



**MULTNOMAH  
COUNTY**

**MULTNOMAH COUNTY  
LAND USE & TRANSPORTATION PROGRAM**

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

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

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

---

## NOTICE OF DECISION

---

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

**Case File:** T2-04-074

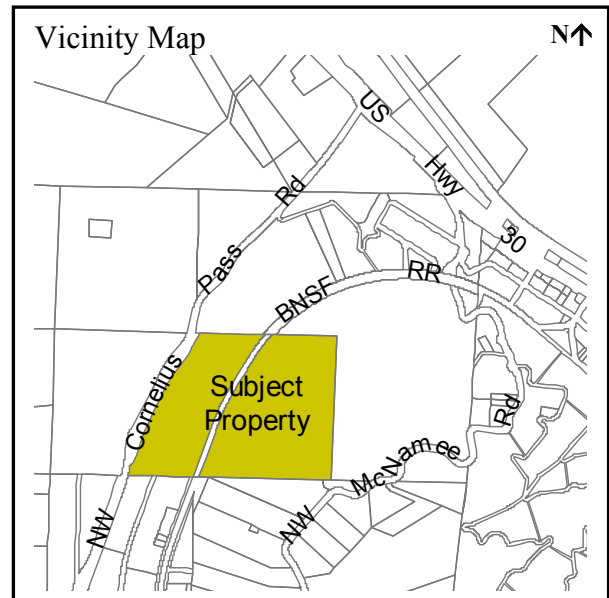
**Permit:** Significant Environmental Concern for  
Scenic Views and Wildlife Habitat

**Location:** 16423 NW McNamee Road  
2N 2W Section 19 Tax Lot 600  
Alternative Acct. #R97119-0200

**Zoning:** Commercial Forest Use - 1 (CFU-1);  
Significant Environmental Concern for  
scenic views (SEC-v), wildlife habitat  
(SEC-h), and streams (SEC-s); Hillside  
Development

**Applicant:** Donis McArdle  
9005 NW Cornell Road  
Portland, OR 97229

**Owner:** Northwest Land Services, LLC  
PO Box 294  
Vernonia, OR 97064



---

**Summary:** Applicant is proposing to construct a detached 3-car garage in a Commercial Forest Use - 1 (CFU-1) zoning district. A Significant Environmental Concern (SEC) Permit for Scenic Views (SEC-v) and Wildlife Habitat (SEC-h) is required.

**Decision:** Approved with conditions.

Unless appealed, this decision is effective Monday, January 17, 2005, at 4:30 PM.

---

Issued by:

By: \_\_\_\_\_  
Beverly Bruesch, Planner

For: Karen Schilling, Planning Director

Date: Monday, January 3, 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 Beverly Bruesch, 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, January 17, 2005 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Chapter 37 - Administration & Procedures; Chapter 33 - West Hills Rural Plan Area: MCC 33.0005, Definitions; MCC 33.2020-33.2110, Commercial Forest Use - 1; MCC 33.4520-33.4570, Significant Environmental Concern; Comprehensive Plan Policies: Policy 14 - Development Limitations, Policy 37 - Utilities, and Policy 38 - Facilities.

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

### **Scope of Approval**

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690.**

### **Conditions of Approval**

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

1. Within 30 days of this decision becoming final and prior to Zoning Review sign-off of the Building Permit, the applicant shall record the Notice of Decision (pages 1-3 of this decision and the Site Plan) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division. Recording shall be at the applicant's expense. Failure to sign and record the Notice of Decision within the above 30-day time period shall void the decision. [MCC 37.0670].
2. The Site Plan provided at the time of Zoning Review for the Building Permit must show the location of the primary and secondary fire zones around the proposed garage. The primary fire zone west of the proposed structure must be extended to 80 feet in accordance with MCC 33.2105(A)(5)(c)2, or a slope analysis must be provided that demonstrates that the slopes are less than ten percent and no extension of the primary fire safety zone beyond 30 feet is required.
3. The vegetation at the southeastern corner of the dwelling shall be retained to provide a visual screen for the garage, to the extent that it does not conflict with the fire safety zone requirements under MCC 33.2105(A)(5)(c).
4. Prior to issuance of the Zoning Review sign-off for the Building Permit, a Minimal Impact Project review or Grading and Erosion Control Permit must be obtained from Multnomah County Planning in accordance with MCC 29.330 through 29.348.
5. Prior to issuance of the Zoning Review sign-off for a Building Permit, an Oregon licensed professional engineer must sign and stamp a Stormwater Certificate stating that the rate of stormwater runoff attributed to the development (during the 10-year/24-hour storm) will be no greater than that which existed prior to development as measured from the property line or from the point of discharge into a watercourse, in accordance with MCC 29.333(C) or MCC 29.353(C).

**Building Permit Note:** Once this decision is final and all applicable conditions have been met, application for a Building Permit may be made with the City of Portland. When ready to have the Zoning Review conducted for the Building Permit, the applicant shall call the Staff Planner, Beverly Bruesch, at (503) 988-3043, for an appointment to review and approve the conditions and sign off on the Site Plan and building plans. Please note, Multnomah County must conduct the Zoning Review sign-off of the Site Plan and building plans before the applicant submits them to the City of Portland. Six (6) sets each of the Site Plan and building plans are needed for the Zoning Review sign-off for the Building Permit.

**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 of Fact**

Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicant's statements are identified below as "**Applicant.**" Staff comments and analysis are identified as "**Staff**" and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### **Description of Project**

**Staff:** The subject property is zoned Commercial Forest Use - 1(CFU-1) with overlay zones for Significant Environmental Concern (SEC) for scenic views (SEC-v), wildlife habitat (SEC-h), and streams (SEC-s). The property is also designated in the Slope Hazard (Hillside Development) overlay zone. The proposed garage would be within the SEC-v and SEC-h overlay zones; it would not be located within the SEC-s or Slope Hazard overlay zones.

The only structure currently on the property is a single-family residence completed in 1996. The zoning approval for the Building Permit for the dwelling was issued in 1992.

The applicant is proposing to construct a 3-car detached garage for the purpose of parking vehicles, and storing landscaping equipment and other items. It would include 1,092 square feet on the main floor and 576 feet in an attic loft. As stated by the applicant and shown on the Site Plan (Exhibit C), it would be placed approximately 25 feet south of the southwest corner of the existing dwelling, and its dimensions would be 31 feet deep, 36 feet wide, and 22 feet high. Exhibit G shows the elevations and floor plans for the proposed structure. According to the applicant, the exterior would be HardiPlank siding, painted the same color as the house--a dark gray with light gray accents and white trim, and the roof would be made of dark gray ARCH 80 composition shingle (Exhibits O and O-1).

### **1.00 Administration & Procedures**

#### **1.01 Type II Case Procedures**

**MCC 37.0530(B) 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.**

**Staff:** The application was submitted August 20, 2004, and was deemed complete as of November 3, 2004. An "Opportunity to Comment" notice was mailed on November 3, 2004 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. No comments were received.

#### **1.02 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.**

## **MCC 37.0550, continued**

**Staff:** The proposed project is located on Range 1 West, Township 2 North, Section 19, Tax Lot 600. Multnomah County Assessment and Taxation records show that the land is owned by Northwest Land Services, LLC (Exhibit 5). The application for the subject permit was signed by a representative of Northwest Land Services (Exhibit U). *This criterion is met.*

### **1.03 MCC 37.0560 Code Compliance and Applications.**

**Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.**

**MCC 37.0560(A) A permit or other approval, including building permit applications, may be authorized if:**

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

**Staff:** The existing single-family residence received zoning approval of the Building Permit from Multnomah County on September 23, 1992. Staff is not aware of any violations on the subject property. *This criterion is met.*

## **2.00 West Hills Rural Plan Area, General Provisions**

### **2.01 MCC 33.0005 Definitions**

**As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.**

**MCC 33.0005(A)(1) Accessory Building – A subordinate building, the use of which is clearly incidental to that of the main building on the same lot.**

**Staff:** The proposed garage would be a subordinate building to the existing single-family residence. According to the applicant's narrative in Section 3.01 below, it would be used for parking cars, lawn maintenance equipment, and other storage uses. The attic space would only be used for storage. *This criterion is met.*

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

**(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.**

**(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:**

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

**Applicant:** Attached, please find Bargain and Sale Deed for the subject property from William E. Hanson, Personal Representative of the Estate of Carl O. Johnson to Robert E. Bedrossian dated October 9, 1970 and recorded in Book 1164, Page 1933, marked Exhibit A and the current dated September 24, 2003 and recorded September 26, 2003 under Document 2003-230770, marked Exhibit A-1. Multnomah County obviously determined the property to be a lawfully created parcel as Multnomah County approved said parcel for a conditional use permit for constructing a single family residence on September 23, 1992. See Exhibit B.

**Staff:** Both the deed of creation recorded in 1947 (Exhibit 1) and the 1970 deed supplied by the applicant (Exhibit A), describe the property as it is described in the current deed recorded on September 24, 2004 (Exhibit A-1). Since the property was created by a deed that was dated and signed by the parties to the transaction and was recorded with the County Records office prior to October 19, 1978, it meets the definition of a Lot of Record pursuant to MCC 33.0005(L)(13)(b)(2). *This criterion is met.*

### **3.00 Commercial Forest Use - 1**

#### **3.01 MCC 33.2020 Allowed Uses**

**MCC 33.2020(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.**

**Applicant:** Applicant wishes to construct a 3-car detached garage approximately 25 feet west of the southwest corner of the existing dwelling. Said structure would be approximately 31'X 36'X 22' thus providing parking for 3 vehicles plus landscaping tools such as riding lawn mower, rakes, etc., and storage in attic portion of said proposed building. The site drawing marked Exhibit C and photos on Exhibit C-3 show the location of the proposed structure.

**Staff:** The proposed 3-car garage is accessory to the single-family residence on the property. *This criterion is met.*

#### **3.02 MCC 33.2060 Dimensional Requirements**

**MCC 33.2060(A) Except as provided in MCC 33.2065, 33.2070, 33.2075, and 33.2080, the minimum lot size for new parcels shall be 80 acres.**

**Staff:** The subject property is a Lot of Record in accordance with MCC 33.2075. The size of the subject property will not be altered by the proposed project. *This is criterion is met.*

#### **3.03 MCC 33.2060(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.**

**Staff:** This criterion is not applicable. The subject property is not contiguous to a public street.

#### **3.04 MCC 33.2060(C) Minimum Yard Dimensions - 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.**

## **MCC 33.2060(C), continued**

**Applicant:** The subject parcel is an existing parcel created prior to 1978. It was approved for a conditional use permit for constructing a single family residence in September 23, 1992 (see Exhibit B). The existing driveway servicing that dwelling is 675 feet from the Southeast corner of subject property. There will be no additional driveway needed. The structure will be erected approximately 25 feet southwest of the southwest corner of the existing dwelling. The proposed structure will be approximately 210 feet from east property line, 618 feet from south property line, 1368 feet from the west property line and 637 feet from the north property line. See site drawing marked Exhibit C and Exhibit C-1. The structure will be 22 feet high. Thus applicant believes all criteria have been met.

**Staff:** As shown on the Site Plan (Exhibit C) and garage elevations and drawings (Exhibit G), the proposed garage would be located over 130 feet from the property lines and would be less than 35 feet in height. Thus, the proposed garage will meet the CFU-1 yard setback and height requirements. *This criterion is met.*

- 3.05      MCC 33.2060(D) The minimum forest practices setback requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.**

**Applicant:** Not applicable. As can be seen from the aerial photo marked Exhibit C-1, copy of plat map marked Exhibit C-2, and applicants' photos of existing dwelling and proposed site, Exhibit C-3, the yard does not abut McNamee Road.

**Staff:** This criterion is not applicable because the subject property does not abut a street.

- 3.06      MCC 33.2060(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

**Applicant:** Not applicable, proposed garage structure will be only 22 feet in height.

**Staff:** As shown in Exhibit G, the proposed garage would be 22 in height. *This criterion is met.*

- 3.07      MCC 33.2075 Lot of Record**

**MCC 33.2075(A) In addition to the *Lot of Record* definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:**

**(1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or**

**(2) A group of *contiguous* parcels or lots:**

\* \* \*



### **MCC 33.2075(A), continued**

**Staff:** Both the deed of creation recorded in 1947 (Exhibit 1) and the 1970 deed supplied by the applicant (Exhibit A), describe the property as it is described in the current deed recorded in September 24, 2004 (Exhibit A-1). Since the property was created by a deed that was dated and signed by the parties to the transaction and was recorded with the County Records office prior to October 19, 1978, it meets the definition of a Lot of Record pursuant to MCC 33.0005(L)(13)(b)(2). Based on historical property records for February 20, 1990, the subject property was not contiguous to a property under the same ownership on that date. *This criterion is met.*

### **3.08 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:**

**MCC 33.2105(A) The dwelling or structure shall be located such that:**

**(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:** Based on the County's zoning maps, GIS system, and Assessment and Taxation records, it is known that properties adjoining the subject property to the north, west, east, and southwest are zoned for Commercial Forest Use, and to south and southeast they are zoned Rural Residential. The two CFU properties immediately to the north and east of the site are owned by Metro, and the CFU property immediately adjoining the site to the west is owned by Multnomah County and includes NW Cornelius Pass Road. Across the road to the west and northwest, the properties are privately owned and in Forest Deferral. CFU-zoned properties southwest of the site are not in Forest Deferral. Rural Residential-zoned properties south of the site are developed with single-family dwellings. The proposed garage is to be constructed in the cleared building site area which is on the eastern side of the property approximately 210 feet from the nearest property boundary. Because the proposed garage will be in a cleared area, on the side of the property that is furthest from adjoining properties with potential active forest practices, and it will be at least 210 feet from the nearest adjoining CFU-zoned property, the proposed location will have the least impact on nearby and adjoining forest lands (Exhibit C).

As described above in the response to MCC 33.2060(C)-(E), the proposed garage will be located over 130 feet from the property lines and will be less than 35 feet in height. Thus, the proposed garage will meet the CFU-1 dimensional criteria. *This criterion is met.*

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

**Applicant:** There will be no adverse impacts on forest operations and accepted farming practices on the tract. The proposed garage is at the driveway 25 feet southwest from the house and is to be constructed within the original one acre building site approved for the dwelling. There will be no trees removed or encroached upon. Criteria met.

**MCC 33.2105(A)(2), continued**

**Staff:** Staff agrees with the applicant's assessment. Further, the proposed garage is to be constructed in the cleared building site area on the property. To provide the primary and secondary fire breaks, a relatively small area of brush and deciduous trees to the west of the proposed garage will need to be cleared or thinned. It will not adversely affect forest operations or farming practices on the 45-acre property. *This criterion is met.*

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

**Applicant:** There is no forest land being used to site the garage. Garage is being sited in the original one-acre building site for the home. A portion of the existing yard will be used. There will be no requirement for additional driveway access. The proposed garage will abut the existing paved drive. See Exhibit C-3.

**Staff:** The proposed garage site will be relatively close (approximately 25 feet) to the existing dwelling, within an existing cleared area. Thus, no forest land will be used to construct the structure. *This criterion is met.*

**3.11 (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**

**Applicant:** The existing driveway was approved when the house was constructed. There will be no additional driveway necessary. Applicant is simply using what already exists.

**Staff:** The length of the existing access road will not be altered by the proposal. *This criterion is met.*

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

**(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;**

**Applicant:** The proposed building is located within the Tualatin Valley Fire District. Attached is form appropriately executed by the said District Official marked Exhibit D.

**Staff:** The proposed structure, which is accessory to the existing dwelling, is to be located in a fire protection district – the Tualatin Valley Fire District (see Exhibit D). *This criterion is met.*

**3.13 (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;**

**MCC 33.2105(A)(b), continued**

**Applicant:** The only perennial water source on the property is McCarty (Trout) Creek which is the West boundary line of subject property (see plat map marked Exhibit C-2 and Environmental Overlay Map marked Exhibit I) and is approximately 1368 feet from existing dwelling and the proposed garage structure. The property is served by a private well. Said well is located at the driveway.

**Staff:** The Tualatin Valley Water District has confirmed that an additional fire-fighting water supply is not required for the new garage as it is detached from the existing dwelling and is less than 3,600 square feet in size (Exhibit D). *This criterion is met.*

**3.14**

**(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:**

Percent Slope	Distance In Feet
Less than 10	Not required
Less than 20	50
Less than 25	75
Less than 40	100

**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**

**MCC 33.2105(A)(c), continued**

**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.**

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

**Applicant:** The primary fire zone is easily met around the proposed garage. The secondary fire zone for the dwelling and garage will be maintained. There are no trees planted within 30 feet of house or the proposed garage. There will be no additional landscaping done. The existing blackberry bushes and brush will be kept trimmed.

As you can see from the site drawing and photos of the dwelling and the proposed garage site, the garage is to be built in an area of less than 10 percent slope.

**Staff:** As shown in photographs of the proposed building site (Exhibit 2), brush and trees to the west of the proposed garage site will need to be cleared or thinned to provide the primary and secondary fire breaks west of the proposed garage; areas to the south, east, and west are clear of trees and bushes. Based on the submitted Site Plan (Exhibit C), site photographs (Exhibit 2), and the site visit, it was determined that the slopes at the western side of the building site are between 10 and 20 percent slope. Thus, as a condition of approval, the primary fire zone west of the proposed structure will need to be extended to 80 feet in accordance with MCC 33.2105(A)(5)(c)2, or a slope analysis must be provided that demonstrates that the slopes are less than ten percent and no extension of the primary fire safety zone beyond 30 feet is required. *This criterion is met, as conditioned.*

**3.15 MCC 33.2105(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.**

**Applicant:** Roof will be ARCH 80, composition shingles. See sample provided. These shingles are rated as fire retardant by the Uniform Building Code.

**Staff:** Based on the submitted roof material sample, the proposed structure is to have a fire retardant roof. *This criterion is met.*

**3.16 MCC 33.2105(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**

**MCC 33.2105(C), continued**

**(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.**

**Applicant:** Property is served by a private well. Attached is properly executed Water Certificate Form marked Exhibit E and copy of well report marked Exhibit F.

**Staff:** As shown in Exhibits E and F, the property is served by a private well which has a yield of 11 gallons per minute. The Tualatin Valley Fire District has indicated that an additional fire-fighting water supply is not required because the detached garage structure is less than 3,600 square feet in size (Exhibit D). *This criterion is met.*

**4.00    *Significant Environmental Concern Criteria***

**4.01    MCC 33.4520 Application for SEC Permit**

**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 33.4560 through 33.4575.**

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

**(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 33.4560 through 33.4575.**

## **MCC 33.4520(A), continued**

### **(2) A map of the property showing:**

- (a) Boundaries, dimensions, and size of the subject parcel;**
- (b) Location and size of existing and proposed structures;**
- (c) Contour lines and topographic features such as ravines or ridges;**
- (d) Proposed fill, grading, site contouring or other landform changes;**
- (e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;**
- (f) Location and width of existing and proposed roads, driveways, and service corridors.**

**Applicant:** Applicant is applying for permit to construct a 3-car detached garage. Exhibit G shows preliminary drawings of said structure, including measurements. Said structure is to be built approximately 25 feet southwest of the southwest corner to the existing dwelling. The elevation at ground level of the proposed garage is 471 feet at the north end of structure. The elevation at the roof top will be 494 feet. As you can see from Exhibit H, the roof top elevation of the existing house is 506 feet. The southeast corner to the property has an elevation of 540 feet. Therefore, as you can see, the proposed garage will be constructed in an area of grass. There will be no significant vegetation removed from the construction area. See Exhibit C-3 for picture of site. There will be no fill required.

As you can see from Multnomah County Aerial Map showing environmental concern zones (Exhibit I), there are no wetlands or streams within 500 feet of the building site, therefore, 33.4560 and 33.4575 do not apply and will not be addressed.

**Staff:** The submitted Site Plan, Tax Map, and aerial photograph (Exhibits C, C-1, and C-2) show the boundaries and dimensions of the subject property, the location and size of existing and proposed buildings, existing contours, the location and length of the existing driveway, and the location of forested areas. The area of potential vegetation to be removed or pruned to meet the primary fire safety zone requirement is estimated to extend approximately 80 feet from the western side of the proposed garage. *The application contains the required information.*

## **4.02 MCC 33.4565 Criteria for Approval of SEC-V - Significant Scenic Views**

### **MCC 33.4565(A) Definitions:**

- (1) *Significant scenic resources* consist of those areas designated SEC-v on Multnomah County sectional zoning maps.**

**MCC 33.4565(A), continued**

**(2) *Identified Viewing Areas* are public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. Identified Viewing Areas are:**

**Bybee-Howell House  
Virginia Lakes  
Sauvie Island Wildlife Refuge  
Kelley Point Park  
Smith and Bybee Lakes  
Highway 30  
The Multnomah Channel  
The Willamette River  
Public roads on Sauvie Island**

**(3) *Visually subordinate* means development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings.**

**MCC 33.4565(B) In addition to the information required by MCC 33.4520, an application for development in an area designated SEC-v shall include:**

- (1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;**
- (2) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;**
- (3) A list of identified viewing areas from which the proposed use would be visible; and,**
- (4) A written description and drawings demonstrating how the proposed development will be visually subordinate as required by (C) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.**

**Applicant:** Narrative submitted August 20, 2004. While the drawings of the existing house and proposed garage in Exhibit H are primitive, they show the existing dwelling (height and width) and the proposed 3-car detached garage. It also shows the elevation at roof tops of the existing dwelling and the proposed garage. Since the viewing areas are to the North and Northwest, you can see that the proposed garage will be hidden from most of the viewing areas by the existing dwelling. It will not be visible from Bybee-Howell House, Virginia Lakes, Kelly Point Park, Smith Lake or Bybee Lake, the Willamette River, the Multnomah Channel or the public roads on Sauvie Island. It is possible to see the existing dwelling and probably a small portion of the northwest end of the proposed garage building from the Sauvie Island Wildlife Refuge at Sturgeon Lake and a very short stretch of Highway 30. However,

### **MCC 33.4565(B), continued**

since the garage building will be adjacent to the house, painted the same gray which blends in nicely with the landscape, and will be approximately 8 feet shorter than the existing dwelling (actually 17 feet shorter than the highest point of the turret), it will be visually subordinate to the existing dwelling which is visually subordinate to the landscape. As noted on Exhibit H, the roof top of the proposed garage will be at an elevation of 494 feet, the roof top of the turret on the existing dwelling is at 506 ft elevation and the elevation at the southeast corner of the property line is at 540 feet elevation. The existing dwelling and the proposed garage will be visually subordinate to the landscape, the ridge line and the tree canopy from all view points.

Exhibit J is a map showing the viewing points and the line of sight to the subject property.

The pictures shown on Exhibit K are from Virginia Lake and show that the subject property is not visible from there.

Pictures on Exhibit L are from Oak Island Road and, again, the subject property is not visible.

Pictures on Exhibit M are from the Sauvie Island Wildlife Refuge. The subject property is circled in yellow. Exhibit M-1 is a blow-up of that same shot. As you can see, the house is visually subordinate, is under the ridge line and under the tree canopy, and so will be the proposed garage.

The house is most visible from four different stretches of Highway 30 at and around the intersection of Highway 30 and Cornelius Pass Road and that is only for a total of approximately 141 feet. The first is just prior to the intersection for approximately 57 feet as shown in Exhibit N, Picture 1. Picture 1A is the same location taken with telephoto lens. The second is approximately 9 feet as you enter the intersection as shown in Picture 2 and 2A. Third is a section approximately 51 feet in length at and just west of the intersection as shown in Pictures 3 and 3A. The fourth and final section is 24 feet in length and west of the intersection as shown in Pictures 4 and 4A. As you can see, the house sits out on a bluff and is visible for approximately 141 feet along Highway 30 at intermittent intervals. The trees in the foreground hide the house for most of the intersection and will hide the proposed garage except for the same four intervals totaling approximate 141 feet.

The hills and trees hide the property from view from Multnomah Channel and the Willamette River.

Narrative submitted 10/14/04. As you can see from the pictures of the Sauvie Island Wildlife Refuge and the Sauvie Island Roads, you can clearly see that the tree line and the shrubbery surrounding the house and the proposed garage site make the house and garage subordinate. The house is nestled into the hillside, painted a dark gray and you need a telephoto lens and then blow up that picture before can even vaguely figure out the house. That is subordinate. [Text omitted.] The color of the house and the proposed garage is a dark gray that blends into the landscape. That also makes it SUBORDINATE. We took an extension ladder and leaning it against a 10 ft. step-ladder and placed a piece of cardboard at the 22 ft. level. This cardboard was placed there so that, if at all possible, it would be make it more visible from Highway. However, as you can see from the photos attached to this letter [Exhibit P and Q],



## **MCC 33.4565(B), continued**

the height, location, of the garage is NOT visible from Highway 30. I had thought that the very top of the garage might be visible but it will not as is proven by the attached photos.

**Staff:** Based on the applicant's visual analysis narrative (see above response) and supporting documents, including photographs, contour maps, elevations of the proposed structure, paint samples, and exterior lighting information (Exhibits J to O-1), as well as a site visit by County Planning staff, it is confirmed that the proposed garage will be visible from Identified

Viewing Areas (approximately 150 feet of US Highway 30 near the Cornelius Pass Road intersection and various locations on Sauvie Island). With the existing dwelling and vegetation in place, it will not be visible from the portions of Sauvie Island east and northeast of the property. However, if the existing dwelling were gone, it would be visible when viewed from parts of Sauvie Island to northeast.

See discussion regarding *visual subordination* in Staff's response to MCC 33.4565(C) below.

*This criterion is met.*

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

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

**Applicant:** Siting of the garage will be to the southwest of the existing dwelling and thus will be mostly hidden from the view corridor by the existing dwelling. The proposed garage structure will only be 22 feet in height. The roof ridge of the existing dwelling (a Victorian home) is 30 feet in height and (approximately 39'1" feet to the peak of the tower roof). Painted the same color as the house and shorter than the existing dwelling, the proposed garage will look as if part of the dwelling from all of the viewing places. The existing dwelling is painted gray and the proposed garage will be painted the same gray and have a gray roof which will be visually subordinate.

**Staff:** Based on the applicant's visual analysis and supporting documents (Exhibits J to O-1), and the County staff's site visit and photographs (Exhibit 2), it is found that proposed garage will be sited on the property where topography and existing vegetation will partially screen the structure from the Identified Viewing Areas, and will be visually subordinate in the landscape.

From US Highway 30, the existing dwelling is highly visible on the ridgeline for approximately 150 feet near the NW Cornelius Pass Road intersection. The proposed garage will be a smaller structure than the existing dwelling and will be located approximately 25 feet southwest of the southwest corner of the dwelling--further from the edge of the ridge located just north of the dwelling. It will be painted the same dark gray color as the dwelling.

### **MCC 33.4565(C)(1), continued**

Because it is setback from the ridgeline, only the uppermost part of the northern side of the proposed garage structure will be visible from the US Highway 30, most likely appearing as a westerly extension of the existing dwelling. Thus, topography will provide partial screening of the proposed structure from US Highway 30.

As seen from areas on Sauvie Island north of the site, the side of the garage structure may be visible; however, it will be a relatively small, dark structure and will be set below the highest ridgeline viewed from these areas. Thus it will blend into the background of the hillside behind the structure when viewed from the more distant locations of Sauvie Island to the north.

There are a few existing deciduous and evergreen trees located at the southeastern corner of the existing dwelling that will screen the garage when viewed from Sauvie Island to the east (see Exhibit 2). As a condition of approval, this vegetation shall be retained to provide a visual screen for the garage, to the extent that it does not conflict with the fire safety zone requirements under MCC 33.2105(A)(5)(c).

*This criterion is met, as conditioned.*

#### **4.04                   (2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.**

**Applicant:** The structure will be constructed of HardiPlank and painted gray to match the house. See Exhibit O. The roof is ARCH 80 composition shingle and gray in color. See color on Exhibit O-1.

**Staff:** The dark gray color of the siding and roof will help the garage blend into the ridgeline and appear visually subordinate in the landscape as seen from Identified Viewing Areas. *This criterion is met.*

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

**Applicant:** There will be two motion-sensored lights both of which will be hooded. See example provided.

**Staff:** Exhibit R shows an example of the exterior light to be used. It will be hooded and a bronze color, thus it will not be highly visible from Identified Viewing Areas, and will contribute to the structure being visually subordinate in the landscape. *This criterion is met.*

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

## **MCC 33.4565(C)(4), continued**

**Applicant:** There will be no screening vegetation or earth berms necessary to block or disrupt views of the proposed garage. The proposed garage is visually subordinate to the existing dwelling and to the ridge line and tree line.

**Staff:** There are a few existing deciduous and evergreen trees located at the southeastern corner of the existing dwelling that will screen the garage when viewed from Sauvie Island to the east (see Exhibits 3 and 4). As a condition of approval, this vegetation shall be retained to provide a visual screen for the garage, to the extent that it does not conflict with the fire safety zone requirements under MCC 33.2105(A)(5)(c). No additional screening vegetation will be required. *This criterion is met.*

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

**Applicant:** The proposed garage structure is aligned with the existing dwelling and sited to fit the natural topography. No vegetation is to be removed and there will be a minimum amount of grading necessary. The structure needs no additional screening. See Exhibit H.

**Staff:** The proposed garage is set back from the ridgeline on a relatively flat portion of the property. No vegetation is to be removed other than that required for establishing the primary and secondary fire safety zones. *This criterion is met.*

### **4.08 (6) Limiting structure height to remain below the surrounding forest canopy level.**

**Applicant:** The existing dwelling is and the proposed structure will be below the forest canopy level.

**Staff:** As shown in Exhibit 3, the proposed garage will be located on a ridge in an existing cleared area on the property. Much of the forest canopy north of the cleared area is down slope of the proposed building site, and thus will be below the top of the proposed structure. However, the level of most of the remaining forest canopy to the east, west, and south of the cleared area and at an equivalent elevation to the proposed garage is taller than the proposed 22-foot height of the proposed garage. Therefore, the proposed garage will be below the forest canopy when viewed from parts of Sauvie Island to the north of the site. The forested areas on the property will screen views of the proposed garage from parts of Sauvie Island to the east of the site. There are no Identified Viewing Areas west of the site. *This criterion is met.*

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

**MCC 33.4565(C)(7), continued**

**(a) New communications facilities (transmission lines, antennae, dishes, etc.), may protrude above a skyline visible from an identified viewing area upon demonstration that:**

- 1. The new facility could not be located in an existing transmission corridor or built upon an existing facility;**
- 2. The facility is necessary for public service; and**
- 3. The break in the skyline is the minimum necessary to provide the service.**

**Applicant:** The existing dwelling is and the proposed garage structure will be below the skyline of bluffs and ridges as seen from identified viewing areas.

**Staff:** Except for views from US Highway 30, the proposed garage roofline will be below the ridgeline as seen from Identified Viewing Areas. From Highway 30, the roofline of the garage will be visible next to the roofline of the existing dwelling, although it will be less dominant because it will be shorter and setback farther from the ridge than the existing dwelling. *This criterion is met.*

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

**Staff:** No additional conditions are required to make the development more visually subordinate. *This criterion is met.*

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

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

- (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**

**MCC 33.4570(A)(1), continued**

**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.**

**Applicant:** (A) There are no properties located within 200 feet of the proposed construction/development. The proposed development is 210 feet of the property line to the east, 618 feet from the south property line, 1368 feet from the west property line and 637 feet from the north property line. (1) There are no forested areas being encroached upon or cleared for this development. The construction of the proposed garage will be in the one acre building pad for the existing dwelling which was approved September 23, 1992. (2) See Exhibit H and C for location of existing dwelling and the proposed garage. (3) The existing driveway and is clearly marked on Exhibit H. Applicant's photos also show driveway and loop.

**Staff:** Exhibit C-1 shows the forested and cleared areas on the property. Exhibit C shows the location of the existing and proposed structures and driveway. However, it does not show the dimensions of the driveway, or the location of the fencing. A visit to the site confirmed that the portion of the driveway on the subject property is approximately 12 feet in width. Also, there is approximately 50 feet of security fence and gate at the southern property line. *This criterion is met.*

**4.12 MCC 33.4570(B) Development standards:**

**(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:** Development will be in the cleared area that is now the side yard adjacent to the existing house. It will still meet the minimum clearance for fire safety.

**Staff:** Other than the clearing and thinning of brush and deciduous trees west of the proposed garage to provide primary and secondary fire safety zones, no vegetation is to be cleared. *This criterion is met.*

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

**MCC 33.4570(B)(2), continued**

**Applicant:** Access already exists to the existing dwelling. Applicant will be using the existing driveway which is more than 200 feet from the public road. There will be no new access required.

**Staff:** The proposed garage will be located near the existing dwelling which is over 200 feet from the public road. *This criterion is not met.*

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

**Applicant:** The access road/driveway and service corridor already exists and exceeds 500 feet in length. They will be no additional access road or driveway needed.

**Staff:** The proposed development would not affect the length of the proposed driveway. *This criterion is met.*

**4.15 (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:** Not applicable—access road/driveway already exists and there will be no new access or driveway needed.

**Staff:** The access road/driveway is shared with the adjacent property to the south. *This criterion is met.*

**4.16 (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:** Not applicable. The proposed development will be approximately 25 feet southwest of the existing dwelling.

**Staff:** The adjacent property has developed areas within 200 feet of the property boundary. The proposed garage is to be located near the existing dwelling which is over 200 feet from the property boundary. *This criterion is not met.*

**4.17 (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.**

**MCC 33.4570(B)(6), continued**

(c) Cyclone, woven wire, and chain link fences are prohibited.

(d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.

(e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of

the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.

**FIGURE 33.4570A FENCE  
EXEMPTION AREA**



**Applicant:** There are no fences on the property except approximately 50 feet gated entrance. Applicant does not anticipate constructing any fencing on the property.

**Staff:** The proposal does not include a change to the fencing on the property. *This criterion is met.*

- 4.18**                    **(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 [for complete list see complete text of MCC 33.4570(B)(7)]:**

**Applicant:** There are no nuisance plants planted in the cleared areas and applicant will not plant any nuisance plants on the property.

**Staff:** *This criterion is met.*

**4.19                    MCC 33.4570(C) Wildlife Conservation Plan.**

**An applicant shall propose a wildlife conservation plan if one of two situations exist.**

**(1) The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or**

**(2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).**

## **MCC 33.4570(C), continued**

**Staff:** The proposed garage could be located closer to the public road and front property boundary; however, the conservation benefits of locating the garage close to the existing dwelling exceed the standards under MCC 33.4570(B)(2) and (5), and will result in the proposed garage having a less detrimental impact on forested wildlife habitat. Therefore, a wildlife conservation plan is required under MCC 33.4570(C)(2). *This criterion is met below.*

### **4.20 (3) The wildlife conservation plan must demonstrate the following:**

**(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.**

**Staff:** The proposed garage will be located within an existing cleared area near the existing dwelling; this will minimize impacts to forested areas. *This criterion is met.*

### **4.21 (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.**

**Staff:** The proposed garage will be placed within the existing one-acre cleared area previously established for the dwelling. The only vegetation to be cleared or thinned will include a small area of brush and deciduous trees west of the proposed garage for the purpose of setting up primary and secondary fire safety zones. *This criterion is met.*

### **4.22 (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.**

**Staff:** No fencing is proposed. *This criterion is met.*

### **4.23 (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.**

**Staff:** The existing building site is already clear of trees. Only lawn will be removed to construct the garage. *This criterion is met.*

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

**Staff:** No revegetation is required. *This criterion is met.*



## **5.00 Comprehensive Plan Policies**

### **5.01 Policy 14 – Development 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:**

**Policy 14, continued**

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

**Staff:** In the location of the proposed garage, the *Soil Survey for Multnomah County* (US Natural Resources Conservation Service, 1983) identifies the soil type as “Goble silt loam, 30 to 60 percent slopes.” However, the slopes at the proposed building site are estimated to be between 10 and 20 percent. The Soil Survey of Multnomah County states that Goble silt loam has a high erosion potential, with the seasonal water table is at a depth of four feet from December to April. It has a slowly permeable fragipan at a depth of 30 to 45 inches. The subject parcel is not located within a 100-year flood plain. No known landslides exist on the subject site. The site is currently occupied by an existing single-family dwelling built in 1996. The location of the proposed garage is relatively flat, but slopes to the west. As a condition of approval, a Minimal Impact Project review or Grading and Erosion Control Permit must be obtained from Multnomah County Planning prior to issuance of a Building Permit in accordance with MCC 29.330 through 29.348. *This comprehensive plan policy is met, as conditioned.*

### **5.02 Policy 37 - Utilities**

#### **Water and Disposal Systems**

- A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or**
- B. Shall 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**
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system;**

## **Policy 37, continued**

**or**

- D. Shall have an adequate private water system, and a public sewer with adequate capacity.**

**Staff:** The existing single-family dwelling is connected to an existing on-site sewage disposal system and well. The applicant has submitted in a Certification of Private On-Site Sewage Disposal form and Certification of Water Service (Exhibits S and E). The sanitarian indicates that no plumbing is proposed or approved for the garage. *This comprehensive plan policy is met.*

## **Drainage**

- E. Shall have adequate capacity in the storm water system to handle the run-off; or**
- F. The water run-off shall be handled on the site or adequate provisions shall be made; and**
- G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**

**Staff:** Exhibit T includes a letter from a professional engineer stating that, "...the runoff from the new garage will, in effect, have no impact on the runoff from the 45-acre parcel of land. As a condition of approval, prior to issuance of a Building Permit, an Oregon licensed professional engineer must sign and stamp a Stormwater Certificate stating that the rate of stormwater runoff attributed to the development (during the 10-year/24-hour storm) will be no greater than that which existed prior to development as measured from the property line or from the point of discharge into a watercourse, in accordance with MCC 29.333(C) or MCC 29.353(C). *As conditioned, this comprehensive plan policy is met.*

## **5.03 Policy 38 - Facilities**

**It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:**

### **Fire Protection**

- B. There is adequate water pressure and flow for fire fighting purposes; and**
- C. The appropriate fire district has had an opportunity to review and comments on the proposal.**

**Staff:** Exhibit D is the Fire District Review form from the Tualatin Valley Fire District. The District is not requiring an additional fire-fighting water source for the proposed garage because it is less than 3,600 square feet in size. However, they are requiring that a Knox Key Switch be added to the mechanically-assisted gate at the entrance to the property. As a condition of approval, evidence must be provided to County Planning that the Knox Key Switch has been added to the security gate. *As conditioned, this comprehensive plan policy is met.*

## 6.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary a Significant Environmental Concern permit for scenic views and wildlife habitat in the CFU-1 zoning district. This approval is subject to the conditions of approval established in this report.

## 7.00 Exhibits

Exhibits referenced in this decision, but not attached, are found in the case file, located at the John B. Yeon Building; 1600 SE 190<sup>th</sup> Avenue, Gresham, Oregon.

Exhibit #	# of Pages	Description of Exhibit
<i>Exhibits Provided by Applicant</i>		
A	1	1970 Bargain and Sale Deed
A-1	4	2003 Warranty Deed
B	1	Approved Site Plan from 1992 Building Permit
C	1	Site Plan
C-1	1	Aerial Photograph
C-2	1	Assessment & Taxation Map
C-3	1	Photograph of Existing Dwelling & Proposed Garage Location
D	1	Fire District Review Form
E	1	Certification of Water Service
F	3	Oregon Water Resources Department Well Log
G	4	Proposed Garage Plans
H	1	Ground Contours, Building Dimensions & Elevations (oversized; see case file)
I	1	Aerial Photograph with SEC & Slope Hazard Overlay Zones
J	1	Site Photo Index (oversized; see case file)
K	1	Photographs of Site from Virginia Lake
L	1	Photographs of Site from Oak Island Road
M	1	Photographs of Site from Sauvie Island Wildlife Refuge
M-1	1	Blow-up of Photograph in Exhibit M
N	2	Photographs of Site from US Highway 30
O	n/a	Sample of HardiPlank and Paint Chips (see case file)
O-1	n/a	Sample of Arch 80 Composition Shingle (see case file)
P	1	Photograph of Proposed Garage Location
Q	2	Additional Photograph of Site from US Highway 30
R	2	Specifications on Light Fixtures
S	4	Certification of Private Onsite Sewage Disposal
T	1	Letter from Engineer regarding drainage
U	1	Signed General Application Form

**List of Exhibits, continued**

<i>Exhibits Provided by Multnomah County</i>		
1	5	1947 Deed
2	1	Additional Site Photographs Showing Proposed Building Site
3	1	Aerial Photograph Showing Contours and Forest Canopy
4	1	County Property Assessment & Taxation Record