

**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/landuse>

NOTICE OF DECISION

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

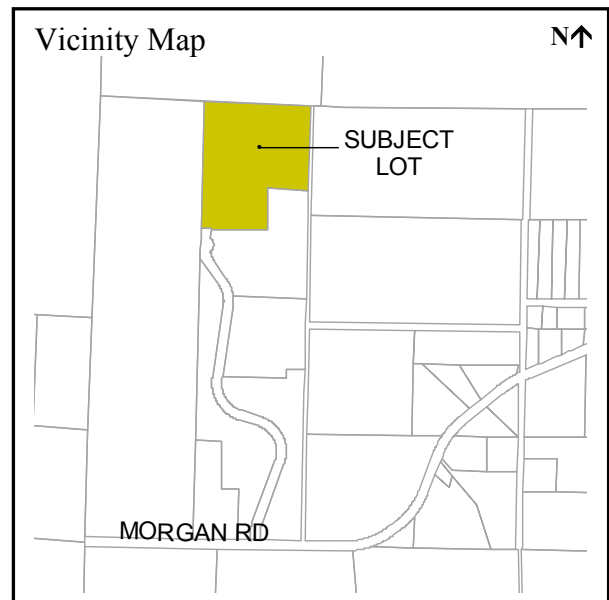
Case File: T2-05-099

Permit: SEC-habitat and SEC-view permits and a fire break exception for a residential accessory building.

Location: 20133 NW Morgan Road
Tax Lot 300, Section 12,
Township 2N, Range 2W, W.M..
Tax Account #R97212-0330

Applicant: Frank Walker & Associates

Owner: Reinhard & Jean Jensen



Summary: Construct a 1,037 square foot three car garage approximately 5 feet west of the house. The garage will also contain a play room. A sports court will be constructed on the roof.

Decision: Approved with conditions.

Unless appealed, this decision is effective April 18, 2006 at 4:30 PM.

Issued by:

By: _____
Tammy Boren-King, AICP, Planner

For: Karen Schilling- Planning Director

Date: April 4, 2006

Instrument Number for Recording Purposes: #97199997

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 x 24562.

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 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 INSERT DATE HERE at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 33.2220- Review Uses; 33.2260 Dimensional Requirements; 33.2305 Development Standards for Dwellings and Structures; 33.2310 Exceptions to Fire Safety Zones and Forest Practice Setbacks; 33.4520- Application for SEC Permit; 33.4565- Criteria for Approval of SEC-v Permit; 33.4570- Criteria for Approval of SEC-h Permit

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/landuse>.

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. **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 or 37.0700, as applicable. A request for permit extension may be required to be granted prior to the expiration date of the permit.**

Conditions of Approval

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

1. **The applicant shall record the Notice of Decision (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 shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. (MCC 37.0670)**

2. 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;

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

3. The property owner shall retain all mature trees to the east of the proposed garage except as needed to meet the fire safety zone requirements of MCC 33.2305(A)(5)(c). If removed due to disease, the trees shall be replaced immediately with similar trees of caliper size totaling the caliper size of the removed trees. (MCC 33.4565(E)).
4. All exterior lighting shall be directed downward, hooded (covered on top) and shielded (covered on the sides). Hooding and shielding materials shall be opaque. The proposed light fixtures shall be clearly indicated on the building plans prior to County authorization of a building permit. (MCC 33.4565(C)(3)).
5. The property owner shall construct and perpetually maintain a primary fire break surrounding the garage. This primary fire break shall be 30 feet to the east, south, and west and shall be 105 feet to the north (downslope). (MCC 33.2305(A)(5)(c)).
6. The property owner shall construct and perpetually maintain a secondary fire break surrounding the primary fire break. This secondary fire break shall extend 100 feet to the north, east, and south, and shall extend west to the property line. (MCC 33.2305(A)(5)(c)).
7. Prior to authorization of a building permit, the applicant shall submit a revised site plan showing the primary and secondary fire breaks surrounding the garage as required by conditions 5 and 6 (MCC 33.2305(A)(5)(c)).
8. The garage shall be constructed in accordance with the International Fire Code Institute Urban– Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as

adopted August, 1996, or as later amended. This shall be clearly noted on the building plans prior to County authorization of a building permit. (MCC 2310(B)(1)).

9. The garage shall have a central monitored alarm system. This shall be clearly noted on the building plans prior to County authorization of a building permit. (MCC 33.2310(B)(7)(a)).
10. The garage shall have exterior walls constructed with materials approved for a minimum one-hour-rated fire-resistive construction (MCC 33.2310(B)(7)(b)).
11. The proposed garage shall be constructed with a fire retardant roof. (MCC 2305(B)(3)).

Once this decision becomes final, applications for building permits may be made with the City of Portland. **When ready to have building permits authorized, call the Staff Planner, Tammy Boren-King, at (503)-988-3043 x 24562 to schedule an appointment.** Multnomah County must review and sign building permit applications before they are submitted to the City of Portland. Six (6) sets each of the site plan and building plans are required at the building permit sign-off. A \$75 erosion control inspection fee may also be required at time of plan signoff.

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

Formatting Note: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. Applicant comments are identified as **Applicant:** and follow. Staff comments and analysis are identified as **Staff:** and follow.

1.0 Project and Vicinity Description

Applicant: This is a proposal to obtain the necessary permits to allow for the construction of a garage on the Jensen property. The property is located at 20133 NW Morgan Road, Portland, OR 97231. The legal description is Township 2 North, Range 2 West, Section 12C, Tax Lot 300. Figure 2 (Exhibit A1) is a Site Plan for the subject property.

Staff: A garage was previously permitted on this site in 1993 but was not fully constructed. The property also contains an agricultural structure permitted in 1980 and a single family residence originally permitted in 1980.

The proposed garage will be built over an existing foundation and will use the existing partially complete exterior walls. The garage will be a one story structure with a sports court on the roof. The interior of the structure will be primarily garage space plus a 232 square foot play room. Proposed building elevations and floor plans are included as Exhibit A2.

The subject lot is currently zoned Commercial Forest Use-2 (CFU-2) with a minimum lot size of 80-acres. A Significant Environmental Overlay for Wildlife Habitat (SEC-h), Significant Views (SEC-v) and a Slope Hazard Overlay cover the property. Steep slopes and heavily forested areas dominate the property. The only cleared areas are the immediate areas around the dwelling and the foundation for the proposed accessory building. A 2004 aerial photo is included as Exhibit S1. The surrounding properties are also heavily forested and contain steep slopes. The property is one of four lots that get access from a private road on a separate tax lot with access by easement. The private road takes access off of NW Morgan Road.

2.0 Public Comment (MCC 37.0530(B))

Staff: MCC 37.0530(B) requires the county to issue notice of an application and an invitation to comment to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract upon receipt of a complete application. The Planning Director accepts comments for 14 days after the notice. A 14 day Opportunity to Comment was mailed to various parties as required by MCC 37.0530(B). A copy of the notice and mailing list are included in the file. No letters of comment were received.
Procedures met.

3.0 Proof of Ownership and Initiation of Action (MCC 37.0550)

MCC 37.0550 Initiation Of Action.

Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning

Commission, or Planning Director.

Staff: Multnomah County Assessment and Taxation records show Reinhard and Jean Jensen as the owners of the subject lot. A letter of authorization was submitted to the file signed by both Mr. and Mrs. Jensen. (Exhibit A3) This letter authorizes Frank Walker and Associates to act as their agent for the processing of this land use application. Mr. Walker signed the General Application Form (Exhibit A4) authorizing the application. *Criterion met.*

4.0 Full Compliance (MCC 37.0560)

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.

Staff: There are extensive building permit records on file for the property. Below is a chart detailing the permits for the property.

Type	Permit Number	Year Issued
LFS	#119-75	1975
Exempt Ag Building	N/A	8/6/1980
Single Family Dwelling	#801732	9/8/1980
Addition to Home	N/A	10/15/1981
Solar Panels	N/A	3/16/1982
Plumbing	#40111	10/1/1982
Garage	N/A	8/9/1994
Subsurface Sewage	#016091	4/26/2000

All structures on the property were built under the appropriate permits.

Staff performed a site visit on 3-27-06 and observed no violations of the zoning code. *Criterion met.*

5.0 Lot of Record (MCC 33.0005(L)(13) and 33.2275)

Staff: The subject property was determined to be a Lot of Record in casefile T2-04-088. A copy of the decision in case T2-04-088 is included in the file. *Criteria met.*

6.0. The proposed accessory building is allowed in the CFU-2 zone. (MCC 33.2220)

§ 33.2220 Allowed Uses

(U) Other structures or uses determined by the Planning Director to be customarily

accessory or incidental to any use permitted or approved in this district.

Applicant: The proposed garage is an integral part of the dwelling compound that was constructed in the early 1980's. A garage is considered patently necessary for the full enjoyment of property. The garage in this case is a garage/playroom as described in the building permit application.

The proposed garage will be utilized for parking automobiles and the extended playroom for family-oriented recreation. In addition, a play court is proposed for the roof of the structure so the family will have more recreation area. The size of the garage is consistent with most garages in as much as it will have two parking bays. The playroom addition adds square footage much as a breezeway or carport may add space. The size is customary considering that garages often have other uses such as shops and storage rooms.

Staff: The proposal is for a residential accessory structure. As shown on the applicant's building plans (Exhibit A2), this structure will include an 805 square foot area providing three parking spaces and a 232 square foot "pool room." The "pool room" will be used by the family for recreation associated with the use of the house. Please note no pool exists on site and the applicant has stated this room will be used as a play room. Additional decking, stairs, and roofing will connect the garage to the house. The decking and roofing will act as a breezeway between the structure and the house. The stairs will allow access to the roof of the structure. The roof of the structure will be surfaced for use as a sports court.

The overall square footprint of the proposed building is 1,037 square feet. Exterior stairs and decking are not included in this number. Assessment and Taxation information shows the footprint of the house being 1344 square feet. The footprint of the garage is smaller than the house. The garage remains incidental to the residential use of the property. Parking of three cars and family recreation are both uses that are commonly associated with the residential use of a property. The proposed accessory structure is customarily accessory and incidental to the residential use of the property. *Criteria met.*

7.0 The proposal is in compliance with the applicable dimensional standards and the development requirements of the CFU-2 district. (MCC 33.2260 and 33.2305)

7.1 § 33.2260 Dimensional Requirements

(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.

Applicant: This proposal does conform with all of the above standards with the exception of the side yard setback to the west. The side yard is 102 feet instead of the 130 feet required by the code. The deviation from the standards is 21.5%. The requirement for a 30 foot primary fire zone is clearly met by this proposal.

Staff: The applicant's site plan (Exhibit A1) establishes that the proposed structure will meet the setback requirements to the north, south, and east. The site plan indicates the structure is 82 feet from the west property line, not 102 feet. Staff will rely on the site plan. The applicant has applied for an exception to the fire safety setback requirements to accommodate the 82 foot yard proposed on the west. Findings regarding the exception are in section 8 of this report. The applicant has also submitted elevation drawings of the proposed structure (Exhibit A2). These drawings show that the structure height will be 13 feet plus an additional 7 foot railing for a total of 20 feet. With the fire break exception, the dimensional standards are met. *Criteria met.*

7.2 § 33.2305 Development Standards for Dwellings and Structures

Except as provided for the alteration, replacement or restoration of dwellings under MCC 33.2220 (D) and (E) and 33.2225 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(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 33.2260 (C) through (G);

Applicant: The proposed garage is located in an area that is essentially devoid of all agricultural activities, including marginal farming such as grazing lands and hay fields. None of the ownerships that border the subject property have any agricultural activities. The nearest farm field is located 1,800 feet away to the east and the next nearest on is 3,200 feet away to the southeast. The proposed garage has zero impact on these farming operations because they are so far removed.

The subject property is located among lands that are timbered. As shown in Exhibit A1, at least two of the adjoining parcels already have dwellings established on them that can impact forest operations on adjoining properties. It is difficult to envision how the proposed garage structure can impact adjoining timber operations even though the setback on the west is to within 78.5% of the setback standard. It must be noted for the

record that the garage location was established before any special setback standards existed, and it should also be noted that placing the garage east of the dwelling would have conflicted with the approved drainfield area. Placing the garage farther to the north or south would displace timber on the subject property. The topography is also steeper on the north and south as well. The garage site was specifically located west of the dwelling on a prepared site that is level and that has access to the property's internal road system.

Staff:

The proposed location of the accessory building is on an existing foundation. The County issued a building permit for the garage 1993 but only the foundation and partial exterior walls were built. The building permit issued in 1993 has expired. The applicant is now proposing a garage in the same location reusing the existing foundation and walls. This location has already been cleared, excavated and partially constructed. The potential impacts to surrounding forest uses will be no greater than they are now since the developed area of the property is not being enlarged.

The proposal does not meet all of the setback requirements. The applicant has requested an exception to the fire safety setbacks as discussed in section 8 of this report. With the granting of the exception, all minimum yard and setback requirements will be met.

The structure will be clustered with the existing dwelling, with the closest point being approximately 5 feet from the existing house. The activities that will occur in the garage are customarily accessory to a dwelling and will not have additional impacts on the surrounding forest operations. The applicant's choice of clustering the new improvement near existing improvements greatly reduces the likelihood that any additional impacts to surrounding forest operations will occur. As can be seen on the aerial photo included as Exhibit S.1, the existing house and the proposed garage are clustered at the southern end of the property in close proximity to developed areas on the property to the south. Several hundred feet of forest separate the proposed garage location from the properties to the north and east. The garage will only be 82 feet from the property to the west. This will not have an increased impact on the property to the west as the garage is inside the developed area of the property. The residential use of the property already extends through the existing garage foundation to the driveway, which is almost on the westerly property line as shown on the applicant's site plan (Exhibit A.1)

The proposed garage location is sited to have the least impact on nearby or adjoining forest lands. No nearby or adjoining properties are used for agriculture.

Criterion met.

7.3

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

Applicant:

The original building envelope included the garage area that is the subject of this permit. No forest operations are impacted on the subject property as a result of this proposal.

The garage would displace timber if it were located to the north or south. A positive finding can be made that the impacts to forest operations on the subject site would be minimized.

Staff: There are no farm practices occurring on the tract. The tract is currently heavily forested and is enrolled in the County's Forest Land Tax Deferral program. The proposed garage will be built upon an existing foundation. The development area will not be expanded past the existing development. No forest land will be removed from production as a result of this proposal. The proposal will have no affect on forest operations on the tract. *Criterion met.*

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

Applicant: An examination of the site plan (Exhibit A1) demonstrated that the dwelling compound is very compact with improvements. For example, the dwelling and garage are very close to one another rather than being far apart. Other buildings and the drainfield are also proximate to the dwelling and garage. It should be noted for the record that the dwelling compound was cleared so that all of the buildings could be established within a small geographic area.

The amount of land containing all of the buildings and the drainfield is 170 feet wide east to west and 110 feet north to south for a total of 18,700 square feet (0.42 acres). This amount of land represents 4.3 percent of the total land area of the site. Most of the remaining 95.7 percent of the site utilized for timber production. A positive finding can be made that the amount of land utilized for structures is minimized.

Staff: The applicant will be using the existing driveway and service corridor. The proposed structure will be built on an existing foundation. No undeveloped land will be dedicated to the proposed accessory structure. The proposal will require no additional forest land to be removed from production. *Criterion met.*

7.5 **(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 access road is less than 500 feet in length from the end of the road serving the subject property. According to the site plan (Exhibit A1) it is approximately 220 feet from the public road to the proposed garage site.

Staff: The subject property takes access off of NW Morgan Road. This is the closest public road. An unnamed private road runs north/south from NW Morgan Road. This private road serves the subject property and five other tax lots. The access on the subject property starts at the end of the private road and extends approximately 280 feet to the proposed accessory building as shown on the site plan included as Exhibit A1. The access on the subject site is less than 500 feet in length. *Criterion met.*

7.6 (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 subject property is located within the Scappose Rural Fire Protection District. The property owner is active in this district, and the owners' representative has worked in a consulting capacity for the district. The fire chief, Mike Griesen, is very familiar with the Jensen property and has affirmed on more than one occasion that the property lies within their jurisdiction. This record contains the most recent Service Letter.

Staff: The subject proposal is for an accessory building, not a dwelling. This criterion does not apply. *Criterion does not apply.*

7.7 (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 33.2305 (D) with permanent signs posted along the access route to indicate the location of the emergency water source;

Applicant: The subject property has no perennial water source that the fire district can use for drafting purposes.

Staff: The applicant has stated that there is no perennial water source on the property. County maps show no streams, wetlands, or ponds on the subject site. *Criterion does not apply.*

7.8 (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.

Staff: The applicant's site plan (Exhibit A1) indicates a 30 foot primary safety zone in all directions around the proposed accessory building. *Criterion met.*

7.9 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

Applicant: The primary fire zone around the garage and dwelling has an average slope of less than 10 percent. As indicated on the site plan (Exhibit A1) the secondary fire zone extends an additional 75 feet to the north due to steeper slopes. The secondary fire zone is being cleared of all low-hanging branches and low shrubs. The material is being chipped and spread to avoid combustion.

Staff: Staff performed a site visit on 3-27-06 and confirmed the slopes as reported by the applicant. The immediate area surrounding the garage has been leveled. It appears this work was done at approximately the same time the level pad for building the house was constructed. Surrounding the building pad, however, are steep slopes. The driveway access is approximately 17 percent but is upslope from the garage. The surrounding natural slopes are approximately 22 percent. The area downslope from the structure is accurately depicted on the site plan (Exhibit A2) and is between 20 and 25 percent in slope. The applicant is correct that the fire break needs to be extended, but it is the primary, not the secondary fire break which must be extended. A condition of approval will be attached to this decision requiring a 30 foot primary fire break to the east, south and west, and a 105 foot primary fire break to the north (downslope). An additional condition will require the submittal of a revised site plan showing the primary fire break being extended downslope 105 feet from the proposed garage. *Criterion met with condition.*

7.10

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 33.2260 (F) and 33.2310.

Applicant: The owners are being required to reduce the secondary fire safety zone to the west because there is less than 130 feet of distance from the garage to the property line. It must be noted for the record that the site plan prepared by Kopp Construction shows a setback of 82 feet. The property owners' representative measured the setback in the field with a tape measure and established the setback as 102 feet. The area west of the garage structure is cleared and rocked and acts as an excellent fire break. The circumferential driveway represented in the Site Plan intersects with the short driveway to the garage. The absence of any low fire fuel west of the garage is a compelling factor in granting the exception to the secondary fire safety zone.

Staff: Staff will rely on the information submitted in the applicant's site plan (Exhibit A1). This site plan indicates ample room on the property to meet the secondary fire break requirements to the north, east, and south. The structure sits only 82 feet from the west

property line, however. The primary fire break requirement is 30 feet in this direction, leaving only 52 feet for a secondary fire break to the west. The applicant has requested an exception to the secondary fire break standards. Findings regarding the exception request are in section 8 of this report. With the approval of the requested exception, the secondary fire safety zone requirements are met. *Criterion met to the north, east, and south. An exception has been requested for the west. See Section 8 of this report for findings regarding the exception request.*

7.11 **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**

Staff: The proposal does not involve an approved forestry management plan. *Criterion does not apply.*

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

Staff: The applicant is seeking an exception to the fire break standards in order to ensure all of the required fire safety zone is located on the applicant's property. See Section 8 for findings regarding the exception. *Criterion met.*

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

Applicant: The building site for the garage is level.

Staff: Staff concurs. The foundation of the building is on an area which is currently level. This is clearly a man-made level area. However, natural slopes surrounding the building site are less than 40 percent. *Criterion met.*

7.14 (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: The roof on the structure will be a play court with a non-flammable surface. According to the drawings in Exhibit A2 by Kopp Construction, the roof is to be a 50 mil roof

system with a sports court on top. The roof system is ¾ inch tongue and groove plywood glued to TJI roof joists. The material covering the floor of the play court is non-flammable.

Staff: The applicant has proposed the use of a roof system which they report is fire retardant. No chimney is proposed. The applicant will be required to obtain a building permit for the structure to ensure it complies with the standards of the applicable building codes.
Criterion met with condition.

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

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

(2) Evidence of a domestic water supply means:

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

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

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

Applicant: A Water Well Report is included in the record as an attachment to the "Certification of Water Service" form. This report was filed with the Oregon Department of Water Resources.

Staff: The house on the property is currently served by a private well as evidenced by the documents submitted by the applicant. These documents are included in the record.
Criterion met.

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

(1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written

verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;

Applicant: The road serving the subject property is pre-existing and was constructed prior to the establishment of the above requirements. The road does support the heaviest equipment from the fire district.

Staff: The subject road is built on grade. The road is capable of supporting 52,000 pounds. *Criterion met.*

7.17 **(2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;**

Applicant: The road does provide a 20 foot travel surface and the private driveway within the site does provide a 12 foot width.

Staff: The access to the property is via a shared private road. This road is graveled and is at least 20 feet wide up to the Jensen property line. The driveway on the Jensen property is 12 feet wide and is graveled. *Criterion met.*

7.18 **(3) Provide minimum curve radii of 48 feet or greater;**

Applicant: The fire apparatus for the Scappoose Rural Fire Protection District has no problem reaching the Jensen site. A fire truck turn-around has been constructed at the entrance to the Jensen site. The radius curves on the (shared) road fall well within the guidelines. The private driveway is circumferential and the turning radii do fall within the 48 foot or greater requirement.

Staff: As shown on the applicant's site plan and noted by the applicant above, all curve radii are at least 48 feet. *Criterion met.*

7.19 **(4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;**

Applicant: The (shared) road and driveway meet this standard.

Staff: Staff concurs. *Criterion met.*

7.20 **(5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:**

(a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;

(b) The maximum grade may be exceeded upon written approval from

the fire protection service provider having responsibility;

Applicant: The (shared) road serving the property has stretches that exceed 12 percent; however, this has not proven to be problematic for the Scappoose Rural Fire Protection District. The fire district chief has signed the Fire District Access Review form that the site is in compliance with adopted fire district standards.

Staff: The fire protection service provider has approved the use of the road and driveway in their current configuration. (Exhibit A5) No re-grading of the private road is required to reduce the slopes. *Criterion met.*

7.21 **(6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;**

Applicant: The subject property has a circumferential driveway that allows fire apparatus one way in and one way out. No turnaround is necessary with the circular driveway.

Staff: The house is 212 feet from the property line, and the proposed garage is approximately 255 feet from the property line from which vehicular access is gained. The driveway serving the structure exceeds 150 feet in length, requiring a turnaround. The circular driveway serves as a turnaround. *Criterion met.*

7.22 **(7) Provide for the safe and convenient passage of vehicles by the placement of:**

(a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or

(b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.

Applicant: The driveway to the subject property is less than 500 feet in length.

Staff: The driveway to the subject structures is less than 500 feet in length but over 200 feet in length. While no portion of the driveway was designed to serve specifically as a turnout, the driveway functionally possesses multiple turn-out opportunities due to its multiple branches. The driveway has a branch approximately 120 feet from the property line that functions as a turnout. *Criterion met.*

8.0 Exceptions to Secondary Fire Safety Zones and Forest Practices Setbacks. (MCC 33.2310)

8.1 **§ 33.2310 Exceptions to Secondary Fire Safety Zones and Forest Practices Setbacks**

(A) The secondary fire safety zone and forest practices tract setbacks for

dwelling and structures may be reduced pursuant to the provisions of 33.2310 (B) when:

- (1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or
- (2) The dwelling or structure is proposed to be located within 130 feet of the centerline of a public or private road serving two or more properties including the subject site; or
- (3) The proposed dwelling or structure is intended to be located within 130 feet of a legally existing dwelling or structure.

Applicant: The proposed garage is within 130 feet of a legally existing structure (the Jensen residence).

Staff: Staff concurs. *Criterion met.*

8.2 (B) Exceptions to secondary fire safety zones and forest practices setbacks shall only be granted upon satisfaction of the following standards:

- (1) If the proposed secondary fire safety zone is between 50 and 100 feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban– Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, or

Applicant: The proposed structures is located 102 feet from the western property boundary but this figure may be inexact. The property owner elects to address the standards of Section 505 of the Urban –Wildland Inteterface Code to err on the side of safety.

Staff: As discussed in finding 7.10, the applicant’s site plan shows the proposed structure 82 feet from the west property line. A 30 foot primary fire break is required, leaving 52 feet available to serve as a secondary fire break. A condition of approval will require the structure to be built to the Class 2 Ignition Resistant standards. *Criterion met with condition.*

8.3 (2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and

Staff: The secondary fire safety zone is over fifty feet. *This criterion does not apply.*

8.4 (3) There shall be no combustible fences within 12 feet of the exterior surface

of the dwelling or structure; and

Applicant: The site plan does not call for any combustible fences within 12 feet of the exterior surface of the proposed garage structure. A 7 foot high, non-combustible fence will be erected around the perimeter of the roof of the building to enclose the play court. This fence will be of all metal construction.

Staff: No combustible fences exist nor are proposed within 12 feet of the exterior surface of the proposed garage. *Criterion met.*

- 8.5 **(4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC 33.2310 (B) (1) are utilized, or**
(5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of MCC 33.2310 (B) (2) are utilized.

Exception: Expansions of existing single family dwellings as allowed by MCC 33.2220 (D) shall not be required to meet this standard, but shall satisfy the standard of MCC 33.2305 (B) (3) above.

Staff: The proposal is for a garage, not a dwelling. *These two criteria do not apply.*

- 8.6 **(6) All accessory structures within the fire safety zone setbacks required by MCC 33.2305 shall have a central monitored alarm system.**

Applicant: The proposed garage will have a central monitored alarm system.

Staff: A condition of approval will require the installation of a central monitored alarm system in the proposed garage. *Criterion met with condition.*

- 8.7 **(7) All accessory structures within 50 feet of a building containing shall:**
(a) Have a central monitored alarm system;
(b) Have exterior walls constructed with materials approved for a minimum of one-hour-rated fire-resistive construction, heavy timber, log wall construction or constructed with noncombustible materials on the exterior side.

Applicant: The exterior walls of the garage are concrete, but the playroom will have brown cedar siding that matches the existing residence. The walls of the playroom will be constructed with 2 inch by 6 inch Douglas Fir studs covered with ½ inch CDX plywood, and the plywood in turn will be covered by ½ inch gypsum board with a Class B fire rating.

Staff: A condition of approval will require the installation of a central monitored alarm system in the proposed garage and will require the exterior walls to be made with one-hour-rated fire-resistive construction. *Criterion met with condition.*

8.8 (8) When a detached accessory structure is proposed to be located so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all underfloor areas enclosed to within 6 inches of the ground, with exterior wall construction in accordance with Section 504.5 of the International Fire Code Institute Urban– Wildland Interface Code Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, or underfloor protection in accordance with Section 504.6 of that same publication.

Exception: The enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire-resistive construction or heavy-timber construction.

Applicant: No slopes over 10 percent are present on the subject site.

Staff: Staff concurs. *Criteria does not apply.*

9.0 Application for SEC Permit (MCC 33.4520)

9.1 § 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.

Staff: The applicant has provided a narrative which is quoted throughout this document. *Criterion met.*

9.2 (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 site plan (Exhibit A1) which includes a, b, d, e, and f. In addition, the applicant has submitted other drawings showing contour information and topographic features as required by c above (Exhibit A6). *Criterion met.*

10.0 Criteria for Approval of SEC-v Permit- Significant Scenic Views (MCC 33.4565)

10.1 § 33.4565 Criteria for Approval of SEC-v Permit -Significant Scenic Views

(A) Definitions:

(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: The proposed garage design is included as Exhibit A2. According to the elevation drawings contained in Exhibit A2, the height of the structure is 13 feet, which is far below the 30 feet permitted by the Code. The proposed garage has an L-shaped configuration, which includes a rectangular garage and a relatively square attached playroom. The structure will be constructed of brown cedar with a dark shade, non-metallic roof which is relatively flat and cannot be seen unless one stands upon it. The foundation will be concrete. The plan provides for downward-oriented, side-mounted lighting.

The subject property is not visible from any of the identified viewing areas. All of the key viewing areas were visited by the owners' representative. Thick, intervening vegetation and the physical distance separating the proposed garage from viewing area

precludes any visibility.

The property owner acknowledges the location of these viewing areas, significant scenic resources and linear corridors, and the definition of “visually subordinate.” For the record, the property owner’s representative meticulously studied the view impact by conducting a ground survey on the subject property to determine exactly what could be seen from the location of the proposed garage. In addition, the roads of the area were traveled to determine if the subject property could be seen from any of the vantage points listed above. Even with the use of field glasses and maintaining visual contact with known landmarks in the area, such as dead snags and topographic features, the partially constructed garage shell cannot be seen from any of the viewing areas, nor can any of the viewing areas be seen from the partially completed garage. The property owners have included photographs of the area surrounding the garage, and these are contained herein as Exhibit A7.

Exhibit A7 contains photographs which demonstrate how the proposed development is visually subordinate through vegetative screening on the proposed site. Exhibit A1 (the site plan) also demonstrates areas within the site that contain site obscuring vegetation. The vegetated areas are indicated in forest green color. The garage is visually subordinate because it is situated at the head of a draw surrounded by trees that are five to ten times taller than the garage itself. The garage structure is also blocked from view to the south and east by existing structures and topography on the property. It is very difficult to see the garage until one is parallel with the front of the existing residence. The topography to the south and west is higher than the garage structure. The topography to the east is at the same level; and only in the area to the north is the topography lower, but this area is extremely heavily forested. The proposed garage structure is not only visually subordinate to the surrounding area but is visually subordinate to the other structures on the property because it is smaller and because it is obscured from view. A positive finding can be made that the proposed garage structure is clearly visually subordinate, both within the coterminous property boundaries and the surrounding area.

Staff:

The applicant has provided the materials required by this section. The applicant has indicated that the property is not visible from any Identified Viewing Areas (IVA). The amount of vegetation on the slopes surrounding the subject site is the reason the applicant has stated that the property is not visible from any IVAs. While this may be true, staff must analyze the request as if none of the vegetation outside of the property owner’s control existed. If all of the vegetation on the land between the subject site and the IVA’s was removed, there is a small possibility that portions of the subject site would be visible from IVA’s. There is some intervening topography that rises sharply from Highway 30, then falls sharply into a ravine, and rises again to the subject property’s location. This topography would make it very difficult to see any of the improvements on the subject property even if all of the vegetation were removed from properties outside of the owner’s control. However, USGS topography maps of the area show that the owner’s site is higher than the ridge of the hill between the subject site and the IVA’s, making it possible for the structures to be visible. As such, staff will analyze the proposal as if it is visible from IVA’s such as Sauvie Island and the Multnomah Channel.

Criteria met.

(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:

The location of the proposed garage strongly complies with (1) above. The location is optimum for several reasons:

- The proposed structure is recessed into the head of a draw where the land is significantly steeper to the west and south. The topography and tall trees totally obscure the structure.
- The proposed structure is adjacent to the principal dwelling, as a garage structure should be, for convenience; however, the principal dwelling does screen the garage on the east, which contributes to its further visual subordination.
- The proposed structure is bordered by a heavily timbered area on the north that is several hundred feet thick. The timber within this area is tall and provides a complete visual barrier between the garage and any adjacent or nearby properties. The garage structure also cannot be seen from any of the key viewing areas identified above.
- The proposed garage is located on a property that is at the end of a dead-end private road. Anyone traveling on the private road cannot even see the garage until they have entered the property and reached the front of the principal dwelling.

The improvements on the property are well below the line of sight of trees that are located along the Columbia River Slough and below the trees that cover the low foothills of the Tualatin Mountains. No matter where the improvements are sited on the property, they will not be visible from key viewing areas. The existing vegetation for the site further reduces visibility of the property from Morgan Road and neighboring properties. The site is also made visually subordinate by the colors of the principle buildings and the retention of existing vegetation along the property boundaries with the exception of a portion of the eastern boundary.

Staff:

The proposed building site is ideally located to take advantage of existing topography and vegetation. The building site was prepared years ago when the house was constructed. This involved making a cut into a hillside to create a level building site. The hillside remains an effective screen to the south. The building is screened to the east by the existing dwelling, which will conceal the majority of the proposed garage. The building site is already cleared, but is surrounded by heavy vegetation on all sides. Some vegetation will need to be removed to make fire breaks, but substantial numbers of tall conifers will remain in place. These conifers currently screen the house and will provide excellent screening for the garage. *Criterion met.*

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

Applicant: The proposed garage is being constructed of nonreflective and nonmetallic materials except for the roof. The roof will be constructed of dark nonmetallic material, as indicated in the engineer 's drawings. This proposal clearly conforms with this criterion.

Staff: The proposed structure will be built of concrete, wood, and a material intended to serve as a sports court. The existing concrete can be seen in the staff photos included as Exhibit S3. This material is a natural grey color and has low reflectivity. The proposed cedar shingles will match the house. These shingles will be dark brown, a natural color. The roof is a flat roof and will not be visible from on the property let alone any IVAs. The roof-top sports court will be surrounded by a railing for safety purposes. This railing will be made of cables as shown on the elevation drawings included as Exhibit A2. Cables are generally dark toned metal that is highly textured which results in the material having low reflectivity. Additionally, the cables will be less visually intrusive than an opaque solid material such as wood. The exterior materials proposed all have low reflectivity and dark natural or earthtone colors. *Criterion met.*

10.4 **(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: This proposal under (3) strongly complies with the criterion for lighting. The existing lighting on the principal residence is sufficient to illuminate the garage area. The engineered plans provide for downward-oriented, side-mounted lighting. This proposal conforms strongly with this criterion.

Staff: The structure will have doors, requiring the installation of lights in order to meet the building code. The distance to IVA as well as the location of the structure behind the house and the fact that the structure is dug into the side of a hill will prevent the lights from being highly visible from IVAs. A condition of approval will require the applicant to use only light fixtures that are hooded, shielded and directed downward. The proposed light fixtures shall be clearly indicated on the building plans prior to authorization of a building permit. *Criterion met with condition.*

10.5 **(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.**

Applicant: Priority has clearly been given to retaining existing vegetation, particularly along the southern and eastern boundaries. The planting of trees for the purpose of obtaining additional screening is not necessary since the proposed garage is surrounded by tall tree vegetation that is totally sight obscuring. The natural contour of the land provides free earthen berms that block or otherwise disrupt the view of the improvement. This proposal strongly conforms with this criterion.

Staff: Staff concurs. Adequate screening exists in the forms of the hillside into which the building site was cut, the existing house, and the presence of a significant number of mature conifers on the site. The applicant's site plan only indicates the presence of forested areas to the north and south of the proposed structure. As can be seen on the 2004 aerial photo included as Exhibit S1, mature conifers also exist on the property to the east of the structure, which is the direction most visible from IVAs. *Criterion met.*

10.6 **(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: As stated previously, the proposed garage is already partially constructed. The site has already been developed to fit the natural topography. Existing tall tree vegetation has been retained wherever it was present when the property was originally purchased by the Jensens. The land for m of the property was already altered fro m when the dwelling site was cleared and leveled. The proposed garage occupies a portion of the area that was cleared for the entire dwelling.

Staff: The applicant is proposing the re-use of an existing level building pad with a partially completed structure. No new grading or other modification to landforms or vegetative cover will be required. The building site is fully screened by existing vegetation and the existing house. *Criterion met.*

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

Applicant: The surrounding forest canopy is unquestionably higher than the eaves of the proposed garage. The forest canopy to the north is located across a ravine that terminates near the northern edge of the building pad. The topography to the west and south is also very apparently higher than the 13 foot high garage. The area east of the garage is occupied by the principal dwelling and therefore the garage is not visible fro m the This east. Proposal clearly conforms with this criterion.

Staff: The proposed garage will be 13 feet tall with a seven foot railing around the top for a total height of twenty feet. With the railing, the garage will be shorter than the house. As can be seen in the staff photos included as Exhibit S3, the surrounding forest canopy is taller than the existing house. The proposed structure will remain below the forest canopy level. *Criterion met.*

10.8 **(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:**

Applicant: The silhouettes of the buildings on the subject property are below the skyline of bluffs and low foothills as stated previously. It should be noted for the record that the subject property also cannot be seen from the Skyline Boulevard Ridge to the west. Highly variable topography, and thick forest canopies west, north and south of the subject property block any view of the buildings. It should be noted for the record that some of the dwellings along Morgan Road can be seen from the Skyline Ridge, but the subject property simply is too far away and too nestled to be seen.

Staff: The site of the proposed garage is at an elevation of approximately 280 feet as shown on the applicant's topography map which is included as Exhibit A6. USGS topographical maps of the area show the hillside continues to rise to the west until reaching the ridge along Skyline. The ridge is at an elevation of 1220 feet, approximately 940 feet above the proposed building site. The subject structure will not break the skyline. *Criterion met.*

10.9 **(D) Mining of a protected aggregate and mineral resource within a PAM subdistrict shall be done in accordance with any standards for mining identified in the protection program approved during the Goal 5 process. The SEC Application for Significant Scenic Views must comply only with measures to protect scenic views identified in the Goal 5 protection program that has been designated for the site.**

Applicant: This criterion does not apply because there are no aggregate resources on the site.

Staff: Staff concurs. *Criterion does not apply.*

10.10 **(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.**

Applicant: The subject property is nestled in the heavily-wooded low foothills of the Tualatin Mountains. The variable topography and thick timber prevent the subject property from being seen from key viewing areas to the east. The distance from the property to key viewing areas is simply too great to result in a visual impact.

Staff: The following conditions of approval have been included to ensure compliance with the provisions of the SEC-v overlay:

- The property owner shall retain all mature trees to the east of the proposed garage except as needed to meet the fire safety zone requirements of MCC 33.2305(A)(5)(c). If removed due to disease, the trees shall be replaced immediately with similar trees of caliper size totaling the caliper size of the removed trees. (MCC 33.4565(E)).

- All exterior lighting shall be directed downward, hooded (covered on top) and shielded (covered on the sides). Hooding and shielding materials shall be opaque. The proposed light fixtures shall be clearly indicated on the building plans prior to County authorization of a building permit. (MCC 33.4565(C)(3)).

These criteria are proportionate to the potential adverse visual impact of the development as seen from IVA's. The most probable reason why the garage could be viewed from an IVA would be the removal of screening vegetation. Requiring the existing vegetation to be maintained for screening purposes will effectively block the garage from view. The existing vegetation is sufficient to screen the garage, making it unnecessary to require the planting of additional screening vegetation. Requiring all of the lighting to be in compliance with the standards of MCC 33.4565(C)(3) further eliminates the possibility that the garage will be visible from IVA's even at night or during the winter when any deciduous vegetation will have no leaves. These two conditions of approval are sufficient to ensure the proposed garage will be visually subordinant as seen from Identified Viewing Areas.

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

11.1 § 33.4570 Criteria for Approval of SEC-h Permit -Wildlife Habitat

(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:

Applicant: Exhibit A8 is an assessor's map that shows all properties by tax lot number that are within 200 'of the proposed development except for the parcel immediately to the north of the subject property. The property owners 'representative visited with neighboring landowners, and they were supportive of the proposed permit and gladly gave permission for their properties to be field checked. For the purposes of this application, only one detailed site plan is provided because only one adjoining property has any development within 200 'of the subject property. Exhibit A9 is a detailed site plan of the Kreitz property that borders the subject property along its southern boundary. It is otherwise shown as Tax Lot 400 on Map 2N 2W 12C.

In addition, a large-scale aerial photograph is attached to the application in order to provide more information on surrounding properties. It is apparent from examining (this photograph) that the subject property is dominantly surrounded by commercial forest lands to the north and west. One residence is located directly east of the property boundary, and it is 210 feet away. The Kreitz residence is located on a 6.39-acre parcel to the south.

Staff: The applicant has submitted the information required by this section. *Criterion met.*

11.2 (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: All forested areas with the above characteristics are duly noted on Exhibit A1.

Staff: Staff concurs. *Criterion met.*

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

Applicant: Exhibits A1 and A9 show the improvements on the Jensen and Kreitz properties respectively. Exhibit A8 shows improvements within 200 'of the subject property.

Staff: The applicant has provided the information required by this section. *Criterion met.*

11.4 **(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: Exhibits A1, A8, and A9 show the location of all of the above improvements.

Staff: Staff concurs. *Criterion met.*

11.5 **(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: No fencing exists between any of the common boundaries with the subject property.

Staff: The applicant has stated no fencing exists. No new fencing is proposed. The information required by this section has been provided. *Criterion met.*

11.6 **(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: This is exactly what has happened on the subject property historically. None of the forested areas in the northern portion of the property have ever been disturbed by the improvements on the site. The area for the garage was cleared at the time the home was built nearly 25 years ago.

Staff: The proposed garage site is currently cleared and has a vehicular access to it. No land clearing is required other than as necessary to meet the fire safety zone standards.
Criterion met.

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

Staff: The subject site is served by a shared private road that is perpendicular to NW Morgan Road, which is a public road. No portion of the subject property is within 200 feet of a public road. This criterion cannot be met on the subject site therefore a wildlife conservation plan is required. *Criterion not met.*

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

Applicant: The driveway serving the dwelling and garage is 250 'long, which is well within the standard for the zone.

Staff: The driveway and service corridor serving the development do not exceed 500 feet.
Criterion met.

11.9 (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 access was already established prior to the enactment of this code requirement. It is evident when examining Figure 2 that the property has an extensive internal road system that provides excellent accessibility. This criterion is met.

Staff: The adjacent property to the south has a driveway within 200 feet of the southern boundary of the subject site. As can be seen on the aerial photo included as Exhibit S.1, the applicant's driveway is approximately 85 feet from the neighboring driveway. The applicant's driveway is within 100 feet of the property boundary of the adjacent property with the closest driveway. *Criterion met.*

11.10 **(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 existing development conforms with this standard since the dwelling and garage are

within 300 'of an adjacent property that has developed areas within 200 'of the property boundary.

Staff: The property to the south has developed areas within 200 feet of the property boundary. The proposed garage is approximately 260 feet from the southern property boundary as shown on the applicant's site plan (Exhibit A.1). *Criterion met.*

11.11 **(6) Fencing within a required setback from a public road shall meet the following criteria:**

Applicant: No fencing is located within a required setback from a public road.

Staff: No fencing exists on the site and the applicant is not proposing any new fencing. *Criteria do not apply to this request.*

11.12 **(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:**

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

<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>various genera</i>	Bamboo sp.

Applicant: None of the nuisance plants listed in the following table are located on the subject property because the entire site is managed for weed control. The Jensens maintain a

front yard to the south of the residence and a large side yard to the east of the residence. During a field investigation, none of the noxious weeds listed were observed. Most of the area surrounding the property is natural wooded landscaping with a mature forest canopy and relatively sparse understory growth.

A positive finding can be made that no noxious weeds or plants are found in any significant numbers on the entire site.

Staff: A condition of approval will be attached requiring the property owner to not plant any of the above listed species and to keep all of the above listed species removed from the cleared areas of the subject property. *Criterion met with condition.*

11.13 **(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).

Applicant: The property owner can meet the development standards of Section (B) because the site is not physically developed and disturbed to the extent that the majority of the site is too impacted for significant wildlife habitat. No further improvements are planned on the site that would impact this area. The entire area north of the dwelling compound, including the proposed garage, has been disturbed. No fences, roads, or other improvements exist north of the currently improved areas. The area between the garage and the western property line only has a gravel driveway located within it. The area east of the proposed garage contains the dwelling, main driveway, secondary driveway, drainfield, and garden area. The extreme southeast corner of the property is also lightly forested. In summary, most of the property has been left in a relatively undisturbed state and is very wildlife friendly owing to the absence of fences and agricultural activities.

Staff: The applicant is incorrect. As noted in finding 11.7, it is not possible for the applicant to meet the development standards of Part (B). The applicant has proposed a wildlife conservation plan.

The one criterion of Part (B) that the applicant cannot meet is the requirement for a structure to be within 200 feet of a public road. No portion of the subject property is within 200 feet of a public road. The proposed garage will be approximately 260 feet from the private road which provides access to the subject site. The additional 60 feet is warranted to allow the construction to happen in an area which has already been cleared and partially developed. Allowing the completion of construction which was started

several years ago will have less of an impact on habitat than requiring the applicants to relocate the structure closer to the end of the private road. No earth disturbance is required to install the structure in its proposed location while extensive grading would be required to move the structure closer to the private road. Additionally, moving the structure closer to the private road would likely necessitate building a new fire truck turn around, which would require further land clearance and grading. Allowing the completion of the existing structure in its existing location means that no new land clearance or site grading is necessary. This will provide the minimum amount of disturbance to wildlife that live on the site. As the findings throughout this section state, the applicant has proposed the minimum departure from the provisions of Part (B). This allows the structure to be sited in a manner that provides a comparable level of protection to habitat resources as the provisions of Part (B).

Criterion met.

11.14 **(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.

Applicant: The existing improved areas on the site were in place well before this ordinance took effect. The area that is currently forested north, south, and west of the dwelling compound will remain undisturbed by the major activities on the site.

Staff: The proposal does not include the clearing of any land or the removal of any canopy cover in excess of the required fire breaks. The applicant is proposing to finish a garage that was partially constructed several years ago. The applicant has reported that the site for the garage was cleared and leveled when the house was originally constructed approximately 25 years ago. Staff photos included as Exhibit S3 show that the garage site is currently cleared and is served by an existing driveway. *Criterion met.*

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

Applicant: The existing development pattern was already in place when this standard took effect; however, the portion of the site dedicated to the garage only occupies approximately 1,000 square feet. No further expansions of the garage are planned or anticipated.

Staff: The applicant is not proposing to clear any new areas. *Criterion met.*

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

Applicant: No fencing needs to be removed because none exists on the subject property or within the immediate area surrounding it.

Staff: The applicant has stated that no fencing currently exists. Staff conducted a site visit on 3-27-06 and did not observe any fencing in place. No new fencing is proposed. *Criterion met.*

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

Applicant: No new clearing is planned for the subject property.

Staff: Staff concurs. No revegetation is required since no new clearing is proposed. *Criterion met.*

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

Applicant: The subject property does contain a draw that conveys water during the wettest portions of the year. None of the riparian margin has been impacted by the garage improvement or any other improvements on the subject property; therefore, revegetation and enhancement are not necessary.

Staff: The subject property does not contain any mapped streams. The applicant reports that there is a seasonal drainage on the site. Staff reviewed the USGS topography maps for the area. (Exhibit S2) The contours show that the potential location of a drainage draw is the northwest corner of the site. As can be seen on the 2004 aerial photo included as Exhibit S1, the entire northern portion of the property is in a forested, undisturbed condition. There are no disturbed riparian areas on the subject property. *Criterion met.*

11.19 **(4) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.**

Staff: The subject property is not within a PAM subdistrict. *Criterion does not apply.*

12.0 Conclusion

Based on the findings and other information provided above, Staff finds that this application for a Significant Environmental Concern Permit for a new dwelling, with appropriate conditions, meets the applicable and Multnomah County Zoning Code requirements.

Exhibits

Applicant's Exhibits

- A.1 Site Plan
- A.2 Building plans
- A.3 Letter of authorization signed by property owners
- A.4 General application form signed by applicant
- A.5 Fire district access form signed by Mike Griesen
- A.6 Applicant's topography map
- A.7 Applicant's photos
- A.8 Applicant's maps showing development on surrounding properties.
- A.9 Site plan for Kreitz property

Staff's Exhibits

- S.1 2004 Air Photo
- S.2 Topography map
- S.3 Staff Photos