



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.

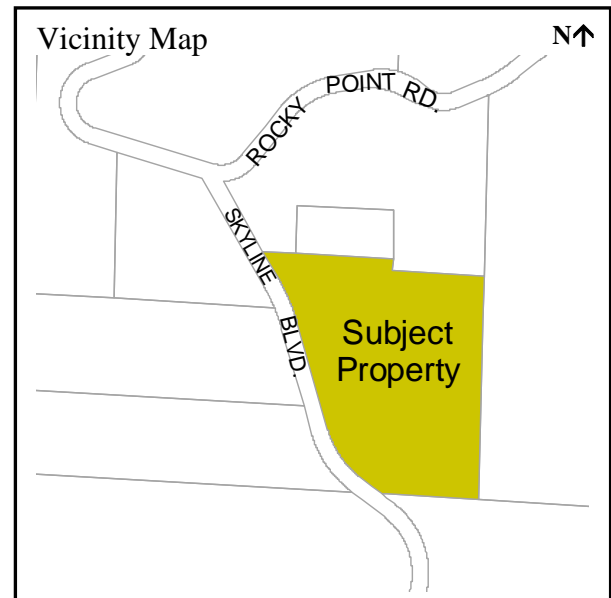
Case File: T2-07-064

Permit: Significant Environmental Concern for
Scenic Views and Wildlife Habitat and
Commercial Forest Use Development
Standards Permit

Location: 23700 NW Skyline Blvd.
Tax Lot 800, Section 34D,
Township 3 North, Range 2 West, W.M
Tax Account #R982340110

Applicant: Rodney T. Cox
23545 NW Skyline Blvd
North Plains, OR 97133

Owner: Chana B. Cox
23545 NW Skyline Blvd
North Plains, OR 97133



Summary: Request for a replacement dwelling in the Commercial Forest Use – 2 Zone District and within the Significant Environmental Concern for Wildlife Habitat and Scenic Views Overlay Zone Districts

Decision: Approved with Conditions

Unless appealed, this decision is effective February 11, 2008, at 4:30 PM.

Issued by:

George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: January 28, 2007

Instrument Number for Recording Purposes: #2004236262

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

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is February 11, 2008, at 4:30 PM.

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

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 or 37.0700, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

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 30 days of this decision becoming final and prior to building permit sign-off, the property owner shall record the Notice of Decision (pages 1 – 4) of this decision and the Site Plan (Exhibit 1.2) 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 a copy filed with Land Use Planning. Recording shall be at the applicant's expense. [MCC 37.0670]

2. The dwelling structure shall comply with the standards of the applicable building code, have a fire retardant roof, and have a spark arrester on each chimney [MCC 33.2261(C)]
3. To provide vegetative screening of the dwelling from the identified viewing areas, the property owner shall plant eight trees, at least six foot tall when planted, east and southeast of the dwelling within the area shown on staff amended site plan included as Exhibit 2.8. These trees shall be planted such that they meet the primary fire break standard of 15 foot separation between crowns when they mature. They should be native trees and at least half shall be conifers. The trees shall be planted by the end of March 2009. The property owner shall maintain a forest density in the area shown on the staff amended site plan included as Exhibit 2.8, an area 100 wide starting at the current line of existing forest shown on the site plan and aerial photo (Exhibit 2.3) east, southeast, west and northwest of the proposed dwelling. The trees in these areas may only be removed or pruned back to meet the fire safety zone standards [MCC 33.4565(C) and (E)].
4. The property owner shall maintain the primary fire safety zone extending 30 feet in all directions around the structure, except the area down-slope of the dwelling where the primary fire safety zone is extended to 80 feet. Trees within the primary safety zone shall be spaced with greater than 15 feet between the crowns. The trees within the primary safety zone shall be pruned to remove low branches within 8 feet of the ground. All other vegetation within the primary safety zone shall be kept less than 2 feet in height [MCC 33.2256(D)].
5. The property owner shall obtain a grading and erosion control permit approval prior to Building Permit Zoning Review and prior to any soil disturbance related to the proposed development [MCC 29.336].
6. The property owner shall use the low or non-reflective building materials outlined in the application narrative for the exterior of the dwelling (Exhibit 1.10). Approved building materials include stucco, grooved tile roofing and low reflectivity windows. The property owner shall use windows with a low visible light reflectivity rating of less than 15 percent. If plastic framing around the windows is used, it must be the darkest earth tone color available. The exterior colors of the finished building shall match colors as shown on Exhibit 1.11 with the dwelling body matching the submitted "burnt bark" or "forest green" color chips and the roof matching the "bituminous" color chip. If the property owner chooses to change colors the Columbia River Gorge Commission Color Chart top two rows (Row A and B) can be matched as approved colors. In that case the property owner shall submit the color chip to this office to verify the match. The type of exterior building materials shall be noted on the building plans. [MCC 33.4565(C) and (C)(2)].
7. Outdoor lighting shall be directed downward, hooded and shielded. Shielding and hooding materials should be composed of nonreflective, opaque materials. If any outdoor lighting is proposed, that lighting shall be shown on the building plans and the property owner shall submit a drawing or brochure of the fixture showing the lighting fixtures meet this condition prior to or during Building Permit Zoning Review [MCC 33.4565(C)].
8. The nuisance plants listed in the following table shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property [MCC 33.4570(B)(7)]:

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
<i>Convolvulus 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

Scientific Name	Common Name
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium robertianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese Laurel

Scientific Name	Common Name
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>various genera</i>	Bamboo sp.

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, George A. Plummer, at (503) 988-3043 ext. 29152, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland. Five (5) sets each of the site plan and building area are needed for building permit sign off.

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

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

FINDINGS AND CONCLUSIONS

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

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

1. DESCRIPTION OF THE PROPOSAL

Applicant: *Replacement house, no tree removal, foundation clearing of 2706 sq. ft., basement and two floors, total of 8076 sq. ft.*

Staff: The request is to build a replacement dwelling in the Commercial Forest Use – 2 (CFU-2) Zone District with SEC-v and SEC-h, Overlay Zones (Exhibits 2.2).

2. SITE AND VICINITY CHARACTERISTICS

Staff: The subject property is an 11.59 acre parcel located within the CFU-2 Zone District in the West Hills Rural Plan Area. The property is entirely within the Significant Environmental Concern for Wildlife Habitat (SEC-h) and Scenic Views (SEC-v) Overlay Zone Districts as well. The property is accessed from Skyline Blvd. and is located east of the road. The development site is adjacent to the existing dwelling located on a knob hill along the ridge line of the Tualatin Mountains. The property slopes up from the road at about 10 percent to the hilltop. From the hilltop, the property drops at about 17 percent to the east and southeast. The SEC-v identified viewing areas are to the east and southeast. The development site is an existing cleared area while the rest of the property is forested. (Exhibit 2.3).

The property is located in the northern extent of the County that is predominately forestland, within a pocket of CFU-2 zoned land surrounded by larger acreage forested properties in the CFU-1 Zone District. In the vicinity, there are several parcels zoned CFU-2 of a similar or larger size, developed as residential properties with small woodlots. The CFU-1 zoned land is generally undeveloped.

3. OWNERSHIP

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

Staff: County Assessment records show the property owner as Chana B. Cox. (Exhibit 2.1). Ms. Cox signed the application form providing the necessary authorization to process the application (Exhibit 1.1).

4. TYPE II CASE PROCEDURES

- 4.1. MCC 37.0530 (B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject Tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Director's decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.**

Staff: An opportunity to comment was mailed to property owners within 750-feet of the property lines on November 20, 2007. No comments were received.

5. COMMERCIAL FOREST USE -2 ZONE DISTRICT

5.1. REVIEW USES

MCC 33.2225(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.**

MCC 33.0005: Definitions

Habitable Dwelling – An existing dwelling that:

- (a) Has intact exterior walls and roof structure;**
- (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;**
- (c) Has interior wiring for interior lights;**
- (d) Has a heating system; and**
- (e) Was lawfully established.**

Staff: The existing dwelling was established in 1996. A dwelling right for this property was approved in 1992 by County Land Use Planning through Case PRE 28-92 (Exhibit 2.6). A grading and Erosion Permit was issued to establish a dwelling by County Land Use Planning in 1995 (Exhibit 2.5). A septic system was approved and inspected by the City of Portland staff in 1995. The City of Portland provided a copy of the placement inspection card for the manufactured home showing it received the required inspection (Exhibit 2.7). These documents in sum demonstrate that the mobile home was legally established. Photographs submitted by the applicant and a site visit by staff has demonstrated that the existing dwelling is a habitable dwelling (Exhibit 1.8).

5.2. BUILDING HEIGHT REQUIREMENTS

MCC 33.2250 (A) Maximum structure height – 35 feet.

Staff: The submitted elevation plans show the dwelling at about 26 feet in height (Exhibit 1.6). The height will be checked on the final plans submitted for Building Permit Zoning Review.

5.3. FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

MCC 33.2256: 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 Set-backs	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
At least a portion of the replaced or restored dwelling is within 100 ft. of existing dwelling	May maintain current nonconforming set-back(s) if less than 30 ft. to property line	30	30	Primary is required to the extent possible within the existing setbacks

Staff: The proposed replacement dwelling is located within 100 feet of the location of the existing dwelling as shown on the site plan included as Exhibit 1.2. The proposed development exceeds the required 30 foot setbacks. The primary firebreak maintenance will be required as a condition of approval.

* * *

5.3.1. MCC 33.2256(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: Skyline Blvd. right-of-way is 60 feet wide, a width considered sufficient for a rural collector road. Additionally, the proposed dwelling is setback about 190 feet from the right-of-way (Exhibit 1.2). This standard is met.

5.3.2. MCC 33.2256(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.

(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.

- (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
- (4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.
- (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: The property owner will be required to establish and maintain the primary firebreak as a condition of approval. The primary fire safety zone down slope of the proposed dwelling is 80 feet due to the 16 percent slope (Exhibit 1.5). A condition of approval will require the property owner maintain the primary fire safety zone. The property owner is encouraged to maintain a secondary firebreak to the extent possible on the property.

5.4. DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES

MCC 33.2261 (C) The dwelling or structure shall:

- (1) Comply with the standards of the applicable building code ...

* * *

- (3) Have a fire retardant roof; and
- (4) Have a spark arrester on each chimney.

Staff: A condition of approval will require these standards be met by the proposed dwelling.

5.5. ACCESS

MCC 33.2273: All lots and parcels in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles, except as provided for Lots of Record at MCC 33.2275(C).

Staff: The property has an existing access to Skyline Blvd. serving the existing dwelling. The Skyline Blvd. right-of-way is 60 feet wide, a width considered sufficient for a local collector road. Given there is no access permit for this property on file, an access permit will be required from the County Right-of-Way Program.

5.3. Lot of Record

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

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

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

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

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

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

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

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

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

Staff: The applicant submitted a copy of a deed for the subject property recorded on October 7, 1942 in Book 711 on Pages 441 and 442 (Exhibit 1.10). Given the property existed in 1942 its creation preceded all zoning and partition requirements. There was no common ownership between the subject property and any adjacent property in 1990. The property meets the standards for a lot of record.

6. SIGNIFICANT ENVIRONMENTAL CONCERN REVIEW

6.1. SEC Permit Required

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

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

6.2. Application for SEC Permit

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

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

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

Staff: The required information was submitted (Exhibit 1.2 - 1.17).

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

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

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

Staff: The applicant has submitted details on the proposed height, shape, colors, and exterior building materials. The applicant has submitted the information outlined in this section (Exhibits 1.1 – 1.4 and 1.13).

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

Staff: The applicant has submitted the required information (Exhibit 1.5 and 1.6).

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

Applicant: *Kelly Point Park (14 miles), Highway 30 (5 mi), The Multnomah Channel (5 mi), Willamette River (14 mi) and Public Road on Sauvie Island (10 mi).*

Staff: The applicant listed several identified viewing areas from which the proposed development site is visible (Exhibit 1.2). However, an analysis of LIDAR data mapping using the County Geographic Information System indicates the proposed building site is topographically visible from several additional identified viewing areas, including those cited by the applicant as well as Bybee Lake, Smith Lake, Virginia Lake, Sauvie Island Wildlife Refuge, and Bybee–Howell House located to the east and southeast of the development site.

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

Applicant: *This is one residence with trees and ground cover; the viewing is 10 to 15 mi. The property has a natural existing clearing which will be landscaped per fire regulations. The distances and proper plantings will solve the viewing problem. On the Oregon Road Map imagine yourself on the (a) of Scappose and that is the site location.*

The site as shown on the drawing is 14 acres and there is some control of the viewing area. A logging before the purchase has opened the property, however Douglas fir trees range from three to four feet to twenty to thirty feet in height and can be controlled by the present owner. The views in question are the three mile distance farm property on Sauvie Island. The other areas with more population are 10 to 15 miles in distant, i.e. Kelly Point Park and Greater Portland. The new dwelling will be dug into the side of the existing hill in such a way that a swale will be formed to surround the lower elements. The materials chosen for the finished surfaces of the dwelling will be earth color bark and needle color of the Douglas fir larch species consistent with the trees grown in this region. The splayed walls with tile roof of a dark color and a deck roof cantilever of 10 feet each will further tend to camouflage the structure. Plants of indigenous species of fir , will complete the entourage.

Staff: As stated in the previous finding, the proposed dwelling will be topographically visible from several identified viewing areas. The applicant has included a written description and drawings which he has attempted to demonstrate how the proposed development will be visually subordinate. That information includes the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas. Assessment of how the site plan and other submittal information demonstrates visual subordination or lack thereof is included under findings 6.4 through 6.4.7 below.

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

Applicant: *The views in question are the three mile distance farm property on Sauvie Island. The other areas with more population are 10 to 15 miles in distant, i.e. Kelly Point Park and Greater Portland. The new dwelling will be dug into the side of the existing hill in such a way that a swale will be formed to surround the lower elements. The materials chosen for the finished surfaces of the dwelling will be earth color bark and needle color of the Douglas fir larch species consistent with the trees grown in this region. The splayed walls with tile roof of a dark color and a deck roof cantilever of 10 feet each will further tend to camouflage the structure. Plants of indigenous species of fir, will complete the entourage.*

Staff: An analysis of LIDAR data mapping using the County Geographic Information System indicates the proposed building site is topographically visible from several additional identified viewing areas, including those cited by the applicant as well as Bybee Lake, Smith Lake, Virginia Lake, Sauvie Island Wildlife Refuge, and Bybee–Howell House located to the east and southeast of the development site. A site visit by staff indicated that the topography drops off to the east and southeast as indicated in the LIDAR analysis.

The staff site visit verified that there are several existing trees on the property to the east and southeast of the proposed dwelling that over time will provide some screening of the proposed dwelling from the identified viewing areas, however most of these trees are too short at this time. Trees behind the dwelling to the west and northwest will provide for a blending of the dwelling into the landscape. Staff will use the following guidelines to attain visual subordination for the proposed structure.

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

Applicant: *The new dwelling will be dug into the side of the existing hill in such a way that a swale will be formed to surround the lower elements. The site has been logged and replanted. There are existing natural forest on adjacent properties blocking views.*

Staff: The proposed dwelling site is located in an area on the property where the existing development is located. This area has the shallowest slopes on the property and is near the road. The slope drops off at increasing steepness to the east and southeast. The proposed development site is the best suited area topographically on the property. There are several existing trees on the property to the east and southeast of the proposed dwelling that over time

will provide some screening of the proposed dwelling from the identified viewing areas, however most of these trees are too short at this time. The proposed dwelling is located in an area on the property where existing vegetation will provide vegetative screening of the development from the identified viewing areas over time as the trees grow in height. Trees behind the dwelling to the west and northwest will provide for a blending of the dwelling into the landscape. The existing vegetation provides some screening of the proposed development from the identified viewing areas. This standard is met.

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

Applicant: *We submit materials for the concrete tile roof (black) and the cement board stucco painted in brown or tan or a dark Hookers Green. The windows will have low reflectivity. Cardinal Glass, Benson Glass and Pella Windows have been consulted and their low E glass has a reflectivity of 10% to 11%. I enclose letters and schedules. In the first submittal, floor to ceiling glass was proposed on the entire east elevation. Now this only happens in the two living room bays. The others have been changed for privacy and structural reasons. More study in the structural integrity will bring forth necessary wing walls for columns.*

The tile will be flat grooved cement. They have a non reflective, rough surface. About 90% of the roof will not be visible from any viewing area and the angle of the roof on the other 10% looks to be such that there will be minimum reflection, if any.

Staff: The applicant proposes to use black tile roofing and stucco cement siding. The applicant states the roofing material will be a flat grooved rough surface cement tile. Both the roofing tile and the stucco siding will have low reflectivity. The tile being black is a dark natural color.

The applicant submitted Rodda Paint color chip samples for the dwelling which include “Burnt Bark” a standard brown, “Forest Shade” a dark green and “Australian Pine” a light mossy green. The “Burnt Bark” and “Forest Shade” are dark natural or earth tone colors. While the “Australian Pine” may be natural or earth tone, it is a light shade. If the main body of the dwelling is painted with the “Burnt Bark” brown color or “Forest Shade” dark green color and the “Australian Pine” is used for the trim color, then the over all structure would be dark enough to blend into the forest environment when seen from the distance of the identified viewing area. Most of the area of the dwelling that will be visible will be the side with the most windows. The applicant proposes to use low reflective glass as well as using an overhang to shade the upper level window and an upper deck to shade the ground story windows.

Staff recognizes that the window units often include a plastic trim which comes in a limited color selection. Staff also recognizes that this trim is a rather narrow strip, however if it is white it can stand out in the landscape. A condition of approval will allow such trim but will require it to be the darkest color which is available.

Visually subordinate means development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings. This guideline recommends dark natural or earthtone colors because these colors blend into the forest environment without resulting in a noticeable contrast. Given that the proposed dwelling

colors, if the body of the dwelling is painted the “Burnt Bark” brown color or “Forest Shade” dark green color and the trim is the other colors described, then the dwelling will not present a noticeable contrast in relation to the surrounding forest landscape when viewed from the identified viewing areas.

Staff has used the Columbia River Gorge Commission Color Chart (Exhibit 2.6) which shows dark earth tone colors for forested landscapes to illustrate the colors needed to achieve visual subordination in the West Hill Plan Area. The surrounding forested landscape when viewed from the identified viewing areas is made up of dark greens, dark browns, dark grays and black. The upper two rows (Row A and B) of the color chart show dark earth tone colors that blend into forest landscapes such as that in the surrounding vicinity of the proposed development. These colors will blend into the forest landscape of the surrounding area, by providing substantially less contrast thus visual subordination for the proposed dwelling when other conditions of this decision are met. If the applicant decides to change colors, the colors proposed for the dwelling matching colors in Row A and B will be acceptable substitutes.

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

Applicant: *Outside lighting will be kept to a minimum. small low angle low voltage [12 volt] systems light the driveway. Those are no higher than 1 foot 4 inches high. Standard porch lights of low wattage are proposed equivalent to a 60-watt bulb*

Staff: The applicant has not demonstrated that this standard is met because no drawings were submitted of the lighting fixtures to confirm compliance. A condition of approval can require that prior to Building Permit Zoning Review plan check, the applicant to submit outdoor lighting fixture drawing or photo that show the proposed outdoor lighting fixtures meet this standard. This standard is met through a condition.

6.4.4. MCC 33.4565 (C)(4) Use of screening vegetation or earth berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.

Staff: There are several existing trees on the property to the east and southeast of the proposed dwelling which provide some screening and over time will increase the screening of the proposed dwelling from the identified viewing areas, however most of these trees are too short at this time. Maintaining a forest density in this area will provide screening in the near future. Staff has amended the site plan to show the areas which will be required to be maintained with a forested density (Exhibit 2.8). Trees behind the dwelling to the west and northwest will provide for a blending of the dwelling into the landscape. Maintaining a forest density in this area, shown on Exhibit 2.8, will provide back drop screening as well as maintaining the dwelling below the skyline. Given the proposed dwelling is on a cleared hilltop with little screening provided by current vegetation to the east and southeast of the proposed dwelling, planting addition trees will provide for screening of the dwelling from identified viewing areas sooner than relying on the existing vegetation. At least eight trees planted to east and southeast

between the proposed dwelling and the existing tree line, shown on the staff revised site plan included as Exhibit 2.8, will provide additional screening of the proposed dwelling. These trees will need to be at least six feet tall and should be native trees with at least half being conifers. These trees will need to be planted so when mature there will be at least 15 feet between the crowns to meet the primary fire safety zone standards. A condition of approval will require planting of the eight trees, maintenance of forest density to the east, southeast, west and northwest of the dwelling in the existing cleared area as shown on the staff revised plan included as Exhibit 2.8.

A condition of approval will require the property owner provide for the proper maintenance for survival of any vegetation used for screening vegetation. This standard is met through a condition.

6.4.5. MCC 33.4565 (C)(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

Applicant: See site plan @ 1 inch = 80 feet, for trees and location. [Sheet 2 of 13] Douglas fir, and larch are in place with corresponding height.

Staff: The proposed dwelling is located in the area where the existing dwelling is located with an existing driveway. The area has a lesser slope requiring less grading than other sites on the property would require (Exhibit 1.5). The proposed development is located to take advantage of the existing topography to build the dwelling into the slope. The development area is a previously cleared area surrounded by forested areas. This standard is met.

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

Applicant: See site plan @ 1 inch = 80 feet, for trees and location. [Sheet 2 of 13] Douglas fir, and larch are in place with corresponding height.

Staff: The proposed dwelling will be below the canopy of the trees located opposite from the identified viewing areas to the west and northwest. This standard is met.

6.4.7. MCC 33.4565 (C)(7) Siting and/or design so that the silhouette of buildings and other structures remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:

Applicant: See site plan @ 1 inch = 80 feet, for trees and location. [Sheet 2 of 13] Douglas fir, and larch are in place with corresponding height.

Staff: The proposed dwelling will be below the skyline trees as seen from identified viewing areas. The trees to the west and northwest will need to be maintained at a forest density for the proposed dwelling to remain below the skyline. This standard is met through a condition of approval requiring that a forest density be maintained as described.

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

Staff: The proposed development area that is topographically visible is the entire proposed dwelling. The proposed development site is about two to 12 miles from the identified viewing areas. The identified viewing areas from which the proposed dwelling is topographically visible are listed in Section 6.3.3 of this decision. The proposed development is topographically visible from the Sauvie Island Wildlife Refuge/Sauvie Island and the Sauvie Island public roads, to the east of the proposed dwelling to Bybee Lake/Kelly Park, to the southeast. That is a linear distance between these viewing areas of about ten miles. The size, the distance to nearest viewing area, the number of identified viewing areas, and the linear distance from which the proposed development is topographically visible results in significant potential adverse impact. Dwellings that noticeably contrasts with the surrounding environment, such as those painted with light colors, are easily seen from the distance of identified viewing areas.

The applicant has submitted dark natural or earth tone color samples for the proposed dwelling to aid in the goal to achieve visual subordination. If the applicant should choose to change these colors, the dark earth tone colors shown in Row A or B of the Gorge Color Chart (Exhibit 2.6) would meet the standard for dark earth tone colors. If the applicant should choose to change the color of the proposed dwelling, the condition can require the applicant submit color chips for colors of the dwelling prior to Building Permit Zoning Review plan check to verify they match the color chart. A condition of approval will require the use of nonreflective or low reflective building materials including the windows. This standard is met through conditions.

The dwelling is proposed to be built using low reflectivity building materials, dark earth tone colors. As a condition the applicant will also maintain the existing forest density and plant eight additional trees. These measures will ensure that the dwelling meets the visual subordination requirement.

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

6.5. SEC-h Development standards

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

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

Staff: The required information has been submitted (Exhibit 1.5).

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

Staff: The proposed development is in a cleared area where the existing dwelling is located (Exhibit 1.5 and 2.3). The standard is met.

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

Staff: The proposed dwelling is shown on the site plan as approximately 190 feet from Skyline Blvd right-of-way (Exhibit 1.5). The standard is met.

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

Staff: The proposed driveway is less than 500 feet in length (Exhibit 1.5). This standard is met.

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

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

- (b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.**

Staff: Neither property to the north or south have a driveway within 200 feet of the property boundary. The driveway on the subject property is within 50 feet of the driveway across Skyline Blvd (Exhibit 2.3). This standard is met.

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

Staff: The neighboring property to the north has a developed area within 200 feet of the property line. The proposed development is within 300 feet of the north property lines (Exhibit 1.5 and 2.3). This standard is met.

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

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

Staff: No fencing is proposed.

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

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

7. CONCLUSION

The applicant has demonstrated the standards for the Commercial Forest Use – 2 for a replacement dwelling and the standards for a Significant Environmental Concern for Wildlife Habitat and Scenic Views Permit have been met or can be met through conditions of approval for the proposed development.

8. EXHIBITS

8.1. Exhibits Submitted by the Applicant:

- Exhibit 1.1: Significant Environmental Concern for Habitat Permit Application Form (10 pages)
- Exhibit 1.2: Significant Environmental Concern for Views Permit Application Form submitted 5/1/07 (10 pages)
- Exhibit 1.3: CFU Zone Development Standards Permit Application Form A, Type I (10 pages)
- Exhibit 1.4: Addendum to narrative (2 pages)

- Exhibit 1.5: Site Plan (2 pages)
- Exhibit 1.6: Dwelling elevation drawings (6 pages)
- Exhibit 1.7: Dwelling floor plan drawings (3 pages)
- Exhibit 1.8: Photographs show existing dwelling and its features (3 pages)
- Exhibit 1.9: Septic system card for existing system (1 pages)
- Exhibit 1.10: Copy of deed filed Oct. 7, 1972 in Book 711 on pages 441 and 442 and a survey from 1942 (3 pages)
- Exhibit 1.11: Color chip for proposed colors of the exterior of the dwelling (1 page)
- Exhibit 1.12: Email dated 1/11/08 describing the tile roofing (1 page)
- Exhibit 1.13: Documents describing reflectivity of windows of the proposed dwelling (6 pages)
- Exhibit 1.14: Fire District Review Fire Flow Review and Access Review (4 pages)
- Exhibit 1.15: Fire District Access Review (5 pages)
- Exhibit 1.16: Storm Water Certificate signed and stamped by Tory D. Lyver, PE (1 page)
- Exhibit 1.17: Certificate of On-site Sewage Disposal (3 pages)

8.2. Exhibits Provided by the County

- Exhibit 2.1: County Assessment Record and map for the subject property (page)
- Exhibit 2.2: Current County Zoning Map with subject property labeled (1 page)
- Exhibit 2.3: 2004 Aerial photo of the property (1 page))
- Exhibit 2.4: Memo dated 11/21/07 from Aruna Reddi, County Transportation Planning Specialist (1 page)
- Exhibit 2.5: Grading and Erosion Control Permit card from 1995 (1 pages)
- Exhibit 2.6: County Land Use case permit card for Case PRE 28-92 (1 page)
- Exhibit 2.7: Building Inspection card for the existing dwelling (1 page)
- Exhibit 2.8: Staff amended site plan showing are for tree planting and area to maintained forest density (1 page).
- Exhibit 2.9: Columbia River Gorge Commission Color Chart (4 pages)