

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

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

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

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## NOTICE OF DECISION

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

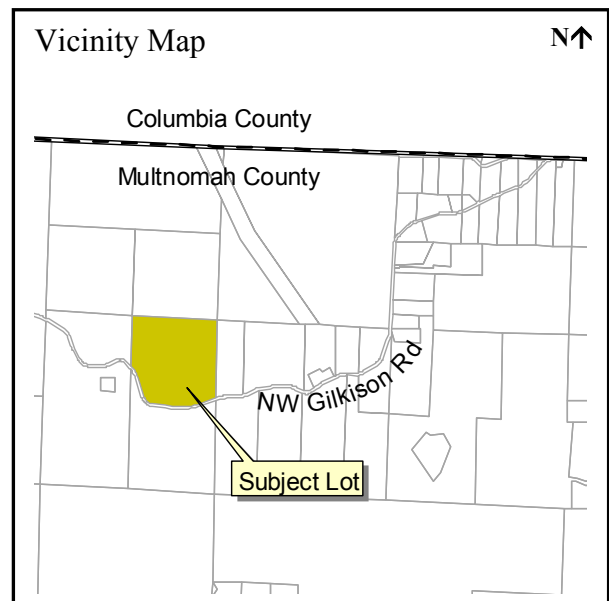
**Case File:** T2-04-049

**Permit:** Significant Environmental Concern  
Permit – Wildlife Habitat

**Location:** 22925 NW Gilkison Road  
TL 400, Sec 27, T3N, R2W, W.M.  
Tax Account #R98227-0080

**Applicant:** Christopher Mock  
22925 NW Gilkison Road  
Scappoose, OR 97056

**Owner:** Christopher Mock  
22925 NW Gilkison Road  
Scappoose, OR 97056



**Summary:** The applicant is proposing to replace an existing dwelling with a new dwelling and convert the old dwelling into a storage structure. Additionally, the proposal includes a 20x20 pole building situated on an existing parking area. The new dwelling is proposed to be within 65-feet of the old dwelling.

**Decision:** Approved With Conditions.

Unless appealed, this decision is effective Monday, April 18, 2005, at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Monday, April 04, 2005

**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 Don Kienholz, 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 Monday, April 18, 2005 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 37.0560 - Code Compliance, 33.0005(L)(13) - Lot of Record, MCC 33.2060 - Dimensional Requirements, MCC 33.2075 - Lot of Record, MCC 33.2105 - Development Standards for Dwellings and Structures

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

### **Scope of Approval**

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

### **Conditions of Approval**

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. The existing residence shall be removed from the property within three (3) months of occupancy of the new home, as agreed upon by the applicant in the Replacement Dwelling agreement. A copy of that signed agreement shall be submitted to the Land Use Planning office prior to the issuance of building permits. Please note that a statement declaring the property legally contains only one dwelling must be recorded with the Division of Records as a part of that agreement and a copy of that statement must be submitted to this office prior to building permit sign-off [MCC 33.2020(E)(2)].
2. The applicant/owner shall decommission the original dwelling and convert it into an allowed use or remove it from the property within three months of receiving an occupancy permit for the new dwelling. Decommissioning the dwelling shall include but not be limited to the

removal of the cooking appliances and any showers in the structure. If there are multiple restrooms, only one shall be allowed to remain in functioning condition.

3. The owner of the property shall maintain the following primary and secondary fire safety zones for the barn:

A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District.

[MCC 35.2105(A)(5)(c)(1) & (2)]

4. The applicant/owner shall remove and clear and maintain the development area free of the nuisance plants listed below [MCC 33.4570(B)(7)].

| Scientific Name                          | Common Name                     |
|--|---------------------------------|
| <i>Chelidonium majus</i>                 | Lesser celandine                |
| <i>Cirsium arvense</i>                   | Canada Thistle                  |
| <i>Cirsium vulgare</i>                   | Common Thistle                  |
| <i>Clematis ligusticifolia</i>           | Western Clematis                |
| <i>Clematis vitalba</i>                  | Traveler's Joy                  |
| <i>Conium maculatum</i>                  | Poison hemlock                  |
| <i>Convolvulus arvensis</i>              | Field Morning-glory             |
| <i>Convolvulus nyctagineus</i>           | Night-blooming Morning-glory    |
| <i>Convolvulus sepium</i>                | Lady's nightcap                 |
| <i>Cortaderia selloana</i>               | Pampas grass                    |
| <i>Crataegus sp. except C. douglasii</i> | hawthorn, except native species |
| <i>Cytisus scoparius</i>                 | Scotch broom                    |
| <i>Daucus carota</i>                     | Queen Ann's Lace                |
| <i>Elodea densa</i>                      | South American Water-weed       |
| <i>Equisetum arvense</i>                 | Common Horsetail                |
| <i>Equisetum telmateia</i>               | Giant Horsetail                 |
| <i>Erodium cicutarium</i>                | Crane's Bill                    |
| <i>Geranium robertianum</i>              | Robert Geranium                 |
| <i>Hedera helix</i>                      | English Ivy                     |
| <i>Hypericum perforatum</i>              | St. John's Wort                 |
| <i>Ilex aquafolium</i>                   | English Holly                   |
| <i>Laburnum watereri</i>                 | Golden Chain Tree               |
| <i>Lemna minor</i>                       | Duckweed, Water Lentil          |

| Scientific Name               | Common Name               |
|-------------------------------|---------------------------|
| <i>Loentodon autumnalis</i>   | Fall Dandelion            |
| <i>Lythrum salicaria</i>      | Purple Loosestrife        |
| <i>Myriophyllum spicatum</i>  | Eurasian Watermilfoil     |
| <i>Phalaris arundinacea</i>   | Reed Canary grass         |
| <i>Poa annua</i>              | Annual Bluegrass          |
| <i>Polygonum coccineum</i>    | Swamp Smartweed           |
| <i>Polygonum convolvulus</i>  | Climbing Binaweed         |
| <i>Polygonum sachalinense</i> | Giant Knotweed            |
| <i>Prunus laurocerasus</i>    | English, Portugese Laurel |
| <i>Rhus diversiloba</i>       | Poison Oak                |
| <i>Rubus discolor</i>         | Himalayan Blackberry      |
| <i>Rubus laciniatus</i>       | Evergreen Blackberry      |
| <i>Senecio jacobaea</i>       | Tansy Ragwort             |
| <i>Solanum dulcamara</i>      | Blue Bindweed             |
| <i>Solanum nigrum</i>         | Garden Nightshade         |
| <i>Solanum sarrachoides</i>   | Hairy Nightshade          |
| <i>Taraxacum officinale</i>   | Common Dandelion          |
| <i>Utricularia vulgaris</i>   | Common Bladderwort        |
| <i>Urtica dioica</i>          | Stinging Nettle           |
| <i>Vinca major</i>            | Periwinkle (large leaf)   |
| <i>Vinca minor</i>            | Periwinkle (small leaf)   |
| <i>Xanthium spinosum</i>      | Spiny Cocklebur           |
| <i>various genera</i>         | Bamboo sp.                |

**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:** Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria. Staff comments include a conclusionary statement in *italic*.

1. **Project Description**

**Staff:** The applicant is requesting to replace an existing dwelling on the subject lot with a new home located in a 48x35 foot building envelope that is adjacent to the existing driveway and roughly 65-feet from the existing dwelling. A 20x20 pole barn used for the forest practice currently on the property would be located in an existing parking area near the existing dwelling.

2. **Site Characteristics**

**Staff:** The property is located up in the most northwestern corner of Multnomah County off of Gilkison Road. The property is zoned CFU-1. To the east is a property in common ownership zoned CFU-2. The entire area has an overlay zone for a Significant Environmental Concern for Wildlife Habitat. The eastern portion of the property is within the identified slope hazard overlay although the proposed site is relatively flat and outside of the overlay. The majority of the subject lot and surrounding area is heavily forested.

3. **Public Comment**

**MCC 37.0530(B) Type II Decisions**

**(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject Tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14<sup>th</sup> day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.**

**Staff:** An opportunity to comment was mailed to property owners within 750-feet of the property lines on January 11, 2005. No comments were received regarding the application.

*Procedures met.*

4. **Proof of Ownership**

**MCC 37.0550 Initiation Of Action.**

**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. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.**

**Staff:** Multnomah County Assessment and Taxation records show Christopher Mock as the owner of tax Lot 400 (Exhibit 1). Mr. Mock signed the General Application Form (Exhibit 2) and thus authorized action on the property.

*Criterion met.*

5. **A Replacement Dwelling Is An Allowed Use**

**MCC 33.2015      Uses**

**No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.2020 through 33.2035 when found to comply with MCC 33.2045 through 33.2110.**

**MCC 33.2020      Allowed Uses**

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

- A. **(1) The replacement dwelling will be located within 200 feet of the existing dwelling; and**

**Applicant:** The replacement dwelling will be located within 75 feet of the existing dwelling.

**Staff:** On the submitted site plan (Exhibit 3), the new dwelling is located within 75-feet of the existing dwelling.

*Criterion met.*

- B. **(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**

**Applicant:** The existing dwelling will be converted within 3 months of completion of the proposed dwelling to a storage and workshop building as per code.

**Staff:** A covenant requiring the dwelling to be converted to an allowable non-residential structure or be removed will be a condition of approval. These elements include the stove and any other cooking range and any showers or bathing facilities.

*Criterion met.*

- C. **(3) The replacement dwelling shall satisfy the dimensional standards of MCC 33.2060 and the development standards of MCC 33.2105.**

**Applicant:** The replacement dwelling satisfies the MCC 33.2060 code by MCC code 33.2060F stating: Does not need to satisfy the development standards if originally legally established to a lesser standard than that required by MCC 33.2105, but in no case shall they be less than those originally established. Since this is a replacement dwelling the previous rules apply. 33.2105 development standards meet the requirements as shown in rule 33.2060F

**Staff:** The dwelling meets the Dimensional Standards of MCC 33.2060 as found in Finding # 7.

The proposed dwelling does not need to meet the development standards of MCC 33.2105 because the replacement dwelling provision is specifically exempted from the development standards: “Except as provided for the alteration, replacement or restoration of dwellings under MCC 33.2020 (D), **33.2020 (E)** and 33.2025 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following.”

*Criterion met.*

6. **A Pole Barn is an Allowed Use**

**MCC 33.2015      Uses**

**No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.2020 through 33.2035 when found to comply with MCC 33.2045 through 33.2110.**

\* \* \*

**MCC 33.2020      Allowed Uses**

**(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 pole barn that is proposed is to store items and materials for the residential use and some items for maintaining the property and timber on the subject site and adjacent property in common ownership.

The converted dwelling is to be used as storage and home office space for the replacement dwelling, both of which are common accessory uses.

*Criterion met.*

7. **The CFU-1 Dimensional Requirements Are Met**

**MCC 33.2060      Dimensional Requirements**

**A. (A) Except as provided in MCC 33.2065, 33.2070, 33.2075, and 33.2080, the minimum lot size for new parcels or lots shall be 80 acres.**

**Staff:** No new lots are being created as part of this application.

*Criterion met.*

**C. (C) Minimum Forest Practices Setback Dimensions From Tract Boundary – 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**

**Minimum Front Lot Line Length - 50 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 33.2110, as applicable, but in no case shall they be reduced below the minimum primary fire safety zone required by MCC 33.2105 (A)(5)(c)2.**

**Staff:** As shown on the submitted site plan (Exhibit 3), both structures meet the dimensional requirements and are over 130-feet from all property lines.

*Criteria met.*

**D. (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.**

**Staff:** The location of the new dwelling meets all forest practices setbacks as seen on the submitted site plan. The right-of-way is less than 50-feet but any dedication required will not affect the setbacks of the new structures.

*Criterion met.*

**E. (E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.**

**Staff:** No proposed structure will exceed the 35-foot height requirement.

*Criterion met.*

**8. The Subject Property is a Lot of Record**

**MCC 33.0005(L)(13) – Lot of Record**

**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.**

**MCC 33.2075      Lot of Record**

**(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:**

**(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.**

**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**

**Staff:** The subject property was created through a County approved Property Line Adjustment (case #T2-02-066) in 2002 that was finalized in 2004. The County reviewed the property and found the lot was in compliance with the zoning code and land division code when it was created. The 46.78 acre subject lot is adjacent to a 19.96-acre property in the same ownership. Because both properties are over 19-acres in size, the subject property is not aggregated to it and therefore is its own Lot of Record.

*The subject property is a Lot of Record*

8. **The Proposed Dwelling Does Not Need to Satisfy the CFU-1 Development Standards**

A. **MCC 33.2105 Development Standards for Dwellings and Structures**

**Except as provided for the alteration, replacement or restoration of dwellings under MCC 33.2020 (D), 33.2020 (E) and 33.2025 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:**

**Staff:** The dwelling qualifies as an allowed use under MCC 33.2020(E) and is therefore exempt from the CFU-1 development standards. The new accessory pole barn does need to be reviewed for compliance of the development standards below:

*Criterion met.*

B. **(A) The dwelling or structure shall be located such that:**

1. **(1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of 33.2060 (C) through (G);**

**Staff:** The pole barn is proposed to be located on an existing cleared area that is flat and within close proximity to the established residential area of the dwelling. The proposed location is an existing parking area and will not take out any forested area out of production of a forest practice. The area is also adjacent to an established driveway. The structure would be located over 130-feet from every property line.

*Criterion met.*

2. **(2) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**

**Staff:** The impact to the forest is minimized by locating the new structure in an area already used for residential purposes. No additional forest land will be removed from production.

*Criterion met.*

3. **(3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;**

**Staff:** No forest land will be taken out of production for the pole barn or access road. The access road is existing and the pole barn is proposed to be in a cleared area used for parking.

*Criterion met.*

4. **(4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and**

**Staff:** No new roads or accessways are being proposed.

*Criterion met.*

5. **(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:**

- a. **(a) The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;**

**Staff:** The proposed dwelling is exempted from these standards as found in Finding #8(A). Regardless, the Scappoose Fire District has signed the Fire District Review form indicating they provide fire protection services.

*Criterion met.*

- b. **(b) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC 33.2105 (D) with permanent signs posted along the access route to indicate the location of the emergency water source;**

**Staff:** There are no perennial water sources on site. The Scappoose Fire Department has indicated that the existing access road is adequate and that the owner will need to spray for weeds and a turn around area will need to be located at the end of the driveway (Exhibit 4). A re-inspection will be required by the fire department will be required.

*Criterion met.*

- c. **(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.**

**1. A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.**

**2. On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:**

| <b>Percent Slope</b> | <b>Distance In Feet</b> |
|----------------------|-------------------------|
| <b>Less than 10</b>  | <b>Not required</b>     |
| <b>Less than 20</b>  | <b>50</b>               |
| <b>Less than 25</b>  | <b>75</b>               |
| <b>Less than 40</b>  | <b>100</b>              |

**3. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 33.2060 (F) and 33.2110.**

**4. No requirement in 1., 2., or 3. above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and**

**5. Maintenance of a primary and a secondary fire safety zone is required only on land surrounding the dwelling that is owned or controlled by the home owner.**

**Staff:** The applicant has enough area on the property to fit both the primary and secondary fire safety zones around the pole barn. A condition of approval will require the fire safety zones to be maintained.

*Criterion met.*

- d. **(d) The building site must have a slope less than 40 percent.**

**Staff:** The building site for the pole barn is an existing parking area that is virtually flat.

*Criterion met.*

C. **(B) The dwelling or structure shall:**

- (1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;**
- (2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;**
- (3) Have a fire retardant roof; and**
- (4) Have a spark arrester on each chimney.**

**Staff:** The new pole barn shall have a fire retardant roof. No fire places are proposed for the pole barn.

*Criteria met.*

D. **(C) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 11 stream as defined in the Forest Practices Rules.**

**(1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.**

**(2) Evidence of a domestic water supply means:**

**(a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or**

**(b) A water use permit issued by the Water Resources Department for the use described in the application; or**

**(c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.**

**Staff:** There are only two well driller's reports for 3N 2W section 27 and only two dwellings in the whole section. The well driller reports are for the Vedanta Society of

Portland, who owns the other home in the section, and a well driller report for an unspecified tax lot in the section, which is reasonable to conclude is the Mocks dwelling since there are no other dwellings or structures in the section other than the Mock's and the Vedanta's.

*Criterion met.*

- E. **(D) A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:**

**Staff:** No new private road or accessway is proposed. The driveway to the dwelling already exists and meets the required standards. The Scappoose Fire District has indicated a turn around will need to be improved at the end of the driveway.

*Criterion met.*

9. **The Proposal Meets the SEC-h Approval Criteria**

**MCC 33.4570          Criteria for Approval of SEC-h Permit -Wildlife Habitat**

- A. **(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:**

**(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.**

**(2) Location of existing and proposed structures;**

**(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;**

**(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.**

**Staff:** The applicant provided the required information to make a decision on the proposal.

*Criterion met.*

**B. (B) Development standards:**

1. **(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:** All work in the area for the proposed home and pole building are on cleared areas. The pole building is replacing an old barn that came down in previous years. The pole building will be used as an agricultural building for maintaining and storage of timber related equipment, supplies and products.

**Staff:** As seen on the County's air photo, the location of the proposed dwelling is an existing cleared area. The proposed pole building will be located on an existing parking area that is already cleared.

*Criterion met.*

2. **(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 driveway is an existing driveway 12 feet in width that has been maintained for the last 50 years, and therefore makes the most sense to cluster the buildings at the end of the existing driveway which is 1000 feet in length.

**Staff:** The development area is over 200-feet from a public road in an existing developed area. Development can occur beyond the 200-foot limitation if a Wildlife Conservation Plan is implemented under MCC 33.4570(C). See below.

*Criterion met through implementation of a Wildlife Conservation Plan.*

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

**Applicant:** This matter is addressed in #2, with an existing driveway for over 50 years.

**Staff:** The driveway is existing and is not going to be modified.

*Criterion met.*

4. **(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:** Once again, this matter is addressed in #2 because of the existing driveway, and clustering the buildings at the end of the existing driveway.

**Staff:** The driveway and service corridor is existing. No new driveway is proposed.

*Criterion met.*

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:** There are no structures nearby to the proposed site.

**Staff:** All adjacent properties are vacant and do not have structures within 200-feet of the property lines.

*Criterion met.*

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.

**Applicant:** There are no fences at this time

**Staff:** No fences are proposed as part of this application.

*Criterion met.*

7. (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:

| Scientific Name                          | Common Name                     |
|--|---------------------------------|
| <i>Chelidonium majus</i>                 | Lesser celandine                |
| <i>Cirsium arvense</i>                   | Canada Thistle                  |
| <i>Cirsium vulgare</i>                   | Common Thistle                  |
| <i>Clematis ligusticifolia</i>           | Western Clematis                |
| <i>Clematis vitalba</i>                  | Traveler's Joy                  |
| <i>Conium maculatum</i>                  | Poison hemlock                  |
| <i>Convolvulus arvensis</i>              | Field Morning-glory             |
| <i>Convolvulus nyctagineus</i>           | Night-blooming Morning-glory    |
| <i>Convolvulus sepium</i>                | Lady's nightcap                 |
| <i>Cortaderia selloana</i>               | Pampas grass                    |
| <i>Crataegus sp. except C. douglasii</i> | hawthorn, except native species |
| <i>Cytisus scoparius</i>                 | Scotch broom                    |
| <i>Daucus carota</i>                     | Queen Ann's Lace                |
| <i>Elodea densa</i>                      | South American Water-weed       |
| <i>Equisetum arvense</i>                 | Common Horsetail                |
| <i>Equisetum telemateia</i>              | Giant Horsetail                 |

| Scientific Name               | Common Name               |
|-------------------------------|---------------------------|
| <i>Erodium cicutarium</i>     | Crane's Bill              |
| <i>Geranium roberianum</i>    | Robert Geranium           |
| <i>Hedera helix</i>           | English Ivy               |
| <i>Hypericum perforatum</i>   | St. John's Wort           |
| <i>Ilex aquafolium</i>        | English Holly             |
| <i>Laburnum watereri</i>      | Golden Chain Tree         |
| <i>Lemna minor</i>            | Duckweed, Water Lentil    |
| <i>Loentodon autumnalis</i>   | Fall Dandelion            |
| <i>Lythrum salicaria</i>      | Purple Loosestrife        |
| <i>Myriophyllum spicatum</i>  | Eurasian Watermilfoil     |
| <i>Phalaris arundinacea</i>   | Reed Canary grass         |
| <i>Poa annua</i>              | Annual Bluegrass          |
| <i>Polygonum coccineum</i>    | Swamp Smartweed           |
| <i>Polygonum convolvulus</i>  | Climbing Binaweed         |
| <i>Polygonum sachalinense</i> | Giant Knotweed            |
| <i>Prunus laurocerasus</i>    | English, Portugese Laurel |
| <i>Rhus diversiloba</i>       | Poison Oak                |

| Scientific Name             | Common Name          |
|-----------------------------|----------------------|
| <i>Rubus discolor</i>       | Himalayan Blackberry |
| <i>Rubus laciniatus</i>     | Evergreen Blackberry |
| <i>Senecio jacobaea</i>     | Tansy Ragwort        |
| <i>Solanum dulcamara</i>    | Blue Bindweed        |
| <i>Solanum nigrum</i>       | Garden Nightshade    |
| <i>Solanum sarrachoides</i> | Hairy Nightshade     |
| <i>Taraxacum officinale</i> | Common Dandelion     |

| Scientific Name             | Common Name             |
|-----------------------------|-------------------------|
| <i>Utricularia vulgaris</i> | Common Bladderwort      |
| <i>Urtica dioica</i>        | Stinging Nettle         |
| <i>Vinca major</i>          | Periwinkle (large leaf) |
| <i>Vinca minor</i>          | Periwinkle (small leaf) |
| <i>Xanthium spinosum</i>    | Spiny Cocklebur         |
| <i>various genera</i>       | Bamboo sp.              |

**Applicant:** None of the nuisance plants will be planted, and any of these types of plants will be sprayed if they sprout.

**Staff:** A condition of approval will require continual removal of the listed nuisance plants

*Criterion met.*

**C. (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).**

**Staff:** The applicant could meet the SEC-h development standards but locating the replacement dwelling in an already established cleared area used for residential purposes will preserve more forest land for harvesting, result in less grading and clearing and since the home will be in an existing residential area, have a less detrimental impact on habitat. Locating the pole barn in the cleared parking area near the home and other residential uses will also have a less detrimental impact on forested wildlife habitat than locating it near the road, which would require removal of tree canopy and habitat.

**1. (3) The wildlife conservation plan must demonstrate the following:**

- a. **(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.**

**Applicant:** There will be no impact to forested areas, as these have been open areas for at least 50 years.

**Staff:** No clearing of trees will occur and thus result in a no-net-loss of habitat forest area.

*Criterion met.*



- b. **(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.**

**Applicant:** There are no newly cleared areas involved with this site plan

**Staff:** There are no new cleared areas proposed. All new construction is proposed in already cleared areas.

*Criterion met.*

- c. **(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.**

**Applicant:** There is no fencing existing or to be built

**Staff:** No fencing is proposed for the property at this time.

*Criterion met.*

- d. **(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.**

**Applicant:** Any natural vegetation that is damaged will be replaced or repaired to the existing codes.

**Staff:** The area of the proposed structures is already cleared of major vegetation and trees.

*Criterion met.*

- e. **(e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.**

**Applicant:** There are no stream areas on proposed site

**Staff:** There are no streams on the subject property to enhance.

*Criterion met*

**Conclusion:**

**Staff:** Based on the findings and other information provided above, this application for a Significant Environmental Concern Permit satisfies, with appropriate conditions, the applicable Multnomah County Zoning Code requirements.

**Exhibits**

1. Multnomah County Assessment and Taxation Ownership Records
2. General Application Form
3. Site Plan
4. Fire District Review Form