



**MULTNOMAH COUNTY**  
**LAND USE AND TRANSPORTATION PROGRAM**  
1600 SE 190<sup>TH</sup> 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.

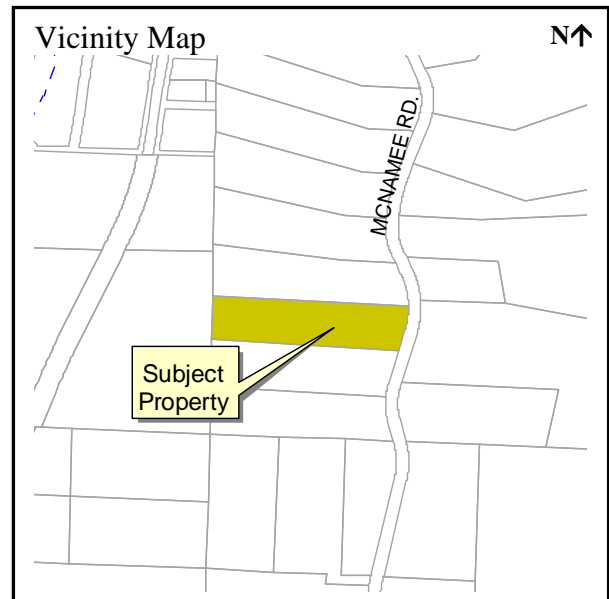
**Case File:** T2-06-107

**Permit:** Significant Environmental Concern for Wildlife Habitat and Scenic Views and Hillside Development Permit

**Location:** 15707 NW McNamee Rd.  
TL 2500, Sec 19D, T2N, R1W, W.M.  
Tax Account #R553600500

**Applicant:** Richard Manolis  
RE-DO-IT  
141 Quartz Dr.  
Kelso, WA 98626

**Owner:** David Levy  
15707 NW McNamee Rd.  
Portland, OR 97231



---

**Summary:** Request for a Significant Environmental Concern for Wildlife Habitat (SEC-h) and Scenic Views (SEC-v) and Hillside Development (HD) Permit to build an approximately 23 foot tall single story garage/shop with a 1440 square foot footprint and retaining wall in the Rural Residential Zone District with SEC-h, SEC-v, and HD Overlay Zones.

**Decision:** Approved with conditions

Unless appealed, this decision is effective August 2, 2007, at 4:30 PM.

---

Issued by:

By: \_\_\_\_\_  
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Thursday, July 19, 2007

Instrument Number for Recording Purposes: #00133208

**Opportunity to Review the Record:** A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact George A. Plummer, Staff Planner at 503-988-3043 ext 29152.

**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 August 2, 2007 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Multnomah County Code (MCC): Chapter 37: Administration and Procedures, MCC 33.3100 et al: Rural Residential, MCC 33.4500 et al: Significant Environmental Concern, and MCC 33.5500 et al: Hillside Development

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

### **Scope of Approval**

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

### **Conditions of Approval**

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

1. **Prior to building permit sign-off, the applicant shall record the Notice of Decision including the Conditions of Approval (pages 1-5) of this decision) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with Multnomah County Land Use Planning. Recording shall be at the applicant's expense (MCC 37.0670).**

2. As recommended by the Foster Gambee Geotechnical Report (Exhibit 1.4) and required by this condition, observation of the development work shall be conducted by a geotechnical engineer at the owner's expense. The geotechnical engineer's name shall be submitted to the Planning Director prior to zoning review for a building permit. As recommended by the Foster Gambee Geotechnical Report a qualified geotechnical engineer shall review and stamp final plans for the back retaining wall prior to zoning review for a building permit. A qualified geotechnical engineer shall review and stamp the design of the stormwater detention system with a metered overflow as recommended in the Gambee Geotechnical Report. The stormwater system design shall include a certification that it will have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency. The stormwater system installation shall be monitored by the qualified geotechnical engineer. Prior to Building Permit final inspection, the property owner shall submit a report to the County Planning Director from the observing geotechnical engineer, certifying the development work followed the recommendations of the Foster Gambee Geotechnical Report and/or as amended by the observing geotechnical engineer [MCC 33.5515(F)(3)].
3. The property owner shall monitor and consistently maintain the erosion control measures to ensure the measures are in proper working order. If sediment is determined to be escaping the property additions measures shall be installed to remedy the problem. Silt fencing shall be installed directly down slope of all the disturbed soil areas. Silt fencing shall be properly installed, toeing the bottom half foot of the fencing by covering it with soil in the upslope direction. Mulch shall be installed on areas of disturbed soils. The site plan submitted for building permit zoning review shall show the locations of the silt fencing and area to be mulched. The site plan shall include a written description of the mulching describing, type of material to be used and thickness. All disturbed soil areas shall be reseeded with vegetation within two weeks of the completion of construction or prior if feasible [MCC 33.5520 (A)(2)].
4. All excavated spoils from the project shall be removed from the property. Spoil materials removed off-site shall be taken to a location approved for the disposal of such material by applicable Federal, State and local authorities [MCC 33.5520(A)(2)(m)].
5. The property owner shall ensure that non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters are prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities. On-site disposal of construction debris is not authorized under this permit. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires, etc), 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)].
6. The property owner is responsible for removing any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems. If any features within the adjacent public right-of-way are disturbed, the property owner shall be responsible for returning such features to their original condition or a condition of equal quality.
7. 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 sedimentation effects.
8. The erosion control permit notice (attached) is to be posted at the driveway entrance from McNamee Road in a clearly visible location (print towards the road) prior to any soil disturbance. This notice is

to remain posted until such time as the grading/excavating work is completed and the vegetation has been re-established in disturbed areas. In the event this sign is lost, destroyed, or otherwise removed prior to the completion of the grading work, the applicant shall immediately contact the County Land Use Planning Office to obtain a suitable replacement.

9. To provide screening of the development from the viewing areas, the property owner shall maintain the existing tree density as shown on aerial photo Exhibit 2.4 for the first 200 feet to the east, northeast, north and northwest of the proposed structure [MCC 33.4565(C) and (E)]. Trees in these areas may be removed for a primary fire safety zone extending 30 feet in all directions around a structure or further for steep slopes. On lands with 10 percent or greater slope the primary fire safety zone may be extended down the slope from a the dwelling or the proposed structure as follows: Slopes between 10 and 20 percent increase safety zone to 50 feet, 20 to 25 percent increase safety zone to 75 feet, or slopes between 25 and 40 percent increase safety zone to 100 feet. Trees within this safety zone are spaced with greater than 15 feet between the crowns. The trees may also be pruned to remove low branches within 8 feet of the ground. All other vegetation should be kept less than 2 feet in height.
10. Metal siding or roofing shall not be used for siding or roofing on the exterior of the building. The property owner shall use low or none reflective building materials such as wood, wood fiber, cement composition siding and /or asphalt roofing. The exterior colors of the finished building shall match colors as shown on the Columbia River Gorge Commission Color Chart top two rows (Row A and B). The type of exterior building materials shall be note on the building plans and color samples shall be submitted prior to County Zoning Building Permit review [MCC 33.4565(C) and (C)(2)].
11. Outdoor lighting shall be directed downward, hooded and shielded [MCC 33.4565(C)]. Shielding and hooding materials should be composed of nonreflective, opaque materials. If any outdoor lighting is proposed, that lighting shall be shown on the building plans and the property owner shall submit a brochure of the fixture during zoning review of the building plans that meets this condition.
12. 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 [MCC 33.4570(B)(7)]:

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

Scientific Name	Common Name
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort

Scientific Name	Common Name
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle

Scientific Name	Common Name
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>various genera</i>	Bamboo sp.

**Note:** Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off by the County, the applicant shall call the Staff Planner, George Plummer, at (503) 988-3043 ext. 29152, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland. Six (6) sets of the site plan and five (5) sets of the building plans are needed for building permit zoning signed off as well as payment of a \$53 fee for building permit zoning review and \$77 fee for erosion control inspections.

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

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

## **FINDINGS AND CONCLUSIONS**

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

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

### **1. DESCRIPTION OF THE PROPOSAL**

**Staff:** A new approximately 23 foot tall single story garage with a 1440 square foot footprint proposed in the Rural Residential Zone District with SEC-h, SEC-v, and HD Overlay Zones (Exhibits 2.2 and 2.3).

### **2. SITE AND VICINITY CHARACTERISTICS**

**Staff:** The subject property is a 4.5 acre parcel located within the Rural Residential (RR) Zone District in the West Hills Rural Plan Area. The property is also entirely within the Significant Environmental Concern for Wildlife Habitat (SEC-h) and Scenic Views Overlay District and nearly entirely within the Hillside Development (HD) Overlay District. The property drops in elevation from McNamee Road about 70 feet to the proposed building site. The property is heavily forested (Exhibit 2.4 and 2.5).

The properties to the north and south, on the same side of McNamee Rd, are also zoned Rural Residential (Exhibit 2.2). These properties are of similar sizes as the subject property and are mostly developed as residential properties. The properties across the road and to the west are zoned Commercial Forest Use – 2 and are generally larger in size. While the properties across the road are heavily forested many are developed with single family residences. The nearby properties to the west are heavily forested and mostly undeveloped.

### **3. OWNERSHIP**

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

**Staff:** County Assessment records show the property owner as David Levy. (Exhibit 2.1). Mr. Levy signed the applicant form providing the necessary authorization to process the application (Exhibit 1.1).

### **4. TYPE II CASE PROCEDURES**

- 4.1. MCC 37.0530 (B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it**

is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject Tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Director's decision shall become final at the close of business on the 14<sup>th</sup> day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.

**Staff:** The Type II process was applied to this case. An opportunity to comment was mailed to property owners within 750-feet of the property lines on May 21, 2007. No comments were received.

- 4.2 **MCC 37.0560:** 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.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement;

**Staff:** The retaining was constructed prior to obtaining permits. A garage was built as well but has since been removed. This SEC and HD permit are permits that were required prior to this work. Issuing these permits will result in sequencing of permits necessary to resolve the code compliance issues. This requirement has been met.

## **5. RURAL RESIDENTIAL ZONE DISTRICT**

### **5.1. Allowed Uses:**

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

**Staff:** A new approximately 23 foot tall single story garage with a 1440 square foot footprint floor (Exhibit 1.7). While the elevation drawings appear to indicate a two story structure the owner stated to staff in a phone conversation on July 10, 2007 that he now proposing a single floor with a high ceiling. The proposed garage is a use is customarily accessory in this district. The property owner has recorded an Accessory Structure Covenant (Exhibit 1.11).

### **5.2. Dimensional Requirements**

**MCC 33.3155 (C) Minimum Yard Dimensions – Feet**

Front	Side	Street Side	Rear
30	10	30	30

**Maximum Structure Height – 35 feet**

**Staff:** The proposed development will meet the minimum yard requirements based on the site plan (Exhibit 1.2). The maximum height requirement will be reviewed at Building Permit sign off.

### 5.3. Lot of Record

**MCC 33.0005(L)(13) Lot of Record** – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

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

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

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or

2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in *recordable form* prior to October 19, 1978; or

4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See *Date of Creation and Existence* for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

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

**Staff:** The property is Lot 7 of Block 2 of McNamee Ridge Subdivision thus the standards above have been satisfied and the property is a lot of record (Exhibit 2.1).

## 6. SIGNIFICANT ENVIRONMENTAL CONCERN REVIEW

### 6.1. SEC Permit Required

**MCC 33.4510(A)** All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in MCC 33.4515, shall be subject to an SEC permit.

**Finding:** The proposed development is within the Significant Environmental Concern for Significant Scenic Views (SEC-v) and Significant Environmental Concern for Wildlife Habitat (SEC-h) Overlay Zone Districts (Exhibit 2.2). An SEC-v and SEC-h Permit is required for the proposed garage.



## **6.2. Application for SEC Permit**

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

**MCC 33.4520 (A) An application for an SEC permit shall include the following:**

- (1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 33.4560 through 33.4575.**
- (2) A map of the property showing:**
  - (a) Boundaries, dimensions, and size of the subject parcel;**
  - (b) Location and size of existing and proposed structures;**
  - (c) Contour lines and topographic features such as ravines or ridges;**
  - (d) Proposed fill, grading, site contouring or other landform changes;**
  - (e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;**
  - (f) Location and width of existing and proposed roads, driveways, and service corridors.**

**Finding:** The required information was submitted (Exhibit 1.2 - 1.8).

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

**MCC 33.4565(B) In addition to the information required by MCC 33.4520, an application for development in an area designated SEC-v shall include:**

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

**Staff:** The applicant has submitted the information required (Exhibits 1.2 – 1.8).

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

**Staff:** The applicant has submitted the required information (Exhibit 1.7).

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

**Applicant:** *The proposed building site located at 150707 McNamee road is west of Hwy 30 and is not visible at all from this closest viewing area refer to Exhibit #6 aerial photo intersection of Hwy 30 and McNamee Road (Exhibit 1.12) as you can see site is situated towards the top of the ridge and surrounded by an established forest...*

**Staff:** The applicant states that the site is not visible from has identified viewing areas. A site visit conducted by staff appeared to indicate that the site was topographically screened (Exhibit 2.5) however a recent analysis of LIDAR data mapping shows the site may be topographically visible. While we are not sure from which viewing area the development area may be potentially seen

from, it appears it could be from the distant northern portion of the Multnomah Channel possibly northern Highway 30.

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

**Staff:** The proposed structure will be approximately 23 feet tall. The applicant is proposing metal siding and roofing. The subject property is heavily forested which will provide effective screening for the structure if any portion is topographically visible. However metal siding and roof can result in visible reflection even when heavily screened and painted with dark colors. Staff finds that if the structure were built using low reflective or none reflective materials such as wood or cement board siding, asphalt roofing shingles which are a dark earth tone colors the structure would be visually subordinate. Examples of dark earth tone colors are shown in the top two rows (Rows A and B) of the Columbia River Gorge Commission Color Chart. The proposed structure can meet this standard through conditions requiring low reflective building materials and dark earth tone colors.

**6.4 MCC 33.4565 (C) Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be *visually subordinate*. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:**

**Staff:** The proposed structure will be approximately 23 feet tall.

The applicant is proposing metal siding and roofing. Metal siding and roofing is considered highly reflective. The subject property is heavily forested which will provide effective screening for the structure if any portion is topographically visible. However if building materials are highly reflective, vegetative screening is not always effective. Staff finds that if the structure were built using wood or cement board siding, asphalt roofing shingles which are a dark earth tone color then the structure would be visually subordinate. Dark earth tone colors are shown on the top two rows (Rows A and B) of the Columbia River Gorge Commission Color Chart. This standard can be met through conditions.

The proposed structure is well screened by existing vegetation on the property. Even if safety zones (breaks) were established according to Department of forestry standards there would be enough trees within 200 feet of the structure to provide effective vegetative screening the discussion and conditions listed above. A condition of approval will require existing tree density to be maintained within 200 feet around the structure with an allowance to establish fire safety zones. These standards are met are met through conditions.

**6.4.1. MCC 33.4565 (C)(1) Siting on portions of the property where topography and existing vegetation will screen the development from the view of identified viewing areas.**

**Staff:** The proposed structure is clustered near the existing dwelling. It is located below the elevation of the existing dwelling in an area that is topographically screened from many of the view areas. The existing vegetation is dense and will act as screening for the proposed structure if any portion is topographically visible. This standard is met.

**6.4.2. MCC 33.4565 (C)(2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.**

**Staff:** The applicant proposes to use dark green metal siding and light green roofing. Metal siding and roofing is highly reflective. While the subject property is heavily forested providing effective screening for the structure if any portion is topographically visible, building materials that are highly reflective reduces the effectiveness of that screening. If the proposed building is sided with wood or a cement composite siding, and compost asphalt shingles all dark earth tone colors, this standard would be met. A condition of approval will require nonreflective or low reflective building materials and dark natural or earthtone colors.

**6.4.3. MCC 33.4565 (C)(3) No exterior lighting, or lighting that is directed downward and sited, hooded and shielded so that it is not highly visible from identified viewing areas. Shielding and hooding materials should be composed of nonreflective, opaque materials.**

**Staff:** While no exterior light has been proposed, if any exterior lighting will be used this standard can be met will be met through a condition.

**6.4.4. MCC 33.4565 (C)(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.**

**Staff:** Existing vegetation is dense and will act as screening for the proposed structure if any portion is topographically visible. Existing screen vegetation will be retained. This standard is met.

**6.4.5. MCC 33.4565 (C)(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.**

**Staff:** The proposed structure is clustered near the existing dwelling. It is located below the dwelling in an area that is topographically screened from many of the view areas. The existing vegetation is dense and will act as screening for the proposed structure if any portion is topographically visible.

The proposed structure is well screened by existing vegetation on the property. Even if safety zones (breaks) were established according to Department of forestry standards there would be enough trees within 200 feet of the structure to provide effective vegetative screening the discussion and conditions listed above. A condition of approval will require existing tree density to be maintained within 200 feet around the structure with an allowance to establish fire safety zones. These standards are met are met through conditions.

**6.4.6. MCC 33.4565 (C)(6) Limiting structure height to remain below the surrounding forest canopy level.**

**Applicant:** *The height of the surrounding forest canopy is on average 40' – 50' tall. The proposed garage will be no higher than 20'.*

**Staff:** The proposed development will be below the canopy of the trees in the area. This standard is met.

- 6.4.7. MCC 33.4565 (C)(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:**

**Staff:** The proposed structures will be below the skyline of bluffs or ridges if seen from identified viewing areas. This standard is met.

- 6.4.8. MCC 33.4565 (E) The approval authority may impose conditions of approval on an SEC-v permit in accordance with MCC 33.4550, in order to make the development visually subordinate. The extent and type of conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.**

**Staff:** We are imposing conditions of approval for this permit in order to make the development visually subordinate. The conditions address the colors, material type, protection of tree density and outdoor lighting fixtures. Given the distance and location of the viewing areas visual subordination can be achieved through these conditions. These conditions are proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.

## **6.5. SEC-h Development standards**

**MCC 33.4570(A) In addition to the information required by MCC 33.4520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:**

- (1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;**
- (2) Location of existing and proposed structures;**
- (3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;**
- (4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.**

**Staff:** The required information has been submitted (Exhibit 1.2).

**6.5.1 MCC 33.4570(B)(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.**

**Applicant:** *The proposed site is for a new garage is located on the site of the original shop structure refer to photos of old shop.*

**Staff:** The property was cleared in the developed area when it was first developed in the early 1990s (Exhibit 1.2 and 2.4). This standard is met. Given this standard is met the Wildlife Conversation standards in MCC 33.4570(C) will need to be met.

**6.5.2. MCC 33.4570(B) (2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

**Applicant:** *The proposed site is more than 200' from the public road these driveways were part of the original construction and have been in place for years before David Levy purchased the property.*

**Staff:** The proposed building will not be within 200 feet of McNamee Road a public road (Exhibit 1.2 and 2.4). The standard is not met.

**6.5.3. MCC 33.4570(B) (3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.**

**Applicant:** *The access road/driveway does not exceed 500' refer to site plan.*

**Staff:** The proposed driveway is less than 500 feet in length (Exhibit 1.2 and 2.4). This standard is met.

**6.5.4. MCC 33.2105(B) (4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:**

- (a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line;**  
**or**
- (b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.**

**Applicant :** *The access road/driveway is with in 100' of both side property lines refer to site plan.*

**Staff:** The adjacent property to the south has an access onto McNamee Road within 200 feet of the property boundary. The driveway on the subject property is within 100 of the property of the property with the driveway within 200 feet (Exhibit 2.4). This standard is met.

**6.5.5. MCC 33.4570(B)(5) The development shall be within 300 feet of the property boundary if adjacent property has structures and developed areas within 200 feet of the property boundary.**

**Applicant:** *The development is within 300' of the side property line to adjacent property and also within 200' of common side property line refer to site plan.*

**Staff:** The development is within 300 feet of both side yard property lines (Exhibit 2.4). This standard is met.

**6.5.6. MCC 33.4570(B) (6) Fencing within a required setback from a public road shall meet the following criteria:**

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

**Applicant:** *No fencing is planed if fencing is installed in the future owner will abide by standards site in MCC 33.4570(B) #6 A through E.*

**Staff:** No fencing is proposed.

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

**Applicant:** *The following nuisance plants (refer to MCC 33.4570(B)(7) for list) shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property*

**Staff:** A condition of approval will require continual removal of the listed nuisance plants. This standard is met through a condition.

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

- (1) The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property. The applicant must show that the wild-life conservation plan results in the mini-mum departure from the standards required in order to allow the use; or**
- (2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).**

**Applicant:** *We cannot meet the development standards of section (B) because of the physical characteristics of the property.*

**Staff:** The applicant claims that they can not meet the development standards due to the physical characteristics of the property, the steep topography. This may be true due to the topography of the property, but the information provided is not conclusive enough to make that finding. However under subsection (2), developing the proposed site would also have a less detrimental impact on forested wildlife due to the proposed building being cluster near the dwelling and not clearing an

additional area on the property. Given the site has been previously cleared and prepared for development in the past disturbing another area away from the existing development would result an increased impact on wildlife habitat through addition clearing and significant amount of grading necessary to establish a building site. This application qualifies for the Wildlife Conservation Plan under subsection (2) above. This standard is met.

**6.6.1. MCC 33.4570(C) (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.**
- (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.**
- (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.**
- (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.**
- (e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.**

**Applicant:** *(a) We will restrict the amount of clearance and length/width of cleared areas and disturb the least amount of forest canopy cover. (b) The only cleared area is less than one acre refer to site plan. (c) No fencing exists and no fencing will be built. (d) Revegetation of existing cleared areas on the property at a ratio of 2:1. (e) There are no streams that have been disturbed.*

**Staff:** A call to the property clarified that there will be no tree removal needed to site the proposed structure. No fencing exists or is proposed. The only cleared area on the property is where the existing and proposed development is located. There is no disturbed riparian area on the property. The applicant has addressed the wildlife conservation plan standards and has demonstrated the proposed development meets these standards.

**7. HILLSIDE DEVELOPMENT PERMIT**

**7.1. Application Information Required**

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

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

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

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

**Staff:** The applicant has submitted a geotechnical report (Exhibit 1.4) and narrative (Exhibit 1.5) addressing compliance with MCC 33.5520 (A) which will be reviewed in the findings under Section 7.2 of this decision. These documents address depths and the extent and location of all proposed cuts and fills. The applicant has submitted a plan showing the required features in the development area. These requirements have been met.

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

- (1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or**
- (2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,**
- (3) An HDP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.**

**Staff:** The applicant submitted a geotechnical report (Exhibit 1.4) prepared by John E Gambee, PE and Kevin M. Foster, P.G, C.E.G, PE both of Foster Gambee Geotechnical, PC indicating the site was suitable for the proposed development.

**7.1.3. MCC 33.5515 (F) Geotechnical Report Requirements**

- (1) A geotechnical investigation in preparation of a Report required by MCC 33.5515 (E) (3) (a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.**
- (2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.**
- (3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.**

**Staff:** The applicant submitted a geotechnical report (Exhibit 1.4) prepared by John E Gambee, PE and Kevin M. Foster, P.G, C.E.G, PE both of Foster Gambee Geotechnical, PC indicating the site was suitable for the proposed development. The geotechnical report includes recommendations for grading, removal of spoils, revegetation, stormwater disposal, retaining wall, foundation, and subdrainage. The report also recommends that a qualified geotechnical engineer should review final plans for the back retaining wall. It also recommends that a qualified geotechnical engineer should observe all construction operation dealing with slope trimming and observe compliance



with design concepts, specifications and recommendations. A condition will require review and observation of the plans and work by a qualified Geotechnical Engineer. This standard is met though conditions.

## **7.2. Grading and Erosion Control Standards**

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

**Applicant:** *There will be no fill material used to support the structure, fill behind the retaining wall will be compacted using a hand compactor as the earth is layered in place, every 8".*

**Staff:** The applicant has provided specifications for the fill needed for the development. This work will be reviewed by the geotechnical engineer as a condition. This standard is met though conditions.

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

**Applicant:** *Fill above the retaining wall will be at 1.5 to 1 as per Foster Gambee Geotechnical report. The slope will be revegetated as soon as practical to control erosion, heavy mulch may be used if vegetation can not be established before the onset of winter.*

**Staff:** The Foster Gambee Geotechnical report addresses cut and fill slopes and the retaining wall design. There will not be any unsupported cuts or fills necessary for the proposed development. The cut for the shop will be supported by an engineered wall. This standard is met.

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

**Applicant:** *There will be no cuts or fills that disturb adjoining property..*

**Staff:** The project includes a cut for the shop with an engineered retaining wall. This cut will be more than 30 feet from the adjacent property. The cut has been reviewed by Foster Gambee Geotechnical in the submitted Geotechnical Report. The cut final design will be reviewed and work monitored by the engineer as a condition. This standard is met though conditions.

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

**Applicant:** *The drainage for storm water will consist of gutters and down spouts with storm water directed into rock rip rap. This is specified in the storm water certificate and calculations from WDY Engineers.*

**Staff:** The applicant has submitted a Storm Water Certificate stamped and signed by Cole G. Presthus PE. This certificate states that the project meets this requirement with on-site storm water

drainage (Exhibit 1.6) with surface disposal of the stormwater. The Foster Gambee Geotechnical Report (Exhibit 1.4) states,

*“Due to the steeply sloping nature of the property, associated stability considerations, and the relatively low permeability of the subsoils, we recommend that stormwater from roof gutter downspouts for the new shop not be disposed of in on-site subsurface soakage trenches or drywells. In our opinion, stormwater should be routed to a stormwater detention system with a metered overflow routed to the drainage ravine located approximately 60 ft north of the shop.”*

A condition will require that the final design for the stormwater system be reviewed and system installation be monitored by a qualified Geotechnical Engineer. A condition will required that system shall be adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency. This standard is met though conditions.

**7.2.5. 33.5520(A)(1)(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;**

**Applicant:** *Fills will not encroach on natural watercourses or constructed channels.*

**Staff:** No fill is proposed to encroach on a natural watercourse or constructed channel as part of this project. This standard is met.

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

**Applicant:** *This project does not fall within any of the defined areas.*

**Staff:** The subject property is not within the Tualatin River Drainage Basin. This standard is not applicable.

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

**Applicant:** *Silt fencing will be installed and maintain on the down hill side of the construction site, and maintained until the area is stabilized and replanted. The slope will be revegetated as soon as practical to control erosion, heavy mulch may be used if vegetation can not be established before the onset of winter.*

**Staff:** The Foster Gambee Geotechnical Report (Exhibit 1.4) addresses recommendations related to grading. A condition of approval will require the applicant/property owners follow the

recommendations of the Foster Gambee Geotechnical Report. A condition will require that the silt fence and areas to be mulched be shown on the site plan for the building permit. This standard is met though conditions.

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

**Applicant:** *Mulch barriers will be installed on steep areas of the construction site to impede surface run off.*

**Staff:** The slope was cut for the previous unpermitted development. This permit is to resolve that issue. The cut slope has experienced some slope failure. The Foster Gambee Geotechnical Report (Exhibit 1.4) addressing the cutting that will be needed to resolve the problem. That will be the only cut and not fill is proposed. The proposed development will use the existing cut minimizing additional cutting. The cut is the minimum to what is necessary to site the proposed building in this area near the dwelling. This standard is met.

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

**Applicant:** *Mulch shall be used during construction to protect exposed critical areas during development.*

**Staff:** A condition of approval will require mulching and reseeding for any disturbed areas related to the development. *This standard is met.*

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

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

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

**Applicant:** *There will be as little area disturbed as possible during construction, maintaining the natural and native vegetation shall be a priority. There are no active stream on the property, or in the immediate drainage.*

**Staff:** No natural vegetation within 100 feet of a stream is proposed to be removed as part of this project. This standard is met.

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

**Applicant:** *The areas which are disturbed during construction shall be revegetated with native species, such as Vinca and Periwinkle.*

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

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

**Applicant:** *Mulch barriers will be installed on steep areas of the construction site to impede surface run off.*

**Staff:** Mulch will be used during construction to address stormwater erosion control. A stormwater control system will be required for the runoff from increased impervious surface area. This standard is met through a condition.

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

**Applicant:** *Silt fencing will be installed and maintain on the down hill side of the construction site, and maintained until the area is stabilized and replanted.*

**Staff:** The applicant will install silt fences to trap sediments. A condition will require installation of the silt fence prior to soil disturbing activities. This standard is met through a condition.

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

**Applicant:** *Mulch barriers will be installed on steep areas of the construction site to impede surface run off. Mulching shall be used above the slope to control drainage.*

**Staff:** Mulch will be used during construction to address stormwater erosion control. The disturbed areas will be required to be reseeded after construction. Foster Gambee Geotechnical Report (Exhibit 1.7) subsurface drainage and provide recommendations. This standard is met through conditions.

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

**Applicant:** *All storm water will be diverted into a natural watercourse with has been lined with rip rap to slow the flow of water and prevent erosion.*

**Staff:** The applicant has submitted a Storm Water Certificate stamped and signed by Cole G. Presthus PE. This certificate states that the project meets this requirement with on-site storm water drainage (Exhibit 1.6). The Foster Gambee Geotechnical Report (Exhibit 1.4) states,

*“Due to the steeply sloping nature of the property, associated stability considerations, and the relatively low permeability of the subsoils, we recommend that stormwater from roof gutter downspouts for the new shop not be disposed of in on-site subsurface soakage trenches or drywells. In our opinion, stormwater should be routed to a stormwater detention system with a metered overflow routed to the drainage ravine located approximately 60 ft north of the shop.”*

A condition will require that the final design for the stormwater system routed to an existing drainageway be reviewed and system installation be monitored by a qualified Geotechnical Engineer. A condition will required that system shall be adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency. This standard is met though conditions.

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

**Applicant:** *There will be no drainage swales.*

**Staff:** No drainage swale is proposed. This standard is not applicable to this project.

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

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

**Staff:** The applicant proposes using mulching for the disturbed soil area and silt fencing down slope of the project. This standard is met through conditions.

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

**Applicant:** *There will be no soil stockpiled on site.*

**Staff:** The Foster Gambee Geotechnical Report (Exhibit 1.4) recommends that all spoils be removed from the property. This standard is met through conditions.

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

**Applicant:** *Construction solid wastes will be collected on a daily basis, and stored in containers for removal. All pollution control requirements shall be followed and appropriate disposal provided.*

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

- 7.2.20. MCC 33.5520(A)(2)(o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)". All land disturbing activities within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.**

**Applicant:** *The site is not within the Balch Creek Drainage basin.*

**Staff:** The property is not in Balch Creek Drainage Basin. This standard is not applicable to this project.

## **8. CONCLUSION**

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

## **8. EXHIBITS**

### **8.1. Exhibits Submitted by the Applicant:**

- Exhibit 1.1: Application form (1 page)
- Exhibit 1.2: Site Plan (1 page)
- Exhibit 1.3: Narrative (9 pages)
- Exhibit 1.4: Foster Gambee Geotechnical Report (10 pages)
- Exhibit 1.5: Narrative addressing Grading and Erosion Control Standards (3 pages)
- Exhibit 1.6: Storm Water Certificate signed and stamped by Cole G. Presthus, PE (9 pages)
- Exhibit 1.7: Elevation drawings (4 pages).
- Exhibit 1.8: Photos of the site (4 pages)
- Exhibit 1.9: Certificate of On-site Sewage Disposal (4 pages)
- Exhibit 1.10: Exhibit 1.13: Fire District Review Fire Flow Review (1 page)
- Exhibit 1.11: Accessory Structure Covenant
- Exhibit 1.12: Applicant's Exhibit #6 aerial photo intersection of Hwy 30 and McNamee Road

### **8.2. Exhibits Provided by the County**

- Exhibit 2.1: County Assessment Record and map for the subject property (1page)
- Exhibit 2.2: Current County Zoning Map with subject property labeled (1 page)
- Exhibit 2.3: Aerial photo showing Hillside Development overlay District (1 page)
- Exhibit 2.4: 2004 Aerial photo of the property (1 page)
- Exhibit 2.5: 2004 Aerial photo of the property with topographic contours (1 page)