



NOTICE OF DECISION

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

Case File: T2-06-117

Permits: Administrative Decision by the Planning Director, Significant Environmental Concern Permit, Adjustment & Exception to the Secondary Fire Safety Zone

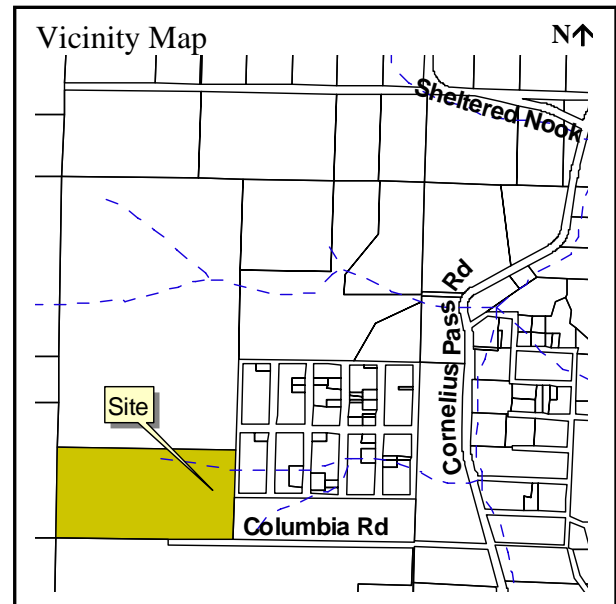
Location: 19003 NW Columbia Street
TL 1500, Sec 25, T 2N, R 2W, W.M.
Tax Account #R97225-0030

Applicant: Seth Tane

Owner: Devin Field & Shelley Peng

Base Zone: Commercial Forest Use – 2 (CFU-2)

Overlay Zones: Significant Environmental Concern for Wildlife Habitat (SEC-h) & Hillside Development and Erosion Control (HDP)



Summary: The applicant requests a Significant Environmental Concern permit, an Exception to the Secondary Fire Safety Zone and review of the Commercial Forest Use Development Standards to:

1. Replace an existing manufactured dwelling with a new site-built single family dwelling approximately 345 ft to the north of the existing structure;
2. Convert an existing agricultural building to an accessory structure; and
3. Construct a second 30 ft by 60 ft accessory structure on the subject site in the Commercial Forest Use – 2 zone.

Decision: Approved with conditions.

Unless appealed, this decision is effective Wednesday, April 11, 2007, at 4:30 PM.

Issued by:

By: _____
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, March 28, 2007

Instrument Number for Recording Purposes: # 99171422

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 Lisa Estrin, Staff Planner at 503-988-3043 extension 22597.

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 Wednesday, April 11, 2007 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 33.2200 et al – Commercial Forest Use – 2, MCC 33.4500 et al – Significant Environmental Concern, Chapter 37 – Administration and Procedures.

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 four 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. A request for permit extension may be required to be granted prior to the expiration date of the permit.**

Conditions of Approval

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

1. Prior to building permit sign-off, the applicant shall record the Notice of Decision (pages 1-4 of this decision) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division. Recording shall be at the applicant's expense.
2. Prior to the construction of the dwelling or 30 ft by 60 ft accessory structure, the property owners or their representative shall obtain building permits for these structures. Both structures shall have a fire retardant roof. If a chimney is installed in either of the two structures, it shall have a spark

arrester. All permits shall be made final before occupancy of each of these structures. [MCC 33.2261(C)]

3. Pursuant to MCC 33.2225(A)(1), the existing dwelling is to be removed or demolished within three months of the completion or occupancy of the replacement dwelling.
4. The property owner shall obtain a building permit for the conversion of the farm building to an accessory structure. The building permit shall be final within 3 months of issuance of the permit. The building may not be used for accessory uses until such time as the building permit is obtained and final.
5. Prior to occupancy of the single family dwelling and/or use of 30 ft by 60 ft accessory structure the Primary and Secondary Fire Safety Zones as approved by this application shall be established on the site. These required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance MCC 33.2256.
6. Prior to land use sign-off of the building permit, the property owner or his representative shall modify the site plan to show the primary fire safety zone for the dwelling to be a total of 80 ft on the south side of the structure. The secondary fire safety zone shall also be modified to reflect this change. [MCC 33.2256(D)].
7. Prior to land use sign-off of the building permit, the property owner or his representative shall modify the site plan to show permanent signs posted along the access route to indicate the location of the emergency water source. These signs shall be installed prior to final of the building permit. [MCC 33.2261(B)(3)(b)].
8. Prior to the land use sign-off of the building permit, the property owner or his representative shall show that the driveway leading to the dwelling will meet the criteria listed in MCC 33.2261(E) on the site plan. The driveway leading to the dwelling and pond shall be able to support a minimum gross vehicle weight (GVW) of 52,000 lbs, provide an all-weather surface of at least 12 feet in width, with an unobstructed vertical clearance of at least 13 feet 6 inches. At the dwelling, the driveway shall have a turnaround with a radius of 48 feet. Between Columbia Street and the dwelling, one 20 ft by 40 ft turnout shall be provided at the midway point of the access drive. The driveway shall meet these requirements prior to occupancy of the dwelling. [MCC 33.2261(B)(3)(b)]
9. Prior to land use sign-off of the building permit, the property owner 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. [MCC 33.2307]
10. If the property owner wants to install fencing adjacent to Columbia Street in the future, it shall meet the fencing requirements listed under MCC 33.4570(B)(6). No fencing shall be built and any existing fencing outside of cleared area shown on Applicant's Exhibit A.10 except for existing cleared areas used for agricultural purposes. [MCC 4570(C)(3)(c)]
11. The proposed 30 ft by 60 ft accessory structure shall have a centrally monitored alarm system installed in it. The alarm shall be monitored for as long as the building exists. The property owner or his representative shall amend the plans to indicate that a centrally monitored alarm system shall be installed in this building. [MCC 33.2310(B)(6)]
12. Gutters and downspouts on the 30 ft by 60 ft accessory building shall be constructed of noncombustible material. Prior to land use sign-off of the building permit, a note or gutter system detail shall be added to the Accessory Structure Plans and Details (Exhibit A.16) indicating this requirement. [MCC 33.2310(B)]

13. The exterior windows on the 30 ft by 60 ft accessory structure shall be tempered glass or multilayered glazed panels. If a skylight is installed within this building, it too shall be constructed of tempered glass or a multilayered glazed panel. Prior to land use sign-off of the building permit, a note or detail shall be added to the Accessory Structure Plans and Details (Exhibit A.16) indicating this requirement. [MCC 33.2310(B)]
14. The exterior man-door on the 30 ft by 60 ft accessory structure shall be noncombustible or solid core not less than 1 3/8 inches (35 mm) thick. Windows within doors and glazed doors shall be either tempered glass or multilayered glazed panel. Prior to land use sign-off of the building permit, a note or detail shall be added to the Accessory Structure Plans and Details (Exhibit A.16) indicating this requirement. [MCC 33.2310(B)]
15. If any attic ventilation openings, foundation or underfloor vents or other ventilation openings in vertical exterior walls and vents through roofs will be installed in the 30 ft by 60 ft accessory structure, they shall not exceed 144 square inches (0.929 m2) each. Such vents shall be covered with noncombustible corrosion –resistant mesh with openings not to exceed ¼ inch (6.4 mm). In addition, any attic ventilations openings shall not be located in soffits, in eave overhangs, between rafters at eaves, or in other overhang areas. Gable end and dormer vents shall be located at least 10 feet (3048 mm) from property lines. Underfloor ventilation openings shall be located as close to grade as practical. Prior to land use sign-off of the building permit, a note or detail shall be added to the Accessory Structure Plans and Details (Exhibit A.16) indicating this requirement, if applicable. [MCC 33.2310(B)]

Note:

Once this decision becomes final, applications for building permits may be made with the City of Portland. **When ready to have building permits signed off, call the Staff Planner, Lisa Estrin at (503)-988-3043 extension 22597 to schedule an appointment for land use signoff.** Multnomah County must review and sign off 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 stage along with a \$53.00 building permit sign-off fee and a \$77 erosion control inspection fee.

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

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

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicants statements are identified below as ‘**Applicant:**’. Staff comments and analysis are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

Project Description:

Applicant: Introduction:

The owners propose to construct a single story dwelling to replace the existing manufactured home, construct a new accessory structure and obtain an “as built” building permit for the existing accessory structure on this 19.66 acre CFU-2 property located in the West Hills Rural Area.

The site is located northwest of the Portland Metro area off of NW Cornelius Pass Road. The rectangular parcel is oriented with its long dimension running East and West. The property has varied topography and is mostly forested with mixed hardwood, hemlock, cedar and fir second and third growth timber, as well as the usual understory vegetation common to the area. Within the existing cleared area of the proposed new structures the average slope is 10 to 12 percent as verified by the project geotechnical engineer.

The existing developed area is a 3 acre, mostly open rolling meadow with grass and isolated trees, located on the eastern portion of the property. The proposed new structures would be clustered in this area. The existing development consists of two gravel driveways (former logging roads), and several structures under continuous occupancy and use including: an 24’ x 26’ barn erected in 1984, a 48’ x 32’ manufactured home set up in 1990 and a 235’ domestic water well drilled in 1989. All of the improvements were made by the previous owners prior to the applicants’ acquisition and occupancy of the property in September of 1999. One of the two roads is the driveway that provides access to the barn and then continues up the hill into the forested area to a smaller clearing where the existing dwelling, well and septic field are located. The other road runs along the eastern property line near the pond, which is designated as a firefighting water resource. A forest management plan has been actively pursued with wildlife habitat as the primary goal at this time. Access to the property is approximately .4 miles up NW Columbia Street, a partly paved and partly gravel road owned by Multnomah County but maintained by the property owners along it.

This application together with the accompanying SEC-H and GEC/HDP applications is for the approval to construct the proposed replacement dwelling, accessory structure and related improvements, as well as to remove the existing manufactured home.

Addendum to Applicant’s Narrative: At the time this application was submitted, we assumed the existing barn might be considered “unpermitted” since no permits for it appeared to be in the County files. As a result, the current application and drawings included fire safety zones and other information based on the assumption that both a land use permit and a building permit would be required for this existing structure along with the replacement dwelling and the new accessory structure. During further research preparing our response to your fire safety zone concerns, we have found that the exiting barn does appear to have a valid permit. As previously referenced in the application, the prior owners had been approved for and installed a mobile home dwelling (PRE-16-89). Based on similar cases in the vicinity, the original stamped site plan and the other more detailed site plans included in the PRE-16-89 application file have been considered valid evidence that the accessory structure was lawfully existing at the time of the current application. Therefore, it will not require a new building permit, since no changes in the location, use, or to the structure itself are proposed. Hence the existing accessory structure is not required to meet the standard for the portion of the secondary fire safety zone that

extends beyond the property boundary at NW Columbia Street.

As evidence of the prior approval of the barn, we are including with this letter three copies of site plans from the county files that were provided to the property owners at their request. These site plans were submitted by the previous owners to Multnomah County in PRE-16-89, and all three versions show the existing barn in the same location and approximately 56' from NW Columbia Street, to comply with the maximum 60' front yard dimension requirement in effect when the barn was built in 1983. An electrical permit (see the attached permit #B80325 signed by inspector Bob Smithers of the State of Oregon Department of Commerce dated 9/8/83) was also obtained when the barn was built. When the land use decision was approved and signed by Bob Hall for Multnomah County, the original submission site plan drawing also showing the existing barn was also stamped and signed with Multnomah County Zoning Approval 7/12/90.

The existing logging road/driveway is needed for access to the septic field and pump tank, well and well pump, the septic, water and electric lines and for use during forestry activities (logging and invasive species removal). Because it is understood that additional mitigation on the parcel would be beneficial to offset the potential impacts of the new dwelling location, the road will not be re-graveled, and native grasses will be planted and maintained on the existing road surface. In addition, the existing dwelling will be removed at the end of this road, and the entire dwelling area including the existing dwelling will be removed at the end of this road, and the entire dwelling area including the existing yard will be planted with mixed coniferous species including Douglas Fir, Western species removal and replanting of native understory vegetation and native tree species. West Multnomah County Soil and Water Conservation District representatives have also been contacted to provide guidance for practices to enhance wildlife, and these recommendations will be followed.

Staff: Staff reviewed the paperwork for the existing improvements and finds that prior planning approval was granted for a farm building on the site.

1.00 *Administration and Procedures*

1.01 **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 November 14, 2006 and was deemed complete as of March 2, 2007. An "Opportunity to Comment" notice was mailed on March 5, 2007 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. No written comments were received.

1.02 **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: The proposed project is located on Tax Lot 1500, Section 25, Township: 2 North, Range: 2 West. Assessment & Taxation records show that the land is owned by Devin Field (Exhibit B.1). The property owner has designated Seth Tane as the applicant for this application (Exhibit A.1 & A.8). *This criterion has been met.*

1.03 **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.

(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; or
- (2) It is necessary to protect public safety; or
- (3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: At this time, there are no known violations on the subject site.

2.00 ***Commercial Forest Use – 2 (CFU-2) General Criteria***

2.01 **MCC 33.2220 Allowed Uses**

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

Applicant: New Structure: The use for the new accessory structure is as customary to that of dwellings in this district, occasionally storage of miscellaneous household goods, vehicles and equipment, hobbies and forestry, landscaping and gardening supplies and activities.

Existing Structure: The existing barn was and is used primarily for the storage and maintenance of forestry and agricultural equipment, implements and supplies. The owners propose to use the second floor as a hobby (non-commercial) art studio for painting and photography as indicated on the accompanying floor plans. These plans also show the proposed use of the first floor for a hobby (non-commercial) woodworking shop. No business use of the structure will occur, nor will the structure be used as a dwelling. No exterior or interior changes to the structure are proposed or will be made to accommodate the new proposed use.

Staff: The proposed single family dwelling will be 4,788 sq. ft in size. The new accessory structure will be 30 ft by 60 ft (1,800 sq. ft). The existing agricultural building to be converted to a 624 sq. ft woodworking area on the first floor and 624 sq. ft art studio on the second floor. The building has an attached uncovered 7 ft by 24 ft porch to allow entrance to the building. Total square footage of this existing structure is 1,416 sq. ft. Both of these accessory structures are smaller than the proposed dwelling size and will be used accessory to the residential use on the 19.66 acre forested parcel. The existing agricultural building was constructed as an Exempt

Farm Structure. In order to convert the structure to an accessory structure, the property owner or his representative must obtain a building permit for this structure since it will no longer be exempt from the building codes once it is converted to a non-farm use. A condition of approval has been included as part of this application requiring a building permit be obtained for this building.

2.02 **MCC 33.2225 Review Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) Expansion, replacement or restoration of an existing lawfully established habitable dwelling.

(1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

Applicant: The existing 48' x 32' single story manufactured home was approved by Multnomah County in PRE 16-89 as part of a forest resource management plan on 6/27/89 and the final approval of the building permit was signed on 12/11/90 by the City of Portland (Exhibit 1). The existing dwelling meets the criteria as a lawfully established habitable dwelling.

Staff: The applicant has demonstrated that the existing dwelling was lawfully established and qualifies as a habitable dwelling as it has intact exterior walls and roof structure, indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system, interior wiring for interior lights and a heating system. The applicant has indicated on his Developed Area Site Plan (Exhibit A.27) that the existing dwelling will be removed. A condition of approval has been included requiring the manufactured dwelling be removed within 3 months of occupancy of the replacement dwelling. *As conditioned, these criteria can be met.*

2.03 **MCC 33.2250 Building Height Requirements**

(A) Maximum structure height – 35 feet.

Applicant: The new structures have a maximum height of 29' (the new accessory structure is the highest).

Staff: The proposed dwelling's height from basement floor to roof peak is 29-1/2 ft. The new accessory structure is 29 ft in height. (Exhibit A.14). The existing structure's height is 23.5 ft to top of roof. *This criterion has been met.*

2.04 **MCC 33.2275 Lot of Record**

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

Applicant: The subject parcel is a lot of record as determined by Multnomah County Planning staff in the code compliance section of the PF 04-111 meeting notes dated 7/15/04. The application is for an existing lot of record, there is no new parcel.

Staff: Staff reviewed the historical 1962 zoning map for the subject property. The current parcel was in its current configuration as of that date. At that time, the zoning for the property was F-2, with a 20-acre minimum. On June 27, 1989, Multnomah County approved a Forest

Resource Management Plan (PRE 16-89) to allow development of the subject property with a single family residence. This decision recognized the property as a Lot of Record. *This criterion has been met.*

2.05 **MCC 33.2307 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.

Staff: A condition of approval has been included with this decision requiring recordation of a covenant. *As conditioned, this criterion will be met.*

2.06 **MCC 33.2285 Off-Street Parking and Loading**

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 33.4100 through 33.4220

[**Note:** MCC 33.4205 specifies two parking spaces for each dwelling unit.]

Staff: The proposed single family dwelling has a two car garage in the basement. *This criterion has been met.*

3.00 **CFU-2 Setback & Safety Zone Requirements**

Staff: Existing Barn: The existing barn to be converted to an accessory structure is a lawfully established structure and is not required to be brought into compliance with the Forest Practice Setbacks, Fire Safety Zones and Development Standards for Dwellings and Structures. In addition, the structure is exempt from the requirements of the Significant Environmental Concern criteria below as it legally existed on November 17, 1994.

Replacement Dwelling: The proposed dwelling must meet the Forest Practice Setbacks, Fire Safety Zones, and the Development Standards for Dwellings and Structures.

New 30 ft x 60 ft Accessory Structure: This structure must meet the Forest Practice Setbacks, Fire Safety Zones, and the Development Standards for Dwellings and Structures. Because of its proposed location 80 ft from the south property line, an Adjustment to the Forest Practice Setback must be approved as it encroaches 50 ft into the required setback. In addition, an Exception to the Secondary Fire Safety Zone is required to reduce the secondary zone from 100 ft to 50 ft.

3.01 **MCC 33.2256 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:

| 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 over 100 ft. from existing dwelling | Meet current setback standards | 30 | 130 | Primary & Secondary required |
| Other Accessory structures | N/A | 30 | 130 | Primary & Secondary required |

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

(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 33.2310 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

Applicant: All new structures will comply with the primary and secondary Forest Practices Setbacks and Fire Safety Zone requirements. The dwelling will also have a central station monitored 13D sprinkler system as required by the fire service provider, TVF&R (Exhibit 3).

Staff: Replacement Dwelling: The proposed replacement dwelling meets the required forest practice setbacks and fire safety zones (Exhibit A.27).

New 30 ft x 60 ft Accessory Structure: The proposed accessory structure will be 80 ft from the front property line and over 130 ft from all other property lines. The applicant has applied for an Adjustment to reduce the Forest Practice Setback to 80 ft and an Exception to the Secondary Fire Safety Zone to reduce the secondary fire safety zone to 50 ft adjacent to the south property line. The findings for the Adjustment can be found under Section 7.00 et al below. The findings for the Exception are listed under Section 5.01 et al below. *Provided the exception and adjustment applications are granted, these criteria have been met.*

- 3.02 **(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.**

Staff: The Transportation Planning section has indicated that Columbia Street is categorized as a *Local Street* on the County’s Functional Classification of Trafficways. The Transportation Section has indicated that no additional right of way is required at this time. *This criterion has been met.*

- 3.03 **(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.

Staff: Replacement Dwelling: The applicant has shown a 30 ft primary fire safety zone around the new dwelling. The location of the replacement dwelling has slopes ranging from 7 to 14% (south of house). The primary fire safety zone on the south side of the dwelling will need to be increased by 50 ft for a total of 80 ft in length. A condition of approval has been included requiring that the property owner or his representative modify the site plan to show this increased primary fire safety zone prior to building permit sign-off by Land Use Planning.

New 30 ft x 60 ft Accessory Structure: The terrain in the area of the accessory structures is approximately 7% slope. A 30 ft primary fire safety zone is shown around the new accessory structure. No additional primary fire safety zone is required at this time.

As conditioned, the replacement dwelling will meet this criterion.

3.04

(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 33.2310.

Staff: Replacement Dwelling: The proposed single family dwelling has adequate distance between the structure and all property lines to provide a 100 ft Secondary Fire Safety Zone.

New 30 ft x 60 ft Accessory Structure: The proposed 30 ft by 60 ft accessory structure only has enough room between the structure and the south property line to provide a 50 ft Secondary Fire Safety Zone. The applicant has applied for an Exception to the Secondary Fire Safety Zone. Please see additional findings below under Section 5.01 et al. *This criterion has been met via an Exception approval.*

3.05

(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

Staff: The applicant has not indicated that the primary or secondary fire safety zones would

conflict with any approved forest management plan for the site.

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

Staff: The applicant has shown a primary and secondary fire safety zone around the dwelling and a primary and modified secondary fire safety zone for the 30 ft by 60 ft accessory structure. A condition of approval has been included as part of this decision requiring the Fire Safety Zones by established prior to occupancy or use of the new buildings. *As conditioned, this criterion will be met.*

- 3.07 **(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).**

Staff: A condition of approval has been included to remind the property owner of his responsibility to maintain the Fire Safety Zones as approved. *As conditioned, this criterion will be met.*

4.00 ***CFU-2 Development Standards***

Staff: Existing Barn: The conversion of the existing barn to an accessory structure does not trigger the Development Standards listed below as it is only a change in use.

Replacement Dwelling & New 30 ft x 60 ft Accessory Structure: Both of these structures are located in a cleared area over 30,000 sq. ft. These structures will need to meet the criteria under MCC 33.2261(B)(2) & (3) below.

- 4.01 **(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 33.2256;

Applicant: Replacement Dwelling –As required by the conditions of the previous dwelling approval, PRE-16-89, a recorded conditions and restrictions document (exhibit 2) was attached to the deed for the subject parcel (Book 2212, page 1853) specifying the acceptance of forestry and farming practices on adjoining lands. The relocation of the dwelling site from its present location in the forested area of the property down to the open meadow and the establishment and maintenance of primary and secondary fire safety zones and the replacement dwelling's monitored sprinkler system will reduce the risk of wildfire. The location of the new structures, when considered along with the removal of the existing dwelling have the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 33.2256.

Staff: The replacement dwelling and 30 ft x 60 ft accessory structure are located within a non-forested area on the eastern edge of the 19.66 acre site. The properties to the east and west of subject parcel are in a mix of farm, forest and residential use. The properties to the south and north are in forest practices. Planning staff mailed an Opportunity to Comment to the surrounding property owners and received no comment of any impacts to their uses. The replacement dwelling has met outright the Forest Practice Setbacks and Fire Safety Zones required by MCC 33.2256. The new 30 ft x 60 ft accessory structure has met the standards of MCC 33.2256 through the Adjustment and Exception process. *This criterion has been met for*

both structures.

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

Applicant: The reduced risk of wildfire that will result from the removal of the exiting manufactured home which is located in a small clearing in the forested area and its replacement with a fire resistant fully sprinklered replacement dwelling will create positive rather than adverse impacts on forest operations. Accepted farming practices will similarly be positively affected by the increased equipment storage space in the accessory structures for agricultural equipment.

Staff: The subject site is predominately in forest practices. The location where the two structures will be constructed is a cleared area with a pond. By clustering the structures within this 2 acre area, the remainder of the 19.66 acre property is available for forest practices. No new roadway will be developed as part of this proposal. The clustering in a location that does not require a new road and minimizes the area devoted to the proposed uses meets this standard. *This criterion has been met.*

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

Applicant: The relocation of the dwelling out of the forest land and down onto the existing cleared area will minimize the amount of forest land used to site the dwelling.

Staff: The area of development is approximately 250 ft by 420 ft. The proposal utilizes an existing roadway for access. The two accessory buildings are clustered together to limit their impact. Between the accessory structures and the replacement dwelling is an existing pond. The pond limits the cleared area available for the dwelling. The dwelling is located to the north of the pond within the cleared area. No forested area is being removed to construct either of the new structures. The amount of forest land used to site the improvements has therefore been minimized. *This criterion has been met.*

4.04 **(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: No access road will be in excess of 500', not applicable.

Staff: The driveway to the dwelling is approximately 400 ft in length. Access to the accessory structures is provided from the existing driveway and is approximately 180 ft in length. Both roadways are existing and extend to serve either adjacent properties or the forest practices on the site. *This criterion has been met.*

4.05 **(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: See TVF& R's fire service provider letter (Exhibit 3).

Staff: The subject site is served by Tualatin Valley Fire & Rescue (Exhibit A.5 & A.6). *This criterion has been met.*

4.06 **(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 33.2261(E) with permanent signs posted along the access route to indicate the location of the emergency water source;

Applicant: TVF& R has approved the access for a pumping fire truck and indicated the preferred location of the pumping access. The driveway leading to this access point complies with MCC 33.2261(E). See TVF& R's fire service provider letter (Exhibit 3).

Staff: The driveway leading to the proposed dwelling passes within 10 feet of the pond. The Fire District has reviewed the driveway location and has found it adequate for access (Exhibit A.6). A condition of approval has been included requiring the posting of signage indicating the location of the emergency water source. *As conditioned, this criterion will be met.*

4.07 **(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;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

Applicant: Accessory Structure - Upon land use approval, the new structures will be designed and constructed to comply with the standards of the applicable building code. The existing accessory structure has been inspected and reviewed by an Oregon licensed professional engineer who has prepared calculations and a full report dated September 2006. A building permit for this structure will also be obtained upon approval of the land use permit.

Replacement Dwelling - Upon land use approval, the structures will be designed and constructed to comply with the standards of the applicable building code.

Both: The new dwelling and accessory structure, as well as the existing barn, have fire retardant metal roofs. Spark arresters will be placed on all chimneys.

Staff: New 30 ft x 60 ft Accessory Structure: The proposed accessory structure will have a metal roof. No chimney is proposed. A building permit will be required for its construction.

Replacement Dwelling: The new dwelling will have a standing seam metal roof. A chimney is shown on the elevations (Exhibit A.14). A condition of approval has been included requiring the plans to indicate a spark arrester will be installed on the chimney. *As conditioned, this criterion will be met.*

4.08 **(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.**

Applicant: See enclosed well log (exhibit 4) previously submitted and recorded by Multnomah County upon its completion 9/13/1989.

Staff: The existing well will be utilized to serve the new dwelling (Exhibit A.12). *This criterion has been met.*

4.09 **(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.

Staff: The driveway leading to the replacement dwelling is an existing access road leading to the perennial pond for fire truck access. The roadway is a 15 ft wide gravel driveway. . The driveway is cut parallel with the contours for a level grade . It will be improved to provide a turnaround adjacent to the dwelling. The fire district has indicated that the roadway must support 50,000 lbs gross vehicle weight. The grade of the driveway has been accepted by the fire district. A turnout is needed at the midway point between the dwelling and Columbia Street right-of-way. The replacement dwelling is not located along the existing driveway serving the current dwelling, so the driveway must be improved to meet these criteria. A condition of approval has been included requiring the driveway meet these criteria. *As conditioned, these criteria will be met.*

5.00 ***Exception to Fire Safety***

Staff: New 30 ft x 60 ft Accessory Structure: The accessory structure is over 100 ft from the replacement dwelling and is required to provide a 30 ft Primary Fire Safety Zone and a 100 ft Secondary Fire Safety Zone on the subject property. At its proposed location, this structure only provides a 50 ft Secondary Fire Safety Zone. An Exception to the Secondary Fire Safety Zone is required to allow the reduction. The findings below do not include criteria applicable to the replacement dwelling.

5.01 **MCC 33.2310 Exception to Secondary Fire Safety Zones**

(A) The secondary fire safety zone for dwellings and structures may be reduced pursuant to the provisions of 33.2310 (B) when:

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

Staff: The 30 ft by 60 ft accessory structure will be located within 15 ft of the existing barn (Exhibit A.13). *This criterion has been met.*

5.02 **(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**

Staff: The proposed secondary fire safety zone for the 30 ft by 60 ft accessory structure is 50 ft. The building must meet the Class 2 Ignition Resistant Construction standard. Based on the findings listed below under Section 6.00 et al, the building will meet the Class 2 Ignition Resistant Construction.

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

Staff: No proposed or existing fences are shown on the site plan (Exhibit A.12 & A.13). *This criterion has been met.*

5.04 **(6) All accessory structures within the fire safety zone setbacks required by MCC 33.2256 shall have a central monitored alarm system.**

Staff: The 30 ft by 60 ft accessory structure is within the secondary fire safety zone. A condition of approval has been included requiring a central monitored alarm system. *As conditioned, this criterion will be met.*

5.05 **(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.**

Staff: The proposed building will have metal siding. Metal materials are typically noncombustible. *This criterion has been met.*

5.06 **Conclusion**

Staff: The applicant has demonstrated that the proposed 30 ft by 60 ft accessory structure will meet the applicable criteria for an Exception to the Secondary Fire Safety Zone.

6.00 ***Class II Ignition Resistant Criteria***

- 6.01 **505.2 Roof Covering.** Roofs shall have at least Class B roof covering, Class B roof assembly or an approved noncombustible roof covering. For roof coverings where the profile allows a space between the roof covering and roof decking, the space at the eave ends shall be fire stopped to preclude entry of flames or embers.

Staff: The 30 ft by 60 ft accessory building will be constructed with a metal roof. This material is noncombustible. The space between the metal roofing and the steel trusses will be fire stopped as shown on page A.7.2 of the applicant's plans (Exhibit A.16). *This requirement has been met.*

- 6.02 **505.3 Protection of Eaves.** Combustible eaves, fascias and soffits shall be enclosed with solid materials with a minimum thickness of ¾ inch (19 mm). No exposed rafter tails shall be permitted unless constructed of heavy timber materials.

Staff: The 30 ft by 60 ft accessory building is constructed of steel and does not have combustible eaves, fascias or soffits. All rafter tails will be enclosed as shown on Sheet A7.2 (Exhibit A.16) *This requirement has been met.*

- 6.03 **505.4 Gutters and Downspouts.** Gutters and downspouts shall be constructed of noncombustible material.

Staff: No gutter system is shown on the 30 ft by 60 ft accessory building. A condition of approval has been included. *As conditioned, this requirement will be met.*

- 6.04 **505.5 Exterior Walls.** Exterior walls of buildings or structures shall be constructed with materials approved for a minimum of one-hour-rated fire-resistive construction of the exterior side or constructed with approved noncombustible materials.

Exception: Heavy timber or log wall construction. Such material shall extend from the top of the foundation to the underside of the roof sheathing.

Staff: The 30 ft by 60 ft accessory building will have metal siding. This is a noncombustible material. *This requirement has been met.*

- 6.05 **505.6 Unenclosed Underfloor Protection.** Buildings or structures shall have all underfloor areas enclosed to the ground, with exterior walls in accordance with Section 505.5.

Exception: Complete 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.

Staff: The 30 ft by 60 ft accessory building will not have any basement or crawlspace. *This requirement is not applicable at this time.*

- 6.06 **505.7 Appendages and Projections.** Unenclosed accessory structures attached to buildings with habitable spaces and projection, such as decks shall be a minimum of one-hour-rated fire-resistive construction, heavy timber construction or constructed with approved noncombustible materials.

When the attached structure is located and constructed 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 (152 mm) of the ground, with exterior wall construction in accordance with Section 505.5.

Staff: The 30 ft by 60 ft accessory building is a detached structure. *This requirement is not*

applicable at this time

- 6.07 **505.8 Windows.** Exterior windows, window walls and skylights shall be tempered glass or multilayered glazed panels.

Staff: The 30 ft by 60 ft accessory building will have windows on two of its side. No details regarding materials were given. A condition of approval will be included requiring tempered glass or multilayered glazed panels be installed. *This requirement will be met through a condition of approval.*

- 6.08 **505.9 Exterior Doors.** Exterior doors, other than vehicular access doors to garages, shall be noncombustible or solid core not less than 1 3/8 inches (35 mm) thick. Windows within doors and glazed doors shall be in accordance with Section 505.8.

Staff: The 30 ft by 60 ft accessory building will have one man-door. No details regarding materials were given. A condition of approval will be included requiring the man-door meet this requirement. *This requirement will be met through a condition of approval.*

- 6.09 **505.10 Vents.** Attic ventilation openings, foundation or underfloor vents or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.929 m²) each. Such vents shall be covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/4 inch (6.4 mm).

Attic Ventilations openings shall not be located in soffits, in eave overhangs, between rafters at eaves, or in other overhang areas. Gable end and dormer vents shall be located at least 10 feet (3048 mm) from property lines. Underfloor ventilation openings shall be located as close to grade as practical.

Staff: No vent openings have been shown on the plans (Exhibit A.16). In case a vent will be installed, staff has placed a condition of approval to ensure the opening meet this requirement. *If applicable, this requirement will be met through a condition of approval.*

- 6.10 **505.11 Detached Accessory Structures.** Detached accessory structures located less than 50 feet (15240 mm) from a building containing habitable space 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 approved noncombustible material on the exterior side.

When the detached structure is located and constructed 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 (152 mm) of the ground, with exterior wall construction in accordance with Section 505.5 or underfloor protection in accordance with Section 505.6.

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.

See Section 505.2 for roof requirements.

Staff: The 30 ft by 60 ft accessory building is located over 200 ft from the dwelling. *This requirement is not applicable at this time.*

- 7.00 **Adjustment**

Staff: The new accessory structure is located within 80 ft of the south property line. MCC

33.2256 requires a 130 ft Forest Practice Setback from this property line. An Adjustment to the Forest Practice Setback has been applied for to allow a reduction in this setback standard.

7.01 **MCC 33.7611 Adjustment Approval Criteria**

The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 33.7606 upon finding that all the following standards in (A) through (E) are met:

(A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Applicant: The new 30' x 60' accessory structure is proposed to be located 80' from the frontage road, NW Columbia Street, which is County owned, but not maintained. The table shows a setback of 130' for this accessory structure. The proposed location would require an adjustment of 38% of the standard.

Staff: Columbia Street is a public right-of-way which is not maintained by the County. If it was a County maintained roadway, the Forest Practice setback to the south property line would be 30 feet, instead of 130 ft (All Other Setbacks). MCC 33.0005 specifies that a *Forest Practices Setback* is "A type of dimensional setback in the forest zoning districts that provides for separation between structures and property lines. This setback assures that accepted forestry practices can occur on adjacent properties without the adjacent property owner needing to alter those practices due to the close proximity of a dwelling or structure." The proposed accessory structure is clustered with an existing barn and will only be 80 ft from the County right-of-way. The existing barn is only 42 ft from this right-of-way. No additional impacts to adjacent properties will be created with the placement of this building at the proposed location that would not already exist with the existing barn. Columbia Street is a 40 ft public right of way and adds its distance to the separation between the proposed building and the property to the south for a total setback of 120 ft. Based upon the existing conditions on the site and the additional public right of way between the subject property and the parcel to the south, the adjustment will equal the purpose of MCC 33.2256. *This criterion has been met.*

7.02 **(B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and**

Applicant: The adjoining property within 130' setback is located to the South, so there are no impacts to sunlight on the adjoining property. There is an existing accessory structure located between the proposed structure and the adjoining property, so no additional impacts to privacy on the adjoining property are created by the proposed adjustment to the standard. The proposed location minimizes potential impacts to the existing site topography, significant vegetation, and drainage because it is on existing relatively flat, open ground. Any movement of the proposed location to comply with the standard would place it closer to the pond a significant wildlife habitat resource.

Staff: The subject property to the south is a vacant forest parcel. With the 40 ft public right-of-way, the building is 120 ft from the south property line. The property gains access from this public right-of-way. The proposed location for the accessory building will require no trees to be removed. The building will be approximately 170 ft from the pond and will not impact the wildlife access to this feature. The existing driveway to the current dwelling will be utilized for the building so no significant grading is needed to construct the buildings. The proposed accessory building will be constructed to meet Class I ignition ratings and will have a monitored fire alarm based upon the requirements for the Exception to the Secondary Fire

Safety Zone. No impacts have been identified as part of this review. *This criterion has been met.*

- 7.03 **(C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and**

Applicant: Only one adjustment is being requested.

Staff: Staff concurs. Only one adjustment is being requested. *This criterion is not applicable at this time.*

- 7.04 **(D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands; and**

Applicant: As part of the previous application package, reference was made to the prior owners' recording with Multnomah County (Book 22112, Page 1853) of a Conditions and Restrictions Covenant that runs with the title to the property and attests the current and all future owners accept as normal and necessary farming and forest practices on adjoining properties. This insures the proposed adjustment will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands.

Staff: Based upon the findings listed under MCC 33.2261(B) [Section 4.01 through 4.08] that found that the new accessory structure will not impact accepted farm or forest practice on the site or adjacent lands, the proposed adjustment will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property or on adjoining parcels. *This criterion has been met.*

- 7.05 **(E) If in a Rural Residential (RR) or Rural Center (RC) zone, the proposal will not significantly detract from the livability or appearance of the residential area.**

Staff: The subject property is located in the CFU-2 zone. *This criterion is not applicable.*

- 7.06 **Conclusion**

Staff: The proposed 30 ft by 60 ft accessory structure has met the approval criteria for the Adjustment.

- 8.00 ***Significant Environmental Concern Criteria***

[**Note:** Since the existing barn has existed prior to 1994, it is exempt from obtaining a Significant Environment Concern permit for its use conversion pursuant to MCC 33.4515.

- 8.01 **MCC 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.

(2) A map of the property showing:

- (a) Boundaries, dimensions, and size of the subject parcel;
- (b) Location and size of existing and proposed structures;
- (c) Contour lines and topographic features such as ravines or ridges;
- (d) Proposed fill, grading, site contouring or other landform changes;
- (e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
- (f) Location and width of existing and proposed roads, driveways, and service corridors.

Staff: The application includes the required materials. *This criterion has been met.*

8.02 MCC 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.

- (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 applicant has submitted in an air photo showing the adjacent fencing on the property to the east. No other fencing, dwellings or driveways exist within 200 ft of the subject parcel on Columbia Street. *This criterion has been met.*

8.04 (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: All development will be only in existing cleared areas.

Staff: The proposed replacement dwelling and 30 ft by 60 ft accessory structure are both located within the parcels existing non-forested "cleared" area (Exhibit A.12 & A.13). *This criterion has been met.*

8.05

(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: In order to meet the required fire safety zones while balancing the goals of the SEC-h overlay, the replacement dwelling (but not the accessory structure) is proposed to be located 370 feet from NW Columbia Street. This location has the least impact on the pond, which serves as an important wildlife resource, and minimizes the potential habitat disruption of the creation of fire safety zones in forested areas. For this reason, the owners have elected to utilize the Wildlife Conservation Plan provisions of section C,2 below.

The alternate site within 200' of the road that also maintains an undisturbed 100' buffer from the pond, as well as the location of the existing manufactured home (to be removed) and the proposed replacement dwelling site can be seen on the page of photographs (exhibit 6). Photographs (2) and (6) shown in exhibit 6 clearly show that the proposed development site is relatively flat and in an existing cleared area over 100' from the pond. In contrast, the site within 200' shown in photographs (3), (4) and (5) is located in a forested area, straddles the existing driveway, and is more steeply sloped. All these factors combine to create greater impacts to the habitat resources during and after construction when compared to the proposed site. The owner's proposal to remove the manufactured home will also be beneficial to habitat values and lessen potential wildfire risks associated with its present location.

Staff: The 30 ft by 60 ft accessory structure will be located within 80 ft of Columbia Street which is a public right-of-way. The proposed replacement dwelling will be constructed approximately 369 ft from Columbia Street. *This criterion has been met for the accessory structure, but not for the new dwelling.*

8.06

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

Applicant: The driveway will be 472.3'

Staff: The driveway to the dwelling is approximately 400 ft in length. Access to the accessory structures is provided from the existing driveway and is approximately 180 ft in length. The total service corridor serving the proposed development is 580 ft. *This criterion has not been met.*

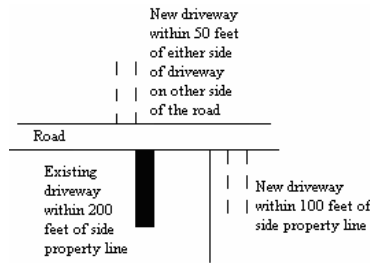
8.07

(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.

(c) Diagram showing the standards in (a) and (b) above.



For illustrative purposes only.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County “Design and Construction Manual,” adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

1. The modification shall be the minimum necessary to allow safe access onto the public road.

2. The County Road Official shall provide written findings supporting the modification.

Applicant: The adjacent property on the same side of the road has an existing access road or driveway approach that is located 528 feet from the driveway entrance on this property. No existing access road/driveway is located on the opposite side of the road. See SEC area map (exhibit 5).

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

8.08 (5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

Applicant: The development will be within 300 feet of the side property line nearest the adjacent property that has structures and developed areas, although they are not within 200 feet of that common side property line.

Staff: The dwelling is at least 130 ft from the east property line. The 30 ft by 60 ft accessory structure is at least 140 ft from the east property line. The subject property is at the end of the built area of Columbia Street. No development exists to the south or west of the subject parcel. Development to the east is approximately 500 ft from the subject property. *This criterion has been met.*

8.09 (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.

Staff: The applicant has indicated that no fencing will be installed as part of this proposal. A condition of approval has been included requiring that at a later date, if fencing is installed along Columbia Street it meet these criteria.

8.10

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

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

| Scientific Name | Common Name |
|-------------------------------|---------------------------|
| <i>Loentodon autumnalis</i> | Fall Dandelion |
| <i>Lythrum salicaria</i> | Purple Loosestrife |
| <i>Myriophyllum spicatum</i> | Eurasian Watermilfoil |
| <i>Phalaris arundinacea</i> | Reed Canary grass |
| <i>Poa annua</i> | Annual Bluegrass |
| <i>Polygonum coccineum</i> | Swamp Smartweed |
| <i>Polygonum convolvulus</i> | Climbing Binaweed |
| <i>Polygonum sachalinense</i> | Giant Knotweed |
| <i>Prunus laurocerasus</i> | English, Portugese Laurel |
| <i>Rhus diversiloba</i> | Poison Oak |
| <i>Rubus discolor</i> | Himalayan Blackberry |
| <i>Rubus laciniatus</i> | Evergreen Blackberry |
| <i>Senecio jacobaea</i> | Tansy Ragwort |
| <i>Solanum dulcamara</i> | Blue Bindweed |
| <i>Solanum nigrum</i> | Garden Nightshade |
| <i>Solanum sarrachoides</i> | Hairy Nightshade |
| <i>Taraxacum officinale</i> | Common Dandelion |
| <i>Urtica dioica</i> | Stinging Nettle |
| <i>Vinca major</i> | Periwinkle (large leaf) |

| | |
|-----------------------------|------------------------|
| <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>Vinca minor</i> | Periwinkle (small leaf) |
| <i>Xanthium spinosum</i> | Spiny Cocklebur |
| <i>various genera</i> | Bamboo sp. |
| | |

Applicant: The owners will not plant, and have been actively removing the listed nuisance plant species.

Staff: In the cleared area where the new structures are to be built, staff did not see any nuisance plants in the area. *This criterion has been met.*

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

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

(2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).

Applicant: The proposed development locations have the least impact on the pond, which serves as an important wildlife resource, and minimizes the potential habitat disruption of the creation of fire safety zones in forested wildlife habitat areas. For this reason, the owners have elected to utilize the Wildlife Conservation Plan provisions.

Staff: The application has failed to meet (B)(2) & (B)(3) above. The development site can meet these criteria, but the applicant believes the proposed layout is better for the site and the owner's needs. A wildlife conservation plan is required pursuant to (C)(2) above. Based upon the findings below, the proposed mitigation measures will have a less detrimental impact to the forested wildlife habitat than if the dwelling was moved to meet the development standards listed under (B) above.

8.12 **(3) The wildlife conservation plan must demonstrate the following:**

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

Applicant: No new cleared areas will be created if the proposed location is permitted. The proposed dwelling location will require less disturbance of forest canopy cover than any other suitable location of the property that could meet the 200 foot maximum distance required under (B) (2) above. The only other location that would meet the 200 foot distance, retain the undisturbed 100 foot vegetated buffer from the pond and stay on gentle slopes would require extensive clearing of significant forest canopy to meet the primary and secondary fire safety zones that would be located on a steeply sloped portion of the site adjacent to this location. In addition it would require relocation of the upper driveway and additional grading and filling.

Staff: The applicant has indicated that the existing logging road/driveway leading to the

current dwelling is needed for access to the septic field and pump tank, well and well pump for the new dwelling and for use during forestry activities (logging and invasive species removal). The replacement dwelling will be using the existing drainfield, pump tank and water well adjacent to the old dwelling site. To reduce the amount of cleared area created by the development, applicant has specified that the existing logging road /driveway will not be re-graveled past the new 30 ft by 60 ft accessory structure, and it will be planted with native grasses on the existing road surface to provide for animal habitat and forage. In addition, the existing dwelling will be removed at the end of this road, and the entire area will be planted with mixed coniferous species including Douglas Fir. The property owner will continue with the removal of blackberry and other nuisance species from the property. By replanting areas currently occupied by the existing dwelling and revegetating a portion of the existing driveway the project has restricted the amount of clearing needed for the overall project and will not disturb the forest canopy. *This criterion will be met.*

- 8.13 **(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: No new cleared areas will be created.

Staff: When the existing dwelling is removed from the property, a cleared area will be created as the dwelling is located in a forested area. This area will be re-forested as part of this wildlife conservation plan. The area where the replacement dwelling and 30 ft by 60 ft accessory structure are proposed is currently a grassed area. No trees will be removed for the new development. *This criterion has been met.*

- 8.14 **(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 new fencing will be built and the owners have removed several thousand feet of pre-existing barbed wire and wooden fencing from the property.

Staff: A condition of approval has been included prohibiting the construction of fencing outside of the cleared area of the property. *As conditioned, this criterion will be met.*

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

Applicant: No new cleared areas will be created.

Staff: The area where the current dwelling is approximately 210 ft by 80 ft (16,800 sq. ft +/-) and it will be revegetated into forest species. The area proposed for the dwelling is currently cleared, but could easily grow trees if replanted. The dwelling is approximately 3,400 sq ft of ground coverage. In addition, the new accessory structure is 1,800 sq ft. The driveway turn around adds approximately 2,500 sq ft to the driveway. All total the area being converted from farm or forest use is 7,700 sq ft. The proposed revegetation exceeds the 2:1 ratio for revegetation. *This criterion has been met.*

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

Applicant: There will be no disturbance along drainages and streams located on the property. Enhancement of these areas will be achieved by the continuing removal of invasive species.

Staff: The replacement dwelling is over 100 ft from the existing stream. The stream is north of the development area and will not be disturbed or impacted by the project. *This criterion has*

been met.

9.00 **Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the above permits in the CFU-2 zoning district. This approval is subject to the conditions of approval established in this report.

10.00 **Exhibits**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

| Exhibit # | # of Pages | Description of Exhibit | Date Received/ Submitted |
|-----------|------------|---|--------------------------|
| A.1 | 10 | CFU Zone Development Standards Permit Application Form B, Type 2 | 11/14/06 |
| A.2 | 1 | Final Approval of Building Permit Dated 07/13/01990 – Exhibit 1 | 11/14/06 |
| A.3 | 1 | Conditions & Restrictions – Exhibit 2 | 11/14/06 |
| A.4 | 8 | Narrative Statements for Commercial Forest Use Regulations | 11/14/06 |
| A.5 | 2 | Fire District Review Fire Flow Requirements – Exhibit 3 | 11/14/06 |
| A.6 | 2 | Fire District Access Review | 11/14/06 |
| A.7 | 1 | Water Well Report | 11/14/06 |
| A.8 | 10 | Significant Environmental Concern for Wildlife Habitat Permit Application | 11/14/06 |
| A.9 | 4 | Significant Environmental Concern Narrative | 11/14/06 |
| A.10 | 1 | Air Photo of Subject Site and Fencing to east of Property – Exhibit 5 | 11/14/06 |
| A.11 | 1 | Photos of Subject Property with Alternative Locations | 11/14/06 |
| A.12 | 1 | Site Plan – Sheet A0.1 | 11/14/06 |
| A.13 | 1 | Developed Area Site Plan – Sheet A0.2 | 11/14/06 |
| A.14 | 2 | Elevations of Proposed Dwelling – Sheet A3.1 & A3.2 | 11/14/06 |
| A.15 | 1 | Existing Barn Proposed Elevations & Floor Plans – Sheet A7.1 | 11/14/06 |
| A.16 | 2 | Proposed Accessory Structure Elevations & Floor Plan – Sheet A7.2 & A7.3 | 11/14/06 |
| A.17 | 1 | Dwelling – Basement Floor Plan – Sheet A1.0 | 11/14/06 |
| A.18 | 1 | Dwelling – Ground Floor Plan – Sheet A1.1 | 11/14/06 |

| | | | |
|------------|----|--|-------------|
| A.19 | 2 | Cover Letter for Submittal of Additional Evidence & Photos of Components of Habitable Dwelling | 11/20/06 |
| A.20 | 2 | Evidence of Continuous Insurance Coverage from State Farm | 11/20/06 |
| A.21 | 2 | Evidence of Continuous Phone Service from Qwest | 11/20/06 |
| A.22 | 2 | Additional Information Narrative | 2/8/07 |
| A.23 | 1 | Amended General Application Form adding Exception to Secondary Fire Safety Zone to application | 2/8/07 |
| A.24 | 3 | Legal Description for 20 ft wide Roadway Easement | 2/8/07 |
| A.25 | 1 | Roadway Easement Map | 2/8/07 |
| A.26 | 2 | Floor Plans for Existing Barn Conversion | 2/8/07 |
| A.27 | 1 | Field/Peng Residence Developed Area Site Plan | 2/8/07 |
| | | | |
| 'B' | | Staff Exhibits | Date |
| B.1 | 2 | A&T Property Records for 2N2W25 - 01500 | 11/14/06 |
| | | | |
| 'C' | | Administration & Procedures | Date |
| C.1 | 2 | Incomplete Letter | 12/13/06 |
| C.2 | 1 | Complete Letter (Day 1 – 3/2/07) | 3/12/07 |
| C.3 | 3 | Opportunity to Comment | 3/5/07 |
| C.4 | 28 | Decision | |