

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

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

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

NOTICE OF DECISION

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

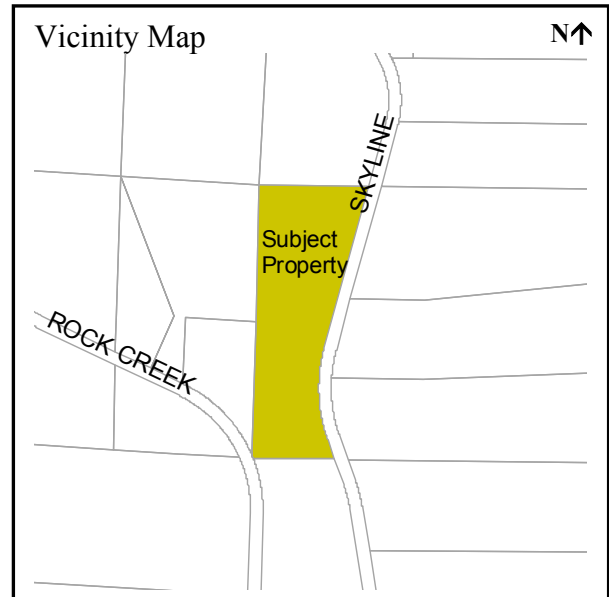
Case File: T2-04-091

Permit: Significant Environmental Concern For Wildlife Habitat Permit for the replacement of a lawfully established dwelling

Location: 16320 NW Skyline Blvd
TL 200, Sec 24, T2N, R2W, W.M.
Tax Account #R97224-0200

Applicant: Frank Walker
Frank Walker & Associates
PO Box 7170
Salem, OR 97303

Owner: Kirk Nortman
16320 NW Skyline Blvd.
Portland, OR 97231



Summary: Replacement of a manufactured home with another manufactured home of the same size in the same location in the Commercial Forest Use -2 (CFU-2) zoning district and the Significant Environmental Concern - wildlife habitat (SEC-h) overlay zone.

Decision: Approved with conditions.

Unless appealed, this decision is effective Thursday, January 6, 2005, at 4:30 PM.

Issued by:

By: _____
Tammy Boren-King, Planner

For: Karen Schilling - Planning
Director

Date: Thursday, December 24, 2004

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Tammy Boren-King, 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 Thursday, January 6, 2005 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 33.2220(E) Allowed Uses, 33.2260 Dimensional Requirements, 33.2275 Lot of Record, 33.4510 Uses - SEC Permit Required, 33.4520 Application for SEC Permit, 33.4555 Criteria for Approval of SEC Permit, 33.4570 Criteria for Approval of SEC-h Permit - Wildlife Habitat, Comprehensive Plan Policies - 37 Facilities, & 38 Utilities.

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

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690(B)(3)(g), this land use permit expires four years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

Conditions of Approval

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

1. **Within 30 days of this decision becoming final and prior to building permit sign-off, the applicant shall record the Notice of Decision [pages 1-3] of this decision and the Site Plan (Exhibit A2) 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 owner of the property shall maintain the following primary and secondary fire safety zones:

A primary fire safety zone is a fire break extending 30 feet in all directions around the dwelling. 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 around the primary safety zone extending a minimum of 100 feet in all directions. 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. [MCC 33.2305(A)(5)(c)(1) & (2)]

3. The replacement dwelling shall not exceed 35 feet in height as required by MCC33.260(C) and (E). The height of the proposed dwelling shall be clearly noted on the building plans prior to zoning approval of a building permit.
4. The owner shall keep the nuisance plants listed under MCC 33.4570(B)(7) removed from the cleared portions of the site. [MCC 33.4570(B)(7)]
5. The applicant shall obtain a building permit for the replacement dwelling. Note: When ready to have building permits signed off, the applicant shall call the Staff Planner Tammy Boren-King at (503)-988-3043, for an appointment for review and approval of the conditions and to sign the building permit plans. Multnomah County must review and sign off building permit applications before they are submitted to the City of Portland. Five (5) sets each of the site plan and building plans are needed for building permit sign off.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

FINDINGS: 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**

Applicant: This is an application by Kirk Nortman to replace an existing Forest Dwelling on an 11.85 acre parcel in the CFU Zone. A pre-filing meeting was conducted to establish all of the approval criteria, which are included with this report as support documentation to the application.

This property was previously approved for a forest-related dwelling in 1992 in another application prepared by Frank Walker & Associates. The home was removed in June, 2004, and a new application is being submitted because the standards in effect at that time were different than those of the current code.

The proposed replacement dwelling will be placed in the exact same location as the original dwelling. All of the utilities that were available for the prior home are still in place. The driveway to the proposed dwelling has not been altered since the original permit. The remainder of this report will address the specific approval criteria of the West Hills Rural Plan Area, Commercial Forest Use CFU-2 contained in the Multnomah County Code. The location of the subject property is shown in Figure 1, Vicinity Map.

2. **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: The proposed project is located on Tax Lot 200, Section 24C, Township: 2 North, Range: 2 West. Assessment & Taxation records show that the land is owned by Kirk Nortman (Exhibit S2). The property owner has granted approval for Frank Walker to make application for the necessary permits for this project (Exhibit A17).

This criterion has been met.

3. **The subject application met the requirements for adequate public notice**

§ 37.0530 Summary Of Decision Making Processes.

(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 Director's decision shall become final at the close of business on the 14th 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 the Land Use Board of Appeals (LUBA) within 21 days of when the signed Hearings Officer decision is mailed pursuant to 37.0660(D).

Staff: Public notice and opportunity to comment was mailed out on November 30, 2004. Those that received notice were given 14-days to provide comment. No public comments were received. A copy of the public notice mailed for this case is included in the record.

Criterion met.

4. **The subject property is in full compliance**
MCC 37.0560 Code compliance and applications.

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

Staff: Staff is not aware of any uses of the property which are not in full compliance with the code. The property is currently being used for forestry practices as allowed in the zone (MCC 33.2220(A)) and for one single family home as approved in PRE 35-92. The property is in full compliance.

Criterion met.

5. **The subject property is a Lot of Record**

Staff: The existing house was approved through an administrative decision in casefile PRE 35-92. Under the Conclusion section of this report, point number 1 found the subject parcel to be a lot of record. The applicant has provided a copy of the current deed which is included as Exhibit A18. The current configuration of the lot is the same as the configuration of the lot in PRE 35-92. A copy of the decision from PRE 35-92 is attached as Exhibit S1. The lot-of-record findings from the previous decision still stand. The subject parcel remains a lot of record.

6. **The Proposed Use is Allowed in the CFU-2 Zoning District**

§ 33.2215 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 33.2220 through 33.2240 when found to comply with MCC 33.2245 through 33.2310.

* * *

(D) Alteration, maintenance, or expansion of an existing lawfully established *habitable dwelling* subject to the following:

- (1) The dimensional standards of MCC 33.2260 are satisfied; and**
- (2) The development standards of MCC 33.2305(A)(5) and (B) are satisfied if the expansion exceeds 400 square feet of ground coverage.**

§ 33.0005 Definitions

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

- (a) Has intact exterior walls and roof structure;**
- (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;**
- (c) Has interior wiring for interior lights; and**
- (d) Has a heating system.**

Applicant: The purpose of providing the following documents is to demonstrate that a lawfully placed dwelling was removed in anticipation of a replacement dwelling. The home that was removed was permitted in 1992 pursuant to approval of case file PRE -35-92. Numerous building permits are also entered in the record of evidence for the original placement.

The dwelling that was placed in 1992 was removed on July 13, 2004 after the dwelling was released from Multnomah County Assessment records on June 24, 2004. Form 113, issued by the Multnomah County Assessor's Office is a prerequisite for the house mover to obtain a Trip Permit from DMV. Kirk Nortman respectfully requests that Form 113 be given preeminence over the trip permit since neither the DMV or the home transporter keep records.

We have also provided a photograph showing the dwelling at the new location in Tillamook County. The Job Location Card issued by Tillamook County Community Development Department is also a prerequisite for placing a home. You can see that the date of issuance of the JLC is before the date Multnomah County released it from tax obligation.

The sum total of the evidence does clearly indicate the chronology of events with respect to this proposal.

The dwelling that is being replaced had all of the above-referenced improvements, as evidenced by the photographs of the habitable dwelling in Appendix 2, Photographs of Habitable Dwelling, at the end of this report. Photographs 1 through 4 clearly show that the structure has intact exterior walls and a roof structure. The photographs preceding 1 through 4, though not as good a quality, do show an intact roof structure full with heat vents. Photographs 5-

8 show the kitchen sink, toilets and bathing facilities. Photographs 9 and 10 show the forced air electric furnace and a furnace duct.

Staff: A dwelling was lawfully established on the subject parcel in 1992 through casefile PRE 35-92 and a building permit. A copy of the building permit and the notice of decision from PRE 35-92 are included with this decision as Attachments A8 and S1 respectively. Building permit records included as Attachment A8 show this dwelling was a manufactured home. The applicant states this building permit was for the placement of a 1,124 square foot Marlette Homes manufactured dwelling. The zoning approval for PRE 35-92 was made on top of a site plan that contained a Notes section. Note 6 states, "Dwelling Plans By: Marlette Homes; 400 W. Elm; Hermiston, or 97838." In addition to this, the applicant has provided a copy of the original foundation plan dated October 9, 1992, showing the home being 1,124 square feet with dimensions of 26'-8" by 42'-0" (Attachment A10). The applicant has also provided a copy of a flyer from Marlette Homes Inc. showing a floor plan for an 1,124 square foot manufactured home that is 26'-8" by 42'-0". (Attachment A11) There is a faded hand-written notation on the right margin of this flyer that says, "16005 NW Skyline, 1993 Model." Staff finds this evidence sufficient to determine that the manufactured home permitted in 1992 was an 1,124 square foot Marlette Homes product.

The applicant has provided photographs of the Marlette Homes manufactured dwelling showing all of the features contained in the definition of Habitable Dwelling. The photos are included with this decision as Attachment A7 and were numbered by the applicant. Photos 1 and 2 show the dwelling in place at the subject location. Photos 3 and 4 show a Tillamook County building permit Job Location Card and a dwelling that appears to be the same dwelling as shown in photos 1 and 2. The applicant has provided the following evidence to prove the dwelling in photos 3 and 4 is the same as the dwelling in photos 1 and 2.

- A copy of a Multnomah County Tax Collector's Certification of Taxes Paid (Form 113) signed by a representative of the Multnomah County Tax Assessor on June 23, 2004 showing the taxes on a 1993 Marlette manufactured home with a serial number of H008518AB and a plate number of 228931 were paid in full on or before 6-24-04. (Attachment A12). The form states explains that taxes must be paid in order to transfer title or get a trip permit from the Motor Vehicles Division, presumably to move a manufactured home.
- A letter signed by Robert Cressey, owner of Bob's Mobile Home Set-Up, Inc. is included as Attachment A13 document that his company moved a 1993 Marlette manufactured home with a serial number of H008518AB and a plate number of 228931 from the subject property to a property in Wheeler, Oregon. This move was completed on July 13, 2004.

Staff finds that the chain of evidence submitted by the applicant is sufficient to find that the lawfully established manufactured home was removed from the site on July 13, 2004 and placed on a site in Tillamook County. The evidence in the record also shows that the dwelling remains an intact habitable dwelling even though it was removed from the property approximately 6 months prior to this decision being rendered. This evidence is sufficient to prove that the house was lawfully established and remains currently habitable.

The replacement dwelling will satisfy the dimensional standards of MCC 33.2260 as discussed in Section 7 of this report. The replacement dwelling will not be any larger than the dwelling approved in 1992 and thus is not subject to the development standards of MCC 33.2305.

Criteria met.

7. **The Proposed Development Meets The CFU-2 Dimensional Standards**

§ 33.2260 Dimensional Requirements

7.1 (A) Except as provided in MCC 33.2265, 33.2270, 33.2275, and 33.2280, the minimum lot size for new parcels or lots shall be 80 acres.

(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 proposal does not create new parcels. These two criteria do not apply.

Criteria do not apply.

* * * * *

7.2 (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 33.2310, as applicable, but in no case shall they be reduced below the minimum primary fire safety zone required by MCC 33.2305 (A) (5) (c) 2.

Staff: As shown on the applicant's submitted site plan (Exhibit A2), the proposed structure will be located at least 145 feet from any property line. The applicant is proposing to install a new manufactured home and has stated that the structure will not exceed 35 feet. Staff shall verify the height of the structure on the building plans prior to approving a building permit.

Criterion met with conditions.

7.3 (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: As shown on County Right-of-Way maps, NW Skyline Boulevard has 60-feet of right-of-way, more than the minimum required. Therefore, no increase is necessary.

Criterion met.

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

Staff: The applicant has stated the structure will not exceed the height limit of 35 feet. No elevation drawings of the structure showing height have been submitted. Staff will verify the structure's height does not exceed 35 feet on the applicant's building plans prior to zoning approval of a building permit.

Criterion met with conditions.

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

Staff: The proposal is for a replacement dwelling that uses exactly the same yards as originally established. The development standards of MCC 33.2305 do not apply to this request.

Criterion met.

7.6 (G) Agricultural buildings, as specified in ORS 455.315 (2) and allowed under MCC 33.2220 (C), may have minimum side and rear yard setbacks of 30 feet, but in no case shall any setback be less than the minimum primary fire safety zone required by MCC 33.2305 (A) (5) (c) 2.

Staff: There are no agricultural buildings proposed in this project.

Criterion does not apply.

8. The Subject Site Has Appropriate Access

MCC 33.2290 Access

Any lot in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles.

Staff: The property has direct access onto NW Skyline Boulevard.

Criterion met.

9. **The Proposed Development Meets the SEC Submittal Criteria**

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.

(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.

Applicant: The applicable approval criteria of MCC 33.4560 through 33.4575 are addressed in the following narrative.

(2) A map of the property showing:

(a) Boundaries, dimensions, and size of the subject parcel;

(b) Location and size of existing and proposed structures;

(c) Contour lines and topographic features such as ravines or ridges;

(d) Proposed fill, grading, site contouring or other landform changes;

(e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;

(f) Location and width of existing and proposed roads, driveways, and service corridors.

Staff: The applicant has submitted a written description of how the proposed development meets the SEC standards. Each of the applicable SEC standards is addressed individually below. The applicant has also submitted a series of maps meeting the requirements listed above. These are attached as Exhibits A3, A4, A5, & A6.

10. **The Proposed Development Meets The SEC-h Standards**

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

10.1 **(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.

Applicant: Figure 4, Aerial Photograph, and Figure 5, Significant Vegetation, indicate the location of all existing forested and "cleared" areas. In 1992, a commercial harvest was conducted on the property, and over 90% of the overstory vegetation was removed. The Oregon Department of Forestry required that the land be restocked, and the owner has met all required restocking levels. In addition, the owner aggressively suppressed competing vegetation by eliminating it wherever it would affect the Douglas fir seedlings. Consequently, the stand now consists of 11 - year-old Douglas fir that are predominantly uniform in height and distribution. The survival of the seedling trees has resulted in a vigorous young stand of Douglas fir.

(2) Location of existing and proposed structures;

Applicant: See Figure 2, Site Plan, for 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;

Applicant: See Figure 1, Vicinity Map, for the location of public roads and Figure 2, Site Plan, for the location of private access roads, driveways, and service corridors.

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

Applicant: See Figure 6, Area Fencing, for information relating to this criterion.

Staff: The applicant has provided the necessary information and maps to process the permit application. The above referenced figures one through six are included as Exhibits A1 through A6 respectively.

Requirements met.

10.2 (B) Development standards:

10.2.1 (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: When the property was improved in 1992 prior to the implementation of the existing code requirements, an area was cleared for the proposed dwelling. This area has been kept clear and is now available for the replacement dwelling.

Staff: The development is proposed to take place in an existing cleared area. Some removal of vegetation will occur as necessary to meet the minimum clearance standards for fire safety.

Criterion met.

- 10.2.2 **(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 1992 permit met this standard.

Staff: As per the site plan included as Exhibit A2, the proposed development will be 150-feet from the edge of the public right-of-way.

Criterion met.

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

Applicant: The access road to the proposed dwelling site does not exceed 500 feet in length (see Figure 2, Site Plan).

Staff: The access to the development is approximately 350 feet in length from the access onto Skyline to the North end of the parking area where the fire emergency vehicle turn around is located. The portion of the road past the fire emergency turn around does not function as part of the service corridor serving the development. While the road is longer than 500 feet in total length, the portion of the road serving the house and the associated service corridor (parking and turnaround) are located less than 500 feet from the property line. The remainder of the road serves as logging access.

Criterion met.

- 10.2.4 **(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: This criterion does not apply to this proposal.

Staff: The access point onto NW Skyline is located approximately 10 feet from the southerly property boundary.

Criterion met

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

Applicant: The improvements on this property are all within 300 feet of a property boundary because of the narrowness of the site. The two properties immediately to the west do have developed areas within 200 feet of the subject property, as do the parcels to the east across Skyline

Boulevard. The owner believes that he complies with this criterion because his dwelling is within 300 feet of properties that have houses within 200 feet of his boundary.

Staff: Staff Concurs.

Criterion met.

10.2.6 **(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.

Applicant: No fences are located along the public road (Skyline Boulevard).

(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.

Applicant: None of the above-referenced types of fences are located on the subject property, nor will they be.

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

Applicant: None of the above-referenced types of fences are located on the subject property, nor will they be.

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

Applicant: No such fences exist on the subject property.

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

Applicant: No fencing exists or is proposed within a line 100 feet perpendicular to the structure. The distances from the dwelling to the eastern and western property lines are 150 and 145 feet respectively.

Staff: No fencing is proposed with this application.

Criteria met.

10.2.7 **(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>Loentodon autumnalis</i>	Fall Dandelion
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<i>Chelidonium majus</i>	Lesser celandine	<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Cirsium arvense</i>	Canada Thistle	<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Cirsium vulgare</i>	Common Thistle	<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Clematis ligusticifolia</i>	Western Clematis	<i>Poa annua</i>	Annual Bluegrass
<i>Clematis vitalba</i>	Traveler's Joy	<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Conium maculatum</i>	Poison hemlock	<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Convolvulus arvensis</i>	Field Morning-glory	<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory	<i>Prunus laurocerasus</i>	English, Portugese Laurel
<i>Convolvulus sepium</i>	Lady's nightcap	<i>Rhus diversiloba</i>	Poison Oak
<i>Cortaderia selloana</i>	Pampas grass	<i>Rubus discolor</i>	Himalayan Blackberry
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species	<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Cytisus scoparius</i>	Scotch broom	<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Daucus carota</i>	Queen Ann's Lace	<i>Solanum dulcamara</i>	Blue Bindweed
<i>Elodea densa</i>	South American Water-weed	<i>Solanum nigrum</i>	Garden Nightshade
<i>Equisetum arvense</i>	Common Horsetail	<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Equisetum telemateia</i>	Giant Horsetail	<i>Taraxacum officinale</i>	Common Dandelion
<i>Erodium cicutarium</i>	Crane's Bill	<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Geranium roberianum</i>	Robert Geranium	<i>Urtica dioica</i>	Stinging Nettle
<i>Hedera helix</i>	English Ivy	<i>Vinca major</i>	Periwinkle (large leaf)
<i>Hypericum perforatum</i>	St. John's Wort	<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Ilex aquafolium</i>	English Holly	<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>Laburnum watereri</i>	Golden Chain Tree	<i>various genera</i>	Bamboo sp.
<i>Lemna minor</i>	Duckweed, Water Lentil		

Applicant: A field investigation conducted on the subject property revealed that some of the plants within the list are located on the property but that none of them were planted on the property. Some of the plants that were located on the fire break road running from the southern to the northern boundary in an arc include: Queen Ann 's Lace, St. John 's Wort, Himalayan Blackberry, Evergreen Blackberry, Common Dandelion, and Common Bladderwort; however, all of these plants were scattered and had pioneered the location on their own. As the vigorous stand of Douglas fir trees increases in height, these undesirable understory plants will die because of lack of sunshine. None of these invasive plants were planted by the owner, and none of them pose a threat to the health of the seedlings that were planted in 1992.

Staff: The applicant has indicated that some of the listed nuisance plants can be found on the subject property along the fire break road. This criterion only requires the nuisance plants to be removed from the cleared areas of the property. A condition of approval will require the applicant/owner to remove all listed nuisance plants from the cleared areas of the site and to keep those areas free from any of the listed nuisance plants.

Criterion met with conditions.

17. **The Proposal Meets The Comprehensive Plan Policies**

17.1 **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; or

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

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: The proposed development is for the replacement of an existing dwelling. There is an existing septic system on site. The sanitarian has determined the existing septic system is adequate for the replacement dwelling and that the new development will not have a negative impact on that system (Exhibit A16). The dwelling is served by an adequate private well producing 7.5 gallons per minute as indicated in the applicant's Certification of Water Service (Exhibit A14). As shown on the site plan included as Exhibit A2, the applicant is proposing the use of the existing storm drainage system. The site plan submitted by the applicant depicts a 3 inch storm drain which will collect the stormwater from the house, pipe it downhill, and disburse it onto an area of rip-rap north of the septic drain lines. The discharge area is approximately 50 feet from the septic drain field and the storm water system is designed to direct flow away from the septic system and the well.

Criterion met.

17.2 Policy 38

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: Tualatin Valley Fire & Rescue was given the opportunity to review and comment on the proposal. The applicant has submitted a service provider letter signed by Drew DeBois of Tualatin Valley Fire & Rescue determining that the existing access is adequate (Exhibit A15).

Criterion met.

Conclusion

Based on the findings and other information provided above, this application for a Significant Environmental Concern for Wildlife Habitat Permit satisfies the applicable Comprehensive Framework Plan policies and Multnomah County Zoning Code requirements subject to conditions.

Exhibits

Applicant's Exhibits

- A1 Vicinity Map
- A2 Site Plan
- A3 Topography
- A4 Aerial Photo
- A5 Existing Vegetation
- A6 Location of Fences
- A7 Photo 1 through 10 (Five pages)
- A8 Copy of 1992 Building Permits and Inspection Reports (Six pages)
- A9 Copy of 1992 Driveway Permit
- A10 1992 Foundation Plan
- A11 Marlette Homes Flyer
- A12 Taxation Form 113
- A13 Letter from Robert Cressey, Owner of Bob's Mobile Home Set-Up, Inc.
- A14 Water Service Provider Form
- A15 Fire District Access Review Form (2 pages)
- A16 Certification of On-Site Sewage Disposal Form
- A17 Authorization letter from owner
- A18 Current Deed (Two pages)

Staff Exhibits

- S1 Copy of Decision from PRE 35-92 (Four pages)
- S2 Assessment and Taxation Printout showing current ownership