



MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

NOTICE OF DECISION

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

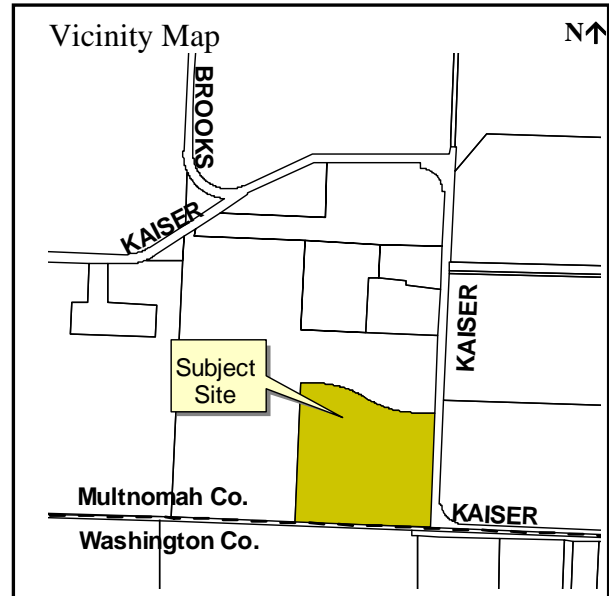
Case File: T2-06-120

Permit: Modification of Conditions of Significant Environmental Concern (wildlife habitat) permit

Location: 9741 NW Kaiser Road
T1N, R1W, Sec 06D – TL 700

Applicant: Steve (Kelly) Greene

Owner: Steve K. Greene & Camille Green
9741 NW Kaiser Rd
Portland, OR 97231



Summary: The applicant has requested a modification to the conditions imposed in T2-06-010. That decision approved a Significant Environmental Concern permit for a replacement dwelling in March of 2006. The applicant has requested modification of the prior approval to allow the construction of a 4,276 sq ft dwelling instead of the previously approved 3,616 sq ft replacement dwelling. The subject property is zoned Exclusive Farm Use (EFU) and has an overlay of Significant Environmental Concern for wildlife habitat (SEC-h).

Decision: Approved With Conditions

Unless appealed, this decision is effective Thursday, January 25, 2007, at 4:30 PM.

Issued by:

By: _____
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Thursday, January 11, 2007

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 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 (LUBA) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, January 25, 2007 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 33.2660 - Dimensional Requirements; MCC 33.4520 - Application for SEC Permit; MCC 36.4570 – Criteria For Approval of SEC-H Permit; 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 (4) 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. **Within six months of obtaining final occupancy of the new dwelling, the owner/applicant shall complete the wildlife enhancements proposed in the Wildlife Conservation Plan (Exhibit A2 of T2-06-010).**
2. **The applicant shall not plant any of the nuisance plants listed in Table 1 of MCC 33.4570(B)(7) on the subject property.**

3. The applicant shall install an internal NFPA-13D sprinkler system, as required by the Tualatin Valley Fire and Rescue District (Exhibit A3).
4. This permit does not authorize the establishment of a second dwelling on the parcel (MCC 33.2630(M)). The existing dwelling must be removed from the site, or converted to an accessory structure within 3-months of occupancy of the new home as agreed to in the replacement dwelling agreement (T2-06-010 Exhibit A1).

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 and Adam Barber, at (503)-988-3043 extension 22597 & 22599 to schedule an appointment for plan 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 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*.

Proposed Modifications to Approved Significant Environmental Concern Permit, T2-06-010:

Staff: The subject property is zoned Exclusive Farm Use (EFU) with a Significant Environmental Concerns (Wildlife Habitat) zoning overlay. In March, 2006 the County approved a Significant Environmental Concern permit to replace the existing single family dwelling at 9741 NW Kaiser Road. The existing dwelling was constructed in 1940 according to the Multnomah County Tax Assessment Department. The previous permit authorized the replacement of the existing dwelling with a 3,616 sq. ft dwelling at the same location on the property. The applicant is requesting to substitute a different set of house plans than the ones previously approved. The new plans have a building square footage of 4,276 sq. ft. The house will be located directly over the existing dwelling’s location.

NOTE: Staff will only consider the criteria that may be altered by the substituted house plans.

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 22, 2006 and was deemed complete on that day. An “Opportunity to Comment” notice was mailed on December 1, 2006 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 700, Section 06D, Township: 1 North, Range: 1 West. Assessment & Taxation records show that the land is owned by Kelly & Camille Greene. Kelly Greene has been designated the applicant and has signed the General Application Form (Exhibit A.1. *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: There are no known violations on this site.

2.00 ***Exclusive Farm Use Criteria***

2.01 **MCC 33.2660 Dimensional Requirements.**

(C) **Minimum Yard Dimensions - Feet**

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Staff: The new home will meet the minimum yard dimensional setbacks outlined above as demonstrated within the site plan (Exhibit A.5). The applicant has submitted elevations for the proposed dwelling. As submitted, the home is less than 35 ft in height (Exhibit A.10). *This criterion has been met.*

3.00 ***Modifications to Significant Environmental Concern Permit T2-06-010***

3.01 **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.

Staff: The proposed modification to Significant Environmental Concern Permit, T2-06-010 will be evaluated by MCC 33.4560 through 33.4575 within this decision.

3.02 **MCC 33.4520 (A) An application for an SEC permit shall include the information listed in MCC 33.4520(A)(2)(a)-(f):**

Staff: The applicant's plans, presented in Exhibit A.5, contain the necessary information. This standard has been met.

3.03 **Criteria for Approval of SEC-h Permit -Wildlife Habitat (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:

(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;

Staff: The development plans presented as Exhibit A5 show the location of all existing and proposed structures.

- 3.04 **(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: In addition to the portion of the existing split rail fence which runs along the northern side of the existing driveway entrance being relocated to the north side of the new driveway, the old driveway will be abandoned and an additional 40 ft length of fencing will be installed to close this entrance. This additional fence area was shown on the previous site plan but was not mentioned. Staff has included it in this finding to clarify the approved fencing from T2-06-010 (Exhibit A.5).

3.05 **MCC 33.4570**

(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.

Staff: The proposed house plan substitution with a slightly larger building footprint of 509 sq. ft. will not require the removal on any additional trees or native vegetation. The proposed footprint will be located in the existing cleared area for the existing dwelling. *This standard has been met.*

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

Staff: The previous application was granted approval to relocate the driveway to the north and extended it into the property for about 190 ft. The previous house design had the garage located on the north side of the dwelling. The proposed layout has moved the garage to the south side of the proposed dwelling. In the current proposal, an additional 45 ft of driveway will be added to access the garage. This new driveway extension will connect into an existing driveway. The service corridor serving the dwelling is approximately 400+ ft. *This standard has been met.*

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

Staff: An addition of 40 ft of fence will be installed to close the driveway being relocated to the north. The subject property is currently used for horses and is in farm deferral. The applicant in T2-06-010 indicated that the fencing along Kaiser Road was to contain the horses. MCC 33.4515(A) specifies that a "*Farm Use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto...*" is exempt from the SEC requirements.

4.00 **Conclusion**

Considering the findings and other information provided herein, this application modifies the above specified findings contained in T2-06-010. Any finding or conditions not modified

above from T2-06-010 remain in effect.

5.00 ***Exhibits***

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	11/22/06
A.2	1	Narrative	11/22/06
A.3	4	Fire District Review Fire Flow Requirements	11/22/06
A.4	1	Storm Water Certificate	11/22/06
A.5	1	Site Plan of New House – Sheet 1.1	11/22/06
A.6	1	Cover Sheet – Sheet 2.1	11/22/06
A.7	1	Foundation Plan – Sheet 2.2	11/22/06
A.8	1	First Floor Plan – Sheet 2.3	11/22/06
A.9	1	Second Floor Plan – Sheet 2.4	11/22/06
A.10	2	Elevations – Sheet 2.5 & 2.6	11/22/06
A.11	2	Sections – Sheet 2.7 & 2.8	11/22/06
A.12	1	Second Floor Structural Plan – Sheet 2.9	11/22/06
A.13	1	Roof & Ceiling Structural Plan	11/22/06
‘B’	#	Staff Exhibits	Date of Document
B.1	2	A&T Property Record for 1N1W06D – 00700	11/22/06
B.2	1	Prior Approved Site Plan from T2-06-010	1/8/07
B.3	2	Transportation Planning Memorandum from A. Winters	1/8/07
‘C’		Administration & Procedures	Date
C.1	1	Complete Letter – Day 1	11/22/06
C.2	5	Opportunity to Comment	12/1/06
C.3	7	Administrative Decision	1/10/07