



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.

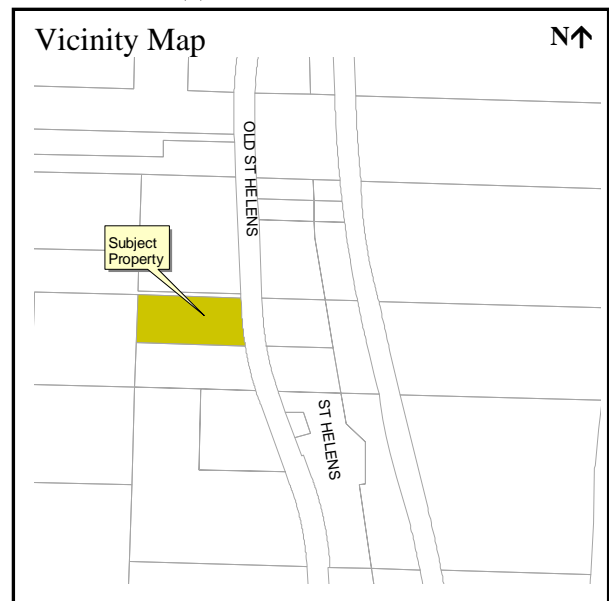
Case File: T2-06-104

Permit: New Forest Dwelling and Fire Safety
Zone Exception, Significant
Environmental Concern Permit for
Wildlife Habitat and Views (SEC-h, -v),
Hillside Development Permit

Location: NW ST HELENS RD
TL 1200, Sec 25AC, T3N, R2W, W.M.
Tax Account #R982250090

Applicant: Jared and Lillian Lee

Owner: James & Lynn Mattix



Summary: A request to construct a new single family residence and driveway in the CFU-5 zoning district with Significant Environmental Concern for wildlife habitat and scenic views, and Hillside Development overlays.

Decision: Approved, with conditions.

Unless appealed, this decision is effective December 8, 2006, at 4:30 PM.

Issued by:

By: _____
Kenneth Born, AICP, Planner

For: Karen Schilling- Planning Director
Date: December 8, 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 ext. 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 December 22, 2006 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): § 33.2425(B) - Review Uses, 33.2440 - Template Dwellings, 33.2456 - Forest Practices Setbacks and Fire Safety Zones, 33.2461- Development Standards for Dwellings and Structures, 33.4565 - Criteria for Approval of SEC-v Permit - Significant Scenic Views; 33.4570 - Criteria for Approval of SEC-h Permit -Wildlife Habitat, 33.5500 – Hillside Development and Erosion Control

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/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 on the subject property except the 11 slated for removal as shown on Exhibit W, and those 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 dwelling and attached garage. This primary fire break shall be 30 feet to the north, south, and west and shall be 105 feet to the east (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 to the south and east. 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 dwelling as required by conditions 5 and 6 (MCC 33.2305(A)(5)(c)).**
- 8. The dwelling shall be constructed in accordance with the International Fire Code Institute Urban– Wildland Interface Code Section 505 Class 1 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 dwelling 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 dwelling 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 dwelling shall be constructed with a fire retardant roof. (MCC 33.2305(B)(3)).**
- 12. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and will expose the smallest practical area at any one time during construction [MCC 33.5520(A)(2)(b)].**
- 13. Mulching shall be used to protect exposed critical areas during development [MCC 33.5520(A)(2)(d)].**
- 14. Silt fencing shall be installed down slope of the disturbed soil area as shown on Exhibit 6 prior to soil disturbance and maintained until project is finalized and vegetation has been re-established [MCC 33.5520(A)(2)(g)].**
- 15. Stockpiled topsoil shall be protected from erosion by applying a 6-mil plastic sheet cover. Disposed spoil areas shall be seeded as soon as permanent placement is completed. All disturbed areas are to be seeded or planted within thirty (30) days of the date grading activities are concluded. [MCC 33.5520(A)(2)(m)]**
- 16. On-site disposal of construction debris is not authorized under this permit. No spoils stockpile sites have been indicated on the plans, therefore any spoils will need to be removed from the site. Any spoil materials removed from the site shall be disposed of in an area which meets the applicable code requirements of that location. Construction debris removed off-site shall be taken to a location approved for the disposal of such material by applicable Federal, State and local authorities. Fill materials necessary for landscaping shall be clean and non-toxic. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects. [MCC 33.5520(A)(2)(n)]**
- 17. The Property Owner shall maintain best erosion control practices through all phases of development. Erosion control measures are to include hay-bale sediment barriers on the downslope of all disturbed areas in accordance with the submitted application materials of**

this permit. Reseeding at a rate of 100 pounds per acre shall be accomplished as soon as ground disturbing activities have been completed. If hydromulch will be employed it shall be installed at a rate of 2,000 pounds per acre. All erosion control measures are to be implemented as prescribed in the current edition of the *Erosion Prevention Sediment Control Plans Technical Guidance Handbook*, copies of which are available for purchase at our office, or through the City of Portland. The property owner or representative shall verify that all erosion control measures are properly installed and in working order prior to initiating grading activities.

18. During wet weather months, straw mulch, erosion blankets, the construction of a granular haul road, geotextile filler fabric, or 6-mil plastic sheeting shall be used as a to provide erosion protection for exposed soils such as the stockpile areas. Site preparation activities shall be accomplished by using track mounted equipment in the wet weather months.
19. The County may supplement described erosion control techniques if turbidity or other down slope erosion impacts result from on-site grading work. The Portland Building Bureau (Special Inspections Section), the local Soil and Water Conservation District, or the U.S. Natural Resource Conservation Service can also advise or recommend measures to respond to unanticipated erosion effects. [MCC 33.5520(A)(2)(m)]
20. Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to zoning approval of the Building Permit [MCC 33.5515(F)]. The Engineering Geologist or Geotechnical Engineer is required to submit a site report after development activities have ceased which certifies that the work conducted is consistent with the recommendations in the Report.
21. The applicant must comply with all conditions of approval outlined in the October 23, 2006 Transportation comment memo prepared by Alison Winter, Transportation Planning Specialist (Exhibit D.1).

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, Ken Born, at (503)-988-3043 x 29397 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 \$77 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.

1.0 **Project Description**

Applicant: *The applicants is prosing to build a new single family dwelling on the North West corner of the existing property located at Section 25AC, 3N 2W; Tax Lot 1200. No dwellings or accessory structures have ever existed on the property. The proposed location of the new dwelling is shown on the enclosed site plan (Exhibit A). The dwelling proposed is a two story home with 5 bedrooms to be approximately 2500 to 3100 square feet. The applicants have enclosed a proposed floor plan and elevation (Exhibit B). The applicants proposes to add a 12 foot paved access way running parallel to the properties northern edge as required by Fire District Review Form (Exhibit C). In addition the applicants have proposed to improve the wildlife habitat to improve a sloped area with an attached Wildlife Conservation Plan (Exhibit W).*

Staff: The application relates to the construction of a single family dwelling and driveway. The proposed dwelling will be sited at the western end of the subject property, and will be a two story structure with a covered porch area and attached garage. The attached garage is proposed to be located at the north end of the dwelling. The proposal also includes a 500 foot parking/approach area to the north of the dwelling and a septic system (Exhibit A).

2.0 **Site Vicinity and Characteristics**

Applicant: *This 2.69 acre parcel is on the West side of St. Helens Road and is 3 miles south of Scappoose just within the Multnomah County border. The parcel is rectilinear shape approximately 227 feet by 475 feet by 231 feet by 515 feet. The lot is partially cleared with wooded sections of the property growing along the Western and Southern edges of the property. There is a part year undocumented drainage way that runs into the property toward the south eastern corner of the property and is a tributary to the Multnomah channel. And there is a steep sloped ravine that runs along the southern edge of the property, bordering the property line. (Exhibit W & Exhibit A)*

The wooded areas of the property are the Oregon natural species of Douglas firs, western red cedars, red alder, hemlock, and big leaf maples. Most of the ground cover on the property are Oregon bent grass, black berry bushes, and cabbage type plants, with other various species of grass and bushes that do not have a significant presence on the property. Said property has several signs of some native wildlife including droppings and tracks of deer. (Exhibit Y)

The topography of site varies from a 0% to 40% slope with a ravine along the south edge of greater than 60%, with an average slope of 21%. With the Eastern most portion of the property as relatively flat area with a 0 to 8% slope. The middle of the property contains a steep slop ranging between 20% to 40% slope. The northwestern edge of the property is less then a 20% slope. See the attached contour plan and geo technical report for details (Exhibit S). The natural drain of the property is from the west to east of the property following the slope downwards. Water is eventually drained into an undocumented drainage way in the Southeastern corner of the property. Said drainage way eventually drains into the Multnomah channel approximately 540 yards or .31 miles East of the property. The property lowest point is approximately 70 feet above sea level and is not in any known flood plains.

The applicants and their team of geo technical engineers, surveyors, structural engineers, and

architects have studied the requested home site thoroughly believe that the proposed home site is the safest, forestry cleared spot on the lot that is visually subordinate to surrounding scenic areas and will meet all of the fire safety setback requirements, with exception to the secondary fire safety break. In addition the applicant and their team believe that the proposed home site is the best site to meet the majority of the counties standards.

The following reasons and documentation have been provided by the applicants to support the placement of the dwelling.

- 1) The slopes in the proposed home site area are 15% slope or less and are well suited for a home to be graded to meet the intent of the Comprehensive Policy 14 (A). All other cleared areas of the property are greater then 20%. See the attached Geo Technical Report for more information (Exhibit 1) and tree survey (Exhibit U)*
- 2) The home site is placed at safe distance of 80 feet from the aforementioned ravine that runs along the southern edge of the property. See the attached Geo Technical Report for more information (Exhibit 1)*
- 3) This site will meet the Primary Fire Safety Zone.*
- 4) The proposed home will be screened and visually subordinate by existing conifer trees running along the southern, eastern, and western most edges of the property and is screened by the banks of the Multnomah channel from any and all identifiable viewing areas. The trees at the base of the property dwelling are 50 feet tall, which the 15 feet taller than the dwelling and therefore will prevent silhouetting of the dwelling above the forest canopy (Exhibit O) As shown in the attached photos of the property from identifiable viewing areas of Highway 30, the Multnomah Channel, and Public Roads on Suavie's Island (Exhibit N).*
- 5) This area of the property is a non-forested area according to the forest definition in MCC 33.4570 (A) (1) and all tree removal will not impact the existing forest canopy.*
- 6) By placing the home in this site the majority of the property will still be viable wildlife habitat and allow the recovery of a large portion of the land for Wildlife Habitat. (Exhibit W)*
- 7) By placing the home in this area this will allow the majority of the property, if needed, to be used for Forest Practices and will have no impact to the forest practices of the surrounding property. (Exhibit A & Exhibit O)*
- 8) The home site is a significant distance to the existing part year drainage way at over 200 (Exhibit A)*
- 9) Proposed home site is in close proximity to existing and proposed access roadways. (Exhibit A & Exhibit U)*
- 10) The proposed 12 ft wide and 500ft long driveway will meet all criteria for fire safety and length requirements. (Exhibit A)*
- 11) The proposed home site is close to the existing 20 gallons per minute rated well. (Exhibit A)*
- 12) Proposed home site is over 200ft from the proposed septic site.*

The proposed septic system will be placed toward the southwestern portion of the property is the best possible site because.

- 1) Said septic placement will be placed approximately 220 feet from the existing well. (Exhibit A)*
- 2) The site is over 50 feet from existing part year undocumented drainage way area to avoid contamination of existing well water supply. (Exhibit A)*

This is a very well developed part of Multnomah and Columbia counties, with most lots containing one or more dwellings. All sides of the property except the east side that faces the

Multnomah channel contain existing dwellings, with the northern border property containing the old and in disrepair Florence Park Motel. The proposed development has easily met the requirement of 11 existing lots and 5 existing dwellings as of January 1st 1990. (Exhibit M)

The property has an existing 20 gallons per minute rated well. Attached to the application is a Water District Review Form that includes a State of Oregon Well Ownership Information Form (Exhibit E). The City of Portland Sanitation Department has approved on an onsite septic system and has previously completed a Land Feasibility study all of which is attached (Exhibit I & Exhibit J). The applicants will obtain electric and communication services from the overhead and underground utilities run by the Columbia River PUD running the entire length of the northern most edge of the property. The Scappoose Rural Fire Protection District #31 has conditionally approved said property improvement with the addition of a 12 foot wide paved drive way and installation of a fire retardant roof as can be seen from the Fire District Review Form (Exhibit C) and the Fire Flow Review Form (Exhibit D). The police services will be obtained from the Multnomah County Sheriff's Department and school services will be obtained from the Scappoose Public Schools. Both organization of which have stated they have no comment in said proposed development (Exhibit F & Exhibit G). And as stated in attached Memorandum form Multnomah County Transportation the applicants will obtain an access/encroachment permit when. (Exhibit H).

The applicants submit they will be in full compliance with all provisions of the Multnomah County Code that applies to this parcel of land. The applicants furthermore submit that they have diligently worked within the county codes and have hired the correct technical professionals to find the safest, least impact development site on the property.

Staff: The property is located in the West Hills Rural Plan Area on NW St. Helens Road, and is zoned Commercial Forest Use-5 (CFU-5). The property contains a slope hazard overlay zone, and a significant environmental concern overlay for habitat and views (SEC-h and -v). The topography generally slopes downward from west to east, with steeper gradients occurring in the middle of the property. The site is thinly forested, with cleared areas most prominent away from NW St. Helens Road.

3.0 Public Comment

Type II Case Procedures

MCC 37.0530(B): ...Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision

Staff: The application was submitted September 26, 2006 and became complete on October 19, 2006. An "Opportunity to Comment" notice was mailed on October 19, 2006 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. A brief summary of comments received are listed below:

Multnomah County Transportation Program

In a memo dated October 23, 2006, County transportation staff indicated that the driveway serving the site must have a 20-ft paved approach to Old St. Helens Road. This measure has been included as a condition of approval (Condition #21). The comment letter has been

included as Exhibit D.1.

4.0 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 James and Lynn Mattix is the owner of the subject lot (Exhibit 7). Mr. and Mrs. Mattix have signed the General Application Form (Exhibit A.1), and have authorized Jared Lee to be the applicant for this land use application. *This criterion has been met.*

5.0 Code Compliance

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.

Applicant: *The applicants submits they will be in full compliance with all provisions of the Multnomah County Code that applies to this parcel of land. The proposed purpose is not for public safety or within a valid easement. Currently no structures are located on the property.*

Staff: County staff completed a site visit on October 13, 2006, and found no violations of the zoning code. A potential code violation on the subject property (UR-06-039) has been under review since April 2006 by the County Code Compliance Section office relating to the removal of mature trees and other ground disturbance. Impacts associated with this activity will be offset through compliance with grading and erosion control standards met under the applicant's Hillside Development Permit. *This criterion has been met.*

6.1 The Subject Property is a Lot of Record

§ 33.0005 Definitions.

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

Applicant: *County records indicate that the 2.69 acre subject lot was first created in it's current configuration on April 3rd, 1948 with partitioning and selling of said property from Marguerite Shepard, a widow, to James Harold Girvin & Adele Estatie Girvin, husband and wife and described as Section 25, 3N 2W; Tax Lot 9 as recorded in Book 1255, page 20 - 22.*

The subject lot has not changed configuration since formation in 1948.

After James Harold Girvin's death, as documented by death certificate dated on November 20, 1959 the state Highway was created from the an Eastern portion of said lot as recorded on Sept 22nd, 1970 in Book 752, page 1419. The property was then sold to Carl G. Brown and Frances L. Boge-Brown by Adelle Estatie Girvin, then widowed, as recorded in Book 2042 page 445, recorded on September 9th, 1989. Said warranty deed of September 9th, 1989 sale was here first described as Section 25AC, 3N 2W; Tax Lot 1200. Said property was then legally sold to James V. Mattix, current owner, on May 27th, 1998. See attached chain of title (Exhibit K) Said property is contracted to be sold to applicant, Jared N. Lee and his wife Lillian T. Lee, at the conclusion of the conditional use permits. (Exhibit X). Jared and Lillian Lee do not own any contiguous parcels that might be considered aggregated to the subject parcel. As evidenced in the attached title report (Exhibit 9), no easements or CC&R's exist which would prevent the proposed development on the subject lot.

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 2.68 acres exists. *This criterion has been met.*

6.2 § 33.2475 Lot of Record

(A) In addition to the *Lot of Record* definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied;**
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;**
- (5) February 20, 1990, lot of record definition amended, Ord. 643;**
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;**
- (7) January 21, 1999, CFU-5 zone applied, Ord. 924 (reenacted by Ord. 997);**
- (8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;**

(B) Separate Lots of Record may be created under the provisions of MCC 33.2480.

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2473, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(D) The following shall not be deemed a Lot of Record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;**
- (2) An area of land created by the foreclosure of a security interest;**
- (3) A Mortgage Lot.**
- (4) An area of land created by court decree.**

Applicant: *Property is currently zoned CFU-5 as can be seen clearly from attached Multnomah County Zoning Map (Exhibit P). Separate Lots of Record will not be created. Lot has a front lot line of 231 feet and therefore requires a conditional use permit. As can be seen from Chain of title (Exhibit K), lot is not a mortgage log, an area of land created by court decree, foreclosure of a security interest, or an area of land described solely for assessment and taxation purposes.*

Staff: The proposal does not involve the creation of a new lot. While the lot does not meet the minimum lot size for new parcels, all other requirements of the CFU-5 district have been met, consistent with the findings of this report. *This criterion has been met.*

7.0 Access

§ 33.2473 Access

All lots and parcels in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles, except as provided for Lots of Record at MCC 33.2475(C).

Applicant: *The subject lot abuts Saint Helens Road along the western edge of the property. (Exhibit A)*

Staff: The subject property fronts NW St. Helens Road. This right-of-way qualifies as a street. The fire official for the Scappoose Fire District has determined the proposed use to be adequate for access by fire apparatus. *This criterion has been met.*

8.1 Template Dwelling Standards Have Been Met

§ 33.2440 Template Dwellings

- (A) A template dwelling may be sited on a tract, subject to the following:**
(1) The lot or lots in the tract shall meet the lot of record standards of MCC 33.2475;

Applicant: *The lot meets record standards of MCC 33.2475.*

Staff: Staff concurs. The lot of record standards set forth in MCC 33.2475 is addressed in Finding 6.2. *This criterion has been met.*

8.2 **(2) The tract shall be of sufficient size to accommodate siting the dwelling in accordance with MCC 33.2456 and 33.2461**

Applicant: *Applicants is applying for an exception to this standard pursuant to meeting MCC 33.2510 (A) (1) "The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less ". The lot is less than 240 feet wide on two opposite sides of a rectilinear plot, and therefore has an average lot width less than 330 feet.*

Staff: The property is of sufficient size (2.68 acres) to accommodate the siting of the proposed dwelling, septic system and still meet the required development standards. As illustrated on the applicant's site plan (Exhibit A), the forest practice setbacks and fire safety zones can be met if an exception is granted. This is further addressed under Findings 9.1-9.9 and 10.1-10.16. *This criterion has been met.*

8.3

(3) The tract shall meet the following standards:

(c) If the tract is predominantly composed of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

- 1. The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and**
- 2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.**

Applicant: *The property is composed of 4 different types of soils. The first being Haploxerolls steep. The second Quatama Loam 15 to 30% slopes. The third, Quafeno loam, 8 to 15% slopes. And the fourth Quantama loam, 8 to 15% slopes. The majority of the property being Haploxerolls steep, and Quatama Loam 15 to 30% slopes, with said soils capable of producing above 85 cf/ac/yr of Douglas Fir timber and therefore applicants must meet sub sections (1) & (2) of MCC 33.2440 (A) (c). (Exhibit AB)*

Staff: The soils map shows the property is composed of soils 19E (Haploxerolls, steep), 36C (Quafeno loam, 3 to 8 percent slopes) and 37D (Quatama loam, 15 to 30 percent slopes). These soil types have not been rated by the NRCS for forest production. However, other sources (Exhibit B.2) do indicate that the 100 year site index for this property (a measure of forest site quality (i.e. the actual or potential productivity of a site) based on the height of dominant trees at a 100 years) is 135-144. Based on this information, it is estimated that the potential yield of these soils is 100-125 CF/Acre. Since this is in excess of 85 cubic feet per acre per year, the property is subject to the standards of MCC 33.2240(A)(2)(c), which require 11 lots and 5 dwellings to fall within the square.

8.4

Applicant: *11 lawfully created lots were found to have existed on January 1, 1993 within a 160 acre square. All said lots in Exhibit 3 were established to be lawfully created by a previous land use decision T3-01-013. See attached deeds, construction permits, and template in Exhibit M which are from T3-01-013, and the applicants Template Matrix & Map in Exhibit 3.*

Existing Lots

#	Tax Lot # (OLD) NEW	Original Owner	Last Noted Owner	Acres	Date Created	Book-Page	Approved Case File
L0	(9) 1200 3N2W25AC	John Frank & Melvin Lambert	James & Lynn Mattix	2.69	1975	746-488	T3-01-013
L1	(11) 1500 3NW25D	Clarence Wilkerson	Gaboury, Cynthia	9.89	1969	1969	T3-01-013

L2	(8) 300 3N2W25A	Bart Lampa	State of Oregon	13.19	1952	748-488	T3-01-013
L3	(77) 400 3N2W25A	James H. Girvan	ODOT	6.65	1949	953-1853	T3-01-013
L4	(10) 500 3N2W25A	Norwood Nash	ODOT	7.32	1916	various	T3-01-013
L5	(75) 1400 3N2W25D	Helen Richards	William Thayer	12.85	1965	930-1656 73-3466	T3-01-013
L6	(35) 100 3NW25D	A.K. Crumbley	Harry O. Tripp	35.00	1941	262-71	T3-01-013
L7	(37) 800/1100 3NW25D	Casselman, Sherry D	Casselman, Sherry D	19.33	1971	Various	T3-01-013
L8	(80) 1200 3N2W25B	Walter & Grace Nelson	Hahmenyer, Robert & Kathie	5.00	1977	1545-550	T3-01-013
L9	(12) 700/200 3N2W25D	Lone Endicott	Weilert, Leonard G	14.15	1975	1966-1463	T3-01-013
L10	(58) 1400 3NW25AC	Newell, David R & Cathy A	Newell, David R & Cathy A	3.00	1989	2192-1183	T3-01-013
L11	(56) 1300 3NW25AC	Norwood Edison & Helen Nash	Messer, William D Tretal	2.68	1985	1758-525	T3-01-013

Staff: The lots referenced as L1, L2, L3, and L5 in the table above were recognized as lawfully established and in existence on January 1, 1993 in Case T3-01-013.

On January 1, 1993, three additional lots were in the same configuration on County zoning maps from 1962 (Exhibit B.3). 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. This evidence is sufficient to show that three additional lots of record are present within the 160 acre square centered on the subject property.

Site Address	Map Tax Lot	Alternate Account #	Acres
NW St. Helens Rd.	3N2W25AC -00600	R982250460	0.21
26901 NW St. Helens Rd.	3N2W25AC -01100	R982250180	6.01
NW St. Helens Rd.	3N2W25A -00500	R982250100	7.32

The applicant also submitted deeds to further document compliance with the standards set forth in MCC 33.2440(3)(C)(1). The deeds relevant to making a lot of record determination are included in the staff report as Exhibit M, and reflect the creation of the following properties, referenced as L8-L11 in table provided by the applicant above:

Site Address	Map Tax Lot	Alternate Account #	Acres
26735 NW St. Helens Rd.	3N2W25B -01200	R982250800	5.00
N/A	3N2W25A -00200	R982250920	14.95
26501 NW St. Helens Rd.	3N2W25AC -01400	R982250580	3.00
26543 NW St. Helens Rd.	3N2W25AC -01300	R982250560	2.68

After review of these deed documents, staff finds that these four properties when created (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws when created.

In total, at least all or part of 11 lawfully created lots existed on January 1, 1993 within a 160-acre square centered on the center of the subject tract parallel and perpendicular to section lines. *This criterion has been met.*

- 8.5 Applicant:** *Five dwellings were found to have existed on January 1, 1993 within a 160 acre square. All dwellings, with the exception of D5 in the matrix were already established to be lawfully and legally established dwellings and lots in land use decision T3-01-013. See attached deeds, construction permits, and template in Exhibit M which are from T3-01-013, and Template Matrix & Map Exhibit 3 which is generated by the applicant.*

The lot of dwelling D5 was established to be lawfully created by the previous land use decision T3-01-013, however the legally establishment of the dwelling was not declared. Also the applicant of T3-01-013 was unable to find the construction permit information. Therefore the applicant submits the Tax Assessors Information provided in T3-01-013 (Exhibit M) and the most up to date Tax Assessor Information as proof of a legally established dwelling since 1977 (Exhibit 4).

Five Dwellings

#	Tax Lot # (OLD) NEW	Owner	Acres	Date Built	Book- Page	Approved Case File
D1	(58) 1400 3NW25AC	Newell, David R & Cathy A	3.00	1925	2192- 1183	T3-01-013
D2	(56) 1300 3NW25AC	Messer, William D Tretal	2.68	1985	1758-525	T3-01-013
D3	(37) 800/1100 3NW25D	Casselman, Sherry D	19.33	1973	1545-550	T3-01-013
D4	(37) 800/1100 3NW25D	Casselman, Sherry D	"	1971	1655-312	T3-01-013
D5	(80) 1200 3N2W25B	Hahmeyer, Robert & Kathie	5.00	1977	1063- 1022	*T3-01- 013

Staff: Staff concurs with the applicant's assertion that a prior land use decision (T3-01-013), found the dwellings located on properties described as D1 through D4 in the table above, as lawfully established dwellings.

The dwelling approved under Case T3-01-013 has not been constructed. Staff was unable to find a building permit record for the dwelling referenced as D5 in the applicant's table above. However, County Assessment and Taxation records (Exhibit 4) indicate that a dwelling located on a separate parcel, located approximately 800 feet to the north of the subject property, was established in 1930 (see table below). The dwelling was constructed before the adoption of building or zoning codes in the County, and can thus be deemed to be lawfully existed on January 1, 1993.

Site Address	Map Tax Lot	Alternate Account #	Acres	Year Built
27001 NW St. Helens Rd.	3N2W25B -00900	R982250070	5.88	1930

This criterion has been met.

8.6

(d) Lots and dwellings within urban growth boundaries shall not be counted to satisfy (a) through (c) above.

Applicant: *No lots were taken from the urban growth boundary to satisfy (a) through (c).*

Staff: *None of the lots or dwellings used fall within an urban growth boundary. This criterion has been met.*

8.7

(e) There is no other dwelling on the tract,

Applicant: *As can be seen from the attached Aerial photo (Exhibit O) no other dwelling is on the lot.*

Staff: *No dwellings currently exist within the tract. This criterion has been met.*

8.8

(f) No other dwellings are allowed on other lots (or parcels) that make up the tract;

Applicant: *According to the definition of a tract in MCC 33.2410, the owners of the said lot only own one contiguous lot and therefore only one lot makes up this tract of land. The future owners, the applicants, do not own any lots next to or adjacent to this lot to create a tract of land. N/A*

Staff: *No dwellings currently exist within the tract. This criterion has been met.*

8.9

(g) Except as provided for a replacement dwelling, all lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and

Applicant: *According to the definition of a tract in MCC 33.2410, the owners of the said lot only own one contiguous lot and therefore only one lot makes up this tract of land. The future owners, the applicants, do not own any lots next to or adjacent to this lot to create a tract of land. N/A*

Staff: *This tract includes only one parcel. Consistent with the provisions of the Commercial Forest Use zone, a template dwelling approved at this location will be the only dwelling permitted on the parcel. This criterion has been met.*

8.10

(h) No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;

Applicant: *According to the definition of a tract in MCC 33.2410, the owners of the said lot only own one contiguous lot and therefore only one lot makes up this tract of land. The future owners, the applicants, do not own any lots next to or adjacent to this lot to create a tract of land. N/A*

Staff: *No other lots or parcels make up the tract. This criterion has been met.*

- 8.11** (i) Pursuant to the definition of “Date of Creation and Existence” in MCC 33.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 33.2440, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.

Applicant: The lot lawfully created on April 3rd, 1948, and lawfully described under its current definition on September 9th, 1989. See attached chain of title (Exhibit K).

Staff: The subject property has not been reconfigured subsequent to November 4, 1993. This criterion is not applicable.

- 8.12** (j) Pursuant to the definition of “Date of Creation and Existence” in MCC 33.0005, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the “other lawfully created lots” existing on January 1, 1993 standard in MCC 33.2440(A)(3)(a), (b), and (c): 3, 7, and 11 lots respectively.

Applicant: All of the lots counted for MCC 33.2440 (A) (3) (c) were existing prior to January 1st, 1993. See attached deeds (Exhibit M)

Staff: The subject property has not been reconfigured subsequent to November 4, 1993. This criterion is not applicable.

- 8.13** (4) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.

Applicant: The subject site is not located in an identified big game winter habitat area as shown on the attached Wildlife Habitat Map (Exhibit Z)

Staff: The Multnomah County Sensitive Big Game Wintering Areas map (Exhibit Z) shows areas defined by the Oregon Department of Fish and Wildlife as being big game winter habitat. The subject tract does not fall within any of the defined habitat areas.

- 8.14** (5) Proof of a long-term road access use permit or agreement shall be provided if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;

Applicant: Access to the dwelling is by NOT a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. Proposed road access is completely contained within proposed property.
N/A

Staff: Vehicle access to the property is available directly from NW St. Helens Road. None of

the agencies listed have responsibility for this road. *This criterion has been met.*

- 8.15** **(6) A condition of approval requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules, provided, however, that:**
- (a) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;**
 - (b) The property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;**
 - (c) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372;**

***Applicant:** The tax assessor has already removed the forest land designation pursuant to ORS 321.359 and the land has already had the imposition of an additional tax burden pursuant to ORS 321.372. Therefore, the entire antecedent conditions of the requirements MCC33.2440 (A) (6) (a through c) have been met by this conclusion. See attached Tax Assessors Summary for proof of property tax designation and assessment (Exhibit 7).*

Staff: The County Assessment and Taxation Department has removed the forest land designation pursuant to ORS 321.359, and has imposed the additional tax pursuant to ORS 321.372 accordingly. As such, the minimum stocking requirements of the Forest Practices Act do not have to be met. *This criterion has been satisfied.*

- 8.17** **(7) The dwelling meets the applicable development standards of MCC 33.2456 and 33.2461;**

***Applicant:** Proposed dwelling will meet the development standards of MCC 33.2456 and MCC 33.2461 through use of an exception pursuant to meeting MCC 33.2510 (A) (1) “The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less “. The lot is less then 240 feet wide on two opposite sides of a rectilinear plot, and therefore has an average lot width less then 330 feet.*

Staff: The proposal is reviewed for compliance with these standards under Findings 10.1-10.16 of this report. *This criterion has been met.*

- 8.18** **(8) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;**

Applicant: A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices recorded in book 2150 page 1572 See attached recorded CC&R (Exhibit L). CC&R was signed by then owner Carl G. Brown and Frances L. Boge-Brown on October 27th, 1988.

Staff: The applicant has submitted evidence that a previous property owner recorded a covenant with County Records that acknowledges the rights of owner of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices. *This criterion has been met.*

- 8.19** **(9) Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December, 1995), or a similar form approved by the Planning Director, has been recorded with the county Division of Records;**
- (a) The covenants, conditions and restrictions shall specify that:**
 - 1. All lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and**
 - 2. No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;**
 - (b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the tract is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands;**
 - (c) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027 (December, 1995).**

Applicant: The applicants will meet the standard of MCC 33.2440 (A) (9) prior to the issuance of a building permit as pursuant to OAR 660-06-027 by issuing a CC&R to be recorded with the county Division of Records.

Staff: The criterion is not applicable because the tract is made up of one property which cannot be divided. *This criterion is not applicable.*

9.1 The Proposal Requires an Exception to Secondary Fire Safety Zone

§ 33.2456 Forest Practices Setbacks and Fire Safety Zones

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Table 1		
Use	Forest Practice Setbacks	Fire Safety Zones

Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Replaced or restored dwelling in same location &/or less than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	May maintain current nonconforming setback(s) if less than 30 ft. to property line	30	30	Property owner is encouraged to establish Primary to the extent possible
Replaced or restored dwelling in same location & greater than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	May maintain current nonconforming setback(s) if less than 30 ft. to property line	30	30	Primary is required to the extent possible within the existing setbacks
At least a portion of the replaced or restored dwelling is within 100 ft. of existing dwelling	May maintain current nonconforming setback but shall increase to 30 ft. if less than 30 ft.	30	30	Primary required; Maintenance of vegetation in the Secondary is required to the extent possible
Replaced or restored dwelling over 100 ft. from existing dwelling	Meet current setback standards	30	130	Primary & Secondary required
At least a portion of the Temporary Health Hardship Dwelling is within 100 ft. of existing dwelling	N/A	30	30	Primary required
Temporary Health Hardship farther than 100 ft. from existing dwelling	N/A	30	130	Primary and Secondary required

At least a portion of the mobile home during construction or reconstruction of a residence is within 100 ft. of dwelling	N/A	30	30	Primary required
Mobile home during construction or reconstruction of a residence farther than 100 ft. of dwelling	N/A	30	130	Primary and Secondary required
Template Dwelling	N/A	30	130	Primary & Secondary required
Accessory structures within 100 ft. of dwelling	N/A	30	30	Primary required
Other Accessory structures	N/A	30	130	Primary & Secondary required
Other Structures	N/A	30	130	Primary & Secondary required
Property Line Adjustment; Lot of Exception; Land Divisions.	May maintain current nonconforming setback to existing structures	30	30	On tracts with required Primary & Secondary FSZ as part of a land use decision, both shall be maintained.

(A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.

Applicant: *The applicants are applying for an adjustment or variance to this standard pursuant to meeting MCC 33.2510 (A) (1) "The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less ". The lot is less then 240 feet wide on two opposite sides of a rectilinear plot, and therefore has an average lot width less then 330 feet. (Exhibit A) The applicants are requesting variance to the required forest set back to the Northern and Western border of the lot, but not less then the Primary Safety Zone, due to the unique nature and topography of the subject lot.*

The applicants and their team of geo technical engineers, surveyors, structural engineers, and architects have studied the requested home site thoroughly believe that the proposed home site is the safest, forestry cleared spot on the lot that is visually subordinate to surrounding scenic areas and will meet all of the fire safety setback requirements. In addition the applicant and their team believe that the proposed home site is the best site to meet the majority of the

counties standards.

The following reasons and documentation have been provided by the applicants to support the placement of the dwelling.

- 1) The slopes in the proposed home site area are 15% slope or less and are well suited for a home to be graded to meet the intent of the Comprehensive Policy 14 (A). All other cleared areas of the property are greater than 20%. See the attached Geo Technical Report for more information (Exhibit I) and tree survey (Exhibit U)*
- 2) The home site is placed at safe distance of 80 feet from the aforementioned ravine that runs along the southern edge of the property. See the attached Geo Technical Report for more information (Exhibit I)*
- 3) This site will meet the Primary Fire Safety Zone.*
- 4) The proposed home will be screened and visually subordinate by existing conifer trees running along the southern, eastern, and western most edges of the property and is screened by the banks of the Multnomah channel from any and all identifiable viewing areas. The trees at the base of the property dwelling are 50 feet tall, which the 15 feet taller than the dwelling and therefore will prevent silhouetting of the dwelling above the forest canopy (Exhibit O) As shown in the attached photos of the property from identifiable viewing areas of Highway 30, the Multnomah Channel, and Public Roads on Suavie's Island (Exhibit N).*
- 5) This area of the property is a non-forested area according to the forest definition in MCC 33.4570 (A) (1) and all tree removal will not impact the existing forest canopy.*
- 6) By placing the home in this site the majority of the property will still be viable wildlife habitat and allow the recovery of a large portion of the land for Wildlife Habitat. (Exhibit W)*
- 7) By placing the home in this area this will allow the majority of the property, if needed, to be used for Forest Practices and will have no impact to the forest practices of the surrounding property. (Exhibit A & Exhibit O)*
- 8) The home site is a significant distance to the existing part year drainage way at over 200 (Exhibit A)*
- 9) Proposed home site is in close proximity to existing and proposed access roadways. (Exhibit A & Exhibit U)*
- 10) The proposed 12 ft wide and 500ft long driveway will meet all criteria for fire safety and length requirements. (Exhibit A)*
- 11) The proposed home site is close to the existing 20 gallons per minute rated well. (Exhibit A)*
- 12) Proposed home site is over 200ft from the proposed septic site.*

Staff: Refer to Finding 12.1-12.7 for discussion on the variance required to address this criterion.

9.2 (B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 33.2510 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

Applicant: Applicant is apply for an exception to the Secondary Fire Safety Zone pursuant to MCC 33.2510. The applicant will meet the Primary Fire Safety Zone. (Exhibit A)

Staff: Refer to Findings 12.1-12.7 for discussion on the exception required to address this criterion.

- 9.3 (C) The minimum forest practices setback requirement shall be increased where the setback abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional setback requirements in consultation with the Road Official.

Applicant: There are no right-of-way requirements pursuant to attached memo from The Planning Commission. (Exhibit H)

Staff: County Transportation staff indicated in an October 23, 2006 memorandum that right-of-way dedication is not required for this project, since Old St. Helens Road has sufficient right-of-way width to serve the area. *This criterion has been satisfied.*

9.4 (D) Fire Safety Zones on the Subject Tract

(1) Primary Fire Safety Zone

(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) 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	No additional required
Less than 20	50 additional
Less than 25	75 additional
Less than 40	100 additional

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

Applicant: The proposed building site slope is 15%, however the area in front of the proposed dwelling is between is less between 20 & 25% slope. Therefore primary safety zone requirement is 30 feet in the sides and back of the home with a 75 foot safety zone required down the slope from the dwelling in front of the home. Said safety zone will be met. See primary safety zone delineation in the Site plan of Exhibit A.

Staff: Staff completed a site visit on October 13, 2006, and concurs with the applicant’s measurement of slope percentage in the vicinity of the building site, including its steepness down slope. The site plan (Exhibit A) demonstrates a 75-foot primary safety zone to the east of the proposed dwelling. This criterion requires that the 30-foot safety zone be extended an additional 75 feet when slope percentages are measured to be between 20 and 25%. As such, the property must contain a primary fire safety zone of 105 feet down slope of the proposed

dwelling. The configuration of the lot allows for a primary fire safety zone of this size.

A condition of approval will require the applicant to amend the site plan to show the 105 foot primary fire safety zone to the site plan. *As conditioned, this criterion can be met.*

9.5 (2) Secondary Fire Safety Zone

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 33.2510.

***Applicant:** Secondary safety zone requirements will not be met and the applicant is applying for an exception pursuant to meeting MCC 33.2510 (A) (1) "The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less ".*

Staff: The applicant has indicated that a reduction in the secondary fire safety zone will be necessary as part of this proposal. Refer to Findings 12.1-12.7 for discussion on the exception required to address this criterion.

9.6 (3) No requirement in (1) or (2) 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

***Applicant:** There is currently no forest management plan in place on the property based on the tax assessment of the property. See attached Tax Assessors Summary for proof of property tax designation and assessment (Exhibit 7).*

Staff: Staff concurs. *This criterion has been met.*

9.7 (4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.

***Applicant:** The required Fire safety zones will be established within the subject tract as required by Table 1 above, with a variation be requested to the Secondary Fire Safety Zone pursuant to meeting MCC 33.2510.*

Staff: A condition of approval will require the applicant to establish the primary safety as illustrated on the final site plan. *As conditioned, this criterion can be met.*

9.8 (5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).

Applicant: *The Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in as up to the Secondary Fire Safety Zone is on the owner's property.*

Staff: A condition of approval will require that trees within the primary safety zone be spaced with greater than 15 feet between the crowns. The trees must 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. As conditioned, this criterion can be met.

10.1 The Proposal Meets CFU Development Standards for Dwellings and Structures

§ 33.2461 Development Standards for Dwellings and Structures

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

(A) For the uses listed in this subsection, the applicable development standards are limited as follows:

(1) Expansion of existing dwelling.

(a) Expansion of 400 square feet or less additional ground coverage to an existing dwelling: Not subject to development standards of MCC 33.2461;

(b) Expansion of more than 400 square feet additional ground coverage to an existing dwelling: Shall meet the development standards of MCC 33.2461(C);

Applicant: *Proposed dwelling is not an existing dwelling. N/A*

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

- 10.2 (2) Replacement or restoration of a dwelling.**
- (a) Replacement or restoration of a dwelling that is within the same footprint of the original dwelling and includes less than 400 square feet of additional ground coverage: Not subject to development standards of MCC 33.2461;
- (b) Replacement or restoration of a dwelling that is within the same footprint of the original dwelling with more than 400 square feet of additional ground coverage: Shall meet the development standards of MCC 33.2461(C);
- (c) Replacement or restoration of a dwelling that is not located within the footprint of the original dwelling but it is located where at least a portion of the replacement dwelling is within 100 feet of the original dwelling: Shall meet the development standards of MCC 33.2461(C) and the applicable driveway/road requirements of 33.2461(E);

Applicant: *Proposed dwelling is not a replacement or restoration dwelling. N/A*

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

- 10.3 (3) Accessory buildings.**
- (a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 33.2461(C);
- (b) Accessory buildings located farther than 100 feet from the existing

dwelling: Shall meet the development standards of MCC 33.2461(B)&(C);

Applicant: No accessory dwellings are proposed. N/A

Staff: Staff concurs. This criterion is not applicable.

10.4 (4) Temporary dwellings.

(a) A temporary health hardship mobile home located within 100 feet of the existing dwelling: Not subject to development standards of MCC 33.2461;

(b) A temporary health hardship mobile home located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 33.2461(B)&(C);

(c) A temporary mobile home used during construction or reconstruction of a dwelling located within 100 feet of the dwelling under construction: Not subject to development standards of MCC 33.2461;

(d) A temporary mobile home used during construction or reconstruction of a dwelling located farther than 100 feet of the dwelling under construction: Shall meet the development standards of MCC 33.2461(B)&(C);

Applicant: No temporary dwellings are proposed. N/A

Staff: Staff concurs. This criterion is not applicable.

10.5 (B) New dwellings, replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from a dwelling shall meet the following standards in (1) and (3) or (2) and (3):

(2) The structure shall satisfy the following Option 2, Discretionary Type 2 Permit requirements:

(a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 33.2456;

Applicant: Proposed development will have no impact on nearby or adjoining forest lands and will satisfies the minimum yard and setback requirements of MCC 33.2456, except for the setback of the secondary fire safety zone. Applicant has applied for a variance through usage of through use of the delineated exception described in section MCC 33.2505.

Staff: A 2002 aerial photograph of the area (Exhibit O) suggests active timber harvesting operations are occurring within a quarter mile radius of the subject property. Surrounding properties appear to be entirely forested or partially forested and developed with a single family dwelling. The proposed dwelling will be located in an area cleared of mature trees, and will be located in an area that is not used for forest practices. is criterion has been met.

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

Applicant: Proposed structure and improvements to property will be done in non-forested cleared area that maximizes the area available for foresting practices. (Exhibit A)

Staff: The dwelling will be located to the tract 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.*

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

Applicant: *The proposed site, septic system, and access road will not detract from the amount of forest land currently available on the site. (Exhibit A) In addition applicant has proposed to increase the forested areas of the property through a Wildlife Conservation Plan. (Exhibit W)*

Staff: Staff concurs. The proposed dwelling and driveway will be sited in a cleared area of the subject property that is not productive as forest land as shown on Exhibit A. *This criterion has been met.*

10.8 (d) 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: *Proposed access way is 500 feet. (Exhibit A) N/A*

Staff: The access road proposed by the applicant is 500 feet in length. *This criterion has been met.*

10.9 (3) 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: *Proposed dwelling will be located in The Scappoose Rural Fire Protection District #31 as documented in Fire District Review Form (Exhibit C)*

Staff: The property is located within the Scappoose Rural Fire Protection District. *This criterion has been met.*

10.10 (b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the driveway standards of MCC 33.2461(E) with permanent signs posted along the access route to indicate the location of the emergency water source;

Applicant: *The current well is within 15 feet of the proposed access driveway. (Exhibit A) And proposed driveway will be 12 feet wide and paved to meet MCC 33.2505 (D) prior to issuance of occupancy permit as per Fire District Review Form (Exhibit C).*

Staff: The Scappoose Rural Fire District Fire Chief has signed a Fire District Access Review Form (Exhibit C) indicating that the proposed driveway will provide safe access to the

dwelling site. The Fire Chief has also signed the Fire District Review Form – Fire Flow Requirements (Exhibit D) stating the district has available for use a water tanker truck of at least 3000 gallon capacity. The address for this property has been posted. *This criterion has been met.*

10.11 (C) 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: Proposed dwelling is not a mobile home. N/A

Staff: Staff concurs. This criterion is not applicable.

10.12 (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: Proposed dwelling is not a mobile home. N/A

Staff: Staff concurs. This criterion is not applicable.

10.13 (3) Have a fire retardant roof; and

Applicant: Proposed dwelling will have a Class A composite roof and thus fire retardant.

Staff: The Scappoose Fire District Chief verified that a Class A or non-combustible roof materials will be installed as part of the development proposal (Exhibit 8). A condition of approval requires that, prior to the zoning sign-off of the building plans for the structures, the applicant provide evidence that the dwelling will have fire retardant roof. As conditioned, these criteria are met.

10.14 (4) Have a spark arrester on each chimney.

Applicant: Proposed dwelling will have a spark arrester on it's proposed chimney. (Exhibit B)

Staff: A condition of approval will require the applicant to provide evidence that a spark arrester will be installed in the dwelling's chimney prior to the zoning sign-off of the building plans for the structures. As conditioned, these criteria are met.

10.15 (D) 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 1 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: *Domestic Water supply is from a source authorized by the Department of Water Resources Oregon Administrative Rules. See attached Water District Review Form and subsequently attached State of Oregon Well Ownership Information Form for compliance of above standards (Exhibit E)*

Staff: The applicant has submitted evidence that its 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. *This criterion has been met.*

- 10.16** (E) A private road (including approved easements) accessing two or more dwellings, a driveway accessing a single dwelling, a Forest Practices road that is utilized as a private road/driveway accessing a dwelling(s), or a new driveway constructed to access a replacement/restored 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;
 - (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;
 - (3) Provide minimum curve radii of 48 feet or greater;
 - (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;
 - (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;
 - (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;
 - (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.
 - (8) An existing driveway currently being utilized by the habitable dwelling may be extended to a replacement dwelling without compliance with the roadway standards above. However, nothing in this exemption removes the requirements under the county's Fire Apparatus means of Approach Standards contained in

MCC 29.012.

Applicant: *Proposed driveway is to be 500 feet long and will not cross a culvert. The driveway must be 12 feet and paved to meet MCC 33.2505 (D) prior to issuance of occupancy permit as per the Fire Chief of the Scappoose Rural Fire District #31 comments on the Fire District Review Form (Exhibit C) A turnaround will be provided at the end of the road with the owner's proposed driveway by merging the existing driveway and proposed driveway by gravel. A turnout will be placed half way on the driveway by also merging the proposed driveway and existing private driveway halfway through the length of the driveway. Said merging of existing and proposed driveway was approved by the signature the owner road Robert Hahmeyer on the site plan attached to the Fire District Review Form (Exhibit C).*

Staff: The applicant is proposing to construct a 12 foot wide driveway 500 feet in length to provide access to the dwelling from NW Old St. Helens Road. The driveway would be located as close as three feet from an existing 10 foot wide driveway which traverses the entirety of the subject property's northerly lot line, and curves to the northwest an estimated 400 feet. The Scappoose Rural Fire District Fire Chief has signed a Fire District Access Review Form (Exhibit C) indicating that the proposal is in compliance with the adopted Fire District standards for access and building code minimum access standards set forth in MCC 29.012. These standards reflect those listed under MCC 33.2461(E) above. *These criteria have been met.*

11.0 § 33.2507 Single Family Dwellings Condition of Approval - Prohibition on Claims Alleging Injury From Farm or Forest Practices

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Applicant: *Proposed development will not conflict with farm or forest practices in the area. Property has documented a CC&R allowing said practices. (Exhibit L)*

Staff: The applicant has provided evidence that a document binding the landowner and successors in interest from pursuing a claim for relief or cause of action alleging injury from farming or forest practices. *This criterion has been met.*

12.1 The Proposal Meets the Approval Criteria to Allow an Exception to the Secondary Fire Safety Zone

§ 33.2510 Exceptions to Secondary Fire Safety Zones

(A) The secondary fire safety zone for dwellings and structures may be reduced pursuant to the provisions of MCC 33.2510 (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

Applicant: *The lot is less than 240 feet wide on two opposite sides of a rectilinear plot, and therefore has an average lot width less than 330 feet. (Exhibit A)*

Staff: Staff concurs. *This criterion has been met.*

12.2 (B) Exceptions to secondary fire safety zones 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

(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

Applicant: *Proposed dwelling secondary fire safety zone will be between 50 & 100 feet for the east and south of the home. However, the West and North sides of the secondary fire safety setbacks will be less than 50 feet. Therefore the proposed dwelling will use materials fire code standards therefore meeting the IFCIU - Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction code as reviewed and approved by the Fire Chief of the Rural Fire District. (Exhibit 8)*

Staff: The secondary fire safety zone will be less than 50 feet in to the north and west of the proposed structures. The dwelling will need to meet the Class 1 Ignition Resistant Construction standards. *As conditioned, this criterion can be met.*

12.3 (3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and

Applicant: *No fences are proposed. N/A*

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

12.4 (4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC 33.2510 (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 33.2510 (B) (2) are utilized.

Exception: Expansions of existing single family dwellings as allowed by MCC 33.24202425(A) shall not be required to meet this standard, but shall satisfy the standard of MCC 33.2461(C)(3).

Applicant: *MCC 33.2510 (B) (2) will be used therefore the dwelling shall have a central station monitored 13D sprinkler system. N/A*

Staff: Since the proposed secondary fire safety zone will be less than fifty feet in selected areas of the subject property, the applicant is required to install a central station monitored 13D sprinkler system. *As conditioned, this criterion can be met.*

- 12.5** (6) All accessory structures within the fire safety zone setbacks required by MCC 33.2456 shall have a central monitored alarm system.

Applicant: *No accessory structures proposed. N/A*

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

- 12.6** (7) All accessory structures within 50 feet of a building shall 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: *No accessory structures proposed. N/A*

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

- 12.7** (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 accessory structures proposed. N/A*

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

- 13.1** The Proposal Meets the Approval Criteria for a Significant Environmental Concern Permit for Views (SEC-v) and Wildlife Habitat (SEC-h)

§ 33.4520 Application for SEC Permit

An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 33.4560 through 33.4575.

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

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

Applicant: Applicants has responded in writing to all applicable requirements for approval criteria of MCC 33.4560 through 33.4575.

13.2

(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.

Applicant: Attached site plan meets these requirements (Exhibit A)

13.3

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

(A) Definitions:

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

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

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

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

(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;

Applicant: *Purposed home is a two story rectilinear home that is proposed to be 30 feet high, and 35ft deep by 75ft wide (Exhibit B). The exterior colors will be a dark natural earth tone with black shutters. (Exhibit T). All lighting is to be directed downward and sited. Exterior building materials are, to be hardi-plan for siding, and a black composition roof.*

- 13.4 (2) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;**

Applicant: *Elevation drawings attached. (Exhibit B)*

- 13.5 (3) A list of identified viewing areas from which the proposed use would be visible; and,**

Applicant: *The proposed use is not visible from any identified viewing areas. The closest viewing areas to the property are as follows: Highway 30, The Multnomah Channel, Public roads on Sauvie Island. In each case the proposed structure and development will not visible to identified viewing areas by either existing conifer vegetation and/or earthen berms. (Exhibit N)*

- 13.6 (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: *As can be seen from Exhibit N, the height of the existing conifer vegetation (Douglas Fir, Western Red Cedar) which are 100+ feet tall, will completely hide the proposed development activities from Highway 30. As also be seen from Exhibit N the existing earthen berms west of the Multnomah channel also completely hide the proposed development from Public roads on Suavie Island and the Multnomah Channel. No additional screens will necessary to hide proposed development.*

Staff: The applicant has provided all information required for development application in an area designated SEC-v. *This requirement has been met.*

- 13.7 (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 sub-ordinance, 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: *As can be seen from Exhibit N as well as Exhibit O all areas of proposed development as well as the entire property are currently screened from identified viewing areas and no vegetative removal will affect said screening*

Staff: The topography of the subject property and surrounding area would allow the home site to be seen from Highway 30, the Multnomah Channel, and public roads on Sauvie Island to the east. The applicant has provided photographs which show the degree to which the subject

property is visible from these identified viewing areas.

The proposed dwelling will be sited at an orientation with its longest side slightly offset from parallel to the front property line, facing the identified viewing areas. The orientation of the building has the longest side facing the identified viewing areas. At its widest and tallest points, the proposed dwelling is 35 feet wide and 75 feet long, and has a height of just over 23 feet to the midpoint of the roof. The front elevation contains two 12 ft wide porches.

Vegetation on the property located between the proposed dwelling and the identified viewing areas consists of a mixture of conifer and deciduous trees. The site contains a fair number of mature red alder, western red cedar, Douglas fir and maple trees clustered within the easterly 80 feet of the property. The alders and maples will provide summer cover, and cedars and firs will provide cover year-round between the proposed dwelling and identified viewing areas to the east.

While siting the dwelling closer to NW St. Helens Road would help to better topographically screen the development from public roads on Sauvie Island, the level of vegetative clearing would need to increase. Consistent with MCC 33.4565(C)(4) and Finding 13.10, priority should be given to retaining existing vegetation over other screening methods. Siting the development closer to the road would not negligibly impact the visibility of the development from Highway 30 and Multnomah Channel when considering topography alone. The existing level of visibility from these identified viewing areas is minimal. The applicant is proposing to site the development portions of the property where topography and existing vegetation will help screen the development from the view of identified viewing areas. *This criterion has been met.*

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

Applicant: *All materials are low reflective building materials. The exterior colors of the proposed home will be a dark natural earth tone. (Exhibit T) Exterior building materials are, to be hardi-plank for siding, and a black composition roof. Said improved road access way will be asphalt. The drive way will be concrete/asphalt.*

Staff: The applicant has proposed the use of dark earth tone colors manufactured by Sherman Williams, as shown on Exhibit T. The applicant has indicated they will have the manufacturer match the submitted sample. *This criterion has been met.*

13.9 (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 non-reflective, opaque materials.

Applicant: *All exterior lighting will be directed downward and sited, hooded and shielded away from identified viewing areas. Specifically can lights will be used in the front entry way.*

Staff: The exterior lighting proposed will be recessed within the ceiling of the dwelling's porch. The only part of the lighting fixture that will extend beyond the surface will be the ring. The bulb would effectively be shielded by the building itself in addition to the fixture. The applicant is not proposing to make use of lighting fixtures which consist of shielding or

hooding materials. *This criterion has been met.*

- 13.10** **(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:** Existing screening vegetation is coniferous (Highway 30) and earth berms are already in existence (Multnomah Channel, Public Roads in Suavie Island). Applicants will be responsible for the proper maintenance of said screening vegetation that is on their property. No trees and/or earth berms are to be added for screening purposes.*

Staff: A condition of approval will require the applicant to be responsible for the maintenance and survival of any required vegetation. The required vegetation consists of all trees, shrubs and other plantings other than grass specifically slated for removal on the applicant's site plan (Exhibit 1).

- 13.11** **(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:** Home was angled to meet contours of current property as well as take maximum advantage of screening already in place. All grading will be confined to the homesite, access road, and their surrounding areas. (Exhibit A)*

Staff: The subject site slopes upward between NW St. Helens Road and the proposed dwelling site. While the flattest portion of the site is adjacent to the front lot line, development in this area would require the removal of more mature vegetation than in other areas of the property. Modifications to the site will be limited to the disturbance of soil during construction for the footings, drain field and access road. The access drive extends 500-feet into the property before reaching the home site. The septic system will be located within close proximity to the driveway and will minimize the disturbance area associated with the system (Exhibit A). No cut banks or fill slopes will be visible from identified viewing areas. *This criterion has been met.*

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

***Applicant:** Home height at 32 feet is below the visible canopy from all identified viewing areas.*

Staff: The proposed home site will be located in area of the subject property mostly cleared of mature forest canopy. The applicant has indicated that nine 10 gallon Douglas Fir will be planted to the west and east of the new dwelling which will provide future screening.

A condition of approval will require the applicant to be responsible maintain and survival of any required vegetation. The required vegetation consists of all trees, shrubs and other plantings other than grass specifically slated for removal on the applicant's site plan (Exhibit

1). *This criterion has been met*

- 13.14** **(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:** Property and surrounding properties have no bluffs or ridges visible from identified viewing areas. (Exhibit O & Exhibit V)*

***Staff:** Staff concurs. This criterion has been met.*

14.1 § 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:

(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:** Existing portions of forested and non-forested areas are visible in the attached Aerial photo, Site photos, and Site Plan (Exhibit O, V, & A).*

14.2 (2) Location of existing and proposed structures;

***Applicant:** A 10ft by 10ft shed is just 50ft North of the property. A 13ft by 70ft dwelling exist on the property 150 ft directly south of the property with a 20 ft by 60ft barn just East of existing dwelling. No other dwellings and or roads are within 200 feet of the subject parcel's boundaries. (Exhibit O).*

14.3 (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:** An existing private access driveway running the North side of the property. St. Helens Road runs adjacent to the Eastern edge of said property. An additional 12 ft paved access way will be made running parallel to the existing 10 ft private access way. This access way is required because owners of the existing 10ft access way were unwilling to give the applicants rights to the road access for fire turnabouts. Said proposed road will be run in*

parallel in order to minimize it's impact to the surrounding areas. A 10ft by 10ft shed is just 50ft North of the property. A 13ft by 70ft dwelling exist on the property 150 ft directly south of the property with a 20 ft by 60ft barn just East of existing dwelling. No other dwellings and or roads are within 200 feet of the subject parcel's boundaries. (Exhibit O).

14.4 (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 existing or proposed fencing are in or within 200ft of subject property.

Staff: The applicant has provided all information required for development application in an area designated SEC-h. *This requirement has been met.*

14.5 (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: Proposed development is within non-forested cleared areas as per the "cleared" area definition. (Exhibit O)

Staff: The proposed development is to occur in an area previously disturbed, and primarily cleared of natural vegetation resulting from past disturbance. The placement of the dwelling in this location is consistent with this standard. *This criterion has been met.*

14.6 (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: Proposed development will not be within 200 feet of a public road in order to avoid disturbing heavily forested areas of the property and to be outside of a steep sloped area. Applicants has attached a wildlife conservation plan to improve a non-forested cleared area. (Exhibit W)

Staff: Staff concurs. The proposed development is approximately 433 feet from NW Old St. Helens Road, a road under the jurisdiction of Multnomah County. NW Old St. Helens Road is capable of providing reasonable practical access to the building site by way of proposed driveway. Since this standard is not met, the applicant is required to submit a Wildlife Conservation Plan (see Finding 14.12-14.17). *This criterion has not been met.*

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

Applicant: Access road/driveway serving the development will be 500 ft in length. (Exhibit A)

Staff: Staff concurs. *This criterion has been met.*

14.8 (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 proposed access way is adjacent to the Northern edge of the property and less 5 feet from the property boundary due to the other private access way running next to the northern border of the property (Exhibit A)*

Staff: The adjacent property to the north (R982250010) contains a driveway within 200 feet of the subject property line (i.e. between three and six feet). The driveway proposed by the applicant will be located within 100 feet of the property boundary (i.e. between zero and 34 feet). *This criterion has been met.*

- 14.9** **(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 southern adjacent properties have structures are within 200 ft. Development is 34.5 feet of proposed boundary to meet this standard. (Exhibit A & Exhibit O)*

Staff: Staff concurs. *This criterion has been met.*

- 14.10** **(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: *No existing or proposed fencing are in subject property.*

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

- 14.11** **(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:**

Applicant: *None of the plants listed above will be planted on the property. The existing blackberry areas are proposed to be removed from around the home site and proposed wildlife conservation plan area.*

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 removed from the cleared areas of the site. *With the condition, this criterion is met*

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

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

Applicant: Applicants meets all of the development standards of Section B, except for MCC 33.4570 (B) (2). The proposed development is placed in area to maximize the available forested areas. However, to do so will require the removal of the following trees in the Tree Survey for the following reasons.

1) Tree # 166, 165, 164, 163, 132, 131, 129 Douglas firs, # 136, 127 Maple's, and 162 Red Alder. These trees are to be removed because of their spacing to the home, to each other within the primary fire safety zone, and in order to properly grade the site. Please note tree #164 & 163 are less than 8 inches in caliper.

2) Tree # 83 Cotton wood. This tree will be removed because it is diseased and rotting from the inside out and because of it's proximity to the power lines. Said tree has already lost several large branches and is a safety hazard to the said power lines and proposed access way.

3) Tree # 75 Cotton wood. This tree will be removed for the development of the Septic System and leach lines.

Note that none of the trees proposed to be removed will affect the homes current visual subordination nor will the said trees reduce/remove any of the current enclosed forest canopy. In addition the applicant has proposed a Wildlife Conservation Plan will directly increase the "forested" areas of the property and increase the area for Wildlife Habitat. The wildlife conservation plan will plant 225 Douglas Fir's and 25 Western Red Cedars 1 gallon trees in the proposed 20000 square foot revegetation areas. The revigitation areas were chosen as areas where the maximum reforestation of the property can occur as well as shoring up a sloping areas of the property. Aforementioned trees will be Douglas Firs in zone 1 and Western Red Cedars in zone 2 in order to match the current vegetation growing in the said areas. Both species of tree are natural species of Oregon trees and are and conifer. Of which confer trees being down slope from the home site will give further screening to the home on the property for many years to come to satisfy future visual subordination. Applicant will ensure the survival of 80% over the next five years as well (Exhibit W)

Staff: The applicant has submitted a Wildlife Management Plan, since the proposed development will not occur within 200-feet of a public road, as required under MCC 33.4570 (B)(2).

14.13 (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 proposed building site is in the only existing cleared areas that will serve to build a home and not affect the existing forest canopy cover. The proposed road and septic system are in around the existing forest canopy. Said areas will be limited to underbrush clearing and keeping of all existing trees in the existing “forested” canopy. (Exhibit W)*

Staff: By siting the development at the outer western limit of the subject property, a majority of the parcel should remain relatively unaffected by the development, while facilitating the retention of a nearly uninterrupted wildlife corridor through the property. This location also avoids having to remove denser forest vegetation located in the area of the property within 200 feet of NW Old St. Helens Road.

The applicant has stated that 11 trees will be removed for construction. Staff finds that this action will result in the least amount of forest canopy cover that could be disturbed under any development scenario for a single family residence on this property.

To reduce the impact of the removal of these trees, the applicant has proposed to plant 30 one-gallon Western Red Cedars within an area approximately 2200 square feet in size, located between five and 45 feet from the front lot line (Exhibit W). The planting of 250 one-gallon Douglas Fir trees, in a larger area roughly 16,500 square foot in size and located between 145 and 350 feet from the front lot line, is also proposed. *This criterion has been met.*

14.14 (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 proposed building site is in the only existing cleared areas that will serve to build a home and will not affect existing forest canopy cover. The proposed road and septic system are in around the existing forest canopy. Said areas will be limited to underbrush clearing and keeping of all existing trees in the existing “forested” canopy. (Exhibit W)*

Staff: The applicant is not creating any newly cleared areas, consistent with the definition of a non-forested “cleared” area listed under MCC 33.4570(A)(1). *This criterion has been met.*

14.15 (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 existing or proposed fencing are in the subject property. N/A*

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

14.16 (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 newly cleared forested areas associated with the proposed development as per the definition in MCC 33.4570 (A) (1), therefore said ratio is incalculable. N/A*

Staff: A survey of existing, mature trees on the property has been submitted as Exhibit U. This survey shows the existence of approximately 75 trees currently. According to the

applicant, approximately 11 trees will be removed as a result of the proposal, resulting in 64 trees which would remain. The applicant is proposing to plant 280 additional trees. The ratio of new trees to those that will be removed will be over 25:1. *This criterion has been met.*

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

Applicant: *The riparian area is in the southeastern corner of the property and will not be disturbed. Said area is already well vegetated and forested as can be seen from the attached Aerial Photo and tree survey (Exhibit O & U). Therefore applicants have proposed to enhance two non-forested cleared areas on the property that together are approximately 20000 square feet of area. (Exhibit W)*

Staff: The drainage corridor located on the subject property will not be directly disturbed as a result of this proposal. The dwelling will be constructed approximately 245 feet away from its centerline. Earthwork related to the installation of the dwelling's septic system and drainfield will occur over 50 feet away from the drainageway. Silt fencing will be installed along the perimeter of the two primary areas where ground disturbance will take place on the site. This will ensure that sediment-laden runoff is intercepted before making contact with the drainageway. *This criterion has been met.*

15.1 § 33.5515 Application Information Required

An application for development subject to the requirements of this subdistrict shall include the following:

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

Applicant: *The site plan contains most of this information (Exhibit A) except for exact tree removal, which can be found on the wildlife habitat plan (Exhibit W).*

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

Applicant: *Pre and post construction grades cut & fills are shown on the site Plan (Exhibit A). Approximately 6' cut and with the dirt being moved forward to create an approximate 6' fill. Said area will displace approximately 600 cubic yards of material.*

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

Applicant: *The approximate location of the sanitary drainfields and drywells are shown as part of the site plan (Exhibit A).*

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

Applicant: *An Erosion Control Site Plan (Exhibit 6), and Wildlife Conservation plan (Exhibit W) and a Geo Technical Report (Exhibit 1) with subsequent maps and reports, and a Storm Water Certificate (Exhibit Q) have been issued to demonstrate compliance with MCC 33.5520 (A). (Exhibit 1).*

The Erosion Control Plan as prepared by the applicant with the guidance of the Multnomah County Land Use Planner, Adam Barber, PBS Geo Technical Engineer, John Mohnney, PBS Geo Technical Engineer, Julia Kremer, and Architectural and Structural Engineer from Ridge Engineering, Richard Boyer.

The soil characteristics of the property as described in the Storm Water Certificate with majority of the soils in the area being developed being Quatama Loam 15 to 30% slope. This area is a medium runoff hazard and high erosion hazard. In addition in the southwest corner or the property is an area of a undocumented part-year drainageway.

The erosion and runoff control measures proposed during construction are a series silt fences and a series of bio bags running down a temporary trenches running down the sides of the driveway at every 50 feet. In addition all cut faces will have 2" thick straw placed over top to prevent erosion and reseeded.

Along with the temporary structures proposed for construction control of runoff and erosion, permanent storm water control trenches have been proposed in the Storm Water Certificate (Exhibit Q) with the exact placement that can be seen the site plan reviewed by PBS.

Staff: The applicant has provided all information required for development application in an area designated with a Hillside Development overlay. *This requirement has been met.*

15.5 (E) A Hillside Development permit may be approved by the Director only after the applicants provides:

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

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

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

(a) If the HDP Form– 1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form– 1, a geotechnical report as specified by the Director shall be prepared and submitted.

Applicant: *HDP Form-1 along with a geo technical report has been issued by PBS to certify that the site is suitable for the proposed development. (Exhibit 1)*

Staff: The applicant has submitted an HDP Form-1 which was stamped and signed by a Registered Professional Engineer (Exhibit R). The HDP Form-1 indicates that the site is suitable for the proposed development. This recommendation was based on a geotechnical report, also included as Exhibit R. *This criterion has been met.*

15.6 (F) Geotechnical Report Requirements

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

Applicant: A geotechnical investigation was conducted at the applicant expense by a Certified Geotechnical Engineer that works for PBS. PBS has found the site to be suitable for construction and grading. PBS has also recommended a follow up visit be made after site preparation to inspect the sub grade for compaction prior to construction. (Exhibit 1)

Staff: The applicant has submitted a geotechnical report, included as Exhibit 1. The report was drafted by an engineering geologist with PBS Engineering and Environmental. The report includes discussion pertaining to a field reconnaissance conducted for the study, which consisted of two backhoe test pits and visual observations. John Mohny, the Senior Geotechnical Engineer who prepared the report, stated that "based upon our research and site investigations, PBS has no changes to the proposed development of your subject property." *This criterion has been met.*

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

Applicant: PBS has discovered previous logging and site clearing none of which shall impact the safety of the proposed development. Said site clearing was duly noted by the county earlier this year in case UR-06-039 that the following unpermitted work has recently occurred: "Unauthorized site clearing. Bare dirt exposed. Flags are placed on the site as if they are preparing to do something. Since the site was cleared, it has fully regrown with natural vegetation across the entirety of the property, and no erosion has occurred since the time of clearing of the property. In addition let it be noted that applicant will be replanting trees in a Wildlife Conservation Plan as well as replanting grass for any disturbed soils (Exhibit 1 & W & 6)

Staff: John Mohny, the Senior Geotechnical Engineer who prepared the Geotechnical Report, stated that "based upon our research and site investigations, PBS has no changes to the proposed development of your subject property." *This criterion has been met.*

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

Applicant: John Mohny a Senior Geo Technical Professional Engineer for PBS has prepared the Geotechnical report. (Exhibit 1)

Staff: The Geotechnical Report recommends that PBS Engineering and Environmental “return to the site to inspect the sub grade for compaction prior to construction.” The Report does not recommend that all work be observed by an engineering geologist, however. *This criterion has been met.*

- 15.9 (4) The Director, at the applicant’s expense, may require an evaluation of HDP Form– 1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.**

Applicant: John Mohny a Senior Geo Technical Professional Engineer for PBS has prepared and completed HDP Form-1 as well. (Exhibit R)

Staff: The information contained in the applicant’s Geotechnical Report and HDP-1 Form is sufficient to make a finding that the site geologically suitable for the proposed development. An additional review of these materials will not be required. *This criterion has been met.*

- 15.10 (G) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC 33.5520 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.**

Applicant: All development plans are consistent with the Design Standards For Grading and Erosion Control in MCC 33.5520 (A) through (D).

Staff: See Findings 15.11 through 15.14 below. *This criterion has been met.*

15.11 § 33.5520 Grading and Erosion Control Standards

Approval of development plans on sites subject to a Hillside Development Permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) Design Standards For Grading and Erosion Control

(1) Grading Standards

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

Applicant: Fill materials, compaction methods and density specifications are specified in the Geo Technical Report and will be reviewed after site excavation by the Geo Technical Company PBS. (Exhibit 1)

Staff: Fill areas are shown on the grading plan presented as Exhibit A.5. Fill materials,

compaction methods and density specifications are contained with the geotechnical report (Exhibit A.3). *This criterion has been met.*

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

Applicant: *Site excavation will not be any steeper than 3:1 with rock retention walls to shore up major cuts and fills, currently planned to be between 4 to 6 feet (Exhibit A) Said rock retention plans are in Exhibit 5.*

Applicant (12/4/06): *The original plans will be modified from a rock retention wall to a cement Lock Block. A generic wall plan and specifications of the cement blocks are below. Said change will also reduce the number of retention walls from 2 walls East of the House site to 1. The expected retaining walls are to be no more than 3 blocks high or 6.5 ft with an additional foot below grade. Said changes will be submitted as part of site plan in the final review before being submitted for Building Permits. No other site plans, will be affected.*

Staff: The geotechnical reconnaissance report and supporting materials are attached as Exhibit R. These materials do not indicate that cut and fill activities will result in slopes steeper than 3:1. The report also notes, "There are adequate offsets from potentially unstable slopes." *This criterion has been met.*

15.13 (c) Cuts and fills shall not endanger or disturb adjoining property;

Applicant: *Cuts and fills will not endanger or disturb any adjoining properties. (Exhibit A)*

Staff: The new residence is proposed to be located approximately 38 feet to the east of the western property line and 45 feet to the east property line. The Geotechnical Engineer Ryan Houser has reviewed proposed site stripping measures, importation of granular structural fill, utility trench excavation and the use of trench backfill. Based upon the engineering report submitted by the applicant (Exhibit A.3), the cuts and fills for the replacement dwelling will not endanger or disturb adjoining properties. *This criterion has been met*

15.14 (d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;

Applicant: *Proposed storm water drainage system shall have adequate capacity to meet a 10 year 24 hour storm (Exhibit Q)*

Staff: Construction of an on-site storm water drainage control system was recommended by Julie Kremer, a registered professional engineer, to ensure that the rate of storm water runoff attributed to the development will be no greater than which existed prior to development as measured from the property line or from the point of discharge into a watercourse (Exhibit Q).

Ms. Kremer's proposal was later revised, and certified by Guy Neal, PE, as also having adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency (Exhibit 15). *This criterion has been met.*

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

Applicant: No fills will encroach on natural watercourses or constructed channels. (Exhibit A) N/A

Staff: Staff concurs. *This criterion has been met.*

15.16 (2) Erosion Control Standards

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

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

Applicant: Stripping of vegetation and grading will be done in a manner that will minimize soil erosion, and will expose the smallest possible practical area by encroaching into proposed building site from the proposed access way along the Northern most side.

Staff: Surface vegetation and organic topsoil will be disturbed in an area between 32 and 85 feet around the proposed building site. An area approximately 4200 square feet in size will also be disturbed for purposes of installing an onsite septic system. The applicant is proposing to install and maintain silt fencing and a gravel construction entrance to reduce sediment transport, in addition to reseeding and mulching areas after the disturbance takes place in order to stabilize the soil quickly. The soil disturbance proposed by the applicant resulting from the new development is characteristic of a project of this scope. The applicant has demonstrated that the smallest practical area will be exposed at any one time during construction. *This criterion has been met.*

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

Applicant: Proposed development plans to minimize cut and fill operations and the home is positioned to better conform with the topography of the site, to minimize the need to grade the

site, thereby limiting the erosion potential and adequately accommodate the volume and velocity of surface runoff.

Staff: Based on the analysis of application materials (HDP Form 1, project plans, application narrative), cut and fill modifications to the topography and erosion potential will be minimized. The applicant has proposed an engineering solution to accommodate the volume and velocity of surface runoff generated by the development (refer to Finding 15.22). *This criterion has been met.*

15.18 (d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

Applicant: *Proposed development will install and replant areas of development with natural species of grass as soon as it is feasible to minimize erosion impacts to the developed areas during development.*

Staff: A condition of approval will require the applicant to use temporary vegetation and/or mulching to protect exposed critical areas during site development. *As conditioned, this criterion has been met.*

15.19 (e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

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

Applicant: *The proposed septic system, drain field and two of the storm trenches are within 100 feet but no less than 50 feet from the part-year undocumented drainage way*

Staff: The applicant is proposing to disturb natural vegetation within 100 feet of an intermittent drainageway (Exhibit 6). The 100-foot undisturbed buffer may be impacted consistent with Finding 15.20 below.

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

Applicant: *The proposed septic system, drain field and two of the storm trenches are within 100 feet but no less than 50 feet from the part-year undocumented drainage way. The developed areas will have a temporary silt fence installed prior to excavation between the septic system and said drainage way. The areas will then be subsequently replanted with natural species of grass and the silt fences will be removed after the grass has taken to ensure minimal impact to part-year drainage way to be consistent with the OAR 340 design standards.*

Staff: The applicant has submitted information specific to the erosion and stormwater control features to be employed on the subject property (Exhibit Q). The features proposed will help keep soil out of the intermittent drainageway which cuts through the southwest portion of the lot. The applicant has not indicated that the 100-foot buffer will be disturbed subsequent to the completion of this proposal. *This criterion has been met.*

15.21 (f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

Applicant: *Proposed development will install rock walls at the time of site grading to ensure a stable development and eliminate erosion for the steep cuts and fills (Exhibit A). Grass will be planted in all other grading areas shortly after site grading.*

Staff: The applicant has proposed extensive erosion control measures as shown on Exhibit 6. These measures shall be installed prior to the commencement of construction and shall remain in place until construction has concluded. Permanent measures will be established consistent with Exhibit 8. *This criterion has been met.*

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

Applicant: *During construction increased runoff will be captured by two temporary drainage trenches running parallel to the propose road with bio bags place every 50 feet down slope and a sub surfaces drainage system to be installed at the base of the rock retention wall. (Exhibit 6 & Exhibit A & Exhibit 5)*

Staff: Exhibit Q illustrates the drainage system initially proposed by the applicant. Construction of an on-site storm water drainage control system was recommended by Julie Kremer, a registered professional engineer, to ensure that the rate of storm water runoff attributed to the development will be no greater than which existed prior to development as measured from the property line or from the point of discharge into a watercourse. Ms. Kremer recommended that surface runoff from the new driveway be diverted into a series of curtain drains installed at 60 to 100 foot intervals perpendicular to the asphalt road. Seven curtain drains would range in size from 24 feet to 107 feet in length. Roof drainage would be managed through the use of a sump to catch runoff, which would be directed toward a 110 foot infiltration trench. Drainage provisions would be designed to carry surface runoff to suitable drainageways

After further review by staff of the above cited proposal to accommodate storm water on-site, a potential conflict between the proposed storm water measures and the location of the proposed on-site sewage disposal system was identified. On December 4, 2006 staff requested that City of Portland Sanitarian review the applicant's site plan again to verify whether the proposed storm water system would negatively impact the septic system drainfield. After concerns were in fact raised by the Sanitarian office about the potential for storm water discharge into the drainfield, the applicant revised his plans to address these concerns (Exhibit 14 and 15). The revised plans shifted the location of the infiltration trenches to run level with ground contours,

shows how roof drains will direct water to the proposed trench system, and proposes a secondary drainfield. The revised plans and calculations were certified by Guy Neal, PE as being adequate to satisfy this criterion (Exhibit 15). The Sanitarian also certified that the revised proposal met applicable Oregon Department of Environmental Quality standards (Exhibit 13). *This criterion has been met.*

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

Applicant: *Sediment runoff will be captured by a series of silt fences to be installed down slope of the construction site at the time of site grading and removed after grass replanting has taken root. (Exhibit 6)*

Staff: The applicant is proposing to construct a 340 foot temporary drainage trench along the southern edge of the driveway. Sediment contained in runoff water will be trapped by the use of bio bags, to be placed every 50 feet within the temporary drainage trench. *This criterion has been met.*

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

Applicant: *Straw will be spread 2 inches thick across the cut face of excavations and sloping surfaces. Said areas will be reseeding as well. (Exhibit 6)*

Staff: Drainage provisions intended to prevent damage to cut and fill surfaces are discussed under Finding 15.25 below. The applicant will supplement said measures with mulching and seeding of disturbed areas. *This criterion has been met.*

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

Applicant: *Increased runoff due to the addition of impervious surfaces will be captured by proposed storm water drainage trenches and sump system (Exhibit Q)*

Staff: See Finding 15.22 above. *This criterion has been met.*

15.26 (k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

Applicant: *No swales are currently proposed to divert surface waters. N/A*

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

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

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

Applicant: *Proper energy absorbing devices and sedimentation controls will be installed during construction of the home site. Specifically a series of Silt fences and two temporary drainage trenches running parallel to the propose road will have bio bags place every 50 feet down slope. (Exhibit 6)*

Staff: The applicant has submitted an Erosion Control Plan (Exhibit 6). The plan illustrates the location and type of erosion and sediment control devices proposed to prevent polluting discharges from occurring as a result of the development. These measures include the installation of energy absorbing devices (i.e. bio bags at 50 foot intervals), sedimentation controls (i.e. silt fences down slope of disturbance areas, and covering of stockpiles), erosion controls (i.e. gravel construction entrance with geotextile fabric underlayment), and dispersal of water runoff (i.e. temporary drainage trench).

A condition of approval will be included stating that the County may supplement described erosion control techniques if turbidity or other down slope erosion impacts result from on-site grading work. The Portland Building Bureau (Special Inspections Section), the local Soil and Water Conservation District, or the U.S. Soil Conservation Service can also advise or recommend measures to respond to unanticipated erosion effects. (MCC 38.5520(C)(2)). While the applicant's narrative anticipates only working in dry weather, the geotechnical report acknowledges that construction during the wet season will take place. *Criterion met, as conditioned.*

- 15.28** **(m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;**

Applicant: *Disposed soil material and stockpiled topsoil will have straw place over the top of them to prevent erosion.*

Staff: The applicant is proposing to cover stockpiled topsoil with straw. If ground disturbance is to take place during the wet weather months, stockpiled topsoil shall be protected from erosion by applying a 6-mil plastic sheet cover. *Criterion met, as conditioned.*

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

Applicant: *Non-erosion pollution will be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.*

Staff: A condition of approval will require pollution prevention measures to be implemented, consistent with the standard specifications listed above. *Criterion met, as conditioned.*

- 15.30** (o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the "*Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*". All land disturbing activities within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.

Applicant: *Proposed site is not within the Balch Creek Drainage Basin. N/A*

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

15.31 (B) Responsibility

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

Applicant: *Applicants understands the importance of stated responsibility and will enforce said erosion control measures willingly and actively with any and all persons, corporations, or other agencies that propose to do work on the site.*

Staff: The applicant has acknowledged his responsibility for any sedimentation caused by the proposed project. Measures to control erosion and sedimentation have been reviewed through this permit and found to be adequate as proposed. However, a condition of approval is attached allowing the County to supplement the erosion control techniques described in this permit if on-site conditions result in turbidity or other down-slope erosion impacts. *As conditioned, this criterion has been met.*

16. Conclusions

Based on the findings, narrative, and other information provided herein, this application, as conditioned, satisfies the applicable approval criteria required for a new forest dwelling, Exception to Secondary Fire Safety Zone, Significant Environmental Concern permit for Wildlife Habitat and Scenic Views, and Hillside Development Permit.

Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.	1	Site Plan	09/26/06
B.	4	Proposed Dwelling Rendering and Floor plan	09/26/06
C.	1	Fire District Review Form	09/26/06
D.	2	Fire Flow Review Form	09/26/06
E.	3	Water District Review Form	09/26/06
F.	1	Police Services Review Form	09/26/06
G.	1	School District Review Form	09/26/06
H.	1	Memorandum dated 5/4/2006	09/26/06
I.	3	On-Site Septic Certification Form	09/26/06
J.	1	Land Feasibility Study	09/26/06
K.	3	Chain of Title	09/26/06
L.	1	CC&R Forest & Farm Practices	09/26/06
M.	63	20 Deeds & 5 Construction permits and approved 160 Acre template test from T3-01-013.	09/26/06
N.	1	Photos from identified viewing areas.	09/26/06
O.	1	Aerial Photo of property and surrounding properties.	09/26/06
P.	1	Zoning Map	09/26/06
Q.	8	Storm Water Certificate	09/26/06
R.	4	HDP Form-1 Site Report	09/26/06
S.	1	Topography Survey	09/26/06
T.	1	Exterior Color Paint Chips	09/26/06
U.	1	Tree Survey	09/26/06
V.	2	Site photos	09/26/06
W.	1	Wildlife Conservation Plan.	09/26/06
X.	14	Contract to Sell.	09/26/06
Y.	1	Photos of Flora and Fauna	09/26/06
Z.	1	Wildlife Habitat Map	09/26/06
1.	8	Geo Technical Report	09/26/06
2.	1	Soils Map	09/26/06
3.	2	Template Matrix and Map.	09/26/06
4.	1	Tax Assessors Summary for Lot (80) Tax Lot 1200 3N2W25B	09/26/06
5.	1	Site Retention Wall	09/26/06
6.	1	Erosion Control Site Plan	09/26/06
7.	1	Tax Assessors Summary for Lot (9) Tax Lot 1200 3N2W25AC	09/26/06
8.	2	Building Materials Letter from Fire Chief.	09/26/06
9.	10	Preliminary Commitment for Title Insurance	09/26/06
10.	1	General Application Form	09/26/06
11.	45	Application Narrative	09/26/06
12.	3	Revision to GEC Plan Details (proposed retention walls replaced with cement lock blocks)	12/04/06
13.	1	Revised Storm Water / GEC Plan approved by City of	12/07/06

		Portland Sanitarian	
14.	1	Storm Water Trench Line Calculations	12/07/06
15.	3	Revised Storm Water Certificate, Storm Water Plan, calculations	12/07/06
'B'		Staff Exhibits	Date
B.1	2	Site Visit Photos	10/13/06
B.2	3	Forestland Classes Information	N/A
B.3	1	Zoning Map – 11/15/1962	N/A
'C'		Administration & Procedures	Date
C.1	1	Complete Letter – Day 1	10/19/06
C.2	4	Opportunity to Comment	10/19/06
C.3	3	Administrative Decision	12/08/06
'D'		Comments Received	Date
D.1	1	Multnomah County Transportation Program	10/23/06