



MULTNOMAH COUNTY OREGON

LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190TH Avenue Portland, OR 97233

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

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

NOTICE OF DECISION

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

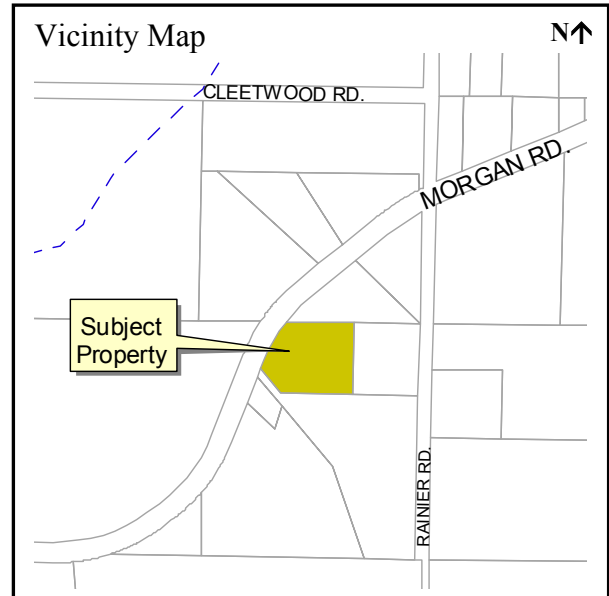
Case File: T2-05-054

Permit: Significant Environmental Concern for View and Habitat Permit and a Hillside Development Permit for an Addition to Existing Dwelling and New Garage

Location: 19630 NW Morgan Road
Tax Lot 900, Section 12CD,
Township 2N, Range 2W, W.M..

Applicant: Maureen Murff
19630 NW Morgan Road
Portland, OR 97231

Owner: Maureen Murff
19630 NW Morgan Road
Portland, OR 97231



Summary: Request to build a six by eight foot addition to an existing dwelling and a new approximately 1400 square foot detached garage on property located within Rural Residential (RR) Zone District. The property is designated with overlay zone s for Significant Environmental Concern for View, Significant Environmental Concern for Habitat and Hillside Development.

Decision: Approved with Conditions

Unless appealed, this decision is effective September 27, 2005, 4:30 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Tuesday, September 13, 2005

Instrument Number for Recording Purposes:# 28061133

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact George A. Plummer, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Tuesday September 27, 2005, 4:30 PM.

Applicable Approval Criteria: Multnomah County Code (MCC): Chapter 37, MCC 33.4100 et al: Rural Residential (RR), MCC 33.4500 et al: Significant Environmental Concern and MCC 33.5500 et al: Hillside Development and Erosion control.

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

Scope of Approval

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

Conditions of Approval

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

1. **Within 30 days of this decision becoming final and prior to building permit sign-off, the applicant shall record the Notice of Decision including the Conditions of Approval (pages 1-4) of this decision) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with Multnomah County Land Use Planning. Recording shall be at the applicant's expense.**

Failure to record the Notice of Decision within the above 30 day time period shall void the decision (MCC 37.0670).

2. The property owner shall maintain the existing growth of trees on the east side of the property shown on Exhibit 2.3 to provide screening of the development from the viewing areas [MCC 33.4565(C)].
3. Nuisance plants listed under MCC 33.4570(B)(7) shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.
4. The erosion control permit notice (attached) is to be posted at the driveway entrance from Morgan Road in a clearly visible location (print towards the road). This notice is to remain posted until such time as the grading work is completed. In the event this sign is lost, destroyed, or otherwise removed prior to the completion of the grading work, the applicant shall immediately contact the Land Use Planning Office to obtain a suitable replacement.
5. The property owner (or representative thereof) shall maintain best erosion control practices through all phases of development. **The property owner shall verify that all erosion control measures are properly working through out the project until vegetation has been re-established.**
6. Fill compaction methods and density specifications shall meet the specifications stated in the Teera Dolce Consultant, Geotechnical Engineering Report included as Exhibit 1.10 [MCC 33.5520(A)(1)(a)].
7. Permanent cuts shall not exceed a slope of 2(H):1(V) [MCC 33.5520(A)(1)(b)].
8. No cut or fill shall be closer than a minimum of a two feet from the property line [MCC 33.5520(A)(1)(d)]
9. An on-site drainage control system be shall be installed according to the specifications on the plans stamped and signed by Julius H. Sigmund Jr. PE included as Exhibit 1.18 [MCC 33.5520(A)(1)(d)].
10. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and will expose the smallest practical area at any one time during construction [MCC 33.5520(A)(2)(b)].
11. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development; MCC 33.5520(A)(2)(d).
12. Permanent plantings and required structural erosion control and drainage measures shall be installed prior to building permit final [MCC 33.5520(A)(2)(f)].
13. Silt fence shall be installed down slope of the areas of disturbed soil as shown on Exhibit 1.18 and maintain until project is finaled and vegetation has been re-established [MCC 33.5520(A)(2)(g)].

15. An impermeable barrier shall be installed upslope of the cut face of the project to redirect the stormwater away from the project [MCC 33.5520(A)(2)(i)].
16. Stockpiled topsoil shall be protected from erosion by applying mulch or other protective covering. Disposed spoil areas shall be seeded as soon as permanent placement is completed. All disturbed areas are to be seeded or planted within thirty (30) days of the date grading activities are concluded. [MCC 33.5520(A)(2)(m)]
17. On-site disposal of construction debris is not authorized under this permit. No spoils stockpile sites have been indicated on the plans, any spoils will need to be removed from the site. Any spoil materials removed from the site shall be disposed of in an area which meets the applicable code requirements of that location. Construction debris removed off-site shall be taken to a location approved for the disposal of such material by applicable Federal, State and local authorities. Fill materials necessary for landscaping shall be clean and non-toxic. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects. [MCC 33.5520(A)(2)(n)]
18. The County may supplement described erosion control techniques if turbidity or other down slope erosion impacts that result from on-site grading work. The Portland Building Bureau (Special Inspections Section), the local Soil and Water Conservation District, or the U.S. Natural Resource Conservation Service can also advise or recommend measures to respond to unanticipated erosion effects.
18. The property owner is responsible for removing any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems. If any features within the adjacent public right-of-way are disturbed, other than approved by County Right of Way Program, the property owner shall be responsible for returning such features to their original condition or a condition of equal quality.
19. Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit [MCC 33.5515 (F)].

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

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

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

FINDINGS AND CONCLUSIONS

This decision is based on the findings and conclusions in the following sections.

Staff Report Formatting Note: To address Multnomah County Code requirements staff provides findings as necessary, referenced in the following section. Headings for each category of finding are underlined. Multnomah County Code language is referenced using a **bold** font. The Applicant's narrative, when provided, follows in *italic font*. Planning staff analysis and findings follow the **Staff** label. At the end of the report, Exhibits are described. The applicant's submittals are included and made part of this decision under the category Exhibit 1...

1. DESCRIPTION OF THE PROPOSAL:

Applicant: *SEC Permit for New garage & Hillside Development and a 6' x 8' mudroom addition to dwelling.*

Staff: The applicant is requesting an SEC-v and SEC-h Permits and an HD Permit for a new approximately 1400 square foot detached garage (Exhibits 2.1). Additionally an SEC-v and HDP Permit is requested for a 48 square foot addition to an existing dwelling established in 1953.

The proposed addition at 180 square feet is below the threshold of 400 square for which an Significant Environmental Concern for Habitat Permit is required. MCC 33.4515 (H) allows without a permit uses legally existing on November 17, 1994 and any alteration and expansion of such a use in the SEC-h and SEC-s overlays if the addition is less than 400 square feet of ground coverage.

2. SITE AND VICINITY CHARACTERISTICS

Applicant: *Our property is not visible from any of the identified viewing areas. Morgan road is accessible off Hwy 30 and immediately climbs the hill to a plateau of approx. 800 ft level. Our property is on the plateau approx one mile from Hwy 30.*

The referenced site is located on the northern flanks for the Tualatin Mountains, just west of Burlington, Oregon.. The one-acre property is developed with a single-family 1,900~square-foot house, which sits off the road approximately 100 feet. The site is relatively flat, with a relief from south to north of less than 5 feet. When the existing house was built on the property, the building pad was cut into the property. In the southwestern portion of the property, there is a cut slope that is approximately 4 feet high.

Staff: The subject property is a one acre parcel located within the Rural Residential Zone District. The property is also entirely within the Significant Environmental Concern for Habitat and Views Overlay District and Hillside Development Overlay District (Exhibit 2.2). The property is accessed from Morgan Road a little less than a mile from its junction with Highway 30 (St. Helens Road). The property is on the southeast side of Morgan Road. The front portion of the property, where the dwelling and the proposed detached garage are located, is a relatively flat cleared area (Exhibit 2.3 and 2.4). The eastern half of the property is heavily wooded. The surrounding area is a pocket of Rural Residential zoned properties which are similar in size with some two to four times larger.

3. **OWNERSHIP**

MCC 37.0550: Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser.

Staff: County Assessment records show the property owners as Julia M. and William E Murff (Exhibit 2.1). J. Maureen Murff signed the application as the owner (Exhibit 1.1).

4. **TYPE II CASE PROCEDURES**

MCC 37.0530(B) Type II Decisions

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

Staff: An opportunity to comment was mailed to property owners within 750-feet of the property lines July 25, 2005. No comments were received regarding the application.

5. **RURAL RESIDENTIAL ZONE DISTRICT**

5.1. **Allowed Uses:**

MCC 33.3120(C) Residential use consisting of a single family dwelling constructed on a Lot of Record.

MCC 33.3120(F) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district.

Staff: The proposal is a 48 square foot addition to an existing dwelling established 1953 (Exhibit 2.1) and a new detached garage. The dwelling will be 1960 square feet with the addition and the garage will be 1400 square feet. Garages are customarily accessory to dwellings in this district.

5.2. **Dimensional Requirements**

MCC 33.3155 (C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Staff: The proposed development will meet the minimum yard requirements based on the site plan (Exhibit 1.12). The proposed development meets the height maximum requirement.

5.3. Lot of Record

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.)

MCC 33.3170 (B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 33.3185, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: The one acre property appears on the 1962 County Zoning Map indicating it existed prior to that date. Thus it was created prior to the establishment of zoning in 1958 or under the Suburban Residential Zone for which it satisfied the standards the minimum parcel size and access requirements. There were no applicable land division requirements for a partition at that time. The subject property met the Lot of Record requirements.

6. SIGNIFICANT ENVIRONMENTAL CONCERN REVIEW

6.1. SEC Permit Required

MCC 33.4510(A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any

use, or change or alteration of a use, except as provided in MCC 33.4515, shall be subject to an SEC permit.

MCC 33.4515 An SEC permit shall not be required for the following:

* * *

(H) Uses legally existing on November 17, 1994; provided, however, that any change, expansion, or alteration of such use (except for changes to a structure which 1) for the SEC, SEC-w, and SEC-v overlays do not require any modification to the exterior of the structure, and 2) for the SEC-h and SEC-s overlays require the addition of less than 400 square feet of ground coverage to the structure) shall require an SEC permit as provided herein;

Finding: The proposed development is within the Significant Environmental Concern for View and Significant Environmental Concern for Habitat Overlay Zone Districts. The proposed garage is greater than 400 square feet thus the SEC-h permitting requirements apply. An SEC-v Permit is required for the addition to the dwelling which was established in 1953 (Exhibit 2.1) prior to zoning requirements and for the proposed garage.

6.2. 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.
- (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.

Finding: The required information was submitted by the applicant and can be found in Exhibit 1.1 through 1.18.

6.3. Criteria for Approval of SEC-v Permit -Significant Scenic Views

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:

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

Applicant: *The garage will be rectangular, 44 ft wide by 32 long. The height will be 28 ft. The exterior lighting will be like a porch light. The exterior building material will be T-111 to match the exterior of the house. The color of the garage will be painted to match the Yale Blue color of the house.*

Staff: The applicant has submitted the required information (Exhibits 1.2, 1.4, 1.6, and 1.11).

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

Applicant: *Refer to the blueprints showing the proposed appearance of the garage and the final ground grades.*

Staff: The applicant has submitted the required information (Exhibits 1.4 and 1.11).

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

Applicant: *Our property is not visible from any of the identified viewing areas. Morgan road is accessible off Hwy 30 and immediately climbs the hill to a plateau of approx. 800 ft level. Our property is on the plateau approx one mile from Hwy 30. As stated above our property is not visible from any viewing areas.*

Staff: The subject property is located on a relatively flat area after a rise up from Highway 30. Due to topography to the northeast and southeast, the forested cover on the eastside of the property and the 28 foot height the development can not be seen from any viewing area (Exhibit 2.4). The dwelling may not be topographically screened from viewing areas due east if the trees on the property were removed. The growth of trees on the property should be protected to screen the development. This information has been provided.

MCC 33.4565(B) (4) A written description and drawings demonstrating how the proposed development will be visually subordinate as required by (C) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.

Staff: Due to topography to the northeast and southeast, the forested cover on the eastside of the property and the 28 foot height the development can not be seen from any designated viewing area (Exhibit 2.4). The dwelling may not be topographically visible from viewing areas due east if the trees on the property were removed (Exhibit 2.4). With the screening of the existing trees, the proposed structures will be visually subordinate. This information has been provided.

6.4 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.**

- (2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.
- (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.
- (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.
- (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.
- (6) Limiting structure height to remain below the surrounding forest canopy level.
- (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:
 - (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: *Our property is not visible from any of the identified viewing areas.*

Staff: The proposed development is visually subordinate due to the topography, dense forest cover on the property to the east of the proposed development and the 28 foot height (Exhibits 2.3 and 2.4). The growth of trees on the east half of the property need to be protected by a condition of approval to provide screening for the proposed development (Exhibit 2.3). The lighting will be on the west side of the dwelling thus not visible to the east because it would be blocked by the existing dwelling.

6.2. SEC-h Development standards

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;
- (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: *Refer to the blueprint reflecting that our property is along Morgan Road.*

- (1) On the east half of our property we have approx 50 evergreen trees – we will not cut any trees in order to build the garage as proposed. The west side of our property is open area.*
- (2) We have an existing house on the southwest portion of our property approximately 100 ft. from Mordan Road. We propose the garage to be built detached from the house on the western portion of the property approx. 30 ft from the road.*
- (3) We plan to keep our existing driveway.*
- (4) There is existing fencing partially along the north property line. The neighbor to the east has an existing fence. The neighbor to the south has an existing fence.*

Staff: The required information has been submitted.

- 6.2.1 MCC 33.2105(B)(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.**

Applicant: *We are proposing to build the garage in the cleared area on our property.*

Staff: The proposed addition and garage are in an existing cleared area (Exhibit 1.15 and 2.3). This standard is met.

- 6.2.2. MCC 33.2105(B) (2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

Applicant: *The garage will be accessible by a driveway approx 30 ft off Morgan Rd.*

Staff: We concur with the applicant. The standard is met.

- 6.2.3. MCC 33.2105(B) (3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.**

Applicant: *The garage will be accessible by a driveway approx 30 ft off Morgan Rd.*

Staff: We concur with the applicant. The standard is met.

- 6.2.4. MCC 33.2105(B) (4) The access road/driveway shall be located within 100 feet of the property boundary if adjacent property has an access road or driveway within 200 feet of the property boundary.**

Applicant: *The existing circle drive entrance of Morgan Rd. at the NW property line rounding to the top of the SW property line approx. 150 ft. long approx 50 ft setback from the road.*

Staff: The adjacent properties to the south and north have driveways within 200 of the property boundary (Exhibits 2.3). The existing driveway for the subject property will continue to be used. It is located within 100 feet of the property boundaries. This standard is met.

- 6.2.5. MCC 33.2105(B)(5) The development shall be within 300 feet of the property boundary if adjacent property has structures and developed areas within 200 feet of the property boundary.**

Applicant: *The proposed garage will be approx 30 ft. from the front of the house (existing). The proposed garage is setback approx. 30 ft. from the west property line (Morgan Rd.), 15 ft. setback from the southwest property line.*

Staff: We concur with the applicant. The standard is met.

- 6.2.6. MCC 33.2105(B) (6)Fencing within a required setback from a public road shall meet the following criteria:**

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.**
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**
- (c) Cyclone, woven wire, and chain link fences are prohibited.**
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.**

Applicant: *There are only existing fences placed by our neighbors to the east, southeast, and south. We do no plan to put up any fences.*

Staff: No fences are proposed as part of this application. This standard is met.

- 6.2.7. MCC 33.2105(B) (7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property: Plants list Under MCC 33.4570(B)(7).**

Applicant: *We do not have any nuisance plants on our property. We will not plant any of the listed on the worksheet.*

Staff: A condition of approval will require that no listed nuisance plant is planted. This standard is met through a condition.

7. HILLSIDE DEVELOPMENT PERMIT

7.1. Application Information Required

- 7.1.1. MCC 33.5515 (A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.**

MCC 33.5515 (B) An estimate of depths and the extent and location of all proposed cuts and fills.

MCC 33.5515 (C) The location of planned and existing sanitary drainfields and drywells.

MCC 33.5515 (D) Narrative, map or plan information necessary to demonstrate compliance with MCC 33.5520 (A). The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control

Staff: The applicant has submitted a map plan showing the features required. The plans show estimated depth, extent and location of the proposed cuts and fills for the garage (Exhibit 1.5 and 1.10). The plans show the existing sanitary drainfield and planned drywell (Exhibits 1.3 and 1.18). The application included the applicable supplemental reports. These requirements have been met.

7.1.2.. MCC 33.5515 (E) A Hillside Development permit may be approved by the Director only after the applicant provides:

(1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or

(2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,

(3) An HDP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.

Staff: The applicant submitted a geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer and an addendum, by Cynthia L. Hovind, P.E, G.E (Exhibit 1.10 and 1.14) certifying that the site is suitable for the proposed development meeting requirement MCC 33.5515(E)(2).

7.1.3. MCC 33.5515 (F) Geotechnical Report Requirements

(1) A geotechnical investigation in preparation of a Report required by MCC 33.5515 (E) (3) (a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.

(2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.

(3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.

Staff: The geotechnical investigation meets these requirements except for number three which will be required by a condition of approval.

7.2. Grading and Erosion Control Standards

7.2.1. MCC 33.5520(A)(1)(a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;

Applicant: *Submitted in Geotechnical Engineering Report, page 3.*

Staff: The applicant has submitted the required information, regarding fill compaction methods and density specifications, in the Geotechnical Engineering Report beginning on page 3 (Exhibit 1.10). The applicant has submitted plans that show the location of the proposed fill area (Exhibit). The standard is met through a condition of approval will require fill compaction methods and density specifications as stated in the Geotechnical Engineering Report.

7.2.2. MCC 33.5520(A)(1)(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;

Applicant: *Submitted in Geotechnical Engineering Report, page 3.*

Staff: The Geotechnical Engineering Report states:

"Cut slopes in the native material have the ability to hold a temporary vertical cut as long as the slope remains dry and there is no groundwater seepage within the face of the cut. If groundwater seeps are encountered during the excavation for the footings or other site grading, then measures must be taken to intercept the surface and groundwater flow. Permanent slopes within the native slope should be no steeper than 2(H): 1(V) and should have erosion control measures implemented as soon as possible."

A condition of approval will require permanent cuts no greater the 2(H):1(V) (Exhibits 1.10 and 1.14). The standard is met through a condition of approval.

7.2.3. MCC 33.5520(A)(1)(c) Cuts and fills shall not endanger or disturb adjoining property;

Applicant: *Proposed fills and cuts should not encroach onto the property line. Proper setback of 2 feet from the property line should be established for the toe of the fills and top of the cuts.*

Staff: A condition of approval will require a minimum of a two foot setback from the property line for any cuts (Exhibits 1.10 and 1.14). The standard is met through a condition of approval .

- 7.2.4. MCC 33.5520(A)(1)(d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;**

Staff: The applicant has submitted a Storm Water Certificate stamped and signed by Julius H. Sigmund Jr. PE. This states that the project meets this requirement with an on-site storm water drainage control system built according to submitted plans (Exhibit 1.7). This standard will be met through a condition of approval that the on-site storm water drainage control system be installed as described.

- 7.2.4. 33.5520(A)(1)(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;**

Applicant: *Proposed fills are not located within natural or manmade constructed watercourses. Nearest natural water course is 300 feet away.*

Staff: We concur with the applicant. This standard is met.

- 7.2.5. MCC 33.5520(A)(2)(a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)". Land-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.**

Applicant: *Site is not within Tualatin Basin.*

Staff: Not in the Tualatin Basin, not applicable.

- 7.2.6. MCC 33.5520(A)(2)(b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;**

Applicant: *The area within 5 feet of the footprint of the garage should be stripped of vegetation and topsoil. Areas outside of 5 feet should be minimally disturbed during construction.*

Staff: This standard can be met through conditions.

- 7.2.7. MCC 33.5520(A)(2)(c) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;**

Applicant: *Cut and fills should be limited to the footprint of the building and the back slope of the proposed retaining wall.*

Staff: The proposed plans minimize the cuts and fills to the immediate area around the proposed development (Exhibit 1.5). This standard is met by the proposed plans.

- 7.2.8. MCC 33.5520(A)(2)(d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;**

Applicant: *Not Applicable.*

Staff: A condition of approval will require temporary vegetation and/or mulching to be used to protect exposed critical areas during development;

- 7.2.9. MCC 33.5520(A)(2)(e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;**

1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland;

2. The buffer required in 1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "*Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*" and the "*City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)*" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

Applicant: *Vegetation 5 feet or farther from the garage footprint should not be disturbed.*

Staff: The applicant will remove a minimum amount of vegetation around the proposed structures. There is no stream or wetland within 100 feet of the property. The proposed project meets these requirements.

- 7.2.10. MCC 33.5520(A)(2)(f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;**

Applicant: *Permanent plantings will be installed after construction is complete.*

Staff: A condition of approval will require this standard be met prior to building permit final.

7.2.11. MCC 33.5520(A)(2)(g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

Applicant: *During construction, stormwater runoff will be controlled with silt fences. After construction, the site will be planted to reduce the potential for runoff.*

Staff: The applicant proposes the use of silt fences during construction. Properly installed silt fencing meets this standard. Silt fences will need to be maintained through building permit final and until vegetation is re-established. Installation of silt fence will be required as a condition (Exhibit 1.18). After construction the stormwater from new impervious surfaces will be accommodated by the stormwater system designed by Julius H. Sigmund Jr. PE.

7.2.12 MCC 33.5520(A)(2)(h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

Applicant: *During construction, sediment runoff will be controlled with silt fences. After construction, the site will be planted to reduce the potential for runoff.*

Staff: The applicant proposes the use of silt fences. Properly installed silt fencing meets this standard until the area is vegetated. Installation of silt fence will be required as a condition.

7.2.13. MCC 33.5520(A)(2)(i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;

Applicant: *During wet weather, the cut slopes and fill slopes should be protected from precipitation and runoff. At the top of the cut and fill slopes, stormwater should be diverted away from the open face.*

Staff: This standard can be met through installation of an impermeable barrier upslope of the cut face of the project to redirect the stormwater away from the project. A condition of approval will require the diversion of stormwater away from the top of the cut and fill areas and other areas of disturbed soil.

7.2.14. MCC 33.5520(A)(2)(j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;

Staff: The applicant has submitted a Storm Water Certificate stamped and signed by Julius H. Sigmund Jr. PE that states that the project meets this requirement with an on-site storm water drainage control system built according to submitted plans (Exhibit 1.7). This standard will be met through a condition of approval that the on-site storm water drainage control system shall be installed.

7.2.15. MCC 33.5520(A)(2)(k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

Staff: No drainage swale is proposed. Standard not applicable to proposed development.

7.2.16. MCC 33.5520(A)(2)(1) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

- 1. Energy absorbing devices to reduce runoff water velocity;**
- 2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;**
- 3. Dispersal of water runoff from developed areas over large undisturbed areas.**

Applicant: Silt fences will be used during construction to reduce the potential for sediment runoff (Exhibit 1.18).

Staff: This standard is met by the proposed silt fences.

7.2.17. MCC 33.5520(A)(2)(m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;

Applicant: *Vegetation and topsoil stripped from the footprint of the building is not suitable for general or structural backfill within 5 feet of the footprint of the building. These materials, however, are acceptable as fill within vegetated areas and may be stockpiled onsite. Silt fences and covering should be installed to reduce the potential for sediment runoff from the stockpiles.*

Staff: The property is not near any stream or drainage way, it is more than 600 feet from the nearest stream. A condition of approval will require that stockpiled spoils be covered with mulch or plastic to prevent erosion. If materials are used to fill areas on the property the filled areas need to be seeded as soon as possible to prevent erosion. A condition of approval will require stockpiles to be covered and fill areas to be vegetated to meet this standard.

7.2.18. MCC 33.5520(A)(2)(n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

Applicant: *During construction, construction debris and other deleterious materials should be removed from the site and properly disposed of. This includes, but not limited to, pesticides, construction chemicals, etc.*

Staff: A condition of approval will require this standard be met.

7.2.19. MCC 33.5520(A)(2)(o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)". All land disturbing activities within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be

seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.

Applicant: *Construction site not in Balch Creek Drainage Basin*

Staff: Property is not in Balch Creek Drainage Basin. Standard is not applicable.

8. CONCLUSION

The applicant has demonstrated the criteria for the Significant Environmental Concern for View and Habitat are met or can be met through conditions of approval for the proposed development. The applicant has demonstrated that the standards for a Hillside Development Permit have been met or can be met through conditions of approval.

8. EXHIBITS

8.1. Exhibits Submitted by the Applicant:

- Exhibit 1.1: Application form submitted 5/27/05 (1 page);
- Exhibit 1.2: Applicant's narrative submitted 5/27/05 (3 pages);
- Exhibit 1.3: Site Plan submitted 5/27/05 (1 page);
- Exhibit 1.4: Elevation drawings of proposed garage submitted 5/27/05 (3 pages);
- Exhibit 1.5: Grading plan submitted 5/27/05 (2 pages);
- Exhibit 1.6: Photos of existing development on the property submitted 5/27/05 (2 pages)
- Exhibit 1.7: Storm Water Certificate signed and stamped by Julius H. Sigmund Jr. PE submitted 5/27/05 (1 page)
- Exhibit 1.8: Fire District Review Fire Flow Requirements submitted 5/27/05 (6 pages).
- Exhibit 1.9: Certificate of On-site Sewage Disposal submitted 5/27/05 (1 page);
- Exhibit 1.10: Geotechnical Investigation by Cynthia L Hovind, PE, GE, Terra Dolce Consultants, Inc submitted 5/27/05 (14 pages);
- Exhibit 1.11: Elevation drawings for the addition submitted 6/3/05 (2 pages);
- Exhibit 1.12: Amended site plan showing addition submitted 6/3/05 (1 page);
- Exhibit 1.13: Photos of the property and vicinity submitted 6/3/05 (7 pages);
- Exhibit 1.14: Addendum to the Geotechnical Investigation by Cynthia L Hovind, PE, GE, Terra Dolce Consultants, Inc submitted 7/13/05 (7 pages);
- Exhibit 1.15: Photos of the proposed garage location submitted 7/13/05 (6 pages);
- Exhibit 1.16: Fire District Access Review submitted 7/13/05 (3 pages);
- Exhibit 1.17: Survey of property submitted 5/27/05 (1 page);
- Exhibit 1.18: Erosion Control Plan submitted 5/27/05 (1 page).

8.2. Exhibits Provided by the County

- Exhibit 2.1: County Assessment Record for the subject property (1page);
- Exhibit 2.2: Current County Zoning Map with subject property labeled (1 page);
- Exhibit 2.3: 2002 Aerial Photo showing subject property (1 page);
- Exhibit 2.4: 2002 Aerial Photo showing topography of the vicinity (1 page);
- Exhibit 2.5: 1962 County Zoning Map showing subject property (1 page).

