



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's Decision on the land use case(s) cited and described below.

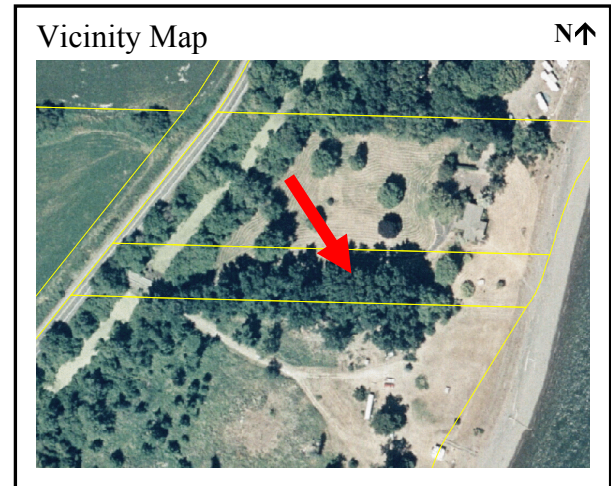
Case File: T2-04-019

Permit: Significant Environmental Concern
Permit

Location: TL 200, Sec 26D, T3N, R1W, W.M.
Tax Account #R98126-0260

Applicant: Peter Wilmarth
Thompson Vaivoda & Associates
920 SW Sixth Avenue, STE 1500
Portland, Oregon 97204

Owner: Thomas Hicks
PO Box 10165
Portland, Oregon 97296



Summary: Build a single family dwelling on Tax Lot 200 within a Significant Environmental Concern (general) zoning overlay. The subject property is located along Sauvie Island's eastern shore and is zoned Multiple Use Agriculture-20.

Decision: **Approved, with conditions.**

Unless appealed, this decision is final July 16, 2004 at 4:30 PM.

Issued by:

By: _____
Adam Barber, Planner

For: Karen Schilling - Planning Director

Date: Friday, July 2, 2004

Opportunity to Review the Record: A copy of the Planning Director's 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 Adam Barber, 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 **July 16, 2004 at 4:30 pm**.

Applicable Approval Criteria: Multnomah County Code (**MCC**): **34.4500-4575**, Significant Environmental Concern; Chapter 37, Administration and Procedures; 34.2880 – 34.2885, Multiple Use Agriculture-20.

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/index.shtml.

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s) contained as Exhibits to this report. 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 this 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 record a copy of the Notice of Decision cover sheet and conditions of approval with the Multnomah County Recorder within 30 days of the date this decision becomes final. This decision will become final Friday, July 16, 2004 at 4:30 pm if no appeal is filed. A copy of the recorded document shall be submitted to the Land Use Planning Office prior to zoning approval of the building permit (**MCC 37.0670**).
2. The applicant/property owner shall ensure that all grading work attributed to this development is conducted in accordance with the provisions of Grading and Erosion Control permit #T1-04-014.

3. Installation and survival of the landscaping plan presented as Exhibit A9 is a condition of this approval (**MCC 34.4555(A)**). All landscaping illustrated in Exhibit A9 must be installed within 6-months of occupancy. The landowner must replace any landscaping that does not survive with a comparable species.
4. Trees outside of the development footprint for the road and home site shall be retained during construction as illustrated in Exhibit A4.

DECISION OF THE PLANNING DIRECTOR

(Formatting Note: As necessary to address Multnomah County ordinance requirements; Staff provides Findings referenced here. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses by the applicant or their representative are *italicized*. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation “Staff” precedes such comments).

Findings of Fact

1. Introduction

Staff: The applicant proposes construction of a two-story, single family dwelling with internal garage. The dwelling has a total gross area of 5,167 square feet, consisting of 4,285 square feet of livable area, a 630 square foot garage and a 252 square foot attached storage space. The proposed structural development will cover roughly 3.78 % percent of the currently undeveloped 1.92 acre property and will be located towards the east end of the rectangular subject property. The house will rise 28 feet, 8-inches above finished grade. Development also includes construction of a storm water drainage system and a sand filter septic system. An existing gravel access drive, shared by the adjacent property owners, will be used to provide access to the proposed dwelling. The property is zoned Multiple Use Agriculture-20 and is mapped within a designated Significant Environmental Concern general overlay zone.

2. Scope of Review

Staff: The construction of a single family dwelling on a Lot of Record is a use allowed outright in the Multiple Use Agriculture-20 zone district (**Multnomah County Code, MCC 34.2820(C)**). Ground disturbing construction activities will be occurring within a designated Significant Environmental Concern general overlay. New development within this environmental zoning overlay requires a land use review (**MCC 34.4510**).

3. Site Characteristics

Staff: The Multiple Use Agricultural-20 zoned property is 1.92 acres in size and is located within the Sauvie Island Rural Plan Area off Reeder Road (Exhibit A1). The building site, located between Dairy Creek and the Columbia River, is generally level and is located at the edge of a forested area (Exhibit A2). Much of the interior of the undeveloped site is forested and partially located within the 100-year (1% chance) floodplain (Exhibit A3). The native vegetation on the property consists of clusters of cottonwood trees, various species of brush and native grasses. The proposed dwelling will be located on the east side of the lot, between the Dairy creek and Columbia River riparian zones in the attempt to minimize impact to both ecosystems. A site plan provided by the applicant illustrates the development footprint (Exhibit A4).

4. Code Compliance

Staff: The County can not issue a land use approval for a property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code, and for a property that was not created legally (**MCC 37.0560**). In 2002, Multnomah County Land Use Permit T2-02-

080 affirmed that the subject property was a lawfully created property eligible for development. To date, the property is in full compliance with all applicable provisions of the Multnomah County Land Use code and is eligible for this development review. A signature provided by the land owner provides authorization for the County to process this request (Exhibit A5).

5. Required Setbacks

MCC 34.2855(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Staff: As indicated on the structural elevations presented as Exhibit A6, the dwelling will not be taller than 35-feet. The residence meets the required minimum yard setbacks as it will be located 10-feet from the north (side) property line, 11.3 feet from the south (side) property line, roughly 80 feet from the east (rear) boundary and hundreds of feet from the west (front) property line. The site plan and structural elevations presented as Exhibit A4 and A6 confirm this geometry.

6. Significant Environmental Concern (MCC 34.4520)

An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 34.4555 through 34.4575. An application for an SEC permit shall include the following:

- 6.1 A written description of the proposed development and how it complies with the applicable approval criteria of MCC 34.4555 through 34.4575 (MCC 34.4520(A)(1)); A map of the property showing (MCC 34.4520(A)(2)), Boundaries, dimensions, and size of the subject parcel (MCC 34.4520(A)(2)(a)), Location and size of existing and proposed structures (MCC 34.4520(A)(2)(b)),**

Staff: All written narrative submitted by the applicant is presented as Exhibit A7. The referenced plan information is presented as Exhibit A8 and A2. Staff will evaluate the applicant's narrative responses on a point by point basis within the applicable section of this report.

- 6.2 Contour lines and topographic features such as ravines or ridges (MCC 34.4520(A)(2)(c));**

Staff: A topographic survey of the development area was conducted to determine the extent of the 100-year (1% chance) flood plain. This information was used to locate all structural development outside the flood plain with exception to a portion of the access road and fill elevating the septic drain field. The site contours are available within Exhibit A3.

- 6.3 Proposed fill, grading, site contouring or other landform changes (MCC 34.4520(A)(2)(d));**

Staff: The applicant has submitted an associated Grading and Erosion Control/Flood Development application in case T1-04-014. Staff confirmed all information required by **MCC 34.4520(A)(2)(d)** has been supplied for case T1-04-014. In general, the entire site is nearly level. A modest amount of grading will be required to extend the driveway, construct the septic drain field, drainage swales and to prepare for the home foundation.

6.4 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 (MCC 34.4520(A)(2)(e));

Staff: This information is discussed in detail within the applicant's narrative, presented as Exhibit A7.

6.5 Location and width of existing and proposed roads, driveways, and service corridors (MCC 34.4520(A)(2)(f)).

Staff: The applicant is proposing to extend an existing driveway accessing Reeder Road through the site, ultimately terminating at the home site. The driveway will be 18-feet wide as seen on the applicant's site plan (Exhibit A4).

6.6 The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area (MCC 34.4555(A)).

Applicant: "The proposed dwelling will be set back 80 feet, at the closest point, from the top bank of the Columbia River. This location was selected to maximize the open space setback, between the house and the Columbia River, without building into the riparian environment or into the 100 year flood plain. Both the river frontage and the sides of the house will be landscaped with new trees and natural grasses to screen the house from river views and to enhance the aesthetic qualities of the site. The canopy of preserved large trees, behind the house, will provide a naturally landscaped back drop reinforcing the scenic character of the river corridor. The Dairy Creek riparian environment, on the west side of the property, will not be impacted by the development. See the attached Site Plan and referenced Site Photos for environmental and landscaping information.

The natural vegetation along the Columbia River bank will be protected and enhanced by the addition of new mature, native trees and natural grasses. The new plants will be naturally occurring ones or will be species compatible with the riparian environment to complement the existing vegetation. The landscaping will be designed to maintain the scenic quality of the river corridor, by screening views from the river. It will also support the river front wildlife habitat and will provide protection from river bank erosion. Areas of grass lawn, directly adjacent to the house, will be prevented from spreading into native habitats by concrete steps, paving strips and other barriers. These barriers will also help keep fertilizer and domestic gardening activities isolated from the native riparian environment."

Staff: The subject property is roughly shaped like a narrow rectangle limiting development options. This means development can only reasonably be moved east or west along the long axis of the rectangle as not enough room exists to move development north or south.

An aerial photo of the subject site presented as Exhibit A2 shows the central third of the property is heavily forested and therefore is not a desirable home site in light of vegetation protection standards that will be discussed throughout this report.

The applicant did not wish to locate the development in the western third of the property due to the presence of Dairy Creek in this area. Staff does not believe locating residential development in this area would be most appropriate as this area is within the dairy creek riparian area and is within the 100-year (1% chance) floodplain (Exhibit A3). The middle third of the site is heavily forested and was avoided by the applicant in the attempt to retain tree cover within the Significant Environmental Concern overlay. The central portion of the property is also impacted by the 100-year floodplain. The only building location left presents itself in the eastern third of the site towards the Columbia River. This portion of the property is not located within the 100-year floodplain, is located on a slight rise in topography and is not heavily forested. For these three reasons alone, development within the eastern third of the site is the only reasonable location on this property.

The applicant has proposed development as far away from the Columbia River as possible, without locating structures in the 100-year floodplain or within the heavily forested portion of the property to the west. Considering the development constraints placed on the property, Staff finds the maximum amount of open space and existing, un-disturbed vegetation will be provided between the home and the Columbia River (a flood storage area). Moving further west, away from the river, would increase encroachment into the 100-year floodplain and would require a significant amount of mature tree removal. This would create irreparable damage to wildlife habitat. A condition of this approval is that trees outside of the development footprint for the road and home site be retained. The development footprint proposed is presented as Exhibit A4.

The applicant has proposed the installation of an extensive native vegetation landscaping plan to enhance the vegetative diversity surrounding the home (Exhibit A9). Landscaping will consist of the establishment of native grasses, sedges and trees providing a natural gradation from under story to canopy vegetation. The resulting land between the home and the river (east of the home) will transition from a densely landscaped area surrounding the home to open floodplain. This standard requires the maximum possible landscaped area or open space between any use and a river, stream, lake, or floodwater storage area which seems to conflict itself as the installation of landscaping would decrease the amount of open space. Staff finds that the applicant is increasing landscaping diversity and density while preserving open space to the maximum extent practicable.

6.7 Agricultural land and forest land shall be preserved and maintained for farm and forest use (MCC 34.4555(B)).

Applicant: "Agricultural and forest land will be preserved and maintained by focusing the development in an area where there will be significantly less impact on the natural vegetation of the riparian environment. The dwelling will be sited to minimize the amount of forested land damaged. The area adjacent to the house will be restored with native species of plants to maximize the net amount of arable and forest land preserved. No

agricultural land will be taken out of production by this development. The paved driveway, turnaround and terrace areas will facilitate vehicle circulation and human activities, on the site, while isolating them from the native riparian environment. Surface runoff from the paved areas will be collected and filtered into vegetated swales, maintaining ground water quality and minimizing the impact on vegetation. See the attached Site Plan and Aerial Site Photo for the locations and types of natural vegetation and for the extent of development.”

Staff: The property is not used today for agricultural or timber production. The property is also not in agricultural farm or forest tax deferral and therefore is not likely to commercially produce farm or timber products in the near future. The home site has been selected to minimize the removal of existing tree cover and will be located in an area not used for agricultural production today. In fact, the shallow soils in the development lack organic matter and consist of fluvial silty sand deposits not typical of prime agricultural or forest land.

6.8 A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance (MCC 34.4555(C)).

Applicant: “The house will be located on the only portion of the property above the 100 year flood plane and outside of the natural riparian corridor. This location will maximize preservation and protection of the forested interior of the site and the Dairy Creek wetlands and riparian zone. See the attached Site Plan and Topographic Survey for site information.”

Staff: Only one cleared building location exists on this site outside the 100-year (1% chance) floodplain, outside the Dairy Creek riparian area and not immediately adjacent to the Columbia River. This is the highest elevation on the site not located in a forested wildlife habitat. As such, this is the most environmentally responsible location for the new home. This location requires the existing driveway to be extended to the building site, increasing the construction costs. These costs were balanced against the long-term protection of the various resource zones where it was decided these costs were a reasonable economic sacrifice considering the goal of this project and the goal of this standard in particular. The applicant has demonstrated this standard will be met by the proposal.

6.9 Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance (MCC 34.4555(D)).

Applicant: “The proposed single family dwelling is for private use only. Public use is not included or proposed. The private residence does not include any recreational use.”

Staff: No commercial recreational use exists on the property, nor is a recreational use proposed. No public recreational access to the Columbia River will be provided through the subject property.

6.10 The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable (MCC 34.4555(E)).

Applicant: "There will be no public access to the property and the potential for vandalism and trespass will be reduced by having the owner occupying the site...Development of the site will be consistent with protection of public safety and of public and private property. There will be no public access to the property and the potential for vandalism and trespass will be reduced by having the owner occupying the site. There will be external lighting installed on the home. We are specifying concealed down lights at the entrance canopy and sconce lights at the other entrances. All fixtures will be hooded to minimize light dispersion. The lights have not yet been selected and do not appear on the elevations. I can confirm that a private mailbox will be installed at the driveway entrance. "

Staff: Public access through the site is not proposed. The residential design includes exterior lighting that will help deter structural vandalism at night. A private mailbox will be located at the entrance to the property, suggesting to the public that the property is privately owned.

6.11 Significant fish and wildlife habitats shall be protected (MCC 34.4555(F)).

Applicant: "Wildlife habitats will be protected by focusing development away from the forested interior of the site and the Dairy Creek wetlands and riparian zone, leaving those areas undisturbed. The proposed dwelling will be set back a minimum of 80 feet from the top of the Columbia River bank and this area will be landscaped with native species of plants to protect the river front habitat. The building site was selected to maximize the open space setback, between the house and the Columbia River, without building into the riparian environment or into the 100 year flood plain. See the attached Site Plan, referenced Site Photos and the Aerial Site Photo for habitat locations and information. "

Staff: Significant fish habitat is located within Dairy Creek which passes through the western portion of the property. Additionally, the Columbia River is located at the east end of the property. The central portion of the site is currently forested areas providing significant wildlife habitat. Development has been sited to avoid the Dairy Creek riparian area and the forested portion of the site, while minimizing encroachment towards the Columbia River (Exhibit AX). The best balance between minimizing impacts to all significant fish and wildlife habitats has been achieved. This criterion is met.

6.12 The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors (MCC 34.4555(G)).

Applicant: "The natural vegetation along the Columbia River bank will be protected and enhanced by the addition of new mature, native trees and natural grasses. The new plants will be naturally occurring ones or will be species compatible with the riparian environment to complement the existing vegetation. The landscaping will be designed to maintain the scenic quality of the river corridor, by screening views from the river. It will also support the river front wildlife habitat and will provide protection from river bank erosion. Areas of grass lawn, directly adjacent to the house, will be prevented from

spreading into native habitats by concrete steps, paving strips and other barriers. These barriers will also help keep fertilizer and domestic gardening activities isolated from the native riparian environment. See the attached Site Plan, referenced Site Photos and the Aerial Site Photo for natural vegetation and new landscaping information.”

Staff: As previously discussed, the residential development will be located in a partially cleared area requiring the least possible amount of natural vegetation removal along Dairy Creek and the Columbia River. The proposed development has been located in a way to avoid the removal of mature tree cover. For instance, the round driveway is designed to provide ingress/egress around existing trees in the attempt to retain vegetation to the maximum extent practicable. The home will be located roughly 475 feet to the east of Dairy Creek and roughly 200-feet west of the Columbia River in an existing cleared area. The distance between the home and the Columbia River (a riparian area) can not be increased without requiring the removal of mature wildlife habitat in the form of deciduous trees located to the west of the proposed home. Moving the dwelling west, away from the Columbia River, would directly conflict with the wildlife habitat protection standards of **MCC 34.4555(F)**. In conclusion, the home has been sited in such a way that minimizes impacts to existing vegetation to the maximum extent practicable while providing the maximum possible setback from the Columbia River. The natural vegetation between the Columbia River and the dwelling will be enhanced through the plantings of native grasses, sedges and trees, as illustrated on the landscaping plan presented as Exhibit A9. Completely landscaping the entire floodplain at the eastern side of the site would conflict with **MCC 34.4555(A)** requiring the maximum amount of open space between new development and a river. Staff finds, the landscaping plan as proposed adequately balances the goals and intents of both **MCC 34.4555(A)** and **(MCC 34.4555(G))**. This standard is met.

6.13 Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry (MCC 34.4555(H)).

Applicant: “No archeological areas have been identified on the property. If such sites are discovered during the course of construction they will be protected from unauthorized entry and vandalism.”

Staff: No known archaeological areas were identified on the subject property during this review.

6.14 Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions (MCC 34.4555(I)).

Applicant: “The proposed dwelling will be sited above and outside of the 100 year flood plain and will be landscaped to maintain natural drainage on the property. Storm water from impervious areas will be collected and infiltrated into soakage trenches and vegetated swales to protect water quality and prevent overflow and erosion. The Dairy Creek wetlands, and low lying riparian areas in the west and center of the property, will be preserved in their natural state. See the attached Storm Water Management System Proposal, Geotechnical Report, Site Plan and Topographic Survey for water quality and drainage information”.

Staff: The 100-year (1% chance) floodplain covers an area roughly 35-feet wide along the northwest portion of the property, as illustrated in Exhibit A3. The areas of “annual” flooding would fall within the 100-year flood boundary as annual flooding, by definition, would convey less water and cover less area than the flood occurring every 100-years on average. Areas subject to standing water and flooding have been avoided with exception to the extension of the access driveway and the elevation of the residential septic system occurring at the floodplain edge. The applicant has minimized the impacts to areas that experience flooding by locating all structural development outside these zones. The septic system could not be located fully outside of the floodplain due to the narrow width of the property and the numerous riparian and wildlife habitats requiring equal protection by Multnomah County ordinance.

The driveway extension could not be located fully outside of the 100-year floodplain without the destruction of wildlife habitat in the form tree removal. Staff finds that extending a gravel driveway through an area that floods on average every 100-years, is preferable to moving the driveway into a forested area requiring tree removal. The applicant has also submitted a Flood Development permit and Grading and Erosion Control permit application to mitigate flooding and erosion concerns. The mitigation proposed was found to adequately accomplish these goals and will be approved once this decision becomes final. In conclusion, the applicant has proposed to control erosion through the use of sediment fencing, will clean and infiltrate storm water discharge through grassy swales and will be altering the ground topography in a way that has no measurable impact on the way flood waters will pass through the site in the future. Staff finds this standard is met.

6.15 Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities (MCC 34.4555(J)).

Applicant: “Areas of potential erosion on the property will be protected from all ground disturbing activity with an approved erosion control plan implementing Best Management Practices. The geotechnical investigation of the site has been prepared and specifies the appropriate Best Management Practices for the project. Sediment fencing will be placed at the toe of all sloped areas of earth disturbance, to make sure sediment stays on the site, as one of the BMPs utilized. See the attached Site Plan for sediment fence location and the Storm Water Management System Proposal and Geotechnical Report for erosion control and storm water management information.”

Staff: Appropriate erosion control measures have been proposed in Grading and Erosion Control application T1-04-014. Compliance to the erosion control methods proposed in case T1-04-014 is a condition of this approval which will assure compliance to **MCC 34.4555(J)**.

6.16 The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas (MCC 34.4555(K)).

Applicant: "Air, water and land resources on environmentally sensitive areas of the site will be preserved by minimizing intrusion and development in such areas. In addition, all construction materials and debris will be collected, stored and removed in a timely manner during development. Approved Best Management Practices for the project will protect water quality and prevent erosion. Planted landscaping will be used to restore site areas adjacent to the house to their natural state. The completed house will be fully insulated limiting the interior noise level impact on the surrounding area. See the attached Site Plan and Storm Water Management System Proposal for environmental protection information."

Staff: Establishing a residential use on the property is not anticipated to impact the long term air quality of the area to any measurable degree. Ambient noise levels associated with the residential use are expected to be consistent with other single family dwelling uses in the area and are not expected to be problematic. The applicant is not proposing a use typically associated with noise or air quality degradation, such as industrial manufacturing plant, for example.

Ground water quantity is not expected to be impacted by the development as other residential wells exist in the area drawing from the local aquifer. Surface water quantity will not be impacted as the residential use will not be withdrawing water from either Dairy Creek to the west or the Columbia River to the east. Surface and groundwater quality is not expected to negatively be impacted by the development as all storm water runoff associated with impervious surfaces will be discharged into two soakage trenches and two vegetated infiltration swales designed to filter the runoff. Vegetated infiltration swales function as effective pollution filters (City of Portland Storm water Management Manual, 2002). Infiltration trenches will utilize the high infiltration capacity of the sandy deposits in the development area to dispose of and filter storm water runoff.

6.17 The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern (MCC 34.4555(L)).

Applicant: "The design, bulk, and construction materials of the proposed dwelling are intended to be compatible with the character and visual quality of the site. The lot coverage will be 3,159 square feet and is only 3.78% of the two acre parcel. The two story house will be of wood frame construction with masonry and stucco as the primary exterior wall finishes. These materials will be specified in neutral, restrained colors to harmonize with the natural character of the site. Extensive window areas are intended to give a transparent character to the design and minimize the bulk of the building. All exterior lighting will be hooded and aimed downward to minimize light dispersion. Planted landscaping will provide a screen for views on the Columbia River corridor and from the neighboring houses.

The extent of the significant environmental concern area is the riparian environment surrounding Sturgeon Lake and adjacent watercourses including Dairy Creek and the Columbia River corridor. The character of the SEC area visually can be described as characterized by open flood plains with areas of mature native forest groves, low brush and native grasses. There are extensive watercourse and wildlife habitats in the area, some of which have been designated as parklands or preserves.

The structural development in the area consists of a mix of low density residential development and agricultural outbuildings. Both the agricultural buildings and houses occur in a wide variety of sizes and styles. Along the river bank area, single family housing predominates, and the dwellings tend to be setback from the roadway on deep lots, oriented toward views of the river.

The architectural design most defining the region is characterized by view oriented dwellings, with large window areas, open to the environment. This is both a functional and an aesthetic response, to the unique opportunities for views, natural light and privacy, and is common to the variety of house types and styles in the area. The bulk of the structural development in the area is typically one and two story houses which sometimes include a raised, improved basement level. Many dwellings also have added adjacent storage, shop or garage buildings. The building materials used in the SEC area are typically wood frame construction with wood siding, masonry and stucco as the exterior wall finishes.

This project complies with MCC 34.4555(L) because the proposed dwelling will be of a design, bulk and of construction materials that are compatible with the character and visual quality of the area. The proposed house is two story single family residence on a large site and is oriented to views and natural light. The natural quality of the site will be well preserved by maximizing protection of the existing trees in the Dairy Creek riparian zone. Views from the Columbia River will be screened, and the river bank environment enhanced, with landscaping selected from native species. The design consolidates building area within a single structure rather than spreading it across the property with accessory structures. The bulk of the dwelling will be mitigated by variations in height, form and changes in finish materials. Patios, second level decks and extensive window areas increase the openness of the design, minimize the sense of bulk and provide a view oriented architectural character common to dwellings in the area.”

Staff: Staff believes the applicant has accurately defined the areas of significant environmental concern as well as described how the proposed architecture attempts to minimize impact to that area. Photos of the site are presented as Exhibit A14 for orientation. As such, Staff will not reiterate these details for this discussion but directs readers to the applicant’s statement above.

The residential structure proposed will have a footprint of 3,159 square feet including attached garage and storage area. The applicant has provided property addresses and photos of other residences in the area of comparable size. Staff used these addresses to identify the assessed footprint sizes for this analysis. The footprint sizes reflected in table 1 below include the residence and all attached structures such as attached garages and decks. As clearly illustrated in Table 1 below, the applicant is proposing cumulative development smaller than what exists on other residentially properties in the area. As a result, Staff finds the bulk of the proposed dwelling is consistent with that that already exists on other properties in the neighborhood all within the Significant Environmental Concern zone. For this analysis, the neighborhood is defined as a circle with a radius of 2.5-miles. A map of the study area is illustrated in Exhibit A10.

House Number	ADDRESS	RESIDENTIAL FOOTPRINT (SF)
	Subject Site	3,159
1	19300 N.W. Gillihan Road	3,194
2	25710 N.W. Reeder Road	2,049
3	16450 N.W. Gillihan Road	2,814
4	16700 N.W. Gillihan Road	2,100

Table 1. Residential footprint comparison.

The design proposed will use earth toned-stucco exterior utilizing many windows along the east side of the building facing the river. This tends to visually “lighten” the bulk of the building as viewed from the Columbia River. The architect has utilized a horizontal roofline in the attempt to streamline the bulk of the structure, eliminating wasted eave space rising above the riparian area vegetation. The exterior lighting will be hooded to eliminate light dispersion into the natural riparian areas surround the home site. Finally, the applicant is proposing a substantial landscaping plan to enhance and visually screen the structure in the attempt to minimize impacts to the riparian area. Staff finds the development proposed is in harmony with this particular standard for the reasons cited above.

6.18 An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible (MCC 34.4555(M)).

Applicant: “Much of the interior of the site is forested and portions of it lie below the flood plain. These areas contain fragile riparian habitats that extend from Dairy Creek across the western and central portions of the property. The proposed house will be located on the east side of the lot, minimizing impact on these sensitive habitats. The natural vegetation and existing trees on the site will be preserved, to the maximum extent possible, by locating the house in an area with relatively little vegetation, between the existing trees and the Columbia River. See the attached Site Plan and Topographic Survey for environmental information.”

Staff: As discussed in detail within findings 6.6 and 6.8 of this report, the proposed building site was selected in the attempt to minimize impacts to fragile riparian and wildlife habitat zones located on the site. The development area is at the highest elevation, outside the 1% chance flood plain and in an area requiring minimal disturbance to existing vegetation. A more appropriate location does not exist on this site when considering the protection of vegetation and wildlife habitat.

6.19 The applicable policies of the Comprehensive Plan shall be satisfied (MCC 34.4555(N)).

Applicant: "The proposed development complies with the applicable policies of the Multnomah County Comprehensive Plan, including those of Policy IO for Multiple Use Agricultural Land area management."

Staff: The following Comprehensive Plan Policies apply to new uses. Below, Staff addresses how this proposal meets each policy goal on a policy-by-policy basis.

(Policy 13: Air, Water and Noise Quality)

It is the county's policy to require, prior to approval of a legislative or quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to air quality, water quality, and noise levels.

Staff: This proposal will not measurably impact air, water resources or noise levels, as discussed in finding 6.16 of this report.

(Policy 14: Developmental Limitations)

The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost, and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- Slopes exceeding 20%;
- Severe soil erosion potential;
- Land within the 100 year flood plain;
- A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;
- A fragipan less than 30 inches from the surface;
- Land subject to slumping, earth slides or movement.

Staff: According to the topographic map of the development area presented as Exhibit A3, slopes exceeding 20% grade are not located within the development area. The development area is nearly level. According to the Multnomah County Soil Survey, the soils of the entire property consist of the Sauvie soil unit. The Sauvie soil unit typically does not exhibit "severe" erosion potential as the erosion index $k=0.32$, classifying as having a "moderate" erosion potential.

According to the Multnomah County Soil Survey, the Sauvie soil unit typically exhibits slow permeability and a shallow water table. It should be noted that the entire site is mapped within the Sauvie Soil unit and therefore can not be avoided. Hart Crowser, a geotechnical consultant, evaluated the on-site soils and determined permeability is rapid in the development area (>55 inches per hour) with no reference to the presence of a high

water table or fragipan (Exhibit A11). Standing water, an indicator of a perched water table, was not seen in the development area during a site visit conducted May 19, 2004. No reference to slope instability was mentioned in the Hart Crowser soils report (Exhibit A11).

(Policy 22: Energy Conservation)

The County's policy is to promote the conservation of energy and to use energy resources in a more efficient manner. In addition, it is the policy of Multnomah County to reduce dependency on non-renewable energy resources and to support greater utilization of renewable energy resources. The county shall require a finding prior to the approval of legislative or quasi-judicial action that the following factors have been considered:

- The development of energy-efficient land uses and practices;
- Increased density and intensity of development in urban areas, especially in proximity to transit corridors and employment, commercial and recreational centers;
- An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;
- Street layouts, lotting patterns and designs that utilize natural environmental and climactic conditions to advantage.
- Finally, the county will allow greater flexibility in the development and use of renewable energy resources.

Applicant: "The Hicks Residence has been designed to achieve a high standard of energy efficiency. The exterior walls, roof and underfloor areas will be insulated to meet the most up to date standards established by the State of Oregon Office of Energy in the residential code. The house will have a high level of natural day lighting which will reduce the need for electrical lighting energy consumption. All windows will be glazed with high performance clear Low- E insulated glass, which will maximize energy conservation while allowing a high percentage of visible light transmittance. Operable windows are provided for efficient natural ventilation of all major spaces. Heating will be from two compact high efficiency forced air units powered by propane. In a location where natural gas is unavailable, propane will provide higher output, with less environmental impact than oil or electric heating. Two furnaces will allow zoned heating, reducing energy consumption."

Staff: As stated by the applicant above, energy efficient design has been incorporated into the proposal. These designs will help conserve non-renewable resources, such as oil, and utilize renewable resources such as solar ambient lighting.

(Policy 37: Utilities)

The County's policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- The proposed use can be connected to a public sewer and water system, both of which have adequate capacity; or

- The proposed use can be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or
- There is an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- There is an adequate private water system, and a public sewer with adequate capacity.
- There is adequate capacity in the storm water system to handle the run-off; or
- The water run-off can be handled on the site or adequate provisions can be made; and
- The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.
- There is an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and
- Communications facilities are available.

Furthermore, the County's policy is to continue cooperation with DEQ, for the development and implementation of a groundwater quality plan to meet the needs of the county.

Staff: Evidence furnished by the applicant demonstrates that increased storm water run-off attributed to the new impervious surfaces can be infiltrated on-site via storm water infiltration trenches and infiltrating vegetated swales (Exhibit A4). A private septic disposal system will be constructed on-site which has been verified by the City of Portland Sanitation Department to be an acceptable method of disposal. A private well will provide adequate water to the new use. No evidence has been submitted or discovered suggesting a problem will be encountered in the supply of adequate communication and electricity to the residence.

(Policy 38: Facilities)

The County's policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- The appropriate school district has had an opportunity to review and comment on the proposal.
- There is adequate water pressure and flow for fire fighting purposes; and
- The appropriate fire district has had an opportunity to review and comment on the proposal.
- The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.

Staff: The required services will be available to the subject property.

(Policy 40: Development Requirements)

The county's policy is to encourage a connected park and recreation system and to provide for small private recreation areas by requiring a finding prior to approval of legislative or quasi-judicial action that:

- Pedestrian and bicycle path connections to parks, recreation areas and community facilities will be dedicated where appropriate and where designated in the bicycle corridor capital improvements program and map.
- Landscaped areas with benches will be provided in commercial, industrial and multiple family developments, where appropriate.
- Areas for bicycle parking facilities will be required in development proposals, where appropriate.

Staff: This proposal does not impact any existing or planned park and recreation areas or bicycle facilities. Public ingress/egress will not be provided through the site. These development requirements are not applicable to this request.

7. Comments Received

Staff: Upon receipt of a complete application, notice of the application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750-feet of the subject tract (**MCC 37.0530(B)**). Written comments were received by Tom and Deeshi Donnelly, neighbors at 25710 NW Reeder Road (Exhibit A12). Mr. and Mrs. Donnelly stated a "Reciprocal View Easement" exists, forbidding any development on a portion of the subject property towards the east end. The Donnelly's requested that Multnomah County enforce this easement agreement and require the relocation of all development, including fences, walls, structures and fill material outside the view easement area.

This easement reflects a private agreement between landowners not involving Multnomah County. Multnomah County does not have authority to uphold or enforce against the details of a private easement agreement. The development proposed has been reviewed in light of the applicable land use approval criteria outlined within this report.

The landowner of the subject property, Mr. Thomas Hicks, submitted comment to the County stating the reciprocal easement agreement referenced by the Donnellys does not appear to be relevant to this County's land use review. A copy of Mr. Hick's letter is presented as Exhibit A13.

Conclusion

Considering the findings and other information provided herein, this application for establishment of a single family dwelling, as conditioned, satisfies applicable Multnomah County Zoning Ordinance requirements.

Exhibits

All materials submitted by the applicant, prepared by County staff, or provided by public agencies or members of the general public relating to this request are hereby adopted as exhibits hereto and may be

found as part of the permanent record of this application. Exhibits referenced herein are enclosed, and a brief description of each is listed below:

<u>Label</u>	<u>Pages</u>	<u>Description</u>
A1	1	Vicinity Map
A2	1	Site Map (2002 Aerial Photo)
A3	1	100- Year Floodplain Map and Site Topography
A4	1	Development Plan
A5	1	Application Form
A6	2	Structural Elevations
A7	5	Written Narrative Submitted
A8	1	Assessment and Taxation Plat Map (Tax Lot 200)
A9	1	Landscaping Plan
A10	2	Analysis of Structural Development Size in Area
A11	12	Hart Crowser Soils Report (April 7, 2004)
A12	1	Comment Submitted, Owners 25710 NW Reeder Road
A13	1	Comment Submitted, Subject Property Owner
A14	4	Site Photos Taken By Staff May 19, 2004