The top of the ridgeline in the viewing path is approximately 33 feet higher than the main floor finished floor elevation. Given that there is only one story (approximately 10 feet high) above the main level (daylight basement below), the silhouette of the house should be below the 120-foot elevation, thus not protruding above the ridgeline.*

The existing main floor of the manufactured home is at an assumed elevation of 100 feet. At one story in height, the peak of the roof is approximately at 115 feet. The photo below is taken from Sauvie's Island Road and the 200 percent zoom of the photo shows the manufactured home and an adjacent neighbor's house as visible from Sauvie's Island Road.

As indicated by the photo, the existing mobile (manufactured) home is not visually dominant against the ridgeline. Given that the proposed replacement dwellings roofline is lower or approximately the same height as the mobile home, it should also not be visually dominant against the hillside.

Applicant's September 7th Addendum: *Exhibit 4 is a drawing showing the dwelling from the viewing area. In order to mitigate the view through the gap in the tree canopy behind the dwelling, Exhibit 5 shows that the applicant proposes to plant two (2) ten-foot-high evergreens.*

Staff: There is a grove of trees behind the dwelling that makes up the ridgeline as seen from the viewing area. While this grove provides an almost complete ridgeline backdrop for the dwelling there is a small area which is not covered. The applicant submittal includes a photograph from Kelly Point that shows a gap in the trees where the existing dwelling is seen as breaking the skyline (Exhibit 1.7). The applicant proposes to plant two 10 foot conifer trees to fill in this gap. A condition of approval will require the two trees be planted and maintained in living condition to meet this standard.

* * *

8.3.13 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: The applicant has proposed a combination of dark colors and low reflectivity for building materials, light shielded, and maintaining trees to the west of the dwelling. Staff has determined that a band of trees to the east of the dwelling will be necessary to assist in providing visual subordination. Provided the proposed plan along with the proposed colors and materials is implemented along with the addition of the 100 foot band of trees to the east and given the substantial distance from the viewing areas to proposed development, this will meet the visual subordination requirement. Conditions of Approval are needed to insure the proposed development is established to meet the visual subordination requirement. Conditions will need to include color and materials as proposed, protection for existing mature trees shown on the plan, that 100 foot wide band of trees is protected to the east of the easement (as discussed in the finding in Section 8.3.9, that two ten-foot trees are planted to the west of the dwelling and that fencing meets the requirements. A condition is also needed for recording this decision to notify future owners of the property to provide notice these conditions must continue to be met. These conditions meet this standard.

8.4 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.

Staff: A 2002 aerial photo satisfies this requirement.

8.4.1 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.

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

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;

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: *An aerial photo with topographic overlay is attached in Appendix D. This aerial shows the surrounding parcels that have forested and cleared areas. Like the subject property, development is essentially isolated to the area closest to Skyline Drive. The majority of the subject parcel, and surrounding parcels, are in forest use.*

The subject property has fencing around the extreme western portion of the site. The remainder of the applicant's property is not fenced, allowing free movement of wildlife.

Staff: The applicant has provided this information.

8.4.2 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: *The replacement dwelling is proposed in the non-forested cleared area existing on the subject parcel. This criterion is met.*

Staff: The proposed development is in a cleared area.

8.4.3 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: *The replacement dwelling is proposed within 200 feet of a public street. This criterion is met.*

Staff: The proposed development is within 200 of the road.

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

Applicant: *The access driveway for replacement dwelling does not exceed 500 feet. This criterion is met.*

Staff: The proposed access drive does not exceed 500 feet in length.

8.4.5 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 driveway is located within 100 feet of the property boundary. This criterion is met.*

Staff: The adjacent properties do not have driveways within 100 feet of the property boundary. There is an existing easement driveway located on the subject property for the adjacent property to the north. There is also a separate existing driveway on the property for the existing dwelling. The proposed development will alter the location of the existing driveway and proposes a driveway entrance directly adjacent the easement driveway entrance. This standard is met due to the fact there are not driveways on the adjacent properties within 200 feet.

8.4.6 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 replacement dwelling is within 300 feet of the property boundary. This criterion is met.*

Staff: The proposed development is within 300 feet of the property boundary.

8.4.7 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: *No fence is proposed at this time. This criterion is not applicable.*

Staff: Currently there is a fenced area on the property which does not meet these requirements. A condition of approval can require this fencing be removed and any fencing in the future meet these standards.

8.4.8 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 applicant is not proposing to plant any of these species on the subject site. The applicant will control growth of these species in the cleared areas and fire protection areas shown on the site plan. This criterion is met.*

Staff: The proposed development does not include planting of any nuisance plants.

8.4.9 MCC 33.4570(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

- (1) The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or**
- (2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).**

Applicant: *The applicant has satisfied or can satisfy all the criterion of Section B above. Thus, no wildlife conservation plan is required. This criterion is not applicable.*

Staff: The applicant has met the standards a conservation plan is not required.

9. CONCLUSION

Applicant: *The applicant is proposing to develop a replacement dwelling on the subject property. The subject property is by overlain by districts protecting wildlife habitat and scenic views. The applicant has addressed the approval criteria associated with these overlay districts and has demonstrated that they have or will satisfy the applicable approval criteria.*

The applicant's proposal for sensitive overlay review, Planning Director grading permit review should be approved.

Applicant April 12th: *The applicant has reviewed the letter of incompleteness and has acted to improve the proposal by adding retaining walls that work to preserve existing trees and bring the height of the structure into compliance with the code. Preservation of the trees combined with use of earth-tone colors, low-reflectivity windows, and hooded outdoor lighting will assist in keeping camouflaging the proposed structure from protected public viewpoints on Sauvies Island and*

Kelley point Park. The site plan was also modified to show increased use of silt fencing and erosion control material that will be defined in even more detail on the building plan submittal for the propose structure.

The applicant has addressed and satisfied the approval criteria and should receive SEC review approval for view impact, habitat impact and the replacement dwelling.

Staff: The applicant has demonstrated the criteria for the Significant Environmental Concern for View and Habitat are met or can be met through conditions of approval for the proposed development.

10 EXHIBITS

10.1 Exhibits Submitted by the Applicant:

- Exhibit 1.1: Application form submitted 2/27/04 (1 page);
- Exhibit 1.2: Application form with the property owner' signature submitted 8/5/04 (1 page);
- Exhibit 1.3: Applicant's narrative submitted 2/27/04 (20 pages);
- Exhibit 1.4: Certificate of On-site Sewage Disposal submitted 3/19/04 (1 page);
- Exhibit 1.5: Certificate of Water Service submitted 4/15/04 (1 page);
- Exhibit 1.6: Fire District Review submitted 4/15/04 (1 page);
- Exhibit 1.7: Addendum narrative with photos, map and topography profile submitted 4/15/04 (7 page);
- Exhibit 1.8: Existing site plan submitted 4/15/04 (1 page);
- Exhibit 1.9: Proposed development site plan 4/15/04 (1 page);
- Exhibit 1.10: Elevation drawings showing the proposed development and trees west of the proposed development as viewed from the east and north submitted 4/15/04 (1 page);
- Exhibit 1.11: Milgard Windows brochure for window reflectivity submitted 4/16/04 (3 pages);
- Exhibit 1.12: Sample of asphalt shingle, sample of stain color for beams and sample of window trim, unable to copy see sample in files, submitted 4/16/04 (1 page);
- Exhibit 1.13: Cultured stone brochure submitted 4/16/04 (1 page);
- Exhibit 1.14: Addendum narrative submitted May 19, 2004 (3 pages);
- Exhibit 1.15: Revised elevation plans (reduced) submitted 6/25/04 (2 pages) with oversized set stored in file at County Lund Use Planning office (including house plans marked Exhibit 1.15(o)) (5 pages);
- Exhibit 1.16: Reflectivity analysis submitted 7/1/04 (15 pages);
- Exhibit 1.17: Cross-section elevation drawing showing covered walkway connection dwelling and garage submitted 8/12/04 (1 page);
- Exhibit 1.18: Addendum to narrative submitted 8/30/04 (2 pages);
- Exhibit 1.19: Addendum to narrative with five exhibits (including reduced lighting plan) attached submitted 9/7/04 (9 pages) with oversized set of the lighting plans stored in file at County Lund Use Planning office (including house plans marked Exhibit 1.19(o)) (2 pages);
- Exhibit 1.20: Dark green "Olympic Pine" paint chip submitted 9/13/04 (1 page).

10.2 Exhibits Provided by the County

- Exhibit 2.1: County Assessment Record for the subject property (1page);
- 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: Memorandum dated 4/7/04 from Alison Winter, County Transportation Planning Specialist (1 page)
- Exhibit 2.5: Case T2-02-053 (12 pages);
- Exhibit 2.6: Photograph of trees to east of proposed dwelling, looking east from dwelling site, taking August 12, 2004 by staff;
- Exhibit 2.7: Photograph of trees to east of proposed dwelling, looking north and northeast from junction of skyline and easement, taking August 12, 2004 by staff;