

**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.

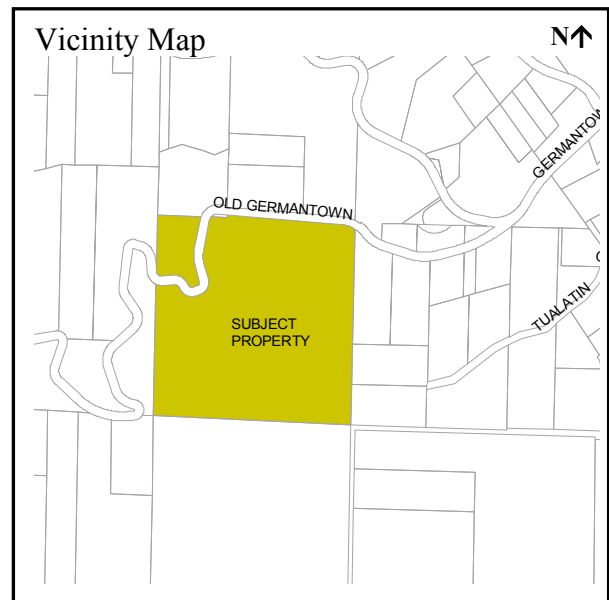
Case File: T2-06-060

Permit: Significant Environmental Concern -
Wildlife Habitat

Location: 13000 NW OLD GERMANTOWN RD
TL 600, Sec 09D, T1N, R1W, W.M.
Tax Account #R961090030

Applicant: Eamonn Hughes

Owner: Mary Ellen Hockensmith



Summary: Application to construct a 600 square foot carport, 620 square foot pool house, and swimming pool in a Commercial Forest Use-2 (CFU-2) zone, with a Significant Environmental Concern overlay for wildlife habitat (SEC-h), in the West Hills Rural Plan Area.

Decision: Approved, with conditions.

Unless appealed, this decision is effective Thursday, July 27, 2006, at 4:30 PM.

Issued by:

By: Kenneth Born, AICP, Planner

For: Karen Schilling- Planning Director

Date: Thursday, July 12, 2006

Instrument Number for Recording Purposes: #

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 Kenneth Born, AICP, Staff Planner at 503-988-3043 extension 29397.

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 Thursday, July 27, 2006 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC):

COMMERICAL FOREST USE ZONING DISTRICT

MCC 33.2220(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.

MCC 33.2260 Dimensional Requirements

MCC 33.2305(A)(5) and (B) Development Standards for Dwellings and Structures

MCC 33.2310 Exceptions to Fire Safety Zones and Forest Practice Setbacks (if applying for an exception to the fire break requirements)

SIGNIFICANT ENVIRONMENTAL CONCERN

MCC 33.4520 - Application for SEC Permit

MCC 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. **Prior to building permit sign-off, the applicant shall record the Notice of Decision [pages 1-3 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 the Land Use Planning Division. Recording shall be at the applicant's expense [MCC 37.0670].**
2. **The applicant shall not plant any of the nuisance plants listed in Table 1 of MCC 33.4550(C) anywhere on the subject property and shall control these plants within all cleared areas of the property.**
3. **The applicant is required to illustrate primary and secondary fire safety zones surrounding the proposed development on all final site plans.**
4. **The property owner shall maintain a primary and a secondary fire safety zone on the subject tract.**

A. 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.

B. 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. Maintenance of the secondary fire safety zone is required only on land surrounding the dwelling that is owned or controlled by the property owner.

4. **The proposed structures shall have a fire retardant roof.**

NOTE: Once this decision is final, and all required conditions of approval required prior to sign-off are completed, application for building permits may be made. When ready to have building permits signed off, the applicant shall call the Staff Planner, Ken Born, at (503) 988-3043 ext. 29397, to schedule an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland.

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

1. **Project Description**

Applicant: *We are proposing development in an existing cleared area of the property which is currently in use for our dwelling and agriculture.*

We plan to make our farm as energy efficient and ecologically responsible as possible. Arranged around the home are small buildings and terraces and gardens that are designed to reduce run-off, and consume as little water and power as can be managed. The proposed development will blend with the existing dwelling and is designed and sited to fit the natural topography and to take advantage of vegetation and landform screening. To date, this farm, established nearly thirty years ago, has co-existed comfortably with wildlife and native flora, hosting deer, elk, a myriad of bird species, a healthy second-growth forest, and pastures supporting sheep raised for their wool. We hope to make this farm exemplary of a balance between man and nature, sustainable indefinitely, and an on-going lesson in the beauty and potential of this area.

In order to maximize our organic self-sufficiency we seek to construct an organic vegetable garden, a small greenhouse, all clustered close to the house. We also plan to construct terraces and a swimming pool to replace the existing patios. The pool will use a balanced salt system rather than the chlorine traditionally used for hygiene. Solar panels will cover much of the pool house, supplementing existing systems that heat our water and the house. All buildings will be constructed of sustainable local materials with concrete foundations, stone retaining walls and steps, and wood frame construction. Construction will be done by hand wherever it is practical.

We are reducing the existing area of lawn in order to reduce the needs for irrigation and mowing. All planting has been selected for a minimal use of irrigation and machine maintenance. Fruit trees and berry plants will be intermixed with native grasses and plantings. Existing trees will be retained. Although the pastures are fenced, the fence lines have been kept back from the roadways and property lines to allow wild animals to move laterally when they emerge from the forest that covers nearly half of the property. No development or disturbance will come within 500 feet of the creek that drains the property. We will allow no light to spill vertically, and we practice the lowest impact farming techniques available.

This farm contains what will be a historic home designed by Pietro Belluschi, the well-known architect considered to be the leader of the regional Northwest Style of architecture. All improvements will be designed and constructed in harmony with his simple, understated attitude that subordinates the buildings to the land. Natural materials, earth-tone colors, native stone and conservation of water will characterize the farm. We intend to complement the existing systems of wildlife habitat and natural hydro-geology. We are raising a family here with the goal of teaching our children the values inherent in these ecological practices.

Staff: The applicant is seeking a Significant Environmental Concern permit for Wildlife Habitat (SEC-h) in order to construct a 600 square foot carport, 620 square foot pool house, and swimming pool. This project is also required to address the Commercial Forest Use-2 zone development standards [MCC 33.2305].

2. Site Characteristics

Applicant: *This is to request permitting a swimming pool, pool house, greenhouse and carport on property identified as 13000 NW Old Germantown Road. The 38.82 acre property is zoned Commercial Forest Use-2. The entire area has a Significant Environmental Concern overlay for habitat (SEC-h), in conjunction with a Significant Environmental Concern overlay for streams (SEC-s) in the southeastern portion of the property.*

Staff: The subject lot is currently zoned Commercial Forest Use-2 (CFU-2) with a minimum lot size of 80-acres. A Significant Environmental Concern Overlay for Wildlife Habitat (SEC-h) covers the entirety of the property. A Significant Environmental Concern Overlay for Streams (SEC-s) encumbers most of the property's southern half, specifically 300 feet on both sides of a stream which traverses in a southwesterly direction at the southeast corner, but does not encompass the proposed development area. Heavily forested areas also dominate the southern portion of the property. Over half of the subject property is cleared of vegetation, in areas immediately surrounding the existing 4,705 sf dwelling, 600 sf farm building and 412 sf carport; and at open pastoral areas to the north and southwest of the existing area of development where a number of animals graze (Exhibit A.4). The driveway takes access off of NW Old Germantown Road.

3. Public Comment

MCC 37.0530(B) Type II Decisions

(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject Tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 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 on June 29, 2006. No comments were received. *Procedures met.*

4. Proof of Ownership

MCC 37.0550 Initiation of Action.

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

only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: Multnomah County Assessment and Taxation records shows Mary Ellen Hockensmith is the owner of the subject lot (Exhibit B.1). Ms. Hockensmith has signed the General Application Form (Exhibit A.1), and has authorized Eamonn Hughes to be the applicant for this land use application. *This criterion has been met.*

5. **Accessory Structures are Allowed in the Commercial Forest Use-2 (CFU-2) Zoning District**

MCC 33.2220 Allowed Uses

(U) Other structures or uses determined by the Planning Director to customarily accessory or incidental to any use permitted or approved in the district.

Staff: The proposed carport, pool house and swimming pool are allowed in the zoning district. *This criterion has been met.*

6. **The Proposed Dwelling Meets the CFU-2 Dimensional Requirements**

MCC 33.2260 Dimensional Requirements

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

Applicant: *This property is not proposing to create a new lot, we are proposing accessory buildings on the existing lot near to the primary existing dwelling. The proposed development creates no impact on the current lot size.*

Staff: No new parcels are a part of this proposal. *This criterion has been met.*

(C) Minimum Forest Practices Setback Dimensions from tract boundary

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 property is 400 feet from the centerline of Old Germantown Road - West; 335 feet from the North; 820 feet from the South; 515 Feet from the East.*

Staff: The proposed location of all new structures is in an area that meets the front and rear minimum required setbacks. All proposed buildings meet the maximum height requirement. (Exhibits A.4, A.6, A.7)

7. **The Property is a Lot of Record**

MCC 33.0005(L)(13) – Lot of Record

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

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

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

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

Staff: The subject property appears in its current configuration on the 1962 zoning maps. These maps are the oldest Multnomah County zoning maps and have been deemed to show the zoning in place when land use regulations were first enacted. The current size of the property also exceeds the minimum lot size pursuant to the zoning designation shown to encumber the property on the 1962 maps (Suburban Residential (S-R)). This evidence is sufficient to show that one lot of record encompassing the entire 38.82 acres exists. *This criterion has been met.*

8. **Significant Environmental Concern for Wildlife Habitat**

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

(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: The proposed development falls entirely within the cleared areas and meets all of the fire safety requirements. See attachments # 5 Fire Access Review & 6 Fire Flow Review.

Staff: The proposed development is to occur in an area previously disturbed, and cleared of natural vegetation resulting from the existing residential use. The placement of the accessory structures in this location is consistent with this standard. *This criterion has been met.*

(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 proposed development starts 390 feet from the main driveway.

Staff: Staff concurs. The closest proposed improvement from a public road is the carport, which is approximately 350 feet from NW Old Germantown Road, a County road with a Rural Collector functional classification. NW Old Germantown Road is capable of providing reasonable practical access to the developable portion of the site. *This criterion has not been met.*

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

Applicant: The existing road serving the residence is 480 feet long and the agricultural/fire access is 450 feet long we are in compliance with this requirement.

Staff: Staff concurs. The private driveway is approximately 480 feet long from the property line to the house, and is not greater than 500 feet in length. *This criterion has been met.*

(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: There are no other properties that have access to this driveway and fire/agriculture road we are in compliance with this requirement.

Staff: The driveway for this property already exists. There is not currently a property directly adjacent to the subject property with an access road/driveway within 100 feet of the property line (Exhibit A.4). *This criterion has been met.*

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

***Applicant:** The proposed development is 335 feet of the property boundary. Size of property does not allow compliance with this requirement.*

Staff: Staff concurs. The greenhouse is the closest proposed structure to any property line, at a distance of 335 feet from the northerly structure property boundary (Exhibit A.4). *This criterion has been met.*

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

(a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

(b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.

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

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

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

***Applicant:** There will be no new fencing built as a result of the proposed development.*

Staff: No new fencing is proposed within a required setback from NW Old Germantown Road. Existing fencing is also not within any required public road setbacks. *This criterion has been met.*

(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 seppium</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
various genera	Bamboo sp.

Applicant: We will not plant any of the plants from the Multnomah County Nuisance Plant List listed below.

Staff: The applicant has verified that no nuisance plants listed in the table above will be planted. This approval is conditioned such that none of the nuisance plants listed in the table can be planted anywhere on the property and must be kept from the cleared areas of the site. *With the condition, this criterion is met*

8. The Project Requires a Wildlife Conservation Plan

MCC 33.4570(C) - Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

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

Staff: The applicant has submitted a Wildlife Management Plan as development will not occur within 200-feet of a public road as required (without approved Wildlife Management Plan) by MCC 33.4570(B)(2). No trees or other significant wildlife habitat will be removed for construction. The applicant has decided to place the proposed carport, swimming pool and pool house atop areas of the property which are already cleared of natural vegetation. By using these existing cleared areas, the property will be left unaffected by the development. Staff finds the proposal to cluster the structures as proposed will have less of an impact on the overall wildlife habitat of the site than any other configuration.

(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: No new areas to be cleared. All areas are in cleared landscaped area of the property. No existing forest will be affected.

Staff: The replacement proposed carport, swimming pool and pool house will be placed in a nearly level cleared area void of tree cover (Exhibit A.3).

(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: We are planning the clustered development near the dwelling and existing patio the development takes up approximately 3,019 square feet. This area is part of an already cleared area.

Staff: Less than one acre of undisturbed vegetation will be disturbed in the construction of the carport, swimming pool and pool house. *This criterion has been met.*

(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: The proposed structures do not include the installation of any new fencing. There is no existing fencing in the cleared area of the property development. The existing fencing in other cleared areas of the property is agricultural and has been in position for about 30 years.

Staff: No new fencing is proposed. Existing fencing is located outside of the area to be used to site new development, and is currently being utilized for agricultural purposes (Exhibit A.4). *This criterion has been met.*

(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: The proposed development doesn't clear any new area and is exempt from 2:1 planting ratio.

Staff: The applicant is not creating newly cleared areas as part of this proposal. The new development will be located in a non-forested "cleared area" which does not have at least 75 percent crown closure, 80 square feet of basal area per acre, trees greater than 11 inches DBH or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry (Exhibit A.4). *This criterion has been met.*

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

Staff: No riparian areas will be disturbed. The development is located over 600 feet (northwest of) the nearest tributary. *This criterion has been met.*

9. CFU-2 Development Standards for Dwellings and Structures

§ 33.2505 Development Standards for Dwellings and Structures

(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: All proposed structures are within the currently landscaped area of property clustered near the main dwelling area. This will create the least amount of impact on the adjoining forest and agricultural land. All setback requirements have been met, there is 130 feet set back on all sides from proposed development site. The proposed development will not exceed 35 feet in height. (Exhibit A.4)

Staff: A 2002 aerial photograph of the area suggests active farming or timber harvesting operations are occurring on contiguous properties directly to the south. Surrounding properties appear to be entirely forested, or partially forested and developed with a single family dwelling much like the subject site. The proposed carport will be located adjacent to an existing carport in a cleared area between the existing carport and a treed, landscaped area. Because these portions of the subject property are already cleared and dedicated to residential uses, the carport, swimming pool and pool house will be located in an area that is not used for forest practices.

The carport, swimming pool and pool house will be located in existing cleared areas within close proximity to the existing home and will not require removal of any trees or significant vegetation. The garage has been proposed 20-feet from the existing access drive in order to cluster residential structures around the access road in the event of a fire. The minimum yard setbacks of 33.2260 (C) through (G) will not be met, although the applicant has applied for an exception to these standards as allowed by MCC 33.2310. *This criterion has been met.*

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

Applicant: The proposed developments will enhance farming on the property by expanding the growing season with the greenhouse. The forest and the agricultural area will not be affected.

Staff: Approximately 22.82 acres of the subject property is currently devoted to agricultural purposes. The carport, swimming pool and pool house will be located near the residence in an attempt to retain the rest of the property for future forest or farming practices if desired. All proposed improvements will occur in an area of the property assessed for residential purposes. *This criterion has been met.*

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

Applicant: The proposed structures are clustered together on land that is currently cleared and has minimal landscaping including an existing farm shed.

Staff: Staff concurs with the applicant's statement and finds the proposed carport, swimming pool and pool house has been sited in an area that is not productive as forest land. *This criterion has been met.*

(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: There currently is an agricultural road approximately 450 feet long that will also serve as fire access to the new structures. See the road on Exhibit A.3 that is labeled Farm and Fire Access Road

Staff: Staff concurs. The private driveway is approximately 480 feet long from the property line to the house, and is not greater than 500 feet in length. *This criterion has been met.*

(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: TV Fire Rescue District #1 JT currently serves the property for fire protection. The plans for the proposed structures have been examined by the Fire Marshall and found to be in compliance with existing codes. The Fire Marshall has determined that the emergency water source is not required for the proposed structures. As a result no permanent signage for agricultural and fire access road required. (Exhibit A.8)

Staff: The property is located within the Tualatin Valley Fire and Rescue District. *This criterion has been met.*

(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 Fire Marshall has determined that the Fire Access Road is adequate for the site and that an emergency water source is not required for the proposed structures. As a result no permanent signage for agricultural and fire access road required. (Exhibit A.8)*

Staff: The Tualatin Valley Fire and Rescue Department official has signed stating that a new access road is not required for the proposed structures (Exhibit A.8). The address for this property has been posted. *This criterion has been met.*

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

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

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

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

3. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 33.2260 (F) and 33.2310.

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

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

***Applicant:** For the proposed development we plan to install minimal landscaping. The crowns of any trees will be spaced more than 15 feet apart and the groundcovers will be below 2 feet. Additional, as the trees grow they will be pruned removing the lower branches up to eight feet to comply with the primary fire safety zone.*

To the east of the proposed development there is a 3% slope and has a combined 135 feet primary and secondary fire safety zone to the forested areas, complying with the 30 foot primary fire break and the 100 feet secondary fire break. To the south of the proposed development, the first 30 feet the slope is less than 25%, so that increases the primary slope to 75 feet and the secondary fire break is 100 feet. The forested area starts approximately 200 feet to the south of the proposed development. This complies with the required feet in fire break for primary and secondary fire breaks combined.

The forest area is approximately 200 feet away from the proposed development. There currently is pasture land with no vegetation over 2 feet high. This complies by maintaining the fire breaks.

- 1) This property complies with the primary and secondary fire break requirement around the proposed development.*
- 2) Slope has been taken into account with the fire breaks as explained above and we comply.*
- 3) Having pasture land and planning minimal small vegetation in and around the fire zones we are in compliance*
- 4) We do not restrict the forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules.*

The primary and secondary fire breaks will be maintained by the owner. To the east of the proposed development there is a 3% slope and has a combined 135 feet to the forested areas, complying with the 30 foot primary fire break and the 100 feet secondary fire break. To the south of the proposed development, for the first 30 feet the slope is less than 25%, so that increases the primary slope to 75 feet and the secondary fire break is 100 feet. The forested area starts approximately 200 feet to the south of the proposed development. This complies with the required feet in fire break for primary and secondary fire breaks combined

Staff: The applicant has enough area on the property to provide for the primary and secondary fire safety zones around the proposed carport, swimming pool and pool house. A condition of approval will require the primary and secondary fire safety zones to be mapped on final site plans, in addition to requiring ongoing maintenance of the zones on the property. *Criterion met, as conditioned.*

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

Applicant: *The proposed development complies, the site has less than 25 percent slope and complies with requirements of slopes being less than 40 percent slope. This is can be viewed in Attachment # 1c. Slopes for the development:*

A:	Swimming Pool –	24%
B:	Pool House -	20.5%
C:	Greenhouse -	19%
D:	Carport -	17%

Staff: The applicant has demonstrated the building site contains slopes of less than 40% which is confirmed with site photos contained in case file (Exhibit B.3).

(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;

Applicant: *The applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes; is not applicable to the proposed structures because they do not include a mobile home or temporary dwelling.*

Staff: Staff concurs. *This criterion is not applicable.*

(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;

Applicant: *Compliance with standards of the applicable building code or as prescribed in ORS 446.002 relating to mobile homes is not applicable to the proposed development because they do not included a mobile home or temporary structure.*

Staff: Staff concurs. *This criterion is not applicable.*

(3) Have a fire retardant roof; and

Applicant: *The roofs of the proposed development are metal, with the exception of the greenhouse and that roof will be glass.*

Staff: The applicant has proposed the use of roof systems for the carport and pool house 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, as conditioned.*

(4) Have a spark arrester on each chimney.

Applicant: *We are in compliance with the proposed development, there are no chimneys.*

Staff: Staff concurs. *This criterion is not applicable.*

(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:

(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:** The domestic water is from a well on the property. The well was registered with the Water Resources Department, Salem, Oregon on 6/19/92. See well report #42308. The location of the well is 1N1W9db Tax Lot 12. Site address is: 13000 NW Old Germantown Road (Exhibit A.8).*

***Staff:** The applicant has submitted a well report from water resources (Exhibit A.8). A water use permit is not required for any single industrial or commercial purpose in an amount not exceeding 5,000 gallons, or single or group domestic purposes in an amount not exceeding 15,000 gallons a day. This criterion has been met.*

10. Conclusions

Based on the findings, narrative, and other information provided herein, this application, as conditioned, satisfies the applicable approval criteria required for a Significant Environmental Concern permit for Wildlife Habitat, and satisfies the Commercial Forest Use-2 Dimensional and Development Standards, with imposed conditions.

11. Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	05/30/06
A.2	3	Application Narrative	05/30/06
A.3	16	Application Narrative	05/30/06
A.3	1	Site Plan and Aerial Photograph (Scale 1:50)	05/30/06
A.4	1	Site Plan and Aerial Photograph (Scale 1:200)	05/30/06
A.5	1	Site Plan with 1 ft contour lines	05/30/06

A.6	1	Plan, West Elevation, South Elevation – Pool House	05/30/06
A.7	1	Photograph – Proposed greenhouse	05/30/06
A.8	13	Service Provider Forms <ul style="list-style-type: none"> a. Fire District Review Access b. Fire District Review Fire Flow Requirements c. Certification of Water Service d. Certification of On-Site Sewage Disposal e. Storm Water Certificate 	05/30/06
A.9	13	Deed Information <ul style="list-style-type: none"> a. Status of Record Title dated March 28, 2006 	05/30/06
‘B’		Staff Exhibits	Date
B.1	1	A&T Property Information	N/A
B.2	1	Zoning Map	N/A
B.3	3	Site Visit Photos	06/21/06
‘C’		Administration & Procedures	Date
C.1	1	Complete Letter – Day 1	06/29/06
C.2	4	Opportunity to Comment	06/29/06
C.3	3	Administrative Decision	x.x